

MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

DEL MAR RACE TRACK
SATELLITE WAGERING FACILITY
2260 JIMMY DURANTE BOULEVARD
DEL MAR, CALIFORNIA

THURSDAY, AUGUST 18, 3005

9:40 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Mr. John C. Harris, Chairperson
Mr. William A. Bianco, Vice Chairperson
Ms. Sheryl L. Granzella
Mr. Marie G. Moretti
Mr. Jerome S. Moss
Mr. Richard B. Shapiro
Mr. John C. Sperry

STAFF

Ms. Ingrid Fermin, Executive Director
Mr. Roy Minami, Assistant Executive Director
Dr. Ron Jensen, Equine Medical Director
Mr. Mike Marten, Associate Analyst, Public Relations
Mr. John Reagan, Senior Parimutuel Examiner
Ms. Wendy Voss, Chief of Administration

ATTORNEY GENERAL'S OFFICE

Mr. Derry Knight, Deputy Attorney General

ALSO PRESENT

Mr. Steve Bieri, Capitol Racing
Mr. Ron Charles, Magna Entertainment Corporation
Mr. Drew Couto, Thoroughbred Owners of California
Mr. Charles Dougherty, California Thoroughbred Trainers

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Craig Fravel, Del Mar Thoroughbred Club

Mr. Darrell Haire, Jockeys Guild

Mr. Ed Halpern, California Thoroughbred Trainers

Mr. Jack Liebau, Bay Meadows Race Track

Mr. Jerry Mandel, California Harness Horsemen's
Association

Mr. Dennis Nevin

Mr. Dave Payton, Scientific Games

Dr. Jack Robbins, Oak Tree Racing

Dr. Scott Stanley, UC Davis

Dr. Susan Stover, UC Davis

Mr. Daniel White, Big Fresno Fair

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EXECUTIVE DIRECTOR FERMIN: We're going to go ahead and call the meeting to order -- and we'll be going into executive session -- but for the record.

Ladies and gentlemen, will the meeting please come to order. This is a regular meeting of the California Horse Racing Board on Thursday, August 18th, 2005, at the Del Mar Fairgrounds, 2260 Jimmy Durante Boulevard, Del Mar California.

Present at today's meetings are Chairman John Harris, Vice Chairman William Bianco, Commissioner Sheryl Granzella, Commissioner Marie Moretti, Commissioner Jerry Moss, Commissioner Richard Shapiro, and Commissioner John Sperry.

We are going to be going into executive session at this time and we'll reconvene shortly.

(Thereupon the meeting recessed

Into closed session at 9:45 a.m.)

(Thereupon the meeting reconvened in

open session at 10:15 a.m.)

EXECUTIVE DIRECTOR FERMIN: We'd like to bring the meeting to order.

CHAIRPERSON HARRIS: We're going to reconvene the meeting.

We'd like to welcome everyone to our CHRB

1 meeting.

2 EXECUTIVE DIRECTOR FERMIN: I'd like to remind
3 everyone that if you're going to address the
4 Commissioners, that you'd please state your name clearly
5 and who you represent so that the record can be made
6 clear, and also that only one person be speaking at a
7 time.

8 Thank you.

9 CHAIRPERSON HARRIS: Okay. The first item on the
10 agenda is approval of the minutes of the meeting of June
11 30.

12 Any additions or corrections to those?

13 If I can I have a motion to approve.

14 COMMISSIONER MOSS: So moved, Mr. Chairman.

15 COMMISSIONER MORETTI: Second.

16 CHAIRPERSON HARRIS: Been moved and seconded to
17 approve the June 30 minutes.

18 All in favor?

19 (Ayes.)

20 CHAIRPERSON HARRIS: And next is the approval of
21 the minutes of July 21.

22 Any additions or corrections to those?

23 COMMISSIONER MOSS: Move approval, Mr. Chairman.

24 COMMISSIONER MORETTI: Second.

25 CHAIRPERSON HARRIS: Moved and seconded to

1 approve.

2 All in favor?

3 (Ayes.)

4 CHAIRPERSON HARRIS: Okay. Next, Jack Liebau had
5 asked that due to his scheduling problems we'd like to
6 move up Item 12 -- I'm sorry, Item 7 -- Item 7 discussing
7 the application to conduct a simulcast wagering facility
8 at Hollywood Park.

9 So go ahead with this.

10 SENIOR PARIMUTUEL EXAMINER REAGAN:

11 Commissioners, John Reagan, CHRB staff.

12 This item has two parts, A and B. Part A has to
13 do with the fact that obviously there is a possess where
14 Hollywood Park is being purchased. The future
15 owners/operators of Hollywood Park in making that -- in
16 making that purchase are asking the Board to find pursuant
17 to 19483 and 19485 that the ownership and operation of two
18 race tracks under one control is beneficial or is, as the
19 word is pursuant to the law, that this is a beneficial
20 item for the State of California. That's what they're
21 asking you to approve today.

22 CHAIRPERSON HARRIS: Okay. Mr. Liebau.

23 MR. LIEBAU: I'd like to thank the Commission for
24 allowing me to come up out of order here, make it easier
25 for me to catch my Southwest flight out of San Diego.

1 I'd like to explain sort of the structure to
2 begin with. First of all, I'd like to start with Bay
3 Meadows itself.

4 Bay Meadows is beneficially owned by a real
5 estate fund that we call the Stockbridge Fund 1. It's
6 managed by Stockbridge Capital Partners, which is headed
7 by Terry Fancher.

8 The largest beneficial owner -- this is somewhat
9 of importance as we look at the ownership of these two
10 tracks or what they will be. The largest beneficial owner
11 of Fund No. 1, which is the one that owns Bay Meadows, is
12 the Pennsylvania Public School Employees Retirement
13 System.

14 The contemplated owner of Hollywood Park will be
15 the new fund called Stockbridge Real Estate Fund 2. Here
16 again, the general partner of Fund 2 will be the
17 Stockbridge Capital Partners, again headed by Terry
18 Fancher. The largest beneficial owner of Stockbridge Fund
19 2 will be the California Public Employees Retirement
20 System, sometimes known as CalPERS.

21 The only overlapping investor in both funds will
22 be the Pennsylvania Retirement System.

23 Again, the general partners of both funds are the
24 Stockbridge Capital Partners.

25 One thing I'd like to point out, as you know the

1 purchasing process of Hollywood park was really the
2 classic seller's market. The bidding process or auction
3 that was used was very competitive. And the potential
4 buyer -- at least the potential buyer here, being
5 Stockbridge Fund 2, did not have much leverage in the
6 situation to negotiate things. It was more or less take
7 it or leave it. If you don't like it, X here is standing
8 along with Y and Z.

9 We tried to negotiate a provision in the
10 agreement that would make the purchase of Hollywood Park
11 subject to the approval of that purchase by the California
12 Horse Racing Board. That negotiations position proved to
13 be an unsuccessful one, because there were other buyers
14 that weren't interested or did not care about future
15 conduct of racing at Bay Meadows.

16 Notwithstanding this, we believe that the horse
17 racing law would be better served by your approval today
18 of this transaction, because it will allow Hollywood Park
19 to continue to operate as a race track. And as part of
20 the transactions, the Stockbridge Capital Partners have
21 agreed that if they get adequate assurances that would
22 justify future investments in the property, that one of
23 the things that would be immediately done would be the
24 installation of a Hollywood Track, which is estimated to
25 cost in the neighborhood of 4 to \$5 million.

1 There's also at the present the turf track is
2 being completely renovated and a new turf track is being
3 installed. And that sort of -- and that also is part of a
4 purchase agreement with -- that is to be assumed by the
5 buyer.

6 And the other thing that's going on is that
7 Stockbridge Capital Partners will continue to play a major
8 effort in attempting to level the playing field in
9 California for the thoroughbred racing industry.

10 With that, I'd be glad to answer any questions.
11 And Terry Fancher is also here. And I'm at your --

12 CHAIRPERSON HARRIS: Any questions by the Board,
13 or any comments --

14 COMMISSIONER MORETTI: I have a couple questions
15 please.

16 Jack, I mean, I have certainly a confidence in
17 your experience in horse racing and Rick Baedeker's
18 experience in horse racing. But I have some comments and
19 questions I guess in terms of the new investment. And
20 when you say adequate assurances before investments will
21 be made, what kind of assurances could we be giving you
22 that would translate into presumably dollars invested?
23 And also could you just give us an overview of how you
24 anticipate -- Churchill leaves California, and they leave
25 California with comments negative to California the way

1 that things are carried on here. What is going to make it
2 more appetizing for you to want to be here and stay? I
3 know you're already in Bay Meadows. I know you have
4 personally been dedicated to horse racing. But in terms
5 of the new company, what assurances do we have that you're
6 going to be around or want to stay around?

7 And -- sorry. One more thing that I just wanted
8 to ask.

9 What difference will you and your group make in
10 Hollywood Park that hasn't been made up until this point
11 to turn around horse racing there?

12 MR. LIEBAU: I think that in my getting old and
13 in my senior moments it's going to be difficult for me to
14 answer your question one by one, but I'll try to go ahead.

15 First of all, as far as the future investments
16 are concerned, with respect to major investments such as
17 the installation of the poly-track, it's just not feasible
18 to put in a track of that nature and not have some
19 assurance that racing and dates will continue to be
20 allocated there. We have -- there has been talk about a
21 three-year calendar, which you have championed over the
22 last couple years. And if we got satisfactory dates, we
23 would definitely go ahead and do that.

24 I think that also with respect to other type
25 investments that are not of that magnitude, I think our

1 track record has been that we have made those type
2 investments at Bay Meadows.

3 I have -- you know, I'm probably -- there was a
4 posting just yesterday on Don Engel's site about -- from a
5 woman named Linda Better, which I can represent to you I
6 do not know at all. And it's sort of interesting and I
7 think it sort of makes the case for where we stand with
8 respect to racing. And if I could just indulge you for a
9 minute and read it. It's short.

10 And she says, "While there has been plenty said
11 in the press and elsewhere about the dire state of
12 California racing in general, and I have to agree with
13 much of it, there are some good signs of things to say.
14 We know that Bay Meadows" -- and then she's -- "(and now
15 Hollywood Park) are not long for our world. However, I'd
16 like to publicly mention that I have seen some actual
17 improvements to Bay Meadows recently.

18 "While the owners and management could say they
19 plan to bulldoze it in a few years so why bother, instead
20 have made some ongoing improvements, things like some new
21 TV screens, et cetera. I have already thought Bay Meadows
22 was a much better place to attend the races than most any
23 other track (more tables to sit at free, better food), so
24 seeing improvements is a pleasant surprise.

25 "One day a few months ago, I saw some of the

1 management walking around looking at things and discussing
2 possible changes. I went up to them and said they might
3 add to their presumably long list to get airconditioning
4 back in the owner-trainer lounge. Now for the sometimes
5 quite hot fair season we have airconditioning in the
6 lounge. I'm not saying they did it for me, but they are
7 listening or at least thinking themselves and doing
8 something rather than nothing.

9 "The fact that Bay Meadows has a very handy and
10 nice informal owners-trainers lounge to begin with, with
11 plenty of tables, et cetera, is significantly better than
12 most other tracks, but now it is even better and we can
13 even stay there on the hot days too if we want.

14 "They have done other little innovations for the
15 attendees other than years. Many are common at all these
16 tracks. Other include a variety of things like a special
17 on apple pie and coffee in the afternoon." It's sort of
18 become a joke at Bay Meadows, instead of saying post time,
19 it's pie time.

20 But, you know, I think that we have demonstrated
21 a record of improving that facility. And we certainly
22 intend to spruce up Hollywood Park, assuming that we get
23 approval here. But I don't think it's reasonable to
24 expect that we would make huge improvements that --
25 without some assurance that we could amortize those

1 improvements over some period of time.

2 I don't know, Marie, if I've touched on
3 everything. I promise I don't have anything else to read.

4 CHAIRPERSON HARRIS: Pardon me.

5 On the three years though, I mean in order to get
6 the fiber track and the pie and coffee and everything,
7 would that --

8 MR. LIEBAU: Maybe not quite as good as Harris
9 pie, but it's pretty good. Heidi's pie.

10 CHAIRPERSON HARRIS: But I mean basically,
11 assuming we could -- it's hard for us to allocate a
12 calendar that's just exact. We're looking sort of
13 conceptually that there's -- that we've got dates --

14 MR. LIEBAU: We understand.

15 COMMISSIONER SHAPIRO: I share some of the
16 concerns that Marie just enumerated. And I want to start
17 out with: I very much hope to see Hollywood Park continue
18 as a race track for the next 68 years. So I'm glad to see
19 that the initial intent is to continue as a race track.

20 I have a couple questions however. And what's
21 being asked of us, as I understand it, is that we make a
22 determination that the California Horse Racing Law is
23 better served by this acquisition. And yet I'm kind of
24 uncomfortable making that determination that it's better
25 served when I really don't know what you're going to do

1 with it. I've heard, and as you just clarified, that
2 assuming you get the same quantity of dates, plus or minus
3 a little bit, your intent is to put in perhaps a
4 poly-track surface. First question is: That's not
5 contingent upon gaming; is that correct?

6 MR. LIEBAU: That's absolutely correct.

7 COMMISSIONER SHAPIRO: Okay. What other
8 improvements and marketing and plans will be made at
9 Hollywood Park so that we don't see 3500 people in the
10 stands and what dollars will be allocated to a marketing
11 promotional effort while you're going through the process?

12 MR. LIEBAU: Well, I think that here again,
13 Commissioner Shapiro, I'm not in a position at this point
14 in time, as I'm sure you can understand. I mean we don't
15 close till September 23rd. And I haven't really gotten
16 into the marketing plans, what has been there in the past
17 and what we can do in the future.

18 All I can say is that we have been operating
19 under the same sort of cloud, so to speak, at Bay Meadows,
20 and I think we have established a record where we have
21 continued to market effectively and spend dollars and
22 improve our facility. We do not see a change in that
23 pattern at Hollywood Park.

24 As far as it being better served, you know, I
25 don't know in any specific detail who all the bidders

1 were, but they're generally known. Some of them weren't
2 interested in the racing at all and were willing to sign
3 the contract, because they probably would have continued
4 racing. I think that here your approval will assure that
5 Hollywood Park will continue to operate for some period of
6 time.

7 I think we all have to recognize that the
8 underlying economic structure of racing has to be changed
9 for the better. We are having, you know, kind of a
10 classic thing in free enterprise right now as far as
11 allocation of assets are concerned. And that's what's
12 happening to our race tracks. Some of them are more
13 valuable and have a higher, better use than being operated
14 as race tracks. And what we're trying to do is to change
15 that structure so that they can continue to be operated as
16 race tracks. And that's a long struggle -- hard struggle.

17 I mean we need everybody's help in that. I
18 think -- you know, there are things that are happening
19 that are positive. I think that -- one thing in the north
20 right now, for whatever reason, they seem to have more
21 horses than we previously had. The field sizes are
22 better. Our show that we're putting on is better.

23 One of our problems that we've got is, frankly,
24 our show is not very good. And we've got to improve the
25 show. We've got to get the purses up higher.

1 And we can do all the marketing in the world.
2 But if you don't have a good show, you aren't going to
3 bring those people there.

4 All I can say is that I would hope that you would
5 look at our record at what we've done at Bay Meadows. And
6 I think -- you know, we're in an industry where past
7 performances are sort of key things that we all bet on.
8 And I would hope that you would bet on our key people.

9 CHAIRPERSON HARRIS: Any additional questions on
10 this?

11 COMMISSIONER SHAPIRO: I have one last question,
12 which just goes to the ownership structure. I understand
13 the ownership structure. The question is: The general
14 partner, which I assume is the party that has the
15 liability with respect to assuming the pension funds are
16 all limited partners -- what assurances do we have or what
17 information can we have in terms of the capitalization of
18 the general partner, since that's the part I'm assuming
19 that will be liable for anything related to the ownership
20 entity?

21 MR. LIEBAU: Well, first of all, with respect to
22 these entities themselves, I mean they're going to -- the
23 Hollywood Park entity, there will be some conventional
24 financing put on the property, but there will probably be
25 upwards of a hundred million dollars of equity that's in

1 there. So I mean that's one gauge of financial
2 responsibility. We will be in a position to satisfy you
3 with respect to the financial responsibility of the
4 ability of new managers to conduct racing. We fully
5 understand that. Today on the agenda is a second item
6 that's somewhat related to this, is the operation of
7 Hollywood Park as a satellite concurrently with the
8 closing. Because if we weren't licensed, that activity
9 could not continue at Hollywood Park.

10 We have -- and that -- as you know, the wagering
11 activity is carried on there by SCOTWINC. They -- the
12 cost of the clerks. They're responsible for what
13 obligations to the wagering public. So most of your
14 satellites -- I don't know what financial responsibility
15 they have, but it doesn't take a lot to operate those once
16 you're a satellite, because all you are is selling
17 programs and having people come in and clean the place up
18 and you have a certain amount of security.

19 We have deposited in the entity that is asking to
20 be licensed today at the outset a million dollars. The
21 confirmation of that deposit has been delivered to John
22 Reagan today. And so that is the financial responsibility
23 that we think is more than adequate to operate as a
24 satellite. If you thought it was inadequate, you could
25 condition the license on whatever number you thought was

1 appropriate.

2 When we come to you to be licensed as a meet in
3 the fall, you will then be in a position to again look at
4 our financial responsibility, and I'm sure that we will be
5 able to satisfy you.

6 COMMISSIONER SHAPIRO: Thank you.

7 CHAIRPERSON HARRIS: So what we're doing here is
8 not really licensing you as a track. We're just approving
9 the purchase, which would use an -- because it would
10 constitute ownership --

11 MR. LIEBAU: There is its overlapping ownership.
12 It's a little different than in the past where there's
13 been overlapping ownership because it's not the same
14 entity. I mean we have the beneficial owners of these --
15 the majority interests in these two tracks is different.
16 It just so happens that they do have the same general
17 partner.

18 CHAIRPERSON HARRIS: Yeah, the Magna example
19 would be more clear-cut. But this -- this probably,
20 because if you're doing this -- and I think it's something
21 we've looked at. But as I see it, it's pretty inevitable
22 that we need to approve.

23 Do we have a motion on this?

24 VICE CHAIRPERSON BIANCO: So moved.

25 CHAIRPERSON HARRIS: Is there a second?

1 COMMISSIONER MORETTI: Second.

2 CHAIRPERSON HARRIS: Okay. All in favor?

3 (Ayes.)

4 CHAIRPERSON HARRIS: Okay. The second part is
5 actually the simulcast wagering facility, which is really
6 not the track. It's just the facility which is -- as you
7 stated, is operated by SCOTWINC.

