

MEETING

CALIFORNIA HORSE RACING BOARD

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Kenneth L. Maddy Equine Analytical Chemistry Lab

University of California, Davis

Davis, California

Friday, November 30, 2001

9:30 a.m.

Reported by WENDY E. ARLEN, CSR #4355, RMR, CRR

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BOARD MEMBERS PRESENT

- ALAN W. LANDSBURG, Chairman
- ROGER H. LICHT, Vice Chairman
- WILLIAM A. BIANCO, Member
- SHERYL L. GRANZELLA, Member
- JOHN C. HARRIS, Member
- MARIE G. MORETTI, Member

ALSO PRESENT

- ROY C. WOOD, Executive Director
- THOMAS A. BLAKE, Deputy Attorney General
- JACKIE WAGNER, Staff member
- JOHN REAGAN, Staff member

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1 --oOo--

2 EXCERPT OF MEETING

3 --oOo--

4 EXECUTIVE DIRECTOR WOOD: Good morning, ladies
5 and gentlemen. I'd like to welcome you to the regular
6 scheduled meeting of the California Horse Racing Board.
7 It's being conducted on November the 30th, 2001, and
8 this meeting is being conducted at the Kenneth L. Maddy
9 Equine Analytical Chemistry Laboratory at the University
10 of California at Davis in Davis, California.

11 Present at today's meeting are the chairman of
12 the California Horse Racing Board Mr. Al Landsburg, Vice
13 Chairman Mr. Roger Licht, Commissioner William Bianco,
14 Commissioner John Harris, and Commissioner Marie
15 Moretti. We know that Mrs. Sheryl Granzella is en route
16 and will be here as the meeting progresses. So we will
17 note that for the record.

18 Before we go forward at this morning's meeting,
19 I would ask that if you want to give testimony before
20 this board that you would please state your name and
21 affiliation for the court reporter. If you have a
22 business card to provide her, it would be appreciated.
23 And with that I'm going to turn the meeting over to our
24 chairman, Mr. Alan Landsburg.

25 CHAIRMAN LANDSBURG: Thank you. I would like

1 to offer our thanks to the dean of the school of U. C.
2 Davis veterinary medicine school, Benny Osborne, and ask
3 him to come up for a moment to say a few words and
4 welcome us here.

5 DR. OSBORNE: Thank you, Mr. Landsburg and
6 Executive Director Woods, Commissioners, ladies and
7 gentlemen. On behalf of the School of Veterinary
8 Medicine at U. C. Davis, we welcome all of you here
9 today.

10 We have had a longstanding relationship with
11 the equine industry and it's one which we have been very
12 pleased to be partnering with you on a number of
13 different occasions. I'd like to just take a moment and
14 review for you some of the things that we have here that
15 speak particularly to things relating to the equine
16 industry.

17 First of all, we have our Center for Equine
18 Health, and this program is one which Dr. Greg Ferraro
19 heads up, and as director of that program, he has
20 steered it into areas that address particular problems
21 of the equine industry. And this is handled through a
22 competitive grant program that both our faculty and
23 faculty of California State University system
24 participate in. We think it's been a very successful
25 program, addressed many of the issues which have come

1 forward from you and others.

2 We also a few years ago took on the
3 responsibility of the equine analytical chemistry
4 laboratory. This is a program which is now under our
5 California Animal Health and Food Safety Laboratory.
6 Dr. Alex Ardans is director of the program here, and
7 this program is one in which we're very proud to have
8 you here today in the facilities that Senator Ken Maddy
9 actually brought to the forefront and allowed us to
10 participate in this program.

11 This is the premiere laboratory in the world
12 for equine drug testing and it's one which we are very
13 proud to have on this campus and to be able to partner
14 with you and others in carrying out some of the work
15 that is required for equine and performance horse
16 industries.

17 So we hope you have the opportunity to take a
18 tour of the facilities later on today. We're very
19 pleased to have you here, and we want to thank you for
20 coming to this campus and being our guests here,
21 allowing us to host you here today. So with that, I'll
22 turn the meeting back to you and thank you very much.

23 CHAIRMAN LANDSBURG: Thank you, Dean Osborne.
24 Having taken that tour yesterday as a part of the
25 education of commissioners of horse racing, I think that

1 it is all of our duties and all of our responsibilities
2 to see that the information which is gathered here, the
3 manner in which it's gathered and the possibility of
4 further educating our owners, our trainers, our jockeys
5 and all of those people involved in racing that we find
6 a way to make their work known on a wider scale, and
7 I'll be discussing it with some of you at breaks here to
8 try and get your support for that kind of educational
9 project. Thank you.

10 Now, to the minutes. The first item for action
11 is approval of the minutes of the regular board meeting
12 of October 19th. Do we have any corrections?

13 I have one correction to the minutes. Page
14 four of the minutes in the discussion of action on the
15 report from the SCOTWINC Off-Site Stabling and Vanning
16 Fund Committee. In lines four and six of that paragraph
17 on page four, please change TOC to SCOTWINC. In line
18 four as well as line six, TOC should be changed to
19 SCOTWINC.

20 Are there any other changes?

21 I'll entertain a motion then to accept the
22 amended minutes.

23 COMMISSIONER MORETTI: I'll move to approve the
24 minutes with the changes that the chairman mentioned.

25 CHAIRMAN LANDSBURG: Seconded?

1 COMMISSION BIANCO: Second.

2 CHAIRMAN LANDSBURG: Thank you. All in favor?

3 (Ayes.)

4 CHAIRMAN LANDSBURG: The minutes are accepted
5 and we will move on to item two. Discussion and action
6 by the board on application for license to conduct the
7 horse racing meeting of the Los Alamitos Quarter Horse
8 Racing Meeting at Los Alamitos commencing December 28,
9 2001, through December 22nd 2002, inclusive.

10 Can we have the staff report?

11 MS. WAGNER: Jackie Wagner, CHRB staff. The
12 application before is a from the Los Alamitos Quarter
13 Horse Racing Association. They are proposing to race
14 December 28th, 2001, through December 22nd, 2002, which
15 is 203 days. They are proposing to race a total of
16 2,040 races or 10 races per day. They meet the 10
17 percent requirement of stakes, purse paid for Cal bred.
18 There will be racing four nights per week. Their first
19 live post will be 7:15 p.m. on Thursday and Friday with
20 a 6:30 p.m. post on Saturday and a 5:30 p.m. post on
21 Sunday. The wagering program will utilize CHRB rules.
22 We have received the horseman's agreement. Staff would
23 recommend that the board adopt the application as
24 presented.

25 CHAIRMAN LANDSBURG: Is there any discussion of

1 this request?

2 MR. BLANIAN: Rod Blanian representing Los
3 Alamitos Quarter Horse Racing Association.

4 We would just like to bring to the attention of
5 the board that Attachment F to the horseman's agreement
6 is, well, Attachment F to our license application is the
7 horseman's agreement, and the horseman's agreement
8 indicates that we make the harness signal from
9 Sacramento conditioned on the harness association
10 agreeing to pay the impact fees pursuant to the 1996
11 agreement, and there is an issue before the
12 administrative law judge on this, and I just wanted the
13 board to be aware of that.

14 CHAIRMAN LANDSBURG: Are we waiting then for
15 the administrative law judge to give us a reading?

16 MR. BLANIAN: Yes, we are, but it should not
17 hold up this application.

18 CHAIRMAN LANDSBURG: Any comment to that from
19 our audience or board? Then entertain a motion to
20 accept the recommended application for license to
21 conduct the horse racing meeting at Los Alamitos Quarter
22 Horse Racing Association. Do I have such a motion?

23 MS. GRANZELLA: I'll move.

24 CHAIRMAN LANDSBURG: So moved. Second?

25 COMMISSIONER MORETTI: Seconded.

1 CHAIRMAN LANDSBURG: Seconded. All in favor?

2 (Ayes.)

3 CHAIRMAN LANDSBURG: Opposed?

4 Then the board has approved the application for
5 licensing at the horse racing meeting at Los Alamitos
6 Quarter Horse Racing Association.

7 Next item on our agenda, public hearing on the
8 adoption of the proposed regulatory amendment to CHRB
9 Rule 1467, Paymaster of Purse, require the paymaster to
10 disburse 10 percent of the purse money earned on any
11 thoroughbred that finishes first, second or third to the
12 trainer of the horse. Jackie?

13 MS. WAGNER: Jackie Wagner, CHRB staff. The
14 proposed amendment to Rule 1467 will require that the 10
15 percent of the purse money earned on a horse that
16 finishes first, second or third at a thoroughbred race
17 meeting be deposited into the trainer's account. The
18 amendment will also allow horse owners to opt out of
19 that payment plan by submitting a written notification
20 to the paymaster not to deduct the 10 percent.

21 The rule has been noticed for 45 days to the
22 public. We have received no comments on the proposal,
23 and staff would recommend that the board adopt the
24 amendment as presented.

25 CHAIRMAN LANDSBURG: Is there any discussion or

1 comment on this?

2 COMMISSIONER HARRIS: I just wanted to clarify
3 that if an owner opts out as a given race meeting, is
4 that like forever or just that year or how would that
5 work?

6 MS. WAGNER: That would be for the race
7 meeting.

8 COMMISSIONER HARRIS: Would you have to do it
9 again the next year?

10 MS. WAGNER: You know, I believe that you
11 would, but that has not been really finalized, the paper
12 work that they would fill out --

13 COMMISSIONER HARRIS: The paper work looks to
14 me like once you opt out, you're out.

15 MS. WAGNER: You're opted out until you receive
16 notification that you want to opt in. It would extend
17 to the next race.

18 CHAIRMAN LANDSBURG: I'm sorry. Where does
19 that opt in come from, Jackie?

20 MS. WAGNER: It's automatically deducted unless
21 the owner sends a paper that they do not want to
22 participate.

23 CHAIRMAN LANDSBURG: The owner would not be
24 notified of that condition? In other words, I've opted
25 out and feel I don't want it.

1 MS. WAGNER: That money will not be deducted.

2 CHAIRMAN LANDSBURG: Fine. That's for that
3 meet. Whether it be a fair meet, whether it be any of
4 the meets that occur and each time an opt out must be
5 written by the owner? I'd just like that clarified.

6 MS. WAGNER: Yes.

7 CHAIRMAN LANDSBURG: Each time each meeting.

8 COMMISSIONER HARRIS: It would carry forward to
9 the next year, though.

10 MS. WAGNER: It would carry forward.

11 COMMISSIONER HARRIS: Also, are the fairs
12 considered one meeting? If the owner opted out at the
13 fairs, is that one paymaster that does all the fairs or
14 how does that work?

15 MS. WAGNER: The fairs would be considered one
16 meeting.

17 CHAIRMAN LANDSBURG: Jack, I didn't hear what
18 you said.

19 MR. LIEBAU: Jack Liebau. The fairs, at least
20 as far as the San Mateo County Fair has a separate
21 paymaster because the Ferndale meet is being handled or
22 operated concurrently.

23 COMMISSIONER WOOD: I think, Mr. Chairman, it was
24 the intention when the discussion on the regulation was
25 first brought about that the fairs would be individual

1 race meets because there are individual entities
2 involved in operation of fairs.

3 I also believe that once you decided to opt out
4 at Bay Meadows you would opt out for Bay Meadows for
5 their meets and that you didn't have to reapply at the
6 subsequent meet next year, but that would carry forward.
7 I believe that was the way in which the procedure would
8 work.

9 CHAIRMAN LANDSBURG: Right. So that year to
10 year do you have to -- if you want to opt out year to
11 year, you have to do that or is it forever at Bay
12 Meadows? That's what I'm trying to determine.

13 COMMISSION WOOD: It's my intention -- my
14 recollection of the discussion was once you opted out of
15 Bay Meadows you were opted out of Bay Meadows.

16 CHAIRMAN LANDSBURG: Period.

17 COMMISSION WOOD: Period.

18 CHAIRMAN LANDSBURG: And that would go until
19 you want to take that opt out away.

20 MS. WAGNER: That's correct.

21 CHAIRMAN LANDSBURG: I just want to clarify it
22 for all concerned. Once you filled out 17 papers, you
23 are now covered throughout all racing for all time; is
24 that correct?

25 MS. WAGNER: That's correct.

1 CHAIRMAN LANDSBURG: Be sure.

2 COMMISSIONER HARRIS: If an owner has multiple
3 trainers, you couldn't pick and choose. You're either
4 in or you're out.

5 MS. WAGNER: You're either in or our out.

6 COMMISSION WOOD: We're just trying to simplify
7 the process so that you don't have to go through
8 multiple filings each time at the race meets themselves.
9 I think that's the intent of that.

10 MR. VANDEKAMP: John Vandekamp, TOC. We're
11 supportive of this reg and have been. As I think you
12 know, Gary Berg of our board has been a long-term
13 supporter of this, God bless him.

14 And I think that the purpose of the form here
15 is so that you could have one-stop shopping basically.
16 So as you filled out the form, the form could be filled
17 out for basically all the racetracks in California at
18 one time, as I believe it's been explained to me that
19 there will be multiple copies of this that you would
20 fill out, probably put in at the top of the paymaster of
21 purses, let's say, at Santa Anita, Hollywood Park, Del
22 Mar, and then those would be forwarded and filed at
23 those process. I think I'm correct.

24 EXECUTIVE DIRECTOR WOOD: Like a national or
25 statewide license, yes, sir. So each form could

1 represent different scenarios, but you have to indicate
2 on each form which one you wanted yourselves covered
3 under.

4 COMMISSIONER LICHT: One of the things I think
5 we need to be cautious of is horses shifting from one
6 track to another running in different trainers' names.
7 There could be different claims. I think we might want
8 to add something on the form or it would be better to
9 just do it inter-track as soon as possible whoever the
10 trainer listed in the program is the one that's going to
11 receive that direct fee. Because I know a lot of times
12 a Southern California trainer will ship up to Northern
13 California and still think it's his horse to receive the
14 money.

15 EXECUTIVE DIRECTOR WOOD: That's a procedural
16 thing I think we could cover with the coordination of
17 the forms among the bookers.

18 COMMISSIONER HARRIS: TOC will have to inform
19 owners about that, too, have an educational program. It
20 might be a problem or issue if somebody shipped into
21 California from someplace else and was not aware of it
22 that they needed to be made aware that that was the
23 deal.

24 EXECUTIVE DIRECTOR WOOD: I think it would be
25 diligent on all of us, the TOC, the CTT, the racing

1 associations, through overnights, conditions, books,
2 various publications, once this is approved by OAL after
3 we adopt the regulations to do all we can to make sure
4 everyone knows how this works.

5 CHAIRMAN LANDSBURG: We hope so. Is there any
6 further comment on this proposed amendment?

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

9 We just wanted to take the time to thank the
10 members of the board, the TOC and the race tracks for
11 sticking with this. It's been a long process to get
12 this where it is. I tell you, the trainers truly do
13 appreciate it and look forward to it being implemented.

14 CHAIRMAN LANDSBURG: I wish there were a way we
15 could call it the Gary Berg rule because he certainly
16 deserves that in memorium for his work on this.

17 Is there any further comment? I will entertain
18 a motion to approve the adoption of the proposed
19 regulatory amendment to CHRB rule 1467, Paymaster of
20 Purses.

21 COMMISSION BIANCO: I make a recommendation,
22 Al.

23 COMMISSIONER MORETTI: Second it.

24 CHAIRMAN LANDSBURG: I'm sorry. Bill, you made
25 the motion?

1 COMMISSION BIANCO: I made the motion.

2 CHAIRMAN LANDSBURG: Thank you. And you've
3 seconded, Marie.

4 COMMISSIONER MORETTI: Yes.

5 CHAIRMAN LANDSBURG: Thank you. All in favor,
6 please?

7 (Ayes.)

8 CHAIRMAN LANDSBURG: Opposed?

9 It is therefore adopted. Thank you.

10 Moving on. Public hearing now on the adoption
11 of the proposed regulatory amendment to CHRB Rule 1691,
12 Colors and Number, to permit advertising on jockey
13 attire, owner silks, track and saddle clothing.

14 MS. WAGNER: Jackie Wagner, CHRB staff. The
15 proposed amendment to Rule 1691, as you know, will allow
16 advertising on jockeys' attire, owner silks and track
17 saddle cloths. This amendment was initially adopted by
18 the board in July of this year and subsequently
19 submitted to the Office of Administrative Law.

20 They disapproved the initial proposal for a
21 number of reasons. They did not satisfy the necessity,
22 clarity and consistent standards of review. They
23 recommended some changes to the regulation. In response
24 to those comments, the staff went ahead and modified the
25 language. We subsequently sent it out for an additional

1 15-day comment period, and staff at this point would
2 recommend that the board adopt the rule as presented.

3 CHAIRMAN LANDSBURG: Do we have discussion of
4 this rule from the board?

5 MR. BROAD: Mr. Chairman, members, Barry Broad
6 on behalf of the Jockeys Guild, and I have with me Chris
7 McKerron whom you all know.

8 We are, of course, supportive of the rule. We
9 were supportive of it the last time. We understand
10 that -- clearly understand the problem that arose with
11 regard to the regulation of commercial speech that the
12 Office of Administrative Law pointed out and, you know,
13 obviously we agreed that we can't keep what was in there
14 and would ask you to move forward on that basis.

15 In the last week or 10 days, the Jockeys Guild
16 has asked me to present to you an additional concept for
17 your consideration which I passed out, and as someone
18 who has served on an administrative board, the
19 Industrial Welfare Commission, I understand that late
20 arrivals are generally frowned upon in the world of
21 regulation, and I do apologize for that. And I made
22 every effort to talk to all of you and Mr. Wood as soon
23 as I could. I could not get ahold of you, Ms. Moretti,
24 unfortunately, but I did talk to everyone else.

25 Let me explain the issue. The Jockeys Guild,

1 as you may know, has since I believe the 1940's
2 supported permanently disabled jockeys and temporarily
3 disabled jockeys. In California, we're fortunate to
4 have workers' compensation coverage which helps a great
5 deal with temporary disability, but we do have
6 permanently disabled jockeys who are supported and many
7 of them have been supported for decades.

8 That fund, which is now at about 1.2 million
9 dollars, is rapidly running out of money just because of
10 the number of people who need these benefits and the
11 cost of providing the services to those disabled
12 jockeys. The Jockeys Guild believes that we need to do
13 something quickly. That money will run out in
14 approximately 11 months at the rate at which it's being
15 expended. It's a very serious problem.

