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CALIFORNIA HORSE RACING BOARD

REGULAR MEETING

Thursday, January 20, 2005  
9:05 A.M.

ARCADIA CITY COUNCIL CHAMBERS  
240 West Huntington Drive  
Arcadia, California

BOARD MEMBERS PRESENT:

- JOHN C. HARRIS, Chairman
- WILLIAM A. BIANCO, Commissioner
- SHERYL L. GRANZELLA, Commissioner
- MARIE G. MORETTI, Commissioner
- JERRY MOSS, Commissioner
- RICHARD B. SHAPIRO, Commissioner

Reported by: NEALY KENDRICK, CSR 11265  
Job No.: 05-27154

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A G E N D A (continued)

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13. Executive Session (continued)

- A. Personnel
- B. Board may convene an Executive Session to consider any of the attached pending litigation.
- C. The Board may also convene an Executive Session to consider any of the attached pending administrative licensing and disciplinary hearings.
  - (1) Discussion of procedures to review and act on recommended decisions by the Administrative Law Judge.

1           ARCADIA, CALIFORNIA; THURSDAY, JANUARY 20, 2005

2   9:05 A.M.

3

4           CHAIR HARRIS: Before opening the meeting of  
5 the CHRB at the Arcadia City Hall, what we're going  
6 to do is now adjourn into executive session. And we  
7 will be back here in probably about 25 minutes to get  
8 the regular agenda started, try to move it along.

9                                    Could we clear this room? 'Cause we  
10 have to do the executive session in this room. Okay.  
11 Thank you.

12                                   (Executive Session: 9:07 - 9:35 A.M.)

13           EXECUTIVE DIRECTOR FERMIN: Ladies and  
14 gentlemen, I'd like to ask that the meeting come to  
15 order. This is a regular meeting of the California  
16 Horse Racing Board on Thursday, January 20 -- excuse  
17 me -- 2005, at the Arcadia City Hall Council Chambers  
18 at 240 West Huntington Drive in Arcadia, California.

19                                   Present at today's meeting, we have  
20 Chairman John Harris, Vice-Chairman William Bianco,  
21 Commissioner Sheryl Granzella, Commissioner Marie  
22 Moretti, Commissioner Jerry Moss, and Commissioner  
23 Richard Shapiro.

24                                   Before we go on to the business of the  
25 meeting, I'd like to ask everyone to please state

1 your name and organization clearly for our court  
2 reporter before any business and, if you have a  
3 business card, please give that to the person prior  
4 to your speaking.

5 Mr. Chairman?

6 CHAIR HARRIS: I'd like to also welcome  
7 everybody. And I'd particularly like to welcome our  
8 new Executive Director Ingrid Fermin, who has really  
9 been on the job just for a few weeks and has really  
10 been able to hit the ground running and brings a  
11 great resume and a lot of experience to the job and I  
12 think's going to be an excellent executive director  
13 for the Racing Board. And I'm sure that all of you  
14 will enjoy working with her.

15 Our first item is the minutes of the  
16 December 2 meeting. Any changes to those?

17 (No audible response.)

18 COMMISSIONER MORETTI: I would move we adopt  
19 those minutes.

20 CHAIR HARRIS: Okay. It's been moved to  
21 adopt. Any second?

22 VICE-CHAIR BIANCO: Second.

23 CHAIR HARRIS: All in favor?

24 COMMISSIONERS' VOICES: Aye.

25 CHAIR HARRIS: Those are adopted.

1                   Okay. Keep in mind, too, I guess all  
2 of you get the packages, but you can also get the  
3 package on our website that has both the transcript  
4 and the minutes. If there's anything in the minutes  
5 that you have concerns about or feel it didn't state  
6 what happened very well, be sure to let us know, you  
7 know, in advance of the meeting.

8                   Okay. Next, we have a discussion and  
9 action on the proposed policy recommendations of the  
10 NTRA Players Panel.

11                  MR. REAGAN: Commissioners, John Reagan, CHRB  
12 staff.

13                   As you can see in the package, we've  
14 included the report from the Players Panel. And the  
15 information, the suggestions, the recommendations in  
16 that package are extensive. Certainly nothing we can  
17 take on today.

18                   So we recommend that we work with the  
19 various committees at the Board and decide which  
20 committees -- probably the Pari-Mutuel will take on  
21 quite a few of these -- but review those and decide  
22 at what meetings and what time we can then get into  
23 these subjects, which are, like I say, far reaching  
24 and discuss them at the proper level and depth.

25                   But that's our recommendation today.

1           CHAIR HARRIS: Yeah. I agree it's going to  
2 take some time to really get into these. But I do  
3 want to commend the Panel for a great job of putting  
4 all the things together, most of which I agree with.

5                       And I think a lot of work went into  
6 this, and this is the sort of thing we need to really  
7 pursue. I don't want to see this get, you know,  
8 swept under the rug and not acted on.

9                       I think we can't do that much today,  
10 but we want to decide, in the near future, what  
11 things we can easily do and what things are going to  
12 require rule changes or what things we maybe  
13 wouldn't want to do.

14                      But I think "Jim Quinn," (phonetic)  
15 from the Panel, is here. And he had asked if he  
16 could make a few remarks of generally what the scope  
17 of the study was.

18           MR. "QUINN": Jim Quinn. I'm an NTRA Players  
19 representative. And I'm here at the invitation of  
20 "Rob Charles" (phonetic), the executive director of  
21 Magna Entertainment Corporation. And the remarks I'm  
22 making really are not personal remarks. They  
23 represent the work of the NTRA Players Panel.

24                      The Panel was formed in the aftermath  
25 of the 2002 Pick 6 scandal. And the idea was to

1 recommend to the NTRA and to the broader industry,  
2 any irregularities in the pari-mutuel wagering  
3 systems across the country and recommendations for  
4 reform.

5                   We looked at a lot of areas. We  
6 looked at the late mergers of the pools, the  
7 integrity of the pools and the late mergers. A lot  
8 of information, a lot of data was coming in after the  
9 horses had left the starting gates. And odds were  
10 dropping after the horses left the starting gates.  
11 And this was the most serious problem that we  
12 encountered among the players in the country.

13                   We looked at take-out flexibility. We  
14 looked at the integrity of the entries, late  
15 scratches. We looked at the transfer of wagers to  
16 favorites in Pick 3 and Pick 4 and Pick N wagering  
17 and the use of alternates in Pick 6 wagering; Pick 3,  
18 Pick 4 wagering.

19                   As we said, we had 66 recommendations.  
20 A subset of them -- approximately a dozen to 18 --  
21 had regulatory implications. And I wanted to talk  
22 about one or two today and just get an update, if I  
23 could, from the Board or from the tote companies  
24 because this involves the processing of the wagering  
25 data and the transmission of data from the hubs to

1 the host tracks and the posting of the data for  
2 public.

3                   And if I could, I'd liked to read the  
4 recommendations our Panel made on the integrity of  
5 the pools and the late mergers of the simulcast pools  
6 from the guest tracks to the -- the guest sites to  
7 the host tracks.

8                   And there are 6 of them. There are a  
9 half dozen of them. And if I could, I'd just like to  
10 read them and then ask for an update on maybe what's  
11 been done in California by the tote companies.

12                   The first is that final two data-  
13 processing cycles should be "10 to 15 cycles" instead  
14 of the standard 30-to-45-second cycles.

15                   The second is that we would "force-  
16 cycle" the win pool every 10 seconds following the  
17 off time so that the public would, at least, be  
18 advised, 10 seconds after the start of the race, what  
19 the exact odds were. And this should be done for  
20 every 10 seconds following the start of the race up  
21 till about 30 seconds after the starts of the races.

22                   The third was we should eliminate the  
23 cancellation times at all host and guest sites.

24                   The fourth was to transmit the win  
25 data and the exacta pool data to the host prior to

1 the aggregated pools. One of the problems were that  
2 the tote companies were waiting till all the  
3 pari-mutuel pools were aggregated at the hubs before  
4 transmitting the data to the host tracks.

5                   And, in preference to that, we'd like  
6 to see the win data and the exacta data  
7 transferred -- transferred, first, so that the public  
8 would, at least, be updated on the final win odds and  
9 the exacta probables in preference to the other  
10 pools.

11                   Another was to post the odds changes  
12 to the simulcast networks either prior to posting it  
13 to the tote boards or at least simultaneously with  
14 posting it on the tote board -- the tote boards.  
15 Approximately 80, 85 percent of the handle now  
16 occurs at the simulcast sites.

17                   And a lot of the bettors are  
18 complaining that they're not getting updated odds  
19 simultaneously to the public on-track.

20                   And, finally, no late mergers should  
21 occur more than 30 seconds following -- following the  
22 off-times. There have been a number of instances  
23 where pools have been merged 45 seconds after the  
24 off-times and, in some cases, even after the races --  
25 races have been completed.

1                   At the International Simulcasting  
2 Conference in September of 2003 in San Francisco, I  
3 shared the dais with all the tote companies. And  
4 each of the tote companies was on record that each  
5 one of these changes was feasible and might be  
6 implementable within a period of three to six months.

7                   And so far, a lot of this has not  
8 happened. I'd just like to get an update from either  
9 the Board or the tote companies as to where we are  
10 and what we can expect on these changes maybe in the  
11 near future.

12                   John?

13                   CHAIR HARRIS: Thank you.

14                   I think this would be a good one just  
15 to have a short discussion on this aspect 'cause this  
16 is kind of the heart of the report, as far as things  
17 we could do fairly easily, hopefully. But do we have  
18 anyone here from the tote company to explain where  
19 they are on some of these recommendations?

20                   MR. "QUINN": The background of this is that  
21 odds have been dropping, sometimes precipitously,  
22 after the horses have left the starting gates. And  
23 it creates a perception of past-posting -- that a lot  
24 of bettors are betting after the off-times.

25                   Our Panel looked into this

1 extensively. And we found no evidence of past-  
2 posting.

3                   But there are a number of players in  
4 the country that are using computer models of the  
5 handicapping process, and they're able to make large  
6 bets and a large number of bets in the final seconds  
7 leading up to the off-times and even following the  
8 off-times.

9                   And reducing the data-processing  
10 cycles from 30 to 45 seconds to 10 to 15 seconds  
11 would at least ameliorate this problem. And "force-  
12 cycling" the win pool every 10 seconds after the  
13 off-times would at least advise the public of what 95  
14 to -- 95 percent of the pool -- what the final odds  
15 are.

16                   And, if we could eliminate the  
17 cancellation times, that would eliminate the ability  
18 of large bettors to come in, in the 4 to 6 to 8  
19 seconds following the off-times, to make large wagers  
20 that would affect the odds and drop the odds on a  
21 number of horses.

22                   Dave?

23                   MR. PAYTON: I'm Dave Payton with Scientific  
24 Games Racing. I did spend some time with Jim and Ron  
25 to kind of talk about this issue and kind of, you

1 know, just to help give everybody a little bit of  
2 insight as to what's been going on over the last few  
3 years.

4                   It really started a little bit before  
5 the Breeders' Cup Pick 6 scandal. The "TRA 20-20"  
6 (phonetic) Committee has been looking into these  
7 issues for a long time -- the issue of displays  
8 updating late and whatnot and changing after the  
9 horses have finished and whatnot have been issues  
10 that everybody's tried to look at.

11                   So there's been a laundry list of  
12 items that we have tried to address.

13                   The first thing that they tried to do  
14 was to just see if the tote companies could increase  
15 the cycle times. Typically, it's always been a  
16 60-second cycle that the totes updated to do  
17 everything it has to with reports and displays.

18                   And it -- we thought that, if we could  
19 just speed up that process, then we'd be able to get  
20 to a point where the displays would get updated  
21 faster and the whole system would, hopefully, operate  
22 faster.

23                   Unfortunately, trying to reduce that  
24 60 seconds to some number less didn't prove -- it  
25 proved that the system was running out of time to do

1 everything it needs to do.

2                   So Scientific Games was able to reduce  
3 their cycle time to 45 seconds. That's what's been  
4 implemented in California and many other sites around  
5 the country. Some of the other companies were able  
6 to get down to 30 seconds. Our system -- I don't  
7 think that they were able to get any lower than that.

8                   So when we realized that, we realized  
9 that we were still always going to be at a 30-second  
10 window for changes to display information. So the  
11 next step was look at, "Well, what can we do to  
12 update displays differently?"

13                   So one of the tote companies suggested  
14 that "Why not, after the pools have closed and pool  
15 information has started to be retrieved, why not take  
16 advantage of updated win odds, exacta information,  
17 and post that, as you can, so that you can try to  
18 keep those odds from changing dramatically, you know,  
19 a good number of minutes or seconds after the race?"

20                   So what we introduced was something  
21 called the "Fast-Final Display," which is a -- what  
22 happens now is, at stop-betting, we request all  
23 finals to start coming in and with -- after 15  
24 seconds, whatever information's been received by the  
25 tote company, we go ahead and post -- do a display

1 update so the odds will be updated at that 15-second  
2 interval.

3                   If there are still pools that are  
4 coming in, then they'll be updated in the next 15  
5 seconds and so on, until all the pools are final.

6                   Now, what happens was it turns out  
7 that the 15 seconds was kind of a starting point that  
8 the "TRA 20-20" asked us to implement. Talking to  
9 Jim and Ron, we've looked into going down to a 10-  
10 second update so that the update will be quicker.

11                   We've looked at the time that it takes  
12 to get win pool information. And on our "Fast  
13 Systems," we now can -- we've, you know, been able to  
14 get to in between 5 and 10 seconds. We can typically  
15 get most of the final win pools -- the single  
16 pools -- "single-leg pools" in place so that we could  
17 update.

18                   So we think that, on a 10-second  
19 basis, we might be able to be able to show the  
20 information as -- more accurately. You might have  
21 another -- after another 10 seconds, if all the pools  
22 aren't final, you'll have another update. So it will  
23 keep doing the update, now, to get odds updated  
24 quicker to whatever the final will be.

25                   So that's been something that we've

1 implemented. We have it at 15 seconds in the tote  
2 system now here in California. And we'll go ahead  
3 and look into the 10-second update.

4 The --

5 CHAIR HARRIS: Is that normally clear  
6 though -- if that's just Scientific Games, which I  
7 guess is AutoTote, do other tote companies -- 'cause  
8 it's only as strong as --

9 MR. PAYTON: The other tote companies have  
10 agreed to that as well. Actually United Tote has  
11 implemented the same feature on all their systems.

12 AmTote does their displays a little  
13 bit different. They say that they don't do that type  
14 of an update, but they do an update that then can get  
15 their final odds within 10 to 15 seconds as well.

16 So all the tote companies have done  
17 something to address that issue.

18 MR. "QUINN": And that 10-second update  
19 following the off-times, David -- what percentage of  
20 the pools do you think that reflects?

21 MR. PAYTON: Right now, we're thinking that  
22 it's probably about 90 percent of the -- 90 percent  
23 of the win pools will be in place within that first  
24 10-second period.

25 CHAIR HARRIS: How much would be between,

1 basically, the time the gate opens and 10 seconds  
2 they're in place? Is that significant amount of  
3 money coming in?

4 MR. PAYTON: It will be if, dependent upon,  
5 obviously, the site -- obviously, always at that last  
6 minute, you're getting a significant amount of  
7 wagering at all pools. So that's going to be -- that  
8 first rush is going to be probably the biggest jolt.

9 There are -- the two issues that still  
10 are out there that Jim mentioned was the "close-  
11 cancel delay" and "double-hops."

12 "Close-cancel delay" is a feature  
13 that's in the system that allows a teller some number  
14 of seconds to be able to cancel a bet if a patron  
15 walks away or whatever. It's a feature that's in the  
16 system that can be turned off. It's been turned off  
17 in a number of jurisdictions.

18 But, whatever, that close-cancel delay  
19 is going to delay that 10 seconds. That instantly  
20 makes it 14 seconds, with that 4-second delay that  
21 we've got.

22 Secondly is the "double-hop" issue.  
23 Both of these are things that the "TRA 20-20"  
24 Committee has looked into as well. And the "double-  
25 hop" issue is where we have multiple systems in a

1 state where pool information has to be consolidated  
2 in one place before it can be sent out to another  
3 state or vice versa.

4                   It looks like, right now, there's only  
5 three places that still do double-hop. California,  
6 unfortunately, is one of them. Florida and Arizona,  
7 I think, are the other two.

8                   We've looked into ways where -- it's  
9 Scientific Games's responsibility to show the tracks  
10 that we can put together a system that could  
11 eliminate the double-hop requirement. And, you know,  
12 we're aggressively working on that, trying to put  
13 that proposal together for them as well.

14                   So those are things that the 20-20  
15 Committee has looked into and things that the tote  
16 company -- and the "double-hops," we can address.  
17 The "close-cancel delay" is something that kind of is  
18 beyond us.

19                   MR. "QUINN": Yeah. In the absence of the  
20 National Office of Wagering Security, which was the  
21 Number 1 recommendation that came out of the Wagering  
22 and Technology working group following the Pick 6  
23 scandal -- that office, ostensibly, was supposed to  
24 be staffed and operating in 2004. And it was  
25 supposed to develop protocols and standards that all

1 the tote companies and all of the local tracks and  
2 their simulcast sites would agree to.

3 That national office is still on the  
4 agenda, but it hasn't been staffed. It has not been  
5 operating.

6 And in the absence of that national  
7 office, it's increasingly important that the tote  
8 companies be pressed to meet with these Panel  
9 recommendations so that these late mergers of pools  
10 and the subsequent drops in odds, following the  
11 off-times, can, if not eliminated, at least can be  
12 minimized.

13 The other thing I'd like to talk about  
14 here that I think's important -- and I'd like to  
15 press the Board for action on this as quickly as  
16 possible -- in Pick 3 and Pick 4 wagering, the rules  
17 and regulations need to be revised. It's patently  
18 unfair to the bettors.

19 What happens now, in instances of late  
20 scratches -- the bettors' money is arbitrarily taken  
21 from horses they have wagered on and placed on the  
22 favorites when, in many instances, they're playing  
23 against the favorites.

24 Our recommendations -- and these have  
25 been implemented in New York; and they've been

1 implemented by Churchill Downs and by other tracks in  
2 the country but not in California -- I'd like to read  
3 a few of the recommendations:

4                   Following late scratches in Leg 1 --  
5 this is a Pick 3 or Pick 4 wagering -- refund money  
6 for all the declared combinations. So this would be  
7 a refund to the bettors if their horses are scratched  
8 late out of Leg 1 in Pick 3 and Pick 4 wagering.

9                   Following late scratches in the middle  
10 and final legs, provide consolation payoffs that  
11 combine the scratch horses and the winners in the  
12 other legs, similar to consolations that are provided  
13 in daily-double wagering.

14                   Where one part of an entry is a late  
15 scratch, the other half competes as a nonwagering  
16 interest for purse money only. And the bettors  
17 receive refunds and consolations in accord with the  
18 above situations.

19                   And then, Number 4, require alternates  
20 on bet cards for Pick 3 and Pick 4 wagering. And, of  
21 course, this would extend to Pick 6 wagering also.

22                   And I'd like to hear David comment on  
23 where the tote companies stand on providing  
24 alternates in Pick 6 wagering and in Pick 3 and  
25 Pick 4 wagering.

1                   But I also would like to press the  
2 Board for action on revision of rules and regulations  
3 for Pick 3 and Pick 4 wagering so that there would be  
4 refunds for late scratches in Leg 1 and consolation  
5 payoffs for late scratches in Leg 2 and 3.

6           MR. REAGAN: Commissioners, John Reagan, CHRB  
7 staff.

8                   As I indicated earlier, these are kind  
9 of complex issues. And I'm really not prepared to  
10 get into 'em today. I would much prefer to take care  
11 of them in a Pari-Mutuel meeting where we can all get  
12 together and have time to get a handle on these  
13 things before we start a discussion.

14           CHAIR HARRIS: Yeah. I think that's what we  
15 need to do. I just wanted to get some of this on the  
16 table so the Commissioners were familiar with some of  
17 the issues. And I don't know if any Commissioners  
18 would like to comment on this --

19           COMMISSIONER SHAPIRO: Yeah. I would like to  
20 comment, in that I very much embrace what you're  
21 suggesting. And I think that we should be looking --  
22 I don't think it's fair that people are moved on to a  
23 favorite in a extended wager.

24                   And I have asked staff. And staff is  
25 looking into -- looking at how New York is handling

1 it, in terms of either declaring a particular race as  
2 a "No Contest," if it's part of a late wager when a  
3 race is either moved to a different surface or having  
4 alternate picks when there's a scratch.

5 I think it's patently unfair. And I  
6 would like to see -- and I think Mr. Reagan is going  
7 to pursue this vigorously to try to adopt these.

8 MR. "QUINN": Yeah. I'm pleased to hear that  
9 because the Pick 4, for example, has become probably  
10 the most popular bet at the racetrack and involves  
11 picking a combination of horses in each of four  
12 consecutive races.

13 And these are large wagers for a  
14 number of your regular customers. And, for example,  
15 if you can see a \$200 Pick 4 ticket in which you have  
16 one horse in a particular race and that horse is  
17 scratched and that money is arbitrarily taken from  
18 that horse's number and placed on the favorite --  
19 that's blatantly unfair to the bettor.

20 And the bettors are losing literally  
21 thousands and thousands of dollars on these kinds of  
22 wagers. And it creates -- it creates a perception of  
23 larceny. And it creates a lot of anger and a lot of  
24 discontent.

25 COMMISSIONER SHAPIRO: Item Number 7 on our

1 agenda is, in fact, to get an update on the status of  
2 alternate-selection options so that we can have --  
3 and we're hoping here today -- the status of being --  
4 allowing bettors to have alternate picks on cards.

5 MR. "QUINN": Okay.

6 COMMISSIONER SHAPIRO: So I'm hopeful that  
7 we're going to hear that that can be done.

8 CHAIR HARRIS: We'll do that. And then some  
9 of this, as John Reagan pointed out, we've got to  
10 really get into in a Pari-Mutuel committee.

11 I do want to get something set up, you  
12 know, quickly on this Pari-Mutuel committee and  
13 invite all of you to participate. Anybody on the  
14 Board, whether they're on the committee or not, can  
15 surely get input into it.

16 Some of the things, I think, are  
17 things that would require some rule change; and some  
18 of 'em are things that are -- basically the tracks  
19 would need to do on their own -- I guess we could  
20 compel them to do through the licensing process.

21 COMMISSIONER SHAPIRO: Right.

22 CHAIR HARRIS: But, hopefully, there's an easy  
23 way to get there with some of this. And I don't  
24 know. There might be some things that we couldn't do  
25 right away. But I sure don't want to have some

1 technology hold us up too long.

2 COMMISSIONER MORETTI: John, I just --

3 Mr. Peyton, I just have a quick  
4 question. Maybe, actually, it's just for -- maybe  
5 for John Reagan too. But I understand, in terms of  
6 Part 1, we have -- the technology is there so that we  
7 can get moving further down.

8 But in terms of costs and making those  
9 changes, is this -- do the tote companies bear that  
10 cost? Do the tracks bear that cost?

11 And then, also in terms of the bottom  
12 line, is it -- would it be up to the CHRB to  
13 implement the suggested changes? Or you said, state  
14 by state, they're doing it. But you also mentioned  
15 Churchill Downs is doing it.

16 And so are you saying that, track by  
17 track --

18 MR. "QUINN": Well, it's a state-regulated  
19 industry. And these panel recommendations were  
20 distributed to all the regulatory boards, to all the  
21 NTRA-member tracks. And so the changes are occurring  
22 kind of in an incremental way, in a piecemeal way.

23 For example, in this Pick 3, Pick 4  
24 wagering, New York's been ahead of the curve.  
25 They've been offering refunds on late scratches for

1 Leg 1 and consolation payoffs for Legs 2 and 3.

2 In fact, Steve Crist is here. He's a  
3 simulcast bettor out of New York. He's also a  
4 publisher and chairman of the Daily Racing Form. And  
5 I'd like him to comment on this and any other of  
6 these issues that he'd like to.

