

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, FEBRUARY 23, 2017

9:46 A.M.

Reported by:

Martha Nelson

APPEARANCES

COMMISSIONERS

Chuck Winner, Chairman

Madeline Auerbach

Jesse Choper

George Krikorian

Araceli Ruano

Alex Solis

STAFF

Rick Baedeker, Executive Director

John McDonough, Chief Counsel

Phil Laird, Staff Counsel

Dr. Rick Arthur, Equine Director

Jacqueline Wagner, Assistant Executive Director

Mike Marten, Associate Analyst, Policy & Regulations

ALSO PRESENT

John Valenzuela, Pari-Mutuel Employees Guild, Local 280

Greg Avioli, California Marketing Committee

Shannon McDonald, California Marketing Committee

Josh Rubenstein, Del Mar Thoroughbred Club

Doug Burge, California Thoroughbred Breeders Association

Scott Daruty, Santa Anita Park Race Track

Tom Robbins, Del Mar Thoroughbred Club

APPEARANCES

ALSO PRESENT

Drew Couto, Los Alamitos Race Course

Dan Schiffer, Pacific Coast Quarter Horse Racing Association

Shane Gusman, Broad and Gusman for Jockey's Guild

Dr. Scott Stanley, UC Davis

INDEX

PAGEAction Item:

- | | | |
|----|---|----|
| 1. | Approval of the minutes of January 26, 2017 | 3 |
| 2. | Executive Director's Report | 4 |
| 3. | Public Comment: Communications, reports, requests for future actions of the Board. Note: Persons addressing the Board under this item will be restricted to three (3) minutes for their presentations. | 6 |
| 4. | Discussion and action by the Board regarding a report from the California Marketing Committee (CMC) regarding its 2017 Marketing and Promotion plans pursuant to Business and Professions Code section 19605.73(B). | 7 |
| 5. | Discussion and action by the Board regarding the proposed amendments to CHRB Rule 1581, Racing Secretary to Establish Conditions, to allow racing secretaries to write medication-based eligibility conditions as agreed to with the acknowledged horsemen's organization(s) and approved by the Board before entries are taken for the race, and CHRB Rule | 49 |

INDEX

PAGEAction Item:

	1843, Medication, Drugs and Other Substances, to clarify that medication-based eligibility conditions, with authorized thresholds lower than what is authorized by the Board, are not to be deemed in conflict with the Board's intent and other regulations. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.)	
6.	Public hearing an action by the Board regarding the proposed amendment to CHRB Rule 1632, Jockey's Riding Fee, to adjust the jockey riding fee scale pursuant to Business and Professions Code section 19501.	58
7.	Report from the Medication, Safety and Welfare Committee	63
8.	Discussion and action by the Board regarding the proposed amendment to CHRB Rule 1469, Safety of Race Course, to prohibit an association from using the racing surface, (dirt or turf), for any purpose other than renovation, maintenance, and training for at least 30 days prior to the start of a race meeting or at least 60 days prior to Breeders Cup	--

INDEX

PAGEAction Item:

- or at least 60 days prior to Breeders Cup
Championship events at its race meeting
9. Discussion and action by the Board on the proposed amendment to CHRB Rule 1588, Horse Ineligible to Start in a Race, to provide that a horse that has not raced for a specified number of consecutive days at a recognized race meeting is ineligible to enter a race until such horse has satisfactorily completed enhanced testing or evaluation and has been declared eligible to start by the Official Veterinarian 74
10. Discussion and action by the Board regarding proposed amendments to CHRB Rules 1989, Safety Helmets Required; and Rule 1689.1, Safety Vest Required, to require drivers' riding in a jog cart to wear a safety helmet and safety vest. 75
11. Discussion and action by the Board regarding the proposed amendments to CHRB Rules 1858, Test Sample Required; 1859, Taking, Testing and Reporting of Samples; 1859.25, Split Sample Testing; 1867, Prohibited Veterinary Practices; and the proposed 75

INDEX

PAGEAction Item:

addition of CHRB Rules 1859.1, Out-of-Competition Testing Procedures and Requirements; and 1869, Prohibited Drug Substance in Out-of-Competition Testing, to incorporate the Association of Racing Commissioners International (ARCI) model rule for out-of-competition testing into the CHRB's Rules and regulations.

12. Discussion and action by the Board regarding the proposed addition of CHRB Rule 1868, Authorized Medicine During Workouts, to establish threshold limits for the presence of certain drug substances and medication in official test samples taken from horses after they complete a timed workout. --
13. Discussion and action by the Board regarding the proposed amendment to CHRB Rule 1844, Authorized Medication, to 1) provide that not more than one authorized corticosteroid anti-inflammatory drug substance may be administered to a horse that is entered to race and to; 2) identify the authorized drug substances. --

INDEX

PAGEAction Item:

14. Closed Session: For the purpose of receiving --
 advice from counsel, considering pending
 litigation, reaching decisions on administrative
 licensing and disciplinary hearings, and personnel
 matters, as authorized by section 11126 of the
 Government Code.
- A. The Board may convene a Closed Session to confer
 with and receive advice from its legal counsel
 regarding the pending litigation described in the
 attachment to this agenda captioned "Pending
 Litigation," and as authorized by Government Code
 section 11126(e).
- 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 11126(e).
- C. The Board may convene a Closed Session for the
 purposes of considering personnel matters as
 authorized by Government Code section 11126 (a).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

9:46 A.M.

ARCADIA, CALIFORNIA, THURSDAY, FEBRUARY 23, 2017

CHAIRMAN WINNER: Ladies and Gentlemen, please take your seats. This meeting of the California Horse Racing Board will come to order. Please be seated.

This is the regular noticed meeting of the California Horse Racing Board on Thursday, February 23rd, 2017, Santa Anita Race Track, 285 West Huntington Drive, Arcadia, California.

Present at today's meeting are myself, Chuck Winner, Chairman; George Krikorian, 1st Vice-Chairman; Madeline Auerbach, 2nd Vice-Chairman; Jesse Choper, Commissioner; Araceli Ruano, Commissioner; Alex Solis, Commissioner.

Before we go on to the business of the meeting, I need to make a few comments. The Board invites public comment on the matters bearing 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 matter concerns horse racing in California.

In order to ensure all individuals have an opportunity to speak and the meeting proceeds in a timely fashion, I'll strictly enforce the 3-minute time limit rule

1 for each speaker. This 3-minute time limit rule will be
2 enforced during discussion of all matters as stated on the
3 agenda, as well as during the public comment period.

4 There's a public comment sign-in sheet for each
5 agenda matter on which the Board invites comments. Also,
6 there's a sign-in sheet for those wishing to speak during
7 the public comment period for matters not on the Board's
8 agenda, if it concerns horse racing in California.

9 Please print your name legibly on the public
10 comment sign-in sheet. When a matter's open for public
11 comment, your name will be called. Please come to the
12 podium, introduce yourself by stating your name and
13 organization clearly. This is necessary for the court
14 reporter to have a clear record of all who speak.

15 When your three minutes are up, I'll ask you to
16 return to your seat so others can be heard. When all of the
17 names have been called, I'll ask if there's anyone else who
18 would like to speak on the matter, before the Board. Also,
19 the Board may ask questions of individuals who speak on any
20 item.

21 If a speaker repeats himself or herself, I'll ask
22 if the speaker has any new comments to make. If there are
23 none, the speaker will be asked to let others make comments
24 to the Board.

25 So, the first item on the agenda is the approval

1 of the Minutes of January 26, 2017. I do have one addition
2 or correction to the Minutes, and I don't know if others do,
3 and that is that we announced at the last meeting, the
4 resignation of Commissioner Boneto, and a few words were
5 spoken about Commissioner Boneto and what he's done for
6 racing. I did not notice, in the Minutes, that there's any
7 mention of that at all. Now, maybe I missed it, but I don't
8 think it's there.

9 Are there any other additions, or corrections, or
10 changes to the Minutes?

11 All right, is there a motion to approve the
12 Minutes from January 26th?

13 Commissioner Auerbach moves, Commissioner Ruano
14 seconds.

15 And I'll call the roll. Commissioner Ruano?

16 COMMISSIONER RUANO: Yes.

17 CHAIRMAN WINNER: Commissioner Choper?

18 COMMISSIONER CHOPER: Yeah.

19 CHAIRMAN WINNER: Commissioner Krikorian?

20 COMMISSIONER KRIKORIAN: Yes.

21 CHAIRMAN WINNER: The Chairman votes yes.

22 Commissioner Auerbach?

23 COMMISSIONER AUERBACH: Yes.

24 CHAIRMAN WINNER: Commissioner Solis?

25 COMMISSIONER SOLIS: Yes.

1 CHAIRMAN WINNER: All right, the Minutes are
2 passed unanimously.

3 Let's go to the Executive Director's Report, Mr.
4 Baedeker.

5 EXECUTIVE DIRECTOR BAEDEKER: Thank you, Mr.
6 Chairman. First off, I'd like to welcome the gentleman
7 seated at the far end of the table. This is Mr. John
8 McDonough. He is our new Chief Counsel for the CHRB. Bob
9 Miller, as you know, retired last year.

10 John, most recently, spent seven years as the
11 Supervising Attorney for the California Highway Patrol. He
12 brings great expertise in many areas, but in particular
13 policy and regulations, and the APA. And, really, is going
14 to share a good portion of the burden at the office. We're
15 very pleased to have him. Welcome, John.

16 MR. MCDONOUGH: Thank you.

17 EXECUTIVE DIRECTOR BAEDEKER: Also, I'd like to
18 note that Alexis Podesta, who has been the Undersecretary of
19 the Agency that the Horse Racing Board reports to, along
20 with many other departments, has been named Secretary of the
21 Agency. And CHRB has been reporting to the Business,
22 Consumer Services, and Housing Agency, now, for about four
23 years, under reorganization by Governor Brown. And we
24 really have come to develop a great working relationship
25 with the Agency. They've been very supportive and helpful

1 of CHRB after, you know, taking a little bit of time to
2 understand the unique world of horse racing. So, that's
3 certainly good news. We're very pleased to hear it.

4 Also, I'd like you to note that the next meeting
5 will be held at Golden Gate Fields, in March. The following
6 meeting will be held here in Santa Anita. So, the next two
7 meetings are being flip-flopped. And we'll be sending out a
8 notice to that effect, but please mark your calendars,
9 accordingly.

10 And the last thing I have is the financials. As
11 you can imagine, the financials for the month of January are
12 fairly dreadful, given the cancelled days and all of the
13 rain. Totals for the month are down, daytime racing down
14 20.7 percent, nighttime racing down 13.6 percent. All-in
15 down 19.9 percent. But that's a total of 34 day and night
16 programs last year, versus 29 programs this year.

17 However, I pulled -- asked Francisco to pull the
18 numbers just for Santa Anita, so that we could look at daily
19 averages. And, as a matter of fact, those numbers are
20 surprisingly good, I think, given that even when there was
21 racing there was wet racing and wet days.

22 And the total on-track business at Santa Anita is
23 actually up 1 percent on an average daily basis, which is
24 really surprising. The total in California, at brick and
25 mortar, is up 6 percent. ADW is also up. The only line

1 that is down, on an average daily basis, is the wagering by
2 people out of state, on California racing. So, that's
3 understandable as well where, you know, the product on a
4 sloppy track may not be as appealing as the races were last
5 year, probably, on fast tracks. So, on an average daily
6 basis, total business is down just 1 percent, at least here
7 at Santa Anita.

8 So, some encouraging news, I guess you might say,
9 despite all of the rain that we've had. And that's my
10 report, Mr. Chairman.

11 CHAIRMAN WINNER: Thank you, Mr. Baedeker.

12 Let's go on to the public comment period. I have
13 one card. If anybody else wants to speak during the public
14 comment period, please see Mr. Martin and fill out a card.

15 John Velasquez [sic], Local 280. Or, John
16 Valenzuela. I apologize, John. I know your name.

17 MR. VALENZUELA: Good morning, Chair, Executive
18 Director, and all the Commissioners. Good morning, my name
19 is John Valenzuela, President of Local 280.

20 Basically, just an updated report. Local 280 has,
21 on our existing contract, just to give you an update, we
22 have an extension of our contract for another year. So, we
23 have an agreement with the employers, so it's good news.
24 You know, I just wanted to give you an update on that.

25 CHAIRMAN WINNER: Thank you.

1 MR. VALENZUELA: Okay, thank you.

2 CHAIRMAN WINNER: Thank you very much. Any
3 questions for John? Thank you, John.

4 Going to Item Number 4, Discussion and Action from
5 the Board regarding a Report from the California Marketing
6 Committee (CMC) regarding its 2017 Marketing and Promotion
7 plans pursuant to Business and Professions Code section
8 19605.73(B).

9 Greg, are you going to speak on that?

10 MR. AVIOLI: I have some folks from the CMC, and
11 Doug Burge from the Breeders, who are going to come talk.
12 Josh is going to join us, Del Mar.

13 CHAIRMAN WINNER: Good morning, Doug. Good
14 morning, Greg. Good morning.

15 MR. BURGE: Hi. Good morning, everybody.

16 CHAIRMAN WINNER: So, whoever's going to be
17 speaking, as you go please introduce yourselves, and who you
18 represent.

19 MR. AVIOLI: So, good morning. My name's Greg
20 Avioli. I'm the Chair of the California Marketing
21 Committee. And you have, in your materials, the plan, I
22 guess I'd call it, the Marketing Plan for 2017, that we
23 submitted.

24 I think the major point for this is where the
25 funding continues to decline because this is a percentage of

1 satellite wagering. And we're down to roughly \$1.6 million.
2 And as many of you know, that fund was over \$5 million five
3 years ago.

4 So, when I took over as Chairman, back in
5 December, there was sort of a lively discussion at the first
6 Board meeting on actions that had largely predated me. But,
7 essentially, there was a feeling that CMC had become a bit
8 of a grab bag for whatever everybody wanted to spend. And
9 there wasn't a lot of rhyme or reason to where the money was
10 being spent.

11 So, we all got together and decided to focus on
12 things that would be -- we could consider, for the most
13 part, that would have a statewide benefit. So, it's less
14 for one individual track, or one fair, or one set of
15 horseman. More for what benefits the whole State.

16 And recognizing that \$1.6 million, while it sounds
17 like a big number, is not a huge amount to do a lot of
18 different things. We boiled it down to four main
19 categories.

20 The first one is Significant Player Program. And
21 this program, there's multiple components to it. In the
22 first instance for any -- it's for players who bet \$10,000 a
23 month -- \$20,000 a month get a 1 percent rebate. And, so,
24 that's been in place for years. People think that's a good
25 program. We have demonstrable evidence that it works.

1 There are two other programs, one with Santa Anita
2 and one with Del Mar, that have been in place in various
3 forms, over the last five years, for players who bet
4 significantly more than that.