16 It's our view that the jockeys, disabled
17 jockeys need to be taken care of, that we have to be
18 able to continue to do this. We therefore have come up
19 with an idea, and I will grant you it is not without
20 possible controversy, but I would like to raise it and
21 we would like you to consider it very strongly, and that
22 would be that for the first year that this advertising
23 is permitted that upon a majority vote of California
24 licensed jockeys that the proceeds of advertising
25 revenue would go to the Disabled Jockeys Endowment Fund,

1 after one year that that regulatory requirement would
2 lapse and that the revenue could go anyplace that, you
3 know, there was an agreement to send it.

4 The issue that's been raised to me immediately
5 by a number of you as well as the executive director is
6 that this raises constitutional questions about whether
7 it amounts to a taking under the Constitution. That is,
8 taking someone's private property without compensation.
9 And our response to that is that we grant that that is a
10 legitimate argument that can be made and we wouldn't
11 quibble that it is not an issue. However, we have tried
12 by making this something that's approved by a majority
13 vote that's temporary to ameliorate those concerns.

14 And as you know, in horse racing there are a
15 number of situations in which associational
16 relationships are compelled by regulation and money
17 which is in effect privately earned is distributed based
18 on, you know, the state compelling it by regulation. So
19 it is not a foreign concept in horse racing.

20 With that, I would like to turn it over to
21 Chris to talk about the issue from his perspective, and
22 I would urge you to consider this with one caveat. If
23 it is the sense of the board that this is an issue which
24 you don't want to tackle in this regulation, we don't
25 want to hold up adoption of the regulation today or in

1 other ways undermine it. So if that is the case, then
2 we would ask you to just move forward. But we would
3 like you to seriously consider this and to help us with
4 this very difficult problem.

5 CHAIRMAN LANDSBURG: May I ask, Chris, before
6 one quick question. In this small paragraph which was
7 distributed indicating your goal, are you saying that
8 all revenue from all sources of advertising aboard a
9 horse, be racetrack, jockeys and owners, go to this fund
10 or just the jockeys' share?

11 MR. BROAD: Just the jockeys' share.

12 CHAIRMAN LANDSBURG: Thank you. I wanted that
13 clear. It isn't in your memorandum.

14 MR. MCKERRON: Chris McKerron representing the
15 Jockeys Guild. Due to my history, history of
16 involvement with the Don McBeth fund and now the Jockeys
17 Guild disabled fund, I feel strongly compelled to do
18 whatever I can to help disabled riders around the
19 country, especially in light of the fact that the
20 Jockeys Guild disabled fund is in a crisis situation
21 right now with the current burn rate.

22 If I may, I'd just like to read a quick letter
23 here from Elena Andreotti and Oscar Andreotti, her
24 husband, a 21-year-old rider that was injured at Los
25 Alamitos on October 22nd and unfortunately rendered

1 paraplegic.

2 I wish Oscar and I could be there to
3 speak with you in person. However, we
4 have not yet received a wheelchair
5 that enables Oscar to travel. In
6 light of Oscar's recent tragic
7 accident, we pray that you will give
8 strong consideration to the proposal
9 presented by Dr. Gerdminian and the
10 Jockeys Guild executive board. Oscar
11 is 21 years old and obviously has a
12 long and difficult road ahead of him.
13 We thank you in advance for anything
14 you can do. Signed Elena and Oscar
15 Andreotti.

16 Another thing that came to mind, due to the
17 fact that there are some owners of horses that are not
18 necessarily in favor of passing this, I thought it might
19 sweeten the situation a little bit or soften it some if
20 we could direct the money to go to disabled riders
21 instead of into, quote, wealthy jockeys' pockets. You
22 know, I don't want to take opportunities away from
23 anybody to further their income, further their living.
24 I'm fully in favor of that. However, if there is any
25 way that we could try to stem the tide a little bit of

1 the disabled jockeys fund from getting in a very
2 precarious situation, then that's basically the means of
3 my effort.

4 COMMISSIONER LICHT: I think it's crucial that
5 the industry support this disabled jockeys fund. I
6 don't know that I'm convinced this is the right way or
7 legal way to do it.

8 Where is the 1.2 million that you have now,
9 where did that come from?

10 MR. MCKERRON: We conduct various fundraisers
11 throughout the year. We have autograph signing. Lone
12 Star has an event where they conduct a jockey all star
13 race every year and just various fundraisers throughout
14 the year.

15 COMMISSIONER LICHT: And the burn rate is
16 somewhere between half a million and a million a year.

17 MR. MCKERRON: That's correct.

18 MR. BROAD: Actually, at this point this year
19 up to date it's been 1.2 million. In terms of the
20 economics of it, our goal here is to raise nationally 10
21 million dollars to go into a permanent trust fund which
22 we believe would generate sufficient income over time to
23 take care of this problem permanently.

24 COMMISSIONER LICHT: Just reading this, has the
25 guild voted for this or the executive board has come out

1 in favor of it or has it been a formal guild
2 presentation?

3 MR. MCKERRON: The full board has not voted for
4 it, no, or the executive board has.

5 COMMISSIONER MORETTI: Informally I presume
6 you've had conversations with some of your colleagues on
7 this. What is the sentiment of the jockeys?

8 MR. MCKERRON: It's mixed, quite frankly. It's
9 very mixed.

10 COMMISSIONER LICHT: You'd be attempting to
11 include nonguild members as well.

12 MR. MCKERRON: Yes.

13 COMMISSIONER LICHT: Same way. They have to
14 pay a hundred bucks for a license or whatever, they'd
15 have to agree to that.

16 MR. MCKERRON: That's the way it states, a
17 majority of California jockeys, yes.

18 COMMISSIONER HARRIS: Some of this would seem
19 to revolve around the adequacy of the workers' comp
20 program. As I understand it, workers' comp is supposed
21 to take care of permanent disability, not just temporary
22 disability.

23 MR. BROAD: Well, it's true it does take care
24 of temporary and permanent disability, but as someone
25 whose client base is generally organized labor, the

1 workers' compensation system is not adequate, frankly.
2 Its benefit level is not adequate to really take care of
3 someone.

4 COMMISSIONER HARRIS: I could see where we need
5 supplemental, but I think we need to know there is a
6 program there. It should be adequate to get this person
7 a wheelchair. I didn't realize it was that bad.

8 MR. BROAD: Well, many of you have dealt with
9 the workers' compensation system. It is not very
10 friendly to injured workers. It's not very friendly to
11 lawyers. It's generally very friendly to insurance
12 companies, but it is not a great system. Benefits are
13 slow in arriving, and in the case of jockeys, the
14 problem is they're probably not, you know, injuries
15 don't know winners from losers or wealthy from poor;
16 and, therefore, you know, if you're at the low end of
17 the benefit level on workers' compensation insurance,
18 it's pretty low, pretty hard to live.

19 MR. MCKERRON: And also due to the migratory
20 nature of our business, jockeys are traveling all over
21 the place. There is only five states in the country
22 that have workers' comp for jockeys. Granted, we're
23 talking about a California situation here, but I know
24 that California very often likes to take the lead on
25 certain things and it would look very unselfish in the

1 eyes of riders around the country if California were to
2 adopt something like this. It would look terrific and
3 it could be the model by which other states follow suit.

4 MR. BROAD: Let me just add this. There is no
5 question that the best state for jockeys in terms of how
6 they're treated is California. We've received very
7 sympathetic treatment of our issues by the Legislature,
8 by this board, by the industry. This state is head and
9 shoulders above all the other states in the United
10 States that have racing, and we want to make that
11 perfectly clear. That is our heartfelt view.

12 COMMISSIONER MORETTI: If we were to approve
13 this and then you go back and you can't get a majority
14 vote on this particular paragraph, would you go alter by
15 saying perhaps a portion of the advertisement or would
16 you set up a voluntary system or what alternatives do
17 you have?

18 MR. BROAD: I think the way it reads if a
19 majority of California licensed jockeys voted no, then
20 there would be no -- it would just revert to pure
21 private agreement.

22 COMMISSIONER LICHT: I don't think that's
23 feasible, though, because this is only going to affect
24 the very top end of the jockeys. The majority of the
25 jockeys aren't going to participate in any advertising

1 revenue, I wouldn't think.

2 MR. BROAD: We don't know.

3 COMMISSIONER LICHT: I know it's one person,
4 one vote in this country.

5 MR. MCKERRON: I think to address Ms. Moretti's
6 comment is this is obviously an 11th hour effort here
7 and Dr. Gerdminian has not had an opportunity to speak
8 with every single jockey about this, but he's a very
9 persuasive man. He's got very strong persuasive
10 abilities, and I'm confident that he would be able to
11 achieve the majority vote. That obviously remains to be
12 seen, but I think once he explained the situation to
13 each and every rider, I think that the majority vote
14 probably would happen. But obviously I have no
15 guarantees.

16 COMMISSIONER HARRIS: I'd feel a little more
17 comfortable with it if it was some sort of a super
18 majority like two-thirds. I would be a little fearful
19 if it was really close it might be divisive amongst the
20 jockeys. One of my concerns is is there that much out
21 there that's going to be very meaningful. Do you have a
22 feel for that?

23 MR. MCKERRON: That's a very good question.
24 I'm not the most optimistic person in the world with
25 regard to this whole idea. However, I will tell you

1 that we have begun -- we're going to enter into talks
2 with a man by the name of Don Laws. He's the CEO of
3 Wrangler Jeans. There is a jockey who rides back East
4 who is next of kin and he tells me that Mr. Laws would
5 much rather enter into endorsement contracts to see that
6 the dollars went towards philanthropic reasons rather
7 than into participants' pockets. So it looks like a
8 pretty good fit if we could work out something with
9 Wrangler Jeans. But...

10 CHAIRMAN LANDSBURG: Go ahead. I didn't mean
11 to cut you off.

12 MR. MCKERRON: That's all right. I lost my
13 train of thought anyway. So go ahead.

14 CHAIRMAN LANDSBURG: I'm sympathetic to the
15 cause but not to the direction of having us create a
16 regulation. First of all, if you have a majority of the
17 jockeys doing this vote, why do you need the board to
18 mandate for the rest of the jockeys? Seems to be a
19 wrong way of holding back a rule. In order to insert
20 this into the rule, you're now delaying it by at least
21 two months and probably more, maybe three, because we
22 cannot judge how quickly the OAL will approve what we're
23 doing. That's number one. So in this desperate rush by
24 putting this in you are now delaying yourself.

25 Secondly, it seems to me that when you have a

1 vote among your jockeys to mandate that the others
2 follow the rule, that seems to me to go beyond our
3 ability to control the actions of people, even when it's
4 a good cause, even when it's a proper cause. We are
5 compelling an action when the majority will vote to do
6 it.

7 Why not stand up for all the jockeys in the
8 country and say we jockeys in California have voted 60
9 to 10 to do this. You are then leading the parade as
10 well without harming or getting in the way of this
11 particular regulation, and there are other parts of this
12 regulation that will come up for discussion, but you
13 having brought this up and understand that if the board
14 wants to approve that language, and I don't know, we
15 have not obviously polled the board, you will be
16 delaying the whole process by, as I say, three months
17 would be presumptive of me. I think OAL has in the past
18 taken longer in certain things and this may be one of
19 them.

20 So I leave the choice of moving forward to you,
21 but I think that we also must discuss in this ruling.
22 And I'm going to move away from your mandated problem to
23 say that whether or not it's incorporated indirectly by
24 the rule, there must be a provision, I believe, and I
25 would like to bring it up for discussion, for either

1 jockey or owner or anyone who is benefiting from this
2 process to be able to opt out of someone else's
3 advertising.

4 As an owner, I would like the ability to opt
5 out if I didn't like what the jockey was espousing on my
6 horse, I would like to have the ability to opt out. I
7 think we can do that by directive order. And as a
8 jockey, you ought be able to opt out if the owner is
9 going to put something on your back that's offensive to
10 you as an individual.

11 So the opt out process here is going to be such
12 that we're going to have to adjudicate in some manner,
13 and I don't know that this rule as written down allows
14 for that kind of give and take between owner, jockey and
15 track. I leave that open for discussion. I'd like to
16 hear more about it and let's see where we are when all
17 of this comes to pass.

18 MR. BROAD: Let me just comment on that. First
19 of all, we never envisioned that -- I guess we thought
20 that this issue would work itself out in the marketplace
21 of advertising as advertising generally does, that to
22 put it, I guess, how we viewed it, a leading jockey with
23 lot of market clout who is desired by an owner and a
24 trainer to ride a horse is going to come to that
25 relationship saying, I'm advertising product X, Y and Z,

1 and we believe and agree that there should be a
2 directive of the board requiring, you know, disclosure,
3 everybody's disclosure before the meet starts through
4 the steward of who's got what advertising deals.

5 And that let's say it's a leading jockey and
6 said, well, you know what, I come with Coca Cola. And
7 if an owner says, gee, I hate Coca Cola, I just only
8 drink Pepsi and that just won't work for me, that that
9 will be worked out in the marketplace of, you know,
10 economic relationships. Either I want that jockey bad
11 enough and as a leading jockey he or she is going to
12 agree or not agree.

13 If you have a jockey with little market clout
14 who comes to the relationship and says, you know, I've
15 got a deal here for Coke and, you know, the owner or the
16 trainer says, well, I really like Pepsi and you're not
17 riding for me if you're going to advertise Coke, then I
18 think that that jockey is going to be in a far more
19 difficult position insisting on wearing that advertising
20 in that relationship, and we assumed that that would
21 work itself out in the market relationship.

22 I don't think it's a good idea, although there
23 is a history of the constituent elements of horse racing
24 fighting with one another to the point that everybody is
25 harmed. Generally speaking, our view is that we would

1 go forward collectively and that the best approach would
2 be that the tracks, the owners, the trainers, and the
3 jockeys would pursue sort of common contracts regarding
4 advertising that would -- and that would likely generate
5 the most revenue for everybody. So I think that's our
6 general view of this. We certainly don't want anyone
7 not to be able to opt out, frankly.

8 CHAIRMAN LANDSBURG: I think that's an
9 important point in this entire discussion.

10 MR. MCKERRON: To respond to two comments,
11 mandating the contribution just was basically born out
12 of the fact that we for the Don McBeth, we have a
13 Jockeys Across America Day and we get each jockey around
14 the country to pledge a certain dollar figure.
15 Receiving a pledge is wonderful, but receiving the
16 dollars can be timely. I mean, you know,
17 time-consuming, I should say. So that's one of the
18 reasons why we said, okay, we'll see if we can say,
19 okay, all these dollars are going to go.

20 The other thing is as a jockey who has ridden
21 for 27 years, I certainly don't want to bite the hand
22 that feeds me. I fully respect the position of the
23 owners in the business and I would not want to
24 jeopardize my relationship with anybody who owns or
25 trains horses.

1 That being said, though, there is precedence
2 out there in the sports world with regard to conflicts
3 between endorsing companies. For instance, Ray Floyd
4 might wear Lexus on his shirt, but he's not precluded
5 from the Nissan LA Open or the Buick Invitational.
6 There are ways to resolve those potential conflicts, and
7 we certainly want to work with everybody to resolve
8 those conflicts.

9 CHAIRMAN LANDSBURG: We hope to.

10 MR. VANDEKAMP: John Vandekamp, TOC. There are
11 really two issues here, the one that you raised
12 Mr. Chairman. I talked to Gary Stevens this summer, who
13 has had experience in England where they've had
14 advertising, and we've been concerned that there is
15 potential friction based on competing interests between
16 owners and jockeys as a result of this rule. And what
17 he told me that he did there was to blast fax I think
18 all of his owners the nature of the advertising
19 arrangements that he had well in advance of the races so
20 that if there was a problem that he wouldn't use it.

21 I have been in communication with Mr. Wood here
22 in the last month or so recommending that a directive be
23 issued from the board to implement this rule to the
24 effect that well in advance of racing that jockeys as
25 well as owners indicate who the advertisers would be so

1 decisions would be made by the jockey and the owner as
2 to how they would proceed. I think that just picks up
3 on what Mr. Broad has said.

4 Second point, though, I just would like to
5 applaud the Jockeys Guild for what has been recommended
6 today at least in terms of goals. There are a couple of
7 real advantages of it. We're going to help jockeys who
8 are needy. Terrific. Number two, if you get a national
9 sponsor like Wrangler, I think you're making it a lot
10 easier, and every jockey, you know, can wear those on
11 his pants and it gets everybody involved in the
12 industry, not just the favored few. And we think that's
13 a terrific idea.

14 The question, of course, is whether the board
15 could put it into regulation, and I guess my advice
16 would be if this board wants to proceed with this,
17 probably has to go out for a 45-day hearing situation.
18 There may be another way of doing this, and that is
19 sending this to committee, having the Attorney General
20 give you an opinion as to whether this is appropriate or
21 not, and then amend the rule that you may approve today
22 that has already been approved by the board. And then
23 if the Attorney General comes back and says that, you
24 know, you really can't take away the proprietary
25 interest of jockeys, I'm thinking particularly of those

1 who are not members of the guild, that this board I
2 think can certainly act within its powers to issue a
3 resolution applauding the Jockeys Guild, urging jockeys
4 in the state to contribute in this way.

5 And while I can't speak for my board today
6 because I have not presented it to it, I'm sure that the
7 owners of California would be very supportive of
8 persuasive efforts to try to get all the jockeys on
9 board. And I think that peer pressure can be very
10 powerful. But I think that the idea that has been
11 presented is a step forward and I applaud Dr. Gerdminian
12 and the guild for bringing it to light. The question I
13 think is the mechanism as to how to do it.

14 CHAIRMAN LANDSBURG: Is there further
15 discussion on either the mechanism and/or the idea?
16 If there is no further discussion, I'm toying with
17 another suggestion, but I'm going to let it pass. Can I
18 have a motion to adopt the proposed regulatory amendment
19 to the CHRB Rule 1691, Colors and Numbers?

20 COMMISSIONER MORETTI: Chris, you are willing
21 if we have to go back for three more months or whatever
22 it could be, you're willing to give that time frame.
23 We've been working on this for so long, that's why I
24 just want to hear it clear.

25 MR. BROAD: I suppose, although I think perhaps

1 Mr. Vandekamp's suggestion, given the potential
2 constitutional questions here, and I think they are real
3 and there may be ways to deal with this by changing this
4 language, which is a week old, that would take care of
5 that. I think the worst of all possible worlds would be
6 to delay it three months, adopt something and then have
7 OAL come back and say it's unconstitutional, you know,
8 start all over again.

9 Given the time frame involved, it might be
10 better to go ahead and adopt it as it's proposed and to
11 ask the Attorney General to opine on the language and
12 maybe make any suggestions about if that language is
13 deficient in some manner constitutionally or in a
14 regulatory sense, I suppose, how it might be resolved;
15 and then we would weigh collectively, I suppose, whether
16 to seek an amendment of the regulation and adopt it. Do
17 you agree?

