

MEETING  
STATE OF CALIFORNIA  
HORSE RACING BOARD

In the Matter of:                    )  
  )  
Regular Meeting                        )

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DEL MAR SURFSIDE RACE PLACE  
2260 JIMMY DURANTE BOULEVARD  
DEL MAR, CALIFORNIA

THURSDAY, AUGUST 27, 2009

9:33 A.M.

Reported by:  
Troy A. Ray, CER

APPEARANCES

COMMISSIONERS

John C. Harris, Chairperson

David Israel, Vice Chairperson

John Andreini

Jesse H. Choper

Bo Derek

STAFF

Kirk Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

ALSO PRESENT

Peter Tunney

Gregg Scoggins

John Brooks

Jack Liebau

Randy Gallo

Craig Fravel

Chris Carpenter

Sherwood Chillingworth

Alan Gutterman

Daniel White

George Haines

APPEARANCES CONTINUED

ALSO PRESENT

Dr. Rick Arthur

Eual Wyatte

Dr. Hailu Kinde

Mike Harlow

Vic Stauffer

Ron Ebanks

Marsha Naify

Ed Halpern

Darrell Haire

Bernie Thurman

J. Curtis Linnell

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1 Mr. Chairman, you can start off.

2 If I may add, we have a new time machine here and  
3 Mike Marten's in charge of it so --

4 CHAIRPERSON HARRIS: Mike's -- does it go off or  
5 how can we tell?

6 EXECUTIVE DIRECTOR BREED: Well, it's got a  
7 starting gate and it's got the call to the post on it.

8 CHAIRPERSON HARRIS: Oh, really?

9 EXECUTIVE DIRECTOR BREED: Yeah.

10 CHAIRPERSON HARRIS: Can we hear what -- okay.

11 Okay, we'll return to our normal agenda. We've  
12 got a fairly big agenda, but I think we can get it through  
13 pretty well.

14 And the item on CARMA we have deferred until the  
15 next meeting because it -- at the request of Madeline, so  
16 is deferred until September.

17 EXECUTIVE DIRECTOR BREED: They wanted to do three  
18 and 28 together.

19 CHAIRPERSON HARRIS: Okay. Let's go ahead with  
20 the minutes from the June 5 meeting, anyone have any  
21 additions or corrections to those?

22 Being none, can I get a motion?

23 VICE CHAIRPERSON ISRAEL: Move.

24 COMMISSIONER ANDREINI: Second.

25 CHAIRPERSON HARRIS: Okay, moved and seconded.

1 All in favor?

2 (Ayes.)

3 CHAIRPERSON HARRIS: Next was the meeting of July  
4 23rd, anything there?

5 I might mention these minutes are -- for all the  
6 meetings are on the website, as well as the transcripts.  
7 I'm not sure, who actually -- I think the minutes are well  
8 written, who actually writes those? Is that Bon or Jackie?

9 REGULATIONS/LEGISLATION MANAGER WAGNER: The  
10 minutes are written by a member of my staff, in policy and  
11 regs.

12 CHAIRPERSON HARRIS: Okay. Well, tell them I  
13 think they're doing well.

14 VICE CHAIRPERSON ISRAEL: That's right, we sound  
15 much smarter than we really are.

16 CHAIRPERSON HARRIS: Yeah, yeah, which is really a  
17 challenge to make us --

18 (Laughter.)

19 Okay, we've got the minutes of July 23rd, have we  
20 got a motion?

21 COMMISSIONER ANDREINI: Moved.

22 CHAIRPERSON HARRIS: Okay, and a second?

23 VICE CHAIRPERSON ISRAEL: Second.

24 CHAIRPERSON HARRIS: Okay, all in favor?

25 (Ayes.)

1 CHAIRPERSON HARRIS: Okay, the first item is  
2 Pacific Racing's application for license and they're  
3 requesting amending their dates for this year, the meeting  
4 would commence on October 21st, which is right after the Big  
5 Fresno Fair.

6 Someone from Pacific to present this?

7 REGULATIONS/LEGISLATION MANAGER WAGNER: Jackie  
8 Wagner, CHRB staff.

9 The application is from the Pacific Racing  
10 Association. They have filed their application to conduct  
11 the race meeting at Golden Gate Fields.

12 They are proposing to race from October 21st  
13 through December the 20th, which is 42 days.

14 These proposed dates are different from the days  
15 that were originally allocated to Pacific Racing  
16 Association. They were originally allocated dates from  
17 October the 21st through December 13th, which was a total of  
18 34 days.

19 And in order to coordinate racing with Hollywood  
20 Park, they are now requesting a change in its race dates to  
21 October the 22nd through December the 20th, which would  
22 increase their racing dates from 34 to 42. The application  
23 reflects that change.

24 CHAIRPERSON HARRIS: Okay.

25 REGULATIONS/LEGISLATION MANAGER WAGNER: They will

1 be racing five days per week, Wednesday through Sunday,  
2 except for week four when they will be racing three days,  
3 Friday through Sunday, and in week nine they will be racing  
4 four days, Thursday through Sunday.

5 They will have eight races on weekdays and nine  
6 races on weekends and holidays.

7 They will be racing concurrent with Oak Tree and  
8 Hollywood Park.

9 Their first post time is 12:45 p.m. daily.

10 For the Breeders' Cup, which occurs on November  
11 the 6th and November the 7th, on November the 6th, on  
12 Friday, they have a post time as 11:55 a.m. and on the  
13 Saturday, November the 7th date for Breeders' Cup, the post  
14 time will be 10:25.

15 Thanksgiving Day, on November the 26th, their post  
16 will be 11:15 in the morning.

17 Their advanced deposit wagering providers are  
18 Youbet, TVG, XpressBet, and Twinspires.

19 Their TOC applications are on file.

20 We have a representative from the racing  
21 association and staff recommends the Board approve the  
22 application.

23 EXECUTIVE DIRECTOR BREED: Excuse me a minute,  
24 before you go, Peter, Mike, did we get any cards for the  
25 public sign-in?

1           So there's no cards for public sign-up. So I  
2 think the best way to do it is to just play it by --

3           CHAIRPERSON HARRIS: Yeah, we can go back to the  
4 old method.

5           EXECUTIVE DIRECTOR BREED: Yeah, go back to the  
6 old method.

7           CHAIRPERSON HARRIS: Is Jammer available to help  
8 us coordinate this?

9           Yeah, on this application, as I recall originally  
10 the thought was you might only want to race four days, but  
11 now you want to go back to five. Is that due to you feel  
12 there's a better inventory than you did when you originally  
13 applied?

14          MR. TUNNEY: I'm Peter Tunney, representing Golden  
15 Gate Fields. That's correct, Mr. Chairman.

16          The intent was to make sure we covered all the  
17 days in Southern California. And so in this case it's  
18 Hollywood Park, we worked with Hollywood Park for a long  
19 time to come up with this schedule.

20          When we talk about the increase in these numbers,  
21 of the number of races, it's actually a decrease from last  
22 year because, speaking of the Big Fresno Fair, we do not  
23 overlap them for the first time, ever. So that's a  
24 significant increase, almost 15 percent decrease in the  
25 number of races for that period.

1           Secondly, running that schedule works well. We  
2 found that last spring proved to be a disaster because of,  
3 you know, un-overlapped, and people are just used to it in  
4 the State.

5           The last part is that at that time of the year  
6 there is a significant number of horses that arrive from  
7 Seattle and from Vancouver to help the inventory that's  
8 currently in existence, and so we want to take advantage of  
9 that as well.

10           So not leaving any race days uncovered north and  
11 south, and then taking advantage of the fresh inventory from  
12 the north.

13           CHAIRPERSON HARRIS: Yeah, I think the five-day  
14 week will generate more total economic activity, which is  
15 healthy as long as you fill the races.

16           I mean, a lot of it is going to be Hollywood can  
17 maintain their five-day weeks to overlap.

18           MR. TUNNEY: And clearly, if we -- we'd rather  
19 have the approval and then if we have to adjust, we do so,  
20 and we have never been shy about adjusting if we needed to.

21           CHAIRPERSON HARRIS: Yeah, I think that's the key.  
22 I think if you can see that you're getting into a jam that  
23 you adjust far enough ahead that people can make plans, and  
24 that your book doesn't get too confused.

25           One of the issues on this, I mean other than the

1 race days, which I assume -- does anyone have any objections  
2 or comments on the -- basically, to give them the additional  
3 days or slightly amending their license to that? I would  
4 assume everyone's okay with that.

5 MR. TUNNEY: And the approval, and it also  
6 includes the approval of the application for that period as  
7 well, yeah.

8 CHAIRPERSON HARRIS: Yeah. The problem with the  
9 application is the financial aspect of it, that all I see is  
10 on page 340 there's a letter from Magna Entertainment saying  
11 that they would guarantee the financial aspects of Pacific.

12 However, MEC, as I understand it, is in bankruptcy, and I  
13 think we need something more than this letter to assure that  
14 all the different funds are being paid.

15 Because that's the same thing we went through this  
16 spring, which now I realize they're operating -- this is a  
17 really different type of situation when you're in  
18 bankruptcy.

19 But there needs to be something that assures that  
20 various funds that are supposed to get money due, in fact  
21 get their money.

22 So I don't know if -- I understand other states  
23 have required letters of credit, or bonds, or something, but  
24 I think we need to look at it more than just what we have  
25 here.

1 MR. TUNNEY: Well, Gregg Scoggins is here to  
2 address that.

3 CHAIRPERSON HARRIS: Yeah.

4 MR. TUNNEY: Just to say that we have been racing  
5 since early in '09 without any mishaps representing our own  
6 operation.

7 CHAIRPERSON HARRIS: Yeah, I think you did have,  
8 as part of the MEC bankruptcy, there are amounts that were,  
9 and supposed to be generated at Golden Gate that, you know,  
10 have not been paid.

11 MR. SCOGGINS: Mr. Chairman, if you'd like, I can  
12 address or I'll attempt to address your concerns and provide  
13 you a little bit of information.

14 And with the Board's indulgence, maybe I can  
15 address some of the items in connection with Item 18,  
16 because I think the two of them are linked.

17 First off, I'd like to say I'm Gregg Scoggins, I'm  
18 here on behalf of MEC, and Golden Gate Fields, and L.A. Turf  
19 Club. and XpressBet.

20 And with respect to the bond that you are  
21 contemplating or some kind of financial security beyond the  
22 letter that Magna Entertainment has offered up, a couple of  
23 things, a couple of factual points I'd like to bring to your  
24 attention that have occurred relatively recently.

25 One is that either today or yesterday there was

1 filed, in the bankruptcy court, a motion by MEC to ask for  
2 the tax cap. There was a cap that was imposed or that we  
3 agreed to with respect to the amount of taxes and state  
4 obligations that we could pay in California, I believe it  
5 was in the \$60 million range.

6 We are asking to have it elevated so that we will  
7 be able to pay the outstanding amounts due to the state. It  
8 was subject to court approval and we hope to be able to  
9 obtain that. So it is a positive step, from the State of  
10 California's perspective, that I wanted to make sure that  
11 you were aware of.

12 CHAIRPERSON HARRIS: I thought the amount due  
13 California was like a million or so but --

14 MR. SCOGGINS: Right. There was an original cap  
15 that was put into place, beyond which we couldn't go, and  
16 what we're trying to do is elevate it to the point that  
17 we're able to pay the remaining amount that's due to the  
18 state, that remains outstanding.

19 CHAIRPERSON HARRIS: But by due to the state, you  
20 mean just the license fees, not the fund? There's an issue  
21 on the NOTWINC funds and all that.

22 MR. SCOGGINS: Right, not those.

23 CHAIRPERSON HARRIS: Not those.

24 MR. SCOGGINS: No, it doesn't address those  
25 particular funds.

1           The other thing I also wanted to make you aware  
2 of, I believe on Tuesday the parent company of MEC, which is  
3 also MEC's principal creditor, has filed with the Ontario  
4 Stock Exchange, or Stock Commission, or Securities  
5 Commission, excuse me, a proposed modified loan or proposed  
6 credit agreement between it and MEC that, conditioned upon  
7 the Stock Commission approving MID's right to do this, which  
8 we expect will be heard sometime in mid-September, they will  
9 add another \$28 million to the DIP loan that's currently in  
10 place with MEC, with the idea being that it would extend  
11 MEC's operational abilities through until April of next  
12 year.

13           Which provides, obviously, not only those at MEC,  
14 but also others some comfort, I think, that we will have the  
15 funds necessary to continue our obligations -- or continue  
16 our operations and meet our obligations, as we have done  
17 since the petition was filed.

18           There also were some milestones established in  
19 connection with that agreement that pertained to some of the  
20 operations that are based or licensed here, in California.

21           The first milestone is that by October 31st MEC is  
22 to obtain sales orders from the bankruptcy court approving  
23 the sales of various assets. Among those are included  
24 XpressBet and AmTote. And so that's an October 31st  
25 milestone for purposes of obtaining those orders.

1            Obviously, those sales will be subject to  
2 regulatory approval, such as the CHRBS and others.

3            And then there is a third group that the milestone  
4 is that by November 30th there will be a sales order in  
5 place with respect to the two California tracks, Golden Gate  
6 and Santa Anita, Gulfstream Park, and Maryland Jockey Club.

7            MID, in connection with this whole process, has  
8 announced that they will not seek to put a topping bid, if  
9 you will, or a credit bid with respect to the category one  
10 and category two assets, and that being included is  
11 XpressBet and AmTote, and some of the other tracks that  
12 we're looking to sell in those two categories.

13            They have reserved the right to be able to credit  
14 bid on the remaining four tracks, that being Golden Gate,  
15 Santa Anita, Gulfstream Park, and Maryland Jockey Club  
16 Tracks.

17            However, with respect to Santa Anita there's a  
18 further caveat, that being that they will only credit bid or  
19 seek to over-bid on the purchase of Santa Anita if they  
20 feel, in their judgment, that the current or then current  
21 price is what they would consider to be a fire sale price.

22            So there is a caveat or a limited qualified  
23 commitment with respect to Santa Anita.

24            As it relates to the Golden Gate Fields meet,  
25 upcoming, and the discussion on the financial securities

1 relative to this, one; I guess this, certainly by mid-  
2 September we will know for certain the extent to which this  
3 amended credit arrangement will be in place, which should  
4 give everybody a sense of comfort as to our ability to meet  
5 our obligations on a going forward basis.

6 And also, the other thing I guess that's a matter  
7 of some concern of ours is some of the bankruptcy related  
8 concerns about the extent to which states can impose  
9 conditions on bankrupt entities based on the fact of them  
10 being bankrupt. And so we need to consider that.

11 And to the extent that you would like to take  
12 action on that particular point, we would encourage you to  
13 consider deferring final decision until the September  
14 meeting so that we can communicate, work with your staff and  
15 make sure we know amounts, what's to be covered, et cetera,  
16 and so forth.

17 Also we'll know by then the extent to which the  
18 Ontario Stock Commission or Securities Commission has  
19 approved the proposed amended credit agreement.

20 COMMISSIONER CHOPER: Does Magna continue to have  
21 insurance policies for liability, negligence, court  
22 liability?

23 MR. SCOGGINS: Yes, yes.

24 COMMISSIONER CHOPER: So they are in place?

25 MR. SCOGGINS: Yes.

1           COMMISSIONER CHOPER: And this other amount that  
2 you're suggesting, what is it \$28 million, \$56 million?

3 There was a number that you --

4           MR. SCOGGINS: There's another \$28 million that's  
5 being added to the current DIP loan that's in place. That's  
6 for, you know, our ability to fund operations.

7           CHAIRPERSON HARRIS: Well, I think one of the  
8 things, I appreciate the explanation and sympathize with the  
9 financial state that you're in but, I don't know, the Board,  
10 itself, probably is safe because we don't really have a --  
11 California doesn't really have a license fee anymore,  
12 there's just kind of a fee that pays for the administration  
13 of CHRB where if one participant failed to pay, the other  
14 participants would pick it up.

15           So basically, as I understand it, CHRB would  
16 really not be harmed.

17           But the issue is where all these funds, and I  
18 don't know how much of our brother's keeper we're supposed  
19 to be for these funds, and I don't know if any of the funds  
20 are here, the NOTWINC, or Stabling and Vanning, or any of  
21 this kind of a hodge podge of monies out there, if they have  
22 any objections or if they've focused on what they think  
23 would be a fair outcome.

24           Is anybody here to comment from NOTWINC, or any  
25 receivables that would be of concern?

1 MR. SCOGGINS: Just so it is clear, the  
2 receivables that would not be on the table would be any  
3 receivables that exist in respective amounts that were owed  
4 pre-petition.

5 CHAIRPERSON HARRIS: Yeah, I realize that.

6 MR. SCOGGINS: They would all be post-petition  
7 since, you know, emanating from the commencement of the  
8 Golden Gate meet.

9 CHAIRPERSON HARRIS: So anyone have any comments  
10 on that?

11 EXECUTIVE DIRECTOR BREED: Would you all please  
12 state your name for the reporter?

13 MR. BROOKS: Yeah, my name is John Brooks, I'm  
14 here representing Racing and Gaming Services. I'd like to  
15 thank the Board for the opportunity to come up and speak.

16 I know that there's a lot of issues with the Magna  
17 bankruptcy, I know that the California Horse Racing Board  
18 had a meeting shortly after the Magna bankruptcy. At that  
19 time there was a lot of uncertainty about things that were  
20 going to happen, what was going to transpire, people were  
21 worried that the tracks weren't going to run anymore.

22 And Magna did a good job of coming in at that  
23 time, calming the fears, and letting everybody know that  
24 racing was still going to be going on.

25 What has happened since that time, unfortunately,

1 at our company, our customers had a very good January and  
2 February at both Golden Gate and Santa Anita. We have over  
3 \$2.3 million outstanding that hasn't been paid in winning  
4 tickets from these racetracks, that is now being included in  
5 the bankruptcy and they're saying that we're an unsecured  
6 creditor, and this was money that was in the pools. And  
7 it's just a matter of money that is being won by our  
8 customers and lost by customers at other sites.

9           This is -- also included in this is 834,000 in  
10 track fees that were paid to the racetrack. So the money  
11 room settlement was actually over 3 million, they were able  
12 to keep the 834,000 and they're supposed to remit the rest  
13 to us from the money room settlement.

14           We've already paid 967,000 in federal taxes on  
15 this money that we remitted to the IRS and we have yet to  
16 collect it. We've paid all our customers, we've paid the  
17 IRS, and the money's still being held and they're saying  
18 that we're an unsecured creditor.

19           You know, at the time of the initial meeting Dick  
20 Powell representing our company here, and we submitted a  
21 statement into the record where we had some recommendations  
22 for the California Horse Racing Board and we'd like to kind  
23 of reiterate those at this time.

24           Prior to the bankruptcy, you know, it was  
25 represented to us that settlement monies would never be

1 included in the bankruptcy, we'll be paid, the customers  
2 will always be paid, but that's not what happened.

3 We're currently in an adversarial proceeding with  
4 Magna, in bankruptcy court, trying to get a resolution to  
5 this. And although I believe we'll probably get a favorable  
6 ruling, I think that it would benefit the states to  
7 promulgate relations that clearly articulate that the money  
8 in the pools is held in trust and that this money is  
9 separate from the track revenues, which it is.

10 And the four rules which we suggested, which I'll  
11 reiterate here today, were one; adopt a rule that requires  
12 all account wagering companies, including ours, to place  
13 account wagering money in a separate trust account that  
14 cannot be used for any other purpose other than to settle  
15 wagering balances.

16 Secondly, to adopt a rule that places purse money  
17 in a separate trust account that cannot be used for any  
18 other purpose. I think this may have already been done.

19 CHAIRPERSON HARRIS: I think there's a bill  
20 pending but I'm not sure if it's passed.

21 MR. BROOKS: Third, adopt a rule that requires  
22 host facilities to place settlement money in a separate  
23 trust account specifically for the purpose of disseminating  
24 funds as required by the settlement files, and require that  
25 settlement payments be placed in this account rather than

1 into operating accounts.

2 And lastly, adopt a rule that all settlements have  
3 to occur within 15 days.

4 I certainly appreciate the opportunity to speak  
5 before you here today. I know that it's a tough issue and a  
6 difficult issue, but I think adopting these rules and  
7 clearly articulating this would require the racetracks --  
8 there's been a lot of discussion over the last few years  
9 about the integrity of the wagers and people wagering into  
10 the pools, but we haven't done a lot about the integrity of  
11 the pools, themselves.

12 And, you know, just like you have the Megabucks  
13 back here, or something like that, if somebody buys a ticket  
14 and hits Megabucks, nobody in their right mind expects the  
15 Seven Eleven Store or this OTB to pay that money, that  
16 money's got to come from the larger pool.

17 And that's the same as parimutuel wagering,  
18 especially when you're talking about Pick 6s and large pools  
19 like that.

20 Thank you for your time.

21 CHAIRPERSON HARRIS: Yeah, I would agree with you.

22 I'm not clear how the monies due you were differentiated  
23 from the regular tickets at the track because, as I  
24 understand it, those were all paid.

25 MR. BROOKS: You and me, both.

1 CHAIRPERSON HARRIS: But yeah, I think clearly you  
2 should be different than just an unsecured creditor, but  
3 it's going to get fought out, I guess.

4 VICE CHAIRPERSON ISRAEL: Are you saying that --  
5 you're an attorney; right?

6 MR. BROOKS: No.

7 VICE CHAIRPERSON ISRAEL: Oh, you're not. Are you  
8 saying that we have some legal authority that we can  
9 exercise or that we need to have legislation that provides  
10 us with the legal authority?

11 MR. BROOKS: I'm not certain that you have any  
12 legal authority over the past.

13 VICE CHAIRPERSON ISRAEL: Right.

14 MR. BROOKS: But you certainly have the ability to  
15 tell tracks how they can operate in the future and under  
16 what terms they can.

17 You know, in Las Vegas, you can't open a casino  
18 unless you show you have the money to pay the winners.

19 VICE CHAIRPERSON ISRAEL: Right.

20 MR. BROOKS: And you're not allowed to take the  
21 money from the winners and just put it in your pocket and  
22 say later we're not paying you.

23 Even the casinos in Las Vegas, that are in  
24 bankruptcy, there's never been one that has said, well, we  
25 can't pay the winners, we're in bankruptcy.

1           They don't pay the people that lent them money,  
2 but they always pay the gamblers. You know, that money's  
3 held in trust. So that's a different issue.

4           And there's a lot of complicated legal arguments  
5 that are being thrown back and forth but, essentially, the  
6 legal arguments are that the money that's being collected  
7 from other sites, that was contributed to the pool, is now  
8 their money.

9           VICE CHAIRPERSON ISRAEL: Magna's money.

10          MR. BROOKS: Magna's money. And that we're just  
11 another unsecured creditor, like anybody who lent them  
12 money, or a Pepsi vendor, or something like that, and I do  
13 think that the pool is different.

14          VICE CHAIRPERSON ISRAEL: And there's been no  
15 ruling on this or --

16          MR. BROOKS: There has not been a ruling. We  
17 filed a motion, they filed a motion to dismiss. Just the  
18 other day we filed our response to their motion. I have  
19 printed copies of the entire case, I'd be happy to leave  
20 that with you guys if you want it. I'm not sure it's that  
21 enjoyable to read.

22          But it's a very, very important issue around the  
23 country because, you know, if you had a customer who walked  
24 into one of your racetracks or OTBs here, and hit a Pick 6  
25 in New York for \$3 million, or on the Breeders' Cup, and

1 they said, well, you're just an unsecured creditor, we went  
2 bankrupt now.

3           And the timing of all of it is also, you know, a  
4 little bit of a concern because it was right during the  
5 middle of the meet. Settlements that were supposed to be  
6 paid by the end of February, for January, were delayed  
7 several days into the new month. Oh, the checks are on the  
8 way, et cetera. In fact, we got checks from Santa Anita,  
9 and I'm not sure if we got one from Golden Gate, that as  
10 soon as we got them they called us on the phone and said  
11 those checks are no good anymore.

12           VICE CHAIRPERSON ISRAEL: No, I understand your  
13 position. The problem is I'm not sure once they entered  
14 bankruptcy, I'm not sure that we had any authority to do  
15 anything.

16           MR. BROOKS: I'm not so sure that you have any  
17 authority over the past. Over the future you certainly do.

18           VICE CHAIRPERSON ISRAEL: Okay.

19           COMMISSIONER CHOPER: Are you going to respond to  
20 that, Mr. Liebau?

21           MR. LIEBAU: My name is Jack Liebau, I'm President  
22 of Hollywood Park. I have appeared before this Board many  
23 times and talked about the integrity of our pari-mutuel  
24 pools and I think warned as to what could happen, and I  
25 think the gentleman here has indicated, you know, a problem.

1 I think that if you would direct a question to Mr.  
2 Miller you would find out that you in fact have a rule, Rule  
3 1490, that is in place, that calls for these funds to be  
4 placed in segregated accounts.

5 That rule is there, has been, and has been perhaps  
6 ignored.

7 I will say that in the immediate future the --  
8 some segments of the California racing industry will be  
9 filing a complaint in the bankruptcy court, where it will be  
10 argued that these funds for these various accounts are held  
11 in trust by the track, and that the track is a mere  
12 stakeholder.

13 So that motion will definitely be filed within the  
14 next couple weeks. We hope to make an argument and to,  
15 therefore, restore the faith in the California pari-mutuel  
16 pools. We think the 1490 is in place. We think the  
17 statutory language is quite specific.

18 It's just absurd to think that anybody who makes a  
19 bet is a general creditor of the track. I don't think  
20 anybody can maintain that. We've gone through this with  
21 Sacramento Harness, unfortunately.

22 I would hope that you would just hold any  
23 discussion in abeyance pending this motion that's going to  
24 be filed. There is a bill that's pending, that's in the --  
25 I guess it's Assemblyman Price, who's now Senator Price,

1 that is about ready to go to the floor, might be on the  
2 Governor's desk within a few days, that speaks to this  
3 issue. So I would hope that you would hold any discussion  
4 on this matter sort of in abeyance as far as what the rules  
5 are pending filing of our motion, and the argument of that  
6 motion, and depositions being taken. Thank you.

7 CHAIRPERSON HARRIS: Is there anything that the  
8 Board should do to intervene in the bankruptcy case or --

9 MR. LIEBAU: I'd hope that you would, you know,  
10 I'm not sure how that -- I wasn't very persuasive in  
11 connection with Sacramento Harness and this is just a re-run  
12 of that.

13 But, you know, I think that that's something that  
14 can be discussed at a later date.

15 COMMISSIONER CHOPER: I'm just curious, Mr.  
16 Scoggins, are you going to talk about this, what is the  
17 position of Magna on monies that are owed to bettors?

18 MR. SCOGGINS: Sure, I would like to. At Magna we  
19 are very sympathetic to the concerns of our simulcast  
20 partners, whether it be RGS, or any other track that has a  
21 contract to take MEC signals, and to the extent that they  
22 were in a position where they had to pay their winning  
23 bettors' tickets but weren't able to recover the amounts  
24 that they paid to those winning bettors as a result of the  
25 bankruptcy.

1           It is a complicated legal analysis as it relates  
2 to why there is a difference, but the bankruptcy courts have  
3 held, in more than one occasion, that in a scenario where  
4 you have a simulcast operator cashing tickets for its own  
5 customers, with whom it has the sole contract for paying  
6 winning wagers, they stand in different shoes than the  
7 actual bettor who's standing at the window of the racetrack  
8 and is exchanging funds or receiving winning tickets from  
9 the track.

10           In other words, someone who places a bet at Santa  
11 Anita, and I'm sure there are those, I know there are those  
12 in this audience who disagree, but someone who places a bet  
13 at Santa Anita, or Gulfstream Park, or Golden Gate Fields is  
14 in a position where, and the court has acknowledged and  
15 approved that they get their winning bets.

16           Someone who places a bet with a third party, such  
17 as RGS, or a satellite facility outside of the MEC family,  
18 those persons are still owed their money according to that  
19 state's laws as it relates to the relationship between the  
20 satellite partner or the satellite facility and that bettor.

21           But the relationship -- but there's also a  
22 relationship between that satellite facility and the track  
23 that comes under the scope of the bankruptcy laws.

24           And in that situation, those satellite facilities  
25 that are otherwise owed money from the host track, they're

1 not necessarily in the position to receive their funds, they  
2 don't --

3 COMMISSIONER CHOPER: Where does this rule come  
4 from, you said a bankruptcy rule?

5 MR. SCOGGINS: Rulings.

6 COMMISSIONER CHOPER: Ruling. By this court?

7 MR. SCOGGINS: I was trying to -- in NYRA there  
8 was a similar situation in the NYRA bankruptcy, where they  
9 resolved it in this way. They see satellite facilities in a  
10 different light than they see the bettor who's stepping up  
11 to the plate and placing a bet with the bankrupt entity.

12 COMMISSIONER CHOPER: In the New York case did  
13 they ultimately give the money to the satellite companies --

14 MR. SCOGGINS: Well, they were --

15 COMMISSIONER CHOPER: Or to the ADW companies?

16 MR. SCOGGINS: They were -- it was addressed in  
17 the plan. I don't know the specifics of the outcome there,  
18 Mr. Choper.

19 CHAIRPERSON HARRIS: The gentleman behind us.

20 MR. BROOKS: With all due respect, the court had  
21 not ruled on it. The court didn't rule on it in the NYRA  
22 case. NYRA did end up settling and paying all the money.  
23 There is no precedent, yet.

24 And I appreciate what Mr. Scoggins is saying, but  
25 he's not letting the bankruptcy court determine it or Magna

1 is not. They're contesting it. They're contesting paying  
2 these funds.

3 They're not standing back and saying, look, if the  
4 bankruptcy court says pay, pay.

5 When we filed our motion, they didn't have to file  
6 a motion to dismiss. They're coming in and saying -- and  
7 even people who work for Magna have said we've got the  
8 money, but we can't pay you.

