

CALIFORNIA HORSE RACING BOARD
1010 HURLEY WAY, SUITE 300
SACRAMENTO, CA 95825
(916) 263-6000
FAX (916) 263-6042



REGULAR MEETING

of the California Horse Racing Board will be held on Friday, January 15, 2010, commencing at 9:30 a.m., in the Baldwin Terrace Room at the Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California. The meeting will open at 9:00 a.m., then the Board will adjourn into Closed Session with the regular meeting commencing at approximately 9:30 a.m.

AGENDA

Action Items:

1. Approval of the **minutes of the regular meeting of November 17, 2009.**
2. Presentation of the **California Horse Racing Board Resolution to Richard Shapiro.**
3. Discussion and action by the Board on the **Application to Operate a Satellite Wagering Facility submitted by the San Bernardino County Fair in Victorville.**
4. Public hearing and action by the Board regarding the **proposed amendment to CHRB Rule 1632, Jockey's Riding Fee**, to revise the jockey riding fee scale pursuant to Business and Professions Code section 19501(b)(1). (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.)
5. Public hearing and action by the Board regarding the **proposed amendment to CHRB Rule 1685, Equipment Requirement**, to allow the use of an alternative whip in flat racing. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.)
6. Discussion and action by the Board regarding **random drug testing of jockeys.**
7. Discussion and action by the Board regarding an **increase in the take-out on conventional and exotic wagers on races conducted by quarter horse racing associations as permitted pursuant to Assembly Bill 246 (Price), Chapter 226, Statutes of 2009.**
8. Discussion and action by the Board regarding the **SCOTWINC Shortfall Agreement submitted by the Thoroughbred Owners of California and the Los Angeles Turf Club in response to the Board's April 29, 2009 approval of a request for modification of California advance deposit wagering (ADW) distributions on thoroughbred races as permitted under Business and Professions Code section 19604(f)(5)(E).**

9. Discussion and action by the Board regarding a report from TrackNet, which served as representative of Santa Anita Park Race Track and Golden Gate Fields, and from advance deposit wagering (ADW) provider ODS Technologies, L.P., dba TVG, on the resolution of litigation and the successful conclusion of negotiations, which resulted in TVG continuing to accept wagers on races at Santa Anita Park Race Track and Golden Gate Fields, and, and how the settlement impacts their relationship going forward.
10. Discussion and action by the Board regarding a report from Southern California racing secretaries concerning the different categories of the race horse population at tracks and subsidized off site facilities and the participation levels in actual races that materialize.
11. Discussion and action by the Board regarding the allocation of 2010 Northern California fair race dates.
12. Discussion and action by the Board regarding the update from the Los Angeles Turf Club, Inc. operating at Santa Anita Park Race Track and the significance of the bankruptcy filing of Magna Entertainment Corporation on its racing operations and the status of statutory funds that may still be owed money from pre and post bankruptcy accounts.
13. Election of Board Chairman and Vice Chairman.
14. CHRB Executive Director's Report.
15. **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 presentation.
16. **Closed Session:** For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personnel matters, as authorized by section 11126 of the Government Code.
 - A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending litigation described in the attachment to this agenda captioned "Pending Litigation," 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).

Additional information regarding this meeting may be obtained from the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, CA 95825; telephone (916) 263-6000; fax (916) 263-6042. This notice is located on the CHRB website at www.chrb.ca.gov. *Information for requesting disability related accommodation for persons with a disability who require aid or services in order to participate in this public meeting, should contact Jacqueline Wagner.

CALIFORNIA HORSE RACING BOARD

John C. Harris, Chairman
David Israel, Vice Chairman
Keith Brackpool, Member
Jesse H. Choper, Member
Bo Derek, Member
Jerry Moss, Member
Richard Rosenberg, Member
Kirk E. Breed, Executive Director

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PENDING LITIGATION
JANUARY 2010

CASE

Jamgotchian, Jerry v. California Horse Racing Board, et al.
Court of Appeal, Second Appellate District, Case No. B211842

Pamela A. Berg v. CHRB
Superior Court of California, County of Sacramento, Case No. 34-2008-00028104

California Horse Racing Board v. Los Alamitos Quarter Horse Racing Association, et al.
Superior Court of California, County of Orange, Case No. 30-2009-00118250

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(916) 263-6000
FAX (916) 263-6022



PENDING ADMINISTRATIVE ADJUDICATIONS
JANUARY 2010

CASE

FITNESS FOR LICENSURE
Raymond Burt

FITNESS FOR LICENSURE
Gail Ruffu

PETITION FOR RECONSIDERATION
Ray Thomas
CHRB License #076946

IN THE MATTER OF THE ACCUSATION AGAINST:
Frank Petrelli
CHRB License #292848

IN THE MATTER OF THE COMPLAINT AGAINST:
Todd Pletcher
CHRB License # 272025

PROPOSED SETTLEMENT
Edwin Jeffery Waltenburgh
CHRB License #283590-11/08

PROCEEDINGS of the Regular Meeting of the California Horse Racing Board held at the Golden Gate Fields Bayside Lounge (Turf Club), 1100 East Shore Highway, Albany, California, on November 17, 2009.

Present: John C. Harris, Chairman
David Israel, Vice-Chairman
Keith Brackpool, Member
Jesse H. Choper, Member
Richard A. Rosenberg, Member
Kirk E. Breed, Executive Director
Robert Miller, Staff Counsel

MINUTES

Chairman Harris asked for approval of the minutes of the Regular Meeting of October 15, 2009. Commissioner Brackpool **motioned** to approve the minutes. Vice-Chairman Israel **seconded** the motion, which was **unanimously carried**. Chairman Harris stated Commissioner Moss requested a clarification of the minutes of the Regular Meeting of May 25, 2006, regarding the adoption of an amendment to Board Rule 1433, Application for License to Conduct a Horse Racing Meeting. The amendment prohibited a thoroughbred racing association from running a thoroughbred race meeting of four or more continuous weeks at any racetrack that did not have a synthetic type racing surface. Commissioner Moss stated that although he did not vote "no" he also did not vote in favor of the amendment, but instead abstained. He requested that the minutes be amended to reflect his abstention. Vice-Chairman Israel **motioned** to amend the minutes of the Regular Meeting of May 25, 2006, as requested by Commissioner Moss. Commissioner Choper **seconded** the motion, which was **unanimously carried**.

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DISCUSSION AND ACTION BY THE BOARD REGARDING THE UPDATE FROM THE LOS ANGELES TURF CLUB, INC. OPERATING AT SANTA ANITA PARK AND THE SIGNIFICANCE OF THE BANKRUPTCY FILING OF MAGNA ENTERTAINMENT CORPORATION ON ITS RACING OPERATIONS AND THE STATUS OF STATUTORY FUNDS THAT MAY STILL BE OWED MONEY FROM PRE AND POST BANKRUPTCY ACCOUNTS.

Gregg Scoggins, representing Magna Entertainment Corporation (MEC), stated an amended financing agreement between MI Developments, Inc. (MID) and MEC was approved in late October 2009. The agreement would provide MEC with an additional \$26 million in financing, which would extend its ability to operate through April 2010. There were conditions to the agreement relating to MID's and MEC' obligations. Among them was a process for getting bids and options with respect to Santa Anita Park Race Track (SA), Golden Gate Fields Race Track (GGF) and XpressBet. The process was set in a separate order, which provided a deadline of February 10, 2010, for receipt of definitive bids. A stalking horse for each of the properties would be announced by February 17, 2010. An auction would be held on February 25, 2010, and a sale order would be entered by the court. In addition, prospective bids were currently being solicited and received for the sale of XpressBet. Vice-Chairman Israel asked how long it would take to close the sale once the hearing was held and the sale order given. Mr. Scoggins stated there were many conditions for closing, including regulatory approval. Once the sale order was entered, the buyer would proceed to obtain the Board's approval for ownership of SA or GGF. Vice-Chairman Israel asked if it would expedite the process if each prospective owner submitted provisional requests for approval. Chairman Harris said the Board probably could approve the stalking horse bid, but some of the other bids would not be disclosed. Commissioner Brackpool said anyone could appear at the bankruptcy court and start bidding as long as they met the over-bid provisions and the

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qualified provisions. They would be taking a risk regarding regulatory approval, but they could not be stopped. Mr. Scoggins said in other states the process of obtaining the approval of a particular bidder in advance of the order being entered was explored. However, that was not in the nature of a provisional acceptance or approval of a particular bidder; it merely helped initiate the background checks so that when the order was entered the timeframe for getting the matter before the regulatory body was shortened. Chairman Harris said perhaps the Board could publish something that would inform the bidders of what might bar someone from receiving a license. Mr. Scoggins stated for the purposes of bidding and due diligence MEC had on file for all bidders the applicable statutes for ownership and holding a license in each state, so the bidders would know what the requirements were and how they might comply with that obligation. Additionally, a condition of closing was obtaining the approval. Vice-Chairman Israel asked what the bankruptcy court's obligation was. Mr. Scoggins said the bankruptcy court's obligation was to determine if the bidder was a proper bidder. Part of that assessment was to determine if the bidder would qualify for license. The facilities would not be sold to an unknown person with a shady past. The tracks would be sold to the highest and best offer, and the bidder's qualifications were an element of the "best" bid. Commissioner Choper asked if the bankruptcy court had jurisdiction to overturn a state regulatory board's disapproval of a bidder. Mr. Scoggins said the court did not have jurisdiction with regards to a suitability assessment. Commissioner Choper commented one reason Vice-Chairman Israel's suggestion could not be pursued was that all the bidders could not be known until the day of the auction, so time would not permit submission of requests for provisional approval. Vice-Chairman Israel said there was a

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vague idea of who was interested in bidding, and unless a party was secretly trying to buy the facilities, anything that expedited the process would help. The longer a bankrupt company was running the tracks, the worse it was for California horse racing. Mr. Scoggins said MEC agreed with the idea of expediting the process. If there were multiple eligible bidders by February 10, 2010, information regarding the bidders could be submitted to the Board. CHRB Staff Counsel Robert Miller said the Board could invite all bidders to submit documentation to the Board, but the Board did not have jurisdiction to impose a condition as a prerequisite to bidding in the Delaware bankruptcy court. Vice-Chairman Israel said he was trying to expedite the process. The auction was delayed several times since the March 5, 2009, petition was filed. The February 2010 auction was almost 50 weeks from the date of the petition. Mr. Scoggins stated he did not think it was practical to get pre-clearance of bidders, but if they would be willing to provide the Board with information it would expedite the process to the greatest extent possible. The Board could have at least some information in its possession so it would be that much farther ahead. Chairman Harris said the Board did not want to micromanage the process. The Board did not wish to have a convicted felon running an association, and the winning bidder needed sufficient capital to run the meeting, as well as some expertise in the industry. Mr. Miller stated the Board could direct the Executive Director to publish a notice inviting all prospective bidders to submit materials to the CHRB prior to the date of the auction for the purposes of ascertaining whether they would be approved. The Board would not be denying or accepting the bidders, it would be inviting them to provide information to the Board prior to the bid to give it some lead time to conduct its investigations. Commissioner Brackpool commented a lot of that information

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would not be known until the auction because the parties could come together or separate at the auction. Mr. Scoggins said there had been numerous conversations regarding the status of payment of statutory pre-petition amounts to Southern California Off Track Wagering, Inc. (SCOTWINC) and Northern California Off Track Wagering, Inc. (NCOTWINC), as well as affiliated funds. A motion was filed with the bankruptcy court seeking permission to pay those various statutory in-state funds. The payment of out-of-state funds was still a matter that was subject to a bankruptcy court ruling on whether the motion filed by the parties was valid. Commissioner Brackpool asked if MEC's position on payment of the out-of-state funds had changed. Mr. Scoggins said MEC still contended the out-of-state parties were general creditors rather than priority creditors. Commissioner Choper asked why MEC opposed the out-of-state creditors' motion. He stated the out-of-state parties paid the winning wagers and were only asking for the money they were owed from the pools. Commissioner Choper said he could understand other creditors opposing the motion because payment would deplete the estate, but he could not understand why MEC was opposing the motion. Mr. Scoggins said MEC was sued directly by the parties, so it was a defendant. The creditors' committee was not a party to the action. If MEC responded to the legal action in a manner that the creditors' committee felt was in the best interest of the estate, it could sit silent or it could file a motion in support of MEC. If MEC did not act in a way that was in the best interest of the creditors' committee, it could file a motion with the court seeking some kind of punishment against MEC. Mr. Scoggins stated MEC had a variety of decisions to make regarding "the right thing to do" versus whether it had the legal ability to do the right thing. Commissioner Choper asked if MEC had thought of joining the creditors'

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committee into the proceeding to let the judge give an authoritative ruling regarding MEC's ability to pay the amounts consistent with bankruptcy statutes. He added entities that took wagers that increased the handle would not be encouraged if they believed they would not be reimbursed for paying winning wagers. Mr. Scoggins stated those discussions occurred, and motions were filed to that extent. He added he was hopeful what Commissioner Choper suggested might happen. Commissioner Brackpool said MEC's response to the out-of-state parties' motion was that its hands were tied, and it had to do what was in the best interest of the estate. He stated he previously asked if the best interest of the estate was in repaying the monies and increasing the confidence in horse racing, generally. Mr. Scoggins said MEC did examine that question, and the result was the motion to pay California statutory funds to entities such as SCOTWINC and NCOTWINC. Such entities were different in terms of the amount and magnitude of the funds. In addition, legislation was enacted relative to those items that made them different than the simulcast monies. Movement was made in recognizing Commissioner Brackpool's point, but there was a limit to such movement, and it had to be counter-balanced against other considerations that were applicable to the bankruptcy proceeding. Chairman Harris stated the funds should be paid, but there was not much the Board could do about pre-bankruptcy debt. The focus of the Board should be on the ability of MEC to finance its ongoing operations. Mr. Scoggins said the MID financing would take MEC through April 2010. The SA meeting typically did not have problems with positive cash flow, and efforts were made to make whole statutory obligations. Commissioner Brackpool asked what was the anticipated closing date of the sale; after the SA meeting finished? Mr. Scoggins stated he did not know, but the closing date should be as soon as

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possible, which would be as soon as the Board vetted the prospective purchaser. It was possible for the closing to occur in the middle of the SA meeting.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE LOS ANGELES TURF CLUB (T) AT SANTA ANITA, COMMENCING DECEMBER 26, 2009 THROUGH APRIL 18, 2010, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the Los Angeles Turf Club (LATC) proposed to run from December 26, 2009, through April 18, 2010, or 83 days, one day less than in 2009, for a total of 714 races. Races would occur five days per week, Wednesday through Sunday, with the exception of one Monday race day in December 2009 and January and February 2010. The first post time would be 1:00 p.m. weekdays and 12:30 p.m. weekends and holidays. The advance deposit wagering (ADW) providers were XpressBet, Youbet, Twinspires and TVG. Ms. Wagner stated the horsemen's agreement, the trainer's agreement, the track safety inspection and the backstretch housing inspection were missing from the application. She added the track safety and backstretch housing inspections were scheduled and would be completed prior to the start of the meeting. Ron Charles of LATC said his organization had a verbal horsemen's agreement that should be delivered to staff within a few days. The same was true of the trainer's agreement. Chairman Harris said he noted LATC was running a six-day week, which was a holiday week. He stated that would be good, but it might be wise to skip the Wednesday following the New Year's holiday. Mr. Charles stated the week in question generated LATC's largest handle. LATC was open to looking at a change, but it currently thought it would run the existing schedule. He added that the Thoroughbred Owners of California (TOC) was in agreement. Marsha Naify of TOC stated her

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organization had a verbal agreement with LATC, which should soon be completed. She said TOC would remain flexible on the race-day schedule, especially the Wednesdays, to see how the meeting went. Jack Liebau of Hollywood Park (HP) spoke about the need for a more equitable distribution of race days in Southern California due to the horse inventory. He stated several thoroughbred racing associations reduced their race dates in 2009 in anticipation of a shortage of horses. However, in April 2009 LATC drained the inventory, which affected HP's ability to have done better. Yet, LATC was the only track unscathed, and HP was concerned the Board was creating the same conditions in 2010. Mr. Liebau stated HP hoped the Board would provide some mitigation in April 2010. HP was not asking the Board to take days away from LATC; instead, it was asking that the burden be evenly spread. Chairman Harris said the Board needed to examine the data to determine if – overall – more purses were generated with a five-day week versus a four-day week. Mr. Liebau stated the problem was that sometimes there were not enough entries to run a five-day week. Vice-Chairman Israel said race dates might need to be reduced, but only if the problem arose. If a racing association had problems filling races it could approach the Board for relief. He stated TOC indicated it was flexible, and there were many other considerations, such as jobs. Mr. Liebau said he understood Vice-Chairman Israel's position, but in 2009 LATC did not show HP any consideration. LATC was having difficulty filling races in April 2009, and on the Wednesdays HP was asking consideration for LATC averaged less than \$21,000 on eight races a day. Vice-Chairman Israel said there might be days LATC wished to give up, but it did have the advantage of running a winter meeting in a warm climate. Given the opportunity, out-of-state horses could be attracted to LATC. Mr. Liebau stated HP believed LATC would

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not run any differently in 2010 than it ran in 2009. All HP could do was ask for consideration. Commissioner Choper asked if it were possible that LATC and HP would have a better understanding of the horse population by March 2010. He suggested that HP return to the Board in March 2010 with a more specifically documented case. Mike Harlow of LATC said his organization did have trouble filling races, but that had been a problem for a while, and there were many days and weeks when races were difficult to fill. LATC was actively pursuing out-of-state trainers, and many had already committed to come to LATC. With regards to the last two days in April, the purses were less than average, but the two days were large earners for the horsemen's purse account, compared to the other Wednesdays in the meeting. Vice-Chairman Israel said the Board was reluctant to give up employment for jockeys, trainers and others in the industry, but it was also realistic. If the need became apparent the issue could be revisited. Chairman Harris said he figured over \$3 million was spent on off-site stabling during the LATC meeting. That equaled \$38,000 a day that would otherwise go to purses or commissions. If the industry was going to four-day race weeks, and it was short on inventory, perhaps not all the stabling was needed. Mr. Charles stated LATC cut stabling at Pomona and San Luis Rey Downs. However, it was also actively trying to increase its inventory. Additional horses would be coming to California and between HP and LATC there were currently about 2,600 horses. Maybe 80 percent were running, with 20 percent injured or getting ready to run. Overall, the population was down when compared to two or three years ago when LATC and HP were full and Pomona and San Luis Rey Downs also stabled horses. Mr. Charles discussed the current number of horses in Northern (1,200 – 1,500) and Southern (1,700) California. He added the quality of a horse dictated how

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often it ran. California had a better quality horse, so it did not run as often. Chairman Harris commented the industry needed to figure out how to get owners to run more often without damaging their horses. Perhaps the industry needed to look at racing four days a week at one open track, and all the stabling and vanning funds could go to other uses. The horsemen might object and state they were taking their horses elsewhere, but it was a model to look at. Craig Fravel, on behalf of SCOTWINC, said LATC and TOC needed to inform his organization of any discussions related to the deficits in the off-site expense fund. He stated his request was partly because of the Magna Entertainment Corporation bankruptcy and because of structural deficits in the SCOTWINC funding. Mr. Fravel said HP, Del Mar Thoroughbred Club, and Oak Tree Racing Association created a remedy the problem through the end of the HP meeting, but not into the LATC meeting. It was important for the industry to be informed, and for the SCOTWINC board to be consulted and approve any arrangements made by TOC and HP. Mr. Charles said LATC agreed and would keep the parties informed. Richard Castro of the Pari-Mutuel Employee's Guild stated his organization supported the LATC application. Vice-Chairman Israel **motioned** to approve the application for license to conduct a horse racing meeting of LATC. Commissioner Choper **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE PACIFIC RACING ASSOCIATION (T) AT GOLDEN GATE FIELDS, COMMENCING DECEMBER 26, 2009 THROUGH JUNE 13, 2010, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the Pacific Racing Association (PRA) proposed to run from December 26, 2009 through June 13, 2010, for 115 days, one day less than in

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2009, for a total of 993 races. Ms. Wagner stated PRA proposed running four-day and five-day weeks. The four-day weeks would run Thursday through Sunday and the five-day weeks would run Wednesday through Sunday – or Monday and Thursday through Sunday. The first post time would be 12:45 p.m. daily, unless otherwise noted in the application. Ms. Wagner commented the financial assurances associated with the current PRA meeting would also apply through the proposed meeting. The advance deposit wagering providers were XpressBet, Youbet, Twinspires and TVG. Robert Hartman of PRA stated his organization was looking forward to a successful meeting. He added the PRA advertising budget had not been cut, and the racing program was strong. Chairman Harris asked if four-day weeks in January and February were preferable to the four-day weeks later in the meeting. Mr. Hartman said PRA talked about the issue with Thoroughbred Owners of California (TOC). The problem was the turf course. PRA used its turf course more than other racetracks, and during the rainy winter months the course needed time to regrow. Commissioner Choper said there were fans who wagered on California races every 15 minutes, and if a race was delayed it affected the entire schedule. He asked if there was a way to better coordinate how California racing associations handled such delays. If there were a long delay, it could result in races only two or three minutes apart, which probably affected the handle. Chairman Harris said the stewards were supposed to be watching for such situations. Mr. Hartman stated the pari-mutuel managers did a good job of communicating with each other. He added there were other issues that affected the timing of races. Daylight was an issue in Northern California. If a horse at Hollywood Park acted up, it could cause a delay so that at the end of the day, PRA could not maintain a 15 minute break between races because it

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would have no daylight for the ninth race. Other issues could be events scheduled to start at a certain time, such as concerts after the races. Mr. Hartman said 98 percent of the time delays were worked out smoothly, but there were occasions when there were issues to work around. Commissioner Choper said the associations would be a lot better off to reduce the time between the next five races instead of having two or three minute intervals at the end of the day. Commissioner Choper **motioned** to approve the application for license to conduct a horse racing meeting of PRA conditioned on receipt of any outstanding items. Commissioner Brackpool **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE CALIFORNIA EXPOSITION AND STATE FAIR HARNESS ASSOCIATION (H) AT CAL-EXPO, COMMENCING DECEMBER 26, 2009 THROUGH JUNE 19 2010, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the California Exposition and State Fair (Cal-Expo) proposed to run from December 26, 2009 through June 19, 2010, or 89 days, 12 more days than in 2009, for a total of 1,200 races. Ms. Wagner stated Cal-Expo proposed to race Thursday through Sunday from January 1, 2010 through March 3, 2010 and Thursday through Saturday from April 1, 2010 through June 19, 2010. The first post time would be 5:45 p.m. The advanced deposit wagering providers were XpressBet, Youbet, Twinspires and TVG. Ms. Wagner said the outstanding items were the horsemen's agreement and the fire clearance. The track safety and backstretch housing inspections would be completed prior to the commencement of the race meeting. Vice-Chairman Israel **motioned** to approve the application for license to conduct a horse

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racing meeting of Cal-Expo contingent on receipt of the missing items. Commissioner Brackpool seconded the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE LOS ALAMITOS QUARTER HORSE RACING ASSOCIATION (Q) AT LOS ALAMITOS, COMMENCING DECEMBER 26, 2009 THROUGH DECEMBER 19, 2010, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the Los Alamitos Quarter Horse Racing Association (LAQHRA) proposed to run from December 26, 2009 through December 19, 2010; which was 203 days, three days more than in 2009, for a total of 2,087 races. LAQHRA would run four days per week, Thursday through Sunday, and the first post time would be 5:45 p.m. Thursdays; 7:15 p.m. Fridays; 7:00 p.m. Saturdays; and 5:30 p.m. Sundays. The wagering program would use Association of Racing Commissioner International and CHRB regulations. The advance deposit wagering (ADW) providers were TVG and Youbet. Ms. Wagner said the horsemen's agreement was received, and staff recommended the Board approve the application as presented. Vice-Chairman Israel stated that of all the applications before the Board, the LAQHRA application was the only one that reflected an increase in purses on an average basis. Chairman Harris commented the Board should be aware that LAQHRA was acting as a host for Australian racing for short trial period. Richard English of LAQHRA said his organization was hosting Australian racing for a four-week trial period during the Hollywood Park winter meeting. He stated the purpose of the trial period was to expand the availability of the Australian program. Vice-Chairman Israel said if the agreement with Australia was extended, it would be nice if California received something in return, such as reciprocity

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so that Australian satellite facilities would take the California signal. Jack Liebau of Hollywood Park stated Australia was attempting to pass legislation that would allow commingling with California pools. He said it was doubtful that that the pool would be sufficient if the races were in Australia with a separate pool. Mr. Liebau explained how American wagers were handled in Australia, and the financial benefit to LAQHRA, which depending on the pool, could be lucrative. Vice-Chairman Israel said the LAQHRA application listed a stakes race on January 30, 2010, that was called the "Super Bowl Handicap." He asked how LAQHRA managed to use the title considering how the National Football League guarded its trademarks. Mr. English said he was not aware that the NFL knew of the stakes race, and he stated the stakes had been run for several years without a problem. Chairman Harris asked how the current LAQHRA meeting was progressing. Mr. English said the meeting was slightly off, but it was not as bad as daytime race meetings, and LAQHRA had consistently maintained its handle and attendance throughout 2009. Chairman Harris asked how much of LAQHRA's handle was from ADW. Mr. English said approximately 20 percent of the LAQHRA handle was from ADW. Commissioner Choper **motioned** to approve the application for license to conduct a horse racing meeting of LAQHRA. Vice-Chairman Israel **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE ALLOCATION OF NORTHERN CALIFORNIA RACE DATES AND RELATED ISSUES FOR 2010 AND BEYOND.

