CALIFORNIA HORSE RACING BOARD
1010 Hurley Way, Suite 300
Sacramento, CA 95825
www.chrb.ca.gov
(916) 263-6000 Fax (916) 263-6042

PARI-MUTUEL/ADW AND SIMULCAST COMMITTEE MEETING

of the **California Horse Racing Board** will be held on **Wednesday, August 21, 2013,** commencing at **9:30 a.m.,** at the **Del Mar Surfside Race Place, (Downstairs General Admission Area) 2260 Jimmy Durante Blvd., Del Mar,** California. Non-committee Board members attending the committee meeting may not participate in the public discussion, official committee vote, or committee closed session.

AGENDA

Agenda Items

1. Discussion and action regarding the **night industry's advance deposit wagering (ADW) imports split rate on races conducted after 6:00 pm during the 2013 racing year.**

2. Discussion and action regarding the **allocation and distribution of advance deposit wagering (ADW) harness funds generated pursuant to Business and Professions Code section 19604(f)(5).**

3. Discussion and action on the report from **Southern California Off Track Wagering, Inc. (SCOTWINC) regarding its overall operations.**

4. Discussion and action on the report from **Northern California Off Track Wagering, Inc. (NCOTWINC) regarding its overall operations.**

5. **General Business:** Communications, reports, requests for future actions of the Committee.

Additional information regarding this meeting may be obtained from Mike Marten at the CHRB Office at Los Alamitos Race Course, 4961 E. Katella Avenue, Los Alamitos, CA, 90720; telephone (714) 820-2748; cell (714) 240-1870; fax (714) 821-6232. A copy of this notice can be located on the CHRB website at www.chrb.ca.gov. *Information for requesting disability related accommodation for persons with a disability who requires aids or services in order to participate in this public meeting, should contact Mike Marten.

PARI-MUTUEL/ADW AND SIMULCAST COMMITTEE
Commissioner Richard Rosenberg, Chairman
Commissioner Jesse H. Choper, Member
Jacqueline Wagner, Assistant Executive Director

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING THE NIGHT INDUSTRY'S ADVANCE DEPOSIT WAGERING (ADW) IMPORTS SPLIT RATE ON RACES CONDUCTED AFTER 6:00 PM DURING THE 2013 RACING YEAR

Pari-Mutuel/ADW and Simulcast Committee Meeting
August 21, 2013

BACKGROUND

Business Code section 19604 (f) (5) (C) states "Notwithstanding any provisions of this section to the contrary, with respect to wagers on out-of-state and out-of-country thoroughbred races conducted after 6 p.m., Pacific time, 50 percent of the amount remaining shall be distributed as commissions to thoroughbred associations and racing fairs, as thoroughbred and fair purses, and as incentive awards in accordance with subparagraph (A), and the remaining 50 percent, together with the total amount remaining from advance deposit wagering originating from California out-of-state and out-of-country harness and quarter horse races conducted after 6 p.m., Pacific time, shall be distributed as commissions on a pro rata basis to the applicable licensed quarter horse association and the applicable licensed harness association, based upon the amount handled in state, both on- and off-track, on each breed's own live races in the previous year by that association, or its predecessor association. One-half of the amounts thereby received by each association shall be retained by that association as a commission, and the other half of the money received shall be distributed as purses to the horsemen participating in its current or next scheduled licensed racing meeting."

ANALYSIS

Historically the quarter horse meet conducted at Los Alamitos Race Course (LARC) includes races of Arabian, thoroughbred and quarter horse breeds. Table 1 shows the LARC racing breeds from 2008 thought 2012 (Source: CHRIMS). Thoroughbred racing at LARC in 2008 was 470 races, 478 in 2009, 413 in 2010, 450 in 2011, and 385 races for 2012.

Table 1. Number of races by the breed at LARC.

Race Year	Quarter	Thoroughbred	Arabian
2012	1028	385	n/a
2011	1058	450	n/a
2010	1036	413	n/a
2009	1290	478	50
2008	1263	470	130

Currently the manner in which the California Horse Racing Information Management System (CHRIMS) calculates the split of the remaining 50 percent of ADW out of state and out of country harness and quarter horse racing conducted after 6:00 p.m. on the amount handled in state on and off-track is based on the meet rather than the breed as stated on the Business and

Professions Code section 19604(f)(5)(C). Table 2 below shows the split rate using the breed (Source: CHRIMS).

Table 2. Split percentage based on the handle.

Race Year	Percentages for Quarter	Percentages for Harness
2012	70.49%	29.51%
2011	62.11%	37.89%
2010	59.00%	41.00%
2009	58.15%	41.85%
2008	58.87%	41.13%

Table 3 shows percentages calculated by meet, which also includes thoroughbred races run at LARC (Source: CHRIMS).

