

1 CALIFORNIA HORSE RACING BOARD

2 1010 Hurley Way, Suite 300

3 Sacramento, California 95825

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7  
8 REGULAR MEETING

9 Thursday, January 19, 2006

10 10:00 A.M.

11 Arcadia City Hall

12 240 West Huntington Drive

13 Arcadia, California 91066

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17  
18 Reported by:

19 BLAKE WASHINGTON

## 1 A P P E A R A N C E S:

2 Board Members

3 John Andreini - Commissioner

4 Jerry Moss - Commissioner

5 William A. Bianco - Commissioner

6 Ingrid J. Fermin - Executive Director

7 Richard B. Shapiro - Commissioner

8 Marie G. Morretti - Commissioner

9 John Harris - Commissioner

10 Sherryl L. Granzella - Commissioner

11 Derry L. Knight - Deputy Attorney General

12

13 Also Present:

14 Jacqueline Wagner  
15 CHRB Staff16 John Reagan  
17 CPA  
California Horse Racing Board  
Senior Pari-Mutuel Examiner18 Jerry Jamgotchian  
19 P.O. Box 1810  
Manhattan Beach, CA 90267  
20 (310) 408-580621 Jerry Mandel  
22 CHHA23 Craig Fravel  
24 Polytrack

25

## 1 A P P E A R A N C E S (Continued):

2 Daniel Q. Schiffer  
3 Attorney at Law  
4 43020 Blackdeer Loop  
5 Suite 101  
6 Temecula, California 92590  
7 (951) 296-0911

8 Jack Liebau

9 Drew Couto

10 Ed Aldridge  
11 Los Alamitos

12 Jeff Shrewd  
13 UBet.com

14 Charles Champion  
15 UBet.com

16 Scott Dury  
17 Magna Entertainment

18 Sherwood Chillingworth

19 Rick Hamerly  
20 Santa Anita

21 John Hindman  
22 TVG

23 Tony Alamato  
24 TVG

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1           ARCADIA, CALIFORNIA, THURSDAY, JANUARY 19, 2006

2   10:00 A.M.

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4           MS. FERMIN: Hello, I am Ingrid Fermin. We  
5 are here for the regular meeting of the California  
6 Horse Racing Board, which is being held on Thursday,  
7 January 19, 2006, commencing at 10:00 a.m., at the  
8 Arcadia City Hall, 240 West Huntington Drive,  
9 Arcadia, California. The meeting will open at  
10 10:00 a.m., then the Board will adjourn into  
11 Executive Session with the regular meeting commencing  
12 at approximately 10:30 a.m.

13   (Half-hour Executive Session held.)

14           MS. FERMIN: We will reopen the meeting at  
15 the time, but before we go on, I would just like to  
16 ask everyone to please state your name and the  
17 organization that you represent for the court  
18 reporter. Thank you.

19           MR. SHAPIRO: I would like to welcome  
20 everybody to the January meeting of the California  
21 Horse Racing Board, and we have a long agenda; but  
22 before we get started, I would like to make a few  
23 remarks.

24   First and most importantly, I would like to  
25 thank John Harris. John has led this board for the

1 past few years and has been a commissioner for many  
2 years before then.

3           When I first came on the Board a year ago,  
4 John was the first person who called me and welcomed  
5 me to the Board, and since then besides forming a  
6 friendship with him, I found him to be the most  
7 untiring person that is dedicated to the overall  
8 welfare of the horse racing business in California.

9           I think it is rare when you find somebody  
10 that is of the stature of John Harris who will devote  
11 as much time and energy as he does to the general  
12 welfare of this industry. And it is an honor both to  
13 follow him as chairman on this Board, but I think it  
14 is an honor for the entire industry -- to sing his  
15 rendition of his song, "Happy Trails to You," because  
16 thankfully John has continued to serve on the Board,  
17 I think the industry deserves to thank John. John  
18 deserves our thanks. So, John, thank you.

19           MR. HARRIS: Thank you, Mr. Chairman.

20           MR. SHAPIRO: I would also like to make a  
21 couple of comments moving forward in terms of my  
22 being chairman. Over the last year what we have seen  
23 is an industry influx and lots of challenges. We see  
24 less horses, less owners, and we see less fans, and  
25 some of our tracks in jeopardy.

1           In my role, I hope to try to bring unity to  
2 this industry and try to bring everybody together as  
3 much as possible. And in trying, that we can all  
4 look at the CHRB being not just as a regulatory  
5 agency, but an agency that is here to help and  
6 promote this industry so that we can have a firm and  
7 good future.

8           I have also heard periodically that people  
9 have said oh, he, meaning me, is aligned with one  
10 interest or another. And I wanted to address that,  
11 because frankly most of us that sit up here are the  
12 only people in this entire room that have no  
13 financial interest in what happens.

14           I do not have a financial stake in which  
15 racing association or organization succeeds. This is  
16 done out of our pure passion and desires to see a  
17 score thrive and succeed.

18           So, I want to make sure that everyone  
19 realizes that as we sit here truly unbiased, our  
20 desire is to see this industry succeed. And I will  
21 make myself available at all times at any segment of  
22 the industry so long as those people coming forward  
23 are looking for the overall benefit of this industry,  
24 not just of the specific interest.

25           So, I do hope that everyone will work

1 cooperatively over the next year, and I think that  
2 everyone needs to be held accountable to protect the  
3 integrity of our game, and that includes the CHRB,  
4 staff, and officials.

5 So, having said that, I hope I can do some  
6 amount of justice as John did as chairman, and we can  
7 move forward and have a successful 2006.

8 The first order of business is to approve  
9 the minutes from the meeting of December 1st, which  
10 are in the packets. Does anybody have any comments  
11 on the Board to those minutes and corrections?

12 MR. HARRIS: I think there was one. On the  
13 discussion we had about the -- I think the "No" votes  
14 were from me and it shows here --

15 MR. SHAPIRO: Okay. We will make that  
16 change as noted. Are there any other changes?

17 MS. WAGNER: Commissioner?

18 MR. SHAPIRO: Yes.

19 MS. WAGNER: Just so I get the -- could you  
20 tell me where you are reading at?

21 MR. HARRIS: Yeah, it is on page --

22 MR. SHAPIRO: It is on page 6.

23 MS. WAGNER: Page 6?

24 MR. SHAPIRO: Page 6, right. Just above  
25 the jockey --

1           Are there any other corrections, additions,  
2 changes?

3           There being none, do I have a motion to  
4 approve the amendments?

5           MS. MORRETTI: (No audible response.)

6           MR. SHAPIRO: Second?

7           MS. GRANZELLA: I.

8           MR. SHAPIRO: All those in favor?

9           MR. ANDREINI: I.

10          MR. MOSS: I.

11          MR. BIANCO: I.

12          MS. FERMIN: I.

13          MS. MORRETTI: I

14          MR. HARRIS: I.

15          MS. GRANZELLA: I.

16          MR. SHAPIRO: The motion is approved.

17          The next agenda item is the Medication  
18 Committee. Commissioner Bianco, would you like to  
19 report on the Medication Committee?

20          MR. BIANCO: We had a meeting this morning,  
21 and we put on hold for about a 30- or 60-day period  
22 the approval of a rough draft on new regulations. We  
23 will try to have some meeting over the next month  
24 with the interested parties to get some clarification  
25 and finalization of what has been proposed on

1 medication items.

2 With that, there was no further business.  
3 So, we have a meeting that will be scheduled in the  
4 next week, I would assume, for all the interested  
5 parties. Thank you.

6 MR. SHAPIRO: Thank you. Commissioner  
7 Harris and I both attended that meeting, and I  
8 believe what we are going to try to do is have a  
9 series of meetings so that all segments of the  
10 industry, all breeds will be able to give input into  
11 the proposed RMTTC guidelines, uniform rules, and  
12 penalties.

13 And it is a essential that we ask everybody  
14 who is a participant in the industry to get to the  
15 members including the vets, the trainers, the owners,  
16 so that everybody has notice of this meeting and can  
17 weigh in on that. So, I think it is an important  
18 meeting. So, thank you. Given that item, I believe  
19 that we will omit item No. 3 from the agenda.

20 Moving to item No. 4, discussion and action  
21 by the Board on the proposed addition of Rule 1920.1,  
22 Heightened Surveillance.

23 MS. WAGNER: Jacqueline Wagner, CHRB Staff,  
24 this proposal Rule 1920.1 was originally proposed as  
25 an emergency regulation at the recommendation of the

1 Ad Hoc Committee.

2 At that time the Ad Hoc Committee had  
3 concluded that abnormal changes in some horse's  
4 winning patterns, unusually high winning percentages,  
5 and routine drug tests results -- prohibitive levels  
6 were resulting in at least the perception that some  
7 horses were receiving medication that they should not  
8 be receiving.

9 And these horses are testing were not  
10 testing positive in the post-race and hearing tests.  
11 In response, 1920.1 was proposed as an emergency  
12 regulation. Unfortunately, the OAL disapproved that  
13 proposal as an emergency test. And in response, we  
14 have revised the regulation to address the concerns  
15 that the OAL raised.

16 The rule provides that any horse, stable,  
17 or trainer that is on the premises as defined by the  
18 Board's rules may be subject to heightened  
19 surveillance during period of ten days immediately  
20 preceding and during any race meeting if such horse,  
21 stable, or trainer has certain medication violations  
22 within a specific time.

23 The rule also specifies the criteria that  
24 the Board will look at -- the specific criteria that  
25 the Board will look at to place a horse under

1 surveillance. That rule is included in the packet  
2 for review, and staff would recommend that the Board  
3 direct us to go ahead and initiate the 45-day comment  
4 period.

5           If I may, in that recommendation I would  
6 also like to bring to the Board's attention that  
7 under A subsection 1, we could make reference to the  
8 criteria that a horse, or stable, or trainer  
9 receiving in excess of three medication violations  
10 warrant a category C or D penalty within the  
11 preceding 36 months, and subsequent to that Section 2  
12 also references the category A or B penalty within  
13 the preceding 12 months.

14           Referring to the previous item that we just  
15 discussed and the fact that that item is indeed on  
16 hold, we may be able to take into consideration going  
17 forward with this at this particular time.

18           MR. SHAPIRO: Thank you.

19           MR. HARRIS: One comment I had. I was not  
20 clear. It seemed to me that anyone on the back  
21 stretch should be subject to heightened surveillance  
22 if -- I certainly hate to say that to be in the  
23 heightened surveillance category, you have to meet  
24 one of these criteria.

25           It may well be that there is someone who is

1 felt needed heightened surveillance for whatever  
2 reason, I would hate to say that we did not have a  
3 that latitude. It may be that the rational person  
4 would say these folks would be prime candidates, but  
5 I hate to see it limited where if we decided to do  
6 heightened surveillance on somebody who did not meet  
7 these categories, that would be in violation of  
8 something.

9 MR. SHAPIRO: I agree with you. When I saw  
10 this, and I saw under A the five items that were  
11 listed, my first question was, where did these come  
12 from. Who wrote these? And I had questions and  
13 concerns about the way that we were doing this. Who  
14 wrote these?

15 MS. FERMIN: Those came out of the Ad Hoc  
16 security meeting when it was first discussed at  
17 heighten surveillance.

18 MR. SHAPIRO: Well, my understanding is  
19 that we went in under an urgency basis to try and get  
20 approval to have heightened surveillance, and we were  
21 turned down by OAL?

22 MS. FERMIN: As an emergency.

23 MR. HARRIS: Just as an emergency.

24 MS. FERMIN: That was just as an emergency.

25 MR. SHAPIRO: Right.

1 MS. FERMIN: The concept was not turned  
2 down.

3 MR. SHAPIRO: Correct. And my view is I am  
4 not really comfortable with the requirements that we  
5 have to meet here. I think that John is correct. If  
6 for some reason we want to have heightened  
7 surveillance anywhere within the enclosure because of  
8 some suspicious activity or concern, I'm concerned  
9 that we are being limited by these rules here.

10 MS. FERMIN: I think maybe Derry has some  
11 input here. I think we have that right now.

12 MR. HARRIS: I don't see if we have the  
13 right, why are we doing it this way?

14 MR. KNIGHT: Yeah, I know that came up  
15 initially because there was concern because you are  
16 already doing this in some instances. But I do think  
17 that that is a legitimate concern.

18 I think we ought to play around with the  
19 language a little bit to make sure -- the problem you  
20 have is once you get something this specific  
21 downstream there is going to be arguments made with  
22 some basis that -- this is the only basis you have to  
23 do that. So, I think we ought to do something either  
24 that makes -- this is not the exclusive authority for  
25 taking this kind of action.

1           MR. SHAPIRO: Let me ask you a question.  
2 Do you feel that right now the CHRB has the ability  
3 and right to install video cameras anywhere within  
4 the enclosure that it would choose, or place guards  
5 where ever it would choose, or have heightening  
6 surveillance at its discretion. Do we have that  
7 right in your opinion?

8           MR. KNIGHT: I have not looked at this for  
9 a long time. But my recollection at the time we  
10 first looked at it that was our view, yes. You do  
11 have that authority.

12          MR. SHAPIRO: So, if we have that authority  
13 now and it is not limited by factors that are  
14 outlined here in this rule, I'm not sure why to we  
15 are taking the action to enact this rule.

16           So, personally if you are of that opinion  
17 and we already have these powers, then I would  
18 propose that we not proceed any further with this  
19 rule, unless I'm missing something.

20          MR. MOSS: Well, I think this came about  
21 because everyone is concerned. So, I believe these  
22 meetings that were taking place, the Ad Hoc meetings,  
23 were full of a lot of passionate people that wanted  
24 to do something about what was considered a serious  
25 situation.

1           I mean, if we are saying that we can do  
2 this without, you know, we can create surveillance  
3 without having a law any time we like, well, then  
4 fine.

5           MR. SHAPIRO: Well, that is why I asked the  
6 question I did. It is my understanding from what  
7 Derry just said that this rule isn't adding anything,  
8 and in fact maybe limiting the power that we already  
9 have.

10          MR. HARRIS: It sounds like if you don't  
11 fit these categories -- regardless, it's not  
12 intrusive. It's not like by doing it you are  
13 hampering a person's ability to operate.

14          MR. DERRY: Well, my recollection --

15          MS. FERMIN: Well --

16          MR. DERRY: Go ahead.

17          MS. FERMIN: I was just going to say what  
18 if 1 through 5 were eliminated?

19          MR. SHAPIRO: Well, again that gets to the  
20 point, and maybe we need for Derry to weigh in on  
21 this. I agree that the original intent here was to  
22 cover all basis to make sure that if we chose to put  
23 in cameras on a particular barn, or guards on a  
24 particular barn, or anything that we felt was to  
25 protect the integrity of the game, that we were being

1 belt suspenders with this rule.

2 Now, if you are telling us, and maybe we  
3 need you give us a opinion, whether we have that  
4 right now or not. This rule as it is currently  
5 written I am concerned we weakens our ability.

6 MR. KNIGHT: Well, let me go back. Part of  
7 the issue is that if you have standards that you are  
8 using, criteria if you will, for taking certain  
9 action, which obviously would impact the trainers and  
10 the owners that are involved, there is a certain  
11 stigma -- a minimum that presumably attaches to the  
12 fact that your horse has been sequestered from the  
13 rest of the horses.

14 If you are using criteria under State law,  
15 you can't just do this on an Ad Hoc basis if you in  
16 fact have rules. And the way I recall this came up  
17 in terms of regulation was there was a discussion of  
18 a checklist of what was going to be used for purposes  
19 of taking this action.

20 Apparently that was -- I don't know if this  
21 is going on now, but apparently on an Ad Hoc basis  
22 this was already happening to some extent anyway, and  
23 these were some of the criteria that had apparently  
24 triggered these Ad Hoc actions.

25 However, if you are going to develop a

1 checklist that you give to the stewards that says if  
2 any of these things happen, then here's what you are  
3 to do. That requires a regulation.

4           And I think that is kind of how we got into  
5 the need for regulation here, because I think the  
6 first I saw for example, I saw the list of these  
7 trigger events, if you will, and that concerned me  
8 from a regulation standpoint that you do have to have  
9 a regulation.

10           If you are going to give your staff a  
11 checklist that they look at and when A, B, and C  
12 occur, they're suppose to do something else, then  
13 that requires a regulation.

14           That is kind of how we got where we are, I  
15 think. While you may have the ability to do this on  
16 an Ad Hoc basis, you don't have the ability  
17 necessarily to have these criteria that you operate  
18 under.

19           MR. HARRIS: But if we suggest criteria, by  
20 doing that, we are saying if you don't meet these  
21 criteria then you could not be subject, and I think  
22 we want it where anybody can conceivably  
23 subject -- if the opinion of the investigators or  
24 executive directors that they warrant a closer look.

25           MR. MOSS: Yeah, but somebody is saying --

1 well, let's say a horse's, you know, the history has  
2 dramatically improved -- performance of horses from  
3 training -- on multiple occasions.

4           And we don't have this in writing as Derry  
5 has mentioned. Somebody would feel we are picking on  
6 them, that we are being unfair to them. Even though  
7 we have the right to do that, if it is not written  
8 down, he might charge us with being unfair in some  
9 way -- and put cameras in his barn, and all that kind  
10 of thing. When this would allow us to do that  
11 without even any mention.

12           MR. HARRIS: Well, if we have some  
13 suspicion, but the person doesn't fit the needs and  
14 we want to do it, I would hate to -- the guy who goes  
15 to set up the camera, he says you can't have a camera  
16 there, because I do not meet the criteria. I haven't  
17 won a race since --

18           MR. MOSS: Well, then the camera wouldn't  
19 be there.

20           MR. HARRIS: Well, maybe the guy is doing  
21 something, but just the fact that he's winning races  
22 doesn't necessarily mean he's doing something. We  
23 want the ability to be very flexible, and I guess it  
24 gets down to rights of unreasonable search and  
25 seizure and all these kinds of things. It is pretty

1 nonintrusive. We're not saying we're going to go out  
2 to the guy's car any time he comes in.

3 MR. SHAPIRO: What I would suggest is that  
4 we delete items under subsection A items 1 through 5  
5 and that we just keep the language there that  
6 says -- end the sentence "and during any race meeting  
7 if such horse, stable, or trainer is within the  
8 enclosure or within the premises overseen by the  
9 CHRB," and then just leave in paragraph B.

10 That basically allows us to use whatever  
11 measures that we feel and deem are appropriate for  
12 protecting the integrity of the game, but not be held  
13 to specific standards.

14 I mean, there may be a horse that is  
15 improving dramatically from the claiming ranks or  
16 other classifications, and it says on multiple  
17 occasions, or what happens if a win ratio is at 24.5  
18 percent?

19 These items -- is my opinion is just too  
20 limiting. So, I would propose that if we feel we  
21 need to have such a rule to protect the integrity,  
22 then I would simply say that we should delete these  
23 items.

24 It's my understanding these items were kind  
25 of reflective or responsive to when we were asking

1 for emergency status. So, I'm not sure we need them  
2 anymore.

3 MR. MOSS: The only question I have is we  
4 are a Board and we meet once a month, the stewards  
5 are active every day, and they need some guidance  
6 perhaps. That is the question I have.