8 SENIOR PARIMUTUEL EXAMINER REAGAN:

9 Commissioners, right now that facility is
10 operated by Churchill Downs/Hollywood Park. If this
11 transaction is completed on or about September 23rd, that
12 ownership will then transfer to this new group. This is
13 an application for the new group, so that in a sense
14 Hollywood Park continues as a satellite uninterrupted.
15 And that's what we recommend that you approve today.

16 MR. LIEBAU: In connection with that application,
17 we have changed the name of the entity to Hollywood Park
18 Racing Association, rather than I think it's Stockbridge
19 something.

20 SENIOR PARIMUTUEL EXAMINER REAGAN: Yeah,
21 currently on the application it's Stockbridge HP Fall
22 Racing Association, LLC.

23 So you're making what change?

24 MR. LIEBAU: We've just changed the name to
25 Hollywood Park Racing Association. All of the documents

1 that have been filed with the State -- from the State of
2 Delaware and the State of California to allow the conduct
3 of business here in California have previously been
4 delivered to staff.

5 And as I mentioned as far as the financial
6 responsibility, there has been a million dollars that's
7 been deposited in an account as a contribution -- an
8 initial contribution.

9 CHAIRPERSON HARRIS: Any comments on this?

10 COMMISSIONER SPERRY: Is it not conditioned
11 upon --

12 MR. LIEBAU: It's conditioned -- it should be --

13 COMMISSIONER SPERRY: -- in having live racing?

14 MR. LIEBAU: The problem that we have,
15 Commissioner Sperry, is that if any entity that -- any new
16 entity had previously been licensed to conduct racing --
17 conduct a racing meet, it would automatically be licensed
18 to conduct the satellite facility. Here we have a
19 problem, so to speak, in that this entity has never before
20 been licensed to conduct a meet and, therefore, has to be
21 licensed separately as a satellite wagering facility. We
22 will then come to you -- in fact, we have filed an
23 application to -- for the 1905 fall meet, which is to
24 conduct the actual racing meet.

25 COMMISSIONER SHAPIRO: I think what you're asking

1 for makes sense and I would applaud the name change.

2 So I'll move that conditioned upon a sale that is
3 in fact concluded that we approve -- that we approve this.

4 VICE CHAIRPERSON BIANCO: I second.

5 CHAIRPERSON HARRIS: Is that sale actually
6 approved? I mean it's not really in the --

7 COMMISSIONER SHAPIRO: It hasn't closed yet, has
8 it?

9 MR. LIEBAU: No, it hasn't closed yet.

10 CHAIRPERSON HARRIS: I had it on
11 condition that --

12 MR. LIEBAU: Well, I think you want to condition
13 it on the closing taking place, because we want to be in
14 business concurrently. And I think every track that's
15 then operating live has a dog in that fight to make sure
16 we can continue to have wagering there, because it's a
17 very important location for off-track wagering.

18 CHAIRPERSON HARRIS: Okay. So we've got the
19 motion.

20 Is there a second?

21 COMMISSIONER MORETTI: Second.

22 CHAIRPERSON HARRIS: Any other discussion?

23 All in favor?

24 (Ayes.)

25 CHAIRPERSON HARRIS: Okay.

1 MR. LIEBAU: Thank you very much for
2 accommodating my schedule.

3 CHAIRPERSON HARRIS: Okay. The next item is the
4 report from the California Animal Health and Food Safety
5 Lab on the postmortem program.

6 DR. STOVER: Susan Stover, University of
7 California at Davis. I thank you for the opportunity to
8 share postmortem program findings.

9 (Thereupon an overhead presentation was
10 Presented as follows.)

11 DR. STOVER: First, I'd like to convey Dr. Alex
12 Ardans' regrets for being unable to attend this morning at
13 the last minute due to some family illness.

14 --o0o--

15 DR. STOVER: Okay. First, just a reminder of
16 some of the reasons why the postmortem program is so
17 important to the horse racing industry. We know that
18 musculoskeletal injuries are the cause of approximately 80
19 to 84 percent of race horse deaths.

20 So we'll move here.

21 --o0o--

22 DR. STOVER: On average, not only in California
23 but in other racing jurisdictions, there are approximately
24 one to three deaths due to musculoskeletal injury per
25 1,000 race starts. So that means we lose a horse -- if we

1 have ten horses in a race, ten races a day, approximately
2 one to two horses every ten racing days.

3 And of course that results in not only race horse
4 deaths, but human morbidity and mortality as well.

5 --o0o--

6 DR. STOVER: Perhaps more insidious but probably
7 of greater magnitude is the fact that musculoskeletal
8 injuries result in training failure. And there are
9 several studies. But one that we've conducted in southern
10 California showed that approximately a quarter of all race
11 horses leave the racetrack in a three-month period of time
12 due to musculoskeletal injury. And that attrition rate in
13 any business would be quite large.

14 --o0o--

15 DR. STOVER: So a little review. The postmortem
16 program was initiated in 1990. So it's been here about 15
17 years. Original sustained objectives are to determine the
18 nature of injuries, the reasons for those injuries and a
19 better understanding of how those occur so that we can
20 develop injury prevention strategies, with the paramount
21 goal of enhancing welfare of the horses and also the race
22 horse industry to tie closely together.

23 --o0o--

24 DR. STOVER: Of course the program is the
25 California Horse Racing Board Postmortem Program.

1 for injury prevention.

2 --o0o--

3 DR. STOVER: Just one example. Over the years we
4 discovered sites of stress fractures in the pelvis of race
5 horses by examination through necropsy on the necropsy
6 floor. Recognizing that there were preexisting
7 microscopic cracks and injuries that proceeded
8 catastrophic failure and death in race horses and knowing
9 where those sites occurred, such as in this illustration,
10 and with the installation of scintigraphy at southern
11 California race tracks and equine practices close to other
12 tracks, we've been able to pick up injuries before they
13 were catastrophic. And the good news here is that many of
14 these injuries can successfully heal and horses can return
15 to complete athletic performance.

16 Illustrations on the right include two examples
17 where sintigraphic examination techniques were modified to
18 enhance ability of pick up these specific lesions. And
19 knowing where they were, ultrasonographic techniques were
20 also developed.

21 So for those people that are following these
22 findings, we have a much better idea of what's happening
23 with these horses and are detecting injuries at a state
24 where they can be repaired by the horse and continue to
25 racing as opposed to developing catastrophic fatal

1 injuries.

2 --o0o--

3 DR. STOVER: Specifically relative toe grabs
4 which we've been following over the years, several studies
5 including several through this program found increased
6 risk of fatal injuries with high toe grabs and also some
7 aspects of hoof confirmation such as long toe -- the heel.
8 However, because one study in Oklahoma did not find the
9 same findings and because these studies are done on dead
10 horses, which may be inherently different from horses that
11 did not die, we pursued some other studies.

12 --o0o--

13 DR. STOVER: This is initial results from
14 postmortem program in which the use of regular high toe
15 grabs at an increased risk for fatal injury 3 1/2 times.
16 And if we looked at specific injuries such as fetlock
17 breakdown illustrated here, that risk increased to over 15
18 times.

19 --o0o--

20 DR. STOVER: So at that point in time there were
21 probably three or four or five studies that showed
22 increased risk for toe grab with fatal injury as well as
23 one study was unable to find a similar finding. So we
24 embarked on a two-year study at northern and southern
25 California major race tracks in which the appliances

1 attached to horseshoes were reported from over 8,000
2 races, 11,000 horses in that period, over 49,000
3 observations.

4 --o0o--

5 DR. STOVER: We found some good news from that
6 study. The first is that apparently in California the
7 height of toe grabs has been voluntarily reduced by horse
8 owners, trainers, veterinarians governing the decisions in
9 that in 1996 approximately 88 percent of horses that we
10 examined horseshoes on had low, regular or high toe grabs
11 and in 2004 that's reduced to 61 percent. So not
12 everyone, but a definite reduction.

13 --o0o--

14 DR. STOVER: Similarly, associated with fatal
15 injuries of 78 horses that died in that time that we had
16 enough information on, toe grabs were no longer a
17 significant factor for injury. Now, this is statistically
18 significant. What I haven't shown here is that there was
19 still positive relationship and that the risk associated
20 with toe grab was still associated with injury. But
21 because we had few irregular and high toe grabs on horses
22 and a relatively small number of horses that died, that's
23 not statistically significant. However, the trend was the
24 same.

25 And, again, we found those in previous studies

1 that exercise is related to history -- excuse me -- to
2 injury.

3 --o0o--

4 DR. STOVER: That's shown here, just we can show
5 that the intensity with which horses are trained differs
6 between horses that died in the cases here, 241 horses in
7 the 11,000 control horses. So the relationship between
8 exercise and injury are still very strong.

9 --o0o--

10 DR. STOVER: That's illustrated here on this
11 graph where we're looking at a horse's racing career,
12 proceeding from the left to the right in days. And over
13 that time, the amount of exercise -- high speed exercise
14 that horse has in time works -- official time works in
15 races. We have two horses illustrated here, the squares
16 and the circles. The squares are a horse that actually
17 ended up with a fatal musculoskeletal injury. And we can
18 see that the line through these squares is steeper than
19 the line through the circles. And that indicates that the
20 horse that had the severe fatal injury in fact was trained
21 more intensely.

22 What's probably of greater magnitude horse-wise
23 to the industry is if we look at the training period of
24 those horses, we see that when actually both horses
25 develop a steep portion to their curves, they both incur

1 what we call a lay-up or absence of training for over a
2 60-day period of time.

3 --o0o--

4 DR. STOVER: And I show that to you because we
5 also were able with this large database to look for the
6 risk for lay-up, and we estimate that an approximate 80
7 percent of horses are laid up due to musculoskeletal
8 injury. Of course there are other reasons that a horse
9 might lay up; respiratory disease, for example. But we
10 estimate approximately 80 percent of those due to
11 musculoskeletal injury. And here we still see increased
12 risk associated with toe grabs for horses laying up.

13 So the risk is still positive and it's still
14 present.

15 --o0o--

16 DR. STOVER: However, it's -- we can see by the
17 new points on this illustration, these two ones on the
18 right are associated with regular and high level toe
19 grabs. And they're higher on this graph than very low toe
20 grabs, for example. And that's where the risk is highest,
21 with the highest level of toe grabs.

22 --o0o--

23 DR. STOVER: So our current recommendation is to
24 avoid use of regular and high high toe grabs on these race
25 horses.

1 --o0o--

2 DR. STOVER: Now, a study was just published this
3 month actually that -- out of Florida where they similarly
4 underwent a two-year study looking at the appliances on
5 horseshoes and their risk for severe injury, which was
6 defined as a horse that had a visible lameness after a
7 race that did not return to racing for a six-month period
8 of time. And in that study they similarly had
9 relationships between exercise intensity, but also between
10 toe grab and risk for severe injury.

11 This OR, or odds ratio, of 1.5 indicates that a
12 horse is at one point 1 1/2 times greater risk for injury
13 if they're wearing a toe grab than if they're not wearing
14 a toe grab. The only caveat here is with 43 horses that
15 had a severe injury, again relatively small numbers, this
16 again is not statistically significant, but the trend is
17 still in the same direction.

18 Essentially what the means is that if they had
19 twice as many horses or maybe more horses, and if those
20 horses had the same pattern that the horses they studied
21 showed, then this would likely become statistically
22 significant.

23 So whereas we're not finding statistical
24 significance, the trend is still in the same direction,
25 that horses are at higher risk for severe or fatal

1 injuries and from laying up or inability to race or train
2 if toe grabs are on the shoes.

3 --o0o--

4 DR. STOVER: So just in another area. And
5 throughout the years we continually try to peck away at
6 different sub-categories of injuries so we can study them
7 in more detail. The ones we focused on in the past couple
8 of years are those around the fetlock region, the
9 suspensory apparatus, which are by far the largest cause
10 of death in our race horses.

11 --o0o--

12 DR. STOVER: The suspensory apparatus are those
13 structures on the back of the fetlock that have to support
14 it when the fetlock is loaded during racing. They consist
15 of what we call soft tissue structures, or tendons and the
16 ligaments, here suspensory ligament, distal ligaments, and
17 the middle of the proximal sesamoid bones all lined up
18 against the back of the fetlock region.

19 --o0o--

20 DR. STOVER: Injuries that are severe to race
21 horses include a disruption of the ligamentous part of the
22 apparatus, fracture of the proximal sesamoid bones or
23 disruption of the distal ligaments resulting in
24 displacement of the sesamoid bones and inability to
25 support the fetlock.

1 --o0o--

2 DR. STOVER: I think last year we reported that
3 we did an extensive survey of the soft tissue ligamentous
4 portions and had discovered lesions in new locations, that
5 were sending that information so that veterinarians can be
6 looking for it.

7 --o0o--

8 DR. STOVER: We recognize that horses with those
9 types of injuries, although they could complete a race,
10 illustrated by a 1 on this graph, if they had that
11 injury -- mild injury, illustrated by the solid line, they
12 essentially because that line is going down were being
13 lost from training. So a three-month period of time
14 almost half of the horses that had a mild injury to
15 suspensory apparatus were removed from training, whereas
16 those that did not have a mild injury fewer of them were
17 removed from training. So Emphasizing that mild injuries,
18 although a horse may be able to get through a race,
19 ultimately is going to result in a shortened career.

20 --o0o--

21 DR. STOVER: As a follow-up to that this past
22 year we've looked at proximal sesamoid bone fractures in
23 328 horses; 136 of those horses had fractures in the
24 proximal sesamoid bone associated with injuries severe
25 enough to result in euthanasia and death.

1 --o0o--

2 DR. STOVER: So these fractures are very common,
3 with recognized patterns differences between bones on the
4 inside and the outside of the fetlock, which are clues for
5 us in how these fractures develop.

6 We recognize that these fractures are most likely
7 to occur in horses that don't have radiographic
8 abnormalities that we can pick up early on. And so we're
9 following up on this to see if there are other changes or
10 other things in the exercise history that can give us a
11 clue on how to prevent these fractures. And although
12 we're currently working on the data, we do recognize that
13 it's clear that these horses are more intensely raced and
14 trained than horses that do not have proximal sesamoid
15 bone fracture.

16 --o0o--

17 DR. STOVER: So to date again a sobering
18 statistic: Over 3,600 race horses have been necropsied
19 through this program. And last year 269 race horses died
20 at California. Similar to previous years, 84 percent were
21 thoroughbreds. More thoroughbred horses race.
22 Approximately 80 percent death due to musculoskeletal
23 injuries. Still seeing approximately 60 to 65 percent of
24 horses die due to injuries incurred during racing. And
25 still a substantial amount, over a third, die due to

1 injuries occurring in training, and still indicates the
2 need to continue looking at both -- all horses that die.

3 --o0o--

4 DR. STOVER: Distribution of injuries is similar
5 to that in previous years.

6 --o0o--

7 DR. STOVER: And we're still -- you'd like to
8 know how we're doing over time, and we'd like to know that
9 too. One of our current goals is -- I'll mention in a
10 minute, is to look at the past -- the entire duration of
11 the necropsy program and next year provide information on
12 trends over that period of time.

13 However, we still need population data. We can
14 tell how many horses incurred what each year. But until
15 we know how many out of total horses, we don't know
16 proportions or percentages. And so we're looking for any
17 opportunities to generate known data of the population or
18 inventory of horses at the race track. And there may be
19 opportunities with discussions about horse identification
20 at the same time.

21 --o0o--

22 DR. STOVER: So those are two of our major goals,
23 summarize maybe the following year postmortem program
24 results across time, and at the same time see if we can
25 begin implementation so that we can determine the true

1 incidence of injuries through horse inventory data
2 collection.

3 --o0o--

4 DR. STOVER: Certainly need to acknowledge the
5 foundations that are funding the research arm of this
6 program.

7 --o0o--

8 DR. STOVER: And thank for your attention.

9 CHAIRPERSON HARRIS: Yeah, thank you, Dr. Stover.
10 That was an excellent report.

11 I think the necropsy program is something that
12 California in total can be very proud of. As I understand
13 it, we're one of the -- actually the only state that has
14 an extensive necropsy program. And they can start it
15 originally to date most to better understand what was
16 going on. But it's been a lot of side benefits to horse
17 health and horse soundness in general.

18 And my only concern is that we maximize what we
19 have and assure that you're getting, you know, any
20 information you need that can better enable you to prevent
21 or diagnose injuries.

22 Can you explain a little bit? Isn't there an
23 advisory board that's helping you on that?

24 DR. STOVER: Yes, there is. The postmortem
25 program has an advisory board that meets at a minimum once

1 a year. And we actually met with the advisory board I
2 think last week. And the advisory board is very helpful
3 to us because it helps us understand what the needs are of
4 the racing industry. And it's a mechanism by which we can
5 disseminate information of our findings.

6 CHAIRPERSON HARRIS: Are we getting when we have
7 a catastrophic breakdown the health history on the
8 individual involved?

9 DR. STOVER: I think that might be a question
10 that Dr. Ardans or someone else might be able to better
11 answer. The arm of the program that I work with is -- a
12 lot of information is confidential. And so that I don't
13 see a lot of information that might be there.

14 CHAIRPERSON HARRIS: Sometimes I worry that we
15 get maybe too concerned with some of the confidentiality
16 and it might be hampering our ability to really see what's
17 going on. But I think if we could look at that and see if
18 we could, you know, try to pull the whole thing together
19 where we're not -- not only diagnose what happened, but
20 really also assess, you know, what might have led to a
21 problem.

22 DR. STOVER: Yeah. Well, the advisory board
23 mentioned had a similar interest. And so consequently
24 we'll probably -- probably pursue, you know, voluntary
25 phone calls and trying to get some more information about

1 what's happening with the horse prior to injury.

2 COMMISSIONER SHAPIRO: Dr. Stover, so besides the
3 death -- and what I heard there was the toe grabs are a
4 very large contributing factor to what you looked at. But
5 what prophylactically can we do to minimize this? I mean
6 track surfaces certainly are a contributing factor. What
7 I heard is the amount of stress through exercise is a
8 contributing factor.

9 What other conclusions come to your mind? And I
10 think this is related to what Chairman Harris's comment
11 was, which is: Are you looking or is somebody looking at
12 what medications are in these horses that may be
13 contributing to breakdowns also? What other data can we
14 glean from this program that could be useful to us?

15 DR. STOVER: Well, I think there are a lot of
16 opportunities. And although I haven't presented it today,
17 we are also looking at race track surfaces and exercise
18 history. So we're looking at things that we can manage.

