



APPEARANCES

COMMISSIONERS

David Israel, Chair

Richard Rosenberg, Commissioner

STAFF

Kirk Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

ALSO PRESENT

Brad Blackwell, Churchill Downs Technology Initiatives Co.

John Hindman, Betfair U.S. and TVG

Drew Couto, Global Betting Exchange

Dennis Ehling, Blank Rome LLC

## INDEX

PAGEAction Items:

1. Discussion and action by the committee regarding 2  
the proposed addition of the following Exchange  
Wagering rules and the proposed revisions to these  
rules made in response to the Office of  
Administrative Law's (OAL) March 20, 2013 Decision  
of Disapproval of Regulatory Action.

## Proposed CHRB Rules:

- 2086, Definitions;
  - 2086.5, Application for License to Operate  
Exchange Wagering;
  - 2086.6, Operating Plan required;
  - 2086.7, Exchange Wagering Data;
  - 2086.9, Financial and Security Integrity  
Audits Required;
  - 2087.6, Cancellation of Matched Wagers;
  - 2089, Error in Payments of Exchange  
Wagering
  - -2089.5, Requirements to Establishing  
Wagering Account.
2. Public Comment: The committee affords an opportunity  
to address the committee on items of interest that are

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Action Items:

within the committee's jurisdiction.

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P R O C E E D I N G S

11:05 a.m.

PROCEEDINGS BEGIN AT 11:05 A.M.

(The meeting was called to order at 11:05 A.M.)

INGLEWOOD, CALIFORNIA, WEDNESDAY, APRIL 10, 2013

MEETING BEGINS AT 11:05 A.M.

CHAIR ISRAEL: We're going to call the meeting to order, and Kirk will do that officially. But we're not going to bother with speaker cards. So we'll go rule by rule, and if you have a comment you get three minutes to make it. Don't go off point. We want to keep it only on these rules. And don't abuse the -- the rule-by-rule thing by having two people speak for the same corporate entity, please. Just one person make one point. Thanks. Okay.

EXECUTIVE DIRECTOR BREED: Thank you, Chairman Israel. The Exchange Wagering Ad Hoc Committee meeting of the California Horse Racing Board --

MR. MILLER: You've got to say today.

EXECUTIVE DIRECTOR BREED: -- is being held on Thursday, May 2nd, 2013, commencing at -- in or around 11:00 a.m. in the Sunset Room at Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California.

Non-committee board members attending the committee meeting may not participate in the public

1 discussion, official committee vote, or committee closed  
2 session.

3 Mr. Chairman.

4 CHAIR ISRAEL: Okay. Let's just -- I'm just going  
5 to work off of our agenda here. And the first rule up for  
6 discussion is 2086.5, Application for a License to Operate  
7 Exchange Wagering.

8 I have -- Richard and I will give our comments on  
9 it first -- I think that would be the smartest way to go --  
10 so you know what our thinking is.

11 I have two comments on that rule. One is on the  
12 license fee, if the estimated cost is 510,000, why is the  
13 license fee not 510,000? And how do we account for  
14 inflation going forward in that?

15 And then the second thing is in my years on the  
16 board we've never given an ADW license of any kind for more  
17 than one year. And as I read this it repeatedly said two  
18 years, two years, two years, which doesn't give the board  
19 much flexibility to give a license for as long as it  
20 chooses. But the two years, it seemed like it was a two-  
21 year minimum. I want to make sure that's not the case so  
22 that the board can keep these licenses consistent.

23 MS. WAGNER: Jackie Wagner, CHRB staff. On the  
24 second -- your second comment, Commissioner, the ADW  
25 license, I believe the rule reads two-year license term for

1 the ADW.

2 CHAIR ISRAEL: We've never given one.

3 MS. WAGNER: But the board has taken that  
4 discretion and granted a one-year license. The language  
5 that we are putting forward is identical to the language  
6 that's in the ADW rules currently.

7 CHAIR ISRAEL: Well, can you change that, please?  
8 Because I don't know why the -- obviously, I wasn't on the  
9 board when they made the two-year rule, which has apparently  
10 been ignored, despite the fact that it's a rule.

11 MS. WAGNER: So you're -- you're suggesting --

12 COMMISSIONER ROSENBERG: What he just said.

13 MS. WAGNER: You're --

14 CHAIR ISRAEL: I'm suggesting it's a minimum of  
15 one year.

16 MS. WAGNER: So --

17 CHAIR ISRAEL: I mean, the board can give them a  
18 license for 28 years if it says minimum of 1 year. But the  
19 two years seems to be a minimum.

20 COMMISSIONER ROSENBERG: Except for one thing. If  
21 we -- if we make that -- just a question. If we make that  
22 change do we have to go back through this process again?

23 MS. WAGNER: Yes. We're going to have to go back  
24 the rules that you have in your packet, with these proposed  
25 rules we're going to have to go back out for a 15-day

1 comment period on this proposal. So any changes that we  
2 make at this point --

3 CHAIR ISRAEL: You're going out anyway.

4 MS. WAGNER: Yes, we're going to go out anyway.

5 COMMISSIONER ROSENBERG: No, my question wasn't  
6 really going back to the public. It was after the 15-day  
7 period, then what happens if there are changes that we make  
8 from today that we -- if we make changes in these rules  
9 today we'll be sending out the changes as changed, as agreed  
10 upon today; is that what you're telling me?

11 MS. WAGNER: That's correct.

12 CHAIR ISRAEL: Yeah. And then --

13 MS. WAGNER: We will do that.

14 CHAIR ISRAEL: -- the 15-day period starts when  
15 they go out --

16 COMMISSIONER ROSENBERG: Got it. Okay. So they  
17 go out --

18 MS. WAGNER: That's -- that's what -- that  
19 we'll --

20 CHAIR ISRAEL: -- I assume on Monday or so.

21 COMMISSIONER ROSENBERG: It will have to go back  
22 to OAL again.

23 MS. WAGNER: That is what will happen. And --

24 CHAIR ISRAEL: Everything has to go back to OAL.  
25 But it also has to go out for public comment.

1 COMMISSIONER ROSENBERG: Right.

2 MS. WAGNER: Correct. Correct.

3 CHAIR ISRAEL: But it goes out for public comment  
4 until the 15th. Then it comes back to the board, the full  
5 board --

6 MS. WAGNER: For -- for adoption.

7 CHAIR ISRAEL: -- for action.

8 MS. WAGNER: Correct.

9 CHAIR ISRAEL: Then it goes back to OAL, which  
10 will start another OAL process which will take --

11 MS. WAGNER: A review process.

12 CHAIR ISRAEL: -- 30 to 120 days, whatever the  
13 hell it is.

14 MS. WAGNER: They will have, again, 30 days to  
15 review the -- the modifications that we are making pursuant  
16 to the original --

17 CHAIR ISRAEL: Then they'll come back to us --

18 MS. WAGNER: -- disapproval opinion.

19 CHAIR ISRAEL: -- either approving the package or  
20 demanding a whole new package; right? We only get one shot?

21 MS. WAGNER: Well, at this point, when -- when it  
22 goes back to the OAL for review, because we are making the  
23 revisions based on the original disapproval opinion --

24 CHAIR ISRAEL: Right.

25 MS. WAGNER: -- we are responding to that -- those

1 concerns. Should they have any -- should the revisions be  
2 non-responsive to their original disapproval opinion, I  
3 believe that they will give us another disapproval opinion.  
4 Again, I'd have to double-check that. But they are the  
5 final adjudicatory body that will have to approve these. So  
6 we are making these changes based on the March disapproval.  
7 Going forward we are hoping that the changes that we are  
8 making will satisfy that March disapproval.

9 COMMISSIONER ROSENBERG: But the changes that we  
10 make that are not responsive to the specific objections that  
11 they had, such as this change that Commissioner Israel is  
12 suggesting to change the language, David --

13 CHAIR ISRAEL: What?

14 MS. WAGNER: We --

15 COMMISSIONER ROSENBERG: -- I mean, I want to  
16 clarify. If -- Jackie just stated what would happen with  
17 respect to the changes that were made -- proposed to the  
18 specific objections that the OAL had --

19 MS. WAGNER: Uh-huh.

20 COMMISSIONER ROSENBERG: -- if we make a change  
21 such as the one you're suggesting --

22 CHAIR ISRAEL: Right.

23 COMMISSIONER ROSENBERG: -- that is unrelated to  
24 the subject of their objections, it's a new item, do we have  
25 to go back to the OAL and wait that period of however --

1 however long it takes?

2 MS. WAGNER: Let me double-check with that -- with  
3 the OAL on that particular procedure.

4 CHAIR ISRAEL: Well, frankly --

5 MS. WAGNER: My --

6 CHAIR ISRAEL: -- I don't care.

7 MS. WAGNER: My concern with that, and I'm just  
8 going to put this on the table, my concern with going  
9 outside of the parameters of the disapproval opinion --

10 CHAIR ISRAEL: Well, but within the same rule. So  
11 as long as we're changing the language on a rule, what the  
12 hell is the difference?

13 COMMISSIONER ROSENBERG: Because there may be a  
14 rule, but they have to go through the whole --

15 MS. WAGNER: It may raise --

16 COMMISSIONER ROSENBERG: -- start all over again.

17 MS. WAGNER: It may raise another issue that was  
18 not addressed --

19 COMMISSIONER ROSENBERG: My suggestion is --

20 MS. WAGNER: -- in the original disapproval.

21 CHAIR ISRAEL: Yeah. But I just want to make sure  
22 the board can only grant a one-year license. If --

23 MS. WAGNER: The board -- the board can do that.

24 CHAIR ISRAEL: Let me explain to you what's going  
25 to happen if --

1 MS. WAGNER: That's exactly what the board has  
2 been going with the --

3 CHAIR ISRAEL: I understand that, but --

4 MS. WAGNER: -- with the ADWs.

5 CHAIR ISRAEL: But Bob just showed me -- is that a  
6 law?

7 MR. MILLER: No. It's the rule.

8 CHAIR ISRAEL: It's the --

9 MR. MILLER: It's the regulation.

10 CHAIR ISRAEL: It's a regulation. We -- it says  
11 two years.

12 MR. MILLER: For -- for ADW.

13 MS. WAGNER: For ADW.

14 CHAIR ISRAEL: For ADW. We haven't given a two-  
15 year license. I've been on the board since 2008 and we've  
16 never given a two-year license.

17 MS. WAGNER: Yeah. I believe that we probably  
18 have done that, to my recollection, maybe one time.  
19 You're -- you're absolutely correct. The board has taken  
20 the discretion to -- to grant a one-year license.

21 CHAIR ISRAEL: But how do we have discretion is  
22 the rule says two years. How do we have discretion?

23 COMMISSIONER ROSENBERG: Well, somebody that's  
24 here from the ADWs could tell us if they've ever -- ever  
25 come up with -- Brad, have you ever heard that issue come up

1 on an ADW license?

2 MS. WAGNER: It hasn't been questioned.

3 CHAIR ISRAEL: Well, that does -- but it's his  
4 issue, frankly. It's --

5 COMMISSIONER ROSENBERG: Yeah. But it works.

6 CHAIR ISRAEL: It's -- it's not theirs.

7 MS. WAGNER: Yeah.

8 COMMISSIONER ROSENBERG: But he's going to -- but,  
9 Bob, you were there when this all happened. So obviously  
10 the board -- it was discretionary or someone would have  
11 objected, including you.

12 MR. MILLER: Well, I --

13 CHAIR ISRAEL: He wasn't there then, neither was  
14 here, neither -- none of us were there.

15 MR. MILLER: None of us were here when that --

16 CHAIR ISRAEL: That's 15 years or --

17 MR. MILLER: -- when the rule was written.

18 CHAIR ISRAEL: -- 12, 13 years ago.

19 MR. MILLER: But it's -- the way it's been --

20 CHAIR ISRAEL: You may have been but you didn't  
21 have this job.

22 MS. WAGNER: Yeah. The rule was written with two  
23 years. The way the board has been granting the ADW license  
24 has been for one year. The one-year term has never been  
25 questioned.

1 CHAIR ISRAEL: Harold, were you there when the  
2 rule was written?

3 MR. COBURN: Yes.

4 CHAIR ISRAEL: Okay.

5 MR. COBURN: Yes.

6 CHAIR ISRAEL: Can you explain it?

7 MR. COBURN: Harold Coburn, CHRB staff.

8 CHAIR ISRAEL: Use that -- sit there. Sit down.

9 MR. COBURN: Okay. The ADW statute provides for a  
10 two-year license term. The rule follows the statute.

11 CHAIR ISRAEL: Oh.

12 MR. COBURN: The --

13 CHAIR ISRAEL: So we were breaking the law? Well,  
14 it is. The law is the law. It's just like, you know, a  
15 dead guy is a dead guy.

16 MR. COBURN: The exchange wagering statute, I  
17 believe does not have a term of license.

18 MS. WAGNER: Right.

19 MR. COBURN: You -- you can make it one year. And  
20 if the OAL believes that it is sufficiently related we have  
21 to go out for 15 days notice with the rest of this.

22 CHAIR ISRAEL: Okay. Anyway --

23 EXECUTIVE DIRECTOR BREED: Stay there.

24 MR. COBURN: Stay there?

25 CHAIR ISRAEL: Yeah, you might as well. I mean,

1 it's -- you're the -- I mean, because those are the -- the  
2 two biggest issues I think I have in this whole thing.  
3 Why -- you know, 500 seems as arbitrary as 1.4 million, to  
4 be honest with you. I didn't -- I didn't get that  
5 objection. I mean, I don't know why my drivers license  
6 costs what it does or my car license; there's no  
7 rationalization for that. So I thought that objection was  
8 totally ridiculous.

9 But, you know, I certainly don't understand why  
10 it's 500 instead of 510 or 750. I mean, how do we account  
11 for inflation? How -- how do -- why is it \$10,000 less than  
12 what --

13 COMMISSIONER ROSENBERG: It's an estimate.

14 CHAIR ISRAEL: -- it says here it's actually going  
15 to cost. I mean, that's just as arbitrary as anything else.

16 MS. WAGNER: You know, coming out of the gate we  
17 originally had the assessment of 1.4. After we did --

18 CHAIR ISRAEL: Right.

19 MS. WAGNER: -- some reassessing we've reduced it  
20 to a \$500,000 fee per year, which equates to \$1 million.

21 That particular figure was reported to finance on the  
22 financial information papers that we had to give them. And  
23 that's why that became an issue initially. So we've reduced  
24 it to \$500,000.