CHRB Executive Director Kirk Breed said at the October 15, 2009 Regular Meeting the Northern California racing fairs, represented by California Authority of Racing Fairs

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(CARF), were not in a position to complete their 2010 race dates presentation. In addition, there was some distance between the positions of the racing fairs and the Thoroughbred Owners of California (TOC) and the California Thoroughbred Trainers (CTT). Chairman Harris commented he was not happy with any of the proposals, but he did not think the Board needed to make a final decision; rather, it should hear from the parties and take time to consider its options. Chris Korby of CARF said his organization was proposing that Golden Gate Fields (GGF) run through June 13, 2010, at which time the San Joaquin County Fair (SJCF) would run for the week of June 16, 2010 through June 20, 2010. Following SJCF, the Alameda County Fair (ACF) at Pleasanton would run from June 23, 2010 through July 11, 2010, followed by the California State Fair (Cal-Expo) in Sacramento from July 14, 2010 through July 25, 2010. After Cal-Expo, the Sonoma County Fair (SCF) would run from July 28, 2010 through August 15, 2010, followed by ACF from August 18, 2010 through September 6, 2010. The Humboldt County Fair (HCF) would run concurrent with SCF and ACF. Following Labor Day, CARF proposed that September 2010 dates be run at GGF from September 8, 2010 through October 3, 2010, with the racing fairs finishing at Fresno from October 6, 2010 through October 17, 2010. Mr. Korby stated CARF believed the proposed 2010 racing fair calendar represented a solid foundation for racing in Northern California, and the significant number of dates run at GGF would be good for the industry. He added CARF was proposing that there be the beginning of consolidation of fair meetings into fewer venues through combined fair meetings run for fair dates conducted in Northern California. Vice-Chairman Israel stated that in a letter dated September 5, 2009, CARF wrote that the fairs had a great tradition of racing and a role to play in the future. The

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letter also opined that longevity and stability of the fairs was especially important to the industry. However, the consolidation of the fair race dates to fewer fair sites contradicted the CARF letter. If CARF wished to spread around the racing fair experience, it would not consolidate and run at fewer tracks. Consolidation would result in less access to horse racing for those who attended the fairs, as the racing fair circuit became more about revenue raised, not the experience. The letter also assumed that CARF, as an entity, owned the racing dates as opposed to the people of California, and that the dates could be applied to any racetracks CARF saw fit. In addition, the overlap with HCF did not please racing fans in Humboldt County. Mr. Korby said the first issue CARF was trying to deal with was the number of racing venues, and whether the short meetings operated at those venues could maintain those facilities at an appropriate level. CARF was also looking to the future to create racing venues that were attractive and in excellent markets with good facilities for racing. Those were the facilities that fell in the letter's characterization. They brought stability and insulated California horse racing against the development forces that affect privately owned racetracks. Vice-Chairman Israel stated the racing fairs should then apply for those dates as separate entities and not hide behind the dates that were traditionally run in other geographic locations or claim to be borrowing dates and cutting deals. An example was Vallejo, where its dates were being assigned to another racing fair, possibly with money changing hands. Mr. Korby said the only entity that assigned racing dates was the CHRB. CARF was only proposing a racing calendar. However, the CARF proposal would accomplish the goals described in its letter. Chairman Harris asked if there were statutory limits on how many race days a racing association may receive. Mr. Korby said GGF in Northern California was limited to 35

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weeks of racing. There was also a provision in the law that allowed for fairs to combine race dates and to operate as a combined fair meeting. That statute was one of the mechanisms CARF would use to implement its proposed 2010 racing calendar – if the Board allocated the dates as CARF proposed. Commissioner Choper commented the main controversy was the three week race meeting at ACF run by CARF. The horsemen were proposing that those weeks be run at GGF, and that GGF would gain the benefit of the weeks. Mr. Korby stated that was the case as he read the 2010 Northern California racing calendar proposed by GGF, TOC and CTT. The difference came down to where the week prior to and including Labor Day was run. Charles Dougherty of CTT said the proposed 2010 Northern California racing calendar submitted by GGF, TOC and CTT had racing at GGF over the Labor Day week. CARF proposed that the Labor Day racing be run at ACF. Commissioner Choper commented the issue was not just where the race dates were run, but under whose auspices. Mr. Dougherty said TOC, CTT and GGF would have the dates run under GGF. Vice-Chairman Israel stated some persons claimed that the Alameda County Supervisors did not necessarily support the additional three weeks of racing at ACF, as requested by CARF. Rick Pickering of ACF said he did not claim to speak on behalf of the Alameda County Board of Supervisors, but he would guess they would like to know who shared the rumor with the Board. He stated ACF and GGF were in the same county, and the success of both facilities was bound together. Mr. Pickering said ACF and GGF had a good relationship, and they would be able to come to an agreement regarding the disputed Labor Day race week. He added ACF had numerous conversations with the Board of Supervisors Liaison Committee, but the issue had never been on the Board of Supervisors agenda. Executive Director Breed asked if

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additional race dates at ACF required additional permits from the city or county, and would it require any financial arrangements with the golf course operator. Mr. Pickering stated the County of Alameda had not asked ACF to pursue any permits. The County did specify that ACF should not enter into any contracts that would exceed the lifetime of its current contract, which ran through the year 2017. Vice-Chairman Israel asked if the ACF contract dictated how many days or weeks it could race in a given year. Mr. Pickering said the operating agreement between the nonprofit Fair Association and the County of Alameda did not specify the number of race dates at ACF, including a minimum or maximum number. He added the Business and Professions Code currently governed the number of race days run throughout the state. Commissioner Choper asked if Mr. Pickering was confident ACF and GGF could resolve the issue. Mr. Pickering said horse racing in Northern California depended on the success of GGF, and GGF depended on training facilities. So the fairs were willing to cooperate for the success of GGF and GGF was willing to cooperate as much as it could with the fairs. Commissioner Choper said in the summer of 2009 CARF ran several weeks at GGF, which operated the meeting just to cover its expenses. However, the GGF/TOC/CTT proposal for 2010 was for a normal, entrepreneurial meeting. If ACF and GGF could agree about who got the net proceeds, perhaps a meeting at GGF would be acceptable. Chairman Harris said another facet of the issue was the viability of the fairs' racetracks. Fairs needed enough income to maintain their facilities, as they were an alternative should GGF go away. It could damage Northern California racing if the fairs decided their whole business was not viable. Mr. Pickering stated that in the 11 years he dealt with the Board it had consistently encouraged the fairs to consolidate to fewer facilities so funds for capital

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improvements were not diluted. The idea was to consolidate, and not give back dates, so that the monies available could be reinvested in those facilities that had the greatest long-term viability. Mr. Hartman stated current law limited one association to running 35 weeks at GGF. However, that did not prohibit another association from running additional dates at GGF. There was a long history in Northern California of other associations running at GGF and Bay Meadows, and the Los Angeles Turf Club ran at GGF in 2008. So, if there were more than 35 weeks of racing at GGF, a different association would have to run them. Mr. Hartman said ACF and GGF did have a good relationship. ACF stepped in and took up to 800 horses when Bay Meadows closed, and it was identified as the facility that would over time take on more Northern California race dates. It would be up to the Board to approve those dates, but they made the most economic sense, as the facilities were in close proximity. He added he thought ACF and GGF could come to an agreement regarding the 2010 Northern California race dates. Mr. Hartman said another conflict was the Scottish Games that were traditionally held on the ACF track the week of Labor Day. It was a big event that attracted up to 30,000 people. He urged the Board to consider the health of Northern California racing when it decided the 2010 race calendar. Commissioner Choper asked if the parties were telling the Board that they would be able to come to an agreement. Mr. Hartman said "yes" but even if there were an agreement, it might not be acceptable to the Board. Commissioner Choper said he understood, but if the parties came to an agreement, he did not know what the objection might be. He commented he was curious about whether the Solano County Board of Supervisors agreed to cut back a week of live racing, and if they were being compensated in any way by CARF. Mike Paluszak of the Solano County Fair

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Association stated the Solano County Board of Supervisors spent time with stakeholders studying the issues with regards to Solano County's participation in live horse racing. The state of the industry and Solano County's circumstances caused the County to concur with CARF's proposed 2010 Northern California racing calendar. Mr. Paulszak said Solano County would continue to participate in horse racing by operating its simulcast facility. Commissioner Choper asked if Solano County would continue to have stalls at its facility. Mr. Hartman said there would be stalls, but they would not be used if there was no racing. Vice-Chairman Israel asked if Solano was getting any kind of financial consideration from CARF in exchange for relinquishing its dates. Mr. Paluszak stated within the context of the combined race meeting agreement there was a revenue sharing conversation with CARF to provide Solano with a period of years to replace lost revenues with new activities. Vice-Chairman Israel asked if Solano's race meet was profitable. Mr. Paluszak said Solano was in the black. He added Solano was giving up its dates because its facility redevelopment plans did not necessarily include a racetrack. The condition of the facility was such that Solano did not have the resources to make it acceptable to the industry. Commissioner Brackpool said if the revenue sharing discussions with CARF did not allow Solano to seek new sources of income, but instead foreshadowed economic difficulties, would Solano be back in front of the Board claiming changed circumstances? Mr. Paluszak stated the Solano County Board of Supervisors and the Fair Board held considerable discussions regarding the loss of live horse racing. However, Solano had the commitment of CARF that it would ensure the revenue sharing was appropriate. He said Solano would not be back in front of the Board. Vice-Chairman Israel stated since there seemed to be a lot of quid pro quo regarding fair race

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dates and revenue sharing, was it appropriate to ask if CARF might act on behalf of the entire fair racing industry to waive the 20-mile radius rule so an off-track wagering facility could be approved in San Francisco? Mr. Korby said CARF would be glad to talk about the 20-mile radius issue, but not in the context of the proposed 2010 Northern California racing calendar. Chairman Harris said that was an issue involving the San Mateo County Fair (SMCF) and he did not know how much leverage CARF would have. However, if SMCF was a partner in the overall CARF date allocation, it could be a factor. Vice-Chairman Israel said SMCF was involved, as its race dates would be run at SCF. Chairman Harris said a fair could run 14 days at the most, so SCF was borrowing the SMCF dates, and compensation should be part of the equation. Chairman Harris stated another concern was HCF. Although Humboldt was a small fair it was a bright spot with a lot of history. HCF deserved at least a week without overlap so it could generate funds for purses and facility improvements. It would also help the industry to have a week where some horses were competing, but the major horses were not running. That would benefit the preceding or following weeks. Chairman Harris said HCF was something the Board wished the parties to look at when the 2010 racing dates were reconstructed. He stated HCF was doubly damaged because it would not act as a host for the signal, and the emerging breeds would be overlapped by another meeting. Even with the ongoing shortage of horses, it did not make sense to have extensive overlap on the fair circuit. Mr. Hartman asked if CARF would, for the good of horse racing, accept running two weeks at ACF in August 2010 rather than three weeks. That was something the owners and trainers and GGF would support. Commissioner Choper asked if the compromise proposal was that a meeting would be run under the auspices of GGF for the

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first week of September, and ACF would get two additional weeks in Pleasanton. Guy Lamothe of TOC stated due to the state of the industry his organization saw the issues as economic. TOC wanted to focus on maximizing purse generation, which could best be achieved at GGF. TOC believed the notion of a CARF block of dates was detrimental, as the dates were owned by the State of California. Chairman Harris said one of the concerns was that the CARF at GGF meeting was overpaid in purses by \$300,000. Mr. Hartman stated the revenue for that meeting was down, but one of the problems was that the better horses did not ship to some of the fairs. So TOC/CTT/GGF set up a calendar that worked for most trainers. A horse could run at ACF, then SCF and finally at GGF. Fair meetings that would not attract better horses would be set up so trainers with lesser quality horses could compete. Those meetings, such as Fresno and Cal-Expo, would pay out lower purses, while GGF would pay substantially more in purses. Commissioner Choper asked if that meant the full three weeks would be run at GGF. Mr. Hartman said that was correct; Labor Day week through the start of Fresno would be run at GGF. Mr. Dougherty stated the CTT supported running the week of Labor Day at GGF, and the two week period at ACF, which would be run prior to the five week GGF meeting. Mr. Pickering stated the industry kept telling ACF it should be ready to accept more racing because it could not predict the future of GGF. ACF was not begging for dates, it was trying to help the industry, and if the Board thought one of the proposals would help the industry, then it should move forward. With regards to the Scottish Caledonia Games, ACF had a multi year contract with the Caledonia Club of San Francisco that included a clause addressing additional racing. It required ACF to relocate the games off the racetrack. Mr. Pickering said the industry needed to move forward, and he encouraged

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the Board to approve the remainder of the 2010 Northern California racing calendar because there were many administrative functions on hold, awaiting a decision. Mr. Dougherty stated the 2010 racing schedule put forth by TOC/CTT/GGF was conceived with the ideal of maximizing purse generation, reducing stabling costs and reducing the costs to owners and trainers during the summer fair season. Many trainers were willing to talk to the Board to share why they supported the proposal, and why they felt it was in the industry's best economic interest that the Board agrees to the TOC/CTT/GGF calendar, as submitted. Chairman Harris stated the Board would rather hear from all trainers instead of hearing the same thing from every trainer present. Mr. Lamothe stated if all the trainers agreed, that meant there was no debate, and it needed to be pointed out. The idea was to keep owners and trainers in horse racing, but if they had to ship all over Northern California they would go out of business or leave California. TOC/CTT/GGF was trying to address the issues in a way that would keep owners and trainers in California, and provide racing opportunities and the best purses available, as well as minimize costs. At the same time, TOC/CTT/GGF wanted to support ACF with an additional two weeks. There were multiple objectives aimed at keeping GGF strong and ACF viable. Vice-Chairman Israel said it was suggested that with a little more time the parties could reach a compromise. He asked if the Board should allow a few more weeks for that to occur. Mr. Hartman said if the Board agreed, the parties could take an hour or two to talk and to see if they could not reach an immediate agreement. Chairman Harris said the issues needed to be clear. GGF had clearly solidified certain dates, but the Labor Day week was important, as was giving HCF at least a week free of competition. He added Cal-Expo was another issue, as it had potential to expand thoroughbred racing.

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Norb Bartosik of Cal-Expo stated if the industry supported the concept, Cal-Expo would accept more race dates. Bill Anton of CTT said those who regularly ran at HCF would continue to run there regardless of overlap. Conversely, those who did not run at HCF would not run there, as the cost of shipping to HCF and the return trip was prohibitive. He added he did not believe Cal-Expo should be issued any dates until the \$190,000 underpayment from 2008, which was owed to the horsemen, was paid. Chairman Harris said he understood the horsemen were underpaid in 2008 and 2009 and it was not clear why those funds had not been paid. Mr. Lamothe stated the CHRB was investigating the matter, and he was not aware of the status of the investigation. Per the contract between CARF and TOC any underpaid amount above \$50,000 was to be returned, except with the consent and agreement between CARF and the horsemen, which was done at a Racing Affairs meeting in Northern California. A racing program that included two CARF meetings at GGF was proposed by CARF and agreed to with TOC. The idea was to increase purses 25 percent at Cal-Expo, which was sandwiched between the two CARF GGF meetings. There was also an underpayment coming out of the meet in 2009, and the status of those funds had not been determined, but they would be handled in accordance with the contract. Chairman Harris asked if there were two distinct underpayments, or did the 2008 underpayment roll in and become part of the 2009 underpayment. Mr. Lamothe stated the 2008 underpayment rolled into the 2009 purse program. Chairman Harris stated the funds belonged to the horsemen and the issue needed to be sorted out. Mr. Anton stated he was surprised TOC would allow owners to loose purse money. Chairman Harris said if the industry was trying to unravel the issue, it would be up to CARF and TOC. Mr. Anton stated the fact that the CARF meeting at GGF was upside

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down was not the problem of the owners and trainers that earned money at Cal-Expo; those owners and trainers needed to be paid. Commissioner Choper asked what the response was when the parties were asked about payment. Mr. Anton said Drew Couto, the ex-TOC president, made the deal, but he was no longer with TOC. Marsha Naify of TOC stated the deal was made by Mr. Couto and neither she nor the TOC board was aware of it until it became an issue. Tom Bachman, a former TOC board member, stated Cal-Expo approached the Northern California TOC Purse Committee with its concerns about being sandwiched between the two CARF GGF meetings. It wanted money to supplement its purse program, to draw horsemen to its meeting, and to reinvest the underpayment in its 2009 meeting. He stated he and Mr. Couto and the Northern California committee agreed it was a good idea to ensure the success of the Cal-Expo meeting, so approval was given. The meeting was successful, and purses were enhanced, so there was another underpayment in 2009. Cal-Expo asked about the 2009 underpayment and it was suggested that if its dates were moved, some of the funds could be used to promote the new meeting dates, otherwise Cal-Expo had to repay everything except the \$50,000 by contract. It was hoped that some of the money Cal-Expo kept would be used to promote future racing calendars. Chairman Harris said an audit of the funds was needed, and he would direct Executive Director Breed to ensure one was completed. The industry was hurting, and it was frustrating to have \$300,000 of owners' money circulating somewhere when it could be paid. There might have been a logical reason for the agreement, but it was important to pay those who earned the money. Ed Moser, a trainer, spoke in favor of the TOC/CTT/GGF proposal. Jerry Hollendorfer, an owner and trainer, spoke in favor of the TOC/CTT/GGF proposal. He commented if

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HCF ran one week unopposed during the Del Mar meeting, it could significantly impact the north/south simulcast handle. Chairman Harris said the southern handle stayed in the south, so it could impact Del Mar, but that needed to be analyzed. Craig Fravel of Del Mar said he did not have data on days that HCF ran unopposed; however, Del Mar averaged around \$2.7 million per week on northern races which meant between \$107 and \$150 thousand in southern purses and similar amounts in commissions. Those funds were important, and there were concerns about the impact. Tawny Tesconi of SCF spoke about the improvements that had been made at her facility and stated that over the past few years the SCF meeting had been strong. She said she hoped the Board would take those factors into account when deciding the 2010 Northern California racing calendar. Chairman Harris commented the Board believed SCF was a great venue and it endorsed three racing weeks for the fair. The issue was fitting in a non-overlapped week of racing for HCF. Stuart Titus of HCF stated his organization was asking for a fighting chance. Historically, the HCF meeting ran on subsidies, which was the only way it could survive. Non-overlapped race dates would relieve HCF of the need for subsidies and it would return those funds to their source of origin. If HCF was provided an opportunity to be non-overlapped for its second week, it would be welcomed by the HCF board of directors and by those who supported horse racing in Humboldt County. Mr. Titus stated HCF was only asking for the opportunity to have a place in California's racing future. Chairman Harris asked where the funds to subsidize the HCF meeting came from. Mr. Titus stated the funds came from the supplemental purse fund. He said in 2009 HCF had \$300,000 allocated for its purse program. Not all the funds were used, as the HCF handle was up substantially. The remaining subsidy would come from commissions earned by

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the entity that was running concurrent with HCF. Mr. Pickering said the Board needed to let the industry know if it was going to allow HCF to run one or two weeks un-overlapped so it could figure out the remainder of the 2010 calendar. In addition, if the Board was signaling that it wanted the Labor Day weekend ran at GGF, there was no point in further discussion about ACF. Vice-Chairman Israel asked if that meant ACF was amenable to taking two weeks and letting GGF run the third week. Mr. Pickering stated he had already indicated that was an option, but as a member of CARF he voted for the three weeks to stay at ACF. Mr. Lamothe said TOC believed the Board would be making a mistake if it un-overlapped HCF. The industry was attempting to solidify the horse racing assets that still existed, but it was now contemplating supporting a system that was built on subsidies. If HCF was not overlapped it would have a direct impact on Del Mar. Mr. Lamothe said TOC also supported three weeks of racing as SCF. That was a compromise over having a solid six weeks of turf racing at GGF in the middle of the summer, which would have retained good horses. With regards to the subsidies – in 2009 legislation was passed that provided additional funding for HCF. Mr. Hartman said for the first time in history legislation was enacted that took a percentage of the purses from one meeting and applied them to the bottom line of a racetrack. That was a portion of purses from CARF, which was the horsemen's and owners money. That was something the tracks did to support HCF. Chairman Harris said the Board did not believe every trainer would run at HCF. Instead, a week of running un-overlapped would give HCF the chance to earn money that would otherwise have to be subsidized, and it would give horses that regularly would not run at HCF a break. Mr. Hartman asked what would happen to the supplemental purse fund if there were no more overlapping fairs.

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Chairman Harris said the funds would stay with purses. Mr. Bachman said – given the last HCF meeting - he questioned its ability to fill its races, which would affect its ability to replace the supplemental purse funds. Chairman Harris stated he did not think trainers would flock to HCF. The idea was to build inventory for subsequent race meetings by giving higher quality horses a break. Mr. Bachman said he suspected the operating fairs would be forced to utilize lower quality horses throughout the summer because they would have to reach to the bottom to fill fields. Chairman Harris stated the item would be put over so the industry could develop some different concepts. Mr. Pickering stated CARF and ACF urged the Board to vote on the remainder of the fair dates, as much as possible, to they could enter into contracts. Vice-Chairman Israel said he empathized with the need to start signing contracts, but if the Board approved the other fair dates it lost its ability to rearrange the racing schedule. The problem that existed in two or three week blocks might be solved by moving other blocks of time. Mr. Dougherty said during his time as a horsemen's representative it was supposed to be difficult to move a fair's race dates. However, suddenly the dates were changing, so the schedule was modified to accommodate the changes, which affected everything. Yet HCF, which was looking to be un-overlapped – had indicated it was not willing to move its dates. Mr. Dougherty asked when would HCF be willing to move its fair to try and fit into a racing schedule that was good for the entire industry? Would HCF ever be willing to move its race dates? If HCF had some flexibility the industry could talk about moving dates, but that was not currently the case. Chairman Harris said Mr. Dougherty had a point, as the necessity of conjoining a fair with its race meeting had been somewhat disproven. However, the issue

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with HCF was not so much as which dates it would run, but if it would run with overlap.

Chairman Harris said the issue would be **put over** until the next Regular Meeting.

DISCUSSION AND ACTION BY THE BOARD ON THE PENDING AMENDMENTS TO THE FOLLOWING CHRB RULES: (A) 1689, SAFETY HELMETS REQUIRED; (B) 1689.1, SAFETY VEST REQUIRED; (C) 1685, EQUIPMENT REQUIREMENT; (D) 1685, VESTING OF TITLE TO CLAIMED HORSE.