19 As for the medication issue, probably Dr. Stanley
20 might be better to help answer those questions. But we
21 have attempted to look at some medication levels related
22 to injury. And part of the problem is that most race
23 horses are on medication, for example, nonsteroidal
24 anti-inflammatory drugs. So we actually did a complete
25 study, but we had no control horses. So all horses were

1 on medication, so we had no comparison group.

2 So it's a little -- it can be challenging. And
3 maybe Dr. Stanley has some other comments.

4 DR. STANLEY: Yes. Scott Stanley, UC Davis.

5 We did in the last year start to collect samples
6 from these postmortem horses and test them through the
7 drug testing program at UC Davis. We reported that
8 information back with Dr. Ardans, the pathologist.

9 In most of those cases many of the horses were
10 not euthanized immediately and had gone through some level
11 of treatment. Some of the horses were sick that were
12 euthanized and weren't euthanized due to injury. Not all
13 that information was available. So compiling it after the
14 fact, we did find several things, and many of them were
15 therapeutic. We had some other findings that were being
16 further investigated.

17 But it's only recently that we assembled that
18 information. They've only really -- since the beginning
19 of the year that we started testing those samples. And we
20 were planning to do more and more of the samples where we
21 can obtain a urine sample and do more testing on that. So
22 we really only have about six or eight months worth of
23 information initially. And as we compile that I think we
24 can lead it back to more information.

25 As far as the medical records on most of those

1 horses, we get information about what happened to them in
2 a very short period of time before the catastrophic injury
3 before the animal is submitted how they were euthanized,
4 what medications were treated. But we don't have
5 information about their long-term medical treatments that
6 had been done, in most cases. So we don't really know
7 exactly what happened, say, much before a few hours of the
8 horse being submitted.

9 CHAIRPERSON HARRIS: That was one of the things I
10 was concerned that we take a look at is maybe a process to
11 figure out the best protocol to do it. But that we
12 develop some way that you can tell, you know, a month out
13 of all the things that the horse had and see -- not to go
14 on a witch hunt, but just to see what may or may not
15 contribute to injuries.

16 DR. STANLEY: Yeah, I think with the database
17 that we talked about yesterday compiling some of this
18 information at the Medication Committee about some of the
19 medical treatments on these horses, I think we could then
20 utilize that to go backwards and see if we can make any
21 connections.

22 COMMISSIONER SHAPIRO: You showed one of your
23 slides, I think it was the pelvic slide -- and I'm not
24 sure I understood it -- but it showed where there was a
25 chip or a -- before, if I was understanding, that before

1 that horse died, there was a small fracture.

2 Are there bone scans or things that can be done
3 that are available and now to our trainers so that these
4 horses could be evaluated or tested to predict that
5 there's a problem here before there's a fatal breakdown?

6 DR. STOVER: Well, I think some of that is
7 already happening. A bone scan is a procedure because the
8 horse is administered radial pharmaceutical and has to be
9 housed in an area until the radial pharmaceutical washes
10 out. It's not simple enough to be used as a scanning
11 procedure for all horses that might run. But the more we
12 learn about each of these injuries, we have an idea of
13 what events precede the injury. And the humeral stress
14 factor is less characteristic, one where we know that
15 horses are a great risk when they come back from a lay-up
16 and are first in training.

17 With that knowledge, many veterinarians and
18 trainers can actually pick them up by characteristic
19 history and physical signs. Then usually they would
20 request a bone scan if they find that horse can be treated
21 appropriately.

22 So those things are happening. But there are --
23 any techniques that can be used. Like we go through at an
24 airport, everybody gets screened, those sorts of things
25 aren't quite feasible. But certainly we've made advances

1 in identifying specific injuries and helping some horses,
2 just not all of them yet.

3 CHAIRPERSON HARRIS: Yeah, I think the diagnosing
4 tools available now are far superior to what he had even
5 ten years ago. And I think if somebody ever come from new
6 medicine -- but we've got a lot of ways to tell. But it's
7 just like a new medicine, not everyone necessarily takes
8 advantage of them.

9 DR. STOVER: Um-hmm.

10 CHAIRPERSON HARRIS: Well, let's see. We've got
11 to keep moving along.

12 Any other questions of Dr. Stover or the overall
13 program? It is an excellent program. I think maybe we
14 just need to maximize it.

15 Dr. Robbins.

16 DR. ROBBINS: I propose that previous
17 discussion --

18 CHAIRPERSON HARRIS: This is Dr. Jack Robbins.

19 DR. ROBBINS: Yes, I'm Jack Robbins, Oak Tree
20 Racing Board.

21 Again, I propose the previous discussion. How
22 many horses were blessed with the soundness that your
23 grandfather's horse was?

24 COMMISSIONER SHAPIRO: That's because you were
25 its vet.

1 DR. ROBBINS: It would have been easy game if
2 they were.

3 COMMISSIONER SHAPIRO: If you'll come back
4 practicing.

5 DR. ROBBINS: Now, for the application of the Oak
6 Tree Racing Association. It's not a new application.
7 It's been around about 35 years. And Mr. Chillingsworth,
8 our Executive Secretary, says everything's in order. And
9 we're trying to race --

10 CHAIRPERSON HARRIS: Oh, this is for Item 4.

11 Yeah, I'm sorry. I didn't introduce this item.
12 We're now discussing the application to conduct a horse
13 racing meeting of the Oak Tree Racing Association, while I
14 presume Mr. Chillingsworth is enlightening the crew up at
15 Saratoga.

16 DR. ROBBINS: -- From September the 28th through
17 November 6th of this year.

18 CHAIRPERSON HARRIS: Now, anything on this
19 application that we should --

20 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Roy Minami,
21 Horse Racing Board staff.

22 For the Oak Tree Racing application, they've
23 proposed to race five days a week, Wednesday through
24 Sunday with eight races week days; nine, opening day and
25 weekends. First post will be at 1 o'clock Wednesday and

1 Thursday, 2:30 on Friday, and 12:30 on weekends and
2 holidays.

3 I'm pleased to say that their application is
4 complete. We do have all of their information. And staff
5 recommends that the Board approve the application.

6 COMMISSIONER SHAPIRO: Mr. Minami, are they
7 running six days a week on the week of October 9th?

8 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Mr.
9 Shapiro, yes, that's correct. October 10 is a holiday. I
10 believe that's Columbus Day. So they will be dark on
11 Tuesday.

12 CHAIRPERSON HARRIS: As I recall, there was some
13 discussion on that. They're trying to get away with a
14 six-day week. So the thought was that Oak Tree was a
15 relatively short meet, and we allowed that to happen.

16 Any questions on this?

17 COMMISSIONER SPERRY: Move approval of the
18 application, Mr. Chairman.

19 COMMISSIONER GRANZELLA: Second.

20 CHAIRPERSON HARRIS: All in favor?

21 (Ayes.)

22 CHAIRPERSON HARRIS: At this time I might suggest
23 we move up Item No. 8, because the City of Fresno has to
24 get out of here right away, because we've got Item No. 8
25 that involves the stewards. And they're able to be here

1 now and they may have to leave at some point.

2 Basically I asked that this be put on the agenda.
3 It's a discussion action by the Board on procedures for
4 suspensions relative to the amount of time available to
5 request stays from the CHRB or courts.

6 As Chairman of CHRB, I am the person that is
7 requested to give stays. If there's an action by the
8 stewards that a jockey or whoever the person is that is
9 sanctioned wants to appeal, they appeal. And at the same
10 time they appeal, they can request a stay.

11 And the problem is, particularly with jockeys, is
12 that I'm concerned that these suspensions start far enough
13 from the time of their issuance so that there's ample time
14 to request an appeal or stay.

15 And sometimes entries are -- for instance, if
16 someone had a suspension that was, say, issued today, it
17 might start on Saturday. But the problem is the entries
18 for Saturday are today. And basically they may have been
19 deprived of their right to appeal.

20 I think one of the concerns originally that came
21 about on this was that jockeys were trying to, you know,
22 use the appeal process to sort of select dates that were
23 different than -- that weren't comparable dates, where
24 everyone would like to take their days during -- versus
25 Del Mar.

1 But I think we've got to balance all these
2 different interests. And what I'd like to do is just
3 discuss, unless anyone wanted to bring it up to the Board,
4 that we would have as a policy that stewards allow more
5 time from the issuance of the -- when the suspension would
6 start to not deprive whoever's being sanctioned of their
7 rights to appeal and request a stay. I mean often times I
8 would not necessarily give a stay.

9 But the question is: If we don't give a stay,
10 should they still have time to go to the courts? Because
11 with a suspension you can't really get the toothpaste back
12 in the tube. If you're a jockey and you're suspended and
13 you lose four or five days, that is income to you that you
14 can't really get back if subsequently you were found to,
15 you know, not be in violation of whatever you're suspended
16 for.

17 So I don't think we want to be soft on them. But
18 I just -- I think that it's a danger if we start taking
19 away some of the basic rights that people have. And I'd
20 like to hear from the different parties and get some
21 feeling of what the most fair system is.

22 MR. NEVIN: Dennis Nevin.

23 I'm here at your request, Mr. Chairman. And then
24 I would probably submit that perhaps if you desire more
25 discussion, I think we could bring it up in the stewards

1 committee meeting. But for today's purposes, we did not
2 take this issue lightly. And as you know, historically
3 days were given on the next entry day. About five or six
4 years ago the process was changed to facilitate, as you
5 amplified, the ability for a licensee to request an
6 appeal, either through the Board Chairman or the courts.

7 As we have been bombarded by the industry,
8 horsemen alike, as well as jockeys, that it's been
9 drastically abused. And the prerogative is ours to assign
10 days, short of a directive from the Board to do
11 differently.

12 We felt that we would go back to the industry
13 standard, which if not all -- virtually all of the
14 jurisdictions start their suspensions with riding
15 infractions on the following entry day. What we do, and
16 we have been recently issuing for the next entry day,
17 advise the riders to go right next door to the CHRB office
18 and request an appeal. We've also advised them that they
19 would receive a stay and we would allow them go back on
20 horses that they had calls on, which was done historically
21 up until five or six years ago.

22 The problem being with the system up until
23 recently, when we pulled not only the stewards in
24 California, but the riders themselves and the guild
25 representatives, and everyone was in favor of it because

1 of the abuses that had taken place. Some riders have
2 accumulated a five, six, seven riding suspensions,
3 accumulating numbers of days, and then elected to drop
4 their appeals when it was convenient for them and go on
5 vacation for a month or two.

6 Suspensions are intended for two purposes. One
7 is a punitive action for what's already taken place. And
8 the other, to act as a deterrent for other riders that
9 they can't do this type of action, either -- or negligent
10 riding.

11 And we feel that if we don't take immediate
12 action, those riders that are riding at that particular
13 meet at that given time see fit to ride in a manner which
14 is not in the best interests of certainly the horses, the
15 riders on their backs or the public. So we've taken that
16 action, right or wrong. We will follow your directions.
17 If you tell us not to, we will abide by your decision. We
18 feel it's in the best interests and perhaps more input
19 should be taken from the riders and their representatives.
20 But we'll honor your request. Whatever you tell us, we'll
21 work at your pleasure.

22 CHAIRPERSON HARRIS: Yeah, I think all we want to
23 do is just figure out what is the most fair, equitable
24 system that still, you know, respects all the parties'
25 rights. And I agree completely that you don't want

1 suspensions to be taken lightly.

2 But I'm not clear on the actual process. Maybe
3 our Attorney General representative, Gary Knight, can --
4 how much time is there for an appeal of a steward's
5 ruling?

6 DEPUTY ATTORNEY GENERAL KNIGHT: The way your
7 rule reads, you have 72 hours to appeal a steward's
8 decision. Now, if that falls on a weekend, that does run
9 over to the following Monday, if it happens to -- the 72
10 hours, if it hits on a Saturday or Sunday. So you have
11 three days to appeal.

12 Maybe just going through the stay process. The
13 idea of the stay would be only -- a stay would be granted
14 only pending an appeal. The idea is that any stay that
15 would be granted would be in a situation where there's an
16 appeal, for obvious reasons.

17 CHAIRPERSON HARRIS: I mean would appeal be
18 first? Which do you do -- do you appeal and then request
19 a stay?

20 DEPUTY ATTORNEY GENERAL KNIGHT: Well, that's how
21 it should work, yes. Because otherwise you would have a
22 situation where you'd be granting a stay on a decision
23 that wasn't even appealed. And so theoretically -- the
24 statute doesn't require that. But in practice that's
25 how -- I think I would certainly urge you to require them

1 to appeal if you're going to -- before you would grant
2 them a stay.

3 Now, in terms of granting a stay, the statute
4 just says if the facts justify it. And then your rule
5 requires them to submit facts and reasons why a stay
6 should be granted. So a stay is not considered something
7 that should be just granted just because they requested
8 it. There should be a justification for it. And -- which
9 I know you're aware of. But I just wanted to sort of --
10 and the other thing, just so that everybody's aware, your
11 rule also provides that if a stay is granted, it carries
12 no presumption of how the outcome of the appeal might be
13 and so on. And it also provides that a stay can be
14 withdrawn at any time after it's been granted. So you
15 have a great deal of flexibility in terms of the stay.

16 But that's sort of the lay of the land anyway.
17 In terms of timing, three days for an appeal. If you
18 were -- for example, they come to Chairman Harris for a
19 stay and you deny it. A respondent can then -- if they
20 choose to, they can go to court and they could seek a stay
21 order from the Court as well. And so if you're trying to
22 build in a timeframe to allow that to occur, of course
23 there's additional days there involved. Most courts are
24 going to require at least a 24-hour notice before you
25 could go in even for a TRO-type of an emergency stay

1 order.

2 So, you know, you can kind of calculate. There's
3 some days involved if you're going to try to
4 accommodate -- you know, it's really a judgment call --
5 total judgment call for the Board how you want to handle
6 this.

7 CHAIRPERSON HARRIS: Well, and by our rules I'm
8 concerned with this 72-hour thing though. If they can
9 start the next entry day, basically people would be
10 entering on somebody that is under suspension -- I'm
11 concerned mainly just the clarity between all the
12 different parties involved, the fans and the owners and
13 the trainers, where somebody's named on a horse what the
14 likelihood of that horse --

15 COMMISSIONER SHAPIRO: Well, I'd like to perhaps
16 suggest a compromise or a solution, because I think the
17 inflection in part is that if the -- if it is to be the
18 next entry day, in most cases I think trainers probably
19 have a rider lined up, and that would be a disadvantage to
20 a rider -- I mean to a trainer and an owner who had
21 nothing to do with the infraction.

22 And so what I would like to suggest is -- and I
23 support the position of the stewards and, frankly, I
24 applaud the position that you've taken -- that maybe what
25 we should do is insist that an appeal be filed first, and

1 that appeal has to be filed and a stay cannot -- and that
2 any suspension cannot be become effective less than 72
3 hours out.

4 Because that way if a horse is going to be
5 entered the next day, the trainer and the owner aren't
6 disadvantaged by not being able to use the jockey they'd
7 already lined up. So perhaps rather than the next day's
8 entry, we delay it for 72 hours and then give them the
9 period to file the appeal or -- and then if they file the
10 appeal, then seek a stay from the Chairman. And make them
11 file the appeal first though.

12 CHAIRPERSON HARRIS: Yeah, the 72 hours from the
13 next -- I think a lot of the confusion is between the next
14 day the person would -- for the next entry day. So it's
15 72 hours to the next entry day, I could buy that.

16 COMMISSIONER SHAPIRO: Yeah, I'm saying 72 hours
17 from the next entry day. And that way -- we cannot
18 tolerate the abuses that have occurred recently with the
19 cruel suspensions and so forth. I think that the stewards
20 have to be able to have this guidance. I think they're
21 doing the right thing. But maybe we just tweak it a
22 little bit and make sure they do the appeal, try to get a
23 stay. And if not, you guys can set them down.

24 EXECUTIVE DIRECTOR FERMIN: I would just like to
25 comment on a couple of things on some of the abuses that

1 Mr. Nevin hasn't mentioned, where we don't grant days
2 unless they already initiated an appeal. But I think
3 we've been doing this very quickly. I've been very
4 available and I get ahold of John as quickly as I can.
5 And I know, for instance, one of the most recent ones I
6 believe this Board had told the rider on Thursday morning
7 that he was going to get days, the next entry day was
8 actually Monday. Is that how it worked? Because they
9 took double entries or --

10 CHAIRPERSON HARRIS: That was Saturday --

11 MR. NEVIN: Saturday.

12 EXECUTIVE DIRECTOR FERMIN: Oh, did they take --
13 okay, on Saturday.

14 MR. NEVIN: Was informed Thursday morning --

15 EXECUTIVE DIRECTOR FERMIN: -- informed Thursday
16 morning, had all day Thursday, all day Friday in order to
17 contact the Board as well as, if turned down, go to court.
18 And very often what happens is that a rider will have an
19 appeal, get a stay, and very often the rider has even
20 admitted during the hearing that, "Boy, I really messed
21 up. I deserved those days and then all of a sudden here
22 comes an appeal." And the appeal, one would have to
23 assume at that time is probably not because of an
24 injustice, but rather because of an inconvenience.

25 So this is a problem that we have to face. And

1 we spoke about this earlier where very often also they
2 will then drop that appeal prior to the hearing, which by
3 that time the Board just set up an ALJ to hear the case
4 and the case doesn't happen. But --

5 MR. NEVIN: And, Ms. Fermin, it should also be
6 noted that on a number of occasions the hearing officer
7 has appeared for a hearing along with a court reporter and
8 the appellant jockey has not appeared. So it's very
9 costly to the Board.

10 And, listen, no one wants to see an injustice
11 occur. Nobody wants to penalize somebody without the
12 right to a fair hearing. But maybe we as the Board, being
13 a portion of the board I guess, maybe we're remiss in not
14 having these hearings sooner. I mean we could have a
15 hearing in a week or ten days, for sure in two or three
16 months.

17 CHAIRPERSON HARRIS: -- delayed justice denied
18 sometimes. But if there was some way to move up the whole
19 process -- what happens to it -- and also I think we need
20 to be more vigorous in -- if the person goes to court, and
21 we feel that the suspension was justified that we try to,
22 you know, do a better job of explaining that to the judge.
23 And at that level where there's very little of a chance of
24 this being -- but it is bothersome that it still goes on
25 and on. Because I'm just trying to balance the scales of

1 justice here as far as what's fairness. Maybe we should
2 hear from any representatives of the jockeys --

3 COMMISSIONER MORETTI: Can I ask a -- Mr. Nevin,
4 though in terms of the percentage of abuses, if you will,
5 how many are we talking about? Is this is -- is this a
6 few?

