

MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

In the Matter of)
)
Regular Meeting)

HOLLYWOOD PARK RACE TRACK
SUNSET ROOM
1050 SOUTH PRAIRIE AVENUE
INGLEWOOD, CALIFORNIA

THURSDAY, APRIL 26, 2012

9:00 A.M.

Reported by:
Martha L. Nelson, CERT 00367

APPEARANCES

COMMISSIONERS

Keith Brackpool, Chairperson

David Israel, Vice Chairperson

Jesse Choper, Commissioner

Bo Derek, Commissioner

Richard Rosenberg, Commissioner

STAFF

Kirk Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

Rick Arthur, Equine Medical Director

ALSO PRESENT

Barry Broad, Jockeys' Guild

Alan Balch, CTT

Richard Castro

Larry Swartzlander, CARF

Rick Pickering, Alameda County Agricultural Fair Association

David Elliott, California Exposition State Fair

David Neumeister, California Harness Horsemen's Association

Alan Horowitz, California Harness Horsemen's Association

Richard Castro

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| 1. | Public comment: Communications, reports, requests future actions of the Board. Note: Persons addressing the Board under this item will be restricted to three (3) minutes for their presentations. | 3 |
| 2. | Public hearing and action by the Board regarding the proposed amendment of CHRB Rule 1843.3, Penalties for Medication Violations, to change the time period for imposing a category "B" second offense penalty from a 365-day period to two years, and for a third offense penalty for a category "B" violation from a 365-day period to five years. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.) | 3 |
| 3. | Public hearing and action by the Board regarding the proposed amendment of CHRB Rule 1663, Entry of Claimed Horse, to change the requirements for running back a claimed horse within 25 days of the claiming race in which it is claimed. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.) | 4 |
| 4. | Discussion by the Board regarding the proposed Amendment of CHRB Rule 1656, Errors Which Invalidate Claim, to clarify the errors that will invalidate a claim. | 7 |
| 5. | Discussion and action by the Board regarding the request from the California Authority of Racing Fairs (CARF) and Pacific Coast Quarter Horse Racing Association, to suspend the use of Clenbuterol for quarter horses at all CARF tracks, pursuant to the provisions of CHRB Rule 1844.1, Suspension of Authorized Medication. | 8 |
| 6. | Discussion and action by the Board regarding the request from the Jockeys' Guild to amend the Jockeys' Retirement Plan, to allow jockeys to elect to lump sum distribution of the plan account balance if that balance is five thousand dollars or less. | 10 |

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12. Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personal matters, as Authorized by section 1126 of the Government Code.	52
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).	

1 agenda matter on which the Board invites comments. Also,
2 there is a sign-in sheet for those wishing to speak during
3 the public comment period for matters not on the Board's
4 agenda if it concerns horse racing in California. Please
5 print your name legibly on the public comment sign-in sheet.

6 When a matter is open for public comment your name
7 will be called. Please come to the podium and introduce
8 yourself by stating your name and organization clearly.
9 This is necessary for the court reporter to have a clear
10 record of all who speak. When your three minutes are up the
11 chairman will ask you to return to your seat so others may
12 be heard.

13 When all the names have been called the chairman
14 will ask if there is anyone else who would like to speak on
15 the matter before the Board. Also, the Board may ask
16 questions of individuals who speak. If a speaker repeats
17 himself or herself the chairman will ask if the speaker has
18 any new comments to make. If there are none the speaker
19 will be asked to let others make comments to the Board.

20 Mr. Chairman.

21 CHAIR BRACKPOOL: Thank you, Kirk.

22 Good morning. I am advised by the technical
23 people that, Commissioners, these microphones are very
24 different than the ones we've had before. Apparently they
25 don't work. And that they are voice activated and you have

1 to lean into them to -- to say something. So they're
2 different than the ones we've had before, apparently. So we
3 will do our best.

4 Let me start by welcoming on behalf of, I think,
5 all of the fellow Commissioners, our new Commissioner,
6 Commissioner Chuck Winter. Welcome aboard.

7 COMMISSIONER WINTER: Thank you.

8 CHAIR BRACKPOOL: And thank you in advance for
9 volunteering your service to what you will find an
10 interesting time.

11 COMMISSIONER WINTER: I'm looking forward to it.
12 Thank you.

13 CHAIR BRACKPOOL: Pleasure.

14 We have a very short agenda, a series of items
15 today. So moving -- moving right along, we'll start with --
16 with public comment, because we have no minutes because --

17 MS. WAGNER: We had no time to get it together.
18 We're going to have two sets at next month's meeting, this
19 month and last month's.

20 CHAIR BRACKPOOL: Okay. That's the last time
21 we're doing that, though, because it's -- it's too long.
22 You know, I don't want to go to a meeting and do that. So
23 let's make a note that that's the last time we're doing
24 that.

25 Mike, do I have any cards for public comment?

1 MR. MARTEN: No.

2 CHAIR BRACKPOOL: Okay. So nobody wishing to
3 speak in public comment. Okay.

4 Moving right along, item number two, public
5 hearing and action by the Board regarding the proposed
6 amendment of CHRB Rule 1843.3, Penalties for Medication
7 Violations, to change the time period for imposing a
8 category "B" second offense penalty from a 365-day period to
9 2 years, and for a third offense penalty for a category "B"
10 violation from a 365-day period to 5 years. This concludes
11 the 45-day public comment period, and the Board may adopt
12 the proposal as presented.

13 There were no comments received during this
14 period. Do I have any comments or questions from
15 Commissioners? Do I have a motion to approve the -- the
16 rule?

17 VICE CHAIR ISRAEL: Moved.

18 CHAIR BRACKPOOL: Motion made by Vice Chair Israel

19 COMMISSIONER CHOPER: Second.

20 CHAIR BRACKPOOL: Seconded by Commissioner Choper.

21 All in favor?

22 ALL COMMISSIONERS: Aye.

23 CHAIR BRACKPOOL: Motion passes unanimously.

24 Item -- item number three, public hearing and
25 action by the Board regarding a proposed amendment of CHRB

1 Rule 1663, Entry of Claimed Horse, to change the
2 requirements for running back a claimed horse within 25 days
3 of the claiming race in which it is claimed. This
4 concludes, also, the 45-day comment period, and the Board
5 may adopt this proposal, as well.

6 And we had no comments during this. I see nobody
7 wishing to speak on the matter.

8 Do I have any Commissioners wishing to speak on
9 the matter?

10 COMMISSIONER ROSENBERG: I have a question.

11 CHAIR BRACKPOOL: Commissioner Rosenberg.

12 COMMISSIONER ROSENBERG: Yes. Is there another --

13 CHAIR BRACKPOOL: You have to lean into this
14 microphone.

15 COMMISSIONER ROSENBERG: Is there another code
16 section or -- or -- in the -- in the regs that mentions
17 removing a horse from the grounds? Because this subsection
18 C refers to, "A claimed horse may be removed from the
19 grounds when it is claimed for non-racing purposes."
20 That -- that implies that you can not remove it if it's for
21 racing purposes. And since that section B is being deleted,
22 why don't we just delete C, as well? Does that make any
23 sense?

24 CHAIR BRACKPOOL: It would probably take six
25 months, but let's --

1 MS. WAGNER: Yes, it will.

2 CHAIR BRACKPOOL: -- figure it out.

3 MS. WAGNER: It will.

4 COMMISSIONER ROSENBERG: Well, we can move that
5 today, anyway.

6 VICE CHAIR ISRAEL: I don't think so.

7 MS. WAGNER: No, you can not. Commissioner
8 Rosenberg, Jackie Wager, CHRB staff, if -- if that is a
9 proposal that you would like us to consider on this rule, we
10 certainly can initiate the 45-day comment period to do that.

