

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
_____)

SANTA ANITA PARK RACE TRACK

BALDWIN TERRACE ROOM

285 WEST HUNTINGTON DRIVE

ARCADIA, CALIFORNIA

THURSDAY, JANUARY 19, 2012

9:46 A.M.

Reported by:
Elise Hicks

APPEARANCES

COMMISSIONERS

Keith Brackpool, Chairperson

David Israel, Vice Chairperson

Jesse Choper, Commissioner

Bo Derek, Commissioner

Jerry Moss, Commissioner

Richard Rosenberg, Commissioner

STAFF

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

Rick Arthur, Equine Medical Director

ALSO PRESENT

Frank Stronach, The Stronach Group

John Bucalo, Barona Casino

Kenleigh Hobby, EquiSight LLC

David Matt, EquiSight LLC

Darrell Haire, Jockeys' Guild

Mark Thurman, CHRIMS Inc.

Lou Raffetto, TOC

Jack Liebau, Hollywood Park

George Haines, Santa Anita

Alan Balch, CTT

Don Shields, D.V.M.

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 - A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel, considering regarding the pending litigation described in the attachment to this agenda captioned "Pending Litigation" as authorized by Government Code section 11126(c).
 - B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 1126(c).
 - C. The Board may convene a Closed Session for the Purpose of considering personnel matters as authorized by Government Code section 111256(a).

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PROCEEDINGS BEGIN AT 9:46 A.M.

(The meeting was called to order at 9:46 A.M.)

ARCADIA, CALIFORNIA, THURSDAY, JANUARY 19, 2012

MEETING BEGINS AT 9:46 A.M.

VICE CHAIR ISRAEL: Please, can the meeting come to order.

Ladies and Gentlemen, this meeting of the California Racing Board will come to order. Please take your seats. This is the regular noticed meeting of the California Horse Racing Board on Thursday, February -- what the hell is today?

MS. WAGNER: January.

VICE CHAIR ISRAEL: It's January.

COMMISSIONER CHOPER: It's January.

VICE CHAIR ISRAEL: January 19th -- you should write that stuff down here -- at Santa Anita Park, 265 [sic] West Huntington Drive, Arcadia, California.

Present at today's meeting are: Keith Brackpool, Chairman; David Israel, Vice Chairman; Jesse Choper, Commissioner; Bo Derek, Commissioner; Jerry Moss, Commissioner; Richard Rosenberg, Commissioner.

Before we go on to the business of the meeting I need to make a few comments. The Board invites public comment on matters appearing on the meeting agenda. The Board also invites comments from those present today on matters not appearing on the agenda during a public comment period if the

1 matter concerns horse racing in California.

2 In order to ensure all individuals have an
3 opportunity to speak and the meeting proceeds in a timely
4 fashion we will strictly enforce the three-minute time limit
5 rule for each speaker. The three-minute time limit rule will
6 be enforced during discussion of all matters as stated on the
7 agenda, as well as during the public comment period.

8 Three, there is a public comment sign-in sheet for
9 each agenda matter on which the Board invites comments. Also,
10 there is a sign-in sheet for those wishing to speak during the
11 public comment period for matters not on the Racing Board's
12 agenda if it concerns horse racing in California.

13 Please print your name legibly on the public comment
14 sign-in sheet. When a matter is open for public comment your
15 name will be called. Please come to the podium, introduce
16 yourself by stating your name and organization clearly. This
17 is necessary for the court reporter to have a clear record of
18 all who speak. When your three minutes are up the chairman
19 will ask you to return to your seat so others can be heard.

20 When all the names have been called the chairman will
21 ask if there is anyone else who would like to speak on the
22 matter before the Board. Also, the Board may ask questions of
23 individuals who speak. If a speaker repeats himself or herself
24 the chairman will ask if the speaker has any new comments to
25 make. If there are none the speaker will be asked to let

1 others make comments to the Board.

2 CHAIR BRACKPOOL: Good morning, everybody. I'm
3 sorry, two or three of us up here had difficulties with traffic
4 this morning. It appeared to be accident central out there.

5 Before we get to public comment, let me go ahead and
6 start with approval of the minutes of December 15th. We
7 evidently have two sets of minutes because we didn't approve
8 the November ones previously. But approval of December
9 minutes. Any comments?

10 COMMISSIONER CHOPER: Move to approve.

11 CHAIR BRACKPOOL: Commissioner Choper moves to
12 approve.

13 VICE CHAIR ISRAEL: Second.

14 CHAIR BRACKPOOL: Seconded by Vice Chair Israel. All
15 in favor?

16 ALL COMMISSIONERS: Aye.

17 CHAIR BRACKPOOL: Approved.

18 Approval of the minutes of November 17th, 2011. Any
19 comments? I'll make a motion to approve.

20 COMMISSIONER ROSENBERG: Second.

21 CHAIR BRACKPOOL: Seconded by Commissioner Rosenberg.
22 All in favor?

23 ALL COMMISSIONERS: Aye.

24 CHAIR BRACKPOOL: Approved. Okay.

25 Before we get to -- I have one public speaker -- I

1 thank Santa Anita for hosting us here today. And I'm pleased
2 that we have with us today Frank Stronach who is in from
3 Toronto and has something he would like to address. And so,
4 Frank, if you would take the -- the podium, whichever one. You
5 can take one of the ones at the seat or you can take the
6 podium. They're all live, I believe, are they not? Yeah.

7 MR. STRONACH: Oh, this is live?

8 CHAIR BRACKPOOL: Yeah, there's a mike there and it's
9 live. And if you would, just for the record, Frank, just
10 please state your name.

11 MR. STRONACH: Thank you.

12 CHAIR BRACKPOOL: Just -- just --

13 MR. STRONACH: A little more confident now.

14 CHAIR BRACKPOOL: Exactly.

15 MR. STRONACH: Anyway --

16 CHAIR BRACKPOOL: Just state your name for the
17 record, Frank. I'm --

18 MR. STRONACH: Yeah. Good morning. I'm Frank
19 Stronach. I'm delighted to be here today. Many of you would
20 think how come Frank Stronach doesn't show up too much. We
21 don't see him too often. Let me give you some background.

22 The race tracks are owned by a real estate company, a
23 public company, even though I was the chairman, the controlling
24 shareholders. But public companies are very complex to run.
25 And the shareholders really didn't want to have any part of

1 racing. They wanted to knock the -- the -- the place down
2 and -- and -- and convert it to real estate projects. And I
3 always told them only over my dead body. And so there were
4 quite some tensions and -- and maneuverings.

5 But anyway, I'm glad to report that I bought all of
6 the race tracks back last year. And I own it privately now. I
7 don't have to talk with shareholders. I have sufficient funds
8 that I can do what I think should be done. And -- but -- but I
9 also realize a race tracks -- a race track isn't any good
10 unless you've got horse owners. Yes, the -- yes, the -- the
11 difference is as a race track, you do -- could convert it into
12 real estate. But as I said, I would do everything that that
13 won't happen. Because if there's no race tracks horse owners
14 also got to realize race horses, if there's no race tracks,
15 they wouldn't be worth a lot because they, in many cases, they
16 don't even make the best riding horses.

17 So I think it's very important. I think we all have
18 a lot of responsibility. And I had a very constructive dinner.
19 We had -- we had the chairman, where I kind of threw out a few
20 ideas. And naturally that has to be worked out, and the ideas
21 have to be mustached. And -- but basically, in essence, I said
22 I would -- Santa Anita is a very important race place, not only
23 for California, also for the whole of America. I'd be willing
24 to enter some commitments that Santa Anita would stay racing, a
25 race place, in perpetuity. I think we owe it to our future

1 generation. Also, I expect that the horsemen would make
2 commitments because we are together in this.

3 So I hope, and I'm optimistic, that we can have some
4 very constructive conversations and that those conversations
5 would lead, hopefully, to where everybody who loves horse
6 racing would say, gee, this is great, you know? We -- the
7 future is protected.

8 We also know I bought back control of HRTV. I -- my
9 first efforts, and I'll be able to put a lot of monies in to
10 make sure we have greater distribution. We will come up with
11 some very exciting programs, which I believe the major network
12 will like. And so, again, I'm optimistic to that, with greater
13 distribution. And -- and also we're confident that the major
14 networks will -- will -- will buy into that.

15 So in the overall I'm very optimistic. And, of
16 course, I can't do it -- I can't do it alone. I'm not asking
17 for help for my personal -- I'm pretty well to do. I have
18 maybe well over a billion and close to a billion-and-a-half in
19 this game. And a lot of people would say, gee, are you crazy?
20 Why -- why do you have -- I do believe if we work together I
21 think we can have the greatest show in the world. So I'm
22 optimistic and look forward to working together with you.
23 Okay? And I'll be -- I'll be back in a month. In the
24 meantime, we got the ball rolling. And hopefully within the
25 next two -- few months we could come up with a very

1 constructive structure agreement to secure Santa Anita, that it
2 will stay a race track in perpetuity. Okay. Thank you.

3 CHAIR BRACKPOOL: Well, Frank, thank you.

4 MR. STRONACH: Any questions?

5 CHAIR BRACKPOOL: Thank you for those -- I won't
6 subject you to a Q and A, but thank you for those comments. I
7 will say that in the two years that I've chaired this Board I
8 have not left a meeting more uplifted and more optimistic than
9 our discussions the other evening. I think there's a lot for
10 us all to be excited about. I think over the next couple of
11 months you'll see how this turns out. But I thank you for the
12 time and energy you've put in this week, and I look forward to
13 a very productive couple of months. I'm excited.

14 MR. STRONACH: Okay. Thank you.

15 CHAIR BRACKPOOL: Thank you.

16 MR. STRONACH: And like I said, we'll -- we'll talk.
17 We -- but it's maybe a little premature now --

18 CHAIR BRACKPOOL: Exactly.

19 MR. STRONACH: -- to get into details. And I didn't
20 have a chance yet to talk with Mike Pegram. And I hope to meet
21 Mike. I hope he is here, or that I meet him a little later.
22 Okay. Thank you.

23 CHAIR BRACKPOOL: Okay. Thank you, Frank. Thank
24 you.

25 I have one -- I have one other speaker, John Bucalo

1 from Barona Casino.

2 MR. BUCALO: Good morning, Chairman Brackpool, and
3 Vice Chairman Israel, and distinguished members of the Board.

4 I just wanted to comment that we've been open seven
5 days a week at Barona's off-track betting, taking races from
6 various tracks since Hollywood Park's summer meet. And lately
7 we haven't had enough races to continue doing that, although we
8 have not pulled the plug as yet, and we don't want to. We want
9 to help develop racing at Barona's off-track betting. We want
10 to give races to those guests who want to come in and play
11 racing. But when we only have three to five tracks lately --
12 and when Hollywood and Del Mar were running we usually had
13 about eight tracks simulcast on Mondays and Tuesdays where we
14 often their program and racing form free. And it's a good way
15 to develop racing when we can hand them a free program,
16 especially to our casino players.

17 So I'm just wondering why we're not receiving a lot
18 of tracks. And maybe somebody from Santa Anita can address
19 that. If the product's not there, we understand. But if there
20 are tracks running we think they should be offered to Barona so
21 we can offer them, and maybe some other off-track betting
22 facilities will stay open, as well. I appreciate the time.
23 Thank you.

24 CHAIR BRACKPOOL: Thank you. I mean, in the audience
25 here today we have representatives from every one of the race

1 associations, John. So I suggest that during one of these
2 breaks you pull them aside and carry on that conversation
3 and -- and do that.

4 Mike, I have no other speaker cards. So that's it
5 for -- for public comment.

6 And item number four is discussion and action by the
7 Board regarding the distribution of race-day charity proceeds.
8 But I'm informed by staff that there are some technical errors
9 in the report to us, and that we would like this item deferred
10 until the February meeting.

11 Is that correct, Jackie?

12 MS. WAGNER: That's correct.

13 CHAIR BRACKPOOL: Okay. So item number four will be
14 deferred until the -- the next meeting.

15 Item number five, discussion and action by the Board
16 regarding the presentation from EquiSight LLC and the sue of
17 jockey cams on California race tracks.

18 Would the EquiSight representatives come forward
19 and -- good morning. Names and affiliations for the record
20 please.

21 MR. HOBBY: Kenleigh Hobby, cofounder, EquiSight LLC.

22 MR. MATT: David Matt, cofounder, EquiSight LLC.

23 CHAIR BRACKPOOL: Okay.

24 MR. HOBBY: A brief little background about us.

25 We're -- this is actually -- we're both currently students at

1 the University of Arizona's Race Track Industry Program. And
2 this was a senior capstone project of ours where we had to deal
3 with --

4 CHAIR BRACKPOOL: Capstone; was that a pun or --

5 MR. HOBBY: -- a senior project where we had to
6 decide our pressing issues in this industry. And we really
7 feel that the biggest pressing industry is the lackluster
8 antiquated visual feel that horse racing has.

9 So after further research we were able to secure a
10 live race day at Turf Paradise in April where we outfitted
11 several jockeys. Now helmet cameras have been done before.
12 They've been at Del Mar. They've been at the Kentucky Derby.
13 But never has a race been with every jockey wearing a helmet
14 camera. So we outfitted multiple jockeys at Turf Paradise.

15 Upon that day at Turf Paradise we received several
16 calls from race tracks where we actually went out to Colonial
17 Downs in Virginia, secured a race day in Virginia where we
18 outfitted more jockeys with helmet cameras. Upon -- upon that
19 the Breeders' Cup called us and we were out at the Breeders'
20 Cup providing workout footage for all the contenders.

21 So why are we here today? Well, we're here today to
22 let you know that we have a product that we feel that we can
23 improve the fan experience, both at the race track and at home.
24 We have a short little two-minute video that we've put
25 together, which is actually behind you. So if we can cue that

1 up and --

2 CHAIR BRACKPOOL: Can we get the lights, Mike?

3 MR. MARTEN: Well, they're -- the lights are set to
4 that right now.

5 CHAIR BRACKPOOL: Okay.

6 MR. MARTEN: But let me get them off.

7 CHAIR BRACKPOOL: Okay.

8 (Whereupon a video presentation by EquiSight is
9 played and transcribed.)

10 "The exciting sport of horse racing is part of a
11 worldwide culture that is enjoyed by millions of fans
12 every year. It is the sport of kings, queens and
13 commoners alike. Fans have enjoyed watching and wagering
14 on horse racing for many years. While other sports has
15 improved the viewer experience with high-impact, engaging
16 video content that places viewers in the action, the sport
17 of horse racing has not taken advantage of the great
18 technological advances in broadcasting available today.
19 It's as if our viewers and fans are still restricted to
20 fuzzy images viewed at a distance.

21 "The time is now. With the advent and common use of
22 computers, game systems, tablet technologies, and smart
23 phones the opportunity exists to bring horse racing into
24 the new millennium by revolutionizing the viewers'
25 experiences and expanding the sport to a new generation of

1 viewers.

