

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), 6057(b), 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 2012 This Form is Open to Public Inspection
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Part I	Annual Report Identification Information
For calendar plan year 2012 or fiscal plan year beginning <u>01/01/2012</u> and ending <u>12/31/2012</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; include room or suite number (employer, if for a single-employer plan) <u>YONKERS RACING CORPORATION</u> <u>810 YONKERS AVENUE</u> <u>YONKERS, NY 10704</u>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">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.	10/15/2013	JOEL DAUM
	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
Preparer's name (including firm name, if applicable) and address; include room or suite number. (optional)			Preparer's telephone number (optional)

3a Plan administrator's name and address ☐ Same as Plan Sponsor Name ☐ Same as Plan Sponsor Address YONKERS RACING CORPORATION 810 YONKERS AVENUE YONKERS, NY 10704		3b Administrator's EIN 13-2710385
		3c Administrator's telephone number 914-968-4200
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
5 Total number of participants at the beginning of the plan year		5 551
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	499
b Retired or separated participants receiving benefits.....	6b	0
c Other retired or separated participants entitled to future benefits.....	6c	43
d Subtotal. Add lines 6a , 6b , and 6c	6d	542
e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits.....	6e	0
f Total. Add lines 6d and 6e	6f	542
g Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item).....	6g	271
h Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested.....	6h	7
7 Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)		7
8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristics Codes in the instructions: 2F 2G 2J 2K 2E 3H		
b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristics 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
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) ☒ <u>1</u> A (Insurance Information) (4) ☒ C (Service Provider Information) (5) ☒ D (DFE/Participating Plan Information) (6) ☐ G (Financial Transaction Schedules)

SCHEDULE A (Form 5500) <small>Department of the Treasury Internal Revenue Service</small> <hr/> <small>Department of Labor Employee Benefits Security Administration</small> <hr/> <small>Pension Benefit Guaranty Corporation</small>	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 <hr/> 2012 <hr/> This Form is Open to Public Inspection
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For calendar plan year 2012 or fiscal plan year beginning 01/01/2012 and ending 12/31/2012

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	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
<u>13-2656036</u>	<u>78778</u>	<u>630225</u>	<u>240</u>	<u>01/01/2012</u>	<u>12/31/2012</u>

2 Insurance fee and commission information. Enter the total fees and total commissions paid. List in line 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
<u>33412</u>	

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
1025 WESTCHESTER AVENUE, 2ND FLOOR
WHITE PLAINS, NY 10604

(b) Amount of sales and base commissions paid	Fees and other commissions paid		(e) Organization code
	(c) Amount	(d) Purpose	
<u>33412</u>			<u>3</u>

(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	

(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 lines 7b and 7c(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 line 7e(5) from line 7d)	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 organizations(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 line 9c(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, line 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. ▶

SCHEDULE C (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Service Provider 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
		2012
		This Form is Open to Public Inspection.

For calendar plan year 2012 or fiscal plan year beginning 01/01/2012 and ending 12/31/2012

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 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	27680	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 ☐

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)

(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) <small>Department of the Treasury Internal Revenue Service</small> <small>Department of Labor Employee Benefits Security Administration</small>	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 2012 This Form is Open to Public Inspection.
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For calendar plan year 2012 or fiscal plan year beginning 01/01/2012 and ending 12/31/2012

A Name of plan <u>EMPIRE CITY - YONKERS RACEWAY 401(K) PLAN</u>	B Three-digit plan number (PN) ►	<u>004</u>
C Plan or DFE 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	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)
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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 <u>13-2656036-000</u>	d Entity code <u>P</u>	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) <u>4760404</u>
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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)
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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)
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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 2012 This Form is Open to Public Inspection
For calendar plan year 2012 or fiscal plan year beginning <u>01/01/2012</u> and ending <u>12/31/2012</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	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)			560
(2) Participant contributions	1b(2)			4328
(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)		197847	307708
(9) Value of interest in common/collective trusts.....	1c(9)			
(10) Value of interest in pooled separate accounts.....	1c(10)		3781067	4760403
(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	3978914	5072999

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	3978914	5072999
---	-----------	---------	---------

