

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:                    )  
  )  
Regular Meeting                        )  
  )

ARCADIA CITY HALL  
240 WEST HUNTINGTON DRIVE  
ARCADIA, CALIFORNIA

THURSDAY, FEBRUARY 22, 2007

9:20 A.M.

Reported by:  
Troy Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson

John Andreini

William A. Bianco

John C. Harris

Marie Moretti

Jerry Moss

STAFF

Ingrid J. Fermin, Executive Director

Jacqueline Wagner, Staff Services Manager I

Derry L. Knight, Deputy Attorney General

Dr. Rick Arthur, Equine Medical Director

Mike Martin

Richard Bon Smith

ALSO PRESENT

Eual Wyatte

Drew Couto

Jerry Jamgotchian

Darryl Heir

Guy Lamothe

Charlie Dougherty

Cliff Goodrich

APPEARANCES CONTINUED

ALSO PRESENT

Richard Castro

Ron Charles

Chris Gibbs

Ron Warren, Jr.

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 COMMISSION CHAIRPERSON SHAPIRO: All right, we're  
3 going to start the meeting. We don't know if Commissioner  
4 Bianco is en route or not. There's bad weather and so maybe  
5 his plane's delayed. But we might as well start the  
6 meeting. I have hopes that this will be the quickest  
7 meeting we've ever had. Now, I know that that will  
8 disappoint a lot of people out there.

9 COMMISSIONER HARRIS: Well, we don't want it to be  
10 that quick, just the best one.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, quick and  
12 best.

13 I think that Ingrid's got to give her spiel to  
14 start. You have to do your thing, don't you?

15 EXECUTIVE DIRECTOR FERMIN: His plane was supposed  
16 to arrived at ten to 8:00, but it could have been delayed.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,  
18 we're start.

19 EXECUTIVE DIRECTOR FERMIN: And he probably has to  
20 get a car so --

21 COMMISSION CHAIRPERSON SHAPIRO: Okay.

22 EXECUTIVE DIRECTOR FERMIN: Ladies and gentlemen,  
23 will the meeting come to order. This is a regular meeting  
24 of the California Horse Racing Board on Thursday, February  
25 22nd, 2007, in Arcadia City Hall, 240 West Huntington Drive,

1 Arcadia, California.

2 Present at today's meeting are Chairman Richard  
3 Shapiro, Vice-Chairman John Harris, Commissioner John  
4 Andreini, Commissioner Marie Moretti, Commissioner Jerry  
5 Moss. And Commissioner Bianco is evidently on his way and  
6 may be delayed because of weather.

7 We're not going to go into a closed session this  
8 morning, so I would just like to remind everybody -- we'll  
9 go ahead with the meeting right away and remind everyone to  
10 please state your name clearly, for the record, and prior to  
11 your contribution to the meeting this morning. Thank you.

12 Mr. Chairman.

13 COMMISSION CHAIRPERSON SHAPIRO: Thank you.  
14 Before starting the meeting, I believe it would be  
15 appropriate for us all to take a few moments of silence and  
16 recognize the passing of Trudy McAfferty, who was a  
17 wonderful asset to the State of California, to all of racing  
18 and, frankly, from what I knew of her, to all of humanity.  
19 Trudy lost her battle with cancer. She certainly gave it a  
20 valiant fight. Thankfully, she died peacefully at home. I  
21 know that there was a memorial service at Bay Meadows -- not  
22 Bay Meadows -- at Santa Anita, that was wonderful. But it's  
23 still a great loss to all of us and I would ask that we take  
24 a moment of silence at this time.

25 (Moment of Silence.)

1           COMMISSION CHAIRPERSON SHAPIRO: Thank you.

2           The Board invites comments from the public about  
3 items on its agenda. It also invites public comment about  
4 items not on the agenda, that are related to horse racing,  
5 during an open comment period.

6           In order to assure that each individual, who  
7 wishes to comment, will have an adequate opportunity to do  
8 so, and also to assure that the meeting as a whole will be  
9 completed in a timely manner, so that individuals wishing to  
10 comment on multiple matters will not be required to stay for  
11 an unreasonable length of time, I will strictly enforce a  
12 five-minute time limit for each person wishing to speak on  
13 any agenda item.

14           The goal of this rule is to assure that each  
15 person's right to make their views known is not disrupted by  
16 another person's conduct.

17           In order to expedite the comment process there is  
18 a public comment sign-in sheet, or cards, for each agenda  
19 item on which public comment will be taken, as well as cards  
20 for comment about anything related to horse racing that is  
21 not on the agenda.

22           The cards are located at the podium and I  
23 encourage you to write your name legibly, so that I do not  
24 mangle it.

25           Just prior to our discussion of the item the

1 comment cards will be brought to me. After initial  
2 statements from staff and interested parties I will ask for  
3 public comment. When I call your name, please come to the  
4 podium to speak. I will let you know when your time has  
5 commenced, when there is one minute left, and when your time  
6 is up.

7           When your time is up, you will be expected to  
8 return to your seat so that I may call the next person  
9 waiting to the podium.

10           When all the names have been called, I will ask if  
11 anyone else has a comment on the agenda item, who's not  
12 already spoken. At that point the Board will not take  
13 further comment on an issue unless the Board has specific  
14 questions it wishes to address.

15           If the time is up, I ask that the speaker please  
16 take his or her seat.

17           If it appears that a speaker is repeating what has  
18 previously been stated, I will ask the speaker if he or she  
19 has any additional comments to make. If not, I will ask the  
20 speaker to allow the next speaker to come to the podium,  
21 irrespective of the time remaining, unless a Board member  
22 indicates that he or she still wishes to hear from the  
23 individual.

24           If it appears that a speaker is not speaking to  
25 the agenda item, or is speaking to another agenda item, I

1 will ask that the speaker please return to his or her seat  
2 and address his or her comments at the appropriate time,  
3 either on the specific item or the public comment.

4 With that said, we'll move to the agenda. The  
5 first item on the agenda is approval of the minutes of the  
6 regular meeting of January 23rd, 2007.

7 Are there any comments, changes, additions? If  
8 not, I'll --

9 COMMISSIONER MORETTI: Just a point of  
10 clarification in the minutes. It referred to we were going  
11 to have Legislative Committee meeting on the 21st of  
12 February. That did not happen because bills were actually  
13 due on the -- I mean, by tomorrow. So it seemed feeble to  
14 have a meeting on that. So for anyone who may have wondered  
15 why we did not, that was the reason.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay. Is there  
17 anybody else have comments?

18 Oh, I see that Commissioner Bianco showed up  
19 during my -- wonderful. Good, I'm glad you made it, Bill.

20 Are there any other comments, changes? If not, I  
21 ask for a motion to approve the minutes.

22 COMMISSIONER ANDREINI: Make that motion.

23 COMMISSION CHAIRPERSON SHAPIRO: It's moved by  
24 Commissioner Andreini.

25 COMMISSIONER HARRIS: Second.

1           COMMISSION CHAIRPERSON SHAPIRO:   Second.  All in  
2 favor?

3           (Ayes.)

4           COMMISSION CHAIRPERSON SHAPIRO:   Okay, it's  
5 passed.

6           Item number 2 I would like to defer to the March  
7 meeting.  It seems to me that it would be more appropriate  
8 for us to have the license application from Pacific Racing  
9 Association for their race meeting, and that way we can deal  
10 with this specific issue, which is two days related to that  
11 meeting.

12           So unless there's an objection, I would prefer  
13 that we simply defer this meeting, this agenda item to the  
14 next meeting.

15           COMMISSIONER HARRIS:  I think that's a good idea.  
16 I think it would be good at some point, too, which is one of  
17 the issues I guess involved with this item, is that we can  
18 take a look at the pros and cons of additional days to  
19 create overlaps north and south.  I, personally, like the  
20 idea of fewer race days in some weeks, like four-day weeks,  
21 or five-day weeks, but not six-days weeks, which I think was  
22 the point of this to overlap the south.

23           But if somebody's going to present this, which I  
24 look through the material and think we really need to have  
25 the data of what the case is, I mean, how much more

1 incremental revenue do you have, what's the impact on field  
2 size on other days, and all these things, rather than just  
3 say, yeah, we want another day.

4 COMMISSION CHAIRPERSON SHAPIRO: Well, perhaps  
5 with that forewarning, the people from Pacific Racing  
6 Association will come forth with that so that when we hear  
7 their application next month, and we consider this, they'll  
8 be prepared.

9 COMMISSIONER HARRIS: Yeah, and it's really a  
10 statewide issue, too, that all the tracks kind of weigh in  
11 on where they are.

12 COMMISSION CHAIRPERSON SHAPIRO: I do have a  
13 comment card from Drew Couto on this. Drew, do you still  
14 wish to speak to this matter?

15 MR. COUTO: No, we'll wait until March.

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

17 Okay, moving along to item number 3 on the agenda,  
18 which is public hearing by the Board on the adoption of  
19 proposed amendment of CHRB Rule 1481, occupational licenses  
20 and fees to provide for licensing of graded stakes security  
21 guards.

22 I see Jackie's at the podium.

23 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,  
24 CHRB staff.

25 The proposed amendment to Board Rule 1481 will add

1 the graded stakes security guard to the list of occupational  
2 licenses that are issued by the Board. Currently, graded  
3 stakes securities are issued a license. This will just  
4 codify a current practice.

5 The graded stakes security license would be for a  
6 period of one year. The license will be \$35 for the initial  
7 license, with renewals costing \$20.

8 No comments were received during the 45-day  
9 comment period and staff would recommend that the Board  
10 adopt the amendment as presented.

11 COMMISSION CHAIRPERSON SHAPIRO: Thank you,  
12 Jackie. I think this is a very good idea, I think that in  
13 line with licensing of other people in the back side I think  
14 it's a good idea. I recognize the challenges that the race  
15 tracks have when there's great fluctuations on whether it's  
16 Sunshine Millions Day, and they need so many guards, and I'm  
17 not sure how they're going to do that, to make sure  
18 everybody's licensed, and so I recognize there's challenges  
19 there. But I think it's a good idea.

20 I also know that we had discussed, previously,  
21 whether or not these positions could be filled through one  
22 of our labor unions that provides either security or other  
23 personnel, rather than contracting with these outside  
24 companies.

25 So, personally, I'm in favor of seeing this done.

1 I don't know if anybody else has any other comments to it.

2 COMMISSIONER HARRIS: Well, the union issue, I  
3 don't think the Board should get involved in whether people  
4 are union or not, it's really between the employer and the  
5 employee.

6 But I think when we write these things, I wish  
7 we'd think a little broader. I mean, we've got this written  
8 as a graded stakes security guard, where Sunshine Millions  
9 aren't graded stakes, so it wouldn't even include those  
10 guards, technically.

11 It should just be written as security guards, you  
12 know, for --

13 COMMISSION CHAIRPERSON SHAPIRO: Stakes guards.

14 COMMISSIONER HARRIS: Well, just whatever we want  
15 them to be. And I wasn't sure, too, on the licensing, if  
16 that did cover the costs. But Ingrid says it only costs  
17 less than that to license someone, which I can't hardly  
18 believe with all the fingerprinting and all the stuff that  
19 goes into it. But if that's the case, we just don't want to  
20 lose money on a license.

21 I don't, personally, see why it has to be a one-  
22 year license, why it couldn't be a two- or three-year  
23 license. Because I just hate to see our licensing offices  
24 jammed up with people just kind of standing in line to get a  
25 license for something they're going to get anyway.

1           COMMISSION CHAIRPERSON SHAPIRO: Well, my concern  
2 on a multi-year license is that this may be a transient  
3 group of people, and I would hate to see the people walking  
4 around with licenses given admittance to the back side of  
5 the race track when they were served -- you know, they  
6 decided, as a summer job, to be licensed to guard horses,  
7 and now they've moved on but they have this license that  
8 gets them in. I agree with the short-term nature of this  
9 license.

10           Cost. Certainly, we don't want to lose money on  
11 it. And I agree with you in terms of the language, it  
12 shouldn't be just for graded stakes, I think that's a good  
13 catch, it should be for, you know --

14           COMMISSIONER HARRIS: Whatever we want it to be.

15           COMMISSION CHAIRPERSON SHAPIRO: Right, for  
16 security -- horse security, whatever it is.

17           EXECUTIVE DIRECTOR FERMIN: Surveillance, perhaps.

18           COMMISSION CHAIRPERSON SHAPIRO: Yeah,  
19 surveillance cards, whatever you want to call it.

20           STAFF SERVICES MANAGER WAGNER: Just for your  
21 clarification, we currently have a category for security  
22 office and security guards, which are a three-year license.  
23 At the time, when we amended this rule for graded stakes  
24 security, we were trying to address the situation that we  
25 are currently operating under, and that was the title that

1 was suggested to identify these folks.

2 If we want to change the name, we can go ahead and  
3 do that, that will require at least another 15-day notice.  
4 But if we want to make it absolutely correct to reflect  
5 exactly what the Board's wishes are in terms of a title for  
6 these types of individuals --

7 COMMISSION CHAIRPERSON SHAPIRO: Well, it's  
8 certainly -- Commissioner Harris is right, it's not graded.  
9 If it's a hundred thousand dollar race, it doesn't mean the  
10 race is graded, and there are guards. So it's clearly  
11 wrong, the name has to be changed.

12 STAFF SERVICES MANAGER WAGNER: Okay, what would  
13 you suggest. I'm open, because we can go ahead --

14 COMMISSION CHAIRPERSON SHAPIRO: Stake security  
15 guard.

16 STAFF SERVICES MANAGER WAGNER: Stake security  
17 guard.

18 COMMISSIONER HARRIS: I think they should just be  
19 designated security guard. I mean, it might be not a stake.  
20 Maybe we run into some situation that, for whatever reason,  
21 we want to have a --

22 COMMISSION CHAIRPERSON SHAPIRO: Surveillance.

23 COMMISSIONER HARRIS: -- surveillance security  
24 guard, or something. I guess it's really a different role  
25 than -- I'm not sure what criteria you have now. If I want

1 to be a security guard, can I just go get a security guard  
2 license or how do I do that?

3 STAFF SERVICES MANAGER WAGNER: This category  
4 covers those folks who are hired by the Association to cover  
5 those designated races that are requiring additional  
6 surveillance.

7 COMMISSIONER HARRIS: But what -- is it easier to  
8 get one of these than like just a security guard?

9 STAFF SERVICES MANAGER WAGNER: They go through  
10 the same process.

11 COMMISSIONER HARRIS: So a security guard license,  
12 are we assured that these people have -- you know, or at  
13 least we know about their criminal records and all the stuff  
14 like that?

15 STAFF SERVICES MANAGER WAGNER: Yes, they go  
16 through the same, they go through the same licensing  
17 process.

18 COMMISSIONER HARRIS: And how long does it take to  
19 get that data, the turnaround time on that?

20 STAFF SERVICES MANAGER WAGNER: The fingerprints  
21 are taken and they come back very shortly from DOJ, it's  
22 within days when we get that information back.

23 EXECUTIVE DIRECTOR FERMIN: It's also my  
24 understanding that the people that are coming from Elite, or  
25 whoever they're under contract with, go through some type of

1 a background check prior to even being sent out to the  
2 track.

3 STAFF SERVICES MANAGER WAGNER: She's absolutely  
4 correct. These are those folks who are hired by the  
5 Association through a separate private company, who come to  
6 the track to perform this service. So they have -- we, in  
7 the past, have been relying on that particular private  
8 company to do the due diligence check. And this will  
9 require those folks to go through our procedure, as well.

10 COMMISSIONER HARRIS: Yeah. Well, this is  
11 probably better. Well, one of my concerns is that the  
12 overall rent-a-cop area has not necessarily been the highest  
13 of character. There was just a case in Fresno, two days  
14 ago, where they had a big shooting with the police and the  
15 guy's job was a security guard, he was an off-duty security  
16 guard.

17 So, yeah, we just need to be sure that the people  
18 we've got back there are people that, you know, at least  
19 don't decrease the level of character.

20 STAFF SERVICES MANAGER WAGNER: They do go through  
21 the same licensing process.

22 DEPUTY ATTORNEY GENERAL KNIGHT: Can I just  
23 comment on this, Commissioners? I'm just looking at your  
24 current rule. Your current rule, if you take a look at it,  
25 you'll see that number 13 already includes security officer

1 and security guard, stable gateman, fire guard, and so on.  
2 The only concern I have here is you're getting so specific  
3 with a definition that you really need -- I mean, why do we  
4 need this at all, I'm just curious about why are these  
5 people not licensed already as a security guard?

6 COMMISSIONER HARRIS: I guess one issue would be  
7 it's a three-year license, now. But under our current  
8 system, you've still got to be validated and, I mean,  
9 there's a lot of checks and balances, anyway, to prevent  
10 someone, that really shouldn't be there multiple years  
11 to -- I hate to just keep adding new categories of licenses.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, I agree, if  
13 we can use the current category. But I have a problem with  
14 the three-year license given that these are what I would  
15 call event guards more than ongoing personnel. And so, you  
16 know, my view is they're there for special events, and I  
17 just think that it's not a good thing that while they're  
18 background is checked, you know, to give somebody a three-  
19 year license, which gets them admittance to every back side  
20 of every race track, when they have no business there, could  
21 be a problem.

22 COMMISSIONER HARRIS: Well, I think it could be  
23 the same license, it's just a little sticker that says when  
24 it expires, you keep adding new ones to that. Because I  
25 hate to see them go through the whole application process

1 over --

2 COMMISSION CHAIRPERSON SHAPIRO: You and I have a  
3 differing faith in exactly how closely those licenses are  
4 viewed when people are getting into the back stretch.

5 COMMISSIONER HARRIS: Well, but we're not going to  
6 see it. The guy goes in, he gets his one-year license, he's  
7 got that license, he's got his picture and all that. Do we  
8 take that back from him? You know, he's still got his  
9 wallet, he can still use it anyway, it's just how closely  
10 they're going to look at the validation.

11 STAFF SERVICES MANAGER WAGNER: It expires. And  
12 my understanding, this category was proposed because the  
13 folks that are graded stakes security guards are different,  
14 they are different individuals than from our regular  
15 security officers. Security officers and security guards  
16 are the -- my understanding, are those folks who are working  
17 for the Association right now.

18 Graded stakes securities are those individuals  
19 that are hired in addition, when those times come and we  
20 have those special races, where they want to have additional  
21 surveillance on horses.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, we  
23 understand that. We understand that. The question is,  
24 though, that if they are -- they're the ones in the yellow  
25 jackets that say event staff or event security, okay. The

1 question is that if we can use the existing verbiage that's  
2 in number 13 here, to cover that category, then the only  
3 thing I think we're apart on is the term of the license that  
4 would be issued to them.

5 EXECUTIVE DIRECTOR FERMIN: I think it would be  
6 a -- as Jackie said, the others have gone through an  
7 extensive check, they're employed by the Associations.  
8 They're also probably union people, I would guess. And we  
9 have had some complaints about people. I think, probably  
10 your wording on event staff being licensed and having it  
11 short, I'm not sure that you see them again the second year,  
12 anyway, that it would be unwise for them to have access just  
13 indiscriminately to the restricted area.

14 COMMISSION CHAIRPERSON SHAPIRO: So are you  
15 agreeing that --

16 EXECUTIVE DIRECTOR FERMIN: That there should be a  
17 special category. I feel there should be a special category  
18 and it should be limited.

19 COMMISSION CHAIRPERSON SHAPIRO: So you would  
20 rather see it as event staff and one-year license?

21 COMMISSIONER MOSS: Special events or something.

22 COMMISSIONER HARRIS: Yeah, it seemed like if you  
23 want to do it right, you might need something where the guy  
24 doesn't really -- I mean, the way it is now, once the  
25 person's got the license, they've got the license, maybe the

1 expiration date is different. But we're not really  
2 requiring they turn that license back in when we leave, are  
3 we? Maybe that should be another kind of a little thing  
4 that we have.

5 STAFF SERVICES MANAGER WAGNER: They are not  
6 required to turn the license in, but the license is expired.  
7 They cannot come on the back side with an expired license.

8 COMMISSIONER HARRIS: Okay, I'm going to try  
9 something. We'll have somebody volunteer to tear the '07  
10 off of theirs and see if they will let them on the back side  
11 or not.

12 STAFF SERVICES MANAGER WAGNER: The current  
13 license is not an '07, there's not a tag system, it goes  
14 through the new procedure.

15 COMMISSION CHAIRPERSON SHAPIRO: Jackie, you're  
16 right, okay. But in reality, that if you take this  
17 license -- I mean, the reality is you do this, the guy looks  
18 up and says like this, 90 percent of the time people get in.  
19 Okay, no one is sitting there scrutinizing it, looking at  
20 your picture to make sure -- you don't look that way  
21 anymore.

22 COMMISSIONER HARRIS: That was the first one I got  
23 in 1950.

24 COMMISSION CHAIRPERSON SHAPIRO: Yeah. I mean, no  
25 one's doing the real check, and that's the problem here,

1 that you just do the old wave and it works.

2 COMMISSIONER HARRIS: Well, what should really  
3 happen, I mean this is kind of off the subject, is some kind  
4 of an electronic thing where you come in -- like, I mean,  
5 just to get in to a lot of the employment places you've got  
6 a code on it, and you just wand in and they know that X is  
7 in there or not, and they left, and all that. But we  
8 haven't quite gotten into the 19th century, yet.

9 STAFF SERVICES MANAGER WAGNER: Right, we are  
10 working on that technology right now. The new licenses that  
11 are being issued do have that magnetic strip on the back  
12 and, in the future, we will be able to use that type of  
13 system.

14 COMMISSIONER HARRIS: But are we using it now at  
15 all?

16 STAFF SERVICES MANAGER WAGNER: No, no.

17 COMMISSIONER HARRIS: See, a thing like is, I  
18 think, what we really need. It's really a deeper problem  
19 than just licensing these special event things, it's just  
20 controlling access in and out, period. But this is probably  
21 better than nothing.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, perhaps we  
23 ought to go back and have it changed to event guard, or  
24 event personnel, or whatever you want to call it, so that we  
25 can differentiate it and make the fee a one-year fee, and

1 maybe we could give some consideration -- Ingrid was just  
2 saying that perhaps what happens is it's issued to them, but  
3 it's held by the security company and each time that they  
4 are hired back out, they're licensed to use it for that day.  
5 I don't know.

6 COMMISSIONER HARRIS: Yeah, it seems like it  
7 should be almost like a day license.

8 COMMISSION CHAIRPERSON SHAPIRO: Right.

9 COMMISSIONER HARRIS: You get something for that  
10 day that shows you're okay. I mean, on the whole subject I  
11 think we need a lot more technology, both controlling access  
12 and also monitoring through cameras, and things, of who's  
13 coming and going.

