

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:                    )  
  )  
Regular Meeting                        )  
  )

ARCADIA CITY HALL

240 WEST HUNTINGTON DRIVE

ARCADIA, CALIFORNIA

WEDNESDAY, OCTOBER 15, 2008

9:26 A.M.

Reported by:  
Troy A. Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson  
John C. Harris, Vice Chairperson  
John Andreini  
Jesse H. Choper  
Bo Derek  
David Israel  
Jerry Moss

STAFF

Kirk Breed, Executive Director  
Robert Miller, Staff Counsel  
Michael Marten  
Jackie Wagner

ALSO PRESENT

Drew Couto  
Eual Wyatte  
Jack Liebau  
Craig Fravel  
John Hindman  
Sherwood Chillingworth  
Tom M. Varela  
Ed Halpern  
Cliff Goodrich

APPEARANCES CONTINUED

ALSO PRESENT

Ron Charles

Marsha Naify

Rod Blonien

Charlie Dougherty

Norm Towne

Tom Bachman

Chris Korby

Stuart Titus

Richard Castro

Robert Hartman

Darrell Haire

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## Action Items:

1. Discussion and action by the Board on the conditional approval of the Application to Conduct a Horse Racing Meeting of the Hollywood Park Fall Racing Association LLC (T), at Hollywood Park, commencing October 29, 2008 through December 21, 2008, inclusive, and to conduct a hearing, pursuant to Title 4 of the California Code of Regulations, CHRB Rule 2044, Agreements to be filed, regarding the terms and conditions of the agreement between the horsemen's organization and the racing association. 3
2. Discussion and action by the Board, if necessary, to extend the September 24, 2008 through October 26, 2008 Oak Tree Racing Association horse racing meeting to include the racing dates of October 29, 2008 through December 21, 2008. Dismissed
3. Discussion and action by the Board regarding the proposed addition of Rule 2070.5, Exclusive Contract Prohibited, to provide that as a condition of approval of an advance deposit wagering (ADW) license, or the approval of an out-of-state ADW provider, an applicant may not enter into an agreement with a horse racing facility, racing association and/or satellite wagering facility which excludes other licensed or approved ADW providers. 7
4. Discussion and action by the Board regarding the request for approval from Southern California Off-Track Wagering, Inc. (SCOTWINC) to adjust the stabling and vaning deduction from the off track handle applicable to racing at Hollywood Park, to facilitate the use of funds currently in SCOTWINC's possession to provide for improved racing and training facilities in the Central Zone of California pursuant to Business and Professions Code section 19607.1(f). 100
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1 PROCEEDINGS

2 EXECUTIVE DIRECTOR BREED: Ladies and gentlemen,  
3 the meeting of the California Horse Racing Board will come  
4 to order. Please take your seats.

5 This is a regular noticed meeting of the  
6 California Horse Racing Board on Wednesday, October 15,  
7 2008, at Arcadia City Hall, 240 West Huntington Drive,  
8 Arcadia, California.

9 Present at today's meeting are Chairman Richard  
10 Shapiro, Vice-Chairman John Harris, Commissioner John  
11 Andreini, Commissioner Jesse Choper, Commissioner Bo Derek,  
12 Commissioner David Israel, Commissioner Jerry Moss.

13 Before we go on to the business of the meeting, I  
14 need to make a few comments.

15 One, the Board invites public comment on the  
16 matters appearing on the meeting agenda.

17 The Board also invites comments from those present  
18 today, on matters not appearing on the agenda, during a  
19 public comment period, if the matter concerns horse racing  
20 in California.

21 In order to ensure all individuals have an  
22 opportunity to speak and the meeting proceeds in a timely  
23 fashion, the Chairman will strictly enforce the three-minute  
24 time limit rule for each speaker. The three-minute time  
25 limit will be enforced during discussion of all matters

1 stated on the agenda, as well as during the public comment  
2 period.

3           There is a public comment sign-in sheet and cards,  
4 back there on that podium at the rear, for each agenda  
5 matter on which the Board invites comments.

6           Also, there's a sign-in sheet for those wishing to  
7 speaking during the public comment period, for matters not  
8 on the Board's agenda, if it concerns horse racing in  
9 California.

10           Please print your name legibly on the public  
11 comment sign-in sheet.

12           When a matter is open for public comment, you're  
13 name will be called. Please come to the podium and  
14 introduce yourself by saying your name and organization  
15 clearly.

16           This is necessary for the court reporter to have a  
17 clear record of all who speak.

18           When your three minutes are up, the Chairman will  
19 ask you to return to your seat so others can be heard.

20           When all the names have been called, the Chairman  
21 will ask if there is anyone else who would like to speak on  
22 a matter before the Board.

23           Also, the Board may ask questions of individuals  
24 who speak.

25           If a speaker repeats himself or herself, the

1 Chairman will ask if the speaker has any new comments to  
2 make. If there are none, the speaker will be asked to let  
3 others make comments to the Board.

4 Thank you. Mr. Chairman.

5 COMMISSION CHAIRPERSON SHAPIRO: Thank you and  
6 good morning to everybody.

7 The first item on our agenda, which is discussion  
8 and action by the Board on the conditional approval of the  
9 Application to Conduct a Horse Race Meeting at Hollywood  
10 Park, is a carryover from the last Board meeting, wherein  
11 there was an impasse with respect to a horsemen's agreement.

12 I believe the parties have reached an agreement.  
13 I would like them to confirm that to the Board.

14 And if that's the case, I believe we can simply  
15 take action to approve the license unconditionally.

16 And so I would ask that Mr. Couto and Mr. Liebau  
17 please come forward and simply state if there is an  
18 agreement, or Mr. Wyatte, whoever on behalf of Hollywood  
19 Park wishes to do it, and we can move forward.

20 MR. COUTO: Good morning, Drew Couto, Thoroughbred  
21 Owners of California.

22 Yes, indeed, and I hope Mr. Wyatte will confirm  
23 that we have reached agreement on a race meet agreement, and  
24 we hope to have it signed and filed today.

25 And I'd like to thank, in particular recognize and

1 thank Chairman Shapiro for his work last Friday, in getting  
2 us all together and working through these issues. Very much  
3 appreciated. Well done, thank you.

4 COMMISSION CHAIRPERSON SHAPIRO: Mr. Wyattte?

5 MR. WYATTE: Eual Wyattte, Hollywood Park. Yes, I  
6 can confirm we do have a Horsemen's agreement, and we  
7 appreciate everybody's efforts in making that happen.

8 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

9 VICE CHAIRPERSON HARRIS: Can we find out -- the  
10 points in dispute, what -- how they were resolved?

11 MR. COUTO: There were two points in dispute. One  
12 being the TC02 language, which we have again included in the  
13 contract.

14 And we had a dispute over certain ADW language,  
15 which will remain outside of the contract and be handled in  
16 the way we've handled it in the past.

17 COMMISSION CHAIRPERSON SHAPIRO: All right, if  
18 there are no other questions, I would move that there is a  
19 motion to approve this unconditionally, so the Hollywood  
20 Park Race Meeting can go forward.

21 COMMISSIONER MOSS: Moved.

22 COMMISSION CHAIRPERSON SHAPIRO: Mr. Moss, it's  
23 moved.

24 Second?

25 COMMISSIONER DEREK: Second.

1           VICE CHAIRPERSON HARRIS: Well, just a  
2 quick --

3           COMMISSION CHAIRPERSON SHAPIRO: Second.  
4           Go ahead.

5           VICE CHAIRPERSON HARRIS: Okay. Well, just since  
6 the ADW, the way that's going to be handled, will impact  
7 purses, I think we approve the Horsemen's agreement and we  
8 approve the stakes scheduled with defined numbers.

9           Now, are those numbers -- is the stakes schedule  
10 going to change? Because if the stakes schedule doesn't  
11 change, then the overnight schedule could come down quite a  
12 bit.

13           COMMISSION CHAIRPERSON SHAPIRO: You know what,  
14 I'll allow -- Mr. Liebau, why don't you respond to that?

15           MR. LIEBAU: The race meet agreement, that has  
16 been entered into, takes into account the various scenarios  
17 that can develop with respect to ADW wagering, so there are  
18 different purse schedules, depending on what happens with  
19 ADW wagering.

20           And that's what the objection to the purse  
21 agreement was, at Hollywood, and the Horsemen, I think,  
22 agreed that it was difficult to come up with an overnight  
23 purse schedule, and a stakes schedule, not knowing what was  
24 going to happen with ADW. So we now have three different  
25 schedules.

1           VICE CHAIRPERSON HARRIS: Okay. That's what I was  
2 concerned about.

3           So, basically, it's kind of a flex schedule, now,  
4 as opposed to what we originally had seen was a set  
5 schedule.

6           MR. LIEBAU: Yes.

7           COMMISSION CHAIRPERSON SHAPIRO: That's correct.  
8 And just to amplify on what Mr. Liebau was saying, there are  
9 still discussions taking place.

10           We had a follow-up meeting yesterday, and there  
11 are follow-up meetings that are taking place and are  
12 continuing, because all the parties are trying to come to a  
13 resolution of a very difficult issues, so that there will  
14 not be any interruption in ADW at the Hollywood Park  
15 meeting.

16           And I have to say that I'm most pleased that TOC,  
17 and Hollywood Park, and THG, everybody is working to try and  
18 find a solution to this that would work in everybody's best  
19 interest.

20           So the discussions are considering and I expect  
21 we'll be meeting again very shortly.

22           Okay, there's a motion on the floor, it's been  
23 seconded.

24           Is there any more discussion? If not, I'll call  
25 for the vote.

1 All in favor?

2 (Ayes.)

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.  
4 Good luck and good racing.

5 In light of that, Agenda Item Number 2 is not  
6 necessary and, therefore, we will not hear Item Number 2 on  
7 our agenda.

8 Item Number 3 is discussion and action by the  
9 Board on the proposed addition of Rule 2070.5, Exclusive  
10 Contract Prohibition, to provide that as a condition of  
11 approval of an advance deposit wagering license, or the  
12 approval of an out-of-state ADW provider, an applicant may  
13 not enter into an agreement with a horse racing facility,  
14 racing association, and/or satellite wagering facility which  
15 excludes other licensed or approved ADW providers.

16 This has been something that the Board has been  
17 discussing for quite some time, and it is because our ADW  
18 licenses are set to expire at the end of this year, and it's  
19 at this time that we will look to re-license them.

20 And if the Board chooses to enact a rule such that  
21 would accomplish what we would -- we may choose, is a non-  
22 exclusive wagering platform for all of the licensed ADW  
23 providers, now is the time for us to do that.

24 I'm not sure that the rule, as proposed,  
25 accomplishes that. I think that we've seen that there are

1 some concerns and some suggestions of other ways to do it.

2 But what I did ask, and I think would be helpful  
3 is, I think that at times ADW's a very complex issue, and  
4 it's certainly an issue that has been very controversial  
5 throughout the country.

6 And so I asked if some of the stakeholders, and in  
7 particular Drew Couto, would give us at least a presentation  
8 as to how ADW works, what the issues of dispute are, what  
9 the concerns are, so that we could all simply understand it  
10 better to make more informed decisions.

11 So with that, I would ask Drew, if you would  
12 perhaps give us a presentation.

13 MR. COUTO: Sure. One second here.

14 COMMISSION CHAIRPERSON SHAPIRO: Drew, are there  
15 hard copies you were going to hand to the Board?

16 MR. COUTO: Yes, he's going to hand those out  
17 right now to everyone.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

19 MR. COUTO: So I'll wait until you have those  
20 before I get started.

21 (Off-record discussion.)

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, Drew, the  
23 floor is yours.

24 MR. COUTO: Okay, I'm going to apologize in  
25 advance for some of the elementary slides in here, for

1 several of the Board members who are quite familiar with it.

2           What I wanted to do, at your suggestion, was run  
3 through, and I'll try and do this rapidly. There's a lot of  
4 information here and I'll welcome any of the Commissioners,  
5 or members of the audience, who have questions, to approach  
6 me afterwards and I'll go through that.

7           But this is an ADW primer and also an exposure to  
8 California sources and distributions of revenue.

9           And a few simple things, obviously, most of you  
10 know, handle equals total dollars wagered.

11           Takeout is the amount retained by the industry, we  
12 usually refer to that, or that's the source of our revenue,  
13 I should say.

14           And the remainder of handle that's not retained by  
15 the industry is paid out to the players.

16           So how does that look? This pie chart reflects  
17 what we call the blended takeout in California. One dollar,  
18 we retain 19.51 cents, returning 80 and a half cents,  
19 roughly, to the players. So that's -- and this is a very  
20 simplified version of our takeout in California.

21           Because, actually, for thoroughbred races, what  
22 most folks don't realize, there's 27 different actually  
23 distributions of wagers. I have sources of revenue, but  
24 there's actually 27 -- for thoroughbred races, 27 different  
25 distributions.

1           I want to just focus on live racing, though, for  
2 this presentation, live racing in California. There are  
3 five primary sources of live race revenue or handle. We  
4 have ontrack, satellite, which is offtrack, in-state ADW,  
5 out-of-state ADW, and interstate simulcast.

6           So we'll look at each one sort of separately.

7           You saw that chart a moment ago, which was a chart  
8 of handle, it showed you what went to the player and what  
9 was retained.

10           These pie charts are just the takeout, the amount  
11 retained by the industry.

12           And the distribution, as you can see, each color  
13 reflects distributions of fees, which could be -- it could  
14 be any sort of fee to the State, to local cities, et cetera.

15           The breeders' portion, tracks and purses. Again,  
16 in the ontrack wager there are really principally four  
17 distributions of the revenue.

18           When we look at a satellite wager, again, we  
19 roughly have four. The distributions are different. What  
20 we call fees are largely satellite and location fees.

21           And then you have, again, a distribution to tracks  
22 and purses. And you'll notice here that the distribution to  
23 tracks and purses is lower than the ontrack wager. The  
24 ontrack wager is north of eight percent.

25           In our system, satellite system, it's just under

1 five to both the tracks and to purses.

2           If we go next and look at an ADW wager on a live  
3 California race, this is a California ADW, we have  
4 additional distributions made to the wagering hub, or the  
5 ADW provider.

6           So the distributions here change, again. Through  
7 negotiations and manipulation of the hub fee, we actually  
8 returned slightly more to tracks and purses through an ADW  
9 wager in-state. We did that by reducing the hub fees  
10 retained by ADW companies.

11           So here you're looking at approximately 5.3, 5.4  
12 percent for tracks, for each for tracks and purses --  
13 sorry, tracks and purses, in an ADW wager placed in  
14 California, on a California race.

15           Now, if we look at out-of-state ADW wagers, we see  
16 that tracks and purses each receive about 2.6 percent,  
17 that's almost half -- well, that's less than half of what we  
18 receive for an in-state ADW wager.

19           And the wagering hubs there retain, based on what  
20 we see, approximately 12.82 percent. That retention by the  
21 wagering hubs also includes some money that is paid out-of-  
22 state for source market fees.

23           Now, I'm throwing a lot of terms out here and this  
24 is why it's so confusing. We talk about host fees, source  
25 market fees, wagering hubs, hub fees.

1           There are definitions included in the package.  
2   And I've excerpted those definitions either from the  
3   Business and Professions Code, or from the Interstate Horse  
4   Racing Act. It's all Greek, I know.

5           Lastly, I wanted you to look at what happens with  
6   an out-of-state wager, the distribution of revenues in an  
7   out-of-state wager.

8           Again, you can see that out-of-state wager  
9   produces approximately 1.76 percent each for tracks and for  
10   purses in the State of California.

11           And what we call the wagering hub here, again, are  
12   out-of-state sources, or out-of-state markets that retain  
13   monies from the takeout.

14           Now, I wanted to -- there was a question raised, I  
15   think, by Mr. Harris, and others, about why we actually  
16   receive less from an out-of-state simulcast wager than we do  
17   from an ADW out-of-state wager, and wanted an explanation as  
18   to why that might be. So I tried to explain this  
19   graphically.

20           If you look at a simulcast wager, and again we're  
21   talking about roughly 20 percent takeout, that money on a  
22   wager, that 20 percent takeout is distributed between live  
23   racing, both in the host state, which would be California in  
24   this case, and the receiving state, pick any other state.

25           So when you look at an interstate wager, simulcast

1     wager that goes from track to track, a hundred percent of  
2     the takeout is allocated to support live racing, both in our  
3     State and elsewhere.

4             Now, we have additional types of out-of-state  
5     recipients, which we'll call betting agencies, which  
6     are -- could be anything from Greyhound facilities, harness  
7     facilities, to OTB networks, et cetera. That has a  
8     different distribution of that 20 percent.

9             You can see that only -- only about three and a  
10    half percent comes back to the live racing venue. The  
11    yellow represents that, that's retained by the other betting  
12    agency.

13            And in particular, if we look at a betting agency  
14    like New York OTB, we have to remember that they, in  
15    addition to paying us, pay NIRA 5.5 percent, so they're  
16    supporting live racing elsewhere.

17            So you have these two sort of distributions.

18            When we looked at California and we looked at the  
19    percentage of our interstate wagers and how they're  
20    allocated, we see that 65 percent of our interstate wagers  
21    are from one track to another, a thoroughbred track to  
22    another thoroughbred track.

23            That 35 percent is handled at agencies outside of  
24    live thoroughbred tracks.

25            So you blend the two together and what you find is

1 that we receive roughly -- that 70 percent of every dollar  
2 of revenue goes back to support live racing, either here or  
3 someplace else. That's the third bar graph all the way to  
4 the right.

5 And I'm going to go through these very quickly,  
6 otherwise we'd be here all day.

7 And, again, I welcome questions either now, or at  
8 another time.

9 VICE CHAIRPERSON HARRIS: You said supported by  
10 the racing, like at someplace else, is that both the  
11 horsemen and the track?

12 MR. COUTO: Correct. Correct.

13 VICE CHAIRPERSON HARRIS: Yeah.

14 MR. COUTO: And as I think most of you were aware,  
15 there was recently a case in Ohio, deciding an issue in  
16 favor of horsemen with regard to the Interstate Horse Racing  
17 Act. And what was very interesting is the judge, the  
18 Federal judge there clearly indicated that one of -- one of  
19 the principle responsibilities and objectives of horsemen  
20 has been and remains supporting live racing, both in the  
21 state and out.

22 So that is -- that support of live racing has been  
23 at the heart of interstate simulcasting since 1978.

24 So let's now focus on ADW, and let's look at how  
25 ADW wagers, the distribution of revenue occurs under current

1 ADW models, in the interstate context.

2 By that I mean when a wager is placed on a  
3 California race out of state.

4 And as I mentioned, I was going to -- I've  
5 provided for you key definitions here.

6 Advance deposit wagering, which I think basically  
7 everybody understands.

8 The host fee is the money paid to the  
9 stakeholders, being tracks and horsemen, where the actual  
10 live race is conducted.

11 So in the context of a California race being  
12 wagered someplace else, there's a wager placed on it, we  
13 receive a host fee for that.

14 A hub fee, in the context of ADW means that money  
15 retained from the revenues, by the ADW company for its  
16 services it provides.

17 Source market fee. Again, we're in the context of  
18 a California race being wagered on in a different state.

19 Source market fee is that money kept in the state  
20 in which the bettor resides. And, hopefully, it goes to  
21 support live racing there. That's sort of been the point of  
22 contention, somewhat, between the ADW companies and  
23 horsemen.

24 And then a wagering hub is the facility, it's the  
25 actual physical facility at which the ADW company

1 facilitates the wagers.

2 And with regard to the four California licensed  
3 ADWS, I believe all of them maintain their physical wagering  
4 hub in Oregon.

5 So going back, again, interstate ADW wagers.  
6 There are really two models, or one model, but it has two  
7 components.

8 The vertical column, on the left, reflects the  
9 distribution of takeout when they pay a source market fee.  
10 So what you see is at the bottom of the darker blue, the  
11 host track, California, would receive, let's say, six  
12 percent.

13 Where they're paying a source market, the source  
14 market may receive a seven percent payment.

15 And then there's seven percent retained by the ADW  
16 company.

17 Now, where they don't pay a source market, we  
18 still receive six percent as a host fee, and the ADW company  
19 keeps the remaining 14 percent.

20 COMMISSIONER ISRAEL: That's a hundred percent of  
21 revenue?

22 MR. COUTO: That's correct. That's correct.

23 VICE CHAIRPERSON HARRIS: Takeout revenue.

24 COMMISSIONER ISRAEL: Oh, a hundred percent of  
25 takeout revenue or a hundred percent of all of it?

1 MR. COUTO: What this is, this is showing you  
2 percentages in regard to handle.

3 COMMISSIONER ISRAEL: So it's not takeout rate.

4 MR. COUTO: So if it's a 20 percent takeout,  
5 they're retaining roughly 72 percent of the takeout revenue.

6 COMMISSIONER ISRAEL: That's what I thought.

7 MR. COUTO: Okay.

8 COMMISSIONER ISRAEL: It's a hundred percent. So  
9 of the dollar bet, they're getting 14 cents; is that right?

10 MR. COUTO: Correct.

11 COMMISSION CHAIRPERSON SHAPIRO: Yeah, but that's  
12 the takeout.

13 COMMISSIONER ISRAEL: No, of the dollar bet.

14 MR. COUTO: No, the takeout would be 19.

15 COMMISSIONER ISRAEL: That's why I asked the  
16 question, because it's a little unclear.

17 VICE CHAIRPERSON HARRIS: And so the 19 cents,  
18 they're getting whatever --

19 COMMISSIONER ISRAEL: No, no, on this page, where  
20 it says "14 percent," that's based on the dollar bet, not on  
21 the takeout. It's based on handle.

22 MR. COUTO: Here's what we've done, to make it  
23 easier, instead of deal with fractions, we called the  
24 takeout 20 cents.

25 COMMISSION CHAIRPERSON SHAPIRO: Right.

1           MR. COUTO: Okay. And so that 20 cents is also 20  
2 percent of a dollar; correct? So that's what we're talking  
3 about in terms of revenue.

4           The distribution of those percentages, okay, six  
5 percent retained as a -- or six percent paid as a host fee.  
6 Seven percent paid as a source market fee, and seven percent  
7 retained by the ADW company.

8           COMMISSION CHAIRPERSON SHAPIRO: The takeout.

9           MR. COUTO: Which you add all three of those up  
10 and you have the takeout, correct.

11          COMMISSION CHAIRPERSON SHAPIRO: And it's not a  
12 total dollar wager.

13          MR. COUTO: Correct.

14          VICE CHAIRPERSON HARRIS: Can you go back over the  
15 source market fee, it's still kind of confusing to me, why  
16 some wagers have one and some don't?

17          MR. COUTO: Sure. California, Virginia have  
18 statutes that dictate the distribution of ADW revenues. In  
19 California, we declared that any wager made ADW in the State  
20 is to be considered within the source market.

21          So California defines the source market as the  
22 entire state, that we look at all wagers.

23          In most states, 40 some plus states around the  
24 country, there is no legislation defining what the source  
25 market is, so the ADW companies contract, in some cases,

1 with local racetracks, and they'll say to that racetrack, I  
2 don't know, pick a track someplace, they'll say, we'll pay  
3 you a source market fee as long as the bet is taken by a  
4 player located within 25 miles of your racetrack, we'll then  
5 pay you seven percent.

6           If the player lives outside of a 25-mile radius,  
7 we'll pay you nothing from a source market fee, we'll keep  
8 that.

9           So while we have here legislation defining  
10 California as the source market, in 40 some states there is  
11 no legislation, it's what is -- what is offered, largely, by  
12 the ADW company.

13           There are states in which there is no racing  
14 industry, in which ADW companies take wagers. So let's say  
15 Tennessee. So there's no source market paid to any  
16 stakeholders, either tracks or horsemen, in Tennessee.

17           So, again, the host fee remains the same, we get  
18 six percent, the ADW company's keeping the remaining 14  
19 cents, and that's why we don't have source market fees.

20           We also have states where the ADW companies don't  
21 pay tracks anything, regardless of where the bettor is in  
22 relationship to a facility in that state.

23           So California has defined the source market.  
24 Virginia has defined the source market.

25           There is some question as to whether they've done

1 that in Massachusetts.

2 But, again, the ADW companies have to deal with  
3 the statutes, they have to deal with some contracts that  
4 they have with other tracks, and then they have open  
5 markets, where there's no source market fees.

6 COMMISSION CHAIRPERSON SHAPIRO: Was that done to  
7 basically protect and mitigate the impact of ADW on live  
8 venues and horsemen? Was that the purpose of doing that,  
9 like in California?

10 MR. COUTO: In California, that was the primary  
11 objective of the source market was to protect the  
12 investments made by facilities and to protect live racing.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay.

14 VICE CHAIRPERSON HARRIS: I'm not clear, as I  
15 recall, you know, states, like California, have enacted ADW  
16 laws and some others, but aren't there quite a few states  
17 that are just silent on ADW, but the ADW companies take the  
18 attitude the bet is really being made in Oregon, or  
19 someplace, anyway, so it doesn't matter if it's legal  
20 in -- I don't know, like in Tennessee, say, that there's no  
21 racing. Is there an ADW law in Tennessee, or does it just  
22 happen?

23 I can't tell you what the specific law is in  
24 Tennessee.

25 As I think most of us know, there are different

1 interpretations given by different ADW companies.

2 TVG has historically been the most conservative in  
3 only conducting ADW wagers in states where it was  
4 specifically authorized by statute.

5 The other ADW companies, with varying degrees of  
6 risk, will take it in some states or not, unless there is a  
7 specific statute precluding it.

8 So it depends which company you talk to, how they  
9 interpret their legal right to take a wager, so it varies  
10 from company to company.

11 All right, so --

12 COMMISSIONER CHOPER: Could you --

13 MR. COUTO: Yes, sir?

14 COMMISSIONER CHOPER: Maybe you've explained this,  
15 already. On this page, that you have on the board, so these  
16 are for races conducted in California?

17 MR. COUTO: No, sir, these are -- correct, they  
18 are for races conducted in California, wagers placed  
19 at --

20 COMMISSIONER CHOPER: Okay. So if the race is  
21 run, let's say at Santa Anita, and an ADW bet is taken, I  
22 understand Santa Anita gets six percent; right?

23 MR. COUTO: No, no, your scenario is a little  
24 different. This is for a race conducted in California.

25 COMMISSIONER CHOPER: Yes.

1 MR. COUTO: And a wager placed out of state on  
2 that race.

3 COMMISSIONER CHOPER: Yes.

4 MR. COUTO: So Santa Anita would get six percent,  
5 correct, from that --

6 COMMISSIONER CHOPER: Six percent of -- okay.

7 VICE CHAIRPERSON HARRIS: Including purses.

8 COMMISSION CHAIRPERSON SHAPIRO: And they

9 split --

10 VICE CHAIRPERSON HARRIS: And purses.

11 COMMISSIONER CHOPER: Who is the guest track?

12 COMMISSION CHAIRPERSON SHAPIRO: Let's say the bet  
13 was made at Churchill Downs.

14 COMMISSIONER CHOPER: Yes.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 COMMISSIONER CHOPER: Why would you make an ADW  
17 bet at Churchill Downs?

18 MR. COUTO: No, no, no, it's not, it's not.

19 COMMISSION CHAIRPERSON SHAPIRO: Kentucky.

20 MR. COUTO: The guest track is in a different  
21 state --

22 COMMISSIONER CHOPER: Yes.

23 MR. COUTO: -- and it's going to receive a source  
24 market fee. So let's say --

25 COMMISSIONER CHOPER: Who is the guest, I don't

1 understand, what is the guest track?

2 MR. COUTO: Let me try and explain that.

3 COMMISSIONER CHOPER: Go ahead.

4 MR. COUTO: You have a Santa Anita race and a  
5 wager placed in Ohio, let's say.

6 COMMISSIONER CHOPER: Yeah.

7 MR. COUTO: And the resident of Ohio, who's making  
8 the wager, lives within 25 miles of Buella Park. All right.  
9 So Santa Anita gets six, Buella Park gets seven, and the ADW  
10 company keeps seven. In that particular instance, Buella  
11 Park is the guest, it's within 25 miles of where the  
12 resident, of where the bettor is. So that's why --

13 COMMISSION CHAIRPERSON SHAPIRO: So in essence  
14 would it be that the Buella Park would claim, hey, wait a  
15 minute, Joe Customer would have come to Buella Park and made  
16 a bet on our races, you took him away from us, therefore,  
17 they're getting seven percent, which is being split with  
18 their horsemen to compensate them for the betting, that Joe  
19 betting on our races.

20 MR. COUTO: Correct.

21 VICE CHAIRPERSON HARRIS: But partially that's  
22 because Ohio has an ADW law, I presume, versus if there's  
23 some state that there's no ADW law, then it's --

24 COMMISSION CHAIRPERSON SHAPIRO: Well, then it  
25 goes over to this one.

1           VICE CHAIRPERSON HARRIS: Right. But it sounds  
2 like the one on the right maybe would be a little bit more  
3 complicated, that they might pay something or they might  
4 now.

5           COMMISSION CHAIRPERSON SHAPIRO: Right.

6           MR. COUTO: Again, both of these can occur in a  
7 state -- well, if a state has a law, it typically says the  
8 entire state is the source market.

9           So when they don't however, it can be either/or.  
10 The ADW companies negotiate with certain tracks when they  
11 want their content, in exchange for the content, they agree  
12 to certain source market parameters, and that's how you  
13 might have it in a state that doesn't have an ADW law.

14          COMMISSIONER CHOPER: So just out of curiosity,  
15 what percentage of the ADW revenue or betting, the amount of  
16 the handle is -- do they get 14 or do they get 7?

17          MR. COUTO: Well, let me see -- let me see, I  
18 don't know if this slide --

19          COMMISSIONER CHOPER: Overall, I mean just --

20          COMMISSION CHAIRPERSON SHAPIRO: What's the  
21 blended rate? Are you trying to figure out what the blended  
22 rate is between the two?

23          VICE CHAIRPERSON HARRIS: The blended rate for  
24 both of these.

25          COMMISSIONER CHOPER: Well, yeah, that's another

1 way of putting it.

2 MR. COUTO: Here's where -- this slide, if you go  
3 to the next slide, I think we show it to you.

4 COMMISSIONER CHOPER: Oh, I'm sorry. Okay, go  
5 ahead.

6 MR. COUTO: Okay, what we've done is, based on our  
7 discussions with the ADW companies, we've discovered that  
8 roughly 35 percent of the out-of-state ADW wagers on a  
9 California track require a source fee payment, meaning 65  
10 percent don't.

11 So if you blend it across, what you find is the  
12 far column on the right there, that over the entire network  
13 the ADW companies retain 11 and a half cents. They pay  
14 approximately two and a half cents as far as a source market  
15 fee and then, again, the host fee is constant at six.

16 That distribution there, the right column, is  
17 roughly 57.5 percent of all revenue, takeout revenue in the  
18 context of ADW is retained by the ADW company. Okay, 57.5  
19 percent of the ADW revenues, okay.

20 And the remaining 42 and a half percent is divided  
21 between the live and the guest state, the live and the  
22 receiving state. So the industry is receiving less than  
23 half, currently of ADW revenues nationally.

24 VICE CHAIRPERSON HARRIS: How does that -- back to  
25 my issue, though, how does that compare to just the

1 conventional simulcasting is even worse, I think, isn't it?

2 MR. COUTO: I have a slide that -- no, actually, I  
3 have a slide that's coming up and it will show you that in  
4 the context of traditional interstate simulcast, over 70  
5 percent, I think it's roughly 72 percent of each dollar of  
6 revenue derived in their state simulcast is retained by the  
7 industry, 72 percent.

8 VICE CHAIRPERSON HARRIS: Well, but by the  
9 industry. But strictly back to California, it's only a  
10 fraction of that, I guess.

11 I mean, I think what we're concerned about is  
12 California, how many dollars flow back to California?

13 COMMISSION CHAIRPERSON SHAPIRO: Well, that's what  
14 he's saying. Well, let's let him get there, I think he's  
15 going to get there.

16 VICE CHAIRPERSON HARRIS: Okay.

17 MR. COUTO: Yeah. Okay, so I wanted to give you  
18 an idea of what we're talking about in terms of relative  
19 changes out of state, in terms of handle on California  
20 races.

21 And it's broken down between what we would  
22 consider the traditional or other export sites and ADW. So  
23 the blue area at the top of the columns indicate ADW handle,  
24 out of state, on California races.

25 The pink or purple indicates out-of-state handle

1 on California races through traditional simulcasting.

