

BOARD MEETING  
STATE OF CALIFORNIA  
CALIFORNIA HORSE RACING BOARD

GOLDEN GATE FIELDS  
1100 EASTSHORE FREEWAY  
BAYSIDE LOUNGE (TURF CLUB)  
ALBANY, CALIFORNIA

THURSDAY, MARCH 23, 2006

9:03 A.M.

KATHRYN S. KENYON, CSR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Richard B. Shapiro, Chairperson  
Ms. Marie G. Moretti, Vice Chairperson  
Mr. John Andreini, Member  
Mr. William A. Bianco, Member  
Mr. John C. Harris, Member  
Mr. Jerry Moss, Member  
Ms. Ingrid Fermin, Executive Director

ALSO PRESENT

Mr. Derry Knight, Deputy Attorney General

STAFF

Mr. John Reagan  
Ms. Jackie Wagner

ALSO PRESENT

Mr. Barry Broad, Jockey's Guild  
Mr. Ron Caswell  
Mr. Ron Charles, Magna  
Mr. Sherwood Chillingworth, Oak Tree Racing Association  
Mr. Drew Couto, Thoroughbred Owners of California  
Mr. Ed Halpern, California Thoroughbred Trainers

APPEARANCES CONTINUED

Mr. Bill Huntley, Scientific Games

Mr. Jerry Jamgotchian

Mr. Dan Kelliher, Scientific Games

Mr. Doug Kempt, Pari-Mutuel Employees Guild

Mr. Jack Liebau, Hollywood Park

Ms. Jenny Lind, CHRIMS

Mr. Rick Pickering, Alameda County Fair Association

Mr. Bob Siefold, Sony Mobile

Mr. Eual Wyatt, Hollywood Park

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PROCEEDINGS

EXECUTIVE DIRECTOR FERMIN: If we could have everyone's attention, please. Will the meeting come to order.

This is a regular meeting of the California Horse Racing Board on Thursday March 23, 2006, at Golden Gate Fields, 1100 East Shore Highway, Albany, California.

Present at today's meeting is Chairman Shapiro; Vice Chairman Marie Moretti; Commissioner William Bianco is not here yet; Commissioner John Harris; and Commissioner Jerry Moss.

And we're going to be going into executive session at this time, and we will return.

And Marie's not here, so far. Hopefully they will be here soon.

We're going to close at this point and go into executive session.

(Thereupon the Board recessed into executive session.)

CHAIRPERSON SHAPIRO: I would like to welcome everybody again. This is the March meeting, regular Board meeting, for the California Horse Racing Board.

We just concluded the executive session. We need to be out of here, if we can, by post time, because it gets quite loud in here. So we'll do that.

1 First item of business is the minutes. Is there  
2 any discussion with respect to the minutes of the meeting  
3 that was held on February 16, 2006?

4 VICE CHAIRPERSON MORETTI: No.

5 I would move to approve them.

6 EXECUTIVE DIRECTOR FERMIN: There's a motion to  
7 approve.

8 Is there a second?

9 BOARD MEMBER MOSS: Second.

10 CHAIRPERSON SHAPIRO: Any discussion?

11 Being none, all in favor?

12 (All ayes.)

13 CHAIRPERSON SHAPIRO: I'm going to -- We have one  
14 matter that I'm going to take out of order, and this would  
15 be Item Number 8, which is a Memorandum of Understanding  
16 between the California Horse Racing Board and the Jockey's  
17 Guild.

18 Mr. Broad is here and going to be speaking to the  
19 Speaker of the Assembly today to promote horse racing and  
20 make sure we get more money. So I told him we will take  
21 this item first, so we're going to do that.

22 So we'll please hear Number 8, then.

23 MR. REAGAN: Thank you, Commissioners. John  
24 Reagan, CHRB staff.

25 This item has to do with the program that the

1 Jockey's Guild maintains, per Section 19612.9 of the  
2 Business and Professions Code. This is where we take the  
3 uncashed refunds and then provide a health and welfare  
4 program to California jockeys.

5 In the past, up to this point, we have waited  
6 until we have the audited numbers in order to reimburse  
7 the guild. This has caused kind of an undue pressure on  
8 them, in the sense that sometimes it can be 9 to 18 months  
9 after the expenditures have been made before they're  
10 reimbursed, and we're talking millions of dollars here, so  
11 that causes them to play banker for quite a while.

12 This memory -- MOU, Memorandum of Understanding,  
13 will allow us to reimburse them on a more current basis,  
14 based on estimates, 85 percent of last year's, and so on  
15 and a so forth.

16 We feel this is a solution that'll help the guild  
17 and keep the program more viable.

18 CHAIRPERSON SHAPIRO: Thank you. I would like to  
19 add to that, because I was -- I did play a part in the  
20 drafting of this and did work extensively with the Guild  
21 in doing this.

22 I think that this is also going to alleviate a lot  
23 of confusion that we've had in the past, where the Guild  
24 has been forced to take money from other pockets that it  
25 has, to front money for the health and welfare plan, and

1 this is simply the way to do it. There's a true-up at the  
2 end, and I think this is truly in the best interest of the  
3 guild and adheres to the intent of the California health  
4 and welfare plan, so I very much endorse this.

5 MR. BROAD: Barry Broad on behalf of the Jockey's  
6 Guild. Thank you for indulging my time problem.

7 And we would of course appreciate this. The  
8 problem that the Guild has faced for a long time is that,  
9 essentially, this is to benefit that program in which a  
10 million dollars is paid for the benefit of the California  
11 jockeys and their dependents. But what has happened in  
12 the past is that we have to wait a full year afterward  
13 because you spend the money over the course of a year and  
14 then you do an audit of the previous year and then the  
15 audit numbers have to be revealed -- or reviewed by the  
16 Board. And we -- The problem is that it's a significant  
17 cash flow issue for an organization that has a thousand  
18 members nationally.

19 And so what essentially is happening is that all  
20 the jockeys in the rest of the country, because the  
21 jockeys here are paying a reduced amount because of this  
22 subsidy are, in effect, carrying California.

23 So what we're doing now will have sort of a  
24 monthly disbursement, based on 85 percent of the previous  
25 year's audited numbers with a -- as the chairman has

1 pointed out -- with a true-up in the end. And then we'll  
2 figure out what, if anything, to do with that extra  
3 15 percent.

4 So that should work to deal with the cash flow  
5 problem on an ongoing basis. The Board staff have access  
6 to the third party administrator that we use and their  
7 records at any time, so that rather than looking at a  
8 whole year, if at any moment they want to look at what's  
9 happening right now, today, in the last month, in the last  
10 two months, the claims that are being paid, they can do  
11 that. And that would avoid controversies and any other  
12 issues.

13 You know, obviously, we've just come through a  
14 very, very difficult situation with our former management,  
15 and I have to say, I really appreciate the faith that you  
16 have shown in dealing with the current management. We've  
17 had a very difficult situation. We're getting through it.  
18 And we're getting this organization back to where it needs  
19 to be. And we built up, I think, a lot of credibility in  
20 the industry and with regulators, and we're doing the best  
21 we can.

22 So anyway, thank you very much.

23 CHAIRPERSON SHAPIRO: Thank you.

24 Is there any other comment?

25 If there is none, I will entertain a motion to

1 approve this.

2 Is there a second?

3 BOARD MEMBER HARRIS: Second.

4 CHAIRPERSON SHAPIRO: Second?

5 All in favor?

6 (All ayes.)

7 CHAIRPERSON SHAPIRO: It is passed.

8 Now we'll go back to the regular agenda.

9 And Broad will go.

10 The next item on our agenda is Item Number 2,  
11 which is discussion on Application to Conduct Horse Race  
12 Meeting of the Hollywood Park Racing Association.

13 MS. WAGNER: Good morning, Commissioners. Jackie  
14 Wagner, CHRB staff.

15 The application before you is from the Hollywood  
16 Park Racing Association. They are proposing to race from  
17 April the 26th through July 16th for 61 days. They are  
18 proposing to race a total of 525 races, or 8.6 races per  
19 day.

20 They will be racing five days per week, Wednesday  
21 through Sunday, with eight races on Wednesdays, Thursdays,  
22 Fridays, and May 15th, which is a Monday.

23 They will be racing nine or ten races on selected  
24 Saturdays, Sundays, holidays, and on July the 3rd.

25 They're proposing to race nine races on Friday,

1 April 28th; 11 races on Saturday, May 6th and July 8 and  
2 on Sunday, July the 2nd.

3 Their first post time will be 1:20 p.m. daily, and  
4 they are proposing a 7:05 post time for Fridays.

5 We have a couple of items that are still  
6 outstanding on this application, particularly, the  
7 horsemen's agreement and stake schedule.

8 In addition, we have checked with Hollywood Park.  
9 As you know, the last week that they ran, there was a  
10 problem with their turf course. We have received  
11 correspondence from them. I think that has been forwarded  
12 on to you, that the turf course now is in great condition.

13 There is a representative from Hollywood Park  
14 here, if you would like to ask any questions.

15 And staff would propose that you approve the  
16 application, contingent upon us receiving the missing  
17 information.

18 CHAIRPERSON SHAPIRO: Thank you.

19 Mr. Wyatt is in front of us.

20 Mr. Wyatt, could you please update us and perhaps  
21 TOC as well, where we stand on these. As you know, there  
22 was correspondence to the Racing Board that we may be  
23 asked to intercede in the dispute over the stakes.

24 Could you please advise us where that stands? And  
25 I'll ask TOC to in a second.

1 MR. WYATT: As has been stated --

2 CHAIRPERSON SHAPIRO: Please state your name.

3 MR. WYATT: Eual Wyatt, Hollywood Park.

4 As has been stated, we do not have a complete  
5 agreement yet. We have an agreement as to the language in  
6 the first agreement. We have been working the past  
7 couple, three days, trying to reach an agreement.

8 My personal feeling is that both sides are making  
9 a good faith effort. There is a proposal on the table at  
10 the moment. I'm more optimistic than pessimistic that  
11 this will be resolved shortly.

12 CHAIRPERSON SHAPIRO: Well, you know, it puts us  
13 in a spot that we're asked to approve a license  
14 application that's not complete.

15 And another question I'm going to ask about is the  
16 ADW agreements, because what we don't want to find is that  
17 there is some matter that could affect the industry by  
18 having an incomplete application. And I don't think it's  
19 fair to the Board that we're being asked to approve  
20 something that's not complete.

21 So I would like to have some assurance that we  
22 know that this matter will, in fact, be resolved between  
23 the parties, that we don't have to worry about calling a  
24 special meeting, or that a race is going to be  
25 interrupted, I guess.

1           BOARD MEMBER HARRIS: I guess there is some method  
2 of arbitration. It needs to go to arbitration or  
3 something, or negotiations.

4           CHAIRPERSON SHAPIRO: Unfortunately, this comes  
5 down to the wire and all too often, we sit up here and  
6 things come down to the very last minute. And it puts us  
7 in a very unfair position.

8           I don't think we should be asked to be approving  
9 things at the very last minute. And we get deluges of  
10 information or we get last minute calls for help.

11           So I don't think what the impasse is. I certainly  
12 would hope that the parties work it out themselves. But  
13 while I do appreciate that we have been meeting for the  
14 last few days, I don't know what the holdup is, and I  
15 would like to know what the holdup is.

16           So if TOC or Hollywood Park can tell us, I mean, I  
17 appreciate you're closer than being further away.

18           MR. WYATT: I understand. And certainly we all  
19 wish we were closer or give you some definitive answer. I  
20 can't.