7 So this varies from state to state. I  
8 think there are costs involved in the tote companies.  
9 They have to alter their software to provide these  
10 kinds of changes. What those costs are, I don't  
11 know.

12 David?

13 MR. PAYTON: What we always do is we try to  
14 work with, obviously, the existing tote agreements  
15 that are in place with each of the different tracks  
16 around the country so that, if there is a way that we  
17 can compensate some of the efforts that we put into  
18 it, obviously we try to negotiate that.

19 We've been working -- all the tote  
20 companies have been working together with the TRA --  
21 first the 1995 committee and now the "2020"  
22 Committee. And a lot of the recommendations that  
23 come out are just part of every -- all the tote  
24 companies' R and D budgets.

25 There are some programs that are

1 pretty elaborate and far reaching. There's a new  
2 wagering-transaction protocol that's been talked  
3 about that is meant to replace the way that the  
4 systems interact today.

5 That's something that's going to be  
6 very, very expensive to implement for all the tote  
7 companies. And we're not sure at this point, I  
8 guess, how that will be addressed.

9 But, in general, the tote companies  
10 cover as much of this as we can under our existing  
11 R and D budgets and/or if we need to -- or if we can,  
12 we take advantage of the language that's in our tote-  
13 service agreements, whether it's contracted  
14 programming hours or some fee that would be assigned.

15 COMMISSIONER SHAPIRO: Well, I don't think we  
16 should be -- the cost of doing this should really be  
17 the issue here. The issue is that the betting public  
18 deserves to wager on who they intend to wager and the  
19 software has to accommodate that. I mean we've had  
20 these problems, and they've been lingering, and there  
21 hasn't been action on them. I agree with you.

22 And I think this late posting of odds  
23 is horrible. And there has to be an answer to that.  
24 We have to be able to allow alternate pick  
25 selections. And I really encourage us to move

1 forward on this quickly.

2 MR. PAYTON: Or I could talk about alternates  
3 now, if you'd like. I know it's on the agenda --

4 CHAIR HARRIS: Well, I think we're doing  
5 another -- that's going to be another item when we  
6 get to that. But I'd like to keep this moving along  
7 because we do have a pretty lengthy agenda.

8 But I don't know if there's anybody in  
9 the audience who had any just short comment they'd  
10 like to make?

11 MR. "QUINN": I'd like to ask Steve to comment  
12 on --

13 CHAIR HARRIS: Yeah.

14 MR. "QUINN": -- New York's changes on Pick 3  
15 and Pick 4 wagering 'cause they've been using the  
16 protocols that exist with their tote companies and  
17 they've been able to implement these changes. So has  
18 Churchill Downs.

19 CHAIR HARRIS: Yeah. That would be great.

20 MR. CRIST: Steven Crist, C-r-i-s-t, publisher  
21 and chairman of the Daily Racing Form, a newspaper I  
22 trust you're familiar with.

23 I really just wanted a couple minutes  
24 of your time, first, to commend the Players Panel's  
25 recommendations and to give you a sense of how much

1 the betting public cares about these issues. I was  
2 initially invited to be part of the Panel.

3                   And I declined so that I could keep my  
4 journalistic objectivity about it and tear it apart  
5 if I thought they did a bad job. I think they did a  
6 terrific job. You know how easy it is to get horse  
7 players to agree on something. You can see it on the  
8 tote board every day.

9                   But, you know, we ran an on-line poll  
10 after Jim's report came out. And our on-line  
11 polls -- I mean, we could ask people what they  
12 thought of a motherhood bill, and 25 percent of the  
13 people would be opposed to it.

14                   But when we asked them what they  
15 thought of the Players Panel's recommendations, we  
16 had 97 percent of our readers and on-line users  
17 endorsing it. And I do the same.

18                   A lot of these issues that Jim has  
19 addressed are things that have just bedevilled and  
20 frustrated your customers for years, if not decades,  
21 and that track management, not being full-time  
22 bettors or simulcast players, has not, perhaps, been  
23 sufficiently sensitive to in the past.

24                   But I think, you know, Jim's group --  
25 they conducted interviews with hundreds of players

1 from all strata and got all these issues out on the  
2 table. And I think they came up with the correct  
3 solutions to most of them.

4 I agree with Chairman Harris that I  
5 think you can probably bifurcate this process. Some  
6 of these issues are going to take a lot of time and,  
7 you know, kind of multi-departmental efforts to pull  
8 together.

9 Some of them, you really -- you could  
10 institute them tomorrow. They're just no-brainers.  
11 And I would second your idea to move on some of them  
12 very quickly. Some of them are simple policy  
13 decisions. And you could rectify years of injustice  
14 by putting them in tomorrow.

15 And, on a final note, I would tell  
16 you, as a simulcast player and as a New Yorker, that  
17 making these changes in New York has been wildly  
18 popular with the public.

19 And, in addition to just doing the  
20 right thing, I do think you have a business issue  
21 here because players are going to increasingly  
22 gravitate to betting on simulcast signals from  
23 jurisdictions where they do think they're getting a  
24 fair shake and they're going to play Pick 4's from  
25 the tracks where they're not arbitrarily switched

1 onto favorites.

2                   So for business reasons, as well as  
3 best-interests-of-racing reasons, I would really urge  
4 you to implement the easy ones as soon as possible  
5 and work hard on some of the tougher ones.

6           COMMISSIONER SHAPIRO: Thank you.

7           VICE-CHAIR BIANCO: Thank you.

8           MR. CRIST: Thank you.

9           MR. "QUINN": Thanks.

10          CHAIR HARRIS: Did Ron also have a comment?

11                   Why don't you let him go ahead?

12          MR. CHARLES: I know we're running a little  
13 bit over. I'd just like to echo that these are  
14 clearly the best recommendations I have ever seen.  
15 And I appreciate the Board taking the time to begin  
16 the process to try to implement these.

17                   I'd like to see California step up and  
18 be the first State to actually implement and impose a  
19 lot of these recommendations. They're very sound.

20                   Some of them are much more difficult.  
21 But in working with Jim, who'll make himself  
22 available -- I certainly will -- and any committee  
23 that you can form that we could begin working on --  
24 as I say, some of the easy ones -- there are some  
25 ones that, for whatever the reasons, just haven't

1 taken place.

2                                 And I think, from racing fans'  
3 standpoint, we could make some changes that would be  
4 applauded around the country. And I'd just like to  
5 see California step forward.

6                 THE REPORTER: Could you please identify  
7 yourself.

8                 MR. CHARLES: Ron Charles, MEC.

9                 THE REPORTER: Thank you.

10                 COMMISSIONER SHAPIRO: Is it possible for us  
11 to, perhaps, get some list of the easy ones where you  
12 divide the recommendations, Ron, into those that we  
13 believe we have the technology and the ability to do  
14 immediately and those that are going to require  
15 further study?

16                                 My concern is we're going to form a  
17 committee and, by the time the committee meets and by  
18 the time everybody gets together and makes  
19 recommendations and everything, this thing could end  
20 up being months out. And I would like to see if we  
21 could have this on our next agenda so that we could  
22 move to adopt things.

23                                 It seems that the process moves slow,  
24 no matter what we do. And so maybe there is a way  
25 that we could get a recommendation from you that

1 says, "Here are the things we would like to see  
2 immediately resolved," and we could be able to enact  
3 quickly.

4 MR. CHARLES: I think that's a great idea. I  
5 think David will tell you that Jim and I have spent a  
6 considerable amount of time going through a number of  
7 these recommendations. And some of the ones, that  
8 seem simple, aren't, once you get into the details.

9 COMMISSIONER SHAPIRO: Right.

10 MR. CHARLES: And I think your point is well  
11 taken. What I'd like to do is know who your  
12 committee will be comprised of. Jim and I will make  
13 ourselves available, working with David. And we're  
14 ready to start on these right away, come back to you  
15 next month with what we think we can address right  
16 now.

17 CHAIR HARRIS: Yeah. And I think, in the next  
18 week or so, we can get, you know, at least a couple  
19 of us together and go through and do some of the  
20 low-hanging fruit and get them out of the way.

21 MR. CHARLES: That's terrific.

22 CHAIR HARRIS: Rule changes might take longer,  
23 but there might be some other things --

24 MR. CHARLES: Well, you know, some of the rule  
25 changes are something I think, when we sit down -- I

1 think some of these are, I think, can be done or are  
2 already taking place.

3 I think there's some been some  
4 policies in the past that I haven't quite understood.  
5 And I think, if we can get a committee from your  
6 Board, I think we can address these. And some of  
7 these can be resolved fairly quickly.

8 COMMISSIONER SHAPIRO: I mean, if we don't  
9 have to -- if it doesn't -- if there are things that  
10 are already in our rules that we're allowed to do and  
11 we don't have to have new rules and new notice to do  
12 those, then perhaps the committee could make a  
13 recommendation and we could do them immediately.

14 MR. CHARLES: Well, can I give a for instance?  
15 And then I'll --

16 COMMISSIONER SHAPIRO: Yeah. Please do.

17 MR. CHARLES: The Pick 6 payoff here in  
18 California -- I've asked for years that we should  
19 have "will-pays" for the Pick 6m which would create a  
20 tremendous amount of interest. It's the right thing  
21 to do. It's done in New York.

22 And I've been told, over and over,  
23 that it's the perception is the problem and we just  
24 weren't going to be allowed to do it. They do it in  
25 New York.

1                   And I guess I'm throwing it out to the  
2 Board right now -- "Why aren't we allowed to show the  
3 'will-pays' on the Pick 6?" when I think every racing  
4 fan out there would love to know approximately or  
5 exactly what he's going to get so he may want to --  
6 he may want to hedge his bet or it adds the  
7 additional interest to the entire racing scene when a  
8 player is seeing 283,000 or 460,000 or there's a  
9 potential carryover.

10                  COMMISSIONER SHAPIRO: Well, let me just tell  
11 you. I received a letter from somebody about that.  
12 And I think I communicated with you on it. The  
13 response was that "It would lead to the spectre of  
14 the possibility of the participants looking to  
15 cheat," was the response I got.

16                         Because -- I agree with you; I don't  
17 know why it's not posted -- I agree it should be  
18 posted.

19                         And the answer was that somebody who  
20 was participating would be more inclined to not have  
21 an honest race when they had live tickets and they  
22 saw what the potential payoffs were. That's what,  
23 apparently, was the reason --

24                  CHAIR HARRIS: I thought the reasoning was not  
25 that sound, that it's been -- especially if it's

1 being done other places.

2 COMMISSIONER SHAPIRO: I agree with you.

3 CHAIR HARRIS: Is there a rule on that now,  
4 where the --

5 MR. REAGAN: Excuse me, Commissioners.

6 We have a Pick 6 rule. We have  
7 several Pick 6 rules.

8 CHAIR HARRIS: Yeah.

9 MR. REAGAN: And each of the rules embodies a  
10 paragraph whereby information about the Pick 6 prior  
11 to the final leg, is simply prohibited. So that was  
12 the original answer.

13 CHAIR HARRIS: Okay.

14 MR. REAGAN: Then the question was "Why were  
15 those prohibitions put into the rule?"

16 And then that's where the answer came,  
17 "Well, there were concerns about people playing games  
18 and so on and so forth.

19 CHAIR HARRIS: Yeah. Yeah. Well --

20 MR. REAGAN: But the prohibition is just  
21 simply in the rule --

22 CHAIR HARRIS: Yeah.

23 MR. REAGAN: -- and that would take a while to  
24 revisit --

25 CHAIR HARRIS: Okay. Well, if there's a rule,

1 we can't --

2 MR. REAGAN: Yes.

3 CHAIR HARRIS: -- do it tomorrow.

4 MR. REAGAN: Right.

5 CHAIR HARRIS: But we could bring that back to  
6 the Board in the next meeting.

7 COMMISSIONER SHAPIRO: So that's an example of  
8 where let's put that on the "Easy List" --

9 MR. CHARLES: Right.

10 COMMISSIONER SHAPIRO: -- and they can just be  
11 a rule change, and we could make the rule change.

12 MR. CHARLES: Very good.

13 MR. REAGAN: Exactly.

14 MR. CHARLES: Okay. And that's -- that would  
15 be a Step 1. And then you'll let us know where and  
16 when we can meet.

17 CHAIR HARRIS: Yeah.

18 MR. CHARLES: All right.

19 CHAIR HARRIS: Okay. Very good. And we'll  
20 move along on this. And I think all the people here  
21 too -- be sure all of you have taken a look at this  
22 report 'cause it does cover a lot of different areas  
23 and comment on any aspects of it that you feel we  
24 should be advised of.

25 MR. CHARLES: Great. Thank you very much.

1 CHAIR HARRIS: Okay. Let's move on to Item 3,  
2 a public hearing by the Board on the adoption of  
3 proposed CHRB rule 1843.6 -- total carbon dioxide  
4 testing.

5 MR. REAGAN: Commissioners, John Reagan, CHRB  
6 staff.

7 This is the TCO2 rule that we've been  
8 looking at. It is now ready for your adoption, and  
9 we recommend that you adopt this rule.

10 COMMISSIONER SHAPIRO: I so move.

11 CHAIR HARRIS: Well, I think we should have  
12 some discussion on it. Why don't we have discussion?  
13 And then we'll move.

14 Dr. Jensen, can you give us a little  
15 oversight?

16 MR. REAGAN: Excuse me, Commissioners.  
17 Mr. Knight has asked me to expound on another item.

18 This rule can be adopted. But, right  
19 now, there's also a legal change going into place  
20 whereby the TCO2 testing would be exempted from the  
21 dual testing -- the split sample.

22 And, therefore, even if we adopt the  
23 rule, it will take, you know, an amount of time for  
24 this rule to go through the regulatory process before  
25 it's actually in place. But even if it goes through

1 that process, is then in place, it could not take  
2 effect until the law has been changed to allow the  
3 adjustment here --

4 CHAIR HARRIS: Yeah.

5 MR. REAGAN: -- in the split sample.

6 CHAIR HARRIS: It will be just be sitting  
7 there but --

8 MR. REAGAN: Right.

9 CHAIR HARRIS: -- the day -- if that law is  
10 passed with the urgency statute --

11 MR. REAGAN: Right.

12 CHAIR HARRIS: -- and the governor signs it,  
13 it could become effective immediately. So I think we  
14 won't know exactly when we're going to say we're  
15 going to get it but in the foreseeable future.

16 MR. REAGAN: And we'll certainly keep you  
17 updated on the legislative process.

18 DR. JENSEN: I'm Dr. Ron Jensen, Equine  
19 Medical Director for the California Horse Racing  
20 Board.

21 As you're aware, the CHRB conducted a  
22 survey to determine the extent of the use of excess  
23 alkalizing agents in racing -- excess alkalizing  
24 agents being also commonly known as "milkshakes."

25 There is also the survey and

1 subsequent testing by various racing associations  
2 that has, one, indicated that, yes, there is some  
3 excessive use of alkalizing agents being done, and  
4 has also resulted in the proposed rule that's before  
5 you today.

6                   Basically the rule provides that the  
7 CHRB has the authority to collect samples from any  
8 horse that's in the race for the purpose of testing  
9 for total carbon dioxide. Total carbon dioxide, or  
10 TC02, is used to detect the excess use of alkalizing  
11 agents.

12                   The rule provides that the samples can  
13 be collected either prerace or postrace. And if the  
14 owner or the trainer of the horse that's asked to  
15 submit for testing refuses, the horse is to be  
16 scratched and penalties applied to the owner or the  
17 trainer.

18                   If levels are greater than 37  
19 millimoles per liter of serum or plasma, it's  
20 considered to be a violation. And the penalty for a  
21 violation of this rule would be considered a Class 3  
22 medication violation, which involves a loss of purse,  
23 fines, and/or suspension.

24                   As Mr. Reagan has mentioned the  
25 provision for split-sample testing has been waived

1 in -- by this rule for the purpose of TCO2 testing.  
2 And also, as he has mentioned, there is a -- it  
3 requires a change in the law because the provision  
4 for split-sample testing is not only in the rule it's  
5 also in the law.

6 That law has been introduced and is --  
7 and, to the best of my knowledge, is going forward.

8 Now, I would comment that, since the  
9 Board has been talking about this rule change and the  
10 results of the survey, I've had inquiries from other  
11 racing jurisdictions -- specifically Gulf Stream Park  
12 in Florida, the New York Racing Association, and  
13 Washington State Racing Commission, as has  
14 Dr. Stanley, the chemist -- who have also indicated  
15 an interest in this area and are utilizing this rule  
16 sort of as a basis for their own rule.

17 The staff does recommend that this  
18 rule be discussed and comments be heard and that  
19 subsequently passed.

20 CHAIR HARRIS: Let's go ahead and open it up  
21 for comments from the audience.

22 DR. ARTHUR: Hello, I'm Dr. Rick Arthur, Oak  
23 Tree Racing Association.

24 I had earlier submitted comments on  
25 this rule, and I withdraw comments having to do with

1 the two-tiered penalty system simply to expedite this  
2 process. 37 millimoles, I think, from our  
3 experience, is certainly the level we want to deal  
4 with.

5                   However, I did make a recommendation  
6 that -- and I'm not entirely sure this is in the  
7 rule-making process; maybe somebody would have to  
8 decide on the Board -- is that part of the penalty  
9 include detention-barn utilization.

10                   In other words, anyone who is found in  
11 violation of this rule be subjected to detention-barn  
12 security for a period of time; however, the  
13 recommendations I made were 60 days, the first time;  
14 and 180 days, the second time. But that certainly  
15 could be open for discussion.

16                   The second aspect of it -- and I think  
17 this is very important in light of the fact that we  
18 are eliminating the split-sample program -- is that  
19 the Board establish very rigorous laboratory  
20 standards.

21                   You have to remember that this is a  
22 naturally occurring product. We all have TC02s in  
23 our system. Statistically, depending on how you --  
24 what research you look at, this proposed rule could  
25 have a false positive once out of every 600,000

1 samples, which is insignificant.

2 But depending on what the effect Lasix  
3 actually has, it could be as high as 1 out of every  
4 8,000. Whether that's acceptable or not, I think we  
5 have to examine. I think that's certainly not going  
6 to stop us from moving forward, but it is something I  
7 think we have to consider.

8 So laboratory standards are very  
9 critical in this and make sure that we have a  
10 standard of certainty that protects the trainers in  
11 light of fact that we no longer have a split-sample  
12 program.

13 I think Dr. Stanley may be able to  
14 make some comments on laboratory standards. But I do  
15 think it's an important part of this particular  
16 process.

17 MR. REAGAN: Commissioners, just so we can be  
18 clear about it -- the change to the law will exempt  
19 only the TCO2 from the split sample. There still  
20 will be a split-sample program. It's simply TCO2  
21 will not be required --

22 CHAIR HARRIS: It is of concern that this  
23 doesn't have a split sample. So that makes the lab  
24 even more important.

25 But did Dr. Stanley have a comment on

1 this?

2 DR. STANLEY: Scott Stanley from the  
3 University of California.

4 What we've done is we've adopted a lot  
5 of the information that was available from other  
6 jurisdictions that have done a lot of testing for  
7 Standardbred horses over the years as well as  
8 critical information from our international  
9 colleagues that have done this for many years in that  
10 industry.

11 And what they've looked at is how to  
12 do this and do it with a certain amount of accuracy  
13 and quality in the system -- how to determine the  
14 measurement of uncertainty.

15 What that equates to is the way the  
16 level got established at 37 internationally was  
17 through looking at the normal horse population and  
18 establishing 37 as being three standard deviations  
19 off of that.

20 In addition, we calculate the  
21 analytical measurement of uncertainty, which is how  
22 the laboratory performs with the instrument on a  
23 sample on a regular basis. What that all equates to  
24 is we are -- we've developed a procedure that we feel  
25 is very sound, will provide a very low incidence --

1 we can't say "zero" but as close to zero as we can  
2 get to -- of a false positive.

3                   We are erring on the side of caution,  
4 going forward with this. There is not data that  
5 suggests how much, if any, effect we'll get from  
6 furosemide. We've still investigating that. We feel  
7 very strongly now that we have in excess of 1 out of  
8 a 100,000 potential or probable that could be a false  
9 positive.

10                   So the level is very sound. It's  
11 supported by published data, internationally and  
12 nationally. It's been looked at, as I said, more so  
13 in Standardbreds than Thoroughbreds.

14                   But we feel very confident with  
15 prerace sample collection, the protocol that we have  
16 for handling and shipping and analysis of the sample,  
17 that this is a very sound regulation as it's  
18 currently written and one that we can defend with our  
19 laboratory results.

20                   CHAIR HARRIS: At one point, there was some  
21 talk of having these sampling machines, you know, at  
22 the track, which I'd be a little concerned about as  
23 far as if they were properly calibrated and all that.

24                   But as I understand, this would  
25 envision that the tests would go to the Davis lab.

1           DR. STANLEY: Yes. This would be on the  
2 indication that the sample would be collected prerace  
3 and shipped to the laboratory postrace. We've done  
4 some analysis on the time that the sample can be  
5 maintained. We feel, as long as the sample is  
6 analyzed within 5 days -- generally our target is 72  
7 hours -- but, if it's analyzed within 5 days, we can  
8 get a legitimate analytical result that we can  
9 defend.

10                   In addition, I can only point out that  
11 time will only dissipate the total CO2 level. It  
12 will not increase. It can only go down. So, again,  
13 it would not increase the likelihood of a false  
14 positive. It would actually decrease the likelihood  
15 of a false "negative."

16                   The sampling and the testing -- we  
17 worked with Del Mar. We worked with Oak Tree. We  
18 analyzed the possibility of doing prerace testing at  
19 the track with an instrument. The time frame, the  
20 people involved, the technical requirements to get  
21 accurate data just is not sufficient to do a legally  
22 defensible prerace testing so that horses could be  
23 scratched before they ran.

24                   The postrace testing analysis is also  
25 something quite problematic. If we collected samples

1 postrace, we would have to have a facility that could  
2 detain the horses for at least 3 hours before we  
3 could collect a legitimate postrace sample. So,  
4 again, we feel very strongly that the prerace sample  
5 collection is very important to get accurate results.

6                   The jurisdictions -- the racing  
7 associations have been very strong supporters. From  
8 Del Mar to Oak Tree to the Santa Anita folks, people  
9 from Golden Gate Fields have all stepped up and been  
10 a part of this. Thoroughbred Owners of California  
11 have been very supportive as well.

12                   So and I've gotten very positive  
13 feedback from the implementation from these surveys  
14 and the work that we've done for the association.

15                   COMMISSIONER SHAPIRO: Following up on what  
16 Chairman Harris just said, though, could prerace  
17 testing -- could a lab be set up at the track for  
18 prerace testing so that the samples weren't shipped  
19 to Davis and all the testing down there?

20                   DR. STANLEY: The difficulties with that are  
21 multiple. And one of 'em is the time frame and  
22 sample-collection period. If, for instance, we  
23 collected the samples when the prerace inspection was  
24 occurring in the mornings, when the horses were  
25 coming in -- some of 'em are just coming in after

1 exercise.

2                   Exercise dramatically reduces the TC02  
3 level. So even if the horse had been given an  
4 alkalizing agent, their circulating level of carbon  
5 dioxide would be much lower. And then there's hours  
6 in between that time until the horse actually runs.

7                   So the optimum time is to collect the  
8 sample in the receiving barn. And the logistics of  
9 the analysis requirements to be done on-site to get a  
10 valid, legally defensible confirmation established  
11 was over an hour. And that --

12                  COMMISSIONER SHAPIRO: Yeah. But what I'm  
13 talking about is, if you collect the sample the way  
14 you're now collecting it, but you simply analyzed the  
15 sample on the track rather than shipping it -- is  
16 that possible?