9 And I don't know if there's a difference between  
10 what the attorneys are saying and what the people in Magna  
11 want to do. People inside Magna have told us, and I don't  
12 want to throw anybody under the bus so I won't mention any  
13 names but, you know, they've told us, look, we've tried to  
14 convince them that you need to be paid, but the attorneys  
15 just won't allow us to do it.

16 So I don't think it's as -- and even though there  
17 are some complex legal arguments that are being made, it's a  
18 very simple case; does the money in the pool belong to the  
19 host, that's the question that's got to be determined.

20 And I don't know that anybody should argue that  
21 they should get the money because -- if all the sites lost  
22 equally, no money would come their way.

23 But when there's an imbalance, which there's  
24 always going to be in big Pick 6 pools, and stuff like that,  
25 because only a couple of sites usually end up winning the

1 big pools, then they've got to collect the money from all  
2 the sites and they've got to distribute it to the winners.

3 Their argument is that now they became the winner.

4 COMMISSIONER CHOPER: Do you want to respond, is  
5 that accurate, basically?

6 MR. SCOGGINS: Well, I'm not, in all candor, sure  
7 I totally understand.

8 COMMISSIONER CHOPER: As I understood them, he's -  
9 - wholly apart from what happened in the New York  
10 bankruptcy, let's not get into that.

11 MR. SCOGGINS: Right.

12 COMMISSIONER CHOPER: But as I understood, he said  
13 that Magna is opposing the claims of his company?

14 MR. SCOGGINS: Yes. Yes.

15 COMMISSIONER CHOPER: And what's that based on?

16 MR. SCOGGINS: Well, it's based on the argument  
17 that in respect of the relationship or in respect of  
18 satellite facilities, whether it be RGS, or anybody else,  
19 where there is a net payable to that satellite facility,  
20 bankruptcy laws prevent us from making that payment.

21 COMMISSIONER CHOPER: Bankruptcy laws?

22 MR. SCOGGINS: Right. The way the estate is  
23 defined --

24 COMMISSIONER CHOPER: This is from the NYRA  
25 ruling? When you say bankruptcy, you mean rulings or laws?

1 This can't be a law.

2 MR. SCOGGINS: Well, the bankruptcy laws provide  
3 general requirements as to who you can pay, and how you can  
4 pay, and whether the person falls into the category of a  
5 creditor.

6 Obviously, the courts determine over time what  
7 those laws means. So it's a combination of rulings, whether  
8 they be in the racing context, or outside of the racing  
9 context, that treats obligations of this sort as a general  
10 creditor obligation. Which means those parties are subject  
11 to having to wait until a plan is approved and getting paid  
12 according to the plan, which is usually cents on the -- you  
13 know, a percentage of a dollar amount as opposed to the full  
14 amount, depending on what you come out of at the end of the  
15 plan.

16 VICE CHAIRPERSON ISRAEL: As a practical matter,  
17 rather than a legal matter, isn't that terribly counter  
18 productive for the well being of the business?

19 Because you have 80 percent, if not more, of the  
20 total handle on any given day at a racetrack is off-track.  
21 And you're saying, now, that the 20 percent that's on-track,  
22 it gets treated preferentially.

23 So the integrity of the pools that Jack was  
24 talking about, and also the confidence of the customer then  
25 becomes undermined by this legal argument.

1           So I don't understand why Magna -- it would even  
2 be in Magna's best interest to make this argument.

3           MR. SCOGGINS: Well, there's a couple of things.  
4 Sometimes we find that the law and practicality don't always  
5 converge.

6           Secondly, there are issues relative to the estate  
7 and ensuring that the estate has enough money to pay the  
8 other creditors that are in -- that have claims to the  
9 estate, and there's a committee that's been formed by those  
10 creditors.

11           And if they feel that there is some obligation  
12 that MEC is trying to meet that they feel harms the estate,  
13 and these kinds of payments would probably, given their  
14 magnitude, be deemed to harm the estate, they would object  
15 or file an objection to that payment being made.

16           CHAIRPERSON HARRIS: But it seems, though --

17           COMMISSIONER CHOPER: But, of course, I guess the  
18 problem is, as I see it, let them file their objection, but  
19 I think as Commissioner Israel said, this just seems counter  
20 productive to the whole enterprise for Magna who, after all,  
21 whether it's in trust legally or not, I mean, they're  
22 holding -- it's holding winning bettor's money.

23           VICE CHAIRPERSON ISRAEL: The underlying issue it  
24 seems to me is you're making an argument on behalf of your  
25 creditors, very few of whom have any real interest in the

1 long-term benefit to the horse racing industry and really  
2 don't give a damn about whether we alienate our customers  
3 and/or our partners in ongoing endeavors.

4           And as our responsibility to the Board, I mean we  
5 may not have a legal standing here, but our responsibility  
6 is to assure that going forward in the future that the  
7 integrity of those pools, and the faith of the customers,  
8 and all the partners, the stakeholders in the business is  
9 protected.

10           MR. SCOGGINS: See, the bankruptcy laws create the  
11 very conflict that you describe, because the bankruptcy laws  
12 are designed to help the creditors of the bankrupt party,  
13 and those creditors take many forms. Some of which, as you  
14 say, have no interest in the ongoing success of the entity  
15 as a racing operation or the industry, itself, they just  
16 want to get paid.

17           And the bankruptcy laws have to be applied in an  
18 even-handed way, such that if you give preference to someone  
19 in the hopes or for the purpose of ensuring the operation or  
20 the integrity of the industry in a given state, then you are  
21 paying -- you are harming, disproportionately, those who  
22 don't have an interest in the success.

23           I'm totally -- I totally understand where the  
24 industry as a whole is coming from with respect to this  
25 issue, I totally understand where the Commissioners are with

1 respect to this issue. We've had these discussions in  
2 numerous states.

3           It's an understandable concern. It is a concern,  
4 however, that you do have this confluence of parties who  
5 don't give a darn about racing who want to get paid as much  
6 as the guys who do give a darn about racing, and the  
7 bankruptcy laws are designed to protect all of them.

8           COMMISSIONER CHOPER: But they certainly give a  
9 darn about the size of the estate and this is really  
10 undermining the ongoing increase in the size of that estate.

11           I mean, it just makes all the sense in the world  
12 to me, I don't understand it.

13           VICE CHAIRPERSON ISRAEL: To go back to John's  
14 original question, you're basically making an argument for  
15 what John requested, which is posting of a bond or some sort  
16 of financial device that secures this money in an escrow  
17 account that can't be touched by the court.

18           CHAIRPERSON HARRIS: Yeah, because this is going  
19 forward. I think we'll stipulate that the bankruptcy's  
20 behind us, that's whatever it is, it is, and there's a lot  
21 of arguments going back and forth.

22           But this is this debtor in possession situation  
23 which my concern there is that even though you have  
24 financing, the stip financing, it's not unlimited financing,  
25 and if you had some situation it may be that the same thing

1 could happen again. We just don't want the same thing to  
2 happen again, we want to have some sort of a safety net  
3 there that takes care of what happened before.

4 MR. SCOGGINS: And to be fair, we don't want to  
5 see the same thing happen again. It's not good for the  
6 industry to have something like this occur, whether it be in  
7 the MEC context or in the context of any other operator.

8 And to the extent that the State takes action to  
9 ensure to the satisfaction of a bankruptcy court that the  
10 various types of funds are indeed trust funds, because  
11 there's a fairly high standard you have to meet in order for  
12 something to be deemed a trust fund, or a fund held in  
13 trust, then -- and that issue is going to obviously be  
14 argued in the context of this bankruptcy, as well as future  
15 bankruptcies, but to the extent going forward steps can be  
16 taken to ensure that these funds are being held in trust for  
17 the benefit of others, then that's a positive for the  
18 California industry.

19 CHAIRPERSON HARRIS: Yeah, I think that's what  
20 we'd like to see, a proposal that basically outlines how  
21 that would work.

22 But this gentleman here has a comment, I think.

23 MR. GALLO: Yeah, I'd like to. My name's Randy  
24 Gallo, I own Royal River Racing OTB in South Dakota, and I  
25 have -- beg to differ with Mr. Scoggins.

1           But on February 26th of this year Magna, at Santa  
2 Anita, had a \$3 million Pick 6 pool, there was two winning  
3 tickets, roughly a million dollars. One of them was hit at  
4 my establishment.

5           A gentleman came up and presented the ticket, and  
6 including five out of six, and was paid a million and 21  
7 thousand dollars.

8           The following day I electronically transmitted  
9 \$237,000 to the IRS. My hub contacted Santa Anita and their  
10 settlement agent to verify the figures, because on a big  
11 ticket like that it's standard that the money's sent not at  
12 the end of the month, within three or four days.

13           They verified the figures and said the money was  
14 on the way and the money never came.

15           Magna filed Chapter 11. We filed a complaint, and  
16 when I say we, myself and three other OTBs, including the  
17 other winning ticket, there was two winning tickets, filed a  
18 complaint, and Magna filed a motion to dismiss.

19           So Mr. Scoggins said they had intentions to pay  
20 us. Here's their motion right here to dismiss.

21           It says, "the complaint must be dismissed because  
22 the track revenues are properties of the debtor estates."

23           Well, I have a problem with that because if you  
24 take the 10-K form that they file with the Security and  
25 Exchange Commission it describes what the track revenues

1 are, it's between three and four percent for the year.

2           Okay, on May the 14th, 2008 they declared \$577,000  
3 worth of taxable income on two and a half billion dollars  
4 worth of handle, which is less than three percent.

5           My question to Mr. Scoggins is how does the  
6 hundred percent of the net pari-mutuel pool become track  
7 revenues? How does it become part of the estate and part of  
8 the bankruptcy when they're telling the Security and  
9 Exchange Commission that they're making three percent from  
10 sources of take-out on their track, on imported signals, and  
11 what they charge for exported signals to all the OTBs in the  
12 country. Okay, it's three percent.

13           My question is how does the entire pari-mutuel  
14 pool of \$3 million net, after whatever it be, become part of  
15 the estate? I'd like an answer to that.

16           MR. SCOGGINS: Can I just make one factual  
17 clarification to two points that have been made? I don't  
18 believe at any time I made any statement to the effect that  
19 we would be -- what we said we were able to pay in terms of  
20 winning bettors was the winning bettors who came to our  
21 facilities and placed tickets with our facilities.

22           I do not believe we made any commitments with  
23 respect to simulcast partners, such as Mr. Gallo's company,  
24 or RGS. Certainly, there may have been a hope that they  
25 would be covered, but the reality is that they can't be

1 covered.

2           The other point I'd like to make is this is  
3 essentially an argument that's being addressed in the  
4 bankruptcy court. We're dealing with a question that is a  
5 question of law for the bankruptcy court to decide.

6           If we want to engage in that kind of discussion  
7 and argument here, we're certainly happy to participate in  
8 that to the extent that we can, but we didn't bring  
9 bankruptcy counsel here to be able to argue the niceties of  
10 the law and why this dollar is treated as bankruptcy estate  
11 dollars or not treated as bankruptcy estate dollars.

12           That's a more complicated discussion than I am  
13 prepared to address or that anyone here, I think, is  
14 prepared to address.

15           VICE CHAIRPERSON ISRAEL: I don't necessarily  
16 disagree that the larger conversation belongs in the  
17 bankruptcy court.

18           The question before us is if we approve this  
19 application, what terms and conditions can we impose on it  
20 to make sure that this doesn't happen again, while we're  
21 still in the throes of this bankruptcy.

22           MR. SCOGGINS: And I think that is the right  
23 issue.

24           VICE CHAIRPERSON ISRAEL: Right.

25           CHAIRPERSON HARRIS: Yeah, that's all. Really,

1 we're not a bankruptcy court and that's going to get sorted  
2 out, but for today where are we?

3 VICE CHAIRPERSON ISRAEL: And is this letter  
4 sufficient? This letter, that's dated June 30th, doesn't  
5 provide any sort of financial guarantee and because it was  
6 written so long ago, it doesn't even go until the December  
7 20th end date of the meet.

8 MR. SCOGGINS: Right. And that's in my initial  
9 comments and response to the subject of what kind of  
10 conditions you would want to impose financially on Golden  
11 Gate Fields in respect to this upcoming meet.

12 I would encourage the Board and to sit down, and  
13 whether it be by virtue of committee, or communication with  
14 staff, try and address a mechanism that gives them comfort  
15 that they can decide at the September meeting relative to an  
16 appropriate set of conditions they want to impose.

17 Because part of the issue is going to be the  
18 extent to which MEC can come up with that kind of  
19 commitment, that may be determined in large part by the  
20 results of the Ontario Securities Commission's ruling in  
21 mid-September.

22 The other part of it is the extent to which the  
23 Commission or the Board has the authority to impose on a  
24 bankrupt entity certain conditions that are a function,  
25 essentially, of a bankrupt entity's status as such.

1 Frustrating as that may be, it is our  
2 understanding of what the law requires or what the law  
3 imposes.

4 So, you know, it's the white elephant in the room,  
5 if you will.

6 VICE CHAIRPERSON ISRAEL: Well, if we require you  
7 to post a bond, how would that be different than any other  
8 financial requirement that's made so that you can continue  
9 operating?

10 MR. SCOGGINS: Well, I think that's the issue is  
11 what is the basis under which you're requiring us to post  
12 the bond?

13 If it were something that were regularly and  
14 routinely required of every single entity that was going  
15 into racing that, arguably, is a different set of facts than  
16 saying because you're in bankruptcy, because we're uncertain  
17 about your future, we want you to post a bond.

18 And that's why I go back to the point of what I  
19 think would be very beneficial here is having conversations  
20 that involve your counsel, your bankruptcy counsel, our  
21 counsel, us, and anybody on the Board or staff that's  
22 interested in participating to try and figure out what  
23 mechanism is in place that we can give the Board the  
24 satisfaction it needs without running afoul of the  
25 bankruptcy laws.

1 VICE CHAIRPERSON ISRAEL: Well, what about a  
2 representative of the third parties who might be injured?

3 MR. SCOGGINS: I have no problem there as well. I  
4 think that we have to be careful to not let the conversation  
5 go sideways, talking about pre-petition issues and  
6 complaints that are currently pending before the bankruptcy  
7 court. What we need to do is talk about how we're going to  
8 deal with the future.

9 CHAIRPERSON HARRIS: They may be post-petition  
10 issues, but I'm not sure if all the third parties, if they  
11 would be part of some blanket agreement, or they would have  
12 their own agreements or what?

13 Because I mean like an RGS or Dakota would they --  
14 if we just had a million dollar bond, the complicated part  
15 is who -- who you divide it up and who's got priority, and  
16 all that. It seems like it would be good if some of the  
17 sort of pari-mutuel vendors had some agreement with you that  
18 those funds were clearly segregated.

19 MR. SCOGGINS: Well, I think that's where the  
20 discussion -- where we benefit from the discussion. Because  
21 I wonder in my mind, and I don't have an answer sitting  
22 here, whether and to what extent the Racing Commission has  
23 the ability to step into, or authorize, or obligate someone  
24 to make a payment to a third party that's not otherwise  
25 specifically spelled out in law.

1           CHAIRPERSON HARRIS: Yeah, I don't know if we do.  
2     The only thing is I think we, in the license agreement, are  
3     authorizing the transmission of that signal to all these  
4     places, and the commingling of pools and all that, so it  
5     ties into that. Which normally it's to everyone's benefit  
6     to have the biggest pool possible, but I'm not sure if that  
7     ties back into our obligation to make sure they're all paid.

8           MR. SCOGGINS: I mean, you certainly raise an  
9     interesting point and I guess it's another point to be on  
10    the table when we discuss how do we go about making sure  
11    that on a going forward basis the various stakeholders are  
12    taken care of to the best that we can do so.

13          VICE CHAIRPERSON ISRAEL: Well, how do you assure  
14    them to continue doing business with you?

15          I mean, if I'd been burned, the way they were  
16    burned wherever you were in South Dakota, and I was holding  
17    the bag for a million dollars I might say you know what, I'm  
18    not going to take -- I'm not going to handle anything on the  
19    Magna race until either I get paid or this entire thing is  
20    resolved by the bankruptcy court.

21          MR. SCOGGINS: Well, there's two responses to  
22    that. One is that again, as I mentioned earlier, with  
23    respect to the whole notion of obligating a bankrupt entity  
24    to do something by virtue of them being bankrupt, it's also  
25    in violation of bankruptcy law to say unless you pay me

1 money that you owed before you filed the bankruptcy I'm not  
2 going to do X, that's equally a problem under bankruptcy  
3 law.

4 Now, that being said, the other issue is if they  
5 just don't want to do business with us anymore because  
6 they're once burned twice shy, they have that right.

7 I mean, it may sound crass and it may not be what,  
8 again, is what the industry benefits from most, but that  
9 certainly is an option that's available to them or anybody  
10 else.

11 VICE CHAIRPERSON ISRAEL: But now you've circled  
12 back into our purview because the net effect of that is  
13 detrimental to California horse racing, it's bad for the  
14 trainers, bad for the horsemen, bad for the jockeys, and bad  
15 for our customers.

16 MR. SCOGGINS: I don't disagree.

17 COMMISSIONER CHOPER: And bad for the estate of  
18 the bankrupt. And I can't believe, just speaking for  
19 myself, I don't know anything about bankruptcy law, but I  
20 can't believe that a bankruptcy court whose obligation is to  
21 do its best to preserve the estate is going to take action  
22 that's counter productive.

23 And for me, I would just like to say that I would  
24 -- I understand -- and bankruptcy court, in the end, is  
25 going to rule on everything --

1 MR. SCOGGINS: That's right.

2 COMMISSIONER CHOPER: -- including bonds, I  
3 believe.

4 MR. SCOGGINS: That's right.

5 COMMISSIONER CHOPER: So I just think it ought to  
6 be informed to remedy this situation very quickly and I  
7 would just hope that Magna, for its own interest, would  
8 leave any creditors' committees to their own devices and to  
9 urge the bankruptcy court to, as quickly as possible, pay  
10 these monies out, whether they're legally in trust in  
11 California or not.

12 And I guess I have the feeling that that's the  
13 sense of the Board here, as well.

14 COMMISSIONER DEREK: Uh-hum.

15 MR. SCOGGINS: Thank you. I certainly got that  
16 sense and in the famous words -- or not the famous, but the  
17 typical words of a lawyer, we'll take that under advisement,  
18 as far as the advise on what we can do.

19 But I will say that, as Mr. Liebau said earlier,  
20 you know, there are motions in place. RGS has made a  
21 motion. SCOTWINC is anticipating making a motion to address  
22 these various issues that we are discussing about what is  
23 the proper scope of entitlement to these funds by non-  
24 bankrupt third parties, and we should know the answer to  
25 those in due course.

1           These things don't always happen with the rapidity  
2 that common man would enjoy or prefer, but they are teed up  
3 for discussion, they are teed up for argument and we will be  
4 obligated to abide by the court's decisions.

5           CHAIRPERSON HARRIS: Yeah, I think it's a pretty  
6 broad topic, the whole bankruptcy, obviously. But for this  
7 particular application I think what we need to do is defer  
8 it until September and advise the parties to come back with  
9 a more definitive financial proposal.

10          COMMISSIONER CHOPER: I think that's right.

11          MR. SCOGGINS: And I appreciate that, Mr.  
12 Chairman.

13           And the other thing, I think that I didn't  
14 mention, is that we may have a resolution of the statute  
15 issue so we may have greater clarity. Obviously, things  
16 will still remain cloudy to an extent, but we should have  
17 greater clarity by September.

18          CHAIRPERSON HARRIS: But I mean in a perfect world  
19 it would have been nice if that had been part of this  
20 package. I mean, it's not really been a secret that this  
21 has been going on.

22          MR. TUNNEY: Mr. Chairman, if you're going to  
23 defer the application, I'd at least like to get an  
24 acknowledgement from the Board, that's my word, that we  
25 would be moving toward things that would be printing or

1 advertising that would acknowledge that the change in the  
2 calendar.

3 CHAIRPERSON HARRIS: That's a good point. I think  
4 really we would -- conceivably we can approve the  
5 application with a covenant that it -- the financial aspects  
6 of the company be further defined and approved.

7 VICE CHAIRPERSON ISRAEL: I think what we can do  
8 is what we've done in the past with pending ADW agreements,  
9 we can grant the license conditionally on the fulfillment of  
10 the obligations that John is talking about.

11 CHAIRPERSON HARRIS: Yeah, I see that you need to  
12 move on with your plans, which I think we're for. I don't  
13 think there's anybody here that's questioning the dates,  
14 it's just --

15 MR. TUNNEY: And the application, correct.

16 CHAIRPERSON HARRIS: Yeah. I don't know if  
17 there's anything in the application that anyone was  
18 concerned about.

19 Mr. Fravel?

20 MR. FRAVEL: Craig Fravel, Del Mar. I can't pass  
21 up an opportunity, when Mr. Scoggins is out here, to jerk  
22 him around a little bit, it's kind of the sport of this, but  
23 I would think --

24 (Off-record comments.)

25 MR. FRAVEL: I don't want to jerk Mr. Tunney

1 around. But I would like to know, in the case of Magna  
2 affiliated entities, like XpressBet, who are not part of the  
3 bankruptcy estate, whether they were treated the same as RGS  
4 and the folks from South Dakota, and were their gamblers  
5 paid, and what the distinction is there?

6 He doesn't have to answer it now, but I think  
7 someone ought to answer that question at some point along  
8 the way.

9 And then secondly, just for your information, in  
10 Southern California we are currently and hope to within the  
11 next three weeks to a month set up trust accounts to handle  
12 distributions out of SCOTWINC facilities, as well as host  
13 tracks on a rapid fire basis, so that this issue will be  
14 dealt with just by our own acquiescence. And hopefully, by  
15 the time Santa Anita rolls around, and for their current  
16 satellite operation, they will be able to participate in  
17 that and we would request that they do so.

18 And that if Mr. Scoggins knows that there might be  
19 objections raised to that, that he let us know that in  
20 relatively short order.

21 And finally, in terms of your powers, I do not  
22 that under the Interstate Horse Racing Act the Board retains  
23 the ability to approve simulcast agreements and I think it  
24 would be within your power to condition your approval on  
25 certain actions taking place and you might want to consider

1 that with respect to future simulcast approvals.

2 Thank you.

3 MR. SCOGGINS: I'd be happy to address the first  
4 and second part because I think -- I mean, it is what it is  
5 with respect to Craig's last point.

6 As far as other, non-bankrupt Magna affiliates,  
7 they were treated the same as any other non-Magna party.  
8 They paid their winning bettors and they have a receivable  
9 with the various MEC tracks.

10 The other issue, I was trying to remember what it  
11 was, oh, as far as the plan going forward to make more rapid  
12 settlement efforts I think, unfortunately, as painful as  
13 this has been, this experience, I think that that's the  
14 right kind of plan.

15 I think the extent to which we manage our cash as  
16 an industry on a more rapid fire basis, the more likely it  
17 is that these kind of events, where people having something  
18 that's outstanding for 30 to 60 days, the magnitude of the  
19 negative hit to them will be much less.

20 So in some respects, I can't commit right now  
21 because I don't know whether MEC and to what extent that it  
22 will be able to participate in that plan, but to the extent  
23 that they've got this plan in place, I think it's a positive  
24 step for the industry.

25 CHAIRPERSON HARRIS: Okay. Can we get a motion,

1 then, to conditionally approve the Pacific --

2 VICE CHAIRPERSON ISRAEL: I'll move that we  
3 approve the license with the extra dates, the 42-day  
4 licensed, conditioned upon a financial agreement relative to  
5 the matters that have been under discussion.

6 COMMISSIONER CHOPER: Second.

7 CHAIRPERSON HARRIS: Yeah, really are the Board's  
8 approval, it's not just that they come up with a plan, we've  
9 got to approve it.

10 VICE CHAIRPERSON ISRAEL: Approve the plan.

11 CHAIRPERSON HARRIS: Yeah. Okay, any discussion  
12 on this?

13 All in favor?

14 (Ayes.)

15 CHAIRPERSON HARRIS: Okay, thank you.

16 MR. TUNNEY: Thank you.

17 MR. SCOGGINS: Thank you.

18 CHAIRPERSON HARRIS: Next we have, which this is  
19 somewhat moot, is this application for license of the  
20 minisatellites at Pete's Tavern and Sotto Mare.

21 I understand these have been withdrawn, although  
22 I'm still concerned that we pursue the concept as these  
23 minisatellites do have promise, especially in a metropolitan  
24 area like San Francisco and other areas.

25 But could somebody give us a little bit of an

1 update on where this is now?

2 EXECUTIVE DIRECTOR BREED: I think Pete, probably  
3 Peter is the best one to give us an update of where these  
4 are.

5 MR. TUNNEY: Peter Tunney, representing Golden  
6 Gate. Is there anybody behind me, yet? Okay, because they  
7 lined up pretty well the last time. So I hope it was Mr.  
8 Scoggins.

9 Anyway, the update is, no, we have not abandoned  
10 the thought of moving toward the approval of these  
11 locations. We have some additional concepts, that we won't  
12 share with you now, but we've looked at other locations.  
13 We're looking into the law, itself.

14 And we feel very strongly about the viability of  
15 this concept. The Board encouraged us to get together with  
16 the San Mateo Jockey Club. We did that in a phone  
17 conversation, a conference call.

18 They were going to take it to their board, we have  
19 not heard back from that discussion of the board. Although  
20 Chris Carpenter, of the San Mateo Jockey Club, indicated  
21 today that these discussions should be ongoing to help  
22 resolve this issue. Nothing has taken place as yet, but we  
23 hope that we can report favorably to you at the next meeting  
24 that we have had meaningful discussions.

25 VICE CHAIRPERSON ISRAEL: Is there anybody here

1 representing San Mateo today?

2 MR. CARPENTER: Yeah, Chris Carpenter, General  
3 Manager, San Mateo County Event Center, San Mateo Jockey  
4 Club.

5 VICE CHAIRPERSON ISRAEL: At our last meeting,  
6 which was here, your counsel, Mr. Goltz; is that his name?

7 MR. CARPENTER: Yeah, Porter Goltz.

8 VICE CHAIRPERSON ISRAEL: Misrepresented, as far  
9 as I can tell, from information we've been given further,  
10 the financial situation under which you operate.

11 According to the transcript, he said that  
12 essentially San Mateo's had to fund itself to the tune of \$5  
13 million.

14 And then we've been subsequently provided  
15 information by others that shows that the total funding was  
16 \$5,322,500 from the State of California, you had had a  
17 \$211,250 development grant, a \$1 million interest free loan,  
18 and a \$750,000 interest bearing loan.

19 From the California Authority of Racing Fairs you  
20 got a grant of \$861,250 and an interest free loan of 750.

21 And from the San Mateo Fair you got a contribution  
22 of 850,000.

23 So while the \$5 million number was accurate, we  
24 were -- the situation was misrepresented significantly  
25 because almost \$2 million was a grant that you don't have to

1 pay back.

2 MR. CARPENTER: Some dollars that we were --

3 VICE CHAIRPERSON ISRAEL: Most of the money came  
4 from the State of California, from the Authority of Racing  
5 Fairs and the Department of Food and Agriculture.

6 MR. CARPENTER: The majority of the money came to  
7 the San Mateo County Event Center in forms of loans. We  
8 received a loan from the county, as well.

9 VICE CHAIRPERSON ISRAEL: That's not what we were  
10 told, we were told that --

11 MR. CARPENTER: The total amount of loan that we  
12 received was \$4,350,000. And partially what we did receive  
13 were two grants. We received some grants for the site from  
14 CARF, California Authority of Racing Fairs, and also the  
15 Division of Fairs and Expositions.

16 But the total amount of funding, and I am aware, I  
17 saw the e-mail that came from Chris Korby, that he had  
18 written back to Mike Marten, I assume through a request, the  
19 only part of that e-mail that's incorrect is we, at the end  
20 of the day, had spent \$950,000 out of our reserves.

21 So we are paying back the total amount of  
22 \$4,350,000. Part of those loans -- one loan is on a five-  
23 year, a five-year deal, and then the other one is on ten  
24 years. Some are interest free, and there's four loans that  
25 are interest bearing loans, anywhere between 4.96 and 5

1 percent.

2 VICE CHAIRPERSON ISRAEL: I just wanted to, for  
3 the record, get that straightened out because that wasn't  
4 what was represented to us.

5 CHAIRPERSON HARRIS: Yeah, it is a very nice  
6 facility, but I think it would be fallacious to say it was  
7 funded strictly by San Mateo County Fair.

8 I'm not clear in the negotiations, or if  
9 negotiations really have occurred, I know in other  
10 situations one facility will pay another facility an impact  
11 fee. Is the whole impact fee issue been discussed?

12 MR. CARPENTER: Not at this point. And our door  
13 is always open, we're willing to meet, my board and myself,  
14 with any entity to discuss this.

15 But again, as we've stated, we have the amount of  
16 debt to pay back on this facility and we're fearful of the  
17 impact that this may cause on the facility.

18 VICE CHAIRPERSON ISRAEL: Look, I understand, the  
19 goal of anybody who's in any business is to be a monopolist  
20 because if you eliminate competition it makes your  
21 likelihood of success greater.

22 But our interest is what's best for California  
23 horse racing within the law and, you know, expanding  
24 interests, expanding the potentiability [sic] to bet is good  
25 for the business, in my view. So, you know --

1 MR. CARPENTER: When we reviewed receiving the  
2 loans on this property, we considered everything as business  
3 people, before we entered into agreements for these loans.

4 But another area that we viewed very strongly was  
5 simply the protection that we had when we went into  
6 operation, when we took into consideration that we were  
7 going to carry a heavy debt load on this facility.

8 And so when we considered and when we went through  
9 this whole process we knew at that point that there was a  
10 20-mile radius protection of the facility.

11 Many of people at -- or many of our patrons, as we  
12 had mentioned, 33 percent that we get information on comes  
13 from San Francisco.

