

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

DEL MAR SURFSIDE RACE PLACE

2260 JIMMY DURANTE BOULEVARD

DEL MAR, CALIFORNIA

THURSDAY, JULY 19, 2007

10:00 A.M.

Reported by:
Troy A. Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson
John C. Harris, Vice-Chairperson
John Amerman
John Andreini
Jesse H. Choper
Marie Moretti
Jerry Moss

STAFF

Ingrid J. Fermin, Executive Director
Jacqueline Wagner, Staff Services Manager I
Derry L. Knight, Deputy Attorney General
Richard Bon Smith, Assistant Executive Director
Mike Marten
Roberto Zavala

ALSO PRESENT

Dr. Rick Arthur, Equine Medical Director
Bernie Thurman
James Henwood
Mike Seder
Paul Ryneveld
Scott Kelly
Darryl Haire
Marsha Naify

APPEARANCES CONTINUED

ALSO PRESENT

Dave McFarlane

Bud Allicio

Dr. Martinelli

"Scoop" Frank Vessels

Mr. DiMarco

Madeline Auerbach

Priscilla Clark

Drew Couto

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1 PROCEEDINGS

2 EXECUTIVE DIRECTOR FERMIN: This is the regular
3 meeting of the California Horse Racing Board on Thursday,
4 July 19th, 2007, at the Del Mar Surfside Race Place, 2260
5 Jimmy Durante Boulevard, Del Mar, California.

6 Present at today's meeting are Chairman Richard
7 Shapiro, Vice-Chairman John Harris, Commissioner John
8 Amerman, Commissioner Jess Choper, Commissioner Marie
9 Moretti, Commissioner Jerry Moss.

10 Before we go to the meeting, I'd like to remind
11 everyone to please state your name clearly for the court
12 reporter, identifying yourself so that we can have the
13 record be certainly as clear as possible.

14 Mr. Chairman.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you, and
16 good morning to everybody.

17 The Board invites comments from the public about
18 items on its agenda. It also invites public comment about
19 items not on the agenda, that are related to horse racing,
20 during an open comment period.

21 In order to assure that each individual, who
22 wishes to comment, will have an adequate opportunity to do
23 so, and also to assure that the meeting, as a whole, will be
24 completed in a timely manner, so that individuals wishing to
25 comment on multiple matters will not be required to stay for

1 an unreasonable length of time, I will strictly enforce a
2 five-minute time limitation for each person wishing to speak
3 on any agenda item.

4 The goal of this rule is to assure that each
5 person's right to make their views known is not disrupted by
6 another person's conduct.

7 In other to expedite the comment process, there is
8 a public comment -- there are public comment cards, which
9 are located in the back.

10 EXECUTIVE DIRECTOR FERMIN: On the last table.

11 COMMISSION CHAIRPERSON SHAPIRO: On the last
12 table. And if we'll also, please, put some on the podium, I
13 think that would be a good idea. On the podium.

14 Please print your name legibly, so that I don't
15 mangle it.

16 Just prior to our discussion of the item, the
17 comment cards will be brought to me. After initial
18 statements from staff and interested parties, I will ask for
19 public comment.

20 When I call you name, please come to the podium to
21 speak. I will let you know when your time has commenced,
22 when there is one minute left, and when your time is up.

23 When your time is up, you will be expected to
24 return to your seat so that I may call the next person
25 waiting to the podium.

1 When all the names have been called, I will ask if
2 anyone else has a comment on the agenda item, who has not
3 already spoken.

4 At this point, the Board will not take any further
5 comment on an item unless the Board has specific questions
6 it wishes addressed.

7 If the time is up, I will ask the speaker to please
8 take his or her seat. If it appears that a speaker is
9 repeating what has previously been stated, I will ask the
10 speaker if he or she has any additional comments to make.
11 If not, I will ask the speaker to allow the next speaker to
12 come to the podium, irrespective of the time remaining,
13 unless a Board member indicates that he or she still wishes
14 to hear from that individual.

15 If it appears that a speaker is not speaking to an
16 agenda item, or is speaking to another agenda item, I will
17 ask the speaker to please return to his or her seat, and
18 address his or her comments at the appropriate time, either
19 on that specific item or at public comment.

20 With that being said, I hope everybody will
21 respect that. We will move into the agenda, and the first
22 issue is approval of the minutes of the regular meeting of
23 June 19th, 2007.

24 Are there any comments from the Board?

25 EXECUTIVE DIRECTOR FERMIN: I would just like to

1 comment that on page 22 it indicates that "Ms. Thurman met
2 with the F&E Committee," and it was probably Mrs. Fermin.

3 COMMISSION CHAIRPERSON SHAPIRO: Thurman, Fermin,
4 logical mistake. We'll change Thurman to Fermin. All
5 right.

6 Any other comments? If there are none, I'll ask
7 for a motion. Will somebody make a motion.

8 COMMISSIONER CHOPER: I'll move.

9 COMMISSION CHAIRPERSON SHAPIRO: A second?

10 VICE-CHAIRPERSON HARRIS: Second.

11 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

12 (Ayes.)

13 COMMISSION CHAIRPERSON SHAPIRO: The minutes are
14 approved.

15 The next item on the agenda is discussion and
16 action by the Board on the application for license to
17 conduct a horse racing meeting at the Bay Meadows Racing
18 Association, at Bay Meadows, commencing August 22nd through
19 November 4th, 2007.

20 And I'm sure we have representatives here.

21 Good morning, Jackie.

22 STAFF SERVICES MANAGER WAGNER: Good morning.

23 Jackie Wagner, CHRB staff.

24 The Bay Meadows Racing Association has filed their
25 application for their race meet to be conducted at Bay

1 Meadows, from August the 22nd through November the 4th, or
2 52 days.

3 They are proposing to race a total of 447 races,
4 or 8.6 races per day.

5 They did not race during this same time period
6 last year. The race dates proposed are the dates that were
7 allocated by the Board.

8 They are proposing to race five days per week,
9 Wednesday through Sunday, with eight races on weekdays --

10 COMMISSIONER MORETTI: Excuse me, Jackie, they
11 can't hear you in the back.

12 STAFF SERVICES MANAGER WAGNER: They are
13 proposing -- can you hear me?

14 COMMISSION CHAIRPERSON SHAPIRO: Move it up
15 closer.

16 COMMISSIONER MORETTI: Closer.

17 STAFF SERVICES MANAGER WAGNER: How about now?
18 How about now?

19 (Laughter.)

20 STAFF SERVICES MANAGER WAGNER: They are proposing
21 to race five days per week, Wednesday through Sunday, with
22 eight races on weekdays, and nine or ten races on weekends
23 and holidays.

24 The post time is 12:45 p.m. daily, with a 7:00
25 p.m. post time proposed for Friday nights, September the

1 21st, the 28th, October 15th, the 12th, and October 19th.

2 Their advance deposit wagering providers are TVG,
3 Xpressbet, and YouBet.

4 I am pleased to report we have received all the
5 horsemen's agreements.

6 And staff would recommend that the Board approve
7 the application as presented. There are representatives
8 from the association here, for questions.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
10 Jackie.

11 I see Ms. Thurman is coming to the table. I'm
12 going to ask you a few very simple questions.

13 In the application, which has been historically, I
14 think, the norm, we always see, not just from you, but from
15 every racing association, that the number of races will be
16 8.6 a day. And we have this general discussion, horses
17 permitting, or whatever it is.

18 And yet, it appears to me that what we sometimes
19 see is that there will be eight races during the week and
20 then all of the sudden there's ten or 11 on the weekend.
21 And my concern is that I'm not sure the 8.6 is a good number
22 anymore, and that maybe we would be better off in the long
23 haul if we either lowered that number so that we didn't see
24 so many races on the weekends, that seem to be loaded up,
25 and we see short fields.

1 MS. THURMAN: We've actually, in the last couple
2 of years, been at the 8.48 -- is that working? Can you guys
3 hear?

4 COMMISSION CHAIRPERSON SHAPIRO: We're having
5 microphone problems but -- no, you had the right one. You
6 had the right one, just until we can get the volume turned
7 up -- it's on.

8 MS. THURMAN: So 8.48, I think, is where we've
9 been the last few years. We're not going to ever exceed
10 8.6, we always put on our license application what the max
11 would be. But the reality is we're usually nine races on
12 weekends and eight races on weekdays.

13 Labor Day we might go ten. Breeder's Cup Day, big
14 days like that, we might go extra. But we've been trying to
15 manage our population so as to keep those small fields to a
16 minimum.

17 VICE-CHAIRPERSON HARRIS: Yeah, I think there
18 needs to be some flexibility where, if you have a big day, I
19 mean, you've got all these people out there, you're running
20 ten races, nine races, it may make sense assuming that
21 they're races that are filling well, you're not just
22 splitting an \$8,000 main race.

23 COMMISSION CHAIRPERSON SHAPIRO: You know, I don't
24 disagree, when you've got the people there and we can give
25 them a good product, I think it's a good idea.

1 But it just seems to me that sometimes what we're
2 seeing is we're just seeing too many six-horse and seven-
3 horse fields, and yet we'll have ten races, and you wonder
4 where the ripple effect is that's causing that down the
5 road. It may not be that day, but you see it a week later
6 or somewhere else, and I'm just questioning whether we
7 should revisit how that's done, whether it shouldn't just be
8 on a meet basis, but on a prior week basis, or something.

9 And I'm not proposing anything, I'm just asking
10 for some more thought to go into this, to preserve horse
11 population, so we can give the bettors a better product.

12 Because, you know, as we saw at the end of the
13 meet, horsemen that are waiting for the next meet, so the
14 fields got short.

15 MS. THURMAN: Right.

16 COMMISSION CHAIRPERSON SHAPIRO: And it concerns
17 me that, well, we had 11 races at the end of a meeting and
18 there were four-horse fields in a couple of them. You know,
19 and I don't think that's what we want to do. I don't think
20 it's what you want to do, either.

21 MS. THURMAN: Correct.

22 COMMISSION CHAIRPERSON SHAPIRO: But we have to
23 figure out how to resolve that.

24 With the installation of the tapeta, or tapeta,
25 depending on how you say it, at Golden Gate, are you adding

1 stalls or working with Golden Gate to handle the horses?

2 And I saw in here, "arrangements will be made to add

3 sufficient portable stalls at Pleasanton and Vallejo, to

4 accommodate horses that normally stable at Golden Gate."

5 What is, in fact, being done now that that's moving forward?

6 MS. THURMAN: Well, actually, everybody's moving

7 out of Golden Gate by Sunday, and we've had meetings with

8 Vallejo and Pleasanton, who have stepped up and have their

9 barn areas open and ready to go. And we will also add

10 portable stalls at Bay Meadows.

11 So if more portable stalls are needed at Vallejo,

12 there are arrangements made to do that. We're adding

13 portables, actually, at Pleasanton, to facilitate them

14 having their yearly sale in September. So we've got it all

15 together.

16 COMMISSION CHAIRPERSON SHAPIRO: How many stalls

17 are you adding at Bay Meadows?

18 MS. THURMAN: Starting out with 32 extra.

19 COMMISSION CHAIRPERSON SHAPIRO: Thirty-two?

20 MS. THURMAN: Thirty-two. Right now, we've found

21 homes for everybody. But if we have some horses come down

22 from the northwest, then we'll have to make other

23 arrangements.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. And the

25 horsemen seem to be going along without an issue.

1 Are you using -- I saw on your application, will
2 you be using the new BetJet machines at your meet, and will
3 that be the first meet they're being used? I don't know if
4 they're being used out here.

5 MS. THURMAN: We have some actually in place,
6 already, at Bay Meadows. But it will probably be the first
7 meet where the majority of the terminals will be the new
8 ones. There are some here, at Del Mar.

9 COMMISSION CHAIRPERSON SHAPIRO: All right, so
10 this will finally be where the new technology comes in
11 and --

12 MS. THURMAN: Right.

13 COMMISSION CHAIRPERSON SHAPIRO: Oh, that's great.

14 VICE-CHAIRPERSON HARRIS: Was that what was --
15 yesterday, there were some of those, which they're a little
16 bit complicated for somebody who's sort of a novice, like
17 me, as far as switching around bets.

18 (Laughter.)

19 COMMISSIONER AMERMAN: Heaven help us, if you're a
20 novice.

21 VICE-CHAIRPERSON HARRIS: No, no, I think there
22 needs to be a -- they're really a good machine if what you
23 want to do is bet about five different tracks and go back
24 and forth. There was somebody there, yesterday, I was
25 kidding about me being a novice, so there if you made a bet,

1 it's hard to figure out how -- you made, say, an exacta bet,
2 and now you have to bet the horse across, you got to keep
3 fooling around to get there. Somebody needs to do a little
4 beta testing on those, that once in a while that makes a
5 bet.

6 COMMISSION CHAIRPERSON SHAPIRO: Are there service
7 representatives from the tote company there, that are
8 working with the --

9 MS. THURMAN: Coaching.

10 COMMISSION CHAIRPERSON SHAPIRO: Yeah, coaching.

11 MS. THURMAN: And we've hired self-service
12 attendants to try to help them through the process, as well.

13 VICE-CHAIRPERSON HARRIS: Yeah, just have somebody
14 just work through that and see -- I think it's a great
15 innovation, it's just not quite where it needs to be.

16 COMMISSION CHAIRPERSON SHAPIRO: I also saw that
17 you have, under your new improvements, color programmable
18 infield message board and LED indicators for infield tote
19 board. What is that?

20 MS. THURMAN: Well, for the infield to report it,
21 it replaces the light bulb technology, so it's a much
22 cleaner image to view.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay.

24 MS. THURMAN: And then as far as the color
25 programmable message board, you will be able to -- you could

1 actually show video on the board. I don't know if you're
2 familiar with our message board right now, but it's pretty
3 limited in what we can show.

4 Now, you can put the group sales information out,
5 you can portray almost anything you want.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay. Anybody
7 have any other questions?

8 COMMISSIONER AMERMAN: Bernie, I didn't see a
9 marketing plan when it came down here, but I called up
10 Michael Ziegler and he was nice enough to send me one down
11 the other day.

12 And as I was looking through it, I note that
13 you're spending about a million four, and it's basically, to
14 me, anyway, and I may be phrasing this wrong, but it's the
15 same way we've been doing business. It's got a fair amount
16 of money for promotions, group sales, a little bit of TV,
17 and it struck me that what that does is appeal to those
18 people who are coming to the track anyway, in the first
19 place.

20 And what we really ought to be trying to do, and
21 this applies to, I believe, all of our meets across the
22 State, we should be reaching out to the younger people,
23 Generation Y, and so forth. And I was wondering whether you
24 would explore or have explored using the internet at all,
25 because there it's much more specific, and the cost is not

1 outrageous, and you can reach a lot of the younger people in
2 that way. And I think it's something maybe all of us ought
3 to give some thought to in the future.

4 MS. THURMAN: Yeah, we have someone working on
5 that as we speak, probably. And the other thing we do at
6 Bay Meadows, which is unique, probably, is the Family Days
7 in the infield, which bring out a lot of children. And we
8 have a Junior Jockey Club. Kids just love to go hang out
9 with horses, meet jockeys. And then, of course, the Friday
10 Nights, which bring in the college age group. That's
11 building for the future.

12 COMMISSIONER AMERMAN: I understand that and it's
13 very good. I was just saying let's try and go beyond all of
14 those people and see if we can reach people who don't
15 realize that there's an awful lot of fun to be had at Bay
16 Meadows.

17 MS. THURMAN: We'll do.

18 COMMISSION CHAIRPERSON SHAPIRO: One last question
19 I've got, your contract negotiations with HRTV are underway.
20 Is there anything in those negotiations that's going to
21 impede this meet in any way?

22 MS. THURMAN: I can't see any problem there.

23 COMMISSION CHAIRPERSON SHAPIRO: And all of your
24 ADW contracts, all of your -- we see the horsemen's
25 agreements are in place; is that correct? Is there anything

1 on the ADW horizon that could lead to there being a problem
2 with ADW wagering at this race meeting?

3 MS. THURMAN: Nothing that I can see, we have the
4 agreements in place with all three companies.

5 VICE-CHAIRPERSON HARRIS: And I think it's great
6 that you're doing it with all three companies.

7 One of the issues I've had with Northern
8 California is the real willingness of some of the -- of HRTV
9 and TVG to show those Northern California races. I mean,
10 they're sort of sporadic. Do you have any way to encourage
11 them --

12 MS. THURMAN: I have their e-mail addresses and I
13 pop them a quick e-mail when they seem to have skipped us.

14 VICE-CHAIRPERSON HARRIS: Yeah. Well, it seems
15 like there should be more of a protocol where -- I mean, I
16 could see if they've got, you know, the big race from
17 Saratoga coming in at the same time, or something, but
18 especially late in the afternoon they need to really focus
19 on those races because there's a lot of people around the
20 country that would like to see them, and especially in
21 California.

22 Plus, as I understand it, if someone bets a
23 California race in California, there's more money that comes
24 back to California, than if they don't. So it's kind of
25 important that that should be a deal point at some point.

1 COMMISSION CHAIRPERSON SHAPIRO: But isn't the
2 real problem there that because they're not exclusive tracks
3 to both companies, whether they're called exclusive or part
4 of their network, they simply push where they're -- they
5 probably have contracts that obligate them to provide so
6 much time for their exclusive track partners as --

7 MS. THURMAN: That's exactly right.

8 COMMISSION CHAIRPERSON SHAPIRO: Right. And I
9 guess that's why there's these discussions taking place on
10 the ADW law about the value and the benefit of exclusives to
11 California.

12 MS. THURMAN: Correct.

13 VICE-CHAIRPERSON HARRIS: It would be good if you
14 could walk through, at the conclusion of Bay Meadows, how
15 they did from the different providers, and it seems like we
16 could dissect, really, where the money all goes.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, you had all
18 three last year. I mean, Bay Meadows has been a non-
19 exclusive track, is my recollection.

20 MS. THURMAN: Right.

21 COMMISSION CHAIRPERSON SHAPIRO: You know, it's
22 probably just some things that should be analyzed as
23 somewhat of a model for what the benefits are by being non-
24 exclusive versus exclusive, if there's a way to do that, to
25 the benefit to California purses, the horsemen, and the

1 tracks.

2 VICE-CHAIRPERSON HARRIS: As I understand it, at
3 Bay Meadows, even though you're non-exclusive, you have some
4 of the features -- some of the bad features of an exclusive.

5 COMMISSION CHAIRPERSON SHAPIRO: The rate.

6 MS. THURMAN: Yeah, a couple of double-whammies,
7 yeah.

8 VICE-CHAIRPERSON HARRIS: Yeah, I never could
9 understand that.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, does
11 anybody have any other questions? If not, I'll ask for a
12 motion to approve.

13 COMMISSIONER AMERMAN: So moved.

14 COMMISSIONER MORETTI: Second.

15 COMMISSION CHAIRPERSON SHAPIRO: It's moved.

16 Second. All in favor?

17 (Ayes.)

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you. The
19 next item is discussion and action by the Board on the
20 application for a license to conduct a horse racing meeting
21 of the Los Angeles County Fair, at Fairplex, commencing
22 September 7th through September 24th, 2007, inclusive.

23 And I would also like to announce and welcome
24 Commissioner Andreini, who I'm sure enjoyed the traffic
25 while getting here. But he's joined us, he's made it, we're

1 glad to have you.

2 COMMISSIONER ANDREINI: I landed an hour ago.

3 COMMISSION CHAIRPERSON SHAPIRO: All right, but
4 he's here.

5 So Jackie?

6 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
7 CHRB staff.

8 The Los Angeles County Fair is proposing to race
9 from September the 7th through the 24th, or 16 days. This
10 is the same number of days that they raced in 2006. They
11 are proposing to race a total of 201 races. The proposed
12 race dates are the dates that were allocated to the Fair.

13 They will be racing Friday through Monday the
14 first week, and Wednesday through Monday the second and
15 third week, with 12 races per day on Mondays, Wednesdays,
16 Thursdays, and on Fridays they will conduct 13 races, and on
17 Saturday 13, and Sunday will also have 13 races.

18 They will be racing concurrently with Pacific
19 Racing Association from September the 7th through the 9th,
20 and from September the 12th through the 16th, as well as
21 September the 19th through the 23rd.

22 A post time of 1:00 p.m. is proposed for Monday,
23 Wednesday and Thursday, and a 12:00 p.m. post time for
24 Friday, Saturday and Sunday.