5 Josh, what's the number there, at Del Mar?

6 CHAIRMAN WINNER: Introduce yourself, Josh.
7 Sorry.

8 MR. RUBENSTEIN: Josh Rubenstein, Del Mar.
9 Basically, all of the folks that are on top of the top tier
10 CMC Program.

11 MR. AVIOLI: Yeah, well, how much a year are we
12 talking about to qualify for the high?

13 MR. RUBENSTEIN: A million dollars a year.

14 MR. AVIOLI: So, players who bet that much money,
15 we give them up to 6 percent rebate. And, again, we have
16 evidence we can share with anyone, that shows you for every
17 dollar that you pay them, basically in rebates, that comes
18 back many fold, because it's the highest margin. And these
19 are people who bet live, on track.

20 So, we doubled down on that program and you'll see
21 that --

22 COMMISSIONER CHOPER: Can I ask a question?

23 MR. AVIOLI: Yes, sir. Yes, sir.

24 COMMISSIONER CHOPER: How does the 6 percent
25 compare to what the out-of-state rebates, given in the ADWs?

1 MR. AVIOLI: Well, let me, real quick, because
2 you're talking ADWs. And there are different rebate
3 programs all over the place.

4 COMMISSIONER CHOPER: Yeah.

5 MR. AVIOLI: Josh, do you want to address --

6 COMMISSIONER CHOPER: I mean, just you don't have
7 to give me great detail. But if I were someone who was
8 thinking about betting a million dollars a year, why would I
9 -- would I -- would you be competitive with them? That's my
10 question.

11 MR. RUBENSTEIN: So, we're close. And I don't
12 want to speak for the ADWs, but it really depends on what
13 state the player resides in. And, you know, that's based on
14 how much margin the ADWs have to work with in terms of a
15 rebate.

16 But, you know, 6 percent is certainly a very
17 aggressive rebate. And, you know, we have moved the needle
18 with some of these players.

19 MR. AVIOLI: And we also do have a separate
20 program, not on the agenda today, that is a rebate for
21 California ADW players, which also goes to 6 percent for
22 people betting a million a year.

23 So, but back on the -- so, continuing on the
24 California Marketing Committee. You'll see that the horse
25 recruitment number, of \$327,000, it might seem smaller than

1 previous years. But the only reason for that is just a
2 shift of money from one budget to the other. So, for
3 technical reasons, when I took over the TOC, I had some
4 questions about how the TOC had been funding these high
5 volume awards directly from, essentially coming from purses.
6 And I think, technically, there were some issues with that.
7 So, we move those fundings into CMC.

8 At the same time, CMC had also been funding the
9 Ship and Win. Now, again, our read of the law is the Ship
10 and Win is really a purse program, which can appropriately
11 come out of purses. So, the same money that was funded for
12 Del Mar last year, for Ship and Win, is going to be funded
13 again this year. It's just not going to be funded from CMC.

14 COMMISSIONER AUERBACH: It's going to come out of
15 purses?

16 MR. AVIOLI: The same way. Well, all of this
17 money effectively comes out of purses.

18 COMMISSIONER AUERBACH: I know, but this would be
19 an additional coming out of purses.

20 MR. AVIOLI: No, it would be the exact same money
21 that came out of purses last year. Last year, it just came
22 out of CMC and the High Volume Award Program came out of
23 purses. That was technically an error by the previous
24 administration.

25 COMMISSIONER AUERBACH: So, you're just switching.

1 MR. AVIOLI: We're making it so it's accurate
2 under the law.

3 COMMISSIONER AUERBACH: So, it is really the same?

4 MR. AVIOLI: It's the exact same thing, no
5 difference. But what we're doing now --

6 CHAIRMAN WINNER: It appears different.

7 MR. AVIOLI: It appears different, but the numbers
8 are the same. And when counsel looks at this, you'll find
9 this is actually the right way to do it. It has been done
10 incorrectly in the past.

11 COMMISSIONER CHOPER: Greg, does that also explain
12 the big -- I'm not against reductions, you know.

13 MR. AVIOLI: Right.

14 COMMISSIONER CHOPER: The great reduction in the
15 administration?

16 MR. AVIOLI: Well, no. The reduction in the
17 administration, as a result of an agreement between the
18 various industry groups that we're going to share -- with a
19 declining level of programs at CMC, we felt we couldn't
20 justify a full time administration. So, we had to share, we
21 had to split the duty of Shannon between SCOTWINK and CMC.
22 So, that's really what that reduction is.

23 CHAIRMAN WINNER: So, SCOTWINK is picking up part
24 of Shannon's compensation.

25 MR. AVIOLI: Fifty percent, and that's the

1 reduction, yeah.

2 The Golden State Series, when we went around the
3 room and people really did have to sing for their supper
4 because of the limited funds. We were all really impressed
5 with the Golden State Series and voted to renew it. I'll
6 ask Doug Burge to comment a little bit about that.

7 MR. BURGE: Okay, sure. Doug Burge, California
8 Thoroughbred Breeders.

9 So, the Golden State Series, this is about our
10 sixth or seventh year. It's a series of stakes races
11 restricted to California-bred, California-sired horses. We
12 currently have roughly 40 stakes within that series, about
13 \$5 and a half million in total purses. We don't have a
14 stake within the series with less than \$100,000. Quite a
15 few are at \$200,000, \$250,000.

16 It's a very lucrative program. It's been very
17 successful. I can tell you, when we put this thing together
18 several years ago, when we were looking at our declining
19 foal crops, and the importance that Cal-breds have on racing
20 in California, I mean, we're making up roughly 50 percent of
21 the field sizes right now.

22 So, we had to do something, collectively, within
23 the industry, basically to first stabilize and then start to
24 grow the foal crop in the State. Which is exactly what
25 we've been able to do through programs like this, and others

1 that we've introduced over the last four, five, six years.

2 Now, the CMC's support here. Basically, of that
3 five and a half million dollars its paid out in purses,
4 about \$750,000 of that comes from supplements, \$250,000 from
5 the CMC, and the remaining \$500,000 or so from breeder, you
6 know, nomination fees, stallion nomination fees. So that
7 we're all contributing, you know, to further the goal, as I
8 said, to make this as lucrative as we've been able to do.

9 CHAIRMAN WINNER: Any other questions? Go ahead.

10 COMMISSIONER KRIKORIAN: How many Cal-bred horses
11 were, you know, bred here last year, foals?

12 MR. BURGE: You're looking at --

13 COMMISSIONER KRIKORIAN: From the last three
14 years?

15 MR. BURGE: Last year, it was close to 2,000, a
16 little over 1,960, 70, was the first time we've approached
17 2,000 in nearly a decade. You're looking at anywhere
18 between -- you know, let's go back five years, when we hit a
19 low of about 1,500, 1,600, and now we've been able to slowly
20 climb back up to roughly 2,000.

21 Of those -- and the thing with this series, when
22 you nominate, you know, we require that you nominate as a
23 two-year-old. So, if you look at the current two-year-olds,
24 we've got about 900 and -- almost a thousand in there. And
25 if you look at the foal crop two years prior, you're looking

1 at about a 60 percent participation, you know, within this
2 program.

3 CHAIRMAN WINNER: Doug, how does that increase in
4 the four- or five-year period to 2,000, how does that
5 compare to other states? Have they also had similar
6 increases, bigger increases?

7 MR. BURGE: Well, I mean, New York is probably the
8 program that's as strong as ours, you know, in regards to
9 the purse money and the incentive awards. Now, they're also
10 fueled by alternative gaming.

11 CHAIRMAN WINNER: Right.

12 MR. BURGE: Which we're not. We're doing this all
13 just on handle, as everyone knows.

14 In regards to if you look at across the country,
15 though and, you know, everyone was showing declines in the
16 number of mares bred and the resulting foal crop. We're one
17 of the few states that's actually been able to show an
18 increase the last couple of years.

19 CHAIRMAN WINNER: That's good.

20 COMMISSIONER KRIKORIAN: What percentage of the
21 horses that are racing are Cal-breds?

22 MR. BURGE: You're looking at roughly 50 percent.

23 COMMISSIONER KRIKORIAN: Fifty percent.

24 MR. BURGE: Yeah, when you look at north and
25 south, it's more than half.

1 COMMISSIONER KRIKORIAN: And you get funded from -
2 - tell us what the source is you get funded from, primarily?

3 MR. BURGE: We get a piece of the handle. We get
4 on-track, off-track, ADW.

5 COMMISSIONER KRIKORIAN: What's the piece you get
6 of the handle?

7 MR. BURGE: We get .54 percent on-track. We get a
8 little bit less off-track and out-of-state. You're looking
9 at about, in gross, about \$10 million that comes in. You
10 know, when you go back and we were running five days a week
11 and six days a week at Del Mar, and that number was closer
12 to \$14 and a half million. So, we've taken a hit with that.

13 So, what we've tried to do is figure out the best way to
14 utilize that \$10 million.

15 And, then, you throw another, roughly, \$17 million
16 on top of that, in restricted purses. Which gets us up to,
17 you know, in the neighborhood of \$30 million.

18 COMMISSIONER KRIKORIAN: It still seems like you
19 get a very small percentage for providing 50 percent of the
20 racing stock.

21 MR. BURGE: Well, yeah, we'd love to have more,
22 that's for sure.

23 CHAIRMAN WINNER: Really?

24 (Laughter.)

25 COMMISSIONER KRIKORIAN: I think something should

1 be looked at to see that the allocations could be changed,
2 because that program is so vital to racing in California,
3 and they're providing half the horses, and they're only
4 getting less than half of a percent, it's kind of -- it's
5 sad.

6 COMMISSIONER AUERBACH: I think along with that,
7 George, you have to look at the opportunities. We don't get
8 half the opportunities to run, either. So, it's not a
9 single issue.

10 COMMISSIONER KRIKORIAN: Well, maybe you can
11 elaborate on what you mean by opportunities?

12 COMMISSIONER AUERBACH: Well, you have to go to
13 Santa Anita, and the Racing Offices for Santa Anita, and Del
14 Mar, and ask them about the opportunities for Cal-breds.
15 That's what I'm talking about.

16 COMMISSIONER KRIKORIAN: I see.

17 COMMISSIONER AUERBACH: Got it?

18 COMMISSIONER KRIKORIAN: Right.

19 CHAIRMAN WINNER: You're talking about exclusive
20 Cal-bred races?

21 COMMISSIONER AUERBACH: Right.

22 CHAIRMAN WINNER: Yeah.

23 MR. AVIOLI: Well, if I may continue, just to wrap
24 up this presentation, the next major line item is something
25 that will be new to the Board. It's called the We Care

1 Horse Campaign. This is new. This resulted from
2 conversations we had with Chairman Winner throughout the
3 fall, and some specific ideas from new CMC Board Member, and
4 TOC Board Member Terry Lovingier.

5 And the concept is with all the negative press out
6 there about racing, we don't do a good enough job of telling
7 the good stories. And, so, this is not a direct response to
8 anyone's criticism, it's more just telling what we do well.

9 And as an example, we've begun the process of
10 creating four vignettes. The first is a mare foaling. We
11 also have one that's focusing on after care of horses, that
12 we're working with some folks on. These are 30- to 60-
13 second vignettes that we will put on all the websites that
14 the industry would like to have, starting with the TOC. TVG
15 is preparing these for us. It's been a great partner in
16 that regard. And we hope to have something to show the
17 Board by the next meeting.

18 Now, that's only going to take, at most, 10
19 percent of this budget. So, the other \$200,000, the other
20 \$180,000 or so is unallocated right now. And we have a
21 meeting tomorrow, with Chairman Winner -- a week from
22 tomorrow, to begin discussing what we're going to do with
23 that.

24 As you all know, again, not a lot of money, can't
25 do any sort of big campaign for that in California, but it's

1 a start. And, so, we're hoping for new ideas. Anyone from
2 the Board's welcome to come to our meeting next week. And
3 it's just a way to get good stories about racing using the
4 internet, using vignettes, what we call them. So, that's
5 what that is.

6 COMMISSIONER RUANO: I'm interested.

7 MR. AVIOLI: Great. We'll send you an invitation.
8 Thank you.

9 CHAIRMAN WINNER: Obviously, as you said, \$200,000
10 is not a huge amount of money. So, if there's any
11 organization that would like to add a little bit to that,
12 that would be helpful.

13 MR. AVIOLI: Yeah.

14 CHAIRMAN WINNER: And we'll talk about it at the
15 meeting next week.

16 MR. AVIOLI: Yeah.

17 CHAIRMAN WINNER: What kinds of things can be done
18 with the vignettes and how best to distribute those.

19 MR. AVIOLI: And, again, I do want to emphasize
20 that TVG has offered a lot of resources, without asking for
21 anything in return, and they're going to show these --

22 CHAIRMAN WINNER: And we appreciate that very
23 much.

24 MR. AVIOLI: Yeah. And we've kicked them around a
25 little bit, lately, but we appreciate them very much.

1 COMMISSIONER AUERBACH: I just want to ask, is
2 Craig Dato involved, intricately, with this?

3 MR. AVIOLI: Yes.

4 COMMISSIONER AUERBACH: Okay.

5 MR. AVIOLI: Everyone had different versions of
6 the truth they've got here, and so Craig is one of the
7 architects of the program.

8 COMMISSIONER AUERBACH: Okay, because he's the
9 best -- not to throw anybody under the bus, but
10 perceptually, he's the best at doing the marketing aspect.
11 So, I would hope to see him take the lead, rather than a
12 backseat here. I don't know what's going on behind the
13 scenes back there, but I would certainly hope that Mr. Dato
14 is front and center with this process.

15 MR. AVIOLI: Noted, thank you.

16 COMMISSIONER KRIKORIAN: Greg, I have a question.

17 MR. AVIOLI: Yes, sir?

18 COMMISSIONER KRIKORIAN: It looks like you're
19 throwing the Cal Racing website under the bus here, a
20 \$10,000 budget.

21 MR. AVIOLI: I was just going to get to that. Can
22 I get to that?

23 COMMISSIONER KRIKORIAN: Can you explain this?

24 MR. AVIOLI: Yeah, that was my last point. So,
25 the main thing that you've seen, that's declined

1 significantly from last year, where that was a \$70,000
2 number, is the Cal Racing website. That \$70,000 was almost
3 all paid to Robert's Communications last year, in exchange
4 for them basically running it.

5 And as we have discussed, I think at the January
6 meeting, a decision was made to go a new program this year,
7 where the users of the program would fund it, essentially,
8 become -- as opposed to it being free. Starting with the --
9 what's the lowest in five?

10 MS. MCDONALD: \$12.00 a year.

11 MR. AVIOLI: \$12.00 a year gets you access to that
12 at a minimum, and then \$5.00 a month, or \$60.00 a year will
13 get you the high definition.

