

MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

In the Matter of)
)
Exchange Wagering)
Ad Hoc Committee)
_____)

DEL MAR SURFSIDE RACE PLACE
GENERAL ADMISSION AREA
2260 JIMMY DURANTE BOULEVARD
DEL MAR, CALIFORNIA

WEDNESDAY, AUGUST 22, 2012

10:00 A.M.

Reported by:

Martha L. Nelson, CERT 00367

APPEARANCES

COMMISSIONERS

David Israel, Chairperson

Richard Rosenberg

STAFF

Robert Miller, Staff Counsel

Jacqueline Wagner, Assistant Executive Director

Mike Marten

Bill Westerman, California Horse Racing Board

ALSO PRESENT

Brian O'Sullivan, Global Betting Exchange

Drew Couto, Couto & Associates

Tom Large, Betfair

Carlo Fisco, California Thoroughbred Trainers

Jack Owens, Thoroughbred Owners of California

John Hindman, Betfair/TVG

Tom Kennedy, Jockeys' Guild

Dennis Ehling, Blank Rome LLP

Scott Daruty, Santa Anita, Golden Gate Fields and XpressBet

Richard Specter, Los Angeles Turf Club/Pacific Racing Assoc.

John Bucalo, Barona Casino

Brad Blackwell, Twinpires

Ron Charles, Global Betting Exchange

APPEARANCES (CONT.)

ALSO PRESENT (CONT.)

Christopher Schick, Golden Bear Racing

Richard Castro, Local 280

Stephen Burn, TVG

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PAGEAction Items:

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|----|--|-----|
| 1. | Discussion and action by the committee regarding the proposed addition of Article 27, Exchange Wagering and the following proposed CHRB Rules governing exchange wagering in California: CHRB Rule 2086, Definitions; 2086.1, Authorization for Exchange Wagering; 2086.5, Application for License to Operate Exchange Wagering; 2086.6, Operating Plan Required; 2086.7, Exchange Wagering Data; 2086.8, Monitoring Systems and Notification; 2087, Suspending Markets; 2087.5, Antepost Market; 2087.6, Cancellation of Matched Wagers; 2088, Declared Entries; 2088.5, Cancellation of Unmatched Wagers; 2089, Error in Payments of Exchanges Wagers; 2089.5, Requirements to Establishing Exchange Wagering Account; 2090, Posting Credits for Winnings from Exchange Wagers; 2090.6, Withdrawals by Account Holder 2091.5, Suspending an Exchange Wagering Account; 2091.6, Powers of the Board to Review and Audit Records; 2092, Exchange Wagers Placed After the Start of a Race; 2092.5, Prohibitions on Wagers to Lay a Horse to Lose; 2092.6, Suspension of Occupational License and Rule 2093, Certain Practices Related to Exchange Wagering. | 2 |
| 2. | Public Comment: The committee affords an opportunity to members of the public to address the committee on items of interest that are within the committee's jurisdiction. | 114 |

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P R O C E E D I N G S

10:04 a.m.

PROCEEDINGS BEGIN AT 10:04 A.M.

(The meeting was called to order at 10:04 A.M.)

DEL MAR, CALIFORNIA, WEDNESDAY, AUGUST 22, 2012

MEETING BEGINS AT 10:04 A.M.

CHAIR ISRAEL: Okay. I'd like to try to call the meeting to order. This is the second meeting of the Exchange Wagering Ad Hoc Committee. I'm David Israel, and this is Richard Rosenberg.

Today's meeting is to discuss and listen to comment on the articles described in the agenda, and that's all. If there are comments about other aspects of the rules, which we hope to promulgate sometime before the end of the next century, we -- we can deal with those in the 45-day comment period that will follow whenever the rules are approved. But for the purposes of this meeting we'd like to stick solely to the changes and language that are described in the agenda.

And if you have anything to add --

COMMISSIONER ROSENBERG: No. That's fine.

CHAIR ISRAEL: -- we'll go -- I have comment cards. Towards the end Richard and I will actually discuss what changes we think need to be made. But first I think

1 it's wise for us to hear from all of you.

2 Robert, do you have anything to add?

3 MR. MILLER: No.

4 CHAIR ISRAEL: Okay. The first comment card is
5 from Brian O'Sullivan of Global Betting Exchange. And I
6 would ask that when you come to comment you state your name
7 and your affiliation, and limit your remarks to three
8 minutes please.

9 Is Brian O'Sullivan here?

10 MR. O'SULLIVAN: Yes.

11 CHAIR ISRAEL: Okay.

12 MR. O'SULLIVAN: Is this on? Do we need to turn
13 this on or --

14 CHAIR ISRAEL: You're on.

15 MR. O'SULLIVAN: Hello? Hello?

16 CHAIR ISRAEL: There you go.

17 MR. O'SULLIVAN: Okay. Good morning, Chairman,
18 Members of the Committee. Many thanks for -- for taking
19 time to listen to me here this morning. My name is Brian
20 O'Sullivan. I am the CEO of the Global Betting Exchange.

21 We are -- I'm sure you're well aware of the
22 world's number one exchange, but Global Betting Exchange is
23 the world's number two betting exchange. And we operate
24 under the Betdaq -- Betdaq.com exchange brand in Europe.

25 GBE was established by an Irish entrepreneur

1 Dermot Desmond in 2000 with a strategy to build a network of
2 betting exchanges in partnership with local operators in
3 countries and regions globally. Today GBE matches in excess
4 of \$7 billion U.S. in bets annually, and handles in excess
5 of 10 million bet orders per day. GBE is a technology
6 company and focuses investment in developing highly
7 efficient and cost effective exchange technology that can
8 allow partners to enter the exchange betting space on their
9 own terms and at a fraction of the cost, risk and time to
10 market.

11 Over the last number of months we've worked with
12 Ron Charles, who is well known to you, also Drew Couto,
13 who's -- who's well known to you also, to try and give as
14 much input as we could into the developing regulations and
15 rules here in California. The rules that are before the
16 committee today I think have been well developed. There's
17 been a lot of changes. I think that they have moved forward
18 well. But there are a number of comments in which -- which
19 we would like to make in relation to the rules as presented.

20 Chairman, would you like me just to deal with each
21 of the rules in turn or --

22 CHAIR ISRAEL: No. You can only deal with the
23 rules that are cited in the agenda.

24 MR. O'SULLIVAN: Okay. Are all the rules not
25 cited?

1 (Colloquy between Chair Israel and Commissioner
2 Rosenberg)

3 MS. WAGNER: I think they're all cited in here.

4 MR. O'SULLIVAN: Okay. I don't want to stray off
5 piece here. So if --

6 CHAIR ISRAEL: And you understand, it's a three-
7 minute period.

8 MR. O'SULLIVAN: Okay. Yeah. So how many minutes
9 have got left?

10 CHAIR ISRAEL: You have -- you've used up, and I
11 started the clock late, 100 -- a minute and 40 seconds.

12 MR. O'SULLIVAN: Okay.

13 CHAIR ISRAEL: So --

14 MR. O'SULLIVAN: Well, let's not -- there -- there
15 are three rules in particular, I think, that need to be
16 addressed. One is in relation to definition 2086(p) in
17 relation to best execution. We had made -- best execution
18 is where a bet at better odds will match a preexisting bet
19 at lower odds. Currently the regulations say only
20 identically opposed wagers may match --

21 COMMISSIONER ROSENBERG: Excuse me. What was that
22 number again?

23 CHAIR ISRAEL: 2086(p).

24 MR. O'SULLIVAN: 2086(p), P for peter.

25 (Colloquy Between Chair Israel and Commissioner

1 Rosenberg)

2 MR. O'SULLIVAN: It's a technical point, but --
3 but the way our exchanges operate in Europe there is an
4 opportunity for non-identically opposed wagers to match.
5 And it -- it frequently happens in normal operation.

6 The other area of concern is -- is in relation to
7 2081.6, the Canceling of Matched Wagers and it also in
8 relation to 2089, Errors and Exchange Payments. Particular
9 in relation to errors and exchange payments, we are
10 concerned that where an overpayment is made to an account --
11 account of error in payment, that that payment can not be
12 reclaimed by the operator. At the same time, where an
13 underpayment is made to an account the customer is put at a
14 disadvantage in the sense that the onus is on him or her to
15 come to the operator and make a claim in respect to that
16 payment.

17 CHAIR ISRAEL: Okay.

18 MR. O'SULLIVAN: If they don't make a claim
19 there's no obligation on the operator to -- to -- to remedy
20 the error.

21 CHAIR ISRAEL: Okay. We've hit the three minute
22 mark.

23 MR. O'SULLIVAN: Okay.

24 CHAIR ISRAEL: I -- I would suggest that there --
25 there's going to be at least one more 45-day comment period.

1 During that period please submit these specific technical
2 issues in writing to staff.

3 MR. O'SULLIVAN: Okay.

4 CHAIR ISRAEL: And then they -- they can be
5 reviewed and discussed at a future meeting.

6 COMMISSIONER ROSENBERG: I have a question. Are
7 you repeating -- are these new items or are you -- you
8 mentioning things that Mr. Couto mentioned on your behalf in
9 the -- in the documents he sent to the Board?

10 MR. O'SULLIVAN: I -- well, I think -- I think
11 both -- to be fair, I think they are in relation to the
12 comments made by the staff in relation to Mr. Couto's
13 comments. But there are also changes made in relations to
14 comments made by others which we are picking up on here.

15 So in relation to the documents circulated with
16 the minutes, these comments are in relation to those. So I
17 think it's in relation to the -- the regulations as
18 currently recommended by the staff.

19 COMMISSIONER ROSENBERG: I just think if in the
20 future that the next time we go through this exercise that
21 people really limit their -- their comments to -- limit
22 their submissions to not just the comments but the specific
23 language changes that they -- they want. And if it's -- if
24 it's in there we just chose not to -- staff chose not to
25 accept them, I guess. Okay.

1 MR. O'SULLIVAN: Okay.

2 COMMISSIONER ROSENBERG: Thank you.

3 MR. O'SULLIVAN: Thank you very much.

4 CHAIR ISRAEL: Drew Couto. So you're up. You're
5 up. We'll be on a familiar theme.

6 MR. COUTO: No. No. Good morning. We filled out
7 the cards not quite certain --

8 CHAIR ISRAEL: Drew, your name and affiliation.

9 MR. COUTO: Sure. Drew Couto, Couto and
10 Associates, here on behalf of GBE.

11 Just wanted to point out that we filled out the
12 card. We weren't certain what the process would be, if you
13 were going to go rule by rule, have discussion then. So
14 just filled out the card to -- to respond.

15 There's one additional issue that we would point
16 out based on a change that the -- that staff made regarding
17 scratched or declared horses. There was an additional word
18 put in -- unfortunately I don't have it in front of me.

19 Brian?

20 COMMISSIONER ROSENBERG: Scratched. It was, let
21 me see, 2088.

22 MR. COUTO: I think it's 209 --

23 COMMISSIONER ROSENBERG: Is that declared entries?

24 MR. COUTO: Yeah.

25 CHAIR ISRAEL: 2088 or 2085.

1 MR. COUTO: No, not 90(b), 2090(b).

2 MS. WAGNER: 2090(b).

3 CHAIR ISRAEL: 2090(b).

4 MR. COUTO: And what happened was there was the
5 additional of the rule antepost that staff selected, put in,
6 I think existing (b), which now limits the ability to -- to
7 settle an account of a scratched declared horse. It's now
8 limited to antepost. And so what's going to happen,
9 basically, is money is going to be tied up on scratched
10 horses that should be going back to players before the event
11 is run so that they can then have the money freed. It's --
12 it's inadvertent because it changed once you added the
13 antepost into the --

14 CHAIR ISRAEL: Explain the practical, how it
15 would --

16 MR. COUTO: Let me -- let me defer to Brian.
17 Brian can do it --

18 CHAIR ISRAEL: Okay.

19 MR. COUTO: -- much better than I can.

20 CHAIR ISRAEL: Give us an example of how this
21 would occur so we understand it.

22 COMMISSIONER ROSENBERG: Why doesn't Jackie sit by
23 the mike.

24 CHAIR ISRAEL: Yeah.

25 COMMISSIONER ROSENBERG: Jackie --

1 CHAIR ISRAEL: Jackie --

2 COMMISSIONER ROSENBERG: -- sit at the table.

3 CHAIR ISRAEL: -- sit at the table and you can --

4 MR. O'SULLIVAN: Sorry. I -- the point raised is
5 in relation -- there was a rule change in relation to the --
6 the payment on -- on the certainty of a result. And staff
7 made a change to limit the payment on certainty to a result
8 before the official result to an antepost wager.

9 Mr. Couto had -- had made an additional suggestion
10 in relation to a scratched entry, i.e. declared entry on the
11 day of the race who did not start the race. Typically
12 speaking, in the operation of an exchange we would settle
13 that bet and the -- the person who laid that stake would win
14 that bet, and there would be potential for that bet to be
15 paid out before the race result went off or, indeed, before
16 the race was declared official.

17 COMMISSIONER ROSENBERG: Could you give a specific
18 example so everybody understands?

19 MR. O'SULLIVAN: Well --

20 COMMISSIONER ROSENBERG: Take a race, take a
21 horse.

22 CHAIR ISRAEL: Come up with the name of a horse.

23 COMMISSIONER ROSENBERG: Yeah, come up with a
24 horse so it makes sense.

25 MR. O'SULLIVAN: Yeah. I laid a horse called

1 Drew's Fancy. I laid a horse at -- at 2-to-1 for \$100
2 stake. The horse would not go in the stalls and is
3 scratched before the race goes off. And the layer of that
4 bet who laid that horse there will win that bet before the
5 race has gone off, indeed, and before the race is declared
6 official. So the rule as proposed, Mr. Couto presumed
7 that -- that there would be an exception to the official
8 result standard, that that bet could be settled before an
9 official result because the scratching of the horse was a
10 certainty. And --

11 CHAIR ISRAEL: But wait, I'm confused. The horses
12 is a non-starter.

13 MS. WAGNER: Right.

14 COMMISSIONER ROSENBERG: Yeah.

15 CHAIR ISRAEL: Wouldn't that make the wager null
16 and void?

17 MS. WAGNER: Right.

18 MR. O'SULLIVAN: Not -- I'm sorry?

19 MS. WAGNER: Yes.

20 COMMISSIONER ROSENBERG: That's the way you do it?
21 You don't do it that way; is that what you're saying?

22 MR. O'SULLIVAN: We don't do it that way, exactly.
23 No.

24 COMMISSIONER ROSENBERG: Your exchange doesn't do
25 it?

1 MR. O'SULLIVAN: Yes.

2 CHAIR ISRAEL: Wait. Wait. So -- so the horse is
3 a non-starter, the wager still applies?

4 MR. O'SULLIVAN: If -- if the horse is a --

5 MS. WAGNER: No, it can't. There's no rule.

6 MR. O'SULLIVAN: Okay. I -- yeah.

7 CHAIR ISRAEL: You take antepost bets on what
8 races?

9 MR. O'SULLIVAN: Well, we take antepost bets -- it
10 depends on the quality of the race. So on larger field --
11 larger, higher-quality races we'll take antepost bets.

12 COMMISSIONER ROSENBERG: So say -- say Kentucky
13 Derby, give us an example.

14 MR. O'SULLIVAN: Yes.

15 COMMISSIONER ROSENBERG: Give us an example.

16 CHAIR ISRAEL: Well, I'll -- wait. I'll give you
17 a better example.

18 MR. O'SULLIVAN: Okay.

19 CHAIR ISRAEL: What would happen with Quality Road
20 in the Breeders' Cup Classic in 2009? That actually
21 happened. Quality Road would not load, ultimately was
22 scratched.

23 MR. O'SULLIVAN: Yes.

24 CHAIR ISRAEL: It was Todd Pletcher's horse. It
25 was the year Zenyatta won.

1 MR. O'SULLIVAN: Yes.

2 CHAIR ISRAEL: And it was a 10, 15 minutes delay
3 to the start of the race.

4 MR. O'SULLIVAN: Okay.

5 CHAIR ISRAEL: If -- if someone had laid --

6 MR. O'SULLIVAN: Okay.

7 CHAIR ISRAEL: -- Quality Road at whatever odds he
8 was --

9 MR. O'SULLIVAN: On -- on a day-of-the-race bet?

10 COMMISSIONER ROSENBERG: No.

11 CHAIR ISRAEL: Well --

12 COMMISSIONER ROSENBERG: No. No.

13 CHAIR ISRAEL: -- I'm just trying to understand.

14 MR. O'SULLIVAN: Yeah.

15 CHAIR ISRAEL: You know, I mean --

16 COMMISSIONER ROSENBERG: An antepost bet.

17 CHAIR ISRAEL: Well, antepost is the day of the
18 race before --

19 COMMISSIONER ROSENBERG: And he wouldn't start.

20 CHAIR ISRAEL: An antepost bet is any -- is any
21 bet made before --

22 MR. O'SULLIVAN: Yeah. I --

23 CHAIR ISRAEL: -- the entries are taken.

24 MR. O'SULLIVAN: Yeah. I think -- I think, in
25 fact, you correct.

1 COMMISSIONER ROSENBERG: Yes.

2 MR. O'SULLIVAN: With the antepost bet the -- the
3 race would -- would be -- if the -- if the entry is
4 scratched it would be a win for the layer of the horse. But
5 with a day-of-race bet the horse would be scratched, so
6 therefore the -- the bet would be void.

7 COMMISSIONER ROSENBERG: Thank you.

8 MR. O'SULLIVAN: Is that correct?

9 (Colloquy between Chair Israel and
10 Commissioner Rosenberg)

11 MR. COUTO: There's two things. We added that to
12 deal with the scratches in the -- in the --

13 CHAIR ISRAEL: I thought all an antepost bet was
14 about was whether the horse entered the race, that the day
15 the entries are closed --

16 COMMISSIONER ROSENBERG: That's right.

17 CHAIR ISRAEL: -- and the post positions are drawn
18 the horse is in the race and -- and the antepost bet is
19 determined and paid off. That's my understand of how the
20 bet works.

21 COMMISSIONER ROSENBERG: Right.

22 MR. O'SULLIVAN: Yes.

23 CHAIR ISRAEL: Now, personally I think other than
24 the Kentucky Derby, Winterbrook, and perhaps some Breeders'
25 Cup races, it's a monumentally stupid egregious bet because

1 it operates on inside information and will bring discredit
2 to the game. But that's just my personal feeling.

3 MR. COUTO: This is -- this is the point we're
4 trying to make as far as clarification. When -- when you
5 look at Rule 2090, we added a Section B that would allow the
6 exchange wagering provider to -- to credit winning and
7 losing wagers in the event of a scratched or declared horse.

8 So you freed that money up. You allow that to happen.
9 Staff indicated that -- that it wasn't necessary because the
10 old Section B would provide for that, would give you the
11 freedom to do that.

12 However, in the comment before us they modify
13 Section B by limiting it to antepost wagers. So you've
14 essentially eliminated the ability of the exchange wagering
15 provider to settle up with account holders for horses that
16 have been scratched, declared, etcetera.

17 COMMISSIONER ROSENBERG: Or not entered.

18 MR. COUTO: And not entered, exactly.

19 COMMISSIONER ROSENBERG: Right.

20 MR. COUTO: So they have to sit on that money, sit
21 on that bet until the race is declared official. And what
22 we were trying to do was saying basically the same thing as
23 what you have in a traditional parimutuel wager is once that
24 horse is scratched people can go back to the window, bet
25 again. Here we're precluded from doing that based on the

1 proposed modification of this rule by staff.

2 And so you -- you have to look at the comments
3 that we provided, and then the comments above us that were
4 provided, I believe by Mr. Fisco. And staff indicated
5 that -- that they were going to modify that regulation,
6 Section B, and add the antepost. And, again, that's what
7 limits the hands of the exchange wagering providers. So we
8 were trying to point that out.