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) Amount	(b) Total
a Contributions:			
(1) Received or receivable in cash from: (A) Employers	2a(1)(A)	240065	
(B) Participants	2a(1)(B)	901626	
(C) Others (including rollovers)	2a(1)(C)	70554	
(2) Noncash contributions	2a(2)		
(3) Total contributions. Add lines 2a(1)(A) , (B) , (C) , and line 2a(2)	2a(3)		1212245
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)	7380	
(F) Other	2b(1)(F)		
(G) Total interest. Add lines 2b(1)(A) through (F)	2b(1)(G)		7380
(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)		
(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)		

		(a) Amount	(b) Total
(6) Net investment gain (loss) from common/collective trusts	2b(6)		
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		433283
(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		1652908

Expenses

e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	531143	
(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)		531143
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)	27680	
(4) Other	2i(4)		
(5) Total administrative expenses. Add lines 2i(1) through (4).....	2i(5)		27680
j Total expenses. Add all expense amounts in column (b) and enter total.....	2j		558823

Net Income and Reconciliation

k Net income (loss). Subtract line 2j from line 2d.....	2k		1094085
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: DAY SECKLER LLP

(2) EIN: 26-2310586

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 lines 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete lines 4j and 4l. MTIAs also do not complete line 4l.

During the plan year:

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.).....

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.).....

	Yes	No	Amount
4a	X		4888
4b		X	

	Yes	No	Amount
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	
4c			
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	
4d			
e Was this plan covered by a fidelity bond?	X		2000000
4e			
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	
4f			
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	
4g			
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	
4h			
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		
4i			
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	
4j			
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	
4k			
l Has the plan failed to provide any benefit when due under the plan?		X	
4l			
m If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)		X	
4m			
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.			
4n			

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)

Part V Trust Information (optional)

6a Name of trust

6b Trust's EIN

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 2012 This Form is Open to Public Inspection.
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For calendar plan year 2012 or fiscal plan year beginning 01/01/2012 and ending 12/31/2012

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): <u>13-2656036</u>		
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>27</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 (include any prior year accumulated funding deficiency not waived)	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 or other authority 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. 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

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

Schedule R (Form 5500) 2012
v. 120126

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 lines 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 lines 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 lines 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 lines 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 lines 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 lines 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 line 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

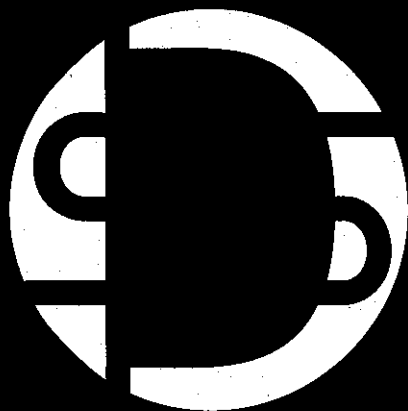
- 18** If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding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

- 19** If the total number of participants is 1,000 or more, complete lines (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

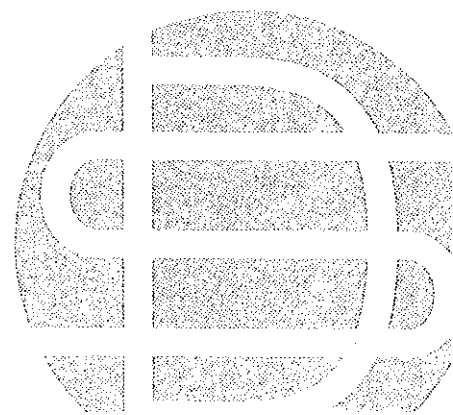
c What duration measure was used to calculate line 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify): _____



DAY SECKLER

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**FINANCIAL STATEMENTS
FOR THE YEARS ENDED
DECEMBER 31, 2012 AND 2011**



**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Financial Statements
For the years ended December 31, 2012 and 2011**

TABLE OF CONTENTS

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SUPPLEMENTARY INFORMATION

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INDEPENDENT AUDITORS' REPORT

