AUDIT REPORT

CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Compliance of the New York Yankees With Their Lease Agreement January 1, 2001—December 31, 2002

FN04-125A

December 1, 2004

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has examined the compliance of the New York Yankees Partnership (Yankees), with the terms of their lease agreement with the New York City Department of Parks and Recreation. Under the provisions of the agreement, the Yankees are to pay the City fees based on reported revenues for the exclusive use of Yankee Stadium during the baseball season. The results of our audit, which are presented in this report, have been discussed with officials from the Yankees and the Parks Department, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that private concerns conducting business on City property comply with the terms of their agreements, properly report revenues, and pay the City all fees due.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

William C. Thompson, Jr.

WCT/gr

Report: **FN04-125A**
Filed: **December 1, 2004**

Table of Contents

AUDIT REPORT IN BRIEF	1
Audit Findings and Conclusions	1
Audit Recommendations	2
INTRODUCTION	3
Background	3
Objectives	5
Scope and Methodology	5
Discussion of Audit Results	7
FINDINGS	9
Inaccurate Reporting of Cable Television Receipts	9
New York Yankees Response	10
Auditor Comments	11
Other Errors in Revenue Reporting	11
Major League Baseball Deductions Overstated by $13,777,698	12
Prior Period (1997–2000) Major League Baseball Deductions Overstated By $20,703,664, Resulting in Additional Fees Owed of $1,691,485	13
New York Yankees Response	14
Auditor Comments	14
New-Stadium-Planning Cost Credits Overstated	15
RECOMMENDATIONS	15
New York Yankees Response	15
Parks Response	15

APPENDIX I – Lease Fees Due from Inaccurate Reporting of Cable Television Receipts

APPENDIX II – Lease Fees Due from Under-reported Paid Attendance

APPENDIX III – Lease Fees Due from Revenue-Sharing Overdeductions (2001–2002)

APPENDIX IV – Lease Fees Due from Revenue-Sharing Overdeductions (1997–2000)

ADDENDUM I – New York Yankees Response

ADDENDUM II – Parks Response

The City of New York
Office of the Comptroller
Bureau of Financial Audit

Audit Report on the Compliance of the New York Yankees With Their Lease Agreement January 1, 2001—December 31, 2002

FN04-125A

AUDIT RESULTS IN BRIEF

In 1972, the New York Yankees, Inc., and the City Department of Parks and Recreation (Parks) entered into a 30-year lease agreement for the rental and use of Yankee Stadium. The lease has been extended to December 31, 2005, with five one-year renewal options thereafter to be exercised at the discretion of the Yankees. In March 1973, New York Yankees, Inc., assigned its interest to the New York Yankees Partnership (Yankees). The lease, which is administered by Parks, permits the Yankees exclusive use of Yankee Stadium during the baseball season and permits the Yankees to sell tickets, provide food and souvenir concessions, provide parking for season ticket holders, and provide cable television broadcasts.

This audit assessed the compliance of the Yankees with their City lease agreement. According to the agreement and its amendments, the Yankees are required to pay the City the greater of either an annual minimum rent of $200,000 or a percentage of revenues from gross admission, concessions, wait service, pre-paid parking, and a portion of cable television receipts. The agreement allows the Yankees to deduct payments made to Major League Baseball related to ticket sales and local cable television receipts and all sales taxes, before calculating rent payments to the City. The lease also allows the Yankees to deduct new-stadium-planning costs incurred up to $5 million each year for five years and 25 percent of property insurance premiums for Yankee Stadium from their rent payments. For the audit period, January 1, 2001, to December 31, 2002, the Yankees reported gross revenues totaling $384.4 million and paid the City $9.9 million.

Audit Findings and Conclusions

The Yankees generally adhered to the provisions of their lease agreement with the City and had an adequate system of internal controls over their revenue collection and reporting functions. In addition, the Yankees reimbursed Parks for electricity and for water and sewer use during the baseball season; had the required liability insurance that named the City as an additional insured party and deducted the appropriate amount as a credit; and accurately calculated the sales taxes deducted from reported revenue. The Yankees also paid a prior audit assessment of $367,321.

However, the Yankees underreported their revenue by $9,070,960 and overstated deductions against revenue by $34,489,804. Consequently, the Yankees owe the City $3,599,575 in additional fees, as shown in Table I, which follows.

TABLE I

Schedule of Additional Fees Owed to the City

	Under/(Over)-reported Revenue and Deductions	Total Due the City
Under/(Over)-reported Revenue		
Cable Television	$ 6,925,290	$ 692,529
Concession Receipts	1,241,444	99,583
Wait Service	906,794	45,340
Paid Attendance		20,990
Prepaid Parking Over-reported	(2,568)	(1,284)
Under-reported Revenue	$ 9,070,960	**$ 857,158**
Overstated Deductions		
Overstated Revenue-Sharing Deductions 2001 and 2002	$13,777,698	$1,042,490
Overstated Revenue-Sharing Deductions 1997–2000	20,703,664	1,691,485
New-Stadium-Planning Costs	8,442	8,442
Total Overstated Deductions	$34,489,804	**$2,742,417**
Total Additional Fees Due the City		**$3,599,575**

Audit Recommendations

This audit recommends that the Yankees: pay the City $3,599,575 in additional fees due; ensure that revenue from cable television, concessions, wait-service, and pre-paid parking is accurately reported to the City, and all appropriate fees are paid; ensure that annual paid attendance is accurately reported to the City, and fees are accurately calculated and paid in accordance with the lease agreement; deduct only those payments to Major League Baseball that relate to gross admission receipts and local cable television receipts from their calculation of rent due the City; and include only those new-stadium-planning costs incurred within the calendar year as deductions from rent due.

In addition, we recommend that Parks ensure that the Yankees pay the additional fees recommended in this report and comply with the audit's recommendations.

In their response, the Yankees agreed with $2,456,592 of the $3,599,575 audit assessment. However, the Yankees did not provide adequate documentation supporting the contention that the remaining $1,142,983 is not due to the City. The specific issues raised by the Yankees and our rebuttals are included within the respective sections of this report.

Parks responded that it requested $173,071 in payment for those issues in the report that the Yankees did not contest at the exit conference. Parks stated that the remaining balance of $3,426,504 for under-reported cable television receipts of $692,529 and overstated deductions for revenue-sharing of $2,733,975 will be addressed after Parks' legal division has reviewed the Yankees response to the audit. Parks also stated that it would keep the Comptroller's Office informed of the amounts recovered from the Yankees.

The full texts of the responses from the Yankees and Parks are included as addenda to this report.

INTRODUCTION

Background

In 1972, the New York Yankees, Inc., and Parks entered into a 30-year lease agreement for the rental and exclusive use of Yankee Stadium during the baseball season. The lease has been extended to December 31, 2005, with five one-year renewal options thereafter to be exercised at the discretion of the Yankees. In March 1973, New York Yankees, Inc., assigned its interest to the New York Yankees Partnership (Yankees). The lease agreement, which is administered by Parks, permits the Yankees to sell tickets; provide food and souvenir concessions, restaurant and catering services for five restaurants, 19 luxury suites, and 15 "Hall of Fame" suites; provide parking for season-ticket holders; provide cable television broadcasts; and conduct post-season baseball games, if applicable. The agreement also allows the Yankees to either operate or subcontract their concessions. The Yankees subcontract their concessions, which include the Stadium's restaurants, catering, and souvenir operations, to Volume Services, Inc. (Volume Services).

The agreement has been amended nine times from its inception through December 31, 2001, granting the Yankees additional privileges. In 1972, the first and second amendments allowed the Yankees to exclude the following from reported revenues: sales tax; gratuities; and revenue from advertisements on scorecards, schedules, and other printed material. In 1975, the third amendment granted the Yankees, for a nominal charge, certain parking privileges within the public parking lots adjacent to the Stadium. In 1993, the fourth amendment permitted the Yankees to "purchase" their own security services and maintenance services for Yankee Stadium, allowing these costs to be deducted from any rent due the City.

In 1996, the fifth amendment allowed the Yankees, when calculating payments to the City, to include only the revenue received from the number of cable television subscribers within a 50-mile radius of home-plate, and to include only the ticket price of the luxury suite rentals. In 1999, the sixth amendment allowed the Yankees to replace 7,462 seats at a cost of $1.1 million, and to share the expense equally with the City. In 2000, the seventh amendment required that the Yankees and the City comply with a court order pertaining to the Americans with Disabilities Act (ADA) with regard to making certain modifications for the disabled to the Stadium.