14 We have another 11 percent, around that number,  
15 that come from Daly City. We're just fearful of the impact  
16 on the facility.

17 CHAIRPERSON HARRIS: Yeah, I think if we can  
18 quantify what the impact really is, I think there's some way  
19 to work this out. Because the amount of people they're  
20 going to get at these facilities is pretty small relative to  
21 your facility, itself, is a much larger facility.

22 It's just the problem is racing is struggling to  
23 try to expand its marketing base and this whole things  
24 also's triggered a lot of negative reaction to horse racing  
25 in general in the San Francisco media, which was really

1 unnecessary. San Francisco is not exactly a conservative  
2 city, but somehow they think that racing might be suspect.

3 EXECUTIVE DIRECTOR BREED: And Mr. Carpenter,  
4 which in your repayment plan, who gets paid back first, the  
5 city -- I mean, the county or the State, how does that work?

6 MR. CARPENTER: We have a five-year payment with  
7 San Mateo County, at an interest rate, and then we have ten-  
8 year options to pay back the rest of the loans that we have  
9 with the Division of Fairs and Expositions, and also with  
10 the California Authority of Racing Fairs.

11 VICE CHAIRPERSON ISRAEL: And those are the  
12 interest-free loans; right?

13 MR. CARPENTER: Some are interest bearing, some  
14 are interest free.

15 VICE CHAIRPERSON ISRAEL: Well, do you have a  
16 schedule that you're meeting on a monthly basis or how are  
17 you repaying that loan?

18 MR. CARPENTER: Annually, we're paying about  
19 \$525,000 back on loans.

20 VICE CHAIRPERSON ISRAEL: To whom?

21 MR. CARPENTER: That includes everyone for the  
22 next five years. That includes the County, that includes  
23 the Division of Fairs and Expositions, and that includes  
24 California Authority of Racing Fairs.

25 After five years we'll have San Mateo County Fair

1 paid off. If we operate above our projections, we want to  
2 pay those loans back even more quickly, if we can.

3 STAFF COUNSEL MILLER: What is the total amount of  
4 debt, currently, you've mentioned --

5 MR. CARPENTER: \$4,350,000, and that includes  
6 \$950,000 that was taken from our reserve account, which we  
7 want to build our reserves back up.

8 STAFF COUNSEL MILLER: Thank you.

9 CHAIRPERSON HARRIS: Okay, anything --

10 MR. CARPENTER: But I think, again, we've always  
11 been open to meet, for meetings, myself and the board.

12 CHAIRPERSON HARRIS: Have you met at all since the  
13 last meeting?

14 MR. CARPENTER: We had a conference call with  
15 Peter Tunney and Robert Hartman, of Golden Gate Fields.  
16 Since that time, which was about two weeks ago, we have not  
17 had a meeting.

18 COMMISSIONER CHOPER: I think it's fair to try the  
19 Chairman's suggestion, that if we can have some information  
20 that we have greater in, that you would and that the Board  
21 would, about what the impact would really be.

22 There's certainly a difference of opinion that's  
23 been expressed here in terms of how much it's going to take  
24 away from your facility, how much more would they have to  
25 raise generally. There ought to be a way to work that out.

1           And if you and Golden Gate Fields can work it out  
2 that would be the best -- that would obviously be the best  
3 solution because it would solve it for us, too, I think.

4           MR. CARPENTER: I will go back to my Board and  
5 we'll reach out to set up meetings. Again, we're open.

6           EXECUTIVE DIRECTOR BREED: Yeah, I think one other  
7 thing that would be good to do with your Board is the word  
8 that was in the Capitol and also through the media was that  
9 this Board here was making attempts to scuttle, in essence,  
10 the program there at San Mateo and I think that needs to be  
11 -- that record needs to be made straight, also, since it is  
12 the licensing board that licensed the facility.

13          MR. CARPENTER: I don't have any of the articles  
14 in front of me right now.

15          EXECUTIVE DIRECTOR BREED: Excuse me?

16          MR. CARPENTER: I don't have any of the articles  
17 in front of me.

18          CHAIRPERSON HARRIS: I think, yeah, because in  
19 some of the articles at least it looked like they were  
20 supported by the San Mateo Board, suggested that CHRB was  
21 trying to pull a fast one, effectively, where that was not  
22 our intent at all, we were just trying to expand wagering  
23 opportunities.

24          VICE CHAIRPERSON ISRAEL: Moreover, there was an  
25 implication that what occurred in the last meeting was a

1 sneak attack. And it was hardly a sneak attack, it was a  
2 noticed, public meeting attended by more than a hundred  
3 people, with an agenda that was published ten days in  
4 advance.

5 MR. CARPENTER: I recall that comment in the  
6 newspaper. The only thing I will say is we had hoped for  
7 more communication. We had hoped to find out that this was  
8 happening before the agenda came out on the meeting, before  
9 the July --

10 VICE CHAIRPERSON ISRAEL: Let me just say, I used  
11 to be a newspaper columnist, and the guy who wrote that  
12 story, I know his work, he wasn't here and he could have  
13 gotten that information that it was a sneak attack only from  
14 one party. Because in all he's saying that only benefitted  
15 one party and that was your side. And I thought that was  
16 grossly unfair.

17 COMMISSIONER CHOPER: Well, I think it's important  
18 that we go look forward on this thing.

19 If you folks are going to -- you know, if you  
20 feel, as you said, and it's by no means silly, that you're  
21 going to lose some customers, if someone can get permission  
22 from the City of San Francisco to open these places up,  
23 that's not a small hurdle either, if you've been living in  
24 the Bay Area and you've seen the flak that occurred about  
25 this.

1           But, you know, I think the sense of it probably  
2 is, yes, there may be some who go down. But there's a lot  
3 more people in San Francisco who would start betting if they  
4 didn't have to go all the way down to Bay Meadows -- to --  
5 yeah, all the way down to Bay Meadows.

6           So I think you and, you know, the people at Golden  
7 Gate Fields ought to be able to work this out and to come  
8 out so everyone's happy, and we get more bettors interested  
9 in racing. So let's look forward and settle this up.

10          MR. CARPENTER: Okay.

11          COMMISSIONER ANDREINI: You talk about the spirit  
12 of cooperation, have you actually had any face-to-face  
13 meetings with Rod Blonien and with that Lucky Chances  
14 proposal that he's put up?

15          MR. CARPENTER: We have, we've met with them on  
16 three different occasions.

17          COMMISSIONER ANDREINI: But to no avail?

18          MR. CARPENTER: To no avail. We have viewed every  
19 proposal that's come forward with Rod Blonien and met to  
20 discuss those, and that's relative to Lucky Chance Casino,  
21 which is in San Bruno.

22          VICE CHAIRPERSON ISRAEL: That's 18.9 miles from  
23 there.

24          COMMISSIONER ANDREINI: If I'm not mistaken, they  
25 offered to give you whatever profits they'd made so they can

1 do the survey to see how many people did not show up at your  
2 place and showed up there.

3 MR. CARPENTER: Not exactly, they've -- and again,  
4 I don't have the letter in front of me, but they've made  
5 some guarantees to hold funds in escrow, have NOTWINC  
6 involved, but only relative to the handle. Nothing relative  
7 to some other areas of profit that we have, some of which  
8 are closer equal to the two percent handle, which is  
9 admissions to the property.

10 But we continue to meet with them and will  
11 continue. I'll go back to my board to open up and have  
12 meetings with Rod again, but also with Golden Gate Fields  
13 and Pacific Racing Association.

14 COMMISSIONER ANDREINI: Thank you.

15 CHAIRPERSON HARRIS: Okay. Well, thank you, let's  
16 move on.

17 MR. CARPENTER: Thank you.

18 CHAIRPERSON HARRIS: Thank you for being here.

19 The next item is the Oak Tree application at Santa  
20 Anita, from September 30th to November 8th.

21 REGULATIONS/LEGISLATION MANAGER WAGNER: Jackie  
22 Wagner, CHRB staff.

23 The application is from the Oak Tree Racing  
24 Association. They are proposing to race from September 30th  
25 through November the 8th, which is 31 days. This is five

1 more days than they raced in 2008.

2           They will be racing five days per week, Wednesday  
3 through Sunday, with eight races on weekdays, nine races on  
4 opening day and weekends, and on Monday, October the 12th,  
5 ten races on Saturday, October the 3rd, which is Cal Cup  
6 Day, nine races on Friday, November the 6th, which is  
7 Breeders' Cup, and ten races on November the 7th, which is  
8 the second day of the Breeders' Cup.

9           They will be racing concurrently with Fresno and  
10 Pacific Racing on some days during their race meeting.

11           Their first post time is 1:00 p.m. weekdays, and a  
12 12:30 p.m. post time on weekends and holidays.

13           Cal Cup Day post time is 12:00 p.m., that's on  
14 October the 3rd.

15           The first day of the Breeders' Cup, which is  
16 Friday, November the 6th, the post time is tentatively set  
17 at 11:25.

18           The Saturday, the second day of the Breeders' Cup,  
19 November the 7th, the post time is scheduled for 10:10 a.m.,  
20 in the morning.

21           Their advance deposit wagering providers are  
22 Twinspires, Youbet, TVG, and XpressBet.

23           We do have the representatives from the  
24 association available for questions.

25           CHAIRPERSON HARRIS: Okay.

1 MR. CHILLINGWORTH: Sherwood Chillingworth, Oak  
2 Tree.

3 Just a couple, few minor corrections here. On the  
4 first page, the dates of the meet are correct, from  
5 September 30th through November 8th, but the little blocking  
6 where you show a blackened square, for the first day it's  
7 shown here as the 29th, and that's really the 30th. That's  
8 a minor --

9 REGULATIONS/LEGISLATION MANAGER WAGNER: Yes.

10 MR. CHILLINGWORTH: And also just --

11 EXECUTIVE DIRECTOR BREED: So it's supposed to be  
12 the 30th?

13 MR. CHILLINGWORTH: The 30th, yeah.

14 REGULATIONS/LEGISLATION MANAGER WAGNER: It's the  
15 20th.

16 MR. CHILLINGWORTH: And the other two minor  
17 changes are on Friday, Breeders' Cup will meet at 11:15,  
18 instead of 11:25, and Saturday it will be 10:05 instead of  
19 10:10. A lot of that has to do with television.

20 VICE CHAIRPERSON ISRAEL: Probably something to do  
21 with it, yes.

22 MR. CHILLINGWORTH: Yeah.

23 CHAIRPERSON HARRIS: Well, on your financial  
24 statement, the latest one in here is 2007.

25 MR. CHILLINGWORTH: Right.

1 CHAIRPERSON HARRIS: Is there a 2008 statement  
2 available?

3 MR. CHILLINGWORTH: Yes. One of our complications  
4 being tentative at Santa Anita, their staff is our staff at  
5 the Oak Tree meet and, therefore, they close their books on  
6 December 31st and do their reporting during the following  
7 few months.

8 So our fiscal year is May 31st and as a result we  
9 don't get our statements out as quickly as you might think.

10 CHAIRPERSON HARRIS: We're not asking for an '09  
11 statement, what I was looking for was an '08 statement. The  
12 one in the package is '07. I think maybe you put the same  
13 one in the package you had in the previous year or  
14 something. Is there an '08 statement?

15 MR. CHILLINGWORTH: Well, unless you're -- the  
16 fiscal year is '08 and the meet is '07. See, we run our  
17 meet the year before and we report it on the following year.

18 CHAIRPERSON HARRIS: Well, because your fiscal  
19 year ends --

20 VICE CHAIRPERSON ISRAEL: May 31st.

21 MR. CHILLINGWORTH: May 31st.

22 CHAIRPERSON HARRIS: May 31st. Because the latest  
23 report we have is May 31st, 2007. And I could see we  
24 wouldn't have one for May 31st, 2009, but it would seem  
25 appropriate we have one for May 31st, 2008.

1 MR. CHILLINGWORTH: It certainly would. Yeah, I  
2 don't know how that happened, but we'll get one to you  
3 immediately.

4 CHAIRPERSON HARRIS: That's kind of an early  
5 warning sign when you're having trouble getting a statement.

6 MR. CHILLINGWORTH: Our statement for '09 will be  
7 ready on Monday.

8 CHAIRPERSON HARRIS: Yeah, we just need an '08.

9 VICE CHAIRPERSON ISRAEL: Just as a practical  
10 matter, Chilly, how are your funds segregated from Magna's  
11 funds, so none of these problems might arise?

12 MR. CHILLINGWORTH: Well, as you probably know,  
13 there was a mistake made early in the year, where just my  
14 error, clerical error, a million dollars of our money came  
15 from simulcast. We were paid -- always pay late, you know,  
16 some of them pay five months late, arrived during the Santa  
17 Anita meet, and the staff automatically transferred, put  
18 them into a Santa Anita account.

19 I had to hire a bankruptcy lawyer and we now have  
20 them back.

21 VICE CHAIRPERSON ISRAEL: But then going forward  
22 how to you assure --

23 MR. CHILLINGWORTH: Yes, we have a system --

24 VICE CHAIRPERSON ISRAEL: You have a system in  
25 place, okay.

1 By the way it was brilliant getting Mine That Bird  
2 for the Goodwood.

3 MR. CHILLINGWORTH: Beg your pardon?

4 VICE CHAIRPERSON ISRAEL: It was brilliant getting  
5 Mine That Bird for the Goodwood.

6 MR. CHILLINGWORTH: Yeah, right.

7 VICE CHAIRPERSON ISRAEL: And scratching him in  
8 the Travers.

9 MR. CHILLINGWORTH: That was fantastic. We also  
10 are told we're going to get the winner of the Alabama.

11 VICE CHAIRPERSON ISRAEL: Oh, yeah?

12 MR. CHILLINGWORTH: And probably Seeing The Stars.  
13 I always mispronounce this one, Goldikova.

14 VICE CHAIRPERSON ISRAEL: Who?

15 MR. CHILLINGWORTH: She's the filly that one the  
16 mile last year.

17 VICE CHAIRPERSON ISRAEL: Oh, yeah.

18 CHAIRPERSON HARRIS: How about Rachel, have you  
19 got a shot? You've still got --

20 MR. CHILLINGWORTH: I don't think Rachel is  
21 coming.

22 VICE CHAIRPERSON ISRAEL: Rachel's coming, but  
23 Rachel Alexander is not.

24 MR. CHILLINGWORTH: I mean, unfortunately I leaned  
25 on Jess a little hard last year to get Curlin, and I don't

1 think it's working out very well this year.

2 CHAIRPERSON HARRIS: Yeah, you shouldn't refer to  
3 the track as plastic. It might be a lot of things, but it's  
4 not plastic.

5 MR. CHILLINGWORTH: I know, silicone.

6 CHAIRPERSON HARRIS: There's a lot of that at Del  
7 Mar.

8 (Laughter.)

9 CHAIRPERSON HARRIS: Okay, any questions or is any  
10 of the other interest groups have a comment on this  
11 application?

12 MR. CHILLINGWORTH: One thing I'd like to point  
13 out, this year has been a very interesting one to perform  
14 on. We have Cal Cup on a first Saturday, which we haven't  
15 had in years. We have four grade one races the following  
16 Saturday, we have the Breeders' Cup. So it's been very --  
17 it took a lot of time to put this thing together so it  
18 worked.

19 And I want to compliment Alan Gutterman, who's on  
20 my left, who's Director of Marketing, and Mike Harlow, who  
21 put the racing schedule together.

22 and if you're interested at all in our program,  
23 our marketing program, because usually what we're doing for  
24 the marketing purposes, if you'd like a describe of that,  
25 we've got Alan here to do it.

1 CHAIRPERSON HARRIS: Yeah, it is a very exciting  
2 meeting coming up, I know we'd be interested in hearing the  
3 highlights of it.

4 MR. GUTTERMAN: Thank you Commissioners, good  
5 morning. Indeed it is, and we've got a very lively, power  
6 packed --

7 EXECUTIVE DIRECTOR BREED: State your name for the  
8 record?

9 MR. GUTTERMAN: Alan Gutterman, Oak Tree. And  
10 we've got a very lively, power packed event with a six-week  
11 promotional scheduled to accompany America's finest autumn  
12 stakes program, culminating with the Breeders' Cup.

13 We're looking to get off with a flying start -- to  
14 a flying start, with a strong opening on Wednesday,  
15 September 30th. We'll be featuring one of the most popular,  
16 premium giveaways in all sports, the traditional Oak Tree  
17 stein, and this year it salutes the 2008 Breeders' Cup  
18 winners.

19 We've made a move in the last couple of years to  
20 really try to impact opening day, on the opening Wednesday,  
21 and the last couple of seasons we've opened with fourteens,  
22 sixteens, and eighteens, so that's pretty strong for a  
23 Wednesday, in L.A., and gets us off to a real strong start.

24 Along with the stein, we're providing all opening  
25 day vistors buck passes, to come back for a buck on

1 Saturday, October 3rd, for the annual Cal Cup celebration,  
2 featuring ten terrific stake bred races, and a new Cal Cup,  
3 newly designed Cal Cup t-shirt.

4           Those fans will also receive bounce back passes  
5 good for the next day and an opportunity to check out the  
6 Burbank Road Kings car show, as well as two grade one  
7 Breeders' Cup preps, the Oak Leaf and the North Fork Stakes,  
8 with two year olds.

9           The following weekend hosts the two most important  
10 days leading up to the Breeders' Cup, it's Breeders' Cup  
11 Challenge weekend, featuring the Lady's Secret, the Oak Tree  
12 Mile, the Yellow Ribbon, and the Goodwood Stakes on  
13 Saturday.

14           Sunday, the Clement Hirsch and the Ancient Title.

15           On Saturday, too, all fans will receive the  
16 Breeders' Cup Challenge stadium blanket, featuring the  
17 imprinted finishes of 2008 Breeders' Cup winners Zenyatta,  
18 Wait a While, Hyperbaric, and Well Armed.

19           Over the following weeks there are special  
20 promotions involving a series of CBS FM radio stations, a  
21 live carnival to be held in the infield, with rides and  
22 games of chance on Columbus Day. Just about everything  
23 costs only one dollar.

24           And Oak Tree will continue the popular weekly  
25 Friday promotion that we began at Santa Anita this winter.

1 Free Fridays, with free grandstand admission. Free box  
2 seats, one dollar hot dogs, beer, soft drinks, popcorn and  
3 coffee.

4 We're also plotting out a special Halloween event  
5 in the infield for Saturday, October 31st.

6 And on Fridays we're going to start an hour later  
7 than the rest of the -- we're going to start at 2:00 p.m.  
8 this year on Fridays, to give people who might want to come  
9 to the free Fridays, who might be working earlier in the  
10 day, a chance to kind of get involved a little bit later in  
11 the day. The time scheduling works well for us this year.

12 Oak Tree is committed to a significant advertising  
13 buy, the majority of which is on broadcast television every  
14 Sunday, also is Family Fun Day. Every Thursday is Senior  
15 Day, with free admission to the park.

16 We have three major mailings during the six-week  
17 meet, with special offers and mystery mutual vouchers.  
18 Twice weekly e-mail blasts about upcoming events. A newly  
19 designed Oak Tree website, handicapping contests,  
20 Twittering, Tweeting, and Tooting.

21 This leads us to the Breeders' Cup, in which Oak  
22 Tree and Breeders' Cup, Limited have committed to once again  
23 producing one of the great shows in American sports.

24 Both days will be television live on a combination  
25 of the ESPN networks and ABC TV.

1           And just kind of it's significant to note that Oak  
2 Tree, at Santa Anita, is the very first racing association  
3 in the 26-year history of the Breeders' Cup to host the  
4 event for two consecutive years.

5           We're very proud of this and it speaks volumes for  
6 the perception and reputation of Oak Tree and Santa Anita  
7 throughout the racing world, even during this tenuous time.

8           Thank you.

9           CHAIRPERSON HARRIS: On the post time, it's going  
10 to be two o'clock on Fridays?

11          MR. GUTTERMAN: Yes.

12          CHAIRPERSON HARRIS: That should amend correctly,  
13 because basically what you applied for was 1:00 every  
14 weekday. But I like the idea of 2:00, though, because  
15 you'll still be done by about 5:30, it's not quite dark.

16          MR. GUTTERMAN: Correct.

17          CHAIRPERSON HARRIS: You can give away flashlights  
18 or something.

19          MR. CHILLINGWORTH: You might talk about our  
20 thoroughbreds, if you buy a Breeders' Cup ticket you get  
21 five passes.

22          MR. GUTTERMAN: Yeah, in an attempt to kind of  
23 jump start some ticket sales for Breeders' Cup, which are  
24 going well around -- going well, but kind of could use a  
25 little push, we made an offer to our thoroughbred fans,

1 those who are thoroughbreds members, and we offered them if  
2 they buy a seat for the Breeders' Cup on either Friday or  
3 Saturday, they would get a weekend pass good for admission  
4 on the five weekends leading up to the Breeders' Cup, and  
5 we've had a decent response from that so far. That offer's  
6 good through Labor Day.

7 VICE CHAIRPERSON ISRAEL: Yeah, I saw that the  
8 head of marketing of Breeders' Cup, Incorporated resigned  
9 effective next month.

10 MR. GUTTERMAN: Effective next week.

11 VICE CHAIRPERSON ISRAEL: Next week.

12 MR. GUTTERMAN: Yeah, Peter Land.

13 VICE CHAIRPERSON ISRAEL: Well, next month and  
14 next week are the same thing.

15 MR. GUTTERMAN: You're right, that's why you're a  
16 Commissioner.

17 VICE CHAIRPERSON ISRAEL: Does that have any kind  
18 of adverse impact on you or create a greater workload for  
19 your staff?

20 MR. GUTTERMAN: I think we'll be fine, we've  
21 worked closely with them. Everything is pretty much in  
22 place. We're still making some last-minute decisions, but  
23 we welcome the opportunity to take -- we've assumed a lot of  
24 that responsibility already, in anticipation of this.

25 CHAIRPERSON HARRIS: I think it's really great

1 that you're hosting Breeders' Cup again.

2 Has someone put together something really  
3 illustrating the total economic impact of having a Breeders'  
4 Cup in Southern California, in California, because I think  
5 it's something we need to tell people to show them how  
6 having an event like this here has a lot of ripple effect on  
7 the economy.

8 MR. CHILLINGWORTH: Well, after our last Breeders'  
9 Cup, in 2003, there was an economic study done by an outside  
10 entity, and they came up with \$35 million impact in the  
11 greater L.A. area.

12 And we think that with two days we're probably  
13 going to generate something like 50 to 65 million dollars,  
14 with enhanced prices and so forth that exist, with  
15 inflation.

16 So I think it's a big benefit to the community.  
17 And, for example, Arcadia, their hotels are filled, and the  
18 restaurants are filled, and it's a big boon to them.

19 VICE CHAIRPERSON ISRAEL: Are ticket sales running  
20 ahead of schedule?

21 MR. CHILLINGWORTH: Ticket sales?

22 VICE CHAIRPERSON ISRAEL: Yeah, are they running  
23 ahead of last year?

24 MR. CHILLINGWORTH: Yeah. Last year we had no  
25 handle on ticket sales. This year we put in a new computer

1 system, every sale is recorded when we get the money.

2 VICE CHAIRPERSON ISRAEL: Oh, so you have nothing  
3 to compare it to?

4 MR. CHILLINGWORTH: But fortunately we're at --  
5 last Friday, we keep track of it on a weekly basis, Fridays,  
6 we're at 60.3 percent of budgeted sales. So we think that's  
7 very good at this point.

8 CHAIRPERSON HARRIS: I think it was an excellent  
9 move to lower prices, as someone on the thrifty side. I  
10 think the prices were rather exorbitant the first go-round,  
11 and now they're much more of a value.

12 MR. CHILLINGWORTH: Well, one other thing about  
13 the marketing program, last -- after our situation last  
14 year, we approached Breeders' Cup and they agreed to give us  
15 more autonomy on marketing.

16 So Alan really has taken over all of the local  
17 advertising, marketing, most of the creative, and all of the  
18 placement.

19 VICE CHAIRPERSON ISRAEL: And Mike, have you found  
20 interest from out-of-state trainers bringing more horses  
21 here, as they get ready for the Breeders' Cup, so maybe our  
22 fields will be a little fuller with other horses that aren't  
23 going to run in Breeders' Cup, but trainers want to keep an  
24 eye on and work out?

25 MR. HARLOW: Mike Harlow, Oak Tree.

1 EXECUTIVE DIRECTOR BREED: Use the one in front.

2 MR. HARLOW: Mike Harlow, Oak Tree.

3 I just made a trip to Saratoga a couple weeks ago,  
4 and the interest is the same, a few trainers, Todd Pletcher,  
5 of Grand Motion, trainers that typically ship horses out  
6 here will once again be represented, and they'll ship in the  
7 first week or two of Oak Tree, so we'll have some outside  
8 interest as well.

9 VICE CHAIRPERSON ISRAEL: What about special  
10 runners that you might --

11 MR. HARLOW: Sure.

12 VICE CHAIRPERSON ISRAEL: -- wouldn't have without  
13 the Breeders' Cup?

14 MR. HARLOW: Sure.

15 MR. CHILLINGWORTH: And also, Breeders' Cup has  
16 been active in Europe, and rather than having the 25 horses  
17 we had last year, we're expecting 35 or 40 for the year.

18 VICE CHAIRPERSON ISRAEL: For the Breeders' Cup or  
19 for the --

20 MR. CHILLINGWORTH: For the Breeders' Cup.

21 CHAIRPERSON HARRIS: Okay, anything else on this  
22 item?

23 EXECUTIVE DIRECTOR BREED: If Mr. Chillingworth,  
24 on page 5, 6, for the record could you state that those  
25 members of the -- those officers of the corporation are non-

1 paid?

2 MR. CHILLINGWORTH: Yes, they are.

3 EXECUTIVE DIRECTOR BREED: Thank you.

4 MR. CHILLINGWORTH: By the way, interfering with  
5 our -- getting our current financials out, we've been  
6 audited again by the IRS. And why they continue auditing  
7 us, we don't know, but we've always had a no-change result  
8 and just wonder why they continue harassing our financial  
9 department.

10 MR. TUNNEY: Mr. Chairman, just a point of  
11 clarification. Peter Tunney, representing Golden Gate  
12 Fields.

13 CARF is running a meet, for their benefit, at  
14 Golden Gate Fields in late September. I think it's just a  
15 clerical error that Mr. Chillingworth was mentioning, that  
16 they're going to start on the Wednesday, the 30th. I think  
17 their application does not have that corresponding to CARF's  
18 racing on that particular day, too.

19 So I wanted to make sure that both CARF, at Golden  
20 Gate, and Oak Tree race on that same day, September 30th.  
21 Mr. Chillingworth alluded to that in the -- earlier, about  
22 the race.

23 MR. CHILLINGWORTH: We just want to say that we  
24 wholeheartedly approve.

25 MR. TUNNEY: Okay, just wanted to make sure.

1 CHAIRPERSON HARRIS: And also, would Golden Gate  
2 want to do anything on the first post on Fridays?

3 MR. TUNNEY: We are doing that, we're having  
4 further discussions about it. We've done that in the past,  
5 when they went to the --

6 CHAIRPERSON HARRIS: Yeah. Because Fresno runs  
7 until about dark anyway, so it won't matter to them.

8 VICE CHAIRPERSON ISRAEL: Well, the horses look  
9 better in the dark.

10 MR. TUNNEY: Thank you.

11 CHAIRPERSON HARRIS: Okay, any other items on  
12 this?

13 Can I get a motion to approve it?

14 VICE CHAIRPERSON ISRAEL: I'll move we approve the  
15 application.

16 COMMISSIONER ANDREINI: Second.

17 CHAIRPERSON HARRIS: All in favor?

18 (Ayes.)

19 CHAIRPERSON HARRIS: Okay, we're now at --

20 MR. CHILLINGWORTH: Thank you very much.

21 CHAIRPERSON HARRIS: Thank you very much. Good  
22 luck.

23 MR. CHILLINGWORTH: Thank you.

24 CHAIRPERSON HARRIS: Good meet.

25 Okay, we have the Big Fresno Fair. Jackie, and

1 John Alkire, and Dan White.

2 REGULATIONS/LEGISLATION MANAGER WAGNER: The  
3 application before is from the Big Fresno Fair. They're  
4 proposing to race October the 7th through the 18th, which is  
5 ten days, and this is one day less than they raced in 2008.

6 The Big Fresno Fair is a participant in the  
7 combined fair horse racing meeting that's going on this  
8 year.

9 They'll be racing six days the first week, four  
10 days the second week, with 12 races per day.

11 Their first post time is 12:45 p.m. on Saturday  
12 and Sunday, with a 1:15 p.m. post on Monday, Wednesday,  
13 Thursdays, and Fridays.

14 Their advanced deposit wagering providers are TVG,  
15 Twinspires, XpressBet, and Youbet.

16 And we do have representatives from the fair here  
17 for any questions that the Board may have.

18 CHAIRPERSON HARRIS: Any comments that John or Dan  
19 would like to make?

20 MR. WHITE: Well, with regards to our race date  
21 schedule --

22 EXECUTIVE DIRECTOR BREED: Name?

23 MR. WHITE: Oh, Dan White, Director of Racing, Big  
24 Fresno Fair.

25 We will be looking at running the second

1 Wednesday, but we're under the impression that Oak Tree  
2 might not be running. We've been in contact with the TOC  
3 and Oak Tree will be running on Wednesday, the 14th, and so  
4 with them running we would also like to run so there's a  
5 Northern facility running.

6 We waited on the application, we wanted to look at  
7 the horse population in Northern California and to make sure  
8 Oak Tree was committed to running on this day, so we would  
9 not be running a solo signal.