25 CHAIR ISRAEL: Right. But it says here the

1 rationale for it is that the -- the cost of regulating  
2 exchange wagering is going to be \$510,000.

3 MS. WAGNER: Correct. What will happen --

4 CHAIR ISRAEL: Why isn't it \$510,000? I mean, you  
5 know, is it --

6 COMMISSIONER ROSENBERG: It's an estimate.

7 CHAIR ISRAEL: To paraphrase Everett Dirksen, you  
8 know, \$10,000 here, \$10,000 there, pretty soon you're  
9 talking about real money.

10 COMMISSIONER ROSENBERG: It's only an estimate,  
11 David. The point is --

12 CHAIR ISRAEL: Although he said it about a  
13 million.

14 COMMISSIONER ROSENBERG: It's only an estimate.  
15 They rounded it off to 500.

16 CHAIR ISRAEL: Yeah.

17 COMMISSIONER ROSENBERG: What's the big deal?

18 MS. WAGNER: That's correct.

19 CHAIR ISRAEL: But if the estimate is 510 make the  
20 goddamn license fee --

21 COMMISSIONER ROSENBERG: What's the big deal?

22 CHAIR ISRAEL: -- 510.

23 MS. WAGNER: Well, we --

24 CHAIR ISRAEL: I mean --

25 MS. WAGNER: Where it --

1 CHAIR ISRAEL: -- it's -- it's --

2 MS. WAGNER: We can do that if -- if that's what  
3 the committee would like us to do. What this will do is,  
4 coming out of the gate it will give -- going into exchange  
5 wagering, that will be the assessed fee per year that the  
6 board will use to regulate exchange wagering. It will give  
7 us some history. And if we need to change this figure,  
8 based on the two-year or the one-year term, after we have  
9 some experience under our belt, we can -- we can change the  
10 figure. We would have to go through the regulatory process  
11 again --

12 CHAIR ISRAEL: Because what happens if --

13 MS. WAGNER: -- to do that.

14 CHAIR ISRAEL: I mean, what happens -- how do we  
15 account for a deficit? What if there are emergency costs?  
16 What if it costs \$3.5 million instead of \$500,000, but  
17 nobody realized it?

18 MS. WAGNER: We can go -- go back and change this  
19 rule to make the fee applicable to the \$3, whatever it is.

20 CHAIR ISRAEL: By then we've already gone broke.

21 EXECUTIVE DIRECTOR BREED: You go to --

22 CHAIR ISRAEL: How do you -- how do you fund that?

23 EXECUTIVE DIRECTOR BREED: You go to the  
24 Department of Finance and you say we would like to submit a  
25 BCP or a finance letter requesting emergency funding.

1 CHAIR ISRAEL: From the general fund?

2 EXECUTIVE DIRECTOR BREED: No.

3 MS. WAGNER: No.

4 EXECUTIVE DIRECTOR BREED: Emergency funding from  
5 this fund. And they -- they either -- they either approve  
6 it or deny it. They don't want any -- this fund has to  
7 stand separate from the -- from the governor's budget.

8 CHAIR ISRAEL: Okay. So if this -- but if this --  
9 is this fund meaning just the exchange wagering fund?

10 EXECUTIVE DIRECTOR BREED: Yeah.

11 MS. WAGNER: Uh-huh.

12 CHAIR ISRAEL: If it's underfunded to begin with  
13 where's the -- where's the cash going to come from --

14 EXECUTIVE DIRECTOR BREED: Well, that's --

15 CHAIR ISRAEL: -- from --

16 EXECUTIVE DIRECTOR BREED: -- that's --

17 CHAIR ISRAEL: -- for the emergency?

18 EXECUTIVE DIRECTOR BREED: The underfunding is not  
19 our -- is not our decision. That decision was made by the  
20 Department of Finance in their -- in their genius at doing  
21 business.

22 CHAIR ISRAEL: It doesn't matter who made the  
23 decision.

24 EXECUTIVE DIRECTOR BREED: Well --

25 CHAIR ISRAEL: I mean --

1 EXECUTIVE DIRECTOR BREED: -- the decision is  
2 made.

3 CHAIR ISRAEL: -- the impact is --

4 EXECUTIVE DIRECTOR BREED: It does matter because  
5 had we made the decision it would have been a lot more. But  
6 we didn't make the decision; it was made the Department of  
7 Finance. That's the --

8 CHAIR ISRAEL: So they chose --

9 EXECUTIVE DIRECTOR BREED: That's the figure they  
10 settled on.

11 CHAIR ISRAEL: -- 510 or 500?

12 EXECUTIVE DIRECTOR BREED: Five hundred; somewhere  
13 around there.

14 CHAIR ISRAEL: And we have to abide by what they  
15 say for what reason?

16 EXECUTIVE DIRECTOR BREED: We have to -- because  
17 that's -- that's the authority that we have to spend money.  
18 And the way they wrote the -- the language in this bill, in  
19 this law, that the money has to be appropriated before we  
20 can spend it. It's the most ridiculous law that's ever been  
21 written.

22 CHAIR ISRAEL: That the money has to be --

23 EXECUTIVE DIRECTOR BREED: Appropriated.

24 CHAIR ISRAEL: -- appropriated --

25 EXECUTIVE DIRECTOR BREED: Before it can be spent.

1 We can collect all -- David, we can collect all the money in  
2 the world.

3 CHAIR ISRAEL: Oh, I see. So you can have \$1  
4 billion in a fund --

5 MS. WAGNER: Correct.

6 CHAIR ISRAEL: -- but you have to go back to --

7 MS. WAGNER: To get authority --

8 CHAIR ISRAEL: -- to the Department of Finance --

9 MS. WAGNER: -- to spend it.

10 CHAIR ISRAEL: -- to get appropriation?

11 EXECUTIVE DIRECTOR BREED: To get appropriated.

12 CHAIR ISRAEL: And they only want to collect  
13 \$500,000 --

14 MS. WAGNER: Right.

15 CHAIR ISRAEL: -- towards whatever they're going  
16 to appropriate?

17 EXECUTIVE DIRECTOR BREED: They want that to be  
18 the fee.

19 MS. WAGNER: Correct.

20 EXECUTIVE DIRECTOR BREED: That's --

21 MS. WAGNER: That's correct.

22 EXECUTIVE DIRECTOR BREED: That's the amount  
23 they've set as the fee.

24 CHAIR ISRAEL: So we don't have -- what the hell  
25 are we talking about this for? We don't have any discretion

1 over it.

2 EXECUTIVE DIRECTOR BREED: No discretion  
3 whatsoever.

4 CHAIR ISRAEL: All right. Move on. You guys want  
5 to talk about something over which nobody has any  
6 discretion? Anybody? Okay. Although I'm really glad to  
7 see TOC showed up. I guess they're all at the Derby.

8 Richard, you got anything?

9 COMMISSIONER ROSENBERG: No.

10 CHAIR ISRAEL: Okay. For those of you who aren't  
11 lawyers, I'm not one, I actually went and looked up the  
12 reason why everything has to be called a natural person. I  
13 found it quite interesting that Mitt Romney was right,  
14 corporations can be people too, according to the law.

15 All right, well, I mean, the one-year thing,  
16 really --

17 COMMISSIONER ROSENBERG: Are you flipping through  
18 different rules, David, or are you on the still on the same  
19 rule?

20 CHAIR ISRAEL: No, no. I'm moving ahead. Do you  
21 have anything on any of these rules?

22 COMMISSIONER ROSENBERG: No, I have nothing. I  
23 went through everything. I asked my question of Staff and  
24 they answered it, which is --

25 CHAIR ISRAEL: Yeah.

1 COMMISSIONER ROSENBERG: -- related to a change,  
2 and that's it.

3 But does anybody else have anything? Oh, you're  
4 asking about, does anybody else have anything --

5 CHAIR ISRAEL: On this particular rule.

6 COMMISSIONER ROSENBERG: -- on this particular  
7 rule?

8 CHAIR ISRAEL: This one we have no discretion  
9 over.

10 COMMISSIONER ROSENBERG: Okay. Got it.

11 CHAIR ISRAEL: Okay. Let's move forward. All the  
12 other rules, does anybody have any -- Richard, you don't  
13 have any comments. I don't have any comments. The  
14 application looks fine to me, given that the rule is  
15 intractable.

16 Anybody want to say anything? Brad? John? Who's  
17 here from XpressBet.

18 MR. BLACKWELL: I have a question.

19 CHAIR ISRAEL: Well, Brad, speak up.

20 MR. BLACKWELL: All right.

21 CHAIR ISRAEL: Go to the microphone. Introduce  
22 yourself. Explain to us why you aren't in Louisville, or  
23 get pissed off at us because you're not in Louisville.

24 MR. BLACKWELL: That's right.

25 CHAIR ISRAEL: Whatever you want.

1 MR. BLACKWELL: I could be pissed off at a number  
2 of people for that, but -- Brad Blackwell on behalf of  
3 Churchill Downs Technology Initiatives Company. Just a  
4 couple of questions.

5 The first was just to make sure that we understand  
6 how this new application process works. I know that it went  
7 from a could be submitted, it seems like, at any time. Now  
8 it's has to be submitted up to October 1st of each year. So  
9 it sounds like that will be the only time you could obtain a  
10 license during the year is at that October 1st trigger date.  
11 Then the board now has a little bit more discretion. They  
12 can take up to 90 days to rule on that application.

13 And so, one, we've been obviously trying to hit a  
14 moving target in terms of when this could actually get  
15 started. So it sounds like now the earliest that an  
16 application could be heard would be October 24th, when the  
17 CHRB would have it's first meeting after October 1st.

18 CHAIR ISRAEL: Yeah. It's generally the third --

19 MR. BLACKWELL: But it would be no later than --

20 CHAIR ISRAEL: It will be -- it's generally the --  
21 the third Thursday of the month, yeah.

22 MS. WAGNER: Correct.

23 MR. BLACKWELL: But it could be no later than the  
24 end of this year? That would be the expiration --

25 CHAIR ISRAEL: You'll have to ask them because

1 this --

2 MR. BLACKWELL: -- of the 90 days.

3 CHAIR ISRAEL: -- this apparently is an OAL thing.

4 MR. BLACKWELL: And then the next question would  
5 be is would an applicant be able to take an exchange wager  
6 this year, or would it be not until January 1st of next  
7 year? Because I know that we have this application fee now  
8 that we have more clarity on.

9

10 CHAIR ISRAEL: Harold can answer.

11 MR. BLACKWELL: But --

12 MS. WAGNER: Go ahead and answer.

13 MR. BLACKWELL: -- it doesn't look like there's a  
14 mechanism to prorate that or anything like that. So I  
15 wouldn't expect applicant's would pay \$500,000 collectively  
16 for days or whatever would be left of this year.

17 CHAIR ISRAEL: Well, I don't think --

18 MR. BLACKWELL: We're trying to get clarification  
19 of when --

20 CHAIR ISRAEL: First of all --

21 MR. BLACKWELL: -- when exchange wagering could  
22 start.

23 CHAIR ISRAEL: My interpretation is not that  
24 you're paying \$500,000 collectively.

25 MS. WAGNER: That's correct.

1 CHAIR ISRAEL: My interpretation is every license  
2 granted, whether it's granted to Twinspires or however  
3 you're incorporated, that's \$500,000. If a license is  
4 granted to Betfair through TVG or however they're  
5 incorporated, that's \$500,000. If it's granted to  
6 XpressBet, that's \$500,000. It's not -- it's not the sum  
7 total is \$500,000.

8 MR. BLACKWELL: That was my understanding.

9 EXECUTIVE DIRECTOR BREED: You want to -- you want  
10 to clarify that, Hal?

11 MR. BLACKWELL: That was the whole purpose of  
12 having this trigger date was so that there could be some  
13 clarity --

14 EXECUTIVE DIRECTOR BREED: Brad, hold on.

15 MR. BLACKWELL: -- how much it's going to cost  
16 you.

17 EXECUTIVE DIRECTOR BREED: Brad, hold up just a  
18 minute.

19 MR. BLACKWELL: Sure.

20 EXECUTIVE DIRECTOR BREED: Let Hal --

21 MR. COBURN: It is a sum total of \$500,000 per  
22 year. That is apportioned amongst the successful  
23 applicants.

24 With regards to when somebody may begin initially  
25 accepting exchange wagering or exchange wagers, the board

1 has Rule 1406 which will allow it to license exchange  
2 wagering operators in 2013 if this becomes in effect, which  
3 means you can waive that October date and accept regulations  
4 as soon as you wish -- I mean, applications as soon as you  
5 wish, license these people, and then they can start in 2013.  
6 Thereinafter that October date --

7 MS. WAGNER: Correct.

8 MR. COBURN: -- would fall into effect.

9 CHAIR ISRAEL: So -- so let's say, for example,  
10 Twinspires applies for a license once the law would become  
11 effective, say around July 1st or --

12 MR. COBURN: Uh-huh.

13 CHAIR ISRAEL: -- August 1st.

14 MS. WAGNER: Uh-huh.

15 CHAIR ISRAEL: Okay. So Twinspires on that day  
16 applies for a license, but they're the only applicant.  
17 Betfair decides to wait. You know, XpressBet decides to  
18 wait, anybody else down the -- whoever the hell else is  
19 involved. So they have to pay \$500,000 that day.

20 MS. WAGNER: That's correct.

21 MR. COBURN: Correct.

22 MS. WAGNER: That's correct.

23 MR. COBURN: Correct.

24 CHAIR ISRAEL: Then going forward four days later  
25 or four weeks later or four months later, but it's within

1 the same year -- and let's do it -- so let's just say July  
2 15th, so it's a new fiscal year, so we can't even get  
3 confused about fiscal year, calendar year. You know,  
4 Betfair decides to apply. So now we've had an overpayment  
5 of not quite \$250,000 because some time has passed, but say  
6 \$200,000 by -- by Twinspires. How are they credited for  
7 that \$200,000? Does somebody have to write them a check?  
8 Is it kept in an account where -- where they've built up  
9 credit towards their other ADW licenses if they decide that  
10 exchange wagering is not for them? You know, I mean, this  
11 seems to be a regulatory and accounting, you know --

12 EXECUTIVE DIRECTOR BREED: This seems --

13 CHAIR ISRAEL: -- mess.

14 EXECUTIVE DIRECTOR BREED: It seems to be just  
15 like you said, like two kids in the back of the schoolyard  
16 divvying up their lunch money. Wasn't that your analogy?