18 MR. MCKERRON: Would it be possible to this
19 week also give us an opportunity to have Dr. Gerdminian
20 speak with all the jockeys and make sure that everybody
21 is on the same wavelength? Is it a possibility to have
22 an amendment later on?

23 EXECUTIVE DIRECTOR WOOD: Yes.

24 COMMISSIONER HARRIS: I think that's language
25 adopted as stated before your suggestion. Seems like

1 the jockeys maybe need to look at their total picture.
2 Basically what you need is more funds to aim at certain
3 things. Maybe you have other source of funds. There
4 are other ways to do it, including this, to get a total
5 picture rather than hold up this.

6 MR. BROAD: Thank you.

7 MR. MCKERRON: Thank you.

8 CHAIRMAN LANDSBURG: John Vandekamp? Where are
9 you?

10 MR. VANDEKAMP: Sir.

11 CHAIRMAN LANDSBURG: The resolution that you
12 propose which I think is a meritorious idea at this
13 moment to help the Jockeys Guild move forward and I
14 think it may be the consensus of the board, I just like
15 to know how you would frame that resolution.

16 MR. VANDEKAMP: I would not suggest you do it
17 today. I would suggest that if the Jockeys Guild
18 basically has support for it and you get a national
19 sponsor that they pass the information on to you and
20 then I think your help -- I think it's a little
21 premature for you to act today on that.

22 CHAIRMAN LANDSBURG: I can't promise you the
23 board help, but I just wanted to know what your comment
24 had been. Therefore, is there any more discussion of
25 this? Can I have a motion to adopt the proposed

1 regulatory amendment to CHRB Rule 1691, Colors and
2 Numbers?

3 COMMISSIONER MORETTI: So move.

4 COMMISSIONER HARRIS: Second.

5 CHAIRMAN LANDSBURG: All in favor?

6 (Ayes.)

7 CHAIRMAN LANDSBURG: All opposed?

8 Unanimous. It's an interesting step forward in
9 racing.

10 Moving on then, public hearing on the adoption
11 of the proposed regulatory amendment to Rule 1858, Test
12 Sample Required to eliminate the requirement that every
13 horse claimed in a claiming race can --

14 EXECUTIVE DIRECTOR WOOD: You skipped number
15 five.

16 CHAIRMAN LANDSBURG: Forgive me. I did skip
17 one I checked it off too soon.

18 Let's strike that and we're going back to item
19 five on the agenda, public hearing on the adoption of
20 the proposed regulatory amendment to CHRB Rule 1844,
21 Authorized Medication. Staff report?

22 MS. WAGNER: Jackie Wagner, CHRB staff. The
23 proposed amendment to Rule 1844 will expand the list of
24 authorized medications to include clenbuterol at a level
25 not to exceed five nanograms per milliliter that can be

1 present in an official post race test sample.

2 The rule has been out for notice 45 days.
3 Staff has received no comments on the proposal and we
4 would recommend that the board adopt the proposal as
5 presented.

6 CHAIRMAN LANDSBURG: Do we have discussion of
7 this proposed amendment?

8 COMMISSIONER HARRIS: This was originally
9 discussed at the August meeting of the Medication
10 Committee, and we had an extensive report from two
11 scientists up here in Davis, Drs. Stanley and Baker.
12 They've done extensive research on this and feel that
13 five nanograms would definitely not enhance any horse
14 performance, but would have therapeutic value in
15 treating respiratory infections in horses. I think they
16 are here and could answer any questions on the study
17 itself.

18 CHAIRMAN LANDSBURG: Are there any questions
19 forthcoming? Among the board? Anything further to be
20 said? May I have a motion to adopt?

21 COMMISSIONER HARRIS: I'll move we adopt the
22 proposed rule change.

23 CHAIRMAN LANDSBURG: CHRB 1844.

24 COMMISSIONER HARRIS: CHRB 1844, authorized
25 medication which adds a level of clenbuterol of five

1 nanograms per milliliter.

2 COMMISSIONER LICHT: Second.

3 CHAIRMAN LANDSBURG: All in favor?

4 (Ayes.)

5 CHAIRMAN LANDSBURG: Opposed?

6 The motion is unanimously carried.

7 Moving on now, sorry to skip. We have a long
8 agenda today. This is a public hearing on the adoption
9 of the proposed regulatory amendment to Rule 1858, Test
10 Sample Required, to eliminate the requirement that every
11 horse claimed in a claiming race be tested; to change
12 the requirement that nine additional horses selected
13 from the racing program be tested to not less than six
14 or more than nine horses; and to increase the gross
15 purse amount for testing horses finishing second or
16 third in a stakes race from 40,000 to 75,000. Jackie?

17 MS. WAGNER: Jackie Wagner, CHRB staff. The
18 proposal before you for the amendment to Rule 1858 will
19 effectively eliminate the requirement that all claimed
20 horses be tested. However, it must be noted that under
21 the proposal claimed horses can still be tested at the
22 discretion of the stewards. That testing would come
23 about in the random selection. In addition, all claimed
24 horses that win their claiming race will have to be
25 tested by virtue of the fact that they are a winner.

1 The amendment also raises the gross purse for a
2 stakes race from 40 to 75 thousand of those horses that
3 have to be tested.

4 The amendment has been out for public comment.
5 We have received no comments on the proposal and staff
6 would recommend that the board adopt the amendment as
7 presented.

8 CHAIRMAN LANDSBURG: Is there discussion from
9 the board members or the public?

10 COMMISSIONER HARRIS: The Medication Committee
11 also looked at this back at the August meeting and felt
12 that it would be wise to cut back slightly on the number
13 of tests with the idea of putting more emphasis on
14 better testing. The claimed horses, one of the issues
15 here is that they were only being tested for blood, not
16 urine anyway, and there was no recourse that anyone had
17 if a horse had a high bute. We feel still anybody would
18 take a risk of being picked up on a random test and it
19 was literally some race meets there's eight or nine
20 horses claimed and the receiving barn really oftentimes
21 can't really handle that many horses very well. So just
22 we feel for overall efficiency of the program is
23 enhanced by dropping a few categories of the horses.

24 Also, on the stakes raises, the stake raises
25 rule basically just takes into account inflation. I

1 think it was a good detriment to anyone that's trying to
2 cheat that they know there is a likelihood that their
3 horse is going to be tested. I would just cut back a
4 little bit so we can do a better job than the ones we're
5 doing.

6 CHAIRMAN LANDSBURG: Further comment? Jim,
7 come on up.

8 MR. GHIDELLA: I can speak from here.
9 Jim Ghidella from the TOC.

10 I just wanted the board to be aware that this
11 would raise the bar above most stakes in Northern
12 California now. In fact, our overnight stakes at Golden
13 Gate fields are \$55,000 purses. There's 21 of those
14 stakes. So there is 21 stakes where there will be
15 reduced testing.

16 On the county fairs, I believe we only have two
17 thoroughbred stakes that 75,000 or over. So that means
18 every stake on the county fairs would only have one
19 percent tested. So the impact is a lot greater in the
20 north as opposed to what's happening in the south.

21 EXECUTIVE DIRECTOR WOOD: Referring to the
22 comment that Mr. Ghidella made, the stewards still have
23 the discretion to test those horses in their random
24 selections each time. So that in the stakes races, I
25 would think that we would require or request the

1 stewards to consider that if any horse that's one, two
2 in a stakes race at any meet in Northern California
3 continue to be tested.

4 CHAIRMAN LANDSBURG: I'm sorry. Yes.

5 MR. BROAD: Mr. Chairman, members, Barry Broad
6 on behalf of the Jockeys Guild.

7 We're not opposing this regulation. We didn't
8 oppose the prior regulation. However, the Jockeys Guild
9 has always been very concerned when the trend gets
10 towards decreasing the frequency of testing and
11 increasing the levels of medication. We're hoping it's
12 not a trend because it does greatly concern the jockeys.
13 Thank you.

14 CHAIRMAN LANDSBURG: The testing that we
15 witnessed in terms of process here yesterday is becoming
16 more and more accurate, it's becoming more and more
17 sensitive and more and more likely to pick up the kinds
18 of illegal drug, if you will, or unintentional illegal
19 drugging.

20 I think that resting on that merit at this
21 moment I'm personally comfortable with it where it
22 stands and with this regulation. However, is there more
23 discussion? In which case I'll entertain a motion to
24 adopt the proposed regulatory amendment to Rule 1858,
25 Test Sample Required.

1 COMMISSIONER HARRIS: I'll move we adopt Rule
2 1858, Test Sample Required.

3 CHAIRMAN LANDSBURG: Second.

4 COMMISSION BIANCO: Second.

5 CHAIRMAN LANDSBURG: All in favor.

6 (Ayes.)

7 CHAIRMAN LANDSBURG: Opposed?

8 This is a very unanimous board.

9 We are now moving on to item seven on the
10 agenda, public hearing on the adoption of the proposed
11 addition of Article 26, advance deposit wagering, which
12 contains a number of regulatory points. John Reagan.

13 MS. WAGNER: Jackie Wagner, CHRB staff.

14 CHAIRMAN LANDSBURG: Sorry. I didn't know
15 which of you was handle each of those.

16 MS. WAGNER: The proposal before you is for the
17 adoption of Article 26, advance deposit wagering.
18 Within that article we will have 14 new rules that will
19 be on the, if the board adopts them, that will be on the
20 board's books that will govern advance deposit wagering
21 here in California.

22 The first rule that is up for your
23 consideration is Rule 2070. This is definitions, and
24 this rule provides the terms and the definitions that
25 are going to be used in Rules 2071 through 2083 which

1 are the rules that govern advance deposit wagering.

2 CHAIRMAN LANDSBURG: Is there a comment on Rule
3 2070, Definitions?

4 COMMISSIONER LICHT: Do we need to pass each
5 one individually?

6 EXECUTIVE DIRECTOR WOOD: Yes, each one.

7 CHAIRMAN LANDSBURG: We will be passing each
8 one of these rules individually.

9 MR. BADOVINAC: Thank you, Commissioner. My
10 name is Greg Badovinac. I am a member of California
11 Horse Racing Fans Committee, although I am speaking as
12 an individual and I am not otherwise involved with the
13 horse racing industry.

14 I in a comment suggested that we add in
15 paragraph J, credits, to deal with refunded wagers.
16 There are occasions when wagering pools are terminated
17 because of the number of horses or because of the fact
18 that racing cannot be conducted that day.

19 Just as a technical clarification that credits
20 subpart J be amended to read credits mean all positive
21 inflow of money from a winning or refunded wager to an
22 account.

23 MR. REAGAN: Commissioner, John Reagan,
24 R-e-a-g-a-n, CHRB staff.

25 Our guest here today has an interesting point.

1 However, this paragraph J is not meant to be totally
2 inclusive, in that we have also Rule 2079 that talks
3 about refunds. The point is I don't believe that it's a
4 serious enough issue that we should delay the rule for
5 15-day notice, which would take it out maybe two months,
6 for this one correction. I think the rules as they
7 stand cover the issue.

8 We also have our standard pari-mutuel rules
9 that refer to cancelled races and refunds, and I think
10 it's pretty clear as to what we should do in this
11 regard. Like he said, kind of a technical issue, but I
12 don't believe it's serious enough to hold up the rule
13 today.

14 COMMISSIONER LICHT: I agree with Greg. I
15 think you make a good point. But I think in winning
16 when construed in terms of all the regulations that we
17 would have would include a refund. Winning would
18 include it.

19 MR. BADOVINAC: I also submitted a comment on
20 Rule 2079, and it is unclear as to when the refunded
21 wager would be posted to the bettor's account.

22 COMMISSIONER LICHT: Well, I think we had that
23 discussion at our meeting at Fairplex and talking to the
24 Autotote people, a horse that is scratched, if you have
25 a ticket on that horse, in order for you to get your

1 money back at the track, you have to in fact have the
2 ticket cancelled until the race is run. You cannot
3 receive a refund for that money the minute the horse is
4 scratched unless you ask to have the ticket cancelled.
5 So I would assume that we will have the same sort of
6 mechanism in place with advance deposit wagering.

7 MR. BADOVINAC: Sir, but at the same time, in
8 the unlikely event that racing is cancelled at a
9 location due to weather or unsafe conditions, the
10 regulations are unclear as to when those -- if I've
11 already made a bet on race nine and racing is terminated
12 at race five, the regulations are unclear as to when I
13 would get my refund on race nine.

14 CHAIRMAN LANDSBURG: You don't accept common
15 practice that is at that moment in time the refunding
16 begins.

17 MR. BADOVINAC: As I said in my comment on Rule
18 2079, it's unclear further on in the regulations.

19 CHAIRMAN LANDSBURG: I don't think we want to
20 change the reg because of an unclarity. It's part of
21 common practice in racing.

22 COMMISSIONER HARRIS: Seems like as time goes
23 on there are going to be minor fixes that we do, but I'd
24 like to see us hold up this one on this.

25 COMMISSIONER LICHT: You understand what I'm

1 talking about as far as a scratched horse. You don't
2 actually receive the money as a scratched. You receive
3 a cancelled ticket the same way you would ask your hub
4 to cancel your ticket, I assume.

5 MR. BADOVINAC: I have no issue with the
6 scratched horse. It's cancellation of the race cards
7 due to weather, unsafe conditions that is left unclear
8 in this regulation.

9 MR. REAGAN: However, Commissioner, CHRB Rule
10 1544, calling off a race, discusses those very issues in
11 terms of how we would handle it.

12 CHAIRMAN LANDSBURG: Further discussion of the
13 definitions number 2070?

14 MR. TOWNE: Norm Towne representing Cal Expo
15 and the Solano County Fair.

16 I don't advocate changing any of the
17 regulations that you propose here, but on the definition
18 area, I think that we need to put a definition in on
19 calendar period. I don't believe it's defined in law
20 and I don't believe it's defined in the regulations, and
21 it is -- it does impact both the live meets and the
22 advance deposit wagering.

23 If there's a circumstance that arises where no
24 licensee in California defined as someone who is
25 operating a live race meet is, let's say, conducting a

1 meet for a week, hypothetically, if that's a calendar
2 period, and I don't know whether it is or not because it
3 isn't defined, but if that were a calendar period or
4 defined as a calendar period in someone's mind, what
5 happens with advance deposit wagers that occur during
6 that week?

7 CHAIRMAN LANDSBURG: In what respect?

8 MR. TOWNE: Well, let's say that presumably TVG
9 or Ubet or anyone else that's conducting advance deposit
10 wagers in California with California residents making
11 those wagers, if there are no licensees operating during
12 a calendar period in California, what happens to advance
13 deposit wagers during that time frame?

14 COMMISSIONER LICHT: If no track is operating
15 in California but a California resident is betting
16 outside the state? Is that what you're saying?

17 MR. TOWNE: Right.

18 COMMISSIONER HARRIS: Somebody would have to
19 deem somebody to be operating. Maybe like this year
20 Hollywood Park closes on December 17th, that they would
21 split with Santa Anita somehow or somebody was deemed to
22 be operating every day.

23 EXECUTIVE DIRECTOR WOOD: I would think that
24 would be correct, Commissioner Harris. I think that is
25 the situation that would be addressed in the agreements

1 presented at the time of licensing to the board, and I
2 believe that if the definition for calendar day needs to
3 be included in the definitions, it ought to be an
4 additional request to amend those regulations after we
5 get these regulations in place, not as to amend them as
6 we go forward, because I think currently we can conduct
7 an application for licensing process which would include
8 the times that you speak of as a part of the agreements
9 that the applicant would make at the time of licensing

10 MR. TOWNE: And I agree with that. I just
11 think that this board and the industry in general may
12 want to look at adding a reg at some point or in fact
13 inserting something into the horse racing law that
14 defines calendar period.

15 COMMISSIONER LICHT: That's a market access
16 fee, that's what you're talking about, right?

17 MR. TOWNE: Yes.

18 CHAIRMAN LANDSBURG: Therefore, is there
19 further discussion of Rule 2070, Definitions?

20 COMMISSIONER LICHT: Jackie, there were no
21 public comments to that other than Greg's comment?

22 MS. WAGNER: That's correct.

23 COMMISSIONER LICHT: Okay.

24 CHAIRMAN LANDSBURG: Then let me entertain a
25 motion to accept Rule 2070, Definitions.

1 COMMISSIONER LICHT: I so move that we adopt
2 that rule.

3 COMMISSIONER MORETTI: Seconded.

4 CHAIRMAN LANDSBURG: Moved to adopt and
5 seconded. All in favor.

6 (Ayes.)

7 CHAIRMAN LANDSBURG: Opposed?

8 So we have adopted Rule 2070, Definitions.

9 Moving on in our list, Rule 2071 under Article
10 26, license to conduct advance deposit wagering by a
11 California applicant, provides procedures and conditions
12 a California applicant must comply with to be licensed
13 to conduct advance deposit wagering; and incorporates by
14 reference CHRB-132, new as of 9/01, application for
15 license to conduct advance deposit wagering.

16 Jackie will do the staff report.

17 MS. WAGNER: Jackie Wagner, CHRB staff.

18 As enumerated by our chairman, Rule 2071
19 provides the guidelines and procedures that an applicant
20 must comply with in order to be licensed to conduct
21 advance deposit wagering here in California. Staff
22 would recommend that the board adopt the rule as
23 presented.

24 CHAIRMAN LANDSBURG: Is there discussion of
25 this particular item?

1 MR. BADOVINAC: Greg Badovinac. I do encourage
2 the board to amend paragraph K. The current regulation
3 states that the board has 90 calendar days to approve or
4 deny an application. However, there is no requirement
5 that the board take action.

6 In my E-mailed comment I suggested that no
7 action by the board within 90 calendar days is deemed
8 approval of the application. This is consistent with
9 other California regulatory agencies such as the
10 California Department of Financial Institutions, that if
11 the agency does not take action within a specified time,
12 it's deemed approved. It would not affect the agency's
13 ability to deny the application or request additional
14 time but would require an action.

15 MR. REAGAN: Commissioners, John Reagan. We're
16 uncomfortable in putting the board in the position where
17 something is automatically approved after a given time
18 frame. We believe we can certainly respond within that
19 time frame, make any recommendations to the applicant as
20 to what conditions or problems we have with it and we
21 can certainly take care of that. We certainly don't
22 want to mandate something be approved.

23 MR. BADOVINAC: Mr. Chairman, to avoid all
24 this, I would just say on the record for 2072 and I'll
25 still have the same comment.

1 COMMISSIONER LICHT: I think Greg's suggestions
2 are good, but they should be in the nature of the
3 amendment, to be considered as amendments. I don't
4 think they're of such a dramatic nature that we should
5 delay implementation of the law.

6 CHAIRMAN LANDSBURG: Any other discussion? I
7 entertain a motion to approve Rule 2071, license to
8 conduct advance deposit wagering by California
9 applicant.

