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CALIFORNIA HORSE RACING BOARD

REGULAR MEETING

Thursday, February 17, 2005  
9:00 A.M.

ARCADIA CITY COUNCIL CHAMBERS  
240 West Huntington Drive  
Arcadia, California

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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
- JOHN C. SPERRY, Commissioner

Reported by: NEALY KENDRICK, CSR 11265  
Job No.: 05-27274

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1       ARCADIA, CALIFORNIA; THURSDAY, FEBRUARY 17, 2005

2                               9:00 A.M.

3

4               CHAIR HARRIS: I think I'm going to initially  
5 open the meeting. This is the regular meeting of the  
6 California Horse Racing Board on February 17, 2005,  
7 at the Arcadia City Hall. We will now adjourn into  
8 executive session, and we'll recommence the regular  
9 meeting about 9:30.

10               (The Board meets in Executive Session:

11                               9:01 - 9:54 A.M.)

12               (Board meeting reconvenes: 10:00 A.M.)

13               CHAIR HARRIS: We'd like to reconvene the  
14 meeting. Please move in so we can get started today.  
15 I'd like to go ahead. Yeah.

16               EXECUTIVE DIRECTOR FERMIN: Ladies and  
17 gentlemen, will the meeting come to order, please.  
18 This is a regular meeting of the California Horse  
19 Racing Board on Thursday, February the 17th, 2005, at  
20 the Arcadia City Council Chambers at 240 West  
21 Huntington Drive, Arcadia, California.

22                       Present at today's meeting are  
23 Chairman John Harris, Vice-Chairman William Bianco,  
24 Commissioner Sheryl Granzella, Commissioner Marie  
25 Moretti, Commissioner Jerry Moss, Commissioner

1 Richard Shapiro, and Commissioner John Sperry.

2                   Before we go on to the business of the  
3 meeting, I'd like to ask everyone to please state  
4 your name and organization clearly for the court  
5 reporter.

6                   Mr. Chairman?

7                   CHAIR HARRIS: I'd like to welcome everyone to  
8 the meeting. We have a very busy agenda today. And  
9 I'd appreciate everyone's participation and brevity,  
10 if possible. The first item is the discussion and  
11 action by the Board on application for license to  
12 conduct a horse racing meeting of Churchill Downs  
13 California Company from April 20 through July 17.

14                   Someone to present that?

15                   MR. MINAMI: Roy Minami, Horse Racing Board  
16 staff. This is an application --

17                   CHAIR HARRIS: Roy?

18                   EXECUTIVE DIRECTOR FERMIN: Excuse me.

19                   CHAIR HARRIS: Yeah. Be a little sedate, in  
20 the back, coming in.

21                   MR. MINAMI: This is an application for -- to  
22 conduct a horse racing meeting of Churchill Downs  
23 California Company at Hollywood Park.

24                   EXECUTIVE DIRECTOR FERMIN: Excuse me. Could  
25 we please have silence as you're coming in, please.

1 Thank you.

2 MR. MINAMI: The Association plans to run  
3 their meet from April 20 through July 17, 64 race  
4 days, which is one day less than 2004. There will be  
5 racing five days a week. First post, 1:20 daily and  
6 7:00 P.M. -- 7:05 P.M. on Fridays.

7 We still need some information. The  
8 horsemen's agreement, as I understand it, has been --  
9 has been made. They do have an agreement; however,  
10 the staff has not yet received the -- the signed  
11 agreement. Their fire clearance is duly conducted  
12 during the meet itself.

13 And my understanding is their  
14 workman's compensation insurance expires March of  
15 this year. And I've been assured by Hollywood Park  
16 that staff will receive their renewed insurance  
17 policy when they get it.

18 I'd also like to point out that, in my  
19 discussions with Hollywood Park, they've indicated  
20 that, should the TCO2 regulations are not yet  
21 codified by the Horse Racing Board, that they will  
22 continue the TCO2 testing as well as the enhanced  
23 surveillance.

24 The staff recommends that the Board  
25 approve the application, conditioned upon receiving

1 the additional information.

2 CHAIR HARRIS: On these -- do we have a  
3 financial statement from the LLC that is substantial?

4 MR. REAGAN: No, we do not. We have financial  
5 statements for the Churchill Downs Company, and we  
6 have footnotes that apply to the California functions  
7 and operations. But we do not have a specific  
8 financial statement for this.

9 The amendments we made to the license  
10 application, that were done last month and will be in  
11 place shortly or sometime in the future, will require  
12 a financial statement for the licensee itself but not  
13 at this particular moment.

14 CHAIR HARRIS: Yeah. I think we really should  
15 require that the parent company guarantee all the  
16 obligations of the LLC as part of the agreement. I  
17 mean, effectively, they do anyway, probably. But it  
18 should be formalized where it's perfectly clear that  
19 the LLC is guaranteed by the Churchill Downs Company.  
20 I don't think that would be objectionable to  
21 Hollywood Park.

22 Any other -- some issues on this  
23 application?

24 COMMISSIONER SHAPIRO: Yes. I have a number  
25 of questions I'd like to ask Hollywood Park,

1 please -- Churchill Downs.

2 I'm glad that Roy just said that  
3 you're going to continue the TCO2 testing. I'd also  
4 like to know if that includes that, if any trainers  
5 are in the detention barn at Santa Anita at the time  
6 that the meets change over, will you have a detention  
7 barn?

8 Will you honor any of the penalties  
9 that were imposed by the committee that is currently  
10 in place? And will you also be utilizing that  
11 committee for monitoring TCO2 violations?

12 MR. BAEDEKER: We certainly will have the  
13 detention barn. We will -- we haven't utilized the  
14 committee that's in place at Santa Anita. We're  
15 happy to do that. We're really happy to do the  
16 entire program that's in place now or any additional  
17 part of that that might be requested of us -- so not  
18 98 percent compliance but a hundred percent.

19 COMMISSIONER SHAPIRO: Okay.

20 MR. BAEDEKER: Now, whether or not,  
21 Commissioner, because the legal basis for this is --  
22 is contractual between the trainer and the racetrack  
23 on a private-property basis, whether or not that  
24 obligation of a trainer to Santa Anita then can be  
25 transferred over or continued to Hollywood Park, I

1 would just have to get a legal opinion on that.

2 But if it can be, we will do that.

3 CHAIR HARRIS: You know, I think it may have  
4 to be a new agreement. But you have to see.

5 MR. BAEDEKER: Right.

6 CHAIR HARRIS: But even if a trainer is at  
7 Santa Anita, he's basically -- Hollywood Park's  
8 paying for his stalls. So you still have control, I  
9 guess.

10 COMMISSIONER SHAPIRO: Well, I think it's  
11 important that, if somebody on the last week of the  
12 Santa Anita meet comes up with a positive and he's  
13 required to go into the detention barn for 30 days or  
14 more, whatever the committee establishes, I think it  
15 would be critical that Hollywood Park would honor  
16 that policy -- and I understand it's a policy.

17 And I would hope that you will  
18 continue with the same structure and the same people  
19 on the committee. They're doing a terrific job. And  
20 I think that there's continuity.

21 MR. BAEDEKER: We'd be happy to do that. And  
22 we will do our best to continue the program unless  
23 there's some legal obstacle. If there is, we'll get  
24 back to the Board and talk about it.

25 By the way, I don't think I identified

1 myself: Rick Baedeker, Hollywood Park.

2 COMMISSIONER SHAPIRO: On other questions that  
3 I have -- after your Fall, 2004, meeting, there were  
4 certain deficiencies that were identified and  
5 provided to you. Can you address how those issues  
6 have been resolved?

7 MR. BAEDEKER: We did supply, to the Horse  
8 Racing Board staff, on February 8, a response to all  
9 of those things. I can go through them if you'd  
10 like. Excuse me.

11 The -- we have submitted a security  
12 plan that I believe is acceptable to staff that  
13 addresses any of the shortcomings that were noted at  
14 the end of our fall meet. That is included in what  
15 we've provided.

16 There was an issue of using a -- a  
17 camera tower on the three-eighths turn that hasn't  
18 been used for many years. The stewards have  
19 requested that we use that. So that, in fact, will  
20 be used again.

21 There was an issue of the review of  
22 films by the jockeys each day. And, again, we found  
23 this out after the meet. There was a problem with  
24 staffing -- their having the right person there to  
25 review those tapes with the jocks.

1                   We've been working with the Executive  
2 Director on getting the right person for that role.  
3 But, yes, that will be done. And what else was on  
4 the list of particulars?

5                   I think we covered -- I know that  
6 we've covered everything that was on that --

7           COMMISSIONER SHAPIRO: Okay.

8           MR. BAEDEKER: -- on that list.

9           COMMISSIONER SHAPIRO: As you know -- and it  
10 was brought up at the Medication meeting yesterday --  
11 one of the issues that we seem to have difficulty  
12 with is knowing what horses are going in and out of  
13 the barn area.

14                   It's my understanding that the guards  
15 that man those gates don't want to necessarily lift  
16 the lip. And yet there is a great -- a growing  
17 number of horses that are seen to be leaving the  
18 grounds and -- and coming back. And we don't know  
19 necessarily that the correct horse is in the van and  
20 who they are.

21                   Have you addressed that? And are  
22 you -- do you have a policy in place that we know  
23 exactly what horses are leaving and where they're  
24 going and when they're coming back?

25           MR. WYATT: Equal Wyatt -- excuse me -- Equal

1 Wyatt, Hollywood Park.

2 I think I responded to that, at least  
3 in part, yesterday at the meeting, at the committee  
4 meeting. We have a policy in place. We're going to  
5 review that policy and make sure that it is as tight  
6 as we can make it. We are certainly more than  
7 willing to work with the Board staff to expand that.

8 I know there was talk yesterday about  
9 identifying horses by tattoo -- checking tattoos.  
10 We're certainly willing to look into that. And I  
11 think I said yesterday that that is potentially a  
12 logistical nightmare. But I think, with some effort  
13 and cooperation from us and working with the Board,  
14 we can -- we can come to a practical solution.

15 COMMISSIONER SHAPIRO: Okay.

16 On April 20 and 21, it shows that  
17 you're going to be doing simulcasting in advance of  
18 your meeting. Where is the simulcasting coming from?  
19 Just other --

20 MR. BAEDEKER: Those -- those will be -- on  
21 Wednesday, those will be races from outside the  
22 state. On Thursday, oh, Bay Meadows will be running;  
23 so we will be presenting the Bay Meadows card plus  
24 races from outside the state.

25 CHAIR HARRIS: Wouldn't Bay Meadows be running

1 on Wednesday too?

2 MR. BAEDEKER: Apparently that's not on their  
3 calendar; correct?

4 MR. WYATT: It's our understanding that Bay  
5 Meadows is dark on Wednesday.

6 MR. BAEDEKER: We do think -- excuse me,  
7 Commissioner -- there's been interest expressed  
8 periodically in full-card, dark-day simulcasting to  
9 generate purse monies. And we really haven't had any  
10 data to refer to, from previous experience; so we are  
11 looking forward to these two days to get some of that  
12 data and help us make decisions in the future.

13 CHAIR HARRIS: I personally have always  
14 favored that, at least experimentally, to see,  
15 because that's a great way to generate commissions  
16 without using up horses.

17 COMMISSIONER SHAPIRO: On page -- I don't know  
18 if there's a page number here. At the bottom of the  
19 page of your application -- 7 of your application,  
20 the very last sentence at the bottom reads: "A Pick  
21 4 will be offered on the first four and the last four  
22 races of the card. In accordance with CHRB rule" --  
23 and it cites the rule number -- "we designate that  
24 major share of the Pick 4 Pool be designated as zero  
25 percent. Additionally, we will offer our patrons the

1 option of" --

2                                 And it doesn't say what "the option  
3 of" means. Can you tell me? I didn't understand  
4 that.

5                 CHAIR HARRIS: What page are you on?

6                 MR. WYATT: I don't have that in front of me,  
7 but I think that refers to the option of alternate  
8 selection, if and when that becomes available again.

9                 COMMISSIONER SHAPIRO: And why is the Pick 4  
10 Pool designated as zero percent?

11                 MR. WYATT: The Pick 4 rule is -- is the  
12 Pick N rule, where there is a major and a minor  
13 share. The major share is what is carried over in  
14 the Pick 6. We don't intend to offer a carryover in  
15 the Pick 4.

16                 COMMISSIONER SHAPIRO: Oh, okay.

17                 MR. WYATT: So we offered it -- it designated  
18 it a zero.

19                 COMMISSIONER SHAPIRO: Okay.

20                                 On Attachment B is a list of all of  
21 the simulcasting sites. And some of them have  
22 asterisks. And those that have asterisks, if you  
23 read it, say, "Out-of-state wagering systems that  
24 will not combine their pari-mutuel pools with those  
25 of the Association."

1                   Are those people typically that are  
2 offering rebates?

3           MR. WYATT: I don't think so. Those are -- in  
4 the simulcasting world, there are sites that  
5 commingle with us, and there are noncommingled sites.  
6 Caliente, for example, is a noncommingled site.  
7 That's is the difference. And I wouldn't  
8 characterize those places as being primarily  
9 rebaters.

10           COMMISSIONER SHAPIRO: What is "LVDC"?

11           MR. WYATT: "LVDC" is "Las Vegas  
12 Dissemination," which handles the book in Nevada, not  
13 the commingled pools from the casinos but those  
14 places that still operate as books.

15           COMMISSIONER SHAPIRO: And "RGS"?

16           MR. WYATT: "Racing Game Services."

17           COMMISSIONER SHAPIRO: Are any of these people  
18 under investigation? Or are any of these entities  
19 typically offshore wagering accounts?

20           MR. WYATT: We have -- what -- there are four  
21 sites, in my recollection, that we -- that commingled  
22 with us last fall -- recently as last fall -- that  
23 were somehow named in the investigation that is  
24 ongoing in New York. We have removed those sites.  
25 We do not, at least at the moment, intend to allow

1     them into our pools.

2                     As far as any other investigations,  
3     I'm not aware.

4             COMMISSIONER SHAPIRO:   So just so I'm clear,  
5     everybody that's on this list, to your knowledge, is  
6     not under any investigation and is not an offshore  
7     wagering facility?

8             MR. WYATT:   I'm not sure.   If you could  
9     characterize what you mean by "offshore."

10            COMMISSIONER SHAPIRO:   A wagering facility  
11    where wagers are made, bypassing the typical channels  
12    of takeout and -- and where people are offering  
13    rebates on those bets because they're able to offer  
14    rebates.

15            MR. WYATT:   I'm not aware of any -- any.   The  
16    sites that come in to us are subject to -- to our  
17    takeout.   I'm not going to characterize all of those  
18    sites as not offering rebates because I believe some  
19    of 'em do.

20            CHAIR HARRIS:   Yeah.   I think, clearly, some  
21    of these sites offer rebates.   I don't think -- I  
22    mean that's sort of a different subject.

23            COMMISSIONER SHAPIRO:   Well, my concern is  
24    that we -- obviously it's not in the industry's best  
25    interest to promote people that are not paying the

1 commissions that inure to the benefit of the track,  
2 the horsemen, and the State.

3                   And my concern is I don't -- I don't  
4 know any -- you know, most of these entities, I don't  
5 know. And I just want to make sure that we're not  
6 doing business with people that are either under  
7 investigation or are bypassing our systems.

8                   And I'm just looking for the assurance  
9 that none of these people are.

10                  MR. WYATT: I am -- again, I am not --

11                                 (Sound-system noises.)

12                  MR. WYATT: Is that a lie detector?

13                                 I am not aware of any of these sites  
14 that are listed on our application as being under  
15 investigation.

16                  CHAIR HARRIS: Okay. I think the whole issue  
17 of rebates is something we should discuss at some  
18 point. I meant there's mixed opinions --

19                  COMMISSIONER SHAPIRO: Right.

20                  CHAIR HARRIS: -- on those. But I don't know  
21 if now's the time to look into it.

22                  MR. COUTO: Drew Couto, Thoroughbred Owners of  
23 California.

24                                 Churchill has been working with the  
25 NTRA, MEC, and TOC to arrange for substantial

1 transparency and disclosure from the offshore  
2 entities with which we have been working over the  
3 last few years such that there's a proposal  
4 currently, to which, I understand, ten of the  
5 offshore entities have agreed.

6                   And that is that they will submit  
7 player lists, confidentially, under an escrow  
8 agreement, to "Giuliani" (phonetic) Partners in New  
9 York as well as all the principals related to those  
10 entities; that there will be background checks,  
11 criminal background checks, undertaken by Giuliani  
12 Partners.

13                   And they will notify each of the  
14 entities if there are any bettors through their  
15 system that are concerns, and they will notify any of  
16 the participating industry groups -- and that would  
17 be TOC and MEC right now and perhaps Churchill --  
18 that there are high-risk players if there are  
19 high-risk players among those that are listed.

20                   And then we will advise the offshore  
21 entities that these players are not permitted to play  
22 within our pools, based on the advice from Giuliani  
23 Partners. That's an agreement right now that is  
24 finalized, again, between the NTRA, MEC, TOC; and the  
25 NTRA's trying to get Churchill and "NYRA" (phonetic)

1 into that as well.

2 We hope to have that done within about  
3 a week. That'll be the first time that anybody has  
4 been able to sort of police the pools in that way and  
5 have much more access to it.

6 As Mr. Harris indicated, rebates are  
7 another question. And it would be good to do it at  
8 another meeting, probably not here.

9 COMMISSIONER SHAPIRO: And, finally, Mr.  
10 Baedeker, can you tell us? There's -- we had made a  
11 request that the Association respond to some of the  
12 issues -- and we don't -- they're not adopted yet --  
13 but additional changes in the application so that we  
14 could have greater insight into what the plans for  
15 this meeting are in terms of what you're  
16 promotionally doing and to promote the benefit of  
17 harness -- of horse racing.

18 MR. BAEDEKER: Yes. We have -- we have  
19 provided to staff, in that letter of February 8, our  
20 complete promotions plan for this spring-summer. And  
21 I'm glad that you asked because, I know in this  
22 forum, a lot of times, we focus on deficiencies,  
23 perhaps. And I think that the associations don't do  
24 a very good job of letting the industry know what, in  
25 fact, they are doing.

1                   The impression sometimes is that  
2 that's very little. As a matter of fact, it's not  
3 the case. And I'd just like to run through the  
4 highlights of the meet.

5                   For 12 years now, with the exception  
6 of one year when we had to cancel Friday night racing  
7 because of an energy crisis, we have offered reduced  
8 prices on concessions -- \$1 hot dogs, \$1 beers, and  
9 \$1 Cokes. This is expensive to us. It costs us a  
10 lot of money to do that.

11                   We're committed to it, however,  
12 because it does draw a younger patron to the  
13 racetrack. This year, on six of those Friday nights,  
14 we will offer free concerts after the races. And so  
15 it's one thing to get the relatively newcomer to the  
16 racetrack.

17                   Then the next question is, "Well, what  
18 are you -- what are you doing to encourage them to  
19 play?"

20                   And I know Commissioner Shapiro has  
21 mentioned it, and I've shared it with the other  
22 commissioners -- last summer, in conjunction with the  
23 "Daily Racing Form," we began publishing "Fast Form."  
24 And it is a simplified past-performance,  
25 understandable upon your first visit to the track,

1 that not only has the past-performance information  
2 but also contains lot of explanatory material about  
3 how racing is conducted and some -- it's interesting.  
4 And, as a matter of fact --

5 COMMISSIONER SHAPIRO: It's great.

6 MR. BAEDEKER: -- it's a lot of fun.

7 We also have our "Handicapping 101"  
8 every Friday night out there in that area where the  
9 younger people tend to congregate. In addition,  
10 we've got the usual things that we've had over the  
11 last few years with guaranteed Pick 6s. We'll  
12 continue the guaranteed Pick 4, on a daily basis, at  
13 \$200,000 and, on Saturdays, at 400,000.

14 And -- granted -- that's not drawing  
15 new people. But I think it is -- it is appealing to  
16 the regular player. It's something new to look  
17 forward to each day.

18 We've also got a good event that "Mike  
19 Mooney" (phonetic), our publicity director, put  
20 together three years ago. This will be the third  
21 year that the event has taken place. It's a  
22 three-day symposium, journalism symposium, conducted  
23 with the "L.A. Times" and really sponsored by the  
24 "L.A. Times."

25 It's conducted at Hollywood Park. And

1 journalism students from around the country -- they  
2 qualify for the event. They come to Hollywood Park.  
3 They learn about horse racing. They end up writing a  
4 column about horse racing as part of this symposium.  
5 And they hear from different panelists -- all of the  
6 writers -- many of the writers at the "L.A. Times."

7                   And we culminate the course in the Jim  
8 Murray Stakes. We have free admission, offered  
9 through the "L.A. Times," for that day. And I think  
10 it's a -- we're hoping that, as these journalists  
11 become professional, that, as a matter of fact, now  
12 they have an aptitude and an interest in  
13 thoroughbred -- aptitude for and an interest in  
14 thoroughbred racing. So that -- this is the third  
15 year of that program, and it's been a good success.

16                   We also do a program through "Alan  
17 Gutterman's" (phonetic) marketing department that has  
18 been very successful. It's direct mail to -- to  
19 individuals that we've identified as "casual  
20 players." And it's an offer for a reduced price, a  
21 half-off clubhouse admission with a free box seat.

22                   And we've had a tremendous response to  
23 this. He's been doing it now for, I believe, the  
24 last three seasons. And generally we get about  
25 twelve to 1,500 respondents to that promotion.

1                   It's a good way to get a casual user  
2 out to the very best part of the racetrack -- in a  
3 box seat overlooking the finish line.

4                   And then -- not to take too much more  
5 of your time but I want to finish with this -- this  
6 one new promotion that Alan Gutterman and his team  
7 have come up with. And it's a real fantasy-stable  
8 program. It will be conducted the second weekend of  
9 the meet.

10                  All patrons in attendance that day  
11 will either choose a horse from each of the last five  
12 races or be randomly appointed a horse from each of  
13 the last five races. That's yet to be determined.  
14 And that will become their fantasy stable for the  
15 meet. Every time that that horse races, the patron  
16 will get a point for each dollar of purse money  
17 earned.

18                  So, for instance, if a horse wins a  
19 race and earns \$25,000, the patron will receive  
20 25,000 points. Put if the patron is at the racetrack  
21 on that day, then those points will double. And if  
22 the patron is on the racetrack on that day during  
23 July, those points will triple.

24                  And this is all to give the patron an  
25 idea of what it's like to own a racehorse. And we're

1 going to throw in some perks for these fantasy-stable  
2 owners. Each day that they come out to watch one of  
3 their horses run, they'll get half off general  
4 admission and clubhouse admission.

5                   At Hollywood Park, that's more  
6 significant than it sounds because we have package  
7 pricing. So for \$3.50, for instance, on the  
8 grandstand site, that will include admission,  
9 parking, and a program.

10                   Also these patrons will have the  
11 opportunity to go into the paddock -- escorted, of  
12 course -- on a day that their horse is running.  
13 They'll get the experience of being up close and  
14 personal not only to the beautiful thoroughbreds but  
15 also the jockeys and trainers and be able to  
16 eavesdrop on that experience.

17                   They get the same experience at the  
18 winner's circle. And there will also be designated  
19 days where these fantasy-stable members will be  
20 treated to a VIP reception in the stable area during  
21 workouts so that they can get, again, an up-close,  
22 personal experience of what it's like to own a  
23 racehorse.

24                   The patron that earns the most points  
25 will receive a \$20,000 prize. Total prize money,

1 right now, is \$60,000. We're hoping, with  
2 sponsorship, to get it up to a hundred thousand.