7 MR. HARRIS: It's not the stewards -- the  
8 stewards wouldn't be the ones to implement this. You  
9 have to keep in mind they're going to hear the case.  
10 But the ones that are really doing this are  
11 investigators, which we have got several in each  
12 track.

13 So, the investigators are the ones that are  
14 actually interested in heightened security.

15 MR. JAMGOTCHIAN: May I address this  
16 matter? It really affects what I am here for. My  
17 name is Jerry Jamgotchian. Mr. Moss, you bring up  
18 something that is very significant. Somebody  
19 mentioned that the stewards don't make decisions to  
20 post guards at stalls when that is absolutely not  
21 true.

22 MR. SHAPIRO: Okay. Mr. Jamgotchian, I'm  
23 going to have to interrupt you --

24 MR. JAMGOTCHIAN: This is important. You  
25 can't cut me off.

1           MR. SHAPIRO:  If you want to talk -- I can  
2 cut you off.  Do not talk about any specific  
3 instances.

4           MR. JAMGOTCHIAN:  Right.  In a nonspecific  
5 manner, it is been proven and shown that stewards can  
6 send security guards to stalls and keep horses from  
7 being removed from the grounds or remove horses from  
8 stalls without any hearings.  There is somebody in  
9 this room right now who had her horse taken by the  
10 stewards without a hearing.

11           My horse has security guards posted at its  
12 stall and was not allowed to be removed from the  
13 grounds.  So, Mr. Moss brings us something you all  
14 ought to listen to.  There have to be specific  
15 criteria to give stewards direction.  If not,  
16 stewards at the request of Ms. Fermin or anybody else  
17 can do whatever they want.  You need to specific  
18 criteria.  Thank you.

19           MR. SHAPIRO:  Thank you.  What I would  
20 suggest is that -- I would recommend that we ask for  
21 our attorney general to go back and look at it and  
22 advise the Board more specifically on what our  
23 existing rights are now, what this rule does both to  
24 limit them or increase them so that we can make a  
25 more informed decision if that would be okay with the

1 rest of the Board.

2 MR. BIANCO: Fine with me.

3 MR. SHAPIRO: There being none, then that  
4 is what we'll do and we'll move forward.

5 Item No. 5, discussion and action by the  
6 Board on two proposed amendment of Rule 1472, Rail  
7 Construction and Track Specifications, to accommodate  
8 the installation of polymer or wax coated sand racing  
9 surfaces.

10 MS. WAGNER: Jacqueline Wagner, CHRB staff.  
11 At our last Board meeting in December, the issue of  
12 Polytracks and installation of them on California  
13 race tracks was discussed. Polytrack as you know are  
14 currently used in Europe and parts of the United  
15 States. And they're viewed by many in the industry  
16 as a promising long-term solution to the problematic  
17 organic race tracks surfaces.

18 The proposed amendment to Rule 1472 would  
19 allow for the installation for Polytrack here in  
20 California. Specifically, the amendment would  
21 provide that a polymer or wax coated sand track  
22 surface shall conform with the minimum  
23 recommendations of the manufacturer regarding the  
24 percent of cross -- and then the requisite drain  
25 installation.

1           I've discussed this language with Craig  
2 Fravel. He may be able to run some additional  
3 information to you. That staff would recommend to  
4 the Board direct us finished a 45-day commentary on  
5 this rule.

6           MR. SHAPIRO: Thank you. Do any of the  
7 commissioners have any comment? Does anybody in the  
8 audience?

9           MR. HARRIS: Are we checking -- I think it  
10 is a good idea to obviously allow Polytrack but is  
11 that part of a track's obligation to verify that  
12 those percentages are correct? I have never seen  
13 anybody go out there and look at it.

14           MR. SHAPIRO: I don't know. I know that we  
15 do a track inspection before the beginning of each  
16 race meeting. Now, whether or not somebody actually  
17 measured these percentages I don't know. Perhaps we  
18 could hear from the staff or some of the industry who  
19 would advise us. Mr. Schiffer?

20           MS. MORRETTI: I just have a question about  
21 it too, and then perhaps you will be able to address  
22 it. In terms of -- I think Jacqueline you said  
23 according to the manufacture's whatever -- my concern  
24 about the Polytrack is in terms of method of  
25 application and quality control of the materials

1 being used.

2           And is there one way to do it? Is there  
3 one -- is there a ratio of certain sand to the  
4 polymers, to the this, to the that, that makes it the  
5 best qualified track so that if Hollywood decides to  
6 do it, or Del Mar decides to do it, do we know that  
7 we are going to have the same consistency at both  
8 tracks? The whole quality control issue is one I'm  
9 concerned about.

10           MR. SHAPIRO: My understanding is that the  
11 formula is different at every track.

12           MR. HARRIS: It's customized.

13           MR. SHAPIRO: Based on weather, humidity, I  
14 mean all those are factors you -- but California's  
15 Polytrack expert is standing at the microphone.

16           MR. FRAVEL: Craig Fravel, Del Mar  
17 Thoroughbred Club. I think that is a very legitimate  
18 question, but the actual formula itself is a rather  
19 well kept secret. It's kind of like the mixture for  
20 making Coca-Cola. But by enlarge, there is very  
21 close approximation between the various quantities of  
22 materials used.

23           For example, I can tell you the basic  
24 criteria for the sand that's utilized. And that's  
25 not a big secret. It is supposed to be in excess of

1 90 percent Silica so that it is sufficiently hard so  
2 that you wouldn't have break down and compaction  
3 issues that you would have with a normal race track.

4 So, there are some standards that I think  
5 would be useful to make sure the Board is apprised of  
6 what those are. And ultimately I think -- there are  
7 other folks out there who will or will in the future  
8 make similar surfaces.

9 So, I wouldn't suggest that Polytrack will  
10 be the only one ever made. I think as a reasonable  
11 goal it would be a great thing if all the race tracks  
12 in California were very similar from a performance  
13 standpoint. So, I'm not sure if that answered your  
14 question, but it is pretty specific in terms of  
15 what's in there. I don't think you have a huge  
16 variation in quality control issues.

17 MR. SHAPIRO: But going towards  
18 Commissioner Morretti's comment, how do we know  
19 that -- how do you know that the formula as used is  
20 going to work and be safe so that there isn't a  
21 problem -- but I guess if any track surface --  
22 they're all different today anyway, aren't they?

23 MR. FRAVEL: Oh, yeah. They're all  
24 rather -- well, Santa Ana and Del Mar are probably  
25 relatively close in terms of there actual content,

1 but still not identical. And they are all different.

2 Part of that is environmental. I mean the  
3 situation at Del Mar is different than in Hollywood  
4 from an underground soil standpoint. And also  
5 material. There is virtually no way to assure that  
6 each and every batch of this stuff is going to be the  
7 same.

8  
9 That they are doing test mixes shortly at  
10 Hollywood Park of various sand sources and other  
11 things. And I think the logical answer to that is we  
12 just all need to work together and monitor how that's  
13 done, and we should sit down and discuss that very  
14 issue. I don't think we have any objection to  
15 figuring out to provide those kinds of assurances.

16 MR. SHAPIRO: Have you reviewed these  
17 proposed specifications, and are they broad enough?

18 MR. FRAVEL: The only thing we really  
19 talked about is the percent of slope in the turns and  
20 in the straight-away. Basically an application in  
21 Europe at a turfway park, they have attempted to get  
22 as flat a surface as possible and the straight-away,  
23 and a two and a half percent or slightly greater  
24 grade in the turns.

25 And the reasons for that I think are

1 simple. One of the rationales for banking other than  
2 the centrifugal force issues of horses going around  
3 turns is to provide particularly in the straight-away  
4 appropriate drainage for race tracks.

5 In our tracks currently all drain to the  
6 inside, which is beneficial in terms of getting water  
7 off, but also it creates biases, and either dead or  
8 alive rails, speed biases or anti-speed biases and  
9 all that kind of stuff.

10 The beautiful thing about the overall  
11 Polytrack installation is that it starts from the  
12 bottom up. And it features a very state of the art  
13 draining system and subsurface that will be very  
14 consistent between the various race tracks assuming  
15 they all follow the engineering guidelines that has  
16 been suggested to everyone.

17 And basically it drains vertically. The  
18 water goes right through and drains out through the  
19 drainage system so that you don't need water running  
20 off the top when it's raining.

21 So, there is a substantially lower degree  
22 of need for banking from a drainage standpoint. You  
23 still have some banking in turns, but both according  
24 to anecdotal evidence and some testing that we have  
25 had done by the University of Maine as well as

1 someone over at Davis that the shear strength of the  
2 surface is much greater than a traditional race  
3 track.

4 In other words, it doesn't break out from  
5 under the horse's hoof even though it has very  
6 friendly compaction so that the horses losing their  
7 footing on the way around the turn, at least from  
8 everything I've been told at Turfway Park and in the  
9 UK is really not an issue. So, the shear strength of  
10 the product makes up for the lack of banking in the  
11 turns if you will.

12 And unfortunately he's not here, I know  
13 Richard Mandella is a huge proponent of trying to  
14 eliminate some of the grade particularly in the  
15 straight-aways of the race tracks because he just  
16 doesn't feel it's good for horses to be running at a  
17 tilt all the time. And I think probably most  
18 trainers would feel that way. If you can reduce  
19 banking particularly in the straights that's  
20 important. So, that's the genesis of what we're  
21 asking for here.

22 MR. HARRIS: I sort of wonder if really we  
23 should be regulating banks. It seems like it should  
24 be up to the horsemen and tracks and what they think  
25 is the best bank rather than the CHRB coming in and

1 saying this is the bank you should have.

2 MR. SHAPIRO: I don't have an opinion on  
3 it. I don't know why it is in our rules to begin  
4 with.

5 MR. FRAVEL: I think it was in the rules to  
6 begin with because there was rather a significant  
7 lack of consistency 10 or 15 years ago when we  
8 adopted these regulations that govern track safety.

9 And Mr. Fontana is here. We went through a  
10 whole slew of meetings within the industry to come up  
11 with some clear safety criteria, which I think has  
12 been well received nationally in terms of how race  
13 tracks should be handled on a consistent basis on  
14 every track California, the safety rail.

15 We all meet certain minimum requires, and  
16 the inspection of the requirements that the CHRB has  
17 under those regulations has been helpful in making  
18 sure you don't lose sight of those issues. But I  
19 think this is one in particular item where we all are  
20 looking for the answer to the race track surface  
21 issue.

22 And now we think we have a very promising  
23 one, and the feedback we have gotten is that we don't  
24 need quite the specificity on that particular item  
25 regarding slope.

1           MR. SHAPIRO: Well, if it makes sense that  
2 if horses could run on a truly flat surface versus  
3 one that's got a crown, or has got a slope, or  
4 something like that, that does not contribute to you  
5 would think to better soundness.

6           I did participate with Del Mar and a bunch  
7 of other people in a presentation of the 22nd  
8 Agriculture District and you showed at that time a  
9 presentation, which was helpful to them to  
10 understanding what Polytrack is.

11           I would suggest as you may recall in our  
12 February meeting, you promised to bring a discussion  
13 back on track surfaces. I would ask you bring that  
14 presentation so that all the Board members and  
15 anybody who hasn't seen how Polytrack is actually  
16 installed and what's involved with the draining  
17 system, and the base, and everything, they could be  
18 more enlightened on it, because I think it would be  
19 helpful in understanding --

20           MR. FRAVEL: And I should also add in the  
21 future that we have been working with Wayne Mackeroy  
22 and Dr. McPeterson on project as well as Sue Stover.  
23 I think that our scientific ability to evaluate the  
24 shear strength and compaction issues related to these  
25 race tracks will improve dramatically in the next

1 year.

2           They're developing equipment, McPeterson  
3 is, that will help us measure on a day-to-day basis  
4 what's going on with the racing surface. And that  
5 will have utility for Polytrack or traditional racing  
6 surfaces as well. So, I think the opportunity is  
7 there to get more and more scientific about this  
8 particular issue.

9           MR. MOSS: Just one little question,  
10 because I know Del Mar has so many other events on  
11 that race track over the course of a year. Has  
12 anybody made any kind of finding as to how this  
13 affects Polytrack

14           MR. FRAVEL: Well, we have discussed that  
15 at length with Martin Hall and the developer and --  
16 the only thing that really goes on a regular basis on  
17 than track other some horse events is how the lights,  
18 which is the thing that goes on the outside of the  
19 race track, and we've discussed that.

20           Even currently that stays on the outside 12  
21 feet or so. And we don't think it is really  
22 problematic on that basis. But he's not actually  
23 concerned with the vehicular traffic over the  
24 surface.

25           MR. SHAPIRO: Does anybody else have any

1 comment?

2 MR. SCHIFFER: My name Dan Schiffer. I  
3 represent Pacific Coast Quarter Horse Racing  
4 Association. We are concerned about this amendment  
5 for several reasons, one being that often times the  
6 decisions are made by the Board, by the industry  
7 without taking into account the different interests  
8 including the quarter horses.

9 And at this point, the polymer track has  
10 not been studied as to suitability for the quarter  
11 horse as a quarter horse racing surface. We  
12 understand that the AQHA is presently contemplating a  
13 study. We are going to attempt to push the AQHA to  
14 move that study forward as a priority and see what we  
15 can find out about the suitability.

16 We understand that the manufacturer of the  
17 Polytrack that everybody is looking at has not done  
18 studies regarding quarter horses, and it concerns us  
19 because if this regulation is a precursor to a  
20 mandate that all tracks are to put in this type of a  
21 surface and the manufacturer hasn't done their  
22 homework on this, are we going to be bound by  
23 Thoroughbred type standards which may not be  
24 appropriate for the quarter horse racing industry.  
25 In that regard, we would like you to move slowly and

1 to take into account the quarter horse.

2 MR. SHAPIRO: I think your point is well  
3 taken. Would you be more comfortable that if the  
4 revisions that we were talking about apply to those  
5 race meetings that were Thoroughbred race meetings.

6 And then when the data is in that the old  
7 standards would exist for tracks that are not of a  
8 Polytrack type surface, or the breeds the same I'm  
9 sure with a harness. I have no idea how it would  
10 work for harness racing.

11 You are right. We have focused on  
12 Thoroughbred racing. I don't think anybody's intent,  
13 at least, I'm not aware of anyone's intent to try and  
14 put this into use in a situation would be  
15 appropriate.

16 But we also want to make it available for  
17 those tracks that do put in Polytrack That the rules  
18 will permit it, and I understand that for quarter  
19 horse racing or harness racing that that may have to  
20 follow in terms of any mandate the Board decides to  
21 make in the matter. Would you be satisfied if  
22 basically the status quo --

23 MR. SCHIFFER: I do believe the quarter  
24 horsemen believe that we should be flexible in  
25 regards to the use of this. And we do, if it is a

1 surface conducive for our industry, we definitely  
2 will embrace it.

3           And I don't think that the language as it  
4 is other than the word manufacturer is problematical  
5 unless we go to the next step where the Board is  
6 mandating this surface is to be used.

7           What my point is, is if the AQHA as an  
8 outside body is doing the study and the manufacturer  
9 doesn't adopt it -- that study for whatever reasons,  
10 we may be blocked into a configuration that is not  
11 appropriate for our industry. And I think that is  
12 the basis of our concern.

13           MS. MORRETTI: Do you know when that study  
14 will be completed?

15           MR. SCHIFFER: It hasn't been a priority,  
16 but we are going to try and push it as a priority.  
17 So, I don't have --

18           MR. HARRIS: All this regulation does, it  
19 says if you have a Polytrack you are not bound by the  
20 percentages of slopes. If you don't have a Polytrack  
21 you are, which I don't know if we should even delve  
22 into that.

23           But clearly this only impacts slopes on  
24 Polytracks, and I could see where obviously quarter  
25 horse people need to look at. Although, there is no

1 real evidence that it should be a problem with  
2 quarter horses.

3 MR. SCHIFFER: Not so far. We don't know  
4 at this point.

5 MR. SHAPIRO: We understand that, but we  
6 need to make sure that our rules are flexible enough  
7 to allow those tracks that decide that they want to  
8 put in a Polytrack or that the rules will allow them  
9 to do so and not be in violation of our rules.

10 MR. SCHIFFER: I understand.

11 MR. SHAPIRO: I think that's our intent.

12 MR. SCHIFFER: I think our main problem  
13 with the proposed language is the use of the term  
14 manufacturer's specification, where it may be a more  
15 general term could be used such as the best  
16 specification or safety, or whatever. I'm not sure  
17 of the language.

18 MR. SHAPIRO: Can I suggest that you come  
19 back in the comment period or propose to us a  
20 revision that you would find that would be acceptable  
21 to you and so that we can then incorporate it into  
22 the rule.

23 MR. HARRIS: I would implied that obviously  
24 the track -- is going to have input into it. So, it  
25 is not strictly the manufacturer --

1 MR. SCHIFFER: Thank you.

2 MR. SHAPIRO: I think we should also make  
3 the point that we keep calling it Polytrack I'm not  
4 sure that it isn't when we say Polytrack what we are  
5 referring to is a Polytrack type of surface. It may  
6 be Tepeda.

7 I know Mike Dickenson has a competing  
8 product that's called Tepeda. It is the same type of  
9 an idea, but I don't think we are mandating that it  
10 must be a specific manufacturer's track surface.

11 MR. LIEBAU: Mr. Shapiro, my name is Jack  
12 Liebau and I am from Hollywood Park. I think the  
13 term Polytrack as much meaning and has gotten to be  
14 any sort of track that is other than a dirt track.

15 I am certainly not an expert on Polytrack  
16 and not in Mr. Fravel's league in this, but I have  
17 just returned from England. And the tracks that are  
18 now being installed by Martin -- aren't referred to  
19 as Polytracks. They're referred to as Echotracks.

20 And what the difference is I don't know.  
21 But one of the main problems that there is now that  
22 Commission Morretti brought up is I don't think you  
23 can ever specify what goes into this "Polytrack".

24 The most successful Polytrack I think is  
25 at -- in England. It has a component called jelly

1 cable in it. And the new tracks over at Hampton and  
2 at Turfway do not have jelly cable. And that might  
3 be a reason why there is no kickback.

4 But with that said, I would just like to  
5 say with respect to this regulation I would certainly  
6 think it needs to be adopted. If it in any way  
7 inhibits the future installation of "Polytrack," but  
8 I was wondering if Derry could comment as to whether  
9 you could incorporate in a State regulation some  
10 unknown manufacture's specifications.

11 So, I guess I'm with Mr. Schiffer here in  
12 that maybe the regulation could delete the reference  
13 to the manufacturer's specifications, which are one,  
14 we don't know who the manufacturer is, we don't know  
15 what the specifications are, and we are incorporating  
16 some private specifications if they even do exist in  
17 State regulation, which I would think there might be  
18 a problem with, but I would certainly care on it.

19 MR. SHAPIRO: I think the point is well  
20 taken, and I don't know if we should be referring to  
21 it as a polymer base, or a synthetic track, or lack  
22 of a proper term -- I kind of hate to keep using the  
23 word Polytrack when there are other manufacturers --  
24 to be that we are licensing or intending to license  
25 only one manufacturer.