2 So you can see -- you can see pretty substantial  
3 growth in the ADW sector. We had some -- we've had some  
4 variation in total handle, but roughly 1.6 billion in 2007  
5 was handled out of state on California races, 1.6 billion.

6 COMMISSIONER ISRAEL: And ten percent of that  
7 was --

8 MR. COUTO: And ten percent of that was through  
9 ADW providers, correct.

10 COMMISSION CHAIRPERSON SHAPIRO: And that ten  
11 percent has been growing.

12 COMMISSIONER ISRAEL: At a phenomenal rate.

13 COMMISSION CHAIRPERSON SHAPIRO: Correct. Right.

14 COMMISSIONER ISRAEL: If any business grew that  
15 fast, you'd be --

16 MR. COUTO: What's interesting, to give you a  
17 perspective of how large California is in that equation,  
18 when we look at the 160 million handled -- well, actually,  
19 it's more than that. When we look at the 1.5 billion  
20 handled in 2007 by ADW companies, California accounted for  
21 48 percent of that. Okay, just under half of the total  
22 handle nationally on ADW.

23 And that's comprised of wagers on California races  
24 in-state, wagers on California races out-of-state, and  
25 wagers by Californians on out-of-state races here.

1           So if you look at the total economic impact  
2 California has on ADW, currently it's 48 percent of the  
3 national.

4           COMMISSIONER ISRAEL: This is the answer to the  
5 question I asked at the last meeting.

6           MR. COUTO: Yes.

7           COMMISSIONER ISRAEL: Except it's not broken down  
8 by company.

9           MR. COUTO: No.

10          COMMISSIONER ISRAEL: Okay.

11          MR. COUTO: It's not broken down by company, not  
12 there.

13          COMMISSION CHAIRPERSON SHAPIRO: You got this in  
14 the packet.

15          MR. COUTO: Okay. Here's, I think getting to your  
16 question, Mr. Harris, distribution comparison, simulcast  
17 versus ADW.

18          Again, one of the earlier slides I showed you, the  
19 column on the left, this is in what we call our traditional  
20 simulcast network, so that's ontrack and in the network,  
21 itself. You can see that better than 72 percent of the  
22 pari-mutuel revenue goes to support live racing, either in  
23 the host state or the guest state.

24          The column, the vertical column on the right shows  
25 you, with regard to the same dollar bet through an ADW, that

1 42, just slightly better than 42 percent goes to support  
2 live racing, either here or someplace else.

3           So every dollar that shifts -- every dollar that  
4 shifts from a traditional simulcast source to an ADW source  
5 means that the industry loses basically 40 percent of its  
6 revenue. We take a 40 percent cut every time we shift one  
7 dollar elsewhere. And we can only make that up through  
8 substantial growth, obviously.

9           VICE CHAIRPERSON HARRIS: Yeah, I think my  
10 understanding was I thought there was substantial wagering  
11 on in places like Nevada, that really don't support any  
12 horse racing activities, where -- does that -- how does that  
13 tie in?

14           MR. COUTO: That is within the column on the left.

15           COMMISSION CHAIRPERSON SHAPIRO: That would be  
16 part of the simulcasting; correct?

17           MR. COUTO: That is within the traditional  
18 simulcast network. That's a good example of another area  
19 that has been mishandled under simulcast. ADW, in our  
20 opinion, horsemen around the country, is that's one example.

21           But if you were to look at, let's say, races  
22 sent -- thoroughbred races sent to Greyhound parks, we don't  
23 receive near what we should be in terms of compensation.

24           There are several examples which the traditional  
25 simulcast model did not work to the benefit of the industry.

1           For the purpose of the current discussion within  
2 the industry, horsemen are at present focused on the ADWs,  
3 they're the newest of the simulcast models, they're the ones  
4 we need to correct before they get out of hand.

5           COMMISSION CHAIRPERSON SHAPIRO: So, Drew, in the  
6 column on the left, where it says the host tracks and  
7 purposes, the 5.5 percent is the result of an averaging, I'm  
8 assuming --

9           MR. COUTO: Correct.

10          COMMISSION CHAIRPERSON SHAPIRO: -- of those  
11 areas, the Greyhound tracks, or Las Vegas, or somebody else  
12 that may be paying below that amount with -- so it's the  
13 average we're coming with.

14          MR. COUTO: Correct.

15          COMMISSION CHAIRPERSON SHAPIRO: Okay.

16          MR. COUTO: Correct.

17          COMMISSION CHAIRPERSON SHAPIRO: It's not a set a  
18 rate?

19          MR. COUTO: It's not a set rate. These are,  
20 again, blended rates, because we have so many different -- I  
21 mean, we simulcast to literally 400 plus facilities, rates  
22 vary. You know, they were helter skelter before TOC got  
23 started. We've tried for a decade to sort of make some  
24 sense of how we price the signal.

25          Our track partners have done the same. We've

1 gotten -- as an industry, I think California in particular,  
2 has gotten much more savvy about how to price their signals  
3 and where we're leaving money on the table.

4           And you talk about Las Vegas. Las Vegas is a  
5 great example of a misuse of the simulcast model. But now  
6 that they control so much handle, to get a change in the  
7 rates is an incredible battle, as we saw a decade ago, when  
8 I think our industry tried to do that.

9           That's why I think with regard to ADW, today  
10 horsemen around the country are so concerned about getting  
11 the model correct now, because in just a few years from now,  
12 rather than it being five to ten percent of the total  
13 handle, it's going to be closer to 30 or 40 percent and  
14 growing. And you will have no ability to change that model,  
15 or extremely limited ability to change that model when it's  
16 30 to 40 percent of your total handle or total revenues.

17           Just as we had essentially no luck in trying to  
18 change the model in Las Vegas.

19           COMMISSIONER CHOPER: In Vegas, do you have to  
20 appear in person to make a bet, or you can phone in your  
21 bet? Well, that's my question, first, can you answer that  
22 question?

23           MR. COUTO: They passed, I do believe, a statute  
24 two years ago, in Nevada, which permitted them to conduct  
25 ADW wagering. So far, it's my understanding from my track

1 colleagues, that Nevada is limiting itself to in-state ADW,  
2 only. They have not ventured into interstate.

3 So that is, I can tell you and I think Scott  
4 Daruty could speak more to it, that is a source of  
5 negotiation with Nevada interests at the moment, how we're  
6 going to treat their ADW.

7 COMMISSIONER CHOPER: So does that fall in the ADW  
8 column or the simulcasting column? I take it if there are  
9 ADW companies who are taking telephone bets in Nevada, then  
10 that is an ADW bet?

11 MR. COUTO: That would depend -- that would be an  
12 interstate ADW wager, correct.

13 In Nevada, I believe under statute, it's treated  
14 at the moment, again this is something that's being  
15 negotiated between, I understand, Track Net and Nevada Pari-  
16 Mutuel Association, how we are going to price those  
17 intrastate ADW wagers in Nevada.

18 And I don't think it's settled, yet, I'll tell you  
19 that much and --

20 COMMISSIONER CHOPER: When you say it's an  
21 intrastate wager, you mean it is made by someone calling in  
22 Nevada to a Nevada ADW company?

23 MR. COUTO: Well, it's supposed to be a Nevada  
24 resident calling a Nevada ADW company.

25 COMMISSIONER CHOPER: That's even better. I mean,

1 that's even more limited. So how can that amount to very  
2 much money?

3 MR. COUTO: Again, you know, I'll punt to Mr.  
4 Daruty because I know he has been involved in discussions  
5 with Nevada pari-mutuel interests about that.

6 But that's an example of how convoluted and  
7 complex these issues are.

8 COMMISSIONER CHOPER: But when you talk about the  
9 growing amount of handle coming out of the -- coming out of  
10 the casinos in Nevada, those are people who show up and put  
11 their money into the windows.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, that's a  
13 simulcast wager. If they're going to the casino, that's a  
14 simulcast.

15 VICE CHAIRPERSON HARRIS: That's a simulcast.

16 COMMISSIONER CHOPER: I understand that.

17 MR. COUTO: Yeah, that market grew quite a while  
18 ago, and that's why the problem is the problem that it is.  
19 We were unsuccessful as an industry, California was  
20 unsuccessful as an industry in getting much change in Nevada  
21 a few years back.

22 And, again, that is one of the reasons why  
23 horsemen, today, are so adamant about fixing the ADW model  
24 before we have no opportunity to do it, or very limited  
25 opportunity to do it.

1           COMMISSION CHAIRPERSON SHAPIRO: David, did you  
2 have a question?

3           COMMISSIONER ISRAEL: Drew, is it your opinion  
4 that the industry would like to establish some sort of  
5 uniform pricing plan, as opposed to the helter skelter model  
6 of this dog track gets that, these casinos get that, ADW  
7 gets that? Is there something?

8           MR. COUTO: I don't think that we're convinced  
9 that there is a one-size-fits-all model. I think that  
10 signals have different values. And the model that THG has  
11 been working on recognizes this, and what we're trying to do  
12 is across the system guarantee certain returns to the ADW  
13 companies, and to tracks, and horsemen.

14           So there's a model for it. Is there one price?  
15 I'm not sure there's one price, but there is a model for it.

16           COMMISSIONER ISRAEL: Is there a legislative  
17 remedy that the industry would like, as opposed to sort of  
18 the wild west of the free market being imposed?

19           MR. COUTO: I tend to favor leaving to the parties  
20 the ability to negotiate an appropriate solution. In the  
21 absence of that, legislation could be the only way in which  
22 to do it.

23           I know, for example, that the National Council of  
24 Legislators from Gaming States are now considering crafting  
25 model rules because this is such a controversy everywhere.

1           Personally, I have faith that the horsemen, track  
2 management, and ADW partners will eventually reach some  
3 accommodation or agreement, but it will not come without  
4 some bloodshed among all of us, and that's where we are  
5 right now, we're in the skirmish.

6           COMMISSIONER ISRAEL: Well, the point of  
7 legislation, I think, would be to find the middle ground  
8 that's fair, so that no side is punished, and that ADWs  
9 don't work at a disadvantage, for instance, to a simulcast  
10 provider. I mean, isn't that the goal?

11          MR. COUTO: Well, we did it in California, I think  
12 we came up with a model for distributions here, to do it.

13           In the interstate context, obviously, you'd need  
14 Federal legislation.

15          COMMISSIONER ISRAEL: Right.

16          MR. COUTO: And, again, the markets are -- my  
17 colleagues, among the ADWs, will probably tell you that the  
18 markets are sufficiently different that you may not be able  
19 to craft --

20          COMMISSIONER ISRAEL: Well, wait, you wouldn't  
21 necessarily need Federal legislation if -- I mean, our  
22 interest is in California. If there's California  
23 legislation, and then if you want to do business in  
24 California, you have to abide by that rule of law.

25          COMMISSION CHAIRPERSON SHAPIRO: We have that.

1 MR. COUTO: We have that with --

2 COMMISSIONER ISRAEL: Yeah, but not as it relates  
3 to these specific financial issues.

4 COMMISSION CHAIRPERSON SHAPIRO: Well --

5 MR. COUTO: Actually, you do. You do. The State  
6 is limited, and Mr. Choper is probably much better able to  
7 articulate than I am. But the State is limited to the  
8 application of its laws to within the borders. It cannot  
9 create a law that applies extraterritorially to other states  
10 and transactions that occur in other states.

11 COMMISSIONER ISRAEL: No, I understand that. But  
12 if you want to take a bet from California, you have to abide  
13 by the laws of the State of California, I would assume,  
14 that's how you get licensed.

15 MR. COUTO: Well, if you take a bet in California,  
16 I agree.

17 COMMISSIONER ISRAEL: Yeah.

18 MR. COUTO: If you took a bet on an out-of-state,  
19 on a California race, I'm not certain. I'd leave that to  
20 somebody else. I don't -- personally, I don't believe you  
21 can do that through California legislation.

22 COMMISSIONER CHOPER: Well, I would think that if  
23 you -- if California were to pass a statute which treated  
24 both in-state and out-of-state bettors the same way, with  
25 money channeled into the racing in California, it would

1 stand a chance of being okay.

2 MR. COUTO: It might. Remember that the actual  
3 wager's not occurring in California, it's occurring in  
4 Oregon.

5 COMMISSIONER CHOPER: No, I understand that. But,  
6 nonetheless, the subject of the bet is within the State of  
7 California.

8 MR. COUTO: That's why I would defer to you.

9 COMMISSIONER CHOPER: No, no, but I -- and there's  
10 a signal coming out of California, too. Offered. It  
11 doesn't have to be, I guess, right.

12 MR. COUTO: It doesn't have to be offered,  
13 correct.

14 COMMISSION CHAIRPERSON SHAPIRO: I think that, is  
15 there not, that the way the law is currently crafted, it  
16 basically says that the wager occurs where it's processed  
17 and, therefore, even if there is a wager by a California  
18 resident, on a California race, that wager could be  
19 considered an interstate wager because it crosses state  
20 lines and it is processed in Oregon. Is that correct, Drew?

21 MR. COUTO: Well, that is our interpretation of  
22 how the IHA applies.

23 COMMISSIONER ISRAEL: Is that state law.

24 COMMISSIONER CHOPER: It's definitely an  
25 interstate wager.

1           COMMISSION CHAIRPERSON SHAPIRO: It's interstate,  
2 it's the Interstate Horse Racing Act.

3           COMMISSIONER ISRAEL: Oh, that's the Federal.

4           COMMISSIONER CHOPER: The question is whether  
5 California could impose a uniform fee on the use of -- on  
6 residents, as well as nonresidents, of a resource of the  
7 State of California.

8           MR. COUTO: Sure.

9           COMMISSIONER ISRAEL: That's what I was getting  
10 to. I mean, there might be a legislative remedy here that  
11 will take a lot of the guesswork out of these equations.

12          VICE CHAIRPERSON HARRIS: I thought the  
13 legislation did include, I can't remember if it was a  
14 minimum fee, or a maximum fee, or something, there was some  
15 talk of a --

16          MR. COUTO: On imports.

17          VICE CHAIRPERSON HARRIS: That's just imports?

18          MR. COUTO: Yeah. Again, you now, Mr. Choper's  
19 legal resume is far superior to mine. I would say this,  
20 though, that I believe the Interstate Horse Racing Act and  
21 the cases interpreting the Interstate Horse Racing Act have  
22 clearly stated that the Act is considered preemptive with  
23 regard to any and all interstate wagers. And it was  
24 intended, I believe, from the legislative history, to serve  
25 as the only legislation that would apply or could apply in

1 the context of interstate wagers.

2           So I think that's a question of preemption. And I  
3 just read that Ohio case, again, and I know it was one of  
4 the points that they stressed in that case was that the  
5 state couldn't enact some law that impacted on the  
6 application of the IHA.

7           COMMISSIONER CHOPER: Yeah, that's not -- I mean,  
8 that is not hard to figure out. It's very simple, it's  
9 clearly an interstate wager, Congress wants to regulate  
10 it, it can regulate it, and it can trump or preempt any state  
11 laws that it wants in respect to the interstate wager.

12           Short of that, there's a good deal. I haven't  
13 read the Interstate Wagering Act. I'm sure you have and  
14 would know and -- and we have one of those issues today,  
15 with the ability of this Board to regulate, non-exclusivity  
16 provisions.

17           But if the wagering act doesn't cover it, then I  
18 think Mr. Israel's point is a reasonable one and that is, it  
19 is possible for California Legislature, on its own, to enact  
20 a uniform rule that is -- doesn't favor local bettors,  
21 doesn't favor any local interests over interstate interests,  
22 all right, it just says anyone who wants to use a California  
23 resource, that is a race that takes place within the borders  
24 of California, has to be subject to a uniform regulation.

25           Sometimes in the details, you know, you can have

1 particular problems. But, generally, that's not a bad  
2 approach.

3 But again, if Congress wants to say no, then it's  
4 over. I mean, the states can only do that in the absence of  
5 Congressional forbidding them to do so.

6 COMMISSIONER ISRAEL: So if the Interstate  
7 Wagering Law is silent on the issue, then California would  
8 have the right to address that particular subject?

9 COMMISSIONER CHOPER: Yes. Although whether it's  
10 silent or not, of course, is what, you know, lawyers make a  
11 living on that.

12 COMMISSIONER ISRAEL: Well, this is -- we're not  
13 creating a full employment act for all the lobbyists sitting  
14 here so --

15 MR. FRAVEL: Craig Fravel, Del Mar. I don't have  
16 a good Power Point presentation, but on this particular  
17 subject, you can already do what you're talking about doing,  
18 you don't need the Legislature to do it.

19 The way the Interstate Horse Racing Act applies is  
20 that the consent of the horsemen's organization or their  
21 agreement with the host track is required, and the  
22 Interstate Horse Racing Act requires the approval of the  
23 regulatory agency that controls the in-state wager, or the  
24 out-of-state wager.

25 So the California Horse Racing Board is actually

1 required to give its approval to all interstate wagers under  
2 the Interstate Horse Racing Act.

3 So if you wanted to pass regulations that governed  
4 the economics of this situation, you have the ability to do  
5 that, I believe.

6 COMMISSIONER CHOPER: To exercise the  
7 Legislature's power.

8 MR. FRAVEL: Congress has already said that you  
9 have that authority.

10 The issue, as far as I'm concerned, is not whether  
11 you have the authority, now, but whether it makes sense to  
12 exercise that authority, because you can't -- like we can go  
13 into that later, when you consider your agenda item, but I  
14 believe you have that authority.

15 And within the California statute you have all the  
16 authority you need, subject to the terms of the legislation,  
17 to regulate what happens within the State.

18 So I wouldn't focus my attention on whether you  
19 can do it. The question is whether you want to do it.

20 COMMISSIONER CHOPER: That's very helpful.

21 COMMISSIONER ISRAEL: So this Board has the  
22 authority to --

23 MR. FRAVEL: You have the -- you have the same  
24 approval right, although it's written a little differently,  
25 that the horsemen have. But you do have an approval right

1 on interstate wagers, including normal simulcast wagers.

2 COMMISSIONER CHOPER: Do you read the interstate,  
3 the Congressional Act as delegating the authority to any  
4 state authorized agency --

5 MR. FRAVEL: No, I wouldn't read it as delegating  
6 the authority, I would read it as a consent right on behalf  
7 of the --

8 COMMISSIONER CHOPER: Well, that's what I mean, it  
9 does not bar. There has to be consent --

10 MR. FRAVEL: You could very easily tell me that I  
11 don't like you sending your signal and accepting wagers from  
12 New York, for whatever reason.

13 COMMISSIONER CHOPER: Yes.

14 MR. FRAVEL: And at the end of the day if you tell  
15 me, no, I can't do that, I can't do it.

16 COMMISSION CHAIRPERSON SHAPIRO: And as we  
17 license, every time we hear a racing license --

18 MR. FRAVEL: Right. Well, you can say yes or no,  
19 but I think that gives you a wide range of --

20 VICE CHAIRPERSON HARRIS: I'm not clear either,  
21 though, on the price fixing aspects of this if there's some  
22 exemptions or something, because I don't think we can -- you  
23 know, the tracks and horsemen couldn't all get together and  
24 say, look, nobody's going to sell for less than X, would  
25 that be in violation of some --

1           MR. FRAVEL: I'll let Drew answer that, he's done  
2 a lot more work on that, than I have.

3           COMMISSION CHAIRPERSON SHAPIRO: But keep in mind,  
4 when we approve licenses, we always are approving as part  
5 of -- if you look at the Hollywood Park license that's in  
6 our book, it will show where they're sending all their  
7 signals to for simulcasting.

8           We approve those. We don't have to. We could  
9 say, well, we don't approve this one.

10          COMMISSIONER ISRAEL: I know, but for us to go  
11 line by line, through 400 --

12          COMMISSION CHAIRPERSON SHAPIRO: I agree.

13          COMMISSIONER ISRAEL: -- you know, is impractical.  
14 So I guess what I was driving at is to find a practical  
15 solution to make it a little more uniform, a little more  
16 fair, and probably a little easier in the future for the  
17 industry to make these deals, they're working within some  
18 well-defined parameters of how this should operate, that's  
19 fair to everybody involved, including the people of  
20 California.

21          COMMISSIONER CHOPER: And what I understood Craig  
22 to say is that the Federal statute permits the state  
23 regulatory authority to set those parameters, if it wants  
24 to.

25          COMMISSION CHAIRPERSON SHAPIRO: It absolutely

1 gives the state regulatory the authority to do that, that's  
2 in the Act. The question is how do you go about doing that,  
3 and is it something that we want to do given, I think, the  
4 uniqueness and nuances of each of the different markets that  
5 signals --

6 VICE CHAIRPERSON HARRIS: That's it.

7 COMMISSIONER SHAPIRO: The problem is  
8 not really, I don't think, here in California. The problem  
9 is that they're dealing with 40 some odd -- 39 wagering  
10 states, which all have different rules, source market fees,  
11 and everything else, and then you have different -- perhaps  
12 different product commands more, a higher rate and so forth.  
13 And so it's because of those uniquenesses that I think is  
14 the root of the problem.

15 Drew, I don't know if you agree or don't agree.

16 COMMISSIONER MOSS: Is there any situation where  
17 an ADW company provides, let's say, no loyalty, if I can use  
18 that term, to the host track?

19 MR. COUTO: Yeah, in 65 percent of the out-of-  
20 state wagers they pay no -- oh, you mean to the host track?

21 COMMISSIONER MOSS: Yeah. I'm talking about --

22 MR. COUTO: No, none.

23 COMMISSIONER MOSS: Let's say on a California  
24 race.

25 MR. COUTO: None. There are no instances in which

1 an ADW company does not have --

2 COMMISSIONER MOSS: So they always get something  
3 from the transmission of a race and the taking of a bet?

4 MR. COUTO: Correct.

5 COMMISSIONER ISRAEL: And that something is a  
6 blended average of six percent?

7 MR. COUTO: Correct. Correct. Six percent,  
8 correct.

9 COMMISSIONER MOSS: Well, at least we get  
10 something.

11 VICE CHAIRPERSON HARRIS: Oh, yeah, definitely.  
12 Is there commingling of the wagers?

13 MR. COUTO: Yeah.

14 COMMISSION CHAIRPERSON SHAPIRO: All right, do you  
15 want to keep going, Drew?

16 MR. COUTO: Sure, sure. I'll just try and answer,  
17 very briefly, Mr. Harris' question about the anti-trusts  
18 ability to work together.

19 COMMISSION CHAIRPERSON SHAPIRO: Well, wait a  
20 second, there is California law that states that -- is it  
21 the host fee or the hub fee shall be no greater than six and  
22 a half percent?

23 MR. COUTO: That's with regard to hub fees.  
24 There's also a provision of that same statute that says no  
25 host fee shall be in excess of 3.5 percent to out-of-state

1 interests.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. So I think  
3 that it's important for everybody here to understand that  
4 there is California law, today, that sets maximums that can  
5 be --

6 MR. COUTO: It's only on imports.

7 COMMISSION CHAIRPERSON SHAPIRO: But I just wanted  
8 to --

9 MR. COUTO: And it's only within the State.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay.

11 COMMISSIONER ISRAEL: So it's only on out-of-state  
12 races bet on within the State of California.

13 MR. COUTO: Correct.

14 COMMISSIONER ISRAEL: Okay, so that's kind of a  
15 very -- see, to me, the crux of the issue is we're half the  
16 business and we don't have anywhere near half the business,  
17 to be vague, but blunt about it.

18 COMMISSION CHAIRPERSON SHAPIRO: Correct.

19 COMMISSIONER ISRAEL: You know, we should be doing  
20 better.

21 MR. COUTO: That's the way we see it.

22 Just very quickly, let me deal with anti-trust.  
23 There is no question that horsemen are permitted to act  
24 collectively within a state. That's the Interstate Horse  
25 Racing, it says, "the horsemen who represent the majority

1 of" -- or "the entity that represents the majority of  
2 horsemen may do the following" -- so the Interstate Horse  
3 Racing Act expressly permits collective action by horsemen  
4 in at least one state.

5           As you know, there's litigation between Churchill  
6 and THG, and the issue there is whether horsemen may act  
7 collectively beyond a single state. Even, you know, in the  
8 context where these are similar members, or identical  
9 members, or identical individuals in different states,  
10 performing the same function, there's a line of cases that  
11 suggests, at least from our perspective, that there is  
12 collective anti-trust immunity. There's a line of cases.  
13 And I think Churchill sees it differently.

14           And that's what the federal judges will decide, or  
15 federal judge will decide in Kentucky, over the next year or  
16 so.

17           VICE CHAIRPERSON HARRIS: Just to clarify it, does  
18 THG have any -- sometimes you can get specific exemptions  
19 from anti-trust laws. Other than the Interstate Horse  
20 Racing Act, there's no special deal that THG has, it's just  
21 the whim of the courts.

22           MR. COUTO: Well, THG believes, and this is what's  
23 being challenged, THG believes that it was formed in the  
24 same fashion as ASCAP or BMI, and that it functions in an  
25 identical manner, at least in our opinion, or nearly

1 identical manner to ASCAP and BMI. And, therefore, we're  
2 using a tried and true model to deal with this issue. The  
3 courts will tell us whether or not counsel was correct in  
4 advising us that way.

5 VICE CHAIRPERSON HARRIS: Yeah, this is an  
6 area -- I'm involved in it through our agricultural  
7 bargaining groups, that are in somewhat of a similar  
8 situation. But those usually have to be blessed by  
9 somebody.

10 COMMISSION CHAIRPERSON SHAPIRO: Right.

11 COMMISSIONER ISRAEL: Can I ask Commissioner Moss  
12 if ASCAP and BMI actually work the way they're supposed to?

13 COMMISSIONER MOSS: Yeah, they do. They actually  
14 do.

15 COMMISSIONER ISRAEL: So that's a good model.

16 COMMISSIONER MOSS: That's a good model.

17 COMMISSIONER ISRAEL: All right.

18 COMMISSIONER MOSS: And it's a national model.

19 MR. COUTO: Yeah, and you know, as far as being  
20 blessed, I believe the argument, at least being made by THG,  
21 is that under the Interstate Horse Racing Act, when it  
22 expressly acknowledged the right of horsemen to act  
23 collectively with regard to these issues, within a state,  
24 does that apply to the same individuals, many of whom are  
25 the same individuals working in a different state, doing the

1 identical task. That's what the court will be charged with  
2 trying to determine for everyone.

3 We've talked -- let me see if I can move on and  
4 try and wrap up.

5 We've talked a lot about how it works over the  
6 overall system. I wanted to give you an example to look at.

7 2007, Hollywood Park Fall Meet, and we'll go  
8 through sort of the distributions. That was the experiment.

9 This pie chart represents to you all sources of  
10 purse revenue generated last year, at the 2007 Hollywood  
11 Park Fall Meet.

12 And you can see there's -- we've actually combined  
13 some of them because it's just so complicated. We tried to  
14 make it somewhat -- somewhat more easy to understand, but  
15 that's still difficult. So we made it even simpler and  
16 tried to focus on the one area that has been the source of  
17 frustration for most of us and the one in dispute.

18 That's the darker green area at the bottom, which  
19 reflects out-of-state ADW wagers on Hollywood Park last  
20 fall, and what we saw from our purse revenue, our total  
21 purse revenue, that accounted for 4.7 percent of total purse  
22 revenue at the Hollywood Park Fall Meeting last year.  
23 That's what's in dispute today, 4.7 percent.

24 COMMISSION CHAIRPERSON SHAPIRO: And that 547,000  
25 is based on 32 days of racing; correct? The percent is

1 good --

2 MR. COUTO: Correct, correct.

3 COMMISSION CHAIRPERSON SHAPIRO: -- but there's 30  
4 days of racing.

5 MR. COUTO: Correct.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay.

7 MR. COUTO: Correct, it's exactly last year's  
8 parameters.

9 VICE CHAIRPERSON HARRIS: If you make that  
10 assumption, just to clarify, that's wagering derived because  
11 someone bet on Hollywood Park from out of state.

12 MR. COUTO: Correct.

13 VICE CHAIRPERSON HARRIS: And so if they're not  
14 able to do that, they may still be betting on something out  
15 of state, doesn't Hollywood -- basically, Hollywood/horsemen  
16 get something from that due to their locale?

17 MR. COUTO: Yeah, correct. If, in fact, it shifts  
18 to someplace else, we receive some remuneration and it  
19 depends where it goes. It could be a lower source, it could  
20 be a higher source, we don't know.

21 What we tried to do on the next slide was break  
22 down for you total ADW at the Hollywood Park meet, so you  
23 could get a sense of what was in-state and out-of-state.  
24 And what we're talking about, again, is there are only four  
25 licensed ADW companies in-state that are facilitating

1 wagers.

2 The smaller circle to the right reflects what was  
3 done in-state on Hollywood Park during the fall meet, that's  
4 the proportion of the distribution.

5 COMMISSION CHAIRPERSON SHAPIRO: It's in and out  
6 of state.

7 MR. COUTO: I'm sorry?

8 COMMISSION CHAIRPERSON SHAPIRO: It's in-state and  
9 out-of-state.

10 MR. COUTO: No there's two circles up here. The  
11 pie to the left is the combined, the pie to the right just  
12 is showing you in-state, how we broke down the in-state  
13 component.

14 VICE CHAIRPERSON HARRIS: But in '07, I can't  
15 remember, the fall meet, was that when our so-called  
16 experiment was going?

17 MR. COUTO: Correct, that was the experiment, that  
18 was the start of the experiment.

19 So, again, the pie on the left is showing you  
20 total ADW in and out of state.

21 And then we took the light blue, sort of 60  
22 percent, which reflected in-state. We broke it down for you  
23 to show what the proportions were.

24 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

25 MR. COUTO: Just so you'd get a better sense of

1 that. Okay, hub fee rates and revenues. Again, this  
2 is -- this is total California wagering handled. This is  
3 not out of state. I showed you, before, the 1.6 billion  
4 handled out of state on California races in 2007.

5 This is just what was handled in-state on  
6 California races in 2007, so it's 2.4, almost 2.5 billion  
7 dollars.

8 And you can see the break down. The bottom  
9 segment, the green color is ontrack, the handle ontrack.  
10 And this is, again, just thoroughbred.

11 The middle third or color represents what was  
12 wagered in the satellite network, and the light blue, or  
13 blue at the top reflects what the ADW, the four ADW  
14 companies handled.

15 And this showing you from 2001, the year in which  
16 we -- the last year in which we did not have ADW in the  
17 State of California, and then shows you the growth since  
18 2002 over that six-year period.

19 So we went from our first year, 152 million  
20 handled, to 477 million in California.

21 All right, this chart here reflects to you the  
22 growth in ADW handle in-state, from the same period,  
23 beginning 2002 through 2007. And the green line across the  
24 top reflects the blended hub fee rate.

25 So what you see is when we started in 2002, we

1 paid the ADW providers close to the highest hub fee that we  
2 could. They were able to keep the most they could, because  
3 the volume was low and they needed more money.

4 And as we've gone on we have, through a  
5 combination of adjusting the hub fee rates, reduced the  
6 blended hub fee rate. It's a reflection both of reducing  
7 the hub fee rate and a redistribution of wagers from ADW  
8 companies that have a higher hub fee rate, to ADW companies  
9 that have a lower hub fee rate.

10 The result is the blended hub fee rate has  
11 reduced -- has been trending downward. And despite,  
12 theoretically, the ADW companies retaining less, if you just  
13 look at it from a percentage basis, it's been a sufficient  
14 amount to grow handle tremendously, it has incited them to  
15 grow.

16 And that 5.4 percent reflects substantially less  
17 than one-third of the takeout in California for the ADW  
18 companies to retain, and they've had a pretty remarkable  
19 growth over that six-year period.

20 VICE CHAIRPERSON HARRIS: Just to clarify, the six  
21 percent is the most that they could get as a hub fee, but  
22 what it actually is, is a negotiated number?

23 MR. COUTO: It's 6.5 percent and, yes, it's a  
24 negotiated number.

25 COMMISSIONER CHOPER: So how do you arrive

1 at --

2 COMMISSION CHAIRPERSON SHAPIRO: Would I --

3 COMMISSIONER CHOPER: Oh, I'm sorry, go ahead.

4 COMMISSION CHAIRPERSON SHAPIRO: Would I be right  
5 in saying that essentially the hub fee rates have been  
6 driven down 25 basis points, while during that same period  
7 gross handle has increased from 152 million to 477 million?

8 MR. COUTO: It's 300 percent, yeah.

9 COMMISSION CHAIRPERSON SHAPIRO: Three hundred  
10 percent. So, theoretically, while they've lost 25 basis  
11 points in rate, they probably have made significantly more  
12 money as a result of the handle growth.

