

Form 5500 Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Annual Return/Report of Employee Benefit Plan This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), and 6058(a) of the Internal Revenue Code (the Code). <p style="text-align: center;">▶ Complete all entries in accordance with the instructions to the Form 5500.</p>	OMB Nos. 1210-0110 1210-0089 2010 This Form is Open to Public Inspection
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Part I	Annual Report Identification Information
For calendar plan year 2010 or fiscal plan year beginning <u>01/01/2010</u> and ending <u>12/31/2010</u>	
A This return/report is for:	☐ a multiemployer plan; ☐ a multiple-employer plan; or ☒ a single-employer plan; ☐ a DFE (specify) ____
B This return/report is:	☐ the first return/report; ☐ the final return/report; ☐ an amended return/report; ☐ a short plan year return/report (less than 12 months).
C If the plan is a collectively-bargained plan, check here.	☐
D Check box if filing under:	☒ Form 5558; ☐ automatic extension; ☐ the DFVC program; ☐ special extension (enter description)

Part II	Basic Plan Information —enter all requested information				
1a Name of plan <u>EMPIRE CITY - YONKERS RACEWAY 401(K) PLAN</u>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">1b Three-digit plan number (PN) ▶</td> <td style="width: 20%; text-align: center;"><u>004</u></td> </tr> <tr> <td colspan="2">1c Effective date of plan <u>01/01/2007</u></td> </tr> </table>	1b Three-digit plan number (PN) ▶	<u>004</u>	1c Effective date of plan <u>01/01/2007</u>	
1b Three-digit plan number (PN) ▶	<u>004</u>				
1c Effective date of plan <u>01/01/2007</u>					
2a Plan sponsor's name and address (employer, if for a single-employer plan) (Address should include room or suite no.) <u>YONKERS RACING CORPORATION</u> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <u>810 YONKERS AVENUE</u> <u>YONKERS, NY 10704</u> </div> <div style="width: 45%;"> <u>810 YONKERS AVENUE</u> <u>YONKERS, NY 10704</u> </div> </div>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>2b Employer Identification Number (EIN) <u>13-2710385</u></td> </tr> <tr> <td>2c Sponsor's telephone number <u>914-968-4200</u></td> </tr> <tr> <td>2d Business code (see instructions) <u>713200</u></td> </tr> </table>	2b Employer Identification Number (EIN) <u>13-2710385</u>	2c Sponsor's telephone number <u>914-968-4200</u>	2d Business code (see instructions) <u>713200</u>	
2b Employer Identification Number (EIN) <u>13-2710385</u>					
2c Sponsor's telephone number <u>914-968-4200</u>					
2d Business code (see instructions) <u>713200</u>					

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE	Filed with authorized/valid electronic signature.	10/17/2011	STEPHANIE BUNYAN
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

For Paperwork Reduction Act Notice and OMB Control Numbers, see the instructions for Form 5500.

Form 5500 (2010)
v.092307.1

3a Plan administrator's name and address (if same as plan sponsor, enter "Same") YONKERS RACING CORPORATION 810 YONKERS AVENUE YONKERS, NY 10704	3b Administrator's EIN 13-2710385 3c Administrator's telephone number 914-968-4200
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4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report: a Sponsor's name	4b EIN 4c PN
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5 Total number of participants at the beginning of the plan year	5	261
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6 Number of participants as of the end of the plan year (welfare plans complete only lines 6a , 6b , 6c , and 6d).		
a Active participants.....	6a	504
b Retired or separated participants receiving benefits.....	6b	0
c Other retired or separated participants entitled to future benefits.....	6c	25
d Subtotal. Add lines 6a , 6b , and 6c	6d	529
e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits.....	6e	0
f Total. Add lines 6d and 6e	6f	529
g Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item).....	6g	529
h Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested.....	6h	8

7 Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)	7	
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8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:
 2F 2G 2J 2K 3H 2E

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:

9a Plan funding arrangement (check all that apply) (1) ☒ Insurance (2) ☐ Code section 412(e)(3) insurance contracts (3) ☒ Trust (4) ☐ General assets of the sponsor	9b Plan benefit arrangement (check all that apply) (1) ☒ Insurance (2) ☐ Code section 412(e)(3) insurance contracts (3) ☒ Trust (4) ☐ General assets of the sponsor
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10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

a Pension Schedules

- (1) ☒ **R** (Retirement Plan Information)
 (2) ☐ **MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary
 (3) ☐ **SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary

b General Schedules

- (1) ☒ **H** (Financial Information)
 (2) ☐ **I** (Financial Information – Small Plan)
 (3) ☒ ¹ **A** (Insurance Information)
 (4) ☒ **C** (Service Provider Information)
 (5) ☒ **D** (DFE/Participating Plan Information)
 (6) ☐ **G** (Financial Transaction Schedules)

SCHEDULE A (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Insurance Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ File as an attachment to Form 5500. ▶ Insurance companies are required to provide the information pursuant to ERISA section 103(a)(2).	OMB No. 1210-0110 2010 This Form is Open to Public Inspection
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For calendar plan year 2010 or fiscal plan year beginning 01/01/2010 and ending 12/31/2010		
A Name of plan EMPIRE CITY - YONKERS RACEWAY 401(K) PLAN	B Three-digit plan number (PN) ▶	004
C Plan sponsor's name as shown on line 2a of Form 5500. YONKERS RACING CORPORATION	D Employer Identification Number (EIN) 13-2710385	

Part I	Information Concerning Insurance Contract Coverage, Fees, and Commissions Provide information for each contract on a separate Schedule A. Individual contracts grouped as a unit in Parts II and III can be reported on a single Schedule A.
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1 Coverage Information:

(a) Name of insurance carrier
THE GUARDIAN INSURANCE & ANNUITY COMPANY, INC.