25 They're ADW providers, again, are the three

1 providers, YouBet, TVG, and Xpressbet.

2 We have received their horsemen's agreements.

3 And we would recommend that the Board approve the
4 application as presented, and we do have representatives
5 from the Fair.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
7 Jackie.

8 If the representatives want to come forward? Good
9 morning, Mr. Henwood, and company.

10 MR. HENWOOD: And I'll do the introduction, if I
11 might, Mr. Chair, members of the Commission. On my left is
12 Mike Seder, our Chief Financial Officer. And to my right is
13 Scott Kelly, Director of Marketing. And the gentleman on
14 the end is Paul Ryneveld, and he's new with us, he's our
15 Equine Manager. And pleased to be here.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you.

17 MR. HENWOOD: And my name is Jim Henwood, I'm
18 President of the L.A. County Fair.

19 COMMISSION CHAIRPERSON SHAPIRO: We're pleased to
20 have you. Last year you had a great meet, a terrific meet,
21 and so forth. And we're obviously hoping, with you, that
22 it's going to continue and so forth, so that's all good.

23 MR. HENWOOD: Thank you.

24 COMMISSION CHAIRPERSON SHAPIRO: Can you tell, as
25 a result of that meet, when I looked at what the projected

1 purses that were in your applications, did those numbers
2 simply reflect last year's performance and did you readjust
3 to the actual based on -- no, the projected were based on
4 actuals of last year, is that what you were doing?

5 MR. SEDER: Mike Seder. The purses are based on
6 last year, however, we make an estimate every year based on
7 what we know may be different. Our numbers for last year,
8 or course, have the triple carryover benefit.

9 So as we looked at this year, we looked at a
10 decrease of handle in our projections. However, we had an
11 under-payment of purses that we are carrying over. So when
12 you put those together, we end up being able to offer
13 approximately the same purse levels as last year.

14 COMMISSION CHAIRPERSON SHAPIRO: So you basically
15 extrapolated the triple carryover, saying that's an
16 aberration, saying we probably won't get that lucky, or it
17 may not occur. And how big is the carryover of your purses?

18 MR. SEDER: Last year's was about \$100,000.

19 COMMISSION CHAIRPERSON SHAPIRO: And did you
20 adjust any of the stakes levels? When I was looking, and
21 maybe I'm just behind the times, but did you raise the value
22 of those stakes? No?

23 MR. SEDER: No.

24 VICE-CHAIRPERSON HARRIS: Yeah, a lot of those
25 used to be fifties, but that was a few years ago. So

1 that's --

2 COMMISSION CHAIRPERSON SHAPIRO: I mean, you know,
3 yeah. I mean, I saw that there was 150,000, 125,000, and
4 200,000, so I mean the fair's grown up.

5 MR. SEDER: That's right.

6 COMMISSION CHAIRPERSON SHAPIRO: I thought that
7 was great. I also saw in your application that you've made
8 a number of improvements to the grandstand, the facility.

9 MR. SEDER: That's correct.

10 COMMISSION CHAIRPERSON SHAPIRO: Which look
11 terrific. And I think that if you take the time to just
12 describe those, rather than our just reading them in the
13 book here because, I mean, they sound wonderful.

14 MR. SEDER: All right, I'm going to ask Paul to
15 walk through that, if you would.

16 MR. RYNEVELD: Paul Ryneveld. Right, just before
17 the Kentucky Derby we repainted, recarpeted, and now have
18 new chairs in Club Two, the clubhouse. And we also put in
19 flat screen televisions, replaced all the old analog. We
20 also did that down on Club One.

21 Currently, we are redoing the entrance to the
22 clubhouse, and that includes the clubhouse lobby, and that
23 will be finished just prior to fair. So the fans, when they
24 come out for the fair will see some marked improvements to
25 both the clubhouse entrance, as well as the second floor of

1 the clubhouse.

2 COMMISSION CHAIRPERSON SHAPIRO: And it says here,
3 "creation of new eateries in the grandstand." Do you want
4 to describe those?

5 MR. RYNEVELD: Right. We are actually going to
6 create a sports bar that is in the, I believe it's in the
7 west end of the mezzanine level of the grandstand. And it
8 was kind of an unutilized area, yet it is a gathering point
9 at the bar. So that area, we're going to put in some seats,
10 and some flat screen televisions, and try to market to the
11 people at the fair and the races that, hey, we've got the
12 UCLA/USC games going on here, as well as major league
13 baseball.

14 VICE-CHAIRPERSON HARRIS: I noticed on your
15 charges for admission, I thought it was a free admission
16 once you got into the fair, so these are really charges to
17 get into the fair, but once you get into the fair you can
18 just walk onto the track; is that right?

19 MR. RYNEVELD: Yes, that's correct. The fair is
20 priced for promotional strategies, and most of our customers
21 that do come to the fair are taking advantage of the value
22 opportunities that we have in the marketplace, with
23 strategic partnering that we have going on in Southern
24 California.

25 We are unique as it relates to other forms of

1 racing going on in the State, in the high level of
2 sponsorship arrangements that we do achieve. And if you
3 want to talk about that, perhaps, with Scott here, it's good
4 to get into. Because it's important that you understand
5 that we value the admission price going into our fair at a
6 significant level, we're the highest priced fair in the
7 United States, we don't make any bones about it.

8 But at the same time, we're focused on promotional
9 partners and we provide value added strengthening with our
10 promotional partners to make that all happen, and it works
11 out quite well for us.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, I thought
13 that the material that we got with our package, Speedy Fun,
14 and all that, I thought it was very -- you know, it was very
15 colorful, it was great.

16 COMMISSIONER MORETTI: Yeah, thank you, I did,
17 too.

18 COMMISSION CHAIRPERSON SHAPIRO: I think you
19 really are doing a great marketing job of trying to get
20 people to the fair, but also to get them over to the track,
21 and I was very impressed with it.

22 VICE-CHAIRPERSON HARRIS: It's a great fair and a
23 great race meet. I think it's just great to get people in,
24 where they get into the fair, as long as they know
25 that -- it's a little bit intimidating because people think

1 they're going to pay to get in, or whatever, but just as
2 long as they know they can walk in and just wander around to
3 the races.

4 MR. KELLY: But might I add something? Scott
5 Kelly, I'm the Director of Marketing and Communications at
6 Fairplex. One thing I did not include in the packet, on the
7 marketing side, because we didn't have all the details quite
8 finalized, but we just concluded a deal with Univision
9 Television, out of Los Angeles, a major, major media
10 partnership with them. We'll be receiving valued at about a
11 million dollars of media and promotional value from them,
12 and we'll be putting together television spots and other
13 promotional programs with them.

14 That takes us into a whole different market,
15 that's very expensive to get into, but because our
16 partnership, now, we're able to get into that market. We're
17 able to take not only our fair product, but horse racing is
18 always included as a major component of the fair. We're
19 able to take that into our Spanish language mediums in a way
20 that we've never done before, so we're really excited about
21 that.

22 COMMISSIONER MORETTI: Congratulations.

23 COMMISSIONER AMERMAN: Well done.

24 COMMISSION CHAIRPERSON SHAPIRO: Yeah, that's
25 great, terrific.

1 COMMISSIONER AMERMAN: I noticed in your marketing
2 plan that your expenditures for this year come to \$2.1
3 million. Could you comment on whether that's up, down, or
4 sideways from a year ago?

5 MR. KELLY: It's a small percentage increase, five
6 or six percent increase.

7 COMMISSIONER AMERMAN: Okay.

8 MR. KELLY: And that's not only on our fair side,
9 which is the biggest bulk of our media expenditures is on
10 the fair side, but then we complement that with a racing-
11 specific media schedule, and that has gone up five or six
12 percent from last year, as well.

13 COMMISSIONER AMERMAN: Along with my comments to
14 the Bay Meadows group, I see that you have some monies in
15 there for online advertising, but it was like \$7,500, not a
16 great amount. Again, if we believe in this, in trying to
17 reach out to younger people, we should probably be taking
18 some monies from somewhere else and spending a little bit
19 more so that we make an impact.

20 MR. KELLY: That's a good point. We've shifted
21 over the last -- this is my tenth fair, coming up. We've
22 been shifting our entire media buy as business climate and
23 as business change, over to our website.

24 We will have, on our Fairplex.com, which you can
25 get to lacountyfair.com and get to the horse racing

1 component, and horse racing is on our home page. We'll
2 have, just in the month of September, about a million and a
3 half unique user visits, which equates to about 150 million
4 hits, just in the month of September, on our website.

5 So even though that amount looks to be a small
6 amount just on horse racing --

7 COMMISSIONER AMERMAN: Right.

8 MR. KELLY: -- behind the scenes the investment of
9 hard dollars that we're making in our whole web presence for
10 the fair and Fairplex is significant, and that's been a
11 major medium for us in our entire marketing in the last few
12 years.

13 COMMISSIONER AMERMAN: Well done.

14 MR. KELLY: Thank you very much.

15 MR. HENWOOD: Jim Henwood. In addition, we've
16 actually brought on, internalized our web mastering program.
17 About 60 days ago Scott reorganized that area of our company
18 and we're putting increased focus on all areas where we can
19 engage to a customer that would have an interest in the
20 medium, which is virtually everyone at this point.

21 COMMISSION CHAIRPERSON SHAPIRO: And I'm going to
22 ask you the same question with respect to your ADW simulcast
23 agreements, everything's in place, there's nothing that you
24 foresee that can interfere with your signal or anything?

25 MR. HENWOOD: Nothing, except get out there and

1 market it.

2 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

3 MR. HENWOOD: Except we have to get out there and
4 market ourselves really strongly.

5 COMMISSION CHAIRPERSON SHAPIRO: Right. But I
6 will tell you, it really appears you guys are going a lot of
7 different directions and the materials are great.

8 MR. HENWOOD: Yes.

9 COMMISSION CHAIRPERSON SHAPIRO: Anybody have
10 anything else? If not, I'll entertain a motion to approve
11 this application.

12 COMMISSIONER AMERMAN: So moved.

13 COMMISSIONER MORETTI: Second.

14 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

15 (Ayes.)

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

17 MR. HENWOOD: Thank you.

18 COMMISSION CHAIRPERSON SHAPIRO: Have a speedy
19 trip home.

20 Okay, the next item on the agenda is the public
21 hearing by the Board on the proposed amendment to CHRB Rule
22 1978, Select Four, to provide other alternatives, instead of
23 substituting the post-time favorite, for a scratched horse
24 from any leg of the Select Four.

25 MR. MARTEN: Good morning, Mike Marten, of the

1 CHRB staff.

2 What this does is makes the Pick Four conform to
3 the Daily Double and the Pick Three. Instead of giving fans
4 the favorite in the race, if there's a scratch, it creates a
5 consolation pool, or a refund, depending on when the scratch
6 occurs.

7 This is a request from the National Player's
8 Panel. And it doesn't change the option that people have of
9 selecting an alternate. If an alternate is selected in the
10 Pick Four, that doesn't go into a consolation pool. But if
11 there's no alternate selected, the scratched horse does go
12 into a consolation pool.

13 COMMISSION CHAIRPERSON SHAPIRO: So is this
14 consistent with the other pick end wagers, basically?

15 MR. MARTEN: No. It's consistent with the Daily
16 Double and the Pick Three. The other pick end wagers, which
17 would be Pick Six, Pick Nine, still provide for the
18 scratched horse, we haven't extended it to them.

19 VICE-CHAIRPERSON HARRIS: The Pick Four, if the
20 horse you have is scratched, and you don't have an alternate
21 selection, then you're in a different pool.

22 MR. MARTEN: This would occur if we approved this.
23 Right now, you just go to the favorite.

24 VICE-CHAIRPERSON HARRIS: But you don't have to --
25 what if you don't have an alternate selection?

1 MR. MARTEN: Today, you get the favorite.

2 VICE-CHAIRPERSON HARRIS: It will still go to the
3 favorite or --

4 MR. MARTEN: Today. Today.

5 VICE-CHAIRPERSON HARRIS: Today.

6 COMMISSION CHAIRPERSON SHAPIRO: But in the future
7 it won't go to the favorite, it will go down to a
8 consolation pool of Pick Three.

9 MR. MARTEN: No, a consolation pool of Pick Four.

10 COMMISSION CHAIRPERSON SHAPIRO: Yeah, a
11 consolation pool of Pick Four, but for people that only had
12 three correct picks and a scratch.

13 MR. MARTEN: Correct.

14 VICE-CHAIRPERSON HARRIS: I, personally, like the
15 concept. I think the tricky part is to be able to explain
16 it to people and have people understand that they won, if
17 they did.

18 MR. MARTEN: This is a huge problem, it's the only
19 drawback that I've seen to the consolation pool for the Pick
20 Three is that today, a year and a half later, we're still
21 getting people complaining when the favorite wins, and they
22 didn't --

23 COMMISSION CHAIRPERSON SHAPIRO: They thought they
24 had it and they didn't.

25 MR. MARTEN: And we've encouraged the racetracks

1 to publicize this. Mack McWright, here at Del Mar, has
2 arranged to put this in the Daily Program, and the other
3 publicity directors are going to do the same. We've also
4 asked some of the websites to post it, as well.

5 COMMISSION CHAIRPERSON SHAPIRO: Is there a way,
6 and I know we don't probably have the software, where
7 somebody could say in the event my horse is scratched, I'll
8 take favorite, alternate pick, consolation, give them three
9 options?

10 MR. MARTEN: You have to designate the horse that
11 you wish. You can't --

12 COMMISSION CHAIRPERSON SHAPIRO: No, I'm not
13 trying to --

14 MR. MARTEN: No, you cannot leave it open.

15 VICE-CHAIRPERSON HARRIS: Well, it can't get too
16 complicated. What was bothersome to me is that we didn't
17 get any comments on this. I don't know if people were just
18 sort of mystified, didn't understand what we were talking
19 about, or didn't care, or what. But somehow, we need to
20 make sure that if we're going to pass something like this
21 and then for the next two years we're going to be getting e-
22 mails about somebody that thought it's a bad deal.

23 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

24 MR. MARTEN: We've had two experiences with the
25 Pick Three, even the people who discover the rule change at

1 the late date aren't upset with the rule change, only that
2 they didn't know about it. There's been no criticism of the
3 consolation pool, other than I wish I'd known. And that's
4 why better publicity is needed, and we are going to achieve
5 that, now, with the cooperation of the racetracks.

6 COMMISSIONER CHOPER: Are you saying existing with
7 the Pick Three you can pick a consolation pool, instead of
8 having your scratched horse go to the favorite?

9 MR. MARTEN: It's mandatory that it go to
10 consolation pool. It's not a selection process anymore,
11 it's mandatory. The Pick Three --

12 COMMISSIONER CHOPER: Oh, it doesn't go to the
13 favorite.

14 MR. MARTEN: It does not. It no longer goes to
15 the favorite since 2005, but there are still people who
16 don't realize that.

17 COMMISSIONER CHOPER: Well, let me tell you
18 something, as someone who is not unfamiliar with the Pick
19 Three, I never knew that.

20 MR. MARTEN: Proves my point. We just have to
21 better publicize this and I encourage all of the racetracks
22 to help us with that.

23 COMMISSION CHAIRPERSON SHAPIRO: And I assume,
24 also, the ADW providers, and the simulcast, everybody has to
25 do that; correct?

1 MR. MARTEN: Yeah, I must admit, I haven't
2 approached them, but I will.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, if 80
4 percent of the handle's coming from off-track, I mean. I
5 don't know, is it possible to put some little of these signs
6 up, or something, in each of the betting lines, for people,
7 if they are walking up and betting on the track, that says,
8 remember, new rule Pick Four.

9 VICE-CHAIRPERSON HARRIS: Well, I'm not -- most of
10 the people that Pick Four are somewhat sophisticated. But
11 one of the real keys is to never have any scratches. If you
12 don't have any scratches, no one's got a problem. It's just
13 when you get multiple scratches on the card.

14 And it sort of depends on when the scratch occurs.
15 Like what if people are betting on the race early in the
16 morning, eight, nine o'clock, and there's a scratch at
17 eleven o'clock that morning, you know, well ahead of the
18 race or whatever, does that still create a consolation pool
19 or --

20 MR. MARTEN: No, it's just like the Double. If
21 the scratch occurs before the first leg is run, it's a
22 refund.

23 VICE-CHAIRPERSON HARRIS: Okay, just before the
24 first leg is run, but not -- is there a time limit on it?
25 If it's just in the post period of that first leg, it's

1 a --

2 MR. MARTEN: That would be before the leg is run,
3 so it would be a refund.

4 VICE-CHAIRPERSON HARRIS: Yeah.

5 MR. MARTEN: All of the suggestions, we're going
6 to take this seriously, getting the word out.

7 COMMISSIONER CHOPER: See, the obvious thing is if
8 you could have a screen that comes up when you put in your
9 Pick Three, at least on the automatic machines, right, that
10 says you've got a choice, pick yes, or no, or one, two,
11 three or what have you. Then, of course, there's no
12 ambiguity because you can't go any further without doing it.
13 Now, I don't know if you can do that technology. The Pick
14 Three is -- I know something about the technology, I don't.

15 MR. MARTEN: But just to be clear, there is no
16 choice in the Pick Three, you make your selection.

17 COMMISSIONER CHOPER: Well, even for the Pick
18 Four, if you're going to have that.

19 MR. MARTEN: The Pick Four, you do have an
20 alternate selection. The people are aware of the alternate
21 part of it, it's just the idea that --

22 COMMISSIONER CHOPER: Now?

23 MR. MARTEN: Of the alternate selection, yes.

24 COMMISSIONER CHOPER: I played it, I never knew I
25 had anything but --

1 COMMISSION CHAIRPERSON SHAPIRO: We don't have it,
2 now, this rule would provide for it.

3 MR. MARTEN: No, the alternate is there, now. The
4 only reason the -- we were talking about the consolation
5 pool a second ago, but now we're talking about the
6 alternate. The alternate has been in place and that remains
7 in place.

8 We simply have mentioned the alternate here for
9 some housekeeping. The alternate language was in the Pick N
10 rule, we've actually moved that over to the Pick Four rule.

11 COMMISSION CHAIRPERSON SHAPIRO: So this is truly
12 just housekeeping?

13 MR. MARTEN: Not the consolation pool part.

14 COMMISSION CHAIRPERSON SHAPIRO: Right.

15 MR. MARTEN: But the alternate is housekeeping.

16 COMMISSION CHAIRPERSON SHAPIRO: Right.

17 COMMISSIONER CHOPER: And you'll have a screen
18 that says you got to do this, that's the thing.

19 MR. MARTEN: We're going to do everything we can
20 because it's an obvious problem. It actually results in
21 people throwing tickets away. If you think about it, you
22 think, you have the favorite, and the favorite loses, you
23 toss the ticket. And that's, actually, potentially a
24 consolation.

25 COMMISSIONER CHOPER: Yes.

1 COMMISSIONER MOSS: Coming from the Pari-Mutuel
2 Committee, I think to just again mention that one of the
3 biggest beefs any people making bets is getting stuck with a
4 horse they didn't want, and I think this removes that
5 situation and we're working to clear that up.

6 MR. MARTEN: Correct.

7 COMMISSIONER MOSS: So I think this is a good idea
8 and support it.

9 EXECUTIVE DIRECTOR FERMIN: I'm sure Mike will do
10 whatever he can to make sure that everybody knows about it,
11 and anybody that wants to contribute any ideas, we'll
12 certainly welcome them.

13 COMMISSION CHAIRPERSON SHAPIRO: All right, is
14 there any other discussion? If not, does somebody wish to
15 make a motion to adopt this?

16 DEPUTY ATTORNEY GENERAL KNIGHT: Excuse me. I
17 don't believe this is set up for action. This is just a
18 public hearing, isn't it?

19 MR. MARTEN: Yes, this would be for public
20 hearing.

21 VICE-CHAIRPERSON HARRIS: It's been out.

22 COMMISSION CHAIRPERSON SHAPIRO: It's been out for
23 45 days.

24 STAFF SERVICES MANAGER WAGNER: This is the public
25 hearing for the adoption of the proposal.

1 DEPUTY ATTORNEY GENERAL KNIGHT: Okay, the agenda
2 doesn't show it as an action item.

3 STAFF SERVICES MANAGER WAGNER: The public hearing
4 is the language that addresses it. We can take action on
5 this.

6 COMMISSION CHAIRPERSON SHAPIRO: Pardon me, what
7 did you say?

8 STAFF SERVICES MANAGER WAGNER: We can take action
9 on this item, this item is up for adoption.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. So is
11 there any other comments from the Board or does somebody
12 wish to make a motion to move it?