10 CHAIRPERSON HARRIS: I wasn't aware that they were  
11 -- because I guess the issue is the 12th is Columbus Day.

12 MR. WHITE: The 12th is Columbus Day.

13 CHAIRPERSON HARRIS: And they don't point that out  
14 in their application. But we should. I mean, there is a  
15 bias against six-day weeks. And I think originally Fresno  
16 and Oak Tree were getting a waiver on that issue because  
17 they were relatively short meets.

18 But the calendar we did approve was all five-day  
19 weeks. So I mean, I don't think either of you should run,  
20 really --

21 VICE CHAIRPERSON ISRAEL: On the 12th?

22 CHAIRPERSON HARRIS: No, if they run the 12th it  
23 would be Columbus Day, but you run the 12th, but don't run  
24 that Wednesday.

25 VICE CHAIRPERSON ISRAEL: Well, Oak Tree's not

1 running the 12th.

2 CHAIRPERSON HARRIS: Well, I think they are now.  
3 I mean, can Oak Tree clarify if they plan to run on Columbus  
4 Day or not? I thought they were, they were giving away  
5 something.

6 Did the Oak Tree guys take off?

7 VICE CHAIRPERSON ISRAEL: Hi, George.

8 CHAIRPERSON HARRIS: It's a Pick 6 carryover,  
9 Chilly had to --

10 MR. HAINES: Yeah, Chilly had to go and change  
11 from Oak Tree. Yes, we are planning on running Monday, the  
12 12th.

13 VICE CHAIRPERSON ISRAEL: And also on Wednesday,  
14 the 14th?

15 MR. HAINES: Yes.

16 VICE CHAIRPERSON ISRAEL: Okay.

17 CHAIRPERSON HARRIS: It's kind of a nice thought  
18 that when people do these applications that they read them  
19 before they turn them in and make sure they're right.

20 VICE CHAIRPERSON ISRAEL: Monday, the 12th's not  
21 colored, but the date isn't dark.

22 MR. HAINES: the intention was to run that day.

23 CHAIRPERSON HARRIS: Okay, because if there is any  
24 sort of a horse shortage that would be a good day -- I think  
25 it's important to run on Columbus Day, but if it looks a

1 little iffy on the horse population I would suggest at that  
2 point they consider maybe not running on Wednesday.

3 MR. HAINES: I believe the thought -- that Chilly  
4 thought it was premature to go ahead and cancel.

5 CHAIRPERSON HARRIS: Yeah. Well, I think clearly  
6 you want to run on Columbus Day, rather than on just a  
7 regular Wednesday.

8 MR. HAINES: Yes, we have a promotion on that day.

9 CHAIRPERSON HARRIS: Well, I don't know, I'd  
10 really rather see all five-day weeks because that was what  
11 we originally approved, and I think the original -- I  
12 thought originally when they were approved they were running  
13 on Columbus Day and then being off two days.

14 Well, clearly, they want to run on Columbus Day, I  
15 think it's just if they come back that Wednesday or not.  
16 But I'm just worried about the horse population, and if you  
17 could skip the Wednesday and you'd come back a real strong  
18 close on those last four days you might have a stronger meet  
19 overall.

20 But I could see Oak Tree's running, though,  
21 possibly both. They probably should both one, if either or  
22 neither run.

23 George?

24 VICE CHAIRPERSON ISRAEL: We can approve the  
25 license with both days and give them the option of being

1 black on the 14th.

2 EXECUTIVE DIRECTOR BREED: Well, I -- if I'm  
3 correct and what you're saying is if Oak Tree runs, you want  
4 to run and if Oak Tree doesn't run, you don't want to run?

5 MR. HAINES: That would be correct, yes.

6 EXECUTIVE DIRECTOR BREED: Okay.

7 VICE CHAIRPERSON ISRAEL: We can approve the  
8 license that --

9 CHAIRPERSON HARRIS: Yeah, we'll approve it, it's  
10 sort of a flex day.

11 VICE CHAIRPERSON ISRAEL: A furlough, a furlough  
12 day.

13 EXECUTIVE DIRECTOR BREED: A furlough day.

14 CHAIRPERSON HARRIS: Like a furlough day, yeah.

15 MR. HAINES: In terms of Oak Tree we're looking  
16 forward to, you know, hopefully, a strong horse population  
17 with Breeders' Cup.

18 VICE CHAIRPERSON ISRAEL: Right, it's a span of  
19 horse population because of Breeders' Cup. So there will be  
20 more runners for other races, on other days.

21 MR. HAINES: Yeah.

22 VICE CHAIRPERSON ISRAEL: Yeah, I thought that was  
23 it.

24 CHAIRPERSON HARRIS: Yeah. Well, those foreign  
25 horses want to run those 25 maidens.

1           Okay, let's go ahead and -- I suggest we approve  
2 the application with the 14th being a flex day, depending on  
3 the horse population.

4           COMMISSIONER CHOPER: Can I make one point before  
5 you get done with Fresno?

6           CHAIRPERSON HARRIS: Yeah. Yeah, go ahead.

7           COMMISSIONER CHOPER: Yeah, I just want to -- I  
8 noticed that you're going to have the Pick 9, or whatever it  
9 is, PNP?

10          MR. HAINES: Yes, sir.

11          COMMISSIONER CHOPER: And you start in the first  
12 race and you go through the tenth race, if there are ten  
13 races. I don't know if anyone's done any study of this and  
14 I think it's great that you have multiple breeds there, but  
15 I think you exclude a lot of people who will play the Pick  
16 9, the place pick pool, all right, if you're including  
17 multi-breed races. All right.

18                 And particularly, I mean very often they come very  
19 early in a program, first, second race, if you get a -- on a  
20 weekend. And it's one thing to have one in there, but if  
21 you have two, three, then people who are not accustomed to  
22 handicapping quarters, and arabs, and so forth, and the  
23 mules, they just opt out.

24                 So that's my suggestion. My suggestion would be  
25 to try to coordinate it as much as you can with the

1 thoroughbreds.

2 CHAIRPERSON HARRIS: Yeah, the problem is I think  
3 the concept of pick all is like all. They've still got pick  
4 threes, and pick fours, and all that. But I think it's just  
5 part of fair racing that there be -- you know, I don't think  
6 their pick all really is going to handle very much either  
7 way they do it.

8 COMMISSIONER CHOPER: That may be.

9 MR. WHITE: I'm Dan White, Director of Racing, Big  
10 Fresno Fair.

11 With regards to the place pick all we also,  
12 normally, on a 12-race card, our Saturdays and Sundays, we  
13 will be starting it later in the day, so on Saturdays and  
14 Sundays the majority of the Pick 9 races should all be  
15 thoroughbred races.

16 COMMISSIONER CHOPER: Uh-huh.

17 MR. WHITE: You know, we're scheduled to run 12  
18 races on weekends, so we'll run it from the fourth race on  
19 so through race 12.

20 COMMISSIONER CHOPER: I see. See, that's not what  
21 you have in your schedule and that's exactly what I'm  
22 suggesting.

23 MR. WHITE: Right. I correct that, I'll make an  
24 adjustment to that.

25 COMMISSIONER CHOPER: That's exactly what I'm

1 suggesting.

2 MR. WHITE: Right, yes. And we're also, this year  
3 we're also doing 50-cent Pick 4, which was a huge success in  
4 prior years. That's been a favorite amongst the bettors in  
5 California.

6 CHAIRPERSON HARRIS: I think it is a great meet  
7 and they have a lot of hype going in. I mean, the overall  
8 economy in the valley's not any better than anyplace else,  
9 but there's always a lot of enthusiasm for the Fresno Fair,  
10 and we're going to have a meeting up there and hope to have  
11 a lot of folks come up and visit the fair.

12 Anything else on this?

13 VICE CHAIRPERSON ISRAEL: I'll be there if John  
14 has a mule.

15 EXECUTIVE DIRECTOR BREED: Have one?

16 VICE CHAIRPERSON ISRAEL: He's got a good mule, I  
17 can tell you that.

18 CHAIRPERSON HARRIS: I'll get a mule, and a corn  
19 dog, and everything.

20 Okay, any -- is there a motion to approve this?

21 COMMISSIONER ANDREINI: I'll make the motion.

22 CHAIRPERSON HARRIS: Okay.

23 COMMISSIONER CHOPER: Second.

24 CHAIRPERSON HARRIS: All right, all in favor?

25 (Ayes.)

1 CHAIRPERSON HARRIS: Okay, thank you very much.  
2 Good luck.

3 EXECUTIVE DIRECTOR BREED: Thank you.

4 CHAIRPERSON HARRIS: The next thing is --

5 EXECUTIVE DIRECTOR BREED: Final approval of --

6 CHAIRPERSON HARRIS: Yeah, final approval of this  
7 -- basically, I was the one that brought this up, this was a  
8 while back, but takes a while to work through all the  
9 different rule-making procedures.

10 But effectively what this does is if horses are  
11 owned by other than mirror images, they do not have to be  
12 coupled.

13 Where now, if unrelated partners own a horse they  
14 still have to be coupled if one partner is in both  
15 partnerships.

16 So I think this will help increase wagering  
17 interest in a given race and still protect any integrity.

18 In some states it could go where you can even have  
19 common ownership. A lot of times, even at Breeders' Cup,  
20 sometimes there will be a common ownership.

21 This is a good step forward and it should help  
22 racing secretaries fill races.

23 REGULATIONS/LEGISLATION MANAGER WAGNER: Jackie  
24 Wagner, CHRB staff.

25 And it goes one step further, it does eliminate

1 the requirement that in that situation that the horses do  
2 not have to be trained by the same trainer. So it  
3 eliminates the requirement to allow them to be trained by  
4 different trainers.

5 CHAIRPERSON HARRIS: Right. So were any comments  
6 received on this?

7 COMMISSIONER CHOPER: No.

8 CHAIRPERSON HARRIS: No.

9 EXECUTIVE DIRECTOR BREED: Jackie, any comments  
10 received?

11 COMMISSIONER CHOPER: No, it says "no comments"  
12 here.

13 REGULATIONS/LEGISLATION MANAGER WAGNER: No  
14 comments were received during the 45-day period. Staff  
15 would recommend that the Board adopt it as presented.

16 CHAIRPERSON HARRIS: Can I get a motion to adopt?

17 COMMISSIONER CHOPER: So moved.

18 VICE CHAIRPERSON ISRAEL: Second.

19 CHAIRPERSON HARRIS: Second. All in favor?

20 (Ayes.)

21 CHAIRPERSON HARRIS: Okay, what do we have next  
22 here?

23 EXECUTIVE DIRECTOR BREED: Item Number 8 is an  
24 item that we put in there to request, it's a discussion item  
25 having to do with racetrack maintenance procedures, surface

1 measurements and recordkeeping.

2 We've really just begun accumulating records on  
3 the surface and also maintenance schedule.

4 Hollywood Park submitted a very nice statement  
5 here about the efforts that they are making and have made  
6 over the years. That is about -- we were going to ask like  
7 Del Mar, and maybe Santa Anita to tell the Board, and tell  
8 what was going on at their tracks in terms of their  
9 maintenance procedure.

10 CHAIRPERSON HARRIS: Yeah, I mean I think the  
11 concern is there's always a lot of comments on the track  
12 surfaces, you know, regardless of the type of surface it is.  
13 And there's a need to better quantify the terms, basically,  
14 of what -- how we define the various characteristics of a  
15 track. So we put it on just to talk about it. I mean, I  
16 don't know that we're necessarily conclude that much, but to  
17 make people aware of the discussion.

18 Rick, are you going to --

19 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, let me just  
20 get this discussion started here with -- excuse me, I think  
21 I'm locked up.

22 The Executive Director asked several of us at UC  
23 Davis to look into this issue of trying to establish track  
24 safety standards, comprehensive track safety standards based  
25 on good science.

1           And to that degree we've had a number of meetings  
2 on campus that has included pathologists, epidemiologists,  
3 soil engineers, agricultural engineers, and a bunch of other  
4 people, myself, Greg Ferraro, and other people in the  
5 industry, including people from other universities, Mick  
6 Peterson, the University of Maine, Dr. Bartaret (phonetic)  
7 attended one meeting, from USC, a soil engineer there, and  
8 Dr. Wayne McIlraith from Colorado State University.

9           And the bottom line is that there's a need to put  
10 together a bunch of information in a way that we can really  
11 evaluate what the racetracks are.

12           The fact is it's an opinion-rich, fact-poor  
13 environment. We're looking at meteorological data. In  
14 fact, the Horse Racing Board, as I understand it, has  
15 already purchased some of these and are putting on these  
16 weather stations that are going to be hooked up to a central  
17 database at CHRB headquarters.

18           It should be available for the public, if they  
19 want to see it as well, but we'll record this information on  
20 a real-time basis.

21           Track safety standards, if anybody who attended  
22 the presentation at the Jockey Club Roundtable saw Mr. Mick  
23 Peterson, materials testing on consistent methods, so you  
24 can compare one set of information from another, different  
25 racetracks. It's hard to compare the data from one to the

1 next.

2           And there's a bunch, a large number of objective  
3 measurements that are really necessary to try to evaluate  
4 what goes into the racetrack.

5           Sands are different. Even though these sands may  
6 look the same to the naked eye, when you magnify them  
7 they're very different. The little crystalline sand on the  
8 left behaves very differently than the regular sand on the  
9 right, but they both look the same to the naked eye.

10           Waxes need to be analyzed. We need to know what's  
11 going to go into the racetrack.

12           In the same way that veterinarians have to report  
13 what goes into horses, what very likely is going to be  
14 necessary we'll need to know what goes into the racetrack.

15           Performance testing, I think, is the real key. We  
16 hear trainers say a track's hard, it breaks away, we need to  
17 know what those characteristics are.

18           We have a real opportunity, the slide before shows  
19 the mechanical testing. The little instrument on the bottom  
20 and, actually, on the truck as well was from a study that  
21 was done by Dr. Wheat at UC Davis, in the sixties, with a  
22 soil engineer, and we repeated it in the eighties as well.  
23 It's been updated.

24           Dr. Stover has some of this equipment, Mick  
25 Peterson has his own way of doing it. And she has an

1 instrument and shoe, and I think you've all seen some of the  
2 data from the different surfaces as to how they respond. It  
3 gives us a way to objectively measure a racetrack and not  
4 rely on whether one trainer thinks it's hard and the other  
5 one thinks it soft.

6 We have an opportunity here, at Golden Gate Fields  
7 and Pleasanton, to combine both of these techniques with Dr.  
8 Stover's instrument and shoe and Dr. Peterson's testing  
9 device to compare a synthetic and a dirt surface, and we  
10 hope to get that done in October.

11 Much of that work is funded by Grayson Jockey Club  
12 and the Horse Racing Board is participating and facilitating  
13 that, as well.

14 VICE CHAIRPERSON ISRAEL: Rick, can I interrupt  
15 you for just a second and ask --

16 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

17 VICE CHAIRPERSON ISRAEL: Are you planning on  
18 doing that test with the horse shoe --

19 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

20 VICE CHAIRPERSON ISRAEL: -- over the four  
21 different synthetic tracks that we have, because they all  
22 seem to behave somewhat differently as well.

23 EQUINE MEDICAL DIRECTOR ARTHUR: Well, at this  
24 stage what we're going to do is compare the biomechanical  
25 tester with the instrumented horse shoe at a synthetic track

1 and a dirt track, validate and coordinate the two, and then  
2 hopefully decide which is the best way to go in the future  
3 on terms of performance testing.

4 This is still fairly early in the process.

5 VICE CHAIRPERSON ISRAEL: What do you mean, which  
6 is --

7 EQUINE MEDICAL DIRECTOR ARTHUR: Which would give  
8 you the most consistent data. It's a lot easier to do the  
9 biomechanical tester than it is the instrumented horse shoe.

10 VICE CHAIRPERSON ISRAEL: But I'm just suggesting  
11 it might be interesting to see if there's a tremendous  
12 variance just in the results.

13 EQUINE MEDICAL DIRECTOR ARTHUR: Right.

14 VICE CHAIRPERSON ISRAEL: I don't know what -- not  
15 analyzing what they mean, between Golden Gate, Del Mar,  
16 Hollywood and Santa Anita, all of which have different  
17 surfaces.

18 MR. FRAVEL: Mr. Chairman, Craig Fravel. I just  
19 wanted to let you know that Dr. Peterson, who designed the  
20 biomechanical tester I think Rick is referring to, has done  
21 tests not only on our synthetic surfaces, but on our old  
22 dirt surfaces. And I'm sure we can get that data to the  
23 staff, so that that can fit into the analysis.

24 We have all participated, I believe every track in  
25 California, including Northern Fairs -- participated in Dr.

1 Peterson's first study. And then I know at Del Mar and  
2 Hollywood Park, Dr. Peterson has done extensive work and  
3 data collection with his biomechanical tester on our  
4 synthetic surfaces. And I'm not sure at Santa Anita.

5           So he has been out doing -- so there is a lot of  
6 data --

7           VICE CHAIRPERSON ISRAEL: And is there a baseline  
8 that's been established?

9           MR. FRAVEL: Well, I don't know about a baseline,  
10 but there's a lot of data, and we're happy to share all that  
11 with you.

12           EQUINE MEDICAL DIRECTOR ARTHUR: Dr. Peterson is  
13 collecting data from all around the country and all sorts of  
14 different surfaces, using the same device, so he can compare  
15 one to the other. So, you know, the answer is yes.

16           The other is maintenance records that, you know,  
17 just like trainers have to record workouts, very likely the  
18 maintenance people are going to have to report how they  
19 maintain a racetrack, which I think only makes sense.

20           And obviously, the injury data is the real key.  
21 We do a very excellent job on fatality data. We're trying  
22 to do a better job at collecting injury data.

23           There's a Grayson Research Foundation grant trying  
24 to look at that information, as well.

25           But I do think that ultimately what we have here

1 is an opportunity to combine a very excellent program we  
2 have with -- in terms of the California Necropsy Program,  
3 and Dr. Hailu Kinde will be speaking after we're finished  
4 here at this panel on that particular program, to try to  
5 figure out what makes a safe racetrack.

6           Because the fact of the matter is, in spite of  
7 what you say, nobody really knows what makes a safe  
8 racetrack.

9           I would like to point out where there is, I think,  
10 some false conceptions on what is a safe -- whether the  
11 racetracks make that big of a difference.

12           This is from research that was published by Dr.  
13 Stover several years ago, by her lab. The top line  
14 indicates horses that have had proximal sesamoid bone  
15 fractures, the blue line with other fractures.

16           And what it shows is that horses that are with  
17 proximal sesamoid bone fractures are trained differently  
18 than horses that have other fractures.

19           This is Del Mar, in 2006, and there was a rash of  
20 injuries at that particular time. And what this actually  
21 shows, when you look at the data, this goes back and looks  
22 at the training schedule of these horses, these horses were  
23 setting themselves up, had separated and their terms of risk  
24 seven -- or six to eight months before they had their injury  
25 at Del Mar.

1           So this is an important factor I think we have to  
2 realize. And the fact of the matter is that ten out of the  
3 11 fatalities at Del Mar are proximal sesamoid bone  
4 fractures at this particular time.

5           What do we know about sesamoid fractures from this  
6 program? This is a sesamoid fracture on a horse that went  
7 through the program several years ago, and this is an  
8 example of a sesamoid from another horse. And what you see,  
9 when you take a microradiograph, is that this horse had pre-  
10 existing stress fractures. Ninety percent of our fatal  
11 injuries have pre-existing injury at the site of their fatal  
12 injury.

13           What this tells us is we have an opportunity to  
14 intervene and identify these particular problems before the  
15 horses break down on the racetrack, and I think that needs  
16 to be our goal.

17           And that's what's going to be important on moving  
18 this forward, trying to figure out better ways to identify  
19 these horses before they go out and injure themselves.

20           VICE CHAIRPERSON ISRAEL: Are you proposing that  
21 every horse be x-rayed at some regular interval or --

22           EQUINE MEDICAL DIRECTOR ARTHUR: No. We don't  
23 really know. What it does is we know we have a pre-existing  
24 injury, we're trying to figure out how to diagnose those.  
25 Some of them will have different signs as to why that

1 particular injury occurred.

2           But to go onto your next question, this is the  
3 tenth -- or the eleventh horse that did not have a proximal  
4 sesamoid fracture here, at Del Mar. And what you actually  
5 see on this horse is a pre-existing callous that indicated  
6 this horse had a stress fracture prior to the injury, or  
7 prior to the fatal injury.

8           The fact of the matter is that one of the first  
9 benefits of this program was nuclear scintigraphy at Santa  
10 Anita, where we've done over 8,000 horses now. And this is  
11 a very well-described syndrome and we still don't know why  
12 we are not able to identify these horses at risk before  
13 they're sent out on the racetrack.

14           So to think that it is just a racetrack problem  
15 and whatever you do at the racetrack's going to solve your  
16 problem is terribly naive, and we are not going to solve the  
17 problem until we get a comprehensive program together.

18           And I think we're making steps in that direction  
19 and we're capable of doing that, we have the talent and the  
20 personnel that can do that.

21           So I'll have some more comments after Dr. Kinde's  
22 presentation. But this is what we are looking at, we're  
23 going to have another meeting in September and, hopefully,  
24 by October we'll be able to provide a plan to the industry  
25 as to what we think needs to be done, I'm talking about from

1 an academic perspective, to evaluate racetracks and horse  
2 health, with the goal of reducing catastrophic injuries.

3 CHAIRPERSON HARRIS: Any other comments on this?

4 MR. WYATT: I would only say -- Eual Wyatt,  
5 Hollywood Park.

6 By the way, I assume that the letter we gave you  
7 would be placed in the record.

8 I think this is really -- is a start of something  
9 very beneficial. There are a lot of misconceptions and,  
10 frankly, a lot of BS about racetracks and, hopefully, over  
11 some period of time that this program will clear those up  
12 and we will all get a more intelligent look at what actually  
13 does and what is the most contributing factor to horses  
14 breaking down.

15 So we're willing, ready, and more than able to  
16 cooperate in any way we can.

17 CHAIRPERSON HARRIS: Craig?

18 MR. FRAVEL: Yeah, Mr. Chairman, Craig Fravel, Del  
19 Mar.

20 I just wanted to follow up on what Rick said,  
21 there are several studies going on, one of the more  
22 prominent ones is the non-racing injury study that Dr.  
23 McIlraith and Dr. Blea are engaged in with Dr. Peterson,  
24 that's funded by the Grayson Foundation.

25 We are participating in that, and I'm happy to

1 share with staff, and I think Dr. Arthur will get part of  
2 this when the program moves forward, daily record keeping --  
3 not just daily, but multiple occasions during the day, both  
4 during training and the race days, regarding surface  
5 maintenance, all of our procedures, harrow depth, gallup  
6 master depth, cultivator depth, each piece of equipment  
7 that's used --

8 EXECUTIVE DIRECTOR BREED: We get that and it's  
9 being provided and we're in the process of collating it.

10 MR. FRAVEL: Great. Great, so I just wanted to  
11 point out that we're collecting not only that data, but  
12 additional monitoring data on the performance of the  
13 racetrack.

14 From a handicapping stand point, I provided this  
15 Board, at a meeting earlier this spring, with some  
16 information about track variance. In other words, what  
17 speed figures calculate into track variant data. I can tell  
18 you confidently that our tracks here in California, in fact  
19 Hollywood Park was -- had, at least on the track master  
20 track variant data, the best number I've ever seen in terms  
21 of the variability of the racetrack.

22 Ours is a little more variable, but still  
23 significantly better than most tracks around the country.

24 And again, we're happy to share all that data with  
25 you. And as we carefully monitor the track condition -- I

1 don't want to tell you we get it right every time because,  
2 candidly, on a day like today, when you have Santa Ana type  
3 conditions, you're going to have differences in the way the  
4 materials -- these are organic materials, they have physical  
5 properties that are going to change with temperature, and  
6 humidity, and other atmospheric conditions, and that's why  
7 we've tried to work hard with Kirk in terms of setting up  
8 weather stations.

9           And all this work that we're doing, I believe,  
10 will move us dramatically forward and I applaud Kirk, and  
11 Rick, and all of you for your efforts on this in terms of  
12 understanding, you know, if there are conditions that  
13 prevail, that create problems then we can, you know,  
14 intelligently adapt to them instead of just reacting every  
15 time there might be some kind of incident that may or may  
16 not have anything to do with the track.

17           I think there's a danger, typically, of over-  
18 reaction when something happens, that you just make  
19 assumptions about causation as opposed to knowing facts.  
20 And I think facts over the long haul will be our friends and  
21 we're more than happy to provide any information that's  
22 requested.

23           I look forward to getting the weather station set  
24 up and --

25           CHAIRPERSON HARRIS: I wonder if we can put some

1 of that on a website or something, so the public could feel  
2 --

3 MR. FRAVEL: Well, much of our maintenance  
4 processes are put up on the website. We did not -- I don't  
5 believe Kirk got our weather station up this year because we  
6 hadn't yet identified a vendor for that.

7 EXECUTIVE DIRECTOR BREED: No, it's in the process  
8 of being installed right now.

9 MR. FRAVEL: Right. So as soon as that's up we  
10 will put all that data on our website.

11 And again, I'd like to find ways that we can put,  
12 you know, sensors in the track and we can have instrumented  
13 readings where we can make those available to the public.

14 CHAIRPERSON HARRIS: I think the --

15 MR. FRAVEL: One of the issues right now is some  
16 of the measurement devices, other than the ones Dr. Peterson  
17 and Dr. Stover have, are relatively primitive. You're  
18 somewhat restricted to using Cleg Hammers and penetrometers  
19 which are not, A, entirely accurate and, B, necessarily  
20 indicative of what the track conditions might be from either  
21 handicapping or safety purposes.

22 And I think something that we ought to be  
23 considered, and Dr. Peterson and I have had about 20  
24 conversations on the subject, is developing a portable model  
25 of his measurement machine so that we can bring it to each

1 racetrack in turn, as we open up, and have our own  
2 measurements taken daily at all various points on the  
3 racetrack.

4 Right now, for him to move that piece of equipment  
5 around it's not in a very portable form. And I, personally,  
6 would like to see that made available -- not, obviously, for  
7 free, but to develop a testing instrument that gives us  
8 better data than we currently have with the available  
9 instruments.

10 VICE CHAIRPERSON ISRAEL: Craig, do you have a  
11 prescribed protocol for how you groom the track, depending  
12 on weather conditions? You know, is today going to be  
13 groomed differently from say last week when it was damper  
14 and colder?

15 MR. FRAVEL: Yes. Yeah, it's not prescribed. It  
16 depends partly in terms of we're measuring -- the primary  
17 differential is whether we put water on the track or not  
18 right now.

19 VICE CHAIRPERSON ISRAEL: Right and then how much.

20 MR. FRAVEL: Right. And candidly, last year we  
21 were using water in part as a firming agent, if you will.  
22 If you'll recall, the first year the Del Mar track was very  
23 slow. We added wax and we were under a lot of pressure, to  
24 be honest with you, from various sources, to be fast. And I  
25 can show you the data on the relative speed of various races

1 and workouts.

2           And now we're as -- we're right, basically, where  
3 we were with the old dirt track in terms of times, both on  
4 workouts and afternoon races.

5           So our main focus in terms of modifying,  
6 everything else being equal, our procedures will be very  
7 close every day to the same thing.

8           Where it does get modified is if we have a day  
9 like today, when it's hot, and the track surface heats up  
10 rapidly, and particularly when that heat transmits down to  
11 the subsurface temperatures about four inches down, we  
12 basically use water just as a cooling agent.

13           And so you'll see more applications of water on a  
14 day like today, simply to keep those lower temperatures at  
15 two to four inches, you know, under a hundred degrees, where  
16 we think the footing is the most beneficial for the horses.

17           CHAIRPERSON HARRIS: How warm will it get,  
18 basically the surface, on a very hot day?

19           MR. FRAVEL: If you just left it alone it could  
20 get up, you know, down at that level on a day like today,  
21 with the sun beating on it from first thing in the morning,  
22 it could get up to 140 degrees.

23           CHAIRPERSON HARRIS: Oh, really, gee.

24           VICE CHAIRPERSON ISRAEL: So it's like the Astro  
25 Turf was in the old St. Louis Baseball Park.

1 EXECUTIVE DIRECTOR BREED: Right, right.

2 MR. FRAVEL: I never went to that old baseball  
3 park.

4 VICE CHAIRPERSON ISRAEL: There's a famous All  
5 Star game where players had to put sponges in their shoes  
6 because it was the first year, and it was incredibly hot, it  
7 was a day game.

8 MR. FRAVEL: Yeah. So that's what we use the  
9 water, to basically moderate the temperature and keep it  
10 within a range that our previous years' experience has shown  
11 us keeps the track at a relatively optimal level of  
12 performance.

13 VICE CHAIRPERSON ISRAEL: I know we're trying to  
14 avoid the anecdotal stuff, but I mean what I've heard is  
15 there's a certain inconsistency from day to day, even hour  
16 to hour when they're training. And, you know, so while the  
17 times may be similar to what they were the years that you  
18 had dirt, I think the complaint is the consistency isn't the  
19 same, the track doesn't play the same from day to day.

20 MR. FRAVEL: Well, in terms of handicapping,  
21 again, that's why I think we need to go through these --

22 VICE CHAIRPERSON ISRAEL: No, these are the  
23 trainers, you know.

24 MR. FRAVEL: Well, again, one measure you have of  
25 that is the track variant measure in the afternoons and I

1 can show you -- I think one misconception is the dirt tracks  
2 never change from day to day. In fact, we all know that's  
3 not true.

4 And I can show you track variance on our turf  
5 course, that the turf course varies from day to day.

6 Now, why the hell that happens, to be honest with  
7 you, I have no idea, because it's not like we go out and mow  
8 it or water it, it's just different from one day to another.

9 One day it's speed favoring and the next day it's  
10 not and it's, candidly, the same racetrack.

11 So there is still art to this and some mystery, a  
12 good bit of mystery to it. But and it is true that the  
13 track, on a night like last night when it was cold at night,  
14 is going to be different from 4:30 in the morning until the  
15 sun comes out and starts warming it up a little bit.

