

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

ARCADIA CITY HALL

240 WEST HUNTINGTON DRIVE

ARCADIA, CALIFORNIA

THURSDAY, FEBRUARY 28, 2008

9:00 A.M.

Reported by:
Troy A. Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson

John Andreini

Jesse H. Choper

Marie Moretti

Jerry Moss

STAFF

Kirk Breed, Executive Director

Richard Bon Smith, Assistant Executive Director

Derry L. Knight, Deputy Attorney General

Jacqueline Wagner, Staff Services Manager I

Mike Marten, Public Information Officer

Francisco Gonzalez

ALSO PRESENT

Dr. Rick Arthur, Equine Medical Director

Richard Castro

Ivan Axelrod

Jim Perez

Jerry Jamgotchian

Jim Correll

Norb Bartosik

David Elliot

Doug Kempt

APPEARANCES CONTINUED

ALSO PRESENT

George Haines

Jack Liebau

Drew Couto

Tom Robbins

Ed Halpern

Billy Koch

Steve Lipscomb

Susan Branch

Alan Branch

Barry Broad

Candace Young

Marsha Naify

Rick Hemmerle

Vito Francisco

Mike Harlow

Dr. Mark Martinelli

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1 PROCEEDINGS

2 EXECUTIVE DIRECTOR BREED: Ladies and gentlemen,
3 will the meeting come to order, please.

4 This is a Regular Meeting of the California Horse
5 Racing Board on Thursday, February 28, 2008, Arcadia City
6 Hall Council Chambers, 240 West Huntington, Arcadia,
7 California.

8 Present at today's meeting are Chairman Richard
9 Shapiro, Commissioner John Andreini, Commissioner Jesse
10 Choper, Commissioner Marie Moretti, and Commissioner Jerry
11 Moss.

12 We are going to have an Executive Session to
13 conduct the business that's on the agenda. Thank you very
14 much.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, let's
16 adjourn.

17 (Thereupon the California Horse Racing
18 Board Regular Meeting resolved into
19 Executive Session at 9:10 a.m. and
20 reopened the Public Session at 10:15
21 a.m.)

22 EXECUTIVE DIRECTOR BREED: This is the Regular
23 Board Meeting of the California Horse Racing Board, and we
24 preordained this meeting before, and had an Executive
25 Session.

1 So I would like to read this general opening
2 statement and then turn the meeting over to Chairman
3 Shapiro.

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

8 Please note that unduly repetitious comments or
9 extended discussion of irrelevancies disrupt the meeting and
10 prevent the Board from accomplishing its business in a
11 reasonably efficient manner.

12 In order to assure that each individual, who
13 wishes to comment, will have an adequate opportunity to do
14 so, and also to assure that the meeting as a whole will be
15 completed in a timely manner so that individuals wishing to
16 comment on multiple matters will not be required to stay for
17 an unreasonable length of time, the Chair will strictly
18 enforce a three-minute rule time limit for each person to
19 speak on any agenda item.

20 The shorter three-minute limit is necessary today
21 because of the lengthy agenda, 21 open session items.
22 The goal of this rule is to assure that each person's right
23 to make their views known is not disrupted by another
24 person's conduct.

25 In order to expedite the comment process, there is

1 a public comment sign-in sheet for each agenda item on which
2 public comment will be taken, as well as a sheet for comment
3 about anything related to horse racing that is not on the
4 agenda.

5 The sheets are located where?

6 COMMISSION CHAIRPERSON SHAPIRO: At the podium and
7 in the back.

8 EXECUTIVE DIRECTOR BREED: At the podium and at
9 the back of the room.

10 Please print your name legibly so that the Chair
11 does not mangle it.

12 Just prior to our discussion of the item, the
13 comment sheet will be brought to the Chair. After initial
14 statements from staff and interested parties, the Chair will
15 ask for public comment.

16 When the Chair calls your name, please come to the
17 podium to speak. The Chair will let you know when your time
18 has commenced, and when there is one minute left, and when
19 your time is up.

20 When your time is up, you will be expected to
21 return to your seat so that the Chair may call the next
22 person waiting to the podium.

23 When all of the names have been called, the Chair
24 will ask if anyone else has a comment on the agenda item,
25 who has not already spoke.

1 At that point, the Board will not take any further
2 comment on an item unless the Board has specific
3 instructions it wishes to address.

4 If the time is up, the Chair will ask the speaker
5 to please take his or her seat. If a speaker is repeating
6 himself or herself, the Chair will ask the speaker if he or
7 she has any new comments to make. If not, the Chair will
8 ask the speaker to allow the next speaker to come to the
9 podium, irrespective of the time remaining, unless a Board
10 member indicates that he or she still wishes to hear from
11 the individual.

12 If it appears that a speaker is not speaking to
13 the agenda item, or is speaking to another agenda item, the
14 Chair will ask that the speaker please return to his or her
15 seat and address his or her comments at the appropriate
16 time, either on that specific item or at public comment.

17 I'll now turn the meeting over to the Chair.

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you. A
19 couple of issues, first, before we get going. As all of
20 you, I'm sure, will appreciate, I didn't read that
21 statement, our new Executive Director did.

22 And I would like to welcome Kirk Breed as the new
23 Executive Director of the California Horse Racing Board.

24 EXECUTIVE DIRECTOR BREED: Thank you.

25 (Applause.)

1 COMMISSION CHAIRPERSON SHAPIRO: I believe Kirk is
2 probably well known to a lot of people here. First and
3 foremost, he's a wonderful gentleman. And being that he's a
4 few years older than me, and has a child that's younger than
5 my youngest child, I don't feel so old. So it really was
6 something I welcomed.

7 But, seriously, Kirk has been involved and an
8 advocate for horse racing for many, many years. I think
9 that he will bring a lot of zeal and passion to helping us
10 on our quest to improve California horse racing, and so I
11 think it's a wonderful addition.

12 And I look forward, as does the rest of the Board,
13 to working with Kirk in the future.

14 Towards that end, I am going to switch to Item
15 Number 19 on the agenda, which is simply to let you know
16 that there was a vote to reconfirm the hiring of Kirk.

17 The Board had previously authorized the Committee,
18 in the selection process, to offer the position to Kirk
19 Breed. We did so, he was retained. But just as a
20 reconfirmation, there was a vote in Executive Session, and
21 it was a unanimous vote that Kirk Breed would be hired.

22 And so, again, welcome Kirk, and we look forward
23 to having you.

24 Okay, the next thing is more administrative and
25 that is I would ask that the people that are conducting the

1 webcast to please check to make sure that the audio and the
2 video is working.

3 You'll notice that Commissioner Harris is not
4 here. He, unfortunately, came up as a late scratch, under
5 the weather. I've asked the Equine Medical Director to make
6 sure that they test him to see that he took his pre-race
7 meds, so he wasn't just really not wanting to come down
8 here.

9 (Laughter.)

10 COMMISSION CHAIRPERSON SHAPIRO: But knowing as we
11 all love John, John Harris, he did already send me an e-mail
12 and he said no video, no audio. So I would ask that
13 whoever's doing the webcast that they check that.

14 And John, if you are watching, send me an e-mail
15 and let me know it's now working.

16 On another administrative issue, last week we held
17 a Special Board meeting on the racing surfaces discussion.
18 I think it was a tremendously positive discussion, very
19 helpful, very educational.

20 For those people that would like to get a copy of
21 that webcast, they should e-mail our Public Information
22 Officer, Mike Marten. And Mike Marten's e-mail address is
23 mikem@chrb.ca.gov.

24 Again, you know, you can go to our website and
25 probably get it. But it's mikem@chrb.ca.gov.

1 Okay, I think that's that. The one issue on the
2 agenda that will not be heard is the issue from the San
3 Mateo County Fair. It's Item Number 17 will be taken off
4 the agenda. They've asked that that issue be deferred until
5 next month, and so we're going to defer that item.

6 Okay, with that, the first item of business is
7 Item Number 1, which is approval of the minutes of the
8 Regular Meeting of January 16th, 2008.

9 Does the Board have any additions, corrections or
10 changes?

11 And if not, I will entertain a motion to approve.

12 COMMISSIONER MORETTI: So moved.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, and a
14 second.

15 COMMISSIONER MOSS: Second.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, I have a
17 comment card from my good friend, Richard Castro, who has a
18 comment to the minutes.

19 MR. CASTRO: My name is Richard Castro. Good
20 morning, Chairman Shapiro, Commissioners.

21 COMMISSION CHAIRPERSON SHAPIRO: Good morning.

22 MR. CASTRO: I do have a comment regarding the
23 minutes. If you look in your Board packet, it says "Richard
24 Castro, the Pari-Mutuel employee" --

25 COMMISSION CHAIRPERSON SHAPIRO: Can you tell me

1 what page? Look at the very top right, there should be a
2 page number.

3 MR. CASTRO: It looks line 1 --

4 COMMISSION CHAIRPERSON SHAPIRO: One dash --

5 MR. CASTRO: -- 22.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

7 MR. CASTRO: "Richard Castro, Pari-Mutuel
8 Employees Guild, spoke regarding the Guild's ongoing
9 negotiations with various advance deposit wagering
10 providers." And then it goes on with the Honorable Ed
11 Halpern.

12 It fails to mention that I spoke about having the
13 ADW issue put on the agenda. And I was given an affirm
14 response to that, that it would be on the February agenda
15 and it's not here.

16 I don't think this is an accident. I think it is
17 deliberate that you're postponing and keeping labor out of
18 the process.

19 And my good friend, Kirk Breed, if I had a vote, I
20 would have voted with Kirk Breed. I've got a long history
21 with Kirk Breed. And I would like to leave my session of
22 this issue at the podium by reading from a paragraph, back
23 in the days when Kirk Breed was up in the Legislature, in
24 Dick Floyd's office. This is a letter regarding Hershel
25 Rosenthal, of what he wrote on April 28th, 1992.

1 I'm quoting, "as a member of the Senate committee
2 that oversees the regulation of the horse racing industry, I
3 intend to see that the law in this area is enforced. If
4 management does not have a contract with a designated labor
5 organization, it cannot conduct satellite wagering. This
6 condition of operation is not subject to negotiation or
7 delay, it is the law."

8 With that, I will be excused. Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Richard, before
10 you get away, first of all, I want to personally apologize,
11 on behalf of the Board apologize that this item was not put
12 on the agenda.

13 I don't know, and I don't recall, who received
14 that request, even if it was me, and I honestly don't
15 remember.

16 In a subsequent conversation I believe you and I
17 spoke, or I became of this a week or so ago, and the agenda
18 had already gone out.

19 I can assure you there is no deliberate attempt on
20 this Board's behalf not to hear this issue. And, therefore,
21 the first thing I will ask our new Executive Director to
22 make sure happens is that Item Number 2 on our March agenda
23 be this item. Item Number 1 will be the minutes. But Item
24 Number 2 will be a -- will be a matter of hearing the status
25 of the card check agreements with the unions and the ADW

1 providers, so that we can properly resolve this and deal
2 with it.

3 If, in the interim, there are other ways that we
4 can assist in trying to resolve this, I believe we stand
5 ready to do so.

6 So I do apologize, I can assure you there's no
7 intent not to hear this matter.

8 MR. CASTRO: Apology accepted. But in the
9 meantime there's a statute violation, and I'm not willing to
10 grant time on a statute violation.

11 As I said yesterday, the law applies to you, just
12 as it applies to me. And quite frankly, the way things have
13 been going in 2008, I see our organization as being treated
14 differently and I'm not going to tolerate that.

15 COMMISSION CHAIRPERSON SHAPIRO: Richard, again, I
16 don't know why you come to those conclusions. I can only
17 tell you that there is no intent whatsoever, and I have not
18 had a chance to speak to staff, nor have I questioned them
19 as to why this is not on the agenda, I really don't know the
20 answer.

21 And rather than debate it here, it's not on the
22 agenda, I apologize on behalf of the Agency, and we will get
23 it on the agenda. And, if need be, we will meet with you in
24 the interim to try and help resolve this. There's no intent
25 not to do that.

1 MR. CASTRO: May I be excused?

2 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
3 Richard.

4 Okay, Item Number 2 on the agenda is a
5 discussion --

6 COMMISSIONER MORETTI: We need a vote on this.

7 COMMISSION CHAIRPERSON SHAPIRO: Oh, thank you,
8 thank you. We need a vote on the minutes.

9 All those in favor?

10 COMMISSIONER MOSS: With the comments of Mr.
11 Castro.

12 COMMISSION CHAIRPERSON SHAPIRO: With the
13 inclusion of the comments of Mr. Castro, we will amend the
14 minutes.

15 Yes, sir?

16 COMMISSIONER CHOPER: And I think if there is any
17 further information that ought to be given to us in respect
18 to this matter, we ought to have it in plenty of time before
19 the March meeting. You know, because often things, just in
20 the course of the things just get put off yet another time.
21 I think we ought to do everything that we can, at least, to
22 resolve this thing at the March meeting.

23 COMMISSION CHAIRPERSON SHAPIRO: I agree with you.
24 And towards that end, this is an issue where I think we will
25 need legal input as to the Board's decision, and what the

1 Board's role is with respect to the dispute that exists
2 between the ADW companies and labor, and does our oversight
3 extend to those areas where the subject employees may or may
4 not need to be union workers.

5 I think the issue for this Board is going to be
6 does this come under our jurisdiction, okay. And that's
7 something that I'm unclear on so, Derry, I would ask that
8 you please give the Board some advice in that regard. Okay?

9 COMMISSIONER CHOPER: And we should get the input
10 from the relevant parties to this, as to what their position
11 is.

12 COMMISSION CHAIRPERSON SHAPIRO: Absolutely. I
13 think if the union, if Richard, if the SEIU Local 280 will
14 present a brief on their position, I think that the ADW
15 providers should also provide it, so that we have a full
16 packet of information on what the differing views and the
17 status is, I think that will be helpful, as well as we must
18 have input from our attorneys.

19 Because I'm unclear, as I believe others are on
20 this Board, as to where our oversight starts and ends.
21 Okay. So --

22 DEPUTY ATTORNEY GENERAL KNIGHT: And, Mr.
23 Chairman, I would just ask that if they're going to provide
24 input, I'd like to receive the input.

25 COMMISSION CHAIRPERSON SHAPIRO: Oh, of course,

1 you should. I think that in providing the input to us I
2 would ask that -- I know there are representatives of at
3 least one of the ADW companies here, that they
4 present -- those companies, which have not entered into the
5 card check agreements with the appropriate union, that they
6 present why they haven't, what their views are.

7 As well as, Richard, if you'll have your attorney
8 also present your views.

9 And submit a copy to Derry, to our Executive
10 Director, who, in turn, will distribute it to all Board
11 members. And we should get that well in advance of our
12 March meeting. Thank you.

13 MR. CASTRO: May I speak?

14 COMMISSION CHAIRPERSON SHAPIRO: Yes.

15 MR. CASTRO: I'm not going to commit that we're
16 going to file a brief. I've heard what you've said, I'll
17 pass it along to our law firm. I don't know what the
18 response is going to be from the law firm and my executive
19 board.

20 But I think I can speak for Twinspires, who is
21 here, and XpressBet, who is here.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, what a
23 second. This is not an agendaed item, and I'm concerned
24 that I don't think that we should be debating the issue,
25 unfortunately, today, and Twinspires, I saw, is here.

1 All I'm saying is that so that we can properly
2 hear the matter, that we should have input from those sides
3 that wish to provide input to us, so that we can hopefully
4 do the right thing. That's all I'm trying to do in advance
5 of our March meeting, and get it to us as soon as possible,
6 so when we do hear it, we're educated.

7 MR. CASTRO: If you feel I'm out of order, just
8 rule and I'll stop.

9 On behalf of Twinspires and XpressBet, the people
10 that are here, and myself, we're not arguing or fighting.
11 We have an issue that we want to get resolved, we're equal
12 in this. They want to get it resolved just as much as we
13 do. We're willing to accept a decision, we're not arguing.

14 COMMISSIONER CHOPER: May I interrupt a minute?
15 All we would want to know is what the position of you and
16 those businesses are.

17 MR. CASTRO: I understand.

18 COMMISSIONER CHOPER: So long as we've got it
19 clear, the purpose, as the Chairman said, is to get as much
20 as we can so we get it resolved by this March meeting,
21 instead of having to go over, again. And I know you want
22 that.

23 MR. CASTRO: Right. Well, as far as I'm
24 concerned, right now we stand in violation of the statute.

25 COMMISSIONER CHOPER: I understand.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

2 All right, all those in favor of approving the
3 minutes as amended?

4 (Ayes.)

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay, Item
6 Number 2 on the agenda. Item Number 2 is discussion and
7 action by the Board regarding reconsideration of its action
8 to extend the license granted to Sacramento Harness
9 Association, at Cal-Expo, to conduct a harness racing
10 meeting commencing January 24th through March 27th, of this
11 year.

12 And I'm glad to see that the members of Sacramento
13 Harness have sat down at the table.

14 As the Board will recall, at our January meeting,
15 I believe it was our January meeting, or the last meeting
16 that we heard this, the Board extended the license of
17 Sacramento Harness to conduct racing at Sacramento. As part
18 of that extension there were conditions that were
19 established, that Sacramento Harness was to meet, including
20 providing information to the Board, securing a financial
21 instrument to provide as a security deposit, so to speak,
22 and other issues. None of which have been provided, nor
23 met.

24 I am in receipt of a letter from Ivan Axelrod, the
25 President of Sacramento Harness, on February 15th, that

1 advised me that they are going to cease operations effective
2 March 2nd, 2008. Correct? Is that a correct date?

3 MR. AXELROD: Well, the last day of business will
4 be March 1st.

5 COMMISSION CHAIRPERSON SHAPIRO: March 1st, okay.
6 And so what I would like to do is just, if we can, some of
7 this discussion will also blend into Item Number 3, is that
8 we have an application from Cal-Expo to become the harness
9 racing operator that will commence on March 6th, so let's
10 call it a week later, merely that they would become the
11 operator.

12 So now the question is that we have Sacramento
13 Harness here, who is going out of business, they're
14 not -- and they're going to wind up their business. I have
15 a few questions for you.

16 While I appreciate you have decided to essentially
17 wind up the business and no longer conduct harness racing,
18 my concern is what the financial status of Sacramento
19 Harness Racing Association is in ensuring that the
20 obligations that are outstanding, and may become known as
21 outstanding, are going to be met after you cease operations,
22 and I would like to hear from you what assurances you can
23 give the Board and the industry that those obligations will,
24 in fact, be fully met.

25 MR. AXELROD: Okay.

1 COMMISSION CHAIRPERSON SHAPIRO: Please introduce
2 yourself for the record.

3 MR. AXELROD: Yes, I'm Ivan Axelrod, the President
4 of Sacramento Harness Association.

5 As part, and what you described is certainly
6 exactly what is going to happen, our final day of racing
7 will be Saturday, March 1st. And we have been working with
8 both Cal-Expo and the California Harness Horsemen's
9 Association to coordinate the transition and the winding up
10 of our business.

11 As we discussed in the last meeting, we have a lot
12 of obligations, one of which is to the Horsemen, through the
13 paymaster account, and we spent some time on that. And we
14 also have ongoing liabilities, and we have ongoing
15 receivables, and Pari-mutuel commissions, and deposits.

16 We have done an analysis of those assets and
17 liabilities, and subject to additional liabilities that come
18 about, that we're not currently aware of, we believe that we
19 will be able to satisfy, I'm going to say, close to a
20 hundred percent of those liabilities. There may be some
21 that we enter into negotiations with particular vendors to
22 settle at something less, but we look like we are pretty
23 close to a hundred percent of realized assets to satisfy our
24 obligations.

25 We plan on doing that in several different ways.

1 The major one is with the paymaster account and, again, we
2 discussed that last time. But we have approximately
3 \$675,000, I'll call it, owed to the horsemen. That's for
4 purses that have been earned, but the horsemen have not
5 drawn those funds out of the accounts.

6 What our plan is, and it's more for the expediency
7 of winding down the business, we plan on leaving that
8 paymaster account open. We have talked with Cal-Expo, and
9 they're not in disagreement, that they would open up a new
10 paymaster account. Our paymaster account would remain open,
11 with that liability of \$675,000, approximately.

12 Our controller is becoming the paymaster for Cal-
13 Expo and, therefore, she will be able to manage both of
14 those functions. As horsemen request money, checks will be
15 drawn to pay whatever is requested.

16 Between the cash we have on hand and the
17 commitment that we discussed last month, from the California
18 Harness Horsemen Association, we could pay all of that off
19 immediately. But in the interest of managing our cash flow,
20 because we have substantial funds that will be coming in
21 over the next 60 days, we would like the flexibility to
22 manage the in-flow and out-flow of money as we wind down the
23 business, which we expect will take about 90 days.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay, can I
25 interrupt you, because my major concern is, in fact, the

1 Horsemen's account and the paymaster account.

2 I think, at the meeting we had here before, we
3 were told that the liability to the horsemen, in the
4 paymaster account, was about \$375,000. Now, we're being
5 told it's about \$675,000.

6 And what you've just said was that you do believe
7 that you have the cash on hand and available, that you could
8 pay that amount out upon closing; is that so?

9 MR. AXELROD: We could pay that by obtaining, from
10 the California Harness Horsemen's Association, the
11 approximately \$400,000 that they have committed to reimburse
12 us for the overpayment.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay.

14 MR. AXELROD: Those two things, combined with our
15 current cash, could do that.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask
17 Mr. Perez, who's sitting to your right, when I spoke to Ben
18 Kenney, yesterday, he told me that that amount was
19 significantly less than \$400,000 as the agreement, and that
20 what he told me that there was some discussion about
21 \$200,000.

22 So, Mr. Perez, please introduce yourself and then
23 perhaps you can respond to this.

24 MR. PEREZ: Jim Perez, Executive Director, CHHA.
25 To go back is we have not been paid by SHA for three months,

1 our six percent. We are willing to put that towards which
2 equals roughly around \$175,000, put that towards the
3 overpayment, and then the balance which we owe, we will
4 commit to help pay the paymaster's liability.

5 COMMISSION CHAIRPERSON SHAPIRO: Well, your
6 foregoing a payment isn't cash.

7 MR. PEREZ: I understand that, but that's what
8 these guys owe to us.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, I
10 understand it's owed to you.

11 MR. PEREZ: Right.

12 COMMISSION CHAIRPERSON SHAPIRO: But if the
13 horsemen are owed \$675,000 --

14 MR. PEREZ: Correct.

15 COMMISSION CHAIRPERSON SHAPIRO: Because I
16 question this wisdom of keeping the paymaster account open,
17 and this idea that the horsemen aren't going to all say
18 well, gee, they're out of business, maybe I should go get my
19 money from them. And I understand that Cal-Expo's going to
20 open up a new account, a new horsemen's account.

21 So if all the horsemen were to go in, the question
22 is do you have \$675,000 with which to make those payments?
23 And because you haven't been paid, are going to give them a
24 credit, that credit is non-cash.

25 MR. PEREZ: I agree with you.

1 COMMISSION CHAIRPERSON SHAPIRO: So let's say
2 you're going to give them \$200,000 in cash --

3 MR. PEREZ: Correct.

4 COMMISSION CHAIRPERSON SHAPIRO: -- do you have
5 \$475,000 to meet those obligations?

6 MR. AXELROD: If that number is 200,000, which I
7 don't agree with, but past that --

8 COMMISSION CHAIRPERSON SHAPIRO: Well, okay, then
9 ask him, ask the guy to your right, then, what's the cash
10 number?

11 MR. AXELROD: Well, I did speak with Mr. Kenney
12 yesterday, and so we do have an agreement. At this point in
13 time, today, their commitment is 468,000, which is the
14 overpayment of the purses, 468,000. Now, that includes some
15 estimates, but that's a pretty good number.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay.

17 MR. AXELROD: We owe them 170,000. We are pleased
18 to write them a check for 170,000 and then have them write
19 us a check for 468,000, which means the net is approximately
20 300,000.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, let me ask
22 you, does CHHA, if they write you a check for 170,000, can
23 you write them back a check for \$478,000?

24 MR. PEREZ: I am unaware of this agreement, which
25 I'm totally unaware of it. And the balance, the number I

1 got is the number I got, 200,000.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. Here's my
3 whole problem, we sat here two months ago and, frankly, I
4 think we heard a bunch of bull. Okay, I think we heard a
5 bunch of assertions. You guys didn't even know what your
6 average handle was. We were told that you were going to
7 post a security, and I got an e-mail that when I heard about
8 this was, well, so be it, was the response. Which, quite
9 frankly infuriated me.

10 Now, I'm concerned, I think it's great that you
11 guys have just made this business decision, and that we're
12 going to be able to transition smoothly with Cal-Expo, but I
13 still believe that there are a bunch of people out there who
14 are not -- who are living on the backside, and working in
15 this industry, who have earned purses, and I'm concerned how
16 they're going to get paid.

17 Now, in addition to that obligation, you also
18 have, I believe, other liabilities and obligations that
19 probably are -- how are those going to be met? I mean, are
20 there pension plans for employees that work at Sacramento
21 Harness that need to be paid? Are there workman comp
22 premiums that need to be paid?

23 What assurances is Sacramento Harness going to
24 make to this Board that the obligations of that racing
25 association will in fact take care of the people who have

1 depended that you're going to pay your bills?

2 You're the accountant, not me.

3 MR. AXELROD: Well, no, I really don't know how to
4 answer that question. The answer is we are going to make
5 those payments from the cash we have on hand, the deposits
6 that we have with various organizations, that will be coming
7 back to us when we close business. We have Scotwinc
8 deposits, we have other deposits, and we have pari-mutuel
9 commissions that will be coming in over a period of time,
10 once we close business. It will be coming from those
11 revenues coming into the company.

12 As you are aware, and I was not here when we were
13 licensed --

14 COMMISSION CHAIRPERSON SHAPIRO: Yes, that's true.

15 MR. AXELROD: -- I think the Board is aware that
16 this company was not capitalized with, you know, pick a
17 number, two million, three million dollars of cash. So we
18 have been --

19 COMMISSION CHAIRPERSON SHAPIRO: It was
20 capitalized with a \$500,000 loan from Chris Bardos.

21 MR. AXELROD: Okay.

22 COMMISSION CHAIRPERSON SHAPIRO: It was also you
23 were to provide security for these situations, for a
24 situation like this, of half-a-million dollars, that the
25 Board would hold.

1 Now, to my knowledge, you did not perform. And as
2 staff knows, I believe that we are holding something to the
3 effect of a hundred or a hundred and fifty thousand dollars.
4 I don't know. If staff knows, I'd like them to answer what
5 the current balance is in some bank, somewhere.

6 But that was part of the root of what the problem
7 was that we dealt with, and you were supposed to provide
8 that security, which you didn't do.

9 Now, we're at the place where, gee, we have all
10 these people, and I don't want to see the employees that
11 work at Cal-Expo get stuck, I don't want to see the horsemen
12 get stuck. So my real question to you, Mr. Axelrod, and
13 you're the President, so please understand it's not directed
14 totally at you, it's who, at Sacramento Harness, is going to
15 stand tall in the event there's a shortfall?

16 Who is going to make this Board assurances that
17 these people will get paid? You have a board of directors,
18 you have officers. Is anybody going to stand tall?

19 MR. AXELROD: I don't think there is anyone on our
20 board, or anyone that I'm aware of who is going to provide
21 additional capital to the company.

22 Now, I'm sitting here today, tell you that if the
23 horsemen on March 2nd, or tomorrow, come ask for the money
24 in their account, there will be checks cut to pay them, and
25 those checks will be good.

1 COMMISSION CHAIRPERSON SHAPIRO: Fine. Okay, what
2 I'm going to do is, I mean, I can go back and forth and
3 there's really no reason to do that, you're going out of
4 business. But I am going to ask that our staff please get
5 together with your controller, with you. I think that we
6 may want to ask that your other member, Mr. Scurfield, and
7 other members that came before this Board before it was
8 licensed and gave us assurances that everybody would be
9 paid, that we'd like to hear what assurances there will be
10 in the event that that plan doesn't prove to be fruitful.

11 I mean, I think we owe it to those people. And,
12 frankly, I think your organization owes it to the horsemen,
13 and to the employees, and to the other people who have
14 earned that money, that they get their money.

15 So I would ask that you -- we probably will need
16 to come back and have a discussion with them, with respect
17 to that.

18 Does the Board, does anybody else on the Board
19 have any other questions on this issue? Because the next
20 issue that we're going to have to transition to is what
21 we're going to do with respect to the future.

22 Nobody on the Board does, okay. Since this is
23 Item 2, I will take public comment on Item 2.

24 Shockingly, I have a card from Jerry Jamgotchian.
25 And, Jerry, I thought you only cared about thoroughbred

1 racing.

2 MR. JAMGOTCHIAN: You know, I'm going to be multi-
3 talented and start talking about harness racing, as well as
4 quarter horse racing, very soon.

5 But before I start, I wanted to make sure that
6 this Board isn't the recipient of another Bagley-Keene
7 lawsuit. Section 11124 states "no conditions for attending
8 meetings." Now, Mr. Shapiro, you read that lovely statement
9 before every meeting, you're requiring people to fill out
10 the silly cards. If they want to fill out the silly cards,
11 that's fine, but there's a requirement here, in this code
12 section, and maybe Derry and I can take a look at this code,
13 which says that these cards do not have to be filled out.

14 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
15 we're talking about --

16 MR. JAMGOTCHIAN: No, I know, I know. Okay, all
17 right, fine.

18 COMMISSION CHAIRPERSON SHAPIRO: Excuse me. We
19 are talking about Item Number 2 on the agenda.

20 MR. JAMGOTCHIAN: That's fine, so --

21 COMMISSION CHAIRPERSON SHAPIRO: Can you tell me
22 how this comment relates to Item 2 on the agenda?

23 MR. JAMGOTCHIAN: I'm trying to keep you from
24 getting sued, Mr. Shapiro.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, I

1 appreciate that, but can you --

2 MR. JAMGOTCHIAN: But if you don't want to, that's
3 fine.

4 COMMISSION CHAIRPERSON SHAPIRO: -- tell me how
5 this relates to Item 2?

6 MR. JAMGOTCHIAN: Let's talk about Sacramento
7 Harness then.

8 COMMISSION CHAIRPERSON SHAPIRO: Good.

9 MR. JAMGOTCHIAN: Number one, this is an example
10 of this Board totally ignoring its obligations to the racing
11 industry. You've got the Sacramento Harness now ready to
12 close, further proof that California horse racing is not
13 economic, whether it's harness, thoroughbred, or quarter
14 horse.

15 Now, more importantly, I'll give you the answer,
16 they're going to file for bankruptcy. That's the answer,
17 Mr. Shapiro. You're so concerned publicly about this issue,
18 but you guys haven't done your homework. When they file for
19 bankruptcy, you can deal with that.

20 Now, everybody that needs money in the back, that
21 deserves money, what you should ask these people to do is
22 send them their checks. Like the after-the-meet-closing
23 check that we all get from Santa Anita, Hollywood Park, or
24 any of the other tracks that we race horses at.

25 So why don't you require them to send the money

1 out?

2 Now, importantly, I thought there was a letter of
3 credit put up by Dr. Allred. What about that money, isn't
4 that money available?

5 More importantly, this Board extended their dates
6 knowing that this is what's going to happen.

7 So I really kind of wonder about the honest and
8 integrity of this Board to allow these guys to lose more
9 money, have no ability to pay it off, don't provide a bond,
10 don't provide a financial, don't comply with any of the code
11 regulations that you people are supposed to monitor and
12 regulate.

13 And, more importantly, they have no ability to pay
14 back the debts. They even referenced that they have close
15 to a hundred percent of the liabilities -- excuse me, can
16 you stop this silly thing, there's not a three --

17 COMMISSION CHAIRPERSON SHAPIRO: No. No, that's
18 telling you you're time is almost up, Mr. Jamgotchian.
19 Continue.

20 MR. JAMGOTCHIAN: All right. So you better
21 enforce the three-minute limit for everybody who comes to
22 the microphone, Mr. Shapiro because, if not, you'll be the
23 recipient of another lawsuit. Thank you.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. If there
25 is no other comment on Item Number 2, on the agenda --

1 MR. CORRELL: Mr. Shapiro?

2 COMMISSION CHAIRPERSON SHAPIRO: Oh, I'm sorry.
3 I'm sorry. Jim, please.

4 MR. CORRELL: I represent the Pari-Mutuel Guild.
5 We have been working with Ms. Newman. However, I think
6 we're in a situation now that I don't know if we're going to
7 get the money or not. We believe they owe at least \$16,000
8 in back pension credits through the --

9 COMMISSION CHAIRPERSON SHAPIRO: Say that again,
10 please?

11 MR. CORRELL: Sacramento Harness owes at least
12 almost \$16,000 in past pension credits through 2007,
13 approximately, I don't know what they've paid so far in
14 2008.

15 There's unfunded liability on the pension for the
16 18 months they've run. They're probably going to be liable
17 for another 50 to 60 thousand dollars for health and welfare
18 members, for people that qualified last year, and the
19 benefits are given to them this year.

20 Besides our union, I believe there's 1877
21 Teamsters, Operating Engineers, and Laborers, and we would
22 like this on record that, you know, we're in danger of
23 losing the money and we don't want to do that.

24 COMMISSION CHAIRPERSON SHAPIRO: Well --

25 MR. CORRELL: Or have that happen, let's put it

1 that way.

2 COMMISSION CHAIRPERSON SHAPIRO: I appreciate your
3 comments. I understand your concerns. And, again, I think
4 that I share those concerns.

5 MR. CORRELL: Yes, you do.

6 COMMISSION CHAIRPERSON SHAPIRO: And I want to see
7 a plan, what's called a wind-up plan, if possible, that you
8 would submit. I would ask the Sacramento Harness to please
9 submit and work with our staff, so that we can see a wind-up
10 plan of the business, so that we can address each of these
11 issues.

12 I know that, Mr. Axelrod, it is certainly your
13 intent and desire to meet all of the obligations, I don't
14 think there's any bad motive here. But we do have concern
15 for these people who have earned their money. We're
16 concerned for those people that have, you know, put in the
17 sweat and the toil to earn it.

18 And so, therefore, I do ask that you get together
19 with staff, immediately, and see what the wind-up plan is
20 and let's try to see that, you know, make sure that
21 everybody's going to get paid.

22 And I think that, if necessary, that just as CHA
23 is there, the union should have a representative there, so
24 that they are well aware of what the plan is, and any other
25 parties that are relevant to this discussion.