9 MS. WAGNER: So --

10 COMMISSIONER ROSENBERG: Well, just -- go ahead,
11 Jackie.

12 MS. WAGNER: So in terms of addressing your
13 concern, we would need to change the language to address
14 your concern and the antepost. Because essentially the
15 scratched money --

16 MR. COUTO: And what we had done --

17 MS. WAGNER: Well --

18 MR. COUTO: -- if you look at our suggestion on
19 2090, we added Section B --

20 MS. WAGNER: Correct.

21 MR. COUTO: -- to deal with the scratch. And then
22 we also had modified what would have been the old Section B
23 as Section C, and we added the words antepost there, which
24 are basically what you're doing above except --

25 MS. WAGNER: Correct.

1 MR. COUTO: -- we're freeing up the money on the
2 scratched declared horse.

3 COMMISSIONER ROSENBERG: I mean, you say --

4 MR. COUTO: And that's just one example.

5 COMMISSIONER ROSENBERG: But to use an example of
6 an exchange bet --

7 MR. COUTO: Yeah.

8 COMMISSIONER ROSENBERG: -- the reality is that
9 you're talking about people who are betting and the horse is
10 scratched just before he gets into the gate or --

11 MR. COUTO: You -- you --

12 COMMISSIONER ROSENBERG: -- while he's warming
13 up --

14 MR. COUTO: You -- you back a horse --

15 COMMISSIONER ROSENBERG: -- you want to go back
16 and bet some money and your account, your exchange wagering
17 may have that the bet was subtracted, you want to be able to
18 get credit for that and make another bet; correct? It's
19 just a technical point, I guess. I know it sounds like it.

20 MR. COUTO: And so that -- that's why we had to
21 add a section to deal just with the declared scratched
22 horses and then modify --

23 CHAIR ISRAEL: A declared -- declared scratched
24 horses should have nothing at all, no impact whatsoever with
25 an antepost bet once the entries have been taken.

1 MR. COUTO: They don't. They have nothing to do
2 with that. That's why we added the antepost language in the
3 new Section C --

4 COMMISSIONER ROSENBERG: Right.

5 MR. COUTO: -- so that you -- you were freeing up
6 the money on the scratched horses. But the way in which
7 it's proposed by staff is you'll only be able to do that on
8 antepost wagers.

9 COMMISSIONER ROSENBERG: Right.

10 MR. COUTO: And that's what we're trying to
11 differentiate. It's subtle. It's important. It frees up a
12 bunch of money for players.

13 CHAIR ISRAEL: All right. Well, I mean --

14 COMMISSIONER ROSENBERG: Okay.

15 CHAIR ISRAEL: -- I understand that. So I would
16 ask Staff to --

17 MS. WAGNER: We'll make -- make that change.

18 CHAIR ISRAEL: -- make the alteration. Yeah.

19 COMMISSIONER ROSENBERG: Okay. Yeah.

20 MR. COUTO: I mean, again, I'm not certain how you
21 intended to conduct the hearing. So that -- that's the only
22 reason.

23 CHAIR ISRAEL: No. I -- my intention is initial
24 comments should be limited to three minutes. Then as
25 Richard and I have questions this conversation becomes much

1 more freeform.

2 MR. COUTO: Okay. So let --

3 CHAIR ISRAEL: That's the best way to handle it.

4 MR. COUTO: Let me defer to the question.

5 CHAIR ISRAEL: And on this issue, if anybody else
6 has a comment I would ask that they participate, on this
7 specific issue.

8 MR. LARGE: Good morning. Tom Large, Betfair.

9 Can I -- can I just draw attention to Rule 2088,
10 which deals with scratching of horses in a day-of-race
11 market, and it's got nothing to do with antepost market.

12 CHAIR ISRAEL: Well, are you addressing Rule 2090
13 as it relates to this issue?

14 MR. LARGE: Yes. Yeah. Yeah.

15 CHAIR ISRAEL: Oh. Okay. All right. All right.
16 So we need to go back --

17 COMMISSIONER ROSENBERG: 2088.

18 CHAIR ISRAEL: -- to 2088. Okay.

19 MR. LARGE: Yes. The 2088 explicitly allows the
20 exchange provider to -- to scratch a runner and defer the
21 bets in a day-of-the race market. And just to clarify, an
22 antepost market is a market whereby a customer is betting
23 on -- on the horse, so he is betting on the combination that
24 the horse will run and that the horse will win. It's not
25 betting on whether or not it will run. It's betting that it

1 will run and it will win -- win the race.

2 COMMISSIONER ROSENBERG: It's win, place or show,
3 isn't it --

4 MS. WAGNER: Win, place or show.

5 COMMISSIONER ROSENBERG: -- the wording of the
6 statute?

7 MR. LARGE: Yes.

8 MS. WAGNER: Right.

9 MR. LARGE: That's right. So -- so I think to
10 Drew's point, we -- the exchange providers are given the
11 ability to scratch runners by Rule 2088.

12 COMMISSIONER ROSENBERG: Yeah.

13 CHAIR ISRAEL: Wait. Clarify to me the antepost
14 rule. If -- if a horse is entered that bet is good from
15 that point forward; right?

16 MR. LARGE: That's right. Yeah.

17 CHAIR ISRAEL: And if it scratches at the gate the
18 bet still holds?

19 MR. LARGE: So if, I mean, if it scratched at the
20 gate that horse loses in the antepost market.

21 CHAIR ISRAEL: Huh?

22 MR. LARGE: If you have an antepost bet --

23 COMMISSIONER ROSENBERG: It's a win, place or
24 show.

25 MR. LARGE: -- on a horse and it has to win the

1 race in order to win the bet.

2 CHAIR ISRAEL: But an ordinary -- wait. An
3 ordinary win, place or show bet, if -- if a horse scratches
4 at the gate the bet is canceled.

5 MR. LARGE: That's right.

6 CHAIR ISRAEL: In an antepost bet, if the horse
7 scratches at the gate the bet's a loser?

8 MR. LARGE: That's right.

9 CHAIR ISRAEL: It's still a good bet --

10 MR. LARGE: That's right.

11 CHAIR ISRAEL: -- or a functioning, whatever -- or
12 whatever you want --

13 MR. LARGE: Yeah.

14 CHAIR ISRAEL: -- and applicable bet? Ok

15 COMMISSIONER ROSENBERG: They can't win, yeah.

16 CHAIR ISRAEL: Yeah.

17 COMMISSIONER ROSENBERG: It makes sense.

18 CHAIR ISRAEL: So --

19 MR. LARGE: And our opinion is that the exchange
20 provider is given -- can act appropriately under the rules
21 as written.

22 COMMISSIONER ROSENBERG: You're saying we don't
23 need -- the suggested change to this paragraph C? It's
24 covered by 2088(b); is that what you're saying?

25 MR. LARGE: That's right.

1 CHAIR ISRAEL: But are they not -- are they -- did
2 they not conflict with each other and do they need clarity?

3 MR. LARGE: I don't believe so, no.

4 CHAIR ISRAEL: Is there any harm in adding
5 clarity? Is that -- is that what you're trying to do, Drew?

6 MR. COUTO: We believe so.

7 CHAIR ISRAEL: Right. You got --

8 COMMISSIONER ROSENBERG: Well, this -- the only
9 thing that bothers me about this rule, by the way, 2088(b)
10 is the may/may not part of it, the language that says
11 may/may not. When I read that I kept reading that over.
12 What -- what does may/may not mean?

13 MR. LARGE: Well --

14 COMMISSIONER ROSENBERG: I presume it was intended
15 to cover both type of bets; correct?

16 CHAIR ISRAEL: Well --

17 MS. WAGNER: Right.

18 CHAIR ISRAEL: -- Richard and I --

19 MS. WAGNER: Right.

20 CHAIR ISRAEL: -- had this conversation. And the
21 way I read that, because I was confused by it too -- so
22 we'll tell you what our conversation and you can clarify.
23 You guys have to listen to us. Hello?

24 MR. LARGE: Yes?

25 CHAIR ISRAEL: You have to listen to us. Richard

1 had had a question about the may/may not part of 2088(b),
2 and we discussed it. And what I thought it meant is if --
3 if there were ten horses -- and you can correct me. This is
4 some rudimentary kind of try -- ability -- is this one we
5 were discussing on the ten horses?

6 COMMISSIONER ROSENBERG: That's right. Yeah.

7 CHAIR ISRAEL: If there are 10 horses entered in a
8 race and one of them scratched, and somebody laid a horse at
9 10-to-1 -- am I doing this right --

10 COMMISSIONER ROSENBERG: Yeah.

11 CHAIR ISRAEL: -- that you could reduce that
12 proportionately to 9-to-1 because there were -- there was
13 one fewer horse; is that what that means?

14 MR. LARGE: That's right. It's basically giving
15 the operator discretion to --

16 CHAIR ISRAEL: Right.

17 MR. LARGE: -- to apply a reduction.

18 CHAIR ISRAEL: But you would have to declare that
19 you intended to do that in all races when you filed your
20 operating statement?

21 MR. LARGE: That's right. Yeah.

22 COMMISSIONER ROSENBERG: That's the question.

23 MR. LARGE: And it exists --

24 CHAIR ISRAEL: Okay.

25 MR. LARGE: It exists within our rules and

1 regulations that we make available to customers.

2 CHAIR ISRAEL: Right.

3 COMMISSIONER ROSENBERG: So then --

4 MR. LARGE: And so basically the discretion is --
5 is there to say that if there's a horse that's 1000-to-1, if
6 we took that horse out of the market, that it shouldn't
7 materially affect the -- the odds of the other runners in
8 that market. So in that case we wouldn't apply a reduction.
9 And -- but if -- if an even running favorite came out of the
10 market then we would need to apply a reduction factor to --
11 to the bets that were already struck in that market to make
12 sure that they were fair for all customers involved.

13 CHAIR ISRAEL: All right. Okay. All right. So
14 we did actually wind up understanding him.

15 COMMISSIONER ROSENBERG: He gave me the right
16 answer.

17 CHAIR ISRAEL: Yeah.

18 COMMISSIONER ROSENBERG: Yeah.

19 CHAIR ISRAEL: So --

20 MR. COUTO: One of the points we were trying to
21 make there is that what -- what he's referring to is in
22 Betfair's Rules and Regulations, not the CHRB's Rules and
23 Regulations. So you may have inconsistency among exchange
24 providers if there's not uniformity on that, number one.

25 Back to two --

1 CHAIR ISRAEL: Well, but -- but --

2 MR. COUTO: Because it's got to be --

3 CHAIR ISRAEL: -- why is that a bad thing?

4 MR. COUTO: I'm not certain.

5 CHAIR ISRAEL: Isn't that capitalism, that
6 somebody -- look, this is -- I mean, because all we're doing
7 is promulgating rules. I'm not taking a position whether
8 I'd ever implement the rules. But let's just say all the
9 rules are implemented. Wouldn't one points of leverage in
10 marketing be our rules are more favorable to you than their
11 rules. So as long as you file an operating statement that
12 says here is how we operate and you -- you tell your
13 customers this is the way you operate, why do we need that
14 uniformity? The customer then has a choice to go with your
15 system or their system.

16 MR. COUTO: So in enforcing the regulations --
17 maybe that's the way to go. But enforcing the regulations,
18 the Horse Racing Board will then have to interpret the rules
19 and regulations as promulgated by each of the exchange
20 companies to determine whether or not an account holder has
21 been aggrieved on certain issues. I mean, that's what --
22 that's what you're going to have happen.

23 I agree, there should be diversity in terms of
24 competitive features. But when you talk about such rules
25 and regulations, my sense is you'd want to have more

1 conformity so that enforcement by staff and enforcement by
2 the Board is going to be more uniform across all exchanges.

3 And secondly, on that same rule a declared entry
4 is not, by definition, the same as a scratched or non-
5 starter. There are subtle differences. So if you -- if
6 you're just going to accept 2088 as drafted you're going to
7 have to expand that to include non-starters and scratched
8 entries.

9 COMMISSIONER ROSENBERG: Why don't we leave that
10 to staff to wrestle with?

11 CHAIR ISRAEL: Yeah.

12 COMMISSIONER ROSENBERG: Because this is a very
13 picky -- this is -- there are some good point here. I agree
14 with Commissioner Israel's philosophy that people can
15 market -- different competitors can market their -- their
16 programs or their betting opportunities to the marketplace,
17 let them make a point of it. But it might be simpler for
18 everyone. This is going to be a complex new thing for a lot
19 of betters if it ever gets passed, if all the rules are
20 promulgated. And it might be of some advantage to have it
21 uniform. And right now we only have, you know, one -- I
22 guess -- I guess no one has really applied yet for a license
23 technically, have they?

24 MS. WAGNER: No.

25 CHAIR ISRAEL: No. We haven't --

1 COMMISSIONER ROSENBERG: Oh, great.

2 CHAIR ISRAEL: We haven't --

3 COMMISSIONER ROSENBERG: So we'll find out when it
4 comes time.

5 CHAIR ISRAEL: Well, I think the best way to
6 handle this, and if -- if the stakeholders in general have
7 an objection please state it now -- file -- going forward
8 file your specific suggestions in writing. Then I would ask
9 Staff to post those suggestions with your letterhead on our
10 website so they're available to everybody. And then anybody
11 else, any stakeholders who dispute that assertion or
12 suggestion would then know what it is and be able to
13 respond. But all this was going to have to take place
14 within a specified timeframe that Staff will -- will consult
15 with us on and then -- and then announce. I mean, do you
16 understand what I'm saying? So --

17 MR. COUTO: Yeah.

18 CHAIR ISRAEL: So your letter to the staff will be
19 made public the day it's received or as soon as possible
20 thereafter on our website so you will -- you will each have
21 the ability to review the other suggestions. I'm not sure
22 if that occurred in this last round. Did it, Jackie?

23 MS. WAGNER: No, it did not.

24 CHAIR ISRAEL: Okay. I think if it occurs in the
25 next round it may expedite things. So let's -- let's -- is

1 there anything illegal about that?

2 MR. MILLER: No.

3 CHAIR ISRAEL: So let's -- let's do that.

4 Everything will become part of the public record and -- and
5 you will all be able to deal transparently with each other
6 through -- through -- but through the CHRB, not -- I mean,
7 if you want to deal independent of the CHRB, that's fine.
8 But ultimately it has to wind up going through the CHRB.

9 MR. O'SULLIVAN: Chairman, just to -- just to
10 comment that Mr. Couto made this comment in -- in relation
11 to 2088. So now the -- the principle has been accepted by
12 Staff that -- that there will be the -- the opportunity to
13 make what we call a Rule 4 deduction in the U.K. I think
14 Betfair, judging my colleagues comments, accept that too.
15 So it has been substantially dealt with in this version of
16 the rules.

17 The only comment I would make is that to U.S.
18 bettors this would be a major change. Because in -- in a
19 traditional parimutuel pool the scratched entry takes care
20 of itself in the sense that the -- the dividends are
21 recalculated. The -- the -- it becomes a major customer
22 service issue if a person who thought he struck a fixed-
23 price bet at 8-to-1 finds that the bet is paid out later at
24 6-to-1 --

25 COMMISSIONER ROSENBERG: Yeah.

1 MR. O'SULLIVAN: -- because there was a later
2 withdrawal.

3 And -- and as regards looking out for the
4 customer, because there is a backer and a layer the rule
5 would either favor the backer or it will favor the layer.
6 So the exchange actually has to achieve balance between
7 those two constituencies in applying the rule.

8 So I think to be -- to be honest I think it has
9 been dealt with. But it will be an issue in relation to
10 educating the public as to how this will work. Because it
11 does -- you know, scratching horses near the start of the
12 race happens quite a lot. And some -- if it's a favorite
13 horse at -- at evens, you know, you've got a very
14 substantial reduction in the odds paid to betters. But I
15 think it's dealt with here largely. Thank you.

16 CHAIR ISRAEL: Well, okay. There -- there are
17 different ways within the same race of handling perspective
18 minus pools among the various entities who take bets. I
19 mean, there are some ADW companies that refuse to take large
20 bridge jumper show bets, so -- if they think it's going to
21 result in a minus pool, whereas the track may take them, we
22 don't know.

23 So you know, that -- that -- there are certain
24 inconsistencies that are just, you know, part and parcel of
25 doing business.

1 Carlo?

2 MR. FISCO: Good morning, and thank --

3 CHAIR ISRAEL: -- are you addressing this issue?

4 MR. FISCO: Just the antepost --

5 CHAIR ISRAEL: Okay.

6 MR. FISCO: -- wager discussion. And I'll reserve
7 for whatever issue comes up next. Carlo Fisco, California
8 Thoroughbred Trainers.

9 First, let me say that we very much appreciated
10 the format in which the CHRB submitted this packet. The
11 charting Chairman Brackpool suggested and Jackie executed
12 was very easy to follow.

13 On antepost wager, let me give you the crude
14 farmer background and why CTT has voiced its objection.
15 There are two types of wagers, regular exchange wagers and
16 antepost wagers. Antepost wagers deal with whether the
17 horse will run the race. The accompanying language was that
18 when it is able to be determined with certainty that they
19 can make the payoff. Now, the cornerstone of parimutuel
20 wagering is that that occurs only when the race is declared
21 official.

22 Now, you've heard about, from Mr. Couto, about
23 scratches. That's just one end of the continuum. If you
24 imagine a continuum where you have a scratched horse and the
25 official sign at the other end, you have instances in

1 between, though, that are in conflict with this statute, and
2 most of them are, for example, a horse declared a non-
3 starter.

4 As we made in our comment, a horse can start the
5 race and finish the race and still be declared a non-
6 starter. And that's happened very recently. It happened at
7 Santa Anita. A horse gets -- the assistant starter hangs on
8 to the horse in the gate. It happened here last week.
9 Those are the instances where you may be told things can be
10 determined with certainty, but CTT believes they can not.
11 The only way it can be done legally, because exchange
12 wagering has been deemed to be parimutuel wagering, the only
13 way it can be done is to wait until the race is declared
14 official.

15 Now, I actually agree with the comments made, a
16 scratched horse, Quality Road is a scratched horse. That is
17 pretty certain. But that does not address all the instances
18 that can happen. And I think you have a problem where
19 you're leaving yourself open, determined with certainty
20 without waiting for the official sign, CTT believes is a
21 problem in the way it's written.

22 COMMISSIONER ROSENBERG: So your concern is
23 between the time a race starts with -- maybe a horse doesn't
24 come -- it doesn't come out but he -- he starts, and the
25 time the race is declared official; correct? You're

1 concerned that what's going to happen -- I'm asking you,
2 what is going to happen during that time? You believe the
3 exchange wagerer is going to settle an account and say we
4 determined with certainty because the source -- someone was
5 watching on -- on TV and did -- we'll pay you off in the
6 next two minutes?

7 MR. FISCO: They --

8 COMMISSIONER ROSENBERG: Is that your concern?

9 MR. FISCO: My concern doesn't matter. It's
10 what's -- how the language is written.

11 COMMISSIONER ROSENBERG: Well, what is your --

12 MR. FISCO: And they have that ability.

13 COMMISSIONER ROSENBERG: What is your concern
14 about the language?

15 MR. FISCO: They have --

16 COMMISSIONER ROSENBERG: What?

17 MS. WAGNER: Yeah.

18 MR. FISCO: They have the ability to do that,
19 determine with certainty, if it's other than waiting for the
20 official sing allows them to do that.

21 COMMISSIONER ROSENBERG: Then why do you see a
22 problem in that?

23 MR. FISCO: Well, because --

24 COMMISSIONER ROSENBERG: The horse -- the horse
25 has to win anyway in an --

1 MS. WAGNER: Right.

2 COMMISSIONER ROSENBERG: -- antepost wager.

3 MS. WAGNER: Correct.

4 COMMISSIONER ROSENBERG: Correct?

5 MR. FISCO: It has to -- well, it has to end up
6 where the wager was made.

7 COMMISSIONER ROSENBERG: Win, place or show.

8 MS. WAGNER: Win, place or show.

9 MR. FISCO: Yes. Yes.

10 COMMISSIONER ROSENBERG: Have you ever heard of a
11 practical problem where this arose in any research you
12 did -- you've done?

13 MR. FISCO: Well, there is, for example, a horse
14 is a non-starter -- is declared a non-starter --

15 COMMISSIONER ROSENBERG: No. I meant with -- with
16 exchange wagering abroad where it's legal is this a
17 practical problem, or are you just raising a theoretical
18 problem?

19 MR. FISCO: No. No. No. I've never -- I have
20 not dealt --

21 COMMISSIONER ROSENBERG: Okay.

22 MR. FISCO: -- with the antepost --

23 COMMISSIONER ROSENBERG: Okay.

24 MR. FISCO: -- market abroad. But a horse may
25 finish in win-place-show position race and be declared a

1 non-starter. And so anything other than waiting for the
2 official sign seems to be problematic in the language. A
3 horse could leave the gate and be declared a non-starter and
4 finish first.

5 COMMISSIONER ROSENBERG: So it's a judgment call
6 by the exchange wagering provider as to whether it's a
7 certainty or not; correct?