Table 3. Split percentage based on meet handle.

Race Year	Percentages for Quarter	Percentages for Harness
2012	76.60%	23.40%
2011	70.28%	29.72%
2010	67.01%	32.99%
2009	66.29%	33.71%
2008	67.55%	32.45%

The split percentage calculated based on the meet allows LARC to claim a higher percentage rate which translate into higher commissions and purses.

RECOMMENDATION

This item is presented for committee discussion and action.

August 14, 2013

Commissioners Rosenberg and Choper
Pari-mutuel/ADW and Simulcast Committee
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Commissioners:

The agenda for your August 21st meeting includes the night industry's ADW imports split on races conducted after 6:00pm during the 2013 racing year and the allocation and distribution of incentive awards.

The following comments are intended to provide some historic reference:

Since the inception of advanced deposit wagering in 2001 the subject races have been allocated based on the total instate live handle of the respective association in the prior year. Los Alamitos races numerous breeds during a meet ranging from a maximum of 6 breeds to a minimum of 2. The quarter horse portion has ranged from 74.9% in 2001 to 66.5% in 2011. The allocation, based on total handle, has been reviewed and approved by each association on an annual basis.

Incentive awards on said races are not provided for under Section 19604 (f)(5).

Attached are the following:

A summary of our total instate live handle by breed for the years 2000 through 2012.

A letter from Mr.Daniel Schiffer attorney for Pacific Coast Quarter Horse Racing Association discussing incentive awards.

I look forward to discussing any questions or comments you have

Yours truly,

Richard M. English

4961 Katella Avenue • Los Alamitos, CA 90720 • *phone* 714-820-2800 • *fax* 714-820-2820

Los Alamitos Quarter Horse Racing Association

Total Instate Live Handle (All Brick & Mortar)

year ended 12/26 Breed	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Appaloosa	1,904,754	1,261,679	311,740	269,928	61,865	-	-	-	-	-	-	-	-
Arabian	14,975,136	13,241,463	11,260,509	12,543,662	13,020,903	11,654,892	11,369,719	9,878,467	9,889,707	3,791,488	-	-	-
Mule	-	-	-	177,008	416,745	-	-	-	-	-	-	-	-
Paint	599,605	1,510,089	1,400,543	1,876,581	1,469,094	1,496,502	990,392	116,633	-	-	-	-	-
Quarter horse	97,972,763	129,085,953	120,679,750	119,647,572	126,969,403	123,499,396	120,255,966	128,553,230	114,794,526	106,409,624	89,565,604	84,252,986	78,009,019
Thoroughbred	17,089,789	27,286,766	30,171,535	28,229,787	35,717,368	33,638,032	39,480,013	44,505,049	44,916,257	44,073,415	41,771,433	42,467,910	33,773,876
total	132,542,046	172,385,950	163,824,076	162,744,539	177,655,377	170,288,822	172,096,091	183,053,379	169,600,490	154,274,527	131,357,037	126,720,896	111,782,895
Quarter horse	73.9%	74.9%	73.7%	73.5%	71.5%	72.5%	69.9%	70.2%	67.7%	69.0%	68.2%	66.5%	69.8%

LAW OFFICE OF DANIEL Q. SCHIFFER
215 N Marengo Avenue
Suite # 346
Pasadena CA 91101
(626) 844-0097
danielqschiffer@gmail.com

Monday, August 12, 2013

California Horse Racing Board

Dear Members of the Board:

CHHA has asserted a claim as to certain moneys being distributed to the PCQHRA by Los Alamitos in the form of incentive awards resulting from a portion of the handle from ADW betting on shared out-of-state and out-of-country harness and quarter horse races conducted after 6 p.m.

Certain monies, as defined in B& P C, section 19604(f)(5), are divided by formula and then distributed according to that formula to the racing associations (i.e. 70% to Los Alamitos and 30% to CHHA). The section in question contains no reference to "incentive awards" in its language. CHHA is asserting that prior to the division, in calculating the division of those moneys, the statutory incentive awards should be deducted from the gross amount of moneys in that fund that, and, in addition to their 30% of the fund, their share of these incentive funds should be paid to the harness industry. PCQHRA and Los Alamitos dispute the CHHA position.

The applicable code section does not specifically earmark incentive award funds (as opposed to other parts of this code section which specifically address incentive awards when they are being distributed from the various pools). Looking at the language in the same section of 19604(f)(5)(C), discussing the division of funds for thoroughbred races, which begins with the same language used in reference to the division in question (i.e., "notwithstanding anything to the contrary…"), there is language specifically including the entitlement to incentive awards. To the contrary the next sentence of the same section, discussing the division in harness and quarter horse races, there is <u>no</u> inclusion of a provision for incentive awards. Had the legislature wanted incentive awards to be a part of this division they would have drafted the legislation to include specific language mandating that the incentive awards be a part

of the equation just as they did when creating the formula for the division of monies generated in the thoroughbred races.