17                  DR. STANLEY: The facilities could be set up  
18 to do that on the track. It couldn't be done in the  
19 time frame before the race. But it could be done --

20                  COMMISSIONER SHAPIRO: I'm not -- I'm not --  
21 I'm not trying to do it before the race.

22                  DR. STANLEY: Right. But there's actually  
23 very little benefit. There's nothing that would  
24 suggest that transporting the sample from the  
25 racetrack to our facility or any other facility

1 negatively affects the ability to do the testing.

2                   We've done collaborative work with  
3 Ohio State. We've tested samples and then shipped  
4 them the next day -- the same day to them. And  
5 they've validated our result. So shipping the sample  
6 is not going to negatively affect our result. We'll  
7 be receiving samples from other jurisdictions here in  
8 the future to do further testings.

9                   CHAIR HARRIS: Yeah. I think there's language  
10 in the rule that refers to the "official laboratory."  
11 So it could only really be a laboratory that was  
12 under contract to us. You couldn't --

13                   COMMISSIONER SHAPIRO: Yeah. But you -- they  
14 could have an adjunct facility at a racetrack that  
15 was an official laboratory.

16                   DR. STANLEY: You're right. It could be set  
17 up that way. But I don't necessarily see --

18                   COMMISSIONER SHAPIRO: You don't see a  
19 benefit.

20                   DR. STANLEY: -- a benefit. It wouldn't  
21 result in better, more accurate ability to test that.  
22 It probably wouldn't even increase the time period  
23 where the analysis could be done, with the exception  
24 of potentially doing samples on Sundays.

25                   The problem with our doing analysis on

1 Sunday -- we have technicians that are willing to  
2 work, but we have no courier service willing to  
3 deliver on Sunday. Otherwise, we do samples 6 days a  
4 week.

5 COMMISSIONER SHAPIRO: Okay. And if I could  
6 just ask -- and maybe it's just a little bit off of  
7 the question -- when you're doing this analysis, are  
8 you only looking at TC02 levels? I don't know how  
9 the chemistry works, but what if there's something  
10 else that's in that sample? Will it also show -- the  
11 tests that you're doing?

12 DR. STANLEY: The tests that we're doing on  
13 these samples is a blood-gas analysis. So those  
14 particular samples, we're only analyzing for the  
15 changes resulting from use of an alkalizing agent.  
16 In most cases, that's considered to be sodium  
17 bicarbonate, but it can be many other agents.

18 And all of those would affect and  
19 increase the total CO2 in the sample. So that's the  
20 purpose of that test.

21 Are we looking for other drugs or  
22 other things? No. Not currently in those blood  
23 samples. We still do the postrace testing for the  
24 urine samples for most of the drug-abuse testing. We  
25 have, on the request of Oak Tree Association,

1 archived a number of -- all of the samples from that  
2 particular meet for potential investigating or  
3 review.

4                   But at this point in time, because  
5 they were collected -- and these are all done by the  
6 racing associations -- I'm not even sure that we have  
7 the appropriate authority to pursue anything other  
8 than the TCO2 finding, were we to test 'em further.  
9 This is all done under the contractual agreement with  
10 the racing association and outside of the regulatory  
11 process for the CHRB right now.

12                   CHAIR HARRIS: There have been some  
13 allegations that the TCO2 could inhibit your ability  
14 to test for other illegal substances. But I  
15 understand that that is not the case. Could you  
16 expound on that?

17                   DR. STANLEY: Yeah. We've looked into that  
18 and some of the literature that came out of that.  
19 There was one incidence in Australia, where they felt  
20 that had an effect on their ability to test for one  
21 drug.

22                   We feel that the testing that we have,  
23 postrace on the urine samples, is more than sensitive  
24 to overcome any potential dilution effect, or  
25 "masking," as you might call it, for postrace drug-

1 testing in the urine samples.

2 COMMISSIONER SHAPIRO: But you're not testing  
3 to see if there are other drugs? I mean my concern  
4 is, "Is the TCO2 masking something else?" But you're  
5 not testing to see what else is in there other than  
6 TCO2?

7 DR. STANLEY: That's correct. When we're only  
8 getting blood samples prerace --

9 CHAIR HARRIS: But the other test -- if the  
10 horse was -- won or was a random sample of the horse,  
11 you are. So it's -- a lot of horses are getting  
12 tested both ways.

13 DR. STANLEY: Yeah. We're still doing all the  
14 postrace testing. And those are generally on the  
15 horses that perform very well -- first or second or  
16 third and stake races. Ones that run better than  
17 they're presumed to run before the race are often  
18 selected.

19 So I still think we have a very strong  
20 postrace testing program that complements this. And  
21 the intention of that prerace testing is just to  
22 address the bicarbonate, the TCO2. There is  
23 potential we could do more with that. But right now,  
24 our postrace urine sample is still the best sample we  
25 can get for drug testing. And --

1           COMMISSIONER SHAPIRO:  On your postrace urine  
2  sample -- again, I'm sorry; this is a little bit off  
3  subject -- is there any test that we're not doing  
4  that could be done to see if there's anything else?  
5  I mean I don't know how the testing works.

6                        But you're testing the postrace urine  
7  sample for, I'm assuming, a variety of -- to see if a  
8  variety of things pop up.  Are there some things  
9  we're not testing that we could be testing in there?  
10  Are there other testing methods?  Are there other  
11  things that could be possibly be there that aren't  
12  showing up on the current test that's being done?

13           DR. STANLEY:  We -- we -- currently in  
14  California, you have one of the most sophisticated  
15  postrace testing anyplace in the United States.  Any  
16  program can be improved with additional effort and,  
17  potentially, funding.  There's always something else  
18  that can be added or included.

19                        Right now, you -- California has one  
20  of the most progressive, aggressive postrace testing.  
21  The work that we do -- the instrumental drug testing,  
22  using very sophisticated equipment -- I'm invited to  
23  go worldwide and explain how we do this work because  
24  it is quite advanced and we're quite state of the art  
25  with that testing program.

1                   Can more things be done? Absolutely.  
2 Always could be. But I think, right now, if you  
3 compare it to anyplace else in North America,  
4 certainly we're comparable to maybe only a few  
5 laboratories in the world that could do the work that  
6 we do at the level that we do it.

7                   I'm confident that that's a pretty  
8 good start. If the California Horse Racing Board  
9 wants to double its effort, we're right there to  
10 support that. But I think it's a very strong  
11 program.

12                  COMMISSIONER SHAPIRO: So let me just ask the  
13 really blunt question: I keep hearing, "We're  
14 testing for everything." Okay? And I -- and I don't  
15 know what the word -- what "everything" is. So --

16                  DR. STANLEY: We are testing for everything  
17 that we currently have a test for. More testing --  
18 advanced testing, doing additional supporting work  
19 for new-age "probiotic"-type drugs -- needs to be  
20 investigated.

21                         Could someone be using something?  
22 There's a small percent that that could happen. But  
23 we're not testing every single horse, as well. Until  
24 every horse is tested, pre- and postrace and we can  
25 put the budget up in excess of what the entire CHRB

1 budget is, there aren't a hundred-percent guarantees.

2                   But I think you've got a good solid 99  
3 percent that there's not a lot of nefarious drug use  
4 going on.

5           COMMISSIONER SHAPIRO: And would your drug --  
6 do your tests catch if something's being used  
7 topically?

8           DR. STANLEY: Absolutely.

9           COMMISSIONER SHAPIRO: It does?

10          DR. STANLEY: Interarticularly, topically,  
11 locally -- the type of tests that we do are quite  
12 sophisticated and very sensitive. We get many of the  
13 drugs now below one part per billion -- what's called  
14 "parts per trillion" -- or picogram concentrations,  
15 which is far less than many jurisdictions that use  
16 other technology, like thin-layer chromatography.

17          COMMISSIONER MORETTI: Richard, may I suggest,  
18 as the newest Commissioner, you haven't the benefit  
19 also -- and it's really an eye opener; it's very  
20 educational -- to go to the Maddy Lab. I'm sure  
21 Dr. Stanley and his colleagues would love to take you  
22 around. It's really something --

23          COMMISSIONER SHAPIRO: I'll do that.

24          COMMISSIONER MORETTI: -- something terrific  
25 to see.

1           CHAIR HARRIS: We're going to have our June  
2 meeting, I think, in Sacramento. And I'd like to tie  
3 that in, in maybe a previous day, at the Maddy Lab  
4 and the U.C. vet hospital and see some of the things  
5 going on.

6           DR. STANLEY: Absolutely.

7           CHAIR HARRIS: But back -- we probably should  
8 get on point as far as this actual rule.

9                         Are there any comments from the  
10 audience on the rule before we go on?

11          MR. HOROWITZ: Alan Horowitz, Capitol Racing.

12                         In the harness industry, as many of  
13 the Commissioners know, we've been very supportive of  
14 CO2 testing. And for over 10 years, we've done our  
15 own program. It's been an in-house program, and we  
16 do a postrace test.

17                         Now, the only -- and I certainly  
18 applaud the Board's interest in this and following it  
19 up and Dr. Stanley's remarks and his comments, which  
20 I thought were very on point and elaborative today.

21                         I do have one concern about the rules,  
22 in that, if that the Board rules focus in on a 37 --  
23 higher-than-37 as the score for essentially what is a  
24 high amount, an excess amount of CO2, in the  
25 Standardbred industry, for many years and throughout

1 many jurisdictions, the testing program allows for  
2 sort of a dual standard for horses that are not on  
3 Lasix of 37 -- higher than 37 and, on Lasix horses,  
4 39 -- 2 points higher.

5                   Even earlier on in the testing  
6 programs, when the score levels were 39, there were  
7 always 39 and 41 -- again, a 2-point allowance for  
8 horses that are on Lasix, presumably because of the  
9 concern for false positives in testing those horses.

10                   We welcome the Board's involvement  
11 here. I'm hopeful that, if we -- if this rule is  
12 proposing higher than 37, that the sophistication  
13 level of the program that will be done, by UC Davis,  
14 will sort of make up the difference and allow us a  
15 more accurate assessment without the false positives.

16                   And I think that's consistent with  
17 what Dr. Stanley pointed out. But I know our review  
18 of the jurisdictions around the country, many of whom  
19 do it in-house and postrace, are -- do allow Lasix  
20 horses a little cushion. Thank you.

21                   CHAIR HARRIS: Thank you.

22                   I guess this rule, conceivably,  
23 impacts all the breeds at every track all -- there is  
24 latitude as far as which horse we want to test.

25                   DR. ARTHUR: Yes. This is Dr Arthur, again.

1                   In response to the previous speaker's  
2    comments, we looked at the 37-39 differentiation. In  
3    fact, that was part of the original proposal. But  
4    looking at the research and looking at what's been  
5    done around the country more recently, 37 is what we  
6    believe to be the correct level.

7                   The RMTC is looking at -- Racing  
8    Medication Testing Consortium -- is looking at this.  
9    They're going to look at some proposals to look at  
10   the effect of furosemide. And Dr. Stanley and I have  
11   talked about doing a project here in California to  
12   find out how big it really is.

13                  But it looks like that  
14   differentiation, the difference between furosemide  
15   and nonfurosemide horses, is one of those  
16   grandfathered-in sort of things that doesn't have a  
17   lot of scientific basis to it. But we'll certainly  
18   be able to get an answer in a short period of time.

19                  I would like to go off subject, just  
20   for a second, and respond to Mr. Shapiro's comment.  
21   The laboratory at Davis is certainly the -- one of  
22   the top laboratories in the world. But there are  
23   certain products that we don't have tests for, for  
24   example, "epogen" (phonetic).

25                  And that's an example of a drug that

1 we really do not have a test for. And it's something  
2 that the RMTC has put funding for, trying to develop  
3 a test. So even though it's as good as testing as  
4 there is, there's always a hole in whatever system.  
5 And if there isn't, somebody will find a hole.

6 COMMISSIONER SHAPIRO: Thank you.

7 COMMISSIONER MOSS: Where do we stand on the  
8 bill on the floor of the legislature? Does anyone  
9 know?

10 CHAIR HARRIS: Can someone report on that?

11 I think the bill -- it's -- I think  
12 it's -- I think Assemblyman Horton is carrying the  
13 bill.

14 COMMISSIONER MORETTI: Assemblyman Horton is  
15 carrying the bill. And the governor's office has  
16 asked for an analysis. The bill -- session just  
17 started last week. So it would probably take, at a  
18 minimum, a couple of months even to get -- even on an  
19 urgency, to get this.

20 DR. JENSEN: Dr. Ron Jensen, again.

21 I would just comment that the level  
22 proposed at 37 is not without precedent. There are  
23 other jurisdictions in this country that utilize  
24 that -- Virginia, Ohio, Michigan, that I'm aware  
25 of -- have 37 only.

1                   And I'd also comment that the  
2 International Federation of Horse Racing Authorities,  
3 which is an organization of racing regulatory bodies  
4 around the world, have as their recommendation for  
5 TC02 testing level at 36. It was 37. And they've  
6 just recently lowered their recommendation to 36,  
7 based on new research.

8           CHAIR HARRIS: Any other comments?

9           EXECUTIVE DIRECTOR FERMIN: I would just like  
10 to comment that we did just submit the analysis on  
11 Friday. I think "Sue Ross" (phonetic) is carrying it  
12 so -- and we did ask for urgency that the bill get  
13 attention.

14          CHAIR HARRIS: Hopefully, we can move it. We  
15 can waive some of the rules as it goes along.

16          COMMISSIONER MOSS: So has it passed through  
17 both --

18          CHAIR HARRIS: It hasn't even been heard in  
19 committee yet -- I don't think -- so but, hopefully,  
20 it'll move along.

21          COMMISSIONER MOSS: And that wouldn't have any  
22 bearing whether it's 36, 37? That has nothing to do  
23 with it?

24          CHAIR HARRIS: No. The rule just talks --

25          COMMISSIONER MOSS: The rule is just -- just

1 split sample. Okay.

2 CHAIR HARRIS: -- about split sample for this  
3 particular test.

4 MR. "HANKENS": Good morning. I'm "Kim  
5 Hankens" (phonetic) with the -- I'm the Executive  
6 Director of the California Harness Horsemen's  
7 Association.

8 I was fortunate enough to be president  
9 in Illinois -- president of the Horsemen's  
10 Association -- when we began blood-gas testing back  
11 in the late 80's, early 90's. And I'm here fully in  
12 support of the 37 number.

13 But I really do think that the Lasix  
14 horses need a second look. I've looked at 'em for  
15 several years. And there's a definitive number of  
16 differences between the two. Now, most of ours has  
17 been postrace testing. So I understand that this is  
18 prerace. But I would ask that a second look be done  
19 for the Lasix horses.

20 And I'd also like to support the  
21 previous speaker in test -- in wanting testing for  
22 "epogen." I think it's going to be a widespread  
23 problem in our industry. Thank you.

24 CHAIR HARRIS: Yeah. We're going to get into  
25 the "epogen" later. But it -- basically, it is

1 illegal to have "epogen" on the track. The problem  
2 with epogen is "blood builders" -- an "Amgen"  
3 (phonetic) product that's basically developed for  
4 chemotherapy patients and things. But it's kind of a  
5 long-term effect.

6 MR. HALPERN: Ed Halpern, California  
7 Thoroughbred Trainers.

8 We, as an organization, have been  
9 involved in this matter from the very beginning and  
10 do strongly support implementation of a rule dealing  
11 with the issue.

12 I'm here, at this juncture, to support  
13 Dr. Arthur's suggestion regarding rigorous lab  
14 standards that, if a rule is to be passed, that's not  
15 part of the rule apparently but is within the power  
16 of the Board to order that we follow those standards.  
17 And as I understand it, that's code words for "using  
18 UC Davis to do the testing on the blood gas."

19 I think it's very important, given the  
20 red flags that have been raised both today and at  
21 other times, this 37-39 issue remains an issue. And  
22 even though it doesn't appear to be a major problem,  
23 it is a problem. And it's a problem we can deal  
24 with.

25 So the question comes down to "Is

1 there a need to rush this through now while we still  
2 have some -- some issues to solve?"

3                   And I would suggest that, although  
4 we're all anxious to get a rule in place, that  
5 rushing one through does not -- is not necessarily  
6 important at this point because we seem to have the  
7 problem under control, looking at the results we've  
8 had over the past few months since Oak Tree with the  
9 testing we've done.

10                   And now that Santa Anita and Golden  
11 Gate and Bay Meadows are going to be testing every  
12 horse, we do seem to have control over this problem,  
13 although we may not have control over the  
14 "supertrainer" problem.

15                   So if there is -- and one other  
16 point -- the RMTC -- which is well represented by  
17 California by about four or five of our  
18 organizations, if not more, on that board of  
19 directors -- is going to be discussing this next  
20 week.

21                   And, with all the expertise that will  
22 be provided at that time, it may provide this Board  
23 with some more guidance just by waiting until our  
24 next Board -- your next Board meeting to deal with  
25 this.

1                   But if it is to be dealt with today, I  
2 would ask that the Board also make part of their rule  
3 that testing for the CO2 level be done at UC Davis  
4 only at this time. Thank you.

5           CHAIR HARRIS: Okay. Any comments from the  
6 Board on this?

7           VICE-CHAIR BIANCO: John, I'd like to make a  
8 comment. I've sat on the committee, on the CO2  
9 Testing, since its initiation and read a lot of  
10 negative press. And it's taken us about a year to  
11 get where we are today.

12                   And I think, Rick Arthur -- you could  
13 verify that.

14                   But to me, when we initially talked  
15 about it, we were told that the TOC was going to buy  
16 a couple of machines, along with Del Mar, where we  
17 would do a test out in the field. Then we were told  
18 that we didn't have the money to do it.

19                   The tracks stepped forward and picked  
20 up the testing costs. My concern is, is that doing  
21 it in the field, we would get an instant result that,  
22 if that showed a violation, we could send that sample  
23 up to the University of California.

24                   And we were going to have what we  
25 thought was a little mini-trailer, with this piece of

1 analytical equipment in, where we would have to hire  
2 what I was told was a CHRB person. And I was told we  
3 had no money in the budget for that.

4                   And I thought it was much better to do  
5 it out in the field because, once the trainers saw  
6 that -- right? -- and the publicity that they'd get  
7 at the track themselves -- right? -- we would, you  
8 know -- we wouldn't have the problems that we had at  
9 the -- a certain meet last year.

10                   But I'd like it say it, you know, it  
11 took us a year. I'm sorry we couldn't have got it  
12 any faster. But I think that it shows that, you  
13 know, the CHRB get something done -- right? -- and  
14 not have the negative type of publicity that we've  
15 experienced. Thank you, John.

16                   CHAIR HARRIS: Yeah.

17                   I think -- I agree with you, in a way,  
18 although I think that this is going to be a Class 3  
19 violation, which will result in the forfeiture of  
20 purse monies and allow stewards to have -- impose  
21 pretty severe sanctions on the violators. So I think  
22 the sanctions are strong enough that someone's not  
23 going to be, you know, trying to skirt the rule.

24                   And my only concern is that we be  
25 absolutely certain that the lab that ran the test

1 was, you know, calibrated right and there was no --  
2 there's no arguments that the test was wrong.

3 DR. STANLEY: Scott Stanley.

4 Let me just clarify a couple of  
5 things, real quick. I think one of the reasons for  
6 concern about how the work is done is the work of  
7 measuring carbon dioxide can be done by lots of  
8 different instruments. Some of them are quite  
9 inexpensive.

10 The work to do it for a forensic,  
11 legally defensible result can't be done by a clinical  
12 laboratory. It needs to be done on a specific type  
13 of equipment with a standard operating procedure  
14 criteria for identifying that and confirming that.

15 And I think that's one of the reasons  
16 that we're leaning toward uniformity in testing,  
17 having it being done by one lab right now, so it  
18 doesn't get competition out there and start checking  
19 with the nearest local laboratory that can measure  
20 CO2.

21 As some of the other jurisdictions  
22 have found out, that can be problematic. Their  
23 data's not legally defensible. They end up getting  
24 overturned in court. And we certainly don't want  
25 that in California.

1                   The second thing is we did some more  
2 analysis on the probability and likelihood of doing  
3 the testing at the track. It was more problematic  
4 then I think we initially thought in doing that  
5 prescreening there and sending the sample for further  
6 testing.

7                   So we're not recommending that it be  
8 done locally anymore because of the problems that  
9 potentially could arise.

10                  And, lastly, I wanted to verify that  
11 Thoroughbred Owners of California have stepped up, as  
12 they had talked about and promised, and are providing  
13 us a new piece of equipment so that we can handle all  
14 the samples that we are going to be doing.

15                  They've generously donated a piece of  
16 equipment to us to continue on with that, as the  
17 racing associations continue to support and pay for  
18 the testing. So I wanted clarify that almost all of  
19 the organizations that ever promised anything have  
20 fulfilled that entirely by either paying for the  
21 services or by the racing associations. The TOC and  
22 the horsemen have been also very supportive.

23                  VICE-CHAIR BIANCO: Thank you.

24                  CHAIR HARRIS: Yes. Ingrid?

25                  EXECUTIVE DIRECTOR FERMIN: I would just like

1 to make the comment that I think that the  
2 managements that have been involved should certainly  
3 be commended for what they've done because they  
4 stepped up to the plate when we could not legally do  
5 that. And I think that the time frame is such that  
6 it's up to the CHRB to move ahead with the rule.

7 I would suspect that, without changing  
8 the rule, we can certainly have a very firm directive  
9 indicating what the specifics are for the lab and  
10 what the wishes are of the CHRB.

11 I've also spoken with Dr. Jensen about  
12 the fact that anybody who is "border" or if there are  
13 any problems -- that they should be counselled. I  
14 know that there were some horsemen who, for instance,  
15 without realizing it, were, perhaps, feeding several  
16 different kinds of alkalizing agents or whatever.

17 I think that it would be better to  
18 counsel those who may be pushing the envelope than to  
19 detain and delay the rule where we can assume our own  
20 responsibility.

21 CHAIR HARRIS: Yeah. And I think we need an  
22 educational effort but -- they'd start, like, right  
23 now. But as far as this rule -- any rule, we can  
24 always change later if we decide to.

25 But is there a motion for --

1 COMMISSIONER SHAPIRO: I'll so move.

2 Go ahead.

3 CHAIR HARRIS: -- adoption of the rule?

4 COMMISSIONER SHAPIRO: I'll move that the rule  
5 be adopted.

6 VICE-CHAIR BIANCO: Second.

7 COMMISSIONER SHAPIRO: Can I -- can I just ask  
8 one thing? I think it was Rick Arthur that mentioned  
9 it -- and I'd like to hear from staff as to -- I know  
10 some jurisdictions have what they'll call  
11 "uniform" -- I don't want to say punishments --  
12 but -- but --

13 EXECUTIVE DIRECTOR FERMIN: Sanctions.

14 COMMISSIONER SHAPIRO: -- sanctions --

15 Thank you.

16 -- in place. And I think that, in  
17 connection with adopting this rule and perhaps other  
18 violations, that we ought to consider having minimum  
19 sanctions that are in place for different class of  
20 violations. And I'd like to know what staff feels  
21 about that and if we shouldn't look at that.

22 CHAIR HARRIS: Anybody like to comment on  
23 that?

24 EXECUTIVE DIRECTOR FERMIN: We have, in the  
25 past -- a number of years ago, there were guidelines.

1 And that was prior to the Class 1s, 2s, and 3s,  
2 basically, being taken out of the stewards' hands.  
3 This is something I'd like to certainly see the Board  
4 revisit and probably appropriately go through the  
5 Medication Committee.

6 And our comparison with the sanctions  
7 of the major jurisdictions throughout the country  
8 right now are that we are below the low side. So if  
9 we're going to look at sanctions as being deterrents,  
10 we're not there right now. So I would like to  
11 personally see that the Board take a look at that.