2 "EquiSight has expanded the experience of watching
3 horse racing to a dynamic, personalized emersion into
4 every step of each race. From each call to the post,
5 loading the horses in the gate, and the start, witnessing
6 the view of each jockey, selecting your custom view,
7 directing your own perspective of every breathtaking
8 moment of each race, putting viewers in the saddle and in
9 control of a visually exciting and stunning experience,
10 right down to the photo finish. From multiple camera
11 angles to simultaneous perspectives of the race, your own
12 replays. The viewer is in absolute control. Trainers and
13 owners will find EquiSight's technology a valuable tool
14 and increase their potential for winning.

15 "The world of horse racing is poised to accept this
16 new technology. The casual spectator to the diehard
17 enthusiasts will clamber for the stunning views available,
18 and a younger audience will grow while keeping the
19 traditional horse-racing viewer firmly in its grasp.

20 "EquiSight is making the preemptive move to bring
21 horse racing out of the binocular era into a new and
22 exciting time of dynamic views of heart-pounding horse-
23 racing action. The time is now. Ride the race with
24 EquiSight's multi-view media-rich interactive experience."

25 CHAIR BRACKPOOL: Carry on.

1 MR. HOBBY: So basically the highlight of this
2 video -- why we're here today is Santa Anita has contacted us,
3 interested in continuing the dream to allow us and the fans to
4 have a ride-the-race experience.

5 So what we're looking to do is to have a voluntary
6 jockey cam program with Santa Anita, meaning the jockeys will
7 agree, the owners and trainers will agree -- this is completely
8 voluntary -- to do a promotional monthly, weekly event to allow
9 an all-access jockey cam event. This will not be used for a
10 stewards' aid. Any events, any kind of breakdown or any issue
11 happens, obviously, this video would not be released.

12 And second is the future. Obviously, in order for us
13 to pull a technology situation like this is the track needs
14 infrastructure, such as a Wi-Fi network, throughout the whole
15 race track.

16 So we're basically just here to let you know that
17 we're looking to expand our company. And second of all, we're
18 looking to bring California, since we have Silicon Valley, and
19 California into the 21st century and allowing the fans to get
20 out of the binocular era. Thank you.

21 CHAIR BRACKPOOL: Wait there for a moment. I'm sure
22 we have some comments or questions of commissioners. Vice
23 Chair Israel.

24 VICE CHAIR ISRAEL: Obviously, I think advancements
25 of this kind are very important. But have you done any wind

1 tunnel tests to try to determine how -- and analyze the affect
2 on aerodynamics of having the camera set on the helmet like
3 that, and at all different angles? Because the jockey isn't
4 necessarily -- his head is not at a 90 degree angle to the
5 ground.

6 And -- and how close are you to real miniaturization
7 so the camera can be implanted in the helmet, you know, like a
8 lipstick camera is in -- in -- on race cars where it doesn't
9 affect the aerodynamic?

10 MR. HOBBY: No, we have not tested wind -- wind
11 testing. We know X Games and other professional sports use
12 these cameras. But, no, we have never tested in a wind tunnel.

13 To answer your question, currently we have six
14 engineers working on embedding all this technology that we will
15 release in -- in May of 2012. So what we're looking to do is
16 take that camera and embed it seamless into the helmet that
17 will pass all the safety standards.

18 VICE CHAIR ISRAEL: Right. You can spread the
19 components all around the interior of the helmet.

20 MR. HOBBY: Correct. And that's -- that's supposed
21 to -- that's looking -- we're looking to launch that in -- in
22 May of 2012.

23 VICE CHAIR ISRAEL: Okay. So you're that close to
24 it?

25 MR. HOBBY: Correct. We're --

1 VICE CHAIR ISRAEL: Because that's kind of -- that's
2 clunky, I mean --

3 MR. HOBBY: No. We --

4 VICE CHAIR ISRAEL: -- to be really honest with you.

5 MR. HOBBY: We agree. The camera ways eight ounces.

6 VICE CHAIR ISRAEL: Right.

7 MR. HOBBY: And there are different other cameras
8 available, as well. GoPro is the best optics, but there are
9 lipstick cameras that we can converge to if we must.

10 VICE CHAIR ISRAEL: Yeah. They won't fit.
11 They're -- they're --

12 COMMISSIONER DEREK: These can come off.

13 VICE CHAIR ISRAEL: Yeah.

14 CHAIR BRACKPOOL: Commissioner Derek has some
15 questions.

16 COMMISSIONER DEREK: No. I was just saying, yes,
17 that would be good, because this one definitely would come off,
18 I think.

19 CHAIR BRACKPOOL: Right.

20 MR. HOBBY: And we also --

21 VICE CHAIR ISRAEL: I mean, this -- this would
22 serve --

23 MR. HOBBY: We also use --

24 VICE CHAIR ISRAEL: -- a purpose for training.

25 MR. HOBBY: Right.

1 VICE CHAIR ISRAEL: But in a race it seems kind of
2 impractical.

3 CHAIR BRACKPOOL: Right. I would like to hear from
4 the Jockeys' Guild as to their views on this.

5 Darrell, could you take the podium for a moment?

6 MR. HAIRE: Darrell Haire, Western Regional Manager
7 for the Jockeys' Guild.

8 We are concerned with the size of it. And -- and
9 it's always been our concern -- I've spoken to these
10 gentlemen -- in it can slide off. And whether it hits somebody
11 else or -- you know, we'd like it, of course, to be smaller.
12 And -- but they've used it in some races that I'm familiar with
13 in Arizona, Turf Paradise. There weren't any problems, and it
14 was pretty exciting. But again, it is a concern.

15 CHAIR BRACKPOOL: Right. Right. And let me ask you,
16 the financial model you have is based on -- on what? How do
17 you intend to make money off of this?

18 MR. HOBBY: A lot of licensing. We intend to take
19 our technology and go to approach helmet manufacturers and
20 license our technology to not only jockey helmets but any other
21 sort of entertainment sport helmet.

22 CHAIR BRACKPOOL: But you haven't done that at this
23 stage?

24 MR. HOBBY: No, sir. We're approaching GPA for
25 jockey helmets and bell helmets for bicycles.

1 CHAIR BRACKPOOL: And -- and you have not at this
2 stage made any economic distribution arrangements with either
3 HRTV or TVG?

4 MR. HOBBY: We have actually contracted with the
5 Breeders' Cup recently and did -- we're working on doing a Road
6 to the Kentucky Derby special for the Jockey Club.

7 CHAIR BRACKPOOL: But that would be more in terms of
8 workouts and following the horse --

9 MR. HOBBY: Correct.

10 CHAIR BRACKPOOL: -- in training --

11 MR. HOBBY: Yes, sir.

12 CHAIR BRACKPOOL: -- rather than a race itself?

13 MR. HOBBY: Yes, sir.

14 CHAIR BRACKPOOL: Okay. Commissioner Rosenberg? No?
15 Jerry?

16 COMMISSIONER MOSS: Well, I know it's -- from
17 personal experience I know that putting a camera on a jockey's
18 helmet is a good idea. Because we did that with one of -- I
19 think John Shirreffs put it on Mike Smith's helmet.

20 VICE CHAIR ISRAEL: At a Zenyatta workout.

21 COMMISSIONER MOSS: That got a lot of excitement
22 going, a lot of YouTube experience. It was very exciting.

23 And I think this is a brand new element and I think
24 it will be great. So I think, obviously, we have to worry
25 about the weight, and hopefully make this contraption a bit

1 smaller, a little bit easier to -- to manage on the jockey's
2 side. And I think you will have an exciting addition to look
3 forward to.

4 CHAIR BRACKPOOL: I would --

5 VICE CHAIR ISRAEL: Wait. I have one more thing.

6 CHAIR BRACKPOOL: Sorry. Commissioner Israel.

7 VICE CHAIR ISRAEL: Just the -- the real market for
8 helmets, frankly, isn't in horse racing. It's -- that's a
9 relatively small market. The real market is football, hockey
10 and auto sports --

11 MR. HOBBY: Correct.

12 VICE CHAIR ISRAEL: -- and motorcycles, and, frankly,
13 for cops on motorcycles. There are a hell of a lot of them.
14 They have -- you know, in-dashboard cams are important now to
15 law enforcement.

16 Have you made any -- any inroads with -- with Radelle
17 (phonetic) or Shut (phonetic) and -- or -- and do you know if
18 you have any competition from people working with the
19 manufacturers of a greater audience than -- than horse racing?

20 MR. HOBBY: Currently we're -- we're also at the
21 Arizona Center for Innovation, which is a business incubator
22 that provides us with -- with mentors so we can address these
23 issues.

24 VICE CHAIR ISRAEL: Right.

25 MR. HOBBY: So currently where are our engineering

1 phase is at is we're currently buying off-the-shelf components.
2 The nice thing is that the cell phone industry has
3 exponentially expanded its smart phones. So the technology of
4 the SIMOS (phonetic) chips, the motherboards and everything
5 that's in these smart phones is getting smaller and faster and
6 better quality.

7 So we're in the process of currently buying all our
8 own components that are off the shelf --

9 VICE CHAIR ISRAEL: Right.

10 MR. HOBBY: -- so we can embed that into our product
11 line.

12 VICE CHAIR ISRAEL: I understand. What I'm asking is
13 do you have competition in -- from -- from people who
14 manufacturer football helmets, hockey helmets, motorcycle
15 helmets, auto racing helmets? A bell does both.

16 MR. HOBBY: Right.

17 VICE CHAIR ISRAEL: But football and hockey are --

18 MR. HOBBY: We're not going to necessarily be in the
19 manufacturing business of helmets. We're going to license our
20 technology or our components for these helmet manufacturers to
21 embed our technology into their helmet line.

22 VICE CHAIR ISRAEL: I know. But are they dealing
23 with anybody else doing the same thing?

24 MR. HOBBY: I don't know.

25 VICE CHAIR ISRAEL: You don't know. Okay.

1 CHAIR BRACKPOOL: Okay. Well, look, I -- I think
2 the -- the view of this Board has been pretty clear over the --
3 the last couple of years that we think that technology is
4 lacking. We think that technological advances are a huge part
5 of the -- of the future of this. That was one of the
6 conversations that I was having with Mr. Stronach, and pleased
7 to hear some of the things their working on. So we're
8 generally, you know, very supportive of anything like this.
9 But obviously the issues are the issues.

10 So continue to work on it, and we look forward to a
11 further report as you make process.

12 MR. HOBBY: So are we able to proceed on -- if
13 everybody agrees, whether a trainer, owner, proceed with doing
14 a live race day with Santa Anita, or can we just -- are we just
15 going to continue to do training footage and -- and continue
16 our -- our path that we're doing?

17 CHAIR BRACKPOOL: Well, I would be surprised at this
18 stage if the trainers, stewards, etcetera, agreed that this
19 could be bouncing around in a live race date. Right. That's
20 my personal opinion is that, you know, this coming off good
21 could cause serious harm.

22 I think we also have a process question as to what
23 would -- who would make that determination, Jackie? Is that
24 the stewards? Is that the Board? I mean, assuming that the
25 association and these guys made an arrangement who would they

1 have to receive approval from?

2 MS. WAGNER: I would -- I would think that the
3 stewards would -- would have to do that, because it would be at
4 the race track itself. Our concern with the -- the jockey cam
5 proposal was our rule. You know, we do have a rule that
6 governs our helmets. Given the -- the presentation today, we
7 were not sure how they were going to affix that camera to the
8 rule. Our concern would be that that camera would not impede
9 the standards of the helmet, because we have specific standards
10 that that helmet has to meet in order for it to be used on the
11 track.

12 So if you can assure us that that does not impede the
13 standards of our rule we can leave that up to the stewards if
14 it's going to be a voluntary program.

15 CHAIR BRACKPOOL: Okay. Well, I don't --

16 COMMISSIONER ROSENBERG: Also, the gentleman to the
17 right there --

18 CHAIR BRACKPOOL: Commissioner Rosenberg.

19 COMMISSIONER ROSENBERG: -- the gentleman to the
20 right was indicating that the -- the sample he put up here is
21 missing another strap; is that correct?

22 MR. MATT: Correct. This is the -- the band that the
23 jockeys use around their -- their caps on their helmet that
24 hold down the colored silks.

25 COMMISSIONER ROSENBERG: But it's not quite as tight.

1 MR. MATT: So this is an additional strap that's also
2 put over the top of the jockey cap. So this band here will
3 stabilize it and stop it from shaking, as you were just doing.

4 CHAIR BRACKPOOL: But, I mean, I don't want to get
5 Jackie into it. I didn't think that was a particularly concise
6 response as to whether this conforms or doesn't conform.

7 So I wouldn't want to give you a specific answer
8 sitting here today as to who you would need approval from
9 because I think we should have one more review of this. You
10 know, if a trainer objected, if an owner objected, if a single
11 jockey objected, I mean, you know, I wouldn't want to be
12 imposing this on anyone. So are we having a complete, you
13 know, Kumbaya moment and that's the only way it works or are
14 there actually going to be a set of standards.

15 So I think we need to do a little more work on this
16 and come back. I don't want to sit here and give you a
17 definitive answer today that it's just up to the stewards or
18 it's just up to the -- the jockeys or whatever. You know, to
19 me at the moment this is too bulky and too dangerous if it came
20 off. I could imagine the devastation that it could -- it could
21 cause. So I personally think this is going to have to be
22 integrated into a helmet somehow to where components can't be
23 flying off.

24 COMMISSIONER DEREK: And I -- and I'm concerned. I
25 know that we -- when we passed this upgrade on -- on what kind

1 of helmets were required when you're on horseback on a track,
2 and they had to be ASTM or the European or the Snell Memorial.
3 Would ASTM or one of these groups have to look at this and
4 certify it?

5 MS. WAGNER: I would think that they would.

6 COMMISSIONER DEREK: I would too.

7 MS. WAGNER: I would think that they would, that
8 the -- whatever helmet that you -- they come up with ultimately
9 would have to have ASTM certification.

10 CHAIR BRACKPOOL: And maybe that's a better way to do
11 it, that that's where the -- the rule comes. But I wouldn't
12 want to leave it up to one faction or another faction to be
13 able to say yea or -- yea or nay.

14 So look, we're -- we're strongly encouraging of this.
15 I don't think at the moment it's at a level where we would say,
16 sure, why don't next week you go ahead and run it in -- in a
17 race. But keep working on it. Keep working with the helmet
18 manufacturer. And please feel free to address any comments
19 directly to the Safety and Medication Committee chair,
20 Commissioner Derek, who has nothing to do these days --

21 COMMISSIONER DEREK: Uh-huh.

22 CHAIR BRACKPOOL: -- apart from this full-time.

23 COMMISSIONER ROSENBERG: Can I ask a question?

24 CHAIR BRACKPOOL: Commissioner Rosenberg?

25 COMMISSIONER ROSENBERG: The other jurisdictions that

1 you tested this camera in a race were Arizona and Virginia?

2 MR. HOBBY: Virginia. Yes, sir.

3 COMMISSIONER ROSENBERG: And what procedure did you
4 have to follow to get approval?

5 MR. HOBBY: We approached the commission, the state
6 commission first. And then we approached the director of
7 racing. And then we went to the actual race track, so we went
8 to the stewards. And then we went to the jocks' room. And we
9 went to the clerk of scales, asked permission to talk to all of
10 the jockeys. We got all the jockeys rounded up and said, hey,
11 this is what we want to do, strictly voluntary. If anybody has
12 a problem with it, you know, you don't have to wear it. If
13 anybody has a problem with it being on during the race we just
14 won't use it during that race.