B& P C, section 19604 (ADW) has been in place since 2001 and all parties have been operating under that law without controversy and without any objection by CHHA until this controversy was raised by them on the eve of the distribution of the 2012 moneys. CHHA's acquiescence to the interpretation of the statute sets a precedent for its validity. With all due respect to the position taken by CHHA it is PCQHRA's position is that CHHA has not presented a colorable argument that in any way substantiates a different position. Therefore, because CHHA has failed to timely raise a colorable claim, PCQHRA is requesting that the CHRB exercise its powers under B& P C, section 19440 and determine that neither Los Alamitos nor PCQHRA shall have further liability to CHHA or anyone affiliated with the harness industry as a result of prior distributions nor shall the parties alter the historical distribution in the future.

Respectfully Submitted,

DANIEL Q. SCHIFFER, ESQ.
Attorney on behalf of the PCQHRA

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING THE ALLOCATION AND DISTRIBUTION OF ADVANCE DEPOSIT WAGERING (ADW) HARNESS FUNDS GENERATED PURSUANT TO BUSINESS AND PROFESSION CODE SECTION 19604(f)(5)

Pari-Mutuel/ADW and Simulcast Committee meeting
August 21, 2013

BACKGROUND

Business and Profession Code section 19604(f)(5)(A) states that with respect to wagers on each breed of racing, the amount remaining shall be distributed to the racing association or fair that is conducting live racing on that breed during the calendar period in the zone which the wager originated. That amount shall be allocated to that racing association or fair as commissions, to horsemen participating in that racing meeting in the form of purses, and as incentive awards, in that same relative proportion as they were generated or earned during the prior calendar year at that racing association or fair on races conducted or imported by that racing association or fair after making all deductions required by applicable law.

Business and Profession Code section 19604(f)(5)(C) states that notwithstanding any provisions of this section to the contrary, with respect to wagers on out-of-state and out-of-country thoroughbred races conducted after 6 p.m., Pacific time, 50 percent of the amount remaining shall be distributed as commissions to thoroughbred associations and racing fairs, as thoroughbred and fair purses, and as incentive awards in accordance with subparagraph (A), and the remaining 50 percent, together with the total amount remaining from advance deposit wagering originating from California out-of-state and out-of-country harness and quarter horse races conducted after 6 p.m., Pacific time, shall be distributed as commissions on a pro rata basis to the applicable licensed quarter horse association and the applicable licensed harness association, based upon the amount handled in state, both on- and off-track, on each breed's own live races in the previous year by that association, or its predecessor association. One-half of the amount thereby received by each association shall be retained by that association as a commission, and the other half of the money received shall be distributed as purses to the horsemen participating in its current or next scheduled licensed racing meeting.

ANALYSIS

Historically, the racing fairs and associations had made distributions on incentive awards to each breed pursuant to Business and Profession Code section 19604(f)(5)(A). For instance, Cal Expo Harness paid the incentive award to the quarter horse and thoroughbred breeds; similarly Pacific Coast Quarter Horse Racing Association (PCQHRA) pays the thoroughbred breeder fee. However, PCQHRA did not pay the same fee to the harness industry on the grounds that the horse racing law does require it to pay such fee.

The California Standardbred Sires Stakes Committee (CSSSC) is the Board recognized standarbred breed organization. The CSSSC mailed a letter to the Board July 30, 2012 indicating

that the PCQHRA had not paid the breakage and purse pools on harness meet operation. As of March 2008 to 2011, about $102,217.63 is still outstanding from PCQHRA.

The California Horse Racing Board held a meeting on December 11, 2012 with the CSSSC and the PCQHRA to learn why the PCQHRA did not pay the harness breed fee. PCQHRA believes that 19604(f)(5)(C) gave it an exception. On the other hand the CSSSC argues that the Business and Professions Code section 19604(f)(5)(A) should apply since it states it addresses the breeder fee.

When Cal Expo Harness ceased its activities as the harness operator, it had a balance of $25,374.22 due to the quarter horse breeder organization. That amount is currently held by the CHRB in an escrow account pending resolution of this issue. The amount is inclusive of all the years Cal Expo Harness was the operator of the harness meet after the Sacramento Harness Association went bankrupt.

RECOMMENDATION

This item is presented for committee discussion.

