

MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

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

ALAMEDA COUNTY FAIRGROUNDS
PLEASANTON SATELLITE WAGERING FACILITY
4501 PLEASANTON AVENUE
PLEASANTON, CALIFORNIA

THURSDAY, JUNE 21, 2018

10:00 A.M.

Reported by:
Julie Link

APPEARANCES

COMMITTEE MEMBERS

Chuck Winner, Chair
Madeline Auerbach, Vice Chair
Jesse Choper, Commissioner
Alex Solis, Commissioner
Araceli Ruano, Commissioner
Fred Mass, Commissioner

STAFF

Rick Baedeker, Executive Director
Jacqueline Wagner, Assistant Executive Director
John McDonough, Chief Counsel
Robert Brodnick, Staff Counsel
Phil Laird, Former Staff Counsel
Mike Marten, Associate Analyst
Rick Arthur, Equine Medical Director
Francisco Gonzalez

ALSO PRESENT

John Valenzuela, Pari-Mutuel Employees Local 280
Julie-Lynn Rupp, San Mateo Labor Council
Dana Stoehr, San Mateo Jockey Club
Josh Rubenstein, Del Mar Thoroughbred Club
Eric Sindler, Stronach Group and Pacific Racing
Association II

APPEARANCES

ALSO PRESENT

Becky Bartling, Sonoma County Fairgrounds

James Morgan, Humboldt County Fair

Richard Conway, Humboldt County Fair

Greg Avioli, Thoroughbred Owners of California

Elizabeth Morey, Thoroughbred Owners of California

Rick Pickering, California Exposition and State Fair

George Haines, SCOTWINC

Alan Balch, California Thoroughbred Trainers

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1. 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. 3
 - 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).
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| 5. | 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. | 7 |
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P R O C E E D I N G S

9:49 A.M.

PLEASANTON, CALIFORNIA, THURSDAY, JUNE 21, 2018

CHAIRMAN WINNER: Ladies and Gentlemen, this meeting of the California Horse Racing Board will come to order. Please take your seats. This is the regular noticed meeting of the California Horse Racing Board on Thursday, June 21st, 2018 at the Alameda County Fairgrounds, Pleasanton, California.

Present at today's meeting are: Myself, Chairman Chuck Winner; Vice Chairman, Madeline Auerbach; Jesse Choper, Commissioner; Fred Mass, 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 matters appearing on the meeting agenda. The Board also invites comments from those present today on matters not appearing on the agenda during a public comment period if the matter concerns horse racing in the state of 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 three-minute time limit rule for each speaker. The three-minute time limit will be

1 enforced during discussion of all matters as stated on the
2 agenda, as well as during the public comment period.

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

9 When a matter is open for public comment, your
10 name will be called. Please come to the podium. Introduce
11 yourself by stating your name and organization clearly.
12 This is necessary for the court reporter to have a clear
13 record of all who speak. When your three minutes are up
14 I'll ask you to return to your seat so others can be heard.

15 When all the names have been called the Chairman
16 will ask if there is anyone else who would like to speak on
17 the matter before the Board. Also, the Board may ask
18 questions on individuals who speak on any item. If a
19 speaker repeats himself or herself, I'll ask if the speaker
20 has anything new to say. If there are not -- if there is
21 not, I'll ask the speaker to let others make comments to the
22 Board.

23 With that, we will, what would we call it, recess?

24 EXECUTIVE DIRECTOR BAEDEKER: Yes.

25 CHAIRMAN WINNER: We will recess to an Executive

1 Meeting, as was stated on the agenda. And we will reconvene
2 no later than 11:15; is that correct?

3 EXECUTIVE DIRECTOR BAEDEKER: 11:15. It might be
4 earlier.

5 CHAIRMAN WINNER: No later than 11:15.

6 EXECUTIVE DIRECTOR BAEDEKER: And, folks, we are
7 going to be using this room, so if you wouldn't mind --

8 CHAIRMAN WINNER: I think we're --

9 EXECUTIVE DIRECTOR BAEDEKER: No, we're staying
10 here.

11 CHAIRMAN WINNER: Oh, we changed it?

12 EXECUTIVE DIRECTOR BAEDEKER: Yes.

13 CHAIRMAN WINNER: Okay.

14 EXECUTIVE DIRECTOR BAEDEKER: Yeah.

15 CHAIRMAN WINNER: Okay. Out. (Laughs.) If
16 everybody could leave and go into the other room, we're
17 going to be staying here.

18 (Whereupon the Board recessed into Closed Session from
19 9:52 a.m., until 11:19 a.m.)

20 CHAIRMAN WINNER: Thank you all for being here,
21 and thank you for understanding that we went into Executive
22 Session. And under the rules, that's the way we had to do
23 it. So we will now move on with the agenda.

24 Let's start with the approval of the minutes from
25 the April 19th meeting. I was not at that meeting, so I

1 will abstain.

2 So can we have a motion? Are there additions or
3 corrections to the minutes?

4 MR. SINDLER: Good morning. Eric Sindler on
5 behalf of Pacific Racing Association II.

6 We have submitted our Application to Conduct a
7 Race Meet.

8 COMMISSIONER SOLIS: Move.

9 CHAIRMAN WINNER: Commissioner Solis moves
10 approval of the April 19th minutes.

11 COMMISSIONER MASS: Second.

12 CHAIRMAN WINNER: Commissioner Mass seconds.

13 Commissioner Mass, how do you vote?

14 COMMISSIONER MASS: Aye.

15 CHAIRMAN WINNER: Commissioner Solis?

16 COMMISSIONER SOLIS: Yes.

17 CHAIRMAN WINNER: Were you at that meeting, Jesse?

18 COMMISSIONER CHOPER: No. Abstain.

19 CHAIRMAN WINNER: Okay. I, Chairman, abstains.

20 Vice Chair Auerbach?

21 VICE CHAIRMAN AUERBACH: Yes.

22 CHAIRMAN WINNER: Commissioner Ruano?

23 COMMISSIONER RUANO: Yes.

24 CHAIRMAN WINNER: Okay. The minutes are approved
25 from the April 19th meeting.

1 Let's go on to the minutes for the May 24th
2 meeting. Is there a motion? Is there --

3 COMMISSIONER RUANO: So I wasn't at the meeting,
4 so abstain.

5 CHAIRMAN WINNER: You were not at the 19th
6 meeting?

7 COMMISSIONER RUANO: In May?

8 CHAIRMAN WINNER: Somebody had to be there because
9 we had to four Commissioners.

10 COMMISSIONER RUANO: Oh, was I there? I missed
11 the last meeting.

12 CHAIRMAN WINNER: Oh, that was the 24th.

13 COMMISSIONER RUANO: Okay.

14 CHAIRMAN WINNER: Okay. Is there a -- are there
15 corrections or additions to the May 24th meeting? Is there
16 a motion to approve?

17 COMMISSIONER MASS: Moved.

18 CHAIRMAN WINNER: Commissioner Mass moves to
19 approve.

20 COMMISSIONER SOLIS: Second.

21 CHAIRMAN WINNER: Commissioner Solis seconds.

22 Commissioner Mass?

23 COMMISSIONER MASS: Yes.

24 CHAIRMAN WINNER: Commissioner Solis?

25 COMMISSIONER SOLIS: Yes.

1 CHAIRMAN WINNER: Commissioner Choper?

2 COMMISSIONER CHOPER: Abstain.

3 CHAIRMAN WINNER: Commissioner Winner votes yes.
4 Commissioner Auerbach?

5 VICE CHAIRMAN AUERBACH: Yes.

6 CHAIRMAN WINNER: And Commissioner Ruano abstains.

7 Let us then go on -- so it passes by a four-to-
8 nothing vote.

9 Executive Director report, Mr. Baedeker.

10 EXECUTIVE DIRECTOR BAEDEKER: Well, thank you, Mr.
11 Chairman. I only have the financials for the month, and I
12 apologize. I, yesterday, received the financials for the
13 recently concluded meet at Golden Gate. And before the end
14 of the Board meeting, I'll get the key for the wi-fi, but I
15 can't pull it up right now. But they had a terrific meet.
16 As I recall, everything in, up nine percent. Huge gains in
17 out-of-state betting on Golden Gate. They had four fewer
18 days this year than last. In any event, I'll get the real
19 numbers here before we're done.

20 The numbers are also good for the entire industry
21 for the month of May and year-to-date. For the month of
22 May, there was one additional card during the day. There
23 was a 10.37 percent increase in business for day racing, a
24 4.34 percent increase for night racing with the same number
25 of days, and overall a 9.77 percent increase in racing

1 during May. For the year the numbers are still very solid.
2 Daytime racing is up 9.4 percent, nighttime racing up 2.8
3 percent. Altogether, racing is up 8.7 percent. And so good
4 news to start off the meeting.

5 And that's my report, Mr. Chairman.

6 CHAIRMAN WINNER: Thank you very much.

7 Let's go on. I don't have any cards for public
8 comment. Now I do? Okay.

9 John Valenzuela. John, where are you?

10 MR. VALENZUELA: Good morning. Good morning,
11 Ladies and Gentlemen. Can you hear me? Hello? Good
12 morning, Ladies and Gentlemen, Executive Director, Chairman
13 and Commissioners, and the gallery. My name is John
14 Valenzuela. I am President of PMEG, or Pari-Mutuel
15 Employees Guild of Local 280 of California.

16 I would just like to bring it to your attention
17 that, first of all, Local 280's Collective Bargaining
18 Agreement expires July 18th, 2018, opening day at Del Mar.
19 As of this time, Local 280 is in negotiation with all the
20 employers or their reps. We've already had three meetings,
21 and we have several more meetings scheduled, so hopefully
22 that we can come to an agreement.

23 So unless there's questions, I'm done with my
24 comment.

25 CHAIRMAN WINNER: Thank you, John.

1 Are there any questions for John?

2 Thank you, John.

3 MR. VALENZUELA: Okay. Thank you.

4 CHAIRMAN WINNER: Julie-Lynn Rupp.

5 MS. RUPP: Thank you. Good morning, Chairman
6 Winner, Commissioners. I'm Julie-Lynn Rupp and I'm the head
7 of the San Mateo Labor Council, representing over 100 unions
8 and nearly 75,000 workers, including those that serve the
9 San Mateo Event Center and Jockey Club. I'm also here today
10 representing my brothers and sisters in Alameda County,
11 nearly 90,000 workers, as my colleague in that Labor Council
12 wasn't able to join us this morning.

13 The actions being attempted by the Stronach Group
14 at Golden Gate Fields are unconscionable and threatening to
15 the lives and livelihoods of hundreds of hardworking
16 employees.

17 The fair industry has long supported its unionized
18 workforce, demonstrating its commitment to fair wages and
19 good benefits for its employees.

20 Should Stronach's power play be successful the
21 impact on all satellite wagering facilities and their
22 workers would be devastating, workers that are trying, just
23 like you and I, to make enough in this high-cost-of-living
24 area to take care of ourselves and families. This cannot be
25 allowed to happen, and I implore you to stand strong against

1 their bullying and stand up for those who have so long stood
2 for this industry.

3 Thank you.

4 CHAIRMAN WINNER: Thank you.

5 Are there any questions or comments?

6 Thank you very much.

7 Dana Stoehr, San Mateo Jockey Club.

8 MS. STOEHR: Good morning, Honorable Board
9 Members. I am -- my name is Dana Stoehr. I am the CEO of
10 the San Mateo Jockey Club and the San Mateo County Event
11 Center.

12 The Jockey Club established after Bay Meadows
13 closed in 2008 and was substantially renovated with millions
14 of public-fund dollars, and is the most successful satellite
15 in Northern California and one of the most successful in the
16 state.

17 I want to introduce you to some of my staff. They
18 are not here today because they are working today, serving
19 our race patrons.

20 Milton Bracca. Raul Colima (phonetic), Timotea
21 Ferman (phonetic), Roberto Escobar (phonetic), Edgar
22 Gonzalez, Carlo Grimsley (phonetic), Eduardo Guerrero, Devon
23 Gullett (phonetic), Lazaro Machato (phonetic), Rick Nielsen
24 (phonetic), Daniel Nevoa (phonetic), Robert Contero
25 (phonetic), Santos Sambria (phonetic), Pete Tarbe

1 (phonetic), John Torre (phonetic), Richard Toll (phonetic),
2 Candy Woznick (phonetic), Mongo Deserek (phonetic), Arturo
3 Fineska (phonetic), Daisy Garcia, Frosso Unis (phonetic),
4 Arturo Linares (phonetic), and Arsenio Zamora, they know
5 every regular race patrons favorite place to park, every --
6 the favorite place -- their favorite place to sit, and their
7 favorite items to eat and drink.

8 They are our staff, our neighbors, our Jockey Club
9 Family. Most are long-time employees. They are also SEIU,
10 Teamsters and Local 2 members. They regularly work
11 weekends, holidays, nights, to serve our race patrons.

12 Are you going to allow the Stronach Group to make
13 them wonder how they're going to pay their rent, buy food or
14 cover their medical needs?

15 I ask you to do the right thing by them and the
16 hundreds working in the satellite wagering facilities in
17 Northern California, some in the very building you're
18 meeting in, as well as the over 150 SEIU and NCOTWINC mutuel
19 employees in Northern California.

20 The fair industry has always fairly supported its
21 workforce to take care of those horse racing fans and its
22 patrons. Don't allow the Stronach Group to destroy that.
23 Don't allow these employees' lives to be kept in limbo. Be
24 fair. Do the right thing. Support NCOTWINC and support the
25 California Authority of Racing Fairs.

1 Thank you.

2 CHAIRMAN WINNER: Any questions?

3 COMMISSIONER RUANO: I just want to say to Dana
4 and to all those workers, thank you for everything you do
5 for the racing industry.

6 MS. STOEHR: Thank you. We're very concerned for
7 our family of workers, so we look to you for support. Thank
8 you very much.

9 CHAIRMAN WINNER: Thank you. Thank you very much.

10 All right, moving on to item number six,
11 discussion and action by the Board regarding the
12 distribution of race charity proceeds of the Del Mar
13 Thoroughbred Club's 2017 summer race meeting in the amount
14 of \$48,234 to the beneficiary of this race meeting, yeah, to
15 a beneficiary.

16 Josh?

17 MR. RUBENSTEIN: (Off mike.) (Indiscernible.)

18 CHAIRMAN WINNER: It doesn't matter.

19 MR. RUBENSTEIN: Josh Rubenstein, Del Mar
20 Thoroughbred Club.

21 As the staff analysis points out, the Board has
22 previously approved Del Mar's 2017 charity days, but we just
23 need to, hopefully, have you approve the CARMA distribution
24 for our summer meet, fall meet and Breeders' Cup.

25 CHAIRMAN WINNER: Is there a motion to approve?

1 COMMISSIONER RUANO: So moved.

2 CHAIRMAN WINNER: So moved by Commissioner Ruano.

3 COMMISSIONER MASS: Second.

4 CHAIRMAN WINNER: Seconded by Commissioner Mass.

5 Commissioner Ruano?

6 COMMISSIONER RUANO: Yes.

7 CHAIRMAN WINNER: You abstain?

8 VICE CHAIRMAN AUERBACH: I abstain.

9 CHAIRMAN WINNER: Commissioner Auerbach abstains.

10 Commissioner Winner --

11 EXECUTIVE DIRECTOR BAEDEKER: Mr. Chairman?

12 MR. RUBENSTEIN: Josh has presented testimony, I

13 think, in support of items six, seven and eight all at once.

14 MR. RUBENSTEIN: Yes. Yeah, if --

15 EXECUTIVE DIRECTOR BAEDEKER: Do you want to make

16 that motion?

17 CHAIRMAN WINNER: Yeah. Can we make the motion to

18 approve items six, seven and eight, the CARMA addition. I

19 think the motion was Commissioner Ruano?

20 COMMISSIONER RUANO: I'll amend it.

21 CHAIRMAN WINNER: Okay. Well, why don't you --

22 COMMISSIONER RUANO: Yes.

23 CHAIRMAN WINNER: -- change the motion, rather

24 than --

25 COMMISSIONER RUANO: Okay.

1 CHAIRMAN WINNER: -- just a new motion.
2 COMMISSIONER RUANO: Move to --
3 CHAIRMAN WINNER: -- Otherwise, we have to vote on
4 the amendment and then the motion.
5 COMMISSIONER RUANO: Move to approve.
6 CHAIRMAN WINNER: Okay. Move to approve.
7 COMMISSIONER MASS: Second.
8 CHAIRMAN WINNER: Commissioner Mass seconds.
9 Commissioner Ruano?
10 COMMISSIONER RUANO: Yes.
11 CHAIRMAN WINNER: Vice Chair Auerbach abstains.
12 Chairman Winner votes yes.
13 Commissioner Choper?
14 COMMISSIONER CHOPER: Yes.
15 CHAIRMAN WINNER: Yes.
16 Commissioner Solis?
17 COMMISSIONER SOLIS: Yes.
18 CHAIRMAN WINNER: And Commissioner Mass?
19 COMMISSIONER MASS: Yes.
20 CHAIRMAN WINNER: Thank you very much.
21 Congratulations to CARMA.
22 MR. RUBENSTEIN: Thank you.
23 VICE CHAIRMAN AUERBACH: Thank you.
24 EXECUTIVE DIRECTOR BAEDEKER: Number nine now.
25 CHAIRMAN WINNER: Moving on to number nine,

1 discussion and action by the board regarding the
2 distribution of race day charity proceeds of the Pacific
3 Racing Association, dba Golden Gate Fields, 2016/2017 race
4 meetings, the amount of \$52,052 to eight beneficiaries.