17 COMMISSIONER ROSENBERG: Could you read the  
18 specific language, Harold?

19 CHAIR ISRAEL: I think some of this is another  
20 regulation. That's the problem.

21 COMMISSIONER ROSENBERG: Is this -- the specific  
22 section you're referring to is on page 113 of the package --

23 MS. WAGNER: Correct. That's correct.

24 COMMISSIONER ROSENBERG: -- Section D? Okay. But  
25 we're -- we're interpreting what that means and how it

1 works --

2 CHAIR ISRAEL: Well, wait.

3 COMMISSIONER ROSENBERG: -- how it works  
4 practically --

5 CHAIR ISRAEL: Can I -- can I get an answer to my  
6 question though?

7 COMMISSIONER ROSENBERG: -- how it works  
8 practically.

9 CHAIR ISRAEL: How do you -- how do -- how do  
10 you --

11 COMMISSIONER ROSENBERG: Well, look at the code  
12 sections. You'll be able to get your answer, I'm sure.

13 CHAIR ISRAEL: Well, wait.

14 COMMISSIONER ROSENBERG: I'm trying to find out  
15 the code section we're talking about. I think it says D on  
16 page 113. And it is ambiguous in terms of exactly how you  
17 do it, but you have to do it. The question is, is it  
18 clear -- the OAL felt it was clear enough. Well, no, not  
19 really. They --

20 CHAIR ISRAEL: No. There's no practical  
21 application here. It doesn't say how to do it.

22 MS. WAGNER: Yeah.

23 CHAIR ISRAEL: It's making the false assumption  
24 that you're all going to work together and apply at the same  
25 time when you're competitor is trying -- trying to get the

1 business. Now, if -- if I'm -- if I'm running a business  
2 I'd try to wait and make -- smoke the other guy out. And  
3 then I know if I go a day after he does I only have to pay  
4 \$250,000. And while you're waiting for the money to come  
5 back I'm making the float on \$250,000 that you're not making  
6 the float on.

7 MS. WAGNER: Before that -- before that --

8 CHAIR ISRAEL: Now, these days that's not that  
9 much money. But it's still -- there's -- there's -- it's  
10 not equal protection under the law, I can tell you that.

11 COMMISSIONER ROSENBERG: We don't have anybody  
12 from accounting -- finance here -- accounting today, do we?  
13 Because this could be -- this could be done if we had an  
14 accountant explain it. Because under Commissioner Israel's  
15 hypothetical, if -- which is different than the -- the  
16 annual start. But let's say it started at an odd time in a  
17 year. The first applicant pays the full amount.

18 MS. WAGNER: Yes.

19 COMMISSIONER ROSENBERG: Okay. The second  
20 applicant comes, in how many months, two months later,  
21 whatever it is --

22 MS. WAGNER: Yes.

23 CHAIR ISRAEL: The next day and pays half.

24 COMMISSIONER ROSENBERG: -- could staff, could  
25 accounting come up and say, well, when the second person

1 comes in the total cost is -- is split 250/250 at that  
2 moment, and could they arbitrarily --

3 CHAIR ISRAEL: Actually, I can answer that  
4 question. We don't have the authority, the CHRB staff or  
5 board doesn't have the authority to dispense \$250,000 in  
6 funds to anybody for any reason --

7 MS. WAGNER: That's correct.

8 CHAIR ISRAEL: -- without having the money  
9 appropriated through -- through the Department of Finance.  
10 That I understand clearly. That's why this is such a  
11 fucking mess.

12 COMMISSIONER ROSENBERG: So the practical is --

13 MR. BLACKWELL: Chairman -- Chairman Israel, I  
14 thought the whole purpose of the October 1st trigger date  
15 was to prevent this.

16 CHAIR ISRAEL: Right.

17 MS. WAGNER: It's either --

18 MR. BLACKWELL: So now --

19 CHAIR ISRAEL: Everybody was going to have to  
20 apply the same day. But you're asking --

21 MR. BLACKWELL: I followed that rule.

22 CHAIR ISRAEL: But -- but Harold is saying you can  
23 apply at any time.

24 MR. BLACKWELL: Right. Which seems to circumvent  
25 the whole purpose of --

1 CHAIR ISRAEL: Initially, yeah, but that's still  
2 the problem.

3 MS. WAGNER: Right. The way the rule -- the  
4 way --

5 MR. HINDMAN: It's put up or shut up day.

6 MS. WAGNER: The way the rule is --

7 CHAIR ISRAEL: Hey, John, let Jackie speak, and  
8 then you can speak.

9 MS. WAGNER: The way the rule is proposed, there  
10 would be an open window every calendar year beginning  
11 January through October for our applicants to apply. That  
12 would --

13 CHAIR ISRAEL: Wait, wait, wait. Beginning  
14 October or January?

15 MS. WAGNER: Beginning January 1 of each year  
16 through October. That would be the open enrollment period  
17 or the submission period for each exchange wagering  
18 provider. That period will close in October. That way  
19 the -- the board will have a definitive number of  
20 applicants. We will know the number of applicants that are  
21 applying for a license for the succeeding year. If we only  
22 have one applicant, pursuant to this rule we have determined  
23 that the assessment to regulate exchange wagering will be  
24 \$500,000 a year going forward, kicking off this program. If  
25 we -- if we only have one applicant during that initial

1 period, that applicant would be required to pay the  
2 \$500,000. If we have two applicants during that period, by  
3 the end -- and those two applicants are licensed, that  
4 \$500,000 will be divided apportionately between the two  
5 applicants, which means instead of that \$500,000 going for  
6 one applicant it will be \$250,000. If we have three it will  
7 be divided apportionately.

8 CHAIR ISRAEL: Okay. But --

9 MS. WAGNER: The --

10 CHAIR ISRAEL: Okay. I'm going to tell you why  
11 that's completely crazy. For one thing, it doesn't take  
12 into account the first year and being able to have -- accept  
13 any bets in 2013 should the board approve a license in 2013  
14 because, second of all, an open enrollment that's nine  
15 months long is really nutty. And -- and having -- and  
16 because of the -- unfortunately, the way our calendar works  
17 here the racing season, for better or worse, begins -- the  
18 annual racing season, if we're going to go on a calendar  
19 year, begins on December 26th --

20 MS. WAGNER: Well, we can change --

21 CHAIR ISRAEL: -- of the previous year.

22 MS. WAGNER: We can change the term. We just  
23 tried to -- to get a definite period of time for the  
24 submission of the applications. Because we know that the  
25 fee is going to have to be divided amongst the applicants in

1 terms of the assessments.

2 CHAIR ISRAEL: Well, they're not all necessarily  
3 going to -- I mean, what Brad is proposing is he applies for  
4 an application -- and I'm not saying you're definitively  
5 going to do this -- but the hypothetical question, he  
6 proposes for an application. This law comes into -- these  
7 rules and regulations are accepted --

8 MS. WAGNER: Uh-huh.

9 CHAIR ISRAEL: -- and effectuated on July 1st.

10 MS. WAGNER: Uh-huh.

11 CHAIR ISRAEL: He comes on July 15th and applies  
12 to operate exchange wagering at the -- the fall meet of  
13 Santa Anita starting in the last week of September. Okay.  
14 So now you've got the time period from the setup. And,  
15 also, Betfair is not ready to do it yet. They can't. They  
16 just said he can't. Betfair is -- they just said he can't.  
17 And --

18 COMMISSIONER ROSENBERG: Well, yeah, they can  
19 apply. But it can't -- it can't be effective until January  
20 1; is that correct?

21 CHAIR ISRAEL: No. They said he can operate in  
22 2013. Harold said that.

23 COMMISSIONER ROSENBERG: Okay.

24 MR. BLACKWELL: And, Chairman, that's inconsistent  
25 with --

1 CHAIR ISRAEL: He just asked if he could operate  
2 in 2013 and Harold said yeah.

3 MR. BLACKWELL: -- with what the regulations  
4 state. Because the regulations state that the license  
5 process can not start until October 1st of each year.

6 COMMISSIONER ROSENBERG: Yeah.

7 MR. BLACKWELL: Then the application process can  
8 not be completed until the end of December when the  
9 apportionment of the --

10 CHAIR ISRAEL: Right.

11 MR. BLACKWELL: -- \$500,000 fee.

12 CHAIR ISRAEL: So why --

13 MS. WAGNER: That's -- that's when the --

14 MR. BLACKWELL: But you can only start on --

15 CHAIR ISRAEL: I understand that --

16 MR. BLACKWELL: -- January 1st.

17 CHAIR ISRAEL: -- that was your question. But  
18 Harold said, no, somebody can actually operate exchange  
19 wagering in 2013. But that's clearly not the case.

20 MS. WAGNER: You're -- you're confusing. I'm  
21 going to ask the question of Bob.

22 You know, we -- we put this -- this language in  
23 here, again, to -- to define a term so we will know how many  
24 applicants are -- are being considered. The term, if we  
25 want to change it from December to whatever, a different

1 term, we can do that. We arbitrarily -- not arbitrarily,  
2 but we pick the calendar year with which to work with. If  
3 we want to go on the racing year we can do that.

4 My question to you, Bob, kicking off this, because  
5 clearly we're talking about a period of time to initiate of  
6 the exchange wagering if it becomes effective in July, can  
7 the board -- does the board have the jurisdiction to, after  
8 this is set, set a timeframe, can we say pursuant to -- in  
9 order to get exchange wagering off the ground we are  
10 accepting applications between blah, blah, blah, blah, blah?  
11 Which will, again, give us a defined period of time. So if  
12 we've got a Twinspires coming or if we've got a Betfair, if  
13 we've got whatever, they have that same defined time to send  
14 those. Can we do that? You know what I'm saying?

15 MR. MILLER: Right.

16 MS. WAGNER: Because the -- the kicker is how --

17 MR. MILLER: What you're saying is can the board  
18 suspend the rules for --

19 MS. WAGNER: Correct.

20 MR. MILLER: -- for --

21 MS. WAGNER: To get -- to get this started.

22 MR. MILLER: To get it started.

23 MS. WAGNER: To get it started.

24 MR. MILLER: I think they can. I think there's a  
25 rule in here that allows them to -- what's it --

1 MS. WAGNER: 1406.

2 MR. MILLER: -- 1406 --

3 MS. WAGNER: It's -- it's the suspension rule.

4 MR. MILLER: -- 1406 that gives them some  
5 discretion in that matter, but just for one year.

6 COMMISSIONER ROSENBERG: I think, David --

7 MS. WAGNER: Because --

8 COMMISSIONER ROSENBERG: -- that probably answers  
9 your question.

10 MS. WAGNER: Because the -- the fly in the  
11 ointment is getting this started in July, you know --

12 MR. MILLER: Yeah.

13 MS. WAGNER: -- getting it kicked off.

14 MR. MILLER: The fly in the ointment is starting  
15 this in --

16 COMMISSIONER ROSENBERG: This year only.

17 MR. MILLER: -- prior to January 1 --

18 CHAIR ISRAEL: Right, this year.

19 MR. MILLER: -- 2014.

20 COMMISSIONER ROSENBERG: 2014.

21 MS. WAGNER: But it would only be for --

22 COMMISSIONER ROSENBERG: I'll find out.

23 MS. WAGNER: -- this year. Because once we've got  
24 that first year under our belt --

25 CHAIR ISRAEL: Well, look --

1 MS. WAGNER: -- then we would have the defined  
2 time.

3 CHAIR ISRAEL: -- let me really, being realistic,  
4 I assume you're asking this question because of the  
5 Breeders' Cup.

6 MR. BLACKWELL: Actually, I'm just asking this  
7 question because we've been trying to determine when you  
8 could actually start.

9 MS. WAGNER: Uh-huh.

10 MR. MILLER: Well, I mean --

11 MR. BLACKWELL: And so I think a lot --

12 MR. MILLER: -- if you look at the rules --

13 MR. BLACKWELL: -- of us are -- are --

14 MR. MILLER: If you look at the rules as written  
15 you can start, if they're adopted, you can start January 1,  
16 2014.

17 MS. WAGNER: Correct.

18 MR. MILLER: All right.

19 MR. BLACKWELL: That was my understanding.

20 MR. MILLER: And if you want --

21 MR. BLACKWELL: And I just wanted to make sure  
22 that --

23 MR. MILLER: -- to move it ahead --

24 MS. WAGNER: Correct.

25 MR. MILLER: -- then the board has got to -- to

1 make some accommodations for that. But that's --

2 CHAIR ISRAEL: Well, no, it doesn't have to.

3 It -- the board may make accommodations.

4 MS. WAGNER: The board may.

5 MR. MILLER: May.

6 CHAIR ISRAEL: It's not -- it's not under an  
7 obligation.

8 MR. MILLER: It's not under an obligation to do  
9 it. But, I mean, for it to take place the board would have  
10 to act.

11 CHAIR ISRAEL: Even -- even this January 1st thing  
12 makes no sense since one of the biggest day on the racing  
13 calendar is December 26th.

14 MS. WAGNER: And again --

15 CHAIR ISRAEL: I mean, if they're going to do a  
16 \$12 million or \$14 million dollar handle you want to, you  
17 know --

18 MS. WAGNER: Yeah. And again, David, the -- the  
19 term, you know, we use the -- the calendar year. But if we  
20 want to take the eight-month period and start December 16th  
21 and run it -- but we have -- we've got to have a beginning  
22 date and a closing date.

23 CHAIR ISRAEL: I know. But Bob said the law is  
24 clear. It's -- it's -- the way it's written it's clearly  
25 January 14th, which is why Brad asked the question, what --

1 and also it's the only thing that makes sense.

2           The problem is we don't have a fixed license  
3 charge. Every -- almost every other license that the State  
4 of California grants, you know what the license fee is in  
5 advance. To get a drivers license costs X.

6           MS. WAGNER: Right.

7           CHAIR ISRAEL: If you -- your car -- to renew your  
8 car license they send you a bill that says it's this much  
9 because you have this kind of car, and you know if you have  
10 that kind of car, you know, and it's this old. You know,  
11 and it's -- this is -- and I think a jockey's license costs  
12 the same. An owner's license costs the same. A trainer's  
13 license costs the same. You know, I assume even an ADW  
14 license -- what's your annual ADW license? It's zero.  
15 Okay. So that's fixed and costs the same. But this has  
16 this floating cost depending on how many license applicants  
17 there are.