STAFF ANALYSIS
DISCUSSION AND ACTION ON THE REPORT FROM SOUTHERN CALIFORNIA OFF-TRACK WAGERING, INC. (SCOTWINC) REGARDING ITS OVERALL OPERATIONS

Pari-Mutuel, ADW, and Simulcast Committee Meeting
August 21, 2013

BACKGROUND

Business and Professions Code section 19608 requires an association other than a fair that conducts a horseracing meeting with an average daily handle of $1,500,000 or more to produce a live audiovisual signal of its racing program, and to make this signal available, in accordance to the law, to any satellite wagering facility authorized to conduct wagering. Business and Professions Code section 19608.1 allows any fair or any association with an average daily handle of less than $1,500,000 to produce a live audiovisual signal of its racing program. If the fair or association chooses to produce a signal of its program, the signal shall be made available, in accordance with the law, to any satellite wagering facility authorized to conduct wagering.

Business and Professions Code section 19608.2 authorizes associations and fairs providing audiovisual signals pursuant to Section 19608 or 19608.1 to form an organization to operate, under Board supervision, the audiovisual signal system. The organization may consist of any combination of associations and fairs and it must provide horsemen's organizations contracting with associations and fairs for racing meetings, and non-racing fairs operating satellite wagering facilities, meaningful representation on its governing board. Any organization formed is responsible for administering the audiovisual signal and pari-mutuel operations at satellite wagering facilities and must bear the costs of operating the audiovisual signal system. These costs include:

1. Leasing or purchasing, and operation of equipment for transmission and decoding of audiovisual signals and wagering data.
2. Totalisator equipment, mutual department labor and equipment charges.
3. The organization administering the satellite wagering program, including labor, and overhead.

The primary funding of a simulcast organization's operational expenses changed with the signing of Assembly Bill 1575 (Chapter 650, Statutes of 2009). Prior to this bill the law (Business and Professions Code sections 19605.7 and 19605.71) provided that for thoroughbred meetings, *2.5 percent or the amount of actual operating expenses*, as determined by the board, whichever is less, shall be distributed to a simulcast organization. The amended law allows the simulcast organization the flexibility to petition the Board to increase the amount distributed for operating expenses to an amount not to exceed 4 percent of the amount handled by satellite wagering facilities on conventional and exotic wagers. An increase in the amount distributed would require the mutual consent of the racing association, the organization representing the horsemen participating in the meeting, and the Board – and may only occur between January 1, 2010, until December 31, 2013. Any amount greater than the current amount deducted, but not exceeding 4

percent, must be approved by the Board for no more than 12 months at a time, and only upon a determination by the Board that the greater amount is in the economic interest of thoroughbred racing.

Southern California Off-Track Wagering, Inc. (SCOTWINC) was formed as a California limited partnership in 1988, pursuant to California Business and Professions Code section 19608.2, for the purpose of administering simultaneous broadcasts, via satellite, of horse racing meets to satellite wagering facilities.

Representatives of SCOTWINC are prepared to make a presentation to the Committee explaining their membership, background, purpose, and goals.

STAFF ANALYSIS
DISCUSSION AND ACTION ON THE REPORT FROM NOTHERN CALIFORNIA OFF-TRACK WAGERING, INC. (NOTWINC) REGARDING ITS OVERALL OPERATIONS

Pari-Mutuel, ADW, and Simulcast Committee Meeting
August 21, 2013

BACKGROUND

Business and Professions Code section 19608 requires an association other than a fair that conducts a horseracing meeting with an average daily handle of $1,500,000 or more to produce a live audiovisual signal of its racing program, and to make this signal available, in accordance to the law, to any satellite wagering facility authorized to conduct wagering. Business and Professions Code section 19608.1 allows any fair or any association with an average daily handle of less than $1,500,000 to produce a live audiovisual signal of its racing program. If the fair or association chooses to produce a signal of its program, the signal shall be made available, in accordance with the law, to any satellite wagering facility authorized to conduct wagering.

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1. Leasing or purchasing, and operation of equipment for transmission and decoding of audiovisual signals and wagering data.
2. Totalisator equipment, mutual department labor and equipment charges.
3. The organization administering the satellite wagering program, including labor, and overhead.

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percent, must be approved by the Board for no more than 12 months at a time, and only upon a determination by the Board that the greater amount is in the economic interest of thoroughbred racing.

Northern California Off-Track Wagering, Inc. (NOTWINC) was formed as a California limited partnership pursuant to California Business and Professions Code section 19608.2, for the purpose of administering simultaneous broadcasts, via satellite, of horse racing meets to satellite wagering facilities.

Representatives of NOTWINC are prepared to make a presentation to the Committee explaining their membership, background, purpose, and goals.