5 Eric?

6 MR. SINDLER: Good morning. Eric Sindler on
7 behalf of Pacific Racing Association.

8 As the Chairman pointed out, we have donated -- we
9 would like to donate \$52,000, all to horse racing-related
10 charities.

11 CHAIRMAN WINNER: Any questions? Is there a
12 motion.

13 COMMISSIONER SOLIS: Move.

14 CHAIRMAN WINNER: Commissioner Solis moves.

15 COMMISSIONER CHOPER: Second.

16 CHAIRMAN WINNER: Commissioner Choper seconds.

17 Commissioner Mass?

18 COMMISSIONER MASS: Yes.

19 CHAIRMAN WINNER: Commissioner Solis?

20 COMMISSIONER SOLIS: Yes.

21 CHAIRMAN WINNER: Commissioner Choper?

22 COMMISSIONER CHOPER: Yes.

23 CHAIRMAN WINNER: Chairman, yes.

24 Vice Chairman?

25 VICE CHAIRMAN AUERBACH: I have to abstains.

1 CHAIRMAN WINNER: Abstains.
2 Commissioner Ruano?
3 COMMISSIONER RUANO: Yes.
4 CHAIRMAN WINNER: Motion carries five to nothing.
5 Thank you, Eric.
6 MR. SINDLER: Thank you.
7 CHAIRMAN WINNER: Moving right along, discussion
8 and action by the Board regarding the distribution of race
9 day charity proceeds of the Watchandwager.com LLC 2016/2017
10 race meeting in the amount of \$4,000 to five beneficiaries.
11 MR. KENNEY: Ben Kenney, Watch and Wager.
12 We did give to five different equine-related
13 charities. I'm here to answer questions you may have.
14 CHAIRMAN WINNER: Any questions? Is there a
15 motion?
16 VICE CHAIRMAN AUERBACH: So moved.
17 CHAIRMAN WINNER: Commissioner Auerbach moves.
18 COMMISSIONER RUANO: Second.
19 CHAIRMAN WINNER: Commissioner Ruano seconds.
20 Commissioner Mass?
21 COMMISSIONER MASS: Yes.
22 CHAIRMAN WINNER: Commissioner Solis?
23 COMMISSIONER SOLIS: Yes.
24 CHAIRMAN WINNER: Commissioner Choper?
25 COMMISSIONER CHOPER: Yes.

1 CHAIRMAN WINNER: Chairman votes yes.
2 Vice Chair --
3 VICE CHAIRMAN AUERBACH: Yes.
4 CHAIRMAN WINNER: -- votes yes.
5 Commissioner Ruano --
6 COMMISSIONER RUANO: Yes.
7 CHAIRMAN WINNER: -- votes yes.
8 CHAIRMAN WINNER: Thank you very much.
9 MR. KENNEY: Thank you.
10 CHAIRMAN WINNER: Approved unanimously.
11 EXECUTIVE DIRECTOR BAEDEKER: Mr. Chairman, just
12 FYI regarding the next agenda item, the Application by the
13 Sonoma County Fair. Staff has received the outstanding
14 documents, granted, not sufficiently in time for review by
15 the Commissioners, but -- so the Board can choose whether or
16 not to hear it today or move on.
17 CHAIRMAN WINNER: I recommend that we go ahead and
18 hear it today. And so let's move on with item number 11.
19 Discussion and action by the Board on the
20 Application to Conduct a Horse Racing Meeting of the Sonoma
21 County Fair at Santa Rosa, commencing August 1, 2018
22 through August 14th, 2018, inclusive.
23 Becky?
24 MS. BARTLING: Good morning.
25 CHAIRMAN WINNER: Good morning.

1 VICE CHAIRMAN AUERBACH: Good morning.

2 MS. BARTLING: Becky Bartling, CEO, Sonoma County
3 Fairgrounds and wine country racing. And I have Stacey
4 Lapham, our Director of Racing here today, so --

5 CHAIRMAN WINNER: Thank you.

6 MS. BARTLING: -- we're excited to be here and
7 present our Application, and apologize for the late
8 distribution, late information coming, but we're going to
9 try to be better at that. It seems to me there's always a
10 little hiccup somewhere down the road, but we do really try
11 to get everything in on time.

12 So just a couple things.

13 As you know, we have eight days of racing this
14 year, a little different than the past. We actually are
15 dropping two of the stakes' races due to that. Our three
16 stakes' races will be on the turf track. However, we are
17 replacing the dropped stakes' races with comparable
18 allowance races. And our overnight purses are same as last
19 year and the same as our other racing fairs.

20 The turf course, we have been working on it very
21 diligently, so it should be as good as it's ever been,
22 excited about that. We have one staff member who has been
23 sleeping out there, so it should be good.

24 We have the Dinners in the Park for our horsemen.
25 We're going to continue to those, nice event where we host a

1 dinner and the board -- actually, our Board of Directors
2 comes and serves to the horsemen. And we have -- Stacey
3 puts together a great little raffle that we give out, so
4 it's a real fun night.

5 Promotions. In addition to our popular daily
6 handicap seminars, the Win, Place and Show Drawing, t-shirt
7 toss, always popular, paddock tours, and the ever popular
8 Derby Dog Races. Now, if you haven't seen those at a fair
9 racetrack, you've got to, it's crazy. And I think the
10 people that actually run the dogs are more involved than
11 many of the horsemen. Well, I guess, and many of them are
12 the horsemen.

13 And we're having, back by popular demand, the
14 Second Chance promotion where patrons have the ability to
15 win a prize by submitting their losing ticket into the daily
16 drawing, so hopefully losers become winners.

17 And we're going to continue on with an area to
18 help teach racing fans how to use the tote machines. We
19 give them out a \$2.00 voucher, so it gives them a little
20 incentive to actually go try it. It helps when we have big
21 lines and the mutuels are a little backed up. It's a good
22 added asset for us to help get the wagering going.

23 So with that, I'll let you ask any questions that
24 you might have.

25 COMMISSIONER RUANO: I have a real quick question.

1 CHAIRMAN WINNER: Please, Commissioner Ruano.

2 COMMISSIONER RUANO: The missing information for
3 the Workers' Compensation, what's the new expiration date?
4 Because that one is about to expire.

5 MS. BARTLING: It expires every year. We get that
6 through the County of Sonoma and it expires every year at
7 the same time, so it will be renewed right after that.

8 COMMISSIONER RUANO: Renewed? Okay.

9 MS. BARTLING: Yes.

10 CHAIRMAN WINNER: Commissioner Solis?

11 COMMISSIONER SOLIS: Yeah. My concern is you keep
12 dropping down the stake races. And I think for breeding
13 reasons in California, it's important to have these races.
14 I'd like to see if, in the future, we get more of these
15 races. It's very important for the breeding here in
16 California.

17 MS. BARTLING: Sure. I understand. I think our
18 challenge is, you know, we went from three weeks of racing
19 to two weeks of racing. And honestly, without dropping
20 those stakes' races, our race meet would be -- it would be
21 financially difficult.

22 So I understand your concern. Hopefully at some
23 point we can work a way to go back to three weeks to help
24 with that. And if we could do it, we would certainly add
25 something back.

1 CHAIRMAN WINNER: Are you interested in going back
2 to three weeks?

3 MS. BARTLING: We are.

4 CHAIRMAN WINNER: Okay. And I agree with
5 Commissioner Solis. I think that losing those stakes' races
6 is harmful. And whatever we can do bring them back,
7 hopefully next year --

8 MS. BARTLING: Yeah.

9 CHAIRMAN WINNER: -- would be very helpful.

10 MS. BARTLING: Understandable. And we, obviously,
11 you know, we've gone through our issues in the past with the
12 carnival and being bounced around.

13 CHAIRMAN WINNER: Right.

14 MS. BARTLING: And, you know, it's water under the
15 bridge now, but in the future, we would certainly like to be
16 back to three week.

17 CHAIRMAN WINNER: Thank you.

18 Any other questions? Is there a motion to approve
19 the license?

20 COMMISSIONER RUANO: So moved.

21 CHAIRMAN WINNER: Commissioner Ruano moves.

22 VICE CHAIRMAN AUERBACH: I'll second.

23 CHAIRMAN WINNER: Vice Chair Auerbach seconds.

24 Commissioner Mass?

25 COMMISSIONER MASS: Yes.

1 CHAIRMAN WINNER: Commissioner Solis?
2 COMMISSIONER SOLIS: Yes.
3 CHAIRMAN WINNER: Commissioner Choper?
4 COMMISSIONER CHOPER: Yes.
5 CHAIRMAN WINNER: Vice -- or Chairman votes yes.
6 Vice Chair?
7 VICE CHAIRMAN AUERBACH: Yes.
8 CHAIRMAN WINNER: And Commissioner Ruano?
9 COMMISSIONER RUANO: Yes.
10 CHAIRMAN WINNER: Have a great meet.
11 MS. BARTLING: Thank you.
12 CHAIRMAN WINNER: Thank you.
13 MS. BARTLING: Hopefully you all can come visit
14 us.
15 CHAIRMAN WINNER: Thank you.
16 MS. BARTLING: It is wine -- it's wine country.
17 CHAIRMAN WINNER: Item number 12, discussion and
18 action by the Board on the Application for License to
19 Conduct a Horse Racing Meeting of the Humboldt County Fair,
20 commencing August 15th, 2018 through August 28th, 2018,
21 inclusive.
22 Jim? Folks?
23 MR. MORGAN: Good morning. James Morgan, Special
24 Counsel, Humboldt County Fair.
25 MR. CONWAY: Richard Conway, Humboldt County Fair.

1 Basically, we're back again, you know, this year
2 with the unopposed. NCOTWINC gave us the opportunity to
3 increase the purse levels. We added back another small
4 stake race. A lot of positive recruitment and response so
5 far from the Pacific Northwest, so looking to having a
6 really solid meet.

7 We have a lot of new promotions. You know, we
8 actually have a road trip from Alameda up to Humboldt for
9 the second week, bringing people from the simulcast facility
10 here, just a lot of opportunity for us.

11 CHAIRMAN WINNER: Can we do something about the
12 back feed?

13 Talk into the mike.

14 MR. CONWAY: Okay.

15 CHAIRMAN WINNER: Okay. Thank you.

16 MR. CONWAY: So again, you know, with the
17 unopposed week, it's a great opportunity for us. Ad we're
18 trying to take full advantage of it.

19 CHAIRMAN WINNER: Jim?

20 MR. MORGAN: Yeah. Just to dovetail on that,
21 thank you so much for giving us the opportunity to race one
22 week without overlap. I know it's a struggle every year.
23 Giving Golden Gate the extra two weeks in September helped
24 them. Opening Pleasanton a week early, full grandstands,
25 full parking lots helped them. And one week without overlap

1 for Humboldt will help us survive.

2 As Richard said, we've raised purses. We've
3 doubled down on our efforts to recruit horses from Oregon.
4 And hopefully, like last year, they'll come, they'll have
5 some success at Humboldt and they'll stay for the rest of
6 the fair season at Golden Gate Fields.

7 We've added money to the purse and a stake's race.
8 I don't know if you read, but the San Jose Mercury News last
9 week came up with a list of five county fairs you must visit
10 in California; Alameda and Humboldt were at the top of that
11 list. We look forward to a good meet.

12 We had Lonely Planet come out this year and name
13 Humboldt County Coastline as the number one destination in
14 the United States.

15 We're doing all we can to recruit horses and have
16 a good meet.

17 I'd also like to remind the group that in the past
18 years, you've had, when we raced with overlap at Golden Gate
19 Fields, that they not run horses below \$5,000. We ask that
20 that be a condition of racing overlap again this year. Two
21 years ago they wrote some races in the condition book as
22 extras. They didn't do that last year, but they did write
23 starter allowances for horses that started for less than
24 \$5,000. They wrote five. So those -- that also kind of
25 hurts us. So we would ask that you continue that tradition

1 of having the restriction on horses entered below \$5,000
2 during the period of overlap.

3 CHAIRMAN WINNER: Of course, that would come up
4 during their license application, not during yours.

5 MR. MORGAN: Chairman, yes.

6 CHAIRMAN WINNER: Any questions?

7 COMMISSIONER RUANO: I have a question.

8 CHAIRMAN WINNER: Yes, please.

9 COMMISSIONER RUANO: You mentioned new promotions.
10 I'm wondering if you could tell us a little bit more about
11 what they are and why you're excited about them?

12 MR. CONWAY: We brought a new marketing person in-
13 house. And with the help of, actually, Alameda a lot of the
14 new promotions through social media, to something we focused
15 on a lot in the past, and with giveaways and contests and
16 second-chance events, definitely a lot of interest in some
17 of the new ideas. So it's, you know, we have, I don't know,
18 I think we have 20,000 followers right now, and that number
19 seems to be increasing every day through the promotional
20 efforts.

21 COMMISSIONER CHOPER: Has Golden Gate agreed to
22 the \$5,000 minimum?

23 MR. MORGAN: They have not disagreed with it. And
24 they've agreed to it each of the five -- last three or four
25 years, and the Board has made that a condition.

1 And to further answer your question, we know we
2 have quite a pilgrimage of people from the Bay Area that go
3 up for the cooler weather and the redwoods and the
4 coastline. This year, for the first time, they've organized
5 a group for 45 people to go up for three days, three nights.
6 If any of you would like to go, we'd love to sponsor you.
7 They live from this, by bus, from this parking lot. They
8 have barbeques. The have handicapping seminars. They go to
9 the Jockey Club breakfast. And it stimulates interest in
10 not only the region, but the horse racing, live horse racing
11 at that venue.

12 COMMISSIONER RUANO: And this is the first time
13 you're doing that?

14 MR. MORGAN: First time we're doing that.

15 CHAIRMAN WINNER: Just to be clear, part of the
16 race dates commitment that was made when we granted the race
17 dates to Golden Gate at that time was the \$5,000 minimum.

18 MR. MORGAN: That was my understanding --

19 CHAIRMAN WINNER: Yeah.

20 MR. MORGAN: -- but I wasn't sure if it was
21 formalized.

22 CHAIRMAN WINNER: Well, let's just get it on the
23 record that that was.

24 Okay, is there a motion?

25 COMMISSIONER MASS: So moved.

1 CHAIRMAN WINNER: Commissioner Mass moves.
2 COMMISSIONER SOLIS: Second.
3 CHAIRMAN WINNER: Commissioner Solis seconds.
4 Commissioner Ruano?
5 COMMISSIONER RUANO: Yes.
6 CHAIRMAN WINNER: Vice Chair Auerbach?
7 VICE CHAIRMAN AUERBACH: Yes.
8 CHAIRMAN WINNER: Chairman votes yes.
9 Commissioner Choper?
10 COMMISSIONER CHOPER: Yes.
11 CHAIRMAN WINNER: And Commissioner Solis?
12 COMMISSIONER SOLIS: Yes.
13 CHAIRMAN WINNER: And Commissioner Mass?
14 COMMISSIONER MASS: Yes.
15 CHAIRMAN WINNER: Have a great meet, guys.
16 MR. MORGAN: Thank you.
17 MR. CONWAY: Thank you. Appreciate it.
18 CHAIRMAN WINNER: Look forward to it.
19 Okay, discussion and action by the Board on the
20 Application for License to Conduct a Horse Racing Meeting of
21 the Pacific Racing Association II at Golden Gate Fields,
22 commencing August 22nd, 2018 through October 2nd, 2018,
23 inclusive.
24 And let me just state at the outset that this is
25 not a discussion of race dates. Race dates are not on the

1 agenda. There was no public notice of a discussion of race
2 dates. And even though a lot of the media has made this --
3 has indicated that a discussion of race dates might be
4 taking place at this meeting, let's just say clearly at the
5 outset of the discussion on this item, we're going to be
6 discussing this item. We are not going to be discussing the
7 allocation of race dates at this meeting.

8 So having said that, Eric, you're on.

9 MR. SINDLER: Good morning. Eric Sindler on
10 behalf of Pacific Racing Association II.

11 We have submitted our Application to Conduct a
12 Race Meet. It starts August 22nd and goes through October
13 2nd.

14 It is noted in the staff analysis that in their
15 opinion the Application does not comply with California Law.
16 We disagree. We believe the application does comply with
17 California Law and we request your approval.

18 CHAIRMAN WINNER: All right. Is there any
19 discussion?

20 Rick, do you have something you would like to
21 state?

22 EXECUTIVE DIRECTOR BAEDEKER: Yeah. Clearly, Eric
23 has indicated the key controversial component of the Race
24 Meet Application.

25 Since 1984, the California Legislature -- in 1984,

1 the California Legislature authorized satellite wagering in
2 order to expand wagering opportunities, and thereby achieve
3 greater purses, increase racing opportunities, and create
4 jobs. Satellite wagering in the north and south has
5 operated continuously for 33 years.

6 The Stronach Group, however, in its Application to
7 operate the Golden Gate meet, which will run from August
8 22nd through October 5th, it's limited to those six weeks,
9 they have proposed to operate without a simulcast wagering
10 network in the northern zone.

11 So as Eric indicated, this has raised several
12 legal issues. And our legal staff has been working for the
13 better part of the last three months on the analysis of the
14 law.

15 And so I will turn it over to our Staff Counsel,
16 Rob Brodnick to brief the Board on our findings.

17 MR. BRODNICK: Good morning, Chairman --

18 CHAIRMAN WINNER: Good morning.

19 MR. BRODNICK: -- members of the Board, Robert
20 Brodnick, California Horse Racing Board.

21 Item number 13 on the agenda addresses Pacific
22 Racing Association II's Application to Conduct a Race Meet,
23 as Mr. Sindler indicated, from August 22nd through October
24 2nd of this year.