On December 28, 2001, the eighth and ninth amendments were implemented between the City and the Yankees, retroactive to January 1, 2001. The eighth amendment allows the Yankees to deduct new-stadium-planning costs equal to, or less than, $5 million each year on their rent statements for calendar years 2001 through 2005. The ninth amendment extended the lease to December 31, 2005, and provided for five one-year renewal options, exercised at the discretion of the Yankees.

According to their agreement, the Yankees are required to pay the City the greater of either an annual minimum rent of $200,000 or a percentage of revenues from gross admission, concessions, and wait service. The Yankees are also required to pay the City fees from a portion of cable television receipts and pre-paid parking. The agreement allows the Yankees to deduct payments made to Major League Baseball related to ticket sales and local cable television receipts and all sales taxes, before calculating rent payments to the City. The lease also allows the Yankees to deduct new-stadium-planning costs incurred up to $5 million each year for five years and 25 percent of property insurance premiums for Yankee Stadium from their rent payments. The rent payments and deductions from rent payments permitted under the lease agreement are shown on Table II, which follows:

TABLE II

Yankee Rent Payments and Credits under Lease Agreement

Rent Payments:

Gross Admission Receipts (Ticket Sales)	5% of ticket sales when annual paid attendance is 750,000 or less; 7.5% for paid attendance of 750,001 to 1.5 million; and 10% for more than 1.5 million in paid attendance.
Post-Season Games Fees	$2,000 for each post-season game, except for the fifth, sixth, and seventh games of the World series, which is $5,000 per game.
Gross Concession Receipts	5% of concession receipts when annual paid attendance is 750,000 or less; 7.5% for paid attendance of 750,001 to 1.5 million; and 10% for more than 1.5 million in paid attendance.
Post-Season Concessions	7.5% of the total gross concession receipts from post season, all-star, and charity games.
Gross Wait-Service Receipts	5% of Gross Wait-Service Receipts.
Prepaid Parking Fees	50% of season ticket holders' parking fees.
Cable Television Receipts	10% of receipts for home games aired locally after allowable adjustments.

Credits/Deductions against Rent Payments:

Payments to Major League Baseball	Payment deduction is calculated based on the percentage of revenue pertaining to gross admissions and local cable television receipts.
Sales Taxes	100% of sales taxes from ticket sales, concessions, and parking privileges.
Property Insurance	25% of insurance premiums paid.
New-Stadium-Planning Costs	$5 million maximum annual credit for each calendar year from 2001 through 2005.
Maintenance Costs	100% of allowable costs for the maintenance of Yankee Stadium.[1]

In addition, the Yankees are required to carry comprehensive property and liability insurance that names the City as an additional insured party; reimburse the City for their consumption of electricity and for water and sewer use; and submit the preceding year's annual "Statement of Rent" to Parks on or before March 10th along with the applicable rent payment due. For the audit period, January 1, 2001, to December 31, 2002, the Yankees reported gross revenues totaling $384.4 million and paid the City $9.9 million.

Objectives

Our audit objectives were to determine whether the Yankees:

- accurately reported their gross receipts, and calculated and paid the appropriate fees due the City on time; and
- complied with certain other non-revenue requirements of their agreement (i.e., maintained the required insurance and reimbursed the City for utility use).

Scope and Methodology

This audit covered the period January 1, 2001, to December 31, 2002. To achieve our audit objectives, we reviewed and abstracted the relevant terms and conditions of the lease agreement and amendments. We reviewed records on file at Parks, including the Parks Accounts Receivable Ledger and Statements of Rent, and the correspondence between the Yankees and Parks to ascertain whether the Yankees submitted the required "Statement of Rent" and paid all fees on time.

---

[1] The Comptroller's Office audits Yankee maintenance credits quarterly. For the purpose of this audit, we applied the amounts taken as credits against Yankee rent payments.

We evaluated the internal controls over Yankee revenue collection and reporting functions. We conducted walkthroughs of Yankee operations pertaining to ticket sales, concession sales, restaurant revenue, and game-day catering operations in the Stadium's restaurants and luxury suites. We documented our understanding of the procedures and controls through memoranda, which were reviewed and acknowledged by Yankee officials. We conducted an analytical review and trend analysis of reported Yankee revenue amounts to identify large fluctuations or inconsistencies.

To determine whether the Yankees reported gross admission receipts (ticket sales) and paid attendance accurately, we examined Yankee "Daily Game Recap" reports for the 2001 and 2002 baseball seasons. For each game scheduled at Yankee Stadium, we recalculated daily ticket sales and paid attendance and traced our recalculated totals to those amounts reported on the Statements of Rent for 2001 and 2002. We then traced the reported ticket sales to the Trial Balance, general ledger detail, and the Major League Baseball revenue-sharing reports for the audit period. In addition, we reviewed the 2001 and 2002 "Statement of Division of Home Game Ticket Receipts" in the audited reports from PricewaterhouseCoopers, LLP. We compared the ticket sales and attendance in the reports to those amounts reported by the Yankees on their Statements of Rent for both years. Lastly, we determined whether the Yankees paid the required flat fees for post-season baseball games played at Yankee Stadium.

To determine whether revenue generated from concession sales was reported accurately, we reviewed the "Monthly Statements of Gross Receipts and Percentage Commission Earned," and "Daily Game Concession Reports" maintained by Volume Services for the 2001 and 2002 baseball seasons and compared the total amounts on those reports to the amounts reported on the Yankee Statements of Rent. We also assessed the accuracy of reported concession sales by reviewing the 2001 and 2002 independent stated opinions and audit reports from Watson Rice, LLP on the "Yankee Stadium Concession Operation of Volume Services, Inc. Schedule of Gross Receipts and Commissions."

To determine whether revenue generated from restaurant and catering services was reported accurately, we compared the amounts reported by the Yankees on their Statements of Rent to those amounts in Volume Services' Profit and Loss Statements for the 2001 and 2002 seasons, and to the revenue amounts reported in the independent audit reports on the Yankee Stadium Club Operation of Volume Services, Inc. "Statement of Income and Expenses" and "Schedule of Gross Receipts and Commissions" from Watson Rice, LLP.

In addition, we determined whether the Yankees accurately reported the amounts for pre-paid parking on the Statements of Rent by reviewing Yankee books and records, including their general ledger and "Schedule of Daily Pre-paid Parking" for the 2001 and 2002 baseball seasons.

We reviewed the contract between the Yankees and Madison Square Garden, LP (MSG) as it related to cable television receipts for 2001. For the 2002 baseball season, we reviewed the contract between the Yankees and Yankees Entertainment and Sports Network, LLC (YES). For both the 2001 and 2002 baseball seasons, we traced the reported cable television receipts to the amounts posted on the Yankee general ledger and on the bank statements to determine whether the correct amounts were paid to the City.

To determine whether deductions for revenue-sharing payments to Major League Baseball were correct and were reported accurately, we traced the amounts owed by the Yankees on the Major League Baseball revenue reports to Yankee disbursement ledgers and canceled checks. We matched the revenue for ticket sales and cable television recorded on the Statements of Rent to the amounts in the Yankee general ledgers. We then analyzed the Yankee methodology for allocating the revenue–sharing deductions, and recalculated the amounts for deduction based on the percentage of total revenue related to ticket sales and local cable television. Based on the significant errors found during our examination of deductions taken by the Yankees for payments to Major League Baseball during the audit period, we decided to expand our testing of this area to include deductions for calendar years 1997 (the year in which the Yankees began deducting revenue-sharing payments from gross receipts reported to the City) to 2000.

To determine whether the Yankees had the proper insurance coverage that named the City as an additional insured party, we examined the Yankee certificates of insurance. We reviewed the Yankee insurance policies, records, and payments made to their insurance carriers that would substantiate the appropriateness of the insurance-credit deductions taken by the Yankees.

Furthermore, we determined whether the deductions for new-stadium-planning costs were in accordance with the eighth amendment of the lease agreement. Specifically, we determined whether the costs deducted on their Statements of Rent matched the amounts on the New-Stadium-Planning Costs statements and supporting documentation (i.e., payment records, invoices, and receipts), and whether the deductions were for costs incurred in calendar years 2001 and 2002. We also reviewed the planning costs submitted to Parks and determined whether the Yankees were reimbursed by the New York City Economic Development Corporation for any of these items.[2]

Finally, we determined whether the Yankees accurately calculated sales tax deducted from reported revenue; whether Parks was reimbursed for utility charges incurred by reviewing all canceled checks for electricity and water and sewer use; and whether the Yankees satisfied the amount owed as reported in a prior audit conducted by the Comptroller's Office (Report FN02-126A, issued May 30, 2002).