1           So, I think that's a good point and that we  
2 should look to not just adopt one manufacturer. So,  
3 if staff will look at that, I'll work with Derry.

4           MR. SHAPIRO: I think that is probably a  
5 trade name similar to Polytrack is what Echotrack  
6 would be. It is the same issue -- Michael Dickenson  
7 calls it Tepeda, but it is really the same idea.

8           With that moving forward, I would entertain  
9 a motion to approve this with the comments  
10 incorporated that have been made if we can. I just  
11 want to see it move along. It's got to go out for  
12 comment.

13           MR. HARRIS: I don't know if we could just  
14 take out -- basically we are saying you guys just  
15 have to figure out how the slope works. Could we  
16 just take out that it is -- the polymer or wax coat  
17 in sand track surfaces shall not have to conform with  
18 the slope references?

19           MR. SHAPIRO: Or just be acceptable to the  
20 Board at which point we would have the latitude to  
21 have the presentation of what's made to the Board.  
22 We can then make sure it is safe.

23           MR. HARRIS: Well, I think whoever pays the  
24 \$8,000,000 hopefully is smart enough to figure out --

25           MR. SHAPIRO: That is why not being track

1 experts I think we are going to approve it. But I'm  
2 saying the same thing.

3 MR. HARRIS: Yeah.

4 MR. SHAPIRO: Okay. So, will you make --  
5 someone make such a motion?

6 MR. HARRIS: I just move that the slope  
7 provisions in this section will not apply to polymer  
8 or wax coated track surfaces.

9 MS. MORRETTI: I thought that is why we are  
10 doing this.

11 MR. HARRIS: Well, right now you couldn't  
12 put a polymer track in if it didn't comply with our  
13 slope criteria. We are saying the polymer track --  
14 slope criteria. So, we're just saying what goes into  
15 exempt polymer tracks -- the slope criteria.

16 Obviously just because we exempted this --  
17 obviously the track and horsemen are going to have  
18 input of what they come up with.

19 MR. KNIGHT: How about making it subject to  
20 Board's approval?

21 MS. MORRETTI: Yeah, because I think we  
22 have to have parameters because we don't know enough  
23 about this.

24 MR. KNIGHT: Exactly.

25 MR. HARRIS: Right. Well, I guess you can

1 approve it, but obviously as millions and millions of  
2 dollars are invested in the horses and tracks, I  
3 don't know if it is our role to say what slope we  
4 want. You want these guys to figure out what's going  
5 to work for them.

6 MR. MOSS: So, I think we need it exempt --

7 MR. HARRIS: I think going we just need to  
8 exempt polymer tracks from the slope --

9 MR. SHAPIRO: Well, and I think that going  
10 to the other comment is that in Item No. 3 at the  
11 very last page, "And they shall conform to acceptable  
12 standards to the CHRB." And I am not finding what  
13 those standards are because they'll be presented to  
14 us I'm assuming as part of any installation of a  
15 track.

16 MR. FRAVEL: Craig Fravel again. As I  
17 recall when we wrote the regulations 10 or 15 years  
18 ago, we provided in them that specific provisions  
19 could be waived by the Board if the proponent of the  
20 change made an application to do that and provided  
21 ample rationale for -- and for example Del Mar would  
22 do something a little different on the ten-foot  
23 requirement because of the configuration of our  
24 track.

25 So, I think if you just simply wrote some

1 language to the affect that the Board can waive that  
2 particular requirement upon presentation of an  
3 application therefore by a race track, that probably  
4 would get us where we want to go. The whole idea is  
5 to shorten the time frame that we have.

6 MR. SHAPIRO: Correct.

7 MR. FRAVEL: If Del Mar were going to do  
8 this for example, time is running tight for -- almost  
9 '06, but even if we wanted to do it for '07, we can't  
10 wait for nine months of rule making to take place to  
11 do these things. So, the idea is to give you guys  
12 and us the ability and that's all we're looking for.

13 MR. SHAPIRO: That's all we're trying to  
14 do.

15 MR. FRAVEL: If it means that we come back  
16 to the Board with an application that specifies the  
17 justification for the waiver of those slope  
18 requirements, I don't think anybody is going to  
19 object to that.

20 MR. SHAPIRO: Okay. So, do you want to  
21 incorporate that into your motion?

22 MR. HARRIS: I still don't why we need the  
23 slope requirements for polymer track. I think we  
24 don't know -- obviously, the tracks and the polymer  
25 manufacturers should decide that. I just don't think

1 we need a requirement.

2 MR. FRAVEL: Well, at some point, you  
3 probably need some -- you know, I am not a big fan of  
4 regulations, but you do need to make sure that -- for  
5 example, part of the reason you can eliminate the  
6 slope is because of the drainage system you are going  
7 to put in.

8 Now, somebody could say in five years from  
9 now who's not at this meeting and buy Hollywood Park  
10 next month, "Well, I don't want to put in the  
11 drainage system, but I want to put in the Polytrack  
12 top surface." Well, there's a lot of reasons why you  
13 may not want to have them do that.

14 So, I think the issue -- you don't want to  
15 eliminate it entirely. I think it does make some  
16 sense to try and maintain these -- and to the extent  
17 we can more consistent to achieve that. But I think  
18 if we just put it in the application and unless it  
19 applies for a waiver of that particular requirement  
20 and clarify that, we'll be good.

21 MS. FERMIN: Let me just suggest, I think  
22 Jackie is looking like she has a very confused look  
23 on her face, and I'm wondering whether maybe she can  
24 work with Craig Fravel and come up with something  
25 that would kind of neutralize it and make it

1 acceptable to both license applicants as well as  
2 looking at our rule.

3 MR. SHAPIRO: Well, the only concern I have  
4 then is if this has to go out for how many days?

5 MS. WAGNER: 45 days. What we're doing  
6 right now is trying to come up with the language that  
7 we will ultimately submit for the 45 day period.

8 So, I can get with Craig and we can come up  
9 with some language that can encompass what we  
10 discussed here possibly to eliminate the slope  
11 requirement that will just basically allow for the  
12 installation of a Polytrack here in California  
13 without going into a lot of specifics.

14 MR. SHAPIRO: And I would suggest that we  
15 basically do as Craig said, which is to make some  
16 form of a notwithstanding. The Board has the  
17 approval -- has the right to approve any variations  
18 to this, you know, as exceptions.

19 MS. WAGNER: I will get with Craig, and  
20 we'll come up with the language that will just allow  
21 for the installation requirements.

22 MR. KNIGHT: Can I make another suggestion?  
23 Rather than using polymer or maybe using that, but  
24 perhaps you want to use polymer, synthetic, wax coat,  
25 or similar tracks, or something like that because it

1 seems to me, I mean, I don't know what's out there,  
2 but is wax coated and polymer, are they the only ones  
3 that are wax coated?

4 MS. WAGNER: That language, I consulted  
5 with Craig Fravel on that particular language, and  
6 that was the -- that we came up with in order to  
7 eliminate addressing the trade name Polytrack. If we  
8 need to elaborate, that is to include other  
9 descriptions. We certainly can do that.

10 MR. SHAPIRO: Okay. So, will you  
11 incorporate all that into your motion Mr. Harris?

12 MR. HARRIS: Sort of. I guess we have get  
13 it started. Essentially, we don't want to inhibit  
14 the progress.

15 MR. SHAPIRO: Absolutely.

16 MR. HARRIS: I would first -- if we're  
17 enforcing the rule we have now, I guarantee you if  
18 you see a puddle in the track some place that doesn't  
19 have a slope, so, that would be a bit of a project  
20 for us this afternoon for surveying --

21 MR. SHAPIRO: We'll get you a hose and  
22 we'll get you some boots, and we'll let you go out  
23 and make a puddle and we'll watch you. Is there a  
24 second to Mr. Harris' -- Commissioner Harris'

25 MR. MOSS: Second.

1 MR. SHAPIRO: Mr. Moss. All those in  
2 favor?

3 MS. GRANZELLA: I.

4 MR. ANDREINI: I.

5 MR. BIANCO: I.

6 MS. FERMIN: I.

7 MS. MORRETTI: I

8 MR. HARRIS: I.

9 MR. SHAPIRO: Okay. Thank you. Item No.  
10 7, discussion and action by the Board on the request  
11 of the Bay Meadows -- did I miss 6?

12 MR. DERRY: Yes.

13 MR. SHAPIRO: Thank you. Okay. Discussion  
14 and action by the Board on two proposed amendments to  
15 Rule 1974, Wagering Interest. One, repeal of Rule  
16 1974 and 1606, which eliminates coupled entries or  
17 two, to amend Rule 1974 to provide that the  
18 withdrawal of one horse from a wagering interest that  
19 consists of more than one horse constitutes the  
20 withdrawal of the coupled entry for wagering purposes  
21 only, and any horse remaining in the coupled entry  
22 shall run for purse only.

23 Mr. Moss?

24 MR. MOSS: Yeah, this is J. Moss of  
25 Pari-Mutuel -- the feeling was that in this day and

1 age, no better should be stuck with a horse that  
2 needed to be bet on.

3 And so, there were many different ways to  
4 deal with it, and I think the most -- the less  
5 complicated way is just to eliminate a couple entries  
6 so the people could have more betting interests, and  
7 it would be an easier situation for everybody  
8 concerned. So, I make a motion that we eliminate  
9 entries.

10 MR. SHAPIRO: I'll let you make the motion  
11 in one second. I happen to agree with you  
12 wholeheartedly, but I'll see if anybody has any other  
13 comments. Audience, on it?

14 MR. HARRIS: I clearly think -- I mean,  
15 there is three different ways to go. These people  
16 have a lot to do, or eliminate a couple entries, or  
17 there was one proposal if there is one party  
18 scratched -- or entry is scratched for wager  
19 purposes, I think that was not a good idea.

20 But I could see that with a -- the counter  
21 argument that might be made is the concern that  
22 person will try to influence the race with two  
23 uncoupled entries, and there is some concern on that.  
24 But we're doing that with trainers now. So, I do not  
25 see --

1           MR. SHAPIRO: I agree with you totally.  
2 We're doing it with trainers now. It is only if the  
3 same -- I thought it was interesting last week when  
4 Folklore ran -- it was a great example.

5           In that situation, had Folklore scratched,  
6 and I think it went off at 1 to 5, or 2 to 5, well  
7 that one would have worked out because people would  
8 have gotten the other winner, but clearly the other  
9 horse would have been big prize.

10           So, I think that given -- since there  
11 doesn't seem to be any discussion, I will now  
12 entertain --

13           MR. HARRIS: I think there might be some  
14 audience discussion on it.

15           MR. SHAPIRO: That's what I asked and I  
16 didn't see anybody step up. Do you have anything to  
17 say about this? Nobody wants to do anything. Thank  
18 you very much.

19           MR. MOSS: Ron Charles and I, we brought  
20 this to the attention at the Pari-Mutuel committee  
21 meeting. We thought it was something that we should  
22 at least try in uncoupling the entries rule, add to  
23 field size. And it just seems like this day and time  
24 that we are running such short fields that it is an  
25 opportunity to increase field size, which increase

1 handle. And so, we support it. Thank you.

2 MR. SHAPIRO: Anybody else?

3 MR. COUTO: Drew Couto, Thoroughbred Owners  
4 of California. I am going to propose one last time  
5 an argument that has been shot down every time. So,  
6 I'll just be consistent.

7 There was one alternative knot mentioned  
8 here, and that is the option of continuing to offer  
9 the entry for purposes of preserving wagering  
10 integrity for those who question whether or not a  
11 horse is simply entered as a rabbit versus a  
12 legitimate purpose to compete.

13 So, you would offer the entry and you would  
14 also allow the player to bet the individual horses on  
15 their own. So, if they actually prefer the longer  
16 shot in the entry, they have the ability to get a  
17 better price on that horse versus the shorter.

18 And what that actually does is while you  
19 may have two horses running, you now have three  
20 betting entries. And when he have short fields, six  
21 horse field, seven horse fields seem to be the  
22 regular, at least in California, if you have an entry  
23 with six horses, you only have five betting  
24 interests.

25 If you allow the entry in each horse with a

1 six horse field you actually have eight betting  
2 interests. The combinations are better from the  
3 player's perspective. The public is protected in  
4 having the entry continue, and players who find value  
5 in the longer priced horse actually have the ability  
6 to bet the longer priced horse.

7 But really the difference between what is  
8 being proposed and what I am proposing is simply that  
9 you're preserving the protection afford the betting  
10 public by continuing to offer the entries so that  
11 there really aren't these concerns of whether there's  
12 a rabbit or pace horse versus legitimate runner.

13 The down side to this proposal, which I  
14 will admit, is as Mr. Charles would be the first to  
15 point out, it makes it more difficult for a race  
16 track to post the results you can have multiple  
17 combinations and multiple wagers, because there would  
18 be an entry payoff price and an individual payoff  
19 price.

20 But in today's day and age, when we offer  
21 exactas, and quinelas, and whips, and triples, and  
22 trifectas, and I can't all the wagers that we offer  
23 on every race and carry from race to race, and the  
24 type of electronic technology we have at the race  
25 track, the difficulties in posting those prices I

1 don't think is that difficult.

2           And I certainly don't think our betters are  
3 not sophisticated enough to recognize which is their  
4 payoff and which is not their payoff. So, there is  
5 one more alternative as I've said I've been  
6 consistently shot down. I just wanted to be  
7 consistent here today.

8           MR. SHAPIRO: Is anybody doing it today?  
9 Is that done anywhere?

10          MR. COUTO: I don't know.

11          MR. HARRIS: It is confusing that --  
12 couldn't you effectively do that and wanted to, you  
13 could just bet both horses and it would be the same  
14 outcome. You could just bet however you're going to  
15 bet, just bet on both of them and you would certainly  
16 have the same --

17          MR. COUTO: You could have always done  
18 that. But again, the entry was created to protect  
19 the betting public against that opportunity. What  
20 you're saying now is your investment has to be  
21 doubled when it comes to making the wager versus  
22 today you don't have to double that wager.

23          MR. HARRIS: But the outcome would be the  
24 same though.

25          MR. COUTO: Sure. The outcome is the same.

1 If I bet every horse in the race too, I'm going to  
2 get a winner every one, but I may not get value and I  
3 may not make money.

4 MR. ALDRIDGE: Ed Aldridge, Los Alamitos.  
5 There is one inconsistency that I see in what Drew  
6 has just mentioned. There are three possibilities.  
7 And one is the long shot, say one of the entry  
8 horses, and if he wins, then also the people that bet  
9 the entry will also be winners, and actually it will  
10 pay less. It won't be a long shot. It will pay less  
11 than a long shot.

12 So, it doesn't make any sense to me. If I  
13 understand what he's saying correctly. So, I don't  
14 understand why that would possibly be beneficial.

15 MR. CHILLINGWORTH: Sherwood Chillingworth.  
16 I think we have -- we have people here -- who are  
17 confused by three-way payoff. And I think there's  
18 enough confusion with this game already. I hate to  
19 oppose anything Mr. Couto proposes because he's a  
20 very intelligent guy.

21 But I think we are trying to get televised  
22 into the racing track and to give them a three-way  
23 payoff, and the No. 1 comes up, and they say, "Well,  
24 I had No. 1A," but you didn't win, I think it's not a  
25 good idea. I think if we don't couple trainers, it

1 makes no sense to couple any other group.

2 MR. SHAPIRO: Thank you.

3 MR. KEMPF: Just a quick one, Doug Kempf  
4 with American -- Local 280. Our deal would be  
5 certainly receptive to anything that makes wagering  
6 simpler. And certainly Mr. Moss' suggestion of just  
7 getting rid of entries all together. It is in the  
8 easiest and certainly the most facilitative to an  
9 end. And I'll support that. Thank you.

10 MR. SHAPIRO: Thank you. Okay. Mr. Moss,  
11 would you like to restate your --

12 MR. MOSS: I think a motion to repeal Rule  
13 1974 and 1606 involves the elimination of coupled  
14 entries.

15 MR. SHAPIRO: Thank you. Is there a second?

16 MR. HARRIS: Second.

17 MR. SHAPIRO: Any more discussion? There  
18 being none, all in favor?

19 MS. GRANZELLA: I.

20 MR. ANDREINI: I.

21 MR. BIANCO: I.

22 MS. FERMIN: I.

23 MS. MORRETTI: I

24 MR. HARRIS: I.

25 MR. SHAPIRO: All opposed? None. The rule

1 is passed.

2 MS. WAGNER: Commissioner Shapiro, just for  
3 clarification, what we have just done is given --  
4 staff is going to initiate the notice period with the  
5 option of a 45-day commentary --

6 MR. SHAPIRO: Right. I think we would like  
7 to get it done as fast as possible.

8 MR. HARRIS: I'm not sure. I think this is  
9 a racing -- the way it is now, given the owner has  
10 two horses he is going to enter in a race, and that  
11 race overfills, one of the second preference. Now, I  
12 don't know if that would change with this, or would  
13 that -- would we have to do anything on that?

14 MR. SHAPIRO: I don't know why that would  
15 change. I mean, the same horses have been given the  
16 race. That is just for wagering purposes.

17 MS. FERMIN: He's saying if it overfills,  
18 do they get --

19 MR. LIEBAU: Jack Liebau, Hollywood Park.  
20 This might be a little bit out of the order, but  
21 perhaps on the agenda at the next meeting there would  
22 be an action on waving the rule so that we wouldn't  
23 have to wait for the repeal and the 45 days and  
24 everything else so that we can have the immediate  
25 benefit of what is being suggested.

1           MR. SHAPIRO: I think that is a great idea.  
2 If we have the latitude to do that, I mean, I don't  
3 know.

4           MR. HARRIS: I would like to move it along.  
5 I think we are going to get some comments on this.  
6 There are a lot of horse players out there that have  
7 all these theories of race fixing or whatever that  
8 might come about as a result of this, which I don't  
9 necessarily believe. I think it might not be right  
10 to just force it through.

11          MR. SHAPIRO: Okay.

12          MR. HAMERLY: Rick Hamerly from Santa  
13 Anita. I wanted to follow-up on Commissioner Harris'  
14 comment about the entry process. I think that needs  
15 to be included in your thought process.

16                 And in fact, what happens today when an  
17 owner does enter two horses in a race that is  
18 overfilled, he's asked to defer one. Just for entry  
19 process, I think we need to decide if that process  
20 needs to be continued if we do eliminate in fact the  
21 wagering interest.

22          MR. MOSS: I think --

23          MR. HARRIS: It ought to be decided, but I  
24 think that we would need a racing rule.

25          MR. HAMERLY: Well, we want to be

1 consistent throughout the State and keep it the same  
2 way. I would think you would want to continue the  
3 same process as far as the entries go. You wouldn't  
4 want to exclude another owner from being included in  
5 the race.

6 MR. SHAPIRO: I think --

7 MR. MOSS: I think that is true.

8 MR. HARRIS: That is the fair way to do it.

9 MR. SHAPIRO: So, I don't know if you want  
10 a rule, but I think that has been a policy that has  
11 been implemented. I don't think that is a rule.