25 Staff has had an opportunity to review the

1 Application as submitted and its staff analysis lists items
2 which still remain outstanding. Specifically, I'd like to
3 draw your attention to the simulcast wagering portion of the
4 Application. That's section number 12 of the Race Meet
5 Application. And subsection (a) specifically requests a
6 simulcast organization engaged by the association to conduct
7 simulcast wagering. PRA II's response was N/A, or not
8 applicable.

9 Staff believes that per the CHRB Rule 2058, a
10 racing association may simulcast its racing program as the
11 host association, either by forming its own simulcast
12 organization, acting on its own behalf by contracting with
13 each individual fair or racing association simulcast
14 facility, or by contracting with an existing simulcast
15 organization. If an association acts on its own behalf, it
16 is still responsible for the provisions of CHRB Rule 2060.

17 Here, Pacific Racing Association II is obligated
18 to simulcast its racing program pursuant to the provisions
19 in California Business and Professions Code section 19608.
20 And this is because Pacific Racing Association II makes more
21 than \$1.5 million in average daily handle.

22 Pacific Racing Association II, by indicating not
23 applicable the only conclusion that can be reached is that
24 they intend to contract with each individual satellite.

25 In subsection (b), the Application requests the

1 applicant to attach the agreement between the Association
2 and simulcast organization permitting the organization to
3 use the Association's live audio-visual signal for wagering
4 purposes, and provide access to its tote for the purposes of
5 combining on-track and off-track pari-mutuel pools. Again,
6 PRA II's response was not applicable.

7 As discussed, Staff believes that PRA II needs to
8 provide to the Board for approval a copy of each operational
9 agreement it enters into with each simulcast facility.

10 Here, PRA II has indicated not applicable. And Staff views
11 this section of the Application as incomplete.

12 To comply, Staff believes that PRA II will need to
13 provide operational agreements with all eligible satellite
14 wagering facilities.

15 In subsection (c) of the Application in section
16 12, the Application requests the applicant to list
17 California simulcast facilities the Association proposes to
18 offer its live audio-visual signal to.

19 PRA's response in this portion of their
20 Application for the race meet was Southern California only,
21 as well as combining a list of only Southern California
22 satellite wagering facilities.

23 Staff views this proposal in the Application by
24 PRA II to be in violation of the law. Business and
25 Professions Code section 19608 requires an association which

1 makes more than \$1.5 million in average daily handle to make
2 its audio-visual signal available to authorized satellite
3 wagering facilities.

4 Furthermore, CHRB Rule 2058(e) states that all
5 wagers made available by the host association shall be made
6 available to all simulcast facilities.

7 PRA II proposes to make its signal available only
8 to certain simulcast facilities. And those simulcast
9 facilities are only in Southern California.

10 It is important to note that this Application is
11 inconsistent or different from industry practice.

12 Typically, the industry practice has been to conduct
13 simulcast wagering with all facilities, all satellite
14 facilities. And this Application as submitted would be a
15 large departure from that practice.

16 Furthermore, as stated in the Business and
17 Professions Code in 19401(c), one intent of the law and the
18 Board which enforces it is to provide for the maximum
19 expansion of horse racing opportunities.

20 So with that, Staff used the current Application,
21 as submitted by PRA II as incomplete.

22 And with that, I'm happy to take any questions.

23 CHAIRMAN WINNER: Any questions for Rob?

24 Do we have any cards on this issue, Mike?

25 MR. MARTEN: Only two.

1 MR. SINDLER: May I come up? I would like to say
2 I do --

3 CHAIRMAN WINNER: Yeah, you definitely --

4 MR. SINDLER: Yes.

5 CHAIRMAN WINNER: -- can respond.

6 MR. SINDLER: Yes. No, I respect his analysis. I
7 disagree. We do not, and I personally do not believe the
8 law requires us to operate a network in Southern California.
9 That is why we have made our Application the way that we
10 did. So reasonable minds can differ. It's not an
11 acrimonious dispute. We just believe the law says -- you
12 think it says X, we think it says not X. It's really a
13 legal question. It is not acrimonious. It is not
14 confrontational. We don't want you to view it that way. We
15 just think it's an interpretation of the law.

16 VICE CHAIRMAN AUERBACH: Eric, did you misspeak?
17 You said Southern California.

18 MR. SINDLER: Oh, then, yes, Northern California.

19 CHAIRMAN WINNER: Okay.

20 VICE CHAIRMAN AUERBACH: Okay.

21 MR. SINDLER: Yeah.

22 VICE CHAIRMAN AUERBACH: I just wanted to clarify
23 that.

24 MR. SINDLER: Thank you.

25 CHAIRMAN WINNER: Elizabeth? Elizabeth Morey?

1 MR. AVIOLI: We'll come together, if you don't
2 mind.

3 CHAIRMAN WINNER: Okay. I don't have a card from
4 you.

5 MR. AVIOLI: Yes, you do.

6 CHAIRMAN WINNER: I don't have it.

7 VICE CHAIRMAN AUERBACH: I think Liz went to --

8 CHAIRMAN WINNER: I don't know if I'm going to
9 allow you to come here without a card.

10 VICE CHAIRMAN AUERBACH: My understanding, too, is
11 there are a list of things that are not done with you --
12 according to our paperwork, there's no TOC agreement,
13 there's no labor agreement. There's a lot of stuff that
14 missing. Do you know if any of this stuff has -- there's no
15 CTT agreement, I don't think.

16 MR. AVIOLI: Yes, a few of those.

17 MS. MOREY: There's seven items.

18 VICE CHAIRMAN AUERBACH: Where are we now, do we
19 know?

20 MR. AVIOLI: So --

21 VICE CHAIRMAN AUERBACH: Let me ask Staff first.

22 Do we know where they are on the rest of the
23 agreement, Jackie?

24 CHAIRMAN WINNER: Jackie?

25 VICE CHAIRMAN AUERBACH: Jackie would like a

1 microphone.

2 MS. WAGNER: Jackie Wagner, CHRB Staff.

3 To my knowledge, we have not received any of the
4 items that are noted as outstanding --

5 VICE CHAIRMAN AUERBACH: None of them?

6 MS. WAGNER: -- in your analysis.

7 VICE CHAIRMAN AUERBACH: The NYRA Bets, the ADW
8 stuff, that's your -- Scott does that; right?

9 MR. SINDLER: So NYRA Bets, the agreement ends the
10 end of this month. We are in negotiation with them. We
11 sent contracts over. We don't expect any problems with NYRA
12 Bets.

13 CHAIRMAN WINNER: But we don't have it?

14 VICE CHAIRMAN AUERBACH: We don't have it.

15 MR. SINDLER: Not yet, no.

16 VICE CHAIRMAN AUERBACH: And we don't have
17 anything with --

18 MR. SINDLER: That hasn't expired yet.

19 VICE CHAIRMAN AUERBACH: -- CTT and TOC. You
20 don't have those either?

21 MR. SINDLER: We're in negotiation. And we
22 understand those are outstanding.

23 However, I believe the real crux of this matter is
24 whether our Application complies with the law and that's
25 what I would like to focus on, whether our Application is

1 granted based on the law or not.

2 CHAIRMAN WINNER: Okay.

3 VICE CHAIRMAN AUERBACH: I understand what you'd
4 like to focus on, but we have a responsibility to focus on
5 all of it. So I see --

6 MR. SINDLER: I appreciate that.

7 VICE CHAIRMAN AUERBACH: -- people from TOC, so I
8 guess they're going to update us.

9 CHAIRMAN WINNER: Yeah, let's see what TOC has to
10 say.

11 Mr. Avioli?

12 MR. AVIOLI: Yes. Good morning.

13 CHAIRMAN WINNER: Now that I have your card --

14 MR. AVIOLI: Good afternoon.

15 CHAIRMAN WINNER: -- you can speak.

16 MR. AVIOLI: Good afternoon. Let the record
17 reflect that Liz was supposed to put a card in for me and
18 she didn't, and we'll be dealing with that later.

19 CHAIRMAN WINNER: Oh, so now we're casting blame?

20 VICE CHAIRMAN AUERBACH: Oh, boo.

21 MR. AVIOLI: Greg Avioli, TOC.

22 The goal has been to create chaos by the Stronach
23 Group, and they have created chaos. I think we can all
24 agree on that.

25 The legal issue will be decided one way or the

1 other, but we're here today to talk about some practical
2 issues and provide some real information and real data,
3 because in the words of 2018, there's been a lot of fake
4 facts out there, starting with that NCOTWINC loses money.
5 And Elizabeth is going to go through some numbers. And we
6 got permission from Mr. Baedeker to distribute those to you
7 all. And before we get to that, just a couple point I want
8 to make.

9 In the past there have been issues of is the
10 horsemen agreement turned in on time, and it's largely been
11 administrative, where we're dealing with sort of minor
12 things. Right now, there is no path to a horsemen's
13 agreement for Golden Gate because what Golden Gate is asking
14 for is the ability to run without a simulcast network that
15 currently generates approximately 50 percent of the purses
16 at Golden Gate. So, of course, the horsemen could not agree
17 to that.

18 So regardless of how this gets resolved in court
19 in the next 30 days, there is no practical way that I can
20 see, absent a significant long-term guarantee from the
21 Stronach Group for purses, regardless of the handle
22 generated, absent that, I don't believe there's a way for
23 the TOC to give a horsemen's agreement. It would be
24 violating a number of obligations we have to our members.

25 Let me say that one more time: 50 percent of the

1 purses at Golden Gate are generated by wagering at NCOTWINC.

2 The second thing of things to come if this is not
3 resolved that will be back before this Board is the Stronach
4 Group did have the right, which they exercised about 97 days
5 ago, to withdraw from NCOTWINC, and that became effective
6 earlier in June. Because it's unchartered territory, what
7 no one ever discussed is what happens with NCOTWINC at that
8 point? And I can tell you, there are millions of dollars,
9 probably over three, not counting projected damages from
10 various lawsuits and other liabilities, that the Stronach
11 Group has indicated their position is after they left
12 NCOTWINC, then they're not on the hook anymore for those.
13 Well, if they're not on the hook for those, that would leave
14 the TOC and CARF on hook for those. And there's -- again,
15 in basic fairness, you can't just reach that conclusion.

16 So we have begun the process with the Stronach
17 Group of telling them what we think their share of the costs
18 are. This has by no way been resolved, but it's an issue
19 that no one is talking about that, ultimately, I think is
20 going to come back before the CHRB.

21 So with that, I will turn it over to TOC Director
22 of Racing and head of Northern Operations, Elizabeth Morey.

23 Thank you.

24 CHAIRMAN WINNER: Well, just to clarify, with
25 respect to the NCOTWINC issue, if it comes back before the

1 Board, it would only come back to the Board with respect to
2 settling -- helping to settle a dispute; is that correct?
3 Because it's really NCOTWINC is not --

4 MR. AVIOLI: Well, ultimately, we believe there's
5 going to be a liability from Golden Gate, Pacific Racing, to
6 NCOTWINC, and it will come back to the Board under the, I
7 believe, under the auspices of your ability to make someone
8 pay their debts.

9 CHAIRMAN WINNER: So to settle a dispute, or in
10 the best interest of racing, I think we can, also.

11 MS. MOREY: Elizabeth Morey, TOC.

12 I'd like to address some of the comments that have
13 been made, both at CHRB Board meetings and in the press
14 about the NCOTWINC network not being profitable, statements
15 that it loses money.

16 And it is true that the NCOTWINC expenses during
17 the Golden Gate Fields meets exceed their statutory
18 distribution. We use other sources of revenue to make up
19 that difference. But even including that, the NCOTWINC
20 network and the satellites are still profitable, both to
21 purses and commissions, and contribute to a number of other
22 industry organizations.

23 NCOTWINC actually covers both the expenses of the
24 simulcast network at off-track sites, and also a portion of
25 the live on-track expenses as they relate to imported races.

1 So last year the NCOTWINC network administered, at Golden
2 Gate Fields meets only, \$1.43 million.

3 Now, as you know, the majority of that money goes
4 back out to the wagering public. If we got to keep all of
5 it, well, people, it wouldn't be a very good bet for the
6 betters, but it would great business for us.

7 CHAIRMAN WINNER: \$143 million?

8 MS. MOREY: Yes, \$143 million. So of that, to
9 purses and commissions, to purses, \$5.7 million just for the
10 Golden Gate Fields meets, and commissions, \$4.8 million.

11 In addition to that, these are 2017 numbers, there
12 was over \$1 million that was generated to the Stabling and
13 Vanning Fund. And as the Board and most of the people in
14 this room know, with the closure of Pleasanton, that money
15 is no longer coming out of handle. So that's an additional
16 \$1 million a year that would go towards purses and
17 commissions from the off-track network.

18 We also have \$843,000 in CHRB Board support and to
19 the Fairs and Exhibition Funds, \$353,000 in city taxes.

20 So the idea that this network is not making money
21 is untrue. It is certainly making less money than it has in
22 the past. And the TOC does not want to prevent the Stronach
23 Group towards moving to a more economic model.

24 ADW is growing. It's growing every year. The
25 simulcast network does handle less money every year. And

1 there should be an agreement where everyone can work
2 together towards finding a model that works for everyone
3 without, so to speak, throwing the baby out with the bath
4 water, where we can make sure that we can maintain the purse
5 money and the commission money that this network generates
6 while still working towards a model that makes more sense
7 for the future.

8 MR. AVIOLI: And if I could just add a couple
9 points real quick?

10 We have been working for six months to try to,
11 basically, tighten up the efficiency of NCOTWINC, and I
12 think we're making some progress. And we'll be doing the
13 same with SCOTWINC. And so that end, I applaud the Stronach
14 Group for starting the process.

15 The total expenses for this network are \$6.55
16 million. And of those expenses, 93 percent of those are for
17 labor, tote data network, signal distribution and the
18 armored cars. Is there some fluff in all that? Could
19 better deals be negotiated? Of course. And, in fact, as
20 you've heard, there's a labor contract going on and that
21 could reduce these costs, and it's probably in everyone's
22 best interest that that happens.

23 But what I'm trying to say, it's just not a \$20
24 million thing where we're going to be able to take \$14
25 million out of it. You're talking probably 10 to 20 percent

1 on the margins. And that's one of the challenges that we
2 believe there is in the chaos. Like why so much chaos when
3 we're trying to find a couple million dollars?

4 The second thing that I want to talk under is sort
5 of the fake fact concept is we've heard, we've read
6 interviews with Stronach Group officials that their plan is
7 to just close the network and then have all the money bet by
8 ADW. Elizabeth is giving you some information about the
9 three sites that have closed in the last decade in Northern
10 California and how much of that money has actually
11 gravitated to ADW. And the way those numbers were pulled is
12 just basically doing a 25-mile radius around a race, we know
13 where the people at ADW live, and seeing what the increase
14 in this case, or decrease, was. And what you see is
15 virtually none of the money that had been bet at the
16 satellites converted to ADW. That's not to say that that
17 will be the case in the future. Different locations,
18 different time, I would hope there would be a better plan to
19 incent customers, right, to transition.

20 We believe at the TOC, we have very little doubt
21 in our minds that we are ultimately moving to a primary ADW
22 wagering model in California, along with everywhere else.
23 Last year was interesting. For the first time since they
24 introduced ADW, ADW wagering in the south exceeded wagering
25 at SCOTWINC. So the ADWs, \$478 million wagered in the south

1 at ADW, \$452 million wagered at SCOTWINC. Interesting, in
2 the north, we haven't seen that yet. In the north, \$183
3 million at NCOTWINC, and that's counting when Golden Gate is
4 running live, and \$166 million ADW. So the south is clearly
5 a little bit more advanced in terms of the ADW than the
6 north.

7 And it's further showing this year. This year,
8 ADW in the south is up a remarkable 14 percent year over
9 year, and that's after a lot of growth in the previous
10 decade. Statewide, it's up about ten-and-a-half percent,
11 but in the north, it's up less than two percent. So we have
12 work to do with ADW customers in the north.

13 We support a logical transition over time to a
14 form of betting that most of our customers are going to want
15 to do. But we don't believe anything as rash as dropping
16 the network on day one and thinking all the money is going
17 to go to ADW is illogical.

18 CHAIRMAN WINNER: Eric, what is the estimate by
19 the Stronach Group with respect to the percentage that's
20 required to go from the satellite network to ADWs to even --
21 to break even on what would be lost?

22 MR. SINDLER: the breakeven point is somewhere
23 around 65 to 70 percent, in that ballpark. The exact number
24 is unknown because if it does shift to ADW, a few deals will
25 be most likely modified, so the exact number is not exactly

1 possible to know at this point.

2 CHAIRMAN WINNER: So it would require a movement
3 of 65 to 70 percent. And the history seems to be, as Mr.
4 Avioli pointed out, that there's been no growth. When the
5 San Mateo and the other two satellites closed, there was no
6 growth in the ADW. How do you explain that?

7 MR. SINDLER: I'm sorry, I don't get your
8 question.

9 CHAIRMAN WINNER: My question is if there is a
10 precedent for closing brick-and-mortars and whether or not
11 those customers go to ADW? And the precedent shows that
12 there's been no movement of those brick-and-mortar customers
13 to ADWs. And you're saying that in order to breakeven, you
14 have to have 65 or 70 percent movement, as I'm understanding
15 what you're saying.

16 And I'm asking you, how do you --

17 MR. SINDLER: Right.

18 CHAIRMAN WINNER: -- how do you plan to encourage
19 those 65 or 70 percent of customers that are currently going
20 to brick-and-mortars to wager on ADW, since the precedence
21 seems to indicate that doesn't happen?