13 MR. COUTO: Correct.

14 VICE CHAIRPERSON HARRIS: They're likely to lose  
15 money early on.

16 COMMISSIONER ISRAEL: Yeah, or lost --

17 VICE CHAIRPERSON HARRIS: They're likely to lose,  
18 really.

19 COMMISSIONER ISRAEL: If they manage their  
20 business right, you're absolutely right.

21 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

22 COMMISSIONER ISRAEL: I said, if they're managing  
23 their business right, sure, because their economies of scale  
24 would be phenomenal.

25 COMMISSION CHAIRPERSON SHAPIRO: Correct, yeah,

1 right. But it's going to cost them more --

2 VICE CHAIRPERSON HARRIS: Well, my perception as  
3 that --

4 COMMISSIONER ISRAEL: It's a computer.

5 VICE CHAIRPERSON HARRIS: But I was under the  
6 impression, anyway, that in '08 the growth in ADW has been  
7 somewhat disappointing compared to -- you know, we had this  
8 great up curve, but I thought like at Del Mar, and even Oak  
9 Tree, now, that we're not seeing the growth over prior year  
10 that we had had.

11 MR. COUTO: Sure. Remember, Oak Tree, Del Mar,  
12 Fairplex were all exclusive signals. When we had the  
13 nonexclusive signals, as we've been pushing for a long time,  
14 you still saw a growth.

15 VICE CHAIRPERSON HARRIS: Yeah, so Hollywood did  
16 have growth.

17 COMMISSION CHAIRPERSON SHAPIRO: Yeah, they had.

18 MR. COUTO: Yeah. Hollywood Fall --

19 COMMISSIONER ISRAEL: But John, you've got to look  
20 at it as in -- one of the things we have to analyze here is  
21 in relation to overall betting the growth is phenomenal,  
22 because overall betting's become depressed and it's actually  
23 declined. So there's an inverse relationship. So it's a  
24 phenomenal growth spurt, if you take that into  
25 consideration.

1 MR. COUTO: I think I have three more slides.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay.

3 MR. COUTO: And I'll try and get through them,  
4 I've bored you to death.

5 But we tried to quantify that last slide and show  
6 you the same thing. You're looking at 2002, the first year,  
7 2007 the last, what the handle's changed, it's tripled in  
8 five years.

9 What the handle, percentage of handle was retained  
10 by the ADW companies went from 5.6 to 5.41. It shows you  
11 the relative proportion of takeout that reflects, and it  
12 shows you ADW revenues in that period. They went from eight  
13 and a half million the first year, to almost 26 million in  
14 2007.

15 And so there's been a substantial amount of growth  
16 in revenue for the ADW companies, themselves.

17 COMMISSIONER CHOPER: Do you know how the 6.5  
18 statutory maximum came, where did they pick that number  
19 from?

20 MR. COUTO: You know, I would again defer -- I'd  
21 probably ask Craig Fravel. I was not here when that  
22 legislation was written. And I know Craig is very familiar  
23 with how that was done and why it was done.

24 MR. FRAVEL: Do you really want to know the answer  
25 to that question?

1           Actually, no, when we wrote the ADW law, we knew  
2 we had -- you have to look back and realize that there were  
3 a lot fewer players on the scene, than there are now. In  
4 fact, when we wrote the first draft of it, Magna didn't own  
5 Santa Anita, and so we were dealing with kind of a  
6 relatively blank slate.

7           But we did envision that it was possible that a  
8 number of different tracks would enter into agreements with  
9 different ADW companies. And some of us, at the time, had  
10 these original founders agreements with TVG, which were  
11 created about ten years ago.

12           And what we didn't want to do is have a situation  
13 where an ADW company came into California, applied for a  
14 license, and was then required to go dark, essentially.

15           Let's say XpressBet, which had a deal with Santa  
16 Anita. We didn't want them to have to go dark vis-a-vis  
17 their customer base, because we just didn't think that made  
18 any sense, when Del Mar opened, because Del Mar had this  
19 exclusive arrangement with TVG.

20           So we wanted everybody to be able to continue  
21 operating year-round, importing signals, but we wanted to  
22 protect the source market fee.

23           And so we set -- I can't remember exactly why we  
24 set a hub fee cap and a host fee cap, instead of just a  
25 blended cap, which probably might have been the smarter

1 thing to do.

2 But at the time, I think it was based somewhat on  
3 the existing economic models that people had contracts for  
4 and it fit within those. But at the same time, it protected  
5 the basic economics of the existing simulcast market within  
6 the State, so that a bet was worth, basically, the same  
7 thing via ADW, that it was at a satellite facility, so we  
8 weren't differentiating amongst those.

9 And so the idea was to keep everybody in business,  
10 but allow people to do independent contracts at the time.

11 And we revisited it again, when we got the  
12 legislation extended this past year, and we decided, I think  
13 collectively, everybody was comfortable with the way that  
14 particular law was working and so we left it that way.

15 COMMISSIONER CHOPER: In other racing states,  
16 Florida, New York, Kentucky, have similar statutes?

17 MR. FRAVEL: As far as I know, the only state that  
18 has one very close to ours is Virginia, and that kind of  
19 goes back to the core of this problem, is this mish mash of  
20 what other states have allowed specifically, or by statute,  
21 and then other states have just stood by the wayside and  
22 watched it go on.

23 And so at the end of the day, California is  
24 clearly the most concise market, if you will. And the  
25 result of which it's had -- it's been really the only state

1 that, from the very beginning said, you know what, come in,  
2 everybody's welcome. Come get your licenses, start taking  
3 bets. And that's why we're 40 percent of the market, as  
4 Drew pointed out.

5           And which creates a lot of the imbalances and  
6 inequities that have resulted in this pricing model being so  
7 skewed because not every -- you're not always negotiating  
8 against somebody else on the other side. You've got a lot  
9 of states where companies are just going in and paying us  
10 six percent and then keeping the rest, as Drew pointed out,  
11 because there is no law.

12           And there's nobody on that side of the equation to  
13 say, as a host track, no, you can't do that. And so the  
14 marketplace is -- really, California, Virginia, and Kentucky  
15 are the only ones that have -- and Oregon, I guess, have  
16 pretty good semblance of order in them right now.

17           COMMISSIONER ISRAEL: What's Oregon's relationship  
18 with all this?

19           MR. COUTO: Oregon is kind of like the Delaware of  
20 advance deposit wagering. They were the first to really  
21 adopt comprehensive regulations and a very low tax rate, so  
22 all the ADW companies located their hubs there.

23           Which doesn't mean a whole heck of a lot, to be  
24 honest with you, it's really putting a computer terminal and  
25 a few employees there, it doesn't mean that that's --

1           COMMISSION CHAIRPERSON SHAPIRO: Well, it has  
2 meant a lot to labor.

3           MR. FRAVEL: Yeah, I didn't mean to say -- what I  
4 meant is the logistics of it don't mean a lot, it's not a  
5 hard thing to locate your hub somewhere.

6           COMMISSION CHAIRPERSON SHAPIRO: Right.

7           COMMISSIONER ISRAEL: I understand. Was Oregon  
8 selected so that -- it seems to me that if they took the  
9 wager on a California race, from a California customer  
10 within the State of California, they would be obligated to  
11 charge a sales tax.

12          MR. FRAVEL: No, the law sets out all the various  
13 distributions and deductions. And, in fact, there are no  
14 state taxes in California on ADW wagers.

15          COMMISSIONER ISRAEL: Oh, okay.

16          MR. FRAVEL: It was really, at the time, purely a  
17 fact that Oregon was out in front of everybody else in terms  
18 of setting up the regulatory structure.

19          COMMISSION CHAIRPERSON SHAPIRO: They created the  
20 industry kind of for themselves, as he said, Delaware.

21          MR. FRAVEL: And an ADW company, if -- and Oregon  
22 also eliminated, about three or four years ago, their 25  
23 basis point license fee on California wagers. So other than  
24 the labor issues, and those that are attendant to that, it's  
25 not a significant issue where the hub's located.

1           COMMISSIONER ISRAEL:  Somebody's charging a  
2 license fee on California wagers?

3           MR. FRAVEL:  No, not anymore.  That was one of the  
4 things that they were doing that all of us got perturbed by.

5           COMMISSION CHAIRPERSON SHAPIRO:  Okay.  Drew, you  
6 want to finish up, I think you're looking at --

7           MR. COUTO:  Yeah, let me try and wrap up.  This  
8 next slide was just incorporating the percentage of takeout  
9 that we referred to a moment ago.

10           The last couple of slides, just to show you,  
11 again, this one, the blue reflects revenues for the ADW  
12 companies on wagers, ADW wagers in California on each of the  
13 years, from 2002 to 2007.

14           The pink or purple color shows you purse revenues  
15 in that same time, side by side, to what the ADW companies  
16 received overall for the wagers, in California.

17           And you can see that the purses received less than  
18 the ADW companies did.

19           And my last two slides are just there's a lot of  
20 confusion about what THG and TOC are trying to do.  And,  
21 really, the key thing is our objective has been to develop a  
22 new framework or model for ADW, and to work with our track  
23 partners and ADWs in developing this model.

24           And to varying degrees we've had cooperation, and  
25 some less cooperative approaches to it.

1           But I will compliment, in particular, the good  
2 folks at MEC. Youbet has been working with THG and TOC, and  
3 so they deserve to be recognized and credited on making a  
4 good faith effort to get this done.

5           And overall, what we're trying to do, is  
6 eventually increase the revenue retained by the industry,  
7 from 47 percent up to two-thirds or better, depending on  
8 what volume we're at.

9           As I said before, it's modeled off of ASCAP. THG  
10 acts as an agent for TOC and member organizations. It  
11 guarantees the TOC, and any other participating horsemen's  
12 organization, will grant consent to all of the subscribing  
13 ADW companies.

14           And it had two objectives. One, to get rid of  
15 exclusivity and, two, to get a fair distribution of revenue  
16 for the industry.

17           And so if an ADW company signs an MOU, or  
18 memorandum of understanding -- actually, it's not an MOU.  
19 It's a licensing agreement with THG.

20           All 22 horsemen's organizations that now belong to  
21 THG will grant their consent to the ADW company to  
22 facilitate wagers.

23           Of course, they have to still get consent from the  
24 racetrack.

25           But as far as horsemen go, we would be granting to

1 those companies, based on certain economic terms, for a  
2 minimum period of two years, and take away some of the  
3 uncertainty that they've had about what content they will  
4 have, whose consent they will have, whose consent they won't  
5 have. Gives them at least two years of assurity that  
6 they're going to have it on these economic terms as far as  
7 horsemen are concerned.

8 And that horsemen, in response, will not permit a  
9 racetrack to select one ADW company over another for selfish  
10 reasons, whether it's their own or otherwise.

11 Our consent is conditioned on whoever subscribes  
12 to the agreement will get this content. We will make sure  
13 that they get it or no one gets it.

14 And lastly, what THG -- the THG model is, it is a  
15 pro-competitive model. It ensures non-exclusivity. It  
16 assures open competition among all qualified ADW providers.  
17 Which is good for the industry, including the fans.

18 And, hopefully, yeah, that's it. Sorry, it took  
19 way, way too long but --

20 COMMISSIONER ISRAEL: Before you sit down, I want  
21 to ask one question. Can you, in one or two sentences, tell  
22 us what you would like the CHRB to do, as a body?

23 MR. COUTO: On this issue or any one I wish?

24 COMMISSIONER ISRAEL: No. Nice try, though.

25 MR. COUTO: Sure. I'm not sure this is the -- in

1 terms of rates and business terms, I'm not sure -- well, I'm  
2 confident it's not the role of CHRB to be involved in that.

3 But, you know, first of all, to answer that  
4 question I have to begin with a compliment. The reason we  
5 are 48 percent of the ADW market is because this Board has  
6 taken the time, your predecessors and many of you here, have  
7 taken the time over the last six years to learn this very  
8 complicated aspect of the business, and to encourage us to  
9 work out differences, sometimes some may call with a heavy  
10 hand, sometimes not.

11 But I'll give you an example. You know, just  
12 again, Mr. Shapiro worked the other day with us, in  
13 discussions with one of the ADW companies, to try and  
14 understand the model and to see where common ground was.

15 That's what I think the CHRB does well in this.  
16 Because your colleagues around the country don't understand  
17 one-tenth of what you do as a Board. And so that's sort of  
18 a chicken-hearted answer to your question, but I don't have  
19 a concrete --

20 COMMISSIONER ISRAEL: It was a non-answer.

21 MR. COUTO: Okay. I was hoping you wouldn't say  
22 that, but it probably is.

23 I don't know what you can do, other than to help  
24 the parties, horsemen, racetracks, and licensed ADW  
25 providers.

1           COMMISSIONER ISRAEL: Well, we have a proposal  
2 before us that we have to consider. What do you want us to  
3 do with it?

4           COMMISSION CHAIRPERSON SHAPIRO: Well, Mr. Israel.

5           COMMISSIONER ISRAEL: Well, let him answer the  
6 question, Richard.

7           COMMISSION CHAIRPERSON SHAPIRO: Well, but wait a  
8 minute. I want him to answer that question, but I think  
9 that that's transitioning into a different part of this  
10 agenda item, and I think it may be better for him to answer  
11 it after we start talking about what we do on a -- if your  
12 question is what does he believe we should do on the  
13 nonexclusive aspect of licensing them then, okay.

14           COMMISSIONER ISRAEL: Which, in my thinking,  
15 that's what this whole thing --

16           COMMISSION CHAIRPERSON SHAPIRO: Well, not really,  
17 but with due respect.

18           First of all, I think it's terrific that we have  
19 this presentation. I think it sheds light on a better  
20 understanding of what the complexities and difficulties are  
21 with respect to ADW wagering. And now, I think we all have  
22 a better appreciation of trying to understand this  
23 complicated web.

24           That transitions to what this agenda item is  
25 about, which is the Board has been taking the view that we

1 are better served to make sure that all signals are  
2 nonexclusive.

3 And as we approach, now, the period to license  
4 them, the question is how can we do that in a manner that is  
5 fair and equitable to all parties.

6 And how -- what rule -- it is clear, based on  
7 counsel's advise, that we need to go through a regulatory  
8 process to do that.

9 So before us we have a draft rule. I don't think  
10 that rule is probably crafted well enough, and we have to  
11 look beyond who else may need to -- what other rules do we  
12 need to do.

13 And so then we'd get to your question, I think,  
14 which is are you in favor of nonexclusive and, if so, what  
15 would you want this Board to do.

16 COMMISSIONER ISRAEL: Yeah, I mean, do you --

17 COMMISSION CHAIRPERSON SHAPIRO: I just wanted to  
18 get the background.

19 COMMISSIONER ISRAEL: Do you want us to mandate,  
20 through the granting of licenses, which I think is our only  
21 authority, if counsel can correct me, that every one of  
22 these licensees agree to nonexclusivity?

23 MR. COUTO: Right. My sense is that we came to a  
24 collective understanding last year, and when I say we, I'm  
25 talking about ADW providers, racetracks, and horsemen in the

1 process of crafting the language that we did for the renewal  
2 of ADW.

3 We came to an understanding, as uneasy as it was,  
4 and as inconsistent with what our overall objective was,  
5 that we left open the door to a business deal that might  
6 exist, where exclusivity was much better for the industry  
7 than nonexclusivity.

8 TOC, as an organization, has never seen a deal  
9 like that. It doesn't mean it couldn't exist. So we left  
10 open the door.

11 But we have made it clear to our track partners,  
12 and I believe our track partners, now, are very convinced  
13 that all of us benefit.

14 And by that I mean not only horsemen and  
15 racetracks, but the fans, we all benefit from a nonexclusive  
16 market, but we left the possibility there that through  
17 change in economic circumstances, or change in control  
18 groups, or whatever of these companies, may present a set of  
19 circumstances where we want exclusivity for some unknown  
20 reason.

21 COMMISSIONER ISRAEL: So in other words, if XYZ  
22 bet is suddenly created by Warren Buffet and Bill Gates, the  
23 only two people left in America who have money, and they say  
24 we're going to give you 92 percent of the handle, of the  
25 takeout, you want the latitude to make that deal.

1           MR. COUTO: I think all of us do. Those of us who  
2     crafted the agreement, I think we all wanted to leave open  
3     that possibility in case it did occur.

4           COMMISSIONER ISRAEL: I don't know how we can, you  
5     know --

6           VICE CHAIRPERSON HARRIS: Well, I think a rule  
7     would be based on it could be overridden if all parties  
8     agreed to override it. It wasn't absolute. If the horsemen  
9     and the tracks say no, we want to do an exclusive deal  
10    because this is a great deal, they could do it. But absent  
11    that, then --

12          COMMISSIONER ISRAEL: Well, I guess the larger  
13    question is what --

14          COMMISSIONER CHOPER: Ordinarily.

15          VICE CHAIRPERSON HARRIS: Well, no --

16          COMMISSIONER CHOPER: Instead of saying shall not,  
17    shall say ordinarily happen.

18          VICE CHAIRPERSON HARRIS: Well, but the ordinarily  
19    should be contingent upon approval of all parties.

20          COMMISSION CHAIRPERSON SHAPIRO: So let me go back  
21    here, first, for a second.

22                 First of all, I believe the proposed rule in front  
23    of us doesn't close the whole gap, because what it's dealing  
24    with is it's putting a burden on the ADW companies. I think  
25    that the burden also has to be on the racing associations.

1           Because we need to, as part of going through this  
2 process, I think we would have to require both the ADW  
3 companies, and the licensees that we license the racing  
4 associations, to enter into nonexclusive ADW agreements, and  
5 then we could put in a caveat, unless all parties subject to  
6 the agreement, which would include the track and the  
7 horsemen, and the ADW company agree otherwise.

8           Again, I personally favor nonexclusive agreements.  
9 But if using Mr. Israel's suggestion is that Warren Buffet  
10 comes in and he says, oh, I'm going to make you some deal  
11 you can't refuse. Hey, I'm all for not taking that deal,  
12 when it may be in the economic best interest of the  
13 industry, and I would hate to see that we just preclude it,  
14 totally.

15           COMMISSIONER ISRAEL: The only part of that, you  
16 left out one important player in the deal, which is the  
17 taxpayer, the State of California.

18           COMMISSION CHAIRPERSON SHAPIRO: Keep in  
19 mind --

20           COMMISSIONER ISRAEL: Whose interest we're  
21 supposed to represent.

22           COMMISSION CHAIRPERSON SHAPIRO: Well, we do. But  
23 indirectly. ADW wagering does not pay any taxes.

24           COMMISSIONER ISRAEL: Well, it does. It does to  
25 the extent that it pays money to the purses, and to the

1 track, and ultimately that money trickles down and is paid,  
2 some portion of it is paid in taxes.

3 So our goal is to make sure that the gross amount  
4 paid is increased. And whether that's accomplished through  
5 an exclusive --

6 COMMISSION CHAIRPERSON SHAPIRO: The gross amount  
7 paid to whom?

8 COMMISSIONER ISRAEL: The gross amount paid in  
9 purse -- in takeout is increased. I mean, it's a very  
10 difficult calculation to anticipate in advance --

11 VICE CHAIRPERSON HARRIS: But one thing is --

12 COMMISSIONER ISRAEL: -- but our responsibility is  
13 to make sure that the takeout grows somehow or another.

14 VICE CHAIRPERSON HARRIS: Well, I wouldn't phrase  
15 it that way. I think what we want is a healthy economy in  
16 the horse business. Now, that might be healthier if the  
17 takeout goes down. It's hard to say what the right amount  
18 of takeout is.

19 COMMISSIONER ISRAEL: Okay, let me say the handle  
20 grows.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, what  
22 we -- handle, yeah. The takeout, no.

23 COMMISSIONER ISRAEL: So, you know, I'm not sure  
24 that handle's ever going to grow if you limit the provider,  
25 the ADW providers to one. No matter how -- you know, I

1 think somehow you're reducing the amount of the --

2 COMMISSION CHAIRPERSON SHAPIRO: Philosophically,  
3 I totally agree.

4 COMMISSIONER ISRAEL: Well, I think there's some  
5 tangible evidence now, because of the experiment, that when  
6 you reduce the number of ADW providers, the handle is  
7 decreased.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, we could  
9 again -- I happen to agree with you that I think we're  
10 better off in getting everybody to get our signal, to open  
11 it up, allow wagering on it in all thoroughbred races.

12 However, in case Warren Buffet comes along and  
13 makes some deal, I simply want the Board -- it can come to  
14 the Board and get some exemption to take advantage of that.

15 Otherwise, I totally agree with you. And I agree  
16 with you it would trickle down. So to the extent we get  
17 more wagering on California racing, it trickles down to be  
18 to the benefit of the State, and everybody else, because it  
19 stimulates more business in this industry.

20 VICE CHAIRPERSON HARRIS: Yeah, I agree. I like  
21 the proposal. But I think we must keep in mind, too, that  
22 we've got a pretty extensive letter from TVG's counsel  
23 challenging the legality of it. And I don't think we want  
24 to do anything and it gets tied up in court forever, until  
25 we really look at all the different legal aspects of it.

1           COMMISSION CHAIRPERSON SHAPIRO: Well, just so you  
2 know, I had a conversation with Mr. Nathanson yesterday, day  
3 before yesterday, and Mr. Hindman, who I see is about to sit  
4 down, he -- we communicated, also, yesterday, and I believe  
5 in those conversations -- and John, please correct me if I'm  
6 wrong in anything that I'm saying here. I believe that TVG  
7 believes that going on a nonexclusive basis may in fact be  
8 the way to go, they were simply taking exception with the  
9 way we are currently doing it may not be achieving the goals  
10 that we want.

11           And I have asked them to please help us craft a  
12 way with which to achieve our goals, which would take into  
13 account some of the comments that were made by Ron somebody  
14 or another, from Manatt, and any other issues that TVG and  
15 other ADW providers have.

16           Go ahead, please.

17           MR. HINDMAN: Thank you, Chairman Shapiro. John  
18 Hindman, from TVG.

19           That's correct, we did -- Ron Turovsky, from  
20 Manatt, sent the Board a letter laying out our concerns  
21 about the proposed rule. Number one of which is that if  
22 that is the consensus of what the Board and the stakeholders  
23 want to do, that we didn't think that this rule was going to  
24 accomplish that goal for a variety of reasons, and would  
25 especially leave independent companies, that aren't

1 vertically integrated, out in the cold. Meaning that other  
2 companies could fashion exclusive or quasi-exclusive  
3 arrangements, and some licensees that are independent would  
4 not.

5           And then, subsequently to that, Chairman Shapiro  
6 did invite us to say, well, if you're not opposed to the  
7 idea in general, and you would look at -- you know, why  
8 don't you help us look at ways to do this that you think, A,  
9 would be lawful and, B, what the stakeholders, if that's  
10 what the stakeholders are intending to do, and I'm not  
11 speaking on behalf of all stakeholders, certainly, would  
12 accomplish the goal.

13           And we said, yes, we would be willing to  
14 participate in that. I think it's also a very complicated  
15 process.

16           And the other thing, I think, and I'm speaking in  
17 behalf of TVG, it would also be helpful, and I know that the  
18 licensing phase is coming up, too, but for the Board, before  
19 it acts, to hear, I think, from an ADW provider perspective,  
20 maybe all the ADW providers' perspective of the reality of  
21 the business, along the lines from what you heard from the  
22 TOC today. I think it would also help inform the  
23 discussion. But that is what we have --

24           VICE CHAIRPERSON HARRIS: I did like the Manatt  
25 letter on the concept, as far as I could sort it out, of the

1 exclusive should be on the part of the seller, rather than  
2 the buyer. In fact, we should say that a track could not  
3 exclusively sell to one provider. Where the proposed rule  
4 is the buyer couldn't buy.

5 It's sort of a chicken or egg thing, and maybe you  
6 get to the same part. But from just my amateur analysis, I  
7 did like that point.

8 COMMISSION CHAIRPERSON SHAPIRO: Can I ask the  
9 Board something here, I'd like --

10 COMMISSIONER ISRAEL: I never saw the Manatt  
11 letter, so I don't know what it says.

12 VICE CHAIRPERSON HARRIS: Oh, you didn't get it.  
13 They should have sent it to you.

14 COMMISSIONER ISRAEL: Yeah, they didn't.

15 COMMISSION CHAIRPERSON SHAPIRO: Just so you know,  
16 you're copied on it.

17 COMMISSIONER ISRAEL: They must have sent it to  
18 Sacramento.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay. Can I get  
20 a flavor from the Board, because I think the need we think  
21 to figure out is are we all generally in favor of wanting to  
22 see nonexclusive ADW wagering on thoroughbred racing?

23 And I make the distinction on thoroughbred racing  
24 because I believe that the night industry may have some  
25 unique issues of its own, where there may be an exception

1 there.

2           So I'd like to just start with thoroughbred  
3 racing, and does the Board in fact favor this idea?

4           And, if so, perhaps what we should do is create  
5 either a committee to work with the ADW providers, the  
6 tracks, and the horsemen to come up and craft what the right  
7 way to do it is, so that we can achieve that goal, if that's  
8 the goal of the Board.

9           So if we can just take an informal poll.  
10 Personally, I favor that, and I would like to see the Board  
11 go in that view.

12           And so starting with David, why don't we just go  
13 around and see if you believe that's worth pursuing?

14           COMMISSIONER ISRAEL: Well, I'd like for us to do  
15 what's going to generate the most handle, if that's going to  
16 generate the most handle.

17           But I'd also like to hear from the ADW -- I mean,  
18 do you have a trade association? Is there some way that you  
19 could get yourselves organized, so one person can make a  
20 presentation?

21           Huh? I mean, you suggested one presentation,  
22 what -- John?

23           MR. HINDMAN: I think everybody should be able to.

24           COMMISSION CHAIRPERSON SHAPIRO: Okay.

25           COMMISSIONER ISRAEL: I mean, because you made a

1 suggestion that you wanted to make a presentation.

2 MR. HINDMAN: Well, I think it would be useful for  
3 the Board.

4 COMMISSIONER ISRAEL: Yeah.

5 MR. HINDMAN: Certainly, when Drew was talking  
6 about the complexities of the market, today, he was bringing  
7 up how many different business models that there are, and so  
8 it's different than most other aspects of the industry, in  
9 that there's four licensees and every one of them is  
10 fundamentally different.

11 And so it may be useful to have, you know, brief  
12 presentations, or allow everybody to speak for themselves.  
13 So I can't say, you know, really beyond that. But I would  
14 say that we're all fundamentally different.

15 COMMISSION CHAIRPERSON SHAPIRO: But I do agree  
16 that I have absolutely no problem with you, or Track Net, or  
17 Twinspires, or XpressBet, or Youbet being able to come back  
18 and make a presentation similar to what we did here today.

19 I have no problems, I'd welcome it.

20 COMMISSIONER ISRAEL: I think it would be -- in  
21 order for us to understand the complexities of your  
22 business, we need to understand, you know, what your  
23 expenses are, what your marketing costs are. You know, I  
24 mean, I think we have a fairly good understanding of what it  
25 costs to operate a racetrack, you know, in terms of

1 percentages of money. It's like too much these days, I  
2 guess.

3 So, you know, we need to understand your business,  
4 if you want to make that kind of presentation.

5 MR. HINDMAN: We'd be happy to. And I can't speak  
6 for the others, but I think it would be helpful.

7 And also just to kind of layout, you know, and  
8 certainly from our perspective, our business model both  
9 inside and outside of California is a little different.

10 And so I think that a lot of the goals that are  
11 being espoused, in terms of return to the industry, you  
12 know, can be met in different ways, by different companies,  
13 and so the Board ought to learn what that is.

14 COMMISSIONER ISRAEL: And I think you'd have to,  
15 by the way, bifurcate your two businesses. I mean, your  
16 television business is different from your ADW business and,  
17 you know --

18 MR. HINDMAN: Well, I can tell you that the only  
19 reason the television exists is because of the ADW business.  
20 So it wouldn't exist to watch horses run around in circles,  
21 unfortunately.

22 COMMISSIONER ISRAEL: No, it is a marketing tool  
23 but --

24 MR. HINDMAN: Yeah.

25 COMMISSIONER ISRAEL: -- so, you know, I

1 understand that.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. So I  
3 appreciate that and we will invite them back to make  
4 whatever presentations they want. But this process is going  
5 to take a while.

6 So I believe, and we're not going to take final  
7 action until we get there.

8 COMMISSIONER ISRAEL: Right.

9 COMMISSION CHAIRPERSON SHAPIRO: That if what we  
10 want to do is explore the idea of nonexclusive wagering,  
11 then we need to put a group together to help us figure out  
12 how to get there.

13 COMMISSIONER ISRAEL: Yes, I want to explore that.  
14 If you're asking me do I want to explore that concept, yes.

15 COMMISSION CHAIRPERSON SHAPIRO: Yes.

16 COMMISSIONER ANDREINI: I do, as well. As long as  
17 it doesn't apply to --

18 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, I'd  
19 like to start with the thoroughbred -- the thoroughbred  
20 industry, first, because there are some uniquenesses, I  
21 think, to the night industry, and I'd to at least not over-  
22 complicated it and we can get there.

23 I see Mr. Blonien standing back there, ready to  
24 pounce.

25 COMMISSIONER MOSS: If you're going to use the

1 ASCAP, you know, reference with a nationally organized  
2 group, which is supported by Congressional legislation, with  
3 a big, well-financed person, that perhaps might even make  
4 guarantees to the racetrack then, in that case, exclusivity  
5 is fine, you know, because it would present the greatest  
6 reward, I think, to the stakeholders.

7 But barring that, I would certainly want to be  
8 more open to nonexclusive arrangements.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, so I'll  
10 take that as a yes, with perhaps a -- carve out a situation  
11 where Mr. Moneybags comes along and says I just want to make  
12 you all wealthy.

13 COMMISSIONER MOSS: Yeah.

14 COMMISSION CHAIRPERSON SHAPIRO: Mr. Harris?

15 VICE CHAIRPERSON HARRIS: Well, I think ADW is the  
16 big hope for racing, that's the life at the end of the  
17 tunnel. So any way we can grow ADW net revenues back to all  
18 the parties, we want to try to do it. And I learn towards a  
19 nonexclusive model because, just intrinsically, it seems  
20 like it would be better.

21 But I think we do need some carve outs, if there's  
22 some overwhelming reason to go exclusive, which perhaps in  
23 the night industry. I think if we do a rule, it should be  
24 for both day, and night, and everything. It's just that  
25 they can take advantage of a carve out, if that carve out

1 gets the concurrence of both the horsemen, and the track,  
2 and the whole bit.

3 COMMISSION CHAIRPERSON SHAPIRO: Great. And that  
4 might be the way to do it.

5 VICE CHAIRPERSON HARRIS: Yeah.

6 COMMISSIONER CHOPER: Yeah, I certainly lean  
7 toward exclusivity.

8 COMMISSION CHAIRPERSON SHAPIRO: Exclusivity?

9 COMMISSIONER CHOPER: Or nonexclusivity, I'm  
10 sorry. Just a little difference.

11 COMMISSION CHAIRPERSON SHAPIRO: Yeah, just the  
12 opposite.

13 COMMISSIONER CHOPER: But you know what, I do  
14 think this, the specific carve outs, and I guess my sense  
15 is, and maybe this is just me, is somewhat uncharted  
16 waters that we're entering into here, there are lots of  
17 things that might occur, legislation, state level, federal  
18 level, someone with a whole new game plan in the ADW thing.

19 So I agree, and that's why I used the word  
20 "ordinarily."

21 And so my own preference would be that at this  
22 stage of the game, and this is for later, but you're asking  
23 what do we think, I mean, we're not proposing anything  
24 specific.

25 COMMISSION CHAIRPERSON SHAPIRO: No, there's no

1 action.

2 COMMISSIONER CHOPER: But to leave it open, leave  
3 it someone flexible, and be able to deal -- I mean,  
4 ordinarily, I would think the tracks, and the horsemen, and  
5 everybody else agrees, and the ADWs agree, yeah, I think  
6 there's an awful lot going for that to say we shouldn't stop  
7 it, on the one hand.

8 On the other hand, we may come to the conclusion  
9 that there is some other constituency that is being  
10 disadvantaged by it. You just don't know enough.