10 COMMISSION BIANCO: I make a motion, Al.

11 COMMISSIONER MORETTI: Second.

12 CHAIRMAN LANDSBURG: All in favor?

13 (Ayes.)

14 CHAIRMAN LANDSBURG: Opposed?

15 Therefore we have approved Rule 2071, license
16 to conduct advance deposit wagering by a California
17 applicant.

18 COMMISSIONER LICHT: I'm assume, Jackie, there
19 is no public comment.

20 MS. WAGNER: No public comment.

21 COMMISSIONER LICHT: On any of these advance
22 deposit wagering.

23 MS. WAGNER: The only comments we have received
24 are from Mr. Greg --

25 COMMISSIONER LICHT: Badovinac.

1 MS. WAGNER: -- Badovinac and he is here to
2 raise his comments to the board.

3 CHAIRMAN LANDSBURG: Moving on to Rule 2072 of
4 Article 26, approval to conduct advance deposit wagering
5 by an out-of-state applicant. Jackie.

6 MS. WAGNER: Jackie Wagner, CHRB staff.
7 Rule 2072 provides the guidelines and
8 procedures that an out-of-state applicant must comply
9 with in order to be approved for operating an advance
10 deposit wagering here in California.

11 CHAIRMAN LANDSBURG: Comment on this rule? Is
12 there comment?

13 MR. BADOVINAC: As I stated earlier, sir.

14 CHAIRMAN LANDSBURG: Thank you. We have Greg's
15 comment. Anyone else's comment on this rule?

16 COMMISSIONER MORETTI: Could I ask, they were
17 talking about in this I just got today? Does this refer
18 to this? Is Ron Liccardo here?

19 MR. LICCARDO: Yes.

20 COMMISSIONER MORETTI: I received your letter
21 earlier this morning when I came here. I was just
22 wondering if this was pertaining to this particular
23 rule.

24 MR. LICCARDO: I don't know if it's pertaining
25 to this particular rule, but I think it's going to come

1 up either now or it's going to come up when everybody
2 goes for their licensing, I mean making their request.
3 I believe everybody on the board might have got a copy
4 of the letter I sent them or --

5 CHAIRMAN LANDSBURG: I have not.

6 MR. LICCARDO: No?

7 COMMISSION BIANCO: I have not either.

8 CHAIRMAN LANDSBURG: Part of the considerations
9 within the license framework is the utilization of union
10 employees and union labor agreements. As we get into
11 the licensing procedure, as you all know, we have almost
12 a pilot program here that goes beyond what many of the
13 states have done with their wagering and we're learning
14 as well as you do.

15 We recognize labor's needs and wishes in this.
16 To the extent that we feel we can fulfill them, I'm sure
17 this board is sympathetic to your organization.

18 MR. LICCARDO: As of late, I've only been
19 informed, well, I've been informed -- we've been talking
20 that there would possibly be no jobs for us in this new
21 venture in the industry that directly deal with what we
22 do for a living, like it says in there, who has the, you
23 know, the light field at the nearest racetrack.

24 If there are any positions, they may be taking
25 place out of state. That's why I feel and that's why I

1 wrote this letter to the Governor's office that I
2 thought the CHRB ought to be in control of the complete
3 advance deposit wagering and everything should be in the
4 confines of the State of California. That way they can
5 be overseeing everything. With things happening out of
6 state, you won't be able to be seeing what's happening
7 in other states with your advance deposit wagering.

8 CHAIRMAN LANDSBURG: To the extent that we
9 license them, we do have some control, albeit it is not
10 as easy to exert, but they have, to in order to comply
11 with the law, be allowed to render that service and they
12 have to be licensed according to that law by the CHRB.

13 Within our license regulation, we will be
14 dealing with labor. How we get California labor into
15 out of state we will be finding out as we go along. The
16 extent to which we can be effective in this will rest
17 with the manner in which licensees deposit their
18 licenses to us and we go through them and try to get the
19 best possible deal for California racing, for California
20 labor and for California bettors.

21 MR. LICCARDO: Like I said, the last couple of
22 days I've talked to different people and been told the
23 possibilities of other ways to go, which will be
24 addressed probably on licensing when we go to licensing
25 the individual rather at this time now. That's why I

1 didn't bring it up right now. What I was going to do
2 after you got done proposing or approving or
3 disapproving the regs, I was going to come in and ask to
4 talk about this letter here.

5 CHAIRMAN LANDSBURG: We appreciate your
6 concern.

7 MR. LICCARDO: Thank you.

8 CHAIRMAN LANDSBURG: Certainly there is role
9 for your people in the pari-mutuel departments and they
10 should be able to be part of these new account wagering
11 systems.

12 MR. LICCARDO: Well, we've put a lot of time in
13 this advance deposit wagering, and I'd say that maybe
14 not quite as much as the tracks, but a lot of our time
15 in the last couple years has been spent lobbying for
16 this to happen because we felt and didn't quite
17 understand the way it was going to be run and if it's
18 done completely electronically, there is not going to be
19 anything for us in this.

20 Spending as much time as we did thinking that
21 there might be a system out there, whether it be replace
22 the jobs that we lost live because of people that
23 wouldn't be betting live, finding out now there's a
24 possibility it would be nothing. So we're looking to
25 see if we can try to salvage something.

1 COMMISSIONER HARRIS: I can sympathize with the
2 union concerns. Not to hold this up, but getting some
3 legal point as far as if it's in violation of any
4 interstate trade type issues for California to regulate
5 if a hub can only be in California. If there's, you
6 know, constitutional issues or legislation issues on
7 that.

8 MR. BLAKE: I'm sure that that was considered
9 when AB 471 was drafted and there are substantial issues
10 with trying to restrict interstate commerce in this
11 mode. I think the Legislature may have had in mind that
12 it's better to regulate something that is going to occur
13 anyway than to just have it occur out of state and not
14 be able to regulate it.

15 MR. LICCARDO: Well, with the hub being in
16 California, that doesn't necessarily mean the bet is
17 going to be placed in California. If the bet was being
18 placed in California and the hub being there, then there
19 is the possibility of being jobs somewhere. I think the
20 jobs are going to be in the other states that we do our
21 placing of our bet. The information is all going to be
22 at the hub.

23 CHAIRMAN LANDSBURG: We're all grasping for the
24 same information which will be forthcoming within the
25 next 30 days and all of us will get a much clearer

1 picture of how and what we can do.

2 MR. LICCARDO: Usually what happens if you lose
3 it, it's harder to get it back than if you hold on to it
4 at the beginning.

5 CHAIRMAN LANDSBURG: No one knows that more
6 than racing because they've lost a lot in the past by
7 not acting at the right moment. We hope to be able to
8 act at the right moment.

9 Is there any further discussion then on Rule
10 2072, approval to conduct advance deposit wagering by an
11 out-of-state applicant?

12 MS. MORETTI: I move to approve.

13 CHAIRMAN LANDSBURG: We have a motion to
14 approve.

15 COMMISSION BIANCO: Second.

16 CHAIRMAN LANDSBURG: All in favor.

17 (Ayes.)

18 CHAIRMAN LANDSBURG: Opposed?

19 It's therefore adopted, Rule 2072, approval to
20 conduct advance deposit wagering by an out-of-state
21 applicant.

22 Moving on, Rule 2073 of Article 26, operation
23 of an advance deposit wagering account for all entities,
24 comment from staff.

25 MS. WAGNER: Jackie Wagner, CHRB staff.

1 Rule 2073 provides the procedures and
2 conditions for the day-to-day operations of advance
3 deposit wagering accounts. We did receive a comment
4 from Mr. Badovinac. If he would like to enumerate his
5 comments at this time, he can do that. Staff would
6 recommend that the board, however, adopt the proposal as
7 presented.

8 CHAIRMAN LANDSBURG: Greg, same comment or --

9 MR. BADOVINAC: You're on Rule 2073.

10 MS. WAGNER: Correct.

11 MR. BADOVINAC: I did not submit a comment.

12 CHAIRMAN LANDSBURG: Okay. Any further comment
13 from the public? Is there a hand up in back? I
14 couldn't see who it was.

15 MR. TRAMONTANO: My name is Tony Tramontano
16 with the San Jose satellite facility. That's all right.
17 I'm thinking here.

18 I have two questions actually. What would a
19 nonracing facility, we don't have live racing, where
20 would we fit into this? How we could affiliate with
21 somebody who has a license if we didn't want to have a
22 license ourselves?

23 And the second question is, assuming that we
24 can affiliate with a licensee, can we affiliate with
25 more than one licensee like with an out-of-state hub as

1 well as an in-state licensee to conduct wagering?

2 CHAIRMAN LANDSBURG: All right. Let's see.

3 Whose comment is this? It is my understanding of this
4 particular rule, and I stand to be corrected if anybody
5 wants to, that advance deposit wagering entities, as
6 long as they can meet the requirements of the license,
7 can be from any part of the industry or any outsider.
8 There is no restriction on who can apply. There is a
9 set of rules that they would have to meet in order to
10 apply. But if you are saying, could we apply, I would
11 say I can see no reason why you couldn't apply as a
12 unit, but you would have to be able to meet the economic
13 boundaries, you'd have to be able to meet the
14 requirements of the license in order to go forward.

15 I don't know if there is any better answer to
16 that. If somebody has it, please tell me.

17 EXECUTIVE DIRECTOR WOOD: No, I think the
18 answer to his question is yes on both counts. It's out
19 there to be negotiated and for agreements to be made.
20 So yes and yes.

21 MR. TRAMONTANO: But it would require a
22 significant amount of capital to become a licensee, I
23 would imagine.

24 CHAIRMAN LANDSBURG: It would require a bond of
25 \$500,000 and a visible ability to fulfill the

1 requirements of the licensee.

2 MR. TRAMONTANO: There's infrastructure, there
3 are all sorts of things that you have to have in order
4 to participate.

5 CHAIRMAN LANDSBURG: That is a business plan
6 problem. It's not a problem of the license regulation.
7 You have to have a business plan for moving forward.
8 Business plans are done all the time within well
9 measured businesses and the field is wide open. If you
10 decided that you wanted to run one out of your house, it
11 might still be able to be licensed. There is no
12 restriction on who can apply for a license. Who will
13 get the licenses is another matter, but that will depend
14 upon their ability to fulfill the obligations of the
15 license.

16 MR. TRAMONTANO: I guess my question is, is it
17 possible for me as a free-standing facility to affiliate
18 with an existing hub or an existing licensee and become
19 part of their system without doing it myself?

20 CHAIRMAN LANDSBURG: Jack?

21 MR. LIEBAU: Jack Liebau from Santa Anita.

22 I think the answer to this is out of every
23 amount that's wagered on an advance deposit wagering
24 basis, two percent of that ultimately goes to the
25 satellites. So every satellite is already participating

1 under the law in each bet that's made via an account
2 wager.

3 CHAIRMAN LANDSBURG: That begs the question
4 that I think was being asked. The question being asked
5 is could they affiliate with X hub.

6 MR. TRAMONTANO: TBG, for instance.

7 CHAIRMAN LANDSBURG: And we are an outgrowth of
8 that and we will take wagering from this machine to
9 another machine.

10 MR. TRAMONTANO: Correct.

11 MR. LIEBAU: In fact, under the law, the last
12 paragraph of the section -- I think Mr. Reagan could
13 read it if necessary -- each satellite facility has the
14 right to take a wager and facilitate it through an
15 account wagerer and get two percent on that wager, and
16 the purpose of that was so that an account wagerer that
17 may have an expanded menu did not have an advantage over
18 any satellite.

19 CHAIRMAN LANDSBURG: Does that answer your
20 question?

21 MR. TRAMONTANO: Yeah, pretty much.

22 CHAIRMAN LANDSBURG: Thank you. Further
23 discussion or comment of Rule 2073? I'll entertain a
24 motion to approve it.

25 COMMISSION BIANCO: So move.

1 COMMISSIONER MORETTI: Second.

2 CHAIRMAN LANDSBURG: Moved and seconded. All
3 in favor?

4 (Ayes.)

5 CHAIRMAN LANDSBURG: Opposed?

6 We're getting toward account wagering. That
7 should make a lot of people in this industry breathe
8 either hard or softly.

9 Moving on to Article 26, item E, Rule 2074,
10 requirements to establish an advance deposit wagering
11 account with a California entity.

12 MS. WAGNER: Jackie Wagner, CHRB staff.

13 Rule 2074 provides the procedures and
14 conditions for a California entity to establish an
15 advance deposit wagering account and it also specifies
16 the information that an individual will have to give in
17 order to establish an account with the entity. Staff
18 would recommend that the board adopt the rule as
19 presented.

20 CHAIRMAN LANDSBURG: Is there discussion of
21 Rule 2074?

22 COMMISSIONER MORETTI: I'll move to approve it.

23 CHAIRMAN LANDSBURG: No discussion. The motion
24 has been made to approve. Is there a second?

25 COMMISSIONER HARRIS: Second.

1 CHAIRMAN LANDSBURG: It is seconded. All in
2 favor?

3 (Ayes.)

4 CHAIRMAN LANDSBURG: Opposed?

5 The motion is carried unanimously to adopt Rule
6 2074, requirements to establish an advance deposit
7 wagering account with a California entity.

8 Article 26, item F, Rule 2075, requirements to
9 establish an advance deposit wagering account with an
10 out-of-state hub. Is there a comment on this particular
11 provision? Hearing none, may I have a motion to adopt?

12 MS. GRANZELLA: So move.

13 CHAIRMAN LANDSBURG: Second?

14 COMMISSIONER LICHT: Second.

15 CHAIRMAN LANDSBURG: All in favor of adopting
16 Rule 2075?

17 (Ayes.)

18 CHAIRMAN LANDSBURG: Opposed?

19 The rule is adopted, Rule 2075, requirements to
20 establish an advance wagering account with an
21 out-of-state hub.

22 Moving on to Article 26, item G, Rule 2076,
23 deposits to an advance deposit wagering account with all
24 entities. Staff?

25 MS. WAGNER: Jackie Wagner, CHRB staff.

1 Rule 2076 provides the conditions for account
2 holders to make a deposit to their advance deposit
3 wagering account and provides the conditions for the
4 entity that accepts the deposit. Staff would recommend
5 that the board adopt the proposal as presented.

6 CHAIRMAN LANDSBURG: Is there any discussion of
7 Rule 2076? May I have a motion then to approve?

8 COMMISSIONER HARRIS: So move.

9 COMMISSIONER GRANZELLA: Second.

10 CHAIRMAN LANDSBURG: All in favor?

11 (Ayes.)

12 CHAIRMAN LANDSBURG: Opposed?

13 The Rule 2076 is therefore adopted, deposits to
14 an advance deposit wagering account with all entities.

15 Moving on to Article 26, item H, Rule 2077,
16 placing an advance deposit wager with all entities.

17 Staff?

18 MS. WAGNER: Jackie Wagner, CHRB staff.

19 Rule 2077 provides the conditions for placing
20 an advance deposit wager. Staff would recommend that
21 the board adopt the rule as presented.

22 CHAIRMAN LANDSBURG: Is there any discussion
23 now on rule 2077? Is there therefore a motion to
24 approve?

25 COMMISSIONER GRANZELLA: So move.

1 CHAIRMAN LANDSBURG: Seconded?

2 COMMISSIONER HARRIS: Second.

3 CHAIRMAN LANDSBURG: All in favor?

4 (Ayes.)

5 CHAIRMAN LANDSBURG: Opposed?

6 We move with considerable alacrity to Article
7 26, Rule 2078 withdrawals from an advance deposit
8 wagering account with all entities. Staff.

9 MS. WAGNER: Jackie Wagner, CHRB staff.

10 Rule 2078 provides the conditions for making
11 withdrawals of funds from an advance deposit wagering
12 account. Staff would recommend that the board adopt the
13 rule as presented.

14 CHAIRMAN LANDSBURG: Is there any discussion of
15 Rule 2078 from the board or public? If not, I will
16 accept a motion to approve.

17 COMMISSIONER HARRIS: So move.

18 CHAIRMAN LANDSBURG: Seconded?

19 COMMISSIONER BIANCO: Second.

20 CHAIRMAN LANDSBURG: And all in favor?

21 (Ayes.)

22 CHAIRMAN LANDSBURG: Opposed?

23 Rule 2078 is therefore adopted, withdrawals
24 from an advance deposit wagering account with all
25 entities.

1 Article 26, Rule 2079, credit for winning
2 wagers and scratched entries. Staff comment, please.

3 MS. WAGNER: Jackie Wagner, CHRB staff.

4 Rule 2079 provides the conditions for the
5 posting of a credit of a winning wager and a credit for
6 a scratched entry. Staff would recommend that the board
7 adopt the rule as presented.

8 CHAIRMAN LANDSBURG: Is there discussion of
9 Rule 2079? Yes, Greg.

10 MR. BADOVINAC: As stated earlier, and I'll
11 make this for the record, I encourage modification of
12 this rule to include cancellation of any wager by the
13 host track in the event that the host track has to
14 cancel wagering on a particular type of wager or the
15 rest of a card due to inclement weather or unsafe racing
16 conditions, that that area is unclear in this,
17 especially at the end with out-of-state areas.

18 MR. REAGAN: Commissioners, Greg makes an
19 interesting point. We do have existing on the books
20 right now 1544, Rule 1544, that discusses how to handle
21 cancellation of races, cancellation of race cards and so
22 on and so forth. So we believe that's been covered.

23 CHAIRMAN LANDSBURG: Tom Blake is not for this.

24 MR. BLAKE: I think so, and if experience
25 proves that it's confusing or ambiguous, the rule could

1 be later amended to clarify as Mr. Badovinac suggests.

2 CHAIRMAN LANDSBURG: Thank you. Given the
3 information, is there a motion to approve Rule 2079?

4 COMMISSIONER MORETTI: So move.

5 CHAIRMAN LANDSBURG: And second?

6 COMMISSIONER HARRIS: Second.

7 CHAIRMAN LANDSBURG: All in favor of approval?

8 (Ayes.)

9 CHAIRMAN LANDSBURG: All opposed?

10 Therefore, Rule 2079 is approved, credit for
11 winning wagers and scratched entries.

12 Moving on Article 26, Rule 2080, proceeds from
13 a deceased account holder. Staff comment.

14 MS. WAGNER: Rule 28 provides the conditions
15 for the release of funds when an account holder is
16 deceased. Staff would recommend that the board adopt
17 the rule as presented.

18 CHAIRMAN LANDSBURG: Is there any discussion of
19 Rule 2080? None? If there is none from the board, I'll
20 entertain a motion to approve.