(b) EIN	(c) NAIC code	(d) Contract or identification number	(e) Approximate number of persons covered at end of policy or contract year	Policy or contract year	
				(f) From	(g) To
13-2656036	78778	630225	245	01/01/2010	12/31/2010

2 Insurance fee and commission information. Enter the total fees and total commissions paid. List in item 3 the agents, brokers, and other persons in descending order of the amount paid.

(a) Total amount of commissions paid	(b) Total amount of fees paid
20931	

3 Persons receiving commissions and fees. (Complete as many entries as needed to report all persons).

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid PARK AVENUE SECURITIES THOMAS G FERRARA 66 FIELD POINT ROAD GREENWICH, CT 06830
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(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	
20931			3

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid
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(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	

Part II Investment and Annuity Contract Information

Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

4	Current value of plan's interest under this contract in the general account at year end	4	
5	Current value of plan's interest under this contract in separate accounts at year end	5	
6	Contracts With Allocated Funds:		
a	State the basis of premium rates ▶		
b	Premiums paid to carrier	6b	
c	Premiums due but unpaid at the end of the year	6c	
d	If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter amount. Specify nature of costs ▶	6d	
e	Type of contract: (1) ☐ individual policies (2) ☐ group deferred annuity (3) ☐ other (specify) ▶		
f	If contract purchased, in whole or in part, to distribute benefits from a terminating plan check here ▶ ☐		
7	Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)		
a	Type of contract: (1) ☐ deposit administration (2) ☐ immediate participation guarantee (3) ☐ guaranteed investment (4) ☐ other ▶		
b	Balance at the end of the previous year	7b	
c	Additions: (1) Contributions deposited during the year	7c(1)	
	(2) Dividends and credits	7c(2)	
	(3) Interest credited during the year	7c(3)	
	(4) Transferred from separate account	7c(4)	
	(5) Other (specify below)	7c(5)	
	(6) Total additions	7c(6)	
d	Total of balance and additions (add b and c(6))	7d	
e	Deductions:		
	(1) Disbursed from fund to pay benefits or purchase annuities during year	7e(1)	
	(2) Administration charge made by carrier	7e(2)	
	(3) Transferred to separate account	7e(3)	
	(4) Other (specify below)	7e(4)	
	(5) Total deductions	7e(5)	
f	Balance at the end of the current year (subtract e(5) from d)	7f	

Part III Welfare Benefit Contract Information

If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organization(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where contracts cover individual employees, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

8 Benefit and contract type (check all applicable boxes)

- a** ☐ Health (other than dental or vision)
 b ☐ Dental
 c ☐ Vision
 d ☐ Life insurance
e ☐ Temporary disability (accident and sickness)
 f ☐ Long-term disability
 g ☐ Supplemental unemployment
 h ☐ Prescription drug
i ☐ Stop loss (large deductible)
 j ☐ HMO contract
 k ☐ PPO contract
 l ☐ Indemnity contract
m ☐ Other (specify) ▶

9 Experience-rated contracts:

a Premiums: (1) Amount received.....	9a(1)		
(2) Increase (decrease) in amount due but unpaid.....	9a(2)		
(3) Increase (decrease) in unearned premium reserve.....	9a(3)		
(4) Earned ((1) + (2) - (3)).....		9a(4)	
b Benefit charges (1) Claims paid.....	9b(1)		
(2) Increase (decrease) in claim reserves.....	9b(2)		
(3) Incurred claims (add (1) and (2)).....		9b(3)	
(4) Claims charged.....		9b(4)	
c Remainder of premium: (1) Retention charges (on an accrual basis) --			
(A) Commissions.....	9c(1)(A)		
(B) Administrative service or other fees.....	9c(1)(B)		
(C) Other specific acquisition costs.....	9c(1)(C)		
(D) Other expenses.....	9c(1)(D)		
(E) Taxes.....	9c(1)(E)		
(F) Charges for risks or other contingencies.....	9c(1)(F)		
(G) Other retention charges.....	9c(1)(G)		
(H) Total retention.....		9c(1)(H)	
(2) Dividends or retroactive rate refunds. (These amounts were ☐ paid in cash, or ☐ credited.).....		9c(2)	
d Status of policyholder reserves at end of year: (1) Amount held to provide benefits after retirement.....		9d(1)	
(2) Claim reserves.....		9d(2)	
(3) Other reserves.....		9d(3)	
e Dividends or retroactive rate refunds due. (Do not include amount entered in c(2).).....		9e	

10 Nonexperience-rated contracts:

a Total premiums or subscription charges paid to carrier.....	10a	
b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part I, item 2 above, report amount.	10b	
Specify nature of costs ▶		

Part IV Provision of Information

11 Did the insurance company fail to provide any information necessary to complete Schedule A? ☐ Yes ☒ No

12 If the answer to line 11 is "Yes," specify the information not provided. ▶

<div>SCHEDULE C</div> <div>(Form 5500)</div> <div>Department of the Treasury Internal Revenue Service</div> <div>Department of Labor Employee Benefits Security Administration</div> <div>Pension Benefit Guaranty Corporation</div>	<div>Service Provider Information</div> <div>This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).</div> <div>▶ File as an attachment to Form 5500.</div>	OMB No. 1210-0110
		2010
		This Form is Open to Public Inspection.