11 COMMISSIONER ROSENBERG: No. I think it's just
12 for clarification.

13 MS. WAGNER: Okay.

14 COMMISSIONER ROSENBERG: I think it's fine.

15 CHAIR BRACKPOOL: Yeah. But it's -- the whole
16 process is just in general --

17 VICE CHAIR ISRAEL: Yeah. Richard, why? There's
18 no point in doing that.

19 MS. WAGNER: They can take it out.

20 COMMISSIONER ROSENBERG: Yeah. That's -- I agree.

21 VICE CHAIR ISRAEL: I mean, if -- if somebody
22 wants to -- if somebody wants to claim a horse and keep it
23 as a brood mare they can do it.

24 MS. WAGNER: They can do it.

25 COMMISSIONER ROSENBERG: I just wanted to know if

1 there was another provision otherwise on the -- the horse
2 that is claimed for racing purposes. Okay.

3 CHAIR BRACKPOOL: Okay. Do I have a motion to
4 approve this rule?

5 COMMISSIONER WINTER: So moved.

6 CHAIR BRACKPOOL: Commissioner Winter moves.

7 VICE CHAIR ISRAEL: Second.

8 CHAIR BRACKPOOL: Second by Vice Chair Israel.

9 All in favor?

10 ALL COMMISSIONERS: Aye.

11 CHAIR BRACKPOOL: Motion approved.

12 Item number four, discussion and action by the
13 Board regarding the proposed amendment of CHRB Rule 1656,
14 Errors Which Invalidate Claim, to clarify the errors will
15 invalidate a claim.

16 This, as our Board papers say, was highlighted by
17 the -- an incident at Golden Gate, I believe, a couple of
18 months ago. And so I think this -- this is just a further
19 clarification of what it takes to invalidate a claim and
20 what it takes to have a claim valid in terms of completing
21 the form. So this is just to send this out for a 45-day
22 public comment.

23 So if I see no one wishing to speak on the matter,
24 do I have any Commissioners wishing to speak? Then I would
25 make a motion to send this out for 45-day comment?

1 COMMISSIONER CHOPER: Second.

2 CHAIR BRACKPOOL: Second, Commissioner Choper.

3 All in favor?

4 ALL COMMISSIONERS: Aye.

5 CHAIR BRACKPOOL: We'll send it out for a 45-day
6 comment.

7 Item number five, discussion and action by the
8 Board regarding the request from the California Authority of
9 Racing Fairs and the Pacific Coast Quarter Racing
10 Association to suspend the use of clenbuterol for quarter
11 horses at CARF tracks, pursuant to provisions of CHRB Rule
12 1844.1, Suspension of Authorized Medicine.

13 Jackie, do you want to just brief the Board,
14 although I think we all know what we're dealing with, but
15 maybe just for the audience participation?

16 MS. WAGNER: Jackie Wagner, CHRB staff. This
17 request is coming from the Pacific Coast Quarter Horse
18 Racing Association and CARF. Currently we have the ban of
19 clenbuterol at Los Alamitos. And there is the concern with
20 quarter horses racing during the fair circuit with the
21 procedure being inconsistent. So the two parties have come
22 together and have requested that the Board consider
23 prohibiting quarter horses from using clenbuterol on the
24 fair circuit.

25 CHAIR BRACKPOOL: And unlike almost everything

1 else we do where we have to send it out for 45 days, which
2 takes several months, this one, we're doing this pursuant to
3 our, effectively, our emergency powers --

4 MS. WAGNER: That's correct.

5 CHAIR BRACKPOOL: -- that we have. And so if we
6 took action on this today it's effective immediately.

7 MS. WAGNER: Correct. We -- we -- the Board will
8 decide when they want the effective date to begin.

9 CHAIR BRACKPOOL: Right. And I note that both
10 CARF and the Pacific Coast Quarter Horse Racing Association
11 are in favor of this proposal.

12 MS. WAGNER: Yes, they are. And the
13 representatives are here.

14 CHAIR BRACKPOOL: Okay. I have nobody wishing to
15 speak from the public on this issue.

16 Do I have any Commissioners wishing to speak?
17 Then, again, I would --

18 VICE CHAIR ISRAEL: Well, I guess I could say,
19 while I think this is a good move I think we need to do more
20 in the way of eliminating clenbuterol and --

21 CHAIR BRACKPOOL: We have it on the May agenda --

22 VICE CHAIR ISRAEL: Okay. So --

23 CHAIR BRACKPOOL: -- for thoroughbreds. We're
24 going to have it on the May agenda, following the Medication
25 Committee Meeting. And at that stage we're going to look

1 for testimony from TOC, CTT, and anybody else who -- who
2 wishes to -- to comment.

3 But for the purpose of this today I would be happy
4 to make this motion for the immediate suspension of
5 clenbuterol for quarter horses at all CARF tracks.

6 COMMISSIONER ROSENBERG: Second.

7 CHAIR BRACKPOOL: Seconded by Commissioner
8 Rosenberg. All in favor?

9
10 ALL COMMISSIONERS: Aye.

11 CHAIR BRACKPOOL: The motion is approved and the
12 suspension is effective immediately.

13 Number six, discussion and action by the Board
14 regarding the request from the Jockeys' Guild to amend the
15 Jockeys' Retirement Plan, to allow jockeys to elect a lump
16 sum distribution of the plan account balance if that balance
17 if \$5,000 or less.

18 And we have marching firmly towards the podium to
19 present this issue, Barry Broad.

20 MR. BROAD: Mr. Chair and Members, Barry Broad on
21 behalf of the Guild. As you know, Mr. Miller and myself and
22 Mr. Gusman, we're the trustees of the plan. And as we go
23 forward there are things that we have discovered that we
24 need to change from time to time. There are principally to
25 issues today.

1 The plan as it now stands only pays a lump sum
2 distribution for balances of \$1,000 or less. And there are
3 people now who -- who are prepared to retire and who have
4 balances of \$1,200, \$1,300, \$1,400. It doesn't seem
5 sensible to require them to take a lifetime pension of
6 \$50.00 a year. So we want to allow these people to do that
7 so they don't build up -- well, we have lots of jockeys with
8 small balances.

9 The second thing is we want to make it perfectly
10 clear in this plan that when you retire it is a one-time
11 irreversible, irrevocable decision that is made. You
12 retire, you take your pension, and you can't un-retire and
13 come back. Otherwise, what you could have is jockeys who
14 build up \$4,000 in retirement, surrender their license in
15 September, ask for it back in January, and then get the
16 money as a lump sum distribution, and then start trying to
17 earn money again. It's -- it has to be a retirement fund,
18 not a savings account.

19 So we want to make that very clear so that there's
20 no potential gaming of the system, if you will.

21 COMMISSIONER CHOPER: You mean you can't go back
22 into the retirement fund?

23 MR. BROAD: You can not. You can not once you --

24 COMMISSIONER CHOPER: You can't go and race again
25 once you take --

1 MR. BROAD: You can race again.

2 COMMISSIONER CHOPER: Yeah. Yeah. That's all I
3 meant.

4 MR. BROAD: But you can't accumulate retirement.

5 COMMISSIONER CHOPER: No. No. I --

6 MR. BROAD: You can't collect the retirement and
7 be un-retired at the same time. And that's common to all
8 retirement plans.

9 COMMISSIONER CHOPER: No. No. Well, you were
10 just unclear because you say you can't -- you can't do it,
11 which --

12 MR. BROAD: Well, you could certainly race again.

13 COMMISSIONER CHOPER: You can go race again?

14 MR. BROAD: You're -- but you're not longer a
15 participant.

16 VICE CHAIR ISRAEL: I just want to correct you on
17 that. It's -- that's not -- I'm in the Writers' Guild
18 Pension Plan, and that's not the way it works. You can
19 retire, you don't work for a month, then you can go back to
20 work and you can start accumulating additional pension fund.

21 MR. BROAD: No. You can accumulate -- if you
22 don't work you can accumulate pension benefits. But
23 they're -- I'm not aware of any pension fund where you can
24 actually retire, collect your retirement, and then go back
25 in while you're collecting.