21 COMMISSIONER MORETTI: So move.

22 COMMISSIONER GRANZELLA: Second.

23 CHAIRMAN LANDSBURG: Moved and seconded. All
24 in favor?

25 (Ayes.)

1 CHAIRMAN LANDSBURG: All opposed?

2 The rule therefore is adopted unanimously.

3 Rule 2080, proceeds from a deceased account holder, is
4 approved.

5 Article 26, Rule 2081, market access fee for
6 wagers placed by a California resident. Jackie?

7 MS. WAGNER: Jackie Wagner, CHRB staff.

8 Rule 2081 outlines the procedures and
9 conditions for the market access fees when a California
10 resident places an advance deposit wager. Staff would
11 recommend that the board adopt the rule as presented.

12 CHAIRMAN LANDSBURG: Do we have discussion of
13 this particular rule?

14 COMMISSIONER LICHT: I think Mr. Towne's
15 comments are well placed. I think that we don't have to
16 worry about this comment for quite some time, but it's
17 something that we can discuss in the future. Under C, I
18 think we're covered that it is subject to the
19 designation by the board for the time being that should
20 be good enough.

21 CHAIRMAN LANDSBURG: Further discussion?
22 Therefore, I will entertain a motion to approve market
23 access fee for wagers placed by a California resident.

24 COMMISSIONER LICHT: So move.

25 COMMISSIONER MORETTI: Second.

1 CHAIRMAN LANDSBURG: All in favor?

2 (Ayes.)

3 CHAIRMAN LANDSBURG: Opposed?

4 Rule 2081 is approved, market access fee for
5 wagers placed by a California resident is unanimously
6 approved.

7 Moving on to Rule 2082 of Article 26, interest
8 bearing accounts.

9 MS. WAGNER: Jackie Wagner, CHRB staff.

10 Rule 2082 specifies that the first \$250,000 of
11 interest earned on a California resident's advance
12 deposit wagering account be split between the Horsemen's
13 Welfare Fund and the Backstretch Pension Fund and that
14 this money be transferred annually. Staff would
15 recommend that the board adopt the rule as presented.

16 CHAIRMAN LANDSBURG: Any discussion of 2082?

17 MR. BADOVINAC: Greg Badovinac. Interesting
18 that the board is proposing in this rule to take money
19 from the bettor and tell account wagering entities how
20 to distribute that money when earlier today when dealing
21 with advertising on jockeys the whole issue of
22 government taking was brought up as, well, it's a great
23 cause, but I'm not sure that we can do it.

24 Within AB 471 there is no mention of what to do
25 with the interest earned on this money. Nowhere in the

1 law cited as the authority for this law is there
2 authority for board to require a private organization to
3 distribute interest earned on the money.

4 I am not advocating it be returned to the
5 bettors. The regulatory costs far exceed the benefits.
6 However, New Jersey in its proposed advance deposit
7 wagering is leaving that decision to the account
8 wagering entity. It could be part of the negotiated
9 contract between the California racing associations and
10 the account wagering entities on what to do with that
11 money, but for the board to say that that money is being
12 taken from the public and given to these entities
13 because of regulation I believe is taking because there
14 is no legal authority passed by the Legislature, signed
15 by the Governor. Yes, there may be provisions for
16 attorneys' trust funds, but I believe that there is law
17 for that. There is no law for this.

18 I encourage rejection of Rule 2082. The
19 entities that will receive the money, they're deserving
20 of our support, just as the Jockeys Guild is deserving
21 of our support; but if you're not going to mandate that
22 the jockeys give the money to the Disabled Riders Fund,
23 I think in the same way that you can't force the bettors
24 to give that money to the welfare fund and purse.

25 COMMISSIONER LICHT: First of all, nobody

1 mandated that the money, the jockeys' money, shouldn't
2 go to them. We just asked them to come back and make a
3 formal presentation. So I don't think that's an
4 accurate representation of what was said before.

5 Second of all, as you said, it would be
6 impossible or almost impossible for and unlikely for the
7 hubs to pass the money along to the account holder. And
8 so it was this rule was proposed to benefit the industry
9 as a whole and to help the industry that's supporting
10 the advance deposit wagering with money that otherwise
11 would funnel probably directly to the providers without
12 any kind of benefit to the account holder.

13 MR. BADOVINAC: That's not necessarily the
14 case. If the entity that's holding the money has this
15 stream of revenue, then the likelihood for increasing
16 the per bet fee or the account maintenance fee or other
17 services to generate a fair return on their investment
18 is decreased. Therefore, instead of charging 35 or 40
19 cents per bet they could probably lower it to 25 or 30
20 cents because they're using that money to offset the
21 cost to the betting public.

22 EXECUTIVE DIRECTOR WOOD: Or they could charge
23 no fee.

24 COMMISSIONER HARRIS: I think there is
25 precedent for this, though, in carrying around vouchers

1 that aren't really earning interest for the bettors.
2 Where does that money go, the money that's out there
3 from vouchers?

4 MR. REAGAN: From current wagering centers,
5 that would go to the official database, the CRIPS
6 database that the board has designated as the database.

7 COMMISSIONER HARRIS: So there is a recipient
8 there that is not the bettor.

9 MR. REAGAN: No.

10 MR. BADOVINAC: Sir, at the same time Hollywood
11 has a pick six carryover of \$83,000. That \$83,000 did
12 not belong to an individual. Where if I had a thousand
13 dollars on deposit, those funds are allocated to me.
14 Each of those dollars that are in the interest bearing
15 account can be allocated to me or any of the other
16 bettors, whereas the \$83,000 in the carryover or a
17 voucher, yes, I have a voucher for it, but whether,
18 Mr. Harris, you hold that or I hold that, you know, the
19 racetrack doesn't know that.

20 EXECUTIVE DIRECTOR WOOD: Are you advocating
21 that the interest money on these accounts go to the
22 account holder?

23 MR. BADOVINAC: No, I'm advocating that it be
24 up to -- New Jersey has a really good idea within its
25 proposed regulations. The internal procedures of the

1 licensees shall set forth procedures addressing the
2 allocation of such interest funds include as to their
3 disbursement to the account wagering licensee for
4 retention by it or for such use as the account wagering
5 licensee deemed appropriate.

6 If the account licensee wagering deems to make
7 a contribution to the welfare fund, that's its choice.
8 If it wishes to make a distribution to the great efforts
9 here at U. C. Davis, it has that choice. It can take
10 that money and benefit horse racing through its
11 voluntary decision, not because of regulatory mandate.

12 COMMISSIONER LICHT: It's not their money to
13 use. It's my money. If the money is in the account --
14 I haven't read the New Jersey regulation. I can't
15 believe what you're saying is accurate. My money is in
16 a TVG hub. How can TVG take that interest and use it to
17 make a donation? It's not their money to make to use
18 the interest on that account.

19 MR. BADOVINAC: You are, as New Jersey,
20 mandating it be put into an interest bearing account.
21 Now, if you want to mandate that it's not put into an
22 interest bearing account, then this whole issue goes
23 away. But you have mandated earlier and you've already
24 adopted the requirement that the account wagering entity
25 put these monies into an interest bearing account. So

1 you've mandated that. Now, the question is, where does
2 that money go. Right now, according to the regulations
3 that you have adopted, that money belongs to the account
4 wagering entity.

5 COMMISSIONER LICHT: It does?

6 EXECUTIVE DIRECTOR WOOD: Not the entity.

7 COMMISSIONER LICHT: No.

8 MR. BLAKE: No, the law doesn't provide that,
9 but the law does preclude the payment of interest on it
10 to the bettor.

11 MR. BADOVINAC: Which I am not advocating.

12 COMMISSIONER LICHT: It doesn't matter whether
13 you're advocating it, the law prohibits it.

14 MR. BADOVINAC: But it doesn't mandate that it
15 go to entities specified by the board. It's unclear.
16 It belongs to the account wagering entity, and why can't
17 California be like the other states and say that that
18 decision is a business decision, part of the business
19 plan which they have to have to operate and how they use
20 that money.

21 COMMISSIONER LICHT: Sir, you keep quoting
22 things that are just not accurate at all. There is no
23 regulation that I've ever seen in that's in place that
24 says that. There is a proposed regulation in New Jersey
25 which you say which I have not seen. I don't think

1 there is one state in the nation that does what you say
2 that it states, and I would appreciate it if you would
3 quote the regulations accurately. Is there a state
4 where what you say is in effect?

5 MR. BADOVINAC: I quoted you New Jersey
6 proposed.

7 COMMISSIONER LICHT: Proposed.

8 MR. BADOVINAC: The same as you are proposing
9 here, sir.

10 COMMISSIONER LICHT: You just said two minutes
11 ago that we do the same thing that other states are
12 doing with respect to interest on those accounts. What
13 state is doing something?

14 MR. BADOVINAC: You have mandated it in an
15 interest bearing account.

16 EXECUTIVE DIRECTOR WOOD: You need to
17 understand the regulations you speak of in New Jersey
18 are not even public proposals. Having the ability to
19 work with the people in New Jersey, I can tell you that
20 those are just draft forms. Those regulations have not
21 even been proposed, had public hearings or discussions.
22 So that's not in place. That is only an idea that they
23 are looking at in their regulatory process.

24 If you want to answer Commissioner Licht's
25 question, what state has a regulation that requires the

1 distribution of those funds as you advocate?

2 MR. BADOVINAC: I do not know of any. It is in
3 the draft New Jersey regulations as I received from the
4 Attorney General's office of the State of New Jersey.

5 CHAIRMAN LANDSBURG: Greg, I'd like to say that
6 I appreciate the comments, I appreciate the time, I
7 appreciate the care. We are on a course here which can
8 be held up or not held up. We want comments that
9 strengthen our proposal, that make the regulations more
10 effective. If the comment is that we shouldn't be doing
11 the regulation or we shouldn't be putting this into our
12 rules and regs, I think we're -- what you're hearing is
13 an unwillingness on behalf of this board to take away a
14 potential source of good and goodwill in order to
15 satisfy your stance.

16 I don't disagree with your stance in some
17 respects. On the other hand, I find that we are in
18 somewhat uncharted territory once again, and within
19 uncharted territory, we have to move willfully forward
20 in order to get these things done.

21 Very few people will have taken the time, care
22 and energy that you put into it and I personally thank
23 you for that. I think we have to move along to where
24 we're going and just say thank you to all of your
25 participants.

1 Mr. Vandekamp, you have a comment.

2 MR. VANDEKAMP: Mr. Towne pointed out something
3 that I had been looking at with respect to this section.
4 I think there is really what amounts to a typo here.

5 CHAIRMAN LANDSBURG: I'm sorry. The section
6 that we're talking about now?

7 MR. VANDEKAMP: Yes, 2082. We're really
8 talking about the first \$250,000 of interest earned on
9 California residents', plural, accounts probably should
10 be the language because there are very few individuals
11 that are going to get up to \$250,000 a year. So I think
12 that's a gremlin that crept in.

13 I don't think this requires a sending back, but
14 I think it can be amended to do that. I thank
15 Mr. Towne, but I looked at it a couple of times, maybe
16 that will be construed to mean that, but we better be
17 careful.

18 CHAIRMAN LANDSBURG: I think we can make that
19 appropriate language change.

20 COMMISSIONER LICHT: Cliff Goodrich, would you
21 want to make a comment on the benefit of this proposed
22 law?

23 MR. GOODRICH: Cliff Goodrich, representing the
24 California Thoroughbred Horsemen's Foundation, and we do
25 have a selfish interest in this regulation in that we

1 would be entitled to share in one-half of the proceeds
2 of whatever interest is generated up to the cap.

3 I would only say, and I think Chairman
4 Landsburg put it best, this is a goodwill gesture. The
5 racing law especially is fraught with many things where
6 monies that one could make a case belong to the public
7 accrue to the benefit of various programs in the
8 industry, and I categorize that as goodwill. This is
9 another one.

10 I applaud, like Commissioner Landsburg, Greg's
11 tenacity, but in the perspective of things, we have a
12 roomful of people that I'm sure each and every one of
13 them where he'd like a piece of this money, they have no
14 problems with this. We have millions of people in
15 California who bet hundreds of millions of dollars a
16 year and we have one objection to this particular rule,
17 and I think that needs to be taken into perspective.

18 And at the end of the day, and I don't mean
19 this -- I'm not throwing darts at Greg. I appreciate
20 his time and effort. At the end of the day, if somebody
21 doesn't like the rules or where their money ends up,
22 they don't have to play the game. They are not forced
23 to open an account. That's freedom of choice.

24 This is very important to us, but in the big
25 picture, I think this is very consistent with other

1 actions both the law and the board have taken through
2 regulations.

3 CHAIRMAN LANDSBURG: Having thus said, is there
4 further comment? Then with the suggested wording change
5 of Mr. Vandekamp and Mr. Towne, I will entertain a
6 motion to approve Rule 2082.

7 COMMISSIONER MORETTI: So move.

8 COMMISSIONER GRANZELLA: Second.

9 CHAIRMAN LANDSBURG: Moved and seconded. All
10 in favor?

11 (Ayes.)

12 CHAIRMAN LANDSBURG: Opposed?

13 Therefore the rule is approved, Rule 2082,
14 interest bearing accounts, is approved with the
15 correction.

16 Article 26, Rule 2083, advance deposit wagering
17 prohibited. Jackie?

18 MS. WAGNER: Jackie Wagner, CHRB staff. Rule
19 2083 prohibits those persons, prohibits specified
20 persons who are listed in 1969 of the board's rules from
21 also wagering on advance deposit wagering while on duty.
22 Staff would recommend that the board adopt the rule as
23 presented.

24 CHAIRMAN LANDSBURG: Is there discussion of
25 this particular rule?

1 None. I will entertain a motion to approve.

2 COMMISSIONER MORETTI: I will make a motion.

3 CHAIRMAN LANDSBURG: Motion made.

4 COMMISSIONER GRANZELLA: Second.

5 CHAIRMAN LANDSBURG: Seconded. All in favor?

6 (Ayes.)

7 CHAIRMAN LANDSBURG: Opposed? Rule 2083 is

8 unanimously carried, advance deposit wagering

9 prohibited.

10 Therefore, this board has moved as quickly as
11 any board will ever move to present regulations which
12 will now move forward to the good hands of the Office of
13 Administrative Law. We will have to wait for those
14 rulings from OAL to come back. We hope they will be
15 favorable. We hope they will clear the path, but we do
16 not attempt in any way to influence them. We hope also
17 that they will be expeditious, but they have their ways
18 and their problems.

19 I would like to say, however, that in all of
20 our hard efforts, and Mr. Licht served on the committee
21 that helped put these rules together, the staff worked
22 three years to put these rules together and their work
23 has been yeoman in this. My one caution and my one
24 hope, this isn't the salvation of racing. This is
25 simply a step along a road that we all have to take.

1 Personally, I'm not speaking for the board, but
2 speaking for myself, if greed and business greed begins
3 to raise its ugly head and distort the process that this
4 account wagering can help foster, which is to garner new
5 fans to utilize what we are receiving for this account
6 wagering, new ways and better ways to market our
7 product, to gather audiences and instead determine that
8 we're going to pocket as much as we possibly can, I
9 salute this as enterprise, but I also would like to
10 issue a personal warning that greed will not be greeted
11 with a friendly shake from this person, and I hope I can
12 encourage the board to take severe action when greed
13 outweighs the propriety of business.

14 Having said that, let us move on on this agenda
15 unless there is a comment to that.

16 CHAIRMAN LANDSBURG: We are moving on to item
17 eight, discussion and action by the board on the report
18 from the SCOTWINC Off-Site Stabling and Vanning Fund
19 Committee.

20 MR. VANDEKAMP: Yes, Mr. Chairman, John
21 Vandekamp on behalf the Off-Site Stabling and Vanning
22 Committee of SCOTWINC, and this relates to San Luis Rey
23 Downs.

24 I know the board wanted an update as to where
25 we stood with this. We're taking what I guess would be

1 steps, but not final steps, but to report to you the
2 action that was taken by that committee on November 8th,
3 it was voted unanimously to extend the payment of the
4 four dollar increase in stall rent for the San Luis Rey
5 Downs horsemen from December 31st 2001, to April 30th,
6 2002.

7 The committee also agreed that effective
8 December 26th, 2001, it would reimburse four dollars per
9 day per stall for 435 stalls rather than for the actual
10 number of horses on the ground. So that means that if
11 they have 350, they will still get the same amount as if
12 they had 500. We were told, and I think there is good
13 evidence, that 435 stalls times their rate gives them at
14 least a break even point.

15 In addition, we will continue to April 30th,
16 2002, the 450 starter fee payment to owners whose horses
17 are stabled there. What this means essentially is that
18 Fairplex's contract ends on April 30th, 2002, and this
19 will go to April 30th, 2002. No final decisions have
20 been made by my board yet as to what should happen
21 beyond that point.

22 Laura Rosier is here today and has been very
23 eloquent, I know, before this board and certainly before
24 our board and makes a case that I think has to be looked
25 at seriously that there should be some equitable

1 treatment between both facilities.

2 We are faced with a conundrum here, and I think
3 those of you, I know, Commissioner Granzella and, you,
4 Chairman Landsburg, were there at a very good meeting we
5 had at Fairplex or at Santa Anita where Fairplex and San
6 Luis Rey Downs folks contributed to the meeting and we
7 really worked our way and talked through this issue.

8 Nearly every day in Southern California we have
9 over a thousand, probably closer to 1100 empty stalls
10 among the four facilities, and we seem to be paying more
11 and more and more for off-track stabling; and with fewer
12 number of horses starting, and, you know, there is a
13 push to try to reduce the amount of money that's going
14 into this, compress the number of stalls that we're
15 actually paying for and at the same time to come up with
16 some kind of equitable treatment for both Fairplex and
17 San Luis Rey.

18 Our body is looking at a whole bunch of options
19 right now to recommend to the SCOTWINC committee and the
20 committee has talked through some of these. I don't
21 expect that we're going to have a report to you probably
22 till either late January or February. So I would
23 suggest -- I know that Ms. Rosier is here today and
24 deserves to be heard -- that we put this on for a
25 revisit by the board in I think around February.

1 COMMISSIONER LICHT: So you're saying through
2 April 30th you passed the four dollar supplement.

3 MR. VANDEKAMP: Yes, the very thing that we
4 supported and approved I think in September to the end
5 of the year has now been extended out.

6 CHAIRMAN LANDSBURG: If there is no further
7 comment --

8 MS. ROSIER: Laura Rosier, and I brought
9 another chart. Thanks to Mr. Licht's idea, we changed
10 the format of our chart this time to also show what type
11 of horses we're running and how we're doing. That was
12 one of the suggestions that he had and it was a good
13 question and it helped us also to again reevaluate where
14 we are and what we're doing.