18           MS. WAGNER: Because the statute --

19           CHAIR ISRAEL: It's crazy.

20           MS. WAGNER: Yeah. Because the -- but the statute  
21 allows us to collect the -- the money from the industry to  
22 regulate it. And that's the -- that's the difference from  
23 all the other licenses that you -- that you just named.

24           CHAIR ISRAEL: We regulate everything everybody  
25 does.

1 EXECUTIVE DIRECTOR BREED: No. You don't collect.  
2 You collect on the basis of -- you collect on the basis of  
3 what your actual costs are. But you can not spend that  
4 money. You know, we've spent an arm and a leg on this thing  
5 already, you know, over the last year, and we can't collect  
6 one cent, you know, not one red cent.

7 CHAIR ISRAEL: Well, now, does that \$500,000  
8 account for money already spent?

9 EXECUTIVE DIRECTOR BREED: No.

10 CHAIR ISRAEL: So we're in the hole and we'll  
11 never --

12 EXECUTIVE DIRECTOR BREED: You're in the hole.

13 CHAIR ISRAEL: -- recoup that money?

14 EXECUTIVE DIRECTOR BREED: You'll never recoup  
15 that money.

16 CHAIR ISRAEL: And we're having budget issues.

17 COMMISSIONER ROSENBERG: Can we get back to  
18 summarize? Can I just try to summarize something, the two  
19 issues? Separate this year problem from the future problem  
20 of getting licenses after 2013 --

21 MS. WAGNER: Right.

22 COMMISSIONER ROSENBERG: -- effective after 2013.  
23 As of this year I believe counsel is telling us that if we  
24 pass this rule as written, if the board approves it,  
25 etcetera, after the 15-day period, that there -- there could

1 be -- the board would have the discretion, if it wanted to,  
2 to allow someone to get going for this year or some other,  
3 just to move the dates a little bit.

4 MS. WAGNER: Correct.

5 COMMISSIONER ROSENBERG: And there's flexibility;  
6 correct?

7 MS. WAGNER: Right. Right.

8 COMMISSIONER ROSENBERG: Correct, Counsel?

9 MR. MILLER: Yes.

10 COMMISSIONER ROSENBERG: Okay.

11 MS. WAGNER: Right.

12 COMMISSIONER ROSENBERG: With regard to future  
13 years, Commissioner Israel is raising the valid point that  
14 it doesn't make a lot of sense to be these -- those specific  
15 dates, would we have the same flexibility, Robert, to move  
16 the dates around, even if the rule was passed with this --  
17 this exact same language that you would -- you would tell us  
18 we could do it for this year?

19 CHAIR ISRAEL: Once you get past the initial  
20 rule --

21 COMMISSIONER ROSENBERG: Yeah.

22 CHAIR ISRAEL: -- you can go back and change that  
23 specific portion of the rule to send it out for 45 days.

24 And --

25 COMMISSIONER ROSENBERG: Oh, okay.

1 MS. WAGNER: That's correct.

2 CHAIR ISRAEL: -- it's just like changing any  
3 other rule.

4 COMMISSIONER ROSENBERG: Okay.

5 MS. WAGNER: Correct.

6 CHAIR ISRAEL: So once the entire package of rules  
7 is in effect you can just rule by rule.

8 MS. WAGNER: That's correct.

9 COMMISSIONER ROSENBERG: So -- okay. So then my  
10 point would be this seems to be the answer.

11 CHAIR ISRAEL: Yeah.

12 MR. MILLER: Yeah. If you wanted to change -- at  
13 this stage of the game, though, to change it back from, say  
14 October 1 to September 1 and change the kickoff date  
15 December 26th, if -- if that's what you wanted to do rather  
16 than January 1, then you're -- you're playing with the  
17 dates. And I don't know what --

18 CHAIR ISRAEL: December 26th is when the racing  
19 calendar begins in California.

20 MR. MILLER: Right. Right.

21 CHAIR ISRAEL: And that has been the case for  
22 ever.

23 John, go ahead.

24 MR. HINDMAN: Excuse me.

25 MR. BLACKWELL: Sure.

1 MR. HINDMAN: John Hindman, General Counsel,  
2 Betfair U.S. and TVG. The way the rule is written it's  
3 not -- so you're getting to it's January 1 by the, you know,  
4 the 90 days after October 1st. But the rule actually says  
5 you don't have to wait 90 days.

6 MS. WAGNER: That's correct.

7 MR. HINDMAN: You have to make a determination  
8 within 90 days. You can make a determination in 30 days, 45  
9 days, 60 days, 63 days --

10 MS. WAGNER: Right.

11 MR. HINDMAN: -- 70 days. You have all that  
12 discretion in the way the rule is written. It's just you  
13 can't take longer than 90.

14 CHAIR ISRAEL: I know. But the way it's written  
15 this year we can't -- we can't do anything before October  
16 1st, you know? But still, I only got to deal with this  
17 year. Because if -- you know, look, the OAL -- this whole  
18 rule is screwed. But there should be a fixed license fee.  
19 It should be to the benefit of the people of California and  
20 the racing board. Why there isn't is beyond me. You know,  
21 we have plenty of costs that aren't covered. All right.

22 So there's no -- go ahead, Drew.

23 MR. COUTO: Drew Couto on behalf of GB. Question.

24 CHAIR ISRAEL: Louder.

25 MR. COUTO: Sorry. Drew Couto on behalf of GB.

1 And question. I thought the statute permits the CHRB to  
2 recover the actual costs of -- of regulations. So even if  
3 the -- if I -- my understanding is correct, and I'm trying  
4 to find out from the board if there's consistent -- even if  
5 \$500,000 wasn't enough, the statute I think authorizes the  
6 board to come back and get the difference from licensees if  
7 it's over the 500,000, if I'm not mistaken. Because the  
8 actual statute, not the regulation but the statute, says  
9 that the board is empowered to recover --

10 MS. WAGNER: That's true.

11 MR. COUTO: -- the actual reasonable costs of  
12 regulating.

13 CHAIR ISRAEL: Okay.

14 MR. COUTO: So --

15 CHAIR ISRAEL: Harold, you raised your eyebrows  
16 when he said that. Why?

17 MR. COBURN: Well, it's true.

18 CHAIR ISRAEL: Huh?

19 MR. COBURN: It's true.

20 CHAIR ISRAEL: Oh, he's true? Okay. You weren't  
21 being skeptical. Okay.

22 EXECUTIVE DIRECTOR BREED: You can collect it but  
23 you can't spend it.

24 CHAIR ISRAEL: Well, if we can collect it we can  
25 figure out how to spend it. The problem is, is we --

1 EXECUTIVE DIRECTOR BREED: Right. Right.

2 CHAIR ISRAEL: -- we can't seem to collect  
3 anything.

4 COMMISSIONER ROSENBERG: Are you -- are you  
5 referring to the exchange wagering statute?

6 MR. COUTO: Correct.

7 MS. WAGNER: Yes.

8 MR. MILLER: Yes.

9 MS. WAGNER: 19604.

10 COMMISSIONER ROSENBERG: Can you cite what section  
11 it is?

12 MR. COUTO: 19604.5(e).

13 MS. WAGNER: 19604.5(e).

14 COMMISSIONER ROSENBERG: Is it right, Bob?

15 MR. COUTO: I apologize. I don't have the  
16 specific section --

17 MS. WAGNER: Yeah.

18 MR. COUTO: -- off the top of my head.

19 MS. WAGNER: 19605 --

20 CHAIR ISRAEL: The statute.

21 MS. WAGNER: -- (e).

22 MR. COUTO: 1960 --

23 MS. WAGNER: 19604.5(e).

24 CHAIR ISRAEL: Robert will get the statute.

25 MR. COUTO: Yeah. And -- and so I think the

1 question about are you able to recover the difference, the  
2 statute authorizes you to do that. So when we look at the  
3 license fee, the license fee -- you know, I'd like the board  
4 to keep an open mind about how this license fee goes. I  
5 think what Staff did is put forward a very good suggestion,  
6 but there may be others. And perhaps over the next 15 days  
7 in comment there -- there may be some suggestions on how to  
8 do this slightly differently. But the 500,000 is an  
9 estimate of what the cost of regulation will be. It's not  
10 saying this is the cap. It's not saying this is the  
11 maximum. It's not saying this is the minimum. It is saying  
12 for the purpose of projecting this is what we believe is a  
13 reasonable estimate of those costs.

14 CHAIR ISRAEL: Well, if you have a suggestion --

15 MS. WAGNER: We need to --

16 CHAIR ISRAEL: -- you don't have to wait for the  
17 15 days to start.

18 MR. COUTO: We'd love to. We just got the --

19 CHAIR ISRAEL: You can make it now.

20 MR. COUTO: Agree. We just got these on Monday.  
21 We've been looking at it and we had the same -- a number of  
22 us out here have exchanged emails saying how do you  
23 interpret this particular section? How do you interpret  
24 this? Because --

25 MS. WAGNER: Well, how do you interpret it?

1 Because this is the meeting that we need to get this done.  
2 We -- the industry needs to know. We are under a fine  
3 timeline. We have 120 days to get this back to the Office  
4 of Administrative Law.

5 CHAIR ISRAEL: How many days are we in now?

6 MS. WAGNER: Oh, I'm not sure. But our cutoff  
7 date to get it back to them is July 18th, which means that  
8 we've got to have everything.

9 CHAIR ISRAEL: Okay. So we've got to vote --  
10 we've got to vote to approve --

11 MS. WAGNER: Yeah --

12 CHAIR ISRAEL: -- these rules --

13 MS. WAGNER: -- to move forward.

14 CHAIR ISRAEL: -- in our June meeting.

15 MR. COUTO: The reason you don't have a  
16 suggestion, at least from me is, we all, at least the other  
17 attorneys that I spoke to that are involved here, did not  
18 understand how to interpret this section. Okay?

19 CHAIR ISRAEL: Look, I didn't understand.

20 MR. COUTO: Exactly. So I think Mr. -- I think  
21 Brad's question was what we were all waiting to say, is how  
22 exactly is this going to apply? And then we can start  
23 working from there, because I think there are other things.  
24 And we're happy to submit it before a 15-day deadline to  
25 get -- we'd like to see this progress. We'd like to see

1 this move along.

2 CHAIR ISRAEL: Here's how this calendar has to  
3 work, we're going to do what we do today, which is approving  
4 the changes you made. It seems like we're -- we're limited  
5 to only being able to approve what's in yellow --

6 MS. WAGNER: Right.

7 CHAIR ISRAEL: -- is that right?

8 MS. WAGNER: Correct.

9 MR. COBURN: Correct.

10 CHAIR ISRAEL: Okay. And then we may -- we can  
11 make some recommendations. And my recommendation would be  
12 one year instead of two years so that we have the -- it  
13 could always be 15 years, but at least we have the  
14 flexibility.

15 COMMISSIONER ROSENBERG: You mean you would  
16 refer -- recommend that to the board?

17 CHAIR ISRAEL: Because we have to go back out  
18 anyway and then come back.

19 COMMISSIONER ROSENBERG: Oh.

20 CHAIR ISRAEL: We're not coming back until June.  
21 Because they're going to get other recommendations on these  
22 issues in these eight rules or whatever it is, eight,  
23 nine -- eight rules. And -- and then Staff was going to  
24 have a period of time starting 15 -- is it 15 business days  
25 or 15 calendar days?

1 MS. WAGNER: Fifteen days, calendar days.

2 CHAIR ISRAEL: Fifteen calendar days?

3 MS. WAGNER: Calendar days.

4 CHAIR ISRAEL: Okay. So if you go -- you'll  
5 probably distribute this on Monday, which is the 6th. So on  
6 the 21st or 22nd you can start writing whatever the  
7 revisions you think should be made. It can come back to the  
8 board in June. We can vote on it.

9

10 MS. WAGNER: Okay. David, so you're --

11 CHAIR ISRAEL: If we vote, then it gets sent to  
12 the OAL. And they can approve by -- by July 18th, after  
13 being approved by the board. And then how long -- they have  
14 30 days from there.

15 MR. COUTO: Thirty business days, yeah.

16 CHAIR ISRAEL: So you get it back on like -- on  
17 August 20th, something like that. No, August 8th.

18 MS. WAGNER: If I may, I thought I'd -- I'm going  
19 to try to interpret to you what Subsection D is trying to  
20 say. The scheme that we were proposing in this rule is to  
21 identify a specific timeframe in which applications can be  
22 submitted to the board for review for consideration.

23 MR. COUTO: Right.

24 MS. WAGNER: Because we have assessed a \$500,000  
25 fee to regulate exchange wagering for the whole year. In

1 order for the applicants to know -- because we're not going  
2 to be collecting \$500,000 from each applicant; we'll have a  
3 huge sum of money which we can not spend. So the -- the  
4 idea was to establish a particular timeframe so we will know  
5 whether or not we've got one applicant, two applicants, five  
6 applicants, six applicants. After we know that defined  
7 number of applicants, that \$500,000 fee that we have  
8 assessed for the year --

9 MR. COUTO: It's divided.

10 MS. WAGNER: -- would be divided. So the  
11 applicant will be able to split that. So if we only have  
12 one applicant, yeah, you -- that one applicant is going to  
13 be responsible. But they're the only ones who are running  
14 exchange wagering. If we've got five, then it will be --

15 MR. COUTO: Would -- would Staff be open to -- and  
16 I'm not certain there's an alternative that's actually more  
17 preferable to this one. But I'm assuming based on the  
18 history with Staff they are open to considering  
19 alternatives.

20 MS. WAGNER: Absolutely. Absolutely.

21 MR. COUTO: And I think some of us may have a  
22 different idea of how to -- and it may -- it may be one that  
23 ends up ultimately unworkable, but it may be an alternative  
24 that's consistent with what you're trying to do.