To the Trustees of the
Empire City-Yonkers Raceway 401(k) Plan

Report on the Financial Statements

We were engaged to audit the accompanying financial statements of Empire City-Yonkers Raceway 401(k) Plan, which comprise the statements of net assets available for benefits as of December 31, 2012 and 2011, and the related statements of changes in net assets available for benefits for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Plan management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with auditing standards generally accepted in the United States of America. Because of the matter described in the Basis for Disclaimer of Opinion paragraph, however, we were not able to obtain sufficient appropriate evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

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 information summarized in Note 6, which was certified by The Guardian Insurance & Annuity Company, Inc., the trustee of the Plan, except for comparing the information with the related information included in the financial statements and the supplemental schedules. We have been informed by the Plan Administrator that the trustee holds the Plan's investment assets and executes investment transactions. The Plan Administrator has obtained a certification from the trustee as of and for the years ended December 31, 2012 and 2011, that the information provided to the Plan Administrator by the trustee is complete and accurate.

Disclaimer of Opinion

Because of the significance of the matter described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient, appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on these financial statements.

Other Matter

We were engaged for the purpose of forming an opinion on the financial statements as a whole. The supplemental schedule, Schedule of Assets (Held at End of Year), which are the responsibility of plan management, are presented for the purpose of additional analysis and are not a required part of the financial statements but are required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. Because of the significance of the matter described in the Basis for Disclaimer of Opinion paragraph, it is inappropriate to and we do not express an opinion on the supplemental schedule referred to above.

Report on Form and Content in Compliance with DOL Rules and Regulations

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 trustee, 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.



Fishkill, NY
October 15, 2013

**EMPIRE CITY - YONDERS RACEWAY
401 (K) PLAN**

**Statements of Net Assets Available for Benefits
December 31,**

A S S E T S

	<u>2012</u>	<u>2011</u>
Investments, at Fair Value	\$ 4,760,403	\$ 3,781,067
Receivables		
Participant Contributions	4,328	0
Employer Contributions	560	0
Notes Receivable from Participants	<u>307,708</u>	<u>197,847</u>
Total Receivables	<u>312,596</u>	<u>197,847</u>
Net Assets Available for Benefits	<u><u>\$ 5,072,999</u></u>	<u><u>\$ 3,978,914</u></u>

See Notes to Financial Statements.

EMPIRE CITY - YONKERS RACEWAY 401 (K) PLAN

Statements of Changes in Net Assets Available for Benefits For the years ended December 31,

	2012	2011
Additions to Net Assets Attributed to		
Investment Income		
Net Appreciation (Depreciation) in Fair Value of Investments	\$ 433,283	\$ (223,469)
Interest on Notes Receivable from Participants	7,380	5,521
Total Investment Income (Loss)	440,663	(217,948)
Contributions		
Employer	240,065	219,696
Participants	901,626	814,030
Rollovers	70,554	24,466
Total Contributions	1,212,245	1,058,192
Total Additions	1,652,908	840,244
Deductions from Net Assets Attributed to		
Benefits Paid to Participants	531,143	160,993
Administrative Expenses	27,680	17,854
Net Increase in Net Assets Available for Benefits	1,094,085	661,397
Net Assets Available for Benefits - Beginning of Year	3,978,914	3,317,517
Net Assets Available for Benefits - End of Year	\$ 5,072,999	\$ 3,978,914

See Notes to Financial Statements.

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 1 Description of Plan

The following brief description of the Empire City – Yonkers Raceway 401 (k) Plan (the “Plan”) provides only general information. Participants should refer to the Plan agreement for a more complete description of the Plan’s provisions.

General

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

Eligibility

Non-union employees, as well as certain union employees of the Company, who have completed 90 days of continuous employment with at least 240 hours of service, and are at least 21 years old 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 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’s Individual Accounts

Each participant’s account is credited with the participant’s contribution and allocations of the Company’s contribution and Plan earnings, and charged with an allocation of administrative expenses. 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 vested account.

Vesting

Participants are immediately vested in their contribution plus actual earnings thereon. Vesting in the Company’s contribution portion of their account is based on years of continuous service. A participant is 100% vested after four years of credited service.