8 MR. FISCO: Well, I think -- I think the rules and
9 regulations should try to avoid judgment calls is --

10 COMMISSIONER ROSENBERG: I don't -- yeah.

11 MR. FISCO: -- is the issue.

12 COMMISSIONER ROSENBERG: I don't see this as a big
13 issue, but whatever.

14 CHAIR ISRAEL: Yeah. I don't even -- what race
15 last week? Last week there was a question about a starter
16 but the horse was declared a starter.

17 MR. FISCO: No. There was one horse broke through
18 the gate and one horse was held onto and declared a non-
19 starter --

20 CHAIR ISRAEL: Oh. Okay.

21 MR. FISCO: -- and came -- and actually finished
22 fourth but, you know --

23 CHAIR ISRAEL: All right. Well, I --

24 MR. FISCO: -- could have been third.

25 CHAIR ISRAEL: Okay.

1 MR. O'SULLIVAN: Sorry, gents, can I -- can I just
2 address that issue briefly? This issue, in relation, what
3 happens here, what we do in practice in the U.K. is that we
4 will settle a race onsite. In other words, when we -- if we
5 see that the race is completed and that it is likely, in our
6 opinion, that the -- that the -- the three horses that past
7 the post one, two, and three will be declared the official
8 winners, we will settle that race. And we do that on the
9 basis that it turns over the client's funds to allow them to
10 bet on the next race rather than waiting for three or four
11 minutes for an official result to come through. And that
12 works in the U.K. because if the official result comes
13 through and it's different we can actually unsettle that
14 race and resettle that race.

15 That would be a problem here in -- in relation to
16 Clause 2089, which is Error and Exchange Payments, which
17 effectively says if the exchange accidentally by -- as the
18 result of an error puts an overpayment into a client account
19 that it can not recover that payment. So, in fact, it would
20 be very difficult and very risky for an exchange to -- to
21 use the practice of -- of settling a race before the
22 official result in any event.

23 COMMISSIONER ROSENBERG: Does your major
24 competitor operate the same way anyway?

25 MR. O'SULLIVAN: I -- I wouldn't like to speak for

1 them, but I believe they do.

2 CHAIR ISRAEL: Okay.

3 MR. O'SULLIVAN: Okay.

4 CHAIR ISRAEL: Thank you. All right. I'm going
5 to try to move this along. Jack Owens.

6 MR. OWENS: My name is Jack Owens. I'm a TOC
7 board member.

8 There are a number of instances in the materials
9 prepared by the staff which note that certain issues will
10 have to be resolved in the agreement for -- between the
11 exchange wagering provider, the racing association, and
12 whatever horsemen's organizations, and that's fine.

13 The one area where my board has asked that we be
14 as clear as possible is that among the issues that will be
15 within the purview of the agreement will be precisely which
16 wagers are to be offered. Right now I think we're all
17 thinking about win-place-show back and lay, and that's one
18 model. If as this evolves, if it does evolve, and there are
19 attempts to make the exchange wagering menu, gambling menu,
20 more closely mirror the current parimutuel menu with a
21 broader range of horizontals and verticals, that's going to
22 be an issue that we would want to study pretty carefully.

23 But as we understand the regulations or the
24 proposed regulations, and hopefully this can be clear on the
25 record, the question of precisely which wagers are to be

1 offered will be subject to the agreement between the
2 provider, the racing association, and the horsemen's
3 organization.

4 CHAIR ISRAEL: That would be my understanding too.
5 I think that's the understanding -- isn't that the --

6 COMMISSIONER ROSENBERG: Is that correct?

7 CHAIR ISRAEL: -- the case --

8 MS. WAGNER: Yes.

9 CHAIR ISRAEL: -- with every ADW?

10 MR. OWENS: Yes. Yes, sir.

11 MS. WAGNER: Yes.

12 CHAIR ISRAEL: Well, I don't think this would
13 be --

14 COMMISSIONER ROSENBERG: Right.

15 CHAIR ISRAEL: -- considered any differently.

16 MR. OWENS: Thank you. That's my comment.

17 CHAIR ISRAEL: Thank you. Carlo Fisco. Carlo?

18 As much as you're going to speak, shouldn't you sit closer
19 to the microphone?

20 MR. FISCO: It's the only exercise I get, now that
21 I'm not training anymore.

22 I was unaware, as were other speakers, of how you
23 were going to proceed this morning. I had made comments for
24 each individual regulation. But let me just synthesize
25 everything and on behalf of CTT make some comments. And

1 then we will be submitting further comments during the 45-
2 day period, if and when these are originally adopted.

3 CHAIR ISRAEL: All right. I'm not going to hold
4 this against you, the time against you, but the -- the
5 reason why I'm proceeding this way is to try to expedite
6 this meeting.

7 MR. FISCO: Sure.

8 CHAIR ISRAEL: The first meeting that we had was
9 rather lengthy. And -- and this will give everybody an
10 opportunity to address every issue. But it will -- I think
11 it will move it along more quickly. So that's --

12 MR. FISCO: All right. Well, as I said, I'm just
13 going to touch on two or three of the points, even though,
14 as the CHRB chart shows, CTT submitted comments on a
15 majority of the regulations.

16 A couple things. The first one is the suggested
17 non-disclosure of certain components of the operating plan.
18 And CTT in the comments voiced its --

19 CHAIR ISRAEL: What number is that?

20 MS. WAGNER: What rule?

21 COMMISSIONER ROSENBERG: What section?

22 MR. FISCO: 2086.6 --

23 CHAIR ISRAEL: Okay.

24 COMMISSIONER ROSENBERG: -- Operating Plan
25 Required. There is a proposed regulation wherein the

1 contents of that operating plan are not to be made public --

2 CHAIR ISRAEL: Yeah. It's the second one.

3 MR. FISCO: -- or disclosed. And my comments were
4 addressed to there is neither a basis for that in the
5 Exchange Wagering Law, which is very important, nor in my
6 opinion is there a basis in the California Law, the Public
7 Records Act that would -- would protect that kind of
8 information. I see TOC has also submitted documents in
9 support of -- or comments in support of disclosure. In my
10 opinion, it's -- it's not protected legally under California
11 Law.

12 And as an analogy, the operating plans for the
13 associations presently for parimutuel wagering are pretty
14 much in depth, and there's very little there that is not
15 disclosed.

16 And so this is important on a practical level
17 because the industry stakeholders have to try and determine
18 with certainty how they intend to move forward and actually
19 where the money is going, how they can improve the money
20 flow, so on and so forth, whatever budgetary-economic-
21 financial concerns that reside with the individual
22 stakeholders, that's what that is part of.

23 CHAIR ISRAEL: Okay. Let me stop you there. I
24 think I understand your position. So maybe Staff or someone
25 who holds an opposing position can explain to us the purpose

1 for the lack of transparency and the right to be exempt from
2 disclosure pursuant to California Code section 6254(k). Can
3 anybody help us with that? John?

4 MR. HINDMAN: Good morning, Commissioners.

5 CHAIR ISRAEL: Good morning.

6 MR. HINDMAN: John Hindman. I'm the general
7 counsel for Betfair U.S. and TVG.

8 I believe what this provision does is -- is only
9 recognizing what code section 6254(k) is and what it applies
10 to. And just as a matter, for instance, it applies -- it's
11 always been deemed to apply to ADW operating plans by the
12 CHRB, and this is consistent with that. And it's something
13 that we as -- as the licensee can assert, so as for personal
14 financial information, related things that are proprietary
15 in nature. So I don't think there's any effort to conceal
16 anything here.

17 I would point to the application itself, which is
18 what the racing associations public for exchange wagering
19 which is quite detailed. And that will be made primarily
20 public as it is for the normal course of things. So I think
21 what this is doing, to my knowledge, is just reciting what
22 the law already is, regardless.

23 CHAIR ISRAEL: Robert, do you have any comment on
24 that?

25 MR. MILLER: I'm in agreement with Mr. Hindman

1 that this is a non-disclosable document under the California
2 Public Records Act. So I'm in disagreement with Mr. Fisco.

3 MR. FISCO: Which we've had the pleasure of doing
4 for 30 years.

5 But let me make another comment. That's -- and I
6 made my comments as legally factual. There's nothing in the
7 PRA, other than trade secrets, and we're not disputing that.
8 But Staff made the comment that, quote, "A candid assessment
9 has to be confidential." And that was in reference to
10 the -- the operating plan and -- and it's potential for
11 success, and so on and so forth.

12 When you are dealing with regulation law and
13 language that is not the kind of statement that is going to
14 pass muster with OAL. A candid assessment has to be
15 confidential, well, sure. In the -- in the real world
16 that's probably true. But where is that based in law?
17 Where is that in the statute?

18 It's extremely important, especially in the fact
19 that you must remember a very important thing about exchange
20 wagering, that there can be millions of dollars bet and yet
21 no money generated for the takeout and the industry
22 participants. The arbitrage component of exchange wagering
23 is something that's the 800 pound elephant in the room. And
24 so if we can't have the ability to track and look and put
25 these kinds of things under the microscope I think, number

1 one, it's illegal, and I think, number two, practically
2 speaking it does a disservice to a lot of the industry
3 stakeholders.

4 CHAIR ISRAEL: All right. Well, so far I'm the
5 only non-lawyer engaged in this conversation. And -- and I
6 think it would be -- ultimately, whatever we do here today
7 and in the future days, you know, if they result in a
8 promulgation of rules, will then be sent to the Office of
9 Administrative Law, unless I misunderstand the process.

10 MS. WAGNER: Absolutely. Absolutely.

11 CHAIR ISRAEL: I think on a dispute like this, I
12 mean, we don't have the wisdom of Solomon to decide this. I
13 understand -- I actually kind of understand both sides of
14 the argument. I think it would have to be up to the Office
15 of Administrative Law to -- to finally adjudicate, and
16 you'll probably have to make arguments before them, you
17 know?

18 John?

19 MR. HINDMAN: Just to add one more thing as to Mr.
20 Fisco's last statement. The wagering activity itself is
21 separate from the operating plan. So the amounts wagered
22 and the amounts paid out and everything else, that's covered
23 in a myriad of regulations here on things that the Board has
24 access to and access to examine. And -- and so I was just
25 making that comment.

1 CHAIR ISRAEL: All right. I've never had to deal
2 directly with the Office of Administrative Law. So perhaps
3 one of you wise attorneys can explain to me how it works.
4 Will you -- will anybody who poses a specific element of --
5 of the rules be able to submit their argument in writing to
6 the OAL?

7 MR. FISCO: Yes. The CHRB will submit their
8 what's called final statement of reasons.

9 CHAIR ISRAEL: Right.

10 MR. FISCO: And -- and that is the final language
11 that they want the OAL to rubberstamp, so to speak.

12 CHAIR ISRAEL: Right.

13 MR. FISCO: And --

14 CHAIR ISRAEL: Okay. I understand all that.

15 MR. FISCO: Yeah.

16 CHAIR ISRAEL: But what is -- then you'll --

17 MR. FISCO: And other people --

18 CHAIR ISRAEL: You'll get to be heard; right?

19 MR. FISCO: Well, we get to submit -- we -- we get
20 to submit comments to the OAL. They review all the -- the
21 final statement of reasons, which is the entire packet, they
22 review. And under the law the CHRB has to address any of
23 the issues or concerns or comments raised by the public.

24 MS. WAGNER: Right.

25 MR. FISCO: And if the OAL feels that you've done

1 that then you'll get your language through.

2 CHAIR ISRAEL: But -- all right.

3 MR. FISCO: But the language also has to be
4 commensurate with the Exchange Wagering Law and has to be
5 consistent with all other law.

6 CHAIR ISRAEL: Right. Well, in an instance like
7 this my inclination is to defer to our counsel, and then let
8 the chips fall where they may as the process continues.

9 Did -- did you -- did you hear that, Carlo?

10 MR. FISCO: Excuse me, I did not. Sorry.

11 CHAIR ISRAEL: Okay. My inclination in -- in an
12 instance such as this is to defer to our counsel and let the
13 chips fall where they may has the process continues. So I
14 think you should make your arguments in writing to Staff.
15 But I don't think it's wise for us to spend a lot more time
16 on this because it's going to be adjudicated ultimately by
17 somebody who can make a final decision.

18 MR. FISCO: That's correct.

19 CHAIR ISRAEL: Okay. And I --

20 MR. FISCO: Yeah. But --

21 CHAIR ISRAEL: And then I think our role is to
22 defer to counsel in this --

23 MR. FISCO: Mr. Couto just reminded me, and he is
24 right, that our comments are just made to the CHRB; they're
25 not actually made to the OAL.

1 MS. WAGNER: That's correct.

2 MR. FISCO: But they review the entire packet.

3 CHAIR ISRAEL: Right. But we -- we have an
4 obligation to present them --

5 MR. FISCO: Right.

6 CHAIR ISRAEL: -- to them. Okay.

7 MR. FISCO: Thank you.

8 CHAIR ISRAEL: Thank you, sir. Is that it? Are
9 you done?

10 MR. FISCO: Oh.

11 CHAIR ISRAEL: Do you have any other issues you
12 wanted -- you said there was another issue you wanted to
13 bring up.

14 COMMISSIONER ROSENBERG: Hard to believe --

15 MR. FISCO: I heard that.

16 COMMISSIONER ROSENBERG: -- having read your
17 comments.

18 MR. FISCO: I was looking for a signal from Alan,
19 but he was sleeping when I looked over there.

20 There -- another issue, 2092.6, dealing with
21 Suspension of Occupational License, and it was comforting to
22 see that a lot of the comments dealt with the same issue,
23 and -- and the CHRB addressed that issue of the probable
24 cause language; they got rid of the -- the "may." And now
25 there is a pretty solid standard of probable cause for the

1 hearing. And this is dealing with a licensee who is accused
2 of doing something untoward with the exchange wagering and
3 is now brought before the CHRB and whose license is now
4 before the stewards, I guess. And the new language involved
5 or included "after a hearing."

6 And there was a comment that -- CTT made a comment
7 that we would like to have a formal APA hearing whenever
8 this arises, and hopefully it will never arise. And the
9 comment was that stewards hearings are APA hearings, number
10 one.

11 And number two, I want to address the
12 impracticality. And in the real world what happened and has
13 happened in litigation with the CHRB, number one, although
14 most of them are, not all stewards hearings are APA
15 hearings. Sometimes stewards dispose of cases informally.
16 They'll make arrangements with licensees, and those are not
17 subject to APA. That's the Administrative Procedure Act
18 which has its own safeguards for people going to hearing,
19 due process, and so and so forth.

20 The problem arises that there is -- there is a
21 law, Business and Professions Code 19461 which states that
22 APA hearings only apply to revocation of licenses and not to
23 suspension. Now, what has happened in the past, and it
24 happened recently in a case in San Diego, is that the CHRB
25 representative, the attorney general arguing the case for

1 the CHRB will come in and has come in and said the APA does
2 not apply to this case. And so you have that conflict.

3 All CTT is requesting is a very simple phrase that
4 these hearings are pursuant -- you could include "after a
5 hearing" -- pursuant to, and the -- the code section for the
6 APA begins with, I think Government Code 11340, just add
7 "after a hearing pursuant to Government Code 11340 et seq,
8 and that will solve that problem. But in real life we have
9 had a little problem with the CHRB denying that the APA
10 applies in certain hearings.

11 MR. MILLER: Mr. -- if I might, Mr. Kennedy was
12 going to propose some -- some additional language to that --
13 this particular rule. And I'm in agreement with what Mr.
14 Kennedy is going to propose. So I'd ask him to come forward
15 and maybe this will address your concern, Mr. Fisco.

16 MR. FISCO: Please.

17 MR. KENNEDY: Tom Kennedy. I'm the general
18 counsel for the Jockeys' Guild. I'm with the firm of
19 Kennedy, Jennik and Murray located in New York City.

20 First, I want to thank the commission for the
21 process and for the process and for the steps forward
22 they've taken to address this issue of discipline. I think
23 all licensees are well aware of a pattern of discipline in
24 Europe that -- we know nothing concerning the facts, but
25 there have been substantial types of discipline levied. And

1 we are very concerned that in the United States there be an
2 appropriate due process before anything does occur.

3 We are obviously in support of the changes that
4 require a hearing and the elimination of the term "may" so
5 that there is a focus on probable cause. And we are
6 focusing on Rule 2092.7, just to be clear about that, Vice
7 Chairman Israel and Commissioner Rosenberg.

8 COMMISSIONER ROSENBERG: Yeah.

9 MR. KENNEDY: And what -- in talking with Staff
10 Counsel Miller and Jackie, I made the point this morning
11 that the rule as presently drafted does not reference the
12 APA, does not guarantee a subsequent hearing, and would
13 allow for an unlimited suspension, all of which would be
14 concerns of our, and I don't think really was intended by
15 the commission. And the staff indicated to me that that, in
16 fact, was the case, that they were looking at a preliminary
17 step that would then be followed by -- by a hearing that did
18 satisfy all of the APA requirements.

19 So what I would suggest is that I agree with the
20 CTT that the language should include a reference. Where it
21 does reference to the hearing it should include the words,
22 quote, "pursuant to the APA Business and Professional Code
23 11340 et seq."

24 And then I would suggest that there be an
25 additional section added to the proposed regulation which

1 reads as follows, quote,

2 "Any such suspension shall be limited to ten days
3 and if probable cause that a violation has occurred has been
4 found a hearing under the APA to determine whether a
5 licensee has committed a violation of the rules must be held
6 before any further discipline can be imposed."

7 Now, I'm happy to provide that in writing. I'm
8 not asking the commissioners to sort of respond to an oral
9 presentation on what is an important matter. But we did
10 want to highlight the -- the need to tie this into the APA,
11 to limit the term of suspension, to provide for an immediate
12 hearing under the APA before there can be any -- any further
13 discipline.

14 CHAIR ISRAEL: So you want to use sort of an
15 arraignment process where after the arraignment the longest
16 suspension could be ten days, basically?

17 MR. KENNEDY: Basically. Because the whole notion
18 of a reasonable cause determination is that it is a midway
19 point that there is a subsequent hearing in which there is
20 an actual finding of violation. And as things stand now
21 there could be a limitless suspension based on merely a
22 reasonable cause determination, which I don't think is fair
23 and I don't think the commission was intending.

24 CHAIR ISRAEL: Well, that seems -- that seems
25 reasonable to me.

1 COMMISSIONER ROSENBERG: Is ten -- how about
2 Staff, do they think it's -- ten days is reasonable to get
3 that together?

4 MR. MILLER: Yes.

5 MS. WAGNER: Yes. Yes.

6 MR. MILLER: Yes. This would be similar to an
7 interim suspension order under the APA that we have to hold
8 a hearing within ten days.

9 CHAIR ISRAEL: Bill, is that practically -- is
10 that practical for your staff?

11 MR. WESTERMAN: Doubtful.

12 COMMISSIONER ROSENBERG: That's what I'm asking.

13 MR. KENNEDY: Well, you know, let me just --

14 CHAIR ISRAEL: Bill, could you come to tell us --

15 MR. KENNEDY: Can I just point out one thing, Mr.
16 Commissioners? The staff would decide when to pull the
17 trigger on this. So they would have the right to --

18 CHAIR ISRAEL: I understand.

19 MR. KENNEDY: -- finalize some things.

20 CHAIR ISRAEL: Bill Westerman is our --

21 MS. WAGNER: Chief Investigator.

22 CHAIR ISRAEL: -- chief of our investigative unit.
23 And I -- and I -- he's the one who will have to prepare for
24 the second -- well, both hearings really.

25 So let us know how -- what's practical for you

1 with your staff, with --

2 MR. WESTERMAN: Bill Westerman, California Horse
3 Racing Board, Enforcement Division.

4 Ten days in some circumstances could be practical,
5 but it just depends on the type of cases that we get. So, I
6 mean, every -- every one would be different.

7 CHAIR ISRAEL: Well, what's --

8 COMMISSIONER ROSENBERG: What's --

9 CHAIR ISRAEL: What's a happy medium here? I
10 understand -- I kind of agree with -- I agree with you. I
11 understand his difficulties. How do we resolve this?

12 MR. KENNEDY: Well, I think the way to resolve it
13 is to remember that there's not an obligation to conduct a
14 hearing in ten days unless the Board or the stewards want to
15 keep someone suspended. They could either not impose the
16 suspension or limit the suspension to ten days. They can
17 take whatever time they want to have the hearing.