1 VICE CHAIR ISRAEL: I'm telling you, in the
2 Writers' Guild you can do that.

3 MR. BROAD: Okay. Well --

4 CHAIR BRACKPOOL: Anyway --

5 MR. BROAD: All right.

6 COMMISSIONER CHOPER: They've got a strong union.

7 VICE CHAIR ISRAEL: Yeah. But don't say it
8 doesn't exist.

9 MR. BROAD: Okay. Well, I wasn't aware that it
10 existed.

11 VICE CHAIR ISRAEL: All the show business,
12 actually. All the show business ones.

13 CHAIR BRACKPOOL: Okay. This all sounds perfectly
14 logical to me, remarkably normal, so -- with the possible
15 exception of the Writers' Guild.

16 VICE CHAIR ISRAEL: And -- and SAG.

17 CHAIR BRACKPOOL: And -- and unless I hear any
18 questions from any -- any other Commissioners, I'd be happy
19 to make a motion to -- to -- to approve this. That's what
20 we have to do, do we?

21 MR. BROAD: Yes.

22 CHAIR BRACKPOOL: And this is another action that
23 we can take that actually means something immediately. This
24 is two in the day. This is remarkable.

25 Do I -- do I have any questions from any other

1 Commissioners? No. And so I would be more than happy to
2 make the motion to approve this. Do I have a second?

3 COMMISSIONER WINTER: Second.

4 CHAIR BRACKPOOL: Second by Commissioner Winter.

5 All in favor?

6 ALL COMMISSIONERS: Aye.

7 CHAIR BRACKPOOL: The motion is approved.

8 MR. BROAD: Thank you.

9 CHAIR BRACKPOOL: Thank you. Item number seven,
10 report form the Medication and Track Safety Committee.

11 The chairperson of the Medication and Track Safety
12 Committee, Commissioner Derek, is unavailable today and not
13 in attendance, as you probably know. It may have something
14 to do with our light attendance here. But her fellow
15 Committee Member, Commissioner Winter, I believe, will give
16 us a summary of what happened.

17 COMMISSIONER WINTER: Thank you, Mr. Chairman.
18 Our committee began with a discussion of what was item five,
19 that we just voted on, which was the abstention of the
20 clenbuterol ban to quarter horses at the fairs during the
21 summer. That item has been voted on.

22 Let me just point out with respect to Commissioner
23 Israel's comment that during that discussion John Shirreffs,
24 the chairman of our advisory committee, recommended that we
25 impose the same ban of clenbuterol for thoroughbreds. Both

1 Dr. Arthur and Dr. Stanley reported that out-of-competition
2 testing indicated that 58 percent of thoroughbreds were
3 receiving clenbuterol. By way of comparison, out-of-
4 competition testing revealed essentially 100 percent
5 positives in quarter horses at Los Alamitos.

6 Dr. Arthur and Dr. Stanley went on to say that
7 there was no clear evidence of illegal clenbuterol use in
8 thoroughbreds as there had been in quarter horses. They
9 said that the experience at Los Alamitos demonstrates that
10 we can effectively administer a suspension of clenbuterol
11 authorization policy.

12 The committee suggested that extending the ban to
13 thoroughbreds should be considered by the entire Board in
14 the near future. And my understanding is that will happen
15 at the May meeting.

16 The committee went on to discuss the education
17 program jointly developed by the CHRB and the University of
18 California at Davis. Some of you may have read our news
19 release which provided quite a bit of detail, but let me
20 mention just a few points.

21 The education program is principally intended for
22 trainers, though it's also recommended for veterinarians and
23 others who are responsible for the health and welfare of
24 horses. The program consists of individual PowerPoint
25 presentations on a range of injuries. The various segments

1 help us understand how these injuries occur, and they
2 provide methods for early detection and proper treatment
3 with the objective of preventing minor injuries and becoming
4 catastrophic. The segments can be converted to DVD and
5 formatted for online computer-based delivery.

6 There is yet to be a decision as to how the
7 program will be implemented. It could, for example, be part
8 of the initial licensing process and/or the centerpiece for
9 continuing education. I think there may even be a national
10 market, which would allow us to recover some of the costs of
11 developing the program. At the appropriate time the Board
12 will be asked to make these decisions.

13 We discussed the possibility of limiting purses in
14 some way relative to claiming prices. This is a complex and
15 controversial issue that requires continued research, and
16 review and discussion. No immediate action was taken by the
17 committee.

18 The committee discussed item eight on today's
19 agenda relating to zilpaterol and ractopamine. Dr. Arthur
20 will explain the proposal when the item is discussed.

21 The committee agreed to recommend that the full
22 Board adopt the International Welfare Guidelines as they
23 pertain to the prohibition of racing pregnant mares beyond
24 120 days of gestation. And I think that item will be coming
25 up at the Board meeting in May.

1 The committee discussed the problem of non-
2 reporting of geldings in the prescribed manner. The
3 California Thoroughbred Trainers have assured us that
4 owners, trainers and vets, along with racing office
5 personnel, are taking the matter quite seriously and giving
6 it appropriate attention. Based on those assurances our
7 decision was to allow the stakeholders to continue to work
8 together to resolve the issue. The staff will, however,
9 continue to monitor the situation. And should there be a
10 problem with the industry effort we'll step back in.

11 The committee received reports that all tracks
12 have or are in the process of upgrading ambulance service
13 for the treatment and transportation of injured riders
14 during racing and training hours so as to meet the high
15 standards set last year at Del Mar. We think that when the
16 upgrades are in place California will have the finest
17 medical emergency response program in the entire country.

18 The committee discussed a number of other
19 potential regulatory changes, including the voiding of
20 certain claims, requiring the submission of veterinary
21 medical records, and prohibiting race day medications. Once
22 the language is completed and satisfactory to the committee
23 we'll plan to submit these various proposals to the full
24 Board for consideration. At that time we'll provide
25 details, and also our personal views on each proposal.

1 Thank you, Mr. Chairman.

2 CHAIR BRACKPOOL: Thank you. And as you say, a
3 couple of those items will be finding their way to the May
4 agenda, and some will probably be working their way later in
5 the year.

6 We have one speaker on this issue. Alan Balch
7 from CTT.

8 MR. BALCH: Alan Balch, CTT. We just -- on the
9 continuing education, I wanted to make a public comment. I
10 think the demonstration we saw at the committee,
11 Commissioner Winter, was excellent. I think it was
12 particularly excellent for veterinarians. And I would just
13 suggest to Dr. Arthur and the Board that CTT would be most
14 willing to work with Dr. Stover or Dr. Arthur or whomever.

15 Because the one constructive criticism I would
16 have is that some of the language in the continuing
17 education, I think it was a little hard to follow because,
18 of course, the veterinarians speak in one language and the
19 trainers speak in another language. And when we're talking
20 about distal this and -- and you were there, Mr. Winter, so
21 you -- you may know what I'm talking about -- I think there
22 might be some things there that could improve it, especially
23 in the national market and for the trainer market. Because
24 we all share the same goal, which is education, so the
25 trainers really understand how they can prevent injuries.

1 It doesn't do -- do too much good after you have the injury
2 to say, oh, I didn't understand that.

3 So I think it's, personally, it's a great thing.
4 And we're happy to work in any way we can, maybe to make the
5 language a little more understandable to the -- to that
6 intended target anyway. Thank you.

7 CHAIR BRACKPOOL: Thank you, Alan.

8 Comments, questions from other Commissioners?
9 That concludes item number seven.

10 Item number eight, discussion and action by the
11 Board regarding the proposed amendment to CHRB -- CHRB Rule
12 1867, Prohibited Veterinary Practices, to add zilpaterol and
13 ractopamine to the prohibited practices list.

14 Dr. Arthur?

15 DR. ARTHUR: Yes. Dr. Arthur, Equine Medical
16 Director.

17 Zilpaterol and ractopamine are two beta2 agonists
18 that are in the same category, pharmacological category
19 as --

20 CHAIR BRACKPOOL: Speak right into it.

21 DR. ARTHUR: Right into this. The same category
22 as clenbuterol. However, they are used only to promote
23 muscle growth in livestock for slaughter. They have been
24 used in race horses around the country. We've had three
25 ractopamine and six zilpaterol, and probably going to have

1 another zilpaterol here in California.