12 MR. HAMERLY: If that were considered, I  
13 think everyone would be satisfied.

14 MR. HARRIS: Absolutely.

15 MR. MOSS: Fine.

16 MR. HARRIS: So, we've decided to wait for  
17 a couple minutes for comment.

18 MR. SHAPIRO: Well, I think that we'll have  
19 to put it out. I don't think the current race meets  
20 are necessarily looking to make immediate change, and  
21 if Commissioner Harris believes that there may be  
22 comment, I would hate to do anything that would not  
23 allow the public to have comment. So, I think we'll  
24 have to wait. But maybe we can get this done by --  
25 in a more expeditious way.

1           MR. HARRIS: Basically, if we put it out  
2 now, we'd have comments in 45 days -- in 60 days from  
3 now, we could effectually.

4           MR. SHAPIRO: Okay. The next agenda item  
5 is No. 7, discussion and action by the Board on the  
6 request of the Bay Meadows Foundation to distribute  
7 charity racing proceeds in the amount of \$58,064 to  
8 21 beneficiaries.

9           MR. REAGAN: This is John Reagan, CHRB  
10 staff, we find this request to be in order in  
11 compliance with the distribution of required bylaw,  
12 and we recommend you approve it.

13           MR. SHAPIRO: I do have one comment, and  
14 that is I would ask that the charitable -- I received  
15 an email from the Jockey's Guild requesting that we  
16 not disburse moneys to the Disabled Riders Endowment.

17           Apparently, there is still conflict within  
18 the Guild and certain different funds. And  
19 therefore, I would recommend that we approve this,  
20 but that we not approve the Disabled Riders Endowment  
21 at this time.

22           I don't want this to be misconstrued that  
23 I'm not looking to harm any of the disabled riders,  
24 but there is concern over what organization or who's  
25 in charge of that organization. Therefore, I would

1 request that we approve this, but that we hold back  
2 our approval with respect to that particular.

3 MR. REAGAN: We can do that, yes.

4 MS. WAGNER: Until when?

5 MR. SHAPIRO: Until there is a resolution  
6 as to who is in fact in control of the Disabled  
7 Riders Endowment. Currently, I believe that it's Mr.  
8 Greganian. There are serious charges against Mr.  
9 Greganian, and the Guild has requested that -- and I  
10 support that. Otherwise, I'll make that motion.

11 MS. GRANZELLA: Are you just putting that  
12 on hold?

13 MR. SHAPIRO: I am approving this request,  
14 except for the Disabled Riders Endowment, and I'm not  
15 approving the distribution of the moneys to that end.  
16 So, that would stay within the Bay Meadows Foundation  
17 at this time.

18 MR. MOSS: I second.

19 MR. SHAPIRO: All those in favor?

20 MS. GRANZELLA: I.

21 MR. ANDREINI: I.

22 MR. BIANCO: I.

23 MS. FERMIN: I.

24 MS. MORRETTI: I

25 MR. HARRIS: I.

1           MR. SHAPIRO: Discussion and action by the  
2 Board on the request of Hollywood park Racing  
3 Charities to distribute charity racing proceeds in  
4 the amount of \$194,375 to 25 beneficiaries.

5           MR. REAGAN: Commissioner, likewise this  
6 request for distribution is in order, and we  
7 recommend approval. We will also the make the same  
8 note that the Chairman Shapiro has just noted in this  
9 charitable distribution also.

10          MR. SHAPIRO: With --

11          MR. MORRETTI: I just have one comment. I  
12 would like to commend Hollywood Park racing for  
13 having their distribution be 67 percent  
14 industry-related as opposed to the Bay Meadows  
15 Foundation, which was only 50 percent.

16           I certainly understand the reason to -- and  
17 the need to give out to the community, but I think  
18 that there are a lot of really wonderful worthwhile  
19 foundations in the horse racing world that should be  
20 given more a look at in the future.

21          MR. SHAPIRO: Mr. Liebau?

22          MR. LIEBAU: Jack Liebau from Bay Meadows.  
23 With respect to the Bay Meadows Charitable foundation  
24 as Commissioner can attest, over the years dating  
25 back 1992, we have been sued numerous times.

1           In order not to cause any waves when New  
2 Association Bay Meadows Racing Association started, I  
3 thought that I would reappoint them. I now view that  
4 as a mistake and can assure Commissioner Morretti  
5 that the -- association we will distribute the funds  
6 ourselves. And we will be at a hundred percent for  
7 charities.

8           MR. HARRIS: Just for clarification,  
9 formerly those foundations were completely  
10 independent, but now there is a latitude for --

11           MR. LIEBAU: There is latitude for tracks  
12 to distribute the funds.

13           MR. SHAPIRO: Mr. Liebau, do you know if  
14 Hollywood Park would like to take the same approach  
15 as Bay Meadows?

16           MR. LIEBAU: I don't think so. I think we  
17 have been very pleased over time with Hollywood  
18 Park.

19           MR. SHAPIRO: Item No. 9, discussion and  
20 action by the Board on the business and economic  
21 effect of requiring all California racing  
22 associations to make their audio-visual racing  
23 program available to any licensed ADW provider.

24           Before we have any discussions, this issue  
25 has created a lot of stir in the industry, for which

1 I am responsible. And I would like also let  
2 everybody know that earlier this week I met with  
3 Senator Dean Flores and Senator Ed Vincent, and with  
4 Senator Flores I discussed this item.

5 The legislature as you know had planned in  
6 response to this item to have a hearing. In the  
7 discussion I had with Senator Flores, we agreed that  
8 it would be probably be best for the industry if he  
9 and I and others in the industry worked together to  
10 evaluate just what ADW is doing, has done, and can do  
11 for the industry as a whole in the future.

12 As a result of that, this item is not  
13 intended to be an action item today, but more of an  
14 informative discussion that I will hope every  
15 interested party will give their views.

16 In the near future, I believe there will be  
17 a meeting that will be called where we will look into  
18 this in greater detail so that we can come to a  
19 fruitful conclusion as to what is best for the  
20 industry.

21 As you know, there was a sunset clause on  
22 ADW wagering that expires in 2008. And so, I think  
23 it is important for everybody to focus on this issue  
24 to see how it can use ADW to our maximum benefit.  
25 That being said, I would suggest that we listen to

1 the industry, unless anybody else wants to make a  
2 comment in advance to that. So, Mr. Couto, you got  
3 there first.

4 MR. COUTO: Thank you. Drew Couto,  
5 Thoroughbred Horses of California. There's been, as  
6 I think everybody knows, quite a bit of discussion  
7 about ADW and relationships between the industry.  
8 And a lot of confusion of that role played by  
9 horsemen, by the ADW, by racing associations.

10 And in an attempt to sort of put in  
11 perspective where we are in ADW, how we got to where  
12 we are, and the roles each played, TOC has prepared a  
13 presentation that I'm going to run through very  
14 quickly so that we can make this a manageable  
15 discussion.

16 But it is rather lengthily. We are passing  
17 out for you some copies of the presentation. You see  
18 there is a lot of slides. We are going to do this  
19 relatively quickly. We welcome any questions that  
20 you may have, but I'll try to get through this within  
21 10 to 12 minutes if you can bear with me.

22 A time line of California ADW licensing and  
23 advance deposit wager licensing, August 13th, 2001,  
24 passage of AB471 authorized advanced deposit  
25 wagering. And in November of that year at the CHRB

1 meeting, this Board approved and passed CHRB ADW  
2 regulations.

3 As part of those regulations -- as part of  
4 the law that was passed, which is Business and  
5 Professions Code 19604, the legislature and power of  
6 the horse racing Board with the ability to regulate  
7 all aspects of ADW including the licensing process.

8 That authority was given to the horse  
9 racing Board to review the license and make the  
10 requirements for ADW providers in order to be  
11 licensed in the State of California. And in doing  
12 so, the CHRB required an agreement between the ADW  
13 provider and horsemen.

14 It's not in the statute. It's not in the  
15 regulations. But in reviewing the transcripts of the  
16 hearing you will find consistently that requirement.  
17 And that requirement has been fulfilled by all of the  
18 ADW companies and TOC since 2002 the first year with  
19 the exception of this current year and one ADW  
20 provider.

21 So, again your predecessors required an  
22 agreement between the horsemen and the ADW companies.  
23 Now, in every purse contract between the TOC and  
24 California Thoroughbred Racing Association, and  
25 please understand, my discussion today is only

1 limited to the Thoroughbred industry. It is not  
2 related to the Quarter horses. It is not related to  
3 Standardbreds and -- but simply with regard to the  
4 relationships between Thoroughbred interests.

5 Every purse agreement since 1995 between  
6 TOC and a racing association has included a provision  
7 in it relating to owner's proprietary rights. And in  
8 particular, there is a section related to the use of  
9 the signal for bicommercial enterprises, whether it  
10 includes computer interactive wagering, et cetera,  
11 that has been there since 1995.

12 And it requires that the racing  
13 associations negotiate obtain with TOC prior consent  
14 before the usage of the signal for any commercial  
15 purposes. That's a requirement that has existed as  
16 part of the contract since 1995.

17 Now, again, on the time line, in January of  
18 2002, the first year in which ADW was permitted  
19 beginning on the 10th of January, there were  
20 negotiations between TOC and each of the ADW  
21 providers that were seeking licenses in California.

22 Representing the two primary ADW companies  
23 were Mark Wilson for TVG and Express Bet being Jack  
24 Liebau. And they advocated that the ADW provider  
25 should receive a hub fee of 6.5 percent, both on

1 wagers by California residents on California races  
2 and as well as imported Thoroughbred signals.

3 Their position was that they should receive  
4 6.5 percent. With regard to Express Bet, Mr. Liebau  
5 at that time advocated that NBC was prenegotiated to  
6 its own hub rate.

7 In other words, Express Bet would negotiate  
8 with Santa Anita a fair hub rate of 6.5 percent.  
9 Mr. Wilson on behalf of TVG advanced that TVG could  
10 negotiate the hub fee with its founder tracks, which  
11 founder tracks were equity partners, had special  
12 interest.

13 Those included Los Alamitos and Hollywood  
14 Park, Churchill -- and that Los Alamitos could set  
15 the hub fee rate for Thoroughbred races imported into  
16 the State based on its contract with TVG.

17 The controlling law regarding hub fees is  
18 19604. And it says with regard to either a wager  
19 placed on a California signal or an import signal,  
20 the ADW is entitled to receive no more, not to exceed  
21 6.5 percent.

22 The statute doesn't identify what the rate  
23 it is. It simply says it is capped at 6.5 percent.  
24 And the rate is actually something negotiated by the  
25 parties. Now, a hub fee, I've been referring to

1 that. What is that? A hub fee is simply the  
2 compensation paid to an ADW provider for facilitating  
3 or handling a wager -- an ADW wager placed by a  
4 California resident.

5 And what is a hub fee? To explain that,  
6 you have to understand there are distributions on  
7 live races in the State of California from the take  
8 out. This is a blended rate we are using for an on  
9 track wager of 19.22 percent.

10 And then you see the distributions below,  
11 State license fee, Equine research, workers' comp,  
12 county taxes. And we finally get down to tracks,  
13 commissions, and purse revenues and commissions.

14 And the numbers there indicate whatever the  
15 percentage is distributed for track commissions  
16 purses. As you can see, Ontrack provides the  
17 greatest return to race tracks and to purses.

18 The column all the way to the right, this  
19 is based on 2000 ADW figures. Had a 6.5 percent hub  
20 fee been used, the recovery to the industry would  
21 have been the lowest that we get for every wager  
22 made.

23 And the same is true with regard to  
24 imported races. Using a 6.5 percent hub fee, you can  
25 see that percentages distributed to tracks as

1 commissions and to horsemen as purses would have been  
2 exceptionally low or the lowest return.

3           So, again going back to 2002, the time line  
4 on January 24th, TOC reached an agreement with  
5 Express Bet with regard to what the hub fees would  
6 be, and it was -- Express Bet was licensed that day  
7 based on the representation that an agreement had  
8 been reached with TOC. And I will tell you it was  
9 not 6.5 percent. It was substantially below that.

10           Continuing on the time line there were  
11 meetings in March when all three ADW providers were  
12 licensed. Also in April and November and in  
13 December.

14           And the fact is that in November after  
15 disputing the need for an agreement with TOC, TVG  
16 continually disputed that they executed an agreement  
17 in December of 2002. And the agreement clearly said  
18 that they would receive less than 6.5 percent. It  
19 was signed by their president Mark Wilson and John  
20 VanDeCamp with no race track signing. It was purely  
21 between and ADW company and TOC.

22           And again that's in the very first year  
23 that ADW was permitted in the State of California,  
24 signed December 16, 2002 before TVG was relicensed  
25 for the following year. So, they fulfilled that

1 portion of the agreement.

2 Looking TVG's hub fees for 2002 and 2005  
3 you can see they were always less than six and half  
4 percent. They also included in their hub fees a  
5 quarter percent they passed on to the California  
6 industry, the quarter percent tax, the Oregon hub,  
7 and the half percent that they pay in dues to NTRA.

8 Now, what was the objective of controlling  
9 hub fees from TOC's perspective? Well, we saw it as  
10 our opportunity to optimize revenues distributed to  
11 California Thoroughbred interests including race  
12 tracks, horsemen in the form of purses, breeders, but  
13 yet to insure that there was a fair return and fair  
14 compensation to our ADW distribution partners. That  
15 is how we saw them as partners.

16 Now, if you look at last year, the blended  
17 rate -- the blended hub fee rate on live races for  
18 the ADW providers was actually 5.71. That's the  
19 blended rate, which produced on live races a recovery  
20 to both track and purses that was somewhere between  
21 an on track wager and a satellite wager. The  
22 percentages were there.

23 And we reached that by TOC negotiating the  
24 hub fees with ADW providers to do so. The same again  
25 is true for imported Thoroughbred races. We

1 negotiated the hub fee.

2 In 2005, it meant that the industry again  
3 received compensation somewhere between an on track  
4 wager and at satellite facility wager. So, it was  
5 again the process of negotiation between TOC and each  
6 of the ADW providers including TVG.

7 Now, what is the effective control on the  
8 hub fee rate? Well, if we look at the years 2002  
9 through 2005 for TVG, those are the effective hub fee  
10 rates that they were able to recover for California  
11 Thoroughbred races for imported Thoroughbred races,  
12 with a total hub fee of approximately 5.9.

13 Rather than the 6.5 percent that they asked  
14 for, by giving them something less we actually saved  
15 \$3,000,000 plus for California Thoroughbred tracks,  
16 horsemen, and breeders, and by manipulating or not by  
17 manipulating, but by negotiating a different hub fee  
18 with all of the ADW companies, TOC saved again for  
19 Thoroughbred tracks, horsemen in terms of purses, and  
20 breeders over 8.6 million dollars in the first four  
21 years that ADW has been there.

22 So, I'm going to repeat that between 2002  
23 and 2005, TOC increased revenues to California  
24 tracks, horsemen, and breeders by over 8.6 million  
25 dollars by negotiating different hub fees with the

1 ADW providers.

2 Now, how does TOC measure the performance  
3 of ADW? We have looked at six factors in particular.  
4 One, the success in developing new fans. Two, an  
5 increase in revenues because handle figures simply  
6 really don't mean a whole lot -- is the key driver  
7 here.

8 We try to analyze ADW performance in terms  
9 of quantifying the shift and handle from satellite  
10 or on track facilities to ADW companies.

11 We have also attempted to analyze whether  
12 there has been cannibalization versus true growth.  
13 We have also looked at expanded distribution of our  
14 signals. Have these companies taken our signals to  
15 new markets out of the State, and how many markets  
16 are the in out of State?

17 And lastly, we have attempted evaluate  
18 whether exclusive broadcaster wagering agreements  
19 have generated greater revenue for certain partners.

20 Looking at the first one, success in  
21 developing new fans. It's a little like interpreting  
22 foreign languages, trying to figure out whether or  
23 not there really has been any growth.

24 The simple fact is that no California  
25 Thoroughbred race track other than Del Mar has

1 experienced increase attendance since ADW was  
2 legalized in 2002. In fact, attendance figures  
3 looked like this for the five primary Thoroughbred  
4 meets. And you have an individual graph provided to  
5 each you.

6 Del Mar is the top facility there. And you  
7 can see that since 2002, their numbers have increased  
8 while ever other association here has decreased.

9 The second series of factors are all  
10 related. That is, increasing revenues, quantifying  
11 the shift and handle, and cannibalization versus true  
12 growth. And so, I have just a couple quick charts to  
13 show you.

14 But before I do that, I want to say that we  
15 look at handle and revenue both for 2001 and 2005.  
16 It shows 2001 because that was the last year before  
17 ADW was authorized, and 2005 because that was our  
18 last completed year in which ADW occurred. We tried  
19 to look at the change in relative percentages from  
20 each of the sources, both for handle and revenue.

21 So, if we look at handle with the column on  
22 the left being 2001 and the column on the right being  
23 2005, this is handle in California on Thoroughbred  
24 signals, that's both imported signals and live  
25 racing.

1           We see that there was an increase of 3.5  
2 percent overall, but that on track wagering decreased  
3 by 12.2 percent, at least 12.2 percent, and off track  
4 wagering was down by at least 12.8 percent.

5           So, whether that's -- we clearly see a  
6 shift. Again there is an increase of 3.5 percent.  
7 That's in nominal numbers. If you adjust for  
8 inflation, that is actually a decrease in handle of  
9 over 7.3 percent.

10           So, between 2001 and 2005 total handle on  
11 Thoroughbred races in California has decreased in  
12 real dollar terms adjusted for inflation by 7.3  
13 percent.

14           Now, we look at purse revenues. And again,  
15 this is in nominal numbers. While handle increased  
16 3.5 percent, Thoroughbred purse revenues were  
17 actually down 1.3 percent. And that is because you  
18 saw hire return dollars on wagers placed on track,  
19 where now ADW at a lower rate.

20           And despite the increase, they have not  
21 offset the loss of dollars lost at the race track.  
22 So, again adjusting from nominal terms of a loss of  
23 1.3, the actual loss to purse revenues was over was  
24 11 percent, 11.6 percent. These numbers are all  
25 derived -- provided for by the CRIBS system. That is

1 the basis.

2 So, let's look at what has happened out of  
3 state. In that time period, we've seen out of state  
4 revenues on our races, on wagers placed on California  
5 signals, handles has gone up 2.3 percent.

6 It is important to see though what the  
7 sources of those increases were. Again a 2.3 percent  
8 in handle, adjusted for inflation, that's an 8.3  
9 percent decrease out of the state.

10 And again as I said I would like to look at  
11 sources. What this chart shows you again, the column  
12 on the left being 2001, the column on the right 2005,  
13 is that our actual largest growth component out of  
14 the state, the purple there, are the legal rebaters.  
15 The legal rebaters have provided our greatest out of  
16 state source of handle between 2001 and 2005.

17 If we look at purse revenues, in one sense  
18 there is some good news in terms of purse revenues.  
19 Purse revenues have increased in that period of time  
20 by 11 percent.

21 Now, interestingly purse revenues derived  
22 out of state are based on host fees charged for the  
23 California signal. And I think our race track  
24 partners will admit TOC has been largely setting the  
25 price of the California Thoroughbred signal out of

1 state. And the process under the Interstate Horse  
2 Racing Act requires our consent.