3                   So it's new for this year. I'm very  
4 excited about it. I think it's a great idea that  
5 Alan Gutterman and his group have come up with. And  
6 it's one of these things -- as opposed to giving  
7 somebody a shirt or a cap, this is a promotion where  
8 we can get a return on this investment, I think, for  
9 years. We may get some new horse players out of it.

10                   COMMISSIONER SHAPIRO: I think it's terrific.  
11 And I hope it was somewhat of an outgrowth of our fan  
12 marketing committee meeting that we had. And I think  
13 it's terrific.

14                   Will they also get notified by  
15 "Virtual Stable" or something?

16                   MR. BAEDEKER: They do. They'll get a  
17 notification by E-mail that their horse is entered --

18                   COMMISSIONER SHAPIRO: That's great.

19                   MR. BAEDEKER: -- on a particular day. Yeah.  
20 And they'll also be able to go onto our web page and  
21 track the progress of their stable, see how many  
22 points that they've got versus the other stables. It  
23 should be a lot of fun.

24                   COMMISSIONER SHAPIRO: And my last question is  
25 can you just give us an update on the turf course and

1 the problems that exist in the fall meeting? Have  
2 they been resolved? And what's been done?

3 MR. BAEDEKER: The turf -- the problems that  
4 existed in the fall meeting were relative to the rain  
5 and the improper draining underlying the turf-course  
6 surface. We have gone into -- the other problem that  
7 we experienced during the fall was some settling in  
8 three or four areas on the turf course that -- the  
9 jockeys indicated to us where those areas were.

10 We have gone in and fixed that  
11 problem. Immediately following the fall meet, we  
12 fixed that problem. Those areas have been resodded.  
13 And the turf course -- of course, during the spring-  
14 summer, because it's Bermuda, it's growing as opposed  
15 to the fall, when it's dormant.

16 The major work on the turf course will  
17 be begun immediately following this spring meet. We  
18 could not possibly have taken up all of the sod --  
19 and our intention is to take up all of the growing  
20 medium -- about ten inches' worth -- go down and fix  
21 the drainage, and then basically put new turf course  
22 on top of that.

23 We could not have done that in January  
24 and with rain and expected to be ready to run on it  
25 in April. So we don't have those issues in July. So

1 as soon as this meet is over, we're going to tear out  
2 the existing turf course, fix the drainage, and put  
3 in the proper soil and new turf at that time. So  
4 come next fall, we will have a properly draining turf  
5 course.

6 COMMISSIONER SHAPIRO: Thank you.

7 CHAIR HARRIS: Anything else on Hollywood  
8 Park?

9 EXECUTIVE DIRECTOR FERMIN: One question.

10 CHAIR HARRIS: Yes.

11 EXECUTIVE DIRECTOR FERMIN: I just wanted to  
12 ask -- I know that Dr. Bell had offered to assist  
13 with training for the surveillance people. He'd felt  
14 there were some weaknesses there. And I'm hoping  
15 that you're going to follow through and make an  
16 arrangement with him for those -- those people.

17 MR. BAEDEKER: We are. That's -- that's in  
18 the security plan. It has been submitted to staff.

19 EXECUTIVE DIRECTOR FERMIN: The other thing  
20 was does your detention barn -- the stalls that are  
21 going to be the detention barn or designated as  
22 such -- do they have cameras individually in them as  
23 well as in the shed row?

24 MR. WYATT: They don't at the moment, but they  
25 will prior to the beginning of the race meeting.

1 CHAIR HARRIS: Any other issues on Hollywood  
2 Park?

3 (No audible response.)

4 Can we get a motion to approve?

5 COMMISSIONER SHAPIRO: So moved.

6 COMMISSIONER MORETTI: Second.

7 CHAIR HARRIS: All in favor?

8 COMMISSIONERS VOICES: Aye.

9 CHAIR HARRIS: No?

10 (No audible response.)

11 CHAIR HARRIS: Unanimously approved.

12 Let's go on to Item 2 -- discussion  
13 and action by the Board on the allocation of 2005  
14 race dates for harness racing at, A, Cal Expo or, B,  
15 Fairplex. Is John Reagan going to cover this?

16 MR. REAGAN: Commissioners, John Reagan, CHRB  
17 staff.

18 As indicated in the staff analysis,  
19 dates were allocated for harness through July of this  
20 year. After that, no allocation. As it turns out,  
21 now we have two requests for allocations that  
22 essentially overlap -- one at Cal Expo, one at  
23 Pomona.

24 At this time, because of the nature of  
25 the request, we recommend that it be referred to the

1 Race Dates Committee.

2 CHAIR HARRIS: Okay. As I recall, we did not  
3 allocate beyond July 31 because of the -- Cal Expo  
4 did not have a lease, an operator beyond then. And  
5 so now it is -- basically there's a second applicant  
6 with Fairplex.

7 MR. REAGAN: Exactly. I guess you could say,  
8 at that particular point, we were worried if we would  
9 have one place for them. And suddenly we have two.

10 COMMISSIONER MORETTI: Mr. Chairman, if this  
11 is referred to the Race Dates Committee, I would just  
12 ask that it be done in the most expeditious manner  
13 possible because I think, over the course of the last  
14 year, we've left the harness horsemen in a state of  
15 turmoil in terms of whether or not they'd be able to  
16 race or not race, where they were going to race.

17 So --

18 CHAIR HARRIS: You know, I agree. I think the  
19 Race Dates Committee could move on it rapidly.

20 Can I get a motion to refer it to the  
21 Committee? Or do we want to discuss it now or what?

22 COMMISSIONER SHAPIRO: I will move that it be  
23 referred to the Race Dates Committee and, in the  
24 intervening period, between this meeting and our next  
25 meeting, that we receive proposals, if there are any,

1 and plans from the vying racing associations so that  
2 an intelligent decision can be made but that a  
3 decision -- that it be our desire and goal to make  
4 that decision at our next Board meeting and that it  
5 be calendared for that unless there's any opposition  
6 from the audience.

7 CHAIR HARRIS: Any other comments on this?

8 (No audible response.)

9 CHAIR HARRIS: Is there a second to the  
10 motion?

11 VICE-CHAIR BIANCO: Second.

12 COMMISSIONER MOSS: Second.

13 CHAIR HARRIS: Wait. Excuse me.

14 Mr. "Scurfield" (phonetic)?

15 MR. "SCURFIELD": Yes. Ralph Scurfield from  
16 the Sacramento harness. It used to be "benevolent,"  
17 but somebody snuck down and took the name away from  
18 us.

19 So I just have a couple of comments.  
20 And one is the -- there was some -- some concern  
21 about "Who is our group?" and "Are they a viable  
22 entity?" and so forth. And I know, when I talked to  
23 Commissioner Shapiro, he mentioned that.

24 And I think -- were you supplied some  
25 information concerning our group and their

1 backgrounds?

2 COMMISSIONER SHAPIRO: No. I haven't received  
3 anything on it.

4 MR. "SCURFIELD": Uh-huh. You were -- I'm  
5 sorry, then, because you were supposed to have that  
6 information supplied to you.

7 But in any event, then, I appeared  
8 before your Board in September and indicated that  
9 there was a concern in Sacramento for harness racing  
10 in the community. The purses were going down. The  
11 attendance was going down. The handle was going  
12 down.

13 And some people urged a few of us that  
14 are active in the community to form a nonprofit  
15 entity and kind of put ourselves -- similar to the  
16 Del Mar situation so that we would operate -- be an  
17 operator and that the monies generated would benefit  
18 the horsemen and the facility -- which is Cal Expo --  
19 and possibly the community.

20 And so that's how we came to be. And  
21 I'll send you something as to who the individuals  
22 are. They're all active community people and active  
23 horse people.

24 And I will say, as far as the  
25 expedience goes, being a new entity -- and these

1 things take a sizable amount of money to get going --  
2 we need to have some assurance that we have a viable  
3 situation before we go forward and spend these --  
4 spend these monies and that we end up with a viable  
5 meet.

6                   We're not opposed to looking at a  
7 north-south situation. It would seem to me that, if  
8 it was a really a good thing, it would have been  
9 proposed three or four years ago. But that be it,  
10 we're here now. So --

11                   COMMISSIONER SHAPIRO: Mr. Scurfield, as you  
12 know -- and I've spoken to you; and I've spoken to, I  
13 think, everybody there is in the industry -- my  
14 first -- one of the concerns I heard was that the  
15 decision needed to be made at this meeting because  
16 there was concern that horsemen would be leaving the  
17 state and wouldn't wait around.

18                   For that reason, I sent a letter  
19 that -- to the horsemen that was disseminated  
20 throughout the barn area. And I have, in front of  
21 me, signatures that represent -- from different  
22 horsemen that represent that 409 of the approximate  
23 500 horses that are racing are willing to wait the  
24 month.

25                   And what I would like to see is that,

1 for the benefit of the harness industry, if there  
2 are, in fact, two viable options -- I don't know that  
3 there's an option at Fairplex or not -- I'd like to  
4 know what that option is. I would like to know that  
5 there is, in fact, a lease agreement. We would like  
6 to know what the plans for promoting both meets are  
7 so that we can do the best for the industry and the  
8 State.

9                                 And I certainly will make myself  
10 available in the intervening 30 days to learn about  
11 each group and -- and what each group has planned and  
12 is planning to invest.

13                 MR. "SCURFIELD": Uh-huh.

14                 CHAIR HARRIS: Yeah. The Race Dates Committee  
15 is Commissioner "Scurfield" and Commissioner Sperry;  
16 and I think that's a good vehicle to start off --

17                 COMMISSIONER SHAPIRO: Excuse me. But I think  
18 it's "Shapiro" and not "Scurfield".

19                 CHAIR HARRIS: Excuse me.

20                 MR. "SCURFIELD": Yes.

21                 COMMISSIONER SHAPIRO: He's better -- he's  
22 better looking than me.

23                 CHAIR HARRIS: That would have -- that might  
24 give him an edge, you know.

25                                 He used to have something to do with

1 the Racing Board. I don't remember what. No.  
2 Shapiro and Sperry.

3 MR. "SCURFIELD": Are we about to lose those  
4 hundred horses that didn't sign?

5 COMMISSIONER SHAPIRO: Well --

6 MR. "SCURFIELD": 'Cause we're in dire straits  
7 right now.

8 COMMISSIONER SHAPIRO: Mr. Scurfield, I  
9 think -- it doesn't mean that we're losing 'em.

10 MR. "SCURFIELD": Yeah.

11 COMMISSIONER SHAPIRO: But my letter went  
12 out -- I think it was the -- the weekend. I just  
13 sent this letter out on the weekend. And perhaps,  
14 you know, not everyone in the barn area could be  
15 found or reached to sign this.

16 But my biggest concern was that, if  
17 250 horses were going to leave, it would devastate  
18 the harness industry. I think that everyone is  
19 willing to stand still. I haven't heard that anybody  
20 won't stand still. So I think that, by taking 30  
21 days, we can make intelligent decisions that plans,  
22 really, the harness racing calendar for the year.

23 CHAIR HARRIS: Yeah. Let's try to get it --  
24 we can get it resolved. I think our next meeting  
25 is -- is it March 24th? It's at Bay Meadows in the

1 north, which would -- and that -- by that time, we'll  
2 have the Racing Dates Committee have met and make  
3 recommendations.

4 We'll probably rehash the whole issue  
5 at that point anyway. So I think we're probably  
6 going to move on today.

7 MR. "SCURFIELD": So the process will start  
8 with a Dates Committee meeting?

9 CHAIR HARRIS: It'll go to the Dates  
10 Committee. They'll, you know, do all the review and  
11 due diligence and "Here are the plans" and they'll  
12 make a recommendation to the Board.

13 But as we know, the Board will  
14 probably also review it pretty thoroughly themselves  
15 at that meeting. So the March meeting will probably  
16 be the key meeting to get it resolved.

17 MR. "SCURFIELD": Thank you very much.

18 COMMISSIONER SHAPIRO: Mr. Chairman, Mrs.  
19 Moretti has very nicely agreed to serve on the  
20 committee for this purpose and continuity.

21 CHAIR HARRIS: She was pleading to get off the  
22 Dates Committee. And now she wants back on.

23 COMMISSIONER SHAPIRO: Well, I twisted some  
24 arm. Okay.

25 CHAIR HARRIS: Okay. We'll add -- we'll

1 add --

2 COMMISSIONER SHAPIRO: For just this issue.

3 CHAIR HARRIS: -- Moretti for the Sacramento  
4 connection. So the Dates Committee will be Shapiro,  
5 Moretti, and Sperry.

6 MR. REAGAN: Commissioners, we will seek to  
7 set up a date, a place for that -- perhaps the day  
8 before the March meeting -- so we can discuss it --

9 CHAIR HARRIS: Well, I'd really rather do it  
10 a little further ahead than just the day before so we  
11 can refine anything --

12 COMMISSIONER SHAPIRO: I agree totally. I  
13 think what we will have to do is, within the next  
14 week or so, is schedule a meeting and do it -- we'll  
15 try -- maybe today we can sit down and pick a couple  
16 dates and do it, most likely, in Sacramento --

17 MR. REAGAN: Okay.

18 COMMISSIONER SHAPIRO: -- since that seems  
19 where everybody is.

20 MR. REAGAN: All right.

21 CHAIR HARRIS: Okay. Mr. Eliot?

22 MR. "ELIOT": Commissioners, "David Eliot"  
23 (phonetic), California State Fair.

24 We obviously are not going to oppose  
25 the Board if they wish to take this to Racing Dates

1 Committee. However, I just wanted to remind the  
2 Board, we -- Cal Expo -- we went through the Racing  
3 Dates process. Every single association represented  
4 in this room went through the Racing Dates allocation  
5 process, a process, I might add, that Commissioner  
6 Granzella and Moretti thoroughly enjoyed.

7                   We've sent the letters. We've done  
8 our homework. We've been in front of this Board to  
9 delay. What we're talking about is the September-  
10 through-December Fall Meet for the Sacramento Harness  
11 Association.

12                   To delay that even further -- I'm not  
13 going to speak on behalf of the horsemen. I'll allow  
14 the California Harness Horsemen's Association to do  
15 that. However, I would suspect that we will have  
16 meetings with the Sacramento Harness Association next  
17 week so they can begin preparation so that the  
18 horsemen that are there now can look forward to the  
19 new group coming in.

20                   We're just talking about a three-month  
21 period here. I'm not -- we're not opposed at all  
22 about talking about a north-south or racing at Pomona  
23 or any of that.

24                   But for dates for 2005 -- that's what  
25 we're talking about. That's the one that we're

1 talking about. And if we wish to open up discussions  
2 in a calmer atmosphere to where there's not as much  
3 anxiety on the backside regarding where they're going  
4 to race in the fall, we're all for that.

5 But I did want to remind this Board,  
6 we went through the process. If another association  
7 came in here to you, unless there was a major  
8 crisis -- God forbid -- something happened at one of  
9 the racetracks, where they had to shut down -- you  
10 would obviously address that.

11 There's no crisis at Cal Expo. Simply  
12 the operator that's there now chose not to bid on the  
13 RFP. There's just a new operator coming in.

14 COMMISSIONER SHAPIRO: Mr. Eliot -- Mr. Eliot,  
15 you went through it, and the dates were not allocated  
16 for the latter part of the year. There is a new  
17 operator. We don't understand -- we don't know  
18 anything about the new operator. We don't know  
19 anything as to what the terms of the lease agreement  
20 between Cal Expo and the new operator is, what  
21 improvements are going to be made.

22 We need to look out for the benefit of  
23 the entire industry.

24 MR. "ELIOT": I understand that.

25 COMMISSIONER SHAPIRO: We may end up there --

1 and I don't think -- what I hope you hear is "We will  
2 make a decision at the March meeting." It's 30 days.  
3 In the intervening period, we want to learn exactly  
4 what each group is, who they are, and what they're  
5 going to do to promote the sport.

6 MR. "ELIOT": I understand that.

7 COMMISSIONER SHAPIRO: That's all we're  
8 saying.

9 MR. "ELIOT": I understand that. And we have  
10 provided a lease agreement and -- and the proposal to  
11 the CHRB staff. And I apologize. Perhaps we should  
12 have supplied them to all of the Commissioners. And  
13 I apologize for that.

14 But we have all the confidence in the  
15 Sacramento Harness Association, at least for the  
16 September-through-December period. Thank you.

17 COMMISSIONER SHAPIRO: Thank you.

18 CHAIR HARRIS: Okay. Well, we'll go ahead  
19 with the Race Dates --

20 MR. KENNEY: Excuse me.

21 CHAIR HARRIS: -- Committee --

22 Okay.

23 MR. KENNEY: Mr. Chairman, Ben Kenney,  
24 President, California Harness Horsemen's Association.  
25 Commissioner Shapiro and I have spoken about this.

1                   We had a meeting two weeks ago.  
2    Director Fermin was there along with Mr. Minami. It  
3    was a very spirited four-hour meeting with all of our  
4    horsemen there -- trainers; drivers; owners;  
5    everybody else. I think that Ingrid and Roy can tell  
6    you that.

7                   We went through almost every scenario.  
8    We heard from Benevolent. We heard from Capitol  
9    Racing. I was in favor at the time of tabling it. I  
10   seemed to be in the minority at the time. We were  
11   voting on a proposal. It was cut and dry. It was a  
12   proposal, from Capitol, of racing in Southern  
13   California.

14                  In fact, we all would like to race in  
15   Southern California. But those dates and that  
16   proposal did not fly. And it was defeated 5-4. I  
17   guess my question is we're waiting 30 days for --

18                  COMMISSIONER SHAPIRO: We're waiting 30 days  
19   so that we can understand, looking at the industry  
20   and looking at the interests of the State of  
21   California, of seeing what are the opportunities  
22   before us so that we can make an intelligent  
23   decision. If there are more than one opportunity,  
24   then we're weighing the options.

25                  And we're saying that we're simply

1 going to have -- take the proper time to receive  
2 feedback and understand who the applicant is, who the  
3 applicants are, and what are the proposals on the  
4 table. We haven't seen anything.

5 CHAIR HARRIS: Yeah. The thing is we've got  
6 two applicants, basically. And we have to weigh each  
7 one out, and I don't think we're prepared to do that  
8 today.

9 MR. KENNEY: Well, then, the CHHA -- are you  
10 saying their vote is meaningless? Are you saying our  
11 association --

12 COMMISSIONER SHAPIRO: No. Not at all. But  
13 what we are saying is that you're one component.  
14 You're not the end all. You're one component. Okay?  
15 There -- and if that's what the harness horsemen and  
16 the harness industry thinks is in its best interests,  
17 great. But let's at least make sure that informed  
18 decisions are being made, not rushing to judgment.  
19 This has become a rush to judgment.

20 And I think it behooves us to  
21 intelligently understand what we're voting on and  
22 what we're looking at. It may be that harness should  
23 stay in Sacramento. I -- I'm not -- I'm not in favor  
24 of one position or the other.

25 I'm simply saying, and as I discussed

1 with you on the phone, that I think that a moderated  
2 view and analysis should be done so that intelligent  
3 decisions can be decided by this Board.

4 CHAIR HARRIS: I think this Board will  
5 carefully and highly consider the wishes of the  
6 horsemen. It's just that's not the sole factor.

7 MR. KENNEY: Okay. Thank you.

8 CHAIR HARRIS: Okay. Let's move on, if  
9 there's nothing -- 'cause this is going to be  
10 discussed a lot, going forward, I'm sure. This will  
11 come up between now and probably in the March 24  
12 meeting.

13 The next issue is discussion by the  
14 Board on employment of the Pari-Mutuel Employees  
15 Guild, Local 280, employees at the ADW facilities in  
16 California.

17 MR. CASTRO: Chairman Harris, Commissioners:  
18 my name is Richard Castro. I represent Pari-Mutuel  
19 Employees Guild. I brought our attorney, David  
20 Rosenfeld. He prefers to be addressed as "King."  
21 That is spelled K-i-n-g. He will address the legal  
22 matters for this.

23 David?

24 MR. ROSENFELD: I told him not to use that  
25 term since it isn't gender neutral. Having said

1 that, my name is David Rosenfeld. And our office has  
2 represented Local 280 for years.

3 And I was trying to think -- the last  
4 time that I was in this facility was to address you.  
5 But I don't remember what the issue was about. But,  
6 off and on, I've had the pleasure of addressing the  
7 Board on issues that affect the industry as well as  
8 Local 280.

9 The issue that we want to raise with  
10 you is the question of employment in the wagering  
11 hubs that were created as a result of ADW. And I've  
12 spent some time talking about this issue with those  
13 involved in it, reading the statute, and thinking  
14 about this issue.

15 I think we all understand that, in  
16 2001, when the statute became effective, it was the  
17 result of exactly what this Board has done for years,  
18 which is to take the varying interests within the  
19 industry and work out a compromise that works for the  
20 industry as a whole. Doesn't mean everybody gets all  
21 that they want, but it means that everybody's  
22 interests are accommodated to some degree.

23 You have to imagine that, in 2001, the  
24 employees involved in this industry would never have  
25 supported ADW had they thought they would lose all

1 the jobs involved 'cause had we thought that, as a  
2 result of agreeing to this process, that we would  
3 have lost every job involved in this process, we  
4 certainly would never have supported it.

5                   It wouldn't have done us any good as  
6 an organization. And in fact, it wouldn't have been  
7 good for the industry to see those jobs go out of the  
8 state because a large part of this industry, I think,  
9 is based upon the kind of personal relationships, the  
10 contacts involved.

11                   That's really the whole premise of  
12 where, I think, our position is based is that, in  
13 2001, beginning in the spring, when this legislation  
14 was formulated, and through the rest of that year,  
15 when the regulations were all being formulated,  
16 everyone involved in this process understood that  
17 everyone was getting something out of this, and, in  
18 particular, the industry was getting something.

19                   I've kind of struck by the press  
20 release which the Horse Racing Board issued, in  
21 November of 2001, to announce the adoption of  
22 regulations. And this is quoting the Chairman at  
23 that time -- Alan Landsburg.

24                   The announcement said, "'This is not  
25 the salvation of racing. This is simply a step along

1 the way,' said Landsburg. 'If business greed begins  
2 to raise its ugly head and threatens the good that  
3 this program can bring to the industry, that greed  
4 will not be greeted with a friendly shake from this  
5 Commissioner.'"

6                                 And that's exactly what happened. In  
7 2001, everyone involved assured everyone involved --  
8 the union, Local 280, and those involved in this  
9 process -- that these jobs would remain California  
10 jobs, the jobs in California, as a benefit to the  
11 industry.

12                                 I've gone through the record of some  
13 of the hearings before this Board. And there were  
14 statements made by the lobbyists and the advocates  
15 for the ADW facility and the TVG, in which people  
16 like Joe Lang said very expressly that they  
17 understood that the result of ADW would be that there  
18 would be California hubs and California jobs.

19                                 And so Local 280 didn't come before  
20 this Board and the legislature and say, "We oppose  
21 this process." We supported it because we were given  
22 assurances that, as a result of this process, these  
23 jobs would, for the most part, remain in California.  
24 That is exactly the opposite of what's happened.

25                                 Before I get to that, I just want to

1 emphasize that, when the statute was created, it was  
2 created in a way that, I think, absolutely preserved  
3 this concept. And if there's going to be more of a  
4 legal argument, I'm certainly more than happy to put  
5 this in some more detail in writing so that you and  
6 your Board can look at it.