11 COMMISSION CHAIRPERSON SHAPIRO: Keep in mind,  
12 we're talking about a proposed rule.

13 COMMISSIONER CHOPER: Yes.

14 COMMISSION CHAIRPERSON SHAPIRO: And this Board  
15 has the ability to change and suspend rules.

16 COMMISSIONER CHOPER: It does.

17 COMMISSION CHAIRPERSON SHAPIRO: So we're not  
18 talking about a law, and I certainly would not favor a law  
19 that did this. And I hear what you're saying, I just think  
20 that we -- at this time, with what we know, it would appear  
21 based on what we've seen earlier this year that, gee, by  
22 having more companies carry our product, more wagering was  
23 created, that's a good thing.

24 COMMISSIONER CHOPER: I'm sorry, I didn't mean to  
25 say anything that disagreed with what you just said.

1 COMMISSION CHAIRPERSON SHAPIRO: Oh, okay.

2 COMMISSIONER CHOPER: All I'm saying is I think  
3 there is --

4 COMMISSION CHAIRPERSON SHAPIRO: I like it,  
5 though.

6 COMMISSIONER CHOPER: No. I mean, there is  
7 something to be said for not jumping in with both feet  
8 unqualifiably, and saying under no circumstances -- well,  
9 you can always suspend the rule, I guess.

10 COMMISSION CHAIRPERSON SHAPIRO: Right.

11 COMMISSIONER CHOPER: But leave it open. I think  
12 there ought to be a strong presumption, that's another way  
13 of putting it, that nonexclusivity ought to be required.

14 And I agree with the letter from Manatt Phelps,  
15 and with what you said, that it ought to include the  
16 associations. I don't know, maybe it will be both --

17 VICE CHAIRPERSON HARRIS: I think we need to look  
18 at which model works best. Is it the seller, or the buyer,  
19 or both, or what?

20 COMMISSION CHAIRPERSON SHAPIRO: I agree. And  
21 that's why, I mean, I appreciated the conversation I had  
22 with the good folks at TVG, and asking them to help have  
23 their high-powered legal peoples help us.

24 COMMISSIONER CHOPER: So I would say one other  
25 thing. My understanding is that we've gotten a legal

1 opinion from the Attorney General's office that the  
2 Interstate Wagering Act does not foreclose our conditioning  
3 the license on some form of nonexclusivity.

4 STAFF COUNSEL MILLER: That's correct.

5 COMMISSIONER CHOPER: Contrary to what the Manatt  
6 Phelps letter said.

7 I mean, we both say it pretty summarily, I should  
8 say, they just said, well, it doesn't work. And we say,  
9 well, it simply requires that an ADW agreement contain  
10 language addressing -- language addressing any exclusivity.

11 Anyway, I take it we're bound, this Board is bound  
12 by the Attorney General's judgment of what's lawful and  
13 what's not lawful.

14 STAFF COUNSEL MILLER: Yes.

15 COMMISSIONER CHOPER: We're not here to hear  
16 argument and resolve the conflict between the Attorney  
17 General's office and --

18 VICE CHAIRPERSON HARRIS: We don't have an AG's  
19 opinion on their letter, though.

20 STAFF COUNSEL MILLER: No, we do not.

21 COMMISSIONER CHOPER: Then where does the  
22 statement here, "that the Board has subsequently been  
23 advised that the references to exclusivity simply require  
24 that it contain language?"

25 STAFF COUNSEL MILLER: That was from the gaming --

1 indian and gaming section of the Attorney General's office.

2 COMMISSIONER CHOPER: Yes.

3 STAFF COUNSEL MILLER: However, it excluded -- or  
4 not excluded. But it recognized the import of the  
5 Interstate Horse Racing Act.

6 COMMISSIONER CHOPER: Yes.

7 STAFF COUNSEL MILLER: So as to interstate  
8 offtrack wagers -- interstate offtrack wagers, the  
9 Interstate Horse Racing Act applies.

10 COMMISSIONER CHOPER: Yes. No, I understand that.

11 COMMISSION CHAIRPERSON SHAPIRO: To answer your  
12 question --

13 COMMISSIONER CHOPER: The language is the same  
14 language.

15 COMMISSION CHAIRPERSON SHAPIRO: I believe DAG  
16 Knight did render to the Board some advise and input on this  
17 previously, as I recall, and we may want to ask him --

18 COMMISSIONER CHOPER: That's before my time.

19 COMMISSION CHAIRPERSON SHAPIRO: Yeah. That when  
20 the new law was enacted, when this bill, when the  
21 legislation was enacted that continued ADW, I believe he  
22 sent the Board some communications and has opined,  
23 previously, with respect to our ability to do this. And I  
24 think that maybe, Commissioner Choper, you'd like to see  
25 that communication as --

1           COMMISSIONER CHOPER: Yeah, I just think that, you  
2 know, it may well be that they're wrong, that some federal  
3 court --

4           COMMISSION CHAIRPERSON SHAPIRO: The Manatt firm,  
5 yes.

6           COMMISSIONER CHOPER: Or the AG.

7           COMMISSION CHAIRPERSON SHAPIRO: Well, perhaps we  
8 can get that for you.

9           COMMISSIONER CHOPER: But I know, someone said  
10 we're worried about litigation and stuff, but I don't think  
11 we can do anything about that.

12          VICE CHAIRPERSON HARRIS: Well, I think we just  
13 need to make sure everyone understands all the aspects of  
14 it.

15          COMMISSIONER CHOPER: So long as I think we're  
16 bound -- I'm asking this. I think so, but maybe I'm wrong.  
17 That we're bound -- that this Board is bound, in respect to  
18 what it legally can do, by the opinions of the Attorney  
19 General's office?

20          STAFF COUNSEL MILLER: I believe so, yes.

21          COMMISSIONER CHOPER: Yeah. So no?

22          COMMISSION CHAIRPERSON SHAPIRO: No. This Board,  
23 in the past, has received opinions from the AG's office, and  
24 has ruled contrary to those opinions on a few situations.

25          We receive advice from the AG's office, but we're

1 not bound to follow that advice. But the Board generally  
2 does.

3 VICE CHAIRPERSON HARRIS: Well, too, I think we've  
4 got to keep in mind that those opinions are an opinion by  
5 one Deputy Attorney General. It's not -- I mean, I don't  
6 know how much they've been review and they're --

7 STAFF COUNSEL MILLER: Lots of times.

8 VICE CHAIRPERSON HARRIS: Oh, they're all reviewed  
9 a lot?

10 STAFF COUNSEL MILLER: Yes. The Attorney General  
11 speaks for the Attorney General's office and, therefore, for  
12 the State of California, that's the way the system works.

13 VICE CHAIRPERSON HARRIS: Yeah.

14 COMMISSIONER CHOPER: See, what Manatt is asking  
15 is to do this thing, look, you should figure out -- you  
16 should figure out that this is illegal.

17 And, you know, I often do figuring out as to what  
18 I think is illegal or not. But I don't think it's my job  
19 here or --

20 COMMISSION CHAIRPERSON SHAPIRO: No, it's not our  
21 job to do that.

22 VICE CHAIRPERSON HARRIS: I mean, I don't know if  
23 the DAG, or Attorney General, or somebody could look at  
24 Manatt's letter and say, no, this is wrong, we're right.  
25 Or, gee, I didn't think of that aspect so maybe --

1           COMMISSIONER CHOPER: Yes, I think we should have  
2 that.

3           STAFF COUNSEL MILLER: The letter, the Manatt  
4 letter will be forwarded the gaming section of the Attorney  
5 General's office and we'll ask for their input as to the  
6 statements and opinions made in there.

7           COMMISSIONER CHOPER: Okay.

8           COMMISSIONER ISRAEL: As it relates to this  
9 question, can I just say, our role is to -- is to do what's  
10 right within the law, and if somebody chooses to sue, they  
11 can sue over anything.

12          COMMISSIONER CHOPER: I think that's right.

13          COMMISSIONER ISRAEL: So we can't --

14          COMMISSION CHAIRPERSON SHAPIRO: You're correct.

15          COMMISSIONER ISRAEL: -- make a decision based  
16 upon whether some lawyer threatens to sue us or not.

17          COMMISSION CHAIRPERSON SHAPIRO: Absolutely.

18          COMMISSIONER ISRAEL: Otherwise, every decision  
19 would be subject to second guessing and that's crazy.

20          COMMISSION CHAIRPERSON SHAPIRO: You're absolutely  
21 right. And just so you know, I did pass on to staff this  
22 letter that we received from the Manatt firm, and I have  
23 asked that Bob look at it and comment, and give the Board  
24 advice with respect to the legal positions that have been  
25 taken. But we just got it and I don't believe you've had

1 time to do that, yet.

2 STAFF COUNSEL MILLER: No.

3 COMMISSION CHAIRPERSON SHAPIRO: Right. So Mr.  
4 Miller will come back to us. But notwithstanding, again,  
5 I'm hoping we will find a way with which to work within what  
6 everyone believes is the law, and find a way to move this  
7 forward.

8 I have not gotten to Commissioner Derek.

9 COMMISSIONER DEREK: I agree. I agree.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I  
11 didn't think I was ever going to get there.

12 COMMISSIONER ISRAEL: I'm asking, if we consider  
13 this further, can I ask the staff to prepare some kind of  
14 statistical analysis that gives us relative amounts of  
15 handle generated when the experiment was in effect, of  
16 having all four ADW providers --

17 COMMISSION CHAIRPERSON SHAPIRO: Absolutely.

18 COMMISSIONER ISRAEL: -- as opposed to when there  
19 was a certain amount of exclusivity?

20 And you have to take into consideration overall  
21 handle fluctuation and whether it was up or down --

22 COMMISSION CHAIRPERSON SHAPIRO: Well, gross  
23 dollars and percentage.

24 COMMISSIONER ISRAEL: But, also, you got to take  
25 into consideration the perspective of how the handle

1 fluctuated relative to other years, whether it grew or  
2 declined, in preparing an analysis of those statistics. If  
3 you understand what I mean, Kirk.

4 EXECUTIVE DIRECTOR BREED: Yeah.

5 COMMISSIONER ISRAEL: You know, so --

6 COMMISSION CHAIRPERSON SHAPIRO: Can I suggest,  
7 you may want to lay it out the way you want to see it, and  
8 then just send it, and so that they do it right and --

9 COMMISSIONER ISRAEL: Yeah, I'll discuss it  
10 further with them, yeah.

11 COMMISSION CHAIRPERSON SHAPIRO: No, it's a good  
12 idea.

13 COMMISSIONER ISRAEL: So, okay, because then we  
14 can understand if there's real growth when there are four  
15 providers, as opposed to when there are two or one.

16 COMMISSION CHAIRPERSON SHAPIRO: Absolutely. And  
17 I think you weren't on the Board, yet, but when we met, I  
18 believe it was in July, and we had a full meeting --

19 COMMISSIONER ISRAEL: Right.

20 COMMISSION CHAIRPERSON SHAPIRO: -- that was on  
21 this issue, at which many numbers and statistics were  
22 thrown. And what you may want to do, or we can get for you,  
23 is the transcript and the attachments to that. Because a  
24 lot of what you are asking was done when we were in  
25 Pleasanton.

1           COMMISSIONER ISRAEL: Yeah, but now we have the  
2 example of Del Mar, where I think it was the first meeting  
3 where --

4           COMMISSION CHAIRPERSON SHAPIRO: That there was no  
5 experiment.

6           COMMISSIONER ISRAEL: Right, the first meeting  
7 without it. What I want is the experiment in relation to no  
8 experiment.

9           MR. FRAVEL: Actually, Mr. Chairman, Craig Fravel,  
10 Del Mar. We created a financial model, spread sheet, that  
11 we can share with all of you.

12          COMMISSION CHAIRPERSON SHAPIRO: Great.

13          MR. FRAVEL: That would compare what our  
14 projections under the experiment were versus the actuals,  
15 and we can manipulate variables to your heart's content, if  
16 you'd like to. I'll get that sent to you in the next couple  
17 days.

18          COMMISSIONER ISRAEL: Yeah, I mean --

19          COMMISSION CHAIRPERSON SHAPIRO: Is that what you  
20 did at Pleasanton?

21          MR. FRAVEL: No, no, we did this while we were  
22 negotiating to try and extend the experiment subsequent to  
23 the Pleasanton meeting, and it's a pretty comprehensive  
24 model. That I believe, you know, we'll go back through it  
25 with them, but TVG and TOC took a look at it and we were

1 all -- none of us were dramatically far apart on the way the  
2 model works, so we'll be happy to share that with staff, it  
3 will save you a lot of time and effort.

4 COMMISSIONER ISRAEL: And I would assume, I'm no  
5 statistician or no great expert at this, but there's  
6 probably some baseline you can establish --

7 MR. FRAVEL: Yeah, right.

8 COMMISSIONER ISRAEL: -- from which to draw  
9 because, obviously, the fluctuations in the economy and  
10 everything are going to have some effect, so you have to  
11 establish a baseline.

12 MR. FRAVEL: Yeah. We'll get that to you along  
13 with all the assumptions.

14 COMMISSIONER ISRAEL: Okay, great.

15 MR. FRAVEL: But I had a couple of comments, if  
16 it's time on the agenda item.

17 VICE CHAIRPERSON HARRIS: We're here all day.

18 MR. FRAVEL: And just and I realize this is going  
19 to take a long time, but I do want to caution you that to  
20 have this train leave the station too quickly.

21 First of all, I do think that the market will work  
22 this out over the next three to six months in a lot of ways,  
23 that may make the exercise that you're going through  
24 unnecessary. And the reason I say that is that the  
25 exclusive contracts that Del Mar, Oak Tree, and Pomona have

1 had, that really created this sort of anti-exclusive  
2 movement, are all expiring and we are all now free to  
3 negotiate new contracts, working with our horsemen.

4           So I do think that the market, to a degree, will  
5 take into account the benefits of nonexclusives and create a  
6 new model that ultimately, you know, we'll all be marching  
7 towards.

8           But, secondarily, I do want to point out, I've  
9 been sort of the -- when we were negotiating on legislation  
10 before, the whole concept of banning exclusives, I think you  
11 have to be very careful about doing that.

12           Because once you make that determination,  
13 exclusivity is just one financial term, it's like the term  
14 of an agreement, the compensation paid, the marketing  
15 budget, the television component, the fees you charge to  
16 customers for placing bets. I mean, there's a hundred  
17 different terms that are covered by any particular  
18 agreement, exclusivity's just one of them.

19           Once you dictate a term and you say I -- you, Del  
20 Mar, have to do business with anybody who comes into the  
21 State and gets licensed, you are therefore constrained or  
22 required to dictate all those terms.

23           You're going to have to say here's the  
24 compensation you're going to get paid, and here's the other  
25 things that you're going to do, here's the fees that can be

1 charged, here's the safeguards you have to take in place  
2 from an integrity stand point.

3           So you're taking over, essentially, the  
4 negotiating posture of the racetracks and horsemen. Which  
5 is why I endorsed the suggestion that was made that if  
6 you're going to disallow exclusivity, make it that the  
7 economic partners to that, the horsemen and the tracks, have  
8 to agree to it. And ultimately, the marketplace will get us  
9 where we want to be, because I think we're going to get  
10 there anyway.

11           COMMISSION CHAIRPERSON SHAPIRO: Craig, just so  
12 you know, this has been something that we've been wrestling  
13 with for so long and, you're right, we've had exclusive  
14 agreements that have been troublesome in terms of we hear  
15 from our customers, and we hear from people that our signal  
16 is not as widely distributed.

17           And over the years, since I've been on the Board,  
18 have been told is the only opportunity we have to change it  
19 is at the time that we relicense the ADW providers, that's  
20 what I've been told.

21           MR. FRAVEL: But that was because a number of us  
22 had long-term agreements that we couldn't get out of.

23           COMMISSION CHAIRPERSON SHAPIRO: I understand  
24 that. I understand that.

25           MR. FRAVEL: That paradigm has shifted.

1           COMMISSION CHAIRPERSON SHAPIRO: I understand that  
2 paradigm, and I think the word that you just used is  
3 correct, has shifted.

4           And my concern is that that, simply, we have, and  
5 I'll use a Harris word, we have something our toolbox to go  
6 back to, to make sure that we are doing what best serves the  
7 industry and the business.

8           And that's why I don't think it should be done  
9 where the door is closed and we cannot allow, in the special  
10 circumstance, that if you, as Del Mar, and TOC, and  
11 everybody agrees this is the best for our industry, I want  
12 to see that happen.

13           I'm simply wanting to make sure that we have the  
14 tools with which to give this Board the authority to do  
15 what's best. That's really where I'm coming from.

16           MR. FRAVEL: And I don't disagree. I guess my  
17 only point is the only real tool at the end of the day I  
18 have as a racetrack, to negotiate a better deal, is the  
19 ability to say to someone, no, I'm not going to do business  
20 with you.

21           COMMISSION CHAIRPERSON SHAPIRO: And I understand  
22 that.

23           MR. FRAVEL: And I would encourage you, however  
24 this rule gets crafted, and whatever meetings we have that  
25 we keep that in mind, that the only leverage we really have

1 is the control over our content.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, it's also  
3 clear that this is going to take some period of time. And I  
4 think that what we do need is a committee that is made up  
5 of, perhaps, one or two Board members, and ADW companies,  
6 track. We need people to find what is the best here, to put  
7 what is the proper rule in place to best serve. Okay.

8 In the interim, we also have these licenses that  
9 are going to expire.

10 And, therefore, I'm going to suggest that we, on a  
11 short-term basis, extend the licenses so that we don't get  
12 locked into a period where we can't come back and modify  
13 them, because we may not -- we won't have this done by the  
14 end of the year.

15 And I would ask that perhaps there's a Board  
16 member or two that would work with the rest of the  
17 stakeholders in the industry to come up and address this in  
18 the best way.

19 MR. FRAVEL: Correct. But the only thing about  
20 your interpretation that's confusing to me is this doesn't  
21 preclude you -- you -- from making an exclusive arrangement,  
22 it precludes the ADW from demanding an exclusive  
23 arrangement, if I'm reading this correctly.

24 In counsel's absence, I'll defer to Commissioner  
25 Choper on it, too.

1           COMMISSIONER ISRAEL: But I go back to your Warren  
2 Buffet/Bill Gates thing.

3           MR. FRAVEL: Yeah.

4           COMMISSIONER ISRAEL: At some point, if someone  
5 like that came to us and said, you know what, we want to own  
6 the marketplace, we might be willing to go along with it.  
7 And I think my only problem is --

8           MR. FRAVEL: Well, you could, I think, still go  
9 along with it based upon the way this is written, now. They  
10 couldn't -- you could say, fine, I'm going to give you  
11 exclusivity. They can't demand -- I mean, it's kind of  
12 a --

13           COMMISSIONER ISRAEL: Well, if that's the way --

14           COMMISSIONER CHOPER: We couldn't give them a  
15 license.

16           COMMISSIONER ISRAEL: Huh?

17           COMMISSIONER CHOPER: We couldn't give them a  
18 license.

19           COMMISSIONER ISRAEL: Oh, we couldn't give them a  
20 license, but if they make that demand, you could still give  
21 them an exclusive deal.

22           MR. FRAVEL: Well, if that's the way you create  
23 this, then I'd be fine with it.

24           COMMISSIONER ISRAEL: I think that's what it says,  
25 isn't it? Isn't that what it says?

1           VICE CHAIRPERSON HARRIS: Well, I don't think  
2 we've got a final on what it says.

3           COMMISSIONER ISRAEL: Well, I mean, what it says  
4 now, I mean, we can only discuss what's in front of us.

5           COMMISSIONER CHOPER: But the provider, then, we  
6 would be precluded from giving the provider a license that  
7 says --

8           COMMISSIONER ISRAEL: The ADW provider, right.

9           COMMISSIONER CHOPER: Yeah. And if they want  
10 to --

11           COMMISSIONER ISRAEL: But what I'm saying is he  
12 could still have his meet licensed if he granted someone  
13 exclusivity on his end of the contract. It's kind of weird  
14 the way this is written.

15           VICE CHAIRPERSON HARRIS: Yeah. I think we also  
16 have to keep in mind that the TV component of this, which  
17 is --

18           COMMISSIONER ISRAEL: Huh?

19           COMMISSIONER CHOPER: It's unclear, you're right,  
20 it could be better.

21           COMMISSION CHAIRPERSON SHAPIRO: So can I make a  
22 suggestion? Perhaps, Mr. Israel, would you be willing to  
23 head this committee to look into how we can best explore and  
24 achieve this goal of figuring out, so that we maintain  
25 flexibility, but that we also can find the best way, under

1 the right circumstances, if we want to have nonexclusive,  
2 unless there's some Bill Gates situation, that provides the  
3 carve out to do that. Would you head that committee?

4 COMMISSIONER ISRAEL: I'm so unused to being  
5 called Mr. Israel, that I have no option but to say yes.

6 (Laughter.)

7 COMMISSION CHAIRPERSON SHAPIRO: So what do you  
8 want to be called?

9 COMMISSIONER ISRAEL: No, I'm just kidding.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, so if you  
11 will do that and, again, TVG and others, and perhaps you can  
12 meet and come back to us with the right way to do it.

13 And, again, I'm not precluding anybody. I'll  
14 leave it to you to put together whatever group you want.

15 And I think if that's okay with the rest of the  
16 Board, we can move on and come back to this.

17 COMMISSIONER ISRAEL: Well, I just would ask staff  
18 to help me organize these meetings. Yeah, okay.

19 VICE CHAIRPERSON HARRIS: Well, one of the  
20 problems, though, as we get into this, is the TV component.  
21 It would be pretty easy, if no television existed, it hadn't  
22 been invented, yet, but computers were here and everyone  
23 could bet at home on their computer, but they couldn't see  
24 anything, that would be pretty simple.

25 But now, I mean, HRTV and TVG have got a whole

1 'nother aspect of the thing that they're going to look to  
2 get compensated for.

3 COMMISSIONER ISRAEL: Well, would it be unwieldy  
4 if all four of the providers participated together, or do  
5 you want to get organized and --

6 COMMISSION CHAIRPERSON SHAPIRO: That's for you to  
7 decide with your committee.

8 COMMISSIONER ISRAEL: Okay, fine.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay. Now, I  
10 have a couple comment cards. I don't know if they still  
11 choose to speak on this. Rod Blonien and Chilly, Sherwood  
12 Chillingworth. Do both or either choose to speak? I can't  
13 see them.

14 MR. BLONIEN: No.

15 EXECUTIVE DIRECTOR BREED: Rod said no.

16 COMMISSION CHAIRPERSON SHAPIRO: Rod said no.

17 Chilly?

18 MR. CHILLINGWORTH: Sherwood Chillingworth, Oak  
19 Tree Racing. My position, before it was so thoroughly  
20 discussed here, was that we don't need this rule and that's  
21 the agenda item.

22 We are -- and we don't have a dog in this fight.  
23 We've already agreed with Santa Anita that we cannot have an  
24 exclusive agreement with anybody.

25 Our position is that you never know what somebody

1 may propose on an exclusive basis. If TVG, with 30 million  
2 subscribers, came in and said we're going to give you 98  
3 percent of our revenues, that's an absurd example, well, you  
4 want to think about it.

5           So I think that the fact we're foreclosing and  
6 adding another rule -- I don't believe in adding rules that  
7 you don't really need.

8           You've already heard that the tracks, and the  
9 horsemen, and yourselves will be involved in any new  
10 contracts we have, and I don't think this rule is necessary,  
11 period.

12           COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

13           All right, we are now going to take a ten-minute  
14 break. We all want to thank -- well, Kelly's gone -- for  
15 all the coffee, that we all need a ten-minute break.

16           (Off the record.)

17           COMMISSION CHAIRPERSON SHAPIRO: All right, we're  
18 going to move forward and, hopefully, we will be able to get  
19 through. I'm going to take Items 4 and Item 6 before we get  
20 to Item 5, which is the one I expect will take some  
21 conversation.

22           Item Number 4, discussion and action by the Board  
23 regarding the request for approval from Southern California  
24 Offtrack Wagering, Inc. (SCOTWINC), to adjust the stable and  
25 vanning deduction from the offtrack handle applicable to

1 racing at Hollywood Park, to facilitate the use of funds  
2 currently in SCOTWINC's possession, to provide for improved  
3 racing and training facilities in the Central Zone of  
4 California, pursuant to Business and Professions Code.

5 As I recall, this matter was previously before us  
6 and I think it was pushed off. But is there --

7 EXECUTIVE DIRECTOR BREED: We didn't vote on it.

8 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

9 EXECUTIVE DIRECTOR BREED: We just didn't vote on  
10 it.

11 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I think we  
12 withheld taking action.

13 Is there somebody from SCOTWINC, or I think Tom  
14 Varela, did I see him?

15 MR. VARELA: Yes.

16 COMMISSION CHAIRPERSON SHAPIRO: There he is. Do  
17 you want to explain this and why you're asking the Board to  
18 take this action at this time?

19 MR. VARELA: Okay. I'm Tom Varela --

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

21 MR. VARELA: I'm Tom Varela, with SCOTWINC. And,  
22 actually, we did take this matter up at the May meeting.

23 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

24 MR. VARELA: And what we did was we dropped the  
25 stable and takeout rate for Hollywood Park to .89, so that

1 we could realize a savings of a certain amount of money. We  
2 fell short of that figure.

3           So what we want to do for the Hollywood Fall Meet,  
4 is approximately the first week we'll drop it down to the  
5 .89, currently it's at 1.06, and then once we realize about  
6 18,000 in savings for the horsemen and Hollywood, we'll take  
7 it back up to the 1.06 for the conclusion of their meet.

8           COMMISSION CHAIRPERSON SHAPIRO: So this creates a  
9 savings for the horsemen and for Hollywood Park.

10          MR. VARELA: That's correct.

11          COMMISSION CHAIRPERSON SHAPIRO: Okay. Is anybody  
12 opposed to this in any way, shape, or form? I mean, I know  
13 everybody owns part of SCOTWINC or has an interest in it.

14          MR. VARELA: Yeah.

15          COMMISSION CHAIRPERSON SHAPIRO: I mean, if there  
16 isn't any opposition to it, clearly --

17          VICE CHAIRPERSON HARRIS: I'm not clear, the way  
18 it's written up, if it really states what happening. As I  
19 understand it, they're trying to get more money to the  
20 horsemen and the track.

21                I don't know if it's really going to provide for  
22 improved racing and training facilities, which it's really  
23 just to get the money out.

24          COMMISSION CHAIRPERSON SHAPIRO: I agree. I mean,  
25 I think that was like -- I don't know where that language,

1 that little editorial came from.

2 But, I mean, clearly, this is what the fund is  
3 for, this is what is authorized by law. So I don't have a  
4 problem with it. And I don't know if anybody has an  
5 objection.

6 COMMISSIONER MOSS: Well, who might be affected  
7 adversely?

8 COMMISSION CHAIRPERSON SHAPIRO: I don't think  
9 anybody is going to be affected adversely by this.

10 COMMISSIONER ISRAEL: So I guess is there anybody  
11 to speak against it is what Jerry's asking.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, that's what  
13 I said, does anybody have a problem with it.

14 COMMISSIONER MOSS: Is the TOC okay with this all  
15 this, I just was curious.

16 VICE CHAIRPERSON HARRIS: Where's Drew.

17 MR. FRAVEL: Don't worry, he'd be up there if he  
18 had a problem.

19 (Laughter.)

20 VICE CHAIRPERSON HARRIS: Okay. Well, do we need  
21 a motion?

22 COMMISSION CHAIRPERSON SHAPIRO: I need a motion.

23 VICE CHAIRPERSON HARRIS: I move we approve.

24 COMMISSION CHAIRPERSON SHAPIRO: Second?

25 COMMISSIONER ISRAEL: Second.

1 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

2 (Ayes.)

3 COMMISSION CHAIRPERSON SHAPIRO: Thanks, Tom.

4 MR. VARELA: Thank you.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number  
6 6, discussion and action by the Board regarding the  
7 feasibility of amending CHRB Rule 1498, Physical  
8 Examination, to add additional criteria for the retired  
9 jockey, apprentice jockey, and driver annual physical  
10 examination.

11 And I will punt this to my good friend, Vice  
12 Chairman John Harris, who asked for this to be on the agenda  
13 today.

14 VICE CHAIRPERSON HARRIS: Yeah, I've requested  
15 this, not to get any resolution of it, but just for  
16 something for the Board and the public to reflect on is what  
17 type of physical exams we require, and how we best define  
18 those, and for some annual type exam.

19 I got a call from Barry Broad, who represents the  
20 Jockey's Guild, and he was -- as you know, Barry gets a big  
21 animated at points, but he was concerned --

22 COMMISSION CHAIRPERSON SHAPIRO: Barry?

23 VICE CHAIRPERSON HARRIS: Barry, yeah.

24 COMMISSION CHAIRPERSON SHAPIRO: Oh, I didn't know  
25 that.

1           VICE CHAIRPERSON HARRIS: He's got a book out that  
2 everyone can buy and help him out.

3           But anyway, I think he's worried about, you know,  
4 violation of different confidentiality rights, and drug  
5 testing, and things like that.

6           And so I assured him that we weren't going to make  
7 a decision today, but I wanted to outline why I thought the  
8 overall issue was important. Because I think jockeys are,  
9 you know, a critical part of the industry and their health  
10 is so critical. And a lot of time we worry about the health  
11 of the horses, and we should also worry about the health of  
12 the jockeys.

13           And right now we have a pretty inadequate rule on  
14 physical exams. And I think in some sectors of the industry  
15 it is well done. I mean, some track physicians are very  
16 diligent and they've taken it on their own to give a very  
17 good physical exam.

18           But I think we need some uniformity in that,  
19 that's more than just -- right now, all it talks about is a  
20 person can hear and see. Which I think, you know, being a  
21 jockey does encompass more than just that.

22           And I think it should be as tough to pass a jockey  
23 physical as it is for a pilot physical or a truck driver  
24 physical. And both of those, I'm familiar with, are much  
25 more well thought out than what we have.

1           So I think we need to look at really what we want  
2 for our standard for our jockeys.

3           And I think, and this is a touchy area, it should  
4 include some drug panels, as well.

5           And so that's part of the situation.

6           And the other part of the situation, which is not  
7 exactly related, is that in an instance where a jockey is  
8 hurt, we don't really have any defined protocol to assure  
9 the public that that jockey is in fact okay to ride and also  
10 protect his health, because like any athlete, if he is in a  
11 spill, it's just natural for these very competitive people  
12 to say I feel fine, you know, put me in, coach, I can do it.

13           But I think we've got, you know, millions of  
14 dollars being bet on a race and we want to assure the public  
15 that the guy is in fact right, plus we want to protect his  
16 health from what might have been just an emotional reaction,  
17 rather than really understanding how he is.

18           And so I think we need to have some defined  
19 protocol on what the track physician does to certify that a  
20 jockey injured, perhaps just in a spill that day, but also  
21 coming back from an injury. It might be somebody who's been  
22 off for six months, but they're coming back, that they are  
23 in fact fit to ride, because the State of California's, or  
24 really all over the word, they're betting on these people.

25           So this was just out there to get people thinking

1 about it and something we can really look at going forward.

2 But I think sometimes on this Board, we don't  
3 discuss things that are sort of big picture things we need  
4 to work on, and we get hung up on rule something or another,  
5 and this is something I just want to bring to the Board for  
6 just a very brief discussion.

7 COMMISSIONER ISRAEL: I think you're absolutely  
8 right. But I also think we need a medical consultant to  
9 advise us as to what the physical should include and what  
10 the protocol should be.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, towards  
12 that end, we do know that there are some track doctors who  
13 have actively played a role in helping. There has been a  
14 healthy -- a jockey health analysis study that has started,  
15 where we have reached out to Dr. Bernadot in doing a study  
16 of jockey health.

17 I believe Dr. Seftel, who is the doctor in  
18 Northern California, could probably help us with  
19 establishing these protocols, he seems to be the most  
20 active, and I think in conjunction with the Guild.

21 And I would ask that our staff should probably  
22 reach out to these people and formulate a proposed protocol  
23 with which to deal with all of these issues that John has  
24 brought up here.

25 I think the resources are available to us, and I

1 would ask staff to do that.

2 VICE CHAIRPERSON HARRIS: Yeah, Dr. David Seftel  
3 is excellent, and there's probably some others as well. I  
4 think we just need to have our staff directed to --

5 COMMISSION CHAIRPERSON SHAPIRO: I agree.

6 VICE CHAIRPERSON HARRIS: -- get a basic protocol  
7 set up.

8 COMMISSION CHAIRPERSON SHAPIRO: So directed.

9 MR. MARTEN: Mike Marten, CHRB staff. I have  
10 spoken with Dr. Seftel, already, and he has volunteered his  
11 services. He gives the most comprehensive exam anywhere in  
12 the State, as far as I know --

13 COMMISSION CHAIRPERSON SHAPIRO: Right.

14 MR. MARTEN: -- to the jockeys, at the start of  
15 the year, at Golden Gate Fields. And not only that, he  
16 follows up throughout the year. If he spots any problems,  
17 he follows up.