7 MR. NEVIN: Of appeals?

8 COMMISSIONER MORETTI: Um-hmm.

9 MR. NEVIN: Well, we've issued probably seven
10 riding infraction violations at this meeting. I think one
11 has appealed to Mr. Harris -- maybe two. One which was
12 denied outright. In fact, his attorney came in the next
13 day and reviewed the film and conferred with the decision.

14 The other one, Mr. Harris gave a stay to. And
15 subsequently I think it went to court.

16 CHAIRPERSON HARRIS: I didn't give them a stay.
17 I just gave them a stay so they had time to go to Court.

18 MR. NEVIN: No, I understand that. And that
19 prerogative is yours, and we certainly don't begrudge
20 that. I mean that's the system that's in place. We issue
21 the days that we see fit. If they disagree -- and bear in
22 mind, in reviewing a number of those appeals, they simply
23 write a piece of paper, "I appeal the decision." They
24 don't write any criteria on which they wish to overturn
25 that decision, which they're compelled to do by the law.

1 Either we misinterpreted the law, there's new convincing
2 evidence or it's in the best interests of racing. They
3 don't do that. They simply say, "I appeal and I want a
4 stay." And they get it. And not necessarily by you Mr.
5 Chairman. But --

6 CHAIRPERSON HARRIS: I've seen some that were
7 pretty detailed.

8 MR. NEVIN: But be that as it may, we're not here
9 to disagree with whatever decision you ladies and
10 gentlemen make. We're simply here to police the game that
11 we're paid to police. And if you want us to change our
12 ways, we will.

13 COMMISSIONER SHAPIRO: Well, do you think by
14 delaying it -- by providing the 72 hours for them to file
15 a proper appeal and seek a stay would be -- would it still
16 serve the same purpose for you and not penalize uninvolved
17 parties such as trainers and owners that had counted on
18 that jockey for the next day's entries.

19 MR. NEVIN: By all means, Commissioner. And the
20 Board saw fit some years ago to implement the designated
21 race program. Which, you know, up until 10, 12 years ago
22 riders couldn't ride in designated races. So that was a
23 concession of the riders. They also said that, "Well, the
24 five-day suspension is too punitive. Let's go to a lesser
25 first-offense violation of three days. We implemented a

1 two-day window by which they could seek an appeal if they
2 chose to. Well, some chose to, some chose not to.

3 What they did was they chose whatever midweek
4 days they were going to get. If the next days being
5 imposed were Wednesday, Thursday and Friday, "yeah, I'll
6 take those days. Well, no I think I'll appeal." Well,
7 then we oppose the three days because we're compelled to
8 write a ruling. And then when the two days are up, they
9 don't appeal, and they've beat the system.

10 So if, as you say, Commissioner, you want to
11 start at 72 hours, 48 hours, what -- believe me, we will
12 do whatever --

13 COMMISSIONER SHAPIRO: I'm not trying to say
14 what's I want. What I mean, I think they should serve the
15 days, you know, and they shouldn't be able to pick there
16 days.

17 MR. NEVIN: We all agree with that. Yeah, I
18 think it is. It's just willing to start it. I --

19 CHAIRPERSON HARRIS: Assuming there is no appeal.
20 And if there isn't, as I understand the policy is that
21 they don't really get to pick their days. The stewards
22 pick which days are comparable. I mean it's something
23 that's hard to get completely comparable, but it's not
24 just when they happen to lose their appeal, it starts
25 right then, is it? It comes back to the stewards and then

1 they assign new days.

2 MR. NEVIN: Well, I mean, believe we, we took in
3 consideration those that we're policing. We talked to the
4 riders up and down the state and their representatives,
5 and nobody was opposed to it. So --

6 CHAIRPERSON HARRIS: Well, couldn't we hear from
7 the riders --

8 COMMISSIONER SPERRY: Let me ask you: Is there a
9 consensus of the stewards as to what would be the best way
10 to do it?

11 MR. NEVIN: Yes, Commissioner, there is.

12 COMMISSIONER SPERRY: And what is that?

13 MR. NEVIN: And that was -- before we even
14 started this a month or two ago, was that the next day's
15 entrance -- that you go back to the system of the next
16 day's entrance would be the first day of suspension. And
17 we all agreed with that unanimously.

18 COMMISSIONER SPERRY: Then that's what we ought
19 to do then.

20 CHAIRPERSON HARRIS: Well, that's in
21 contradiction of the 72-hour deal. And I think it's got,
22 you know, a lot of unintended consequences. And I think
23 this would be just as punitive but -- than a further
24 outlet.

25 I'd like to hear from the jockeys and the owners

1 and the trainers and others --

2 COMMISSIONER SPERRY: The problem is, Mr.
3 Chairman, if you said 72 hours, well, now, I'd like 96
4 because, you know, I can get an extra 24, if you want to
5 do it that way, and have an extra day to write or think
6 about what I should do. I think we ought to do what the
7 stewards say.

8 MR. NEVIN: Mr. Harris -- Chairman, the
9 prerogative is yours to extend a 72-hour courtesy to those
10 that wish to walk next door to file an appeal and a stay
11 to have good grounds for an appeal, and nobody's going to
12 object that, because that's what the law says. The rules
13 are clear. We impose the days --

14 CHAIRPERSON HARRIS: If I'm doing stays just even
15 though I feel that the thing, you know, doesn't have a
16 very good case to stay, but I'm staying just to protect
17 the person's rights to appeal, I'd rather have it where
18 that wasn't really an issue, that the stay was just based
19 on some likelihood of prevailing.

20 But I think if we could get some comments from
21 other -- do any of the other parties have feelings on this
22 or not?

23 COMMISSIONER SHAPIRO: Well, I'm not clear on
24 what's involved in us getting a stay or an appeal.
25 Because I'm under the impression that it could take up to

1 72 hours to get an appeal or a stay legally and that's why
2 the 72 hours is there. Is that not correct?

3 DEPUTY ATTORNEY GENERAL KNIGHT: There's nothing
4 magic about the 72 hours. You have to file your request
5 for a stay -- I'm sorry -- for an appeal within the 72
6 hours.

7 COMMISSIONER SHAPIRO: File with whom?

8 DEPUTY ATTORNEY GENERAL KNIGHT: With the Board,
9 at any of the Board's offices.

10 COMMISSIONER SHAPIRO: Okay.

11 DEPUTY ATTORNEY GENERAL KNIGHT: And, as I
12 mentioned, if that falls on a weekend, it does run over to
13 Monday. So if it falls on a Saturday or Sunday, you
14 actually pick up an extra two days.

15 But that has nothing to do except indirectly with
16 when the suspension needs to begin. Because if the
17 suspension were to begin, for example, on the second
18 day -- and I don't know how this -- in practice how this
19 works out. But let's assume the suspension were to start
20 two days downstream. They would have to file -- well,
21 they would have to seek a stay and appeal prior to them --
22 or any decision would go into effect. It doesn't mean
23 they couldn't still appeal the decision.

24 CHAIRPERSON HARRIS: It's hard I mean practically
25 though --

1 DEPUTY ATTORNEY GENERAL KNIGHT: But they may
2 have served some of the sentence though.

3 CHAIRPERSON HARRIS: Practically, if it serves --
4 it wouldn't be a problem if there's a fine, that it's not
5 an issue. But if it's actually days, that it's hard to --

6 COMMISSIONER SHAPIRO: You can't get the days
7 back.

8 CHAIRPERSON HARRIS: -- get it back.

9 DEPUTY ATTORNEY GENERAL KNIGHT: That's true.

10 EXECUTIVE DIRECTOR FERMIN: And they do file it
11 on Saturdays and Sundays with us.

12 DEPUTY ATTORNEY GENERAL KNIGHT: Yes, they can do
13 that. But if they don't file until Monday, they're able
14 to do so on Monday. That's the issue.

15 EXECUTIVE DIRECTOR FERMIN: With the court it
16 would be. But --

17 CHAIRPERSON HARRIS: Well, the 72 -- they've got
18 72 hours. They first have to file with the Board. And
19 then if the Board denies, then they go to the court. But
20 the 72 hours I understand it is their right. Now, of
21 course they could -- that doesn't necessarily mean that
22 they could go ahead and conceivably start the days. But
23 then it's -- it's just a fairness deal.

24 DEPUTY ATTORNEY GENERAL KNIGHT: The suspension
25 could go into effect the same day. I mean there's nothing

1 to preclude the decision from saying that the suspension
2 begins immediately. In fact, some decisions do in fact do
3 that for, you know, other agencies. So that -- I mean
4 that's a possibility. But I understand the practical
5 issue.

6 CHAIRPERSON HARRIS: It's just that -- it's a
7 fairness issue really. But I'd like to hear from -- if
8 the Jockeys Guild in fact is in favor of the present
9 system or what.

10 MR. HAIRE: Darrell Haire, National Member
11 Representative of the Jockeys Guild.

12 Chairman Harris, this is my feeling -- and I'm
13 sure that a lot of riders feel this way -- if a rider gets
14 a suspension, whether it's, as it's been in the past,
15 where the next time or next day of entries the suspension
16 starts, I believe that for consideration for the owners or
17 trainers, that maybe the 72 hours, at least it's a
18 standard set -- I mean go that route where it's a
19 compromise, instead of starting more or less right away
20 the next entry day. It gives the owners and trainers a
21 chance to line up other riders.

22 It's also -- we've had a consideration of
23 designated races in California, which is so the riders
24 still can ride the stake race -- the designated races.
25 But I also believe that if they do appeal them, that the

1 Commission should hear it right away so they know if they
2 get a stay or not right away. As soon as possible get the
3 films or decide right away.

4 I think we have to expedite the system on
5 hearings also. If they are appealed, the sooner it's
6 heard for everybody concerned, the better. It's just been
7 to wait two months, three months; if possible, a week, ten
8 days or the sooner, the better.

9 CHAIRPERSON HARRIS: I would agree with that.
10 Any comments from the owners or trainers?

11 MR. HALPERN: Ed Halpern, California Trainers.

12 Commissioner Harris, I would agree with you, that
13 we want to create a system that is fair for owners and
14 trainers who have already made arrangements with these
15 jockeys and then find themselves without them. But just
16 as important as that I believe is the concept of essential
17 fairness. And when you have a judge making a decision,
18 it's important to give someone access to the legal system,
19 and the 72 hours does that. I believe that essential
20 fairness requires us to do that.

21 CHAIRPERSON HARRIS: Any other comments on this
22 from any of the other interested parties?

23 MR. COUTO: Drew Couto, Thoroughbred Owners of
24 California.

25 I think from the owner's perspective, what Ed

1 just said is probably the most important. It's not to
2 interfere with existing expectations and relationships
3 regarding races that are going to be run entries. And
4 whether that's 72 hours or an additional 24 hours beyond
5 that probably isn't that important as long as you maintain
6 those commitments. And whether it occurs in three days or
7 four days isn't a great injustice either way as long as
8 the stewards' decisions are protected and implemented and
9 the riders have a reasonable opportunity. And, as I said,
10 it could be three or four days depending on when the next
11 entry is. Everyone could live with that.

12 Thank you.

13 CHAIRPERSON HARRIS: I would think that 72 hours
14 from the next entry day would be fair. And I think that
15 hopefully if -- in the appeals we need to look at a system
16 that moves those along where they don't -- I agree it's a
17 problem, where there's an appeal out there that is
18 stayed -- not maybe granted by us but a court -- that
19 enables a rider to not start his time to some reasonable
20 point. But it's because of the delay of having the
21 hearings. So we need to look at how we can move these
22 hearings along quicker also.

23 For the immediate policy, I would propose that
24 the suspension start 72 hours from the entry time of the
25 next entry day, if that was agreeable to the Board.

1 COMMISSIONER SHAPIRO: That's acceptable to me.

2 CHAIRPERSON HARRIS: I would see how it works.

3 If that creates a problem, we can revisit it and try
4 something else.

5 COMMISSIONER MORETTI: Do we need a motion?

6 EXECUTIVE DIRECTOR FERMIN: So it's 72 hours from
7 the next day or 72 hours from when they're informed?

8 CHAIRPERSON HARRIS: Let's put 72 hours from the
9 next entry day. So, for instance, if there was a -- the
10 next entry day to be entered actually today with a double
11 entry day, they enter for Sunday, the next entry day would
12 be Saturday. So 72 hours from --

13 COMMISSIONER SHAPIRO: -- Sunday.

14 CHAIRPERSON HARRIS: Well, if they're entered
15 Saturday for Monday -- this is really an extreme situation
16 we've got now. But you're entering Saturday for Monday,
17 so the next -- 72 hours from Saturday would be Sunday,
18 Monday, Tuesday -- it would be -- the next Wednesday entry
19 day would be the start.

20 This is sort of unusual. Normally if the
21 suspension occurred on a Wednesday, it would be -- 72
22 hours from then would be like Sunday, but --

23 COMMISSIONER SHAPIRO: Using as a 48-hour box.

24 CHAIRPERSON HARRIS: I mean what's complicated,
25 it used to be in the old days when I was a kid we entered

1 like 24 hours, which was an overnight which was tomorrow's
2 entries. But now we're entering so far ahead, it
3 complicates these things.

4 Well, 72 hours from the next entry date. So
5 regardless of when you're told that there's an entry date
6 coming up, and they got 72 hours from that.

7 COMMISSIONER MOSS: When generally would a
8 hearing occur nowadays? How long would it take?

9 EXECUTIVE DIRECTOR FERMIN: Unfortunately in
10 recent history it's been some months. And I was going to
11 ask Roy, on getting ALJ's, I know it was a problem, to
12 hear the cases. And generally they try to line up more
13 than one because of the cost. And so that you have two or
14 three in a day.

15 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Roy Minami,
16 Horse Racing Board staff.

17 Once we get the appeal, our staff schedules the
18 appeal with the administrative law judge through the
19 Office of Administrative Hearings. And once we do that,
20 then we are pretty much at the mercy of the schedule of
21 the presiding judge with the Office of Administrative
22 Hearings. So we could make requests to have an expedited
23 hearing. But it just really depends upon the workload of
24 the judge that would be assigned, the availability of
25 judges, the discretion of the presiding judge. So

1 sometimes they're able to accommodate us. But many times
2 they're not because the Office of Administrative Hearings
3 conducts hearings through all state agencies. So a lot of
4 times certain times of the year they're pretty well backed
5 up.

6 CHAIRPERSON HARRIS: Is there any way we can
7 circumvent the ALJ process and just, you know, go right to
8 the Board or a committee of the Board or something like
9 that?

10 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Well, the
11 ALJ basically represents the Board as the hearing officer.
12 So of course the Board has the option of hearing it
13 themselves.

14 COMMISSIONER MORETTI: But if we were to do that,
15 would it lose due process for those people?

16 CHAIRPERSON HARRIS: No. No, they still have the
17 right to appeal to a court or something, I guess. I think
18 the issue traditionally has been that the Board
19 basically -- it was cumbersome to review in total.

20 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, you would
21 have -- if you decided to hear these, you'd have the
22 problem of -- I mean the issue would be you'd have to
23 agendize it and notice it as a public meeting. And then
24 you would have to sit through the hearing. And you
25 probably would -- certainly I would recommend that you use

1 an ALJ to police the proceeding. And it's very -- I mean
2 it could be very time consuming.

3 CHAIRPERSON HARRIS: The guy -- the ALJ doesn't
4 really help because we've still got the same problem.

5 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, you still
6 have, you know, the costs and everything.

7 CHAIRPERSON HARRIS: On the Patrick Valenzuela we
8 did that. Or somehow on that one we moved it along a
9 little faster.

10 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, that was
11 moved up quickly.

12 CHAIRPERSON HARRIS: I think we need to work with
13 wherever the ALJ offices are and get -- see if there's
14 some way we could move them along. I do agree, it's --
15 and it's not so much that we give the stay; it's the
16 person who goes to court and gets the stay. And I'm not
17 sure what the -- at the court level how persuasive they
18 have to be in their appeal to get a stay.

19 Is there some standard or is it just -- it sounds
20 like there isn't.

21 DEPUTY ATTORNEY GENERAL KNIGHT: Again, it's a
22 very broad standard -- broad discretion of the judge. But
23 I think a lot could be impacted by a strong opposition
24 from the Board to a stay. I mean certainly if the board
25 doesn't oppose the stay, that's one thing. And if they

1 vigorously oppose a stay and the DAG has the information
2 to do that with, then you may -- you know, you'll have
3 some success.

4 CHAIRPERSON HARRIS: That's what I'd like to see.
5 In cases where -- and maybe some cases we're not opposed
6 to a stay. But if we are vigorously opposed to a stay,
7 that we develop arguments that our DAGs can use and that
8 we find a DAG that's capable of being persuasive.

9 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Mr.
10 Chairman, if I -- unless I'm directed otherwise, every
11 time a licensee goes before the courts to request a stay,
12 I always request a DAG to represent us and oppose the
13 stay. Sometimes we win and sometimes we lose.

14 CHAIRPERSON HARRIS: How much do you prepare that
15 DAG?

16 ASSISTANT EXECUTIVE DIRECTOR MINAMI: We try to
17 prepare him as soon as possible, because generally their
18 attorneys give us the 24-hours notice of the date, time
19 and location and department of the court. And so it takes
20 us -- I make the request to the supervising DAG at
21 whatever location there is. And from there we contact the
22 DAG and we try to brief him as quickly as we can.

23 CHAIRPERSON HARRIS: I mean is it -- it seems
24 like it's not too practical, as often times it's a
25 different DAG. I mean it seems like it would be nice if

1 we had somebody that became knowledgeable in these issues.

2 COMMISSIONER SHAPIRO: But it's different
3 jurisdictions. You've got people up north. You've got
4 people down south.

5 CHAIRPERSON HARRIS: I mean there are only a few.
6 On this -- San Diego County, L.A. County and maybe
7 Alameda. But, you know, most of them are in the south.
8 Most of these appeals really are in this area, L.A.
9 County.

10 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Yeah, for
11 the Los Angeles area, the DAGs that we get through the Los
12 Angeles office of the AG's office, we usually get the DAGs
13 who are familiar with the Horse Racing Board cases, those
14 who have done cases previously. So there is some
15 education involved depending on the experience of the
16 particular DAG. But generally they accommodate us and try
17 to give us a DAG that's available who has some horse
18 racing knowledge.

19 CHAIRPERSON HARRIS: Sounds good.

20 Okay. Well I guess -- I don't know if we need an
21 action on this. I just felt comfortable having the input
22 of the Board to -- but I think we should try the 72 hours
23 from the next entry day.