7                   But the statute itself has various  
8 parts to it. But the critical part -- that is,  
9 Section -- Line -- 604, Subsection C -- that says,  
10 "The Board" -- meaning you -- "shall develop and  
11 adopt rules and license, regulate all phases of  
12 operation of advance deposit wagering deposit  
13 wagering for licenses, betting systems, and  
14 multijurisdictional wagering hubs located in  
15 California."

16                   That is the only authority that you  
17 have to issue regulations -- that one sentence. Now,  
18 that sentence doesn't distinguish between out-of-  
19 state, in-state hubs. It simply says you have that  
20 authority to issue regulations because you do.

21                   The next sentence says, "Betting  
22 systems and multijurisdictional wagering hubs located  
23 and operating in California shall be approved by the  
24 Board prior to establishing advance deposit wagering  
25 accounts or accepting wagering or" -- I'm sorry --

1 "shall be approved by the Board prior to establishing  
2 advance deposit wagering accounts or accepting  
3 wagering instructions concerning those accounts."

4                   Now, the sentence goes on. Let's  
5 leave the rest of the sentence for a minute. That  
6 sentence clearly, again, gives you the authority to  
7 not only issue regulations but prohibit ADW unless  
8 you authorize it, unless you give the licenses. That  
9 prohibits such wagering without those licenses.

10                   But that sentence -- that part doesn't  
11 distinguish between out-of-state and in-state hubs.  
12 It says you have to license.

13                   The next part of that sentence -- it  
14 goes on to say -- quote -- "and shall enter into a  
15 written contractual agreement with the bona fide  
16 labor organization that has historically represented  
17 the same or similar classifications of employees at  
18 the nearest horse racing meeting" -- unquote.

19                   Now, I don't think anybody who wrote  
20 the statute thought that we'd be talking about  
21 workers in Pennsylvania, Oregon, India, or any other  
22 place to be answering phones or dealing with this  
23 industry. We thought this meant that the workers  
24 would be someplace near the nearest horse racing  
25 meeting in California.

1                   And those are the commitments that we  
2 had from those involved in this legislation. In  
3 fact, those were the commitments that were made to  
4 this Board in late 2001, when the regulations were  
5 adopted. So we think the statute envisions your  
6 licensing ADW and envisions that the people employed  
7 would be employed someplace so that this definition  
8 of "nearest horse racing meeting" would make some  
9 sense.

10                   When TVG got the first license, they  
11 assured this Board and us that the jobs would be in  
12 California. That's not happened. Those jobs are now  
13 in Oregon.

14                   When you call TVG and want to speak to  
15 a live human being, the person who used to be that  
16 pari-mutuel clerk at the race track, your call is  
17 routed to Oregon. Those folks work in an office in  
18 Oregon. They come in, answer the phone, handle the  
19 questions from bettors.

20                   XpressBet -- you call -- you're not  
21 calling workers in California. You're calling people  
22 in -- in Pennsylvania.

23                   And Youbet has a few people here in  
24 California that do technical questions and answer --  
25 do some phone-call response that is the kind of

1 customer support that we think is work that was  
2 envisioned to be covered by this language.

3                   So what's happened is a number of jobs  
4 have simply gone out of the state of California. And  
5 they're not covered by a collective bargaining  
6 agreement, which is what the statute absolutely  
7 requires.

8                   So our position is that the statute ,  
9 the way it was written, comports with; complies with;  
10 and, in fact, states very clearly this understanding  
11 that, if the union and the workers involved were  
12 going to support this legislation, the result would  
13 be jobs would be in California, they'd be our jobs,  
14 they'd be covered by a collective bargaining  
15 agreement.

16                   They're not. They're gone. So the  
17 reason we're here today is because we've had enough  
18 of this. We want this issue resolved somehow. We  
19 don't want a fight over this because we think that  
20 ADW benefits the industry in large part. I mean  
21 nobody's a hundred percent satisfied with everything.  
22 But we don't want to create an issue over this if we  
23 can get our problem resolved.

24                   And all we ask is that the statute be  
25 enforced, the understandings that were expressed in

1 2001 be adhered to and complied with, the commitments  
2 that were made at that time -- just as an example of  
3 this kind of commitment -- oh, well, I was going to  
4 quote Chairman Landsburg because he was the one, a  
5 number of times, who stated, at various meetings of  
6 this Commission, that that was his understanding.

7                   But he's here, and he's going to  
8 express this to you himself. There are a number of  
9 times, in various transcripts that the union has gone  
10 through, where there's reference to this.

11                   For example, when XpressBet, in 2002,  
12 came in to get its license, they made it clear that  
13 they were going to have a California hub, in response  
14 to questions.

15                   And as I said, Joe Lang, who was the  
16 lobbyist and the representative of TVG, made the same  
17 statements. So our position is that that's not been  
18 complied with. So we're here asking for something  
19 that we think is reasonable. We're asking that this  
20 issue be revisited, that this Board tell the advance  
21 deposit wagering entities that they have to comply  
22 with the statute.

23                   And we're not saying it's wholly  
24 practical to say, "We want to represent folks in  
25 Pennsylvania, Oregon, or India." That's really not

1 our interest here.

2                   Our interest is doing something for  
3 this industry, which is to tell these folks that  
4 customer service, dealing with the patrons who are --  
5 without whom this industry doesn't survive, has to be  
6 accomplished through workers in California and call  
7 centers and customer service operations in  
8 California.

9                   We think those operations should be  
10 brought here because that's the way to comply with  
11 the statute and that's the way to comply with the  
12 commitments that were made.

13                   So what Local 280 asks, to try and get  
14 this problem resolved, is that this Commission  
15 revisit this issue and express to the parties  
16 involved -- primarily Local 280 but everyone else  
17 involved in the industry and obviously to the  
18 companies involved in advance deposit wagering --  
19 that we sit down and get this resolved and bring this  
20 industry back into compliance with the understandings  
21 of 2001 and the statute -- and the statute which, in  
22 effect, says, "You can't license facilities absent  
23 having that collective bargaining relationship,"  
24 which means you've got to do it in California.

25                   So what we're asking is that this

1 Board, you know, express to the parties its concern  
2 about, over this issue and tell us to get this  
3 problem resolved, put this back on the agenda to the  
4 next meeting so that we can come back and report,  
5 "Has it been resolved?"

6 'Cause if it hasn't been resolved, we  
7 would all have to figure out how to handle the  
8 problem. And I mean there's litigation and various  
9 other ways of resolving it. But we don't think  
10 that's the way to resolve these problems in this  
11 industry.

12 We think it should be done the way  
13 it's always historically been done -- that we get  
14 some direction -- the parties -- to resolve it, bring  
15 back the resolution to this Board. If it advances  
16 the industry, it's resolved that way. We think we  
17 can do it.

18 I'd like to ask Alan Landsburg --  
19 there he is -- if -- he's asked if he could come here  
20 and kind of express what his reaction is to this  
21 problem.

22 MR. LANDSBURG: Alan Landsburg, former  
23 Chairman of the California Horse Racing Board. Now,  
24 I'm just speaking as a private citizen.

25 I've been on the record, for as long

1 as I was involved in any part of racing, to say that  
2 "If we don't respect the people we work with and if  
3 we don't give them the kind of support that they  
4 need -- particularly when they're hourly laborers;  
5 when they're people who sit in the racetracks, work,  
6 and deal daily with the live bettor that we so  
7 cherish -- then what are we doing?"

8                   We're simply throwing them out into  
9 the street and saying that all these efforts in  
10 marketing that we're doing and all of the efforts  
11 that CMC promotes and all of the efforts to find new  
12 people will wind up with someone facing a machine  
13 that, frankly, you have to be experienced to use and  
14 therefore they have no reason to bet; whereas, live  
15 persons behind those ticket windows are one of our  
16 most valuable assets.

17                   Why are we throwing them away? I sat  
18 in your chair, Commissioner Harris -- Chairman  
19 Harris. I look down, and I see the bored looks  
20 because we're only talking about a small part of the  
21 industry. It's a lot more than a small part of this  
22 industry.

23                   And I'm taking recognition of 'em at  
24 this time after ADW -- which we worked, sweated, and  
25 slaved to get in because it was a patchwork quilt

1 over the problems of racing -- has now proved to be  
2 less than the great benefit that anybody envisioned  
3 when it came in. But that it is duping and not  
4 paying attention to its employees bothers me.

5                   Having sat up there, I know what it  
6 feels like when I think about union people, who have  
7 dedicated their lives to racing and depend for their  
8 livelihood on racing, now must put up with not being  
9 honored for what they have done and, under statute,  
10 be dishonored.

11                   I come here as someone who loves  
12 racing. And I hope that, after all my cries from  
13 those seats, you'll hear this cry from this seat and  
14 adjust the wrong that's been done under premises that  
15 are invalid such as "We have these employees working  
16 in our electronics area or videotaping."

17                   That has nothing to do with the pari-  
18 mutuel clerks who have long been associated with  
19 racing. And I strongly suggest you heed the  
20 warnings. Thank you.

21                   CHAIR HARRIS: Thank you.

22                   Additional comments?

23                   MR. CASTRO: I'm not going to be shy. I'm  
24 going to stand up and applaud. That really concludes  
25 our presentation. We do ask that you do give

1 consideration to what we're asking. We agree with  
2 David that -- excuse me -- we agree with "King" that  
3 this is the best way to go.

4                   And we want to get this resolved as  
5 quickly as possible for the benefit of the industry.  
6 Thank you very much for putting us on the agenda.

7                   CHAIR HARRIS: I can sympathize with the issue  
8 and the problem. I'm just not clear how much  
9 latitude the Board has, in basically a labor-  
10 management issue, when it involves, you know,  
11 interstate commerce and all these things.

12                   Could Derry -- could you express what  
13 our options might be on something like that?

14                   DEPUTY ATTORNEY GENERAL KNIGHT: Yeah. Is  
15 this on? Hello.

16                   Yeah. I think this is a -- this is a  
17 difficult issue for the Board in the sense that we're  
18 talking about an industry, by its very nature, is  
19 very interstate in nature. And as I think Attorney  
20 "Roosevelt" -- Rosenfeld indicated, he's -- they're  
21 not suggesting that the Board be in a position or try  
22 to order collective bargaining in Pennsylvania.

23                   I thought they were initially, but  
24 apparently that's not the case. I think if they --  
25 if you were to try to do that, I think that you're

1 clearly overstepping your bounds because I think, as  
2 a California regulatory body, you don't have  
3 authority to be telling people what to do in some  
4 other state.

5                   And I think there's a legitimate and  
6 serious issue about who has -- regardless who has  
7 authority here because of the interstate nature of  
8 advance deposit wagering, we're not talking about a  
9 track operation. We're talking about, clearly, by  
10 its very definition, an interstate operation.

11                   And whether or not the federal  
12 government, the National Labor Relations Board would  
13 see this as their -- within their jurisdiction, I  
14 think it's a legitimate issue. I know -- we're all  
15 aware that the NLRB has declined jurisdiction of  
16 horse racing generally.

17                   But I think it's a serious question of  
18 whether that is -- would be the case were someone to  
19 challenge an issue or an action by the Board in this  
20 setting as -- as I -- the attorneys -- and I won't  
21 bore people with this -- but this issue has been  
22 presented previously.

23                   Back in the late 80's, early 90's,  
24 there was a similar issue. It's not the same issue.  
25 But it involved a totalizing company. And there was

1 an unfair -- the Board did, in fact, attempt to  
2 enforce a statute similar to this and ordered them to  
3 enter a collective bargaining agreement.

4                   And the federal government did, in  
5 fact -- the National Labor Relations Board did, in  
6 fact, take jurisdiction of that and had the effect of  
7 preempting the Board's action. Whether that would  
8 now affect whether the Board would get involved in  
9 this issue, I don't know. The -- but I think there's  
10 a serious issue there.

11                   We could debate that. It can be  
12 debated.

13                   And I think the other question is the  
14 statute that you have -- there may have been  
15 commitments made -- I have no history there  
16 personally, and I'm not debating that. There may  
17 very well have been commitments made at the time of  
18 this legislation.

19                   But the legislation that ultimately  
20 came out is very narrow in scope. And that is that  
21 it is limited to employees of like classifications,  
22 et cetera, et cetera.

23                   So we're -- and my understanding is --  
24 and I don't mean to be sounding like I'm advocating  
25 one side or the other -- but my understanding is that

1 a lot of the employees we're talking about here are  
2 not your typical pari-mutuel clerks. We're talking  
3 about high-tech employees, for the most part.

4 Now, Mr. Landsburg, I think, is  
5 suggesting that somehow we -- that the Board force  
6 them back to having this operation at the window  
7 somewhere. That -- I mean that's a different issue  
8 totally.

9 But, at least as they operate now, my  
10 understanding is that a lot of this is by high-tech  
11 employees, which wouldn't be covered at all by your  
12 staff's -- the suggestion that you somehow order  
13 collective bargaining agreements.

14 It's a very narrow scope. So I think  
15 the answer to your question -- this is a -- this is  
16 not a simple matter.

17 But I don't think it's a simple matter  
18 for the Board to say, "Yeah. You got to do this, or  
19 we're going to -- or we're going to say that you've  
20 got to move all your employees back to California."  
21 I just don't -- that's just not within your  
22 bailiwick.

23 CHAIR HARRIS: If we could pass the ball to  
24 the National Labor Relations Board, somebody could  
25 come and try to arbitrate it 'cause I just don't see

1 where we really have enough standing to compel  
2 anybody to do very much.

3 MR. ROSENFELD: Let me address the Labor Board  
4 issue because the case that Mr. Knight referred to --  
5 I wasn't that involved with in 1991 -- involved a  
6 totalizator company. And you're right. There's a  
7 very simple way to resolve this, ultimately.

8 TVG or any of these other employers  
9 can do exactly what the totalizator company did  
10 because that, if the National Labor Relations Board  
11 asserts jurisdiction over the employees, the  
12 statute's unenforceable.

13 In the totalizator company case, what  
14 happened was the Board told the totalizator company  
15 it had to sign a collective bargaining agreement with  
16 the "IDW" (phonetic), which was involved in that  
17 case.

18 And when that company went to the  
19 Board, it filed a charge -- the Board at that point  
20 made a preliminary determination that it had  
21 jurisdiction over those employees -- that they were  
22 not in the horse racing industry, sought an  
23 injunction or got an injunction against the Board.

24 So I invite you to test that. The  
25 problem is it's only tested by telling these

1 companies "Comply with California law. The law is  
2 clear that we can't license you unless you have an  
3 agreement" -- quote -- "'with the bona fide labor  
4 organization that has historically represented the  
5 same or similar'" -- it doesn't say -- it says --  
6 "'same or similar classifications of employees at the  
7 nearest horse racing meeting.'"

8                   Now, we're not asking for technical  
9 employees who maintain the servers and the technical  
10 equipment that's necessary to handle some aspects of  
11 this betting operation. That's never been our claim.

12                   We're asking for the people that  
13 former Chairman Landsburg described to you -- the  
14 public-contact people; the people who, in some cases,  
15 may be the only human voice or human that the patrons  
16 contact, which, when they call TVG or call XpressBet  
17 and say, "Help me. How do I put this bet? How does  
18 this system work? Can you explain to me how I can  
19 make an account?" -- those are the people we're  
20 concerned about.

21                   We're not interested in some -- we  
22 don't think that there's a similar classification to  
23 talk about the technical person who gives tech  
24 support. So let's put that aside.

25                   We think there are -- we don't know

1 exactly how many -- but we think there are 10 to 30  
2 to 40 people involved in these three companies who  
3 are customer-support people. You call an 800 number.  
4 You talk to somebody when you have problems or  
5 questions or you want to figure out how to  
6 participate in this wonderful sport.

7 CHAIR HARRIS: I'm not clear. Is there  
8 something that's preventing you from organizing them  
9 now?

10 MR. ROSENFELD: Yes. Because, if they're in  
11 the horse racing industry, there's no law that  
12 compels the employer to even let us go to elections.  
13 That's the conundrum here. That is -- under the  
14 National Labor Relations Act, we can organize  
15 employees, file a petition. The Labor Board will  
16 conduct an election.

17 But if they're actually in the horse  
18 racing industry, then the Board -- that is, the  
19 National Labor Relations Board -- won't assert  
20 jurisdiction. We can't force the employer to do  
21 anything except by striking 'em, which results in  
22 causing 'em economic harm. But that harms this  
23 industry.

24 So the reason the statute and other  
25 statutes in this industry require bargaining is to

1 avoid the only weapon the union has, which is to  
2 engage in economic activity. It says to the employer  
3 and the union, "We want peace in this industry. We  
4 don't want problems. We want you to work it out,  
5 sign a contract."

6                   And the courts have affirmed these  
7 kinds of understandings, both for employers who are  
8 not governed by the National Labor Relations Act --  
9 and, recently, two circuit courts have said, even if  
10 you're governed by the National Labor Relations Act,  
11 you can have what's called a "labor peace ordinance"  
12 or something similar to this, provided there are  
13 other issues that the Board is involved with.

14                   To answer your question, Chair Harris,  
15 there is no question but that if you tell -- I mean  
16 what we're really asking is for you to tell the  
17 parties that, "Under the statute and the  
18 understandings that statute are based on, we don't  
19 think we can license you unless you comply with the  
20 statute."

21                   Now, if you revoke a license because  
22 they're not complying with the statute or threaten  
23 to, they can run off to the Labor Board to get this  
24 issue resolved pretty quickly.

25                   And I will concede, on the record, if

1 the Labor Board asserts jurisdiction over these  
2 employees, says they're not in the horse racing  
3 industry, you can't enforce the collective bargaining  
4 language.

5 CHAIR HARRIS: I wonder if you could just take  
6 it to the Labor Board and just ask them for a  
7 opinion.

8 MR. ROSENFELD: The answer is the Labor Board  
9 has a procedure for advisory opinions, which I don't  
10 think applies in this context, as to whether they are  
11 covered by the Act or not, although the Board will,  
12 on occasion, give an advisory opinion about coverage  
13 issues. That takes some time.

14 'Cause we don't really want to wait  
15 for months and months, particularly given the flux of  
16 this current Board, we're really simply looking at  
17 saying, "The statute says that you have the right to  
18 license. There's a condition of that license. These  
19 folks are not complying with that condition."

20 As long as they understand that  
21 there's a serious question about that, I think we can  
22 work this out. But they have to be given that  
23 message that there is a question about their  
24 entitlement to a license so long as they're having  
25 these public-contact people in Oregon, Pennsylvania,

1 or the next step is some other continent.

2                   And then I think that the former  
3 Chairman's comments come home here. If you want the  
4 public-contact people, that help people get involved  
5 in this sport, in some other continent, then you let  
6 this go that way. Otherwise you have to put a stop  
7 to it. You say, "The understanding was these folks  
8 would be here in California," and we move on from  
9 there.

10                   CHAIR HARRIS: Is there anyone here from the  
11 ADW providers that wanted to comment?

12                   (No audible comment.)

13                   CHAIR HARRIS: Any of the Commissioners have  
14 any comments on this?

15                   COMMISSIONER SHAPIRO: Well, I --

16                   CHAIR HARRIS: There's somebody here from TVG.

17                   Are you here from TVG?

18                   MR. HINDMAN: Just a few brief comments this  
19 morning. My name is John Hindman, H-i-n-d-m-a-n.  
20 TVG.

21                   Just a few brief comments. Number 1  
22 is kind of process related. I know that we saw you  
23 in December. Mr. Castro came up during our license  
24 application and mentioned that he'd like to have  
25 discussions with us. We received a letter from them.

1                   We responded with a December 15, 2004,  
2 letter, that I think is in the Board packet, stating  
3 our position but also stating, "Nonetheless, if you'd  
4 still like to discuss these matters further, please  
5 let me know and we'd be happy to meet with you in the  
6 Los Angeles area at an agreeable time."

7                   I subsequently saw Mr. Castro here at  
8 a meeting last month. I gave him my business card;  
9 and I said, "Please call me if you'd like to discuss  
10 this matter further."

11                   And the next notice that I had was the  
12 CHRB agenda for this hearing. So, again, I -- we  
13 stand by our position in our letter. But I -- and I  
14 don't know what the other ADW companies have said  
15 with that regard. But that -- that's our position.

16                   And the second -- just real briefly, I  
17 respectfully disagree with Mr. Rosenfeld's view of  
18 California Business and Professions Code 19604. I  
19 think the opening paragraph of that -- of that law,  
20 statute makes it abundantly clear what the Board's  
21 authorization is, first of all.

22                   And I think -- secondly, I think that,  
23 in the definition section, the definition of "advance  
24 deposit wagering," it makes it very clear that the  
25 Board can license or authorize hubs both located

1 within California or outside of the state; and that  
2 was, I think, the understanding from Day 1 for  
3 everybody involved.

4                   And I think also with regards to the  
5 section that he pointed out -- 19604(C)(1) -- that  
6 does relate to wagering hubs located in California.  
7 And I think, for the three years that we've made  
8 comments upon this, that's always been our position  
9 is that, if and when TVG had a wagering hub in  
10 California, we would comply with the law. And our  
11 position is no different from that today. Thank you.

12                   COMMISSIONER SHAPIRO: Can I ask you a couple  
13 questions?

14                   MR. HINDMAN: Sure.

15                   COMMISSIONER SHAPIRO: I wasn't involved at  
16 the time ADW came into being. But, clearly, when the  
17 law was being proposed and everybody was working to  
18 get ADW, the union was approached; and the union was  
19 promised or assured that "We would give you jobs."  
20 Okay?

21                   And were you at TVG at the time that  
22 the ADW came in?

23                   MR. HINDMAN: I was not in any sort of a  
24 position like I am now so --

25                   COMMISSIONER SHAPIRO: Okay. Weren't

1 assurances given to the union that there would be  
2 jobs for them? And if you look at the big picture --  
3 and I understand the hubs are in Oregon and  
4 Pennsylvania and wherever else they are -- but they  
5 have lost jobs. And we've lost jobs in California.

6                   There's -- is there any -- any  
7 possibility that TVG's going to move a hub to  
8 California really?

9                   MR. HINDMAN: I don't know. They don't have  
10 any -- we don't have any imminent plans at the moment  
11 but -- but, again, I think that that's something of  
12 more of a business matter that I'm not sure where  
13 people stand on that.

14                  CHAIR HARRIS: The bigger issue is, though,  
15 that I don't know if they've got even, wherever they  
16 are in Oregon, these similar-classification-type  
17 jobs. I mean what's really happened is that, when  
18 originally when we envisioned it, there would be more  
19 live operators.

20                   And as technology has evolved, that  
21 technology is basically handling all these wagers  
22 versus life people.

23                  MR. HINDMAN: That's correct. Every TVG wager  
24 is handled by an automated system.

25                  COMMISSIONER SHAPIRO: But don't you have

1 people that are there to talk to if people do have  
2 problems?

3 MR. HINDMAN: We have customer service.

4 COMMISSIONER SHAPIRO: And have you looked  
5 into, because of this issue, what it would take and  
6 what it would cost if, perhaps, some of those people  
7 could be transferred down to California or those jobs  
8 replaced in California to replace the jobs that were  
9 lost that -- when -- when the industry wanted ADW and  
10 the union signed on to go along and support it and  
11 with anticipation that they would have jobs?

12 Why can't you transfer that function  
13 down here?

14 MR. HINDMAN: First of all, I'd like to  
15 provide a little bit of background. TVG, I believe,  
16 probably employs as many or more people in California  
17 as any other ADW provider. We're proud of our jobs  
18 record. We have 114 employees at our studios. And I  
19 know you have come -- and I'm real pleased that you  
20 came over to see us. And we stand behind them.