For calendar plan year 2010 or fiscal plan year beginning 01/01/2010 and ending 12/31/2010

<div>A Name of plan</div> <div>EMPIRE CITY - YONKERS RACEWAY 401(K) PLAN</div>	<div>B Three-digit plan number (PN)</div> <div>▶</div> <div>004</div>
<div>C Plan sponsor's name as shown on line 2a of Form 5500</div> <div>YONKERS RACING CORPORATION</div>	<div>D Employer Identification Number (EIN)</div> <div>13-2710385</div>

Part I

Service Provider Information (see instructions)

You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1 Information on Persons Receiving Only Eligible Indirect Compensation

a Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions)..... ☐ Yes ☒ No

b If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

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2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

THE GUARDIAN INS. & ANNUITY CO.

P.O. BOX 26280
LEHIGH VALLEY, PA 18002

13-2656036

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
13	CONTRACT ADMINISTRATOR	12026	Yes ☐ No ☒	Yes ☐ No ☒		Yes ☐ No ☒

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

Part II Service Providers Who Fail or Refuse to Provide Information

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide

Part III **Termination Information on Accountants and Enrolled Actuaries (see instructions)**
(complete as many entries as needed)

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN;
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN;
c Position:	
d Address:	e Telephone:

Explanation:

SCHEDULE D (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration	DFE/Participating Plan Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ► File as an attachment to Form 5500.	OMB No. 1210-0110 2010 This Form is Open to Public Inspection.
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For calendar plan year 2010 or fiscal plan year beginning 01/01/2010 and ending 12/31/2010		
A Name of plan EMPIRE CITY - YONKERS RACEWAY 401(K) PLAN	B Three-digit plan number (PN) ►	004
C Plan or DFE sponsor's name as shown on line 2a of Form 5500 YONKERS RACING CORPORATION	D Employer Identification Number (EIN) 13-2710385	

Part I	Information on interests in MTIAs, CCTs, PSAs, and 103-12 IEs (to be completed by plans and DFEs) (Complete as many entries as needed to report all interests in DFEs)		
a Name of MTIA, CCT, PSA, or 103-12 IE: THE GUARDIAN ADVANTAGE			
b Name of sponsor of entity listed in (a): THE GUARDIAN INSURANCE & ANNUITY COMPANY			
c EIN-PN 13-2656036-000	d Entity code P	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) 3153570	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	

a Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)

Part II Information on Participating Plans (to be completed by DFEs)

(Complete as many entries as needed to report all participating plans)

a Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN

SCHEDULE H (Form 5500) <small>Department of the Treasury Internal Revenue Service</small> <small>Department of Labor Employee Benefits Security Administration</small> <small>Pension Benefit Guaranty Corporation</small>	Financial Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code). ► File as an attachment to Form 5500.	OMB No. 1210-0110 2010 This Form is Open to Public Inspection
For calendar plan year 2010 or fiscal plan year beginning 01/01/2010 and ending 12/31/2010		
A Name of plan EMPIRE CITY - YONKERS RACEWAY 401(K) PLAN		B Three-digit plan number (PN) ► 004
C Plan sponsor's name as shown on line 2a of Form 5500 YONKERS RACING CORPORATION		D Employer Identification Number (EIN) 13-2710385

Part I	Asset and Liability Statement		(a) Beginning of Year	(b) End of Year
1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.				
	Assets			
a	Total noninterest-bearing cash	1a		
b	Receivables (less allowance for doubtful accounts):			
	(1) Employer contributions	1b(1)		
	(2) Participant contributions	1b(2)	498	
	(3) Other	1b(3)		
c	General investments:			
	(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)		
	(2) U.S. Government securities	1c(2)		
	(3) Corporate debt instruments (other than employer securities):			
	(A) Preferred	1c(3)(A)		
	(B) All other	1c(3)(B)		
	(4) Corporate stocks (other than employer securities):			
	(A) Preferred	1c(4)(A)		
	(B) Common	1c(4)(B)		
	(5) Partnership/joint venture interests	1c(5)		
	(6) Real estate (other than employer real property)	1c(6)		
	(7) Loans (other than to participants)	1c(7)		
	(8) Participant loans	1c(8)	30914	163947
	(9) Value of interest in common/collective trusts	1c(9)		
	(10) Value of interest in pooled separate accounts	1c(10)	1935334	3153570
	(11) Value of interest in master trust investment accounts	1c(11)		
	(12) Value of interest in 103-12 investment entities	1c(12)		
	(13) Value of interest in registered investment companies (e.g., mutual funds)	1c(13)		
	(14) Value of funds held in insurance company general account (unallocated contracts)	1c(14)		
	(15) Other	1c(15)		