Jacqueline Wagner, CHRB staff, said rules 1689, Safety Helmets Required; 1689.1, Safety Vests Required; 1685, Equipment Requirement; and 1685, Vesting of Title to Claimed Horse, were discussed at the October 15, 2009, Regular Board Meeting. Staff was directed to initiate a 45-day public comment period for each regulation. Staff was subsequently directed to place the regulations on the current agenda for further discussion. Ms. Wagner added a 45-day comment period had not been initiated for any of the regulations. She said the proposed amendment to Rule 1689 would add any person handling a horse on the racetrack to the list of those who had to wear a safety helmet. The proposed regulation would also add the safety standards required for the helmets worn by licensees. Chairman Harris said the industry was in agreement with the regulation except if a trainer who was walking his horse on the track had to wear a helmet. CHRB Executive Director Kirk Breed stated the trainer would not be required to wear a helmet. If the trainer were ponying a horse on the track, he would need to wear a helmet. Chairman Harris commented ponying a horse was sometimes different than leading a horse. Ms. Wagner stated the regulation provided that any person "...handling a horse on the racetrack..." was required to wear a helmet, which could be construed to mean the trainer. Ed Halpern of CTT stated his organization believed the proposed

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language was similar to the current regulation. CTT concurred with the language, except for the phrase quoted by Ms. Wagner. He said the CTT would strike the phrase and replace it with "...or works as a member of the gate crew..." Jack Liebau of Hollywood Park stated his organization would institute a house rule to require anyone on a horse to wear a helmet. That was part of Hollywood Park's National Thoroughbred Racing Association (NTRA) certification. So, if one was at Hollywood Park and on a horse, one would wear a helmet. Commissioner Choper asked what about a groom leading a horse off the track, or starting gate personnel. Barry Broad, on behalf of the Teamsters Union, stated that starting gate personnel should wear safety helmets. Mr. Broad said he believed any trainer that did not wish to wear a helmet while on a horse should sign away his liability with the racetrack. Additionally, anyone who was covered by a workers' compensation policy should be wearing a helmet if they were mounted on a horse, or were at the gate. Commissioner Choper said the language of the proposed regulation stated "...may not permit any person to gallop or pony a horse..." Was the trainer who was sitting on his horse on the track ponying a horse? Ed Moser, a trainer, said ponying amounted to leading a horse at a jog or a gallop, so a trainer sitting on a horse was not ponying that horse. Sherwood Chillingworth stated that as part of Oak Tree's certification by the NTRA it agreed to adhere to the NTRA standards, which required the gate crew to wear helmets, and trainers ponying a horse had to wear a helmet. If the trainer was sitting on a horse watching horses go by, he did not need a helmet. Chairman Harris said the rule, as changed, would be put out for a 45-day public comment period. Ms. Wagner stated the proposed amendment to Rule 1658 would require the stewards to void a claim in cases where a claimed horse failed to return to the designated unsaddling

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area due to distress or injury, unless prior to the start of the race the claimant informed the stewards he would accept the claimed horse. Ms. Wagner stated the rule had not been put out for a 45-day public comment period; however, staff had received two letters in opposition to the proposed amendment. Ed Halpern of the California Thoroughbred Trainers (CTT) stated trainers were overwhelmingly opposed to the proposed amendment. He stated the claiming process was an integral part of horse racing, as it allowed owners to move horses around, to take chances and to play the race game. Mr. Halpern added the amendment would destroy part of the lure of racing, as sometimes horses that were dropped, would rest and become Breeders' Cup horses. The other side of the item was horse safety. Some proposed the amendment so owners and trainers would not drop lame horses to get rid of them. The truth was that trainers cared about their horses and generally did not enter horses they knew would break down in claiming races. That created liability, and if a horse broke down and severely injured or killed a jockey, the owner and trainer would be sued. Vice-Chairman Israel said claiming also kept liquidity in the system because cash changed hands. Mr. Halpern stated that was true. He commented the proposed rule was also meant to cause trainers to turn-out low level horses and bring them back, but that did not make economic sense and would probably not be a realistic result. Steve Schwartz of Thoroughbred Owners of California (TOC) stated his organization opposed the proposed amendment to Rule 1658. He said horses competing in a race were inspected by veterinarians four times prior to the start of the race. That afforded the prospective claimant more protection than a person buying at an auction, or in a private transaction. It also provided ample protection against a horse running in a race when it had soundness issues. Craig Fravel of Del Mar stated the

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director of racing at his organization had serious concerns regarding the proposed amendment. He commented an effort to create a national injury database was underway. Some data should be released within the next few months, so perhaps it would be wise to wait until a judgment could be made based on such data. David Besenfelder, a thoroughbred owner, suggested the industry consider the claiming method used in France, wherein claims were submitted up to 20 minutes after the race. That would eliminate any issues with figuring out if a horse was lame during the race, and each prospective new owner could base his claim on the conduct of the race. Claiming in its current form may have been around for a long time, but it was time for a change. With the tough economic times it made sense to seek an alternative that would reduce the risk to new owners. Commissioner Brackpool said he believed Mr. Besenfelder was talking about a much larger issue than the rule in front of the Board. Chairman Harris stated the rule would be **tabled**. He agreed that there may be alternatives, but it would take a while to sort out.

PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1843.6, TOTAL CARBON DIOXIDE TESTING, TO AUTHORIZE THE EQUINE MEDICAL DIRECTOR AND THE STEWARDS, AS WELL AS THE OFFICIAL VETERINARIAN, TO DIRECT THAT BLOOD SAMPLES BE TAKEN FROM A HORSE FOR THE PURPOSES OF TCO₂ TESTING.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1843.6, Total Carbon Dioxide Testing, would authorize the Equine Medical Director and the stewards, as well as the official veterinarian, to direct that a blood sample be taken from the horse for purposes of TCO₂ testing. Ms. Wagner stated no comments were received during the 45-day public comment period, and staff recommended the Board adopt the

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amendment as presented. Vice-Chairman Israel **motioned** to adopt the amendment to Rule 1843.6. Commissioner Brackpool **seconded** the motion, which was **unanimously carried**.

PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1858, TEST SAMPLE REQUIRED, AUTHORIZING THE EQUINE MEDICAL DIRECTOR TO DESIGNATE HORSES FOR TESTING, AS WELL AS THE STEWARDS AND OFFICIAL VETERINARIAN.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1858, Test Sample Required, would authorize the Equine Medical Director to designate horses for testing, as well as the stewards and the official veterinarian. Ms. Wagner stated no comments were received during the 45-day public comment period, and staff recommended the Board adopt the amendment as presented. Vice-Chairman Israel **motioned** to adopt the amendment to Rule 1858. Commissioner Choper **seconded** the motion, which was **unanimously carried**.

PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1859, TAKING, TESTING AND REPORTING OF SAMPLES, TO PROVIDE THAT URINE, BLOOD OR OTHER OFFICIAL TEST SAMPLES MAY BE TAKEN UNDER THE DIRECTION OF THE EQUINE MEDICAL DIRECTOR AS WELL AS THE OFFICIAL VETERINARIAN.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1859, Taking, Testing and Reporting of Samples, would provide that urine, blood, and other official test samples may be taken under the direction of the Equine Medical Director, as well as the official veterinarian. Ms. Wagner stated no comments were received during the 45-day public comment period, and staff recommended the Board adopt the

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amendment as presented. Commissioner Brackpool **motioned** to adopt the amendment to Rule 1859. Vice-Chairman Israel **seconded** the motion, which was **unanimously carried**.

PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1866, VETERINARIAN'S LIST, TO PROHIBIT A HORSE PLACED ON THE VETERINARIAN'S LIST AS INJURED, UNSOUND OR LAME, FROM WORKING OUT WITHIN 72 HOURS OF BEING PLACED ON THE LIST WITHOUT THE PERMISSION OF THE OFFICIAL VETERINARIAN.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1866, Veterinarian's List, would prohibit a horse placed on the veterinarian's list as injured, unsound or lame, from working out within 72 hours of being placed on the list without the permission of the official veterinarian. Ms. Wagner stated no comments were received during the 45-day public comment period, and staff recommended the Board adopt the amendment as presented. Commissioner Rosenberg asked if the term "workout" was a term of art that was defined. Ms. Wagner stated the rule provided a definition of workout, which was: an exercise session at near or close to full speed. Vice-Chairman Israel **motioned** to adopt the amendment to Rule 1866. Commissioner Rosenberg **seconded** the motion, which was **unanimously carried**.

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PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1867, PROHIBITED VETERINARY PRACTICES, TO PROVIDE THAT THE PRESENCE OF ANY DRUG SUBSTANCE PROHIBITED UNDER THIS RULE FOUND IN A TEST SAMPLE OBTAINED CONSISTENT WITH THE BOARD'S RULES SHALL APPLY IN THE SAME MANNER AS TO A HORSE ENTERED TO RACE.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1867, Prohibited Veterinary Practices, would provide that the presence of any drug substance that was prohibited under Rule 1867, which was found in a test sample obtained consistent with the Board's rules, would apply in the same manner as to a horse entered to race. Ms. Wagner stated no comments were received during the 45-day public comment period, and staff recommended the Board adopt the amendment as presented. Commissioner Brackpool **motioned** to adopt the amendment to Rule 1867. Vice-Chairman Israel **seconded** the motion, which was **unanimously carried**.

PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1890, POSSESSION OF CONTRABAND, TO PROHIBIT THE POSSESSION AT A FACILITY UNDER THE JURISDICTION OF THE BOARD OF ANY VETERINARY TREATMENT OR MEDICATION , WHICH HAS NOT BEEN PRESCRIBED OR LABELED IN ACCORDANCE WITH RULE 1840, VETERINARY PRACTICES AND TREATMENTS RESTRICTED, AND RULE 1864, LABELING OF MEDICATIONS.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1890, Possession of Contraband, would prohibit the possession at a facility under the jurisdiction of the Board of any veterinary treatment or medication which had not been prescribed or labeled in accordance with Rule 1840, Veterinary Practices and Treatments Restricted, and Rule 1864, Labeling of Medications. Ms. Wagner stated no comments were received during the 45-day public comment period, and staff recommended the Board adopt the amendment as presented. Vice-Chairman Israel **motioned** to adopt the

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amendment to Rule 1890. Commissioner Brackpool **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1632, JOCKEY'S RIDING FEE, TO REVISE THE JOCKEY RIDING FEE SCALE PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 19501.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1632, Jockey's Riding Fee, would revise the schedule of jockey's riding fees pursuant to the requirements of Business and Professions Code section 19501. The minimum riding fees for losing mounts would be increased by \$10 for jockeys who ride in races with a gross purse of \$1,500 to \$9,999. The fee for second and third place mounts was also increased by \$10 pursuant to Business and Professions Code section 19501(b)(2). Ms. Wagner stated the proposed amendment would also eliminate the gross purse categories of \$599 to \$1,499, as it appeared such gross purses were no longer offered. Chairman Harris **motioned** to direct staff to initiate a 45-day public comment period for the amendment to Rule 1632. Commissioner Brackpool **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE REQUEST TO RECOGNIZE THE PERMANENTLY DISABLED JOCKEYS FUND AS THE NONPROFIT ORGANIZATION DESIGNATED TO RECEIVE CHARITABLE DONATIONS BENEFITING DISABLED JOCKEYS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 19556(C).

Jacqueline Wagner, CHRB staff, said the organization currently designated to receive charity race day funds under Business and Professions Code section 19556 was the

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Disabled Jockey Endowment (DJE). On October 27, 2009, the Jockeys' Guild (Guild) submitted a letter to the CHRB requesting that the CHRB direct future charity race day funds to the Permanently Disabled Jockey's fund (PDJF). The Guild stated the DJE and the PDJF were in the process of merging, and that the merger was the result of a determination that it was unnecessary to have two entities performing the same function. The Guild also stated the PDJF would include several representatives of the California horse racing industry. Barry Broad, representing the Guild, stated he was the attorney involved in closing the DJE and the merger of the two entities. He said the Guild determined there was no need for separate but very similar corporations, run by the same people, to administer the funds. Commissioner **motioned** to approve the request to recognize the PDJF as the organization designated to receive charitable donations benefiting disabled jockeys pursuant to Business and Professions Code section 19556(c). Commissioner Choper **seconded** the motion, which was **unanimously carried**.

REPORT AND PRESENTATION FROM REPRESENTATIVES OF ODS TECHNOLOGIES LP, D/B/A TVG REGARDING TVG'S ON AIR PROMOTIONAL PRACTICES, AND TVG'S OPERATING RELATIONSHIP WITH CALIFORNIA RACING ASSOCIATIONS, IN PARTICULAR OAK TREE RACING ASSOCIATION AND PACIFIC RACING ASSOCIATION, AND TVG'S COVERAGE OF RACES DURING THE RESPECTIVE RACE MEETINGS.

Vice-Chairman Israel said that during the Oak Tree Racing Association (OTRA) meeting he noted the unsatisfactory coverage of the OTRA meeting. He stated he made inquiries and was told the TVG coverage of the OTRA meeting was the result of the contract. Vice-Chairman Israel said he believed the quality of TVG's coverage of OTRA adversely affected California horse racing by serving to depress the handle. OTRA's handles was off, and Vice-Chairman Israel stated he would assume TVG's handle on OTRA was also

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off. If there was live racing on the East Coast, the first three or four OTRA races were not covered by TVG until after they were run, and a lot of the time TVG never gave results. Vice-Chairman Israel said he found the TVG coverage of OTRA very troubling, a passive/aggressive attack on California racing because TVG lost its monopoly. To get back that monopoly TVG played hardball with the State that probably provided at least 48 percent of the handle in horse racing. Vice-Chairman Israel said he would like an explanation about what happened. Greg Nichols of BetFair, TVG's parent company, stated his organization shared the Board's view that maximizing a profit was vital. TVG had a mutuality of interest with California horse racing for that to occur. If California horse racing was vibrant and well promoted, it should provide a significant financial impact for all entities. TVG was not able to negotiate a continuation of its ten-year relationship with OTRA, but it did have numerous discussions with OTRA before and during the meeting and it was alerted to the same concerns expressed by Vice-Chairman Israel. Mr. Nichols stated TVG heeded OTRA's concerns, and it redeemed some of the situation towards the end of the meeting. TVG did not have a vendetta against OTRA, and it did not seek to undermine the OTRA meeting. However, its priority was to ensure that its exclusive partners, who entered into agreements with certain expectations, were not let down. Vice-Chairman Israel stated TVG's coverage improved relative to the Breeders' Cup because it would otherwise have been television malpractice, but on a day-to-day basis the coverage never changed significantly. Vice-Chairman Israel said he was concerned that as long as Magna Entertainment Company (MEC) or a related entity owned and operated Santa Anita Park Race Track and Golden Gate Fields, the tracks that had the bulk of California's race days, California racing would be diminished. MEC

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owned HRTV and TVG would never have an exclusive agreement with those tracks. Vice-Chairman Israel stated it was the Board's job to ensure California racing was not diminished. Mr. Nichols said TVG appreciated the Board's priorities, and it had entered into an agreement with Santa Anita for its forthcoming meeting, and with Golden Gate Fields. TVG intended to provide a full service within the scope of its contract. He stated he knew TVG would not broadcast the meeting, but management at the two tracks was aware TVG was prepared to broadcast. Vice-Chairman Israel asked how much was TVG's 2009 handle on OTRA down? Mr. Nichols said the handle was down, but he did not have the numbers. He stated there were two parts to the OTRA equation where TVG did not have exclusive television and it did not have exclusive advance deposit wagering (ADW), so there was a decline. Vice-Chairman Israel asked if TVG was exclusive with the New York Racing Association (NYRA). Mr. Nichols said TVG did not have an exclusive agreement with NYRA. Vice-Chairman Israel said however, that it appeared TVG provided more extensive coverage of NYRA than OTRA. Mr. Nicholes said there were a couple of reasons for the impression: one reason was the time zone, and the other was that NYRA provided 350 days of racing a year, so there was a consistency of product. He added there were NYRA races that did not receive pre-race coverage, or that were televised live, so there was also an element of the California's dilemma in the NYRA coverage. Commissioner Brackpool stated he watched TVG's coverage of OTRA and he noted that there were several times at the start of the OTRA meeting when a race went off, but there were just people sitting in the TVG studio talking. Mr. Nichols said he was unaware of that occurring but if it did it was not a wise commercial move. Commissioner Brackpool said it was either unwise, or it was sending a message. Mr.

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Nichols said BetFair was a 10-year old company with an unequalled reputation that started at zero and was currently worth 2 to 3 billion. That growth had not happened because it was unwise or unethical. BetFair believed in fair play; however, there may have been instances where a subsidiary might not have televised or approached coverage in the same spirit as the parent company (BetFair) would like. Vice-Chairman Israel stated it seemed that early in the OTRA meeting TVG was running promotional spots that were – at least by implication – accusing other ADW providers of not paying on their wagers. The spots stated TVG was insured and every wager was paid off, and the implication was the others were not insured. The issue was brought to TVG's attention, and the Board was informed the spots were removed, yet within two weeks they started running again. Vice-Chairman Israel said it was smart marketing, but the implication was dishonest, as all wagers were paid. Mr. Nicholas said BetFair understood in most major racing nations there was a guarantee of funds. However, the United States did not conform to the same degree as other jurisdictions. BetFair had, at any given time, \$200 million in trust, and the funds were fully guaranteed. BetFair attempted over time to institute a similar system in the United States to protect the consumer. The advertisements may have been ill-advised, but they were pulled. Mr. Nichols said he was unaware if they were replayed. Vice-Chairman Israel stated negative advertising worked, but all wagers were protected and covered. Representatives of XpressBet and Youbet stated their wagers were protected. Sherwood Chillingworth of OTRA spoke about his organization's experience with the TVG coverage of its meeting. He stated OTRA received assurances from TVG management that the coverage would improve. OTRA

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hoped to have a contract that ensured improved coverage, and it hoped to move ahead in a constructive manner.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF ODS TECHNOLOGIES, L.P., DBA TVG, FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO BUT NOT EXCEEDING TWO YEARS.

Chairman Harris said a problem for all advance deposit wagering (ADW) providers was the decision by Master Charge to not let its customers use its credit cards to fund their ADW accounts. It was a serious issue because that was a major way to fund accounts. Chairman Harris said he was asked, on behalf of the Board, to contact Master Charge and Visa to inform them of the importance of allowing their customers to use their cards in conjunction with ADW accounts, because it was part of the California revenue stream. Chairman Harris stated a federal law was the cause of the issue. It prohibited the funding of gambling transactions with credit cards and the law was aimed at off shore gambling, but there was an exception for legal gambling. The credit card companies were leery, as the fines were enormous. Master Charge told its member banks not to accept any transaction that was coded as a gambling transaction because the transactions were not a large enough piece of its business to warrant the risk of a mistake. The cards could be used at a race track, but not on the internet. Chairman Harris said all of the ADW applications should be for a one-year period, as there were a lot of changes in the last year and probably more going forward. Jacqueline Wagner, CHRB staff, said TVG filed an application to act as an ADW out-of-state multijurisdictional wagering hub. She stated TVG was currently licensed as an ADW provider and its license would expire on

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December 31, 2009. TVG had a bond on file for \$500,000 that would expire on October 12, 2010. The staff analysis indicated the horsemen's agreement was missing, but TVG provided a letter that stated it was in place. A copy of the TVG hub agreement was received and TVG informed staff that track agreements were in place for the race meetings commencing December 26, 2009. Staff recommended the TVG application be approved pending receipt of any outstanding or missing items. Commissioner Choper stated the TVG materials indicated TVG might not televise a number of live Oak Tree Racing Association (OTRA) races since it did not have an exclusive agreement. He stated he understood that if there was an exclusive contract with one track and a non-exclusive contract with another track, the exclusive contract was favored. However he said he wanted to know what would happen with two exclusive contracts and the two associations ran races at the same time. John Hindman of TVG said the first step was to look at the contract requirements. If the commitments were equal there would be a discretionary decision in the booth, and generally the race that started first would be shown, and the second race would be shown on tape. In addition, TVG would look at the benefit of showing each race or which race the most customers would enjoy watching. Commissioner Choper stated that meant TVG would not prejudice OTRA except in a situation in which there was an exclusive contract and there was a conflict. He asked how OTRA would be treated if its race was to go off at the same time as another non-exclusive track. Mr. Hindman said a call would be made in the booth as the races were going off. The race that TVG believed would be most beneficial to its customers or that its customers would want to see would be shown. Mr. Hindman commented that in the previous OTRA meeting 100 percent of OTRA's races were shown, but sometimes they

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were shown on tape delay. Chairman Harris commented that Los Angeles Turf Club at Santa Anita Park Race Track and Pacific Racing Association at Golden Gate Fields had exclusive HRTV contracts, so TVG could not show those races. Mr. Hindman said if those racing associations wished TVG to show their races it was willing to entertain those discussions. Chairman Harris stated, however, TVG had streaming video for all the tracks on its wagering venue, and it accepted wagers on all California racetracks. Melanie Frank, representing TVG, stated her organization had submitted all of the requested documents and it would agree to a one-year contract. Chairman Harris asked if the rates in the horsemen's contracts were set for the entire year, or were they negotiated going forward. Ms. Frank said they were typically negotiated track to track. There was an agreement for the upcoming races at Golden Gate Fields and Santa Anita Park Race Track. The horsemen's agreement did not refer to all 2010 meetings. Commissioner Brackpool asked if staff had the horsemen's agreements for every track for one year. Ms. Wagner said the hub agreements covered the entire term of the license, but the contracts between the tracks and the ADW providers were negotiated meeting to meeting. As 2010 progressed, staff would ensure the contracts were in hand when racing associations applied for license to operate a race meeting. Commissioner Brackpool asked if the Board was relying on staff to inform it of any deficiency in an agreement. Ms. Wagner said that was correct. Cathy Christian, representing TVG, said the process was a bit confusing because of the difference between licensing an entity, and stating it was eligible to conduct ADW. What the ADW provider could not do is tell the Board that every agreement for the next year or two years was completed. The ADW providers could tell the Board it met all the eligibility requirements for licensure and represent that

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it knew it could not take wagers without complying with the law. Commissioner Brackpool asked how the Board would know when there was a problem, and if there was a problem, what could it do about it? Ms. Wagner said when the racing association applied for a license to operate a race meeting it was required to identify the ADW providers for that meeting. The onus was placed on the racing association applicant to ensure all the contracts were completed. Chairman Harris said the key was negotiations between the Thoroughbred Owners of California (TOC) and the ADW providers. Guy Lamothe of TOC stated his organization had not received a horsemen's agreement with TVG for the upcoming Santa Anita meeting. Ms. Christian said TVG delivered a letter to the CHRB, dated November 16, 2009. The purpose of the letter was to inform the Board that TVG entered into an agreement with TrackNet for ADW on the upcoming races, and it was represented to TVG that the terms were acceptable to TOC. Chairman Harris said he did not know if TrackNet was authorized to negotiate on behalf of TOC. Mr. Hindman stated TrackNet was not negotiating on behalf of TOC, but the parties were aware that the terms of the agreement were consistent with terms for ADW that TOC had been setting forth for some time, and those terms were uniform across all ADWs. TVG made sure it was not making an agreement TOC would object to. Chairman Harris commented he was not sure the parties felt the terms were sustainable. Ms. Christian said ADW required the horsemen to give their consent, so there were always going to be discussion between the horsemen and the tracks. Three parties were necessary for ADW, but it was the horsemen and the tracks that negotiated the terms. It was necessary to have that sign-off to conduct ADW. Commissioner Brackpool said the Board was relying on the ADW provider's honesty regarding the agreements, but his question was how the

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Board was informed if there were problems with last-minute negotiations. Ms. Wagner stated staff would inform the Board at the time the racing association applied for a license to operate a meeting. The application required the association to name its ADW providers. Mr. Lamothe said the ADW agreements tended to be completed right before the race meeting. One of the problems was that the agreements became a “take it or leave it” proposition. If TOC were to object to the terms, the problem occurred just as the meeting was to commence. TOC did not initially negotiate, it merely accepted or rejected – and then negotiated. At the Hollywood Park fall meeting TOC did not accept the terms and there was no ADW wagering with one provider for the first two or three days of the meet. Mr. Lamothe stated TOC wrote a letter that was sent to the track executives. The letter stated TOC would like to be a party to the negotiations up front, so many of the current problems could be avoided. Ms. Christian commented on many issues the horsemen had a “yea” or “nay” decision, so the ADW process was not unusual. The California ADW law provided the horsemen with the ability to arbitrate the hub agreement or reject it, so every party had a hammer. When an association submitted its application for license the Board had the right to know what agreements were in place, but it would not be possible for the ADW providers to inform the Board a year in advance. Ms. Wagner said going forward the agreements would be clearly identified within the association’s application for license, and they would be addressed as separate issues. That would effectively give the Board a 30-day notice of any problems. Ms. Wagner stated TVG had a bond on file for \$500,000. The bond was scheduled to expire on October 12, 2010. She said the Board might wish to require TVG to extend the bond to coincide with the term of license. Chairman Harris commented at any given time TVG

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had accounts outstanding in excess of \$500,000. Perhaps the Board needed to look at the issue to determine what it could do to assure patrons of oversight. Commissioner Brackpool said the Board could issue the ADW approval and then set up a working group to examine the issues and return with recommendations. Vice-Chairman Israel stated that was a good idea, and **motioned** to approve the application for a one-year approval to conduct ADW of ODS Technologies, L.P., dba TVG for an out-of-state multi-jurisdictional wagering hub – conditioned on receipt of items missing from the application. Commissioner Brackpool **seconded** the motion, which was **unanimously carried**. Richard Castro of Local 280 stated that under the Business and Professions Code the Board could not license an ADW provider without a collective bargaining agreement. He stated no such agreement currently existed. Commissioner Choper said the analysis indicated there was a collective bargaining agreement, but that it did not have an expiration date. Mr. Castro said the agreement did have an expiration date, and that a new agreement would shortly be produced. Ms. Wagner said staff received a letter from TVG that was meant to substantiate a labor agreement; however, the letter did not indicate an expiration date for the agreement. Commissioner Choper asked when the current agreement expired. Mr. Castro stated the agreement expired on December 31, 2009. Commissioner Choper asked why the letter stated the agreement had no expiration date and remained in full force and effect. There was a difference between the two positions: Ms. Christian stated the letter submitted to the Board was dated November 9, 2009, with an attachment dated November 28, 2007, that offered to enter into discussions with a particular unit of employees. That was why it did not have an expiration date. Commissioner Choper said then what remained in effect was TVG's obligation to engage

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in negotiations. Ms. Christian said the letter specifically stated that if the union wanted to proceed, TVG would talk to it, and the parties were in the process of doing that. TVG agreed to enter into negotiations, and there was no end date to that agreement. The letter also agreed to be card check neutral. Chairman Harris asked if signed cards had been received from TVG employees. Mr. Castro stated the parties were in the process of completing the card check. Ms. Christian stated the letter was previously submitted to the Board, and TVG had always complied with the requirement. Mr. Castro said the Board should approve the TVG application, as the parties would come to an agreement.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF CHURCHILL DOWNS TECHNOLOGY INITIATIVES COMPANY, DBA TWINSPIRES.COM, FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO BUT NOT EXCEEDING TWO YEARS.