21           I can only tell you that, as with most  
22 negotiations for agreement, there is a difference of  
23 opinion, and I'm not making a statement that we're right,  
24 they're wrong, or vice versa. We are trying to work on a  
25 compromise situation, and I am relatively confident that

1 that will happen. I cannot guarantee it, sir.

2 CHAIRPERSON SHAPIRO: Well, but aren't we placing  
3 the state of California and all the horsemen's vested  
4 interests in your relative comfort and isn't that -- I  
5 mean, maybe what we should do is say that these agreements  
6 have to be in place by the time this application is  
7 submitted, and not the Board meeting. And that if it's  
8 not done, we will decide it at the time there's a Board  
9 meeting.

10 MR. LIEBAU: Chairman Shapiro, my name is Jack  
11 Liebau from Hollywood Park.

12 There have been times in the past, not relatively  
13 recently, but where Horsemen's agreements have had to be  
14 negotiated after the licenses. I can remember that, for  
15 instance, when Chairman Scurfield was the chairman and  
16 George Nicholas was on, there was a big flap about the  
17 proprietary rights that various entities had the track  
18 versus the horsemen.

19 That discussion went on for a considerable period  
20 of time. I, for one, do not think that the Board can put  
21 us in a position where we have to have an agreement,  
22 because otherwise, you know, we have no leverage. If  
23 you're going to say we can't have a license, we don't have  
24 an agreement.

25 And I would also point out that in the

1 regulations -- I think it's 2022 -- there's a specific  
2 reference to what happens. And that is that either side  
3 can request a hearing before the Horse Racing Board on the  
4 matter. And that's how it gets determined.

5 So at this point in time we do think that we are  
6 relatively close to an agreement, but as Mr. Wyatt said,  
7 we can give you no guarantee of that, and we would at this  
8 time request that the hearing be noticed in the event that  
9 we don't reach an agreement.

10 CHAIRPERSON SHAPIRO: Well, do you --

11 MR. LIEBAU: So I don't think anybody's at risk  
12 here.

13 CHAIRPERSON SHAPIRO: Then what happens if you  
14 don't reach an agreement?

15 MR. LIEBAU: Then you would have the hearing that  
16 you would notice under that regulation would take place,  
17 and the Horse Racing Board would decide how the matter  
18 should be resolved.

19 BOARD MEMBER HARRIS: I think that's a good way to  
20 handle it. But to do that, we do need the ten-day notice  
21 and all that, so we need to decide if there's some  
22 deadline, that we --

23 MR. LIEBAU: I would suggest that you give the  
24 notice immediately.

25 CHAIRPERSON SHAPIRO: And I guess what I'm saying

1 is that perhaps what we should do is by the date these  
2 applications have occurred, that the deadline to do it is  
3 going to be earlier than the date we hear this.

4 I mean, my objection here is that we're being  
5 asked to approve a license application that is incomplete,  
6 and I don't think this Board should be approving  
7 incomplete license applications.

8 Therefore, if I follow your logic, what we should  
9 do is set a date that if you want your license application  
10 to be heard, you must have all agreements in place 10 days  
11 prior to the Board meeting -- or 11 days prior.

12 And if it's not complete, then we'll hold a  
13 hearing the date of the Board meeting to make that  
14 determination to approve the license application.

15 MR. LIEBAU: Whatever procedures you think are  
16 appropriate is the way it should be, Chairman.

17 CHAIRPERSON SHAPIRO: That doesn't change any  
18 leverage in the negotiation. It simply makes parties get  
19 together sooner.

20 MR. LIEBAU: Believe me, we're not looking for  
21 leverage.

22 CHAIRPERSON SHAPIRO: Well you just said it takes  
23 away leverage. I'm just responding to what you said.

24 MR. LIEBAU: The leverage is that if -- If, as it  
25 is reasonably stated at some Horse Race Board meetings,

1 that you have to have an agreement with the horsemen prior  
2 to being licensed, which I don't think has been the  
3 precedent over the years or what is contemplated by the  
4 regulations. Then you're putting the tracks in a bind,  
5 where they have to, you know, agree no matter what.

6 The tracks have -- First of all, the tracks have  
7 an obligation to put on the best possible show that they  
8 can.

9 CHAIRPERSON SHAPIRO: We agree on that.

10 MR. LIEBAU: And, you know, the difference of  
11 opinion now, between the horsemen and the track, here, as  
12 to what's the best show.

13 CHAIRPERSON SHAPIRO: So are you saying that you  
14 don't feel you have -- there's an obligation of the Racing  
15 Association to have an agreement with the horsemen, as a  
16 condition to their license?

17 MR. LIEBAU: I think that you can condition it on  
18 that. You can say that you have to have the horsemen's  
19 agreement prior to the meeting opening. I don't see any  
20 problem with that.

21 You condition licenses for many, many years, for  
22 instance on having to have fire clearances and things like  
23 that. It's just a regular course as it happens.

24 Here, in this instance, you would be saying that  
25 there's going to be a hearing and at that hearing

1 presumably, the Board, you know, has within their power to  
2 decide what should happen. That's it.

3 And from our posture, we have no problem with the  
4 Board doing that in this instance.

5 CHAIRPERSON SHAPIRO: Well --

6 Go ahead.

7 EXECUTIVE DIRECTOR FERMIN: This past year we have  
8 been consistent in that all of the -- I think every  
9 license that has been issued, we did put out a memo to  
10 everybody and we did want the agreements in place.

11 I think there was one time with one of the meets  
12 up here in northern California, that we were guaranteed  
13 that we would have it at the meeting, which they did, but  
14 we have been very consistent this past year.

15 CHAIRPERSON SHAPIRO: You know, it also goes to --  
16 You're a month away from opening, and we wish you the most  
17 success possible, obviously.

18 How can you even advertise what you're doing if  
19 you don't even know what your stake schedule is? So  
20 doesn't just the logic of it dictate that you need to know  
21 this as quickly as possible?

22 And if we weren't being asked to approve a license  
23 application, aren't we also required to understand all the  
24 facts that are pertaining to that license, which you do  
25 include that there's an agreement with the horsemen?

1           And yet, we're being asked to approve a license  
2 application that is incomplete today. And I'm not saying  
3 it's your fault.

4           MR. LIEBAU: Mr. Shapiro, I'm faced with a  
5 situation of maybe having to cut -- If I can see right  
6 now, I probably will have to cut my stake schedule by  
7 \$450,000. I'm unwilling to do that.

8           CHAIRPERSON SHAPIRO: But --

9           MR. LIEBAU: Let me finish.

10          And I think that all we're doing is, we're asking  
11 for some time. We're asking for the Board to go ahead,  
12 under the procedures that are outlined in the regulation  
13 and notice the hearing. And if we can't arrive at a  
14 decision with the horsemen, then the Board is going to do  
15 that within ten days, if you notice the hearing today.  
16 That's all.

17          BOARD MEMBER HARRIS: I think that seems like a  
18 logical solution to me.

19          If there is a true impasse in the negotiations  
20 that aren't resolved by the time of the hearing, the Board  
21 is just going to have to come up with what they felt was  
22 the best solution.

23          CHAIRPERSON SHAPIRO: I agree with you.

24          I just wish that in the future, from this point  
25 forward, we could mandate that it's done 11 days -- that

1 the horsemen's agreement must be done 11 days before, and  
2 we can hear it at the regular meeting.

3 BOARD MEMBER HARRIS: None of these issues are  
4 issues that are new to us -- Nothing that anyone knows now  
5 on the overall case that we didn't know 60 days ago.

6 CHAIRPERSON SHAPIRO: Mr. Couto?

7 MR. COUTO: Drew Couto, Thoroughbred Owners of  
8 California.

9 First, I want to thank Mr. Wyatt for his efforts  
10 over the past few days to resolve this. He's been great  
11 to work with, and I share some degree of optimism that he  
12 expressed, that we're going to come to a resolution here  
13 very shortly.

14 As far as the tardiness of some of these  
15 agreements, the TOC horsemen's agreement requires the  
16 racetrack to provide to us a stake schedule, 90 days  
17 before they submit their application.

18 And unfortunately, not every racetrack does that;  
19 they submit them to us at the last minute.

20 I'll give you an example, though, who does it  
21 correctly.

22 Del Mar -- we just decided their stakes, an  
23 overnight schedule this past week. There's no problem.  
24 That contract will be executed in the next few weeks.

25 Fairplex, typically, is well out of the curve,

1 again, getting it to us usually four or five months in  
2 advance. They never have a problem with us.

3 So we get in these binds with the racing  
4 associations for whatever reasons, and I'm sure there are  
5 some legitimate business concerns. Get these materials to  
6 us either at the same time as the application or just  
7 before the application.

8 I have a board that is not easy to get together,  
9 to review these stake schedules. They are busy. They are  
10 out there. So we've asked for 90 days' lead time so we  
11 can coordinate with them and go over this.

12 The particular situation Mr. Liebau is referring  
13 to is the fact that, as I understand it, that their race  
14 stakes have been cut by three days, two weekend days, and  
15 that was last year some time. And now we are confronted  
16 with the way they shift monies to stay under the high  
17 stakes percentage in the state that they have in terms of  
18 monies. And so there's a bit of a disagreement here.  
19 There's give and take. But as I said, Mr. Wyatt's been  
20 very helpful, very cooperative, and I'm optimistic that  
21 we'll get there very shortly.

22 CHAIRPERSON SHAPIRO: Well, okay.

23 I guess what we'll do is, we should give notice  
24 today that we will hear the matter -- if it's not resolved  
25 in ten days -- at a special meeting.

1           Can you, while you're there, Mr. Liebau, can you  
2 tell us, Are the ADW agreements in place? I'm concerned,  
3 as you know. I don't want to see any interruption of your  
4 ADW program. And I'm responding to prior e-mails and  
5 discussions we've had, just to make sure that it's in  
6 place for you.

7           MR. LIEBAU: Well, we have a contractual  
8 relationship with TVG.

9           The horsemen represented by the Thoroughbred  
10 Owners of California at any time can, under the Interstate  
11 Racing Act, can revoke or prohibit the signal being sent  
12 out of state.

13           My understanding of what's going on at this point  
14 in time in the industry is that there is discussions going  
15 on between TVG on one hand and I think Magna on the other  
16 hand, pursuant to the direction of Senator Florez. In  
17 those discussions, while I have no idea as to what they  
18 are talking about, I think that they are proceeding, and  
19 the outcome is promising. And I have every hope that  
20 Hollywood Park will be able to pursue it under its  
21 existing contract with TVG.

22           CHAIRPERSON SHAPIRO: Well, I just want to make  
23 sure that there's -- I would like just like to hear from  
24 the parties that there's nothing that's going to interfere  
25 with your meet and you would be able to conduct it.

1 MR. LIEBAU: I would hope that nothing would  
2 interfere with our meet, and I very much appreciate your  
3 concern.

4 But the horsemen have been a lever, so to speak,  
5 under the Interstate Horse Racing Act.

6 BOARD MEMBER HARRIS: My concern is to we went  
7 through this thing -- on Christmas Eve, getting calls  
8 about it. If there's some issues between the different  
9 parties, we need to get them on the table now rather than  
10 wait till the day before the meet, and there's a big --

11 CHAIRPERSON SHAPIRO: And Mr. Couto is standing  
12 behind you, and I want to hear the same from you that we,  
13 I believe, just we're not trying to interfere in whatever  
14 contractual negotiations are taking place. Because it's  
15 not our place to decide what the terms of those agreements  
16 are, but what we do care about is that you will have the  
17 best opportunity for success, and to utilize ADW to the  
18 fullest extent. So Mr. Couto, could you also give us that  
19 assurance?