1d Employer-related investments:

		(a) Beginning of Year	(b) End of Year
(1) Employer securities	1d(1)		
(2) Employer real property	1d(2)		
e Buildings and other property used in plan operation	1e		
f Total assets (add all amounts in lines 1a through 1e)	1f	1966746	3317517

Liabilities

g Benefit claims payable	1g		
h Operating payables	1h		
i Acquisition indebtedness	1i		
j Other liabilities	1j		
k Total liabilities (add all amounts in lines 1g through 1j)	1k		

Net Assets

l Net assets (subtract line 1k from line 1f)	1l	1966746	3317517
---	-----------	---------	---------

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

Income**a Contributions:**

		(a) Amount	(b) Total
(1) Received or receivable in cash from: (A) Employers	2a(1)(A)	212866	
(B) Participants	2a(1)(B)	774188	
(C) Others (including rollovers)	2a(1)(C)	141075	
(2) Noncash contributions	2a(2)		
(3) Total contributions. Add lines 2a(1)(A) , (B) , (C) , and line 2a(2)	2a(3)		1128129

b Earnings on investments:**(1) Interest:**

(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)		
(B) U.S. Government securities	2b(1)(B)		
(C) Corporate debt instruments	2b(1)(C)		
(D) Loans (other than to participants)	2b(1)(D)		
(E) Participant loans	2b(1)(E)	2531	
(F) Other	2b(1)(F)		
(G) Total interest. Add lines 2b(1)(A) through (F)	2b(1)(G)		2531

(2) Dividends: (A) Preferred stock	2b(2)(A)		
(B) Common stock	2b(2)(B)		
(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)		
(D) Total dividends. Add lines 2b(2)(A) , (B) , and (C)	2b(2)(D)		
(3) Rents	2b(3)		
(4) Net gain (loss) on sale of assets: (A) Aggregate proceeds	2b(4)(A)		
(B) Aggregate carrying amount (see instructions)	2b(4)(B)		
(C) Subtract line 2b(4)(B) from line 2b(4)(A) and enter result	2b(4)(C)		

		(a) Amount	(b) Total
2b (5) Unrealized appreciation (depreciation) of assets: (A) Real estate.....	2b(5)(A)		
(B) Other	2b(5)(B)		
(C) Total unrealized appreciation of assets. Add lines 2b(5)(A) and (B)	2b(5)(C)		
(6) Net investment gain (loss) from common/collective trusts	2b(6)		
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		293735
(8) Net investment gain (loss) from master trust investment accounts	2b(8)		
(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		
(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds).....	2b(10)		
c Other income.....	2c		
d Total income. Add all income amounts in column (b) and enter total.....	2d		1424395

Expenses

e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	61598	
(2) To insurance carriers for the provision of benefits	2e(2)		
(3) Other	2e(3)		
(4) Total benefit payments. Add lines 2e(1) through (3)	2e(4)		61598
f Corrective distributions (see instructions)	2f		
g Certain deemed distributions of participant loans (see instructions).....	2g		
h Interest expense.....	2h		
i Administrative expenses: (1) Professional fees	2i(1)		
(2) Contract administrator fees	2i(2)		
(3) Investment advisory and management fees	2i(3)	12026	
(4) Other	2i(4)		
(5) Total administrative expenses. Add lines 2i(1) through (4)	2i(5)		12026
j Total expenses. Add all expense amounts in column (b) and enter total.....	2j		73624

Net Income and Reconciliation

k Net income (loss). Subtract line 2j from line 2d	2k		1350771
l Transfers of assets:			
(1) To this plan.....	2l(1)		
(2) From this plan	2l(2)		

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) ☐ Unqualified (2) ☐ Qualified (3) ☒ Disclaimer (4) ☐ Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? ☒ Yes ☐ No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: MARGOLIN, WINER & EVENS, LLP

(2) EIN: 11-1558868

d The opinion of an independent qualified public accountant is **not attached** because:

(1) ☐ This form is filed for a CCT, PSA, or MTIA. (2) ☐ It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

- 4** CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete 4j and 4l. MTIAs also do not complete 4l.

During the plan year:

	Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.).....		X	
b Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.).....		X	
c Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)		X	
d Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.).....		X	
e Was this plan covered by a fidelity bond?.....	X		2000000
f Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?		X	
g Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?		X	
h Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?		X	
i Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.).....	X		
j Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.).....		X	
k Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?.....		X	
l Has the plan failed to provide any benefit when due under the plan?		X	
m If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.).....		X	
n If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.			

- 5a** Has a resolution to terminate the plan been adopted during the plan year or any prior plan year?
If yes, enter the amount of any plan assets that reverted to the employer this year ☐ Yes ☒ No Amount:

- 5b** If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)

5b(2) EIN(s)	5b(3) PN(s)

SCHEDULE R (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Retirement Plan Information This schedule is required to be filed under section 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500.	OMB No. 1210-0110
		2010
		This Form is Open to Public Inspection.