1 Is that agreeable to you, Mr. Axelrod?

2 MR. AXELROD: That's agreeable.

3 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

4 Okay, thank you. There's no other discussion on
5 that, I thank you.

6 Again, Kirk, I would hope that you would get
7 together with them. You guys are right next door, so you
8 guys can get together rather quickly. Thank you.

9 The next item on the agenda is Item 3, which is a
10 discussion and action by the Board on the application to
11 conduct a horse racing meeting of the California Exposition
12 and State Fair at Cal-Expo, commencing March 6th, 2008
13 through August 2nd, 2008, and September 11th, 2008 through
14 December 20th, 2008, inclusive.

15 As we were just discussing, Sacramento Harness is
16 going out of business. Cal-Expo has been their landlord.
17 Cal-Expo, now, is coming forth to become the licensee, so
18 that harness racing can continue in Sacramento.

19 You'll note, from the license application that's
20 in front of us, that as I understand it you will be going to
21 a three-day-a-week racing program.

22 And I also note that staff said that the
23 Horsemen's agreement is not concluded, but I think that has
24 now been resolved and I'd like confirmation. So perhaps Mr.
25 Bartosik, Mr. Elliot, Mr. Perez, you could weigh in and

1 advise us on that.

2 MR. BARTOSIK: Norb Bartosik, CEO at the
3 California Exposition and State Fair.

4 We do have an agreement in principle with the
5 Horsemen's Association, and I believe that can be delivered
6 to your offices in Sacramento, tomorrow.

7 COMMISSION CHAIRPERSON SHAPIRO: Mr. Perez?

8 MR. PEREZ: Jim Perez, CHHA. Yes, we do have an
9 agreement and we will have this in tomorrow.

10 COMMISSION CHAIRPERSON SHAPIRO: Great. Okay.
11 All right, so you guys are the white knights to keep harness
12 racing going, which we appreciate. Or I certainly
13 appreciate and I'm sure the harness horsemen, and everybody
14 else does.

15 Will you be picking up any of these liabilities
16 that are being left, could potentially be left behind from
17 Sacramento Harness? What outstanding issues will there be
18 with respect to Sacramento Harness?

19 MR. BARTOSIK: From Cal-Expo's perspective,
20 they'll have a rent obligation and some reimbursable
21 expenses that we're working with them on, as well.

22 But beyond that, we will not assume any of their
23 liabilities.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. I was just
25 curious, on your racing program it says you're going to have

1 approximately 12 to 15 races, depending upon herd
2 availability.

3 MR. BARTOSIK: Sure.

4 COMMISSION CHAIRPERSON SHAPIRO: Is that the
5 right, herd, h-e-r-d?

6 MR. BARTOSIK: Sure.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, I've never
8 heard of it that way. All right.

9 I really don't have any other questions. I mean
10 you guys have operated, certainly, thoroughbred meets, and I
11 think we're all welcome that you're going to step in and
12 keep harness racing alive.

13 I was pleased to see that you have a staff that's
14 equipped and knowledgeable here. I noted that Chris Shick
15 is going to be your simulcast operator?

16 MR. ELLIOT: David Elliot, California State Fair.

17 There are a couple of personnel changes that are
18 incorrect within this application right now, and I will get
19 those over to Jackie and Andrea.

20 I'd like to publicly thank Jackie and Andrea,
21 though, for helping us out with this application in such a
22 short period of time. They did an outstanding job and I
23 just wanted to publicly thank them.

24 But there are three, actually, personnel changes
25 from this application in front of you. Number one is the

1 racing secretary will be Fred Keebler, he has accepted the
2 position.

3 Number two, Dr. Audrey Clifton will be the track
4 vet.

5 And I'm sorry, Chairman, the one you just asked me
6 about, I'm sorry.

7 COMMISSIONER MORETTI: Chris Shick.

8 MR. ELLIOT: Oh, sorry, Chris Shick will not
9 be -- he did not accept the position.

10 COMMISSION CHAIRPERSON SHAPIRO: Oh.

11 MR. ELLIOT: He's been great, you know, I've
12 talked to him often. He's been great in helping us out and
13 it just wasn't in the cards for him.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 MR. ELLIOT: He has a new family, and whatnot.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay. I also
17 noted that you sent a letter, Mr. Bartosik, on February
18 15th, requesting that we waive the requirement of a track
19 physician. I understand it. I know that at quarter horse
20 racing they don't have the same requirement that
21 thoroughbred racing does.

22 What I don't know is if that legally we can waive
23 that requirement. I understand the position. The question
24 is that I think that we would need to have input from
25 counsel as to whether or not the Board has the latitude to

1 waive that given the existing law.

2 MR. BARTOSIK: Well, we'll be happy to work with
3 counsel, and if you deem it what's necessary, we'll make it
4 work.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. I would
6 recommend to the Board that if counsel does support it,
7 given the situation, and the incidence of accidents, and
8 problems, and the proximity of hospitals in the vicinity,
9 that I would be in favor of waiving that requirement in this
10 regard.

11 But I would also suggest that it's subject to our
12 counsel telling us we can legally do that.

13 DEPUTY ATTORNEY GENERAL KNIGHT: What are we
14 talking about, on-track?

15 COMMISSION CHAIRPERSON SHAPIRO: Yes. Yeah,
16 quarter horses don't have to have one, as I recall. And the
17 law -- again, we just need an interpretation of the law.

18 So in terms of moving this application, I would
19 like that to be included in the motion so that you don't
20 have to come back to us, if we can do that.

21 Are there any other questions for this applicant
22 to conduct the harness race meeting?

23 COMMISSIONER MORETTI: I just wanted to clarify,
24 you're going down to three racing nights, now; is that what
25 you said? Which three, Thursday, Friday, Saturday --

1 Friday, Saturday -- okay.

2 COMMISSION CHAIRPERSON SHAPIRO: All right.

3 MR. ELLIOT: Excuse me, we asked in the
4 application that we could request and apply for
5 administrative approval, you know, to change up. You know,
6 Hollywood Park would start up April 22nd, I believe it is,
7 in that neighborhood, you know, with Wednesday through
8 Sunday, a solid Wednesday through Sunday schedule. And at
9 that time, you know, we would hope that we can come back in
10 front of the Board if it looks like it's going to be to
11 everybody's advantages to change our schedule maybe to a
12 Wednesday, Friday, Saturday, or if there's enough horses to
13 go Wednesday through Saturday, something like that. But we
14 did request the opportunity to get administrative approval
15 for those changed dates.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, I'd be
17 willing to incorporate that into the application, as well.
18 I mean, I think we're desirous of doing all we can to try
19 and help everybody concerned.

20 Therefore, I'll entertain a motion to approve this
21 license application.

22 COMMISSIONER MOSS: So moved.

23 COMMISSION CHAIRPERSON SHAPIRO: It's moved.

24 Second?

25 COMMISSIONER MORETTI: Second.

1 COMMISSION CHAIRPERSON SHAPIRO: Second. Public
2 comment. Mr. Jamgotchian, do you have a comment on this?

3 MR. JAMGOTCHIAN: No.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay. All in
5 favor?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Mr.
8 Elliot, I'm glad to see you're here and you're healthy.

9 MR. ELLIOT: Thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Sorry that you
11 had what you had, and take care of yourself.

12 MR. ELLIOT: Thank you.

13 MR. BARTOSIK: Thank you.

14 MR. KEMPT: I apologize, Commissioner Shapiro,
15 Doug Kempt with Local 280, and we just want to remind the
16 application that we need to also enter into a collective
17 bargaining agreement, and I'm sure we can get that worked
18 out with this --

19 COMMISSION CHAIRPERSON SHAPIRO: We would expect
20 that, and I know that they know it.

21 MR. KEMPT: Okay.

22 COMMISSION CHAIRPERSON SHAPIRO: So I'm sure
23 you'll get it down. And, if not, I'd expect you and Mr.
24 Castro to make sure we know it.

25 MR. KEMPT: Thank you.

1 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

2 All right, moving on to Item Number 4 on the
3 agenda, it's discussion and action by the Board regarding
4 the request of Los Angeles Turf Club for modification of its
5 racing days at the current, December 26th through April 20th
6 race meeting at Santa Anita.

7 As we all know, unfortunately, Santa Anita has
8 lost what I would guess today is approximately eight days,
9 and correct me if I'm wrong, of live racing due to the
10 problems that they had with their track surface and
11 inclement weather.

12 I think that the Board wanted to know from you
13 what your plan was for the remainder of the meeting.

14 As you know, we have tried to clear every
15 administrative hurdle possible, and available to us, so that
16 we could keep racing continuous.

17 And so why don't we hear from the gentleman from
18 Santa Anita.

19 MR. HAINES: George Haines, Santa Anita. First of
20 all, yes, we have lost eight days net. We lost 11 total,
21 and we have made up three Wednesdays, the past three
22 Wednesdays.

23 I would really like to thank the Board for the
24 ability and the speed they moved with to give us those three
25 Wednesdays that we had asked for previously. It was a great

1 help to us, it was a great help to the horsemen, who had
2 horses backed up and ready to run. It was great for the
3 fans. And we were able to move forward.

4 Going forward from here, we are not asking at this
5 time for anymore Wednesdays of make-up racing. However, in
6 the future, if the horse or herd inventory allows us to, we
7 would like to come back to the Board in some manner to ask
8 for more, additional Wednesday racing, but not in the near
9 future, not for the next two Wednesdays.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay.

11 MR. HAINES: We feel like we need to present a
12 strong program to the fans, we are not going to let our
13 field size deteriorate to the point where we're not putting
14 on a good show. Quality is number one to us and we want to
15 make sure that we maintain that.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay. And what
17 about the number of races per day? You know, your original
18 license application, which I don't have in front of me, I
19 believe it called for eight races during the week, and then
20 on weekends nine or ten, depending on certain situations,
21 would be my guess. I'm paraphrasing, I may be off a little
22 bit.

23 MR. HAINES: Yeah, you are correct. After the
24 crisis that we experienced with the racetrack, we did have
25 so much inventory backed up that we did go to nines, tens,

1 and elevens on weekends in order to get that inventory
2 running. Because like I do say, there were so many horses
3 ready to run and the horsemen wanted to run their horses, so
4 we accommodated them in that fashion.

5 Going forward, we look forward to running eights,
6 or nines, and maybe tens on the weekends, like we had asked
7 for previously.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, so if I
9 understand, and I just want to make sure I understand it,
10 what I think you're saying to the Board, and please correct
11 me if I'm wrong, you're not asking at this time for any
12 additional Wednesdays. If you determine otherwise, you
13 would like to come back to the Board, if there's a specific
14 sixth day of the week that you want to run?

15 MR. HAINES: Yes, we would like to do that.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay. And then
17 in terms of the number of races that you're going to run
18 during the week, you would like the flexibility to go eight
19 or nine; is that correct?

20 MR. HAINES: That's correct.

21 COMMISSION CHAIRPERSON SHAPIRO: And on
22 weekends -- pardon me? Right, and on the weekends you want
23 to be able to go ten or -- ten races, is that correct, or
24 eleven, what are you asking for?

25 MR. HAINES: Either tens or elevens, whatever the

1 inventory allows us to do.

2 COMMISSION CHAIRPERSON SHAPIRO: Subject to
3 inventory availability.

4 MR. HAINES: Correct.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 MR. HAINES: The horses are going to tell us. I
7 mean, the racing office has to deal with the backlog of
8 inventory.

9 COMMISSION CHAIRPERSON SHAPIRO: Now, I see you've
10 got some pretty good bookends next to you, with Mr. Hammerle
11 and Mr. Harlow, and I agree with you, and I think that all
12 of us in this room want to see quality racing, and we
13 understand you're managing a barn area and you want to do
14 that.

15 I want to note and put on the record that we also
16 don't want to do anything that would impede or impact any
17 other race meetings down the line. So I think it's well
18 that we are all -- it's smart that we are all cognizant of
19 that, and I think that that's something that will be taken
20 into consideration, as well.

21 Does the Board have any other questions with
22 respect to this issue?

23 If that's the case, if there aren't any, it would
24 be my recommendation -- oh, well, let me make a motion and
25 then I'll call the public ones.

1 It would be my recommendation that we approve this
2 license application to provide them the flexibility to do as
3 they're asking for, subject to either the Executive Director
4 and/or Chair's approval of what they're asking, any of these
5 modifications. That would be my motion.

6 Is there a second for that?

7 COMMISSIONER MOSS: Second.

8 COMMISSION CHAIRPERSON SHAPIRO: Second, okay.

9 I'm now going to ask for public comment. And
10 since I see Mr. Liebau's waiting there, I want to see if
11 anybody else turned one in so I can make him wait longer.
12 Go ahead, Jack. Mr. Liebau.

13 MR. LIEBAU: First, you know, I've been before
14 this Board for 15 years, and this is the first time, and I
15 realize that there's been some extraordinary circumstances
16 as far as Santa Anita's meet's concerned, but license
17 applications have not been amended in the past, as they have
18 so far with respect to the Santa Anita meet.

19 We, at Bay Meadows, which is an interested party,
20 because we made it well aware that we weren't enthralled
21 with running on Monday, and we would like to run on
22 Wednesday, if there was a shift.

23 We learned on very short notice the Wednesdays
24 that Santa Anita was going to run early on, and the notice
25 came to us through their mutuel department, which was

1 unfortunate.

2 I just question about the delegation of this,
3 depending on what the "herd" is, to use Mr. Elliot's term,
4 and who makes that determination, and whether it's been
5 successful. I know that they have probably reached and
6 would admit that they've reached their breaking point as far
7 as the herd is concerned, now, after running three
8 Wednesdays. A well-respected handicapping service today, on
9 their sheet says, "with the six-day weeks, we have simply
10 run out of inventory, playing every day with these cheap
11 fields can be costly."

12 I just don't want to be left in that situation
13 with respect to Hollywood Park, when we open. And I think
14 this was also acknowledged in the Forum today, by Mr.
15 Charles. It says, "after looking at the entries, we'll take
16 a step back and probably not being applying until we
17 understand our inventory a little bit."

18 I have to tell you this is not attack upon Santa
19 Anita, but it's very difficult to know what your inventory
20 is, and you're probably less concerned about your inventory
21 when it impacts somebody else, than yourself.

22 And I'm not saying that -- I'm somewhat guilty of
23 that myself, I guess.

24 I would like to go back to what has happened in
25 the past.

1 COMMISSION CHAIRPERSON SHAPIRO: Can I just ask
2 you a question, Mr. Liebau?

3 MR. LIEBAU: I question the ability to delegate
4 this authority without having a hearing, and without
5 interested parties being able to speak to the subject, as
6 has been the case in the past.

7 And I don't think that that's right, that hasn't
8 been the practice in the past, and I don't think it should
9 be the practice now, because we are an interested party,
10 both at Bay Meadows and in the upcoming Hollywood Park meet.

11 And, Mr. Shapiro, I'd like to just put on the
12 record that in the fall of '05, of 2005, I lost my turf
13 course, and we immediately took action to do something about
14 it. And because of the concern that was raised about using
15 up the inventory, and there was a six-day break between my
16 meet at Hollywood Park and Santa Anita, and the majority of
17 this Board, today, was also a majority of the Board then.

18 I lost four days of racing. I went from 31 days
19 to 27 days. I lost 39 races. And at the end of the meet,
20 we had ample horses, in our mind, going into a six-day
21 break, and I was turned down as far as running additional
22 races.

23 So I really think that the Board should look at
24 what has happened in the past. I think that what happened
25 in the fall of 2005 was a precedence established by this

1 Board, and the majority of the Board is still in place.

2 I think that, as I put in writing to both Chairman
3 Shapiro, and to John Harris, I do not think that Santa Anita
4 should be allowed to run six-day weeks, in the four weeks of
5 their closing their meet, or the four weeks pre-dating the
6 opening of Hollywood Park. And that's Hollywood Park's
7 position.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, can I ask
9 you a few questions. First of all, I hope that what you
10 heard was that I was trying to make reference that I think
11 that any decisions in consideration of this must be mindful
12 of not impacting any race meets down the road which was, in
13 fact, Hollywood Park.

14 MR. LIEBAU: It depends on whose eyes that is, and
15 whose opinion is sought. And I mean in the past, we have
16 not, as an interested party at Bay Meadows, we've never been
17 consulted about these changes that have been made. We're
18 just entirely -- you know, I understand it, we did not
19 oppose any of it, but we got no notice of it, and I don't
20 know even if there was a delegation by this Board, to
21 anybody, to amend those applications.

22 So I think the process has been flawed so far.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, as
24 you know, we're kind of -- as everyone knows, we're pretty
25 much in uncharted territory, dealing with a pretty bad

1 situation.

2 MR. LIEBAU: We were, also, in 2005, without
3 doubt.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay. And what
5 decisions were made in 2005 were made, and I'm not worried
6 about precedent. What I'm trying to do, and what I think
7 this Board is trying to do is deal with what we have in
8 front of us today.

9 MR. LIEBAU: I understand.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay.

11 MR. LIEBAU: But I am interested in all parties
12 being treated equally before this Board over years.

13 COMMISSION CHAIRPERSON SHAPIRO: And I am trying
14 to make it as equal, and as fair, and take care of all the
15 parties, and I understand your concern.

16 And I don't think that -- I have no problem
17 with -- I don't hear them asking to run Wednesdays in April.
18 I understand that you could view that as an impact to you.

19 MR. LIEBAU: I view the last --

20 COMMISSION CHAIRPERSON SHAPIRO: Pardon?

21 MR. LIEBAU: The last four weeks of their meet,
22 one of which is in March, but go ahead.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. I'm saying
24 the same thing you are. You've been very clear. And to
25 date what you have said is you didn't care if they ran

1 Wednesdays up until the last four Wednesdays; correct?

2 MR. LIEBAU: That's absolutely correct,
3 absolutely.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay, what
5 I hear them saying is that they're not planning, at this
6 time, to ask for Wednesdays. So let's say they come --
7 well, you're doing this, I don't know what that means?

8 MR. LIEBAU: Well, you delegated authority to
9 somebody, by your motion, to take into consideration if and
10 when they do, that's what I'm talking to.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, so what I'm
12 saying is what we're all trying to do is what's best for the
13 industry.

14 So let's say they find they've got a lot of
15 horses, and they want to run one Wednesday in mid-March.

16 MR. LIEBAU: No problem.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay, so
18 what I was trying to do was allow this Board to have some
19 mechanism where we -- our next meeting, in March, isn't
20 until the end of March.

21 MR. LIEBAU: I understand that.

22 COMMISSION CHAIRPERSON SHAPIRO: And I'm trying
23 for this Board to be nimble enough to help the stakeholders,
24 so help me do that.

25 MR. LIEBAU: I just want to put on the record what

1 my position is, so that if this delegation does, in fact,
2 take place that you are aware of what my concerns are, and
3 my plea to be treated equally, in the same manner that
4 happened in 2005, which I think is a precedent. And maybe
5 because I'm an ex-lawyer, I'm worried about the process.

6 But, I mean, the process to me is of importance,
7 and I think that at some point in time the Board has to
8 decide how license applications are amended, which is fine.

9 COMMISSIONER CHOPER: Excuse me.

10 COMMISSION CHAIRPERSON SHAPIRO: Please, please.

11 COMMISSIONER CHOPER: Tell me if I understand you
12 correctly, the last week in March and the first three weeks
13 in April, roughly --

14 MR. LIEBAU: That's all I'm concerned about.

15 COMMISSIONER CHOPER: -- are the last four weeks
16 of the Santa Anita meet.

17 MR. LIEBAU: That's all I'm concerned about. They
18 can do anything they want, they can run seven days a week.

19 COMMISSIONER CHOPER: So that's clear.

20 MR. LIEBAU: Right.

21 COMMISSIONER CHOPER: Now, if they do, and I think
22 they've all heard you talk, as this Board has, if they do,
23 for whatever reason, want to run an extra day during those
24 last four weeks, would you accept the procedure of their
25 having to inform you, in adequate time, so that, I don't

1 know, you might ask relevant questions. I really don't know
2 if you can inform yourself enough to make a judgment about
3 whether this is going to affect the horse population when
4 Hollywood opens up.

5 But if it would, would that sort of go some
6 distance to solving the problem?

7 MR. LIEBAU: Some distance. I mean, the problem
8 is that it's very difficult for anybody, other than -- and
9 it's even difficult for a racing secretary to know what his
10 availability is.

11 I mean, I would assume that right now Santa
12 Anita's willing to admit that because of the running the
13 three Wednesdays that they have, that they have depleted
14 their inventory. And they had all the best intentions in
15 the world, they didn't intend to do that.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, Mr. Liebau,
17 what mechanism, following up on Commissioner Choper's
18 statement, let's say, just as Commissioner Choper did, what
19 mechanism, recognizing that it takes us ten days notice to
20 call the -- to notify -- to notice a Board meeting. When we
21 have our Board meetings, and it's difficult to get everybody
22 together, if they want to come in and ask for a Wednesday
23 that's March 30th, and I don't even know what day of the
24 week it is, okay, and what mechanism would you like for us
25 to have so that they can present it, you can present your

1 side, and a decision can be made that you feel would be
2 fair, and they feel is fair?

3 MR. LIEBAU: I'm asking that we get notice, which
4 I don't think that we've gotten before with respect to the
5 prior Wednesdays.

6 COMMISSION CHAIRPERSON SHAPIRO: You should
7 receive notice, and you and I spoke on the phone and I told
8 you I thought you were right on that.

9 MR. LIEBAU: And I think that there should be some
10 discussion as to the state of the herd.

11 COMMISSION CHAIRPERSON SHAPIRO: Fine.

12 MR. LIEBAU: I don't think it's just that they
13 tell you, Mr. Chairman, that there's --

14 COMMISSION CHAIRPERSON SHAPIRO: What form -- what
15 form would you like for that discussion to take place, so
16 that we can make sure that you feel heard, you feel it's
17 fair, I agree with everything you're saying?

18 MR. LIEBAU: I would assume that some meeting in
19 Calabasas would be satisfactory to me.

20 COMMISSION CHAIRPERSON SHAPIRO: Fine. If that's
21 the case, then we will be more than happy that before any
22 additional date is granted, that is within one month of your
23 opening --

24 MR. LIEBAU: Right, because I don't want to go to
25 Calabasas if it doesn't fall within those four weeks.

1 COMMISSION CHAIRPERSON SHAPIRO: Fair enough. I
2 assure you that we will have a meeting, where you will
3 certainly be able to present your views, your position
4 before anything will be granted. Will that satisfy you?

5 MR. LIEBAU: Thank you very much.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
7 much. Okay.

8 MR. HAINES: Chairman Shapiro?

9 COMMISSION CHAIRPERSON SHAPIRO: Yes?

10 MR. HAINES: I would like to point out that, you
11 know, Santa Anita believes that the inventory is much
12 different than it was in 2005, than it is in 2008.
13 Currently, our field size is 8.93 through Monday, which
14 would be unheard of in 2005. The synthetic surfaces allow
15 us to run so many more horses, so that's what we're coming
16 to.

17 And we'd also like to, because some comments were
18 made of what happened in the past, we'd also like to point
19 out that Santa Anita did not oppose Hollywood Park in
20 running two days during the Christmas break, on a Friday and
21 Saturday, so they could run their cash call races, and which
22 they are running ten and eleven race cards.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
24 And what I would suggest is that if and when we ever have to
25 have our meeting, and our conference, you will make those

1 points at that time.

2 So, therefore, I would like to make a motion that
3 would simply allow Santa Anita to increase the number of
4 races that it will run up to nine races during the week, and
5 ten and eleven on the weekends, subject to acceptable horse
6 inventory.

7 And I would also ask that you please notify, when
8 you're going to do that, that you simply would notify our
9 Executive Director so that he can ask any questions that he
10 has. Is that okay? You're looking at me like that's --

11 DEPUTY ATTORNEY GENERAL KNIGHT: Well, that
12 doesn't address the other issue, though. The extra day.

13 COMMISSION CHAIRPERSON SHAPIRO: Fine. And that
14 in the event that Santa Anita, the Los Angeles Turf Club, is
15 desirous of running any additional dates, six-day-a-week
16 dates, during the last month of its -- or the month
17 preceding the opening of Hollywood Park --

18 COMMISSIONER CHOPER: The last four weeks.

19 COMMISSION CHAIRPERSON SHAPIRO: Correct, the last
20 four weeks. That there will be a meeting with the Chairman
21 and the Executive Director to confer and discuss the horse
22 inventory and availability prior to the granting of any
23 additional date.

24 If Mr. Liebau will raise his hand if that's
25 acceptable?

1 He accepted, he raised his hand.

2 Okay, that's the motion. Is there a second?

3 COMMISSIONER CHOPER: Second.

4 COMMISSION CHAIRPERSON SHAPIRO: Anymore

5 discussion? All in favor?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

8 MR. HAINES: Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Oh, okay, hold
10 it, hold it, hold it. I apologize, Mr. Jamgotchian, I did
11 not call you.

12 MR. JAMGOTCHIAN: That's okay. I'll address it.
13 I think that motion's actually fair.

14 But I wanted to address something that was
15 referenced that --

16 COMMISSIONER CHOPER: Did the record get that?

17 (Laughter.)

18 MR. JAMGOTCHIAN: No, I mean, it was --

19 COMMISSION CHAIRPERSON SHAPIRO: You should have
20 seen somebody behind you. You should have faced the other
21 way.

22 MR. JAMGOTCHIAN: You know, it's more fun looking
23 at you.

24 COMMISSION CHAIRPERSON SHAPIRO: I'm glad you feel
25 that way, Jerry.

1 MR. JAMGOTCHIAN: With regards to this issue about
2 days being made up, I got to tell you, I don't think that's
3 a fair statement in that I'm looking at a Wednesday, the
4 32nd day of the meet, February 21st, which replaced, I
5 think, a Saturday, or whatever day they want to replace it,
6 where they might have handled eight, ten, 12 million
7 dollars, and had maybe 25, 30 thousand people at the
8 racetrack.

9 Yet, on this date, there were 1,900 people at the
10 racetrack and the mutuel handle at the racetrack was
11 \$763,000.

12 COMMISSION CHAIRPERSON SHAPIRO: Wasn't it raining
13 that day, Mr. Jamgotchian? I think it was.

14 MR. JAMGOTCHIAN: What difference does it make, it
15 also rains on Saturdays and Sundays, Mr. Shapiro. And, you
16 know, that's exactly the response I wanted to elicit.

17 Whenever anything's negative said about Santa
18 Anita, you are the first person to run up and protect Magna.
19 And I believe that this Board, including you, panders to
20 Magna. And a couple of examples of the pandering, in
21 addition to the Wednesday racing that you've given them, the
22 in excess of -- the excess of races that you've given them
23 because they're your buddies, also, what about the barn
24 area? That really disappeared, didn't it?

25 So I kind of see a double standard by this Board,

1 and especially you.

2 COMMISSIONER CHOPER: Excuse me, I don't
3 understand, what would you have had the Board done?

4 MR. JAMGOTCHIAN: Well, in this particular --

5 COMMISSIONER CHOPER: I mean, it was shut down, we
6 couldn't stop that.

7 MR. JAMGOTCHIAN: Well, yes, the reason why it was
8 shut down was because Santa Anita installed a track that
9 didn't work.

10 COMMISSIONER CHOPER: Yes.

11 MR. JAMGOTCHIAN: And in the best interest of
12 owners, such as me, the best interest would have been to
13 take those races and move them to Hollywood Park and not
14 lose any dates at all.

15 Now, in this particular case that wasn't done,
16 Magna delayed, and delayed, and delayed, kept the races kind
17 of held hostage, when the best thing they could have done,
18 in the best interest of horse racing was to race at
19 Hollywood Park and make a deal.

20 I believe that Bay Meadows Land Company offered
21 them the opportunity to use the place at cost.

22 Well, that wasn't done because this Board
23 essentially panders to Santa Anita.

24 COMMISSIONER CHOPER: I certainly -- I certainly
25 don't like to think that that's true and, I mean, I don't

1 believe that it's true. I know that there were -- you just
2 don't announce that the next day the racing is going to be
3 at Hollywood Park.

4 MR. JAMGOTCHIAN: I don't disagree with that,
5 except that --

6 COMMISSIONER CHOPER: And that the weather was
7 uncertain. So I must say, I think it's not a good situation
8 what occurred, no one says that it was. But it's very hard
9 to deal with these things and it seems to me that everyone
10 tried the best they could.

11 MR. JAMGOTCHIAN: Except many people knew, many
12 people knew, Mr. Choper, with regards to their track, on
13 November, before that meet started, that that track couldn't
14 handle rain. And there's evidence out there right now that
15 said that that track couldn't handle rain. It hasn't been
16 presented to the Board, and it certainly will be.

17 But if Santa Anita and Magna would have been
18 straight up with the Board, and with the racing industry,
19 they should have moved to Hollywood Park until they got
20 their track corrected. But they didn't do that because this
21 Board didn't pressure them.

22 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
23 let me just address a couple of those issues for you.

24 COMMISSIONER MOSS: That's not true. That's not
25 true at all.

1 COMMISSION CHAIRPERSON SHAPIRO: It's simply not
2 true. And let me just add to you a couple of things, what
3 this Board did, in an effort to make it possible for them to
4 move to Hollywood Park, we called a special meeting because
5 we wanted to clear the administrative path so that that
6 could occur.

7 Second of all, this Board --

8 MR. JAMGOTCHIAN: Well, why didn't it occur
9 then --

10 COMMISSION CHAIRPERSON SHAPIRO: Let me finish.
11 Let me finish, Mr. Jamgotchian.

12 MR. JAMGOTCHIAN: Why didn't it occur?

13 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
14 you asked questions, now you can hear answers.

15 MR. JAMGOTCHIAN: Let's hear it.

16 COMMISSION CHAIRPERSON SHAPIRO: This Board does
17 not have and did not have the authority to tell the licensee
18 that he had to move. So this Board couldn't go to Santa
19 Anita and say you need to move, we didn't have that right.

20 Thirdly, there was no turf course at Hollywood
21 Park. You are completely forgetting that just as there was
22 a problem at Santa Anita with their dirt track, there was no
23 turf course at Hollywood Park.

24 This Board did everything in its power, including
25 consulting with TOC, CTT, talking to Santa Anita, and we

1 were very appreciative of the offer from Mr. Fancher and Mr.
2 Liebau, and stated so publicly. And said that if it was in
3 the best interest of the industry to move those dates, we
4 were in full support of that happening.

5 It's not this Board's role and it does not have
6 the authority to dictate that. So you are mistaken.

7 MR. JAMGOTCHIAN: Okay, let me correct the record,
8 Mr. Shapiro, because obviously either you want to spin it or
9 you don't have a good memory. With regards to Santa Anita,
10 their turf course was operative. They could have raced on
11 their turf course, couldn't they?

12 COMMISSION CHAIRPERSON SHAPIRO: Hollywood Park
13 did not have a turf course.

14 MR. JAMGOTCHIAN: Excuse me, I'm sorry.

15 COMMISSION CHAIRPERSON SHAPIRO: Hollywood Park.

16 MR. JAMGOTCHIAN: Excuse me, Santa Anita's turf
17 course was operative at that time. The main track wasn't.
18 They could have run at Santa Anita on the turf, and they
19 could have run on the cushion track at Hollywood Park,
20 right?

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, hold it.
22 All right, this is going way far afield. That's not
23 possible. Okay.

24 MR. JAMGOTCHIAN: Well, how do you know?

25 COMMISSION CHAIRPERSON SHAPIRO: What I suggest

1 you do is talk to other people in the industry. They
2 couldn't be running dirt races at one place and turf races
3 at another place, it wasn't feasible.

4 MR. JAMGOTCHIAN: That's totally impossible,
5 there's no way that can be done, is that what you're saying?

6 COMMISSION CHAIRPERSON SHAPIRO: We are not track
7 operators, that's not for us to do.

8 What we do is we are regulators, we cleared the
9 path to provide the best options for all of the people that
10 were affected by this very unfortunate circumstance.

11 We did not know that the track did not drain.
12 You've made statements here that, well, everybody knew.
13 This Board did not know. I don't know if Santa Anita knew.
14 If they knew, and they didn't tell us, then shame on them,
15 and let's see the evidence of that being the case.

16 There's no favoritism here. I know you like to
17 keep saying that. There's no favoritism. What we are
18 trying to do is provide equal opportunity for everybody for
19 the business. And I think that should be the end of this.

20 MR. JAMGOTCHIAN: If that's your position, Mr.
21 Shapiro, it's wrong. Because, as a regulator, what you're
22 supposed to be doing is make sure they adhere to their
23 license application. You're totally looking the other way
24 with regard to their license application.

25 So why don't you amend their license application

1 or handle their license application pursuant to the law.

2 COMMISSION CHAIRPERSON SHAPIRO: We did. That's
3 the point that you don't understand, we did.

4 MR. JAMGOTCHIAN: Well, wait a second, you didn't.
5 These guys are running more races on their license
6 application, aren't they?

7 COMMISSIONER CHOPER: We amended the license.

8 COMMISSION CHAIRPERSON SHAPIRO: We amended it to
9 provide for that, Mr. Jamgotchian.

10 MR. JAMGOTCHIAN: When did you do that?

11 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
12 the --

13 MR. JAMGOTCHIAN: When did you do it?

14 COMMISSION CHAIRPERSON SHAPIRO: -- we amended it
15 and we allowed it -- they are allowed to ask for
16 administrative approval for additional races, and get
17 permission for it, which is what they got.

18 COMMISSIONER CHOPER: That's what we did today, we
19 just made the motion.

20 COMMISSION CHAIRPERSON SHAPIRO: The Board is
21 taking every action. You are a horse owner. We are trying
22 to provide for the benefit of all of the participants who
23 have, unfortunately, lost racing opportunity as a result of
24 the track difficulties.

25 And with that, I think we'll move on with the

1 agenda. Thank you for your comments, Mr. Jamgotchian.

2 MR. JAMGOTCHIAN: With regards to the
3 future --

4 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
5 we need to move on.

6 MR. JAMGOTCHIAN: Excuse me, let me just finish
7 this one thought, Mr. Shapiro, you've interrupted me
8 numerous times.

9 I think it's important that the Board, as well as
10 the owners, have access to the negative effects of these
11 six-day weeks. Because that's going to damage the future of
12 the Hollywood Park meet. And I think there needs to be a
13 hearing, just like there was on synthetic tracks, about the
14 effects, if in fact there are --

15 COMMISSIONER MOSS: He just said --

16 MR. JAMGOTCHIAN: If, in fact, there are.

17 COMMISSIONER CHOPER: We just had a motion to say
18 that the two parks would determine whether or not it was
19 going to deplete the horse population, everybody heard that.