18 I've also spoken with Dr. Sodenmeyer at Santa  
19 Anita, and he gives a -- not quite as comprehensive as Dr.  
20 Seftel, but he gives a very thorough exam, which includes  
21 both blood and urine analysis, and EKGs, if warranted, and  
22 so forth.

23 And I think the cracks, if there are any, are  
24 these jockeys that come in from out of state, in the middle  
25 of the year, to ride a race or two. They're already

1 licensed, so they don't need to see the stewards, because  
2 they were licensed, say, from last year. And then they come  
3 back and they might be slipping through the cracks.

4 But the programs are in place, for jockeys based  
5 in California, the racetracks operating in January do give  
6 the physical exams. And from what I've been able to  
7 determine, from speaking to two of them, they're quite  
8 comprehensive.

9 COMMISSIONER ISRAEL: One of the solutions to the  
10 problem you bring up is that they be required to provide  
11 some sort of medical record that's current, so we know that  
12 if they've been injured in a spill, for instance, they're  
13 full recovered. Or if they've had a subsequent illness,  
14 they've recovered from that.

15 I mean, one of the ways in which jockeys are  
16 different from almost other athletes is they have no  
17 guaranteed salary. So it's in their financial interest to  
18 go back to work sooner, rather than later, as opposed to,  
19 say, a basketball player or a baseball player, who's on a  
20 defined salary whether he shows up or not.

21 You know, only tennis players, and golfers and  
22 jockeys are independent contractors in this way.

23 So, you know, I think -- you know, and we have to  
24 protect them from, in some cases, from themselves. So  
25 John's right on the mark with this.

1           COMMISSION CHAIRPERSON SHAPIRO: Then we will ask  
2 staff to follow up and work with -- work with coming up with  
3 the protocols. Again, you should use the resources. And,  
4 again, I would reach out to Dr. Bernadot, also in Florida,  
5 who has done a lot of study on this, that the industry has  
6 been working on.

7           Okay, is that all right with you?

8           VICE CHAIRPERSON HARRIS: That's right, yeah,  
9 because we originally started something. In fact, I think  
10 Craig Fravel was working on it.

11          COMMISSION CHAIRPERSON SHAPIRO: Well, that's what  
12 I'm talking about.

13          VICE CHAIRPERSON HARRIS: Because there was  
14 concern on the jockey weights, that jockeys were at points  
15 sometimes losing so much weight, to make weight and all  
16 that.

17          COMMISSION CHAIRPERSON SHAPIRO: Well, let me just  
18 tell you, I've spoke with -- that was Dr. Bernadot's study,  
19 and the Jockey Health Survey, which basically has had --  
20 they have done some data. He's presenting it to -- I know  
21 he wanted to go to Turkey to present it.

22                 But it is continuing, he's talking to other  
23 jurisdictions and other countries.

24                 And I think there was a study that was taking  
25 place, again, to study making sure that our riders are

1 optimum levels of health while they're competing, and  
2 looking at oxygen levels in their blood, and under heat  
3 conditions, and a whole study and a whole analysis was done.

4 Mr. Halpern?

5 MR. HALPERN: Ed Halpern, California Thoroughbred  
6 Trainers.

7 Also, under the worker's comp program that we run,  
8 when a jockey -- and it would cover probably 80 percent, if  
9 not more, of the incidents. When a jockey is injured and  
10 they return from work, I'm told that the stewards and the  
11 CHRB are provided with a doctor's release to return to work.

12 So there is some, at least some coverage that that  
13 jock has been approved for a return to work.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 VICE CHAIRPERSON HARRIS: Yeah, that's -- because  
16 all jockeys are covered by worker's comp.

17 But I think that sounds like it is a little bit  
18 loose at times, as far as a return to work.

19 MR. HAIRE: Darrell Haire, Western Regional  
20 Manager for the Jockey's Guild.

21 I work with Dan Bernadot, with the study, and the  
22 Jockey's Guild is willing to do whatever we need to do to  
23 help set a standard or change what is done now to -- you  
24 know, to help this situation with riders, with their  
25 physicals, they're basic just now.

1           So we need to address that and we'll do anything  
2 we can to help out.

3           COMMISSION CHAIRPERSON SHAPIRO: Thanks, Darrell,  
4 appreciate it.

5           All right, we're going to move on to Item Number  
6 5, which is discussion by the Board regarding the allocation  
7 of race meets and related issues for 2009 and beyond.

8           And I'd like to make a couple of comments here.  
9 First of all, you'll see it's not an action item.

10           For those that are new to the Board, this has been  
11 one of the more difficult issues that we face over a period  
12 of time, is when we deal with allocation of dates.

13           And sometimes we have had situations where we have  
14 seen disputes over a day, or a weekend, or a week. But  
15 given over the past few years, when it became clear that Bay  
16 Meadows was nearing the end of its continuation as an  
17 available venue for racing, and the possibility that  
18 Hollywood Park would close in the near future, as evidenced  
19 by their own statements, which were three years ago, and I  
20 can be corrected on that, when they purchased the facility  
21 they said they would only commit to race for three years,  
22 absent some other improvements to the economics of the  
23 business, which have not materialized, and they have been  
24 very up front in advising the industry we may be gone.

25           And, therefore, the industry, we, as a Board, have

1 been trying to put together, with the stakeholders in the  
2 industry, a strategic plan of what would happen in the event  
3 that we lost these venerable racing facilities.

4 Well, we have lost Bay Meadows, Bay Meadows is  
5 gone.

6 Hollywood Park, I believe we will hear today,  
7 because I have spoken to Mr. Liebau, they have committed to  
8 race their spring meeting next year, but I don't believe  
9 that they're in the position to commit to go beyond that.  
10 And while they may, and we hope they will race a year from  
11 now, at the fall meeting, there's no commitment that they  
12 can make at this time, for their own reasons.

13 But the industry has still failed, and I  
14 understand how difficult these issues are, but the industry  
15 has not come up with any contingency plans over the last few  
16 years, despite all of the various meetings that we've had,  
17 to create a strategic plan.

18 A strategic plan that would provide that in the  
19 event that if one or both of these facilities were no longer  
20 in existence, where the industry would plan to race and,  
21 more importantly, house horses for training.

22 As a result of this, here we are in the fall of  
23 2008, and we still don't have a plan. We don't have a plan  
24 for the south and we don't have a plan for the north.

25 And the plan for the north is basically to move

1 some dates around, with no funding in place, and no economic  
2 plan in place with which to improve any of the racetracks  
3 that are available to be used.

4 And, again, while I am being critical and I  
5 recognize that there have been legislative efforts and there  
6 has been lots meeting, the bottom line is we don't have a  
7 plan.

8 Now, when the Board, and particular I, butted into  
9 this and tried to push this forward, at the beginning of the  
10 year a group of people in the industry came to my office and  
11 they said, please, don't get involved, let us deal with  
12 this, let us work this out. And some of those people are in  
13 the room here, today, and so they know who they are.

14 And I said, okay, we'll lay back and we'll let you  
15 come up with a plan. Well, the bottom line is that was a  
16 mistake because there's no plan.

17 And so I just have to say that I'm extremely  
18 dismayed and disappointed that while I know these are  
19 difficult issues, we are left here on the precipice of not  
20 knowing where we're going to race, where we're going to  
21 house these horses, and we're no further than we were two  
22 years ago. And I don't know what the solution is.

23 You know, frankly, I think we have way too much  
24 horse racing. We can't afford to have a Northern and  
25 Southern California circuit that runs continuously.

1           We have -- we're housing horses, 5,000 horses we  
2 have to provide for in the south to run a Southern  
3 California circuit, which I don't quite understand.

4           And in the north what we have is, basically, we're  
5 just going to run like we've run before, with a few tweaks  
6 here and there. And that doesn't seem to be much of a plan.

7           And so having said that, I think we should try to  
8 at least discuss both the south and the north.

9           As I understand it, in the south there is a  
10 tentative agreement among all of the stakeholders, with  
11 respect to a calendar for the year 2009, and that that  
12 calendar includes the assumption that Hollywood Park would  
13 race their fall dates. But if they don't, I have no idea  
14 what the plan is thereafter.

15           The more difficult issue appears to be in the  
16 north.

17           And I should also add, especially to our new  
18 members on the Board, that normally when we have this come  
19 up, we are provided with calendars that we get to look at,  
20 calendars that lay out what the dates are. Calendars that  
21 look like this, that are color coded, so that we can  
22 visualize it.

23           And we got nothing. In our packets, what we have  
24 is nothing.

25           So I'm not sure what it is that the industry

1 expects of us, and I'm not sure that we, as a Board,  
2 shouldn't simply say, you know what, we'll put together our  
3 own calendar and give it to the stakeholders.

4 COMMISSIONER ISRAEL: What are the calendars that  
5 we have?

6 COMMISSION CHAIRPERSON SHAPIRO: What you have in  
7 the book is you will see that you have calendars for the  
8 existing year, 2008. But if you take a look at the 2009  
9 calendar, and take a look at the one that's in the north,  
10 you'll see that all it is -- is that northern or southern.

11 COMMISSIONER ISRAEL: This is north, they just  
12 gave them to us.

13 COMMISSION CHAIRPERSON SHAPIRO: No, no, is that  
14 the one that's in our book, that our staff did.

15 COMMISSIONER ISRAEL: No, this was handed out  
16 while we were just outside.

17 COMMISSION CHAIRPERSON SHAPIRO: Just now.

18 COMMISSIONER ISRAEL: Right.

19 COMMISSION CHAIRPERSON SHAPIRO: No, I'm agreeing  
20 with you. But what I'm saying is that what we got,  
21 normally, we would have calendars to review and analyze  
22 before today. This was dropped on us.

23 And the Board, also, in the past has said, please,  
24 do not give us anything at the Board meeting because we  
25 can't have a meeting, and read it, and we're not prepared

1 for it.

2 What we have in our book is a 2009 calendar that  
3 includes Bay Meadows, for God's sakes. Bay Meadows is gone.

4 So it's just very disheartening because these are  
5 difficult issues.

6 So, Jackie, do you want to address, since you got  
7 up?

8 MS. WAGNER: Yes, I just wanted to make mention  
9 that in your packet, you should have in your packet the  
10 Southern California proposed 2009 calendar. I want to be  
11 sure that you do have that in your packet, the color coded.

12 COMMISSIONER ISRAEL: Yes, it's the first page.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, it's the  
14 second --

15 COMMISSIONER ISRAEL: It's the second page.

16 MS. WAGNER: That should be there. And you're  
17 absolutely correct, we have not received a proposed calendar  
18 for Northern California for 2009.

19 COMMISSION CHAIRPERSON SHAPIRO: Yeah, in our  
20 book, the one that says "2009 Southern California Race Dates  
21 Calendar Draft," is that, in fact, what is being proposed by  
22 the industry?

23 MS. WAGNER: That's correct.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay.

25 MS. WAGNER: In your package, the Southern

1 California Association's proposed 2009 calendar is what is  
2 being proposed by Southern California for Thoroughbreds, and  
3 they have come to an agreement on that calendar.

4 COMMISSIONER ISRAEL: And Hollywood Park agrees to  
5 run in November and December?

6 MS. WAGNER: Correct.

7 COMMISSIONER ISRAEL: Without equivocation?

8 MS. WAGNER: Well, that's what -- what you have is  
9 what was presented to me, with the caveat that the  
10 parties --

11 COMMISSION CHAIRPERSON SHAPIRO: I think that what  
12 David just asked, and I think that question should be  
13 answered, and so I see Mr. Wyatte.

14 COMMISSIONER ISRAEL: Is Hollywood Park committing  
15 to run its fall 2009 meeting?

16 MS. WAGNER: As far as I know, yes.

17 COMMISSION CHAIRPERSON SHAPIRO: Oh, he's right  
18 behind you, let him answer.

19 MS. WAGNER: Oh, I'm sorry.

20 MR. WYATTE: Equal Wyatte, Hollywood Park. I'll  
21 get to that question.

22 But in the packet today there are two calendars  
23 labeled "Southern California 2009," one of them says  
24 "proposed," which I believe is the calendar that Southern  
25 California racetracks are in agreement with. Why there's

1 two, I don't know.

2 COMMISSIONER ISRAEL: There's only one that says  
3 proposed.

4 EXECUTIVE DIRECTOR BREED: There's one showing --

5 COMMISSIONER CHOPER: 8-53, proposed --

6 COMMISSIONER ISRAEL: There's only one color coded  
7 2009 that I have, unless it's hidden somewhere.

8 EXECUTIVE DIRECTOR BREED: What we put in the  
9 package was the proposed 2009 calendar for Southern  
10 California, and that's page 5-3.

11 COMMISSIONER ISRAEL: Yeah.

12 EXECUTIVE DIRECTOR BREED: That's based upon --

13 VICE CHAIRPERSON HARRIS: That's based on that all  
14 sides agree?

15 COMMISSIONER ISRAEL: Who proposed -- proposed by  
16 whom?

17 MS. WAGNER: If I may, I can kind of give you a  
18 little insight on what you have in your packet. What you  
19 have in your packet, the first calendar is the -- says  
20 "Southern California Proposed 2009 Calendar," is the  
21 calendar that was submitted from the Southern California  
22 Thoroughbred Racing Associations.

23 COMMISSIONER ISRAEL: Okay.

24 MS. WAGNER: That's the calendar that was  
25 presented, and as far as I understood, the parties had

1 agreed.

2 If you go further in your packet, the second  
3 calendar that Mr. Wyatte is speaking of, that has "Proposed  
4 2009 Calendar," if you'll look on the bottom of your  
5 page --

6 VICE CHAIRPERSON HARRIS: What page is that?

7 MS. WAGNER: -- that is a calendar that was  
8 prepared --

9 COMMISSION CHAIRPERSON SHAPIRO: Jackie, what page  
10 is that?

11 MS. WAGNER: Oh, I'm sorry, that's page 5-15. 5-  
12 15 is the calendar that Eual is making reference to. Those  
13 calendars in that particular bunch are calendars that were  
14 given to the Board, in order for the Board to see if  
15 we -- what we did, we lifted the 2008 racing calendar, just  
16 as it was in 2008, placed it on a 2009 calendar, just to  
17 give you an idea.

18 COMMISSIONER ISRAEL: When you say 5-15, 5-15 is  
19 executive summary of a yearling sale.

20 COMMISSION CHAIRPERSON SHAPIRO: Right. Okay,  
21 Jackie, how are we supposed to find this?

22 COMMISSIONER ISRAEL: No, I'm looking right at it.

23 COMMISSION CHAIRPERSON SHAPIRO: And David is  
24 exactly right. In the middle of our package we have a  
25 summary of a yearling sale, and we have a marketing

1 promotion plan for Fairplex.

2 COMMISSIONER DEREK: I think 5-71 is the one she's  
3 talking about, the draft, Southern California Race Dates  
4 Draft.

5 VICE CHAIRPERSON HARRIS: I'm not sure, how is 5-  
6 71 different from the other one?

7 COMMISSIONER ISRAEL: It's different because  
8 Hollywood ends on December 21st in one, and ends on December  
9 20th in the other. That's one difference I can see right  
10 away.

11 MS. WAGNER: Okay. Commissioners, what you have  
12 in your calendar -- again, let me go back, I gave you the  
13 wrong number. You should be on page 5-71, 5-71 that says  
14 "2009 Southern California Race Dates Calendar."

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, stop, stop.  
16 Whose calendar is that one?

17 MS. WAGNER: The page 5-71?

18 COMMISSION CHAIRPERSON SHAPIRO: Yes.

19 MS. WAGNER: The page 5-71 is nobody's calendar.  
20 What that selects is the 2008 race dates, as they were run,  
21 we lifted those and put them on a 2009 calendar, just to  
22 give you an idea.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay,  
24 stop, okay.

25 So that is, basically, our staff said if we raced

1 in 2009, the same as we did in 2008, here's what it would  
2 look like.

3 MS. WAGNER: Correct.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay. Now, on  
5 page 5-3, which is "Proposed 2009 Calendar," is that the  
6 calendar that the industry stakeholders in the south have  
7 submitted to the Board?

8 MS. WAGNER: Yes, it is. Yes, it is.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay.

10 MS. WAGNER: That is the calendar that they have  
11 come to agreement on.

12 VICE CHAIRPERSON HARRIS: So that effectively  
13 supersedes the other one, I guess.

14 COMMISSION CHAIRPERSON SHAPIRO: Yes. So the one  
15 we should be looking at, I believe, is page 5-3.

16 MS. WAGNER: That's correct.

17 COMMISSION CHAIRPERSON SHAPIRO: Since all of the  
18 stakeholders in the south are proposing that calendar.

19 MS. WAGNER: That's correct.

20 COMMISSION CHAIRPERSON SHAPIRO: So now that we've  
21 done that, can we go to your question?

22 COMMISSIONER ISRAEL: Thank you. Yes, Jack, do  
23 you intend to run from November 11th until December 21st and  
24 do you commit to that?

25 MR. LIEBAU: Give me a little bit of history and

1 the answer is no, sir.

2 COMMISSIONER ISRAEL: No, okay.

3 MR. LIEBAU: Okay. What we have -- what the  
4 industry came to us and said will you make any commitment  
5 for 2009, and we said we would make a commitment for our  
6 spring/summer meets, and that we would give a -- the fall  
7 meet would be subject to a six-month notice. That's what  
8 the industry agreed to, and for that reason we are open in  
9 2009, that's it.

10 VICE CHAIRPERSON HARRIS: Yeah, but the fall  
11 dates, effectively, I think the way to look at is those  
12 November/December dates are going to be run someplace --

13 MR. LIEBAU: Right.

14 VICE CHAIRPERSON HARRIS: -- but it might not be  
15 Hollywood Park, it might be someplace else.

16 But Hollywood Park will not commit absolutely that  
17 they'll run those dates.

18 MR. LIEBAU: Well, we have to give six months  
19 notice, that's the deal that we've made with the trainers,  
20 the owners, and to some extent everybody who's got a dog in  
21 that fight, because the Hollywood Park backside is so  
22 essential, or at least viewed by some as being essential to  
23 racing in Southern California, as we know it today.

24 VICE CHAIRPERSON HARRIS: Right, so it would be  
25 April -- I mean, because the real problem is the training.

1 You can run someplace else, but you need Hollywood Park for  
2 the training.

3 MR. LIEBAU: I wish I could tell you that I could  
4 commit, but I just don't have the authority to do that. And  
5 I don't know.

6 I do know that we live in turbulent times and --

7 COMMISSIONER ISRAEL: How are we supposed to make  
8 coherent plans, which the Chairman would like us to make,  
9 and I think everybody would like us to make without -- with  
10 so much uncertainty. I mean, obviously, nothing in life is  
11 certain, so you don't have to give me that speech.

12 MR. LIEBAU: No, I don't have that one in my  
13 repertoire.

14 COMMISSIONER ISRAEL: But what are we supposed to  
15 do about that?

16 COMMISSIONER MOSS: You're supposed to wait until  
17 May 11th and see.

18 COMMISSIONER ISRAEL: Right, that's six.

19 COMMISSION CHAIRPERSON SHAPIRO: So you know and,  
20 again, just a bit of history, is in the past, and I am not  
21 recommending this, you know, the Board has looked at trying  
22 to look and have alternatives.

23 The Board can say, gee, we're not going to license  
24 this entity, which I do not want to do, I don't want that  
25 getting anywhere.

1           The Board can insist that if you want to put a  
2 condition that you must race during that period, I guess we  
3 could try that.

4           But the truth of the matter is that I think that  
5 there needs to be a contingency plan that the industry has  
6 to come up with.

7           COMMISSIONER ISRAEL: Well, can we at least  
8 require that you stable and make available your training  
9 facilities through that period so --

10          COMMISSION CHAIRPERSON SHAPIRO: Ask him that.

11          COMMISSIONER ISRAEL: Huh?

12          COMMISSION CHAIRPERSON SHAPIRO: You can ask him  
13 that.

14          COMMISSIONER ISRAEL: You're not in a position to  
15 do that?

16          MR. LIEBAU: I will you this, as a matter of  
17 history --

18          COMMISSIONER ISRAEL: How many stalls do you have  
19 in your barns?

20          COMMISSION CHAIRPERSON SHAPIRO: Nineteen hundred.

21          MR. LIEBAU: Nineteen hundred.

22          COMMISSIONER ISRAEL: And how many are filled?

23          MR. LIEBAU: Drew?

24          MR. COUTO: Presently?

25          COMMISSIONER ISRAEL: Yeah.

1 MR. COUTO: Pretty close to 1900.

2 COMMISSIONER ISRAEL: You're pretty close to full.  
3 Well, where the hell are those horses supposed to go?

4 MR. LIEBAU: Well, Mr. Israel, I did the ones  
5 in -- you know, we can stand up here and beat up the  
6 ownership of Hollywood Park, and I'm a race tracker, okay,  
7 I'm not the real estate developer.

8 COMMISSIONER ISRAEL: Right.

9 MR. LIEBAU: But I will say this, that the people  
10 that were in racing and owned Hollywood Park, they've gone  
11 south. They've left. They sold out to people that are in  
12 the real estate business.

13 COMMISSIONER ISRAEL: I understand.

14 MR. LIEBAU: And when we -- when it was purchased  
15 by the present ownership, we were really up front, September  
16 23rd, 2005, it was announced that we're in here for three  
17 years, we're going to try our damndest to get the business  
18 improved through whatever, whether it was alternate gaming  
19 or whatever, and that's a commitment we made. We've kept by  
20 the commitment, and we've spent a whole ton of money trying  
21 to improve the business.

22 And as I sit here today, I don't know what's going  
23 to happen to Hollywood Park. I don't know if anybody knows  
24 what's going to happen to Hollywood Park.

25 COMMISSIONER CHOPER: I think our problem is not

1 looking that way, it's trying to look forward more.

2 MR. LIEBAU: Well, yeah, I --

3 COMMISSIONER CHOPER: And I think it is a matter  
4 of real concern that in the, I don't know, 15 months or so,  
5 maybe more, this problem's been with us, but there's been  
6 really no --

7 COMMISSION CHAIRPERSON SHAPIRO: This problem's  
8 been with us for three years.

9 COMMISSIONER CHOPER: Yeah, well, I mean, during  
10 all the time I've been here.

11 COMMISSION CHAIRPERSON SHAPIRO: It's three years.  
12 And there have been -- so you know --

13 COMMISSIONER CHOPER: Yes.

14 COMMISSION CHAIRPERSON SHAPIRO: -- there are  
15 plans where Fairplex has made proposals to try and expand  
16 Fairplex to be a training and racing venue, but there were a  
17 lot of economics involved in terms of funding that, which  
18 apparently didn't happen.

19 There were proposals from Los Alamitos, looking at  
20 trying to create a meet there.

21 I mean, I know the industry has worked in earnest,  
22 very hard, to try and look at what these are. The bottom  
23 line is they haven't come up with anything.

24 And what could happen is -- and, again, as I said  
25 at the beginning, Hollywood Park has been up front about

1 this.

2 COMMISSIONER CHOPER: Yes.

3 COMMISSION CHAIRPERSON SHAPIRO: We've tried every  
4 way in the world to twist arms, we've had our blood fight  
5 trying to get them, and they've been consistent down the  
6 road, I can't fault them.

7 But we're playing with a loaded gun here, and the  
8 industry has to either figure out how they're going to do  
9 this, or when Hollywood Park Fall rolls around and they say,  
10 sorry, but we're not going to race, there may not be racing.

11 MR. LIEBAU: Well, there will be racing somewhere.

12 COMMISSIONER ISRAEL: I'm not as concerned about  
13 the absence of racing, because I would imagine either Santa  
14 Anita or Pomona would fill the void. The problem is horse  
15 homelessness. Which homelessness is a terrible problem on  
16 the west side of L.A. And 1,900 thoroughbreds added to the  
17 problem, you know --

18 COMMISSIONER DEREK: Do owners and trainers have  
19 some kind of contingency in their mind, or a plan? They  
20 must.

21 COMMISSIONER ISRAEL: There aren't anymore stalls  
22 at Santa Anita, are there, Ron?

23 COMMISSION CHAIRPERSON SHAPIRO: No, no.

24 COMMISSIONER ISRAEL: And Pomona doesn't have it,  
25 either.

1           COMMISSION CHAIRPERSON SHAPIRO: Just so you know,  
2 well, there have been plans at Pomona to expand Pomona, and  
3 there have been plans at Los Alamitos, essentially trying to  
4 find 1,900.

5           There have been discussions with respect to San  
6 Luis Rey Downs.

7           COMMISSIONER ISRAEL: San Luis Rey Downs, yeah.

8           COMMISSION CHAIRPERSON SHAPIRO: There's been  
9 discussions with respect to using Del Mar. And there have  
10 been discussions as far as looking at other non-currently  
11 racing venues, like Galway Downs.

12           VICE CHAIRPERSON HARRIS: Plus, I think we  
13 wouldn't stipulate that you need 4,000 horses to run a race  
14 meet, either.

15           COMMISSION CHAIRPERSON SHAPIRO: Correct. Right.  
16 Because in the north they --

17           COMMISSIONER ISRAEL: No, but you need somewhere  
18 for the horses to keep training.

19           COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

20           COMMISSIONER ISRAEL: You need a place to stable  
21 and train horses and that's --

22           VICE CHAIRPERSON HARRIS: Well, you may not need  
23 4,000 horses in the pool to sustain a meet. I mean, they  
24 could go someplace.

25           COMMISSIONER ISRAEL: So you suggest that those

1 horses will disburse out of state, then?

2 COMMISSION CHAIRPERSON SHAPIRO: They could.

3 VICE CHAIRPERSON HARRIS: Probably, yeah.

4 COMMISSION CHAIRPERSON SHAPIRO: They could.

5 COMMISSIONER MOSS: Actually, there's farms.

6 COMMISSIONER ISRAEL: Are there enough training  
7 facilities?

8 COMMISSIONER MOSS: I don't know about enough, but  
9 there are farms.

10 COMMISSIONER ISRAEL: There are, and stabling  
11 facilities?

12 COMMISSION CHAIRPERSON SHAPIRO: There aren't  
13 enough -- there aren't enough racetracks with stables to  
14 take --

15 COMMISSIONER ISRAEL: Right, because trainers have  
16 to be proximate to where the races are being run, too, so  
17 you know.

18 COMMISSION CHAIRPERSON SHAPIRO: You're right.  
19 The bottom line is we're behind the eight ball here, and I  
20 don't think this Board is going to solve the problem.

21 COMMISSIONER CHOPER: Well, I guess the question  
22 is what is it -- I mean, I think it was fair to say, on your  
23 part, that someone has dropped the ball here, because here  
24 we got these questions, and they're not that far in advance  
25 going to be not just questions, but realities, and we don't

1 know what's going on.

2 What is it that this Board ought to do to push the  
3 matter along? I mean, I think --

4 COMMISSION CHAIRPERSON SHAPIRO: Jesse, I didn't  
5 want to call anybody out. But, you know, I don't know if  
6 Marsha, or Drew, or Cliff, or Ron, or any of these people  
7 want to step forward. Because, you know, I admit, I'm  
8 really ticked over this, okay.

9 For three years we've been, you know, trying to  
10 find, get the industry to put a contingency plan in place.  
11 And this turd's going to end in our lap, okay, that's what's  
12 going to happen here. All right.

13 COMMISSIONER ISRAEL: Well, one thing that would  
14 be within our powers is to refuse to grant them a license to  
15 run their April through July dates unless they agree in  
16 advance to run their winter dates.

17 VICE CHAIRPERSON HARRIS: Well, that's kind of a  
18 suicide --

19 MR. LIEBAU: Mr. Israel, you don't want to do  
20 that.

21 COMMISSION CHAIRPERSON SHAPIRO: That is suicide  
22 to California racing.

23 MR. LIEBAU: You don't want to do that. I own  
24 horses and I have a stake in Southern California racing, and  
25 I would hope that you wouldn't consider doing that, because

1 the implications of doing that are terrible and we shouldn't  
2 even go there.

3 VICE CHAIRPERSON HARRIS: Yeah, I think what we've  
4 got here --

5 COMMISSIONER ISRAEL: Then we don't have that much  
6 power.

7 VICE CHAIRPERSON HARRIS: Well, what we've got  
8 here may be the best of a bad situation, we've got a six-  
9 month window, it will be April we know. I mean, it's May.  
10 It's a bad situation, but I don't think we have a lot of  
11 alternatives is the problem.

12 COMMISSIONER CHOPER: Well, what can we do --  
13 well, what is someone going to do to push this along towards  
14 some greater certainty as to what's to be done?

15 I mean, it's in everyone's interest, this is  
16 not --

17 VICE CHAIRPERSON HARRIS: Well, we need a bailout  
18 bill to get about a hundred million dollars to build a whole  
19 'nother track in California.

20 COMMISSIONER CHOPER: Yeah.

21 (Laughter.)

22 COMMISSION CHAIRPERSON SHAPIRO: Well, look, I  
23 mean, the truth of the matter is that what we need to look  
24 at is that possibly the calendar's going to get scaled back.  
25 Possibly -- we needed legislative help. The industry tried,

1 it failed. In terms of there were bills that were moving to  
2 help fund fair expansion, both at Fairplex and at  
3 Pleasanton.

4 As I understand it, the bill didn't make it out of  
5 appropriations, I think that's where it was.

6 And it's not our -- you know, to be honest with  
7 you, there's nothing this Board can do.

8 What are we going to -- I don't know, Chilly,  
9 Jack?

10 MR. CHILLINGWORTH: Yeah, let me give you a short-  
11 term solution. I talked to Ron and we're -- Oak Tree is  
12 willing to run an additional three weeks, that would take  
13 you to the first of December. And you might want a hiatus  
14 from that point until the 26th. The Board's been looking  
15 for that for a while.

16 There may be other tracks that are willing to do  
17 it. We're not trying to preempt anybody, we're just trying  
18 to step in and help on the situation.

19 COMMISSION CHAIRPERSON SHAPIRO: Chilly, that  
20 doesn't answer, though --

21 MR. CHILLINGWORTH: And we don't have an answer to  
22 the training.

23 COMMISSION CHAIRPERSON SHAPIRO: When Hollywood  
24 Park is closed, where are those horses going?

25 MR. CHILLINGWORTH: Oh, that's the big problem,

1 okay.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, but that's  
3 the issue. It isn't where we're going to race. We know we  
4 can race at Santa Anita. I mean, we would assume that.

5 MR. CHILLINGWORTH: Right.

6 COMMISSION CHAIRPERSON SHAPIRO: The question is  
7 where are we going to house those horses and all the people  
8 that live and work on the backside?

9 COMMISSIONER ISRAEL: There's a question of job  
10 creation, job retention --

11 COMMISSION CHAIRPERSON SHAPIRO: Remember, we have  
12 a community that lives on that backside.

13 COMMISSIONER ISRAEL: I know, I know, that's what  
14 I'm saying, that's their employment.

15 COMMISSION CHAIRPERSON SHAPIRO: Drew, you want to  
16 shed some light here?

17 MR. COUTO: Well, I don't know if I can do that.  
18 I can tell you what the short-term contingency plans are.

19 COMMISSIONER CHOPER: Yeah, that would be very  
20 helpful.

21 MR. COUTO: The short-term contingency plans, I  
22 think we, as an industry, have looked at assimilating horses  
23 at San Luis Rey, which will only take a couple hundred more,  
24 absent creating some temporary stalls.

25 But we also have Del Mar as a short-term venue

1 that would probably be available to us until early May,  
2 maybe. And so we would have between whatever time it is  
3 that Hollywood Park shuts down in early May to come up with  
4 a solution that's longer oriented.

5 And I think we are continuing to look at the  
6 expansion of perhaps San Luis Rey, or Pomona, or whatever  
7 other options there are. We've had discussions with Los Al.

8 I don't think anything is quite off the table,  
9 yet. But short-term, we know that between San Luis Rey and  
10 Del Mar we have accommodations for at least nine months.  
11 And what we do beyond that is the bigger problem, and we're  
12 working on it.