20 MR. COUTO: I don't know what assurance I can give  
21 you. What I can tell you is that with regard to Bay  
22 Meadows, and Mr. Liebau knows that TOC agreed with the hub  
23 fee rate that was being charged by TVG for wagers placed  
24 on Bay Meadows races. That was never an issue as to what  
25 they were compensated for using our product.

1           The issue has dealt solely with the imported races  
2 and the hub fee there.

3           So I don't know how we're going to end up at the  
4 Hollywood Park meet. I'm hopeful that these discussions  
5 going on will, in fact, be productive. But I think you  
6 also need to be aware that not only is ADW an unresolved  
7 matter, but all of the interstate transmissions of the  
8 Hollywood signals are not yet resolved.

9           Hollywood has, I think, by virtue of the purchase  
10 agreement, licensed CDSN, Churchill Downs Simulcast  
11 Network, to negotiate all of the out-of-state contracts  
12 for the sale of the Hollywood Park signal on our behalf  
13 and on behalf of Hollywood Park.

14           We encouraged CDSN staff to begin that process in  
15 January, which is -- December 26th, which is basically the  
16 beginning of the California racing year so that we could  
17 maximize the return for all California tracks. But CDSN  
18 views the start of its racing year to be the start of the  
19 Churchill meet, which coincides with the start of the  
20 Hollywood Park meet, and did not want to negotiate  
21 Hollywood Park or Bay Meadows rates with the rest of us.

22           So we spoke to them as recently as the beginning  
23 of this week as to what the status of those negotiations  
24 were, and we're somewhat in the dark. So you've got the  
25 ADW up in the air, and you've got the Interstate Simulcast

1 up in the air, and until CDSN gets back to us -- We're  
2 hopeful it will be worked out, but they have some  
3 independent, corporate objectives that they seem to  
4 superimpose on top of the negotiations for their signals.  
5 And I'm just -- We've warned them that we do not want the  
6 California signals to be impacted because of Churchill's  
7 out-of-state interests also.

8 So that remains an issue as well.

9 BOARD MEMBER HARRIS: Because those are  
10 essentially bigger issues in my mind than the stakes  
11 issue.

12 MR. LIEBAU: I can assure this Board that  
13 Hollywood Park racetrack has also advised Churchill Downs  
14 that they should be dealing with our signal separately and  
15 that it should not be detrimentally impacted by any  
16 bundling.

17 CHAIRPERSON SHAPIRO: So --

18 MR. LIEBAU: I'm sure that Churchill Downs will  
19 carry out their contractual obligations.

20 I would assume that the Hollywood Park signal will  
21 not be sold for less than it is sold by other tracks in  
22 this state.

23 BOARD MEMBER HARRIS: As I understand it, the  
24 actually fee on the import races are bet in California,  
25 but the import fee, that fee is set by the track with the

1 ADW provider. And that was a part of a dispute as far as  
2 linking that fee to other fees.

3 But has that fee been set for this year?

4 MR. LIEBAU: I think you have reference to the hub  
5 fee that is payable in connection with wagers made by  
6 California residents on races conducted outside the state  
7 of California.

8 BOARD MEMBER HARRIS: That's right.

9 MR. LIEBAU: And we at Hollywood Park are not a  
10 party to those negotiations. Those negotiations take  
11 place between the ADW provider and the host or the sending  
12 track.

13 As to the hub fee, I think that you have this  
14 question as to who has the right to set the hub fee. And  
15 as you will recall from some discussions around --  
16 probably don't want to recall -- around Christmas Eve,  
17 I've always thought that that hub fee is determined in  
18 accordance with the law which says that it's between a  
19 licensee and an ADW provider. There is a difference of  
20 opinion on that, I take it, in whether it's somehow the  
21 California Horse Racing Board has the right to set that  
22 fee and then somehow --

23 CHAIRPERSON SHAPIRO: We're not getting into that.

24 MR. LIEBAU: No, but this is a whole issue that  
25 I'm a bystander in.

1           BOARD MEMBER HARRIS: I mean, I think the law is  
2 fairly clear that it is the track, but it is a fee -- I  
3 mean, is that fee set? I mean, at least is that the known  
4 number at this point?

5           MR. LIEBAU: I'm not sure that it is, Mr. Harris.

6           I think that we have CHRIMS saying it's one thing  
7 and somebody else thinking it's something else. And I  
8 would say the confusion seems to be running rampant, and  
9 hopefully it will be somehow clarified or resolved by  
10 these discussions that are going on, to which I'm not a  
11 party.

12          MR. COUTO: Drew Couto, again, on behalf of  
13 Thoroughbred Owners of California.

14          I would like to point out, Mr. Harris, that if you  
15 look at the contract between Bay Meadows and TVG, for  
16 example, there is no provision in that contract that  
17 relates to the hub fee on out-of-state signals.

18          The only hub fee mentioned in there is the hub fee  
19 relating to that which is charged for Bay Meadows's  
20 signals.

21          So if you look at all the contracts -- In fact,  
22 going back, it's never been addressed; it's always been  
23 addressed by TFC. And a year ago, when Mr. Liebau started  
24 running Bay Meadows before he signed with TVG, he was kind  
25 enough to call me and say, "What's the rate going to be?"

1 Just make sure that when I write the contract that  
2 whatever rate you eventually negotiate with TVG or whoever  
3 else applies to our contract, and I thought we would work  
4 together on getting that language so he was protected.

5 So I think the practice has been -- and this is  
6 probably not the right time to discuss this. But I just  
7 want to clarify for you, the contracts between the  
8 racetracks and the ADW providers are silent as to what the  
9 hub fee is on those important races, and that, I think, is  
10 a further reflection of the fact that TOC has been the one  
11 negotiating.

12 CHAIRPERSON SHAPIRO: I don't think we should get  
13 into that debate on who's -- That's a whole different  
14 matter, which is on our agenda later. And I don't want to  
15 go there.

16 Again, I think that what we're looking for is just  
17 some assurance that this matter is going to be able to be  
18 handled in a way that doesn't interrupt or impede the  
19 progress and the success of the meeting. And that's where  
20 we're coming from.

21 MR. JAMGOTCHIAN: Members of the Board, my name is  
22 Jerry Jamgotchian.

23 I have a question with regards to the application.  
24 Number 11, security controls.

25 CHAIRPERSON SHAPIRO: Okay. Go ahead.

1 MR. JAMGOTCHIAN: Thank you very much. Item 11  
2 under security controls talks about the established  
3 members, security guards, people that are going to handle  
4 the security at the track.

5 It states that "on all graded/stakes races and  
6 races of \$100,000 or more, we will have an officer  
7 assigned to each horse six hours out. This officer will  
8 be equipped with a video surveillance camera and a  
9 security radio." Then it goes on to say they have  
10 additional agents to monitor the security enforcement.

11 I've got a couple questions with regards to this  
12 issue.

13 Number one, at Santa Anita, this year, I think it  
14 was the Santa Anita handicap date, there were 44 horses  
15 that were entered in the races in these graded races in  
16 excess of a hundred thousand dollars.

17 In looking at the video equipment for Hollywood  
18 Park, it shows that eight DHC-35 Sony cameras and six  
19 DHC-367 Sony cameras, for a total of 14 cameras.

20 How are you going to monitor 40 horses with 14  
21 cameras?

22 That's my first question.

23 Can I get a response to that?

24 MR. WYATT: I think the reference to the cameras  
25 is cameras that are used by the RTV. There's no reference

1 in this application as to how many handheld cameras we  
2 have or don't have.

3 MR. JAMGOTCHIAN: Do we know how many handheld  
4 cameras that they have --

5 MR. WYATT: Yes. We will have as many as it  
6 takes. And at all of the stake days in the past, every  
7 course has had an individual officer and a camera.

8 MR. JAMGOTCHIAN: The reason why I bring this up  
9 is on Santa Anita handicap day on March 14th, a  
10 million-dollar race in which Mr. Moss's horse, Giacomo,  
11 was in this race, Santa Anita had 27 cameras for these 40  
12 horses or so.

13 CHAIRPERSON SHAPIRO: Mr. Jamgotchian. We're  
14 not --

15 MR. JAMGOTCHIAN: Excuse me.

16 CHAIRPERSON SHAPIRO: No, no.

17 MR. JAMGOTCHIAN: You're interrupting me.

18 CHAIRPERSON SHAPIRO: I know I'm interrupting you.

19 This has to do with the Hollywood Park license  
20 application.

21 MR. JAMGOTCHIAN: I understand.

22 CHAIRPERSON SHAPIRO: We're discussing that  
23 application. We are not discussing what took place at  
24 Santa Anita at any time, at all.

25 So if you have a question pertaining to this

1 application, then --

2 MR. LIEBAU: Mr. Shapiro, maybe I can just say  
3 that there will be a guard at each -- at the stall of each  
4 horse, and each guard will have a camera. And that's it.  
5 There's no question about that. Okay.

6 CHAIRPERSON SHAPIRO: Thank you. Okay. Thank  
7 you.

8 MR. JAMGOTCHIAN: Thank you.

9 With regards to the stall watching, can you assure  
10 us that the stall watchmen will be CHRB-licensed?

11 CHAIRPERSON SHAPIRO: They are not required to be  
12 CHRB-licensed, to my knowledge.

13 EXECUTIVE DIRECTOR FERMIN: You use an independent  
14 contractor.

15 MR. LIEBAU: We use an independent contractor. I  
16 may say that we have a history of doing this at Bay  
17 Meadows, and it has worked quite well.

18 I would say that we have the same sort of a system  
19 at Hollywood Park. Our track record on this, I think, is  
20 exemplary, and we have done a good job at Bay Meadows.  
21 And we intend to do a good job at Bay Meadows.

22 BOARD MEMBER HARRIS: I think we need to look at,  
23 in whole, all those protocols involved in the  
24 communications capabilities and the whole system to make  
25 sure that it's what we want it to be, because a lot of

1 money gets spent on that.

2 CHAIRPERSON SHAPIRO: Mr. Jamgotchian, I wasn't  
3 done asking my questions, so if I can finish.

4 MR. JAMGOTCHIAN: I will be happy to wait first.

5 CHAIRPERSON SHAPIRO: Thank you.

6 Mr. Liebau, on your application, it states that  
7 there is the Kerlan-Jobe orthopedic jockey position. Is  
8 that an actual doctor that is on the premises?

9 MR. LIEBAU: Just to give you some background, we  
10 have a long relationship with the Kerlan-Jobe Association,  
11 and they supply us, I believe, at our last meeting, three  
12 different physicians who share the duty, and there is one  
13 of them there every day.

14 CHAIRPERSON SHAPIRO: So there is a doctor on the  
15 premises during the race?

16 MR. WYATT: That's correct.

17 CHAIRPERSON SHAPIRO: Fine.

18 With respect to the various sites that are  
19 attached as Attachment A -- and this is going to pertain  
20 both to this application and also to the Bay Meadows  
21 application, so you may want to answer them jointly -- it  
22 lists all these facilities that receive the signal.

23 And in my looking at it, I wanted to know, are any  
24 of these facilities that are out of country, are they all  
25 going through our pari-mutuel approval?