20 MR. JAMGOTCHIAN: And if they request it, then
21 there should be a hearing, that's all I'm asking.

22 COMMISSIONER CHOPER: We said that, that was what
23 the motion had to do with.

24 MR. JAMGOTCHIAN: Okay. There will be a noticed
25 hearing.

1 COMMISSIONER CHOPER: Someplace in Calabasas,
2 wherever that is.

3 MR. JAMGOTCHIAN: That's fine.

4 COMMISSION CHAIRPERSON SHAPIRO: We need to move
5 forward. Thank you, thank you, thank you.

6 Okay. All right, Item Number 5, public hearing
7 and action by the Board on the adoption of the proposed
8 amendment of CHRB Rule 1420, definitions, to provide a
9 definition of an alternative claiming race, and the proposed
10 addition of CHRB Rule 1634, alternative claiming race, to
11 provide the conditions under which a horse may be entered in
12 an alternative claiming race.

13 Jackie Wagner, good morning.

14 STAFF SERVICES MANAGER WAGNER: Good morning,
15 Commissioners. Jackie Wagner, CHRB staff.

16 As you know, at the October meeting of this Board
17 we heard a proposal from the Thoroughbred Owners of
18 California to propose a rule that will allow an owner to
19 enter a horse into a claiming race, with a declaration that
20 such horse was ineligible to be claimed if the horse is
21 returning from a layoff of at least 180 days, and was
22 entered for a claiming price equal to or greater than the
23 price at which it last stated.

24 The TOC proposed this because they were concerned,
25 like many in the industry, that horse owners wished to give

1 their horse time to rest, but they ran the risk of losing
2 their horse as soon as it returned to racing.

3 There was a concern expressed at the meeting
4 regarding this approach, however, and the concern centered
5 on the California law and the Board's rules and regulations
6 regarding a claiming race, in the sense that a claiming race
7 is defined as a race in which a horse entered in such race
8 is subject to be claimed.

9 The law goes on further to say, in their
10 definition, "that a claiming race is defined as a race in
11 which any horse entered may be claimed in conformity with
12 the rules established by the Board."

13 We had extensive discussion on this particular
14 proposal and our DAG indicated that we were basically faced
15 with a nomenclature issue regarding this particular matter,
16 and that the possibility of renaming a claiming race to a
17 different type of race may be the answer.

18 Subsequently, we were instructed to work with the
19 DAG and the TOC in establishing a proposal that would
20 implement TOC's suggestion.

21 In response to that, we have proposed the addition
22 of Rule 1634, which would allow the associations to write
23 what we have termed an alternative claiming race. The
24 alternative claiming race would be a race in which such
25 horses would be allowed to enter and to be claimed, except

1 if the owner declares that the horse is ineligible to be
2 claimed at the time of entry.

3 To qualify for that ineligibility status in the
4 alternative claiming race, the horse must not have started
5 for a minimum of 180 days since it last raced.

6 Additionally, the horse may not be entered at a
7 claiming price equal to or greater than the price in which
8 it last started, and the owner must declare that the horse
9 is ineligible for claiming at the time of entry, as the rule
10 states, "fails to make such a declaration cannot be
11 remedied."

12 We essentially tried to incorporate the essence of
13 what TOC was proposing, and we tried to incorporate that in
14 a different rule.

15 Subsequent to that proposal we did receive
16 correspondence from the TOC that the proposed addition was
17 counter productive to what they were proposing and it was
18 inconsistent with what they originally proposed and, as a
19 result, they could not support the rule as it was drafted.

20 Subsequent to that receipt, staff, our DAG, and
21 TOC, we did meet and we went over the proposal, and at that
22 meeting we'd agreed to go ahead and go forward with the
23 hearing on this proposal.

24 And we would recommend that if the Board decides
25 to go ahead and go forward with it, we would have an

1 opportunity to see if this proposal would work.

2 The concern, primarily, is that this type of race,
3 we would not have enough horses to fill this type of race.

4 In the interim, TOC has indicated that they will
5 discuss the potential for seeking a statutory amendment to
6 address this particular issue.

7 TOC is here and they can speak to the proposal, as
8 well, and it's before the Board for your consideration.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
10 Jackie.

11 As the Board will recall, we had a lengthy
12 discussion about this. We tried every which way to skin
13 this cat and we were unable.

14 What I understand, and I see Mr. Couto is there, I
15 think we all agree that this is a good idea, that a horse
16 that -- it encourages an owner to lay up a horse, let him,
17 after he makes that investment, be able to bring the horse
18 back and not risk him being claimed after he'd spent the
19 money laying up the horse and taking care of the horse.

20 The problem, though, and I would like to hear from
21 both Mr. Couto and our attorney, is we have what are now
22 called optional claiming races. It's my understanding that
23 those are in fact allowance races, or not claiming races,
24 that provide for a claiming option. And that's why we have
25 those.

1 So my first question is, is that a correct
2 understanding?

3 COMMISSIONER MOSS: I don't think so, no.

4 COMMISSION CHAIRPERSON SHAPIRO: You don't think
5 so?

6 COMMISSIONER MOSS: No.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. So why do
8 we have optional claiming races?

9 COMMISSIONER MOSS: You can answer that, Drew,
10 much better than I can, I think.

11 MR. COUTO: Sure. I'm not sure I can do it better
12 than you can, but I'll take a run at it, nonetheless.

13 Drew Couto, Thoroughbred Owners of California.

14 First, I want to thank Jackie and Derry for their
15 efforts on trying to implement the suggestion that TOC had.
16 And while I think Derry and I disagree on interpretation of
17 19408.2, I understand that in his role as advisor, legal
18 advisor to the Board, his recommendation would be that you
19 not -- you not advance a rule, as we requested.

20 And after speaking to Derry, Derry thinks the
21 appropriate solution is to seek a statutory amendment. So
22 if that's what we'll have to do, that's the way in which
23 we'll go about it.

24 But the current proposal in front of you, by the
25 Board, is not the rule that we requested. And while I'm

1 very grateful to the efforts made, after talking to the
2 racing secretaries, they concur that this one will not solve
3 the problem and it's not likely to be implemented. So we'll
4 have to go a different route.

5 As far as the -- sorry.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay. So I
7 understand that everybody's somewhat in agreement that while
8 everyone's tried, what's in front of us is not something
9 that would be acceptable or would work, for a variety of
10 reasons.

11 But can you answer my question, why can we have
12 optional claiming races today?

13 MR. COUTO: An optional claiming race is an
14 allowance race. It's not a claiming race, it's an allowance
15 race with an option to claimers to run in it.

16 And basically, they came about at a time when we
17 were having trouble filling the pure allowance races, so
18 they opened it up to allow claiming at certain levels, to
19 mimic the A other than, the two other than, the three other
20 than.

21 COMMISSIONER MOSS: But if they run at that same
22 level again, then they must run for a price, that's the
23 point.

24 COMMISSION CHAIRPERSON SHAPIRO: If they win.

25 COMMISSIONER MOSS: No -- yes, if they win.

1 COMMISSION CHAIRPERSON SHAPIRO: They have to win.

2 COMMISSIONER MOSS: If they win, and then
3 they -- then it doesn't count as one of the conditions any
4 longer.

5 COMMISSION CHAIRPERSON SHAPIRO: But it's still an
6 allowance race.

7 COMMISSIONER MOSS: It's an allowance race.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, and that's
9 why we have those type races.

10 MR. COUTO: Correct.

11 COMMISSION CHAIRPERSON SHAPIRO: Because it's not
12 a claiming race, per the definition of 19408.2.

13 MR. COUTO: Correct.

14 COMMISSIONER CHOPER: That required a statutory
15 change in order to have optional claiming races?

16 COMMISSION CHAIRPERSON SHAPIRO: No.

17 MR. COUTO: No, because it's not -- an optional
18 claiming race is an allowance, with a claiming condition
19 tagged onto it.

20 COMMISSIONER CHOPER: I understand.

21 MR. COUTO: As I understand it, and I'll let
22 Derry, perhaps, explain his position. Derry's position is
23 that 19408.2 limits a claiming race, a pure claiming race to
24 horses that are eligible to be claimed.

25 COMMISSION CHAIRPERSON SHAPIRO: And if I can

1 help, let me read that section of law, it's very short,
2 because I have a question about it.

3 That section, 19408.2, says, "claiming race means
4 a race in which any horse entered therein may be claimed in
5 conformity with the rules established by the Board."

6 Now, my question to our attorney is, it doesn't
7 say means a race in which all horses entered shall be
8 entered for a claiming race, but it says "may."

9 So why --

10 COMMISSIONER CHOPER: Read it again, would you?

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, sure.

12 "Claiming race means a race in which any horse entered
13 therein may be claimed in conformity with the rules
14 established by the Board."

15 So my question is why can't we, in interpreting
16 that, since it doesn't say "shall," why can't we simply
17 interpret it that a claiming race can include a race in
18 which any horse entered may be claimed or not claimed? It
19 doesn't say shall be.

20 DEPUTY ATTORNEY GENERAL KNIGHT: Well --

21 COMMISSIONER MOSS: Yeah, I don't know if it's
22 fair, to tell you the truth.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, that's a
24 whole different issue.

25 COMMISSIONER MOSS: Sorry.

1 COMMISSION CHAIRPERSON SHAPIRO: No, no, no, don't
2 be sorry. That gets to whether you think this is a good
3 idea or not.

4 If you think this is a good idea, the problem we
5 can't do it is because our interpretation of the law is that
6 it requires every horse to be entered for a claiming price.
7 That's what we've been told; correct?

8 DEPUTY ATTORNEY GENERAL KNIGHT: That's correct,
9 if you call it a claiming race.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. I'm saying
11 it's a claiming race. But it doesn't say that all starters
12 have to be -- have to be entered for a claiming price.

13 DEPUTY ATTORNEY GENERAL KNIGHT: Well, you're not
14 reading -- you have to read -- I mean, you have to listen to
15 what you're reading. What the sentence is -- recall that a
16 claiming race doesn't mean that there's always going to be a
17 horse claimed.

18 What that statute says is "a claiming race in
19 which any horse may be claimed" --

20 COMMISSION CHAIRPERSON SHAPIRO: No, it says
21 "entered."

22 DEPUTY ATTORNEY GENERAL KNIGHT: "Any horse
23 entered may be claimed."

24 COMMISSION CHAIRPERSON SHAPIRO: It says, "a
25 claiming race is a race in which any horse entered may be

1 claimed."

2 DEPUTY ATTORNEY GENERAL KNIGHT: Correct.

3 COMMISSION CHAIRPERSON SHAPIRO: It doesn't say
4 shall be claimed.

5 DEPUTY ATTORNEY GENERAL KNIGHT: And you have some
6 horse in there that's not eligible to be claimed, then it
7 is --

8 COMMISSION CHAIRPERSON SHAPIRO: Oh, so I'm
9 reading it wrong.

10 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah.

11 COMMISSIONER CHOPER: So but it also says
12 "pursuant to the rules established by the Board," right?

13 MR. COUTO: Right, Mr. Choper, that's the point I
14 make.

15 COMMISSIONER CHOPER: Now, why can't we say that
16 the -- why can't we say that one of the rules established by
17 the Board is that in any claiming race, any horse may be
18 claimed except those who are, and then you fill in the blank
19 of however you do this thing.

20 MR. COUTO: Right, Mr. Choper, that is
21 exactly -- that is exactly the legal position we took in
22 this is that you can't -- you can't read this definition and
23 stop, put a period after the word "claimed." You have to
24 read the phrase after.

25 COMMISSIONER CHOPER: Let me ask you a very

1 practical question, and I don't know the answer to it.

2 MR. COUTO: Sure.

3 COMMISSIONER CHOPER: So suppose we just --
4 suppose we think it's a good idea and we adopt such a rule,
5 so what happens, is someone going to sue us?

6 MR. COUTO: Apparently the --

7 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
8 would you like to?

9 (Laughter.)

10 COMMISSIONER CHOPER: No, no, no, no, no, that's
11 not --

12 COMMISSION CHAIRPERSON SHAPIRO: Okay.

13 DEPUTY ATTORNEY GENERAL KNIGHT: Well, can I
14 answer?

15 COMMISSION CHAIRPERSON SHAPIRO: Yes.

16 DEPUTY ATTORNEY GENERAL KNIGHT: I can answer that
17 question. I think part of our concern, frankly, is if
18 you're going to adopt a regulation, there are -- it has to
19 be approved by a State Agency, the Office of Administrative
20 Law. And they're going to look for this kind of
21 inconsistency with statute. And, you know, that's the
22 concern we have. We don't think this will get by the Office
23 of Administrative Law.

24 If you want to try that, I mean, that's an issue.

25 COMMISSIONER CHOPER: No, I see it.

1 DEPUTY ATTORNEY GENERAL KNIGHT: So there is
2 control on that sort of thing, so that agencies don't
3 just --

4 COMMISSION CHAIRPERSON SHAPIRO: What's it hurt
5 not to try?

6 COMMISSIONER CHOPER: It seems to me the one thing
7 we might do is go along parallel paths here. I don't know
8 how easy it is to get a statutory change.

9 COMMISSION CHAIRPERSON SHAPIRO: Otherwise, we
10 have to --

11 COMMISSIONER CHOPER: I'm assuming it's hard.

12 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

13 COMMISSIONER MOSS: Well, you have to assume that
14 the situation is fair, though, and I don't know if it's
15 fair. You know, if a horse has been off for six months, and
16 for him to run in a claiming race, without having the
17 ability to be claimed, it's just not fair to the other
18 horses in that race.

19 COMMISSIONER CHOPER: So you don't think it's a
20 good idea. That's a different issue. That means you don't
21 think it's a good idea, no matter what we do.

22 COMMISSION CHAIRPERSON SHAPIRO: Yeah, you don't
23 think it's a good idea.

24 COMMISSIONER MOSS: I don't think it's a good
25 idea. I mean, there's other ways for that horse to be

1 exercised, and in other races, without having to be claimed.

2 He can run in a higher claiming race, much higher
3 than his value, to have the owner benefit from seeing how
4 his horse runs, without the probability of his being
5 claimed. He can run in a low level allowance race, you
6 know.

7 But I don't think you should mess with the
8 sacrosanct of the claiming race, you know, it creates to
9 much of a problem, I believe.

10 MR. COUTO: Well, again, revisiting this, this was
11 the consensus of the TOC Board. We worked on this with the
12 racing secretaries and ran it by the CTT.

13 What makes this a fair solution is that the horse
14 has to come back at the same level or higher than they last
15 competed at.

16 And if you're bringing back a horse who's a
17 \$16,000 horse, or a \$20,000 horse, that horse is likely not
18 going to be in any way competitive other than on the
19 circuit, that's a much tougher race.

20 By limiting its ability to come back to the same
21 level or higher, the consensus of all those who were
22 involved was that this was, in fact, a fair race.

23 And, you know, you can make the same argument on
24 the optional claiming race, where you have the allowance
25 race limited to horses who have not won one race other than,

1 and you may have a claiming horse in there for 62,500,
2 that's one ten races and for 62,500.

3 So that is perceived, largely, as the industry
4 nationally, as a fair solution.

5 This would be, in much the same way, viewed by
6 this industry as a fair solution. You're not saying a horse
7 who ran an allowance race can come back, run for 20, and not
8 be eligible to be claimed, that horse had to run for a tag
9 before.

10 And on the legal issue, just to revisit that one,
11 last second, Mr. Choper's view is consistent with what we
12 expressed and thought. You know, if the Office of
13 Administrative Law has an issue, they'll let us know that.

14 But this definition says that it's a claiming race
15 in conformity with the rules set by the Horse Racing Board.

16 If the Horse Racing Board sets a rule that is
17 fair, like we have proposed, then I think that rule, and the
18 claiming race is run consistent with the statutory
19 definition.

20 But as Derry, and most of us know, lawyers get
21 paid to have different viewpoints, and we have a different
22 viewpoint on this, and that is the problem here.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, I don't see
24 why we don't try to see if we could set the rule and see if
25 we can get it passed in the Office of Administrative Law.

1 And if we don't, then we know you have to go get a statute
2 change.

3 COMMISSIONER CHOPER: I just wonder if you wanted
4 to respond to his point about that they have to be in at a
5 minimum up to where they were running before, or higher?

6 COMMISSIONER MOSS: Well, I think, frankly, the
7 ability of, you know, someone who looked to claim a
8 racehorse doesn't just happen at races, it happens during
9 work, it happens during people visiting the backstretch, and
10 seeing how horses are reacquainting themselves to the
11 racetrack.

12 So, you know, I just -- I just don't think a horse
13 should get a free run. You know, I just don't know if it's
14 fair to the other horses in that race. It's just the
15 principle, I feel.

16 COMMISSIONER CHOPER: Would it make a difference
17 to you --

18 COMMISSIONER MOSS: And I look for ways to help
19 owners, of course, but I just don't know if it helps the
20 other owners in that race.

21 COMMISSIONER CHOPER: No, we're all on the same
22 page. Would it make -- suppose the rule were that you have
23 to go one class higher than you have raced? Instead of at
24 the same level or higher, say at least one class higher,
25 would that make a difference to you?

1 COMMISSIONER MOSS: Well, if the horse was
2 training really well, then it wouldn't be that kind of a
3 contest, anyway.

4 I mean, if that's the way the situation, let's
5 say, resolves itself, that's fine with me.

6 COMMISSIONER CHOPER: Would you repeat that, I got
7 to make sure of that?

8 COMMISSIONER MOSS: I said, if that's the way the
9 situation resolves itself and everybody's happy with that
10 suggestion, I'll go along with it, personally.

11 COMMISSIONER CHOPER: Uh-hum. But you would not
12 go along with at the same level?

13 COMMISSIONER MOSS: Right, I wouldn't go along
14 with the same level.

15 COMMISSIONER CHOPER: Well, I'd like to amend the
16 proposal that way, then. I think that's right.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 COMMISSIONER CHOPER: I mean, I think there's a
19 compromise there. It's obvious that he's not going to have
20 the same shot to win and can't be claimed.

21 COMMISSIONER MOSS: Right.

22 COMMISSIONER CHOPER: So I think if Commissioner
23 Moss thinks -- I mean, this is his business --

24 COMMISSION CHAIRPERSON SHAPIRO: Well, we're going
25 to have to put this out as a completely different rule,

1 anyway. So I don't think that we're taking any action,
2 other than instructing staff to redraft it and bring it back
3 to us so that we can develop a rule.

4 And what I just heard you say was to go back to
5 what TOC presented to us, only modify it such that at least
6 the next higher level, correct me if I'm wrong, at least the
7 next higher level --

8 COMMISSIONER MOSS: Than what he raced at --

9 COMMISSION CHAIRPERSON SHAPIRO: -- than what he
10 raced at in his prior race.

11 COMMISSIONER MOSS: -- in his prior race, exactly.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay, and that
13 would be acceptable to Commissioner Moss. Okay.

14 COMMISSIONER MORETTI: Can I ask --

15 COMMISSION CHAIRPERSON SHAPIRO: Please?

16 COMMISSIONER MORETTI: This was originally brought
17 to us by the TOC.

18 COMMISSION CHAIRPERSON SHAPIRO: Correct.

19 COMMISSIONER MORETTI: If we did that, and I
20 understand the various logic, and my intuition is that's
21 right.

22 But what about you, Drew, in terms of the TOC, I
23 mean, does that meld with what your initial intent was?
24 Would that solve the initial problem that you were trying to
25 overcome?

1 MR. COUTO: You know, I'm trying to figure out how
2 to say this, appropriately.

3 It was the consensus of the committee, including
4 the racing secretaries that considered this, that have a lot
5 of experience doing this, that what we were proposing was
6 not creating any unfair advantage and, in fact, was creating
7 an incentive to owners to give horses time off, and do the
8 right thing, and bring them back, and bring them back in a
9 way that didn't create an unfair advantage.

10 I understand Mr. Moss's concern, I understand the
11 process is always full of compromises.

12 You know, I would go back to those who originally
13 helped craft this, and ask their opinions, do they think,
14 given what Mr. Moss has said, that this creates a
15 competitive situation.

16 The answer before was no, I'd like to know what
17 they think, now.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, can we
19 perhaps ask -- I have cards here from Mr. Hammerle, Mr.
20 Harlow, and Mr. Robbins. If they're still in the audience,
21 I'd be curious to know what the racing secretaries' views
22 are on this, and if they would comment, or any one of them,
23 with respect to what TOC proposed, and whether the
24 modification from Commissioner Moss would help it, hurt it,
25 whatever.

1 MR. ROBBINS: Tom Robbins, from Del Mar. I think
2 Drew has voiced it just as adequately as I could have. I
3 think what I'm hearing from Mr. Moss is that this horse,
4 that goes on this six-month or plus vacation, might have an
5 unfair advantage when that horse returns.

6 But I think it's pretty commonly known in our
7 business, with claiming horses, that horses that are on a
8 six-month plus vacation are recovering from some injury,
9 normally -- normally, don't come back at the same level at
10 which they left and are as competitive.

11 And that was what our thinking was, along with TOC
12 and CTT, to give that horse that protection, for that one
13 race, because they're normally not as competitive just by
14 virtue of the six-month layoff.

15 And that all went into consideration. And we
16 could provide all the stats in terms of how effective these
17 horses were at leaving, whatever, \$10,000 claiming level,
18 \$20,000 claiming level.

19 But we recognize the importance of
20 encouraging -- you know, first and foremost, we were trying
21 to offer something that might serve to protect the animal,
22 more than anybody else in this business, including the
23 owner. And we thought this was probably the best way to go.

24 There were -- you know, some, I've been reading
25 some e-mails the last few days about trying to tinker with

1 it, maybe it should be two races, maybe it should be
2 something else.

3 We're trying to keep it simple. We don't think
4 that this particular horse would have any kind of unfair
5 advantage.

6 And what normally would happen, if somebody that
7 has invested that kind of money for six months, to lay up a
8 horse, he's going to bring that horse back at a higher
9 level, if there's a fear of losing the horse. Now, that
10 horse is competing against better horses and probably will
11 be, you know, much more ineffective than if he's able to
12 come back at the same group at which he left.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, I
14 appreciate that and, you know, frankly, I personally agree
15 with you. I mean, my vision of this is that somebody's got
16 a \$25,000 claimer, or a \$16,000 claimer and, hopefully, they
17 will take the time to rehabilitate the horse so he's not out
18 there, going to get hurt. And if that does it, and they
19 need to put them back in a race, they give them a free, you
20 know, okay, they've spent six -- I mean, if the horse is off
21 for six months, then he probably, you know, is on a farm or
22 somewhere for quite a few months, and the owner's invested a
23 lot of money bringing him back, it doesn't seem that it's
24 fair that he's going to lose him right out of the box.

25 COMMISSIONER CHOPER: I mean, all of that's true,

1 there's no disputing that, on the one hand. On the other
2 hand, these horses win once in a while. I can testify to
3 that.

4 And may I ask what is wrong with the proposal of
5 raising it up one claiming level? I think that
6 particularly, you say, well, they're unlikely to win. Well,
7 if they're unlikely to win, then they're unlikely to win and
8 it doesn't make any difference, anyway.

9 MR. ROBBINS: We certainly discussed that.
10 Personally, I don't have a problem. If there's not going to
11 be a hundred percent agreement on this issue, then maybe
12 that's the solution. I don't have a problem with that.

13 COMMISSION CHAIRPERSON SHAPIRO: Personal dispute.
14 Thank you.

15 EQUINE MEDICAL DIRECTOR ARTHUR: This is Dr.
16 Arthur, Equine Medical Director. I would like to address
17 the realities of this. I did practice for 30 years, and it
18 comes a time when a decision has to be made as to whether
19 you're going to stop on a horse, due surgery to take a chip
20 out of its knee, and do right by the horse, that will stay
21 in racing for a longer period of time, or take the quick fix
22 and inject that knee with cortisone, get a few more races as
23 that horse goes down to the bottom of the ladder.

24 I think there's nothing wrong with giving an
25 incentive, a little bit of social engineering, if you will,

1 particularly if the industry benefits by somebody trading a
2 horse appropriately.

3 The other side of that is people do go in, they do
4 spend the money, treat horses right. And there are people,
5 frankly, that sit back and cherry-pick those horses, and get
6 a horse that another owner has spent a lot of money on.

7 And so I think for the benefit of horses, this is
8 a very reasonable approach. And how exactly it's done, I
9 don't really care. But it is a real issue.

10 To stop on a horse that has nothing wrong with it,
11 even the -- the surgery is the least cost of this, it's the
12 time off and getting the horse back, fit to racing, that's
13 easily \$10,000 in Southern California.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 MR. JAMGOTCHIAN: Just a question with regards to
16 this, from the owner's perspective, and the TOC's really not
17 thinking about it from the owner's perspective.

18 Let's say Mr. Moss wants to put his horse into a
19 race and lose it.

20 COMMISSION CHAIRPERSON SHAPIRO: Say again?

21 MR. JAMGOTCHIAN: Let's say that -- I mean, you're
22 a better example, let's say that you put your horse in a
23 race and want to lose it, like that horse that you had with
24 Darrell Vienna, and you don't claim this opportunity for the
25 waiver of the claim. Well, that's a red flag to all the

1 trainers out there that if he's not taking that opportunity,
2 that he wants to dump this horse.

3 So you've essentially killed the mystery of this
4 sport by taking a shot at claiming a horse that you really
5 don't know whether the horse can run or not, coming back off
6 of an operation.

7 So in this particular case, as an owner, the
8 mystery on my horse is over, they know I'm dropping my horse
9 in this claiming race to lose it, because I'm not taking the
10 opportunity for the free race, because that horse might not
11 have another race after the free race.

12 So think about that, because I don't think the
13 TOC's thought about that. Thank you.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay,
15 interesting. Interesting perspective.

16 Mr. Couto.

17 MR. COUTO: Drew Couto, again. Despite Mr.
18 Jamgotchian's comments, we'd rather kill the mystery than do
19 anything that leads to killing a horse, or increasing the
20 chances of injuring a horse.

21 You know, as I said, compromises, that's the way
22 the system works.

23 The last word I want to stay on that is we really
24 wanted to stick with at the level or above because you need
25 to create an incentive to the owner to do the right thing.

1 And even if you think it's just a slight compromise going up
2 one, it creates a disincentive.

3 And if we can avoid any disincentives, let's try
4 and do that. That was really our objective. Thank you.

5 COMMISSION CHAIRPERSON SHAPIRO: All right, thank
6 you.

7 What I would suggest is, this needs to be put out
8 for the rule-making process, I would recommend that it be
9 put out for the rule-making process. It appears that the
10 Board seems generally in favor of this. The only issue of
11 difference would appear whether or not it's at a one notch
12 higher level or equal to when it last raced.

13 So there will then be a comment period for it.
14 Jackie, you're getting up. Am I not correct?

15 STAFF SERVICES MANAGER WAGNER: Yes. Jackie
16 Wagner. I just need to know, for the text, which claiming
17 price we're going to enter, I can't have --

18 COMMISSION CHAIRPERSON SHAPIRO: I'm telling you.

19 COMMISSIONER MOSS: You're suggesting both of
20 them.

21 STAFF SERVICES MANAGER WAGNER: But I need to know
22 that for the --

23 COMMISSION CHAIRPERSON SHAPIRO: No, no, I'm
24 saying that we're either going to put in the language you
25 would like, or we're going to leave it the way it is, it's

1 going to go out for comment, anyway.

2 So why don't we put it out that it will be at
3 least one grade higher claiming level, per Commissioner
4 Moss's desire, at which point there will be comment, and we
5 can come back and we can hear from TOC, the other Board
6 members can weigh in on it, and we'll take it up from there.

7 Is that agreeable?

8 COMMISSIONER MOSS: Sounds good to me.

9 COMMISSIONER CHOPER: And on the other issue of
10 legality, or rule change, and so forth, Mr. Knight says that
11 we can try to get an informal ruling on this --

12 COMMISSION CHAIRPERSON SHAPIRO: Oh, that would be
13 great.

14 DEPUTY ATTORNEY GENERAL KNIGHT: Well, let me
15 call --

16 COMMISSIONER CHOPER: A consultation, I'm sorry.
17 I'm sorry, you correct me. I don't want to put words in
18 your mouth.

19 COMMISSION CHAIRPERSON SHAPIRO: Let's try to see
20 if what we're doing can get done.

21 COMMISSIONER CHOPER: At the same time.

22 COMMISSION CHAIRPERSON SHAPIRO: Concurrently, I
23 agree with you.

24 All right, so that will resolve the end of that
25 discussion.

1 Okay, Item Number 6, public hearing and action by
2 the Board on the adoption of the proposed amendment to CHRB
3 Rule 1844, authorizing medication to establish levels and
4 add stanazolol, nandrolone, boldenone, and testosterone to
5 the list of drug substances, one of which may be permitted
6 in the official urine test sample.

7 I would prefer, I would ask that we hear from Dr.
8 Arthur on this.

9 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, this is the
10 first step in regulating anabolic steroids in horse racing.

11 Can you hear me?

12 COMMISSION CHAIRPERSON SHAPIRO: Yeah, there's
13 something wrong with the microphone, though.

14 EXECUTIVE DIRECTOR BREED: Introduce yourself.

15 EQUINE MEDICAL DIRECTOR ARTHUR: Rick Arthur,
16 Equine Medical Director of the California Horse Racing
17 Board.

18 This is the first step in regulating anabolic
19 steroids in California and, as such, is possibly the most
20 important action this Board will be taking on medication
21 this year.

22 Adoption of this regulation simply establishes the
23 regulatory framework.

24 COMMISSION CHAIRPERSON SHAPIRO: Rick, do me a
25 favor, grab the other microphone, that one's doing

1 something. Thank you.

2 EQUINE MEDICAL DIRECTOR ARTHUR: All right, I'll
3 move over here. Does this sound better?

4 COMMISSIONER MORETTI: Oh, much.

5 EQUINE MEDICAL DIRECTOR ARTHUR: Okay. This
6 establishes, this simply establishes the regulatory
7 framework for anabolic steroid regulation. The four
8 anabolic steroids this provision regulates included three
9 endogenous, that's naturally occurring anabolic steroids,
10 and one exogenous, in this case a manufactured product.

11 The endogenous are testosterone, boldenone, and
12 nandrolone, the exogenous is stanazolol. All are
13 pharmaceuticals. Boldenone is Equipoise. Nandrolone is
14 Durabolin. Stanazolol is Winstrol. And testosterone is
15 generic testosterone.

16 This regulation, alone, does not prohibit these
17 four anabolic steroids. The Board will need to reclassify
18 these four compounds to initiate meaningful regulation.

19 The regulatory plan for anabolic steroid
20 regulation has been laid out several times before all other
21 anabolic steroids were supposed to be reclassified under the
22 long-delayed 1842.2 drug reclassification, to Class 2 or 3
23 compounds.

24 The reclassification, all except the four, were
25 done -- were first accepted by the Board last June, but

1 because of delays in OAL, have not yet been enacted.

2 I would like to point out that any delay in
3 adopting these regulatory amendments to 1844, at this
4 meeting, could derail anabolic steroid regulation for this
5 year.

6 So the Board needs to move forward with these. We
7 will be coming back in a few months to ask that you
8 reclassify these drugs as Class 3 drugs, and then we can
9 move forward full tilt with anabolic steroid regulation.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, I think if
11 anybody's read the news, this is obviously something that's
12 very much in the news. I can't imagine that any of us don't
13 want to move forward with this poste haste.

14 Is there any comment from the Board on this? If
15 not, I'm going to open it up to public comment. And, you
16 know, I would entertain a motion that we immediately adopt
17 this. I think that this is something that I hope this whole
18 industry will embrace very quickly.

19 So I'll move that we adopt -- we adopt this, as
20 there's --

21 COMMISSIONER MOSS: I have just one question?

22 COMMISSION CHAIRPERSON SHAPIRO: Yes.

23 COMMISSIONER MOSS: No, I --

24 COMMISSION CHAIRPERSON SHAPIRO: Okay, is there a
25 second?

1 COMMISSIONER MORETTI: Second.

2 COMMISSION CHAIRPERSON SHAPIRO: Second. Okay, is
3 there any -- oh, there is public comment. Ed Halpern.

4 MR. HALPERN: Ed Halpern, California Thoroughbred
5 Trainers.

6 Preliminarily, let me point out that I am a member
7 of the Racing Medication Testing Consortium, and was one of
8 the people who proposed this kind of regulation, with my
9 board's approval. So we do favor regulation of steroids.

10 But I would like to point out that currently, as
11 is reported in the press, and as Dr. Arthur can tell you, we
12 do not have accurate tests for withdrawal times or residual
13 levels of these medications, and those items are still being
14 worked on.

15 Therefore, as currently proposed, this raises some
16 concern.

17 Dr. Arthur informs me this would be a Class D
18 violation, and we have talked about how you deal with that.
19 We have talked about the idea of should there be a "positive
20 test," pending further legislation, once this legislation is
21 adopted and once this regulation is adopted, that the CHRB
22 would merely send out an advisory letter, telling people
23 that they had a test which indicated that the levels of the
24 steroids were above currently allowable levels.

25 As long as that's just an advisory letter, and as

1 long as it's not a "warning letter," and as long as there is
2 no record in a trainer's file that may, at some point, some
3 later point have repercussions in a punishment phase of some
4 kind of later hearing about some other issue, or even an
5 issue of steroids, we have no objection to it.

6 But I just want to make it clear that given the
7 limitations on knowing exactly when something was given at
8 this point, that the conclusion should not include some kind
9 of repercussion. And, therefore, so as long as the adoption
10 by this Board, of this rule, includes some language to the
11 effect that until further regulation is passed only an
12 advisory letter would be sent out, then we would have no
13 objection.

14 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur, do
15 you want to comment on that?

16 EQUINE MEDICAL DIRECTOR ARTHUR: Sure. I don't
17 really care whether you call it an advisory, a notice, a
18 warning, whatever makes it work. Our goal here is not to
19 have positives, and that's why we are doing this in a step-
20 wise fashion.

21 I would like to point out that we have been
22 working on this for well over a year, and we're very well
23 prepared.

24 We will be able to pretest horses through 2008.
25 If any trainer would like us to do so, we can start doing

1 that as soon as this regulation is in place.