For calendar plan year 2010 or fiscal plan year beginning <u>01/01/2010</u> and ending <u>12/31/2010</u>		
A Name of plan <u>EMPIRE CITY - YONKERS RACEWAY 401(K) PLAN</u>	B Three-digit plan number (PN) ▶	<u>004</u>
C Plan sponsor's name as shown on line 2a of Form 5500 <u>YONKERS RACING CORPORATION</u>		
D Employer Identification Number (EIN) <u>13-2710385</u>		

Part I	Distributions
---------------	----------------------

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions.....

1	<u>0</u>
----------	----------

2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits):
EIN(s): 13-2656036

Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.

3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year.....

3	<u>11</u>
----------	-----------

Part II	Funding Information (If the plan is not subject to the minimum funding requirements of section 412 of the Internal Revenue Code or ERISA section 302, skip this Part)
----------------	--

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)?..... ☐ Yes ☐ No ☐ N/A
If the plan is a defined benefit plan, go to line 8.

5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. **Date:** Month _____ Day _____ Year _____
If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.

6

a Enter the minimum required contribution for this plan year	6a	
b Enter the amount contributed by the employer to the plan for this plan year	6b	
c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount).....	6c	

If you completed line 6c, skip lines 8 and 9.

7 Will the minimum funding amount reported on line 6c be met by the funding deadline? ☐ Yes ☐ No ☐ N/A

8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change?..... ☐ Yes ☐ No ☐ N/A

Part III	Amendments
-----------------	-------------------

9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box(es). If no, check the "No" box..... ☐ Increase ☐ Decrease ☐ Both ☐ No

Part IV	ESOPs (see instructions). If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.
----------------	---

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan?..... ☐ Yes ☐ No

11

a Does the ESOP hold any preferred stock?	☐ Yes ☐ No
b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.)	☐ Yes ☐ No

12 Does the ESOP hold any stock that is not readily tradable on an established securities market? ☐ Yes ☐ No

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month Day Year

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents)

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month Day Year

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents)

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month Day Year

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents)

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month Day Year

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents)

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month Day Year

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents)

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month Day Year

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents)

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

- 14** Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year	14a	
b The plan year immediately preceding the current plan year	14b	
c The second preceding plan year	14c	

- 15** Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year	15a	
b The corresponding number for the second preceding plan year	15b	

- 16** Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year	16a	
b If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	16b	

- 17** If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

- 18** If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment ☐

- 19** If the total number of participants is 1,000 or more, complete items (a) through (c)

a Enter the percentage of plan assets held as:
 Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

b Provide the average duration of the combined investment-grade and high-yield debt:
☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

c What duration measure was used to calculate item 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify): _____

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

**FINANCIAL STATEMENTS
AND SUPPLEMENTAL SCHEDULE**
Year Ended December 31, 2010

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

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Report of Independent Accountants

Empire City-Yonkers Raceway 401(k) Plan
Yonkers, New York

We were engaged to audit the accompanying statements of net assets available for benefits of Empire City-Yonkers Raceway 401(k) Plan (the "Plan") as of December 31, 2010 and 2009, and the related statement of changes in net assets available for benefits for the year ended December 31, 2010, and the supplemental schedule of assets held for investment purposes. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the investment information summarized in Note 3, which was certified by The Guardian Insurance & Annuity Company, Inc., the custodian of the Plan, except for comparing the information with the related information included in the financial statements and supplemental schedule. We have been informed by the plan administrator that the custodian holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained certifications from the custodian as of December 31, 2010 and 2009 and for the year ended December 31, 2010, that the information provided to the plan administrator by the custodian is complete and accurate.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the information certified by the custodian, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

Margolin, Winer & Evens LLP

Garden City, New York
October 11, 2011

Headquarters

400 Garden City Plaza, 5th Floor, Garden City, NY 11530-3323 Tel: 516 747-2000 Fax: 516 747-6707 www.mwellp.com

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EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

STATEMENTS OF NET ASSETS AVAILABLE FOR BENEFITS

<i>December 31,</i>	2010	2009
ASSETS		
Investments, at fair value	\$ 3,153,570	\$ 1,935,334
Notes Receivable from Participants	163,947	30,914
Contributions Receivable - employees	-	498
Net Assets Available for Benefits	<u>\$ 3,317,517</u>	<u>\$ 1,966,746</u>

See report of independent accountants.

The accompanying notes are an integral part of these statements.

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

STATEMENT OF CHANGES IN NET ASSETS AVAILABLE FOR BENEFITS

Year Ended December 31,

2010

Investment Income -

Net appreciation in fair value of investments (Note 2) \$ 293,735

Interest Income on Notes Receivable from Participants

2,531

296,266

Contributions (Note 1):

Employees 774,188

Employer 212,866

Employee rollovers 141,075

1,128,129

1,424,395

Deductions from Net Assets Attributable to:

Benefits paid to participants 61,598

Administrative fees 12,026

73,624

Net Increase

1,350,771

Net Assets Available for Benefits - beginning of year

1,966,746

Net Assets Available for Benefits - end of year

\$ 3,317,517

See report of independent accountants.