25 One -- one of the concerns, the reason I raise

1 this, is because if you limit the time window to October,  
2 and let's say you have an imminent qualified applicant who  
3 comes in in March of the following year, comes in March of  
4 2014 and wants to invest a lot of money in an industry,  
5 state and exchange and get going. That -- that entity, that  
6 licensee is foreclosed from doing that until --

7 MS. WAGNER: Until the next year.

8 MR. COUTO: -- January '15.

9 MS. WAGNER: That's correct, until the next year.

10 MR. COUTO: Okay. Even though they're qualified.  
11 And that's unlike any other licensee category out there.

12 CHAIR ISRAEL: Yeah. It's -- you're -- you're  
13 exactly right. I mean, we -- we just had an ADW company  
14 approach us from -- I can't remember the name, but from one  
15 of the Dakotas, North Dakota, and we -- we approved them for  
16 a license last -- last meeting.

17 MS. WAGNER: Yeah.

18 CHAIR ISRAEL: So you're absolutely right, if  
19 that's your interpretation. I don't know if that --

20 MS. WAGNER: But --

21 MR. COUTO: But --

22 MS. WAGNER: Well, my question then, if that were  
23 to happen, if they are qualified they would know up front  
24 the timeframe with which to submit their application. You  
25 know, I don't understand why they would want to operate

1 outside of whatever that timeframe is for -- to accept  
2 applicants.

3 MR. COUTO: The scenario I'm envisioning is an  
4 entity that determines in its business interest, in its best  
5 business interest for whatever reason post October of 2013  
6 that it feels the California market is something that they  
7 need to get into from a business standpoint. They make that  
8 business decision. They make that decision in January.  
9 They provide everything. They're ready to go by March.  
10 They submit application. They are foreclosed from engaging  
11 in that activity based on the way we're reading the statute  
12 right now until January of 2015.

13 MS. WAGNER: Now, you're talking about only the  
14 initial, or are you talking about for -- for going forward?  
15 Are you talking about the initial scheme for 2013 or are you  
16 talking about --

17 CHAIR ISRAEL: No, no. He's talking about -- in  
18 2015 if --

19 MR. COUTO: March 2014 --

20 COMMISSIONER ROSENBERG: Yeah.

21 MR. COUTO: -- a new player comes in, wants to get  
22 involved --

23 CHAIR ISRAEL: They're foreclosed from --

24 MR. COUTO: -- imminently qualified --

25 CHAIR ISRAEL: -- operating until --

1 MR. COUTO: -- capitalized, etcetera --

2 CHAIR ISRAEL: -- January of the following year.

3 MR. COUTO: -- willing to put a ton of money into  
4 the industry for the State of California, they're locked out  
5 until January 2015. And that's -- it seems to me to be  
6 different --

7 EXECUTIVE DIRECTOR BREED: I think we could change  
8 the law by then, I tell you, Drew.

9 MR. COUTO: Well, this has nothing to do with the  
10 law.

11 EXECUTIVE DIRECTOR BREED: Well, I know.

12 MR. COUTO: This is a regulatory issue.

13 MR. MILLER: That might -- that just might be the  
14 case.

15 MS. WAGNER: Again, I don't know why -- why they  
16 would be waiting because --

17 COMMISSIONER ROSENBERG: What's the big deal. I  
18 don't see it as a big deal.

19 CHAIR ISRAEL: Hold on, John. Before you go, John  
20 wanted to be recognized. He was up there first.

21 MR. HINDMAN: I'm okay. Yeah.

22 CHAIR ISRAEL: Are you -- unless you're working  
23 together.

24 MR. HINDMAN: Yeah, we're working together.

25 CHAIR ISRAEL: Oh, okay. Fine.

1           MR. EHLING: Members, Dennis Ehling of Blank Rome  
2 on behalf of TVG and Betfair U.S. I think we're having a  
3 little bit of misinterpretation of what Section D deals  
4 with. Section D does not deal with the time when a license  
5 can be -- license application can or can not be granted. It  
6 is the apportionment mechanism for the fees for the license  
7 for the people who are going to be licensed in the following  
8 year.

9           And dealing with the hypothetical Mr. Couto just  
10 proposed, if let's suppose on March 15th of -- of 2015 an  
11 applicant were to come into the state, decide that it's time  
12 for them to jump into exchange wagering, if the fees have  
13 already been assessed for that year the board would have the  
14 ability under 1406, at least, you know, subject to perhaps  
15 the general counsel giving you a different view, the board  
16 would have the ability to do a temporary suspension with  
17 respect to that. And that temporary suspension of the rule  
18 could be to make an allocation that says that there is a  
19 credit, for example, to say to the new applicant, you know  
20 what, you now are taking us from three licensees to four, so  
21 we are now going from charging everybody 166,000 to 125,000.  
22 There is a credit that is being issued towards the next  
23 year's license. And that is all within the board's  
24 discretion and power.

25           CHAIR ISRAEL: Although -- although that does make

1 a faulty assumption that there -- while there are economies  
2 of scale it isn't more -- if there are -- I assume if there  
3 are more companies there are more players. If there's more  
4 players there's -- it's more intense -- the -- to maintain  
5 our scrutiny is more expensive. I mean, as -- as things get  
6 larger it costs more to police them. You know, as the  
7 population becomes larger it becomes more expensive to  
8 police. So you're assuming that costs remain static.

9 MR. EHLING: Chairman Israel, the response to that  
10 is -- is that, yes, I am making that assumption because that  
11 is the assumption that apparently was made by the Department  
12 of Finance when they calculated that the -- that the expense  
13 of this was going to be about \$500,000 a year --

14 CHAIR ISRAEL: Right. Well --

15 MR. EHLING: -- whether it was one or two or four  
16 or five.

17 CHAIR ISRAEL: -- with all due respect to the  
18 Department of Finance, of which I'm clearly not a part since  
19 we're appearing here gratis, which can lead anybody to  
20 question our intellectual capacity, you know, we had nothing  
21 to do with that, and I think they're wrong.

22 COMMISSIONER ROSENBERG: Well, he's making a point  
23 that -- let's not get off on a tangent about that. I think  
24 he's making a point on interpretation of this -- this  
25 Section D, which was not made before.

1 MR. EHLING: So the point of this is that Section  
2 D is only the -- the cost-allocation mechanism. It does not  
3 mandate that it is impossible for someone to come in  
4 midyear. If someone came in midyear the -- the board would  
5 then have to exercise -- and if the Board wanted to approve  
6 it the board would exercise its discretion under 1406 to  
7 deviate from the rules under extraordinary circumstances for  
8 good cause and say that we will reallocate -- you know, this  
9 had said we're going to allocate amongst those people who  
10 were qualified as and licensed as of the end of the year.  
11 We have a midyear. We're going to do a reallocation because  
12 there was something that was unanticipated, and -- and  
13 that's how we're going to handle it.

14 So this does not prohibit someone from coming in.  
15 All it would require is for the board to exercise it's  
16 discretion under 1406.

17 CHAIR ISRAEL: Yeah. Hey, look, I'm not sure  
18 whether you're right or wrong. I'm not a lawyer. I won't  
19 pretend to say whether you're right or wrong. All I can say  
20 is I think it's -- just to read it, it's unnecessarily  
21 confusing. The whole goal is to make these things require  
22 less bureaucracy, not more bureaucracy, not more actions,  
23 fewer actions to make it all simpler. That's what  
24 government should be doing. In order to encourage business  
25 you try to make it simpler. And what this does is it makes

1 it more difficult, frankly, for the people managing the  
2 rules and for the people who are trying to abide by the  
3 rules.

4 COMMISSIONER ROSENBERG: Well, I don't --

5 CHAIR ISRAEL: It's just silly.

6 COMMISSIONER ROSENBERG: I don't disagree with  
7 that at all.

8 Counsel, is -- the point that's being made by the  
9 speaker is -- Section D is readable, right in front of us.

10 MR. MILLER: Right.

11 COMMISSIONER ROSENBERG: Do you agree with him  
12 that it's very clear that the only purpose of this section  
13 is to apportion the succeeding one year \$500,000 assessment  
14 and licenses could be granted anytime during the year?

15 MR. MILLER: Yeah, I think a license could be  
16 granted any time --

17 COMMISSIONER ROSENBERG: Okay.

18 MR. MILLER: -- during the year.

19 COMMISSIONER ROSENBERG: That's a big point.

20 MR. MILLER: But --

21 COMMISSIONER ROSENBERG: I think maybe that's  
22 secondary to your point about --

23 MR. MILLER: But the -- the open --

24 COMMISSIONER ROSENBERG: -- how to calculate it.

25 MR. MILLER: The enrollment period serves the

1 purpose for the -- for the forthcoming year. However, if a  
2 third party were to come forward midyear then it's up to the  
3 board as to whether or not they want to --

4 MR. EHLING: Which is

5 MR. MILLER: -- accommodate that and put it in.

6 But -

7 COMMISSIONER ROSENBERG: It's pretty simple.

8 MR. EHLING: Chairman --

9 CHAIR ISRAEL: But then you're -- then -- then you  
10 need the -- you're setting up a situation where the board is  
11 subject to being lobbied, where people are going to have to  
12 waive rules.

13 MR. EHLING: Precisely.

14 CHAIR ISRAEL: It just -- it's unwieldy for no  
15 purpose.

16 COMMISSIONER ROSENBERG: What's your problem with  
17 it? I don't get your problem. What's your objection to  
18 this?

19 CHAIR ISRAEL: It should be simpler. My objection  
20 is saying --

21 COMMISSIONER ROSENBERG: It is simple.

22 CHAIR ISRAEL: -- it should be as simple as  
23 applying for a drivers license.

24 COMMISSIONER ROSENBERG: It's very simple.

25 CHAIR ISRAEL: It's not.

1           COMMISSIONER ROSENBERG: He just corrected that we  
2 were going under a wrong assumption before.

3           CHAIR ISRAEL: But -- but the board could -- could  
4 reject it for no good reason, just say the rule is the rule  
5 and we're going to abide by it for the rest of the year.  
6 That doesn't -- that seems unfair.

7           MR. COUTO: Chairman Israel --

8           CHAIR ISRAEL: Let's get real. The idea that I'm  
9 actually arguing to make it easier to do exchange wagering  
10 when I'm against the whole concept is really crazy --

11          COMMISSIONER ROSENBERG: I know.

12          CHAIR ISRAEL: -- and you're in favor of the  
13 concept. But I do think it's -- it's --

14          COMMISSIONER ROSENBERG: I know.

15          CHAIR ISRAEL: I do think this -- this makes it  
16 harder to get a license when if we're going to be in the  
17 business it should be simpler to get a license. It  
18 shouldn't -- it shouldn't require that extra step of coming  
19 to the board, asking the way of the regulation. It may take  
20 two meetings instead of one meeting. You don't -- you  
21 don't -- just don't know.

22          MR. COUTO: Chairman Israel, again, Drew Couto on  
23 Behalf of --

24          EXECUTIVE DIRECTOR BREED: Excuse me. Excuse me  
25 just a minute --

1 MR. COUTO: Sure.

2 EXECUTIVE DIRECTOR BREED: -- Drew.

3 I have to agree with -- with David in the sense  
4 that what the staff has tried to do, and with the  
5 cooperation of OAL, is to take a very poorly written piece  
6 of legislation and try to make a silk purse out of a sow's  
7 ear. And -- and they've done a good job. The legislation  
8 is flawed and it gives -- it's a continuation of taking any  
9 teeth or any power or any negotiating ability away from the  
10 board and the industry. In other words, you know,  
11 government, for some crazy reason, did not want this board  
12 and this industry to negotiate and do business. They want  
13 to -- they want to take that away from you. And -- and  
14 it -- and it -- and it's -- and this is where we -- this is  
15 where we end up, you know, nitpicking around over a bunch of  
16 little stuff, you know, that doesn't mean anything.

17 COMMISSIONER ROSENBERG: What's you're specific --  
18 I don't. What are you specifically objecting to with regard  
19 to this rule? I understand your premise about the  
20 legislature being --

21 EXECUTIVE DIRECTOR BREED: No. I don't object.  
22 I'm agreeing with the overall process.

23 CHAIR ISRAEL: Yeah. What happened is, look, I  
24 mean, there's -- there's no mystery about what happened.  
25 This was a midnight rider -- I think it was before you were

1 on the board -- on --

2 COMMISSIONER ROSENBERG: I was here.

3 CHAIR ISRAEL: -- on Senate Bill 1072.

4 COMMISSIONER ROSENBERG: Yeah.

5 CHAIR ISRAEL: And it was done -- I had -- I went  
6 to the meeting in the governor's office on 1072. It wasn't  
7 a part of -- of the legislation we were considering. It  
8 got -- it really did get stuck onto the bill at midnight.  
9 And no one had seen this part of the -- this part of the  
10 bill, so we weren't able to comment on it, react to it,  
11 anything. And -- and I was told after the fact, as the vote  
12 was occurring, that it was done at the behest of the unions,  
13 as if I actually were going to believe that. I knew that  
14 wasn't the case.

15 And that's -- so it's -- it's a lousy piece of  
16 legislation. And -- and it's -- we've been living with a  
17 screwed up deal ever since.

18 COMMISSIONER ROSENBERG: Well, just for the  
19 record, my opinion on all of this is -- I mean, it sounds as  
20 if you're trying to say -- and Kirk is trying to say that  
21 the legislatures passed this in -- in a poor manner. David  
22 is putting in some local color as to what he thinks the  
23 motive was. All I care about is this, this appears to be  
24 the only new thing on the horizon to go to a younger  
25 audience. That's my only interest in getting this done. So

1 to put up hurdles here and continue to put up, you know,  
2 language issues, what will happen, it will be worked out. I  
3 don't see the problem going forward based upon the -- the  
4 last gentleman who spoke, and that we can grant license  
5 during the year.

6 MR. COUTO: Commissioner Rosenberg, again, Drew  
7 Couto, GB. What -- the reason I'm raising this is -- is a  
8 fear that next time it goes to OAL it's going to get  
9 sidetracked again. Because what -- what is occurring here  
10 is a we're building a regulatory process that counts on  
11 waivers of the regulations you're adopting in order to  
12 implement it in a way in which you see foreseeable.

13 CHAIR ISRAEL: I agree.

14 MR. COUTO: And I think that that is a very  
15 dangerous assumption to make, that -- that the waiver  
16 process is going to be consistent for all applications. You  
17 open the door to say, well, you granted it for someone. You  
18 didn't grant it for us. We're on the same -- it's a bit of  
19 a problem. And all I'm asking is that with regard to this  
20 particular regulation, which I think is probably the most  
21 difficult one that you're facing and the one which I hope  
22 does not sidetrack this going forward, that we should look a  
23 little deeper at what's being proposed and come up with a  
24 system. And the logic, as expressed by Jackie, I think is  
25 absolutely dead on, but there may be a different way to do

1 this. And before we conclude anything let's take a look at  
2 this.