3 TOC has always conditioned our consent  
4 differently than other states where they simply give  
5 permission to a race track to send the signal. We  
6 condition our consent on receiving a certain  
7 percentage for the signal. We set the price out of  
8 the state.

9 And by managing and analyzing these numbers  
10 despite a small increase in handle, we have actually  
11 increased the purse revenues by 11 percent in those  
12 four years.

13 Now, unfortunately again adjusting for  
14 inflation, while in nominal terms we have seen an  
15 increase of 11 percent adjusted for inflation, it's  
16 really been a half a percent decrease.

17 So, while we can somewhat proudly say we  
18 have done an okay job, we have still have not kept up  
19 with where we'd like to see purse revenues.

20 Of the last two figures or measures that we  
21 use in judging ADW performance is expanded  
22 distribution of signals in new and out of the state  
23 markets.

24 And with regard to at least one ADW company  
25 TVG, we sort of termed it the "Let Mikey Try It

1 Approach" to distribution of our signal out of the  
2 state.

3           What do we mean by this? TVG, while  
4 they've expanded cable and satellite distribution out  
5 of state, they only accept wagers in a total of 12  
6 states, one of them being California. I got this  
7 list off their website two days ago.

8           Rather than distribute beyond 12 states,  
9 they simply sublicense companies like You Bet and Win  
10 Ticket, and charge those sublicensees a significant  
11 fee for handling wagers on TVG signals.

12           Yet they do not charge the same sublicense  
13 fees to the legal offshore rebaters. They continue  
14 to allow them to operate without objecting to the  
15 fact that both RGS and IRG and Totonkua, they do the  
16 same thing that You Bet does. They do the same thing  
17 that Win Ticket does.

18           They have telephone and Internet account  
19 wagers that accept wagers from all through the US,  
20 and yet TVG doesn't sublicense them. So, this  
21 question of exclusivity, we see that they're applying  
22 it sometimes with regard to You Bet and Win Ticket  
23 and others, but they're not applying with regard to  
24 the RGSs, the Totonkua. There's probably eight more  
25 companies I could list.

1           These are the 12 states that TVG's website  
2 indicates that they are accepting wagers in. So,  
3 again the California signal offered through TVG is  
4 only going into 11 other states. The California  
5 signal offered through Express Bet is going into a  
6 total a 37 states.

7           If we look at You Bet, we have 39. It's my  
8 understanding from the You Bet representatives they  
9 actually take it to 40 states.

10           Now, again, in measuring ADW performance,  
11 we look at how much revenue do each of these ADW  
12 providers -- how much purse revenue do they generate  
13 for the California Thoroughbred industry out of state  
14 using our signals?

15           In 2005, You Bet was the leader. They  
16 generated for Thoroughbred interests for Thoroughbred  
17 purses over 1.1 million. Express Bet much aligned --  
18 Express Bet generated for Thoroughbred interests here  
19 in California. Last year they generated \$431,000,  
20 slightly over that.

21           TVG using our signals out of state  
22 generated for the entire year of 2005 less than  
23 \$390,000 of purse revenue using our signal. So,  
24 again, derived out of state, TVG generated less than  
25 \$390,000 for California Thoroughbred horses last year

1 both for fairs and race tracks.

2           They sent, however, over 1.7 million  
3 dollars to out of state interests for wagers placed  
4 on out of state signals by Californians. So, again,  
5 they brought into California, using our Thoroughbred  
6 signal, less than \$390,000, and they sent out of  
7 state over 1.7 million dollars.

8           Since 2002, since ADW has been licensed and  
9 permitted in the State of California, both in state  
10 and out of state wagers transacted or facilitated by  
11 TVG, and as you can see, the large majority of that  
12 has been in state. They have produced in the four  
13 years approximately \$24,000,00 in purses with well  
14 over 90 percent of that coming from within the State  
15 of California.

16           At the same time on those same signals, our  
17 California signals, hub fees paid to TVG has exceeded  
18 \$30,000,000.

19           The last in this long presentation relates  
20 to have exclusive broadcast wagering agreements  
21 generated greater revenues. Our view is not for  
22 California owners, breeders, or race tracks, as I  
23 said year it was \$390,000 simply.

24           So-called exclusive arrangements have led  
25 at least to TOC to concerns regarding possible

1 antitrust violations including tying arrangements,  
2 and horizontal and vertical restraints to trade that  
3 could be in violation with the Cartwright Act.

4           And TOC has called for the Horse Racing  
5 Board to request the AG to investigate these concerns  
6 and determine for us whether or not some of the  
7 practices that have been engaged in by TVG do violate  
8 the Cartwright Act.

9           And they would include not only the tying  
10 arrangements, but arrangements under sublicense  
11 agreements that may have the impact of price fixing  
12 or allocation of commercial markets and possible  
13 distributor relationships.

14           So, from TOC's perspective having gone  
15 through these numbers, we have concerns. They  
16 haven't delivered what we hoped they would deliver.  
17 And we think that ADW needs a much closer look either  
18 by this Board or by a committee of this Board.

19           And we hope that the CHRB will want ask to  
20 seek the California Term General's office to  
21 investigate the practices. And two, hold an in-depth  
22 hearing on this subject and on this matter. Thank  
23 you for your time. If there are any questions, I  
24 would be glad to answer.

25           MR. SHAPIRO: Thank you. That was a very

1 impressive presentation. Does anybody on the Board  
2 have any questions? It is a lot of material to try  
3 to digest in 15 minutes, but I think that it is very  
4 helpful for us to understand what the true economic  
5 impact of ADW wagering has been.

6 And it would certainly allow us to look to  
7 see how we would be able to utilize ADW more  
8 effectively. Is there anybody else in the audience  
9 that would like to address this matter?

10 MR. HINDMAN: Good morning, Commissioner  
11 Shapiro and members of the commissioner. I'm John  
12 Hindman, Vice-president and general counsel to TVG.  
13 Tony Alamato is handing just a very short  
14 presentation, just a few slides to run through, kind  
15 of give you an overview of how we think we are going,  
16 and some of the benefits that our relationship with  
17 the California Racing Association have brought back  
18 to your partners and to the industry.

19 Starting on the first page, we'll talk a  
20 little bit about TVG has relationships with five --  
21 California Racing Association -- and I've used here  
22 for purposes of comparison 2001 to 2004 based on the  
23 CHR's annual report.

24 As you can see, in that time period  
25 national handle, all tracks across the country, all

1 sources handle accrued 3.4 percent. All sources  
2 handle on California tracks accrued 5 percent.

3           Within that amount, you can see that for  
4 TVG's exclusive California tracks, handle increased  
5 8.19 percent, which is more than twice the national  
6 rate of growth.

7           Turn to your next slide. You can see a  
8 similar chart regarding purse revenues from TVG's  
9 exclusive tracks -- in California. As you can see,  
10 on the national level, purses from 2001 to 2004  
11 increased 2.3 percent.

12           California purses total also increased 2.3  
13 percent versus TVG's exclusive tracks increased 4.75  
14 percent. Again, twice the national rate of growth.

15           Turn to your next slide. Let's talk about  
16 what we view are some of the reasons for success in  
17 this area. The first is, we believe is our  
18 television coverage. TVG televises over 5,000  
19 California races a year into 18 million households  
20 nationwide.

21           TVG is available to 100 percent of  
22 California households if they elect to get it. And  
23 TVG is available to 50 states on Direct TV and Echo  
24 Star, both national -- providers, and in 38 states  
25 via cable.

1           Second point is ADW from our view and from  
2 what we think the numbers tell has been more  
3 productive in California than any other jurisdiction  
4 in the United States in just four short years.

5           So far it has created \$1,000,000,000 in  
6 total wagering over that time and increased wagering  
7 on an annual basis than jurisdictions that have had  
8 ADW for 20 to 30 years -- and New York.

9           And over one \$140,000,000 in revenue has  
10 been returned to the California racing industry  
11 pursuant to California Business and Professions Code  
12 Section 19604.

13           TVG has performed well. We have the most  
14 TV distribution and the most ADW handle. When we  
15 were before you in January 2002, we stressed the  
16 importance of television and stressed our plans to  
17 significantly increase television distribution.

18           Since that time our, television  
19 distribution has grown about 150 percent from  
20 approximately seven and a half million houses to over  
21 17 and a half million households today.

22           In terms of California ADW, we generated  
23 more handle, and therefore more revenue got to the  
24 racing industry than the other licensees combined. I  
25 would like to invite Tony Alamato up here for a

1 moment to discuss our horse racing coverage and some  
2 of the impacts that are relationships with California  
3 race tracks have from our business.

4 MR. ALAMATO: Tony Alamoto, Senior  
5 Vice-president and Executive of TVG. I'm just going  
6 to talk briefly about programming because I think  
7 that is my area of expertise obviously. And it is  
8 also one of the strikes of our network.

9 TVG, we believe, has set the standard in  
10 horse racing coverage. Although, we would like to  
11 get a lot better and we are working towards that. We  
12 broadcast live 14 plus hours a day promoting all the  
13 popular races around the country.

14 We televise live from 16 different tracks  
15 around the world. We have exclusive rights, and  
16 that's one of the things we're talking about today is  
17 exclusivity.

18 Exclusive rights to over 20 tracks around  
19 the world, including Churchill Downs, Belmont Park,  
20 Del Mar, Hollywood Park, Kingman, Oak Tree, Santa  
21 Anita, Los Alamitos, and Saratoga. And just last  
22 year we added Japanese Racing Association as an  
23 exclusive partner -- successful Japanese racing, yet  
24 they chose to do an exclusive deal with TVG.

25 We provide race analysis, betting

1 strategies. You're all familiar with our  
2 programming, so I won't go too in depth about it.

3 This April, TVG will be relaunching our  
4 network with a brand new graphics design and a series  
5 of shows are going to be geared towards getting new  
6 fans interested in horse racing. And we're excited  
7 about that.

8 Why is exclusive important for TVG? Well,  
9 TVG has to compete with hundreds of television  
10 networks all of which feature exclusive content.  
11 Distribution of -- depend on the ability for TVG to  
12 offer a unique product in an increasingly crowded  
13 television world.

14 If you look at TVG's model, it is the same  
15 as the model that is adopted by other networks that  
16 feature NASCAR, PGA, NFL, NBA, and every other form  
17 of sports and entertainment programming in the United  
18 States.

19 To put it simply, during college football  
20 season when I turn on my TV on Saturday morning, I  
21 don't see the Notre Dame football game on channel 2,  
22 channel 4, channel 5, channel 7, and ESPN. It's just  
23 not the way it is done in sports television.

24 The continued success of great success in  
25 television and ADW business is dependent on the

1 continuation of TVG's model. Loss of exclusivity  
2 creates a freerider program eliminating TVG's  
3 incentive to invest in television programming and  
4 distribution.

5           And to put that in simple terms, what that  
6 means is if TVG is televising races that every other  
7 ADW and the country can take wagering on, and we are  
8 not receiving compensation for that, there is no  
9 incentive for TVG to produce quality television.

10           At that point, you are better off just  
11 doing an Internet company, because other people are  
12 freeriding off of your programming, they have no  
13 overhead, and they're the ones who are capitalizing  
14 on your programs.

15           If TVG were to lose exclusivity in  
16 California, this would result in a shift of our  
17 programming technology to exclusive tracks, which  
18 means that you see less production from the race  
19 tracks that we do in California.

20           Interference with TVG's exclusive  
21 relationships with California tracks would not  
22 result -- would not be in the best interest of  
23 California racing.

24           We believe that TVG's business model is  
25 proven. It enables the broadcast television

1 distribution for horse racing. All of our  
2 distribution deals in the country are done it because  
3 of our exclusive deals. It provides incentive for us  
4 to create quality television programming.

5 It generates a high rate of return to the  
6 racing industry, and it consistently generates the  
7 highest growth rates for wagering in the racing  
8 industry and the most volume in wagering.

9 MR. SHAPIRO: Thank you.

10 MR. ALAMATO: Any questions?

11 MR. SHAPIRO: Yes. If I could as, I don't  
12 know, both you. First of all, I don't think -- at  
13 least from my perspective, I don't question the  
14 excellence of your TV coverage. It is unparalleled.  
15 I mean, you guys do great things. Your TV is  
16 fantastic. I'm an avid watcher.

17 So, I just want to thank you and compliment  
18 you. I think your TV is great. I see that show you  
19 do at Los Alamitos. I see all the things you've  
20 done. You went live. I forget what it's called.  
21 Live Access, I think, at Del Mar, and the Eclipse  
22 Award. You guys do wonderful job there.

23 The difference, though, is that when you  
24 look -- or when you hear the data from TOC and you  
25 look at what you are talking about, and I know much

1 about television, but I'm learning, okay.

2 When I see that TV models are the same as  
3 models docked by the networks, NASCAR, PGA, et  
4 cetera, I'm assuming that they provide advertising  
5 revenue, which is the economic engine that allows  
6 them to do that.

7 And unfortunately for reasons I don't know,  
8 there isn't enough advertising revenue to support TVG.  
9 And so, you are a wagering company. I ask this to  
10 try and understand it better.

11 But when you hear that TVG only accept -- I  
12 appreciate that you are broadcasting in 50 states,  
13 but you are only accepting wagers in 12 states.

14 MR. ALAMATO: But our licensees are  
15 accepting wagers in all these states. So, whatever  
16 rates it's showing on TVG --

17 MR. SHAPIRO: I'm not done yet. I  
18 understand that you have licensees that are then  
19 covering that. But you are having to -- those  
20 licensees are having to pay you a fee for that  
21 signal, which means that there is less revenue then  
22 for them or you to give back to the industry so that  
23 there would be more moneys available to help the  
24 track, and the horsemen, and the purses.

25 Again, the idea here is how can the

1 industry work to get the most out of ADW and you guys  
2 make a profit and you guys exist. I'm not trying  
3 to -- this is not one company over another.

4 But when you hear the statistics, racing is  
5 in trouble. It has -- California has to get its  
6 purse revenues up.

7 Now, I hear the argument over exclusive  
8 tracks. But if they weren't exclusive tracks and it  
9 was open to other people that might pay more to have  
10 a competitive factor involved, wouldn't racing be  
11 better if somebody else was willing to pay more that  
12 would result in more to the tracks and more to the  
13 purses.

14 Again, this is a discussion. I'm not  
15 coming -- this is not a conclusion. But how does it  
16 translate into dollars to benefit the horse racing  
17 industry in California, because that is all I care  
18 about.

19 MR. HINDMAN: To cover a few of your  
20 remarks, I think you're right. TVG is reliant on  
21 wagering revenues to pay for television. Other  
22 networks are relying on advertising. But the point  
23 is, you have to have a secure revenue stream to pay  
24 for the costs of producing and distributing  
25 television.

1           And we feel it is the most important  
2 component. We well the last five years has had the  
3 highest and most consistent growth rates. We feel  
4 that it is working in bringing new fans to the sport.

5           We also have a licensing program with our  
6 two licensees. Together, TVG has two licensees --  
7 are the three largest ADWs in the United States.

8           Anybody in any state where it's remotely  
9 possible to bet on California races signal through  
10 ADW can do it today. Those three companies represent  
11 about a billion dollars in handle a year. Their  
12 combined growth rate is well over 20 percent. TVG's  
13 growth rate is well over 30 percent.

14           So, what we are arguing -- what we're  
15 saying is this model is working. This model has  
16 worked. It will continue to work. it's creating the  
17 highest growth available in the industry.

18           We agree we need to maximize ADW, but what  
19 we are saying to you is, we believe very strongly  
20 that you have to build an engine market and promote  
21 racing to get ADW out there. And we are doing that.  
22 And we feel very strongly it's working for the  
23 industry.

24           I think the stats bear it out. And you  
25 were talking about revenue. I think the fact that

1 TVG's exclusive tracks in California, the fact that  
2 their revenues are growing twice as fast as the  
3 national rate, which includes tracks that have  
4 revenues from alternative gaming. I think we're off  
5 to a good start.

6 And so, from our perspective, we feel very  
7 good. We feel very optimistic about the future, and  
8 we feel that system is working very well. Thank you.

9 MR. ALDRIDGE: Ed Aldridge, Los Alamitos  
10 Chairman. As most of you know I'm a TVG buff and  
11 supporter and for a lot of good reasons. Some of  
12 them are unique to my situation, our situation.

13 And so, I do not want to address all of the  
14 things involved in the Thoroughbred industry except  
15 to say that Mr. Couto's impressive presentation, it's  
16 like all things of that type, one has to look at the  
17 whole picture.

18 There are obviously a lot of reasons far  
19 beyond the influence of account wagering that have  
20 over the last four to five years have impacted all of  
21 us in racing. They include horse competition,  
22 offshore book making, card rooms in the casinos, gas  
23 prices, traffic, all of those things take their toll.  
24 It's not as simple as analyzing, and I know that  
25 everybody knows that. But I think it's worth at

1 least mentioning that.

2 We are in no way interested in having  
3 anything but an exclusive provider. In a large  
4 company, Newscorp with assets are unbelievable has  
5 come into the picture and has lost who knows how much  
6 money over the last five years in getting this model  
7 off the ground.

8 We have been talking for the last 15 years  
9 that we have to like baseball, basketball. We have  
10 to get television exposure. That's what it's all  
11 about. We are getting television exposure. It's  
12 increasing all the time.

13 You take this away from them, there won't  
14 be any television exposure, at least for California  
15 racing. Why would they do it and allow everybody  
16 else to suck the blood out of the them and not spend  
17 the kind of money it takes to have it up there. It's  
18 expensive.

19 True, TVG has taken a very conservative  
20 position in trying to expand the California  
21 Thoroughbred and -- signals into other states. There  
22 are large companies with very deep pockets. And many  
23 have -- I don't know the reasons exactly. I've been  
24 told.

25 And then you have reasons to believe that

1 aggressive attorney generals in some states where  
2 it's a gray area. There's no -- or enabling  
3 legislation, and they have deep pockets. I would  
4 suspect that is the reason. Hopefully that can be  
5 overcome in the coming years so that there will be a  
6 great increase in the direct use of TVG and not  
7 through their licenses to other betting companies.

8           So, we are so happy with what has happened.  
9 People can race horses -- and for so many different  
10 reasons, people in Texas and Oklahoma can race horses  
11 in California now that never would have before  
12 because they can watch them live, and they might --

13           So, for that reason that's a very important  
14 reason for us. We were struggling. We have  
15 prospered under this thing. It is an increasingly  
16 large part of our handle every day.

17           Our pick four bet has gone from \$8,000 to  
18 several times over a hundred thousand and always over  
19 of \$50,000, and usually in the range of \$70- to  
20 \$80,000. Our pick four bet has come from obscurity,  
21 because they've taken under their wing.

22           They've done this actually -- all  
23 California tracks' pick four bet has expanded  
24 greatly. And I think it is largely because of the  
25 influence of TVG. And a lot of it's money -- the

1 overwhelming share in our case comes from account  
2 wagering.

3           So, I just couldn't -- I am so grateful to  
4 them. I think we should all be grateful to them. We  
5 recognize they have some work to do in expanding  
6 California signal out of state both for -- that's  
7 something they need to work on.