14 STAFF SERVICES MANAGER WAGNER: With those  
15 comments, I will go ahead and take this particular draft  
16 back, amend the language to change the title from graded  
17 stakes security guard to, at this point, event personnel  
18 security guard, or something of that nature.

19 And then the second suggestion, with having the  
20 security company hold the license for that individual.

21 COMMISSION CHAIRPERSON SHAPIRO: Yeah, why don't  
22 you talk to them and see if they could do that, where they  
23 get licensed, but it's issued to them on a daily basis, or  
24 something.

25 Well, wait a minute, now we have --

1           COMMISSIONER MOSS:  Then you can have them handing  
2 them around.

3           EXECUTIVE DIRECTOR FERMIN:  No, because there are  
4 pictures and everything.

5           COMMISSION CHAIRPERSON SHAPIRO:  Okay, maybe Mr.  
6 Wyatte and Mr. Haynes could tell us how best to do this.

7           MR. WYATTE:  I doubt that, but we'll take a shot.  
8 Eual Wyatte, Hollywood Park.  The suggestion, I think, about  
9 holding the license is a good one, but I think I would  
10 expand it a little better, change it in that the association  
11 should hold the license.

12          COMMISSION CHAIRPERSON SHAPIRO:  That's fine.  
13 That's fine.

14          MR. WYATTE:  You know, rather than -- you know,  
15 just so -- I don't think that the providing company is going  
16 to be too anxious to go through all that paperwork, but we  
17 would do that, I'm sure.

18          COMMISSION CHAIRPERSON SHAPIRO:  That's great.  
19 And can we suggest that both of you, who deal with this on a  
20 regular basis, you know, work with Jackie and come back.  I  
21 think we all want the same thing.  We're trying to work with  
22 you, accommodate what's best, and maybe you could work with  
23 Jackie to properly name it and find a way to do it that's  
24 most convenient, but we know who these people are and  
25 they're licensed.

1 MR. WYATTE: Be glad to do that.

2 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

3 Okay, moving on to Item Number 4. Jackie, you  
4 want to --

5 STAFF SERVICES MANAGER WAGNER: Item Number 4.  
6 Jackie Wagner, CHRB staff.

7 The proposed amendment to Rule 1433 is as a result  
8 of the passage of AB1180, which is statutes of 2005. The  
9 proposed amendment will amend our current CHRB applications  
10 to incorporate specific sections that were required pursuant  
11 to the law. Particularly, the emergency section of both  
12 forms was expanded to require the race tracks and the racing  
13 fairs to describe their on track first-aid facilities.

14 The form will also require racing associations and  
15 racing fairs to provide an emergency medical plan in both  
16 English and Spanish, which shall be posted in the jock's  
17 room.

18 In addition, it will require the associations to  
19 attach a copy of their emergency medical plans to their  
20 application as it pertains to the treatment for jockeys.

21 And it also asks them to name a health and safety  
22 manager and assistant manager that is responsible for the  
23 compliance of the provisions of Rule AB1180.

24 Staff did not receive any comments during the 45-  
25 day comment period on this proposal, and we would recommend

1 that the Board adopt the amendment as presented.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. I just  
3 have a question that really is a little off, but in reading  
4 in the license application one thing I'm unclear about, and  
5 it's not really before us, but maybe somebody knows, I'm  
6 just curious, why is it required that a qualified licensed  
7 physician shall be on duty at all times during live racing,  
8 except the rule shall not apply to any quarter horse racing  
9 at the race track if there is a hospital situated no more  
10 than a mile and a half from the race track?

11 And isn't there one a mile and a half away from  
12 Santa Anita? I mean, I didn't understand that. Does  
13 anybody know why?

14 STAFF SERVICES MANAGER WAGNER: Yeah, the reason  
15 why that is there is that is a direct quote from the law, AB  
16 1180.

17 COMMISSION CHAIRPERSON SHAPIRO: No, no, no, I  
18 know that, I'm quoting from the law.

19 STAFF SERVICES MANAGER WAGNER: Oh, I'm sorry.

20 COMMISSIONER HARRIS: Because they have better  
21 lobbyists than the rest of them.

22 (Laughter.)

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. I just, in  
24 reading it, was like why is that? I mean, okay, I guess  
25 that's the answer.

1           Okay, does anybody have any other comments to this  
2 matter.

3           COMMISSIONER MORETTI: I'd move it.

4           COMMISSION CHAIRPERSON SHAPIRO: All right, I'll  
5 entertain a motion to approve it.

6           COMMISSIONER MORETTI: So moved.

7           COMMISSIONER BIANCO: So moved.

8           COMMISSION CHAIRPERSON SHAPIRO: Moved, seconded,  
9 all in favor.

10           (Ayes.)

11           COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number  
12 5.

13           STAFF SERVICES MANAGER WAGNER: Item Number 5.  
14 Jackie Wagner, CHRB staff.

15           The proposed amendment to Rule 1581.1 was simply a  
16 clarification for the intent of the section and the  
17 amendment, it adds the term "California stakes races" to the  
18 verbiage. And that would clarify that the stakes races in  
19 which horses that have been drawn for a post position may  
20 subsequently entered into California stake races, and that  
21 will leave no room for misinterpretation.

22           Staff, we did notice this for 45 days. We did  
23 receive a comment, subsequent to the preparing of this  
24 analysis, from one individual. However, the comment that we  
25 received, that he addressed as being relating to Rule

1 1581.1, was actually related to another rule. So I just  
2 want to put that on the record that we did receive it and we  
3 have --

4 COMMISSION CHAIRPERSON SHAPIRO: Can you tell me  
5 where staff came up with the intent was to make this  
6 California stakes races? Where -- I didn't see where it was  
7 intended that way and where staff came up with the opinion  
8 that that was the intent?

9 STAFF SERVICES MANAGER WAGNER: Apparently, there  
10 was an incident that took place, and I'm going to rely on  
11 our Executive Director to give the details on that, but  
12 recently we had an incident where there was some  
13 misinterpretation of this particular rule and staff was  
14 contacted to go ahead and make this clarification, and to  
15 add "California" in order to make sure that there is no  
16 misinterpretation of this particular rule.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 COMMISSIONER HARRIS: Well, I think one of the big  
19 issues is I'm not so much worried about the stakes issue,  
20 it's just the bigger picture is if we have a situation where  
21 a racing office and TOC is agreeable to letting a horse out  
22 of a race, that's already been drawn into a race a  
23 subsequent day, the subsequent day, is that okay, you know,  
24 with the approval of the stewards? What is the procedure  
25 now, if somebody's in a ten-horse field that is a race

1 that's for, you know, day X, and day X plus one there's a  
2 five-horse field that could be six, if you let one of the  
3 ones out of the ten back over to the six, and everybody  
4 approves it, can you do that?

5 EXECUTIVE DIRECTOR FERMIN: With the approval of  
6 the stewards, yes.

7 COMMISSIONER HARRIS: With the approval of the  
8 stewards.

9 EXECUTIVE DIRECTOR FERMIN: Yes.

10 COMMISSIONER HARRIS: So what is this, I don't see  
11 where this -- you still have to have the approval of the  
12 stewards, but this idea is that the stewards --

13 EXECUTIVE DIRECTOR FERMIN: That it be a race  
14 within the jurisdiction and that the racing secretaries are,  
15 certainly, if they're going to let a horse out and have it  
16 go into a stake race that it goes within their same  
17 jurisdiction, so that it is a benefit to the State of  
18 California, rather than if the horse went somewhere else.

19 COMMISSIONER HARRIS: Yeah, but they've got  
20 approve it anyway, so I mean, that's sort of in their  
21 latitude of what they could approve or not approve.

22 I mean, they could disapprove even in the case  
23 where, you know, it's in California or whatever, I think.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, I just -- I  
25 don't see where the intent was to limit it to California. I

1 mean, it may be a California owner, and he has this horse,  
2 and he doesn't know if he's going to get into some big stake  
3 somewhere else, he does, and he wants to ship his horse to  
4 some big race back east, why shouldn't he be allowed to?

5 EXECUTIVE DIRECTOR FERMIN: Well, with the  
6 approval of the Racing Office of the Stewards, he could.  
7 But in order to have it be more of an automatic, the racing  
8 secretaries felt that it would be more specific to have it  
9 for California.

10 With the approval of the stewards or with the  
11 approval of the racing office, they can do most anything, if  
12 they're going to be going into a stake race.

13 But the rule says if you're coming out of one and  
14 going into a stake race, the racing secretaries prefer that  
15 it be to a California race.

16 COMMISSIONER HARRIS: So you could -- you don't  
17 need approval -- under this rule, you wouldn't need approval  
18 to get back into a stakes race?

19 EXECUTIVE DIRECTOR FERMIN: No, you can enter back  
20 into a stake race.

21 COMMISSIONER HARRIS: Without approval?

22 EXECUTIVE DIRECTOR FERMIN: Right.

23 COMMISSIONER HARRIS: But it has to be entered. I  
24 mean, it can't be some stakes race that's a week off or  
25 something.

1 EXECUTIVE DIRECTOR FERMIN: You're scratched out  
2 of that race and when you go into the stake race, but you  
3 can do that.

4 COMMISSIONER HARRIS: Yeah, but you can't say I'm  
5 going to scratch out because they've got a stakes race in a  
6 week or something, it's got to be that subsequent day, or  
7 how does that work?

8 EXECUTIVE DIRECTOR FERMIN: Well, it might be  
9 within a couple of days.

10 COMMISSIONER HARRIS: Well, that seems like that -  
11 - again, it's sort of hypothetical area. I don't remember  
12 us noticing this, actually.

13 MR. COUTO: Good morning, Drew Couto, Thoroughbred  
14 Owners of California.

15 One, I have to join Mr. Harris in a concern about  
16 notice. We've looked through the agenda, it doesn't appear  
17 on any agenda, and Ms. Wagner's just informed me that it  
18 doesn't have to be on the agenda, that it can be noticed by  
19 some other means.

20 This is the first that TOC became aware that this  
21 was an issue, that the Horse Racing Board was inviting  
22 comment upon. So the reason you don't have any comment in  
23 that 45-day period is we had absolutely no actual notice of  
24 it. So that's why we'd comment, now. Okay, that's why  
25 we're commenting.

1           Number two, we would oppose any restriction that  
2 limited this to California. I think it's an unnecessary  
3 restriction on owners, who have the ability and the horse to  
4 enter and run someplace else.

5           And we certainly, with all due respect to the  
6 racing secretaries, don't want to be subject to their  
7 discretion as to whether an owner should have the right to  
8 pull out and run in a stake, I think that's inappropriate.

9           The current rule does not require the permission  
10 of a racing secretary, or anybody else, and we would feel  
11 very uncomfortable with giving that authority to the racing  
12 office. With all the pressures that they have, for  
13 unrelated reasons, about filling races, it would work to the  
14 detriment of owners.

15           So TOC would be firmly against this rule being  
16 limited to California and limited to some discretion of the  
17 racing office.

18           COMMISSION CHAIRPERSON SHAPIRO: Drew, did you  
19 find anywhere -- I mean, I didn't see it in the rule book,  
20 and I was just trying to reference, but didn't get around to  
21 it, in the B & P Code, was there anything that showed that  
22 the intent was for California?

23           MR. COUTO: I have not identified anything in  
24 which an intent, either the statutory or regulatory intent  
25 is identified. I'm not aware of any statutory -- of any

1 statute that addresses this, and the only regulation is  
2 1581.1 and, again, I'm not aware of any intent being  
3 identified anywhere.

4 COMMISSIONER HARRIS: Well, I think it would be  
5 helpful if the racing offices, and TOC, and CTT, and  
6 everybody could get together and review the whole issue, and  
7 see what -- you know, what best serves the industry.  
8 Because all we really want to do is try to get the maximum,  
9 you know, amount of participation. And it may be that the  
10 actual rules have, you know, become outdated.

11 But I never really saw this until we came here and  
12 I agree that probably a lot of the players haven't. It  
13 would be good just to put it back out for another 30 days  
14 and get some closure on it.

15 MR. COUTO: You know, in looking at this, we tried  
16 to identify where, in fact, it had been an issue, and there  
17 was only one incident in which it had been an issue, which  
18 is a year and a half ago, and it seemed to be tangentially  
19 related to that. And so I was curious how this sort of came  
20 about and why it was there.

21 But we will get together with the CTT, if that's  
22 what the Horse Racing Board would like, and with the racing  
23 offices, and see if there's something we're not aware of at  
24 the moment and why it should change.

25 COMMISSIONER HARRIS: Well, it should be tightened

1 up. I mean, just to say a stakes race doesn't really do it  
2 because it's not really -- you shouldn't really be able to  
3 scratch -- say I'm in some six-horse field, I shouldn't be  
4 able to scratch just because I've got a stakes race  
5 someplace in ten days from now or something.

6 MR. COUTO: No, I believe what the rule says is no  
7 horse may be drawn -- that has a drawn -- sorry. "No horse  
8 having been drawn for post position in any race to be run  
9 shall be entered in any subsequent race unless it's a stakes  
10 race."

11 So what it's saying is you can't scratch out and  
12 say I'm going to enter in a race ten days before. You only  
13 get to scratch out if you have, in fact, entered in a stakes  
14 race.

15 COMMISSIONER HARRIS: Well, the case in point  
16 didn't involve an entry, it was a race out there somewhere.

17 MR. COUTO: That's what I'm saying, is  
18 tangentially it was not a scratch to be entered, it was  
19 something else.

20 COMMISSIONER HARRIS: Yeah.

21 COMMISSION CHAIRPERSON SHAPIRO: Well, then, why  
22 don't we put this over. If that's acceptable to the Board,  
23 I would suggest we put this over and we'll put it back out  
24 for additional comment period, and we'll deal with it at  
25 that time.

1 MR. JAMGOTCHIAN: Sorry, I'd like to comment on  
2 this.

3 COMMISSION CHAIRPERSON SHAPIRO: Excuse me.

4 MR. JAMGOTCHIAN: Excuse me, Mr. Couto was  
5 allowed.

6 COMMISSION CHAIRPERSON SHAPIRO: No, excuse me.  
7 Excuse me.

8 MR. JAMGOTCHIAN: So you're not going to allow me  
9 to discuss this, is that what you're telling me.

10 COMMISSION CHAIRPERSON SHAPIRO: No, I'm not  
11 telling you to. But do you have a card? You know, we have  
12 a procedure, and if you missed it, you need to fill out a  
13 turn and you need to turn them in.

14 MR. JAMGOTCHIAN: I will provide a card. I'll  
15 provide a card for you. Could I have a card, please?

16 COMMISSIONER HARRIS: I think it would be better  
17 if you could discuss all this with TOC, and the tracks, and  
18 all those guys.

19 MR. JAMGOTCHIAN: No, I'd like to discuss it with  
20 the Board, because I think the Board needs to know something  
21 else. Thanks, Mike.

22 COMMISSION CHAIRPERSON SHAPIRO: Excuse me. Can  
23 you give me the timer. Thank you.

24 MR. JAMGOTCHIAN: There you go, thanks.

25 Okay, Mr. Shapiro, my name is --

1 COMMISSION CHAIRPERSON SHAPIRO: Just not yet.

2 Just one second.

3 MR. JAMGOTCHIAN: Are you using the timer, now?

4 COMMISSION CHAIRPERSON SHAPIRO: Okay, Mr.

5 Jamgotchian, before you start, I'm going to ask you

6 specifically to stay on point of what this --

7 MR. JAMGOTCHIAN: You know, I don't need a lecture

8 from you, Mr. Shapiro, I'm talking to this subject.

9 COMMISSION CHAIRPERSON SHAPIRO: Excuse me. Mr.

10 Jamgotchian. Mr. Jamgotchian, no. I'm the Chair, you're

11 going to listen.

12 MR. JAMGOTCHIAN: I'll wait until you're done.

13 COMMISSION CHAIRPERSON SHAPIRO: You will stay on

14 point of each agenda item, please. Okay?

15 MR. JAMGOTCHIAN: Are you finished?

16 COMMISSION CHAIRPERSON SHAPIRO: Now, you may

17 proceed.

18 MR. JAMGOTCHIAN: Fine, I'm going to speak about

19 Number 5, with regards to 1581.1, and I would appreciate you

20 listening for a change.

21 The issue is how did this get on the agenda? Can

22 anybody answer that question? Nobody seems to know how this

23 got on the agenda.

24 Yes, go ahead.

25 STAFF SERVICES MANAGER WAGNER: It became a -- it

1 got on the agenda, this item was noticed in December. The  
2 first notice date was December the 29th. It was published  
3 in the OAL Registry. It was on the Board's website and also  
4 sent to our notice list. It was properly handled in terms  
5 of noticing.

6 MR. JAMGOTCHIAN: And who put it on the agenda?

7 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
8 you may make comment. We're not required to answer. Please  
9 make comment.

10 MR. JAMGOTCHIAN: Oh, so you really don't -- I  
11 understand, so you don't care to respond, Mr. Shapiro,  
12 that's obvious.

13 Okay, with regards to this issue, how in fact can  
14 the Racing Board or anybody take the rights of an owner to  
15 race his horse, and better yet, how can anybody with the  
16 Racing Board allow the stewards to make a decision about the  
17 racing of the owner's horse.

18 And, more importantly, how can anybody on the  
19 Racing Board allow the racing secretary -- excuse me, Mr.  
20 Shapiro, are you going to listen or are you going to talk?  
21 Fine, thank you.

22 How can anybody allow the racing secretary to take  
23 the ownership rights of a person who wants to race his  
24 horse, or who doesn't want to race his horse.

25 This issue, very similar to the issue last week,

1 when Mr. Shireff's came up to talk about the trainer's  
2 responsibilities and the rights of the trainer. Here,  
3 you're trying to usurp the owner's obligation and  
4 opportunity to race his own horse.

5           And by restricting this to California races,  
6 only -- Doug O'Neill had a horse that raced -- it was in a  
7 race at Santa Anita, that was scheduled to race in a  
8 Breeder's Cup race. If this rule passed, he couldn't have  
9 run the horse in the Breeder's Cup race, which would have  
10 precluded him from running in the Santa Anita's race.

11           So the fact that the rule says "entered" and, as  
12 Drew stated, it says "entered", well, if you have a two- or  
13 three-day entry window what happens if you nominate. So  
14 you're going to nominate to the Breeder's Cup, but because  
15 you didn't enter it, you're not going to be able to race in  
16 it because of some silly and just inconceivable California  
17 horse racing rule that restricts the horse from running in a  
18 Breeder's Cup because it's based on the entry, not the  
19 nomination.

20           The fact that the person owns a horse, you've got  
21 respect, eventually, the rights of the owner. And,  
22 eventually, I hope you guys will.

23           So the time requirement in here is something that  
24 you really need to look at. Obviously, this issue is going  
25 to be litigated, no problem, we'll help you address the

1 rule. There was clearly no notice of this made to me, and  
2 I've been asking Mike Martin and everybody else where this  
3 came from, and everybody puts up their hands and they say,  
4 no.

5 But I do thank you for one thing, I do thank you  
6 for providing us with the record for the upcoming trial of  
7 Mr. Slender, and his activities, in my case.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, but we're  
9 not going to entertain that. Thank you, Mr. Jamgotchian.  
10 Mr. Jamgotchian, I welcome you to submit comment during the  
11 comment period, if you can turn it in and I'm sure that will  
12 be considered.

13 COMMISSIONER HARRIS: It would be good, too, to  
14 have TOC include Mr. Jamgotchian in some of their meetings,  
15 I'm sure he would add some insight.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, I believe  
17 we're moving on, now, to Item Number 6. Jackie?

18 STAFF SERVICES MANAGER WAGNER: Item Number 6.  
19 Jackie Wagner, CHRB staff.

20 This item is a proposal to exempt the quarter  
21 horse races from the provisions of Rule 1606, which is our  
22 coupling rule.

23 As you know, the Board entered into an experiment  
24 last summer, I believe, where we temporarily eliminated  
25 coupling. The experiment was conducted at Hollywood Park

1 and Bay Meadows and, subsequently, it was expanded to  
2 include the Los Alamitos Race Course.

3 At that time, the proposal was presented to repeal  
4 Rule 1606, and that was noticed for public comment.

5 At the August meeting of the Board reports were  
6 heard from Hollywood Park and Bay Meadows regarding the  
7 experience. In addition, Los Alamitos did submit a written  
8 report. And at the close of the discussion it was reported  
9 from Los Alamitos that their wagering -- they had success  
10 with it and their wagering had increased by a significant  
11 amount. And at that time Los Alamitos urged the Board to  
12 continue the experiment and, instead, the Board voted to  
13 discontinue the experiment and to keep Rule 1606 on the  
14 books.

15 Subsequently, at the October meeting, we had a  
16 request from Los Alamitos that the Board exempt quarter  
17 horse races from the coupling requirements of Rule 1606. As  
18 a result, a proposal was noticed for 45 days and we -- we  
19 did receive one comment on this, that was submitted after  
20 the analysis was prepared.

21 And I do want to make note that that comment was  
22 received and it was initially addressed as a comment on Rule  
23 1581. However, the nature of the comment did pertain to  
24 Rule 1606.

25 And the comment reads as thus, this comment says

1 they are opposing the proposal, they do not believe that our  
2 sport can accept any perceived, real, or not perception that  
3 this great game is not on the up and up. And that was the  
4 nature of the comment, so they are opposing the proposal.

5 COMMISSIONER HARRIS: Is it they or he?

6 STAFF SERVICES MANAGER WAGNER: He.

7 COMMISSIONER HARRIS: Thank you.

8 STAFF SERVICES MANAGER WAGNER: It's a he. So  
9 this item is presented to the Board for discussion.

10 COMMISSION CHAIRPERSON SHAPIRO: All right, thank  
11 you. I would like to just point out that the average field  
12 size during the fourth quarter at Los Alamitos went from a  
13 7.15 to 8 percent -- or eight starters, so there was an  
14 increase of .85 horses per race, which I'm assuming this  
15 rule was contributory to helping get that increase.

16 COMMISSIONER ANDREINI: There's no question about  
17 that.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay. I,  
19 personally, have not heard any problems, have not seen any  
20 problems. Commissioner Andreini, I'm assuming that it's  
21 going well and, therefore, you know, I don't see why we  
22 shouldn't continue.

23 COMMISSIONER ANDREINI: To my knowledge, there  
24 have been no issues that have come forth because of this  
25 uncoupling.

1           COMMISSIONER HARRIS: Yeah, I think the key is, I  
2 think, if the track and the horsemen are fine with it, that  
3 we should allow it, because they're the ones that are going  
4 to be the beneficiaries or non-beneficiaries of the thing.  
5 I think we really should revisit it somewhat in the  
6 thoroughbred arena, particularly -- or at least look at  
7 that. Because I think in the thoroughbred world, where you  
8 don't have mirror image -- it's a different thing if you've  
9 got one owner who's got a hundred percent of both horses,  
10 but oftentimes there's so many partnerships, and you've got  
11 different partners in each one, and they've got a couple,  
12 that's something we should look at.