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 1 Description of Plan (Continued)

Notes Receivable from Participants

Participants may borrow from their account a minimum of \$1,000 up to a maximum of \$50,000 or 50% of their account balance, whichever is less. 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 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.

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. In addition, participants may elect to have their investments monitored for them based on various risk categories, such as aggressive, moderate or low risk.

Payment of Benefits

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.

Forfeited Accounts

Unallocated forfeitures at December 31, 2012 and 2011 were \$31,011 and \$29,102, respectively. 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.

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 2 Summary of Significant Accounting Policies

Basis of Accounting

The financial statements of the plan are prepared on the accrual basis of accounting 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.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

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 3 for discussion of fair value measurements.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis. Dividends are recorded on the ex-dividend date. Net appreciation (depreciation) includes the Plan's gains and losses on investments bought and sold as well as held during the year.

Notes Receivable from Participants

Notes receivable from participants are measured at their unpaid principal balances plus any accrued but unpaid interest. Interest income is recorded on the accrual basis. Related fees are recorded as administrative expenses and are expensed when they are incurred. No allowance for credit losses has been recorded as of December 31, 2012 or 2011. If a participant ceases to make loan repayments and the plan administrator deems the participant loan to be in default, the participant loan balance is reduced and a benefit payment is recorded.

Payment of Benefits

Benefits are recorded when paid.

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 2 Summary of Significant Accounting Policies (Continued)

Operating Expenses

Certain expenses of maintaining the Plan are paid directly by the Company and are excluded from these financial statements. Fees related to the administration of notes receivable from participants are charged directly to the participant's account and are included in administrative expenses. Investment related expenses are included in net appreciation of fair value of investments.

Subsequent Events Evaluation by Management

Subsequent events were evaluated through October 15, 2013, which is the date the financial statements were available to be issued.

Note 3 Fair Value Measurements

The framework for measuring fair value 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) and the lowest priority to unobservable inputs (level 3). The three levels of the fair value hierarchy under FASB ASC 820 are described as follows:

Level 1	Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Plan has the ability to access.
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Level 2	Inputs to the valuation methodology include <ul style="list-style-type: none">• quoted prices for similar assets or liabilities in active markets;• quoted prices for identical or similar assets or liabilities in inactive markets;• inputs other than quoted prices that are observable for the asset or liability;• inputs that are derived principally from or corroborated by observable market data by correlation or other means.
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If the asset or liability has a specified (contractual) term, the level 2 input must be observable for substantially the full term of the asset or liability.

Level 3	Inputs to the valuation methodology are unobservable and significant to the fair value measurement.
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**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 3 Fair Value Measurements (Continued)

The asset or liability's fair value measurement level with the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques maximize the use of relevant observable inputs and minimize the use of unobservable inputs.

The following is a description of the valuation methodologies used for assets measured at fair value. There have been no changes in the methodologies used as of December 31, 2012 and 2011.

Collective Trust Fund: Valued at the net asset value (NAV) of units of a bank collective trust. The NAV, as provided by the trustee, is used as a practical expedient to estimate fair value. The NAV is based on the fair value of the underlying investments held by the fund less its liabilities. This practical expedient is not used when it is determined to be probable that the fund will sell the investment for an amount different than the reported NAV. Participant transactions (purchases and sales) may occur daily. Were the Plan to initiate a full redemption of the collective trust, the investment adviser reserves the right to temporarily delay withdrawal from the trust in order to ensure that securities liquidations will be carried out in an orderly business manner.

Guaranteed investment contract: Guaranteed investment contracts are valued at fair value by the insurance company by discounting the related cash flows based on current yields of similar instruments with comparable durations considering the creditworthiness of the issuer. Because the participants transact at contract value, fair value is determined annually for financial statement reporting purposes only. Certain unobservable inputs are assessed through review of contract terms (for example, duration or payout date) while others are substantiated utilizing available market data (for example, swap curve rate).