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, § 93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with officials from the Yankees and from Parks during and at the conclusion of this audit. A preliminary draft report was sent to Yankees and Parks officials and was discussed at an exit conference on June 2, 2004. Subsequent to the preliminary draft and the exit conference the Yankees provided us with additional information and

---

[2] Under a separate agreement with the New York City Economic Development Corporation, the Yankees were to be reimbursed by the Corporation for $3 million in new-stadium-planning costs.

documentation concerning the report's findings. The Yankees provided us with adequate documentation to support the property insurance deduction, and most of the new-stadium-planning costs that they claimed. As a result, we reduced the amount due from the Yankees from $4,733,983 to $3,599,575. However, the information provided by the Yankees did not change our position on our findings concerning the inaccurate reporting of cable television receipts and revenue sharing payments. On June 11, 2004, we submitted a draft report to Yankees and Parks officials with a request for comments. We received written responses from Parks on June 25, 2004, and from the Yankees on June 28, 2004.

In their response, the Yankees agreed with $2,456,592 of the $3,599,575 audit assessment. However, the Yankees did not provide adequate documentation supporting the contention that the remaining $1,142,983 is not due to the City. The specific issues raised by the Yankees and our rebuttals are included within the respective sections of this report.

Parks responded that it requested $173,071 in payment for those issues in the report that the Yankees did not contest at the exit conference. Parks stated that the remaining balance of $3,426,504 for under-reported cable television receipts of $692,529 and overstated deductions for revenue-sharing of $2,733,975 will be addressed after Parks' legal division has reviewed the Yankees response to the audit. Parks also stated that it would keep the Comptroller's Office informed of the amounts recovered from the Yankees.

The full texts of the responses received from the Yankees and Parks are included as addenda to this report.

FINDINGS

The Yankees generally adhered to the provisions of their lease agreement with the City and had an adequate system of internal controls over their revenue collection and reporting functions. In addition, the Yankees reimbursed Parks for electricity and for water and sewer use during the baseball season; had the required property and liability insurance that named the City as an additional insured party and deducted the appropriate amount as a credit; and accurately calculated sales tax deducted from reported revenue. The Yankees also paid a prior audit assessment of $367,321.

However, the Yankees underreported their revenue by $9,070,960 and overstated deductions against revenue by $34,489,804. Consequently, the Yankees owe the City $3,599,575 in additional fees.

These matters are discussed in greater detail in the following sections of this report.

<u>Inaccurate Reporting of Cable Television Receipts</u>

On their Statements of Rent to Parks, the Yankees under-reported their 2001 cable television receipts by a net $27,960,784 and over-reported 2002 cable television receipts by $9,706,667. Consequently, the Yankees owe the City $692,529 in additional rent, as detailed in Appendix I.

Under the lease agreement, the Yankees are required to pay 10 percent of cable television revenue after deducting a portion of the receipts that pertain to: games played in other cities that are aired locally on cable stations; all games aired on free television stations; and cable subscribers who live beyond a 50-mile radius of Yankee Stadium home plate.

Specifically, for 2001 the Yankees improperly deducted from cable television receipts a $30,000,000 payment they made to Madison Square Garden, LP (MSG). This payment was part of a settlement agreement that allowed the Yankees to terminate MSG's right to air Yankee games on the MSG network commencing with the 2002 season. However, there are no provisions in the lease that allow for a deduction of such payments against cable television receipts when calculating rent due the City. Moreover, for 2001, the Yankees under-reported deductions of $9,803,922 for games aired on free television stations and overreported deductions of $7,764,706 for games played in other cities that were aired on cable stations. Thus, the net amount of over-reported deductions for 2001 amounted to $27,960,784, resulting in additional fees of $1,027,559.

For 2002, the Yankees under-reported their allowable deductions from revenue by $9,706,667. Based on our review, the Yankees were allowed to deduct the amount attributable to the portion of revenue received for games aired on free television stations from their 2002 cable television revenue. However, the Yankees did not take this deduction on their Statement of Rent for 2002, resulting in a credit of $335,030. Therefore, for the two-year audit period, the Yankees owe additional fees of $692,529.

Yankees Response: Yankees officials responded that "we (the Yankees) request that your office does the following:

"In regards to the 2002 cable TV Calculation. The draft states that the Yankees are due a credit of $335,030. Due to under-reported allowable deductions of $9,706,667 for games aired on free television. That deduction should be $10,816,000 along with a further deduction of $21,271,467 for games played in other cities. Totaling a deduction of $32,087,467 resulting in a credit due the Yankees in the amount of $645,058 for 2002.

"Further, as a result of the analysis set forth below, it is abundantly clear that the City is due $657,638, and not the draft amount of $1,027,559 for 2001.

"Clearly, although denominated a 'settlement,' as it must be having resolved a pending dispute with Madison Square Garden, L.P. ('MSG'), our 2001 rightsholder, the dispute was unquestionably over television receipts/rights fees. It is axiomatic that we cannot observe the form of a dispute resolution and ignore the substance of the dispute. Form over substance is never proper. Merely reviewing the settlement is sufficient to confirm the propriety of its use in determining 'Cable Television Receipts' and the concomitant amounts required to be paid to the City under Article XVII of the Lease.

"Initially, in November 2000, MSG and the Yankees agreed that the Yankees would be paid $52 million in 2001 in exchange for MSG's right to transmit Yankees games in 2001. Thereafter, in April 2001, as the final resolution of the Yankees' dispute with MSG over MSG's right to transmit Yankees games and the rights fee to be paid to the Yankees for such right, MSG and the Yankees agreed that MSG would broadcast 85 games in 2002 and the Yankees would retain the right to exploit, on television, the remaining 65 Yankees games. Critically, MSG was not required to pay to the Yankees any rights fee for the 85 games. Alternatively, the Yankees retained the right, which we eventually exercised, to pay to MSG $30 million as a result of which MSG's right to transmit Yankees games in 2002 was terminated. Yet, in lieu of providing MSG with only 85 games (with no rights fee), the Yankees could have required MSG to transmit 65 additional Yankees games for a total rights fee for all 150 games of $37.5 million. Definitionally, the settlement can be considered nothing other than a rights fee agreement. In fact, the settlement also provides for a pro-rata reduction in the rights fee if games were canceled. It is incorrect to suggest otherwise. If the Yankees did not choose to terminate MSG's rights and MSG televised 85 games in 2002 without a rights fee would the City have stepped in and presumed or attributed a rights fee where none existed?

"While we believe, beyond question, that the $30 million dollar payment was a proper reduction in 2001, arguable there may be a timing issue with the payment properly qualifying as a reduction in 2002, in either case providing the requisite calculable numbers for determining the amount of 'Cable Television Receipts' received by the Yankees. With respect to the $30 million reduction, the Yankees recognized that the $30 million should be reduced to $9.4 million to give affect to Article XVII of the Lease. Yet, in analyzing the findings set forth in the Comptroller's Audit Report dated June 11, 2004 it would appear as if Article XVII has been misread.

"Article XVII clearly states that the Yankees are to pay to the City, in addition to the rent required elsewhere in the Lease, 10% of 'Cable Television Receipts.' 'Cable Television Receipts' is specifically defined as the gross amount received by the Yankees from Cable Television, <u>only</u> from or arising out of amounts received (a) for <u>home games</u> and (b) from subscribers living within a radius of 50 miles from home plate of Yankees Stadium. There is absolutely no requirement to pay for any portion of receipts that relate to road games, over-the-air games or national broadcasts. For example, if the Yankees licensed a rightsholder to transmit 150 games on Cable Television for a rights fee of $75 million and only 50 home games were transmitted, then the Cable Television Receipts to which the Cable TV Area percentage would be applied, would be $25 million. The foregoing is a simple example of the process. Annexed hereto are more detailed calculations of the 2001 and 2002 Cable Television calculations also reflective of a modification to $9.4 million with respect to the 2001 reduction."