15 COMMISSIONER ROSENBERG: I would just hate to see
16 this procedure, their -- their testing procedure delayed by
17 coming back to the Board. This should -- we should permit them
18 to go ahead with everyone's approval, in my opinion, unless
19 someone has an objection, and try a test.

20 VICE CHAIR ISRAEL: During a race?

21 CHAIR BRACKPOOL: I'm not --

22 VICE CHAIR ISRAEL: I have a problem -- I have a
23 problem with during a race.

24 COMMISSIONER DEREK: I --

25 VICE CHAIR ISRAEL: Among other things --

1 COMMISSIONER ROSENBERG: They did it during a race.

2 VICE CHAIR ISRAEL: -- among --

3 COMMISSIONER ROSENBERG: They did it during a race.

4 COMMISSIONER DEREK: I think --

5 VICE CHAIR ISRAEL: Huh?

6 COMMISSIONER DEREK: I think we could --

7 COMMISSIONER ROSENBERG: They did it in Virginia

8 and --

9 VICE CHAIR ISRAEL: Yeah. But we don't know how it
10 affects handicapping. I mean, let's -- the -- they're safety
11 considerations are -- are manifest. But also, what does it do
12 to handicapping?

13 MR. MATT: We also had the -- the announcer make a
14 public announcement to the general public that this specific
15 was wearing a jockey cam. And the camera was not weighed --
16 weighed in or weighed out with the jockey's weight.

17 COMMISSIONER DEREK: I think that --

18 CHAIR BRACKPOOL: Well --

19 COMMISSIONER DEREK: I think that safety-wise if you
20 did get this cleared with the ASTM I think then that would
21 automatically qualify the helmet --

22 MS. WAGNER: Right.

23 CHAIR BRACKPOOL: I think that's the --

24 COMMISSIONER DEREK: -- as far as safety.

25 CHAIR BRACKPOOL: I think that's the way to go.

1 COMMISSIONER DEREK: I think that would be the way.

2 CHAIR BRACKPOOL: And then we can --

3 COMMISSIONER DEREK: And then that part --

4 CHAIR BRACKPOOL: Then we could have --

5 COMMISSIONER DEREK: -- would be covered.

6 CHAIR BRACKPOOL: -- the stewards have some

7 discretion --

8 COMMISSIONER DEREK: Exactly.

9 CHAIR BRACKPOOL: -- over from there. So I think

10 that's the direction, is to go back to ASM -- and what's he

11 name of the other --

12 VICE CHAIR ISRAEL: ASTM.

13 MR. MATT: SEI and ASTM standards.

14 CHAIR BRACKPOOL: We are --

15 MS. WAGNER: ASTM.

16 COMMISSIONER DEREK: Any of those would do.

17 CHAIR BRACKPOOL: Any of them. And get that -- get

18 that done and -- and then move on from there.

19 MR. MATT: Great. Thank you.

20 CHAIR BRACKPOOL: Thank you so much.

21 Item number six, discussion and action by the Board

22 on a report from CHRIMS regarding their annual activities and

23 plans for 2012.

24 Name and affiliation for the record, please.

25 MR. THURMAN: Mark Thurman, President of CHRIMS Inc.

1 In 2011 -- just to give you a quick rundown on -- on the new
2 tracks or new customers that we brought on and -- and our up
3 and running right now with us -- Louisiana Downs, Meadowlands,
4 Monarch, Connecticut OTB, Sam Houston, Kentucky Horse Racing
5 Commission, North Dakota Racing Commission, Watch & Wager.

6 And then the other thing that we've been working on
7 is bringing California up onto the system that we've been
8 deploying to all of the other out-of-state customers.

9 California is very unique in that we cover every race track
10 every day. So it makes it a lot more complicated than if I'm
11 just going to do New York racing on Aqueduct today because
12 that's the only thing I have to worry about.

13 But we've -- we've crossed those hurdles and we've
14 got it going and we're doing the final conversions, which what
15 that will do for you is give you much more granularity into the
16 data. You'll be able to ask us much more detailed questions of
17 pools and, you know, like -- just like what was happening with
18 the Pick 5, we'll be able to give you on-demand type reports
19 for those sort of things.

20 But I'm here to answer any questions that you guys
21 might have. In 2012 we really do think that we'll be able to
22 make a big, big impact on the market. It's taken us a long
23 time to get our database up to this point. But now we're
24 poised to be able to really go on and take a lot of customers
25 on.

1 COMMISSIONER ROSENBERG: I have a question.

2 COMMISSIONER CHOPER: How --

3 CHAIR BRACKPOOL: Questions of Commissioners. Let's
4 go Commissioner Choper first, then Commissioner Rosenberg.

5 COMMISSIONER CHOPER: I'm just curious, how will that
6 affect, I mean, apart from, you know, greater revenue, and I
7 take it some greater expenses too, how will that affect your
8 operation apart from that?

9 MR. THURMAN: Well, it -- the --

10 COMMISSIONER CHOPER: And this provision of data. I
11 mean, I understand all that.

12 MR. THURMAN: No. No. No. The -- the issue with
13 CHRIMS, if we just look at it from a California perspective,
14 we're in a major deficit. So by doing the out-of-state we --
15 we actually balance our books. So that's -- that's what we've
16 been doing there.

17 CHAIR BRACKPOOL: Commissioner Rosenberg.

18 COMMISSIONER ROSENBERG: I'm curious. The
19 information that you have, which is available to the Board, and
20 I presume to others, the race tracks, can the public come to
21 you and ask you specific questions about handle or take on
22 specific races or types of races?

23 MR. THURMAN: We --

24 COMMISSIONER ROSENBERG: And have they done that, and
25 have, you know, newspapers done that, etcetera?

1 MR. THURMAN: We do on occasion if, you know, like --
2 like the *Daily Racing Form* or something like that comes and
3 asks us questions we will, you know, we will facilitate and
4 pull the numbers for them. We have to be careful because we
5 don't have the staff to -- if we just opened it up to everybody
6 to come in and ask us questions and run reports. And the other
7 problem that you have with our data is you have to be very,
8 very careful, and you have to be a subject matter expert to
9 really go in and dig it out. Because you can come in with very
10 different answers.

11 COMMISSIONER ROSENBERG: So when specific,
12 hypothetically, a specific race track asks -- wants to look
13 into the comparison between, for example, the Pick 6 pool in a
14 certain period where there was not a Pick 5 pool in the same
15 period, do they come to you? Do they have to come to you to
16 get -- to get the information --

17 MR. THURMAN: No.

18 COMMISSIONER ROSENBERG: -- or do they have it
19 already?

20 MR. THURMAN: No, they have it already.

21 COMMISSIONER ROSENBERG: They do?

22 MR. THURMAN: Our -- the way our application works is
23 we're web-based. So any -- any of the stakeholders in
24 California, whether it's the horsemen, the race tracks, all --
25 and CHR B all have access to our data. They would run that

1 themselves.

2 MR. MARTEN: Mike Marten, CHRB staff. Mark's being a
3 little bit modest whenever the *Racing Form* or anyone asks for
4 data, usually through me, I usually have that within an hour or
5 two. They're -- Sheranne (phonetic) over there, they're --
6 they're just very cooperative. And --

7 CHAIR BRACKPOOL: But then you take the credit for
8 it; right?

9 MR. MARTEN: No, I tell them.

10 CHAIR BRACKPOOL: Oh. Okay.

11 MR. MARTEN: No. I -- I'll usually say you need to
12 give a big hand to CHRIMS. You know --

13 CHAIR BRACKPOOL: Oh, really?

14 MR. MARTEN: -- I give the credit where it's due.

15 CHAIR BRACKPOOL: Oh.

16 MR. MARTEN: And -- and --

17 VICE CHAIR ISRAEL: If you would take the credit you
18 would already be executive director.

19 MR. MARTEN: And the other thing is that, again, Mark
20 and CHRIMS put -- put public access on -- on the Calracing.com.
21 There's an interactive thing there. So -- so it's very
22 accessible to the public and --

23 CHAIR BRACKPOOL: Okay. Commissioner Moss?

24 COMMISSIONER MOSS: I'm just curious, how -- how
25 many, Mark, how many of you are there?

1 MR. THURMAN: There's 11 in California. And then we
2 have a total of 16. We've got out-of-state people in Arizona,
3 two in Kentucky, one in Pennsylvania, and one in New Jersey.

4 CHAIR BRACKPOOL: Let me further that question. When
5 you and I met in December I had the same question. Obviously,
6 this has expanded considerably. It appears to be, as Mike
7 says, operating extremely well. That's -- it's great credit to
8 you. But what is the infrastructure underneath you? Is it you
9 and then a flat ten people underneath you? Is there somebody
10 who is, you know, your deputy, your assistant that -- that --
11 that we have interaction with as well?

12 MR. THURMAN: Right. What Mike said. Sheranne
13 Wright is very, very key to our operation and she helps me as
14 far as like on any of the day-to-day operations she's our chief
15 operating -- chief of operations. And she's very instrumental
16 in keeping the things going. We don't have a lot of depth. I
17 mean, it's just the nature of the beast with what we can afford
18 to do.

19 CHAIR BRACKPOOL: Well, I'll tell you one thing that
20 will be useful, and you can do this as a submission to us
21 subsequent to this meeting, and then, Jackie, if you could
22 circulate to -- to the commissioners, I'd just like to see sort
23 of a quick table of who the 11 are --

24 MR. THURMAN: Okay.

25 CHAIR BRACKPOOL: -- and what their functions are.

1 MR. THURMAN: Okay.

2 CHAIR BRACKPOOL: And --

3 MR. THURMAN: Absolutely.

4 CHAIR BRACKPOOL: And how many of them are full-time,
5 how many of them are part-time, and their location.

6 MR. THURMAN: Okay.

7 CHAIR BRACKPOOL: So you know, a very simple org
8 chart with names, functions, full-time, part-time, and
9 location.

10 MR. THURMAN: Okay.

11 CHAIR BRACKPOOL: That would be --

12 MR. THURMAN: I've got one that I can send you
13 tomorrow. So --

14 CHAIR BRACKPOOL: That would be -- that would be
15 terrific.

16 Any other questions from Commissioners?

17 VICE CHAIR ISRAEL: No, thank you.

18 CHAIR BRACKPOOL: Okay. Thank you very much indeed.

19 MR. THURMAN: Thank you.

20 COMMISSIONER MOSS: Thank you very much.

21 VICE CHAIR ISRAEL: Thanks, Mark.

22 CHAIR BRACKPOOL: Item number seven, discussion and
23 action by the Board regarding the proposed amendment of CHRB
24 Rule 1663, Entry of Claimed Horse, to change the requirements
25 for running back a claimed horse within 25 days of the claiming

1 race in which it was claimed.

2 This is a TOC led proposal. So I'm going to ask Lou
3 Raffetto to step forward. Name and affiliation for the record.
4 And then discuss the proposal, please.

5 MR. RAFFETTO: Good morning. Lou Raffetto,
6 President, TOC.

7 The proposed amendment is -- is simply to -- is -- is
8 something that would benefit the entire industry. It's a very
9 simple change. It would still as -- as a rule exist now. Any
10 horses claimed has to take a 25 percent jump increase for 25
11 days.

12 What I'm proposing is that only the winner would have
13 to take that -- that jump. Therefore, the rest of the field,
14 any other horse that gets claimed, could actually run back in
15 the same level race. The reason for the winner having to take
16 the jump is that it would continue to make that race from which
17 the horse was claimed a more competitive race in most cases
18 with the winner out of it. But it gives the owners a chance to
19 run back in a more competitive level.

20 Very often what happens now is a horse might stay in
21 the barn until he's out of jail. He might miss the race that
22 he would like to run back in by two or three days. Where, as I
23 said, if he -- if he -- he might run back over his head or he
24 stays in the barn for six weeks. It certainly would benefit
25 the tracks in terms of filling the races. It benefits the

1 owners, and obviously, in turn, would benefit the -- the
2 trainers and the riders. It has the support of the -- the
3 racing secretaries of all the tracks, and also the trainers
4 organizations.

5 COMMISSIONER CHOPER: Is there any -- any downside
6 that you know about?

7 MR. RAFFETTO: Not realistically. Because what we --
8 what would be maintained in this is that if a horse gets
9 claimed and he can not take a drop for 25 days, as it's
10 still -- as it exists right now. So if the horse does have an
11 issue the trainer can't just, you know, treat him and drop him
12 down. He'd still have to do as he does right now.

13 COMMISSIONER CHOPER: Yeah.

14 CHAIR BRACKPOOL: I mean, to me this just seems
15 logical, given the tough economic times we've all been through,
16 the idea that everything can just, you know, raised, it makes
17 sense.

18 But I think my question was the same as Commissioner
19 Choper's. Who would be in opposition to this and do we have,
20 Mike, any speakers asked to speak in favor -- in favor or
21 opposition to this?

22 This is sort of a remarkable occurrence for this
23 Board to have an item in front of us where there is nobody
24 speaking in opposition to it. And so we're quickly going
25 through the manual to find out what we do in such a case.

1 VICE CHAIR ISRAEL: Well, I move -- I'll move the
2 item then.

3 COMMISSIONER CHOPER: Second.

4 CHAIR BRACKPOOL: So, honestly, if there's nobody
5 else that -- that says it then I think -- and, Jackie, does
6 this have to go out for --

7 MS. WAGNER: Yes.

8 VICE CHAIR ISRAEL: Yes. But we've still go to vote.

9 CHAIR BRACKPOOL: So --

10 MS. WAGNER: We'll send the text out for 45 days.
11 Jackie Wagner, CHRB staff. We'll send this -- the text out for
12 45 days for the 45-day comment period, then bring it back to
13 the Board.

14 CHAIR BRACKPOOL: Right. So proposed by Commissioner
15 Israel.

16 VICE CHAIR ISRAEL: Seconded by --

17 CHAIR BRACKPOOL: Seconded by Commissioner Choper.
18 All in favor?

19 ALL COMMISSIONERS: Aye.

20 CHAIR BRACKPOOL: And let's mark this one down, Mike,
21 as something that actually happened that was really quite
22 remarkable. Thank you.

23 COMMISSIONER ROSENBERG: Jackie?

24 COMMISSIONER DEREK: Thank you, Lou. I think this is
25 really positive. Thanks.

1 CHAIR BRACKPOOL: Oh, Commissioner Rosenberg wishes
2 to speak in opposition, I believe.

3 VICE CHAIR ISRAEL: Right.

4 COMMISSIONER ROSENBERG: I have a question for
5 Jackie. What does paragraph C mean? Why is it in there,
6 the -- the part that this is unrelated to the motion. I'm --
7 I'm in favor of it.

8 "A claimed horse may be removed from the grounds of
9 the association where it's claimed for non-racing purposes."
10 What's that in there for? What's the purpose of that?

11 MS. WAGNER: That -- excuse me. That language is
12 current language. And I believe it's just so those -- they can
13 move the horse from track to track if he -- if he's not going
14 to be racing right away. So --

15 COMMISSIONER ROSENBERG: Okay. But --

16 COMMISSIONER MOSS: She just brought up something.

17 COMMISSIONER ROSENBERG: No, I know. But can't
18 they -- they can't move from track to track? The present rule
19 is you can't take a horse off the grounds that is claimed?