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 3 Fair Value Measurements (Continued)

The following table sets forth by level, within the fair value hierarchy, the Plan's assets at fair value as of December 31, 2012 and 2011:

	Fair Value Measurements Using:		
	Significant Other Observable Inputs	Significant Unobservable Inputs	
December 31, 2012	Level 2	Level 3	Fair Value
Pooled Separate Accounts			
International/Global Fund: \$	422,130	\$ -	\$ 422,130
Large-Cap Funds	1,196,818	-	1,196,818
Mid-Cap Funds	82,863	-	82,863
Small-Cap Funds	380,119	-	380,119
Sector Funds	17,370	-	17,370
Balanced/Lifestyle Funds	1,721,589	-	1,721,589
Fixed Income Funds	596,217	-	596,217
Stable Value Fund	77,518	-	77,518
Guaranteed Investment Contract		265,779	265,779
Total Assets at Fair Value	\$ 4,494,624	\$ 265,779	\$ 4,760,403
December 31, 2011	Level 2	Level 3	Fair Value
Pooled Separate Accounts			
International/Global Fund: \$	406,736	\$ -	\$ 406,736
Large-Cap Funds	959,356	-	959,356
Mid-Cap Funds	87,764	-	87,764
Small-Cap Funds	302,933	-	302,933
Sector Funds	11,916	-	11,916
Balanced/Lifestyle Funds	1,192,555	-	1,192,555
Fixed Income Funds	542,757	-	542,757
Stable Value Fund	67,432	-	67,432
Guaranteed Investment Contract		209,618	209,618
Total Assets at Fair Value	\$ 3,571,449	\$ 209,618	\$ 3,781,067

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 3 Fair Value Measurements (Continued)

The table below sets forth a summary of changes in the fair value of the Plan's Level 3 investments for the years ended December 31, 2012 and 2011:

	2012	2011
Balance, beginning of the year	\$ 209,618	\$ 150,832
Total Gains	3,580	3,640
Purchases, sales, issuances and settlements (net)	<u>52,581</u>	<u>55,146</u>
Balance, end of year	<u>\$ 265,779</u>	<u>\$ 209,618</u>

Note 4 Fixed Rate Investment Option

The Plan entered into a benefit-responsive investment contract with the Guardian Insurance & Annuity Company, Inc. ("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 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 1.5% for 2012 and 2.00% for 2011.

Certain events limit the Plan's ability to transact at contract value with Guardian. Such events include the following: (a) amendments to the plan documents (including complete or partial plan termination or merger with another plan), (b) bankruptcy of the plan sponsor, or (c) the failure of the trust to qualify for exemption from federal income taxes or any required prohibited transaction exemption under the Employee Retirement Income Security Act of 1974. The Plan Administrator does not believe that any events that would limit the Plan's ability to transact at contract value with Plan participants are probable of occurring.

The guaranteed investment contract does not permit Guardian to terminate the agreement prior to the scheduled maturity date.

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 5 Investments

The following presents investments that represent 5% or more of the Plan's net assets at December 31:

	2012	2011
At Fair Value:		
SSGA S&P 500 Index Fund	\$ 1,034,642	\$ 746,014
Benefit Stadion Growth ETF Trust	\$ 779,044	\$ 630,984
Benefit Stadion Moderate ETF Trust	\$ 514,033	\$ 311,657
SSGA US Bond Index Fund	\$ 496,666	\$ 405,253
SSGA International Index Fund	\$ 342,434	\$ 224,920
SSGA Russell SC Index Fund	\$ 297,801	\$ 209,618
Fixed Rate Investment Option	\$ 265,779	\$ 209,618

Note 6 Information Prepared and Certified by Trustee

The following information, included in the accompanying financial statements and supplemental schedule, was obtained from data that has been prepared and certified to as complete and accurate by Guardian, trustee of the Plan, as of and for the year ending December 31:

	2012	2011
Investments at Fair Value	<u>\$ 4,760,403</u>	<u>\$ 3,781,067</u>
Investment Income (Loss)	<u>\$ 433,283</u>	<u>\$ (223,469)</u>

Note 7 Related Party 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 \$27,680 and \$17,854 were paid by the Plan to the Custodian for the years ended December 31, 2012 and 2011, respectively.

All Plan investments are managed by Park Avenue Securities, therefore, these transactions qualify as party-in-interest transactions. Fees paid by the Plan for investment management services amounted to \$ 33,412 and \$30,055 for the years ended December 31, 2012 and 2011, respectively.