<u>Auditor Comments:</u> After reviewing the Yankees response, Article XVII of the Lease, and the Settlement Agreement (dated April 23, 2001), it is clear that the payment to MSG does not qualify as a deduction under the Lease. First, such deductions, as defined in Article XVII of the lease, are limited to a portion of the Gross Amount paid to another baseball club, the American League, the Commissioner of Baseball, and certain production costs. Obviously, this payment does not fit the lease's description for deductions. Second, with respect to "game fees," the Lease refers only to payments received by the Yankees for such fees. It is clear that the $30 million was never received by the Yankees for cable broadcast of games. Finally, given that the Lease excludes rights fees from the calculation of Cable Television Receipts, we do not understand why the payment—even if it were considered a "rights fee"—has any bearing on the calculation of Cable Television Receipts. We note that the Yankees' General Ledger records the payment as a "Buy Out," and the response acknowledges that the purpose of the payment was to resolve a private dispute between the Yankees and MSG. We therefore see no basis, in the Lease or otherwise, for deducting any portion of this payment from the calculation of rent due the City.

We agree that under Article XVII of Lease only requires that the Yankees pay fees to the City from cable television revenue from home games and from subscribers living within 50 miles from home plate of Yankees Stadium. In addition, we agree that there is no requirement to pay for any portion of receipts that relate to road games, over-the-air games or national broadcasts. Our calculations of fees due were based on those parameters and on the documentation provided during the audit. The Yankees calculations included in their response are incorrect, unsupported, and contradict the documentation provided.

<u>Other Errors in Revenue Reporting</u>

Our review of Yankee books and records for the 2001 and 2002 baseball seasons disclosed the following errors in reporting of revenue to the City:

Concession Revenue Under-reported by $1,241,444 Resulting in Additional Fees of $99,583. In 2001 and 2002, the Yankees reported concession revenue of $92,488,561. However, according to the books and records of Volume Services, concession revenue for that two-year period amounted to $93,730,005. Accordingly, the Yankees owe the City $99,583 in additional rent.

Wait-Service Revenue Under-reported by $906,794 Resulting in Additional Fees of $45,340. In 2001 and 2002, the Yankees reported wait-service revenue of $5,165,326. However, according to the books and records of Volume Services, wait-service revenue for that two-year period amounted to $6,072,120. Accordingly, the Yankees owe the City $45,340 in additional rent.

Under-reported Annual Paid Attendance. For the 2001 baseball season, the Yankees reported paid attendance of 3,231,360. However, according to the Yankees audited financial statements completed by PricewaterhouseCoopers, LLP, actual paid attendance for year amounted to 3,264,574. Thus, paid attendance was under-reported by 33,214. Based on the provisions of the lease agreement, we calculated that the Yankees owe the City additional rent of $20,990, as detailed in Appendix II.

Over-reported Pre-paid Parking Revenue. According to the Yankee books and records, pre-paid parking revenue for the 2001 baseball season amounted to $1,416,700. However, the Yankees reported $1,419,268 in parking revenue for that year—an overstatement of $2,568. As a result, the Yankees are due a credit of $1,284 (based on the 50-percent payment provision in the lease agreement).

Major League Baseball Deductions Overstated by $13,777,698

In accordance with a 1997 agreement between Major League Baseball and the baseball teams, the Yankees participate in a revenue-sharing program. Article III, §3.4(i)(2), and Article XVII, §17.2(a), allow the Yankees to deduct payments to Major League Baseball that relate to gross admission receipts and local cable television receipts from their calculation of rent due the City.

For 2001 and 2002, the Yankees remitted revenue-sharing payments of $56,154,513 to Major League Baseball. Of this amount, the Yankees reduced gross revenues reported to the City for 2001 and 2002 by $49,529,540 for their revenue sharing payments. However, we found that the Yankees were entitled to deduct only $35,751,842—the proportion of revenue sharing payments attributable to gross admission and local cable television receipts. Thus, the Yankees overstated the deductions claimed on their rent statements by $13,777,698, and consequently owe the City additional rent totaling $1,042,490, as shown in Table III, following, and as detailed in Appendix III.

TABLE III

Overstated Revenue-Sharing Deductions and
Additional Fees Owed for 2001–2002

	2001	2002	Total
Reported Deductions for Revenue-Sharing			
Payments to Major League Baseball	$21,849,719	$27,679,821	$49,529,540
% of Revenue Pertaining to Gross Admission and Cable TV Receipts Applied by Yankees	100%	100%	
Reported Deductions for Revenue-Sharing	$21,849,719	$27,679,821	$49,529,540
Audited Deductions for Revenue-Sharing			
Payments to Major League Baseball	$29,514,224	$26,640,289	$56,154,513
Actual % of Revenue Pertaining to Gross Admission And Cable TV Receipts	67.37393%	59.55997%	
Audited Deductions for Revenue-Sharing	$19,884,893	$15,866,949	$35,751,842
Amount Overstated as Deductions on the Statements of Rent	**$ 1,964,826**	**$11,812,872**	**$13,777,698**
Additional Fees Due the City for Revenue-Sharing	**$ 370,291**	**$ 672,199**	**$ 1,042,490**

Prior Period (1997-2000) Major League Baseball Deductions Overstated By $20,703,664, Resulting in Additional Fees Owed of $1,691,485

As with 2001 and 2002, the Yankees overstated their revenue-sharing deductions for 1997 to 2000 on their Statements of Rent. The Yankees claimed deductions totaling $70,940,082 on their rent statements for the four-year period—the total amount paid to Major League Baseball. We found that the Yankees were entitled to deduct only $50,236,418—the proportion of revenue sharing payments attributable to gross admission and local cable television receipts. Thus, the Yankees overstated the deductions claimed on their rent statements by $20,703,664, and consequently owe the City additional rent totaling $1,691,485, as shown in Table IV, following, and as detailed in Appendix IV.

TABLE IV
Overstated Revenue-Sharing Deductions and
Additional Fees Owed from 1997–2000

Reported Deductions for Revenue-Sharing	**1997**	**1998**	**1999**	**2000**	**Total**
Payments to Major League Baseball	$14,245,407	$14,496,615	$17,774,654	$24,423,406	$70,940,082
% of Revenue Pertaining to Gross Admission and Cable TV Receipts Applied by the Yankees	100%	100%	100%	100%	
Reported Deductions for Revenue-Sharing	$14,245,407	$14,496,615	$17,774,654	$24,423,406	$70,940,082
Audited Deductions for Revenue-Sharing					
Payments to Major League Baseball	$14,245,407	$14,496,615	$17,774,654	$24,423,406	$70,940,082
Actual % of Revenue Pertaining to Gross Admission and Cable TV Receipts	71.86274%	70.81463%	72.56917%	68.92829%	
Audited Deductions for Revenue-Sharing	$10,237,140	$10,265,724	$12,898,919	$16,834,635	$50,236,418
Amt. Overstated as Deductions on the Statements of Rent	**$ 4,008,267**	**$ 4,230,891**	**$ 4,875,735**	**$ 7,588,771**	**$20,703,664**
Additional Fees Due the City for Revenue-Sharing	**$ 304,157**	**$ 330,866**	**$ 423,594**	**$ 632,868**	**$ 1,691,485**

Yankees Response: Yankees officials responded that "In regard to revenue sharing deductions in the years 1997-2000 (prior audit) and 2001-2002 (current audit), your calculation should be inclusive of the entire revenue sharing worksheet, which is the basis of our payment. Also you should adjust for the additional revenue sharing payment for 2001 in the amounts of $1,335,605.00 (check copy attached). Keep in mind that 2002 has not yet been finalized and additional payments are still pending.

"Based upon the revenue sharing values to date the amount due based on your calculations is $2,733,975 compared to my calculation of amount due of $2,270,941."

Auditor Comments: We are pleased that Yankee officials acknowledge that they are not entitled to deduct the full amount of revenue sharing payments to Major League Baseball and that the deductions taken on the rent statements they submitted to Parks were overstated. However, the documents provided do not support the Yankees' contention that they only owe the City $2,270,941 rather than the $2,733,975 cited in the draft report. Moreover, since our calculations already include the $1,335,605 payment cited in the Yankees response, no further adjustments are warranted.

New-Stadium-Planning Costs Overstated

On their 2001 Rent Statement, the Yankees deducted $8,442 from their rent payments pertaining to new-stadium-planning costs that were incurred in 2000—prior to the effective date of the lease amendment, which allows deductions for these costs. The amendment permits the Yankees to deduct up to $5 million each year for new-stadium-planning costs from the rent due the City for calendar years 2001 through 2005. Accordingly, the Yankees owe the City $8,442 in additional rent.