13           But as far as this rule goes, both the track and  
14 the horsemen are for it, I guess. So I'll move we approve  
15 it.

16           COMMISSIONER MORETTI: Second.

17           COMMISSIONER ANDREINI: I'll second.

18           COMMISSION CHAIRPERSON SHAPIRO: All in favor?

19           (Ayes.)

20           COMMISSION CHAIRPERSON SHAPIRO: Consider that  
21 approved.

22           Okay, let's talk about something that we haven't  
23 talked about ever, let's talk toe grabs. Does Jackie need  
24 to introduce this one?

25           STAFF SERVICES MANAGER WAGNER: I don't think so,

1 but I will, I'll take a stab at it. Jackie Wagner, CHRB  
2 staff.

3 As you know, this item has been discussed. Most  
4 recently, it was discussed at our last Board meeting. And  
5 the enforcement of 1690.1, at that meeting, which was last  
6 month, we heard from the Oak Tree Racing Association and the  
7 TOC, and they spoke in favor of enforcing the regulation.  
8 The CTT, at that meeting, voiced opposition to the  
9 enforcement of Rule 1690.1.

10 The Board subsequently voted not to enforce the  
11 regulation and instructed staff to initiate the repeal  
12 process for Rule 1690.1, which we have done.

13 This item is again present to the Board for  
14 discussion.

15

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you. This  
17 is discussion and action.

18 STAFF SERVICES MANAGER WAGNER: Correct.

19 COMMISSION CHAIRPERSON SHAPIRO: Let me just state  
20 that I was one of the people that voted against this rule,  
21 the enforcement of this rule last time, because I have a  
22 fundamental issue with respect to this Board regulating what  
23 types of shoes, and good judgment, and our passing rules  
24 where I would hope the tracks can adopt a house rule with  
25 horsemen, and achieve the same results. I just, personally,

1 don't like the idea of government stepping into a matter  
2 such as this.

3           However, that's not to say that I don't thoroughly  
4 embrace and support anything that will save any horse, at  
5 any level, an injury. And, therefore, you know, if we're  
6 going to adopt something like this, I don't know why it  
7 isn't limited -- it's limited to thoroughbreds. I think it  
8 should be to quarter horses, and any breed.

9           And so my opposition was based on my belief that  
10 trainers should be allowed whatever toolboxes they need. I  
11 assume they use good judgment but, certainly, we need to  
12 protect the horses.

13           I did participate in a conference call with  
14 Commissioner Harris, where there were an esteemed group of  
15 people that were convinced that --

16           COMMISSIONER HARRIS: Esteemed or steamed?

17           COMMISSION CHAIRPERSON SHAPIRO: Esteemed. You  
18 were the only steamed one, and I thought you were actually  
19 bait.

20           (Laughter.)

21           COMMISSION CHAIRPERSON SHAPIRO: But, you know, it  
22 seems that there's pretty conclusive evidence. The good  
23 doctor, standing at the podium, says it's irrefutable. And  
24 so, you know, why don't we discuss this item and see where  
25 it goes.

1 I think it would be appropriate if Dr. Arthur  
2 would outline the item for us, first.

3 EQUINE MEDICAL DIRECTOR ARTHUR: Certainly. I'm  
4 Dr. Arthur, Equine Medical Director for the California Horse  
5 Racing Board.

6 There is no question, from a wealth of information  
7 that has been produced from the necropsy program in  
8 California, that toe grabs over 4 millimeters are associated  
9 with increased risk of fatal musculoskeletal injury. That's  
10 irrefutable evidence, it's there, it's black and white.

11 Enforcement of this rule will save horses' lives.  
12 And I'd like to point out that every paralyzed jockey, every  
13 dead jockey was involved in an accident where a horse has  
14 either broken down or has been in a fall.

15 At the Grayson Jockey Club Welfare Summit, this  
16 was identified as the simplest, easiest, and cheapest step  
17 that horse racing could take to save horses' lives. And  
18 during that conversation, both Chris McCarran and Gary  
19 Stevens both related the fact that in Europe, where they  
20 race, they race a lot tighter quarters and you can hear the  
21 shoes clicking when they race on those particular surfaces,  
22 where no toe grabs are allowed. Nothing over 3 millimeters  
23 is allowed there.

24 And the reasoning on this is that the shoes  
25 doesn't get caught with each other.

1           The reason, however, that we don't -- we only  
2 limit it to front feet, forelimbs on thoroughbreds is  
3 because there is the data that is irrefutable. I personally  
4 believe, looking at the way that these interactions are,  
5 that you would be justified by taking this same step with  
6 quarter horses, and with hind shoes, but we don't have the  
7 data to support that. We are trying to move forward on an  
8 evidence-based system.

9           I would recommend that this Board go ahead and  
10 enforce this rule. I gave a presentation at the Medication  
11 Committee, in December, on how this would work. It is very  
12 similar to what we already do in horse racing for our turf  
13 courses, that where certain shoes are allowed and they're  
14 pre-approved prior to horses racing and, goodness sakes, if  
15 we can do this for the turf courses, we should be able to do  
16 this for the horses.

17           I would like to say that we regulate every aspect  
18 of this game. There are horses that undoubtedly would run  
19 better if you could use a machine on them. There are horses  
20 that would run better in a lot of different things, but we  
21 regulate those. We regulate even how horses are shod in  
22 terms of turn downs.

23           So I think this is not only an issue for the  
24 horse, it's an issue for the jockey. And even though if all  
25 trainers were like John Shireffs, I think we may be able to

1 allow them to use all the tools in their toolbox, but they  
2 aren't all like John Shireffs.

3           And the fact of the matter is we just had an  
4 instance, just in the last few weeks, where a horse that was  
5 on the vet's list was sent out and worked, broke down, was  
6 euthanized, and the jockey's in the hospital.

7           I don't think we can rely on trainers to always  
8 make judgments in the best interest of the horse, and this  
9 is all we're doing is trying to help them, because we have  
10 irrefutable information that if you have a toe grab over 4  
11 millimeters, you are at greater risk.

12           And let's face the reality here, we lose too many  
13 horses in horse racing. We lost 37 horses on California  
14 racing enclosures in the period from December 26th to  
15 January 26th, if you count north, south, harness, quarter  
16 horses, and everything else. And I think we have to do  
17 something to protect the horse, and this is it. Thank you.

18           COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay,  
19 is there any other comment from the Board? There is  
20 comments from the audience. There not be some, I will call  
21 people who have submitted cards.

22           Darryl Heir.

23           MR. HEIR: Good morning, Mr. Shapiro, members of  
24 the Commission, Darryl Heir, Western Regional Manager for  
25 the Jockey's Guild.

1 I totally agree with what Dr. Rick Arthur said, we  
2 have to consider the jockey's safety here. And the jockeys  
3 have known for years that toe grabs -- it's dangerous when  
4 they're out there.

5 If you watch the races on the turf courses at  
6 Santa Anita, or Hollywood, when riders get in tight, you  
7 very seldom see them clip heels and go down, and that's  
8 because they have mostly queen's plates.

9 With toe grabs, they do, on the main surface, they  
10 do catch and it causes some nasty spills. When riders are  
11 in tight, you do hear that clicking and you know you better  
12 back up quick when you hear that clicking. It's a bad sound  
13 to hear, first of all, it's when you don't hear it, that's  
14 when it's really bad because you clip heels and go down.  
15 You just click and it locks, and you go right down.

16 So we think this is a serious safety issue and we  
17 hope that you enforce this.

18 Also, we've seen riders come back that have been  
19 stepped on with their safety vests, and the marks they make.  
20 It's a good thing they have safety vests. Sometimes it can  
21 tear -- these grips can tear riders up, too.

22 So we'd appreciate you taking care of this matter.

23 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

24 MR. HEIR: Thank you.

25 COMMISSION CHAIRPERSON SHAPIRO: Marsha Naify.

1 MS. NAIFY: Guy's going to speak.

2 MR. LAMOTHE: Thank you. Guy Lamothe,  
3 Thoroughbred Owners of California, and speaking on behalf of  
4 Marsha, as well.

5 It's kind of tough to follow up what Dr. Arthur  
6 has said, I think he articulated the facts involved here  
7 very well.

8 And Mr. Heir just, you know, heartfelt words about  
9 here we are, we're talking about lives here.

10 So for TOC, this isn't just an issue about toe  
11 grabs, this is an issue about safety of horses and jockeys.

12 And I'd also like to point out that we're not only  
13 talking about California here, this is a national issue.  
14 And we've based our position not on opinions, which could be  
15 applied on other issues, but this is based on facts, facts  
16 developed over the last ten years, or so, on scientific  
17 research.

18 So I think we can eliminate a lot of the guesswork  
19 here.

20 I'd like to point out that I think it was Dr.  
21 Arthur mentioned the -- I'm sorry, the Grayson Jockey Club,  
22 they had a Welfare and Safety Summit, a Strategic Planning  
23 Committee meeting in October of last year. There are  
24 several prominent industry players in that, including many  
25 from here, in California, including Commissioner Harris,

1 Dick Mandela, Ron Charles, Dr. Arthur, and Gary Stevens,  
2 Chris McCarrans, and breeders, alike.

3 Out of the six recommendations that they came  
4 forward with, one of the six was to eliminate the use of all  
5 toe grabs larger than 3 millimeters, turn downs, jar cocks,  
6 and related things to the shoes.

7 They followed up with that with a series of --  
8 they formed a special committee on shoeing and the toe grab  
9 issue. They've recommended that they ban toe grabs greater  
10 than 4 millimeters. And they're also proposing, they've  
11 recommended, they're going to propose this for adoption  
12 nationwide to the RCI Model Committee on Rules.

13 So this isn't just a California issue here.  
14 There's irrefutable evidence, there's jockey safety  
15 involved, and this is moving in the right direction, we  
16 think, if you will enforce this rule. Thank you.

17 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

18 Eual Wyatte.

19 MR. WYATTE: Eual Wyatte, Hollywood Park. I don't  
20 think I can add anything to the compelling arguments, the  
21 compelling statements that we've heard so far this morning.  
22 I would remind the Board that when this rule was initially  
23 passed the persuading factor was that the evidence was  
24 irrefutable and that this rule, the anticipation that this  
25 rule would save lives, that hasn't changed.

1           So I would urge the Board, on behalf of Hollywood  
2 Park, and personally, to not rescind this rule, but enforce  
3 it. Thank you.

4           COMMISSIONER HARRIS: Also, and one of the issues  
5 was that synthetic tracks might be different and they wanted  
6 to keep this in the toolbox, and all this stuff.

7           But as I understand the policy at Hollywood Park,  
8 as well as other synthetic tracks, are that you don't  
9 allow -- basically, you just allow queen's plates because of  
10 concern for the synthetic track, as well as the horses. Is  
11 that right?

12           MR. WYATTE: That's not quite correct. The house  
13 rule at Hollywood Park during our last meeting, and  
14 currently, is toe grabs no higher than a quarter of an inch,  
15 which is something a little bit too high, higher than 4  
16 millimeters. It is our anticipation, and I can only speak  
17 for Hollywood Park, that as these artificial, engineered  
18 surfaces are in place at the tracks that they will be in  
19 place, certainly not all the tracks in California, the fairs  
20 for example won't have them, that we -- we believe that the  
21 horse will benefit by not having any protrusions from the  
22 hoof, from the shoe. We think that the artificial, these  
23 engineered surfaces are, in and of themselves, limit the  
24 natural slide and turn that a horse's hoof experiences on a  
25 regular race track, so to speak.

1           And the addition of toe grabs and caulks only  
2 further inhibits that movement. We don't have studies on  
3 this, so I can't tell you that that's a fact, but from our  
4 experience so far, we believe that to be a fact.

5           So it would be our intention to limit shoes on  
6 cushion track to queen's plates and/or flat shoes.

7           COMMISSIONER HARRIS: I think there is a study, I  
8 was on a call with a meeting on this issue, and they talked  
9 about the shear factor that -- s-h-e-a-r, of when a horse  
10 hits, as you point out, with these synthetic surfaces they  
11 don't slide and that creates a torque on the horse's leg or  
12 ankle.

13           MR. WYATTE: I don't think it's fair to say they  
14 don't slide. We think, from our experience in talking to  
15 trainers, that with the flat shoe or queen's plates, or  
16 shoes with no extrusions on them, or whatever, protrusions  
17 on them, they will slide and they will slide enough to give  
18 them -- that it won't be harmful for them, they will get  
19 back to that sort of natural hoof hitting the ground and  
20 then rolling experience.

21           COMMISSIONER HARRIS: And so it's really --  
22 because that was one of the issues that came up before was  
23 the difference in synthetic surfaces. But it looks like the  
24 thought now is that with synthetic surfaces there's even a  
25 better case to eliminate toe grabs.

1           MR. WYATTE: Well, we believe so. But back to the  
2 issue at hand, there will be tracks in this State where  
3 horses will be running on the traditional dirt/sand  
4 surfaces, and the rule needs to be in place.

5           COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you,  
6 Mr. Wyatte.

7           COMMISSIONER MOSS: Just one question, and this is  
8 not for advocacy, certainly, of toe grabs, but the  
9 Woodbine Track, are you familiar with Woodbine, they have a  
10 synthetic race track and, supposedly, they've needed to go  
11 back to toe grabs. Have you heard that or is that a --

12          MR. WYATTE: I have heard that and I think that  
13 is, in fact, a fact. I think when Woodbine started they  
14 limited the shoes to queen's plates and flat shoes, and  
15 their track did not maintain their consistency and it began  
16 to come apart. And anybody who watches races from Woodbine,  
17 with the kickback that they had, could see that. And  
18 because of that, the track lost its -- whatever its -- these  
19 artificial surfaces have, they're tight and, you know, it  
20 lost that. So they had to go back to toe grabs because the  
21 track changed. I don't think the philosophy changed, I  
22 think the track changed.

23          COMMISSIONER MOSS: Well, that's what I'm  
24 suggesting. I think all along people that voted, I believe,  
25 in the majority of the decision at the last meeting, felt

1 that there wasn't quite enough data on the synthetic tracks  
2 to create a law, you know. That we always felt, I believe,  
3 that this should be a situation that's taking place between  
4 the track and the trainer, so that they could adjust to the  
5 differing conditions that might exist.

6           You know, I think we were all serviced with a note  
7 from Jack Liebau, you know, your associate, who said that  
8 Hollywood Park, presently the only track with a synthetic  
9 racing surface at California, at Bay Meadows, not only  
10 opposed the repeal of Rule 1690, but I believe it's  
11 implementation is in the best interest of the horse and  
12 rider.

13           As stated in the last Board's meeting, the Board's  
14 Executive Medical Director, the evidence is irrefutable that  
15 the banning of long toe grabs saves the lives of horses.

16           For whatever reason, the discussion of Rule  
17 1690(i) at the last Board meeting included the discussion of  
18 the use of toe grabs on synthetic racing surfaces. It is  
19 Hollywood's intent, at its next race meet, to limit the use  
20 on its cushion track to queen's plates. We have been  
21 advised that Del Mar also intends to limit the use on its  
22 newly installed polytrack to queen's plates.

23           Now, see that, to me, is just common sense, it's  
24 the track making the rules and working with the horsemen to  
25 create whatever they think is the right situation.

1           MR. WYATTE: I don't agree -- I don't disagree  
2 with you, Mr. Moss and, obviously, you've given it some  
3 thought.

4           But the issue at hand, I believe, is the rule  
5 that's on the books, should it stay on the books and should  
6 it be enforced. And I think that has nothing to do with  
7 polytrack, or cushion track, or any kind of engineered  
8 surface, it has to do with, you know, the rule that's there  
9 and it should be enforced.

10           Now, there may be another discussion about what we  
11 do or don't do with these artificial surfaces. Because, as  
12 I said before, there will be horses running in California  
13 not on these engineered surfaces, and those horses and  
14 riders need to be protected, and I think this rule is a way  
15 to do it.

16           COMMISSIONER MOSS: Thank you.

17           COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.  
18 Wyattte.

19           Drew Couto, do you wish to comment on this, Drew?

20           MR. COUTO: You know, I'd love it if someone else  
21 goes.

22           COMMISSION CHAIRPERSON SHAPIRO: Okay, that  
23 is -- oh, Charlie, I'm sorry.

24           MR. DOUGHERTY: Charlie Dougherty, California  
25 Thoroughbred Trainers.

1 COMMISSION CHAIRPERSON SHAPIRO: I apologize.

2 MR. DOUGHERTY: As you know, Ed Halpern has been  
3 up here numerous times asking that this rule not be  
4 enforced, on behalf of California Thoroughbred Trainers.  
5 And primarily, the fundamental reason is that you have  
6 testimony that very few people are using toe grabs that are  
7 over four milliliters -- millimeters, and/or that they're  
8 not that readily available.

9 And we just don't believe that this Board should  
10 move forward with the acting of the enforcement when you're  
11 really taking away the fundamental right of a trainer to use  
12 a type of equipment.

13 So again we would ask you to not move forward with  
14 this and just respect the right of the trainer that they are  
15 acting on the best interest of the horse.

16 I'll be at all the testimony. Our organization  
17 very much has been on the leading edge of safety, and we  
18 don't believe by taking away the trainer's right to use a  
19 type of equipment is going to really put the jockey and the  
20 horse in jeopardy, as our organization always is, number  
21 one, with their concern for safety. So thank you.

22 COMMISSION CHAIRPERSON SHAPIRO: Thank you,  
23 appreciate it.

24 MR. LAMOTHE: Guy Lamothe, TOC. I just want to  
25 respond to that. I think we all, as best possible, want to

1 leave it to the trainers as, you know, the caretakers of the  
2 horse, as the agent of the owners to do what's best for the  
3 horse. And I continue to hear that, well, most people don't  
4 use toe grabs over 4 millimeters, that's great. That also  
5 means that some people still do.

6           And I've spoken with the horseshoe inspector,  
7 Victor Tovar, and he says the same thing, most don't. So  
8 there's still a few, and he named at least three trainers  
9 off the top of his head, and that's just at one location  
10 here, at Santa Anita.

11           So, yes, it's a tool for the trainers, but so are  
12 medications, so are a lot of other things that are applied  
13 to the horse to get it to compete at the highest level.  
14 There are regulations on these other drugs, there are  
15 limitations put forth. And here we have a case where  
16 there's, again, irrefutable data saying at 4 millimeters or  
17 more increases the risk to everybody.

18           So I don't want to repeat everything, but I find  
19 that argument about leaving it up to the trainers -- I'm not  
20 saying it's all trainers, all it takes is one or a few to  
21 increase that risk to jockey life and horse life. Thank  
22 you.

23           COMMISSION CHAIRPERSON SHAPIRO: Thank you. All  
24 right, that will close the public debate or discussion on  
25 it.

1           Do any Board members wish to address the subject  
2 at all?

3           COMMISSIONER HARRIS: Yeah, I think we've been  
4 through this a lot and I think there is good, compelling  
5 evidence to move on with it, and it just seems to me if  
6 we've got the rule on the books, you should enforce it.  
7 That the 4 millimeters still allows the low toe grabs, which  
8 would be in a toolbox, we're not taking everything out of  
9 the toolbox. Which, although, we possibly should.

10           We can continue discussion, but I'll move that we  
11 do move forward with the enforcement of the rule at 4  
12 millimeters.

13           COMMISSIONER MORETTI: I second it.

14           COMMISSION CHAIRPERSON SHAPIRO: Okay, there's a  
15 first and second.

16           Commissioner Bianco, Commissioners Moss, Andreini?

17           COMMISSIONER MOSS: I just would just like to say  
18 that I believe in everybody's best interests, and I just  
19 believe this is a matter believe the tracks and the  
20 horsemen. I just don't believe this is a CHRB circumstance.  
21 You know, I think everyone will conform, as they should be,  
22 and the tracks are there to monitor the situation and I  
23 believe in the sanctity of the stakeholder in this regard.  
24 So I think it's between the horsemen to do this.

25           COMMISSIONER HARRIS: I think the problem there,

1 Jerry, is that CTT, which has just stated their opposition,  
2 do control that part of the Horsemen's agreement. So we've  
3 created a kind of a Catch-22 that we can't get there from  
4 here, absent some Board intervention.

5 I agree, in fact I wrote an editorial on this  
6 about ten years ago, saying that's what --

7 COMMISSION CHAIRPERSON SHAPIRO: 1999.

8 COMMISSIONER HARRIS: 1999. Well, it seems like  
9 ten years ago. But saying that that's what should happen is  
10 that the horsemen and the tracks should get together and do  
11 it. But that hasn't happened.

12 So I mean, I agree that less government's better,  
13 but at times there is a reason to intervene.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,  
15 there's a question. Any additional comment? No, I'll call  
16 for the question.

17 All those in favor of the motion?

18 (Ayes.)

19 COMMISSION CHAIRPERSON SHAPIRO: All right,  
20 opposed?

21 Okay, the motion passes.

22 COMMISSIONER HARRIS: What were the votes?

23 COMMISSION CHAIRPERSON SHAPIRO: The votes were  
24 five to one in favor.

25 Given the vote that just took place, I don't

1 believe we need to move forward with Item Number eight on  
2 the agenda. Therefore, we will go to -- wait a minute,  
3 before we do that, I'm assuming now, staff, we need to give  
4 time for this rule to all the participants. And  
5 accordingly, if we're now going to enforce this rule, I  
6 believe that we should look to make sure that we put out  
7 notices to the back sides, and everybody is aware of it.

8 I also would like to bring this matter back for  
9 consideration to be applied to quarter horse racing. And,  
10 therefore, I would ask that at the next meeting we consider  
11 adoption of an identical rule for quarter horse racing.

12 DEPUTY ATTORNEY GENERAL KNIGHT: Mr. Chairman, can  
13 I make a suggestion? I'm sure this is what you're going to  
14 do, but my suggestion would be that you communicate and now  
15 enforce the rule in the same way that you communicated the  
16 fact that there was a temporary suspension of enforcement.  
17 However that was done, you need to do it the same way.

18 COMMISSION CHAIRPERSON SHAPIRO: That's fine.  
19 That's a good suggestion, we should do it. But let's also  
20 make sure that it's generally known and we give the horsemen  
21 time to understand it, and let's do it properly.

22 COMMISSIONER HARRIS: It seems like it should be  
23 reasonable, ten days or something, where somebody doesn't  
24 bring a horse over this afternoon and get scratched.

25 COMMISSION CHAIRPERSON SHAPIRO: Right.

1 EXECUTIVE DIRECTOR FERMIN: Like last time what we  
2 did is we gave enough time so that there was plenty of time  
3 for horses to have been reshod.