22 MR. SINDLER: Well, first, I think it should be
23 noted that the precedent, I know he said this in the last
24 decade, so when there's a seismic shift, looking at what
25 happened in one or two isolated cases, I'm not sure is

1 apples to apples.

2 Additionally, where the wagers are located and the
3 time, things have changed in a decade. So I'm not really
4 sure we're comparing apples to apples by any stretch of the
5 imagination. Having just received these numbers, I don't
6 know the exact dates they closed, exact locations, exactly
7 populations. So trying to compare what happened a decade
8 ago to today, I think is unfair.

9 MR. AVIOLI: By the way --

10 MR. SINDLER: With that --

11 MR. AVIOLI: -- it's Greg Avioli.

12 It's 2013, 2016 and 2017 were when each of those
13 site closed.

14 CHAIRMAN WINNER: Yeah, so we're not talking a
15 decade. We're talking a few years.

16 MR. SINDLER: Right.

17 CHAIRMAN WINNER: But I understand.

18 MR. SINDLER: Yeah.

19 CHAIRMAN WINNER: There are differences.

20 MR. SINDLER: Yes.

21 CHAIRMAN WINNER: You know, clearly, there are
22 differences in population and differences in demographics
23 and differences in distance and all that kind of stuff. It
24 just seems like a pretty big stretch to go from zero to 65
25 or 70 percent.

1 VICE CHAIRMAN AUERBACH: To put it another way --

2 MR. AVIOLI: Could I add one thing?

3 VICE CHAIRMAN AUERBACH: -- what -- I was going to
4 ask --

5 MR. AVIOLI: -- real quick?

6 VICE CHAIRMAN AUERBACH: -- may I --

7 MR. AVIOLI: Because I think it's important for
8 Eric. You go ahead.

9 VICE CHAIRMAN AUERBACH: May I ask you what you've
10 done to ensure that that money would be available? What is
11 the Stronach Group planning to do if they're not planning to
12 distribute the signal so that that money is available for
13 purses? What are they planning to do to ensure that there
14 will be money enough for purses?

15 MR. SINDLER: We are still in discussions about
16 that at the moment.

17 VICE CHAIRMAN AUERBACH: So, in other words, you
18 want to drop it without having a clear plan about how to
19 replace it? Look --

20 MR. SINDLER: Yeah.

21 VICE CHAIRMAN AUERBACH: -- you're here.
22 You're --

23 MR. SINDLER: I know.

24 VICE CHAIRMAN AUERBACH: -- representing them.
25 These are the tough questions --

1 MR. SINDLER: I understand.

2 VICE CHAIRMAN AUERBACH: -- and
3 legitimate questions.

4 MR. SINDLER: They are.

5 VICE CHAIRMAN AUERBACH: You're asking to have a
6 license given to you while dropping \$6.5 million out of the
7 purse.

8 So my question to you is: What did you put in
9 place to make sure that we can withstand that, we as an
10 industry can withstand that shortfall?

11 MR. SINDLER: I think I'd like to say first, about
12 eight or nine years ago, it was a different Board, but the
13 whole industry was admonished for not having a productive
14 network. And in nine years, if it was that easy, it would
15 have happened.

16 So I understand your point. I don't -- I get
17 where you're coming from. But just to say you need a
18 concrete plan on day one, I think if it was that simple, it
19 would have already happened. And we are working on your
20 other points that I understand are reasonable. We are
21 working on it.

22 VICE CHAIRMAN AUERBACH: So, in other words, you
23 don't have anything?

24 MR. SINDLER: We are working on it.

25 VICE CHAIRMAN AUERBACH: Okay.

1 CHAIRMAN WINNER: Is there -- yeah, Greg, go
2 ahead.

3 MR. AVIOLI: I just wanted to clarify, and maybe
4 Eric could confirm this, because there has been some
5 discrepancies of how much of the handle would actually have
6 to move over. And we believe the actual number is closes to
7 100 percent. And the reason, the way that we understand
8 that they get to 70 percent is by assuming that in this
9 process the statutorily mandated \$2.9 million of mitigation
10 fees that has to be paid out of ADW to the fairs will be
11 voluntarily returned, so that's another baseless
12 supposition.

13 So the reality is, back to fake facts, there
14 isn't -- that's the only way you get to the 70 percent
15 number.

16 CHAIRMAN WINNER: Is there another factor in this,
17 Eric, that you can respond to, which is that when you
18 figured your 65 or 70 percent, were you figuring a
19 percentage of the new ADW money would go to Xpressbet and
20 Xpressbet would add to the profit --

21 MR. SINDLER: Well --

22 CHAIRMAN WINNER: -- and therefore, that's how you
23 get to a breakeven point?

24 MR. SINDLER: -- no. Greg is talking about
25 something --

1 CHAIRMAN WINNER: No.

2 MR. SINDLER: -- actually separate.

3 CHAIRMAN WINNER: I know what Greg is talking
4 about. I'm asking you a different question.

5 In your figures did you figure in revenue that
6 Xpressbet would receive from the transfer of wagering at
7 satellites to ADWs? That's a simple question.

8 MR. SINDLER: Yes. The numbers we're working off
9 of were prepared by Bernie Thurman. And, no, that was not
10 included in her analysis.

11 CHAIRMAN WINNER: Okay. Thank you.

12 MR. SINDLER: However, just to quickly comment --

13 CHAIRMAN WINNER: Yes.

14 MR. SINDLER: -- on Greg's point about the \$2.9
15 million, or roughly \$2.9 million, we believe the law is
16 clear that if there is no network, it has nowhere to go but
17 purses and commissions.

18 CHAIRMAN WINNER: Rob, did you want to say
19 something?

20 MR. BRODNICK: Yes, just quickly. Thank you.

21 Robert Brodnick, California Horse Racing Board.

22 To Mr. Sindler's original point, the Board has
23 before it its Application. It's not just whether the
24 Application complies with the law, which the Staff at CHRB
25 believes it does not because they're mandated to make their

1 signal available under 19608.

2 But further, the Board, when determining whether
3 to grant or deny a license, has three other criteria that it
4 looks to. And the first is whether it's in the public
5 interest. Another is whether the application serves the
6 purposes of the horse racing law. And finally, whether the
7 application fails to meet any requirement of the law or the
8 Board's regulation.

9 So beginning with the third one, as Staff has
10 said, the current Application, as indicated, with a denial
11 of satellite wagering to Northern California would not meet
12 the provisions of 19608 or California Horse Racing Board
13 rules and regulations. And so for that reason, that is why
14 Staff believes that the current Application is insufficient
15 or should not be granted, unless amended to comply with the
16 law.

17 Furthermore, as Mr. Avioli and the TOC has brought
18 up, and as the Board will consider, the Board has to
19 consider whether this is in the best interest to grant this
20 Application or to grant it as amended, you know, with an
21 amendment to comply with the law as it is, which would
22 potentially include wagering to Northern California
23 satellites, which is what the law mandates.

24 Again, the other is whether the Application serves
25 the purposes of the Horse Racing Law. And again, I think

1 that analysis is consistent.

2 So for that, I think it's important to note that I
3 understand that Golden Gate disagrees with our legal
4 analysis about what the law says. We believe the law says
5 that they have to make their signal available, but the
6 Board, also, has to consider the best interests of horse
7 racing, as well.

8 CHAIRMAN WINNER: Thank you. Are there any other
9 questions? All right. I'm sorry. No? Okay.

10 Thank you.

11 Rick? Rick Pickering? Where's Rick?

12 VICE CHAIRMAN AUERBACH: Over there.

13 CHAIRMAN WINNER: There he is.

14 No other cards, Mike? Mike, any other cards on
15 this issue?

16 MR. MARTEN: No. None.

17 CHAIRMAN WINNER: Okay. Good.

18 Rick?

19 MR. PICKERING: Honorable Chair, Vice Chair,
20 distinguished members of the Board, talented Horse Racing
21 Board Staff, under the question of is it in the best
22 interest of the public, it's a very difficult question to
23 weigh out. And certainly, you have to deal with that every
24 time applications come in front of you.

25 Just within the past few years, we've seen

1 continued attempts by the Stronach Group, particularly at
2 Golden Gate Fields, either through when Belinda Stronach
3 sent out a letter to the industry saying Golden Gate Fields
4 was closing because it would be the home of the Berkeley
5 Labs, when letters went out stating that Golden Gate Fields
6 would close once Dixon Downs would be built.

7 In 2008, Bay Meadows closed and 22 weeks of racing
8 became made available to Golden Gate Fields.

9 In 2010, Magna announced it was seeking a real
10 estate development proposal for Golden Gate Fields and they
11 placed that in their FCC filing, which is also online.

12 The letter that I mentioned from Belinda Stronach
13 went out to the industry in 2011. That information is also
14 online.

15 In 2013, Berkeley Labs selected Richmond as their
16 new home, rather than Golden Gate Fields.

17 In 2015, Mr. Brackpool came back to California,
18 working for Mr. Stronach. And in 2015, Mr. Brackpool, on
19 behalf of Stronach, threatened, at a Horse Racing Board
20 Committee Meeting, that in spite of receiving the 22 weeks
21 from Bay Meadows, Golden Gate Fields would close unless it
22 could take all racing dates from fairs.

23 In 2016, the Stronach Group cancels the historic
24 Oak Tree Meet at Santa Anita, and Pleasanton graciously
25 brought Oak Tree to a new home in Northern California.

1 In October 2017, Mr. Ritvo came to California --
2 or in California, on behalf of Mr. Stronach, at one of his
3 first meetings before his Board, submitted a plan for Golden
4 Gate Fields to run December 20th through September 4th,
5 taking all racing fair dates. At that meeting, testimony
6 from fairs was that fairs were just, perhaps, the shortest
7 person in the room. And once they were wiped out, then
8 somebody would be making a run at labor and at TOC.

9 2017, Mr. Ritvo, on behalf of Stronach, threatened
10 to close Golden Gate Fields during summer training unless
11 the fairs agreed to pay almost an extra -- almost \$1 million
12 to keep Golden Gate Fields open as a training facility to
13 support the network of fairs.

14 And then most recently, articles are out there
15 saying Golden Gate Fields will have to close if it's forced
16 to continue to provide its satellite to -- or its signal to
17 fair satellites. We see that as an affront to this Board,
18 as an affront to NCOTWINC, as an affront to thoroughbred
19 owners, and most recently as a direct attack on organized
20 labor in the state of California.

21 So when we consider the best public interest,
22 Southern California, if you're looking at how dollars have
23 migrated, there's only a handful of satellite wagering
24 facilities in the south. They're in some very populated
25 areas such as Del Mar, L.A., then we move out to Lancaster,

1 San Bernardino, Riverside and Ventura. When you come up to
2 Northern California, we have 17 to 18 satellites spread
3 around the entire north, different demographics.

4 But we appreciate your question on how much of
5 this -- if the satellites in the north are closed, how much
6 of that would migrate to Xpressbet, which is also owned by
7 the Stronach Group. And please be aware that the fairs sell
8 their live racing signals nationally and contract with
9 Monarch to help place those signals, which is also owned by
10 the Stronach Group, so our hands are a little bit tied
11 there.

12 Closing fair satellite wagering facilities, we
13 believe this is a step, an additional step, should sports
14 wagering become legalized in California. We see this as if
15 the satellites are out of business, there's plays for the
16 future. We don't believe they're playing checkers. We
17 believe they're playing chess, and unfortunately, racing in
18 Northern California.

19 We appreciate all that Magna did, all that the
20 Stronach Group has done. But keeping us off balance with
21 these various grenades makes it very frustrating for the
22 fairs, for the horsemen, for labor, for you as a Board. We
23 certainly understand, they need their books to balance. But
24 when we see Golden Gate Fields being put on the market on a
25 fairly routine basis for development, we have to question,

1 will we continue to sacrifice all the north in order to
2 forestall the closing at Golden Gate Fields? We would not
3 want to see them close, but it certainly seems like this
4 Board gets faced with if we don't do what they want, they'll
5 close.

6 CHAIRMAN WINNER: Thank you.

7 MR. PICKERING: Thank you, Mr. Chairman.

8 CHAIRMAN WINNER: Thank you, Rick.

9 Any questions for Mr. Pickering? Any other
10 comments? Okay.

11 I'm going to propose a motion here and we'll see
12 how it goes in discussion.

13 I move to approve the Application for License to
14 Conduct a Horse Racing Meeting of the Pacific Racing
15 Association II, contingent on the receipt of agreements with
16 each satellite wagering facility in Northern California as
17 required by law, including the TOC Horsemen's Agreement and
18 all other outstanding items mentioned in the staff analysis
19 by the close of business on July 2nd, 2018.

20 Is there a second?

21 COMMISSIONER CHOPER: Second.

22 CHAIRMAN WINNER: Seconded by Commissioner Choper.

23 Is there discussion? Any discussion? All right,
24 we're going to take a vote.

25 COMMISSIONER CHOPER: Well, I'd be interested in

1 hearing what you have to say about that.

2 MR. SINDLER: About the motion specifically? It's
3 the Board's motion. Obviously, you have to do what you
4 believe is best.

5 COMMISSIONER CHOPER: Briefly explain again why it
6 would be unwise financially for you to participate in this?

7 MR. SINDLER: We've looked through the numbers. I
8 know Mr. Ritvo has made many public comments about it. I
9 know he's talked to a number of Staff and Board Members,
10 just personally. Nothing has changed in those statements
11 and announcements that have been made. We don't think it's
12 necessary under the law. And we don't think it's the right
13 financial move anymore.

14 CHAIRMAN WINNER: Any other discussion?
15 Commissioner Mass?

16 COMMISSIONER MASS: Yes.
17 Commissioner Solis?

18 COMMISSIONER SOLIS: Yes.

19 CHAIRMAN WINNER: Commissioner Choper?

20 COMMISSIONER CHOPER: Yes.

21 CHAIRMAN WINNER: Chairman votes yes.
22 Vice Chairman?

23 VICE CHAIRMAN AUERBACH: Yes.

24 CHAIRMAN WINNER: Commissioner?

25 COMMISSIONER RUANO: Yes.

1 CHAIRMAN WINNER: It passes unanimously. Thank
2 you.

3 MR. SINDLER: Thank you.

4 CHAIRMAN WINNER: Yes. Let me mention, also, that
5 we will call -- that the next meeting will be moved up a
6 week to July 12th. The meeting will be held at Los
7 Alamitos. And one of the items on the agenda for that
8 meeting will be Northern California race date applications.
9 So for those of you that are interested in Northern
10 California race dates, it will be on the July 12th meeting.
11 And, of course, everything will be dependent on what Golden
12 Gate does, what the Stronach Group does by July 2nd, as
13 required in the motion.

14 Is that correct?

15 (Colloquy between Chairman Winner and Vice Chairman
16 Auerbach)

17 CHAIRMAN WINNER: Okay, moving on, item number 14,
18 discussion and action by the Board on the renewal
19 Application for License to Operate a Minisatellite Wagering
20 Facility by ORG LLC dba Original Roadhouse Grill in Santa
21 Maria, California, for a period of up to five years.

22 MR. HAINES: George Haines, Southern California
23 Off-Track Wagering.

24 VICE CHAIRMAN AUERBACH: Is that the one on the
25 freeway, on the road right there?

1 MR. HAINES: Yes. Yes, it is. It's probably our
2 most remote satellite that we have. So their five years is
3 up and they're going to renew their license for another five
4 years.

5 VICE CHAIRMAN AUERBACH: I can't believe it's been
6 five years.

7 EXECUTIVE DIRECTOR BAEDEKER: George, I pointed
8 out to the Board before when I was sitting in that chair
9 that even though the minisatellite at Santa Maria handles
10 the least amount of any mini or satellite, it still produces
11 bottom-line revenue for purses and commissions.

12 MR. HAINES: Absolutely. Yes. They do about \$2.6
13 million a year in total handle, and then that filters down
14 into all the other buckets that we have, CMC, Stable and
15 Vanning, Board support, so --

16 CHAIRMAN WINNER: Okay. Do you have any comments
17 you want to make or do you want to just take questions?

18 MR. HAINES: Just take questions.

19 CHAIRMAN WINNER: Any questions? Is there a
20 motion?

21 COMMISSIONER MASS: Move.

22 CHAIRMAN WINNER: Commissioner Mass makes a motion
23 to approve the license.

24 COMMISSIONER RUANO: Second.

25 CHAIRMAN WINNER: Is there a second? Commissioner

1 Ruano seconds. There are only four of us, but that's
2 enough.

3 Commissioner Ruano, how do you vote?

4 COMMISSIONER RUANO: Yes.

5 CHAIRMAN WINNER: Vice Chair Auerbach?

6 VICE CHAIRMAN AUERBACH: Yes.

7 CHAIRMAN WINNER: Chairman Winner votes yes.

8 CHAIRMAN WINNER: Commissioner Choper votes yes?

9 COMMISSIONER CHOPER: Yes.

10 CHAIRMAN WINNER: Commissioner Solis votes yes?

11 COMMISSIONER SOLIS: Yes.

12 COMMISSIONER MASS: Yes.

13 CHAIRMAN WINNER: And Commissioner Mass votes yes.

14 It's unanimously approved. Thank you, George.

15 MR. HAINES: Thank you.

16 CHAIRMAN WINNER: Item number 15, public hearing
17 and action by the Board regarding the proposed addition of
18 CHRB Rules 1859.1, Out-of-Competition Testing Procedures and
19 Requirements, and 1869, Prohibit Drug Substance in Out-of-
20 Competition Testing, and the proposed amendment to CHRB
21 Rules 1585, Test Sample Required, 1859, Taking, Testing and
22 Reporting of Samples, 1859.25, Split Sample Testing, 1867,
23 Prohibited Veterinary Practices, to incorporate the
24 Association of Racing Commissioners International, ARCI,
25 model rule for out-of-competition testing into the CHRB's

1 rules and Regulations. This is -- this concludes the 45-day
2 public comment period. The Board may adopt the proposal as
3 presented.