RECOMMENDATIONS

We recommend that the Yankees:

1. Pay the City $3,599,575 in additional fees due.
2. Ensure that revenue from cable television, concessions, wait-service, and pre-paid parking is accurately reported to the City, and all appropriate fees are paid.
3. Ensure that annual paid attendance is accurately reported to the City, and that fees are accurately calculated and paid in accordance with the lease agreement.
4. Deduct only those payments to Major League Baseball that relate to gross admission receipts and local cable television receipts from their calculation of rent due the City.
5. Include only those new-stadium-planning costs incurred within the calendar year as deductions from rent due.

   Yankees Response: Yankee officials did not respond to the report's recommendations.

We recommend that Parks:

6. Ensure that the Yankees pay the additional fees recommended in this report and comply with the audit's recommendations.

   Parks Response: Parks responded that it requested $173,071 for those issues in the report that the Yankees did not contest at the exit conference. Parks stated that the remaining balance of $3,426,504 for under-reported cable television receipts of $692,529 and overstated deductions for revenue-sharing of $2,733,975 will be addressed after Parks' legal division has reviewed the Yankees response to the audit. Parks also stated that it would keep the Comptroller's Office informed of the amounts recovered from the Yankees.

The New York Yankees
Lease Fees Due from Inaccurate Reporting of Cable Television Revenues
FN04 - 125A

2001	Rent Statement (Reported)	(Audited)	Differences
Gross Revenue	$ 22,000,000	$ 52,000,000	$ 30,000,000
Less: Portion related to free television	7,189,542	16,993,464	$ 9,803,922
Less: Cable away games (reported in error)	7,764,706	0	$ (7,764,706)
Gross Cable Television Revenue	$ 7,045,752	$ 35,006,536	$ 27,960,784
Cable Subscriber % (50 mile radius)	75.00%	75.00%	
Home Game %	49.00%	49.00%	
Revenue From Home Game Subscribers within 50 Mile Radius	$ 2,589,314	$ 12,864,902	$ 10,275,588
Less: Revenue-Sharing Deductions	$ 2,209,951	$ 2,209,951	$ -
Subscriber % (50 mile radius)	75.00%	75.00%	
Home Game %	49.00%	49.00%	
Revenue-Sharing From Deduction	$ 812,157	$ 812,157	$ -
Cable Revenues (after revenue-sharing deduction)	$ 1,777,157	$ 12,052,745	$ 10,275,588
Less: Lease Section 17.3i	555,000	555,000	
Cable Television Receipts - Less Deductions	$ 1,222,157	$ 11,497,745	$ 10,275,588
Rent Percentage	10%	10%	
Total Due 2001	$ 122,216	$ 1,149,774	$ 1,027,559
2002			
Gross Revenue	$ 54,080,000	$ 54,080,000	$ -
Less: Portion related to free television	0	9,706,667	9,706,667
Gross Cable Television Revenue	$ 54,080,000	$ 44,373,333	(9,706,667)
Cable Subscriber % (50 mile radius)	75.00%	75.00%	
Home Game %	47.30000%	47.65625%	0.36%
Revenue From Home Game Subscribers within 50 Mile Radius	$ 19,184,880	$ 15,860,000	$ (3,324,880)
Less: Revenue-Sharing Deductions	$ 9,513,209	$ 9,513,209	$ -
Cable Subscriber % (50 mile radius)	75.00%	75.00%	
Home Game %	47.30000%	47.65625%	0.36%
Revenue-Sharing From Deduction	$ 3,374,811	$ 3,400,229	$ 25,418
Cable Revenues (after reported revenue-sharing)	$ 15,810,069	$ 12,459,771	$ (3,350,298)
Less: Lease Section 17.3i	555,000	555,000	
Cable Television Revenues - Less Deductions	$ 15,255,069	$ 11,904,771	$ (3,350,298)
Rent Percentage	10%	10%	
Total Owed 2002	1,525,507	1,190,477	$ (335,030)
Total Due: 2001& 2002			$ 692,529

The New York Yankees
Lease Fees Due From Under-reported Paid Attendance
January 1, 2001, through December 31, 2002

2001 GATE RECEIPTS PER REPORTED ATTENDANCE						
Gross Home Gate (net of sales tax)	$ 98,907,696		Paid Attendance:	3,231,360		
Less: Revenue Sharing	(19,639,768)					
Total Gate Receipts	$ 79,267,928					
			(a)	(b)	(a) x (b)	
			Allocated		Applicable	
	Attendance	Allocation %	Gate Receipts	Rate	Rent	
Gate Receipts	750,000	23.21%	$ 18,398,119	5.0%	$ 919,906	
	750,000	23.21%	18,398,119	7.5%	1,379,859	
	1,731,360	53.58%	42,471,690	10.0%	4,247,169	
	3,231,360	100.00%	$ 79,267,928		$ 6,546,934	(a)

2001 GATE RECEIPTS PER AUDITED ATTENDANCE						
Gross Home Gate (net of sales tax)	$ 98,907,696		Paid Attendance:	3,264,574		
Less: Revenue Sharing	(19,639,768)					
Total Gate Receipts	$ 79,267,928					
			(a)	(b)	(a) x (b)	
			Allocated		Applicable	
	Attendance	Allocation %	Gate Receipts	Rate	Rent	
Gate Receipts	750,000	22.97%	$ 18,210,935	5.0%	$ 910,547	
	750,000	22.97%	18,210,935	7.5%	1,365,820	
	1,764,574	54.05%	42,846,057	10.0%	4,284,606	
	3,264,574	100.00%	$ 79,267,928		$ 6,560,973	(b)
Additional Admission Receipts Rent for Underreported Paid Attendance					$ 14,039	(b)-(a)=(c)

2001 CONCESSION RECEIPTS PER REPORTED ATTENDANCE						
Gross Concessions (net of sales tax)	$ 40,551,263		Paid Attendance:	3,231,360		
Less: Scorecards	$ (804,317)					
Less: Yearbooks	(499,940)					
Total Concession Receipts	$ 39,247,006					
			(a)	(b)	(a) x (b)	
			Allocated		Applicable	
	Attendance	Allocation %	Concessions	Rate	Rent	
Concession Receipts	750,000	23.21%	$ 9,109,246	5.0%	$ 455,462	
	750,000	23.21%	9,109,246	7.5%	683,193	
	1,731,360	53.58%	21,028,513	10.0%	2,102,851	
	3,231,360	100.00%	$ 39,247,006		$ 3,241,507	(A)

2001 CONCESSION RECEIPTS PER AUDITED ATTENDANCE						
Gross Concessions (net of sales tax)	$ 40,551,263		Paid Attendance:	3,264,574		
Less: Scorecards	$ (804,317)					
Less: Yearbooks	(499,940)					
Total Concessions	$ 39,247,006					
			(a)	(b)	(a) x (b)	
			Allocated		Applicable	
	Attendance	Allocation %	Concessions	Rate	Rent	
Concession Receipts	750,000	22.97%	$ 9,016,568	5.0%	$ 450,828	
	750,000	22.97%	9,016,568	7.5%	676,243	
	1,764,574	54.05%	21,213,869	10.0%	2,121,387	
	3,264,574	100.00%	$ 39,247,006		$ 3,248,458	(B)
Additional Concession Receipts Rent for Underreported Paid Attendance					$ 6,951	(B)-(A)=(C)

Total Additional Fees Due for Underreported Paid Attendance in 2001	$ 20,990	(c)+(C)

The New York Yankees
Lease Fees Due From Revenue-Sharing Overdeductions
January 1, 2001 through December 31, 2002

2001 Gross Admissions	Overstated Amount	Attendance (b)	% of Total Attendance (b) / (c) = (d)	Allocated Revenue (a) x (d) = (e)	Rent Fee % (f)	Rent (e) x (f)
Revenue-Sharing Deduction	$ 6,477,314 (a)	750,000	22.97%	$ 1,488,092	5%	$ 74,405
		750,000	22.97%	1,488,092	7.5%	111,607
		1,764,574	54.05%	3,501,131	10%	350,113
		3,264,574 (c)	100.00%	$ 6,477,314		$ 536,125
Cable Television Receipts	Understated Amount	Subscriber Percentage	% of Total Locally Aired Home Games	Allocated Revenue (A) x (B) x (C) = (D)	Rent Fee % (E)	Rent (D) x (E)
Revenue Sharing Deduction	$ (4,512,488) (A)	75.00% (B)	49.00% (C)	$ (1,658,339)	10%	$ (165,834)
Overstated Revenue-Sharing	$ 1,964,826	Total Additional Fees Due the City for 2001				$ 370,291