16 Is that something we can change? You know, I  
17 think we can change some of it with equipment. We hate to  
18 get overly aggressive with that, and I think that's  
19 something over time, and we're looking at some materials to  
20 add that are less temperature sensitive.

21 You know, the original tracks, when they were  
22 installed, had a fair amount of fiber and fairly large  
23 rubber particles in those, and we're working with Dr.  
24 Peterson to analyze particulate size and composition to make  
25 sure that we maintain that level of forgiveness.

1           And some of those elements, the rubber and the  
2 fiber, are not temperature sensitive, they don't change that  
3 much. So I think there are ways we can work over the next  
4 year or two to moderate the impacts of temperature changes  
5 in a positive way.

6           CHAIRPERSON HARRIS: George, do you have anything  
7 to add?

8           MR. HAINES: No. We also monitor the track as  
9 closely as we can. We want to make it as safe as we can and  
10 as consistent as we can get it.

11           It's not an exact science yet, we are accumulating  
12 data, as Craig, we accumulate data much in the same way.

13           We probably have the biggest temperature variant  
14 of any racetrack that has a synthetic surface, so we have to  
15 deal with that, also.

16           But, you know, as time goes on we learn different  
17 techniques to keep it together, to keep it consistent and  
18 safe.

19           And I think this track, as many problems as we've  
20 had with it, now is proving out and becoming more  
21 consistent, and a lot safer.

22           CHAIRPERSON HARRIS: Yeah, I do urge all the  
23 parties to try to get as many facts out as you can, you  
24 know, on websites or whatever, because there's just so many  
25 misconceptions.

1           And I think it is, as Rick pointed out, it's a  
2 very opinion-rich, fact-poor type of approach to everyone's  
3 opinions of these tracks.

4           And we need something to better quantify it, when  
5 we're talking to somebody it's a six versus a five, or a ten  
6 versus a six, or whatever, rather than just saying it's hard  
7 or soft, or whatever.

8           MR. FRAVEL: You know, Mr. Chairman, I think one  
9 thing that would be useful, and perhaps we could come up and  
10 sit down with the staff and go through to try and report  
11 those things consistently, you know, as well as on a timely  
12 basis.

13           But there's a wealth of information out there.  
14 Our friends at NCOMPAS, Equibase have -- you know, we use  
15 NCOMPAS every week to give us updates on the variety of  
16 information. And there's so much out there, you know, so  
17 many handicapping services that do take a look at that kind  
18 of staff and I think it would be useful for us to sit down  
19 with staff, go through all that, come up with consistent  
20 presentation methodologies at each racetrack so that's  
21 available, not only on our websites, but to the staff and  
22 the Board as well.

23           EQUINE MEDICAL DIRECTOR ARTHUR: You know, one of  
24 the issues here though is everybody has to be looking at the  
25 tracks in the same way, using the same measurements. And

1 Dr. Peterson's been very active in what we've been doing and  
2 has been very active here, in California. But we need to  
3 make sure that everybody's doing the same measurements in  
4 the same way so that you can compare one to the other, and  
5 that's going to be very important.

6 I would like to point out and, you know, people  
7 forget what life was like in the past, and this may surprise  
8 people with all the angst over this particular meet, but I  
9 went back over the record, back to 1999, this is the --  
10 there are only two Del Mar meets that had better racing  
11 statistics in terms of fatalities than this meet has. And  
12 so people forget that.

13 VICE CHAIRPERSON ISRAEL: But haven't the  
14 fatalities been mostly in the morning?

15 EQUINE MEDICAL DIRECTOR ARTHUR: Going back over  
16 training fatalities, certainly there were other meets that  
17 had worse. And it's probably about the third -- there have  
18 been -- maybe second or third in that. I actually have the  
19 numbers somewhere, I can show that to you.

20 But the fact of the matter is -- the fact of the  
21 matter is it's a long ways from as bad as it has been back  
22 in the dirt.

23 VICE CHAIRPERSON ISRAEL: But what we shouldn't  
24 do, though, is cherry pick the advantageous statistics and  
25 ignore the other statistics.

1 EQUINE MEDICAL DIRECTOR ARTHUR: Which ones are we  
2 ignoring.

3 VICE CHAIRPERSON ISRAEL: Well, I just had to ask  
4 you, you pointed out they were doing better in the  
5 afternoon, which is true, but then you ignored the morning  
6 until I asked so --

7 EQUINE MEDICAL DIRECTOR ARTHUR: I didn't ignore  
8 it. I just pointed out -- I just pointed out what we're  
9 looking at. I look at those every day, Commissioner.

10 MR. FRAVEL: Let me just respond to that, there  
11 isn't any way to ignore it because it's all over the  
12 newspaper every day so --

13 VICE CHAIRPERSON ISRAEL: I know, but so --

14 MR. FRAVEL: So I think -- again, I think that,  
15 you know, the important thing here is that we're  
16 participating in these non-fatal injury studies that, as  
17 Rick pointed out, the fatalities are often sort of highly  
18 visible, but necessarily a representative indication of how  
19 things are going.

20 And I think Dr. McIlraith and Dr. Blea are going  
21 to be able to tell us a lot more about the situation.

22 The one problem we have with that is there is no  
23 data that precedes the synthetic track era, we don't know  
24 whether we're better or worse in a lot of cases because most  
25 of that data is only in people's distant memories. So I

1 think, you know, we need to keep that in mind as we look  
2 forward and these information. I think, you know, our  
3 objective would be to improve from where we are.

4 CHAIRPERSON HARRIS: I think we need to better  
5 communicate to all the horsemen, the press, and everybody  
6 that there are a lot of things going on here, we're not just  
7 ignoring the problem or the data.

8 VICE CHAIRPERSON ISRAEL: Yeah, I just think we  
9 need to be open, and listen, and objective, you know, and  
10 not to be defensive about anything. You know, it is what it  
11 is and we're going to try to make it better, that's all.

12 EQUINE MEDICAL DIRECTOR ARTHUR: The fact of the  
13 matter is in the six months of 2009 we have a fatality rate  
14 on synthetic surfaces of racing about one out of a thousand.  
15 That is two and a half times better than our historical  
16 average in California.

17 The training fatalities, we have seen a change in  
18 the training fatalities. It used to be 60/40, it's now  
19 close, probably going to be 50/50, maybe less, racing than  
20 training now. The question is why and trying to analyze  
21 that data. But we report that data every year.

22 VICE CHAIRPERSON ISRAEL: I mean, look, I don't  
23 know anything about agriculture or soils. I assume dirt  
24 doesn't expand and contract at the same rate as the  
25 temperature changes, as the synthetic stuff does; is that a

1 fair assumption?

2 EQUINE MEDICAL DIRECTOR ARTHUR: Temperature is a  
3 much bigger problem with synthetics than it was in dirt, and  
4 I don't think there's any question about that.

5 VICE CHAIRPERSON ISRAEL: You're inviting greater  
6 variables to the surface by making them synthetic, now  
7 you've got to figure out how to fix it.

8 MR. FRAVEL: On the other, they don't respond the  
9 same way to moisture and liquid.

10 VICE CHAIRPERSON ISRAEL: Right.

11 MR. FRAVEL: So it's just different. You're  
12 right, it's just different factors we have to work with and  
13 --

14 VICE CHAIRPERSON ISRAEL: Right, and we don't have  
15 enough experience to have a fairly significant, well-devised  
16 protocol for dealing with each of these incidents.

17 EQUINE MEDICAL DIRECTOR ARTHUR: But I do think  
18 though, Commissioner, you did identify the biggest  
19 frustration amongst trainers, and that is that they do vary  
20 more from day to day from a dirt track. And that's my  
21 anecdotal opinion, but I think most trainers would agree  
22 with that.

23 And if there's one thing that drives trainers  
24 crazy is not knowing what a track's going to be like in the  
25 morning.

1           VICE CHAIRPERSON ISRAEL: Well, I think the laws  
2 of physics would say that's going to vary more because  
3 you've got a synthetic surface that expands and contracts,  
4 each little pellet will grow or contract depending on the  
5 weather.

6           EQUINE MEDICAL DIRECTOR ARTHUR: Well, I don't  
7 know if it --

8           VICE CHAIRPERSON ISRAEL: Much more than a grain  
9 of sand would.

10          EQUINE MEDICAL DIRECTOR ARTHUR: I don't know if  
11 it contracts or expands, but it certainly behaves  
12 differently biomechanically.

13          VICE CHAIRPERSON ISRAEL: Well, from 11th grade  
14 physics, all those gizmos go -- they move a lot faster and  
15 become bigger as it gets hotter, you know, expands when it  
16 gets hot.

17          CHAIRPERSON HARRIS: Those are gases and stuff,  
18 though, that's not --

19          VICE CHAIRPERSON ISRAEL: Well, atoms go faster  
20 when they're exposed to heat, molecules or whatever.

21          CHAIRPERSON HARRIS: If they're -- well, anyway,  
22 we need a physics lesson here.

23          EQUINE MEDICAL DIRECTOR ARTHUR: But the real  
24 point is the goal has to be to look and figure out what's a  
25 safe racetrack so we can reduce the number of fatalities,

1 that's got to be our goal and we have the capabilities of  
2 doing that.

3 VICE CHAIRPERSON ISRAEL: And reduce fatalities,  
4 but also assure that the business doesn't get diminished  
5 while we're doing it, you know.

6 CHAIRPERSON HARRIS: Yeah, I don't think --  
7 there's little danger --

8 VICE CHAIRPERSON ISRAEL: There's a balance there.

9 CHAIRPERSON HARRIS: I don't think we want to be  
10 focused so much on handicapping that we -- you know, the  
11 real thing is the fatalities, more than the handicapping  
12 issues.

13 EQUINE MEDICAL DIRECTOR ARTHUR: Well, I would  
14 contend that fatalities are a big risk --

15 VICE CHAIRPERSON ISRAEL: They're bad for the  
16 business.

17 EQUINE MEDICAL DIRECTOR ARTHUR: -- are a big risk  
18 for horse racing, and it's something, it's the reason that  
19 the Board mandated this however many years ago, and it has  
20 to do with the way the statistics are and we'll get into  
21 some of those in a minute.

22 CHAIRPERSON HARRIS: Okay, let's -- we've got a  
23 pretty big agenda. Let's move on and appreciate the input.

24 EQUINE MEDICAL DIRECTOR ARTHUR: Thank you.

25 MR. FRAVEL: Thank you.

1 CHAIRPERSON HARRIS: Let's take about a quick,  
2 like a five-minute break, then we're going to get into this  
3 postmortem program, which is going to be interesting.

4 (Off the record for a break.)

5 CHAIRPERSON HARRIS: Okay, let's reconvene. This  
6 next report is something that I think is very important to  
7 the overall industry, is the postmortem program at UC Davis,  
8 that the diagnostic labs have been doing. So go ahead.

9 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, I'd like to  
10 introduce Dr. Hailu Kinde, the Interim Director of the  
11 California Animal Health and Food Safety Laboratory, who is  
12 going to present the necropsy report.

13 Dr. Kinde's been with the program probably since  
14 its inception in '91. And he's going to present the 2008  
15 data and we'll go from -- I'll let Dr. Kinde give his  
16 presentation.

17 And we've worked very hard to try to make this  
18 more relevant and make sure the data he's getting is  
19 accurate, and I'm quite pleased with how the report's come  
20 out, and there's some very, very important information in  
21 this report that I think you'll find interesting.

22 CHAIRPERSON HARRIS: And there is a written  
23 report, as well, that's available.

24 EQUINE MEDICAL DIRECTOR ARTHUR: They will be  
25 producing a written report, annual report, as they always do

1 and be providing that probably within the next few weeks.

2 DR. KINDE: Yes. Is this on?

3 CHAIRPERSON HARRIS: Okay, go ahead.

4 DR. KINDE: Thank you, Commissioners, for giving  
5 me this opportunity to present our result from the  
6 laboratory.

7 The Equine Postmortem Program at UC Davis,  
8 probably one of the best anywhere in the world. This is  
9 because it combines expertise in pathology, as well as  
10 expertise in research at the School of Veterinary Medicine,  
11 and just it is a hand-in-hand, win-win situation.

12 Dr. Arthur alluded to some of the research  
13 component previously, and we have a large collection of data  
14 anywhere, and we are very pleased with the cooperation we  
15 are getting from the school.

16 These are the horses submitted per year. It  
17 includes all breeds, including some of the draft horses,  
18 mostly thoroughbreds and the quarter horses.

19 As you see, there is a trend right about starting  
20 at 2004, it's been increasing. And 2008, is only one other  
21 year which had, which was 2006, almost the same number.

22 This pie graph shows the injury related activities  
23 and it's 300 -- a total of 351 horses, which include the  
24 racing, which is the largest component of the pie graph, 160  
25 horses. And the 93 horses which were training, and the 95

1 horses, non-exercise related injuries.

2 CHAIRPERSON HARRIS: These are all breeds?

3 DR. KINDE: This is all breeds, yes.

4 This is the total submission by months. Again,  
5 all breeds, the number of cases. As you see, it varies  
6 until probably the month of November 2008 we had the largest  
7 number of submissions.

8 COMMISSIONER DEREK: I'm sorry, when you say  
9 submissions, how do the horses, how do they come to you?

10 DR. KINDE: These are carcasses euthanized in any  
11 of the tracks. We have two major laboratories, one in San  
12 Bernardino and one at the UC Davis campus. And horses, I  
13 have --

14 COMMISSIONER DEREK: So these are all horses that  
15 come from the track?

16 DR. KINDE: Yes, fatalities at the track.

17 VICE CHAIRPERSON ISRAEL: Every fatality?

18 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, even -- even  
19 ponies that expire within the racetrack are brought. In  
20 fact, we had a -- I don't know if it's in this group or not,  
21 we had a mare die foaling at Sacramento, for some odd  
22 reason, and both the mare and foal went as well.

23 So any horse that dies within the enclosure is  
24 sent for necropsy, very inclusive program.

25 COMMISSIONER DEREK: So was the -- sorry -- was

1 the 351, was that the total for the year?

2 DR. KINDE: Yes, for 2008, yeah.

3 VICE CHAIRPERSON ISRAEL: And do you have any idea  
4 why the number spikes in November and December?

5 EQUINE MEDICAL DIRECTOR ARTHUR: I think there  
6 will be some data at the end that will address that. There  
7 was a particular problem at -- in one breed.

8 VICE CHAIRPERSON ISRAEL: Oh, one breed?

9 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

10 DR. KINDE: Yeah. Just to -- I'm sorry, your  
11 question, any horse which dies or euthanized within the  
12 enclosure of the racetrack it is a State mandate, they have  
13 to come for thorough examination to one of the laboratories.

14 COMMISSIONER DEREK: So your draft horse was a  
15 cart horse or something?

16 DR. KINDE: If it was at the racetrack, yes,  
17 ma'am.

18 COMMISSIONER DEREK: Okay.

19 DR. KINDE: This is the all submissions, again, by  
20 breed. As you can see, a little bit more than three-fourths  
21 of the horses submitted were thoroughbreds, 86 were quarter  
22 horse, and the other seven are standard bred and Arabian  
23 breeds.

24 VICE CHAIRPERSON ISRAEL: Is this consistent with  
25 the number of horses? In other words, is the ratio right to

1 the number of horses registered to race?

2 EQUINE MEDICAL DIRECTOR ARTHUR: We really do not  
3 have that data, it's been a frustration of the program from  
4 the very beginning. We can go back and see how many, what  
5 percentage of starters. I could probably do those  
6 calculations.

7 But having the denominator in these particular  
8 statistics has been a frustration that the University has  
9 brought to the Board for as long as I can remember. It's a  
10 very hard number to get.

11 CHAIRPERSON HARRIS: Yeah, because this doesn't  
12 really help too much because it's not really relative to  
13 how -- what the populations were.

14 COMMISSIONER DEREK: Yeah.

15 VICE CHAIRPERSON ISRAEL: Like if Arabians are  
16 falling at some significantly lower or greater rate, it  
17 would be good to know that. You know, I mean, obviously our  
18 focus should be on thoroughbreds or quarter horses because  
19 the numbers are bigger but --

20 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, some years  
21 will --

22 VICE CHAIRPERSON ISRAEL: -- if they're  
23 proportionate then --

24 DR. KINDE: This is the number of submissions by  
25 age group. As it is obvious, three years old are the

1 majority of horses submitted, followed by four-year-olds and  
2 two-year-olds, and then five years, and the number decreases  
3 as the horse age increases.

4           This is the total number of submissions by gender.  
5       Again, the gelding are a little bit more than half of the  
6 total number, from the total number submitted -- I mean,  
7 gelding, followed by the mares or the females, 126, and the  
8 stallion or the males are 59.

9           This is musculoskeletal injury by gender, any  
10 bones or soft tissues injury are recorded in here. Gelding,  
11 again, are the most, 127. Female, 101, and male, 45.

12           This is injury by organ system. The  
13 musculoskeletal, again, the largest, 273, followed by the  
14 gastrointestinal. These are probably colic or enteritis, or  
15 torsion of the bowel, followed by respiratory problem 22,  
16 nervous nine. Cardiovascular, any heart attacks or any  
17 heart lesions recorded here.

18           And then the five, again, the whole body system,  
19 if they had any septicemia or anything which affects the  
20 whole body.

21           And the urogenital which is probably anything to  
22 do with the urogenital system, very small portion.

23           CHAIRPERSON HARRIS: Did you ever find any cases  
24 of rabies?

25           DR. KINDE: We look for it, but we haven't seen

1 it.

2 CHAIRPERSON HARRIS: Yeah, that's good.

3 DR. KINDE: The nervous system probably it  
4 includes any -- something like equine herpes, or any  
5 encephalitis, like West Nile, we've been seeing those  
6 lately.

7 CHAIRPERSON HARRIS: You have the West Nile?

8 DR. KINDE: Yeah.

9 EQUINE MEDICAL DIRECTOR ARTHUR: EPM.

10 DR. KINDE: And equine. Yeah, we have a flurry of  
11 EPM cases caused by neuro -- Sarcocystis neuroma in the  
12 Golden Gate, the GGF field, about four. Four, yeah.

13 VICE CHAIRPERSON ISRAEL: And he actually had  
14 equine --

15 EQUINE MEDICAL DIRECTOR ARTHUR: Equine protozoal  
16 myeloencephalitis.

17 DR. KINDE: Yeah.

18 EQUINE MEDICAL DIRECTOR ARTHUR: We actually had  
19 four horses in one week and very interesting series of  
20 cases, and spent quite a bit of time looking at those.

21 DR. KINDE: Yeah.

22 EQUINE MEDICAL DIRECTOR ARTHUR: But those are  
23 2009 cases and not a part of this report.

24 Excuse me?

25 VICE CHAIRPERSON ISRAEL: Is that a disease that's

1 spread in a small population or --

2 CHAIRPERSON HARRIS: It's not contagious in  
3 animals.

4 EQUINE MEDICAL DIRECTOR ARTHUR: It's contagious  
5 from horse to horse.

6 VICE CHAIRPERSON ISRAEL: From horse to horse.

7 EQUINE MEDICAL DIRECTOR ARTHUR: But it is an  
8 infectious disease, it's a protozoal, and it's thought to  
9 come from possum feces.

10 CHAIRPERSON HARRIS: It's amazing, because we've  
11 had incidences of that on our farm and we don't really think  
12 we even have any possums. But we've got to have possums.  
13 There are a lot more possums around than you realize.

14 DR. KINDE: Yeah.

15 EQUINE MEDICAL DIRECTOR ARTHUR: I think if there  
16 was a nuclear war, the possums and the cockroaches would be  
17 the only things that are left.

18 VICE CHAIRPERSON ISRAEL: And Twinkies.

19 EQUINE MEDICAL DIRECTOR ARTHUR: It's amazing  
20 where they --

21 VICE CHAIRPERSON ISRAEL: And Twinkies.

22 (Laughter.)

23 DR. KINDE: This is dividing by the two main  
24 breeds, the thoroughbreds and the quarter horse, and also by  
25 the surface type. In thoroughbreds, the largest number of

1 fatalities are from synthetic, 111, 65 from dirt surfaces,  
2 and turf, eight.

3 Quarter horses, they were all dirt because they  
4 didn't have synthetic.

5 This is again separating by the two main breeds,  
6 thoroughbreds and quarter horses. The numbers in red  
7 indicate fractures from thoroughbreds and the light blue one  
8 fractures from quarter horses.

9 As you see here, the largest numbers are again the  
10 limbs, the front limbs, 77 for total breaks, and the right  
11 front 22.

12 In quarter horse, 13 and 25, respectively.

13 In the rear end, the rear limbs, the left limb  
14 only one in thoroughbreds and nothing in the quarter horse.

15 And the vertebral fractures, three in  
16 thoroughbreds and the quarter horses seven.

17 Pelvis, one in each breed.

18 CHAIRPERSON HARRIS: Okay, actually, these are  
19 labeled injuries, but these are really injuries that  
20 resulted in fatalities.

21 EQUINE MEDICAL DIRECTOR ARTHUR: That's right.

22 DR. KINDE: Yes.

23 EQUINE MEDICAL DIRECTOR ARTHUR: That's all he  
24 sees.

25 DR. KINDE: Yeah, all, we don't see live horses.

1           And this is just thoroughbreds, synthetic versus  
2 dirt. The synthetic are labeled red. As you see in, again,  
3 the front limbs, where most fractures occur, 38 in the left  
4 front on the synthetic, 37 in dirt. In the right front, 36  
5 in synthetic and 22 in dirt.

6           Correspondingly, in the left rear those numbers  
7 are much lower.

8           EQUINE MEDICAL DIRECTOR ARTHUR: I'd like to point  
9 out, this is the most significant bit of information that I  
10 think you'll see from this, and this confirms what trainers  
11 have been telling us, and veterinarians, is that there is a  
12 higher incidence of hind limb injuries on synthetics than  
13 there is in dirt. The first time this has actually been  
14 confirmed.

15           And I will say I appreciate the work with Dr.  
16 Kinde's staff, and our staff, to actually be able to analyze  
17 this data in this way for the first time.

18           So this actually confirms what we've been hearing  
19 anecdotally and it gives us objective numbers, that we can  
20 say that there's a higher number of hind limb injuries on  
21 synthetic surfaces, as the trainers have been telling us.

22           VICE CHAIRPERSON ISRAEL: Have you talked to  
23 exercise riders at all?

24           EQUINE MEDICAL DIRECTOR ARTHUR: Only  
25 occasionally.

1 VICE CHAIRPERSON ISRAEL: Because they have the  
2 most mounts. And I heard from one, I'll say -- I'll tell  
3 you some other time, but basically he said that the action  
4 of the horse is different, the hind action of the horse is  
5 very different to him on the synthetics, and that could be a  
6 part of what's contributing to it, there's a bounce back.

7 EQUINE MEDICAL DIRECTOR ARTHUR: That's an example  
8 of why the instrumented shoe, which actually will be on a  
9 horse, will be so important, we will be able to identify how  
10 that action changes.

11 DR. KINDE: This is a slide which combines all  
12 fractures on a horse, again all breeds. As you see, mostly  
13 down at the front leg, the sesamoid bones make up the  
14 largest number of fractures, 81, and the metacarpus 32, at  
15 the front limb, and laminitis 13.

16 And the different areas, the febrile fracture 10,  
17 pelvis fracture six. Humerus is another big one we see, 16.  
18 The rest are all over, you know, the map.

19 This is just quarter horse submission by year. In  
20 2008, the largest number of submissions in quarter horses  
21 ever, since the start of the program. Maybe one other year,  
22 2005, maybe slightly higher than the rest of them. So 2008  
23 was a big number for quarter horses.

24 VICE CHAIRPERSON ISRAEL: Were there many more  
25 starts in 2008?

1 EQUINE MEDICAL DIRECTOR ARTHUR: No.

2 COMMISSIONER DEREK: The what horse starts

3 EQUINE MEDICAL DIRECTOR ARTHUR: No more starts.

4 COMMISSIONER CHOPER: Was that in 1990?

5 EQUINE MEDICAL DIRECTOR ARTHUR: We don't know  
6 about 1990, but certainly in the last several years.

7 DR. KINDE: Yeah, in 1990 was almost the beginning  
8 of the program, so we really didn't have that many  
9 submissions.

10 VICE CHAIRPERSON ISRAEL: There wasn't full  
11 participation then, probably?

12 DR. KINDE: Yeah, it was still -- the program is  
13 still in its infancy at that time.

14 EQUINE MEDICAL DIRECTOR ARTHUR: You know, we've  
15 spent a lot of effort trying to get this data in a form, we  
16 have now developed a system where we can mine this data a  
17 lot differently. We can look at the incidence of not just  
18 left and right, but whether a carpus in quarter horses is  
19 more frequent, synthetic surfaces. That data really wasn't  
20 available until fall of 2007.

21 We've spent a lot of time trying to get this into  
22 a form that we can analyze and we've been working to improve  
23 the quality control process. And we need to do a better job  
24 of that so we can mine this data more effectively.

25 Our process, where the forms are submitted, we get

1 faxed copies of faxed copies, they're incomplete. I've been  
2 working with the laboratory to try and develop an electronic  
3 submission form so we get the information that we need, so  
4 that we can go back and analyze these.

5           The advantageous of this, you've just heard a  
6 report on an annual year basis, we report on a fiscal year  
7 basis, which is six months off.

8           What we'd like to do is if we get this program,  
9 continue to move it forward, we'd be able to get quarterly  
10 reports from the Horse Racing Board and be able to match our  
11 two programs, I think it only makes sense.

12           And it also gives us an opportunity to analyze  
13 that. We've been looking at ways of getting the vet school,  
14 and the pathologists and cast together to analyze this data  
15 on a regular basis, because we do see trends like the  
16 quarter horse situation at Los Alamitos, that we need to  
17 figure out to respond to.

18           Some of the horses in this report expired almost  
19 20 months ago.

20           So we're moving forward in that direction, I think  
21 there's a lot we can do, but we also need to do a more in-  
22 depth analysis of fractures. Boning out some of these  
23 fractures is not part of their job, they have to be sent to  
24 the veterinary school to analyze these types of injuries so  
25 we can figure out what's going wrong, and figure out

1 strategies to avoid those.

2 We also have had some opportunities, we're the  
3 only jurisdiction that analyzes non-musculoskeletal  
4 injuries, non-training and racing injuries. And those are  
5 some very interesting cases in terms of colitis, in terms of  
6 pneumonias, in terms of particularly neurological problems,  
7 where we actually were able to get a team of people together  
8 and had several conference calls, that Dr. Ferraro helped me  
9 organize, with faculty to try to figure out what the problem  
10 was.

11 And it ended up actually gene typing the protozoal  
12 in the -- from the spinal cord to identify where these cases  
13 were coming from, with some very interesting results.

14 So I'm very pleased with the way we're getting  
15 better data out of this and we just need to do a better job,  
16 and we have a gold mine here in terms of horse health and I  
17 think we have to figure out ways to improve this.

18 COMMISSIONER CHOPER: 2008 is the first time  
19 you've distributed it the way you've just -- in this whole  
20 series of slides?

21 EQUINE MEDICAL DIRECTOR ARTHUR: They've always  
22 had reports, but they didn't -- they weren't even reporting  
23 track surfaces prior to 2008. When this program started  
24 nobody, there wasn't any issue of track surface.

25 In fact, sometimes you go over the old data, even

1 which racetrack it was, was obscure. But we've done a good  
2 job of getting that cleaned up and moving it forward.

3 And we're comparing our databases and I think it's  
4 been a real positive step forward.

5 COMMISSIONER CHOPER: So it's --

6 EQUINE MEDICAL DIRECTOR ARTHUR: It's not a pretty  
7 picture but --

8 COMMISSIONER CHOPER: No. So from a statistical  
9 stand point, how many years would you say, or would  
10 statisticians say would be needed before you could draw any  
11 kind of conclusions from it?

12 For example, when you look at what you have on the  
13 screen, 90 horses in 2008, all right, now that's a big jump.  
14 But I don't think, I'm not a statistician and I don't think,  
15 but I talk to people who use statistics a lot, that you can  
16 draw any conclusion from that, except that there were more.

17 But in terms of causal relationships, I think it's  
18 very, very difficult.

19 EQUINE MEDICAL DIRECTOR ARTHUR: It is very  
20 difficult. And, fortunately, the vet school has some  
21 excellent epidemiologists, statisticians, like Dr. Ian  
22 Gardner, who has been participating in some of our  
23 preliminary discussions on how to analyze this data.

24 The real key with data, and you probably know  
25 this, is you have to collect it in a way -- you have to know

1 what questions you are trying to answer because if you don't  
2 collect in the right way, just like we cannot go back with  
3 this data now and analyze track surfaces, you have to  
4 collect it in a way that allows you to analyze it.

5 I can tell you, I would be very surprised if this  
6 rate for quarter horses is maintained in 2009.

7 2008 was not a good year for synthetic surfaces  
8 overall, compared to what it was in 2007, but 2009 is  
9 looking a lot different.

10 So trying to interpret all this is --

11 COMMISSIONER CHOPER: Because they're all dirt.

12 EQUINE MEDICAL DIRECTOR ARTHUR: Those are all  
13 dirt, yes.

14 CHAIRPERSON HARRIS: Yeah, it wasn't good for  
15 dirt, either.

16 EQUINE MEDICAL DIRECTOR ARTHUR: Well, it's not  
17 good for horse racing.

18 If you go back and look at the second slide, you  
19 will see that we're almost up 60 percent from five years  
20 ago.

21 VICE CHAIRPERSON ISRAEL: Well, I mean, John and I  
22 both noticed the disproportionate number of quarter horses  
23 included in the study, and I guess maybe 2008 was the year  
24 of the study.

25 But by crude math, it seems to be 32 percent of

1 the fatal injuries are quarter horses. And I don't think 32  
2 percent of the racing horse population is quarter horses.