4 COMMISSION CHAIRPERSON SHAPIRO: Right.

5 EXECUTIVE DIRECTOR FERMIN: And even if they had  
6 just be shod, that they would -- the cycle would be coming  
7 up.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, let's see  
9 what we did last time, when we talked about we were going to  
10 enforce it. Why don't you come up with a plan so that there  
11 is reasonable and sufficient time to -- we don't want to put  
12 anybody in a bad spot, that's not the intent.

13 And then at the next meeting, if you will, I'd  
14 like to have discussion. Commissioner Andreini supports it,  
15 so let's see if we can't get the same thing done for quarter  
16 horse racing.

17 EQUINE MEDICAL DIRECTOR ARTHUR: Mr. Chairman, I'd  
18 like to suggest that the simplest way to do this would be  
19 that the next meets that start, that we don't try to do this  
20 in the middle of the stream at Santa Anita, because we'd  
21 only be doing it for the last three weeks. That the next  
22 meet, both north and south, is when we start implementing  
23 this, and it would give me time to get everybody on board as  
24 to how the measurements would work and those sorts of  
25 things.

1 COMMISSION CHAIRPERSON SHAPIRO: That's fine.

2 COMMISSIONER HARRIS: I hate to wait. I mean,  
3 we're talking about waiting until April or so, then. This  
4 is February.

5 DEPUTY ATTORNEY GENERAL KNIGHT: We're going to be  
6 waiting -- even if we wait for horses to be shod, we're  
7 waiting until the end of March anyway, right?

8 COMMISSIONER HARRIS: Well, it's a safety issue  
9 here, I can't just see a safety issue that we wait -- I  
10 mean, I could say some --

11 EQUINE MEDICAL DIRECTOR ARTHUR: It's been ten  
12 years, but if we can get it done sooner we will, then.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, let's move  
14 on and see what staff comes up with, and we can always  
15 revisit that.

16 Okay, Item Number 9. Jackie?

17 STAFF SERVICES MANAGER WAGNER: Item Number 9 .  
18 Jackie Wagner, CHRB staff.

19 As you know, there are a number of agreements that  
20 need to be in place prior to the commencement of a race  
21 meeting. And while it doesn't happen all the time, it's not  
22 unusual for parties to be in negotiations beyond the time  
23 that they submit their application to us to conduct a race  
24 meeting, or even after the race meeting has begun.

25 While in most cases the majority of negotiations

1 are successfully concluded and there may be occasions where  
2 controversies may come up that could affect the meeting.

3 As a result of that, the proposed addition of Rule  
4 1414.5, which is resolutions of disputes relating to  
5 agreements, it will allow the parties to provide the Board  
6 with written notification in the case of a dispute.

7 Upon notification, the Board will be able to  
8 impose a cooling off period of up to 15 days, during which  
9 time the allegations will be investigation and, if it is  
10 deemed necessary, the alleged matters may be heard by the  
11 Board.

12 After the investigation or hearing the matter, the  
13 Board at that time may make recommendations to the parties.

14 For the purpose of Rule 1440.5,, the agreements  
15 necessary for the conduct of a horse racing meeting may  
16 include, and they're not limited to these, the advance  
17 deposit wagering agreement, simulcast wagering agreements,  
18 and horsemen's agreements.

19 And this item is presented for discussion and  
20 action.

21 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I was  
22 the one that asked that this item be put on the agenda. It  
23 seems that all too often what we find is that the Board  
24 believes it's approved a license application, we believe  
25 everything's in order, and then lo and behold there's some

1 issue that comes up between parties that could affect the  
2 performance, or the conduct of that race meeting.

3           Particularly, this has happened at the summer  
4 Hollywood Park meeting. I believe there was some form of a  
5 dispute between the horsemen and the ADW provider. I  
6 believe that -- I know prior to the commencement of the  
7 Santa Anita meeting there was disagreement or dispute  
8 between an ADW provider and the track.

9           And we sit here and approve a license application  
10 and believe that everything's in order and there's not going  
11 to be any problem.

12           So what I would like to see is, so that I don't  
13 have to spend Christmas Eve in these last-minute discussions  
14 anymore, and that nobody's disadvantaged, and our fans  
15 aren't disadvantaged, that there is some dispute resolution  
16 mechanism that would allow that there's a cooling off period  
17 for anything that could affect or be different than what we  
18 believed when the application that we approved is in front  
19 of us, where the parties would not be able to take any  
20 action that's detrimental to any -- to the race meeting,  
21 whatsoever, before it could be heard before this Board.

22           The reason for the 15 days is because we have to  
23 give a ten-day notice, and so this would give us sufficient  
24 time to put out a notice.

25           I think this is something that we just need to

1 look to figure out how to do.

2 COMMISSIONER HARRIS: I'm not clear. I mean, I  
3 think I'm on the same page as far as getting it done, I'm  
4 just not clear on the terminology of a cooling off period.  
5 Is that really a cooling off period or a -- I mean, I guess  
6 we need the notice and all that, but it seems like -- I  
7 don't know if the cooling off period best describes what  
8 we're trying to do.

9 And we talk about investigate the allegations.  
10 These aren't so much allegations. What you've got is a  
11 dispute of one party wants to pay X and one party wants to  
12 pay Y, and that needs to get arbitrated, usually.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, again, it  
14 may be something that isn't even just monetary, okay. I  
15 don't care if we call it cooling off. If you want to call  
16 it a stand still, that's fine.

17 COMMISSIONER HARRIS: Yeah, it's more of a stand  
18 still agreement, I guess.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay. I'm simply  
20 trying to find a mechanism that says that the day before XYZ  
21 race meet's about to open, that there's something from one  
22 of the ADW providers that is in the -- pertinent to the  
23 Interstate Horse Racing Act, which we don't oversee, but  
24 would have a detrimental effect on our fans, on the  
25 business.

1 I don't want to see that somebody can come in and  
2 cause that there is a problem that we didn't anticipate when  
3 we approved the license application.

4 And unfortunately, and I' not siding with any  
5 side, it's happening very often. And I think we have to  
6 have an agreement among everybody, okay, when you presented  
7 the license application we thought that YouBet was going to  
8 be there, TVG was going to be there, and XPressBet was going  
9 to be there.

10 But there's some dispute between TVG and YouBet.  
11 Stop. You guys can't withhold the signals or something  
12 between each other, that's what was presented to us, and  
13 there has to be a form for us to hear it, to try to resolve  
14 it.

15 COMMISSIONER HARRIS: Yeah, I think you need a  
16 stand still agreement, but you've got to clarify what you  
17 revert back to, and you revert back to whatever the previous  
18 agreement was or what are we standing still on.

19 COMMISSION CHAIRPERSON SHAPIRO: Well, I think  
20 what ultimately we need to do, and I turn to Derry Knight  
21 here, is I don't know if we have to get law or we can put  
22 this in our rules to where we could actually arbitrate a  
23 dispute.

24 In the past, I believe you've taken the position  
25 that if it's a contractual matter over rates, we don't have

1 jurisdiction to hear that; is that correct?

2 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, I think  
3 you're kind of talking about a couple things. I think the  
4 idea of the Board entertaining a dispute and trying to --  
5 and making a recommendation, that's one thing. You're kind  
6 of moving -- the language of cooling off here, I agree, the  
7 cooling off period doesn't revert back to anything. I mean,  
8 a cooling off period just means a cooling off period, in my  
9 mind. But, obviously, you need a definition there.

10 But you do have to be careful where you go with  
11 this because without a statute, you know, it raises  
12 questions about the Board's ability to just decide any issue  
13 that comes before them that's really a private dispute. I  
14 mean, without a statute, I don't know where you get that  
15 authority.

16 COMMISSIONER HARRIS: I think the issue, though,  
17 is when we approve a license fee application we are assured  
18 that all of these things are in place. And if, in fact,  
19 that was an assurance that wasn't backed by fact, we have to  
20 do something.

21 COMMISSION CHAIRPERSON SHAPIRO: See, we think  
22 when we're approving them, great, everything's in order.  
23 But then we find out that there's something that may not be  
24 part of our jurisdiction but is going to have a major effect  
25 on that race meeting, and that wasn't what we thought.

1           So what I'm trying to do is say, look, are all  
2 agreements of any type, size, nature in place so that when  
3 we're looking at a racing license application, we know what  
4 we're getting.

5           Now, if they're not in order, we want to know  
6 that. We want to be able to either force the parties to  
7 binding arbitration, and not in front of us, have them agree  
8 as part of their license application that it will be as  
9 presented, otherwise, if there is a dispute, they'll take it  
10 to binding arbitration, they'll litigate it. I don't care  
11 how it's resolved.

12           I don't want the race meeting, and the fans, and  
13 our business affected. If we're not the party to hear it,  
14 that's fine. But don't let it interrupt what we thought we  
15 were approving, and that's what happens.

16           DEPUTY ATTORNEY GENERAL KNIGHT: I understand. I  
17 mean, I know what the problem is.

18           COMMISSION CHAIRPERSON SHAPIRO: So you tell us,  
19 then, how do we get there.

20           DEPUTY ATTORNEY GENERAL KNIGHT: I'm not sure this  
21 is the place for me to give you that advice, but I think  
22 this is an area where you may need some legislation because  
23 you're trying -- it seems to me what you're suggesting here  
24 is you would be resolving -- even a stand still agreement is  
25 a form of resolution of a dispute and, thus, it's an area

1 where you have that discretion. You may or may not have the  
2 authority to do that, unfortunately.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, could we  
4 make, as a condition to our licensure, that the race meet  
5 will be as presented in the license application and any  
6 disputes that come before -- that take place, that could  
7 affect that, they will agree to handle either outside of the  
8 Board, but continue the race meet in the same fashion, and  
9 they can resolve it separate and apart from us, but we don't  
10 want that race meeting to be negatively affected. That's  
11 what we approved.

12 Could we not put in our license application are  
13 you -- do you agree that any disputes that would alter the  
14 race meet as presented herein will be arbitrated to a third  
15 party, will be litigated so that it doesn't disrupt our  
16 business.

17 That's all I want to do. We don't have to hear  
18 it.

19 DEPUTY ATTORNEY GENERAL KNIGHT: Well, you know,  
20 that's a good question. I mean, you have a strike. I mean,  
21 there's so many things that can happen.

22 COMMISSION CHAIRPERSON SHAPIRO: I don't want them  
23 to strike.

24 DEPUTY ATTORNEY GENERAL KNIGHT: Well, I  
25 understand that. But what I'm trying to get at is this is a

1 big issue and I certainly am not in a position to answer  
2 that question, sitting here, publicly.

3 COMMISSIONER MORETTI: Would it be possible for  
4 you to look into the viability of this and what is necessary  
5 to implement? Or you understand the core that Mr. Shapiro's  
6 trying to get at, so can we look into what might be  
7 necessary to find out if we have the ability or not?

8 DEPUTY ATTORNEY GENERAL KNIGHT: Sure we can look  
9 into the issue. But I think my own sense is that you want  
10 to narrow it down a little bit. Because to give yourself  
11 the -- or to give anybody the authority to decide any  
12 dispute that arises between any of the multiple parties to  
13 these racing association meets is really -- you know, that's  
14 a very broad piece of authority you're trying to give  
15 somebody.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, again, we  
17 get a race meeting license application. We talk about what  
18 are you going to do to promote it, how are you going to  
19 advertise it, you know, all this stuff. Then we find out  
20 two days before the race meet opens that, oh, gee, there's a  
21 dispute between an ADW provider and a race track. And that  
22 ADW provider says, you know, we're not going to take your  
23 signal.

24 Now, when the license application goes before us,  
25 we were told agreements are in place, they're going to take

1 the signal.

2 Now, if that ADW provider doesn't take that  
3 signal, theoretically it could be hundreds of thousands of  
4 dollars of lost wagering and thousands of fans who are no  
5 longer able to see a product of California racing. That's  
6 unfair to the business, it's unfair to the horsemen, it's  
7 unfair to the owners, and it's unfair to what we approved.

8 All I'm saying is, as a condition to our license  
9 have them agree that if there is a dispute, they will  
10 continue to take the signal, to do what they would have  
11 done. They can go solve it outside, but don't disrupt the  
12 race meeting.

13 Isn't that -- I mean, why can't we impose that?

14 DEPUTY ATTORNEY GENERAL KNIGHT: Well, you can  
15 impose anything you want --

16 COMMISSION CHAIRPERSON SHAPIRO: Great.

17 DEPUTY ATTORNEY GENERAL KNIGHT: -- but whether  
18 you can enforce it is another matter. I mean, I was upset  
19 when the grocery stores went on strike and I couldn't go in  
20 my favorite grocery store but, you know, I don't have the  
21 authority to -- you know, the people, the Consumer Affairs,  
22 or whoever licenses the grocery stores doesn't have the  
23 authority to condition their continuing to operate when  
24 there's some other problem they're having in their business  
25 arrangements.

1           So I mean, I can't answer that and I certainly  
2 don't want to debate that here in public. I'm here to try  
3 to give you legal advice and this is obviously more of a  
4 policy issue than a legal one. But it raises huge issues in  
5 terms of how you --

6           COMMISSION CHAIRPERSON SHAPIRO: Well, they are  
7 huge issues and, unfortunately, they keep reoccurring,  
8 almost before every meet.

9           DEPUTY ATTORNEY GENERAL KNIGHT: Yeah.

10          COMMISSIONER HARRIS: We may have to narrow the  
11 issues because, I mean, I don't think we want to get into  
12 labor issues on this.

13          But as I see it, the main issues that are really  
14 frustrating are the ADW issues and, on some occasions, the  
15 horsemen's agreement issues. There just needs to be some  
16 way, if there's an impasse, it gets resolved.

17          COMMISSION CHAIRPERSON SHAPIRO: That's right,  
18 that the meet goes on and the dispute can be told, can  
19 be -- you know, but the meet will go on and our fans will  
20 not be disenfranchised.

21          MR. COUTO: Drew Couto, Thoroughbred Owners of  
22 California. I appreciate your concerns, I have a few points  
23 to raise here.

24          Number one, I think this rule that you're  
25 proposing is unnecessary because with regard to horsemen's

1 agreements you have existing rule 2043, which is entitled,  
2 "Adjudication of Controversies Relating to Agreements" and  
3 addresses specifically this issue. Any contractual  
4 provision between a racing association and a horseman's  
5 organization, there is a process by which the Horse Racing  
6 Board, first the stewards would take some action to resolve  
7 that dispute."

8 That's Rule 2043. So I think this Rule 1414.5 is  
9 redundant, at least with regard to horsemen's agreements.

10 Number two, with regard to the ADW issues, the ADW  
11 issues, disputes are a function of a poorly drafted statute  
12 relating to ADW, not to the -- to disputes between horsemen,  
13 race tracks, or ADW companies. But rather, it was a great  
14 attempt, without really having a full understanding of what  
15 was there. We did our best, as an industry, to deal with  
16 that law, given the way it was written and, hopefully, we're  
17 trying to improve it going forward.

18 Thirdly, I would really caution this Board from  
19 trying to find a mechanism to deny horsemen their rights  
20 under federal law. And I think your cooling off period and  
21 your effort to sort of decide ADW issues, or simulcast  
22 issues that are based on federal law would be an  
23 inappropriate extension of jurisdiction by the Horse Racing  
24 Board.

25 I would point to the current litigation in Ohio,

1 in which the horse racing board there tried to adjudicate a  
2 controversy between horsemen and it's ended up in a federal  
3 case, in which I know for a fact that the Ohio Racing  
4 Commission wants out of because they recognize the supremacy  
5 clause will give the federal law actually -- the federal law  
6 will be upheld over the state law. And as a matter of  
7 preemption, that state statute is not going to be deemed  
8 valid. And I know that -- again, I know as a fact that they  
9 want out. In fact, the race track's in the same position.

10 And so I would caution, with regard to any issue  
11 that's related to the Interstate Horse Racing Act, it is so  
12 fundamental to horsemen, and I think to race tracks, that  
13 it's not an area that the Horse Racing Board should really  
14 get into.

15 But going back, you currently do have jurisdiction  
16 over the contract, under 2043, and you also, as I said, have  
17 an ADW statute that we're hopefully going to improve, and  
18 that should resolve quite a bit of the dispute or the issues  
19 that have been contentious in the past.

20 COMMISSION CHAIRPERSON SHAPIRO: Yes, but Drew, as  
21 you know, 2043, if you look at it, the Board shall  
22 immediately investigate the allegation, okay, refer the  
23 complaint to the Board of Stewards. It has a process. By  
24 the time we can do that, we may have -- there could be this  
25 dispute and racing could be negatively affected by the time

1 we could get around to do it.

2 And what I'm trying to do is to let the status quo  
3 continue so that our fans, and your owners, and the horsemen  
4 aren't negatively impacted while there is this dispute.

5 And while I understand what you're saying about  
6 the Interstate Horse Racing Act, and I don't think that  
7 we're trying to interfere with the Interstate Horse Racing  
8 Act, what we -- we need to find some way so that it doesn't  
9 interrupt our business.

10 And as you know all too well, because  
11 unfortunately you were involved in it, where an ADW provider  
12 wasn't going to take a signal, and what would that have done  
13 to purses, what would that do to our fans?

14 MR. COUTO: Unfortunately, Chairman Shapiro,  
15 there's nothing I think the Board can do, or any party can  
16 do, if a party is intent on fabricating a dispute. I think  
17 there's nothing that we can do about that. But let me --

18 COMMISSION CHAIRPERSON SHAPIRO: Why can't it be a  
19 condition of license that they agree that they will not  
20 interrupt the acceptance of a signal or interfere with what  
21 was presented -- you know, you guys turn in a racing -- you  
22 don't turn one in. We get a racing license application, you  
23 have a horsemen's agreement, that within those agreements  
24 the parties agree that for the race meeting that's in the  
25 batter's box nothing's going to stop what goes on there.

1           And if there's a dispute, the meet will go on, the  
2 dispute will be adjudicated in some manner.

3           MR. COUTO: Because that condition will violate my  
4 federal rights as an owner, and as an owner's organization.  
5 If you say that I, as a condition of entering into this  
6 contract, may waive my rights under the Interstate Horse  
7 Racing Act for the current meet, I think I would challenge  
8 that, I would say you don't have the authority to do that.

9           COMMISSION CHAIRPERSON SHAPIRO: I'm no asking you  
10 to waive your rights, I'm saying --

11          MR. COUTO: Well, you are. You're saying that  
12 your condition that I won't raise any dispute during the  
13 course of the meet.

14          COMMISSION CHAIRPERSON SHAPIRO: No. No, I'm  
15 saying you may raise it, but you won't withhold your  
16 agreement. And whether the money is escrowed, whether the  
17 money is tolled, whatever it is, so that at least the issue  
18 can be resolved and the meet isn't interfered with. Isn't  
19 that in your best interest of your owners?

20          MR. COUTO: Well, as I think we just said  
21 recently, with regard to Ohio, not every question is a  
22 pecuniary one. There are matters of principle, which  
23 sometimes you have to put ahead of the personal financial  
24 gain or the financial gain of one constituency the  
25 fundamental principle that needs to be protected.

1           And I think we can't anticipate when circumstances  
2 will arise when we have to exercise our rights under federal  
3 law to protect those principles.

4           We have, in all the years past that I can think  
5 of, we've withheld our consent four times. So I think we  
6 use it pretty judiciously.

7           We have had a series of ADW disputes, as I said,  
8 that are due to fundamental flaws in the rule.

9           And I think you're not addressing the exact  
10 problem, the problem was the ADW rule, not the ability of  
11 the meet to go forward.

12           Secondly, I go back and I look at 2043 and I think  
13 this provides you a quicker means to resolve a dispute than  
14 the 1414.5, which has a 15-day cooling off period, et  
15 cetera, et cetera.

16           This says that if there is a dispute that is  
17 covered by contract and by State law, you have the right to  
18 investigate immediately and refer it to the Board of  
19 Stewards and they can take action right then and there. I  
20 think that's quicker than having a 15-day cooling off  
21 period. And a 15-day cooling off period may mean that one  
22 party loses all of its rights, or leverage, or is harmed in  
23 an irreparable way that they can probably go seek relief  
24 from the court saying, you know, this is leading to  
25 irreparable injury and I have no recourse but to get an

1 injunction. I think it's going to cause litigation, not  
2 solve it.

3 So with regard to horsemen's agreements, at least,  
4 I think you have 2043 in place and that's perfectly valid.

5 With regard to the other issues, I'd really -- you  
6 know, I'd ask you to consult with your counsel and determine  
7 to what extent this would violate rights granted under  
8 federal law. I mean, my initial reading of this is it's a  
9 dangerous precedent and a slope that you don't want to head  
10 down.

11 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

12 COMMISSIONER HARRIS: Just for clarification, on  
13 the Ohio case, would that be covered under 2043 or is that  
14 really -- I mean, do we actually have a dispute there or  
15 it's just -- I mean, is anyone on the other side of that  
16 dispute?

17 MR. COUTO: No, there's no dispute. We withheld  
18 our consent under the Interstate Horse Racing Act, notified  
19 our track partners, and they understood.

20 COMMISSIONER HARRIS: So actually, in that case,  
21 there's really not a dispute anyway.

22 MR. COUTO: Correct. Had a partner then said to  
23 us, well, we don't think you should do that, under current  
24 federal law it doesn't matter what they think or not think,  
25 we're granted that right by the Interstate Horse Racing Act.

1 It's an absolute right to our discretion, we don't have to  
2 justify it, we can do that.

3 But the whole system has worked well because we're  
4 very concerned about the success of our race track partners  
5 and us. Every time we cut off a signal, we recognize it  
6 reduces revenues to both of us, and so we don't do that on a  
7 willy-nilly basis, we don't do that without truly a valid  
8 reason to do that.

9 And in fact, as you know, despite our arguments  
10 with the ADW companies, we never cut them off last year. We  
11 tried to resolve it in front of the Horse Racing Board and  
12 let this go. So I think we've acted responsibly  
13 despite -- you know, it was an ADW that said we're not going  
14 to take it, not that we're not going to send it. So anyway,  
15 thank you.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, other  
17 comments? Cliff Goodrich.

18 MR. GOODRICH: This was one of my favorite topics  
19 in my old Santa Anita days, so maybe I can attempt to narrow  
20 the scope and at least give you an opinion based on  
21 experience.

22 For as long as I can remember, the license  
23 application has talked about those items necessary to  
24 conduct the race meeting. This Board seems to be focused on  
25 things that are ideal to conduct the race meeting, and

1 that's not what the license application says.

2 In truth, you better have a photofinish operator,  
3 with the proper equipment. You better have totalizator  
4 equipment in place. But practically speaking, other than  
5 those two items, there isn't a lot else you need to conduct  
6 a race meeting.