12 CHAIR HARRIS: I think we may be below the low  
13 side at times, but I think our standards are -- our  
14 medications standards are above some of the other  
15 jurisdictions that --

16 COMMISSIONER SHAPIRO: But, as part of the  
17 deterrent -- I mean the testing is one side of the  
18 deterrent. I think if we had minimum standards,  
19 without mitigating circumstances, and people realized  
20 what they were facing, as a minimum, I think it would  
21 be an additional deterrent for people who want to  
22 cheat.

23 CHAIR HARRIS: Yeah.

24 COMMISSIONER SHAPIRO: And I think it would  
25 behoove us to implement a schedule of minimum

1 standards for violators.

2 CHAIR HARRIS: No. I think that's a good  
3 idea. We'll set that up in the Medication Committee.

4 DEPUTY ATTORNEY GENERAL KNIGHT: Can I comment  
5 on that?

6 If you -- just so that you know what  
7 the process is, you can certainly do this. It  
8 does -- they do have to be adopted as regulations,  
9 much like the regulation you're dealing with today.  
10 The Administrative Procedure Act requires that they  
11 be adopted or you couldn't utilize them for purposes  
12 of discipline. So they would have to be adopted as a  
13 regulation.

14 It doesn't mean you can't do it. It  
15 just means that they'd have to be --

16 COMMISSIONER SHAPIRO: Well, I think we should  
17 do it.

18 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah.

19 COMMISSIONER SHAPIRO: And, again, there will  
20 be -- if there's mitigating circumstances, we'll  
21 include that; right?

22 DEPUTY ATTORNEY GENERAL KNIGHT: That can be  
23 included in your --

24 COMMISSIONER SHAPIRO: Correct.

25 DEPUTY ATTORNEY GENERAL KNIGHT: -- in your

1 guidelines.

2 COMMISSIONER SHAPIRO: But I want the guy to  
3 know that, for his first violation, he's facing --  
4 this is his minimum. And if it's a second one, he  
5 may be gone. And I think that's a big -- as big a  
6 deterrent to the testing for people not to cheat.

7 CHAIR HARRIS: Okay. Let's bring that up at a  
8 future time. But I agree with you to pursue it.

9 MR. FRAVEL: Mr. Chairman, Craig Fravel, Del  
10 Mar Thoroughbred Club.

11 I just wanted to point out that the  
12 Racing Medication Testing Consortium is working,  
13 doing a lot of the legwork on that subject and  
14 should, in a relatively short period of time -- and  
15 I'm talking, you know, a week -- weeks to a month or  
16 two -- to have national recommendations for those  
17 kind of minimums that we're -- that incorporated a  
18 lot of the old efforts that have been put into that.

19 So and I think that's very doable in a  
20 relatively short period of time.

21 COMMISSIONER SHAPIRO: That would be great.  
22 Why don't we get those?

23 CHAIR HARRIS: Okay. There's a motion and a  
24 second on adopting this rule.

25 All in favor?

1 COMMISSIONERS' VOICES: Aye.

2 CHAIR HARRIS: Okay. Let's go on.

3 So that would go -- if we did have --  
4 if we -- assuming we would get -- the legislation  
5 would go into effect -- when the legislation goes  
6 into effect.

7 COMMISSIONER SHAPIRO: Have you --

8 DEPUTY ATTORNEY GENERAL KNIGHT: Yes.

9 Assuming you had approval from the Office of  
10 Administrative Law, which is the review agency --

11 CHAIR HARRIS: It goes back to them now,  
12 anyway.

13 DEPUTY ATTORNEY GENERAL KNIGHT: -- you can  
14 be -- I believe you can submit it to them with an  
15 indication that it's contingent upon passage of  
16 this --

17 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Mr.  
18 Chairman, Roy Minami, Horse Racing Board staff.

19 We would -- until the law passes, we  
20 would not be allowed to send it to the -- forward the  
21 rule to the Office of Administrative Law. The law  
22 would have to pass first. And then, upon enactment  
23 of the AB 52, the staff would then provide the Office  
24 of Administrative Law the adopted rule.

25 CHAIR HARRIS: All right. Once they get it,

1 are we talking about a period of how long before they  
2 would --

3 ASSISTANT EXECUTIVE DIRECTOR MINAMI: We're  
4 requesting an approval upon filing. So that would  
5 take about 30 days --

6 CHAIR HARRIS: Well --

7 ASSISTANT EXECUTIVE DIRECTOR MINAMI: -- by  
8 the time --

9 CHAIR HARRIS: -- I mean, shouldn't there --  
10 there should be some waiver process or something  
11 where it's pretty simplistic situation we're in that  
12 we could give it to 'em now and it's all contingent  
13 upon the other law.

14 Have we talked to 'em about that?

15 ASSISTANT EXECUTIVE DIRECTOR MINAMI: My  
16 information is that they won't accept it until the  
17 law is passed. And then, once the law is passed, we  
18 submit it to the Office of Administrative Law and  
19 with an effective-upon-filing-to-the-OAL, it would be  
20 approximately 30 days. And then it will be in  
21 effect.

22 CHAIR HARRIS: I don't know. I don't think  
23 that's really acceptable, I mean, unless we've  
24 exhausted our remedies. But I think we need to, you  
25 know, talk to them and see -- explain the whole thing

1 and see if there's some way they could at least  
2 approve it, contingent to the other law.

3 I could see if we didn't have -- if  
4 the other law was there, that obviously it couldn't.  
5 But let's -- 'cause I'd hate to see it drag on and on  
6 and on. So we'll set up a meeting with them.

7 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Well,  
8 we'll see what we can do --

9 CHAIR HARRIS: What you can do. Yeah.

10 DR. ARTHUR: Dr. Arthur, again.

11 I realize Roy has looked into this  
12 quite extensively. But during our Oak Tree meet, we  
13 actually looked into the practicality of taking  
14 samples that were in violations during our meet and  
15 shipping samples to Ohio State the same day that they  
16 were confirmed as a split-sample analysis.

17 And that was logistically possible. I  
18 know staff has looked at it and doesn't think that  
19 meets the requirements. But there may be other ways  
20 to satisfy the split-sample rule until the law is  
21 changed. So it may be worth reinvestigating by the  
22 CHRB.

23 CHAIR HARRIS: Okay. Well, let's move on, if  
24 there's nothing pressing. I think we've pretty  
25 well -- we've got some issues still in play there.

1                   But let's go ahead and move on to --  
2    Item "5" is discussion and action regarding Capitol  
3    Racing.

4                   MR. REAGAN: Commissioners, John Reagan, CHRB  
5    staff.

6                   This item was placed on the agenda and  
7    updates you from the October meeting. At that  
8    meeting, Capitol was asked to present, to the Board,  
9    audited financial statements and either a letter of  
10   credit or a bond in the amount of \$1 million.

11                   The letter of credit -- a copy of that  
12   is included in the package. That was provided. And  
13   the audited statements, such as they are, were also  
14   provided. And the point is that there was just a  
15   balance sheet in that -- the audited financials --  
16   and, at this particular time, having been reviewed by  
17   staff, not a particularly strong balance sheet.

18                   I understand this morning there was  
19   also some questions about the timing the delivery.  
20   So let me just cover that right now. I was not in  
21   the office on December 31st.

22                   But my assistant did receive copies of  
23   a draft financial. Large black letters -- "DRAFT" --  
24   were stamped on that -- those financials. There was  
25   some scribbles and scratches on the financial

1 statements themselves. And so they certainly looked  
2 like draft.

3                   Later, we were presented with a final  
4 copy of the financial statements on January 7. There  
5 was no change in the numbers or the information from  
6 what was a draft and what were the finals. But in  
7 our estimation, the final was delivered to us on  
8 January 7th. And that's the way we see it right now.

9                   But, in addition, there were several  
10 issues raised by other letters that were presented to  
11 the CHRB. And those are included in this package,  
12 and we are prepared to discuss those if you wish so  
13 to. So that's what we have for now.

14                  CHAIR HARRIS: Are there comments on this  
15 report?

16                  COMMISSIONER SHAPIRO: Yes, I have comments.

17                         When we made this request of Capitol  
18 Racing, I think we were very clear that we wanted  
19 a -- we wanted financial statements, audited  
20 financial statements, by December 31st. We did not  
21 receive audited financial statements by December  
22 31st.

23                         What we received was a draft balance  
24 sheet on December -- on December 31st and, as John  
25 just said, a final on January 7th. That's not what

1 the Board asked for. That's not what the Board  
2 demanded. And, frankly, I find it unacceptable --  
3 what was delivered to us.

4                   Furthermore, the balance sheet that  
5 was delivered to us -- the contents of that are  
6 woefully short. The balance sheet shows that  
7 "members' capital" is shown as \$2 million, but there  
8 are items contained in that balance sheet that I  
9 don't believe are proper, in proper accounting, to be  
10 concluded assets.

11                   And based on my review of that balance  
12 sheet -- and I'm not an accountant, but I've spoken  
13 with people here that are -- we find -- I personally  
14 feel that this balance sheet shows that there's a  
15 negative net worth of about \$430,000.

16                   I have grave concerns about the  
17 financial wherewith -- condition of Capitol Racing  
18 LLC. Capitol Racing LLC, I'm assuming, is a single-  
19 asset entity, which has no other assets. And I think  
20 it puts the harness horsemen in risk and the harness  
21 racing in California at risk.

22                   Furthermore, there are issues that  
23 have been raised by others, including our staff,  
24 where it does not appear that certain funds were  
25 properly handled. For example, with respect to some

1 of the commission revenue that they're showing,  
2 certain commissions are to be split with the horsemen  
3 50-50.

4                   But it appears to us -- and we have no  
5 record to refute this -- that over \$2 million was  
6 retained by Capitol's commission, when it should have  
7 been split with the horsemen 50-50, or a million  
8 dollars going to the horsemen.

9                   It appears that the SCOTWINC money, as  
10 far as we know, was properly accounted for.

11                   But I believe there's one other item,  
12 which -- based on our understanding, which has to do  
13 with the unclaimed tickets. It appears that that  
14 money also went to the association and was not split  
15 with the horsemen, which would be another \$114,000.

16                   In light of this, I would like to  
17 recommend that staff do an investigation and report  
18 back to us on this matter more fully.

19                   When asked for financial statements,  
20 we asked for complete financial statements. We did  
21 not see any income statements. And, again, we  
22 received a one-page balance sheet with items that are  
23 loans and advances and things that are shown as --  
24 "overpaid purses" is a receivable, which I don't  
25 think is proper -- is truly a proper asset.

1                   So I would like to recommend that this  
2 go to staff and that they do a thorough review of  
3 this situation and report back to us.

4           MR. REAGAN: Commissioners, we can certainly  
5 do that.

6           CHAIR HARRIS: I think that's what we need.  
7 It's a pretty complex issue. And it's got a lot of  
8 ramifications. And I still don't think we really  
9 know exactly what we've got here.

10          COMMISSIONER SHAPIRO: No. I think this is  
11 very unfortunate. I think that we were very clear.  
12 And I did sit with the representatives of Capitol  
13 "Harness," about a month or so ago, in my office.

14                   And I reiterated to them it was  
15 critical that we have complete financials, audited  
16 financials by this date. And -- and if -- if handing  
17 us draft -- a draft balance sheet, on December 31st,  
18 was their idea of compliance, I think it's -- it's  
19 completely contrary to what we asked 'em for.

20                   And prior to that, I know that staff  
21 had been asking for many, many months to get -- to  
22 get financials; had been unsuccessful.

23                   It was represented to us, in that  
24 meeting, that Ernst and Young was working on them.  
25 And in -- instead, we get a balance sheet from a

1 company I've never heard of. It's certainly not  
2 Ernst and Young.

3                   And I believe that what we got was a  
4 qualified balance sheet, based on what management  
5 said are its assets. So I'm not even sure what we  
6 got.

7                   And, you know, this is one segment of  
8 the horse racing industry that we can't ignore. And  
9 certainly I don't want, in any way, my remarks to  
10 mean that I want to see the harness horsemen harmed.  
11 In fact, to the contrary.

12                   We have allocated a nearly full year's  
13 worth of racing to Capitol Harness. And so the  
14 entire harness industry is in their hands. And if  
15 the association can't meet its obligations -- and it  
16 has met its obligations, I'm aware of, to date -- but  
17 this is a shell.

18                   And if something happens here, I don't  
19 know who we're going to look to and I don't know who  
20 the horsemen are going to look to and I don't know  
21 who the State's going to look to.

22                   And apparently this license -- it's my  
23 understanding too -- that the lease on the facility  
24 is up at the end of July. I'm aware that, I believe,  
25 this association and others are vying for the lease

1 of that facility.

2                   And I think it's incumbent upon us to  
3 make sure that we have good racing operators who are  
4 the guardians of the sport to -- to make sure that  
5 they're operating. And I find this very  
6 disappointing and very disturbing.

7           CHAIR HARRIS: Well, I don't know if we really  
8 got enough data right here to make a decision anyway.  
9 But I think we need to --

10           COMMISSIONER SHAPIRO: Yeah, we do.

11           CHAIR HARRIS: -- have our staff report back  
12 to us at the next meeting with, you know, different  
13 scenarios on what is going on here, and we can deal  
14 with it then.

15                   I suggest we might take -- Mr. Bieri  
16 might like to comment. We're not really going to do  
17 anything at this meeting anyway, if you'd like to  
18 make some remarks.

19           MR. BIERI: Steve Bieri, B-i-e-r-i, Capitol  
20 Racing.

21                   Chairman Harris, Members of the  
22 Commission, and Executive Staff: We invite all  
23 studies, groups, inspections that you can do. We've  
24 had "allocations" and aspersions cast on us for  
25 years. Every one has been proven to be unfounded.

1 And we hope that your staff will dig in totally and  
2 go very deep into this and find out what is really  
3 going on.

4 This would be an excellent thing. And  
5 I applaud you. And we look forward in cooperating  
6 with you fully.

7 COMMISSIONER SHAPIRO: Terrific.

8 MR. BIERI: Thank you.

9 CHAIR HARRIS: I appreciate it.

10 Let's take a -- just a real short  
11 break 'cause we've got quite a few more items. Let's  
12 take about a, you know, a 5-minute break and then  
13 come back.

14 (Break: 11:05- 11:11 A.M.)

15 CHAIR HARRIS: Let's move back in and get  
16 started, please. Let's move in. We've got quite a  
17 bit of agenda to continue on right here. Okay.  
18 Let's move in and get started here.

19 It's Item 5 we have on the agenda.  
20 Okay. We got to move along here. That's for sure.  
21 Item 5 on the agenda -- as you will recall, back in  
22 the summer, we had some discussions and a proposal  
23 from the Jockeys Guild on a new scale of weights and  
24 really a new approach to weights for jockeys, which  
25 was tabled for further discussion and input.

1                   One of the facets of it was the  
2 national effort to effectively raise jockey weights  
3 because there's concern that, if we do it in  
4 California, it needs to be done nationally. And I  
5 had asked the racing secretaries to send a  
6 representative in to explain what has occurred.

7                   I think "Tom Robbins" (phonetic) is  
8 going to do that.

9                   MR. "ROBBINS": Tom Robbins, racing secretary,  
10 Del Mar Thoroughbred Club.

11                   For about the last six months, there  
12 has been certainly an effort going on, on a national  
13 basis -- racing secretaries around the country  
14 getting together and discussing ways we write the  
15 condition book and specifically trying to address the  
16 weight issue.

17                   And what we have all reached an  
18 agreement on -- and rather quietly behind the  
19 scenes -- is, through various methods of how we write  
20 particular races, is try to get to a minimum, in most  
21 races, of a hundred-and-eighteen pounds.

22                   And through a combination of raising  
23 certain races a pound or two pounds or, in some cases  
24 even more than that -- three pounds, four pounds --  
25 that, combined with reducing the allowances in a race

1 where a horse may get weight off as a result of not  
2 having won recently or in a claiming race where a  
3 horse may enter for a lower claiming price and get  
4 weight off for entering -- for a lower claiming  
5 price -- those two things combined -- our goal is  
6 to -- to get to this level of 118 pounds, in most  
7 races, recognizing that, at certain times of the  
8 year -- the early part of the year, when three year  
9 olds have to run against older horses, because we  
10 force them to run against older horses because we  
11 don't have enough in either group to fill a race for  
12 three year olds or one for older horses -- that three  
13 year olds may be carrying less than the 118 pounds --  
14 17, 16, 15.

15                   What has happened in the past is that  
16 some three year olds may be in with 110, a hundred  
17 and eleven, or even less than that, based on the  
18 conditions of the race. So we feel that we've  
19 brought that level up. And most of the races, as  
20 I've said, will be at about a hundred and eighteen  
21 pound -- at least 118-pound minimum.

22                   And this has been happening quietly.  
23 Racing secretaries from New York, Kentucky, Illinois,  
24 New Jersey, Florida, and California have been meeting  
25 on this. I believe there will be a release coming

1 out, at some time, addressing this.

2                   But, currently, Santa Anita's racing  
3 secretary has employed this style of writing his  
4 book. The Northern California racing secretaries  
5 very soon will -- very soon will be adopting this  
6 program as well. So it's in the works. It's  
7 something we believe is certainly a compromise in  
8 getting the weight up. And I'd be happy to answer  
9 any questions.

10                  CHAIR HARRIS: When you say the previous  
11 level -- I mean, assuming it's now 118 -- what was --  
12 say, five or six years ago, what would that level  
13 have been?

14                  MR. "ROBBINS": Well, as recently as last  
15 year, it might be a hundred-and-twelve or a hundred-  
16 and-thirteen pounds, depending on if the allowance --  
17 there may be three allowances in a race -- 3, 5, and  
18 7 pounds -- where a horse may get off from the top  
19 weight.

20                  What we're going to do is reduce those  
21 allowances, maybe only have one allowance in a  
22 winner's race so that a horse doesn't get in with a  
23 hundred-and-twelve pounds and recognizing that a  
24 jockey may have to get down to that -- to get down to  
25 that weight to make that weight.

1           COMMISSIONER MOSS:  So the equipment, on top  
2 of that -- which they figure it would be about  
3 approximately another 10 pounds; correct?

4           MR. "ROBBINS":  That's correct.  We're not  
5 advocating a change in methodology of how these -- of  
6 how the riders are weighed.  I think that's what --  
7 personally speaking, I think that's what added to a  
8 lot of the confusion last year, when it was  
9 presented.

10                               We're saying, "apples to apples."  
11 This is the way jockeys have been weighed in the  
12 past.  This is the way they can continue to be  
13 weighed.  We're just advocating bringing that minimum  
14 weight up to a point where it's, I think, a little  
15 more acceptable for all people in the industry.

16           CHAIR HARRIS:  Okay.  Thank you.

17                               Did -- I know the Jockeys Guild has  
18 taken a high interest in this.  Did you want to  
19 comment on this?

20           MR. BROAD:  Barry Broad, on behalf of the  
21 Jockeys Guild.

22                               Well, the -- whatever quiet meetings  
23 occurred, occurred without the presence or invitation  
24 of the jockeys.  It's something of a continuation of  
25 the traditional paternalistic attitude in this

1 industry.

2                   The fact of the matter is this is a  
3 gesture, a sop, if you will. It's absolutely  
4 inadequate. It perpetuates the fraud that exists  
5 now. Let me -- let me tell you about -- and it's  
6 just not enough, and it's not right.

7                   And, you know, and it's not going make  
8 the problem go away because you have this regulation  
9 before you, which we'd like you to adopt. And we're  
10 going to introduce it as a bill in the legislature  
11 this year, which will include lots of other things in  
12 addition to the weight issue.

13                   And as we said, we wanted to solve  
14 this within the industry. The industry never met  
15 with the jockeys once over this, any facet of it, and  
16 despite the talk about a national standard.

17                   We said that, if we couldn't solve it  
18 within the industry, we'll just take the story to the  
19 legislature, and we'll tell it there.

20                   And there -- I don't know -- maybe  
21 they're more concerned with Homo sapiens than horses,  
22 and maybe they won't get the thing about the place  
23 that's specifically created so you can vomit. You  
24 know, maybe they won't get that at the legislature.  
25 They might find that kind of gross.

1                   And we don't want to tell the story,  
2 but we'll go tell the story. It should be  
3 interesting. And the industry's got lots of high-  
4 priced lobbyists, and they can probably kill the  
5 bill, once or twice or whatever. But we'll just keep  
6 trying.

7                   Now, looking at Santa Anita's program,  
8 from the 7th of January, I believe, if you go to the  
9 first race, it's a hundred and twenty-two, a hundred  
10 and twenty-two, a hundred and twenty, a hundred and  
11 twenty-two. They're carrying 10 pounds' equipment;  
12 so those jockeys could weigh a hundred-and-twelve  
13 pounds. That's the reality.

14                   The fact is some of those jockeys in  
15 that race -- they don't weigh a hundred-and-twelve  
16 pounds. They weigh more. So what are they doing?  
17 They're having cheating boots or whatever else is  
18 going on; so it's just perpetuating the fraud.

19                   If you go to the seventh race, it's a  
20 hundred and seventeen, a hundred and seventeen, a  
21 hundred and seventeen. So the jockey needs to weigh  
22 a hundred-seven pounds. And they don't weigh that.

23                   If -- in the back of the program, you  
24 got, I guess, the races that are being televised.  
25 And if you go to some of those, you've got a hundred

1 and eleven, a hundred and sixteen. So it's just --  
2 depends on which race.

3                   So this gesture is probably going to  
4 be slightly helpful, late in the season, in some  
5 races. And it's probably the conditions are going to  
6 be such early in the year that the weight's going to  
7 go way down and the jockeys will be doing all the  
8 things they do to their bodies in order to try to  
9 make that weight.

10                   So this is a really serious public  
11 health issue. As far as we're concerned, it's the  
12 most serious thing that you have before you. It's  
13 more serious or as serious, certainly, than drugging  
14 of the horses. And I will say, at least all the  
15 species involved in racing directly take Lasix, I  
16 guess. I don't know.

17                   Anyway so as far as we're concerned,  
18 thank you very much. But it's not enough. We want  
19 something more, and we want something better.

20                   CHAIR HARRIS: I think, obviously, there's  
21 different ways to go on any of these things -- that  
22 we could do a rule at the Racing Board level, or  
23 legislature could do it, or neither of us could do  
24 it.

25                   COMMISSIONER SHAPIRO: Can I ask a question?

1                   The weight that Barry -- Mr. Broad was  
2 just talking about -- it says a hundred-and-seventeen  
3 pounds in the program.

4           MR. BROAD: Uh-huh.

5           COMMISSIONER SHAPIRO: What weight is that?  
6 Is that the weight of the jockey without the  
7 equipment --

8           CHAIR HARRIS: No.

9           COMMISSIONER SHAPIRO: -- or the weight of the  
10 jockey with the equipment?

11          COMMISSIONER MOSS: With the equipment.

12          MR. COUTO: With the exception -- Drew Couto,  
13 Thoroughbred Owners of California.

14                   Obviously, we've said throughout that  
15 we have great interest in the health of the riders.  
16 And we made a proposal early on. The racing  
17 secretaries came back with one that I think included  
18 additional weight from what was the original  
19 proposal.

20                   I'd like to clarify something Mr.  
21 Broad just said because we've had this argument, over  
22 and over and over, about what "weight" is and what it  
23 isn't. Mr. Broad just gave an example of program  
24 weight of a hundred and twenty-two and said that  
25 means that the rider weighs a hundred and twelve.

1                   Well, as they earlier said in this  
2     debate, that it's 5 pounds of equipment in addition  
3     to the program weight. That is the weight excluded  
4     by the regulation, which would include the helmet,  
5     the vest, the whip, the safety equipment.