14 Now, since that time, as you know, because we've
15 all had meetings about it, we've had some pushback from some
16 folks, including some members of this Board, as to why we
17 moved to a pay model versus keeping it free.

18 We have a meeting, tomorrow, of the CMC, where
19 that's going to be one of the first items on the agenda.
20 There are members of the CMC, including myself, who are open
21 to reconsidering that decision. We also will be having a
22 motion tomorrow to, at a minimum, put the replays on the
23 races on the same day when they're run. So, now, you have
24 to wait a day. So, I'm confident we'll have that changed.

25 The challenge that we have in this regard, and

1 they're here, so they can speak for themselves, is the
2 Stronach Group has made a business decision that they do not
3 want to authorize CMC to show races live on CMC for free.
4 And that we, unfortunately, do not have the ability to
5 require them to do that.

6 So, were we to change our position and go back to
7 a free play model, we would only be able to show the fairs,
8 Del Mar, and Los Alamitos. And as we all know, that's
9 lacking 70 percent of the product in California.

10 So, that's where it stands right now. And Mr.
11 Daruty's here, if you'd like to have him comment on that,
12 but that's where we are.

13 COMMISSIONER AUERBACH: I wanted to --

14 CHAIRMAN WINNER: One at a time. Go ahead.

15 COMMISSIONER AUERBACH: I'm sorry. I did have a
16 talk, yesterday, it was very late so I didn't get back to
17 George, or to you, Greg, with Keith Brackpool last night.
18 And we did talk about -- not about changing or anything like
19 that. But what we did talk about was getting a full
20 overview of how it functions now, with Roberts, and all of
21 that, and some of the things that went into the decision.
22 So, rather than have Scott come and share anything with us,
23 I think it would only be fair for they -- the way I got it
24 from Keith is they'd like to make some kind of a
25 presentation of what was done, and why it was done, and how

1 it was done.

2 MR. AVIOLI: Great.

3 COMMISSIONER AUERBACH: I thought that it would be
4 best to have it at our next Santa Anita meet. So, I wasn't
5 sure when our next meeting is. I guess it's not next month,
6 but the month after.

7 So, I mean, if everybody wants Scott to come up
8 and talk about it, I'm sure he will but --

9 MR. AVIOLI: No, it's up to you. I would say,
10 though, on the point we are having the Roberts guys at the
11 CMC meeting tomorrow, to explain exactly how it's done. And
12 if you're available, you should join.

13 CHAIRMAN WINNER: Hold on, Scott, just for a
14 second. George, you had a -- you were going to make a
15 point?

16 COMMISSIONER KRIKORIAN: Well, aside from -- you
17 know, just aside from the issue you're addressing right now,
18 about this signal, this side is the -- you know, this is the
19 window, the internet window to California racing. They have
20 a \$10,000 budget. It just doesn't make any sense to me.
21 This should be the focal point for access to all of the
22 different racing entities, marketing campaigns, all of the
23 different things that are happening in racing. This should
24 have a much more -- in just my personal opinion, it should
25 have a much more significant budget than what it has now,

1 and it should be addressing a lot of these other issues that
2 I'm bringing up. And I'd sure like to see it. I don't know
3 how any of the other Commissioners feel, but I think that
4 that's really important. That's the face of horse racing in
5 California. It's got a \$10,000 budget. It just doesn't
6 make any sense.

7 COMMISSIONER RUANO: And I agree with Commissioner
8 Krikorian.

9 CHAIRMAN WINNER: Hold on one second. Go ahead,
10 Commissioner.

11 COMMISSIONER RUANO: No, I mean, if we're trying
12 to attract younger, or different audiences, and we're not
13 investing in a website, it doesn't --

14 MR. RUBENSTEIN: In fairness, you know, the
15 individual tracks, Del Mar for example, and I know Santa
16 Anita does as well, we are spending significant resources
17 within our marketing budget to do exactly that.

18 COMMISSIONER RUANO: Okay.

19 MR. RUBENSTEIN: So, promote marketing programs.
20 And we do have links. I mean, Cal Racing, you know, from my
21 stand point, was really the video portal so folks could
22 watch replays and streaming. And there are direct links.
23 So, if you want to buy tickets to Santa Anita, or Del Mar,
24 or find out about promotions or, you know, horseman
25 information, you go directly to the individual track

1 websites.

2 COMMISSIONER RUANO: Okay.

3 CHAIRMAN WINNER: Can I ask a question? This
4 transition to pay versus free, when did that take place,
5 exactly?

6 MS. MCDONALD: January 7th.

7 MR. AVIOLI: January 7th.

8 CHAIRMAN WINNER: Okay. Is there a way that you
9 could have or have you tracked how many hits you're getting
10 now, compared to what you were getting before in terms of
11 the viewers watching the races?

12 MR. AVIOLI: Absolutely.

13 CHAIRMAN WINNER: And has there been a significant
14 drop off, or not?

15 MR. AVIOLI: Shannon is --

16 MS. MCDONALD: Shannon McDonald, California
17 Marketing Committee. Yes, as far as what I can see on the
18 Cal Racing side --

19 CHAIRMAN WINNER: Yeah, that's what I was asking.

20 MS. MCDONALD: -- there has been, of course, a
21 drop because we're not seeing those numbers from the people
22 that are trying to watch the live stream.

23 CHAIRMAN WINNER: Right.

24 MS. MCDONALD: We have not -- our meeting, again,
25 is tomorrow and the Roberts people will be there. They can

1 tell us what that looks like on their end.

2 CHAIRMAN WINNER: Could you let us know?

3 MS. MCDONALD: Absolutely, of course.

4 CHAIRMAN WINNER: After your meeting. Because I
5 think that's an important question. Because we are making
6 an assumption, which I agree with, but it may not be
7 correct, that that has caused, that deters people from doing
8 what we want them to do, which is to go to that website and
9 watch the races, and get involved in the races, as
10 Commissioner Ruano was saying. We're trying to attract new
11 people.

12 If we make it more difficult, that does the
13 opposite of attracting new people.

14 MR. AVIOLI: I believe what we're dealing with, to
15 Commissioner Krikorian's point, is, well, it's a
16 philosophical issue. There is a lot of money being spent
17 with the Stronach Group right now, on the Santa Anita
18 website, and on XBTV. And as Josh pointed out, you have the
19 same going on with Del Mar.

20 And when I say the philosophical question, are we
21 better off with a Cal Racing website, where we all market
22 our own? So, think about NYRA. NYRA only has one,
23 essentially, race track in their company, in the State.
24 Finger Lakes is quite small. So, when NYRA does something,
25 it's for all of New York.

1 Here, we have the Stronach Group spending
2 resources, and I think they're going to have to weigh in on
3 how comfortable they are with pushing people towards a
4 common site as opposed to towards Xpress Bet where, for
5 example, you can watch all these races.

6 CHAIRMAN WINNER: But you have to have an account.

7 MR. AVIOLI: Right. But I'm just saying it's
8 really -- if we don't address that issue, we're not going to
9 get to Commissioner Krikorian's issue.

10 COMMISSIONER KRIKORIAN: Yeah, but the Stronach
11 Group's promoting their interest, okay.

12 MR. AVIOLI: Right.

13 COMMISSIONER KRIKORIAN: We're talking about
14 California horse racing interests, the rest of us.

15 MR. AVIOLI: Right.

16 COMMISSIONER KRIKORIAN: All the other people, all
17 the other entities. And there's no reason why this can't be
18 a window, a portal for access to horse racing. And if you
19 want to take, for example, Del Mar's site, and you want to
20 put it on there, and they can just click a button and go to
21 Del Mar, and then if Del Mar wants to have their own site,
22 which they do, it's a great site. And if they wanted to
23 allow you to push a button and go to Cal Racing, you know,
24 that's fine. But Cal Racing should represent racing in
25 California, not the individual race tracks.

1 MR. AVIOLI: Well, what you said is --

2 COMMISSIONER KRIKORIAN: They're in the business
3 of running race tracks. We're in the business of racing
4 horses.

5 MR. AVIOLI: And I don't want to belabor this
6 point, but you just said there's no reason. And there is a
7 reason. The reason is if the Stronach Group won't do it.
8 That would be the reason. If they would do it, we can do
9 it.

10 CHAIRMAN WINNER: Scott is standing right behind
11 you, so I'll let Scott speak for himself.

12 (Laughter.)

13 MR. DARUTY: Thank you. Scott Daruty on behalf of
14 Santa Anita and Golden Gate Fields. And Commissioner
15 Auerbach is correct, we have expressed a willingness to come
16 and make a full presentation, as full a presentation as this
17 Board would like. And we will do that.

18 My purpose today, you know, obviously, I'll answer
19 as many questions as you have. But I just wanted to point
20 out that the tenor of this conversation, insofar as the
21 Stronach Group has been involved, today, has sort of left me
22 with the impression that the people in this room think this
23 was about the cost. That there's been a lot of focus that
24 it's no longer free, and it used to be free, and this must
25 be a monetary issue.

1 And that's really not the case. What we are
2 trying to do, both on behalf of our own tracks, and also as
3 a participant in the California industry, on behalf of the
4 whole industry in California, is figure out how do we best,
5 as a group of California race tracks, get our content in
6 front of consumers.

7 And when we look at that question, there's three
8 different factors that we want to take into account. Cost
9 is one factor. But probably not the most important because,
10 frankly, we'd be happy to give it away for free, if there
11 was a way to do it and achieve our other two goals, giving
12 it away for free.

13 The second factor is what is the quality of the
14 video and what is the technology platform on which the video
15 is available to the consumer. Our old Cal Racing website
16 was free. I did it then. But it wasn't the greatest
17 quality video. It was not high definition video. It was
18 not ultra-friendly in a mobile format. It was good on a
19 desktop and good on a laptop. It wasn't great on your
20 phone. And it was virtually impossible to put on a big
21 screen TV.

22 Yeah, you could figure out how to connect your
23 computer to the TV or, you know, use Chromecast to get it to
24 the TV, whatever, but it didn't look good.

25 So, while some people are really only concerned

1 about whether it's free or not, and we do have those
2 consumers, we had other consumers, and a lot of them in the
3 younger demographic, who we're trying to attract, who were
4 more interested in the technical aspects. How do I see this
5 better on my phone? How do I get it on my big screen TV, in
6 my living room? Those were things we weren't able to do
7 under the old platform.

8 So, the thing that we can do, now, with the new
9 policy, and we'll go into it in detail, in the presentation
10 we make later, is the video is high definition. The video
11 is very easily put up on your big screen TV. And I'd love
12 to demonstrate that because, you know, you can watch it on
13 your 55- or 65-inch TV in high def. The Santa Anita feed,
14 and when Del Mar comes around, the Del Mar simulcast feed.
15 So, the quality is better, the technology is better.

16 That comes at a cost. In our particular case, we
17 decided that quality, the high definition, the Roku
18 streaming to your television, we were going to ask consumers
19 to pay \$5.00 a month for that, \$60.00 for the year.

20 Some are thrilled. We've had a lot of people sign
21 up for that package and they're thrilled with the
22 technology. Others don't want to pay \$5.00 a month.

23 So, we've tried to make it near free for the
24 others by charging a dollar a month, or \$12.00 the year.
25 Now, you might be scratching your head saying, come on, why

1 even charge \$12.00 a year? What's the point, other than
2 annoying the consumer. Well, no, it's not the point to
3 annoy the consumer. The point is to address the third issue
4 we're trying to balance.

5 Right, we're trying to balance three issues, cost,
6 technology, and what's the third? Piracy. Okay, we make
7 our money in this industry by people betting on our horse
8 races. But not just betting on our horse races, betting on
9 our horse races through legitimate means that return money
10 to the horsemen and to the race tracks.

11 And what we were encountering was a lot of piracy.
12 Not so much in the U.S., but internationally, a lot of
13 piracy in various markets. Where people would, guess what,
14 go on Cal Racing, sign up for a free account and then stream
15 the video into their bookshop, in Venezuela, or in Mexico,
16 or in Peru. Places where we were driving, as an industry,
17 as a California industry, I'm not talking about the Stronach
18 Group tracks. But I'm saying Del Mar, as well, and the
19 fairs, as well, were getting over a million dollars a year
20 of revenue from people in Latin America paying us for our
21 product. And we saw that begin to deteriorate significantly
22 because they no longer had to buy our product, we were
23 giving it away for free.

24 Okay, they weren't betting into our pari-mutuel
25 pools, they were booking the bets. So, all they needed was

1 the video. And if we gave the video away, they were able to
2 use that to run their businesses. So, we're trying to
3 protect the piracy.

4 Now, how does charging \$12.00 a month prevent
5 piracy? Well, I use this analogy. Someone told me, well,
6 no matter what you do they're going to pirate your signals.

7 And, you know, if I go away for the weekend, I go out of
8 town, I don't leave my front door wide open and my windows
9 wide open. Okay, I lock the doors, I lock the windows.
10 Somebody can still break into my house. They can bust a
11 window and climb in, if they really want. But it's a
12 deterrent factor. You eliminate a lot of it by locking your
13 doors.

14 So here, by charging \$12.00 a year to the
15 legitimate consumers, who want to watch our races, they have
16 to give us a credit card, which we verify. It has to be
17 associated with a real name, with a real address. All those
18 things are traceable, now. And does it eliminate every
19 single person who wants to pirate our signal? No, it
20 doesn't. But it knocks out a lot of it.

21 And we've already seen evidence where signals have
22 -- we used to see, very regularly in Latin America, the
23 California racing signals in the books. Shortly after this
24 was implemented, we had somebody in Venezuela who was in a
25 book, watching the Gulfstream races illegally, but Santa

1 Anita was not up. So, at least in that one location we
2 achieved our goal.

3 So, that's what we're trying to balance here, all
4 three of those, cost, technology, and preventing of privacy.

5 CHAIRMAN WINNER: There is -- I'm sorry, go
6 ahead.

7 MR. DARUTY: We think we've struck the right
8 balance, but we're certainly willing to listen to others'
9 input and make adjustments.

10 CHAIRMAN WINNER: There is a tradeoff and I'm not
11 sure that you can evaluate that tradeoff. By preventing
12 privacy, you may be also eliminating new viewers or viewers
13 by charging the \$12.00. There's a tradeoff to determine
14 whether that tradeoff is worth it.

15 MR. DARUTY: Well, that is correct.

16 CHAIRMAN WINNER: And have you considered that?

17 MR. DARUTY: That is correct. We have. And it's
18 a balancing. So, like any balancing, different people's
19 perceptions and experiences are going to lead them to a
20 different conclusion. We think we've come to the right
21 conclusion. But as I said, we're open to hearing other
22 views.