20 VICE CHAIR ISRAEL: They're house rules.

21 COMMISSIONER ROSENBERG: They're house rules.

22 MS. WAGNER: The way it is. Yes.

23 COMMISSIONER ROSENBERG: So it's -- it's a lot --

24 MS. WAGNER: Yeah.

25 COMMISSIONER ROSENBERG: It's a modification of that

1 house rule?

2 MS. WAGNER: Right. That is correct.

3 VICE CHAIR ISRAEL: The house rule.

4 COMMISSIONER ROSENBERG: Okay.

5 MS. WAGNER: And we're --

6 COMMISSIONER ROSENBERG: I just wanted to clarify.

7 MS. WAGNER: And that's current. We're not changing
8 that.

9 COMMISSIONER ROSENBERG: Yeah. Okay.

10 VICE CHAIR ISRAEL: Golden Gate has been the
11 strictest enforcer of the house rule.

12 COMMISSIONER DEREK: Uh-huh.

13 CHAIR BRACKPOOL: Okay. All right. That's item
14 number seven.

15 Item number eight, we're not actually going to hear
16 today, but I'm going to make a quick statement on it. Item
17 number eight is discussion and action by the Board regarding
18 the proposed amendment of CHRB Rule 1844.1, Suspension of
19 Authorized Medication, to allow the Board to suspend the
20 authorization for authorized bleeder medication after
21 notification at a properly noticed public meeting.

22 As many of you know, this is an issue proposed by the
23 American Graded Stakes Committee, as well as the Breeders' Cup,
24 for two-year-old races here. We have continued to have
25 dialogue and meetings. And for the time being we're going to

1 continue that dialogue. And the next presentation from the
2 American Graded Stakes Committee and the Breeders' Cup will be
3 to the Safety and Medication Committee, next Safety and
4 Medication Committee meeting where we'll discuss, and then
5 bring it back here with some -- some proposals.

6 So, Commissioner Derek?

7 COMMISSIONER DEREK: Is there -- is there some kind
8 of timeline that you expect that meeting so that we can have
9 this all organized for these races that are coming up?

10 CHAIR BRACKPOOL: Yeah. Realistically this Board
11 would need to hear this issue at the same time that it hears
12 Hollywood Park's spring-summer meet application, which I
13 believe we normally hear in March; is that correct?

14 MS. WAGNER: I believe it is.

15 CHAIR BRACKPOOL: So we would like you to hear this
16 at some stage prior to our March Board meeting. And then I've
17 discussed with Breeders' Cup that they would be back here for
18 the March Board meeting.

19 COMMISSIONER DEREK: Okay.

20 CHAIR BRACKPOOL: Does that work for you --

21 COMMISSIONER DEREK: Yes.

22 CHAIR BRACKPOOL: -- Commission Derek?

23 COMMISSIONER DEREK: Yes.

24 CHAIR BRACKPOOL: Okay. And I'll coordinate with you
25 on dates for that.

1 COMMISSIONER MOSS: Can I say something?

2 CHAIR BRACKPOOL: Yes. And Commissioner Moss wishes
3 to say something.

4 COMMISSIONER MOSS: I just want to be assured by you,
5 Mr. Chairman and Mr. Vice Chairman Israel that this will be
6 discussed at a -- as it says, "after notification at a properly
7 noticed public hearing." I'm just concerned that some issue as
8 important as this is going to be imposed on us, and I don't
9 want that to happen. So whatever the discussion I'd like to
10 make sure, as far as you're concerned, that this will be in
11 front of a full Board --

12 CHAIR BRACKPOOL: Yes.

13 COMMISSIONER MOSS: -- full public hearing.

14 CHAIR BRACKPOOL: Yes. Right. I just wanted the --
15 the -- all the parties to have --

16 COMMISSIONER MOSS: Yeah.

17 CHAIR BRACKPOOL: -- a chance for a comprehensive
18 dialogue. And the best way to do that is at a committee
19 meeting, and then come back to the Board meeting. But, yes,
20 you have my assurance that this will be at a properly noticed
21 Board meeting. And I get the sense that you may be in
22 attendance.

23 COMMISSIONER MOSS: I definitely will. Thank you.

24 VICE CHAIR ISRAEL: Oh, wait, that's --

25 COMMISSIONER DEREK: That's going to be close.

1 CHAIR BRACKPOOL: Yeah.

2 VICE CHAIR ISRAEL: Yeah. There's implications of
3 that. That's good.

4 CHAIR BRACKPOOL: Okay. So an excellent segue to
5 item number nine, report from the Medication and Track Safety
6 Committee. Commissioner Derek?

7 COMMISSIONER DEREK: Yes. We had January 10th up at
8 University of California Davis a very well attended meeting.
9 We took on a number of issues, discussions and report. For
10 instance, the CHRB-University of California Davis Necropsy
11 Program for the fiscal year of 2010-2011. It was very
12 comprehensive, informative. I encourage the Board to -- to
13 find out more about this program. I think we're -- we're on
14 the verge, in my layman's opinion, of learning an awful lot
15 that we can finally start putting to practice, not soon enough
16 for me but we will wait.

17 The Enhanced Necropsy Program and the Track Surface
18 Program, I think that California is -- we can all be proud that
19 we are taking the issue of what's involved in the track surface
20 and how it affects the horse as good or better than any place
21 in the world.

22 Our Drug Testing Program seems to be the best in the
23 world. Our -- we had a report and update regarding the Center
24 for Equine Health Research Program.

25 Then a couple of issues that we're going to be

1 dealing with today, we had discussion and action regarding the
2 feasibility of amending CHRB Rule 1865, Altering of the Sex of
3 Horse, and possibly CHRB Rule 1974, Wagering Interests, in
4 recognition of repeated problems in reporting in the gelding of
5 horses in the prescribed manner.

6 CHAIR BRACKPOOL: Can we save the summary of those
7 for the items themselves?

8 COMMISSIONER DEREK: For the -- okay. Very good.
9 All right.

10 CHAIR BRACKPOOL: I think that will make it easier to
11 follow.

12 COMMISSIONER DEREK: Report date regarding TCO2,
13 which I think we're going to talk about.

14 We discussed beta-2 agonist drugs such as clenbuterol
15 and zilpaterol and ractopamine.

16 And then one thing -- and this will all be coming to
17 you later -- I, the -- the horsemen, the trainers, everyone
18 seems to be very cooperative. And will work out all the
19 details of this and presenting something comprehensive to the
20 Board in the future. One thing that I found that I hope will
21 be in the next Board meeting is the adoption of International
22 Welfare Guidelines prohibiting the racing of pregnant mares
23 beyond 120 days of gestation.

24 CHAIR BRACKPOOL: Excellent. Thank you very much.
25 And I promise to get you another member very shortly so that

1 you're not a committee of one.

2 DR. ARTHUR: Mr. Chairman?

3 CHAIR BRACKPOOL: Dr. Arthur.

4 DR. ARTHUR: Yes. Equine -- Dr. Arthur, Equine
5 Medical Director, California Horse Racing Board.

6 There's one issue that Commissioner Derek thought
7 should be brought to the whole Board, and that was the
8 discussion of the TCO2 program. I think everybody realizes in
9 California since 2004 we have tested, at the thoroughbreds,
10 ever horse in every race. I don't know anywhere else in the
11 world that does that. The fact of the matter is that we have
12 been doing random testing in Northern California since 2008.
13 It has been working quite well. We do two -- a minimum of two
14 horses a race, and all horses in graded stakes. And I would
15 recommend that we do a similar program here, go to random
16 testing rather than every horse in every race, all horses in
17 graded stakes.

18 And one other aspect to that, that any -- any trainer
19 that has over a 36 in the previous 60 days has all their horses
20 tested. It basically would mean we would be testing for TOC2
21 about 8,000 fewer horses. Again, the program in Northern
22 California works quite well. And I think it's a natural
23 progression in that program.

24 VICE CHAIR ISRAEL: Rick, what's the financial
25 savings?

1 DR. ARTHUR: The -- the financial, it costs the
2 racing associations about \$6.00 a test for TCO2. And they
3 probably spend more money on personnel than they actually do on
4 testing. All it would require -- it may mean that they can get
5 away with two people rather than three people in the receiving
6 barn. It is not a cost issue for the California Horse Racing
7 Board, just for the associations.

8 CHAIR BRACKPOOL: Commissioner Moss?

9 COMMISSIONER MOSS: Yeah. I just was curious
10 because -- and I'm not sure whether you've been asked this
11 question before. But -- I noticed at the Hollywood meet there
12 were no violations. There were no positive tests for TCO2.

13 DR. ARTHUR: Well -- well, that's right. We -- we
14 have not had a TCO2 violation. The last one was in the Fall of
15 2010. It's been 14 months. In the last 120,000 tests we've
16 only had 4 violations; Doug O'Neill twice, Jeff Mullins, and
17 Mike Mitchell. In Northern California we haven't had a
18 violation since 2006, the Summer of 2006. So the program is
19 working quite well. We haven't had a violation in the last
20 probably 30,000 samples.

21 VICE CHAIR ISRAEL: Okay. Then why -- why --

22 COMMISSIONER MOSS: What about -- what about Los Al?
23 There's been --

24 DR. ARTHUR: We don't do TCO2 testing at Los Al.
25 They're short horses. And we've done random testing from time

1 to time and never seen any indication that that is a problem.

2 VICE CHAIR ISRAEL: Okay. Can I -- under -- the one
3 sort of infallible rule of life is if it ain't broke don't fix
4 it. So why do you want to fix it? It's working.

5 DR. ARTHUR: It is working. The -- the issue has
6 been we've had complaints from horsemen, why do you have to
7 test all the horses, my horse -- you know, we're -- we're
8 basically doing an invasive procedure, drawing 8,000 more
9 samples than we have to.

10 VICE CHAIR ISRAEL: I've been in a receiving barn --

11 DR. ARTHUR: There have been --

12 VICE CHAIR ISRAEL: -- and I've seen it happen.

13 DR. ARTHUR: -- very few problems.

14 COMMISSIONER DEREK: It seems the deterrent is
15 working.

16 COMMISSIONER CHOPER: Absolutely.

17 VICE CHAIR ISRAEL: Yeah. But --

18 COMMISSIONER DEREK: That's why.

19 VICE CHAIR ISRAEL: But now you're going to change
20 the deterrent and it becomes a crap shoot whether you get
21 randomly selected. And --

22 COMMISSIONER DEREK: But it's not only random. It's
23 still every graded stakes. It's still first, second and --

24 DR. ARTHUR: For graded stakes. Any -- and what I'm
25 recommending we do here that we don't do in Northern California

1 is any trainer that's had a warning of a test -- a horse
2 testing over 36 in the previous 60 days have all their horses
3 testing. And, frankly, we haven't even had a horse over 36 in
4 the last probably 4 or 5 months --

5 COMMISSIONER ROSENBERG: So --

6 DR. ARTHUR: -- anywhere in the state.

7 COMMISSIONER ROSENBERG: -- what is the purpose.

8 VICE CHAIR ISRAEL: Yeah. I still don't understand
9 why if something's working so well that you can stay -- say
10 here -- stand -- sit here and say we haven't had a test over
11 this, we haven't had a test over that, and the total financial
12 impact is \$50,000, 6 times 8,000.

13 DR. ARTHUR: It's probably more than that.

14 VICE CHAIR ISRAEL: Well, no. You --

15 DR. ARTHUR: I don't do -- I don't do the personnel.
16 But you're right, it's -- it's -- it's probably not more than
17 100,000.

18 VICE CHAIR ISRAEL: Why would -- I mean, why invite a
19 problem? I don't -- I don't get it. It's working.

20 DR. ARTHUR: It works in Northern California when we
21 do the random testing we're doing here. In other words, we've
22 already shown that what I'm proposing works in Northern
23 California, so why test another 8,000 horses. I'm -- I'm happy
24 with it. It works fine the way it is. It's just that we're
25 doing unnecessary --

1 VICE CHAIR ISRAEL: This was the --

2 DR. ARTHUR: -- testing.

3 VICE CHAIR ISRAEL: -- milkshake capital of the
4 world. And we finally got rid of them.

5 DR. ARTHUR: It is not anymore.

6 VICE CHAIR ISRAEL: I know, because of the testing.
7 But now you want to eliminate a huge percentage of the tests.

8 COMMISSIONER DEREK: No. But -- and, Rick, refresh
9 my memory. You would still test every first, second, third,
10 and a random?

11 DR. ARTHUR: No. We have to test them before the
12 race. They're tested randomly by a random number generator.

13 COMMISSIONER DEREK: Oh, I see.

14 DR. ARTHUR: And it worked quite --

15 COMMISSIONER DEREK: How many?

16 DR. ARTHUR: We -- we're going to test a minimum of
17 two a race.

18 CHAIR BRACKPOOL: Commissioner Rosenberg?

19 COMMISSIONER ROSENBERG: I was going to just ask a
20 question along the lines of Commissioner's Israel's point.
21 What -- who -- who was the -- what entity thought up this idea
22 of changing things? Was it your idea or was it some -- one of
23 the tracks?

24 DR. ARTHUR: It -- it has been a discussion with race
25 tracks for a long time, why do we have to do all this testing,

1 particularly tracks that -- that know the program in Northern
2 California has been working well.

3 COMMISSIONER ROSENBERG: Yeah. But you can't
4 guarantee it's been working well in Northern California if
5 you're only testing two.

6 DR. ARTHUR: We -- we tested two and we haven't
7 had -- we're testing two a race. We've had --

8 COMMISSIONER ROSENBERG: It's a random thing.

9 DR. ARTHUR: We've had -- we've --

10 CHAIR BRACKPOOL: You're -- you're missing what
11 his -- you're missing what his point is.

12 COMMISSIONER ROSENBERG: So the point is that --

13 CHAIR BRACKPOOL: The point is you didn't get the
14 ones that --

15 COMMISSIONER ROSENBERG: I'm making the same point --

16 CHAIR BRACKPOOL: Right. Right.

17 COMMISSIONER ROSENBERG: -- that Commissioner Israel
18 is making.

19 CHAIR BRACKPOOL: Let's -- we have a couple of
20 speakers on the issue. Maybe let's hear from the speakers who
21 are the race associations, and then do that. Before we do,
22 Jack, Commissioner Israel.

23 VICE CHAIR ISRAEL: Just one more comment. It -- if
24 it costs \$1,000 a week, which is basically what it costs, the
25 savings against people losing confidence in a game because we

1 wind up with a couple more positives is manifest. If people
2 think guys are cheating to get horses on the track to run fast
3 handle is going to decline precipitously. It has in the past,
4 it will again.

5 Here we have something that's assuring handle is
6 secure. One of the things we have -- one of -- one of the --
7 the -- the tools we have in the tool box. I don't see any
8 point to giving it up if it's that inexpensive.

9 COMMISSIONER CHOPER: Is there a cost, apart from the
10 \$50,000?

11 DR. ARTHUR: The -- there's probably personnel costs
12 of probably equivalent amount, and that's about it. It's not
13 going to be over \$100,000, I wouldn't think.