6                   So that that rider doesn't weigh a  
7     hundred and twelve. They weigh a hundred-and-  
8     seventeen pounds at a hundred-and-twenty-two pounds  
9     because, as we heard many times, there's 5 pounds of  
10    equipment that's included in the program weight and 5  
11    pounds of equipment that's excluded from the program  
12    weight.

13                  So I just wanted to clarify that  
14    because we -- we've had a lot of problems with  
15    getting this information correct. But if you use  
16    their 10-pound example, it's 5 pounds below and 5  
17    above.

18                  So the rider would actually get on the  
19    horse -- if it's listed as "122" in the program, the  
20    rider gets on with roughly a hundred-and-twenty-seven  
21    pounds because of the 5 pounds, which would mean,  
22    reduced from that 120 program weight, the rider's  
23    weight's going to be someplace around 117.

24                  Thank you.

25                  COMMISSIONER MORETTI: Drew, I know that we

1 had this discussion. And it got a lot of us very  
2 confused, even though most all of us thought we knew  
3 exactly what we were counting.

4 Why is it that we just don't show the  
5 extra 5 pounds in there?

6 MR. COUTO: I don't know. The rule issued by  
7 the Horse Racing Board says that the 5 pounds of  
8 safety equipment is excluded from the program weight.  
9 It's not something they have to weigh with. And that  
10 is identified as, again, the helmet, the vest, the  
11 whip -- and I believe there's one other item, but I  
12 don't recall --

13 DEPUTY ATTORNEY GENERAL KNIGHT: The bridle.

14 MR. COUTO: The bridle.

15 CHAIR HARRIS: I think it goes -- I don't know  
16 if that was just the way it was. I think we,  
17 conceivably, could do that. I guess there's some  
18 concern, on a national basis, that California weights  
19 would not really be apples and apples with other  
20 jurisdictions' weights.

21 But, to me, it seems like, whatever it  
22 is, is what it is, which was part of the jockeys'  
23 proposal, which also included some issues on body  
24 fat.

25 MR. BROAD: And can I -- let me just say,

1 Drew's right. I misspoke. It's 5 pounds. And  
2 there's a missing 5 pounds that I guess is on there  
3 to make it look like that they're not really --  
4 that's not what they're riding with.

5 If that -- in other words, that 5  
6 pounds is just -- it exists. It's just not accounted  
7 for.

8 COMMISSIONER SHAPIRO: So, Mr. Broad, would  
9 you prefer -- do you care, representing the jockeys,  
10 whether the program includes all weight? I happen to  
11 agree with Commissioner Moretti. I don't know why we  
12 just don't count all the weight --

13 MR. BROAD: Yeah. Right.

14 COMMISSIONER SHAPIRO: -- and that's what it  
15 is.

16 MR. BROAD: That's our --

17 COMMISSIONER SHAPIRO: But I've heard -- I've  
18 heard that it's the jockeys who don't want it to  
19 appear that they weigh that much.

20 MR. BROAD: What we are proposing, to the  
21 extent that we're -- I mean I don't know who those  
22 jockeys are. But or organization's view is you have  
23 a weight for the jockey and that there is a minimum  
24 of 10 pounds of equipment that they must carry that's  
25 listed. That's the proposal before you.

1                   They are weighed separately. The  
2 jockey is weighed once, essentially in the nude.  
3 They get their true body weight. Then, when they  
4 weigh out, out to the race, they weigh out with the  
5 10 pounds of equipment or if it could be slightly  
6 more -- or if it's slightly less, it has to be at  
7 least 10 pounds -- they weigh out with that and they  
8 weigh in with the same equipment.

9                   So when they weigh out and they weigh  
10 in, they should be, you know -- have the identical  
11 weight, minus whatever the weight of sweat is or  
12 something, I mean, if that's anything. They should  
13 weigh the same.

14                   And they should be weighed every day  
15 with their -- their naked weight and with the 10  
16 pounds of equipment. And that will tell everybody in  
17 the public exactly what they weigh when they get on  
18 the horse with the equipment that they are actually  
19 carrying.

20                   And -- and, in addition, our proposal  
21 deals with the question of minimum body fat content  
22 requirements for jockeys so that they don't engage in  
23 these destructive practices. So, it's a proposal  
24 that's that all encompassing, if you will.

25                   What's being done here is a gesture.

1 And I truly -- you know, I accept that it's a  
2 gesture, in some sense, well meant or under response  
3 to pressure. And it's good to know that pressure  
4 works. But what -- what it means is that it's going  
5 to change from race to race and from time to time.

6                   So if what we're really worried about  
7 here, which we should be, is that the jockey  
8 population meets weight standards that are realistic  
9 without doing damage to their health, this will help  
10 in one particular race during the day but may not  
11 help in the others.

12                   So since those jockeys are riding  
13 multiple times, they're likely not to change their  
14 health practices very much. And they'll do the same  
15 things that they're doing to themselves now, which is  
16 very harmful. That's our view of it.

17                   So, yes, we believe that it ought to  
18 be a truthful and totally transparent weight system.

19                   CHAIR HARRIS: I think that what we need to do  
20 is bring this back. I mean basically the Jockeys  
21 Guild is not pacified with this measure. But they  
22 did present something which I think they deserve a  
23 vote up or down on -- on a weight system that we  
24 could bring back for discussion and action at a  
25 future meeting.

1                   It's a pretty complicated system  
2 they've got. And we need to get all the input we can  
3 on it.

4           COMMISSIONER SHAPIRO: Well, I've never seen  
5 it. But -- being new, I've never even seen it. But  
6 I have to admit that, as long as I've been around  
7 racing, that I never knew that, in the program, the  
8 weight that I saw wasn't all of the weight.

9                   And I'm kind of surprised that -- that  
10 the public -- I'm sure, if I didn't know it, my guess  
11 is the public doesn't realize that, when a horse is  
12 carrying a 120 pounds, well, that's not really all  
13 he's carrying. He's carrying a hundred-and-  
14 twenty-five pounds, if I understood what Drew -- what  
15 Mr. Couto was saying.

16                   So I'm kind of -- I don't know why we  
17 just don't say, "Here's what everything weighs.  
18 And --"

19           CHAIR HARRIS: There's two issues. We could  
20 say, "Here's what it weighs," but then also what the  
21 minimum weight would be.

22           MR. HAIRE: Chairman Harris, Members of the  
23 Board, there's been a lot of confusion because what  
24 the Guild proposed was to separate the jockey's  
25 weight, initially, from the equipment 'cause we know,

1 with the little saddle and all the equipment, it  
2 weighs 10 pounds. We know that.

3                   So this could be solved. Right now,  
4 the horses are getting 19, 20, 22. But then  
5 there's another 5 pounds that you add afterward. Why  
6 not make it a minimum 125 pounds? And the jockeys  
7 get on the scale, like they do in other countries,  
8 with all the weight. They check with the -- with the  
9 helmet and the safety jacket --

10                  CHAIR HARRIS: Is that the reason, though,  
11 that some of those countries, I noticed, are pretty  
12 heavy, but they're everything?

13                  MR. HAIRE: Everything. And that's the way it  
14 should be. I saw some races in Uruguay the other day  
15 where they were 133. But they check with everything.  
16 And that's the way it should be.

17                  COMMISSIONER SHAPIRO: But why don't we do  
18 that? Why don't we do that?

19                  CHAIR HARRIS: Well, we just need a different  
20 rule if we're going to do that. But it's -- I think  
21 it's doable. I don't know if the racing secretaries  
22 would be concerned that, you know, that it  
23 wouldn't -- that there are some issues there but --

24                  MR. HAIRE: But it's all -- they'd be all on  
25 the same playing field. We're not adding anything

1 that's not already there. All we're doing is those  
2 jockeys get on the scale, and they check with the  
3 "saddle towel." They check with the whip. It's 10  
4 pounds.

5                   So and make a minimum, which should be  
6 a minimum with the journeymen, whether it's 115,  
7 116, or 118. Whatever is decided, that's a minimum.

8                   Times have changed where, when they  
9 came up with this formula years ago, there was -- the  
10 helmets were cardboard. There were no safety vests.  
11 So now it's time to change it for the good of racing  
12 and have full disclosure and with that -- when that  
13 jockey gets on the scale -- and there should be a  
14 minimum of whatever is decided.

15                   But 119, 122 -- we're just putting a  
16 Band-Aid on this. This needs to be fixed for the  
17 health of the riders.

18                   EXECUTIVE DIRECTOR FERMIN: "Darrell"  
19 (phonetic), my recall is -- and correct me if I'm  
20 wrong -- but didn't some of this come when the riders  
21 were resistant to the safety vest because they did  
22 not want that to further penalize their weight?

23                   And that's where, as the safety  
24 equipment came along, it was added on so as not to  
25 penalize, but it was there. So it, in a way, you

1 know -- they created this with not -- I'm not putting  
2 blame.

3                   But I'm just saying I think that this  
4 is how it all started -- that they didn't -- in order  
5 to make that vest mandatory, they had to agree that  
6 that weight would not be included.

7           CHAIR HARRIS: Yeah. But I --

8           EXECUTIVE DIRECTOR FERMIN: And the helmet --  
9 as the helmet got safer, it got heavier. And the  
10 weight became more.

11           CHAIR HARRIS: Yeah. That whole thing -- and  
12 that's one aspect that clearly needs to be revisited.  
13 But then the proposal -- the parts of the proposal I  
14 like are some of the health aspects where jockeys  
15 would have to maintain minimum body fat.

16           COMMISSIONER SHAPIRO: Right. I think we're  
17 off the subject to what was initially started. I  
18 think there's two issues here. One is disclosure to  
19 the betting public as to what the horse is truly  
20 carrying.

21                   And I think that the first thing that  
22 we should do is -- personally I think that we should  
23 adopt a rule that says, "This is how much the horse  
24 is carrying." And if that means that, instead of  
25 being 120, it's 125, at least we're being truthful

1 that that's what that horse is carrying.

2                   And if that's different than other  
3 jurisdictions around the country, there will be a  
4 footnote that says, "California-rider weights include  
5 equipment."

6                   And, therefore, the second issue is,  
7 one, "What should the minimum weight be?" which is, I  
8 think, what Mr. Broad was talking about. And I think  
9 that we should go back and look at it. And I think  
10 we should hear the views of jockeys and everyone else  
11 and come to an answer.

12                  CHAIR HARRIS: Yeah. Why don't we get, at the  
13 next meeting, basically, what we discussed earlier --  
14 the proposal from Jockeys Guild, maybe tweaked a  
15 little bit here and there -- bring it back so we have  
16 a starting point. But then, as part of that, one of  
17 the facets would be that the weights were whatever  
18 they were. We'd get a --

19                  COMMISSIONER SHAPIRO: What the published  
20 weight includes.

21                  CHAIR HARRIS: Yeah. Okay.

22                                Let's move on to the next item 'cause  
23 we've got a big agenda but --

24                  THE REPORTER: Who was the latest speaker?

25                  CHAIR HARRIS: That was Darrell Haire,

1 H-a-i-r-e, from the Jockeys Guild.

2 Okay. Next is the revisions to the  
3 CHRB license application -- the race meetings.

4 MR. REAGAN: Commissioners, John Reagan, CHRB  
5 staff.

6 Yeah. What we've done here is we're  
7 taken the standard application. And over the last  
8 few months, we've had a lot of suggestions for  
9 possible changes to what is known as "CHRB-dash-17."

10 And what we've done here is -- if you  
11 look through the adjusted application, you'll see  
12 some things are underlined. Those are what was --  
13 what have been added. Others have been lined  
14 through. Those have been deleted. And based on some  
15 of the changes we made, there's also been some  
16 renumbering and whatnot.

17 But let me just highlight quickly the  
18 things that have been added. First of all, we make  
19 it clear that we want audited financials and, more  
20 importantly, for the licensee.

21 As some of the situations have become  
22 corporate, we are given financial statements but  
23 information about the California Racing Association  
24 is in a footnote, based on the entire corporation; so  
25 we need financial statements for the licensee.

1                   And, in addition, we've also asked  
2 about -- for information regarding electronic  
3 security systems, emergency lighting for the tracks  
4 that have lights -- the night industry and whatnot --  
5 for those that run in the evening.

6                   In addition, we've also taken -- we  
7 asked for information about steps they've taken to  
8 increase their on-track attendance and the  
9 development of new horse racing fans.

10                  And, similarly, we ask for information  
11 about advertising budgets, promotional plans, and  
12 facilities that have been set aside for new fans as  
13 well as any improvements to the physical facility.

14                  Now, where we're at in the process is  
15 we've taken the application. We've made these  
16 changes -- all that I've indicated, underlined, and  
17 scratched and whatnot -- but at some point, we will  
18 determine that we have made all the appropriate  
19 changes to the application.

20                  And then you will direct us to go  
21 ahead and start the rule-making process to make this  
22 change permanent because the application itself is  
23 included, by reference, in the Horse Racing Board  
24 rules. Therefore, changes must go through the  
25 regulatory process.

1                   So at some point, we will decide that  
2 it is complete. The changes, all the changes and  
3 the -- whatever they are, have been made. And then  
4 we can move forward.

5           CHAIR HARRIS: So where are we now? Now, we  
6 would basically take another month for people to  
7 review it some more and bring it back or what?

8           MR. REAGAN: We're simply at a situation where  
9 we've either done enough or we haven't. You can make  
10 more changes. Or you can say, "This is" -- you say  
11 today that "This is good. This is where -- this is  
12 what we want," and we will start the regulatory  
13 process now.

14                   Or we can wait a month and wait for  
15 additional changes or modifications from wherever;  
16 and at that point, you can tell us to move forward.

17           CHAIR HARRIS: Are there any comments from the  
18 racing associations impacted by this? Is there  
19 anything in here that we've got that you feel is  
20 unreasonable?

21                   (No audible comment.)

22           CHAIR HARRIS: I can't believe that. We're  
23 just not ready yet.

24                   Have the racing associations read this  
25 as yet?

1 (Laughter.)

2 CHAIR HARRIS: Well, I don't know. I hate to  
3 just start the rule-making process and then we get it  
4 back and there's some little modifications that we  
5 want to make. But I don't know.

6 What's the pleasure of the Board on  
7 it?

8 COMMISSIONER SHAPIRO: I would move that we  
9 accept these changes. And since it's my  
10 understanding that the rule-making process takes  
11 another 30 days or so, I would move that we accept  
12 these changes.

13 MR. REAGAN: Commissioner, I can let you know  
14 that we can certainly get started. But the  
15 rule-making process itself can sometimes be six  
16 months to a year in a sense that we will go out for a  
17 45-day notice period. It will be on a future board  
18 meeting for your approval for adoption.

19 And then, after that, it goes back to  
20 OAL for their review for 30 days; and then, once  
21 they've approved, it's a 30-day before it's  
22 implemented. So there are a number of steps and time  
23 frames in the law that we must comply with.

24 So if you give us the go-ahead today,  
25 we will get these in the proper form for OAL and get

1    them noticed and have the 45-day period, the future  
2    Board meeting for approval.  And so, like I say, we  
3    could be in the summertime before it comes back to  
4    you as a item for approval as a finished product.

5                    But you're right.  If there are  
6    changes in the meantime, once we start that process,  
7    if there are additional changes, that delays the  
8    process because we have to go back out for additional  
9    notice of either 15 or 45 days on change.  So we want  
10   to make sure we have it right before we start the  
11   process and -- and --

12                   CHAIR HARRIS:  Well, we're probably going to  
13   make changes at some point anyway; so maybe we should  
14   go ahead and get it started and --

15                   COMMISSIONER SHAPIRO:  Yeah.  I mean I was the  
16   one that asked for these changes.  And I think it  
17   incorporates all the changes that I requested.

18                   MR. REAGAN:  Okay.

19                   COMMISSIONER SHAPIRO:  So if nobody has a  
20   problem with it --

21                   EXECUTIVE DIRECTOR FERMIN:  My question would  
22   be on 11A, where it says, "Name and title of the one  
23   person responsible for security controls on the  
24   premises" -- whether we could make that be a little  
25   more detailed as far as a chart of responsibility of

1 what's restricted area and what is not.

2 I think, obviously, the CHRB is --  
3 we're very concerned about heightened security, you  
4 know, within the restricted area. I notice that the  
5 graded stake races and surveillance and such is on  
6 here.

7 But I think that we would like to  
8 have -- I would like to see a firm commitment from  
9 management as far as how many people they're going to  
10 have, who they are, who's in charge, and some kind of  
11 a hierarchy.

12 COMMISSIONER SHAPIRO: That's probably a good  
13 change and maybe ask they incorporate an organization  
14 chart from each association and with numbers of  
15 contact people to be reached after hours and things  
16 like that.

17 MR. REAGAN: Okay. We can certainly do that.

18 VICE-CHAIR BIANCO: So do we need a vote on  
19 that?

20 CHAIR HARRIS: Sure. Yeah. They don't  
21 want -- on the financial statements, maybe the way we  
22 can go at it is what we want -- if it's a subsidiary  
23 of another corporation, I guess we would really  
24 require that the subsidiary have ample capital to  
25 stand as a stand-alone company where you could

1 conversely have some type of guarantee from the  
2 parent that they would stand behind whatever the --  
3 their subsidiary did.

4 MR. REAGAN: Yeah. And more important, we --  
5 by having the financial statements for the particular  
6 licensee, we get information about that racing  
7 association in terms of their revenues from all these  
8 various sources as well as their particular expenses  
9 and the disposition thereof and so on and so forth.

10 Rather than trying to put it into some  
11 kind of a note on a larger corporate financial --

12 CHAIR HARRIS: Yeah.

13 MR. REAGAN: -- we actually get the separate  
14 financials for that licensee with the particular data  
15 regarding their California operation.

16 CHAIR HARRIS: Yeah.

17 MR. COUTO: Drew Couto, Thoroughbred Owners of  
18 California.

19 I'm not certain what section it would  
20 best fit in, but perhaps TOC could request an  
21 additional provision in the application be added that  
22 all purse funds generated and held by the racing  
23 association not be transferred to a parent  
24 corporation outside the State of California at any  
25 time but that purse funds always remain in the State

1 of California and are never transferred anywhere  
2 outside, whether that's generated, held, or  
3 otherwise.

4 MR. REAGAN: Commissioners, something to that  
5 effect, I think, would be Number 5 in the  
6 application -- "Purse Program." We have Items A  
7 through I. There's also a "Notice to Applicant." We  
8 can either put Mr. Drew -- Mr. Couto's concern in an  
9 item such as Number H, when we refer to the bank and  
10 account number of the paymaster purse's account.

11 We could make a -- expand on that. Or  
12 we could add it to the note to the applicant. But if  
13 you so desire, we can include that, if that's your  
14 wish.

15 COMMISSIONER SHAPIRO: I think that's a good  
16 idea.

17 CHAIR HARRIS: I don't understand. What was  
18 the perceived problem of that? I mean my only  
19 concern would be so many of these banks are basically  
20 international banks and it's hard to say if you're  
21 with Bank of America or if you're with Bank of  
22 America in California or North Carolina or where.

23 MR. COUTO: Chairman Harris, Drew Couto,  
24 Thoroughbred Owners of California.

25 Now, for the past several months,

1 we've been cooperatively, with the racetracks,  
2 looking at a migration of the paymaster's office, for  
3 a number of reasons, to a single account, probably  
4 held under TOC.

5                   In the process, there's been  
6 information that the purse accounts have been  
7 transferred to out-of-state parent companies. And  
8 it's unclear to us whether they have been commingled  
9 with other funds, held in segregated funds, if the  
10 full amount of the interest has been conveyed to the  
11 purse account or only that amount of interest held on  
12 monies in the California account.

13                   So we'd also like to make sure that,  
14 to the extent they're out of state or out of the  
15 country, that they are protected against creditors.  
16 We don't have that guarantee as well. So by  
17 maintaining the accounts in California segregated, I  
18 think that would be a very important step to protect  
19 those purse funds.

20                   And as we saw not -- as we saw in  
21 other states, there sometimes can be problems  
22 associated with purse accounts.

23                   CHAIR HARRIS: Yeah. 'Cause clearly those  
24 funds should be, like, a trust account to benefit the  
25 purses, not commingle 'em with everything else.

1           MR. REAGAN: We can work with Mr. Couto to add  
2 something to the proposed application before we start  
3 the process.

4           CHAIR HARRIS: Okay. Well, let's -- I think  
5 we can go ahead and start it. Whatever -- the  
6 product that we've got today is probably not what  
7 we're going to end up with anyway.

8                         So if somebody would like to move that  
9 we start the process --

10           COMMISSIONER SHAPIRO: I'll move to adopt the  
11 new license application as amended in the discussion  
12 today.

13           COMMISSIONER GRANZELLA: Second.

14           CHAIR HARRIS: All in favor?

15           COMMISSIONERS' VOICES: Aye.

16           MR. REAGAN: We will do so. Thank you.

17           CHAIR HARRIS: Okay. The next item, we  
18 touched on before, but we're going to just talk about  
19 it in Item 7 is the report and discussion of Autotote  
20 on the status of alternate selection options on  
21 Pick N wagers. So I think --

22           MR. REAGAN: Commissioners, John Reagan, CHRB  
23 staff.

24                         I know Mr. Payton is here, but I just  
25 wanted to refresh everyone. We had the alternate

1 selection for the Pick 6 before the Breeders' Cup  
2 scandal. The security changes to that system, to all  
3 systems, to address that scandal apparently took away  
4 the alternate selection process.

5 And it's simply a matter of time,  
6 money, and effort -- whatever it takes -- to put that  
7 back in. And I think Mr. Payton will let us -- let  
8 us hear about what that might be.

9 MR. PAYTON: Thanks, John.

10 Dave Payton with Scientific Games  
11 Racing.

12 Yeah. I've been here before. I've  
13 given status reports. And I was probably way too  
14 optimistic, thinking we were going to be able to get  
15 it done sooner than we could.

16 We obviously understand it's a feature  
17 that the patrons are, you know -- they desperately  
18 want back. We had it implemented in the late 90's,  
19 as John mentioned, and had to disable it after the  
20 Breeders' Cup incident at Arlington.

21 When that happened, we needed to turn  
22 off anything that was related to transferring  
23 information from one system to another on scan -- on  
24 "scan pools." And that included any "alternate-  
25 runner information."

1                   And after that, the industry requested  
2 that we go ahead and get a new type of scan done so  
3 that, after every leg of a race within a Pick 6 or a  
4 Pick 4, that information is automatically sent to the  
5 host so there is a central place where all  
6 information is.

7                   That took quite a long time to get all  
8 the tote companies to agree how to do it. That  
9 work's been done.

10                  Then we needed to, as we were the --  
11 kind of the instigators to bring the alternate runner  
12 to the industry, we needed to propose a way, now, to  
13 support alternate-runner capabilities. So we went  
14 ahead and did that. We proposed it to the "TRA 20-20  
15 Committee," again. And, again, the other tote  
16 companies adopted our procedure. And that work was  
17 done. That work's been developed and is ready to go.

18                  One thing that we couldn't do before  
19 with alternate runners was offer a pick or a  
20 "will-pay" on a race that had a pick -- an alternate-  
21 runner selection. And that was, because the way the  
22 information was kept, we didn't know what the  
23 substitutions were going to be until after the last  
24 leg.

25                  And that being the case, there was no

1 way to put up a "will-pay" that would mean anything.  
2 So we've now -- what we've been doing over the last  
3 few months is to design, with the "ITSP" (phonetic)  
4 changes, ways to be able to support the "will-pays"  
5 as well so that, when we introduce alternate-runners,  
6 again, we won't take away "will-pays."

7                   So all that said, the racing  
8 associations have been asking me, for months and  
9 months, to hurry up and get this back. So it's been  
10 on our list of things to do.

11                   What we're looking at right now is  
12 being able to bring it back within California by the  
13 July time frame, getting it ready for Del Mar's meet.  
14 I'm hopeful -- hopefully, we'd be able to get it  
15 sooner in some places if we could, you know, get some  
16 of the work done. But, right now, it's looking like  
17 the outside would be that it would be ready again for  
18 Del Mar.