18 What we're concerned about, especially, remember
19 that you could have a situation where there's an unusual
20 betting pattern. The investigators have a concern about the
21 integrity of a particular race. The jockey rode the horse,
22 the most visible, sort of, to the public person involved
23 with that horse. We're concerned that there would be a
24 suspension of the jockey. He had nothing to do with the
25 betting. He doesn't know or she doesn't know what the

1 betting is about.

2 And I think the way to deal with this is recognize
3 you can take as much time as you want for the hearing, it's
4 the suspension that's limited to ten days.

5 CHAIR ISRAEL: Yeah. The only thing -- I mean,
6 the problematic part for -- and practical public relations
7 way --

8 MR. KENNEDY: Yes.

9 COMMISSIONER ROSENBERG: Yes.

10 CHAIR ISRAEL: -- the problematic part for us is
11 if a jockey is accused of fixing a race, which is
12 essentially what you're talking about in simple plain
13 English, if we can't prepare the case in ten days and the
14 jockey then goes back and starts riding again that -- and he
15 turns out to have been -- he or she turns out to have been
16 guilty, that interim period is a terrible black eye for
17 the -- for -- for the game.

18 COMMISSIONER ROSENBERG: Also --

19 CHAIR ISRAEL: I mean, that's --

20 COMMISSIONER ROSENBERG: Yeah. Mr. Kennedy, don't
21 you believe that the change that was made to the word --
22 from the words "may have committed" to "has committed," it
23 poses a little bit of a higher standard here that anyone who
24 is making that decision is going to be pretty sure that
25 there's clear evidence here? I mean --

1 MR. KENNEDY: Well, I think they'll be --

2 COMMISSIONER ROSENBERG: -- it's --

3 MR. KENNEDY: -- they'll be interpreting this two
4 years from now or ten years from now that there's reasonable
5 cause to believe that a violation has occurred, which is not
6 the same as a violation has occurred. You know, our -- our
7 actual solution here was not to have this rule at all. You
8 already have a well developed disciplinary system that
9 applies to all rules. It wasn't clear to me why it was
10 necessary for the commission to get into this thicket in the
11 first place. If you feel that there's been adequate
12 demonstration that somebody's done something wrong then I
13 think the current rules permit an adequate level of
14 suspension. But the commission seemed to want to promulgate
15 something specific in connection with the exchange rules,
16 which is where I think we're having the problem.

17 One -- one solution is simply to not have this.

18 CHAIR ISRAEL: Well, yeah.

19 COMMISSIONER ROSENBERG: There's a good reason for
20 that, I think. You know --

21 CHAIR ISRAEL: Right.

22 COMMISSIONER ROSENBERG: -- the obvious reason is
23 people are concerned about the image of the industry. And
24 this is new, brand new to this country. And I think it's
25 smart that this was included.

1 MR. KENNEDY: Well, we're prepared to live with it
2 but --

3 COMMISSIONER ROSENBERG: Yeah.

4 MR. KENNEDY: -- we do want it transformed as --
5 as we've suggested. And I don't have a magic solution to
6 the reality that these are difficult, complex cases. They
7 take time to create.

8 COMMISSIONER ROSENBERG: Right.

9 MR. KENNEDY: From our point of view, having --
10 obviously, we're speaking for the jockeys, but any licensee
11 to be deprived of his ability to ride, to train, to do
12 whatever.

13 CHAIR ISRAEL: Well, it's a very difficult
14 situation. Because in -- in another sport where there's
15 concern about a violation there's -- in almost any other
16 sport there's an opportunity to be suspended with pay while
17 the process works out. In -- in real life cops, for
18 instance, who are accused, whether rightly or wrongly, are
19 frequently suspended, you know, put on leave, administrative
20 leave with pay. The problem is you can't put a jockey on
21 administrative leave with pay because they earn they're
22 living by riding horses and earning purse money.

23 COMMISSIONER ROSENBERG: What about --

24 CHAIR ISRAEL: So there's -- there's -- it's --
25 it's -- it really is a difficult conundrum.

1 COMMISSIONER ROSENBERG: What about putting the
2 word in, just the word temporary into the -- the definition
3 in the statute, temporarily suspend, so it's clear that this
4 is a very interim thing, I mean, if this is reported to the
5 press as a temporary suspension until there's a hearing?

6 CHAIR ISRAEL: Well, there's no such thing --

7 COMMISSIONER ROSENBERG: Would that help at all?

8 CHAIR ISRAEL: But there's no such thing -- all
9 suspensions are temporarily unless they're for life.

10 COMMISSIONER ROSENBERG: Yeah. Yeah. I know.
11 But it would be helpful to emphasis.

12 CHAIR ISRAEL: And there -- and there's no such
13 thing as a temporary suspension. You're suspended for that
14 period of time --

15 COMMISSIONER ROSENBERG: Yeah.

16 CHAIR ISRAEL: -- you know?

17 COMMISSIONER ROSENBERG: But it makes it clear
18 it's going to be ended very quickly --

19 CHAIR ISRAEL: Well, but -- well, but --

20 COMMISSIONER ROSENBERG: -- you know?

21 CHAIR ISRAEL: -- ten days is -- is finite.

22 Temporary is infinite.

23 MR. KENNEDY: You know, we had a very dramatic
24 experience with respect to a group of jockeys that were
25 alleged to have been involved in adjusting the outcome of

1 races. And --

2 CHAIR ISRAEL: Adjusting the outcome of races?

3 MR. KENNEDY: The outcome of races, yes. Trying
4 to avoid some terminology here that --

5 CHAIR ISRAEL: I would think, yeah.

6 MR. KENNEDY: The -- and those jockeys were for
7 years banned from riding in many jurisdictions. And there
8 was never a charge brought against most of them. There was
9 somebody that was ultimately convicted of something. But
10 most of them never had charges. It's really a terrible
11 situation -

12 CHAIR ISRAEL: Look --

13 MR. KENNEDY: -- a gap in the rules.

14 CHAIR ISRAEL: -- it's happened in -- Connie
15 Hawkins -- I don't know if you knew who he was.

16 MR. KENNEDY: Yes, of course I know him.

17 CHAIR ISRAEL: Great basketball player.

18 MR. KENNEDY: I know him because I'm from New York
19 City. I know who he is.

20 CHAIR ISRAEL: Yeah. He never -- he didn't -- he
21 didn't shave points. He just knew about it and didn't tell
22 anybody --

23 MR. KENNEDY: Yeah.

24 CHAIR ISRAEL: -- and he wasn't allow to play in
25 the NBA for five years.

1 MR. KENNEDY: Yeah.

2 COMMISSIONER ROSENBERG: So --

3 MR. KENNEDY: So, obviously, these sporting
4 events, you know, a sporting career is a brief one. It's
5 not a businessman. You know, you've got so many years you
6 can ride, you're at the top, and these kind of suspensions
7 are dramatic and difficult.

8 So I think I've said basically what I have to say,
9 and I appreciate the commissions --

10 CHAIR ISRAEL: Yeah. No.

11 MR. KENNEDY: -- consideration.

12 CHAIR ISRAEL: This is a difficult situation. I
13 mean, I can see both sides of this argument, and I don't
14 know what the solution is.

15 MR. KENNEDY: We will supply the language I
16 drafted to --

17 CHAIR ISRAEL: I'm sure the other five members of
18 our --

19 MR. KENNEDY: -- to Mr. Miller and to Jackie.

20 CHAIR ISRAEL: -- of our Board will probably -- at
21 least three of them will tell you they know what the
22 solution is, so --

23 MR. KENNEDY: I guess we'll find out tomorrow.

24 CHAIR ISRAEL: Yeah.

25 MR. KENNEDY: Thank you.

1 CHAIR ISRAEL: Thank you.

2 MR. FISCO: One further comment. A couple
3 comments, actually, on that issue. Number one, CTT made a
4 request that there was language in this issue, 2092.6. We
5 had asked that the already existing regulation wherein a
6 licensee can apply for a temporary stay order be included.
7 The -- the CHRB did include the already existing regulation
8 allowing a licensee to appeal. But you get into that time
9 lapse where a complaint is filed by the CHRB. Stewards have
10 a hearing, they make a ruling against a licensee, and he has
11 to live with that ruling. If it's a long suspension he has
12 no recourse immediately to get immediate temporary relief,
13 in essence a TRO. And that was not included, although it
14 did -- the CHRB did include language about his ability --
15 his or her ability to appeal.

16 Let me say about the ten days, there's a United
17 States Supreme Court case that come up in horse racing all
18 the time, Barry v. Barchi which states that a licensee must
19 get a hearing before he is ejected or ruled off. So you
20 have -- you have legal complications there about trying to
21 set forth a time period. You deem it, period. If -- if a
22 licensee was able to apply for a TRO that might solve the
23 problem.

24 But the -- my comments at the start were to assure
25 that this is treated as seriously as it actually appears to

1 the public, and that the licensee should be granted whatever
2 protections are under the law, and that is the APA. Spell
3 it out; that's what we're here for. We're trying to nail
4 down the language that the OAL is going to be happy with.
5 It's a very easy remedy and it needs to be spelled out.

6 CHAIR ISRAEL: Robert, do you have any comment on
7 the --

8 MR. MILLER: No. I look forward to hearing --
9 receiving the comments from Mr. Kennedy. And I think Mr.
10 Fisco's concerns have been addressed.

11 CHAIR ISRAEL: Already in the language?

12 MR. MILLER: Yes.

13 CHAIR ISRAEL: Okay.

14 MR. MILLER: With a reference to the APA.

15 COMMISSIONER ROSENBERG: Oh, the proposed
16 language?

17 CHAIR ISRAEL: For the proposed? The proposed?

18 COMMISSIONER ROSENBERG: The proposed?

19 MR. MILLER: Yes. Yes.

20 COMMISSIONER ROSENBERG: Yeah.

21 CHAIR ISRAEL: Okay.

22 MR. FISCO: Moving on, I'll make a couple comments
23 about -- I'll try to pick out -- on 2087, Suspending
24 Markets, CTT had made a comment and -- and -- where if there
25 was a finding, if there was some red flag that went up about

1 some wagering activity that perhaps the remainder of the
2 pool could be played out so players could have their money.

3 CHAIR ISRAEL: 2087 what?

4 MR. FISCO: 2087, Suspending Markets.

5 CHAIR ISRAEL: It's not what we're -- it's not on
6 our agenda. Oh, yeah, it is, but we don't have the page.
7 We don't have that page.

8 COMMISSIONER ROSENBERG: This wasn't the one.
9 Yeah, but this is -- yeah, here it is. Here it is.

10 CHAIR ISRAEL: All right.

11 COMMISSIONER ROSENBERG: It's here --

12 MS. WAGNER: Carlo --

13 COMMISSIONER ROSENBERG: -- but it's not on our
14 list.

15 MS. WAGNER: Oh, I'm sorry.

16 CHAIR ISRAEL: No.

17 COMMISSIONER ROSENBERG: It's here.

18 CHAIR ISRAEL: Oh, it's on the list.

19 COMMISSIONER ROSENBERG: But it's no on the other
20 one.

21 CHAIR ISRAEL: No. It's on -- it's on the agenda.

22 COMMISSIONER ROSENBERG: Okay. It's not on this
23 one.

24 MS. WAGNER: Go ahead. It's listed on page 12.

25 MR. FISCO: Okay. And --

1 CHAIR ISRAEL: Jackie, I don't have that page.

2 MS. WAGNER: Yeah.

3 COMMISSIONER ROSENBERG: Yeah, here it is. For
4 some reason you don't have it there.

5 CHAIR ISRAEL: Yeah. Yeah.

6 COMMISSIONER ROSENBERG: It's 10-20, 10-20.

7 (Colloquy between Chair Israel, Commissioner Rosenberg
8 and Ms. Wagner)

9 CHAIR ISRAEL: Okay. Go ahead.

10 MR. FISCO: The comment by CTT was that perhaps,
11 and this is to help what seems to be the majority of players
12 in a given market, that if there is a red flag concerning
13 some activity in a market that the provider still be allowed
14 to pay off those wagers that seem unrelated to that
15 incident. The comment made by the CHRB in response was that
16 fraud is widespread, necessitating the suspension of the
17 whole market. It just, again, it's dealing with such a
18 finite part of the whole continuum of possibilities.

19 I'm just thinking, if I made an exchange wager I
20 have absolutely no idea about what's going on with any
21 fraud, and my money is going to be held up while that
22 investigation is completed. And -- and the fraud, it seems,
23 could be very, very small, limited to one person, or it
24 could be widespread, necessitating the shutdown of the
25 entire market. Logistically it just seems that that may be

1 a way to expedite money.

2 I've heard comments from them this morning saying
3 they'd like to get to money to the players as quickly as
4 possible. So I see Mr. Hindman ready to give us the answer
5 as to --

6 CHAIR ISRAEL: So -- so you're -- you're point is
7 that if there is any fraud of any size, description,
8 whatever, the market be suspended and all wagers canceled?

9 MR. FISCO: I --

10 CHAIR ISRAEL: I'm asking you, Carlo.

11 MR. FISCO: No. I read that --

12 COMMISSIONER ROSENBERG: No.

13 MR. FISCO: -- to be the -- the CHRB position.

14 COMMISSIONER ROSENBERG: Oh, so suspect. It says
15 "suspect a fraud," right, is the language, not --

16 CHAIR ISRAEL: "An exchange provider may suspend a
17 market" --

18 COMMISSIONER ROSENBERG: Yeah.

19 CHAIR ISRAEL: -- "at any time including after the
20 race if declared official but before winning wagers are
21 credited if the provider has reason to suspect" --

22 MR. FISCO: Suspect.

23 COMMISSIONER ROSENBERG: To suspect.

24 CHAIR ISRAEL: -- "that fraud or any other action
25 or inaction" --

1 COMMISSIONER ROSENBERG: Right.

2 CHAIR ISRAEL: -- "by any person connected with
3 the race raises questions about the integrity and fairness
4 of the market."

5 MR. FISCO: 2087(c), it says, "Upon completion" --

6 CHAIR ISRAEL: Completion of an investigation.

7 MR. FISCO: -- "of an investigation."

8 CHAIR ISRAEL: Right.

9 MR. FISCO: So upon a completion of an
10 investigation we have an investigator telling you that they
11 may not be able to prepare a case within ten days, I, you
12 know, I don't know. Mr. Hindman --

13 CHAIR ISRAEL: You -- so -- but you seem to be
14 suggesting that upon commencement of an investigation all
15 wagers are canceled. Is that --

16 MR. FISCO: No.

17 CHAIR ISRAEL: Do I misunderstand you?

18 COMMISSIONER ROSENBERG: No. No.

19 MR. FISCO: Yes.

20 CHAIR ISRAEL: What are you trying to say?

21 MR. FISCO: My --

22 COMMISSIONER ROSENBERG: Is suspended. Okay. Go
23 ahead.

24 CHAIR ISRAEL: Well, that --

25 MR. FISCO: My position or CTT's position is this,

1 there's \$100 wagered in a pool.

2 CHAIR ISRAEL: Right.

3 MR. FISCO: Five dollars is red flagged as
4 suspicious. The provider now holds up the entire \$100
5 without returning the \$95.00, which seems to be unrelated to
6 the investigation. Why not return the 95 and concentrate on
7 the 5? Under the rule they suspend the 100, they hold the
8 100 until the completion of the investigation.

9 CHAIR ISRAEL: Well, I could argue -- I could make
10 an argument for that, which is --

11 COMMISSIONER ROSENBERG: Let him explain what they
12 do.

13 CHAIR ISRAEL: Well, you want to explain what you
14 do or do you want me to make my argument, which is
15 probably --

16 COMMISSIONER ROSENBERG: Better for him.

17 CHAIR ISRAEL: -- better for you actually? I
18 would think if there's any fraud the entire race is -- the
19 fruit of the poison tree, for you lawyers. Okay. That
20 raises poisons, and all bets should be canceled. Because if
21 there's any small fraud it may have a domino effect and
22 affect the entire running of the race.

23 MR. FISCO: Well, under no circumstances are they
24 canceled, all of them. They're held up until they're paid.

25 CHAIR ISRAEL: Well, I'm suggesting that it would

1 be wise to cancel them, now that you're raising the subject.

2 John?

3 MR. HINDMAN: John Hindman from Betfair/TVG. This
4 provision -- there is a different provision that relates to
5 freezing individual customer accounts. And that is where
6 you've identified individual customer activity that the
7 regulator may want to have another look at.

8 This provision deals with when a market is such
9 that the activity is so suspicious that you can not limit --
10 you can not identify one account, two accounts, three
11 accounts as to where it's coming from and the market is
12 suspended. And it's a very rare occurrence. I think in
13 Betfair's history it's happened twice, none of them --
14 neither of which were related to horse racing. But in
15 that -- in that event it would make sense from a regulatory
16 standpoint and to protect the operator standpoint that no
17 money be paid out until the investigation is complete.

18 CHAIR ISRAEL: Is this the tennis -- the two
19 tennis instances?

20 MR. HINDMAN: Correct. The -- the tennis match in
21 which all the market was voided --

22 CHAIR ISRAEL: Right.

23 MR. HINDMAN: -- everybody. It was called off.

24 CHAIR ISRAEL: Yeah. Well --

25 COMMISSIONER ROSENBERG: Yeah. I think --

1 CHAIR ISRAEL: -- there are only two possible
2 outcomes.

3 MR. HINDMAN: Right. Right.

4 CHAIR ISRAEL: And as it turned out, there was
5 only one possible outcome.

6 MR. HINDMAN: Right.

7 CHAIR ISRAEL: Yeah.

8 MR. HINDMAN: So --

9 CHAIR ISRAEL: So --

10 MR. HINDMAN: -- it was the tennis, yes.

11 COMMISSIONER ROSENBERG: I'm fine with the
12 language the way it is. I think it's -- this is -- this is
13 a big business. You know, sometimes we're focusing on horse
14 racing, which we should. But, you know, they have -- they
15 operate a huge business and he's told us it's only happened
16 twice in the existence on any sport.

17 CHAIR ISRAEL: Well, the Russians fixed two --

18 COMMISSIONER ROSENBERG: Well, you know --

19 CHAIR ISRAEL: -- two fairly substantial tennis
20 matches.

21 MR. HINDMAN: Correct.

22 MR. FISCO: Well, okay. The -- the language says
23 settle the market. If you're suggesting that the wagers
24 should be canceled, then that's a change in the language
25 that --

1 COMMISSIONER ROSENBERG: Well --

2 MR. FISCO: -- will have to be considered.

3 CHAIR ISRAEL: I don't think Richard is suggesting
4 that.

5 COMMISSIONER ROSENBERG: Not at all.

6 CHAIR ISRAEL: And I don't know that the Board is
7 suggesting that. But it would be -- if somebody asked me my
8 opinion, if -- if one horse were involved in some sort of
9 fraud I think the outcome of the entire race, you know, has
10 to be reconsidered just to --

11 MR. FISCO: And I --

12 CHAIR ISRAEL: You know, it's too late, obviously,
13 for on-track wagers and all that.

14 COMMISSIONER ROSENBERG: I don't think so.

15 MR. FISCO: We don't disagree with you. It's just
16 technically if -- if that's where it's headed then that
17 needs to be stated.

18 CHAIR ISRAEL: I doubt it's headed there. I don't
19 think that I have the support of the full Board. It's just
20 my opinion.

21 MR. FISCO: Okay. Thank you, Commissioners. That
22 will be it. And --

23 CHAIR ISRAEL: John, stay there. You're next.

24 MR. FISCO: -- we'll submit the comments during
25 the period. Thank you again.

1 CHAIR ISRAEL: Thank you. John Hindman?

2 MR. HINDMAN: Thank you, Commissioners. Again,
3 John Hindman, general counsel for Betfair U.S. and TVG. I
4 have three comments this morning. Two relate to some
5 suggested tweaks to the changes proposed by the Board in
6 their latest -- in their latest packet.

7 The first are related changes to 2086.6(h) and
8 2089.5(a). And as the Board published changes it would
9 preclude out-of-state residents from using an account to bet
10 on anything other than California races. And I think the
11 background on this is -- is the statute, enabling exchange
12 wagering statute says that it authorizes three different
13 things, California residents betting on California races,
14 California residents betting on non-California races, and
15 out-of-state residents betting on California races, because
16 those are --

17 CHAIR ISRAEL: Right.

18 MR. HINDMAN: -- the three things that generally
19 the CHRB regulates and is within their jurisdiction.

20 However, what this rule as written does would
21 preclude the ability, if other jurisdictions, regulatory
22 jurisdictions with jurisdiction over races or customers
23 authorize bets to be placed through a California exchange
24 that should be permitted, so -- because that would be
25 basically precluding business based in California from

1 expanding and -- and growing in a way that is otherwise
2 lawful.