7 Now, these other things, in the ideal world, would  
8 you like an agreement with labor, would you like a  
9 horsemen's agreement, do you want your ADW contracts in  
10 place? Absolutely. Those don't impact the conduct of the  
11 meeting, they impact the economics of the meeting.

12 So maybe you ought to be thinking of does the  
13 license application language need to be changed, is there  
14 statute to support such a change. Because it seems to me  
15 you're talking about an ideal world, rather than a necessary  
16 world, so it probably takes an interpretation of what really  
17 is necessary to conduct a race meeting. And if the  
18 association meets that obligation, it sounds like things are  
19 in order, other than everybody's right to do what they might  
20 in an open market.

21 And the experience over the years, unfortunately,  
22 as the Board tries to adjudicate these things normally, they  
23 don't work, you let the market run its course and these  
24 things will get resolved. But a lot of them are not  
25 necessary to conduct the race meeting. Thank you.

1 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

2 Richard Castro.

3 MR. CASTRO: Richard Castro, representing the  
4 Pari-Mutuel Employees Guild Local 280.

5 I just want a clarification, are you also throwing  
6 labor contracts in this clause, our disputes? Hopefully,  
7 someday we will have a contract with an ADW company.

8 COMMISSION CHAIRPERSON SHAPIRO: No, it wasn't  
9 going to -- yeah, I think you have your own dispute  
10 resolution in your own agreements, don't you?

11 MR. CASTRO: Yes, we do.

12 COMMISSION CHAIRPERSON SHAPIRO: No, we weren't  
13 trying to --

14 MR. CASTRO: Thank you very much, I sincerely  
15 appreciate that.

16 COMMISSION CHAIRPERSON SHAPIRO: Thanks.

17 Jerry Jamgotchian.

18 MR. JAMGOTCHIAN: Mr. Chairman, it seems to me  
19 just another issue of the CHRB Board meddling with the  
20 rights, now, of not the trainers or the owners, but now the  
21 associations. Currently, this is a private dispute.

22 But I think I have an answer for you that might  
23 help you along. I do agree that this would certainly be the  
24 obvious litigation trigger that you seem to not want to see  
25 if, in fact, the administrative remedies are exhausted after

1 the stewards make a ruling under 2043, because then they're  
2 free to go to the courts directly, like I have, and then you  
3 have no control over it at all.

4           Additionally, it seems like automatically an  
5 injunction would be ordered by the judge, so you wouldn't  
6 get what you would want, in that you would get harmony  
7 between an ADW provider and anybody else. So it's clearly  
8 meddling.

9           In fact, it might even -- this isn't really true,  
10 but you could actually improve the situation where more  
11 people might come to the track. I say that facetiously,  
12 obviously.

13           The problem, I think, is that the ADW contract and  
14 all the other contracts that are part of the application  
15 need to be addressed by staff. If your staff isn't  
16 providing you with a complete package, then you either, A,  
17 need to have the package done earlier, or you need to get  
18 more competent staff.

19           Because I agree, it's pretty unfortunate for you  
20 guys to get a package that's incomplete. But whose fault is  
21 it? It's staff's fault. You can't blame the ADW provider,  
22 you can't blame the associations, you can blame your staff.  
23 Because if your staff doesn't know what they're looking for,  
24 if they don't know the basis of the application, they're the  
25 ones that are letting you down, not the ADW provider and the

1 association.

2           So why don't you confirm signed agreements under  
3 the declaration -- under the penalty of perjury, declaration  
4 under penalty of perjury.

5           The problem is within your house. So correct the  
6 problems in your house and then see if you can work with the  
7 problems in the private industry, who are trying to make  
8 their business profitable.

9           So maybe you should consider starting the  
10 application process a lot earlier, force these guys to make  
11 deals in advance and submit a complete package to you. If  
12 not, either your staff, either A, they're incapable or, B,  
13 they don't understand the application. If they can't  
14 provide you a complete application, then you need to get  
15 some competent staff to do that. Thank you.

16           COMMISSION CHAIRPERSON SHAPIRO: Okay, I think I  
17 got everybody.

18           Well, again, I don't know if anybody else wants  
19 to -- by the way, I think it's still, to me, a troubling  
20 issue, that I'd say -- you know, I can think of three or  
21 four times where right before a meet was going to open there  
22 was some big hiccup that could have affected the meet.

23           And I appreciate what Cliff said, he's right,  
24 that -- I think there are a few other things that are vital,  
25 but the point is well taken.

1           But, you know, it gets to the point of taking care  
2 of our fans. You know, think of what we would have done if  
3 YouBet had not taken the Santa Anita signal the loss of  
4 revenue to the purses, to the horsemen, and the fans that  
5 would have been cut off, and it's just troubling to me. I  
6 don't know the solution, but I was trying to find one. So  
7 perhaps we can continue to explore this, unless anybody has  
8 a better idea.

9           COMMISSIONER HARRIS: No, I think we need to look  
10 at it, and I agree in a way that we don't want to meddle.  
11 But there are so many third-party impacts that if we don't  
12 meddle somewhat, racing might suffer.

13           But I think a lot of times we just want to get the  
14 parties together and get the darn thing done, where people  
15 wait to the last minute and then it's some big crisis.

16           COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,  
17 Derry, if you would perhaps just look at it and see or  
18 advise us of what we can and can't do and, you know, maybe  
19 we could get legislation that allows for us to just protect  
20 that a meet is not disadvantaged because of a contractual  
21 dispute.

22           DEPUTY ATTORNEY GENERAL KNIGHT: Just so that I'm  
23 clear, you're concerned about the economic disputes, as well  
24 as anything, I gather. Because all the ones that I've seen  
25 were economic disputes.

1           COMMISSION CHAIRPERSON SHAPIRO: Yeah, they're  
2 economic disputes between --

3           DEPUTY ATTORNEY GENERAL KNIGHT: Between third  
4 parties.

5           COMMISSION CHAIRPERSON SHAPIRO: Between third  
6 parties. And I'm not trying to get in the middle of  
7 deciding it. I'm simply saying that if we approve a license  
8 application then just, to me, everybody's agreeing these are  
9 the terms, and I just want the meet to go forward based on  
10 those terms.

11           If there ends up being a dispute, kind of like let  
12 the meet go on and take it outside and figure it out. But  
13 that's what we think we approve. At least that's what I  
14 think I approve.

15           COMMISSIONER HARRIS: Yeah, if they don't have an  
16 ADW provider on board, we want to know that when we approve  
17 it. I don't know if we can do anything about it or not, but  
18 it's just bad if it's an application that doesn't really  
19 reflect what they have.

20           COMMISSION CHAIRPERSON SHAPIRO: Right. I mean,  
21 we're told the agreements are in place. But the agreement's  
22 in place, but there's another provision that's outside of  
23 us, that could affect that, which we have no jurisdiction  
24 on, Interstate Horse Racing Act, and which supersedes us,  
25 and so they may not carry the signal.

1           Well, maybe the day will come where we approve  
2 certain ADW companies and not another one, and we've  
3 precluded somebody that would have taken the signal. I  
4 don't know. I'm just trying to maximize the benefit to  
5 California racing and trying to understand what we can do.

6           MR. COUTO: Chairman Shapiro, Drew Couto. I have  
7 to dispute your facts and the way in which you're putting  
8 this.

9           Last year, if you'll recall, with regard to --

10          COMMISSION CHAIRPERSON SHAPIRO: I'm not talking  
11 about the facts, I'm talking about theoretical situations.  
12 I've tried very hard not to point a finger or even use  
13 names.

14          MR. COUTO: Okay, I recognize that. But let's  
15 sort of go back through last year's problems, and not use  
16 names, but recognize we had a dispute over ADW, with one ADW  
17 provider, which was brought to the attention of the Horse  
18 Racing Board in December.

19          We had a hearing on that in January and February,  
20 we had a hearing on it in August and, finally, in October.  
21 And the problem was there was no resolution of the dispute,  
22 despite the fact it was in front of the Horse Racing Board  
23 for ten months, and it affected every meet at which that ADW  
24 provider was associated between the time of December and  
25 October.

1           The other two ADW providers all, as in years past,  
2 had executed a HUB fee agreement the November before the  
3 start of the year, there were no issues there.

4           So again, I go back to saying the genesis of this  
5 issue, because as I sit here I'm trying to think, other than  
6 some issues between race track management and the horsemen,  
7 that were resolved relatively easily, there was no issue  
8 with regard to simulcast last year, that I can recall. I  
9 may be mistaken, overlooking something. And the only issue  
10 that was problematic was the ADW issue between one entity,  
11 and us, that was in front of the Board for ten months.

12           COMMISSION CHAIRPERSON SHAPIRO: Okay. I spent  
13 December 24th all day, in an office, which you're aware of,  
14 over a dispute, where it would have precluded an ADW  
15 provider --

16           MR. COUTO: As between one race track and an ADW  
17 provider.

18           COMMISSION CHAIRPERSON SHAPIRO: That's correct.

19           MR. COUTO: Okay.

20           COMMISSION CHAIRPERSON SHAPIRO: Okay. Where, and  
21 I don't think there's any problem in saying it, Santa  
22 Anita's signal would not have been carried by YouBet.

23           Now, when this Board approved Santa Anita's  
24 license, we thought, great, YouBet's on board, and HRTV's on  
25 board, and the Horsemen are on board.

1           Then you get this phone call, YouBet is not taking  
2 Santa Anita's signal. Now, I have to assume YouBet probably  
3 carries a couple hundred thousand dollars a day in handle,  
4 and that would have meant an immediate impact to the purses.  
5 It would have meant an immediate impact to those fans that  
6 were anxious to get on YouBet, to wager on Santa Anita, hey,  
7 what happened, no Santa Anita.

8           Now, we'd already failed at getting their TV  
9 signal and it was like, you know, what else can go wrong  
10 here.

11           I resent that on December 24th, when they're  
12 opening on December 26th, there's that issue. And I'm  
13 trying to say, wait a minute, let the show go, fight about  
14 it after the meet, fight earlier, but don't hold our fans  
15 and our business hostage. It's that simple.

16           MR. COUTO: I know, I sort of agree with you that  
17 it's a problem but, again, the problem was exclusivity of  
18 the ADW signal, which has been an issue in front of the  
19 Horse Racing Board since 2002, and the reality was we had a  
20 flawed statute that didn't give anybody good guidance, and  
21 the Horse Racing Board never took a position on the issue of  
22 exclusivity, it was a matter of contract.

23           It's unfortunate and I agree with you that you had  
24 to be there on the 24th, and it's unfortunate that Santa  
25 Anita and YouBet didn't have an agreement, as they had in

1 the four prior years, or three prior years.

2 But I'm not certain that doing what you are saying  
3 is going to address that, it is simply going to limit the  
4 rights of the parties and I would caution you against doing  
5 that.

6 And so if the rationale for that is all of these  
7 ADW problems, it's the ADW statute, not the mechanism to  
8 resolve these things.

9 COMMISSION CHAIRPERSON SHAPIRO: But if -- let's  
10 use that example. If Santa Anita and YouBet both said,  
11 look, we have -- we presented that license application, we  
12 agreed. All right, we're taking your signal, but we object.  
13 Why can't there be a mechanism that either escrow's -- the  
14 objected amount's put in escrow, they can go litigate it,  
15 fight over it, arbitrate it, they can do whatever they want.  
16 But shouldn't we be protecting our fans and our horsemen?

17 MR. COUTO: You know, we do protect our horsemen  
18 and in particular owners all the time, and the fans. We're  
19 one of the few organizations who does stand up and speak on  
20 behalf of the fans. But the problem is that every ADW wager  
21 is a wager under the Interstate Horse Racing Act, because of  
22 the fact that all of these companies are hubbed out of  
23 state.

24 So if Santa Anita chose not to send the signal to  
25 YouBet, that's their right under the Interstate Horse Racing

1 Act not to do that. It's the same as our right under the  
2 Interstate Horse Racing Act not to do that. Even though the  
3 wager will be received in the State of California, or the  
4 players in the State of California, it's transmitted to  
5 Oregon, handled in Oregon, and facilitated.

6 COMMISSION CHAIRPERSON SHAPIRO: Right, I  
7 understand that.

8 MR. COUTO: So this will not solve that. This  
9 will not -- unless you take away the rights of those  
10 associations under the Interstate Horse Racing Act, this  
11 will not solve that.

12 COMMISSION CHAIRPERSON SHAPIRO: But why can't  
13 they agree, without taking away their rights -- you have  
14 your rights, but you're agreeing, at the time of this  
15 license application being approved, that you will not take  
16 action that would hurt this race meeting. That's all we're  
17 asking for.

18 COMMISSIONER HARRIS: Or you got to let us know.  
19 If they, when they get their license approved, they say,  
20 look, we're not going to have a contract with YouBet, or  
21 whoever, maybe that's a more up front way to do it. But to  
22 say you've got this contract and then you get to the  
23 eleventh hour and you don't have it, that's a problem.

24 COMMISSION CHAIRPERSON SHAPIRO: I mean, that's  
25 where the objection is.

1 MR. COUTO: I think that's a different remedy.  
2 That's them representing to you a fact in their application  
3 that's not, in fact, true. You have recourse at that point.  
4 But I'm not sure you have a remedy to force them or us to do  
5 something during the course of the meet that we're entitled  
6 to do under federal law.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay.

8 COMMISSIONER HARRIS: So just to clarify, because  
9 I know everyone knows that the ADW is coming up for  
10 reauthorization, hopefully, but maybe that particular issue  
11 won't really be that pertinent there, if it's covered more  
12 by the federal law, anyway.

13 But I think racing, hopefully, as a group, needs  
14 to really work on this reauthorization and make sure that  
15 this all gets done and it doesn't get hammered out in the  
16 waning hours of August, in Sacramento.

17 MR. COUTO: Agreed. As I think most of you know,  
18 TOC has submitted a draft for our colleagues, it's a  
19 starting point on that, and I think it has addressed many of  
20 these issues, and we're trying to get a different time frame  
21 so that the HUB agreements, hopefully, are negotiated before  
22 the start of the year. And it would apply to the entire  
23 year, and that's really been the problem.

24 And if it's not in place before the start of the  
25 year, then everybody would be advised of that. We can put a

1 time line that made sense for the Horse Racing Board, so it  
2 didn't have to work on the 24th of January, trying to  
3 resolve this.

4 But, you know, as I said, my colleagues and myself  
5 will be working on that tomorrow, at one o'clock so,  
6 hopefully, we'll get some place.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

8 MR. JAMGOTCHIAN: Chairman Shapiro, I want to say  
9 just -- excuse me, excuse me, go ahead.

10 COMMISSION CHAIRPERSON SHAPIRO: Did you just fill  
11 out a card, Ron, to address on this? Because I know you  
12 were party to what we've been talking about.

13 MR. CHARLES: Ron Charles, MEC.

14 Okay, this is such a complex area. But going back  
15 the last two years, we have been in negotiations right up  
16 until the final day for the last two years, some being so  
17 critical that not only was it the ADW -- was it YouBet that  
18 was going to be shut off, this issue was much more complex  
19 than we were meeting about on December, the day before  
20 Christmas, than of just shutting off YouBet. The shutting  
21 off of YouBet, and we're not getting into all the details,  
22 would have caused us an additional harm that, you know, the  
23 injury to the Santa Anita meet would have been catastrophic,  
24 I can tell you that.

25 The one thing I am hearing up there, and I'm

1 hearing from Drew, and the fact that over the last two  
2 years, on a number of issues, we've had to negotiate this  
3 24-hour sitting down and trying to work things out, it has  
4 been extremely beneficial. And I can tell you there's been  
5 at least three of the Commissioners who have sat in, trying  
6 to help mediate the dispute, which has been tremendously  
7 helpful.

8 In fact, to be honest with you, I don't believe  
9 that the dispute between YouBet and Santa Anita would have  
10 been resolved, had we not had basically someone else step up  
11 and get involved in the dispute, and we were able to work it  
12 out.

13 Is it something that you could actually mandate  
14 and force, along the lines of what Drew was saying? You  
15 know, I don't believe you're in that position to do that.  
16 But I certainly appreciate, the last two years, the help  
17 from the Commissioners, trying to resolve last-minute issues  
18 that come up. And I think it is important that we at least  
19 look at, when there is a dispute, that basically looks at  
20 either stopping racing, or stopping the signal going out to  
21 all of our racing fans, that we try every means possible to  
22 find a solution for the problems that we're being faced. I  
23 mean, it's extremely difficult and sometimes it does take a  
24 mediator.

25 And you know, whether it's a committee from this

1 Board, I'm not sure it has to be the whole Board, but it is  
2 something we could look at where the Board could actually  
3 either have a committee, or we would go to the Board and air  
4 our differences, and allow the Board to hear what the  
5 problems are. I think it's very interesting and sometimes I  
6 think the public and the racing fans would be surprised over  
7 exactly what the details are and the disputes are.

8           So all I'm saying is the last two years it has  
9 been helpful for members of this Board to step in and try to  
10 help work the sides together, and we've actually done that.  
11 If that's possible, then Derry, I don't know what you can  
12 and can't do, but I certainly would encourage there be some  
13 type of additional participation. Because the truth is, we  
14 didn't know this issue was going to happen with YouBet three  
15 days before. I mean, we felt we were -- we had a signed  
16 agreement and that we were prepared to go under the current  
17 terms. And it just wasn't -- it wasn't the facts.

18           DEPUTY ATTORNEY GENERAL KNIGHT: Commissioner?

19           COMMISSION CHAIRPERSON SHAPIRO: Thank you.

20           DEPUTY ATTORNEY GENERAL KNIGHT: Related to that,  
21 what is -- the idea of the Board being involved in mediating  
22 and recommending resolutions, and all that kind of thing,  
23 there's absolutely no problem with that. I don't think  
24 anybody here disputes that.

25           That isn't what you suggested. What you suggested

1 is that the Board has this power to have people stop, and  
2 continue paying pursuant to some agreement that they think  
3 is no longer in effect, or whatever. That's where I have  
4 the problem, I just don't think you can do that, and that's  
5 the advice you're going to get from us. That you can't go  
6 beyond mediating, and mandating resolution of third-party  
7 disputes, and that sort of thing, to require a meet to  
8 continue.

9 COMMISSION CHAIRPERSON SHAPIRO: But can we make -  
10 - when we approve the license, is there a way for us to  
11 protect that three days before his opening he doesn't know  
12 that there's an issue that's going to come out of left field  
13 and jeopardize his meet, and then for us to spend eight  
14 hours, on December 24th, trying to work through very complex  
15 and very difficult issues, which could have impacted the  
16 opening of Santa Anita and hurt the meet. Now, isn't there  
17 something we can put in the license application, where  
18 people say, okay, we're not waiving any of our rights, we're  
19 not giving up any of our positions, but notwithstanding we  
20 will provide these services, if there is a dispute. Can we  
21 not have something in the license application with each of  
22 these people?

23 DEPUTY ATTORNEY GENERAL KNIGHT: Well, obviously,  
24 I'll look into that and we'll give you advice.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,

1 maybe that's how you do it.

2 COMMISSIONER HARRIS: Because it seems like,  
3 obviously, we can mediate. Which is, you know, what you  
4 did, which was for the benefit of the industry. But it's  
5 just tough to demand that something be arbitrated.

6 COMMISSION CHAIRPERSON SHAPIRO: I agree. And I'm  
7 not trying to put us in the role of judging and deciding the  
8 issue, but let's not hurt our business.

9 DEPUTY ATTORNEY GENERAL KNIGHT: Well, you are  
10 though, if you place -- you are, though, if you are  
11 requiring the parties to continue to pay, pursuant to some  
12 agreement, if there's a dispute on it.

13 COMMISSION CHAIRPERSON SHAPIRO: It can be tolled,  
14 it can be escrowed. I'm not trying to award the money, I'm  
15 simply trying to say let it go on, put the money in the  
16 bank, fight over it, but don't hurt the meet.

17 DEPUTY ATTORNEY GENERAL KNIGHT: But is that the  
18 role of the Board, though. I mean, is that --

19 COMMISSION CHAIRPERSON SHAPIRO: Isn't the role of  
20 the Board to protect and enhance the sport? Isn't the role  
21 of the Board to protect the people, the participants.

22 EXECUTIVE DIRECTOR FERMIN: I think we should have  
23 this discussion.

24 DEPUTY ATTORNEY GENERAL KNIGHT: I understand.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, if you'll

1 look into it, let's move on.

2 MR. JAMGOTCHIAN: Mr. Shapiro, I think I have the  
3 answer for you.

4 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
5 we've listened to you, it's time to move on.

6 MR. JAMGOTCHIAN: Wait, wait, you've heard  
7 Mr. Couto three times now, at least.

8 COMMISSION CHAIRPERSON SHAPIRO: You know, Mr.  
9 Couto has been party to the issue. We've heard you, I'm  
10 sorry, I've got to move on.

11 MR. JAMGOTCHIAN: No, I'm sorry, that's not right.

12 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
13 the answer's no.

14 MR. JAMGOTCHIAN: No, that's not right.

15 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry. Item  
16 Number 10 --

17 MR. JAMGOTCHIAN: So you're -- so you're --

18 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
19 we've heard you --

20 MR. JAMGOTCHIAN: You know, Mr. Shapiro --

21 COMMISSION CHAIRPERSON SHAPIRO: -- and we are  
22 moving forward on the agenda. Thank you.

23 MR. JAMGOTCHIAN: Is there a reason why?

24 COMMISSION CHAIRPERSON SHAPIRO: Item Number 10.  
25 Yes.

1 MR. JAMGOTCHIAN: Why is that?

2 COMMISSION CHAIRPERSON SHAPIRO: Because we have  
3 one Commissioner that needs to leave.

4 MR. JAMGOTCHIAN: Yes.

5 COMMISSION CHAIRPERSON SHAPIRO: We have other  
6 issues that we need to get to, we're under time constraints.  
7 Again, I appreciate. We've given you time to comment on  
8 this matter, we're moving forward on this agenda, that's the  
9 Chair's prerogative, thank you.

10 MR. JAMGOTCHIAN: And so your desire is to stop  
11 comment.

12 COMMISSION CHAIRPERSON SHAPIRO: Item Number 10,  
13 report and discussion by the Board on the update from staff  
14 on the status of the Jockey Guild's Health and Welfare  
15 Program.

16 MR. SMITH: Mr. Chairman, Commissioners, Bon  
17 Smith, Assistant Executive Director.

18 Sorry to come before the Board again and say that  
19 I don't have a report or recommendation for you, but have  
20 been, again, receiving significant information from all the  
21 parties to the Jockey's health insurance question. I  
22 believe that subsequent to the last Board meeting it was  
23 clarified that TOC would take lead in facilitating  
24 discussions, and Mr. Couto has had telephonic discussion  
25 with Barry Broad, from the Jockey's Guild, and I hope that

1 they are prepared to meet face to face and discuss the  
2 issues at question.