13 COMMISSIONER CHOPER: When you said early May, it  
14 shows here --

15 COMMISSION CHAIRPERSON SHAPIRO: That's the six  
16 months notice.

17 COMMISSIONER CHOPER: Oh, that's the six months  
18 notice, but Hollywood's going to race through July.

19 MR. COUTO: No, no, no, what that is --

20 COMMISSIONER ISRAEL: You mean May 2010?

21 MR. COUTO: Correct. What that is, is assuming  
22 that Hollywood were to close down at some point.

23 COMMISSIONER CHOPER: Yes.

24 MR. COUTO: All right, they notify all of us in  
25 May that they're not going to run in November, and they're

1 going to close their backside November 1, whatever it is,  
2 backstretch November 1. From November 1, of 2009 through  
3 May of 2010, we likely could accommodate all the horses at  
4 Del Mar and San Luis Rey, or all at Del Mar.

5 COMMISSIONER MOSS: Well, we haven't heard that  
6 from him, actually. I mean, on May 11th we're going to hear  
7 if they're running in November. But their summer meet ends  
8 July 19th. So we don't know if we're going to be allowed to  
9 be on those grounds past July 19th, really.

10 MR. COUTO: No. Well, they have six months to  
11 tell --

12 COMMISSIONER MOSS: That's to tell us, but that  
13 doesn't mean they're going to keep it open for six months.

14 MR. COUTO: It means from the point at which they  
15 notify us, we have six months until they close down.

16 COMMISSION CHAIRPERSON SHAPIRO: They will keep it  
17 open for six months after.

18 COMMISSIONER MOSS: Is that -- there's the man  
19 standing there, is that absolutely certain?

20 COMMISSION CHAIRPERSON SHAPIRO: Jack? Jack?  
21 Jack, you'll give six months notice --

22 MR. LIEBAU: I think, you know, myself not being  
23 in the predicting business, but I suspect that one year from  
24 now, God be willing, and me being alive, I'll be here  
25 discussing this with you and applying for dates in 2010.

1           COMMISSIONER ISRAEL: The economies a pretty good  
2 outlier as you make that prediction.

3           MR. LIEBAU: I know. So that's all. I mean, the  
4 basic problem that we have with racing is the business has  
5 got some fundamental problems. The underlying business has  
6 to be improved.

7           It doesn't make any difference, all you got to do  
8 is look at everybody's financial statements, that nobody's  
9 doing well.

10           And when you don't do well in the United States,  
11 and until they nationalize all the banks then, you know,  
12 there's free enterprise and you'd start reallocating  
13 resources, and that's what's happening to racing.

14           COMMISSIONER ISRAEL: Racing's doing better right  
15 now than the real estate developing business.

16           MR. LIEBAU: That might be, I don't know.

17           COMMISSION CHAIRPERSON SHAPIRO: All right, but  
18 Jack, can I just ask you, because I just wanted to go to  
19 Commissioner Moss's question --

20           MR. LIEBAU: No, I think our thing was there was  
21 no -- that was the thing was that we would give six months  
22 notice that we would not run the fall meet. It was not that  
23 we would keep our, you know, backside available. I mean, if  
24 we have to keep our -- if we give six month's notice in May,  
25 you know, we might as well run.

1           COMMISSION CHAIRPERSON SHAPIRO: You might as well  
2 run.

3           MR. LIEBAU: So, I mean, that wasn't --

4           VICE CHAIRPERSON HARRIS: So if you did keep in  
5 mind that Santa Anita and Hollywood alternate who's open  
6 during Del Mar. Hollywood was open this year, because Santa  
7 Anita's using the track. So Hollywood is not going to be  
8 open during Del Mar in any event, regardless of how long  
9 they're going to be here.

10          MR. LIEBAU: Right, exactly. You know, all I can  
11 say is that I would do my best, and I'm sure that Terry  
12 Fancher will cooperate to keep you advised of the plans, and  
13 let you know as quickly as possible as to whether we're  
14 going to be operating throughout the year.

15          And let's assume that we might be able to give  
16 that comfort prior to six months before our fall meet.

17          COMMISSION CHAIRPERSON SHAPIRO: And I appreciate  
18 that.

19          MR. LIEBAU: I mean, there's --

20          COMMISSION CHAIRPERSON SHAPIRO: We appreciate  
21 that. But, again, the industry has to provide for the worst  
22 case scenario, which is --

23          MR. LIEBAU: I understand that.

24          COMMISSION CHAIRPERSON SHAPIRO: We're not asking  
25 you to do anything more than you can do.

1 MR. LIEBAU: We've been up front, you know, since  
2 September 23rd, 2005, when we bought.

3 COMMISSION CHAIRPERSON SHAPIRO: No argument,  
4 Jack. No argument.

5 MR. LIEBAU: Bay Meadows it was the same  
6 situation, we've been up front.

7 COMMISSION CHAIRPERSON SHAPIRO: Jack, there's no  
8 criticism and no argument. But the bottom line is that we  
9 renamed the damned committee from race dates to strategic  
10 planning, and we haven't been able to pull it off.

11 And everybody's going to come up against that,  
12 possibly, and when there's nothing in place and the damn  
13 thing is closed down, don't look here because we don't have  
14 solutions for you.

15 MR. LIEBAU: Right. And to make it clear to all,  
16 I was not at your meeting so I'm not --

17 COMMISSION CHAIRPERSON SHAPIRO: No, no, no, you  
18 weren't there, Jack.

19 MR. LIEBAU: Right.

20 COMMISSION CHAIRPERSON SHAPIRO: You weren't  
21 there. You were not there.

22 VICE CHAIRPERSON HARRIS: Well, what we need to do  
23 now, though, is look at 2009. I mean, there's nothing --  
24 the strategic planning part we need to do, but we're not  
25 going to get that done in the next few months, so I think we

1 got to figure a good calendar for 2009.

2 COMMISSION CHAIRPERSON SHAPIRO: Look, we have a  
3 calendar in front of us.

4 VICE CHAIRPERSON HARRIS: I don't like it that  
5 way, either.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, we  
7 have a calendar for the south in 2009, which all the  
8 stakeholders bought off on.

9 I've got -- does anybody have an issue on the  
10 Board, with the 2009 proposed racing calendar?

11 VICE CHAIRPERSON HARRIS: I do.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay.

13 VICE CHAIRPERSON HARRIS: I think these six to  
14 eight weeks of really, really racing, and some of the -- I  
15 think we need to make a few cuts here and there, in it, to  
16 build up some demand.

17 We're running six to eight weeks all the way from  
18 July 22nd through September 29th. And Fairplex is six to  
19 eight weeks, they were already overpaid 400,000 in their  
20 last meet. I think they need to rethink that and figure out  
21 ways, maybe, to do better. Maybe doing parts of the  
22 calendar, we could go to a few four and eight weeks just in  
23 someone's.

24 But I'm just worried that we've a real problem in  
25 the horse business, and we've got to resize it. Because I'm

1 just kind of afraid that we're not going to keep people  
2 owning horses unless we can increase purses.

3 The only way I see to increase it is to run  
4 slightly fewer races, and simulcast in on the dark days and  
5 build up some purse monies, and then build up some pent up  
6 demand amongst fans to come out to the live days.

7 COMMISSIONER ISRAEL: But, John, on the other hand  
8 I think we discussed this last month, I think we need to get  
9 a staff analysis of what reduction in race dates will mean  
10 in terms of out-of-state ADW revenue.

11 VICE CHAIRPERSON HARRIS: We ought to do that,  
12 anyway.

13 COMMISSIONER ISRAEL: I mean, as we saw, we're 48  
14 percent of the ADW business. So if we go dark two more days  
15 a week, and I'd venture, I suspect of that 48 percent, a lot  
16 of it is Southern California thoroughbred, some  
17 disproportionate amount is the Southern California  
18 thoroughbred racing.

19 So if you -- you know, if your proposal is  
20 effective and we reduce that calendar on certain weeks by 33  
21 percent, how is that going to affect that handle and the  
22 money flowing back? It may be an adverse effect and not  
23 accomplish what you're proposing which is an increase in  
24 purse, but a diminution in purse.

25 VICE CHAIRPERSON HARRIS: Well, I think it would

1 clearly increase purses. Not purses looking at a gross  
2 amount, but purses per race is what I'm trying to get up.

3 COMMISSIONER ISRAEL: Well, it's a difficult  
4 financial analysis and it really needs to be carefully down.

5 COMMISSION CHAIRPERSON SHAPIRO: Cliff, Mr.  
6 Goodrich, do you want to comment, since Commissioner Harris  
7 just talked about Fairplex six days, as well. You might  
8 want to comment on the prior discussion, since you were one  
9 of the people.

10 MR. GOODRICH: Right, I was there. Cliff  
11 Goodrich, representing Fairplex. And I would like to touch  
12 on what Mr. Harris and others might say about the calendar.

13 First of all, I didn't think there would be action  
14 today because it wasn't listed as an action item. I think  
15 it's important that there is more discussion before the  
16 Board does meet.

17 I will just tell you this, Fairplex has one bite  
18 at the apple, and that's a short meet that lasts less than  
19 three weeks.

20 They used to run 19 days, they now run 16. When  
21 you take a little, old, three-week meet and start talking  
22 about chopping days off, that's a pretty severe penalty  
23 because you get into the 15 percent range of reduced racing  
24 days, especially with the population of horses, which for  
25 the most part are different than that race at the meet that

1 precedes them or comes after them.

2           So we'd like our day in court when the discussion  
3 ensues about trying to convince you that those days are very  
4 precious to a meet that runs only three weeks to begin with,  
5 or less than three weeks.

6           Now, why I really came up here, I think, first of  
7 all, the Chairman is totally right in everything he said.  
8 This industry and a number of us approached him and says,  
9 let us work it out, and to date we have not.

10           I, personally, and I think others would same the  
11 same, are confident we can get through 2009 if, God forbid,  
12 Hollywood announces on May 10th that their fall meet is  
13 over. I think that's the easier hurdle to overcome. We  
14 will find a place for the horses to be housed to get us  
15 through to 2010.

16           The more difficult issue, that we continue to talk  
17 about, is the longer term plan. And, unfortunately, the  
18 Chairman is also right on that, there's nothing this Board  
19 can do to force a square peg in a round hole. For better or  
20 worse, that burden falls on all of the industry  
21 stakeholders.

22           We are met with very difficult circumstances. The  
23 economy, economic problems are no secret. Racing has gone  
24 south all over the country, including Southern California.

25           And the credit crunch, when we had a bill

1 to -- you know, we were going to borrow like up to a hundred  
2 million dollars for both Fairplex and Pleasanton, that's a  
3 little more difficult now, than it was a couple of months  
4 ago, and I think everybody in this room knows that.

5 So we continue to schedule meetings to talk, and  
6 it's a very complex issue that, unfortunately, we  
7 stakeholders, as the stewards of this game are going to have  
8 to resolve. I have every confidence it will be resolved.

9 But, unfortunately, it's going to be pretty much  
10 left up to us, because I don't see how this Board can force  
11 somebody to expand their facility, or train here and there.  
12 I mean, it is a very, very serious issue.

13 2009 is important, I think we'll get through it.  
14 The longer term is far more difficult and all of us are  
15 trying very hard to get to a solution, and that's all I can  
16 say.

17 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

18 COMMISSIONER CHOPER: Can I ask a question? I  
19 understood the plan at Fairplex was to greatly expand the  
20 stable facilities.

21 I didn't understand and maybe neither did anybody  
22 else, as to whether you were also going to do something  
23 about expanding the capacity to have a more regularized  
24 racing schedule, more than the three weeks a year that you  
25 talked about?

1           MR. GOODRICH: And that remains a possibility,  
2 that's still ongoing discussions as to whether or not that  
3 would occur. And, obviously, Fairplex has a keen interest  
4 in that.

5           But this is going to be a decision that Fairplex  
6 is involved, but we can't drive the train. We can make  
7 ourselves available to do whatever we can within the best  
8 interests of the industry, but we can't shoot ourselves in  
9 the foot.

10           And this industry, for the most part, is going to  
11 be made by the TOC, and the people at Santa Anita, and  
12 Hollywood, you know, certainly doesn't look like they're  
13 involved, and Del Mar. And we're part of the group. And we  
14 can't drive the train, nor can any one single entity.

15           This is going to have to be a collective decision  
16 of people deciding what is in the long-term, best interest  
17 of the industry, and what is affordable, what is reasonable,  
18 and what can be accomplished.

19           And I'm sure as other of my cohorts would  
20 ascertain or state, it is very complex, with no easy  
21 decisions, and we continue to look at it. And time's  
22 running out, there's no question about it.

23           COMMISSIONER CHOPER: It's mentioned that Los  
24 Alamitos is also a potential entrant into this discussion.  
25 Have they been included in these discussions?

1           MR. GOODRICH: I would let Los Alamitos speak, but  
2 I would say --

3           COMMISSION CHAIRPERSON SHAPIRO: They have not  
4 been part of discussions with us on this.

5           However, to answer your question, yes, there have  
6 been extensive discussions going on between the  
7 stakeholders, the horsemen, and others, with representatives  
8 of Los Alamitos, including Dr. Allred. So the answer's yes.  
9 Okay.

10          COMMISSIONER CHOPER: Uh-hum.

11          MR. GOODRICH: So we're trying. But the Chairman  
12 is right, up to this date we have failed, and we need to  
13 keep trying.

14          COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.  
15 Thank you very much.

16          Mr. Charles?

17          MR. CHARLES: Just to add to what Cliff was  
18 saying, it's important that the Board understand we  
19 have -- we've had countless meetings on this issue,  
20 specifically because of the stabling issue.

21                 We believe we can find a way to get through the  
22 racing dates.

23                 The problem is, as Commissioner Israel has said,  
24 we have a problem, we have a serious problem, and that  
25 problem is escalated by the fact -- along the lines of what

1 Jack has said.

2 Jack is not sure how long he's going to race, and  
3 it's very difficult to allocate, basically, a commitment to  
4 50 to 100 million dollars when, conceivably, Hollywood Park  
5 could be racing two, three, four more years, or whatever  
6 they might be.

7 So it's we're all kind of in limbo. We're looking  
8 at -- we're certainly looking at Los Alamitos. We've had  
9 numerous discussions with Los Alamitos. Talked to Fairplex.  
10 Cliff has discussed those.

11 We're looking at San Luis Rey with regards to  
12 stabling. But the stabling issue is the most critical one  
13 right now, and we don't have an answer. But it isn't for  
14 trying.

15 COMMISSIONER ISRAEL: Apart from racing, is the  
16 stabling business profitable?

17 COMMISSION CHAIRPERSON SHAPIRO: No.

18 COMMISSIONER ISRAEL: No?

19 COMMISSION CHAIRPERSON SHAPIRO: And you heard  
20 earlier about the stabling and vanning fund.

21 COMMISSIONER ISRAEL: Right.

22 COMMISSION CHAIRPERSON SHAPIRO: It's that fund  
23 that subsidizes it. One of the things, and this will cause  
24 a firestorm, is one of the things this industry probably has  
25 to get to is looking at -- right now, you'll have certain

1 trainers, and they'll have 40, 50 horses, and they'll have  
2 young horses who aren't even close to racing, stabled at our  
3 racetracks. The racetracks have become the farms.

4 COMMISSIONER ISRAEL: Right.

5 COMMISSION CHAIRPERSON SHAPIRO: And they don't  
6 pay stable rent. Instead, what there is, is there's this  
7 stable and vanning fund that's subsidizing this. And it's  
8 not inconceivable, at some point in time, that there should  
9 be some way in which I would think the tracks would want to  
10 impose some form of rent to make stabling -- I mean, how are  
11 you going to afford these stabling facilities?

12 I mean, if it's going to cost 50 to 70 million  
13 dollars to improve Fairplex, and it doesn't pencil without  
14 there being revenue to offset that.

15 COMMISSIONER ISRAEL: Well, there's also -- at the  
16 extreme end of this, there's a horse welfare issue, which is  
17 if you reduce the number of horses that are stabled, they're  
18 going to have to go somewhere, and that somewhere may be the  
19 least appealing of all possibilities, which is not to the  
20 farm, and not to another racetrack, but to the slaughter  
21 house.

22 VICE CHAIRPERSON HARRIS: Well, slaughter's not  
23 legal.

24 COMMISSIONER ISRAEL: I understand that. But the  
25 reality, whether it's legal or not, is that the horses just

1 don't disappear into thin air. And the least productive of  
2 those thoroughbreds, if they're not in active training, are  
3 going to be sent somewhere beyond our ability to control.

4 VICE CHAIRPERSON HARRIS: Yeah, but we can't have  
5 these tracks be lay-up facilities, I mean, is the problem.  
6 And there are ample lay-up facilities in California to go  
7 through. It's not a problem that the horses are going to be  
8 disposed of, it's just they need to get out of there.

9 Like Fresno has 600 stalls, and they run an 11-day  
10 horse meet, with full fields in every race, with 600 horses.  
11 So it is possible that --

12 COMMISSION CHAIRPERSON SHAPIRO: And what we've  
13 seen is that it is hurting our farm population.

14 COMMISSIONER ISRAEL: Yeah, I understand that, but  
15 the number of available ranches and farms have declined  
16 precipitously, particularly out in the valley, where  
17 development's taken over.

18 COMMISSION CHAIRPERSON SHAPIRO: Because what has  
19 happened is we've got 5,000 stalls serving the Southern  
20 California circuit.

21 COMMISSIONER ISRAEL: Right.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, and the  
23 trainers -- and I don't blame him if I was a trainer, I'd  
24 want to have my little baby two-year-olds there, and all  
25 that. The farm has become the racetrack.

1           And we've obsoleted our farms. So now you see  
2 that -- Mira Loma's gone. I mean, all these farms that are  
3 gone as a result of we made it easier to be at the track and  
4 they've found a higher and better use for the property.

5           COMMISSIONER ISRAEL: Right.

6           COMMISSION CHAIRPERSON SHAPIRO: But if there was  
7 a rent associated with it, maybe their better off going to  
8 farms that have training facilities. I know where I keep my  
9 horses, they've got a track. You have a track at your farm.  
10 And these people have capacity.

11          COMMISSIONER MOSS: Yeah, but you're forgetting  
12 something, and that's the ability of the trainer to watch  
13 the horse and his development.

14          COMMISSION CHAIRPERSON SHAPIRO: I understand.

15          VICE CHAIRPERSON HARRIS: Yeah.

16          COMMISSION CHAIRPERSON SHAPIRO: I understand.

17          COMMISSIONER MOSS: So it doesn't do the trainer  
18 any good to have his two-year-old be working at some track,  
19 you know, 20 miles away, he can't watch it.

20          COMMISSION CHAIRPERSON SHAPIRO: But there are  
21 some horses that aren't at that stage, that are just going  
22 through the breaking stage, though, that are on the track.

23          VICE CHAIRPERSON HARRIS: It's a cost. I mean, he  
24 may be able to do it, but it shouldn't be that everybody  
25 else has got to subsidize it.

1           COMMISSIONER ANDREINI: Ron, are the contretemps  
2 with Los Alamitos, I mean, are they easily overcome or are  
3 they --

4           MR. CHARLES: There's some issues. But we --

5           COMMISSIONER ANDREINI: Are they large ones?

6           COMMISSION CHAIRPERSON SHAPIRO: Yes.

7           MR. CHARLES: Well, let's just say we have some  
8 hurdles to get over. But it is possible and we will  
9 continue to talk to Los Alamitos. It's just been difficult  
10 up to this point.

11           I think Commissioner Moss makes a good point, you  
12 know, what we do has got to be done first class.

13           Southern California racing is just too high a  
14 quality to not to have first rate training facilities, and  
15 that's what we're looking at. We've got to be able to have  
16 facilities.

17           And you talk about the amount of starts per stall,  
18 absolutely. Northern California probably has half the horse  
19 population as Southern California, and look what they're  
20 able to produce.

21           We need to start looking and being more careful  
22 and judicious as to how we give stalls away.

23           But that's not the issue. What you're asking for  
24 right now is a plan. We don't have a plan. We are working  
25 as fast as we can.

1           The economy, and a number of other issues that  
2 have come up in the last two or three months have -- have  
3 pretty much changed the way we're going.

4           We had a meeting 45 minutes ago, we'll have a  
5 meeting after this.

6           But I want to assure the Board we are taking this  
7 seriously. It's extremely difficult when you're in limbo.  
8 Because if you go ahead and you make a commitment, and you  
9 have someone invest 50, 70, a hundred million dollars into a  
10 facility and, meanwhile, that facility can't be utilized  
11 because Hollywood decides to race more, it's very difficult.

12           COMMISSION CHAIRPERSON SHAPIRO: Ron, I don't be  
13 little at all how difficult this is. I know it. And I know  
14 people have been trying, and trying, and trying.

15           But it is three years and we're back -- we're  
16 still at square one, despite all the good efforts.

17           And all I'm saying is let this go out as a big  
18 warning call that if, God forbid, and I don't believe Jack  
19 Liebau is sitting there for one second wanting to close  
20 Hollywood Park, I believe he wants to keep it open forever.

21           Okay. But if for some reason Hollywood Park, the  
22 owners of Hollywood Park decide that it's closing, and  
23 there's a crisis, this Board is not in a position to solve  
24 it.

25           So let it be out there, I don't think we have to

1 belabor it anymore. You know, we stand ready to help, we  
2 stand ready to participate, we stand ready to do whatever we  
3 can at any level. All of us, I believe, so.

4 And I think that's enough said on this, why don't  
5 we now move.

6 COMMISSIONER MOSS: I think one more point I'd  
7 like to make, Mr. Chairman.

8 COMMISSION CHAIRPERSON SHAPIRO: Please.

9 COMMISSIONER MOSS: And that is that, you know,  
10 the State is involved in this crisis, as well, and I think  
11 some question should be put forth to the State, or whomever  
12 will speak for the State, of what they could offer us in  
13 this regard.

14 I mean, the State owns the property at Del Mar,  
15 for example. There are fairs at Del Mar. How do we make  
16 Del Mar, perhaps, more adequate for year-round racing, if we  
17 needed it.

18 MR. CHARLES: Jerry, those conversations are  
19 taking place as we speak, so we really are pursuing that  
20 issue, also.

21 COMMISSIONER MOSS: All right.

22 COMMISSIONER ISRAEL: Mr. Chairman, is some part  
23 of the problem that the person, or the individuals truly  
24 responsible for the existence of this problem are never held  
25 at account at this meeting, which is to say Fancher and his

1 partners, that they don't ever have to appear before us?

2 COMMISSION CHAIRPERSON SHAPIRO: No, they have  
3 appeared. And, frankly, Mr. Liebau has come here and I  
4 think he has been as forthcoming as he is able to be. I  
5 think the truth of the matter is they don't know. They're  
6 going through an entitlement process. It's the same as Bay  
7 Meadows. They're going to keep it open as long as they can,  
8 to enjoy the cash flow that they get.

9 COMMISSIONER ISRAEL: Obviously, yeah.

10 VICE CHAIRPERSON HARRIS: But I think the problem  
11 is that they don't know, and they are being forthright in  
12 saying that. I think the only alternative we would have is  
13 to say, well, since you don't know, we're taking the dates  
14 and giving them to Del Mar, or Fairplex, or something --

15 COMMISSION CHAIRPERSON SHAPIRO: And we don't have  
16 any --

17 VICE CHAIRPERSON HARRIS: But I think the problem  
18 is, if we do that, then we're forfeiting a lot of other  
19 things. But we can do that. I mean, but it's a poker game,  
20 but we do have different things we can do.

21 COMMISSIONER ISRAEL: Well, that's what I  
22 suggested earlier and it was perceived to be a nuclear  
23 option that no one wanted to take.

24 COMMISSIONER CHOPER: See, I think the alternative  
25 is not so much taking them away and giving them to Del Mar,

1 or Santa Anita. But I think that if anyone, whether it be  
2 Fairplex, or Los Alamitos, or some party is going to make  
3 a -- in terms of the figures that you're talking about, one  
4 of the things the Board can do is assure them that if they  
5 go ahead with it, once they're ready to race, then they get  
6 the dates.

7 I mean, I'm not at all unsympathetic to the  
8 situation at Hollywood Park, I understand it perfectly.

9 But on the other hand, we've got to make -- do  
10 everything within our authority to try to solve the problem.  
11 And I don't see where anyone would invest a hundred million  
12 dollars, like you say, if they knew they couldn't get --  
13 when they're ready to race they'd say, well, no, Hollywood  
14 Park's going to go another couple of months. That's  
15 something that we do have some control over.

16 COMMISSION CHAIRPERSON SHAPIRO: Yes. And if  
17 there was a solution that somebody came forward and said we  
18 stand ready to do it, and we've got the stabling, but we  
19 want you to commit the dates to us so that we know, this  
20 Board has the authority to do that.

21 Unfortunately, no one's come forward with a plan  
22 to say we'll do that.

23 COMMISSIONER ISRAEL: Well, that's the let the  
24 free market decide solution. You're saying let the free  
25 market decide.

1           COMMISSIONER CHOPER: With the assurance of the  
2 Board that when, if they do, they make the decision then  
3 they can get the dates.

4           COMMISSION CHAIRPERSON SHAPIRO: Absolutely, and  
5 that's something we can do.

6           COMMISSIONER CHOPER: That ought to be clear.  
7 Because it troubled me when you said, well, who's going to  
8 go ahead when they don't know what's going to happen? Well,  
9 they ought to know that they have the assurance that if they  
10 do go ahead, and they're ready to open, then they get the  
11 dates. That's only fair, it strikes me.

12          MR. CHARLES: Well, it's important for the  
13 industry to hear that because no one's going to step forward  
14 and make that commitment until -- unless they knew that.

15          COMMISSIONER CHOPER: Well, I don't know what the  
16 procedure is for us to do that, and maybe it's just  
17 premature to just ask everyone to vote, now.

18          But, I mean, I can't imagine that Hollywood Park  
19 would say that that's unfair under the circumstances. I  
20 mean, you can't go on six months notice and build a new  
21 racetrack, and have it open.

22          Jack, I mean, isn't that true?

23          MR. LIEBAU: It's absolutely true. I mean, I'm  
24 sort of astounded, sitting here, that everything hasn't  
25 progressed, because it's Hollywood Park's fault. I mean, if

1 people want to go ahead -- if I was going into the business  
2 at a hundred million dollars, I'd come in here and say, you  
3 know, I'm going to have a facility in 2010, I'm going to  
4 start construction, and I'm not going to do it unless you  
5 give me the dates. I mean, that's perfectly understandable.

6 COMMISSIONER CHOPER: And it would be perfectly  
7 understandable on your part that the dates are going to be  
8 yours.

9 MR. LIEBAU: Yeah, there's no question about that.

10 COMMISSION CHAIRPERSON SHAPIRO: And that gets to  
11 the point --

12 MR. LIEBAU: We're trying to cooperate here by  
13 more.

14 COMMISSIONER CHOPER: We know that.

15 COMMISSION CHAIRPERSON SHAPIRO: It gets to us,  
16 where we say, well, we -- well, where's the damn plan?  
17 We've been asking for it.

18 VICE CHAIRPERSON HARRIS: Hollywood Park's not the  
19 one that's going to come up with the plans

20 COMMISSIONER ISRAEL: Well, wait, wait, hold it.  
21 Oak Tree's come forward, if I'm not mistaken, and said we  
22 would be very happy to have the dates for the remaining  
23 weeks of November. The remaining weeks of November.

24 Would Del Mar like to have the dates for the weeks  
25 of December, preceding L.A. Turf Club's meet?

1           MR. LIEBAU: I'm sure that's fine. I mean, it's  
2 real simple.

3           COMMISSIONER CHOPER: Yeah.

4           MR. LIEBAU: You talk about your nuclear, you  
5 know, alternative. Put us out of business, put me out of my  
6 misery. You know, that's where we are. If you don't want  
7 to give us the dates, you just have to --

8           COMMISSIONER ISRAEL: You know, the truth is, if  
9 there were the stables, I don't think anybody would hesitate  
10 to do that. In the absence of the training facility and the  
11 stalls --

12          MR. LIEBAU: I understand that perfectly. That's  
13 the only thing, I would not have dates but the fact that you  
14 need me, okay. I understand that.

15          COMMISSIONER CHOPER: Oh, I think it's one thing  
16 to talk about a new facility. Golden Gate has picked up all  
17 of the dates, or effectively all of them from Bay Meadows,  
18 that's fine. I mean, that's worked out.

19          COMMISSION CHAIRPERSON SHAPIRO: Well, it hasn't  
20 worked out.

21          COMMISSIONER ISRAEL: Well, it's worked out  
22 because --

23          COMMISSIONER CHOPER: Well, what hasn't worked out  
24 is --

25          COMMISSION CHAIRPERSON SHAPIRO: It's because the

1   fairs take the horses.

2                   COMMISSIONER CHOPER:  What hasn't worked out are  
3   the plans that Pleasanton had to have a facility that would  
4   go a long way toward replacing Bay Meadows.

5                   COMMISSIONER ISRAEL:  But, Jesse, that's what I'm  
6   looking for here, too.  Pleasanton could stable the horses.  
7   And absent that, we have the stabling problem.

8                   COMMISSION CHAIRPERSON SHAPIRO:  And we're not  
9   there, yet, and there's no improvements, it's still a county  
10  fair, and there isn't the funding to improve and add stalls  
11  there.  So there's plenty of problems in the north.

12                   But the bottom line here is that I don't think  
13  that the industry has been able to come up with the  
14  economics and the plan to allow for racing to go to Del Mar  
15  at a certain time of the year.  Del Mar has other events  
16  scheduled, that you have to work out with the fair, what the  
17  bond schedule is, and the housing, and the same with Oak  
18  Tree.  And you can't just slap it in there.

19                   And, unfortunately, there has not been an economic  
20  solution to improve Fairplex, so they could be the training  
21  center of Southern California, and also take on more racing.

22                   And there hasn't been a deal made with Los  
23  Alamitos, which is also a year-round quarter horse facility,  
24  and is going to take significant money.  And so we have  
25  not -- the industry's not been able to solve the problem.

1           What the point is that I'm hearing from this Board  
2 is that when there is a plan, and the funding is available,  
3 if somebody wants to do that plan, it sounds like a number  
4 of the people on this Board would be willing to say you'll  
5 get the dates, we will award the dates if somebody comes up  
6 with a plan.

7           And, again, there's no fault to Hollywood Park in  
8 this, it's not your responsibility.

9           Marsha, do you want to add something?

10           COMMISSIONER ISRAEL: Just one more, the only  
11 other thing I would say, if the State could take some action  
12 that would encourage Hollywood to stay in business, that  
13 would give it a reason to believe there's light at the end  
14 of the economic tunnel, you know, I don't know what the hell  
15 it is, that would be a good thing.

16           And, I mean, I have an idea what it is but --

17           MR. LIEBAU: Mr. Israel, perhaps that could  
18 happen.

19           COMMISSIONER ISRAEL: Yeah.

20           MR. LIEBAU: Because I would tell you that -- the  
21 biggest investor in Hollywood Park is CalPERS.

22           COMMISSIONER ISRAEL: Yeah, but CalPERS operates  
23 independently.

24           MR. LIEBAU: I understand.

25           COMMISSIONER ISRAEL: So that's not the

1 Legislature or the Administration.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, we all  
3 agree and we all have tried.

4 COMMISSIONER ISRAEL: Look, I think you should  
5 have slots machines, there's nothing I can do about it.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, Marsha?

7 MS. NAIFY: I just, you know, wanted to reiterate.  
8 The basic problem we have, and we all know, is the stabling  
9 factor.

10 The Southern California group that's meeting, TOC,  
11 the CTT, Del Mar, Santa Anita, we have been in meetings,  
12 diligently working on this problem, and we're going to  
13 continue to work on this problem.

14 And like you said, Commissioner Shapiro, this is a  
15 very, very complex problem, especially given the current  
16 economic situations.

17 We do not have a plan today, but it's for lack of,  
18 you know, working on one. We have been trying to work on a  
19 plan and we hope to have one before the end of this year.

20 We do have contingency plans, in case Hollywood  
21 Park does close. That's all I can say.

22 COMMISSION CHAIRPERSON SHAPIRO: All right, I  
23 would ask that those be shared with us when -- by the end of  
24 the year, so we can have some comfort and some knowledge,  
25 because we need to protect the interest of the State, the

1 fans.

2 And we're trying to be supportive, I hope you know  
3 that.

4 MS. NAIFY: Right.

5 COMMISSION CHAIRPERSON SHAPIRO: You know, but  
6 we're in the dark, okay. And I know everybody's been trying  
7 because, you know, I am aware of all the meetings.