3 So I have provided two changes to staff. One
4 change, the 2086.6(h), which would make clear that the
5 purpose of the rules -- for the purpose of the rules --
6 that's out-of-state residents shall only apply to California
7 races. And so Jackie has those. And, again, I think this
8 is very important because if the rule stays as it is,
9 unintentionally I think it would be very difficult for an
10 exchange wagering operator to build and operate and exchange
11 in California.

12 And what we're proposing to make the language
13 consistent with the statute and also allow latitude for the
14 exchange wagering operator to grow its business based in
15 California -- we've obviously built our exchange here in
16 California -- is no different than, for instance, an ADW
17 this Board authorizes California residents to place bets
18 through an ADW system located in Oregon. So we're just
19 allowing for the same -- consistent with ADW, and allow for
20 the same sort of -- of latitude.

21 I think that, you know, if it's written kind of
22 right at -- if it goes final as it I think this would be a
23 real poison pill in these rules for exchange wagering
24 operators being able to base exchanges in California.

25 CHAIR ISRAEL: Okay.

1 MR. HINDMAN: The second tweak that I have is
2 there was some provisions added regarding the establishment
3 of the maintenance of funds and FDIC bank accounts and the
4 segregation of those funds which --

5 CHAIR ISRAEL: What -- what number? What number
6 is that?

7 MR. HINDMAN: I'm sorry 2086.6(b)(2). And we
8 obviously support this rule. As written I think it limits
9 the -- the use of the funds for purposes required by an
10 account holder's exchange wagering transactions. We would
11 like for two additional things to be added on there for
12 clarity. It should be exchange wagering transactions,
13 advance deposit wagering transactions since this -- these
14 rules do talk in other sections about the inoperability of
15 ADW and exchange wagering, and related client services such
16 as buying a racing form or buying video streaming, or
17 something like that.

18 CHAIR ISRAEL: This is so account holders don't
19 have to set up a second account --

20 MR. HINDMAN: Correct.

21 CHAIR ISRAEL: -- in order to do exchange
22 wagering?

23 MR. HINDMAN: Correct.

24 CHAIR ISRAEL: Right. That --

25 MR. HINDMAN: And I have a draft of this, as well,

1 that --

2 CHAIR ISRAEL: Okay. That's --

3 MR. HINDMAN: -- I'll distribute to Jackie.

4 CHAIR ISRAEL: That makes perfect sense.

5 MR. HINDMAN: And then the third point is, really,
6 this morning --

7 COMMISSIONER ROSENBERG: Before we get to that,
8 excuse me. These -- the first two comments you just sent by
9 email, which we received two days ago; correct?

10 MR. HINDMAN: The first comment I sent by email --

11 COMMISSIONER ROSENBERG: The first one?

12 MR. HINDMAN: -- that you received --

13 COMMISSIONER ROSENBERG: Oh, the first one?

14 MR. HINDMAN: -- two days ago.

15 COMMISSIONER ROSENBERG: Okay.

16 MR. HINDMAN: This one is one we -- we noticed
17 additionally, but it's a very small --

18 COMMISSIONER ROSENBERG: Okay. Okay.

19 MR. HINDMAN: -- it's adding five words onto the
20 end of a rule --

21 COMMISSIONER ROSENBERG: Got it.

22 MR. HINDMAN: -- that already exists.

23 And then I think my last comment is really related
24 around procedure. You know, I heard -- I heard your
25 comments this morning, Commissioner Israel, about a 45-day

1 comment period. We don't believe, and I have a legal
2 opinion here going into it, that anything that's been
3 proposed, any changes that have been proposed if they're
4 adopted by the Board would require anything more than a 15-
5 day comment period because they are substantial but
6 sufficiently related changes.

7 And just to kind of put it in laymen's terms, a
8 45-day comment period would -- would apply to a change that
9 is basically off topic. So if the staff drops something in
10 here that nobody was expecting that changed, you know, a
11 jockey whip rule, Mr. Kennedy could come up here and say I
12 had no reasonable expectation to believe that a jockey whip
13 rule change would be included in these rules.

14 That obviously hasn't happened here. And this
15 fits very well into the standard which is that these are all
16 changes that a reasonable member of the directly-affected
17 public could have determined from the notice we have had
18 could be made. So there's been notice. All of the changes
19 that were being proposed could be made. Somebody could look
20 at the rules that have been published before and say, yeah,
21 you know what, this is something they could do. These are
22 not off-topic changes. They all stay within the topics of
23 each of these rules.

24 And I think that's important because we've had a
25 very long regulatory process that actually started August of

1 last year. So every stakeholder in this room has had the
2 ability to have a 60-day study period in August of 2011.

3 The Board published these rules for the first time
4 in February of 2012. Everybody had a chance to comment on
5 the rules at this first ad hoc meeting in February of 2012
6 again. In March the -- the CHRB put the rules out for
7 public comment. Again, at that meeting everybody had a
8 chance to comment again. There was then a 45-day comment
9 period that ended in June in which everybody had a chance to
10 comment again. And I think if you look at what these
11 comments all are, they're all comments about the same thing
12 coming from the same people. And there's no reason of --
13 everybody's had ample opportunity. Everybody's made all
14 everybody's made all the points they want to make. There's
15 no reason for further delay.

16 And, you know, speaking for ourselves and -- and I
17 think constituents that will benefit from our activity I
18 think, you know, further delay would do nothing but
19 prejudice, you know, people who have already made the
20 investments who are ready to operate the exchange wagering
21 responsibly. The Board has done a wonderful job. These
22 rules are more than sufficient to operate. And we've got --
23 you know, I think horsemen could be receiving funds from
24 exchange wagering. There's -- there's union jobs that the
25 union will benefit from exchange wagering for Local 280.

1 We've obviously made a very large commitment to California
2 already in building and operable exchange.

3 So we would really urge the Board to consider a --

4 CHAIR ISRAEL: Okay.

5 MR. HINDMAN: -- 15-day public comment period

6 CHAIR ISRAEL: Let me -- let me just say, the
7 reason I made my comment was because I was advised by Staff
8 and Counsel that the 45-day period was -- was required. I'd
9 love -- I mean, I -- there's nothing I'd rather do than --

10 COMMISSIONER ROSENBERG: Right.

11 CHAIR ISRAEL: -- than circumvent bureaucratic
12 nonsense. But I also want to abide by the law, and because
13 the circumvention may result in longer delays with court
14 cases being filed.

15 So I'm willing to do whatever Counsel and Staff
16 advises is actually the most expeditious way to get this
17 done. So if they find that your legal proposition is
18 accurate I would -- I would defer to them. If they disagree
19 with your legal proposition I would again defer to them. I
20 would leave it to you to work it out with counsel.

21 And, Bob, if you want to make a comment on that?

22 And I think Richard feels the same way.

23 COMMISSIONER ROSENBERG: Yes.

24 CHAIR ISRAEL: Okay.

25 COMMISSIONER ROSENBERG: I do. But I want -- Bob,

1 I want your comment, and I have a question after that.

2 MR. MILLER: Well, I look forward to receiving
3 what Mr. Hindman's going to present.

4 COMMISSIONER ROSENBERG: My question -- is that
5 it?

6 MR. MILLER: Yeah. I just -- Jackie and I had
7 talked before and we believe about a 45-day comment period
8 would be appropriate in this instance. But I will certainly
9 consider what Mr. Hindman submits.

10 COMMISSIONER ROSENBERG: Well, I agree with
11 Commissioner Israel's position on this.

12 But I have a question. As a practical matter
13 here's where we are. The -- the requirement to send out to
14 the public for comment would be after the actual full Board
15 approves -- suggests sending them out for public comment,
16 and we would approve the draft of the rules as they are.
17 Tomorrow we have a meeting. Today we've already agreed
18 unofficially to make more changes to the rules, which will
19 not be ready by tomorrow for the full Board to vote on;
20 correct?

21 MS. WAGNER: That's correct.

22 MR. HINDMAN: I don't know.

23 CHAIR ISRAEL: Well, I don't believe --

24 COMMISSIONER ROSENBERG: So --

25 CHAIR ISRAEL: -- Staff can make them in time.

1 COMMISSIONER ROSENBERG: -- it's impossible.

2 CHAIR ISRAEL: Yeah.

3 COMMISSIONER ROSENBERG: So if -- if -- for the
4 Board --

5 CHAIR ISRAEL: First of all it can't be --

6 COMMISSIONER ROSENBERG: -- members to digest
7 it --

8 CHAIR ISRAEL: Right.

9 COMMISSIONER ROSENBERG: Right. It can't digest
10 it

11 CHAIR ISRAEL: It can't be circulated quickly
12 enough.

13 COMMISSIONER ROSENBERG: So as a practical matter
14 I agree with Commissioner Israel, the sooner we can get this
15 done the better. We owe it to the public to do this, to --

16 MS. WAGNER: Right.

17 COMMISSIONER ROSENBERG: -- to racing to do this.
18 And we're going to approve it one way or another. But we're
19 not in a position to get to approving anything yet. So
20 tomorrow may just be further discussion of specific changes.

21 MS. WAGNER: Right.

22 COMMISSIONER ROSENBERG: And maybe others will be
23 there to talk about the same issues. But I don't see how we
24 can get this out for 15 days or --

25 MS. WAGNER: Right.

1 COMMISSIONER ROSENBERG: -- both --

2 CHAIR ISRAEL: Tomorrow.

3 MS. WAGNER: A 45 --

4 COMMISSIONER ROSENBERG: My question, Jackie: Can
5 we get this out tomorrow for 15 or 30 or 45 days?

6 MS. WAGNER: No.

7 COMMISSIONER ROSENBERG: No?

8 MS. WAGNER: We can not. We can not.

9 COMMISSIONER ROSENBERG: So that --

10 CHAIR ISRAEL: Yeah. But one thing we can do to
11 expedite it, whether it's 15 or 45 days, is not hold another
12 committee meeting. So the next --

13 COMMISSIONER ROSENBERG: Right.

14 CHAIR ISRAEL: The next draft will go directly to
15 the full Board after being reviewed by Staff and me and --
16 and maybe Richard. To be honest, Richard's right about the
17 end of his term. And then if it's in good enough shape,
18 which I believe and hope it will be, we can put it up for a
19 vote of the full Board. Once the full Board votes on it, it
20 then starts the new process.

21 MS. WAGNER: Correct.

22 CHAIR ISRAEL: Which -- would it go to straight to
23 the Office of Administrative Law or would we have another
24 45-day period?

25 MS. WAGNER: That -- that will be the new comment

1 period, whether it will be 15 days --

2 CHAIR ISRAEL: Right. So --

3 MS. WAGNER: -- or whether it will be 45 days.

4 CHAIR ISRAEL: Well, so what -- what I -- what I
5 would hope the result of this meeting is, is fully vetted
6 revised set of regulations for the full Board to vote on at
7 the September meeting in Pomona. And then the 45-day period
8 would start. I don't know how long then it would take.
9 Then we could vote on it in the November meeting; right?

10 MS. WAGNER: November. Probably November.

11 CHAIR ISRAEL: And then, you know, just to -- to
12 fully accept it. Then how long does it take the OAL to get
13 anything done.

14 MS. WAGNER: If the Board does adopt those rules
15 at November or whenever the hearing is held --

16 CHAIR ISRAEL: Well, let's just say November.

17 MS. WAGNER: -- they have 30 working days in order
18 to review the file.

19 CHAIR ISRAEL: All right. So by -- so by the
20 first of the year this will be implemented. I think -- I
21 wish it could be done more quickly but, apparently, in
22 government it can't be.

23 However, if John, if you -- if you prevail,
24 John --

25 MR. HINDMAN: Yeah?

1 CHAIR ISRAEL: -- if you prevail and it's a 15-day
2 comment period we could then vote in October.

3 MR. HINDMAN: Okay. I'm going to defer to my
4 counsel here, Dennis Ehling. We want to make a comment
5 about procedure as well.

6 MR. EHLING: Good morning, Members. Dennis
7 Ehling.

8 CHAIR ISRAEL: Wait. Wait. Your name and --

9 MR. EHLING: Yes. Dennis Ehling of Blank Rome
10 here representing TVG and Betfair U.S.

11 As we understand the procedure, and I believe it
12 was laid out in the brief that was submitted by Mr.
13 Hindman -- is being submitted -- the procedure would be
14 between now and the time that the Board ultimately votes to
15 finally approve the regulations, they must be mailed out at
16 least 15 days ahead of time. So, basically, if -- if Staff
17 takes now and takes the next 10 days to incorporate any
18 changes they could submit out the proposed final by mail 15
19 days ahead of the September meeting.

20 MS. WAGNER: Excuse me.

21 MR. EHLING: At that time they can be voted on.

22 MS. WAGNER: That's correct to -- to a certain
23 point. We do have a calendar that we have to follow with
24 the Office of Administrative Law.

25 MR. EHLING: Uh-huh.

1 MS. WAGNER: And they are -- on that calendar they
2 let us know what days they are accepting documents for
3 notice. And they have to -- they also give us the
4 publication dates of those documents. So depending when
5 those -- those dates fall and when our Board meeting falls
6 will determine where -- where that hearing will ultimately
7 be held.

8 We have taken a look at both of those calendars
9 for both the 15-day notice and a 45-day notice. A 15-day
10 notice, if we come up with regulations that the Board agrees
11 upon, a 15-day notice to the Office of Administrative Law
12 would be published on September the 21st. The end of the 15
13 comment -- 15-day comment period ends on October the 6th,
14 and that misses the September. So we're looking at October.

15 To the very first time that we can even possibly look at
16 these rules would be October, and that's if it's a 15 day.
17 So some of the -- the timeframes is 15 and 45.

18 CHAIR ISRAEL: The very first --

19 MS. WAGNER: We have --

20 CHAIR ISRAEL: Why could we vote on this in
21 September?

22 COMMISSIONER ROSENBERG: Well, what does the
23 gentlemen --

24 MS. WAGNER: It will miss --

25 MR. EHLING: Dennis Ehling.

1 COMMISSIONER ROSENBERG: Yeah. Would you --

2 MS. WAGNER: It will miss -- the 15-day comment
3 period ends on October the 6th, which is after our September
4 Board meeting. Our September Board meeting is September the
5 20th.

6 COMMISSIONER ROSENBERG: But the counsel said --
7 the counseling said something different in terms of the 15
8 days -- as I understood it he said 15 days prior that they
9 could -- you want staff to redraft the rules after the Board
10 meeting, and that's now, within 10 days, get them out,
11 correct, for comment?

12 MR. EHLING: Correct.

13 COMMISSIONER ROSENBERG: And want the Board --
14 you're saying the Board could then vote in the next month?

15 MS. WAGNER: No.

16 MR. EHLING: It's --

17 COMMISSIONER ROSENBERG: That doesn't sound right.

18 MR. EHLING: It sounds, Commissioner, like there's
19 an OAL procedure that Jackie's been informed up that we need
20 to get clarified.

21 MS. WAGNER: Right.

22 MR. EHLING: I'd be happy to speak with her --

23 MS. WAGNER: Absolutely.

24 MR. EHLING: -- one-on-one --

25 MS. WAGNER: Absolutely

1 MR. EHLING: -- and work it out.

2 CHAIR ISRAEL: You can do this offline.

3 MR. EHLING: Yes.

4 COMMISSIONER ROSENBERG: It would be nice to have
5 this tomorrow --

6 CHAIR ISRAEL: And --

7 COMMISSIONER ROSENBERG: -- to be aware of this
8 tomorrow.

9 CHAIR ISRAEL: -- this is on the agenda for
10 tomorrow. I think there will be few -- there will be
11 some -- some of what we review will be of substance,
12 because, frankly, I have a couple of changes I'd like to
13 make --

14 MS. WAGNER: Right.

15 CHAIR ISRAEL: -- that shouldn't be made without
16 the consent of the full Board. And Richard and I aren't
17 necessarily in agreement on them. And -- and then Jackie
18 can bring up the scheduling issue before the full Board and
19 we can actually finalize it tomorrow, and that's probably
20 the best way to do it.

21 But, I mean, we're -- we're close. Unfortunately,
22 the bureaucratic rules and regulations require delay
23 periods. The 45 days and the 15 days, please tell me their
24 not working -- I know the 45 days is not 45 working days.
25 What's the 15 days?

1 MS. WAGNER: You know, I don't have that calendar.
2 MR. EHLING: Their 15 days if 15 calendar days.
3 MS. WAGNER: Fifteen calendar days.
4 MR. HINDMAN: They're calendar days.
5 CHAIR ISRAEL: Okay.
6 MR. EHLING: Correct.
7 MS. WAGNER: Yeah. Yeah.
8 CHAIR ISRAEL: Because otherwise --
9 MS. WAGNER: Yeah.
10 CHAIR ISRAEL: -- with --
11 MS. WAGNER: Yeah.
12 MR. EHLING: Right. And it's 15 calendar days.
13 MS. WAGNER: It's 15 calendar days for the --
14 CHAIR ISRAEL: Labor Day --
15 MS. WAGNER: -- for the --
16 CHAIR ISRAEL: -- Columbus Day --
17 MS. WAGNER: -- for the -- for the comment period.
18 CHAIR ISRAEL: The thing could be attenuated
19 forever.
20 MR. EHLING: Right.
21 CHAIR ISRAEL: Yeah. Okay.
22 MR. EHLING: Thank you, Commissioners.
23 CHAIR ISRAEL: Thank you. Are you done, John? Is
24 that your --
25 MR. HINDMAN: Yes, unless there's any questions or

1 further comment I can offer.

2 CHAIR ISRAEL: Well, Drew, are you trying -- do
3 you want to address this issue?

4 MR. COUTO: Give me just a brief moment. Drew
5 Couto, again, GBE. With regard to the 15-day versus 45-
6 days, to the extent Betfair has submitted comments directly
7 to Staff regarding rules that may or may not be changed that
8 are not published today, that haven't been part of these
9 packets but have been comments made by them regarding this
10 package which are going to be adopted, that's going to, in
11 our opinion, mitigate against 15 days. It's going to be a
12 45-day because no one has seen those comments. They will
13 not have been in the packet.

14 CHAIR ISRAEL: Okay.

15 MR. COUTO: They will have been private.

16 CHAIR ISRAEL: We're going to deal with all of
17 this tomorrow.

18 MR. COUTO: Okay.

19 CHAIR ISRAEL: Okay.

20 MR. COUTO: Thank you.

21 CHAIR ISRAEL: I mean, this calendar stuff is --
22 all right. The -- Scott, you're actually next on the yellow
23 cards. So you want to --

24 MR. DARUTY: I was going to address one of Mr.
25 Hindman's comments.

1 CHAIR ISRAEL: Fine. Okay.

2 MR. DARUTY: He raised three points. The first of
3 which had -- I'm sorry, Scott Daruty. I'm appearing on
4 behalf of Santa Anita Park, Golden Gate Fields and
5 XpressBet.

6 Mr. Hindman raised three issues, the first of
7 which had to do with out-of-state residents taking -- or
8 placing exchange wagers through a California exchange on
9 out-of-state races. The staff had taken comments on that
10 issue and had come back with a proposed rule or proposed
11 change to the rule that would not allow out-of-state
12 residents to wager on out-of-state races. And I believe
13 that's appropriate as those sorts of wagers are not
14 authorized by the exchange wagering statute. So I think Mr.
15 Hindman's comment, while I understand where he's coming
16 from, from a business perspective they may want to take
17 those wagers. Those are not permitted by California Law.

18 And I would reference 19604.5(b), which is
19 essentially the enabling sentence, the most, probably,
20 important sentence of the whole statute, makes clear that
21 California residents can bet on California races.
22 California residents can be on out-of-state races. And out-
23 of-state residents can be on California races. Period. End
24 of story.