14 CHAIR BRACKPOOL: Let me hear from the speakers
15 first. First of all, Jack Liebau.

16 MR. LIEBAU: Jack Liebau from Hollywood Park. I take
17 it that there is no equal protection clause. Maybe Mr. Choper
18 could talk about that. I mean, why do we have different
19 standards for Northern California than we have for Southern
20 California, and why do we have different standards when they're
21 racing horses at Los Alamitos? I mean, it's -- it's -- it
22 doesn't make any sense.

23 As far as the cost, I think the costs are more than
24 what, you know, we're talking about. At least one or two
25 technicians at Hollywood Park during our race meet. And I

1 think that this is a situation that doesn't make sense. I
2 mean, you either do it every place or you do it -- or you
3 don't -- you got to have uniform rules. I mean, I just don't
4 understand how you can say, well, it's fine in -- in Northern
5 California but it's -- you know, Southern California has got to
6 do something. It doesn't make any sense.

7 COMMISSIONER ROSENBERG: So are you opposed to --
8 what is your reasoning? Are you saying that because it's
9 unfair to Hollywood Park or is that --

10 MR. LIEBAU: I think that it --

11 COMMISSIONER ROSENBERG: -- what -- what's your
12 position --

13 MR. LIEBAU: My --

14 COMMISSIONER ROSENBERG: -- on the proposed change?

15 MR. LIEBAU: My --

16 COMMISSIONER ROSENBERG: Would you --

17 MR. LIEBAU: My position is that we should do it the
18 same as you're doing it in Northern California, and it's a cost
19 issue that we shouldn't have to be burdened with.

20 CHAIR BRACKPOOL: Okay. Next speaker, George Haines,
21 Santa Anita.

22 MR. HAINES: George Haines, Santa Anita. I agree
23 with what Jack said. Currently, Santa Anita is spending about
24 \$80,000 for this meet for TCO2 testing. We have had, as Dr.
25 Arthur said, we have very, very few positive TCO2 tests. Also,

1 sometimes when we do take the blood tests we get a hematoma on
2 a horse which may necessity a scratch of a horse. We're, as
3 far as I know, and maybe Dr. Arthur can back this up, we are
4 the only tracks in the country that test every horse, every
5 race.

6 So I think it's excessive. I do agree with testing
7 randomly. I think that would sufficient to -- to keep this
8 program going.

9 CHAIR BRACKPOOL: Just a point of process,
10 Commissioner Derek --

11 COMMISSIONER DEREK: Yeah?

12 CHAIR BRACKPOOL: -- we don't have this item in front
13 of us right now? This is --

14 COMMISSIONER DEREK: No.

15 CHAIR BRACKPOOL: -- a recommendation that you're
16 talking about --

17 COMMISSIONER DEREK: We --

18 CHAIR BRACKPOOL: -- bringing back --

19 COMMISSIONER DEREK: We --

20 CHAIR BRACKPOOL: -- in front of us?

21 COMMISSIONER DEREK: Yeah. We haven't -- we -- yes.

22 DR. ARTHUR: The -- the way --

23 CHAIR BRACKPOOL: Does the modification --

24 DR. ARTHUR: The --

25 CHAIR BRACKPOOL: -- not have to come back to the --

1 DR. ARTHUR: It doesn't. All -- all you would have
2 to do is whether the Board's satisfied with it or not. The way
3 the contract reads is that the TCO2 testing will be handled as
4 instructed by the Board. And that has been handled without
5 coming to the Board, obviously, in Northern California for
6 years and years, and at -- at Los Alamitos.

7 I will disagree with -- with Jack Liebau. It's that
8 different tracks have different requirements. And we do the
9 same thing in pre-race test examinations. We do it elsewhere.
10 So I have no problem with -- with having Los Alamitos without
11 TCO2 testing and others don't.

12 VICE CHAIR ISRAEL: But --

13 DR. ARTHUR: But -- but the point being --

14 VICE CHAIR ISRAEL: Look, no, the point being --

15 DR. ARTHUR: -- the point being --

16 VICE CHAIR ISRAEL: No.

17 DR. ARTHUR: -- there was --

18 VICE CHAIR ISRAEL: Stop. The -- Jack, to answer
19 your question, clenbuterol is allowed at Hollywood and here,
20 and it's not allowed at Los Alamitos. You didn't get up and
21 complain about that. So if you're going to complain about
22 inconsistencies be consistent in your complaints.

23 MR. LIEBAU: Thank you for the tip. But, I mean,
24 it's an economic problem as far as Hollywood Park is concerned.
25 And clenbuterol is not a problem; it's more an expense to the

1 track. Here you're imposing --

2 VICE CHAIR ISRAEL: Yeah. But you --

3 MR. LIEBAU: -- your own --

4 VICE CHAIR ISRAEL: Your first argument was equal
5 protection.

6 MR. LIEBAU: Okay. You're -- you're --

7 VICE CHAIR ISRAEL: You brought up --

8 MR. LIEBAU: Okay. You --

9 VICE CHAIR ISRAEL: You said to Professor Choper --

10 MR. LIEBAU: I --

11 VICE CHAIR ISRAEL: -- "What about equal protection?"

12 MR. LIEBAU: I apologize for that. I'm saying that
13 the imposition of expenses on a track should be uniform.

14 That's all I'm saying. There's --

15 CHAIR BRACKPOOL: Commission Choper?

16 COMMISSIONER CHOPER: Yeah. Look, there have been --
17 there have been a lot of, you know, a lot of questions raised.
18 I think we ought to come back and --

19 COMMISSIONER DEREK: Yeah.

20 COMMISSIONER CHOPER: -- have some examination of --

21 MR. LIEBAU: You know --

22 COMMISSIONER CHOPER: -- what the issues are, what
23 the costs are --

24 MR. LIEBAU: Right.

25 COMMISSIONER CHOPER: -- what the equality is --

1 MR. LIEBAU: I --

2 COMMISSIONER CHOPER: -- and so --

3 MR. LIEBAU: I agree with that. But I think that
4 also you should take into consideration the history as to how
5 the TCO2 fell upon the tracks. And it fell upon the tracks
6 because there was a law that was -- was enacted that it wasn't
7 effective, I think. And Dr. Arthur can speak to that. And --
8 and that's why the tracks got into the business of taking TCO2
9 to begin with.

10 CHAIR BRACKPOOL: Commissioner Moss?

11 COMMISSIONER MOSS: That's why I became a
12 commissioner, because of the TCO2.

13 MR. LIEBAU: Right.

14 COMMISSIONER MOSS: Because we became the milkshake
15 capital of the world.

16 MR. LIEBAU: Right. But I mean --

17 COMMISSIONER MOSS: And --

18 MR. LIEBAU: -- the tracks went ahead and were on the
19 forefront in stopping that --

20 COMMISSIONER MOSS: Well --

21 MR. LIEBAU: -- because of the mandate that --
22 through the legislation for whatever reason, I don't recall,
23 did not become effective in time. And that's how the tracks
24 got into the TCO2 business. And -- and we've -- we think it
25 was the right thing to do. We don't have any question about

1 it.

2 COMMISSIONER MOSS: Well, it was the right thing to
3 do. It took a long time to get it done when we were made aware
4 of the situation.

5 I get concerned over random testing because who's in
6 charge of testing those two horses, and what input does he let
7 other people know which two horses are going to be trained --
8 are going to be tested. I believe in security. I think it's
9 very important for California racing to let everyone know,
10 especially in Southern California, that every horse is being
11 tested. And it's -- it's a great surprise to me that nobody
12 got -- even had an accident with let's say an overage of 36 or
13 37. That's unbelievable in a way, because accidents happen, as
14 you know.

15 And I would like to -- and my own feeling is that
16 this -- this security has to be maintained. Thank you.

17 CHAIR BRACKPOOL: Commissioner Derek?

18 COMMISSIONER DEREK: Yes. I just want to say in
19 Jack's defense, he wasn't able to be there at the meeting, so
20 that is one point of view we did not hear at the -- at the
21 medication meeting.

22 COMMISSIONER CHOPER: Are you willing to --

23 COMMISSIONER DEREK: And he had asked us to --

24 COMMISSIONER CHOPER: -- take it back again and --

25 COMMISSIONER DEREK: Yes, of course.

1 COMMISSIONER CHOPER: Yes. Yes. I mean, we get
2 some -- get some -- some basis for the factual assertions that
3 are being --

4 VICE CHAIR ISRAEL: Well, but I --

5 COMMISSIONER CHOPER: -- quickly --

6 VICE CHAIR ISRAEL: -- I also believe that the
7 economic argument isn't -- isn't a valid one because it only
8 looks at the expense said and not at -- and not at the income
9 side. And -- and while you may have to spend \$80,000 in the
10 meet, if you start getting positives, because we're not testing
11 sufficiently, if people start gaming the system again the
12 income loss will far, far exceed \$80,000. You're going to have
13 a lot fewer horses running because -- because trainers are
14 going to be punished. You're -- you're -- once field size goes
15 down, Jack, you're the one who taught me the direct correlation
16 between field size and -- and revenue and handle.

17 So that's -- that's a small price to pay for assuring
18 that income is -- is -- is higher. And -- and I'm -- I'm not
19 willing to risk the loss.

20 DR. ARTHUR: Mr. Chairman, Commissioner Derek very
21 properly brought this before the Board because she thought the
22 whole Board should make this decision. It is a perception
23 issue. I'm very confident that random testing would be just as
24 effective. And I can show doctor -- I mean Commissioner Moss
25 exactly how it's done.

1 However, it's a perception issue this -- this
2 Board -- a route this Board doesn't want to go down. I
3 understand that. And we can just leave it the way it is.
4 Because there's no question that it's successful the way it is.

5 COMMISSIONER ROSENBERG: Except for one thing.

6 COMMISSIONER DEREK: Yeah. I agree. I think -- I
7 think --

8 CHAIR BRACKPOOL: Commissioner Rosenberg?

9 COMMISSIONER ROSENBERG: Except for one thing. The
10 same logic should -- should really apply to people who bet in
11 Northern California and at Los Alamitos. I don't quite
12 understand why -- just because Los Alamitos has smaller
13 fields --

14 VICE CHAIR ISRAEL: No. No. No.

15 COMMISSIONER ROSENBERG: -- why --

16 VICE CHAIR ISRAEL: Shorter races.

17 COMMISSIONER ROSENBERG: -- they're not doing the
18 testing.

19 DR. ARTHUR: They do shorter -- they do shorter races
20 where milkshaking --

21 COMMISSIONER ROSENBERG: Oh, shorter races?

22 DR. ARTHUR: Originally people thought they had --
23 horses had to exercise over two minutes, as in harness racing,
24 for milkshaking to be effective. We found out that wasn't the
25 case. But we have done enough random testing at Los Alamitos,

1 and we still do every once in a while, just to make -- yet on
2 the four-and-a-half furlong races we've never seen any
3 indication of it. So --

4 COMMISSIONER ROSENBERG: So what's the logic in
5 Northern California then?

6 DR. ARTHUR: In Northern California we're still
7 doing -- we still do a couple thousand tests. We do as high a
8 percentage of horses for TCO2 testing as we do post-race
9 testing. We test about 20 -- over 20 percent of the horses,
10 probably a third of them, and we've never -- we haven't seen
11 any indication. We haven't had a violation over there in -- in
12 25,000, 30,000 tests, maybe more than that, in 4-and-a-half
13 years, 5 years.

14 COMMISSIONER CHOPER: Yeah. But in fairness, you
15 haven't answered the question.

16 VICE CHAIR ISRAEL: Yeah.

17 COMMISSIONER CHOPER: If 100 percent is done in -- I
18 mean, this just seems simple to me, a simple question. If it's
19 100 percent in Southern California why is it something less in
20 Northern California?

21 DR. ARTHUR: Part -- part of the problem there was a
22 logistical problem at the fairs in terms of getting the
23 personnel that was necessary in -- in the way some of the
24 places were set up. So we experimented with random -- random
25 up there. It worked well, and it transitioned a year later

1 into the quarter-horse track. And you can actually do the TCO2
2 testing with two people, rather than the three it takes if you
3 do every horse in every race. So that's -- that's what the
4 logic was.

5 CHAIR BRACKPOOL: The sense I'm getting from the
6 Board right now is fairly strong that they don't wish to change
7 this --

8 DR. ARTHUR: Right.

9 CHAIR BRACKPOOL: -- at the moment. I think if you
10 have time, Commissioner Derek, at the next Medication meeting.
11 And we want to try and come back with some data that would
12 support your assertions, Rick, I think, you know, we can have
13 that -- that conversation.

14 DR. ARTHUR: Got it.

15 CHAIR BRACKPOOL: But I think it's probably a
16 difficult task. Because the point that -- the valid point that
17 Vice Chair Israel makes is that there is really no way of
18 analyzing the affect on the revenue side here. None of us
19 know. We can all speculate. And I'm sure those associations
20 that are paying this cost would tell you the cost is -- the
21 revenue affect is zero. But I don't know that the affect is
22 zero, and I would tend to probably side on that with, you know,
23 Commissioners Israel and Moss that the perception here is -- is
24 valid.

25 So for the time being I think we -- the Board's

1 direction is no change to the policy.

2 DR. ARTHUR: Absolutely. And we'll keep doing that.

3 Thank you.

4 COMMISSIONER DEREK: And would -- and, I'm sorry.

5 Would you like us to also look into the logistics of imposing
6 the same rule in Northern California --

7 VICE CHAIR ISRAEL: Yeah, I think so.

8 COMMISSIONER DEREK: -- or is everyone satisfied?

9 CHAIR BRACKPOOL: I certainly think we should have a
10 more reasoned response that comes back as to, you know, where
11 it can be done, where it can not be done, what the costs or
12 logistical issues would be to prohibit it.

13 DR. ARTHUR: I can tell you the average is lower in
14 Northern California than it is in Southern California. And
15 that was actually more problematic in milkshaking than Southern
16 California, even though the perception was contrary to that.
17 So there's a lot of data. We have --

18 COMMISSIONER MOSS: Good.

19 DR. ARTHUR: -- a \$250,000 worth of samples, and we
20 can -- we can show that.

21 CHAIR BRACKPOOL: Thank you, Dr. Arthur.

22 Item number ten, discussion and action by the Board
23 regarding the feasibility of amending CHRB Rule 1865, Altering
24 of Sex of Horse, and possibly CHRB Rule 1974, Wagering
25 Interests, in recognition of repeated problems in reporting the

1 gelding of horses in the prescribed manner.

2 We had this discussion at the December Board meeting.
3 And we asked, following various lively debate, Commission Derek
4 to hear this at her Medication meeting. And then I think we
5 have some alternatives in front of us.

6 COMMISSIONER DEREK: We do. Contrary to some, w had
7 a good discussion. I'm still of the opinion that the \$1,000
8 fine, I think that that should remain in place. I personally
9 feel it's working as a deterrent. In December we were -- we
10 were presented with some -- some numbers that showed in the
11 same period of time we had 44 violations before we made the
12 rule. Since then, in that same number of time we've had only
13 18 no-repeat offenders. So I think it's working. I would not
14 want to suspend it.