19                   CHAIR HARRIS: So it would be ready for Del  
20 Mar -- alternate Pick 6 selections? 'Cause on the  
21 Pick 3s and Pick 4s is discussion --

22                   MR. PAYTON: Pick 3s -- keep the Pick 3s  
23 separate for a second. This will be Pick 4s and  
24 above -- alternate runners.

25                   CHAIR HARRIS: And that would be alternate; so

1 that would be -- could go into effect in -- statewide  
2 in California starting with Del Mar?

3 MR. PAYTON: We could have it ready for  
4 everybody in the state by -- by Del Mar's meet. We  
5 might be able to -- could possibly get it into Los Al  
6 or up in the North, maybe, before that. Maybe we  
7 could get it ready for CARF.

8 But I don't know for sure yet. Right  
9 now, I've been -- I've been told that we can  
10 definitely assure Del Mar.

11 CHAIR HARRIS: So that's Pick 6?

12 MR. PAYTON: That's the Pick N, which is a 4  
13 and above. Pick 3s are different. Pick 3s, we never  
14 instituted an alternate runner for. There was a --  
15 the reason for it is that the way the information is  
16 kept in the systems is different than it is for  
17 the -- for the Pick Ns. It's actually the whole pool  
18 is transferred. It's a matrix that's sent from one  
19 system to another.

20 And that was always a large estimate,  
21 a large project for all the tote companies to come up  
22 with a way to handle that. We still don't have an  
23 answer for that. The estimate that I've got to  
24 implement alternate runners on Pick 3s is a thousand  
25 programming hours.

1                   And, you know, when they give me  
2 numbers like that, they don't really mean too much.  
3 It just means that they know it's a lot of work, and  
4 they're not sure what it's going to take yet so --

5           CHAIR HARRIS: I think one of the suggestions  
6 on that is that you have a consolation payoff, like  
7 we do on a double --

8           MR. PAYTON: Yeah. And that's addressed in  
9 some of the other recommendations that's --

10          CHAIR HARRIS: Is that doable? I mean could  
11 that create a problem for --

12          MR. PAYTON: Those are just rule changes.  
13 We've implemented those in other parts of the country  
14 as well so --

15          CHAIR HARRIS: I think that might be the best  
16 solution there. Okay. Thank you.

17          MR. PAYTON: Thank you.

18          CHAIR HARRIS: Okay. Let's move on to -- I  
19 need to get a couple of action items out of the way  
20 because we might lose a few Board Members.

21                   Let's go to Item 12, which is the  
22 discussion, action by the Board on the request of Bay  
23 Meadows Foundation to distribute charity proceeds in  
24 the amount of 64,500 to 23 beneficiaries.

25          MR. REAGAN: Certainly. Commissioners, John

1 Reagan, CHRB staff.

2 As required by law, the Bay Meadows  
3 Foundation has received the money from the tracks --  
4 sixty-four five is what they propose to distribute to  
5 23 beneficiaries. It does require the Board's  
6 approval.

7 We have reviewed the application,  
8 their proposal. And it does meet the various  
9 requirements in law about certain percentages going  
10 to certain types of groups. So we do recommend  
11 approval of this request.

12 CHAIR HARRIS: Any discussion on this?

13 (No audible response.)

14 CHAIR HARRIS: Do I have a motion?

15 VICE-CHAIR BIANCO: I'd like to make a motion.

16 CHAIR HARRIS: It's been moved by Bianco.

17 And second by --

18 COMMISSIONER MOSS: Second.

19 CHAIR HARRIS: -- Jerry Moss.

20 All in favor?

21 COMMISSIONERS' VOICES: Aye.

22 CHAIR HARRIS: Approved.

23 Okay. We've got Del Mar.

24 Go ahead with that.

25 MR. REAGAN: Similarly, Commissioners, we have

1 the request from Del Mar included in the package. We  
2 have reviewed it. It does meet all the various  
3 requirements of law. And we recommend approval.

4 CHAIR HARRIS: A motion on that?

5 VICE-CHAIR BIANCO: I'll make a motion.

6 COMMISSIONER MORETTI: Second.

7 CHAIR HARRIS: Second.

8 All in favor?

9 COMMISSIONERS' VOICES: Aye.

10 CHAIR HARRIS: We've got Hollywood Park,  
11 which is the largest -- a hundred-ninety-two-  
12 thousand.

13 MR. REAGAN: And we have reviewed that, found  
14 it to be in order, and recommend approval.

15 CHAIR HARRIS: Make a motion?

16 VICE-CHAIR BIANCO: Move approval.

17 CHAIR HARRIS: Moved by Commission Bianco and  
18 seconded by --

19 COMMISSIONER SHAPIRO: Second.

20 CHAIR HARRIS: -- Commissioner Shapiro.

21 All in favor?

22 COMMISSIONERS' VOICES: Aye.

23 CHAIR HARRIS: Okay. I just wanted to get  
24 those out of way. We've still got a lot of time; so  
25 don't leave. You might make the first race; but you

1 got ADW, when you think about it.

2                   Anyway -- okay -- the next thing --  
3 don't lose my train of thought -- the report on the  
4 California Performance Review Commission, which is  
5 known as "CPR" which -- I don't -- is somebody  
6 prepared to give that or -- yeah. Go ahead.

7                   MR. NOBLE: Commissioners, Paige Noble, CHRB  
8 staff.

9                   Yeah. I'd like to bring you up to  
10 date on the latest regarding the California  
11 Performance Review and just to kind of recap what's  
12 happened up to this point. In early 2004, Governor  
13 Schwarzenegger initiated a top-to-bottom review of  
14 California government. And this was called the  
15 "California Performance Review," what we refer to as  
16 the "CPR."

17                   The CPR -- the purpose was to provide  
18 recommendations regarding restructuring and  
19 reorganizing and reforming state government. In  
20 August of 2004, the CPR report was issued. And it  
21 contained over 1,200 individual recommendations  
22 pertaining to state operations and structure.

23                   Included in the CPR report was a  
24 recommendation to eliminate 117 boards and  
25 commissions, including the California Horse Racing

1 Board. The CPR recommended that the CHRB no longer  
2 operate as an independent board, that the Board be  
3 eliminated, and that the Board's functions and  
4 responsibilities be transferred to a newly proposed  
5 department called the "Department of Commerce and  
6 Consumer Protection."

7 In October of 2004, the CPR Commission  
8 concluded the last of eight public hearings. And  
9 then, in November of 2004, the Commission submitted  
10 its report and recommendations to the governor.

11 Now, the Commission's report to the  
12 governor at that time did not specifically mention  
13 the CHRB. However, the Commission recommended to the  
14 governor that the administration evaluate the boards  
15 and the commissions that had been proposed for  
16 elimination.

17 Earlier this month, on January 6, the  
18 governor submitted a government-reorganization plan  
19 to the Little Hoover Commission.

20 Now, in the reorganization plan, the  
21 governor proposed to reform or eliminate 94 boards  
22 and commissions that are either obsolete; whose  
23 functions are duplicated elsewhere within state  
24 government; have either outlived their usefulness,  
25 provide regulatory hurdles, or functions are already

1 being fulfilled.

2                   Fortunately, the aforementioned  
3 descriptions did not fit the CHRB because the  
4 governor did not include the CHRB on the list of  
5 boards and commissions recommended for elimination.

6                   However, there have been some comments  
7 from the governor's office that indicate any board  
8 that was on the original target list that was not  
9 included, on the list that was just recently  
10 submitted to the Little Hoover Commission, could be  
11 subject for future review.

12                   This item is for discussion at this  
13 point. However, CHRB staff will closely monitor any  
14 future reorganization plans submitted by the governor  
15 for its impact on the CHRB.

16                   CHAIR HARRIS: Any comments from the  
17 Commissioners on this?

18                   (No audible response.)

19                   CHAIR HARRIS: I think we need to work with  
20 the governor's office and give them any information  
21 they need. I think -- from the industry and Board  
22 perspective, I think everyone felt that there was a  
23 clear need for CHRB to be a state entity.

24                   And, you know, I think we can always  
25 reinvent ourselves as we go along and try to do a

1 better job on different things. But I think it would  
2 be very difficult if this agency was under some  
3 something that didn't have apply to racing at all.

4 COMMISSIONER MORETTI: Paige, my suggestion  
5 would be that staff prepare some kind of response to  
6 the governor's office that includes a description of  
7 the duties of the CHRB, other than the licensing  
8 duties, because it's my understanding that,  
9 initially, most of the boards and commissions that  
10 were subject to what you were talking about -- to  
11 elimination -- were -- could all be categorized as  
12 "licensing boards," of which there are literally  
13 dozens. And they are duplicative in many ways.

14 Where the CHRB stands out, as do some  
15 other commissions and boards, is the fact that we --  
16 our oversight in the medication issue is extremely  
17 important as well as the other issues that would  
18 pertain to upholding the integrity of the sport. So  
19 I would suggest that we might want to focus on that.

20 MR. NOBLE: Sure. We can certainly put  
21 something together.

22 CHAIR HARRIS: That's a good idea.

23 COMMISSIONER SHAPIRO: Does that bring into  
24 question whether or not California should join the  
25 Racing License Consortium? I mean if there's an

1 issue as to concern on licensing, I understand the  
2 legislation now provides that we could be part of a  
3 national racing license.

4                   But for some reason, which I don't  
5 know, I've heard that, I guess, we wouldn't make as  
6 much money or the State wouldn't make as much money  
7 if we joined that consortium. I don't know if that's  
8 been revisited or if that would be of concern to the  
9 governor's office, if maybe they would see it as a  
10 benefit if we were part of that and took that task  
11 out of the hands of having to license everybody.

12                   I mean from a horse --

13                   CHAIR HARRIS: I think we still would. But I  
14 agree we should take a look at a national license. I  
15 think it would only impact a few percent of our  
16 people that are multistate. But it's something we  
17 should look at.

18                   COMMISSIONER SHAPIRO: I mean, if you're a  
19 horse owner, it's a real pain if you want to ship  
20 your horse to West Virginia and you have to get and  
21 make sure you pull -- you get a license in time to be  
22 able to race a horse for one race.

23                   CHAIR HARRIS: It's a barrier to people that  
24 we want to get into the game.

25                   COMMISSIONER SHAPIRO: Right.

1 CHAIR HARRIS: What is the background on this?

2 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Roy

3 Minami, Horse Racing Board staff.

4 Commissioners, we do accept the Racing  
5 Consortium licenses. However, the difference is that  
6 we need to make sure that our fees are paid and that  
7 the background investigations and the fingerprints  
8 are taken the same as the California.

9 So in other states, the -- they may  
10 not require fingerprints or certain kind of  
11 background checks. But as long as the individual  
12 fills out an application for the national license and  
13 submits to us with the fees, then we will accept  
14 that. The difference is, is those licenses are  
15 processed through the ARCI.

16 And the main thing that we want to  
17 make sure is that the background checks and the fees  
18 are paid to California. But we do -- we will  
19 accept -- we do accept those.

20 COMMISSIONER SHAPIRO: All right. But going  
21 the other way, for our horsemen that are based here  
22 and race in other jurisdictions, they have a problem.  
23 And so I don't know if we shouldn't revisit it and  
24 look to see if, you know -- I don't know what extent  
25 we really do background searches and all those things

1 on every licensee. But I would think that we should  
2 revisit this.

3 CHAIR HARRIS: Yeah. It seems to me that, if  
4 somebody ships in for one race, by the time we ever  
5 get his background checked and fingerprint check and  
6 everything back, it's six months later anyway; so --

7 COMMISSIONER SHAPIRO: I mean, yeah --

8 CHAIR HARRIS: -- I'm not sure if we're  
9 really -- it's kind of a --

10 COMMISSIONER SHAPIRO: -- how useful is it?

11 ASSISTANT EXECUTIVE DIRECTOR MINAMI: The --  
12 my understanding is that the national license,  
13 though, is the -- is gone through the clearing house  
14 of the ARCI. So we provide the horsemen with the  
15 proper license applications. And those are shipped  
16 directly to the ARCI and processed from there to the  
17 other state that the individual licensee wants to  
18 race at.

19 CHAIR HARRIS: Let's get -- we ought to get  
20 into this later, but I --

21 COMMISSIONER SHAPIRO: Right.

22 CHAIR HARRIS: -- but I agree we've got an  
23 issue here which we should --

24 DEPUTY ATTORNEY GENERAL KNIGHT: Can I comment  
25 on that? The Board did enter the interstate --

1 there's an interstate compact. There's actually a  
2 statute that deals with it in your Act. And the  
3 statute does require what Roy was describing. It  
4 requires that they still satisfy the California  
5 requirements, you know. That's my recollection of  
6 the problem.

7                   The way the statute was passed if --  
8 for California to join this interstate compact, it  
9 had to maintain its licensing standards. So if there  
10 was any licensing standard that was a lesser  
11 requirement than California had, they still would  
12 have to meet the higher standard when they came to  
13 California.

14                   So that's the reason why they -- when  
15 they come here, they still have to meet, in some  
16 cases, the background check with DOJ and so on. So  
17 it would take a law change to -- but it -- you know,  
18 you certainly can revisit it. But we do have  
19 statutes --

20                   CHAIR HARRIS: Yeah. Let's revisit the whole  
21 area.

22                   Okay. Let's move on, then, to Item 9  
23 is the discussion and action of the Board on the  
24 policy of releasing names of individuals who have  
25 been served with complaints, accusations, or rulings

1 for Class 1, 2, or 3 medication positives and the  
2 best methods to utilize for the release of this  
3 information. I think our staff has a proposal on  
4 that.

5 ASSISTANT EXECUTIVE DIRECTOR MINAMI: Roy  
6 Minami, Horse Racing Board staff.

7 The -- currently the information on  
8 Class 1 and 2 -- Class 1, 2 and 3 positives are --  
9 become public under the Business and Professions Code  
10 once an accusation or a complaint is served upon a  
11 licensee.

12 Now, the current practice of the Board  
13 is that we don't actively disclose or disseminate the  
14 information of trainers who have been served with  
15 complaints or accusations for a Class 1, 2, or 3  
16 positive.

17 The exception is that, on certain  
18 high-profile trainers, information will be given to  
19 Mike Marten, our information officer, for  
20 dissemination to the media, upon their request. But  
21 we don't do it on every single case for all trainers.

22 The fact of the matter, though, is  
23 that the information does not become public until the  
24 Board staff serves a complaint or accusation upon a  
25 trainer.

1 CHAIR HARRIS: But --

2 ASSISTANT EXECUTIVE DIRECTOR MINAMI: I think,  
3 what the staff would propose, rather than an active  
4 dissemination is, that, upon the service of a  
5 complaint or accusation, the Board will post such  
6 service on its website.

7 So we're not actively disseminating.  
8 However, we are making the information available to  
9 individuals who want to find out what the latest  
10 complaint or accusation has been. We would post that  
11 on our website to make it available to the public.

12 CHAIR HARRIS: Yeah. I think that should be  
13 the policy. I think we want to be as transparent as  
14 possible. I think there was some confusion back on  
15 the high bicarbs -- why we wouldn't release those  
16 names.

17 And the problem was that we, under the  
18 statute, could not release names of people that were  
19 charged. We couldn't charge people for something  
20 that was not in violation of anything. So it wasn't  
21 any -- any subterfuge on the part of CHRB or anybody.  
22 It was just that we physically could not release  
23 these names.

24 But now, anything that is a 1, 2, or  
25 3 -- once the person is charged, I think putting it

1 on the website's a good way to do it. It's  
2 accessible to anybody; and it doesn't discriminate if  
3 you're a big trainer or a small trainer or anything.  
4 And I think that that will do it.

5 I think the press will start picking  
6 up on it. And then they can use that information any  
7 way they want.

8 ASSISTANT EXECUTIVE DIRECTOR MINAMI: We would  
9 also if, you know, once -- it does become public once  
10 the accusation or complaint is served; so, in  
11 addition to the website, if we have an active  
12 request, as a Public Records Act or if Mr. Marten  
13 gets a request directly from the media, then he would  
14 also be free to disclose that --

15 CHAIR HARRIS: Well, anything on our website,  
16 if it was requested, I mean --

17 COMMISSIONER SHAPIRO: I don't think -- I  
18 don't think we should actually comment on -- if we  
19 take an action -- we take an action and we post it, I  
20 don't think that we should differentiate between any  
21 trainer and simply make it available.

22 And I don't even see why we need to  
23 disseminate it if requested. It's on the website for  
24 people to see the website. And they can --

25 CHAIR HARRIS: If it's a public record --

1 anything -- people can request anything if it's a  
2 public record. They're not protected. But I don't  
3 think it's going to happen very often, anyway, if  
4 they can just go to the website.

5 ASSISTANT EXECUTIVE DIRECTOR MINAMI: The only  
6 information we would be disclosing would be the name  
7 of the trainer, the drug substance, the  
8 classification, the horse's name, the name of the  
9 track, and the date of race.

10 COMMISSIONER MOSS: I'm sorry, Roy. But  
11 wouldn't that be accompanied by a Notice of Meeting  
12 with the stewards or something regarding that?

13 ASSISTANT EXECUTIVE DIRECTOR MINAMI: It could  
14 be, if it's scheduled at the time of service.

15 COMMISSIONER MOSS: Right.

16 ASSISTANT EXECUTIVE DIRECTOR MINAMI: We could  
17 also indicate the Notice for the date of the hearing.  
18 But anything beyond that, we would not be able to  
19 disclose because it would still be considered a  
20 "pending investigation" and the case would not be  
21 closed at that time.

22 EXECUTIVE DIRECTOR FERMIN: Generally, when  
23 the accusation goes out, there has been at least -- a  
24 hearing date has been set. It isn't always kept  
25 because people want continuances.

1                   But I think the real important thing  
2 is that everybody has to be treated the same.

3                   COMMISSIONER MOSS: I agree.

4                   MR. MARTEN: Mike Marten of the Horse Racing  
5 Board staff.

6                   Yes. I would like to clarify one  
7 thing. Certainly, in the 90's, there was a policy  
8 where we issued releases on high-profile licensees.  
9 That changed, I think, about '98 or '99. And we  
10 started issuing releases on each and every case of  
11 Class 1, 2, and 3.

12                   And then, when the law changed that  
13 directed 1s, 2s and 3s to the Office of  
14 Administrative Hearings, then our policy changed.  
15 And we stopped issuing releases because the catalyst  
16 for those news releases had been the CHRB  
17 investigator's filing an accusation and handing me a  
18 copy of it.

19                   When it went to the Attorney General's  
20 office, we didn't have the same dialogue with the  
21 attorney -- Deputy Attorney Generals. I wasn't  
22 receiving the accusations or complaints from each and  
23 every Deputy Attorney General.

24                   Therefore, it went back to the  
25 inconsistency. And the Board, at that time, decided,

1 well, to be consistent, we would issue no releases.  
2 But the high-profile cases go back five or six years  
3 ago. Everyone was treated the same for the past,  
4 roughly, five years.

5 CHAIR HARRIS: I think the website's the best  
6 solution 'cause otherwise it looks like we're  
7 commenting on the merits of the case and all, which  
8 is bad because we don't want -- because we, as a  
9 Board, someday may have to rule on that case.

10 So I think it's better that it's out  
11 there. And the reporters are good at digging out  
12 whatever information they have as long as they know  
13 that it's there.

14 Anything else on this?

15 (No audible response.)

16 CHAIR HARRIS: Let's go on to -- Item 10 is a  
17 report by the California Marketing Committee on  
18 proposed 2005 programs and evaluation of 2004  
19 program.

20 MR. REAGAN: Commissioners, John Reagan, CHRB  
21 staff.

22 We have people from the CMC today.  
23 There was nothing available for the package that we  
24 have for this meeting. But I understand that, since  
25 that time, they may have some more information

1 they'll give to us today.

2 MR. FRAVEL: Mr. Chairman, Craig Fravel. I am  
3 the Chairman of the California Marketing Committee,  
4 which comprises six individuals who are in  
5 representative positions.

6 Under the way the statute is written,  
7 there was one representative from Northern California  
8 racing associations, one from the Southern racing  
9 associations, two representatives of the fairs, and  
10 two representatives of the Thoroughbred Owners of  
11 California.

12 The California Marketing Committee  
13 dates back to the origination -- in a sense, it dates  
14 back to the origination of satellite wagering in  
15 California. In 1988, when satellite wagering began,  
16 there was a provision in the law that provided that 1  
17 percent of the money generated at satellite-wagering  
18 facilities went into what was called the "1 Percent  
19 Fund."

20 And under the previous law, the 1  
21 Percent Fund, which aggregated to it substantially  
22 more money than is currently paid into these funds,  
23 was controlled by host racing associations during  
24 their individual race meets.

25 And there was, like any other

1 marketing programs in this business, a tremendous  
2 amount of dissatisfaction with the way that money was  
3 spent and primarily on behalf of the fairs, who felt  
4 that the constant practice of the racing associations  
5 to advertise only their meet on opening and closing  
6 day, which, candidly, most satellite-watering patrons  
7 didn't care that much about, was unproductive and  
8 resulted a change in the law in conjunction with, I  
9 believe, the expansion of satellite wagering to  
10 permit multiple signals to be taken four or five  
11 years ago, the reduction of the overall funds to a .4  
12 percent fund that was then turned over to the  
13 California Marketing Committee for discussion and  
14 allocation of those resources.

15                   The original legislation contemplated  
16 a sunset date of July of 2004, when that legislation  
17 would no longer be effective. And had that sunset  
18 provision been -- not been extended, the money would  
19 have reverted back to the racetracks and the horsemen  
20 as essentially leftover distributions under the horse  
21 racing law.

22                   The California Marketing Committee, as  
23 I said, is a six-member organization. We meet  
24 routinely or regularly to try and analyze our  
25 programs. Obviously, the marketing issues in this

1 business are difficult. And everybody has a  
2 different perspective on how they should be -- on how  
3 the money should be spent. And there are trade-offs  
4 and political discussions, I guess, that go on in the  
5 context of the Marketing Committee.

6                   But, overall, we have tried very hard  
7 to move the ball forward and to do things that are  
8 beneficial, statewide, for the funds.

9                   When the extension of the program was  
10 in question, legislatively -- that was the beginning  
11 of last year and much of last summer -- we had a  
12 variety of meetings with industry representatives to  
13 discuss how the funds should be allocated or should  
14 the sunset be extended.

15                   And the current budgets are basically  
16 a reflection of those meetings, which included  
17 virtually every constituent group in the business.  
18 And we then agreed upon the piece of legislation that  
19 extended the sunset provision to the end of 2005.

20                   So we currently have a statutory  
21 authority to continue to allocate these funds through  
22 the end of 2005.

23                   I believe that the Committee -- or the  
24 Commission has been provided with a copy of the  
25 two-year budget that was agreed upon last year, when

1 we were working on the sunset provision. And we have  
2 now done some modifications, more recently, to the  
3 2005 budget and will be providing this Board with the  
4 full reconciliations on 2004.

5 Like many other entities, we're  
6 closing out the books on '04 and should, within the  
7 next month -- within the next month, have a complete  
8 record of the expenditures for 2004.

9 I'm not sure if you want me to go into  
10 great detail on, you know, what the programs are that  
11 we do or simply suggest that, you know -- one thing  
12 we have done in the past is sit down with Board  
13 Members individually or in groups, to the extent  
14 that's permitted by the Brown Act, and review what we  
15 spend our money on, how we spend it, and answer your  
16 questions, rather than take up a lot of time at these  
17 meetings.

18 We'd be happy to do that. Or I'd be  
19 happy to respond to them now.

20 CHAIR HARRIS: Any questions from the Board?

21 (No audible response.)

22 CHAIR HARRIS: I think there is a lot of angst  
23 out there, as far as the -- basically the  
24 effectiveness of the money and how it's spent. And I  
25 don't know if we really have enough information to

1 really judge it one way or the other. But I think we  
2 really need to look at the budget.