2 What this allows us to do is to prosecute as if in
3 a race the finding of any of these drugs in a horse in our
4 out-of-competition testing program, just like we would be
5 able to do for EPO, epigen, blood doping agents. And I
6 recommend that the Board approve this. It's a very good
7 step forward in terms of improving our out-of-competition
8 testing program.

9 CHAIR BRACKPOOL: But when you say you recommend
10 the Board approve this, you recommend we send this out for
11 45-day comment and hear it in the next decade or whatever?

12 DR. ARTHUR: That is correct, Mr. Chairman.

13 CHAIR BRACKPOOL: Right. Okay. Do I have any
14 questions or comments? Commissioner Winter, anything you
15 could add to that from the meeting?

16 COMMISSIONER WINTER: No. Actually, we agreed
17 with what Dr. Arthur said and we would recommend it.

18 CHAIR BRACKPOOL: Okay.

19 COMMISSIONER CHOPER: Well, there's a statement --

20 CHAIR BRACKPOOL: Commissioner Choper.

21 COMMISSIONER CHOPER: Oh, I'm sorry. There's a
22 statement that says it's not approved by the government for
23 use in horses; right?

24 DR. ARTHUR: That's correct.

25 COMMISSIONER CHOPER: So how come it's used?

1 DR. ARTHUR: It should not be used. And --

2 COMMISSIONER CHOPER: So it's simply not approved.
3 Does that mean that it's not a violation of anything if you
4 use it?

5 DR. ARTHUR: That's correct. If we find it today
6 in a sample, in an out-of-competition sample, we can not
7 prosecute it under our rules.

8 COMMISSIONER CHOPER: Under our rules?

9 DR. ARTHUR: Under our rules.

10 COMMISSIONER CHOPER: But -- but I guess what I
11 don't understand is the statement, it's not approved by the
12 government for use in horses, I take it you mean the federal
13 government; right?

14 DR. ARTHUR: The federal government. The FDA or
15 USDA.

16 COMMISSIONER CHOPER: So suppose they find out
17 that I'm using it? I mean, isn't that a federal offense?

18 DR. ARTHUR: It is a regulatory violation that
19 they will not prosecute.

20 COMMISSIONER CHOPER: I see.

21 COMMISSIONER ROSENBERG: Dr. Arthur, so if you do
22 find that in an out-of-competition, after this bill may be
23 passed, this regulation may be put in, what happens?

24 DR. ARTHUR: We -- we would file a complaint in
25 the same manner we would for a race violation. And it would

1 have a hearing and go through the entire hearing process.
2 What -- what -- the rule has language in it already that
3 says if we find any of the drugs listed in this particular
4 provision in a sample, that we can prosecute them as if it
5 is in a race.

6 COMMISSIONER ROSENBERG: Which would -- which
7 would also cover in all these for the veterinarian?

8 DR. ARTHUR: That's right, or whoever, any
9 licensee --

10 COMMISSIONER ROSENBERG: It is whoever
11 administers?

12 DR. ARTHUR: -- responsible for the positive --

13 COMMISSIONER ROSENBERG: Right.

14 DR. ARTHUR: -- in the same manner, the same
15 manner that we can in drug positives in a race.

16 VICE CHAIR ISRAEL: Given that it's unapproved by
17 the FDA, when you do find a positive do you then inform the
18 appropriate federal -- federal authorities?

19 DR. ARTHUR: We haven't done that with the
20 zilpaterols or the ractopamines. We -- I've actually met
21 with the FDA on some of these issues. And, frankly, they
22 just tell us they have bigger fish to fry.

23 COMMISSIONER ROSENBERG: Thank you.

24 CHAIR BRACKPOOL: Okay. All right. Do we have a
25 motion to send this out for 45-day comment?

1 VICE CHAIR ISRAEL: Moved.

2 CHAIR BRACKPOOL: Moved by Vice Chair Israel.

3 COMMISSIONER WINTER: Second.

4 CHAIR BRACKPOOL: Seconded by Commissioner Winter.

5 ALL COMMISSIONERS: Aye.

6 CHAIR BRACKPOOL: We'll send it for 45-day

7 comment. Item number nine -- thank you, Dr. Arthur.

8 Item number nine, report from Pari-Mutuel/ADW and
9 Simulcast Committee, consisting at this stage of one member.

10 Commissioner Choper, drum roll.

11 COMMISSIONER CHOPER: Well, with the invaluable
12 assistance of Mike Marten, who is the staff person in -- in
13 charge of the committee. And he -- he -- I said, "Will you
14 give me some notes?" Well, he wrote me a whole script here.
15 But I'm not -- but unused to ever getting a script from any
16 job I have ever had, although I would welcome them, let me
17 make it -- I think I can do a little shorter with. All
18 right?

19 We -- we took -- we had four agenda items. The
20 first one had to do with a request by Santa Anita and
21 Sportech, which is the -- the tote operator. And Mike will
22 correct me for any mistakes I make here. For a pick -- a
23 Quick Pick, which is -- he calls it a randomly selected
24 wager. It's sort of a lottery selection.

25 MR. MARTEN: Small L.

1 COMMISSIONER CHOPER: Small L. A wager. And a
2 lot of you will recall that a couple -- I think 2008, I
3 guess, in the Derby when they had 20 entries, Big Brown was
4 number 20, and ended up not on one ticket. So this caused
5 some stir even though it's totally random, so it doesn't
6 make all that difference. No one, to my understanding, got
7 any benefit out of it. But nonetheless, testimony indicated
8 that the -- the technology at the time did not pick up the
9 last horse, even if it was number seven, apparently.

10 To make a long story short, they fixed it, And
11 they got an outside consultant, the Thoroughbred Racing and
12 Protective Bureau, also, who tested extensively, and it
13 passed all tests. And most of the discussion had to do with
14 the extent to which all systems ought to be continually
15 tested in connection with the Board's charge, statutory
16 obligation, to assure the public of fairness in the process.

17 And after some discussion both Sportech and the
18 race tracks were asked to get together and to come back in,
19 I think it was 90 days and make a proposal for a systematic
20 schedule of testing, not simply the Quick Pick
21 information -- or the system, but also other systems, as
22 well. So it's resolved. And I guess it takes no action by
23 the Board, at least until they send us something back.

24 The second was a complaint from a significant
25 better, Barry Meadow, who wanted to make a couple of \$2,500

1 bets, I think show bets, and was told by one of the ADW
2 companies that they wouldn't accept the bet, which caused
3 him some consternation, I guess understandably. And he
4 filed a complaint with the -- with the -- with the Board,
5 and it ended up with this committee.

6 So they don't -- they didn't accept it because it
7 was -- it was quite clear that there was going to be a minus
8 pool in the show betting. And although the race tracks
9 themselves, we were told, periodically, well, we all know,
10 you know, you go out and they say no show betting on this
11 race, they close down. And that is because of their
12 speculation that they're going to end up with a minus pool,
13 which means there's less money in the pool to be distributed
14 when the minimum payout has to be made, even if it's \$2.05,
15 I believe the --

16 MR. MARTEN: It's \$2.10.

17 COMMISSIONER CHOPER: It still is \$2.10, huh?
18 Okay. But there was talk about \$2.05. In any event, \$2.10,
19 which could produce a minus pool.

20 The -- the ADW companies, however, in the -- in
21 this situation they, and not the tracks, are responsible for
22 paying off the bets made at an ADW outlet. That's pursuant
23 to a contract between the ADW companies and the race tracks.
24 Race tracks are -- are -- they don't want to be responsible.
25 And, you know, if -- like -- for every practice there's --

1 there's a reason. And one of the things that the ADW
2 company said that they fear is that people would flood the
3 ADW companies on a last minute situation, produce a big
4 minus pool, and they could be stuck for some significant
5 amount.