13 COMMISSIONER MORETTI: Jerry made a motion.

14 COMMISSION CHAIRPERSON SHAPIRO: Jerry, you made a
15 motion?

16 COMMISSIONER MOSS: Yeah, pleased to accept this
17 as written.

18 COMMISSION CHAIRPERSON SHAPIRO: Second. Is there
19 a second?

20 COMMISSIONER CHOPER: Second.

21 COMMISSION CHAIRPERSON SHAPIRO: Second. All
22 those in favor?

23 (Ayes.)

24 COMMISSION CHAIRPERSON SHAPIRO: Anybody opposed?
25 Thank you.

1 The next is a public hearing by the Board on the
2 proposed addition of Article 10.5, Mule Racing, to provide
3 an Article unique to mule racing; CHRB Rule 1747, Mule
4 Racing Rules, to specify that mule races must adhere to
5 Board rules in general, but rules unique to mules will be
6 placed under Article 10.5; and CHRB Rule 1748, Shoeing
7 Mules, to provide that mules may run unshod.

8 You know, that's a tongue twister, if anybody
9 wants to know, okay, mules and rules.

10 And I think we all know what we're talking about
11 here, Jackie.

12 STAFF SERVICES MANAGER WAGNER: Absolutely.

13 COMMISSION CHAIRPERSON SHAPIRO: I think we're
14 trying to let the mules run without shoes.

15 STAFF SERVICES MANAGER WAGNER: Absolutely.

16 Jackie Wagner, CHRB staff.

17 The proposal before you actually encompasses three
18 actions. We are proposing to place a new Article to the
19 Board's Rules and Regulations, which would be Article 10.5.
20 Under that Article, all the mule rules will fall under that
21 Article that are applicable to mules, specifically.

22 Article -- excuse me, Rule 1747, Mule Racing
23 Rules, will state, make it clear that the under the Mule
24 Rules they must adhere to the Board's regulations in
25 general, but if there's a condition that's specific to

1 mules, that's where it will be found, under Article 10.5.

2 And Rule 1748, the Shoeing of Mules, will allow
3 the mules to run barefoot or unshod.

4 This proposal was at the request of the American
5 Mule Racing Association. We have noticed it for 45 days.
6 During that time we did not receive any comments.

7 The staff would recommend to the Board to adopt
8 Article 10.5, adopt Rule 1747, and adopt Rule 1748, as
9 presented.

10 VICE-CHAIRPERSON HARRIS: Yeah, I think we've
11 waived that requirement, anyway. One thing I'm concerned
12 about here, though, is this announcement part, where we're
13 saying you've got to announce if it's got shoes, or it
14 doesn't have shoes, or it had shoes and now it doesn't, or
15 vice-versa. To me, I'd sort of hate us get into so many
16 announcements, and somebody forgets to make them, and
17 there's all these different mistakes can happen. Why don't
18 we just let them, if they want to wear shoes, they can wear
19 shoes, if they don't want to wear shoes, they don't wear
20 shoes. But we don't make announcements if a horse has got
21 bar shoes, or plates, or whatever, and it's just going to
22 add to one more thing that we have a chance to -- somebody,
23 not necessarily us, but could get mixed up.

24 COMMISSION CHAIRPERSON SHAPIRO: Are you thinking
25 that we're asses, or something?

1 VICE-CHAIRPERSON HARRIS: Part. I think,
2 actually, a mule is a half.

3 COMMISSION CHAIRPERSON SHAPIRO: A half-ass.

4 VICE-CHAIRPERSON HARRIS: Yeah, part horse, yeah.
5 But you know, a mule is infertile, so they can't have any.
6 So they can't be barefoot and pregnant, but they can be
7 barefoot.

8 (Laughter.)

9 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute.

10 Okay, are there any other comments on this from
11 the Board? If not, I'll entertain a motion to let the mules
12 go free.

13 VICE-CHAIRPERSON HARRIS: No, I want to change the
14 part, though, all this part about -- I think the rules
15 are --

16 COMMISSION CHAIRPERSON SHAPIRO: We're going to
17 have to send it back.

18 VICE-CHAIRPERSON HARRIS: Oh, that's okay, we've
19 got lots of time.

20 COMMISSION CHAIRPERSON SHAPIRO: But the mules are
21 running.

22 VICE-CHAIRPERSON HARRIS: We waived the rule,
23 anyway. We waived the rule, so it's not really impacting
24 anybody, now. And during the period when we waived the
25 rules, there haven't been any outrages of somebody forgot

1 their shoes or something.

2 COMMISSIONER MORETTI: Well, actually, I think
3 it's a good point. Because if it's supposed to be printed
4 in the program and if for some reason it's not, does that
5 mean the mule is scratched? I mean, what happens to
6 the --

7 VICE-CHAIRPERSON HARRIS: Yeah, it's got to be
8 something that's going to happen, and I don't think anyone
9 is trying to -- I don't think there's any evidence that
10 shows that the performance is going to be so drastically
11 different, or there's some real motivation. I think we can
12 just take out the part about -- somehow just word it that
13 you can --

14 COMMISSION CHAIRPERSON SHAPIRO: You just want the
15 first sentence, a mule that is not shod is eligible to start
16 in a race.

17 STAFF SERVICES MANAGER WAGNER: Period.

18 VICE-CHAIRPERSON HARRIS: Yeah.

19 COMMISSION CHAIRPERSON SHAPIRO: Period.

20 STAFF SERVICES MANAGER WAGNER: You want them to
21 be able to make that decision whether or not they're going
22 to run shod or unshod, shoes or barefoot.

23 VICE-CHAIRPERSON HARRIS: Yes, it's just like our
24 shoeing deal, we don't have to announce that a horse has got
25 bar shoes this time, or this and that.

1 STAFF SERVICES MANAGER WAGNER: Okay.

2 VICE-CHAIRPERSON HARRIS: I mean, I just hate to
3 have it be one more thing that's got to be in the program
4 and announced, and all this stuff. It's just if you've got
5 a mule, you can put shoes on or not put shoes on.

6 COMMISSIONER CHOPER: And subject to dispute each
7 time. I mean, that's the real problem. I mean, if it
8 wasn't announced and you lost, you've got a complaint.

9 COMMISSION CHAIRPERSON SHAPIRO: If that's the
10 flavor of the Board, then why don't we put this back out and
11 we modify the rules such that we limit it to the first part
12 of the first sentence. Okay?

13 STAFF SERVICES MANAGER WAGNER: Okay, I will do
14 that.

15 EXECUTIVE DIRECTOR FERMIN: You don't want
16 anything printed in the program and you don't want any
17 public announcement.

18 COMMISSION CHAIRPERSON SHAPIRO: It's not a
19 requirement.

20 EXECUTIVE DIRECTOR FERMIN: Okay.

21 COMMISSIONER MOSS: So what you want is 1748 and
22 not 1747; is that correct?

23 VICE-CHAIRPERSON HARRIS: Because we don't do
24 anything on thoroughbreds when they change shoes, do we,
25 there's no requirement?

1 EXECUTIVE DIRECTOR FERMIN: The only thing we do
2 is we announce whether they're wearing, you know, caulks
3 off-track.

4 VICE-CHAIRPERSON HARRIS: It's not in the program
5 or anything, is it?

6 EXECUTIVE DIRECTOR FERMIN: No, it's usually
7 announced.

8 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
9 then will you recirculate that and then we'll come back?

10 STAFF SERVICES MANAGER WAGNER: Absolutely. What
11 we will do is put Rule 1748 back out for comment, for the
12 45-day comment period.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay.

14 STAFF SERVICES MANAGER WAGNER: Did the Board want
15 to take action on Article 10.5 and Rule 1747, or would you
16 like to continue to keep that in the package.

17 VICE-CHAIRPERSON HARRIS: Is that -- is part of
18 the thing we're just creating a bucket or a filing cabinet
19 to put things in?

20 STAFF SERVICES MANAGER WAGNER: Correct.

21 VICE-CHAIRPERSON HARRIS: So it's not -- so then
22 we've got this -- we're going to put this in, but we're
23 going to change it around.

24 STAFF SERVICES MANAGER WAGNER: Correct.

25 VICE-CHAIRPERSON HARRIS: I mean, it seems to me

1 one of the issues with mule racing is these mules, I've
2 watched some of these, are often fairly more erratic coming
3 out of the gate or the first 50 or 60 yards, than normally a
4 thoroughbred race. So some of our rules on horses, you
5 know, interference type issues need to be looked at. Now,
6 it may well be that we'd want to keep them the same way.
7 But I think we need to get some input from the stewards if
8 they are overly hamstrung on it due to the strict definition
9 of our rules. But I think some of the stewards are -- you
10 know, they're not that uniform on what constitutes
11 interference.

12 EXECUTIVE DIRECTOR FERMIN: I think they take into
13 consideration that mules are erratic. That's been the
14 experience that I've heard.

15 VICE-CHAIRPERSON HARRIS: But that's not a rule,
16 though.

17 EXECUTIVE DIRECTOR FERMIN: No, but going back to
18 the rules, we have kind of the same, we have a certain
19 section that has harness rules, for instance. And we've
20 never had that in our rule book for mules, so we're going to
21 go back and start a section for mules.

22 STAFF SERVICES MANAGER WAGNER: Correct. We'll
23 just keep it as the package. I'll go ahead and put --

24 COMMISSION CHAIRPERSON SHAPIRO: Yeah, let's leave
25 it as a package.

1 STAFF SERVICES MANAGER WAGNER: Correct.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

3 Item Number Six. Public hearing by the Board on
4 the proposed amendment of CHRB Rule 1849, Nerving, to
5 prohibit nerved horses from the grounds of the racing
6 association; from entry in a race; or from being sold or
7 offered for sale on the grounds of a facility under the
8 jurisdiction of the Board; and the proposed repeal of CHRB
9 Rule 1850, Posterior Digital Neurectomy, and CHRB Rule 1851,
10 List of Nerved Horses.

11 I might add that this matter was heard by the
12 Medication Committee of the Board, I want to say somewhere
13 around February of this year. It was at that time brought
14 forward that we would bring this to the Board, and it's my
15 understanding that this has been out for discussion; is that
16 correct?

17 STAFF SERVICES MANAGER WAGNER: Correct. The
18 three rules, Rule 1849, which would be the repeal of Rule
19 1849, and the -- excuse me, the amendment to Rule 1849, and
20 the repeal of 1851 and 1850 has been noticed to the public
21 for 45 days. We have not received any comments on the --
22 excuse me, I take that back. We did receive one comment on
23 the proposal from our Equine Medical Director, regarding the
24 proposal to repeal heel nerving.

25 And I believe he is here and would like to make a

1 presentation to the Board.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, Dr. Arthur.

3 EQUINE MEDICAL DIRECTOR ARTHUR: Thank you,
4 Mr. Chairman.

5 I oppose the amendment to 1849 and the repeal of
6 1850, and the related 1851 for a number of reasons. The
7 posterior digital neurectomy is permitted in all major
8 racing states. The only two exceptions, of the 37 pari-
9 mutuel states, are two minor states, Arizona and Iowa, and
10 neither one are particularly significant in the national
11 picture.

12 The racing industry has been striving for
13 uniformity for years, and this action flies in the face of
14 that effort.

15 More importantly and most importantly, there is no
16 justification for taking this action. This is a well-
17 accepted procedure for a very specific group of chronic
18 problems in the posterior portion of the foot. The surgical
19 procedure is taught at every veterinary school and is
20 probably one of the most common surgical procedures in the
21 equine worldwide.

22 There is a reason the posterior digital neurectomy
23 is specifically permitted under the rules in the 35 racing
24 states where it's allowed. It's also allowed for the AQHA,
25 for their events, including jumping events for young riders,

1 and in their particular process.

2 It is safe for the horse and rider and benefits
3 the horse by eliminating chronic discomfort in the posterior
4 part of the foot.

5 The analogy that I've used previously is a root
6 canal, where you actually take the root out of the tooth and
7 the tooth functions fine, but you've eliminated the pain.

8 And there's no documentation of any history of any
9 horse, with a racing fatality, to my knowledge, that's been
10 associated with the posterior digital neurectomy.

11 As with all surgical procedures, there can be
12 complications, especially later in life. But those are
13 rare, and very rare for race horses in their racing career.

14 The fact is that this is a rarely used rule and,
15 currently, there are only two horses that are registered as
16 having posterior digital neurectomies in California.

17 One side issue is how those horses, which had the
18 posterior digital neurectomy under the California rules will
19 be handled going forward, under this action.

20 Clearly, the posterior digital neurectomy is
21 performed in very specific cases, where more conservative
22 approaches have been unsuccessful.

23 Let me give you an example of what I'm talking
24 about. Ron McNally purchased a horse named Brave Act,
25 several years ago. On the flight over, he kicked the side

1 of the pallet on the plane and fractured a very small
2 portion off of the edge of his hind navicular bone. The
3 colt was lame when he got off of the airplane, stayed lame,
4 and with the specific diagnosis they eventually did a
5 posterior digital neurectomy on that horse, he ended up
6 winning over a million dollars, several graded races, and is
7 still standing successfully at stud.

8 Rule 1850 has safeguards that specifically
9 identify horses that have had posterior digital
10 neurectomies. The papers are permanently marked the horse
11 has been heel nerved, when, how, and by whom. The
12 examination cards are specifically marked that the horse has
13 had a posterior digital neurectomy, and prior to that horse
14 being allowed to race again they are examined by the
15 official veterinarian and permitted to run, or not, based
16 upon that specific examination. And in all further
17 examinations the examining veterinarians are able to take
18 that into account.

19 On the other hand, contrary to what many people
20 seem to believe, determining whether a horse has had a
21 posterior digital neurectomy or not is not obvious. There's
22 no test that one can rely on, and certainly there have been
23 legal challenges that have been unsuccessful, as to trying
24 to determine whether a horse has been heel nerved or not.

25 A regulation, without an enforcement scheme, is

1 very problematic. I consider it really a very bad situation
2 and I think we're better off knowing what's going on.

3 The only justification that I could see for moving
4 forward with this is really a wanting to deal with the
5 jockeys. I've met with the jockeys on this issue, and they
6 certainly have concerns. I think it's philosophically
7 opposed to it. They also would like to know what horses
8 have had uniarticular injections, and certain other things,
9 as well. And I respect that.

10 The only jockey that had a specific comment was
11 Richard Migliore, who thought that horses broke differently
12 with posterior digital neurectomies. That's the only time
13 I've ever heard any comment that the gait has been altered.
14 And one of the reasons this procedure has been permitted is
15 it doesn't alter gait. What it does is it eliminates
16 chronic pain in a very specific part of the foot.

17 In the end, I think this action will have minor
18 impact on a small number of horses that will be eliminated
19 from horse racing, but I really consider it no more than a
20 feel-good action that's going to create more problems, than
21 offer solutions. Thank you.

22 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur, can I
23 ask you a couple questions?

24 EQUINE MEDICAL DIRECTOR ARTHUR: Certainly.

25 COMMISSION CHAIRPERSON SHAPIRO: I don't disagree

1 with you, with respect to it's going to be a very difficult
2 rule to regulate, whether we -- but isn't it a difficult
3 situation, now, to regulate as well? Based on what you just
4 said, if somebody's playing by the rules and there's a horse
5 with -- let's use Brave Act. And Ron McNally had that horse
6 here at the track and he said, well, okay, this is what I'm
7 going to do, he went in and registered the horse and he did
8 all the correct paperwork.

9 But what's to stop somebody from taking the horse
10 to a farm, having a vet do this procedure, we wouldn't know
11 it anyway based on -- based on what you just said. Because
12 if it's difficult or impossible to detect, don't we now have
13 that problem?

14 EQUINE MEDICAL DIRECTOR ARTHUR: Why would someone
15 do that? Why would somebody do something nefarious, when
16 there is a legal and proper approach to do the same thing.

17 COMMISSION CHAIRPERSON SHAPIRO: Well,
18 that's --

19 EQUINE MEDICAL DIRECTOR ARTHUR: So you have a
20 hypothetical where there's really no benefit to anybody to
21 try to duck the particular system that we currently have in
22 place.

23 COMMISSION CHAIRPERSON SHAPIRO: But why do we
24 make them register them, then?

25 EQUINE MEDICAL DIRECTOR ARTHUR: Why do we make

1 them register them? So that we know whether the horses have
2 had a posterior digital neurectomy and they can be examined
3 with that in mind.

4 COMMISSION CHAIRPERSON SHAPIRO: All right. But
5 the point I'm making is I think that with respect to the
6 enforcement and regulation issue, we already have that
7 problem, no matter what we do here, today. I think that if
8 somebody thinks that it could affect the value of the horse,
9 or they don't want to go through the hassle of doing the
10 paperwork, they can just say, well, I'll send it out to XYZ
11 vet clinic and they can do it. And from what you said is,
12 we probably wouldn't know about it. Is that correct?

13 EQUINE MEDICAL DIRECTOR ARTHUR: If someone didn't
14 want to register the horse, if they wanted to go around the
15 system, it would be very difficult for us to identify
16 whether that happened.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 EQUINE MEDICAL DIRECTOR ARTHUR: If that became
19 obvious, then somebody would be putting their license at
20 risk for, I see, very little benefit.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay. And is
22 there any chance that if a horse that has this procedure
23 would not be able to feel anything in his -- in any part of
24 his leg or his foot, is it possible he could not feel
25 something that went wrong at any time, in any portion of his

1 foot?

2 EQUINE MEDICAL DIRECTOR ARTHUR: The complications
3 that are typically identified with this are infections that
4 go unidentified. In, certainly, the racing environment,
5 that would be a very, very unusual circumstance.

6 In terms of a support structure type of a change,
7 that just doesn't occur.

8 I'd like to remind you that this procedure is one
9 of the most common procedures in horses worldwide. This
10 happens all the time for a very -- primarily, with navicular
11 disease which we, frankly, don't see a lot of at the
12 racetrack. What we're usually doing, identifying, are small
13 fractures on the wing of the coffin bone, or for the example
14 of Brave Act, on the navicular bone.

15 The fact is we have not seen what you have
16 identified -- what you're hypothetically trying to propose.
17 And I've practiced for 30 years on the racetrack and never
18 seen anything like that. And I've gone to veterinary
19 meetings around the world and never had anybody present a
20 case in the manner that you're describing.

21 COMMISSION CHAIRPERSON SHAPIRO: Well, again, I'm
22 not saying that it doesn't have a therapeutic benefit for
23 lots of equine uses. I do question, horses traveling in
24 excess of 40 miles an hour, is there a possibility that they
25 could not feel something at any point in time, that's the

1 part that concerns me. As you know, because we've talked
2 about it.

3 I also question, if it's not done very much at the
4 racetrack, there's only, as you just said, two registered
5 horses in the State of California, or Southern California,
6 one of them, you know, I just find this a difficult issue of
7 why take a chance? To me, it's a why take any chance,
8 whatsoever, since it's not something that's so widely used
9 that it would harm a lot of people. And if, in fact, it
10 saves once accident or one horse, that's kind of where I
11 come down on it.

12 EQUINE MEDICAL DIRECTOR ARTHUR: Well, Mr.
13 Shapiro, as I've pointed out, there's been no evidence that
14 this has ever been related to a fatality in horse racing.

15 COMMISSION CHAIRPERSON SHAPIRO: Oh, I know that.
16 I appreciate that.

17 EQUINE MEDICAL DIRECTOR ARTHUR: And the fact is
18 we have --

19 COMMISSION CHAIRPERSON SHAPIRO: I wasn't implying
20 there was.

21 EQUINE MEDICAL DIRECTOR ARTHUR: -- we have a
22 history of using this procedure in racing states and
23 nationally for many, many -- for decades, for decades, and
24 there's still no history of this. It's still permitted in
25 35 of 37 states and all --

1 COMMISSION CHAIRPERSON SHAPIRO: Well, has there
2 ever been a study of all heel nerved horses and breakdowns,
3 to see if there's ever been a correlation of that? Has
4 anybody ever done a study?