23 I will say, we can't lose sight of the fact that
24 every single race, every day, from every track in California
25 is streamed for free on Xpressbet, TVG, Twin Spires, and

1 every other ADW company. So, anybody who wants to watch our
2 races for wagering purposes certainly has an ADW account and
3 can stream that way. We still want to give them other
4 options, but it's not like Cal Racing is the only place
5 people can see our races.

6 CHAIRMAN WINNER: So, and as you know, there is
7 some perception that one of the reasons for doing this is to
8 drive people to the ADW sites. Because that's, essentially,
9 the only place you can watch it for free.

10 MR. DARUTY: And, again, if that were our goal, we
11 wouldn't be offering a \$12.00-per-year package for standard
12 definition and an upgrade to a \$5.00-a-month, or \$60.00-per-
13 year package for high def, mobile-enabled, Roku-enabled, all
14 the technology bells and whistles. I mean, that is not our
15 goal. If that was our goal, we would say our video's not
16 available any place except other than Xpressbet. Sign up
17 for an Xpressbet account or come here.

18 We've really tried not to take that approach.
19 We're very sensitive to that criticism. We have had people
20 send in e-mails that say, I will never again use Xpressbet
21 because I think the reason you adopted this new policy is to
22 drive me to Xpressbet.

23 CHAIRMAN WINNER: Right.

24 MR. DARUTY: And you know what, that is a shame.
25 But we're not going to let that incorrect conclusion drive

1 what we think is a very important policy which is how do we,
2 as an industry, distribute our product in a way that gets it
3 to the consumers we want to get to, with the technology they
4 want, at a price they are comfortable with, without allowing
5 pirates to steal our signal and take money out of the purse
6 account and out of the track commissions.

7 CHAIRMAN WINNER: Is there a way, and I'm sure
8 you've thought about it, to -- even if it's just a
9 perception and, as you said you've been getting e-mails, or
10 letters, or whatever, saying I'm never going to use
11 Xpressbet again because you're doing this in order to drive
12 people to Xpressbet. Is there a way of dealing with that
13 perception that could alleviate the concern that you just
14 agreed is there?

15 MR. DARUTY: I don't know the answer to that
16 question, but we're certainly open to it. And I will say, I
17 know there are certain Commissioners on this Board who are
18 unhappy with the rollout of this program. And I will take
19 responsibility for that. This was an important initiative,
20 as sort of the guy, really, whose primary focus is, you
21 know, making sure we're doing the right things with our
22 content, making sure we're getting appropriate payments for
23 our content, both for the purse account and for the tracks.
24 I felt like this was a discussion we'd been having for well
25 over a year and it was time to make the change. And, so, I

1 was the one pushing to try to get it in place early in the
2 Santa Anita meet.

3 And, so, could it have been rolled out better?
4 yeah, in hindsight, I certainly see mistakes we made. And
5 when I say "we", I mean primarily me. And would I do it
6 differently again? Yes. You know, I would have given --
7 again, we posted notices several weeks in advance. It was
8 pointed out to me why didn't you send an e-mail? You know,
9 to me, I get e-mails and I ignore them. So, I didn't think
10 that was probably the best way to communicate.

11 But in hindsight, yeah, should we have sent an e-
12 mail blast? Of course we should have.

13 Look, we're doing the best we can. This is a
14 legitimate -- you know, the piracy is a legitimate issue.
15 The need to upgrade the technology is a legitimate issue.
16 Delivering our video to people, you know, on their laptop,
17 in standard definition is not the wave of the future.

18 So, we made mistakes. We've learned from them.
19 But we still think this is the right policy.

20 CHAIRMAN WINNER: Thank you.

21 COMMISSIONER KRIKORIAN: Scott, I have a question,
22 if I may?

23 CHAIRMAN WINNER: Please, yeah.

24 COMMISSIONER KRIKORIAN: You say it's a piracy
25 issue, but I'm trying to understand how it can be a piracy

1 issue when, for example, if I take my iPad and I can be
2 anywhere, and I can go on DIRECTV and I can watch all the
3 races live. So, how do you stop that? You say there's a
4 piracy issue, but anyone can have access to live racing just
5 by doing what I just said, anywhere in the world.

6 MR. DARUTY: I'm not sure I follow your example.
7 You're saying because you're a DIRECTV subscriber?

8 COMMISSIONER KRIKORIAN: Yeah.

9 MR. DARUTY: Yeah. Well, you know, first of all,
10 DIRECTV has very strict requirements on commercial use of
11 their product, as well as geographic limitations. So, if
12 somebody's running a business doing that, that is something
13 that DIRECTV or other distributors will get involved in.

14 COMMISSIONER KRIKORIAN: But the point is there's
15 no way you're going to ever stop that, correct?

16 MR. DARUTY: There's no way I can absolutely
17 guarantee that someone's not going to break in my house, but
18 I don't leave my front door wide open when I go away for the
19 weekend.

20 COMMISSIONER KRIKORIAN: Well, I understand what
21 you're saying. But there's a million windows open across
22 the country just by being on your iPhone.

23 MR. DARUTY: And let me give you another example.
24 Because we have had meetings with regulators in Mexico and
25 meetings with regulators in Venezuela, which I did not

1 attend. But my colleague was there. And the challenge we
2 had was explaining to them, when we tried to say this is our
3 intellectual property, and these people in your country are
4 stealing our intellectual property. And they said, but
5 you're giving this away for free on your website. So, how
6 can they steal something that you're giving away for free?

7 So, there is an issue of contractual rights and
8 controls, and there's no perfect answer to piracy.
9 Absolutely not. But I don't believe that means we don't do
10 anything about it.

11 COMMISSIONER KRIKORIAN: Well, just one other
12 point that I wanted to make and then I'll drop this. One of
13 the things that I always enjoyed about Cal Racing was,
14 obviously, being able to just go to Cal Racing and watch the
15 races live. But the other thing is that when you're
16 watching it on Cal Racing, as soon as the race is over, if
17 you're on TVG, or the other programs, it cuts away to
18 something else.

19 When you're on Cal Racing, it continues to show
20 the horses, you know, come back for the winner's circle,
21 okay, and all these other things that you have. And you get
22 to see all these replays and all that stuff. So, you're
23 taking away all of that, you know, benefit.

24 MR. DARUTY: If I may respond, and I understand
25 that's a very good point. The program we're using now, the

1 video delivery that we're using now, is the Santa Anita
2 simulcast feed or the Del Mar simulcast feed. It's not
3 going to cut away. As long as you sit and want to watch it,
4 you can watch the horses walk back to the winner's circle,
5 you can watch them in the paddock. It is the same feed you
6 would see if you were here at the race track. It doesn't
7 cut away to anything.

8 The one other point I want to make and, again, I
9 realize this is the California Horse Racing Board, and your
10 goal is to see California horse racing succeed. But I don't
11 think we should ever lose sight of the fact that we are in a
12 national industry.

13 California, you know, isn't on an island. It does
14 participate with the rest of the country. Many of our fans
15 are interested in racing from Florida or from California.

16 And, so, one thing this new program has allowed us
17 to do is offer our customers the ability to stream not just
18 the California races, but every race in the country. And of
19 the packages we've sold, in the last count, I'd only seen it
20 when we were in two or three weeks, but it was, you know,
21 six, seven, eight hundred different accounts had been signed
22 up, already. A significant number of them were the higher
23 priced, the \$25.00-a-month, stream every-race-in-the-country
24 package. And, so, obviously, the consumers are responding
25 well to Cal Racing now saying we're going to focus in on Cal

1 Racing, we're going to give you a \$5.00-a-month deal to
2 watch just California racing. But if you want to watch
3 other races, too, then you can do that here, as well.

4 COMMISSIONER KRIKORIAN: Well, we're talking about
5 monies that are budgeted, right, and how we spend our money,
6 correct?

7 CHAIRMAN WINNER: Yeah.

8 COMMISSIONER AUERBACH: I had a couple of
9 questions, too.

10 CHAIRMAN WINNER: There's also an argument that
11 that, too, goes both ways.

12 COMMISSIONER AUERBACH: Everything does.

13 CHAIRMAN WINNER: It's not as though we don't want
14 to encourage people to watch California racing, rather than
15 give them a panoply of all kinds of racing.

16 MR. DARUTY: Well, so, we need to remember that
17 the consumer today, especially the younger consumer, who we
18 are sorely missing, is used to seeing everything they want
19 to see, when they want to see it, where they want to see it.

20 So, if we tell somebody, come to Cal Racing and
21 watch California racing, and then you've got to go to a
22 different website that NYRA runs, to watch the New York
23 racing. And, then, go to Gulfstream's site to watch
24 Gulfstream racing. At some point they're going to go, this
25 is crazy. They want to go to one place and see everything.

1 CHAIRMAN WINNER: I mean that's the problem,
2 though, Scott, is I mean there are tradeoffs with almost all
3 of this stuff.

4 MR. DARUTY: Absolutely. And based on your
5 perspective and your experience, everybody balances those
6 tradeoffs a little differently.

7 CHAIRMAN WINNER: That's right.

8 Commissioner Auerbach, please.

9 COMMISSIONER AUERBACH: Greg, did you say
10 something about trying to get a situation where we can get
11 the replays right after the race and don't have to wait 24
12 hours, which I don't understand?

13 MR. AVIOLI: Yeah, the same day. What we're
14 talking about is at the conclusion of the race card to have
15 them all available.

16 COMMISSIONER AUERBACH: At the conclusion of the
17 race card.

18 MR. AVIOLI: Yes.

19 COMMISSIONER AUERBACH: Rather than waiting the 24
20 hours. Which, by the way, I don't understand the logic or
21 the technology that requires the --

22 MR. AVIOLI: Scott can address that.

23 MR. DARUTY: I'd be happy to address that. The
24 issue is if you make the replays available immediately,
25 technically it is possible to make the replay as soon as

1 it's declared official.

2 COMMISSIONER AUERBACH: But?

3 MR. DARUTY: Or, as soon as they cross the finish
4 line. But, again, if you're point is to prevent privacy and
5 you're giving away your video for free, you know, two
6 minutes after the race started, then our experience from
7 looking at other markets who've tried that, is that the
8 books in Latin America, or wherever they are, simply use the
9 replays. Right. They have their customers place their
10 bets, you've got to wait two minutes, and then you get to
11 watch the race, instead of watching it live. If you're
12 sitting in Venezuela, you don't care. You wait two minutes
13 and you can watch the replay, and you think you're watching
14 the race, and you find out whether you win or lose. So, it
15 doesn't solve your piracy problem. That is the reason for
16 making them available the next day.

17 The platform that we are using, which controls all
18 replays in the industry, because people don't just want to
19 see the California races, they want all replays so that they
20 can handicap the horse and see wherever he ran, you know,
21 what his last race looked like. That sort of has two
22 options right now. There's either immediate replays or
23 next-day replays.

24 And, so, what you're asking us is logical, but
25 it's us going to our vendor, saying, you have a system. We

1 can do X or we can do Y. We want you to build the
2 technology to allow us to do something completely different
3 which is make them available at the end of the day.

4 Is it possible? It may be. What's the cost? We
5 don't know, but we're going to talk about that tomorrow.

6 COMMISSIONER AUERBACH: If we have money for it,
7 if we decide to let it stay, we have money for it.

8 The other point, and I can't get beyond this
9 point, forget the mistakes that were made in the beginning,
10 I think the mistakes were vast. Because this was an
11 institution, Cal Racing was, that was fundamentally changed
12 without getting, in my view, input from the community.

13 And I have learned over the years, since I've been
14 doing this, that input and working with the community when
15 you're doing things is vital. Now, I know you have a board
16 and I'm just suggesting that the board was maybe not in
17 tune, or did not consider that other members of the
18 community might want to be heard.

19 This was a big change. Whether anybody wants to
20 say, ah, no, it's just a little thing. It isn't. It's a
21 big change. And I think that one of the good things about
22 Cal Racing, and having it be out there was, to me, it's you
23 want to attract new people. Well, if I'm somebody who hears
24 about racing, I am not going to -- and I'm curious about it,
25 I'm not going to go sign up with anybody, and pay money for

1 something I'm curious about. I want to go to a place and
2 watch it, and see what it is.

3 And I think that that was, to me that was the most
4 important thing because it was a California Marketing
5 Committee, and we wanted to get new people to look at it.
6 you don't charge somebody a price to look at a product, when
7 they don't even know if they want to be involved in it.
8 That was my take on it. And that's what my big concern was
9 about somebody flipping around and going through whatever
10 and, ah, hey, this looks interesting, maybe I'll get
11 involved in this. They're not going to do it and have a
12 screen that comes up. Like when you're going to do
13 something and you click on it and it's like, you know, put
14 in this. And you're not going to do that, because you're
15 just curious.

16 So, we've taken away whatever that element was,
17 whether it was one person or a hundred people over the
18 years, I don't know the answers to that.

19 I just, I'm still uncomfortable, and unhappy with
20 the way we've handled it, which we know. And it's a
21 California Marketing Committee and that's my focus. And I
22 don't see it serving the function.

23 Now, I do know, or I believe I know, that the
24 money that funds California Marketing is supposed to sunset,
25 I think, in 2018. And if we're not doing California-based,

1 California-concerned things, I don't know why the
2 Legislature would want to continue with the program at all.
3 That's just my thought. I don't know.

4 COMMISSIONER KRIKORIAN: Yeah, this is trying to
5 kill the California racing program. That's what this does.
6 We ought to take monies from these other -- budget monies
7 from these other -- seriously consider taking money from
8 these other things and put them into California racing, and
9 I think we get more bang for our buck. I think that's a way
10 to --

11 CHAIRMAN WINNER: Or find another way to increase
12 the budget, which is what you suggested at the outset.

13 COMMISSIONER SOLIS: I have a question.

14 COMMISSIONER KRIKORIAN: We can do that, too.

15 COMMISSIONER SOLIS: I have a question.

16 CHAIRMAN WINNER: Yes, please, Commissioner Solis.

17 COMMISSIONER SOLIS: As within promoting racing in
18 the Asian community, we have seen more Asian coming around
19 to the races. And I was wondering if we can do some kind of
20 advertising in the Asian TV? We have, around Arcadia, we
21 have so many big, Asian communities, as well as down in Del
22 Mar and Mesa, and up in San Francisco. So, are we looking
23 to doing something like that?

24 MR. AVIOLI: I would -- the CMC does not have that
25 on its agenda. But I believe that Santa Anita does have

1 some work going on in that area. Perhaps you could ask
2 someone, Joe Morris, or someone from Santa Anita to address
3 that because I know they do have outreach to those
4 communities.

5 COMMISSIONER SOLIS: Yeah, that would be great
6 because, I mean, when we run, you see more Asian people
7 coming around. And, you know, they're very loyal customer.

8 And if we can do some -- do more signs in their own
9 language, or do some kind of lounge, or something like that,
10 in their own language, it would really help racing. And as
11 we know, and they could be potential owners in the future.