24 And, Gary, do you think we need a motion on this
25 or just --

1 COMMISSIONER SHAPIRO: Right.

2 DEPUTY ATTORNEY GENERAL KNIGHT: I think so.

3 CHAIRPERSON HARRIS: Okay. Why don't you make a
4 motion, Mr. Shapiro.

5 COMMISSIONER SHAPIRO: I'll move that the Board
6 establish a policy that there be 72 hours from the next
7 entry day for suspensions to commence; and prior to that
8 period a complete appeal giving reasons, and not just
9 being able to state, "I want to appeal," but a full appeal
10 must be filed in order to seek a stay.

11 CHAIRPERSON HARRIS: This would be for everybody.
12 Is there a second?

13 VICE CHAIRPERSON BIANCO: Second.

14 CHAIRPERSON HARRIS: Okay. Any other discussion?
15 With the quarter horse it's probably not as big a
16 problem in a way because your dates are more consecutive.

17 COMMISSIONER SPERRY: And if you draw on Saturday
18 for a Thursday.

19 CHAIRPERSON HARRIS: Yeah. But I mean dates --
20 the issue of sort of selecting your purses and all have
21 stayed pretty constant through the year and your
22 designated races are important. But anyway --

23 COMMISSIONER SPERRY: Good concept.

24 DEPUTY ATTORNEY GENERAL KNIGHT: Mr. Chairman,
25 can I just clarify. I don't believe that the -- I don't

1 believe it's necessary that they state the reasons for
2 their appeal at the time they file their appeal. They
3 have a burden of establishing one of the criteria for
4 overturning the decision. But to simply file the appeal
5 all they have to do is say, "I appeal."

6 CHAIRPERSON HARRIS: Yeah. Well, that would
7 probably be fine. Just for their stay --

8 DEPUTY ATTORNEY GENERAL KNIGHT: That's what they
9 do in court as well.

10 CHAIRPERSON HARRIS: But for a stay they have to
11 have some -- when they -- to get a stay, they have some
12 version of why they felt that the appeal would prevail?

13 DEPUTY ATTORNEY GENERAL KNIGHT: Exactly. Your
14 rules specifically -- and both your statute and your rules
15 specific state they have give reasons and justification
16 for a stay. But an appeal you just have to say, "I
17 appeal."

18 COMMISSIONER SHAPIRO: Then I'll amend my motion
19 accordingly.

20 MR. COUTO: Sorry. Again, Drew Couto,
21 Thoroughbred Owners of California.

22 A moment ago I mentioned 72 hours and 24, an
23 additional 96. There are instances I believe in northern
24 California with the 72-hour entry rule, that you'll take
25 double entries on one day, and it's actually 96 hours

1 before that race is run. So by putting it again at 72
2 hours, you create a problem occasionally in northern
3 California.

4 CHAIRPERSON HARRIS: It's not 72 hours from the
5 race. It's 72 hours from the date of entry.

6 MR. COUTO: Correct.

7 CHAIRPERSON HARRIS: So again I think --

8 MR. COUTO: If you have 72-hour entry rule, I
9 believe you'll end up on certain occasions -- but just
10 again check with Mr. Charles and Charlie Dougherty -- we
11 will have occasion in which it's 96 hours from entries
12 before race is run.

13 CHAIRPERSON HARRIS: Yeah. But it's not really
14 from the race. It's to the date of entry, so it
15 doesn't -- I mean the date of entry is a date certain
16 regardless of when the race is.

17 MR. COUTO: If I understood correctly, what
18 you're saying is 72 hours, the suspension with the appeal
19 period --

20 CHAIRPERSON HARRIS: Suspension from the date of
21 entry though, not the date that the race is going to be
22 run.

23 MR. COUTO: And in northern California that may
24 mean that you have an occasion in which you're taking
25 riding commitments, and with the 72 hours they're going to

1 be precluded from riding. Maybe the math is wrong here,
2 but that's how we were figuring out.

3 CHAIRPERSON HARRIS: Let's just say if you're --
4 it doesn't really matter as long as it's from the date of
5 entry, that it's always going to be much more than 72
6 hours.

7 MR. DOUGHERTY: Charlie Dougherty, California
8 Thoroughbred Trainers.

9 Just one point of clarification for -- and I
10 don't know if other people are confused -- of extending
11 this out to the 72 hours. Is this if in the event
12 somebody is requesting a stay, or it's just going to be
13 automatic that they'll start serving their suspension if
14 they have no desire to request for a stay?

15 CHAIRPERSON HARRIS: No, because hopefully they
16 won't request a stay. That's just when it starts. But
17 the idea would be that be a better certainty on the name
18 of --

19 MR. DOUGHERTY: But if they're not going to
20 request a stay --

21 CHAIRPERSON HARRIS: It doesn't have anything to
22 do if they request a stay or not. That's a separate
23 issue. But if that's --

24 MR. DOUGHERTY: Well, I just -- I would like that
25 clarified.

1 EXECUTIVE DIRECTOR FERMIN: So if they weren't
2 getting a stay, then there could be a choice again.

3 COMMISSIONER SHAPIRO: Right. You're absolutely
4 right.

5 CHAIRPERSON HARRIS: I don't think we're making a
6 choice. That's just what it is and that's just when it
7 hits. It's not a choice you get this way or that way.
8 That just won't get it. So I don't -- that way we're
9 not -- we don't want to enable somebody to select which
10 dates work best for them.

11 COMMISSIONER SHAPIRO: Yeah. But I think he's
12 bringing up a very valid point. The point is that what
13 we're dealing with is if somebody's seeking a stay. Now
14 the question is: If somebody's not seeking a stay, when
15 does the suspension start?

16 Is that your question?

17 MR. DOUGHERTY: Yes, exactly.

18 CHAIRPERSON HARRIS: It's got to be the same,
19 because we don't know if they're -- I mean we don't really
20 know if they're going to ask for a stay or not. So you've
21 got to have a date certain that they start. And we'll
22 cross the stay bridge when we come to it.

23 DEPUTY ATTORNEY GENERAL KNIGHT: Can I just -- I
24 think I can -- just let me just make a couple of comments
25 on that.

1 It doesn't directly apply to this. The
2 Administrative Procedure Act statute says: On license
3 disciplinary matters they start 30 days after the decision
4 is issued unless otherwise provided. So that's really
5 what you're doing here. And most -- a lot of agencies if
6 it's not a big deal they do specify 30 days hence is the
7 effective date.

8 So what you're doing is you're dealing with this
9 kind of a unique situation in racing. But you're just
10 setting a date certain, as Commissioner Harris said, that
11 will -- it will always be that way, you know. Now, again,
12 there might be a situation where you have something so
13 egregious that the stewards may feel that they want to
14 have a suspension start the next day because they don't
15 want someone back.

16 CHAIRPERSON HARRIS: Clearly if you caught a
17 rider with a -- or a trainer with a needle or something
18 like that, you could --

19 DEPUTY ATTORNEY GENERAL KNIGHT: -- substitute a
20 30 days or substitute some date certain that will be easy
21 to apply by the stewards, I would think.

22 MR. NEVIN: All arguments are valid. Why don't
23 we do this: Why don't we just go with what we're doing.
24 We impose the dates on the next. And if someone walks
25 next door and files an appeal, they will automatically be

1 granted the 72 hours with which to review it or go to the
2 courts.

3 DEPUTY ATTORNEY GENERAL KNIGHT: No, it won't
4 work that way.

5 MR. NEVIN: In some occasions where they don't
6 take entries for three days, they're taking double
7 entries, they could end up with seven days before they
8 start --

9 CHAIRPERSON HARRIS: Well, I don't see that's
10 that bad though.

11 MR. NEVIN: Let's do it all the same. I think --
12 and the term "level playing field" is being used and
13 thrown out. And it's kind of a buzz word. Let's treat
14 everybody the same then. Let's start them all one week
15 later, all --

16 CHAIRPERSON HARRIS: Yeah, that's what we're
17 going to do.

18 MR. NEVIN: Well, 72 hours from the next entry
19 date is not the same in all occasions, because the next
20 entry date could be two days away, it could be the next
21 morning, it could be on -- considering Mondays and
22 Tuesdays, it could be five days away. So that's not the
23 way --

24 DEPUTY ATTORNEY GENERAL KNIGHT: Well -- excuse
25 me. I don't think the order should specify 72 hours from

1 the next entry day. It's got to -- the order needs to
2 specify a date certain. And you --

3 MR. NEVIN: -- 72 hours from the date that
4 they're heard.

5 DEPUTY ATTORNEY GENERAL KNIGHT: Presumably the
6 stewards will know what that date is. If they miss it, so
7 be it, I mean if they're off one day or something. The
8 point is you want some certainty. Isn't that what you're
9 really seeking?

10 CHAIRPERSON HARRIS: Yeah, yeah. I mean I guess
11 it could be seven days from the time it was -- I don't
12 know. But -- and that problem there is that that date
13 wouldn't necessarily apply on the following race date, so
14 you can't really give the guy dates or days that --

15 COMMISSIONER SHAPIRO: Well, it could be now that
16 he's moving to a different race meeting and if they're not
17 like days.

18 CHAIRPERSON HARRIS: Well, but if -- that's
19 always been a problem even -- I mean meets come to an end.
20 I mean you could almost say at the end of this meeting you
21 might want to give a guy -- say, on Labor Day at this
22 meeting there's some infraction. So you have your hearing
23 on Wednesday. You don't necessarily want to give the guy
24 five days at Pomona and you could give him five days at
25 Oak Tree if you want.

1 EXECUTIVE DIRECTOR FERMIN: And that's been done.

2 CHAIRPERSON HARRIS: So I think you've got the
3 flexibility. It's just we just need to have a few more
4 days before it starts to allow the due process to occur.

5 MR. NEVIN: Whatever you decision you make, we'll
6 abide by it. And we thought we had a pretty good system,
7 but obviously it's not working. And the power to grant a
8 stay is yours. If someone's rights are being denied
9 because they can't get to court today or tomorrow, you
10 certainly have the prerogative to give them another month
11 in order to get to court if you choose to.

12 COMMISSIONER SHAPIRO: Well, Let me ask a
13 question.

14 MR. NEVIN: But most riders accept the days --

15 COMMISSIONER SHAPIRO: Is anybody's --

16 MR. NEVIN: -- because they want to get them out
17 of the way.

18 COMMISSIONER SHAPIRO: Are anybody's rights -- is
19 anybody complaining that they're not getting time to
20 make --

21 MR. NEVIN: We have not heard a complaint yet.

22 CHAIRPERSON HARRIS: Well, I have.

23 MR. NEVIN: But Mr. Harris has.

24 CHAIRPERSON HARRIS: I mean it's a -- you know, I
25 don't get paid too much for this job. We spend a lot of

1 time on talking to these guys whether they should have a
2 stay. But it seems like -- well, let's try for the
3 72-hour deal that's been suggested. We'll come back. If
4 it looks like it's creating, you know, inequities either
5 way, we can revisit.

6 But I don't see where -- I mean as long as a
7 person's getting the days, I don't believe it makes too
8 much difference what days he gets, other than we get into
9 the whole question of like days. But it's just that I
10 think we owe, you know, individuals the right of due
11 process, which we're taking away from them if we make it
12 too quick. And plus there's all the intended consequences
13 of uncertainty, where somebody's going to enter tomorrow
14 and they don't know if they have a right or don't have a
15 right.

16 MR. HAIRE: Darrell Haire, National Member
17 Representative of the Guild.

18 Whether it's 72 hours, Chairman Harris, from
19 entries, I'm just thinking that it should be maybe 72
20 hours once they receive the suspension. Because it could
21 be different race tracks entry times or whether it's
22 Pomona when the meet ends. So maybe it should be a set 72
23 hours, a standard set. That's what the whole problem I
24 think here is. We need to set a certain period of time
25 that they know that that's -- they have a certain period

1 of time for due process.

2 But whether it's entry time, I'm not sure because
3 of the double entries. But if it's entry time, then if
4 the overnight comes out for two days, it's still -- that's
5 the entry time no matter if it's two days in a row. So
6 I'm not sure where you want to go with this, except to say
7 that we have to set a period -- a set time so the riders
8 know that this is the way it is.

9 CHAIRPERSON HARRIS: Okay. Was there a motion?

10 COMMISSIONER SHAPIRO: I'll stick with the
11 motion.

12 CHAIRPERSON HARRIS: Let's stick with the motion
13 and see if we get a vote on that.

14 Do we need a second?

15 VICE CHAIRPERSON BIANCO: I seconded.

16 CHAIRPERSON HARRIS: Okay. All in favor.

17 (Ayes.)

18 CHAIRPERSON HARRIS: Any opposed?

19 (Noes.)

20 CHAIRPERSON HARRIS: Any other noes?

21 So we've got -- how many ayes do we have?

22 Six ayes, one no.

23 Note that Commissioner Sperry was a "no" vote.

24 Okay. Let's -- want to take a break for about
25 ten minutes.

1 COMMISSIONER SPERRY: Mr. Chairman, do you want
2 to explain what you just approved?

3 (Laughter.)

4 COMMISSIONER SPERRY: As an owner, you've got me
5 so God damned confused, I don't --

6 (Laughter.)

7 CHAIRPERSON HARRIS: Well, essentially if the
8 stewards issue a ruling that suspends a rider, that first
9 day of that suspension will be 72 hours from the next date
10 of entry. So whenever your -- you just go 72 hours from
11 the next date of entry. If it's something today, you
12 figure out when the next entry day is and you go 72 hours
13 out. That day of entry is when that rider will not be
14 able to ride.

15 So I agree that the quarter horse races might go
16 out a ways, but it would still be --

17 COMMISSIONER SPERRY: It will.

18 CHAIRPERSON HARRIS: Well, but it doesn't really
19 matter though. I mean it's -- still he's got the days. I
20 mean it's not -- if's he's a danger -- if it was some
21 situation where this person's created a danger to ride, it
22 should be immediately. But if it's a sanction due to
23 something that was, you know, not appropriate but wasn't
24 an immediate danger, then it's a different situation.

25 COMMISSIONER SPERRY: Well, that's why I voted

1 against it, because I think it should be a uniform
2 situation; i.e., it should be like 72 hours, period.

3 COMMISSIONER MOSS: I would agree with that.

4 COMMISSIONER SPERRY: You know, rather than have
5 it from when you draw, because you may draw tomorrow, you
6 may draw four days from now.

7 CHAIRPERSON HARRIS: Well, sometimes we're
8 drawing 72 hours out. So if you do that, you'd be taking
9 entries on a day that didn't allow time for people to make
10 other arrangements.

11 COMMISSIONER SPERRY: Only 72 hours --

12 COMMISSIONER MOSS: I think if you have 72 hours
13 to make arrangements I think you'll be -- you'll be doing
14 okay. I think what we're trying to do is alleviate the
15 strain on a trainer that's counting on a jockey to ride a
16 horse the next day or so.

17 CHAIRPERSON HARRIS: Well, probably -- 72 hours
18 today, we can enter -- today is thursday -- we can enter
19 it for Sunday, and that's 72 hours. So if a jockey was
20 suspended yesterday and you make it -- this morning you
21 wouldn't know if you could name a rider for Sunday or not,
22 because you didn't know if the appeal for this is going
23 to -- the suspension is going to start on Sunday.

24 COMMISSIONER SHAPIRO: Commissioner Sperry, would
25 you be more comfortable if it was 72 hours from the date

1 of the infraction? Would that help you at all? I mean --
2 my motivation here is --

3 COMMISSIONER SPERRY: That would be uniform.

4 COMMISSIONER SHAPIRO: -- is clearly that what I
5 don't want to find happen -- if I know that I've got this
6 jockey riding my horse and I find out he's going to be
7 entered the next day, and now he's not available and I
8 have to go to a jockey that I really don't want to ride,
9 because it's the next day I've got to make that decision,
10 that's what I'm trying to avoid.

11 COMMISSIONER MOSS: You know, that's what we're
12 talking about. The next day is the main problem. If you
13 go -- so if you're given 72 hours, the next day alleviates
14 that problem.

15 CHAIRPERSON HARRIS: What is a problem is some
16 entries are 72 hours out.

17 COMMISSIONER MOSS: I'm talking entries. I'm
18 just talking 72 hours.

19 CHAIRPERSON HARRIS: Well, but that's the
20 problem. The entry -- if you're going to start the
21 suspension 72 hours out and the entries are 72 hours out,
22 you've got a problem.

23 MR. FRAVEL: Craig Fravel. I really hate to get
24 involved in this.

25 The easy way to say this is that the -- you go 72

1 hours from the date of the -- the hour time of the
2 decision. And the next entry day following that
3 expiration of 72 hours is the one that it's effective for.
4 That gives you your three days of appeal. And then the
5 next entry day that comes up, whenever that happens to be,
6 would be the one where it starts.

7 CHAIRPERSON HARRIS: Yeah. That's what we're
8 trying to do. I mean I can see that -- you know, that --

9 MR. FRAVEL: Can I make a motion?

10 (Laughter.)

11 CHAIRPERSON HARRIS: Okay. Well, we've got the
12 vote anyway. So we can put it back on the agenda and
13 we'll mention it some more.

14 VICE CHAIRPERSON BIANCO: You just voted to have
15 a ten-minute break.

16 CHAIRPERSON HARRIS: Yeah, let's have a
17 ten-minute break now.

18 (Thereupon a recess was taken.)

19 CHAIRPERSON HARRIS: We're going to reconvene the
20 meeting.

21 Okay. Could we reconvene the meeting.

22 In relation to confusion on the -- could Craig
23 Fravel restate what the plan is here?

24 MR. FRAVEL: I'll restate my motion.

25 (Laughter.)

1 MR. FRAVEL: The way I interpret this is that the
2 suspension would be effective for racing dates for which
3 entries are taken immediately following the expiration of
4 72 hours from the date of the decision.

5 CHAIRPERSON HARRIS: Yeah, that's the way I
6 understood it.

7 Okay. Well, while you're up, we can go into --

8 MR. FRAVEL: I just made that up.

9 COMMISSIONER SHAPIRO: Would you write that up
10 and pass it out to all of us.

11 MR. FRAVEL: I'll E-mail it to Harris, and he can
12 send it around.

13 CHAIRPERSON HARRIS: Okay. I've got the very
14 important application here for the meeting of the Big
15 Fresno Fair. And I think we have some people here from
16 Fresno to comment on it also.

17 Go ahead.

18 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Roy Minami,
19 minute Horse Racing Board staff.

20 This is the application for the Fresno District
21 Fair at Fresno, commencing October 5 through October 16,
22 11 days, one more than 2004. They'll be racing five days
23 a week, six days on the second week, which includes the
24 October 10 holiday. First post, 12:37 Saturday and
25 Sunday; 1:30 Friday; 1:15 Monday, Wednesday and Thursday.