8           Whether or not the fees are correct are all  
9 subject to review and negotiation over time and  
10 everything. That can be done. I'm perfectly happy  
11 with the arrangement we have.

12           So, I can't say enough about them. We love  
13 them. We'd die without them. That is all I can tell  
14 you.

15           MR. SHAPIRO: Thank you.

16           MR. SCHIFFER: Dan Q. Schiffer for the  
17 BCQHRA, and I'm here echo the comments of  
18 Mr. Aldridge. TVG has taken the Quarter horse night  
19 racing out of the dark ages and into the public  
20 living room. It is a tremendous boom for the Quarter  
21 horse and our industry, and we are truly indebted to  
22 them whatever their shortcomings.

23           So, we ask that the Board and all others  
24 consider what they have done, and the chances they  
25 have taken in doing that. Thank you.

1 MR. SHAPIRO: Are there any other ADW --

2 MR. SHREWD: Mr. Chairman, Jeff Shrewd  
3 representing UBet.com. I'm here to obviously talk  
4 about the issue with Drew and the previous speakers.  
5 There are probably a couple of ones that ought to  
6 clean up from our perspective.

7 I want to commend Mr. Couto for his  
8 presentation. He brought to light a lot of important  
9 facts that are difficult to understand and difficult  
10 to put into this kind of setting.

11 One of the things that was said, however,  
12 that I need clear up with regards to the rebate  
13 shops, there is no licensing fee drawn by TVG for the  
14 IRG and RGS companies because those contracts dealt  
15 directly between those "rebate shops," RGS and IRG  
16 and the track. Because it is telephone only, there  
17 is no streaming. So, it is a contract that TVG  
18 doesn't have a hand in.

19 However, TVG does have a hand in a lot of  
20 other contracts and has a hand in a lot of other  
21 agreements between ADW providers and race tracks.

22 And really this whole conversation to me is  
23 about competition. It is about competition between  
24 the ADW providers. It is competition between the  
25 industries of different states against one another.

1           Indeed it's about the competition of an  
2 industry against other industries -- other sports  
3 industries. Horse racing is competing against other  
4 sports.

5           So, when we look at that competition, you  
6 say You Bet right now, because of the exclusivity,  
7 has a competitive advantage. You Bet has the  
8 broadest offering of content, the broadest offering  
9 of race tracks of any ADW in the country.

10           We have virtually everything there is  
11 running. There are two or three minor exceptions.  
12 But I got to tell you, we're paying for that  
13 exclusivity.

14           We have paid since 2002 over \$68,000,000 to  
15 companies which are holding exclusive licenses on  
16 track content. TVG reports their earnings. We're 25  
17 percent or better than TVG's earnings.

18           So, the competitive nature of this business  
19 has created this exclusive model. TVG says the  
20 exclusive model is working for them. Well, it's not  
21 working for the sublicensees, I can tell you.

22           And while we're on the subject of  
23 exclusivity, Tony talks about you got to have  
24 exclusivity to make TV work. That's the way the  
25 thing works. And the advertising models are supposed

1 to help support those exclusive arrangements.

2 PGA is on all three networks, ABC, CBS,  
3 NBC. NFL is on FOX and CBS. Why don't they  
4 advertising revenues? Because they don't have any  
5 coverage. They don't have enough coverage to get a  
6 rating point.

7 You know who first put horse racing on TV  
8 in southern California, specifically on FOX? It was  
9 Santa Anita. And why hasn't Santa Anita shown in the  
10 afternoons of live racing on FOX Sports West?  
11 Because those exclusive arrangements that keep them  
12 out.

13 We think exclusivity is bad for racing. It  
14 stifles competition. The competition that this  
15 industry has to rely on to succeed in the sports  
16 world, exclusivity has done nothing but create a  
17 false subsidy for a bad model. And that bad model is  
18 TVG. It doesn't work.

19 TVG is not the only one, I can tell you.  
20 Magna tried to do the same thing to us in 2005, and  
21 if it weren't for TOC, and I'll thank them again  
22 publicly, TOC came and said no, wait a minute. We  
23 got to have broader distribution for our signal. You  
24 guys cannot have -- product in California or nobody  
25 is going to have it. I thank TOC for that.

1           They came in and stepped up and fixed what  
2 would be an otherwise darker cloud hanging over the  
3 California racing program. So, Magna attempted it,  
4 and got it fixed. TVG has executed -- we paid them  
5 literally dozens of millions of dollars to subsidize  
6 their bad programs. And we see no handle differences  
7 when TVG is Televising a race.

8           I mean, they talk about the reason that the  
9 sublicense fees are paid is because we are riding  
10 their coattails of TV. It's ridiculous. There is no  
11 handle difference when Hollywood Park's eighth race  
12 is on. There's no handle difference in Texas, or  
13 Ohio, or Kentucky.

14           We go out and recruit those customers,  
15 develop them. We spend more money in new customer  
16 recruitment than any of the ADWs. In fact, I would  
17 venture to guess all of them combined. Seven figures  
18 a year in new fan recruitment outside the horse  
19 racing industry.

20           We, UBet.com, is the leading ADW in the  
21 country by handle. A third of our business comes  
22 from California. You saw the numbers that TOC put  
23 up, three times the amount of purse revenues in the  
24 State of California. All of that in spite of these  
25 exclusive deals.

1           What I'm telling you is that the  
2 competition is the key here. You've got to create a  
3 level playing field for all ADWs to compete fairly  
4 with the content at hand, to compete on the features  
5 and functionality and marketing crowns. And we are  
6 not going to fix it here today.

7           I brought four gentleman -- three other  
8 gentlemen here to introduce to you. The Chairman,  
9 CEO of UBet.com, Charles Champion, CFO Gary Strewl,  
10 General Counsel, Scott Solomon, our -- Lavarigani  
11 Poul. We're here to show you that we're ready that  
12 we're ready to roll up our sleeves and fix this  
13 problem together with TOC, together with Magna,  
14 together with TVG, and together with you.

15           We've got to fix this model before it  
16 crashes, because it's not working for anybody but  
17 TVG, and I dare say that it may not be working for  
18 TVG very long. I yield to questions, Mr. Chairman.

19           MR. SHAPIRO: Thank you for your comments.  
20 I appreciate it.

21           MR. ALAMATO: Tony Alamoto again, TVG. I  
22 just want to address a couple points. First off, I  
23 appreciate the education of television from Jeff  
24 Shrewd. I'll be looking forward to watching the  
25 Superbowl in a few weeks on any TV network I choose.

1 MR. SHAPIRO: Okay. Okay.

2 MR. ALAMATO: I also would like to say  
3 that it was mentioned that televised races, that  
4 there is no impact on races being televised by TVG.  
5 That is flat out not true. We know for a fact that  
6 ADW handle is up to ten times as high on a racing we  
7 show and the racing we do not show. So, there is a  
8 difference there.

9 Another issue that was brought up is the  
10 fact that we have a FOX show every day. There were  
11 FOX shows on locally in the past up to an hour a day.  
12 We do shows now that are up to three hours a day for  
13 major events like the -- four hours a day.

14 Santa Anita was being shown on FOX and  
15 Santa Anita would be shown on FOX if they were an  
16 exclusive or nonexclusive track of TVG. They choose  
17 not to be.

18 And I think the big issue here is racing  
19 really needs to decide what the big picture is here.  
20 Are we trying to fight over every crumb, or are we  
21 trying to help the sport grow, not just from a  
22 wagering standpoint, but from a marketing standpoint.

23 TVG presents the opportunity for horse  
24 racing to have a 24-hour a day marketing tool in  
25 California racing specifically. We believe that we

1 do have better race tracks. That's what you get with  
2 TVG aside from just home wagering.

3 MR. SHAPIRO: Tony, again, this forum today  
4 is really meant to try and understand and hear from  
5 various parties, okay. So, I don't think anybody  
6 needs to refute other people's facts. I understand  
7 you have a different opinion. I don't have a problem  
8 with that.

9 And again, I certainly appreciate the  
10 television that TVG does. No one is questioning the  
11 great television that you do.

12 MR. ALAMATO: Commissioner Shapiro, it's  
13 important to keep in mind that the wagering and  
14 television go hand-in-hand. If people think that the  
15 wagering component is going to go away and TVG is  
16 going to continue to produce the same quality  
17 programming that we're producing now and that we  
18 expect to get better, it's not going to happen.

19 MR. SHAPIRO: Thank you.

20 MR. HARRIS: Sorry to interrupt. I'm not  
21 really clear. It seems, say with the You Bet  
22 example, they essentially don't get anything from a  
23 bet made in California by a Californian on a  
24 California race. It all goes to TVG. What incentive  
25 do they have to really grow their --

1 MR. ALAMATO: John Hindman can address that  
2 better than I can. I'm just the TV guy.

3 MR. HINDMAN: I would make two points about  
4 that. I think if you look at You Bet's business and  
5 their -- as seen on an overall basis, their yield,  
6 the percentage they keep from a bet after paying TVG  
7 is higher than TVG's. So, they're keeping --

8 MR. SHAPIRO: On a California wager?

9 MR. HINDMAN: I'm talking about for their  
10 company.

11 MR. HARRIS: As I understood, they don't  
12 get anything on a California wager.

13 MR. HINDMAN: On TVG tracks?

14 MR. SHAPIRO: Yes.

15 MR. HINDMAN: Yes, well, I mean they pay  
16 different royalties to different people.

17 MR. SHAPIRO: No, answer his question.

18 MR. HINDMAN: I did.

19 MR. SHAPIRO: I didn't hear the answer.

20 MR. HINDMAN: I was talking -- he is  
21 correct on an overall basis.

22 MR. SHAPIRO: So, he's correct. On a  
23 California track -- exclusive track, You Bet accepts  
24 the wager, they don't make any money; is that  
25 correct?

1           MR. HINDMAN: That is correct, yes. And  
2 the other point I wanted to make is looking at the  
3 handle situation and everything else. I know that we  
4 are not here to refute each other, but I do know that  
5 You Bet does carry a couple hundred race tracks.  
6 They carry more tracks than anybody.

7           And they carry about -- somewhere in the  
8 neighborhood of 20- that they give -- in relationship  
9 from us. In any given quarter, a percentage of their  
10 handle, second, third, and fourth quarter of the  
11 year, they're from our basket of the tracks -- is 50  
12 percent. So, it's a very large proportion of their  
13 handle that they're deriving --

14          MR. SHAPIRO: That may be. But again, we  
15 are concerned what dollars end up in California  
16 benefiting the California industry.

17          MR. HINDMAN: I understand.

18          MR. MORRETTI: Can I ask you a question?  
19 John, sorry. And I would like to thank everyone who  
20 presented because this is very informative, and it is  
21 a complex issue. But I do have a real basic  
22 question, and I have -- I understand the exclusivity  
23 and reciprocal and all of that.

24          However, is it true that California signals  
25 only go to 12 states, but the other companies sends

1 out to 37 states?

2 MR. HINDMAN: No, I think --

3 MR. SHAPIRO: Are you asking, is it true  
4 that TVG is only accepting wagers in 12 states on  
5 California --

6 MR. HARRIS: If they're a licensee, which  
7 is You Bet --

8 MR. SHAPIRO: That's correct. I understand  
9 they're licensees, but they're charging then a fee to  
10 that licensee, which means if there is less revenue  
11 that can come back to California, because they're  
12 having to pay sublicense fee.

13 So, the question first question is, is it  
14 true that you only accept wagers in 12 states?

15 MR. HINDMAN: Yes.

16 MR. SHAPIRO: Yes, okay. And you license  
17 your signal to -- let's just use You Bet because  
18 they're here. You Bet pays you something for that  
19 signal; is that correct?

20 MR. HINDMAN: Yes.

21 MR. SHAPIRO: Okay. If there wasn't a You  
22 Bet, and this is theoretical, if there wasn't a You  
23 Bet and you decided to accept wagers in all the  
24 places that You Bet did, you would either make more  
25 money or we say no, pay the horse men, pay the

1 industry that money, there would be more coming into  
2 the industry; is that not correct?

3 MR. HARRIS: I don't think -- I think it's  
4 neutral to California purses and commissions if  
5 someone bets on TVG.

6 MR. SHAPIRO: No, that's not my point. My  
7 point is that you are charging You Bet a fee for your  
8 signal. You Bet in turn makes an agreement with the  
9 tracks and the horsemen in California for the  
10 California product that they're accepting wagers on.

11 They have to take into account what they  
12 have to pay you, which then tells them how much they  
13 can afford to pay the horsemen and the tracks; is  
14 that right?

15 MR. HINDMAN: There is no difference  
16 between what a -- to my knowledge and understanding  
17 what the California tracks --

18 MR. SHAPIRO: Well, then let's ask You  
19 Bet --

20 MR. HINDMAN: No, -- if TVG took the bet or  
21 You Bet took the bet.

22 MR. HARRIS: The problem is between You Bet  
23 and TVG is essentially the license fee is the total  
24 amount of the hub fee.

25 MR. SHAPIRO: No, but I guess what I'm

1 saying is TVG could accept a lower hub fee, okay. If  
2 you were accepting wagers directly and there wasn't a  
3 middleman, wouldn't you be able to conversely -- You  
4 Bet just accepted to -- if they didn't have to pay  
5 you a fee, they would be able pay more money back to  
6 the tracks and horsemen; isn't that true?

7 MR. HINDMAN: Actually --

8 MR. SHAPIRO: No? Let's ask You Bet.

9 MR. HINDMAN: I mean, we are speaking in  
10 hypotheticals.

11 MR. COUTO: Actually, we're not speaking in  
12 hypotheticals. I can't reveal the rates, but I will  
13 tell you this, there are certain states that TVG  
14 considers exclusives that You Bet, I'll let Chuck  
15 come up and tell you, must pay them a fee whenever  
16 they accept a wager on a California track.

17 Let's look at this. Let's look at three  
18 different ADW companies, TVG, You Bet, and American  
19 Tab. They can each handle wagers on TVG's exclusive  
20 tracks. If TVG handles wager, they pay us X.

21 If You Bet handles that same wager in a  
22 non-TVG state, it's a Del Mar race, they handle it in  
23 a non-TVG state, they pay us X plus 80 percent. If  
24 they handle that same wager in a TVG state, they only  
25 pay us X.

1           The third company, American Tab, if they  
2 handle a Del Mar wager in a non-TVG state, they pay X  
3 times two and a half.

4           If they take that same wager in a TVG  
5 state, they pay us X. So, there's a huge difference  
6 because of the exclusivity that we get on the same  
7 signal depending on what state it is occurring.

8           Now, the funny thing is, TVG is  
9 distributing the audio-visual in all of those states,  
10 but there's only certain states that they can claim  
11 as exclusive states for the 12 up there.

12           So, there's a huge difference in return to  
13 our industry. There's a huge difference, as is there  
14 is a huge cost to You Bet when they have to pay TVG.  
15 The yield on a California wager, I'll let Chuck talk  
16 to you about this, to You Bet in an exclusive state  
17 is almost nothing.

18           And as any business is making nothing  
19 selling a product, they're going to be forced to sell  
20 something else in order to make money, just as, and  
21 this is the last part, just as when TVG does not have  
22 California product, when they don't have Santa Anita,  
23 when Bay Meadows shuts down on that seven, TVG will  
24 have no California product.

25           And what they will do is drive their

1 players, Californians included, to the products,  
2 which means they will drive them, we see it every  
3 year, to non-California races. And we will receive  
4 less.

5 All we are trying to do -- and this is a  
6 matter of negotiation between the parties. It's not  
7 really regulation. We are trying to protect  
8 California signals to maximize what's being returned.  
9 I'll let Chuck address the economic issues for them.

10 MR. CHAMPION: Chuck Champion, Chairman,  
11 CEO of UBet.com. Just to clarify a couple things  
12 about the economics in California. It is in fact  
13 true that any wager that we take on a TVG track in  
14 the State of California yields us nearly nothing.  
15 Our overall average in the State of California is  
16 about 1.6 percent total.

17 We are required according to our sublicense  
18 agreement that we signed with TVG approximately a  
19 maximum of 8.5 percent on any wager that we take on a  
20 TVG track. That consists of five and a half points  
21 to TVG, and three points to the host track -- or 3.5  
22 percent to the horse track and five percent to TVG.

23 In fact, and I can't comment too much on  
24 this because we're in litigation now in Delaware over  
25 this very issue because there is a supplemental host

1 fee that we're required to pay in California to get  
2 our content on TVG tracks.

3 TVG's position is litigation is that is not  
4 a host fee. It is a supplemental host fee. It has  
5 nothing to do with host fee. We basically owe them  
6 another three million dollars for the rights to take  
7 the content out of California. In essence, TVG is  
8 telling us that we should in fact go Negative on  
9 bets.

10 MR. SHAPIRO: What is this supplemental  
11 host fee?

12 MR. CHAMPION: The supplemental host fee is  
13 the relationship between the track and the  
14 horsemen -- that You Bet is required to pay to the  
15 track in order to receive the signal.

16 And there is a relationship between the  
17 track and the relationship between the horsemen, and  
18 wherefore You Bet to receive the signal. We believe  
19 it is part of our agreement. TVG's position is it's  
20 exclusive. It's not part of the agreement.

21 So, again, I can't get into too much of the  
22 legal discussion, but I think it's suffices to say by  
23 their behavior that they not only believe that we  
24 should in fact make zero on the signal in California,  
25 we should go negative on the signal in California.

1           Now, what You Bet has done over the last  
2 three and half years that I have been with the  
3 company in 2002 is try to maintain a relationship  
4 within California, where California racing would be  
5 the most productive -- that you can find.

6           We believe in California racing. We think  
7 it is critically important. And we understand it's  
8 in trouble. Our fastest growing customer segment at  
9 You Bet is 21 to 30 year olds. It's because we  
10 market pop site with ESPN.com and CBS. And we are  
11 spending millions of dollars to develop that market,  
12 because we think it is important.

13           We also curtail any and all marketing  
14 efforts within 25 miles of a race track because  
15 cannibalization is important to us as well. You  
16 basically have told us what we need to do as an ADW  
17 provider in California and how we can be productive,  
18 and we've tried to do that.

19           We've minimized the amount of handleship  
20 from California by Californians -- or California  
21 content, and by non-Californians, because we think  
22 that California racing is in trouble.

23           But frankly, on other tracks where we have  
24 low yields, we have marketing programs in place that  
25 move customers from low yield tracks to higher yield

1 tracks. I've got a responsibility as a public  
2 company to maximize revenues to the best of my  
3 ability. And we have in fact done that.

4 So, when John Hindman talks about out  
5 margins being in 67 percent rate, he's absolutely  
6 correct. That is true. I can't tell you whether  
7 they're greater than his or not, because all of his  
8 financial quite frankly are not disclosed are not  
9 disclosed.

10 So, his revenues, his handle numbers -- his  
11 handle numbers are disclosed. His revenues are not  
12 disclosed. His yield numbers are not disclosed. But  
13 it means that what I'm doing is I'm promoting harness  
14 tracks that have larger take outs and where we have  
15 more favorable --

16 It means that I'm promoting tracks in other  
17 states where I'm not paying these fees. It means  
18 that I am promoting those. And it means by promoting  
19 one, I'm not promoting others.