1 MR. WYATT: They all go through the pari-mutuel  
2 approvals.

3 If you can give me a moment, so I can find it.

4 CHAIRPERSON SHAPIRO: And I might tell you that if  
5 you have your book, it might be easier if you actually  
6 look at Bay Meadows.

7 MR. WYATT: Well, if you look at the schedule, at  
8 the end of the schedule there is Suffolk pool.

9 It begins with Arima Race Club.

10 CHAIRPERSON SHAPIRO: I think that's on the Bay  
11 Meadows one. But that's fine.

12 MR. LIEBAU: Those would be similar.

13 CHAIRPERSON SHAPIRO: Fine.

14 So let me ask a question.

15 MR. WYATT: Sure.

16 CHAIRPERSON SHAPIRO: How are we -- If they are  
17 going through separate pools, how are we assured these are  
18 not illegal, off-shore bookmakers and that we're getting  
19 the benefit of that review?

20 I'm unclear as to how -- When I look at these  
21 names and I see Aruba and what -- I don't even know where  
22 BAH is.

23 MR. WYATT: Well, we need to be talking about the  
24 same list.

25 CHAIRPERSON SHAPIRO: I'm looking at the Bay

1 Meadows one, but I'm assuming they are the same for  
2 Hollywood Park and the names were different and the  
3 schedules were different.

4 I see Barbados. I see Aruba. I see Curacao, St.  
5 Kitts.

6 And how do we know that these are legal entities  
7 and not off-shore -- illegal off-shore bookmakers?

8 MR. WYATT: I think we need to clarify again in  
9 what section of the list we're looking at.

10 CHAIRPERSON SHAPIRO: Okay.

11 I am looking at Page 6 of the Bay Meadows  
12 application, if you have that one in front of you.

13 It is presented differently and it is easier for  
14 me to decipher.

15 MR. WYATT: I think if you start at the beginning  
16 of that, I believe it's Australia, St. Croix, Aruba,  
17 Australia, Curacao, Europe, St. Kitts, etc., Barbados.

18 These are common pool sites. Those come through  
19 our inter-pools. There is a section after that that says  
20 separate pool.

21 CHAIRPERSON SHAPIRO: Correct. I'm now looking at  
22 the separate pools.

23 BOARD MEMBER HARRIS: You're looking at the  
24 separate pools.

25 CHAIRPERSON SHAPIRO: I'm looking, but I see where

1 Mr. Wyatt's looking. It says "separate pools."

2 And in there I see all these names and I'm asking,  
3 how -- What benefit are you as a track, are the horsemen,  
4 and State of California getting from that? And how do we  
5 know they are not illegal, off-shore bookmakers?

6 MR. COUTO: Mr. Shapiro -- Drew Couto from  
7 Thoroughbred Owners of California.

8 Let me see if I can help out here.

9 The illegal companies that you're concerned about  
10 are likely coming in through the commingled pools, not  
11 through the separate pools. They need the depth of the  
12 pool, they need the ability to lay off the wager and  
13 receive, in return, a track pay-off. So the concern about  
14 the illegals is they typically acquire accounts at some of  
15 our legal sites, and then bet as individuals and lay off  
16 their risk that way.

17 This is an issue that we've raised about certain  
18 of our sites and what sort of oversight and regulation we  
19 have elsewhere, but that's not the issue here.

20 The issue with regard to the separate pools, the  
21 separate pools are typically currency conversion issues or  
22 limitations on the ability to transfer funds  
23 internationally, and what happens there is a company -- a  
24 country doesn't appear on here, but in Venezuela, say,  
25 they will create a separate pool. The odds are then

1 determined based on the money in that pool. And we  
2 receive -- in the same way we receive a percentage fee  
3 from a common pool, we receive a percentage fee from a  
4 separate pool.

5           The third and final arrangement here is the flat  
6 fee. And that would be something like we receive from  
7 Caliente. Caliente doesn't operate purportedly in the  
8 same fashion that a pari-mutuel does. They are a hybrid,  
9 pari-mutuel book operation. And so we have to estimate,  
10 based on reports that we get, what a percentage recovery  
11 is on a day, so we receive compensation based on a per day  
12 fee, rather than a percentage of the pool from bookmakers.  
13 So it's the same way it used to work, I think, on getting  
14 booked bets. So we've three different scenarios: common  
15 pool, separate pool, flat fee.

16           And it's the common pool where it really -- that  
17 risk that you're talking about arises. And how we protect  
18 ourselves is the 64,000 dollar question. And I think  
19 that's something that the committee started looking at  
20 yesterday and discussing.

21           CHAIRPERSON SHAPIRO: All right. Thank you.

22           BOARD MEMBER HARRIS: I think we have to -- It  
23 could well be the illegal bookmakers everywhere. It  
24 wouldn't necessarily be listed here. I mean, you have  
25 Joe's bar in Brooklyn. It's not listed here, but they may

1 well be taking bets, but we don't really know that.

2 But my concern would also be, though, that the  
3 ones are in separate pools, that there's an audit trail  
4 for at least some collection capability of following up on  
5 those.

6 MR. LIEBAU: Well, there are illegal bookmakers in  
7 the world --

8 BOARD MEMBER HARRIS: Right.

9 MR. LIEBAU: -- whether it's Ladbroke or whoever  
10 it is.

11 CHAIRPERSON SHAPIRO: Mr. Liebau, I know that you  
12 put in a 5/16ths camera last year. I believe last year  
13 the recommendation was to raise it up.

14 MR. WYATT: At Hollywood Park we did not have a  
15 5/16ths camera. They had one at Bay Meadows.

16 CHAIRPERSON SHAPIRO: I've got them mixed up.

17 MR. LIEBAU: We're raising it at Bay Meadows.

18 CHAIRPERSON SHAPIRO: You're raising it at Bay  
19 Meadows. Is there a 5/16ths camera?

20 MR. WYATT: My sense of the communication is that  
21 we have purchased a camera and the necessary software and  
22 hardware and we anticipate it being operable by the  
23 opening of our meeting. And I also indicated that I'm  
24 sure there will have to be some adjustment, but, yes, we  
25 do have a camera.

1 CHAIRPERSON SHAPIRO: Great. Terrific.

2 On the certificate of line building, it shows  
3 here, that was presented us, am I assuming that is just  
4 workman's comp? Is that correct?

5 I wish I could give you -- It's attachment C.

6 We should have page numbers on this. It would be  
7 easier for everybody.

8 MR. WYATT: The one I'm looking at in particular,  
9 yes, is -- appears to be just workman's comp.

10 CHAIRPERSON SHAPIRO: And now I will direct this  
11 to staff.

12 Do we get an insurance certificate for general  
13 liability and all of the others that've been reviewed?

14 MS. WAGNER: Yes.

15 CHAIRPERSON SHAPIRO: I wanted to thank you.  
16 You've been very diligent.

17 I met with Mr. Ziegler on the marketing plan and  
18 so forth, and I brought it here for anybody else on the  
19 Board that wanted to see it. So I'm not going ask any  
20 questions.

21 I also wanted to say that as I understand it,  
22 you're building a new area called the Ascot Terrace which  
23 looks terrific, and it looks like it will be very good.

24 MR. LIEBAU: The purpose of that, if I might just  
25 add, is that instead of having the concert in the back

1 that is sort of detached from the racing operation, we're  
2 trying to move it to the front so that it will be  
3 something that will continue through the entire racing  
4 program.

5 CHAIRPERSON SHAPIRO: I thought it was a great  
6 move. I think it's great that you're going to expose  
7 those people to actually be able to see the racing and be  
8 part of the racing, and I thought it was a great use of  
9 funds.

10 My last thing is that I know you and I had a  
11 conversation earlier this week, and I would simply like to  
12 confirm that you have agreed that you will be posting a  
13 \$4 million letter of credit in favor of the Racing Board  
14 in addition to the million dollars which -- in excess of  
15 the million dollars which you now have. Correct?

16 MR. LIEBAU: Yeah, that is correct.

17 CHAIRPERSON SHAPIRO: And that would be posted  
18 before the beginning of the race meeting.

19 MR. LIEBAU: We'll be working diligently with the  
20 staff to have the precise language --

21 CHAIRPERSON SHAPIRO: And staff will work  
22 diligently with you.

23 MR. LIEBAU: I suspect that they will.

24 CHAIRPERSON SHAPIRO: Okay. I have no other  
25 questions.

1           Anybody else at the Board have questions for this?

2           BOARD MEMBER HARRIS: I can't recall the date --  
3 the actual dates of racing. I thought the last dates we  
4 decided, we were trying to eliminate six to eight weeks as  
5 much as possible, yet I see a date on there, May 15th.

6           MR. WYATT: Commissioner Harris, you are correct.

7           It certainly is our intention to limit those days.  
8 What we have done in these -- in assigning days of racing,  
9 we have tried to accommodate the 4th of July weekend,  
10 which would cause us -- if we hadn't made some change to  
11 run seven straight days. So we have eliminated seven days  
12 in that week and the week, I believe, prior to it.

13           We've added a Monday primarily just to make up a  
14 day. We aren't changing the number of days at 61, but  
15 we're basically trying to accommodate the long 4th of July  
16 weekend.

17           BOARD MEMBER HARRIS: It looks like you prefer to  
18 have a six-day week on the week of May 14th rather than  
19 the week of July 2nd.

20           MR. WYATT: That's correct.

21           BOARD MEMBER HARRIS: Was that the dates that were  
22 approved originally?

23           Is this going to overlap the same way in the  
24 north? The Bay Meadows shows they don't race that day.

25           MR. LIEBAU: We probably will accommodate and make

1 a switch then.

2 BOARD MEMBER HARRIS: Well, my concern is just if  
3 we've got the horses to ride, it's just with short field  
4 is all, six-day weeks do take a toll.

5 CHAIRPERSON SHAPIRO: Any other comments from the  
6 Board?

7 Any other comments from the audience?

8 MR. JAMGOTCHIAN: Yes. Continuing my comments --  
9 Jerry Jamgotchian, Mr. Chairman and members of the  
10 Board -- relating to security controls.

11 Since this application is complete, to include in  
12 here the amount of security cameras that will be available  
13 for the stall watchmen.

14 CHAIRPERSON SHAPIRO: Well, they've already told  
15 us that they will have -- for the stakes of a hundred  
16 thousand dollars and over, that they have assured us that  
17 they will have a camera available for each of those horses  
18 along with a guard. So I think that we --

19 MR. JAMGOTCHIAN: You're comfortable with that;  
20 correct?

21 CHAIRPERSON SHAPIRO: Yes, sir.

22 MR. JAMGOTCHIAN: And what happens if that's  
23 violated, if they don't have that, and they don't protect  
24 the bettors as well as the owners, and we don't have  
25 another Intercontinental experience happen.

1           CHAIRPERSON SHAPIRO: Mr. Jamgotchian, I assume  
2 there's not much I can do at this stage.

3           If they don't adhere to our rules, then they will  
4 be subject to sanctions and actions at the Board at that  
5 time.

6           MR. JAMGOTCHIAN: And that's acceptable to you;  
7 correct?

8           CHAIRPERSON SHAPIRO: Yes, that's acceptable to  
9 me.

10          MR. JAMGOTCHIAN: Fair enough.

11          With regards to the stall watchman, is it the  
12 Board's position that the person that works for the  
13 security company that Hollywood Park hires to then watch  
14 the horse and videotape the activities of the vet or  
15 whoever, the stall watchman. When this person's hired by  
16 this security company, are there any background checks  
17 done on that person? Could that person potentially be a  
18 felon, a race fixer, or a bookmaker, who now is acting as  
19 a security watchman?