2 I would also like to point out what the trainers
3 are asking is how close to the fire can I dance without
4 getting burned. I'm not entirely sympathetic to that issue.
5 It's something we've never really provided horsemen before.
6 But regardless, the RMTC is spending hundreds of thousands
7 of dollars to develop withdrawal times, it will be available
8 by this summer. So we should have very good information
9 available.

10 I will can tell horsemen if they don't use
11 anabolic steroids, they will not have a positive, that's
12 very simple.

13 But we're not out to get anybody. We want to get
14 this in place, we want to get it working. And whether it's
15 an advisory, a notice, a warning, a slap on the wrist, it
16 doesn't really matter to me as long as we have an effective
17 program well before the fall.

18 COMMISSION CHAIRPERSON SHAPIRO: Would you -- Dr.
19 Arthur, I agree with everything that you just said and I
20 appreciate it. Would you be willing, perhaps, to write some
21 form of an informative letter that could be published in one
22 of the publications, that is essentially advising the
23 trainer community of what we're doing, what steps we're
24 going through, and what the goals are so that everybody is
25 simply informed as to what is going on, and what our goals

1 are, just basically restating, nicely, what you just said.

2 EQUINE MEDICAL DIRECTOR ARTHUR: Certainly. I've
3 been writing an article, quarterly, for the CTT's trainer
4 magazine, and I'd be happy to address anabolic steroids
5 coming up next.

6 MR. HALPERN: Commissioner Shapiro?

7 COMMISSION CHAIRPERSON SHAPIRO: Mr. Halpern?

8 MR. HALPERN: With all due respect, this is not a
9 matter of dancing close to the fire, this is a matter of the
10 fact that we don't have accurate tests to know when these
11 medications were given. And whether it's 30 days out, 60
12 days out, theoretically, you can give it 60 days out and
13 have a positive at 30 days out. We don't have the tests
14 that are accurate enough to tell us that.

15 We are not in a situation, either in California or
16 across the country, where we're ready to ban steroids, where
17 we're ready to be an island that has no steroids, that
18 drives trainers and horsemen to other states. We're not
19 ready to do that, yet.

20 And, therefore, we do need some protection for
21 people, as long as we don't have accurate testing.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, I hear what
23 you're saying and I believe it's this Board's goal to move
24 very prudently. As Dr. Arthur said, and I echo, we are not
25 looking to try to catch anybody. On the other hand, I think

1 you do join with us in wanting to get to the point where
2 anabolic steroids are not used as an enhancement for racing
3 horses.

4 And I understand what you're saying, and that's
5 why I asked Dr. Arthur if he'd be willing to simply write an
6 informative letter that outlines to your members exactly
7 what we're doing.

8 MR. HALPERN: Well, let me just clarify, that I
9 agree that that should be done. But I also am trying to
10 emphatically make the point that I then don't want some
11 trainer, who has given steroids 60 days out, or whatever, or
12 gets a horse from a farm where it was given, and then runs
13 it 30 days later and gets a positive, to have something in
14 his record that says he was guilty of violating, or gotten
15 warned for violating a regulation on the Board.

16 COMMISSION CHAIRPERSON SHAPIRO: Well --

17 MR. HALPERN: On a test that we don't even know is
18 accurate.

19 COMMISSION CHAIRPERSON SHAPIRO: I understand.
20 But I think that we're not at that point, yet, we're simply
21 taking one of the sequential steps necessary until we get to
22 that point, is my understanding. Because what we are
23 doing here is we are classifying drugs, we are not
24 establishing -- this is going to be part of our RMTTC
25 guideline rules, once we get them passed.

1 Is that not correct, Dr. Arthur?

2 EQUINE MEDICAL DIRECTOR ARTHUR: What we've taken
3 is the RMTC recommended anabolic steroid rule and adopted it
4 to the framework we have in California, under our rules.
5 That is under 1844, which is what we're discussing, and with
6 these specific amendments.

7 I think that we're talking past each other on this
8 specific issue. One thing I do want to make clear is the
9 testing is very accurate. It's the withdrawal times that we
10 don't have the information on.

11 But I would like to point out that these are
12 modeled under international rules where, using GCMS
13 technology --

14 COMMISSION CHAIRPERSON SHAPIRO: What's GCMS?

15 EQUINE MEDICAL DIRECTOR ARTHUR: Gastrometography
16 masspectometry technology, which has been used to
17 regulate --

18 COMMISSION CHAIRPERSON SHAPIRO: Oh, I knew that.

19 EQUINE MEDICAL DIRECTOR ARTHUR: It's been
20 used --

21 COMMISSION CHAIRPERSON SHAPIRO: I couldn't get
22 may or any right, okay.

23 EQUINE MEDICAL DIRECTOR ARTHUR: But this has been
24 used internationally for years. Our horsemen, who ships
25 horses to Dubai, Curlin is going to be subject to these

1 rules. Pleasantly Perfect was subject to these rules when
2 he shipped over. Any of our horsemen who have shipped to
3 Japan have been subject to these same rules and been able to
4 figure it out.

5 So this is not that complicated. There's one
6 thing that I have pointed out and I'd like to reiterate, so
7 the trainers understand this, we will be able to
8 pretest -- pre-race test horses for anabolic steroids, which
9 take any of the uncertainty out of this.

10 And we are quite certain that we'll have funding
11 available to do that through the end of the year.

12 So that, right there, puts the nail in the coffin
13 of Ed's argument on this. It can be done. We're not
14 looking to get horsemen. What we're trying to do is
15 establish anabolic steroid regulation.

16 And, you know, we're going about it in a very
17 piecemeal way, very deliberative way to avoid any unforeseen
18 problems. In fact, as you know, we were criticized in
19 November, when this was brought up, for not putting the
20 hammer down on this immediately.

21 COMMISSIONER MOSS: Dr. Arthur, can I ask a really
22 silly question?

23 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

24 COMMISSIONER MOSS: What if we just prohibited
25 these drugs altogether, what would happen?

1 EQUINE MEDICAL DIRECTOR ARTHUR: The stanazolol, I
2 think is -- it wouldn't matter one bit. The problem we have
3 with these drugs is that testosterone, nandrolone, and
4 boldenone, even though they are manufactured as
5 pharmaceuticals, are naturally occurring in the horse.
6 Fillies have testosterone levels, they're actually higher
7 than geldings.

8 Colts have very high testosterone levels, which
9 makes it almost impossible to regulate. Colts have
10 boldenone, which is also Equipoise. Intact males have
11 boldenone. And that's why these levels are important.

12 And they are used internationally in the same way.

13 I would expect that sometime in the near future
14 stanazolol will be removed from this list. It may not be
15 this year, next year, it may be three years from now but,
16 ultimately, it will be.

17 COMMISSIONER MOSS: I think it just sounds
18 complicated, you know, but obviously it's not, but it sounds
19 complicated.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, isn't
21 it -- I'm just curious. Is it not, I mean, our Board's
22 desire that we should eliminate the unnecessary use of
23 anabolic steroids in the sport of horse racing?

24 COMMISSIONER MOSS: Yes.

25 COMMISSIONER MORETTI: Yes, absolutely.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay, this is a
2 step that needs to be taken.

3 And with due respect, I hear what my good friend,
4 Mr. Halpern, is saying, and I don't think what we're trying
5 to do is catch anybody up.

6 But we need to move forward. I think that Dr.
7 Arthur's statement, while it sounds harsh, is actually
8 correct. If you don't want to take the chance, don't use
9 them. It's true.

10 MR. HALPERN: You know, with all due --

11 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute.
12 And I think that he's made it clear that what we're doing is
13 establishing levels that will take into account that they
14 are endogenous. Three of the four?

15 EQUINE MEDICAL DIRECTOR ARTHUR: Three of the
16 four.

17 COMMISSION CHAIRPERSON SHAPIRO: Three of the four
18 are endogenous.

19 So from my perspective, again, with good science
20 and the national movement here, California has got to take
21 this step forward.

22 MR. HALPERN: I'm not suggesting that you don't,
23 Chairman Harris, all I'm saying is --

24 COMMISSION CHAIRPERSON SHAPIRO: My name's not
25 Harris.

1 MR. HALPERN: I mean, I'm sorry, Shapiro. Well,
2 you look alike.

3 (Laughter.)

4 COMMISSION CHAIRPERSON SHAPIRO: Ooh, I can't wait
5 for the next e-mail from Mr. Harris on that one.

6 (Laughter.)

7 COMMISSION CHAIRPERSON SHAPIRO: He's only sent
8 about eight so far, okay.

9 MR. HALPERN: You know, that's not my point. But
10 let's clarify, I don't mean to be argumentative with Dr.
11 Arthur, but the truth is that even the RMTTC is saying we're
12 not ready to have these rules adopted because we don't have
13 the testing for them.

14 COMMISSION CHAIRPERSON SHAPIRO: And I don't hear
15 Dr. Arthur saying anything different than that.

16 MR. HALPERN: No, he's saying we have very
17 accurate testing and we can tell trainers whether they've
18 got a problem or not.

19 COMMISSION CHAIRPERSON SHAPIRO: But he's not said
20 that it's going to commence. I don't think by adopting what
21 we're doing here, he is saying it.

22 MR. HALPERN: That's where we differ. Because my
23 understanding is that when a test comes back, he is going to
24 send out a letter to the trainer saying you had a high test.
25 And, originally, he wanted to send out a warning to that

1 effect. And the only point I'm making is, yes, go ahead and
2 adopt this, but make part of it that until drug
3 classifications are enacted by this Board, there shall be no
4 warning or no record in the trainer's file indicating that
5 they have violated this rule. That's all.

6 EQUINE MEDICAL DIRECTOR ARTHUR: First of all, I'd
7 like to -- okay, the regulatory aspect, I'm going to let
8 Jackie handle. First, some comments here.

9 First of all, the reason the RMTC has delayed
10 implementation of this is not because California isn't
11 ready, we are ready. We have been prepared for this,
12 preparing for this for a long time. The delay is that other
13 states are not ready to move forward. So that is a little
14 bit of a mischaracterization.

15 I think what Ed is talking about can be handled by
16 policy, is irrelevant to this action of this Board. And
17 certainly, from my perspective, I will do what I can to work
18 in a fashion and help establish a policy that will make this
19 work in that direction.

20 COMMISSION CHAIRPERSON SHAPIRO: Fine. If you
21 will simply agree that over the next 30 days you'll get
22 together with Ed Halpern, CTT, and address what policies
23 should be adopted and implemented, the bottom line is we
24 need to get rid of anabolic steroids.

25 Okay, and I think that that's what we want to do,

1 and this is a step that we have to take. And, therefore, I
2 would move that we take a point on this, at this point.

3 EQUINE MEDICAL DIRECTOR ARTHUR: Can I make
4 one --

5 COMMISSION CHAIRPERSON SHAPIRO: You're about to
6 get what you want, do you really want to do that?

7 EQUINE MEDICAL DIRECTOR ARTHUR: Just for the
8 record, there is redundancy in line 13 and 14, relative to
9 fillies, that will be taken care of.

10 COMMISSION CHAIRPERSON SHAPIRO: Fine, we'll adopt
11 it with that being resolved.

12 All those in favor of adopting this?

13 COMMISSIONER MORETTI: Do we need a motion?

14 COMMISSION CHAIRPERSON SHAPIRO: I thought a
15 motion was made but, okay. I move that we adopt the
16 proposed amendment to Rule 1844, Authorized Medication, to
17 establish the levels and add stanazolol, nandrolone,
18 boldenone and testosterone to the list of drug substances,
19 one of which may be permitted in the official urine test
20 sample.

21 Is there a second?

22 COMMISSIONER MORETTI: Second.

23 COMMISSION CHAIRPERSON SHAPIRO: Second.

24 Do you have a question, Commissioner Moss?

25 COMMISSIONER MOSS: Yeah, let's say, what happens

1 if the natural testosterone in a filly is higher than what
2 the regulations state?

3 COMMISSION CHAIRPERSON SHAPIRO: I believe the
4 levels have taken that into consideration. But you answer.

5 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, these are
6 internationally established threshold levels for fillies,
7 and it's been well examined statistically. Your chances of
8 having a filly over 55 are slim and none.

9 COMMISSIONER MOSS: Okay.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.

11 COMMISSIONER CHOPER: Can we authorize no
12 consequences with this motion?

13 COMMISSIONER MORETTI: No, this what we --

14 COMMISSIONER CHOPER: This is it.

15 COMMISSION CHAIRPERSON SHAPIRO: We are adopting
16 this.

17 COMMISSIONER CHOPER: But it has no consequences
18 for a trainer whose horse is tested?

19 COMMISSION CHAIRPERSON SHAPIRO: No, no, no.

20 COMMISSIONER MORETTI: No, no, no.

21 COMMISSIONER CHOPER: Where's the consequence?

22 COMMISSION CHAIRPERSON SHAPIRO: All we're
23 adopting are these drug classifications, it has nothing to
24 do with that.

25 EQUINE MEDICAL DIRECTOR ARTHUR: Actually, Mr.

1 Choper is a little bit right, the consequences are a little
2 bit obscure here because we're passing two regulations
3 through OAL. We have -- these four drugs have been
4 reclassified as Class 4, they are already Class 4 penalties.
5 We have reclassified them as Class D penalties, when the
6 penalty guidelines go through. Right now they're Class 6
7 penalties.

8 But once the new penalty guidelines are going
9 through, they will not cause a fine or a redistribution of
10 purse until this Board takes another step.

11 COMMISSION CHAIRPERSON SHAPIRO: Right.

12 EQUINE MEDICAL DIRECTOR ARTHUR: This is really
13 just establishing the regulatory framework.

14 COMMISSION CHAIRPERSON SHAPIRO: Right, that's all
15 we're doing today.

16 COMMISSIONER MOSS: Along international lines,
17 like you say?

18 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

19 (Ayes.)

20 COMMISSION CHAIRPERSON SHAPIRO: Opposed? There
21 is none.

22 Okay, can we keep going or does anybody on the
23 Board need a quick break? We'll keep going.

24 We're going to take, we have a request that the
25 people from the World Poker Tournament need to go, and so

1 we're going to take Item 13 next, which is discussion and
2 action by the Board regarding the feasibility of adding a
3 new wager sponsored by the World Poker Tour.

4 Mr. Couto, I'm going to ask you if you would
5 introduce this item. You are the party that brought this
6 forward, I think.

7 MR. KOCH: We're going to bring in some others,
8 they're coming right up.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, where are
10 they, you wanted us to do this.

11 MR. COUTO: They're outside.

12 MR. KOCH: They're outside, waiting.

13 COMMISSION CHAIRPERSON SHAPIRO: Oh, okay.

14 MR. KOCH: Yeah, we presented this yesterday to
15 Mr. Moss, and Mr. Choper, and Commissioner Andreini.

16 COMMISSION CHAIRPERSON SHAPIRO: Yeah, you know,
17 the one thing that maybe we should have done, I mean, this
18 was presented to the Pari-Mutuel Committee and we'll let
19 this move forward. But I would have preferred that we hear
20 the report from the Pari-Mutuel Committee before we hear
21 this item. But we'll go ahead and do it this way.

22 MR. COUTO: You know, Mr. Shapiro, that would be
23 fine if you'd prefer to do it that way.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, Mr. Moss is
25 walking out the room, so I don't know.

1 (Setting up Power Point.)

2 MR. KOCH: Commissioner Shapiro, are you ready?

3 COMMISSION CHAIRPERSON SHAPIRO: I'd prefer to
4 wait for Commissioner -- well, why don't we go ahead, he's
5 seen it. Marie and I are the only ones that haven't seen
6 it.

7 So, Drew, if we can bring the meeting to order,
8 all the TOC people, and what do you want to show us here?

9 MR. COUTO: Well, Drew Couto. I'm not going to
10 identify myself as with TOC at this point, because it's not
11 a TOC initiative at the moment. We hope it will be. But it
12 is being brought to you by the World Poker Tour today.

13 COMMISSION CHAIRPERSON SHAPIRO: So Drew Couto,
14 private citizen.

15 MR. COUTO: Well, TOC, but I don't want anybody to
16 be confused that at the moment this is a TOC initiative. We
17 hope it will be shortly, it's going to go to the board next
18 month and, hopefully, they'll endorse it.

19 I'll give you just a ten-second background and
20 kick it to Mr. Koch, Billy, to bring you up to speed.

21 But what this is, is a proposal for a new wager,
22 and it is a concept developed in cooperation or, actually,
23 by the World Poker Tour, and they are motivated to help
24 racing.

25 So on that note, I'll kick it over to Billy,

1 before we get started.

2 MR. KOCH: I'm Billy Koch, Little Red Feather
3 Racing. I'm also not a TOC member today, just for this
4 presentation.

5 Sitting to my right is Steve Lipscomb, the CEO,
6 what else, how many things, founder of the World Poker Tour.
7 Behind us is Jonathan Hegerness. And Gary Fenton is also
8 working with us.

9 About a year ago we met with the World Poker Tour,
10 who wanted -- had the idea that they could do something
11 similar in horse racing that they did in poker. The World
12 Poker Tour that people who actually flipped over the card.
13 So the entire poker resurgence, that we've all felt, was
14 basically their idea.

15 They came to us, we sat down with them, and for
16 the past eight months we've tried to come up with a way,
17 what we thought would re-energize the sport or horse racing
18 which, obviously, we're huge fans of.

19 And we came up with what we think is a simple,
20 innovative, strategic, exciting, and most of all a fun pari-
21 mutuel tournament style wager.

22 And I'm going to have Drew take you through it
23 right now.

24 MR. COUTO: Okay, thank you. I'll try and work
25 through this fairly quickly, that is if technology supports

1 us.

2 World Thoroughbred Tour Challenge Wager. What
3 that is, is tournament style pari-mutuel wagering.

4 Basically, what we've been watching and admiring
5 in terms of poker tournaments, the World Poker Tour has come
6 up with an idea that they would like to try in racing.

7 How does it work? Let me have the World Poker
8 Tour, hopefully, video. The sound is not working, so we'll
9 try that again.

10 (Video Playing.)

11 COMMISSION CHAIRPERSON SHAPIRO: So I have two
12 questions. Do we all have to go around with sunglasses?
13 And I notice some of that film I think we've seen before,
14 Mr. Koch.

15 MR. KOCH: That was good times, good times.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay.

17 MR. KOCH: Sorry.

18 MR. COUTO: I apologize for the lack of sound, the
19 audio cable, apparently, is not hooked where it says it's
20 hooked.

21 But anyway, what are we talking about? We're
22 talking about tournament style pari-mutuel wager. What is
23 that? Well, it's a fixed-price wager based on tournament
24 style play, using win, place, or show wagers, only. It
25 would encompass multiple races or rounds, so it might be

1 three, five, seven races, however long the tournament is
2 set.

3 Each round is selected individually, you make it
4 at the time of the race, not like a Pick-Six wager, where
5 you pick all seven races, but you make your selection.

6 COMMISSIONER MORETTI: I'm sorry, someone's
7 talking on a cell phone or something, and it's reverberating
8 back up here. So could you step outside, please? Thank
9 you.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay.

11 MR. COUTO: Okay, each round is made, a selection
12 is made individually, after the conclusion of the prior
13 race. So, again, it's not like a Pick-Six or a multiple-leg
14 wager currently. But you'll make a bet for each round.

15 And the winner is determined by the cumulative
16 total of earnings. And so we'll go into more detail how
17 that works in just a minute.

18 But what is the format? I want to run quickly
19 through, if I could, the 12 elements of the format.

20 The cost of the wager would be set by the racing
21 association. What that means is it could be a \$5, a \$25, a
22 \$100, whatever the wager denomination is for a specific
23 tournament can be set by the racing association.

24 We used, for the purpose of this example today, a
25 \$25 wager gets you into the tournament. That \$25 goes into

1 the pari-mutuel pool, and the player gets a hundred dollars
2 of fantasy money, and you'll see how that works in a minute.

3 So each player, who enters, receives a fantasy
4 bankroll. The number of races that complete this wager or
5 the tournament, again, could be set by the racing
6 association, it could be any number, but at least three.

7 Each round of the tournament consists of a fantasy
8 win, place, or show wager on one horse. Or any combination,
9 it could be a win/place, or win, place and show, or simply a
10 win, or show, or whatever, but it's a wager on one horse in
11 each round.

12 The player may also pass on a particular round.
13 If they don't like the race or the round, they may pass on
14 that and not make a wager at all.

15 And, of course, you use the official program
16 numbers to place your wager.

17 The technology for this exists today. We've run
18 that by Sci Games, they have the technology and the software
19 already in place.

20 But number seven, there's no minimum fantasy wager
21 per event. As I said, they don't have to bet \$2, they can
22 opt to do nothing, or they can have the all-in moment, they
23 can wager everything they have, just like they do in poker.

24 MR. KOCH: Yeah, this was the all-in moment that
25 we were looking for. I don't know how many of you are poker

1 fans, but that's kind of set the trend, and we wanted
2 something that a player, after their first leg, they may
3 have won that first race, and they started with a \$100
4 fantasy bankroll. Now, all of the sudden they have 300 and
5 they say I'm just going to go for it right here, they may
6 bet that whole 300.

7 Unlike a Pick-Six, which is pretty much determined
8 before the races start.

9 MR. COUTO: Live race payoffs determine how many
10 points or the earnings for each player. So, again, if it
11 was a \$25 tournament and players receive \$100 in fantasy
12 wagering, whatever the win or the earnings for their bets in
13 a specific round would be added to their bankroll, and the
14 bankroll is cumulative from round to round.

15 In order to keep this interesting all the way
16 through, there's a 25 to 1 cap on any wager made, so that it
17 doesn't get run away at any particular round.

18 And each player's wins and losses are reflected in
19 their bankroll. So, again, through each round, the tote
20 software that we currently have in place can calculate
21 whether they won, lost, what their bankroll is, and how
22 that's tracked. Okay.

23 COMMISSION CHAIRPERSON SHAPIRO: Who's keeping
24 track of the bankrolls or the fantasy bankroll?

25 MR. COUTO: Well, the tote system would. The way

1 in which this game will be played is using a plastic card.

2 Just like we have today, your account cards.

3 In looking, we discussed this with Del Mar. Del
4 Mar issues the Diamond Card, for example, which is admission
5 and it's also tied to your account. You can, with existing
6 Sci Game software, play this game using your Diamond Card.
7 When you make your wager using your Diamond Card, it will
8 track how you are performing in the tournament. So this
9 game will be played using plastic cards.

10 MR. KOCH: And we also anticipate that just like
11 there's a Pick-Three payoff, or Daily Double payoff, that
12 there will be a WTT leader board that will flash, so you'll
13 know where you are at the track.

14 MR. COUTO: Now, how this is done can be done in
15 any number of ways. You can have a tournament room,
16 dedicated at the racetrack, where people can track where
17 they are performing.

18 We also have basically unlimited bandwidth and
19 have available channels at the racetrack. We can dedicate a
20 channel to the leader board which will show, after each
21 race, who the top 25 players are, or the five top five
22 players, or whatever the track decides they want to post.
23 Typically, it will be the top five percent because those are
24 the players that will participate in the pool at the end.

25 Let me finish just the last two elements of the

1 wagering format. And that is any payoff, including a
2 fractional dollar, is rounded up to keep it very simple, in
3 terms of tracking, so we don't have cents. And that's,
4 again, something that the tote can do. Or you can track to
5 the penny, if it's preferred that way.

6 And one of the things we'll invite at the end of
7 this presentation is we've submitted some draft regulatory
8 language, and between now and your next month, when we hope
9 to have you move that, we can make any changes that the rest
10 of the industry might think is necessary to get a final.

11 The final point of this is that like any
12 tournament there may be cuts, including a cut to the final
13 round, where you will cut down to the top five players, who
14 play head-to-head in the last round.

15 MR. KOCH: You know, one of the things we talked
16 about, we wanted to make it, again, something different,
17 something innovative. And we thought of golf. You know, on
18 Thursdays and Fridays they basically play towards something,
19 they play towards that weekend.

20 We wanted to do something here with this wager, so
21 we actually have a cut by which the second to the last race
22 you have to be at a certain level to make it into the
23 finals, to make it into that last race of wagering, so that
24 someone can't just sit around and do nothing and, basically,
25 hope to be there.

1 We found that when we were playing, it really made
2 for great moments. And just we're going to go into this a
3 little later, also, the WPT is famous for their television,
4 and putting this thing, making this thing televised. We
5 anticipate high drama with the all-in moment, high drama
6 with the cut, with people trying to get into that final leg,
7 where they can make the big money.

8 MR. COUTO: Okay. The idea here, too, is the
9 tournament, as we said, can be a number of races, three,
10 five, seven, whatever it chooses to be. You can also do
11 simply live races. Meaning, Santa Anita can have a
12 tournament on using only its races. You can compact the
13 time by having races from the north and the south. Five
14 races, seven, or more races, you can cut down the period of
15 time.

16 You can use, simply, races that occur within the
17 hour, which would be a mix of Northern California, Southern
18 California, and out-of-state races.

19 It can be determined by the racing association
20 what they want their tournament -- they can have multiple
21 tournaments on a day, if they choose to, multiple tournament
22 wagers.

23 You can also do the same thing online through the
24 ADW companies. They might run a ten o'clock, an eleven
25 o'clock, a twelve o'clock tournament that consists of five

1 races or seven races.

2 And the good news is that the technology is there
3 today, the tote can do it, the ADW companies are into the
4 tote, so it is doable.

5 COMMISSION CHAIRPERSON SHAPIRO: So this is not
6 just an on-track wager?

7 MR. KOCH: No.

8 MR. COUTO: No.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay.

10 MR. COUTO: In fact, the intent is to have an on-
11 track, off-track, and ADW wager, it can be on any platform.

12 We've seen sort of, or outlined for you the
13 wagering format. How is a winning wager determined?

14 Okay, well, it's pretty simple. The player with
15 the highest fantasy bankroll after the final leg is the
16 winner. All top five placings are determined by their
17 bankrolls after the final round.

18 The pari-mutuel pool, the net pari-mutuel pool
19 would be distributed among the top five percent of players
20 who participated in the tournament. Okay.

21 And, again, the net pool would be distributed in
22 accordance with the regulations as set either by the Board,
23 or the association, in terms of how the distribution is to
24 the top five percent, what percentages.

25 Now, what was the objective of this wager from the

1 WPT's stand point?

2 Well, it's really kind of five-fold or six-fold.
3 But one was to create a simple, standardized tournament
4 style wager.

5 As you saw in the video, and may not have heard, a
6 standardized wager, much like they did with poker, by really
7 making Texas Hold-'em an understandable game, they
8 standardized what people began to think of as poker, and
9 began to appreciate how that one game is played, and then
10 made a determination that, hey, in fact, I can play that
11 game, it's not that difficult.

12 MR. KOCH: And that's the nice thing about this is
13 that anybody can play. You're on a pretty level playing
14 field with your original \$25 bet.

15 And we hope to, with the TV show, mimic what they
16 can do at the track and, hopefully, get people to the track
17 to play this.

18 MR. COUTO: And as we said a moment ago, the wager
19 can be placed on-track, off-track, or through an ADW
20 company.

21 For televised events, however, you will have to
22 play live, and that is one of the things the WPT brings to
23 this, and as I think it was shown in the video. One of the
24 keys to the success of this is to create a televised tour,
25 where they will bring sets to the racetracks, film the

1 tournaments, and produce a television show after the fact,
2 creating characters. Because racing is rich in characters,
3 both on the racing side and in the stands. Create
4 personality, much like was done in poker. We have, now, any
5 number of poker celebrities who, in fact, have video games
6 named after them and are celebrities, themselves.

7 MR. KOCH: Yeah, one of the great things about
8 this is we can create new heroes in racing, and these
9 handicappers can be heroes. And that's what the show can
10 do, and will do is create characters and, ultimately, it
11 will get more people involved in the sport.

12 MR. COUTO: As we mentioned, it can create a
13 single- or multiple-track wager, but it's always the same
14 format. And I'll kick through this because I'm taking too
15 much time right now.

16 The end result of this tournament style play is to
17 create a large national tournament at the end of the year,
18 and we'll use a portion of distribution to fund that
19 tournament.

20 But, again, if we could summarize the objective in
21 one thing, it's to create a wager that's perceived by a
22 broader audience, today, as a game they can learn and play.
23 By keeping it simple to win, place, and show wagers on one
24 horse per round, we think we can do the same thing that was
25 done with Texas Hold-'em.

1 I want to quickly go over takeout and
2 distribution. This wager, based on current, existing
3 California law, is anticipated to be a 25 percent takeout
4 wager. And if all of the races in the wager were in-state
5 races, the distribution would be as shown here, with 7.75
6 percent both to the track and to horsemen, which is almost
7 the equivalent, today, of a live, on-track race.

8 The other distributions, pursues -- I'm sorry,
9 breeders, satellite wagers, facilities, license fees are
10 all standard deductions we have.

11 And the final two is there's one percent that
12 would fund the national tournament, one percent would come
13 out of the 25 percent. And the WTT's license fee is five
14 percent, which pays for the television, the production of
15 the tournaments, the administration of the leader boards, et
16 cetera.

17 There's a slightly different distribution, but the
18 same takeout, 25 percent, for out-of-state races. We'd have
19 to pay a three percent host fee divided among the races,
20 that's the same thing.

21 Lastly, let me just show you what a sample
22 tournament payout would be. We're using \$25 as the bet, of
23 which there's a thousand wagers, a thousand players, let's
24 say, so the total pool is \$25,000, very modest. So \$18,750
25 goes back to the players in terms of the pari-mutuel pool.

1 And the payout example would be, for the winning
2 player, on the \$25 entry fee, if they win, they're receiving
3 just under \$8,500. And we looked through the top five
4 players, as shown, that's their winning.

5 And then from 6 through 50, which is the remainder
6 of the five percent win -- I'm sorry, top five percent, each
7 of these payouts is actually what would go to the individual
8 player there, as well.

9 So the last few slides, which I will skip, are
10 mainly to reinforce that the national tournament, to which
11 this is tied, will use the same rules and regulations as the
12 wager. Being the important part of this is that the wager
13 that a player can play at the racetrack or online is the
14 same wager that the tournament is built on. So when they
15 watch it on television they know, if they can figure it out
16 on TV, they can come to the track and play the same wager.
17 It's played the same way, it's the same game and, hopefully,
18 we'll build a bigger audience.

19 And my final comment is the key to this -- there
20 are two final comments.

21 One, the World Poker Tour approached racing in
22 this instance, and said, give us a chance to do -- and I'll
23 kick to Steve, I don't want to steal his thunder, but give
24 us a chance to do for you what we did for poker, that's
25 number one.

1 Number two, the objective here, again, it not to
2 cannibalize existing handle, but to go after a new segment
3 of players who don't play today, much like poker did when
4 the WPT broadened its appeal well beyond those who were
5 going to card rooms, put it on travel channel, and other
6 channels where people, who didn't normally watch poker, then
7 saw it, began to appreciate it more and to play.

8 And so on that note, I'll kick back to Billy.

9 MR. LIPSCOMB: Very smart to keep the microphone
10 as far away from me as long as you can.

11 We're extraordinarily excited about the
12 possibility of doing something in this space. As the
13 company that launched the now global poker phenomenon, we
14 have been approached by just about everything that you can
15 imagine, from bingo tournaments, to anything else, thinking
16 Black Jack, and the like, that that's going to be the next
17 big thing.

18 And specifically we/I have passed on those because
19 I don't buy that they have the same kind of characteristics
20 that have the potential to create an entirely new
21 phenomenon.

22 When you saw, you couldn't hear, the piece that we
23 kind of put together on videotape to show some of the
24 parallels for what we experienced in the poker market. In
25 2001, when I wrote the business plan to transform poker,

1 through television, into a televised sports phenomenon,
2 poker rooms across the country were being closed in droves.
3 Literally, there were meetings that were happening on a
4 regular business, throughout the industry, with people
5 saying how do we save poker? Because, literally, rooms were
6 becoming extinct.

7 And Jack McLellan, who probably is the guy most
8 responsible for creating tournament poker, as it is today,
9 said the problem was the audience. He said, every poker
10 room, every year ten guys would die and one guy would walk
11 through the door, and he was no spring chicken.

12 And the reality was, literally, they just didn't
13 have a new group of people coming into that world, everybody
14 was playing at home. In the same way that people really, I
15 think, associate, love horses, have this great thing that
16 works in films, when we do retro films, but pulling a new a
17 new audience is something that they were dreaming to have.

18 And as we look down at the tournament that's going
19 on down at the Commerce Casino tonight, the final's
20 happening, where we had 700 players show up to put \$10,000
21 down, creating a \$7 million prize pool, and of the six
22 people that are at the final table, there's one person over
23 30. Literally, it's transformed that market.

24 And those superstars that nobody knew, I promise
25 you, in 2001, if you'd asked anybody who those people were,

1 didn't exist. They get stopped in every airport they walk
2 through. They have created a boom that, again, like I said,
3 we're now in 150 countries and territories. Just launched a
4 tour in Mainland China.

5 And really believe, when I look at horse racing,
6 the history that it has, this great parallel with poker, in
7 that we really stand on the shoulders of giants.

8 And in order for us to work, it's been terrific
9 working with these guys, with Drew, and with Gary, and Billy
10 to try to figure out how we do something using the strengths
11 that you already have in this industry, and the unique
12 things that you offer, from all of the people who have loved
13 this sport for so long, trying to find some way to allow the
14 young, bravado thing.

15 And I think that's what this wager does, it allows
16 people to compete against each other. Not necessarily in a
17 hidden way, like pari-mutuel betting has always been but,
18 literally, I'm looking at you and I'm saying I know I can do
19 this better than you can.

20 And that stuff allows me to do what we do, I think
21 better than anyone in the world, and that is translate the
22 gaming experience into television in such a way that you
23 care. Because if you can't do that, you aren't going to be
24 able to get the audience that allows you to fill those
25 stadiums up, really, like the glory days of horse racing.

1 So I don't know if I can say it any stronger,
2 other than just to say we, as an organization, have not done
3 a second thing in the gaming industry because we hadn't
4 found anything that we were excited about. We're excited
5 about this and are ready to put our company, we went public
6 in 2004, and our resources behind trying to find a way to
7 work with all of the different elements of the horse racing
8 community in order to try to build something that would
9 rejuvenate and bring this sport to a new place, as glorious
10 as it is today, try and find something that can expand and
11 build on all of that.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you
13 very much. It's certainly very interesting. I think I'll
14 speak for myself, and others can speak. I think that
15 whenever somebody comes with something creative to help
16 promote and add some life, new life, new blood to the game,
17 I think it's a wonderful thing.