25 CHAIR ISRAEL: Okay. Is Staff aware of that?

1 MS. WAGNER: Yes.

2 CHAIR ISRAEL: Okay. And you're in agreement?

3 MR. MILLER: Yes.

4 CHAIR ISRAEL: Are you in agreement with that?

5 MR. MILLER: Yes.

6 CHAIR ISRAEL: Okay. Thank you. Carlo, do you
7 have anything else?

8 MR. FISCO: Yes. Carlo Fisco, California
9 Thoroughbred Trainers.

10 Commissioner Israel, you stated at the outset of
11 the meeting that whatever comments are coming in are to be
12 shared and --

13 CHAIR ISRAEL: Right.

14 MR. FISCO: -- and put out. If this issue between
15 15 and 45 gains any traction whatsoever we'd like to see
16 whatever comments were submitted by Betfair as proposing the
17 15-day period. I don't think --

18 CHAIR ISRAEL: Okay.

19 MR. FISCO: -- it's even --

20 CHAIR ISRAEL: Here I'll just --

21 COMMISSIONER ROSENBERG: There are no comments.

22 CHAIR ISRAEL: Well, no, they have a brief --
23 aren't they --

24 COMMISSIONER ROSENBERG: They weren't submitted to
25 us yet.

1 CHAIR ISRAEL: Are you submitting a brief on the
2 15 days?

3 MR. HINDMAN: Yes.

4 MS. WAGNER: He just handed it --

5 CHAIR ISRAEL: You did?

6 MR. HINDMAN: We already did.

7 MS. WAGNER: He just handed it to us.

8 CHAIR ISRAEL: Please, can we then post it on the
9 internet?

10 MR. FISCO: Thank you very much.

11 CHAIR ISRAEL: Thank you. Unless you have some
12 terrible objection to it being posted, and you'd better
13 state the objection. No? It's posted. It will be posted.

14 MR. EHLING: Commissioners, Dennis Ehling, again
15 on behalf of TVG and Betfair U.S.

16 This -- Mr. Daruty has drawn attention to
17 19604.5(b) and what the language says regarding authorizing
18 wagering by -- exchange wagering by California residents, by
19 residents outside California. I think the interpretation of
20 that language would have -- in order to achieve, I guess,
21 what they would have required would have had the California
22 legislature declare that it is legal for a New Jersey
23 resident to place a wager on a New York race. The
24 California legislature simply doesn't have the jurisdiction
25 to do that, which is why it didn't attempt to do that in

1 19604.5(b).

2 What it attempted to do and what it did do was to
3 say anything that touches California, a wager by a
4 California resident, a wager on a California race, that is
5 being made legal. They could not have and did not try to
6 limit or -- or authorize what could be done by a New Jersey
7 resident on a New York race or on a Kentucky race or
8 anything else.

9 CHAIR ISRAEL: So you're saying -- I'll play
10 amateur lawyer again because I write lawyers. This commerce
11 clause prohibits them from doing that?

12 MR. EHLING: It would be beyond --

13 CHAIR ISRAEL: Is that --

14 MR. EHLING: It would be more than beyond the
15 commerce clause, but, yes, that would be one of the many
16 places in which they'd be limited from doing that.

17 CHAIR ISRAEL: Okay. Here's -- here's where I
18 think this is going, neither of us wears a black robe and he
19 denies he was every a lawyer, even though he was one. I got
20 a feeling this whole thing is going to wind up being
21 adjudicated in some higher court than this one because the
22 legislature also says this isn't bookmaking, it's parimutuel
23 wagering, which doesn't seem to be the case, but that's for
24 them to do and some judge to decide.

25 So I got to -- you know, whatever we do on this

1 particular statute part of the rules, it's going to wind up
2 in court. So I wouldn't worry about it right now.

3 MR. EHLING: I just wanted to be clear that I
4 think the rules should be consistent with what the statute
5 has authorized. And the statute makes no effort to -- to
6 limit what out-of-state residents might or might not do.

7 CHAIR ISRAEL: Well, why is it good people
8 apparently have different opinions about what the statute
9 authorizes? So that's why --

10 MR. EHLING: Thank you, Commissioner.

11 CHAIR ISRAEL: That's why judges get paid the big
12 money, and we get paid a hundred bucks.

13 COMMISSIONER ROSENBERG: You mean, the good people
14 who are opposed to exchange wagering.

15 CHAIR ISRAEL: Huh?

16 COMMISSIONER ROSENBERG: You mean, the good people
17 who are opposed to it?

18 CHAIR ISRAEL: Well, good people.

19 COMMISSIONER ROSENBERG: Whatever.

20 CHAIR ISRAEL: Okay. Scott, now you're up as a
21 yellow card.

22 MR. DARUTY: Yes. Thank you. Scott Daruty.

23 CHAIR ISRAEL: And Richard Specter, wherever he
24 might be.

25 MR. DARUTY: Yeah. I'm going to turn it over to

1 him in one minute. But I'm here on behalf, again, of Santa
2 Anita Park, Golden Gate Fields, and XpressBet. I have two
3 comments, one general, one more specific.

4 The general I give by way of -- of background.
5 And it was actually a good segue, what we were just talking
6 about. Our position is that all of these rules that are
7 being considered by the Board are not in compliance with the
8 exchange wagering statute. The exchange wagering statute
9 makes --

10 CHAIR ISRAEL: All of the rules?

11 MR. DARUTY: Well, all of them. The exchange
12 wagering statute makes clear that all exchange wagering must
13 take place in accordance with the Interstate Horse Racing
14 Act, which deals with parimutuel wagering. These rules are
15 enabling bookmaking, and therefore are not consistent with
16 the parimutuel requirements set forth in the exchange
17 wagering statute. Now, I know we're not here to debate that
18 today, and that will be adjudicated.

19 CHAIR ISRAEL: That's what I just said. That's
20 going to --

21 MR. DARUTY: That's --

22 CHAIR ISRAEL: A judge is going to make that
23 decision.

24 MR. DARUTY: A judge at some point will make that
25 determination. But for the record, that is our position.

1 And we will be pursuing that through the proper channels to
2 get to a resolution.

3 One of two things will happen when this gets to a
4 court. Either we will be correct and all these discussions
5 will be somewhat moot, or we will be incorrect, at which
6 point as owners of two major racing venues in the State of
7 California we will have no choice but to figure out how to
8 make this statute work for the benefit of live racing, the
9 race tracks, and horsemen in California. And if that is the
10 case we will be using whatever exchange wagering statute is
11 left after a court looks at it on-track at our venues in a
12 way that helps bring people to the venues and hopefully
13 helps support live racing.

14 To that end, I get to my specific comment. We
15 believe some of these rules unintentionally, but -- but some
16 of these rules place requirements or restrictions on
17 wagering in person at a track that are neither permitted
18 under the statute as -- as prohibitions, nor are they wise
19 from an industry standpoint in terms of promoting live
20 racing. In other words, what I'm saying is if we're going
21 to have exchange wagering let's make sure we don't have
22 emptier race tracks after exchange wagering than we had
23 before. Let's give people a reason to come to the tracks to
24 participate in exchange wagering.

25 The -- the specific issue deals with, again,

1 coincidentally, non-California residents and whether or not
2 a non-California resident who is physically present at a
3 race track would be able to participate in exchange
4 wagering. I'm going to turn it over to our outside counsel
5 to address the -- the issue.

6 But just so we have some context, the example I
7 would like to give is the Breeders' Cup is going to be here
8 in a couple months. We're going to have people from all
9 over the country and all over the world. And it would be a
10 shame if we did have exchange wagering in the State of
11 California and we did have it at our venues if we had to
12 tell those good people, sorry, you can't bet on a Santa
13 Anita race at Santa Anita because you're not a California
14 resident. As drafted I believe these rules would -- would
15 prohibit those people from wagering. And I don't think the
16 statute directs you to prohibit them from wagering. And,
17 therefore, we think the rules should be cleaned up on that
18 point.

19 And with that, I'll turn it over to our counsel.

20 MR. SPECTER: Richard Specter on behalf of Los
21 Angeles Turf Club and the Pacific Racing Association. And
22 I'm the only one who's going to meet the three-minute limit.
23 So --

24 CHAIR ISRAEL: Okay.

25 MR. SPECTER: -- I deserve something for that.

1 We had submitted language under 2086(i) to address
2 this problem. And, again, the problem the problem is that
3 to make an exchange wager you need to have an exchange
4 wagering account. And as presently written you can only
5 have an exchange wagering account if you are resident of a
6 state that permits it in order to place a bet in California.

7 We had provided language which permitted one to
8 establish an account and make an exchange wager if they were
9 present in California at the time when the wager was placed.
10 I think inadvertently, or I hope so, in the staff analysis,
11 when the staff sent out the language we had submitted it
12 omitted those words "or present in California at the time
13 when the wager was placed," and therefore the staff never
14 addressed that proposed change by us.

15 CHAIR ISRAEL: Jackie or Robert, do you have a
16 comment?

17 MS. WAGNER: No. If that was omitted it was done
18 inadvertently.

19 MR. SPECTER: Oh, I'm sure it was.

20 MS. WAGNER: I'll have to double check the
21 original letter.

22 MR. SPECTER: Yeah. But -- but the purpose is,
23 again, it's -- for the Breeders' Cup you have an out-of-
24 state resident attending the Breeders' Cup that wants to
25 make a wager at the track, an exchange wager --

1 CHAIR ISRAEL: I understand entirely.

2 MR. SPECTER: Yeah.

3 CHAIR ISRAEL: Okay. I don't understand how
4 exchange wagering can actually work if you don't have a
5 computer, at least partly -- at least, certainly, the in-
6 race part of it. But that's neither here nor there, I
7 guess.

8 Is that it?

9 MR. SPECTER: That's it.

10 CHAIR ISRAEL: Wow. A minute and a half.

11 MR. SPECTER: Yeah.

12 CHAIR ISRAEL: Including the interruptions.

13 MR. SPECTER: Yeah.

14 CHAIR ISRAEL: I have a stopwatch.

15 MR. SPECTER: Thank you.

16 CHAIR ISRAEL: Okay. Thanks. And would you
17 please also submit that in writing to Staff so we can post
18 it on the internet?

19 MR. SPECTER: Submit what we previously submitted?

20 CHAIR ISRAEL: Yeah. Resubmit it in just a short
21 form --

22 MS. WAGNER: Right.

23 CHAIR ISRAEL: -- so they can post it on the
24 internet for transparency's sake because, obviously, they
25 misplaced it or --

1 MS. WAGNER: Right. In --

2 CHAIR ISRAEL: -- it got --

3 MS. WAGNER: In addition to what Commissioner is
4 asking the industry to do, submitting their comments, along
5 with those comments, if you would submit proposed language
6 changes.

7 CHAIR ISRAEL: Yes.

8 COMMISSIONER ROSENBERG: Absolutely.

9 CHAIR ISRAEL: That's --

10 COMMISSIONER ROSENBERG: Yeah.

11 MS. WAGNER: We need proposed language changes so
12 everyone in the industry can see what everybody else is
13 thinking. After we receive those proposed language changes
14 we will evaluate those and come up, hopefully, with a
15 consensus as to which way we're going to go on those
16 sections that are in dispute.

17 CHAIR ISRAEL: And I'm going to ask you to do that
18 by September -- August 31st. I don't know which day of the
19 week it is.

20 MR. SPECTER: And on Friday we submitted --

21 CHAIR ISRAEL: That's a Friday.

22 MR. SPECTER: -- a letter to -- to each of you
23 that will ultimately end up before the OAL. It's our legal
24 objections. And hopefully you received it. It was sent by
25 email and --

1 CHAIR ISRAEL: Probably.

2 COMMISSIONER ROSENBERG: I don't know.

3 CHAIR ISRAEL: To be honest with you, I don't
4 remember.

5 MR. SPECTER: Thank you.

6 CHAIR ISRAEL: Tom Kennedy, did you have anything?
7 Where are you? There you are. Your yellow card is -- it's
8 your turn.

9 MR. KENNEDY: No. I've already -- I've already --

10 CHAIR ISRAEL: You've already made your point?

11 MR. KENNEDY: -- made my comments.

12 CHAIR ISRAEL: Okay. You get points for that.

13 John Bucalo with your fancy printed-in-advance
14 card. It's not yellow, though, so --

15 MR. BUCALO: John Bucalo, Barona Casino. I'd like
16 to move my request to number two, public comment, if it's
17 okay.

18 CHAIR ISRAEL: To what?

19 MR. BUCALO: To public comment.

20 COMMISSIONER ROSENBERG: He wants -- public
21 comment.

22 CHAIR ISRAEL: Sure.

23 COMMISSIONER ROSENBERG: Yeah.

24 CHAIR ISRAEL: Go ahead.

25 MR. BUCALO: Thank you.

1 CHAIR ISRAEL: And Brad Blackwell.

2 MR. BLACKWELL: Good morning. Brad Blackwell on
3 behalf of Twinpires.

4 I just want to point out for the record that
5 Twinpires did provide comments during the 45-day comment
6 period. And when we received the Ad Hoc Committee package
7 we noticed those comments were not a part of that package.
8 And it's our understanding that the Board will address those
9 comments and they will be included in the process.

10 CHAIR ISRAEL: Yes.

11 MR. BLACKWELL: Thank you.

12 CHAIR ISRAEL: Thank you.

13 MS. WAGNER: Also, if I can make this request, if
14 you will go ahead and abide by the request from Chairman
15 Israel for the last -- this new 10-day period.

16 CHAIR ISRAEL: Yeah. Just resubmit them and --

17 MR. BLACKWELL: Absolutely.

18 MS. WAGNER: Just get them --

19 CHAIR ISRAEL: -- and then we'll post them.

20 COMMISSIONER ROSENBERG: Specific language.

21 CHAIR ISRAEL: Yeah. And the specific language
22 that Jackie asked for.

23 So -- so to review, we'd like you to submit all of
24 your proposed changes in writing by August 31st, which is a
25 week from Friday, and include in those the proposed language

1 that you would like included in the rule. Every submission
2 will be reviewed by Staff and posted as quickly as possible
3 on the internet so you will be able to see what the other
4 parties are suggesting. And I will implore you not to play
5 the waiting game so you get it in August 34th -- or August
6 31st at five o'clock so no one can respond. That will be
7 not -- that will not necessarily be looked upon favorably by
8 Staff or the exalted and honorable Commissioners.

9 MS. WAGNER: Also, if I can add, no additional
10 comments. We are just elaborating --

11 COMMISSIONER ROSENBERG: Yes.

12 CHAIR ISRAEL: Right.

13 MS. WAGNER: -- or clarifying what you have
14 submitted previously. Okay?

15 CHAIR ISRAEL: Okay.

16 MS. WAGNER: Thank you.

17 CHAIR ISRAEL: Now, I have a couple of comments
18 I'd like to make that are fairly large ones.

19 COMMISSIONER ROSENBERG: Before you get there,
20 excuse me one second.

21 Back to that point, Jackie, is there a way you
22 could lay out for everyone the -- the method by which you'd
23 like to receive the layout of this? Because you did a great
24 job of -- of laying things out as to the proposed language
25 changes or -- and then the comments.

1 CHAIR ISRAEL: Right. In a grid. Yeah.

2 COMMISSIONER ROSENBERG: So to ask the people
3 who -- who send their letters in to put their proposed
4 language in and then their reason for the change --

5 MS. WAGNER: Absolutely.

6 COMMISSIONER ROSENBERG: -- in some kind of a
7 simple -- for you to be able to collate all of this.

8 MS. WAGNER: It would be great if you --

9 COMMISSIONER ROSENBERG: -- without a lot of
10 commenting and, you know --

11 MS. WAGNER: Right.

12 COMMISSIONER ROSENBERG: -- selling points.

13 MS. WAGNER: Absolutely. It would be great if the
14 industry could -- could follow to a certain extent what is
15 included in the packet, lay it out in a grid form. If you
16 would go ahead and indicate the rule change that you are
17 proposing, the title of the rule, the text of the rule.
18 Note your deletions by strikeouts, your new language
19 proposals by underlines. And if you'll give us a
20 justification of why you would like to have that happen,
21 kind of lay it out in the same form that we have in the
22 packet. That would be great, so everybody's kind of looks
23 the same.

24 CHAIR ISRAEL: Thank you. Okay. Now, I have a
25 couple of comments, and I know Richard has a couple

1 comments, primarily because his comments will be to refute
2 mine.

3 The first is on the antepost market wagering.

4 COMMISSIONER ROSENBERG: Is that on there?

5 CHAIR ISRAEL: It's Rule 2087.5. I understand the
6 purpose of antepost wagering as it relates to the Derby,
7 Winterbrook, and perhaps the Breeders' Cup, and maybe even
8 the Preakness, the Belmont, and a few other major races, I'm
9 adamantly opposed to antepost wagering being allowed on all
10 races because it would become -- it would really bring the
11 entire business -- you know, in a while, and I know it's not
12 likely, everybody's going to tell me it's never going to
13 occur, but the -- the integrity of the business would come
14 into question. Because, you know, if somebody's betting on
15 who's going to be entered in the sixth race at Del Mar a
16 week from Thursday, that's just crazy. And people are going
17 to say you're doing that with inside information.

18 So I think this rule needs to be written very
19 specifically to include only specific races. And I mean, by
20 those specific races, I mean, the three Triple Crown races,
21 perhaps the Kentucky oaks, perhaps, you know, a few of the
22 important races in California every year, Pacific Classic,
23 the Santa Anita Handicap, the Hollywood Gold Cup. You know,
24 and obviously it is going to have to be altered as race
25 tracks and races come and go and change their names. But I

1 think that that's one change I would like to see made. I
2 think it's just too general.

3 Then the second large change, and I thought -- I
4 think the one that's actually going to be more controversial
5 than that, is I believe no one holding a CHRB license, no
6 commissioner and no employee or vendor of the CHRB should be
7 allowed to lay wager. I just don't think anybody in the
8 business should be betting on horses to lose. Everybody
9 else, fine, but not anybody that works -- it's no trainer,
10 no groom, no jockey, no anybody, no commissioner, no owner,
11 nobody. And it would be really simple. And the suspensions
12 should be extreme. Because lay wagering is what's going to
13 make everybody's eyebrows go up. You're betting on a horse
14 to lose and it's only got to finish second.

15 Those are my two large comments. They are
16 comments I will make to the full Board tomorrow. Now
17 Richard will tell me I'm crazy.

18 COMMISSIONER ROSENBERG: Well, you were crazy the
19 first time we spoke about this, but you modified your
20 position a little bit.

21 CHAIR ISRAEL: No, I didn't.

22 COMMISSIONER ROSENBERG: Because the first time
23 you side you didn't like -- you didn't want any antepost
24 wagering.

25 CHAIR ISRAEL: Right. Yeah.

1 COMMISSIONER ROSENBERG: But -- and now that
2 you've expressed it in terms of picking out certain races
3 that doesn't -- that doesn't sound like a bad idea. Because
4 according to what we briefly heard from one of the gentleman
5 who runs an exchange or is involved with exchange wagering,
6 that they don't really allow antepost wagering, except on
7 big races, quote unquote. So maybe there's a way to come up
8 with a definition of Grade 1 races only, or something like
9 that --

10 CHAIR ISRAEL: Right.

11 COMMISSIONER ROSENBERG: -- or purses over X
12 dollars. I'd like to hear from the exchange wagering people
13 to respond to both of us on that issue.

14 Do you want to do it now or do you want to wait
15 until we hit the second point?

16 CHAIR ISRAEL: Yeah. Let's -- let's do that now.

17 COMMISSIONER ROSENBERG: Okay.

18 CHAIR ISRAEL: I mean, we have --

19 COMMISSIONER ROSENBERG: Yeah.

20 CHAIR ISRAEL: We -- if we can limit it to Grade
21 1s and Group 1s, because I assume --

22 COMMISSIONER ROSENBERG: Yeah. Right.

23 CHAIR ISRAEL: -- prepare for overseas' racing --

24 MR. O'SULLIVAN: Chairman --

25 CHAIR ISRAEL: -- that would be reasonable to me.

1 MR. O'SULLIVAN: Yeah. Chairman, I think -- I
2 think, again, speaking for Global Betting Exchange, we do
3 operate it on the basis of major races only. It is, I would
4 say, though, possible, if somebody wants to open an exchange
5 book on a race some days or some weeks in advance of the
6 race, to open a book on that race but not to operate under
7 antepost rules. In other words, no runner would be a void
8 bet on that race. So in that case you would avoid the --

9 CHAIR ISRAEL: Well, that's fine. It doesn't
10 matter to --

11 MR. O'SULLIVAN: -- the jeopardy that you're
12 worried about --

13 CHAIR ISRAEL: Right.

14 MR. O'SULLIVAN: -- that someone would -- would
15 enter a horse and then withdraw the horse having laid that
16 house.