15 It's pretty self-explanatory. You can see that
16 Fairplex and San Luis Rey during the Oak Tree meet,
17 which is the last meet we have, each won five races,
18 this is the total of Fairplex purse money, this is the
19 total of San Luis Rey Downs purse money, this is the
20 total of in the money, in the money, giving us the total
21 prizes of money that we brought home to our owners and
22 Fairplex brought home to their owners.

23 Again, I don't like having to be compared to
24 Fairplex because I don't believe that this is an issue
25 between Fairplex and San Luis Rey Downs, but because

1 this seems to be the numbers that you're looking for,
2 this is what I bring. But I think that all subsidized
3 facilities should be considered and I think that the
4 people in charge of the funding should be watching how
5 the money is spent and what it's being used for.

6 Is there any questions about that, the chart?

7 CHAIRMAN LANDSBURG: No, the chart is quite
8 clear. I would like to say to you that I want to put
9 your picture in a dictionary under the word persistence.
10 And I appreciate it. I think that it's a kind of energy
11 that I wish other parts of racing had for their own
12 interests and for the interests of the sport in general.

13 I don't think that any of us now, largely
14 through the efforts of you and the people who have
15 supported you in this, that any of us believes that we
16 want to continue what is inequities. We have a
17 procedure in front of us that I think is logical that
18 now will be able to bring all the facts and issues to
19 bear at one moment in time which we've never had before;
20 and if you can be patient, if you can maintain your
21 persistence, that we will come in the month of February
22 much closer to being able to adjudicate what this board
23 has to adjudicate on your behalf as well as the
24 committees both SCOTWINC, or SCOTWINC in this case be
25 able to have in front of them logical proposals that

1 will allow for the survival and flourishing of off-site
2 stabling.

3 I can't predict what will happen, but I can
4 only say that your patience would be appreciated at this
5 moment in time. We are in the process of considering a
6 number of rather weighty issues, and we have heard this
7 issue before. I'm not putting you down for being here.
8 I applaud you for it.

9 MS. ROSIER: Thank you.

10 COMMISSIONER LICHT: Are you comfortable with
11 extending the way it's done now till April and doing it
12 in February?

13 MS. ROSIER: Not really. If we don't request
14 the additional funding, and I kind of was under the
15 impression that SCOTWINC was going to come up here and
16 ask for additional funding for next year and this needed
17 to be done at this meeting.

18 COMMISSIONER LICHT: I think that is --

19 MR. REAGAN: The next item.

20 MS. ROSIER: Okay. Maybe I'll see it in then.
21 This is what we received at the meeting that I recall
22 Ms. Granzella and Mr. Landsburg and Mr. Roy Minami were
23 at. When we received this at the moment that we were
24 there, Simpkin and Win Baker and I, we thought that they
25 were seriously considering taking up our cause on

1 equality, and it shows right here how that can be done.
2 They have already thought it through, but it doesn't
3 look like it's that complicated of a procedure to ask
4 for .82 percent rather than, I think right now it's at
5 .65. I may be wrong, and I'm sure they know exactly
6 what that amount is right now; but from my
7 understanding, if we didn't get this rate at this
8 meeting, there is a good chance that this might go for
9 another year. And the problem with the horsemen at San
10 Luis Rey Downs, owners and trainers alike, that this
11 seems to drag through year and year and after year and
12 nobody considers what a stress and strain it is on our
13 horsemen. And if we wait now till February and possibly
14 we hear that all funding for Fairplex and San Luis Rey
15 and whatever is going to stop, that only gives us two
16 months to sell our homes and leave the state or whatever
17 we choose to do.

18 If you say that's the way it is, that's the way
19 it is. But I'm just saying it is really a stressful
20 situation on the horsemen everywhere not knowing what's
21 going to happen next, and we hear rumors that it's all
22 going to be cut off or rumors that we really do have an
23 issue of equality here and that it's going to be
24 rectified, but each month thousands of dollars are
25 coming out of individual trainers' pockets to fund their

1 stabling while their fellow competitors are not having
2 to pay anything, and that's why it's hard to be patient
3 and to go back and face the fury when they say why don't
4 you do this, why don't you say that, don't they
5 understand. It's just hard to go back without a
6 definitive answer.

7 I asked Mr. Vandekamp when we talked on the
8 phone and he told me what the proposal would be if we
9 had any idea what would happen on April 30th because
10 that may give me a chance to hold down the fort. I mean
11 there is a lot of people that are just busting at the
12 seams. We want to contact the media, we want to contact
13 our local representatives, you know, and we do have very
14 much support from our county and our local residents.
15 And we just keep saying hold on. We can do this without
16 causing conflict. We don't want to make a ruckus.

17 We want things -- like the Racing Form, that
18 was kind of a controversial article that came out this
19 morning, and we don't want to get into that. But there
20 are some people that when I go home I'm going to have to
21 step back and they're going to do what they want to do
22 because who am I to stop them.

23 CHAIRMAN LANDSBURG: We live in a wonderful
24 society that purports to be totally free, and if they
25 chose to do that, I would say they have every right to

1 do that if their angers and emotions are such. If
2 they're realistic, it will do very little good and may
3 stir a hornets' nest, and I would warn them that
4 stirring a nest of hornets now when you are so
5 relatively close to having the proposition you began
6 with to become acceptable to a great many people within
7 this industry, that a wanton act at this moment in time,
8 meaning an act that is counterproductive, might injure
9 the cause more than helping.

10 We understand, I believe -- I do not believe we
11 can do anything at this juncture because of the status
12 of who does run this venture. The SCOTWINC fund is not
13 totally under our control in any way, shape or form.
14 However, we've heard your plea, we respect it and this
15 board, at least I will hope that the board will take
16 every step to see that something is done that helps and
17 supports racing in California, which is our venue.

18 It is not our -- individually I believe you do
19 help racing in California, but I think that we have to
20 move on knowing that by February we should be very close
21 to resolution for you, and that resolution is aimed
22 toward what will happen on the 30th of April, giving
23 you, I'm afraid, only two months to make a
24 determination, but I think the determination is more
25 likely to be positive than negative.

1 COMMISSIONER LICHT: This is a very effective
2 piece that you added, at least as far as I'm concerned.

3 MS. ROSIER: Credit's due. Oh, one more thing,
4 I don't want to get in trouble for not telling Mr. Licht
5 this, but Mr. Capestral that spoke at our meeting wanted
6 to let you know that his filly won that day and she came
7 back and won another one right in a row. So he says to
8 be sure and also to apologize that the gentlemen aren't
9 here today because they thought we were supposed to be
10 in Cypress and at the last minute I was the only one
11 that was able to come.

12 Also, I wasn't sure if any of you noticed that
13 we won the Cal Cup juvenile fillies with Lady George.
14 So I just want to make sure we get those credits in, and
15 I might come up after SCOTWINC talks to you again.
16 Thank you.

17 CHAIRMAN LANDSBURG: Thank you. I don't know
18 how long this is going to take, the discussion of the
19 SCOTWINC, and we've been here without a break. I notice
20 a number of people looking restlessly at the door simply
21 to get a break. We also have to set up at the same time
22 a presentation for the equine postmortem program. So I
23 suggest now we take a 10 minute break and come back,
24 finish the Southern California. For all of your
25 knowledge, item 10 has been withdrawn from the agenda.

1 (Recess taken.)

2 CHAIRMAN LANDSBURG: As we reconvene, ladies
3 and gentlemen, we are now moving on to item nine on the
4 agenda, a discussion and action by the board on the
5 request of the Southern California Off-Track Wagering,
6 Incorporated, to adjust off-site stabling and vanning
7 takeout percentage.

8 MR. REAGAN: Commissioners, this is a situation
9 where the SCOTWINC Stabling and Vanning Fund which has
10 been in existence over a decade makes an annual
11 adjustment to make sure that the revenues and expenses
12 are within the legal limit for the 10 percent reserve
13 base. Based on what we heard on the prior item and
14 other things, SCOTWINC is asking to increase from .60 to
15 .74.

16 This seems to be a reasonable request based on
17 the new expenses they might have as well as some
18 adjustments to the handle for account wagering, and
19 staff recommends you approve this request.

20 CHAIRMAN LANDSBURG: Thank you. Is there any
21 discussion now of this particular item?

22 COMMISSIONER HARRIS: Just to clarify, so
23 SCOTWINC would not receive any funds from the account
24 wagering. So that could be a hit for them.

25 MR. REAGAN: Exactly.

1 CHAIRMAN LANDSBURG: Further discussion?

2 Since there is no further discussion, I would
3 like to make one comment and then go for approval just
4 to say to those of you who haven't seen the item or the
5 information, Al Karwacki, our long time and very valued
6 head of SCOTWINC is retiring soon for the golden fields
7 of old age. We applaud your efforts in the past and
8 wish you the best when your retirement becomes effective
9 and, Al, thank you for all the good work.

10 (Applause.)

11 CHAIRMAN LANDSBURG: And now may I hear a
12 motion to approve item nine, the requested Southern
13 California off-track wagering to adjust the off-site
14 stabling and vanning takeout percentage.

15 COMMISSIONER GRANZELLA: So move.

16 CHAIRMAN LANDSBURG: Moved. Second?

17 COMMISSION BIANCO: Second.

18 CHAIRMAN LANDSBURG: All in favor?

19 (Ayes.)

20 CHAIRMAN LANDSBURG: Opposed?

21 It is unanimously carried. The requested
22 Southern California off-track wagering to adjust
23 off-track stabling and vanning takeout percentage.

24 Moving on now item 10 has been withdrawn from
25 today's agenda. Item 11, University of California at

1 Davis School of Veterinary Medicine who has our total
2 admiration for their efforts. We would like to see
3 their presentation on the equine postmortem program.

4 Alex, would you identify yourself for the
5 record?

6 DR. ARDANS: Thank you, Commissioner. I'm
7 director of the California Animal Food & Health Safety
8 Laboratory here on the UCD campus. First again I would
9 like to just extend our welcome and add to what Dean
10 Osborne already said to you. We very much appreciate
11 the opportunity to host you in this facility and we hope
12 that we'll have the opportunity again in the future.

13 This laboratory is a very special place for us.
14 Not only does it allow the newest in technology and
15 approach for the horse chemistry or drug program here in
16 California, but it is a memory to the late Senator
17 Maddy. He was very much involved in this program,
18 probably more so than a lot of you appreciate, because
19 during the construction, I think he was here at least
20 three times. He was following the way this building was
21 coming together. It was his program.

22 And I had a very special treat after the
23 dedication in November of 1999. His mother was ill at
24 that time and she couldn't attend the dedication, and he
25 called about two weeks later and asked if he could bring

1 his mother over. And that was a very special occasion
2 for me to see the senator take his mother through this
3 facility. We didn't have to explain anything. He told
4 his mother exactly what was going to go on in each of
5 the rooms. That again was very special. That's one of
6 the reasons that this building is so special to a lot of
7 us here.

8 We appreciate the opportunity to present a bit
9 of our efforts on the postmortem program. I will
10 apologize here in advance because we do not have a
11 report here today. We had it ready and yesterday we
12 looked at it and there was a couple glitches in it. We
13 have redone a couple charts and we'll get it in the mail
14 to you in a timely manner.

15 I thought I might go through, though, because
16 there are a number of new commissioners on the program
17 who may not know the genesis, the background of this
18 program.

19 This program started back in 1990, and it was
20 at the board's encouragement that we take a look at what
21 was going on in the California racing environment. So
22 with just a few slides I'd like to review the program
23 and try and explain to you who we are. I'm sure some of
24 you think it's strange that the horse postmortem program
25 is in an animal health and food safety laboratory

1 system.

2 I'd like just go through and talk very briefly
3 about who we are. We are a laboratory system that is
4 comprised of five laboratories throughout the State of
5 California. Now, primarily the horses are examined in
6 the Davis laboratory from the northern part of the
7 state. The horses that are in the southern part of the
8 state go to our San Bernardino laboratory.

9 Now, this is who we are as a laboratory system.
10 We have many missions, and primarily the main reason
11 that state government supports a laboratory like ours is
12 for the disease control, the surveillance mechanism that
13 we offer the state for those catastrophic diseases such
14 as foot and mouth disease, render pest, African horse
15 sickness, those catastrophic diseases that we don't
16 have.

17 As depicted here, we also are a significant
18 factor in the state surveillance for mad cow, or the
19 bovine spongiform encephalopathy.

20 We provide services to our production
21 industries, we have a strong commitment to food safety.
22 We are the State of California's official milk
23 laboratory as far as regulation of milk products in the
24 state.

25 We have a public health interest, and some of

1 you may have seen recently there was an anthrax outbreak
2 in the State of California here or in Santa Clara
3 County. This laboratory was the laboratory where the
4 diagnosis was made.

5 We obviously have a commitment to the horse
6 industry, and we have a strong commitment to developing
7 new entities and describing these entities. This
8 happens to be an aborted calf fetus here, and I've
9 isolated a new parasite here which we've also seen,
10 interestingly enough, on the odd occasion can and does
11 affect horses and affects horses in their central
12 nervous system infecting the spinal cord. We know in
13 California now this parasite that is referred to as
14 niaspore is one of the significant causes of abortion in
15 our dairy cow.

16 Just showing you how we're funded, our money
17 comes primarily from the Department of Food and
18 Agriculture. We receive no money out of the University
19 of California's budget. Our money comes in on a
20 one-time basis from the Department of Food and
21 Agriculture, and that's how we are organized.

22 Now, back to the postmortem program. The
23 postmortem program, as I said, started in 1990, and the
24 board came to us because they were concerned about the
25 number of catastrophic injuries that were occurring on

1 the racetrack, and they posed three questions to us at
2 that time. First, what's causing these injuries;
3 secondly, what is the reason behind these injuries; and,
4 then, what can be done about it.

5 Now, the way the program functions is the board
6 provides for the postmortem examinations, and that's
7 done on any horse that dies or is euthanized on a
8 California racetrack or a facility under the control of
9 CHRB. The racing associations pay for the
10 transportation of the animal to our laboratory and then
11 there is a charge made, as I mentioned, which CHRB
12 funds.

13 Now, just going through some of our results,
14 this is the chart on the injuries that have occurred in
15 this past calendar year. So this is for the calendar
16 year of 2000. And you can see that there were 262
17 animals that we examined during this period and you can
18 see the nature of the causes here.

19 Just very briefly, nonexercise means those
20 horses that had a severe disease, a respiratory or
21 pneumonia or a gastrointestinal disease or some of the
22 odd things like that. Usually we see that the racing
23 and training injuries are pretty similar in numbers.
24 The thing that we would really like to have, though, is
25 we'd like really to know the population at risk here so

1 that we could see over a period of years is this program
2 making a difference.

3 We have the numerator, but we don't have a
4 denominator. We don't know how many horses really are
5 at risk in this population. We'll talk about this a
6 little more here.

7 When we look at the age of the horses here and
8 then look at the type of injuries or reasons for their
9 death, and you can see in the two-year-olds, it's pretty
10 well even between the nonexercise, the racing and
11 training, and we think a lot of this is because this is
12 when a lot of youngsters are going to the track for the
13 first time. There's more respiratory disease in the
14 younger horse when they first hit the track, and you can
15 see that number tapers off as the horse gets older; but
16 then you can see in the three- and the four-year-old the
17 injuries are pretty well spread between or pretty evenly
18 distributed between racing and training.

19 Then if you look by breed, I think we don't
20 have to go through all of this, but if you just compare
21 the quarter horse, for example, most of their injuries
22 occur during racing. There's very few of the
23 catastrophic injuries occur during training, whereas
24 with the thoroughbred it's pretty much even between
25 racing and training. This material and other material

1 will be in the report that you will get.

2 Then when we look at it by age and by breed,
3 again you can see some of the similar distributions as
4 we talked about before.

5 Then when we look at the parts of the body that
6 are involved, it's predominantly the musculoskeletal,
7 those injuries involving bones and the locomotor portion
8 of the animal's body, and then the other injuries or
9 reasons for death are spread out here and distributed
10 like as depicted here. About five percent of the deaths
11 were due to a respiratory condition, about five percent
12 due to something of an intestinal nature and then you
13 can see the other remaining causes.

14 We put this up just to show you just very
15 quickly where the injuries are occurring in the animal's
16 body. You can see that the major of the injuries occur
17 in the forelimbs as is to be expected. And you see
18 again the injuries in the sesamoids or to the sesamoids
19 are the predominant injury that we see, a number in the
20 cannon bone here and then you can see the distribution
21 in the other bone.

22 Then you see the rear limbs not near the number
23 of injuries as in the front limbs, but if you just pay
24 attention to the structure of this pelvis, kind of
25 orient yourself and I will show you a couple slides here

1 in just a moment here.

2 One of the early things that was seen, and this
3 is the humerus, and this would be our bone here from our
4 shoulder to our elbow. We were seeing a number of these
5 type fractures. It almost looked like something was
6 torquing this bone and you would see these spiral
7 fractures.

8 Dr. Stover here came over and she is not only
9 an anatomist, but she is a board certified surgeon, and
10 she wanted to look at these type of injuries to see if
11 there were methods by which you could fix these type of
12 bones. So she took some of these humeri back to her
13 laboratory, and you can see what they found very early
14 in this study.

15 Here's this white fluffy material around the
16 top of the fracture site, and when you look at this as a
17 closeup, here's this white fluffy material that we refer
18 to as a callus. What this is, this is the bone's
19 attempt to heal a fracture. It essentially builds a
20 bridge, but here's a fracture right here. Here was a
21 stress fracture, a preexisting stress fracture that
22 hadn't completely healed and there was a weakness in
23 that bone, and with repetitive stress, then the bone
24 finally was fatigued and you end up with the
25 catastrophic fracture like that.

1 Now, the significance of something like this is
2 that you cannot see that with the regular x-ray.
3 Additional technology had to be employed, and that's
4 where the bone scanner has come in, or nuclear
5 centigraphy. Now, Santa Anita has that on the
6 racetrack. I think it's probably the only racetrack in
7 the country that has nuclear centigraphy or bone
8 scanning available.

9 The industry responded very quickly. Within
10 the first 16 months after this program began, Santa
11 Anita, through the Southern California Equine
12 Foundation, had this scanner on the racetrack, and you
13 can see just a number of the scans that they use, as
14 here where you see these light spots, that means that's
15 an area of a stress fracture.

16 It was interesting to see how many horses were
17 scanned in the early days and how many of these horses
18 had stress fractures. Dr. Stover through her work has
19 seen that probably at least 30 percent of all the horses
20 that suffer fatal catastrophic injuries have a
21 preexisting stress fracture.