18 I'm probably the only person in the room that does
19 not know how to play poker, so I don't have the great
20 connection, although I --

21 MR. LIPSCOMB: You should play for money, I'll
22 tell you.

23 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I know. I
24 get a lot of that. I get a lot of that.

25 But the truth is that it's a phenomenon that I'm

1 certainly aware of, and I'm assuming everyone else is. And
2 I think, you know, I don't know what we're here today to do,
3 other than I guess to be informed. And I think it's a
4 terrific concept, and if it can be pushed forward and can
5 grow, you know, God bless us all if you can be successful.

6 MR. COUTO: Here's the request that we're going to
7 make of the Board, today. We've submitted some proposed
8 regulations to the Board. We've also submitted this to the
9 RCI. And just to let you know, in December the RCI Model
10 Rules Committee unanimously endorsed this proposal, and it
11 has gone to the board, and I believe it's going to be voted
12 on by the RCI board in March. That's the last I was told by
13 RCI staff.

14 COMMISSION CHAIRPERSON SHAPIRO: That is true.

15 MR. COUTO: Okay. So what we're going to do is
16 circulate to the Board, and to our colleagues in the
17 industry, the proposed draft regulations and, hopefully,
18 work between now and your next meeting to have them
19 finalized, and then we would ask the Board to put them out
20 for comment and hopefully move them along as we can.

21 But I think it's a great opportunity, we're
22 excited about it, and we hope you'll give us a shot.

23 COMMISSION CHAIRPERSON SHAPIRO: I think that's
24 terrific, I think we're all willing to do that.

25 Unfortunately, we've been a little unfair to your Pari-

1 Mutuel Committee, that we're preempting you. But assuming
2 that you bless it --

3 COMMISSIONER MOSS: I think I would have said
4 Commissioners Choper, and Andreini, and myself thought it's
5 a good idea, and it's up to the tracks how they accommodate
6 it and go on from there.

7 COMMISSION CHAIRPERSON SHAPIRO: Terrific. Well,
8 go get them, you know, it's a great idea. Thank you very
9 much.

10 MR. KOCH: Thank you for your time.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, we'll go
12 back on track to the agenda, and that brings us to Item
13 Number 7, which is public hearing and action by the Board on
14 the adoption of the proposed amendment to CHRB Rule 1849,
15 Nerving, to prohibit nerved horses from the grounds of the
16 racing association; from entry in a race; or from being sold
17 or offered for sales on the grounds of a facility under the
18 jurisdiction of the Board; and the proposed repeal of CHRB
19 Rule 1850, Posterior Digital Neurectomy and CHRB Rule 1851,
20 List of Nerved Horses.

21 I'd like to remind, I believe that other than
22 Commissioner Choper -- were you on the Board when this was
23 heard by the Board, previously? You were? Okay, great.
24 Then everyone has heard this previously.

25 I see Jackie there. This is a matter that,

1 Jackie, I'm not sure what you're going to add, but given our
2 long agenda, I'm trying to move along here.

3 When this was last heard, the Board had heard
4 presentations and I think it was left that there was going
5 to possibly be some further meetings between Dr. Arthur and
6 TOC.

7 This is a matter that is unresolved, that the
8 Board never took action on. And unless somebody has
9 something that they wish to add to it, I think what we're
10 here to do is basically vote on whether or not the Board
11 chooses to repeal Rules 1850 and 1851, which permits horses
12 that have had a posterior digital neurectomy to participate
13 in California racing.

14 Dr. Arthur, I see you're getting up. Have I
15 misstated anything?

16 EQUINE MEDICAL DIRECTOR ARTHUR: Not yet.

17 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

18 EQUINE MEDICAL DIRECTOR ARTHUR: Not yet.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
20 that's good then.

21 Jackie, you moved forward, too. Did I misstate
22 something?

23 STAFF SERVICES MANAGER WAGNER: No, you did not.
24 I just want to make it clear that the item has been noticed
25 properly. It has been noticed and during that notice period

1 we received two comments opposed to the proposal, and it's
2 up to the Board for consideration.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
4 So does any of the Board -- do any of the Board members need
5 to be refreshed on what this procedure is, what the issues
6 are? Does anybody wish to rehear any of the arguments
7 either in favor of our taking action to repeal this, or not
8 in favor of taking actions to repeal this?

9 Because, as I again want to reemphasize, Dr.
10 Arthur made a full presentation to the Board on this, and if
11 anybody needs to be refreshed on that, as well as there were
12 other arguments and views that were presented. Does the
13 Board wish to hear anymore testimony on this issue?

14 No? Okay. That being the case, I will see if
15 there is any public comment here. Bear with me. Item 7.
16 Drew Couto -- one second.

17 Well, okay, I don't know what that means, so I'm
18 not sure. One second. Are you --

19 MS. BRANCH: I'm Susan Branch.

20 COMMISSION CHAIRPERSON SHAPIRO: Branch, thank
21 you. Susan, go ahead.

22 MS. BRANCH: I'm a breeder and owner of
23 thoroughbred horses. I live in Northern California and I
24 came all the way down here today because I'm very concerned
25 about the action that you propose to take.

1 Prior to -- I was not at your last hearing. In
2 fact, I wasn't aware that you were proposing this rule
3 change, and when I became aware of it, I then began tracking
4 it.

5 So I did review the documents that were submitted
6 in the prior hearing and I did review the transcript. And I
7 would have to say that you're very concerned that you would
8 propose to take away from horse owners a therapeutic
9 procedure based on a supposition of a problem.

10 I didn't find any evidence in the record that
11 there is a problem created for horse racing by the
12 availability of this procedure, how ever few horses use it.

13 For horse owners, whose horses have a chronic
14 problem with foot pain, and they have exhausted other
15 opportunities to treat that by taking them off the track, by
16 using special shoes, if their vet proposes this, they should
17 be allowed the opportunity.

18 I looked for, in the record, evidence of
19 scientific evidence, objective evidence that there was a
20 safety issue and I couldn't find anything in the record that
21 there is any objective evidence that this creates a safety
22 problem for the horse or for the personnel.

23 I did some internet research, I talked to three
24 vets, I talked to trainers, I talked to other horse owners
25 who had a problem with coffin bone wing -- I'm going to say

1 that wrong because I'm not a vet and I don't know the terms
2 right -- fracture that wouldn't respond to conservative
3 treatment.

4 And I'm really concerned that you would propose to
5 take away my opportunity to use this on my horse.

6 I think the current rule is adequate. It gives
7 notice to people on the track, potential new owners,
8 jockeys, other trainers that a horse is nerved. It requires
9 that any person proposing to do this have that proposal
10 reviewed by the official track vet, so the track vet can
11 determine that it's an appropriate time.

12 And so I would really request that you not take
13 the action and not repeal the current rules, they are
14 appropriate and should be allowed in California.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

16 Alan Branch.

17 MR. BRANCH: I'm Alan Branch, owner and breeder,
18 and neither my wife, nor I, have any heel-nerved horses,
19 have any particular interest in having, buying, selling any
20 heel-nerved horses. I've never owned any heel-nerved
21 horses, and I don't have any interest in any lawsuits
22 involving heel-nerving.

23 But I studied the transcript, I interviewed two
24 vets in regard to heel-nerving. I think I fully understand
25 the procedure and I think the current regulations are

1 adequate and ask that you don't change them.

2 When I read the transcripts, it's obvious to me
3 there's these insinuations, the word "leg" comes up, the
4 whole foot comes up. I'm not -- I hope everybody
5 understands what we're talking about here, a vet can do a
6 nerve block when a horse has a problem with his foot, if
7 it's a correct coffin wing bone doesn't respond, you do the
8 x-ray, you probably won't see it if it's hairline. You do
9 the nuk scan, you put it out to pasture for six months, you
10 come back, it's still got pain, as evidenced by the way it
11 walks or runs, the horse is feeling pain.

12 Somehow this has been -- there's a connotation
13 that this is a cruelty to horses issue if we do it. I'm
14 here to tell you it's cruelty to horses if you don't do it.
15 That horse is going to have pain, it has pain when it walks.
16 Why didn't it heal? Because it can't take weight off of it.

17 So you've got the wrong idea, in my view.

18 As far as horses stumbling when they're heel-
19 nerved, there's no data to support that at all. There's so
20 few that have been heel-nerved, it's ridiculous to think
21 about it.

22 My stakes place filly stumbled two weeks ago
23 coming out of the gate. She's not heel-nerved. Didn't the
24 jockey come back and say, oh, I bet that horse is -- of
25 course not, this is absurd.

1 Lastly, I'm told that TOC supports this. I'm an
2 owner, I certainly don't support it. I want to go on record
3 for that. I never heard of TOC supporting it.

4 In conclusion, I just urge that you listen to the
5 vets. Dr. Arthur's got it right, why don't you listen to
6 him. Thank you.

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
8 much.

9 EQUINE MEDICAL DIRECTOR ARTHUR: Mr. Chairman, I
10 do have comments and I do expect to have the opportunity to
11 present those comments.

12 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur, I
13 have no problem, other than, I mean, we certainly know your
14 position. And if there's something that you want to add in
15 comment, I don't want to preclude that.

16 But again, I think we all -- we all remember your
17 presentation and everything else. So if it's something new
18 or additional, of course I want to give you that
19 opportunity.

20 If it's not, then I don't think that we need to
21 have it restated.

22 EQUINE MEDICAL DIRECTOR ARTHUR: I've never met
23 the two people who just spoke. I'm answering your question
24 and I will add additional information. Do you want me to do
25 it now?

1 COMMISSION CHAIRPERSON SHAPIRO: Yes. You know
2 what --

3 EQUINE MEDICAL DIRECTOR ARTHUR: But I certainly
4 expect to do it before you vote.

5 COMMISSION CHAIRPERSON SHAPIRO: No, that's fine.
6 But maybe you can go to the other microphone, I don't know
7 what the feedback is that we're hearing. Or move the
8 microphone away from you.

9 EQUINE MEDICAL DIRECTOR ARTHUR: Does that sound
10 better?

11 COMMISSION CHAIRPERSON SHAPIRO: A little bit,
12 yeah. It's the microphone.

13 EQUINE MEDICAL DIRECTOR ARTHUR: Okay.

14 COMMISSION CHAIRPERSON SHAPIRO: There, that's
15 better. Okay.

16 EQUINE MEDICAL DIRECTOR ARTHUR: Where do you want
17 me to start? There were specific questions by Mr. Amerman,
18 that he wanted me to address.

19 COMMISSION CHAIRPERSON SHAPIRO: Go ahead.

20 EQUINE MEDICAL DIRECTOR ARTHUR: And I have
21 answers to those questions and I have additional information
22 that I think are quite relevant to this.

23 COMMISSION CHAIRPERSON SHAPIRO: Great. Great, if
24 it's additional or new information, I'm not trying to stop
25 you. All I'm saying is we don't want to -- we've all heard

1 all the arguments, so we don't need to re-go through that.

2 EQUINE MEDICAL DIRECTOR ARTHUR: Well, Mr. Amerman
3 asked me to investigate international rules. And in terms
4 of the Americas, the procedure is allowed.

5 I contacted the chief veterinary stewards in four
6 racing jurisdictions, England, France, Hong Kong, and
7 Australia, and they don't allow the procedure. But none of
8 them have any enforcement strategies or capabilities at all,
9 they entirely use the honor system.

10 But of those jurisdictions, I think Australia is
11 the one that has the most useful example. And they
12 previously allowed posterior digital neurectomies on horses
13 that raced. They did take an action, similar to what is
14 proposed here. But what they did is they set a time certain
15 where the procedure would not longer be allowed. In other
16 words, after such and such a date.

17 The fact of the matter is there are horses that
18 have been neurectomized under our current rules, which will
19 be prohibited from racing under this proposal. And you can
20 no more reverse a posterior digital neurectomy than you can
21 a castration, if the Board next decides to ban geldings from
22 racing.

23 The other issue is that, as an example for what we
24 just heard, in 1996 Ron McAnally bought a grade three two-
25 year-old in England. Somewhere on the way over the horse

1 kicked some hard object and fractured a small piece of bone
2 off of the tip of his navicular bone.

3 He came out of quarantine lame, and he was lame
4 until a posterior digital neurectomy was performed on him.
5 Brave Act went on to win \$1.5 million, ten wins, nine
6 stakes, in 23 starts. As a six-year-old, his last three
7 wins were all graded stakes. They included the Will Rogers,
8 San Gabriel twice, Citation, Inglewood, San Marcos, and he
9 finished sixth in the 1999 Breeder's Cup.

10 We certainly don't know whether any Breeder's Cup
11 eligible horses have been neurectomized for the next two
12 years, we simply don't know that. But under this rule they
13 would be banned from racing in California.

14 Furthermore, if this was really a substantive
15 issue, and this gets to another issue that I brought up in
16 August --

17 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur,
18 again, I don't mean to cut you off, but we did hear most of
19 what you're saying previously.

20 EQUINE MEDICAL DIRECTOR ARTHUR: You did.

21 COMMISSION CHAIRPERSON SHAPIRO: We heard about
22 Ron McAnally's horse. So, again, if there's anything new, I
23 think we all remember it is what we're saying. I mean,
24 it's -- you've made very compelling arguments.

25 EQUINE MEDICAL DIRECTOR ARTHUR: It doesn't

1 hurt -- Mr. Chairman, I realize this is an issue that you
2 want to move forward with, but I do think I deserve, as
3 Equine Medical Director, an opportunity to talk about this
4 issue.

5 COMMISSION CHAIRPERSON SHAPIRO: And what I've
6 said is I think that we've --

7 EQUINE MEDICAL DIRECTOR ARTHUR: I'd almost be
8 done if you hadn't interrupted me.

9 COMMISSION CHAIRPERSON SHAPIRO: Excuse me. Okay,
10 I think we've heard all this. So please, if it's anything
11 new.

12 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, the other
13 issue that I complained about at that time was that most of
14 this in this room have worked very hard for a uniform
15 regulation of horse racing. The anabolic steroids that we
16 just talked about, we spent years getting a national
17 consensus. This has never been brought before the RCI. It
18 is not -- nobody from California has said let's get this
19 issue before us.

20 And what that indicates to me that this is more of
21 a PR move, with political, local implications. If this was
22 really a substantive issue, there would be a national
23 movement to do it. It would be led by the people on this
24 Commission, at the Racing Commissioners International, to
25 get it done.

1 I personally think that this is a -- this Board
2 should reject this proposal. If you want to go forward, you
3 should make a resolution that we move forward nationally on
4 this, in a uniform regulation, and that regulation set a
5 time specific so that any horse neurectomized after such and
6 such a date, or any horse born after January 1st, 2008 would
7 no longer be allowed to race, similar to how they did in
8 Australia, which is specifically addressing the inquiries
9 that Mr. Amerman had. Thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you, I
11 appreciate that.

12 Is there any -- I don't have any other cards on
13 this issue.

14 MR. JAMGOTCHIAN: I have a card.

15 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
16 you're welcome to speak. I don't have a card, though, just
17 so you know.

18 MR. JAMGOTCHIAN: You know, this is amazing that
19 Dr. Arthur would come up and say to save a horse is a PR
20 move.

21 EXECUTIVE DIRECTOR BREED: Mr. Jamgotchian, you
22 need to give us your name, please?

23 MR. JAMGOTCHIAN: Sure, I'm sorry, Jerry
24 Jamgotchian.

25 For Dr. Arthur to come up here and say that

1 banning heel nerving is a PR nerve, I really wonder how
2 credible Dr. Arthur is with regards to his acting as Equine
3 Medical Director.

4 COMMISSION CHAIRPERSON SHAPIRO: He's extremely
5 credible, he's extremely respected.

6 MR. JAMGOTCHIAN: Let's talk about --

7 COMMISSION CHAIRPERSON SHAPIRO: And I ask that
8 you not insult the credentials of Dr. Arthur in any way,
9 shape, or form.

10 MR. JAMGOTCHIAN: Okay, let's talk about the
11 rules. Rule 1847, blocking of legs. This practice is
12 prohibited after a horse is entered in a race. Why is that?
13 Gee, I don't know why that would be prohibited.

14 Additionally, 1850 says a horse isn't eligible
15 unless the official veterinarian is satisfied that the loss
16 of sensation to such horse due to the posterior digital
17 neurectomy will not endanger the safety of any horse or
18 rider. Now, what vet's going to say that? And is that vet
19 going to put the State of California, or his license, or be
20 susceptible for damages, or liability for saying something
21 that's a mistake?

22 Well, I don't understand how people can come up
23 here, especially, I don't understand how this Board can come
24 up here and say, hey, no problem, let's run a horse that's
25 got his nerve cut, or two or three of his nerves cut. No

1 big deal, if a horse goes down, a horse goes down.

2 If this Board actually is concerned about the
3 safety of a horse based upon synthetic tracks, as one
4 example, why is it that Dr. Arthur, and the infamous case of
5 Refinery, where he cut this horse's nerves and then was in
6 an article on the Bloodhorse --

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, you know
8 what, we're not going to hear anything about any specific
9 horses or cases. If you want to address the rules, stick to
10 the rules.

11 MR. JAMGOTCHIAN: Well, this is the case --

12 COMMISSION CHAIRPERSON SHAPIRO: Do not talk about
13 any specific case.

14 MR. JAMGOTCHIAN: Well, this is the horse that
15 brought this rule --

16 COMMISSION CHAIRPERSON SHAPIRO: I don't want to
17 hear about this horse. If you want to address the issue of
18 what we're doing, please address the rules. Do not address
19 any specific situation.

20 MR. JAMGOTCHIAN: The reason why that's important,
21 Mr. Shapiro, other than you dictating what the policy is,
22 are horses like Refinery, and other horses that have been
23 heel-nerved, are they going to have the right to race and be
24 grandfathered in? I mean, you ought to consider that
25 thought process if, in fact, you pass this. Because the

1 person that owns that horse, can he run that horse in this
2 State? Has that even been considered, because that's
3 something that needs to be considered.

4 Also, something else that needs to be considered
5 is the Equine Medical Director should certainly be able to
6 recognize a horse that's been heel-nerved.

7 Now, I don't know if that's the case because I'm
8 not a vet. But how are --

9 COMMISSIONER CHOPER: Do you know of any case in
10 which a horse has been injured because he's had this
11 procedure?

12 MR. JAMGOTCHIAN: You know, Mr. Choper --

13 COMMISSIONER CHOPER: Yes or no?

14 MR. JAMGOTCHIAN: Why don't we do this, first off,
15 the answer --

16 COMMISSIONER CHOPER: Would you please just --
17 would you answer yes or not?

18 MR. JAMGOTCHIAN: First off, the answer to that
19 question is no.

20 COMMISSIONER CHOPER: Okay.

21 MR. JAMGOTCHIAN: So why don't we do this, why
22 don't we wait for a heel-nerved horse to break down and
23 cause an accident, injure jockeys to address the situation
24 properly, then. It's just like the red light at a street
25 corner that doesn't have a stoplight. You're going to have

1 15 accidents and then you're going to put a streetlight
2 there?

3 COMMISSIONER CHOPER: Well, that's just it, you
4 have to have some good reason to believe that there's going
5 to be an accident.

6 MR. JAMGOTCHIAN: Well, the good reason is that
7 Mr. Arthur, in this newspaper article to the Bloodhorse,
8 stated that the worse thing you could do is to block a
9 horse's nerves, that's the worse thing you can do.

10 COMMISSIONER CHOPER: I haven't read that article,
11 but I'm sure it's --

12 MR. JAMGOTCHIAN: Well, I will cite it to you.

13 COMMISSIONER CHOPER: Well, wait a minute.

14 MR. JAMGOTCHIAN: I will cite it to you, Mr.
15 Arthur can --

16 COMMISSIONER CHOPER: I'm happy, if you want to
17 give him 30 seconds of your time to explain that?

18 COMMISSION CHAIRPERSON SHAPIRO: You know what,
19 but wait a minute, that's a mischaracterization. What he is
20 doing is -- what he is citing and quoting of Dr. Arthur has
21 nothing to do with this procedure. It was where he was
22 blocking a horse not to feel pain, or almost like numbing a
23 horse. You can correct me, Dr. Arthur.

24 It has nothing to do and is not relevant to what
25 we are considering here, whatsoever.

1 MR. JAMGOTCHIAN: So you don't consider blocking a
2 horse and cutting the horse's nerves --

3 COMMISSION CHAIRPERSON SHAPIRO: No, you were
4 talking about Dr. Arthur's remarks in an article, and you're
5 taking them out of context --

6 MR. JAMGOTCHIAN: Well, I'll be happy to read it.

7 COMMISSION CHAIRPERSON SHAPIRO: -- and you're
8 unfairly portraying them.

9 MR. JAMGOTCHIAN: I'll be happy to read it. I'll
10 be happy to read it.

11 COMMISSION CHAIRPERSON SHAPIRO: We don't want you
12 to read it.

13 COMMISSIONER CHOPER: No, no.

14 MR. JAMGOTCHIAN: Okay, fine.

15 COMMISSIONER CHOPER: Can I just say this?

16 COMMISSION CHAIRPERSON SHAPIRO: Please.

17 COMMISSIONER CHOPER: He wrote the article.

18 MR. JAMGOTCHIAN: Sorry?

19 COMMISSIONER CHOPER: He wrote the article?

20 MR. JAMGOTCHIAN: No, he was responding to a
21 question.

22 COMMISSIONER CHOPER: Well, he was quoted in the
23 article.

24 MR. JAMGOTCHIAN: Right.

25 COMMISSIONER CHOPER: He's also recommending that

1 the rule not be changed. Now, obviously, to me at least,
2 his sound medical judgment is that the one is not
3 inconsistent with the other. And as the Chairman suggested,
4 it had nothing to do with this specific procedure.

5 We are not letting horses run who have been
6 totally immunized, or totally drugged, or totally anything
7 else. We are only not disqualifying them from running
8 because they have had a simple medical procedure.

9 Under the federal statute, if they were people,
10 you would not be able to bar them because of the Americans
11 With Disabilities Act.

12 MR. JAMGOTCHIAN: Okay, so what you're saying,
13 then --

14 COMMISSIONER CHOPER: That is a perfect analogy.

15 MR. JAMGOTCHIAN: Okay, so then what you're saying
16 is --

17 COMMISSIONER CHOPER: You can't disqualify me from
18 serving on this Board, right, because I had my gallbladder
19 removed.

20 MR. JAMGOTCHIAN: So what you're saying is, under
21 1850, the official veterinarian must be satisfied that the
22 loss of sensation of the horse will not endanger the safety
23 of the horse and the rider.

24 You're telling me that a State vet's going to say
25 that?

1 COMMISSIONER CHOPER: Well, I would hope so and I
2 would think so.

3 MR. JAMGOTCHIAN: Well, how would that --

4 COMMISSIONER CHOPER: He's a licensed doctor. Do
5 you ever got to the doctor?

6 MR. JAMGOTCHIAN: How would that doctor know about
7 this specific horse?

8 COMMISSIONER CHOPER: I can't tell you.

9 MR. JAMGOTCHIAN: How can he say that?

10 COMMISSIONER CHOPER: I take it he makes an
11 examination of the horse and makes a judgment that in his
12 professional judgment that there's no problem.

13 MR. JAMGOTCHIAN: And how does he examine a horse?

14 COMMISSIONER CHOPER: I'm not a vet.

15 MR. JAMGOTCHIAN: Well, all I'm saying -- all I'm
16 saying is if this Board, just to finish, I mean one way or
17 the other, I mean, if you want to pass this, great. If you
18 want to not pass this and not protect the horse, that's
19 fine, too.

20 But I got to tell you, if horses are on the
21 racetracks in Southern California without full nerve
22 feelings and endings, I think that this is not a safe thing
23 to do for the horses or jockeys that are in the race. And
24 if you guys believe that your State vet can assess a horse
25 that's been heel-nerved, that's great.

1 The other thing, there's something else --

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, Mr.

3 Jamgotchian --

4 MR. JAMGOTCHIAN: Excuse me, there's one other --

5 COMMISSION CHAIRPERSON SHAPIRO: -- we've extended
6 your time, so please wrap it up.

7 MR. JAMGOTCHIAN: There's one last thing -- yes,
8 there's one last thing with regards to on an overnight I
9 noticed there was another something called a cryosurgery or
10 freezing, that now needs to be added to the vet's lists.

11 If, in fact, that's the case are you also going to
12 include that in whatever motion you do? Because I note that
13 it says "horses that have had cryosurgery or freezing of the
14 nerves on the legs shall be treated the same as a nerved
15 horse and must be reported to the State vet and racing
16 office."

17 Just be aware of that, I'm offering that for your
18 attention at this time. Thank you.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay.

20 MR. JAMGOTCHIAN: If you'd like to see this, I'll
21 leave a copy of it for you.

22 COMMISSION CHAIRPERSON SHAPIRO: I have no idea
23 what that is, but thank you.

24 Okay, is there any -- yes, I see my friend from
25 Sacramento, the Honorable Mr. Barry Broad is here.

1 MR. BROAD: Barry Broad, on behalf of the Jockey's
2 Guild.

3 Our members have some misgivings about this, and I
4 think the question -- they're not veterinarians, but the
5 question is whether it's -- like every other thing that goes
6 on in horse racing, whether it's prophylactic or
7 therapeutic? In other words, are you fixing a condition or
8 are you making it possible for a horse to run despite a
9 condition?

10 And it's the same question with drugs, are you
11 curing an illness or a disease or are you making it possible
12 for horses to run without feeling pain.

13 And it's a -- at first we were -- we had a kind of
14 a strong reaction against heel-nerving. On further inquiry,
15 we sort of saw that it's a little bit of a -- there's some
16 subtleties to this and, therefore, we sort of withdrew from
17 that position.

18 But I think it's worth noting that that issue is
19 still there for our folks. It's noted in the jockey's room,
20 now, that a horse has been heel-nerved. And, therefore, if
21 our folks don't want to ride it, you know, ride the horse,
22 they don't have to. It hasn't really come up, I think, in
23 talking to Darrell, yet, as an issue. But it could.

24 So, you know, with that -- you know, sometimes
25 subtlety gets lost in all of this but --

1 COMMISSION CHAIRPERSON SHAPIRO: If I can -- and I
2 would like Dr. Arthur to correct me if I'm wrong, to address
3 what you've just said. It's my understanding that this
4 something where a horse has chronic pain, and it is the only
5 way, and you view it as therapeutic, and if this were a
6 hoof, it only would eliminate the nerve, a very small part
7 of a foot, of a nerve ending, and that there's complete
8 sensation outside of it, completely on the horse's foot; is
9 that correct?

10 EQUINE MEDICAL DIRECTOR ARTHUR: That's
11 essentially correct. It's a little bit larger area than
12 what you're calling -- drawn there. But it is only the
13 posterior portion of the foot and it depends on whether you
14 take one or two nerves out, every condition is different.

15 This is a rarely used procedure. I think the
16 analogy that most people would understand, it's like a root
17 canal. You take the pain away from the tooth, but the tooth
18 stays there and functions fine. This only really affects
19 those primarily, it's used for small fractures of the coffin
20 bone or, in the case of Brave Act, the navicular bone, that
21 are encapsulated in the hoof and do not have any risk of
22 loss of structural integrity.

23 Brave Act's still standing at stud. This is ten
24 years after he was operated.

25 It's a rare instance. And my opposition, I

1 realize, is not going to have a practical difference in all
2 but a very, very few number of cases. It's a matter of
3 principle to me, that I just think that it's ill-advised to
4 make this change.

5 COMMISSION CHAIRPERSON SHAPIRO: And would it also
6 be your understanding that perhaps of the racing population
7 of horses, in the State of California, there is probably no
8 more than ten horses that we know that have had this?

9 EQUINE MEDICAL DIRECTOR ARTHUR: There's certainly
10 no more than that, that we know right now. The situation on
11 the overnight was some percutaneous cryosurgery was being
12 done over the nerve, and I sent a memo out to tell people
13 that we considered that to be a neurectomy, a posterior
14 digital neurectomy under the rules. And as the rules state,
15 those horses have to be specifically examined by the
16 veterinarians, that papers have to be stamped as being heel-
17 nerved, and the horse's examination card has to have that
18 information on it.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you,
20 Dr. Arthur.

21 Okay. Oh, I see we have one more person. The
22 card thing's not working too good today.

23 MS. YOUNG: I just --

24 COMMISSION CHAIRPERSON SHAPIRO: No, please, go
25 ahead.

1 MS. YOUNG: Candace Young, owner. I have a few
2 questions for Dr. Arthur, could I ask him?

3 COMMISSION CHAIRPERSON SHAPIRO: Well, this is a
4 comment period, so why don't you make your comments and if
5 we don't -- if we need to ask him, we will. Go ahead.

6 MS. YOUNG: Okay, when we examine a horse in the
7 shedrow and the horse is showing pain, the vets go ahead and
8 they block it. If they block the pain in the shedrow and
9 it's illegal, why are you allowing them to block the pain on
10 a horse to run.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, that's your
12 question? I'll let Dr. Arthur, if he wants to respond to
13 that.

14 EQUINE MEDICAL DIRECTOR ARTHUR: You're talking
15 about two entirely different procedures.

16 MS. YOUNG: Well, I don't see the difference
17 because you're doing a block to see where the horse is sore,
18 and then you're heel-nerving a horse, and you're -- why
19 would you possibly heel-nerve a horse that's in that much
20 pain to where you have to kill the nerve endings? Why would
21 you not just retire that horse?

22 COMMISSION CHAIRPERSON SHAPIRO: Well --

23 MS. YOUNG: Okay, I'm sorry, this is my --

24 COMMISSION CHAIRPERSON SHAPIRO: No, no, go ahead.

25 MS. YOUNG: What else did I want to say?

1 Completely off, now. But, anyway, I'm totally against it.
2 And I know Mr. Moss, you don't have any horses that are
3 heel-nerved, and I know that you're the type of person that
4 would go ahead and use that horse for breeding, or whatever.

5 But I think that it's inhumane, not only that, to
6 put my horses out there with a horse that has no feeling in
7 the foot.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay. But again,
9 let me just correct you because, you know, nowhere have I
10 heard -- it's a partial. To say that there's no feeling in
11 the horse's leg is simply wrong.

12 MS. YOUNG: I'm not saying the leg, I'm saying the
13 foot.

14 COMMISSION CHAIRPERSON SHAPIRO: In the foot,
15 fine. If my drawing, my very artistic drawing was a little
16 wrong here, it is not that the entire foot does not have
17 feeling, is my understanding. That's why it's called a
18 partial digital neurectomy.

19 MS. YOUNG: May I ask you one more question?

20 COMMISSION CHAIRPERSON SHAPIRO: Of course.

21 MS. YOUNG: After a horse is heel-nerved, how
22 often do they take x-rays on that foot to make sure there's
23 no rotation of the coffin bone or any stuff like that?

24 COMMISSION CHAIRPERSON SHAPIRO: I don't know the
25 answer to that, I'm sorry.

1 MS. YOUNG: Okay, thank you.

2 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay,
3 I think that what I -- I think it's time for us to decide
4 which way we want to go on this.

5 I will tell you, though, that if this rule was to
6 be repealed, I do agree that we should provide that the
7 horses that have had this procedure are grandfathered in, so
8 that they can continue to race and not be harmed or
9 rendered, you know, basically not valuable, if the Board
10 decided to repeal these rules, and I would want to amend
11 this in that regard.

12 So I'm going to ask if there is a motion to adopt
13 Rule -- I would want to adopt --

14 EXECUTIVE DIRECTOR BREED: You're amending this
15 rule.

16 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

17 COMMISSIONER MOSS: It's an amendment.

18 EXECUTIVE DIRECTOR BREED: You're amending this
19 rule.

20 COMMISSION CHAIRPERSON SHAPIRO: Yes. We would be
21 amending these two rules -- well, there's two rules. Pardon
22 me?

23 COMMISSIONER MOSS: Let Jackie.

24 COMMISSION CHAIRPERSON SHAPIRO: Jackie, go ahead.

25 STAFF SERVICES MANAGER WAGNER: There are --

1 COMMISSION CHAIRPERSON SHAPIRO: Tell me what's
2 the right way to do this.

3 STAFF SERVICES MANAGER WAGNER: There are actually
4 three rules that would need to take action, depending on
5 what your amendment would be -- or your motion would be.

6 Under Rule 1849, if we were to repeal the two
7 rules, if we --

8 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry to
9 interrupt you, let me come another way.

10 And maybe we can just find out, informally,
11 whether the members --

12 COMMISSIONER CHOPER: Let me ask it this way, a
13 motion not to repeal -- a motion not to make the changes
14 proposed.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 COMMISSIONER CHOPER: A motion not to make the
17 proposed changes.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, basically,
19 we would let the matter --

20 COMMISSIONER CHOPER: Stay as it is.

21 COMMISSION CHAIRPERSON SHAPIRO: -- stay as it is.

22 STAFF SERVICES MANAGER WAGNER: Stay as it is.

23 COMMISSIONER CHOPER: That's correct.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. So why
25 don't we do it that way.

1 COMMISSIONER CHOPER: I'll so move.

2 COMMISSION CHAIRPERSON SHAPIRO: You so move. Is
3 there a second to that?

4 COMMISSIONER ANDREINI: I'll second that.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. How many
6 are in favor of leaving the rules as they are?

7 (Ayes.)

8 COMMISSION CHAIRPERSON SHAPIRO: There are three.
9 How many are against it?

10 (Ayes.)

11 COMMISSION CHAIRPERSON SHAPIRO: Two.

12 COMMISSIONER MOSS: Meaning we are voting to
13 prohibit nerving; correct?

14 COMMISSION CHAIRPERSON SHAPIRO: You and I would
15 prefer that we eliminate the practice of heel-nerving in
16 racing horses.

17 COMMISSIONER MOSS: Right.

18 COMMISSION CHAIRPERSON SHAPIRO: Commissioners
19 Choper, Moretti, and Andreini are in favor of keeping the
20 status quo. Therefore, the motion is passed.

21 DEPUTY ATTORNEY GENERAL KNIGHT: No, it actually
22 doesn't pass, you have to have four.

23 COMMISSION CHAIRPERSON SHAPIRO: Oh, he was --

24 DEPUTY ATTORNEY GENERAL KNIGHT: You have to have
25 four votes.

1 COMMISSION CHAIRPERSON SHAPIRO: Four. Oh, yeah,
2 but we need four votes for anything.

3 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, it's the
4 status quo, anyway.