20 So, I can't comment on whether or not the  
21 issues that Drew had brought up about antitrust are  
22 accurate or not. But I can tell you that the effects  
23 of these relationships have the same outcomes. It  
24 inhibits our ability to promote California to the  
25 extent we want to. And it affects California racing.

1           Now, having \$65,000,000 for the privilege  
2 of having these exclusives, I'll tell that if you  
3 leave them in place, we will try to do our best to  
4 take advantage of that and to promote California and  
5 to do what we can within the limits that we have.

6           We're not up here asking you to get rid of  
7 those exclusivities, because we pay for them. They  
8 are an advantage. I fully admit that. We use it  
9 because we have all the content.

10           But I'll also tell you that we truly  
11 believe that they are the worst thing that can occur  
12 in this industry. You need to have as much  
13 distribution of this signal as possible. Not to have  
14 it on Express Bet is not in California's interest.  
15 It will hurt us. Be very clear, giving content that  
16 now does not go on Express Bet to Express Bet is  
17 going to hurt You Bet. There will be  
18 cannibalization.

19           And we in fact will suffer as a result of  
20 it. But it is undeniable that the tracks will enjoy  
21 a benefit and horsemen will enjoy a benefit. Purses  
22 will increase, and likely handle will increase  
23 because the content is better on that platform. So,  
24 now I will yield to questions that the Board may  
25 have.

1           MR. SHAPIRO: Well, I think it is very  
2 informative. And again -- I don't know if anybody  
3 from Express Bet is here. I would like to Express  
4 Bet, but -- oh, you're right there. I'd like to get  
5 a million dollars dropped in my lap also.

6           Thank you, Mr. Champion.

7           MR. DURY: Scott Dury on behalf of Magna  
8 Entertainment. I know this gone on for a while, so I  
9 will be very brief with my comments. We believe the  
10 exclusivity model is bad for the industry. I say  
11 that with two different hats on.

12           I say that with my race track hat on behalf  
13 of Santa Anita and Golden Gate Fields. We would as  
14 broad distribution as possible. I also say with my  
15 Express Bet hat on that Express Bet doesn't believe  
16 the exclusivity model is good for the industry.

17           Now, Mr. Shrewd made a comment earlier that  
18 at one point several years ago we were attempting an  
19 exclusive model ourself, somewhat in defense to the  
20 position TVG was taking, and you know what, we  
21 learned from our mistake. It just doesn't work.  
22 It's not good for the industry. It's not good for  
23 the horsemen.

24           And it's particularly not good for the  
25 fans. They're the one group who is not represented

1 here today, but let's remember the complaint that we  
2 all hear all the time. How come I have to have a TVG  
3 account to get Hollywood Park, but this account to  
4 get Santa Anita, and how come with You Bet I can get  
5 both? It doesn't make any sense why don't all the  
6 providers have all the content. That's what we  
7 believe makes the most sense. Let's let the market  
8 decide. If Express Bet fails and TVG prospers  
9 because they have a better product, so be it. Let's  
10 just make it a level playing field. That's basically  
11 it.

12 MR. SHAPIRO: You are you like TVG are in  
13 the TV business. What we have heard is that the TV  
14 business requires that you have these exclusive  
15 arrangements to distribute the product exclusively.

16 Now, you are in the TV business. If there  
17 was -- do you also take the same position that -- you  
18 are in 37 states or something like that. And if you  
19 had the distribution that they have, would you  
20 require that there be this exclusive arrangement so  
21 you would broadcast TV to all the states and similar  
22 to what TVG does today?

23 MR. DURY: Well, we don't agree with them  
24 quite honestly. And you made the comment earlier,  
25 which is we believe one hundred percent accurate our

1 industry is a wagering driven industry. We are not  
2 an advertising driven industry.

3 So, my answer would be different if we were  
4 making all the money on advertising but we're not.  
5 Given that we are driven by wagering, if there's two  
6 channels someone can go to and wager on, all the  
7 better.

8 It's also -- we can't forget how many race  
9 tracks there are out there. It's not that if -- you  
10 can have two channels showing different race tracks  
11 for that matter. If everybody could wager on both  
12 tracks, doesn't necessarily mean that you would be  
13 showing the signal at the same time on both stations.  
14 You could be showing different signals.

15 But the important part is let's do what the  
16 fans tell us they want. Let's let our fans decide if  
17 they want to sign up for You Bet, Express Bet, or TVG  
18 and once they've signed up and they're with a  
19 provider they like, let them bet everything.

20 MR. SHAPIRO: Am I also correct in my  
21 understanding that -- let's use Del Mar or Hollywood  
22 Park, an exclusive TVG track, okay. It's exclusive.  
23 They get to do the television. They promote their  
24 wager. Why can't Express Bet -- is the exclusive  
25 that says Express Bet can't even accept a wager on

1 that because they have the exclusive content?

2 MR. DURY: Correct.

3 MR. HARRIS: I'm not clear a Magna's  
4 position that you don't feel exclusive contracts are  
5 good, but don't you require exclusive contracts now  
6 on your own tracks?

7 MR. DURY: No, we don't. We provide our  
8 content to You Bet. We provide -- and this doesn't  
9 apply to California because they're not licensed in  
10 California, but we provide our content to America  
11 Tab. We provide our content to Connecticut Oak TV.  
12 We provide our content to Philadelphia Park Phone  
13 Bet.

14 There may be some I'm forgetting off the  
15 top of my head, but Magna tracks are available to  
16 other account wagering providers. We did several  
17 years ago have -- again, we tried out the exclusive  
18 model. We heard loudly and clearly from our partner  
19 horsemen from various regulators across the country  
20 and most importantly from the fans that they didn't  
21 like that model. So, we discontinued that.

22 MR. HARRIS: And the right to achieve that  
23 exclusivity say for You Bet as I understood is  
24 basically the whole thing. Basically You Bet is  
25 similar with Express Bet. They don't make money on a

1 California bet.

2 MR. DURY: You Bet is not forcing the  
3 exclusivity. What You Bet has done is they've gone  
4 to party who holds the exclusive right and said let  
5 me sublicense it, and they were told, fine, you can  
6 sublicense it, but in return we want all your money  
7 so that you're not going to make any money on a  
8 wager. We don't have that model.

9 MR. HARRIS: So, basically You Bet makes  
10 more money on a wager on a Magna track than they do  
11 at a wager TVG track?

12 MR. DURY: Well, I mean, yes. We have  
13 negotiated an arrangement with You Bet. You Bet does  
14 make money, honestly they probably would tell you  
15 they don't make as money as they would like, and we  
16 would tell you they probably make more than they  
17 should, which means there was a good negotiation and  
18 we came out somewhere in the middle.

19 MR. HARRIS: I was assuming that You Bet's  
20 arrangement with effectively Express Bet was the same  
21 as their relationship with TVG.

22 MR. DURY: Not at all. And when I say You  
23 Bet makes money when they accept a wager on a Magna  
24 track, the same thing applies America Tab, to  
25 Philadelphia -- to all the other off track systems

1 that we provide our content to.

2 We believe that the best thing for the  
3 racing industry and the fans is to let everybody  
4 carry all the content. Let the fans decide and have  
5 the most opportunities to wager.

6 MR. SHAPIRO: Why shouldn't we just have  
7 one TV signal or whoever wants to put on a show and  
8 just let every company though be able to wager. The  
9 problem I have is why not -- if it's Hollywood Park  
10 or Santa Anita, and one company is closed out from  
11 taking a wager, I do not understand why that has to  
12 be. If they want the exclusive television because  
13 television dictates that, why shouldn't that be  
14 allowed? That is the part I just don't follow.

15 MR. DURY: I believe it should be. I agree  
16 with your position, but we heard TVG say that they  
17 want the exclusive wagering rights. So, that's been  
18 their position --

19 MR. SHAPIRO: That wagering rights and  
20 television have to go hand-in-hand, and I guess I'm  
21 saying why can't they continue to have the exclusive  
22 television rights at their exclusive tracks, but the  
23 other -- you're the only other television company or  
24 HRTV -- why can't Express Bet accept wagers there? I  
25 just feel again that we are limiting our breath of

1 exposure to accept wagers.

2 MR. DURY: We, Express Bet, are open to any  
3 reasonable solution to this problem. It is clearly a  
4 problem. We've all talked about it for an hour now,  
5 and I'm not sure exactly what the answer is.

6 We're willing to work with the horsemen,  
7 the commission, with TVG, with You Bet, with  
8 everybody, to come up with something that makes  
9 sense. In fact, we tried very very hard to do that.  
10 Thus far it is within up successful.

11 MR. SHAPIRO: Well, thank you. Is there  
12 anybody in the audience that needs to address this  
13 any further? As we said at the onset we're not going  
14 to be able to conclude this. I think this is a very  
15 serious matter.

16 I think that we have to look at what's good  
17 for the industry as a whole, how we can help our  
18 tracks have more revenue, how we can raise our  
19 purses. It's foolish to think that we're going to  
20 get any kind of slot revenue anytime soon.

21 And if he can enhance our ADW model to  
22 improve our purses that will attract more horses,  
23 more horsemen would -- get more revenue to the tracks  
24 so they'll make improvements and make the facilities  
25 more comfortable, I think that's what we're charged

1 to do. So, unless anybody has any other comment, I  
2 think that we should move on.

3 And I know this has been long, if there  
4 isn't anybody that is here specifically to address  
5 Item No. 10, which is the discussion on suggestions  
6 to stop and limit illegal gambling if California by  
7 offshore entities, I would recommend that we defer  
8 that agenda item in the interest of time. Does  
9 anybody have any objections to deferring that item?

10 There being none then let's defer that.  
11 The next one is report from the Ad Hoc Committee on  
12 the progress of establishing procedures for insuring  
13 public disclosure and accuracy of jockey weights.

14 I will report, and it's very short that a  
15 presentation was made at the RCI Board meeting as we  
16 had agreed the Ad Hoc meeting put together a list of  
17 the uniform standards that would be put forth and  
18 hopefully be adopted nationally.

19 At the meeting in March of this year, those  
20 proposed rules and standards are going to be  
21 submitted to RCI once we can get buying from them,  
22 but I think we would be in the position of adopting  
23 new standards which would ensure public exposure  
24 disclosure. So, I don't think there is much else to  
25 report on that at this time unless anybody has

1 comment on it. There being none, we'll go on to Item  
2 No. 12.

3 Item 12 is discussion and action by the  
4 Board regarding compliance with a Peremptory Writ of  
5 Mandate issued by the Court in California Harness  
6 Horsemen's Association versus CHRB. I would first  
7 look to our Deputy Attorney General, who quickly made  
8 it to the podium and get his comment.

9 MR. PINAL: Thank you, Mr. Chairman. Randy  
10 Pinal, Deputy Attorney General. On November 29, 2005  
11 CHRB staff received a Peremptory Writ of Mandate  
12 issued by the clerk of the Court to the Board  
13 directing the Board to nullify and invalidate its May  
14 2003 decision regarding impact fees including Capitol  
15 Racing, California Harness Horsemen's Association,  
16 Los Alamitos Quarter horse Racing Association, and  
17 Pacific Coast Quarter horse Racing Association.

18 This meeting is the first regularly  
19 scheduled meeting after staff received the Writ for  
20 which discussion and action can loftily be taken  
21 pursuant to public notice requirements in the Bagley  
22 Keen Open Meeting Act.

23 Yesterday, I learned that Los Alamitos filed a  
24 notice of appeal on January 13, 2006. In the notice  
25 of appeal Los Alamitos challenges the judgment and

1 Writ of Mandate as well as the court's denial of an  
2 order to -- of an earlier motion to dismiss filed by  
3 this Board, Los Alamitos, and PCQHRA.

4 Under Code of Civil Procedure Section 1094.5  
5 subdivision G, if an appeal is taken from -- the  
6 agency's decision or order of the state pending the  
7 determination of the appeal unless the Appellate  
8 Court orders otherwise. Also under Code of Civil  
9 Procedure Section 916 subdivision A, the proceedings  
10 in the trial court including enforcement of a  
11 judgment or order are -- while an appeal is pending  
12 unless the trial court or a court of appeal orders  
13 otherwise.

14 At this time, we have no information  
15 suggesting the court has lifted the automatic stay in  
16 order -- the Writ pending appeal. So, unless --  
17 until the trial court or a court of appeal directs  
18 the Board to enforce the writ, we advise the Board to  
19 take no action at this time.

20 MR. SHAPIRO: Thank you. In light of that,  
21 I would recommend that the Board follow the deputy  
22 attorney general's advice and not take action. Does  
23 anybody have a problem with that? Fine.

24 Item No. 13 regarding discussion and action  
25 by the Board regarding the moneys Capitol Racing LLC

1 is required by the Business and Profession Code  
2 section to share, per written Horsemen's Agreement,  
3 with California Harness Horsemen's Association for  
4 harness meetings, from 1997 to 2004, and formulation  
5 of plan if deadline for distributing the funds.

6 Mr. Pinal?

7 MR. PINAL: Randy Pinal, Deputy Attorney  
8 General. I want to clarify what appears to be an  
9 oversight in the staff analysis on this particular  
10 agenda item. It was most likely an unintentional  
11 oversight because as the Board knows sometimes these  
12 issues can be complicated and complex. So, I just  
13 wanted to Clarify the staff analysis says, and I  
14 quote, "The horse racing law indicates that this  
15 source of funds should be split 50-50 with the  
16 horsemen pursuant to a written agreement."

17 Just to clarify, the horse racing law  
18 specifically section 19605.7 subdivision C states  
19 that .5 percent of the total amount handled by each  
20 satellite and wagering facility shall be distributed  
21 according to a written agreement for each race  
22 meeting between the licensed racing association and  
23 the organization representing the horseman in that  
24 particular meeting.

25 In June of 2005, the Board held the

1 language in the horsemen's agreement section 13B,  
2 between CHHA and Capitol Racing for the periods of  
3 1997 through 2004 required Capitol to split the  
4 promotion fund money 50-50 with the horsemen. I just  
5 wanted to make sure that the record was clear in that  
6 respect.

7 MR. SHAPIRO: Thank you.

8 MR. PINAL: It has also come to my  
9 attention since the last Board meeting, a new round  
10 the litigation has commenced between Capitol Racing  
11 and CHHA and other entities that includes resolution  
12 of the promotion fund issue. The attorneys for both  
13 Capitol and CHHA are here today. And perhaps the  
14 Board could have them confirm that the litigation  
15 that encompasses the promotion fund issues that are  
16 currently before the court. Based on these new facts  
17 and to avoid duplicate and parallel proceeds before  
18 this Board and the trial court, we recommend that the  
19 Board not take any further action on the promotion  
20 fund issue reference agenda item 13 until the courts  
21 have resolved this matter and that includes  
22 exhaustion of all party's Appellate remedies.

23 MR. SHAPIRO: Thank you. I would like to  
24 just confirm that. Is there any legal counsel here  
25 and CHHA or from Capitol? Can one or the other

1 please confirm whether or not this matter is in fact  
2 subject to litigation.

3 MR. MANDEL: Jerry Mandel on behalf of the  
4 California Harness Horsemen's Association. Good  
5 afternoon everybody. I suspect as most things that  
6 involve these disputes, it's not quite that clear.  
7 The status of things is as follows. I think that  
8 Mr. Pinal would agree that previously in response to  
9 the Board's ruling that Capitol Racing is required to  
10 disburse the promotional fund that Capitol Racing  
11 initiated a Mandamus action, yet another lawsuit in  
12 Sacramento.

13 It is my understanding as well as  
14 Mr. Pinal's I think, I can only speak for myself,  
15 that action has not been prosecuted for some reason,  
16 nor has there ever been a stay of this Board's  
17 previous decision. This Board hasn't issued a stay  
18 order. The Court hasn't been asked to nor has issued  
19 a stay order. The this lawsuit simply was filed  
20 since then.

21 To clarify what Mr. Pinal just said, you  
22 may or may not be aware that recently Capitol Racing  
23 filed yet another lawsuit against Los Alamitos race  
24 course, Scott Wink, Sacramento Harness Association,  
25 and CHHA. That lawsuit deals with 612 money issues

1 that you're familiar with having to do with the  
2 impact fee negotiations, disgorgement issues, unjust  
3 enrichment issues and the like.

4 In response to that lawsuit that was  
5 recently filed and served on December 16th, and when  
6 I say served, it was served on CHHA and Los Alamitos,  
7 CHHA responded by filing a cross-complaint against  
8 Capitol Racing. In that cross-complaint there are a  
9 number of issues that are raised, which the Board is  
10 well aware of.

11 One of those issues that has been raised is  
12 to seek compliance with this Board's prior ruling in  
13 connection with the promotional fund issue. That is  
14 to say we have said we would like the court to  
15 enforce that ruling by the issuance of a formal  
16 judgment for the million and a half plus interest,  
17 or alternatively for some reason has Capitol Racing  
18 has urged in its other lawsuit that the promotional  
19 fund decision by this Board is not valid for some  
20 reason, that you did not have authority for some  
21 reason, that the court should then determine that  
22 issue.

23 MR. SHAPIRO: So, if I can interrupt you, I  
24 think that was a long yes.

25 MR. MANDEL: It is a long yes, except that

1 one of the things that CHHA is doing is relying on  
2 your previous decision. That's why I'm trying to be  
3 clear.

4 MR. SHAPIRO: I understand, but at the very  
5 end in the event you don't -- there is something  
6 faulty with the actions we've taken, you've  
7 nevertheless asked the court to in its own right find  
8 that the court would find --

9 MR. MANDEL: It's a delicate balance only  
10 in the context that Capitol Racing's is that the  
11 Board does not have the power to do what it did. We  
12 say you did.

13 MR. SHAPIRO: I appreciate that. I don't  
14 know if there is any chance that the parties here are  
15 ever going to wake up and realize that they ought to  
16 get in a room and try to work some of this stuff out.  
17 I don't know how anybody can afford all these  
18 attorneys fees. It's not for me to worry about, but  
19 this is ludicrous.

20 Having said that, in light of the new  
21 lawsuits, the old lawsuits, the lawsuits still to be  
22 filed, and I would recommend to the Board that we  
23 take no action at this time. I don't want to deny --

24 MR. CHEIT: I am David Cheit. I'm with the  
25 same firm as Mike Green. David Cheit, Stevens and

1 O'Connel for Capitol Racing. I'll sit down with  
2 Mr. Mandel just as soon as I get this ADW thing  
3 straightened out.

4 MR. SHAPIRO: Well, when you do, and you  
5 must be highly skilled. If you could give us all the  
6 memorandum on it, we would appreciate it.

7 MR. CHEIT: This is on the record. I  
8 better stop short of promising a solution. I think  
9 the issues of whether the Board has jurisdiction to  
10 take action on this are properly before the courts.  
11 I think the courts are the right place to do it. If  
12 Mr. Pinal recommends that the Board take no further  
13 action, we would certainly favor that, because we  
14 think this -- where it belongs.