15 In the meantime, the CTT and the horsemen have agreed
16 to work together a little longer and try to get this number
17 down to zero or as close to zero, because it is something that
18 is important to the -- to the betters.

19 CHAIR BRACKPOOL: One of the things that I found
20 interesting in the statistics was that out of the 18 cases
21 there were only 2 of those cases where the horse actually won
22 the race.

23 COMMISSIONER DEREK: Uh-huh.

24 CHAIR BRACKPOOL: And that was a far more random
25 number than I would have anticipated.

1 Commissioner Rosenberg has something to say.

2 COMMISSIONER ROSENBERG: Well, I was persuaded by Mr.
3 Platt's letter, the president of HANA, you know, he made a
4 point that if we changed the rule to scratch the horse, if the
5 information was not released to the public prior to 30 minutes
6 before the race started that would actually help in terms of
7 the volume of -- the field sizes. Because if the horse was
8 scratched he's race back sooner, as opposed to the other idea,
9 which would be -- he -- as opposed -- it wouldn't -- it
10 wouldn't -- well, let me read it to you. I think it's -- it's
11 important. He says,

12 "We believe the proposed rule changes are preferable from
13 a revenue generating standpoint. Here's why: When a
14 horse is ordered scratched by the stewards for failure to
15 report, the track loses that horse as a betting interest.
16 The track also loses that horse as a betting interest when
17 ordered to run for purse money only."

18 That was my -- the idea of purse money. So we're
19 talking about two different things.

20 CHAIR BRACKPOOL: Uh-huh.

21 COMMISSIONER ROSENBERG: But it seems to me that, you
22 know, we all -- we read all these articles in the press, blogs
23 from horse players, and there are -- I've talked to enough
24 horse players to know that there are a number of them, probably
25 more than half of them believe that altering a horses sex has

1 an impact on the race. Here's a case where this shouldn't
2 happen; \$1,000 fine isn't working. Because it's the same thing
3 with the -- the milkshakes; one violation ruins your
4 reputation. So we had that horrible example of that -- of what
5 happened last -- in December of a long shot coming in that was
6 altered.

7 So I would be in favor of -- of scratching the horse.

8 CHAIR BRACKPOOL: Commissioner Moss?

9 COMMISSIONER MOSS: I believe we should wait to see
10 what the CTT and the TOC come up with here.

11 CHAIR BRACKPOOL: Yeah.

12 COMMISSIONER MOSS: You know, it's -- we're down to
13 18, which means that whatever we've done has certainly been
14 working. I mean, we've -- you know, I mean, I think the most
15 important thing that any trainer can ask, or at least we would
16 like them to ask when they receive a new horse, is what kind of
17 horse is this? And I'm amazed that they don't ask that
18 question. I mean, wherever that horse comes from, whether it
19 comes from a farm, whether it comes from another trainer, why
20 can't that trainer ask that simple question? And I think, you
21 know, every trainer has a vet. I think that something is --
22 should be checked on immediately. Just have a look and tell me
23 what it is, you know? You would think this would take place,
24 because \$1,000 is a lot of money to pay for such a fine.

25 So I'm waiting to hear what perhaps the TOC and the

1 CTT have to say.

2 COMMISSIONER ROSENBERG: Well, the letter from Mr.
3 Balch, the CTT was very impressed that they're going to do all
4 these things. But, you know, how long are we going to wait if
5 there are no -- in the three months to see if there's another
6 violation?

7 COMMISSIONER DEREK: I believe --

8 COMMISSIONER ROSENBERG: Six months?

9 COMMISSIONER DEREK: I believe --

10 COMMISSIONER ROSENBERG: A year?

11 COMMISSIONER DEREK: -- it was the February meeting,
12 wasn't it, Alan, you were going to have something?

13 CHAIR BRACKPOOL: Name and affiliation for the record
14 please.

15 MR. BALCH: Alan Balch, CTT. February 2013. No,
16 seriously, yes, we, you know, we'd like to see February or
17 March. The -- right now every single entrant in a race,
18 particularly after we've reminded trainers more and more times,
19 we're concentrating on the people who enter very few horses
20 because that's where these tend to be concentrated. So we'd
21 like to see if all of the outreach we've done with the jockeys'
22 agents, the posters, and everything else takes affect.

23 To answer Commissioner Moss, as I believe he is
24 aware, the -- the problem is not so much just checking to see
25 if he's a gelding or a colt, the problem is many times in

1 Encompass whether the horse is listed as a colt or a gelding.
2 In other words, if he's always been a gelding but if he's been
3 out of state or something he might have been running as a colt.
4 So as Commissioner Derek heard, we also have to tackle the
5 database situation in the racing office. Because if he's been
6 a gelding for this particular trainer since he's been in the
7 barn, without taking an extra step and seeing how he is in the
8 database, that's a problem.

9 COMMISSIONER DEREK: I think --

10 MR. BALCH: We've had first-time starters --

11 COMMISSIONER DEREK: I think we've had -- I don't
12 think that's been a problem though.

13 MR. BALCH: Well, according to --

14 COMMISSIONER DEREK: It's potential, but I don't
15 think that's been --

16 MR. BALCH: Well, according to Mr. Robbins they --
17 the have prevented some of these from starting as first-time --
18 or noted as first-time geldings by the clerk of the course --

19 COMMISSIONER DEREK: Right.

20 MR. BALCH: -- checking that. That is correct. We
21 don't think that one has happened.

22 Another one has happened where the -- at a farm. An
23 owner may get it changed in Encompass and become a gelding, but
24 that's slips through because it should have been noted in the
25 program as a first-time gelding. And that's misleading, too,

1 if it wasn't. So we have to close that gap.

2 And then there's the case where the Jockey Club
3 identified a non-starting two-year-old, a two-year-old that
4 hadn't started, so there was no form to reverse. And the --
5 the trainer had the horse identified. The Jockey Club
6 identified him as a colt when he was a gelding, when he was
7 tattooed. Now that trainer says, gee, this isn't fair. The
8 Jockey Club mis-registered the horse.

9 There are so many of these things, as you've heard
10 before, we -- we really need to isolate all these
11 circumstances. But we're trying to do it right now as best we
12 can through complete outreach at all the tracks and by
13 telephone, calling, checking. We know that there is still
14 technically a violation, even if they catch it on the
15 overnight. But that's -- those are the types of things we're
16 doing. And apparently you've read my paper on it.

17 COMMISSIONER CHOPER: I should hope in a month -- in
18 a month we're going to hear from you.

19 COMMISSIONER DEREK: And I would like to leave the
20 rule as it is until then --

21 MR. BALCH: Right.

22 COMMISSIONER DEREK: -- and give you the opportunity
23 in February to -- to present something --

24 MR. BALCH: Yeah.

25 COMMISSIONER DEREK: -- that might be an improvement.

1 MR. BALCH: Thank you. And we -- the CTT has not
2 advocated reducing the fine. We just are hoping that it won't
3 be increased or other penalties added.

4 And -- and respectfully, Commissioner Rosenberg,
5 there are a lot of other factors in a late scratch that are
6 very deleterious to the association, the owners, and everybody
7 else, even though Mr. Platt's point about running back is
8 correct. We have heard many times in this Board how -- how
9 difficult it is and how injurious when a horse is scratched
10 late. How about all the horse players who don't consider this
11 to be a big deal? And he's out of the race. And it might be
12 the speed. It might be who knows what that just came out of
13 the race. Thank you.

14 CHAIR BRACKPOOL: Thank you. Dr. Arthur?

15 DR. ARTHUR: Mr. Chairman, and just to show you the
16 effort that some trainers are going to, we've actually had two
17 instances -- in fact, I just head of a third one -- where we've
18 actually had colts listed as geldings because trainers panicked
19 and -- and didn't really -- couldn't examine a horse. All
20 horses' testicles are not the same. There are bilateral
21 cryptorchids that are colts that really don't show their
22 testicles. So they're -- they are making an effort. And it
23 does sometimes in -- in cases take a little bit of effort.

24 And I agree with Mr. Moss is that I don't understand
25 why they don't take care of this when they first see the

1 horses. But they are making an effort.

2 CHAIR BRACKPOOL: I think the direction is to -- just
3 to have it come back. I spent some time this last month
4 talking to the stewards about this. Interestingly, the
5 stewards appear to be supportive of maintaining the current
6 restrictions. We have given them some direction that -- that
7 the fine is intended to be the fine and not a minimum -- I
8 mean, not continue to negotiate the fine, that it comes down.

9 I hear what you say about the database and everything
10 else. I'm somewhat incredulous when I hear a trainer say,
11 well, I didn't realize the farm had gelded the horse. I mean,
12 I just don't buy it. I mean, I just -- trainers are far more
13 aware of their horses than they didn't know the farm had gelded
14 the horse. I just -- I find that one beyond the pale.

15 So let's hear back in February, and hopefully we
16 won't hear this issue again in March and April. But let's --
17 let's --

18 COMMISSIONER DEREK: And we might not even hear it --

19 CHAIR BRACKPOOL: -- start off with that.

20 COMMISSIONER DEREK: -- in February --

21 CHAIR BRACKPOOL: If we don't hear it in February --

22 COMMISSIONER DEREK: -- if it's --

23 CHAIR BRACKPOOL: -- we need a final summary in
24 March so that we actually put it -- you know, we took an
25 affirmative -- we made an affirmative decision --

1 COMMISSIONER DEREK: All right. All right.

2 CHAIR BRACKPOOL: -- just to --

3 COMMISSIONER DEREK: Okay.

4 CHAIR BRACKPOOL: -- stay or -- or move on.

5 COMMISSIONER DEREK: Okay.

6 CHAIR BRACKPOOL: Okay. Item number 11, discussion
7 and action by the Board regarding the feasibility of amending
8 CHRB Rule 1658, Vesting of Title to Claimed Horse, which allows
9 a claim to void if a claimed horse suffers a fatality during
10 the running of the racing or before it is returned to be
11 unsaddled.

12 Commissioner Derek?

13 COMMISSIONER DEREK: Yes. There was a lot of
14 discussion about this. I'm -- I'm very happy to say that I
15 believe this new language satisfies the -- the TOC, maybe not
16 some of us individuals, but we definitely had input. I believe
17 the stewards are good with the language. And I think it -- it
18 covers the intent of the rule change, which -- which was to
19 discourage some trainers from running a horse that maybe wasn't
20 sound, hoping that it would survive and be claimed. And also
21 part of the intent was that the claimant would have a live
22 horse.

23 CHAIR BRACKPOOL: Dr. Arthur, could you come forward
24 for a moment. Just for those who don't have the documents in
25 front of them like the Board does, can you just read the

1 proposed amendments to the rule that was previously
2 implemented?

3 DR. ARTHUR: Yeah. I'll have to start at the
4 beginning, because there's some other language.

5 "A title to the horse which is claimed shall be
6 vested in a successful claimant from the time the field
7 has been dispatched from the starting gate and the horse
8 becomes a starter, and the successful claimant becomes the
9 owner of the horse whether it is sound or unsound or
10 injured in the race or after it, except as otherwise
11 provided by this rule."

12 That has been added to the language.

13 "Only a horse which is officially a starter horse may
14 be claimed. A subsequent disqualification by the -- by
15 order -- by order of the stewards or the Board shall have
16 no affect on the claim. The stewards shall void the claim
17 and return the horse to the original owner if" -- and
18 "return to the horse to the original owner" is added --
19 "one, the horse suffers a fatality during the running of
20 the race, or two, in the" -- and this is added -- "in the
21 opinion of the official racing veterinarian the horse is
22 injured so severely that it may not survive."

23 COMMISSIONER MOSS: May not survive.

24 DR. ARTHUR: And then it goes to the old language.

25 CHAIR BRACKPOOL: I understand. And obviously the

1 issue there, without passing judgment for the moment, the issue
2 there was we did not wish to place the track veterinarian in
3 the position of deciding, you know, where the horse had to be
4 euthanized because of the claim, etcetera. Although,
5 interestingly, my understanding is that at the time a track
6 veterinarian would attend a stricken horse the track
7 veterinarian would not be aware that there was a claim in for
8 that --

9 DR. ARTHUR: That's correct.

10 CHAIR BRACKPOOL: -- horse. I know everyone wants to
11 speak on this. Commissioner Rosenberg first.

12 COMMISSIONER ROSENBERG: Well, I was opposed to this
13 rule change last time, and I'm still opposed to it. And the
14 language, I think, this paragraph two that you read, first of
15 all, the way it would read would be, "A subsequent
16 disqualification of the horse by order of the stewards" --
17 okay. "The stewards shall void the claim and return the horse
18 to the original owner if in the opinion of the official" --
19 official; what official?

20 DR. ARTHUR: Your veterinarian. The CHRB official.
21 There's two veterinarians, regulatory veterinarians in horse
22 racing. The official veterinarian is the CHRB veterinarian.
23 And the racing veterinarian is the track veterinarian. Those
24 are defined within our rules.

25 COMMISSIONER ROSENBERG: So the word "officials"

1 is -- is -- modifies -- or veterinarian.

2 CHAIR BRACKPOOL: It's either.

3 COMMISSIONER ROSENBERG: So there's two people?

4 CHAIR BRACKPOOL: Either.

5 COMMISSIONER ROSENBERG: Yeah. But it's two
6 different --

7 DR. ARTHUR: Within our --

8 CHAIR BRACKPOOL: Two different veterinarians; an
9 official veterinarian and a racing veterinarian.

10 DR. ARTHUR: Official veterinarian and racing
11 veterinarian are defined in our rules.

12 COMMISSIONER ROSENBERG: Well, okay. Now the -- the
13 rest of the language goes on to say "if the horse is injured so
14 severely that it may not survive" --

15 DR. ARTHUR: That's right.

16 COMMISSIONER ROSENBERG: -- in that person's opinion.
17 Don't you think that's fraught with legal issues?

18 DR. ARTHUR: Interestingly enough, I discussed this
19 with Steve Schwartz who is -- does a lot of veterinary
20 professional liability work. And he thinks it's worded in such
21 a way that that is very defensible in terms of professional
22 liability.

23 It's usually quite clear whether a horse may be
24 euthanized or not. We have always encouraged our track
25 veterinarians to remove horses from the race track and let the

1 private veterinarian make that final and ultimate and
2 irreversible decision on euthanasia whenever it is possible to
3 do.

4 So the instance -- there was an instance at Hollywood
5 Park where the track vet knew the horse may be -- was not going
6 to survive, but the void was -- or a claim was not voided,
7 which basically went against the intent. But, yes, you have to
8 have -- just like they make a decision, it's in the opinion of
9 the track veterinarian that the horse should be scratched.
10 It's in the opinion of the track veterinarian that the horse
11 has to be euthanized. We already authorized the track
12 veterinarian to euthanize a horse on the race track. So -- so
13 the bottom line is that this is consistent with the
14 responsibilities we already put on our track and official
15 veterinarians.