5 COMMISSION CHAIRPERSON SHAPIRO: It's the status
6 quo because the motion fails.

7 DEPUTY ATTORNEY GENERAL KNIGHT: Correct.

8 COMMISSION CHAIRPERSON SHAPIRO: So the effect is
9 it stays the same. Okay.

10 COMMISSIONER MOSS: And I guess you can bring it
11 up again when there's a full Board.

12 COMMISSION CHAIRPERSON SHAPIRO: It can be brought
13 up when we have a full Board, again. I think that what I
14 would suggest is, that without any testimony, that perhaps
15 we should do that and let the other two members have a say
16 in it.

17 COMMISSIONER CHOPER: I think that's fine.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay.

19 COMMISSIONER MOSS: Yeah.

20 COMMISSION CHAIRPERSON SHAPIRO: Fine, we will
21 move that, we will go forward.

22 We will now move forward unless you need to stop
23 me, Jackie.

24 I guess you need to. Go.

25 STAFF SERVICES MANAGER WAGNER: I just wanted to

1 clarify what we just did.

2 COMMISSION CHAIRPERSON SHAPIRO: What we did
3 was --

4 COMMISSIONER MOSS: Nothing.

5 COMMISSION CHAIRPERSON SHAPIRO: -- nothing.

6 STAFF SERVICES MANAGER WAGNER: Nothing. Okay, so
7 the --

8 COMMISSION CHAIRPERSON SHAPIRO: We took a vote,
9 we didn't have a quorum.

10 STAFF SERVICES MANAGER WAGNER: No quorum. So the
11 proposal, then, do you want to bring this back or it's just
12 going to die.

13 COMMISSION CHAIRPERSON SHAPIRO: We will bring it
14 back for a vote, in March.

15 STAFF SERVICES MANAGER WAGNER: Got it.

16 COMMISSION CHAIRPERSON SHAPIRO: And unless there
17 is some new testimony, we will just bring it back for a
18 vote.

19 STAFF SERVICES MANAGER WAGNER: Okay, thank you.

20 COMMISSIONER MORETTI: We just voted against it,
21 three to two.

22 COMMISSIONER CHOPER: But it takes four to --

23 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, you have to
24 have four affirmative votes.

25 COMMISSIONER CHOPER: So you got two and you have

1 two out. If the two out want to go the other way, then I
2 think they ought to be able to do that, that's all right
3 with me.

4 COMMISSION CHAIRPERSON SHAPIRO: That's all.
5 Okay.

6 MS. BRANCH: Excuse me, can I ask how it is you
7 can vote without having public testimony? I don't
8 understand your process that would allow --

9 COMMISSION CHAIRPERSON SHAPIRO: We just had
10 testimony.

11 MS. BRANCH: Are you closing the public hearing,
12 you would allow no public comment the next time it's brought
13 forward?

14 COMMISSION CHAIRPERSON SHAPIRO: No, there will be
15 public comment.

16 MS. BRANCH: Thank you.

17 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

18 MS. BRANCH: That's all I wanted to know.

19 COMMISSIONER CHOPER: But the whole -- I should
20 say, ma'am, that the whole record will be available to the
21 other two Commissioners to hear what was said here.

22 MS. BRANCH: I understand.

23 COMMISSIONER MOSS: And I presume they would --
24 how would they vote at this particular, the next time
25 they're at this meeting?

1 COMMISSION CHAIRPERSON SHAPIRO: Well, we'll call
2 the question again.

3 COMMISSIONER MOSS: Yeah, okay.

4 COMMISSIONER CHOPER: Well, yeah, and we can have
5 further discussion.

6 COMMISSION CHAIRPERSON SHAPIRO: And we can have
7 further discussion.

8 COMMISSIONER CHOPER: I would like to hear from
9 both of you.

10 COMMISSION CHAIRPERSON SHAPIRO: Of why we voted
11 the way we voted?

12 COMMISSIONER CHOPER: Yeah. But we'll wait for
13 them, you can keep us in suspense.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, I'm going
15 to keep you in suspense, okay.

16 All right. Okay, that gets us to Item Number 8,
17 public hearing and action by the Board on the adoption of
18 the proposed amendment to CHRB Rule 1865, altering of sex or
19 horse to provide that a horse shall be scratched -- do you
20 know what, did you consider this at your Pari-Mutuel
21 Committee meeting?

22 COMMISSIONER MOSS: Not recently. I mean --

23 COMMISSION CHAIRPERSON SHAPIRO: I'll tell you
24 what I'd like to do, if I can, why don't we switch and go to
25 Item Number 10, because I really don't want to trample on

1 what took place at the Pari-Mutuel Committee.

2 COMMISSIONER MOSS: Okay.

3 COMMISSION CHAIRPERSON SHAPIRO: So let's do Item
4 10, please.

5 COMMISSIONER MOSS: Okay. Commissioners Andreini,
6 Choper, and I held a PMO meeting yesterday. There were four
7 items on the agenda, beginning with the discussion of AB
8 241, which authorizes up to 45 minisatellites in the State.

9 Rod Blonien, the chief lobbyist for this
10 legislation, told us the idea is to make our wagering
11 product more accessible to the racing fan by placing
12 wagering facilities in sports bars, card clubs, and other
13 popular gathering places.

14 Jackie Wagner presented us with the first draft of
15 regulations that were developed by staff, and
16 representatives of the racetracks, CARF, CHRIMS, Scientific
17 Games, and the TOC.

18 Among the key provisions, any minisatellite
19 located within 20 miles of a racetrack or current satellite
20 facility must have permission from that existing wagering
21 location.

22 Two, an agreement with Scotwinc or Notwinc, I
23 presume you know who those are, and the Horsemen's group
24 must accompany the application.

25 Three, the wagering area cannot be accessible to

1 persons under 21 years of age.

2 I'm going to let that go. Anyway, the pari-mutuel
3 clerks must be made available to service the tote machines
4 and cash wagering vouchers on a regular basis.

5 And applicants must submit a \$500,000 bond or
6 other form of financial security. We discussed this
7 \$500,000 figure. Rod actually thought it was high, as a few
8 of us did as well, this \$500,000 figure in question, whether
9 it needs to be that high. We're concerned that it might
10 prevent smaller businesses from applying.

11 Commissioner Choper suggested pegging the bond to
12 the amount of potential liability at each location, which is
13 a good suggestion.

14 As per myself, I questioned whether the two
15 percent that simulcast facilities received from wagers would
16 generate enough revenue to interest high-quality
17 establishments where we want to present our product.

18 The whole idea of this is to present our product,
19 meaning horse racing, in the best possible way. You know,
20 to facilities that are clean, welcoming, and work to
21 entertain our customers.

22 So I think the two percent, which is what's been
23 used as sort of an excuse for the current off-track
24 facilities, the fairgrounds, and those places, as a reason
25 why they're not more primped up, and made more clean and

1 successful, maybe should be raised. And I thought we should
2 raise that two percent idea to maybe four percent.

3 And, obviously, this has to go through some
4 channels to be discussed, but I just bring it up as sort of
5 a possibility that perhaps we can make this whole situation
6 more enticing to entrepreneurs who want to get involved in
7 our game.

8 Okay, so that -- our staff and the industry will
9 continue these discussions in a work session next month,
10 which will include labor representatives. And then they
11 will bring back the proposed regulations for us to consider.

12 Next, we discussed the coupling of horses and the
13 possibility of amending or appealing Rule 1606. As you
14 know, we have batted this thing around for the last couple
15 of years, and it came back again at the Board meeting, when
16 Commissioner Harris suggested uncoupling horses, even if
17 there is some cross ownership, in cases where the ownerships
18 did not exactly mirror each other and the horses had
19 different trainers.

20 That's when Drew Couto stood up and said the TOC
21 board of directors no longer opposes getting rid of coupling
22 altogether.

23 We discussed the various options, including the
24 racing secretary's request that we eliminate coupling for
25 all non-overnight stakes races. And that's one thing I'd

1 like to suggest that we could do today, if we've so decided,
2 eliminate coupling for all non-overnight stakes races.

3 We were reminded that there's some fan opposition
4 to eliminate coupling. Commissioner Choper noted that fan
5 perception is important and perhaps we should consider
6 tackling this issue in steps. Initially, by improving
7 Commissioner Harris's suggestion, that also the proposal
8 concerning not-overnight stakes.

9 So that's two things we could perhaps approve
10 today. I must say that we asked for a fan committee
11 representation, and no one was there yesterday, to do that.
12 So maybe we should wait until the Fans Committee, whomever
13 they be, have something to suggest.

14 Additionally, this is the third situation,
15 Sherwood Chillingsworth communicated a request from the
16 Breeder's Cup to eliminate all coupling on the Breeder's Cup
17 and Championship Day. This would be the two days this year
18 and the two days next year, when the races will be run in
19 California.

20 The Board thought, unless they have something to
21 say, that this was a good idea, as well. So that's three
22 things we could perhaps accomplish today, if we'd like to do
23 that.

24 The Board can consider these suggestions when we
25 reach Item 12 on the agenda.

1 We also heard the presentation from Mr. Couto and
2 Mr. Billy Koch, representing the World Poker Tour, which
3 you've already seen.

4 Commissioner Choper did ask whether participating
5 in the tournament might result in people wagering less in
6 other pari-mutuel pools.

7 Bill Koch suggested that people who like horses
8 and tournaments, generally bet on those same horses at the
9 window, so he doubts whether the tournaments would hurt
10 other business.

11 Anyway, they've brought it up, it's now a Board
12 issue, and they will take it up with you how they continue.

13 Finally, we discussed some new possible wagers,
14 including future book wagering, on the signature races at
15 California racetracks, such as the Santa Anita Handicap and
16 the Pacific Classic.

17 That's another item on the agenda, so I will let
18 Drew Couto elaborate on that when we get to Item 14.

19 This concludes my report, so I'll just ask the
20 Commissioner Choper and the Commissioner Andreini if they
21 have anything else to add.

22 COMMISSIONER ANDREINI: You covered it well.

23 COMMISSIONER MOSS: Thank you, Mike.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, I want to
25 thank three of you, it sounds to me like you had an

1 extremely full meeting, and some great subjects that were
2 discussed.

3 Having said that, I will now go back to the Item
4 8, which was the gelding issue.

5 COMMISSIONER MOSS: Oh, right, but how do you want
6 to treat those three?

7 COMMISSION CHAIRPERSON SHAPIRO: I'm going to come
8 back --

9 COMMISSIONER MOSS: You're going to come back to
10 them.

11 COMMISSION CHAIRPERSON SHAPIRO: I'll come back to
12 them. I think, as we go through those items that are on the
13 agenda, I believe.

14 COMMISSIONER MOSS: Right.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay. So I'll do
16 what you guys want.

17 COMMISSIONER CHOPER: No, they're sort of fresh in
18 mind, that's the only reason that I would --

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, then let's
20 do it that way, then we won't --

21 COMMISSIONER CHOPER: If we're going to do them
22 all, maybe it's more efficient that way.

23 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
24 then why don't we go to Item 12, which is the coupling of
25 horses.

1 COMMISSIONER MOSS: Right. Okay. So in this
2 regard, I would make a motion that -- I mean, this could be
3 three different motions that I say, so I would make a
4 motion, first, that for the four Breeder's Cup race days
5 there be no coupling.

6 COMMISSION CHAIRPERSON SHAPIRO: Let me just ask a
7 question, procedurally. I certainly agree that for
8 Breeder's Cup, we would want to make sure that races don't
9 need to be -- horses don't need to be coupled.

10 Can we procedurally do that, administratively,
11 Derry?

12 DEPUTY ATTORNEY GENERAL KNIGHT: You mean based on
13 your agenda, I assume that's your question?

14 COMMISSION CHAIRPERSON SHAPIRO: Yes.

15 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah.

16 COMMISSION CHAIRPERSON SHAPIRO: I mean, we
17 certainly don't have to adopt any rules. I'm assuming that
18 we can waive our coupling rule for that specific -- those
19 specific events. We have waived coupling in other
20 situations.

21 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, as I
22 recall, you -- yeah, I believe you can. I mean, you can do
23 certainly less than the total so --

24 COMMISSION CHAIRPERSON SHAPIRO: Okay, so
25 Commissioner Moss's motion, if I'm correct, is to waive the

1 coupling requirement for the Breeder's Cup races that will
2 be held in 2008 and 2009.

3 COMMISSIONER MOSS: Right.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay, I second
5 that.

6 All in favor?

7 (Ayes.)

8 COMMISSION CHAIRPERSON SHAPIRO: That one's done.

9 COMMISSIONER MOSS: All right. Then comes the one
10 that the racing secretaries requested for --

11 COMMISSION CHAIRPERSON SHAPIRO: Stakes races?

12 COMMISSIONER MOSS: Yeah, the overnight. All non-
13 overnight stakes races.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 COMMISSIONER MOSS: Maybe we should have someone
16 just clarify what those races actually are and what they
17 consist of so we --

18 COMMISSION CHAIRPERSON SHAPIRO: The way it's
19 currently done, I believe right now, and I see Tom Robbins
20 is coming, is that the racing secretaries have been
21 requesting, of the Board, permission to do this. I believe
22 in all cases it's been granted, to my knowledge.

23 COMMISSIONER MOSS: Right, but --

24 COMMISSION CHAIRPERSON SHAPIRO: But what you're
25 now asking is that you not have to request permission, but

1 that you simply for all stakes, non-overnight stakes, that
2 you be permitted to uncouple horses; is that correct?

3 MR. ROBBINS: That's correct. I think every
4 request that's been made in California has been granted.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 COMMISSIONER MOSS: There was expressed difficulty
7 sometimes in reaching people at the moment, or something
8 like that.

9 MR. ROBBINS: I don't -- not that I'm aware.

10 COMMISSION CHAIRPERSON SHAPIRO: I can tell you
11 they've gotten -- some of the guys over here, they've gotten
12 me about everywhere. But I tend to agree with you.

13 COMMISSIONER MOSS: Okay.

14 COMMISSION CHAIRPERSON SHAPIRO: And, therefore, I
15 also would second Commissioner Moss's motion that for all
16 non-overnight stakes races, that horses can be uncoupled for
17 wagering purposes.

18 DEPUTY ATTORNEY GENERAL KNIGHT: I'm just
19 concerned. I realize, now, what you're doing. You're not
20 really amending a regulation, what you're doing is waiving a
21 current rule, which is really something different.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, the way we
23 now do it is racing associations can request a waiver of
24 that rule on an instant-by-instant basis.

25 DEPUTY ATTORNEY GENERAL KNIGHT: All right, that's

1 fine.

2 COMMISSION CHAIRPERSON SHAPIRO: So we're simply
3 saying we're letting them do it, now, without having to make
4 a phone call.

5 DEPUTY ATTORNEY GENERAL KNIGHT: Okay.

6 COMMISSIONER MOSS: Okay, so that's that.

7 COMMISSION CHAIRPERSON SHAPIRO: We've got to take
8 a vote, all in favor?

9 (Ayes.)

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, number
11 three.

12 COMMISSIONER MOSS: Number three is what John
13 Harris suggested and someone, I believe, and I'm --

14 COMMISSION CHAIRPERSON SHAPIRO: Can I interrupt
15 you because I spoke to John this morning about this?

16 COMMISSIONER MOSS: Right.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay. What John
18 Harris -- we've had this debate about uncoupling and the
19 issue that was brought forward was that when two horses are
20 not mirror images that there would be a horse that is owned
21 by Choper, Moretti and Breed, and then there's another horse
22 that is Choper and Breed, and there's two different
23 trainers, that those horses be allowed to be uncoupled.
24 That's what, I believe, Commissioner Harris was --

25 COMMISSIONER MOSS: Right, that's stated properly.

1 So then I make a motion that horses that are not --

2 COMMISSION CHAIRPERSON SHAPIRO: Mirror images.

3 COMMISSIONER MOSS: -- mirror images not need to
4 be coupled.

5 COMMISSION CHAIRPERSON SHAPIRO: Right.

6 COMMISSIONER CHOPER: If they have separate
7 trainers.

8 COMMISSION CHAIRPERSON SHAPIRO: Separate
9 trainers, mirror images, trainers/owners.

10 COMMISSIONER MOSS: So they would need separate
11 trainers, then.

12 COMMISSION CHAIRPERSON SHAPIRO: Correct.

13 COMMISSIONER MOSS: It couldn't be the same
14 trainer. What if they were the same trainer?

15 COMMISSION CHAIRPERSON SHAPIRO: No, no, if they
16 are not mirror images, which could mean that the same
17 trainer, but different owners, as long as the ownership is
18 not a mirror image we are in essence, I think, saying let
19 them uncouple.

20 COMMISSIONER MOSS: Yeah, I think we're just
21 dealing with ownership, trainers are not involved in this,
22 as I understand it.

23 COMMISSION CHAIRPERSON SHAPIRO: So I'd like to
24 ask TOC and CTT if they have -- if they favor this. Is that
25 all right with you?

1 COMMISSIONER MOSS: Absolutely.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay.

3 DEPUTY ATTORNEY GENERAL KNIGHT: Would you be
4 doing this by regulation, though? Because you have a
5 regulation -- this would be squarely in the face of the
6 regulation, the current regulation.

7 COMMISSION CHAIRPERSON SHAPIRO: All right.

8 So if that's the case, then you're saying for this
9 part --

10 DEPUTY ATTORNEY GENERAL KNIGHT: I think -- yeah,
11 I really think you need to do this by regulatory action
12 because, otherwise, nobody's going to know what the rules
13 are.

14 COMMISSIONER MOSS: Okay.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 COMMISSIONER MOSS: So why don't we put it on the
17 agenda for the next meeting.

18 COMMISSION CHAIRPERSON SHAPIRO: To adopt a rule.

19 DEPUTY ATTORNEY GENERAL KNIGHT: Do you agree,
20 Jackie?

21 STAFF SERVICES MANAGER WAGNER: Yes.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, but let me
23 ask a question. In the interim, can we grant request by
24 racing associations, on a case-by-case basis, that if they
25 have an entry that is not a mirror image, that they can

1 uncouple the horses?

2 DEPUTY ATTORNEY GENERAL KNIGHT: Not under your
3 current rule you couldn't. They can't ignore your rule.

4 COMMISSIONER MORETTI: So we have to change the
5 rule.

6 DEPUTY ATTORNEY GENERAL KNIGHT: You need to
7 change your rule, yeah.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay.

9 DEPUTY ATTORNEY GENERAL KNIGHT: It doesn't have
10 any discretion in it.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay.

12 DEPUTY ATTORNEY GENERAL KNIGHT: Now, what you
13 might do would be to do a temporary waiver of the rule to
14 the extent that you're discussing it here while this
15 rule -- what I'm concerned is that you're taking this action
16 without dealing with the regulation, and I think you really
17 need to deal with the regulation.

18 COMMISSIONER MORETTI: Right.

19 COMMISSION CHAIRPERSON SHAPIRO: So could we
20 temporarily suspend the rule for this purpose, while we're
21 going through the regulatory process?

22 DEPUTY ATTORNEY GENERAL KNIGHT: I think you
23 arguably can. There's other issues with that, yes.

24 COMMISSION CHAIRPERSON SHAPIRO: Fine. If that's
25 the case then I would recommend, subject to hearing from TOC

1 and CTT, I would like to hear where you guys are at with
2 this, that we would temporarily suspend the rule such that
3 horses that have common ownership, that is not a mirror
4 image, could be uncoupled for wagering purposes.

5 DEPUTY ATTORNEY GENERAL KNIGHT: If they have a
6 separate trainer.

7 COMMISSION CHAIRPERSON SHAPIRO: No, they have the
8 same trainer.

9 DEPUTY ATTORNEY GENERAL KNIGHT: Oh, the same.

10 COMMISSION CHAIRPERSON SHAPIRO: And the three of
11 you could own a horse, and then the three of you plus
12 Commissioner Andreini could own the horse, those should be
13 able to be uncoupled.

14 Is anybody from TOC --

15 COMMISSIONER MOSS: Or the Fans Committee,
16 whatever.

17 COMMISSION CHAIRPERSON SHAPIRO: Right. We invite
18 public comment on this issue.

19 MS. NAIFY: Marsha Naify, Thoroughbred Owners of
20 California. We are definitely in favor of uncoupling the
21 horses, as you've stated.

22 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

23 MS. NAIFY: You're welcome.

24 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
25 Marsha.

1 Okay, is anybody else -- I see Mr. Hammerle.

2 MR. HAMMERLE: Rick Hammerle. If I'm not
3 mistaken, I believe yesterday, when we talked about this, we
4 were talking about different trainers. So wasn't that the
5 original proposal? Different owners, but the trainers were
6 different, I believe.

7 COMMISSIONER MOSS: Oh, so your recollection is
8 that if this was to take place, it would have to take place
9 only if there were different trainers involved.

10 MR. HAMMERLE: That's what I thought we were
11 discussing yesterday, and I thought that was on the original
12 proposal.

13 COMMISSIONER MOSS: I'm fairly confident that
14 Commissioner Harris's recommendation was with different
15 trainers.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, then I
17 would want to amend it to be different trainers and
18 different ownership.

19 COMMISSIONER MOSS: Okay.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. Not a
21 mirror -- not a mirror image ownership. Okay?

22 COMMISSIONER CHOPER: No, I don't -- I don't
23 understand. Go ahead. There are lots of balls in the air
24 here.

25 COMMISSION CHAIRPERSON SHAPIRO: Yes, I agree.

1 COMMISSIONER CHOPER: I'd like to see which one's
2 coming down.

3 COMMISSIONER MOSS: Okay, so the way it is, not a
4 mirror image, as long as there's different trainers, that
5 horse doesn't have to -- those horses don't have to be
6 coupled.

7 COMMISSIONER CHOPER: Yes. Yes, that's the most
8 modest change.

9 COMMISSION CHAIRPERSON SHAPIRO: Yeah, and I think
10 what we're trying to do is be modest here.

11 COMMISSIONER CHOPER: Yes. I thought, and I may
12 be wrong, I saw the balls were up in the air yesterday, too,
13 but I thought that Commissioner Harris had said even if
14 there is the same ownership, if they have different trainers
15 they ought to be permitted to run uncoupled.

16 COMMISSIONER MOSS: I didn't get that.

17 COMMISSIONER CHOPER: But we did talk about that,
18 too. Because after all, we talked about the quarter horses,
19 they don't have any of these rules.

20 COMMISSIONER MOSS: Right.

21 COMMISSIONER CHOPER: It's right here in our rule
22 and they seem to have no problem.

23 COMMISSION CHAIRPERSON SHAPIRO: Yes, but there
24 were reasons for why we felt that way.

25 COMMISSIONER CHOPER: Okay.

1 COMMISSION CHAIRPERSON SHAPIRO: Because of the
2 length of the race and other issues.

3 So I would recommend we go modestly, with your
4 approval, and say that for horses that are not a mirror
5 image, including trainers and owners, that we could uncouple
6 those horses.

7 COMMISSIONER MOSS: Exactly, I'm with you.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, fine.

9 Mr. Jamgotchian, do you want to comment?

10 MR. JAMGOTCHIAN: Yes. Yes, is the Board going to
11 suspend this under 1406, is that the code section that Mr.
12 Knight is referring to for the suspension?

13 COMMISSIONER CHOPER: 1606.

14 MR. JAMGOTCHIAN: 1406, suspension of rule?

15 COMMISSIONER CHOPER: Oh, I don't know that.

16 COMMISSION CHAIRPERSON SHAPIRO: One second.

17 Derry, the question was are you looking at Rule 1406?

18 MR. JAMGOTCHIAN: I'll restate it. Are you
19 referring to 1406, suspension of the rule for this?

20 DEPUTY ATTORNEY GENERAL KNIGHT: Correct, yes.

21 MR. JAMGOTCHIAN: Okay, so that requires it in
22 writing; correct? There's suspension -- it says that "every
23 application for such action and any such action by the Board
24 shall insofar as possible be in writing."

25 Is there something in writing with regards to

1 this?

2 DEPUTY ATTORNEY GENERAL KNIGHT: I don't know
3 about that, but I just know that 1406 is the only authority
4 they have to suspend the rule so --

5 MR. JAMGOTCHIAN: Correct, yeah. It has to be in
6 writing, so I'm just wondering if there's any writing.

7 COMMISSION CHAIRPERSON SHAPIRO: Well, we will put
8 it in writing.

9 MR. JAMGOTCHIAN: Okay, then after you do that you
10 can suspend the rule, you're right.

11 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
12 appreciate your help.

13 Okay, so I think that we are now understanding
14 what we're doing, Commissioner Moss?

15 COMMISSIONER MOSS: Yes.

16 COMMISSION CHAIRPERSON SHAPIRO: All right, if we
17 are all clear, Commissioner Moss has made a motion. Is
18 there a second?

19 COMMISSIONER CHOPER: This is to propose it for
20 further comment; is that right?

21 COMMISSIONER MOSS: No, no, this is for going
22 ahead by repealing the fact that if the ownership is not
23 mirrored and different trainers, that particular so-called
24 entry does not need to be coupled.

25 COMMISSIONER CHOPER: And we can do that.

1 COMMISSION CHAIRPERSON SHAPIRO: We are going to
2 move forward to suspend that rule while we're going through
3 the rule-making process.

4 COMMISSIONER CHOPER: Oh, I see.

5 DEPUTY ATTORNEY GENERAL KNIGHT: That's my
6 understanding, two steps, two actions.

7 COMMISSIONER CHOPER: I see, so we're going to do
8 both of them.

9 COMMISSION CHAIRPERSON SHAPIRO: Yes, we're going
10 to be doing in concurrently.

11 COMMISSIONER CHOPER: We're going to suspend it.

12 COMMISSION CHAIRPERSON SHAPIRO: We're going to
13 suspend it and move forward to do a new rule.

14 COMMISSIONER CHOPER: I got you.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 COMMISSIONER CHOPER: Sounds good to me.

17 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

18 (Ayes.)

19 COMMISSION CHAIRPERSON SHAPIRO: It's unanimous.

20 Do you have any more, Commissioner Moss?

21 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
22 CHRB staff. In the interim, you want us to go ahead and
23 prepare language to amend 1606 to make that a permanent?

24 COMMISSION CHAIRPERSON SHAPIRO: Yes, we do.

25 STAFF SERVICES MANAGER WAGNER: Okay.

1 COMMISSION CHAIRPERSON SHAPIRO: On all of the
2 things that we are now -- what we've been addressing, we
3 should probably do all of them so that we could do that, all
4 three.

5 PUBLIC INFORMATION OFFICER MARTEN: And are the
6 three actions effective immediately for tomorrow's card?
7 Well, I guess for the next entries?

8 COMMISSION CHAIRPERSON SHAPIRO: For the next
9 entries they would be, yes.

10 PUBLIC INFORMATION OFFICER MARTEN: Okay.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay?

12 COMMISSIONER MOSS: Yeah.

13 COMMISSION CHAIRPERSON SHAPIRO: All right. So
14 now, that was --

15 COMMISSIONER CHOPER: Twelve.

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you. That
17 was Number 12.

18 Now, on the Pari-Mutuel, let's go to 11.

19 COMMISSIONER MOSS: Right.

20 COMMISSION CHAIRPERSON SHAPIRO: Which was also
21 what you covered in your report, which is discussion and
22 action by the Board regarding the proposed addition of rules
23 to implement AB 241, Statutes of 2007, which allows the
24 addition of 15 minisatellite wagering facilities in each
25 California racing zone.

1 In our packets there are proposed regulations
2 which staff has drafted. There's also a copy of the law and
3 a copy of the application.

4 I appreciate the work that staff put into this. I
5 believe, I know I have comments to the proposed regulation.
6 And rather than take the time at this meeting, I think that
7 it would probably be better if we could submit comments in
8 writing. And while I want to get this done there was
9 enough, I had enough comments that I really don't want to
10 bog down the meeting.

11 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
12 CHRB staff, if I may. What you have in your package is the
13 initial attempt at developing rules to implement AB 241. It
14 is by no means the draft that will be going forward.

15 We will be having another working meeting within
16 the next week to perfect the regulations, so what you have
17 in your package may or may not be the entire package that
18 will go forward.

19 We are going to have that meeting within the next
20 week or two and then we will come back in March with a draft
21 proposal that we would want you to take action on.

22 This was simply the first attempt after our
23 initial meeting. So what you have, I'm not asking you to
24 take any action on at this time.

25 COMMISSION CHAIRPERSON SHAPIRO: Fine. So I think

1 we all want to move forward, we want to get this in place
2 and enacted as soon as possible. There certainly are some
3 concerns, and I think that Commissioner Moss made a point,
4 that I don't know the solution to. And the point there is
5 that when a satellite facility only makes two percent, I
6 don't know where the economic incentive is for anybody to
7 invest and do this.

8 I can see where it is for an existing wagering
9 facility, such as a card club, or somebody that may have
10 facilities they can put this into but, I know that, you
11 know, there are just a lot of places that -- and I don't
12 know the solution of where to get more money, I don't know
13 that answer.

14 COMMISSIONER MOSS: Well, you know, Rod Blonien
15 made an interesting observation, he said he talked to some
16 card club who believes that, you know, in an hour they can
17 make \$160, \$170 on every table. And why does he need to
18 make an investment in another business where he's only going
19 to make two percent.

20 COMMISSION CHAIRPERSON SHAPIRO: I agree with him.

21 COMMISSIONER MOSS: So the point I'm making is
22 that obviously it needs to be discussed by a few other
23 people. But I'm trying to get a little more action going so
24 that we can maybe raise this take-out in some way that, you
25 now, can accommodate what we're trying to do here. It's

1 just a stab and we'll see what happens here.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
3 it's probably going to take some legislation, as well as,
4 you know, when you look -- and I know you've spent a ton of
5 time looking at our existing simulcast facilities, many of
6 which need refurbishment.

7 COMMISSIONER MOSS: Right.

8 COMMISSION CHAIRPERSON SHAPIRO: You know, it's
9 difficult for them in that they don't make enough money,
10 perhaps, to refurbish them.

11 COMMISSIONER MOSS: What I'm suggesting is that if
12 you say to them you might get four percent, what would you
13 do with it, and let them come up with some ideas on how they
14 might refashion their facilities to make them more
15 attractive, you know, because I certainly would not want to
16 penalize them, the current off-track wagering facilities to
17 enhance the new ones.

18 So I'm trying to see ways we can lift the whole
19 game in that area, so to speak.

20 And I think there's a meeting on March 5th,
21 there's a Senator Vincent, I believe, is having a meeting.
22 He's friendly to horse racing, he wants to see how we can
23 help. Maybe this can be a way and maybe we can put the word
24 in the right minds to see if there's some way we can make
25 this pie just a little bigger.

1 COMMISSION CHAIRPERSON SHAPIRO: Well, I know that
2 our new Executive Director, Mr. Breed, is going to be
3 attending that meeting. And he's certainly, having been a
4 former lobbyist, and you'll note I said the word "former,"
5 he's probably well versed in this, and perhaps you could
6 explore that on the Board's behalf.

7 EXECUTIVE DIRECTOR BREED: Yeah, we'll talk.

8 COMMISSIONER MOSS: Great, thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay.

10 COMMISSIONER CHOPER: So what are we doing in the
11 meantime?

12 COMMISSION CHAIRPERSON SHAPIRO: I don't think
13 there's anything for us to do, it was more informational,
14 and that this is the implementation of AB 241 is moving
15 forward. We have the first draft. We should submit
16 comments to staff, if there are any, as well as we invite
17 the industry to make comments to it.

18 COMMISSIONER CHOPER: I was just going to say, I
19 mean, I certainly think that if more than two percent is
20 needed, we ought to have it.

21 But if there's going to be a delay in the
22 Legislation, we're authorized to create up to 45 more of
23 these operations, and I think we ought to, in the meantime,
24 proceed forward.

25 COMMISSION CHAIRPERSON SHAPIRO: I think we are.

1 I think staff is doing that.

2 COMMISSIONER CHOPER: Yeah, and we're not held up
3 by the legislation.

4 COMMISSION CHAIRPERSON SHAPIRO: I don't think we
5 are being held up in any way. I think staff is diligently
6 pursuing it. And if you look at the materials, you can see
7 they've put a lot of work into this.

8 COMMISSIONER CHOPER: No, no, no, I understand.
9 And approach, as well, the idea of the \$500,000 bond, that
10 also may be high.

11 COMMISSIONER MOSS: That's another issue. We have
12 to get some information on that.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, the last
14 issue I think that would come under your Committee would be
15 Item Number 14, which was discussion and action by the Board
16 regarding a proposal for a future book water for signature
17 races held at each California race meeting.

18 Again, I'm all for any new wagering ideas that can
19 boost business, as long as they're legal. So if Derry
20 Knight tells us that the law provides that tracks could have
21 a future book wager on their signature races, or any race
22 they choose to do it on, I don't see why we should say no.

23 DEPUTY ATTORNEY GENERAL KNIGHT: Which item are
24 you on, I'm sorry?

25 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

1 DEPUTY ATTORNEY GENERAL KNIGHT: Twelve?

2 COMMISSION CHAIRPERSON SHAPIRO: Fourteen.

3 DEPUTY ATTORNEY GENERAL KNIGHT: Fourteen?

4 COMMISSION CHAIRPERSON SHAPIRO: Yes. Is
5 there -- does the law permit us, now, to have a future book
6 wager? Now, we know that there's future book wagering on
7 the Kentucky Derby and other races, and I guess Breeder's
8 Cups, but those aren't necessarily conducted in California.

9 So if Hollywood Park wants to have a future book
10 wager on the Hollywood Gold Cup, does our law permit it?

11 Mr. Couto, save us here.

12 MR. COUTO: Thank you. Drew Couto, on behalf of
13 the herdsmen.

14 (Laughter.)

15 MR. COUTO: Apparently, I don't represent
16 horsemen, I represent herdsmen.

17 COMMISSION CHAIRPERSON SHAPIRO: And he actually
18 stuck to it when I said -- I figured it was a typo, but he
19 meant to say herd.

20 MR. COUTO: As soon as I made that comment, Mr.
21 Fravel made his usual comment about other livestock, but I
22 won't go into that.

23 But anyway, the future book -- let's step back.
24 My understanding is, of the law in the State of California,
25 if the RCI has a wager approved, then the Horse Racing Board

1 may authorize wagering on that approved wager.

2 The model rule exists for future book wagering and
3 I don't believe that's limited to the Derby, or anything
4 else, it's my understanding. I may embarrass myself and be
5 inaccurate in that, but it's my understanding it's not
6 limited.