1 And, again, their application is complete. We
2 have all the documentation required.

3 CHAIRPERSON HARRIS: I think one thing that's
4 unique this year in Fresno, there's going to be I think a
5 total of four days they're going to not be overlapped by
6 Bay Meadows, which I think will free up some of the horse
7 population and result in better fields at both places.
8 Bay Meadows does remain the host, which might be a point
9 of contention.

10 But are there any improvements that you've done
11 at Fresno this year you'd like to tell us about?

12 MR. WHITE: Hello, Chairman Harrison,
13 Commissioners. I'm Daniel White, Director of Racing at
14 the Big Fresno Fairgrounds.

15 Currently we've added 800 tons of sand to the
16 track. We've also added some amenities. We're planting
17 on the inside of the track grass around the track for a
18 better -- with the TV panning cameras to put out a better
19 picture to the public. We're putting out 30 olive trees
20 in our ponding basin. What we're trying to do is enhance
21 our picture quality that goes out to the public, so they
22 don't see weeds, dirt. They see grass and trees.

23 We painted the barns on the backside. And we've
24 added ivy to our paddock and made some improvements,
25 trying to get more of a Del Mar look in our paddock area.

1 That's about it on the improvements?

2 CHAIRPERSON HARRIS: Thank you.

3 Any questions on the Fresno Fair application?

4 COMMISSIONER SHAPIRO: Can you tell me what \$10
5 chance lot parking is?

6 MR. WHITE: Chance lot. That's a preferred
7 packing that we have. It's right outside the fairgrounds.
8 It's a preferred parking area.

9 COMMISSIONER SHAPIRO: Oh.

10 CHAIRPERSON HARRIS: That's the name of it. It's
11 ironic, there's the name of a street that goes by the
12 fair, it's called Chance Avenue. It's named after
13 somebody's last name was chance. So I thought it was kind
14 of neat for a race track to be built by Chance.

15 (Laughter.)

16 COMMISSIONER SPERRY: Move approval of the
17 application, Mr. Chairman.

18 Okay. If there's a second --

19 COMMISSIONER MORETTI: I second.

20 CHAIRPERSON HARRIS: All in favor?

21 (Ayes.)

22 CHAIRPERSON HARRIS: I've got Pacific Racing
23 Association.

24 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Roy Minami,
25 Horse Racing Board staff.

1 This is the application for Pacific Racing
2 Association to be run at Golden Gate Fields October 19th
3 through January 29, 73 days. They'll be racing five days
4 per week, Wednesday through Sunday; eight races week days
5 and nine or ten on weekends, holidays and dates of special
6 interest. First post will be 12:45 daily.

7 And with the exceptions of the name of the
8 paddock judge and patrol judge, again their application
9 appears to be complete. We have all the documentation
10 necessary.

11 Staff would recommend that the Board approve the
12 application.

13 COMMISSIONER SHAPIRO: I'll so move.

14 CHAIRPERSON HARRIS: Any questions on this?

15 COMMISSIONER MORETTI: No. But I love it that
16 we've had three applications today that are fully
17 complete. It's rare. So thank you.

18 COMMISSIONER SHAPIRO: Good job.

19 CHAIRPERSON HARRIS: I understand you do have a
20 head-on turf camera?

21 Okay. Is there a motion?

22 COMMISSIONER SHAPIRO: I so moved that we approve
23 the application.

24 COMMISSIONER MORETTI: Second.

25 CHAIRPERSON HARRIS: All in favor?

1 (Ayes.)

2 CHAIRPERSON HARRIS: Thank you.

3 Okay. Speaking of camera, we'll going to move to
4 Item 8 -- no, Item 9. We've done 8.

5 One of the concerns that's come up at Del Mar,
6 since it is such a popular meet, is the accuracy of the
7 cameras and the angles. And for a long time there has
8 been concern of a lack of a head-on camera of the turf
9 course. And I put this on the agenda to get an update of
10 what the status of that is and -- because, frankly, it has
11 created a lot of controversy in some of the stretch runs
12 when we don't have a head-on.

13 Could you give us an update what you're doing
14 there?

15 MR. FRAVEL: Craig Fravel, Del Mar Thoroughbred
16 Club.

17 I don't want to be contradictory. But we do have
18 a head-on turf camera. It is a remote camera that is on a
19 pole. We moved it last week to what we think is a better
20 location for the head-on shot, one of the rails moved in.
21 It is not the same camera quality as the broadcast quality
22 cameras that you see on most of the TV productions. And
23 one of the problems early in the meet that I think caused
24 people to say we didn't have a head-on camera was that the
25 digital recording equipment that was used by our broadcast

1 company did not have sufficient numbers of reports
2 essentially for that head-on camera to be synchronized
3 with the other video control cameras utilized by the
4 stewards.

5 We remedied that situation I think a week and a
6 half ago, so that all of the cameras are on digital
7 recorders and they can be reviewed simultaneously by the
8 stewards, as well as they can look at the actual
9 locations. There's a digital timer on it so they can see,
10 for example, when a horse crosses the wire what position
11 they are on the various camera angles.

12 So I don't want create the misimpression that we
13 do not have a camera. It was admittedly a temporary
14 solution to the issue of a head-on that we've had for the
15 last two years. And I've been up and met with the
16 stewards several times on this. And from my discussions
17 with them, they're pleased with the current arrangement.
18 They've had no objections to it.

19 But the reason we don't have the same camera as
20 we do on the other -- for the same quality broadcast
21 camera is that the barns that are all to the east side of
22 race track, WXY barns, are slated to be torn dawn
23 following this year's meet. And new multipurpose barns,
24 exhibit hauls, livestock barns are to be built beginning
25 in September. And, candidly, it didn't make much sense to

1 us to spend the money to put up a new tower, to put
2 \$150,000 camera in there when we're going to go back and
3 tear it out and start all over again.

4 So, you know, we viewed this camera as a
5 temporary step until these barns were constructed. And we
6 intend to have next year the same kind of camera in those
7 locations in this location as we have for the other camera
8 angles.

9 And we intend after some discussions with both
10 the stewards and executive director to take the remote
11 camera that we're currently using and try to position it
12 in a fashion that will give the stewards a better angle on
13 the 5/16 pole action, which we currently don't have a
14 camera on. But nobody I don't think in the state has a
15 camera at that position. But we're going to try to
16 position our remote camera so that they'll have a better
17 view of what the jockeys may be doing at that position on
18 the racetrack.

19 So that's the status of our situation.

20 CHAIRPERSON HARRIS: Any questions on this?

21 Does TVG have access to that head-on --

22 MR. FRAVEL: They should. I think everybody's
23 got -- should have a -- as I said before, that particular
24 camera -- if you go on Channel 31 you can look at that
25 camera all day long if you really want to. So you might

1 just want to put your TV on there. Of course, maybe 30.

2 But TVG should have access to it. I'll confirm
3 that.

4 The problem early in the meet again was that that
5 particular camera was on a different -- it was on a manual
6 recording devise. So that if the steward wanted to look
7 at that, then they had to call out to the truck and say,
8 "Please rewind the manual device and let us see that
9 particular shot." Now it's done automatically along with
10 the other cameras. It's synchronized controls.

11 CHAIRPERSON HARRIS: Because what actually has
12 happened, which I think is basically on balance good, is
13 that now with the TV coverage of racing through TVG or
14 HITV you have commentators that are looking at these races
15 closely and they're sort of de factos, in their minds
16 anyway. Stewards, they come up with a lot of different
17 ideas. And sometimes the problems, they haven't really
18 had access to seeing everything that the stewards have
19 seen. So it's kind of added a new dimension to it.

20 MR. FRAVEL: Yeah, they should have that. I'll
21 check and make sure. There's no reason why they wouldn't.

22 CHAIRPERSON HARRIS: Okay. Thank you very much.

23 Okay. We've got a report from Scientific Games
24 Racing on the status of implementing the alternate runner
25 selection option for the Pick(n)Wager.

1 MR. PAYTON: Hello. Dave Payton with Scientific
2 Games. I know there was skepticism, whatever words --
3 whatever comes from my lips. But the alternate runner was
4 actually installed and fully tested and was put back on
5 line this past Monday here at Del Mar and has been working
6 since then. The plan right now is for it to go on line at
7 Los Alamitos tonight. And then they'll also be opening
8 with it for their double meet.

9 Just looking at the statistics yesterday of the
10 bets that were made, there was about a quarter that were
11 made -- that the alternate selection was actually made.
12 So the fans have taken to it, you know, immediately again.

13 CHAIRPERSON HARRIS: Yeah, this is -- basically
14 if a horse was scratched and the person has an alternate,
15 it gets the alternate, whereas without that feature it was
16 going to the favorite.

17 MR. PAYTON: The post time favorite, that's
18 right.

19 CHAIRPERSON HARRIS: So is this just in
20 California wagering or when you hear somebody's bet at
21 other places, do they get that, or is it just California's
22 doing it?

23 MR. PAYTON: Only California is doing it right
24 now. We haven't been contacted by anybody else at this
25 point. I think LVDC in Las Vegas might be the next one

1 that are interested in doing it. They've bet the
2 alternate runners before when we had it there. But there
3 haven't been any other contacts that I know of at this
4 point.

5 CHAIRPERSON HARRIS: I think it's a good feature
6 because, especially -- fortunately I haven't had too many
7 scratches. But especially when you get into the winter
8 where you get scratches.

9 So it took a long time. Thanks so much for
10 getting it done.

11 MR. PAYTON: Sure.

12 CHAIRPERSON HARRIS: Okay. It wouldn't be a
13 Racing Board meeting if we didn't talk about Capitol
14 Racing. An update on the status of the Capital Racing
15 purse account.

16 SENIOR PARIMUTUEL EXAMINER REAGAN:
17 Commissioners, John Reagan, CHRB staff.

18 Included in your staff analysis is an update of
19 the current -- well, of the prior, the recently concluded
20 Capitol meet in Sacramento. There's an analysis of the
21 purse account we have included there. And then in the
22 first page of the staff analysis there are a number of
23 outstanding items. As indicated in the staff analysis,
24 these cannot be resolved until such time as we have some
25 answers in litigation that's ongoing.

1 Obviously, as indicated, the SCOTWINC monies are
2 simply disbursed early next year. That is not in
3 litigation. And of course the escrow account at the CHRB,
4 the current amount there. And of course that's not in
5 litigation but simply therefore -- well, it is attached to
6 the impact fee litigation, and we'll have to resolve that
7 at a later time.

8 So if you have any questions or anything we can
9 answer on this, we'd be glad to do that.

10 COMMISSIONER SHAPIRO: John, we at a prior Board
11 meeting had passed a resolution with respect to the
12 promotion fund monies, and that they were to be
13 redistributed back through to the purses, as I recall.

14 SENIOR PARIMUTUEL EXAMINER REAGAN: Yes, sir.

15 COMMISSIONER SHAPIRO: Okay. Has that been done?

16 SENIOR PARIMUTUEL EXAMINER REAGAN: No, it has
17 not. Instead though I think the Board was served with a
18 petition for writ of whatever. But some legal wrangling
19 in regards to the Board's decision to have that done. I
20 understand that is on litigation now. Maybe Mr. Knight
21 can further explain it.

22 COMMISSIONER SHAPIRO: Well, that wouldn't stop
23 us from doing it. That's just a lawsuit that's been
24 filed.

25 DEPUTY ATTORNEY GENERAL KNIGHT: That's correct.

1 There's no stay order or anything in the order.

2 COMMISSIONER SHAPIRO: So I guess my comment here
3 is: I'm not sure why we haven't done it or mandated that
4 Capitol Racing return that money and have it properly
5 distributed to the horsemen.

6 Where are we going with this?

7 SENIOR PARIMUTUEL EXAMINER REAGAN: At this
8 point, with Capitol having completed their process, we do
9 have -- well, at this point we're not going anywhere with
10 it. So I guess we need direction or --

11 COMMISSIONER SHAPIRO: Well, I thought we gave
12 direction at the meeting in Pleasanton.

13 SENIOR PARIMUTUEL EXAMINER REAGAN: As you
14 have -- you told them to adjust their purse accordingly.
15 And they didn't -- they simply did not. I guess that's
16 the best answer.

17 COMMISSIONER SHAPIRO: Okay. Well, then I don't
18 know if anybody's here from Capitol. We can ask them why
19 they haven't done what the Board mandated that they do.

20 MR. BIERI: Steve Bieri B-i-e-r-i, Capitol
21 Racing. Mr. Chairman, members of the Commission.

22 Mr. Shapiro, to your question. The reason we
23 didn't do that is because we believe that there's an error
24 in what you have done, and that's why the legal action was
25 taken. And at the outcome of that, if in fact what you

1 did is upheld as being proper, then we will do what we are
2 told to do. But at this moment we do not believe that
3 what was done is proper. So we haven't taken the money.
4 It's just -- but we haven't done the adjustment yet
5 because we don't think it's a correct adjustment to make.
6 We think that there's a lot of roads to go down to
7 determine whether that's really right or not.

8 COMMISSIONER SHAPIRO: Well, I would think that
9 in the proper course of business, since the Board made a
10 decision and mandated that that be done -- if you choose
11 to litigate against us, which you've done -- and that's
12 certainly your right and your choice -- I have no problem
13 with that. I don't think that estops you from having to
14 do the action that was dictated by this Board. So
15 basically what you're saying is "I'm not going to do what
16 you've dictated me to do because I don't agree with it."

17 MR. BIERI: Well, no, I didn't say that. What I
18 said was what I said. I'm not an attorney, so I don't
19 understand all the legalese that goes along with it. But
20 when I had informed my advisors of what the situation was,
21 they directed me on the action to take. I'd be more than
22 pleased to have them get in touch with Derry or anyone
23 else to work out what is the proper procedure to do.

24 CHAIRPERSON HARRIS: I'm not sure though -- if we
25 order something, it seems they need to get some TRO or

1 something to say that what we ordered was improper.

2 COMMISSIONER SHAPIRO: Which they have not done.
3 What they've done is they have filed a lawsuit against us
4 contesting the decision that we made. And they have every
5 right to do that. But we made an order that these monies
6 were not rightfully Capitol's but should go back to the
7 horsemen, and you have not done it, which is in complete
8 conflict to what the Board ordered you to do.

9 MR. BIERI: I cannot tell you the legal reasons
10 why the steps that we are taking. But, as I said, I'd be
11 glad to have my attorneys speak to yours to get to the end
12 game of what this is. If we owe the money at the end of
13 the day and your order is upheld, the money will be paid.
14 But if not --

15 COMMISSIONER SHAPIRO: I don't think it works
16 that way, Mr. Bieri.

17 MR. BIERI: Well, you know, Mr. Shapiro, I don't
18 know. I'm just going with by what I am advised to do by
19 the people who advise me to do those things. And
20 hopefully they're doing it correctly.

21 COMMISSIONER SHAPIRO: Okay. I appreciate that.
22 Then I'm going to ask that our DAG look into the
23 matter, if that's all right with the Chairman, and see
24 what is the proper recourse for this Board, given the
25 Board unanimously moved that those monies should go back

1 to the horsemen based on the information that we heard and
2 decision that was made by this Board.

3 MR. BIERI: I can't object to that. It sounds
4 fine to me.

5 CHAIRPERSON HARRIS: I'm not really clear on
6 this. This overpayment, which is clouded because it's --
7 there are more receivables. But -- or why wouldn't you at
8 least say that the amount of the overpayment was
9 credited --

10 SENIOR PARIMUTUEL EXAMINER REAGAN: That's a good
11 point, Mr. Harris. As you indicate, the final overpayment
12 is a million three sixty-seven. If we ourselves simply
13 make the adjustment of a million four eighty-seven to the
14 purse account, and in a sense just force the issue, then
15 of course it becomes a \$120,000 underpayment.

16 So the point is, I mean when you --

17 COMMISSIONER SHAPIRO: Who's holding that money
18 though? Who's holding that money? I mean if that's --
19 that's a book entry.

20 SENIOR PARIMUTUEL EXAMINER REAGAN: Right.

21 MR. BIERI: Doc Allred is holding that money.

22 COMMISSIONER SHAPIRO: So -- I mean I'm not
23 going --

24 CHAIRPERSON HARRIS: But none of the promotion
25 funds?

1 SENIOR PARIMUTUEL EXAMINER REAGAN: Not the
2 promotion funds, no. And that is correct. The promotion
3 funds have in a sense been spent on promotion, as we've
4 determined in prior discussions. And by requiring the
5 adjustment by Capitol, we put the million four back into
6 the purses. So like, as I indicate, the overpayment of a
7 million three becomes an underpayment of \$120,000 or
8 thereabouts.

9 CHAIRPERSON HARRIS: Capitol's allegation is
10 though that that was not the deal.

11 SENIOR PARIMUTUEL EXAMINER REAGAN: That's right,
12 that's right. They indicate that it was spent properly
13 and so and so forth.

14 COMMISSIONER SHAPIRO: But we heard that.

15 SENIOR PARIMUTUEL EXAMINER REAGAN: Yes, sir.

16 COMMISSIONER SHAPIRO: And then we decided that
17 we didn't agree with Capitol's position on that matter and
18 the Board took action.

19 SENIOR PARIMUTUEL EXAMINER REAGAN: Right.

20 COMMISSIONER SHAPIRO: Okay. So if you in fact
21 impute in the return of the promotional monies back to the
22 purse account, then there would be an underpayment --

23 SENIOR PARIMUTUEL EXAMINER REAGAN: -- of
24 \$120,000 or thereabouts, yes.

25 COMMISSIONER SHAPIRO: Okay. My question is:

1 How does that -- then you essentially would -- who's
2 holding all this money, so that it's not just a paper
3 underpayment? But how are the purses in fact going to get
4 the benefit of those monies? How would that be done?

5 SENIOR PARIMUTUEL EXAMINER REAGAN: For instance,
6 in the current situation, given -- looking just at the
7 promotion funds -- all right, so then we would say the
8 meet has ended up with \$120,000 underpayment. Then that
9 should be retroed to the purses there -- one purses at
10 that meet.

11 MR. BIERI: And if I may, I'd like to correct
12 myself. When I Doc Allred is holding that money, that was
13 a confusion of the various things that are up there. Doc
14 Allred is not holding this money.

15 SENIOR PARIMUTUEL EXAMINER REAGAN: Right. The
16 money is in a sense no longer there. It's been spent on
17 promotions. The question we --

18 COMMISSIONER SHAPIRO: It went to Capitol and
19 Capitol spent the money on promotion.

20 SENIOR PARIMUTUEL EXAMINER REAGAN: Right.

21 COMMISSIONER SHAPIRO: We took the position the
22 money should not have gone to Capitol. And therefore
23 Capitol needs to reimburse or repay that money to the
24 horsemen.