17 COMMISSIONER ROSENBERG: Yeah.

18 CHAIR ISRAEL: Right.

19 MR. O'SULLIVAN: That would be a void bet. In
20 that case you wouldn't run it under the antepost rule.

21 CHAIR ISRAEL: Fine. And the rule can be altered.
22 That's fine, because you're just taking a regular exchange
23 wager.

24 MR. O'SULLIVAN: Yeah. As another point, from the
25 economics of an exchange you -- you really don't want to tie

1 up the client's money for -- for very long. If a client has
2 a bet on a race a number of months in advance his funds are
3 obviously tied up in that race until the time of the event.
4 So the point of operating the exchange you want to have the
5 events as short in duration as possible as a general point.

6 CHAIR ISRAEL: Okay. Thank you.

7 John, please identify yourself.

8 MR. HINDMAN: John Hindman, general counsel at
9 Betfair U.S. and TVG.

10 We would support a limitation and proffer
11 something along the lines of -- of any graded stake's race
12 with a purse of \$100,000 or more or \$150,000 or more. Just
13 I think limiting it too much could -- could have the affect
14 of, you know, a particular very popular race, because
15 California doesn't control how races are grade and it ends
16 up being something other than a Grade 1 that could be a
17 major race that would resolve your concerns --

18 CHAIR ISRAEL: So -- so you're trying to say --
19 basically what you're saying --

20 MR. HINDMAN: -- on purse.

21 CHAIR ISRAEL: -- you're saying Grade 2s is --

22 MR. HINDMAN: Yeah.

23 CHAIR ISRAEL: Okay.

24 MR. HINDMAN: Yeah. Exactly. So we would --

25 CHAIR ISRAEL: All right.

1 MR. HINDMAN: -- support something that is, you
2 know --

3 CHAIR ISRAEL: All right. Well, if --

4 MR. HINDMAN: -- kind of universal and broader.

5 CHAIR ISRAEL: I'm open -- I'm open to that. But
6 I'd really like some limiting language. And -- and if you
7 can work with Staff on that, you know? They're -- does TOC
8 or CTT have any comment from that or anybody from -- Brad,
9 do you have any?
10 How about XpressBet. Where's Scott?

11 MR. DARUTY: Nothing.

12 CHAIR ISRAEL: Nothing. Okay. All right.

13 So if you guys can work on the language, since you
14 don't seem to be wildly opposed. I'm surprised.

15 Yes, Tom?

16 MR. KENNEDY: Just to note, the Jockeys' Guild
17 would support a ban on licensed personnel laying bets. We
18 agree with you. It would not -- it's not appropriate for
19 individuals involved in putting on the show to be betting
20 that horses lose.

21 CHAIR ISRAEL: Okay. Hey, I got one vote.

22 Anybody else want to comment on that?

23 COMMISSIONER ROSENBERG: Yeah. I have --

24 CHAIR ISRAEL: I mean --

25 COMMISSIONER ROSENBERG: Well, yeah, you --

1 CHAIR ISRAEL: Let --

2 COMMISSIONER ROSENBERG: -- you don't have my vote
3 on that at all.

4 CHAIR ISRAEL: Yeah.

5 COMMISSIONER ROSENBERG: I think that's --

6 CHAIR ISRAEL: Let Richard go first.

7 COMMISSIONER ROSENBERG: -- that's too -- much too
8 broad. Much too broad.

9 CHAIR ISRAEL: Richard's an owner --

10 COMMISSIONER ROSENBERG: Yeah. I mean, let's face
11 it, there are a lot of owners.

12 CHAIR ISRAEL: -- and he wants to lay wager.

13 COMMISSIONER ROSENBERG: I think in California
14 there are -- I think we have 8,000 licenses out there. So
15 it's one thing to --

16 CHAIR ISRAEL: There are 38 million people.

17 COMMISSIONER ROSENBERG: It's one thing --

18 CHAIR ISRAEL: It's not that many.

19 COMMISSIONER ROSENBERG: It's one thing -- it's
20 one thing to -- but, yeah, how many of them bet? There's
21 one thing --

22 CHAIR ISRAEL: Not enough.

23 COMMISSIONER ROSENBERG: -- on horse racing, but
24 it's one thing to limit the owner of the horse or the
25 trainer or the assistant trainer or the veterinarian, but to

1 limit an owner, who happens to have a license, to lay a bet
2 is -- to me it takes away the whole purpose or one of the
3 major purposes of matching that the whole exchange wagering
4 thing is -- is based upon. And we'll see whether the Board
5 is in favor of going forward.

6 CHAIR ISRAEL: We shall.

7 Ron?

8 MR. CHARLES: Ton Charles, Global Betting
9 Exchange. Just to touch on Commissioner Israel's response,
10 first of all, I really appreciate the fact that you're going
11 to implement a new policy regarding the transparency. I'm
12 not sure there was a lot of transparency in this last one.
13 I know that we have probably the premiere or the most
14 prominent race track owner who is well known to -- let's say
15 he dislikes the lay bet. And he's in possession of over
16 half the racing dates in California. And he also submitted
17 the fact that it -- it might be wise to have some additional
18 scrutiny and take a look at who could and who couldn't place
19 those lay bets.

20 We took the same position, making numerous
21 recommendations. Because if there is a segment of exchange
22 wagering where the integrity is challenged, certainly the
23 lay bet is that. And we -- we didn't hear a word. We
24 didn't -- you know, it was just fluffed off. And it's
25 frustrating when if we're going to have exchange wagering

1 here you can't have half the year at race tracks that refuse
2 to take exchange wagering. It -- it just isn't going to
3 work. And to -- to not sit down and try to find a
4 compromise or something that works for the whole industry I
5 think is a mistake. I think we need to try to find a way
6 that would encourage everyone to agree that these are
7 acceptable rules in protecting the integrity of the game.

8 COMMISSIONER ROSENBERG: I'm not clear on what
9 you -- you said in terms of being --

10 CHAIR ISRAEL: Well, what he's saying is that --

11 COMMISSIONER ROSENBERG: Yeah.

12 CHAIR ISRAEL: -- is that Mideast peace will come
13 before Stronach and everybody else work out something.

14 COMMISSIONER ROSENBERG: But on the lay wagering
15 issue, what's the position? You're speaking on behalf of a
16 potential licensee for exchange wagering; correct?

17 MR. CHARLES: I am.

18 COMMISSIONER ROSENBERG: So you're not opposed to
19 lay wagering?

20 MR. CHARLES: No.

21 COMMISSIONER ROSENBERG: Okay.

22 MR. CHARLES: We're not.

23 COMMISSIONER ROSENBERG: I just wanted to clarify.

24 MR. CHARLES: But we are --

25 COMMISSIONER ROSENBERG: That came out -- I didn't

1 understand.

2 CHAIR ISRAEL: You are opposed to license holders
3 lay wagering?

4 MR. CHARLES: Absolutely.

5 CHAIR ISRAEL: Okay.

6 MR. CHARLES: And we do believe --

7 CHAIR ISRAEL: Of any description?

8 MR. CHARLES: Absolutely.

9 CHAIR ISRAEL: Okay.

10 MR. CHARLES: And we also believe that anyone who
11 was going to be -- be able to be allowed to place a lay bet
12 have additional scrutiny along the lines of the robotic
13 players, along the lines. I mean, this is the most
14 important segment and where internationally there -- there
15 have been problems. I think what we'd like to do is -- is
16 clean it up the best we can. And -- and we haven't really
17 had a chance to have any discussions regarding trying to
18 improve that.

19 COMMISSIONER ROSENBERG: So you're not satisfied
20 with the rules the way they are?

21 MR. CHARLES: Well, the way the rules are right
22 now is anyone can place a lay bet.

23 COMMISSIONER ROSENBERG: Yeah.

24 CHAIR ISRAEL: Well, not anyone. I mean, it's --
25 there are -- there are --

1 COMMISSIONER ROSENBERG: Well, yeah. Yeah.

2 CHAIR ISRAEL: That's not what he said. What he's
3 doing is he's agreeing with me.

4 MR. CHARLES: That's right.

5 CHAIR ISRAEL: Yeah.

6 COMMISSIONER ROSENBERG: I know. I'm surprised.

7 CHAIR ISRAEL: Much -- much as --

8 MR. CHARLES: And that's not very --

9 CHAIR ISRAEL: Much as you'd like --

10 MR. CHARLES: -- not very often either.

11 CHAIR ISRAEL: It doesn't happen very often. And
12 much as you like to not admit it.

13 John?

14 MR. HINDMAN: John Hindman, again, Betfair U.S.
15 and TVG.

16 One -- one quick point about nobody having a
17 chance to be heard, again, there's been six months of
18 hearing.

19 What I would say about --

20 CHAIR ISRAEL: No, John, there have been two
21 hearings.

22 MR. HINDMAN: No. Six months of various
23 opportunities to be heard.

24 CHAIR ISRAEL: So six months of various -- but
25 there's only been two hearings, so --

1 MR. HINDMAN: Yeah. Well, there's been --

2 CHAIR ISRAEL: Yeah.

3 MR. HINDMAN: -- a few others at the full Board as
4 well.

5 CHAIR ISRAEL: Right.

6 MR. HINDMAN: So -- but the other thing I would
7 say is -- is that I think Board has done a good job. And I
8 saw that there was an extension to the list of who could not
9 place lay bets in the -- in the current incarnation of the
10 rules, which we support.

11 I think going beyond what is already in the rules
12 will stifle some of the advantages and benefits of -- of the
13 exchange. And -- and we -- we do not believe that -- that
14 lay wagering necessarily is as -- as controversial or as
15 much of a detriment as people believe it is. It's a natural
16 part of the exchange. It's a natural part of a training
17 mechanism that will -- that makes the site more dynamic.

18 And, for instance, for an owner who doesn't have a
19 horse in the race, there's no reason why that owner
20 shouldn't be able to interact any differently than he does
21 through the tote. Remember, with the tote today the owner
22 can't be against his own horse. The same rules would apply
23 here. We -- we don't see a need that there would be an
24 additional layer here where the owner couldn't interact with
25 a race that he had no stake in -- in the outcome of.

1 CHAIR ISRAEL: Well --

2 MR. HINDMAN: So I think --

3 CHAIR ISRAEL: -- I could argue the other side,
4 but it would -- it would be pointless. Obviously, owners
5 talk to trainers and they're privy to inside information.
6 And just the mere appearance of somebody acting on inside
7 information to specifically bet against a horse is --

8 COMMISSIONER ROSENBERG: This whole industry --

9 CHAIR ISRAEL: -- is a problem for me. Because
10 you don't specifically bet against a horse --

11 COMMISSIONER ROSENBERG: This whole horse --

12 CHAIR ISRAEL: -- in win, place, show --

13 COMMISSIONER ROSENBERG: David --

14 CHAIR ISRAEL: -- or exotics.

15 COMMISSIONER ROSENBERG: -- the whole horse racing
16 industry during the history of it is based upon what you
17 call inside information. It's information. Years ago you
18 couldn't make a phone call --

19 CHAIR ISRAEL: But --

20 COMMISSIONER ROSENBERG: -- out of the race track.

21 CHAIR ISRAEL: Yes. But you can't --

22 COMMISSIONER ROSENBERG: So this -- this thing
23 about being concerned --

24 CHAIR ISRAEL: -- specifically bet against a
25 horse.

1 COMMISSIONER ROSENBERG: Listen. If the --

2 CHAIR ISRAEL: This the first opportunity in the
3 history of the game where somebody other than the bookmaker
4 takes a bet against a specific horse.

5 COMMISSIONER ROSENBERG: There are plenty -- I've
6 heard this many times at the race track sitting at a box,
7 you have -- the board starts on a race. Opening line, the
8 morning line was 5-to-1. The horse opens up at 3-to-2. Now
9 I've heard many knowledgeable handicappers say, "My god,
10 that's a ridiculous -- I'd love to bet against that horse
11 winning." There is nothing wrong with that, and there's
12 nothing wrong with the one person who happens to be an owner
13 who has nothing to do with the horse making -- what kind of
14 information is he supposed to have, special inside
15 information because he owns a horse? I think it's --

16 CHAIR ISRAEL: Well --

17 COMMISSIONER ROSENBERG: -- foolish.

18 CHAIR ISRAEL: I think it's foolish to not
19 understand what kind of information he might have.

20 MR. HINDMAN: Well, I just -- and I think there
21 are other reasons as well. I think, you know, simply the
22 act of placing a lay bet doesn't necessarily mean it's the
23 act of betting against a horse to lose. You could have
24 placed a whole bunch of back bets at one place and then
25 play -- play a lay bet --

1 CHAIR ISRAEL: Yeah. I understand there's --

2 MR. HINDMAN: -- the hedgers. So --

3 CHAIR ISRAEL: There's an arbitrage and a
4 middling.

5 MR. HINDMAN: So -- so it's limiting the
6 functionality and --

7 CHAIR ISRAEL: But you don't --

8 MR. HINDMAN: -- and the appeal of the product.

9 CHAIR ISRAEL: But trust me, you don't want to
10 make that argument too heavily because now you're arguing
11 it's bookmaking.

12 MR. HINDMAN: I don't think so.

13 CHAIR ISRAEL: Because that's what bookmaking is.

14 MR. HINDMAN: I think it's individuals betting
15 against each other --

16 CHAIR ISRAEL: Well, that's bookmaking.

17 MR. HINDMAN: -- and not the operator. So --

18 CHAIR ISRAEL: That's moving the line. That's
19 bookmaking.

20 MR. HINDMAN: Well --

21 MR. DARUTY: Scott Daruty on behalf of Santa
22 Anita, Golden Gate, and XpressBet.

23 I didn't make this comment before, but because the
24 issue of the lay bets came up I'll just address it briefly.
25 We did submit a comment where we recommended a rule

1 requiring any person placing a lay bet to be specifically
2 background checked and licensed by the California Horse
3 Racing Board. And I realize everybody's going to say but
4 that means that the average Joe won't be able to play a lay
5 bet.

6 CHAIR ISRAEL: Yeah. That's crazy

7 MR. DARUTY: Well, the fact -- the fact is, you
8 know, a majority of lay bets on exchanges are placed by
9 professional wagerers who are essentially bookmakers.

10 As -- as a note of interest perhaps, if this thing
11 is found to be legal and if we do implement it at the race
12 track our plan would be to have a small number of
13 individuals who we know and trust and have background
14 checked place all the lay bets at the track. It is
15 essentially bookmaking. That's what exchange wagering is.
16 It's a question, are we going to let everybody be the bookie
17 or only certain licensed people be the bookie.

18 So, again, we would strong encourage a rule that
19 required lay -- people placing lay bets to be background
20 checked.

21 CHAIR ISRAEL: Well, I think that -- that really
22 violates the spirit of exchange wagering. I think limiting
23 license holders from making lay bets, one -- one -- there's
24 only one kind of bet available on exchange wagering, is --
25 is a more reasonable and efficient way for the CHRB,

1 frankly, to operate. We know who our license holders are.
2 We know the names and addresses of the commissioners and all
3 of our employees. And that -- that's something we can
4 police somewhat effectively.

5 If we have to start licensing gamblers, what
6 you're saying, that's just -- this - you know, that's crazy.

7 MS. WAGNER: That's crazy.

8 CHAIR ISRAEL: Yeah.

9 MR. DARUTY: Okay. Thank you.

10 CHAIR ISRAEL: Thanks. John?

11 MR. BUCALO: John Bucalo --

12 CHAIR ISRAEL: Yeah.

13 MR. BUCALO: -- representing myself on this.

14 I think that a licensee should be able to place a
15 bet. However, as you indicated, betting against a horse to
16 lose would give the perception to the other -- to the
17 betting public that it might -- this industry might not be
18 on the up-and-up. I certainly wouldn't want to be standing
19 next to the trainer or owner who bet on his horse to lose
20 and I bet on him to win. I don't think that would be right
21 at all.

22 CHAIR ISRAEL: That wouldn't be permissible under
23 any iteration of these rules.

24 MR. BUCALO: Good.

25 CHAIR ISRAEL: Under any version.

1 MR. BUCALO: Good. Thank you.

2 CHAIR ISRAEL: Carlo?

3 MR. FISCO: One quick comment. In the audience I
4 noticed a gentleman who is one of the officials on the
5 upcoming Cal Expo meet, I think vice president and GM, or
6 how many other titles he has. But I've known Mr. Schick for
7 about 35 years, and I would rank him as probably --

8 CHAIR ISRAEL: Does this have anything to do with
9 exchange wagering?

10 MR. FISCO: -- yes -- the top -- the top
11 handicapper. And I want him to address in support of
12 Commissioner Rosenberg's position that such a rule banning
13 lay wagers to every licensee, I would agree with
14 Commissioner Rosenberg, would be far too broad and negative
15 for the industry.

16 So if Chris will stand up and give you his
17 lifelong experience, he'll tell you that I think it's mostly
18 fantasy.

19 MR. SCHICK: Well, I want to -- I don't know
20 whether to thank Mr. Fisco for that or not. But anyway,
21 good morning. Christopher Schick, Golden Bear Racing.
22 We're part of the proposed new group for harness racing that
23 will be on the agenda tomorrow at the full Board meeting.

24 And, you know, I was kind -- Carlo came over and
25 he said, "I'm going to call you out."

1 Well, obviously, I have been a handicapper since
2 early in my teens. And I've been a lot of things, an owner,
3 breeder, race track operator, and kind of -- kind of seen it
4 all. And, you know, I don't really know that much about
5 exchange wagering. But I would tend to agree on balance
6 that I think, obviously, we don't want jockeys and trainers
7 and -- and those type of people wagering on exchange
8 wagering. But I think when you -- when you move it over
9 into the -- to the owner category a lot of people who are
10 owners, as myself, you know, we, you know, we take great
11 enjoyment out of that. Obviously, we're tracked as to who
12 we are that are making the bet. And I just think that
13 that's -- that's part and parcel of the game that we're
14 dealing with here.

15 And my own opinion would be to -- to, you know,
16 not remove owners from partaking in that -- that part of the
17 activity.

18 COMMISSIONER ROSENBERG: Okay.

19 CHAIR ISRAEL: Okay. Well --

20 MR. SCHICK: Thank you.

21 CHAIR ISRAEL: -- we disagree. Your position is
22 what is called enlightened self interest.

23 Are there any other comments on this particular
24 issue? Yes? Okay.

25 MR. NUESCH: Hi. How are you doing? My name is

1 David Nuesch. I'm just here on educational purposes. But
2 I'm a former jockey. And I think what's -- what I've
3 realized over the years in my travels is the perception is
4 so off on the -- on the general public.

5 When I meet people the first thing they say is,
6 "Wow, I never met a jockey." And the second thing they ask
7 me is, "Is it fixed?"

8 And so on that point I agree with you, Mr. Israel,
9 that I think what we're trying to do with exchange wagering
10 and what I'm getting -- getting from it is that you want to
11 bring in new money, new people to the sport. And with that
12 perception there's 20 million people that probably never bet
13 on a horse race in California. And if you limit the --

14 CHAIR ISRAEL: Way more, by the way.

15 MR. NUESCH: If you -- yeah. If you limit the
16 8,000 people that have a license and just say, look, you
17 can't lay wager, then I don't see a problem with that. I
18 think -- I think perception is a large part of the game.
19 And if people don't trust it they won't -- they won't play
20 the game. Thanks.

21 CHAIR ISRAEL: Thanks. I don't know who the hell
22 you are but you're really smart.

23 COMMISSIONER ROSENBERG: That's a show for the
24 audience. Is he your cousin?

25 CHAIR ISRAEL: Yeah, right. I don't think -- the

1 way he's built, I don't think so.

2 John, is -- does -- do you have a public
3 comment --

4 MR. BUCALO: Yes.

5 CHAIR ISRAEL: -- you wanted to make?

6 MR. BUCALO: Yes. John Bucalo, Barona Casino,
7 Off-track Betting.

8 With this new exchange wager I haven't heard
9 anyone mention how the satellite facilities are going to fit
10 in to this wager. And I don't think that -- I think we are
11 a stakeholder in the industry. We're part of it. And to
12 not be able to receive additional monies from a wager that
13 could be a positive thing to the industry I think is
14 completely unfair. And we should be recognized that we are
15 part of the industry. We should be part of this wager
16 somehow. How can our players play it if they want to play
17 it? How can we derive any commission from it if it's
18 implemented? Those things have never been brought -- I
19 haven't heard anything brought up about the satellites.