21 We also have an operation in Oregon.  
22 That operation from Oregon was there long before  
23 there was ADW in California. And those are also very  
24 dedicated employees that we're very proud of that  
25 provide customer service.

1           COMMISSIONER SHAPIRO: Yeah. I understand  
2 that. But what you did was -- you said was "But if  
3 we can go to California and you'll go along with us,  
4 we'll work with you." Okay? "And we'll work so that  
5 you're not going to have a loss of jobs." That's  
6 what was told to them.

7                       Now, the legislation in. And I think  
8 we've licensed you for two years as of last, I think  
9 it was, November --

10           MR. HINDMAN: Correct.

11           COMMISSIONER SHAPIRO: -- and -- and they have  
12 lost jobs. So the question is "What can you do?" I  
13 understand what you're doing. But what -- isn't  
14 there some of these functions that could be moved  
15 down here to resolve this? I mean there are other  
16 ADW employers. I'm not meaning just to pick on you.

17           MR. HINDMAN: It seems like I'm the only one  
18 up here, speaking, every time the issue comes up.

19           COMMISSIONER SHAPIRO: Well, if the others are  
20 here, please line up behind him because I am going to  
21 ask the same --

22           CHAIR HARRIS: How many total jobs do you have  
23 in Oregon?

24           MR. HINDMAN: Total jobs? I couldn't give you  
25 an exact answer. I would guess between, in the

1 various capacities, between 25 and 35.

2 CHAIR HARRIS: So you've got more jobs in  
3 California now than you do in Oregon.

4 MR. HINDMAN: Correct.

5 COMMISSIONER SHAPIRO: But I went to your  
6 competitor -- okay? -- Youbet or I went to another  
7 ADW. And I saw that it was a wonderful place. And I  
8 saw how there were people who man phones and answer  
9 questions to assist people with making wagers.

10 Now, I don't know if they were union  
11 employees or not. But why couldn't you do something  
12 similar which would satisfy the union, that at least  
13 in California, when they signed on for it, they're  
14 getting something back for it?

15 MR. HINDMAN: I guess I would just go back to  
16 the original point of I think we're doing our best to  
17 create the most jobs that we can in California.  
18 We're also doing the best to maximize the benefit to  
19 the California tracks and the horsemen. And -- and  
20 we think that --

21 COMMISSIONER SHAPIRO: That's not responsive  
22 to my question --

23 COMMISSIONER SPERRY: It was the intent at the  
24 time that they would be union jobs to replace union  
25 jobs lost, not technical people or not people that

1 are on television but same, similar-type jobs.

2 MR. HINDMAN: Right. And, again, I go back to  
3 the point --

4 COMMISSIONER SPERRY: That was the  
5 understanding that your company and the others gave  
6 this Board and the union. And today you haven't  
7 complied.

8 MR. HINDMAN: Again, I would go back to what  
9 the statute says. And I believe you are in  
10 compliance with the statute.

11 COMMISSIONER SPERRY: I don't care what the  
12 statute says. I'm saying when you folks stood up and  
13 raised your hand and swore, "I will do, as we come  
14 in." And ADW's a part of this organization.

15 CHAIR HARRIS: We can go back and review the  
16 record. I don't remember that there was any swearing  
17 in.

18 COMMISSIONER SPERRY: I'm not talking about  
19 swearing in. But you gave your word. The companies  
20 gave their word, and they haven't lived up to it.

21 COMMISSIONER SHAPIRO: It's not in the  
22 statute --

23 COMMISSIONER SPERRY: Ask the chairman that  
24 was there at the time. He'll tell you.

25 MR. HINDMAN: Well, I think that our position

1 has been clear all the way along with that. There  
2 was --

3 COMMISSIONER SPERRY: Yeah. That you're not  
4 going to comply with what you agreed to.

5 MR. HINDMAN: No. I think that it -- that I  
6 would go back and look at all the statements made all  
7 the way along the way. I think we've been consistent  
8 all the way along.

9 CHAIR HARRIS: I think different providers may  
10 have made different agreements. But, like, Youbet  
11 does currently have these people. Are they part of a  
12 union now? Or what's the status of the Youbet  
13 employees?

14 COMMISSIONER SHAPIRO: Is anybody from Youbet  
15 here?

16 COMMISSIONER MORETTI: Mr. Chairman, I think  
17 the CHRB has -- I think the members of the CHRB --  
18 myself included -- who were here at the time this  
19 discussion took place are, in part, to blame for the  
20 issue being where it is right now because I think  
21 that -- speaking for myself -- we were all caught up  
22 in the excitement that ADW would offer the hope that  
23 it was offering to California racing.

24 But -- and we did not do anything  
25 about it at the time. We were -- for myself, I was

1 under the impression that hubs would be created in  
2 California, that jobs would be created in California.

3 Indeed, Mr. Hindman and TVG have  
4 created the most jobs in California. Now, there are  
5 not union jobs. I understand that. But I think, at  
6 the time, the CHRB should have spoken up, then and  
7 there, and said, "Okay. This means hubs in  
8 California. This means X number of jobs, union jobs  
9 in California."

10 So I mean I don't think that it's our  
11 place at this point in time -- we've relicensed  
12 them -- to turn around and point fingers out there  
13 when, if we're going to, in time, revisit this, we  
14 need to look at ourselves first -- what we did, what  
15 our thought process was. And I think that all of us  
16 in this room were caught up in the -- "This will  
17 help. It's a hope -- one more hope that we have,"  
18 But --

19 COMMISSIONER SHAPIRO: Yeah.

20 CHAIR HARRIS: Well, let's hear from Youbet  
21 next.

22 MR. "ROBERTSON": I'm "Mike Robertson"  
23 (phonetic), Youbet dot com. I'm here on behalf of  
24 Jeff True. And he asked me to say to you that he  
25 had a conflict. He needed to be in Oregon today. So

1 he won't address this issue.

2                   So he will be getting back to you  
3 soon. He did. There was a meeting up in Oregon that  
4 he needed to attend. Okay.

5           COMMISSIONER SHAPIRO: Do you know if -- one  
6 second, before you leave -- the people that are  
7 answering the phones -- your customer service people  
8 here in Woodland Hills -- are they union members?

9                   Maybe, you know, Richard. I don't  
10 know.

11           MR. CASTRO: I don't believe they are.

12           MR. "ROBERTSON": Well, actually, I think Jeff  
13 True will address that issue. So he will be  
14 contacting the Board.

15           COMMISSIONER SHAPIRO: Thank you.

16           MR. CASTRO: Richard Castro.

17                   I think if you give me a little  
18 patience, I do have the transcripts here. On January  
19 24, 2002 -- Page 138, Joel Lang's following up.

20                   This is when Mr. Liccardo was  
21 addressing the Commission.

22                   "Mr. Chairman and Members, Joe Lang,  
23 Mark Wilson here with TVG. And the company asked me  
24 to sorta -- sort of follow up Mr. Liccardo's  
25 statement just to make it clear that there are a

1 couple of issues that are left to resolve with regard  
2 to moving the hub into the State of California."

3 My comment -- what I'm telling you  
4 now -- this clearly sounds to me like TVG was telling  
5 us that they were making a commitment to bring a hub  
6 to California.

7 I'll repeat that: "Just to make it  
8 clear, there are a couple of issues that are left to  
9 resolve with regard to moving the hub into the State  
10 of California."

11 Mr. Lang continues: "Once these  
12 issues are resolved, I think it's, in fact, TVG's  
13 desire and intent to sit down and get into  
14 negotiations with Mr. Liccardo and the Pari-Mutuel  
15 Employees Clerks Union to have those jobs be, in  
16 fact, union jobs. And I think we can commit to  
17 that."

18 That is pretty clear to me. And that  
19 is in the transcript. And I have the transcript with  
20 me.

21 Joe Lang continues: "It was part of  
22 the discussions with regard to the legislation this  
23 year" -- remember. I'm going back to January 24,  
24 2002 -- Joe Lang continues, "It was part of the  
25 discussions with regard to the legislation this year

1 and I think, in the spirit of good will and  
2 fulfilling commitments, that that would happen."

3 That's pretty clear to us. We  
4 understood. And let me go back to something -- I'm  
5 going to skip some of this in the interests of time  
6 because "King" and I have to get back to Northern  
7 California, but this is pretty important also.

8 This was on the January -- I believe  
9 this was the January 24, 2002, meeting. This is  
10 Chairman Landsburg speaking. And I'm sure he'll  
11 recall his words -- Page 143, top of 144.

12 "Let me come back to what I think is  
13 critical here. TVG has studios here. I think that's  
14 a plus. But we're talking about people within the  
15 racing industry who, by what you are asking us to  
16 license, will lose some of their jobs because of the  
17 audience -- an unproven ability to bring in a new  
18 audience is going to mean a lessening-of-audience  
19 problem and jobs going bye-bye."

20 And this is Landsburg.

21 "And I don't think we can, in good  
22 conscience, give you a license until we know that you  
23 are going to support that kind of group within  
24 this -- within this state."

25 Sound pretty good to me.

1                   He continues: "Because this is what  
2 this is all about. That's what this meeting is all  
3 about -- what's good not only for TVG and not only  
4 good for the horsemen but what's also good for all  
5 the people who are working inside racing. I don't  
6 hear that now."

7                   That was Landsburg talking to TVG.

8                   Up pops Mr. Wilson. And this is  
9 priceless. Mr. Wilson followed by talking about  
10 studio jobs.

11                   And Mr. Landsburg jumped in: "Racing,  
12 racing." I'm sure we all remember that. Very, very  
13 clear.

14                   CHAIR HARRIS: Okay. Well, I'm not sure we're  
15 going to get this resolved today. Well, what's the  
16 pleasure of the Board?

17                   COMMISSIONER SHAPIRO: I think Mr. Landsburg  
18 thought that was a good imitation.

19                   MR. LANDSBURG: I don't remember slamming that  
20 hard. Excuse me, Mr. Chairman. I don't remember  
21 slamming that hard. But I do remember the anger and  
22 frustration of not being able to drag other members  
23 of my Board or the Board that I served with into this  
24 fray. And I wish now that I had done it with more  
25 energy and more force.

1                   But once I bang on tables, I don't  
2 have much more. I ask you to consider it strongly --  
3 the warning and the possibility that the ADW license  
4 will not be renewed if certain state statutes are not  
5 honored. That's not a hard thing for a Board to do.  
6 And I really recommend it. Thank you.

7                   CHAIR HARRIS: I think that's going to be the  
8 time that we really will have to make the decision on  
9 that 'cause you've got a license now but --

10                  COMMISSIONER SPERRY: Well, Mr. Chairman, I  
11 think, if we put the industry on notice that that's  
12 our intent, that maybe they'll think about sitting  
13 down with not only their board to determine about  
14 coming to California with jobs but at the same time  
15 very possibly looking to see if they shouldn't be  
16 discussing with the union a possible collective  
17 bargaining agreement.

18                  CHAIR HARRIS: Now, obviously I think that  
19 they need to be talking. I really think that the ADW  
20 operations would be under the NLRA. And subsequently  
21 we really don't have jurisdiction. But if they are  
22 under the NLRA, then they have a vehicle to organize,  
23 which they probably would do.

24                               I don't know if we can compel jobs in  
25 California versus someplace else.

1           VICE-CHAIR BIANCO: John, I was on the Board  
2 at that time with Alan. And I think we got  
3 snookered. I think what I was told -- that they were  
4 going to create union positions. And it didn't  
5 happen.

6                         And I think that, by us voting to  
7 allow them a license the next time around, if I'm  
8 still here, you know, I'll look at it a hell of a lot  
9 differently than being snookered again.

10           CHAIR HARRIS: Okay. We've got a big agenda  
11 today. So if there's nothing else, we'll revisit  
12 this.

13                         Let's move on to something less  
14 controversial like jockey weights.

15           MR. CASTRO: Thank you very much.

16           CHAIR HARRIS: Thank you.

17           COMMISSIONER SHAPIRO: Thank you.

18           CHAIR HARRIS: We're at Item 4 -- discussion  
19 and action by the Board on the Jockey Guild's  
20 proposal for jockey weight allowances. This is a  
21 proposed rule that has been basically that could --

22                         John, do you want to outline how this  
23 actually works? What we're talking about here --  
24 this is not a going a final decision made today.  
25 This is kind of part of the procedure.

1           MR. REAGAN: Yeah. Commissioners, John  
2 Reagan, CHRB staff.

3                       As you know, on a couple of occasions  
4 in 2004, this item was intensively discussed. And  
5 what we have today is what we feel is the outcome of  
6 those discussions. And because there were proposed  
7 changes of a substantive nature to prior proposals to  
8 the rule change, this, if approved today in the  
9 current form, would also have to go out to the 45-  
10 day notice to go through the whole process.

11                      What we've done today is updated Rule  
12 1615. The original proposal set minimum weights for  
13 jockeys riding Standards and Thoroughbreds at a  
14 hundred eighteen pounds. This weight has been  
15 changed to a minimum hundred sixteen pounds in this  
16 proposal.

17                      For jockeys riding Appaloosas, paints,  
18 quarters, and mules, the minimum weight has been  
19 changed from 123 to 121. In addition, the minimum  
20 weight in handicaps races is 112.

21                      The requirement that every horse shall  
22 carry 10 pounds of riding gear from withers to rump  
23 has -- remains unchanged. However, the official  
24 program would be required to state the jockey's  
25 actual weight, the weight of the equipment, and the

1 combined total weight of the jockey and equipment.

2                   The proposed amendment does not alter  
3 or affect apprentice allowances; but if an allowance  
4 if used, the minimum weight may be reduced by the  
5 amount of the allowance.

6                   The original proposal to amend 1615,  
7 Rule 1615, provided one body-fat content for male and  
8 female jockeys. However, as minimum weight fat  
9 requirements are different for men and women, the  
10 requirement has been modified to include minimums for  
11 both genders. The new text provides for a minimum  
12 body-fat content of 10 percent for female jockeys,  
13 remaining at the 5 percent for male jockeys.

14                   Finally, Subparagraph H of the  
15 proposed amendment to 1615 exempted jockeys licensed  
16 in the United States before December 31st, 2004, from  
17 the minimum body-fat requirements for a period of 24  
18 months, commencing June 1, 2005. So that's what we  
19 have today.

20                   CHAIR HARRIS: Okay. That's the rule we're  
21 going to be talking about today. Now, we're going to  
22 discuss it. And then it will go out to comment. And  
23 people can make comments and we can revise it or  
24 whatever.

25                   But I think, if the Jockeys Guild

1 would like to present their rationale --

2 COMMISSIONER SPERRY: Could we have a  
3 five-minute break, first?

4 CHAIR HARRIS: Yeah. Let's take five minutes.

5 COMMISSIONER SPERRY: Seriously five minutes.

6 CHAIR HARRIS: Yeah.

7 (Break: 11:30 - 11:40 A.M.)

8 CHAIR HARRIS: Let's, please, move back in and  
9 start the meeting, please. Please move in. We have  
10 a lot of areas to cover here. Okay. Let's go ahead  
11 and start on this item. It's an important issue for  
12 all concerned.

13 Barry Broad of the Jockeys Guild,  
14 would you like to start?

15 MR. BROAD: Yeah. Mr. Chairman, Members:  
16 Barry Broad on behalf of the Jockeys Guild. I'm here  
17 with Darrell Haire.

18 COMMISSIONER SPERRY: Little louder.

19 MR. BROAD: Oh, I'm sorry. I'm here with  
20 Darrell Haire. And here we are again.

21 We -- in the last month, I've spent  
22 many, many hours on the phone with Commissioner  
23 Shapiro. In previous months, I've spent many, many  
24 hours with Chairman Harris. I've talked to a number  
25 of you on the phone.

1                   Obviously what's proposed today is a  
2    compromise --

3                   COMMISSIONER SPERRY:   Excuse me, Barry.  Is  
4    your mike on?

5                   Would you ask -- would you, people, if  
6    you want continue to talking, please go outside so we  
7    can hear.  Thank you.

8                   CHAIR HARRIS:  Thank you.

9                   MR. BROAD:  Is the mike on?

10                  CHAIR HARRIS:  It seems to be on now.  Yeah.

11                  COMMISSIONER SHAPIRO:  Yeah.  It's on, Barry.

12                  MR. BROAD:  It is?  Okay.  Yeah.  Maybe I have  
13    to get really close to it.

14                  Anyhow, I've spent a lot of hours with  
15    Commissioner Shapiro and with Commissioner Harris and  
16    with a number of you.  The proposal you have before  
17    you, we would like to see you take a vote on -- and  
18    let me make that clear -- and we'd like you to take a  
19    vote on it today.

20                  I realize that it will go out for  
21    comment but -- and my, you know -- for final  
22    adoption; but we would like this matter taken up, on  
23    an up-or-down vote, because I think that it's been  
24    sitting around here -- I'm sure you're as thoroughly  
25    sick of the issue as we are and maybe everyone

1 else -- it's been around for about a year now.

2                   And we'd like to get to a final  
3 conclusion, one way or the other. And we hope that  
4 it is favorable.

5           CHAIR HARRIS: I think, clearly, we'll take a  
6 vote on it today. I don't know if -- I mean, just  
7 procedurally, it still has to go out. And when it  
8 comes back --

9           MR. BROAD: Right.

10          CHAIR HARRIS: -- we have to still vote on it  
11 again.

12          MR. BROAD: I understand.

13          CHAIR HARRIS: So I don't think we can  
14 guarantee -- I don't want to get into this guarantee  
15 deal now.

16          MR. BROAD: No. I understand. I'm not -- I,  
17 you know -- the rules of procedure here are what they  
18 are under the Administrative Procedure Act. And  
19 we're not asking to change those.

20                   Let me say that this is a significant  
21 compromise for us. There are parts of this that we  
22 don't -- we would prefer it as the rule was. The  
23 weight is going down from a hundred and eighteen to a  
24 hundred and sixteen pounds.

25                   There is a hundred-and-twelve pound

1 limit with minimum weight for handicapped races.  
2 That was not in there. But I think that the basic  
3 rule here preserves a change in the system that will  
4 bring a degree of total transparency and honesty to  
5 the system.

6                   You will have the jockey's true weight  
7 known. The weight of the equipment as it is and as  
8 it really must be will be weighed separately and --  
9 and printed separately on the program so it is  
10 understood exactly what the horse is carrying.

11                   The -- we -- we don't -- we had  
12 concerns and originally had proposed that jockeys,  
13 you know, be grandfathered in. We understand that --  
14 I think, we've made a pretty compelling case about  
15 jockey health.

16                   I think it's very true, and the Board  
17 has taken the compromise suggestion -- position that  
18 all jockeys must comply within two years. We can  
19 accept that. It may -- a few jockeys here and there  
20 may have had some difficulty with it; but we think  
21 that, you know, on the whole, it's fair.

22                   I think we understand the anxiety of  
23 the industry. This is anxious times for the horse  
24 racing industry. Our members are in this industry.  
25 They care about this industry. But the situation

1 with their health has become unsustainable.

2                   There are many reasons why horses  
3 break down -- many reasons. You have -- are, right  
4 now, in the thick of the whole controversy around  
5 medicating horses. It is a constant enforcement  
6 problem in this industry. It contributes to  
7 weakening these horses. There is shock wave therapy  
8 that masks pain.

9                   There is Lasix. These "drugs" are on  
10 Lasix. If you talk to jockeys, they say, "If the  
11 horse feels half as bad as I feel when I'm on Lasix,  
12 you know, I feel sorry for them."

13                   There are poor track surfaces. There  
14 are many things that -- that contribute to the  
15 breakdown of horses and probably -- there are  
16 training practices. There are all kinds of things.  
17 There are breeding issues. There are many, many,  
18 many factors.

19                   But the bottom line is: "Jockeys  
20 can't be asked to pay for this with their health and  
21 with their lives. It's just not fair."

22                   I was on the phone with the Jockeys  
23 Guild Executive Board yesterday and discussing this  
24 and the compromise and, you know, whether it's right  
25 wrong or whatever.

1                   And I said, "In the end -- in the end,  
2 when you have to weigh, does this difference between  
3 a hundred-and-twelve pounds and a hundred-  
4 and-sixteen pounds -- this four pounds of weight --  
5 does this four pounds of weight -- will it make a  
6 difference in your life? Will you stop heaving?"

7                   And several of 'em said on the phone,  
8 "It'll make all the difference in the world for me.  
9 And I won't be getting on a horse dizzy. It'll bring  
10 back a kind of enjoyment, a joy."

11                   I mean these people live -- love to  
12 get on these horses. That's why they do it. It'll  
13 bring back a joy to their lives that they don't have.  
14 And I think that that's a real fact.

15                   Now, I understand the industry's  
16 anxiety. I hope we've addressed it. I hope this  
17 compromise has addressed it. But sometimes you just  
18 have to learn to get to "Yes." And I know my  
19 experience in the industry -- it's very hard for its  
20 component parts to get to "Yes." People can only  
21 seem to find their way to "No."

22                   They can acknowledge the problem. But  
23 they just can't move.

24                   Now, I don't want to go over -- that's  
25 clear evidence in the record that's uncontroverted

1 about the effect of jockey -- on jockeys of -- of  
2 these weight-control practices that are not  
3 sustainable. There's evidence in the record.

4           Mr. Shapiro made me prove to him  
5 how -- how human weight has increased over the last  
6 hundred years. In fact, human weight -- in the  
7 presence of disease control and -- and better  
8 nutrition, more availability of food -- changes  
9 extremely rapidly.

10           After World War II, the Japanese were  
11 the smallest people in the world. Within ten years,  
12 they gained eight pounds -- ten years. The average  
13 weight of a Japanese person gained eight pounds  
14 because of the elimination of disease.

15           People have gotten bigger. People  
16 have gotten basically healthier. There just aren't  
17 as many small people. And we have a weight standard  
18 that basically goes back to 1858 in the United  
19 States, when people were very, very small compared to  
20 what they are now.

21           The California Medical Association,  
22 the Nurses Association, the American Dietetic  
23 Association, the American College of Sports Medicine  
24 have all written in support of this fundamental  
25 change in the proposal. So that matter's

1 uncontroverted.

2                   So the issue remains, I think --  
3 there's a couple of issues that, I think, remain:  
4 "What will this do to the horse -- adding this two or  
5 three or four pounds to the -- to the weight that the  
6 horse carries? What will it do?"

7                   Well, the fact of the matter is, as  
8 studied as this industry is, as wealthy as this  
9 industry is, as much time as is devoted to this  
10 industry, there is not one peer-reviewed study that I  
11 can find in the entire world conducted by scientists  
12 that even addresses this question -- that somehow  
13 adding a few pounds of weight to a horse every few  
14 weeks when the horse rides for a minute or two, adds  
15 some -- damages the horse or causes breakdowns.

16                   There is no statistical evidence.  
17 There is nothing. Nothing. So what we have is a  
18 feeling, a sense that the horses will break down.

19                   Now, let's look at things practically.  
20 These horses have exercise riders on them every day  
21 that may weigh a hundred- and-forty, a hundred-and-  
22 fifty, a hundred-and-sixty pounds, wearing heavier  
23 equipment, heavier saddles every day.

24                   They may not be riding them at the  
25 same speed that they're riding 'em in the race, but

1 then what do we have? We have the jockey getting on  
2 with a few extra pounds of weight under this proposal  
3 when the -- just when the horse races.

4                   Who -- how -- how -- where are the  
5 facts to suggest that that extra weight is going to  
6 hurt the horse? In fact, we had the racing  
7 secretaries in here last week saying, in certain  
8 races, they can change it and there was no complaint  
9 that that would hurt the horse.