2002 Gross Admissions	Overstated Amount	Attendance (b)	% of Total Attendance (b) / (c) = (d)	Allocated Revenue (a) x (d) = (e)	Rent Fee % (f)	Rent (e) x (f)
Revenue-Sharing Deduction	$ 5,204,912 (a)	750,000	21.64%	$ 1,126,342	5%	$ 56,317
		750,000	21.64%	1,126,342	7.5%	84,476
		1,965,807	56.72%	2,952,228	10%	295,223
		3,465,807 (c)	100.00%	$ 5,204,912		$ 436,016
Cable Television Receipts	Overstated Amount	Subscriber Percentage	% of Total Locally Aired Home Games	Allocated Revenue (A) x (B) x (C) = (D)	Rent Fee % (E)	Rent (D) x (E)
Revenue-Sharing Deduction	$ 6,607,960 (A)	75.00% (B)	47.66% (C)	$ 2,361,830	10%	$ 236,183
Overstated Revenue-Sharing	$ 11,812,872	Total Additional Fees Due the City for 2002				$ 672,199

The New York Yankees
Lease Fees Due From Revenue-Sharing Overdeductions
January 1, 1997 through December 31, 2000

1997 Gross Admissions	Overstated Amount	Attendance (b)	% of Total Attendance (b) / (c) = (d)	Allocated Revenue (a) x (d) = (e)	Rent Fee % (f)	Rent (e) x (f)
Revenue-Sharing Deduction	$ 3,775,695 (a)	750,000	29.07%	$ 1,097,448	5%	$ 54,872
		750,000	29.07%	1,097,448	7.5%	82,309
		1,080,325	41.87%	1,580,800	10%	158,080
		2,580,325 (c)	100.00%	$ 3,775,695		**$ 295,261**
Cable Television Receipts	**Understated Amount**	**Subscriber Percentage**	**% of Total Locally Aired Home Games**	**Allocated Revenue (A) x (B) x (C) = (D)**	**Rent Fee % (E)**	**Rent (D) x (E)**
Revenue-Sharing Deduction	$ 232,572 (A)	75.00% (B)	51.00% (C)	$ 88,959	10%	**$ 8,896**
Overstated Revenue-Sharing	**$ 4,008,267**	**Total Additional Fees Due the City for 1997**				**$ 304,157**

1998 Gross Admissions	Overstated Amount	Attendance (b)	% of Total Attendance (b) / (c) = (d)	Allocated Revenue (a) x (d) = (e)	Rent Fee % (f)	Rent (e) x (f)
Revenue-Sharing Deduction	$ 3,965,440 (a)	750,000	25.43%	$ 1,008,439	5%	$ 50,422
		750,000	25.43%	1,008,439	7.5%	75,633
		1,449,192	49.14%	1,948,562	10%	194,856
		2,949,192 (c)	100.00%	$ 3,965,440		**$ 320,911**
Cable Television Receipts	**Overstated Amount**	**Subscriber Percentage**	**% of Total Locally Aired Home Games**	**Allocated Revenue (A) x (B) x (C) = (D)**	**Rent Fee % (E)**	**Rent (D) x (E)**
Revenue-Sharing Deduction	$ 265,451 (A)	75.00% (B)	50.00% (C)	$ 99,545	10%	**$ 9,955**
Overstated Revenue-Sharing	**$ 4,230,891**	**Total Additional Fees Due the City for 1998**				**$ 330,866**

The New York Yankees
Lease Fees Due From Revenue-Sharing Overdeductions
January 1, 1997 through December 31, 2000

1999 **Gross Admissions**	**Overstated Amount**	**Attendance (b)**	**% of Total Attendance (b) / (c) = (d)**	**Allocated Revenue (a) x (d) = (e)**	**Rent Fee % (f)**	**Rent (e) x (f)**
Revenue-Sharing Deduction	$ 5,300,950 (a)	750,000	22.78%	$ 1,207,409	5%	$ 60,371
		750,000	22.78%	1,207,409	7.5%	90,556
		1,792,763	54.45%	2,886,132	10%	288,613
		3,292,763 (c)	100.00%	$ 5,300,950		**$ 439,540**
Cable Television Receipts	**Understated Amount**	**Subscriber Percentage**	**% of Total Locally Aired Home Games**	**Allocated Revenue (A) x (B) x (C) = (D)**	**Rent Fee % (E)**	**Rent (D) x (E)**
Revenue-Sharing Deduction	$ (425,215) (A)	75.00% (B)	50.00% (C)	$ (159,456)	10%	**$ (15,946)**
Overstated Revenue-Sharing	**$ 4,875,735**	**Total Additional Fees Due the City for 1999**				**$ 423,594**

2000 **Gross Admissions**	**Overstated Amount**	**Attendance (b)**	**% of Total Attendance (b) / (c) = (d)**	**Allocated Revenue (a) x (d) = (e)**	**Rent Fee % (f)**	**Rent (e) x (f)**
Revenue-Sharing Deduction	$ 7,721,439 (a)	750,000	23.21%	$ 1,791,998	5%	$ 89,600
		750,000	23.21%	1,791,998	7.5%	134,400
		1,731,632	53.58%	4,137,442	10%	413,744
		3,231,632 (c)	100.00%	$ 7,721,439		**$ 637,744**
Cable Television Receipts	**Understated Amount**	**Subscriber Percentage**	**% of Total Locally Aired Home Games**	**Allocated Revenue (A) x (B) x (C) = (D)**	**Rent Fee % (E)**	**Rent (D) x (E)**
Revenue-Sharing Deduction	$ (132,668) (A)	75.00% (B)	49.00% (C)	$ (48,755)	10%	**$ (4,876)**
Overstated Revenue-Sharing	**$ 7,588,771**	**Total Additional Fees Due the City for 2000**				**$ 632,868**

New York Yankees

ROBERT BROWN
VICE PRESIDENT OF FINANCE

EXECUTIVE OFFICE
YANKEE STADIUM
BRONX, NEW YORK 10451
TEL: (718) 579-4526
FAX: (718) 681-5942
EMAIL: rbrown@yankees.com

Mr. Greg Brooks
The City of New York
Office of The Comptroller
Executive Offices
1 Centre Street
New York, N.Y. 10007-2341

Re: Audit Report FN04-125A
January 1, 2001- December 31, 2002

Dear Mr. Brooks:

In response to your draft Audit report dated June 11, 2004 relating to the above referenced audit we (the Yankees) request that your office does the following:

1. In regard to revenue sharing deductions in the years 1997-2000 (prior audit) and 2001-2002 (current audit). Your calculation should be inclusive of the entire revenue sharing worksheet which is the basis of our payment. Also you should adjust for the additional revenue sharing payment for 2001 in the amounts of $ 1,335,605.00 (check copy attached). Keep in mind that 2002 has not yet been finalized and additional payments are still pending.

   Based upon the revenue sharing values to date the amount due based on your calculations is $2,733,975 compared to my calculation of amount due of $2,270,941.

2. In regards to the 2002 cable TV Calculation. The draft states that the Yankees are due a credit of $335,030. Due to under-reported allowable deductions of $9,706,667 for games aired on free television. That deduction should be $10,816,000 along with a further deduction of $21,271,467 for games played in other cities. Totaling a deduction of $32,087,467 resulting in a credit due the Yankees in the amount of $645,058 for 2002.

3. Further, as a result of the analysis set forth below, it is abundantly clear that the City is due $657,638, and not the draft amount of $1,027,559 for 2001.

Clearly, although denominated a "settlement," as it must be having resolved a pending dispute with Madison Square Garden, L.P. ("MSG"), our 2001 rightsholder, the dispute was unquestionably over television receipts/rights fees. It is axiomatic that we cannot observe the form of a dispute resolution and ignore the substance of the dispute. Form over substance is never proper. Merely reviewing the settlement is sufficient to confirm the propriety of its use in determining "Cable Television Receipts" and the concomitant amounts required to be paid to the City under Article XVII of the Lease.