25 SENIOR PARIMUTUEL EXAMINER REAGAN: Right.

1 COMMISSIONER SHAPIRO: Now, if we credit against
2 the overpayment, the issue is: How was Capitol going to
3 get paid the overpayment? They're done racing.

4 SENIOR PARIMUTUEL EXAMINER REAGAN: Yeah,
5 exactly. If we had ended up the meet with the -- well,
6 if -- all right. If you end up with \$120,000
7 underpayment --

8 COMMISSIONER SHAPIRO: If you credit the
9 promotion fund.

10 SENIOR PARIMUTUEL EXAMINER REAGAN: Right, right,
11 -- then you should repay that to the horsemen at
12 that meet. There is a retroactive purse payment process
13 whereby people who won purses would then receive some pro
14 rata share of that money to settle that amount.

15 CHAIRPERSON HARRIS: Now, the problem is this
16 goes way back, and these funds were -- there was the
17 problem. There's going to be multiple years of purses.

18 SENIOR PARIMUTUEL EXAMINER REAGAN: Yeah. I
19 think what we would simply -- to take care of that, Mr.
20 Harris, we would simply say we'll take care of the current
21 meet. I mean, like you indicate, if you go back to 1997,
22 you will spend \$120,000 in the accounting process and
23 trying to find people and God knows what. So we would
24 simply say, since this meet started early in --
25 essentially in January of this year, we'll simply just

1 take 120,000 and prorate it back to those people. And of
2 course we're also aware of the fact that there are some
3 other significant amount of money here that will have to
4 be --

5 CHAIRPERSON HARRIS: Well, that's why -- that's
6 why -- those other monies get more complicated.

7 COMMISSIONER SHAPIRO: Well, then I'm assuming,
8 John, that you should change the records to reflect then
9 that we impute that promotion money is credited back to
10 the purse account. And it would appear then that there is
11 an underpayment, not an overpayment, of purses that's due
12 the horsemen of \$120,000.

13 SENIOR PARIMUTUEL EXAMINER REAGAN: Okay. We
14 shall do that.

15 CHAIRPERSON HARRIS: Do we have another comment
16 here?

17 MR. MANDEL: Yes.

18 Good morning. Jerry Mandel on behalf of CHHA,
19 the harness horsemen.

20 I think that the observations are well and good,
21 but there are a couple of problems that shouldn't be
22 overlooked.

23 One, Commissioner Shapiro, as you know, there is
24 a significant dispute with respect to the validity of the
25 overpayment. So just the automatic netting out of the

1 promotional fund that's rightfully the horsemen's and the
2 supposed overpayment is something that cannot and should
3 not automatically occur. The California Horse Racing
4 Board never approved the carryover of overpayments. The
5 horsemen never approved the carryover of horsemen's -- I
6 mean of overpayments. And that is a significant item that
7 is at issue.

8 If the Board wants to conduct hearings or
9 meetings or discussions about that, it is something that
10 should be done. And I would be remiss not to advise you
11 that it is my understanding, although I am not yet
12 involved in that lawsuit, that there is a lawsuit in
13 Sacramento which one of the issues is the propriety of the
14 overpayment.

15 One of the problems here, Commissioners, is that
16 the confusion arises because of the questions asked to the
17 breadth of the Board's authority. And I think that Mr.
18 Knight would concur that there are some issues with
19 respect to how much of what the Board has ordered is
20 regulatory, that is, ensuring compliance with the law, how
21 much is conceived as, quote, damages, which is something
22 that under the current state of the law the Board does not
23 have the right to award.

24 That's why there are, as I understand it, a
25 couple of lawsuits that are pending. And in fact the

1 recent mandamus action to which Mr. Bieri referred is in
2 fact an action that challenges your right to make a
3 decision on the promotional fund because they're
4 contending it sounds like damages. And you don't have the
5 right to order damages. I don't know where we'll end up
6 on that and I have not yet spoken with your counsel. And
7 I will be representing CHHA.

8 So I would request at least as a matter of
9 formality that nothing that's decided today be construed
10 as a decision in any way to net out numbers, thus giving
11 some validity to the overpayment issue -- or the
12 overpayments that have been made because they simply are
13 at issue.

14 COMMISSIONER SHAPIRO: Mr. Mandel, I have a
15 question. Are you contesting that the validity of
16 overpayments from one year to the next year to the next
17 year, the legality of that, is that the point that you
18 started out with?

19 MR. MANDEL: There are two. Yes, yes.
20 There are -- and the reason for that is -- and I think Mr.
21 Knight agrees with me -- is that the statute's I think
22 unambiguous that to carry overpayments from year to year
23 requires two things: One, it requires the consent of the
24 horsemen; and, more importantly or equally important, it
25 requires the consent of the Racing Board. And clearly

1 neither has been the case. So there are issues that need
2 to be dealt with that.

3 So I just want to make sure that nothing today in
4 the discussions about netting things out even if it
5 results in an underpayment to horsemen should be construed
6 as a decision on the propriety of the overpayment issue.

7 It raises another issue, which I think
8 Commissioner Harris points out, that I am particularly
9 concerned with. There are a lot of issues on the table,
10 Mr. Harris, as you well know. There are limited pots of
11 money. I'm not even sure that I understand where the pots
12 of money are. But there is some certainty here. And it
13 surprises me -- and I'm encouraged, I guess to hear Mr.
14 Bieri that, gee, if it turns out that the Court of last
15 resort says that Capitol owes the promotional fund, that
16 he'll pay it.

17 The problem is they're not here. Capitol
18 Racing's done. They're leaving Dodge. They don't have
19 any money that I know of that's sitting around saying,
20 "Here's a million and a half dollars of a promotional fund
21 to ensure that you get paid when the day is done if we
22 lose." There are no audited financial statements that I
23 know of, even though they've been requested for several
24 years.

25 It strikes me that the appropriate thing to do

1 would be for the Racing Board to order that Capitol Racing
2 put up a million and a half dollars of promotional fund
3 money so that it's there in the event or when CHHA finally
4 is deemed to be entitled -- or its horsemen to receive the
5 promotional fund that the Board has already ordered.

6 I am concerned that at the end of the day when
7 all of this is sorted out by whatever tribunals and courts
8 and administrative proceedings that CHHA is going to stand
9 with a fistful of tickets that it can't cash because
10 Capitol Racing's left town. And there isn't a pot of
11 money there for the horsemen in California who really need
12 this to tap into.

13 So if, as Mr. Shapiro says, rightly so, you are
14 sufficiently concerned that your decision of last June --
15 I think it was June -- perhaps July -- is not being
16 complied with, it strikes me, especially given the fact
17 that the overpayment is at issue, that the promotional
18 money should at least be deposited with the Racing Board
19 or there be some assurance of the availability of that
20 money when this is resolved. Otherwise this is just a big
21 exercise in futility.

22 And I have serious concern that the horsemen in
23 California are going to be held up holding these tickets,
24 which are worth literally millions of dollars to them,
25 enough to fund purses for races for months, and they can't

1 cash them. And as tired as you are of hearing about
2 Capitol Racing and harness racing, it will be nothing
3 compared to what happens to all the dead bodies that are
4 there because they had their tickets in hand and it
5 doesn't do them any good, because Capitol has gone, left
6 Dodge and there isn't any money.

7 CHAIRPERSON HARRIS: But other than the
8 promotional funds, which I understand your argument that
9 those shouldn't necessarily tie into the overpayment, but
10 assuming they did, the other money -- setting aside the
11 promotional funds -- the other funds, aren't those in
12 someone's hands other than Capitol?

13 MR. MANDEL: There are as I understand it, in
14 dealing with these disputes -- and I won't try to
15 summarize them, but just to check them off -- there are
16 impact fee disputes, there are promotional fund disputes,
17 there's an overpayment dispute, there's some commission
18 payment dispute, fees -- 6 percent fees to CHHA, disputes
19 that soon will surface in the hundreds of thousands of
20 dollars.

21 As I understand it, the only place that there is
22 money sitting, there's a small account -- relatively
23 small. I think, Mr. Reagan, it's about a half million
24 dollars or so that was with the Racing Board at some point
25 in time. I'm sorry, I don't have your package.

1 There is a million nine hundred thousand dollars
2 of 612 money that was and is being held by Los Alamitos
3 Quarter Horse Racing Association. But CHHA has settled
4 its impact fee dispute with LAQHRA. And Doc Allred has
5 quite generously agreed to, in essence, forgo a million
6 and a half dollars of that money so that the 612 money can
7 be released to him to pay a million of a two and a half
8 million dollar claim and to the horsemen in the tune of
9 about another 900,000 thousand.

10 There is finally, as I understand it, a potential
11 source of money from SCOTWINC after they complete their
12 audit of the Capitol Racing. I've been told that it's
13 between 800 and 1.2 million dollars. What will that be
14 used to satisfy? I don't know.

15 I suspect, and I'm told, that they're not going
16 to be distributing that money until all of the claims are
17 resolved. But there isn't enough, there clearly is not
18 enough.

19 COMMISSIONER SHAPIRO: Well, Mr. Mandel, there is
20 also -- with respect to the impact fee, there's a million
21 dollar bond that was posted by Capitol and a million
22 dollar letter of credit, as I recall.

23 SENIOR PARIMUTUEL EXAMINER REAGAN: Yes.

24 MR. MANDEL: I know that there's one of them. I
25 don't know if there are two.

1 COMMISSIONER SHAPIRO: There's \$2 million worth
2 of security there.

3 MR. MANDEL: And there's also an impact --

4 COMMISSIONER SHAPIRO: Plus there's a million
5 nine in the 612 money. And based on the proposed
6 settlement that I've heard about with CHHA on the impact
7 fee, there would certainly seem to be that there's ample
8 security to cover the promotion fund if there was a
9 shortfall.

10 MR. MANDEL: Well, I don't know that that's the
11 case. And I'm happy to explain to you why I think that,
12 if this is the appropriate time.

13 CHAIRPERSON HARRIS: I don't know if we really
14 want to take a lot of time on this today.

15 COMMISSIONER SHAPIRO: I agree with you, John.

16 MR. MANDEL: But the bottom line is is that I
17 think that -- I have two requests:

18 One, please do not say or do anything that can be
19 construed as the Board's acknowledgement of the propriety
20 of the overpayment and the right of Capitol to get that
21 money back, because that is highly disputed, as people
22 know. We've sat in long meetings, you and I, discussing
23 that.

24 And, secondly, I do share, genuinely and
25 sincerely, your concern about the failure to comply with

1 the promotional fund order and the fact that ultimately
2 that money just may not be there unless you order Capitol
3 to put it up.

4 COMMISSIONER SHAPIRO: Well, my comments were not
5 opining at all on the legality of continuing overpayments
6 from year to year to year. And we don't have a legal
7 opinion, and so I don't render one --

8 MR. MANDEL: Good.

9 COMMISSIONER SHAPIRO: -- Or any thoughts on
10 that.

11 With respect to the promotion money, this Board
12 took a position. And I believe that we should take steps
13 to enforce the action that we took back in June or July.
14 That was the sole purpose of it.

15 MR. MANDEL: I agree.

16 COMMISSIONER SHAPIRO: I will just tell you that
17 I don't think Capitol's going to run out of Dodge. He's
18 standing right behind you.

19 MR. MANDEL: He's there, but I don't know what's
20 in his pockets and, more importantly, what's in his
21 corporation's pockets. And that's the issue, that it is a
22 corporation after all and it's not Mr. Bieri, unless he
23 wants to personally guaranty things.

24 CHAIRPERSON HARRIS: Well, we do have the letter
25 of credit and the bond though.

1 COMMISSIONER SHAPIRO: Yeah, we have a letter of
2 credit and a bond.

3 MR. MANDEL: Which are tied to specific sorts of
4 things though. They're not general liability resources.
5 They're tied to specific things.

6 DEPUTY ATTORNEY GENERAL KNIGHT: That's true.

7 COMMISSIONER SHAPIRO: I believe that one million
8 of it is not tied specifically to impacts.

9 MR. MANDEL: You have more knowledge than I.

10 COMMISSIONER SHAPIRO: And I think one maybe.

11 MR. MANDEL: But I'm happy to talk to you about
12 it further.

13 COMMISSIONER SHAPIRO: But I ask that staff
14 please delve into this, and in fact to report back on both
15 the bond, the letter of credit and take the appropriate
16 action with respect to the promotion fund so that we can
17 get a clear understanding. And I ask that our attorney
18 will look into what action perhaps should be recommended
19 to this Board.

20 MR. MANDEL: I also just as an aside indicated to
21 Mr. Reagan that we will be providing with him and to the
22 Board copies of various documents, especially the
23 settlement agreement Doc Allred, if he doesn't have it
24 already, so that the horsemen can get on with their lives
25 and get past this impact fee issue. If Mr. Bieri and

1 Capitol want to continue to litigate with Doc Allred,
2 that's their purview.

3 Thank you very much.

4 CHAIRPERSON HARRIS: Okay. Thank you.

5 MR. BIERI: I do have more than 38 cents with me
6 today, but not a whole lot more than that.

7 I guess what I should say, and then you guys can
8 move on, is I certainly have a dramatically different
9 interpretation of what Mr. Mandel said. I guess that's
10 what makes horse races. And so I would just contest most
11 all of that. And I would ask the Board to not take any
12 further action. And whatever actions you take, we will
13 respond accordingly.

14 Thank you for your time.

15 CHAIRPERSON HARRIS: Thank you.

16 Let's move on.

17 Staff report on the concluded race meets.

18 SENIOR PARIMUTUEL EXAMINER REAGAN: Yes,
19 Commissioners. We've included the package these four
20 meets for your review. And we've got these standard
21 end-of-meet reports and the statistics for your review.

22 If you have any questions, we'll be glad to
23 answer them.

24 CHAIRPERSON HARRIS: Yeah, I did look. And one
25 thing I was particularly pleased with was the ups at the

1 Alameda County Fair, which we met at. I don't think this
2 Board waged enough to just to personally get those up, but
3 they were up by 7 percent on track. And their ADW
4 apparently at all the fairs is up very significantly. I
5 think that that may well be because they are -- all
6 providers are servicing them. So the present figures, I
7 hope that the Board and all interested parties would take
8 a good look at.

9 Any questions on this then?

10 If not, let's move on to the discussion and
11 action by the Board on the request of the California
12 Harness Horsemen's Association for approval of an
13 agreement between the CHHA and the Los Alamitos Quarter
14 Horse Racing Association regarding impact fees.

15 SENIOR PARIMUTUEL EXAMINER REAGAN: Yes,
16 Commissioners. This was a request from the CHHA. They
17 were working on the agreement for a future understanding
18 of impact fees between the two parties, the harness and
19 quarter horse, moving forward from the current meet as
20 well as into the meet that will start this fall, and
21 moving that direction. At the time they were confident
22 that they would have copies to us, and that did not
23 happen. Like I said, we have really nothing here for
24 discussion today. And we ask you to probably table this
25 until a future meeting.

1 MR. MANDEL: The only thing I would do -- I'm
2 sorry, Jerry Mandel -- is just to enlighten you on the
3 arrangement that's been arrived at. And that basically
4 is, as you know, the center of much of the dispute is
5 impact fees. There are some four and a half million
6 dollars in impact fees that are owing to Los Alamitos as a
7 result of the Board's previous rulings.

8 We have always considered that the responsibility
9 of that was likely half to the horsemen and half to
10 Capitol Racing. But Doc Allred has agreed to settle with
11 the horsemen on the impact fee issue in two respects:

12 1) To accept one million dollars for their
13 roughly two and a half million dollar liability; and

14 2) They have reached an agreement for an impact
15 fee prospectively which is in fact less than the amount
16 that the Board ordered in the prior dispute. I think it
17 was 6 percent then and it's 5 percent now.

18 That's been documented. I apologize for having
19 not -- having neglected to provide it to you. We will do
20 that and do that quickly. But hopefully it will put an
21 end to the impact fee dispute between everybody involved
22 except Capitol Racing and Doc.

23 And as an aside, Los Alamitos has agreed that by
24 settling the two and a half million for a million, it will
25 give that two and a half million dollar credit to Capitol

1 so that they're not stuck with a shortfall.

2 CHAIRPERSON HARRIS: That's encouraging.

3 Anything on this?

4 Okay. Let's move on to the committee reports.

5 We had a Medication Committee meeting yesterday,
6 a fairly long meeting. And I ask Dr. Jensen to give us a
7 recap of that and we have a couple of rules that we need
8 to put out for comment.

9 EQUINE MEDICAL DIRECTOR JENSEN: The Medication
10 Committee meeting yesterday, the research on toe grabs was
11 reviewed, the same information that was provided to you
12 today.

13 And the staff has recommended that a new rule,
14 1690.1, addressing long toe grabs, be -- has been drafted
15 and has asked the Board's approval to instruct the staff
16 to begin the 45-day comment period. And that rule reads:
17 That toe grabs with a length greater than four millimeters
18 worn on the front shoes of thoroughbred horses while
19 racing are prohibited. And I think the Board needs to
20 discuss this or at least initiate the action to instruct
21 the staff to begin the 45-day comment period.

22 CHAIRPERSON HARRIS: Yeah, we did have a good
23 discussion on this yesterday. And I think the research
24 has been pretty extensive. It's been going on for years.
25 And I think by putting it out for comment people can

1 obviously comment. But to me it seems like a matter of
2 that there's a lot -- there's very good possibility
3 eliminating low toe grabs will enhance the soundness of
4 horses. And as far as any damage to horses won't be
5 there. One thing that's important to point out is we're
6 just talking about what we consider to be long toe grabs,
7 which is over four millimeters. And we're only talking
8 about thorough horses. It doesn't impact quarter horses.
9 And even on thoroughbreds it's only on front shoes.

10 EQUINE MEDICAL DIRECTOR JENSEN: That's correct.

11 CHAIRPERSON HARRIS: But this is a long toe grab.
12 Have you got like a small toe grab?

13 So we've got --

14 EQUINE MEDICAL DIRECTOR JENSEN: Just as a matter
15 of information. Long toe grabs measure eight millimeters;
16 regular toe grabs, six millimeters; low toe grabs, four
17 millimeters; and very low at two millimeters.

18 CHAIRPERSON HARRIS: Come up and see these. This
19 is long, this is medium, and this is low, I guess, and
20 then --

21 COMMISSIONER SHAPIRO: This is a clean spike.

22 CHAIRPERSON HARRIS: But the issue is when a
23 horse hits, it creates more torque with a longer toe grab.

24 But this will go out and I'm sure we'll have some
25 comment back on it.

1 Any comments on this?

2 COMMISSIONER SHAPIRO: I would move that we adopt
3 this new rule.

4 CHAIRPERSON HARRIS: Is there a second?

5 COMMISSIONER GRANZELLA: Second.

6 CHAIRPERSON HARRIS: Okay. All in favor?

7 (Ayes.)