Jacqueline Wagner, CHRB staff, said Churchill Downs Technology Initiatives Company, dba Twinspires.com (Twinspires) filed an application to act as an out-of-state multi-jurisdictional wagering hub to operate from December 31, 2009, for one year. Twinspires had a bond on file for \$500,000. Chairman Harris asked if Youbet.com was part of Twinspires, or was a distinct entity. Brad Blackwell of Churchill Downs Technology Initiatives Company stated his organization recently announced the acquisition of Youbet.com, but the acquisition was subject to shareholder and anti-trust approval, so the transaction had not closed. Mr. Blackwell commented that meant the transaction could close in the first or second quarter of 2010, but until then, the providers would act as competitors, and the acquisition would not impact the application before the Board. Ms. Wagner stated the application before the Board was missing a horsemen's

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agreement and a hub agreement. Commissioner Choper asked if there would be any difficulty with obtaining the missing documents. Mr. Blackwell stated Twinspires did not anticipate any difficulties. Commissioner Choper asked if there was an agreement with Local 280. Richard Castro of Local 280 stated there was no signed agreement, but it would be accomplished, and Local 280 endorsed Twinspires' application. Commissioner Choper **motioned** to approve the application for a one year approval to conduct ADW of Twinspires.com, for an out-of-state multi-jurisdictional wagering hub – conditioned on the receipt of items missing from the application. Commissioner Brackpool **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF YOUBET.COM, INC., FOR A CALIFORNIA MULTI-JURISDICTIONAL WAGERING HUB AND APPROVAL FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD NOT TO EXCEED TWO YEARS.

Jacqueline Wagner, CHRB staff, said Youbet.com applied for approval to conduct advance deposit wagering (ADW) as a California multi-jurisdictional wagering hub, and for approval to act as an out-of-state multi-jurisdictional wagering hub. Youbet.com had a bond on file for \$500,000. Ms. Wagner stated the Youbet.com application was missing the hub agreement and the horsemen's and track agreements. Commissioner Brackpool **motioned** to approve the application of Youbet.com to act as a California multi-jurisdictional wagering hub and as an out-of-state multi-jurisdictional wagering hub for a period not to exceed one year, and conditioned on receipt of items missing from the application. Commissioner Rosenberg **seconded** the motion, which was **unanimously carried**.

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DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF XPRESSBET, INC., FOR A CALIFORNIA MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO BUT NOT EXCEEDING TWO YEARS.

Jacqueline Wagner, CHRB staff, said XpressBet, Inc. (XpressBet) applied for license to act as a California multi-jurisdictional wagering hub for a period of one year. Ms. Wagner stated staff was in receipt of the XpressBet hub agreement. She added XpressBet had a bond on file for \$500,000 – but it would expire on January 1, 2010. Ms. Wagner said staff recommended the Board require XpressBet to renew its bond for the duration of its license term. Gregg Scoggins, representing XpressBet, stated the bond was fully collateralized, so it merely needed to be renewed. Ms. Wagner said the horsemen's agreement and the track agreement were missing from the application. Chairman Harris asked if XpressBet was in bankruptcy. Mr. Scoggins stated XpressBet was not in bankruptcy, but it was for sale. He added bids were being accepted, but the situation was fluid, so there was not a definite sale date. Commissioner Brackpool **motioned** to approve the application for license to conduct ADW of XpressBet for a California multi-jurisdictional wagering hub, for a period not to exceed one year, conditioned on receipt of items missing from the application. Commissioner Rosenberg **seconded** the motion, which was **unanimously carried**.

CHRB EXECUTIVE DIRECTOR REPORT

CHRB Executive Director Kirk Breed stated at the October 15, 2009, Regular Board Meeting Commissioner Brackpool requested documentation of a revenue stream, along

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with expenditures. He stated that information was provided in the budget in the Board package.

PUBLIC COMMENT

Ruby Thomas, a trainer, and Sandy Torok, a trainer, spoke about the problems owners of mules and emerging breeds were having in obtaining stabling and other services. Chairman Harris stated the Board and staff would work with the associations to resolve the issues. Chris Korby of California Authority of Racing Fairs (CARF) said he appreciated the comments made by Ms. Thomas and Ms. Torok. He stated there were some larger issues involved, such as limited funds for stabling and vaning payments. It cost the fairs money to open a racetrack for stabling and training. Stockton opened as early as possible with the funds available, and Vallejo was opened in the middle of the summer for stabling and training. The fairs paid for the use out of their own pockets. CARF was doing all it could to accommodate trainers who brought runners to the fairs, including emerging breeds. CARF would continue to work with the emerging breeds and thoroughbred owners to facilitate as much stabling and training as needed. Mr. Korby stated Stockton was typically open for the emerging breeds, as it was the first meeting at which they ran. Chairman Harris asked where the emerging breeds ran after Stockton. Mr. Korby said in 2009 there were enough runners to open Vallejo. He added an element that changed 2009 was the closing of Bay Meadows. That meant Pleasanton was virtually full, as was not the case in past years. Now that Pleasanton was the primary auxiliary stabling and training facility, there were no longer empty stalls. Eight hundred stalls were lost at Bay Meadows; so on behalf of the emerging breeds, Stockton was

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opened earlier at the cost of \$2,000 a day, which came out of the vanning and stabling fund. Every day that opening was moved back would cost more money. It was an economic issue, CARF wanted to help, so it would talk with the emerging breeds to reach an accommodation.

MEETING ADJOURNED AT 3:37 P.M.

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A full and complete transcript of the aforesaid proceedings are on file at the office of the California Horse Racing Board, 1010 Hurley Way, Suite 300, Sacramento, California, and therefore made a part hereof.

Chairman

Executive Director

CALIFORNIA HORSE RACING BOARD

JANUARY 15, 2010
REGULAR BOARD MEETING

There is no board package material for Item 2

STAFF ANALYSIS

January 15, 2010

Issue: APPLICATION FOR AUTHORIZATION TO OPERATE A SIMULCAST WAGERING FACILITY AT THE SAN BERNARDINO COUNTY FAIR IN VICTORVILLE.

The San Bernardino County Fair at Victorville opened its simulcast wagering facility (SWF) April 26, 1989.

The SWF has experienced a significant decline in revenue and attendance during the last seven years. The 28th District Agricultural Board has looked at the trend in the industry and the declines in handles in evaluating the need to continue to operate or close its SWF. After conducting attendance and revenue studies, the Board, rather than close the SWF, opted to relocate the facility into a smaller building on the fairgrounds.

The San Bernardino County Fairgrounds at Victorville has submitted its "Application to Operate a Simulcast Wagering Facility" to relocate its SWF.

The current SWF occupies approximately 8,000 square feet. They plan to downsize their SWF to 3,000 square feet. The facility is scheduled to move on January 21, 2010.

Proposed dates of operation during current racing year:

- January 21st through December 31, 2010.
- Days of operation are Wednesday through Sunday.
- Opening 11:00 a.m. and closing 15 to 30 minutes following the last simulcast.

Admission Charges

- Level 1 \$3/\$5 – General Admission
- Level 1 Free – Parking
- Program – \$2.25

General Admission

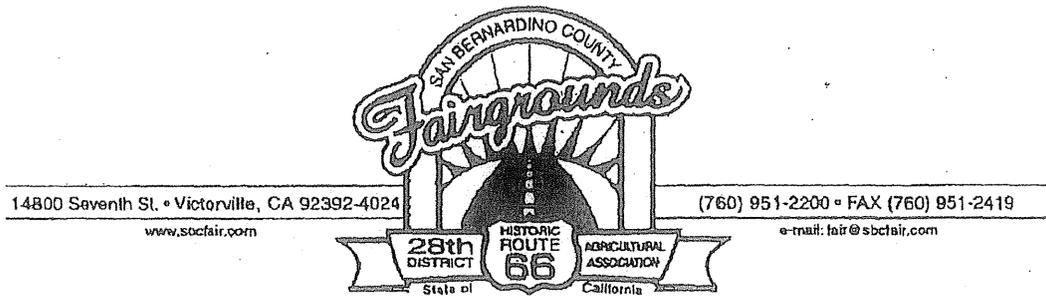
- Seating capacity – 182
- Number of tables – 26

Specific information still needed to complete this application includes:

1. Horsemen Agreement
2. Resolution of Governing Body
3. Detailed Scale Plan of Facility

RECOMMENDATION:

Staff recommends the Board approve the application contingent upon receipt of missing documents.



January 5, 2010

California Horse Racing Board
1010 Hurley Way Suite 300
Sacramento, Ca 95825

Subject: Re-location of Satellite Wagering Operations at San Bernardino County Fair, Victorville

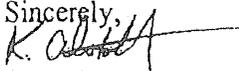
To Kirk Breeding, Executive Director:

This will serve to confirm the 28th District Agricultural Association (San Bernardino County Fairgrounds) Board of Directors has approved the re-location of our Satellite Wagering Facility into another building on the Fairgrounds. Moving into a smaller, renovated facility will allow us to better serve our patrons and keep our satellite open by reducing operating expenses.

The new satellite facility will be located in a space of 3,000 sq. ft. We believe this is the perfect size for our average attendance of 112 patrons. The newly renovated facility is located in a building on the fairgrounds, approximately 500 feet from the existing facility. New Central Air Conditioning and Heating systems have been installed, along with upgrades to the audiovisual systems, including installation of new 42" and 54" LCD TV's. We have worked with CARF and SCOTWinc. in the design and modifications. Pari-Mutuel Employees Guild has also conducted a walk through and is supporting the move. CARF has helped fund the renovations and overseen installation of the satellite and audiovisual systems.

The new facility will allow easier access for patrons during the Annual San Bernardino County Fair by providing Free parking before 3pm and separation from Fair activities. We are looking at the possibility of installing a walk-up window. The Friends of the Fair Foundation, which has offered special pricing already on food and beverages, will provide Food Service.

We respectfully request the CHRB to accept our application and approve the request. The date of our move is scheduled for January 21, 2010. Thank you for your consideration.

Sincerely,

Ken Alstott
Chief Executive Officer
28th District Agricultural Association

STATE OF CALIFORNIA
CALIFORNIA HORSE RACING BOARD
APPLICATION FOR AUTHORIZATION TO OPERATE A SIMULCAST WAGERING FACILITY
CHRB-25 (Rev. 4/92)

Application is hereby made to the California Horse Racing Board (CHRB) for authorization to operate a simulcast wagering facility in accordance with the California Business and Professions Code (B&P), Chapter 4, Division 8 (Horse Racing Law) and the California Code of Regulations, Title 4, Division 4 (CHRB Rules and Regulations).

Name of applicant association, fair, or tribal facility:
28th District Agricultural Association/San Bernardino County Fairgrounds

Location of facility (City and County):
Victorville, Ca.
San Bernardino County

Mailing address of association, fair, or tribal facility:
14800 7th Street Victorville Ca 92395

Telephone number: 760-951-2200

Name and title of the managing officer or tribal council representative of the applicant association, fair, or tribal facility: Carol Field/Assistance Manager

Name of the affiliated (simulcast) organization(s) that will operate the pari-mutuel wagering at the facility: SCOTWinc.

The regular schedule for operation of the facility will be as follows:
Opening Time – 11am
Closing Time – 15-30 minutes following last simulcast

Inclusive date during which the applicant proposes to operate as a simulcast wagering facility during the current racing year:
January 20th, 2010

Application must be filed not later than 90 days before the scheduled start date for operation of the proposed facility pursuant to CHRB Rule 2057.

CHRB CERTIFICATION	
Application filed on: 1/15/10	Approved on:
Reviewed by: <i>CR</i>	License number issued:
Date of Hearing: 1/15/10	Date tribal compact approved:

OPERATION OF THE SIMULCAST WAGERING FACILITY

Inclusive hours for operation of the facility:

Daily Wed - Sun Tues - Sat Other - specify:

Other days if a Race Association is racing

Inclusive time periods during the calendar year the facility **will not** be utilized as a simulcast wagering facility: None

Exceptions to the foregoing:

If approved, wagering will be offered on live race meetings being held or conducted by the following racing associations:

RACE MEETING	BREED	DAY OR NIGHT
Santa Anita	Thoroughbred	Day
Hollywood	Thoroughbred	Day
Del Mar	Thoroughbred	Day
Los Alamitos	Quarter	Night
Cal Expo	Harness	Night

Dates during which the applicant will conduct or has conducted live horse racing during the current racing year (if none, so state): January 1, 2009 thru December 31, 2009.

ELIGIBILITY FOR APPROVAL AS A GUEST ASSOCIATION

The applicant association is: Racing Association Fair
 Tribal Facility Other Business Entity

COMPLETE THE APPLICABLE SUBSECTION:

RACING ASSOCIATION - approval pursuant to B&P Section 19605.

The name under which the association is licensed by the Board: 28th DAA

The names and titles of management personnel assigned to the facility:

Carol Fields Assistant Manager
Paul Akona Assistant Manager

Approval is requested pursuant to B&P Section 19605.1 OR 19605.2.

Correct title of the fair or fair association: 28th District Agricultural Association/San Bernardino

County Fairgrounds

Names and titles of the present fair directors: Manny Hinojos (President), Guy Burnett (Vice-President), Erin Kirk (Treasurer), Becky Otwell, Brian Schneider, David Denson

TRIBAL FACILITY

Approval is requested pursuant to the Tribal-State Compact signed on _____.

The name of the tribe under which the Tribal-State Compact was approved:

Names and titles of management personnel assigned to the facility:

If applicable, names and titles of management personnel comprising management company or other entity operating gaming and simulcast wagering at the facility:

Has the management company or other entity been approved by the U. S. Bureau of Indian Affairs?
 Yes No If yes, the date of that approval _____.

NOTICE TO APPLICANT Changes to management personnel and Simulcast Facility Supervisor(s) must be immediately reported to the Board.

CONCESSIONAIRES AND VENDORS

The concessionaires, vendors, and other entities providing food service, beverage service, racing selection services, janitorial or custodial service, or other service or supplies within the simulcast wagering facility are (specify the name and type of service or supplies): Friends of San Bernardino County Fair Association Inc. All other work is done by employees of the 28th DAA.

Other vendors to be permitted to sell products or services outside, but on the premises of, the simulcast wagering facility are: N/A

SUPERVISION, SECURITY AND FIRE PREVENTION

The names of all persons to be employed as a Simulcast Facility Supervisor at the simulcast wagering facility: Carol Field, Paul Akona

The workers' compensation insurance carrier and the policy number securing the applicant's liability for payment of workers' compensation is (if self-insured, give details): State Workers Comp.

Attach a copy of the Certificate of Insurance.

Attach a fire clearance from the fire authority having jurisdiction.

The name of the person having responsibility for security controls at the facility is: Ken Alstott

The number of security officers and/or guards to be regularly employed at the facility is: (3)

The police or sheriff's department having jurisdiction for criminal law enforcement over the premises of the facility is: Victorville Police (Contracted with San Bernardino Sheriffs Department)

Specify the name, address and telephone number of the emergency ambulance service the applicant will utilize in event of illness or injury at the facility: Changes annually with contract awarded by San Bernardino County Fire (911)

Does the applicant propose to have emergency medical care available at the facility:

Yes No If yes, describe:

Note: Staff has been trained on CPR and a defibulator is on site.

EQUIPMENT PROVIDED BY THE GUEST ASSOCIATION

Describe the television equipment (simulcast receivers, decoders, controls, monitors, etc.) to be utilized at the facility: (8) LCD Hi Def. Monitors ranging from 42" to 54", (12) banked monitors with 19" screens, (6) Hi Def. Projection Units with 56" screens and (5) hanging 21" screens.

Describe the public address equipment (controls, microphones, speakers, etc.) to be utilized at the facility: One Central Microphone with (6) speakers placed proportionally throughout facility.

Attach a detailed scale plan of the facility indicating all points of access, emergency exits, and the placement of offices and food and beverage service locations.

PARI-MUTUEL EQUIPMENT AND WAGERING SERVICES

Describe the pari-mutuel equipment, odds displays, modems or muxes, and method of data transmission to be utilized (include the number of pari-mutuel terminals to be on-site): (4) Permanent Windows, (3) portable Totes with four machines per tote.

Will the applicant be responsible for maintenance of the pari-mutuel equipment?

Yes No Scientific Games responsible. Contract thru SCOTWinc.

Describe the method by which patron complaints regarding wagering operation and/or the facility or its employees may be filed: Verbal thru On-Duty Supervisor. Verbal to Fair Manager. Written to Board of Directors, Fair Manager, CARF or CHRB.

Has the applicant made arrangements to provide for the encashment of valid pari-mutuel tickets issued at other facilities or at California race meetings?

Yes No

Handled by SCOTWinc.

ADMISSIONS, CHARGES AND SERVICE FEES

The admissions charges are:

Level 1 (Gen. Adm.)	\$5/\$3 for Seniors
Level 2 (Premium CH)	N/A
Level 3 (Membership)	N/A

Parking Charges are:

Level 1 (General)	Free
Level 2 (Premium)	N/A
Level 3 (Valet)	N/A

Program costs are: \$2.25

Seating costs, if any, are: N/A

FOOD AND BEVERAGE SERVICE

Describe the food and beverage services to be offered (full meals served; cafeteria-style full meals; short-order counter service; pre-ordered prepared sandwiches and fast foods available; full bar services; barn counters; or other description as appropriate): Prep sandwiches, hotdogs, soups, etc. Monthly dinner specials including Pulled Pork and Tri-Tip
Full Bar Service

The seating capacity in the general admission area is: (182)

The number of tables in the general admission area is: (26)

The seating capacity in the premium area is: N/A

The number of tables in the premium area is: N/A

Overall square footage in the public general admission area is: 3,000

Overall square footage in the public premium admission area is: N/A

Overall square footage available for "overflow" attendance: N/A

Describe occupancy restrictions, if any, imposed by the fire authority having jurisdiction: None

The total number of parking spaces available in the combined parking areas can accommodate (number of standard sized automobiles): 440

Describe any other activities to be scheduled on or near the facility premises that may have a negative impact on available parking: Interim Events or Annual Fair. Satellite Patrons may pre-purchase special parking for Annual Fair or arrive before Fair opens and park FREE.

AGREEMENTS

Fair applicants must attach the resolution of its governing body that determined that the conduct of simulcast wagering at its fair facility best serves the interest of the fair.

Attach a copy of the agreement between the applicant and the (simulcast) organizations(s) that sets forth therein the duties of the respective parties.

Attach a copy of the written consent of the horsemen's organization(s), if applicable, consenting to the acceptance of wagers at the facility.

NOTICES TO APPLICANT

Notice is given to the applicant that its application, if approved by the Board, authorizes the applicant to offer pari-mutuel wagering at its simulcast facility until notified otherwise.

Notice is also given that retention of and control over all moneys generated from pari-mutuel wagering held or conducted at the facility is the responsibility of the (simulcast organization(s) which contract(s) to provide the pari-mutuel equipment and pari-mutuel employees; and that such organization(s) is (are) responsible for its proper distribution in accordance with the law and the rules and regulation of the Board.

Notice is also given that CHRB Rules 1870 and 1871 require that the Board be given 15 days notice in writing of any intention to terminate operations, engagements, or services by any licensee, approved concessionaire, or approved service contractor.

DECLARATIONS

All labor agreements, concession contracts, service contracts, horsemen's agreement, lease agreements and agreement with the (simulcast organization(s) necessary to conduct and operate the simulcast wagering program at the facility have been finalized except as follows (if there are no exceptions, so state):

All service contractors and concessionaires have valid State, County or City licenses authorizing each to engage in the type of service to be provided and have valid labor agreements (when applicable) which remain in effect for the entire term of the approval except as follows (if there are no exceptions, so state):

Absent natural disasters or causes beyond the control of the applicant, its service contractors, concessionaires or employees engaged at the facility, no reasons are believed to exist that may result in a stoppage to the conduct of pari-mutuel wagering at the facility or the withholding of any vital service to the applicant except as follows (if there are no exceptions, so state):

By authority of Article 9.2, of the California B&P Code; and the Federal Indian Gaming Act; in order to allow an evaluation of the competence, integrity, and character of potential simulcast facility operators authorized by the CHRB, any person, corporation, trust association, partnership, joint venture, or management firm who submits an application for such authorization or who is named in such application and who is not a State or County entity, or has not previously completed such disclosure when filing for a horseracing application pursuant to Article 4, Section 19480 of the California B&P Code shall be required to complete and submit a full disclosure statement.

CERTIFICATION BY APPLICANT

I hereby certify under penalty of perjury that I have examined this application, that all of the foregoing statements in this application are true and correct, and that I am authorized by the applicant to attest to this application on its behalf.

Ken Alstott
Print Name


Signature

Chief Executive Officer
Print Title

December 15, 2009
Date

SAN BERNARDINO COUNTY FIRE DEPARTMENT



COUNTY OF SAN BERNARDINO
PUBLIC AND SUPPORT
SERVICES GROUP

Victorville Division
14343 Civic Drive
Victorville, CA 92392
760-955-5227

PAT A. DENNEN
Fire Chief
County Fire Warden

Ken Alstott
San Bernardino County Fair
14800 7th St.
Victorville, CA 92392

December 16, 2009

Dear Mr. Alstott,

At the request of you and your maintenance director, Ray, I did an inspection of building 3 at the fairgrounds. Ray advised me that this building will be used for the planned relocation of the Sports Wagering facility. This building is fully fire sprinklered, approximately 3200 square feet, constructed of metal and masonry block. There are four separate exit discharges with a total of 9 exit doors. The building is split with an assembly area of approximately 2960 square feet and the remainder as office and restroom space.