3 CHAIR ISRAEL: Well, what do you mean by -- let  
4 me -- what do you mean by sidetracked?

5 MR. COUTO: Sidetracked --

6 CHAIR ISRAEL: You mean somebody is going to file  
7 a lawsuit against this --

8 MR. COUTO: No, no, no, no, no, no. What -- the  
9 OAL is an independent entity that looks at these regulations  
10 with --

11 CHAIR ISRAEL: I understand that.

12 MR. COUTO: -- with a lot of experience and says  
13 if you're building a regulatory mechanism in which you --  
14 the cornerstone of your implementation counts on a waiver or  
15 suspension of this regulation, it's not a good regulation.

16 MR. MILLER: It -- but this does not count on --

17 CHAIR ISRAEL: But doesn't it already --

18 MR. MILLER: -- a waiver. It does not count on a  
19 waiver.

20 MS. WAGNER: It doesn't.

21 MR. MILLER: It only counts on a waiver if -- if  
22 somebody wants to implement it in 2013.

23 CHAIR ISRAEL: No, no.

24 MR. COUTO: No, no, no.

25 MR. MILLER: And --

1 MR. COUTO: We were just told, that in 2014  
2 someone came in in March and wanted to start before the  
3 October timeframe it would require another 14 -- I'm sorry,  
4 1462 waiver to do that.

5 COMMISSIONER ROSENBERG: What's the big deal?

6 MS. WAGNER: The -- the question is --

7 MR. MILLER: That's the discretion of the board.

8 MS. WAGNER: Right. And --

9 MR. MILLER: And if you read the statute about  
10 the -- it says the board -- you know, it talks about an  
11 assessment to each of the licensees.

12 MS. WAGNER: That's -- that's the kicker.

13 MR. MILLER: And so it's -- you're -- it's not --  
14 it's not a regulation built on waivers.

15 MS. WAGNER: No.

16 CHAIR ISRAEL: Okay. Betfair?

17 MS. WAGNER: And that -- and to me that -- that  
18 is -- that is the -- the nut we have to crack. Because we  
19 have a specific dollar figure that has been determined that  
20 it's going to cost us to regulate exchange wagering. To be  
21 fair and equitable amongst the applicants we have to devise  
22 a way in order to apportion that particular portion amongst  
23 the applicants who are responsible for paying us to regulate  
24 it.

25 What we have put forward was, you know, in our

1 mind, Staff's mind, the easiest procedure to do that because  
2 we would have a finite number of applicants with a finite  
3 number for the assessment. To be equitable, that would be  
4 divided equally. If there is a better way to do it, clearly  
5 we are open to those suggestions. But in order to get that  
6 finite number of applicants we're going to have to have a  
7 beginning and an ending period, as I see it, for them to  
8 come forward to us. We can't just leave it open ended or  
9 else we're always going to be reapportioning,  
10 reapportioning, reapportioning.

11 CHAIR ISRAEL: Right. But that's the flaw in --  
12 in the --

13 MS. WAGNER: Yeah. And that's the difficulty.

14 CHAIR ISRAEL: And that's the flaw in the  
15 legislation.

16 MS. WAGNER: That's the difficulty.

17 CHAIR ISRAEL: That's -- the rule in the  
18 legislation -- and I think -- I think the rule is written  
19 that way because the legislation is written that way.

20 MS. WAGNER: Correct. Correct.

21 CHAIR ISRAEL: And the legislation is -- is -- is  
22 crazy because there shouldn't have to be a finite number of  
23 applicants. The idea is to have as many applicants --

24 MS. WAGNER: Well, wait.

25 CHAIR ISRAEL: -- as possible. There isn't a

1 finite number of jockey applicants for licensees. There's  
2 not a finite number of trainers who apply for licensees, or  
3 owners.

4 MS. WAGNER: Absolutely. David, I --

5 CHAIR ISRAEL: You know, there's a finite number  
6 of racing associations that apply for -- for -- for a  
7 license, only because it depends on real estate.

8 MS. WAGNER: Right. And I use that term in -- in  
9 reference to giving us a mechanism with which to work with  
10 apportioning the fee, when I say a finite number. Because  
11 it's just easier for us, or else we're going to continually  
12 be -- continually have to renegotiate the fee --

13 CHAIR ISRAEL: Well, that's --

14 MS. WAGNER: -- you know? And --

15 CHAIR ISRAEL: But that's the way they set it up.  
16 You're going to continually have to renegotiate the fee.  
17 That's the flaw. That's the problem with this, it's not a  
18 fixed license fee. That's --

19 COMMISSIONER ROSENBERG: What's the --

20 CHAIR ISRAEL: -- my objection. That's -- the  
21 license fee shouldn't -- shouldn't depend on -- on our cost  
22 to the penny. It should be a license fee. And if  
23 there's -- and if there's a surplus it goes into a fund and  
24 it can be used --

25 MS. WAGNER: Absolutely.

1 CHAIR ISRAEL: -- to fund other things that need  
2 to -- that need regulation. You know, what -- what somebody  
3 who drives, I don't know, I'm trying to think, like what's  
4 his name, Chuck Winner drives an Aston Martin. He pays more  
5 to drive his Aston Martin than I pay for my Mercury  
6 Mountaineer. Okay. It just costs more when you get your  
7 license renewed. His roads don't -- you know, he doesn't  
8 use any different roads than I use. So it's, you know --

9 MR. EHLING: Commissioners, I may be -- be able to  
10 offer a suggestion in response to Ms. Wagner's request for  
11 possible alternatives. And we think that this can be  
12 actually addressed in a way that won't require a major  
13 overhaul but would actually get to what I think everyone's  
14 going to. The first and foremost would be if you take a  
15 look actually at 19604.5(e)(6), I believe it is, which is  
16 the authorization --

17 MS. WAGNER: That's correct.

18 MR. EHLING: -- of the board to recover any costs  
19 associated --

20 MR. MILLER: Right.

21 MR. EHLING: -- it does -- what it says is may  
22 recover any costs associated --

23 COMMISSIONER ROSENBERG: The statute.

24 MR. EHLING: -- with -- with licensing a  
25 regulation by imposing an assessment on the exchange

1 wagering licensee.

2 MS. WAGNER: Right.

3 MR. EHLING: Now, it does not say that that  
4 assessment needs to be prospective.

5 So a recommendation for consideration would be  
6 that if you take a look then at Rule 2086.5(d) --

7 CHAIR ISRAEL: I got it here.

8 MR. EHLING: -- all right --

9 MS. WAGNER: Uh-huh.

10 MR. EHLING: -- in the second sentence, "not later  
11 than December 31st of each calendar year the board shall  
12 apportion" -- rather than the succeeding one-year \$500,000  
13 assessment --

14 MS. WAGNER: Uh-huh.

15 MR. EHLING: -- they could be the current. So --  
16 so you're -- you are doing a retroactive assessment on the  
17 end of the year that says how many licensees have there  
18 been. Then the board apportions those at -- in a  
19 retrospective basis saying we've got \$500,000. How many  
20 licensees did we have? Did we have four? Did we have two?  
21 Did we have one? Did we have seven?

22 Then what I would suggest is that Subsection E,  
23 the proposed change that is now here dealing with the  
24 October 1 be taken out and we simply go back to no later  
25 than 90 calendar days following the receipt of the

1 application. Because we don't need the October 1 date if we  
2 are apportioning retrospectively. And the only -- the only  
3 requirement, I believe that the legislature has set out, is  
4 recovering costs -- which automatically sort of sounds  
5 retrospective -- recovering costs by imposing an assessment,  
6 and that would be it. You'd be imposing an assessment on  
7 the licensees.

8 CHAIR ISRAEL: The way -- the way the  
9 appropriations work we won't have any money to spend --

10 MS. WAGNER: We won't have any money.

11 CHAIR ISRAEL: -- to recover.

12 MS. WAGNER: We don't have any -- right. Right.

13 CHAIR ISRAEL: In other words, we're -- we're --  
14 we can't go -- like if you're a private company you can  
15 access cash that's being earned in some other aspect of your  
16 business and apply it to some -- we -- we don't have, as --  
17 as the way the law of California works all of this money has  
18 to be appropriated and accounted for before we spend it.

19 MS. WAGNER: Correct.

20 CHAIR ISRAEL: So we can't retrospectively -- in  
21 other words, we don't have -- we have no borrowing power.  
22 And we can't take money from say the equine health bowl and  
23 put it in the exchange wagering bowl; not that we would want  
24 to do that anyway, but we -- we legally can't.

25 MR. EHLING: And I understand that. However, what

1 I would -- I guess what I would suggest is Director Reed --  
2 Breed -- excuse me -- has suggested that a large sum of  
3 money has been spent by the board thus far getting to this  
4 process.

5 CHAIR ISRAEL: Right. Which was appropriated --

6 MR. EHLING: Right.

7 CHAIR ISRAEL: -- because he put it in a budget  
8 that he -- that he --

9 MR. EHLING: So -- so I don't think it --

10 CHAIR ISRAEL: -- he submitted.

11 MR. EHLING: I don't think it is -- it is  
12 impossible for the -- for the budget process to say it's  
13 going to take this much, please appropriate it, and then to  
14 come back afterwards and say and we are --

15 CHAIR ISRAEL: But --

16 MR. EHLING: -- recovering that to put back to the  
17 fund.

18 CHAIR ISRAEL: But you -- we don't get any money  
19 from the general fund.

20 MS. WAGNER: Yeah.

21 CHAIR ISRAEL: So all of our appropriations come  
22 from licenses we collect. That's -- this -- this is -- you  
23 know, Major Major wrote these damn laws. This is Catch 22  
24 here. That for us is -- you know, especially for the staff,  
25 but for us it's not that much of an issue, but for Staff

1 it's an issue. I mean, because, you know, they're always  
2 trying to play catch-up. At the end of a fiscal year we're  
3 always tight because there are unexpected costs. One of the  
4 problems with the -- the Department of Finance coming to the  
5 conclusion it was \$510,000 and charging \$500,000 is --  
6 there's no contingency. Who operates a business without a  
7 contingency? There should be a 10 to 20 percent contingency  
8 in there. It should be probably \$600,000 is the real cost  
9 for \$500,000.

10 MR. EHLING: The only point I was --

11 CHAIR ISRAEL: I mean, that's just -- it's just  
12 idiotic to not have a contingency.

13 MR. EHLING: The point I would make in response is  
14 that for 2013, okay, the calendar year 2013 which I  
15 understand doesn't coincide at all with the fiscal year of  
16 this state, but for calendar year 2013, if anyone is  
17 licensed the board would have the ability to assess a  
18 portion, you know, \$500,000 against those licensees for  
19 2013.

20 CHAIR ISRAEL: But we're past 2013. Okay. That  
21 issue isn't being -- we're trying -- I mean, we're not past  
22 2013 as of May. But we're trying to shape a law here that's  
23 going to stand up. And the question, actually, that we're  
24 dealing with now on the floor is what happens in March of  
25 2014 if -- if somebody comes forward with this. And it's --

1           COMMISSIONER ROSENBERG: How would -- how would  
2 that differ in the calculations? Is that what your point  
3 is, how would it differ than the calculation in 2013?

4           MR. EHLING: Yeah. I mean, if -- if the -- if the  
5 board has --

6           COMMISSIONER ROSENBERG: I can give you a  
7 hypothetical. In March somebody comes in and --

8           MR. EHLING: Right. Right.

9           COMMISSIONER ROSENBERG: -- this year --

10          MR. EHLING: If someone comes in -- if someone  
11 comes in in March --

12          COMMISSIONER ROSENBERG: Okay.

13          MR. EHLING: -- okay, and submits an application,  
14 what we're -- what I'm suggesting would be they -- you -- it  
15 would still be possible for the board to allocate some of  
16 the cost for that back to them by saying, okay, it's  
17 December 31st of that year. During this calendar year you  
18 were -- and you could do this July 1 to keep fiscal year --

19          CHAIR ISRAEL: Well, he's --

20          MR. EHLING: -- if that --

21          COMMISSIONER ROSENBERG: Yeah. And this would --

22          MR. EHLING: -- if that's easier.

23          CHAIR ISRAEL: He submitted a budget. What did  
24 you submit?

25          COMMISSIONER ROSENBERG: Wait, wait, wait. And

1 this would go on every year --

2 MR. EHLING: This would go on each and every year.

3 COMMISSIONER ROSENBERG: -- as the same --

4 MR. EHLING: Each and every year you would look  
5 back and say how many people were here.

6 COMMISSIONER ROSENBERG: Right.

7 MR. EHLING: All of you, we are entitled to  
8 recover, by assessment against you, our costs.

9 COMMISSIONER ROSENBERG: Right.

10 MR. EHLING: So we would look back. And you can  
11 do it on June 30th to avoid the -- the fiscal year problem.  
12 That would be another mechanism of doing that. But you  
13 can -- the -- the statute authorizes the board to assess  
14 fees in order to recover the cost of regulation. So if you  
15 are -- if you are assessing them you can assess them, you  
16 know --

17 COMMISSIONER ROSENBERG: Right.

18 MR. EHLING: -- for that year. There's no --

19 COMMISSIONER ROSENBERG: Mr. Couto, do you have a  
20 problem with that?

21 MR. COUTO: I believe that's what I said when I  
22 first stood up. I said you weren't limited. You have the  
23 right to recover the costs.

24 COMMISSIONER ROSENBERG: Right.

25 MR. COUTO: That's what -- that's what I

1 mentioned.

2 COMMISSIONER ROSENBERG: So as a practical matter,  
3 am I missing something? Is this -- is there a problem with  
4 the --

5 MR. COUTO: As I understand your question I don't  
6 think you are. I think --

7 COMMISSIONER ROSENBERG: Okay.

8 MR. COUTO: -- he's saying exactly what I said  
9 when we started.

10 CHAIR ISRAEL: Have you, in your budget for 2014,  
11 for fiscal year starting July 1st, 2013, how much have you  
12 budgeted for exchange wagering?

