STATEMENT OF JOHN V. FINAMORE

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PENN NATIONAL GAMING, INC.

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

THURSDAY, NOVEMBER 17, 2005

Good afternoon, Mr. Chairman, and members of the Subcommittee. My name is John Finamore, and I am the Senior Vice President of Regional Operations for Penn National Gaming.

By way of background, Penn National is a publicly traded company. We began in the early 1970s as a small, family-owned business that operated one of Pennsylvania's original thoroughbred racing licenses at Penn National Racecourse outside of Harrisburg.

While today, Penn National operates riverboats, casino resorts and racing facilities in 13 jurisdictions across the country and in Canada, it has never forgotten, and continues to build upon, its horse racing heritage.

In addition to Penn National Racecourse and its six affiliated off-track wagering facilities, we also own Charles Town Races & Slots in Charles Town, West Virginia, and we're the joint owner of Freehold Raceway in New Jersey. Our most recent racetrack acquisitions include Bangor Raceway in Bangor, Maine, and Raceway Park in Toledo, Ohio.

My role at Penn National is to oversee these racing and gaming operations, with the exception of Freehold Raceway. I am based at Charles Town Races, which provides me a first-hand perspective of the continued revitalization of that historic track, which began live thoroughbred racing in 1933.

Penn National purchased Charles Town Races in 1997, when it was on the verge of closing its doors. Since then, we've invested more than $200 million in new capital into the property, resulting in a premier regional entertainment center that has generated more than $435 million in taxes to West Virginia.

Reflecting our ongoing commitment to live racing, since acquiring the track we have renovated the Grandstand and barns, built new jockey quarters and a new paddock and began simulcasting the races around the country. In addition, we have increased the number of race dates and the number of races per day. Purses have grown from $20,000 per day to as high as $200,000 per day, and the number of horse owners and trainers has grown from 2,400 to 13,000.

Last year, Charles Town Races completed the latest phase of renovations and upgrades to the track, including adding a new surface, installing a new safety rail, banking the turns, replacing the lighting system, and other significant improvements.

Turning to the subject of today's hearing, at Penn National Gaming we take the issue of safety at our tracks seriously. We support working together with the jockeys, the horsemen, and the trainers to ensure that in the event of an accident there is adequate insurance to address the injured jockey's needs.

As you know, jockeys are independent contractors who work not for the racetracks, but for the horse owners. The Courts have upheld this distinction. Like any other individual that is self-employed, jockeys are responsible for addressing their own insurance needs.

As a longtime member of the Thoroughbred Racing Associations (TRA), we have in place at our tracks in West Virginia and Pennsylvania -- which are states where jockeys are excluded from workers' comp -- insurance that provides jockeys with an additional $100,000 maximum benefit toward medical expenses if they are injured while riding. In addition, the policy provides $200 per week in disability payments up to 104 weeks, and includes $50,000 in accidental death and dismemberment coverage. This

long-established policy was entered into after discussions with the TRA and with the Jockey's Guild. The racetracks pay 100% of the premiums, as well as the deductible for every medical claim.

Furthermore, we have been paying additional money directly to the Jockey's Guild in the form of "Mount Fees" to supplement their medical insurance coverage and to provide additional accident insurance. In 2004, this amounted to more than $160,000 for Penn National Race Course and Charles Town Races. Looking back in 2002, the last year for which there is industry data, the collective amount racetracks contributed to the Jockey's Guild for this purpose was $2.2 million.

After the unfortunate accident to Mr. Birzer at Mountaineer, it is now clear that these funds were not being used for either medical insurance or supplemental accident insurance for jockeys. As a goodwill gesture, we have been continuing to donate these funds to the Jockey's Guild in the hope that they will be used for the purpose they were intended.

Unfortunately, the Jockey's Guild has greatly failed its membership on this issue and the jockey's themselves, as independent contractors, must find a way to address their insurance needs. We believe that helping to supplement their on-track accident insurance needs should be a collaborative effort between the tracks, the horse owners and the trainers.

As for the argument that jockeys should become employees of the track, this would forever change the nature of horse racing in this country. The tracks do not, and should not, exercise any degree of control over the manner in which a jockey rides, or whether a jockey rides, or for whom he or she rides. Since the earliest days of horse

racing, the track has always acted as the "neutral" party, whose role it is to hold a fair and honest meet where the owners and jockeys come to compete. There is no permanence in the relationship between the track and a jockey. The integrity of racing could be called into question if a track were in a position of control over the jockeys.

In conclusion, we recognize that some of the larger racing companies have voluntarily increased their on-track accident policies. And, while we understand there were five accidents out of 487,000 mounts last year where the cost of the injuries rose above the $100,000 level in coverage, we firmly believe one disabled and destitute jockey is one too many. We will be working with the TRA to reexamine the levels of our on-track policies currently in place, and we look forward to continuing to work with the horsemen, the trainers and the jockeys to address this important issue.

I'd like to thank you for the opportunity to testify today and would be happy to answer your questions.