As this is an existing building (built around the late '50s), I would not have any specific conditions or changes required to continue to use this building as an assembly occupancy (it met the codes that were in force at the time of construction. It is currently used during the fair as the art building, and for interim events for dinners, meetings, talks, etc (all assembly uses). As an assembly use, the maximum occupancy is determined by dividing the size of the area by an occupant load factor for the type of use and concentration. In this case, the assembly area is 2960 SQ FT. The type of use would include tables and chairs, which would be an occupant load factor of 15 (per the 2007 CA Fire Code, table 1004.1.1). This equals a maximum occupancy limit of 198 persons in that area (sitting, standing, etc). This occupant load would require a minimum of two exits, with a minimum total exit width of 59.4 inches. Since you have way more than the required minimums, it is possible that you could actually 'remove' some of the exits and still be in compliance of the codes.

I do not see any reasons why you could not use this building for your proposed use (Sports wagering facility) in its current condition, as long as you do not exceed the maximum occupancy limit. Should you need any further assistance on this or any other matter, please do not hesitate to contact me. My direct line is 760-955-5234.

Sincerely,

Joe Zuccaro
Fire Marshal
Victorville Division
San Bernardino County Fire Dept.



January 5, 2010

To: California Horse Racing Board
Attn: Andrea Ogden
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Re: San Bernardino County Fair - 28th DAA
Victorville, CA 92395

RE: Transfer of Existing Satellite Wagering Facility to New Building

Please be advised that the San Bernardino County Fair is a member of the California Fair Services Authority (CFSA), and participates in the following self-insurance and loss pooling programs which are administered by CFSA:

I. COMPREHENSIVE GENERAL LIABILITY PROGRAM

- A. Primary Coverage \$750,000 self-insured retention California Fair Services Authority
Coverage continuous until cancelled
- B. Excess Coverage \$9,250,000 in excess of \$750,000
Coverage provided by Allied World Assurance Company.
Term: 01/01/2010 to 01/01/2011

II. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

- A. Primary Coverage \$500,000 self-insured retention California Fair Services Authority
Coverage continuous until cancelled
- B. Excess Coverage (a) Workers' Compensation: Statutory Limit in excess of \$500,000
(b) Employers' Liability: \$4,500,000 in excess of \$500,000
Coverage provided by CSAC Excess Insurance Authority
Term: 07/01/2009 to 07/01/2010

You will be given at least thirty (30) days notice of any change in the foregoing information. We trust that this commitment will satisfy the insurance requirements.

Please feel free to contact this office on all matters including possible claims.

Sincerely,

Charles A. Mitchell
Risk Manager

STAFF ANALYSIS
PUBLIC HEARING AND ACTION BY THE BOARD
REGARDING THE
PROPOSED AMENDMENT OF
RULE 1632. JOCKEY'S RIDING FEE

Regular Board Meeting
January 15, 2010

BACKGROUND

Business and Professions Code section 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board (Board). Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in California. Assembly Bill (AB) 649, Chapter 605, Statutes of 2007, added section 19501 to the Business and Professions Code. *Section 19501(b)(1) provides that effective January 1, 2010, the scale of minimum jockey riding fees for losing mounts shall be increased by ten dollars. Section 19501(b)(2) provides that effective January 1, 2010, the minimum amount awarded to the jockey who finishes second or third in a race shall be increased by ten dollars over the amount required to be paid on December 31, 2009 in races in which the purse is nine thousand nine hundred ninety-nine dollars or less.* Board Rule 1632, Jockey's Riding Fee, provides a scale of jockey riding fees to be used in the absence of a contract or special agreement.

At its November 17, 2009 Regular Meeting the Board heard a proposal to amend Rule 1632 to comply with the provisions of Business and Professions Code section 19501. The Board directed staff to initiate a 45-day public comment period regarding the proposed amendment.

ANALYSIS

As required under Business and Professions Code section 19501(b)(1), the proposed amendment to Board Rule 1632 increases jockey riding fees for losing mounts by ten dollars. For jockeys who ride in races with a gross purse of \$1,500 to \$9,999 the fee for second and third place mounts was also increased by ten dollars as required under Business and Professions Code section 19501(b)(2). The proposed amendment to Rule 1632 also eliminates the gross purse categories of \$599 to \$1,499, as it appears gross purses no longer fall as low as \$1,499. Staff surveyed condition books for Santa Anita; Hollywood Park; Golden Gate Fields; Humboldt County Fair; The Big Fresno Fair; San Joaquin County Fair; and the CARF II meeting at Golden Gate Fields and found the lowest gross purse was \$3,100 for mule maiden and mule claiming races at Humboldt County Fair. The 2009 Big Fresno Fair offered \$3,200 mule maiden and mule

claiming races, and a \$3,300 Arabian maiden race. The lowest gross purse at the 2009 Los Alamitos quarter horse meeting appeared to be a two and three year old maiden purse of \$4,500.

RECOMMENDATION

Staff recommends the Board adopt the amendment to Rule 1632 as presented.

No comments were received during the 45-day public comment period.

CALIFORNIA HORSE RACING BOARD
 TITLE 4. CALIFORNIA CODE OF REGULATIONS
 ARTICLE 6. ENTRIES AND DECLARATIONS
 PROPOSED AMENDMENT OF
 RULE 1632. JOCKEY'S RIDING FEE

Regular Board Meeting
 January 15, 2010

1632. Jockey's Riding Fee.

(a) Winning jockey riding fees in the absence of a contract or special agreement are:

GROSS PURSE	Winning Mount
\$100,000 and up:	10% of Win Purse
50,000-99,999:	10% of Win Purse
25,000-49,999:	10% of Win Purse
15,000-24,999:	10% of Win Purse
10,000-14,999:	10% of Win Purse
5,000-9,999:	10% of Win Purse
3,500-4,999:	10% of Win Purse
2,000-3,499:	10% of Win Purse
1,500-1,999:	10% of Win Purse
700-1,499:	10% of Win Purse
600-699:	\$36.00
599 and under:	33.00

(1) The purpose of ~~Subdivision~~ subsection (a) is not to set a minimum or maximum fee.

It provides a fee if the parties have not made a written agreement to the contrary.

(2) All fees pursuant to ~~Subdivision~~ subsection (a) are payable in the lower purse range until the next higher purse range is reached, unless there is a written agreement to the contrary.

(b) Non-winning jockey riding fees are:

GROSS PURSE	2nd Mount	3rd Mount	Losing Mount
\$100,000 and up:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	\$115.00 <u>\$125.00</u>
50,000-99,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	90.00 <u>100.00</u>
25,000-49,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	75.00 <u>85.00</u>
15,000-24,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	65.00 <u>75.00</u>
10,000-14,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	60.00 <u>70.00</u>
5,000-9,999:	\$75.00 <u>85.00</u>	\$60.00 <u>\$70.00</u>	55.00 <u>65.00</u>

3,500-4,999:	65.00 <u>75.00</u>	55.00 <u>65.00</u>	50.00 <u>60.00</u>
2,000-3,499:	55.00 <u>65.00</u>	50.00 <u>60.00</u>	48.00 <u>58.00</u>
1,500-1,999:	45.00 <u>55.00</u>	43.00 <u>53.00</u>	43.00 <u>53.00</u>
700-1,499:	43.00	43.00	43.00
600-699:	43.00	43.00	43.00
599 and under:	43.00	43.00	43.00

(1) The purpose of ~~Subdivision~~ subsection (b) is to set a minimum, but not a maximum riding fee. No non-winning jockey shall be paid less than the riding fee set forth in ~~Subdivision~~ subsection (b).

(2) All fees pursuant to ~~Subdivision~~ subsection (b) are payable in the lower purse range until the next higher purse range is reached unless there is a written agreement to the contrary. However, no such written agreement shall reduce the minimum required by ~~Subsection~~ subsection (b).

(c) A jockey's fee is considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if the jockey elects to take himself off of his mount. If there is a substitution of jockeys, no additional jockey fee or double jockey fee need be paid except when ordered by the stewards.

(d) In this rule "Win Purse" means the amount paid the winning horse less the fees paid by the owner to enter the horse in the race.

(e) If the parties agree on the fee to be paid the jockey, a contract or agreement in writing signed by the jockey or his agent and the owner or his authorized agent specifying the agreed upon fee if a winning mount, second place mount, third place mount and losing mount shall be delivered to the paymaster of purses before the running of the race in question. The paymaster of purses shall debit the owner's purse account under the contract or written agreement. If no contract or written agreement is submitted before the running of the race in question, the paymaster of purses shall debit the owner's purse account under the fee scale set forth in this

rule.

(f) A jockey may not share in the fees of another jockey.

Authority: Sections 19440, 19501 and 19562,
Business and Professions Code.

Reference: Sections 19401 (a) and (e), 19420, 19440 and 19501,
Business and Professions Code.

STAFF ANALYSIS
PUBLIC HEARING AND ACTION BY THE BOARD
REGARDING THE
PROPOSED AMENDMENT OF
RULE 1685, EQUIPMENT REQUIREMENT

Regular Board Meeting
January 15, 2010

BACKGROUND

Business and Professions Code section 19420 provides that the Board shall have jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Chapter 4, Business and Professions Code. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19481 provides that in performing its responsibilities, the Board shall establish safety standards governing equipment for horse and rider.

Board Rule 1685, Equipment Requirement, sets the weight, type of "popper," and length of whips authorized for use by jockeys. The rule states: "No bridle shall weigh more than two (2) pounds, nor shall any whip weigh more than one-half pound. No whip shall be used unless it has affixed to the end a looped "popper" made of leather or other material approved by the stewards, not less than one and one-quarter (1 1/4) inches in width, and not over three (3) inches in length, and be "feathered" above the "popper" with not less than three (3) rows of "feathers" made of leather or other material approved by the stewards, each feather not less than one (1) inch in length. No whip shall exceed thirty-one (31) inches in length. All whips are subject to inspection and approval by the stewards.

At the July 19, 2007 Regular Board Meeting, representatives of the Jockeys' Guild (Guild) requested the Board approve the use of a "kinder" alternative whip. While the current CHRB rules on the use and construction of whips are designed to prevent abuses, the Guild representatives explained that the newly designed whip would take another step to promote the health and safety of racehorses. The alternative whip was described as being "kinder" to horses due to its materials and construction. The most notable difference between traditional whips and the alternative whip was the addition of a softer, padded material on the tip that was rounded without hard edges. The whip was described as "equine friendly" and the Guild representative stated it was preferred by most jockeys.

At the July 19, 2007 Regular Board Meeting the Guild stopped short of requesting that the Board mandate the use of the new whip because of design problems that increased its cost and limited its availability. At the meeting the Board temporarily suspended Rule 1685's limit on authorized whips to allow use of a specified "kinder whip" with a tip, or "popper" that was narrower than the traditional whips authorized by Rule 1685. The Board also suspended action on amending Rule 1685 to require the use of the alternative

whip until the Guild brought the matter back for consideration. Compared to the whip authorized by Rule 1685, the alternative whip authorized under the July 2007 suspension of Rule 1685 had a narrower popper, was made of softer material, and had padding to make the tip nearly round in configuration (eliminating hard edges on the sides). The authorized alternative whip also had to have a longer popper than those authorized by Rule 1685, extending as far up as the handle on some models. For alternative whips with poppers six inches or greater in length, feathers or loose leather strips were not required.

At the August 27, 2009 Regular Board Meeting the Guild reported that advancements have been made in the design of the new "kinder" styles of whip, especially in the use of more durable materials, and that the whips are now more affordable and readily available. As a result of this progress, the Guild requested that the Board reconsider amending Rule 1685 to require the whip's use. The Guild also requested that the Board again waive Rule 1685 to specifically allow for use of the newly designed whips. Such a waiver would supersede the 2007 waiver, and authorize the use of the new "kinder" alternative whips. This would be in addition to the whips currently described in Rule 1685. The suspension would be effective until the completion of the regulatory process. The Board waived Rule 1685 as it pertains to the construction of whips specifically to allow for the use of a new style of whips that is described as being "kinder" and "safer" for horses and referred the issue to the Safety Committee for discussion and action to develop a proposal for the amendment of Rule 1685.

At the September 4, 2009, Safety Committee meeting a proposed amendment to Rule 1685 was discussed. The proposed amendment would require the use of the "kinder" alternative whip in flat racing. The Safety Committee determined it would recommend that the Board initiate a 45-day public comment period regarding the proposed amendment to Rule 1685.

At its October 15, 2009, Regular Meeting the Board directed staff to initiate a 45-day public comment period regarding the proposed amendment to Board Rule 1685. However, the notice was postponed so the Board could again discuss the proposed amendment at its November 17, 2009 Regular Meeting. The Board directed staff to initiate a 45-day public notice period.

ANALYSIS

The text of the proposed amendment to Rule 1685 incorporates the specifications for "kinder" alternative whips, which were adopted by the Association of Racing Commissioners International in the spring of 2009, as well as recommendations made by interested California parties. The proposed text specifies a whip which is slightly shorter and lighter than whips that are currently authorized for use in California. The new whips have soft, rounded, padded material at the tip, no feathering and shock absorbing characteristics. The proposed amendment to Rule 1685 also requires that the flap/popper be "dark in color" so as not to startle the horse.

RECOMMENDATION

Staff recommends the Board adopt the amendment to Rule 1685 as presented. No comments were received during the 45-day public comment period.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 8. RUNNING THE RACE
RULE 1685. EQUIPMENT REQUIREMENT

Regular Board Meeting
January 15, 2010

1685. Equipment Requirement.

~~(a) No bridle shall weigh more than two (2) pounds, nor shall any whip weigh more than one-half (1/2) pound. No whip shall be used unless it has affixed to the end a looped "popper" made of leather or other material approved by the stewards, not less than one and one-quarter (1 1/4) inches in width, and not over three (3) inches in length, and be "feathered" above the "popper" with not less than three (3) rows of "feathers" made of leather or other material approved by the stewards, each feather not less than one (1) inch in length. No whip shall exceed thirty one (31) inches in length.~~

(b) Whips allowed for use in flat racing shall be unaltered from the original manufacturer; shall have shaft and flap (popper); shall weigh no more than 8 ounces and shall not be more than 30 inches in length.

(1) The minimum diameter of the shaft shall be 0.5 inches, with a smooth, padded contact area, and no protrusions or raised surface.

(c) The only allowed attachment to the shaft is the flap (popper), which shall not extend more than 1 inch beyond the shaft.

(1) The flap (popper) shall have a width of not less than 1 inch, or more than 1.5 inches; shall have a minimum length of 7 inches; and a minimum circumference of 3 inches. The flap (popper) shall have no reinforcements or additions beyond the end of the shaft, and no binding within 7 inches of the end of the shaft.

(2) The flap (popper) shall be folded over and sewn down each side. It shall have an inner layer consisting of memory foam, closed cell foam, or a similar shock-absorbing material, and an outer layer that is dark in color and made of a material that does not harden over time.

(d) All whips are subject to inspection and approval by the stewards.

Authority: Sections 19420 and 19440,
Business and Professions Code.

Reference: Sections 19441.2 and 19481,
Business and Professions Code.

STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD
REGARDING
RANDOM DRUG TESTING OF JOCKEYS

Regular Board Meeting
January 15, 2010

BACKGROUND

Business and Professions Code section 19420 provides that the Board has jurisdiction and supervision in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board include, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing. Business and Professions Code section 19460 provides that all licenses granted under this chapter are subject to all rules, regulations, and conditions from time to time prescribed by the Board, and shall contain such conditions as are deemed necessary or desirable by the Board for the purposes of this chapter. 19520 states every person who participates in, or has anything to do with the racing of horses shall be licensed by the Board pursuant to rules and regulations that the Board may adopt.

Chairman Harris has requested that an item regarding random drug testing of California licensed jockeys be placed on the agenda.

ANALYSIS

The safety of human and equine participants at a race meeting is an ongoing interest of the Board. One aspect of the Board's interest in safety is the issue of substance abuse by licensees. Jockeys are of particular concern in this area because of the unorthodox methods some jockeys may use to maintain their weight; these methods may include the use of drugs. Conversely, there are always individuals who use drugs purely for so-called recreational purposes. Regardless of the reason for using drugs, the combination of drugs, a jockey's low weight and the physical and mental requirements of the profession can be a recipe for injury to jockey, horse and others participating in a race. Staff conducted a survey of racing jurisdictions to determine if their regulations included random drug testing of jockeys. Several jurisdictions conduct drug testing; of the racing jurisdictions surveyed, Illinois, Louisiana and Delaware conduct random drug testing of jockeys or other licensees. The New York State Racing and Wagering Board indicated it was in the process of considering random drug testing procedures, but it was not able to share proposed regulatory language with staff. In addition, the Association of Racing Commissioners International Model Rules provides for drug testing that includes random tests.

RECOMMENDATION

This item is presented for Board discussion and action.

Attachments:

Drug testing regulations with random testing: Delaware, Illinois, Louisiana, and the ARCI Model Rule.

Delaware

Title 3 Agriculture

1001 Thoroughbred Racing Commission

21.0 Substance Abuse or Addiction

21.1 Statement of Purpose

21.1.1 The rules in this part establish and describe requirements, criteria, standards and procedures designed to monitor, test for and ultimately control the use of alcohol and drugs by persons within the jurisdiction of the Delaware Thoroughbred Racing Commission. The purpose of these rules is to eliminate substance abuse and thereby enhance the safety, integrity and decorum of horse racing in the State of Delaware. The Commission shall promulgate administrative regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate. The Commission is also authorized to promulgate administrative regulations for the legal drug testing of licensees. The Commission is authorized to contract for the maintenance and operation of a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests for enforcement of the Commission's drug testing rules. The licensed persons or associations conducting thoroughbred racing shall reimburse the Commission for all costs of the drug testing programs established pursuant to this section. Increases in costs of the aforementioned testing program shall be reasonable and related to the expansion in the number of days of racing and the number of races held, the need to maintain competitive salaries, and inflation. The Commission may not unreasonably expand the drug testing program beyond the scope of the program in effect as of June 30, 1998. Any decision by the Commission to expand the scope of the drug testing program that occurs after an administrative hearing, at which the persons or associations licensed under 3 Del.C. §10121 consent to such expansion, shall not be deemed an unreasonable expansion for purposes of this section. The Commission, in addition to the penalties contained in 3 Del.C. §10125, may impose penalties on licensees who violate the drug testing regulations including the imposition of fines or assessments for drug testing costs.

21.2 Scope

21.2.1 These rules shall be deemed to apply to every licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission. Exception -- Owners who are licensees of the Commission are not subject to this part unless they are otherwise eligible as a result of holding another type of license.

21.3 Violations

21.3.1 It shall be a violation of the rules of racing, subjecting the offender to discipline by the Commission or its designee:

21.3.1.1 To possess, without a valid prescription, any controlled substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;

21.3.1.2 Any individual possessing or under the influence of a prescription medication shall produce for inspection a valid prescription for the medication within twenty-four (24) hours upon demand by the Commission or its designee. The failure to produce the prescription at this time constitutes a separate violation.

- 21.3.1.3 To be intoxicated or under the influence of alcohol or a controlled substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;
- 21.3.1.4 To engage in the illegal sale or distribution of alcohol or a controlled substance;
- 21.3.1.5 To possess any equipment, products or materials of any kind which are used or intended for the use of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, possessing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;
- 21.3.1.6 To refuse to submit to urine or drug testing, when notified that such testing is based upon a random drug testing procedure, or is based upon reasonable suspicion that the person to be tested is using drugs or alcohol, or is based upon actions which demonstrate that the individual is impaired.

21.4 Testing Procedures - General

- 21.4.1 At its discretion, the Commission or its designee may conduct random or episodic drug and/or alcohol testing, as well as testing based upon reasonable suspicion in order to ensure the safety, integrity and decorum of Delaware thoroughbred racing.
- 21.4.2 Any licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission, except as noted in Rule 21.2, may be subjected to a urine test, blood test or any other test approved by the Commission in a manner prescribed by the Delaware Thoroughbred Racing Commission. The failure to submit to such a test when requested to do so by the Commission or their designee shall subject the offender to discipline as provided in Rule 21.8.
- 21.4.3 No prior notice need be given as to the onset or cessation of random testing.
- 21.4.4 Testing based on reasonable suspicion will be conducted just before, during, or just after performance of duties when a supervisor or company official observes behavior or appearance that is characteristic of drug or alcohol misuse and/or has reasonable suspicion to believe the individual has violated the Commission's prohibitions on drug or alcohol use.
- 21.4.5 Random testing will be conducted on a random, unannounced basis just before, during or just after performance of duties. Names of individuals to be tested will be selected randomly. If a name is selected more than once in the same month, it will be eliminated and another selection will be made. If a name is selected and the individual cannot be tested within the month, the Commission may test the individual at another time. Once notified of a random test, an employee must proceed immediately to the test site.
- 21.4.6 Return-to-duty testing will be conducted when an individual has violated the Commission's prohibitions on drug or alcohol use and returns to duty.
- 21.4.7 Follow-up testing will be conducted after there has been a determination that an employee is in need of assistance in resolving problems associated with drug or alcohol misuse. Tests will be unannounced and conducted just before, during or just after the performance of duties. Follow-up testing may be extended for up to sixty (60) months following return to duty.

21.5 Testing Procedures - Urine and Blood Testing

- 21.5.1 Any licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission, except as noted in Rule 21.2, who has been requested to submit to a test for the

presence of drugs or alcohol shall provide the requested sample without unreasonable delay to the designee of the Commission. The sample so taken shall be immediately sealed and tagged for identification. The sealing and tagging of the sample shall be witnessed by the individual tested. It shall be the obligation of the individual tested to cooperate fully with the representative of the Commission obtaining and securing a sample.

21.5.2 If a field screening test indicates the presence of alcohol or a controlled substance, the test results shall be confirmed by a laboratory acceptable to the Commission. When sample quantity permits, each test sample shall be divided into portions so that one portion may be used to confirm the field screening test and another portion may be used by the individual tested to obtain an independent analysis of the sample.

21.5.3 A portion of the test sample will be provided to a laboratory or testing facility, designated by the individual tested, when quantity permits, only upon written request. To protect the security of the chain of custody, the laboratory performing the initial test under Rule 21.5.2 will arrange for transportation of any remaining sample to the facility so designated by the individual for testing. All cost for the transportation and testing of the sample portion so provided shall be the financial responsibility of the requesting person. Payment for the costs of the transportation and testing of this portion of the sample shall be due from the individual tested within fifteen (15) days of the receipt of written notice of the costs.

21.5.4 Any individual may choose to submit to a blood test at a laboratory acceptable to the Commission instead of submitting to a urine test. An individual so choosing must announce the intention to forego the urine test and to obtain a blood test without delay, and proceed to the laboratory for the testing procedure.

21.5.5 If a field screening test has been performed, and the individual conducting the field test has reason to believe that the test results are inaccurate, the individual tested may be directed to submit to a blood test at a laboratory acceptable to the Commission.

ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

Section 508.50 Licensee Subject to Testing

- a) No licensee shall have present in his or her body, or possess or use on the grounds of any race track any controlled substance or any prescription drug unless the substance was obtained directly, or pursuant to a valid prescription or order, from a licensed physician, while acting in the course of his or her professional practice.
- b) Each licensee at a race track or other facility under the jurisdiction of the Board may be subject to a drug ~~test at any time~~ while within the enclosure of any race track or other facility at the direction of the Stewards or Executive Director or designee if there is individualized suspicion that a licensee is possessing or using any controlled substance or any drug in violation of any federal or State law.  ~~This provision notwithstanding, specific categories of occupation licenses are subject to [random] drug testing pursuant to Section 508.80. Failure to submit to or complete a drug test at the time, location, and manner directed by Board personnel shall constitute a refusal to be tested. Any licensee who fails to submit to or complete a drug test shall be immediately suspended for no more than 30 days and shall not be allowed to participate at any race track under the jurisdiction of the Board until a negative test result is achieved. A licensee's refusal to test shall subject the licensee to the penalties in Section 508.60.~~
- c) Each specimen received from a licensee shall be divided into two separate parts. One portion designated as the referee sample, shall be available for testing upon the request of the individual who provided the specimen. The referee sample may also be tested by the laboratory with the consent of the individual who provided the specimen. The other portion of the sample shall be known as the laboratory sample and shall be tested by the laboratory. The cost of testing the referee portion shall be borne by the person requesting the additional test.
- d) After the specimen has been taken from a licensee and analyzed by an accredited laboratory approved by the Board, the laboratory shall make a ~~positive test finding~~. The Board shall consider both the initial test level and confirmatory test level for controlled substances or prescription drugs, pursuant to the Mandatory Guidelines for Federal Workplace Drug Testing (Substance Abuse and Mental Health Services Administration available at <http://www.workplace.samhsa.gov>) when determining a positive for a controlled substance that is included in the federal guidelines.
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ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

- e) A confirmed positive for an illegal drug, controlled substance or prescription drug result shall be reported, in writing, to the Stewards. On receiving written notice from the laboratory that a sample has been found positive for an illegal drug, controlled substance or prescription drug, the Stewards shall notify the individual of the test results.