10                   (Sound system noises.)

11                   CHAIR HARRIS: There it is again.

12                   MR. BROAD: It's not my cell phone.

13                   AUDIENCE MEMBER: Lie detector.

14                   MR. BROAD: Anyway -- it's my mother calling.

15                   So I guess, in the end, what we're  
16 left with is fears and kind of threats: "Racing is  
17 going to end in California if we do this. People are  
18 all going to leave."

19                   I don't think people are going to  
20 leave. I think that they will stay. I think that,  
21 if you adopt this proposal, nothing will really  
22 change at all. It'll just -- it will just -- life  
23 will go on.

24                   I think other states will probably be  
25 compelled to go to a transparent system of weight.

1 Right before this meeting, a reporter asked me,  
2 "Well, really, isn't the end deal here that you can't  
3 manipulate the weight of the equipment in order to  
4 make the weight?"

5 Ummm -- a revelation. Yes. The  
6 equipment is what it is. It weighs what it weighs.  
7 Yeah. That's right. You will no longer be able to  
8 take ten pounds of equipment and call it eight pounds  
9 of equipment or have cheating boots or have cheating  
10 vests or have cheating other things in order to make  
11 the weight.

12 You will have to be -- it will have to  
13 be true. And I think that's okay. And I think the  
14 bettors will understand, and I think the public will  
15 understand, and I think it's a better and fairer  
16 system.

17 I really -- I think you have to  
18 understand that the jockeys view this Board and this  
19 State as having -- being better than and more  
20 favorable to them than any other State. And -- and  
21 that's you -- this Board -- over multiple versions of  
22 this Board, over multiple gubernatorial  
23 administrations -- has showed great sympathy for the  
24 jockeys.

25 We appreciate that. We appreciate

1 that the industry here, much as we have our  
2 difficulties and sometimes we have our fights -- we  
3 appreciate that the industry here is more progressive  
4 than the industry in many other parts of the country.

5                   Nevertheless, we want to make this  
6 happen here. I think it -- it's time. And I really  
7 urge you to move forward. I really appreciate the  
8 time all of you have taken to look at this issue. I  
9 know that it's controversial. I know that people are  
10 going to get up and say that "It's bad for this,  
11 that, and the next reason."

12                   But I think it's fair. I think it's  
13 honest. I think it will work.

14                   I'll just finish by saying, when we  
15 started out this debate and we said there was ten  
16 pounds of equipment, we were told over and over and  
17 over again, "No, there's not. It's only five pounds  
18 of equipment. There's not ten pounds of  
19 equipment" -- that we were somehow making up the fact  
20 that it was ten pounds of equipment 'cause everybody  
21 believed it was five pounds of equipment because the  
22 other five pounds of equipment doesn't show up on the  
23 program. So it didn't exist.

24                   (Sound system noises.)

25                   AUDIENCE MEMBER: Radioactivity.

1           AUDIENCE MEMBER: You're radioactive.

2           MR. BROAD: I don't have a cell phone.

3                    Okay. It's not the cell phone. And I  
4 don't have a pacemaker yet; but maybe, with any more  
5 stress, I can get there.

6                    So I think we've already begun to  
7 reeducate the public. I know all of you were kind of  
8 surprised that there was this additional five pounds  
9 of equipment that was out there in reality and that  
10 wasn't showing up on the program.

11                   I think that that revelation is now  
12 out there. Has the world come to an end? Has there  
13 been a revolution of the bettors? Has anything  
14 happened? It's out there. It's been in the press.  
15 People have reported it. They've discussed this  
16 issue. I don't think it will matter. I think that  
17 everything will actually be okay.

18                   So let me conclude by saying I thank  
19 you for the opportunity to do this. I'd like to get  
20 to a resolution on this on behalf of the Jockeys  
21 Guild. And I hope you can -- we can move forward  
22 with this proposal today. Thank you.

23           CHAIR HARRIS: Thank you, Barry. I think  
24 you've been an excellent advocate for this position.

25                    Is it absolutely clear that the vast

1 majority of your membership -- your jockeys --  
2 support this move?

3 MR. BROAD: Yes. I mean I talked to the board  
4 yesterday. I know California jockeys have been --  
5 have had -- have discussed this. Some of the  
6 California jockeys are, frankly, pissed off at the  
7 leadership of the Guild. And they're supportive of  
8 it. I mean they understand the issue.

9 And I think that the jockey around the  
10 country will view this as a major, major change for  
11 the better.

12 COMMISSIONER MORETTI: Mr. Chairman, I know  
13 there might be some other comments, but I'm ready to  
14 make a motion to approve this.

15 COMMISSIONER SHAPIRO: I'll second that  
16 motion.

17 CHAIR HARRIS: Okay. We got a motion and a  
18 second.

19 I think now we need to open it for  
20 comments so obviously --

21 COMMISSIONER SHAPIRO: Can I -- can I --

22 CHAIR HARRIS: -- we've got a motion. What is  
23 the motion is to approve basically --

24 COMMISSIONER MORETTI: To raise the scales of  
25 weights --

1 CHAIR HARRIS: Yeah. The rule -- well --

2 COMMISSIONER SHAPIRO: To revise Rule 1615 as  
3 presented --

4 CHAIR HARRIS: Yeah.

5 COMMISSIONER SHAPIRO: -- to publish --

6 CHAIR HARRIS: Publish those rules for comment  
7 and then get 'em back in 45 days. So we've got a  
8 motion and a second. But I think we do need  
9 additional comment.

10 Mr. "Robinson" (phonetic)?

11 MR. "ROBBINS": "Tom Robbins" (phonetic),  
12 Racing Secretary, Del Mar Thoroughbred Club.

13 We too want to seek resolution. And  
14 there are several other racing secretaries present  
15 today from Southern California. I still think  
16 there's a lot of confusion out there. And what Barry  
17 mentioned at the end -- that all of the jockeys are  
18 supportive of this -- I don't think the jockeys  
19 understand what is being proposed.

20 I hear it constantly. We were  
21 approached last summer at Del Mar by several jockeys  
22 who said, "Could you explain to us what this is all  
23 about?"

24 And, yes, we did. We tried to,  
25 anyway, in the stable area of Del Mar. And the next

1 day, we got a letter from the attorney of the Jockeys  
2 Guild saying that we had called an illegal meeting  
3 and "Please, never do that again." This was at the  
4 request of the riders who didn't understand what was  
5 going on.

6 I'm confused by what some of these  
7 amendments are. I don't understand what it means to  
8 eliminate scale of weights. I don't know what that  
9 means. I write the races in the condition book as  
10 these gentlemen do behind me. And it's not rocket  
11 science. But I'm not sure what they think they're  
12 intending to do.

13 If the suggestion is that three year  
14 olds are going to carry the same weight as older  
15 horses throughout the year, I'm not in favor of it.  
16 This industry should not be in favor of it.

17 What I would suggest, at the risk of  
18 suggesting that we have another committee to look at  
19 this, that's exactly what I would propose: This  
20 group -- Commissioners -- to sit down with racing  
21 secretaries, jockeys, Guild representatives -- sit  
22 down in a room and discuss all of these issues.

23 There's still, in my mind, a lot of  
24 confusion that -- it still exists today with this.

25 CHAIR HARRIS: Well, there will be time for

1 that. I think one of the issues is, though, that if  
2 we -- if the Board, at some time, doesn't act on  
3 this, I think the Jockeys Guild intends to introduce  
4 legislation and, from what I have heard, that there  
5 is a good likelihood they could get legislation  
6 effectively doing something pretty similar to this.

7 I think one of the issues for the  
8 industry to consider is "Would you rather have the  
9 CHRB regulate the weight issue or have it  
10 legislated?" I mean, regardless of the merits of the  
11 issues, I think that the CHRB may be a better vehicle  
12 'cause it gives us a lot more flexibility.

13 But I think we want to hear --  
14 obviously, we want to get maximum discussion and  
15 maximum, hopefully, negotiation between all parties.

16 COMMISSIONER SHAPIRO: Mr. Chairman, I have  
17 spent considerable time on this issue with  
18 discussions and gone through this thing, word by  
19 word, with Mr. Broad. And I've also had  
20 conversations and meetings with Darrell Haire, trying  
21 to educate myself and also trying to look at the big  
22 picture here.

23 As a horse owner, I certainly don't  
24 like the notion of my horse carrying more weight. On  
25 the other hand, when I look at the big picture here,

1 we have 40 percent of the current jockey colony,  
2 which "rages" -- ranges in age from 16 up to  
3 somewhere around 50 -- 40 percent of them are  
4 inducing themselves to vomit.

5 Another 20 percent of them are either  
6 sitting in a hot box for hours on end or taking  
7 illegal drugs to make the weight, including Lasix.

8 We have defrauded ourselves and the  
9 public by not even correctly stating what the weight  
10 is that the horse carries. I have always felt that,  
11 when it said, "120 pounds," that's what the horse was  
12 carrying. And, frankly, I've been deceived; and I'm  
13 upset that I didn't know that.

14 I think what is put before us today is  
15 an effort to bring good health to our jockey colony  
16 because, frankly, while I agree that I don't want to  
17 see any of my horses or anybody's horses hurt, for  
18 that matter, weights have increased over the last few  
19 years.

20 And, as you know, I was trying to get  
21 a -- do some analysis over the last few days, trying  
22 to poll the racing secretaries to see what it is. We  
23 can agree on only one thing -- that "rates" --  
24 weights have risen. And yet there is no correlation,  
25 if you look back five years -- the number of

1 breakdowns or fatalities and rising weight.

2                   Because, as Mr. Broad said, we have  
3 track surfaces that are not -- have maybe not been  
4 rebuilt as often and the base of the track surface  
5 becomes like concrete. We have riders that do  
6 exercise in the morning at considerably higher  
7 weights. And while they're not going necessarily as  
8 far and as fast, they're going pretty far; and  
9 they're going pretty fast, if you look at the  
10 workouts.

11                   I don't think we have an option here.  
12 I think that what this is saying is that we're going  
13 to have the minimum riding weight, except for  
14 handicap races, at a hundred sixteen pounds plus  
15 there will be ten pounds of equipment. If you look  
16 at today's races at Santa Anita, there is an average,  
17 probably, of a hundred and twenty pounds assigned to  
18 every horse that's entered -- some less, because of  
19 apprentice allowances; some more, for whatever  
20 reason.

21                   But if you take the hundred and twenty  
22 pounds and you add the five pounds of equipment,  
23 those horses are running with a hundred-and-  
24 twenty-five pounds. What we're proposing is that the  
25 lower "rate" -- the lower weight be assigned down to

1 a hundred and sixteen pounds, plus the ten, brings it  
2 to a hundred-and-twenty-six pounds.

3                   And I applaud the racing secretaries  
4 for trying to raise the "wide" -- the rider  
5 weights -- that's a tongue twister -- I applaud you  
6 for the efforts that you have made. But we can't  
7 tolerate -- and I've heard the same thing as Chairman  
8 Harris -- it's either going to be put on us, or we're  
9 going to deal with it.

10                   The legislature has been very clear  
11 and the people I met with, when I was up in  
12 Sacramento a few weeks ago -- this is a hotbed. And  
13 we need to straighten up our own house. We need to  
14 stop the deceiving in racing, across the board --  
15 medication, all kinds of issues. But we have to  
16 start with making sure that the riders are healthy.

17                   The notion of jockeys getting out  
18 there, weakened, because they've sat in a hot box is  
19 just as dangerous as having a rider that -- that  
20 carries a few more pounds. Quite frankly, we're lucky  
21 that we don't have more accidents.

22                   So the human population, as Mr. Broad  
23 mentioned, has grown; and little did I ever know that  
24 the Dutch people are the biggest people in the world.  
25 But I got a plethora of information. And we have

1 grown as a species.

2                   So I can understand that maybe it's  
3 confusing; but I don't think it really is if you say,  
4 "The minimum riding weight, except for allowances,  
5 apprentice allowances, and handicap races -- there's  
6 where it starts." Our horses are already carrying  
7 close to the weight that we're talking about.

8                   So I think that this has been  
9 discussed in August. I think that we -- unless we  
10 are going to hear new testimony and new facts, that  
11 it's time for this Board to act on it. And I think  
12 that it should be passed.

13                   There are plenty of issues I have with  
14 the Jockeys Guild. But I'm talking about the  
15 jockeys. And I think we owe it to the jockeys here  
16 not to have them inducing themselves to being sick  
17 and throwing up and that we have a healthy guy on top  
18 of our horses.

19                   MR. "ROBBINS": And let me say I applaud you  
20 for looking at the larger picture, Mr. Shapiro. We  
21 too, as well, are looking at the larger picture. We  
22 have made a national effort --

23                   COMMISSIONER SHAPIRO: I know.

24                   MR. "ROBBINS": -- the racing secretaries --  
25 to try to get the minimum up, in most races, to a

1 hundred-and-eighteen pounds --

2 COMMISSIONER SHAPIRO: -- and the --

3 MR. "ROBBINS": -- the same methodology --

4 what they're proposing, but looking at the bigger

5 picture is we have a -- we have a state that's

6 teetering right now. This industry is teetering.

7 And if we are going to be doing

8 something different than any other state -- than

9 every other state in this country that has racing and

10 completely throwing handicapping on its ear because

11 these weights -- I'm not sure how they're going to be

12 presented in the racing form -- the material that our

13 players, our customers use to handicap races -- we

14 have a lot of issues to discuss with this.

15 COMMISSIONER SHAPIRO: Well, but -- but --

16 MR. "ROBBINS": But I to want to say that we

17 are all in favor of doing what's best for the human

18 athlete that is in our business. But we have to take

19 a real big look at this entire picture and what's

20 going on, on a competitive nature, with the rest of

21 the country.

22 And I would hope that the Jockeys

23 Guild has been making such an effort in other states

24 that they've made in California because we're not

25 hearing that.

1           COMMISSIONER SHAPIRO: Well, well, I will tell  
2 you I had a long and lengthy conversation with  
3 Mr. Haire yesterday on that particular issue. As we  
4 know, when you look at European weights, and you look  
5 at weights in Japan -- they publish the higher  
6 weights that they're riding with. They do.

7                         And we see it when horses come in from  
8 out of town, and we see these crazy weights --  
9 hundred-and-forty-three pounds and so forth. So  
10 we -- there are jurisdictions that are publishing the  
11 true weight.

12                         And I have been told by Mr. Haire --  
13 and perhaps he will stand up -- he said that, once we  
14 make this move, that he believes that most of the  
15 other jurisdictions are going to fall in line behind  
16 us.

17                         This is a national problem. We're  
18 taking the lead here. And I don't want us to be at a  
19 competitive disadvantage. I certainly don't want to  
20 see us lose any more horses. But the truth is that  
21 they're riding with nearly these weights anyway.  
22 Let's just be honest with the public. We keep trying  
23 to fool everybody.

24                         MR. "ROBBINS": Well, the weights that are  
25 being suggested -- I heard two-, three-, four-pound

1 increase. It's not going to be two, three, four  
2 pounds. If they're suggesting that the scale of  
3 weights be eliminated, that three year olds are going  
4 to be carrying the same as older horses, we will lose  
5 three year olds --

6 COMMISSIONER SHAPIRO: And how --

7 CHAIR HARRIS: That would be up to the --

8 MR. "ROBBINS": -- April, May, and June --

9 Pardon me?

10 CHAIR HARRIS: That would be up to the  
11 racing -- the minimum weight would be 116. You could  
12 make the three year olds, 116; the older horses, 120  
13 or whatever way you wanted to do it.

14 MR. "ROBBINS": Right. But if we're counting  
15 all the weight in addition to what they want to do,  
16 older horses are going to be in with 135 at certain  
17 times of the year when they're running against three  
18 year olds. We would love to not have to run three  
19 year olds against older horses.

20 But that's the nature of our business.  
21 We can't fill separate three-year-old races at  
22 certain times of the year and separate older-horse  
23 races at certain times of the year. So all I'm  
24 saying is there's still a lot of confusion out there.

25 I appreciate what you're trying to do.

1 I think there are many more questions that need to be  
2 answered before we keep going down this path.

3 CHAIR HARRIS: Do we have comments from some  
4 of the other commissioners?

5 COMMISSIONER MOSS: I think we've discussed  
6 this issue for a year. I mean how much longer do we  
7 have to take to get everybody together to come to  
8 some conclusion? I think it's up to us, as a Board,  
9 to accomplish things. And we need the help of the  
10 industry to do that.

11 But when the industry is going to sit  
12 around for a year before they come to a decision on  
13 something as sensitive as this, I think it's wrong.  
14 I think we have to move on and make a decision, and  
15 we just have to live with it. And that's my feeling  
16 about it.

17 I think there should be a time limit  
18 on these discussions because this is an industry  
19 that's known to procrastinate and people are afraid  
20 to make real decisions. That's what I've seen in my  
21 life in this industry. And that's why I feel that  
22 I'd like to go ahead with it.

23 MR. "HAMMERLY": "Ira Hammerly" (phonetic)  
24 from Santa Anita.

25 I think we need to go back to the

1 basic question is "Who are we doing this for?"

2 We're doing this for the riders;

3 correct?

4 COMMISSIONER SHAPIRO: Yes. We're doing it --

5 MR. "HAMMERLY": Isn't that the idea?

6 COMMISSIONER SHAPIRO: -- for the health of

7 the riders.

8 MR. "HAMMERLY": Right.

9 COMMISSIONER SHAPIRO: That's correct.

10 MR. "HAMMERLY": Well, as Tom mentioned, we've

11 taken it upon ourselves -- when I say, "we" -- I say

12 the racing secretaries around the country have took

13 it upon themselves to make a change, which we started

14 doing this year at Santa Anita, which -- we raised

15 the minimum weight to 118, which is actually six

16 pounds more than is in the rule book.

17 Since that time -- since that time, I

18 have not had one complaint from any jockey in that

19 room. Our overweights on a daily basis have gone

20 down to almost nothing. So I ask this question:

21 "Who are we doing this for?"

22 I think you owe it to yourselves and I

23 think you owe it to the industry to go and talk to

24 these riders that are in the room and see if they

25 have a problem with the way things are being done

1 right now before we go -- we walk off the cliff here  
2 'cause this is a major, major thing that is being  
3 intended to do here.

4 COMMISSIONER SHAPIRO: Mr. Hammerly?

5 MR. "HAMMERLY": Yes.

6 COMMISSIONER SHAPIRO: We have spoken to some  
7 of the riders. And I, again -- I applaud you. And I  
8 have letters in front of me from nearly every racing  
9 secretary where you have made a very concerted  
10 effort. What we're doing is we're simply trying to  
11 establish a minimum riding weight and bring in  
12 honesty into the program.

13 We're trying to bring it so that their  
14 body-fat levels are maintained at a healthy level.  
15 Great. They're not complaining because they sit in  
16 the box half the time? You've still got 40 percent  
17 of them that are inducing themselves to vomit.

18 Now, we're going to have -- if we vote  
19 on this and the Board votes in favor of this, there  
20 is a comment period. And, you know, you certainly  
21 can come back with it. But as Commission Moss just  
22 said, how long do we just wait around and keep  
23 talking and putting it off?

24 MR. "HAMMERLY": Well, my question is we  
25 haven't been addressed. Why doesn't the Guild come

1 to us?

2 COMMISSIONER SHAPIRO: Well, where have you  
3 been?

4 MR. "HAMMERLY": Well, why hasn't the Guild  
5 come to us and try to sit down and work something  
6 out?

7 COMMISSIONER SHAPIRO: This has been on the  
8 agenda in -- you -- this has been on the agenda in  
9 August. It was brought up --

10 CHAIR HARRIS: It was in July.

11 COMMISSIONER SHAPIRO: It was brought up a  
12 month ago. Okay? It has been going on for a year.  
13 If you haven't been in the room, that's your fault,  
14 not our fault.

15 MR. "HAMMERLY": I've been in the room. I've  
16 listened. I didn't think it would -- anything like  
17 this would ever get this far. This is -- this is --

18 COMMISSIONER SHAPIRO: Well, that's the  
19 problem. That's right. That's the state of the  
20 industry. No one thought it would get this far.  
21 Well, it's here. Okay? And we still have jockeys  
22 making themselves sick, controlling animals that cost  
23 a lot of money and as -- myself as a horse owner, I  
24 want to have a healthy guy up there, and I don't give  
25 a damn if he weighs a couple pounds more.

1           MR. "HAMMERLY": Who is forcing this?

2           MR. "PANZER": "Martin Panzer" (phonetic) from  
3 Hollywood Park Race Track.

4                     And we did put the scale together, and  
5 we talked to several racing secretaries throughout  
6 the country to try to get them agree to increase  
7 their weights in other parts of the country.

8                     And in several occasions, the race  
9 secretary said, "I don't have a problem. My jockeys  
10 here are not complaining about the weights. The  
11 horsemen are not complaining about the weights."  
12 That's in New York. That's in Chicago.

13                    So it was very difficult for us to  
14 even get them to go along with the two- or three-  
15 pound increase that we have put in place. At no  
16 point -- we -- we want to work with the riders. We  
17 want to work with the Guild. We want to work with  
18 the Board.

19                    We would love to sit down with you  
20 gentlemen and discuss this. You say, "Nothing's been  
21 done."

22                    No. We did take a step. We have  
23 increased our weights two or three pounds just in the  
24 last couple months. And I think we're asking, you  
25 know, "Mr. Moss or Mr. Shapiro, come meet with us.

1 Let us sit with the jockeys. Let us explain."

2 I don't understand this proposal.

3 Like Tommy said, "There's no scale of weights  
4 anymore?" If there's no scales of weights, there  
5 won't be racing here because you're going have a four  
6 year old in at a hundred-and-thirty-seven pounds and  
7 a three year old in at a hundred and thirty-five in  
8 April.

9 And I work for Hollywood Park. So  
10 I -- in April, I need three year olds to run against  
11 older horses. And when you make that bottom weight  
12 116 and add ten pounds of equipment so the weight's  
13 126, the older horses are going to be carrying a  
14 hundred-and-thirty-seven pounds.

15 Well, guess what? The older horses  
16 won't be here anymore because they're going to go to  
17 Kentucky or New York, where they're going to be asked  
18 to carry a hundred-and-twenty-four pounds.

19 If you're and owner, Mr. Moss -- I  
20 know you own horses -- do you want your four year old  
21 carrying thirteen more pounds in California?

22 You know, and we just -- I think  
23 Mr. Robbins is asking, "Can we, as secretaries, sit  
24 with the Board and the Guild and discuss, 'Here's  
25 what happens in January. Here's what happens in

1 April'?"

2                   You're right. The weights today at  
3 Santa Anita -- the average is a hundred-twenty  
4 pounds. In April, that won't be the average because  
5 three year olds will run against older. And we all  
6 feel frustration with this. You are correct. This  
7 has been going on for a long time now.

8           COMMISSIONER SHAPIRO: Mr. Panzer, do you  
9 think there's a problem in the jockeys' room?

10          MR. "PANZER": I think, for some jockeys, yes,  
11 there is.

12          COMMISSIONER SHAPIRO: Okay. For "some" or  
13 most?

14          MR. "PANZER": I can't say whether it's for  
15 "most." But I know this: When I got into the sport  
16 eighteen years ago and I was working as a clerk in  
17 the office at Santa Anita, there were riders that had  
18 a problem then. And the weights have come up since  
19 then. I think --

20          COMMISSIONER SHAPIRO: Well --

21          MR. "PANZER": -- no matter what we put the  
22 level at, sir, there is always going to be riders who  
23 have a problem in that.