7 The proposal -- what this came about, it's not a
8 TOC proposal. Mr. Moss had, in prior meetings of the Pari-
9 Mutuel Committee, encouraged us all to throw out ideas to do
10 something different and new, and this was the result of that
11 encouragement, unfortunately.

12 But the idea would be for a signature race that
13 each track could, as a marketing and as a wager, identify
14 the horses who are nominated to that signature stake, and
15 then set up a future book on those nominations and they can
16 pick the top 25, and the rest would be in a field. And it
17 would give people something to think about, talk about, and
18 handicap leading up to the race.

19 So under the statute that allows you to adopt
20 wagers approved by the RCI, I think you have the ability to
21 do that, and that was the theory.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay. Great,
23 we're all in favor of it. Now, the question is can we
24 legally do it? And that's where we need our trusty counsel.

25 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, I have to

1 concede I have not looked at this, I apologize.

2 COMMISSION CHAIRPERSON SHAPIRO: Fine. Then why
3 don't we --

4 COMMISSIONER CHOPER: Can I make a suggestion?

5 COMMISSION CHAIRPERSON SHAPIRO: Yes, please.

6 COMMISSIONER CHOPER: Let's approve it subject
7 to --

8 COMMISSION CHAIRPERSON SHAPIRO: If he'll let me
9 do that, I'm all for it.

10 COMMISSIONER CHOPER: Yes, why wouldn't he?

11 DEPUTY ATTORNEY GENERAL KNIGHT: Well, I don't
12 want to place -- I mean, it may be a judgment call. I'm not
13 sure it's going to be that kind of a --

14 COMMISSIONER CHOPER: Okay, then you can bring it
15 back to us because we -- but otherwise, we're going to have
16 to wait until next time anyway. I mean, right? I mean, if
17 he's got a question about it, then we can bring it back.
18 But if there's no question, then we've done it today.

19 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, I -- if
20 Drew is correct that the RCI rules allow this then,
21 apparently, it's authorized.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, and I know
23 that -- great, then I would recommend that we move forward
24 and we permit our racing associations, if they wish to
25 conduct a future book wager on their signature races,

1 whatever those signature races may be -- go ahead, Jackie.

2 STAFF SERVICES MANAGER WAGNER: The way we have
3 been handling the RCI model rules of racing in the past, is
4 when the applicant submits their application for approval,
5 they list their wagering program and the rules that they're
6 going to be using.

7 COMMISSION CHAIRPERSON SHAPIRO: Correct.

8 STAFF SERVICES MANAGER WAGNER: When they notate
9 the ARCI, that is approved at the time that the application
10 is approved. So in terms of procedure, it may be
11 appropriate to request an amendment to each association's
12 application to include the future book wager as part of
13 their wagering format.

14 COMMISSION CHAIRPERSON SHAPIRO: And isn't that
15 part -- isn't that really up to them, that they would simply
16 list that they're going to do that?

17 STAFF SERVICES MANAGER WAGNER: Correct.

18 COMMISSION CHAIRPERSON SHAPIRO: So I don't know.
19 I mean, I guess, I don't know what action we can take, other
20 than to say it's a permitted wager and put it on your
21 license application. Is there something else we should be
22 doing?

23 STAFF SERVICES MANAGER WAGNER: I would think that
24 would be okay, I just want to make sure that it's going to
25 be noted as an amendment to their license application, to

1 their wagering program.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, I don't
3 think we're amending anybody's license application today. I
4 mean, no one's asking, there's nothing coming up that I know
5 of, unless, I guess, Santa Anita wanted to do this, but
6 their signature race is Saturday, so I don't think there's
7 much of a future there.

8 STAFF SERVICES MANAGER WAGNER: Well,
9 procedurally, I just wanted to make sure that we're --
10 procedurally, I'm understanding how we're going to handle
11 it, that's my question.

12 DEPUTY ATTORNEY GENERAL KNIGHT: If they wanted to
13 do it, they just would amend their license application.

14 COMMISSION CHAIRPERSON SHAPIRO: They would make a
15 request for a license application amendment, right.

16 So the Board will look favorably upon it and I
17 don't think we have to take any action then. Okay, great.

18 All right, I think I have now handled all of the
19 issues that come under the Pari-Mutuel Committee meeting.

20 Okay, and I know we're all getting tired, so I'm
21 trying to move this along.

22 The next item, we'll go back is --

23 MR. FRANCISCO: Mr. Chairman?

24 COMMISSION CHAIRPERSON SHAPIRO: Yes, sir?

25 MR. FRANCISCO: Can I just make one comment about

1 your --

2 COMMISSION CHAIRPERSON SHAPIRO: Can you identify
3 yourself?

4 MR. FRANCISCO: Yeah, Vito Francisco, I have my
5 yellow card here. I didn't hand it in, I guess, but --

6 COMMISSION CHAIRPERSON SHAPIRO: It doesn't help
7 me when it's there.

8 MR. FRANCISCO: Okay, may I --

9 COMMISSION CHAIRPERSON SHAPIRO: It's okay, go
10 ahead. Just go ahead.

11 MR. FRANCISCO: Okay, I preliminarily looked at
12 the application for --

13 COMMISSION CHAIRPERSON SHAPIRO: And can you --
14 you told me your name, are you with somebody or --

15 MR. FRANCISCO: I'm a horse owner.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay.

17 MR. FRANCISCO: And also, I did own a horse, it
18 got claimed away from me.

19 But I'm interested in making an application for
20 this satellite wagering facility, at the appropriate time.
21 But I preliminarily looked at the application, and at one
22 time I had an alcohol/beverage control license for a liquor
23 store, and the way they issued their license is first you
24 file your application and then they grant you the license.
25 And then with that license in hand, you go out and you make

1 your contracts, and you make your agreements, and you find
2 your location, and then they approve it.

3 Preliminary, when I looked on the application is
4 you have to submit your application, and then you have to
5 have all these agreements, and you have your location, and
6 you have to have all this in place. And that's pretty hard
7 to do from a business stand point.

8 It's more logical to have the license and once you
9 have your license in your hand, then you can go to a place
10 and make your agreement for your lease, or for your
11 location, make your contracts with your people, and that
12 type of thing.

13 So from preliminarily looking at your application,
14 it looks like you're putting the cart before the horse, so
15 to speak, from a businessman's stand point.

16 I would think that if you looked at the Alcohol
17 Beverage Control Board, and the way they do their licensing
18 procedure, you might want to take a look at that and maybe
19 copy some of the things that they do. Because I think, from
20 my past experience, that's a more logical way to do it. And
21 it's just a point of information but --

22 COMMISSION CHAIRPERSON SHAPIRO: Well, it's
23 excellent information, frankly, and I really appreciate your
24 coming forward because I think you're absolutely right.
25 You're bringing up a very good, from a business perspective,

1 going into the business, the steps you got to go through.

2 MR. FRANCISCO: Because if you don't have a
3 license and you talk to somebody about making an agreement,
4 they're going to say why should I talk to you, go get your
5 license, first.

6 COMMISSION CHAIRPERSON SHAPIRO: Right. What I
7 would also ask is, and I don't know if you've looked at the
8 material that we have in our packet, okay, but if you would
9 look at that and provide us with comment, and either be in
10 contact with Jackie Wagner, Bon Smith, or Kirk Breed, and
11 give us those comments, it would be very much appreciated.

12 MR. FRANCISCO: Another minor point, too, there's
13 a two-year limitation on that license, according to that
14 application.

15 COMMISSION CHAIRPERSON SHAPIRO: Right.

16 MR. FRANCISCO: For a person to go through this
17 and make this kind of an investment --

18 COMMISSION CHAIRPERSON SHAPIRO: I totally agree
19 with you.

20 MR. FRANCISCO: -- that two-year is an awful short
21 fuse.

22 COMMISSION CHAIRPERSON SHAPIRO: I had that
23 comment, also, that I didn't think it was fair to anybody to
24 invest so --

25 MR. FRANCISCO: Thank you for your time.

1 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank
2 you for coming.

3 MR. FRANCISCO: And if you want my yellow card, I
4 have it.

5 COMMISSION CHAIRPERSON SHAPIRO: I don't need it,
6 thank you.

7 (Cross-talk.)

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, okay,
9 folks, we got to get going, please. Please.

10 Okay, Item Number 8, I'm going to get to this
11 item, public hearing and action by the Board on the adoption
12 of a proposed amendment to CHRB rule 1865, Altering of Sex
13 of Horse, to provide that a horse shall be scratched if the
14 true sex of the horse is not listed on the certificate of
15 registration on file in the racing office by scratch time
16 for the race in which the horse is entered.

17 Now, I think there are a couple of issues here,
18 which we have talked about many, many times. This is the
19 time -- this is the situation when we have a horse that is
20 announced as a gelding, and it was not entered as such, it's
21 in the program that's wrong. The public feels that the
22 ultimate equipment change is unfair.

23 I know that we have found that we've encouraged
24 our stewards to increase penalties, we've done everything,
25 we've put signs up in the racing office, and I think the

1 recommendation was that at one point, you know what, just
2 scratch the horse.

3 The problem also is compounded that it says the
4 registration papers, and I don't think it's in the entry
5 blank or in the program.

6 So Dr. Arthur, I see you got up, and I have a
7 hunch you want to address this.

8 EQUINE MEDICAL DIRECTOR ARTHUR: Just a few items.
9 This has been a rather frustrating issue to try to resolve
10 and the number of ways this can be messed up is actually
11 mind-boggling when you look at it, and it's not always the
12 trainer's fault.

13 The number one problem is when horses are shipped
14 out from one trainer to a farm, gelded at the farm, and
15 comes back into a second trainer as a new gelding, that had
16 never seen the horse before. That, actually, should be
17 fairly easy to resolve, and one that we can put the
18 responsibility fully on the trainer for doing.

19 In terms of trying to get the stewards to increase
20 fines, and we've talked about this in August, is there's a
21 little bit of an attitude, not just amongst trainers, but of
22 the stewards, that this is not that big of a deal.

23 And Ingrid and I have spent a considerable amount
24 of time talking to the stewards about this and only so far
25 this year we finally convinced them, and it was after this

1 came as an agenda item, by the way, as noticed at the
2 December meeting, the stewards finally started listening to
3 us, because Derry won't let us tell them what to fine, that
4 we've only, in the last three violations, have gone up to
5 \$500 for an unannounced gelding.

6 Unfortunately, even with all the efforts the
7 racing office has made, the changes of Encompass, we can
8 handle these things very well when they're castrated or
9 gelded on the track, but we still have had 24 violations in
10 the first eight months of this year, as compared to 44 in 12
11 months in the fiscal year that -- I'm talking about the
12 fiscal year, excuse me.

13 The fiscal year that ended on June 30th we'd had
14 44 violations in the previous 12 months and so much -- so
15 far, in the fiscal year that will end on June 30th of 2008,
16 there's been 24 already.

17 But not all of them have been the trainer,
18 sometimes these happen to be bookkeeping errors in the
19 racing office. We've even had he said/she said disputes as
20 to whether it was properly reported or not.

21 I think we're getting better. I don't think we'll
22 ever get to zero because it's just really surprising, when
23 you start looking at it, how many ways, particularly when
24 you look at the right sex getting on the program, that this
25 can be messed up.

1 We've even had horses entered as colts, that had
2 gone to geldings, and ended up as ridgelings just because of
3 some bookkeeping errors.

4 So I think there's other people in the industry
5 that may have some comments. If the Board approves this,
6 that certainly offers one solution. If they want to go a
7 different way, we possibly should, as we've done with the
8 penalty guidelines and, hopefully, it will be a lot simpler.
9 Just put the actual fines in the rule for any violations.

10 So that's all I have to say.

11 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

12 EQUINE MEDICAL DIRECTOR ARTHUR: We're making
13 modest improvement, but we're not --

14 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

15 COMMISSIONER MOSS: This is a tough --

16 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

17 COMMISSIONER MOSS: I mean, we've bounced this
18 around at the Pari-Mutuel Committee. I mean, it's amazing,
19 these numbers are still incredible, really. We've tried
20 everything, we've tried talking about it, talking to
21 trainers, talking to as many people as we can, and we still
22 can't stop these violations from taking place.

23 The last thing we did at the Pari-Mutuel thing was
24 suggest a \$1,000 fine to the trainer, and maybe a fine to
25 the owner, I don't know.

1 But the thing nobody wants to do is scratch the
2 horse, but this may be the only way we can handle it. But I
3 like to hear other people talk about it.

4 COMMISSION CHAIRPERSON SHAPIRO: Well, personally,
5 I think we've tried everything. And I know this is not
6 going to be a popular statement with our racetracks.

7 COMMISSIONER MOSS: The bettors are up in arms
8 about this.

9 COMMISSION CHAIRPERSON SHAPIRO: I think this is a
10 disservice to our wagering public.

11 COMMISSIONER MOSS: Yeah.

12 COMMISSION CHAIRPERSON SHAPIRO: I don't know
13 whose fault it is, maybe it's nobody's fault. But it's
14 almost like, to some degrees, and this is probably too
15 harsh, perpetrating a fraud on some of the wagering public.

16 There is very little doubt in my mind that a
17 first-time gelding, coming off of -- you know, who's been
18 racing as a colt, that there is a significant change in a
19 lot of these horses' performance.

20 I think it's unfair, and wrong and so, personally,
21 while I'm sorry to the people that are going to say it hurts
22 business, and wagering opportunity and all that, you know
23 what, we've tried every which way there is and, personally,
24 I think the horse should be scratched.

25 So that's kind of where my head's at, we've tried

1 and tried.

2 I'm sorry that Commissioner Harris is not here,
3 and Commissioner Amerman is not here, because I know that
4 we've gone over this and so forth. But I don't know if any
5 of the other Board members want to make comments. I can
6 guess that the three people sitting there are going to be
7 very much opposed to it.

8 So if you want to just raise your hand and say I'm
9 opposed, then we can end.

10 MR. HAMMERLE: I just --

11 COMMISSION CHAIRPERSON SHAPIRO: Go ahead, but
12 identify yourself, Rick.

13 MR. HAMMERLE: Rick Hammerle, from Santa Anita. I
14 want to make a few things, let the Board, respectfully,
15 listen to a couple of facts before we decided. And when you
16 decide, that's what it will be.

17 But as reiterated by Dr. Arthur, we've found a few
18 mistakes being made, but I think what we're also doing is
19 we're finding that there is an endless amount of ways that
20 this can get through, starting from when it gets done on a
21 farm. And we found out a couple of weeks ago from Melanie,
22 our clerk of the course, that a farm, someone working on the
23 farm where this happened can literally go into the Jockey
24 Club file and change the horse, not tell anybody, and it
25 could be six months or a year until it shows up on the

1 racetrack. The horse could have changed trainers numerous
2 times, could have changed owners numerous times, there's no
3 way of knowing. That's just a simple thing.

4 I wanted to run by a couple of other things that
5 not any other region in the country does deem this important
6 at all, not that California has to follow the rest of the
7 country. It's not carried by the Racing Form. To my
8 knowledge, it's not carried by Bris, it hasn't the last time
9 I've used Bris.

10 I was curious if the Board had some numbers on how
11 many first-time geldings there were and how many times they
12 did win? I was just curious to that fact.

13 And keeping with the theme that we're doing this
14 to help the bettor; correct?

15 COMMISSION CHAIRPERSON SHAPIRO: Yes, yes. I have
16 to tell you, of all the e-mails that I get, this is the
17 number one issue.

18 MR. HAMMERLE: Okay, let me just follow up on
19 that. We are going to scratch a horse a day and a half in
20 advance of a race because we got the sex wrong, which could
21 possibly get it right that day; is that correct?

22 COMMISSION CHAIRPERSON SHAPIRO: What we would be
23 talking --

24 MR. HAMMERLE: That's what you're proposing.

25 COMMISSION CHAIRPERSON SHAPIRO: What we're

1 talking about is that if the sex of the horse is wrong when
2 the official program comes out, the horse will be scratched,
3 correct.

4 MR. HAMMERLE: So that's a day and a half in
5 advance of the race.

6 COMMISSION CHAIRPERSON SHAPIRO: I don't know when
7 it's --

8 MR. HAMMERLE: I want to set that down. So we're
9 saying that that's unfair to the bettor; is that correct?
10 Okay, let me just bring up another example. Saturday, it's
11 Big Cap day, we've got 11 races. We've got the top rider in
12 the country out here, he's on all 11 races. He falls off
13 his horse in the post, in the first race, sprains his ankle.
14 We've got to take him off all 11 races. I've already made
15 my bet, my Pick-Threes, everything else. And I went from
16 the top ten rider to the 20th rider in the room. Are we
17 going to scratch that horse, too?

18 Because here we're talking about betting, now, and
19 I want to get on the same plane as that. So do you
20 understand my point?

21 COMMISSION CHAIRPERSON SHAPIRO: I absolutely
22 understand your point.

23 MR. HAMMERLE: So I think we're maybe going a
24 little bit to the extreme here in scratching a horse on
25 information a day and a half in advance when, indeed, we

1 could correct it, and we have corrected it and announced it
2 the morning of.

3 And I just feel that somewhere in there, there
4 needs to be a balance.

5 Now, I'm not asking to scratch the horse when we
6 change the rider, but we do change riders often when, you
7 know, a rider gets ill or has to take a mount off, and that
8 sometimes happens after a Pick-Three or a Pick-Six has
9 started, and we don't hear any uproar, or there doesn't seem
10 to be any concern about that change to protect the better.

11 COMMISSIONER MORETTI: Rick, are you against only
12 the sanction of scratching, or are you against any other
13 sanctions against it?

14 MR. HAMMERLE: I'm against -- I would like to do
15 what Mr. Arthur had suggested and, you know, try and step
16 the fines up, to try and -- we have talked -- we have had
17 some meetings with all of us, and tried to even go back to
18 the initial beginning, when the vet, whoever that vet may
19 be, whether he's on a sanction ground, or wherever he is,
20 but notice goes out to them. They're the guys that do the
21 procedure, let's start there, let's get them trained to,
22 whenever they do the procedure, to make the right call.
23 Call the Jockey Club, call the local racetrack so it can get
24 changed there.

25 We haven't gone back far enough, I don't believe,

1 to get this changed. We don't want to go out with bad
2 information, believe me.

3 And I think what has happened is we have just
4 found more ways to find it that we've been -- that we
5 haven't been doing it wrong, which is why we're finding
6 more.

7 And I don't think, as Dr. Arthur said, we ever are
8 going to get to zero. At some point, yes, maybe you do have
9 to scratch the horse. I'm saying the day and a half in
10 front is maybe a little bit too much. At least let us get
11 to the morning of the race, where our vets go out and do the
12 final check, and can determine then if there maybe is an
13 error made.

14 Because I think the people who are getting the raw
15 end of the deal here are the two groups of people that
16 actually have nothing to do with this, and that's the owner,
17 and that's the bettor, too, who might have spent, you know,
18 hours handicapping a race, and who really doesn't care
19 whether he's a colt, or a gelding, or a filly, and you go
20 ahead and scratch this race, who could have been his key to
21 the Pick-Six that day.

22 And here's the owner, who even if it's not a
23 stakes race, has paid for this horse to get ready for this
24 race for three months, three weeks, whatever the time is,
25 and through no fault of him I made an error. When the guy

1 entered the horse, I forgot to check a box.

2 Well, guess what, you just paid all those fees and
3 you're out through absolutely no fault of your own. So I
4 think we -- there's still some room there for improvement
5 before we take this drastic step of scratching a horse so
6 far in advance of the race.

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

8 Mr. Robbins?

9 MR. ROBBINS: I appreciate everyone's frustration,
10 we're frustrated in the racing office, as well.

11 I don't know what the current fine is, but to
12 answer Commissioner Moretti, I would be greatly in favor of
13 increasing the fines, rather than, as Rick just mentioned,
14 hurting the owner. Just specifically looking at the owner,
15 he or she is the innocent victim in all of this.

16 Increase the fine on the trainer, or me, or Rick,
17 or Mike and, you know, there's so many owners in our
18 business that are in tilt today, that this might put
19 somebody right over the edge, and I don't think we can
20 afford that.

21 It's frustrating, we don't realize -- you know, I
22 know it seems very simple to the outside world why we have
23 not one hundred percent accuracy on this program. It's just
24 not that simple. We can list ten or 15 ways, including the
25 one that Rick just mentioned. And I don't want to bring up

1 Mr. Harris, because he's not here today, but he in fact is
2 one, with his ability to get into the Jockey Club system,
3 can go in and change the sex of one of his horses. And he's
4 not the only one. There's nothing wrong with that, he's
5 entitled to do that.

6 But the way the system is, we don't get that
7 information. So it's currently broken. We need a total
8 revamping of this, we need to work with Dr. Arthur, we need
9 to have better information coming from the veterinarians.
10 And there are so many different steps that we need to -- you
11 know, holes that we need to close.

12 And I just think, you know, I really question the
13 wisdom right now, at this point, saying, well, let's just
14 scratch the horse. I just think that creates total
15 unfairness.

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Mr.
17 Harlow, do you have some wisdom to share?

18 MR. HARLOW: Yeah, Mike Harlow, Santa Anita. I
19 don't want to be repetitive, but if we really think about
20 this issue the trainer, the vet, the farm, horse ID, entry
21 clerk, racing office, there are so many people who can make
22 this mistake but, yet, we're penalizing the owner. And
23 that's something I can't really grasp a hold of.

24 Nobody wants to see a scratched horse. We want to
25 put out accurate information, that's the last thing we want

1 to do is put out something that is inaccurate.

2 But of all the people that can possible make a
3 mistake in this instance, which we've found exactly pretty
4 much everybody involved that can make a mistake, we're
5 penalizing the owner under this situation, and I'm not sure
6 that's the right way to take control of this situation.
7 Which, actually, I don't know if we ever will with these
8 geldings because of all the people that are involved.

9 COMMISSION CHAIRPERSON SHAPIRO: We have some
10 cards here, so let me call the cards.

11 COMMISSIONER MOSS: A question, is there still a
12 facility called Encompass?

13 MR. HAMMERLE: Yes.

14 COMMISSIONER MOSS: And that was supposed to -- at
15 one of our meetings, that was supposed to be the generating
16 tool that would have all this information or would be the
17 receptacle, so to speak, for any information that had
18 something to do with either blinkers or gelding.

19 MR. HAMMERLE: Right. What we did was we had
20 Encompass, which is our provider of information that, you
21 know, puts out a program and an overnight, et cetera. We
22 went ahead and we have a separate spot on our entry page,
23 now, so when a -- when someone in the racing office takes an
24 entry and is informed that there is, indeed, the first-time
25 gelding, the person putting in the entry to the computer can

1 click on this box, first-time gelding.

2 So when the overnight comes out, it is now noted
3 on the overnight.

4 COMMISSIONER MOSS: Okay.

5 MR. HAMMERLE: So the theory behind that was, and
6 it's starting to take hold, is that a trainer, knowing that
7 he's going to get this heavy fine, and he just entered a
8 first-time gelding, when he picks up the overnight and he
9 looks at his horse, and he doesn't see first-time gelding,
10 he needs to go back into the racing office and say, hey,
11 this is a first-time gelding.

12 Whether he said it or not, he needs to know that
13 it is, and so he has a place to check or to reference that,
14 indeed, it is a first-time gelding.

15 They're just doing that and we do that with
16 blinkers. You know, blinkers are automatic, hey, blinkers
17 on, it's not on the overnight, so they call us up.

18 So we're starting to see a little bit more of
19 people coming in and, you know, double checking, hey, right,
20 good, it's on the overnight. So that -- you know, it's just
21 another step towards getting to that goal of capturing as
22 many as we can.

23 MR. ROBBINS: But the Encompass system is only as
24 good as the human element that provides that information to
25 feed it. So if somebody doesn't inform Encompass -- or the

1 Jockey Club is actually where this all starts with, then
2 that information is not going to make it, ultimately, to the
3 program, which is what we're all concerned with.

4 COMMISSION CHAIRPERSON SHAPIRO: All right, I'd
5 like to ask the following people if they wish to speak,
6 they've turned cards in, Madeline Auerbach, Craig Fravel,
7 Drew Couto, and Marsha Naify, if any of those wish to speak,
8 please come forward.

9 MS. NAIFY: Marsha Naify, Thoroughbred Owners of
10 California.

11 The board of directors of the TOC feels very
12 strongly about this issue. While we appreciate the fact
13 that the betting public and the racing fans need to know
14 whether a horse has recently been gelded, we do not feel
15 that the owners should be penalized by having the horse
16 scratched from the race.

17 We feel, instead, that if the fines were greatly
18 increased for the trainer, it would accomplish the necessary
19 effect and accomplish the same goal of making sure that the
20 true sex of the horse be listed at the time of entry.

21 Considering what it takes to get a horse to the
22 races, including finding the right condition, and having the
23 appropriate workouts and training schedule before a race,
24 this really punishes the owner unfairly, for something that
25 the trainer or perhaps someone else along the chain of

1 command is responsible for.

2 The responsibility needs to be placed with the
3 trainer, when that is appropriate, with an appropriate an
4 higher fine that will result in due diligence by the
5 trainer. Let's increase the fine, first.

6 Our owners really do not want to see this rule go
7 forward, as scratching a horse. And, once again, we feel
8 very strongly about this.

9 COMMISSION CHAIRPERSON SHAPIRO: Do you feel
10 strongly about it?

11 MS. NAIFY: Yes.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay, just to
13 make sure. Kidding with you. Okay, thank you, Marsha.

14 MS. NAIFY: All right.

15 COMMISSION CHAIRPERSON SHAPIRO: Did any of the
16 others, Craig Fravel, Madeline Auerbach, Drew Couto? No.

17 Okay. Mr. Jamgotchian, is --

18 MR. JAMGOTCHIAN: Yeah, I don't have to fill out a
19 card, pursuant to the Bagley-Keene Act. Now, if you want to
20 not allow me to speak, I'm happy --

21 COMMISSION CHAIRPERSON SHAPIRO: You know what,
22 the rules, which were read at the beginning -- and I'm going
23 to let you speak. Please fill out the cards, okay.

24 MR. JAMGOTCHIAN: I'll be happy to fill out a
25 card.

1 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Go
2 ahead.

3 MR. JAMGOTCHIAN: Although, it's not a legal
4 obligation to do it.

5 COMMISSION CHAIRPERSON SHAPIRO: And you know
6 what, just go on.

7 MR. JAMGOTCHIAN: Okay, a couple issues here.
8 Once again, this is a very bad precedent that you're trying
9 to set. Why penalize the owners? It's an easy process, let
10 the racetrack associations work through the problem until
11 they get it resolved.

12 Additionally, why can't the racing associations
13 put out an insert on the day of the race, like they would
14 like a theater, where a theater has a stand-in actor in
15 place of somebody else. It seems like that's the easy way
16 to handle it.

17 Also, besides fining the trainer, you ought to
18 consider fining the vet. Because the vet who did it, who
19 did the gelding, there should be a reporting procedure
20 through the vets. Why is it that the trainers are always
21 held responsible when, in this particular case, the vets
22 were the person that did it.

23 Once again, from the bettor's perspective, I think
24 far more than a gelding issue, like on the Wednesday two
25 weeks ago when the racetrack was power harrowed, and the

1 track speed went four seconds slower, I think that's by far
2 a much bigger problem for the bettors than having a horse
3 that's gelded.

4 Mr. Shapiro, you know what, the rudeness of -- Mr.
5 Shapiro, I'll just wait until you're done talking.

6 You know, the courtesy that you extend to people
7 when you walk around and talk to other people on the dias,
8 while you ask --

9 COMMISSION CHAIRPERSON SHAPIRO: Are you finished
10 with your comments, Mr. Jamgotchian?

11 MR. JAMGOTCHIAN: No. You know what, I'm just
12 focusing on your rudeness when I'm speaking and you're not
13 even listening. I guess you're doing that on purpose, but
14 your lack of courtesy has just been explained and
15 identified, again.

16 But to finish up, Mr. Shapiro, the issue is the
17 vets. The vets are the one that need to be held responsible
18 for this because the vets do the gelding. And this is not a
19 problem that the owners should face, the opportunity to not
20 have their horse race.

21 So why don't you just do an announcement card in
22 the daily program, and that should address it. Thank you
23 very much.

24 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay.

25 COMMISSIONER ANDREINI: You know, sometimes, the

1 horses are gelded at the ranch by a vet who never comes to
2 the track, so how does that get communicated?

3 COMMISSION CHAIRPERSON SHAPIRO: This is a clearly
4 difficult situation.

5 COMMISSIONER ANDREINI: Right.

6 COMMISSION CHAIRPERSON SHAPIRO: What I would
7 suggest is that perhaps what we should do here is not move
8 forward with this item, in terms of taking action to enact a
9 scratch of the horse. But I was asking counsel if we have
10 the authority to move a rule forward that would create a
11 minimum \$1,000 fine, do we have the ability to create a rule
12 that would set a minimum fine for something like this, so
13 that maybe we can put some teeth into it?

14 DEPUTY ATTORNEY GENERAL KNIGHT: Sure.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay. So if that
16 would be acceptable to the rest of you, what I would want to
17 do is turn this around, not take action on this -- pardon
18 me? And I see Mr. Halpern's coming forward. But we're not
19 going to deal with it today, Mr. Halpern.

20 Is perhaps have -- ask staff to bring this back as
21 a minimum fine criteria. I mean, you know, it's very
22 compelling, some of the arguments that people make.

23 Personally, I'm kind of frustrated and saying, you
24 know, just scratch the damn horse and be done with it. But
25 if that's not so populate, maybe we can do it that way.

1 Dr. Arthur?

2 EQUINE MEDICAL DIRECTOR ARTHUR: I think that's a
3 very good idea. And, in the interim, I can work with the
4 new Executive Director on this.

5 I would like to point out that the veterinarians
6 that are licensed by the CHRB, in CHRB racing enclosures,
7 are not the problem.

8 The problem is when horses are gelded at farms, by
9 people who are unlicensed by the CHRB, and have no
10 obligation to report such a gelding to us at all.

11 And the rule specifically states trainer or owner.
12 But we'll work through it and we'll get it done, and you'll
13 get the proposal that you're talking about.

14 COMMISSION CHAIRPERSON SHAPIRO: Great, thank you.
15 I mean, it's very compelling, and I appreciate it all, but I
16 really think we have to do something for our fans.

17 COMMISSIONER MOSS: I mean, should perhaps the
18 owner pay a little bit of the fine? I don't know, it's
19 just --

20 COMMISSION CHAIRPERSON SHAPIRO: Well, you know,
21 let's bring it back. You know, frankly, I think if a
22 trainer is going to enter the horse, you know, just bend
23 down and look, and put gelding, and underline it, and circle
24 it. And then if the racing office doesn't catch it, I mean,
25 I don't know where the culpability is in this, but we've got

1 to somehow get it right.

2 And so I'd like to defer any action on this item,
3 ask staff to bring it back with a recommendation of a
4 minimum first offense \$1,000, and if we have to graduate it
5 from there, maybe we should do that.

6 And then work with Dr. Arthur, and our racetracks,
7 and stakeholders, and TOC. But we've got to do something
8 here. Okay.

9 All right, I'd like to move on. Item Number 9,
10 and Dr. Martinelli, I need to apologize, you were the first
11 man here this morning, you've had to wait through all this.
12 This is the report and update from representatives of the
13 Pacific Coast Quarter Horse Racing Association regarding the
14 status of the quarter horse toe grab study.

15 As you will recall at prior discussions, there was
16 a discussion where we moved forward that we were looking to
17 take the same action with respect to quarter horses, that we
18 did with thoroughbreds, which was to minimize the height of
19 the toe grab.

20 Trainer Paul Jones then came forward and brought
21 to light that there were some people that had concerns that
22 there hadn't been studies.

23 I received a letter from UC Davis, Dr. Sue Stover,
24 dated February 19th, that advises me that Dr. Martinelli is,
25 I guess, working with her. I spoke with Mr. Bud Alesio, I

1 spoke with Scoop Vessels, and the quarter horse industry is
2 showing movement and desire to try and get their arms around
3 whether or not these higher toe grabs should be not
4 permitted, similar to thoroughbred racing.

5 So, Dr. Martinelli, why don't you give us what you
6 can, and thank you.

7 DR. MARTINELLI: Mr. Chairman, members of the
8 Board, Mark Martinelli, I'm an equine surgeon, specializing
9 in arthroscopic surgery in racehorses, and lameness
10 diagnoses in race and sport horses here, in Southern
11 California.

12 I do want to remind the Board, though, that I
13 began my career 20 years ago outside of California, working
14 on standardbred and thoroughbred racehorses, and am a
15 relative newcomer to the quarter horse racing industry.

16 As such, the information my be germane to the
17 discussion that follows.

18 First off, I'd like to take this opportunity to
19 thank the Board for providing us the impetus to study the
20 safety aspects of quarter horse racing in California.

21 What began as an examination of the issue
22 surrounding toe grabs has now developed into a much larger
23 scaled project to examine the health and safety issues in
24 quarter horse racing in general, at Los Alamitos.

25 We began working with Dr. Stover, at Davis, after

1 the July Board meeting. She thought we should begin by
2 examining the data already collected by the California Horse
3 Racing Postmortem program, and began analyzing the quarter
4 horse data in September 2007.

5 As you all know, the postmortem program started 17
6 years ago, as an effort to understand racing injuries in the
7 State of California.

8 Since that time, there have been almost 3,500
9 thoroughbreds examined at postmortem, and only 465 quarter
10 horses.

11 The mandate of that program was to collect the
12 data and not necessarily to analyze it. Therefore, the
13 funding to examine this data has been acquired independently
14 over the years.

15 For this reason, the only mention of quarter horse
16 data was in one of the initial studies, published in 1994,
17 summarizing the cause of death in racehorses over the first
18 two years of the program. That paper had results for only
19 46 quarter horses.

20 Based on her efforts over the past five months,
21 Dr. Stover anticipates she'll be able to report on the cause
22 of death in quarter horse racehorses over the last 17 years,
23 and thinks that paper should be ready in the next several
24 months.

25 This project has been funded by the PCQHRA.

1 Specifically in regard to toe grabs, the initial
2 paper, by Cane, Stover and Colleagues, was published in
3 1996. In that paper, there were results for 201 horses.
4 They had 155 horses that were fatally injured on the track
5 and 46 controls.

6 The statistical significance was achieved in that
7 study because the height of the toe grab differed between
8 the fatally injured horses and the control population.