3 I believe that Mr. Manley, and a representative  
4 from Alliant Insurance Services are here, with evidence of  
5 some specific denials of full kinds of coverage that may  
6 be -- have been proposed for the California jockeys. And  
7 Ron Warren is here today, also, representing the California  
8 jockeys. He has engaged individuals for quotes and has what  
9 he believes is a valid, viable quote from a group called  
10 HealthNet.

11 And I think those individuals all are probably  
12 signed on to speak to the specifics of their issues.

13 For the next Board meeting, regardless of the  
14 outcome, or lack thereof, of progress that any of these  
15 parties make, I will have a written report for the Board,  
16 with some recommendation.

17 In the interim, I'll talk with the Racing Board  
18 from the State of Delaware, to see what their experience has  
19 been, because they had a separate jockey's group obtain a  
20 specific policy for their group, just to see what their  
21 experience has been.

22 I also intend to follow up with the Jockey's Guild  
23 regarding current experience statistics and the status of  
24 their efforts to date.

25 As I pointed out in an e-mail that got circulated

1 among some of the players, as far as I know, to date,  
2 nobody's been denied any service and all of the jockeys,  
3 their dependents, and families have been receiving the  
4 appropriate care, in the interim, while this stuff is still  
5 up in the air.

6 In the report that I'll present in March, I'll  
7 also summarize the outcome of any anticipated agreements  
8 amongst the other parties.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Bon.

10 This matter, the good news is that you're right,  
11 it doesn't appear that anybody is being deprived of any  
12 health insurance, and all of the 106 jockeys, or  
13 thereabouts, are receiving coverage through the self-funded  
14 Jockey's Health Insurance Plan.

15 Notwithstanding that, this agreement, which is an  
16 agreement from, I think it's the uncased refund tickets, of  
17 about a million dollars, is to be administered through the  
18 CHRB, in conjunction with the TOC, and the designated  
19 jockey's representatives, which is the Jockey's Guild.

20 Notwithstanding that, there are a lot of people  
21 running around that have concerns or issues, and it is  
22 important that TOC, and the Guild, and you, as staff, get  
23 together as soon as possible.

24 I know that everyone's got a full plate, and I  
25 know it's difficult to bring everybody together, but it is

1 truly imperative I think, at this point, that those parties  
2 sit down. Because there's just a lot of running around and  
3 there's a quote, there isn't quotes, I've heard from  
4 Delaware. They do have, apparently, a plan in place. Some  
5 people back there are suggesting it will save us a lot of  
6 money -- when I say "us," it will save the jockeys a lot of  
7 money. Other people are saying it's more costly.

8           We don't know, but we need to make sure that the  
9 plan that we have, the self-funded plan, is legal, it is  
10 providing the best services, at the best cost to our  
11 California jockeys, and that the monies that come from  
12 California are not being used to supplement any outside  
13 jurisdiction, since those monies are derived from California  
14 and to be used for California.

15           So with that said, I don't know if the Board has  
16 any other comment.

17           COMMISSIONER HARRIS: I'm not quite clear on the  
18 flow of money, because I know we have this fund that is  
19 earmarked for helping jockeys pay for their health  
20 insurance. Is that being sent to them every month, or every  
21 year, or what?

22           MR. SMITH: A monthly distribution. We took what,  
23 ostensibly, the full amount that will be available for the  
24 year, divide it by 12, and send them a check every month.

25           COMMISSIONER HARRIS: So that -- because at one

1 point we were holding up on those until we clarified that it  
2 was --

3 COMMISSION CHAIRPERSON SHAPIRO: Until there were  
4 audits done. And what we did was we modified this right  
5 after Germanian left. And I believe what we're doing is,  
6 and Bon, you may want to correct me if I'm wrong, but I  
7 think we send 85 percent of the available amount. We  
8 withhold a portion.

9 MR. SMITH: That's the rule, but in practice it's  
10 one-twelfth a cent.

11 COMMISSION CHAIRPERSON SHAPIRO: Say that again?

12 MR. SMITH: The rule says you send 85 percent and  
13 then, depending on the experience, you send the rest. The  
14 evidence from the audits, to date, has indicated that the  
15 experience is higher than that amount, so we have not  
16 withheld.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay. So in  
18 other words, their claims have exceeded the amount that we  
19 have and, therefore, we're sending the full amount. But  
20 that through P-5 and other means that are being checked, we  
21 have verified that the amounts that we're sending are  
22 appropriate and being used appropriately.

23 COMMISSIONER HARRIS: Yeah, the money actually  
24 comes --

25 COMMISSION CHAIRPERSON SHAPIRO: It comes to us.

1           COMMISSIONER HARRIS:  It's uncashed tickets, that  
2 we physically get a check from a given track that has -- you  
3 know, it's past the expiration date or whatever.

4           COMMISSION CHAIRPERSON SHAPIRO:  In the past, we  
5 would collect the money from the tracks, it would be  
6 deposited in an account, and then we would fund the money  
7 out.  And what we did was -- one of the problems that the  
8 Guild was having was there was a timing issue, and they were  
9 being required to basically pull money from other pockets to  
10 keep this funded, because we didn't have to fund until,  
11 let's call it, after the fact.

12           So now we're doing it on an estimated experience  
13 basis, which is allowing the Guild to keep its cash flow in  
14 order.  So we changed that mechanism.

15           COMMISSIONER HARRIS:  Yeah, because as I recall,  
16 it used to be once a year, which I could see would put them  
17 into a bind.

18           COMMISSION CHAIRPERSON SHAPIRO:  Right, it put  
19 them in a bind.  So we modified this a year ago.

20           Okay, thank you, Bon.

21           There are comment cards, unless anybody else on  
22 the Board --

23           COMMISSIONER BIANCO:  I just have one.  We're  
24 worried about us dropping off in the amount of revenue that  
25 we would get, you know, since the ADW has been in effect.  I

1 was wondering, has there been any drop off in the amount of  
2 revenue of uncashed tickets because of all the electronic  
3 technology, today?

4 COMMISSION CHAIRPERSON SHAPIRO: I've only heard,  
5 anecdotally, that the answer is that it is dropping off. I  
6 couldn't tell you what the numbers are but it, A, makes  
7 sense, and that those monies are not -- we're not seeing the  
8 amount of uncashed refunds that we had before.

9 COMMISSIONER BIANCO: So are we going to be  
10 looking for other ways to raise revenue?

11 COMMISSION CHAIRPERSON SHAPIRO: And couple that  
12 with health costs are rising, so the gap is growing in terms  
13 of the problem. I believe that health costs this past year,  
14 and perhaps someone else could testify to it, but I think  
15 that there was like a 16 percent increase for the health  
16 costs.

17 MR. SMITH: From year to year we've tracked the  
18 increase in health costs, because that was one of the  
19 drivers on how much we were able to fund. I think three  
20 years ago it was something like 21 percent. Two years ago,  
21 something like 18 percent. And then the current year,  
22 something like 16 percent. So the health cost curve  
23 definitely has gone up.

24 The unclaimed tickets revenue has very much  
25 flattened and probably is on the decline, and that's why we

1 ended up capping the amount that we would be able to send to  
2 fund the Jockey's insurance, regardless of the increase in  
3 healthcare costs, because that fund would be tapped,  
4 otherwise, if we had continued to raise our funding along  
5 with the increase in healthcare.

6 COMMISSIONER HARRIS: Yeah, I think the original  
7 intent was never to be a hundred percent the funder of the  
8 health insurance, but it was to supplement that.

9 But as I recall, one of the issues was that it was  
10 a plan that was kind of self-insured, and which is dangerous  
11 with the relatively low amount of participants. And I'm not  
12 sure if they've revisited that. Or I think we need somebody  
13 to work, hopefully, cooperatively with the --

14 COMMISSION CHAIRPERSON SHAPIRO: Well, it is a  
15 self-funded plan, and it had the reinsurance policy.

16 COMMISSIONER HARRIS: Self-insured.

17 MR. SMITH: You've clearly touched on what the  
18 specifics of the issues are, and those will be incorporated  
19 in a written report in your next month's package.

20 COMMISSIONER HARRIS: Yeah, that's all we need, I  
21 think.

22 COMMISSION CHAIRPERSON SHAPIRO: All right, public  
23 comment. Chris Gibbs.

24 MR. GIBBS: Oh, I'll let the others go first, the  
25 Guild.

1 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

2 COMMISSIONER HARRIS: The Guild.

3 MR. GIBBS: Mr. Manley, with the Guild, is doing a  
4 presentation.

5 COMMISSION CHAIRPERSON SHAPIRO: I don't have a  
6 comment card for Mr. Manley.

7 I have three comment cards on this matter, Drew  
8 Couto, Ron Warren, and Chris Gibbs. Do any of those people  
9 wish to address the Board?

10 MR. WARREN: Good morning, Ron Warren, Jr. I  
11 represent the California Jockey's Guild. We have about 80  
12 members that I represent.

13 I'd like to ask the Board to discuss considering  
14 letting the California Jockey's Guild run this health and  
15 welfare program for the California riders. And simply, we'd  
16 like to be able to handle our own insurance and we'd like  
17 the support of the Board to help us do that.

18 COMMISSION CHAIRPERSON SHAPIRO: I believe the way  
19 the law was written, basically, the Board is to recognize  
20 the entity that represents a majority of the participants,  
21 or the jockeys. And, therefore, it's not our decision who  
22 represents them, it's basically the jockeys' decision. If a  
23 majority of the members claim or state that one group  
24 represents them, that's the group that we're required to  
25 recognize.

1           So that's something that the members should decide  
2 who represents them and then come forward to the Board in  
3 that regard.

4           COMMISSIONER HARRIS: Is there a process for that,  
5 is there some statute or what?

6           DEPUTY ATTORNEY GENERAL KNIGHT: There is and I'm  
7 just looking for it, now. But yes, there is a statute, it  
8 will take a little while to --

9           COMMISSIONER HARRIS: Well, I guess one of the  
10 issues would be that what are they -- is the California  
11 Jockey's Guild a group that -- are they just Northern  
12 California jockeys or are they also Southern California  
13 jockeys?

14          MR. WARREN: No, we represent probably 95 percent  
15 of Northern California riders and maybe 10 percent of the  
16 Southern California's down here, just because I haven't  
17 approached all the riders down here, and probably 90 percent  
18 of the quarter horse riders of Los Alamitos.

19          COMMISSIONER BIANCO: Didn't you state that we  
20 only had 106 people or 106 jockeys that --

21          COMMISSION CHAIRPERSON SHAPIRO: I think we have  
22 106 active riders.

23          MR. WARREN: When I last checked on it, the  
24 California riders that were determined to be what we  
25 consider California riders was at 103, the last time I

1 checked, but that was a couple months ago.

2 COMMISSION CHAIRPERSON SHAPIRO: And to be a  
3 California rider there's a criteria of how many rides  
4 or --

5 COMMISSIONER HARRIS: Is that a hundred rides?

6 COMMISSION CHAIRPERSON SHAPIRO: No, it's 50.

7 MR. WARREN: As I recall, it's 50.

8 COMMISSIONER HARRIS: Just during the total of the  
9 year, which I guess was also another issue, as far as that  
10 number spread the money out too far.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, keep in  
12 mind, we have had riders that have come into town, gotten  
13 their 50 rides, and headed back east, and we can all name a  
14 few.

15 MR. WARREN: And that's a fact. I mean, I'm not  
16 going to say names or anything, but I know there are riders  
17 that count how many mounts they ride, and when they get to  
18 50, they're gone. So that's something we have to be careful  
19 of.

20 COMMISSIONER HARRIS: So it seems like this will  
21 have to come out in much more detail later. Maybe there  
22 should be a couple of different stages, that at some amount  
23 of rides you're partially vested, or something.

24 MR. WARREN: Well, right now, all's I ask is that  
25 we discuss it.

1           COMMISSION CHAIRPERSON SHAPIRO: Well, I would  
2 suggest that, Ron, what you do is you go and look at the  
3 California statutes that dictate how that should be done,  
4 and just look there and, you know, perhaps after the meeting  
5 Derry can point out to you where that statute is, and meet  
6 those guidelines.

7           COMMISSIONER HARRIS: Is it a statute or a rule,  
8 or what is it.

9           DEPUTY ATTORNEY GENERAL KNIGHT: No, there's a  
10 statute that addresses how you select the representative.

11          COMMISSION CHAIRPERSON SHAPIRO: Right.

12          COMMISSIONER BIANCO: Ron, one question, you said  
13 you represented 80?

14          MR. WARREN: Yes, I have 80 members to date, I  
15 have 80 members confirmed.

16          COMMISSIONER BIANCO: And there's only 103?

17          MR. WARREN: Yes, sir, that I'm aware of.

18          COMMISSIONER BIANCO: So you represent 80 percent  
19 of those.

20          COMMISSION CHAIRPERSON SHAPIRO: Well, but let me  
21 ask the question. We said 103 riders. Are you considered  
22 an active rider?

23          MR. WARREN: I am not considered one.

24          COMMISSION CHAIRPERSON SHAPIRO: Okay, but you're  
25 a member?

1 MR. WARREN: Yes, I'm a member.

2 COMMISSION CHAIRPERSON SHAPIRO: So I'm not sure,  
3 active riders and members could be a different thing, I  
4 don't know. We have to look at the statute.

5 MR. WARREN: Okay, I'll do that, and I thank you  
6 for your time.

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

8 MR. GIBBS: Chris Gibbs. I can help you with the  
9 statute. Delaware and Pennsylvania copied what California  
10 did. And the vagueness of the statute is, it says "licensed  
11 California jockeys."

12 And what the Jockey's Guild did in Delaware, when  
13 the Delaware jockeys formed their own organization to take  
14 control of their subsidy, the Jockey's Guild appeared in  
15 front of their board and said we represent a majority of  
16 jockeys in Delaware, because if a jockey rides once in  
17 Delaware, and they're licensed, we represent them.

18 So jockeys, there might be 200 jockeys that ride  
19 less than ten mounts a year in Delaware, so they said you  
20 can't take away control of the subsidy.

21 And I'm pretty sure the California law has that  
22 vagueness, it says "licensed jockeys."

23 The 103 number is who's qualified under the  
24 benefit program to receive a subsidy. There's actually more  
25 than 103 licensed jockeys in California.

1 MR. WARREN: Okay, thanks.

2 MR. GIBBS: So there's vagueness in the California  
3 law on that issue.

4 With regard to the self-funded plan, I helped put  
5 it together five years ago, and it was put together solely  
6 because the Department of Labor had a 1997 opinion that  
7 considered the jockeys as employees.

8 In August of 2005, the Department of Labor had an  
9 extensive investigation that it was concluding that it was  
10 going to file charges against Dr. Germanian and the  
11 management of the Guild for all the violations they had.

12 At that moment in time, the top people at the  
13 Department of Labor determined, wait a minute, we have no  
14 jurisdiction, the jockeys are independent contractors.

15 So the Department of Labor issued a letter to the  
16 Jockey's Guild, a five-page letter on August 16th, 2005,  
17 that changed their opinion back to the jockeys being  
18 independent contractors.

19 The day that happened, the Jockey's Guild could no  
20 longer run a self-funded health plan under the risks of law.  
21 The urgency of doing something soon is you could have a  
22 jockey's spouse in the hospital, about to deliver a baby,  
23 and the hospital could get a call and say there's no  
24 insurance.

25 Because the current self-funded plan, the

1 Department of Labor in Washington D.C. is very actively  
2 investigating this, and about to put out their opinion  
3 letter. The day that opinion letter hits, the Guild can no  
4 longer pay any claims, by law.

5 This plan became illegal August 16th, 2005. The  
6 Guild lawyers knew that, they used it to get rid of  
7 Germanian, they claimed the plan was illegal. Once they got  
8 rid of Germanian, then they had the problem they had to  
9 switch to a full insured plan. They didn't have the money  
10 to switch, so the Guild lawyers decided, well, we're just  
11 going to pretend we don't know it's illegal.

12 It's continued on for 18 months illegally. The  
13 State of California funds have been subsidizing an illegal  
14 plan for 18 months. And so there is urgency to find out the  
15 issue.

16 It's kind of a Catch-22, people say, oh, it's  
17 illegal, oh, you've got to prove it's illegal. If the Guild  
18 can't prove, from the Department of Labor, something  
19 contrary to that August 2005 letter, the plan's illegal and  
20 it's really that simple.

21 COMMISSION CHAIRPERSON SHAPIRO: How do you know  
22 the Department of Labor in Washington D.C. is going to come  
23 out with a letter, momentarily, that says this is illegal.

24 MR. GIBBS: Because the lady, who's doing the  
25 investigation there, has told jockeys that.

1 COMMISSION CHAIRPERSON SHAPIRO: Oh.

2 MR. GIBBS: And I think Bon -- Bon, do you have  
3 that information from that lady, in Washington D.C.?

4 MR. SMITH: Nothing specific, in hand.

5 MR. GIBBS: But do you have her contact  
6 information?

7 MR. SMITH: I'm not familiar with this person.

8 MR. GIBBS: Oh, I'll make sure he gets it today.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay. So you're  
10 claiming that the self-funded plan, that the Department of  
11 Labor in Washington D.C. is going to issue an opinion that  
12 it is illegal?

13 MR. GIBBS: Correct.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 MR. GIBBS: That under ERISA law, jockeys, as  
16 independent contractors, cannot operate a self-funded plan.  
17 In fact, they're also going to say the way they pay their  
18 temporary disability, that that's basically a self-funded  
19 plan, too, because there's no insurance involved.

20 And as far as full insured quotes, the Guild had a  
21 full insured quote from a multi-billion dollar, highly rated  
22 insurance carrier, they had that in November of 2005, they  
23 didn't have the money to convert --

24 COMMISSION CHAIRPERSON SHAPIRO: Who was the  
25 insurance carrier?

1 MR. GIBBS: Nippon Life.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay.

3 MR. GIBBS: They had that. There was a meeting of  
4 the Jockey's Guild, with 25 people, with jockeys, their  
5 spouses, executives, lawyers on the phone, and they  
6 determined -- the one lawyer from the Guild, Kennedy, was  
7 pushing, we have to change, and they figured out they didn't  
8 have the money.

9 So there are fully insured quotes. Ron Warren has  
10 the right idea. If the California jockeys, together, the  
11 ones that are eligible for the benefits -- not, you know,  
12 Edgar Prado, who counts as being a California jockey because  
13 he rides here three races and has a license, but within the  
14 law, the jockeys that receive the subsidy, they should have  
15 control of it.

16 That's what's happened in Pennsylvania, that's  
17 what's happened in Delaware, that's what's happening in New  
18 Jersey. Because these subsidies are getting spread all over  
19 the country.

20 Right now, the California subsidy, \$150,000 plus  
21 of it goes to pay for Guild operations, for the whole  
22 country. That doesn't benefit a California jockey. Well,  
23 it does a little bit. But they have a \$15,000  
24 administrative fee, and that doesn't do any good for the  
25 California jockeys.

1           COMMISSIONER HARRIS:  Isn't there another problem  
2 that in California we have Worker's Comp insurance, so the  
3 amount of money paid out for health type things is less than  
4 it would be in a state that didn't have Worker's Comp for  
5 jocks.

6           MR. GIBBS:  Well, yeah, it doesn't guarantee that,  
7 but it helps because they're going to file a claim against  
8 the Worker's Comp.

9           COMMISSIONER HARRIS:  Yeah, I think, I mean it  
10 seems like the California jockeys need a separately  
11 segregated plan, really, than somebody that is -- where  
12 you're not commingled with somebody in non-Worker's Comp  
13 states.

14          MR. GIBBS:  Oh, exactly.  And the California  
15 jockeys receive the highest subsidy and the best benefits of  
16 any jockeys in the country, but they're not receiving that.  
17 They also are --

18          COMMISSION CHAIRPERSON SHAPIRO:  Wait a minute,  
19 wait a minute.  They pay the most, get the best benefits,  
20 but they're not receiving it, what does that mean?

21          MR. GIBBS:  They're not receiving the full benefit  
22 of the money that you give them.

23          COMMISSION CHAIRPERSON SHAPIRO:  Why?

24          MR. GIBBS:  Because it's used to benefit other  
25 jockeys around the country.

1 COMMISSION CHAIRPERSON SHAPIRO: In what way?

2 MR. GIBBS: Well, you pay \$150,000 administrative  
3 fee. You could administrate the California jockeys  
4 for --

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 MR. GIBBS: You could pay someone \$50,000, and  
7 there's a hundred thousand, there's ten percent of the  
8 money.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, are there  
10 other examples?

11 MR. GIBBS: Yes, California jockeys, that are  
12 members of the Jockey's Guild, pay \$4 per mount. For that,  
13 they receive temporary disability and they receive life  
14 insurance. But when the Guild gives the audit to the CHRB,  
15 they include those items, again, and they get reimbursed.  
16 So a California jockey is double paying for their life  
17 insurance and for their temporary disability.

18 COMMISSIONER HARRIS: I think we just need to get  
19 a report from staff.

20 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,  
21 I appreciate your comments. And Bon, we've asked Bon to  
22 please look into this, meet with TOC, and have a meeting to  
23 try and delve through these issues. I think it's  
24 imperative, and every member of this Board wants to make  
25 sure that there's no interruption of the coverage to any of

1 our jockeys. We want to make sure that they are insured and  
2 they have the best benefits possible.

3 We value the jockey colony. And I would suggest  
4 that at this point you share your information with Bon, and  
5 that Bon, if you would please report back to us at the next  
6 meeting.

7 MR. GIBBS: Two quick things, real quick. If the  
8 Attorney General could decide on the issue of whether it's  
9 licensed jockeys, if a jockey rides here once, or if truly  
10 the subsidy for health benefits goes to the jockeys that  
11 qualify, meaning that you have to have 50 California mounts  
12 and a hundred somewhere, meaning you could have 50 in  
13 California and 50 in Arizona, and you're qualified.

14 So what Ron was talking about, a lot of jockeys  
15 that run the fair circuit, they get to their minimum, do 50  
16 more somewhere else, and they get health benefits for the  
17 whole year.

18 COMMISSION CHAIRPERSON SHAPIRO: All right.

19 MR. GIBBS: And the other thing, real quick, is  
20 that at the November meeting you asked the Guild to provide  
21 the California jockey claims history. And one of the  
22 Commissioners said, well, is that segregated? Well, it's  
23 part of a large group. It's actually segregated by P-5. So  
24 it's a matter of giving a password to a broker, who can  
25 receive that information, and get you a fully insured quote,

1 and the Guild's resist to that.

2 That would help Ron, that would help Nippon Life  
3 give you a quote. The fully insured quote that Nippon Life  
4 gave in 2005 is much less than the self-funded quote that  
5 the Guild is putting forward, now, for California jockeys.