20          To me, it's interesting that we're concerned with  
21 videotaping the stakes horses. I have stakes horses that  
22 are going to be monitored under the process. But I'm a  
23 little concerned that if an outside security company is  
24 picking people up to use a videotape and to watch, if  
25 there's no background checks and they are not

1 CHRB-licensed, pursuant to 1924 of your CHRB Code, that  
2 something might -- would happen in the Giacomo situation  
3 or where a Quiet Kid situation could occur again.

4 CHAIRPERSON SHAPIRO: Mr. Jamgotchian, I think the  
5 point is a good point. And what we will do is to be able  
6 to ensure that Hollywood Park is not hiring any felons,  
7 rapists or murderers to be back there, and that we will  
8 ask the security company to screen people that are back  
9 there.

10 MR. JAMGOTCHIAN: So they will be background  
11 checked and/or licensed? Is that what you are saying?

12 CHAIRPERSON SHAPIRO: They will be background  
13 checked.

14 Is that acceptable to you, Mr. Liebau?

15 MR. LIEBAU: We would assume that that would be a  
16 qualification with respect to the company that we take.

17 CHAIRPERSON SHAPIRO: Thank you.

18 MR. JAMGOTCHIAN: That's the issue. The company  
19 that they assign this job to, it's hearsay. They don't  
20 know -- Hollywood Park doesn't show in the person that  
21 actually shows up -- because if you're aware of the  
22 situation, Mr. Shapiro, at Santa Anita, there's a big  
23 group of guys that are standing in the parking lot waiting  
24 to get assigned to stalls, and if they don't have enough  
25 people to assign to a stakes horse in a race of a hundred

1 thousand dollars or more, they just don't assign a  
2 watchman or a camera.

3 Now, in some cases they don't even have extra  
4 cameras, but in many cases, they don't even have a  
5 watchman.

6 You know, I think the best thing I could do if you  
7 would like to get information on this, we took the  
8 deposition of Investigator Aschenbrenner. And  
9 Investigator Aschenbrenner made some interesting comments.  
10 I brought my attorney here, and I think you need to hear  
11 some of the comments he made.

12 CHAIRPERSON SHAPIRO: I don't want to hear them  
13 today.

14 Mr. Jamgotchian, what I recommend you do is I know  
15 you're a prolific writer. Why don't you send to us what  
16 suggestions you have so that we can consider them in the  
17 future and make improvements to our system. We welcome  
18 those.

19 MR. JAMGOTCHIAN: I will tell you the reason why I  
20 don't do that. I think the best thing I can do is I will  
21 just wait for new business. I will have Mr. Caswell  
22 explain to you the violations that occurred at Santa Anita  
23 and Mr. Moss's horse --

24 CHAIRPERSON SHAPIRO: Okay.

25 MR. JAMGOTCHIAN: -- where it has no security

1 cameras --

2 BOARD MEMBER HARRIS: We need to proceed with this  
3 application.

4 CHAIRPERSON SHAPIRO: We're reviewing this  
5 application. Thank you.

6 MR. JAMGOTCHIAN: I will come back.

7 BOARD MEMBER HARRIS: On this application, are  
8 there any concerns from the fair that's running in July?  
9 If Hollywood Park is going to be dark on the 5th and 6th,  
10 I think that needs to be coordinated with the fair. It  
11 may well work, but there has been a logic that we need to  
12 race the 4th --

13 MR. PICKERING: Yes, we would hope that Hollywood  
14 Park --

15 THE REPORTER: Could you state your name, please.

16 MR. PICKERING: My name is Rick Pickering, Alameda  
17 County Fair Association in the City of Pleasanton.

18 We would hope that Hollywood Park would run with  
19 us on Thursday the 6th. Pleasanton plans to be dark on  
20 Wednesday the 5th.

21 We had had conversations as recently as three  
22 weeks ago, but we assumed that they would be running on  
23 the 6th with us. So we would hopefully be able to  
24 continue that dialogue.

25 MR. WYATT: I don't know what those conversations

1 were, but, as a matter of fact, a history will show that  
2 we do not normally run with the fairs. We are always open  
3 for wagering on the fairs, but we do not, as a matter of  
4 history, always match the fair dates.

5 BOARD MEMBER HARRIS: I realize that. Really the  
6 question is since you're running a six-day week, using  
7 Monday the 15th, would it be wise to switch that date to  
8 July the 6th, or at least think about it.

9 MR. WYATT: We will think about it.

10 CHAIRPERSON SHAPIRO: Does staff have a copy of  
11 the dates scheduled that was approved for --

12 MR. WYATT: Sir -- excuse me.

13 CHAIRPERSON SHAPIRO: What?

14 MR. WYATT: I didn't mean to interrupt you. You  
15 were still talking.

16 CHAIRPERSON SHAPIRO: Oh. Do you have -- Do we  
17 have a copy of the dates scheduled that was approved for  
18 this year to show which dates we approved when we approved  
19 the calendar.

20 MR. REAGAN: I don't have one on me right now, no.

21 CHAIRPERSON SHAPIRO: Does anybody in the audience  
22 have one that we could --

23 MR. WYATT: If I could just add something.

24 As I said before, what we've done within the  
25 calendar is try to accommodate the 4th of July weekend.

1 The 4th of July -- Those particular days that we're  
2 talking about are probably the Saturday, the 1st, Sunday  
3 the 2nd and Saturday -- excuse me, Sunday the 9th.

4 What we're doing in that timeframe is running our  
5 three biggest days of the meeting. We have the Cash Call  
6 Day, we have the American Oaks Day, and we have Gold Cup  
7 Day.

8 It seems to us that to take the two-day break  
9 during that week will allow us to maximize the field sizes  
10 on those days.

11 CHAIRPERSON SHAPIRO: I understand that and I'm  
12 not and I'm not -- What I'm trying to do, though, is we  
13 previously at a Board meeting approved the calendar that  
14 had the dates with which you were going to run.

15 And I think the question that I've heard from  
16 Commissioner Harris is what we're trying to verify is the  
17 dates they are presented to us, in fact, are in agreement  
18 and in concert with the dates that we approved previously  
19 for the dates that we were going to run.

20 Is that, in fact, the case that -- We're trying to  
21 identify any deviations.

22 MR. LIEBAU: The deviation is that June 26th was  
23 the day that was approved for us to run.

24 If we ran on June 26th, we would run 26th -- no,  
25 the 28th. We run the 28th, the 29th, the 30th, the 1st,

1 2nd, the 3rd, and the 4th, which means we would run a  
2 seven-day week. We object that there's some hesitation to  
3 run a six-day week. I mean, it's clear that we can't run  
4 a seven-day week.

5 The other day was on Thursday the 6th, and as to  
6 why it says in order for us to maximize our field size on  
7 our three biggest days -- Cash Call, Oaks, and Gold Cup --  
8 we would rather not run on that day because that day will  
9 draw horses away from entering on our three biggest days,  
10 which are our premiere days, that we dearly need to  
11 maximize because of the loss of our days, vis-à-vis  
12 2004 -- 5.

13 CHAIRPERSON SHAPIRO: Well, I would like -- I  
14 would make a note to our staff and to you that anybody in  
15 future applications, I think what we have to do is make  
16 sure that we highlight if there's any changes from the  
17 calendar that was previously approved.

18 I'm not saying I'm opposed to the changes you're  
19 asking for, but it should be highlighted, so at least the  
20 Board is aware that there's a change from something that's  
21 been previously approved.

22 BOARD MEMBER HARRIS: I can see changing it. I  
23 think it's a good idea to have that break after the Board,  
24 in July. My only question was that Monday, May 15th, if  
25 that date was really necessarily in the best interest of

1 racing then.

2 CHAIRPERSON SHAPIRO: All right.

3 Then --

4 VICE CHAIRPERSON MORETTI: I think we have to  
5 accommodate certain holidays.

6 BOARD MEMBER HARRIS: It's just that we want  
7 six-day weeks, but running around six-day weeks and we're  
8 out of six-day weeks.

9 MR. LIEBAU: Seven-day weeks.

10 CHAIRPERSON SHAPIRO: All right.

11 I don't even know if there's a motion on the  
12 table.

13 VICE CHAIRPERSON MORETTI: I will make a motion to  
14 approve the application, contingent upon receiving the  
15 horsemen's agreement and the ADW.

16 BOARD MEMBER HARRIS: And can we -- I will second  
17 it. But could we amend it to also say that we have some  
18 dates certain that if the horsemen's agreement is not  
19 received, that the Board will notice a meeting to  
20 arbitrate the horseman's agreement.

21 MR. LIEBAU: We would suggest that that notice be  
22 given today.

23 CHAIRPERSON SHAPIRO: Yes, it is noted. And  
24 notice will be provided today, and therefore, we hopefully  
25 will not have to reconvene ten days from now.

1           BOARD MEMBER HARRIS: It might be nice if it's not  
2 exactly -- not ten days from now. But maybe give the  
3 meeting enough time to allow some reasonable -- 15 days  
4 from now or something.

5           MR. LIEBAU: I really think that the ten days -- I  
6 mean, the issue that we're --

7           CHAIRPERSON SHAPIRO: You got to publish a racing  
8 calendar.

9           MR. LIEBAU: So we would like to do it as soon as  
10 possible, one way or the other. And the issue that we  
11 have is --

12          CHAIRPERSON SHAPIRO: Okay. That is noted.

13          There's a motion seconded. All in favor; aye?

14          (All ayes.)

15          CHAIRPERSON SHAPIRO: It is approved.

16          The next matter -- don't go anywhere. Same  
17 participants, and we're now going to talk about -- Item  
18 Number 3 on the agenda is the Application to Conduct a  
19 Horse Race Meeting of the Bay Meadows Racing Association.

20          MR. LIEBAU: This was a great trade I just made.

21          MS. WAGNER: Jackie Wagner, CHRB staff.

22          The application before you is from the Bay Meadows  
23 Racing Association. They have filed an application and  
24 are proposing to race on May the 10th through June 19, or  
25 28 days. They are proposing to race a total of 241 races,

1 or 8.6 races per day.

2 They will be racing five days per week with eight  
3 races weekdays; nine or ten on weekends and holidays.  
4 They will be racing three days during the week of  
5 June 18th.

6 First post time is 1:05 p.m. daily and Friday  
7 night post of 7:20.

8 The analysis indicates that the horsemen's  
9 agreement is outstanding. I'm happy to report that we  
10 have received the horsemen's agreement. This application  
11 is complete, and staff recommend the Board approve the  
12 application as presented.

13 There is a representative here, sitting next to  
14 me, if you have any questions regarding the application.

15 CHAIRPERSON SHAPIRO: First of all, are there any  
16 deviations to this calendar from the calendar that was  
17 approved previously on Board.

18 MR. LIEBAU: To the best of my knowledge, no.

19 CHAIRPERSON SHAPIRO: Okay.

20 And should we assume that the horsemen's agreement  
21 and the ADW discussion is exactly the same as we just  
22 discussed under the Hollywood application?

23 BOARD MEMBER HARRIS: It sounded like that one was  
24 not resolved in Hollywood.

25 CHAIRPERSON SHAPIRO: I know that.

1 I'm just saying is, what I meant was, is it -- Are  
2 those issues in the same condition as it was for the  
3 Hollywood Park meeting, which means they are unresolved?  
4 Should we assume --

5 MR. LIEBAU: To some extent, I -- Yes, if that's  
6 the case. There is a great distinction between Bay  
7 Meadows and Hollywood Park in that Bay Meadows is a  
8 non-exclusive track and we have -- Our signal is being  
9 handled by the three duly licensed ADW providers and  
10 XpressBet, YouBet, and TVG.