**EMPIRE CITY – YONKERS RACEWAY
401 (K) PLAN**

**Notes to the Financial Statements
For the years ended December 31, 2012 and 2011**

Note 8 Plan Termination

Although it has not expressed any intent to do so, the Company has the 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 a Plan termination, participants will become 100% vested in their accounts.

Note 9 Tax Status

The prototype plan sponsor has obtained an opinion letter dated August 9, 2010, in which the IRS stated that the restated prototype plan document was in compliance with applicable requirements of the Internal Revenue Code (IRC). The Plan Administrator timely adopted the restated prototype plan. The Plan has been amended since receiving the determination letter. However, the Plan Administrator believes that the Plan is currently designed and being operated in accordance with IRC requirements.

Accounting principles generally accepted in the United States of America require plan management to evaluate tax positions taken by the plan and recognize a tax liability if the organization has taken an uncertain position that more likely than not would be sustained upon examination by the Internal Revenue Service. The Plan is subject to routine audits by taxing jurisdictions; however, there are currently no audits for any tax periods in progress. The Plan administrator believes the Plan is no longer subject to income tax examinations for the years prior to 2009.

Note 10 Risks and Uncertainties

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 value 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.

EMPIRE CITY - YONKERS RACEWAY 401 (K) PLAN

Supplementary Information
Sponsor's EIN: 13-2710385 PN: 004

Schedule of Assets (Held at End of Year) December 31, 2012

(a)	(b) Identity of Issue, Borrower, Lessor, Or Similar Party	(c) Description of Investment	(d) Cost	(e) Current Value
	Mutual Funds:			
*	SSGA S&P 500 Index Fund	Mutual Fund	**	\$ 1,034,642
*	Benefit Stadion Growth ETF Trust	Mutual Fund	**	779,044
*	Benefit Stadion Moderate ETF Trust	Mutual Fund	**	514,033
*	SSGA US Bond Index Fund	Mutual Fund	**	496,666
*	SSGA International Index Fund	Mutual Fund	**	342,434
*	SSGA Russell SC Index Fund	Mutual Fund	**	297,801
*	Fixed Rate Investment Option	Guaranteed Fund	**	265,779
*	Benefit Stadion Conservative ETF Trust	Mutual Fund	**	151,960
*	T Rowe Price Retirement 2020 Fund	Mutual Fund	**	134,291
*	T Rowe Price Growth Stock Fund	Mutual Fund	**	109,441
*	Janus Balanced Fund	Mutual Fund	**	98,980
*	PIMCO Short Term Fund	Mutual Fund	**	77,175
*	SSGA Short Term Investment Fund	Mutual Fund	**	71,285
*	MFS New Discovery Fund	Mutual Fund	**	63,003
*	Black Rock Basic Value	Mutual Fund	**	52,734
*	MFS International Growth Fund	Mutual Fund	**	49,579
*	Goldman Sachs Mid Cap Value Fund	Mutual Fund	**	43,438
*	Columbia Mid Cap Growth Fund	Mutual Fund	**	33,343
*	Templeton Foreign	Mutual Fund	**	30,117
*	Goldman Sachs Small Cap Value Fund	Mutual Fund	**	19,315
*	T. Rowe Price Real Estate Fund	Mutual Fund	**	17,369
*	T Rowe Price Retirement Income Fund	Mutual Fund	**	17,092
*	PIMCO Total Return Fund	Mutual Fund	**	12,414
*	T Rowe Price Retirement 2030 Fund	Mutual Fund	**	12,275
*	Lord Abbett Short Duration Inc	Mutual Fund	**	9,962
*	T Rowe Price Retirement 2040 Fund	Mutual Fund	**	7,600
*	American Century Prime Money Market	Mutual Fund	**	6,233
*	SSGA S&P Mid Cap Index Fund	Mutual Fund	**	6,082
*	T. Rowe Price Retirement 2050	Mutual Fund	**	5,548
*	T Rowe Price Retirement 2010 Fund	Mutual Fund	**	768
				<u>\$ 4,760,403</u>
	Receivables			
*	Participants Loans	4.25% - 8.25%	**	<u>\$ 307,708</u>