5 EQUINE MEDICAL DIRECTOR ARTHUR: No, they haven't.

6 COMMISSION CHAIRPERSON SHAPIRO: So I'm not --

7 EQUINE MEDICAL DIRECTOR ARTHUR: Has anybody ever
8 done a study that this is related to breakdowns? No, they
9 haven't. I mean, you're talking about a hypothetical on
10 something that has been done in horse racing for 40 years,
11 nationally, and because it sounds bad, we're going to make a
12 change.

13 I agree, it's not going to make a big difference.
14 But, philosophically, I like to have a sound, scientific
15 basis before taking an action like this. This is why I
16 oppose it.

17 COMMISSION CHAIRPERSON SHAPIRO: I appreciate
18 that.

19 COMMISSIONER AMERMAN: Dr. Arthur, you mentioned
20 Arizona and Iowa as being states where this cannot be done.
21 What about Europe and Asia, what's their position?

22 EQUINE MEDICAL DIRECTOR ARTHUR: The FEI, which is
23 the Equestrian -- I don't know about either of those
24 jurisdictions, I can't really comment on it. The FEI has
25 had rules, FEI is the show horse industry, against heel

1 nervning.

2 COMMISSIONER AMERMAN: Yeah.

3 EQUINE MEDICAL DIRECTOR ARTHUR: But I understand
4 they are no longer enforced simply because that they can't
5 regulate it. So I have that secondhand, I don't have
6 specific knowledge of it.

7 COMMISSIONER CHOPER: Can I ask who supported this
8 and were there any other arguments made, apart from those
9 we've just heard, in favor of the rule?

10 EQUINE MEDICAL DIRECTOR ARTHUR: You have to ask
11 Chairman Shapiro, it was his project.

12 COMMISSIONER CHOPER: I'm sorry, I wasn't here
13 when it first came around.

14 COMMISSION CHAIRPERSON SHAPIRO: I appreciate
15 that. First of all, I will add, I think that this came to
16 light for the wrong reason. Okay. I think that the whole
17 reason this issue ever came to our attention was the wrong
18 reason, and I don't endorse that, whatsoever.

19 However, it came before the Board as something
20 that the Board should consider. And in my particular case,
21 I think it's pretty clear that I'm very much in favor of
22 doing everything to protect the safety of the horse, and we
23 should be looking outside of what we've done for the last 40
24 years.

25 So to me, I was stunned when I knew that this

1 procedure still existed. It has a very ugly name. But it
2 wasn't until Dr. Arthur gave us a very interesting
3 discussion and education as to what it really is, and it's
4 one small, little nerve, as I understood it. It's not as
5 bad as it sounds.

6 And I agree and appreciate that there is a
7 therapeutic benefit to it, but I just question whether for
8 racing.

9 Having said that, we do have some comments from
10 the public and so why don't I --

11 VICE-CHAIRPERSON HARRIS: Also, before Rick
12 leaves, would Dr. Marhar, who originally was in the Equine
13 Medical Director position, and was a well-respected
14 veterinarian at UC, he would basically take the same
15 position you do as far as the --

16 EQUINE MEDICAL DIRECTOR ARTHUR: He was actually
17 going to give a presentation at the May meeting about the
18 University's experience with posterior digital neurectomy.
19 Certainly, when I was a student there, it was one of the
20 more common racing surgeries at the time.

21 Part of th reason it's gone by the wayside or not
22 as frequently used is we have better diagnostic and
23 therapeutic options. But there still will be specific cases
24 where it will be necessary, if you're going to have those
25 horses race. Brave Act is a good example.

1 COMMISSIONER MORETTI: Do you know what Dr.
2 Marhar's statement would have been, other than you say he
3 was going to? I mean, was he going to be supportive?

4 VICE-CHAIRPERSON HARRIS: He's supportive of it.

5 EQUINE MEDICAL DIRECTOR ARTHUR: He thinks the
6 current rule is adequate and appropriate.

7 COMMISSION CHAIRPERSON SHAPIRO: He would echo
8 your views?

9 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

11 COMMISSIONER AMERMAN: You're saying that if we
12 should pass this rule, the way it's written here, we
13 couldn't regulate it, that you can't test; is that correct?

14 EQUINE MEDICAL DIRECTOR ARTHUR: I can't -- we
15 can't test in a way that we'll be able to defend in court,
16 unless we find other evidence, like a history of a horse,
17 where the surgery was done, or other -- we can't just go in
18 and poke on the horse's foot and tell you whether it's been
19 nerved or not, that's a problem.

20 COMMISSIONER AMERMAN: It seems like a difficult
21 one if, indeed, you can't find the test or the regulation,
22 it seems like a difficult rule to pass.

23 EQUINE MEDICAL DIRECTOR ARTHUR: I agree.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, what we are
25 doing -- I'm not -- let me come back to that. Is there a

1 way to X-ray, or do any other test, if you thought a horse -
2 - is it not true that you could not press something into the
3 horse's heel, where the nerve is, to see if the horse
4 flinches?

5 EQUINE MEDICAL DIRECTOR ARTHUR: You could
6 clinically, just like you can on a lot of issues. For
7 example, Mr. Amerman's horse, yesterday, I was able to, by
8 palpation, have a very good idea of what that situation was.
9 I couldn't, just by the clinical examination.

10 But I would not have been able to tell you
11 specifically what it was without X-rays.

12 The problem with this problem is you can get an
13 idea and a suspicion that a horse has had heel nerve, but
14 there is not any legally confirmatory test that we can use.
15 It's not like a drug test where, well, we find this or we
16 find that. We're not going to be able to document, unless
17 we can find some evidence of a surgical scar or a history of
18 whether a horse has been heel nerved.

19 A good example is the cobra venom issue, which is
20 essentially a way to do a neurectomy, that you can't test
21 for, because there is no scar.

22 VICE-CHAIRPERSON HARRIS: Isn't it important, too,
23 which is one reason that I don't like to change the rule, is
24 that if you don't have it on the papers, or somewhere, and
25 you're an examining veterinarian, trying to rule out

1 different things, it's very helpful to know the history that
2 it had been heel nerved, if it's got issues that you're
3 trying to sort out, that it would just be nice to know that.

4 EQUINE MEDICAL DIRECTOR ARTHUR: Absolutely. And
5 if you look at the way the rule is written, it is
6 specifically written for that purpose, Mr. Harris.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. Darryl
8 Haire.

9 MR. HAIRE: Darryl Haire, Western Regional Manager
10 of the Jockey's Guild.

11 Mr. Chairman, members of the Committee, the
12 riders, and Rick Arthur has met with the riders on two
13 different occasions, in the jockey's room, at Hollywood and
14 here, at Del Mar, yesterday. And the riders have expressed
15 to Dr. Arthur that they are very concerned and they're
16 opposed to heel nerving. And we know that it sounds worse
17 than maybe it really is, heel nerving.

18 But the riders, and they've expressed to me, and
19 not just Migliore, but other riders, that when a horse
20 leaves the gate, horses that they've ridden, that are heel
21 nerved, stumble more than other horses. So because there is
22 lack of sensation, or whatever, they know there's a
23 difference with horses that have been heel nerved.

24 And I do know this, that horses, if something's
25 not right in one leg, whether it's the left ankle, a lot of

1 times they'll get hurt on their right ankle because they'll
2 compensate, they protect themselves. And that's what our
3 concern is that if something's not right in, say, the left
4 heel, something on the other, somewhere else will go,
5 because they are protecting themselves.

6 So, again, the riders would like to see this. You
7 know, they don't like riding horses that are heel nerved.

8 COMMISSIONER MORETTI: Could I ask you a question,
9 maybe I misunderstood. I thought Dr. Arthur said there are
10 only two that are registered as having been heel nerved in
11 the State. So now, you're saying the jockeys are saying
12 that they can tell a difference when they ride horses,
13 horses plural, that have been heel nerved. So how do we
14 know that they've been heel nerved, if we don't know that
15 they've been heel nerved. I mean, how do they know that?

16 MR. HAIRE: Oh, they know, Commissioner Moretti.
17 They know in other states, with trainers that they ride for,
18 they tell them they're heel nerved and riders that have
19 ridden --

20 COMMISSIONER MORETTI: And I'm not taking anything
21 away from safety for the jockeys, but it's kind of anecdotal
22 and we don't really have facts on that, is basically what
23 I'm hearing.

24 MR. HAIRE: You're right.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

1 COMMISSIONER MOSS: Just one more question. Are
2 you suggesting that there are more horses that have been
3 heel nerved than the two that are already listed?

4 MR. HAIRE: That's very possible, Mr. Moss. I
5 don't know for sure, but it's very possible.

6 VICE-CHAIRPERSON HARRIS: Well, maybe there should
7 be some mechanism where the jockey does know. I mean, under
8 the current system, where the jockey can just review the
9 list, I guess. But, I mean, would a jockey know the two
10 that we have on the grounds, I guess.

11 COMMISSION CHAIRPERSON SHAPIRO: It's now posted
12 in the jock's room.

13 VICE-CHAIRPERSON HARRIS: So they know that?

14 COMMISSION CHAIRPERSON SHAPIRO: Yes, they know
15 that.

16 COMMISSIONER AMERMAN: And there's only two of
17 them that are registered?

18 COMMISSION CHAIRPERSON SHAPIRO: There's only two
19 that were registered in Southern California. I thought that
20 there were four in Northern California, as well.

21 Thank you. Marsha Naify. Is Marsha here?

22 COMMISSIONER MORETTI: She's coming.

23 COMMISSION CHAIRPERSON SHAPIRO: There she is.

24 MS. NAIFY: Hello, Marsha Naify, TOC. I've gotten
25 up here before to just briefly tell the CHRB Commissioners

1 that the TOC Board has voted in favor of this rule change.
2 We do not want horses heel nerved on the track, and we do
3 not want them racing on our tracks.

4 We also feel that, despite the medical evidence,
5 that there is a huge public perception here. The racing
6 industry has a lot of issues where public perception is key,
7 medication and testing, penalties, and retirement. And this
8 is another one of them. So we feel it is in the industry's
9 best interest that we move forward on this. Thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

11 COMMISSIONER MORETTI: Marsha, let me ask you this
12 same kind of question, though, and I agree perception is a
13 whole lot of reality in some cases. Of the owners that
14 are -- of the owners, are there a lot that know that they're
15 horses are being heel nerved and perhaps they haven't been
16 registered?

17 MS. NAIFY: I don't believe so.

18 COMMISSIONER MORETTI: I'm just trying to figure
19 this, understand if this is real or --

20 MS. NAIFY: Right. I don't believe so. I mean,
21 we're not aware of that.

22 VICE-CHAIRPERSON HARRIS: Wasn't one of the horses
23 that was heel nerved owned by a TOC Board member?

24 COMMISSION CHAIRPERSON SHAPIRO: Yes.

25 MS. NAIFY: I'm sorry, say that again, John?

1 VICE-CHAIRPERSON HARRIS: I think the heel nerved
2 horse in question was owned by a TOC Board member. Did he
3 basically vote for the new rules?

4 MS. NAIFY: Yes, it was a unanimous decision by
5 the Board. This vote was taken, I think, probably about
6 eight or nine months ago.

7 COMMISSIONER AMERMAN: What confuses me is we've
8 only got two that are registered but, yet, you seem to be
9 implying there's a lot more. I don't mean to be putting
10 words in your mouth, I'm not sure.

11 MS. NAIFY: Right. We have no idea how many there
12 are.

13 COMMISSIONER AMERMAN: So your issue is --

14 MS. NAIFY: It's the concept.

15 COMMISSIONER AMERMAN: -- we pass the rule, then
16 the perception clears itself up with the general public.

17 MS. NAIFY: Right.

18 COMMISSIONER AMERMAN: But we have no way of
19 testing to find out who's doing it or who's not doing it.

20 MS. NAIFY: Right. You know, it's --

21 COMMISSIONER AMERMAN: It's a tough one.

22 MS. NAIFY: It is a tough one. And, you know, but
23 there is the public perception there and sometimes you just
24 have to go with that.

25 COMMISSIONER AMERMAN: But are we sure there's a

1 public perception? Where does that come from? Who's saying
2 that we have horses that have been nerved, that are racing
3 on the track, other than the two that are registered?

4 MS. NAIFY: Well, the public perception on the
5 heel nerving I think goes along with the general medication
6 issues that are -- and drugs that are given our horses. And
7 the question is what is best for the horse? The horses love
8 to run, they love to race, but in some cases, you know, are
9 we doing too much to get them to the track. And, you know,
10 that's the question, and it's a fine line. It's like where
11 do you draw the line.

12 So, I mean, these are all philosophical and
13 intellectual discussions, you know, that obviously
14 warrant -- they warrant further discussion.

15 COMMISSIONER MOSS: Do you think that this
16 might -- the adoption of this rule might cause people to
17 nerve secretly, so to speak, without listing?

18 MS. NAIFY: It could. And maybe this was a
19 practice, like Dr. Arthur has alluded to, in the past, that
20 this was done -- you know, has been done for a period of
21 time but is now falling out of favor for whatever reason. I
22 don't think that there's a lot of this going on. But the
23 question is should it be going on?

24 And, you know, our Board members, we've got 15
25 Board members, we're pretty clear on it, they felt it

1 shouldn't be going on and those horses shouldn't be allowed
2 at the track.

3 COMMISSIONER MOSS: And did Dr. Arthur have a
4 chance to address your Board on this issue, directly?

5 MS. NAIFY: No, he did not.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

7 MS. NAIFY: Thank you.

8 COMMISSION CHAIRPERSON SHAPIRO: Dan McFarlane.

9 And Mr. McFarlane, this is a general discussion about the
10 practice and whether we permit this, so just be mindful of
11 that, please.

12 MR. MC FARLANE: Yeah.

13 EXECUTIVE DIRECTOR FERMIN: That there is
14 litigation.

15 COMMISSION CHAIRPERSON SHAPIRO: And the reason I
16 say that is because there is pending litigation, to which
17 you're a party, I believe.

18 MR. MC FARLANE: Right.

19 COMMISSION CHAIRPERSON SHAPIRO: And I simply want
20 to make sure -- you understand?

21 MR. MC FARLANE: Yeah.

22 COMMISSION CHAIRPERSON SHAPIRO: Fine.

23 MR. MC FARLANE: I'm from the -- by the way, the
24 minor racing State of Arizona. But, you know, heel nerving,
25 it's a -- I mean, I understand people have been doing it for

1 years. And there's the ugly side that you guys -- nobody
2 wants to say it, but maybe it can happen, people can take a
3 horse off the grounds, do it, and come back. In Arizona,
4 it's a felony. So if a veterinarian's going to do it, he's
5 got to think twice before -- you know, the consequences of
6 it were.

7 Now, they might do it, you know, send them back in
8 and run them. I mean, I'm sure it happens. I can't say it
9 happens. You know, you hear stories in the past. It's an
10 old thing that just doesn't happen very much anymore, I
11 don't think.

12 But number one, if you don't change the rule -- I
13 mean, just yesterday, I've done it three times since this
14 happened, I called the Racing Office for a list, nobody had
15 it, they referred me to the receiving barn and CHRB, and
16 they referred me back to the Racing Office. That's happened
17 three times since this whole ordeal has gone on.

18 And, I mean, I did claim a horse and took it to
19 Arizona and I couldn't run it there, you know, which is
20 fine. So I'm saying I don't think the rule -- I mean,
21 people have been milk shaking horse for 40 years and now
22 you're not doing that. People have been heel nerving horses
23 for 40 years, why should they be doing it. It's a permanent
24 block and people can have -- the rules are good as far as
25 being pre-approved by a vet because you don't -- it should

1 be pre-approved if it's a -- because people could heel nerve
2 if it's something serious, you know, that you have a bigger
3 problem than just a minor one, that you're blocking the
4 pain. A horse could get hurt, hurt somebody.

5 And so the rules in place are proper, I think, you
6 got to get prior permission, you know, make sure that it's
7 something that can't hurt somebody later. But I mean, are
8 the consequences enough where people go and a vet might do
9 it off the grounds, and send it back in, because they can't
10 test for it?

11 So number one, if you don't change the rule, it
12 needs to be, I think, notified, because it is illegal in
13 some other states, so people should know that. And it
14 really should not be allowed, I don't think, just because
15 California's trying to change and clean up racing. It's a
16 permanent block. You know, you can deaden the nerves and
17 they feel nothing.

18 So, you know, just like Brave Act, who's to say a
19 little time, maybe, he still would have made all that money?
20 You know, I don't know.

21 So I mean, I'm just saying the rule should not be
22 allowed just because of California racing trying to clean
23 up. It's a permanent block, you heel nerve a horse, they
24 can't feel anything.

25 Number two, if it stays the same, somebody's got

1 to have -- notify people, I feel, instead of -- it was on
2 the papers, but it should be publicly out there for us to
3 see. And like I said, three times since this deal happened
4 to me, I have tried to find a list and I keep getting
5 referred to different places.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank
7 you very much.

8 VICE-CHAIRPERSON HARRIS: Yeah, clearly,
9 regardless of what we do today, we need to make sure that
10 list is very available.

11 COMMISSION CHAIRPERSON SHAPIRO: All right.
12 Unless there's further discussion on this, I want to remind
13 everybody what we're talking about is we're talking about
14 repealing Rule 1850, which would permit a posterior digital
15 neurectomy, which would also eliminate Rule 1851, which is
16 providing the list, and so that, I think, is what we are
17 doing.

18 Personally, I must tell you, whether people do it
19 because of nefarious reasons, or not, I don't know if we say
20 partial, if that means that we allow, you know, one -- and
21 this is not scientific, but I don't even know how we define
22 partial. Is that everything but all? Is that three-
23 quarters sensation? Is it one quarter?

24 It's my understanding, from the presentation that
25 Dr. Arthur gave us, there's a number of different nerves

1 that are in a horse's foot.

2 I, personally, do not like the notion that we have
3 any horse that is out there running, with any chance of not
4 having feeling in its whole foot or its leg. I appreciate
5 this is hard to regulate, I think that's a problem we
6 already have. I don't think it's a new problem.

7 Do people do this and get away with it? Maybe.
8 But I think as the last speaker just said, I think the vets
9 that are going to do it better be well aware of what they're
10 doing, because if we find out and there's some new
11 diagnostic way of figuring this out, they lose their
12 license, I think they'll think twice.

13 I just think we have to protect the horses. And
14 so, you know, I, personally, would want to make a motion to
15 repeal Rule 1849 -- 1850 and 1851.

16 STAFF SERVICES MANAGER WAGNER: Commissioner
17 Shapiro, if I may, in making that proposal, we also have a
18 proposal that will amend Rule 1849, which would place the
19 rule on our books that specifically says that "no person
20 shall bring into the grounds of a racing association, or
21 enter or cause to be entered in any race, or sell, offer for
22 sell, or act as a blood stock agent in the sale of any horse
23 which has been nerved, or has had any nerve removed from the
24 leg of such horse. That is the proposed amendment.

25 COMMISSION CHAIRPERSON SHAPIRO: I will amend my

1 motion to include that.

2 VICE-CHAIRPERSON HARRIS: So that would
3 basically -- the horses that are here, now, the one that Mc
4 Farlane claimed, would be excluded from the grounds?

5 STAFF SERVICES MANAGER WAGNER: Correct. 1849
6 would ban heel nerved horses from entering the grounds. And
7 if we vote to adopt that proposed amendment, that would make
8 Rule 1850 and 1851, we would not need those rules anymore.

9 COMMISSION CHAIRPERSON SHAPIRO: Can I ask a point
10 of information about our -- I don't think our consideration
11 of this rule is intended in any way to impact any present
12 litigation, and my concern is that if we take any action
13 here, we, in essence, are going to affect some -- this would
14 mean this horse couldn't race here, now. Are we creating
15 some damages as a result of this rule?

16 If that's the case, then I would actually withdraw
17 our motion to postpone it, until such time as our action
18 would have no bearing on a particular lawsuit.

19 COMMISSIONER MOSS: I think that's a good point.

20 COMMISSION CHAIRPERSON SHAPIRO: I don't want to
21 take any action that is going to in any way impact what the
22 outcome of that lawsuit would be, and if we take that action
23 and a party could then claim, look, now we can't even race
24 our horse in California, I don't want to be in that
25 position, because that's certainly not my intent.

1 VICE-CHAIRPERSON HARRIS: Well, that's the intent
2 of changing the rule.

3 COMMISSION CHAIRPERSON SHAPIRO: No, no, but
4 again, I'm moving forward. This is something that -- you
5 know, I would grandfather the horses that are here, today,
6 if we could do that.