The accompanying notes are an integral part of this statement.

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS

1. **Description of Plan** The following brief description of the Empire City-Yonkers Raceway 401(k) Plan (the "Plan") is provided for general information purposes only. Participants should refer to the Plan documents for more complete information.

General - The Plan was established by Yonkers Racing Corporation (the "Company") on January 1, 2007 and became effective October 1, 2007. It is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended.

Eligibility - All employees of the Company who have completed 90 days of continuous employment with at least 240 hours of service, are at least 21 years old and are not subject to a collective bargaining agreement, are eligible to participate in the Plan.

Contributions - Participants may contribute up to a maximum of 80% of pretax annual compensation, as defined in the Plan. A participant's total contributions in any year may not exceed the maximum amounts for that year as specified in the Internal Revenue Code and regulations thereunder. Highly compensated employees (as defined by the Internal Revenue Service) may be limited to a smaller contribution.

The Company may make a discretionary matching contribution, which currently equals 50% of the first 4% of the 401(k) salary deferral amounts that the participants have contributed. The Company made matching contributions of \$212,866 in 2010. The Company can also elect to make qualified non-elective (discretionary) contributions which are allocated based on the ratio of a participant's compensation to compensation paid to all participants eligible for the allocation.

Participant accounts - Each participant's account is credited with the participant's contribution and allocations of the Company's contributions and Plan earnings. Allocations are based on participant earnings or account balances, as defined. The benefit to which a participant is entitled is the benefit that can be provided from the participant's account.

Distributions - Participants are entitled to receive distributions of their vested interest in the Plan upon termination of employment, retirement, disability, financial hardship, or upon attaining the age of 59-1/2, as defined by the Plan. The beneficiary(s) of a participant are entitled to receive a distribution of a participant's interest in the Plan upon the death of such participant. Upon termination of employment, the participant may have all or any portion of their distribution either (1) rolled into an individual retirement account or another qualified retirement plan or (2) paid directly to them. If the distribution is made directly to the participant, the Plan will withhold from the participant 20% of the gross distribution, as required by the Internal Revenue Service.

See report of independent accountants.

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS

Vesting - Participants are immediately 100% invested in their own contributions and the related share of Plan earnings. Vesting of Company matching contributions is based on years of credited service, as defined:

<u>Years of Service</u>	<u>Vested Percentage</u>
1	25%
2	50%
3	75%
4	100%

Notwithstanding the above, if a participant's employment is terminated by reason of retirement at normal retirement age, disability or death, the participant will be fully vested.

Notes receivable from participants - Participants may borrow from their accounts a minimum of \$1,000 up to a maximum equal to the lesser of \$50,000 or 50% of their vested account balance. Loan transactions are treated as a transfer from the participant investment fund to the participant loan receivable category. The maximum term of any loan is five years. Loans are secured by the balance in the participant's account. Interest rates are to be determined by the Loan Administrator who shall take into consideration the prime lending rate of a commercial U.S. bank available within a reasonable geographic vicinity. The rate of interest on the loan will be fixed and will not change for the duration of the loan payment period. Loan repayments are deposited into the participant's account through payroll deductions and interest paid by the participant is credited to the participant's account.

Forfeitures - The total amount of forfeitures determined as of each Plan year may be first applied to payment of Plan administrative fees. Any remaining forfeitures may then be applied to reduce the amount the Company would otherwise contribute. In 2010, forfeitures amounted \$6,266.

Investments - Each participant may elect to have his or her individual account invested as he or she so designates in one or more of the available investment funds in accordance with the Plan document.

Plan termination - Although it has not expressed any intent to do so, the Company has a right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of ERISA. In the event of Plan termination, participants will become 100% vested in their accounts.

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS

2. Summary of Significant Accounting Policies

Basis of presentation - The accompanying financial statements of the Plan have been prepared on an accrual basis and present the net assets available for benefits and changes in those net assets. Amounts allocated to accounts of participants who have elected to withdraw from the Plan are to be recorded as distributions when paid.

Investment valuation and income recognition - Investments are reported at fair value. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See Note 4 for a discussion of fair value measurements.

Purchases and sales of securities are recorded on the date the transaction order is executed. Interest income is recorded on the accrual basis. Net appreciation or depreciation in fair value of investments includes all income earned on such investments and the Plan's gains and losses on investments bought and sold as well as held during the year.

As described in Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 962, "Plan Accounting - Defined Contribution Pension Plans," investment contracts held by a defined-contribution plan are required to be reported at fair value. However, contract value is the relevant measurement attribute for that portion of the net assets available for benefits of a defined-contribution plan attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan. As required by FASB ASC 962, the statement of net assets available for benefits presents the fair value of the investment contracts as well as the adjustment of the fully benefit-responsive investment contracts from fair value to contract value. The statement of changes in net assets available for benefits is prepared on a contract value basis.

Notes receivable from participants - Effective January 1, 2010, participant loans are classified as notes receivable from participants and are measured at their unpaid principal balance plus any accrued but unpaid interest. Previously, participant loans were reported as investments and measured at their estimated fair value (which approximated their unpaid principal balance plus any accrued but unpaid interest). This change in accounting has been applied retrospectively and did not have a material effect on the Plan's net assets available for benefits or changes therein. Notes receivable from participants continue to be reported as investments on Form 5500. Delinquent notes receivable from participants are reclassified as distributions based upon the terms of the Plan document.