13 EXECUTIVE DIRECTOR BREED: Five hundred.

14 CHAIR ISRAEL: Five hundred. Has it been  
15 approved?

16 EXECUTIVE DIRECTOR BREED: Yeah. It's in -- it's  
17 in finance --

18 CHAIR ISRAEL: Is it in the governor's budget.

19 EXECUTIVE DIRECTOR BREED: -- in the finance  
20 letter.

21 CHAIR ISRAEL: Okay.

22 EXECUTIVE DIRECTOR BREED: It's attached to the  
23 governor's budget, yeah.

24 CHAIR ISRAEL: Okay.

25 COMMISSIONER ROSENBERG: All right. That might

1 work.

2 CHAIR ISRAEL: All right. Can we move on past  
3 this? Move on to the next --

4 MS. WAGNER: David, before we move on, so we're  
5 going to move forward with this language for the 15-day  
6 comment period; is that what the suggestion is?

7 CHAIR ISRAEL: Well, nobody's proposed -- no.

8 COMMISSIONER ROSENBERG: Yes.

9 CHAIR ISRAEL: You're going to move forward with  
10 this language for the 15-day comment period, during which  
11 any changes in that language may be submitted. Because you  
12 have -- and I would -- I would ask, by the way, we do this  
13 the same way we did it before. Submit it in writing. It  
14 will get posted on the website. You'll -- you'll -- you  
15 just, you know --

16 MS. WAGNER: If -- if --

17 CHAIR ISRAEL: And this will be, obviously, much  
18 more limited because you can only supply language changes on  
19 these eight rules, and probably I think only on the  
20 highlighted parts of these rules.

21 MS. WAGNER: Only -- only on the --

22 CHAIR ISRAEL: So --

23 MS. WAGNER: -- the italicized-bolded language.

24 COMMISSIONER ROSENBERG: Okay. What's your point  
25 about that?

1 MS. WAGNER: If I can make a suggestion, Chairman,  
2 Mr. Chairman.

3 CHAIR ISRAEL: Sure.

4 MS. WAGNER: It sounds as if the industry has  
5 discussed this particular section. And you do have some  
6 other alternatives that you would like to present to Staff  
7 in lieu of Subsection D; is that correct?

8 COMMISSIONER ROSENBERG: No.

9 MR. COBURN: Yes.

10 MS. WAGNER: Yes --

11 MR. COBURN: Yes.

12 MS. WAGNER: -- that's correct?

13 If I may, Mr. Chairman --

14 CHAIR ISRAEL: Yes.

15 MS. WAGNER: -- I would like to propose if  
16 possible for the members here to meet with Staff, maybe in  
17 Sacramento, if we could do it next some time. If you can --  
18 we can sit around the table, come up with language that is  
19 palatable to the industry going forward, and move forward  
20 with that preference.

21 CHAIR ISRAEL: I'm fine with Staff doing that.

22 MS. WAGNER: Are you okay with that?

23 CHAIR ISRAEL: Yes. But it's got to be --

24 MS. WAGNER: We have to do it --

25 CHAIR ISRAEL: There has to be an element of

1 transparency. Whatever you come up with needs to be posted.

2 MS. WAGNER: Oh, absolutely.

3 CHAIR ISRAEL: Okay.

4 MS. WAGNER: Because what will happen is -- what I  
5 would --

6 CHAIR ISRAEL: I don't want you doing this and  
7 somebody --

8 MS. WAGNER: In the dark.

9 CHAIR ISRAEL: -- accuses us of doing a smoke-  
10 filled room.

11 MS. WAGNER: In the dark. What I would propose  
12 then, that we -- Mr. Chairman, if -- if we go ahead and  
13 have that industry meeting --

14 CHAIR ISRAEL: That's fine.

15 MS. WAGNER: -- in Sacramento. And then we would  
16 bring that language to the board in the board packet at the  
17 May meeting. And then --

18 CHAIR ISRAEL: Well, we're just -- yeah. I mean,  
19 and --

20 MS. WAGNER: And you guys --

21 CHAIR ISRAEL: -- Richard and I will see it.  
22 Okay.

23 MS. WAGNER: And then the board can give us the  
24 instructions to notice it for 15 days.

25 CHAIR ISRAEL: Yeah.

1 MS. WAGNER: Yeah. Because --

2 CHAIR ISRAEL: That's the idea.

3 MS. WAGNER: -- I want to shut down that -- that  
4 15 days --

5 CHAIR ISRAEL: Okay.

6 MS. WAGNER: -- because we are -- we are losing  
7 time.

8 CHAIR ISRAEL: Well, that -- that should happen  
9 with all eight of these --

10 MS. WAGNER: Absolutely.

11 CHAIR ISRAEL: -- although I don't think anything  
12 else is going to be --

13 MS. WAGNER: Yeah.

14 CHAIR ISRAEL: -- you know --

15 MS. WAGNER: Although I don't think --

16 CHAIR ISRAEL: I do have a couple more question  
17 with this.

18 MS. WAGNER: Okay.

19 CHAIR ISRAEL: Not on this. On another.

20 MS. WAGNER: So what -- I will be sending out or  
21 Harold will be sending out an email to set up the time. We  
22 are going to be moving on this very, very quickly, folks,  
23 because we are really up against a timeframe. We've got to  
24 have everything approved by the board if they so choose to  
25 do that. And the rule-making package has got to be back --

1 CHAIR ISRAEL: Okay. But --

2 MS. WAGNER: -- at OAL --

3 CHAIR ISRAEL: But one caveat; not just the ADW  
4 companies are invited to this. Please reach out to CTT,  
5 TOC.

6 MS. WAGNER: We'll have --

7 CHAIR ISRAEL: I don't want -- I don't want  
8 anybody --

9 MS. WAGNER: Absolutely.

10 CHAIR ISRAEL: -- the racing associations, I don't  
11 want anybody to say they were excluded.

12 MS. WAGNER: Absolutely. What we will do is send  
13 an email to the industry representatives. That will include  
14 the racing associations, the fairs --

15 CHAIR ISRAEL: Right.

16 MS. WAGNER: -- the folks that are here --

17 CHAIR ISRAEL: The only people who should be  
18 excluded --

19 MS. WAGNER: -- and the horse racing  
20 organizations.

21 CHAIR ISRAEL: -- are us --

22 MS. WAGNER: This will be a Staff meeting.

23 CHAIR ISRAEL: -- so it doesn't have to be an open  
24 meeting.

25 MS. WAGNER: Okay. And then we can sit around the

1 table, try to come up with language. So when we get to that  
2 15-day comment period what I'm trying to avoid is I don't  
3 want comments in the 15-day comment period. I'm just going  
4 to tell you straight out. If we have comments on what we're  
5 proposing, that just slows the process down, people.  
6 Because then we have to respond to that and then --

7 CHAIR ISRAEL: Okay. They got it.

8 MS. WAGNER: -- determine. So --

9 CHAIR ISRAEL: Okay. Jockeys' Guild, too.

10 MS. WAGNER: Okay. All right.

11 CHAIR ISRAEL: All right.

12 MS. WAGNER: Jockeys' Guild, as well.

13 CHAIR ISRAEL: Yeah.

14 MS. WAGNER: Did you get that note?

15 CHAIR ISRAEL: They've been interested in this,  
16 the fact --

17 MS. WAGNER: If they're interested.

18 CHAIR ISRAEL: Yeah.

19 MS. WAGNER: Okay.

20 CHAIR ISRAEL: Everybody should know that there's  
21 this meeting occurring --

22 MS. WAGNER: Absolutely.

23 CHAIR ISRAEL: -- and they're invited to  
24 participate.

25 MS. WAGNER: Absolutely. And it will be next

1 week, I believe, or as soon as possible. Because I want  
2 that done before the board meeting. Correct. Correct. It  
3 has to be done next week. Okay.

4 (Colloquy Between Commissioners)

5 CHAIR ISRAEL: I'm keeping score here. All right.  
6 According to my scorecard we're -- we're done with 2086 and  
7 2086.5.

8 MS. WAGNER: Yes.

9 CHAIR ISRAEL: On 2086.6, I think Richard had a  
10 question but it got answered by Staff.

11 COMMISSIONER ROSENBERG: Yes.

12 CHAIR ISRAEL: And I'm pretty sure I didn't have  
13 any -- let's see, 2086.5, 2086 -- I didn't have anything  
14 on -- on the license application.

15 And the operating plan, I mean, does anybody have  
16 any questions on 2086.6, the -- the requirement to submit an  
17 operating plan? Speak now or hold your peace until next  
18 week.

19 MS. WAGNER: The other ones are pretty simple.

20 CHAIR ISRAEL: Okay.

21 MS. WAGNER: They're just --

22 CHAIR ISRAEL: Well, no, they -- I'm going to  
23 throw -- okay. So 2086.6, we're through.

24 MR. EHLING: I'm sorry, Chairman.

25 CHAIR ISRAEL: Yes.

1 MR. EHLING: Dennis Ehling on behalf of TVG. One  
2 more thing. On 2086.6 --

3 CHAIR ISRAEL: Yes.

4 MR. EHLING: -- we just draw Staff's attention  
5 to -- we still have the words "at a minimum" in the front  
6 of --

7 MR. MILLER: No.

8 MS. WAGNER: Well, that --

9 MR. EHLING: -- that.

10 MS. WAGNER: That --

11 MR. MILLER: We're taking that off.

12 MS. WAGNER: We're taking that off.

13 MR. EHLING: We're taking it out?

14 MS. WAGNER: We're taking it out.

15 MR. EHLING: Thank you very much.

16 CHAIR ISRAEL: What page are you on there?

17 MR. EHLING: That was, in my packet --

18 COMMISSIONER ROSENBERG: 127.

19 MR. EHLING: -- 126.

20 CHAIR ISRAEL: 126.

21 MS. WAGNER: That has been struck.

22 MR. EHLING: Thank you very much.

23 MS. WAGNER: Uh-huh.

24 CHAIR ISRAEL: What -- what line? What --

25 EXECUTIVE DIRECTOR BREED: "At a minimum."

1 MR. EHLING: And it had to do with the operating  
2 plan.

3 MS. WAGNER: That's on page --

4 COMMISSIONER ROSENBERG: 127.

5 MS. WAGNER: -- 127, 1.27 --

6 CHAIR ISRAEL: Oh, 127.

7 MS. WAGNER: -- on your packet --

8 CHAIR ISRAEL: Oh, "at a minimum" --

9 MS. WAGNER: -- "at a minimum."

10 CHAIR ISRAEL: -- "the operating plan shall" --

11 MS. WAGNER: That -- that --

12 MR. EHLING: Yeah.

13 MS. WAGNER: That is stricken.

14 MR. COBURN: And it now reads --

15 CHAIR ISRAEL: Okay.

16 MR. COBURN: -- "the operating plan."

17 MS. WAGNER: It starts out --

18 CHAIR ISRAEL: Okay. Okay.

19 MS. WAGNER: -- "the operating plan."

20 CHAIR ISRAEL: I got it. Okay.

21 MS. WAGNER: Any others?

22 CHAIR ISRAEL: Okay. So 2086.7, Exchange Wagering  
23 Data. Does everybody understand the CHRIMS?

24 MS. WAGNER: We just identified CHRIMS as the  
25 database --

1 CHAIR ISRAEL: As the recipient --

2 MS. WAGNER: -- as the data.

3 CHAIR ISRAEL: -- for all data? Okay. Anything  
4 on that? Nobody?

5 COMMISSIONER ROSENBERG: Can I just mention one  
6 thing briefly --

7 CHAIR ISRAEL: Okay.

8 COMMISSIONER ROSENBERG: -- on CHRIMS that came to  
9 mind. CHRIMS is funded -- some money comes out of the  
10 handle, I think, goes directly -- doesn't CHRIMS --

11 MS. WAGNER: Correct. Correct.

12 COMMISSIONER ROSENBERG: -- submit a budget,  
13 etcetera?

14 MS. WAGNER: Right. Right.

15 COMMISSIONER ROSENBERG: So is this going to  
16 increase their costs? Do they have to -- will they come in  
17 for more money or is that our problem?

18 MS. WAGNER: I do not believe so. Because they  
19 currently have to provide this information.

20 COMMISSIONER ROSENBERG: All right. Okay.

21 MS. WAGNER: We're just --

22 CHAIR ISRAEL: You coordinated this with Mark?

23 MS. WAGNER: Yes.

24 COMMISSIONER ROSENBERG: Okay.

25 MS. WAGNER: He had input on this.

1 CHAIR ISRAEL: Okay.

2 MS. WAGNER: This -- this is -- this is  
3 collaboration with him.

4 CHAIR ISRAEL: And none of you have any questions  
5 about the CHRIMS issue? Okay. Anybody else? No?

6 2087.9, Financial and Security Integrity Audits  
7 Required. Anybody have any questions about that? That's  
8 just a natural person.

9 MS. WAGNER: Natural persons, yeah.

10 CHAIR ISRAEL: Okay.

11 MS. WAGNER: 2086.6 is natural person.

12 CHAIR ISRAEL: But, yeah, I just have -- I do have  
13 a question on this natural person thing. I don't -- you  
14 know, I understand what it means. But what if it's  
15 discovered that the natural person is a front for an entity?  
16 In other words, there's a robotic or some syndicate. A  
17 natural person can be -- hold the account and --

18 MR. COBURN: That's an enforcement issue.

19 CHAIR ISRAEL: It's an enforcement issue?

20 MS. WAGNER: Yeah.

21 CHAIR ISRAEL: Okay. And --

22 COMMISSIONER ROSENBERG: Interesting.

23 CHAIR ISRAEL: And what does that mean? Tell me  
24 what that means.

25 EXECUTIVE DIRECTOR BREED: That means you run the

1 background and --

2 MS. WAGNER: We will find that out.

3 CHAIR ISRAEL: And then --

4 EXECUTIVE DIRECTOR BREED: Whatever you find out  
5 you apply that. If it's -- if it's against the law --

6 CHAIR ISRAEL: Because it's not legal for --

7 EXECUTIVE DIRECTOR BREED: If it's criminal  
8 then --

9 CHAIR ISRAEL: Okay. All right. So the natural  
10 person gives you the opportunity to make --

11 EXECUTIVE DIRECTOR BREED: Right.

12 CHAIR ISRAEL: Okay. All right. 2086.9,  
13 Financial and Security. The audits require it. There's no  
14 question? No?