3                   One of my concerns -- would there be  
4 some evaluation process by a third party that could  
5 say, "Okay. You spent, you know, X-amount of money  
6 on this area of promotions and that worked or didn't  
7 work or whatever"?

8                   It's always tough in marketing to say  
9 what works and what doesn't work. But, at least,  
10 there's some effort to quantify the amount of money  
11 spent.

12                  MR. FRAVEL: Well, and, again, that's not  
13 something that the Committee certainly has any  
14 objection to. And we'd be happy to, you know,  
15 entertain that kind of -- we are doing some research  
16 in conjunction with -- the NTRA directed some of the  
17 programs that we have currently. And we should be  
18 conducting that within the next month as well.

19                   And I guess what I would suggest is  
20 that, you know, we can prepare a much more  
21 comprehensive report for the Board. If you have a  
22 committee that it should be, you know, presented to  
23 first, we'd be happy to do that or sit down  
24 individually with people and go through that.

25                   But, again, this is a very open

1 budget. And we'd be happy to answer any questions  
2 and respond to ideas. And I think the one thing that  
3 we have conceded amongst the committee --

4                   And, by the way, when we do meet,  
5 anyone who really wants to come to those meetings is  
6 invited. It's not meetings that are in secret or,  
7 you know -- and anyone who would like to be on the  
8 list for notification when these meetings are, is  
9 more than welcome to attend, as well, and provide  
10 ideas and suggestions.

11                   COMMISSIONER SHAPIRO: I -- it appears -- and  
12 I have the -- I received that. There's a budget of  
13 about \$5.6 million for the first year. And certainly  
14 you're right. We all have our personal comments as  
15 to what we think works or doesn't work.

16                   What I can't tell, from just looking  
17 at the budget, is what the effect of, for instance,  
18 the Golden State Rewards Program actually has been.  
19 I have no idea what the success is in terms of  
20 bringing customers back and how often they're --  
21 they're using their betting to -- are they  
22 participating more?

23                   MR. FRAVEL: Yeah.

24                   COMMISSIONER SHAPIRO: I can't tell anything,  
25 just looking at a budget. So I'd be interested in

1 seeing what the results are.

2 MR. FRAVEL: Well, let me make this  
3 suggestion -- and I'm not trying to delay things. I  
4 mean we can move very quickly on this because we have  
5 a lot more information than, candidly, I think you'd  
6 ever want to see.

7 If you'd like to kind of sit down with  
8 me -- you and I could talk in the next week and we  
9 can get with "Shannon" (phonetic) and get a list of  
10 some of the things you'd be interested in -- we can  
11 prepare, you know, information that's directly  
12 responsive to the questions you have rather than -- I  
13 mean we will proceed in any fashion you'd like but --

14 COMMISSIONER MORETTI: Craig, I would also  
15 like to get an update on some of the activities. It  
16 seems like it's been a couple of years since there's  
17 a been a full Board presentation.

18 I'm not saying you need to take up the  
19 time of the full Board but -- and I don't need a  
20 fancy PowerPoint or anything -- but, just, I'd like  
21 to have a description or we can have a conversation  
22 and find out what you all have been up to because the  
23 only one I'm actually aware of is the award program.

24 CHAIR HARRIS: Yes. I think we can set up a  
25 date sometime. And it wouldn't necessarily be a

1 Board meeting but maybe just get a couple of us from  
2 the Board and some of the different interest groups  
3 to take a look.

4                   There's a lot of money being spent,  
5 and there's a lot of concern that we're not showing  
6 any growth. And maybe this isn't, you know -- maybe  
7 we're not spending enough money -- but that we have  
8 oversight. It has come up 'cause you're going to  
9 have to get it extended -- the sun -- it's going to  
10 continue after a while. And there would have to be  
11 a new bill.

12                   MR. FRAVEL: Yeah. There would have to be  
13 legislation to do that. And like many other things,  
14 we'd have to have a consensus on proceeding with it  
15 for, you know, another year or two years of the  
16 program.

17                   But I'll be happy to make the  
18 arrangements to do that and contact Mr. Shapiro's  
19 office and Ms. Moretti's office and try to find a  
20 time that we can all sit down and go through that and  
21 see what kind of information you guys would like to  
22 see.

23                   CHAIR HARRIS: And then I don't think I've  
24 really gotten a budget -- if you could send all of  
25 us, you know, anything that you have so we could

1 review it before the meeting.

2 MR. FRAVEL: Yeah. We'll provide that to each  
3 of you as well as Mr. Reagan.

4 COMMISSIONER SHAPIRO: I would suggest that  
5 you circulate it because the people to my left have  
6 never seen the budget. I don't know about the people  
7 over there.

8 CHAIR HARRIS: Is it just a one-page budget?

9 COMMISSIONER SHAPIRO: Yeah. It's a one-page  
10 budget. And, you know, frankly in very -- \$2 million  
11 goes to the GSRN programs. There's a million five in  
12 there for "Supercharge." There's \$430,000 for  
13 satellite marketing.

14 The California Racing Campaign is  
15 \$250,000, which, I think, is sending somebody to try  
16 and bring horses to California, if I'm right.  
17 There's a total of \$630,000 that is being spent on  
18 replay shows, both in North and South --  
19 Southern California and \$90,000 on radio shows and  
20 \$240,000 for "purse supercharging" and -- and another  
21 \$250,000 for workman's comp and a hundred-and-  
22 forty-five-thousand for administration of the  
23 program.

24 You know, I personally question some  
25 of these issues. And, for instance, the replay

1 show -- I don't really know why we're using this  
2 marketing money for just a replay show. I think  
3 replay shows for the horse bettors are readily  
4 available on our ADW sites, and most people can  
5 probably pretty easily get them.

6                   But, again, I don't want to second-  
7 guess you. But I would like to discuss -- have a  
8 discussion on some of these issues because we had a  
9 meeting yesterday of a group of us -- which you were  
10 supposed to be at; sorry, Craig -- to talk about how  
11 we market racing.

12                   And I know, in that group, there were  
13 some good ideas and some different thoughts that  
14 should be shared with the CMC because maybe there's a  
15 different way that should be gone on this -- we  
16 should go when there's a collaborative effort of a  
17 variety of people from the industry.

18                   MR. FRAVEL: We'd be happy to do that. And  
19 I'll contact your offices to try and arrange follow-  
20 up and give you much more detail on all those items  
21 that you mentioned. And I just have to say --

22                   COMMISSIONER SHAPIRO: Thanks.

23                   MR. FRAVEL: -- one thing. Some of the issues  
24 you have brought up are items that we have argued and  
25 fought over amongst ourselves as well. So they're

1 clearly legitimate sources of inquiry and discussion.

2 And we would welcome that. Thank you.

3 CHAIR HARRIS: The Board really doesn't have  
4 a -- any real power over this marketing. It just  
5 gets a report. But I think we do have an obligation  
6 to see if it's a good program. And basically there's  
7 a big issue over if it's a program that should be  
8 supported legislatively for it to extend the sunset.

9 Okay. We've got the discussion by the  
10 Board and report from staff on the concluded race  
11 meeting in Hollywood Park from November 3 through  
12 December 20.

13 MR. REAGAN: Yes. Commissioners, John Reagan,  
14 CHRB staff.

15 This is a little bit more than an  
16 end-of-meet report. We do include the handle and  
17 pari-mutuel statistics. But there is also some  
18 comments and concerns indicated in the item, in  
19 reports that were forwarded to the headquarters from  
20 the investigations group, the veterinarian stewards,  
21 as well as, like I say, the overall numbers.

22 Just briefly, the average -- and we  
23 look at the averages because the number of days  
24 change from year to year there. The average daily  
25 handle was down a half a percent, almost; on-track,

1 down 4 percent; off-track, almost 2 percent. Of  
2 course, the ADW was up a good amount, although that's  
3 shrinking as we get the ADW matured.

4 But, overall, those are the  
5 pari-mutuel statistics for the meet as well as  
6 comments and concerns from other parties. That's  
7 what we have for you today.

8 CHAIR HARRIS: Yeah. There are numerous  
9 concerns expressed that, I guess, were submitted by  
10 the investigators and the veterinarian and the  
11 stewards.

12 Has Hollywood Park had an opportunity  
13 to take a look at these or really evaluate what they  
14 feel they can do, going forward?

15 MR. BAEDEKER: Rick Baedeker, Hollywood Park.

16 We've had an opportunity, since we  
17 received the packet; but I can tell you that -- and I  
18 would like to say I think this is a really good idea  
19 to, after the meet, to have this CHRB staff identify  
20 any issues that need to be fixed.

21 CHAIR HARRIS: I might add, just to that, too,  
22 this was -- I mean this is where it started. But I  
23 guess it is something we do plan to do with all the  
24 racing associations. So we're not just picking on  
25 Hollywood Park.

1           MR. BAEDEKER: Yeah. So I think it's a great  
2 idea, and I think it will be productive. But this  
3 one's the first one out of the chute, I guess; and we  
4 didn't have a chance to look at any of this until a  
5 couple of days ago.

6                         And also none of these issues were  
7 brought to our attention during the course of the  
8 meet. So we certainly would invite staff, as soon as  
9 there is a problem, to come to us; and, you know, if  
10 we can address it immediately, we will. I would like  
11 to talk about a couple of things.

12                        One thing that is kind of troubling  
13 here are the comments about security because,  
14 personally, I was very proud of the work that our  
15 security staff did in response to the requests from  
16 the Board. And I'd just like to give you a couple of  
17 statistics here.

18                        On a daily basis, there were six  
19 uniformed police officers on the backside. There  
20 were an additional five to seven uniformed police  
21 officers assigned to the surveillance team. So, all  
22 in all, there were twelve to fourteen uniformed  
23 police officers on the backside on a daily basis.

24                        And I know the Board had requested  
25 that there be a higher profile presence back there.

1 So I think we did accomplish that.

2                   Also, because we were not able to get  
3 all of the personnel that we needed from the union,  
4 we had to go outside and get an additional five to  
5 seven individuals, security individuals, to perform  
6 the surveillance duties. Now, these individuals had  
7 been trained in what to look for, from a security  
8 standpoint.

9                   We spoke with Dr. "Bell" (phonetic)  
10 today and his concerns about training -- I don't  
11 speak for him; he can obviously do that himself --  
12 but we understand that his concerns were more for  
13 these individuals being trained in horse etiquette  
14 and what to do around a horse and what not to do  
15 around a racehorse.

16                   So had we been aware of that, we would  
17 have taken immediate action. And we certainly will,  
18 going forward.

19                   So I think that, if you have any  
20 questions about the security back there during the  
21 fall meet, I've got "Don Barney" (phonetic) here, our  
22 chief of security, who can answer those questions in  
23 more detail, if you'd like.

24                   The other things -- I mean we've gone  
25 through each of them. I don't need to bore you,

1 unless you want me to. I can -- I can bore people on  
2 demand, if need be.

3 I think I would like to address the  
4 racing surfaces. We always have split opinions on  
5 the racing surfaces. The dirt track -- there's no  
6 question we had -- it seemed to be an anomaly -- we  
7 had a high number of injuries this fall. There's no  
8 question about that. Had we been able to go out and  
9 do something to that racing surface and fix it, we  
10 certainly would have done it.

11 But we've got people, you know, that  
12 are highly trained here. And I can tell you that,  
13 since the end of the meet, we've been -- as we've  
14 gotten any kind of break in the weather, we've been  
15 out on the main track. And we're doing a lot of  
16 levelling.

17 And once we do get a -- we've got to  
18 allow the trainers that are there an opportunity to  
19 train now because, obviously, with all the wet  
20 weather, they haven't been able to do that. So  
21 they're catching up on their training.

22 But I assure you that, before the  
23 spring-summer meet, there will be significant  
24 renovation and laser-levelling of the main track.

25 You're also aware -- it's not in

1 here -- but you're also aware of the problems that we  
2 had with the turf course. And I want to address that  
3 in front of all the Commissioners.

4                   There is a systemic problem with the  
5 turf course. It wasn't build for winter racing. It  
6 was build for spring-summer racing. And when it's  
7 dry -- it's a Bermuda turf course; and it performs  
8 very well during the spring-summer.

9                   When we do have rain during the fall,  
10 it is -- it has always been very slow to dry out.  
11 For whatever this reason -- for whatever reason, this  
12 year there were a couple of spaces, a couple of spots  
13 that simply did not dry out. And those were the  
14 problem spots.

15                   And when the jockeys expressed concern  
16 about their safety, then we took races off of the  
17 turf. And the timing of one of those decisions was  
18 unfortunate but unavoidable. We will conduct a major  
19 renovation of the turf course following the spring-  
20 summer meet.

21                   Fortunately, the horses will not be on  
22 the backside this year. We rotate, as I think you  
23 know, between Santa Anita and Del Mar so that, every  
24 other year, we can go back there and do the major  
25 repairs that are needed in the stable area.

1                   Well, the good news is, this year, the  
2 horses will be at Santa Anita, and we will be dark.  
3 So immediately following the conclusion of the  
4 spring-summer meet, we will go in, take the turf  
5 course up, and fix the drainage problem. It will be  
6 a major undertaking. And we're still studying the  
7 engineering aspects of it at this time.

8                   If there are specific other questions  
9 about the report, I'd be happy to answer them.

10                  CHAIR HARRIS: Any questions for Mr. Baedeker  
11 about the report?

12                  COMMISSIONER SHAPIRO: I don't have any  
13 questions. And I'm glad you addressed those issues.

14                         The number of breakdowns at this fall  
15 meet was .53 per day -- racing day. In other words,  
16 half a horse died per day, which is just, you know,  
17 horrible.

18                         The fiasco that occurred with the turf  
19 situation, I think, could have been handled better  
20 and both from the management side but also, I think,  
21 that our -- from the stewards, frankly. And I think  
22 that it was very unfortunate.

23                         The more macro, or larger, question is  
24 what the future holds. When you look at your  
25 cross-town rival here, they've invested probably

1 65,000 -- \$65 million on improvements at Santa Anita.  
2 And it raises the issue as to what Hollywood Park is  
3 doing to improve the game.

4                   And to date, there haven't been any  
5 improvements that are sorely needed. And I keep  
6 hearing rumors that Hollywood Park is not staying  
7 there, they're moving, and everything else.

8                   And when you couple that with  
9 declining attendance and a declining handle, which is  
10 threatening the viability of the Southern California  
11 racing, and, you know, it start -- I start saying,  
12 "Well, what is the future? What is the commitment of  
13 the Churchill Downs to improve the facility and  
14 promote racing at Hollywood Park?"

15                   And so I'd just like to, you know,  
16 pose to you, if you can give us -- if you can  
17 enlighten us at all as to improving the plant to  
18 bring fans, along with improving the track's surfaces  
19 so we don't have these fatalities.

20                   MR. BAEDEKER: Well, if the -- I -- I hope  
21 that the answer on the racing surfaces -- I would  
22 invite you to go back historically. This racing  
23 surface has had a better record than the others in  
24 California over the last many years.

25                   And so, this fall, I readily

1 acknowledge we had an anomaly here. We had a high  
2 number of breakdowns. That had not been,  
3 historically, the case. This has been a very safe  
4 racing surface over the years.

5                   So we're going to go in; and as I  
6 said, we're going to make changes and hopefully fix  
7 that and make major changes to the turf course.

8                   COMMISSIONER SHAPIRO: Will they be done  
9 before the spring meeting?

10                   MR. BAEDEKER: They will.

11                   COMMISSIONER SHAPIRO: Okay.

12                   MR. BAEDEKER: Yeah. It could have been done  
13 by now, had we had a break.

14                   Regarding the facility itself,  
15 Churchill Downs has invested \$20 million in capital  
16 in the five years that it's owned the racetrack.  
17 Churchill is evaluating future investments in the  
18 Inglewood property. We have made every investment  
19 that we've needed to make to, you know -- for the  
20 convenience of the fan.

21                   It's a major, major undertaking to  
22 perform a significant remodel on that -- on that  
23 60-year-old grandstand building, including probably  
24 demolition of the northern one third of it. So I  
25 cannot give you specifics on a master plan for the

1 building at this point.

2 I can give you a commitment that I am  
3 working on it, day in and day out, with Churchill.  
4 And before too long, we'll -- I'll be able to give  
5 you specifics. What we've done in the past is we've  
6 remodelled area by area.

7 Again, dealing with an old building  
8 like that, there are some things that cannot be done.  
9 For instance, the renovation of the box seat area is  
10 only possible by building a superstructure on top of  
11 the box seats because, that concrete is so old and  
12 degenerating, it can't be repaired. You have to go  
13 in with an iron superstructure on top of it.

14 It's a huge -- it's a huge job and one  
15 that would probably would require us to close the  
16 building during "ITW." So, you know, those are --  
17 these are tough calls. But I -- as soon as I've got  
18 a plan that I can share with you, I'd be happy to do  
19 it.

20 COMMISSIONER MOSS: Can I ask one question?

21 Rick, what would you say is the  
22 percentage difference between, like, breakdowns  
23 during racing and breakdowns during training?

24 MR. BAEDEKER: I don't know the answer to that  
25 question. And I really would like to get those

1 statistics. They are available to us; so I --

2 CHAIR HARRIS: Yeah. This -- well, it does  
3 show here that, between training and racing. But, of  
4 course, our breakdowns are sort of the tip of the  
5 iceberg 'cause you get injuries and this and that.

6 But what was the -- I don't know if  
7 the -- what was this figure you quoted?

8 COMMISSIONER SHAPIRO: Between the period of  
9 2001 and 2003, Santa Anita spent \$45 million on  
10 capital improvements. Hollywood Park rebuilt the  
11 clubhouse "mutuel line." I don't know what that  
12 cost. But other than that, I don't show any capital  
13 improvements.

14 MR. BAEDEKER: Well, you have a very  
15 incomplete report. I can tell you, when we first got  
16 there, we remodelled the entire main line of the  
17 grandstand. We remodelled, at the same time -- this  
18 is now in the year, I guess, 2000, when I first got  
19 there -- we remodelled half of the clubhouse building  
20 or -- I'm sorry -- level.

21 The next year, we remodelled the rest  
22 of it. We've gone through every inch of the  
23 building, since Churchill has taken it over, and  
24 remodelled. Now, it doesn't mean that we've built  
25 superstructure restaurants over the box seats like

1 Santa Anita did. I'm not claiming that.

2 But we've gone through every inch of  
3 the building and remodelled it since Santa Anita's  
4 been there.

5 Some of the things you don't see, for  
6 instance, are the \$250,000 in improvements we made to  
7 the jockeys' quarters last year. We built a separate  
8 jockeys' quarters for the female riders. And we were  
9 expanded, we enlarged the jocks' room for the male  
10 jocks and put in a -- including putting in a new  
11 kitchen.

12 And I don't know where you got the  
13 report. I certainly didn't have any input into it.  
14 But I'd be happy to give you details on everything  
15 that's been done by Churchill. I think you're  
16 probably aware that we did go in and spent a million  
17 dollars on the backside, putting in "horse past"  
18 (phonetic) to get rid of the problem we had back  
19 there with rocks coming up from underneath.

20 We also had a beautification program  
21 back there and remodelled the racing office this  
22 year. And there are a number of things that I  
23 just -- I don't -- I have no -- I'm not privy to the  
24 report that you're looking at, Commissioner.

25 So I would appreciate having input

1 into something like this, particularly before it's  
2 brought up in a public meeting and I'm caught  
3 completely by surprise and don't have the ability to  
4 respond in an educated way.

5 CHAIR HARRIS: I think that's fair that -- I  
6 think all of us -- all we want to do is see  
7 Hollywood -- it's got the same problems that all the  
8 tracks have that they're just -- it's not, you know,  
9 going in the right direction as far as attendance and  
10 handle on-track.

11 And we just need to figure some way to  
12 bring that back. And I think we just want to be sure  
13 that Churchill joins us in that commitment, which I  
14 think they do.

15 MR. BAEDEKER: I'd look forward -- and if this  
16 is an invitation, I will detail everything that we've  
17 done, not only from a capital standpoint but from a  
18 marketing standpoint to try to improve business  
19 on-track.

20 COMMISSIONER SHAPIRO: Believe me. I'm not --  
21 we're -- I'm not trying to blindside you or do  
22 anything. I'm just concerned; and I hear these  
23 rumors; and I have no clue, you know, what's  
24 happening. I'm sure you hear the same rumors that I  
25 hear, you know, that you're moving to Los Al, you're

1 moving to March Air Force Base.

2 I don't know what's true. And I'm  
3 just trying to say, "What are we going to do to get  
4 people on the track and increase the popularity?"  
5 That's my only motivation.

6 MR. BAEDEKER: We have that goal in common.

7 CHAIR HARRIS: Okay. Let's move on to the  
8 next.

9 DR. JENSEN: Just a point of information about  
10 the training injuries -- what's reported include  
11 injuries that occur at not only the host track, the  
12 home track, but also the auxiliary track. So I don't  
13 have the breakdown for you but --

14 CHAIR HARRIS: Yeah. I know some of us are  
15 wondering about that. So an injury that would have  
16 occurred at Hollywood Park, say, in the fall meet --  
17 would that just occur at Hollywood Park or is that --  
18 did they pick up some horse breakdown at Santa Anita?  
19 Did they pick that one up too?

20 DR. JENSEN: Yes. The training injuries  
21 include the injuries that occur at the home track and  
22 exist -- and in addition to the other --

23 CHAIR HARRIS: Yeah. I don't know if that  
24 reporting's the best way to do it. Can you separate  
25 between --

1 DR. JENSEN: Well, you can separate it. I  
2 mean you can separate between auxiliary and home  
3 track.

4 CHAIR HARRIS: Yeah. But I think what I was  
5 referring to, Richard, that I mean it reports the  
6 rate was up, although it wasn't up that much over  
7 some of the previous years.

8 COMMISSIONER MOSS: Point I'm making from all  
9 of this is -- sorry, Chris; one second --

10 MR. McCARRON: Sure.

11 COMMISSIONER MOSS: -- is that, oftentimes,  
12 you have breakdowns on tracks and it's not the  
13 track's fault --

14 CHAIR HARRIS: Yeah.

15 COMMISSIONER MOSS: -- you know. It also --  
16 the trainer made a mistake -- you know? -- shouldn't  
17 have ran a horse at that particular time. And  
18 they've gotten a lot of heat for it. It's -- it  
19 doesn't make the track very attractive for people who  
20 want to because of these breakdowns. And maybe it's  
21 a public relations exercise.

22 But because certain trainers have a  
23 notoriety -- they can get press anytime they want and  
24 are looking for excuses as to perhaps why they're not  
25 doing very well -- you know, the track takes it in

1 the neck, you know.

2 So I was just curious about where  
3 these breakdowns were going on. So I just wanted to  
4 pursue that for a minute. And I'm finished. Thanks.

5 CHAIR HARRIS: Okay.

6 MR. McCARRON: Chris McCarron, Santa Anita  
7 Park. I wish I could get this thing to stay down.

8 Thank you very much, Commission Moss,  
9 for that introduction because that's exactly where I  
10 was going. Now, I'm not up here to defend Hollywood  
11 Park or Rick Baedeker. He does a very good job of  
12 that himself.

13 But I would like to share with you  
14 that we hired a surveyor, to come out to Santa Anita  
15 Park, right after we closed our track this past  
16 summer. Hollywood was open for training during Del  
17 Mar. And we peeled the track back. And we dropped  
18 the grade on the straightaways.

19 And while we had the track peeled  
20 back, we shot the track in 160 different locations.  
21 And it's the first time, according to "Steve Wood"  
22 (phonetic), that this had been done -- a surveying of  
23 the base -- in over 15 years. We were very pleased  
24 to discover that the track was incredibly uniform;  
25 that we had very, very few and very minor problems

1 with the base.