4 Do you want to, Jackie -- where's Jackie?

5 COMMISSIONER RUANO: Over there.

6 CHAIRMAN WINNER: Jackie, do you want to tell us
7 about the public comments during this period?

8 MS. WAGNER: Jackie Wagner, CHRB Staff.

9 During the public comment period Staff received
10 several comments on the proposal that --

11 VICE CHAIRMAN AUERBACH: Folks, we can't hear
12 anything at all.

13 CHAIRMAN WINNER: Yeah. Can you please either
14 move outside if you want to discuss things, or move into
15 another room. Thank you.

16 MS. WAGNER: Jackie Wagner, CHRB Staff.

17 During the public comment period, Staff received
18 several comments on this proposal, which our counsel is
19 prepared to respond to, as well as our Equine Medical
20 Director.

21 EXECUTIVE DIRECTOR BAEDEKER: And, Mr. Chairman, I
22 might point out that we have Counsel, Phil Laird, Deputy
23 General Counsel for Business Consumer Services and Housing
24 Agency with us today because when Phil was with the Horse
25 Racing Board, he drafted a lot of the language and changes

1 to existing language in a number of our rules that are
2 before you today. So Phil is here, along with Rob and, of
3 course, Dr. Arthur. And I know Dr. Arthur is prepared to
4 give kind of a big picture look at this.

5 But the way I characterize it, Doc, we've got to
6 be careful not to get caught up in some of the details that
7 miss the most significant one, which is, correct me if I'm
8 wrong here, that whereas the Board has broad authority to
9 prosecute a post-race test, a positive finding in a post-
10 race test, there's almost nothing we can do about something
11 we find in an out-of-competition test. Is that accurate or
12 close to accurate?

13 EQUINE MEDICAL DIRECTOR ARTHUR: It's accurate in
14 as we do not have regulations designed for out-of-
15 competition testing. We have limited ability to prosecute
16 out-of-competition testing with current regulations.

17 CHAIRMAN WINNER: All right, who's going to take
18 the lead on this.

19 EQUINE MEDICAL DIRECTOR ARTHUR: I'm going to
20 start off. I'm Dr. Arthur, Equine Medical Director.

21 I think there's, certainly reading some of the
22 public comments, there's a misunderstanding. So I'm going
23 to kind of review this and hope the Board indulges me with
24 these comments.

25 Horse racing tests for more drugs at lower levels

1 than any other professional sport. Horse racing was a
2 leader in sport drug testing for many years, but has fallen
3 woefully behind as human sport anti-doping has leap-frogged
4 us the last two or three decades. out-of-competition
5 testing has been a major part of the advancement of human
6 sport anti-doping strategies.

7 In reality, horse racing does not have a robust
8 anti-doping program. It can be best described as a
9 medication control program. Medication control is very
10 important and necessary. We not only need to test for
11 performance enhancing drugs, as is the focus in human sport
12 testing, but for drugs that impact horse welfare and horse
13 and jockey safety.

14 Rightfully, we have paid a lot of attention to
15 drugs that impact horse welfare and horse and jockey safety
16 this last decade and are continuing to do so. Horse racing
17 must also deal with performance hindering drugs that could
18 be used to stop a horse from its best performance which is
19 not generally considered a problem in human sport.

20 Nearly 60 percent of all anti-doping tests in
21 human sport are out-of-competition testing. Why is out-of-
22 competition testing so important? Humans sport testing does
23 a very good job of detecting relatively short-acting, small
24 molecule drugs, and so does horse racing. Everyone knows
25 that. Everyone also knows when we are going to test the

1 horses; right after the race. That is pretty easy to plan
2 around if you are bent on cheating.

3 Many of the most effective performance enhancing
4 drugs are gone well before race day when horses are tested,
5 but the performance enhancing effects are still present.
6 The effects of many drugs can last well past the time the
7 drug is still present, or present at detectable levels.
8 Anabolic steroids, beta-2 agonists, and blood doping agents
9 are good examples.

10 And this should be clear to everyone, races are
11 won in training. That is true in human sport. It is true
12 in horse racing. Just as in human sport, we need to pay
13 more attention to performance enhancing drugs being used in
14 training and we can only do that by out-of-competition
15 testing.

16 California does more out-of-competition testing
17 than other racing authorities in the U.S., but it is still
18 less than 15 percent of all the horses tested, and that is
19 excluding TCO2 testing numbers.

20 Heretofore, our out-of-competition program has
21 been more show than substance. Why? That is because we do
22 not have regulations specifically designed for out-of-
23 competition testing. Yes, we can check horses who have
24 prescriptions for drugs we find in out-of-competition
25 testing, and whether their veterinarians have properly

1 reported those prescriptions, but those are all paperwork
2 violations, which usually result in warnings.

3 We started out-of-competition testing the first
4 year I became Equine Medical Director Cal Expo Harness in
5 2007. We made clear we were focusing on blood doping
6 agents, concerned at harness racing at that time,
7 specifically EPI. Within a month a leading trainer and his
8 veterinarian left Cal Expo for remarkable success back east.
9 Was it is a coincidence the veterinarian was subsequently
10 sanctioned for EPO-related violations? I don't think so.

11 We also identified clenbuterol and zilpaterol
12 abuse with out-of-competition testing, anabolic steroid
13 misuse, and even odd substances like GW1516. You can look
14 it up. It's prohibited under the new rules under
15 1869(a)(12).

16 I was involved in developing the out-of-
17 competition program we're discussing here today at RMTTC, of
18 which TOC and CTT are members. The out-of-competition
19 program was approved unanimously at RMTTC which makes the
20 CTT's and TOC's opposition here today somewhat bewildering.
21 This proposal protects their constituents from unscrupulous
22 competitors trying to take an unfair advantage. The CTT and
23 TOC should be this proposal's biggest supporters.

24 Very simply, the out-of-competition program we are
25 discussing is based on the WADA, World Anti-Doping

1 Association, Prohibited Substances list, with generous, if
2 anything overly generous, exceptions for a few drugs used in
3 horse racing. What we are proposing is a real, recognizable
4 anti-doping program. While structured differently, it is
5 also consistent with international out testing provisions
6 for horse racing under International Federation of
7 Horseracing Authorities' Article 6.

8 Here is the question for this Board-and the
9 leaders in this sport: Do you want a real anti-doping
10 program or not? Bluntly, without an out-of-competition
11 testing program with teeth, you won't have one.

12 I don't know about Commissioners, but I doubt I
13 have gone a week in the 11-plus years I have been Equine
14 Medical Director when I haven't had an owner, trainer or
15 someone else inside the industry complain that we weren't
16 doing enough to control doping. This is a major step
17 forward for horse racing if horse racing wants to have a
18 real anti-doping program.

19 Tomorrow, the Congressional hearing for H.R. 2651,
20 the 2017 Horse Racing Integrity Act, will take place in
21 Washington. What message is the CHRB and the California
22 racing industry going to send to California for tomorrow's
23 hearing?

24 I'll hand this off to Former Staff Counsel Phil
25 Laird, who adapted the RCI Out-of-Competition Testing model

1 rule to California and CHRB's regulatory structure, and new
2 Staff Counsel Bob -- Rob Brodnick, who will discuss some
3 updates and corrections.

4 As usual, I work with Staff to answer all the
5 comments from the public before this is submitted to OAL.
6 But if any Commissioners have any specific questions, I'd be
7 happy to answer those after the comments from Staff Counsel
8 and Phil Laird.

9 VICE CHAIRMAN AUERBACH: Before you go to them,
10 Dr. Arthur, would you please, in 25 words or less, would you
11 please explain to those of us listening without reading what
12 the practical difference is now between the regulation the
13 way we would like it to read and what exists now? What is
14 the essence of the difference?

15 EQUINE MEDICAL DIRECTOR ARTHUR: The essence of
16 the difference is that we've specifically identified those
17 particular drugs that are prohibited, that's based on the
18 WADA Prohibited List. We explained how that process works
19 in terms of split samples, consistent with our rules and
20 other things that Phil will be discussing in terms of the
21 process and procedures. And other than that, there is an
22 anabolic steroid provision that is very specific in the
23 regulation that's consistent with what other states have
24 adopted and international requirements, and those are the
25 major difference. It basically lays out what is prohibited,

1 and so there's no misunderstanding.

2 VICE CHAIRMAN AUERBACH: But we have that now, so
3 you need to tell us, what is the difference between what we
4 are proposing and what we already have. I know it's going
5 to more specifically nail it down.

6 But in terms of responsibility for the parties,
7 what is the difference between the way we do it now and the
8 change that we're looking to make?

9 EQUINE MEDICAL DIRECTOR ARTHUR: Well, first off,
10 we do not have specifically listed what is prohibited and
11 out-of-competition testing. All of our rules are designed
12 for post-race testing or working for the vet, those sort of
13 things that have specific rules.

14 We -- right now, that's really unclear, except for
15 those drugs that are listed in a prohibited veterinary
16 practice list which preceded our out-of-competition testing
17 program. So they are not specifically laid out in the
18 manner that we're talking about.

19 You look confused.

20 VICE CHAIRMAN AUERBACH: Well, I know specifically
21 in looking at a lot of the questions that came up in the
22 responses, a lot of the responses were just extrapolations
23 of things that people feared were going to happen.

24 So what I'm trying to narrow it down to, what
25 really are we talking about here? Because we all know the

1 prohibitions on the use of medication, so how does this
2 differ from the way we look at medications? Is there a
3 succinct way we can put this to help the community get where
4 we're going?

5 EQUINE MEDICAL DIRECTOR ARTHUR: Sure. What we're
6 really talking about, except for those drugs where there are
7 exceptions, what we're talking about is people using
8 compounds to dope. That is the basis of the WADA Prohibited
9 Substance List. They specifically lay out those particular
10 compounds that are never appropriate at any time. We have
11 exceptions, as I said, for certain drugs under certain
12 conditions that are permitted, similar to a therapeutic use
13 exception in human sport.

14 VICE CHAIRMAN AUERBACH: Okay.

15 EXECUTIVE DIRECTOR BAEDEKER: Is it safe to say,
16 Doc, that as opposed to post-race testing where it's very
17 clear in our rules, here's what you can do and here's what
18 you can't do, it's not clear in out-of-competition testing?
19 We don't have that same comparable list of prohibited
20 substances for out-of-competition testing?

21 EQUINE MEDICAL DIRECTOR ARTHUR: That's right.
22 And except for a very high threshold for cobalt, none of
23 these are threshold drugs. We're not looking at regulating
24 therapeutic medications. We're talking about anti-doping
25 agents.

1 CHAIRMAN WINNER: To get back to both Madeline's
2 question and what Rick said, the key point here is that
3 we're looking, as I understand it, is that we're looking to
4 do -- to have out-of-competition testing requirements or
5 prohibited drugs tested laid out more clearly than they are
6 today, because right now it's post-race testing that is
7 clear, but out-of-competition testing isn't clear with
8 respect to what is acceptable and what is not acceptable.
9 And the idea is to prohibit drugs from being used, or
10 compounded drugs from being used prior to a race that can
11 impact the outcome of the race that may not be tested in
12 post-race urine or blood; is that correct?

13 EQUINE MEDICAL DIRECTOR ARTHUR: Actually, that's
14 correct.

15 CHAIRMAN WINNER: Okay. Thank you.

16 MR. LAIRD: Phil --

17 CHAIRMAN WINNER: Phil?

18 MR. LAIRD: Phil Laird with the Business Consumer
19 Services and Housing Agency, as Rick said, formerly CHRB
20 Staff.

21 Honestly, I don't think I have much to add at this
22 point. I really am here to answer any technical questions
23 about the language currently before you and flush out any
24 concerns that you might have.

25 But I will just kind of reiterate that when we

1 drafted this language, we were trying to stay as consistent
2 with the ARCI model rules with the idea being same as our
3 post-race testing programs that attempt consistency across
4 the country, that anybody coming to California will know
5 that they're playing by the same rules in California as any
6 other state where ARCI model rules have been adopted.

7 CHAIRMAN WINNER: And it's also true, is it not,
8 that what we're trying to do, as we always try to do, is to
9 create a level playing field so that those owners, trainers,
10 horsemen who play by the rules do not have a -- are not at a
11 disadvantage to those that have found a way not to play by
12 the rules; is that correct?

13 MR. LAIRD: Absolutely correct.

14 CHAIRMAN WINNER: Okay.

15 Rob?

16 COMMISSIONER SOLIS: These rule has been practiced
17 already in other states, too, right, like New York?

18 EQUINE MEDICAL DIRECTOR ARTHUR: Well, it's been
19 adopted, I think, in seven states, the ARCI model rule. And
20 it's up for adoption in two other states, major racing
21 states, as well.

22 EXECUTIVE DIRECTOR BAEDEKER: Actually, I have the
23 list. It's either been adopted or up for adoption in
24 Arkansas, Colorado, Delaware, Iowa, Kentucky, Maryland,
25 Massachusetts, Michigan, New York, Ohio, Pennsylvania,

1 Washington, and West Virginia.

2 And I think it's probably a fair statement that
3 since the effort to regulate horse racing on a federal level
4 has been talked about, there has been increased attention
5 given to out-of-competition testing along the lines of what
6 you described, Doc. That's kind of the U.S. Anti-Doping
7 Agency's cornerstone is out-of-competition testing.

8 And I would like you, Doc, to explain for the
9 Commissioners the process a little bit. You mentioned RMTC,
10 but I'm not sure everybody knows exactly who makes up RMTC.

11 EQUINE MEDICAL DIRECTOR ARTHUR: Well, the RMTC is
12 composed of 24, I think it is, industry leaders from RCI to
13 TOC, HBPA, NYRA, Keeneland. And there's a group, a
14 Scientific Advisory Group, of which I chaired for a long
15 time. I actually chaired this Out-of-Competition Testing
16 Committee where they have experts from around the country
17 that advise the board. They take proposals to the board.

18 The board discusses them and then approves those, and
19 then sends those as a recommendation to the RCI. That's
20 your organization. And at RCI, they fiddle with it, as in
21 terms of that process, trying to -- and it's a big challenge
22 because California's regulatory language is done differently
23 than Kentucky, so they try to put model rule together. You
24 and I were involved in that.

25 And then it's proposed at the national meeting

1 where the public, again, all the representatives from
2 entities have an opportunity to comment on it, and all the
3 Commissioners get together. And then your group, I think
4 you vote for California, and it goes through that process.
5 That happened in December 2016. This was originally
6 proposed, you know, presented to this industry in March, in
7 California, March of 2016, right after it was approved by
8 RMTC to give an outline of this.

9 EXECUTIVE DIRECTOR BAEDEKER: And the RCI process
10 is similar to ours in terms of the open meeting process.

11 EQUINE MEDICAL DIRECTOR ARTHUR: That's right.

12 EXECUTIVE DIRECTOR BAEDEKER: And NARV, National
13 Association of Racing Veterinarians, testified. Changes
14 were made, actually, in response to certain proposals that
15 were made. The National HBPA, Thoroughbred Horsemen
16 Association, which is all the horse owner groups in the
17 Northeast. It was, you know, it was quite a process.

18 And after the model rule was changed, then it was
19 up to us, and particularly Phil, to come back and
20 incorporate those changes into our existing rules and regs.

21 EQUINE MEDICAL DIRECTOR ARTHUR: Right.

22 CHAIRMAN WINNER: Okay. TOC, Elizabeth; right?

23 MS. MOREY: I think we prefer to defer to Mr.
24 Balch.

25 CHAIRMAN WINNER: Okay, Mr. Balch, they have

1 deferred. Why don't you come over and sit at the table,
2 Alan, and use Doc's mike? It's easier to see you that way.

3 MR. BALCH: Alan Balch, California Thoroughbred
4 Trainers.

5 First of all, I would call your attention to the
6 very voluminous and detailed correspondence that we provided
7 you that's in your packet. And more recently when we
8 realized our subsequent summary letter was not in the
9 packet, we provided it by email to the Commissioners
10 yesterday, and I hope you had a chance to look at it.

11 I think to begin with we're missing the forest for
12 the trees here. Nobody has said so far, Dr. Arthur nor
13 anyone else, that both the CTT and the TOC agree with the
14 need for and the importance of out-of-competition testing.
15 So let's be clear about that. The impression that Dr.
16 Arthur has left, whether intentionally or not, is that
17 somehow these organizations of ours condone or want to
18 permit cheating by out-of-competition testing or doping.
19 That is, of course, absolutely wrong, and our submissions
20 make that extremely clear.

21 I really don't know where to begin, but I will
22 take a stab at it.

23 CHAIRMAN WINNER: Let me just say before you do,
24 Alan, that I certainly, and I'm only speaking for myself,
25 did not conclude from Dr. Arthur's remarks or anything that

1 he's written that he thinks the TOC or CTT condones doping
2 or is opposed to out-of-competition testing in general.

3 MR. BALCH: Well, I'm very glad to hear you say
4 that because the very first remarks that Dr. Arthur gave
5 were along the lines of he was shocked that TOC and CTT and
6 their constituencies would object to these proposed rules.