11 CHAIRPERSON SHAPIRO: Okay. So then we should  
12 provide notice here, again, that if the horsemen's  
13 agreement is not in place --

14 MR. LIEBAU: The horsemen's agreement is in place.  
15 I think that the horsemen's agreement is in place.

16 BOARD MEMBER HARRIS: I thought the Horsemen's  
17 agreement had ADW aspects to it and --

18 MR. LIEBAU: It does not.

19 BOARD MEMBER HARRIS: The agreement doesn't --

20 MR. LIEBAU: And I would just say that with  
21 respect to the ADW providers at Bay Meadows, I do not  
22 think that there is any question about the hub fee with  
23 respect to YouBet and XpressBet, as I understand it, that  
24 the hub fee that's in controversy only applies to TVG for  
25 whatever reason.

1 MR. COUTO: Drew Couto, Thoroughbred Owners of  
2 California.

3 I concur with Mr. Liebau. And again, the only  
4 issue in dispute with regard to TVG is the hub fee on  
5 imported races. The hub fee for the handling of the Bay  
6 Meadows signal is not a matter of dispute.

7 BOARD MEMBER HARRIS: Okay. I'm just not clear  
8 where -- assuming there is some matter, at least, in  
9 dispute, how that's going to get resolved.

10 MR. COUTO: Well --

11 MR. LIEBAU: I too do not know the answer to that.

12 CHAIRPERSON SHAPIRO: That matter -- and we're  
13 jumping ahead here, but maybe we need to. That matter is  
14 on our agenda as Item Number 10, and it is all  
15 incorporated in that issue.

16 Now, when we get to this issue, we have been at --  
17 the party's are negotiating it. Their discussions are  
18 ongoing, so we are going to -- The intent here was to  
19 simply ask that each of parties affirm that they are aware  
20 that negotiations are continuing, discussions are  
21 continuing. And all the parties will assure us that they  
22 are continuing. The idea was to defer the matter to our  
23 next Board meeting.

24 In the interim, we're going to assume that ADW  
25 wagering will continue without interruption.

1 BOARD MEMBER HARRIS: But if --

2 MR. LIEBAU: And without prejudice.

3 CHAIRPERSON SHAPIRO: And without prejudice, thank  
4 you.

5 BOARD MEMBER HARRIS: I guess I'm not clear if  
6 these disputes occurred -- I know it's pretty  
7 complicated -- is that I thought that was part of the  
8 horsemen's agreement, but that's -- it's apparently -- is  
9 it a part of any agreement?

10 CHAIRPERSON SHAPIRO: Well, that's what it gets  
11 into. But the issue is that -- and this really should be  
12 discussion for later. The issue is who should be party or  
13 have the right to participate in those discussions.  
14 That's part of what the problem is.

15 And then it's a matter of, if there is a dispute,  
16 who is the party that should be establishing the hub  
17 rates. And again the difference between who should and  
18 what the law states because there could be a difference  
19 there. That all of these issues were part of a meeting  
20 that Senator Florez and I held with all of the industry.  
21 The outcome of that was that there were discussions to try  
22 and resolve all of these issues. Senator Florez e-mailed  
23 to me yesterday or the day before, advising me that there  
24 was progress in those discussions, and parties had agreed  
25 that there would be two 30-day periods to resolve those

1 matters. Those discussions are ongoing, and so I believe  
2 what we will hear is that each of the parties advocate  
3 that we defer the matter for another 30-day period.

4 MR. LIEBAU: Commissioner Shapiro, I do think that  
5 for purposes of clarification, we should identify who the  
6 parties are that are negotiating here.

7 The parties do not include Bay Meadows or  
8 Hollywood Park. They include, as I understand it, Magna  
9 Entertainment on one hand and TVG on the other hand.

10 CHAIRPERSON SHAPIRO: I believe that there are  
11 discussions that include Magna Entertainment. They do  
12 include TVG. They include XpressBet, and they also  
13 include TOC.

14 MR. LIEBAU: They do not include the two tracks  
15 here that I'm trying to get licensed.

16 CHAIRPERSON SHAPIRO: That's correct.

17 MR. LIEBAU: I just want to make that clear.

18 CHAIRPERSON SHAPIRO: You're correct. And that's  
19 why I'm continually asking the question: Can you be  
20 assured and can this Board be assured that your ADW wager  
21 will not be affected by the delay in our dealing with  
22 these issues?

23 MR. LIEBAU: To state the obvious, I can't assure  
24 it, myself.

25 CHAIRPERSON SHAPIRO: That is why I'm going to ask

1 each of the parties under Item Number 10 if they can give  
2 us that assurance.

3 MR. COUTO: Drew Couto, again. Thoroughbred  
4 Owners of California.

5 I would like to respond to Mr. Harris's question.

6 One of the reasons why the ADW has never been an  
7 issue before is because there has always been a contract  
8 negotiated between the ADW company and TOC that covered  
9 the year. So there was never an issue at the time any  
10 application came forward as to whether or not there would  
11 be ADW approval. With respect to ADW and the state this  
12 year, this are agreements existing between TOC and  
13 XpressBet and YouBet, so with regard to -- they are  
14 conducting ADW in the state, whether it's on our signal or  
15 imported, there should be no issues for any contract for  
16 the balance of 2006.

17 And that's why it's a little bit confusing because  
18 of this entire situation. You've never had to deal with  
19 it before.

20 And so hopefully that might give you some insight  
21 as to why you have that problem today.

22 CHAIRPERSON SHAPIRO: All right.

23 Going back to your application, Mr. Liebau --

24 MR. LIEBAU: I thought I was done.

25 CHAIRPERSON SHAPIRO: No, nice try.

1 (Laughter.)

2 CHAIRPERSON SHAPIRO: In terms of the racing  
3 program, there's no secret that there's a shortage of  
4 racing stock in northern California.

5 And I see that you would like to average 8.6 races  
6 per day.

7 Do you recall how -- what your average number of  
8 starters were last year, or for a comparable period? I  
9 know you --

10 MR. LIEBAU: I think it's in there. We're  
11 probably 6.8, 6.9, if I had to guess.

12 CHAIRPERSON SHAPIRO: And I know that here at  
13 Golden Gate that we've had to reduce down to seven races  
14 on a few of the races, because of a lack of horses.

15 I appreciate that you would like to run 8.6 races,  
16 and if the horse population is here for that, I certainly  
17 support it.

18 MR. LIEBAU: And if we can't, we can't.

19 CHAIRPERSON SHAPIRO: Okay.

20 But I would like it to be that unless you can  
21 maintain a certain number of starters on a consistent  
22 basis, that we should not be running five- or six-horse  
23 fields. I just don't think it's good for the industry.

24 MR. LIEBAU: Well, you know, I think, Commissioner  
25 Shapiro, you look at -- and I'm not here to speak for

1 Golden Gate Fields, but I mean, if it rains and you got  
2 horses and you got turf tracks that got a lot of  
3 scratches, I mean, you get to three, four, or five horses.

4 It's also the fact that these people that have  
5 horses have to have an opportunity to run. And if they  
6 can run in a race that only has five or six, they deserve  
7 the right to run.

8 BOARD MEMBER HARRIS: I think you --

9 MR. LIEBAU: And if they don't get the right to  
10 run, I'll tell you what's going to happen. The horse  
11 population is going to be a hell of a lot smaller because  
12 these horses are going.

13 BOARD MEMBER HARRIS: I think we need to give the  
14 track the latitude, within reason, because a lot of  
15 different people say five-horse race you got problems.

16 CHAIRPERSON SHAPIRO: I agree with that. And I  
17 think that everybody deserves a chance to run. But what  
18 I'm concerned is that on a weekend, you will run ten  
19 races, and then we'll come back and we'll see a  
20 eight-horse -- an eight-race field is on a Wednesday or  
21 Thursday and we've depleted some of the horse population.

22 BOARD MEMBER HARRIS: That's the latitude they  
23 need is a business decision that they might, you know --  
24 they might maximize the person's commissions by running a  
25 week like that. I think that's kind of okay, though

1 because --

2 MR. JAMGOTCHIAN: Can I just bring up an issue?

3 Because I have horses up in San Francisco. I have  
4 two stakes horses, Heavenly Humor and Secret Corsage. I'm  
5 always afforded the latitude to run northern California  
6 races. They might be small fields, but I have the  
7 opportunity to race.

8 The fact that I can race up here is to count these  
9 horses in California. They don't ride races for these  
10 horses to the distance of my trainer, Jerry Hollendorfer.  
11 The only place that I can race is in northern California  
12 with these two horses, and they have been very successful.

13 Whether it's a five-horse field, four-horse field,  
14 or seven-horse field, it's irrelevant because it keeps  
15 horses in the state.

16 So I don't think, Mr. Shapiro, you should chastise  
17 Mr. Liebau for riding a four- or five-horse field because  
18 he's actually doing --

19 CHAIRPERSON SHAPIRO: Thank you, Mr. Jamgotchian.

20 And I don't believe I was chastising you, and if I  
21 was, I would like to apologize.

22 The point that I was trying to make is I would  
23 like to see, again, that we put the best races on, and I  
24 hate to see that we have to run so many races --

25 MR. LIEBAU: We will do our best. We are

1 cooperating -- We have a joint effort that is going to be  
2 undertaken with respect to fairs, to try to bring horses  
3 from out of state here for the fairs and hopefully a  
4 little earlier for our meet. And I think this will be the  
5 first time that there has been a cooperative effort by the  
6 Thoroughbred Association and the fairs to do this. So  
7 we're working on it. We realize it's a problem, and we're  
8 trying to deal with it.

9 CHAIRPERSON SHAPIRO: Okay. Thank you.

10 And again, I want to thank you for having  
11 Mr. Ziegler provide me with a marketing report for your  
12 2006 race meeting and again, I can make that available to  
13 anybody on the Board who would like to review it.

14 Any other questions from the Board or for this  
15 applicant?

16 BOARD MEMBER HARRIS: I would move to approve.

17 CHAIRPERSON SHAPIRO: Second?

18 BOARD MEMBER MOSS: Second.

19 CHAIRPERSON SHAPIRO: All in favor?

20 (All ayes.)

21 MR. LIEBAU: Thank you very much.

22 CHAIRPERSON SHAPIRO: You're welcome. Okay.

23 The next matter is discussion and action by the  
24 Board on the temporary suspension of CHRB Rule 1969 - Form  
25 of Entries and Declarations.

1 MS. WAGNER: Jackie Wagner, CHRB staff.

2 BOARD MEMBER MOSS: You skipped one.

3 CHAIRPERSON SHAPIRO: Woops. Thank you,  
4 Commissioner, Moss.

5 1582.

6 MS. WAGNER: Jackie Wagner, CHRB staff.

7 Under Rule 1406, suspension of rule, the Board may  
8 temporarily suspend the application of any of its rules.

9 Rule 1582, which is the rule that we are going to be  
10 discussing this afternoon, form of entries and

11 declarations provides that entries and declarations shall  
12 be made in writing on forms provided by the Association.

13 In addition, that rule states that entries may be  
14 made by telephone and are valid if they are properly  
15 confirmed in writing.

16 On March 1st, there was a directive that was  
17 issued that temporarily waived the requirement for the  
18 written entry confirmation, and this directive was issued  
19 pursuant to the Board's authority to do so under Rule  
20 1406.