12 MR. AVIOLI: Yes, I agree with you.

13 CHAIRMAN WINNER: Let me ask this question, are
14 there any other questions or comments for Scott?

15 COMMISSIONER CHOPER: Yeah.

16 CHAIRMAN WINNER: Okay, Commissioner Choper.

17 COMMISSIONER CHOPER: Just one. I just want to
18 say, I do appreciate the fact that you are engaged, as I
19 imagine all of us here at one time or another, in balancing
20 a bunch of competing factors. And mistakes are made along
21 the way, that's inevitable. Even machines make those
22 mistakes along the way. So, I think you get the point. It
23 seems to me, the important thing is you do have in mind that
24 the goal is the same thing that we have in mind.

25 And yours is perhaps a larger horizon, than ours.

1 At least, ours is an immediate proposition. But we do a
2 lot of business in other states, with California racing.
3 So, it all tends to, in one way or another, compete with one
4 another, these ideas. And I just want to say I think your
5 interests, so long as they're the same as ours, and I think
6 basically they are, you're doing what you can. You're doing
7 a good job.

8 MR. DARUTY: Thank you.

9 CHAIRMAN WINNER: Thank you. Any other questions
10 or comments for Mr. Daruty? Thank you, Scott.

11 Were you finished or do you have --

12 MR. AVIOLI: Well, as I think I've pointed out to
13 a couple Commissioners, we do have approximately \$100,000
14 that's unbudgeted this year, surplus for last year. So, we
15 have this pot of money. I believe, in the context of
16 resolving this issue of what we can and can't do with the
17 Stronach Group signals, it will largely define where Cal
18 Racing goes.

19 And we've talked about the site has not had a
20 review or an overhaul in about five years. So, we're
21 considering using some of the money into bringing in some
22 outside experts and say what can we do to make this site all
23 that it can be for California racing. Again, with the
24 caveat that, as we've said, it's a different site, now, as a
25 for-pay site, versus a free site. We have to take that into

1 account and say, what can we come up with?

2 And we're willing, as the chairman I'm willing to
3 recommend that we use that money for that purpose.

4 CHAIRMAN WINNER: I think there's no question that
5 the site needs upgrading. I think that's clear under any
6 circumstances, the site needs to have a --

7 MR. AVIOLI: A little pop.

8 CHAIRMAN WINNER: Yeah.

9 MR. AVIOLI: So, that's all we had. Thank you.

10 CHAIRMAN WINNER: Any other questions?

11 EXECUTIVE DIRECTOR BAEDEKER: I have a comment.

12 CHAIRMAN WINNER: Please?

13 EXECUTIVE DIRECTOR BAEDEKER: Just a caution.
14 Next year, you've got to meet the deadline. The law states
15 that you shall submit your budget to the Board by October
16 1st, and then you shall present this presentation at the
17 November meeting. So, we can't just ignore that.

18 MR. AVIOLI: Understood. Understood. I was not
19 chairman on October 1st. But next year, I will be.

20 (Laughter.)

21 EXECUTIVE DIRECTOR BAEDEKER: Then we'll take the
22 handcuffs elsewhere.

23 (Laughter.)

24 CHAIRMAN WINNER: Thank you all very much. Thank
25 you.

1 Let's move on to Item Number 5, Public hearing and
2 action by the Board regarding a proposed amendment to CHRB
3 Rule 1581, Racing Secretary to Establish Conditions to allow
4 Racing Secretaries to write medication-based eligibility-
5 based conditions as agreed to with the acknowledged
6 horsemen's organizations, and approved by the Board before
7 entries are taken for the race; and CHRB Rule 1843,
8 Medication, Drugs and Other Substances, to clarify that
9 medication-based eligibility conditions, with authorized
10 thresholds more than what is authorized by the Board, are
11 not to be deemed in conflict with the Board's intent and
12 other regulations. This concludes the 45-day public comment
13 period. The Board may adopt the proposal as presented.

14 Mr. Laird?

15 MR. LAIRD: Phil Laird, CHRB staff. This should
16 be a matter that's familiar to most of the Commissioners.
17 These regulations are currently in effect as emergency
18 regulations. And this is to essentially adopt them on a
19 permanent basis.

20 We received, I think, four comments officially
21 during the comment period, two in favor, two opposed. Those
22 have been included in your packages.

23 Happy to answer any questions. But the one point
24 I'd like to just kind of take issue with, publicly, from
25 some of the objections I've seen, is that this is an

1 unlawful delegation of the Board's authority. And I really
2 couldn't disagree with that point more. The Board will not
3 be -- basically, what's being discussed here is, you know,
4 racing conditions. What the Board will continue to do is
5 the same post-race testing it's always done. Horses will be
6 required to meet the same thresholds that we've always
7 required them to. And, really, nothing in our post-race
8 testing program will be altered by this regulation. So, I
9 just want to make that point, now.

10 EXECUTIVE DIRECTOR BAEDEKER: And, also, Phil, you
11 might point out the chronology here. This matter is before
12 the Board today because the Superior Court Judge, Judge
13 Chalfant, recommended that this Board entertain and approve
14 this type of a regulation.

15 MR. LAIRD: Absolutely. It was suggested that the
16 Board essentially needed to amend its regulations to allow,
17 you know, in that specific instance for Los Alamitos, to
18 conduct their pre-race eligibility testing program, which
19 this Board on the emergency basis has approved. And this
20 would, again, allow these things to continue on a permanent
21 basis.

22 CHAIRMAN WINNER: We have three cards on this one.
23 Before we do that, do any of the Commissioners have any
24 questions for Mr. Laird?

25 Okay, then I'm going to call Tom Robbins. Tommy.

1 MR. ROBBINS: Tom Robbins, Del Mar. I'm here to
2 just state, very briefly, and speaking on behalf of the Del
3 Mar Thoroughbred Club, that we support the proposed
4 amendment to Rule 1581. In its modified form, it requires
5 preapproval by the horsemen organization, and the CHRB, so
6 we are good with that. Thank you.

7 CHAIRMAN WINNER: Thank you very much.

8 Any questions for Tommy?

9 COMMISSIONER AUERBACH: Yeah, you have two more
10 minutes, Tommy.

11 (Laughter.)

12 CHAIRMAN WINNER: You have two more minutes and 30
13 seconds.

14 Drew, Drew Couto.

15 MR. COUTO: Good morning, Commissioners. Drew
16 Couto, on behalf of Los Alamitos Quarter Horse Racing
17 Association.

18 I want to thank the Commission, staff, and the
19 Commissioners for moving these two regulations forward. I
20 wanted to just briefly make some remarks about our view of
21 the regulations. I want to echo what Mr. Baedeker just
22 said. We believe very much, having sat through the last few
23 hearings, and particularly the Court's orders, what was done
24 here by the CHRB was entirely consistent with the Judge's
25 recommendations.

1 I think, contrary to the views expressed opposing
2 this measure, medication policy in the State has always
3 reflected not simply the Board's view, but a reflection of
4 horsemen's interest and racing association interest. And a
5 melding of all of those interests have led to the medication
6 policies that we have.

7 In this particular instance you have the racing
8 association, the Quarter Horse Racing Association, and its
9 horsemen, agreeing that there was an issue within the
10 industry and there needed to be something done to address
11 that.

12 The executed a contract between, that attempted to
13 deal with this, and it does now deal with this, with a
14 process that has run through the CHRB. And that reflects
15 exactly the intent of the law and I believe the intent of
16 the Court's ruling. In particular, the Court said, as long
17 as you can do this in a manner that is not inconsistent with
18 another statute, we fully support it. And the Court said, I
19 want to be on record as saying, personally, this Court
20 believes that there is an appropriate reason to regulate the
21 use of medication within the industry. We just want to make
22 sure it's done properly.

23 And on behalf of Los Alamitos Quarter Horse
24 Association, we want to be on record as stating we believe
25 that what the staff has done, and what the Commission has

1 done is absolutely appropriate and entirely consistent with
2 the Court's order. Thank you very much.

3 CHAIRMAN WINNER: Thank you, Drew. Any questions
4 for Drew?

5 COMMISSIONER AUERBACH: I have a question for
6 Drew.

7 CHAIRMAN WINNER: Yes, Madeline.

8 COMMISSIONER AUERBACH: I don't know that this
9 question can be answered, but I want to pose it, anyway. In
10 trying to read the responses, and I put trying because for a
11 lay person, once again, whether it's legal or medical, it's
12 very difficult to get through it.

13 How tight has this been drawn? How tightly are we
14 doing this to try to fend off these attacks on everything we
15 seem to try to do?

16 Now, I understand that people always have appeals
17 and things of that nature, but it takes a great deal of
18 resources to fight these things. And, so, how tightly do we
19 view the way this has been constructed?

20 MR. COUTO: One thing about the law is it's always
21 a reflection of counsel's opinion. You've been submitted
22 two different lawyers' views, who represented the same
23 client.

24 COMMISSIONER AUERBACH: Right.

25 MR. COUTO: They take a view that it's not

1 consistent. I, like the AG, who represented the State here,
2 take a view that it is consistent with what the Court did.

3 I think in terms of the scope of what the rules
4 do, the Board took the proper approach. It's a narrow
5 approach to addressing a specific problem. It is not
6 impacting a more broad issue. It is narrowly focused. It
7 is reasonable in scope. It is reasonable in application.
8 It requires consent of the interested parties. It requires
9 review and approval of the Horse Racing Board. And it
10 requires the implementation of a policy, of a procedure in
11 place to protect the due process interests.

12 So, if we're talking scope, and broad, narrow, I
13 think it is proper. It is proper in its focus. It is
14 proper in its scope. And that's one lawyer's opinion. And
15 the others may view it differently. But I tend to share the
16 view of the AB, in particularly with regard to --

17 COMMISSIONER CHOPER: Particularly those that
18 represent other interests, maybe?

19 MR. COUTO: Correct. Correct.

20 COMMISSIONER AUERBACH: Well, you know, I
21 appreciate the fact that if we had gotten a different Judge,
22 we could have had a different outcome. I get all that. So,
23 I know we're addressing one specific point of view.

24 And what concerns me is every time we address a
25 specific point of view, another one, you know, comes along

1 and is equally as vulnerable to an attack and --

2 CHAIRMAN WINNER: But that's always going to
3 happen.

4 COMMISSIONER AUERBACH: Yeah, I know. That's why
5 I said I didn't know if the question could even be answered
6 but --

7 MR. COUTO: As a trial attorney, I look at this
8 and I say there is a very narrow series of issues that the
9 Judge had in front of him, and that he tried to rule on.
10 And if you keep it limited to the issues that were in front
11 of him, that's the context in which we have to do it.

12 The issues that were articulated by the Court have
13 been addressed by these regulations, and I believe they're
14 proper.

15 The arguments submitted in opposition, I believe
16 are much broader, they reach well beyond the issues that
17 were in front of the Court. And I don't think that's what
18 the Court intended, nor did it rule that way.

19 But again, as Commissioner Choper pointed out,
20 opposing interest counsel might have a different view.

21 COMMISSIONER AUERBACH: Okay, thank you.

22 CHAIRMAN WINNER: Thank you, Drew.
23 Dan Schiffer.

24 MR. SCHIFFER: Good morning, Chairman Winner,
25 Members of the Board. My name is Dan Schiffer. I

1 represent the Pacific Coast Quarter Horse Racing
2 Association, which is known as the PCQHRA.

3 The PCQHRA is the statutorily authorized
4 representative of the Quarter horsemen in California. It
5 represents the breeders, owners, and trainers in the Quarter
6 Horse business. And the Mutual Benefit Corporation, which
7 is the PCQHRA, has a board of directors, which is elected by
8 the members. And I'm sure you probably all know this, but I
9 want it to be clear because I've been coming before you, on
10 behalf of the PCQHRA for, I can't even recall how long,
11 advocating for what is now before us as amended regulations.

12 And we have been behind it from the very beginning
13 and continue to be behind these proposed regulations because
14 we saw a problem. And we are the people who are investing
15 our money in this industry to produce horses to race. And
16 it all started with Dr. Allred looking at the highest
17 quality races, and wanted them to be free of the influences
18 of clenbuterol, which contrary to the oppositions that were
19 filed, can be a steroidal influence on horses. And that's
20 something this industry does not want.

21 And when we look at the results of those races,
22 and the highest quality races are now beyond that, when we
23 make our decisions of who we're going to buy at a sale, who
24 we're going to breed to in a stallion, who we're going to
25 keep as a mare, the results of those races are tremendously

1 important. And if we do not know the influences that
2 brought those results to be, then we can't make a good
3 judgment.

4 For those reasons, the Board, as a whole, and the
5 PCQHRA, consistently, completely in favor of these proposed
6 amendments and we request that you pass them. Thank you.

7 CHAIRMAN WINNER: Thank you, Mr. Schiffer. Any
8 questions? Thank you very much.

9 All right, Commissioner Auerbach moves.

10 COMMISSIONER AUERBACH: She does.

11 CHAIRMAN WINNER: And Commissioner Solis seconds
12 passage of the measure. And I'll call the roll.

13 Commissioner Solis?

14 COMMISSIONER SOLIS: Yes.

15 CHAIRMAN WINNER: Commissioner Auerbach?

16 COMMISSIONER AUERBACH: Yes.

17 CHAIRMAN WINNER: The Chairman votes yes.

18 Commissioner Krikorian?

19 COMMISSIONER KRIKORIAN: Yes.

20 CHAIRMAN WINNER: Commissioner Jesse?

21 COMMISSIONER CHOPER: Yes. --

22 COMMISSIONER RUANO: Yes.

23 CHAIRMAN WINNER: Commissioner Ruano?

24 The measure passes unanimously. Thank you very
25 much, Phil. Thank you, everyone who participated. And

1 thank you for the comments.

2 Moving right on, Item Number 6, Public hearing and
3 action by the Board regarding the proposed amendment to CHRB
4 Rule 1632, Jockey's Riding Fee, to adjust the jockey riding
5 fee scale pursuant to Business and Professions Code section
6 19501. This concludes the 15-day public comment period.
7 The Board may adopt the proposal as presented.

8 Shane Gusman is here, on behalf of the Guild. And
9 I notice a number of distinguished jockeys here, with us
10 today. You're all welcome.

11 MR. GUSMAN: Good afternoon, or good morning, Mr.
12 Chairman, members of the Committee. Shane Gusman, with the
13 Law Offices of Broad and Gusman, here representing the
14 Jockey's Guild.

15 We certainly support updating the fee schedule,
16 found in Rule 1632. Our only concern, and I believe you
17 have our letter dated February 13th, our only concern is
18 there is a technical omission, in our view, in the
19 regulation. I think, based on an assumption that there
20 aren't any purses below \$5,000.