6 To make -- so -- so anyway, we had -- we had a
7 big -- a relatively long and, you know, perfectly friendly
8 discussion, including, I don't know if we'd call it an
9 apology but a statement of regret that Mr. Meadow was sent
10 this pretty preemptory letter saying no more bets if you
11 keep this up. And in any event, it was a relatively small
12 bet, although I guess you can't accept them from some people
13 and not from others.

14 And it's -- it's a question of the -- the ADW
15 companies dealing with their customers. And I guess after
16 some discussion we strongly recommended that they try to
17 resolve this thing, because neither one of them has any
18 interest in losing the availability of the other.

19 So that -- that is the -- is the way that -- you
20 know, there are good arguments on both sides. And we -- we
21 felt that that was a good way of seeking to resolve the
22 matter in some better fashion. I don't know that, you know,
23 it's going to be resolved finally to everyone's satisfaction
24 in the end. But at least they can try to make up and be
25 nicer to one another. Okay.

1 So the third had to do with the question of -- of
2 picks, Pick 4, Pick 3 -- no, excuse me, Pick 4, Pick 5, Pick
3 6, too, I guess, and all the way up, in which the technology
4 does not provide or can not create a consolation pool, as it
5 does with the Daily Double and with the Pick 3. And they've
6 been trying. And I guess it's not high on -- or very high,
7 at least, on anybody's agenda because it hasn't been
8 accomplished yet. Sportech said that they're working on it.
9 And I think there was some indication that it won't be too
10 long in which they will be able to do it.

11 One of the interesting things that came out was
12 that the -- that Sportech said that it was in a position to
13 account for alternate selections on your bet, so that if you
14 make a Pick 6 bet and you can put down a number two choice
15 for any one of them if your house that you selected for
16 number one gets scratched. And that -- anyway, to some
17 betters that was never really clearly available as a piece
18 of information.

19 So I think we're going to -- we're going to try
20 to, A, improve on that to let people know that if they're
21 unhappy and get someone scratched, which they automatically
22 get the favorite -- I'm sure you're all familiar with
23 that -- but they said we don't want the favorite, what we
24 want to do is have a consolation pool, as -- as you do in
25 the others. That will continue, but you -- there will

1 better -- there will be better dissemination of the
2 information that you can have a second choice in all of
3 these things.

4 And the fourth thing we -- we talked about was a
5 proposal from -- well, I guess the wishes of Del Mar and
6 Sportech to have decimal payoffs appear both on the tote
7 board and also on the monitor screens all around. And after
8 some discussion it was decided that the -- you know, nothing
9 is uncomplicated in how you display it and whether you
10 display both of them. And they're going to have an
11 alternating display on -- of -- of the -- the decimal
12 odds and the fractional odds, $7/2$ and whatever the -- the
13 decimal -- the actual potential payoff at the time if the
14 payoff were then on their -- on their tote boards. And
15 we'll see how it works out. And I think the other tracks
16 expressed interest that if, you know, it works out, fine,
17 then why not do it themselves.

18 And, finally, we -- we had an issue brought to us
19 by the union for the pari-mutuel clerks through their very
20 articulate spokesman. And it involved a situation at -- at
21 a satellite in which there, apparently at the time, was no
22 security officer present on the premises when someone walked
23 up. It's an interesting story, so let me just tell you.

24 So -- so someone walked up to the -- to the window
25 and said, "I've got a bag here." He gave them a note, gave

1 the woman clerk a note which said, "I have a gun in this
2 bag, give me all your money," or something to that effect.

3 And this woman was pretty -- a pretty self-
4 contained cool customer, looked down and she said, "I'm
5 sorry, I can't read what -- what you've written."

6 So he -- he came and started writing another one.

7 In the meantime -- in the meantime she passed the note to
8 one -- one of her -- one of the other clerks or someone
9 there who tried to find security, which wasn't there. And
10 then finally a bunch of customers surrounded the guy.

11 You never told us if he had a gun in the bag or
12 not.

13 MR. CASTRO: No gun.

14 COMMISSIONER CHOPER: No gun.

15 MR. CASTRO: No gun.

16 COMMISSIONER CHOPER: So I don't suggest you try
17 that very often.

18 But in any event, we -- we're going to get a
19 report and find out why a security officer who was supposed
20 to be present at every satellite, in addition, of course, to
21 the race tracks, wasn't there.

22 And, Mr. Chairman, I guess I could have done --
23 done it faster if I had read my script. But -- but that --

24 CHAIR BRACKPOOL: We were regaled with the story.

25 COMMISSIONER CHOPER: -- that's the report.

1 CHAIR BRACKPOOL: I wonder whether he had gum in
2 his bag, as opposed to a gun. But anyway, we will --
3 we'll -- we'll have to see. Well, thank you for that.
4 You've definitely woken up the -- the audience, Commissioner
5 Choper. Thank you.

6 If there's nothing else, no other Commissioners on
7 item number nine, that concludes the report from the Pari-
8 Mutuel and Simulcast Committee.

9 Item number ten, something interesting, discussion
10 and action by the Board on the Application to Conduct a
11 Horse Race Meeting or the Alameda County Fair at Pleasanton,
12 commencing June the 20th, 2012 through July the 8th, 2012,
13 inclusive.

14 If we could have the Pleasanton representatives
15 step forth. I have to say, I visited this fair last year,
16 and I had a very good time. It's very active. And the
17 exotic pools are very good because Commissioner Choper is
18 there often.

19 COMMISSIONER CHOPER: Well, I've visited it many
20 times, some -- some times happier than others, I should say.

21 CHAIR BRACKPOOL: But anyway, names and
22 affiliations for the record, please. And then tell us about
23 the meet.

24 MR. SWARTZLANDER: Larry Swartzlander, the chief
25 operating officer for California Authority of Racing Fairs.

1 MR. PICKERING: Rick Pickering, CEO of the Alameda
2 County Agricultural Fair Association, a 501(c)(3) nonprofit
3 corporation that is debt free.

4 CHAIR BRACKPOOL: How -- how about that.

5 MR. PICKERING: Honorable Chairman and
6 Distinguished Commissioners, first of all I'd like to thank
7 Chairman Brackpool and Commissioner Choper for visiting the
8 fair and the race meet, for touring around, and for all your
9 financial support of racing in Northern California. Thank
10 you.

11 This summer represents the 100th Anniversary of
12 the Alameda County Fair, and 154 years of operating the
13 oldest one-mile track in America. We plan to conduct 13
14 days of racing at the most awarded fair facility in North
15 America for each of the last seven years. We are now the
16 37th largest fair in North America out of 3,000 fairs.

17 We have numerous special promotions and outreach
18 activities this year. In fact, in front of each of the
19 commissioners and the staff is a Fair Wagering 101 card,
20 which we'll be handing out. It's laminated. It's pocket
21 size.

22 CHAIR BRACKPOOL: It's good. It's good.

23 MR. PICKERING: It's purse side.

24 CHAIR BRACKPOOL: It's good.

25 MR. PICKERING: The intent is to help the public

1 understand how to wager and to get fair-goers to the race
2 track and introduce them to the sport of kings. We also
3 will continue our morning race workshops, but we're moving
4 them to a larger shaded area since they continue to grow.
5 Some of our other contests, which are exciting for our
6 teens, the hat contest. Also, our senior free days, our
7 kids free days. We'll have 17 concerts, 3 firework shows.

8 We also are very pleased to have a special \$20,000
9 purse for an Arab Cup. We started this race last year, and
10 California racing was published in a number of Middle East
11 publications, particularly in Dubai. And a member of our
12 racing team, Jeanne -- Jeanne Wasserman, was invited to the
13 sheik last -- by the sheik last year to come to Dubai and
14 help present the trophies. We're very pleased with that.
15 The sheik's representatives will be back this year. And
16 then hopefully in 2013 we'll be able to do a showcase race
17 with amateur female jockeys racing Arab horses.