3 EQUINE MEDICAL DIRECTOR ARTHUR: No.

4 VICE CHAIRPERSON ISRAEL: Statistically  
5 impossible.

6 COMMISSIONER CHOPER: They had a bad year.

7 COMMISSIONER DEREK: It's interesting that dirt  
8 had a bad year, too.

9 COMMISSIONER CHOPER: Yeah.

10 EQUINE MEDICAL DIRECTOR ARTHUR: They did rework  
11 the Los Alamitos surface right after this, over Christmas,  
12 between Christmas, and it appeared to improve it  
13 dramatically.

14 CHAIRPERSON HARRIS: I think we've got a lot of  
15 great data, it's just I really urge you to get it into some  
16 form -- you know, get away from faxes and into using the  
17 whole IT realm to better track everything.

18 And I think one of the ultimate goals would be to  
19 also track, as a fatality, some of the history of it, as far  
20 as what sort of training has been in and --

21 VICE CHAIRPERSON ISRAEL: Well, training methods  
22 are important in some way, you'll see how often, or how  
23 fast, and that sort of thing.

24 EQUINE MEDICAL DIRECTOR ARTHUR: We are -- all  
25 tracks, except Los Alamitos, I've been talking to Dr. Allred

1 about this and one of these days I hope I'll be able to  
2 convince him because it's free, all tracks, thoroughbred  
3 tracks in California, and quarter horses, if they want to  
4 participate, it doesn't work for standard breds, which  
5 hardly ever break down, but our participating equine injury  
6 database.

7           So we'll be able to analyze issues like how many  
8 times a horse worked, how many raced, whether it had been on  
9 the vet's list, those sorts of things, and try to analyze  
10 how that puts horses at additional risk.

11           And all the majors are participating in  
12 California, in that program.

13           VICE CHAIRPERSON ISRAEL: Are you including, like  
14 you're measuring the number of times worked and things like  
15 that?

16           EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

17           VICE CHAIRPERSON ISRAEL: Okay.

18           EQUINE MEDICAL DIRECTOR ARTHUR: They'd have to be  
19 recorded. Anything -- anything, a recorded work. But we  
20 don't report if a horse gallops, for example.

21           VICE CHAIRPERSON ISRAEL: Right. No, just  
22 reporting.

23           EQUINE MEDICAL DIRECTOR ARTHUR: We have all the  
24 reported --

25           VICE CHAIRPERSON ISRAEL: Anything reported to

1 the --

2 EQUINE MEDICAL DIRECTOR ARTHUR: Right.

3 CHAIRPERSON HARRIS: The data's there but, I don't  
4 know, right now is somebody putting that together or it's  
5 just a hypothetical?

6 EQUINE MEDICAL DIRECTOR ARTHUR: All our official  
7 veterinarians are entering fatality data into the equine  
8 injury database, the NCOMPAS system, except for Los Alamitos  
9 and, hopefully, we'll get them on board here shortly.

10 VICE CHAIRPERSON ISRAEL: Okay, so they make some  
11 effort to discuss with some of the exercise riders what  
12 their experience is with the motor function of horses on the  
13 different surfaces, please.

14 EQUINE MEDICAL DIRECTOR ARTHUR: Okay.

15 CHAIRPERSON HARRIS: Okay, let's keep moving along  
16 here. Is that pretty well the report?

17 DR. KINDE: Yeah, that's --

18 CHAIRPERSON HARRIS: Really appreciate the report,  
19 and I think we need to review the written report when it  
20 comes out and continue to refine it.

21 Craig, you have --

22 MR. FRAVEL: Mr. Chairman, one other suggestion,  
23 Craig Fravel, Del Mar.

24 I think one of the things that's missing,  
25 ultimately, in some of this analysis and, again, Rick

1 indicated there's a lot more work to be done, there's also  
2 the racing history of various horses whatever the breed.

3 I think there have been studies done at Australia  
4 that went back and looked at starts and horses that got  
5 banged at the gate, and had mid-race contact. And I think  
6 that's something we don't -- we don't look back two or three  
7 races to see if a horse had particular instances during a  
8 race.

9 I mean, we had a horse at Del Mar, two summers  
10 ago, on the turf course opening day, that got banged on the  
11 back end when his foot was planted and it broke his leg.

12 And I think there's a lot to be looked at in terms  
13 of race incidences, as well as starting gate. I think we  
14 all know a lot of starting gate incidences can cause  
15 injuries as well. I think there's also studies in Australia  
16 and elsewhere about that. Thank you.

17 EQUINE MEDICAL DIRECTOR ARTHUR: The equine injury  
18 database actually has a place to put that in and we will,  
19 from time to time, call stewards and ask them to review a  
20 race to look specifically for that information.

21 Horses getting hit in the middle of a stride, it  
22 being knocked sideways, is an extremely risky event. And,  
23 hopefully, the stewards take that into consideration when  
24 they impose infractions, as well.

25 But it's surprising how often horses are knocked

1 sideways and end up with fatal injuries.

2 CHAIRPERSON HARRIS: Yeah. Well, thank you very  
3 much, Doctors.

4 EQUINE MEDICAL DIRECTOR ARTHUR: Thank you.

5 DR. KINDE: Thank you.

6 CHAIRPERSON HARRIS: I think we'll skip to the --  
7 we've got a couple of jockey agents here that may want to  
8 comment on Item 13, which is discussion of the Board  
9 regarding -- the way that it's stated is exactly what we --  
10 increasing fines for jockeys in lieu of suspensions.

11 I think my intent in putting this on the agenda  
12 was to give stewards another tool they could use in lieu of  
13 days, or as an option to days, to give an amount of fine  
14 that could be paid or the jockey could also serve X amount  
15 of days for some riding infraction.

16 And, historically, it's just been all days. And  
17 part of the problem is that if a jockey appeals the days,  
18 you can't get the toothpaste back in the tube. If you get  
19 the days, you can't get them back, so that jockey has got a  
20 good case to appeal to the Board and the Board can give him  
21 a stay or, even if the Board doesn't give him a stay, he can  
22 probably go to court and get a stay.

23 So I was thinking if there was some fine option,  
24 it might give more finality to the situation and still  
25 provide a level playing field for the jockeys competing

1 against each other.

2 But we wanted to get some input from riders, and  
3 jockey agents, and just the overall horse community of what  
4 they thought about this idea.

5 I think part of the idea would have to be that the  
6 fine would have to be substantial enough that it was  
7 equivalent of the days. I mean, it wasn't just a token  
8 fine, it was a pretty major fine, but at least it would be  
9 an option if the person didn't want to do the days.

10 So we've got Vic Stauffer here, as an agent; do  
11 you want to comment on that?

12 MR. STAUFFER: Good afternoon, my name's Vic  
13 Stauffer and I'm an agent for Joel Rosario.

14 In discussing this matter with my rider, and  
15 several of the other agents on the backside, and many of the  
16 other riders, there's a, what I would say, a majority  
17 consensus that this could be something that, if implemented,  
18 would work well.

19 We believe that the riders should have the option  
20 of accepting a fine in lieu of getting days, but it should  
21 be at the rider's discretion, for reasons that I will bring  
22 up in a second.

23 Now, obviously, this fine needs to be on some sort  
24 of a sliding scale. Because if you have a rider that's a  
25 leading or top five rider in Southern California, and you

1 have a rider that's in the middle of the pack up on the  
2 Northern California fairs, those fines can't be the same  
3 amount, because a set structured fine would mean little or  
4 nothing to one of the leading riders down south, where the  
5 rider in Northern California could be adversely affected by  
6 that.

7           Again, that's addressing that there could be an  
8 option, where the rider could accept a fine or he could  
9 accept the days.

10           Off the top of our head, our first thought was how  
11 do you come up with this scale for the fines for the riders,  
12 and we thought that as a beginning of the negotiation  
13 process what you could do is you could take an aggregate of  
14 what that rider made over the last, let's say, 90 days, what  
15 his average check was on that particular time, and then you  
16 could apply a percentage of that amount to the -- to make  
17 the fine.

18           Traditionally, a leading rider in Southern  
19 California makes somewhere between 20 and 30 thousand  
20 dollars a week. And so if you fined him for a three-day  
21 suspension, that would be a fine of somewhere between three  
22 and four thousand, and a five-day suspension could be as  
23 much as five, six, or seven thousand dollars.

24           Some would argue that that's not a deterrent. I  
25 can tell you that I certainly believe that it would be in

1 the form of, you know, these guys are used to making a  
2 certain amount of money, and they do make a lot of money,  
3 but to write a check for three thousand, up to seven  
4 thousand dollars definitely, in my mind, would be a  
5 deterrent.

6           Some would say, well, that wouldn't necessarily  
7 make it a deterrent and, therefore, they would be more  
8 inclined to ride carelessly.

9           I disagree with that for the reason that I just  
10 said and, also, there are -- the jockeys' room, as far as  
11 safety, is sort of self-policed anyway, I think.

12           I don't really think that it's necessarily the  
13 fines and the sanctions that police the race riders to being  
14 fair on the racetrack, I think they do that amongst  
15 themselves inside the room, in the jockeys' room.

16           And so I do believe fines, especially if they're  
17 significant fines, can be deterrents.

18           The reason why I think that a leading rider should  
19 have an option for being able to take a fine, rather than  
20 days, is very much what Commissioner Harris said. Once it  
21 gets out of -- the toothpaste gets out of the tube, you  
22 can't put it back.

23           And so if you have a legitimate appeal and  
24 ultimately that appeal is found out to be upheld, those  
25 horses that that jockey missed, you can never re-ride those

1 horses, you can never regenerate that money.

2           And over and above that, if you have a rider  
3 that's a top rider, you could potentially have put in six,  
4 ten, 12 weeks in getting a young horse ready to go, and  
5 let's say it's a real talented young horse, having put  
6 together that time you could potentially lose out not only  
7 that horse running in its maiden race, but let's say it's a  
8 real talented horse you could lose that horse in the first  
9 condition in the stakes, and maybe even it's a two-year-old  
10 that could go onto the Breeders' Cup.

11           So it's sort of the gift that keeps on giving, and  
12 I think in that particular case you could make a case that  
13 the fine would be excessive.

14           I also think it's a little bit -- if a rider has  
15 put in time to be able to ride a particular horse, I think  
16 it could potentially be unfair to the owners and trainers as  
17 well.

18           Because here in Southern California, for example  
19 in our two-year-old maiden races, those are almost all full  
20 fields. And so if you miss out on a top rider because that  
21 rider got days that owner, who's invested a lot of money,  
22 and that trainer who's invested a lot of time in getting the  
23 horse ready to run, might not necessarily be able to get a  
24 rider commensurate to the ability of that horse.

25           And so I think that it's somewhat of a protection

1 for the owners and trainers as well.

2 Now, there are situations where the stewards have  
3 the latitude to sanction a jockey for three days, or five  
4 days, or even more.

5 When you see a sanction over five days, usually  
6 one of two things has happened. And that is a rider has  
7 been hurt because he fell off a horse or a spill has  
8 occurred.

9 In those particular cases, I don't think the  
10 option for being able to fine rather than accept those days  
11 should be an option for the race rider, because that was a  
12 rather dramatic thing that happened and I think the steward  
13 should have the latitude of being able to put up a seven- or  
14 a ten-day suspension, that you can't have that option.

15 Fines can also be a revenue generator. Over the  
16 course of a year I think that you would be talking about  
17 tens of thousands of dollars, potentially, and maybe this  
18 money could go towards retired racehorse farms, the disabled  
19 jockeys, or maybe the chaplaincy, something to that.

20 CHAIRPERSON HARRIS: I think on that point, we did  
21 discuss that at some point, but as I understand from legal  
22 counsel, you can't earmark fines. There's some legal theory  
23 that fines go to the General Fund, which needs the money  
24 anyway. But I think there's some --

25 STAFF COUNSEL MILLER: Yes.

1 CHAIRPERSON HARRIS: -- logic, you can't just  
2 earmark it to certain things, even though that might be  
3 nice.

4 MR. STAUFFER: Is that something that could  
5 potentially be changed, though?

6 CHAIRPERSON HARRIS: We can take a look at it,  
7 maybe it could be changed.

8 MR. STAUFFER: Yeah.

9 CHAIRPERSON HARRIS: But right now, I'm not clear  
10 now if the stewards would have this discretion already or  
11 how we actually get there from here? Do they have the  
12 discretion to do fines already and this is more of an  
13 advisory type thing that --

14 MR. STAUFFER: No, they don't.

15 CHAIRPERSON HARRIS: -- or what? They don't?

16 MR. STAUFFER: No. Right now it's a sanction of  
17 days or it's not.

18 CHAIRPERSON HARRIS: Is that a rule or --

19 VICE CHAIRPERSON ISRAEL: It does or doesn't?

20 MR. STAUFFER: Not in California.

21 VICE CHAIRPERSON ISRAEL: In other states they do?

22 MR. STAUFFER: Yes.

23 CHAIRPERSON HARRIS: Is there a rule that  
24 addresses that or is this just tradition, or what?

25 MR. STAUFFER: There's nothing in the rule book

1 that says that a fine may be imposed in lieu of a  
2 suspension.

3 CHAIRPERSON HARRIS: But I mean, the rule book  
4 does talk about suspensions?

5 REGULATIONS/LEGISLATION MANAGER WAGNER: Yes.

6 MR. STAUFFER: Oh, yeah.

7 CHAIRPERSON HARRIS: Yeah, okay.

8 VICE CHAIRPERSON ISRAEL: Can I ask, it does or it  
9 does not?

10 STAFF COUNSEL MILLER: It does.

11 COMMISSIONER DEREK: I thought it did.

12 MR. STAUFFER: Well, no, there are fines, but they  
13 haven't -- that's a good point. There are fines, but they  
14 haven't been traditionally ever imposed for race riding  
15 infractions.

16 There can be whip violations, there can be  
17 altercations in the jockeys' room, things like that, so  
18 fines can be imposed. But they have never traditionally  
19 been in lieu of accepting a suspension.

20 VICE CHAIRPERSON ISRAEL: I honestly don't know  
21 what I think about this rule one way or the other, I'm  
22 perplexed.

23 CHAIRPERSON HARRIS: Yeah.

24 VICE CHAIRPERSON ISRAEL: So let me offer you some  
25 questions and some examples and maybe you can help me out

1 here.

2           There's a million dollar race, a jockey may get  
3 some advantage by doing something that's without the rules,  
4 that's outside the rules. It's a million dollar race, he  
5 finishes first, it's a \$600,000 purse, he gets 60,000 bucks.

6           Now, that's a pretty fair trade for a five thousand or  
7 seven thousand dollar fine if I'm a jockey.

8           So it might encourage me to go ahead and sort of,  
9 you know, tread -- you know, cross that line, if I'm the  
10 jockey.

11           Whereas if I thought I was going to get five days  
12 and I'm going to be out of the next stakes race, where I  
13 might also win, you know, I might -- I know, these are  
14 instantaneous --

15           CHAIRPERSON HARRIS: Well, most stakes are --

16           COMMISSIONER DEREK: But he'll be disqualified,  
17 though, and lose the --

18           VICE CHAIRPERSON ISRAEL: Well, no, no, no --

19           CHAIRPERSON HARRIS: Well, stakes races are  
20 normally excluded. There is a list of races that do not --

21           COMMISSIONER DEREK: Oh, okay.

22           MR. STAUFFER: There's a couple of responses to  
23 that. One is, in that million dollar race, if you decide you  
24 want to cross that line, you can still be disqualified for  
25 your riding infraction in that particular race.

1 VICE CHAIRPERSON ISRAEL: Depending on the race.

2 CHAIRPERSON HARRIS: Well, they do.

3 MR. STAUFFER: But that really -- and the second -

4 -

5 VICE CHAIRPERSON ISRAEL: Because stakes races  
6 horses don't come down very often.

7 CHAIRPERSON HARRIS: That's true.

8 MR. STAUFFER: Well, this is not going to change  
9 it now then, this rule wouldn't.

10 And the second part of it is there are designated  
11 races here in California, and that is graded stakes of a  
12 hundred thousand or more, that the jockeys are not --

13 VICE CHAIRPERSON ISRAEL: Their suspension is  
14 suspended.

15 MR. STAUFFER: Their suspension is suspended for  
16 those designated races so --

17 CHAIRPERSON HARRIS: It doesn't really impact  
18 that. And the problem is the person can get a stay  
19 normally, anyway, so you're not really keeping him out of  
20 that race, though.

21 MR. STAUFFER: Which is the next thing I wanted to  
22 address.

23 VICE CHAIRPERSON ISRAEL: My problem is this is  
24 just being gamed, this is where the fine might work better.

25 CHAIRPERSON HARRIS: Yeah.

1 VICE CHAIRPERSON ISRAEL: On these three-day  
2 suspensions, you game it and take the three days you don't  
3 want to work, anyway.

4 MR. STAUFFER: Well, that's the next thing I was  
5 going to come to, because the appellate process is pretty  
6 much ridiculous.

7 VICE CHAIRPERSON ISRAEL: Right.

8 MR. STAUFFER: I can tell you that in the form of  
9 representing my rider, when we think that we are potentially  
10 facing a three- or a five-day suspension, we look at it as a  
11 financial consideration, where I say, well, let's see what  
12 it looks like for these next three days? Gosh, it looks  
13 like you're going to ride six or eight winners during those  
14 three days, we better appeal.

15 Gosh, it doesn't look like you have much business  
16 there for these, let's go ahead and accept the days.

17 So it really has nothing to do with the merits of  
18 the actual incident that happened.

19 The State also spends money fighting these  
20 appeals. And if the riders have the option of being able to  
21 accept the fine, rather than the days, you're going to have  
22 a lot less appeals, where the State doesn't have to use  
23 their funds to try to respond to them.

24 CHAIRPERSON HARRIS: Yeah, that's why I life it.

25 VICE CHAIRPERSON ISRAEL: Well, let me ask another

1 question, then. Your rider gets a five or a seven thousand  
2 dollar fine?

3 MR. STAUFFER: Yes.

4 VICE CHAIRPERSON ISRAEL: Are you going to pay  
5 your percentage of that fine?

6 MR. STAUFFER: Absolutely, because it --  
7 absolutely, because we don't -- if he's on the sidelines,  
8 we're generating zero money and so our check becomes zero as  
9 well.

10 So if he gets a seven thousand dollar fine, I will  
11 be expected to pay 25 percent of it, absolutely.

12 MR. EBANKS: Yeah, because it comes off the top,  
13 first.

14 CHAIRPERSON HARRIS: Okay, yeah --

15 VICE CHAIRPERSON ISRAEL: Let Ron come up and  
16 talk.

17 MR. EBANKS: Well, in other words he makes 10,000,  
18 and he makes 20,000, his fine is 7,000, he's only going to  
19 pay me on 13,000, he pays 7,000 first.

20 CHAIRPERSON HARRIS: This is Ron --

21 MR. EBANKS: I'm sorry, sir, I apologize. I'm Ron  
22 Ebanks. I represent Tyler Bays and Michael Bays. Thank  
23 you, sir.

24 Excuse me one second, I want to make it clear,  
25 where I feel the most important thing about us bringing this

1 up is the minimal three days that are given so consistently  
2 and I think so unnecessarily.

3           If you've ever noticed when the horse comes down  
4 in a battle and they make a slight brush and he wins by a  
5 head, they generally want to take that horse down if they  
6 think that a little bump might have caused him, so they take  
7 him down and they automatically think the jock should get  
8 that three-day suspension for careless riding.

9           The guy's been riding 20 years, he's rode 10,000  
10 horses. It wasn't careless. He might have been a little  
11 aggressive, he's trying to win, does he deserve to be sat  
12 down three days and cost 15,000 for a slight brush down the  
13 stretch?

14           And you -- day in, day out they do that. So I'm  
15 looking at this to take that away. Not when a jock tries to  
16 take the horse over the fence or take him out, and  
17 potentially goes in a route in a race to obstruct another  
18 horse, that's different. Then we don't think he should have  
19 any choice or any option of not taking a suspension.

20           CHAIRPERSON HARRIS: Yeah, it seems like a  
21 fairness issue. I'm not sure, are any stewards here? I had  
22 understood that some of them --

23           MR. EBANKS: We'll speak for them.

24           CHAIRPERSON HARRIS: What?

25           VICE CHAIRPERSON ISRAEL: What did you say?

1 COMMISSIONER DEREK: Yeah, he'll speak for them.

2 MR. EBANKS: I said we can speak for them.

3 CHAIRPERSON HARRIS: Yeah, I know, you can speak  
4 for anybody.

5 MR. EBANKS: No, but I mean me being a former  
6 rider, I rode 10,000 races, so I know a little something  
7 about the outside, the inside of the riding and all. And  
8 it's just because in California our horse population is in  
9 shortage, a rider like the top five -- any one of the top  
10 five riders get a three-day suspension, they lose anywhere  
11 from 15 to 20 mounts in them three days. And them 20  
12 mounts, they probably only get back about three of the  
13 mounts. The other 17, they ran good, the rider stays on  
14 them.

15 If a rider wins on a horse that you were supposed  
16 to ride, while you have a suspension, 99 percent of the  
17 chance you never get to ride that horse again. So the rest  
18 of your momentum of that season gets deterred.

19 And if it's unnecessarily on a small, a three-day  
20 suspension that was unnecessary anyway, why not let him pay  
21 a certain percent of what the days that he gets to ride, the  
22 three days that he's allowed to ride on a suspension, let  
23 him pay 20, 25 percent of his earnings from them three days  
24 to go into the fund.

25 CHAIRPERSON HARRIS: Well, I think we get the

1 picture. I think we do need to hear from anybody else,  
2 though. Does TOC or CTT have any feelings about this issue?

3 COMMISSIONER DEREK: And is there -- did you say  
4 other states have this option for riders?

5 MR. EBANKS: I know Chicago implemented it a few  
6 years ago. I don't know the exactly particulars how it was  
7 read. I think they tried it with a standard fine of 1,500  
8 for three days. You could take the \$1,500 fine.

9 And then the second time they upped it to 2,000,  
10 if you got another set of days a week or two later and did  
11 it again, I think it kind of -- but they made it a basic  
12 fine amount per.

13 But my recommendation would be, because of one  
14 rider might ride five horses a week and another rider ride  
15 50 horses a week, let it be a percentage of the gross income  
16 of the days that he's wanting to race that he was suspended,  
17 whatever the amount of days were.

18 CHAIRPERSON HARRIS: Yeah, we'd have to work out  
19 the details.

20 I think, looking at the rule we have now, it looks  
21 like we could do it. It's more of an issue of how we advise  
22 or consult the stewards to encourage that avenue, and that  
23 would be the mechanism.

24 VICE CHAIRPERSON ISRAEL: But devising that  
25 sliding scale, I mean, obviously you've gave some thought to

1 it, but I think somebody's going to have to do a statistical  
2 analysis of what the real numbers should be, and how to  
3 implement them, and what the geographic dividing line is,  
4 you know, across -- and what the breed --

5 MR. STAUFFER: I want to make it clear, too,  
6 Ronnie and I have the first and second leading riders.

7 VICE CHAIRPERSON ISRAEL: Right, right.

8 MR. STAUFFER: But this does impact the guy that  
9 rides five horses a week, because let's say you have a guy  
10 on the fairs, and it just comes up by the mis-luck of the  
11 draw that his three big horses, that he's really looking  
12 forward to riding, those particular horses that are going to  
13 pay his mortgage if he gets to ride those three horses --

14 VICE CHAIRPERSON ISRAEL: Right.

15 MR. STAUFFER: -- with limited opportunities,  
16 happen to come up during this suspension.

17 VICE CHAIRPERSON ISRAEL: But he would appeal  
18 those days just to -- that's where he can --

19 MR. STAUFFER: Which makes a sham of the appellate  
20 process.

21 CHAIRPERSON HARRIS: Yeah. These jocks are  
22 paying, as I understand it, what, two or three thousand --

23 MR. EBANKS: About 2,000, and that's the  
24 beginning, though.

25 CHAIRPERSON HARRIS: -- to go through the court

1 process and, I mean, the court always awards it because you  
2 can't get the toothpaste back up to them, and all that  
3 article.

4 MR. EBANKS: Yeah, but number one, first of all,  
5 the horse -- if the horse won, he's disqualified. The jock,  
6 himself, loses 2,000, 2,500 for that mount fee, he doesn't  
7 get it because he's disqualified. The guy has to get an  
8 appeal and that costs him 2,000.

9 Now, he loses the appeal, he has to serve the  
10 three days, the three days cost him 7,000 to 10,000.

11 All he's done, the guy bumped the horse on the  
12 stretch a little bit and they've cost him 15,000. You'd  
13 think the guy pulled a knife or a gun, it's ludicrous.

14 COMMISSIONER DEREK: Yeah, and I'm concerned about  
15 one of these jockeys, like Mike Smith, not being able to  
16 ride Zenyatta, for instance, I think that would be --

17 CHAIRPERSON HARRIS: Well, that would be --

18 COMMISSIONER DEREK: And that would affect the  
19 public and the bettors.

20 MR. EBANKS: Case in point. Case in point, it  
21 happened in the last set of days that my rider, Michael  
22 Bays, this was two weeks ago. He was deemed to ride a horse  
23 they paid 950,000 for. He told me it's the best horse he's  
24 ever sat on.

25 That day he gets days, that horse is going to be

1 entered the next morning. If he takes his days, he's not  
2 going to be able to ride him. He absolutely said to me,  
3 this horse is a completely freak, they give 950 for him.  
4 He'd been working for six weeks here.

5 Now, if he took his days and didn't appeal, he was  
6 going to lose that horse. Who knows how it would -- it  
7 could have been the next Zenyatta. And because of some  
8 three-days suspension because he brushed a horse at the 16th  
9 pole, he's sitting down three days and lost that one mount.

10 It's just a follow-up business for the rest of the  
11 year, and it's so competitive here, as you all know, with  
12 the riders.

13 VICE CHAIRPERSON ISRAEL: Well, you filed the  
14 appeal and he rode the horse; right?

15 MR. EBANKS: We filed the appeal, it cost a lot  
16 of --

17 VICE CHAIRPERSON ISRAEL: How did it turnout?

18 CHAIRPERSON HARRIS: I think I gave a stay on  
19 that.

20 MR. EBANKS: After that, but I didn't know it was  
21 coming, we hadn't got it yet, because it was coming down to  
22 closing, but I didn't know.

23 CHAIRPERSON HARRIS: See, the way it works is you  
24 appeal to the Board and the --

25 COMMISSIONER DEREK: What's the name of the horse?

1 MR. EBANKS: He won.

2 CHAIRPERSON HARRIS: -- Chairman can either give a  
3 stay or if the Chairman doesn't give a stay, then the jock  
4 would have an option to go to superior court and they  
5 usually do give a stay.

6 So usually what I've been doing, if there's pretty  
7 good substance in the appeal, I just go ahead and give the  
8 stay.

9 If it looks like an appeal that's just strictly  
10 for --

11 MR. EBANKS: We're really only fighting for the  
12 minor effects, nothing that's very severe or very, you know  
13 --

14 CHAIRPERSON HARRIS: Well, let's hear from --  
15 because we got to move on because I'm getting hungry. Let's  
16 hear from TOC and CTT.

17 MS. NAIFY: Yeah, Marsha Naify, Thoroughbred  
18 Owners of California.

19 I hear what they say, but the problem is when you  
20 change a rule like this blanket, the question is, is it  
21 going to apply to larger infractions, does it apply to drug  
22 violations? It's a little bit unclear the way it's phrased  
23 on the rule change.

24 CHAIRPERSON HARRIS: There's no rule change  
25 proposed. The rule already exists, it's just a question of

1 how we --

2 MS. NAIFY: Well, if you're going to change from -  
3 - if it's going to be a blanket, wholesale change from  
4 suspension to fines, okay, and our --

5 CHAIRPERSON HARRIS: That's not what it's going to  
6 be. It's just the way it reads now is that they may  
7 suspend, exclude and fine. So they already have the  
8 latitude to fine.

9 MS. NAIFY: So what is it the Board wants to do,  
10 is it eliminate the suspensions?

11 CHAIRPERSON HARRIS: I think all the Board would  
12 suggest is that in consultation with the stewards we expose  
13 this concept as sort of something to have in their toolbox,  
14 if they feel that would be an appropriate remedy.

15 MS. NAIFY: Okay, because we're against  
16 eliminating suspensions and I want to be clear about that.

17 VICE CHAIRPERSON ISRAEL: No, Marsha, I think it  
18 would be a very narrow change that would only include minor  
19 racing infractions, the kind that draw the three- to five-  
20 day suspensions. It's not going to be for drug use, it's  
21 not going to be for a major riding infraction, which you  
22 mentioned. I think, is that what --

23 CHAIRPERSON HARRIS: Yeah, it's basically to  
24 somewhat streamline the process on relatively minor -- I  
25 mean, every infraction's an issue. But it's not -- it

1 doesn't have anything to do with drug infractions now,  
2 although that's a remedy now with drug infractions is a fine  
3 and/or suspension, and there's all these guidelines.

4 MS. NAIFY: Right.

5 CHAIRPERSON HARRIS: So I mean fines are a pretty  
6 old concept.

7 MS. NAIFY: Right, because we basically want to  
8 keep the suspensions. I mean, we feel they're important for  
9 major infractions, violations.

10 CHAIRPERSON HARRIS: But is a three-day -- I mean,  
11 some incident that might result in a three-day suspension is  
12 that -- you don't want to see that, or that's okay?