21 The way both A and B, in the regulation is
22 crafted, there is no winning percentage, the 10 percent, for
23 the winning fee is -- there's none listed for anything below
24 \$5,000, any purse below \$5,000.

25 And, equally, in subdivision B, as drafted there's

1 no losing out fees for any purses below \$5,000.

2 And my understanding is there are at least a few
3 occasions where we have like \$4,000 purses. So, in those
4 instances, it would leave jockeys and others with some
5 confusion. So, we would urge the Board to direct staff to
6 update that proposed regulation, so that we can have that
7 clarified.

8 CHAIRMAN WINNER: Well, here's the issue, and I'll
9 turn to the lawyers on this. I'm not sure that we would
10 disagree with that. The problem is this has already gone
11 out for 45 days. If we amend this, now, I believe we have
12 to start the process over. Is that right, Phil?

13 MR. LAIRD: Phil Laird, CHRB staff. I should
14 clarify. So, actually, this Board has already approved this
15 regulation after a 45-day public comment period. It was
16 submitted to the Office of Administrative Law and they
17 denied it.

18 CHAIRMAN WINNER: Right.

19 MR. LAIRD: And, so, they disapproved it. What is
20 before the Board today is it was noticed for a 15-day period
21 to modify the text, as reflected in your Board packages,
22 Text A, which begins on page 6.4. So, the Board has the
23 option to either adopt that language today or during the 15-
24 day comment period we did receive the comment you mentioned,
25 from the Jockey's Guild. And they proposed, essentially,

1 what is Text B in your book, on page 6.7. So, if the Board
2 did want to, instead, adopt this modified text, we would
3 have to go out for another 15 days, but only 15, not 45.
4 And that would, essentially -- so, we would be back before
5 you one more time for a final adoption and then it will be
6 returned to OAL.

7 CHAIRMAN WINNER: So, then, it will come up at the
8 next meeting.

9 MR. LAIRD: At the next meeting, next month.

10 CHAIRMAN WINNER: So, in other words, just so you
11 understand, that would then delay adoption. We could adopt
12 it today or we could adopt it at the next meeting, a month
13 from now.

14 MR. GUSMAN: With the adjustment?

15 CHAIRMAN WINNER: With the adjustment.

16 Or, we could introduce a new --

17 COMMISSIONER SOLIS: Chairman Winner, I just want
18 to recuse myself from --

19 CHAIRMAN WINNER: Please, go ahead.

20 COMMISSIONER SOLIS: I'd like to recuse myself
21 from voting on this matter.

22 CHAIRMAN WINNER: Oh, you're recusing -- I
23 couldn't hear you, I'm sorry. Okay.

24 MR. LAIRD: And I will point out as far as the
25 concern he does mention, I think there is some validity as

1 far as how Text A was proposed. So, to the extent the Board
2 is willing, it might be advisable to --

3 COMMISSIONER KRIKORIAN: I have a question.

4 CHAIRMAN WINNER: Please?

5 COMMISSIONER KRIKORIAN: Can we move forward with
6 this today and then come back with another amendment,
7 addressing the horses that are below \$5,000 in a later, you
8 know, in a separate deal, later?

9 MR. LAIRD: Yeah, are you suggesting we start a
10 second --

11 COMMISSIONER KRIKORIAN: I'm just asking. No, can
12 we approve everything today and, then, so that does not deal
13 with the issue of the purses that are below \$5,000. And,
14 then, just deal with that as a separate issue in the future,
15 to address it?

16 MR. LAIRD: That would be a separate rulemaking
17 file, so we'd have to go through the 45-day --

18 COMMISSIONER AUERBACH: Start the process all
19 over.

20 COMMISSIONER RUANO: Oh, that's time consuming.

21 EXECUTIVE DIRECTOR BAEDEKER: So, let's recap,
22 Phil. The options are to accept --

23 MR. LAIRD: Text A, as proposed.

24 EXECUTIVE DIRECTOR BAEDEKER: Which does not solve
25 the problem raised by Mr. Gusman.

1 MR. LAIRD: Or to basically get direction from the
2 Board, today, to send Text B out for 15-day comment period,
3 to modify as suggested here.

4 COMMISSIONER CHOPER: And bring it back in March.

5 MR. LAIRD: And, then, bring it back in March.

6 CHAIRMAN WINNER: What's your pleasure, Mr.
7 Gusman?

8 MR. GUSMAN: I think approving the other text, to
9 bring it back in March, would be our preference.

10 COMMISSIONER AUERBACH: All right.

11 MR. LAIRD: Okay.

12 CHAIRMAN WINNER: Okay, is there a motion to that
13 effect?

14 COMMISSIONER KRIKORIAN: So moved.

15 COMMISSIONER RUANO: So moved.

16 CHAIRMAN WINNER: Okay, Commissioner Krikorian
17 moves, Commissioner Ruano seconds.

18 Commissioner Solis recuses himself, abstains from
19 this vote.

20 Commissioner Auerbach?

21 COMMISSIONER AUERBACH: Yes.

22 CHAIRMAN WINNER: The Chairman votes yes.

23 Commissioner Krikorian?

24 COMMISSIONER KRIKORIAN: Yes.

25 CHAIRMAN WINNER: Commissioner Choper?

1 COMMISSIONER CHOPER: Yes.

2 CHAIRMAN WINNER: Commissioner Ruano?

3 COMMISSIONER RUANO: Yes.

4 CHAIRMAN WINNER: All right, the measure carries
5 by a five to nothing vote. Thank you very much. Thank you,
6 Mr. Gusman. Thank you, Ladies and Gentlemen, from the
7 Jockey's Colony.

8 Moving on to Item Number 7, Report from the
9 Medication, Safety and Welfare Committee.

10 Ms. Auerbach.

11 COMMISSIONER AUERBACH: Ms. Auerbach. Well, I
12 have to tell everybody, I wish everybody in this room could
13 have been here yesterday, because we had the best -- I'm
14 going on four years doing this job. And yesterday, we had
15 so much community involvement and so much community input
16 that it was an absolute pleasure to be part of this
17 community, to see how much everybody -- I'm looking at
18 Darrell, he was there. I'm looking at Joe. I'm looking at
19 a lot of people who were here. The vets were here, the
20 trainers were here.

21 And it was amazing, the agenda that we put out
22 garnered so much attention, and so many phone calls to
23 myself. I don't know how many Alex got, or Rick got. But
24 we got the community together, to understand that we have
25 some issues and that the only way to solve them was if we

1 did it together. Rather than us telling people what to do,
2 we invited the input and we got it. So, I just wanted
3 everybody to know how much, as a Board, we appreciate that.
4 Because that is what this is supposed to be about, us
5 working together to solve the problems that we have.

6 And yesterday's meeting was the first real
7 indication that I've had, that the community is paying
8 attention, and that they want to do the right things for the
9 horses, and for the people who ride them, and the people who
10 work in this industry. So, this is a big thank you from me.

11 Anyway, Alex Solis and I conducted Committee
12 meetings yesterday, and last month. Yesterday, we discussed
13 shock wave therapy. And I see we have -- I think we still
14 have some of our better-known riders in the room today.
15 And, so, they would probably be more interested in this,
16 than just about anything else that they hear.

17 Anyway, Dr. Arthur has spoken with counterparts in
18 other racing jurisdictions, and is confident that
19 California's policies and procedures are as good or better
20 than anyone's. He said, after statistically analyzing a
21 sampling of data, he has observed no relationship -- no
22 relationship between shock wave therapy and racing and
23 training injuries.

24 He said, if this procedure is done within our
25 guidelines and policies, there does not appear to be a risk

1 to horses and, therefore, to riders. Overall, he believes
2 the program protects horses and riders.

3 Alex expressed concern that people might be
4 violating our procedures by performing shock wave therapy
5 within a few days of a race.

6 Dr. Arthur responded that we can be fairly
7 confident they are doing it properly. Safety stewards are
8 tasked with monitoring the program at each track. We follow
9 up on rumors and information that we get. He said, without
10 a camera surveillance system, like the one here at Santa
11 Anita, and without a grade or a CHRB presence, we must rely
12 on the honesty and integrity of the veterinarians, and
13 others.

14 Darrell Haire said the Jockey's Guild encourages
15 the CHRB to use all available resources to regulate shock
16 wave therapy, and we do.

17 So, to the extent that we are able to see
18 everything that goes on, we have a very, very tight program.

19 Moving on to track services. Rick Baedeker said
20 that the CHRB encouraged management to take additional steps
21 to protect horse racing and training here. And this was
22 specifically in reference to Del Mar.

23 And I asked the representatives of Del Mar to
24 discuss their new protocols for the Breeders Cup and overall
25 safety.

1 Josh Rubenstein noted that they gave up one week
2 of racing to allow more time for preparation of the track,
3 and for horses to acclimate between meets.

4 He stressed that the hiring of Dennis Moore, as
5 track superintendent, will provide consistency from Santa
6 Anita to Del Mar.

7 In my discussions with Dennis, that is exactly
8 what we are striving for, that the track at Santa Anita, and
9 the track at Del Mar have as much consistency as possible.
10 We know the surfaces are the same and we know that if we
11 handle them the same, with modifications for environmental
12 concerns, we are going to create a safer track environment.

13 Dennis will make sure that we have optimum racing
14 surfaces, such as moisture content, compaction, and all the
15 other numbers that go into how to handle the track.

16 Baedeker said that the CHRB has been compiling
17 extensive records on race track maintenance and conditions,
18 which we will share with Del Mar and other race tracks.

19 Tom also pointed to a change they implemented last
20 summer, only allowing those horses about to work on the
21 track for the opening minutes after each break. Del Mar
22 will continue the policy this summer.

23 Also, he said they will be reducing on-track horse
24 inventory by about 10 percent, which should help to relieve
25 some of the stress on the racing surface.

1 Next, we discussed a proposed amendment requiring
2 horses, returning from a layoff of 130 days or more, to
3 undergo an examination by the official veterinarian before
4 being approved to compete. Rick Baedeker said that, of 314
5 fatalities reviewed, 86 had significant gaps in their racing
6 and training, 34 for more than 120 days. This rule will
7 give the official vet an opportunity to take a closer look
8 at the horses coming back.

9 Greg Avioli, of the TOC, urged the CHRB to have a
10 greater presence during training hours. Rick Baedeker said,
11 we will do what the budget allows.

12 Elizabeth Morey, with the TOC, said they would
13 like more data pertaining to the 120-day proposal in order
14 for them to assess its potential impact on their membership.

15 I responded that we should not wait around to get
16 more information before taking this step to protect the
17 horses and the riders. We have a right and we have a
18 responsibility to move forward on this issue based on the
19 data we already have.

20 Rick Baedeker said, we know we will prevent some
21 number of fatalities by doing this. We can make a
22 difference.

23 If this amendment goes out for public notice, the
24 TOC, and others, will have several months to accumulate
25 whatever additional data they have, when it returns for

1 public hearing, so they can weigh in on it, again. But we
2 would like, the Committee would like us to approve this, so
3 we can get moving on this. So that by the time Del Mar
4 rolls around, we have this in place, because we think it's a
5 very necessary tool for the protection of the horses and
6 their riders.

7 Next, we discussed a proposed amendment to require
8 everyone on a job cart, and this is going to harness racing,
9 to wear both a safety vest and a safety helmet. We already
10 have these requirements for harness races.

11 This amendment extends the requirement to horses
12 exercising and the use of the job cart. The benefits of
13 this requirement are obvious in terms of health. And in
14 discussing the proposal to establish a -- oh, sorry, skipped
15 a line -- in terms of health and safety. Sorry.

16 In discussing a proposal to establish threshold
17 limits for NSAIDs and test samples taken from horses after
18 they complete a timed workout, Rick Baedeker said, it's
19 imperative that the CHRB do everything we can to reduce
20 injuries. He encouraged stakeholders to offer their
21 suggestions.

22 Phil Laird said that NSAIDs thresholds for
23 training would mirror the requirements for use during
24 racing.

25 I reminded people that we already passed this for

1 45-day public notice. But I asked that this be brought back
2 to deal with some issues of concerns.

3 Dr. Carpenter suggested that before proceeding, we
4 should determine whether there is a correlation between
5 NSAIDs and breakdowns during training.

6 Dr. Blea offered his support for acquiring more
7 data.

8 I agreed. We should prove it to ourselves that
9 NSAIDs are causing breakdowns, before we make this a
10 requirement.

11 This is what I was talking about in terms of
12 community input. As a community, we decided that we will
13 have a community-based effort to draw blood, first of all
14 from any horse that is euthanized. And we're talking here
15 about during training. And the vets that were here talked
16 about doing this work, and doing it at no charge, just to
17 get the data that we need to prove or disprove whether or
18 not this medication has any effect on what we're seeing.

19 The CTT will coordinate. Alan Balch volunteered
20 to do that for us, and we're grateful. And Dr. Arthur will
21 work with Dr. -- do you say that Knych or Knych, how do you
22 say that? Dr. Knych. And Dr. Stanley, at the Maddy Lab,
23 and others, in analyzing out-of-competition testing to
24 determine the prevalence in NSAIDs in horses working.

25 I'm very excited about this. We are going to

1 start every Medication meeting with a report from this
2 group, and this committee, as they gather the data we need
3 to make sensible regulations, and make sure that this is not
4 affecting our horses.

5 Next, we briefly discussed the use of multiple
6 corticoid steroids, or stacking. And Dr. Blea said there
7 are some very good reasons for using multiple steroids to
8 treat various problems with horses.

9 Dr. Arthur said this issue is being discussed
10 nationally, by the RMTC, and he suggested putting off this
11 discussion until later on this year. And, once again, we
12 agreed because there has been -- the RMTC has not been able
13 to draw the link between the stacking of these multiple used
14 corticosteroids and injuries. So, before we pass any
15 regulations, we need more work in figuring out exactly what
16 is going on. And, once again, this particular item would
17 like to put off and probably put off for eight or ten
18 months. Because if the RMTC can't establish this
19 connection, we're not in a position to be able to do it,
20 ourselves.

21 Concerning proposed amendments addressing out-of-
22 competition testing, Rick Baedeker said that the proposals
23 represent an effort to incorporate RMTC recommendations, and
24 ARCI model rules into CHRB rules. And Phil Laird summarized
25 the proposed changes. And we're going to go through this in

1 the rest of the meeting, as we look at each item.

2 During the discussion of this proposal, at the
3 February meeting, Dr. Arthur explained that the OOC, the
4 out-of-competition testing, and these proposed changes are
5 part of a robust anti-doping program. He said he can no
6 longer just rely on post-race testing because the effect of
7 performance-enhancing drugs long outlast their detectability
8 in post-race testing.

9 Currently, the CHRB does not have specific
10 regulations that allow us to act on out-of-competition
11 testing findings, and the proposed regulations address that.