18 We're also adding another Jumbotron to the
19 fairgrounds this year. It will be located near our concert
20 facility. That's roughly 16 feet by 20 feet. So we'll be
21 able to put some horse racing out onto the fairgrounds and
22 showcase that through video production, in addition to the
23 people that are actually at the track enjoying what we're
24 doing there.

25 We've enlarged our winners' circle. We've added

1 fencing to our jockeys' clubhouse area. We're adding more
2 shade in the vicinity of the paddock for viewing of the
3 horses.

4 In addition to that, we will be packaging 100,000
5 meals as emergency food supply for our local community as
6 part of our -- our ongoing efforts to support those in need
7 around us.

8 Last summer we became the first fair in history to
9 be officially trended on Twitter. For those of you who know
10 what trended on Twitter is, that's a big deal. That means
11 we were the top ten things talked about in the United States
12 on any given period of time. That was on July 2nd when we
13 broke the world's record for the world's largest
14 commercially available hamburger at 777 pounds. You have to
15 see a forklift take a hamburger off of the -- and put it on
16 the buns. But we enjoy our promotions and we'll continue to
17 do that.

18 We can -- our packet has quite a bit of
19 information on our -- our ambulance services, our fire
20 services, as well as our first aid building and how we
21 receive horses and take care of the horses, in addition to
22 the public.

23 CHAIR BRACKPOOL: Thank you. I am very pleased to
24 see that two months, two Board meetings before we have
25 everything except fire clearance.

1 MS. WAGNER: And they have the fire clearance.
2 They submitted it this morning.

3 CHAIR BRACKPOOL: Excellent. Excellent. Maybe
4 this system is actually going to work. That's -- that's
5 very good.

6 Do I have comments or questions from any of the
7 Commissioners?

8 Commissioner Choper?

9 COMMISSIONER CHOPER: Last year your -- it shows
10 7.65 average horses entered in each thoroughbred race.
11 Okay. And you say, depending upon the horse population, you
12 may have fewer races some days. I'm just curious as to what
13 the -- what is the criterion that you use for determining
14 when -- when you're going to cancel a race or not? How
15 many? What's the -- is there a number?

16 MR. PICKERING: Well, there -- there actually is a
17 number in our agreement with TOC --

18 COMMISSIONER CHOPER: Uh-huh.

19 MR. PICKERING: -- for all the fairs.

20 COMMISSIONER CHOPER: And do you know what that
21 is?

22 MR. PICKERING: Four.

23 CHAIR BRACKPOOL: Four.

24 MR. PICKERING: Four.

25 COMMISSIONER CHOPER: Four? Uh-huh. Okay. I

1 noticed a Pick 9 this year, or a Pick 10. No Pick 10 or 9,
2 no good?

3 MR. PICKERING: Correct. We have a Pick -- Pick
4 All, Commissioner.

5 COMMISSIONER CHOPER: Where is it?

6 MR. PICKERING: It's on the bottom.

7 COMMISSIONER CHOPER: It is? Well, I missed it,
8 if I did. Okay. Good.

9 CHAIR BRACKPOOL: Do you have any of the cards
10 with you so he can start filling them out now?

11 MR. PICKERING: We can make that happen.
12 Absolutely.

13 CHAIR BRACKPOOL: Okay. That would -- that's
14 really genesis of the question.

15 Do -- do we have any other -- any other comments?

16 Well, look, as I say, I was very impressed with
17 what I saw last year. Let's hope it continues. Obviously,
18 field size -- jockey size -- field size is critical. We've
19 seen how it affects handle. And so, you know, I know you
20 have to do what you have to do and you have to deal with the
21 hand that's dealt to you but, you know, do whatever you can.
22 Because the field size is definitely, you know, the key --
23 the -- the key ingredient for the handle.

24 But with that I'd be more than happy to make a
25 motion to -- to approve the fair. And I commend you for

1 having everything in place two board meetings before the --
2 the date, which is what I want to see as practice.

3 COMMISSIONER CHOPER: Second.

4 VICE CHAIR ISRAEL: Second.

5 CHAIR BRACKPOOL: I'll let Commissioner Choper be
6 the second. All in favor?

7 ALL COMMISSIONERS: Aye.

8 CHAIR BRACKPOOL: Have a good fair. The motion
9 carries.

10 Item number 11, discussion and action by the Board
11 regarding the request for the California Exposition and
12 State Fair for the allocation of harness racing dates at Cal
13 Expo for the period of August 24th, 2012 through December
14 15th, 2012, inclusive.

15 We had a request from both Cal Expo and the
16 Horsemen's Association that this item not be -- action not
17 be taken on this item today. But it was the feeling,
18 certainly of the chair and the vice chair, that we should
19 hear the status of where we are in these discussion, so that
20 when you do come before us we've had a history as to -- as
21 to what is going on.

22 So if you could state your names and affiliations
23 for the record, please?

24 MR. ELLIOTT: David Elliott. David Elliott,
25 California Exposition State Fair.

1 MR. NEUMEISTER: David Neumeister, California
2 Harness Horsemen's Association.

3 MR. HOROWITZ: Alan Horowitz, California --

4 CHAIR BRACKPOOL: You're going to have to sit
5 and --

6 MR. HOROWITZ: Alan Horowitz, California Harness
7 Horsemen's Association.

8 CHAIR BRACKPOOL: Thank you. Dave, why don't you
9 give us your summary, and then we'll hear the summary from
10 CHAA.

11 MR. ELLIOTT: Thank you, Chairman. For starters,
12 I'd like to apologize to this Board for the confusion that
13 may have occurred this last week with having the issue,
14 pulling the issue. We at Cal Expo had a meeting with some
15 representatives of the CHAA on Tuesday at which time they
16 came to us and they asked us to pull the -- to pull the item
17 off, for whatever reason. Our -- our -- Nort Bartosa
18 (phonetic), Cargenian (phonetic) said, "Fine, we'll -- we'll
19 ask for the item to be tabled."

20 Since that time, obviously, several emails have
21 gone back and forth. And we, Cal Expo, would request that
22 the Board hear our request for the allocation of the dates,
23 and that you would consider and approve the allocation of
24 the fall dates.

25 CHAIR BRACKPOOL: Okay. Before we get to -- to --

1 you want to ask the question now?

2 COMMISSIONER ROSENBERG: Can I ask a question of
3 Mr. Elliott?

4 CHAIR BRACKPOOL: Commissioner Rosenberg?

5 COMMISSIONER ROSENBERG: Mr. Elliott, you're
6 director of racing. Are you authorized to speak on behalf
7 of the agricultural district that operates the fairgrounds?

8 MR. ELLIOTT: That's a California State Fair.
9 Yes, I am.

10 COMMISSIONER ROSENBERG: You are?

11 MR. ELLIOTT: Yes, sir.

12 COMMISSIONER ROSENBERG: You're employed by the
13 fair?

14 MR. ELLIOTT: Yes, sir, I am.

15 COMMISSIONER ROSENBERG: And you're familiar with
16 all the different -- everything that's going on in terms of
17 negotiations?

18 MR. ELLIOTT: Yes. I'm completely involved.

19 COMMISSIONER ROSENBERG: Thank you.

20 CHAIR BRACKPOOL: Let's hear from CHAA. And then
21 we will decide where to go from here.

22 MR. NEUMEISTER: Mr. Chairman, Commissioners,
23 David Neumeister. We would, at this time, support the
24 request for an allocation of dates, but ask for it with one
25 condition. And that is that if no application has been

1 presented to the Board by an operator at Cal Expo by August
2 1st that the allocation be rescinded. In other words, if no
3 operator can make a deal with Cal Expo by August 1st --
4 they're -- they're asking for racing dates starting August
5 22nd -- that -- that a potential operator could have an
6 opportunity to reach out to another facility.

