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May 31, 2022

Via Email

Jim Schultz
Executive Director
Democracy Center
jimshultzthewriter@gmail.com

Dear Jim:

Re: Coverage of Western Regional Off-Track Betting

I represent Western Regional Off-Track Betting Corp. (“WROTB”) and write on its behalf. In particular, I was disappointed by your characterization of WROTB and its officers and directors in your April 6, 2022 article entitled “A Study in American Kleptocracy,” published in *The New York Review*. You also make many of the same scurrilous accusations in a prior article, entitled “Third world corruption in Western New York,” published in the *Lockport Union-Sun & Journal* in September of 2021. Public officers and organizations understand that they will be the subject of critical press coverage. It comes with the territory. But these articles provide caricature-like portrayals that are simply not accurate and, in some respects, defamatory.

Over the last decade, WROTB has enjoyed unprecedented success and growth. Throughout the pandemic, it maintained critical distributions to its member counties and the cities of Rochester and Buffalo. And in 2021, it again distributed record revenues to them. As far as compliance is concerned, WROTB has been an open book, welcoming the recommendations of the New York State Comptroller. It has already implemented many of those recommendations, as reflected in the audit reports that you cite. These reforms, coupled with its unprecedented growth, have helped it become a model OTB in the state.

Your articles include several inaccurate and misleading statements, including outright falsehoods about WROTB’s leaders, accusing them of “graft” and “corruption.” You are accusing them of crimes. *This is defamation.*

As an example, you incorrectly claim that the board members are violating state law by receiving health insurance during their terms of service. You cite a non-binding opinion letter, sent to a different OTB, from the Office of the Attorney General. But, had you even asked us, we would have provided you with a contrary non-binding opinion from the Office of the State Comptroller, which previously concluded that “the directors of a regional off-track betting corporation may be included in a health insurance plan provided by such corporation for its officers and employees.”¹ At worst, this is a disputed issue. That is a far cry from your repeated suggestion of illegality.

¹ Op. St. Comptr. No. 78-811.

Your portrayal of the suite ticket issue also contains multiple inaccuracies. You claim in one of your articles that “[WROTB CEO Henry] Wojtaszek and his cohorts skimmed off almost 10% of those tickets, more than \$120,000 worth, for their own use.” *This is completely false*, and the Comptroller audit that you cite as your source of information says no such thing. Instead, the Comptroller noted deficiencies in WROTB’s policies and recordkeeping regarding the tickets, and estimated that 9% of tickets did not go to Batavia Downs players. Among these non-players are WROTB employees (in contrast to officers or board members), raffle winners, corporate vendors, charities, and WROTB board members and officers. You did not include WROTB’s response included within the audit report, which clarifies that the board members and officers who attend the sporting events do so as hosts for the players and the other ticket recipients, and the WROTB policy had allowed them to bring a guest. The audit report also makes clear that WROTB welcomed and implemented the recommendations of the Comptroller related to the suite tickets.

Similarly, you allege Mr. Wojtaszek “has discovered other ways to divert agency resources into his own pockets.” As evidence, you cite the Comptroller audit regarding his personal use of an assigned take-home vehicle. But you omit the fact that Mr. Wojtaszek reimbursed WROTB for all of the personal costs, the vast majority of which were identified and repaid as part of an internal audit completed more than two years before the Comptroller’s audit report. There are several other inaccuracies or misleading claims, as well.

More generally, I would warn you against putting much stock in the comments of former WROTB officer Mike Nolan, disgraced former State Senator George Maziarz, and former Niagara County Legislator Dennis Virtuoso. With respect to Mr. Nolan, I would direct you to publicly filed court documents that WROTB submitted in response to his lawsuit, which is without merit. Senator Maziarz’s background speaks for itself. My client also has informed me that, several years ago, Mr. Maziarz sought a senior-level position at WROTB, and the board did not hire him. He has since waged a public campaign attacking the organization. And we have evidence that he has been working in concert with Mr. Nolan’s attorney. As for Mr. Virtuoso, he is a Democrat and longtime political adversary of Mr. Wojtaszek, a Niagara County Republican. His comments are not surprising. It would be a shame to continue to publish their self-serving attacks without contacting the leaders of WROTB’s member counties and the cities, which are the direct beneficiaries of WROTB’s unprecedented growth and success.

We ask that you update the online versions of your articles to more accurately reflect the truth and, in the future, provide a more accurate and complete description of the issues and of WROTB.

Very truly yours,



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