12 The new regulations address an issue that's been
13 talked about so much, and that's anabolic steroids,
14 including the anabolic steroid, Stanozolol, which I always
15 mispronounce. The thinking is that any horse sick enough to
16 require an anabolic steroid treatment should be placed on
17 the Veterinarian's List for a minimum of six months and
18 should be required to test clean before removal from that
19 list.

20 Alan Balch brought up some concerns about the
21 proposed rules, expressed by trainers, such as the inclusion
22 of hair testing.

23 And Dr. Stanley described the benefits and
24 reliability of hair testing at the Maddy Laboratory.

25 I favor moving these proposals along and dealing

1 with the TOC's concerns as part of the process. And as we
2 go through these, it will be a little bit clearer about
3 which we would like to move along and which we would like to
4 pull back.

5 And I apologize for the length of this, but this
6 was two meetings and a lot of effort to try to get it right.

7 And I hope we did because there's a lot of horses and a lot
8 of riders who are depending on us getting this right.

9 CHAIRMAN WINNER: I, for one, would like to pay a
10 special thanks to Commissioner Auerbach and Commissioner
11 Solis, staff, Dr. Arthur, and others, as well as all those
12 who attended and participated in the discussion yesterday.

13 The meeting, based on all reports, was extremely
14 helpful, successful, and cooperative as Commissioner
15 Auerbach said.

16 And I think we're really making progress and I
17 really appreciate the work that the Committee is doing with
18 respect to that.

19 Now, what we're going to do is we're going to take
20 three items off the agenda, Item 8, 12, and 13. We are
21 making real progress, especially with respect to Item 8.
22 We're making progress. We've had meetings and discussions
23 with Del Mar, and with others, and the Fair Board, et
24 cetera, and progress is being made. And we think that
25 there's no reason to specifically deal with this, at this

1 time. We can always deal with it again next month, as we
2 proceed.

3 Did you want to say anything else about that,
4 Rick?

5 EXECUTIVE DIRECTOR BAEDEKER: No, the same thing.
6 Just to follow up on that, we've been invited, staff has,
7 to be very much involved with Del Mar, and the new manager
8 of their track surfaces, Dennis Moore, and in their planning
9 and their processes. And as I think everybody's heard me
10 say before, this is not new for CHRB. We, on a regular
11 basis, before every meet begins, and then during the meet,
12 we take our own Clegg Hammer Readings, our own moisture
13 content measurements, as well as measuring the depth of the
14 cushion versus the pad. And we've been doing that, now, for
15 the last seven or eight years. We've developed a very good
16 baseline that is also correlated with the injury database.
17 And, so, it's helped us to understand the parameters for a
18 safe race track. So, we welcome the opportunity to be part
19 of the process with Del Mar management.

20 CHAIRMAN WINNER: And we, specifically, thank Del
21 Mar management for working with us. We think hiring Dennis
22 Moore was -- we're all very high on Dennis. And working
23 with Mr. Peterson. We think real progress has been made at
24 Del Mar for working to achieve the same objectives that we
25 all want to achieve.

1 Moving on, then, to Item Number 9, discussion and
2 action by the Board regarding the proposed amendment to CHRB
3 Rule 1588, Horse Ineligible to Start in a Race, to provide
4 that a horse that has not raced for a specified number of
5 consecutive days at a recognized race meeting is ineligible
6 to enter a race until such horse has satisfactorily
7 completed enhanced testing or evaluation and has been
8 declared eligible to start by the Official Veterinarian.

9 You just heard Commissioner Auerbach speak about
10 this. Is there any discussion?

11 Is there a motion?

12 COMMISSIONER AUERBACH: So moved.

13 CHAIRMAN WINNER: Commissioner Auerbach moves.
14 Commissioner Solis seconds.

15 Commissioner Ruano?

16 COMMISSIONER RUANO: Yes.

17 CHAIRMAN WINNER: Commissioner Choper?

18 COMMISSIONER CHOPER: Yes.

19 CHAIRMAN WINNER: Commissioner Krikorian?

20 COMMISSIONER KRIKORIAN: Yes.

21 CHAIRMAN WINNER: The Chairman votes yes.

22 Commissioner Auerbach?

23 COMMISSIONER AUERBACH: Yes.

24 CHAIRMAN WINNER: Commissioner Solis?

25 COMMISSIONER SOLIS: Yes.

1 CHAIRMAN WINNER: It passes unanimously.

2 Moving on, then, to Item Number 10. Discussion
3 and action by the Board regarding the proposed amendments to
4 CHRB Rules 1689, Safety Helmets Required; and Rule 1989.1,
5 Safety Vest Required, to require drivers' riding in a job
6 cart to wear a safety helmet and safety vest.

7 Again, you heard Commissioner Auerbach speak about
8 this. Is there any discussion?

9 CHAIRMAN WINNER: Commissioner Auerbach moves.
10 Commissioner Solis seconds.

11 Commissioner Solis?

12 COMMISSIONER SOLIS: Yes.

13 CHAIRMAN WINNER: Commissioner Auerbach?

14 COMMISSIONER AUERBACH: Yes.

15 CHAIRMAN WINNER: Okay, Chairman votes yes.

16 Commissioner Krikorian?

17 COMMISSIONER KRIKORIAN: Yes.

18 CHAIRMAN WINNER: Commissioner Choper?

19 COMMISSIONER CHOPER: Yes.

20 CHAIRMAN WINNER: Commissioner Ruano?

21 COMMISSIONER RUANO: Yes.

22 CHAIRMAN WINNER: The measure carries unanimously.

23 Moving on. Item Number 11, discussion and action
24 by the Board regarding the proposed amendments to CHRB Rules
25 1858, Test Sample Required; 1859, Taking, Testing and

1 Reporting of Samples; , 1859.25, Split Sample Testing, 1867,
2 Prohibited Veterinary Practices; and the proposed addition
3 of CHRB Rules 1859.1, Out-of-Competition Testing Procedures
4 and Requirements; and 1869, Prohibited Drug Substance in
5 Out-of-Competition Testing, to incorporate the Association
6 of Racing Commissioners International (ARCI) model rule for
7 out-of-competition testing into the CHRB's rules and
8 regulations.

9 Gentlemen?

10 EXECUTIVE DIRECTOR BAEDEKER: Mr. Chairman, before
11 they begin, I'd like to give the Commissioners a little bit
12 of background on this process. As Dr. Arthur will state in
13 his remarks, the RMTTC, the Racing, Medication and Testing
14 Consortium, has been working on this model rule for more
15 than two years. More recently, the Association of Racing
16 Commissioners International put together a committee. And
17 both Dr. Arthur and myself participated in that committee,
18 along with our peers in Kentucky, New York, Maryland. There
19 were conversations with horsemen's groups, and including the
20 veterinarian group called NARV. And there was complete
21 support for the model rule when it was voted upon by ARCI,
22 in December, in Tucson.

23 What we then had to do, as Phil Laird will explain
24 to you, is we had to take the model rule that was passed,
25 and we had to come back and form a hybrid of it and our

1 existing rules that were affected by it.

2 So, as you'll see, there are a number of
3 individual existing rules that are being modified in order
4 to achieve the substance of the model rule, as it was
5 passed. This is looked upon as a very significant measure
6 nationally, in terms of the entire industry moving forward
7 to really put some framework around not only the prohibited
8 substances, and the therapeutic substances that are allowed,
9 but also the procedures and, really, protections for
10 horsemen and involved licensees during the process of
11 collecting these samples, and so forth.

12 So, that's the history that's brought us to this
13 point. Phil.

14 MR. LAIRD: Phil Laird, CHRB staff. Really, just
15 to echo what Mr. Baedeker just said. Again, this was an
16 attempt to really maintain, sort of, all the substance of
17 the ARCI model rule, as best as possible within our existing
18 regulations, which are already fairly complex. This touches
19 so many regulations because we have so many regulations on
20 testing, already.

21 So, anyways, I think maybe I should just go with
22 answering any questions anyone has about these specific
23 regulations. Otherwise, if anybody would like more
24 description of what's being done, specifically, happy to get
25 into it.

1 CHAIRMAN WINNER: Dr. Arthur, did you want to?

2 DR. ARTHUR: I just have two small, technical
3 corrections that were oversights when this was transcribed
4 into the regulations. I just want to put them on the record
5 and I'll provide them. I've already provided them to staff.

6 Under 1867, Prohibited Veterinary Practices, and
7 by the way, these not only -- substances are not only not
8 allowed in the horse, they're not allowed on the backside
9 of a race track.

10 And under number, what is now 5, growth hormone
11 and analogs, to add, "and growth hormone releasing factors
12 including growth hormone releasing hormone GHRH, and its
13 analogs." That was an oversight when it was adopted for our
14 regulations.

15 And in 1869, number 5, Chorionic Gonadotropin and
16 Luteinizing hormone and the releasing factors in males.
17 They are appropriate for use in females to promote
18 ovulation, which sometimes is necessary even at the racing
19 environment. So, those are just two technical changes.

20 Just as a reminder, you know, most of what we do
21 is medication control. This is a real anti-doping program.

22 It's modeled under the World Anti-doping Program Prohibited
23 List. We've gone over that in the Medication Committee back
24 in February, when it was first presented. So, if anybody
25 has any questions?

1 But it actually is a very robust program that I
2 think really puts us where we need to be going forward.

3 EXECUTIVE DIRECTOR BAEDEKER: So, I think it's
4 important to state, is it not, that if the Board so chooses
5 to move forward, as staff as presented the proposed rule,
6 the staff recommends that the technical corrections, listed
7 by Dr. Arthur, be included in any motion to move this
8 forward. Is that correct?

9 MR. LAIRD: That would be appropriate, yes.

10 CHAIRMAN WINNER: Commissioner Krikorian?

11 COMMISSIONER KRIKORIAN: What about the RPX
12 substances, like phenazopyridine, for horses that have
13 inflammatory, inflammation from just working out, and so
14 forth? Are those allowable or --

15 DR. ARTHUR: Yes, they are. They're not on the
16 prohibited list. Therapeutic medications, for the most
17 part, are not included here. There are exceptions and we've
18 made exceptions for each of those. I could go through them,
19 from the prohibited list, but they're actually in the
20 packet.

21 So, any drug that has a therapeutic basis, we
22 allow an exception with the conditions that are in the
23 regulation, that Phil has put.

24 And, basically, those are they have to have a
25 veterinary prescription and it has to be reported to the

1 Horse Racing Board, which is required now.

2 COMMISSIONER KRIKORIAN: Okay.

3 DR. ARTHUR: So, it's not an onerous requirement
4 at all.

5 The big change, obviously, is in anabolic
6 steroids. I mean, we've really, really decreased the use of
7 anabolic steroids. This is going to put the nail in that
8 coffin. We do allow anabolic steroid use if a horse is sick
9 or debilitated, recovering from a colitis, pneumonia, a
10 major surgery. They can give them anabolic steroids, if
11 they think it's appropriate. The horse just has to be
12 kicked out, and which is not unreasonable.

13 COMMISSIONER KRIKORIAN: And that's a six-month
14 period on, is it the Stewards List or the Vets List?

15 DR. ARTHUR: It's on the Vets List. And to be
16 clear, before they come off they have to test clean.

17 COMMISSIONER KRIKORIAN: Right.

18 MR. LAIRD: If I may, also, just further to your
19 point, Commissioner Krikorian, Rule 1869 is a list of
20 prohibited substances in out-of-competition testing. But if
21 you look on page 1120, subsection B says, "Therapeutic
22 substances that are not otherwise prohibited pursuant to
23 this regulation, are permitted under certain circumstances."

24 So, if it's not on there and it's therapeutic,
25 it's basically good to go.

1 COMMISSIONER KRIKORIAN: Okay, thank you.

2 CHAIRMAN WINNER: Mr. Avioli, are you here? Yes.

3 MR. AVIOLI: Greg Avioli, with the TOC. We
4 submitted a letter to you, Chairman Winner, with our general
5 position on the number of items on today's agenda. Some of
6 them have been removed from the agenda. One of them, with
7 the review of the horses off 120 has already been approved.

8 I'd like to take a second just to clarify what our
9 position is on that broader issue, and then on this
10 particular issue.

11 The TOC is as invested as everyone in this room,
12 is making sure that all the horses are safe and that we
13 reduce catastrophic injury. So, I think we start from the
14 same place as you do.

15 At the same time, we are not as comfortable, as I
16 think the CHRB Board is, that we have a handle on exactly
17 what's causing an increase in injury over the last two
18 years.

19 What we saw before us today, on the agenda, are a
20 series of regulations that in the aggregate would
21 substantially expand the testing programs that we have
22 today, the costs of testing. So, for example, if you look
23 at some of these regulations that have not moved forward,
24 but in the aggregate we're talking thousands of horses would
25 have to have additional tests. And it's expensive.

1 You know, so we want to do things that make sense.
2 As we said in our letter, we do not believe we have had
3 sufficient statistics on the actual injuries. There are a
4 number of points that we think could be addressed
5 immediately, such as increased number of vets on the tracks
6 during morning workouts.

7 So, we're not trying to be obstreperous, we just
8 believe in some instance we need to take a step back before
9 we launch into more and more rules and regulations. There's
10 a lot of rules in the process right now, as you know. We
11 still have not gotten through the third-party administrative
12 lasix rulemaking process. It's a number of years, now.
13 Mid-summer, I think, last year, this Board authorized the
14 on-track ADW regulation, to go out for 45-day comment
15 period, and it's still not out. There's a backlog. We've
16 got a lot going on and we're pushing more and more into the
17 funnel right now, which is one of the reasons we're
18 concerned.

19 When I move on to this particular agenda item,
20 this is a dramatic expansion of out-of-competition testing.
21 And as a starting point, and as you know, I've worked in
22 this industry for 20 plus years, throughout the United
23 States. California is considered, today, to have the best
24 out-of-competition testing in the country.

25 This expansion, just to give you an idea, this

1 would allow, and Dr. Arthur's the expert on this, but for
2 you now to have the authority to test horses not just when
3 they're at the race track, but when they're off on farms.
4 Not just when they're in California. This would test the
5 CHRB the authority to test any horse, anywhere in America.
6 It's a big expansion and it's going to come with a large
7 increased cost.

8 So, what we have done, Rick Baedeker mentioned
9 that they've had lots of conversations out-of-state, with a
10 lot of horsemen's groups, and owners out-of-state. We
11 haven't had the first conversation just with the California
12 industry on this, and that's what we're requesting is time
13 to sit down with the owners, and the trainers, and staff,
14 and Dr. Arthur, and go through exactly what this is so we
15 can really understand it.

16 Now, we're moving down the path that if you adopt
17 this, we'll have the opportunity in a formalized process,
18 where we'll give you substantial comments in the 45-day time
19 period, and I think you're going to get substantial
20 comments. And I think it's going to end up getting changed.
21 I'm very confident it will not end up the way it is now,
22 which is going to be more time and more expense.