24          COMMISSIONER SHAPIRO: And that's why there's  
25 a body-fat provision to it so that it may wash out

1 some guys, unfortunately. Maybe they've destroyed  
2 their bodies to the point where they can't get down  
3 to the right body fat -- I don't know -- or keep up  
4 the right body fat. Okay?

5                   If -- if -- again, we're seeing that  
6 we need to make these people healthy. Now, I  
7 certainly would have thought that the racing  
8 secretaries would have been involved in this before.

9                   My suggestion to you is that, if the  
10 Board -- and I have no idea if the Board's going to  
11 approve this or not -- if we do, in the comment  
12 period, I'm more than willing to sit with you and  
13 anybody else -- and I would invite the Jockeys Guild  
14 to be there too -- that, if there is some  
15 modification to this that makes more sense, I'm all  
16 for it, as long as we're putting healthy people on  
17 healthy horses.

18                  MR. "PANZER": I agree with you. We don't  
19 want a jockey out on the racetrack -- none of us  
20 do -- that is not healthy. We would love the  
21 opportunity to sit down and talk with you.

22                  COMMISSIONER SHAPIRO: Perfect.

23                  MR. "PANZER": I just -- as this is written,  
24 none of us understand it. And we have to write the  
25 races.

1                   Can you tell me, Mr. Shapiro --  
2 Chairman Shapiro -- sorry, Chairman Harris -- what  
3 does this mean for the scale of weights? What does  
4 that say? What does the rule say? 'Cause we don't  
5 understand it.

6                   COMMISSIONER SHAPIRO: We're essentially --

7                   CHAIR HARRIS: Traditionally, you really don't  
8 use this. I mean you write your own book. You  
9 don't -- there is an old-time scale of weights that  
10 isn't really used. I mean it's used as a reference,  
11 but you can put whatever weights on. You're just  
12 dealing with this minimum.

13                   But, like, right now, you're -- like,  
14 in your maiden races you're assigning a hundred-  
15 twenty-two; so really that's a hundred-twenty-seven  
16 with the -- if you add the other five pounds. So --

17                   MR. "PANZER": Right. But that extra five  
18 pounds isn't at issue here because they all carry the  
19 extra five pounds.

20                   CHAIR HARRIS: Yeah. Well, this way, you  
21 don't carry the extra ten.

22                   MR. "PANZER": If you want to make it an issue  
23 of whether we tell the public that they're carrying  
24 five pounds, that's fine.

25                   COMMISSIONER SHAPIRO: So the hundred-and-

1 twenty-two goes down to a hundred-and-sixteen plus  
2 ten. That's a hundred-and-twenty-six.

3 MR. "PANZER": We've developed a scale of  
4 weights. And Santa Anita's starting at the beginning  
5 of the year. And the scale of weights is basically  
6 "What will a three year old carry when he has to run  
7 against an older" --

8 CHAIR HARRIS: Yeah. I think --

9 MR. "PANZER": -- "different distances and  
10 different times of the year?" That's our question to  
11 you. That's what I'm asking Mr. Shapiro.

12 What does this mean? There's no scale  
13 of weights anymore?

14 CHAIR HARRIS: I guess we'd have to stipulate,  
15 in that particular instance, that it does create a  
16 problem. But I think that the problem is that the --  
17 there's other reasons that we need to do it.

18 MR. "PANZER": Thank you very much. I  
19 appreciate the opportunity to talk with you.

20 CHAIR HARRIS: Thank you.

21 MR. HALPERN: I'm butting in here because I  
22 have to run and saddle a horse. So I hope you'll  
23 excuse my interrupting.

24 COMMISSIONER SHAPIRO: Only if you win.

25 MR. HALPERN: I can't guarantee that,

1 fortunately. You know everybody here has the --

2 COMMISSIONER SPERRY: State your name, please.

3 MR. HALPERN: Ed Halpern, California

4 Thoroughbred Trainers. Thank you.

5 Everybody here has the best of  
6 intentions. I have no question about that. And  
7 speaking for my organization, we don't have problems  
8 with much of the proposed legislation or the proposed  
9 rule. Certainly the correct stating of weights is  
10 not a problem for us. And certainly the 5 percent  
11 body fat, which, in and of itself, should solve  
12 this problem -- we're not against.

13 Our problem is with the hundred-and-  
14 sixteen pounds. It's basically an arbitrary figure.  
15 This is not a political issue. It's a scientific  
16 issue.

17 And we ought to be consulting with  
18 scientists who can give us the true answers or at  
19 least some indications of what the true answers are  
20 about, whether you're talking about a hundred and  
21 fifteen, a hundred and sixteen, a hundred and  
22 eighteen -- whatever it may be, given certain body  
23 sizes and certain activities.

24 We do know one thing. The one bit of  
25 real solid scientific evidence that we've given you

1 is some materials, that we provided last time, that  
2 said "Every weight, every pound that you add to a  
3 horse adds to the danger of breakdown." Danger of  
4 breakdown -- I'm not talking about for the horse's  
5 safety. I'm talking about for the rider's safety.

6                   And if, in our magnanimous attempts to  
7 protect the jockeys, we kill a few each year or one  
8 even, then we haven't done such a great service to  
9 all the jockeys.

10                   Switching gears here a little bit --  
11 72 percent of the horses that are running today can  
12 be ridden by jockeys who weigh a hundred-and-fifteen  
13 pounds. My point in saying that is, if a jockey  
14 can't weigh that, maybe they should leave some mounts  
15 for other people.

16                   We've got enough jockeys out there  
17 that those that can't make the lower weight -- those  
18 horses can be covered by jockeys who can make that  
19 weight. And the body-fat rule would protect us in  
20 that instance. Why are we creating a monopoly for  
21 larger jockeys when we have no indication that there  
22 aren't enough smaller jockeys that can make the  
23 weight comfortably?

24                   And when you talk about jockeys all  
25 being in favor of this -- and it's all hearsay, as

1 are the other things we're hearing about what the  
2 jockeys say -- I'm told that many, if not most, of  
3 the jockeys in Northern California have stated that  
4 they're not in favor of this proposal, that they  
5 don't have a -- see a problem.

6                   So based on that and based on more  
7 concern that's come out as I've listened to you talk,  
8 I'm very concerned with the fact that some, if not  
9 many of you, are stating that you're already made up  
10 your mind before this period of -- of comment.

11                   We have never had a proposal before  
12 that said a hundred-and-sixteen pounds. And without  
13 knowing what that means on the overall scale of  
14 things and on its true effect in doing anything of  
15 value, one should not have their mind made up.

16                   And I plead with you to at least  
17 reserve that decision until you have some  
18 information. And I hope the Board would make an  
19 effort to get that information as to whether what  
20 may -- what weight -- what weight can be carried  
21 safely by people of different sizes. Thank you. I  
22 appreciate it.

23                   CHAIR HARRIS: Thank you.

24                   MR. COUTO: Drew Couto, Thoroughbred Owners of  
25 California. I'll try to be brief.

1                   There's obviously been a lot of  
2 discussion about that. I think it's clear that  
3 owners have, for a long time, felt very compassionate  
4 about our riders. We're -- they end up being friends  
5 of ours. We socialize. We're concerned about them.  
6 I've said many times -- my brother was a rider here  
7 in California -- rode for ten years.

8                   I, too, have read everything submitted  
9 by the Guild. And in all of the medical evidence  
10 submitted, there is not one figure for weight stated  
11 in there -- not one. It all relates to percentage of  
12 body fat. That is the key component in determining  
13 whether or not someone is healthy -- is the body fat.

14                   If we are concerned about protecting  
15 these riders currently in the room, a two-year window  
16 is not going to help someone fit into that window 24  
17 months from now. If their body fat is less than 5  
18 percent today, it will not be 5 percent later on.  
19 They will not get there.

20                   You're going to make a decision, and  
21 that's your right and obligation. We would ask that,  
22 in the next 45 days -- if that is the period and you  
23 make that decision today -- that you form an ad hoc  
24 committee and that you invite riders and that we  
25 actually do the work to figure out what this weight

1 is.

2 I'd like to also clarify something  
3 that I think Mr. Shapiro is saying -- that I hope no  
4 one comes out with a misconception about hiding  
5 weights from the public -- these additional five  
6 pounds.

7 These additional five pounds represent  
8 safety equipment that was added and introduced in the  
9 industry to protect riders' health and safety. And  
10 the riders did not want that included in the weight  
11 they had to make.

12 I think disclosure is a perfectly  
13 wonderful objective here, regardless of what happens  
14 with the weight. But it wasn't an attempt to deceive  
15 the public. It was an attempt to get the riders to  
16 wear safety equipment without feeling penalized.

17 COMMISSIONER SHAPIRO: I appreciate that. I  
18 understand that. If you look in the morning paper,  
19 it says, "Jockey weight." And what it should be  
20 saying -- it's just a misconception --

21 MR. COUTO: Concur.

22 COMMISSIONER SHAPIRO: Okay.

23 MR. COUTO: Concur with you on that  
24 completely.

25 COMMISSIONER SHAPIRO: I understand.

1 MR. COUTO: We're not in disagreement.

2 COMMISSIONER SHAPIRO: I don't think --

3 MR. COUTO: We've belabored this, as you've  
4 said, since August. But since August, the weights  
5 have been raised twice. And I -- my final comment  
6 would be to you "Do not confuse 'minimum weight' with  
7 'average weight'" because, while you are pointing out  
8 that the average weight today is roughly a hundred-  
9 and-twenty per program weight, the minimum, as stated  
10 in the rules, is 112.

11 You've got to realized that scale's  
12 going to change. If your minimum is 126 and your  
13 average today is 8 pounds above that, we're not  
14 talking about an average of 125 or 126. You're  
15 talking about an average of 134.

16 CHAIR HARRIS: Well, that's not the way it  
17 would work, I don't think. But I think --

18 MR. COUTO: Unfortunately no one understands  
19 how it would work. And that's one of the reasons why  
20 we think an ad hoc committee --

21 CHAIR HARRIS: I think that's the reason we  
22 need to put it out for comment. We're going to have  
23 45 days that everyone can get their input. I mean  
24 I'm not prepared to absolutely say how I'm going to  
25 vote for it when it comes back.

1                   But I think we need to get it moving  
2 along. I think all of you have to also decide if --  
3 is it better to keep it at the CHRB level or have it  
4 legislated?

5           MR. FRAVEL: Mr. Chairman, Craig Fravel, Del  
6 Mar Thoroughbred Club.

7                   I don't speak for anyone but myself.  
8 But we're perfectly happy dealing with this in front  
9 of the Racing Board. And, hopefully, you guys, in  
10 the next 45 days, will take the time and effort to  
11 consider alternative suggestions.

12                   I think one of the problems here is  
13 that, in many instances, many of us have viewed this  
14 as a "Take it or leave it" suggestion. We have  
15 submitted comments in the past. Many of 'em have not  
16 been reflected in the revisions to the rule.

17                   And I think, as a matter of fact,  
18 there probably is more common ground here and common  
19 understanding and common objective than the  
20 conversation would lead you to believe.

21                   I have not spoken to anybody on the  
22 racetrack side of the equation or the horsemen's side  
23 of the equation who has an objection to the 5 percent  
24 body-fat issue, which, as far as I can tell, from a  
25 health standpoint, is the most pertinent issue.

1                   I would encourage you -- and I will  
2 put this writing in much greater detail in an attempt  
3 to bring some medical testimony to bear on the  
4 subject when the rules come up for rehearing after  
5 the 45-day comment period.

6                   But there is a great deal of  
7 scientific and medical information that's contained  
8 in the NCAA sports medicine guidelines, many of which  
9 relate to accurate determinations of body fat, how  
10 that should be conducted, and how often it should be  
11 done.

12                   And the fact of the matter is, if you  
13 read that information carefully, you'll discover  
14 that -- that the way these rules are currently  
15 written is going to be unmanageable from a medical  
16 standpoint in terms of how you accurately determine  
17 body fat.

18                   I can tell you just -- I mean I love  
19 our clerk of scales. They're nice people. They're  
20 not capable of doing the scientific work that's  
21 inherent in finding -- and if you read these rules,  
22 you will see a very definite -- deferent --  
23 different -- different approach that the NCAA takes.

24                   And I think they've spent a lot more  
25 time on the subject -- unfortunately, I think that's

1 a criticism of our industry -- than we have.

2                   But if you take the NCAA wrestling,  
3 for example, what they do is, before each wrestling  
4 season, they'll take a wrestler. And they'll  
5 determine his lowest healthy body weight -- I mean  
6 that's not the term they use -- but basically they'll  
7 measure them, weigh them.

8                   They'll take hydrostatic measurements  
9 and do a urinalysis so that they have proper levels  
10 of hydration which affects the level of body-fat  
11 measurement and the accuracy of it. And they'll say,  
12 "Okay. For this particular wrestler, you can wrestle  
13 at 'X' weight or above -- nothing below that for the  
14 rest of the season."

15                   They only require it twice a year  
16 because the medical literature says, basically,  
17 "Weekly, daily, monthly measurements are pretty much  
18 irrelevant" because it's not the kind of thing that  
19 moves that much. There's a natural course. It can  
20 move by virtue of hydration levels but not by body  
21 composition changing.

22                   So I guess my point is I want urge the  
23 Board to seriously take a look at these rules over  
24 the next 45 days. Our comments, when they are  
25 submitted, are not with the intention of diverting

1 your attention away from adopting them at all. I  
2 think that's entirely the wrong impression to give or  
3 to suggest.

4                   What we're trying to do is get rules  
5 that work for everybody. And right now, the way  
6 these are going -- we're going to write a rule that's  
7 an example and a model for the rest of the country.  
8 Let's give 'em one that they actually will adopt  
9 rather than one that they will just raise questions  
10 about.

11                   And I would hope that we could spend  
12 some time with some members of the Board, with the  
13 Guild, with the riders, and come to some conclusions  
14 on that in a way that will set an example that people  
15 will adopt 'cause otherwise what they'll do is look  
16 at it and go, "We don't understand it. We're not  
17 going to bother with it."

18                   And I think, then, California stands  
19 alone; and not only don't we understand it, can't  
20 enforce it, can't do it properly, but we're all set  
21 back a little bit instead of trying to enhance the  
22 cause. Thank you.

23                   CHAIR HARRIS: I think it is important that we  
24 look at the body fat. That's one of the main reasons  
25 that I like the rule is the 5 percent body-fat

1 requirement. We need to make sure that's measured  
2 correctly and there's a standard that everyone agrees  
3 on so everyone can look at that and see how they can  
4 develop that actual language.

5 MR. MARTEN: Mike Marten of the CHRB staff.

6 Because there would have to be some  
7 added weight to bring jockeys up to the assigned  
8 number in the race, we were looking at the rule --  
9 Page 2-B -- in the program, would be "the combined  
10 total weight of the jockey -- comma -- any added  
11 weight -- comma -- and the equipment."

12 CHAIR HARRIS: Which rule?

13 MR. MARTEN: On Page 2 of the --

14 AUDIENCE MEMBER: Subsection C.

15 COMMISSIONER SHAPIRO: You're -- you're right,  
16 Mike.

17 MR. MARTEN: Just add the words --

18 COMMISSIONER SHAPIRO: -- "added weight."

19 CHAIR HARRIS: I see where you are.

20 COMMISSIONER SHAPIRO: That's a good change.

21 CHAIR HARRIS: Okay. Well, we're going to  
22 have some time for everyone to review these, bring  
23 them back.

24 Any other Commissioners like to opine  
25 on this at this time?

1           COMMISSIONER MOSS: I'd just -- while we had a  
2 moment, maybe somebody from the Guild could comment  
3 on the issue of the body-fat issue while we're still  
4 talking about it.

5           MR. BROAD: Yes. Let me just say that I take  
6 exception to only one comment -- that those Teamster  
7 clerk of scales are too dumb to use scientific  
8 equipment. And I represent them. And they're very,  
9 very smart.

10                            Anyway --

11           MR. FRAVEL: I didn't say they were "dumb."

12           MR. BROAD: Okay. Well, I won't say -- tell  
13 'em you said that. And everything will turn out  
14 okay.

15           MR. FRAVEL: Okay.

16           MR. BROAD: First of all, I've had extensive  
17 conversations with Dr. "Seftel" (phonetic), who's the  
18 track doctor up in the north who has considerable  
19 expertise. My suggestion to you is that, over the  
20 next few weeks, that you have some conversations with  
21 him -- through your staff or yourselves or however  
22 you want to do it -- to discuss this matter.

23                            What Dr. Seftel points out is that --  
24 and I think maybe most of us know this just from our  
25 experience as being a Homo sapiens -- it's actually

1 pretty easy to gain weight. It's not that hard to  
2 do, you know. Like, you eat stuff. You eat things  
3 that make you gain weight, and you can actually  
4 gain -- you can gain weight, and you can gain weight  
5 as body fat.

6                   It's just absolutely -- it doesn't  
7 happen overnight -- but, boy, some days it feels like  
8 it happens overnight. And it happens within a few  
9 days. And the way the rule is composed, there's kind  
10 of a danger zone, a sort of, like, "Hey, you've  
11 reached a certain point. You need to get it  
12 corrected."

13                   The issue there is, "Is there enough  
14 time to get it corrected? Can somebody bring up  
15 their body-fat content to an appropriate level?"

16                   As to the question of types of  
17 technology, the American Dietetic Association wrote a  
18 letter to you in August at great length, about  
19 different types of technology that can be used.  
20 There is the gold standard, if you will, which is  
21 sort of an emergent technique, where you get in what  
22 looks like a hot tub and there's a measurement that's  
23 taken through electronic devices.

24                   We felt that, should this be adopted,  
25 that the Board staff would work out at the -- rather

1 than trying to create a regulation that was  
2 overprescriptive in that area, that the Board staff  
3 would sit down, look at the scientific equipment,  
4 judge what scientific equipment was appropriate, and  
5 go from there.

6                   It may be that there's an emerging  
7 requirement at certain intervals; but, in  
8 intermediate periods, you would want to use these  
9 more-portable electronic devices. There's a lot of  
10 different ways to do that. I think, for example, you  
11 could create a committee with Dr. Seftel and other  
12 people who are experts on this issue and simply  
13 decide what is the appropriate way to do it.

14                   So I think that's a fair question.  
15 But I think you can go ahead and adopt this rule and  
16 work out its detailed implementation afterward.  
17 That's what is generally the Board's staff's duty  
18 with regard to many issues. I mean I think  
19 Ms. Fermin and her staff are perfectly capable of  
20 figuring out how to do this.

21                   Let me just also comment on one thing  
22 because I do -- I do honestly take exception to this.  
23 We met with the TOC way back. And I've had numerous  
24 discussions with the industry in which we said,  
25 "Let's sit down and talk about it."

1                   And -- and on several occasions, they  
2   said there was going to be a national solution to  
3   this problem. That national solution, whatever it  
4   is, did not involve any conversation with us. And it  
5   was a conversation among racing secretaries or -- I  
6   don't know what it was.

7                   The -- at the August hearing --  
8   afterward, I was approached, again. "Yeah. We're  
9   going to get together in the next couple of weeks.  
10  We're going to work this thing out."

11                  I said, "No problem. We'll go  
12  anywhere. We'll fly anywhere. We'll do whatever we  
13  need to do to work this out."

14                  The plain fact of the matter is,  
15  however, horse racing is regulated state by state.  
16  It is not regulated by some national horse racing  
17  commission. So things happen state by state.

18                  Now, you all read in the paper just  
19  yesterday a whole bunch of things were going on in  
20  Kentucky with regard to jockeys and workers' comp.  
21  And then these things happen in different places, in  
22  different ways.

23                  If the United States Congress wanted  
24  horse racing to be a national regulated model with a  
25  national system, it would have created it. So we

1 have to -- it's a state system. And we,  
2 unfortunately, are going to have to live with that.  
3 Somebody is going -- well, we can take this on the  
4 road, once it gets adopted; but we can't -- we get  
5 nowhere if we don't start somewhere.

6                   And -- and -- but we're willing now,  
7 as we have been at any moment in the last year, to  
8 sit down with the industry and to discuss this. You  
9 know, I don't know that I would characterize it as "a  
10 take-it-or-leave-it approach."

11                   If you're saying, "No. We're not  
12 going to begin the discussion with -- let's not do  
13 it," that's not -- that won't work for us. We have  
14 some basic things that we want to accomplish. We  
15 told them all along that we were open to how we will  
16 accomplish them. That discussion has not gone  
17 forward.

18                   I do believe that this proposal  
19 actually is well understood -- in fact, maybe all-  
20 too-well understood. It's very clear. I think maybe  
21 people don't like it. But it's clear. And, you  
22 know, I -- I don't know what to do about that. But  
23 that's my view of it.

24                   COMMISSIONER SHAPIRO: Mr. Broad, would you at  
25 least agree that you and Mr. Haire will sit down with

1 the racing secretaries, as a group, and meet to go  
2 over with them their concerns about understanding it  
3 and also listening to their concerns about the three  
4 year olds versus the four year olds and the scale of  
5 weights?

6 Do you have any problem doing that --

7 MR. BROAD: Absolutely not.

8 COMMISSIONER SHAPIRO: -- within the next 30  
9 days?

10 MR. BROAD: Absolutely not. And I will give  
11 them all my card. We can sit down and talk at any  
12 moment. I do think that I would only ask that they  
13 approach it with "How will we make the rule work?"  
14 not "How do we not do it?" That's not --

15 COMMISSIONER SHAPIRO: I think they -- I  
16 heard, from each and every one of 'em and from  
17 Mr. Fravel, that's their intent, that's their desire.  
18 So I'm going to take them at face value, same as I'm  
19 going to take you at face value, but insist that  
20 there be some meetings to work this out and to listen  
21 to them. We need their input.

22 CHAIR HARRIS: Okay. Well, let's --

23 MR. "HAIRE": Good morning, Mr. Harris. I'd  
24 just like to say one thing. And that is that I sat  
25 with Mr. Robbins -- Tom Robbins -- at Del Mar two

1 summers ago. And we talked about what -- "Well, what  
2 are you going to do with the handicaps, Darrell?  
3 They can't be the same."

4 So we made a compromise here all the  
5 way around. And this is baloney, because the  
6 riders --

7 COMMISSIONER SHAPIRO: Mr. Haire --

8 MR. "HAIRE": -- throughout the country --

9 COMMISSIONER SHAPIRO: Mr. Haire?

10 MR. "HAIRE": Yes?

11 COMMISSIONER SHAPIRO: That's not moving it  
12 forward. Okay?

13 MR. "HAIRE": Yes, sir.

14 COMMISSIONER SHAPIRO: That's not productive.  
15 Okay? They've agreed. It doesn't matter what  
16 happened in the past. It's on us now.

17 CHAIR HARRIS: Okay. So let's move on. We've  
18 basically what we're doing now is putting it out for  
19 the comment period so people can talk about it. The  
20 March meeting is at Bay Meadows.

21 And Dr. Seftel is really a wealth of  
22 information on jockey health. And it would be  
23 helpful -- maybe the day before that meet, we could  
24 have a meeting with him. If anybody wanted to be  
25 there, he could review some of the issues.

1           COMMISSIONER MOSS:  As it is, just to have it  
2  be accepted -- if I may say, John -- just to have an  
3  accepted way of measuring this body-fat issue -- that  
4  could be resolved by the time of the --

5           CHAIR HARRIS:  I kind of like the idea of  
6  being a little vague where we've got the flexibility  
7  of figuring out the best way to do it rather than,  
8  you know, have Method X and then decide that's not  
9  the state of the art.