See report of independent accountants.

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS

Benefits - Benefits are recorded when paid.

Estimates - The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and the accompanying notes. Actual results could differ from those estimates.

Subsequent events - The Plan has evaluated events and transactions for potential recognition or disclosure through October 11, 2011, the date the financial statements were available to be issued.

3. Investments

The Guardian Insurance & Annuity Company, Inc. (the "Custodian" or "Guardian") has certified to the accuracy and completeness of investments and related income as reported in the accompanying financial statements and supplemental schedule.

The following is a summary of the financial data certified by the Custodian as of and for the years ended December 31, 2010 and 2009:

	<u>2010</u>	<u>2009</u>
Investments at fair value	\$ 3,153,570	\$ 1,195,334
Net appreciation in fair value of investments	293,735	

Investments that represent 5% or more of the Plan's net assets available for benefits as of December 31, 2010 and 2009 are as follows:

	<u>2010</u>	<u>2009</u>
SSGA Russell SC Index Fund	\$ 187,523	\$ 103,406
SSGA S&P 500 Index Fund	616,617	372,983
SSGA International Index Fund	200,815	126,107
SSGA US Bond Index Fund	282,721	176,750
Benefit Stadion Moderate ETF Trust	242,142	175,527
Benefit Stadion Growth ETF Trust	567,786	339,149

The Plan entered into a benefit-responsive investment contract with Guardian which maintains the contributions in a separate account (Fixed Rate Investment Option or "FRIO"). The account is credited with earnings and charged for participant withdrawals and administrative expenses. The contract is included in the financial statements at contract value (which equals fair value) as reported to the Plan by Guardian. Contract value, as

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS

reported to the Plan by Guardian, represents contributions made under the contract, plus earnings, less participant withdrawals and administrative expenses. Participants may ordinarily direct the withdrawal or transfer of all or a portion of their investment at contract value. There are no reserves against contract value for credit risk of the contract issuer or otherwise. The crediting interest rate is based on a formula agreed upon with the issuer, with a minimum guaranteed interest rate of 1.50%. Such interest rates are reviewed on an annual basis for resetting. The average yield and crediting interest rates were approximately 3.00% for 2010 and 3.30% for 2009.

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statement of net assets available for benefits.

4. Fair Value Measurements

FASB ASC 820, "Fair Value Measurements and Disclosures," establishes a framework for measuring fair value that provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy under FASB ASC 820 are summarized as follows:

Level 1 - Valuations based on unadjusted quoted prices in active markets for identical assets or liabilities that the Plan has the ability to access. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these securities does not entail a significant degree of judgment.

Level 2 - Valuations based on quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active or inputs other than quoted prices that are observable, either directly or indirectly. Level 2 investments of the Plan consist of pooled separate accounts which are valued at net asset value (NAV) based on the fair value of the underlying investments held by the pooled separate account at year end. Unlike shares of registered investment companies, the NAV of pooled separate accounts is not publicly available.

EMPIRE CITY-YONKERS RACEWAY

401(k) PLAN

NOTES TO FINANCIAL STATEMENTS

Level 3 - Valuations based on inputs that are unobservable and significant to the overall fair value measurement that reflect the reporting entity's own assumptions about the assumptions that market participants would use. Level 3 investments of the Plan consist of a guaranteed investment contract which is valued based on the amount the Plan would receive if the contract was terminated at the reporting date, which is book value less an early withdrawal charge, discounting the related cash flows based on current yields of similar instruments with comparable durations considering the creditworthiness of the issuer.

In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for disclosure purposes, the level in the fair value hierarchy within which the fair value measurement falls in its entirety is determined by the lowest level input that is significant to the fair value measurement. Although the degree of judgment exercised by the Plan in determining fair value is greatest for investments categorized in Level 3, the inputs or methodology used for valuing investments are not necessarily an indication of the risk associated with those investments.

The following tables set forth by level, within the fair value hierarchy, the Plan's investments at fair value as of December 31, 2010 and 2009:

	Investments at Fair Value as of December 31, 2010			
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Pooled separate accounts:				
International/Global Funds	\$ -	\$ 402,062	\$ -	\$ 402,062
Large-Cap Funds	-	792,483	-	792,483
Mid-Cap Funds	-	88,188	-	88,188
Small-Cap Funds	-	275,983	-	275,983
Sector Funds	-	7,955	-	7,955
Balanced/Lifestyle Funds	-	999,578	-	999,578
Fixed Income Funds	-	373,436	-	373,436
Stable Value Fund	-	63,053	-	63,053
Guaranteed investment contract	-	-	150,832	150,832
Total investments at fair value	<u>\$ -</u>	<u>\$ 3,002,738</u>	<u>\$ 150,832</u>	<u>\$ 3,153,570</u>

See report of independent accountants.