2                   So I would venture to guess and say  
3 that, if they did the same sort of process and  
4 research at Hollywood Park, they would -- they would  
5 also be very pleased with the results that they got.

6                   That being said, I think Commissioner  
7 Moss touched on something that is very crucial to  
8 this whole analysis. And that is discretion. And I  
9 certainly don't want to make any accusations or  
10 allegations.

11                   But one of my major concerns is the  
12 growing use of the shock wave-therapy machines. That  
13 has a lot to do with -- I should say that potentially  
14 has a great deal to do with the increased number of  
15 breakdowns. I don't know that for a fact. I do know  
16 that the use of the shock wave-therapy machine is  
17 growing, is increasing. It's being used by trainers  
18 all over the country.

19                   And it just sort of opens the door for  
20 more potential indiscretion on the part of a trainer.  
21 When the Board here instituted the regulation that  
22 stated that the certain number of days that a horse  
23 cannot be entered after they've been treated with  
24 shock wave therapy -- that doesn't preclude a trainer  
25 from attempting to get a horse off the vet's list by

1 utilizing the shock wave-therapy machine.

2                   There are a lot of different things  
3 that are -- could be of grave consequence because of  
4 the use of this machine.

5                   So I implore this Board and I implore  
6 all of the managements of the various racetracks in  
7 California to keep close tabs on the use of the  
8 machine and make sure that we get the right  
9 regulations in place so that this type of -- this  
10 type of treatment doesn't run rampant because it only  
11 will serve to further the increase in these numbers.

12                  CHAIR HARRIS: Yeah. I think we need to  
13 really put that on an agenda for a future meeting or  
14 at least in a Medication Committee and look at. I  
15 was under the impression it wasn't that widespread.  
16 But let's take a look at that.

17                         But anything else on the Hollywood  
18 Park meeting?

19                                 (No audible response.)

20                  CHAIR HARRIS: I think, mainly, you know, we  
21 don't want to keep fighting the last war. Let's  
22 fight the next one and just see some of these things,  
23 that we can improve, improved upon.

24                  MR. FRAVEL: Craig Fravel, Del Mar  
25 Thoroughbred Club.

1                   Two items: One is, I think, in past  
2 years, we have sat down before each of our race meets  
3 with the stewards for that meet, as well as CHRB  
4 staff, and reviewed a number of the issues that I  
5 think are included in that report I read through  
6 related to Hollywood Park.

7                   We found that enormously helpful, both  
8 in dealing with issues that had come up -- you know,  
9 when you're not running constantly, sometimes an  
10 incident occurs at another racetrack and you don't  
11 pay quite as close attention to it. And,  
12 fortunately, the stewards often have views on things  
13 because they were at those tracks.

14                   I think that would be a good standard  
15 of practice for every association to sit down. And  
16 it doesn't take a lot of time, you know. We spend  
17 two hours, 10 days or a month before the meet, with  
18 the official veterinarians; with the medical, equine  
19 medical director; the staff; the executive director.

20                   And it has eliminated a lot of  
21 concerns and issues on our part just by virtue of  
22 having done it ahead of time, rather than waiting  
23 until a week or two into the meet.

24                   And the second thing is related to the  
25 statistical database on breakdowns. And I got a

1 chance to see some of that information. I think it  
2 would be good for to us sit down with the staff and  
3 Dr. Jensen and review that data, not the data  
4 itself -- I mean, ultimately, I'd like to review the  
5 data itself -- but I do think we owe it to ourselves  
6 to do a more comprehensive job on analyzing that  
7 information and compiling it.

8 I mean, for example, for Mr. Moss's  
9 suggestion -- I mean how many of those horses that  
10 broke down or were hauled off were claiming versus  
11 allowance versus stakes horses? I mean how many were  
12 on the turf? How many were on the dirt? How many  
13 horses broke down in the morning versus the  
14 afternoon? You know, as a percentage of your  
15 recorded workouts, what's the percentage?

16 I mean we have a lot more horses on  
17 our racetracks than other tracks. I just think we  
18 could do a heck-of-a-lot better job compiling the  
19 information and keeping it and prevent it being used  
20 in uninformed fashions by working together to get a  
21 little bit better database, you know, maybe even  
22 including that in "CHRIMS" somehow so that we can  
23 have it available to us to look at and understand and  
24 try to eliminate the causes of a lot of these things.

25 Until we get there, there's

1 tremendous data that's part of the postmortem program  
2 that Davis has, and I think we can -- we owe it  
3 ourselves to work on that and make it better.

4 CHAIR HARRIS: Yeah. We have a lot of  
5 capabilities with all these necropsies. And I agree.  
6 We need to use it, utilize it better.

7 COMMISSIONER MOSS: We also should just take a  
8 minute to encourage, perhaps, the turf journalists,  
9 who are, you know, reporting, you know, some of these  
10 catastrophes on behalf of certain trainers to talk to  
11 other trainers that are also training on that track  
12 and get their views because it doesn't have to be a  
13 big black picture, so to speak. You know?

14 And I think it was very damaging in a  
15 lot of ways, that certain trainers experience these  
16 problems; and it made it look as if everybody was  
17 having those problems, when that wasn't the case.

18 EXECUTIVE DIRECTOR FERMIN: I would just like  
19 to endorse exactly what Craig said. I think that  
20 the -- as a steward at Del Mar in the past, those  
21 meetings have been very valuable. And I would  
22 endorse that we have all of the racing associations  
23 have similar meetings.

24 In fact, Santa Anita did have that  
25 this year. And I think that it really smooths out a

1 lot of things before they might happen.

2 CHAIR HARRIS: So communication's the key.

3 And it seems, like a lot of times, things do slip

4 through the cracks.

5 Okay. I'm going to turn the meeting

6 over to Commissioner Bianco 'cause I have to leave.

7 VICE-CHAIR BIANCO: Okay, John.

8 COMMISSIONER MOSS: Oh, I got to go too.

9 VICE-CHAIR BIANCO: Okay.

10 COMMISSIONER MORETTI: Bye-bye.

11 VICE-CHAIR BIANCO: We're losing everybody.

12 COMMISSIONER SHAPIRO: We don't have a quorum.

13 We don't have a quorum.

14 CHAIR HARRIS: You don't have any more action

15 items.

16 VICE-CHAIR BIANCO: No.

17 COMMISSIONER SHAPIRO: We have to adjourn,

18 don't we?

19 VICE-CHAIR BIANCO: Well, I think we can

20 adjourn this meeting. And thank -- thanks --

21 CHAIR HARRIS: You don't have to adjourn if

22 you don't have a quorum. You just can't pass any

23 action items.

24 COMMISSIONER MORETTI: We don't have any

25 action items so --

1           VICE-CHAIR BIANCO: Well, there's no more  
2 action items on here.

3           CHAIR HARRIS: Well, you've got some  
4 discussion items.

5           COMMISSIONER MORETTI: Yeah.

6           VICE-CHAIR BIANCO: Oh. Just got the reports  
7 on the jockeys.

8           MR. REAGAN: I think the next item is 15.

9           VICE-CHAIR BIANCO: Oh, Pacific Racing  
10 Association?

11          MR. REAGAN: This is the end-of-meet report  
12 for the recently concluded --

13          VICE-CHAIR BIANCO: Yes. I'm sorry, John.

14          MR. REAGAN: Okay. Yeah. Included in the  
15 package, Commissioners, is the standard end-of-meet  
16 report. We have the five-year spread, also the  
17 summary for Pacific, the Pacific meet.

18                        The average daily total handle, up  
19 1.76. However, the on-track and off-track were  
20 down -- 6 and change; also 7 and change. The  
21 exported handle and ADW handles, of course, up; so  
22 the total was, just like I say, just 1.7. So that  
23 is -- those are the numbers for the Pacific meet.  
24 And that's what we have for you today.

25          VICE-CHAIR BIANCO: Do I have any --

1 COMMISSIONER MORETTI: Any questions?

2 CHAIR HARRIS: -- any questions from  
3 Commissioners?

4 COMMISSIONER MORETTI: Nothing.

5 VICE-CHAIR BIANCO: We approve your report,  
6 John.

7 MR. REAGAN: Thank you, sir.

8 VICE-CHAIR BIANCO: Go to new business, I  
9 guess.

10 COMMISSIONER MORETTI: No. Actually we have a  
11 committee report.

12 VICE-CHAIR BIANCO: Huh? Let me get it.

13 COMMISSIONER MORETTI: Number 16. There we  
14 go.

15 VICE-CHAIR BIANCO: Richard, I'm sorry. I  
16 almost cut you off too. Committee report on the Ad  
17 Hoc Committee on the Jockeys Guild.

18 COMMISSIONER SHAPIRO: We submitted -- the Ad  
19 Hoc Committee -- we, on behalf of the Ad Hoc -- Ad  
20 Hoc Committee, a letter was submitted to the Jockey  
21 Guild requesting information. We've received a  
22 letter back from them. We -- it was a pretty  
23 exhaustive list of information that we asked for.

24 They're in the middle of some audits  
25 right now. They're overwhelmed. We have a follow-up

1 meeting with Barry Broad that will be next week in  
2 Sacramento. We're going to meet with them and try to  
3 coordinate getting all the information that we need.  
4 So there's really nothing else to report right now  
5 blank.

6 VICE-CHAIR BIANCO: Is there any comment?

7 MR. BROAD: Barry Broad on behalf of the  
8 Jockeys Guild.

9 Let me just say I've had numerous  
10 conversations with Commissioner Shapiro. We've spent  
11 quite a few hours on the telephone discussing this  
12 and a whole range of issues in the horse racing  
13 industry. And I just want to say a couple of basic  
14 points.

15 The Horse Racing Board has statutory  
16 authority to regulate the California health insurance  
17 plan that's in the Business and Professions Code.  
18 There's an annual audit that's required in the  
19 statute. And the Board is entitled to all the books  
20 and papers that are relevant to ensuring that that  
21 plan does what the statute requires.

22 At the same time, I just want to make  
23 it very clear that the Horse Racing Board does not  
24 regulate the internal affairs of labor unions in the  
25 larger sense. Its jurisdiction is very limited. And

1 so we need to sit down and scope what's relevant and  
2 what's not relevant.

3                   The United States Department of Labor  
4 regulates labor unions. That's their job. The  
5 United States Department of Labor regulates "ERISSA"  
6 (phonetic) self-funded health and welfare plans,  
7 which is essentially what this is.

8                   Right now, as Commissioner Shapiro  
9 mentioned, there are three audits occurring --  
10 statutory audits going forward -- one for California,  
11 one for Delaware, and one for Massachusetts.

12                   In addition, the United States  
13 Department of Labor currently -- I think today -- is  
14 beginning their normal audit process of the plan as  
15 an "ERISSA" plan, as I understand it. So there are  
16 four simultaneous audits going on of the same health  
17 plan.

18                   So and the Guild just went through a  
19 process, in the last few months of last year, with  
20 Mr. Reagan supplying all kinds of information related  
21 to this. So we want to make it clear that we're  
22 absolutely going to cooperate with whatever there is  
23 that we want to do.

24                   And, frankly, I've suggested to the  
25 Guild - and they're fine in this -- at some point, to

1 be quite frank about this, the Guild is now in a,  
2 like, "When did you last beat your wife?" mode with  
3 all this.

4                   So the Guild supplies an audited  
5 report to the State. And somebody goes to the  
6 industry press and says, "The auditor isn't a real  
7 auditor."

8                   So my suggestion is that the -- that  
9 ultimately, maybe the best solution to this, instead  
10 of asking the Guild to send 10 years of health  
11 insurance claims to the Board in Sacramento, that the  
12 Board simply hire its own independent auditor and  
13 send that auditor to the Guild's offices to spend  
14 whatever time they want to do going through the  
15 records related to the health insurance to ensure  
16 that the plan is being run appropriately.

17                   Let me make another couple of basic  
18 points. In all these sort of amorphous allegations,  
19 there are -- there are things that are -- that are  
20 basically issues that are related to a dispute, an  
21 ongoing dispute, that the -- that the -- that the  
22 tracks have nationally with the Guild over the  
23 purchase of their media rights and what that money is  
24 used for.

25                   That's a private contractual matter,

1 and that's a labor dispute. And as Mr. Shapiro and I  
2 have talked about, that is not the business of this  
3 Board to intervene in that dispute. And that --  
4 there is no agreement in place. It has lapsed.

5                   The Guild has one position. The  
6 tracks have another. Someday, it's going to get  
7 sorted out somewhere, but it's not a part of this  
8 dispute.

9                   Some of these allegations, as I read  
10 them in the industry press, tend to confuse various  
11 things. They say, "A catastrophic health insurance  
12 plan that was cancelled that affects jockeys in  
13 states that don't have workers' comp got cancelled  
14 and somehow it's related to the California health  
15 insurance money."

16                   That's raising all kinds of issues.  
17 And you need to satisfy that -- yourselves that  
18 that's not true. But it's my sense that it's created  
19 a sense of confusion out there about what is and what  
20 isn't happening.

21                   Pointedly, I worked on this  
22 legislation originally. Over the last 10 years,  
23 periodically, someone has said, "Aha. This money is  
24 not being used for California jockeys. It's being  
25 used for jockeys in other states. There's something

1 wrong with it."

2                   It's happened in this administration  
3 of the Guild and in the prior administration of the  
4 Guild. It's never turned out to be true. It's  
5 turned out not to be true. And I have every reason  
6 to believe there's nothing to it now.

7                   No one has said -- and I would be  
8 greatly disturbed if there were jockeys running  
9 around saying, "I want to the doctor, and my bill  
10 didn't get paid."

11                   "I went to the hospital, and my  
12 surgery didn't get paid. And now there's a lien on  
13 my house."

14                   That is not what's alleged anywhere,  
15 that I can understand. So people's health insurance  
16 is being -- is being paid now. That doesn't mean  
17 that you should not satisfy that -- yourselves that  
18 this money is being spent appropriately.

19                   I saw one thing in one of the industry  
20 news suggesting that claims in Delaware and claims in  
21 California were being paid, you know, once by -- the  
22 same claim was being paid twice. That would clearly  
23 be wrong, probably illegal, perhaps a criminal issue.  
24 You should definitely satisfy yourself that that's  
25 not true.

1                   However, there is an appropriate level  
2 of your jurisdiction and an inappropriate level. And  
3 that's what we need to sit down and straighten out.  
4 And we have every intention of doing that.

5                   But I want to be clear -- and I  
6 represent numerous unions here.

7                   And if the Service Employees  
8 International Union or the Teamsters that have  
9 jurisdictions at the track, that have people licensed  
10 to work at tracks were to receive a letter from this  
11 Board that said, "Could you please send us every W-2  
12 of every employee that works for you or all the  
13 travel claims for your union," that you would receive  
14 a letter back from them saying "No. You have no  
15 jurisdiction to ask for that. Those are matters  
16 between us and the United States Department of Labor  
17 that regulates the internal affairs of unions and so  
18 forth or between the union and its own members, not--  
19 not a State agency in California."

20                   So I just want to -- I just want to  
21 make it clear that there is a larger principle at  
22 stake here that we have to also vigorously protect.  
23 And but I think that, when we're done -- all said --  
24 all is said and done, you will get everything that  
25 you need. You can hire an auditor and send that

1 auditor.

2                   And the only thing I would ask is  
3 that, when you -- if and when you reach the  
4 conclusion that there is no substance to these  
5 allegations, that this Board commit to publicly  
6 stating that the allegations are groundless or that  
7 there is nothing out of order.

8                   I think the Guild has taken enough  
9 hits, publicly, over this; that the regulators owe it  
10 that courtesy, if that's what occurs. So thank you.

11                  VICE-CHAIR BIANCO: I don't think we're trying  
12 to, you know, get into the internal workings of, you  
13 know, the Guild. But I think, you know -- do you  
14 have any estimate on a time line of these audits --  
15 you know, is it three months? four months? -- that  
16 you're going through so we can get the information  
17 that Richard is asking for?

18                  MR. BROAD: Well, some of these audits are  
19 completed, but what you guys are asking for is not  
20 audits. I don't know how long -- the US Department  
21 of Labor. The other three things are, like, regular,  
22 I think, six months' audits that occur that get  
23 turned over to the Board --

24                  VICE-CHAIR BIANCO: Uh-huh.

25                  MR. BROAD: -- or the various commissions and

1 have regularly been turned over all these years.

2 Right, John? Is that essentially what  
3 occurs?

4 MR. REAGAN: Right.

5 MR. BROAD: The -- you're asking -- for  
6 example, I believe that you asked for all the health  
7 insurance claims themselves, in other words, the  
8 claims history of every claim going back,  
9 essentially, to the inception of this plan.

10 That's voluminous documents. And you  
11 asked for them to be produced, along with all this  
12 other information, by, I believe, tomorrow. I think  
13 what we need to do is talk about -- and what I  
14 intend -- who I intend to have at that meeting is the  
15 chief financial officer of the Guild, whose -- who  
16 deals with all this stuff and basically work out,  
17 "Hey, here's what it needs to produce these  
18 documents."

19 To some extent, it maybe makes sense,  
20 for example, like I was saying, for you to hire an  
21 auditor and let your own auditor go through health  
22 insurance claims. If you want to go through  
23 thousands of health insurance claims, that's fine.  
24 But maybe that's the more sensible way to do it.

25 There's also, obviously, an issue of

1 the Guild -- if it's auditing for three states and  
2 it's auditing for the US Department of Labor, you're  
3 ultimately spending health insurance dollars, if  
4 we're doing audit on top of audit on top of audit of  
5 the same thing.

6                   So we also need to figure out what  
7 information the Board already has in its  
8 possession -- based on the normal relationship that  
9 the Board has had over the last 10 years as this  
10 thing -- this -- this law has been in place -- and  
11 what you need. And is there a sample that you need  
12 of certain things? Is there -- in other words, we  
13 need to really scope it out.

14                   My sense is that, you know, we try to  
15 supply information on a kind of a time line, like,  
16 "Here's what comes up in two weeks. Here's what  
17 we'll supply in three weeks. Here's what's realistic  
18 in, you know, a month" and get it to you.

19                   If you receive a big thing with 5,000  
20 pages of health insurance records, you're going to  
21 also have to be thinking about how your staff -- what  
22 staff resources you have to review that --

23                   COMMISSIONER SHAPIRO: Commissioner Bianco --

24                   MR. BROAD: -- and what it means. I mean it  
25 has to mean something so --

1           COMMISSIONER SHAPIRO:  -- Commissioner Bianco?

2           VICE-CHAIR BIANCO:  Yes.

3           COMMISSIONER SHAPIRO:  We have set up a  
4 meeting wherein John Reagan, Mrs. Fermin, Mr. Knight,  
5 and myself will be meeting with Mr. Broad and, I  
6 guess, the C.F.O. of the Guild to try and come up  
7 with an orderly manner to get all this information as  
8 quickly as we can.

9                           It's -- it was not the purpose to try  
10 and deluge -- deluge the Guild and submerge them into  
11 a bunch of paperwork.

12                           But in speaking with Mr. Reagan  
13 yesterday, the type of audit that has been done, I  
14 think, has been limited; and it hasn't really gotten  
15 down underneath to see exactly who's made what claims  
16 and were they pursuant to what the intent of the  
17 health and welfare plan was?

18                           And so we look forward to sitting down  
19 and working cooperatively with the Guild to get the  
20 answers.  And as I've said to Mr. Broad, many times  
21 now, that, if we find everything is in order, we'll  
22 take-out a nice big -- put out a nice big press  
23 release that says, "The Guild is great group of guys.  
24 And go, Guild."  So we have no problem with it.

25                           But we obviously have concerns.  And I

1 think our concern goes just beyond -- does go beyond  
2 the accounting; that we need to make sure that the  
3 Guild is operating in a professional manner as the  
4 guardian of these funds.

5                   And so I think that both Mr. Broad and  
6 I are on the same wavelength there. We seem to have  
7 a meeting of the minds, although we can agree to have  
8 some differences. But we'll work through those.

9                   VICE-CHAIR BIANCO: Very good.

10                   No further questions.

11                   MR. BROAD: Thank you very much.

12                   MR. COUTO: Again, Drew Couto, Thoroughbred  
13 Owners of California.

14                   I, too, have had the opportunity to  
15 have several conversations with Barry. And I'd like  
16 to think that those have been very friendly and  
17 productive. There are a couple of points that  
18 Mr. Broad raises that I'm not sure are that clear.

19                   One, if we go back to the December  
20 meeting, when this issue first came up and Mr. Fiss  
21 was here, TOC made the request that the Board request  
22 the documents because the statute specified the Board  
23 is the proper entity to request those.

24                   Mr. Fiss then volunteered -- and it's  
25 reflected in the minutes on Page 30; and it's also

1 reflected in the transcript on Page 186, I believe it  
2 is -- that Mr. Fiss volunteered to provide all  
3 documents requested by TOC to -- to clarify the  
4 current dispute. And that's in the testimony, and  
5 it's in the minutes.

6                   We did send out a letter.

7                   The letter was met with a letter back  
8 from counsel for the Guild indicating that they would  
9 not comply, that the Board was the appropriate venue  
10 despite the representation that Mr. Fiss made to the  
11 Board and to TOC.

12                   I would defer to Mr. Broad with regard  
13 to issues of what is or what is not a "union." But  
14 I'd -- it's my understanding -- and Barry can  
15 probably clarify this -- that the Guild is actually  
16 not a union and that the National Labor Relations  
17 Board does not exercise jurisdiction over the racing  
18 industry and therefore doesn't take jurisdiction over  
19 the Guild.

20                   So the Guild, while in some sense  
21 operating as a union, is not, in fact, a union.

22                   And what we are talking about here is  
23 not dues money. We're not talking about the use of  
24 dues money. And I think Mr. Broad accurately says,  
25 if this Racing Board were to ask one of the other

1 unions in our industry how they are using dues money  
2 and information on each individual, they would  
3 properly have a right of privacy.

4                   However, what we're talking about here  
5 is money allocated for the health and welfare of  
6 riders, which is basically public money coming by  
7 virtue of a statute. Again, that statute is  
8 19612.19.

9                   Some of the riders -- who are friends  
10 of ours, just for many years having been here, and  
11 colleagues -- have raised these questions. And  
12 TOC -- and I think Mr. Broad knows this -- is not out  
13 on a hunt to discredit, in any way, the Guild.

14                   But our colleagues, our friends, our  
15 neighbors who ride here have asked for more  
16 clarification. And I think we're going to get there.  
17 It's a painful process. But right now, I would like  
18 to keep the facts straight.

19                   The Guild will only produce these  
20 records, not to TOC, but the Board. And I'm not  
21 certain that they are, in fact, a "union," as  
22 proclaimed.

23                   And, again, I would defer to Mr. Broad  
24 on that issue. Thank you.

25                   VICE-CHAIR BIANCO: Thank you.

1                   Any other questions on the matter or  
2 comments?

3                   (No audible response.)

4                   VICE-CHAIR BIANCO: Okay. Let's go to the  
5 next item. Any type of general business?  
6 communications? reports?

7                   (No audible response.)

8                   I guess okay there. I don't know if  
9 there's -- any old business?

10                  (No audible response.)

11                  VICE-CHAIR BIANCO: Well, I think that we can  
12 safely say that we can conclude the meeting. Thank  
13 you.

14                  (Proceedings concluded at 12:59 P.M.)  
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REPORTER'S CERTIFICATE

I, NEALY KENDRICK, a Certified Shorthand Reporter in the State of California, do hereby certify:

That the January 20, 2005, meeting of the California Horse Racing Board was taken before me at the City Council Chambers of Arcadia, California, and was taken down by me in shorthand and thereafter reduced to computerized transcription under my direction and supervision, and I hereby certify that the foregoing transcript is, to the best of my ability, a true and correct transcript of the meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 4th day of February, 2005.

---

NEALY KENDRICK  
CSR 11265