10          MR. "HARMON":  "Mike Harmon" (phonetic) with  
11  Santa Anita.

12                         Might I recommend that the meeting  
13  that we have with the "Jocks" Guild between the  
14  racing secretaries -- that other factions of the  
15  industry are also there such the TOC, CTT, and maybe  
16  even some Commissioners?

17          CHAIR HARRIS:  Yeah.  That would be good.

18          COMMISSIONER SHAPIRO:  That's fine.

19          MR. "HARMON":  Thank you.

20          CHAIR HARRIS:  Okay.  We've got a motion.

21          COMMISSIONER SHAPIRO:  I'll second it.

22          CHAIR HARRIS:  It's been moved and seconded.

23                         All in favor?

24          COMMISSIONERS VOICES:  Aye.

25          CHAIR HARRIS:  The next item is a report by

1 L.A. County Fair on future plans for the racing  
2 facility.

3 MR. "HENWOOD": Mr. Chairman and Members of  
4 the Commission, my name's "Jim Henwood" (phonetic).  
5 I'm President of the Los Angeles County Fair  
6 Association.

7 Separate from this presentation, I've  
8 sent each of you a package of material that support  
9 the inclusion of one of the drawings that includes  
10 this one here. In front of you, you are seeing what  
11 is a expanded version of a five-eighths-mile surface  
12 to a one-mile dirt surface with a turf -- a seven-  
13 eighths-mile turf -- that includes a chute -- that  
14 will make it a mile-and-a-sixteenth chute.

15 The design of this -- this plan was  
16 brought forward by "Gordon Gong" (phonetic), whose  
17 firm represents us, Del Mar, "Keenland" (phonetic),  
18 and other racing businesses around the world.

19 And the team that kind of put this  
20 package together includes members of our staff, Tom  
21 Robbins, and other members of the racing industry,  
22 including "Steve Woods" (phonetic) who does work at  
23 Fairplex Park.

24 They're here to respond to any  
25 questions that you might have. What you're seeing is

1 a -- an unconventional "grid" -- "turn" system, where  
2 it has a mile on this side and a one-and-an-eighth  
3 mile on that side.

4                   It's more -- it's more like a  
5 graduated backstretch -- a softer, more forgiving  
6 backstretch with a conventional "front stretch turn."  
7 And we are presently taking this plan around to the  
8 industry. Last week, we met with the trainers. It  
9 was received very well.

10                   We received very constructive dialogue  
11 concerning housing for personnel in the backside,  
12 recreational activities, viewing locations for owners  
13 and trainers of their horses -- things of this  
14 nature. And generally they thought the track layout  
15 was a good one.

16                   We also are meeting next month with  
17 the TOC to give them similar presentation of this and  
18 go through the entire plan. Two weeks ago, we met  
19 with the racing industry. There is a strong build of  
20 consensus in the racing industry here in Southern  
21 California for a centralized training facility. We  
22 would like to have the industry look at Fairplex Park  
23 as an opportunity.

24                   I think you all know we are a not-  
25 for-profit organization. We "own Perris" (phonetic)

1 through an LLC, but still it's a not-for-profit  
2 organization reporting into the holding company --  
3 excuse me -- as a not-for-profit. And we would look  
4 forward to the opportunity of looking at this  
5 facility as a central training facility.

6                   The facility can accommodate up to  
7 about 2,000 stalls. I think that's far greater than  
8 perhaps the industry needs or even a training center  
9 can rightly serve. We are looking at a double-  
10 decking-a-barn concept, which is a very interesting  
11 one.

12                   Because of the topography of our land,  
13 the upper deck -- the horse would come in at grade,  
14 but there would be a "hundred stall of barns"  
15 (phonetic) with 14 -- quote -- "walk-in areas" that  
16 would be more like an eastern barn setup, which is  
17 similar to our design of our "Ferris" (phonetic) barn  
18 except it's a little bit larger.

19                   But you come in on the upper level on  
20 one side, and you come in on the lower level on the  
21 other. They would be open for common ventilation.  
22 They would not have to be artificially ventilated.  
23 There would be light and air moving through the barn  
24 areas.

25                   We think it would be a very attractive

1 solution and a very logical solution, given the land  
2 issues as we know of them and the challenges we face  
3 with the amount of land we have.

4                   This plan represents the most cost  
5 effective in the dollars and in the land use that we  
6 could possibly bring forward to you. We'd like to  
7 keep your -- this Board updated from time to time on  
8 it.

9                   Right now, the industry is working  
10 with us in evaluating costs and what all of this  
11 includes. And we'll be coming back to you from time  
12 to time with reports. As far as a time of  
13 constructing of this, our board has asked us to seek  
14 industry opinion and support of this type of project  
15 in order for them to take it under consideration.

16                   You'll all recall last year -- and  
17 while you can't take formal positions -- I think we  
18 were all encouraged by SB 1227. That would allow us  
19 to use a portion of our takeout to -- and handle --  
20 to support financing of the one-mile track expansion,  
21 which was Phase I of this project. And that's a \$30  
22 million challenge.

23                   We are trying to determine where the  
24 industry sits as it relates to the overall need for  
25 us to go to a one-mile track before our board

1 considers it. And I think the way it's going, I  
2 think in the interests of the industry, perhaps  
3 having a central training facility -- all of that may  
4 come together at the same time.

5 I know you have a lot on your agenda  
6 today. I'm trying to make it as quickly and clearly  
7 as possible for you.

8 CHAIR HARRIS: We appreciate that. It's a  
9 very exciting proposal. I'm very pleased that you're  
10 doing it. Anything that we can do to help, I'm sure  
11 we'd be very willing to do.

12 MR. "HENWOOD": Thank you.

13 CHAIR HARRIS: The next item is discussion and  
14 action regarding Capitol Racing. Now, as I  
15 understand it, there may be have been some proposals  
16 to resolve this, which --

17 Would you like to discuss this,  
18 Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: Yeah. As part of the  
20 discussion items that I've had with Capitol  
21 Harness -- originally, at the last meeting, I was  
22 upset with the balance sheet that was provided to  
23 us -- of the financial statements, only a balance  
24 sheet was presented.

25 I had a meeting with Mr. Bieri and

1 Mr. Horowitz. Mr. Bieri was very forthcoming. And  
2 he shared with me his personal financial statement --  
3 something that he does not choose to make a public  
4 record, and I can't say as I blame him.

5                   Furthermore, he has delivered, to me,  
6 a letter from his accountant that certifies his net  
7 worth as a acceptable level, which I'll distribute or  
8 we'll distribute it to the Board.

9                   With respect to the letter of credit,  
10 it was brought to our attention that, technically, it  
11 was deficient. There have been discussions with  
12 Mr. Bieri's counsel and Derry Knight. And a new  
13 letter of credit has been presented to us and is  
14 satisfactory.

15                   DEPUTY ATTORNEY GENERAL KNIGHT: That's  
16 correct.

17                   CHAIR HARRIS: Okay. Go ahead.

18                   COMMISSIONER SHAPIRO: At this time, all of  
19 the issues and discrepancies have been resolved with  
20 respect to payments that were made pursuant to the  
21 law and their appropriate allocations.

22                   The only thing that remains a note in  
23 our packet was that it appeared that Capitol had  
24 incorrectly withheld \$1.1 million from the harness  
25 purses over the last few years, which relates to an

1 accumulated overpayment of purses that Capitol  
2 "needs" of approximately 2.1 million and that this  
3 adjustment would reduce the overpayment by slightly  
4 more than half.

5                   We have received a letter from the  
6 past president of the California Harness Horsemen's  
7 Association, I think; and as we will -- as you will  
8 recall, that significant monies were advanced for --  
9 by Capitol because of various issues and disputes  
10 with Los Alamitos.

11                   And I think that I, personally, have  
12 been satisfied that they have, in fact, spent the  
13 money they were required to spend and that the monies  
14 that was expended was with the understanding with the  
15 horsemen that it was to go -- would be repaid on the  
16 overpaid purses.

17                   So at this time, I don't have any  
18 issues on this matter.

19                   CHAIR HARRIS: Okay. Does anybody have any  
20 comment on this?

21                   MR. KENNEY: Ben -- Ben Kenney, K-e-n-n-e-y,  
22 President of the California Harness Horsemen's  
23 Association.

24                   Now -- I'm sorry -- Commissioner  
25 Shapiro, are you referring to the promotion money?

1           COMMISSIONER SHAPIRO:  Yes.

2           MR. KENNEY:  Okay.  You know, you may be  
3  satisfied.  I'm not satisfied.  I have asked several  
4  times that we get some information on this --  
5  anything.  I don't know what documents you have that  
6  we don't have that we've asked for.

7                         Furthermore, we've not received 'em.  
8  This is the horsemen's money.  I know you do have an  
9  interest in seeing to the benefit of the horsemen.  
10  But we haven't seen it.

11                        Furthermore, we did have a meeting two  
12  weeks ago, like I told you.  Before that meeting,  
13  Mr. Neumeister, the former president, came to me and  
14  asked me to sign a letter that he had prepared in my  
15  name.  I would not sign that letter.  I refused to  
16  sign that letter.  And I will distribute this letter  
17  to you today.

18                        If, in fact, this is all on the up and  
19  up, I don't understand why we can't get anything that  
20  shows a breakdown of these monies that the horsemen  
21  spent along with Capitol in promotions.

22           COMMISSIONER SHAPIRO:  Perhaps Mr. Bieri or  
23  Mr. Horowitz could answer that, then.

24           MR. BIERI:  I'm tempted to empty my pockets so  
25  it doesn't click.  My name is Steve Bieri, B-i-e-r-i.

1 And I'm here for Capitol Racing.

2 I apologize. I've got a chronic  
3 cough. You probably were disturbed by that. So I'll  
4 keep my bottle of water nearby.

5 As it relates to what Ben Kenney is  
6 saying -- he and I have not spoken about that. And  
7 just as in the past, every time that you folks have  
8 asked us to produce something or go through  
9 something, we do. And I'd be more than pleased to  
10 give whatever documentation Ben believes that he  
11 needs.

12 We went through and looked at our  
13 records. And we've spent, during this time frame,  
14 nearly \$3 million in promotional activities, be it  
15 advertising on track or other things related to it,  
16 of which there's a million dollars that they're  
17 talking about and an additional 2 million of ours.

18 And we'd be glad to go through any of  
19 that. As I say, Ben and I have not spoken to this.  
20 But we'd be more than pleased to sit down with him or  
21 any of his representatives at any time or have him  
22 come him and audit. We've been audited on our  
23 purses. We've been audited on other things. We are  
24 a transparent company, and we have no trouble going  
25 through this again.

1                   It's easy to trace, easy to see.

2           MR. REAGAN: Commissioners, John Reagan, CHRB  
3 staff.

4                   Mr. Bieri is correct. I have had my  
5 assistant work back to 1997. And he tells me that  
6 there is about \$3 million in question -- so that we  
7 know that it's \$3 million we're talking about, the  
8 issue is how is it to be split? At what point in  
9 time was it split? Was it not split? That's the  
10 only issue that really remains at this point.

11                   I think that's what Mr. Kenney was  
12 kind of referring to.

13           MR. BIERI: Yeah. The money came from the  
14 promotional area of the satellite, where it was to be  
15 distributed -- it was used by the harness industry in  
16 promoting the events.

17                   And over the last several years, you  
18 can see that while, unfortunately, our crowds have  
19 not jumped through the roof, our handles, up until  
20 recently with the action of what Los Al did, were  
21 climbing. And we were doing better.

22                   Now, we've taken -- we've gone in  
23 reverse there. But bottom line is we -- we haven't  
24 spent anything improperly. And our books are open to  
25 anybody to come in and inspect it at any time during

1 our normal business hours.

2 CHAIR HARRIS: Could we have our staff sort of  
3 work with you and owners' representatives and whoever  
4 is involved to --

5 MR. BIERI: Sure. Anytime. The nice thing --  
6 we're just down the hall and up one from your people.  
7 And CHHA is just across the street. Be glad to set  
8 that up at anybody's earliest convenience and go  
9 through it, item by item.

10 CHAIR HARRIS: That would be good.

11 MR. BIERI: Thank you.

12 MR. REAGAN: We'll make those arrangements.

13 MR. NEUMEISTER: My name is David Neumeister,  
14 N-e-u-m-e-i-s-t-e-r.

15 Up until last year, I was the  
16 president of the Horsemen's Association. And it is  
17 my letter that Mr. Shapiro referred to. I am not  
18 sure of what documents Mr. Kenney was asking for.

19 But if it's a written document  
20 reflecting an agreement between the Horsemen's  
21 Association and Capitol Racing concerning this  
22 one-half percent of the handle, there will be none to  
23 be found.

24 As I conceded in that letter, any  
25 agreement that we had with Capitol -- when I say

1 "we," I mean "the Horsemen's Association" -- with  
2 Capitol was never reduced to writing.

3                   This half percent that we're talking  
4 about, which, over the last -- I don't know how  
5 many -- I can't count how many years now -- adds up  
6 to two or \$3 million between the two associations --  
7 used to -- used to be controlled by SCOTWINC.

8                   At some point, both Los Alamitos and  
9 Cal Expo or Capitol ran a bill that took a half  
10 percent of that money that used to be that -- the  
11 SCOTWINC money, as I'm sure I don't need to tell you,  
12 is all used for promotion, one way or another.

13                   At some point, both the harness  
14 industry and the quarter horse industry were given  
15 the discretion to take one half of 1 percent of the  
16 handle and have the option of, perhaps, not using it  
17 for promotion anymore.

18                   I know that at one point, when -- I  
19 can't honestly remember -- but I was president of the  
20 association at the time -- but I do remember the  
21 discussion concerning the legislation. And all I  
22 remember is that we all thought -- and when I say  
23 "all" of us, I mean my board and Capitol -- thought  
24 it was good idea for us to control that money for  
25 promotion instead of leaving it to SCOTWINC or having

1 to ask for it for SCOTWINC.

2                   This is not -- this is not a question  
3 of money that was previously used for some other  
4 purpose than promotion and taken from the purse pool.  
5 It is money that had always been used for promotion  
6 and by mutual agreement, although not in writing, by  
7 our association and Capitol.

8                   We decided to continue to use that  
9 money for promotion. So it is true that we -- that  
10 we could have, between us, decided to do something  
11 else with that money. We could have split it. Half  
12 of it could have gone to purses. Half of it could've  
13 gone to commissions. We could have spent it on a  
14 Christmas party, as far as I know, by reading the  
15 statute.

16                   The statute just says that half a  
17 percent is to be disposed of according to a written  
18 agreement between the racing association and the  
19 horsemen's association. We, at some point, decided  
20 to continue using it for promotion. It was never  
21 reduced to writing. That was our mistake. So  
22 technically, yes, we violated the statute.

23                   If we're talking about intent, whether  
24 anybody was -- I mean no money was stolen. All of  
25 that money, as I understand it -- the half percent

1 has a separate trail. All of it has always been  
2 spent on promotion.

3 But if somebody wants a document  
4 this -- that that is going to specify this agreement  
5 or specific motion that was made at some particular  
6 year, I can't tell you when or how it was done. All  
7 I can do is tell you that I remember when the  
8 legislation ran and I remember we thought it was a  
9 good idea at the time.

10 CHAIR HARRIS: Let's have our staff look at it  
11 and see if there's anything that can be resolved.

12 Let's -- Mr. Bardis?

13 MR. BARDIS: Yeah. I had --

14 I'm sorry. My name is Chris Bardis,  
15 B-a-r-d-i-s.

16 -- a few comments. Mr. Shapiro, I  
17 don't want to be disrespectful, but I take issue with  
18 your analysis. First of all, the promotion fund goes  
19 back to 1997. And I've supplied you, through the  
20 mail, and other Board Members with a list of the  
21 amounts for Calendar Year 1997 through 2004.

22 The total amount is \$2,985,000. That  
23 money, with accrued interest, is somewhere in the  
24 excess of \$4 million. And you would accrue interest  
25 on that.

1                   Let me point out something else to  
2 you. From 1997 to 2001, there was an underpayment of  
3 purses. As a matter of fact, in -- I think it's  
4 2001, the underpayment of purses was in the  
5 neighborhood of \$766,000.

6                   And I can tell you why there is an  
7 underpayment of purses from 1997 to 2001 'cause, if  
8 you look at their financial statements from 1997 to  
9 2001, it does not reflect a dollar of overpayments,  
10 which means there's underpayments.

11                   And if you look at their financial  
12 statements at that period of time, you will find  
13 there were receivables from SCOTWINC and Advance  
14 Deposit Wagering, et cetera, that are substantial.

15                   There are shown as an asset -- an  
16 asset. There is no corresponding liability and that  
17 the fact that 50 percent of those are owed to the  
18 horsemen -- very critical. Those dollars should have  
19 been distributed.

20                   If you look at your application for a  
21 racing meet, it says that, if there was an  
22 overpayment of purses and it's more than, I think,  
23 the average daily purses paid, it will be  
24 "proratarally" (phonetic) distributed -- distributed.  
25 Those dollars should have been distributed up to

1 2001. Granted. There is an overpayment of purses in  
2 2001 and 2002.

3                   So I am telling you -- and I also will  
4 tell you this: There is a lawsuit -- a lawsuit has  
5 been filed on this issue. And it will be resolved in  
6 the courts 'cause, quite frankly, I don't think it's  
7 going to be resolved here.

8                   I don't think you can take those  
9 dollars and say, "Oh, we're going to reduce it from  
10 the purse account." The purse account is a sacred  
11 account. I mean, if you look at law, you will find  
12 that the law says the purse account -- you can carry  
13 an overpayment forward for the next calendar year.  
14 These are different -- carry, carry, carry.

15                   And I don't think that they're doing  
16 that properly. The law also suggests that it will be  
17 reasonable. An overpayment of purses of \$2 million  
18 is not reasonable when your total purse pool is less  
19 than \$8 million or around \$8 million.

20                   More importantly -- that troubled me.  
21 And the overpayment of the purses troubled me, and  
22 that may be the subject of a second litigation.

23                   There is \$4.3 million of disputed  
24 impact fees. And I ask you where those funds are.  
25 You will tell me, "I have a bond, and I have a letter

1 of credit, and that represents \$2 million."

2 I say, "Garbage." And I'll tell you  
3 why. Because the pool -- \$4.3 million -- 50 percent  
4 of that is horsemen's money. And they haven't seen a  
5 dime of it. It's in the Capitol account. So what  
6 I'm telling you now -- of that \$4 million, one half  
7 of it belongs to the horsemen.

8 In addition to that one half that  
9 belongs to the horsemen, \$2 million belongs to the  
10 horsemen from the promotion fund. In addition to  
11 that, Los Alamitos has about \$1,800,000 on hand that  
12 is tied up as a result of this litigation. That,  
13 too, belongs to the horsemen.

14 The horsemen are starving. They're  
15 starving in Sacramento. They can't pay their bills.  
16 And there's \$6 million of assets they can't get their  
17 hands on. It's criminal.

18 And it's time you really stood tall  
19 and did something about it. And I -- I was shocked  
20 to find that the \$4.3 million in dispute -- none of  
21 it was paid in purses.

22 Then if you go to their financial  
23 statements, you will find a comment that basically  
24 says, if they lose in the litigation, the horsemen be  
25 responsible for 50 -- for 50 percent. That's a

1 fallacy. The horsemen have never seen a dime of that  
2 money.

3                   And I want to get through this, back  
4 to this promotion part. The law is very clear --  
5 very clear: A written agreement, signed by both  
6 parties, annually. Very clear.

7                   The horsemen's contract says, "If a --  
8 if there is any oral or written agreement  
9 outstanding, they are superseded by this agreement."

10                   There is no agreement. There never  
11 will be agreements. And I -- in regard to all  
12 concerned -- what's going to happen with that  
13 litigation? I don't like getting into litigation.  
14 But things just don't get done.

15                   The purse pool is mismanaged. It's --  
16 and I think it just is wrong to be carrying that  
17 forward on a cumulative basis. These financial  
18 statements are a disaster.

19                   You are allowing an individual to take  
20 trust fund money -- trust fund money -- that he  
21 doesn't even know that it belongs to him, put up a  
22 letter of contract and a bond, and say, "That's okay.  
23 Go use the funds."

24                   The horsemen's account is not a  
25 banking account. Those funds should be deposited

1 with this Racing Commission and every dollar that is  
2 owed. And it's not -- I really feel that it's your  
3 duty and your responsibility to do that. They should  
4 be accruing interest. And that interest should go to  
5 the prevailing party.

6 Right now, the prevailing party is Los  
7 Alamitos Racecourse. They don't have the money.  
8 Capitol Racing has it. They've got a couple of  
9 letters of credit. They may or may not be cashed  
10 because they're got all kinds of conditions on 'em.

11 It is crazy that you are allowing  
12 money that is disputed to be covered by bonds from  
13 somebody who, when he needs it, uses it. I would  
14 love to be in that position. I would love to take  
15 the purse pool money and money -- and use that money  
16 with no interest and go out and use it.

17 I mean what you're doing is wrong.  
18 What the Commission is doing is wrong. What he is  
19 doing is wrong. And it's time you stood up tall and  
20 started to correct it.

21 Thank you. I'm happy to answer any  
22 questions. If anybody doesn't think I'm right, you  
23 could ask your staff.

24 CHAIR HARRIS: Thank you.

25 MR. KENNEY: Ben Kenney, President CHHA.

1                   Let me respond very quickly to Mr.  
2 Neumeister's comment about it being a verbal  
3 agreement. I've been on the board for the last three  
4 years. I have no idea the -- Mr. "English"  
5 (phonetic) sent me a letter, I think, dated December  
6 15.

7                   I've been on that board three years --  
8 three years. We don't know anything about this --  
9 zero. We wanted to be -- vote -- we didn't have  
10 anything.

11                   Furthermore, I have been president for  
12 the last year. I don't know how long Mr.  
13 Neumeister's verbal agreement with the operator  
14 lasted. I don't know if it's 08 or 09 or "010."  
15 Certainly I did not have a verbal agreement. We do  
16 have an agreement going forward in our contract. But  
17 I had no verbal agreement. So I'm still so confused  
18 on this issue.

19                   MR. "SCHIFFER": Good afternoon. "Dan  
20 Schiffer," I'm the counsel for the Pacific Quarter  
21 Horse Racing Association.

22                   And I've been before this Board  
23 numerous times. I have a whole different bent on  
24 this issue, and that's the issue between Los Alamitos  
25 and the horsemen and the ruling of the Board of May

1 12 of 2003.

2                   And I heard, with interest, Mr.  
3 Shapiro's introductory statement. And I don't quite  
4 understand what he's saying. If Mr. Bieri's personal  
5 assets are so substantial, am I to understand that he  
6 gave a personal guarantee of the debt from --

7                   COMMISSIONER SHAPIRO: No.

8                   MR. "SCHIFFER": Because, really, that's the  
9 key issue is, if he's going to guarantee the debt and  
10 he has those assets, I think that the horsemen and  
11 Los Alamitos would feel far more comfortable -- I've  
12 suggested that to the Board, both in August and a  
13 letter to them -- in a letter to Mr. Reagan in  
14 January.

15                   My second point being that the letter  
16 of credit that has supposedly been revised and  
17 approved by the Attorney General's office -- to my  
18 knowledge, I know my office hasn't seen that revised  
19 letter of credit. I don't believe Los Alamitos has  
20 seen that revised letter of credit.

21                   After all, we are the affected parties  
22 by the validity of that document. And certainly we  
23 should be entitled to have a look and make our own  
24 determination and address the Board if we feel that  
25 that is not an adequate document.