7 CHAIRMAN WINNER: But that doesn't mean that you
8 favor doping.

9 MR. BALCH: That is absolutely right, and that's
10 the point I want to emphasize. And thank you for assisting
11 me in calling attention to it.

12 We would also question whether there is no robust,
13 which, to use Dr. Arthur's word, anti-doping in California.

14 We believe we have some of the most robust, excellent
15 testing and preventive measures to prevent doping, cheating,
16 in the entire world. We have heard Dr. Arthur at other --
17 in other testimony make that very clear. So I want to
18 emphasize that, too.

19 He makes the point that human sport is really the
20 model for this, coming from the World Anti-Doping Agency and
21 the United States Anti-Doping Agency. If you read our
22 submissions carefully, you will see that therein lies a lot
23 of the problem here, because there's been an attempt through
24 RMTC, which we do participate in, and I'll come back to that
25 in a little while, to graft onto human anti-doping

1 procedures and WADA and USADA this equine program. Of
2 course, there are tremendous differences.

3 I am the Past President of the National Governing
4 Body for Non-Racing Equestrian Sport in the United States.
5 When the WADA and USADA rules came forward, I hope you can
6 all recognize as, probably, sports fans, as I am, the great
7 difference in out-of-competition testing for human athletes
8 who have to be identified by their national governing bodies
9 and short listed and so forth for world and major
10 championships, including Olympics, and have their places,
11 their entire itineraries disclosed to the National Governing
12 Bodies, to USADA, to WADA so that they can be, humans, can
13 be tested at any time, day or night, wherever they are in
14 training. That is very important. I agree with Dr. Arthur
15 on that.

16 But part of the problem in the rule as it is now
17 written is the access to horses and the responsibility for
18 horses, depending on where they are. Because unlike human
19 doping or alleged doping, the human is responsible for the
20 human. In the case of horses, there's somebody else
21 responsible for the horse, an owner, a trainer, a caretaker,
22 somebody else.

23 And if you've read our submission, you realize
24 that has led to certain problems, potential problems which
25 we are 100 percent ready, willing and able to work with this

1 Board and Dr. Arthur and anybody else you assign to it, to
2 work these problems out so we have a workable responsibility
3 should illicit substances be administered to a horse or
4 should any attempt be made to administer illicit substances
5 to a horse.

6 Let me turn to the RMTC for a moment. The Racing
7 Medication Testing Consortium is supported by horsemen. We
8 were present at the one or two meetings where this
9 discussed, frankly not even in as much detail as it is being
10 discussed here at this meeting. We did vote for -- in favor
11 of out-of-competition testing for the reasons that I have
12 just described, but we did register on the record informally
13 and formally some of the same qualms that we are expressing
14 here today.

15 I think I can say without fear of contradiction
16 that the so-called model rule is not identical in many
17 states which have adopted out-of-competition testing or
18 which are considering adopting it. I think Dr. Arthur's
19 testimony just now indicates that, that because California
20 is different and every state is different, have different
21 bodies of rules, things have to be made consistent state by
22 state by state.

23 Yes, Professor Choper?

24 COMMISSIONER CHOPER: How are you going about it?
25 I'm pretty clear on everything you've said.

1 I want to ask, can I ask Dr. Arthur just a quick
2 question?

3 Do you disagree with anything he said?

4 EQUINE MEDICAL DIRECTOR ARTHUR: I disagree.
5 There are so many misstatements from Mr. Balch that it's not
6 even -- I don't know where to start. And I just think, you
7 know, it's very typical of this particular process.

8 I'd like to remind you that this started -- first
9 of all, I have the minutes of that meeting, and I don't want
10 to waste time on that.

11 COMMISSIONER CHOPER: That's fine.

12 EQUINE MEDICAL DIRECTOR ARTHUR: So I'm not going
13 to argue those points.

14 COMMISSIONER CHOPER: Let's go forward.

15 EQUINE MEDICAL DIRECTOR ARTHUR: Let's just
16 remember this, this was passed at RCI in December 2016. It
17 was presented to this industry originally in March of 2016
18 from the RMTTC. It came before this Board in February of
19 2017. And here we are today, and we go through this whole
20 process. It's a delay tactic.

21 CHAIRMAN WINNER: Wait. Wait. Wait. Dr. Arthur,
22 wait. Commissioner Choper asked you a specific question.

23 COMMISSIONER CHOPER: How do you --

24 EQUINE MEDICAL DIRECTOR ARTHUR: Well, yes, he
25 asked me, is there anything --

1 CHAIRMAN WINNER: How do you suggest --

2 EQUINE MEDICAL DIRECTOR ARTHUR: -- I disagree
3 with, and I said there was a lot.

4 COMMISSIONER CHOPER: Yeah. Okay.

5 CHAIRMAN WINNER: Well, but wait. But he just --
6 excuse me just a second. Mr. Balch has made a statement,
7 okay? Commissioner Choper asked if you disagree with
8 anything that he said so far, and we'd like you to just
9 respond. Of the things that he said so far, what do you
10 disagree with?

11 EQUINE MEDICAL DIRECTOR ARTHUR: Well, I --

12 CHAIRMAN WINNER: Not -- don't -- it's not a
13 history of the --

14 COMMISSIONER CHOPER: Yeah, let's forget the
15 history --

16 CHAIRMAN WINNER: Right.

17 COMMISSIONER CHOPER: -- because we've got to move
18 forward on this thing.

19 EQUINE MEDICAL DIRECTOR ARTHUR: Okay, in terms of
20 the specifics, every -- he is correct. Every state has a
21 little bit different twist on it.

22 COMMISSIONER CHOPER: Okay.

23 EQUINE MEDICAL DIRECTOR ARTHUR: That's why we
24 don't have --

25 COMMISSIONER CHOPER: Uniformity.

1 EQUINE MEDICAL DIRECTOR ARTHUR: -- a single model
2 rule.

3 COMMISSIONER CHOPER: Yeah. Yeah. Yeah. Yeah.
4 Yeah.

5 EQUINE MEDICAL DIRECTOR ARTHUR: And it's why Phil
6 Laird had to spend so much time adopting it to our
7 particular regulations.

8 So -- but I will say that we still, even today, we
9 have the authority to test horses off site. There's a big,
10 big brew-ha-ha over this. The only place we've tested
11 horses out-of-competition offsite are out of state in
12 Kentucky facilities, Fair Hill, in France, England and
13 Ireland. Those are the only places we've done out-of-
14 competition offsite, even though we have the authority to do
15 it here. It's to a big part of this. The model rule is
16 really designed to include harness racing, which are trained
17 offsite. And we changed our regulations so we could try to
18 address the quarter horse clenbuterol problem, if you
19 remember.

20 But being -- having said that, in terms of
21 specifics, it is not different than, in terms of the
22 outcome, the RCI model rule and what was presented at RMTC.

23 COMMISSIONER CHOPER: Hey, can I ask you both a
24 question? What should we do going forward in order to get
25 this pushed forward, at least, with general agreement, all

1 right, between the effected parties?

2 EQUINE MEDICAL DIRECTOR ARTHUR: Well, I could
3 tell you very simply, you approve this. You approve this
4 proposal as you voted and approved on it --

5 COMMISSIONER CHOPER: Yeah. Yeah. Sure.

6 EQUINE MEDICAL DIRECTOR ARTHUR: -- before and it
7 will go forward. OAL will require us to answer all of the
8 comments that you've seen in your packet. We do that.
9 Sometimes on the -- the third-party Lasix, I think it took
10 us eight months to answer all those 100-plus questions on
11 that. And OAL will look and see if we have adequately
12 answered all of those questions. And if we have, it will
13 become a regulation. If not, you'll get it back.

14 CHAIRMAN WINNER: Alan?

15 MR. BALCH: Yes, Alan Balch again. Thank you for
16 this opportunity because I think you just put your finger on
17 the issue.

18 Dr. Arthur and I have appeared on opposing sides
19 of many issues like this before. We are not trying to delay
20 this. We are trying to do exactly the opposite.

21 I think this Board has found that what we have
22 suggested many times, the fastest way to getting a rule
23 through OAL without this laborious eight-month process of
24 answering individual questions and deciding whether or not
25 the Racing Board decided things right was to get us all in

1 the same room, either in a working group, which we have
2 proposed, or another Committee meeting that is dedicated
3 solely to this that would be a working Committee meeting. We
4 recommend the working group rather than the Committee
5 because we think people feel much more at ease and able to
6 put their positions forward without fear of any kind of
7 contradiction or retribution or anything, and go through
8 these very important issues. Some are more important than
9 others, to be sure, some are details, so that we can come
10 forward.

11 CHAIRMAN WINNER: (Off mike.) (Indiscernible.)

12 MR. BALCH: It did go to a Committee, yes, but we
13 specifically, if you read our submission --

14 CHAIRMAN WINNER: I read your --

15 MR. BALCH: -- our lengthy submission --

16 CHAIRMAN WINNER: I read it. I'm asking a
17 question. It already went through Committee?

18 MR. BALCH: It went through a Committee, but we
19 both, I believe TOC and CTT on the records both reserved our
20 right to comment in detail because of the time --

21 CHAIRMAN WINNER: Right.

22 MR. BALCH: -- that it took.

23 CHAIRMAN WINNER: You always have your right to
24 comment in detail.

25 MR. BALCH: No, I understand, but in detail on all

1 these things, because this is a very elaborate rule.

2 CHAIRMAN WINNER: Well, what is it that --

3 MR. BALCH: And it raises a lot of issues.

4 CHAIRMAN WINNER: -- just to follow up on
5 Commissioner Choper's, what is it, aside from having another
6 meeting to discuss this and then go back out, then have a
7 motion, then go back to the Board, and then go back out for
8 public hearing, and then come back to the Board, and then
9 start this process all over again for the fourth year, what
10 is it specifically that you think needs to be changed? And
11 then it's up to use to decide whether it's worth delaying
12 this again in order to make the changes that you think are
13 critical or unacceptable in the proposed measure?

14 MR. BALCH: Well, the critical changes, of course,
15 are there in our correspondence.

16 CHAIRMAN WINNER: I know that. But let's assume
17 we --

18 VICE CHAIRMAN AUERBACH: Synopsise them.

19 CHAIRMAN WINNER: Yeah.

20 VICE CHAIRMAN AUERBACH: Synopsise them.

21 MR. BALCH: Well, looking at our letter of June
22 the 6th, the Racing Board has not provided evidence of
23 necessity for all of the proposed rule changes. And it's
24 very detailed as far as --

25 CHAIRMAN WINNER: Well, let's get to the rule

1 changes that you have a concern about. I mean --

2 VICE CHAIRMAN AUERBACH: Well, you know, that --

3 CHAIRMAN WINNER: -- necessity doesn't -- okay.

4 We don't --

5 VICE CHAIRMAN AUERBACH: That's part of the
6 problem.

7 CHAIRMAN WINNER: Yes.

8 VICE CHAIRMAN AUERBACH: We have the right to do
9 it if we woke up --

10 MR. BALCH: Well, absolutely.

11 VICE CHAIRMAN AUERBACH: -- this morning and felt
12 like making rules.

13 MR. BALCH: You --

14 VICE CHAIRMAN AUERBACH: So let's not --

15 MR. BALCH: You absolutely do.

16 VICE CHAIRMAN AUERBACH: -- let's not obliterate
17 the process by throwing all this junk at it. Let's be
18 really candid here. That's a lot of blah, blah, blah.

19 MR. BALCH: Well --

20 VICE CHAIRMAN AUERBACH: Get specific.

21 MR. BALCH: -- we --

22 VICE CHAIRMAN AUERBACH: What is the problem?

23 MR. BALCH: -- we respectfully disagree.

24 VICE CHAIRMAN AUERBACH: I know that. But what is
25 the real problem?

1 MR. BALCH: Well, there are --

2 CHAIRMAN WINNER: You have a right to speak.

3 VICE CHAIRMAN AUERBACH: Come on.

4 CHAIRMAN WINNER: But you already waived your -- I
5 mean, you didn't waive your right to speak, but you -- okay.

6 MR. BALCH: Well, I believe --

7 CHAIRMAN WINNER: Let's let Alan answer the
8 questions. And then if you have something to say, then you
9 can answer the question.

10 MR. BALCH: I believe the specifics are set forth
11 very clearly in our letter of June the 6th.

12 CHAIRMAN WINNER: Okay. But we're asking you now,
13 synopsise it, Alan, so that everybody on this Board, without
14 going through all the gobbledy-gook, what is it in the
15 proposed rule --

16 VICE CHAIRMAN AUERBACH: That is so objectionable.

17 CHAIRMAN WINNER: -- that is so objectionable to
18 you --

19 MR. BALCH: Well --

20 CHAIRMAN WINNER: -- that we should start this
21 process all over again?

22 VICE CHAIRMAN AUERBACH: Thank you.

23 MR. BALCH: -- we're not suggesting you start it
24 all over again.

25 CHAIRMAN WINNER: Oh, yes, you are.

1 MR. BALCH: Well, if we read the staff analysis
2 properly, there have already been some changes to it that
3 may require re-noticing and --

4 CHAIRMAN WINNER: Well, that may be, then we'll
5 have to.

6 MR. BALCH: But the distinction on horses who are
7 trained in locations that are not under CHRB supervision is
8 critical and one that we raised at the RMTC, because it's
9 very important in any kind of a rule to prevent cheating
10 that the responsible parties be identified. That's been a
11 standing problem with every iteration of the out-of-
12 competition rules that we have seen in any state. In other
13 words, who's responsible for the horse once he leaves the
14 racetrack?

15 I think Dr. Arthur, perhaps in a weak moment, once
16 recognized that that was a real problem. Because if we have
17 cheaters, we want to have a way of identifying who's really
18 responsible in order to deter cheating and not catch up
19 people who are not cheaters in the net. So that is a
20 critical problem.

21 We believe that there are issues on the compounded
22 medications. This has been an issue amongst the racetrack
23 veterinarians and the RMTC. The RMTC has taken a very
24 strong stand against all compounded medications, legally --
25 many of which are legally compounded medications and can be

1 properly used for therapy. I noticed that Dr. Arthur is
2 saying no.

3 EQUINE MEDICAL DIRECTOR ARTHUR: For the record,
4 that is a misinterpretation and absolutely incorrect in all
5 aspects, Alan.

6 The RMTC, as well as myself, all Equine Medical
7 Directors recognize the need for compounded medications. We
8 know that most -- many medications are compounded today, I'm
9 not going to get into the details why that's necessary. But
10 what we are trying to stop are issues, like what happened in
11 Louisiana, where veterinarians had dermorphin, frog venom,
12 compounded and resulted in all those violations. I can go
13 through the Weatherford Compounding Pharmacy issue, as well.

14 What we're talking about is prohibiting drugs that
15 are illegal to compound. We're not talking about
16 therapeutic drugs that can be legally compounded. And quite
17 frankly, it would be a little bit ridiculous for this Board
18 to approve illegally, improperly compounded drugs that were
19 not properly prescribed, allow those within any -- any of
20 your enclosures.

21 COMMISSIONER CHOPER: What would happen if we had
22 a small group in which you participated, and someone from
23 the TOC was in this group, and someone from the CTT was in
24 this group, and you see if you can come to any agreement as
25 to these things? If you can't --

1 EQUINE MEDICAL DIRECTOR ARTHUR: With all due
2 respect --

3 COMMISSIONER CHOPER: -- then I guess it goes back
4 into our laps.

5 EQUINE MEDICAL DIRECTOR ARTHUR: With all due --
6 with all due respect --

7 CHAIRMAN WINNER: Well, what you're suggesting --

8 EQUINE MEDICAL DIRECTOR ARTHUR: With all due
9 respect --

10 CHAIRMAN WINNER: Hold on a second please, with
11 all due respect.

12 I'd like the Chairman of the Committee to respond
13 to Commissioner Choper.

14 VICE CHAIRMAN AUERBACH: Jesse --

15 COMMISSIONER CHOPER: Yes?

16 VICE CHAIRMAN AUERBACH: -- do you really think we
17 don't get together and pull this stuff apart, up one side
18 and down another?

19 COMMISSIONER CHOPER: Yeah, I do.

20 VICE CHAIRMAN AUERBACH: We do that and we've done
21 that.

22 COMMISSIONER CHOPER: I do.

23 VICE CHAIRMAN AUERBACH: And it's always the same
24 story.

25 COMMISSIONER CHOPER: What happens?

1 VICE CHAIRMAN AUERBACH: What happens is we think
2 we've got it worked out, we come up with a regulation, only
3 to find out that somebody objects to this comma here or this
4 period here or --

5 COMMISSIONER CHOPER: Who is somebody, like
6 somebody who isn't on a Committee?

7 VICE CHAIRMAN AUERBACH: Whatever. No.

8 COMMISSIONER CHOPER: Oh, someone outside?

9 VICE CHAIRMAN AUERBACH: Not necessarily. Well,
10 not necessarily. Look how long it took to get third-party
11 Lasix. I mean, it was a slam dunk, and I sat there for four
12 years, and there were people who did it before I did, before
13 we actually got it done.

14 So this is the kind of thing that's difficult for
15 us to deal with. We do not, first of all, we do not ignore
16 anybody in these meetings. Everybody's invited. And we do
17 make it --

18 COMMISSIONER CHOPER: Good.

19 VICE CHAIRMAN AUERBACH: -- very clear that we
20 want everybody to speak. Now, I can't speak to people not
21 feeling comfortable. I don't think it's very intimidating
22 in our meetings. I know you're talking about working
23 groups. Maybe Alan is going to correct me now.