Initially, in November 2000, MSG and the Yankees agreed that the Yankees would be paid $52 million in 2001 in exchange for MSG's right to transmit Yankees games in 2001. Thereafter, in April 2001, as the final resolution of the Yankees' dispute with MSG over MSG's right to transmit Yankees games and the rights fee to be paid to the Yankees for such right, MSG and the Yankees agreed that MSG would broadcast 85 games in 2002 and the Yankees would retain the right to exploit, on television, the remaining 65 Yankees games. Critically, MSG was not required to pay to the Yankees any rights fee for the 85 games. Alternatively, the Yankees retained the right, which we eventually exercised, to pay to MSG $30 million as a result of which MSG's right to transmit Yankees games in 2002 was terminated. Yet, in lieu of providing MSG with only 85 games (with no rights fee), the Yankees could have required MSG to transmit 65 additional Yankees games for a total rights fee for all 150 games of $37.5 million. Definitionally, the settlement can be considered nothing other than a rights fee agreement. In fact, the settlement also provides for a pro-rata reduction in the rights fee if games were canceled. It is incorrect to suggest otherwise. If the Yankees did not choose to terminate MSG's rights and MSG televised 85 games in 2002 without a rights fee would the City have stepped in and presumed or attributed a rights fee where none existed?

While we believe, beyond question, that the $30 million dollar payment was a proper reduction in 2001, arguable there may be a timing issue with the payment properly qualifying as a reduction in 2002, in either case providing the requisite calculable numbers for determining the amount of "Cable Television Receipts" received by the Yankees. With respect to the $30 million reduction, the Yankees recognize that the $30 million should be reduced to $9.4 million to give affect to Article XVII of the Lease. Yet, in analyzing the findings set forth in the Comptroller's Audit Report dated June 11, 2004 it would appear as if Article XVII has been misread.

Article XVII clearly states that the Yankees are to pay to the City, in addition to the rent required elsewhere in the Lease, 10% of "Cable Television Receipts." "Cable Television Receipts" is specifically defined as the gross amount received by the Yankees from Cable Television, only from or arising out of amounts received (a) for home games and (b) from subscribers living within a radius of 50 miles from home plate of Yankee Stadium. There is absolutely no requirement to pay for any portion of receipts that relate to road games, over-the-air games or national broadcasts. For example, if the Yankees licensed a rightsholder to transmit 150 games on Cable Television for a rights fee of $75 million and only 50 home games were transmitted, then the Cable Television Receipts to which the Cable TV Area percentage would be applied, would be $25 million. The foregoing is a simple example of the process. Annexed hereto are a more detailed calculations of the 2001 and 2002 Cable Television calculations also reflective of a modification to $9.4 million with respect to the 2001 reduction.

Sincerely,

Robert Brown
Vice President of Finance

NEW YORK YANKESS
CABLE CALCULATION 2001

CABLE:

GROSS REVENUE	52,000,000	
Less: Prorated Settlement	(9,400,000)	
Less: Portion related to non home games	(29,252,000)	
Net Revenue From cable television	13,348,000	
x% of subscribers within territory	0.75	
		10,011,000
Less : Pro rated revenue sharing	2,209,951	
	0.75	
		(1,657,463)
cable Receipts		8,353,537
section 17.3i		(555,000)
Adjusted cable receipts		7,798,537
Factor 10%		779,854
paid nyc		(122,216)
payment due nyc		657,638

cable calculation worksheet	
cable other cities	54
over the air	49
cable home	47
	150
gross cable	42,600,000
over 150 games	150
per game value	284,000
over the air	13,916,000
cable other cites	15,336,000
cable home	13,348,000

2001 MSG Settlement.

CABLE:

SETTLEMENT	30,000,000
Less: Portion related non home games	(20,600,000)
Net settlement related to home games	9,400,000

cable calculation worksheet

cable other cities	54
over the air	49
cable home	47
	150
gross cable	30,000,000
over 150 games	150
per game value	200,000
over the air	9,800,000
cable other cites	10,800,000
cable home	9,400,000

NEW YORK YANKESS
Cable TV CALCULATION 2002

Gross Revenue	54,080,000	
less: portion related to non home gar	(32,087,467)	
Net revenue from cable	21,992,533	
X% of subscribers within territory	0.75	
		16,494,400
Less: Pro rated revenue sharing	9,513,209	
	0.75	
		(7,134,906.75)
cable receipts		9,359,493
section 17.3i		(555,000)
adjusted cable receipts		8,804,493
factor 10%		880,449
paid nyc		(1,525,507)
credit due yankees		(645,058)

cable calculation worksheet

cable other cities	59
over the air	30
cable home	61
	150
gross cable	54,080,000
over 161games	150
per game value	360,533
over the air	10,816,000
cable other cites	21,271,467
cable home	21,992,533

New York Yankees
YANKEE STADIUM • BRONX, NY 10451

CHASE MANHATTAN BANK DELAWARE
1201 MARKET STREET
WILMINGTON, DE 19801

62-26 / 311

5730-09

No. 028248

DATE
6/04/04

PAY Twenty Six Million Three Hundred Sixty One Thousand Four Hundred Twenty Two and 00/100 ******************************

CHECK AMOUNT	
DOLLARS	CENTS
$ 26,361,422.00	

TO THE ORDER OF Commissioner of Major League Baseball

New York Yankees

[redacted]

THE ATTACHED CHECK IS TENDERED IN FULL PAYMENT OF ITEMS ENUMERATED BELOW. IF INCORRECT RETURN AT ONCE.

DETACH

PLEASE DETACH THIS STATEMENT BEFORE DEPOSITING

New York Yankees

PEERLESS BUSINESS FORMS, INC. (732) 549-0284 • (212) 243-1165 PA212966

Major League Baseball

Revenue Sharing Payments

1st Installment 2004, 5th Installment 2003 & 6th Installment 2001

Club	1st Installment 2004 Pmnt/(Rcpt)	5th Installment 2003 (a) Pmnt/(Rcpt)	6th Installment 2001 (b) Pmnt/(Rcpt)	Total Current Payment/(Receipt) Due
Anaheim Angels	(149,184)	(553,766)	1,092,702	**389,751**
Arizona Diamondbacks	(465,858)	(1,869,385)	110,405	**(2,224,838)**
Atlanta Braves	1,328,220	(178,939)	(141,795)	**1,007,485**
Baltimore Orioles	1,253,331	3,364,750	75,805	**4,693,886**
Boston Red Sox	10,839,963	(2,728,908)	(132,195)	**7,978,860**
Chicago Cubs	5,088,700	(55,498)	(170,795)	**4,862,407**
Chicago White Sox	(83,923)	(925,753)	(215,613)	**(1,225,289)**
Cincinnati Reds	(3,160,233)	(408,671)	438,411	**(3,130,493)**
Cleveland Indians	(1,529,002)	(928,975)	(151,595)	**(2,609,572)**
Colorado Rockies	(1,844,975)	(557,679)	(101,195)	**(2,503,850)**
Detroit Tigers	(5,323,928)	(576,244)	(279,468)	**(6,179,641)**
Florida Marlins	(5,713,495)	784,694	(327,986)	**(5,256,788)**
Houston Astros	1,463,826	(257,693)	92,405	**1,298,538**
Kansas City Royals	(4,709,475)	5,497	(782,145)	**(5,486,123)**
Los Angeles Dodgers	5,910,991	(492,635)	(457,195)	**4,961,162**
Milwaukee Brewers	(6,045,675)	(294,437)	2,255,900	**(4,084,212)**
Minnesota Twins	(4,118,215)	48,926	(969,338)	**(5,038,627)**
Montreal Expos	(8,553,954)	(328,243)	(225,556)	**(9,107,752)**
New York Mets	5,569,745	(444,737)	(301,195)	**4,823,812**
New York Yankees	14,672,237	10,353,580	1,335,605	**26,361,422**
Oakland Athletics	(3,683,713)	(18,270)	343,497	**(3,358,486)**
Philadelphia Phillies	3,049,325	(655,046)	(475,557)	**1,918,722**
Pittsburgh Pirates	(5,113,680)	(306,428)	(507,242)	**(5,927,350)**
San Diego Padres	688,699	538,949	(486,194)	**741,453**
San Francisco Giants	1,956,111	(1,524,537)	(117,395)	**314,179**
Seattle Mariners	7,954,278	(324,537)	(146,595)	**7,483,146**
St. Louis Cardinals	1,862,592	(283,864)	(238,795)	**1,339,933**
Tampa Bay Devil Rays	(6,351,675)	(298,075)	674,262	**(5,975,488)**
Texas Rangers	381,950	(590,371)	378,005	**169,584**
Toronto Blue Jays	(5,172,978)	(493,706)	(569,148)	**(6,235,832)**
Net Transfer	**62,019,967**	**15,096,396**	**6,796,997**	**68,344,340**

City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10021

Joanne G. Imohiosen
Assistant Commissioner
Revenue

(212) 360-3404
joanne.imohiosen@parks.nyc.gov

June 25, 2004

BY FAX AND MAIL
Mr. Greg Brooks
Deputy Comptroller
The City of New York
Office of the Comptroller
Executive Offices
1 Centre Street
New York, NY 10007

**Re: Comptroller's Draft Audit Report on the New York Yankees
January 1, 2001 through December 31, 2002 FN 04-125A**

Dear Mr. Brooks:

This letter represents the Parks Department's ("Parks"), response to the recommendations contained in the subject audit of the New York Yankees Partnership ("Yankees").