21 This item is presented to the Board for discussion  
22 and action.

23 CHAIRPERSON SHAPIRO: Thank you.

24 Executive Director Fermin will comment as to what  
25 the purpose of this is.

1 EXECUTIVE DIRECTOR FERMIN: Yes.

2 We have been going through, in the last year,  
3 looking at revisions of some rules -- and they crop up as  
4 needed -- to be looked at and the format of today's  
5 racing.

6 The rule does say that any entry has to -- any  
7 telephone entry needs to be -- have a written  
8 confirmation.

9 However, that has not become -- been practiced in  
10 the racing offices. And when it came to light on  
11 March 1st and it appeared that there might be a challenge  
12 to the rule and the racing offices -- I don't think  
13 anybody is trying to break the rule, but rather than have  
14 chaos, I did speak with Derry Knight about waiving the  
15 rule until the Board could decide what they wanted to do,  
16 whether we wanted to inform the racing offices that they  
17 are going to clearly, obviously, enforce the rule, are we  
18 going to amend the rule, so that is more meaningful to the  
19 way the racing offices work.

20 So my -- I did discuss it, obviously, with  
21 Mr. Knight, also with Mr. Shapiro, and they did issue the  
22 memo.

23 So what we really need, obviously, is for the  
24 Board to approve the waiver at this point, and then they  
25 need to decide whether or not they want to enforce it with

1 the racing offices or we need to amend it.

2 CHAIRPERSON SHAPIRO: Okay.

3 Is there any discussion at the Board?

4 BOARD MEMBER HARRIS: Well, I would also like to  
5 hear from the horsemen and the tracks, but I think the  
6 waiver of the rule is probably a practical thing for now,  
7 but I think we need to investigate the whole system or  
8 analyze the whole system and see that today's technology  
9 and communications capability are one of the better ways  
10 to do it.

11 And one of my concerns is that so many horses are  
12 not entered by the trainer and lot of jockeys' agents -- a  
13 lot of jockeys' agents at the time is entering the horses,  
14 not even riding. And the practice is -- maybe it's from a  
15 practical standpoint, it would be. But it's not our best  
16 movement for documentation.

17 CHAIRPERSON SHAPIRO: I happen to agree with that,  
18 totally. I think that this is an area where I'm glad it  
19 was brought to the forefront, and I think that that's a  
20 positive change. And I think that we do need to refine  
21 this and put a system in place that is verifiable and  
22 documented properly.

23 So while I am in agreement with suspending the  
24 rule for now, I think that we should ask the staff to  
25 develop, with the racetracks, a procedure which we can

1 verify that entries are done; who submitted the entry; the  
2 information on the entry form; and put a better system  
3 into place. So I agree with that, totally.

4 Therefore, I will move the -- I will make a motion  
5 that we approve this waiver.

6 BOARD MEMBER HARRIS: Could we have some date that  
7 we will waive it until a date in the future that, you  
8 know, will give us time to analyze it and decide if we  
9 want a permanent waiver or just waive it?

10 CHAIRPERSON SHAPIRO: Why don't we waive it for --

11 MR. JAMGOTCHIAN: May I make a comment first?

12 CHAIRPERSON SHAPIRO: Excuse me, can we make the  
13 motion. Then we will see if there's other discussion.

14 MR. JAMGOTCHIAN: Just making sure.

15 CHAIRPERSON SHAPIRO: Okay. I will so move and  
16 say that we should have a report back to us in 90 days.

17 Is there a second?

18 BOARD MEMBER MOSS: Seconded.

19 CHAIRPERSON SHAPIRO: Okay.

20 Is there any discussion?

21 DEPUTY ATTORNEY GENERAL KNIGHT: Commissioner, can  
22 I just raise a point?

23 CHAIRPERSON SHAPIRO: Yes.

24 DEPUTY ATTORNEY GENERAL KNIGHT: I would like to  
25 suggest that you also include in your motion ratifying the

1 action that was taken by the executive director.

2 CHAIRPERSON SHAPIRO: And my motion is amended to  
3 ratify the action taken by the executive director.

4 Yes, sir.

5 MR. CASWELL: Good morning, Chairman and the  
6 Board.

7 My name is Ronald Caswell and I represent Jerry  
8 Jamgotchian on a lawsuit, that's taking place in Southern  
9 California right now, that pertains to Rule 1582, which is  
10 the reason that the Board is hearing this, this morning.

11 We have a problem, down in Southern California,  
12 pertaining to rule 1582. 1582 governs how the horses are  
13 entered into the race.

14 We're presently involved in a lawsuit with one of  
15 the stewards, Senior Steward George Slender. Because  
16 there's not one set of rules down in Southern California;  
17 there are two sets of rules.

18 Although the rules are generally governed by the  
19 California Code of Regulations -- in this case it's Rule  
20 1582 -- during the course of a deposition, Mr. Slender  
21 testified, in response to my questions, that 1582 is to be  
22 strictly enforced.

23 Now, I'm standing here before this Board and this  
24 Board is telling me that it's not to be enforced at all,  
25 but Mr. Slender said to me that it's to be strictly

1 enforced and that when horses are entered into a race, it  
2 can't be cleared from the race because the rule's there on  
3 the book.

4 When I deposed him two days ago, Mr. Slender  
5 informed me that there are unwritten rules that the  
6 stewards know that hopefully some of the owners know. But  
7 it's not really that important and even the stewards know  
8 that.

9 And 1582 doesn't have to be enforced when they say  
10 it doesn't have to be enforced. And you can see that that  
11 puts really -- it sets up a conundrum for the owners and  
12 for anybody that's going to enter a horse into a race as  
13 to when the horse has been properly entered.

14 It sets up the problem that how does an owner  
15 know when the horse can be declared from the race, since  
16 the rule really doesn't exist. And connected to those  
17 motions, the rule no longer exists. So how does one  
18 understand what really is required of the owners and of  
19 the licensees? It really presents a problem.

20 The rules are pretty straight forward on the  
21 books, I find. You have a series of rules which govern  
22 what the stewards can do and not do. 1527 is steward  
23 general authority and supervision over licensees, but it  
24 doesn't define what the authority is.

25 1528 gives authority to suspend or fine a

1 licensee. It doesn't give them any power at all. So over  
2 the hours, Mr. Slender testified both ways. First, he  
3 testified he sold the horse and he testified his powers  
4 over the licensee. But he took my client's horse and he  
5 ran the horse over my client's objection. And he used  
6 1582 to do so, Mr. Shapiro. He relied completely on 1582  
7 as the justification.

8 CHAIRPERSON SHAPIRO: I don't want to talk about  
9 what took place in this specific incident.

10 What we're talking about now is the waiver of the  
11 rule. And all we're doing is we're waiving the  
12 requirement for a written confirmation. That's the only  
13 thing that we're waiving at this time.

14 So the motion that we're listening to is to simply  
15 waive the written confirmation for a 90-day period so that  
16 staff can work out a better system that will provide all  
17 the verification accountability that's required.

18 MR. CASWELL: Mr. Shapiro, I'm referring to that  
19 point directly. And that's why I'm talking about this  
20 right now.

21 We're talking about waiving the rule for 90 days,  
22 but the rule has a salutary purpose. The salutary purpose  
23 is to ensure that horses are properly entered into a race.

24 I read the executive directive that said that  
25 we're going to waive the rule now because it's no longer

1 practiced because there are barns that are some distance  
2 from where the office at the racing secretary is.

3 But the rule was last amended about 1981-1982  
4 period, where the fax machine was already in existence,  
5 cell phones were in existence. There are so many ways to  
6 confirm that a horse has been properly entered. In this  
7 particular instance, what the Board is proposing is --

8 THE REPORTER: Hold on. I can't hear you over all  
9 the noise.

10 MR. CASWELL: Is the noise --

11 THE REPORTER: It's too loud in here, so move the  
12 microphone closer to me.

13 MR. CASWELL: I hear the noise too.

14 Is this better?

15 THE REPORTER: We'll see.

16 MR. CASWELL: Anyway, the purpose of the rule is a  
17 salutary one, is to make sure that the horses are entered  
18 into race, properly, by waiving the rule which, I think,  
19 is a mistake.

20 What happens is that now you have a situation  
21 where somebody can incorrectly enter a horse. And there  
22 can be a dispute over whether or not a horse has been  
23 properly entered. There's no written documentation. I'm  
24 sure that many of you are aware that without the written  
25 documentation, where's your proof that the horse is

1 properly entered? You end up getting back into a dispute  
2 as the one we're involved in.

3 So I'm just using it for illustrative purposes,  
4 but how do you stop the disputes from occurring?

5 When you waive the rule, you just open up a  
6 Pandora's box. And I understand that, that needs to be  
7 addressed.

8 But what I'm suggesting is waiving the rule may be  
9 a mistake. Mr. Slender was of two minds. But perhaps his  
10 first mind was the correct one, that you have a rule.  
11 Don't waive the rule; enforce the rule. This is what I'm  
12 suggesting, sir.

13 CHAIRPERSON SHAPIRO: I appreciate your  
14 perspective.

15 MR. JAMGOTCHIAN: Mr. Shapiro, I thank you for  
16 acknowledging that I brought this issue up.

17 I believe it's an issue that now you're waiving  
18 it, you're making it a bigger issue.

19 Ms. Fermin's memorandum of March 1st came at the  
20 direct incident of my founding protest and then objections  
21 in other races that I have horses racing in since that  
22 period of time, including yesterday.

23 Now, Mrs. Fermin's position with regards to this  
24 temporary waiver -- and I need you to address the  
25 temporary waiver and Ms. Fermin's authority to make this

1 temporary waiver --

2 CHAIRPERSON SHAPIRO: Mr. Jamgotchian, again, what  
3 we're dealing with is a proposed rule, and we're not  
4 talking about any personalities or any courses or any  
5 specifics. We're talking about a proposed rule. I think  
6 that your attorney was correct in the way he addressed it,  
7 so I don't have a problem with it.

8 What the Board is now determining is to whether or  
9 not they want to waive the rule from a 90-day period all  
10 the way to the written confirmation portion of that rule.  
11 That's all that we're dealing with.

12 And while I am appreciative that this matter was  
13 brought to light, and I do agree that we need to put a  
14 better system in place. We will not discuss anything  
15 specific to any objections or any other matters that are  
16 pertinent to anything that's been filed from the Board.

17 MR. CASWELL: Mr. Shapiro, if I may?

18 CHAIRPERSON SHAPIRO: Yes.

19 MR. CASWELL: I understand the Board's concern  
20 about moving it forward, in a proactive basis, as opposed  
21 to looking at the past. And I'm not directing this to Ms.  
22 Fermin or anyone at all. It's not a personal matter.

23 The issue is whether 1582 is going to be waived  
24 for the next 90 days. But for us, the issue is a lot more  
25 germane and more immediate because we have filed the

1 appeals, and we haven't gotten rulings and everything. So  
2 my question is, if the Board is going to adopt this waiver  
3 for a period of 90 days -- I understand that they want to  
4 consider it -- where does that go into effect?

5 I have filed on behalf of Mr. Jamgotchian, so when  
6 would the day of the 90-day suspension take place, if it's  
7 from today forward?

8 And I would submit that Ms. Fermin was acting  
9 without authority, and, again, it's not personal, but the  
10 rule 1406 requires the Board to act. The Board did not  
11 act a month ago on March 1st. Ms. Fermin did by  
12 essentially a fiat, and I understand the reason why.