24 MR. BALCH: No, I agree. I just want to state on
25 the record for the transcript, which what Dr. Arthur just

1 leaned over and whispered to me, "Alan, you should be
2 ashamed of yourself," quote unquote. And, "Alan, if Bob
3 Straub were here to see what you're saying now, you would
4 never be able to live with yourself," or words to that
5 effect.

6 VICE CHAIRMAN AUERBACH: Let's not make it
7 personal, guys.

8 MR. BALCH: Well, I'm only --

9 VICE CHAIRMAN AUERBACH: But let's not.

10 MR. BALCH: -- I'm mentioning it, Commissioner
11 Auerbach, in all seriousness because it indicates a
12 prejudicial attitude, and I think it's uncalled for. Now --

13 COMMISSIONER RUANO: What's the difference between
14 a working group and a Committee?

15 MR. BALCH: The working group is, in my opinion,
16 where we can have more people and be in a more relaxed
17 atmosphere, where we can really exchange views.
18 Commissioner Auerbach --

19 CHAIRMAN WINNER: Well, basically --

20 MR. BALCH: -- herself came to a working group --

21 CHAIRMAN WINNER: -- basically the difference is,
22 excuse me for interrupting, for your -- in response to your
23 question, a working group does not require public notice. A
24 Committee meeting requires public notice. That's
25 essentially the difference. In a working group, we sit

1 around a table and we discuss various issues. And only two
2 members of the Board can be present, I believe only two
3 members of the Board --

4 VICE CHAIRMAN AUERBACH: Right.

5 CHAIRMAN WINNER: -- can be present --

6 VICE CHAIRMAN AUERBACH: Otherwise it's
7 (indiscernible).

8 CHAIRMAN WINNER: -- at a working group. And then
9 other people who are essentially invited participate in a
10 discussion. In a public meeting or a Committee meeting,
11 that's a public meeting and the members of that Committee
12 are there. And a third Commissioner can show up but can't
13 speak, as I understand it, but members of the public are
14 invited. So that's essentially the difference.

15 VICE CHAIRMAN AUERBACH: And I think one of the
16 reasons, Jesse, that we're trying to get Mr. Balch to be
17 very, very specific about what his concerns are is so that
18 we can air that out right now, address it, and talk very
19 specifically about what in this language is problematic for
20 the trainers. And I'm sure that Greg will get up here and
21 tell us --

22 CHAIRMAN WINNER: Well, yeah. We might as well --

23 VICE CHAIRMAN AUERBACH: -- what the --

24 CHAIRMAN WINNER: -- have Greg -- I mean, you keep
25 raising your hand.

1 VICE CHAIRMAN AUERBACH: This would be easier --

2 CHAIRMAN WINNER: Why don't you come on up?

3 VICE CHAIRMAN AUERBACH: -- if you'd come up here,
4 Greg.

5 CHAIRMAN WINNER: I'm calling on you, Greg.

6 VICE CHAIRMAN AUERBACH: We want specifics. We
7 want to fix it.

8 Alex?

9 COMMISSIONER SOLIS: We had two meetings already
10 and --

11 VICE CHAIRMAN AUERBACH: We have had numerous
12 meetings on this already.

13 COMMISSIONER SOLIS: -- meetings. And we talked
14 about decent, you ask different trainers, they tell you,
15 they all have different opinions. And this is never going
16 to be done. And it's already done in other states. And
17 it's very important for the horses, even jockeys. It's --
18 you're talking about life here.

19 VICE CHAIRMAN AUERBACH: You're right, Alex.

20 EQUINE MEDICAL DIRECTOR ARTHUR: Ninety-nine
21 percent of the trainers, this will never, ever effect. And
22 it's the one percent it will effect that we're interested
23 in.

24 When you talk about this process, this is really
25 silliness, and I'm just going to tell you, I'm fed up with

1 it. This started in 2014. There were working groups, not
2 just veterinarians or Equine Medical Directors, in the RMTC
3 that worked on this with horsemen, with representatives from
4 around the country. Remember, we're trying to get a uniform
5 policy here. People worked together. We went back and
6 forth numerous times at RMTC and we talked about it, went
7 back. We changed it. We finally had gotten an agreement
8 with all, unanimously, at the RMTC before it was sent to
9 RCI. RCI worked on it until -- I don't know whether it was
10 unanimous at RCI until they got on it. And that -- and it
11 was presented here a year-and-a-half ago. And then we're
12 coming up with

13 You -- if you don't see how you're being played,
14 well, I don't, you know, I don't know what to do.

15 CHAIRMAN WINNER: I don't quite understand that.

16 EQUINE MEDICAL DIRECTOR ARTHUR: But, yeah,
17 because --

18 CHAIRMAN WINNER: What do you mean, being played?

19 EQUINE MEDICAL DIRECTOR ARTHUR: -- because having
20 working groups, Mr. Chairman --

21 CHAIRMAN WINNER: No, but --

22 EQUINE MEDICAL DIRECTOR ARTHUR: -- we have worked
23 on this issue --

24 CHAIRMAN WINNER: I understand.

25 EQUINE MEDICAL DIRECTOR ARTHUR: -- and worked on

1 this issue --

2 CHAIRMAN WINNER: I understand.

3 EQUINE MEDICAL DIRECTOR ARTHUR: -- and worked on
4 this issue.

5 CHAIRMAN WINNER: But what is the advantage? I
6 mean, when you say being played, I mean, I understand the
7 last issue that has a lot of discussion, I can understand
8 that argument possibly being made. I'm not sure why -- what
9 is -- why is it to the CTT or TOC's advantage when you say
10 being played? What's to their advantage?

11 EQUINE MEDICAL DIRECTOR ARTHUR: Here's the issue.

12 CHAIRMAN WINNER: Yeah.

13 EQUINE MEDICAL DIRECTOR ARTHUR: They have had
14 opportunity, opportunity. And what they do, and you've seen
15 it --

16 CHAIRMAN WINNER: No, no. Here --

17 EQUINE MEDICAL DIRECTOR ARTHUR: Their advantage
18 is it will delay having this regulation in place.

19 CHAIRMAN WINNER: But why is that to their
20 advantage?

21 EQUINE MEDICAL DIRECTOR ARTHUR: I don't know.

22 CHAIRMAN WINNER: What I'm trying to get at is --

23 EQUINE MEDICAL DIRECTOR ARTHUR: They've convinced
24 themselves --

25 CHAIRMAN WINNER: -- why is it to their advantage

1 to delay?

2 EQUINE MEDICAL DIRECTOR ARTHUR: If you look at --
3 if you look at some of the comments that they looked at,
4 this is one of these things where they have blown it out of
5 proportion. It's comments on the -- the comments on the
6 compounded drugs are a perfect example. They've totally
7 misunderstood it --

8 CHAIRMAN WINNER: Well, I --

9 EQUINE MEDICAL DIRECTOR ARTHUR: -- and convinced
10 themselves where it is something it's not.

11 CHAIRMAN WINNER: I get your point. I understand
12 your point.

13 What I'm trying to get at, just like I'm trying to
14 get Mr. Balch, and Vice Chair Auerbach and others are trying
15 to get Mr. Balch to be specific, I'm trying to get you to be
16 specific, as well. Mr. Balch --

17 EQUINE MEDICAL DIRECTOR ARTHUR: In terms of what?

18 CHAIRMAN WINNER: Wait. Wait. Wait.

19 EQUINE MEDICAL DIRECTOR ARTHUR: You have a lot
20 of --

21 CHAIRMAN WINNER: Just wait. Wait.

22 EQUINE MEDICAL DIRECTOR ARTHUR: -- specific
23 regulations here.

24 CHAIRMAN WINNER: Wait a second, please. I asked
25 Mr. Balch to be specific about what's in it that he

1 specifically thinks is not acceptable to the CTT.

2 I'm asking you to answer the question, why would
3 the CTT think it's to their advantage to play, to game this
4 or to delay it? What is to -- why is it to their advantage?

5 EQUINE MEDICAL DIRECTOR ARTHUR: You know,
6 sometimes the CTT moves in bewildering ways. They're horse
7 trainers, let's face it. I mean, I've been in the game --

8 CHAIRMAN WINNER: Negative?

9 EQUINE MEDICAL DIRECTOR ARTHUR: -- I've been in
10 the game all my life.

11 CHAIRMAN WINNER: Okay.

12 EQUINE MEDICAL DIRECTOR ARTHUR: And I know
13 somebody has convinced themselves that something terrible is
14 going to happen about this, the same game they played with
15 third-party Lasix. It took two years, two years to make a
16 more complicated regulation.

17 CHAIRMAN WINNER: Look, I appreciate your --

18 VICE CHAIRMAN AUERBACH: Frustration.

19 CHAIRMAN WINNER: -- frustration and your concern
20 and the time that this has taken and so forth, but I'm
21 trying to ask a simple question. And the simple question is
22 you believe that they are trying to game the system, at
23 least that's what you just said, and I'm trying to
24 understand what their motivation would be in gaming the
25 system.

1 EQUINE MEDICAL DIRECTOR ARTHUR: I think you're
2 going to have to ask them.

3 CHAIRMAN WINNER: Okay.

4 MR. BALCH: Our answer is very simple. We believe
5 you can get to a better rule faster, much, much faster by
6 addressing the issues --

7 CHAIRMAN WINNER: What is it in the rule that you
8 think would be better?

9 MR. BALCH: We have 352 pages or something --

10 CHAIRMAN WINNER: I don't want to --

11 MR. BALCH: -- in our submission.

12 CHAIRMAN WINNER: -- sit here and read 352 pages.

13 MR. BALCH: I know. I know.

14 VICE CHAIRMAN AUERBACH: But the problem is --

15 MR. BALCH: That's why we need a working group.

16 MR. AVIOLI: I have a question.

17 VICE CHAIRMAN AUERBACH: No, no, there's too much.
18 The problem is, and I read every word of it, there's too
19 much baloney in it, okay? There's too much baloney. We're
20 all adults. We're all professional, I think. There's too
21 much baloney in it.

22 If you cut to the chase and tell us what the heart
23 of your concern is, then we can address it. And we want to
24 address it and we want to work with you and we want it to be
25 right, there's just too much fluff in it. Give me the ten

1 items. What is that you have difficulty with?

2 Greg, maybe you can tell us, please.

3 MR. AVIOLI: Is the microphone on? Thank you.

4 Greg Avioli, TOC.

5 Before I answer that question, if I may, I just
6 want, first of all, just a couple responses to Dr. Arthur.

7 Good news, I wasn't in charge of the TOC at
8 December of 2016, so I'm not too concerned what the TOC did
9 or didn't do with RMTC at that point. I can tell you that
10 when Elizabeth came to a meeting on this subject in
11 February, it was very clear that she ask and reported that
12 day. We want -- we have a lot of comments; right? We're
13 going to work through them.

14 In May, we joined with the TOC. In May, okay,
15 we're talking two months ago, we joined with a law firm that
16 paid over -- we paid over \$50,000, that's how important this
17 is, to the CTT and the owners and we submitted a letter. To
18 date, there has been no response.

19 Three months -- three weeks ago, we followed up at
20 my suggestion and said here are the high points of our
21 concerns. Because I sat down, it's 50 pages or whatever,
22 and we sent that. We asked multiple times, can we have a
23 meeting to discuss it? Dr. Arthur is clearly personally
24 invested in this, as we've seen. We heard he wrote it. We
25 hear -- we know he's a big supporter of USADA and WADA,

1 that's great. But if he was so invested in it, what kept
2 somebody from responding; right? What kept somebody -- the
3 letter from June 5th is only three pages long and it bullet
4 points exactly what you asked for. There has been no --

5 EXECUTIVE DIRECTOR BAEDEKER: We have an open
6 meeting process.

7 MR. AVIOLI: That's fine.

8 EXECUTIVE DIRECTOR BAEDEKER: And so you submit
9 those comments during public comment.

10 MR. AVIOLI: Right.

11 EXECUTIVE DIRECTOR BAEDEKER: Then they're brought
12 to this forum --

13 MR. AVIOLI: Right.

14 EXECUTIVE DIRECTOR BAEDEKER: -- and you do what
15 you're doing now.

16 MR. AVIOLI: But --

17 EXECUTIVE DIRECTOR BAEDEKER: We don't -- Staff
18 doesn't go and --

19 MR. AVIOLI: -- you don't respond?

20 EXECUTIVE DIRECTOR BAEDEKER: -- and do a sidebar.

21 MR. AVIOLI: Okay.

22 EXECUTIVE DIRECTOR BAEDEKER: Well, because if we
23 respond to one of the eight --

24 MR. AVIOLI: That's fine. So but then when --

25 EXECUTIVE DIRECTOR BAEDEKER: -- participants --

1 MR. AVIOLI: -- Mr. Balch tries to review the
2 comments, he gets told, simplify them.

3 CHAIRMAN WINNER: Well, what --

4 MR. AVIOLI: Well, let me give you --

5 CHAIRMAN WINNER: There's nothing in here.

6 MR. AVIOLI: -- let me give you (indiscernible).

7 CHAIRMAN WINNER: Okay. You put in a bunch of
8 comments that's in your three pages. All we asked Mr. Balch
9 for is, tell us what those are.

10 MR. AVIOLI: So let me read to you from --

11 CHAIRMAN WINNER: So would you please read us --

12 MR. AVIOLI: -- let --

13 CHAIRMAN WINNER: -- what they are?

14 MR. AVIOLI: -- let me read you, from Rule 1869,
15 it's on page 1589 of your materials. "The owner of a horse
16 that is not physically under the care and custody of another
17 person licensed by the Board," I'm assuming that means
18 trainer, "shall be the absolute insurer of and responsible
19 for the condition of the horse, regardless of the acts of
20 third parties." The owner becomes the absolute insurer of
21 anything that happens. Mr. Baedeker says that's always been
22 the case. I have 15 people on the TOC Board who disagree.
23 That is a major issue. We've raised it. It's in the
24 letter.

25 EXECUTIVE DIRECTOR BAEDEKER: I'm not sure when I

1 said that. I'm not sure when it said. But, as a matter of
2 fact, we have discussed that internally.

3 MR. AVIOLI: Right.

4 EXECUTIVE DIRECTOR BAEDEKER: I understand it's a
5 big deal for you guys.

6 MR. AVIOLI: So --

7 EXECUTIVE DIRECTOR BAEDEKER: And so we would be
8 willing to, you know --

9 VICE CHAIRMAN AUERBACH: We're taking it out.

10 EXECUTIVE DIRECTOR BAEDEKER: -- suggest to the
11 Board --

12 MR. AVIOLI: Well, that's --

13 EXECUTIVE DIRECTOR BAEDEKER: -- that we can take
14 that language out.

15 MR. AVIOLI: So I'm frustrated. I thought I had
16 an understanding with multiple people sitting before me that
17 this rule was going to go back for calm discussion in a
18 Committee. What I hear today is a rush, because some people
19 are frustrated, that we have to do this now.

20 Let me -- let the record note that California
21 spends more money and does more out-of-competition testing
22 than any state in the union. Let me also tell you that if
23 you look at your own materials and you look under Board
24 Support on 16.1, we went from \$11.8 million in 2010 to \$14.2
25 million this year, not counting the additional \$1.5 million

1 the state puts on top of it.

2 So what -- and finally, Rick, you said at the
3 start, you know, Dr. Arthur, explain what this does?
4 Because, you know, some people are getting too caught up in
5 the details. Well, I get paid to get caught up in the
6 details. And we agree, out-of-competition testing is a good
7 thing. We support it. We want the rule to go through. I
8 don't think -- if it was such a problem and we could have
9 wiped it away with the owner insurer, why didn't someone
10 just call and say, Greg, we're going to take care of it?
11 Let's take care of it now.

12 You put us in a position time and time again to
13 come up. And I do agree with Mr. Balch that the clear
14 connotation from Dr. Arthur was that the TOC is being
15 extemporaneous or how could we not support this. We look at
16 rules; right? Because as you said, one day, everyone's
17 going to be gone in this room and the rule is still going to
18 live on. And if there's a problem in that rule, it's going
19 to come back to who was in charge of the TOC and the CTT
20 when that rule got passed? That is why we asked that this
21 rule be sent back to Committee. We think it can be
22 resolved.

23 The last point, I think the hair follicle test was
24 a very important point that Mr. Balch raised. Does this
25 envision switching the hair follicle testing or not? If --

1 VICE CHAIRMAN AUERBACH: In the document.

2 MR. AVIOLI: If it's in the document, it's a major
3 expansion if it does. If the answer is, no, it doesn't, why
4 didn't somebody pick up the phone and call us to say it
5 doesn't? But nobody responded

6 VICE CHAIRMAN AUERBACH: Okay. Okay. Let's do
7 this because this is going nowhere.

8 If we schedule another meeting, I'm saying if,
9 because if we decide this is just too hot to handle right
10 now, I am always available to have the meetings. I am
11 always there, and people wish I weren't there. I want a
12 very specific list and agenda of what you find
13 objectionable, and I want it paired down. I will not read a
14 40-page lawyers letter, like you sent last time, because I
15 looked at it, read it and threw it up in the air. Because
16 quite frankly, a lot of it was billable hours that had
17 nothing to do with anything that means anything for racing.
18 I don't care about lawyers letters and I don't care about
19 all of the fluff.

20 I care about the horses, period, end of report,
21 and the people that ride them and work around them. That's
22 all I care about. And I will be happy to hold a meeting,
23 not a working group, a meeting with everybody sitting at the
24 table and telling me specifically what the problem is with
25 each and every issue that both groups have. I am willing to

1 do it, but I am willing to do it once and sit there until we
2 figure it out, because I am not going to go around for the
3 next three years trying to resolve this.