15 MR. SHAPIRO: Okay. Thank you. Before you  
16 go away, is there any chance that you could get your  
17 client to sit with them and try to work through some  
18 of these issues? I know you guys are putting kids  
19 through college on this. But is there any chance  
20 that you could sit down --

21 MR. CHEIT: Only one kid.

22 MR. SHAPIRO: Fine. We're not getting our  
23 kids through college hearing this. Is there any  
24 chance that you could try to work some of this out?  
25 I mean, this is just on going, on going, and I really

1 ask that you go back to your clients and see if they  
2 won't try to find some sanity and resolve some of  
3 this.

4 MR. CHEIT: There's always hope. There's  
5 always a chance. We have proposed that all parties  
6 to all disputes sit down and mediate --

7 MR. SHAPIRO: Well, they suggested, and  
8 with due respect to that, I believe an offer to put  
9 forth to binding arbitration or if some form of  
10 mediation was put forth to your client by his client,  
11 CHHA, he has a lot of clients. And I would really  
12 suggest that if there is any way to do it, that that  
13 be used, because frankly we have other issues that  
14 are important to this industry and we're spending too  
15 much time dealing with the fight. So, that is my two  
16 cents.

17 MR. CHEIT: I appreciate that, and I do  
18 have the same hope as well.

19 MR. SHAPIRO: Please ask your client. In  
20 light of that, I recommend that the Board take no  
21 actions on the matter at this time. Does anybody  
22 have a problem with that? There not being any we are  
23 going to hopefully get through this.

24 General business. Is there anything that  
25 needs to come up under general business?

1           MR. JENSON: Dr. Ron Jenson, working on the  
2 CHRB microchip program. I just wanted to give the  
3 Board a brief update on the activities that -- this  
4 discussion concerning the microchip program for the  
5 CHRB began last summer.

6           And it began based on the fact that the  
7 United States Department of Agriculture had mandated  
8 that all livestock including the horses be able to be  
9 electronically identified by somewhere around 2009,  
10 and also by the fact that the racing industry has  
11 long wanted some method of determining and keeping  
12 better track of the comings and goings, the ins and  
13 outs of horses coming and going into the racetrack.

14           We were made aware that the USDA is going  
15 to make project money available for these activities.  
16 The long and short of it is we applied for about a  
17 \$200,000 grant to implant about 4000 horses in  
18 southern California and develop a tracking mechanism  
19 between five locations where horses are stabled when  
20 they're racing in southern California.

21           We were awarded about \$97,500, which is  
22 approximately half of those fees that are necessary  
23 for this study. I learned just this morning that  
24 various racing entities have gotten together with  
25 Scott Wink, I believe, and have agreed to provide

1 another \$97,500 for this project.

2 MR. SHAPIRO: Well, that's wonderful.

3 MR. JENSON: Yeah, that is pretty good  
4 news. I brought them as well, unless I do not want  
5 to leave out anybody who worked on that, but it was  
6 certainly an appreciated effort.

7 The inner agency agreement is about to  
8 be -- is ready for signature. You have to appreciate  
9 that the funds are made available -- I mean the grant  
10 fund is made available by the USDA. It's  
11 administered by the CDFA, California Department of  
12 Food and Agriculture, it's going to be spent by the  
13 CHRB.

14 So, it's been a long process, but that  
15 inter ADC cooperating is ready for signature. The  
16 database that is being developed by the Encompass  
17 Solutions, which is a subsidiary of the Jockey Club  
18 Information Systems, has the database nearly complete  
19 and is up for testing.

20 So, the next step I think we'll begin with  
21 the premises I.D., the tracks that were involved, the  
22 locations that are involved in this final project  
23 study as well as all the race tracks and --  
24 definitely have to have a premise I.D.

25 It is a fairly simple project and a fairly

1 simple procedure, and we'll get started on doing  
2 that. Then after we get the personnel in place to  
3 identify the horses to implant the horses and  
4 basically get started.

5 I would like to emphasize this as a pilot  
6 project. The use of the microchips for  
7 identification has been utilized in several  
8 countries. However, the tracking process is new, so  
9 this is indeed a pilot project. There will some  
10 changes that will have to be made as we go and that  
11 we will learn as we go.

12 I think there has been sort of a business  
13 plan, if you will, which is not the right term, but I  
14 believe that the draft of the interagency agreement  
15 that has been circulated to the Board members, which  
16 basically outlines the procedures that we propose to  
17 go through on this project.

18 Somewhere down the road, the Board will  
19 have to determine whether this will be a mandatory  
20 thing. I think it should all be based on the results  
21 of this pilot project. But something to keep in  
22 mind, and I know that we've had discussion about it.  
23 Probably at some point in time there will be a  
24 mandatory thing amended by the Board.

25 The final thing I would like to tell you is

1 that is recently there was a good article in the  
2 Thoroughbred Times on Microchips, which explains some  
3 of the use and some of the evolving uses that might  
4 be associated with microchipping of livestock in  
5 particular horses. It's in the Thoroughbred Times a  
6 couple days ago, January 17th. Thank you.

7 MR. SHAPIRO: Thank you, Dr. Jenson. And I  
8 think it is terrific that we are going to get this  
9 pilot project off the ground. I do think that now it  
10 is new news, at least to me, that there is some  
11 matching funds to help get the program set. And I  
12 think that we should see a complete business plan for  
13 lack of other.

14 And as you know, we are moving to try to  
15 replace you which will be hard to do as a Medical  
16 Director. But I think that in that process we should  
17 involve also the new employment director to oversee  
18 this and work to get this program moving. And so, I  
19 just want to thank you for your work, and thank you  
20 on this.

21 MR. HARRIS: Go ahead.

22 MR. CASTRO: My name Richard Castro, I  
23 represent Pari-Mutuel Employees Guild Local 280.  
24 Going back to the Internet discussions I just want to  
25 say -- the ADW stuff?

1 MR. SHAPIRO: Yes.

2 MR. CASTRO: I just want to say that I  
3 found those presentations very educational, very  
4 informative, and I want to thank my friends in the  
5 racing industry for the presentation that they put  
6 on.

7 The only thing I want to leave you with is  
8 I want to make sure that in your efforts to solve  
9 these problems that we get included in the process  
10 rather than excluded. That is all. I'm being nice.  
11 Black Mold.

12 MR. SHAPIRO: Mr. Castro, don't Black Mold  
13 me.

14 MR. CASTRO: I'm going to Black Mold you.

15 MR. SHAPIRO: No, you will be included.  
16 You should be included. We all are well aware of  
17 your position.

18 MR. CASTRO: You know, I got pretty hot.  
19 I'm going to take my jacket off.

20 MR. SHAPIRO: Does anybody else have  
21 anything --

22 MR. CASTRO: Black mold. I do have  
23 something on Black Mold.

24 MR. SHAPIRO: No, relax.

25 MR. CASTRO: No, no. It's a good one.

1 Your gentleman here, Ken Labey, I believe his name  
2 is. We've had a talk, and he's agree to include us  
3 in the process in the future. And for that, I want  
4 to say thank you to the CHRB staff and commissioner.  
5 God Bless You.

6 MR. SHAPIRO: Thank you. And have a nice  
7 Christmas, Santa.

8 MR. JAMGOTCHIAN: Commissioner, Jerry  
9 Jamgotchian.

10 MR. SHAPIRO: Before you start, I'm going  
11 to ask that -- we will listen to whatever it is you  
12 choose to speak on so long as it does not involve any  
13 matter where a complaint or any litigation or  
14 investigation is taking place. We are not allowed to  
15 hear that, okay.

16 So, if you want to address us on some  
17 general subject that is not part of any specific  
18 subject which is currently being dealt with by this  
19 Board or any part of this Board, that is what we can  
20 hear.

21 If what you're hear to address us about is  
22 something that is part of an investigation,  
23 litigation, or complaint we are barred from listening  
24 to it.

25 MR. JAMGOTCHIAN: You don't hear complaints

1 from people with regards to Board matters; is that  
2 what you're telling me?

3 MR. SHAPIRO: We -- understand something.  
4 You have timed actions, which bar us from hearing  
5 them.

6 MR. JAMGOTCHIAN: The actions are against  
7 the CHRB.

8 MR. SHAPIRO: I will turn to our Deputy  
9 Attorney General, who we have to rely on. I simply  
10 want to make sure that we are not --

11 MR. JAMGOTCHIAN: I accept that. The CHRB  
12 has not been sued by me at all.

13 MR. SHAPIRO: I believe -- Mr. Knight, if  
14 you would please advise us, I'm aware that there is a  
15 lawsuit that is pending against one of the people  
16 that we license. And there is various communication.  
17 There are allegations being made against some of our  
18 staff with respect to production of documents. I  
19 don't want to go into an area that would be improper.

20 MR. KNIGHT: Mr. Jamgotchian is represented  
21 by counsel -- the defendant in a lawsuit -- is being  
22 sued. He's represented by our office, by the  
23 Attorney General's office.

24 And my advice to you would be that you not  
25 have any discussions with Mr. Jamgotchian about any

1 of this relating -- anything to do with the complaint  
2 he's made, a complaint about one of your stewards,  
3 which is a potential disciplinary issue, which could  
4 come before this Board.

5           And you have a lawsuit pending against one  
6 of your agents, and you should not be in  
7 communication with him. You're both represented by  
8 counsel. If the counsel has some discussion, they  
9 should have it with each other. The client should  
10 not be out in front of his Board trying to push some  
11 point that he may have that really pertains to his  
12 complaint against Mr. Slender.

13           MR. JAMGOTCHIAN: I'm not pushing anything  
14 with regards to Mr. Slender. I'm hear to address the  
15 Board on some concerns that I have. And that's  
16 specifically what it's about. Plus, I have an answer  
17 for you on your ADW procedures.

18           Let me give this to you, and then I'll  
19 provide you --

20           MR. KNIGHT: If this has to do with your  
21 lawsuit or complaints give that to your attorney and  
22 ask him to give that to the attorney that's  
23 representing Mr. Slender.

24           MR. JAMGOTCHIAN: You can wish to review it  
25 or not, I have the opportunity here, and I will

1 explain to you --

2 MR. SHAPIRO: No, you don't have the  
3 opportunity. That's what we're trying to tell you.

4 MR. JAMGOTCHIAN: I have the opportunity to  
5 address the Board. I'm not asking to say anything --

6 MR. SHAPIRO: We can cannot hear it.

7 MR. JAMGOTCHIAN: You don't even know what  
8 I'm addressing.

9 MR. SHAPIRO: Just give us the assurance it  
10 has nothing to do with any of the matters that we've  
11 been referring to.

12 MR. JAMGOTCHIAN: It has nothing to do with  
13 my litigation with Mr. Slender.

14 MR. SHAPIRO: Okay. And any matters --

15 MR. JAMGOTCHIAN: Well, what matters are  
16 you talking about? Let me make my presentation, if  
17 you feel there's something off balance, you can  
18 address it. The first question I have is of horse  
19 owners why I'm here.

20 I'll give you the answer to the ADW  
21 question. This whole matter has been gone through  
22 many, many times with regards to exclusive contracts  
23 for revenue collection. Waste management has  
24 exclusive contracts throughout many cities in the  
25 United States.

1           Interestingly enough, the cities now,  
2 Beverly Hills is a classic example, doesn't have  
3 exclusive contracts anymore. What they have now are  
4 franchises. Now, when the racing board -- I'm was  
5 interested in listening, but was there ever a right  
6 to anybody like TVG in giving them the right to  
7 assign their rights to the rights that they have?

8           I mean, you allow people to sublease their  
9 rights. Is that something that is authorized under  
10 the agreements? It seems to me that if -- in this  
11 particular case the trash franchisee, I can't  
12 franchise my trash service in the City of Beverly  
13 Hills. I have to do it myself.

14           By allowing TVG to franchise, or  
15 sublicense, or create agreements to generate money,  
16 the people that have misstepped here are the people  
17 that made the contact.

18           So, if somebody in this agency could look  
19 at a trash company model, they'd see that the  
20 industry now is not exclusive. It is directly a  
21 franchisee or sublease payments directly to the  
22 entity that has, in this particular case, the trash.  
23 So, maybe your staff could consider that.

24           MR. SHAPIRO: Thank you.

25           MR. JAMGOTCHIAN: And allowing them to sign

1 their rights it ridiculous. And speaking about  
2 ridiculous, speaking as a horse owner now. I have a  
3 hundred race horses. This is a very serious business  
4 to me. What occurred to me at Del Mar race track,  
5 you've all become aware of, you've read the lawsuit.

6 My basis here is integrity of the racing  
7 Board and the people that administrate the rules.  
8 Now, we have circumstances going on currently where  
9 I've made public records requests as a citizen can do  
10 to govern an agency.

11 The people that are providing the documents  
12 are not providing the documents they have. They're  
13 withholding the documents interestingly enough. Now,  
14 as that package contains there is clear evidence that  
15 we have a signed declaration by a former associate  
16 steward who said that she sent six email  
17 communications to Ms. Fermin. Ms. Fermin's office,  
18 Ms. Rose, Ms. Ross rather, has said no such  
19 communications exist.

20 MR. SHAPIRO: Okay.

21 MR. JAMGOTCHIAN: This has nothing to do  
22 with the lawsuit.

23 MR. SHAPIRO: MR. Jamgotchian, it does.

24 MR. JAMGOTCHIAN: It does?

25 MR. SHAPIRO: I've read -- please

1 understand

2 MR. JAMGOTCHIAN: -- Public Records Act.

3 MR. SHAPIRO: I understand. Okay.

4 MR. KNIGHT: It's clearly related.

5 MR. SHAPIRO: It is related to the case.

6 You are asking for this information related to your  
7 case. We cannot hear it, okay? I suggest --

8 MR. JAMGOTCHIAN: Let me ask a general  
9 question.

10 MR. SHAPIRO: Let me finish. Have your  
11 attorney contact our attorney. That is the proper  
12 course of communication.

13 MR. JAMGOTCHIAN: The first issue I --

14 MR. SHAPIRO: Please have him do that, and  
15 then you will get a response.

16 MR. JAMGOTCHIAN: Don't worry. There will  
17 be discovery propounded with regards to that. I'm  
18 asking you as the Board, does the Board respect the  
19 Public Records Act? Simple question, does it wish to  
20 follow the Public Records Act?

21 Does it wish to designate its employees and  
22 request its employees to follow the Public Records  
23 Act? That's the question. If it doesn't, then that's  
24 fine.

25 MR. SHAPIRO: But the Board at all times

1 wants to adhere to all of the regulations and the  
2 acts that we are governed by.

3 Now, having said that, with respect to what  
4 you're dealing with, it is related to your lawsuit.  
5 I appreciate that you have invested so much money in  
6 horse racing, and I appreciate all that. I'm simply  
7 asking you to please have your attorney deal with our  
8 attorney so that we can properly adjudicate or deal  
9 with the issues at hand. You are going about it  
10 wrong.

11 MR. JAMGOTCHIAN: Mr. Knight just totally  
12 spoke in something that we aren't even aware of. Up  
13 until this morning at 10:00, nobody from the State  
14 had contacted by attorney with regards to Mr. Slender  
15 at all.

16 So, if the State is going to pick up  
17 representation for Mr. Slender, that's wonderful.  
18 We'd like to communicate with the State. The State  
19 has not addressed a defense from Mr. Slender.

20 MR. SHAPIRO: Again, please have your  
21 attorney contact Mr. Knight. Can we just leave it at  
22 that?

23 MR. JAMGOTCHIAN: We will as soon as  
24 Mr. Knight advises us that he's representing  
25 Mr. Slender.

1           MR. SHAPIRO: I suggest that your attorney  
2 contact Mr. Knight, and he can find out what  
3 Mr. Knight's staff says, who he represents, who he  
4 doesn't, what all the facts are. Please address this  
5 to Mr. Knight.

6           MR. JAMGOTCHIAN: We'll wait to see who  
7 answers the Complaint.

8           MR. SHAPIRO: Is there anything else?

9           MR. JAMGOTCHIAN: Yes, there is with  
10 regards to another issue that I sent. It's in the  
11 document clipped. I requested a copy of the rules,  
12 which the condition --

13          MR. KNIGHT: This all relates to his  
14 lawsuit.

15          MR. JAMGOTCHIAN: The rules of racing --

16          MR. SHAPIRO: Okay. Mr. Jamgotchian --

17          MR. JAMGOTCHIAN: -- racing office --

18          MR. SHAPIRO: Do you need a set of rules?

19          MR. JAMGOTCHIAN: Yes, I would like a set  
20 of rules.

21          MR. SHAPIRO: Okay. You give me a business  
22 card or address, and I will make sure that somebody  
23 from our office sends you a set of rules you need.  
24 Is there anything --

25          MR. JAMGOTCHIAN: Ms. Fermin told me

1 there's no rules. There haven't been for two years.

2 MR. HARRIS: The issue is, the rules are on  
3 our website. I think the actual book of rules may  
4 not have been published, but it's all there.

5 MS. FERMIN: It hasn't been for, I believe,  
6 two years. The updated rules are on the website with  
7 all changes and amendments.

8 MR. HARRIS: So, everything is available to  
9 the public.

10 MR. KNIGHT: Again, this is a matter -- a  
11 formal matter that's pending. There is going to be  
12 formal response to his request. This is not  
13 something that should be taken down here. It's not  
14 on your agenda.

15 MR. JAMGOTCHIAN: First off, with regards  
16 to --

17 MR. SHAPIRO: Unless there is anything  
18 totally unrelated to this --

19 MR. JAMGOTCHIAN: Yes, there is with  
20 regards to the rules. How do the trainers know what  
21 the rules are if there are no rule books available at  
22 the CHRB office? It says in the condition book that  
23 there -- is this current? Thank you. I appreciate  
24 that.

25 MR. SHAPIRO: Thank you.

1 MR. JAMGOTCHIAN: That's good. That's all  
2 I ask.

3 MR. SHAPIRO: Right. Thank you very much.

4 MR. JAMGOTCHIAN: One other issue. With  
5 regards to more investigation. Is there a case  
6 that's open?

7 MR. SHAPIRO: Okay. Excuse me. I don't  
8 know -- if the more investigation has anything to do  
9 related to anything that you have a claim against us  
10 or an agent of us, if that's what you're referring  
11 to, I suggest your counsel please contact our  
12 counsel. It's the proper method of communication.

13 Mr. Jamgotchian, I really hate being heavy  
14 handed with you.

15 MR. JAMGOTCHIAN: No, it's fine.

16 MR. SHAPIRO: It's not fine. You are an  
17 owner. You deserve to be respected. But you are  
18 putting us in the -- position. Please don't do that.  
19 Okay.

20 You deserve every day in court that you  
21 want. I have no problem with your pursuing anything.  
22 Do as you feel is in your best interest.

23 MR. JAMGOTCHIAN: I have done that.

24 MR. SHAPIRO: Stay an active participant in  
25 California racing. But please understand, the

1 position that we're in, we're forced to take this  
2 position. So, please stop and have your counsel  
3 contact our attorney.

4 MR. JAMGOTCHIAN: But you aren't forced to  
5 have your employees violate the Public Records Act.

6 MR. SHAPIRO: I'm going to adjourn the  
7 meeting now. If there is not anything else that  
8 needs to come before the Board?

9 MR. JAMGOTCHIAN: Thank you.

10 Mr. SHAPIRO: There being none, I adjourn  
11 the meeting. Thank you.

12 (Meeting concluded at 2:30 p.m.)

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