7 COMMISSIONER ROSENBERG: How would that work in
8 terms of the keeping the horsemen who might want to race
9 there on edge --

10 MR. NEUMEISTER: Well --

11 COMMISSIONER ROSENBERG: -- until then?

12 MR. NEUMEISTER: -- they're --

13 COMMISSIONER ROSENBERG: I mean, why would you be
14 willing to wait that long?

15 MR. NEUMEISTER: Well, it's -- it's not our choice
16 to wait that long. There is no operator who is asking to
17 race in August, September or October. Cal Expo has made it
18 very clear, and I believe that they have no intention of
19 running a meet themselves. No operator has stepped up and
20 asked for dates during this racing allocation.
21 Nevertheless, the horsemen want to race at Cal Expo. It's
22 my impression, especially after conversations over the last
23 few days, that there will be a request for dates at Cal
24 Expo.

25 I would only ask that if -- if no application for

1 a race meet is presented to the Board, say by August 1st,
2 that a potential operator have the opportunity to reach out
3 to another facility. Because, obviously, if the State Fair
4 has been granted dates, no other facility is going to step
5 on their toes to apply for days.

6 COMMISSIONER CHOPER: Another facility? What do
7 you have in mind? Would you mind answering that question?

8 MR. NEUMEISTER: Well, I don't really want to
9 paint a bull's eye on any facilities back before --

10 COMMISSIONER CHOPER: No. But you mean a local
11 facility?

12 MR. NEUMEISTER: I mean another fair facility.

13 COMMISSIONER ROSENBERG: In the State of
14 California?

15 CHAIR BRACKPOOL: Within the State of California?

16 MR. NEUMEISTER: Of course, in the State of
17 California.

18 CHAIR BRACKPOOL: Yeah.

19 COMMISSIONER ROSENBERG: I see. Okay.

20 VICE CHAIR ISRAEL: Well, there's been talk about
21 Fresno in the past. And I would assume --

22 MR. NEUMEISTER: Fresno, the last -- the last time
23 I spoke to Fresno, which was last year, they had no interest
24 in harness racing.

25 VICE CHAIR ISRAEL: Okay. Then who would operate

1 it, the horsemen themselves?

2 MR. NEUMEISTER: The horsemen themselves can not
3 operate a meet. But we do have an operator within our ranks
4 who has had several conversations with Nort Bartosa. An
5 offer is on the table. They are active -- they are actively
6 talking about it. And I, frankly, suspect that something
7 will be consummated. I would just not want to eliminate the
8 possibility of any other racing facility.

9 VICE CHAIR ISRAEL: Yeah. I understand.

10 CHAIR BRACKPOOL: Let me see -- let me see if I
11 can -- before we go any further --

12 MR. NEUMEISTER: Yes, sir.

13 CHAIR BRACKPOOL: -- let me just see if I can
14 summarize where -- where you perhaps have common ground
15 here. You would both desire us today to award the dates,
16 but with a condition. I wouldn't use August the 1st. I'll
17 tell you why in a moment.

18 MR. NEUMEISTER: RIGHT.

19 CHAIR BRACKPOOL: But -- but with a condition that
20 by a date certain, that I'll give a suggestion to, but that
21 by a date certain if there was not an application in front
22 of us that those dates were rescinded.

23 MR. NEUMEISTER: Yes.

24 CHAIR BRACKPOOL: And is that a fair
25 characterization?

1 MR. NEUMEISTER: That -- that's fine with us. We
2 won't -- we won't stand in the way.

3 CHAIR BRACKPOOL: Okay.

4 COMMISSIONER ROSENBERG: That's easy.

5 CHAIR BRACKPOOL: So then it would seem to me that
6 the date certain is going to have to be a date that
7 corresponds with a Board meeting where we can take action.

8 MR. NEUMEISTER: Sounds good.

9 CHAIR BRACKPOOL: And so realistically that sounds
10 to me like our July Board meeting. And if there's nothing
11 there by the July Board meeting then what we will do,
12 Jackie, is we will agendize this again on the July Board
13 meeting, and there will either have been a race association
14 application by then, or these -- if the Board votes for
15 these dates the dates would be rescinded at that meeting.

16 MR. ELLIOTT: That's more than generous. And --
17 and we're -- we're fine with that. Would -- at this time
18 would you like an update on our conversations with potential
19 operators?

20 CHAIR BRACKPOOL: We would. I was just trying to
21 summarize where you were. So please give us an update on
22 where you are with your discussions?

23 MR. ELLIOTT: Contrary to Mr. Neumeister's
24 testimony there has been no deal that has been put forth by
25 their operator. However, we have had conversations with Mr.

1 Ben Kenney who has shown an interest in operating a meet at
2 Cal Expo. There's no deals on the table. We have provided
3 Mr. Kenney, and he's been very receptive to all the
4 information that he's requested. Him and Nort are talking
5 back and forth often.

6 As a matter of fact on -- yesterday we had another
7 meeting with European Wagering Services who's the group that
8 is licensed in the U.K., and they're also licensed in North
9 Dakota. They are the group that we are speaking with right
10 now to be the operator of a harness meet at Cal Expo
11 beginning in the fall. August 24th would be the first
12 available date.

13 The meeting went well. We understand. We're very
14 sensitive to the timing of everything. Everybody is doing
15 their due diligence. We're providing all the documents
16 necessary for those guys to go forward. We actually even
17 put together European Wagering Services principals. And Mr.
18 Kenney yesterday -- and from what we understand they had a
19 really nice conversation about the operation of a meet at
20 Cal Expo. So that's where we are today.

21 CHAIR BRACKPOOL: Thank you.

22 COMMISSIONER ROSENBERG: So to clarify, there's
23 been no offer and there's been no negotiations on an offer.
24 It's just discussions exchanging information?

25 MR. ELLIOTT: We're -- we're -- we're back and

1 forth. Commissioner Rosenberg, operating a race meet, as
2 I'm sure you folks know, it's -- there's -- there's a lot of
3 nuances. There's a lot of contractual issues with the
4 vendors. And -- and, obviously, a CHRB license application
5 needs to be done. And there's just a myriad of things.
6 There's been no actual offer on the table that, you know,
7 they said we're going to lease the facility and we're going
8 to give you a percentage of handle. There's been none of
9 that yet, but we're all working through that right now. Cal
10 Expo's interest is to support the continuance of harness
11 racing in the State of California, whether it's at Cal Expo
12 or some other facility that may pop up and have an interest.

13 CHAIR BRACKPOOL: Commissioner Winter?

14 COMMISSIONER WINTER: If I may, just given all of
15 the nuances and the difficulties of operating -- of
16 operating a meet, I was just wondering, on the assumption
17 that it didn't work out with Cal Expo and you're looking at
18 another option, does -- does that give you enough time,
19 assuming that we don't know until July? Does it give you
20 enough time to -- to be able to operate at some other
21 facility?

22 MR. NEUMEISTER: I believe it does, Commissioner.

23 Mr. Kenney's plan would be to start racing in November.
24 Out of respect for Cal Expo and out of caution for the other
25 facilities, Mr. Kenney has not reached out to any other

1 facility. I want to make it clear, we want to race the Cal
2 Expo. I'm not going to get into semantics with Mr. Elliott.
3 He -- Mr. Kenney and Mr. Bartosa have spoken. They know
4 what each other's demands are. And, frankly, I expect a
5 deal.

6 CHAIR BRACKPOOL: Let me -- let me ask this
7 question. Let me ask this question. Given that there's no
8 application in front of us, there's nobody at the moment
9 wanting to and they're not banging down the doors with
10 everybody saying they want to, what is actually our purpose
11 in approving dates today, as opposed to waiting until you
12 have an application?

13 MR. NEUMEISTER: You would have to ask Mr.
14 Elliott.

15 MR. ELLIOTT: Our -- our -- our request is based
16 upon just the one regulatory issue that we need to just
17 basically get out of the way. We could go back to your EWS
18 and say, hey, let's get the application process. Let's
19 get -- you know, let's strike a deal. We don't believe that
20 there's going to be any problem with their licensing. We
21 could have agenda item number eight as the allocation of
22 harness dates in the fall, and agenda item number nine at
23 some future meeting as the -- as the application to approve
24 the race meet.

25 We're -- however, we made -- we made it -- we made

1 the request for the horsemen, basically to let them know
2 that, yes, Cal Expo, they're -- we are asking for the
3 allocation.