7 VICE-CHAIRPERSON HARRIS: Yeah, it needs to be a
8 different rule. That would have to be a different rule.

9 COMMISSION CHAIRPERSON SHAPIRO: If we could
10 grandfather these two, or four, or six horses, I'd be in
11 favor of grandfathering them as exclusions.

12 DEPUTY ATTORNEY GENERAL KNIGHT: Well, certainly,
13 you could grandfather, if you chose to do that.

14 I don't want to speculate on the record how your
15 action might otherwise be used but, certainly, someone might
16 try to make some mileage out of this. But on the other
17 hand, you are a regulatory body and you're entitled to take
18 regulatory action that may, in fact, impact other horses,
19 and existing horses, and certainly would.

20 So, you know, there's black and white answer.

21 COMMISSION CHAIRPERSON SHAPIRO: So then, perhaps,
22 I could amend my motion to say that, in essence, beginning
23 with July 20th, 2007, such that any horse that is racing,
24 that has had this procedure, because it was permitted, is
25 grandfathered in.

1 DEPUTY ATTORNEY GENERAL KNIGHT: That's properly
2 registered, yes.

3 COMMISSION CHAIRPERSON SHAPIRO: And properly
4 registered.

5 DEPUTY ATTORNEY GENERAL KNIGHT: Or disclosed,
6 whatever the terminology is.

7 COMMISSION CHAIRPERSON SHAPIRO: Then I would want
8 to amend the motion to do that.

9 VICE-CHAIRPERSON HARRIS: Does it have to go out
10 to --

11 COMMISSIONER MOSS: Of course, the other course of
12 action is if you wanted to table it until the other
13 situation is resolved.

14 COMMISSION CHAIRPERSON SHAPIRO: I think, you're
15 right, that could be done. But I think it has the same
16 affect of at least not harming anybody that might be in a
17 possession of a horse that was properly given this
18 procedure.

19 VICE-CHAIRPERSON HARRIS: It would be good if we
20 could just get a vote of just up or down on the rule, and
21 then waive the rule, if that was the thought.

22 COMMISSIONER AMERMAN: I'm sorry, could you repeat
23 that?

24 VICE-CHAIRPERSON HARRIS: I'm not sure, it seems
25 like we've got an issue here, which I'm basically against

1 the new rule, but I can see the different arguments. But, I
2 mean, it's really an issue of which side a person's on.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
4 maybe, if each Commissioner would like to, without -- if you
5 want to table my motion, and each Commissioner make a
6 statement that would give their views, we can see whether or
7 not the motion's going to go forward or, I don't know. I
8 mean, I would just amend it so that we -- that all horses
9 are grandfathered in that have had this procedure through
10 this date, and that's the same effect.

11 VICE-CHAIRPERSON HARRIS: Yeah, the problem is to
12 do that I guess we have to put it back out for notice,
13 again.

14 COMMISSIONER MORETTI: That doesn't bother me.

15 COMMISSIONER AMERMAN: That doesn't bother me at
16 all.

17 COMMISSION CHAIRPERSON SHAPIRO: That doesn't
18 bother me.

19 VICE-CHAIRPERSON HARRIS: Yeah. Well, basically,
20 like I said, I'm against the change, not because I don't
21 appreciate that there's good arguments on both sides, but
22 just the scientific -- I think everything we do has got to
23 be based on strong, sound science, and that's the science
24 the veterinary committee feels there's no need to change
25 what we have. Now, maybe there's going to be more evidence

1 come in, but that's what I've heard so far.

2 COMMISSION CHAIRPERSON SHAPIRO: All right.

3 COMMISSIONER AMERMAN: Down on the end.

4 COMMISSION CHAIRPERSON SHAPIRO: Yes?

5 COMMISSIONER CHOPER: Well, I came in thinking one
6 way, now I've heard some sort of thinking of the other.
7 There's always value in delaying decision, I guess.

8 If I have, my preference, and sometimes you've got
9 to make up your mind, but it would be to have Dr. Arthur
10 talk to the formal meeting of the TOC, and present the views
11 you presented here and see if they still agree with that.

12 As well as, I don't know if the jockeys have
13 formal meetings, at which you could also hear from more
14 people, than Migliore, and respond to anyone who comes up,
15 and let's see where they come out after all of this is so.

16 But I mean, my thoughts are these, so far as the
17 other, the owners of the two or six horses, well, you've got
18 35 jurisdictions to take your horse to, so this is not
19 really killing for them. Lots of other opportunity.

20 So far as the lawsuit is concerned, the only value
21 this thing is going to have one way or another is for
22 someone to make noise during it, saying, see, the California
23 Racing Board thinks this is a bad thing, they're talking
24 about it, they're on the verge of doing this, and the extent
25 that has any impact. It's going to have its own impact.

1 I can't see us -- the passage of the rule is not
2 going to make -- I may be wrong about this, but it seems to
3 me that that's so.

4 So since delay is always a value, I'd say -- and
5 since it has to be put out for public comment in any event,
6 why don't we just do that, that's the least obtrusive way of
7 delaying. So I guess that's what I'm in favor of.

8 COMMISSIONER MORETTI: Do we know if any of the
9 other states, those 35 other states are in the midst of the
10 same kind of discussion for any verifiable reasons? Do we
11 know that? No.

12 EQUINE MEDICAL DIRECTOR ARTHUR: No. Certainly, I
13 contacted veterinarians around the country and nobody had
14 heard any indication that this was being considered
15 elsewhere. I'd actually heard that Arizona was talking
16 about changing their rule, but that was anecdotal and I
17 don't have a lot of credibility.

18 I would like to point out, Mr. Choper, that I did
19 meet with the jocks twice, they were very attentive. And I
20 will say that they are philosophically against allowing
21 horses that are heel nerved to race. And I respect that
22 and, frankly, I consider that to be the major justification
23 for going forward with this, if the Board chose to do that,
24 even though even talking to the jocks, in terms of the way
25 the horses stride, they all thought the horses, you couldn't

1 tell the difference. Except for the gate issue that they
2 talked about.

3 But I have met with the jocks twice about the
4 issue, and they oppose heel nerving.

5 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Dr.
6 Arthur.

7 EXECUTIVE DIRECTOR FERMIN: Would you be
8 agreeable, obviously, or I would assume, with meeting with
9 the TOC, and then I think Ms. Naify said her vote was taken
10 quite a while ago.

11 EQUINE MEDICAL DIRECTOR ARTHUR: I'd be happy.
12 I'm always available to meet with any horseman's group on
13 any issue having to do with areas under my expertise. And
14 any time they would ask me, I'd be happy to do that.

15 And I meet with CTT, you know, any other group on
16 any issue. So if they want me, I'm available.

17 COMMISSIONER AMERMAN: Could you also, if we're
18 going to check this decision, check around the world with
19 the European groups, and the Far East groups, as to what
20 they are doing?

21 EQUINE MEDICAL DIRECTOR ARTHUR: Certainly, I'll
22 do that.

23 VICE-CHAIRPERSON HARRIS: It would be good to get
24 some input from the harness groups and the quarter horse
25 groups, as well, to see if it's an issue on their radar

1 screens.

2 EQUINE MEDICAL DIRECTOR ARTHUR: It is a
3 specifically permitted procedure on the AQHA.

4 COMMISSION CHAIRPERSON SHAPIRO: All right,
5 then --

6 COMMISSIONER MORETTI: Did you want to tell us
7 the --

8 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

9 COMMISSIONER MORETTI: Are we just going to delay
10 this or --

11 COMMISSION CHAIRPERSON SHAPIRO: Given this
12 discussion, what I would suggest is I'll withdraw my motion
13 here, and ask that we come back. I'd like you to propose,
14 when we bring this back, that the rule would grandfather in
15 any horses that had had this procedure as of July 20th,
16 2007, and then we can bring it back. Let's put it back out
17 for public comment. During that period, I appreciate Dr.
18 Arthur will make an -- will meet with TOC, he's always made
19 himself available.

20 If the jocks wish to have another meeting, or
21 anybody else wants to weigh in on this, it will give them
22 the opportunity to do so. I don't think this is something
23 that is of urgent need, that we have to move that quickly
24 on. If that's agreeable to the Board, we'll move in that
25 direction.

1 COMMISSIONER AMERMAN: Absolutely.

2 COMMISSIONER CHOPER: I agree.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
4 moving right along, the next one is discussion and action by
5 the Board on the feasibility of amending CHRB Rule 1685,
6 equipment required, to allow the use of alternate types of
7 whips.

8 I'm the one that placed this on the agenda.
9 During the last week of the Hollywood Park meeting, I was
10 asked to meet with a couple of the riders, and they showed
11 me that there's a new whip that somebody has come up with.
12 And if you read the rules that are contained in our rule
13 book, it's very specific as to the length of the whip, the
14 width, and dimension of the little flap on the end of it,
15 which I think they call the popper, and the feathers, and so
16 forth.

17 But this new whip, while it is outside of the
18 bounds of the defined definition in our rule book, it
19 actually appears to be a much kinder whip to the horse.
20 It's cushioned and -- Darryl, can you bring that forward,
21 please? And it seems to be a whip that would have much less
22 opportunity -- thanks, Darryl -- to create an inadvertent
23 cut on a horse, when the horse was struck.

24 And so the riders would like to use it. I can't
25 imagine that we would have a problem, since every rider I've

1 talked to has said that they see this to be a kinder whip,
2 that makes a louder pop sound, yet would nearly eliminate
3 the chance for a horse being inadvertently cut by a sharp
4 edge on the existing whip. So that's why this is before us.

5 VICE-CHAIRPERSON HARRIS: Is this -- I mean, I'm
6 for it, but does this language do it?

7 STAFF SERVICES MANAGER WAGNER: No, what's
8 included in the package, Commissioners, is our current rule,
9 and it is very specific as to the type of whip that is
10 allowed on the California racetracks.

11 In order to accommodate the request, if we were to
12 want to use this alternate whip, we would have to develop
13 language that would allow the use of that alternate whip.

14 COMMISSION CHAIRPERSON SHAPIRO: Let me ask a
15 question, is there a mechanism, assuming the Board -- I also
16 should tell you that the stewards, also, are in favor of
17 this whip. I spoke with Scott Chaney and all the stewards
18 were in favor of our letting the riders use this whip.

19 So my question to either our Executive Director or
20 our Attorney General is, is there a way for us to -- a
21 waiver to allow the use of this whip in the interim, while
22 we are amending the rule?

23 EXECUTIVE DIRECTOR FERMIN: It would be a
24 waiver -- Mr. Knight, it would be a waiver of the rule, as
25 we've done in a couple of other instances, would that work?

1 COMMISSION CHAIRPERSON SHAPIRO: Could we waive
2 the rule, with the provision that any alteration from the
3 rule must be approved by the stewards?

4 DEPUTY ATTORNEY GENERAL KNIGHT: Well --

5 COMMISSION CHAIRPERSON SHAPIRO: Say yes, Derry.

6 DEPUTY ATTORNEY GENERAL KNIGHT: You do have a
7 rule that allows you to waive the rules.

8 EXECUTIVE DIRECTOR FERMIN: It must be agendaized,
9 though.

10 DEPUTY ATTORNEY GENERAL KNIGHT: Well, yeah, it's
11 not on the agenda, that's one of the issues. I think the
12 idea of waiving the rule and deferring to the stewards is
13 not, perhaps, how you'd want to do it. I would think you'd
14 want to waive it in a way that -- I mean, you're just trying
15 to jump the regulatory process, which takes some time.

16 My suggestion, at least, would be that if you're
17 going to waive the rule, you waive it in such a way that you
18 describe what it is that you're waiving it in favor of, so
19 that you don't just completely defer this to stewards.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 DEPUTY ATTORNEY GENERAL KNIGHT: Otherwise, you
22 have no rule at all.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, that we
24 could easily do, which would be to say we're going to waive
25 the rule to permit a whip and we could measure the length,

1 we could measure the popper on that, and the specifications
2 of that, such that they would be able to use this whip.

3 DEPUTY ATTORNEY GENERAL KNIGHT: Well, that would
4 be my suggestion, so that you have a rule, at least, or you
5 have some kind of guidelines.

6 EXECUTIVE DIRECTOR FERMIN: I have a question,
7 also, I don't know whether Dr. Arthur and the official
8 veterinarians have seen this whip. One of the big concerns
9 with whips is whether they tend to cut horses in any way.
10 So I don't know if they've been used by the riders in the
11 morning, or what, but that's always a huge concern.

12 EQUINE MEDICAL DIRECTOR ARTHUR: This whip, from
13 my understanding, this is Dr. Arthur, Equine Medical
14 Director, is more of a pop than it is a cutting tool, and it
15 actually is more humane for the horses.

16 EXECUTIVE DIRECTOR FERMIN: Okay.

17 EQUINE MEDICAL DIRECTOR ARTHUR: And that's the
18 reason, obviously, that this Board should be looking at it.
19 And that's, essentially, what the issue is.

20 I would really recommend that we try to figure out
21 a way to allow the use of this whip, certainly for,
22 possibly, the rest of this meet. We had significant
23 problems here last year with whip marks, and cutting, more
24 than any other meet. And this would be a good test period
25 for this and would allow you to make a more permanent rule

1 going forward, if you can figure out a way to allow this.

2 And I, frankly, can't believe we couldn't put our
3 heads together and figure out a way to do it, because it
4 does benefit, it is a humane issue for horses.

5 VICE-CHAIRPERSON HARRIS: I thought there was some
6 latitude of us waiving things just by the Chairman or
7 Executive Director.

8 COMMISSION CHAIRPERSON SHAPIRO: That's what I
9 thought, too.

10 DEPUTY ATTORNEY GENERAL KNIGHT: No, the rule
11 actually requires the Board to take the action. But I would
12 say that in this instance, you've got it agendaized,
13 certainly, you could waive the rule, temporarily, under this
14 agenda item.

15 COMMISSION CHAIRPERSON SHAPIRO: Then can I make a
16 motion to waive the rule to permit a whip of the general
17 specifications, as are provided here. I think there are two
18 versions, one which may have a little bit longer popper than
19 the other. I don't want to make it so specific that, you
20 know, it's unmanageable, and that would allow us to use this
21 kinder whip. In the meantime, we can adjust, we can move
22 forward, perhaps, to revise the rule.

23 COMMISSIONER MOSS: One question, Mr. Chairman,
24 has anybody estimated the sound of this whip, when it hits
25 the horse?

1 COMMISSION CHAIRPERSON SHAPIRO: Did you see it,
2 Jerry?

3 COMMISSIONER MOSS: I've seen it. I just wonder
4 if the sound of it will frighten other horses or something
5 like that, you know?

6 MR. HAIRE: Darryl Haire, Western Regional Manager
7 of the Jockey's Guild. Commissioner Moss, the riders,
8 that's -- the popping sound that -- it more or less makes
9 the horses either focus, or that's what it -- it makes a
10 pretty good popping noise and instead of -- the riders are
11 telling me it's equine friendly, where they can't cut them
12 on the flanks, what they do with their regular whips.

13 COMMISSIONER MOSS: Right, and the sound is
14 similar to the sound other whips make?

15 MR. HAIRE: Maybe a little louder, a little
16 louder, but it gets the horse's attention.

17 COMMISSIONER MORETTI: So it's not so loud that it
18 could spook somebody and they'd go off and hurt somebody
19 else?

20 MR. HAIRE: That could happen if it's -- but it
21 happens with these poppers, now, Ms. Moretti.

22 VICE-CHAIRPERSON HARRIS: Would the concept be
23 that a given jockey could use the whips they're using now,
24 or this?

25 MR. HAIRE: Correct, either/or, they have the

1 option.

2 VICE-CHAIRPERSON HARRIS: But that in a program,
3 and announce it, and it's a change in poppers and stuff like
4 that.

5 COMMISSION CHAIRPERSON SHAPIRO: Oh, no, no, we're
6 not doing that. Okay. We're simply adding to our toolbox
7 another variation of the whip that the jockeys can use,
8 which would be an equine friendly whip for our horses, and
9 your horses, that probably need a lot of whipping.

10 MR. HAIRE: Commissioner Harris, these whips are
11 being used in Delaware, and also in Europe, currently, so
12 they're out there.

13 VICE-CHAIRPERSON HARRIS: So where they are being
14 used, are they pretty widely adapted, are most jockeys using
15 them or are they --

16 MR. HAIRE: Yes. Well, again, the riders that I
17 spoke with here, and I've spoke with probably 16 riders
18 yesterday, and 14 of them said they would use this whip now.
19 I mean, like tomorrow.

20 COMMISSIONER MORETTI: Well, I think we should
21 definitely to that.

22 VICE-CHAIRPERSON HARRIS: Yeah, yeah.

23 COMMISSION CHAIRPERSON SHAPIRO: So if that's the
24 case, there's a motion. Is there a second?

25 COMMISSIONER MORETTI: Second.

1 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

2 (Ayes.)

3 COMMISSION CHAIRPERSON SHAPIRO: Thank you. We're
4 going to take a few-minute break, now. We need to, to
5 change the tape for the webcast, and we'll be back in ten
6 minutes.

7 (Off the record.)

8 COMMISSION CHAIRPERSON SHAPIRO: I apologize, it
9 took a little bit longer, I got tied up in a discussion.

10 I'd like to go back and revisit the last action on
11 the whips, so that we can just add clarity to it.

12 In speaking with Deputy Attorney General Knight,
13 perhaps you could read the language that you feel that
14 should be included in that action?

15 DEPUTY ATTORNEY GENERAL KNIGHT: Yes, just for
16 clarity, I think there was a little bit of confusion, what I
17 would suggest would be you clarify it by saying that what
18 the Board has done is it's a temporary suspension of the
19 Rule 1685, Description of Authorized Whips, to also allow
20 use of an alternative whip, similar to the whip that was
21 presented today and described.

22 There will be a notice of rule suspension issued
23 by the Executive Director, which will detail the temporarily
24 authorized additional whip.

25 Is that --

1 COMMISSION CHAIRPERSON SHAPIRO: That's good.

2 DEPUTY ATTORNEY GENERAL KNIGHT: Darryl, is
3 that -- thank you.

4 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I think
5 that works, and that will suffice for us. And, therefore,
6 that was our intent all along. So we appreciate the
7 clarification.

8 DEPUTY ATTORNEY GENERAL KNIGHT: Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: All right. The
10 next item on our agenda is Item Number 8, but if possible,
11 I'd like to go to Item Number 9, because there are some
12 people that I think are here, which is a discussion and
13 action by the Board on the request by the Pacific Coast
14 Quarter Horse Racing Association to defer action on the
15 proposed amendment of Rule 1690.1, Toe Grabs Prohibited, for
16 up to six months in order to conduct a study relative to the
17 use of toe grabs greater than four millimeters on the front
18 shoes of quarter horses while racing.

19 In this regard, I did receive a number of phone
20 calls and spoke with Bud Allicio, and Frank Vessels. Are
21 they here? And, if so, if you want to come up and just
22 describe it. It's my understanding that you would like us
23 to defer this action so that you can conduct a scientific
24 study.

25 Then, since Commissioner Harris is big these days

1 on science --

2 VICE-CHAIRPERSON HARRIS: Sound science.

3 COMMISSION CHAIRPERSON SHAPIRO: Sound science,
4 yeah. I'll bet all those cows are sound and scientific.

5 Therefore, I would recommend that the Board, in
6 fact, give you that time, but perhaps you could just
7 describe, Mr. Allicio, and friends.

8 MR. ALLICIO: Thank you. Thank you, Mr. Chairman.
9 We have met several times since your last meeting with Dr.
10 Martinelli, Scoop Vessels, Dr. Allred, and we've come to
11 find out that there has never been a study done on quarter
12 horses as it relates to toe grabs, other than one that was
13 done in Oklahoma nine years ago, I believe. And they came
14 up with a different conclusion, it had something to do with
15 the heel.

16 We have come up with the funding to do a detailed
17 study. Dr. Martinelli will talk about it. He has been in
18 contact with Dr. Stover. She is very enthusiastic about
19 this study. And Mark, can you?

20 MR. MARTINELLI: Sure. Mark Martinelli, I'm a
21 veterinarian specializing in equine orthopedic surgery and
22 lameness here, in Southern California.

23 Thanks for the opportunity to speak to the Board
24 this morning.

25 Obviously, we believe that the welfare of the race

1 horse is of paramount importance, and that the public
2 perception, as stated earlier, is that racing is a safe
3 sport is key to the continued economic stability of racing.