16 COMMISSIONER ROSENBERG: But in practice --

17 COMMISSIONER CHOPER: But would you --

18 COMMISSIONER ROSENBERG: -- what happens in practice
19 when -- when this would -- if a horse goes down --

20 COMMISSIONER CHOPER: Yeah.

21 COMMISSIONER ROSENBERG: The trainer --

22 COMMISSIONER CHOPER: How does this work, think
23 he's --

24 COMMISSIONER ROSENBERG: The trainer runs -- yeah.
25 The trainer runs out. The vet -- another vet may be there.

1 Argument ensues about whether the horse is really going to
2 survive or not.

3 DR. ARTHUR: The -- the rules and the -- the stall
4 applications all say that the track veterinarian has control
5 over that decision on the race track. If you -- technically,
6 if you come out on the race track -- you're not supposed to
7 come out anyway -- but if the trainer or owner comes out on the
8 race track it's still the track veterinarian's decision. It's
9 within our rules.

10 COMMISSIONER CHOPER: And what -- just describe how
11 it's going to happen.

12 DR. ARTHUR: What -- what would --

13 COMMISSIONER CHOPER: So --

14 DR. ARTHUR: What we --

15 COMMISSIONER CHOPER: So as I understand it the horse
16 goes down; right?

17 DR. ARTHUR: Well, let's say the horse -- the horse
18 goes down and is euthanized on the track, that's -- that's --

19 COMMISSIONER DEREK: That's covered.

20 DR. ARTHUR: -- that's covered already.

21 COMMISSIONER CHOPER: And what -- no, no, no. I
22 understand that.

23 DR. ARTHUR: Okay. Let's say the horse --

24 COMMISSIONER CHOPER: No wait.

25 DR. ARTHUR: Let's say the horse has --

1 COMMISSIONER CHOPER: The horse goes down and doesn't
2 get up. So -- so people -- people go there, you know, and one
3 of them is the track veterinarian?

4 DR. ARTHUR: That's right.

5 COMMISSIONER CHOPER: The official veterinarian is
6 not out there?

7 DR. ARTHUR: The official veterinarian may not be on
8 the track at a particular point.

9 COMMISSIONER CHOPER: May or may not.

10 DR. ARTHUR: But it depends on the tracks.

11 COMMISSIONER CHOPER: Okay.

12 DR. ARTHUR: Sometimes they're able to look at the
13 horse --

14 COMMISSIONER CHOPER: So it may be --

15 DR. ARTHUR: -- before they leave.

16 COMMISSIONER CHOPER: -- that the track veterinarian
17 and the official veterinarian are there at the scene; is that
18 right?

19 DR. ARTHUR: Correct.

20 COMMISSIONER CHOPER: Okay. Now what are they
21 supposed to do exactly? Remember certain -- you're the track
22 veterinarian. You're there by yourself. And you look at it
23 and you say, well, let's van him off. Is someone going to ask
24 you, well, is he injured -- is -- do you think he is injured so
25 severely that he may not survive?

1 DR. ARTHUR: Yes. The -- the way it works --

2 COMMISSIONER CHOPER: Now how does it work?

3 DR. ARTHUR: -- there's a communication between
4 the -- the stewards are the people who void the claim. It is
5 not the track veterinarian.

6 COMMISSIONER CHOPER: Okay.

7 DR. ARTHUR: The stewards, if there is a claim on a
8 horse that's being put on an ambulance will call the track
9 veterinarian and say --

10 COMMISSIONER CHOPER: While he's being put on the
11 ambulance?

12 DR. ARTHUR: While being put on the ambulance or
13 after he's taken -- taken care of the emergency care. In your
14 opinion is it possible that this horse may not survive?

15 COMMISSIONER CHOPER: I got it. I see. And he's
16 going to answer yes or no.

17 DR. ARTHUR: Yes or no. And then the stewards make
18 the decision whether it meets the criteria of voiding the
19 claim.

20 COMMISSIONER MOSS: Can I -- can I just --

21 CHAIR BRACKPOOL: Commissioner Moss?

22 COMMISSIONER MOSS: You know, I'm with Commissioner
23 Rosenberg. I was against this rule, as well. The -- the art
24 of claiming a horse, as you know, this is not a dartboard
25 procedure. Usually trainers that are in the claiming mode look

1 at a horse for at least a couple of weeks. They look at works
2 of a horse. They ask around about a horse. You know, usually
3 the horses, you know, that are in claiming races perhaps have
4 something wrong with them, but there's enough well with them so
5 that they can compete on a level for that claiming race.

6 I think this language is -- is a set back, only
7 because I do believe it can -- it can lead to liability. I
8 believe it can lead to lawsuits. And it -- it -- it clutters
9 up the whole aspect of a claiming race. The claiming race is
10 all about caveat emptor, the buyer beware, you know? This
11 is -- this is what claiming races are all about. There's
12 horses on the way up and there's horses, unfortunately, on the
13 way down. And, unfortunately, accidents happen within a race
14 that a healthy horse can be affected by.

15 So I'm sort of against this rule. That's all I
16 wanted to say.

17 CHAIR BRACKPOOL: Commissioner --

18 COMMISSIONER DEREK: I --

19 CHAIR BRACKPOOL: -- Derek first, and then
20 Commissioner Israel.

21 COMMISSIONER DEREK: Yes. The rule exists now. I
22 believe this is -- this new wording is an improvement on it. I
23 don't -- I think this covers -- the intent of the rule was to
24 cover this event and into that emergency care room, which we
25 just had an incident where it wasn't -- they didn't void the

1 claim because it -- the horse was not euthanized on the track.
2 And the intent was to include that time when the horse is
3 vanned off.

4 I would hope that the rule as it is now would not be
5 suspended or changed, except in this language, because the
6 various parties have found that it -- that they are satisfied
7 with, particularly the stewards.

8 CHAIR BRACKPOOL: I know you have something to say.

9 Jackie, could you step forward. I want to ask first
10 these questions, that I understand this. I don't want to take
11 the audiences time to rehash particularly who was for it or who
12 was against it before. What -- because we all had very strong
13 views at the time.

14 MS. WAGNER: Correct.

15 CHAIR BRACKPOOL: What this rule -- amendment is
16 trying to do is improve a rule that we got through the process
17 previously. In order to adopt this, right, we would obviously
18 need four affirmative votes to adopt it.

19 MS. WAGNER: It would have to go out for a 45-day
20 comment period. We'd have to go through the same process.

21 CHAIR BRACKPOOL: Anyway?

22 MS. WAGNER: Yes.

23 CHAIR BRACKPOOL: Anyway?

24 MS. WAGNER: Yes. It will have to do that.

25 CHAIR BRACKPOOL: In which case the existing rule

1 would stay in place until we got the comments back from the
2 public?

3 MS. WAGNER: That's correct.

4 CHAIR BRACKPOOL: Okay. So I'm just trying to
5 understand the process we have.

6 VICE CHAIR ISRAEL: Could --

7 COMMISSIONER ROSENBERG: The existing rule --

8 VICE CHAIR ISRAEL: I --

9 COMMISSIONER ROSENBERG: -- being the existing rule
10 or the -- the amendment existing rule?

11 CHAIR BRACKPOOL: No. The existing rule is in place.

12 VICE CHAIR ISRAEL: The rule that was --

13 CHAIR BRACKPOOL: The rule that we --

14 VICE CHAIR ISRAEL: -- that's in effect today.

15 CHAIR BRACKPOOL: The rule that's in effect today.

16 VICE CHAIR ISRAEL: What -- what --

17 COMMISSIONER ROSENBERG: Aren't we past that period
18 of whatever days it was published and all that?

19 CHAIR BRACKPOOL: Exactly.

20 MS. WAGNER: It's in effect.

21 CHAIR BRACKPOOL: It's in effect.

22 VICE CHAIR ISRAEL: It's in effect. All right. So
23 let me ask you this, the -- the existing rule is ambiguous. I
24 think Richard and -- has shown that even with changes
25 there's -- there's ambiguity here and there's a lot of wiggle

1 room for judgment. Nothing is particularly well defined.
2 Jesse asked questions about process that make it clear.
3 Ultimately somebody has to make a determination that -- that
4 that's just their personal judgment. That's not a good way to
5 have a rule in sport, and maybe there's a better way to do
6 this.

7 Is it possible to put in place, to -- to suspend
8 the -- the rule as it is now, go back to the old claiming rule,
9 which is the claim was good once the gate opened, and then
10 spend some time trying to rewrite -- because I believe it's a
11 good thing not to stick an owner with a dead horse after a
12 claiming race. But that's not happening here. This is just a
13 muddle. And I'd rather go back to the old rule, write a new
14 rule that's definitive and clear and leaves no massive amount
15 of room for interpretation, perhaps drawn up by attorneys from
16 TOC and CTT that tries to accomplish what we want to accomplish
17 and gets it done the right way.

18 So I'd like -- I'd like to find a way the new owner
19 isn't stuck with a dead horse. Because I also think that --
20 that invites some -- some gaming of the system by -- by
21 trainers who want to live on the fringes. And -- and at the
22 same time this rule isn't working.

23 Is there a way to suspend it and go back to the old
24 rule?

25 MS. WAGNER: Yes. That would have to be agendized

1 for a future Board meeting. Under our Board's rules we do
2 have -- the Board does have the ability to suspend the rule --
3 a particularly rule or a portion of a rule. You clearly can do
4 that. We would have to agendaize that. And then we can work
5 on --

6 COMMISSIONER DEREK: Yes. So --

7 CHAIR BRACKPOOL: Commissioner Derek?

8 COMMISSIONER DEREK: Yes. I would like to leave the
9 rule as it is because it does at least cover the catastrophic
10 breakdown on the track, or a horse being euthanized on the
11 track. It's -- it's -- I would like to see it go a little
12 further, but at least it exists. And I would welcome, David,
13 any help on this. And the wording, as I said, this satisfied
14 the veterinarians, it satisfied -- Lou Raffetto helped with
15 this wording, and -- and the stewards.

16 CHAIR BRACKPOOL: Commissioner Choper.

17 COMMISSIONER CHOPER: Well, we've been -- you know,
18 we've been around the --

19 CHAIR BRACKPOOL: Right.

20 COMMISSIONER CHOPER: -- the track, if you will, a
21 number of times here. Look, I mean, there's -- the --
22 everybody's got their view on this. It is certainly true that
23 the rule was caveat emptor. There's no question about that.
24 And the question is whether we want to change it or not. And
25 let me -- let me put off why you might want to change it, all

1 right, but just to repeat some of these things.

2 Lawsuits, you know, there always can be lawsuits. I
3 think as explained it's pretty clear. You say, well, it's
4 ultimately going to turn on someone's judgment. It sure does.
5 If you watch those NFL games and when it's pass interference or
6 not, to me, unless you all know a lot more than I do, there's
7 an awful lot of judgment in -- in that and a lot turns on it.
8 Or in basketball, you know, who -- is it charging? So
9 inevitably you've got a lot of judgment in these things.

10 I think what -- what hasn't been mentioned is the --
11 is the question of perception from the fans. I really do
12 believe that a lot of -- a lot of people strongly believe, no
13 matter what the reality is, that a lot of horses are out there
14 and they're sent out with the -- I don't know about the hope
15 that they're going to break down, but if they broke down it --
16 it wouldn't be such a bad idea, particularly if it's -- if
17 the -- if the new owner, you know, gets -- gets to beat the
18 risk.

19 So -- so finally I want to say is I think
20 substantially the same people are involved in losing claimers
21 and in getting claimers. I know that there's -- maybe there's
22 not -- maybe there's some people who never claim but run them
23 in claiming races. But I think substantially there are people
24 who do it in claiming. This is simply an issue of allocation
25 of risk between the -- among people of the same group.

1 So given the fact -- I want to say one other thing,
2 if I may, when I -- so given the -- given the perception of
3 that exists --

4 CHAIR BRACKPOOL: You thought I was about to give you
5 the hook?

6 COMMISSIONER CHOPER: Yeah. Yeah. No, I think so --

7 CHAIR BRACKPOOL: Oh.

8 COMMISSIONER CHOPER: -- which you have
9 justification. But --

10 CHAIR BRACKPOOL: I was getting close.

11 COMMISSIONER CHOPER: -- I just want to --

12 CHAIR BRACKPOOL: But carry on.

13 COMMISSIONER CHOPER: I just want to -- want to --
14 want to finish this. I want to say, so this was very
15 contested. My recollection, and I think it's accurate, was we
16 voted four to three the last time on this, and the fourth vote
17 is not here. So it's going to be three to three.

18 VICE CHAIR ISRAEL: No. No. It was three.

19 COMMISSIONER CHOPER: No. John -- John Harris voted
20 the --

21 CHAIR BRACKPOOL: He voted against it --

22 COMMISSIONER CHOPER: Yeah.

23 CHAIR BRACKPOOL: -- for the wording of it --

24 COMMISSIONER CHOPER: So anyway --

25 CHAIR BRACKPOOL: -- not the --

1 COMMISSIONER CHOPER: -- maybe I'm wrong. But --

2 COMMISSIONER ROSENBERG: No. They --

3 COMMISSIONER CHOPER: But in any event --

4 COMMISSIONER ROSENBERG: It was four to two.

5 COMMISSIONER CHOPER: -- so if we go -- if we go
6 three to three on putting this out then I think what is plainly
7 an improvement in the rule, all right, would be stymied. So I
8 think we ought to --

9 COMMISSIONER DEREK: But then we don't have to take
10 action.

11 COMMISSIONER CHOPER: -- in favor of changing the
12 rule the way it's been suggested, and if in the meantime
13 something else comes up that sounds -- that makes half of what
14 I've said wrong or even a key thing wrong, then maybe you could
15 even, you know --

16 CHAIR BRACKPOOL: Yeah.

17 COMMISSIONER CHOPER: -- change my mind about it.

18 CHAIR BRACKPOOL: Before we wrap up with our final
19 comments, we do have one speaker on this, Alan Balch, CTT.

20 MR. BALCH: I'm sorry. Alan Balch, CTT. I think,
21 you know, there's not too much more to be said. We -- we do
22 appreciate Commissioner Israel's suggestion. That would be our
23 organizational preference. But if that is not the case I just
24 want to get on the record, as Commissioner Derek entertained
25 our thoughts at the -- at the meeting at Davis, that there is,

1 we believe, another way to tackle this, which would be along
2 the European model. We won't take the time now, but in a
3 committee meeting I think there is a way for there to be
4 claiming after the race so everybody gets a live horse. But
5 it's complicated.

6 I've been accused of saying -- people have accused me
7 in racing of saying that's impractical in the United States. I
8 don't believe it is. But it will have to take some time to
9 flesh it out.

10 CHAIR BRACKPOOL: Thank you. Dr. Arthur, and then
11 I'm going to bring this to a conclusion.

12 DR. ARTHUR: One quick comment. It is not a personal
13 opinion, it is a professional opinion by someone who is trained
14 to make those decisions. They make those decisions, whether a
15 horse is sound enough to race, they make the decision and
16 allowed under our rules to make the decision whether that horse
17 be euthanized. So we have as high a paid of track
18 veterinarians in California as anywhere, and I think it's
19 within their --

20 CHAIR BRACKPOOL: I understand.

21 DR. ARTHUR: -- professional responsibility.

22 VICE CHAIR ISRAEL: Well, let me just answer. But
23 just as --

24 CHAIR BRACKPOOL: Yeah.

25 VICE CHAIR ISRAEL: To prove the ambiguity in the

1 rule, earlier you -- you made it clear that the veterinarian
2 makes the suggestion but the steward makes the decision.