13 MS. NAIFY: Well, as far as the three-day  
14 suspensions for minors, I mean I -- I mean, once again, it's  
15 got to be a steward's call, I mean --

16 VICE CHAIRPERSON ISRAEL: Well, is there any way  
17 to define the rights and definitions in concert with the  
18 Jockeys' Guild and the trainers to --

19 MS. NAIFY: Sure, we'd be willing to sit down with  
20 the trainers and the Jockeys's Guild to do that.

21 CHAIRPERSON HARRIS: I would think a lot of times,  
22 as has been pointed out, an owner's damaged if he's got a  
23 guy that he's got lined up to ride his horse and now, you  
24 know, maybe a week from now, and especially with these long-  
25 term entries that the days hit where you've got to --

1 suddenly, there's more than just the jockey that's put in a  
2 bind because --

3 MS. NAIFY: Yeah, I understand that. But we're  
4 concerned about the safety and the welfare of the other  
5 riders, the other horses out there and eliminating the rough  
6 riding or some of the infractions that do occur.

7 CHAIRPERSON HARRIS: Well, I think obviously,  
8 that's everyone's concern. It's just question, are as a  
9 penalty are fines -- I guess you're saying fines are not an  
10 adequate remedy whereas fines are --

11 MS. NAIFY: We don't think they're an adequate  
12 deterrent to that.

13 CHAIRPERSON HARRIS: Regardless of the amount?

14 MS. NAIFY: Right.

15 CHAIRPERSON HARRIS: I mean, even if you fine the  
16 guy \$50,000 for a three-day suspension and you gave them the  
17 option, that wouldn't be enough?

18 MR. EBANKS: Right, we're asking ourselves, with a  
19 class one, class two, class three, absolutely no option for  
20 a fine.

21 THE REPORTER: I can't hear you, sir, you have to  
22 get by a microphone, sorry.

23 MR. EBANKS: We're asking ourselves, because we're  
24 concerned about the safety, ourselves, among the riders.  
25 It's just like with the drug violations, the class one, two,

1 three or four, only the class four be allowed to give the  
2 jockey an option. Class one, two, three, we're asking  
3 ourselves and the stewards absolutely take it, we don't have  
4 an option then.

5 It's only in the minimal infraction, where there's  
6 a little bit of bumping, or a little bit of squeezing that's  
7 a guy sat down, fine --

8 VICE CHAIRPERSON ISRAEL: Can I go back to  
9 assessing the financial penalty and determining how large or  
10 small it should be? Here's a question would, in the case of  
11 Gryder, when he wins the \$3 million in Dubai, does that  
12 factor into the --

13 MR. EBANKS: He would not be, not allowed to ride  
14 that race anyway, it's a grade one race that --

15 CHAIRPERSON HARRIS: Well, that race wouldn't be  
16 in the --

17 VICE CHAIRPERSON ISRAEL: But is that race  
18 included in the computation of his earnings?

19 MR. EBANKS: It would not be.

20 CHAIRPERSON HARRIS: It shouldn't be either way.

21 MR. EBANKS: If a rider's given a three-days  
22 suspension, if it's Thursday, Friday and Saturday, he gets  
23 to ride Thursday, Friday and Saturday, but his gross income  
24 from them three days be fined, I think, on a scale of a  
25 percentage, so it's equal to a little rider or a bit rider,

1 you know, a top rider or a lower rider. So it's irrelevant,  
2 it's all balanced.

3 VICE CHAIRPERSON ISRAEL: But it all depends on  
4 which days you use to make the computation. I mean, what if  
5 the three days is the --

6 MR. EBANKS: The stewards choose them, we don't  
7 get to choose them. If you get fined on a Saturday -- okay.

8 MR. STAUFFER: What the Commissioner here is  
9 asking, how do you come up with what is an average week for  
10 a jockey?

11 VICE CHAIRPERSON ISRAEL: Yeah.

12 MR. STAUFFER: And the answer to that is I  
13 suggested an aggregate of 90 days, but you could even take  
14 it back as far as six months and just see what the average  
15 of his check is. Now --

16 CHAIRPERSON HARRIS: Yeah.

17 VICE CHAIRPERSON ISRAEL: But the purse structures  
18 are very seasonal. I mean, especially for the riders you  
19 guys have.

20 MR. STAUFFER: Well, in Southern California it's,  
21 you know, other than Fairplex, it's pretty much, you know,  
22 50 weeks of about the same purse structure.

23 CHAIRPERSON HARRIS: Yeah, I think the intent  
24 would be that --

25 MR. STAUFFER: I think the situation with Gryder

1 would be a very unusual situation, he made \$360,000 for that  
2 one race.

3 CHAIRPERSON HARRIS: Yeah.

4 COMMISSIONER CHOPER: I think there have been a  
5 number of issues raised here, all of them legitimate. And I  
6 think that a group of people representing the interests  
7 involved ought to sit down and come up with something. This  
8 is not a -- this is not a yes or no vote.

9 MR. STAUFFER: Sure.

10 CHAIRPERSON HARRIS: Yeah, there's pluses and  
11 minuses for all the -- basically, the riders are employed by  
12 the owners, and I'm not clear if there's been adequate  
13 discussion between the owners and the riders, and the  
14 agents, and everything.

15 But I think there's some way to get there from  
16 here and it would remedy a lot of problems we've got now,  
17 that are not really very good, with all these stays and all  
18 this stuff.

19 MR. STAUFFER: One thing I want to stress again,  
20 and with due respect to Ms. Naify, is the riders do police  
21 themselves as far as rough or careless riding.

22 And frankly, if you have a guy that rides four, or  
23 five, or six a week, who might be a little hungrier than one  
24 of the top riders, that person may be a little bit more  
25 likely to take a risk to his fellow riders than a guy who

1 rides six, or eight, or ten a day doesn't.

2 VICE CHAIRPERSON ISRAEL: Sort of factoring that  
3 into the equation, there's too many variables.

4 MR. STAUFFER: Sure.

5 VICE CHAIRPERSON ISRAEL: I mean, there could be a  
6 gang mentality against a certain guy --

7 MR. STAUFFER: Sure.

8 VICE CHAIRPERSON ISRAEL: -- in the jocks' room,  
9 or there could be gender bias, there could be things that we  
10 can't even begin to use in the equation.

11 MR. STAUFFER: Sure.

12 VICE CHAIRPERSON ISRAEL: So I don't think that  
13 self-policing remedy is something that we can actually  
14 factor in.

15 CHAIRPERSON HARRIS: Yeah, it might be a fact, but  
16 I don't think we want to --

17 MR. STAUFFER: It exists though, it does exist.

18 VICE CHAIRPERSON ISRAEL: It's a fact. I mean, I  
19 know of the case, the incidence that's going on now, that  
20 everybody's talked about.

21 MR. STAUFFER: Certainly it is.

22 VICE CHAIRPERSON ISRAEL: But that's not something  
23 we can -- we can figure into this and we can't --

24 CHAIRPERSON HARRIS: Well, I think what we need to  
25 do is get the parties together and see.

1 I mean, if the owners absolutely don't want to do  
2 it, they're the employer of the jocks, I think they need to  
3 be part of the equation.

4 But I think if all of the issues get on the table  
5 something will come.

6 But what about the trainers, what do you guys want  
7 to do?

8 MR. HALPERN: Well, it sounds like you've gotten  
9 to where we would have wanted to go, so I don't want to take  
10 too much time on it.

11 CHAIRPERSON HARRIS: Yeah.

12 EXECUTIVE DIRECTOR BREED: State your name?

13 MR. HALPERN: Sorry. Ed Halpern, California  
14 Thoroughbred Trainers.

15 It's a matter for the parties to discuss. The  
16 question of letting the rider make the decision as opposed  
17 to letting the judge make the decision is not appealing.  
18 Maybe it's a question of just reminding the stewards that  
19 you do have these discretions and you might want to look at  
20 them in deciding cases, and you might want to hear all of  
21 the arguments about one or the other applies to this case in  
22 making your decision, but I don't think you want to let the  
23 rider make the decision.

24 VICE CHAIRPERSON ISRAEL: Well, judges frequently  
25 will say to a convicted criminal you've got 30 days in jail

1 or 90 days of public service, or you've got 30 days in jail  
2 or you can join the army.

3 MR. HALPERN: And a judge and a steward may want  
4 to say that in this case.

5 VICE CHAIRPERSON ISRAEL: Yeah.

6 MR. HALPERN: But that's he's decided it, not the  
7 defendant, so to speak, in this case.

8 I would also point out that if this is true in the  
9 jockey case, certainly in some ways we're conflicted because  
10 we'd love it, because you could make all the same argument  
11 for trainers who are under the trainer insurer rule, and we  
12 have all the same consequences and loss of income.

13 So I think it requires a lot of thought because  
14 there's a lot of variables involved here.

15 CHAIRPERSON HARRIS: Okay. Well, let's get -- I  
16 just think we need to look at it. Because there's these  
17 pages, I think, that go back to Paul Revere, they've always  
18 done that, but maybe there's a better way to get there.

19 VICE CHAIRPERSON ISRAEL: Is there any kind of  
20 consortium of jockey agents so that -- I mean, you guys are  
21 representing the creme de la creme in some ways.

22 Can we have agents who represent lower-earning  
23 jockeys included in this equation so we get some real --

24 MR. STAUFFER: I would think that would be very  
25 effective because, in sort of taking a straw poll of my

1 fellow agents at the draw over the last couple of days, it's  
2 not unanimous. Some of the agents believe that the days'  
3 suspension system is one that shouldn't be changed and it  
4 works well, some of the other agents feel that the --

5 COMMISSIONER CHOPER: Well, I think they can be  
6 heard when we have a more specific proposal in front of us.

7 MR. STAUFFER: Sure.

8 CHAIRPERSON HARRIS: I think we need to --

9 COMMISSIONER CHOPER: I think someone's got to  
10 take the initiative here and get the relevant people  
11 together and work this out. I think you started this, maybe  
12 you ought to take the initiative.

13 MR. STAUFFER: Come back with a proposal.

14 CHAIRPERSON HARRIS: I think, too, it would be  
15 good if the Board could see, really, what the outcome of all  
16 these stays have been, how many suspensions, sort of  
17 quantify --

18 COMMISSIONER DEREK: I'm sorry, at the moment it  
19 still is at the stewards' discretion.

20 CHAIRPERSON HARRIS: Well, but --

21 MR. STAUFFER: But it's never been offered.

22 CHAIRPERSON HARRIS: -- it says that, but it looks  
23 like -- it sounds like --

24 COMMISSIONER DEREK: But it says that, though.

25 CHAIRPERSON HARRIS: Well, basically though, the

1 standard is always suspensions.

2 VICE CHAIRPERSON ISRAEL: I talked to stewards and  
3 they always view it as how many days.

4 MR. EBANKS: Yeah, they enjoy it.

5 VICE CHAIRPERSON ISRAEL: There's no numerical,  
6 there's no financial.

7 MR. EBANKS: They enjoy authority a little more  
8 than is necessary.

9 VICE CHAIRPERSON ISRAEL: Well, I wouldn't say  
10 that.

11 MR. STAUFFER: And I will tell you, I have spoken  
12 to the three stewards here about this and I can tell you, I  
13 can speak for them, all three of them are against the idea  
14 of fines versus days.

15 MR. EBANKS: Of course, of course.

16 VICE CHAIRPERSON ISRAEL: Yeah, I heard the same  
17 thing.

18 CHAIRPERSON HARRIS: Well, if we're going to do  
19 days, one of my gripes is that then the Board should try to  
20 defend its policy of denying a stay, and I don't think we  
21 can do that very effectively. I mean, we need to figure out  
22 how much it would cost the Board to really fight these stays  
23 effectively in court, every time there is one.

24 MR. STAUFFER: Which I think it's a significant  
25 amount.

1 CHAIRPERSON HARRIS: Yeah.

2 MR. STAUFFER: And again, this is -- this is  
3 something where when you say that the jockey's shouldn't  
4 have a choice, if that jockey does choose a fine and then  
5 it's ultimately decided that it was -- let's say a jockey  
6 chooses a fine and an owner appeals it, and it's reversed on  
7 appeal as far as whether or not the horse should be  
8 disqualified or not, I don't think that that jockey  
9 necessarily gets that money back because he, at that point,  
10 chose not to appeal.

11 CHAIRPERSON HARRIS: It's sort of an absolute  
12 deal. An owner can't appeal a disqualification. The only  
13 way the owner would get it, one way or the other, would be a  
14 bad drug test or something like that would change the purse  
15 distribution. But you can't change the purse distribution  
16 via the courts, that's part of the law or something.

17 Okay, let's keep moving.

18 MR. STAUFFER: We'll definitely -- Ronnie and I  
19 will be definitely proactive with getting all of the people  
20 together.

21 CHAIRPERSON HARRIS: Yeah, Darrell represents the  
22 jockeys.

23 VICE CHAIRPERSON ISRAEL: Yeah, coordinate with  
24 Darrell, too.

25 MR. STAUFFER: Sure.

1           MR. HAIRE: Darrell Haire, Western Regional  
2 Manager of the Jockeys' Guild.

3           Chairman Harris, members of the Board, I do  
4 represent the majority of the riders in the room, and the  
5 Guild's position right now, until I speak with the riders  
6 and the Board, the Jockeys' Build Board, we don't have a  
7 position on this, yet.

8           But I guess I'm from the old school and I know  
9 change is good, but when I was riding, when I got hit -- if  
10 I hit a horse on the head or the shoulder and I got fined,  
11 that's what you got fined for, misuse of the whip. Riding  
12 infractions, I always got days. And years ago, I got five,  
13 seven days, depending on the severity of the infraction.

14           But I knew, I learned from it. And now riders get  
15 three days, they can designated races, they can ride  
16 designated races.

17           So I guess I don't want to compromise safety out  
18 there with the riders, because I know what I could get away  
19 with always, that fine line of race riding, and if I thought  
20 in my mind that maybe I could get away with a fine and have  
21 to give a percentage, instead, I'd take a shot.

22           And, you know, this is my personal thinking. This  
23 isn't the guild. But I knew I had to do the time and that's  
24 what -- that's what riding infractions, if you got taken  
25 down, you had to pay the price.

1           And that's what my concern is that, you know,  
2 these riders -- what is a minor riding infraction? What is  
3 that? The stewards, I know, everything's at their  
4 discretion, but there's a fine line there, so I don't know  
5 if it's going to open up a can of worms.

6           CHAIRPERSON HARRIS: Well, I don't think we're  
7 going to get this fine line very much clearer today, so  
8 let's keep moving along.

9           But I think you need to talk to all the parties.  
10 That's one of my gripes in this whole business, nobody ever  
11 talks to everybody, and then they come in here and  
12 everything's a big fight.

13           But if all of the jocks' agents can talk to other  
14 jocks' agents, all the riders talk about it, all the  
15 trainers talk about it, and all the owners talk about it and  
16 then come back to us and say this is a bad idea, or a good  
17 idea, or whatever.

18           MR. HAIRE: Right. Well, I'm willing to sit down  
19 and go over it.

20           VICE CHAIRPERSON ISRAEL: You take -- you take the  
21 initiative of trying to organize a meeting, Darrell, where -  
22 -

23           MR. HAIRE: Absolutely.

24           VICE CHAIRPERSON ISRAEL: -- people are fairly  
25 represented, all sides of the issue?

1 MR. HAIRE: Absolutely.

2 CHAIRPERSON HARRIS: Okay, thank you very much.

3 Okay, let's move along here.

4 EXECUTIVE DIRECTOR BREED: Want to go back to 11?

5 CHAIRPERSON HARRIS: Yeah, we'll go back to 11

6 because this is -- actually, it will go faster than it  
7 looks, but Rick will cover this. We're going to do them all  
8 at once. Why don't I just briefly summarize what we're  
9 doing.

10 These are things that go out for comment, so there  
11 will still be plenty of comment period on this.

12 EQUINE MEDICAL DIRECTOR ARTHUR: I'd like to --  
13 actually, number 10, I just want to give a brief update on  
14 that, that's the Medication Committee.

15 CHAIRPERSON HARRIS: Oh, yeah.

16 EQUINE MEDICAL DIRECTOR ARTHUR: And I would like  
17 to make a couple of comments.

18 CHAIRPERSON HARRIS: Briefly.

19 EQUINE MEDICAL DIRECTOR ARTHUR: We don't have to  
20 review much of the later study, but did show that lasix is  
21 efficacious, which at least reduces bleeding. Still 56  
22 percent of the horses bleed through lasix, and that's fairly  
23 well established.

24 Of course, Louie Romanae spoke at the Jockey Club  
25 Roundtable and still adamantly -- Europeans are

1 internationally, adamantly against lasix. But that's going  
2 to stay the status quo, I'm sure, for a long time.

3 The whipping, we had the discussion on whipping,  
4 looked at some of the rules, some of the violations.  
5 Official veterinarians have been told to file complaints  
6 when they see welts and bruises.

7 And I will say, after that meeting and I don't  
8 know whether it stimulated her interest, because I know she  
9 was interested for a long time, Commissioner Derek had an  
10 opportunity to talk to the jockeys and convinced them to  
11 take their own initiative and to use the padded whip. And  
12 back in Saratoga, it's even moved back there.

13 So I think we should all congratulate Commissioner  
14 Derek for moving this along. She's obviously more  
15 persuasive than the rest of us because we've talked about  
16 this for a long.

17 But this is a real positive thing that started  
18 here in Southern California and has spread across the  
19 country.

20 CHAIRPERSON HARRIS: It might be helpful today if  
21 some of us can go by the jocks' room and see these different  
22 types of whips just to understand.

23 EXECUTIVE DIRECTOR BREED: We've got them.

24 CHAIRPERSON HARRIS: Oh, they've got them right  
25 here?

1 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, they are.  
2 Even if you hit your own hand with them they actually -- you  
3 can feel the difference, it doesn't hurt as much.

4 CHAIRPERSON HARRIS: Anyone here --

5 EQUINE MEDICAL DIRECTOR ARTHUR: It doesn't mean  
6 you can't cut a horse with them or you can't give a welt,  
7 and I think it's an issue that we're still going to have to  
8 look at, but I think it was very positive.

9 We also talked about anabolic steroid testing and  
10 blood, which we're very close to, and where the  
11 corticosteroid issue is.

12 CHAIRPERSON HARRIS: I always thought you had to  
13 be a masochist to be in this sport anyway, so we can go whip  
14 ourselves for a while.

15 EQUINE MEDICAL DIRECTOR ARTHUR: So and then we  
16 talked about the vet's list issues and then we moved onto  
17 these next regulations.

18 And I've really sped through that because I know  
19 you've had a long day. But the transcript's available and I  
20 thought it was a very productive Medication meeting.

21 CHAIRPERSON HARRIS: It was a good meeting.

22 EQUINE MEDICAL DIRECTOR ARTHUR: I'd like to  
23 discuss the next, all these amendments as one, and I think  
24 that's appropriate since they're all under one agenda item,  
25 and then afterwards we can comment on them.

1           The first one is a change in Rule 1866. This is  
2 the vet's list. And this is the vet's list issue, and this  
3 goes back to a problem that we've had where trainers get a  
4 little perturbed, their horse goes on the vet's list and  
5 take them out and work them, and we have a rather notorious  
6 case now where a trainer did that and both the horse and the  
7 exercise rider broke their leg the next day. The horse is  
8 dead and the exercise rider hasn't worked since.

9           But what this does is give basically a 72-hour  
10 cooling off period where the horse can't have a reported  
11 work. They can still train the horse, they can even two-  
12 minute lick it, but they just can't work it.

13           And a second provision actually allows for the  
14 official veterinarian to require an examination in certain  
15 cases and we've done that, either required the veterinarian  
16 to say they've examined the horse, or have an x-ray taken of  
17 some structure from time to time. We don't do that very  
18 often, but I think this is a real horse safety issue.

19           And the analogy I make is when a worker gets hurt,  
20 they go to the doctor and they have to have a note from the  
21 doctor saying they're reading to go back to work, and we're  
22 asking for the same thing. And there's plenty of escape  
23 clauses here that would allow, if it was a situation that  
24 warranted, to short circuit the system.

25           The second is, has to do with 1890, this is

1 contraband. Believe it or not, we've had cases where  
2 injectable medications have been found in the stable area.

3           Stewards understand the rules, but if it goes to  
4 appeal to a court, there's really no prohibition against  
5 having a bottle of Equipoise, or a bottle of Novocaine in  
6 your barn, and this absolutely clarifies that.

7           The second issue has to do with making sure any  
8 medication that we seize or we find has been prescribed  
9 under 1840 and 1864. Those are rules having to do with who  
10 can prescribe medication within an enclosure and how that  
11 medication is labeled.

12           We have problems with medications coming in,  
13 primarily from Mexico and from the internet, and those sorts  
14 of things, where they don't have any labels on them that  
15 tell them how they should be prescribed. And this is very  
16 important because our licensed veterinarians understand how  
17 to avoid positives. And if they don't have the right  
18 instructions on it, we're just asking for trouble.

19           The third one is amendments to Rule 1867, having  
20 to do with prohibited practices, we've cleaned up the  
21 language somewhat.

22           The two biggest changes is we've added growth  
23 hormone is one of the prohibited substances, and we've also  
24 instituted a penalty program that is very similar to the  
25 wording on 1866. When a -- if we find a sample that has

1 EPO, DAR EPO, cone snail, snake venom, or growth hormones,  
2 we'll actually be able to prosecute those under our penalty  
3 guidelines.

4 Heretofore we haven't -- we really didn't have the  
5 right language to do that and I think some of our  
6 assumptions on how we could prosecute that were erroneous.

7 CHAIRPERSON HARRIS: To prosecute does it have to  
8 be a named prohibited or can it just be something -- I mean,  
9 I thought the concept was there's some designer drug shows  
10 up, you know that it's not authorized.

11 EQUINE MEDICAL DIRECTOR ARTHUR: That wouldn't be  
12 under this particular --

13 CHAIRPERSON HARRIS: There's another code for  
14 that?

15 EQUINE MEDICAL DIRECTOR ARTHUR: -- under this  
16 particular rule because it's a little bit nebulous, and  
17 there are some pretty innocuous drugs that are introduced,  
18 that end up being a class A drug, if it's a positive, but it  
19 wouldn't necessarily be a bad drug.

20 So I think we're better off specifically naming  
21 those drugs and that's what this does.

22 The next one is just to clean up language to add  
23 the Board of Stewards and the Equine Medical Director, this  
24 is 1843.6, to the people who can designate what samples are  
25 taken.

1           1858 has two major changes, one adding the Equine  
2 Medical Director to the individuals who can designate a  
3 horse for testing. And most importantly, and I know this  
4 has caused some concern because people have asked me about  
5 it, it reduces the number of minimums from six to one. This  
6 is actually, the entire sampling process is being evaluated  
7 by the RMTC, the McKenzie has recommended years ago that we  
8 reduce the number of samples taken and spend more money and  
9 do more thorough testing.

10           We've been able to accomplish that in California  
11 simply because of efficiency in instrumentation. And the  
12 Department of Finance has actually recommended we do this.

13           The big problem and the reason I added it here is  
14 we've had difficulties at some of the smaller venues,  
15 particularly Los Alamitos, who runs a very small staff, and  
16 under certain circumstances there are times when it is very  
17 difficult to get all the horses tested that have been  
18 designated, if you have a minimum of six.

19           If a horse is injured and we have to send the  
20 test, or refuses and have to send the tester back to the  
21 barn, it's caused some real disruption and we can't get  
22 horses tested.

23           I wouldn't envision us using this in the  
24 thoroughbreds at all, it would be at the stewards  
25 discretion.

1 VICE CHAIRPERSON ISRAEL: Well, then why give them  
2 the discretion.

3 EQUINE MEDICAL DIRECTOR ARTHUR: They have the  
4 discretion now.

5 VICE CHAIRPERSON ISRAEL: But the thoroughbreds.

6 EQUINE MEDICAL DIRECTOR ARTHUR: All of them do.

7 CHAIRPERSON HARRIS: These are six per day or per  
8 race or --

9 EQUINE MEDICAL DIRECTOR ARTHUR: Well, right now  
10 it's a minimum of six randoms and they're not really random.

11 VICE CHAIRPERSON ISRAEL: Per day.

12 EQUINE MEDICAL DIRECTOR ARTHUR: Per day.

13 CHAIRPERSON HARRIS: It's per card, I guess, per  
14 card.

15 VICE CHAIRPERSON ISRAEL: And you want to reduce  
16 it to what? I think that makes it --

17 CHAIRPERSON HARRIS: That's just a minimum,  
18 though.

19 VICE CHAIRPERSON ISRAEL: Yeah, well, but I think  
20 that makes it too easy a game of Russian roulette.

21 EQUINE MEDICAL DIRECTOR ARTHUR: We're still  
22 testing all the winners.

23 VICE CHAIRPERSON ISRAEL: I understand that.

24 EQUINE MEDICAL DIRECTOR ARTHUR: Still testing --

25 VICE CHAIRPERSON ISRAEL: So basically you're

1 going to be testing ten horses a day.

2 EQUINE MEDICAL DIRECTOR ARTHUR: That's right.

3 VICE CHAIRPERSON ISRAEL: Okay, instead of testing  
4 15 horses a day or 16 horses a day.

5 EQUINE MEDICAL DIRECTOR ARTHUR: We average 1.9  
6 horses a race.

7 VICE CHAIRPERSON ISRAEL: All right, so now you're  
8 averaging then, you're testing almost 17, 18 horses per day?

9 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

10 VICE CHAIRPERSON ISRAEL: And you got to go down  
11 to ten, nine or ten depending on the --

12 EQUINE MEDICAL DIRECTOR ARTHUR: Eleven.

13 VICE CHAIRPERSON ISRAEL: Eleven, okay.

14 EQUINE MEDICAL DIRECTOR ARTHUR: Well, we're  
15 actually going to cut it down to five.

16 VICE CHAIRPERSON ISRAEL: I think that that's --  
17 you know, if I'm a trainer that wants to cheat, I may like  
18 my odds if I don't think I'm going to win a race.

19 CHAIRPERSON HARRIS: Well, it's a pretty bad game  
20 of Russian roulette, though.

21 VICE CHAIRPERSON ISRAEL: Well, Russian roulette's  
22 one out of six, this is a lot better than that.

23 EQUINE MEDICAL DIRECTOR ARTHUR: The reason for  
24 this is not the intention for us to do this. In fact, it  
25 would only be under those unique circumstances when the

1 receiving barn is backed up and will not be able to meet  
2 those particular --

3 VICE CHAIRPERSON ISRAEL: I think it's written too  
4 broadly then.

5 EQUINE MEDICAL DIRECTOR ARTHUR: Okay.

6 VICE CHAIRPERSON ISRAEL: I really do.

7 CHAIRPERSON HARRIS: Well, we're going to put this  
8 out for comment, anyway, so --

9 EQUINE MEDICAL DIRECTOR ARTHUR: Well, if you want  
10 to change it right now, I would recommend you do it.

11 VICE CHAIRPERSON ISRAEL: So then I would  
12 recommend that this only be allowed at non-thoroughbred  
13 meets.

14 CHAIRPERSON HARRIS: Well, I don't know if I like  
15 that concept.

16 EQUINE MEDICAL DIRECTOR ARTHUR: It might make the  
17 language real --

18 CHAIRPERSON HARRIS: I don't think that --

19 EQUINE MEDICAL DIRECTOR ARTHUR: I'd recommend not  
20 changing it in that way.

21 CHAIRPERSON HARRIS: As a Board, I'd hate to have  
22 us have, you know, that we got integrity except for quarter  
23 horses. I mean, obviously, we want integrity throughout.

24 COMMISSIONER DEREK: Yeah.

25 COMMISSIONER CHOPER: Can I ask a question?

1 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

2 COMMISSIONER CHOPER: I think a lot of people who  
3 don't know the rules believe that if a favorite runs out,  
4 which means it's not tested as the winner, gets tested  
5 anyway; that's not true, huh?

6 EQUINE MEDICAL DIRECTOR ARTHUR: That's not true.

7 COMMISSIONER CHOPER: And why --

8 EQUINE MEDICAL DIRECTOR ARTHUR: Those end up  
9 being the randoms.

10 COMMISSIONER CHOPER: Yeah, why -- those end up  
11 being the randoms.

12 CHAIRPERSON HARRIS: Well, stewards, I think have  
13 a likelihood to pick those sometimes, don't they?

14 EQUINE MEDICAL DIRECTOR ARTHUR: And usually it's  
15 the second horse in Exacta or any horse that runs  
16 abnormally.

17 VICE CHAIRPERSON ISRAEL: I just -- to me, this is  
18 just a step in the wrong direction, it's just making it --  
19 you know, it's progressively the industry has made it more  
20 difficult to cheat, you know, to have better living through  
21 chemistry.

22 And, you know, to use Monsanto's favorite slogan.

23 This basically says, yeah, maybe we weren't right  
24 so we're going to be a little less strict, I think  
25 that's --

1           CHAIRPERSON HARRIS: But the idea is, though, that  
2 we've got much better tests now than we formerly had. So I  
3 mean, I think I'd rather spend more money on better tests  
4 and then test slightly fewer horses is the concept.

5           EQUINE MEDICAL DIRECTOR ARTHUR: Well, I'll tell  
6 you what, I'm fine with not changing it, as long as we can  
7 tell the racetracks to give us more people so we can test  
8 all the horses we need.

9           VICE CHAIRPERSON ISRAEL: That's fine with me.

10          EQUINE MEDICAL DIRECTOR ARTHUR: Right now, the  
11 thoroughbreds run with 11 or 12 people in the receiving  
12 barn, Los Alamitos has been operating with five.

13          So, you know, if you want to band-aid it that way,  
14 and I think we have the authority to do that, but we will  
15 work on it.

16          VICE CHAIRPERSON ISRAEL: Well, if the problem is  
17 one racetrack why change the rule for all of them?

18          CHAIRPERSON HARRIS: I think we can make it a part  
19 of the licensing that they've got to provide adequate  
20 people.

21          EQUINE MEDICAL DIRECTOR ARTHUR: Can I just make a  
22 recommendation, let's don't change the number of horses  
23 tested right now and just leave the others --

24          CHAIRPERSON HARRIS: Just take that one off?

25          COMMISSIONER DEREK: Yeah.

1 EQUINE MEDICAL DIRECTOR ARTHUR: It's not worth  
2 it.

3 VICE CHAIRPERSON ISRAEL: Thank you.

4 EQUINE MEDICAL DIRECTOR ARTHUR: And the other  
5 thing -- the other thing is I mention that nationally  
6 they're looking at sampling strategy, specifically that.