- f) Upon receipt of a notice of positive test finding, the stewards shall conduct an inquiry at which the individual with notice of a positive test finding shall have the opportunity to be heard. Further, any individual with notice of a positive test finding may challenge his or her particular test or test result by having a portion of the sample tested at the laboratory of his or her choice. Any individual contesting the tests or test results may request a hearing before the Board as set forth in 11 Ill. Adm. Code 204.

ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

~~Section 508:80~~ Random Testing



- a) State racing boards and commissions in several states have promulgated regulations that subject racing participants to both breathalyzer and urinalysis tests by randomly selecting participants for such tests. The validity of this type of regulation was recently upheld in *Shoemaker v. Handel*, 3rd Cir. 1986) 795 F.2d 1136, affirming 619 F.Supp. 1089 (D.N.J. 1985).
- b) The Board finds, based on its experience and expertise in the regulation of racing, that random testing for alcohol and controlled substances will maximize the value of tests as a deterrent and will tend to reduce the adversarial nature of the test by treating all Jockeys, Drivers, Starters, Assistant Starters, and Outriders equally.
- c) As a supplement to the substance abuse testing program based upon individualized suspicion (as set forth in Sections 508.30 and 508.50 above), the Board hereby authorizes the limited use by the Stewards of both breathalyzer and urinalysis tests for Jockeys, Drivers, Starters, Assistant Starters, and Outriders who are selected by random. The names of all Jockeys, Drivers, Starters, Assistant Starters, and Outriders who appear on the official program as participants for a given race program for which testing is to be conducted shall be placed in a locked container which shall be secured by the stewards. The stewards for each racing program shall draw from the container the names of not more than five individuals for alcohol and drug testing. The name drawing shall be proximate to race time and a representative of the Jockey's Guild, the Illinois Horsemen's Benevolent and Protective Association, and the Illinois Harness Horsemen's Association shall be invited to attend the drawings and witness the random selections.
- d) The Jockeys, Drivers, Starter, Assistant Starters, and Outriders whose names are drawn at random must provide a urine sample to the stewards or their designee before the last race for that racing program. Any person selected at random who refuses to provide the sample or submit to a breathalyzer test shall be suspended.
- e) No Jockey, Driver, Starter, Assistant Starter, or Outrider shall be required to provide a urine sample on a random selection basis more than three times at a

ILLINOIS REGISTER
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NOTICE OF ADOPTED RULES

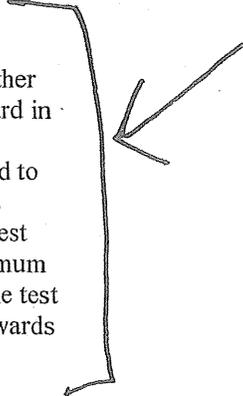
race meet. If the participant's name is drawn in excess of three times, the stewards shall disregard the selection, return the name to the container, and draw another name.

Louisiana Rule 1791

§1791. Testing for Dangerous Substance Abuse

A. No person licensed by the commission shall use any controlled dangerous substance as defined in the "Louisiana Controlled Dangerous Substance Act," R.S. 40:961 et seq., or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or ordered from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the person licensed by the commission to give notice to the state steward that he is using a controlled dangerous substance or prescription legend drug pursuant to a valid prescription or order from a licensed physician. This notice shall be in the form of an affidavit provided by the commission and completed by the licensed practitioner. Failure to provide the state steward with the appropriate affidavit prior to the collection of a urine sample shall result in a positive violation and shall be administered pursuant to Subsection D. Failure of a licensed person to provide this affidavit from his doctor or physician within 10 days of being notified by the stewards of a finding for a prescription drug shall be treated as a positive and having the person subject to a penalty as contained herein.

B. Every person licensed by the commission at any licensed racetrack may be subjected to a urine test, or other noninvasive fluid test at the discretion of the state steward in a manner prescribed by the commission. Any licensed person who fails to submit to a urine test when requested to do so by the state steward shall be liable to the penalties provided herein. Failure or refusal to submit to a urine test when ordered by the state steward shall result in a minimum 90-day suspension. Failure or refusal to submit to a urine test for a second time shall result in a suspension by the stewards to the full extent of their power and referral to the commission.



C. Any person licensed by the commission who is requested to submit to a urine test shall provide the urine sample to a chemical inspector of the commission. When requested to provide a sample, that person shall submit the sample before leaving the race track. Failure to do so shall be considered a refusal. The sample so taken shall be immediately sealed and tagged on the form provided by the commission and the evidence of such sealing shall be indicated by the signature of the tested person. The portion of the form which is provided to the laboratory for analysis shall not identify the individual by name. In obtaining any sample, it shall be the obligation of the licensed person to cooperate fully with the chemical inspector who may be required to witness the securing of such sample. Anyone who tampers with a urine sample shall be fined and/or suspended as provided for by R.S. 4:141 et seq. and/or the

Rules of Racing.

D. A positive controlled dangerous substance or prescription drug result shall be reported in writing to the commission or its designee. On receiving written notice from the official chemist that a specimen has been found positive for a controlled dangerous substance or prescription legend drug, the commission or its designee shall proceed as follows.

1. The licensed person shall, as quickly as possible, be notified in writing and a hearing scheduled with the stewards.
 - a. If a person having tested positive for a dangerous substance or prescription drug so desires, he/she may request within five days to the stewards to have the split or referee sample tested by a commission-designated alternate laboratory as provided herein. At the time of the request, the licensed person must deposit with the stewards an amount equivalent to the fee charged by the referee laboratory chosen to cover expenses to be incurred in testing the split sample. Failure of a licensed person to make a request within five days constitutes a waiver of any and all rights to have the split sample tested.
 - b. Split samples shall be stored in a locked freezer pending the laboratory results of the original samples. If an original sample's result is negative, the split sample may be disposed of. However, if the result is positive, the split sample shall be retained in the locked freezer until needed or until final disposition of the case.
 - c. A licensed person's timely request for the testing of the split sample may then select any one of the commission-designated alternate laboratories to perform the testing.
2. For a licensed person's first violation, he shall be suspended 30 days and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement shall be contingent upon evaluation by a commission approved board certified drug evaluator or counselor, and after providing a negative urine report.
3. For a licensed person's second violation, he shall be suspended six months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement may be allowed upon proof of enrollment, and continued attendance in a commission approved drug rehabilitation program.
4. For a licensed person's third violation, he shall be suspended for 15 years and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana.
5. The stewards and/or commission approved board certified drug evaluator or counselor may require urine/hair analyses or other noninvasive body fluid tests at any time during rehabilitation for reasonable cause.
6. Unexcused absences from a drug rehabilitation

program shall result in the participant being suspended for seven days from racing.

7. Excused absences from a drug rehabilitation program must be approved prior to the participant's absence by the commission approved drug evaluator or individual counselor.

8. Amphetamines and other central nervous system stimulants are not permitted except in cases of exogenous obesity. In those cases, the participant must give proof that multiple dietary attempts to control exogenous obesity have failed and that he is participating in a medically supervised dietary program which includes the short term (two to three weeks) usage of amphetamines.

E. Any information received in the process of obtaining a urine sample, including but not limited to, medical information, the results of any urine test, and any reports filed as a result of attending a drug rehabilitation program, shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a drug rehabilitation program shall be limited to the commissioners of the Louisiana State Racing Commission, the commission and/or its designee, counsel to the commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the commission or its designee.

F. Information received and reports prepared pursuant to this rule shall be stored in a locked secure area in the office of the commission for a period of one year, after which time, they shall be destroyed. However, the commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:289 (May 1987), amended by Department of Economic Development, Racing Commission, LR 15:620 (August 1989), LR 16:394 (May 1990), LR 17:172 (February 1991), LR 17:648 (July 1991).

ARCI MODEL RULE

H. Substance Abuse/Addiction

- (1) All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.
 - (2) It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:
 - (a) Is engaged in the illegal sale or distribution of alcohol or a controlled substance;
 - (b) Possesses, without a valid prescription, a controlled substance;
 - (c) Is intoxicated or under the influence of alcohol or a controlled substance;
 - (d) Is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the Commission;
 - (e) Has in his/her possession within the enclosure any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;
 - (f) Refuses to submit to urine or drug testing, when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is using drugs or alcohol or is based on the licensee's acting as if in an impaired condition; or
 - (g) Presently has drugs (controlled substances) or alcohol in his or her body. With regard to alcohol, the results of a breathalyzer test showing a reading of more than .05 percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances,
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presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph.

- (3) At its discretion, the Commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the racetrack.
- (4) When conducted, random drug testing shall apply, equally, to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.
- (5) No notice need be given as to onset or cessation of random testing.
- (6) For licensees who are tested under the provisions in this chapter, and whose testing shows the presence of drugs (controlled substances) or alcohol, any field screening test results shall be confirmed by a laboratory acceptable to the Commission which shall include Gas Chromatography/ Mass Spectrometry (GC/MS) procedures.
- (7) When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized by the licensee to obtain an independent analysis of the urine sample.
- (8) The Commission shall provide for a secure chain of custody for the sample to be made available to the licensee.
- (9) All costs for the transportation and testing for the sample portion made available for the licensee shall be the financial responsibility of the requesting person.
- (10) Payment shall be due from the requesting person within 30 days of receipt of notice of the costs.
- (11) A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license.
- (12) If there has been a violation, under number 2 above, the following procedures will be followed:
- (13) The Commission may, at its discretion, order the licensee to obtain a professional assessment to determine whether there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other drugs or the Commission may act on the information at hand.
- (14) Actions in the case of first violators may include revocation of the license, suspension of the license for up to six months, placing the violator on probation for up to 90 days or ordering formal assessment and treatment.
- (15) Treatment or assessment, if ordered, must meet the conditions given in numbers 16-18 below.
- (16) The license of the person may be revoked or suspended for a period of up to one year or a professional assessment of the person may be ordered by the Commission.
- (17) If a professional assessment indicates presence of a problem of alcohol or other drug abuse that is not treatable within the reasonably foreseeable future (360 days) the license may be suspended for a period of up to one year.

- (18) If a professional assessment indicates presence of a treatable problem of alcohol or other drug abuse or dependence, the Commission may order the licensee to undergo treatment as a condition of continuing licensure. Such treatment will be through a program or by a practitioner, acceptable to the licensee and the Commission. Required features of any program or practitioner acceptable to the Commission will be:
- (a) Accreditation or licensure by an appropriate government agency, if required by state statute;
 - (b) A minimum of one year follow-up of formal treatment; and
 - (c) A formal contract indicating the elements of the treatment and follow up program that will be completed by the licensee and, upon completion, certified to the Commission as completed. To effect the contract, the licensee will authorize release of information by the treating agency, hospital or individual.
- (19) For third-time violators, the violator's license may be revoked and the violator may be deemed ineligible for licensure for up to five years.
- (20) Although relapse (failure to maintain abstinence) is not inevitable, it is common for relapse to occur in recovery from alcoholism or other substance dependence. Therefore, a licensee who is engaged in a formal program of recovery, and is compliant with all provisions other than abstinence, will not be regarded automatically as having committed a new violation.
- (21) When a licensee is determined to have failed in maintaining abstinence, the licensee shall furnish to the Commission an assessment by the treating agency, hospital or individual practitioner indicating whether the licensee was compliant with the agreed upon program of recovery, and an opinion as to whether a "new violation" occurred.
- (22) The Commission will determine whether a new violation has occurred in each instance. If a new violation has occurred, the Commission will proceed under numbers 13-15 above or numbers 16-18 above. Otherwise, the licensee shall continue in the agreed upon program of recovery.
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STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD
REGARDING AN INCREASE IN THE TAKE-OUT
ON CONVENTIONAL AND EXOTIC WAGERS ON RACES
CONDUCTED BY QUARTER HORSE RACING ASSOCIATIONS AS PERMITTED
PURSUANT TO ASSEMBLY BILL 246(PRICE), CHAPTER 226, STATUTES OF 2009

Regular Board Meeting
January 15, 2010

BACKGROUND

Assembly Bill (AB) 246, Chapter 226, Statutes of 2009 added Business and Professions Code section 19601.3 which provides that (a) Notwithstanding any other provision of law, a quarter horse racing association, subject to approval by the board, may deduct from the total amount handled in the parimutuel pool for any type of wager up to 2 percent more of the total amount handled than was authorized on May 1, 2009. Funds deducted pursuant to this additional authority shall be distributed as follows:

(1) All of the funds, up to 1 percent on the first fifty thousand dollars (\$50,000) per day handled, to eligible satellite wagering facilities that are in compliance with Article 9.2 (commencing with Section 19605), based on the wagers they accept, and provided further that they accept all available signals from the quarter horse racing association.

(2) The remainder of the funds shall be distributed with 50 percent going to the quarter horse horsemen's organization for purses and the other 50 percent being retained by the racing association.

Blonien & Associates, Inc. on behalf of Los Alamitos requested that the Horsemen's Quarter Horse Racing Association be allowed to increase its takeout by two percent as provided for in AB 246. One percent would be provided as additional compensation to satellite wagering facilities, up to their first \$50,000 of handle each day, and the remainder of the funds would be distributed with 50 percent to the quarter horse horsemen's organization for purses and the other 50 percent being retained by the racing association.

ANALYSIS

Business and Professions Code section 19601.3 provides the latitude for a quarter horse racing association to deduct from the total amount handled in the parimutuel pool for any type of wager up to 2 percent more of the total amount handled that was authorized on May 1, 2009 with the proper requests and approval by the Board.

The CHRB audit staff calculated the 2009 Quarter Horse racing takeout rate for WPS at 16.09 percent and exotics at 21.53 percent. See table 1 below for detailed calculations:

Table 1	Traditional	ADW	Total	% Takeout
WPS Takeout	\$5,646,396	\$2,040,407	\$7,686,803	
WPS Total Handle	\$34,980,119	\$12,786,795	\$47,766,914	16.09%
Exotic Takeout	\$23,213,855	\$7,437,492	\$30,651,347	
Exotic Total Handle	\$107,186,277	\$35,185,189	\$142,371,467	21.53%

The additional 2 percent increase in takeout would generate the revenue shown in Table 2 below:

Table 2

WPS Projected 2% Annual Takeout Increase	\$955,338
Exotic Projected 2% Annual Takeout Increase	\$2,847,429

In addition, staff obtained current Quarter Horse racing takeout rates for the following racing jurisdictions as listed in Table 3 below:

Table 3

Racing Jurisdiction	WPS Takeout	Exotic Takeout
Kentucky	18%	25%
Florida	18%	21%
Texas	18%	25%
Arizona	up to 25%	up to 35%

RECOMMENDATION

This item is presented for discussion and action by the Board.

BLONIEN & ASSOCIATES, INC.

1121 L STREET, SUITE 507
SACRAMENTO, CALIFORNIA 95814
916-441-4242
TELECOPIER: 916-443-6841

December 22, 2009

Kirk Breed, Executive Director
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

RE: Amendment - Los Alamitos

Dear Mr. Breed:

As you know, Governor Schwarzenegger recently signed into law AB 246 by Senator Curren Price. This measure contained an urgency clause, and thus became effective immediately upon signing by the Governor.

A portion of the above-referenced bill provides that a quarter horse racing association, with the consent of the horsemen, may petition the California Horse Racing Board to have the take-out increased by up to two percent. One percent would be provided as additional compensation to satellite wagering facilities, up to their first \$50,000 of handle each day, and an additional one percent for purses and commissions. On behalf of Los Alamitos, we respectfully request that the Horsemen's Quarter Horse Racing Association be allowed to increase its takeout by two percent as specified above, and as provided for in AB 246.

We would greatly appreciate this matter being included on the agenda for the January meeting.

Should you have any questions, please give me a call.

Sincerely,



Rodney J. Blonien

STAFF ANALYSIS

DISCUSSION AND ACTION BY THE BOARD REGARDING THE SCOTWINC SHORTFALL AGREEMENT SUBMITTED BY THE THOROUGHBRED OWNERS OF CALIFORNIA AND THE LOS ANGELES TURF CLUB IN RESPONSE TO THE BOARD'S APRIL 29, 2009 APPROVAL OF A REQUEST FOR MODIFICATION OF CALIFORNIA ADVANCE DEPOSIT WAGERING (ADW) DISTRIBUTIONS ON THOROUGHBRED RACES AS PERMITTED UNDER BUSINESS AND PROFESSIONS CODE SECTION 19604(F)(5)(E).

Regular Board Meeting
January 15, 2010

BACKGROUND

Business and Professions Code section 19604(f)(5)(E) states that notwithstanding any provision of the section to the contrary, the distribution of market access fees (related to ADW wagering) may be altered upon approval of the Board, in accordance with an agreement signed by all parties whose distribution would be affected. The parties affected by an adjustment to the market access fees, are the associations, horsemen, and breeder's awards.

The modification of California's ADW distribution on thoroughbred races as permitted under Business and Professions Code section 19604(f)(5)(E) was heard and approved by the Board at its April 24, 2009 Regular Meeting. In requesting the modification the industry represented that for several years Southern California Off Track Wagering, Inc. (SCOTWINC) and Northern California Off Track Wagering, Inc. (NCOTWINC) ran shortfalls in funding, due to handle moving from traditional satellite wagering to ADW, and a general decline in wagering activity at "brick and mortar" wagering sites. The distribution from satellite facilities was fixed, and 2.5 percent of that funding went to SCOTWINC and NCOTWINC for pari-mutuel expenses.

At the April 24, 2009 meeting, instead of asking for an increase in the takeout, the industry requested the creation of a new distribution from ADW source market fees to fund the shortfalls at SCOTWINC and NCOTWINC over a two-year period. The requested distribution for SCOTWINC would be 4.12 percent of the ADW source market fee and NCOTWINC would receive 4 percent of the ADW source market fee. The funds would come from ADW wagers placed by California residents on California thoroughbred races.

The Board approved the motion, pursuant to Business and Profession Code section 196049f)(5)(E), to alter for a two year period commencing July 1, 2009 and ending June 30, 2011, the market access fees from ADW wagers made by California residents, while thoroughbred associations conducted race meetings, by the creation of an additional deduction for distribution based on 4.12 percent of handle in Central and Southern zones

to the SCOTWINC Trust, and 4 percent of handle in the Northern Zone to the NCOTWINC Trust.

ANALYSIS

The Los Angeles Thoroughbred Club (LATC) and Thoroughbred Owners of California have submitted the SCOTWINC Shortfall Agreement, in response to the Board's approval of the request to alter the ADW distribution. The agreement alters the distribution of market access fees from ADW wagers placed on all racing hosted by LATC at its Winter Race Meeting, effective December 26, 2009 through April 18, 2010, to 4.12% of handle in the Central and Southern Zones that would otherwise be payable as thoroughbred purses and commissions.

RECOMMENDATION

Staff recommends the Board accept the SCOTWINC Shortfall Agreement as an addendum to the LATC Winter Racing Meeting at Santa Anita Park Race Track, commencing December 26, 2009 through April 18, 2010.

STAFF ANALYSIS

DISCUSSION AND ACTION BY THE BOARD REGARDING A REPORT FROM TRACKNET, WHICH SERVED AS REPRESENTATIVE OF SANTA ANITA PARK RACE TRACK AND GOLDEN GATE FIELDS, AND FROM ADVANCE DEPOSIT WAGERING (ADW) PROVIDER ODS TECHNOLOGIES, L.P., DBA TVG, ON THE RESOLUTION OF LITIGATION AND THE SUCCESSFUL CONCLUSION OF NEGOTIATIONS WHICH RESULTED IN TVG CONTINUING TO ACCEPT WAGERS ON RACES AT SANTA ANITA PARK RACE TRACK AND GOLDEN GATE FIELDS, AND HOW THE SETTLEMENT IMPACTS THEIR RELATIONSHIP GOING FORWARD.

Regular Board Meeting
January 15, 2010

BACKGROUND

At its November 17, 2009 Regular Meeting the Board approved the ODS Technologies, L.P., dba TVG application to conduct advance deposit wagering (ADW) as an out-of-state multijurisdictional wagering hub for a period of one year. TVG's application identified TrackNet as the negotiating party on behalf of Santa Anita Park Race Track (SA) and Golden Gate Fields (GGF). The application for license to conduct a race meeting of the Los Angeles Turf Club (LATC) at SA and Pacific Racing Association (PRA) at GGF were also approved at the November 17, 2009 Regular Board Meeting. Applications from LATC and PRA listed TVG as an ADW provider. At the time of application neither party indicated any problems with the TVG agreement.

ANALYSIS

On December 21, 2009, TrackNet notified the Board of an issue that seemed likely to prevent the LATC and PRA racing content from being available for wagering on TVG.com.

The December 21, 2009 letter stated that TrackNet and TVG had negotiated a new one-year content sharing agreement that commenced on November 1, 2009. The November agreement permitted TVG to accept wagers on the racing content of all TrackNet racetracks, including LATC and PRA race meetings commencing December 26, 2009. The term of the agreement included conditions connected to a pending patent lawsuit. Specifically, the November 2009 agreement contained the following provision:

Term of Agreement. This Agreement will be binding upon the Parties commencing on the mutual execution of this Agreement by the Parties and continuing until October 31, 2010, or such earlier date, if any, on which this Agreement is terminated in accordance with the terms and conditions hereof (the Term). This Agreement shall automatically terminate, without any notice or action by either Party, On December 25, 2009, unless prior to that date: (a) the

pending patent lawsuit filed by TVG against Magna Entertainment Corp. ("MEC") and XpressBet, Inc. is finally resolved to the satisfaction of each of MEC, XpressBet, Inc. and TVG, each acting in its sole and absolute discretion; and (b) TVG issues a covenant not to sue Churchill Downs, Incorporated ("CDI") or Churchill Downs Technology Initiatives Corporation dba TwinSpires for infringement of the patents that are the subject of the patent lawsuit referred to in clause (a), which covenant shall afford the same protections afforded by the final resolution referred to in clause (a). The documentation describe e in clause (b) must be in a form reasonably acceptable to CDI."

In other words, if the patent lawsuit is not resolved in a manner satisfactory to TVG and the TrackNet shareholders, then the November 2009 agreement would terminate and TVG would not be able to offer wagering on any TrackNet content, including LATC and PRA.

The issues potentially preventing the LATC and PRA racing content from being available for wagering on TVG.com. have been resolved.

Representatives from TVG and TrackNet are prepared to make a presentation to the Board addressing the resolution of the matter.

RECOMMENDATION

Staff recommends the Board hear from the representatives of TVG and TrackNet.

DISCUSSION AND ACTION BY THE BOARD REGARDING A REPORT FROM
SOUTHERN CALIFORNIA RACING SECRETARIES CONCERNING THE
DIFFERENT CATEGORIES OF THE RACE HORSE POPULATION AT TRACKS
AND SUBSIDIZED OFF SITE FACILITIES AND THE PARTICIPATION LEVELS IN
ACTUAL RACES THAT MATERIALIZE

Regular Board Meeting
January 15, 2010

BACKGROUND

This item was placed on the agenda at the request of Vice Chairman Israel. The Southern California racing secretaries at thoroughbred race tracks have been contacted and are prepared to present to the Board.

RECOMMENDATION

Staff recommends the Board hear from the racing secretaries.

STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD
REGARDING THE ALLOCATION OF
NORTHERN CALIFORNIA FAIR RACE DATES

Regular Board Meeting
January 15, 2010

BACKGROUND

Business and Professions Code section 19440 (a) states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include allocation of racing dates to qualified associations in accordance with law.