3 DR. ARTHUR: No. No. The --

4 COMMISSIONER DEREK: That's after the claim.

5 DR. ARTHUR: The stewards ask him his opinion. And
6 by -- under the rule, which has not been changed, the stewards
7 are the one that make the decision --

8 VICE CHAIR ISRAEL: Right.

9 DR. ARTHUR: -- to void a claim, just like they make
10 the decision --

11 COMMISSIONER DEREK: No. That's the claim part.

12 DR. ARTHUR: -- just like they make a decision
13 whether a horse is scratched or not. The vet didn't scratch
14 the horse.

15 CHAIR BRACKPOOL: Right. Right.

16 DR. ARTHUR: The stewards scratch the horse.

17 CHAIR BRACKPOOL: Well, look, this is becoming
18 rapidly a screenplay for a farce here.

19 COMMISSIONER DEREK: Yeah.

20 CHAIR BRACKPOOL: So I don't want to carry this on
21 too --

22 COMMISSIONER ROSENBERG: One quick question.

23 CHAIR BRACKPOOL: One last question, because we've
24 really got to --

25 COMMISSIONER ROSENBERG: Before you wrap it up.

1 CHAIR BRACKPOOL: Yes.

2 COMMISSIONER ROSENBERG: So you know, I'm opposed to
3 the overall concept. However --

4 CHAIR BRACKPOOL: We have that. All right.

5 COMMISSIONER ROSENBERG: -- now it's down to I might
6 be voting for which one of the two --

7 CHAIR BRACKPOOL: No. No. No. No. No.

8 COMMISSIONER ROSENBERG: -- which one --

9 CHAIR BRACKPOOL: I'm going to --

10 COMMISSIONER ROSENBERG: -- that we're --

11 CHAIR BRACKPOOL: So let me give you --

12 COMMISSIONER ROSENBERG: -- has the worst language.

13 CHAIR BRACKPOOL: -- the proposal as to what I'm
14 going to do.

15 COMMISSIONER ROSENBERG: Okay.

16 CHAIR BRACKPOOL: No. So what I'm hearing -- I'm
17 reading all these tea leaves up here -- but what I'm hearing is
18 that Vice Chair Israel is not satisfied with the precise
19 wording of the proposed amendment. And what he would like,
20 which I don't necessarily disagree with, is to have another 30
21 days to where we take this language, we get some input from
22 others, and we get it to where it is satisfactory. At that
23 stage, which would be the February meeting, and I want this
24 back then when we're done, at the February meeting we will have
25 I front of us this revised language, which we will then take a

1 vote as to whether to send out to the public or not.

2 In the meantime, the rule stays as it currently is
3 because there's nothing else on the agenda to remove the rule
4 from as it is.

5 COMMISSIONER ROSENBERG: However, why can't we put on
6 the next agenda as part of that item or as a separate item the
7 alternative of going back to the original rule?

8 CHAIR BRACKPOOL: We can --

9 COMMISSIONER ROSENBERG: We don't have to put it
10 out --

11 CHAIR BRACKPOOL: I will certainly --

12 COMMISSIONER ROSENBERG: -- another 30 days.

13 CHAIR BRACKPOOL: I will certainly allow you that,
14 and then we'll have the vote on it and -- and -- and do that.

15 COMMISSIONER DEREK: But now would you be -- would we
16 have another Board member --

17 CHAIR BRACKPOOL: We --

18 COMMISSIONER DEREK: -- at that point?

19 CHAIR BRACKPOOL: We don't know. And it's still --

20 COMMISSIONER DEREK: We -- we don't know --

21 CHAIR BRACKPOOL: But -- but --

22 COMMISSIONER DEREK: -- whether we'd have another
23 Board member.

24 CHAIR BRACKPOOL: But we can't predict, and it's
25 going to take four affirmative votes to do either of those

1 things anyway. Very good.

2 If anyone listening understood that I would be
3 remarkable surprised.

4 VICE CHAIR ISRAEL: We punted.

5 CHAIR BRACKPOOL: All right. Item number 12,
6 discussion and action by the Board regarding the proposed
7 amendment of CHRB Rule 1943.3, Penalties for Medication
8 Violations, to change the time period for imposing a Category
9 "B" second offense penalty from a 365-day period to a two
10 years, and for a third offense penalty for a Category "B"
11 violation from a 365-day period to five years.

12 Dr. Arthur.

13 DR. ARTHUR: Yes. This is a change in the rules that
14 you, Mr. Chairman, had encouraged us to -- to look at. It
15 really is in response to the Dutrow issue where there are
16 multiple violations over a relatively long period of time.
17 Conceivably in California somebody could have a Class B
18 violation every year and still be eligible for a minimum 30-day
19 suspension.

20 What this does is allow within one-year period you
21 can have one Class B violation. You can have two within the --
22 if you have two within a two-year period of time you actually
23 go up to the second violation. And for the third time it's
24 over five years. Very few trainers would be subject to this,
25 but there have been a few. We have a case right now at Los

1 Alamitos where a trainer actually had three clenbuterol
2 violations within one year and two weeks. So he's -- we
3 actually can put a more serious penalty on that trainer.

4 So this is really going to be rarely used, but it
5 gives the -- the Board a lot more strength.

6 CHAIR BRACKPOOL: But it gives you the hammer when
7 you need it.

8 DR. ARTHUR: That's right.

9 CHAIR BRACKPOOL: All right. All right. Well, as I
10 was a proponent I'm -- my view is obvious. But let's start
11 with Commissioner Derek.

12 COMMISSIONER DEREK: No. Nothing.

13 CHAIR BRACKPOOL: All right.

14 COMMISSIONER DEREK: I'm -- I'm -- I'm for it.

15 COMMISSIONER MOSS: Can I make a move to accept it?

16 CHAIR BRACKPOOL: We have a couple of speakers before
17 you do.

18 COMMISSIONER MOSS: Oh, I'm sorry.

19 CHAIR BRACKPOOL: But first, Alan Balch, CTT.

20 Rick, stay where you in case we need you to respond.

21 DR. ARTHUR: Thanks.

22 MR. BALCH: Alan Balch, CTT. This, we all agree, is
23 a very serious issue. At the August 26th meeting in -- at Del
24 Mar, really almost the entire meeting was taken up with other
25 things. And we're concerned that even though the intent is

1 very clear and we agree with the intent, because the -- you
2 know, we do not want to see -- we the trainers, we the industry
3 do not want to see cheating drugs used or tolerated. But we do
4 believe, unfortunately, that this is a little bit or maybe a
5 lot overreaching.

6 Dr. Shields is here today because since the meeting
7 in August 2011 we've had the opportunity to go through the
8 drugs as classified and the medications as classified, and we
9 think there are some -- some drugs that we really need to take
10 some time to look at the overall schedule to make sure that the
11 consequences of this will be as intended, that is that the
12 cheating drugs, which we all agree are a very, very serious
13 issue as opposed to accidental medication violations and so
14 forth, which Dr. Arthur has continually reminded us, are
15 usually a result of an accidental situation. So we've got to
16 walk the line between accidents and intent and willful mis-
17 administration.

18 We think there is a lot of room to maneuver in the
19 existing rule for the regulators. But we do agree that in
20 certain circumstances it could be tightened up. So Dr.
21 Shields, I think, also prepared a card, Mr. Chairman.

22 CHAIR BRACKPOOL: He did. He did. Dr. Shields is
23 next.

24 DR. SHIELDS: Good morning, everybody. Dr. Don
25 Shields.

1 As Alan said, the only concern I have is that looking
2 over the Class B drugs, that there are a number of them such as
3 H-promethazine, albuterol is not used that much anymore,
4 clenbuterol, pyrillamine, which is Equi-Hist and antihistamine
5 powder used for hives and congestion, allergy. But these
6 things are in a lot of stables. And, simply, the statistical
7 likelihood of an accidental positive and, again, like Alan
8 mentioned and Dr. Arthur has mentioned repeatedly, the vast
9 majority of our positives are accidental. So by extending the
10 probation period from one year to two you are now doubling the
11 chance of an accidental positive.

12 What Dr. Arthur just mentioned about a person over at
13 Los Al with three clenbuterol positives in one year, you know,
14 it doesn't even fall under this rule because that was all in
15 one year.

16 So all -- my only suggestion would be is there any
17 way to look at the commonly utilized medications that -- you
18 know, they -- they are in the drug Class III that are known to
19 have therapeutic medication. We're talking a handful of
20 medications that we might consider looking at.

21 CHAIR BRACKPOOL: Well, my understanding from reading
22 the rule is that unlike federal drug sentencing guidelines
23 which have minimum sentences, irrespective of the
24 circumstances. It's a great debate in the country. Run across
25 the road carrying a bag of something it's a minimum of 25

1 years, and there's no discussion about why you were carrying it
2 or whether you were -- whatever you were doing.

3 In reading this there are numerous factors, numerous
4 factors that the hearing officer or the administrative law
5 judge takes into consideration. And I'm absolutely certain
6 that if the defense was -- if we walked by a barn that was, you
7 know, treating someone for a hive, that's going to be the major
8 part of the defenses.

9 So this is not saying three strikes and you get a
10 minimum of five years. What this is doing is allowing us to be
11 able to issue a severe and, in my view, appropriate penalty for
12 a repeat offender. But it is not guaranteeing that that repeat
13 offender gets that sentence irrespective of the mitigating
14 circumstances.

15 DR. SHIELDS: Yeah. I understand. I guess the only
16 other thing I'd point out is the looking at it in reverse,
17 if -- if there was an accidental clenbuterol or an accidental
18 H-promethazine and, you know, lo and behold almost two years
19 later there's another accidental situation.

20 CHAIR BRACKPOOL: Yeah.

21 DR. SHIELDS: The --

22 CHAIR BRACKPOOL: And then a third accidental
23 situation.

24 DR. SHIELDS: Yeah, I get that.

25 CHAIR BRACKPOOL: Yeah.

1 DR. SHIELDS: But -- but -- but those could be
2 aggravating circumstances. You could look at it the other way,
3 instead of being mitigating. And if we have the mitigating
4 circumstances, if we name those commonly used medications as,
5 hey, we ought to look at this closely, because most of these
6 medications, you know, just in my humble opinion, are not a
7 problem. They're just not used. There's just a handful that
8 I'd be concerned about.

9 COMMISSIONER DEREK: When you say that --

10 CHAIR BRACKPOOL: Hold on. We've got various,
11 various people. Commissioner Moss first.

12 COMMISSIONER MOSS: Are you suggesting, then, that we
13 should reclassify certain medications?

14 DR. SHIELDS: Not reclassify. Perhaps just even
15 talking about the mitigating -- or mitigating, yeah, mitigating
16 circumstances, just put in there that these are commonly
17 utilized X -- X medications, and that should be thought about
18 or maybe this two-year probationary period shouldn't apply to
19 those X listed five -- five meds, you know?

20 CHAIR BRACKPOOL: To me that's just giving somebody
21 carte blanche to use them.

22 COMMISSIONER DEREK: Yeah. I think --

23 CHAIR BRACKPOOL: But Commissioner Derek.

24 COMMISSIONER DEREK: I think these -- these drugs are
25 serious on race day.

1 DR. SHIELDS: I think I agree with you
2 wholeheartedly. But if it gives somebody carte blanche then I
3 think we should have the actual statistics for what a second
4 probationary -- you know, second year of probation, how many
5 people would that actually have affected.

6 CHAIR BRACKPOOL: Again, to me these are guidelines
7 for the hearing officer or the administrative law judge.

8 But, Dr. Arthur, would you care to respond to Dr.
9 Shields comments?

10 DR. ARTHUR: Yes. And I understand where he's coming
11 from. And actually the RMTTC is looking at trying to look at
12 some of the more common therapeutic drugs, but basically
13 handling those more in a laboratory setting.

14 Yes, I agree that most violations are accidents. But
15 I would like to point out since we put the penalty guidelines
16 in our mistakes have gone down dramatically.

17 CHAIR BRACKPOOL: Our accidents are a lot less, yeah.

18 DR. ARTHUR: And just like with the geldings, the
19 stewards are very sympathetic. They listen to mitigating
20 factors. And there have been instances where trainers have
21 received no penalty for a Class B violation under appropriate
22 circumstances. And -- but what it does do is the person who
23 clearly doesn't have mitigating circumstances, they no longer
24 get a slap on the wrist. And the fact of the matter is
25 stronger penalties make for fewer violations, and I -- we can

1 actually show that in California.

2 CHAIR BRACKPOOL: Alan Balch wishes to say one more
3 thing. And then I'm going to go to Commissioner's comments
4 and --

5 MR. BALCH: Thank you, Mr. Chairman. Alan Balch
6 again. Thanks to the webcast I was reminded that I omitted an
7 important point just now by text. And Dr. Arthur had commented
8 on this before, particularly with regard to the size of
9 stables.

10 When the rule is worded as it is now and is proposed
11 to be, that is on yearly periods rather than on starts, you
12 have a great disparity amongst small trainers and large
13 trainers as a matter of fairness. I don't know if that can be
14 handled somehow. But we do call your attention to it because,
15 you know, when a trainer is starting a tremendous number of
16 times per year that's a different situation than a smaller
17 trainer. And I think Dr. Arthur realizes we've discussed that
18 before too. Thank you.

19 DR. ARTHUR: Well, yes. And I'm not particularly
20 sympathetic towards it because larger stables, by necessity,
21 are better managed. They have fewer mistakes. And -- but,
22 again, a trainer can and does in hearings present that as a
23 mitigating factor. I started 1,000 horses in the last year
24 and --

25 CHAIR BRACKPOOL: Two.

1 DR. ARTHUR: -- only one or two of these.

2 CHAIR BRACKPOOL: Right.

3 DR. ARTHUR: So --

4 CHAIR BRACKPOOL: Right.

5 DR. ARTHUR: -- you know, whatever it would be, so --

6 CHAIR BRACKPOOL: Commissioner Derek?

7 COMMISSIONER DEREK: No. I --

8 CHAIR BRACKPOOL: Okay.

9 COMMISSIONER DEREK: I would like to move that we --

10 CHAIR BRACKPOOL: Are we sending this out?

11 MS. WAGNER: Forty-five days.

12 CHAIR BRACKPOOL: Forty-five days. So I would make a
13 motion that we send this out for a 45-day rule comment.

14 COMMISSIONER MOSS: Second.

15 COMMISSIONER DEREK: Second.

16 CHAIR BRACKPOOL: Competition for second. I'll let
17 Commissioner Derek be the second because it's her subject. And
18 all in favor?

19 ALL COMMISSIONERS: Aye.

20 CHAIR BRACKPOOL: The motion carries.

21 One last piece of business before we close the public
22 session and go to closed session on this. It is the intention
23 of the Board to hear probably at the February Board meeting the
24 draft regulations, rules and regulations for exchange wagering.
25 But because the subject is so comprehensive we have

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TRANSCRIBER'S CERTIFICATE

I, Martha L. Nelson, attest that the foregoing proceedings were transcribed to the best of my ability.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 25th day of January, 2012.

 /s/ Martha L. Nelson