4 CHAIRMAN WINNER: Well, let me ask you, if I may,
5 let me ask Staff or our lawyers a question.

6 VICE CHAIRMAN AUERBACH: Sorry.

7 CHAIRMAN WINNER: If we make any changes,
8 including the change that was just suggested with respect to
9 owners' liability, does it have to go back out for public
10 hearing or public comment?

11 MR. BRODNICK: Yes.

12 CHAIRMAN WINNER: And is it 7 days or 45 days?

13 MR. BRODNICK: Robert Brodnick, California Horse
14 Racing Board.

15 It would have to go back out, but we think it
16 would be 15 days.

17 CHAIRMAN WINNER: How many?

18 MR. BRODNICK: Fifteen.

19 CHAIRMAN WINNER: And if there were substantial
20 changes made or more substantive changes, as is being
21 suggested here, how long would it have to go out?

22 MR. LAIRD: As long as it's related to what was
23 actually proposed initially.

24 CHAIRMAN WINNER: In the language? So it would be
25 considered --

1 MR. LAIRD: As long as it's still concerning out-
2 of-competition testing, it's only a 15-day comment period.

3 CHAIRMAN WINNER: So that's considered a technical
4 change, so to speak?

5 MR. LAIRD: Yes.

6 CHAIRMAN WINNER: And then it's a 15-day?

7 MR. LAIRD: That's correct. Yes.

8 CHAIRMAN WINNER: All right.

9 COMMISSIONER RUANO: So --

10 CHAIRMAN WINNER: And if it goes to Committee, if
11 it goes back to Committee? And, obviously, Alex would have
12 to agree to participate in that as well.

13 VICE CHAIRMAN AUERBACH: He would.

14 CHAIRMAN WINNER: If it goes back to Committee,
15 then whatever changes are made in Committee comes back to
16 the Board, and then it goes out for 15 or 45 days?

17 MR. LAIRD: Fifteen.

18 CHAIRMAN WINNER: Okay.

19 EXECUTIVE DIRECTOR BAEDEKER: So if we have a
20 Committee meeting on July, which we had talked about, on
21 July 20th, I think it is, the Friday --

22 MS. WAGNER: Right.

23 EXECUTIVE DIRECTOR BAEDEKER: Yeah.

24 VICE CHAIRMAN AUERBACH: That's at Del Mar.

25 EXECUTIVE DIRECTOR BAEDEKER: That's at Del Mar.

1 So we had talked about having a Medication Meeting at that
2 point. And if changes are made that relate to this,
3 substantially relate to this current rule, then it can come
4 back to the Board in August to go out for 15 days; is that
5 right?

6 MR. LAIRD: That is correct.

7 EXECUTIVE DIRECTOR BAEDEKER: Okay. And then it
8 goes out --

9 CHAIRMAN WINNER: And then it gets voted on again,
10 and then it goes to AOL --

11 EXECUTIVE DIRECTOR BAEDEKER: Well, do we -- what
12 kind process --

13 CHAIRMAN WINNER: -- OAL.

14 EXECUTIVE DIRECTOR BAEDEKER: -- what kind of --
15 after that meeting, Board says, yes, send it out for 15
16 days, right now when the Board says send it out for public
17 comment, don't we have to go through Agency and all that
18 stuff?

19 MR. LAIRD: I guess as a member of Agency, I can
20 answer that. As far as 15-day modifications, you know, I'm
21 here today. We'll clearly be paying attention, monitoring
22 when that notice goes out. But it's not typical or Agency
23 to review and approve 15-day modifications. We only approve
24 the --

25 EXECUTIVE DIRECTOR BAEDEKER: Let me just --

1 MR. LAIRD: -- final rulemaking files.

2 EXECUTIVE DIRECTOR BAEDEKER: -- ask it more
3 simply.

4 If this was dealt with at July 20th -- on July
5 20th at a Committee meeting, do you think -- and the changes
6 were within the scope of permissible to keep it at 15 days,
7 do you think it could be back to the Board for the August
8 meeting, and then immediately go back out for 15 days?

9 MR. LAIRD: Absolutely.

10 VICE CHAIRMAN AUERBACH: I just have one comment,
11 though. If we do this and you guys --

12 CHAIRMAN WINNER: Let's do it in a collegial
13 way --

14 VICE CHAIRMAN AUERBACH: Yeah.

15 CHAIRMAN WINNER: -- if we do this.

16 VICE CHAIRMAN AUERBACH: Well, forget that.

17 EXECUTIVE DIRECTOR BAEDEKER: We can do it sooner
18 than that, too.

19 VICE CHAIRMAN AUERBACH: We're always going to --
20 we're like families, we're allowed to yell at each other.

21 If we do this, I want to know that if you tell me
22 something from the TOC's standpoint or you tell me something
23 from the trainers' standpoint, I am not going to hear, but I
24 have to go back to my board, because I'm not interested in
25 that. You are going to have to be the insurer to me and to

1 Alex that this is your community's opinion and they'll be
2 fine with it, so we don't have an additional delay.

3 MR. AVIOLI: Greg Avioli, TOC.

4 Jut on that point, what I will tell you is
5 whatever I tell you will be the position of the TOC. I
6 cannot say going into this meeting that we're going to be
7 fine with it, but what we want is the hearing. We want the
8 meeting. Let's see if we can work it out. I think we can.

9 VICE CHAIRMAN AUERBACH: Well, but --

10 MR. AVIOLI: I can't guarantee you.

11 VICE CHAIRMAN AUERBACH: -- Greg --

12 MR. AVIOLI: I don't know what your compromise is.

13 VICE CHAIRMAN AUERBACH: No, no, no, no, no,
14 that's not what I meant. What I meant was when you make
15 your opinion known --

16 MR. AVIOLI: Yeah.

17 VICE CHAIRMAN AUERBACH: -- you will be
18 representing your board, and I don't have to worry about you
19 saying, after we put all our ducks in a row --

20 MR. AVIOLI: Sure.

21 VICE CHAIRMAN AUERBACH: -- Alan signs off on it,
22 you sign off on it, and then one you guys say, by the way, I
23 have to take it back to my board, I don't want to hear that.

24 MR. AVIOLI: I'll go one step further, I'll bring
25 my chairman with me.

1 CHAIRMAN WINNER: Or that you come back at the
2 next meeting and say, well, we've changed our position --

3 VICE CHAIRMAN AUERBACH: Yeah.

4 CHAIRMAN WINNER: -- or there's something new.

5 VICE CHAIRMAN AUERBACH: I just want everybody to
6 be there and to say we're okay with this or we're not --

7 CHAIRMAN WINNER: All right.

8 VICE CHAIRMAN AUERBACH: -- or we're going to
9 walk, okay?

10 EQUINE MEDICAL DIRECTOR ARTHUR: You know --

11 VICE CHAIRMAN AUERBACH: Thank you.

12 EQUINE MEDICAL DIRECTOR ARTHUR: -- I would like
13 to comment. We go through a very long process that is
14 required by the Office of Administrative Law in terms of
15 noticing hearings, having this language. This specific
16 language was presented to this Board in February, February
17 2017, not February 2018. This has been out there for, what
18 is it, 17 months, and now we're coming to this particular
19 point. This is what I find so frustrating.

20 VICE CHAIRMAN AUERBACH: Well, Dr. Arthur, maybe I
21 didn't do my job well enough. Maybe Alex didn't do his job
22 well enough.

23 EQUINE MEDICAL DIRECTOR ARTHUR: No, it's not you.

24 VICE CHAIRMAN AUERBACH: Let's --

25 EQUINE MEDICAL DIRECTOR ARTHUR: It's not you.

1 VICE CHAIRMAN AUERBACH: Because I don't --

2 EQUINE MEDICAL DIRECTOR ARTHUR: It's the --

3 VICE CHAIRMAN AUERBACH: But I don't want to --

4 EQUINE MEDICAL DIRECTOR ARTHUR: -- horsemen that
5 are coming in at the last minute and putting up a roadblock.

6 You know, I don't care. I understand where you're
7 going with this thing.

8 VICE CHAIRMAN AUERBACH: No. Where I'm going with
9 it --

10 EQUINE MEDICAL DIRECTOR ARTHUR: I think the edits
11 are very -- I think the edits to solve what I've seen as
12 issues with them are pretty simple because they don't
13 understand what they were talking about, some of them, and
14 some of them could be corrected --

15 MR. AVIOLI: I object to that.

16 EQUINE MEDICAL DIRECTOR ARTHUR: -- could be
17 corrected --

18 MR. AVIOLI: I've had just about enough of Dr.
19 Arthur.

20 EQUINE MEDICAL DIRECTOR ARTHUR: -- corrected,
21 corrected --

22 CHAIRMAN WINNER: Okay. Enough already.

23 MR. AVIOLI: And I'd like the Board to remember
24 his outburst in June --

25 EQUINE MEDICAL DIRECTOR ARTHUR: -- corrected,

1 corrected --

2 CHAIRMAN WINNER: Hey, guys --

3 MR. AVIOLI: Excuse me -- in June of 2017 --

4 CHAIRMAN WINNER: -- (indiscernible).

5 MR. AVIOLI: -- his outburst at Mr. Balch was so
6 bad that we complained to the CHRB and we were told this was
7 Dr. Arthur's last year, and Dr. Arthur is still here. And
8 enough is enough.

9 CHAIRMAN WINNER: Hey, hey --

10 MR. AVIOLI: He's support to represent the state.

11 CHAIRMAN WINNER: -- Mr. Avioli --

12 MR. AVIOLI: And we are sick and tired of his
13 detrimental, challenging remarks to the TOC and the CTT.

14 CHAIRMAN WINNER: Okay. I'm going to -- okay.

15 I'm --

16 EQUINE MEDICAL DIRECTOR ARTHUR: I have no
17 apology.

18 CHAIRMAN WINNER: That's it. Okay.

19 MR. AVIOLI: You need to go do something else.

20 CHAIRMAN WINNER: Okay. Hey, guys --

21 EQUINE MEDICAL DIRECTOR ARTHUR: You do.

22 MR. AVIOLI: You do.

23 EQUINE MEDICAL DIRECTOR ARTHUR: All right.

24 CHAIRMAN WINNER: -- hey, hey, hey.

25 VICE CHAIRMAN AUERBACH: Time out.

1 CHAIRMAN WINNER: Look, guys, let's stop this
2 nonsense, okay? We're all trying to do what's in the best
3 interest of racing. Everybody knows that. Dr. Arthur has
4 his viewpoint. You guys have your viewpoint. I agree that
5 any kind of personalization is a bad, bad idea. This is not
6 about personal values or personal disagreements. This is
7 about people who disagree on the merits of the issue, so
8 let's keep it that way. Let's stop the yelling and let's
9 try to achieve what we all want to achieve, which is the
10 safety and health of the horses and the people on their
11 backs.

12 VICE CHAIRMAN AUERBACH: Thank you.

13 CHAIRMAN WINNER: That's what this is all about.
14 That's what we all want. It has -- we have different views
15 of the way to go about it, that's all.

16 And with that in mind, it seems to me that we
17 should move on and we'll move this item back to Committee,
18 unless there's objection by the Board, we'll move the item
19 back to Committee. We'll hold a hearing on the 20th of July
20 at Del Mar. This issue will be on the agenda of the
21 Committee and you can all come with your recommended
22 changes, and the Committee will then come back to the Board
23 with its recommendation, okay?

24 MR. BALCH: Mr. Chairman, may I just state,
25 because I didn't get a chance to answer Commissioner

1 Auerbach, and I think it should be on the record, CTT agrees
2 that at the Committee meeting, I will speak for the CTT, the
3 same answer that Mr. Avioli gave. So you need not have any
4 concern about any delay after that.

5 VICE CHAIRMAN AUERBACH: Okay.

6 MR. BALCH: Thank you.

7 CHAIRMAN WINNER: Okay. Now, everybody agree with
8 that? Any disagreement? Okay. Thank you.

9 EXECUTIVE DIRECTOR BAEDEKER: May I point out one
10 thing that Greg said that may cause confusion?

11 The increase in the CHRB budget, you said it went
12 from \$10 million to \$14 million, there's two reasons for
13 that. One is the way that the budget is accounted before,
14 where the first amount of the budget was revised after, call
15 it government surtaxes were changed. So the \$10 million
16 figure wasn't accurate.

17 The other was that we did pursue and were granted
18 a budget change proposal when funding for the Maddy Lab that
19 was coming from simulcast wagering, which had been
20 decreasing over a number of years, had caused the depletion
21 of reserve funds for testing with the Maddy Lab to the point
22 where the following year, we were not going to be able to do
23 about 30 percent of our testing with the Maddy Lab.

24 So just to point out, one is there was an
25 accounting change which made the initial figure appear low.

1 It's not real money. It was an accounting change. And the
2 second was real money which was, I'd call it an emergency
3 measure, which took us a year-and-a-half to get it approved
4 by the budget -- the Department of Finance to save the work
5 that we do at the Maddy Lab.

6 I just figured that that should go into the
7 record.

8 CHAIRMAN WINNER: Is there any other discussion on
9 any other item?

10 EXECUTIVE DIRECTOR BAEDEKER: We have --

11 CHAIRMAN WINNER: Is there a motion? What?

12 EXECUTIVE DIRECTOR BAEDEKER: No, we have one
13 more, 16.

14 CHAIRMAN WINNER: Wow, gees, what did I miss?

15 COMMISSIONER RUANO: Sixteen.

16 EXECUTIVE DIRECTOR BAEDEKER: Sixteen.

17 VICE CHAIRMAN AUERBACH: What's 16?

18 CHAIRMAN WINNER: What is it? I closed my book.

19 I'm sorry about that.

20 Discussion item -- what is it, number 16?

21 Discussion and action by the Board on the approval of the
22 Fiscal Year 2018/19 Agreement providing funding support for
23 the Board.

24 I think this is important. How could I have
25 missed this?

1 EXECUTIVE DIRECTOR BAEDEKER: Francisco?

2 MR. GONZALEZ: Chairman, Commissioners, this is
3 the tenth year we have --

4 EXECUTIVE DIRECTOR BAEDEKER: Identify yourself,
5 Francisco.

6 MR. GONZALEZ: Francisco Gonzalez, CHRB Staff.

7 This is the tenth year that we developed the
8 formula in consultation with the industry. The budget, as
9 approved by the legislature for this upcoming year, 2018/19,
10 is \$14,245,000. The formula calculated rate for this
11 upcoming year is 68 percent, very similar to the last year,
12 exactly the same.

13 Let's see, another important thing, all
14 participants to the formula had agreed to the numbers.
15 However, we're missing two signatures on the formula
16 agreement, and those signatures we're missing are from Santa
17 Anita and Golden Gate Fields.

18 VICE CHAIRMAN AUERBACH: Oh, what a surprise.

19 EXECUTIVE DIRECTOR BAEDEKER: But they had agreed
20 to; correct?

21 MR. GONZALEZ: They had agreed to it. We just
22 don't have their signatures yet.

23 CHAIRMAN WINNER: Now they may not.

24 VICE CHAIRMAN AUERBACH: Yeah, they may not.

25 CHAIRMAN WINNER: Okay.

1 MR. BRODNICK: Just that --

2 CHAIRMAN WINNER: Rob?

3 MR. BRODNICK: Robert Brodnick, California Horse
4 Racing Board.

5 Just to clarify, Chairman, Commissioners, the
6 matter before you today is the approval of the formula
7 itself.

8 VICE CHAIRMAN AUERBACH: Oh, on the budget. Okay.

9 CHAIRMAN WINNER: Yeah. It's just the formula
10 that we're approving. Okay. Any other discussion? Is
11 there a motion?

12 COMMISSIONER MASS: Moved.

13 CHAIRMAN WINNER: It's moved by Commissioner Mass,
14 seconded by Commissioner Ruano; yes?

15 COMMISSIONER RUANO: Sure. Sure.

16 CHAIRMAN WINNER: Okay. How do you vote?

17 COMMISSIONER RUANO: Yes.

18 CHAIRMAN WINNER: Commissioner Auerbach?

19 VICE CHAIRMAN AUERBACH: Yes.

20 CHAIRMAN WINNER: Chairman votes yes.

21 Commissioner Choper?

22 COMMISSIONER CHOPER: Yes.

23 CHAIRMAN WINNER: Commissioner Solis?

24 COMMISSIONER SOLIS: Yes.

25 CHAIRMAN WINNER: Commissioner Mass?

1 COMMISSIONER MASS: Yes.

2 CHAIRMAN WINNER: Okay. Thank you very much. Is
3 there a motion to adjourn.

4 COMMISSIONER RUANO: So moved.

5 CHAIRMAN WINNER: So moved. Is there objection?
6 This wonderful meeting is adjourned.

7 (The meeting of the California Horse Racing Board
8 adjourned at 1:25 p.m.)

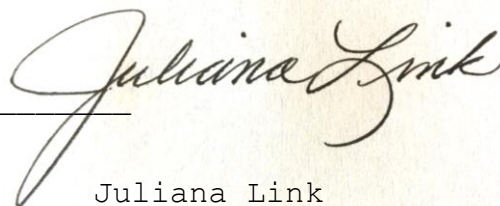
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REPORTER'S CERTIFICATE

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 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 26th day of June, 2018.

A handwritten signature in black ink on a light-colored, textured background. The signature reads "Juliana Link" in a cursive script.

Juliana Link
CER-830

CERTIFICATE OF TRANSCRIBER

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 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.

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



MARTHA L. NELSON, CERT**367

Junr 26, 2018