9 In quarter horses, Dr. Stover found, in reviewing
10 the records this past fall, that her team only began
11 collecting toe grab data over the last several years, and
12 she has recently reported to me the following numbers.

13 There is postmortem information on 145 quarter
14 horses with toe grabs. And a summary of that data is that
15 36 had low toe grabs or no toe grabs, 36 percent, and 55
16 percent had the regular toe grab.

17 Unfortunately, there was a very small number of
18 control horses in that population, and a control horse would
19 be a horse that died for other reasons -- on the racetrack,
20 for reasons unrelated to a musculoskeletal injury.

21 So it was unlikely to gain any statistically
22 significant data from the postmortem program regarding the
23 influence of toe grabs on fatal musculoskeletal injuries,
24 compared to the thoroughbred data.

25 So we set out then to form a prospective toe grab

1 survey. We enlisted the help of the farrier in the paddock,
2 at Los Alamitos, and the first month of the meet we sampled
3 1,032 horses, 634 of which were quarter horses.

4 Unfortunately, in that data we ended up with 45
5 percent of the horses had no toe grabs or low toe grabs, and
6 43 percent had the regular toe grabs.

7 Again, with these numbers, we were unable to
8 assign statistical significance to the postmortem data.

9 However, we recently completed a voluntary survey
10 of the trainers whose quarter horses suffered a catastrophic
11 musculoskeletal injury in the 2007 season, and found very
12 interesting numbers.

13 Of the 28 horses that were injured, we have
14 reports on 84, that's 85 percent compliance. And in those,
15 75 percent of the fatally injured horses had no toe grab or
16 a low toe grab. 25 percent had a regular toe grab, the six
17 millimeter variety. And none of the horses that were
18 fatally injured last year had a high toe grab.

19 While, these numbers are not providing us with a
20 definitive answer, there appear to be definite differences
21 between quarter horse and thoroughbred racehorses.

22 We found another startling example of this
23 difference when examining the race records and racing videos
24 of fatally injured quarter horses.

25 Over the last four years, 22 percent of the

1 fatally injured quarter horses were injured before the wire,
2 which meant that 78 percent of the horses were injured after
3 the wire, or manifest the injury after the wire.

4 I called Dr. Mary Scollay, from Gulfstream Park,
5 to see what the nationwide thoroughbred numbers were for
6 this particular issue, and she said that the totals were not
7 available until one year after data collections began, which
8 will be July of '08, and she anticipates several more months
9 to analyze that data.

10 But she encouraged me to quote her in this meeting
11 by saying that in her 20 years of experience at Gulfstream
12 Park, that 80 percent of the thoroughbreds are injured
13 before the wire. So it was an inverse of the data that
14 we're seeing in the quarter horses.

15 And in my discussions with Dr. Arthur this
16 morning, in his 30 years here, in California, he felt like
17 it was about the same here, 80 percent of the thoroughbreds
18 are injured before the wire, as opposed to the quarter
19 horses, where it's the opposite.

20 Finally, when examining racing videos of the
21 fatally injured quarter horses, we found another important
22 difference. In the 24 races where these incidents occurred
23 in 2007, only four horses fell as a result of their injury,
24 three during the race and one after the wire.

25 This means that 83 -- this means that in 83

1 percent of those injuries the jockey was able to pull the
2 horse up, without further injury to the horse, to the
3 jockey, or to any other horses in the race.

4 Also, there was no obvious incident in most races.
5 When an incident was observed, it tended to be a bump or a
6 slip at the beginning of the race.

7 So in conclusion, Dr. Stover and I will be
8 presenting some of this data to the AQHA Racing Committee on
9 Saturday, in San Francisco. Our goal is to increase the
10 awareness of the quarter horse racing industry, nationwide,
11 regarding these differences between thoroughbreds and
12 quarter horses. And, as a result, try to secure more
13 funding to continue the study of racing injuries in quarter
14 horses.

15 Our specific, prospective objectives are as
16 follows. We've implemented an injury report form at Los
17 Alamitos, modeled after the form produced by Dr. Scollay,
18 for the thoroughbreds.

19 We want to continue to gather prospective data on
20 toe grabs by periodically sampling the racing population to
21 determine whether any significance can be assigned to the
22 presence of toe grabs regarding or affecting catastrophic
23 musculoskeletal injury.

24 And, finally, we'd like to consider to -- continue
25 to analyze the factors associated with catastrophic

1 musculoskeletal injuries in the quarter horses, particularly
2 through examining race records, exercise history, and the
3 racing videos of fatally injured horses.

4 And as you referred to, Mr. Shapiro, the letter
5 from Dr. Stover, requesting that she is very interested in
6 this project and she feels like there's more time needed to
7 try and determine if there can be any statistical
8 significance garnered about the use of the toe grabs in the
9 quarter horses.

10 So at this time I'd like to entertain any
11 questions or comments from the Board.

12 COMMISSION CHAIRPERSON SHAPIRO: I have to tell
13 you, that's an incredibly great report, and great news that
14 you, and PCQHRA, and the quarter horse industry are
15 undertaking such a comprehensive study, and I think it's
16 wonderful. And I think that, you know, our hat is off to
17 everybody involved, that you're taking it as seriously as
18 you are, and going out to your national conference. And I
19 think it's terrific, I really do.

20 And so I don't know if anybody has any comments or
21 questions, but I think it's great.

22 COMMISSIONER ANDREINI: Maybe I can ask you a
23 question, Dr. Martinelli. You know, Paul Jones was the one
24 who made the original plea to put this thing over until the
25 PCQHRA made this investigation. At the same time that that

1 happened, in New Mexico they turned him down. And he seems
2 to be winning the same number of races there, without toe
3 grabs. Isn't that a fact?

4 DR. MARTINELLI: What we would like to do,
5 however, though, is to look at the rate of injury in New
6 Mexico. Because I don't like to talk about anecdotal
7 reports, but I have heard that they're concerned about an
8 increase in New Mexico.

9 So the question, to me, is to look at that data
10 before we make a comment about what New Mexico has done,
11 because they have asked for proof that they do not cause a
12 problem.

13 And what the California Horse Racing Board has
14 done, in their wisdom here, is to look at say that we don't
15 have any data that says that there is a definite problem
16 there.

17 COMMISSIONER ANDREINI: I see, thank you.

18 COMMISSION CHAIRPERSON SHAPIRO: All right, Dr.
19 Martinelli, thank you, and please express our thanks to Mr.
20 Alesio, and everyone else involved.

21 DR. MARTINELLI: Thanks.

22 COMMISSION CHAIRPERSON SHAPIRO: Comment, Jerry
23 Jamgotchian.

24 MR. JAMGOTCHIAN: You know, this is an issue that
25 I'm glad has been brought up. As you know, I've started a

1 study with fatalities in California horse racing. And as
2 you are well aware, I'm getting the necropsy records,
3 soon, from all the three agencies in the State to be able to
4 prove up or disprove Dr. Arthur's recent statements
5 regarding fatalities.

6 But I got to tell you, the preliminary information
7 that the people that I am using to analyze the data --

8 COMMISSION CHAIRPERSON SHAPIRO: Who are those
9 people?

10 MR. JAMGOTCHIAN: I'm not going to disclose my
11 consultants to you. When you get the report, Mr. Shapiro,
12 you can review it.

13 The people that are looking at these, I can assure
14 you that the stack is this thick on fatalities. So when you
15 have the opportunity to really look at quarter horse racing,
16 and the fatalities at racetracks where quarter horse racing
17 is currently occurring, you're going to see a lot more
18 fatalities than you do at thoroughbred racing tracks.

19 So I'm saying this because I think maybe you ought
20 to consider synthetic racetracks for the quarter horse
21 racing, because there are significant fatalities occurring.

22 COMMISSION CHAIRPERSON SHAPIRO: So do I take
23 that, that you are a fan of synthetic racetracks?

24 MR. JAMGOTCHIAN: No, I am not a fan of synthetic
25 racetracks.

1 COMMISSION CHAIRPERSON SHAPIRO: Then why should
2 we put them in at quarter horse racetracks?

3 MR. JAMGOTCHIAN: I think there's an opportunity
4 to mix dirt and synthetics to make a better track, than
5 having a synthetic racetrack.

6 COMMISSION CHAIRPERSON SHAPIRO: Well, isn't a
7 synthetic track in fact 80 percent dirt?

8 MR. JAMGOTCHIAN: I don't know, it depends
9 on --

10 COMMISSION CHAIRPERSON SHAPIRO: It is.

11 MR. JAMGOTCHIAN: -- if you're talking about
12 Polytrack, Cushion Track, Pro-Ride.

13 COMMISSION CHAIRPERSON SHAPIRO: No, they're all
14 80 percent dirt.

15 MR. JAMGOTCHIAN: Well, I don't think -- now,
16 you're an expert on synthetic tracks, Mr. Shapiro?

17 COMMISSION CHAIRPERSON SHAPIRO: No, that's what
18 we've heard from all of our experts.

19 MR. JAMGOTCHIAN: Well, that doesn't mean it's
20 true. That doesn't mean it's true.

21 All I'm saying is the quarter horse industry is
22 sustaining significant fatalities and I think this Board
23 should look at it. Because it's not -- it hasn't been
24 looked at, yet.

25 COMMISSION CHAIRPERSON SHAPIRO: We are --

1 MR. JAMGOTCHIAN: That's all, you see it.

2 COMMISSION CHAIRPERSON SHAPIRO: We are and we
3 appreciate that.

4 MR. JAMGOTCHIAN: Well, I'm looking at it, too, so
5 I'll help you out.

6 COMMISSION CHAIRPERSON SHAPIRO: Good. All right,
7 we're getting to the end, folks.

8 All right, Item Number 15, which is a report and
9 update from the Thoroughbred Owners of California regarding
10 the status of the California Jockey Welfare Corporation and
11 the new health insurance that has been implemented for
12 eligible California jockeys.

13 And in this regard, I'm going to ask that Drew
14 Couto and Barry Broad speak.

15 I have to recuse myself from this item, as I am a
16 member of the California Jockey Welfare Corporation. So I'm
17 going to recuse myself from this discussion.

18 COMMISSIONER MORETTI: But there's no action on
19 it.

20 COMMISSION CHAIRPERSON SHAPIRO: There's no action
21 on Item Number 15, it's a report. But I just wanted to make
22 sure I'm very clear that I recused myself and it gives me a
23 chance to go to the rest room. Thank you.

24 MR. COUTO: Drew Couto, Thoroughbred Owners of
25 California. My throat is very --

1 MR. BROAD: I'll translate.

2 MR. COUTO: Let's see, what can we tell you on the
3 report. The California Jockey Welfare Corporation, which
4 was set up and approved by the Board in December, has
5 contracted with Great Western Insurance to provide health
6 insurance for California riders.

7 We've also, through the same insurance brokerage,
8 arranged for vision and dental insurance for the riders, as
9 well.

10 Based on our projections of funds available, it
11 looks as if we're going to be able to pay two-thirds of the
12 cost of the health, dental, and vision for riders. Meaning
13 they will be responsible for one-third, which we think is an
14 awfully good deal.

15 And based on current projections, using the money
16 that we anticipate coming in, we should be able to do this
17 without getting into a deficit for at least three years.
18 Hopefully, fingers crossed, that is the anticipation.

19 The program went into effect January 1. Riders
20 have been covered. Those riders who qualified based on
21 performance last year, and we don't know who will qualify
22 this year.

23 And I think that's the preliminary report. Barry,
24 what do you want to add to that?

25 MR. BROAD: Yeah, it seems like things are working

1 out, nicely. And the TOC did a really good job helping put
2 this together, and we've sort of structured it so that it
3 will be -- it was sort of a seamless transition, as much as
4 possible, and we -- the jockeys have -- are now in the
5 program, they have coverage, now, and we're now just kind of
6 figuring out the billing process and all of that. But it
7 seems like things are moving along, on track.

8 MR. COUTO: And one other item, there is an
9 agreement between the Guild and TOC, which controls how this
10 program is structured and advances.

11 And when we took a closer look, a couple of weeks
12 ago, at available funding and the cost, we came to recognize
13 that we don't have sufficient monies to pay for disability
14 and life insurance. So there's going to be an amendment to
15 the contract, between the two organizations, recognizing
16 that we only have the ability to subsidize the health
17 insurance.

18 And my understanding, and I'll let Barry confirm
19 that, from the Guild, and from the riders in the north, sort
20 of independent view, I think they're comfortable with that
21 realization.

22 MR. BROAD: Yeah, basically this fund, which is
23 from the uncashed vouchers, is not growing. But healthcare
24 is inflating in double digits, and so we really have to -- I
25 mean, we're facing an intermediate term funding problem for

1 this healthcare. I think in two or three years we're going
2 to be raising premiums or cutting benefits. And it's
3 problematic, but I think it's the problem that the whole
4 rest of the country is actually sharing, for much the same
5 reason.

6 But the jockeys in California will get very good
7 health insurance at a subsidized rate that they can afford,
8 so we're pleased.

9 COMMISSIONER MORETTI: Question, Barry?

10 MR. BROAD: Yes?

11 COMMISSIONER MORETTI: So in that, and let's hope
12 it's two or three years before you have to decide. In that
13 two- or three-year interim period what kinds of things are
14 you going to do to start figuring out how you go forward on
15 that, because we'll be right back at the same place.

16 MR. BROAD: Well, sort of hoping -- I have one
17 hope that in January somebody gets elected President of the
18 United States, and then the Congress passes national
19 healthcare, which might help resolve a lot of this problem
20 and then put us in a better spot to deal with it.

21 But the answer is at this point we don't know. We
22 do not have an identified source. And the problem is this
23 program has to fund healthcare for jockeys, who are a -- a
24 group of jockeys who are not high income individuals, and do
25 not have high family incomes. And so, you know, there's a

1 few. But they're in what you might call the lower to
2 middle, middle class, and so they're -- this will be a
3 burden that they can't afford.

4 So we're going to have to figure out how to spread
5 this, or socialize the cost, and look for other funding
6 sources.

7 And, you know, we're also -- tied into this is
8 dealing with the issues of disabled jockeys, permanently
9 disabled jockeys, their healthcare, which is also sort of an
10 issue.

11 But the answer, unfortunately, is I don't know.
12 But we will have a surplus for the first year, we'll start
13 to use that surplus in the second year. We're, hopefully,
14 going to get this to the point where in the interim, have
15 everything settle down. And as you know, the Guild has had
16 a very rocky period the last five years, very rocky.

17 Hopefully, that's coming to an end. There's a
18 bankruptcy, they're coming out of bankruptcy, everything
19 will be sort of fiscally normalized, and we can have sort of
20 a period to kind of rebuild the whole situation so that
21 there's kind of a calmness that sort of spreads over the
22 jockey population.

23 That's the best I can say for today. Right now
24 we're in -- it's a hundred percent better situation than we
25 were a year ago, where it looked like it was impossible to

1 get fully insured healthcare for jockeys. So just the fact
2 that we were able to do that is a huge, huge accomplishment.

3 And so we're very please at where things have
4 gone.

5 MR. COUTO: If I can add two things to that.
6 Right now we have a very rich program, we are covering 90
7 percent, I think, in terms of the benefits. And it's a PPO,
8 it's not an HMO. We think we'll get through three years
9 using the funding, without going into the red.

10 Options to us are, one, to go to a less rich
11 program, perhaps not a PPO, and perhaps not a 90 percent
12 recovery, something 80 or 70, or an HMO, and/or change the
13 subsidy from two-thirds, to 60, to whatever. So we'll have
14 something, and we'll hopefully manage and control, as well
15 as Barry said, the other options, and continue to look for
16 additional financing.

17 So this program can go on much longer. It can go
18 on, we may just have to make adjustments, depending on
19 funding in the future.

20 Would you like me to segue to Item 16?

21 COMMISSIONER MORETTI: Sure. The next item on the
22 agenda, I'll just take over for Richard.

23 COMMISSIONER MOSS: That's all right, please go
24 on.

25 COMMISSIONER MORETTI: Why don't you, because the

1 two of you are both in it, too.

2 The item is discussion and action by the Board
3 regarding the proposal from the Thoroughbred Owners of
4 California to transfer the financial administration of
5 unclaimed refunds, used to provide health and welfare
6 benefits to eligible California jockeys, pursuant to B and P
7 code 19612.9, from the CHRB to the California Jockey Welfare
8 Corporation. And that's where the key is.

9 MR. GONZALES: I'm Francisco Gonzales, CHRB staff.
10 Just to give you some background to the situation, back in
11 November of 2005 CHRB staff took over control of the
12 administration of the unclaimed refunds, and made monthly
13 disbursements to the Jockey's Guild.

14 Beginning January 1st, 2008, the newly formed
15 corporation, the California Jockeys Welfare Corporation,
16 began providing health and welfare benefits for California
17 licensed jockeys. At this point, the California Jockeys
18 Welfare Corporation is requesting approval to take
19 responsibility over the financial administration of the
20 uncashed refunds.

21 The staff believes that the California Jockeys
22 Welfare Corporation should have a system for internal
23 control in place. In addition, they should be able to
24 provide us with a schedule of what would be the general and
25 administrative cost.

1 We recommend that the Board hear from the
2 representatives from the California Jockeys Welfare
3 Corporation regarding its plans to implement the operations,
4 and consider approving the Corporation's request, pending an
5 external assessment of internal controls.

6 COMMISSIONER MORETTI: That's, Francisco.

7 MR. COUTO: Okay. Again, Drew Couto.

8 What we currently have is sort of a convoluted
9 mechanism that the Horse Racing Board has, over the prior
10 few years, been responsible for billing and collecting the
11 funds from the racetrack.

12 When we looked into it, we've come to realize that
13 it hasn't been billed in over a year. I mean, there's
14 funding out there that's been sitting, not billed, not
15 collected.

16 And so what we were proposing, and the board at
17 CJWC approved, was -- and we had -- we are contracting with
18 Scotwinc to provide all of the financial administration, and
19 bookkeeping, and as well as arranging for the audit of this
20 program.

21 So what we are requesting the Horse Racing Board
22 do -- the Horse Racing Board's also, my understanding,
23 sitting on almost a million dollars worth of funds, is to
24 transfer those funds to the CJWC bank account, which is,
25 again, controlled by Scotwinc. And Scotwinc would then

1 begin billing the racing associations on a regular basis for
2 the money that's owed, with a copy of the bill sent to the
3 Horse Racing Board.

4 So to the extent there's any issue about
5 collection, or otherwise, the Board is plugged in.

6 So that's the mechanism, at least we suggest be
7 implemented, because Scotwinc obviously oversees funding for
8 Scotwinc, but also for CTBL, and a number of other entities
9 in the industry. They're very capable, they can do that,
10 they'll arrange for the audits.

11 On the administrative expense side, under the
12 prior agreement, and I believe Barry can correct me, I
13 believe there was up to 15 percent could be used for
14 administrative expenses.

15 Under the deal worked currently between TOC and
16 the Guild, that amount has been cut to 10 percent. And from
17 a safety stand point, we did sort of a budget this year,
18 looking at 10 percent being between 90 and a hundred
19 thousand dollars.

20 So far we have approved the expenditure of
21 approximately \$50,000 for administrative. Which 30,000
22 would be paid to the CHSA to handle claims, as between the
23 jockeys and the insurer. And the reason we did that is
24 because Sonia, with the CHSA, handles that right now on the
25 worker's comp side. She's very well respected by the

1 riders, is bilingual, understands the program, the riders
2 and their families, and they're comfortable with that.

3 So we've arranged for that administrative
4 component.

5 Our deal with Scotwinc is a \$20,000 per year deal,
6 of which \$1,000 per month covers the bookkeeping an
7 administrative side, the billing side, and 8,000 is the
8 estimate on the annual audit, based on the other entities
9 out there.

10 So right now we've got \$50,000 earmarked. We're
11 looking, probably, somewhere else, 30 to 40,000 in
12 additional expenses, but we're going to be well within the
13 10 percent. So there's a considerable savings over
14 administrative expenses from prior years.

15 And I think the two entities that are signatories
16 to the contract are comfortable with where we're headed
17 right now on that.

18 MR. BROAD: Yeah, the Guild is fully supportive of
19 this proposal, and I think it will also leave the Board in
20 the position of if somebody -- if there's really an
21 enforcement issue, a track that fails to pay, then it will
22 do what it typically can do in that situation, which is use
23 its enforcement ability to make them pay, but it won't be in
24 this banking mode, in which its examining, constantly, all
25 of the claims, and it's sort of a mound of paper. And I

1 just don't think that your staff, in this particular time of
2 State government, probably has plenty of other things to do,
3 without getting mired at that level.

4 And so I think it would -- it should, you know,
5 knock on wood, work really well.

6 COMMISSIONER MOSS: Okay.

7 COMMISSIONER MORETTI: Does anybody have any
8 questions from the Board?

9 COMMISSIONER CHOPER: When is the first audit due?

10 MR. COUTO: It would be next year. The entity
11 just began January 1st to assume this responsibility, so we
12 do an annual audit. And I believe it has to be in within 90
13 days --

14 COMMISSIONER CHOPER: Under the agreement?

15 MR. COUTO: Yeah, but it would go within 90 days
16 or it might be 120 days of close of the fiscal year, which
17 would be December 31st.

18 So I guess what we need is --

19 COMMISSIONER MORETTI: We need to move to -- we
20 need to give you the authority to transfer from us to the
21 authority.

22 MR. COUTO: Correct, yes.

23 COMMISSIONER MORETTI: So I need a motion.

24 ASSISTANT EXECUTIVE DIRECTOR SMITH:
25 Commissioners, if I could -- Bon Smith, CHRB staff.

1 Staff has been involved with the parties
2 throughout the development of the Corporation, and their
3 plans and proposals of how to administer it. So we've seen
4 their numbers, things look like they pencil out exactly as
5 Drew and Barry have provided here.

6 And TOC staff has done a fair amount of forward,
7 looking forward analysis to determine how this stuff is
8 going to work in the long run.

9 We believe if we have continuing access and the
10 authority to request, from time to time, status updates, or
11 to go in and just look and see how things are going, we
12 would definitely be in support.

13 COMMISSIONER MORETTI: Okay. Do I hear a motion
14 to approve that?

15 COMMISSIONER MOSS: I make a motion.

16 COMMISSIONER CHOPER: Seconded.

17 COMMISSIONER MORETTI: Mr. Moss. Seconded by
18 Commissioner Choper.

19 COMMISSIONER CHOPER: I'll second.

20 COMMISSION CHAIRPERSON SHAPIRO: Seconded. All in
21 favor?

22 (Ayes.)

23 COMMISSIONER MORETTI: Any opposed?

24 MR. COUTO: We have to admit, the meeting's moving
25 much faster under Commissioner Moretti.

1 (Applause.)

2 COMMISSION CHAIRPERSON SHAPIRO: You know, I'm
3 going to put you last on that agenda, I'm going to change
4 you from Item Number 2 to Item Number 23.

5 MR. CASTRO: And I won't disappoint you, I'll be
6 here for 23.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
8 thank you, that is Items 15 and 16.

9 And I must tell you, I don't think there's any
10 violation here, I've got to compliment TOC, and the Jockeys
11 Guild. Barry and Drew are walking out hand-in-hand, arm-in-
12 arm, which is amazing. But everyone's worked really hard on
13 this jockey insurance and it's terrific where we are.

14 Item Number 18, discussion and action by the Board
15 on the distribution of race day charity proceeds of the Bay
16 Meadows Racing Association in the amount of \$46,182 to four
17 beneficiaries.

18 I see that Mr. White has stuck around. There is a
19 list attached in our packets, that shows what the -- who the
20 participants are.

21 If there are not any questions -- or there aren't
22 any questions, I would entertain a motion that we accept the
23 charities and approve the distribution.

24 COMMISSIONER MORETTI: So moved.

25 COMMISSION CHAIRPERSON SHAPIRO: It's moved. Is

1 there a second?

2 COMMISSIONER CHOPER: Second.

3 COMMISSION CHAIRPERSON SHAPIRO: Seconded. All in
4 favor?

5 (Ayes.)

6 COMMISSION CHAIRPERSON SHAPIRO: It is passed.

7 Okay, and that brings us to the final item, which
8 is public comment. And I have a card from Jerry
9 Jamgotchian.

10 MR. JAMGOTCHIAN: You know, I don't think I'm
11 going to take my three minutes, I'll try not to.

12 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

13 MR. JAMGOTCHIAN: It depends on your answers,
14 though. When are we going to have a vote on a new Board
15 Chairman? We haven't had one this year. Are we going to
16 have a vote on the new Board Chairman?

17 COMMISSIONER MOSS: I think it's July.

18 MR. JAMGOTCHIAN: July of this year, okay.

19 Secondly, I wrote a letter on February 12th, my
20 attorney wrote a letter to Mr. Shapiro, Mr. Smith, Mr.
21 Knight, it's not been responded to, asking if Ingrid
22 Fermin's going to be appointed a racing steward.

23 Is there a courtesy of a response from the CHRB?

24 COMMISSIONER MOSS: If she so wants to be a
25 steward, we would enable her to do that.

1 MR. JAMGOTCHIAN: Okay.

2 COMMISSION CHAIRPERSON SHAPIRO: You know what, we
3 don't have a response to that at this time. Commissioner
4 Moss is free to speak what his view is, but at this point
5 there's nothing to respond to.

6 MR. JAMGOTCHIAN: Well, the only response from my
7 perspective is, as soon as she is named, we're going to file
8 an action to -- we're going to file a writ of mandate to
9 keep her out of the steward's box because, obviously, she's
10 got a --

11 COMMISSIONER MOSS: And why would you do that?

12 MR. JAMGOTCHIAN: She's got a conflict of interest
13 with many trainers who, in fact, she has filed complaints
14 against, other --

15 COMMISSIONER MOSS: Well, what's that got to do
16 with you?

17 MR. JAMGOTCHIAN: Well, I'm certainly one of the
18 owners that I believe she has a conflict of interest
19 against.

20 So if you appoint her, I'm just guaranteeing you,
21 now, that we'll be in court. Not only me, but other
22 trainers and owners. So just for your information.

23 Additionally, I'd like to thank the CHRB like
24 acting like basically a broken slot machine and paying me
25 another \$19,444 in attorneys fees.

1 COMMISSIONER MOSS: Well, you know who pays for
2 that, don't you?

3 MR. JAMGOTCHIAN: Yes, the taxpayers.

4 COMMISSIONER MOSS: It's the taxpayers.

5 MR. JAMGOTCHIAN: Yeah, and the reason --

6 COMMISSIONER MOSS: So you're taking money from
7 the taxpayers.

8 MR. JAMGOTCHIAN: Right. And the reason why
9 that's so important, Mr. Moss, is because Dr. Arthur's been
10 hiding the necropsy records from us --

11 COMMISSIONER MOSS: You're taking it from the
12 taxpayers.

13 MR. JAMGOTCHIAN: Excuse me. The reason why
14 is --

15 COMMISSIONER MOSS: So what crime is that to you?

16 MR. JAMGOTCHIAN: If you let me finish, I'll tell
17 you why.

18 The crime is that the California Public Records
19 Act is being ignored by the California Horse Racing Board.
20 This is the third time.

21 Listen, if openness, and truthfulness, and
22 transparency aren't important to you, Mr. Moss, then that's
23 fine. I'm just saying that this is the third lawsuit I've
24 filed, the third victory, going on nearly \$60,000 that this
25 Agency has paid me. Don't you think --

1 COMMISSIONER CHOPER: Can I ask you a question?

2 MR. JAMGOTCHIAN: Yeah.

3 COMMISSIONER CHOPER: How many Public Records Act
4 requests have you made?

5 MR. JAMGOTCHIAN: It's irrelevant.

6 COMMISSIONER MORETTI: Oh, irrelevant.

7 (Laughter.)

8 MR. JAMGOTCHIAN: The issue -- the issue
9 is --

10 COMMISSIONER CHOPER: Okay, okay, if it's
11 irrelevant, I won't ask you.

12 MR. JAMGOTCHIAN: The issue is how many lawsuits
13 have I filed --

14 COMMISSION CHAIRPERSON SHAPIRO: It would be over
15 a hundred, is that not correct, Mr. Jamgotchian?

16 MR. JAMGOTCHIAN: Well, if you were transparent,
17 Mr. Shapiro, maybe I wouldn't have that many.

18 COMMISSION CHAIRPERSON SHAPIRO: But the answer to
19 Commissioner Choper is well over a hundred.

20 MR. JAMGOTCHIAN: Big deal, who cares.

21 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

22 MR. JAMGOTCHIAN: Okay.

23 COMMISSIONER CHOPER: Well, I guess my point was
24 that when all of these things have to be investigated, there
25 is a real interest in preserving privacy that has to be

1 overcome by the Public Records Act, but not totally
2 destroyed.

3 So if you've made over a hundred requests, and 97
4 point something of it --

5 MR. JAMGOTCHIAN: I see, it starts, now, we're
6 going to get into the --

7 COMMISSIONER CHOPER: Wait, wait, wait -- are
8 being fulfilled --

9 MR. JAMGOTCHIAN: Well, first off --

10 COMMISSIONER CHOPER: -- then I would say that
11 that is not the worse record in the world.

12 MR. JAMGOTCHIAN: Oh, so you're saying that the
13 violation of the Public Records Act, to the tune of \$60,000
14 is not a big deal?

15 COMMISSIONER CHOPER: I would say that out of a
16 hundred requests --

17 MR. JAMGOTCHIAN: First off --

18 COMMISSIONER CHOPER: Wait, wait, wait, you want
19 to let me finish?

20 MR. JAMGOTCHIAN: Sure, go ahead and finish.

21 COMMISSIONER CHOPER: If you make a hundred
22 requests under it, and after all each of these is a matter
23 of judgment by the Attorney General's staff, that looks over
24 the legitimacy and permissibility, that's the word, the
25 permissibility of responding. And periodically they'll say

1 no, and periodically you're going to lose on those things.
2 That is the cost of protecting the privacy of individuals
3 who have information on the Public Records Act.

4 MR. JAMGOTCHIAN: Well, so far, your CHRB record
5 is 100 percent losers in every issue that I filed.

6 COMMISSIONER CHOPER: Well --

7 MR. JAMGOTCHIAN: In fact, the last issue, let me
8 finish with this, the last issue we were told by the CHRB
9 counsel that they had no chance to win, and they blamed it
10 on the CHRB administration for putting them in such bad
11 cases.

12 And we have another great case that's soon to go
13 to trial, against Mr. Shapiro, and his violation of the
14 Bagley-Keene Act.

15 COMMISSIONER MORETTI: I don't think we're
16 supposed to be talking about anything that's soon -- no
17 cases.

18 MR. JAMGOTCHIAN: I'm just talking about I wanted
19 to thank you for the \$19,440, that's all my request was.

20 Additionally, Mr. Shapiro, to correct the record,
21 at the last meeting you stated that Dr. Arthur was not
22 receiving \$345,000. Your exact words were, "first of all, I
23 think Dr. Arthur would be thrilled if he was earning the
24 \$345,000 that he claimed to be earning."

25 Well, let me tell you, Mr. Shapiro, in your March

1 2nd letter it's stated, "to move forward with the process,
2 assuming that Rick indicates a willingness to do so, we need
3 in writing written assurances that the CHRB will initiate an
4 inter-agency contract with the University that covers a
5 salary of \$200,000, plus benefits total \$55,000, a research
6 budget of \$50,000, a travel budget of \$28,460, and operating
7 expenses of \$12,000, for a total annual budget of \$345,460."

8 Mr. Shapiro, you're lying again. Thank you very
9 much.

10 COMMISSIONER ANDREINI: Sit down.

11 COMMISSIONER MOSS: That's all the expenses, what
12 are you talking about.

13 MR. JAMGOTCHIAN: Excuse me, that's what he's
14 receiving.

15 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
16 Mr. Jamgotchian, your time is up.

17 You know what, and you're done. And, therefore,
18 let me respond to a couple things there.

19 First of all, with respect to the good Dr. Arthur,
20 who's standing there anxious, I'm sure, to respond, the
21 question was that Dr. Arthur is paid \$345,000.

22 Dr. Arthur, do you receive a salary of \$345,000?
23 Excuse me for asking you in open public.

24 EQUINE MEDICAL DIRECTOR ARTHUR: No.

25 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

1 Therefore, that was the response.

2 And, once again, Mr. Jamgotchian, you are twisting
3 the truth in many situations.

4 For example, in the most recent case, where you
5 were reimbursed for attorneys fees and costs, obviously, you
6 did not read the judge's ruling. The judge's ruling did not
7 say that the necropsy reports would be turned over to you
8 but, rather, that the name of the horse, the date of the
9 horse's death, and a few other items were to be turned over
10 to you. The remainder of it, the CHRB acted properly,
11 according to the court, which gave such a ruling.

12 He also suggested, in fact wrote, that your
13 efforts were disingenuous.

14 You are also ignoring the fact that this Board has
15 acted on advice of the Attorney General's Office. This
16 Board has not refused to provide anything.

17 But the truth is that the State law in California
18 dictates that if there is a determination that anything was
19 not delivered pursuant to the Public Records Act, the
20 petitioner, which in this case was you, you are able to
21 receive a full a reimbursement of your attorneys fees and
22 costs.

23 You didn't win anything. This Board didn't act
24 improperly. And, in fact, this Board was between
25 maintaining confidential records, required by law, and we

1 followed the advice of the Attorney General's Office.

2 For one time, try to get your story straight and
3 get it accurate. You continually spread mistruths about
4 everything. You do a disservice to this Agency, you do a
5 disservice to this industry, and it is not appreciated by
6 anybody in it.

7 Dr. Arthur, do you have anything, and we'll be
8 done with the meeting.

9 EQUINE MEDICAL DIRECTOR ARTHUR: I think you
10 stated it quite well. We did have a responsibility, under
11 State law, to protect the confidentiality of certain
12 information that were on those forms.

13 We were advised by the Attorney General's Office
14 not to turn over that information, and the court agreed with
15 it. It's because of these peculiarities in the PRA Act that
16 we are faced with. We did the right thing and I want to
17 congratulate this Board for standing on principle.

18 Secondly, in terms of the Equine Medical
19 Director's contract, this contract had not been adjusted for
20 over 15 years, in the interagency agreement between the
21 University of California and the California Horse Racing
22 Board, and that's all that this takes. This covers the
23 entire expenses of performing my duties as Equine Medical
24 Director, including a research budget that is entirely
25 separate, and none of that goes in my pocket.

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California Horse Racing Board; that thereafter the recording was transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of March, 2008.

Troy A. Ray

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