6 COMMISSION CHAIRPERSON SHAPIRO: All right. Mr.  
7 Gibbs, we want to do what's right. The only thing is this  
8 is a matter that we are going to have Bon, as staff, handle.  
9 And I think that we will do that. And TOC has an integral  
10 role in this agreement. They are the party that is  
11 contracting with the Guild.

12 And we, as the CHRB, are the administering body,  
13 as I think I've got that right.

14 Notwithstanding, we will use whatever rights and  
15 powers we have to make sure that all the information is made  
16 available, so that we can get to the bottom and find the  
17 best benefits, the best plans, to benefit the jockeys in  
18 California.

19 MR. GIBBS: Well, that's good, because the TOC,  
20 they actually contract with the Guild. And because that  
21 agreement is expired, they can contract with the California  
22 Jockey's Guild. Drew can make that decision that they  
23 represent the majority, and then you just approve it.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, again,  
25 we'll have the -- we'll ask Derry to please provide the

1 information of how it works, what the procedure is for us to  
2 recognize an entity, and to work through that.

3 Darrel?

4 MR. HEIR: Mr. Shapiro, members of the Commission.  
5 I'd just like to say that we will work with Ron. I don't  
6 believe -- Ronnie's best interest, of course, is for the  
7 jockeys to get the best insurance for the riders in  
8 California, and we will work with Ronnie. I believe that he  
9 doesn't want to divide the riders with the Jockey's Guild,  
10 his association is for insurance purposes, only.

11 And I think we can work with Ron, I know we can,  
12 to get the best insurance for the money that's given to us,  
13 and it will all be in black and white, and we'll work with  
14 the TOC to get this done.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.  
16 Thank you.

17 Okay, is there any other comment to this matter,  
18 whatsoever?

19 If not, we will move forward to a very difficult  
20 issue. Discussion and action by the Board on the request of  
21 the Bay Meadows Racing Association to distribute charity  
22 proceeds in the amount of \$40,099 to five beneficiaries.

23 It's in our packets who the beneficiaries are,  
24 it's a hundred percent to horse racing related causes. I'd  
25 entertain a motion to approve it.

1 COMMISSIONER ANDREINI: So moved.

2 COMMISSIONER HARRIS: Second.

3 COMMISSION CHAIRPERSON SHAPIRO: Any discussion?

4 All in favor?

5 (Ayes.)

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, that is  
7 done.

8 Okay, report of the Medication Committee. Dr.  
9 Arthur, will you give a report, please?

10 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, I will.  
11 Thank you, Mr. Chairman.

12 This is from the February 15th Medication  
13 Committee meeting, I'll go very quickly on this. The issues  
14 we discussed were Equine Herpes Virus, and I'm happy to say  
15 it's been three weeks since we've had a case of Equine  
16 Herpes Virus at Los Alamitos, and there is no further need  
17 to have any restrictions on the movement of Los Al horses  
18 between Los Al and any other race tracks.

19 I would like to say that Dr. Allred was very, very  
20 helpful in getting this done, in the same way that the  
21 Northern California, Golden Gate Fields people, with Robert  
22 Hartman and Pete Tunney were up there.

23 One of the issues that made this very workable was  
24 the fact that we were able to get protocols together very  
25 quickly and implement them at those race tracks, and that

1 funds were made available to do testing, and there was not  
2 an argument as to who was going to pay for what.

3           Going forward, what we're going to try to do is  
4 get protocols in place, identify source of funds for  
5 emergency testing for Equine Herpes Virus, and other  
6 diseases, and other disaster planning. And in that sense,  
7 it worked very well.

8           The anabolic steroid issue is moving forward. I  
9 just returned from the RMTC last night. They're going to be  
10 proposing a model rule at the RCI and move in a very similar  
11 way that we've already moved, in terms of prohibiting or  
12 reclassifying everything, but the major anabolic steroids,  
13 as class three, which would require purse redistribution,  
14 and then ramping up our laboratory and get our horsemen  
15 involved in helping us determine withdrawal time, so when a  
16 national policy goes forward in that regard.

17           The Clenbuterol issue was the third item we  
18 discussed, and moving forward with the 72-hour rule.  
19 Interestingly, with some research funded by the RMTC, at the  
20 University of Pennsylvania, they could actually show no  
21 demonstrable difference in performance incidences on a  
22 treadmill with clenbuterol, and non-clenbuterol administered  
23 to horses even one hour prior to racing.

24           However, there is evidence of cardiac changes with  
25 clenbuterol use, and the University of California, at Davis,

1 staff, in the necropsy, in the California Animal Health and  
2 Food Safety Laboratory are looking at ways that we could  
3 examine this as a possible cause of the somewhat worrisome,  
4 even though still minor, increase in sudden death fatalities  
5 in horse racing in California.

6           The other issue was announcing positives before  
7 the split sample had come back. This is governed not only  
8 by law, but CHRB rules, and it would actually take a law  
9 change to allow us to do this. But we do not consider a  
10 positive to become a positive until the split sample comes  
11 back. It's just an adverse finding until that particular  
12 time.

13           The last issue we discussed, at February 15th, was  
14 DNA testing, making that available to horsemen. We had one  
15 case that's drug on for almost four months, just trying to  
16 sort this out, and I think it will be a simple thing to do  
17 and we can move forward with that rather quickly.

18           One point I would like to bring forward is even  
19 though we have had a rather bad month in terms of racing  
20 injuries since the beginning of Santa Anita, there have been  
21 no musculoskeletal injuries on a cushion track, at Hollywood  
22 Park, since the Santa Anita meet.

23           There were two sudden deaths on the track which,  
24 obviously, can't be attributed to the track's surface. One  
25 fatality on the training track, and there was one fatality

1 before the beginning of the meet.

2 But since Santa Anita has started, even though the  
3 facility is full, there have been no training fatalities.  
4 And I think we all recognize that approximately a third of  
5 all fatalities we see in California are from training. I  
6 think it's a rather phenomenal statistic. And Hollywood  
7 Park should be congratulated for moving forward so quickly  
8 on this.

9 The RMTC, again, has been addressing issues to do  
10 with EPO testing, and we started our out-of-competition  
11 testing on a routine basis just last week. We will be  
12 analyzing those samples going forward, and I think that's  
13 working quite well. And the other issue are withdrawal  
14 times, which are other issues that we're dealing with.

15 And we have provided the RMTC with our withdrawal  
16 time data. And that website will be available for our  
17 horsemen within the month, that they can go ahead and look  
18 up what we recommend is withdrawal time and, hopefully,  
19 avoid inadvertent positives which, frankly, constitute over  
20 80 percent of all the positives we deal with in horse  
21 racing. If we can avoid those, we can concentrate on more  
22 serious problems.

23 Thank you.

24 COMMISSION CHAIRPERSON SHAPIRO: Thank you. An  
25 excellent report and I think the meetings have been

1 terrific. And I want to thank Commissioner Bianco, who has  
2 Chaired that Committee for a very long time. And I think it  
3 was your words that it looks like we're finally making some  
4 progress on some fronts.

5 COMMISSIONER BIANCO: You're right.

6 COMMISSION CHAIRPERSON SHAPIRO: So I want to  
7 thank you for that.

8 And Rick, certainly to you.

9 Is there any other comment from the Board?

10 If not, I'll go to public comment.

11 MR. JAMGOTCHIAN: Excuse me, I have a card on that  
12 issue.

13 COMMISSION CHAIRPERSON SHAPIRO: I'm getting  
14 there.

15 MR. JAMGOTCHIAN: Okay.

16 COMMISSION CHAIRPERSON SHAPIRO: Jerry  
17 Jamgotchian.

18 MR. JAMGOTCHIAN: Yes, thank you. It's a short  
19 comment, obviously.

20 On January 16th, the Medication Committee meeting,  
21 Item Number 5, had a discussion and action on the practice  
22 of heel nerving horses. The February meeting, that  
23 disappeared.

24 You've stated to me that that is going to be  
25 brought up for discussion at the March Medication Committee

1 hearing meeting. Is that correct?

2 COMMISSION CHAIRPERSON SHAPIRO: Yeah, it will be  
3 scheduled at our next Medication Committee hearing. There  
4 will be a discussion about rules, I think it's 1850 and  
5 1851.

6 MR. JAMGOTCHIAN: So that will be at -- is there a  
7 March meeting scheduled?

8 COMMISSION CHAIRPERSON SHAPIRO: It hasn't been  
9 set, yet, but it will be at the next one.

10 MR. JAMGOTCHIAN: Because, obviously, the practice  
11 of heel nerving is something that's barbaric.

12 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,  
13 you --

14 MR. JAMGOTCHIAN: I'll talk about that in my  
15 general comment section, we'll talk deeply about it.

16 COMMISSION CHAIRPERSON SHAPIRO: No, we're not  
17 going to talk about it in your general comment section.

18 MR. JAMGOTCHIAN: We'll talk about it in the  
19 general comment section.

20 COMMISSION CHAIRPERSON SHAPIRO: We will not talk  
21 about it.

22 Next comment?

23 Okay, next issue on the agenda, if there's no  
24 other comment. Report on the Strategic Planning Committee.  
25 As Chair of that Committee, I'll give the report.

1           Yesterday, I was pleased that we had a Strategic  
2 Planning Committee meeting. As you recall, this is an  
3 ongoing process to look at ways with which to plan the  
4 future of California racing, given a variety of moving parts  
5 that are in play.

6           There were two ad hoc committees that were formed,  
7 and both of those we asked to be Chaired by TOC, given that  
8 they have a vested interest, but they also are not a race  
9 track that might have some vested interest in what the  
10 outcome was.

11           Drew Couto provided a report and then there was a  
12 discussion amongst a variety of the participants.

13           From my perspective, and I encourage Commissioners  
14 Moretti and Moss, who participated in the meeting, to give  
15 their take on the meeting, of note, the discussion, when it  
16 came to Southern California, Mr. Liebau reported that the  
17 last day that Hollywood Park would operate under the current  
18 economic climate, which assumes there is no significant or  
19 acceptable amount of relief in terms of mitigation, or any  
20 other form, was September 23rd, 2008.

21           I appreciate his being forthcoming, and honest and  
22 direct, but when you look at it, it's right around the  
23 corner. And it only underscores the importance of our  
24 planning a succession and future, both in Southern  
25 California and Northern California.

1           Besides just when they will operate, we have to  
2 figure out where our horses are going to be stabled and  
3 where they're going to be trained.

4           The discussion also included a variety of  
5 scenarios where if racing, again looking at the south, no  
6 longer was possible, unfortunately, at Hollywood Park, and  
7 stabling would cease to exist on September 23rd, of 2008, we  
8 would be displacing nearly 2,000 horses and they wouldn't  
9 have any place to train.

10           So when you look at the time frame that would be  
11 necessary to improve any of the options that are currently  
12 in discussion, we have a mountain ahead of us.

13           I think the consensus of the group, yesterday, was  
14 let's wait and see what comes out of the Legislature with  
15 respect to potential mitigation for this industry.

16           And while we have no -- this Board has no stake in  
17 that mitigation, we certainly would hope that everything  
18 that's possible to help the industry would come forward.

19           But we can't take our eye off the ball that if  
20 that doesn't happen, and a lot of the participants thought  
21 that we would know that information by June of this year, if  
22 it doesn't happen, the time clock is running down. And we  
23 have to get on a course that provides alternative options to  
24 solidify and insure the future existence of thoroughbred  
25 racing in California.

1           The problem is also the same in the north, because  
2 it's only a matter of time, be it 2008 or 2009, most likely,  
3 that Bay Meadows will cease to operate as a race track.  
4 There, there are options, and all of these options need to  
5 be explored, and all of these options need to be addressed  
6 post haste.

7           Again, stabling is a critical part of the issue.

8           It's my understanding, and I invite Drew Couto to  
9 come forward, if I misstate anything, that the group, the ad  
10 hoc committees are going to continue to meet.

11           The only other factor that is an unknown, that is  
12 I guess waiting to be heard, is Dixon Downs. And I believe  
13 there's an initiative on April 17th to decide whether that  
14 project is approved.

15           But again, even if it is approved, I think that  
16 it's unrealistic to think that a race track could be built  
17 in an existence within the time frame of some of the other  
18 challenges ahead of us.

19           So Commissioner Moretti, or Commissioner Moss, do  
20 you have anything you want to add to that?

21           COMMISSIONER MOSS: Yeah, I think it was made very  
22 clear that we have to put forth a very important effort to  
23 get a conditional approval from the Legislature, so we can  
24 move quickly to patch up a schedule should Bay Meadows and  
25 Hollywood Park close.

1           And so I'm suggesting, I think we all agree, that  
2 we need to put forth this sort of opportunity to move  
3 quickly, if we need to patch up something.

4           COMMISSION CHAIRPERSON SHAPIRO: With respect to  
5 legislation.

6           COMMISSIONER MOSS: This would all be conditional.

7           COMMISSIONER HARRIS: Which -- do we have a  
8 problem there with the legislation, now?

9           COMMISSION CHAIRPERSON SHAPIRO: Yes.

10          COMMISSIONER MOSS: Well, I'm told that we can't  
11 just patch together dates should this calamity occur, you  
12 know.

13          COMMISSIONER HARRIS: I thought we could, it's  
14 just one racing association can only have so many dates, I  
15 think, but you could --

16          COMMISSION CHAIRPERSON SHAPIRO: It's based on  
17 weeks.

18          COMMISSIONER HARRIS: It's weeks.

19          COMMISSION CHAIRPERSON SHAPIRO: The way the law  
20 reads, there are certain amounts of weeks allocated to  
21 different zones, and so I believe that what we would need to  
22 do is probably move forward with legislation that would  
23 provide this Board the flexibility to adapt to a changing  
24 environment. That if we lose any track that is critical to  
25 the circuits that we have, allow us to be nimble enough to

1 enact where those dates should be. And the reason  
2 that --

3 COMMISSIONER HARRIS: Because we probably should  
4 try to do that. But as I understand it, it's basically the  
5 southern zone is the limiting factor.

6 COMMISSION CHAIRPERSON SHAPIRO: I believe there's  
7 limitations in the north, too.

8 COMMISSIONER HARRIS: I don't think there are by  
9 race -- conceivably, you could have just different racing  
10 associations accomplish the same thing. Maybe it wouldn't  
11 be quite as straight forward but --

12 COMMISSION CHAIRPERSON SHAPIRO: Well, let's say  
13 that we wanted to have a continuous race meet at a fair, you  
14 would have to go through some gyrations to where you create  
15 a race -- an M.D., to lease the track. And maybe we should  
16 just get legislation that frees our hands so that we  
17 wouldn't have to have people going through gyrations.

18 COMMISSIONER HARRIS: Well, that's why, I  
19 mean --

20 COMMISSIONER MORETTI: That whole discussion is  
21 going to be part of our Legislative Committee.

22 COMMISSION CHAIRPERSON SHAPIRO: Oh, okay, so that  
23 will be part of the Legislative Committee, and that's where  
24 it belongs.

25 COMMISSIONER HARRIS: Yeah. I didn't think it was

1 that big of a hurdle, but it's an issue, it will be easier  
2 to do it.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. Mr. Couto,  
4 I saw you at the podium. Do you choose, do you wish  
5 to --

6 MR. COUTO: No, you stated it well.

7 COMMISSION CHAIRPERSON SHAPIRO: I did? Hey,  
8 cool.

9 Okay, is there -- Eual Wyatte has a card.

10 MR. WYATTE: Eual Wyatte, Hollywood Park. Just to  
11 clarify something, Mr. Shapiro, I believe when Mr. Liebau  
12 spoke at the Committee meeting, what he referred to, the  
13 September 23rd date, 2008, was that date -- we are committed  
14 to run until that date. That has been publicized since the  
15 Land Company purchased Hollywood Park.

16 COMMISSION CHAIRPERSON SHAPIRO: Is that not what  
17 I said? That's what I meant.

18 MR. WYATTE: No, I think you said that would be  
19 the last day we run, unless there's some change in the  
20 environment. That's not what he said and I don't believe  
21 that's what he intended.

22 What he intended was as far as a commitment, that  
23 we would commit to run to that date. We may run further,  
24 and most likely we will.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay.

1 MR. WYATTE: I think there is a difference.

2 COMMISSIONER HARRIS: I'm not clear. I mean, I  
3 would hope you'd run further, anywhere, but where does  
4 September 23rd come in, because you're not even running in  
5 September.

6 MR. WYATTE: The agreement, as I understand it,  
7 when we purchased -- when Hollywood Park was purchased, that  
8 we would give a commitment to -- as part of the agreement of  
9 the sale, we would commit to run for three years, a minimum  
10 of three years.

11 COMMISSION CHAIRPERSON SHAPIRO: That was the date  
12 that the sale closed.

13 MR. WYATTE: It was the date after the sale,  
14 that's correct.

15 COMMISSION CHAIRPERSON SHAPIRO: Right, and that  
16 was their three-year commitment. And if I didn't say it  
17 properly, Mr. Liebau said that's the date of our commitment,  
18 it is the worst case date for racing, that that facility  
19 would be available to us.

20 MR. WYATTE: I think that characterizes it better  
21 than what you said earlier, that that was the absolute last  
22 date we would run, unless there was some economic climate  
23 change.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay.

25 COMMISSIONER HARRIS: It seems like it would be

1 nice if we could -- but I don't think we can really force  
2 it, but there be more of a moving target where you've always  
3 got a --

4 COMMISSION CHAIRPERSON SHAPIRO: Well, there was a  
5 discussion, yesterday, where I believe there was a meeting  
6 down in the desert, and what we heard initially was that  
7 there were assurances that the industry would not be left  
8 flat-footed, so that there would be ample notice.

9 But I believe that there was some misunderstanding  
10 between the parties. And I agree with you, I think it would  
11 be wonderful if we could get, look, we'll give you two  
12 year's notice before you have to have the horses out of the  
13 barn area and not use the track.

14 But yesterday Mr. Liebau was unwilling to provide  
15 that, when asked.

16 Mr. Wyatte, is that correct? I don't want to  
17 mischaracterize.

18 MR. WYATTE: I think that is correct.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay.

20 MR. WYATTE: But I think that he --

21 COMMISSION CHAIRPERSON SHAPIRO: Not that he  
22 wouldn't like to, but he was unable to.

23 MR. WYATTE: No, he has said from the beginning,  
24 you know, he's racing, he wants the racing to continue at  
25 Hollywood Park for as long as it possibly can. And I just

1 don't want to leave anybody in the room with the impression  
2 that September the 23rd, 2008 is the last day that Hollywood  
3 Park is going to run.

4 At this moment, we are committed to run through  
5 that date. That does not mean we won't continue to run  
6 further, for a variety of reasons.

7 COMMISSION CHAIRPERSON SHAPIRO: That's correct.  
8 However, in terms of strategic planning, it behooves this  
9 industry to plan as if, unfortunately, worst case, that is  
10 the date, so that we have a plan.

11 Hopefully, the first plan is that piles and piles  
12 of money fall from the sky, everybody's happy, Hollywood  
13 Park stays for another 50 years in business.

14 But if that doesn't happen, we were given the  
15 date, yesterday, of worst case, September 23rd, 2008.

16 MR. WYATTE: That's correct. That is the earliest  
17 that racing would cease at Hollywood Park.

18 COMMISSION CHAIRPERSON SHAPIRO: And, potentially,  
19 stabling. Potentially.

20 COMMISSIONER HARRIS: Yeah, I would hope what  
21 would need to happen is kind of a renew of vows here, on  
22 same basis that you would cease racing within X amount of  
23 days after you receive approvals to build something, or it  
24 be tied into something happening instead of a date certain,  
25 it's just kind of a moving target.

1           Obviously, if you've got an opportunity to move  
2 forward with something else, but there be more than just a  
3 date certain.

4           MR. WYATTE: I can't address that because I don't  
5 know anything about developing, I don't know how long that  
6 takes, or I don't know what the complications are. But I  
7 think this is sort of a moving target and I'm sure  
8 discussions will continue and, at some point in time, it  
9 will be finite.

10           COMMISSION CHAIRPERSON SHAPIRO: Thank you,  
11 Mr. Wyatte.

12           Cliff Goodrich?

13           MR. GOODRICH: Cliff Goodrich, for Fairplex. And  
14 I spoke yesterday, and because not all Board members were  
15 there, I'll be a bit repetitive.

16           But one, it's clear that the first choice of  
17 everyone is significant mitigation. In other words, that  
18 would seemingly provide the most added value immediately to  
19 the sport, with the first allotment of money clearly going  
20 to purses, and then some agreement to be worked out between  
21 the horsemen and the tracks as to how to provide  
22 commissions, and purses, thereafter.

23           However, as has been said, mitigation may fail.  
24 Now, it was testified yesterday that, you know, probably  
25 somewhere around June.

1 Fairplex is troubled and, frankly, I think a lot  
2 of others are troubled. And this isn't a shot across the  
3 bow at Hollywood, we understand they're working on a  
4 development, we all hope for mitigation. But if it doesn't  
5 happen, I think unconsciously -- I won't even say  
6 consciously or subconsciously, Hollywood Park is, in effect,  
7 holding this industry hostage.

8 Because as long as they continue to look at  
9 options, and now I'm hearing today that they may race past  
10 September 23rd, 2008, and the problem with that is it makes  
11 it impossible to launch any contingent plan.

12 Everybody focuses on the racing issue, but no one  
13 focuses on the training issue, because once Hollywood Park  
14 pulls the plug, if mitigation fails, we've lost 2,000  
15 stalls. In the interim, you might lose San Luis Rey. And  
16 now you're looking at redeveloping either a Los Al, a  
17 Fairplex, or both, and how are you going to train horses at  
18 either of those facilities when you're expanding the track  
19 to a mile and constructing an inner turf course.

20 So while ideally, and I take Jack at his word, a  
21 smooth transition for the racing industry and for their  
22 development project would be nice.

23 Frankly, I don't think this Board, while they  
24 might care, needs to take how their development ties into  
25 their announcement that they will cease racing as of a

1 certain date. I think Hollywood owes it to this industry,  
2 if mitigation fails, to make a final declaration of their  
3 plans as of a date certain.

4           And before that ever occurs, this industry needs  
5 to meet, and meet now, on developing a plan A, and B,  
6 perhaps, that will be brought to this Board. So that if and  
7 when Hollywood, unfortunately, decides to leave the game,  
8 immediately you can begin the authorization of the  
9 legislation, the financing, and a myriad of other things  
10 that few people in this audience can appreciate.

11           There is a lot to do. Yesterday, Chairman Shapiro  
12 said the clock has already run out and, in effect, it has.

13           So I'm hoping, I take Hollywood at their word, if  
14 mitigation fails, and I hope it doesn't, I think there will  
15 be a smooth transition, but I think Hollywood owes the  
16 industry the obligation to declare a date certain, when  
17 mitigation fails, that they will not run past, rather than  
18 this continuing, well, we're looking and we'll keep the  
19 Board advised. Because it means you can't develop an  
20 alternate plan and put it into place.