* A party-in-interest as defined by ERISA

** Cost omitted for participant directed investments

EMPIRE CITY - YONKERS RACEWAY 401 (K) PLAN

Supplementary Information
Sponsor's EIN: 13-2710385 PN: 004

Form 5500 Line 4a
Schedule of Delinquent Participant Contributions
December 31, 2012

Participant Contributions transferred Late to Plan	Total the Constitute Nonexempt Prohibited Transactions	Contributions Pending Correction in VFCP
\$4,888	\$4,888	\$4,888

EMPIRE CITY - YONKERS RACEWAY 401 (K) PLAN

Supplementary Information
Sponsor's EIN: 13-2710385 PN: 004

Schedule of Assets (Held at End of Year) December 31, 2012

(a)	(b) Identity of Issue, Borrower, Lessor, Or Similar Party	(c) Description of Investment	(d) Cost	(e) Current Value
	Mutual Funds:			
*	SSGA S&P 500 Index Fund	Mutual Fund	**	\$ 1,034,642
*	Benefit Stadion Growth ETF Trust	Mutual Fund	**	779,044
*	Benefit Stadion Moderate ETF Trust	Mutual Fund	**	514,033
*	SSGA US Bond Index Fund	Mutual Fund	**	496,666
*	SSGA International Index Fund	Mutual Fund	**	342,434
*	SSGA Russell SC Index Fund	Mutual Fund	**	297,801
*	Fixed Rate Investment Option	Guaranteed Fund	**	265,779
*	Benefit Stadion Conservative ETF Trust	Mutual Fund	**	151,960
*	T Rowe Price Retirement 2020 Fund	Mutual Fund	**	134,291
*	T Rowe Price Growth Stock Fund	Mutual Fund	**	109,441
*	Janus Balanced Fund	Mutual Fund	**	98,980
*	PIMCO Short Term Fund	Mutual Fund	**	77,175
*	SSGA Short Term Investment Fund	Mutual Fund	**	71,285
*	MFS New Discovery Fund	Mutual Fund	**	63,003
*	Black Rock Basic Value	Mutual Fund	**	52,734
*	MFS International Growth Fund	Mutual Fund	**	49,579
*	Goldman Sachs Mid Cap Value Fund	Mutual Fund	**	43,438
*	Columbia Mid Cap Growth Fund	Mutual Fund	**	33,343
*	Templeton Foreign	Mutual Fund	**	30,117
*	Goldman Sachs Small Cap Value Fund	Mutual Fund	**	19,315
*	T. Rowe Price Real Estate Fund	Mutual Fund	**	17,369
*	T Rowe Price Retirement Income Fund	Mutual Fund	**	17,092
*	PIMCO Total Return Fund	Mutual Fund	**	12,414
*	T Rowe Price Retirement 2030 Fund	Mutual Fund	**	12,275
*	Lord Abbett Short Duration Inc	Mutual Fund	**	9,962
*	T Rowe Price Retirement 2040 Fund	Mutual Fund	**	7,600
*	American Century Prime Money Market	Mutual Fund	**	6,233
*	SSGA S&P Mid Cap Index Fund	Mutual Fund	**	6,082
*	T. Rowe Price Retirement 2050	Mutual Fund	**	5,548
*	T Rowe Price Retirement 2010 Fund	Mutual Fund	**	768
				<u>\$ 4,760,403</u>
	Receivables			
*	Participants Loans	4.25% - 8.25%	**	<u>\$ 307,708</u>

* A party-in-interest as defined by ERISA

** Cost omitted for participant directed investments

EMPIRE CITY - YONKERS RACEWAY 401 (K) PLAN

Supplementary Information
Sponsor's EIN: 13-2710385 PN: 004

Form 5500 Line 4a
Schedule of Delinquent Participant Contributions
December 31, 2012

Participant Contributions transferred Late to Plan	Total the Constitute Nonexempt Prohibited Transactions	Contributions Pending Correction in VFCP
\$4,888	\$4,888	\$4,888