15 Cancellation of Matched Waivers, 2087.6. Any  
16 questions? Nobody? Okay.

17 Next one is 2080 -- wait, my -- I've -- by the  
18 way, this paper -- I'm working off the -- of the agenda, but  
19 it's actually 2088.6, where it says on the agenda, it says  
20 2086 --

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

22 CHAIR ISRAEL: You got -- you got an inconsistency  
23 there.

24 MR. COBURN: That was not in the disapproval  
25 letter. We're just correcting grammar here.

1 CHAIR ISRAEL: Oh, okay. No, no, but I mean on  
2 the front it's --

3 MS. WAGNER: Yeah. Yeah.

4 CHAIR ISRAEL: Okay. All right. On 2089,  
5 actually, which is -- I actually have a question.

6 MS. WAGNER: Uh-huh.

7 CHAIR ISRAEL: It says that the ADW company, the  
8 exchange wagering company must provide within one business  
9 day, notify the account holder of the overpayment --

10 MS. WAGNER: Uh-huh.

11 CHAIR ISRAEL: -- and shall be entitled to recover  
12 from such account all the amount of the overpayment.

13 MS. WAGNER: Uh-huh.

14 CHAIR ISRAEL: Blah, blah, blah, blah, blah.  
15 What's the penalty if they fail to do this within one day?  
16 It doesn't -- it doesn't say what the penalty is or -- or --  
17 so it' says it has to do something, but it doesn't say what  
18 happens if it doesn't do it. Am I right, wrong?

19 MS. WAGNER: Yeah. You know, I would think again  
20 that would be an enforcement issue. And then clearly if --  
21 if the exchange --

22 CHAIR ISRAEL: Yeah. But there --

23 MS. WAGNER: -- if the exchange --

24 CHAIR ISRAEL: There has to be a rule to be  
25 enforced.

1 MS. WAGNER: Well, if the exchange provider is not  
2 abiding by the rules as -- as they're outlined the board  
3 clearly has the discretion to yank that license.

4 CHAIR ISRAEL: But what -- but -- but that -- I  
5 mean, nobody's going to yank a license over this. There's  
6 got to be a penalty.

7 COMMISSIONER ROSENBERG: Somebody has to object to  
8 it, don't they?

9 MS. WAGNER: Yeah --

10 COMMISSIONER ROSENBERG: Wouldn't the person --

11 MS. WAGNER: -- they would.

12 COMMISSIONER ROSENBERG: -- the account holder be  
13 the --

14 MS. WAGNER: Somebody has to object.

15 CHAIR ISRAEL: I know. But it doesn't say what  
16 the penalty -- what the failure to --

17 COMMISSIONER ROSENBERG: You make them pay.

18 CHAIR ISRAEL: -- the failure to abide by this  
19 rule results in what?

20 MS. WAGNER: Well --

21 COMMISSIONER ROSENBERG: Make them pay.

22 MR. HINDMAN: Well, our -- our understanding is  
23 that if you don't tell them within one business day you have  
24 no right to go in and recover it as the operator. So --

25 CHAIR ISRAEL: Right.

1 MR. HINDMAN: -- you've got one business day --

2 MS. WAGNER: To make the --

3 MR. HINDMAN: -- to go back and recover it. If  
4 you don't, then if they're overpaid they're overpaid and  
5 they get to keep it --

6 MS. WAGNER: They get to keep the money.

7 MR. HINDMAN: -- which means the penalty is on the  
8 operator if they can't go back and recover it.

9 MS. WAGNER: It is the operator.

10 CHAIR ISRAEL: Okay.

11 MS. WAGNER: It's not the wagering patron.

12 CHAIR ISRAEL: So what -- but what's the penalty  
13 then if on day two you go try to recover?

14 MR. HINDMAN: You can't --

15 MS. WAGNER: You can't.

16 MR. HINDMAN: -- under this rule.

17 CHAIR ISRAEL: I understand that. But what if you  
18 do?

19 COMMISSIONER ROSENBERG: Well, the guy complains  
20 to the board.

21 CHAIR ISRAEL: How's the -- the guys who are  
22 betting don't know the rules. Let's get real here. They're  
23 not going to know these rules.

24 COMMISSIONER ROSENBERG: But they know that rule.  
25 The big betters, the betters who play --

1 CHAIR ISRAEL: The big betters. You just said the  
2 big betters.

3 COMMISSIONER ROSENBERG: No, no, the small  
4 betters.

5 CHAIR ISRAEL: The problem with this whole damn  
6 thing is it's -- is it's about the big betters and it's not  
7 about the little guy. That's -- that's what exchange --  
8 that's the whole flaw in exchange wagering. But that's for  
9 a different thing.

10 What's a \$3.00 better, a \$5.00 better, a \$20.00  
11 better, what's his recourse?

12 COMMISSIONER ROSENBERG: The enforcement rights we  
13 would have to go -- that person has to complain. We  
14 can't -- they can't monitor every bet.

15 CHAIR ISRAEL: But they don't --

16 COMMISSIONER ROSENBERG: Let me finish. They can't  
17 monitor every bet. That's not our job to monitor every bet.

18 CHAIR ISRAEL: They have to monitor every bet.

19 COMMISSIONER ROSENBERG: No, we can't, meaning the  
20 board or the staff. They can't monitor every bet. So if a  
21 mistake is -- if they -- if they don't follow the rules  
22 somebody got to complain. It's like any other -- it's any  
23 other consumer group. You've got to wait until a complaint  
24 comes in.

25 CHAIR ISRAEL: But it doesn't say what the penalty

1 is if they don't --

2 COMMISSIONER ROSENBERG: The guy has got to pay  
3 if --

4 CHAIR ISRAEL: Huh?

5 COMMISSIONER ROSENBERG: The guy has got to pay or  
6 whatever -- whatever.

7 CHAIR ISRAEL: No, no. There's no -- this is them  
8 recovering money.

9 COMMISSIONER ROSENBERG: Right. So they can't --

10 CHAIR ISRAEL: So, okay, so they're recovering  
11 money. Big deal.

12 COMMISSIONER ROSENBERG: The guy complains.  
13 They've got to -- he's got to -- they've got to repay it.

14 CHAIR ISRAEL: Yeah, John, go ahead.

15 MR. HINDMAN: In addition to that we -- the one  
16 business day for overpayment, we, you know, also have to  
17 notify the board. That's also in the rules. So the  
18 operator does have the obligation to notify the board if --

19 CHAIR ISRAEL: Whenever it does this --

20 MR. HINDMAN: Yes.

21 CHAIR ISRAEL: -- with each individual better?

22 MR. HINDMAN: That's --

23 MS. WAGNER: Uh-huh.

24 MR. HINDMAN: -- what the rules says --

25 MS. WAGNER: Huh

1 MR. HINDMAN: -- as far as we understand it.

2 CHAIR ISRAEL: Okay.

3 MR. HINDMAN: And if we --

4 CHAIR ISRAEL: You built that into your --

5 MS. WAGNER: Uh-huh.

6 CHAIR ISRAEL: -- your costs and oversight?

7 MS. WAGNER: Yes.

8 CHAIR ISRAEL: No?

9 EXECUTIVE DIRECTOR BREED: I did. I did, but it  
10 was taken out.

11 CHAIR ISRAEL: Well, how the hell are we going  
12 to -- all right.

13 2089,5; "For purposes including but not limited to  
14 conducting an investigation," blah, blah, blah. That's the  
15 only change?

16 MS. WAGNER: Right. We just had to identify  
17 the --

18 CHAIR ISRAEL: Does anybody have any questions?

19 MS. WAGNER: Any other concerns on any of the  
20 other rules, gentlemen?

21 CHAIR ISRAEL: 2089.5; nothing? No?

22 So really, this is it? So the whole thing is  
23 about Aretha Franklin?

24 EXECUTIVE DIRECTOR BREED: So in closing I would  
25 just like to make one request.

1 CHAIR ISRAEL: I feel like a natural person.

2 EXECUTIVE DIRECTOR BREED: Those of you -- those  
3 of you representing the organizations you represent, go back  
4 to the lobbyists that were there when this thing was  
5 written --

6 CHAIR ISRAEL: They're dead.

7 EXECUTIVE DIRECTOR BREED: -- and tell them, you  
8 guys really F'd up. This is terrible.

9 MR. BLACKWELL: For the record, we said that when  
10 it was being passed.

11 EXECUTIVE DIRECTOR BREED: I know.

12 CHAIR ISRAEL: You said that what?

13 COMMISSIONER ROSENBERG: Can I ask a question?

14 MR. BLACKWELL: That was our stance when this  
15 thing was getting passed.

16 COMMISSIONER ROSENBERG: I have -- I have a  
17 question.

18 CHAIR ISRAEL: How did you know about it?

19 MR. BLACKWELL: Well, after it was passed.

20 CHAIR ISRAEL: After it was passed, right.

21 COMMISSIONER ROSENBERG: I have a question. Are  
22 there -- there were three -- are there three representatives  
23 of potential applicants here; is that the way I read it?  
24 TVG?

25 CHAIR ISRAEL: Yes. There's nobody here from

1 Stronach; right? Are you from Stronach?

2 MR. EHLING: I represent Stronach.

3 CHAIR ISRAEL: Oh, you do? Okay.

4 COMMISSIONER ROSENBERG: So there's four potential  
5 applicants here?

6 CHAIR ISRAEL: Four potential licensees are here.

7 COMMISSIONER ROSENBERG: Right.

8 CHAIR ISRAEL: Although, wait. As I understand  
9 it, I mean, as long as we're here --

10 COMMISSIONER ROSENBERG: Yeah.

11 CHAIR ISRAEL: -- I'll adjourn the meeting and  
12 then we can have a question and answer period.

13 EXECUTIVE DIRECTOR BREED: Yeah.

14 CHAIR ISRAEL: Okay.

15 MS. WAGNER: Can I add one thing, David?

16 CHAIR ISRAEL: Yes.

17 COMMISSIONER ROSENBERG: Yeah.

18 MS. WAGNER: Just one thing.

19 COMMISSIONER ROSENBERG: That's the same question  
20 I have.

21 MS. WAGNER: We have tentatively looked at next  
22 meeting next week in Sacramento on Thursday, May 9th.  
23 Thursday, May 9th. You'll be getting an email. And we are  
24 going to meet for the purposes of only going over that one  
25 section. That -- that's the only section, gentleman, okay?

1 Nothing else is on the table. We've agreed with -- we've  
2 agreed with everything. So just that one thing.

3 CHAIR ISRAEL: Well, the only thing that can be on  
4 the table -- by the way, I'll -- hold it. I'll give you --  
5 I'll give you more latitude. The only thing that can be on  
6 the table is what was in this agenda. Okay. We're not --  
7 we're not re-litigating these rules.

8 MS. WAGNER: No.

9 COMMISSIONER ROSENBERG: No, he -- she's --

10 CHAIR ISRAEL: We actually -- we actually got  
11 these damn rules passed. Now almost all these other rules  
12 there's -- it's -- it's just --

13 MS. WAGNER: Nothing.

14 CHAIR ISRAEL: -- it's minor little --

15 MS. WAGNER: Exactly.

16 CHAIR ISRAEL: -- it's really the Aretha Franklin.

17 MS. WAGNER: Exactly.

18 CHAIR ISRAEL: So --

19 MS. WAGNER: So listen to the chairman.

20 CHAIR ISRAEL: Yeah.

21 MS. WAGNER: Just that one little section, okay?

22 CHAIR ISRAEL: And she'll call me up and have me  
23 yell at you if --

24 MS. WAGNER: You know I can do that.

25 CHAIR ISRAEL: But I sure as shit am not going to

1 be there, so --

2 COMMISSIONER ROSENBERG: Jackie, read the section  
3 number --

4 MS. WAGNER: The section number is --

5 COMMISSIONER ROSENBERG: -- just for  
6 clarification.

7 MS. WAGNER: -- 2080 -- what?

8 COMMISSIONER ROSENBERG: 2086.5.

9 MS. WAGNER: D.

10 COMMISSIONER ROSENBERG: Well --

11 MS. WAGNER: 2086 --

12 COMMISSIONER ROSENBERG: No, no, no. Don't limit  
13 it to D.

14 CHAIR ISRAEL: No, don't limit it to D.

15 MS. WAGNER: No, no, no. I won't limit.

16 CHAIR ISRAEL: 2086.5.

17 MS. WAGNER: 2086.5.

18 CHAIR ISRAEL: Okay.

19 MS. WAGNER: That is the rule that we will be  
20 going over. And our goal is to come out with a rule that  
21 this industry will live by as we go forward --

22 CHAIR ISRAEL: Until we change it.

23 MS. WAGNER: -- and that OAL will approve as we go  
24 forward. Okay? That's the goal, gentlemen.

25 CHAIR ISRAEL: Well, that's your job, is to make

1 sure OAL is going to approve it.

2 EXECUTIVE DIRECTOR BREED: Yeah.

3 MS. WAGNER: So it will be Thursday, May 9th. And  
4 then we want to start at, what, ten o'clock in the morning?  
5 Is that a good time for everyone?

6 CHAIR ISRAEL: Well, can you get up there by then?

7 COMMISSIONER ROSENBERG: Yeah. There's a seven  
8 o'clock flight.

9 MS. WAGNER: We'll be there until 6:00. Okay. If  
10 we push it to 11:00? Hello, hello. Okay. Is 11:00 better  
11 for folks that want to come up for the one day? Okay.  
12 Thursday, May 9th at 11 o'clock.

13 CHAIR ISRAEL: The representatives of XpressBet,  
14 are you going to -- are you interested in going there?

15 MS. WAGNER: And I'm --

16 CHAIR ISRAEL: -- the silent representative of  
17 XpressBet?

18 MR. EHLING: I'm not representing XpressBet.

19 CHAIR ISRAEL: Well, who are you representing?

20 MR. EHLING: LATC Racing.

21 MS. WAGNER: So we will --

22 CHAIR ISRAEL: Oh, LATC. Okay. All right.

23 MS. WAGNER: We will -- Hal will follow up with an  
24 email to confirm. And we will be extending an invitation,  
25 of course, to the representatives that are here, as well as

1 to our horsemen's organizations, to our associations, and  
2 our fair representatives. Okay?

3 CHAIR ISRAEL: Okay.

4 MS. WAGNER: All right.

5 CHAIR ISRAEL: All right.

6 MS. WAGNER: Thank you.

7 CHAIR ISRAEL: I declare the meeting closed.

8 (The Commission meeting adjourned at 12:24 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 California Horse Racing Board Meeting; that it was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said conference, or in any way interested in the outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of May, 2013.

/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

May 2, 2013