7 All right, the other issue is 1859, there will be  
8 provisions in there to again add the Equine Medical Director  
9 as the person who can designate horses' testing.

10 As a practical matter, I only do out-of-  
11 competition horses anyway, but it adds that.

12 The other thing it does is removes provision B. B  
13 is in conflict with D, because we don't discard samples  
14 after they've passed, we freeze them. We've been doing that  
15 for two years, we have 25,000 samples.

16 And even though D allows us to freeze them, B  
17 tells us we have to discard them and all this is, is  
18 cleaning up the language, besides adding the Equine Medical  
19 Director as a person who can designate a horse to be  
20 sampled. Does that make sense?

21 CHAIRPERSON HARRIS: Which is the --

22 EQUINE MEDICAL DIRECTOR ARTHUR: Okay, B says if  
23 the official laboratory fails to detect a prohibited drug  
24 substance as defined in this article, in the official test  
25 sample, a prohibited drug sample as defined in this sample,

1 the official sample shall be discarded immediately.

2 And then it says in B, the Board has the authority  
3 to direct the official laboratory to retain and preserve by  
4 freezing samples for future analysis.

5 All it does is clean up the language.

6 CHAIRPERSON HARRIS: Okay.

7 EQUINE MEDICAL DIRECTOR ARTHUR: And that's --  
8 those are all the provisions. The only one that is being --  
9 is going to be amended when it's sent out, is we are not  
10 going to change the number of samples tested.

11 VICE CHAIRPERSON ISRAEL: Thank you.

12 CHAIRPERSON HARRIS: Okay, can we get a motion to  
13 put these out for comment?

14 EXECUTIVE DIRECTOR BREED: A, B, C, D and F.

15 VICE CHAIRPERSON ISRAEL: I'll move.

16 COMMISSIONER DEREK: I'll move.

17 CHAIRPERSON HARRIS: It's been moved and seconded,  
18 all in favor?

19 (Ayes.)

20 CHAIRPERSON HARRIS: Any other discussion. Well,  
21 we had discussion. On this item? Go ahead.

22 MR. HALPERN: Ed Halpern, California Trainers. I  
23 just want to point out a little historical perspective as a  
24 reminder here, when I first started this job, when these  
25 matters were put out, before they were put out there was a

1 complete discussion that took place on these kinds of  
2 issues, either a committee level and/or at the Board level,  
3 usually, and then they went out for comment.

4 CHAIRPERSON HARRIS: Yeah, this was at the  
5 committee, I think.

6 MR. HALPERN: Yeah, it was, but the discussion --  
7 the discussion was very limited, and it's very limited  
8 today.

9 And I just want to remind the Board if you will,  
10 and if you please, that when this comes back for comment  
11 that you keep in mind that there was not a complete  
12 discussion of these items and they should not, therefore,  
13 carry the somehow assumption that they should be approved  
14 unless somebody can show some reason they shouldn't be  
15 approved.

16 I think, I ask that you keep an open mind when  
17 they're here for discussion, as though they have not been  
18 discussed.

19 VICE CHAIRPERSON ISRAEL: Which item, in  
20 particular, do you have in mind?

21 MR. HALPERN: Well, you know, I knew this was  
22 going to happen so we didn't study them too closely, but I  
23 think all of them require discussion. But certainly one  
24 that requires discussion is the possession of contraband,  
25 because you get into the definition of what's a veterinary

1 treatment, and veterinary medications, and people buying  
2 from catalogues, legal substances, and such and so forth,  
3 and are they going to be subject to penalties and fine  
4 because they're not prescribed, and such and so forth.

5 I just think they require more discussion than  
6 just a, yes, we put it out there and now we think it ought  
7 to pass.

8 COMMISSIONER CHOPER: Well, if you put in a  
9 comment on anything you want, I think it's paid attention  
10 to.

11 CHAIRPERSON HARRIS: Yeah, I don't agree with the  
12 theory that comments -- I mean, the problem is no one  
13 comments and no one reads it, and it's just every -- they  
14 come in at the last minute.

15 But this was discussed, as I recall, pretty  
16 thoroughly at the Medication Committee meeting.

17 And, obviously, we want to get input from  
18 everybody and vet out the whole issue, but I don't buy into  
19 the idea that we're trying to do anything that's --

20 MR. HALPERN: No, no, no. You know, my intent --  
21 please, my intent was not to reprimand the Board in that  
22 sense. I mean, I know --

23 VICE CHAIRPERSON ISRAEL: I read that magazine you  
24 sent.

25 MR. HALPERN: I know that you're doing your job in

1 that sense. But my point is that just as the stewards in  
2 the jockey issue have gotten in the habit of giving  
3 suspensions, not fines, procedures become habit and we just  
4 need to be aware that procedures need to be at least looked  
5 at.

6 CHAIRPERSON HARRIS: Yeah. Well, I'd urge you  
7 guys, the CTT to really get this out to your members and  
8 really discuss it with them. Don't wait until, you know,  
9 two hours before the meeting and you talk to a few people,  
10 get -- get where if I did a random group of trainers, they  
11 would be generally aware of what we're talking about here.

12 MR. HALPERN: Your criticism is well taken. Let  
13 me take back my absolution of criticism of you guys, take it  
14 as criticism.

15 (Laughter.)

16 EQUINE MEDICAL DIRECTOR ARTHUR: But I do find it  
17 rather ironic since, actually, the change in the vet's list  
18 procedure was something you wrote an article about, Ed.

19 But, you know, I understand, but it is frustrating  
20 to get trainers to participate. We specifically waited to  
21 have the Medication Committee here, at Del Mar, because it  
22 was -- it's easier for trainers to participate here. It was  
23 noticed well in advance.

24 And people don't show up and then somebody gets in  
25 a tizzy over something.

1           But I think these are very well considered  
2 amendments and I think they're easily defensible.

3           CHAIRPERSON HARRIS: Yeah, I remember that  
4 meeting, I missed a good breakfast to go to that meeting and  
5 it went on forever, and now these guys say it never even  
6 happened.

7           VICE CHAIRPERSON ISRAEL: Well, I'm just curious,  
8 is the article that you're referring to, is that the one  
9 where it said the CHRB had outlived its usefulness? That  
10 was the headline, if I'm --

11          EQUINE MEDICAL DIRECTOR ARTHUR: No, it had to do  
12 with trainers being prosecuted or complaints filed on  
13 trainers for working horses on the vet's list, without any  
14 restriction from doing that.

15          CHAIRPERSON HARRIS: Yeah. Okay, we've got the  
16 motion. I kind of stopped the vote, but we can go ahead,  
17 all in favor of the motion?

18          (Ayes.)

19          CHAIRPERSON HARRIS: Okay.

20          EXECUTIVE DIRECTOR BREED: Let's do 14.

21          CHAIRPERSON HARRIS: Okay, we'll go to 14.

22          VICE CHAIRPERSON ISRAEL: How about 12?

23          COMMISSIONER DEREK: Yeah, can I -- can I just do  
24 12 because --

25          CHAIRPERSON HARRIS: Oh, 12. That's right 12, go

1 ahead.

2 COMMISSIONER DEREK: No, you can present it, I  
3 just -- I had a comment about it.

4 CHAIRPERSON HARRIS: Yeah, who's going to present  
5 it? Jackie is.

6 REGULATIONS/LEGISLATION MANAGER WAGNER: Jackie  
7 Wagner, CHRB staff.

8 In presenting Item Number 12, Board Rule 1685,  
9 which is equipment required, currently gives the standards  
10 or the criteria for whips that are used here, in  
11 California's racetracks.

12 In 2007, the Board heard a proposal from the  
13 Jockey Guild as a request to suspend Rule 1685 to allow the  
14 use of the alternate whip, which at that time was described  
15 as a kinder whip, with a tip or a popper.

16 The Board subsequently did that, they issued a  
17 directive to that effect, which allowed the jockeys to use  
18 at that time an alternative whip, in addition to the whip  
19 that was established in Rule 1685.

20 At that time we did not put a proposal forward to  
21 amend 1685 as the development of the whip was still in  
22 process, but there was an agreement that once the  
23 development was completed and we had a request, a later  
24 request from the Jockeys' Guild, we would look at making a  
25 permanent adjustment to our rule.

1           That has indeed happened, the Guild has reported  
2 that advancements have been made in the design of a new,  
3 kinder style of whip, and the use of more durable materials  
4 is now available.

5           They now, in 2009, say that the whips are more  
6 affordable and they are readily available, and they are  
7 being used on the track.

8           So the Guild has requested that the Board again  
9 waive Rule 1685 to specifically allow the use for this newly  
10 designed whip.

11           So there's two things that we're asking, we ask  
12 that the Board waive 1685, via Rule 1406, which is  
13 suspension of rule, and that they put forward to the Safety  
14 Committee an amendment to Rule 1685 to review our standards  
15 for our current whips that are on our books.

16           And I think we have the representatives from the  
17 Jockeys' Guild and the Commissioner would like to speak to  
18 this subject.

19           COMMISSIONER DEREK: Okay. I'd just like --  
20 something's come up recently, I think there might have been  
21 -- right now, as far as I understand, it's a track rule or a  
22 house rule with Del Mar, and there's some confusion in  
23 morning workout, and I just wanted to clear up that other  
24 whips can be used during training.

25           There are times with horses, especially young

1 horses, that other whips are definitely required. So that  
2 this would -- I don't know that we can specify that this is  
3 just during races, this new whip.

4 VICE CHAIRPERSON ISRAEL: You can specify that.

5 REGULATIONS/LEGISLATION MANAGER WAGNER: We can do  
6 that in the terms of the suspension. If the Board agrees to  
7 suspend our Rule 1685 to allow the use of the alternative  
8 whips, in that directive that will come subsequent to this  
9 meeting, we can make all of those -- that criteria really  
10 quick.

11 COMMISSIONER DEREK: But even right now.

12 CHAIRPERSON HARRIS: Yeah, but basically, as I  
13 understand it, you can do either one now. I mean long term  
14 perhaps we want to mandate the new whip, but this just  
15 really authorizes the new and you can still use the old.

16 COMMISSIONER DEREK: But it's clear that right now  
17 in the mornings they can use the other whips as well. I  
18 think there's been some confusion.

19 VICE CHAIRPERSON ISRAEL: The exercise riders.

20 COMMISSIONER DEREK: Yes, the exercise rider.

21 CHAIRPERSON HARRIS: Darrell?

22 MR. HAIRE: Darrell Haire, Western Regional  
23 Manager for the Jockeys' Guild.

24 The riders, as of a week ago Wednesday, it is a  
25 house rule at Del Mar and we've been preparing the riders

1 for the last year and a half that this was coming, and  
2 they're all in agreement, they're all using the softer  
3 material.

4 And with the change there's been a couple of  
5 riders that don't particularly like it, but there's only a  
6 few, just like the vest, initially.

7 So bottom line is they've all agreed, it is a  
8 house rule here. I've talked to Fairplex Park, they're  
9 going to purchase whips, also. They have plenty of supply  
10 of the whips. And Santa Anita, also. So everybody's on  
11 board. So we're just moving forward and this is right now  
12 for the afternoon in races.

13 CHAIRPERSON HARRIS: So it's a house -- I mean, do  
14 you feel we need a CHRB rule or the house rules would  
15 suffice?

16 MR. HAIRE: Well, I would think now would be the  
17 time. We've worked on this for a long period of time, we've  
18 done the homework and I feel that it should be mandated in  
19 the State of California to move forward.

20 VICE CHAIRPERSON ISRAEL: But isn't there a  
21 dichotomy between north and south in terms of affordability  
22 and what the tracks are providing?

23 MR. HAIRE: Well --

24 VICE CHAIRPERSON ISRAEL: Is there a dichotomy  
25 between the north and the south?

1 MR. HAIRE: But these riders, Commissioner  
2 Shapiro -- Israel, excuse me.

3 VICE CHAIRPERSON ISRAEL: We don't even look  
4 alike.

5 MR. HAIRE: I apologize.

6 VICE CHAIRPERSON ISRAEL: And we definitely don't  
7 think alike.

8 MR. HAIRE: I apologize, I apologize.

9 VICE CHAIRPERSON ISRAEL: As a matter of fact, I  
10 drive a black Jaguar.

11 CHAIRPERSON HARRIS: Yeah.

12 MR. HAIRE: Some of the riders up north are using  
13 the whips, and as they replace their whips they will --

14 CHAIRPERSON HARRIS: So what the normal thing is  
15 the jockey buys his own whip, I mean the whips are not  
16 provided. But what's happened here is the tracks have  
17 decided to provide them just to get them going.

18 MR. HAIRE: Correct. And the same at Fairplex, so  
19 they have plenty of whips. And as riders start replacing  
20 their whips --

21 VICE CHAIRPERSON ISRAEL: But isn't the economic  
22 situation up north somewhat different, the purses are  
23 smaller, the earnings are lower?

24 CHAIRPERSON HARRIS: It's not that bad, how much  
25 does a whip cost?

1 MR. HAIRE: Right now they're between 45 and high  
2 for the whips that come from Ireland, the ProCusher, as much  
3 as 85.

4 VICE CHAIRPERSON ISRAEL: And a jockey needs to  
5 have probably what, ten in his --

6 MR. HAIRE: No, I'd say average, you know, four or  
7 five, some have ten. But and the valets are making them  
8 now, just like they made the old whips, so the prices will  
9 come down, also.

10 CHAIRPERSON HARRIS: It probably should be uniform  
11 in California. I mean, I don't think it's an economic thing  
12 in Northern California as much as it just hasn't, you know,  
13 been discussed.

14 VICE CHAIRPERSON ISRAEL: The tracks are paying  
15 for it down here, Del Mar. Craig, am I right, you bought  
16 the whips?

17 MR. FRAVEL: Craig Fravel, Del Mar. We bought 30  
18 total and those are welcome to move up to Fairplex, and Oak  
19 Tree, and anybody after that.

20 And the idea behind that was for guys who couldn't  
21 afford to replace their existing whips on a short-term basis  
22 that they would have a readily available supply.

23 So I'm guessing that certainly the tracks down  
24 south are willing to help pay for what we have, and maybe  
25 buy some more, and I'm guessing that the folks up north

1 would be willing to help out, too, for guys that, you know,  
2 that might be a hardship in the short term. So that's what  
3 we've done.

4 CHAIRPERSON HARRIS: But with 30 whips, at 50  
5 bucks is only \$1,500 so --

6 VICE CHAIRPERSON ISRAEL: Right, So CARF and  
7 Golden Gate have to express a willingness to do that.

8 CHAIRPERSON HARRIS: Well, I don't know if we want  
9 to establish a precedent that, you know, forever on the  
10 whips are always going to be supplied by the track. I mean,  
11 this was just kind of a startup deal.

12 VICE CHAIRPERSON ISRAEL: Right.

13 MR. HAIRE: And a lot of the riders already have  
14 the whips, they've had them for the last year and a half. I  
15 can think of seven or eight that had them for the last year.  
16 So as they replace their whips, they'll replace them with  
17 the new whips, the poppers.

18 VICE CHAIRPERSON ISRAEL: All right, I know. But  
19 part and parcel of this, though, is there should be some  
20 study that shows that they are better for the horse instead  
21 of right now we're just sort of going, oh, well, it seems  
22 softer so it must be better.

23 CHAIRPERSON HARRIS: They're going to interview  
24 some horses so they can see --

25 VICE CHAIRPERSON ISRAEL: No, look at their hides

1 and see what the hell the ramification is.

2 COMMISSIONER DEREK: I think that it was out for  
3 two and a half years, right, the testing it and trying it  
4 out?

5 VICE CHAIRPERSON ISRAEL: Yeah.

6 MR. HAIRE: Yeah. They run from the noise, that's  
7 what they run from, it doesn't sting or cut them like the  
8 other whips. And you can hit yourself and you can feel it,  
9 you know, test yourself.

10 VICE CHAIRPERSON ISRAEL: Right. Mike Marten was  
11 my witness.

12 (Laughter.)

13 COMMISSIONER CHOPER: Did you run any faster?

14 VICE CHAIRPERSON ISRAEL: Huh?

15 COMMISSIONER CHOPER: I say, did you run any  
16 faster?

17 VICE CHAIRPERSON ISRAEL: No, actually, I didn't.

18 CHAIRPERSON HARRIS: Okay, so I think this is  
19 going to be discussed at the committee meeting next week?

20 REGULATIONS/LEGISLATION MANAGER WAGNER: Uh-hum,  
21 yes.

22 CHAIRPERSON HARRIS: And that way, if we need a  
23 rule, we can.

24 EXECUTIVE DIRECTOR BREED: And so you need to do a  
25 motion to put this out, suspend the rule --

1 CHAIRPERSON HARRIS: Well, yeah, clearly I think  
2 we should do what we've got here because that just says you  
3 can -- I didn't realize there was all these definitions of  
4 whips, actually, but I think this at least clarifies that  
5 this new whip is fine.

6 EXECUTIVE DIRECTOR BREED: So we're suspending the  
7 rule and putting this rule out for --

8 VICE CHAIRPERSON ISRAEL: But I think Commissioner  
9 Derek wanted to alter it to just limit it to racing, not to  
10 the morning, not to train with.

11 CHAIRPERSON HARRIS: Yeah. Well, I think that's  
12 simpler because it would be hard to police for the training,  
13 anyway, and it's really not an issue in training, I don't  
14 think.

15 VICE CHAIRPERSON ISRAEL: It is.

16 CHAIRPERSON HARRIS: Well, as far as injuring  
17 horses and stuff.

18 Okay, we need a motion to do that.

19 EXECUTIVE DIRECTOR BREED: Temporarily suspend the  
20 rule.

21 COMMISSIONER DEREK: Correct.

22 EXECUTIVE DIRECTOR BREED: Presently, as to  
23 include the use of the soft whip.

24 COMMISSIONER DEREK: Right.

25 VICE CHAIRPERSON ISRAEL: In racing.

1 CHAIRPERSON HARRIS: Yeah, in racing.

2 EXECUTIVE DIRECTOR BREED: In racing, okay.

3 CHAIRPERSON HARRIS: Is there a second?

4 COMMISSIONER DEREK: Second.

5 CHAIRPERSON HARRIS: Okay, all in favor? You want

6 to --

7 MR. MARTEN: Yeah. Mike Marten, staff.

8 I think when you're talking about morning and  
9 afternoon, you're talking about the mandate, it's the  
10 mandate that you're saying you don't want to mandate use of  
11 the soft whip in the morning.

12 VICE CHAIRPERSON ISRAEL: That's right.

13 COMMISSIONER DEREK: Right.

14 MR. MARTEN: The mandate would be part of the rule  
15 that you'll be considering over the next month.

16 COMMISSIONER DEREK: Yes, I understand that.

17 MR. MARTEN: Right.

18 COMMISSIONER DEREK: I think there's some  
19 confusion right now in the mornings about --

20 MR. MARTEN: Right. Well, a waiver just says you  
21 can use the soft whip in the morning or afternoon, it's not  
22 mandated.

23 COMMISSIONER DEREK: Right right.

24 VICE CHAIRPERSON ISRAEL: But we want to make sure  
25 it's not mandated in the mornings.

1 COMMISSIONER DEREK: I just want to make sure.

2 MR. MARTEN: Yeah, so I wouldn't limit the waiver  
3 to the races. That means that if you limit the waiver to  
4 the races, that means that if someone wants to use a soft  
5 whip in the morning, they couldn't use it in the morning.

6 VICE CHAIRPERSON ISRAEL: No, no, no, okay.

7 COMMISSIONER DEREK: Okay.

8 CHAIRPERSON HARRIS: No, they obviously should be  
9 able to.

10 MR. FRAVEL: Craig Fravel, again. I think the  
11 house rule is limited to races just to confirm, yeah.

12 COMMISSIONER DEREK: Oh, it is? Okay.

13 MR. FRAVEL: Yeah, and we've never -- and the  
14 outriders haven't been reprimanding people.

15 VICE CHAIRPERSON ISRAEL: We were told in some  
16 instances that wasn't the case and so it needs to be made  
17 clear that in the morning, the exercise riders can choose  
18 whatever whip they'd like.

19 MR. FRAVEL: We'll make sure we instruct our  
20 outriders that that is not the case.

21 COMMISSIONER DEREK: Great.

22 CHAIRPERSON HARRIS: Okay, we've got a -- did we  
23 vote on that?

24 EXECUTIVE DIRECTOR BREED: Yeah.

25 CHAIRPERSON HARRIS: Did we vote?

1 EXECUTIVE DIRECTOR BREED: Yes, we did.

2 CHAIRPERSON HARRIS: Okay, great. Okay, what's  
3 next?

4 COMMISSIONER DEREK: We didn't vote.

5 VICE CHAIRPERSON ISRAEL: Fourteen.

6 EXECUTIVE DIRECTOR BREED: Fourteen.

7 CHAIRPERSON HARRIS: Fourteen, okay, now is the --

8 COMMISSIONER DEREK: We didn't vote. I don't  
9 think we voted, I seconded, we didn't vote.

10 VICE CHAIRPERSON ISRAEL: It was seconded.

11 CHAIRPERSON HARRIS: Oh, we didn't vote. Okay,  
12 all in favor?

13 (Ayes.)

14 CHAIRPERSON HARRIS: Opposed. Okay, so moved.

15 Okay, now we're going to 14, sorry for the  
16 skipping around.

17 EXECUTIVE DIRECTOR BREED: Let me do that.

18 CHAIRPERSON HARRIS: Why don't you do that, I  
19 don't understand it quite.

20 EXECUTIVE DIRECTOR BREED: Yeah. Mr. Chairman,  
21 this is the agreement between the racing associations and  
22 the CHRB, and also the horsemen.

23 Bernie, are you going to help us on this?

24 VICE CHAIRPERSON ISRAEL: This is the shortest  
25 contract I've ever seen.

1 EXECUTIVE DIRECTOR BREED: This basic agreement,  
2 which is how the money flows in terms of the -- in terms of  
3 money going to the Horse Racing Board, pursuant to Senate  
4 Bill 27 -- or 162X, and also based on the formula that we  
5 reviewed like six months ago.

6 Also, there were trailer bills on the budget that  
7 involved the distribution of \$5.5 to pay back the fairs from  
8 monies that were not obligated over the last, I guess, three  
9 years. Is that correct, two, three years? Pursuant to that  
10 section of the Code, 19616.52, and one which has to do with  
11 the \$40 million cap going to the fairs.

12 This agreement also contains as to how that money  
13 will be distributed over a six-year period of time.

14 And finally, in this cycle of the legislative  
15 trailer bills it was set up where a portion of the outs that  
16 heretofore have been going to the -- some of it going to the  
17 General Fund, the other going to what was called the  
18 Racetrack Security Fund would be redistributed to a rainy  
19 day account for the California Horse Racing Board.

20 So I think it's an excellent agreement and I  
21 recommend that the Board approve it.

22 Bernie is here, and Bon, on behalf of the CHRB,  
23 who Bernie was instrumental with putting this together,  
24 also, all of the people, I guess, form the association, and  
25 Bon has reviewed it all these months for the CHRB, to answer

1 any questions you might have.

2 CHAIRPERSON HARRIS: Is the concept on the funding  
3 side that everyone is giving somewhat proportionate to the  
4 amount of revenue they take in?

5 MS. THURMAN: Right, Bernie Thurman, with  
6 Hollywood Park. The concept is that everyone would pay 42.6  
7 percent of their savings from SB 16 to Board support, and  
8 3.3 percent of the SB 16 savings to the F&E recapture fund.  
9 So everybody's proportionally paying in.

10 CHAIRPERSON HARRIS: The F&E, where does that go?

11 MS. THURMAN: The recapture fund from fairs and  
12 expositions to take care of Section 19616.52, which is we  
13 call it recapture, it's the settlement we made with F&E for  
14 prior perceived --

15 EXECUTIVE DIRECTOR BREED: They didn't pay a --

16 CHAIRPERSON HARRIS: Oh, yeah, where we had the  
17 \$40 million shortfall.

18 MS. THURMAN: Correct.

19 CHAIRPERSON HARRIS: But that's going to get paid  
20 eventually, then where does it go?

21 MS. THURMAN: Over a six-year period.

22 CHAIRPERSON HARRIS: And then you do another  
23 agreement or where does it go eventually?

24 EXECUTIVE DIRECTOR BREED: It goes away.

25 MS. THURMAN: We pay the 5.5 million and it's

1 gone, right.

2 CHAIRPERSON HARRIS: Oh, you just quit paying it,  
3 yeah.

4 MS. THURMAN: Right.

5 CHAIRPERSON HARRIS: But is this going to be  
6 enough money to take care of our CHRB budget? I mean, how  
7 do we know that the revenues --

8 MS. THURMAN: Well, we believe that we did a very  
9 conservative estimate to come up with that 42.6 percent  
10 ratio. We estimated that we would only generate 90 percent  
11 of prior year averages, and we multiplied that times the  
12 number of race days that we're going to race this year. Now  
13 that we've approved more race days for this fall, we'll  
14 generate even more, so we're feeling pretty confident.

15 CHAIRPERSON HARRIS: Do the surpluses keep getting  
16 carried forward?

17 MS. THURMAN: Well, there will have to be a true-  
18 up at the end of the period and so, you know, if there are  
19 surplus or deficits, we'll either do credits or carry  
20 forwards. I assume that the stakeholders will get together  
21 and decide on the best mechanism.

22 CHAIRPERSON HARRIS: Yeah, it's pretty amazing  
23 that you folks put this together as quickly as you did  
24 without any dissention.

25 VICE CHAIRPERSON ISRAEL: No guns to the head.

1 CHAIRPERSON HARRIS: Usually, there's somebody  
2 thinking that they're getting the short end of the deal.  
3 Maybe, I'm not sure if they just didn't understand it or you  
4 convinced them.

5 MR. LINNELL: Chairman Harris, the amount that is  
6 proposed for the reserve account, that's the portion of the  
7 outs that will attach to the horse racing fund, which is  
8 ours, that will be a cash balance that will carry forward.

9 We don't have authority to spend it, unless it  
10 gets appropriated through the budget, but the cash stays  
11 there and is not available to be touched by anybody else.

12 EXECUTIVE DIRECTOR BREED: And I might add to this  
13 that in the budgetary process, in the trailer bill process,  
14 the Legislature approved a new fund for California Horse  
15 Racing Board separate from the Fair and Exposition Fund,  
16 which we have been participating in for, God, 50 years, so  
17 that's a big step forward.

18 The rainy day account is a gigantic step forward  
19 in terms of protecting, if you will, the payroll and so on,  
20 and so forth, in case of a gigantic shortfall.

21 MR. LINNELL: It's a one-time.

22 EXECUTIVE DIRECTOR BREED: A one-time deal, yeah.  
23 But it's a very -- I think the -- and I just want to speak  
24 on my behalf and on behalf of the staff is that all of the  
25 stakeholders have really participated fully in this, and

1 very unselfishly and willingly in getting this thing  
2 together for us, with a very short time period.

3 CHAIRPERSON HARRIS: Any questions on this? I  
4 think it is a major breakthrough. And I think it's  
5 important that the public understand that the funding for  
6 CHRB is coming from the industry and it's not costing the  
7 State anything.

8 EXECUTIVE DIRECTOR BREED: Right.

9 CHAIRPERSON HARRIS: But I guess you're still  
10 faced with some of the State budget issues, as far as the  
11 furlough days and all that. Why do you have to follow  
12 those, if you've got other funding?

13 EXECUTIVE DIRECTOR BREED: Because that's just the  
14 way it is.

15 CHAIRPERSON HARRIS: That's just the way it is,  
16 okay. That explains it.

17 EXECUTIVE DIRECTOR BREED: So with the Board's  
18 concurrence, I'll give this --

19 MS. THURMAN: We've got a copy with all the  
20 stakeholders' signatures on it.

21 EXECUTIVE DIRECTOR BREED: Oh, you already do?

22 MS. THURMAN: Right, right.

23 VICE CHAIRPERSON ISRAEL: You got to sign  
24 something.

25 CHAIRPERSON HARRIS: Yeah. Okay, so can we get a

1 motion to approve this?

2 COMMISSIONER CHOPER: So moved.

3 CHAIRPERSON HARRIS: Is there a second?

4 VICE CHAIRPERSON ISRAEL: Second.

5 CHAIRPERSON HARRIS: All in favor?

6 (Ayes.)

7 CHAIRPERSON HARRIS: Okay, I think we're going to  
8 skip the CARMA item because Madeline wanted to defer it to  
9 September because they didn't have all -- well, what I'd  
10 like next -- when we do CARMA, we need to have some backup  
11 on what, you know, how much money was raised, and where it  
12 went, and all of that.

13 Although, I think we've got more of an oversight,  
14 I don't know if we can really manage it, we just need to  
15 have a report of how it worked.

16 We're going to skip, we've already gone through  
17 Sac Harness and the Capitol Racing.

18 EXECUTIVE DIRECTOR BREED: We've done that.

19 CHAIRPERSON HARRIS: And the bankruptcy we covered  
20 when we covered Golden Gate, unless anybody else has  
21 something on that.

22 EXECUTIVE DIRECTOR BREED: You're ready for public  
23 comment.

24 CHAIRPERSON HARRIS: Go onto public comment.  
25 Anybody here? Is anybody coming up? No, it's somebody just

1 leaving.

2 Okay, well appreciate everyone being here and --

3 VICE CHAIRPERSON ISRAEL: I'll move to adjourn.

4 CHAIRPERSON HARRIS: All right.

5 (Thereupon the California Horse Racing

6 Board Regular Meeting was adjourned at

7 2:12 p.m.)

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California Horse Racing Board; that thereafter the recording was transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of September, 2009.

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Troy A. Ray, CER