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS

Investments at Fair Value as of December 31, 2009				
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Pooled separate accounts:				
International/Global Funds	\$ -	\$ 256,363	\$ -	\$ 256,363
Large-Cap Funds	-	473,059	-	473,059
Mid-Cap Funds	-	61,432	-	61,432
Small-Cap Funds	-	159,870	-	159,870
Sector Funds	-	3,653	-	3,653
Balanced/Lifestyle Funds	-	618,027	-	618,027
Fixed Income Funds	-	224,883	-	224,883
Stable Value Fund	-	40,951	-	40,951
Guaranteed investment contract	-	-	97,096	97,096
Total investments at fair value	<u>\$ -</u>	<u>\$ 1,838,238</u>	<u>\$ 97,096</u>	<u>\$ 1,935,334</u>

Level 3 Gains and Losses

The table below sets forth a summary of changes in the fair value of the Plan's Level 3 investments for the year ended December 31, 2010.

	<u>Guaranteed Investment Contract</u>
Balance, beginning of year	\$ 97,096
Total gains and (losses)	3,733
Purchases, sales, issuances and settlements (net)	<u>50,003</u>
Balance, end of year	<u>\$ 150,832</u>

- 5. Party-In-Interest Transactions**

Certain services are rendered to the Plan by the Company at no cost to the Plan. All of the Plan's investments are in pooled separate accounts managed by the Plan's custodian. Administrative fees of \$12,026 were paid by the Plan to the custodian.
- 6. Tax Status**

The Company obtained a determination letter dated August 9, 2010 in which the Internal Revenue Service stated that the Plan was designed in accordance with the applicable requirements of the Internal Revenue Code. The plan administrator and the Plan's tax counsel believe that the Plan is designed and is currently being operated in compliance with the applicable requirements of the Internal Revenue Code.

See report of independent accountants.

EMPIRE CITY-YONKERS RACEWAY

401(k) PLAN

SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

December 31, 2010

<u>Description of Investment</u>	<u>Number of Shares or Units</u>	<u>Fair Value</u>
Investments (Party-in-interest):		
Fidelity Equity Income Fund	510	\$ 11,411
Fidelity High Income Fund	602	16,075
Fidelity Small Cap Fund	2,216	56,364
American Century Equity Income Fund	782	14,111
American Century Real Estate Fund	380	7,955
American Century Infl Adj Bond Fund	547	7,018
American Century Vista Fund	190	2,799
RS Large Cap Alpha Fund	406	9,067
RS Investment Quality Bond Fund	45	993
Alliance Bernstein International Value Fund	2,665	16,683
Janus Overseas Fund	4,996	90,584
Janus Forty Fund	5,007	61,249
Perkins Mid Cap Value Fund	3,928	48,266
Fixed Rate Investment Option	13,477	150,832
SSGA Russell SC Index Fund	13,218	187,523
SSGA S&P 500 Index Fund	50,879	616,617
SSGA S&P Mid Cap Index Fund	202	3,174
SSGA International Index Fund	14,343	200,815
SSGA Short Term Investment Fund	5,787	63,053
SSGA US Bond Index Fund	21,901	282,721
Franklin Growth Fund	213	4,237
Delaware VIP Diversified Fund	256	3,889
Delaware VIP Limited Term Diversified Income Fund	159	1,992
Delaware VIP Emerging Markets Fund	2,945	80,099
Goldman Sachs Short Dr Fund	544	6,719
Goldman Sachs Mid Cap Value Fund	1,114	17,393
Goldman Sachs Small Cap Value Fund	450	6,677
T Rowe Price Equity Income Fund	1,080	13,385
T Rowe Price Growth Stock Fund	819	11,262

See report of independent accountants.

The accompanying notes are an integral part of this schedule.

EMPIRE CITY-YONKERS RACEWAY 401(k) PLAN

SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

December 31, 2010

<u>Description of Investment</u>	<u>Number of Shares or Units</u>	<u>Fair Value</u>
Investments (Party-in-interest) (continued):		
T Rowe Price Retirement Income Fund	893	\$ 9,843
T Rowe Price Retirement 2010 Fund	7	78
T Rowe Price Retirement 2020 Fund	7,542	78,041
T Rowe Price Retirement 2030 Fund	10	96
T Rowe Price Retirement 2040 Fund	47	468
JPMorgan Mid Cap Growth Fund	1,458	16,556
JPMorgan Small Cap Equity Fund	1,903	24,043
Davis NY Venture Fund	4,082	39,602
Columbia Marsco Growth Fund	1,115	9,673
Columbia International Value Fund	7	77
Columbia Small Cap Value Fund	126	1,376
Benefit Stadion Conservative ETF Trust	9,879	101,124
Benefit Stadion Moderate ETF Trust	23,044	242,142
Benefit Stadion Growth ETF Trust	52,079	567,786
Black Rock Global Allocation Fund	1,110	13,804
Black Rock Equity Dividend Fund	139	1,869
PIMCO Total Return Fund	823	9,407
PIMCO Short Term Fund	4,335	<u>44,622</u>
Total		<u>\$ 3,153,570</u>
Notes Receivable from Participants - 3.25% - 5.00%		<u>\$ 163,947</u>

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EMPIRE CITY-YONKERS RACEWAY

401(k) PLAN

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SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

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PIMCO Total Return Fund	823	9,407
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