8 CHAIRPERSON HARRIS: Okay. Set -- there's
9 another rule we've talked about too on the Committee --

10 EQUINE MEDICAL DIRECTOR JENSEN: Yes, also talked
11 about an addition of CHRB rule 1902 dealing with animal
12 welfare. And the matter of animal welfare is of great
13 importance to all in racing. And the actual acts of overt
14 cruelty are extremely rare in racing. But there are
15 occasionally instances of negligent sometimes of courses
16 sometimes due to financial conditions and sometimes due to
17 sort of a lack of knowledge.

18 And when these instances occur, the investigators
19 who really don't have a rule specifically dealing with
20 that. So a rather generic form of an animal welfare rule
21 has been proposed. And it reads: "No person under the
22 jurisdiction of the Board shall alone or in concert with
23 another person permit or cause an animal under his control
24 or care to suffer any form of cruelty, mistreatment,
25 negligent or abuse. Nor shall such person abandon,

1 injure, maim, kill, administer obnoxious or a harmful
2 substance to or deprive an animal of necessary care,
3 sustenance, shelter and timely veterinary care."

4 And the Board agreed -- I mean, I'm sorry -- the
5 Committee agreed to endorse this concept and to instruct
6 the staff to begin the 45-day comment period on this rule
7 as well.

8 CHAIRPERSON HARRIS: Yeah, I think -- there are
9 animal welfare rules, you know, as part of the overall
10 state statutes with this. I think we need to make sure
11 with this rule though, I was thinking as you read that,
12 that I mean if there's a need to euthanize a horse, that
13 would be, you know, a humane act could be considered here
14 administrating it. There needs to be some clarification.
15 As we move forward here we'll probably get some comments
16 that what we're talking about is purposeful cruel or
17 neglected acts.

18 EQUINE MEDICAL DIRECTOR JENSEN: Yes, that's a
19 good point.

20 CHAIRPERSON HARRIS: So anyway let's get a motion
21 to put it out. And we'll obviously -- may make some
22 modifications as we go along.

23 COMMISSIONER SPERRY: So move.

24 DEPUTY ATTORNEY GENERAL KNIGHT: Not on agenda
25 for action.

1 CHAIRPERSON HARRIS: Okay. Well, we can put --
2 both of these are somewhat long-term things. It's not on
3 the agenda for -- we've got the report on medication
4 today. But I guess if we really do it right we need to
5 have these agendized items.

6 DEPUTY ATTORNEY GENERAL KNIGHT: Yes.

7 EQUINE MEDICAL DIRECTOR JENSEN: It wasn't an
8 agenda item on the Medication Committee.

9 CHAIRPERSON HARRIS: On the Medication Committee.
10 But we need --

11 DEPUTY ATTORNEY GENERAL KNIGHT: But for the
12 Board it's not --

13 CHAIRPERSON HARRIS: So we can't really approve
14 it?

15 DEPUTY ATTORNEY GENERAL KNIGHT: No.

16 CHAIRPERSON HARRIS: Okay. Well, we waited this
17 long. We'll do it the next meeting.

18 EQUINE MEDICAL DIRECTOR JENSEN: But I mean -- so
19 we can't notice it for -- list it for -- notice it for a
20 45-day comment period?

21 DEPUTY ATTORNEY GENERAL KNIGHT: No, not really.

22 CHAIRPERSON HARRIS: I thought we could notice
23 things because it's not a final -- all we're doing is --

24 DEPUTY ATTORNEY GENERAL KNIGHT: Well, it's not
25 a -- not a final adoption by the Board.

1 CHAIRPERSON HARRIS: But we can't even notice it?

2 DEPUTY ATTORNEY GENERAL KNIGHT: I'm not sure
3 what the limits are on --

4 ASSOCIATE ANALYST MARTEN: Excuse me. Mike
5 Marten, the Horse Racing Board.

6 Historically the Committee can authorize it for
7 notice. It doesn't take Board action.

8 CHAIRPERSON HARRIS: Because I think that's what
9 we did -- at the committee level we did that yesterday.

10 ASSOCIATE ANALYST MARTEN: Just for notice.

11 CHAIRPERSON HARRIS: We can verify that. But if
12 we can do that, we would like to do it. And obviously the
13 Board will --

14 DEPUTY ATTORNEY GENERAL KNIGHT: As long as OAL
15 will, that's fine.

16 CHAIRPERSON HARRIS: Okay. Well, let's attempt
17 to do that.

18 Okay. Do we need a vote to do that or just --

19 DEPUTY ATTORNEY GENERAL KNIGHT: Just do it.

20 CHAIRPERSON HARRIS: Just do it. Okay.

21 Okay. Thank you.

22 Other things on the Committee report?

23 EQUINE MEDICAL DIRECTOR JENSEN: Yeah, just
24 briefly. There has been a move towards uniformity in
25 penalties for medication violations, both in California

1 and nationally. And there has been a national -- there is
2 a national organization, the Racing Medication and Testing
3 Consortium, which is a national organization of all facets
4 of racing, has proposed some uniform guidelines for
5 penalties for medication violations. And the Board had
6 asked staff to begin the process of drafting ways to
7 implement these guidelines to coordinate with California
8 law and California rule.

9 That was -- that initial draft was discussed
10 yesterday. There's a lot of work to be done on it yet.
11 And the issue was tabled at the committee level and
12 recommended that language be reviewed by a working party
13 made up of the medication advisory group and some other
14 interested parties.

15 So it was a first step in probably a long
16 process.

17 CHAIRPERSON HARRIS: Any comments on this?

18 You want to talk about the TCO2?

19 EQUINE MEDICAL DIRECTOR JENSEN: Yes. The
20 Committee heard from the Executive Director as to what the
21 implementation of the TCO2 rule, how it will work when AB
22 52 is passed and the responsibility falls to the Board.
23 And I think --

24 EXECUTIVE DIRECTOR FERMIN: It passed.

25 EQUINE MEDICAL DIRECTOR JENSEN: Well, we have

1 breaking news.

2 EXECUTIVE DIRECTOR FERMIN: It has to go back to
3 the Assembly for concurrence and then to the Governor.
4 But it did pass. I think it was 32 to 3.

5 EQUINE MEDICAL DIRECTOR JENSEN: Okay. So it has
6 been passed. But, anyway, it's -- the Board, that has
7 been approved and now passed by the Legislature, the law,
8 involves a penalty which it's currently listed as a Class
9 3 penalty, which involves a redistribution of the purse
10 and a fine for the guilty parties. Also had some
11 discussion about working with the race tracks to continue
12 the detention of horses or stables who have high TCO2
13 levels. And I think that's --

14 CHAIRPERSON HARRIS: Yeah, I hope in going
15 forward we could develop somewhat of a hybrid program
16 where we could still have the tracks involved, because
17 there's been a lot of advantages of doing that. But this
18 will also give us the other tool of the loss of purse and
19 a lot of those things.

20 EXECUTIVE DIRECTOR FERMIN: I look forward to
21 meeting with the associations individually. And hopefully
22 we'll be able to work something like that out.

23 One of the other things we mentioned was the
24 opportunity for requesting a split at entry time so that
25 an owner or trainer could request a split on the

1 pre-blood. And I believe it was Iowa state and --

2 EQUINE MEDICAL DIRECTOR JENSEN: -- Ohio.

3 EXECUTIVE DIRECTOR FERMIN: Oh, Ohio.

4 -- and Ohio, both had agreed that they could
5 handle the split process. And they've tested it and it
6 looks like it will work timewise getting it before there's
7 any disintegration in the sample.

8 CHAIRPERSON HARRIS: Yeah. On behalf of the
9 Board I'd really like to thank all the tracks that were so
10 cooperative in this program, who've really done an
11 excellent job of getting this started, and Dr. Arthur, all
12 the efforts that went into it.

13 Anything else?

14 COMMISSIONER MOSS: Has there been any comment
15 on -- I know TCO2 that there have been near misses, you
16 know, that there have been certain trainers that have
17 gotten a reading of 36 rather than the 37. Has there been
18 any comment on maybe publishing of that status or not?

19 EQUINE MEDICAL DIRECTOR JENSEN: There was --

20 CHAIRPERSON HARRIS: Really it's up to the
21 tracks -- one of the problems that the CHRB has, that we
22 cannot public anybody's result unless we charge them. But
23 I guess a track, it would be up to their prerogative, they
24 could do whatever they wanted.

25 COMMISSIONER MOSS: So that would be up to the

1 tracks then?

2 CHAIRPERSON HARRIS: I think at this point it's
3 up to the tracks.

4 I think one of the issues is I've heard that, you
5 know, this -- I haven't discussed. I think once -- if
6 there's going to be the loss of purse plus these other
7 sanctions, that people would be pretty well advised to see
8 how close they could get, because any time you try to get
9 close you could go over. It's I pretty major penalty.
10 Well, right now I think maybe they assume that it's not --
11 you know, it's a problem but not a big problem. Where
12 once it gets to be a big problem, hopefully they're not
13 going to try to push the envelope.

14 COMMISSIONER MOSS: Well, even if you get close,
15 it's obvious there's an inclination to cheat, you know.
16 So how do we protect ourselves from further inclinations?

17 COMMISSIONER SHAPIRO: Commissioner Moss, one of
18 the things that we did discuss yesterday, and I asked Dr.
19 Stanley and I've also spoken with Dr. Arthur, was to try
20 and look at perhaps creating two criteria for there being
21 a TCO2 positive. One, which is the criteria that we now
22 use of 37 millimoles being considered a positive. But
23 also to look at an average for trainers. That some
24 trainers that perhaps are averaging over 35 millimoles, if
25 their stables are running over 35 millimoles, then that

1 could be considered a positive for that trainer, and that
2 trainer could then be subject to sanctions and detention
3 barns and things like that.

4 They said that Oak Tree has I think donated some
5 money, and they are looking at that. And I think that in
6 our continual enforcement in moving forward on this we
7 should be looking at some other types of methods to stop
8 what may be in fact unfair practices by certain trainers
9 that are continuing to exist.

10 CHAIRPERSON HARRIS: I don't know if we've got
11 any evidence, anything that would say that, you know, a 35
12 is going to enhance performance of a horse. But the --
13 part originally was that people in order to achieve a 37,
14 they had to be doing something to that horse within the
15 period of time that you could give the horse anything.

16 EXECUTIVE DIRECTOR FERMIN: Just one of the
17 things that was mentioned in the meeting yesterday also is
18 we've done a fair amount of out-competition testing on
19 horses, so trying to find out what their natural reading
20 is when they are not pre-raced. And this -- there have
21 been some significant results, and that most horses seem
22 to be within a legal -- what's considered the normal
23 range.

24 CHAIRPERSON HARRIS: Mr. Charles.

25 MR. CHARLES: Ron Charles, MEC.

1 Just to clarify Commissioner Moss's statement
2 regarding trainers who are staying right under 37. The
3 Committee does not have access to anyone unless they
4 actually have a test over 37. We are then informed. But
5 anyone running very close, we are not -- they are under
6 surveillance and we're not keeping track on those
7 currently.

8 CHAIRPERSON HARRIS: Okay.

9 COMMISSIONER MOSS: Thank you very much.

10 CHAIRPERSON HARRIS: I mean the tracks have a lot
11 more latitude if we were going to do it. For us to do it
12 we would have to, you know, institute a new rule, which we
13 could do I guess.

14 DEPUTY ATTORNEY GENERAL KNIGHT: There's a
15 statute actually. It's actually the statute.

16 CHAIRPERSON HARRIS: What's the statute?

17 DEPUTY ATTORNEY GENERAL KNIGHT: The prohibition
18 is in statute, where you have to charge before you can --

19 CHAIRPERSON HARRIS: Oh, that part. But I mean
20 as far as the actual -- we've got a rule that the 37 is in
21 class 3 violation.

22 Hopefully this is something that's going to, you
23 know, be solved and looked back upon as just a little
24 blip.

25 Anything else?

1 EQUINE MEDICAL DIRECTOR JENSEN: The only other
2 things that are brief, being on the microchip plan, that
3 since the last update last month the encompass information
4 system at the Jockey Club is going forward with the
5 development of a database that will handle the microchips
6 identifying it to the horse as part of their horse ID
7 system, and also working on a method to track these horses
8 as they go from track to track at this time.

9 CHAIRPERSON HARRIS: Yeah, there is a requirement
10 everyone should be aware of, by 2009 all livestock, from
11 cattle and pigs and -- everything's got to be identified.
12 And so I think it's important that the horse industry --
13 there's other reasons to do it for the horse industry.
14 But the USDA regulations are mainly concerned about animal
15 health issues. But, as you well know, they like to get
16 better track horses in and out and all this. So I'm
17 hopeful that we can get a pilot program going for the
18 thoroughbred industry in California to have something
19 that's up and running, you know, pretty well by sometime
20 in 2006.

21 EQUINE MEDICAL DIRECTOR JENSEN: Just a little
22 additional comment. There's a lot of advantages to being
23 able to identify horses including, which Dr. Stover
24 alluded to this morning, it would give us a better handle
25 on the actual racing population that's actually at the

1 race tracks. When they compare injuries to non-injuries,
2 they actually have a good handle on how many horses are
3 actually in training at any given moment.

4 CHAIRPERSON HARRIS: Yeah, I think going forward
5 there's going to be a lot different generation. Right now
6 what we've got is a chip, which can identify what horse it
7 is. And actually some of the chips they actually show the
8 horse's temperature, which will be a good thing for just
9 management of the health.

10 But going forward I think there will be
11 interactive chips that can show further amounts of history
12 and chips that you can read as the horse walked on to a
13 track where we could better assess who's going to the
14 track and which horses are working out and things like
15 that.

16 COMMISSIONER SHAPIRO: I think we also spoke
17 about the formation of a possible registry, which would be
18 useful because, especially in the claiming ranks where
19 horses are repeatedly claimed and trainers continue to
20 inject them, and which could lead to, you know, injury and
21 harm to the horses, there was a discussion about creating
22 a database that would allow us to track horses in that
23 community so that we know the horses aren't being
24 over-medicated or injected too frequently and things like
25 that.

1 CHAIRPERSON HARRIS: Yeah, right now -- I'm glad
2 you brought that up, because that is one of the things
3 that's really been bothersome for years is that these vets
4 are making daily reports of I guess certain categories of
5 things they're doing, but those -- there's no database for
6 them. There's just paperwork that gets turned in. And
7 there's some -- how it's going to go through a dark hole.
8 But we really need to develop a database where we can go
9 back and really see what's happening.

10 I think we need to put that out and, you know,
11 get started and see if there's -- what unknown concerns
12 there are. I guess traditionally just worrying about
13 these confidential -- I'm really not worried about the
14 confidentiality issues really.

15 COMMISSIONER SHAPIRO: Well, no. I mean the
16 issue was that we were going to create this. I believe
17 that Craig Fravel did have a conversation with the CRIMS
18 people yesterday after our meeting, and tried to create
19 this database so that we could have it as a resource. And
20 we are -- also we had a number of trainers show up
21 yesterday so that we could have a working group put
22 together that could deal with some medications that we
23 question whether they are being used for their originally
24 prescribed purposes or had become more performance
25 enhancing or "I've got to use it because the next guy's

1 using it" type of a deal.

2 And so I think that there was some good
3 discussion yesterday about creating a working group to
4 evaluate our entire medication program, and not just be
5 complacent that because we approved something a few years
6 ago, that we should continue to utilize that or let that
7 drug be used as preferable.

8 CHAIRPERSON HARRIS: One of the big concerns is
9 injectable steroids. Not anabolic steroids, but actual
10 cortisone-type steroids that are being injected in the
11 joints, that at times may have some therapeutic use. But
12 they may well be abused and leading to the, you know
13 long-term unsoundness of horses. So we need to get our
14 arms around that. I think there's actually a lot of --
15 I've talked to several vets who are very concerned about
16 that and even though that's a problem -- feel that we're
17 not -- you know, we're looking after the welfare of the
18 horse and we may be overusing some of these joint
19 injections.

20 Anything else?

21 Okay. Thank you, Dr. Jensen.

22 Dr. Jensen's going to be retiring at the end of
23 this year. And we're in the process of recruiting a new
24 equine medical director.

25 Okay. Other business?

1 Any general business?

2 Any old business?

3 Just about right for --

4 MR. CHARLES: Ron Charles, MEC.

5 A real quick question. First of all I'd like to
6 congratulate Scientific Games for giving the alternate to
7 put in.

8 But can I have an update as to where we are on
9 the Pick 6 will-pays and the Pick(n) will-pays. I thought
10 we were close to getting those. And I was curious as
11 to --

12 CHAIRPERSON HARRIS: Yeah, I asked about that the
13 other day. And apparently it's pretty close. Well, we
14 passed a rule that's got to go to the Office of
15 Administrative Law. And they have to give it it's
16 blessing.

17 Are there staff members would like to comment
18 where we are on that on or how far off we are?

19 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Roy Minami,
20 Horse Racing Board staff.

21 At this point I'm not exactly sure where we are.
22 I know after the Board adopted the regulation it went to
23 the Office of Administrative Law. They take approximately
24 30 days to review it and approve it. And then it takes
25 another 30 days to go to the Secretary of State's office.

1 And once the Secretary of State approves it, then it
2 becomes a effective.

3 So basically from the time that the Board adopted
4 the actual regulation it's approximately 60 days before it
5 will be actually effective. So we're probably looking at
6 maybe another 30 days.

7 CHAIRPERSON HARRIS: Yeah. It's getting closer,
8 for sure. I think it will be a nice feature too that
9 people will take an interest in. Is there any other
10 general business or old business?

11 COMMISSIONER MOSS: We should get an exact fix on
12 that, you know, because we did approve that some time ago
13 and --

14 CHAIRPERSON HARRIS: Yeah, it is frustrating.
15 It's out there and --

16 COMMISSIONER MOSS: I mean we've approved it,
17 everybody's happy about it, and we're waiting. So I think
18 whomever is responsible, we should get a real fix on it.

19 Thank you.

20 CHAIRPERSON HARRIS: Good idea.

21 Is there anything else from the Commissioners or
22 that the audience had?

23 Well, thanks for being here.

24 (Thereupon the California Horse Racing

25 Board meeting adjourned at 1:30 p.m.

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Horse Racing Board meeting was
7 reported in shorthand by me, James F. Peters, a Certified
8 Shorthand Reporter of the State of California, and
9 thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 24th day of August, 2005.

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