20 COMMISSIONER ROSENBERG: Wait a minute.

21 MR. BUCALO: We hire satellite -- at the
22 satellites we hire California residents who pay California
23 taxes.

24 CHAIR ISRAEL: Okay. Well, you know what, I've
25 never thought of that. I don't think -- I think Richard

1 feels the same way.

2 Is there somebody who can answer?

3 COMMISSIONER ROSENBERG: Where does the money go?

4 CHAIR ISRAEL: Yeah. Well --

5 COMMISSIONER ROSENBERG: It goes into the handle;
6 right?

7 CHAIR ISRAEL: There -- well, first of all,
8 there's no --

9 COMMISSIONER ROSENBERG: Huh? I don't know.

10 MR. BUCALO: But we don't receive any part of that
11 handle.

12 MS. WAGNER: No.

13 CHAIR ISRAEL: Well --

14 MR. BUCALO: -- to my understanding.

15 CHAIR ISRAEL: -- as I -- as I understand it, I
16 mean, there isn't a definitive -- is there a definitive --
17 John, have you made a definitive agreement with TOC on this?

18 MS. WAGNER: Huh-uh.

19 MR. HINDMAN: Not with TOC, but we have with
20 other -- with the quarter horse --

21 MS. WAGNER: Los Al.

22 CHAIR ISRAEL: Okay.

23 MR. HINDMAN: -- industry.

24 CHAIR ISRAEL: And tell me. Explain the
25 agreement.

1 MR. HINDMAN: The agreement works just the way the
2 law says it should work, which is there is a three-party
3 agreement between the track, the horsemen -- the recognized
4 horsemen's group -- and the operator as to how all exchange
5 wagering revenues get divided. And that's -- that's the
6 long and the short of what the statute says.

7 CHAIR ISRAEL: And are the satellites included?
8 Is there any way for the satellites to participate, not
9 necessarily by taking some of that money, but by offering
10 bets?

11 MR. HINDMAN: It's basically an account-based
12 system.

13 CHAIR ISRAEL: That's what I thought.

14 MR. HINDMAN: So anywhere you have an account you
15 can -- you can place a bet. It's not that that's the basic
16 underlying factor. And I think not having it be an account
17 based system would be very dangerous, quite frankly. So it
18 allows you to monitor --

19 CHAIR ISRAEL: Right.

20 MR. HINDMAN: -- and track activity.

21 MR. CASTRO: Continue. Continue on.

22 (Colloquy between Mr. Hindman and Mr. Castro)

23 CHAIR ISRAEL: I think he's done.

24 MR. HINDMAN: And Mr. Castro just mentioning, we
25 do have an agreement with Local 280 for -- for jobs related

1 to exchange wagering. And -- and those will be at different
2 locations, race tracks, doing a variety of things related to
3 the function of exchange wagering.

4 CHAIR ISRAEL: Okay. Carlo?

5 MR. FISCO: Yes.

6 CHAIR ISRAEL: Are you going -- are you going to
7 ask for any more guest speakers or --

8 MR. FISCO: No.

9 CHAIR ISRAEL: Okay.

10 MR. FISCO: No. Although I thought what Mr.
11 Schick said was very, very good.

12 CHAIR ISRAEL: Not as smart as -- as the other
13 guy.

14 MR. FISCO: Your cousin.

15 CHAIR ISRAEL: Yeah, right. Come on. You
16 can't -- you can't look at him and look at me and say we're
17 not cousins. There are no jockeys in my family.

18 MR. FISCO: I know who stole the others' food.

19 CHAIR ISRAEL: That's good. Make jokes at my
20 expense. That's the way to get me to vote your way.

21 MR. FISCO: The -- the old -- speaking of -- Mr.
22 Bucalo is touching on the distribution of exchange wagers,
23 and this is also a point by CTT, the old 2092 was entitled
24 Distribution of Exchange Wagers. That has been canceled.
25 There is not same regulation that says distribution of

1 exchange wagers. That's been replaced by a new 2092 which
2 deals with exchange wagers placed after the start of the
3 race. So that raises --

4 CHAIR ISRAEL: Wait a second.

5 COMMISSIONER ROSENBERG: There's nothing --

6 MR. FISCO: The old --

7 COMMISSIONER ROSENBERG: Is that right, Jackie?

8 MR. FISCO: Yes.

9 CHAIR ISRAEL: There it is. I've got 2092 here.

10 MR. FISCO: That's the new one. The old version
11 in the previous set of proposed regulations was 2092,
12 Distribution of Exchange Wagers. That's not longer anywhere
13 in the latest version.

14 COMMISSIONER ROSENBERG: How did -- how did that
15 read? Do you have a copy of that in front of you?

16 MR. FISCO: I have it --

17 MS. WAGNER: No.

18 COMMISSIONER ROSENBERG: I might have it.

19 CHAIR ISRAEL: Well --

20 MR. FISCO: And what it said is 50 percent to the
21 provider and 50 percent to the association. What this
22 raises is the same --

23 CHAIR ISRAEL: To the association or to the
24 horsemen or --

25 MR. FISCO: To the horsemen.

1 CHAIR ISRAEL: Okay.

2 MR. FISCO: To the horsemen. And so now what this
3 raises is the same problem we encountered with SB 1072.

4 And, you know, CTT --

5 CHAIR ISRAEL: Well, this is derived from SB 1072.

6 MR. FISCO: Yes. It's --

7 MS. WAGNER: Right.

8 MR. FISCO: It's part of it. But CTT was at the
9 forefront of inquiring, as Mr. Bucalo is now doing --

10 CHAIR ISRAEL: Yes.

11 MR. FISCO: -- whether the statutory distributees,
12 TOC, CTT, our pension, and other industry stakeholders will
13 share in this distribution.

14 Now, when it came to the raised takeout, as you
15 recall, Chairman Brackpool made a specific motion at that
16 time against CTT's position saying that all the money for
17 the raised takeout goes directly to purses.

18 CHAIR ISRAEL: No, no, no. That wasn't by virtue
19 of the CHRB. That was the way the law was written.

20 MS. WAGNER: The law.

21 MR. FISCO: Well --

22 CHAIR ISRAEL: That statute --

23 MS. WAGNER: Right.

24 CHAIR ISRAEL: -- required all of that money go to
25 purses, if I'm --

1 MR. FISCO: Hold on.

2 CHAIR ISRAEL: I'm not --

3 MR. FISCO: There --

4 CHAIR ISRAEL: Once again, I'm not a lawyer.

5 MR. FISCO: No. There was --

6 CHAIR ISRAEL: And I could be corrected --

7 MR. FISCO: Well --

8 CHAIR ISRAEL: -- by the one sitting to my left.

9 MR. FISCO: Let me --

10 CHAIR ISRAEL: But we were -- we were abiding by

11 the statute.

12 MS. WAGNER: Right.

13 CHAIR ISRAEL: We weren't implementing --

14 MS. WAGNER: Right.

15 CHAIR ISRAEL: -- any unilateral authority to --

16 to oversee distribution.

17 MR. FISCO: The way it happened was that we raised

18 an issue that the language was sufficiently vague that we

19 wanted to know whether the other distributees were going to

20 get any money. There was a formal motion made at the CHRB

21 that stated that no money would be going any other place

22 other than directly into the purse pool. That --

23 CHAIR ISRAEL: But I don't believe the language

24 was vague.

25 MR. FISCO: Well, whether it was or wasn't, you

1 made the motion. You made the motion to affirm --

2 CHAIR ISRAEL: I did?

3 MR. FISCO: CHRB.

4 CHAIR ISRAEL: Oh.

5 MR. FISCO: You, as in CHRB, affirmatively direct
6 all the money to the purse pool. Nothing is in the exchange
7 wagering law. It says it goes to the association for the
8 horsemen. But it doesn't say anything yea or nay as to the
9 other distributees.

10 So that is an issue that also needs to be dealt
11 with as, obviously, CTT, we've suffered a serious downturn
12 with SB 1072. And if there's any way we can be included
13 in -- in this distribution we certainly would like to. And
14 I'm sure TOC and the pension and CTHF and all the others
15 would like to.

16 COMMISSIONER ROSENBERG: How about -- and
17 SCOTWINC; correct? And SCOTWINC. Would SCOTWINC fit into
18 that category?

19 CHAIR ISRAEL: There's nobody here -- is there
20 anybody here from SCOTWINC. Scott?

21 MR. FISCO: I don't want to -- I don't know for
22 sure, Commissioner Rosenberg, but --

23 COMMISSIONER ROSENBERG: Jackie, do you know if
24 SCOTWINC --

25 MS. WAGNER: No.

1 MR. FISCO: -- no --

2 MS. WAGNER: No.

3 MR. FISCO: -- I don't --

4 MS. WAGNER: I do -- I do not know.

5 CHAIR ISRAEL: Is anybody here on the SCOTWINC
6 board?

7 COMMISSIONER ROSENBERG: That's the -- that's the
8 point that's really being raised by Mr. Bucalo, I think,
9 because that's where they get -- you know, and also they
10 serve a very valuable function, SCOTWINC.

11 MS. WAGNER: Right.

12 COMMISSIONER ROSENBERG: So we should look into
13 this.

14 MR. FISCO: Well, any of the statutory
15 distributees --

16 COMMISSIONER ROSENBERG: Yeah.

17 CHAIR ISRAEL: Yes.

18 MR. FISCO: -- serves a very good function.

19 COMMISSIONER ROSENBERG: Yeah.

20 MR. FISCO: And it's not --

21 CHAIR ISRAEL: Look, I mean, what -- the point I
22 was going to make, I was going to make a point before we
23 adjourn but it's -- this is as reasonable a time as any to
24 make it. All we're endeavoring to do here in this meeting
25 and in the succeeding meeting tomorrow and -- and in the

1 next month or two is to promulgate and implement the rules.

2 MS. WAGNER: Uh-huh.

3 CHAIR ISRAEL: We're not voting to authorize --

4 MS. WAGNER: Uh-huh.

5 CHAIR ISRAEL: -- the implementation of these
6 rules at any specific meet. That's something that will come
7 later.

8 So we just -- and, I mean, the way it's worked
9 with ADW in the past and every race meet since I've been on
10 the Board is TOC and the association, in association with
11 the ADW parties, they reach an agreement on a --

12 MS. WAGNER: Right.

13 CHAIR ISRAEL: -- meet-by-meet basis --

14 MS. WAGNER: Right.

15 CHAIR ISRAEL: -- which kind of drives me crazy.
16 But -- so I think all these things can be addressed going --

17 MS. WAGNER: Right.

18 CHAIR ISRAEL: -- forward. And, frankly, they're
19 probably going to be addressed in a court of law, is my
20 guess, but that's not our problem.

21 COMMISSIONER ROSENBERG: Well, how about the --

22 CHAIR ISRAEL: Well, Stephen, do you want to say
23 something?

24 COMMISSIONER ROSENBERG: I have a question. How
25 about the legislation itself? Does the legislation -- does

1 anyone know?

2 CHAIR ISRAEL: Well, he's -- he's saying it's
3 vague, it doesn't say anything.

4 COMMISSIONER ROSENBERG: The actual legislation?

5 CHAIR ISRAEL: But John's going to dispute that.

6 MR. HINDMAN: It is absolutely not vague.

7 MS. WAGNER: It isn't.

8 CHAIR ISRAEL: Okay.

9 MS. WAGNER: It's clear.

10 MR. HINDMAN: It says that all exchange wagering
11 revenues are subject to an agreement between three parties,
12 the horsemen --

13 MS. WAGNER: Right.

14 MR. HINDMAN: -- the track, and the operator.

15 MS. WAGNER: Right.

16 MR. HINDMAN: And that whatever comes in through
17 that agreement, 50 percent of that goes to the track --

18 MS. WAGNER: Right.

19 MR. HINDMAN: -- and 50 percent of that goes to
20 the purse account. It is --

21 CHAIR ISRAEL: Oh, so it's not vague. All right.

22 MR. HINDMAN: It is not vague at all.

23 CHAIR ISRAEL: So it's no more vague than 1072 was
24 on --

25 MR. HINDMAN: It is very prescriptive, yes.

1 CHAIR ISRAEL: All right. Because I thought 1072
2 wasn't vague either. All right.

3 Stephen, did you want to say something?

4 MR. BURN: Thank you, Commissioner Israel. My
5 name is Stephen Burn. I'm the president of TVG and Betfair
6 in the U.S.

7 A couple of things, if I may. Thank you very much
8 for holding the hearing. I would just, if I can, encourage
9 you guys to be as expedient as you possibly can for a number
10 of reasons. I own up to vested self interest. You made
11 that remark earlier. But everyone in this room has a bunch
12 of self interests. Many of them want to delay this as much
13 as possible in order to either get a product ready or
14 because they don't like the idea of exchange wagering in the
15 first place. But every day that we delay we're leaving money
16 on the table and we're leaving jobs that aren't going to be
17 deployed. And we're also delaying it until the day when
18 there is going to be relaxation of gaming wagering in the
19 U.S.

20 Now, horse racing at the moment, I think, was
21 given a fantastic opportunity in California by Governor
22 Schwarzenegger as far as deploying exchange wagering in the
23 state. It gave us a chance to bring new fans and new
24 revenues. I know there are issues. And a number of people
25 have been making comments today which, frankly, are just

1 wrong and they don't have any basis in fact attached to
2 them. But I understand why they're making them, and I think
3 they should study the issue a little bit more than they do.

4 But I would implore the commissioners, if I can,
5 to take this opportunity and do something dynamic. Bring
6 innovation into the U.S. and deploy a product that we're
7 ready to deploy today. We have agreements with tracks that
8 want to do it, and agreements with horsemen that want to do
9 it. And I think the staff have done a terrific job with the
10 rules, and there isn't really much reason for delaying this
11 thing any further than it's already been delayed. Thank
12 you.

13 CHAIR ISRAEL: Well, I want to get this expedited
14 and done just because, frankly, I'm sick of it. So -- and I
15 don't know how much is to be gained by delaying. But we do
16 have to abide by whatever the lawyers tell us --

17 MS. WAGNER: Right.

18 CHAIR ISRAEL: -- the timeframe is.

19 MR. BUCALO: John Bucalo, Barona Casino, Off-track
20 Betting. Just for the record, I -- it is -- it would be
21 harmful to the satellites business if we have -- and I'm not
22 trying to delay this, by the way. I just want to get these
23 facts out. If our players sitting in our satellite facility
24 room want to make the -- one of these wagers on exchange
25 wagering they can not get up and go wager on it. They'd

1 have to open their phone up and make a wager. Therefore, we
2 wouldn't be part of that and we wouldn't receive a
3 commission. And we -- we're part of the industry, and it
4 would be an unfair bias if we could not allow this wager to
5 be made at our facility.

6 CHAIR ISRAEL: John --

7 MR. BUCALO: And that's all I'm trying to say.

8 CHAIR ISRAEL: John, I mean, I understand. I feel
9 your pain, to quote a president.

10 MR. BUCALO: Okay. But the --

11 CHAIR ISRAEL: But -- but that simple fact that
12 technology advances affects race tracks just the same as
13 they do you. I have some very good friends who wager
14 substantial amounts of money and only wager -- and have box
15 seats at the race track, and sit in their seats and wager
16 through their ADW accounts.

17 MR. BUCALO: I see that too.

18 CHAIR ISRAEL: Right. And I'm sure that's going
19 on at satellite facilities.

20 MR. BUCALO: Well, there should --

21 CHAIR ISRAEL: So that's the -- that's the reality
22 of the business that we're in.

23 MR. BUCALO: I understand that. But there should
24 be some interest that the satellite facilities only make two
25 percent. Many of them are downsizing and going out of

1 business. And we need the support of the California Horse
2 Racing Board to not allow this to happen to us. We've been
3 supporting this business. And many of them are -- if you're
4 not looking at numbers you really should, because we're
5 ready to close because of two percent commission. That's
6 all we make. That's a gross commission.

7 CHAIR ISRAEL: Well, I understand that. You know,
8 I'd like the business to grow. Obviously, some of the
9 minisatellites are doing extremely well with two percent
10 commissions because they've found a way to use that to
11 generate foot traffic which really helps them expand their
12 business in other ways. That's the real advantage of having
13 a facility, a satellite facility, other than the -- the
14 county fairs. So, look, capitalism is capitalism. It's
15 Darwinian and that's the way it's always going to be.

16 MR. BUCALO: Well, it -- it's -- this is a risk of
17 every satellite going out of business. That's all I want to
18 say. Thank you.

19 CHAIR ISRAEL: All right.

20 MR. O'SULLIVAN: Chairman, Brian O'Sullivan,
21 Global Betting Exchange.

22 Mr. Burn in his comments was the first person who
23 raised today the issue of, I think he said leaving money on
24 the table. In all of the discussion that I've been in, and
25 I know it's not particularly in relation to this committee,

1 there's been no real discussion about the economic impact of
2 the exchange on horse racing in California. I think --

3 CHAIR ISRAEL: Well, let me just interrupt you.
4 We had a meeting that lasted five hours, six hours, at Santa
5 Anita, I think in March. What was it?

6 COMMISSIONER ROSENBERG: Six hours.

7 CHAIR ISRAEL: Six hours in March or February.

8 MR. FISCO: February.

9 CHAIR ISRAEL: I can't remember when it was.

10 MR. FISCO: February.

11 CHAIR ISRAEL: When was it?

12 MR. FISCO: February.

13 CHAIR ISRAEL: February. And we -- we had
14 presentations made by every interested party that included
15 specific information about that.

16 MR. O'SULLIVAN: Yeah.

17 CHAIR ISRAEL: No I know that if you weren't
18 there, some of your representatives were -- were, but they
19 chose not to make a presentation on that day.

20 So it's not true that it wasn't discussed. It was
21 discussed in great detail by -- by Betfair, as well as
22 people who didn't share Betfair's opinion. And all of those
23 remarks were taken into consideration. We saw slide shows.
24 We saw movies. There were dancing girls. It was fantastic.
25 You missed it. What do you want me to tell you?

1 COMMISSIONER ROSENBERG: But you're welcome to try
2 again tomorrow.

3 MR. O'SULLIVAN: Yeah. No. No. I --

4 CHAIR ISRAEL: There's even horse racing out the
5 window which you couldn't bet on because you were stuck at a
6 table.

7 MR. O'SULLIVAN: But I would say is that the --
8 the -- I mean, if -- if you go to any racing board in the
9 U.K. or Ireland and you ask them the reality of life in
10 handing your product to Betfair to generate revenue which
11 will fund Betfair's overhead and Betfair's shareholders --

12 CHAIR ISRAEL: Look, I can --

13 MR. O'SULLIVAN: -- you will -- you will find
14 that --

15 CHAIR ISRAEL: Can I interrupt for just a second?

16 MR. O'SULLIVAN: -- distributions, there won't be
17 a whole lot left.

18 CHAIR ISRAEL: Well, can I -- I'm going to
19 interrupt you for a second here.

20 MR. O'SULLIVAN: That's fine.

21 CHAIR ISRAEL: Nobody's going to accuse me of
22 being a lobbyist for Betfair. But I think your comments are
23 out of order, because all we're doing here is promulgating
24 rules.

25 MR. O'SULLIVAN: Okay.

1 CHAIR ISRAEL: And the rules will apply to anybody
2 who wants to get into the business --

3 MS. WAGNER: Right.

4 CHAIR ISRAEL: -- whether it's Betfair or your
5 company or -- or the Stronach Group or Churchill Downs.
6 And -- and the rules are there for everyone to work off of.

7 So I don't -- I can't, for the life of me,
8 understand the grounds for your comments in this meeting.

9 MR. O'SULLIVAN: Well, only that it was raised by
10 Mr. Burns. And so it's a response to his particular
11 comment.

12 COMMISSIONER ROSENBERG: Thank you.

13 CHAIR ISRAEL: Thank you. Anybody else?

14 Richard, do you have anything you'd like to add?

15 COMMISSIONER ROSENBERG: Nothing.

16 CHAIR ISRAEL: If there's no further comment,
17 we'll adjourn the meeting. And please abide by the August
18 31st deadline. Do not delay. Do not try to play stalling
19 games so others can't respond. Thank you.

20 (The Commission meeting adjourned at 12:21 P.m.)

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CERTIFICATE OF REPORTER

I, MARTHA L. NELSON, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Committee Meeting of the California Horse Racing Board; that it was thereafter transcribed.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of September, 2012.

/s/ Martha L. Nelson
MARTHA L. NELSON

CERTIFICATE OF TRANSCRIBER

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

/s/ Martha L. Nelson
MARTHA L. NELSON, CERT**367

September 5, 2012