22 Now, that wasn't necessarily just confined to
23 the humerus. That's the first one that Dr. Stover and
24 her group started working on, but we had a pathologist
25 in our laboratory in San Bernardino. There was a horse

1 that had worked at Del Mar on a Friday and they found
2 the horse on Saturday morning was down in its stall with
3 a fractured pelvis, sent it into the San Bernardino
4 laboratory.

5 Our pathologist examined that pelvis very
6 closely, and you can see that there are six fractures in
7 that pelvis as you go around, but if you look at those
8 then closely, here in one of the fracture sites you can
9 see it very clearly, here was a preexisting stress
10 fracture and here was the bone trying to heal itself by
11 putting this bridge across the fracture site. There
12 were those stress fractures in every one of the six
13 fracture sites in that pelvis.

14 But from that, Dr. Stover and her group had
15 designed some new angles that they can use in the
16 scanning tube to see these pelvic stress fractures.

17 Now, we don't just -- we look at the entire
18 animal, and sometimes we'll see horses that go down for
19 no reason. We have a category that we refer to as the
20 sudden death, and we always look at the heart in those
21 horses. And I would draw your attention here to these
22 vessels here on the surface of the heart. These are the
23 coronary arteries, and these are the arteries that in
24 humans they get plugged, and when an individual has
25 bypass surgery, these are the arteries that they are

1 going to put the graft in to go around the blockage.

2 Now, if you take and make a cut right straight
3 across one of those arteries there, this is what it
4 looks like. It essentially it looks like a pipe.
5 You've got this muscle in the wall of the vessel, but
6 you can see it has a nice, clean area for the blood to
7 flow through.

8 Now, there was a horse that worked that we
9 presented very early in our program had worked on
10 Christmas Day down south and came off the track and
11 collapsed. And this is this individual's coronary
12 arteries. This is the only -- this is where we had that
13 large area here. This is the only area that there was
14 available for blood to be flowing through that coronary
15 artery. It's amazing that horse was doing as well as he
16 was for as long as he had.

17 You can see this is where the blood ought to
18 have this whole area to be flowing through, but that's
19 all filled in with scar tissue.

20 Now, here's another one. Here's the surface of
21 the heart, if you can imagine it, we've made a cut down
22 through the muscle. And here's one of these arteries.
23 Here's a plug, and that's exactly what happens in
24 humans. When individuals have heart attacks, they'll
25 get a plug in their artery just like this, and this is

1 what the heart muscle looks like in an individual that
2 suffers a heart attack. You see this diffuse hemorrhage
3 or the blood out in the muscle like that.

4 Now, there will be occasions where we don't see
5 anything grossly like this, and then you have to go to
6 the microscope. There was a horse that went down at
7 Golden Gate. There was a lot of chatter went on about
8 that horse, that the horse had been drugged and all
9 kinds of stuff, but when they opened the heart and got
10 down to the microscope, and I know this probably won't
11 mean a lot, but what the heart muscle ought to look like
12 is more like this area down here, more pink, but you can
13 see there is a lot of cells in this area.

14 This horse had evidence of a previous infection
15 that had involved its heart. We talk about the
16 electrical system of the heart, and this is the area
17 where the impulse comes into the heart to keep it
18 beating, and we talk about -- I refer to it somewhat as
19 a junction box, and then the wires spread out from there
20 to regulate the beating of the heart. Well, you have
21 this inflammation around this junction box and
22 essentially the heart shorts out.

23 Now, this is a lesion that is seen or a change
24 that is seen in the military recruits that are taken on
25 some of these forced marches after they have gone

1 through influenza and things like that and they lose
2 some of these young military recruits. This is just
3 like the lesion that we see in these horses. And we've
4 seen this in babies also. There have been some younger
5 horses that have gone through respiratory conditions.
6 There was one that we knew of that was turned out, the
7 horse, the youngster ran out, ran around the paddock and
8 dropped dead. The horse had this exact same lesion.

9 So that is a bit of an overview of what we do
10 and how the postmortem program operates. We're very
11 fortunate that we have committed individuals in our
12 school that we can take the material or they can take
13 the material coming out of this program and do the
14 extensive research. There has been some elegant work
15 that has been done through Dr. Stover and her graduate
16 students, and I'll turn it over to Sue now.

17 DR. STOVER: Thank you. My name is Susan
18 Stover. I'm from the teaching School of Veterinary
19 Medicine and I'm also associated with Veterinary
20 Orthopedic Research Laboratory.

21 I think it's always helpful, for me anyway, to
22 remind ourselves that the postmortem program, the
23 foundation of it, certainly the California Horse Racing
24 Board's postmortem program, but that we're very
25 fortunate in the State of California to have a number of

1 components within the School of Veterinary Medicine that
2 can allow to us take advantage of these and take these
3 findings possibly a little further than they otherwise
4 could possibly be taken.

5 Through this program we've in general first
6 learned what the causes of death were in the racehorses.
7 In general, we have approximately, as Dr. Ardans
8 mentioned, over 80 percent of the deaths result from
9 musculoskeletal injuries. We can break those out by
10 leg, but when we looked at the initial findings we found
11 a much higher rate in the humerus. So, as mentioned,
12 this was the first bone that we looked at, actually for
13 a variety of reasons.

14 The significance of finding this callus around
15 this fracture in the bone really was great. It told us
16 that these injuries were not the result of a sudden bad
17 step on the racetrack, but were the result of an
18 accumulation of factors over the previous several months
19 that now give us an opportunity, if we can better
20 understand the problem, we can design strategies to
21 intervene and prevent these injuries. So this was
22 actually a huge landmark for us.

23 As Dr. Ardans already mentioned, we also
24 learned about these specific injuries and that we do not
25 find these detected by radiographing that's used by

1 technicians in practice. With the in-station bone unit
2 at San Anita, we could pick these up so they could be
3 appropriately treated.

4 I think this is just one example of a discovery
5 of the postmortem program, allowed us to look at these
6 closer, develop further knowledge and, with that
7 knowledge, enhance our abilities so the horses could be
8 appropriately treated and not end up in a postmortem
9 program.

10 A second example of that, and we could show
11 more, the pelvic stress fractures first discovered on
12 the postmortem as part of the cause of death in these
13 horses and through better understanding where they
14 occur, we redesigned bone scan techniques so the area
15 would not be superimposed on other hot spots, we could
16 in fact detect and not miss them, and we also find with
17 routine ultrasound, which is available to many
18 practitioners, they could be picked up without expensive
19 diagnostic techniques.

20 We continue to look at many bones throughout
21 the body and in general over 95 percent of fractures of
22 what we call large bones, long bones are associated with
23 these preexisting stress fractures, including not only
24 fractures of the forelimb, the hind limb, but also the
25 spine; and so, consequently, we know that over 30

1 percent of our deaths are related to this process which
2 is related to repetitive overuse injuries.

3 Now, the processes we were able to examine the
4 bones with both histology and microspectroscope stress
5 fractures in people. This is an example of scanning
6 electric micrograph of a fracture of a humerus. If you
7 can liken this to a tree trunk on the right-hand side
8 with a limb extending out to the left, imagine someone
9 jumping up down on a tree limb that's going to buckle on
10 the bottom side and split on the top.

11 The exact same process is happening with the
12 accumulation of stress, we get a lot a stiffness, loss
13 of strength and eventually it fails under normal loading
14 conditions, just like the axle on our cars might. But
15 with living animals, another thing that affects whether
16 these go on to repair or fracture is a process itself
17 which happens to be the healing process.

18 Bones, any time any of us when we walk down the
19 hallway, race in a marathon or a horse on the racetrack,
20 those cracks traumatize regions of bone. Our body
21 attempts to repair by first removing the bone, which we
22 can get instances of osteoporosis just like osteoporosis
23 in elderly individuals. This creates just like
24 perforations on a postage stamp, a very predictable and
25 very easy way to fracture the bone like we can the

1 stamp. So we learned a lot about the process.

2 We can then recognize that whether or not these
3 bones go on to heal. If we see a humeral stress
4 fracture radiographically showing evidence of healing or
5 to complete fracture like some of our racehorses
6 unfortunately sustain, but that's really a tight balance
7 between the rate of accommodation of damage and how fast
8 the body can repair it.

9 So next we thought, well, we've looked at the
10 major long bones in the body, but does this process
11 affect other fractures and in particular in this
12 instance relative to joints, instead of just long bones
13 itself, joints.

14 We first looked at carpal chip fractures and
15 knee or knee chips as they're commonly called and we
16 found that the same process is occurring. If we look at
17 this histologic section on the lower right, you see an
18 area that's more lucent than the surrounding bone
19 tissue. That's an area of osteoporosis associated with
20 fracture, and the other knee actually ended up with a
21 chip fracture, something that commonly affects our
22 racehorses, but not commonly a cause of death.

23 We look at lateral condylar fractures, which
24 are fractures of the cannon bone that go into fetlock
25 joint. This is an example of a radiographing of a horse

1 with a lateral condylar fracture. We have actually a
2 specimen from the postmortem program where we take these
3 back so we can visualize. We see the same sort of
4 preexisting process when looking at scanning electronic
5 microscopy. This looks like a huge pattern. We've got
6 a focal area of osteoporosis just like those stress
7 risers that are intentionally put in bags like peanuts.
8 Weakness. So, yes, in fact, this process we studied the
9 long bones with preexisting stress fractures is
10 affecting your fractures in joints as well.

11 So our next is, does this process result also
12 in arthritis in joints in racehorses so commonly. So
13 one of the things that we quite recently looked at was
14 traumatic osteochondrosis in the fetlock joint which
15 occurs in all fetlocks, not just the fore or the behind.
16 We see, if we can look at the fracture on the left, that
17 fragment is missing, which is where we saw that
18 osteoporosis is in this same location as the lesion in
19 the cartilage that covers the joint surfaces in the
20 joint.

21 We examined those surfaces in a large number of
22 horses that unfortunately ended up in the postmortem
23 program, and we can see these underlying changes develop
24 and preexist which leads to collapse of cartilage within
25 the joint and arthritis that progresses to, in general,

1 more severe arthritis and not in general reversible.

2 So, now, the things that we moved from are the
3 long bone fracture associated with preexisting stress
4 fractures, but we've been able to extend that to
5 fractures that go into joints and also conditions within
6 joints that lead to arthritis and reduced performance in
7 racehorses.

8 So if we actually add all this up and look in
9 our original chart, assuming that 70 percent of the
10 fractures are in the forelimb, we're well over
11 accounting for a process that accounts for 50 percent of
12 the injuries in our horses.

13 In concert with this, this information that we
14 learned from the program gives us insight in questions
15 we should ask at the racetrack, and we subsequently went
16 to the racetrack and followed some live horses for three
17 months and we found that a huge percentage of horses are
18 actually being lost to racing because of milder
19 musculoskeletal injuries that we think are just a less
20 severe manifestation of the process we've seen in the
21 postmortem program. If you can imagine losing 19
22 percent of your clients every three months, you'll
23 probably think your business wasn't very healthy.

24 So what we then do figure out, well, if we can
25 understand the process and we know it can either go to

1 healing and continued racing and training of healthy
2 horse or a fracture and potentially some healing but
3 potentially death, we look at the factors that can be
4 controlled. And those factors are the rate we can't
5 actually control as well the rate of repair, which is
6 somewhat fixed, but we can affect the accumulation of
7 damage and the amount that accumulates is directly
8 related to the distance that the horse runs in a period
9 of time, and the higher speeds, the more damage.

10 So this led us to look at racing records of
11 horses, and here we have two plotted throughout their
12 career from when they started through the same time that
13 one of the horses unfortunately had a catastrophic
14 injury; and throughout that career we add up the
15 distance that they're performing at high speed exercise.
16 We can also see the slope. You see through these lines
17 the rate of accumulation of high speed distances is
18 higher for horses who have a catastrophic injury than
19 those are don't, meaning if we can modulate the
20 training, which is easier said than done, we can have an
21 effect on controlling rate of injury.

22 In fact, if you look through the time that a
23 horse was injured and compare its previous six months of
24 activity, we find horses in the red which had a
25 catastrophic injury had this much more distance at high

1 speed exercise than those who continue to train
2 uninjured.

3 Now, another thing that we found when we looked
4 at these records is really, to me at least, an alarming
5 rate of layoffs. We already know that 19 to 20 percent
6 can be lost in a three-month period just from mild
7 injuries. If we look at these racing records, we find
8 for us these horses race consistently for a while, they
9 start to accumulate high speed exercise and layup. Not
10 only is the cost horses dying, but the cost of the
11 ability to perform at the racetrack.

12 In addition, we were concerned, as with
13 astronauts going into space, we're concerned about bone
14 loss. If you don't use it, you lose it. Those horses
15 are all the sudden laid up, inactive, they come back to
16 training, are they at increased risk for injury.

17 In fact, we did find that for some fractures,
18 not all. We have huge -- these numbers are our relative
19 risks, there's a huge increase in risk of horses coming
20 back into training for having a complete humeral
21 fracture or worse for horses who sustained a humeral
22 fracture having recently come back into training. Not
23 only do we end up getting horses with a mild injury and
24 once they have a mild injury and forced to lay up, then
25 they have additional risk when they come back to work.

1 Another factor that alters the amount of damage
2 that occurs, and our schematic here is limb geometry,
3 this one example here, these are mechanical testing
4 systems. In a horse normally standing, the fetlock is
5 in this attitude. In a horse that's racing with a
6 racing force on the limb, this is the attitude of the
7 fetlock; and there are ligaments and bones on the back
8 of this that help sustain and prevent injury. Those are
9 the ligaments that are most commonly injured in our
10 program. We call it the suspensor apparatus, consisting
11 of ligaments that approximate with the sesamoid bone and
12 additional distal ligaments.

13 This is one of the reasons that we got into
14 looking at mechanics of the hoof relative to hoof
15 conformation because schematically the fetlock is just a
16 lever. The weight of the body is coming down to the
17 fetlock joint right here. The tendons have to
18 counteract that, and the amount of force that the
19 tendons have to sustain is relative to the length of the
20 lever arm to the hoof. So that if we have hooves that
21 are long toes, underrun heels or if we have horseshoes
22 with alliances that change the angle of the hoof, we can
23 markedly change the amount of load that these structures
24 sustain, and the fetlocks can break and may be become
25 injured.

1 This is part of the impetus for looking at toe
2 grabs on the front of the horseshoes, and other
3 horseshoe characteristics are not focused on as much,
4 such as a rim around the entire board of the shoe as
5 well as the toe grab just on the front.

6 One particular study of postmortem horses, this
7 is a study of dead racehorses only, not of live
8 racehorses, and increased risk with a toe grab with any
9 catastrophic musculoskeletal injury, if we look at
10 specifically supporting structure of the fetlock joint
11 suspensor apparatus with a regular toe grab, we markedly
12 increase, at least in that study, the odds for having
13 that particular injury.

14 It's important to also recognize that there are
15 some horseshoe characteristics that may decrease the
16 risk for fatal injury, particularly the rims that showed
17 previously on that slide.

18 We're currently, as a follow-up to that we were
19 interested in looking at live racehorses to find out at
20 least help ensure ourselves that these things were
21 holding at the racetrack and in particular to find out
22 whether having a mild injury did in fact progress to a
23 more severe injury.

24 In this particular study, we found that appears
25 to be true. Horses with a mild suspensor apparatus

1 injury that continue to race and train do in fact fall
2 out, so that after three months, only 60 percent of
3 those horses remain in training; whereas horses that
4 don't have that injury, 90 percent are still in
5 training. So if we pay attention to modulatory injuries
6 in training, we may see fewer horses in the postmortem
7 program. I'm sure we'd all be happy to see that.

8 Additional information from the study but not
9 statistically significant, partly potentially for a
10 number of reasons, but it tended to support the fact
11 that toe grabs increase risk as does higher intensity
12 training.

13 Currently, we're continuing to use both
14 information and specimens from the postmortem program.
15 And also because of the interesting findings in the
16 first study relative to horseshoe characterization and
17 toe grabs, a need to study them in more depth. So we're
18 following that up with a toe grab study.

19 I would like to emphasize that this postmortem
20 program certainly without question is the best in the
21 country, without question was the first and seminal
22 program. Through it we've discovered many new
23 disorders. We've certainly enhanced our knowledge about
24 the disorders so we can begin to intervene and design
25 prevention strategies, and it continues to be a

1 mechanism where we continue to survey a surveillance
2 mechanism for monitoring injury and disease outbreaks.

3 So its continued existence is absolutely
4 critical. We have many, many more things to look into
5 in the program, but it's particular critical for
6 surveillance of what's going on, discovery of still
7 additional disorders and accumulation of new knowledge
8 to help us further our prevention and treatment of
9 disorders.

10 I would like to give a plug indicating I don't
11 think we can afford to stand on our laurels. We have
12 many, I shouldn't say many, but several states across
13 the country who are following up on your lead and
14 establishing postmortem programs at least to some
15 degree, but one of the things that we'll never be able
16 to tell you is whether or not the number of injuries is
17 reducing, and the reason we can't tell you that is we
18 don't know information in our underlying population. We
19 don't know whether those 262 deaths were out of 7,000
20 horses, whether they were out of 12,000 horses, so we
21 can never find out whether the rate is going to be lower
22 or smaller. So we can tell you what's happening, we can
23 tell you what we see, but we cannot monitor progress.

24 Another reason to gain information on the
25 population is to monitor horse movement, particularly as

1 it's associated with disease transmission. Perhaps one
2 of the most critical things currently would be the
3 movement of West Nile virus. Think of how we could
4 monitor the movement of horses on racetracks and
5 actually see where the disease was moving from one spot
6 to another and allow us to actually prevent disease
7 transmission on a population basis. The power that this
8 sort of thing can give us in addition to what we have at
9 the postmortem program would really be phenomenal. So,
10 food for thought.

11 I would like to acknowledge those associations
12 and foundations that have funded the research that has
13 spawned off of the postmortem program, and those are
14 listed here. Thank you very much for your attention.

15 (Applause.)

16 CHAIRMAN LANDSBURG: Thank you very, very much.
17 I could go on listening to this for a much longer time
18 knowing that my horses and knowing why is an important
19 part of what education should be about. I thank you for
20 this and anyone else within earshot that has worked with
21 and had horses or vets.

22 DR. ARDANS: Thank you. I'd just like to
23 extend an invitation when the board goes into executive
24 session, if there is anyone in the audience that would
25 like a tour of the facility, please let us know and

1 we'll be happy to extend that.

2 Following the executive session will be a light
3 lunch if anybody would like to join us.

4 CHAIRMAN LANDSBURG: Thank you for both, and I
5 would recommend that tour. It's eye opening and
6 stunning to those, at least to me who has never been
7 here before. Thank you again.