4 We believe it's the right time to look at all of
5 this in light of the new nationwide reporting effort in
6 thoroughbred injuries, that started June 1st, and then with
7 the installation of the synthetic tracks for thoroughbreds
8 in California.

9 However, when we started looking at the quarter
10 horse data we realized two things. Number one, there was
11 very little data existing, as Mr. Allicio just stated.

12 There was a quarter horse study in the nineties,
13 that was regional, it was done by Dr. Noah Cohen, from Texas
14 A&M. I've spoken to him over the last several weeks. He
15 feels like it was a regional study, based on Texas, and one
16 track in New Mexico, and thought it was very important not
17 to necessarily take that data and apply it to California.

18 And he also reminded me that there was no mention
19 of toe grabs in that study.

20 There was a post-mortem study out of Oklahoma, in
21 2001, that had a higher percentage of quarter horses to
22 thoroughbreds, than any of the California data that we have
23 to date, 30 percent of the horses in that study were racing
24 quarter horses. And they found there was no association
25 between toe grabs and injury.

1 We also believe that quarter horses race
2 differently, shorter distance, higher speed, which then
3 decreases the chance for fatigue, no turns. Possibly
4 leading, then, to a different mechanism of injury.

5 Our initial analysis of the data from Los Alamitos
6 indicates a much higher number of carpel injuries in the
7 quarter horses, compared to the thoroughbred studies that
8 have been published. It's about 50 percent of the fatal
9 injuries involve the carpus in the quarter horse, versus 8
10 and 12 percent in the published studies among thoroughbreds.
11 Eighty percent of the fatal injuries in thoroughbreds tend
12 to involve the fetlock and suspensory apparatus. Which we
13 know from Dr. Stover's work, and Dr. Arthur and I have
14 talked about that, that it does appear that there's a pretty
15 strong correlation between the toe grab in the racing
16 thoroughbred and those fetlock injuries.

17 So our concern is that a premature ruling may be
18 detrimental to the health and safety of the quarter horses.
19 So, therefore, we propose that we need to gather data to
20 make an informed decision.

21 Number one, it would be retrospective analysis of
22 the quarter horse racing injuries in California, so we'd
23 like to look at the race records of fatally injured horses.

24 Number two, we'd like to examine the racing videos
25 associated with those injuries.

1 And then number three, we'd like to look at data
2 from the post-mortem study of quarter horses in California.

3 I've talked to Dr. Stover about that, on Monday,
4 and she is not sure whether the shoe type was recorded in
5 the post-mortem studies of quarter horses in California, and
6 so she will look into that for us.

7 And then, number two, we'd like to prospectively
8 gather data on injured horses from now forward, again
9 working with Dr. Stover. She's asked that we come up with
10 the -- that we work together to develop what kind of
11 questions need to be answered with that prospective data.

12 And then, number three, she would like to examine
13 the interaction of the quarter horse limb with the racetrack
14 surface.

15 She told me that she'd been working for seven
16 years on the thoroughbred limb and its interactions with the
17 surface. She was at Hollywood, yesterday, taking
18 measurements on the thoroughbred limbs, on the new synthetic
19 surface there.

20 And in her words, she said she would love to come
21 to Los Alamitos and perform a study on the interaction of
22 the quarter horse limb with the racing surface there.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
24 it's great and I think you all should be complimented for
25 taking the initiative to initiate a study of the quarter

1 horse, you know. Of course, every horse has got a heart,
2 and so I think it's wonderful that you guys are going to
3 take it, and I think that it's admirable and that our Board
4 should give you the time to do a scientific study, so that
5 we can make the right decision.

6 I think that all of us simply want to come to the
7 best decision. I don't think we are pre-disposed on what
8 type of shoes, we just want it to be safe.

9 And so I think it's -- you know, really appreciate
10 Mr. Jones, who came to our last meeting, and stood up, and
11 spoke up, and he obviously has gotten people involved.

12 And Mr. Allicio, and your organization, have done
13 a great job.

14 Scoop, you never do anything so, you know. And,
15 of course, you always are on both sides of the fence doing a
16 great job.

17 So I would very much recommend that the Board give
18 you the time to do this.

19 COMMISSIONER ANDREINI: I'd like to thank the
20 three of you. There was a statement made at the last
21 meeting that the quarter horse people didn't care much about
22 what the CHRB did, and I'm happy to see the President of
23 PCQHRA, and Mr. Quarter Horse Racing, himself, Mr. Vessels,
24 here, and Dr. Martinelli, I thank you very much for showing
25 up and showing that we are interested in what happens here,

1 at the CHRB, and to the horse, itself. Thank you.

2 COMMISSIONER MORETTI: Could I just ask, Rick, do
3 you have any initial thoughts on that?

4 EQUINE MEDICAL DIRECTOR ARTHUR: I think it's a
5 very good idea. One of the reasons that this wasn't done
6 previously is because of the funding issues, it takes time
7 to organize these, and it sounds like they're going to put
8 their money where their mouth is, and get some attention
9 made to some of these problems.

10 So I'm very encouraged. And Dr. Stover is
11 certainly experienced in this issue, and I think they can
12 leverage that experience and do what they want to
13 accomplish.

14 COMMISSION CHAIRPERSON SHAPIRO: And I'm assuming
15 if Rick chooses to participate, or gain any information, Dr.
16 Arthur would have full access to the level of his time and
17 ability, since he's a little over-worked.

18 But again, thank you very much, you guys are
19 great.

20 VICE-CHAIRPERSON HARRIS: Just a question. I
21 appreciate the fact it's good to do a study, if you've got
22 time to do it. But how many horses, do you think, in the
23 quarter horse racing are using extra high toe grabs now,
24 versus other types of shoes?

25 MR. VESSELS: Oh, it's a little bit of a guess,

1 but I believe that a majority of our horses are using the
2 four millimeter toe grab, now.

3 I think that what Paul Jones --

4 VICE-CHAIRPERSON HARRIS: I mean, you can use four
5 millimeters or less, now, so do you think -- the majority of
6 them might fit the current rule, anyway.

7 MR. VESSELS: Yeah, I think a majority of them do.
8 As a matter of fact, some trainers will only run their
9 horses in Queen's pates.

10 But I think that what John -- or what Paul Jones
11 wanted to do was there are some horses that are bigger, that
12 have a hard time leaving the starting gate. And when you
13 slip leaving the gate, they leave much harder than the
14 thoroughbred, you are very much prone to injury. And he
15 wants to put a longer toe grab on that horse. I believe
16 that's what -- he just didn't want to have that taken out of
17 his grasp.

18 VICE-CHAIRPERSON HARRIS: Yeah.

19 MR. VESSELS: But the most important thing is he
20 is correct, there has not been a good study done at Los Al,
21 and we've got the funding to do so, and we're going to
22 proceed.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you
24 very much.

25 MR. VESSELS: Thank you.

1 COMMISSION CHAIRPERSON SHAPIRO: All right. Just
2 so you know, so that everyone can kind of get an idea, Item
3 Number 11, which is scheduled to be a staff mid-year report
4 on the following race meets, this matter was added late to
5 the agenda and, unfortunately, staff really didn't have
6 sufficient time to do it in the proper way, and it's unfair
7 to them. Therefore, that issue is going to be deferred
8 until our next meeting, so that will be off the agenda
9 today.

10 That would leave us with Item Number 8 and 10.
11 And so why don't we take 10, now, because I suspect 8's
12 going to be a little bit longer decision. And that would be
13 discussion and action by the Board on the race day charity
14 proceeds of the Los Angeles Turf Club, Incorporated, in the
15 amount of \$252,873 to 46 lucky beneficiaries.

16 Roberto.

17 MR. ZAVALA: Okay, Roberto Zavala, CHRB staff. As
18 Commissioner Shapiro just mentioned, L.A. Turf Club is
19 requesting the Board approve its proposed distribution of
20 charity race proceeds in the amount of \$252,873. A list of
21 the 46 beneficiaries is attached.

22 The distribution will give more than 73 percent to
23 industry related organizations.

24 Staff finds the request in order and recommends
25 its approval. And I believe there might be somebody here

1 from the LATC to give any information.

2 COMMISSION CHAIRPERSON SHAPIRO: I see Mr. DiMarco
3 as head of the slate, and I'm kind of surprised he even
4 wants to come in front of us. But okay, after the last time
5 we were so nice to him.

6 Can I just ask you, are you going to read a
7 letter? Because, otherwise, you might want to go back,
8 because unless somebody has some questions -- nice to see
9 you, Mr. DiMarco.

10 MR. DI MARCO: Thank you, that's it.

11 COMMISSION CHAIRPERSON SHAPIRO: Are there any
12 questions? I would move to approve these as submitted. I
13 think it's wonderful, it's generous to all these lucky
14 beneficiaries.

15 Is there a second?

16 COMMISSIONER MORETTI: Second.

17 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

18 (Ayes.)

19 COMMISSION CHAIRPERSON SHAPIRO: Was this more
20 enjoyable?

21 MR. DI MARCO: Very much so. Thank you.

22 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

23 Okay, Item Number 8, discussion and action by the
24 Board regarding the update from the Thoroughbred Owners of
25 California concerning its proposal designed to provide

1 support for retirement farms for horses that have retired
2 from racing.

3 In the intervening period, and I will admit my
4 prejudice on this issue, that I am extremely supportive of
5 this industry stepping up to protect retired race horses,
6 find additional careers for them, and we have a
7 responsibility, so I'm extremely passionate here and I hope
8 everybody is.

9 But in the intervening period, I believe DAG --
10 oh, I didn't see you. Thank you.

11 Derry Knight advised us that, and correct me if
12 I'm wrong, that the Board, itself, could not take an action
13 where we would mandate any percentage of winnings to be
14 directed to a fund such as this, without legislation. Is
15 that correct?

16 DEPUTY ATTORNEY GENERAL KNIGHT: That's correct.
17 Actually, I didn't provide the advice but, yes, you were
18 provided with that advice.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, by your
20 office?

21 DEPUTY ATTORNEY GENERAL KNIGHT: Yes.

22 VICE-CHAIRPERSON HARRIS: Even if this one had a
23 refund provision, but even with that provision you still
24 couldn't do it? The way I understood it, this proposal, it
25 was a mandatory check-off, but you could --

1 COMMISSION CHAIRPERSON SHAPIRO: Opt out.

2 VICE-CHAIRPERSON HARRIS: Yeah, an opt out
3 provision, I guess.

4 COMMISSION CHAIRPERSON SHAPIRO: Right. So given
5 that, what we have in front of us is a program that TOC
6 would be sponsoring, that would provide a fund of money on a
7 voluntary basis, from owners, which would go to support
8 certified retirement homes for horses, which would be
9 administered by a new entity called CARMA, and there
10 are -- which the Board may or may not have oversight on,
11 depending on how a rule was written.

12 And it also does not preclude other entities
13 within the industry, or beyond the stakeholders of the
14 industry, of participating to help provide happy lives for
15 retired horses, race horses. Correct?

16 So with that, why don't -- I appreciate that we
17 have representatives from Tranquility Farm and from TOC to
18 describe what it is that we're talking about and how --
19 Marsha, why don't I turn it over to you.

20 MS. NAIFY: Thank you.

21 COMMISSION CHAIRPERSON SHAPIRO: Marsha Naify.

22 MS. NAIFY: Marsha Naify, Chair of TOC. Thank
23 you. First of all, thank you for taking the time out to
24 address one of the most important issues facing California
25 horse racing today.

1 I have with me, here, two people who will help
2 answer your questions regarding race horse retraining and
3 retirement. Madeline Auerbach, who is on our Board of the
4 TOC, and Chair of our Equine Committee, and Priscilla Clark,
5 President and Program Director of Tranquility Farm.

6 We are coming before you, today, in support of
7 TOC's proposed amendment to Board Rule 1467, whereby three-
8 tenths of one percent of the net purse earned by any
9 thoroughbred horse will be deducted by the paymaster, and
10 deposited into TOC's California Retirement Management
11 Account, or CARMA, as we like to call it.

12 Our rule change is draft A. And this deduction is
13 voluntary and is not mandatory, any owner can opt out of it.

14 I would like Madeline to start off with some
15 opening remarks, and she's the Chair of this Committee.

16 MS. AUERBACH: Thank you. I just want to start my
17 remarks by saying that the Board showed amazing courage and
18 leadership in having us produce surfaces that are protecting
19 our horses, and I want to thank you for doing that because I
20 think you've made an amazing difference for the animals.

21 And we're hoping that you're going to show the
22 same kind of leadership in terms of equine retirement.

23 After these horses are gone, out of sight, out of
24 mind, and a lot of us don't follow what happens with them
25 for the rest of their lives. And we would like to educate

1 people and show people that we are responsible for the
2 horses.

3 And if I can, just a little parable, people who
4 save money for their retirement, for their golden years,
5 usually have happier, healthier golden years than those
6 people who don't.

7 With horses, they don't have a choice about
8 putting a little bit of hay aside for their golden years,
9 and what we would like to do is make sure that they have
10 golden years, and they can be cared for and looked at. We
11 think it's our responsibility.

12 Marsha.

13 MS. NAIFY: Thank you. The TOC realizes that
14 funding is only one part of the solution for the surplus of
15 horses that can no longer race in California. We feel the
16 number one priority in addressing equine retirement is the
17 education of owners. The responsibility of horse ownership
18 is issue number one. The TOC is taking a lead on this, we
19 need to educate existing and potential owners, as well as
20 breeders, sellers, and horse organizations about the
21 responsibility of owning and caring for a horse, and focus
22 on the opportunities available for horses that they can no
23 longer race.

24 We basically have a five point plan, which
25 involves, in no particular order, first, the establishment

1 and funding of the CARMA account; secondly, owner education,
2 third, the annual accreditation and evaluation of California
3 race horse rehabilitation and retirement facilities; fourth,
4 the extension of further funding for CARMA with our industry
5 partners and; number five, working with the Unwanted Horse
6 Coalition of the American Horse Council, and working with
7 the NTRA to address these issues on a national level.

8 The Unwanted Horse Coalition was established in
9 April of 2005 after a national summit addressing the issue
10 had been convened.

11 In June of 2006, the Coalition was folded into the
12 American Horse Council. While the AHC deals with all breeds
13 and types of horses, they do offer us a place to start the
14 process of gathering statistics.

15 The Unwanted Horse Coalition states that there are
16 no accurate figures documenting how many unwanted horses
17 exist in the United States.

18 In California, the TOC is in the process of
19 gathering the statistical data for our State. This Board
20 has asked us for statistics. We will need time to gather
21 them, but that should not stop us from enacting this rule
22 change. We know the problem exists. We are in the process
23 of gathering that data from California equine rehab and
24 retirement farms.

25 But there are untold numbers of horses that are

1 dumped in claiming races, sent to other states, or sold at
2 auction, that do not go through our California retirement
3 farm system. The Unwanted Horse Coalition estimates that
4 tens of thousands of horses, which include, of course, many
5 breeds that are no thoroughbreds, are being sent to
6 slaughterhouses in Mexico and Canada and they, of course,
7 were being sent to the U.S. slaughterhouses before they were
8 closed.

9 The number of unwanted horses exceeds the
10 resources available.

11 I would now like to let Priscilla Clark, of
12 Tranquility Farms, speak about her experience with this
13 issue in California.

14 MS. CLARK: Thank you, Marsha, and thank you,
15 Board members, for allowing us to come here today with this
16 issue.

17 What I think would be probably most fruitful is to
18 open this up to your questions and concerns. Some of you
19 may have in-depth knowledge of how a retirement program
20 works, and what our goals are, and what our level of service
21 is to the industry, and others of you may be somewhat
22 unfamiliar with the process.

23 So with your permission, I'll open it up to field
24 your questions.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask

1 you one. If, by the adoption of this, and it's my
2 understanding that this might create 400 to 500 thousand
3 dollars worth of revenue that would go to these farms, do
4 you see that by our adopting this rule, and TOC implementing
5 this program, has having any negative effect on your ability
6 to secure the funding that you now get or impair your
7 ability to reach out and expand new streams of revenue to
8 support the horses? Is our action in any way going to
9 backfire on what you now get?

10 MS. CLARK: I would say the potential is there if
11 the fund is perceived as addressing the problem and, in
12 fact, does not deliver a significant amount of money
13 towards, you know, supplementing the farms' budgets.

14 The way that our farm works, particularly, is that
15 we have a core of supporters, who we're in very close
16 communication with. So I think that I don't see it as
17 mitigating existing streams of support.

18 COMMISSION CHAIRPERSON SHAPIRO: So you don't
19 think that if you have this core of supporters and they say,
20 well, I've been donating \$5,000 a year to Tranquility Farm,
21 well, now they're getting money from the TOC, I'm not going
22 to do that anymore, I'm now going to give my \$5,000 to
23 something else?

24 MS. CLARK: It would be our --

25 COMMISSION CHAIRPERSON SHAPIRO: I know you don't

1 want that to happen.

2 MS. CLARK: No. But it would be our initiative to
3 communicate with our supporters to say, you know, this is
4 our need, we have this portion of the need covered from this
5 source, and yet we have these needs in other areas that are
6 not funded from the source, and this is our need. It's the
7 same process that we go through right now, it would just be
8 another large, hopefully, support system that right now we
9 don't have.

10 VICE-CHAIRPERSON HARRIS: One of my frustrations
11 on this whole topic is our failure to really get our arms
12 around what the numbers really are. There's the old adage
13 that to really manage something, you have to be able to
14 measure it. And I think the Board had asked TOC several
15 months ago to come up with really how big of a universe
16 we're looking at here, and how many horses are out there
17 that do need care.

18 All of us want to ensure good care for horses, but
19 it seems like we're getting too far ahead here, until
20 somebody can come in and say, okay, this is going to be a 10
21 million a year project, or a billion dollar a year project,
22 or how -- and we really need to field the numbers and how
23 much per year it would cost to keep one of these horses, and
24 how we can better quantify the total need.

25 COMMISSIONER CHOPER: I guess, can I add to that,

1 the eligibility requirements. Maybe this is clear to
2 others, but it's not clear to me. I mean, you've talked
3 about all these horses that are all over the country, are
4 there clear eligibility requirements for the sort of support
5 that's going to be offered here? So that will help you
6 figure out the numbers in a big way.

7 MS. NAIFY: Right. Well, here, in California,
8 we're only concerned with California, of course, primarily.
9 We are looking at California race horses, or California
10 thoroughbreds that no longer race.

11 COMMISSION CHAIRPERSON SHAPIRO: Does that mean
12 Cal-breds, is that what you're talking about?

13 MS. NAIFY: No.

14 COMMISSION CHAIRPERSON SHAPIRO: No.

15 MS. NAIFY: Horses that have raced in California,
16 primarily.

17 COMMISSION CHAIRPERSON SHAPIRO: Ever?

18 MS. NAIFY: Yes. And, you know, it's going
19 to --

20 COMMISSION CHAIRPERSON SHAPIRO: Cal-owned, Cal-
21 raced, or Cal-bred, something like that?

22 VICE-CHAIRPERSON HARRIS: Well, just raced here, I
23 presume.

24 MS. NAIFY: We're looking right now at horses that
25 have raced here. There are, certainly, horses that are born

1 here, that have never made it to the racetrack. But our
2 funding mechanism comes from purse money. That's going to
3 be our first line of defense, so to speak.

4 I forgot the rest of your question, Jesse.

5 COMMISSIONER CHOPER: No, but it was how about a
6 horse that's raced here a few times --

7 MS. NAIFY: The criteria.

8 COMMISSIONER CHOPER: -- and brought in and
9 brought out.

10 MS. NAIFY: Right. Every horse that obviously is
11 going to be ID'd, and we can pull up the race record for
12 every single horse. Part of our accreditation process for
13 these farms will be to see where, what kinds of horses they
14 have, how many California horses they have.

15 And I'm going to let Priscilla speak about
16 Tranquility Farms, because they deal specifically with this
17 issue with California race horses, so this is the ideal
18 situation here.

19 MS. CLARK: If I could go on. If you -- you can
20 extrapolate some numbers by looking at the number of horses,
21 for instance, that started in 2006, which there was like
22 8,600 starters, I believe, in the State of California. The
23 average horse raced 4.8 starts and then they were finished.
24 So we're looking at geldings, we're looking mares that are
25 not going to find a place in the breeding industry. We bred

1 less than 4,000 mares, I believe, or around 4,000 in 2006.