8 But we've gone along with your request that we  
9 stay out of it, but we're nervous.

10 MS. NAIFY: I understand.

11 COMMISSION CHAIRPERSON SHAPIRO: Rod? Please  
12 identify yourself. I probably should be doing that.

13 MR. BLONIEN: Thank you, Mr. Chairman and members,  
14 Rod Blonien on behalf of Pleasanton.

15 I believe today is the -- all the horses, I  
16 believe, are now out of Bay Meadows. The bulk have come to  
17 Pleasanton and it -- the transition has been handled very  
18 well, in cooperation with Magna, and in cooperation with Bay  
19 Meadows and Pleasanton.

20 And so we have, I think now, just short of 800  
21 horses on grounds where ordinarily we'd probably have 200  
22 head of horses.

23 And we have an excellent working relationship with  
24 Magna, in terms of they working with us to help create some  
25 revenue, to help fund some improvements at Pleasanton.

1           In addition, we're working cooperatively with them  
2 on legislation to help create a little bit of a revenue  
3 stream.

4           So I think, you know, it's been uncomfortable for  
5 many people, particularly those who live in the San Mateo  
6 area, who are now training at Pleasanton. But I think,  
7 everything considered, it really has worked pretty well and  
8 everyone has been cooperating.

9           COMMISSIONER CHOPER: So, Rod, is the situation  
10 that there are now adequate stalls in the north?

11          MR. BLONIEN: I would say the answer to that is  
12 yes.

13          COMMISSIONER CHOPER: Well, that's very  
14 reassuring.

15          MR. BLONIEN: I think that there are probably ten  
16 stalls being used at Golden Gate Fields, where they need to  
17 move the horses someplace else, but I think that they'll  
18 find stalls for them very shortly, and I think that problem  
19 is solved.

20          VICE CHAIRPERSON HARRIS: It is pretty tight, but  
21 it's working, I think.

22          MR. BLONIEN: Yes. Now, I'd like to testify on  
23 behalf of Los Alamitos.

24          COMMISSION CHAIRPERSON SHAPIRO: You have to go  
25 back and come back.

1 MR. BLONIEN: I got to go back and come back.

2 In terms of Los Alamitos, another client, Doc has  
3 had numerous meetings with Marsha Naify, folks from TOC,  
4 Magna, all the players in Southern California.

5 Doc's basic position is that if they want to race  
6 at Los Al, he is willing to accommodate that and work out a  
7 plan with them. He has some requirements, they have -- he  
8 has discussed the requirements with everyone.

9 And I think he has asked that by the end of this  
10 year that they come to him and let him know their decision.  
11 And if it's to go forward, I think he's willing to go ahead  
12 and arrange the funding for that, and take that obligation  
13 on himself. Thank you.

14 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.  
15 Blonien.

16 Okay, I would like now to move our focus to  
17 Northern California, since this is not an action item.

18 In Northern California, again, the same issue.  
19 While we've heard that the horses are currently being  
20 provided for, it appears that what we have are two  
21 schedules, I guess, that are -- one is being presented by  
22 TOC, and the other by CARF, which is California Authority of  
23 Racing Fairs, with some slight differences.

24 I believe that each of the members -- have each of  
25 the members been handed today, Drew, this --

1 MR. COUTO: Yes.

2 COMMISSION CHAIRPERSON SHAPIRO: Everybody has  
3 this proposal, that has a calendar in it, for Northern  
4 California.

5 We don't have one from CARF, but I guess somebody  
6 can point out what the differences are.

7 Drew, do you want to explain to us what's being  
8 proposed in Northern California?

9 MR. COUTO: Sure. Drew Couto, Thoroughbred Owners  
10 of California.

11 I think everybody recognizes, at least with regard  
12 to the north, we sort of have a split at the moment between  
13 the desires of CARF and the desires of TOC, CTT and Golden  
14 Gate Fields.

15 The reason we didn't submit this earlier is  
16 because the parties have been going back and forth for the  
17 past two weeks, up until about last week, when I think  
18 frustration levels cut off some discussion and, admittedly,  
19 I was one of the most frustrated by the whole process.

20 So we submitted this today for simply to  
21 illustrate what we're going to discuss.

22 And I apologize you didn't see it in advance but,  
23 again, it's simply for illustration.

24 The last meeting we had was about a week and a  
25 half ago, at Pleasanton, and the fairs presented a calendar

1 that largely looked like this year, in terms of the racing  
2 calendar, except instead of having Bay Meadows run certain  
3 dates, it was assumed that the majority of those dates were  
4 going to be run by Golden Gate Fields, instead.

5           And for the summer block, the calendar began with  
6 Pleasanton, and then I believe it was Santa Rosa. And those  
7 two splitting, or each having three weeks, because Vallejo  
8 is no longer going to run.

9           And then they had a two-week calendared meet at  
10 Golden Gate Fields, on behalf of the fairs, two weeks then  
11 at Sacramento, or maybe it was three weeks. I apologize,  
12 Chris, you can clarify what that was. And then on to  
13 Fresno. With Ferndale being overlapped with the Golden Gate  
14 Fields meet.

15           I'm sorry, I left out Stockton. Stockton was  
16 going to again run in September, weekends, not overlapped  
17 with their fair.

18           In response, we looked at the calendar and there  
19 were some things that struck us.

20           First of all, the north is in peril. I mean,  
21 we've had a major racetrack close, and it has been in  
22 discussion for three years that when that major racetrack  
23 closed, we were going to then attack the calendar in a  
24 meaningful way to try and get the north back on track.

25           We have seen, over the past three years, major

1 stables leave the north. Some completely. Some setting up  
2 divisions down south. You have an extremely difficult times  
3 trying to fill races that are claiming races, and allowance  
4 races, and maiden races, we have extremely difficult.

5           We almost have no more two-year-old program. And  
6 I'm going to let Tom Bachman and Charlie Dougherty explain  
7 to you, in even more depth, the problems up north. But we  
8 have some serious, serious problems that cannot be fixed by  
9 Band-aids, cannot be fixed by simply trying to placate one  
10 or two groups with regard to what they consider traditional  
11 dates and expect that we're going to get healthy, or expect  
12 that we're even going to keep racing viable in the north for  
13 more than a couple more years.

14           So as a result, what TOC had proposed, and with  
15 the help of MEC, Robert Hartman, Golden Gate Fields, and the  
16 CTT, we proposed that from December 26th through June 14th  
17 we ran at Golden Gate Fields.

18           And what we did there, in the January and February  
19 time frame, is cut to four-day racing, with the exception of  
20 two weeks in that block.

21           We realized we have too few horses, too many race  
22 dates, and cut to four-day racing. And that's something  
23 we've been talking about for a while.

24           In the March, and April, and June timeframe, when  
25 we typically have horses coming from elsewhere, Arizona, we

1 restored the calendar to five days.

2 At the end of the Golden Gate meet, on the 14th,  
3 we went back to Stockton. Put Stockton back in their  
4 traditional days, letting them, or allocating to them the  
5 dates from June 18th through the 28th.

6 COMMISSION CHAIRPERSON SHAPIRO: Is that when  
7 their fair occurs?

8 MR. COUTO: That's when their fair occurs.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

10 MR. COUTO: Instead of running the three weekends  
11 in September.

12 We next went back to Pleasanton, when its  
13 traditional fair occurs, and instead of them running two  
14 weeks, we asked to have them run three weeks.

15 As you know, Pleasanton is the new training center  
16 up north. We need the additional weeks there to help them  
17 generate revenue, to begin to make the improvements on their  
18 backstretch that we're hopeful for.

19 In both calendars, Vallejo is disappearing from  
20 the calendar as a racing fair next year.

21 So we would have three weeks at Pleasanton,  
22 running from July 1st through the 19th, followed by three  
23 weeks at Santa Rosa.

24 One of the problems that had been in the north, we  
25 had a long stretch of time when we didn't have grass racing.

1 When they're up in Santa Rosa, they had grass racing, but we  
2 only had two weeks of it, until we had two weeks at San  
3 Mateo. So we've increased Santa Rosa an additional week,  
4 making them healthier. They've made the investment, we want  
5 to make them healthier, they have three weeks.

6 We then, quite differently, inserted a four-week  
7 meet at Golden Gate Fields, to be run on behalf of the  
8 fairs. And we had talked to Golden Gate Fields about this  
9 calendar, where the revenues generated in that four-week  
10 meet at Golden Gate Fields would be dedicated to Pleasanton.  
11 Again, to help fund the improvements that we must make at  
12 Pleasanton.

13 So those dates would be from August 12th through  
14 Monday, September 7th. And that meet would be overlapped  
15 with the Ferndale meet.

16 Ferndale would run August 13th through the 23rd.  
17 And, you know, when we proposed this, each individual fair  
18 individual fair that, actually, that helped them.

19 Individually, maybe not as a group, CARF, but  
20 individually these dates were considered improvement.

21 We then moved to the question of Sacramento. And  
22 Sacramento was out of the thoroughbred or fair business for  
23 three years, pursuing the harness business. They've come  
24 back.

25 They're uncertain as to when they're going to run

1 their fair in 2010. They've indicated that they may be  
2 moving -- vacating their September dates and looking to run  
3 at a different time, because of the carnival schedules north  
4 and south, and changes being made.

5           We felt if it was best if we had them start for  
6 three weeks, increasing their meet an additional week from  
7 what was proposed, having them start on September 7th, which  
8 would be an overlap day with Golden Gate Fields, but we  
9 would coordinate the racing, because there's very definitely  
10 different types of horses that would be running at Golden  
11 Gate Fields, from the emerging breed and the less expensive  
12 horses at Sacramento.

13           So Cal Expo would run from September 7th through  
14 September 27th. And with those three weeks, what we  
15 calculated, based on comparable days, that they would see an  
16 increase in their overall revenues by about 20 percent, if  
17 they ran those dates.

18           The calendar, then, would continue with Fresno  
19 running from September 30th through Monday, October 12th.

20           And then we would begin back at Golden Gate Field  
21 for the fall meet, on October 16th, concluding December  
22 13th.

23           And you'll note in this calendar we have, again,  
24 four-day weeks in November and December, recognizing  
25 weather, shortage of horses, the fairs tend to take their

1 toll. Giving the industry almost a two-week, in the north,  
2 Christmas break.

3           And we made this calendar because, in our opinion  
4 as horsemen, we hear from owners, we hear from trainers.  
5 And the movement during the fairs, in the north, and the way  
6 it has been done has caused a lot of them to leave. And  
7 we're told by some of the stables, if they're flip-flopping  
8 back and forth, they can't develop two-year-olds.

9           They're not going to continue to make the  
10 investment of moving from track to track, and trying to move  
11 horses there, and take young horses there.

12           We looked at it from a revenue generated stand  
13 point, and the four weeks at Golden Gate Fields, included  
14 for you is some indications of what we generate, if you turn  
15 to the page after the calendar.

16           We've given you a short sort of summary of what is  
17 generated in purse revenue, what was generated this year at  
18 each of the meets in purse revenue, per day, and what was  
19 paid per day.

20           And we're trading by moving away from the schedule  
21 proposed by the rest of us in the north, we're moving away  
22 from a meet that is going to generate probably around  
23 150,000 per day in purses, paying out 130,000 per day in  
24 purses, to a venue in that same time period that's going to  
25 generate maybe 87,000 in purse revenue and pay out 68,000.

1           And as we looked at this, we recognized that there  
2 was also some synergies in wagering north and south. Both  
3 the meets in the north and the meets in the south depend on  
4 very strong signals in the north and south to generate  
5 revenues. And since these revenues at the fair dates,  
6 allocated to Golden Gate Fields, were going to be used for  
7 the fairs, not for Golden Gate's benefit, we realized we  
8 could generate more money doing this, as well. And, again,  
9 hopefully make the industry healthier.

10           We also, the next page, analyzed this from the  
11 expenditures of NOTWINC, stabling and vanning, and found  
12 that if we did as proposed by this calendar, we can  
13 reduce -- we think we can reduce the project deficit  
14 substantially because of the four weeks with only one  
15 additional training center, rather than four weeks with two  
16 additional training centers.

17           And we find that throughout the year we  
18 basically -- the stabling and vanning monies pay for the  
19 facilities at Golden Gate and Pleasanton, we generate enough  
20 to do that. We incur our losses during the fairs, we  
21 historically do.

22           COMMISSION CHAIRPERSON SHAPIRO: Can I ask you a  
23 question?

24           MR. COUTO: Sure.

25           COMMISSION CHAIRPERSON SHAPIRO: This calendar

1 shows 250 days of racing. What was it in 2008, I don't have  
2 that right a way available. Do you know what the reduction  
3 in live racing days is?

4 MR. COUTO: I don't off the top of my head. Isn't  
5 it like 30 days, does anybody know?

6 MR. COUTO: 283, Mr. Hartman's saying 283.

7 COMMISSION CHAIRPERSON SHAPIRO: 283.

8 MR. COUTO: Yeah, so you're looking at, what is  
9 it?

10 COMMISSION CHAIRPERSON SHAPIRO: So it's about a  
11 33 day reduction.

12 MR. COUTO: Yeah, so that's, do the math here, 14  
13 percent reduction.

14 And as Mr. Harris appropriately pointed out, when  
15 you reduce these days and you have the full card imports,  
16 and you have the ADW simulcasting, your average purse  
17 revenue is going to go up on each of those racing days, so  
18 you're running for a bigger purse.

19 Now, in the aggregate, you're correct, it goes  
20 down. But we find that in the aggregate we suffer from a  
21 field size stand point, from a perception out of state, and  
22 from the owner's stand point, they're not running for  
23 enough.

24 So we felt this was a better calendar.

25 COMMISSIONER MOSS: Can I ask a question?

1 MR. COUTO: Yes, sir.

2 COMMISSIONER MOSS: Have the racing secretaries of  
3 all the fairs, and Golden Gate, gotten together to put  
4 together a calendar which is a reflection of the horse  
5 population, number one, but highlight certain races so that  
6 trainers can make the circuit, with the time to prepare  
7 their horses for a particular race?

8 In other words, so that the racing secretaries are  
9 in sync with all of this, and you get the most out of those  
10 calendars, you know, that you don't have conflicting dates.

11 MR. COUTO: Sure.

12 COMMISSIONER MOSS: So that, you know, three and  
13 up fillies aren't -- don't have three places to go to run  
14 for 40,000. You know what I'm saying, at six and a half  
15 furlongs or something.

16 MR. COUTO: I do. There's such simple logic in  
17 what you say, and I think we've asked for a calendar of  
18 stakes and races for five years, and we can't get the racing  
19 secretaries together to do this.

20 COMMISSIONER MOSS: Well, I think you should this  
21 time.

22 MR. COUTO: I think we should, too. And we're  
23 working on it. In fact, internally, at TOC, since we're  
24 frustrated by the fact that we can't get this done, either.  
25 But, no, they haven't done it.

1           COMMISSIONER ISRAEL: Do we have a role to play in  
2     facilitating what Commissioner Moss asked?

3           MR. COUTO: I imagine you do.

4           COMMISSIONER ISRAEL: What would it be?

5           MR. COUTO: I haven't thought about that.

6           COMMISSION CHAIRPERSON SHAPIRO: Well, I think TOC  
7     and the tracks, I mean, they just need to get it done, and  
8     they've got the wherewithal to do it. I don't know if it's  
9     something the racing board wants to jump into.

10          MR. COUTO: Well, right now one of the  
11     problems -- I would just tell you, one of the problems, and  
12     defend the racing secretaries somewhat, is they can't come  
13     up with a calendar until they know what the dates are for  
14     next year. And when they do that they can -- they'll know  
15     when they're running, and then how they adjust their stakes  
16     schedule.

17          COMMISSION CHAIRPERSON SHAPIRO: Aren't they all  
18     during -- using the same -- isn't Tom Deitrich, now, for all  
19     the fairs, using --

20          MR. COUTO: Deitrich, yeah.

21          COMMISSION CHAIRPERSON SHAPIRO: I mean, there is  
22     a difference now that we have a racing secretary that  
23     is --

24          MR. COUTO: Correct. This year was the first year  
25     that we had one racing secretary for all the fairs. And my

1 understanding is he'll be back next year. And then you have  
2 Shawn Greeley at Golden Gate Fields.

3 COMMISSION CHAIRPERSON SHAPIRO: Yeah, so  
4 hopefully, we'll get better as a result of that.

5 COMMISSIONER ISRAEL: So it's a coordinated  
6 effort, then.

7 MR. COUTO: Now, it is.

8 VICE CHAIRPERSON HARRIS: It's not completely  
9 uncoordinated now, it's just that it could be improved. But  
10 it's not like it's that bad.

11 MR. COUTO: So, anyway, to wrap up, you know,  
12 from -- we understand the importance or perceived importance  
13 to a fair to want to have its racing overlap its fair, we  
14 understand that. We understand the theory of tradition.

15 And we understand, you know, the arguments that  
16 have been made over years past, about it's the fairs are the  
17 place where new owners are developed, and new fans are  
18 developed, et cetera.

19 But we're at a point economically, we're at a  
20 point structurally of peril. And the people who drive this  
21 industry, the horsemen, the trainers, the owners, they're  
22 telling you, by the participation at the meet. I mean,  
23 they're telling you that this isn't working anymore. And we  
24 don't have a long time to go for another year of transition,  
25 and another year, we don't have it.

1           COMMISSION CHAIRPERSON SHAPIRO: I totally agree  
2 with that and I'm glad to hear it.

3           What I would like to do is I would like to hear  
4 from people on this proposal, see who has a problem --  
5 before CARF, okay. Are there other -- does CTT, do other  
6 members, who has a problem with this calendar?

7           VICE CHAIRPERSON HARRIS: Well, I might start off  
8 that I think a lot of -- this calendar has a lot of good  
9 things about it, and I particularly like the five-day weeks  
10 and --

11          COMMISSION CHAIRPERSON SHAPIRO: Four days, too.

12          VICE CHAIRPERSON HARRIS: Well, the five-day weeks  
13 during the fairs, and it's got a lot of pluses.

14          The only thing I'm concerned about, if I was going  
15 to change something, is the Sacramento dates. Cal-Expo is a  
16 very big fair, it's the State Fair, and it has a long  
17 history and they get, I don't know how many people, but a  
18 lot, there.

19          And I still have no given up on the idea that  
20 fairs can expose people to racing.

21          When we were up at Cal-Expo, it's a beautiful  
22 facility, it's got potential to be a major, major facility,  
23 and it's as nice any track in America, really. I mean,  
24 parts of it.

25          COMMISSION CHAIRPERSON SHAPIRO: Right.

1           VICE CHAIRPERSON HARRIS: But I think if we tell  
2 them that, look, you're not going to get racing during your  
3 fair, and I realize they're gravely, and they've been  
4 walking away from a mixed meet to start with.

5           COMMISSION CHAIRPERSON SHAPIRO: We represent all  
6 segments of the industry.

7           VICE CHAIRPERSON HARRIS: Well, I know, but I'm  
8 just telling them what they did. Now, maybe other -- maybe  
9 the harness guys are so smart they talked them into it.  
10 But, basically, Cal-Expo should never have walked away from  
11 what they had.

12           But now that they're back, to tell them that, no,  
13 we're not going to allow you to race your traditional dates,  
14 would be the wrong thing to do. And I don't think we  
15 necessarily respond to any political pressure, but keep in  
16 mind the State Capitol is in Sacramento, and that Board is  
17 appointed by, you know, a whole periphery of Legislators,  
18 and it's a sensitive issue, anyway.

19           COMMISSION CHAIRPERSON SHAPIRO: I just want you  
20 to know, I have tried every --

21           COMMISSIONER ANDREINI: Are the three weeks of  
22 racing in Sacramento, do they correspond with the fair  
23 dates?

24           COMMISSION CHAIRPERSON SHAPIRO: No, that's the  
25 problem.

1 VICE CHAIRPERSON HARRIS: That's the problem.

2 COMMISSION CHAIRPERSON SHAPIRO: That's the issue  
3 he's bringing up.

4 VICE CHAIRPERSON HARRIS: Under the TOC proposal,  
5 they don't. Under the CARF proposal, they do.

6 COMMISSION CHAIRPERSON SHAPIRO: That's the issue  
7 he's bringing up. He's saying he has a problem with it not  
8 being -- corresponding with their fair dates.

9 COMMISSIONER ANDREINI: I do, too.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, great, and  
11 you may be right.

12 So, Charlie, before you, if you're not commenting  
13 on that, I see that Mr. Towne is sitting there, and I  
14 believe he's here representing Cal-Expo, perhaps he can  
15 address that issue, rather than just sitting there twiddling  
16 his thumbs. Is that okay, Charlie?

17 MR. TOWNE: I'll speak.

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

19 MR. TOWNE: Thank you, Mr. Chairman, members of  
20 the Board, Norm Towne, representing Cal-Expo.

21 As Mr. Harris indicated we, Cal-Expo, had a hiatus  
22 where we went and conducted harness racing during the State  
23 Fair for several years, and then got back into the  
24 thoroughbred business last year and had a reasonably  
25 successful meet, and would like to build upon that.

1           And I believe that you have a letter that was sent  
2 in by Norb Bartosic, CEO of the fair, indicating that if  
3 they had their druthers, they would like to have three weeks  
4 of racing this year, that corresponded with their fair  
5 dates, which would be August 21st, a three-day week, which  
6 would be a Friday, Saturday, and Sunday, and then run  
7 through Labor Day with a five-day week, followed by a six-  
8 day week, ending on Labor Day, for 14 racing days.

9           That's what we would like to do.

10           CARF has a proposal which maintains Cal-Expo  
11 traditional fair race meet with two weeks of racing, which  
12 we are a descending member of CARF on that particular  
13 proposal, but in the interest of harmony with the fairs we,  
14 obviously, would go along with that.

15           And certainly don't like the proposal that the  
16 Thoroughbred Owners of California and others have made,  
17 moving us beyond the Labor Day timeframe.

18           COMMISSIONER CHOPER: Is it clear you're going to  
19 race, that you're going to have the fair -- I thought I  
20 heard Mr. Couto say that the dates for the fair are  
21 uncertain, maybe I misheard.

22           MR. TOWNE: The dates for the fair are not  
23 uncertain in 2009. There is a possibility, an outside  
24 possibility, that we would look at something in --

25           COMMISSION CHAIRPERSON SHAPIRO: Yeah, but we're

1 talking about '09.

2 MR. TOWNE: '09, yeah.

3 COMMISSIONER ISRAEL: What are the dates for the  
4 fair?

5 MR. TOWNE: In '09, they're August, I think 18th,  
6 through Labor Day.

7 COMMISSION CHAIRPERSON SHAPIRO: So why couldn't  
8 we, looking at this TOC calendar, why couldn't we switch the  
9 fairs at Golden Gate Fields which, frankly, I don't quite  
10 understand who that is, and put Sacramento in that spot,  
11 which aligns you with that fair, and move the fairs at  
12 Golden Gate Field, if there is such a meet, down to  
13 where -- basically, flip those.

14 Why couldn't we do that? Wouldn't that accomplish  
15 the goal for you?

16 MR. TOWNE: I think that's exactly the CARF  
17 proposal, if I'm not mistaken. But maybe Mr. Korby  
18 can --

19 COMMISSION CHAIRPERSON SHAPIRO: Wait a second.  
20 Okay, would that be acceptable to Cal-Expo?

21 MR. TOWNE: Absolutely, yes.

22 COMMISSION CHAIRPERSON SHAPIRO: So why would TOC  
23 then have a problem doing that, since I mean what you have  
24 is this fairs at Golden Gate is some new, unknown meet that,  
25 frankly, I'm not sure why CARF is operating a meeting at

1 Golden Gate, when it's really not a fair?

2 COMMISSIONER ISRAEL: Isn't that the old San Mateo  
3 County Fair?

4 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, if  
5 it's the old San Mateo County Fair --

6 COMMISSIONER ISRAEL: I think that's what it is.

7 COMMISSION CHAIRPERSON SHAPIRO: -- why are we  
8 allocating racing dates to a defunct -- they don't have a  
9 racetrack. So why are we doing that? Why are we giving the  
10 dates to Golden Gate when --

11 COMMISSIONER ISRAEL: No, I'm just positing that  
12 was their logic in doing it.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, you're  
14 right.

15 COMMISSIONER ISRAEL: Yeah.

16 COMMISSION CHAIRPERSON SHAPIRO: So why can't we  
17 make everyone happy and flip those dates?

18 COMMISSIONER ISRAEL: In other words, San Mateo  
19 County Fair probably gets some revenue by ascribing these  
20 dates to Golden Gate, is that not --

21 COMMISSIONER CHOPER: So does Vallejo.

22 COMMISSIONER ISRAEL: So does Vallejo.

23 VICE CHAIRPERSON HARRIS: I mean, if they sold  
24 their dates or what?

25 COMMISSION CHAIRPERSON SHAPIRO: Which is why are

1 we doing that, they're not recent?

2 COMMISSIONER ISRAEL: I don't know.

3 COMMISSION CHAIRPERSON SHAPIRO: Huh?

4 COMMISSIONER ISRAEL: I don't know.

5 COMMISSION CHAIRPERSON SHAPIRO: They don't have a  
6 racetrack, why are we doing that.

7 COMMISSIONER ISRAEL: I'm just telling you what  
8 their logic was in designing the schedule.

9 COMMISSION CHAIRPERSON SHAPIRO: They're trying to  
10 hold on. Are you guys thinking?

11 MR. COUTO: No, we're not thinking. I mean, we've  
12 evaluated those. We look at it from a financial stand  
13 point, and from an appeal stand point to horsemen in the  
14 north.

15 What you saw this year, at Sacramento, was largely  
16 horsemen not run there. The smallest field size. They were  
17 able to fill one allowance race, it was an optional \$32,000  
18 race. You're not going to have the participation and you're  
19 not going to have the security for the north that you want  
20 to have in the north.

21 COMMISSION CHAIRPERSON SHAPIRO: Well, with due  
22 respect to you, I was there, you were there. And I must  
23 tell you, A, it's a great facility. B, it was their first  
24 year back. And, C, we're in the shadow of our State  
25 Capitol, where Legislators will come and be exposed to our

1 sport during the fair.

2 We've got hundreds of thousands of people on the  
3 property, I mean, going to the fair.

4 I mean, I must admit I went to the fair for the  
5 first time and I was blown away by it.

6 MR. COUTO: Sure. And how did that translate in  
7 terms of economics?

8 COMMISSION CHAIRPERSON SHAPIRO: But maybe it  
9 can't always be economics, but it can be exposure to our  
10 game, as well as getting Legislators to go there and see  
11 horse racing.

12 COMMISSIONER ISRAEL: At some point it also  
13 becomes a self-fulfilling prophecy, Drew. Where you say,  
14 well, the races aren't going to fill, we aren't going to  
15 have allowance races, and somehow you're discouraging people  
16 from participating when, perhaps, if you encourage people  
17 they will go there. You know, build it and they will come.

18 MR. COUTO: Well, we didn't discourage anybody to  
19 go there last year, on the traditional dates, I'm just  
20 telling -- I'm trying to relay what happened.

21 COMMISSIONER CHOPER: But it was the first year  
22 back after how long a hiatus?

23 VICE CHAIRPERSON HARRIS: Well, I hadn't even had  
24 a chance to really --

25 COMMISSIONER ISRAEL: Three years.

1           COMMISSIONER CHOPER: I get the point, but why is  
2 it going to be any different if the three weeks are in  
3 September, than they are in August.

4           VICE CHAIRPERSON HARRIS: I think, too, it's  
5 really to look at that Golden Gate spring meet as a  
6 comparison, because I think that might include the Triple  
7 Crown, and a lot of things like that, that aren't really  
8 apples to apples.

9           MR. COUTO: All right, let's look at Golden Gate  
10 Fields Fall, 62 days, they generated 144 in terms of average  
11 purses per day. So that's in the September time frame, 144.  
12 Or, actually, that's later in September, that's --

13          VICE CHAIRPERSON HARRIS: Where is that?

14          MR. COUTO: It's not on there, it's just I have  
15 it.

16          COMMISSION CHAIRPERSON SHAPIRO: Every time we  
17 have seen a fair operate racing, not in conjunction with its  
18 fair, they have died, it's been a disaster every single  
19 time.

20                 Here, we're talking about -- I mean, look, I hear  
21 what you're saying, and on paper you may be able to prove  
22 that it will be better on paper.

23                 But the notion of having Cal-Expo racing  
24 thoroughbreds a few weeks apart from when the fair's going,  
25 and there's hundreds of thousands of people, either they did

1 a crappy job of promoting the racing to get people to go  
2 there, to incentivize horsemen to go there, or horsemen were  
3 just saying, you know what, it's been a tough year, we're  
4 not going to ship. I don't know what the issue is.

5 But I just can't conceive of the notion of having  
6 Cal-Expo run their fair and not have racing going, when it's  
7 a showcase and it's a wonderful facility.

8 I'm actually mad at them that they won't race more  
9 dates. I've been working on them for weeks to say race more  
10 dates at that facility, it's a great facility.

11 COMMISSIONER ANDREINI: I think it's a travesty  
12 that they don't run in conjunction with one another.

13 COMMISSIONER MOSS: Well, I think we should make  
14 it that they have to run in conjunction with the actual  
15 fair.

16 COMMISSION CHAIRPERSON SHAPIRO: Absolutely.

17 COMMISSIONER MOSS: Otherwise, it's --

18 COMMISSIONER ANDREINI: Yeah, that's what this  
19 was.

20 COMMISSION CHAIRPERSON SHAPIRO: That's what the  
21 fairs were.

22 MR. DOUGHERTY: Charlie Dougherty, California  
23 Thoroughbred Trainers.

24 To be very honest with you, part of the reasoning,  
25 and Commissioner Shapiro, you just brought it up, I think

1 the way the horsemen were treating coming back this year was  
2 deplorable.

3 First of all, I ask if any of you went into the  
4 barn area and saw the condition of the barn area? It  
5 shouldn't have even passed inspection to open up.

6 The barn -- every tackroom window was boarded up,  
7 all the windows had been taken out.

8 There were no dirt put in any of the stalls.  
9 There were flies all over the place.

10 The horsemen, in terms of their passes, are  
11 generally given passes, and they wanted to charge \$2 per  
12 horseman bringing their families in.

13 Cal-Expo refused to even send vets to do  
14 examinations to get horses off the list.

15 The horsemen did not feel like they were welcomed  
16 back at Cal-Expo, to be very honest with you.

17 And the biggest thing, why we looked at this  
18 calendar, I mean, my father was the racing secretary at the  
19 old fairgrounds. I totally understand the history of the  
20 fairs and what they mean to the State of California.

21 We are in peril. When we tried to come up with  
22 this calendar, what we were looking at is what will make the  
23 north a stronger place to race?

24 And it is a very difficult time, during the summer  
25 months, to race.

1 All of the major trainers are looking to relocate  
2 to the south. And if that's what the State wants, so be it.

3 But we have a good circuit of horsemen in the  
4 north, to where we try to factor in the turf opportunities,  
5 where we would be racing to establish a two-year-old  
6 program.

7 And we knew it was going to be a controversial  
8 issue to have Cal-Expo not part of their summer fair, sir,  
9 and running with their fair. We knew that.

10 But at the same time, the frustration level that  
11 we went through at these meetings, every time we talk about  
12 what can we do to improve these, every fair would not move  
13 out of their own block. They all want to stay in their own  
14 timeframes.

15 We talked -- you know, different, well, let's move  
16 you here. We can't because that's going to affect the  
17 Shasta County Fair.

18 So those are the frustration levels that we go  
19 through as the racing participants.

20 COMMISSION CHAIRPERSON SHAPIRO: But, Charlie  
21 but --

22 COMMISSIONER CHOPER: Can I ask one question?  
23 It's the same question, but maybe I'm just thick, I don't  
24 get it.

25 But you're giving them three weeks on the plan

1 that you're submitting. Why would you -- why are three  
2 weeks in August not advantageous and three weeks in  
3 September are okay?

4 MR. DOUGHERTY: Because we're trying to establish  
5 a circuit to where we'll have continuous turf racing, and  
6 from Santa Rosa through the Golden Gate meet would be seven  
7 weeks continuous turf racing.

8 And that will give people a chance, then, with  
9 their turf horses, during the Sacramento time frame and  
10 Fresno, that they don't have to run.

11 And I will guarantee you, if you flip-flop the  
12 Sacramento and the Golden Gate timeframe, Sacramento will  
13 not get any of the better horses up there. People do not  
14 want to ship into that heat.

15 And we figured, by flipping them, we'll keep some  
16 of the trainers with their better two-year-olds, where they  
17 will go up to Santa Rosa, and then go on to Golden Gate, and  
18 then take a little break, and then come back strong in the  
19 fall. That was the reasoning behind switching those dates.