21           Nobody's going to stick a shovel in the ground, or  
22 invest a hundred million dollars while Hollywood continues  
23 to race and is looking at what they might do in the future.

24           So it has to be brought to a head. Hopefully,  
25 mitigation succeeds. But, if not, Hollywood owes this Board

1 a date certain so that we can get on with business. Thank  
2 you.

3 COMMISSION CHAIRPERSON SHAPIRO: I agree with all  
4 those comments. And at the end of the meeting, yesterday,  
5 the one thing that I felt was not discussed, while  
6 everybody's focused on mitigation, and I certainly hope it  
7 comes through, is we have to, as part of strategic planning,  
8 also look at where we award these dates, how they're  
9 awarded, and find a mechanism that we can enhance horse  
10 racing.

11 We don't talk enough about -- you know, when we  
12 talk about mitigation, we're not talking about improving our  
13 sport. We have to improve the sport and I hope that will be  
14 part of future discussions.

15 The next item on the agenda is the report of the  
16 Pari-mutuel Operations Committee. Commissioner Moss.

17 COMMISSIONER MOSS: Thank you, Mr. Chairman.  
18 Commissioner Andreini, and Executive Director Fermin, and  
19 myself were present, as was Mike Martin. Had a very good  
20 meeting yesterday and Mike was kind enough to summarize  
21 everything. And I'll just go through it because we're  
22 prepared to move forward with some of these suggestions.

23 It was a very well-attended meeting. You could  
24 say the theme of the meeting was ways to protect the betting  
25 public. We had good discussion and we received excellent

1 suggestions from some very knowledgeable handicappers and  
2 public figures, including John White, James Quinn, Bob  
3 Mieszerski, Barry Meadow, and Bob Ike. And we also had an  
4 interesting presentation from Richard Murray, a fan, who had  
5 a very interesting fix on some things.

6           We're prepared to move forward with some of their  
7 suggestions. Number one, we'll consider drafting a rule  
8 giving the stewards the option, under special circumstances,  
9 to have a horse run for purse money, only, as a non-betting  
10 interest. One recent instance, when they could have used a  
11 rule like this, was the other day at Santa Anita, when a  
12 horse was mistakenly taken out of the wagering pools for  
13 more than two minutes, but then reinstated.

14           The only two choices the stewards had at the time  
15 were to either scratch the horse, or let it run as a  
16 wagering interest. They chose the latter. This rule would  
17 have given them a third option, to let the horse run as a  
18 non-wagering interest.

19           Number two, as recommended by the National Players  
20 Panel, we plan to consider changes to the Pick Four, along  
21 the lines of the changes we made last year to the Pick  
22 Three, where we require a refund when a horse scratches  
23 before the Pick Four sequence begins, and we require a  
24 consolation pool when the scratch occurs after the first leg  
25 has begun.

1           This will eliminate the practice of replacing the  
2 scratched horse with the favorite in the race.

3           Now, even though we've obviously created  
4 alternative cards, you know, since most of the betting is  
5 off the premises, these don't affect the public at large.

6           Number three, far too often information about a  
7 horse being gelded is being announced late to the public,  
8 sometimes when the horse is in the post parade. We want to  
9 consider a mandatory scratch when the trainer fails to  
10 report by time of entry that the horse was gelded.

11           Another option, again, is having it run as a non-  
12 wagering interest.

13           We are going to continue discussing other  
14 circumstances, such as when it's not the trainer's fault  
15 because a mistake was made in the racing office, or by  
16 someone else, in which case it might be best to let the run  
17 for purse money, only.

18           Now, not only gelding, I think John White, and  
19 this was a very interesting comment he made, it wasn't just  
20 the gelding, it had to do with first-time medication and  
21 whether the horse was using blinkers. He felt all these  
22 factors added to how people on the outside were handicapping  
23 horses, especially for exotic wagering.

24           Another rule we want to consider involves entries.  
25 This is another recommendation from the National Players

1 Panel. When one horse in an entry is scratched, the  
2 remaining part of the entry would run for purse money, only,  
3 not as a betting interest. This way, people wouldn't be  
4 stuck with part of an entry they really didn't like.

5 I think we keep going back to the idea of we have  
6 to -- I mean, and I think this Pari-Mutuel Committee would  
7 like to see it be over where any wagerer, any bettor is left  
8 with a horse they didn't personally choose, you know, in any  
9 situation.

10 The thing I related to before, about Richard  
11 Murray's presentation, we had an interesting discussion  
12 about late odds changes. Some people, from Scientific  
13 Games, explained the technical reasons why the odds change  
14 after the race and the steps that are being taken to correct  
15 that.

16 It has been suggested that we cut off wagering a  
17 minute or so before the start of the race, so that all  
18 wagering information is reflected in the odds before the  
19 start.

20 We are not prepared to move forward with that  
21 recommendation at this time.

22 There were some other interesting suggestions,  
23 that might also have merit, but for right now we'll focus on  
24 the four, continue discussing them, and perhaps put  
25 something on the table for your consideration.

1           Again, thank you, Mike.

2           COMMISSION CHAIRPERSON SHAPIRO: I think that's a  
3 great report, and great suggestions, and I certainly think  
4 they're all worthy.

5           Does anybody have any other comment about them?

6           COMMISSIONER HARRIS: So we're going to put those  
7 out -- we're going to bring those back and discuss them?

8           COMMISSIONER MOSS: We'll bring them back at a  
9 meeting, and let everybody discuss them, and perhaps adopt  
10 them as soon as we can, if everybody likes them.

11           I think everybody in the room was quite active in  
12 feeling that these were really good suggestions. I mean,  
13 John and I feel that we should move ahead.

14           COMMISSIONER HARRIS: I'm a little bit concerned  
15 about the rank for purse money, only, where maybe it's a  
16 remedy, but I'm concerned that it's going to lead to fan  
17 confusion where people will, you know, come out thinking  
18 they're going to bet on a horse, the horse wins, and they  
19 didn't bet on it because they couldn't bet on it. I don't  
20 know, I'd rather almost just scratch the horse than let it  
21 run for purse money, only.

22           COMMISSIONER MOSS: Well, it's the question that  
23 it's easy to scratch the horse, but scratching the horse  
24 involves the owner, and everybody paying the heavy penalty  
25 for the scratch, and the trainer, and the breeder, and

1 everybody counting on a race in some way, and because of a  
2 slip up or a mistake, scratching the horse seems like a  
3 pretty difficult way to go.

4 But if it deserves scratching, it should be  
5 scratched. You know, it's as simple as that.

6 COMMISSION CHAIRPERSON SHAPIRO: Well, again, I  
7 think we should put it out and during the comment period and  
8 discussion period we can debate that. But I think those are  
9 great suggestions and thank you both. Thank you.

10 The next item on the agenda is the staff report on  
11 the following concluded race meet, which would be Los  
12 Alamitos. Mr. Smith.

13 MR. SMITH: Yes. Mr. Chairman, Board members, Bon  
14 Smith, Assistant Executive Director.

15 Your packet contains information for Item 15, the  
16 end-of-meet results from Los Alamitos, the meet which was  
17 run from December 26th, 2005 through December 17, 2006, 201  
18 race days.

19 Your information will show that the overall handle  
20 was up for the meet, I believe by a small percentage. On  
21 track and off track both were down, but out of state and ADW  
22 both increased significantly.

23 The California attendance also was down somewhat.  
24 Somewhat speaking to the notion that people are betting more  
25 from the track or the satellite facilities.

1           There's also a chart showing the -- it's kind of  
2 hard to read because it's not in color, or with blocked-out  
3 things in the bars, in the chart, but after having looked at  
4 it, I've determined that for each year the first bar is  
5 total handle, the second bar on track, the third off track,  
6 and the fourth out of state.

7           COMMISSION CHAIRPERSON SHAPIRO: How did you do

8           MR. SMITH: Oh, I've got my ways.

9           COMMISSIONER HARRIS: Is there some way we could  
10 get color into our packets, just to make it a little easier  
11 for us?

12          MR. SMITH: Yes.

13          COMMISSIONER HARRIS: Maybe crayons would do or  
14 something, yeah.

15          MR. SMITH: Well, what we can do is put hatches,  
16 cross-hatches, that kind of stuff, so there's a pattern in  
17 there.

18          COMMISSIONER HARRIS: Well, I will buy you a color  
19 copier, if that's necessary.

20          COMMISSION CHAIRPERSON SHAPIRO: Now, hold on.  
21 Hold on, did everybody -- I've got to ask you, did you get  
22 that on the record?

23          Okay, he said an expensive color copier.

24          COMMISSIONER HARRIS: Yeah, I said that. The  
25 State budget's a little tight this year, but we're going to

1 get it in there.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, we all  
3 heard it, and we thank you.

4 I'd like to comment that the end-of-meet report  
5 that was prepared by Michael Kilpack, that was also included  
6 in our package, that was an excellent report.

7 You don't need to find it. Is he here? Where is  
8 he, I can't see him. There's a glare there.

9 Mike, excellent report, I just want to tell you  
10 that. I really was impressed, and I think it was very  
11 informational.

12 COMMISSIONER HARRIS: Where's that report?

13 COMMISSION CHAIRPERSON SHAPIRO: Well, it was in  
14 my packet, in the very front.

15 EXECUTIVE DIRECTOR FERMIN: End-of-meet reports.

16 COMMISSION CHAIRPERSON SHAPIRO: End-of-meet  
17 reports. Don't you have end-of-meet? You have different  
18 tabs than I have.

19 COMMISSIONER HARRIS: I don't know, maybe you've  
20 got to be the top dog to get that.

21 COMMISSION CHAIRPERSON SHAPIRO: No, how about  
22 this one, where it says end of meet.

23 COMMISSIONER HARRIS: Oh, end of meet. It wasn't  
24 in the packet. Were those in the packets and on the  
25 website, and all that?

1           COMMISSION CHAIRPERSON SHAPIRO: Well, I don't  
2 know about that.

3           COMMISSIONER HARRIS: Well, I think it would be  
4 good if we put these out for the public and everybody, they  
5 shouldn't be restricted to Commissioners.

6           COMMISSION CHAIRPERSON SHAPIRO: But I just want  
7 to thank you. It appears to me that you're doing an  
8 excellent job. It informs us, it tells us what's going on.  
9 And, obviously, I can't even see that you were there, and  
10 I'm not doing this just because you're sitting there. But  
11 it really is helpful and I just want to thank you. I  
12 thought it was excellent.

13           Okay, general business. Is there anything that  
14 anybody needs to come before this Board for general  
15 business?

16           COMMISSIONER HARRIS: Well, one thing I thought  
17 of, that I thought maybe we could refer to the Pari-mutuel  
18 Committee, that to me it seems unfair that the average  
19 patron at the track, somebody who comes into a track in  
20 California, they don't really know what the take out is that  
21 they're betting. Maybe there might be something in the  
22 program showing the California take out, but there's so much  
23 betting on out-of-state races that it might vary so much.  
24 They may be betting on an exotic race in Florida, or New  
25 York, or someplace, and it may very well be 20, 25 percent

1 bigger take out than the California take out.

2 So I don't know if we really need to regulate it,  
3 but I think it would be great if the tracks could put  
4 somewhere in their program what the take out is for various  
5 races that are included in their program.

6 And maybe the same way with ADW providers.

7 COMMISSIONER ANDREINI: Yeah, we talked at our  
8 meeting the other day, and what we wanted to try to do is  
9 get the track owners to actually educate the public. You  
10 know, I stand around the race track and listen to more  
11 people BS, and they're not telling the right answer. People  
12 are asking legitimate questions and hear I hear -- it's BS,  
13 I mean, in plain English.

14 I wanted to know if we could get one page where we  
15 could bullet point maybe six or eight items every three  
16 months that would be printed in that program, so we could  
17 educate the bettors of tomorrow. Because they're not being  
18 educated right, I'll tell you that right now.

19 COMMISSIONER HARRIS: Yeah, there's a lot of  
20 myths.

21 EXECUTIVE DIRECTOR FERMIN: After that meeting  
22 Mike Martin has started working on that and he's going to  
23 work with the associations.

24 COMMISSIONER BIANCO: Well, maybe just as well we  
25 can include some in that, too.

1           COMMISSIONER HARRIS: Because I think, you know,  
2 back to my take out idea, you know, California really has  
3 some of the lower take outs, and it's bothersome that people  
4 don't realize that, that they'll be betting -- some  
5 superfecta in Florida might be a 25 percent take out, where  
6 it's 20 or 21 here, but people need to know that.

7           COMMISSION CHAIRPERSON SHAPIRO: I would like to  
8 take this opportunity, only because we don't know, but  
9 Commissioner Bianco's term is up, and we don't know -- I  
10 don't know whether you'll get to continue, I hope you do,  
11 but for how long.

12           But I would like, at least, that this Board  
13 recognize your tremendous commitment and dedication since  
14 I've been on the Board. And I know your heart is in it and,  
15 hopefully, you will be here next month. And I don't know  
16 anything about any appointments. But I'm just concerned  
17 that it not be on the record how much we appreciate -- I  
18 appreciate, and everyone else can speak for themselves, the  
19 participation, and commitment, and dedication you've given  
20 to this industry.

21           COMMISSIONER BIANCO: It comes from the heart.  
22 And people that I've worked with on the committees, with the  
23 CHRB, I know we can't please everybody -- I know we can't  
24 please everybody, but we try.

25           And sometimes it's a little bit frustrating

1 because, you know, I hear the regulations that we have from  
2 the State, but in some of the discussions today we kept  
3 mentioning the Interstate Commerce laws that the federal  
4 government imposes, and in any business, it's hard to run a  
5 business with all the regulations. So you really do a job  
6 here, you've got your hands handcuffed sometimes.

7 So I appreciate the people I've met, with a lot of  
8 integrity, and I think this Board has a lot of integrity.  
9 So thank you. Look forward to being here next month and, if  
10 not, I'll see you at the race track.

11 (Applause.)

12 COMMISSIONER HARRIS: And I'd like just to add  
13 that Bill, who I didn't really know before I got on this  
14 Board, and I just felt he's done much for the Board, and  
15 really cares about the horses, and the people, but he's also  
16 put -- he's stepped up to the plate several times and put  
17 his own funds into things that needed to be done in some of  
18 our research, and has really been invaluable there.

19 COMMISSIONER BIANCO: Thank you.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, I have a  
21 comment card for general business. Mr. Jamgotchian.

22 MR. JAMGOTCHIAN: Thank you.

23 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
24 before you start, please understand that general business is  
25 not to discuss anything that would be of pending litigation

1 or dispute, and I do ask, and ask you nicely to please stay  
2 on point.

3 MR. JAMGOTCHIAN: Yeah, I want to cite you to Code  
4 Section 54953.3, of the Brown Act. I'm sure Mr. Knight is  
5 aware of this code, I'll read it to you.

6 "The legislative body of a local agency shall not  
7 prohibit public criticism of it's policies, procedures,  
8 programs or services of the agency, or of the acts or  
9 omissions of the legislative body."

10 Mr. Shapiro, if you usurp my comments to speak at  
11 this microphone, I assure you, we'll be in court again.

12 Now, with regards to issues, we'll just talk about  
13 the first simple issue. I brought up a few months ago that  
14 the Horsemen's Handbook concerning medication rules had not  
15 been revised since January 1999, when Mr. Scurfield was the  
16 chairman.

17 I now want to provide you with -- and this just  
18 goes to show the incompetent leadership of the CHRB. The  
19 CHRB News and Review, the newsletter, the last one is on  
20 December 4, December 2004. I've provided that to Mr.  
21 Martin. And the headline of that is "Wood retires after 11  
22 years with the CHRB."

23 Now, if you want a transparent administration,  
24 where people in horse racing know what the heck's going on,  
25 when they look at your website, why would somebody look at a

1 California Horse Racing Board's News and Reviews, and not  
2 see anything since 2004? Has there been any news since  
3 2004?

4 COMMISSION CHAIRPERSON SHAPIRO: Let me address  
5 that.

6 MR. JAMGOTCHIAN: Sure.

7 COMMISSION CHAIRPERSON SHAPIRO: A conscious  
8 decision was made to discontinue that because of budgetary  
9 reasons and avail ourselves of using our website more. So  
10 it was in fact a decision to make to reallocate those  
11 monies, so that they would be better used, rather than put  
12 out a PR piece.

13 MR. JAMGOTCHIAN: Well, then take it off, or put  
14 something on the website that doesn't cost you any money.  
15 Obviously, you don't want to be very transparent with  
16 information, I understand that, because there's not a lot of  
17 good information that comes out of the Board.

18 But if you do have any good information, maybe you  
19 ought to put it on the website. I'm not saying disseminate  
20 it and cost you money, I'm saying put it out. If you want a  
21 transparency, you got to get transparency. If you want to  
22 talk about it, keep talking about it.

23 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
24 after every meeting that we have we issue a release so that  
25 we try to keep the industry and anybody interested aware of

1 what the Board is working on, what the Board is doing. We  
2 do try to post as much information as we can.

3 We've started a lot -- we've done a lot of things  
4 different. We make sure that there's a weekly release on  
5 any major positive findings --

6 MR. JAMGOTCHIAN: Well, I don't care about a  
7 response.

8 COMMISSION CHAIRPERSON SHAPIRO: I'm just trying  
9 to respond to you.

10 MR. JAMGOTCHIAN: Either take it off or update it.  
11 The last one was December 2004.

12 Additionally, I sent a letter to Mr. Arthur with  
13 regards to questions about heel nerving, asking him general  
14 questions about does advanced approval need to be addressed  
15 to anybody about heel nerving, looking at 1850 and 1851. I  
16 sent you multiple e-mails about general questions about  
17 trainers who were asking me about heel nerving.

18 Yet, Mr. Arthur, Dr. Arthur, whose credibility I'm  
19 just challenging on a daily basis, because I'm sure he's  
20 going to be sued very soon over his latest heel nerving  
21 incident. These general questions need answers.

22 Mr. Shapiro, you've seen these general questions.  
23 Are trainers supposed to be heel nerving horses in  
24 California?

25 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,

1 as I stated earlier in the meeting, there will be a  
2 discussion about Rules 1850 and 1851 at the next Medication  
3 Committee meeting. If any trainers have any questions that  
4 they need to ask, they are able to ask their veterinarians,  
5 they are able to ask the Equine Medical Director, or they  
6 can ask other sources. Other than that, that's all I can  
7 tell you at this time.

8 MR. JAMGOTCHIAN: I've asked general questions to  
9 the Equine Medical Director, and just a few minutes ago he  
10 refused to answer any general questions.

11 So if I look at 1850 and 1851 and I want to heel  
12 nerve a horse, or I don't want to heel nerve a horse,  
13 there's no instruction from the Equine Medical Director and  
14 I want to know why. He's a paid employee of the Board, so  
15 why isn't he responding?

16 COMMISSION CHAIRPERSON SHAPIRO: First of all, he  
17 is not a paid employee of this Board. Second of all, you  
18 can go to any source that you choose to go to. The Equine  
19 Medical Director provides advice to the Board. He is not  
20 there to provide advice to owners of particular horses.

21 MR. JAMGOTCHIAN: Or trainers, correct? Or  
22 trainers, correct.

23 COMMISSION CHAIRPERSON SHAPIRO: He is here to  
24 provide advice to the Board.

25 MR. JAMGOTCHIAN: Does he provide any information

1 to the trainers?

2 COMMISSION CHAIRPERSON SHAPIRO: If it is  
3 something that he feels is in the best interest of the  
4 industry, and in terms of advisory or information, he then  
5 can release those things, as he's done very capably with the  
6 herpes virus.

7 MR. JAMGOTCHIAN: Well, do you --

8 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
9 I suggest you seek the advice and direction of your own  
10 veterinarians.

11 MR. JAMGOTCHIAN: First off, my own veterinarians  
12 don't administer the CHRB rules and regulations. If my  
13 veterinarians do something wrong, I'm sure Mr. Arthur is the  
14 first person that's going to file some kind of action  
15 against them. So I think there needs to be direction.

16 If you're telling me that you're not going to  
17 respond to general questions by an owner or a trainer with  
18 regards to heel nerving, what are you talking about with  
19 regard to protection of the horse then? Is it your position  
20 and the Board's decision that they don't care if horses are  
21 heel nerved in California?

22 COMMISSION CHAIRPERSON SHAPIRO: As I think I've  
23 been pretty clear, there will be a Medication Committee  
24 meeting upcoming, at which there will be a discussion  
25 whether -- on this particular practice, that we will then

1 determine whether or not California should join Arizona as  
2 the only other state that does not permit this in the United  
3 States.

4 I don't have an opinion on it, as I sit here. It  
5 is something that you will be welcome to participate in,  
6 along with everybody else in that discussion, at that time.

7 MR. JAMGOTCHIAN: But the question is,  
8 Mr. Shapiro --

9 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
10 your time is --

11 MR. JAMGOTCHIAN: Well, you've spent more time  
12 talking than I have.

13 COMMISSION CHAIRPERSON SHAPIRO: You're asking me  
14 questions, I'm trying to answer them.

15 MR. JAMGOTCHIAN: Okay. All right, all right.  
16 Okay, so then the next -- so that's fine. So your position,  
17 then, is that my questions as an owner, or as a trainer,  
18 there's not a requirement from the Equine Medical Director  
19 to answer them or respond to them, is that your position?

20 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,  
21 I've given you my best answer. I don't have anything else  
22 to respond on that matter.

23 MR. JAMGOTCHIAN: In other words, the answer is  
24 no.

25 COMMISSION CHAIRPERSON SHAPIRO: Is there anything

1 else, your time is running out.

2 MR. JAMGOTCHIAN: It's very sad to see that a lack  
3 of transparency on the California Horse Racing Board, Mr.  
4 Shapiro, that you will compromise the integrity and  
5 protection of a horse. It's tragic.

6 You know, the other thing I wanted to tell you is  
7 the annual report that I've been reviewing by far is quite  
8 interesting. And if Mr. Arthur wants to talk about it, I'd  
9 be more than happy to address it. Is there's 143 licensed  
10 jockeys, not 106. So if, in fact, you want the facts,  
11 allegedly there are, and it's in this report, that there are  
12 143 licensed jockeys.

13 And, you know, from our perspective I'm sure  
14 litigation will be commenced with regards to the heel nerve.  
15 So we'll get those questions answered in a deposition.  
16 Thank you.

17 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur?

18 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, I'd just  
19 like to point out that I'm more than happy to answer any  
20 questions that the Board has of me on any issues that you  
21 want. If you want to forward questions to me from any  
22 licensee, I'd be happy to advice you on that. You do have  
23 employees, the official veterinarians who can answer those  
24 questions, and they're actually paid by the Board to do  
25 that.