2 So you can see right there, there's a large
3 population of horses that have raced, they may have raced
4 the average amount of starts, maybe a few more, maybe a few
5 less. But there are thousands of people, thousands of
6 owners who are presented with the dilemma of what to do with
7 their horses at the end of their somewhat short average
8 racing careers.

9 So in order to facilitate these horses both having
10 a humane after care, and to give the owners clear options,
11 because many of the owners are not professional horse
12 people, they simply own the horses, and they really are
13 unclear about the process of rehabilitation and about
14 finding an appropriate second career for the horse.

15 So, basically, we have carved our niche into the
16 system by providing the service both for the horses, and for
17 the owners, on a somewhat professional level, and making it
18 exclusive to horses that are coming off our racetracks.

19 COMMISSIONER MOSS: Priscilla, do you have a
20 program, for example, if people are looking for a dressage
21 horse, or a riding horse, you know, to sell these horses to
22 responsible people, do you have those kind of programs, as
23 well --

24 MS. CLARK: Yes, we do.

25 COMMISSIONER MOSS: -- for people to use horses in

1 other areas, other than racing?

2 MS. CLARK: Right. We've developed a somewhat
3 high end marketing profile in the State, actually. What we do
4 is we run the photographs, and a bio, and the specific
5 abilities of the horse on our website, and then we make that
6 website widely available in the equestrian community through
7 publications, and through search engines, and all the places
8 where people would be looking to purchase horses will find
9 it easily. And we're trying to become competitive in that
10 market, to where people don't feel that they're taking on a
11 charity case horse, or an inferior horse, but they feel that
12 they're getting, actually, a bargain by getting a very good
13 quality horse, who's had very good veterinary care, and some
14 retraining. So that we can actually compete in the
15 marketplace and turn these horses from unwanted horses into
16 desirable horses by the public.

17 And that's really the trick, that's the nut to
18 turn in the system, is to get the horses in to do something
19 in a way that is expedient, and get them out the door, and
20 get them marketed to the general public. And the more we
21 have out there, the greater the demand becomes.

22 COMMISSIONER AMERMAN: I applaud what Marsha and
23 the TOC are doing. I think this is a one-time opportunity
24 to make a change. But my concern is that we may be going
25 into something which is not big enough in concept to really

1 solve the issues in California.

2 So this is kind of a multi-part question. What
3 are the net purses in California that we're talking about;
4 what is three percent -- or .3 percent of that? In other
5 words, what does it generate? Where did the .3 percent come
6 from, because I believe that's woefully inadequate. That's
7 the wrong word, I shouldn't say woefully. I think it's
8 lower than it might be because you have this one-time
9 opportunity to present to owners and say, well, you're going
10 to have .3 percent come out of your net purse. Well, if you
11 said .4 or .5, it would be the same issue, I think.

12 So I'm saying maybe we should think a little bit
13 bigger.

14 I had the opportunity, the other day, to talk to
15 Steve Dunker, who's the Chairman of the NYRA, and asked him
16 about the Ferdinand fee in the State of New York. And he
17 referred me to a fellow by the name of Bill Heller, who runs
18 it, and I asked him how much was generated? He said,
19 probably, \$36,000.

20 Now, I understand that that's a different program,
21 at least he explained a different program from what you're
22 talking about, because there you have to opt in, rather than
23 opting out.

24 But I just think we need to know the numbers of
25 what we're going to generate here because, again, I come

1 back to what I said in the beginning, it's a one-time
2 opportunity to solve a very big problem in our State, and
3 unless we think big enough, we're going to be disappointed
4 by what comes out at the end.

5 Can anybody answer those questions about what the
6 monies are?

7 MS. NAIFY: Yes, in terms of the dollars, we know
8 that in 2006 there was approximately 150 million distributed
9 in purse money.

10 COMMISSIONER AMERMAN: 150, okay.

11 MS. NAIFY: Right. And if we take the three-
12 tenths of one percent, we're talking about \$450,000 a year,
13 if everyone was to stay in the program.

14 COMMISSIONER AMERMAN: Right. Now, what did you
15 use for slippage? In other words, how many people are going
16 to opt out?

17 MS. NAIFY: It really is a guess. I'm going to
18 say, you know, maybe ten percent would be the conservative,
19 and maybe 25 percent at the max.

20 COMMISSIONER AMERMAN: Okay, so it's going to be
21 less than 450,000, right?

22 MS. NAIFY: Yeah, I would say that probably
23 \$400,000 would be a more accurate estimate.

24 COMMISSIONER AMERMAN: Ms. Clark, what is your
25 operating budget for a year at Tranquility, this is just one

1 farm?

2 MS. CLARK: One farm, we care for a hundred horses
3 on a constant basis, it was 385,000 in 2006.

4 COMMISSIONER AMERMAN: So, essentially, it's the
5 administrative -- well, probably we ought to break it down
6 to administrative and other things, but essentially it takes
7 care of one farm, what we're talking about.

8 MS. NAIFY: Yes. But, you know, going back to
9 what Richard said, these farms fund-raise. And like a lot
10 of not-for-profits, they're going to be getting grants for
11 us. It's going to be sort of a grant-making process, we're
12 going to go through the same procedure.

13 But in most organizations that receive grant money
14 still privately fund raise and it doesn't impact their fund
15 raising.

16 COMMISSIONER AMERMAN: I understand.

17 MS. NAIFY: So we're an adjunct to that. But, you
18 know, definitely, we went for the three-tenths of one
19 percent because we felt it was a figure that owners could
20 live with. We decided not to do the -- like there was a
21 suggestion of a starting gate fee, which is sort of similar
22 to the Ferdinand thing and that would have netted us about,
23 yeah, \$40,000, if we went for like \$5 per start, which we
24 felt was totally inadequate.

25 We also intend to get other industry partners to

1 be part of this funding, that's going to be the next phase.
2 Plus, we will be soliciting private donations. We've
3 already had pledges, two pledges of \$5,000 each to fund out
4 account. Because we can go ahead and fund our account and
5 give out grant money without this rule change, but we want
6 the .03 percent from the purse revenues.

7 COMMISSIONER AMERMAN: You know, you're on to a
8 very big idea, but I think it has to be bigger than just
9 owners. It seems to me that we're talking about the
10 jockeys, we're talking about trainers, we're talking about
11 the race associations.

12 I just look at this Los Angeles charity grants,
13 and they're giving \$1,000 to Ms. Clark's place. It seems to
14 me that's woefully inadequate, they should be doing more
15 than that.

16 So maybe you could comment on what you plan to do
17 to reach out to, forgive me, jockeys, trainers, and the race
18 courses.

19 MS. NAIFY: You're correct, Commissioner Amerman,
20 this is everyone's responsibility.

21 COMMISSIONER AMERMAN: It sure is.

22 MS. NAIFY: But we feel the owners have to take
23 the first step and be the first ones to initiate that. And
24 that's why we're coming forward with this plan today. But,
25 certainly, this is going to be one of our points is to

1 expand this program to every part of the industry.

2 COMMISSIONER MORETTI: Marsha, I was wondering,
3 and I appreciate the need to have a voluntary program, but
4 in terms of the funding mechanism, I mean, in the State of
5 California, for example, and other states are following, the
6 graveyard for our E equipment, now, we have an E waste fee.
7 When you purchase something, you have to pay an automatic X
8 percent, or X number of dollars, I don't actually remember
9 what it is, but -- and that is to take care of the end of
10 life for your computer, and your phone, and everything else,
11 so it's not just going into our waste fields.

12 But did you think about that in any way, was that
13 part of your discussion? Again, as I said, I appreciate the
14 need to have the consideration to have a voluntary program,
15 but I think that Commissioner Amerman makes a really good
16 point because if it's inadequate, and we have this nice
17 program that we feel good about right now, today, but five
18 years we find that we're not taking care of those same
19 horses, what are we going to do?

20 MS. NAIFY: Well, certainly, if we find a year
21 from now that this plan didn't work, we're going to go back
22 and rework it. But we felt that this was a compromise
23 issue. Because we have people, on the one hand, who want it
24 to be a mandatory program, we have people on the other hand
25 who don't want any program at all.

1 So we tried to fashion something that was a
2 compromise, and a consensus builder, that really, that
3 everybody in the industry could buy into and participate.
4 We knew we had to come before this Board, get it passed, and
5 move forward, and so we came back with this proposal, that
6 was fashioned this way.

7 COMMISSION CHAIRPERSON SHAPIRO: You know, I think
8 we're kind of looking at it a little wrong, and that is this
9 is the germination of a wonderful idea and a great cause.
10 And I think what we're doing here is we're just laying the
11 first part of the foundation to build this building that we
12 will get to. And I think it would be great if we had
13 statistics, and I think it would be great if we had the data
14 to quantify exactly what the need is but, unfortunately, we
15 don't.

16 Meanwhile, we know that horse slaughter in the
17 United States, thankfully, is going away. We know that we
18 have more horses getting injured than ever before. And we
19 have a need, and we heard before this Board, previously,
20 farms come before us pleading that we need more money, and
21 we, as owners, that -- those of us that are owners, and I
22 know that five of us are, very well, that we do have an
23 obligation, and I think it is a wonderful first step. And I
24 think we should approve this and look at this as this is the
25 first step. And if .3 is wrong and it needs to be .6, and

1 the people will go for .6, then let's go to .6.

2 And in the meantime, we will monitor and work with
3 TOC to come up with ways to market, go back to the Los
4 Angeles Turf Clubs, and the other agencies, and say, hey,
5 listen, you know what, no offense, but could we get more of
6 that \$270,000.

7 We have this obligation in this industry. We all
8 have an obligation to protect these animals and provide a
9 better life for them.

10 And, you know, I don't disagree with any comments,
11 but what I don't want to see is that we postpone this.

12 COMMISSIONER MORETTI: Well, I don't want to see
13 it postponed, either, I guess my question -- I just have a
14 couple of other questions. So if this is, as you say, the
15 germination period and we're starting at the ground, as long
16 as we're not saying, today, this is it, this is the program
17 then --

18 COMMISSION CHAIRPERSON SHAPIRO: Oh, absolutely.

19 MS. NAIFY: I don't think, Marie, that I wanted to
20 leave you with that impression at all, this is a --

21 COMMISSIONER MOSS: This is a start.

22 COMMISSIONER MORETTI: Yeah, it's a start.

23 COMMISSION CHAIRPERSON SHAPIRO: This is just a
24 start.

25 MS. NAIFY: This is the start, and that's why I

1 went through those five points, because this is going to be
2 a comprehensive program that involves education of owners,
3 that involves the rest of the industry, this is just the
4 beginning point. We have to start somewhere, better
5 to -- you know, we need to do this, now, rather than do
6 nothing.

7 COMMISSIONER MORETTI: I agree with you.

8 MS. NAIFY: Yeah.

9 COMMISSIONER MORETTI: And then in terms of the
10 role of the CHRB in this, it would seem to me like one
11 version was what we would do is we would just give our
12 blessing, as in some ways what we do with the charitable
13 dollars, now, that the associations give. So is
14 that --

15 VICE-CHAIRPERSON HARRIS: No, I think they want a
16 rule change to call for these deductions, which I would be
17 in favor of something that was voluntary. I think you can
18 do that with the tracks, absent CHRB involvement, that
19 owners could designate whatever they wanted to.

20 MS. AUERBACH: Well, I think that the reason that
21 we're asking for it the way we are is because we think we'll
22 have the best chance of actually getting funded. It's part
23 of the whole formula that we came out with, the .3 percent,
24 that it would be extremely palatable, that people would not
25 opt out.

1 When you first made the change with taking out the
2 ten percent for the jockeys and the trainers and, you know,
3 it came out automatically, unless you opted out, and I
4 wanted to opt out. And it was not easy to opt out, it was a
5 lot of work. And so our thought process is because it's a
6 lot of work to opt out, that a lot of owners are going to
7 say, oh, it's just a few dollars, the funding is good, and
8 we felt we would have a better chance for success with
9 getting this particular change.

10 The other thing I want to make sure you understand
11 is we're going to do it. I mean, we are going to have this
12 retirement program. We'd love your help. If you won't give
13 it to us, we're going to do it anyway.

14 We know that you're in the forefront of caring
15 about our horses and we know that you are going to go ahead
16 with your leadership with us.

17 COMMISSIONER AMERMAN: Well, I think we're all
18 trying to help, there's no question about that.

19 MS. AUERBACH: Right.

20 COMMISSIONER AMERMAN: The one question we've
21 skirted around and, you know, I may be many things, but I'm
22 not a lawyer, so why can't this be mandatory?

23 COMMISSION CHAIRPERSON SHAPIRO: Because we have
24 to get legislation, based on the advice of counsel, that we
25 would have to get a law that would allow us to mandate a

1 deduction.

2 COMMISSIONER AMERMAN: Okay, I understand that.
3 Why can't we go forward.

4 COMMISSION CHAIRPERSON SHAPIRO: Well, the problem
5 is that this --

6 COMMISSIONER AMERMAN: That's something we can do
7 to help.

8 COMMISSION CHAIRPERSON SHAPIRO: I think that this
9 industry, including TOC, should work to get a piece of
10 legislation that mandates this.

11 COMMISSIONER AMERMAN: Absolutely.

12 COMMISSION CHAIRPERSON SHAPIRO: I would be fully
13 supportive of that. The problem is that this industry,
14 unfortunately, has not been very successful at getting
15 legislation through the Legislature, that have benefits.

16 COMMISSIONER AMERMAN: I think, if it's presented
17 properly, I think any Legislator would understand that this
18 is a program of horse racing that stops after a few years,
19 and then what do you do with the heros and the heroines that
20 have raced for us beyond that.

21 COMMISSION CHAIRPERSON SHAPIRO: John, couldn't
22 agree with you more. I see Drew is standing behind you and
23 perhaps he wants to weigh in on this particular issue, on
24 this aspect of it. Because I couldn't agree with you more,
25 I wish we could mandate it. We can't, so --

1 COMMISSIONER MOSS: But we can't --

2 EXECUTIVE DIRECTOR FERMIN: Can I just say one
3 thing, there's a time for introducing bills and we're passed
4 that, so what we need to do is maybe with support --

5 COMMISSIONER AMERMAN: Well, what I was suggesting
6 was to go forward.

7 EXECUTIVE DIRECTOR FERMIN: -- and then go on.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, may be
9 there's a piece of legislation that's still out there that
10 can be amended. So I don't know.

11 Drew.

12 MR. COUTO: Drew Couto, Thoroughbred Owners of
13 California. I'd like to ask Terry what he's referring to as
14 far as the legislation. Because I've confirmed with Mr.
15 Halpern that when we did the identical regulatory structure
16 for the trainers, that's in the rules today, we did that
17 without a specific piece of authorizing legislation, it was
18 simply a regulatory change.

19 And so we, again, are doing the same thing a few
20 years after doing the trainers, using the exact same
21 mechanism, which is a voluntary program providing a opt-out
22 provision. So I'm a little confused. And maybe I missed
23 it, but I'm not aware of any legislation that was needed in
24 order to get the trainers' funding mechanism in place.

25 So I'm curious why in that case, that's a ten

1 percent deduction, that owners can opt out of in the same
2 mechanism but again, back here we may be wrong, our
3 collective memory is that there was no authorizing
4 legislation needed to do that.

5 So if there is, then I would have to question
6 whether that whole program is arguably legal today.

7 DEPUTY ATTORNEY GENERAL KNIGHT: Well, we're not
8 here revisiting that, I hope. But we were asked the
9 question of whether a compulsory contribution could be
10 mandated and the advice that we provided was that it would
11 take legislation.

12 MR. COUTO: Okay, in that instance what we're
13 talking about is a compulsory deduction, and in this
14 particular instance we're talking about a voluntary
15 contribution. The difference here --

16 DEPUTY ATTORNEY GENERAL KNIGHT: And this is
17 a -- the way it's drafted, now, so it's not voluntary.

18 VICE-CHAIRPERSON HARRIS: If it was opt-in, you
19 could do it, but it's opt-out.

20 DEPUTY ATTORNEY GENERAL KNIGHT: If it was opt-in,
21 you could probably do it, because it's not compulsory then.
22 But the way it's drafted now --

23 COMMISSIONER MOSS: I think that's fine, I mean,
24 we don't have to go through legislation, we don't do
25 anything, as long as it's opt-out, correct?

1 MR. COUTO: Correct. You have the opportunity to
2 participate or not participate, the only difference is do
3 you decline to participate. And, again, it's the same
4 mechanism used for the ten percent on the trainers.

5 COMMISSIONER MOSS: I think that's fine, if people
6 decide to decline, they decline. But let's get it started
7 and find out what we have, and a year from now look back and
8 see what it is, at least we get some funding to these very
9 necessary, you know, farms that are taking care of these
10 horses for us. I think it's really important.

11 VICE-CHAIRPERSON HARRIS: My problem is, though,
12 it's such a band-aid, it's such a small amount that you're
13 going to get, and you're really sort of devious with this
14 opt-out thing, that people aren't really going to understand
15 it. I'd rather see all the data, really, of how much it's
16 going to take and come up with something that will include
17 all the segments of racing.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, I
19 appreciate that. I'm sure the TOC will publicize it, I'm
20 sure they will make it well known.

21 But, you know, personally, I wish it wasn't .3, I
22 wish it was .5, I wish it was more. But if that's what
23 you're choosing and you're doing it but, again, it's going
24 to grow, this is just a seed. We're going to grow this and
25 do it, but let's not waste time with it.

1 COMMISSIONER MOSS: Yeah, I agree, and the TOC has
2 taken it upon themselves to advise every owner that they
3 have the ability to opt out of this suggestion, and I think
4 we should get it started and let's see what we get.

5 COMMISSION CHAIRPERSON SHAPIRO: So if I
6 understand this, there are two drafts of a rule change in
7 front of us, and the only difference I see in it is that one
8 provides "approved by the Board" over the other. And,
9 personally, I like that only because I want -- I'm hoping
10 that this will grow into something that will not just be
11 funded by owners, but will include many, many different pots
12 and piles of money, and so that there is never any question
13 that just the owners are running off on their own, and that
14 everyone else participates. I, personally, would favor that
15 there be some Board oversight just to make sure that the
16 certification is done well, the monies are being properly
17 spent, and that there would be some involvement of the
18 California Horse Racing Board.

19 VICE-CHAIRPERSON HARRIS: One thing in the last
20 paragraph, there, is "the horsemen's organization shall file
21 with the Board, within 90 days of the close of the fiscal
22 year, an audited financial statement of CARMA," which I
23 think this is similar to other language you've got for these
24 type of funds, which I like to call slush funds.

25 But the problem with that requirement is it

1 doesn't really give us any latitude to approve it. I mean,
2 I'd be better with the language if --

3 COMMISSION CHAIRPERSON SHAPIRO: It says "approved
4 by Board."

5 VICE-CHAIRPERSON HARRIS: The actual facility is
6 approved by the Board, but those are sort of like a laundry
7 list of different facilities, they're approved, but total
8 financial dealings that this CARMA had is not approved, it's
9 just we just accept it and we've got it.

10 COMMISSIONER MOSS: I think the TOC is going to
11 help us on this, as well.

12 STAFF SERVICES MANAGER WAGNER: If I may,
13 Commissioners, that language that you just referenced
14 was -- is current language that's in Rule 2048, for
15 horsemen's organizations, the welfare fund. It's the same
16 language that we use, currently, when we may require that
17 the horsemen's organizations that maintains a welfare fund,
18 we require them to submit a financial report to us within 90
19 days after the close of the fiscal year.

20 VICE-CHAIRPERSON HARRIS: But do we have any
21 latitude in saying we don't really like the way you did
22 that, or this looks irregular to us or --

23 COMMISSION CHAIRPERSON SHAPIRO: Isn't that
24 inherent in our approval? If we don't approve it, we'll say
25 that.

1 VICE-CHAIRPERSON HARRIS: Well, we don't approve
2 it, we just get it. We just get the reports, and say, okay,
3 here's a report, we'll see you.

4 COMMISSIONER CHOPER: I think the answer might be
5 that if we don't like what we get, we can withdraw the
6 approval.

7 COMMISSION CHAIRPERSON SHAPIRO: Right.

8 COMMISSIONER CHOPER: The approval is not in
9 perpetuity.

10 VICE-CHAIRPERSON HARRIS: Well, but the approval
11 is for the facility, so maybe we like the facility, but we
12 don't like the total package.