8 Can we move on now with our -- in light of some
9 of the information that just came across on the
10 presentation, we should move to item 12 in our agenda,
11 which is a report and update on the toe grab study
12 conducted by the University of California Davis Center
13 for Equine Health. John? Your report -- I'm sorry.

14 DR. STOVER: Susan Stover from University of
15 California at Davis. Sorry. I blanked out there for a
16 moment.

17 Because of the findings of the earlier study
18 relative to toe grabs and apparent increased risk for
19 fatal musculoskeletal injury as well suspensor apparatus
20 failure, we felt the need as well as the industry to
21 gather more information.

22 The first study was done only on horses that
23 had died, and it is difficult to directly extrapolate
24 the findings of the study to the entire racehorse
25 population, which is a living population of horses which

1 may share characteristics but may be different enough
2 that they may not follow the same trend.

3 So for these reasons we, in conjunction with
4 the industry and Center for Equine Health, initiated a
5 study looking at following horseshoe characteristics of
6 all horses that race at major Southern and Northern
7 California racetracks. The intent is to compare the
8 findings from what characteristics were on the horseshoe
9 with whether or not the horse ended up with a
10 catastrophic musculoskeletal injury as well as whether
11 it had layups during the course of its racing career.

12 The study, the pilot portion of the study was
13 initiated in the middle of June of 2000. During the
14 pilot portion of any study, you find out things that
15 you'd like to change. And so we made revisions to the
16 study, and so the study officially started in October of
17 2000 in which the methodology was defined, we had a
18 observers that were trained and on board and collecting
19 data in the way we desired.

20 We currently have just completed the first year
21 of data collection. We have data on about 7,000 horses,
22 4,000 races. This is roughly equivalent to our
23 observations on horseshoes and their characteristics.
24 It includes not only toe grabs, but heel tracks devices,
25 toes, rim and other factors about horseshoes.

1 The study plans to go through October 2002 for
2 data collection. The reason for that is that the goals
3 extend beyond just looking at whether toe grabs affect
4 the risk of injury and risk of layup, but also seeing if
5 there are regional differences between Southern and
6 Northern California and being able to look at other
7 factors simultaneously, such as racetrack surface, such
8 as training history, so that we help ensure ourselves at
9 the end of the study that what we're studying with the
10 relationship of toe grabs as an example of horseshoe
11 characteristic and these outcomes is in fact related to
12 the fact that the horse has a toe grab on but not
13 related to what we call a confounder, such as the fact
14 that those horses with toe grabs on come into higher
15 level of training at the time when toe grabs are first
16 put on them. So we like to look at a number of factors
17 simultaneously. So with that in mind, the end of the
18 study where data collection is anticipated or planned to
19 be is October of 2002.

20 Now, we're unable to look at the data and
21 evaluate until we have racing records on the horses. We
22 can't obtain racing records until October of 2002
23 because we don't have the full racing history, and the
24 amount of records we'll be looking for is financially
25 not feasible for us to request more than one point in

1 time. So it will take approximately six months to a
2 year to analyze the data after the end of the data
3 collection period, and that's simply because we don't
4 have all the data we need even though we have data on
5 horseshoe characteristics.

6 I think it's also important to realize that
7 once we have the data we can provide some summary of the
8 data, but it's important that we publish the results of
9 these studies so that they're available in the future
10 and to all people; and if we report data in specific
11 details before they're published, that would preclude
12 publication. Our journals will not publish the
13 information. So sometimes that process takes anywhere
14 from six to twelve months.

15 I'm not trying to purposefully delay because I
16 recognize that this is a very important study, at least
17 it is to us, but I think it's important that you
18 understand the process and we feel that it's very
19 important that the study be performed at the highest
20 scientific methodology so that the results are beyond
21 question.

22 CHAIRMAN LANDSBURG: Thank you. Comment?

23 COMMISSIONER MORETTI: Thank you very much,
24 Dr. Stover. This was very much of an eye opener. I've
25 had the privilege of being here on a number of

1 occasions, but I had never seen the postmortem data,
2 it's very, very interesting. You did a fabulous job.

3 I thought maybe for the benefit of the rest of
4 the board members I would share a little history of how
5 we got started on looking at the potential to ban toe
6 grabs in the state. A couple years ago, I guess it was
7 at the end of the 1999, and you're saying actually the
8 study began in June of 2000, I believe you just said, we
9 thought about banning and we had a Medication Committee
10 meeting, and at that committee we had some very
11 interesting and intense discussions actually about
12 whether or not we had the data to turn around and
13 prohibit the use of toe grabs here in California.

14 What we came up with was that we had -- there
15 was a lot of hearsay, but there wasn't any direct
16 concrete data that would scientifically support the
17 banning of toe grabs, and there was no other region or
18 jurisdiction that had the data that we could turn to to
19 rely on.

20 So that's when we asked for U. C. Davis to look
21 it. U. C. wanted to do it because, obviously, they have
22 the scientists here who are capable of doing that, to
23 put the program together; and I was actually surprised
24 to see that on our agenda was the discussion action by
25 the board to potentially prohibit the use of toe grabs

1 when the study hasn't yet completed.

2 It does look obviously that the data is
3 pointing that toe grabs are not the best thing for
4 horses, certainly not the level at which they're being
5 used at the moment, but I'm concerned that if we turned
6 around and did something to ban them today we'd be doing
7 a disservice not only to U. C. Davis, but actually to
8 other regions that would be looking to us for the same
9 thing that we were looking for a year or so ago when we
10 were looking for scientific data. Without the data
11 confirmed, other jurisdictions will just say, well, if
12 California banned, but with the data confirmed and the
13 study in hand, I think that we would be doing much more
14 of a service to others. I just wanted to share that,
15 that was our rationale before when we did it.

16 COMMISSIONER HARRIS: I think that rationale
17 made sense at that time. I think my purpose to put it
18 on the agenda was to get this discussion started. It
19 takes us so long to make a rule. My intent was not to
20 jeopardize the study if they feel that making a rule
21 while the study is going on would be a bad thing to do.
22 I think we are custodians of these horses and all the
23 data accumulated thus far shows that there is detriments
24 to these front toe grabs and we're losing horses every
25 week probably as a result of having them. The problem

1 is you can't just say, well, I won't have toe grabs
2 because it may give an advantage and my horse may
3 perform slightly better with toe grabs even though it
4 exposes them to more injury.

5 So my intent was to get the discussion started
6 because it takes us, as you know, forever to get these
7 rules done and to get it going. Even in this rule I
8 think it would not go into effect until the beginning of
9 the Del Mar meet.

10 I guess what we could do is delay the rule. It
11 would have to come back to the board anyway and we could
12 delay the implementation further than that.

13 CHAIRMAN LANDSBURG: If we began publication
14 here and know that we could hold off it becoming a rule,
15 will that interfere with your study? One of the
16 questions I have is if we begin beating the drum for
17 doing away with toe grabs or prohibiting toe grabs,
18 would that affect your study, your ongoing study?

19 MR. FERRARO: Greg Ferraro, director of Center
20 for Equine Health. There are two factors we need to
21 consider. One is our observation would go through
22 October. So if there was a rule change before the
23 observation period was over, that would have an obvious
24 effect on it.

25 The other thing which is maybe more subtle is

1 that there are already a significant portion of trainers
2 who have made adjustments to horseshoes. So at this
3 point we're fortunate in some ways to be able to compare
4 no toe grab shoes to toe grab shoes. There is a
5 significant portion of trainers that are racing rims.

6 If there was a change or talked about change in
7 the interim between now and the end of the observation
8 period, it may force people to make further adjustments
9 that might have the effect of skewing the results. I
10 can't say for sure, but that's a concern that we have.

11 COMMISSIONER LICHT: I have a problem about the
12 trainers' right to do -- make the decision, the trainer
13 and the owner, with respect to what shoes he's going to
14 use. From what Dr. Stover, and correct me if I'm wrong,
15 it's not conclusive yet because the horses that tend to
16 have toe grabs are further along in their training
17 period and the ones that are further along in their
18 training period tend to be more susceptible to suspensor
19 injury as well; is that right?

20 MR. FERRARO: In 1999, in connection with the
21 TOC and Medication Committee and the CTT board, we
22 discussed this, we felt from the university's point of
23 view that we did not have conclusive evidence that we
24 could assure that it was the toe grab and nothing else.
25 We felt that there was indications that the toe grab

1 were a serious problem, but we didn't feel that we had
2 sufficient evidence to rule out anything else, and that
3 was the impetus to start this study, feeling that if we
4 could do the study right, do it over a long enough
5 period of time -- and this is a difficult study to
6 perform. I mean just the mechanics of having observers
7 accumulating the data, tabulating the data, acquiring
8 the race records, this is a very time-consuming and
9 expensive study. We felt that if we could complete and
10 do it right that the evidence at the end of that should
11 be conclusive enough for industry to make a decision
12 based on fact and not on supposition.

13 The university's position in this is that we do
14 not have a recommendation or an agenda to push. We are
15 only accumulating the facts in the most scientific way
16 we can. It's up to the industry to decide what they
17 want to do. I want to make that perfectly clear.

18 CHAIRMAN LANDSBURG: Given the importance of
19 having the study and understanding Dr. Stover's point
20 that even at the end of the study period, that is
21 October, there is still a considerable amount of time
22 needed to prepare the information for publication and
23 that we would not be serving anybody's, in terms of the
24 study, serving anybody's good by delaying this only to
25 October, we would not have the publishable findings or

1 the findings of this study without destroying its
2 efficacy for publication.

3 MR. FERRARO: This is sort of a Catch-22 for
4 us. We understand that you want the information as
5 rapidly as you can get it, but the problem is that the
6 information would hold no validity in terms of the
7 scientific community, it would not stand up to scrutiny
8 if it is not published in a peer review journal and that
9 takes time to do that.

10 CHAIRMAN LANDSBURG: Approximately a year. Am
11 I right in that?

12 DR. STOVER: Approximately.

13 CHAIRMAN LANDSBURG: A hip guess, a shooting
14 from the hip guess. All right. Thank you.

15 John, you had a comment.

16 MR. VANDEKAMP: Yes, John Vandekamp TOC. I
17 shared John Harris', I think, concern about the use of
18 toe grabs and I went to the, was it '99 or 2000
19 Medication Committee meeting Commissioner Moretti talked
20 about, and there are some violent views held with
21 respect to the trainers. Bob Baffert, I remember, came
22 and was extraordinarily strong about how important it
23 was for the safety of his horse to use toe grabs. And I
24 think it became clear to all of us, most of us there
25 anyway, that this was a persuasive job needed to be

1 done. To the extent possible we needed to bring
2 trainers to the point that I think that you'd like to
3 bring them where toe grabs were either eliminated or at
4 least you get to the lower toe grabs, which may be
5 something that you need to take a look at in terms of
6 the recommendations that come out of this; and I find
7 that more and more trainers today are moving away from
8 the high toe grabs to rim shoes or the low toe grabs,
9 and I hope that trend continues, but I think we need to
10 finish the research.

11 And I would suggest that as again an attempt to
12 keep this issue visible and get there kind of
13 information that we saw today out there that we schedule
14 the Medication Committee in the near future at one of
15 the major racetracks, either Hollywood or Santa Anita,
16 where you're apt to get a lot of trainers to come to
17 hear this kind of evidence, understand where we're going
18 with this so there can be status reports on this
19 research so that to the extent possible it's not the
20 board issuing a mandate that's going to be divisive, but
21 letting people know that you're going about it the right
22 way and getting them to realize that they're operating
23 the best interest of their horse by changing their
24 pattern.

25 CHAIRMAN LANDSBURG: A certain amount of

1 goodwill inherent in that which may or may not be extant
2 in this business.

3 MR. DOUGHERTY: Charlie Dougherty, California
4 Thoroughbred Trainers.

5 First of all, I would like to acknowledge the
6 efforts of Davis. California thoroughbred trainers have
7 been very active in the coordination with Dr. Ferraro
8 and Stover on a day-to-day basis with the observers, and
9 I think people are very aware of the study and are
10 anxiously awaiting the results.

11 We, too, would like to see the study go through
12 to conclusion and the findings, and I can tell you if
13 the findings, you know, are indeed that racehorses are
14 catastrophically impaired with the toe grabs as they
15 are, our association is 100 percent behind the ban of
16 them. But we would like to see the study go to its
17 conclusion.

18 COMMISSIONER HARRIS: Does anyone have any
19 thesis that toe grabs help? I mean it seems like
20 there's a first do no harm theory of medicine. It's
21 bothersome to me we've got some evidence they're doing
22 damage, evidence they're doing harm, and yet there is
23 this big fervor that we can't ban them.

24 MR. VANDEKAMP: Commissioner, one of the
25 arguments that was made, I'm not speaking on the

1 veracity of it, but I think Bob Baffert and I think
2 Wayne Lucas was at that meeting that day, too, were
3 talking about the potential sliding around as a result
4 of not having the toe grabs. It gave traction that was
5 important.

6 COMMISSIONER HARRIS: I think we should
7 encourage Mr. Baffert and Mr. Lucas to encourage some
8 sort of study that proves that. On the one hand, we've
9 got some studies that maybe not concluded it's
10 bothersome. With all these people coming up with
11 theory, they need to come up with some hard studies on
12 the other side. I don't think we're going to conclude
13 this today anyway, but if the trainers really have
14 problems with that, I want them to come to some
15 educational institution and try to get some studies
16 showing what they believe.

17 MR. DOUGHERTY: I believe that's what we're
18 doing with U. C. Davis right now.

19 COMMISSIONER HARRIS: It's sort of going the
20 wrong way for you. I mean -- the studies don't seem to
21 be verifying that. If their thesis is that the -- I'm
22 concerned that regardless how many studies we do that
23 certain trainers such as Afford or Lucas still feel that
24 way. Are you involving them in these studies that feel
25 that, you know, have input in the way you're doing it?

1 MR. DOUGHERTY: Well, John, first of all, no
2 results have been released from the current study, as
3 they indicated, but the concern of the previous studies,
4 if the horses that were being studied were only through
5 the postmortem, they were basically the dead horses; and
6 by looking at a day-to-day base, racetrack-to-racetrack
7 condition, they're getting a feel of the running horses
8 and then we'll truly have a complete gauge as to what
9 the effect of the toe grabs are.

10 COMMISSIONER HARRIS: Are the trainers that
11 have basically disputed the initial study, has CTT
12 involved them in looking at the protocol in this study?

13 MR. DOUGHERTY: Well, they see it day to day
14 what's going on. As your horse comes to the receiving
15 barn, the observer is right there. Every person on the
16 track is aware the study's going.

17 COMMISSIONER HARRIS: Anyway, I think it's
18 important that they buy in. If there is some aspect of
19 it that they dispute, that they, you know, get it on the
20 table now.

21 MR. DOUGHERTY: And I wholeheartedly agree. As
22 I indicated earlier, if the results come back to show
23 that toe grabs are indeed, you know, to the running
24 horse to day-to-day catastrophic, our association is 100
25 percent behind the issue of the ban then.

1 CHAIRMAN LANDSBURG: Can you help somewhat in
2 doing two things? One is to promulgate a questionnaire,
3 a brief questionnaire to your trainers saying do you use
4 them, have you used them, why do you use them and would
5 you want to continue using them? Just because that
6 brings the focus. If you just have them fill out a
7 blank, it brings the focus back to toe grabs as a
8 potential problem area. I'm just asking whether you can
9 promulgate such a questionnaire.

10 MR. DOUGHERTY: I will put forth your request
11 to our board within the next 10 days and I don't see any
12 harm.

13 CHAIRMAN LANDSBURG: I think it just brings
14 more attention to it. As the same instance, given the
15 discussion here, John, I'd like to propose that we table
16 this for future consideration and attempt to get to it
17 by April or May so that we can have the beginnings that
18 takes for a rule becoming being. We can always hold it
19 off at a given moment, but I'd like for this moment move
20 that we table the question.

21 COMMISSIONER HARRIS: I'll second that. I
22 think right today we don't want to move forward. I'm
23 concerned we're never going to please all the people.
24 We need at some point -- I think every day we're losing
25 horses and that we need to move forward, but I don't

1 have a problem with tabling for a while.

2 CHAIRMAN LANDSBURG: All in favor of the motion
3 that was made and seconded to table this until midspring
4 or late spring?

5 (Ayes.)

6 CHAIRMAN LANDSBURG: Opposed?

7 Then the motion is carried.

8 We now move on to staff reports on concluded
9 race meets.

10 MR. REAGAN: Commissioner, John Reagan. This
11 is the standard end of meet reports for these two meets,
12 interesting observation, they're kind of on the opposite
13 ends of the spectrum, Oak Tree versus Fresno, yet both
14 of them had modest increases in the handle and likewise
15 decreases in the attendance. So we'll keep an eye on it
16 and see what it looks like. If you have any questions,
17 I'll be happy to answer them.

18 CHAIRMAN LANDSBURG: Are there any questions
19 concerning year-end reports?

20 COMMISSIONER LICHT: I just have a brief
21 comment on the Fresno fair. I attended the fair one day
22 as a guest of John Harris. I was very impressed by the
23 crowd, the makeup of the crowd and generally the way the
24 crowd was taken care of at that fair, and I would think
25 that that could be a model for some of other tracks on

1 encouraging younger, more affluent people to come to the
2 racetrack.

3 CHAIRMAN LANDSBURG: If there is no more
4 discussion, we will move on.

5 Commissioner Bianco, do you have a report on
6 the Stewards' Committee?

7 COMMISSIONER BIANCO: Yes, we had a meeting with
8 15 out of the 17 stewards that are under contract down
9 in Los Angeles. It was the first meeting in a couple
10 years and we just, Sheryl and myself just really wanted
11 to get acquainted with the people, you know, to see, you
12 know, what problems. We didn't have an agenda of items
13 that we're going through with them, and I felt it was a
14 good meeting, but it was just get to know each other and
15 try to build up their morale and see what type of
16 problems that they were facing and things that we could
17 fix. With that, usually you give, you know, two
18 Italians a microphone, they want to sing, but we're
19 running late. Thank you.

20 (Laughter.)

21 CHAIRMAN LANDSBURG: Sheryl, do you want to
22 sing or add something?

23 COMMISSIONER GRANZELLA: No, it was a good
24 meeting. You wouldn't want to hear me sing.

25 (Laughter.)

1 CHAIRMAN LANDSBURG: We will look forward to
2 what action may be needed by the board to help the
3 stewards in your further meetings. Thank you.

4 On to the point of general business. Is there
5 any requests or communications for future action of the
6 board?

7 Old business then? No old business to attend
8 to. In which case this part of this meeting is now
9 adjourned. We will now go into executive session and
10 following executive session we will finish this meeting
11 formally.

12 (The meeting was adjourned to
13 Executive Session at 1:30 p.m.)

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