20 COMMISSION CHAIRPERSON SHAPIRO: You're talking  
21 about a three-week shift, that's what we're talking about.  
22 It's just --

23 VICE CHAIRPERSON HARRIS: Same temperature.

24 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

25 VICE CHAIRPERSON HARRIS: Same temperature, about.

1           COMMISSION CHAIRPERSON SHAPIRO: Okay. And what  
2 you're talking about is a make believe fair meeting at  
3 Golden Gate, a new meeting that probably is the dates that  
4 were vacated by San Mateo, or Alameda, I'm not sure where  
5 those dates are coming from. And I hear you, and some of  
6 the issues you talked about with -- you now, I did meet with  
7 Norb and we did address that the barn area was left in  
8 deplorable condition.

9           There were problems, he admitted it. I think that  
10 they're going to -- I think you can work through those  
11 operational issues, frankly, because we did just --

12           VICE CHAIRPERSON HARRIS: Well, I don't think it  
13 was ever brought to the Board's attention. It is  
14 deplorable, what he mentioned. But was this brought to the  
15 Board's attention, how deplorable it was?

16           I mean, we inspected it and I assumed everything  
17 was okay. What was going on? It's about a stone's throw  
18 from our office.

19           EXECUTIVE DIRECTOR BREED: No, it was inspected.

20           VICE CHAIRPERSON HARRIS: What did they check for?

21           EXECUTIVE DIRECTOR BREED: Well, they checked for  
22 broken windows, which there were broken windows. And they  
23 were told to repair the broken windows.

24           As far as filling the stalls up, they started  
25 filling the stalls up. They didn't get all of them filled

1 up. They did spray for flies. What else did he say, I  
2 mean.

3 COMMISSIONER ANDREINI: Well, there's people who  
4 are ready, willing, and able to make that facility --

5 COMMISSION CHAIRPERSON SHAPIRO: Well, I think  
6 with those Board members, that we can get those issues  
7 fixed.

8 VICE CHAIRPERSON HARRIS: I got to tell you that  
9 we can assume -- I mean, I think we've got to assume that  
10 they're going to fix any problems.

11 COMMISSION CHAIRPERSON SHAPIRO: Right. And I  
12 believe that Mr. Towne will sit there and he will commit to  
13 that on behalf of his client.

14 And, again, I mean, we will -- okay, it was the  
15 first year back. But the fundamental issue here is do we  
16 want to separate the racing from the fair?

17 And isn't the concept of why there is racing at  
18 fairs because horse racing was at county fairs.

19 MR. COUTO: You know, that's tradition, that's  
20 correct. But we were also supposed to see this emergence of  
21 different breeds there, which never occurred.

22 We were supposed to see growth of new fans, which  
23 really hasn't been quantified. Look at the program sales,  
24 it doesn't -- it's less than it used to be.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, you're not

1 going to get any fans if the fair's not going. There's no  
2 people there.

3 MR. COUTO: That's not the point. The point is  
4 that at Golden Gate Fields, during that time period, you  
5 will get new fans, you will keep your horsemen happier.

6 Let me go one last thing, Mr. Shapiro. This is in  
7 answer to Mr. Choper's question about what's the value of  
8 doing that?

9 We survive on north -- one of the means by which  
10 we survive is north/south wagering, okay. And, frankly,  
11 that signal doesn't handle much in the south during Del Mar.  
12 Okay. If you have --

13 COMMISSIONER CHOPER: Can you repeat that, I'm  
14 sorry, I missed something.

15 MR. COUTO: We survive, a big component of revenue  
16 is north/south wagering; right?

17 COMMISSIONER CHOPER: Understand.

18 MR. COUTO: And at Del Mar, they're trying to bet  
19 on the north. They have the Sacramento card this year,  
20 which was not a good card by any measure, and it  
21 wasn't -- it didn't handle very much at Del Mar.

22 If you put Del Mar overlapped with Golden Gate  
23 Fields, and that quality race between Santa Rose and Golden  
24 Gate Fields, you're going to handle more in the north and  
25 more in the south because of the quality -- the two quality

1 signals going on at the same time. So overall revenues will  
2 be increased. And again, you know --

3 COMMISSIONER CHOPER: One more time? I understood  
4 the turf racing, I got that, that Charlie made, the  
5 continuity of turf racing.

6 But what's going to happen in September. If  
7 you're going to increase the north/south in August, because  
8 you have Golden Gate open, what happens in September when  
9 Sacramento is open?

10 COMMISSIONER ISRAEL: Well, what he's saying,  
11 Jesse, is those are three lousy weeks here, because they're  
12 running at Pomona, and there's three lousy weeks there  
13 because they're running in Sacramento. The cynical thing is  
14 they're trying to make Sacramento and Pomona coincide  
15 because those are the three weakest weeks.

16 COMMISSIONER CHOPER: I see.

17 VICE CHAIRPERSON HARRIS: Yeah, but I think that's  
18 a bad way to look at it.

19 COMMISSIONER ISRAEL: No, I'm just telling you  
20 what the logic is.

21 COMMISSIONER CHOPER: Yeah, I had no idea.

22 COMMISSIONER ISRAEL: That's the logic  
23 that --

24 VICE CHAIRPERSON HARRIS: Well, one issue is,  
25 obviously, Pomona doesn't have a turf course, and Sacramento

1 doesn't have a turf course, and it seems like you don't want  
2 to overlap Sacramento and Pomona, where at least where you  
3 overlap Pomona with Golden Gate, people can ship from the  
4 south to Golden Gate, if they want to run on the turf.

5 COMMISSIONER CHOPER: That's a very good point on  
6 the turf thing, that's right, that's a response to that.

7 MR. COUTO: It's a response to it, but you're  
8 going to hear -- I'll punt to Mr. Bachman about this  
9 concern. I know he has some remarks he'd like to share with  
10 you, from a long-term horseman and breeder in the north, and  
11 intimately familiar with all of these meets from 30 some  
12 plus years up there.

13 COMMISSIONER ISRAEL: It's basically, everybody's  
14 going on vacation in Sacramento, everybody's going on  
15 vacation in Pomona, see you later when Oak Tree opens and  
16 Golden Gate opens, that's basically what's going on.

17 COMMISSIONER CHOPER: Well, people go on vacation  
18 in September as much as they do in August, I think.

19 COMMISSIONER ISRAEL: No, no, I'm talking about  
20 the horsemen.

21 COMMISSIONER CHOPER: Oh, the horsemen.

22 COMMISSIONER ISRAEL: Yeah.

23 VICE CHAIRPERSON HARRIS: Well, horsemen never go  
24 on vacation.

25 MR. TOWNE: I'd like to make one other point, if I

1 may. At some point the fairs are going to have to get into  
2 the major leagues, there's no question about that.

3 I mean, you talked about a plan, and refurbishing  
4 facilities, and all those kinds of things. And I think Cal-  
5 Expo, for one, realizes that. We've poured more money into  
6 our facility than any of the other fairs have put into it,  
7 and it shows.

8 But in the long haul, we're negotiating, as many  
9 of you know, with the National Basketball Association about  
10 being at Cal-Expo, which may interrupt this. But we're also  
11 talking to them about incorporating horse racing into that  
12 plan, too.

13 And so it's an unsettled time. But at some point  
14 the fairs are going to have to get together and improve  
15 their facilities, and they're going to have to get into the  
16 major leagues, and the horsemen are going to have to view  
17 them as no different than Golden Gate.

18 You know, granted we may be running during fair  
19 time, and so on and so forth, but the reality is that the  
20 participation of the horsemen should be just as strong at  
21 fair meets as when Golden Gate Fields meet. Because Bay  
22 Meadows is gone, and the fairs now are a part of the major  
23 circuit.

24 It's not like it was 30 years ago.

25 COMMISSION CHAIRPERSON SHAPIRO: Mr. Towne, as you

1 know, since I have been bugging you since our Board meeting  
2 was up there last summer and then, again, when Mr. Harris,  
3 here, was honored by UC Davis and we were all there.

4 And I have spoke with Norb Bartosik, and today was  
5 actually pleased when I spoke with Commissioner Andreini.

6 I don't understand, when a perfect facility like  
7 that, isn't being utilized for more, in the shadow of our  
8 Capitol, when one of the problems we have is that we are not  
9 getting the legislative help that we need in this industry,  
10 and we're not showcasing our product.

11 And part of it is, I understand that the horsemen  
12 don't want to ship from the Bay Area for a two- or three-  
13 week meeting, all the way to Sacramento. But it just seems  
14 logical to me that there should be a major race meeting at  
15 that facility, which could easily accommodate and  
16 incorporate a turf course. It has a great barn area,  
17 wonderful facilities.

18 You know, I faulted Cal-Expo for not being more  
19 aggressive, and I hear it's because of this potential NBA  
20 deal, but I still think it's a mistake that we're not racing  
21 more at Cal-Expo, and maybe that would take away these  
22 concerns for getting the horsemen there.

23 MR. TOWNE: And I'm saying right now that  
24 discussions are going on right now for an expanded racing,  
25 even with an NBA arena. So we're looking at all those

1 options and, hopefully, something good can come out of it.

2 COMMISSION CHAIRPERSON SHAPIRO: So, okay, so we  
3 have this issue. Does anybody else wish to speak on the  
4 Cal-Expo having racing that coincides with its fair, or not,  
5 issue?

6 MR. BACHMAN: Tom Bachman, TOC, Vice Chairman,  
7 Northern California.

8 As you know, we've worked on this calendar for  
9 quite some time, and when the TOC put their calendar  
10 together, over the last couple of years we have figured out  
11 which fairs needed to be enhanced, and it was going to be  
12 Pleasanton, Santa Rosa, and Sacramento.

13 And to Sacramento's credit, they already said, you  
14 tell us what you want us to do and we'll be more than happy  
15 to do it.

16 The horsemen decided that, because of the nearness  
17 of Pleasanton, that would become the auxiliary stabling for  
18 the ability to ship horses more easily to Golden Gate  
19 Fields.

20 The one thing we know is that we have to keep  
21 Golden Gate Fields healthy. Golden Gate Fields is the  
22 cornerstone operator in Northern California, and should it  
23 begin to fail, we won't be having these discussions in the  
24 future.

25 So the one thing that's paramount is to keep

1 Golden Gate Fields healthy.

2 And if I'm not mistaken, MEC's stock is not  
3 exactly a world beater, and I would think that there's  
4 people looking to purchase that facility.

5 COMMISSION CHAIRPERSON SHAPIRO: But, Tom, what  
6 about --

7 MR. BACHMAN: Let me finish. The better days and  
8 the healthier we make Golden Gate Fields, the more security  
9 we're going to have in the north, as far as a circuit goes.

10 People will not be shipping in August, from the  
11 Bay Area, to go run in hundred degree heat for three weeks.

12 They're just -- they're going to sit and wait, as  
13 they did this year, for the Golden Gate meet to open.

14 If you look at the field size at Sacramento, and  
15 then one week later, when Golden Gate opened, you'll see  
16 that there's a huge difference in the pool of horses  
17 available.

18 And today is --

19 COMMISSIONER ISRAEL: What's the difference  
20 between the three weeks on the schedule, now, and the three  
21 weeks that the fair runs, and in terms of climate, it's  
22 negligible.

23 MR. BACHMAN: The difference in the temperature in  
24 Sacramento, and at Golden Gate, in August?

25 COMMISSIONER ISRAEL: No, Sacramento is

1 Sacramento, there isn't any difference.

2 COMMISSION CHAIRPERSON SHAPIRO: It's the same  
3 question, Tom, the flip flop.

4 COMMISSIONER CHOPER: I understand everything  
5 you're -- we all understand it. But what's unclear is why  
6 it's going to make any difference in September, rather than  
7 in August?

8 MR. BACHMAN: Well, I will make a prediction that  
9 if they run in August, that the horsemen -- that the better  
10 won't go over there and run, they'll sit and --

11 COMMISSIONER CHOPER: Well, what are you going to  
12 do in September?

13 MR. BACHMAN: They're going to run at  
14 Golden -- they'll wait for Golden Gate to open back up.

15 COMMISSIONER CHOPER: So are they going to  
16 wait --

17 COMMISSIONER ISRAEL: But they're not going to run  
18 no matter what the three weeks are.

19 COMMISSION CHAIRPERSON SHAPIRO: Thank you.  
20 David, exactly right.

21 COMMISSIONER ISRAEL: The failure of your logic,  
22 here it is, a hundred degrees, it's a hundred degrees on  
23 either set of dates, it doesn't make any difference.

24 MR. BACHMAN: When you're at Santa Rosa, and you  
25 have a \$3,200 horse --

1           COMMISSION CHAIRPERSON SHAPIRO: We're not talking  
2 about Santa Rosa.

3           MR. BACHMAN: Well, if you were to run in  
4 Sacramento, before Fresno, which is to John's, where are the  
5 horses going to go, the emerging breeds, and the less  
6 expensive horses, in September, when you're at Golden Gate?

7           VICE CHAIRPERSON HARRIS: Where are they going to  
8 go? Well, I think they'd either stay at Sacramento or go to  
9 Fresno. It's the same way -- well, I guess this year you  
10 had Stockton in there.

11           But that was their traditional dates, they were  
12 always at Sacramento, then there was a gap, then they went  
13 to Fresno.

14           MR. BACHMAN: Well, it's my firm believe that in  
15 today's economic world, the less expensive horses are  
16 actually going to disappear, and the emerging breeds are  
17 going to disappear because --

18           COMMISSION CHAIRPERSON SHAPIRO: Tom, your  
19 argument, appreciate it. You're convincing me that, again,  
20 maybe we have too much racing.

21           But the bottom line is that we're talking about  
22 three weeks in Sacramento, and what I just heard was they're  
23 not going to run there no matter what the damn dates are.  
24 And we're talking about flip flopping it, and this notion of  
25 not running --

1           COMMISSIONER ISRAEL: The climate doesn't change,  
2 if you change those dates, unless you're meeting in  
3 December.

4           COMMISSION CHAIRPERSON SHAPIRO: No. And if you  
5 have the meeting at Golden Gate -- why are you there?  
6 You're toasted, you're out of here. We don't need --

7           (Laughter.)

8           MR. LIEBAU: I wanted to explain why I have a dog  
9 in this fight.

10          COMMISSION CHAIRPERSON SHAPIRO: You don't have a  
11 dog in this fight.

12          MR. LIEBAU: Mr. Shapiro, I do have a dog in this  
13 fight.

14          VICE CHAIRPERSON HARRIS: Yeah, he's got some  
15 offtrack --

16          MR. LIEBAU: My dog in this fight is that this  
17 calendar impacts Hollywood Park because there's lack  
18 of --

19          COMMISSION CHAIRPERSON SHAPIRO: You won't commit  
20 to run, so what the hell are we even talking about?

21                 That would be during the fall meeting?

22          VICE CHAIRPERSON HARRIS: Let him finish.

23          MR. LIEBAU: I would also point out to the Board  
24 that, based on some knowledge of California racing, you  
25 might want to look at what the field sizes are in various

1 months, and I think you're going to find out that the field  
2 size is the highest in November and December. And you know  
3 why, because that's when you have the horses from  
4 Washington.

5           And, you know, yeah, I haven't committed to run at  
6 Hollywood Park in the fall. But I'm just telling you that  
7 this, you know, doesn't help Hollywood Park in the fall.  
8 And I'm pointing out, as a friend of the court, so to speak,  
9 that if you check your stats, that are very easy through  
10 CHRIMS, that you're going to find out that November and  
11 December are big field size months, and we hear a lot about  
12 field size. And you're probably going to find out where  
13 you've got a lot of racing. But September is a terrible  
14 month.

15           COMMISSION CHAIRPERSON SHAPIRO: Well, Jack, which  
16 side are you advocating, based on your knowledge, on this  
17 issue?

18           MR. LIEBAU: I'm advocating on this, if you're  
19 eliminating racing in November and December, yes, where I am  
20 toast at Hollywood Park.

21           COMMISSION CHAIRPERSON SHAPIRO: Oh, no, so you're  
22 not talking about what we're still -- wait a minute, you've  
23 switched subjects?

24           VICE CHAIRPERSON HARRIS: he four-day weeks  
25 in --

1           MR. LIEBAU: I'm talking about this TOC proposal,  
2 that I thought was under discussion.

3           COMMISSION CHAIRPERSON SHAPIRO: Yeah, but you're  
4 not talking about where the Sacramento dates are.

5           MR. LIEBAU: That's all you're talking about?

6           COMMISSION CHAIRPERSON SHAPIRO: Yeah, that's all  
7 we were talking about.

8           MR. LIEBAU: I don't care where Sacramento --

9           (Laughter.)

10          MR. LIEBAU: Except that if, I will say this, that  
11 I think that Sacramento deserves dates. I mean, this thing  
12 about not running with the fair, when they've got a million  
13 people --

14          COMMISSIONER ISRAEL: So you're saying that we  
15 need to have more racing dates in Northern California, in  
16 November and December; is that what you're saying?

17          (Applause.)

18          MR. LIEBAU: Well, I'm saying that if I had to  
19 choose, if I only had so many dates, I would certainly look  
20 at field size, when I had the most horses.

21          COMMISSIONER ISRAEL: Okay.

22          MR. LIEBAU: And all I'm doing as a tip is that I  
23 think that --

24          COMMISSIONER ISRAEL: And I just got a round of  
25 applause.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay, and

2 Jack --

3 VICE CHAIRPERSON HARRIS: And I think -- but I  
4 think the issue on the four-day weeks is it's probably  
5 better to run a four-day week in September, than it is in  
6 November.

7 MR. LIEBAU: Only if you're concerned about the  
8 horse population and field size.

9 VICE CHAIRPERSON HARRIS: Yeah, well, other than  
10 that.

11 COMMISSION CHAIRPERSON SHAPIRO: All right. But  
12 Jack, did you have, given your Northern California  
13 experience, do you have an opinion on what we have been  
14 talking about with respect -- I know you don't have a dog in  
15 the fight, but this issue of racing in concert with the  
16 fair, or not in concert with the fair, or you just don't  
17 have any view on that?

18 MR. LIEBAU: I always have a view on everything.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay.

20 MR. LIEBAU: I would think that the Sacramento is  
21 better off running during their fair, when they got a  
22 million and a half people, and some of which might drop in.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, that's what  
24 I thought. Okay, thank you.

25 All right, so Mr. Korby, how does your calendar,

1 now that we've heard that one issue, are there other  
2 differences in the calendar that you're proposing, than what  
3 we've just heard?

4 MR. KORBY: Chris Korby, California Authority of  
5 Racing Fairs.

6 I think the answer to that is no, there are no  
7 differences. We are in general accord with the calendar as  
8 proposed, as agreed to, I think, by Golden Gate Fields, and  
9 TOC, and CARF, outside the fair summer block.

10 Our only point of disagreement was with the TOC  
11 proposal that took racing away from the State Fair and moved  
12 it into September.

13 In fact, I think the TOC calendar for the summer  
14 builds on what we proposed.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 MR. KORBY: But we just think it goes too far.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 VICE CHAIRPERSON HARRIS: One other issue is on  
19 Ferndale, Humboldt County Fair. I think Stuart is here.  
20 Are the great folks up in Humboldt County happy with this  
21 proposal?

22 MR. KORBY: That was part of our plan. Stuart can  
23 speak to it.

24 MR. TITUS: Thank you. Stuart Titus, General  
25 Manager of the Humboldt County Fair.

1           As you and the Chairman are aware, it doesn't  
2 matter which way you slice this thing up, or it doesn't seem  
3 to, anyway, where it overlaps no matter what.

4           In the best of worlds, we would like to remove  
5 ourselves from the kinds of artificial supports that we've  
6 needed in overlap and see how well we can do on our own, but  
7 given the complexity of the issue that doesn't seem  
8 possible.

9           With regards to the Sacramento component of the  
10 previous proposal, moving them to three weeks in August  
11 would be detrimental to us, we believe.

12           We have managed to survive in an overlap status  
13 with essentially Bay Meadows, for the last 18 years. It is  
14 conceivable that with a properly managed program, wherein  
15 racing was occurring simultaneously at Ferndale and Golden  
16 Gate Fields, with two key provisions, that we receive  
17 additional supplemental purses, and that Humboldt see some  
18 portion of the profits coming from those weeks run at Golden  
19 Gate Fields, that we can continue to at least survive.

20           But to answer the question that was kicked around  
21 here quite a bit, in terms of Cal-Expo and how it would be  
22 -- the impact it would have on others, if it were to be run  
23 in August, it would probably not work at all for us. I also  
24 understand --

25           VICE CHAIRPERSON HARRIS: You would like Cal-Expo

1 running during its fair, you don't --

2 MR. TITUS: Well, during its fair, but not  
3 perhaps --

4 VICE CHAIRPERSON HARRIS: Into August, moving  
5 another week. Oh, okay.

6 MR. TITUS: Yeah.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay.

8 MR. TITUS: You know, but running the State Fair  
9 during the fair.

10 COMMISSION CHAIRPERSON SHAPIRO: Can I just bring  
11 up, I don't know where this all started with the notion that  
12 Humboldt was going to be denied racing dates, okay. So in  
13 case people are up there right now, listening to us, and I  
14 hope there are, there is nobody that I know of, who has any  
15 thought or notion about discontinuing dates at the Humboldt  
16 County Fair. Okay.

17 Commissioner Harris and I went up there last year,  
18 we had a great time, it was a great barbecue. I don't know  
19 where this came from, but I appreciate all the letters and  
20 e-mails that we've gotten, or I've gotten. You can stop  
21 sending them, folks. Okay.

22 MR. TITUS: I will communicate that back home.  
23 For the past three years Ferndale has had essentially just  
24 two sources, really, that we could go to for support. One  
25 was this Board and the other was grass roots support back

1 home. I'm glad to hear that's still working well.

2 But that came from the most recent discussions of  
3 the Northern California group. Quite frankly, you know, the  
4 TOC, when asked point blank what they wanted things to look  
5 like in the future, and they said we'd just as soon just see  
6 some fairs go away, and so it was from that.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, it  
8 never came to any of us here, to my knowledge. And, you  
9 know, please --

10 MR. TITUS: I appreciate that.

11 COMMISSION CHAIRPERSON SHAPIRO: -- I think I  
12 speak for everybody else, we're a fan of the fair, you guys  
13 do a great job. It's a fun place. If you haven't been  
14 there, you should go there.

15 MR. TITUS: Thank you.

16 COMMISSION CHAIRPERSON SHAPIRO: So thank you.

17 VICE CHAIRPERSON HARRIS: I think part of it, too,  
18 is that at one point I was trying to get some non-overlap  
19 dates for Ferndale, to generate more revenue for you. But  
20 it looks like a compromise has been made there that does  
21 that with overlap, but you get the revenues, which is really  
22 what you needed, because it was tough just to compete the  
23 way it worked.

24 MR. TITUS: Right. I mean, we understand that if  
25 this combined meet concept were approved and were successful

1 at Golden Gate Fields, certainly the lion's share should go  
2 towards Pleasanton because we also understand the important  
3 role that they will play in the future. But we're going to  
4 need some of that on the revenue side to keep the ship  
5 afloat.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.  
7 I'm going to try to move us along because the  
8 meeting is going longer than I expected.

9 MR. GOODRICH: Mr. Chairman, if I could, I  
10 just -- I know it's a long day.

11 COMMISSION CHAIRPERSON SHAPIRO: Go ahead, Cliff.

12 MR. GOODRICH: Cliff Goodrich, from Fairplex. And  
13 I don't fault the north, they've had enough trouble getting  
14 as close as they have, and I'm sure they haven't even  
15 thought about little, old Fairplex. And as we didn't --  
16 don't drive the train on training, we don't drive the train  
17 on this one.

18 But, and it ties into some of the comments made,  
19 Fairplex had two meets this year. One was against another  
20 fair, Stockton. That was the first time ever, because we've  
21 always been against Bay Meadows or Golden Gate. That was a  
22 disaster.

23 The second half of the meet was against Golden  
24 Gate. That was much better. While I'm sure Golden Gate,  
25 and maybe the TOC, would rather have major against major,

1 little old Fairplex runs three meets, and Commissioner  
2 Israel hit it on the head. In my opinion, everybody's  
3 offering their opinion, if Cal-Expo and Fairplex run against  
4 each other, after the summer schedule proposed, they're  
5 going to be the two sacrificial lambs.

6 We run for a few precious days, it's important  
7 that we're overlapped by a major and, hopefully, when the  
8 smoke clears that's what will occur. Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you. What  
10 I would suggest is that --

11 VICE CHAIRPERSON HARRIS: Mr. Castro has  
12 something.

13 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro. Just  
14 go ahead, Richard, please.

15 MR. CASTRO: Richard Castro, representing Pari-  
16 Mutuel Employees Guild.

17 I just want to get it on the record that in the 40  
18 so years that I've been coming here, I've never heard racing  
19 associations ask for more racing days just to lose money.  
20 So I'm saying that -- what I'm saying is every day you cut,  
21 it's a paycheck out of us, so we're opposed to that.

22 The second thing I'd like to add, you were jumping  
23 around, I'm going to jump around a little bit. I know  
24 there's a lot of people that don't particularly care about  
25 Christo Bardis. I happen to admire him quite a bit, he's

1 one of the best operators that I've ever been associated  
2 with.

3 And I'd like to say that when he ran the harness  
4 meet up in Sacramento, there were a large number of  
5 Legislators that used to go to that harness meet up there.  
6 I thought he did an absolutely outstanding job in promoting  
7 people in Sacramento coming to see the meet, so I know that  
8 it can be done. That's all I have to say.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

10 COMMISSIONER ISRAEL: They're not in session on  
11 either of those series of dates that we were offered for  
12 this meet.

13 MR. CASTRO: I'm sorry, I didn't hear you?

14 COMMISSIONER ISRAEL: They're not in session at  
15 either of the two thoroughbred dates that we were offered.

16 VICE CHAIRPERSON HARRIS: Well, the way the  
17 California budget usually goes, they probably will be.

18 COMMISSIONER ISRAEL: Well, yeah, they will be,  
19 actually, if they run in August.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 MR. CASTRO: And when they had the harness meet,  
22 he did a great job. He ran a harness meet in Sacramento.

23 COMMISSIONER ISRAEL: As it relates to this,  
24 they're not in session.

25 COMMISSION CHAIRPERSON SHAPIRO: Robert?

1           MR. HARTMAN: Robert Hartman, Golden Gate Fields.  
2 I don't think we're as far apart, maybe, as some people  
3 thing. If we just go through the calendar again, quickly, I  
4 mean it looks like December through middle of June is going  
5 to be run at Golden Gate Fields, everybody agrees on that.

6           Two weeks at Stockton, everybody agrees on that.

7           Three weeks at Pleasanton and Santa Rosa,  
8 everybody agrees on that.

9           Two weeks in August at Golden Gate Fields,  
10 everybody agrees on that, as well, including the fairs.

11           The question really comes -- you don't agree with  
12 that?

13           COMMISSION CHAIRPERSON SHAPIRO: I'm not sure I  
14 agree with that, but go ahead.

15           MR. HARTMAN: Okay. Well, just so you know, the  
16 TOC, the CTT, and the fairs all agree on a two-week -- and  
17 Golden Gate Fields agree on that two-week meet at Golden  
18 Gate Fields.

19           And so the real question is the five weeks between  
20 August 26th and September 27th, and I'd recommend that the  
21 parties get back together and try to figure out how to work  
22 that out amongst ourselves. But we're just talking about  
23 five weeks.

24           Because after that everybody agrees with Fresno  
25 running unoverlapped for the first time, and that's coming

1 back on October 16th.

2 I mean, one of the real problems we have in this  
3 sport is we get all this momentum in March, April, May, and  
4 June, and then when we come back in September or October, at  
5 Golden Gate Fields, the good horses are gone. They're gone.

6 I mean, John, you may know how many -- I mean, how  
7 many allowances races were run at Fresno this meet?

8 VICE CHAIRPERSON HARRIS: Well, it's because they  
9 were overlapped.

10 MR. HARTMAN: Okay, but I'm just saying, I mean,  
11 that's the problem is we --

12 COMMISSION CHAIRPERSON SHAPIRO: All right. Okay,  
13 you know what, let's time out it here, okay.

14 VICE CHAIRPERSON HARRIS: But one thing I'd like  
15 Golden Gate to look at, which looking out for the best  
16 interest would somehow tie in to Liebau's comments, is that  
17 you need to decide which four-day weeks are the best for you  
18 guys.

19 MR. HARTMAN: Is that up to me or Mr. Liebau?

20 VICE CHAIRPERSON HARRIS: He had nothing to do  
21 with it, he's just a good guy.

22 MR. HARTMAN: Okay, I'm glad you clarified that.

23 VICE CHAIRPERSON HARRIS: But I don't know, I  
24 think he may have stumbled onto the truth there that  
25 November days may be better than September days, but you've

1 got to look at when you want. But I guess we can be  
2 flexible when we do the licenses.

3 But assuming you're going to run a four-day week,  
4 I think you guys need to run some numbers and see when's a  
5 good time to run a four-day week.

6 MR. HARTMAN: Right.

7 COMMISSIONER CHOPER: What I'm going to ask --

8 COMMISSION CHAIRPERSON SHAPIRO: Yes.

9 COMMISSIONER CHOPER: -- how do you react, before  
10 any agreements are made among everybody, to flip flopping,  
11 as has been suggested here, very strongly, by a lot of  
12 people, the Sacramento dates with your dates, with your fair  
13 dates?

14 MR. HARTMAN: Well, let me explain what the fair  
15 dates mean, because it was a gesture on our part to give our  
16 facilities to the fairs at cost, in order to raise money to  
17 help Pleasanton.

18 COMMISSIONER CHOPER: That's very nice.

19 MR. HARTMAN: So, I mean, that's what we were  
20 trying to do. We were trying to give a four-week meet,  
21 where we wouldn't make any money, just cover our overhead,  
22 and give all the money to get the barn area at Pleasanton in  
23 shape, start getting money for a synthetic surface, for a  
24 turf course, and that's what we're trying to do. We're  
25 trying to be good guys in this thing.

1           And, you know, I understand that hurts Cal-Expo  
2 and, you know, nobody wants to see that happen. But that  
3 was the intent.

4           COMMISSION CHAIRPERSON SHAPIRO: That's completely  
5 different.

6           VICE CHAIRPERSON HARRIS: So that issue, the  
7 summer dates for the fairs at Golden Gate is a separate  
8 issue from if Sacramento runs its regular dates, or you do,  
9 or you run in September or they do?

10           I mean, one of the big issues that everyone's  
11 missing here, and it's really nothing really to do with the  
12 north, but whoever overlaps Del Mar has a much better  
13 revenue source than whoever overlaps Fairplex, and that kind  
14 of has to be taken into consideration.

15           But I do agree with Cliff that you have Stockton -  
16 - not Stockton. Cal-Expo and Fairplex overlap is probably  
17 not good for the overall State and it just makes a lot more  
18 sense for Golden Gate to overlap Fairplex, I think.

19           MR. HARTMAN: Well, what we were trying to do is  
20 raise as much money for Pleasanton, as possible.

21           COMMISSION CHAIRPERSON SHAPIRO: Okay, I'd like to  
22 make a suggestion here. We're not going to keep beating  
23 this one to death today. I think what we need to do is, I  
24 think the Board has expressed serious concerns about the  
25 State Fair not having racing during its State Fair, it's a

1 concern.

2           We appreciate that there's been some very good  
3 points made by others.

4           But this is not an action item today. And,  
5 therefore, I would encourage the parties to get together and  
6 look at ways of tweaking it.

7           I, personally would add, also, that I have some  
8 consternation with this notion of a CARF general fair. I  
9 don't -- I think it's a good idea for the benefit of  
10 improvements that are needed to be made at venues.

11           On the other hand, frankly, I'm just not sure why  
12 we are having a benefit race meet at a commercial racetrack,  
13 that isn't even a fair, for the benefit of a fair.

14           And I don't like the notion that what we may be  
15 seeing is people that are holding onto fair dates, when  
16 those fairs no longer exist, that are racing fairs.

17           So I have a problem if it is San Mateo's dates at  
18 Golden Gate, San Mateo doesn't have a racetrack. It's the  
19 same as if Vallejo's going out of business and isn't going  
20 to conduct racing, I don't know why, they have something to  
21 sell or market.

22           And I know, in speaking to Santa Rosa yesterday,  
23 they're desirous of running three weeks, but they simply  
24 don't want to have to pay Vallejo for the privilege of  
25 putting on another week.



## 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 21st day of October, 2008.

Troy A. Ray

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