23 So, we're just asking to slow this down a little
24 bit, so we can all get on the same page and give your
25 comments before we start the process.

1 EXECUTIVE DIRECTOR BAEDEKER: I just want to --

2 MR. AVIOLI: And, also, one last point, Mr.
3 Baedeker. I'm asking my colleagues around the country, I
4 don't believe any other major racing state has adopted these
5 regulations at present.

6 EXECUTIVE DIRECTOR BAEDEKER: New York's in the
7 process and Kentucky will next month.

8 I'd just like to comment on a couple of things
9 that you said. This doesn't require out-of-competition
10 testing at all. It simply --

11 CHAIRMAN WINNER: Permits it.

12 EXECUTIVE DIRECTOR BAEDEKER: -- permits it.
13 Establishes parameters for it. And I think that you'll see
14 that there are more protections in there for horsemen, as a
15 result of this process over the last two and a half years,
16 than are currently in place in our rules.

17 We currently do testing outside the State. We
18 currently do -- we're going to do about 2,000 tests this
19 year. With or without this we're going to do -- we hope to
20 do about 4,000 tests next year, within our current budget.

21 Our contract with the Maddy Lab is structured in
22 such a way that we have that capability without additional
23 costs.

24 So, you know, I think it's probably -- I think,
25 personally, I think it's a misstatement to say that this is

1 a game changer. I really is not changing much at all. It
2 simply is better defining how these processes are to take
3 place.

4 So, I'm confident, through the 45-day public
5 comment period, and I would also say, and I understand your
6 point about these kind of pre-meetings before something hits
7 a Medication Committee agenda, or the agenda of the full
8 Board. And while there's certainly a good argument that
9 that's an appropriate thing to do, there's also an argument
10 that that's inappropriate in a sense, because we are a
11 regulatory body. And we can't choose just to meet with a
12 few people and then bring it, you know, to the
13 Commissioners.

14 So, the most appropriate venue for this discussion
15 is an open meeting, like we had yesterday, and like we're
16 having right now.

17 CHAIRMAN WINNER: Let me also comment that you
18 raised the point, in a conversation we had yesterday with
19 the Chairman of the TOC, the point was raised about having a
20 step that's at every venue where there's training going on.

21 MR. AVIOLI: Right.

22 CHAIRMAN WINNER: Great idea. But when you talk
23 about added expense, you know, that's a million and a
24 quarter, something to that effect in added expense.
25 Everybody would like to do that. We'd like to do that.

1 Hopefully, the TOC would help come up with the financing to
2 do that. We think it's a great idea.

3 But we can't have everything and we just have to
4 take these things one step at a time. I believe that the
5 process is the right process. And I also agree with the
6 Executive Director that Committee meetings are the
7 appropriate place to have those discussions, especially the
8 kinds of Committee meetings that took place yesterday.

9 There are times when we have, on various
10 occasions, for various reasons, held meetings with the
11 industry leadership, and various participants in the
12 industry, as you know, because you've been a part of a lot
13 of them. And we'll continue to do that.

14 But when it comes to something like this, the
15 Committee, that's why we have Committees is to go through
16 that process, where everybody in the public has the ability
17 to participate, and not just those who are invited to a
18 Committee.

19 So, those are my comments. Any other comments or
20 questions?

21 DR. ARTHUR: I would just like to make a comment.

22 This has been a long-term process and I actually chaired
23 the Committee at the RMTTC that put together the basis of
24 this that was presented to the CHRB last March. And the
25 Stronach Group, Del Mar, Oak Tree, CTT, TOC, and national

1 organizations like AEP, which represent the veterinarians,
2 all participated on this. And I know the TOC has been
3 copied on all that correspondence. So, this is not new.
4 This has been out there for a long time. It's been well
5 considered.

6 After our meeting in March, it was publicly
7 noticed by the RCI, a public invitation for comments. They
8 had a meeting that Rick and I, both, attended in Arizona
9 that went over all these things, and approved it.

10 And, yes, we're the first up. We're probably in
11 better shape, than anybody, to do this. It's not -- and Dr.
12 Stanley's here, if it's necessary to bring him up to explain
13 how this fits into our program, under our contract, already.
14 But, you know, all drug testing is a deterrent. Our goal is
15 to have no positives. And I think when we define what we
16 expect of our licensees, everybody's better off.

17 This is not a horse safety issue, necessarily, as
18 much as it is a racing integrity issue, and to really put
19 our regulations in matching our capabilities of our very,
20 very good laboratory.

21 CHAIRMAN WINNER: Any other questions or comments?
22 Commissioner Solis?

23 COMMISSIONER SOLIS: Yes, I have a comment. Yes.
24 I took all these rules and I went around the backside and
25 talked to a lot of the trainers. And most of the trainers

1 that are talked to, they are good with these rules.

2 And, again, for me, it is so important of this to
3 happen because, I mean, it's so scary to think all the
4 horses we have lost the last few years. And not only that,
5 at this point we've got three guys that got hurt, jockeys
6 that got hurt this year. And, of course, the horses,
7 they're the most important. And I'm very happy that -- I'm
8 trying to work pretty hard with Madeline and just to keep
9 the safety of horses and jockeys. And I think this is one
10 of the things that I think we need to really do.

11 CHAIRMAN WINNER: Thank you.

12 Dr. Stanley?

13 DR. STANLEY: Yes, Scott Stanley, from UC Davis.
14 I just wanted to follow up with Dr. Arthur's comments on a
15 couple of things. One, I think California's very fortunate
16 in the structured agreement that we have, interagency
17 agreement that we have with the California Horse Racing
18 Board, and the University allows this additional testing at
19 no additional cost. So, we'll be absorbing that additional
20 work in the program that we have.

21 It is an expected increase. We have been
22 following this closely nationally, and internationally, and
23 the drive is toward more out-of-competition testing in order
24 to get a better perspective on medications that might be
25 used out-of-competition, and make sure that they're

1 regulated. So prohibited substances aren't being used in
2 between races. So, it's completely in line with what
3 internationally and, certainly, I think the biggest reasons,
4 one of the reasons California's going first is because of
5 that structured agreement. The out-of-competition testing
6 is not costing the State a lot more, they don't have to
7 bring more into the budget. They don't have to renegotiate
8 with the laboratory. You guys come to us, say this is what
9 we need, and we provide it.

10 CHAIRMAN WINNER: Thank you.

11 Commissioner Solis moves.

12 COMMISSIONER KRIKORIAN: Well, I have a --

13 CHAIRMAN WINNER: I'm sorry, I apologize.

14 Commissioner Krikorian.

15 COMMISSIONER KRIKORIAN: I have one last comment.

16 All of this is done to reduce injuries to horses, correct?

17 DR. ARTHUR: This program is an integrity program
18 in terms of regulating performance-enhancing drugs that are
19 not detectable at post-race testing. That's what this is
20 primarily about.

21 There are drugs here that most people -- they
22 should never be on the race track. They don't have any use
23 on the race track. The ones that do, we have the exceptions
24 to.

25 so, this is not necessarily horse safety, even

1 though some of these drugs could be used to abuse the
2 horse's health. I can't say in terms of musculoskeletal
3 injury, but certainly in health injuries.

4 COMMISSIONER KRIKORIAN: Well, the reason I ask is
5 because I don't want to lose sight of the fact that the
6 surfaces, the track surfaces, and the track conditions, you
7 know, we want to know where the injuries are coming from.
8 And we don't want to get focusing on this, and overlooking
9 something else where the injuries may be occurring. So, we
10 need to have a balance of what we do to -- for the safety of
11 horses, in terms of track conditions and so forth.

12 CHAIRMAN WINNER: Yeah, I would say that,
13 obviously, we all agree with that. And as you know, we've
14 been working with the racing associations on discussing
15 surfaces. And as we said earlier, Dennis Moore, now being
16 involved, along with Mick Peterson, at Del Mar, we think is
17 a very positive step.

18 I had a meeting with the Del Mar folks, just a few
19 days ago, and that's exactly what we discussed was track
20 surfaces. And we're all very concerned about that, along
21 with all of these other issues.

22 And as I said earlier, we are making progress, in
23 my view, I think -- you know, in my view, the associations
24 are working with us. We had a meeting this morning with
25 respect to the Breeders Cup, with Craig Fravel, who's here

1 in the audience. And I think we're making -- we're making
2 progress. We recognize the issue and we're dealing with it.
3 We don't know for sure, probably it's a combination of
4 various different things, whether it's the horses, or
5 whatever it may be that has caused these -- this spike in
6 catastrophic injuries.

7 And I think most of you know that Rick and I have
8 had meetings with the jockeys, with the trainers, with the
9 owners, with the vets, and with the associations. And we've
10 gotten a lot of input with respect as to what the problems
11 might be, the various problems. And that's what we're
12 trying to do with these regulations, with the discussions
13 that we've had with respect to track surfaces, and the
14 conditions upon which these horses are racing, as well as
15 what the new house rules are that are taking place.

16 And I do believe that the industry has really come
17 together, which I think we all appreciate, in trying to deal
18 with this problem. Which we all hope is an aberration, but
19 we have to assume that it wasn't and, therefore, we have to
20 deal with it.

21 DR. ARTHUR: Mr. Chairman, I would like to respond
22 to Commissioner Krikorian's comment. I mean, one of the
23 things that -- first of all, breakdowns or injuries are
24 multi-factorial. I don't think there's any question about
25 that. But we don't need to come to the Board to change our

1 pre-race examination processes. We do that individually. A
2 lot of the track surface measurements that Rick Baedeker's
3 talked about, we don't have to come to the Board.
4 Medication is very heavily regulated. So, that's why we
5 have to come to the Board to change those regulations. It's
6 a rather technical aspect of it. And I think -- and you're
7 not the first time I've heard people say, well, you'll
8 blaming it all on medication.

9 Medication is only a part of it, but it's the part
10 of it that we can address certain aspects of. And what we
11 can do, and this particular proposal, by the way, is an
12 integrity proposal. It's not necessarily a safety proposal,
13 like some of the others that we talked about, that have been
14 taken off the agenda.

15 But it's a multi-factorial problem. The reason
16 these Medication Committee issues come before the Board is
17 because there are, actually, technical regulations that
18 address those.

19 And a lot of the other things we do and look at,
20 the Board doesn't have to pass judgment on those.

21 COMMISSIONER SOLIS: Can I make a comment?

22 CHAIRMAN WINNER: Pardon me?

23 COMMISSIONER SOLIS: Can I make a comment?

24 CHAIRMAN WINNER: Sure, of course.

25 COMMISSIONER SOLIS: Just from experience, you

1 know, as well as many of the riders that are here, we have
2 raced on many different tracks. And I know for a fact back
3 east, you get into those copy tracks. And a copy track
4 means that you're running in a nice, soft -- soft spot or
5 hard spot. That makes sense for horses to breakdown because
6 they lose their footing. At this point, we don't get too
7 much of that at the kind of copiness (phonetic) on our
8 tracks.

9 And I feel, and just talking, speaking about
10 myself, I feel like we have some very good track, and we
11 cannot keep blaming the tracks on these.

12 CHAIRMAN WINNER: Thank you.

13 George?

14 COMMISSIONER KRIKORIAN: No, that's it. That's
15 it.

16 CHAIRMAN WINNER: Okay.

17 COMMISSIONER KRIKORIAN: I was just trying to --
18 my only point was, I'm just saying these things need to be
19 looked at.

20 CHAIRMAN WINNER: Absolutely.

21 COMMISSIONER KRIKORIAN: They're separate issues,
22 but they all need to be looked at and monitored carefully.

23 DR. ARTHUR: Yeah, my point was when you --

24 COMMISSIONER KRIKORIAN: You know, when you see
25 jockeys getting off of horses after a race, okay, and

1 they've got a bloody arm or something, because they got hit
2 by something, it's a cause of concern. So, these things all
3 need to be looked at, that was my only point.

4 DR. ARTHUR: Yeah, all I was trying to say is we
5 actually do look at those, but it's the medication issues
6 that come up here.

7 COMMISSIONER KRIKORIAN: Right, I understand.

8 DR. ARTHUR: And I think, you know, we can go
9 through those if you want. But it is a very complex issue.
10 And if it was easy, we already would have solved it.

11 CHAIRMAN WINNER: Commissioner Solis, you were
12 making a motion?

13 COMMISSIONER SOLIS: Yes.

14 COMMISSIONER AUERBACH: No, we're gossiping,
15 actually.

16 (Laughter.)

17 CHAIRMAN WINNER: Commissioner Solis moves.
18 Commissioner Auerbach --

19 COMMISSIONER RUANO: Chairman?

20 CHAIRMAN WINNER: Yes, I'm sorry, Commissioner
21 Ruano?

22 COMMISSIONER RUANO: The motion on the table is
23 with Dr. Arthur's --

24 CHAIRMAN WINNER: Yes, with the amendment.

25 COMMISSIONER AUERBACH: What did we amend?

1 CHAIRMAN WINNER: Dr. Arthur recommended some
2 technical changes.

3 COMMISSIONER AUERBACH: Okay.

4 CHAIRMAN WINNER: I think -- I don't know if you
5 were in the room, but he recommended a few technical changes
6 to the motion. And Commissioner Ruano is absolutely right,
7 the motion is with the technical changes, as recommended by
8 Dr. Arthur.

9 COMMISSIONER AUERBACH: Well, all of this was
10 technical changes.

11 (Laughter.)

12 CHAIRMAN WINNER: Commissioner Solis moves,
13 Commissioner Auerbach seconds.

14 Commissioner Ruano, how do you vote?

15 COMMISSIONER RUANO: Yes.

16 CHAIRMAN WINNER: Commissioner Choper?

17 COMMISSIONER CHOPER: Yes.

18 CHAIRMAN WINNER: Commissioner Krikorian?

19 COMMISSIONER KRIKORIAN: Yes.

20 CHAIRMAN WINNER: The Chairman votes yes.

21 Commissioner Auerbach?

22 COMMISSIONER AUERBACH: Yes.

23 CHAIRMAN WINNER: Commissioner Solis?

24 COMMISSIONER SOLIS: Yes.

25 CHAIRMAN WINNER: The motion carries unanimously.

1 Thank you. Thank you all very, very much.

2 Is there a motion to adjourn?

3 COMMISSIONER AUERBACH: So moved.

4 CHAIRMAN WINNER: Commissioner Auerbach moves to
5 adjourn. This Committee is adjourned. Thank you very, very
6 much, everyone, for attending.

7 (The meeting of the California Horse
8 Racing Board adjourned at 11:47 a.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of March, 2017.



MARTHA L. NELSON, CERT**367

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of March, 2017.



Barbara Little
Certified Transcriber
AAERT No. CET**D-520