Board Rule 1430, Allocation of Racing Weeks and Dates, states the Board shall allocate racing weeks and dates for the conduct of horse racing in this State for such time periods and at such racing facilities as the Board determines will best subserve the purposes of the Horse Racing Law and which will be in the best interests of the people of California in accord with the intent of the Horse Racing Law.

At its October 15, 2009 Regular Meeting the Board approved the 2010 Southern California racing calendar, subject to modification. The Board also approved the 2010 Northern California race dates for Pacific Racing Association at Golden Gate Fields (GGF), and the early season harness race meeting at California Exposition and State Fair (Cal-Expo) (December 26, 2010 through June 19, 2010). However, action on the 2010 Northern California racing fair calendar was delayed due to uncertainties involving the summer fair racing programs. The Board instructed the industry to meet and arrive at a consensus regarding the remaining 2010 Northern California race dates.

At the Board's November 17, 2009 Regular Meeting Pacific Racing Association (PRA) Thoroughbred Owners of California (TOC) and California Thoroughbred Trainers (CTT) jointly submitted a 2010 Northern California proposed race dates calendar.

California Authority of Racing Fairs (CARF) also submitted its 2010 Northern California proposed race dates calendar.

The difference between the two Northern California proposed race dates calendars was the assignment of dates from August 18, 2009 through Labor Day, September 6, 2009. For the last 100 years these dates have been run at Cal-Expo in Sacramento. Until recently the dates have been overlapped by Bay Meadows. Cal Expo also ran harness horses during the state fair for three years. In 2010, Cal Expo is moving the State fair to July 14, 2010 through July 25, 2010. CARF requested that the August 2010 to Labor Day dates be run as a combined fair meet at the Alameda County Fair at Pleasanton. TOC, CTT and PRA proposed that the dates be run at GGF as a private association.

In 2009 CARF ran a combined fair race meeting at GGF – CARF 1 and CARF 2. The CHRB requested Paymaster records to corroborate that there was an overpayment of purses at the two meetings of approximately \$300,000. A complaint was also filed by a horseman that the 2008 Cal Expo Fair race meeting had an underpayment of purses of \$190,000 and a 2009 underpayment of purses of over \$200,000. The CHRB has investigated the 2008 underpayment and found that the \$190,000 is accurate and that this amount was not returned to the horsemen within 14 days after the race meeting ended, as required by the horsemen's agreement, but has been carried over until present. A decision as to whether the 2009 State Fair race meeting underpayment should be returned to the horsemen or carried over until 2010 has not been made. Cal Expo has conducted very successful State Fair race meetings in 2008 and 2009. These meetings were mixed breed meetings. The CARF meetings at GGF were for thoroughbreds only. Future combined fair meetings should not be exclusive to thoroughbreds.

At the November 17, 2009 Regular Board meeting, staff recommended that race dates not be granted to Cal Expo until the 2008 – 2009 underpayments of purses to the horsemen was resolved, and that once the underpayments was resolved, that the July dates (if not used by the Solano County Fair) be run as a combined race meeting at Cal Expo. Staff also recommended that the historical dates for the State Fair, (August 18 through September 6), be run at Cal Expo. In the event Cal Expo did not want to run these dates, they should be granted to GGF.

The CARF proposal did not include race dates for the Solano County Fair at Vallejo. The Solano County Board of Supervisors represented to the Board that they desired to request dates for 2010. The Solano County Fair's historic dates coincide with the new proposed State Fair race dates of July 14, 2010 through July 25, 2010. If the Solano County Fair is giving up these dates are they expecting any reimbursement from the State Fair?

Subsequent to the November 17, 2009 Regular Board Meeting, the CHRB Executive Director sent a letter requesting CARF, as a condition of granting dates to the northern zone California Fairs, provide information addressing: a plan to reconcile purse under-payments to horsemen for 2008 and 2009 from all racing fairs; Solano and San Mateo County Fairs- are they being compensated?, and if so how much will be paid to other fairs running during their historical dates; an accounting of how the supplemental purse account was applied during the 2008 and 2009 fair meetings, and the balance in this account going into 2010; and evidence that the proposed overlap of the Humboldt County Fair at Ferndale is in the best interest of horse racing and not discriminatory against Humboldt and the non-thoroughbred breeds; horse population racing inventory in filling races for 2009 and the fairs' projections for 2010; CARF's plan for the expansion/addition of satellite wagering facilities in the Bay Area and a report of total income from all racing sources going to the fairs for 2009.

CARF representatives are prepared to make a presentation on these issues.

ANALYSIS

CARF, PRA, TOC and CTT have jointly submitted a proposed 2010 Northern California race dates calendar.

The submitted proposed 2010 Northern California race dates calendar is the same calendar submitted by CARF at the November 12, 2009 Regular Board Meeting with the exception of the following:

The dates for the proposed CARF race meeting at Pleasanton are August 18-29, 2010 instead of August 18-September 6, 2010; Labor Day is proposed to be run at GGF Summer meeting, September 1 - 30, 2010.

The CARF proposed calendar does not include any dates for the Solano County Fair at Vallejo and includes an overlap of the Humboldt County Fair.

Humboldt County Fair has also submitted a counter proposed 2010 Northern California Fair racing calendar that provides for no overlap of the Humboldt County Fair.

In response to CARF's proposed overlap of the Humboldt County Fair, staff received thirty eight letters from Humboldt County racing fans and constituents requesting that the Humboldt race meeting not be overlapped.

RECOMMENDATION:

This item is presented for discussion and action.

Staff recommends that the Board hear from the CARF representative and interested parties.

Attached are the following items to assist in the development of 2010 Northern California fair race dates calendar.

1. 2010 Northern California Proposed Race Dates and supporting documents submitted by California Authority of Racing Fairs, Pacific Racing Association; Thoroughbred Owners of California and California Thoroughbred Trainers.
2. 2010 Northern California Proposed Race Dates and supporting documents submitted by Humboldt County Fair at Ferndale.
3. Letters of Support for the 2010 Northern California Proposed Race Dates Calendar submitted by Humboldt County racing fans and constitutes.
4. 2010 Southern California Race Dates (approved October 15, 2009)
5. 2010 California Exposition/ Harness Race Dates (approved October 15, 2009)
6. 2010 Los Alamitos Proposed Race Dates (approved October 15, 2009)

MEMORANDUM

December 19, 2009

Mr. Kirk Breed
Executive Director
California Horse Racing Board
1010 Hurley Way
Sacramento, CA

VIA E-mail

Dear Kirk,

The California Authority of Racing Fairs (CARF), California Thoroughbred Trainers (CTT), Golden Gate Fields (GGF) and the Thoroughbred Owners of California (TOC), and have all agreed to recommend the attached calendar for 2010 Northern California racing dates to the California Horse Racing Board.

Since this recommendation for a 2010 calendar comes late in 2009, time is of the essence for Board approval. We ask the Board to consider the fact that time sensitivity is particularly acute with respect to the August 18-29 dates proposed for Alameda County Fair; consequently, CARF, CTT, GGF and TOC are all requesting that the Board convene a special meeting at the earliest possible date to consider and approve a 2010 calendar of racing dates for Northern California.

Thank you for your consideration in this matter.

Respectfully submitted,

California Authority of Racing Fairs
California Thoroughbred Trainers
Golden Gate Fields/ Pacific Racing Association
Thoroughbred Owners of California

Attachments: 1

RECOMMENDATION FOR 2010 NORTHERN CALIFORNIA RACING DATES- December 16, 2009

December

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						26
27	28	29	30	31		

GGF Winter-Fall	83
GGF Spring	77
GGF Summer	22
GGF Total	182
Simulcast Only	12

Santa Rosa	5
Cal Expo	10
Santa Rosa	15

Humboldt	9
CARF at Pleasanton*	10
Fresno	10
CARF Fairs Total	74

Total Race Days	256
-----------------	-----

January

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
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21	22	23	24	25	26	27
28						

March

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
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April

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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18	19	20	21	22	23	24
25	26	27	28	29	30	

May

Sun	Mon	Tue	Wed	Thu	Fri	Sat
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

June

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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12	13	14	15	16	17	18
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July

Sun	Mon	Tue	Wed	Thu	Fri	Sat
5	6	7	8	9	10	11
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26	27	28	29	30	31	

August

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
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September

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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October

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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24	25	26	27	28	29	30
31						

November

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
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28	29	30				

December

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
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26	27	28	29	30	31	

*In the event that the racing dates of August 18-29, 2010, cannot be conducted at the Alameda County Fair, TOC, CTT, CARF, and GGF recommend that the dates be run at GGF as an extension of its summer meeting on a transitional basis only for 2010. The parties respectfully request that these two weeks be considered as possible Fair dates in 2011.

HUMBOLDT COUNTY FAIRRECEIVED
CHRB

2009 DEC 30 PM 9:12

BOARD MEMBERS

December 18, 2009

Valerie Davis

President

Jay Hight

1st Vice President

John Burger

2nd Vice President

Don Becker

Mel Berti

Clarence Bugenig

Ken Christen

Al Cooper

Jeff Farley

Don Giacomini

Sandy Hanks

Travis Low

Eugene Lucas

Jack Macdonald

Dave Moggi

Cindy Olsen

Herb Peterson

Robert Prior

Tim Renner

Johanna Rodoni

Wayne Wilson

Stuart Titus

General Manager

California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825**Chairman Harris and Members:**

Please accept this letter as representing a counter proposal to the 2010 racing calendar presented to the Board and supported by various other northern California shareholders.

As we have previously stated, we believe that the proposal submitted by CARF and others sets the Humboldt County Fair up for failure, as our two weeks of racing would be overlapped by duplicate programs at Santa Rosa and Pleasanton.

We do not believe that there are adequate resources available to support simultaneous race meets such as these, and therefore offer the following counter proposal for your consideration.

Stockton	One (1) week	June 16-20
Pleasanton	Three (3) weeks	June 23-July 11
Cal Expo	Two (2) weeks	July 14-25
Santa Rosa	Two (2) weeks	July 28-August 8
Ferndale	Two (2) weeks	August 11-22
Golden Gate Fields	Six (6) weeks	August 25-October 3
Fresno	Two (2) weeks	October 6-16

This counter proposal offers the following benefits:

- Returns to their sources of origin, approximately \$350,000 in subsidies upon which Humboldt has traditionally relied
- Approximately \$300,000 of this total would revert back into the Supplemental Purse Fund
- Would provide for a rational allocation of limited resources
- Would support turf racing in mid-summer, late August and all of September
- Would provide the basis for a more productive eight-week program following Humboldt, including six weeks of turf races

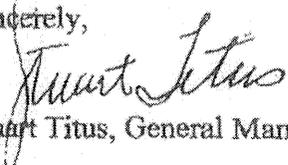
In addition to these benefits, the following information should also be considered:

- It's unlikely that Del Mar would experience any net losses in commissions or purses, as dollars not wagered on Humboldt would likely appear elsewhere in the wagering program
- For the second year, Del Mar would realize benefits of AB 763
- This calendar provides for a program in northern California that's actually manageable
- Higher valued thoroughbreds, two-year olds and turf horses would benefit from a two week break in August
- This two week break would serve as the basis for a more productive and robust program from the week leading up to Labor Day through October
- Any perceived losses in purses during the Humboldt program would likely be recaptured in subsequent weeks.
- This program could be utilized to improve racing in northern California during the month of September
- This program offers the only realistic financial basis upon which Humboldt can survive.
- Net proceeds for Humboldt would be reinvested into its facilities.
- This proposal assumes that Golden Gate Fields will remain in business for the foreseeable future
- This proposal would avoid potential legislative action regarding race dates

In closing, please note that we are aware of the overwhelming support of the proposal already submitted to the board by others in the industry. We nonetheless maintain that the previously submitted proposal represents a recipe for disaster, as it applies to the Humboldt County Fair.

Thank you in advance for your consideration of this counter proposal.

Sincerely,


Stuart Titus, General Manager

HUMBOLDT COUNTY RECOMMENDATION FOR 2010 NORTHERN FAIR RACE DATES

December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						26
27	28	29	30	31		

Stockton (6/16-6/20)	3
Pleasanton (6/23-7/11)	14
State Fair (7/14-7/25)	10
Santa Rosa (7/28-8/8)	10

Ferndale (8/11-8/22)	10
CARF GGF (8/25-10/3)	30
Fresno (10/6-10/16)	9
Total Fairs	88

January						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
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February						
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March						
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April						
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May						
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June						
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July						
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August						
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September						
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October						
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November						
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December						
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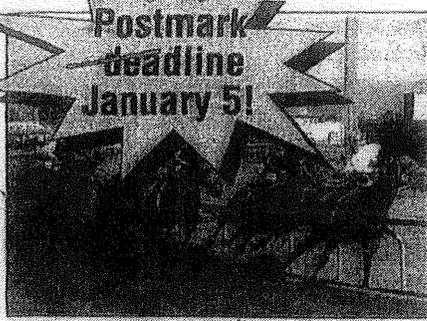
22

3

9

Racing Wednesday-Sunday with the exception of CARF racing Monday 9/6 and dark on Wednesday 9/8 & Fresno racing Monday 10/11 and dark on Wednesday 10/13

18 copies of the attached clipping, signed by Humboldt
County racing fans and constituents, were received by staff.



Help save The Humboldt County Fair!

The Humboldt County Fair needs your help.

In January, the California Horse Racing Board will decide on racing dates for 2010. One proposal on the table is to overlap Ferndale's historic meet with another fair or fairs. This move would certainly have a major negative economic impact on our 114-year-old fair. Please write the CHRB and ask them to schedule non-overlapped racing dates for the Humboldt County Fair. Below is a sample letter to follow (or, easier yet, sign it, clip it and mail it to the address below).

If you prefer email, all the board members can be contacted by visiting www.chrb.ca.gov.

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95826

Dear Chairman Harris and Members:

Please accept this letter as requesting that the Humboldt County Fair Association be allocated non-overlapped racing dates for 2010.

Historically, Humboldt has always found a way to survive while running concurrent race dates in August. Given the dramatic changes to horse racing over the past several years, however, it is simply unreasonable to expect that trend to continue.

The significant decrease in the owner, trainer and horse components of the industry reflects only the beginning of the challenges regarding overlapped dates. The most recent proposals submitted to the Board include elements which would place additional strain on the system, such that Humboldt would be destined to failure.

Pari-Mutual Clerks, Starting Gate Crews and Racing Office personnel are among the categories that would be strained, particularly if Humboldt is overlapped by Santa Rosa, Ukiah, or both. The system is already at its maximum capacity and continued overlapped dates would likely cause a collapse in one or more of these areas.

All we are asking for is a chance to show what Humboldt can produce on its own. It is our sincere desire to free our operation of a set of subsidies which sustain our program. Currently, Humboldt relies on approximately \$350,000 in subsidized funding. Should we receive exclusive race dates, those funds could be returned to their sources of origin, thus directly benefiting the industry. We also believe that the allocation of exclusive race dates to Humboldt would indirectly benefit the industry, because of enhanced racing in the immediate, subsequent weeks.

Thank you in advance for your consideration of this very important matter.

Sincerely,

Thank you and see you at the 114th Humboldt County Fair
August 12-22

AC
B
14
viii

January 6, 2010

CHRB Commissioner
1010 Hurley Way
Suite 300
Sacramento CA 95825

Commissioners:

John Harris, David Israel, Jerome Moss, Bo Derek, Jesse Choper, Keith Brackpool, Richard Rosenberg & Kirk Breed

I am writing in response to the proposed CARF fair dates schedule. I am licensed as an owner, trainer, authorized agent and mutual teller. I have been racing horses on the California Fairs since 1986.

I realize this is about who the "host" track will be during the Del Mar meet. It should not however, be at the cost of the horsemen losing more races, which essentially is what overlapping Fairs serves to do. We have already lost days of racing (Wednesday's at GGF & HOL), and lost races because of a shortage of horses, and suffered drops in the handles due to short fields, which in turn led to purse cuts.

As a mutual teller, if you do not work an entire meet you lose Sunday premium and vacation pay. What teller would or could afford to go to Humboldt if it overlapped Sonoma and/or Alameda?

Legislature mandates that the fairs all write races for emerging breeds. I am certain that all of you know that the emerging breeds do not have enough animals to support races at two fair meets running concurrently. CARF is trying to control and dictate the livelihood of all the smaller operations of Thoroughbred and Mix Breed stables. Overlapping dates would discriminate against them being able to run ALL of their animals where they have the best chance, as many could not bear the additional labor and workman's comp to split their barns. Doing so may benefit the greed of a few in the short term, but it will be at the expense of the entire industry eventually.

I am certain I am not the only Trainer posed with this situation. If this overlap is approved, a lot of people will be further hurt financially, I am certain that the fallout from this kind of state-imposed hardship will reach as deep as the damage caused by Gov. Davis when he moved our industry from agricultural to entertainment. Horse racing is hurting in California, lost days, lost races, exorbitant workman's comp fees, fewer horses and owners, shorter fields, and shorter cards. Increased fuel, feed, and labor further add to this decline. We are headed for a train wreck, bit by bit until none of us have jobs anymore.

Please do not allow this to happen. If two weeks or even one day of Fair racing is overlapped, it serves the same as taking away races.

Sincerely,

Renee Glass, CHRB 113040
P.O. Box 8342
Fresno, CA 93747
wanabfarms@att.net

Melvin F. McLean Survivor's Trust
1336 Main Street
Fortuna, CA 95540
(707)725-1722

December 28, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Ste 300
Sacramento, CA 95825

Dear Chairman Harris and Members:

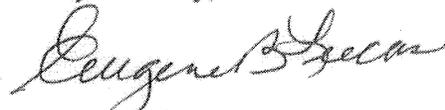
I have been a Director of the Humboldt County Fair Association for over 40 years. Please accept this letter as requesting that the Humboldt County Fair Association be allocated non-overlapping racing dates for 2010.

Having reviewed the results of the fair meet over the many years I have been on the board, and actively participated on the racing committee, I see nothing but disaster with a completely overlapped meet. With the drastic change in the industry and the economics of our area we really need and deserve at least a portion of this August's meet to be non-overlapped.

All of you members know the problems of operations that will occur with an overlap. It is not just the horses, but all of the needed people and other infrastructure.

I urgently request that you favorably allocate non-overlapping racing dates to Ferndale in 2010.

Very Sincerely,



Eugene B. Lucas
Board Member
Humboldt County Fair Association

Cc: Stuart Titus

Bo Derek, Member
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Re: 2010 Racing Dates

Dear Ms. Derek:

During my residency in the San Francisco Bay Area, I have enjoyed attending horse races at Bay Meadows and Golden Gate Fields. Now that I have moved to Humboldt County, I get my enjoyment of that sport at the Humboldt County Fair.

Your proposal to schedule the 2010 racing dates for the Humboldt County Fair simultaneously with other venues would seriously jeopardize a local tradition of more than 150 years. This could possible cause the demise of horse racing for Northern California and the beginning of the end for an entire industry.

Please reconsider and schedule racing dates for the Humboldt County Fair that will not conflict with other racing entities.

Yours sincerely,



Alma Sosa

BRIGGS PO Box 913 • Ferndale, CA 95536-0913 • phone/fax 707-786-9209 • ebriggs@suddenlink.net

December 29, 2009

Keith Brackpool, Board Member
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Mr. Brackpool,

We are at your mercy. The Humboldt County Fair is the lifeblood of the Victorian Village of Ferndale, and horse racing is the lifeblood of our 114-year-old fair.

We were dismayed to learn that the CHRB proposes to overlap our beloved fair's entire race meet with other county fairs. This is not the same as overlapping with commercial tracks; fairs draw from the same pool of horses. Even though they like to come here because we enthusiastically support the races, we are remote, which adds to travel expenses, and bigger fairs can offer larger purses. Economic pressures will force racers who work the fair circuit to bypass Humboldt, decimating our meet and our community.

Good races are crucial to our survival, now more than ever. Recession has walloped local commerce. The bankruptcy and sale of our beloved Humboldt Creamery (you may be familiar with our organic milk), has us on the ropes. Please don't strike another blow. Business is always a challenge "behind the redwood curtain." Main Street relies on those fair days. It is their most prosperous time of year; for many, it carries them through the winter. We need really strong races to keep our community going.

Just as important (if not more so) is the fair's cultural significance. It began more than 113 years ago with horse racing, and the race meet continues to be the centerpiece of our reunions. The fair has changed with the times, as have we all, but horse racing has remained the constant.

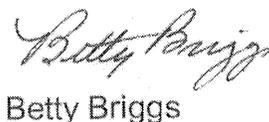
If your intention is to generate interest in the sport, we have good news: the Humboldt County Fair is where the love of horse racing begins! We are an agricultural community (this is where we graze the really happy cows) that loves horses. We take excellent care of them, and we turn out to see them run. Our dedication to the fair cannot be overestimated. Humboldt County residents are devotees, and carry this love wherever they go.

We are accustomed to being overlooked, small as we are. That's why we're writing to remind you that this community, this county, will be more than just heartbroken without a healthy race meet.

Please give us a sporting chance.

Sincerely,


Ellen Briggs


Betty Briggs

November 24, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Chairman Harris and Members:

Please accept this letter as requesting that the Humboldt County Fair Association be allocated non-overlapped racing dates for 2010.

Historically, Humboldt has always found a way to survive while running concurrent race dates in August. Given the dramatic changes to horse racing over the past several years, however, it is simply unreasonable to expect that trend to continue.

The significant decrease in the owner, trainer and horse components of the industry reflects only the beginning of the challenges regarding overlapped dates. The most recent proposals submitted to the Board include elements which would place additional strain on the system, such that Humboldt would be destined to failure.

Pari-Mutual Clerks, Starting Gate Crews and Racing Office personnel are among the categories that would be strained, particularly if Humboldt is overlapped by Santa Rosa, Pleasanton, or both. The system is already at its maximum capacity and continued overlapped dates would likely cause a collapse in one or more of these areas.

All we are asking for is a chance to show what Humboldt can produce on its own. It is our sincere desire to free our operation of a set of subsidies which sustain our program. Currently, Humboldt relies on approximately \$350,000 in subsidized funding. Should we receive exclusive race dates, those funds could be returned to their sources of origin, thus directly benefiting the industry. We also believe that the allocation of exclusive race dates to Humboldt would indirectly benefit the industry, because of enhanced racing in the immediate, subsequent weeks.

With all due respect to the Board's authority to allocate racing dates, we are nonetheless compelled to inform you that a continuation of overlapped dates will lead to an early demise of the Humboldt County Fair.

Sincerely,

Wayne O Wilson
I am a 30 year Member of
The Fair Board.

December 2, 2009

Mr. John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, California 95825

Dear Mr. Harris:

As a member of the Humboldt County Fair Association Board of Directors I am writing to urge you and the California Horse Racing Board to favorably respond to our considered request to be allocated non-overlapped racing dates in 2010.

In the long history of Humboldt County racing, we fortunately have survived running concurrent dates with other tracks, but given the many changes in horse racing we have all experienced, many feel we will be unable to continue to do so.

Should recently proposed overlapped dates prevail, we do not believe Humboldt will be appropriately supported as we feel that there is not the capacity for sufficient Pari-mutual Clerks, Starting Gate Crews and Racing Office personnel to go around, especially if we are overlapped by the Santa Rosa County Fair, Pleasanton, or both.

We are asking for a chance to show what Humboldt can produce on its own. It is our sincere desire to forgo the subsidies we have previously been provided (for which we are grateful). We currently rely on about \$350 thousand in subsidy in one form or another. If allowed to run un-overlapped, those funds would not, we feel, be required by us and could be left to benefit the industry.

We don't want Humboldt to fail. Continuing to force us to run overlapped, especially with fairs, puts us in position to do just that.

Sincerely yours,



John F. Burger, Director
Humboldt County Fair Board
1580 Myrtle Avenue
Eureka, California 95501



Fine Home Furnishings

906 Main Street
Fortuna, CA 95540
707-725-3331
Fax 725-1268
www.lows.com

November 24, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Chairman Harris and Members:

Please accept this letter as requesting that the Humboldt County Fair Association be allocated non-overlapped racing dates for 2010.