DPR has issued the attached letter to the Yankees requesting payment under **Recommendation 1** for the partial amount of $173,071 covering the items that the Yankees did not contest at the Audit Exit Conference. The remaining balance of $3,426,504 covers the audit findings on under-reported "Cable Television," $692,529, and overstated deductions for "Revenue Sharing," $2,733,975, with which the Yankees disagreed.

At the Exit Conference Yankees officials took particular exception to the Comptroller's disallowance of a $30 million payment made by the Yankees to Madison Square Garden ("MSG") that the Comptroller had classified as being part of a settlement agreement with MSG. Also, the Yankees disputed the methodology used by the auditors in calculating the "Revenue Sharing" component of the assessment. Parks will address these open issues after our legal division has reviewed the Yankees written response to the audit.

Furthermore, Parks' letter requires that the Yankees implement record keeping and reporting **Recommendations 2 through 5. Recommendation 6** states that Parks should ensure that the Yankees pay the additional fees recommended in the report and comply with the audit's other recommendations. This item has been addressed by Parks' issuance of the above referenced notice. Any additional moneys owed under Recommendation 1 will be billed after Parks has reviewed and analyzed the Yankees audit response.

Also, Parks will keep the Comptroller's Office informed of any additional amounts invoiced to, and recovered from the Yankees as they occur.

Finally, we wish to thank the Comptroller's audit staff for their work and efforts in performing this review.

Sincerely,

Joanne Imohiosen

cc: Comm. Adrian Benepe
A. Olivieri
David Stark
Francisco Carlos
Susan Kupferman, Mayor's Office of Operations

City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10021

Joanne G. Imohiosen
Assistant Commissioner
Revenue

(212) 360-3404
joanne.imohiosen@parks.nyc.gov

June 24, 2004

BY FAX AND MAIL
Mr. Lonn A. Trost
Chief Operating Officer
New York Yankees Partnership
Executive Office
Yankee Stadium
Bronx, NY 10451

Re: Draft Audit Report on the New York Yankees
January 1, 2001 through December 31, 2002 FN 04-125A

Dear Mr. Trost:

This letter addresses the findings and recommendations contained in the subject audit of the New York Yankees Partnership ("Yankees"). In general, the report stated that the Yankees have adhered to the provisions of its lease agreement with the City and had an adequate system of internal controls over their revenue collection and reporting functions. Furthermore, the report indicated that the Yankees had adhered to certain other non-revenue-related requirements and that it had paid a prior audit assessment. However, for the period examined the audit disclosed that the Yankees underreported its revenue by $9,070,960 and overstated deductions against revenue by $34,489,804. Consequently, the report concluded that the Yankees owes the City $3,599,575 in additional fees.

Specifically, the report recommends that the Yankees:

Recommendation 1. Pay the City $3,599,575 in additional fees due.

The audit disclosed that additional fees are payable based on:

	Under/(Over) Reported Revenue and Deductions	Additional Fees
Total Underreported Revenue	$ 9,070,960	$ 857,158
Total Overstated Deductions	$ 34,489,804	2,742,417
ADDITIONAL FEES DUE THE CITY		**$3,599,575**

At the Audit Exit Conference on June 2, 2004 the Yankees agreed with the audit findings representing the following components of the additional fee assessment stated above:

Under/(Over)-reported Revenue

• Concessions Receipts	$ 99,583	
• Wait Service	45,340	
• Paid Attendance	20,990	
• Prepaid Parking Over-reported	(1,284)	
Total Accepted Fees – Underreported Revenue		**$164,629**

Overstated Deductions

• Remainder of Disallowed New Stadium Planning Costs	**$ 8,442**
Total Additional Fees Accepted by Yankees	**$173,071**

The remaining items that follow cover issues where the Yankees disagreed with the audit report:

Under/(Over)-reported Revenue - Cable Television

The report states that the Yankees under-reported their 2001 cable television receipts by a net of $27,960,784 and over-reported 2002 cable television receipts by $9,706,667. Consequently, the auditors calculated that the Yankees owe the City **$692,529** as a result of their inaccurate reporting of cable television revenues.

Specifically, the report stated that for 2001 the Yankees improperly deducted from cable television receipts a $30,000,000 payment it made to Madison Square Garden, LP ("MSG"). The audit results disclosed that the payment was part of a settlement agreement that allowed the Yankees to terminate MSG's right to air Yankees games on the MSG network commencing with the 2002 season. The report concluded that there are no provisions in the lease that allow for a deduction of such payments against cable television receipts when calculating rent due the City.

At the Exit Conference Yankees officials took particular exception to the Comptroller's classification of the $30,000,000 as being part of a settlement agreement with MSG. The Yankees explained that the amount actually represented a refund to MSG for the reduction in the number of contracted games broadcast. Parks will have our legal division evaluate this issue after we receive the Final Audit Report. The "Final" audit document will contain the Yankees official detailed response to the above finding as well as to the other under/over-reported cable television deductions covering games aired on free television stations (under-reported), and games played in other cities that were aired on cable stations (over-reported).

Overstated Deductions – Revenue Sharing

For the present audit period, 2001 – 2002, and prior audit period from 1997 – 2000, the audit examination disclosed that the Yankees overstated their Revenue Sharing deductions by $34,481,362 and as a result owe the City additional rent totaling $2,733,975.

The Yankees lease agreement allows it to deduct payments to Major League Baseball that relate to gross admission receipts and local cable television receipts from their calculation of rent due the City. At the Exit Conference, Robert Brown, Comptroller for the Yankees disputed the method applied by the auditors to calculate the allowable deduction for Revenue Sharing. The methodology used by Mr. Brown includes the deduction of expenses that are part of the Revenue Sharing payment calculation. The effect of this application is a substantially higher Revenue Sharing deduction percentage than that used by the Comptroller's Office.

Again, Parks will address this issue after we receive the Final Audit Report. We will submit the matter to our legal division for a ruling after we have obtained the Yankees response on this subject.

At the present time we request that the Yankees remit a check in the amount of $173,071 to clear the balance owed for the uncontested audit findings outlined above. The remaining outstanding fee items totaling $3,426,504 will be revisited after Parks has had the opportunity to review the Final Audit Report.

Recommendation 2. Ensure that revenue from cable television, concessions, wait-service, and pre-paid parking is accurately reported to the City, and all appropriate fees are paid.

Recommendation 3. Ensure that annual paid attendance is accurately reported to the City, and that fees are accurately calculated and paid in accordance with the lease agreement.

Recommendation 4. Deduct only those payments to Major League Baseball that relate to gross admission receipts and local cable television receipts from their calculation of rent due the City.

Lon A. Trost
June 24, 2004
Page 4

The Yankees should implement these recommendations by taking appropriate action to ensure that:

- the above revenue components under Recommendation 2 are properly recorded and reported to the City;
- annual paid attendance is accurately reported and fees are correctly calculated and paid; and
- deductions cover only those payments to Major League Baseball that relate to gross admission receipts and local cable television receipts .

Recommendation 5. Include only those new-stadium-planning costs incurred within the calendar year as deductions from rent due.

The audit disclosed that the Yankees incorrectly deducted $8,442 from their 2001 rent for payments pertaining to new-stadium-planning costs that were incurred in 2000, prior to the effective date of the lease amendment which allows deductions for these costs. The Yankees should take the appropriate record keeping action to ensure that it complies with this recommendation.

Finally, we want to take the opportunity to thank the Yankees for their cooperation during the audit review and anticipate an expeditious resolution of the issues contained in the audit report.

Sincerely,

Joanne Imohiosen

Joanne Imohiosen

cc: Comm. A. Benepe
R. Brown (NYY)
R. Levine (NYY)
A. Olivieri
D. Stark
F. Carlos