1                   The final thing is -- and assuming  
2   that we don't believe that that letter of credit is  
3   sufficient, as we didn't believe the last one was, at  
4   present, there is a shortfall of \$787,000 in  
5   security for the debt that's now in litigation.

6                   Given what has been said here today --  
7   the questions and the viability of this Capitol  
8   racing, we really strongly urge that the Board not  
9   allow the Capitol SCOTWINC funds be distributed to  
10  Capitol.

11                   They haven't applied for a license to  
12  continue harness racing at -- in Sacramento. They  
13  are really not going to be a viable moneymaking  
14  company once they cease to do that. And we need  
15  security for that debt, if they're not making the  
16  money that they need to service this debt that's  
17  going to come due at the end of the litigation.

18                   SCOTWINC money, not the horsemen's end  
19  of it but the Capitol's end of that SCOTWINC money,  
20  is subject to the Horse Racing Board's control. We  
21  urge the Horse Racing Board not to release those  
22  monies to Capitol pending the outcome of this  
23  litigation. Thank you.

24                   MR. ENGLISH: My name is Richard English. I'm  
25  a C.P.A. for Los Alamitos Racecourse, among other

1 clients.

2                   And I'd like to point out two items.  
3 One is in the last letter of credit posted by Capitol  
4 Racing as alleged security. It listed several items  
5 that would come into play before their bond  
6 payment -- before their letter of credit came into  
7 play. It listed the \$500,000 transferred to Los  
8 Alamitos. It listed the money on deposit with the  
9 CHRB. It listed the purses being held by Los  
10 Alamitos.

11                   What it did not mention was the  
12 million-dollar bond supposedly placed by Capitol the  
13 year before. I was wondering if the Board or the  
14 staff has confirmed in writing that that prior bond  
15 is still in existence.

16                   DEPUTY ATTORNEY GENERAL KNIGHT: Two bonds?

17                   MR. ENGLISH: Yes. There's two -- there  
18 should be two bonds -- from a year ago, when this  
19 first came up -- or a year and a half ago, Capitol  
20 put up a bond for a million dollars. It's supposed  
21 to be ongoing.

22                   DEPUTY ATTORNEY GENERAL KNIGHT: Right.

23                   MR. ENGLISH: A letter of credit that was  
24 filed the last time didn't mention that as a prior --  
25 prior person to pay in case the case went to

1 completion.

2 I'm surprised that they didn't mention  
3 that. In fact, I thought, if it was still in  
4 existence, they surely would have said what their  
5 position would be after that prior bond was paid.  
6 The fact that it wasn't mentioned in that bond raises  
7 the question in my mind, "Is that other bond still in  
8 existence?"

9 I was just wondering if the Board has  
10 determined if it is.

11 MR. REAGAN: Commissioners, John Reagan.

12 We do have that bond on file in  
13 Sacramento. We will confirm in writing that it is  
14 still in existence. But at this point, we have  
15 assumed that it is. But we will certainly confirm  
16 that.

17 CHAIR HARRIS: This is a different bond than  
18 the other one?

19 MR. REAGAN: Yeah. Well, there was an  
20 original bond from last April and then -- for a  
21 million. A bond for a million. And now we have a  
22 letter of credit for an additional million. So we  
23 had -- we still have the bond on file. It's still in  
24 effect, as far as we know. But we will certainly  
25 confirm that in writing for you and for all

1 interested parties.

2 CHAIR HARRIS: This is a pretty confusing  
3 issue.

4 MR. ENGLISH: Yes, it is.

5 CHAIR HARRIS: But if we could have our staff  
6 sort it out and report back to us just exactly where  
7 everything is.

8 MR. ENGLISH: There is another issue --  
9 Commissioner Shapiro mentioned it -- all the other  
10 accounting issues have been resolved. In the staff  
11 write-up on Item 6, it mentioned about the accounting  
12 from the SCOTWINC fund.

13 And their comment ends up by saying,  
14 "The money is then split between Capitol and purses  
15 and staff and the -- split between Capitol and  
16 purses. Staff has found -- has found that Capitol  
17 has properly distributed the money."

18 My letter to the Board in December  
19 never said that they didn't distribute it properly.  
20 What I said in that letter was that they reported and  
21 reflected the purse months after the end of the meet.  
22 What they did during the course of the meet is they  
23 made no provision for that. By doing that, that  
24 significantly understates the purses earned during  
25 the meet.

1                   I spoke to "Mike Gurst" (phonetic) of  
2 Del Mar, Eual Wyatt of Hollywood Park, and "Wilson  
3 Shirley" (phonetic) who works at the TOC. And I've  
4 done it for years at Los Alamitos. And every other  
5 association long-term, during a long meet, projects  
6 the current surplus -- establishes it as an integral  
7 part of the purses earned during that meet.

8                   Capitol's failure to do so  
9 significantly and continually understates where the  
10 purses stand -- purses -- purses earned -- and it  
11 puts the horsemen -- it always makes the horsemen  
12 look like they're much more in debt than they are.  
13 And it puts them in a bad negotiating position with  
14 Capitol.

15                   And their present accounting for  
16 SCOTWINC surpluses for interim periods is not in  
17 accordance with generally accepted accounting for  
18 horse racing insofar as purse accounting.

19                   If you have questions, I'd be happy to  
20 try to respond.

21                   COMMISSIONER SHAPIRO: Mr. English, what I  
22 would suggest is that, if you and Mr. Bardis can make  
23 your positions on each of these issues very clear so  
24 that they can be addressed by John Reagan of the  
25 CHRB -- I'm not an accountant. I think Mr. Reagan is

1 very capable.

2 MR. ENGLISH: Well, in terms of -- in terms of  
3 the accounting for purses, I mean it's something  
4 that's industrywide. Mr. Reagan can be --

5 COMMISSIONER SHAPIRO: Again, I think that  
6 what would help us -- and it would certainly help  
7 me -- is that if you will clearly state what the  
8 issue is, what your position on that issue is, and  
9 what is improper about each and every account that --

10 MR. ENGLISH: Yeah. Well, I think that the  
11 purse accounting is not in compliance with what's  
12 done in the industry. They don't reflect the current  
13 portion of the --

14 COMMISSIONER SHAPIRO: Mr. English, I'm trying  
15 to ask you if you would put it in writing --

16 MR. ENGLISH: I agree.

17 COMMISSIONER SHAPIRO: -- so that -- so that  
18 Mr. Reagan can review it and advise the Board.

19 And I offer the same thing to  
20 Mr. Bardis. Okay? And I think what we need to have  
21 is a list of what those issues and claims are, let  
22 John Reagan review them, seek answers from Capitol.  
23 Our sole goal is to make sure that the horsemen have  
24 got every dollar they're entitled to get. We're  
25 not -- we want to make sure that all the accounting

1 is correct.

2                   It was my understanding that -- other  
3 than this one issue, it was my understanding that  
4 there had been an oral agreement between the  
5 association and the horsemen, which -- I had been  
6 repeatedly told that, "Yes. It was always agreed  
7 to." If that's an error, I certainly want to know  
8 about it.

9                   So all I can do at this point is to  
10 suggest -- "Let's get each of the issues in one  
11 writing on the table. Let our staff look at it. And  
12 let's try to get to the bottom of it and get to the  
13 answer on each and every issue.

14           MR. ENGLISH: Certainly. I'd be happy to  
15 cooperate.

16                   A separate issue -- earlier, when you  
17 talked about the harness dates about the racing in  
18 Pomona -- speaking for Los Alamitos, there would be a  
19 significant impact when you have racing dates --

20           COMMISSIONER SHAPIRO: I don't think that  
21 we're talking about that now. We're -- we've  
22 deferred that. We're not considering --

23           MR. ENGLISH: But you mentioned --

24           COMMISSIONER SHAPIRO: -- that issue.

25           MR. ENGLISH: You mentioned that there will be

1 meetings of the date -- I'm just asking that quarter  
2 horses be invited to present some information as to  
3 what's happened in the past where harness racing  
4 wasn't benefitted --

5 COMMISSIONER SHAPIRO: I think that, at that  
6 meeting, that will be a time for everybody to provide  
7 comment to whether or not they feel it is beneficial  
8 to the industry. That meeting is to try and just  
9 ferret through where the horsemen want to race -- the  
10 harness horsemen -- what are the proposals that are  
11 being made to the harness horsemen.

12 Then we can review it. We will bring  
13 it back here, and it will be open to comment and  
14 hearing all those issues.

15 MR. ENGLISH: Thank you.

16 CHAIR HARRIS: Thank you.

17 Okay. Well, let's -- is there -- I  
18 don't think there's going to be action that we're  
19 going to do on this item. It's going to be  
20 contingent on reports we get back from our staff; so  
21 I think we need to move it along.

22 MR. NEUMEISTER: Mr. Chairman, I just want to  
23 clarify one short point. I don't want to mislead Mr.  
24 Shapiro or the Board in any way with regard to the  
25 agreement that the horsemen had with Capitol on this.

1 This was a one-time deal. It's not like we discussed  
2 this every year.

3                   It -- when the legislation ran,  
4 that's -- we felt that was the best way to handle it.  
5 It's gone on that way ever since. I -- it's not  
6 something that's come up every year or that we've  
7 renewed every year.

8                   It's just an understanding. And the  
9 reason Mr. Kenney can honestly say he never knew  
10 about it is because it was -- it sounds like a big  
11 item now, but at the time it was very insignificant  
12 and really should be the entire purse pool. And I  
13 don't think it was ever discussed again. It's just  
14 been in place ever since.

15                   COMMISSIONER SHAPIRO: It's unfortunate it was  
16 sloppy. It -- it should never happen again.

17                   MR. NEUMEISTER: Yes.

18                   COMMISSIONER SHAPIRO: But let's get to the  
19 bottom of it.

20                   MR. NEUMEISTER: Yes.

21                   COMMISSIONER SHAPIRO: I want the people to  
22 get the money that they're due.

23                   MR. BARDIS: Mr. Chairman, I'll be happy to  
24 meet -- I'll be very happy to meet with John, put  
25 things in writing, identify 'em --

1           COMMISSIONER SHAPIRO: Appreciate that.

2           MR. BARDIS: One quick thing -- and I've been  
3 kind of destructive. I'd like to be constructive for  
4 one minute. The purse pool in Sacramento has been  
5 reduced by 30 percent. The horsemen are stuck. They  
6 really are. They can't pay their bills.

7                         The -- I've been told that the  
8 existing amount of purses generated is almost taking  
9 care of the purse pool. There is, as a result of  
10 SCOTWINC, the -- they retain money. And the amount  
11 they retain in a year is \$3 million, of which,  
12 50 percent belong to the horsemen.

13                         That amounts to \$150,000 a month or  
14 over -- yeah -- \$150,000 a month. ADW retains a  
15 hundred thousand dollars that -- and the promotion  
16 fund amounts to \$30,000. That's \$280,000 that could  
17 be distributed monthly in purses.

18                         I would beg of you people to see that  
19 that is distributed or even if you could assign those  
20 accounts to the Horsemen's Association, they could  
21 pledge 'em for a loan and generate more purse money  
22 for these people who are starving.

23                         Because, if you're going to put this  
24 thing off for 30 days and another 30 days, while all  
25 these funds accumulate, while these people aren't

1 paid, and all you've got is a big slush fund at the  
2 end of the meet, you're not going to know what you're  
3 going to do with it because you're going to be in the  
4 middle of litigation. Get these purse funds freed up  
5 so the horsemen can exist. Thank you.

6 COMMISSIONER SHAPIRO: Mr. Bardis, I totally  
7 agree -- if that is the situation, I will totally  
8 agree with you. Okay? All I'm asking is that, if  
9 there's all these different pools and there's an  
10 awful lot of controversy over all these issues,  
11 please point it all out in writing.

12 We have terrific staff here that can  
13 assist us through it. I'm totally in favor of  
14 helping horsemen.

15 MR. BARDIS: I appreciate that. I'm only  
16 trying to accelerate the process so they can buy  
17 their food and pay the rent and soon --

18 COMMISSIONER SHAPIRO: Get the letter  
19 tomorrow, then. Get the letter --

20 MR. BARDIS: I'll be happy to do that. I'll  
21 have it in John's office --

22 COMMISSIONER SHAPIRO: Thank you.

23 MR. BARDIS: -- by Tuesday. Thank you.

24 MR. BIERI: I will be brief. I would only ask  
25 that Mr. Bardis and Mr. English put everything in

1 their letters to you. And the stuff they haven't  
2 thought of yet, today, then do in the next few days  
3 so we can come to a final conclusion of all of this  
4 because it's a drain on everybody.

5                   But the single best answer for getting  
6 the horsemen's purses back up is to tell Los Alamitos  
7 to act responsibly. Tell them to stop discriminating  
8 against California harness horsemen. Tell them to  
9 open that room back up, open the whole facility back  
10 up, turn all the screens back on, and get us back to  
11 where we belonged to begin with.

12                   If you want to know where it starts,  
13 it starts right there, not here. Thank you.

14           CHAIR HARRIS: Thank you. We hear you.

15                   Let's move on. Next is a staff report  
16 on Los Al.

17           MR. REAGAN: Yes, Commissioners. John Reagan,  
18 CHRB staff.

19                   As indicated, included in the package,  
20 we have a report from the Los Alamitos meet. It's  
21 one that runs almost all year long. And, as you can  
22 see, they had a good meet this year. And I am  
23 prepared to answer any questions you might have.

24           CHAIR HARRIS: Yeah. I think that's  
25 encouraging that they were up.

1 Any comments on that?

2 (No audible response.)

3 CHAIR HARRIS: Let's move along here.

4 Yesterday we had a meeting of the  
5 Medication Committee, which is made up of Bill  
6 Bianco, Richard Shapiro, and me. And I'll just go  
7 through a little bit of the agenda.

8 We discussed the implanting of  
9 microchips and feel that's an emerging technology  
10 that we need to pursue and work with the Jockey Club  
11 to see what the best state-of-art technology is and  
12 how we can use it in California, although there  
13 should probably be a national program.

14 We looked at retaining frozen samples  
15 for future analysis. We're working on a feasibility  
16 study of how much that will cost and how we  
17 physically do it, the concept being that, if we  
18 wanted to go back and investigating something that a  
19 test has emerged for, we could.

20 We looked at penalty guidelines for  
21 Class 1, 2 and 3 medication violations. And we're in  
22 the process of assessing those. One of the concerns  
23 is on shock wave therapy as far as how we're  
24 monitoring that. And there's mixed opinions on how  
25 wide use that is. But we're concerned about horses

1 leaving the ground and returning after receiving  
2 shock wave therapy and how we can better monitor  
3 that.

4                   We talked about the inspection of  
5 vehicles in the restricted area, which is a right  
6 that the CHRB has. When you drive in, you waive your  
7 whatever amendment it is that controls unfair search  
8 and seizures -- it doesn't apply to vehicles in the  
9 restricted area.

10                   One of the issues we talked about was  
11 the labs specifications for Truesdail and UC Davis --  
12 lab specifications in general because our contract  
13 with Truesdail comes up in June. Right now we, by  
14 statute, send a third of the samples to UC Davis.  
15 You know, Davis is also involved in various research  
16 projects on medications.

17                   But we need to take a look at what  
18 we're going to do, going forward in June. We decided  
19 to put it out -- put a request for proposals out.  
20 And we would review our different options. I mean we  
21 could conceivably do a interagency agreement with UC  
22 Davis Maddy lab absent a formal bid proposal.

23                   But I think we're going to take a look  
24 at the options of doing it either way.

25                   We looked at a plot -- a rule to

1 utilize plasma to determine Clenbuterol levels.  
2 There is concern that, if you gave plasma IV, that it  
3 might not show up in a urine sample, but it would  
4 show up in a plasma or blood sample. And that we're  
5 adding a rule to enable us to use plasma for  
6 Clenbuterol evaluations.

7                   We also talked about the time  
8 identification of lab findings. Currently it is an  
9 18-day period from the time a test is taken until, if  
10 the test was positive, that the trainer has to be  
11 notified. And I guess due to some of the shipping  
12 issues and that there was concern that the 18 days  
13 wasn't enough, I think we agreed to raise that time  
14 window to 21 days.

15                   And that would go be a new rule that  
16 the Board would consider at some point.

17                   And we also discussed the formation of  
18 a Medication Advisory Committee, which we've had  
19 before, basically made up of any interested parties  
20 in the industry. And we want to make sure that all  
21 parties get involved in it. It would basically be to  
22 just track any medication issues and alert the Board  
23 of anything that they feel we should be pursuing.

24                   So perhaps Ingrid or Richard or Bill  
25 would have other things to add.

1           COMMISSIONER SHAPIRO: No. I think you did a  
2 pretty good job.

3           VICE-CHAIR BIANCO: Yep.

4           CHAIR HARRIS: Okay. The next item is the  
5 report of the Pari-Mutuel Committee.

6                                 Jerry?

7           COMMISSIONER MOSS: I thought we had a pretty  
8 productive meeting yesterday. And John can jump in  
9 whenever you feel like it. But we reviewed some  
10 suggestions made by Ron Charles and John Quinn in  
11 concert with the NTRA group and actually asked that a  
12 couple of things to be started.

13                                 And so far the process of making the  
14 rules -- one of them being that to list, after -- on  
15 a Pick 6 to list, after the fifth race, in a  
16 sequence, the possible payouts so -- which has been,  
17 for some reason, not done over the last couple of  
18 years. So we're going to try to heighten the  
19 expectations and the excitement of the players by  
20 publicizing and printing and making everyone aware  
21 of -- excuse me -- possible payouts.

22                                 And the other was in regards to Pick 6  
23 or Pick 4 and even Pick 3 that, if a surface is  
24 changed, we would have to go -- and it's ordained to  
25 go from turf to dirt -- that that race is considered

1 a "no win" or "all win" situation, as I recollect.

2 And I think that's all we -- we processed and we can  
3 move on that.

4 We also heard a presentation from Mr.  
5 Castro in regard to the union position on certain  
6 things in regard to the four-second delay, correcting  
7 certain tickets that are perhaps mistakenly processed  
8 so that they have four seconds after the race starts  
9 to correct this.

10 There's been disputed testimony on  
11 this because no other state has any amount of delay  
12 afforded it. And so this issue will be discussed  
13 further at further meetings.

14 John, do you want to add anything?

15 COMMISSIONER SPERRY: Well, there was also a  
16 brief discussion relating to Pick 3, Pick 4, Pick 6  
17 refunding monies rather than automatically having the  
18 bet fall over to the favorite of the race. And then  
19 we had quite a long discussion --

20 COMMISSIONER MOSS: Yes. And that was heavily  
21 discussed and still needs to be further discussed.

22 CHAIR HARRIS: So some of these things are  
23 going to move forward as rules?

24 COMMISSIONER MOSS: Yeah. Two of them are  
25 already on the way to becoming rules. It will take,

1 from what we heard, nine months to -- for these  
2 things to happen. But at least we can look forward  
3 to them happening.

4 CHAIR HARRIS: Thank you.

5 Anything under "General Business" or  
6 "Old Business"?

7 COMMISSIONER SHAPIRO: I have one item under  
8 "Old Business." It's been brought to my attention  
9 that Bay Meadows -- and I don't know if anybody's  
10 here from Bay Meadows -- is not conducting bi-carb  
11 testing on all races.

12 When we approved their application,  
13 when we were at Hollywood Park, I remember having a  
14 quite a discussion with Mr. Liebau. We had been  
15 given assurances that all racing -- all horses would  
16 be tested and that they would adopt the same program  
17 that was currently in effect at -- I think it was  
18 Santa Anita, but I'm not sure -- but the rules that  
19 Santa Anita had come out with.

20 They're not testing all horses. And I  
21 think that that is not what we agreed to. And I  
22 think it needs to be corrected. And I think it's a  
23 big problem.

24 Their position is that they don't have  
25 the -- their barn area is more difficult or facility

1 problems. But, again, they told us and assured us  
2 that that would be done, and it's not being done.

3 CHAIR HARRIS: Let's go back and --

4 EXECUTIVE DIRECTOR FERMIN: I think they  
5 said -- I think at one point that I recall them  
6 saying something about they were going to do what  
7 Hollywood Park did and that was only a couple of  
8 races.

9 And I think they're -- what they're  
10 doing is "shaking" them out. They're saying that --  
11 and this is just -- has not been directly to me --  
12 but they have indicated that the receiving barn is --  
13 the facility is such that it's difficult for them to  
14 test all the horses.

15 COMMISSIONER SHAPIRO: I -- I had specifically  
16 asked them because, if you recall, Santa Anita had  
17 announced what procedures it would be using,  
18 including what penalties that they were looking at  
19 for violations.

20 And at the meeting, I said to them,  
21 "Are you willing to adopt the same policies and rules  
22 that Santa Anita was?"

23 And Mr. Liebau said, "Well, gee, I  
24 haven't seen the press release," 'cause it had just  
25 come out. And I believe that a representative of

1 Santa Anita was there.

2 MR. COUTO: There -- Drew Couto, Thoroughbred  
3 Owners of California.

4 That's correct. That were two  
5 representatives of Santa Anita. The original  
6 discussion you had with Mr. Liebau asked him if he  
7 would do every horse.

8 And he -- I reviewed the testimony.  
9 He said, "Perhaps not every horse."

10 And you pushed him on it.

11 And the conclusion was "We will do  
12 exactly what Santa Anita is doing."

13 COMMISSIONER SHAPIRO: Right.

14 MR. COUTO: "I haven't seen the press  
15 release," he said, "but I will do whatever Santa  
16 Anita's doing" --

17 COMMISSIONER SHAPIRO: Right.

18 MR. COUTO: -- "to protect the integrity" --

19 COMMISSIONER SHAPIRO: And following that  
20 meeting, I spoke with "Mike Ziegler" (phonetic); and  
21 then I saw Jack Liebau again and said, "Jack, you are  
22 doing what you said you were doing; right?"

23 And that was confirmed to me that they  
24 were. And as I understand it now -- maybe Mr. Couto  
25 knows -- but I think they're only testing one or two

1 races --

2 EXECUTIVE DIRECTOR FERMIN: Two races.

3 COMMISSIONER SHAPIRO: -- is that right?

4 MR. COUTO: Two races. They're running --

5 EXECUTIVE DIRECTOR FERMIN: Two races --

6 MR. COUTO: -- races a day. Correct.

7 COMMISSIONER SHAPIRO: So we can --

8 EXECUTIVE DIRECTOR FERMIN: Contact them and

9 indicate that the Board expects them to do all

10 horses.

11 CHAIR HARRIS: Yeah. I mean if it's possible.

12 I can't remember. It seemed like it was a little

13 gray, what they agreed to. But we could go back and

14 read the transcript.

15 COMMISSIONER SHAPIRO: Yeah.

16 COMMISSIONER MOSS: Clearly, it's not enough.

17 They've got to do more.

18 COMMISSIONER SHAPIRO: Yeah. I think they

19 need to do 'em like everybody else. We're getting

20 some momentum with this. They've already had one

21 positive up there. And unfortunately it seems that,

22 when there's random testing, the horsemen know it

23 before the officials know it. I don't know how, but

24 they seem -- it gets out there.

25 And I don't know if that means they

1 need to stable more horses over at Golden Gate, to  
2 clear out a barn, or what they've got to do. But  
3 that was what we were told they would do.

4 EXECUTIVE DIRECTOR FERMIN: I'd be glad to  
5 contact them.

6 CHAIR HARRIS: Let's take a look at it. If  
7 that's what that they agreed to do, that's what they  
8 should do.

9 Anything else under General Business  
10 or Old Business?

11 We're adjourned.

12 (Proceedings concluded at 1:24 P.M.)

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