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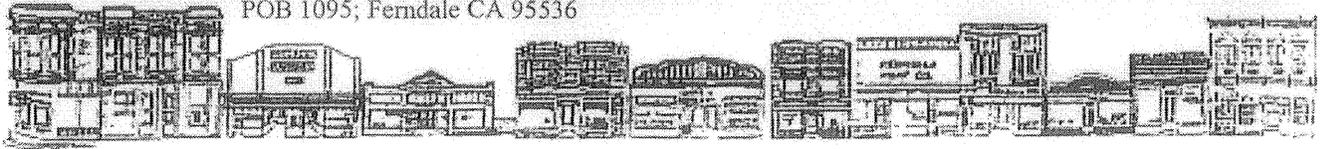
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With all due respect to the Board's authority to allocate racing dates, we are nonetheless compelled to inform you that a continuation of overlapped dates will lead to an early demise of the Humboldt County Fair.

Sincerely,

Travis R Low
Humboldt County Fair Board Member

City of Ferndale INCORPORATED 1893
POB 1095; Ferndale CA 95536



December 2, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Chairman Harris and Members:

Please accept this letter as requesting that the Humboldt County Fair Association be allocated non-overlapped racing dates for 2010.

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With all due respect to the Board's authority to allocate racing dates, we are nonetheless compelled to inform you that a continuation of overlapped dates will lead to an early demise of the Humboldt County Fair.

Sincerely,

Jeffrey Farley
Mayor

HUMBOLDT COUNTY FAIR

BOARD MEMBERS

Valerie Davis
President

Jay Hight
1st Vice President

John Burger
2nd Vice President

Don Becker

Mel Berti

Clarence Bugenig

Ken Christen

Al Cooper

Jeff Farley

Don Giacomini

Sandy Hanks

Travis Low

Eugene Lucas

Jack Macdonald

Dave Mogni

Cindy Olsen

Herb Peterson

Robert Prior

Tim Renner

Johanna Rodoni

Wayne Wilson

Stuart Titus
General Manager

November 24, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Chairman Harris and Members:

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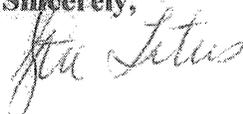
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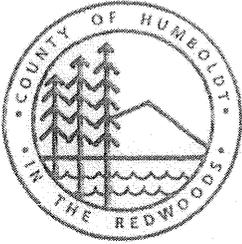
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With all due respect to the Board's authority to allocate racing dates, we are nonetheless compelled to inform you that a continuation of overlapped dates will lead to an early demise of the Humboldt County Fair.

Sincerely,





BOARD OF SUPERVISORS

COUNTY OF HUMBOLDT

825 5TH STREET

EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

December 8, 2009

John Harris, Chairman
 California State Horse Racing Board
 1010 Hurley Way, Suite #300
 Sacramento, CA 95825

Dear Chairman Harris:

On behalf of the Humboldt County Board of Supervisors, I am writing to express our strong support for the Humboldt County Fair Association and their efforts to secure non-overlapping horse racing dates in 2010 and beyond.

The 112 year old Humboldt County Fair is very dependent upon the revenues generated by horse racing. Many of our agricultural events and youth services programs are funded through our fair receipts. Of great importance to us is our readiness for flood disasters. The fairgrounds provide safe haven for Eel Valley residents and livestock during winter floods. Fair revenues are essential for maintenance, utilities and other disaster preparations.

The success of the Humboldt County Fair is critical to the community of Ferndale and the economic future of Humboldt County. Any proposal which conflicts or causes an overlap in racing dates would be devastating.

The Board thanks you for your past support of the [Humboldt County Fair and respectfully requests your continued support in the future. Thank you for your consideration of this very important matter.

Sincerely,

Jimmy Smith, Chair
 Humboldt County Board of Supervisors

JS:kh

cc: Kirk E. Breed, Executive Director, California State Horse Racing
 Stuart Titus, General Manager, Humboldt County Fair

LAW OFFICE OF
ROBERT D. PRIOR

ATTORNEY AT LAW

POST OFFICE BOX 23
EUREKA, CALIFORNIA 95502

TELEPHONE (707) 443-4573
FACSIMILE (707) 443-7182

710 "I" STREET
EUREKA, CALIFORNIA 95501
E-MAIL rprior@pacbell.net

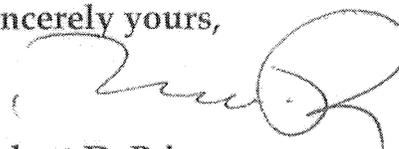
December 23, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, California 95825

Dear Chairman Harris and Members:

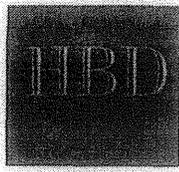
I have been a Director of the Humboldt County Fair Association since 1964. During that time, the Association has been able to conduct a successful racing program in August of each year for the benefit and employment of many people. To a large degree, our success has been due to our ability, each year to run at least part of our annual meet unoverlapped by other competing racing events. I understand that in 2010 there is the possibility our fair could be totally overlapped. If so, I do not see how we can survive, and we will go under, resulting in a great loss to our loyal fans and an economic hardship to the local economy. I urge you to consider favorably Ferndale's request to be allocated non-overlapped racing dates in 2010.

Sincerely yours,



Robert D. Prior
Board Member
Humboldt County Fair Association
710 I Street
Eureka, California 95501

RDP/s



Humboldt Beer Distributors

11-22

December 28, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Chairman Harris and Member:

I am writing to request that the Humboldt County Fair Association be allocated non-overlapped racing dates for 2010.

Due to the dramatic changes to horse racing these past few years it is simply unreasonable to expect running concurrent race dates in August to continue.

The significant decrease in the owner, trainer and horse components of the industry reflects the beginning of the challenges regarding overlapped race dates. The recent proposals submitted to the Board include elements which would place increased strain on the system, so much so that Humboldt would be destined to failure.

Pari-Mutual Clerks, Starting Gate Crews and Racing Office personnel are among the categories that would be strained, particularly if Humboldt is overlapped by Santa Rosa, Pleasanton, or both. The system is at its maximum capacity and continued overlapped dates would likely cause a collapse in one or more of these areas.

Let us show you what Humboldt can produce. It is our wish to free our operation of a set of subsidies which sustain our program. Humboldt relies on approx. \$350,000 in subsidized funding. If we receive exclusive race dates, those funds can be returned to their sources of origin, which would benefit the industry.

Thank you for taking the time to consider my request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Cooper'.

Al Cooper, Owner
Humboldt Beer Distributors

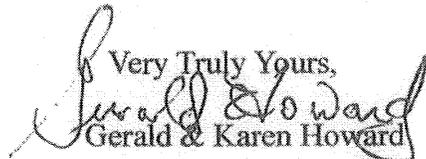
Mr. John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, California 95825

December 21, 2009

Dear Mr. Harris:

I am a resident of Ferndale, Ca., home of the Humboldt County Fair. I am a native Californian and have lived in most regions of the State during my lifetime. We don't have a lot of entertainment opportunities in this area and the Humboldt County Fair is a highlight to many residents of northern California. My wife and I schedule vacation dates around the Fair as we have many friends and relatives who visit during this time period and partake of the Fair activities, in particular the horse racing dates. I would venture to guess that the percentage of people attending our horse races on a daily basis to the overall population of our County is higher than any other in the State. I have been asked by several of my friends to write to you and ask that our dates not be overlapped with any others. This would allow us more opportunity to secure the necessary elements(vendors,etc.).

We look to you Mr. Harris at this time to help us preserve something that we proudly support and we thank you for your time and considerations.

Very Truly Yours,

Gerald & Karen Howard
1393 Main St., Ferndale, Ca.

Chris & Elaine Crawford
3144 Broadway #4-400, Eureka, CA 95501
Email: crawfordca@aol.com, Tel: 707-443-1944

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95826

Dear Mr. Harris:

HUMBOLDT COUNTY FAIR HORSE RACING SCHEDULE

We as horse racing fans and the local business community urge your Board NOT to schedule racing dates in the 2010 season that overlap with other venues.

Horse racing is a long tradition in Humboldt County. Joe Russ' grandfather and his colleagues used to race horses down Ferndale's Main Street before there was a county fair or a Horse Racing Board. Since the county fair is 114 years old, this shows how deep rooted the sport is to the North Coast.

Overlapping racing dates would place a severe logistic and resource strain on every aspect of racing, not the least of which is the ability to attract exciting fields of thoroughbreds, Arabians and mules.

Not only do our locals and visitors turn out in impressive numbers each year, the owners, trainers and jockeys thoroughly enjoy the meet here where "God's air conditioner" is a welcome relief to the summer heat, and livestock is a way of life.

Keep this long standing tradition alive, and keep the spirit of camaraderie, fellowship, sportsmanship and gaming in the noble *sport of kings*.

Thank you for your consideration.



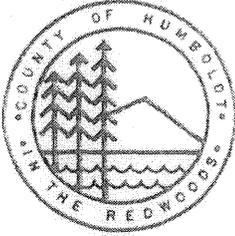
Chris Crawford
(President, Greater Eureka Chamber of Commerce)

Sincerely,



Elaine Crawford

cc: Stuart Titus, General Manager – Humboldt County Fair



TREASURER AND TAX COLLECTOR
COUNTY OF HUMBOLDT

825 FIFTH STREET

EUREKA, CALIFORNIA 95501

PHONE [707] 476-2450

December 21, 2009

John Harris, Chairman
 California Horse Racing Board
 1010 Hurley Way, Suite 300
 Sacramento CA 95826

Dear Chairman Harris and Members:

Please adopt non-overlapped racing dates for the Humboldt County Fair in 2010. As County Treasurer I have been ex-officio Treasurer for the Humboldt County Fair Board for more than 37 years. It has made me aware of the importance of horse racing revenue to the County Fair. Your decision is vital to the financial health of this (long-standing) Fair.

Humboldt County horse racing has not suffered the large decline in interest experienced in much of the U.S. I feel that viewing attendance, revenue, and participation by horse owners would increase with a non-overlapped racing schedule. The result would be beneficial to all involved, including your board.

County fairs still hold appeal to the residents in Humboldt County. It is a time to see old friends along with the opportunity to see livestock, poultry, horticulture, art, stitchery, culinary arts, and many other local crafts. Horse racing is a huge attraction and serves to be one of the major magnets drawing people to the fair. The carnival always attracts young children.

I believe that the County Fair is one of the most wholesome activities available to all ages, and they look forward to attending and having a good time. Horse racing is clearly the attraction that draws the most adults. Recognizing this fact, decision makers should do everything possible to promote the viability of horse racing during the fair.

Your board must balance all the facts in setting the direction and policy of horse racing in California. My hope is that you understand that Humboldt County does not offer the wide array of activities found in other parts of California. The County Fair remains a vital part of local activities and we would welcome the opportunity to expand the enjoyment of increased horse racing activity in Humboldt County.

Thank you for your consideration.

Stephen A. Strawn
 Treasurer-Tax Collector
 Humboldt County

Dec. 28,2009

TO: Seven CHRB Commissioners,

I am writing to you about the 2010 live horse racing in August at Ferndale, CA.

I urge you all to please provide our fair with at least ONE WEEK of racing that does not run simultaneously with another CA fair.

Live horse racing has been a 114 year old event here in Humboldt County. Many people here attend racing not only to bet --but to renew yearly acquaintances. There are many who bring their trailers or stay in motels during racing.

I urge you to please consider this request of having at least one week of live racing --that is not shared with another CA fair.

Sincerely,

*Barbara Randle
4359 Elk River Rd
Eureka, CA 95503*

COMMITTEES
 CHAIR, ENVIRONMENTAL, SAFETY
 AND TOXIC MATERIALS
 BUDGET
 BUDGET SUBCOMMITTEE #2
 BUDGET SUBCOMMITTEE #4
 GOVERNMENTAL ORGANIZATION
 NATURAL RESOURCES
 SELECT COMMITTEE ON DISABILITIES

Assembly
 California Legislature



WESLEY CHESBRO
 ASSEMBLYMEMBER, FIRST DISTRICT

STATE CAPITOL
 P.O. BOX 942849
 SACRAMENTO, CA 94249-0001
 (916) 319-2001
 FAX (916) 319-2101
 DISTRICT OFFICES
 710 E. STREET, SUITE 150
 EUREKA, CA 95501
 (707) 445-7014
 FAX (707) 445-6607
 50 "D" STREET, SUITE 450
 SANTA ROSA, CA 95404
 (707) 576-2526
 FAX (707) 576-2297
 311 N. STATE STREET
 UKIAH, CA 95482
 (707) 463-5770
 FAX (707) 463-5773

December 22, 2009

John Harris, Chair
 California Horse Racing Board
 1010 Hurley Way, Suite 300
 Sacramento, CA 95825

Dear Chairman Harris and Members:

I am writing to strongly urge you to reject the proposed allocation of the 2010 race dates which is scheduled for action by the Board at its January meeting in Arcadia.

It is our understanding that a proposal has been submitted to the California Horse Racing Board (CHRB) which suggests that simultaneous race dates be allocated to the Humboldt, Sonoma and Alameda County Fairs, the first time ever that such a proposed race schedule has been proposed.

While Humboldt has received certain promises that this schedule is viable, there is no compelling evidence which might otherwise support such claims. In fact, both the historical and current trends of horse racing suggest just the opposite. Proposing race dates, to be conducted concurrently at Humboldt and either the Sonoma or Alameda County Fairs, is a risk that Humboldt cannot afford to take.

In reading the minutes from the CHRB's November 17, 2009 meeting, I've learned that various parties were directed by the board to consider non-overlapped race dates for Humboldt, or to discuss possible financial considerations which might assist Humboldt in the case of concurrent race dates. The proposal submitted by CARF, Golden Gate Fields, the TOC and CTT, is indicative of the fact that no such considerations were offered.

Horse racing is the centerpiece for the Humboldt County Fair. For its entire history, Humboldt has worked cooperatively within the industry and has always found a way to survive. The proposal currently before the CHRB offers no hope whatsoever that Humboldt will succeed in 2010, or beyond.

Insofar as it is the CHRB's responsibility to represent the best interests of every entity involved in the business of horse racing, and given that the financial impact of an overlapping race schedule on the Humboldt County Fair in Ferndale could be financially devastating, I strongly urge you to reject this proposed race date allocation. In addition, I would hope that you will direct staff, once again, to develop a proposal that ensures non-overlapped race dates for Humboldt.

Thank you so much for your consideration of my request. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Wesley Chesbro", with a long horizontal flourish extending to the right.

WESLEY CHESBRO
Assemblymember, District 01

cc: Kirk Breed, Executive Director
David Israel, Vice Chair
Jesse H Choper,
Keith Brackpool
Richard A. Rosenberg
Jerome S. Moss
Bo Derek

RECEIVED
CHRB

2009 DEC 28 AM 3:00

December 28, 2009

John Harris, Chairman
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Chairman Harris,

Please accept this letter as requesting that the Humboldt County Fair Association be allocated non-overlapped racing dates for 2010.

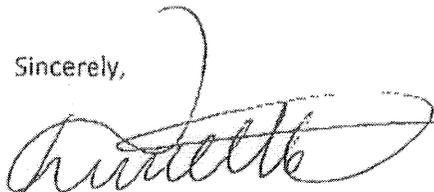
The significant decrease in the owner, trainer and horse components of the industry reflects only the beginning of the challenges regarding overlapped dates. The most recent proposals submitted to the Board include elements which would place additional strain on the system, such that Humboldt would be destined to failure.

Pari-Mutual Clerks, Starting Gate Crews and Racing Office personnel are among the categories that would be strained, particularly if Humboldt is overlapped by Santa Rosa, Pleasanton, or both.

It is our sincere desire to free our operation of a set of subsidies which sustain our program. Currently, Humboldt relies on approximately \$350,000.00 in subsidized funding. Should we receive exclusive race dates, those funds could be returned to their sources of origin, thus directly benefiting the industry. We also believe that the allocation of exclusive race dates to Humboldt would indirectly benefit the industry, because of enhanced racing in the immediate, subsequent weeks.

With all due respect to the Board's authority to allocate racing dates, we are nonetheless compelled to inform you that a continuation of overlapped dates will lead to an early demise of the Humboldt County Fair.

Sincerely,



Ken Christen, Director
Humboldt County Fair

December 26, 2009

California Horse Racing Board
1010 Harley Way Suite 300
Sacramento, Ca. 95825

To Whom It May Concern;

I am writing concerning your upcoming decision about horse racing dates at County Fairs for the 2010 year.

I am certainly no expert in this area; however, I would certainly hope that in this time of economic downturn, that a schedule could be created that would support each local community without overlap of horse racing dates.

Living in Ferndale, with its economic base closely related to the dairy industry, and the current bankruptcy of the big local creamery due to the alleged fraud of the CEO, has left this community reeling economically. It would be another big blow to lose horseracing dates that were not independent of other horseracing dates in California. My guess is that other local communities have their own financial woes and could argue that they need independent dates also.

I hope, that in your wisdom of the big picture, you can craft a schedule that would do the least damage to any community, including Ferndale.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Maxwell", with a long horizontal flourish extending to the right.

Linda Maxwell

John Harris, Chairman
 California Horse Racing Board
 1010 Hurley Way
 Sacramento, Ca. 95825

Dear Mr. Harris and Members:

This letter is a request that the Humboldt County Fair Association be allocated non-overlapping dates for 2010.

I have lived in Ferndale for 63 years – my family since 1901. For all that time, the fair has been the centerpiece around which the rest of the year is measured. Events are said to have occurred before the fair, after the fair or during the fair. Weddings, reunions, vacations – all are planned with the fair dates in mind. Ferndale is a town of 1,500 people, and there is no racing venue in California where horse racing has such a dominant impact on the economic and social fabric of a community. Without the attendance derived from racing, the fair cannot continue in its current format.

Ferndale is the only track in California that showed increases in handle and attendance last year. A town of 1,500 and a county of under 150,000 provided more on track fans than visit Golden Gate Fields on an average day. Trainers, Jockeys and owners love coming to Ferndale for the feeling of excitement and the widespread love of the sport that they see around them.

Please – do the right thing – grant Ferndale non-overlapping dates and allow the fair to grow and prosper. If you have never attended our race meet – visit Ferndale in August and experience a solid example of the enthusiasm and support that is unrivaled at any other track in the state,

Sincerely,

Donald Andersen
 Box 872
 Ferndale, Ca.
 707 786 4339
 95536

I have forwarded copies of this letter to all board members and congressman Thompson and state rep. Wiggins. Good luck, let me know if there is anything else would be of help.

DA

2010 SOUTHERN CALIFORNIA RACE DATES

December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					25	26
27	28	29	30	31		

Legend:

Del Mar 37 HP Fall 35

LATC 83

Fairplex 15

HP - Spring 65

January						
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2010 CAL EXPO HARNESS RACE DATES

Cal Expo Harness 90 (First Meet)

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12/29/09 Approved to cancel 1/31, 2/14, 2/21, 2/28, 3/7, 3/14, 3/21, 3/28 and added 1/27, 2/3, 2/10, 2/24, 3/3, 3/10, 3/17, 3/24, 3/31

Subject to Modification

Board Meeting 1/15/10

2010 LOS ALAMITOS RACE DATES

Los Alamitos 203

December

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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27	28	29	30	31		

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January

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November

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April

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August

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December

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12

DISCUSSION AND ACTION BY THE BOARD REGARDING THE
UPDATE FROM THE LOS ANGELES TURF CLUB, INC., OPERATING AT
SANTA ANITA PARK AND THE SIGNIFICANCE OF THE BANKRUPTCY
FILING OF MAGNA ENTERTAINMENT CORPORATION ON ITS
RACING OPERATIONS AND THE STATUS OF STATUTORY FUNDS
THAT MAY STILL BE OWED MONEY FROM PRE AND POST
BANKRUPTCY ACCOUNTS

Regular Board Meeting
January 15, 2010

BACKGROUND

On March 5, 2009, Magna Entertainment Corporation (MEC) filed voluntary petitions for relief under Chapter 11 of the US Bankruptcy Code. At the March 19, 2009, Regular Board Meeting, the Board discussed the significance of the bankruptcy filing of MEC on its subsidiaries operating in California, Los Angeles Turf Club, Inc., and Pacific Racing Association. At its April 24, 2009, and June 5, 2009, Regular Meetings, the Board heard presentations by MEC representatives and interested parties regarding the progress of the bankruptcy proceedings and the sale of certain MEC California assets.

At the June 5, 2009, Regular Board Meeting MEC representatives reported that definitive bids for the assets identified for sale were to be filed on July 31, 2009. The bids would be evaluated between July 31, 2009 and August 7, 2009, to determine the highest and best offer, which would then be designated the stalking horse bidder for the particular asset or group of assets. On September 8, 2009, a bidding auction would allow other parties to offer higher bids or better terms than the stalking horse bid. The auction would result in the final successful bidder for any asset or assets; however, the bankruptcy court would ultimately decide whether it would approve the winning bidder. The Board also heard an extensive discussion regarding an industry petition that was filed with the bankruptcy court to force the distribution of pre-petition funds, such as advance deposit wagering fees and satellite wagering fees, and MEC's objection to the petition. The Board urged the parties to present their positions: why MEC felt its objection to the petition was appropriate, and why the industry believed the funds owed were different from funds owed general creditors and should have a priority position.

At its July 23, 2009 Regular Meeting the Board heard from representatives of MEC regarding the MEC bankruptcy proceedings. The dates for the bidding auction process, as reported at the June 5, 2009, Regular Board Meeting, had not changed. The Board was informed that industry and Board staff met with MEC representatives to discuss the Southern California Off Track Wagering, Inc. claims; however, no resolution was reached. An extensive discussion of payment of priority claims was heard. Priority tax claims and claims for fees would be paid in full over a five-year period with interest at the prevailing interest rate. The Board was informed that the State had filed its proofs of claim regarding taxes and fees owed it by MEC.

At the August 27, 2009, Regular Board Meeting an MEC representative reported that Mi Developments, Inc. (MID), MEC's principal creditor, filed a proposed modified credit agreement

with the Ontario, Canada, Securities Commission. The agreement would be heard in mid-September 2009, and would add up to \$28 million to the MEC loan that was currently in place. The additional funds would extend MEC's operational abilities through April 2010, and allow MEC to continue its operations and meet its obligations. The agreement contained milestones that pertained to some of MEC's California operations: 1) by October 31, 2009, MEC would obtain bankruptcy court orders approving the sale of various assets, including XpressBet and AmTote; 2) by November 30, 2009, there would be a sales order in place with respect to Golden Gate Fields and Santa Anita Park Race Track. MID reserved the right to credit bid on Golden Gate Fields and Santa Anita Park Race Track if it believed the sale price was not adequate. By mid-September 2009 MEC would know the extent to which the amended credit arrangement would be in place, which should provide a sense of MEC's ability to meet its obligations going forward.

At the October 15, 2009, Regular Board Meeting an MEC representative stated that on October 14, 2009, a bankruptcy court hearing was held in Delaware. The court heard a motion regarding a \$26 million credit agreement between MID and MEC, which would provide funds to allow MEC to operate through April 2010. One of the creditors had some questions, so the court granted an additional three weeks to confirm that there were no issues. The motion would be reheard on October 28, 2009. In the interim, the court granted MEC \$2 million under the MID credit agreement to allow MEC to meet its obligations through the balance of October 2009. The court did not deal with auction deadlines for Golden Gate Fields and Santa Anita Park Race Track. In addition, the MEC representative reported MEC paid its tax obligations to the State of California. The payment satisfied all outstanding pre-petition tax obligations.

At the November 17, 2009 Regular Board Meeting a representative of MEC reported that the motion to amend the credit agreement between MID and MEC was approved in late October 2009. The agreement would provide MEC with \$26 million and allow it to operate through April 2010. A February 10, 2010 deadline was set for receipt of definitive bids on Santa Anita Park Race Track and Golden Gate Fields. A stalking horse bidder for each of the properties would be announced by February 17, 2010 and an auction would be held on February 25, 2010, at which time a sale order would be entered by the court. In addition, bids were being solicited for the sale of the advance deposit wagering provider, XpressBet. Once the sale order was entered, the buyer would proceed to obtain the Board's approval for ownership.

RECOMMENDATION

This item is presented for Board discussion and action

CALIFORNIA HORSE RACING BOARD

JANUARY 15, 2010
REGULAR BOARD MEETING

There is no board package material for Item 13

CALIFORNIA HORSE RACING BOARD

JANUARY 15, 2010
REGULAR BOARD MEETING

There is no board package material for Item 14