13 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute,
14 the horsemen's are --

15 COMMISSIONER CHOPER: So if we tell them that if
16 they don't conduct the facility in the way we like it, then
17 we can withdraw the approval of the facility.

18 VICE-CHAIRPERSON HARRIS: Of the facility, but you
19 still have the problem of the overall program that you don't
20 have any ways -- I'm saying which horses are acceptable
21 and --

22 COMMISSIONER CHOPER: I see. Well, I think
23 that's -- you may be right, but I would --

24 MS. NAIFY: I think the difference --

25 COMMISSIONER CHOPER: If I were trying to get it

1 done I would say, look, that's within the notion of
2 approving the facility. Approve the facility and the way
3 they operate.

4 COMMISSION CHAIRPERSON SHAPIRO: It's inherent in
5 that, and I would agree with you, and we can come back and
6 we could probably tinker with it, and so forth.

7 MS. NAIFY: Well, my understanding, and correct me
8 if I'm wrong, is that the approval is required because in
9 some of these, when distributions are made, they are
10 entitled by law to receive this distribution. So I believe,
11 like isn't charity, the racing days, isn't that mandated by
12 law and legislation?

13 COMMISSION CHAIRPERSON SHAPIRO: Yes.

14 MS. NAIFY: Whereas ours is not, okay. In this
15 instance, we're the TOC, we represent the owners, we're
16 collecting the owners' purse money. Not only that, we're
17 soliciting donations from private individuals, from industry
18 partners, so we feel that we have the right to approve --
19 it's our money, we have the right to approve where those
20 donations will go. This is a voluntary program, it's not
21 required, and it's not mandated, and it's not legislated.
22 And that's why our draft A leaves that "approved by the
23 Board" out.

24 However, we will submit, of course, financial
25 statements for audit.

1 And, you know, like any organization --

2 COMMISSION CHAIRPERSON SHAPIRO: Do you have a
3 problem with our B?

4 MS. NAIFY: I don't --

5 COMMISSION CHAIRPERSON SHAPIRO: Can you live with
6 our B?

7 MS. NAIFY: When all is said and done, of course,
8 because I want the rule to go through. But I'm pointing
9 out, simply, the reasons why we have draft A and not draft
10 B.

11 COMMISSION CHAIRPERSON SHAPIRO: I appreciate why
12 you have draft A. Draft B, the only difference is the
13 approval by the Board.

14 VICE-CHAIRPERSON HARRIS: Those are the
15 facilities.

16 COMMISSION CHAIRPERSON SHAPIRO: That's the only
17 difference between it. And, frankly, I would prefer to have
18 B because I have bigger dreams and visions for what's going
19 to happen here.

20 COMMISSIONER AMERMAN: I agree with that.

21 COMMISSION CHAIRPERSON SHAPIRO: And, therefore, I
22 would ask that you accept plan B. I hope Drew's whispering
23 in her ear to say, Marsha, go with B.

24 VICE-CHAIRPERSON HARRIS: It's got to go out to
25 comment, anyway.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay. Therefore,
2 I would like to -- I am actually pleased to want to make
3 this motion to adopt this, because this will be the best
4 feel-good, since I've been on the Board, for me, to see that
5 we could do this.

6 And so I make a motion that we adopt this new
7 rule, with the --

8 VICE-CHAIRPERSON HARRIS: It's got to go to the
9 comment period.

10 STAFF SERVICES MANAGER WAGNER: Yeah.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, okay.
12 Well, unfortunately, I'm wanting to get out of the gate
13 here. Fine, then let's take a vote that we put this out for
14 comment. And I would suggest that we put out plan B for the
15 comment period.

16 COMMISSIONER MOSS: I second the --

17 COMMISSION CHAIRPERSON SHAPIRO: Second.

18 COMMISSIONER MORETTI: Do you have a problem with
19 that?

20 MS. NAIFY: Well, my only thing is, is that we're
21 collecting donations from more than one location. One place
22 we're collecting from is the purses, and I don't have a
23 problem with you approving money that comes from purses.
24 But when we go out and solicit donations, you know, 10,000,
25 5,000, 50,000 dollars, why would the Board have to decide

1 where we spend that money, and that's my point.

2 COMMISSIONER CHOPER: I think the answer is that
3 the approval -- all that hinges on the approval by the Board
4 is the continued funding of the .3 percent from the purses.
5 That doesn't say they have to be approved in order to exist.
6 The approval is for receiving the money, at least that's my
7 understanding.

8 COMMISSIONER MOSS: I would understand it the same
9 way.

10 COMMISSION CHAIRPERSON SHAPIRO: All right.

11 MS. NAIFY: All right, okay.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay?

13 MS. NAIFY: I'm good with that.

14 COMMISSION CHAIRPERSON SHAPIRO: So there is a
15 motion. Is there a second?

16 COMMISSIONER MOSS: I seconded.

17 COMMISSION CHAIRPERSON SHAPIRO: Commissioner Moss
18 made one.

19 All those in favor?

20 (Ayes.)

21 COMMISSION CHAIRPERSON SHAPIRO: Anybody opposed?

22 VICE-CHAIRPERSON HARRIS: Opposed.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay.

24 VICE-CHAIRPERSON HARRIS: I'm opposing, just not
25 because I have any reservation about the fact that we have a

1 problem, it's just that I don't think this proposal is built
2 on that good of a foundation or based on enough data to
3 really -- and it's going to be a concern that it's too much
4 of a band-aid.

5 COMMISSION CHAIRPERSON SHAPIRO: Well, I hope you
6 will --

7 COMMISSIONER AMERMAN: Well, it is up for comment,
8 so you have the opportunity to raise those issues and --

9 VICE-CHAIRPERSON HARRIS: Well, if we're putting
10 something out, I'd rather put something out that was a
11 little more thought out.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, perhaps,
13 again, in the intervening period, you know, if you want to
14 have meetings where we can participate and help develop a
15 plan that would better do that but --

16 VICE-CHAIRPERSON HARRIS: Well, is TOC getting
17 the -- the data's the thing I've been asking for, for a long
18 time, is how much --

19 COMMISSION CHAIRPERSON SHAPIRO: Where are they
20 going to get the data?

21 VICE-CHAIRPERSON HARRIS: Well, I mean, they can
22 look out the window or something.

23 COMMISSION CHAIRPERSON SHAPIRO: No, it's -- you
24 know what, John?

25 VICE-CHAIRPERSON HARRIS: No, you know how many

1 horses are born every year, you know how many starts there
2 are --

3 MS. NAIFY: Commissioner Harris?

4 VICE-CHAIRPERSON HARRIS: There's a lot of data
5 out there. I mean, it's always going to be somewhat of an
6 extrapolation. But, I mean, we've got to have something
7 more than just, you know, maybe 300,000 will do it.

8 MS. NAIFY: Commissioner Harris, we are involved
9 in getting the data right now, as best as we can do. You
10 know, we're the TOC, we have a budget, and we have a staff,
11 and all of us are working pretty darn hard right now. We
12 don't want to hire extra staff. But we're involved in
13 investigating a lot of things that goes on in the horse
14 industry, this is just one of them.

15 But believe me, we have a fiscal and fiduciary
16 responsibility to gather as much data as we can, and that is
17 what we will do, and we will give you ongoing reports as to
18 what the data is that we collect.

19 But this is an issue that, you know, for the exact
20 reasons you're saying, that no one wants to tackle because
21 they say the problem is too big, we don't have the
22 statistics, we don't have this and that. We've got to start
23 somewhere, this is it. We're starting to gather those
24 statistics, and we're going to do as good a job as we can on
25 getting them.

1 VICE-CHAIRPERSON HARRIS: That's encouraging.
2 Because I think we need to work with you on that or we've
3 got the CRIMS program and --

4 MS. NAIFY: We're certainly going to -- right.

5 VICE-CHAIRPERSON HARRIS: But who is the point
6 person that I can talk to at TOC on that?

7 MS. NAIFY: That would be me. And I look forward
8 to that discussion. We have our staff members working on
9 it, Lucinda Mandela, and Guy Lamothe, so you can contact any
10 of us.

11 COMMISSION CHAIRPERSON SHAPIRO: I was remiss, and
12 I apologize to Frank Vessels. Scoop, I didn't see your
13 comment card. Do you wish to comment on this matter?

14 MR. VESSELS: Commissioners, I'm not going
15 to -- it would be really bad of me to talk negatively out of
16 such a feel -- out of such a feel-good program, and so I'm
17 not going to. But I do want everybody to realize that these
18 programs are very expensive and, in my opinion, that's why
19 some are failing across the United States. We can look at
20 the federal government, and it's adoption program of the
21 horses and mules in Nevada and California, and I can tell
22 you that they spend in excess of \$20 million a year to try
23 and -- or we do, it's our money, to try to place those
24 animals.

25 Also, the Thoroughbred Retirement Foundation, in

1 Kentucky, which is a very high profile organization, got a
2 \$5 million grant from the Paul Millen Foundation, and in
3 2005 lost \$665,000. I think we need some more information.
4 There's 13 -- according to the Blood Horse, there are 13
5 retirement centers in California. Who gets some money, who
6 doesn't? Which ones are good, which ones are bad?
7 Tranquility is probably the best.

8 I'm for horse retirement, I've got a bunch of them
9 at my farm, I take care of them myself. I take the
10 responsibility because I'm an owner.

11 But I will tell you that the worse thing in the
12 world that could happen is to have this horse facility fail
13 and be responsible for the placement of 150 or 200
14 thoroughbreds.

15 COMMISSION CHAIRPERSON SHAPIRO: But again --

16 MR. VESSELS: Because of lack of funds.

17 COMMISSION CHAIRPERSON SHAPIRO: I understand.

18 All that's being done here is creating a revenue stream to
19 support farms, like Tranquility, and the others, and trying
20 to build a source of revenue because, frankly, we have a
21 crisis on our hands here. We have too many horses that are
22 coming off the track, when you hear the statistics, and we
23 need to find a place to try and care for them.

24 Unfortunately, those of us that don't have the
25 benefit of having their own farms, and are owners, and we

1 have a horse that can't make it as a race horse, what do we
2 do with those horses?

3 I know that I own part of a horse that she was
4 just slow, she displaced her pallet, she couldn't win. And
5 the question was, well, what do we do with her? And my big
6 fear was, gee, I don't want her to go to a slaughterhouse.

7 And so we reached out and we paid money to place
8 her on a farm, so she would then become a riding horse or
9 something else.

10 All we're trying to do is create the revenue
11 stream and start building upon a program to care for these
12 horses, because we have a responsibility to do that.

13 MR. VESSELS: Mr. Shapiro, you did the correct
14 thing. You, as that individual horse's owner, paid to place
15 that horse.

16 COMMISSION CHAIRPERSON SHAPIRO: But,
17 unfortunately --

18 MR. VESSELS: My suggestion is there is not enough
19 money to support all of the retirement centers and we're
20 looking at a disaster, in my opinion.

21 COMMISSIONER AMERMAN: I think we're looking at
22 this a little bit wrong. Obviously, the retirement farms
23 are ongoing at the present time, they get funds from their
24 own promotions, from donations from people, and so forth, so
25 that's a given. What this program is, is over and above

1 that, so that we can meet the ongoing crisis that's going to
2 come on because there is no more slaughterhouses and there's
3 going to be more and more horses that go into retirement.

4 So think of the way we are today as being the
5 foundation and the base, and this is over and above and, you
6 know, my inclination is we should be trying all kinds of
7 things. This is a good start, but there's got to be more
8 things that are done.

9 MR. VESSELS: Well, my only question is I hope we
10 have enough money. It is definitely a feel-good and the
11 right thing to do, I only hope there's enough money to do
12 it.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
14 that's the charge to the TOC, and they've raised their hands
15 and said they're going to do it.

16 MR. VESSELS: And that's all I can ask for.

17 COMMISSION CHAIRPERSON SHAPIRO: We don't have
18 enough money, we're still not going to have enough money,
19 we've got to find ways to get more money, and this is just a
20 start.

21 And, Scoop, I know you are as dedicated as
22 anybody, and you do more good than anybody, so please don't
23 take this as directed towards you.

24 MR. VESSELS: No.

25 COMMISSION CHAIRPERSON SHAPIRO: We all have a

1 responsibility. Unfortunately, there's a segment of horse
2 owners who are not horse lovers. And I think it takes those
3 people, who are just looking at this as a tradeable
4 commodity, disposable, that may not have what we have in our
5 hearts to take care of these horses, and we have to reach
6 out and find a way to raise the money.

7 MR. VESSELS: Please take a look at some of the
8 retirement centers out there right now. Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you.
10 Again, thank you.

11 All right, I think we're going to now move on, if
12 that's okay with everybody.

13 John voted against it.

14 EXECUTIVE DIRECTOR FERMIN: Oh, that's right, John
15 voted against, okay.

16 VICE-CHAIRPERSON HARRIS: And did John
17 Andreini --

18 COMMISSION CHAIRPERSON SHAPIRO: He voted for it.
19 Okay. So it was six to one. But with comments and
20 response. I don't want to paint you in a bad light, just
21 because you voted wrong, again.

22 Okay. All right, that brings us to public
23 comment. And first of all, I'd like to make a couple of
24 announcements in the public comment period, which I think is
25 okay.

1 It is time for us to deal with race dates,
2 strategic planning, again. And, therefore, what I am
3 proposing is that this year, that the entire Board sit as
4 the committee to hear those discussions. They will be open
5 to the public, the entire Board will be on the committee, it
6 will only be to hear the planning and race dates.

7 Those Commissioners that can make it, hopefully
8 will. And it's understandable that some people will not be
9 able to make all of the meetings.

10 I also believe that this is an area that causes a
11 lot of consternation in the industry, and given the
12 precarious issues that we face in front of us, that we
13 should try to get through this with as much haste as
14 possible and, yet, also very deep thought.

15 I would like to make sure that this committee will
16 focus not just on 2008, but will also look over the next
17 many years of how we are going to develop a strategic plan,
18 that in light of the uncertainties and challenges that are
19 facing us and, therefore, all of the Board members that do
20 participate in this, please understand that we will not just
21 be discussing 2008 race dates, but we will make sure that we
22 are looking at a longer and a deeper solution to improve
23 horse racing in California.

24 It's my intention that I would ask the staff to
25 find out what your schedules are all for the month of

1 August. I would like to schedule the first meeting of this
2 committee as soon as possible, and I would expect that we
3 would reconvene in, likely, two weeks after that. Again,
4 we're going to try to expedite this, and we're going to try
5 to get through it, and I hope that all the conversations
6 will be done with constructive thought and goals to improve
7 the industry.

8 COMMISSIONER MORETTI: Question?

9 COMMISSION CHAIRPERSON SHAPIRO: Yes.

10 COMMISSIONER MORETTI: When we start, do you have
11 a sense of when we might be making a decision?

12 COMMISSION CHAIRPERSON SHAPIRO: I would hope that
13 by our Board meeting in September we will have reached a
14 conclusion and be able to adopt a calendar for 2008 and a
15 vision for beyond, which may even, in fact, include a
16 multiple-year adoption of race dates, which would be my
17 personal preference.

18 VICE-CHAIRPERSON HARRIS: I think that's a really
19 good idea to do it as a Board because, historically, what's
20 happened is we have a Race Dates Committee meeting, and hash
21 it out, and then it all gets hashed out again, anyway.

22 COMMISSION CHAIRPERSON SHAPIRO: Right.

23 VICE-CHAIRPERSON HARRIS: So this way everybody
24 can be there from the start. And on the multiple-year date,
25 that there's some of the factors coming into play that has

1 much merit.

2 We do need to make sure that when we do that -- or
3 not how we facilitate doing that, but where we could say
4 that if we want a track to do something, they can have
5 multiple-year dates somewhat guaranteed, maybe with some
6 covenants with the Board. So I'm not sure if under the
7 current legislation we can do that or not. But if not, we
8 need to figure out how we do it.

9 COMMISSION CHAIRPERSON SHAPIRO: I believe we can,
10 but I think it's a good point.

11 And, Derry, I would like you to advise the Board
12 on what our flexibility and our ability is there. And,
13 again --

14 DEPUTY ATTORNEY GENERAL KNIGHT: I can tell you,
15 we've already advised on that. You can do dates out
16 multiple years, there's nothing precluding that.

17 COMMISSION CHAIRPERSON SHAPIRO: Again, I know we
18 don't have a --

19 VICE-CHAIRPERSON HARRIS: Does it have to be the
20 whole thing or just a given, can we sort of cherry pick
21 which ones we want to give out multiple years?

22 DEPUTY ATTORNEY GENERAL KNIGHT: You can do
23 whatever you want.

24 COMMISSION CHAIRPERSON SHAPIRO: I know that we
25 don't have a big audience live, here. I'm hoping that all

1 of you in webcast land are watching, and that everybody is
2 going to get this message because, again, I'm hoping that we
3 also consider the criteria that we should be using, as a
4 Board, in how we award dates, but staying within the
5 framework of what the law provides us to do.

6 Again, I'm really hoping that we can make tough
7 decisions here to move this industry's future ahead in a
8 positive way.

9 COMMISSIONER CHOPER: Is it also possible, on the
10 assumption, for example, that the September meeting is what
11 you're looking for, for resolution of this --

12 COMMISSION CHAIRPERSON SHAPIRO: Yes.

13 COMMISSIONER CHOPER: -- that we fashion the
14 agenda so that that becomes the first item, with the
15 understanding that it is possible it will be the only item.
16 I don't know if that's possible or not.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, again -- it
18 is possible. And I expect by then that we will have lots of
19 industry input, and lots of -- everybody will know where
20 that issue is at by the time it comes to the Board.

21 As we will recall last year, when the action gets
22 down to the Board adopting dates, it's pretty much been
23 vetted by everybody in the industry, and everybody kind of
24 knows what the dates are, there may be a tinkering here or
25 there of whatever's left in dispute.

1 But we, as a Board, have to look at what the
2 criteria is, which is really critical, and what the
3 philosophy of our Board should be. Do we believe we have
4 too much racing and we want to look at cutting back race
5 dates? Do we want gaps in the calendars to stimulate fan
6 interest? Do we want to look at where we have synthetic
7 tracks and where we don't have synthetic tracks?

8 All these issues, and the reason to bring the
9 whole Board into this, in an open, public discussion, is so
10 that we finally will get the issues on the table and just
11 let's deal with it and really try to make a difference. And
12 so that's why we're going to go this way.

13 VICE-CHAIRPERSON HARRIS: Who's going to be the
14 staff person for CHRB if you want to, you know, submit
15 things or questions?

16 COMMISSION CHAIRPERSON SHAPIRO: I would ask that,
17 if it's okay with you, that I would ask Bon, if you would be
18 the one that would spearhead this? I think that this is
19 going to -- as I said, going to be a very difficult issue
20 this year. And it's one, though, as challenging as it is,
21 may have the greatest reward for us.

22 And I think it is a level which I would ask you to
23 be personally involved with.

24 All right, I also -- while we're talking about
25 staff, I did receive -- Ingrid, you received this, and I

1 think it should be noted that the California Horse Racing
2 Board received an award for achieving excellence in
3 financial reporting. And I think that our staff should be
4 recognized. I think we, as an agency, deserve to be
5 recognized for something good. And so I think this is
6 terrific and I want to thank our staff members, and
7 everybody that helped do this, that we were awarded this,
8 and I think that's terrific.

9 COMMISSIONER AMERMAN: Well done.

10 (Applause.)

11 COMMISSION CHAIRPERSON SHAPIRO: Is there anything
12 else that anybody has for public comment? It seems we're a
13 little short of public comments today. But I'm not
14 complaining.

15 COMMISSIONER MORETTI: No, no, no --

16 COMMISSION CHAIRPERSON SHAPIRO: I'm not
17 complaining.

18 VICE-CHAIRPERSON HARRIS: Is Jerry not --

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, remember,
20 working webcast and we're live.

21 Jerry, we've missed you.

22 Okay, anybody? If there is nothing else to come
23 before the Board, I would adjourn the meeting for the public
24 session. We are going to go into closed session. Thank you
25 to everybody.

1 (Thereupon the California Horse Racing
2 Board Regular Meeting resolved into
3 closed session at 1:35 p.m. and was
4 thereafter adjourned.)

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California Horse Racing Board; that thereafter the recording was transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of July, 2007.

Troy A. Ray

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