4 CHAIR BRACKPOOL: But you're asking for them,
5 Dave, because you believe -- it's okay -- but you believe
6 it's going to help you in your negotiations with the other
7 operator.

8 MR. ELLIOTT: No, sir.

9 CHAIR BRACKPOOL: No?

10 MR. ELLIOTT: No, sir. No, not at all. It -- it
11 has nothing to do with the financial aspect of the -- of the
12 negotiation. Nothing at all. It's basically just the one
13 regulatory process that is just put away. I think from a
14 potential operator standpoint, they come in, they are doing
15 all the work. They're investing their time and their
16 efforts in trying to put this thing --

17 CHAIR BRACKPOOL: Well, I don't really think it's
18 a regulatory issue that's put away, because we're going to
19 have to approve an application for -- for -- for a meet
20 anyway. So to me it's a bit of an exercise in futility to
21 award dates for something that no one wants. You're saying
22 they don't want to run on. And -- but -- so I don't know
23 that I see it.

24 Commissioner Rosenberg?

25 COMMISSIONER ROSENBERG: Yes. Mr. Neumeister, you

1 mentioned this operator who is interested is -- appears to
2 be seriously talking with Cal Expo.

3 MR. NEUMEISTER: Yes.

4 COMMISSIONER ROSENBERG: You mentioned the month
5 of November --

6 MR. NEUMEISTER: Yes.

7 COMMISSIONER ROSENBERG: -- as opposed to -- to
8 August.

9 MR. NEUMEISTER: Yes.

10 COMMISSIONER ROSENBERG: So that's -- I'm just
11 curious. Because the dates that are requested are in
12 August.

13 MR. NEUMEISTER: Well, at the same time Mr.
14 Elliott says that they're --

15 CHAIR BRACKPOOL: Commencing.

16 MR. NEUMEISTER: -- talking to another operator.
17 So -- and they have never approached us, so I don't know
18 what --

19 CHAIR BRACKPOOL: Right.

20 MR. NEUMEISTER: -- what dates that we'd be
21 talking about for them.

22 CHAIR BRACKPOOL: Right. Right.

23 COMMISSIONER WINTER: So it's August for -- for
24 Cal Expo, but November if it's somewhere else; is that
25 correct?

1 MR. NEUMEISTER: We don't -- again, we don't know
2 what the Europeans have in mind.

3 CHAIR BRACKPOOL: Right.

4 MR. NEUMEISTER: And Mr. Elliott hasn't shared
5 that with us either.

6 COMMISSIONER ROSENBERG: No. No. The question
7 is -- Commissioner Winter's was the operator who is
8 interested that you mentioned, not the European operator,
9 the other operator.

10 MR. NEUMEISTER: Yes. His -- his model would be
11 to race essentially November to May, building up the dark
12 money.

13 COMMISSIONER ROSENBERG: Where? Where? At Cal
14 Expo?

15 MR. NEUMEISTER: At Cal Expo. We --

16 COMMISSIONER ROSENBERG: So --

17 MR. NEUMEISTER: If possible, if he can strike a
18 deal with Cal Expo. Yes.

19 CHAIR BRACKPOOL: I mean, unless staff or any
20 other Commissioner can tell me why we would approve these
21 dates today, I think I would table this. Because I just --
22 we're approving dates for a meet that nobody wants to have.
23 I mean, it just doesn't seem logical, I mean, unless there's
24 a reason. We're going to have to approve an application
25 for -- for an association meet anyway.

1 VICE CHAIR ISRAEL: I can think of more reasons
2 not to approve it --

3 CHAIR BRACKPOOL: Right.

4 VICE CHAIR ISRAEL: -- than to approve. Because
5 approving in some ways forecloses on anybody else talking to
6 the horsemen and trying to establish a meet, if they so
7 desire.

8 CHAIR BRACKPOOL: Yeah. I think we should do
9 this, I think we should by June, the June Board meeting, I
10 think we should have an update again from both parties as to
11 where they are. And, obviously, if either of you are able
12 to strike a deal in the meantime you will, you know, contact
13 staff and it will be on the -- the agenda and all of the
14 information. But at the very least we would like an update
15 from you in -- in June.

16 VICE CHAIR ISRAEL: And --

17 MS. JENNINGS: Before you go, I have one speaker
18 on the issue.

19 MR. CASTRO: Tear it up. I'll wait until June.

20 CHAIR BRACKPOOL: Thank you.

21 VICE CHAIR ISRAEL: And I'd like to just make a
22 point also. This is not just a harness and a Cal Expo
23 issue. This has an adverse financial impact on Los
24 Alamitos. And -- and there's an impact on horse racing in
25 general because of shared costs that will no longer be

1 shared. So what we -- it's important that this get done and
2 be done in the right way and be as many days of operating as
3 possible.

4 MR. ELLIOTT: I appreciate that, Commissioner
5 Israel, about the -- the shared cost that, you know, that we
6 have with Los Alamitos. I would hope that we might be able
7 to come to you at some point in the future, if we are in the
8 position of helping the operator, with perhaps maybe getting
9 some concessions from Los Alamitos, as well. Thank you.

10 CHAIR BRACKPOOL: Okay. I don't think that was
11 the purpose of the -- of the comment from Commissioner
12 Israel.

13 Anyway, Commissioner Choper?

14 COMMISSIONER CHOPER: I just want to say, the
15 chairman of this Board is very good at facilitating
16 negotiations. So I don't know that he's volunteered, but I
17 just wanted to mention that to you.

18 CHAIR BRACKPOOL: And that wasn't the purpose of
19 my comment either, Commissioner Choper.

20 Did you have something else you wish to say?

21 MR. HOROWITZ: Yes. Alan Horowitz, California
22 Harness Horsemen's Association. And this is not to have the
23 last word, but it's to introduce something that I wanted the
24 Board -- that I wanted the Board to be aware of.

25 We appreciate all of the support and all the

1 feedback that we've gotten and all of the cheering section
2 that we have up in front here from the Board. I just --
3 when our board met on -- on Sunday to consider these items
4 and -- and this item on the agenda, the one other item that
5 we talked about is we have been told by Cal Expo that the
6 last time their race meet secured a fire marshal permit to
7 run, that permit, they were instructed by the fire marshal
8 saying that after the fair this year the grooms will no
9 longer be able to live in the tack rooms, and that's 80 to
10 100 people at any time. And there are no alternate
11 provisions for living arrangements for the grooms.
12 Obviously, it's important for -- from the owners' standpoint
13 and the trainers' standpoint, and the grooms themselves, to
14 be on the grounds and close to the horses.

15 And it may take -- and this, we haven't had any
16 discussion of this topic with any of the managements because
17 we haven't gotten to that point in the process -- but
18 clearly it may necessitate a change in the amount of time
19 that those -- that those tack rooms can be updated or -- if
20 there is a possibility, or some alternate arrangements be
21 made for our race meet. And that's why the -- the dates
22 themselves --

23 CHAIR BRACKPOOL: Can I -- can I suggest this is
24 not --

25 MR. HOROWITZ: Okay.

1 CHAIR BRACKPOOL: Can I suggest that you follow up
2 directly after this meeting with the executive director and
3 staff on this issue and see where some progress can -- can
4 be -- can be made? This is a detailed issue, and I think it
5 would be good if you spent some time together talking.

6 MR. HOROWITZ: Thank you.

7 CHAIR BRACKPOOL: That concludes this item.

8 MR. ELLIOTT: Thank you.

9 CHAIR BRACKPOOL: And that concludes the open
10 portion of this meeting. We'll now retire to closed
11 session. Thank you all for your attendance.

12 (The Committee Conference adjourned at 10:42 p.m.)

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CERTIFICATE OF REPORTER

I, MARTHA L. NELSON, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Conference; that it was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said conference, or in any way interested in the outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of April, 2012.

/s/ Martha L. Nelson

MARTHA L. NELSON

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I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Martha L. Nelson

April 30, 2012

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