13 If the rule goes forward from today forward, which  
14 is what should happen today, then you've got a 30-day  
15 period where 1582 should have remained in effect, and the  
16 objection should have been sustained.

17 CHAIRPERSON SHAPIRO: It's my understanding that  
18 what we're doing here is that we're ratifying the action  
19 that was taken on March 1st.

20 Therefore, it's my belief that what we're dealing  
21 with is that the rule would be suspended, effective  
22 March 1st and continuing for 90 days.

23 MR. CASWELL: We're talking about an approximately  
24 60-day period or 70-day period, going forward.

25 CHAIRPERSON SHAPIRO: It ratifies the action taken

1 on March 1st, and it will suspend the rule from 90 days  
2 from today.

3 I don't think that I was clear before.

4 MR. CASWELL: I need more clarification. I'm just  
5 a little bit unclear.

6 In other words, it will take place March 1st  
7 through today and be effective for the 23 days of this  
8 month, plus 90 days from today?

9 Is that what you're saying?

10 CHAIRPERSON SHAPIRO: Yes, that's correct.

11 MR. CASWELL: One other thing while I am here.

12 CHAIRPERSON SHAPIRO: You know what?

13 We need to wrap this up.

14 MR. CASWELL: I am, sir.

15 CHAIRPERSON SHAPIRO: Okay.

16 MR. CASWELL: I might have avoided a trip today.  
17 I was asked by Deputy Attorney General Albert Muratsuchi  
18 to be the person who makes the contact with the Board, to  
19 contact Mr. Knight directly, to try to cut Mr. Jamgotchian  
20 out of some of the correspondence.

21 CHAIRPERSON SHAPIRO: Thank you.

22 MR. CASWELL: My pleasure.

23 But I did contact Mr. Knight, and Mr. Knight would  
24 not speak to me. So I will be glad to be the contact, but  
25 I do need to have some type of rapport with Mr. Knight.

1 And I would encourage you to please contact me.

2 CHAIRPERSON SHAPIRO: We're now going to move  
3 forward.

4 MR. JAMGOTCHIAN: Excuse me.

5 I'm --

6 CHAIRPERSON SHAPIRO: No, excuse me.

7 MR. JAMGOTCHIAN: No.

8 CHAIRPERSON SHAPIRO: No. I'm sorry.

9 MR. JAMGOTCHIAN: Are you cutting off my ability  
10 to communicate with the Board?

11 CHAIRPERSON SHAPIRO: Yes, I am.

12 MR. JAMGOTCHIAN: Under what provision?

13 CHAIRPERSON SHAPIRO: Because the Board needs to  
14 move on. We cut people off all the time.

15 MR. JAMGOTCHIAN: You know, I've been to many  
16 board meetings, and people have not been cut off.

17 CHAIRPERSON SHAPIRO: I'm sorry --

18 MR. JAMGOTCHIAN: If you will give me five more  
19 minutes, Mr. Shapiro, I will finish.

20 CHAIRPERSON SHAPIRO: Mr. Jamgotchian, unless it  
21 is something that is absolutely relevant --

22 MR. JAMGOTCHIAN: Absolutely relevant.

23 CHAIRPERSON SHAPIRO: -- to this discussion and is  
24 a new point.

25 MR. JAMGOTCHIAN: Absolutely new point.

1           CHAIRPERSON SHAPIRO:   Okay.

2           MR. JAMGOTCHIAN:   I will give you an example of  
3 the problem that you and this Board are going to create.

4           If there's an ownership of a horse that has ten  
5 parties and five of these parties want to race and five of  
6 these parties don't want to race, the trainer enters a  
7 horse and the other five parties say, "Hey, I didn't want  
8 to enter this horse," and the other five parties say they  
9 do, there's no majority opinion.

10          Is Slender then going to take the horse and race  
11 it against the five people's wishes again?

12          CHAIRPERSON SHAPIRO:   Okay.   Thank you.

13          I appreciate your comments.

14          BOARD MEMBER HARRIS:   I think we need to see if  
15 there's any comments from the owners or the trainers'  
16 organization.

17          MR. JAMGOTCHIAN:   When this happens, Mr. Shapiro,  
18 I want to urge you that you made this mistake.

19          Thank you.

20          MR. HALPERN:   Ed Halpern, California Thoroughbred  
21 Trainers.

22          Mr. Shapiro, we would favor suspension of the  
23 rule.   In actuality, the rule hasn't been followed in the  
24 18 years or so I've been training, and it really just  
25 brings the word "inconformity" with the actuality of the

1 way practice happens in the backstretch in entries.

2 So at this point I think it's a good idea to look  
3 into it. It's a good idea to clear up the matter, but I  
4 don't see that any damage is done by suspending the rule.

5 If we have 35,000 races a year, over the past 18  
6 or 20 years, that's 700,000 races we've had. And once or  
7 twice you have a problem, and it becomes an error of  
8 mistake, well, that's going to happen in any form of  
9 bookkeeping or clerical matter. I think we go for 90 days  
10 without any great damage.

11 CHAIRPERSON SHAPIRO: Thank you, Mr. Halpern.

12 Anymore questions?

13 All those in favor, say "aye."

14 (All ayes.)

15 CHAIRPERSON SHAPIRO: It's carried.

16 Next item on our agenda would be Item Number 5.

17 It's discussion and action by the board on the  
18 regulatory amendment of CHRB Rule 1969.

19 MS. WAGNER: Jackie Wagner, CHRB staff.

20 As we all know --

21 THE REPORTER: Speak into the microphone, please.

22 MS. WAGNER: As we all know -- is it on?

23 Jackie Wagner, CHRB staff.

24 As we all know, perceived unethical behavior can  
25 be detrimental to this industry and in that germane (sic),

1 the Board has enacted several rules that are on its books  
2 in order to help protect the integrity of horse racing.

3 Rule 1969 currently prohibits waiving by certain  
4 classes of licensees and the Board's employees.

5 Proposed amendment to this rule would add to this  
6 list of individuals, security staff, valets, and jockey or  
7 driver room attendants to the list people who are  
8 prohibited from racing.

9 In addition, the proposed amendment would provide  
10 that no person that falls under rule 1969 may wager at a  
11 facility at which they are employed while they are on duty  
12 or while they are off duty.

13 This will serve to help ensure that those who may  
14 potentially have an effect on the outcome of a race are  
15 less likely to have a monetary interest to place a wager.

16 The Board would -- the staff would recommend that  
17 the Board direct staff to initiate a 45-day public comment  
18 period.

19 CHAIRPERSON SHAPIRO: Does anybody have comment,  
20 executive comment?

21 BOARD MEMBER HARRIS: I had a few concerns on  
22 this.

23 I clearly think it's fine in terms of wagering on  
24 duty, but the off-duty part is what my concern is, in that  
25 I don't know if we had a -- if the Board should really

1 involve ourself in what people are doing off duty, as long  
2 as it's a legal activity.

3           And I am afraid that if we did something like  
4 this, we really don't have the enforcement capability  
5 anyway, that we're going do follow-up, and I think it  
6 could lead to either selective enforcement or people using  
7 a lot of surrogates, other people to bet, and it just  
8 seems loose. I think it's always a mistake to pass a law  
9 or a regulation that makes it very difficult to enforce,  
10 unless there's some compelling need for it.

11           EXECUTIVE DIRECTOR FERMIN: I would like to  
12 comment.

13           I believe --

14           THE REPORTER: You have to speak up, please.

15           EXECUTIVE DIRECTOR FERMIN: I'm sorry.

16           The "on duty" and "off duty" has been a little of  
17 an issue because it's been interpreted in different ways.

18           I would agree with Commissioner Harris that if  
19 somebody is not working that day, that would be one thing.

20           I've had complaints from some licensees. As an  
21 example, for instance, that individuals were taking urine  
22 samples on horses. If they have been gambling, they  
23 obviously have a vested interest and could determine  
24 whether a horse, indeed, actually takes a test or doesn't  
25 take a test.

1           There was an incident a few years ago where there  
2 were some inappropriate behavior and the person was  
3 suspended. But there are some, I believe, official  
4 veterinarians who have indicated that "on duty" means  
5 that -- or "off duty" means that they can bet right before  
6 the first race and therefore they are also involved with  
7 those horses throughout the day, compared to, for  
8 instance, if -- we mentioned earlier -- someone only works  
9 in Fresno or only works in Santa Anita or whatever,  
10 certainly there would be no problems with that at all.

11           But when they are working with horses that have  
12 been part of the official order of finish, it would seem  
13 inappropriate that they could have a vested interest in  
14 dealing with the test.

15           BOARD MEMBER HARRIS: I would think maybe we could  
16 come back with a better distribution of what "on duty" and  
17 "off duty" mean to include the whole day that they worked,  
18 instead of just hours they worked or something like that.  
19 I'm just bothered by "on" and "off duty."

20           CHAIRPERSON SHAPIRO: Well, would you like, then,  
21 Commissioner Harris, to have this matter held over and  
22 allow us to come up with better language and --

23           BOARD MEMBER HARRIS: I think we could. It's  
24 basically whatever -- we've gotten by since 1933 without  
25 this rule, so I would say that that --

1 CHAIRPERSON SHAPIRO: But is there any objection  
2 to the Board?

3 From any member of the Board?

4 That being the case, why don't we, in fact, defer  
5 this and ask staff to look at some proposed language and  
6 certainly come back to that matter.

7 MR. JAMGOTCHIAN: Excuse me.

8 Mr. Shapiro, based on rule 1969, I have one  
9 question.

10 THE REPORTER: Excuse me. Could you come up here  
11 and use this microphone?

12 MR. JAMGOTCHIAN: Sure.

13 With regards to 1969, Mr. Chairman, in a  
14 deposition taken last Monday or this Monday, rather, with  
15 investigator Aschenbrenner -- and I've heard this for  
16 years, about a year now, that at Los Alamitos a while  
17 back -- I don't know exactly the year -- that Ms. Fermin  
18 was suspended or an action was taken against her for  
19 gaming.

20 And I just wanted to get the confirmation --

21 CHAIRPERSON SHAPIRO: You know what --

22 MR. JAMGOTCHIAN: -- if that's true or not.

23 CHAIRPERSON SHAPIRO: Mr. Jamgotchian, I have to  
24 tell you.

25 I welcome your positive participation.

1 MR. JAMGOTCHIAN: I just want an answer to the  
2 question.

3 CHAIRPERSON SHAPIRO: No. It's out of line, and  
4 I'm not going there.

5 MR. JAMGOTCHIAN: I just wanted to know.

6 CHAIRPERSON SHAPIRO: The answer is, you're out of  
7 line and it's not going to be answered, and we're moving  
8 on.

9 MR. JAMGOTCHIAN: The question is --

10 CHAIRPERSON SHAPIRO: No. We're done with that  
11 item.

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

13 CHAIRPERSON SHAPIRO: We are now going to Item  
14 Number 6 and 7.

15 And I'm going to recuse myself from dealing with  
16 those two items because I have become a trustee of the  
17 Disabled Jockeys Endowment, and therefore I will recuse  
18 myself from these.

19 MR. REAGAN: John Reagan, CHRB staff.

20 This is a follow-up to some items we handled in  
21 January. At the time we were making charity  
22 distributions, specifically to Item Number 6, the Bay  
23 Meadows Foundation, and there was concern about the  
24 control of the Disabled Jockeys Endowment at that time, so  
25 we could ask Bay Meadows to withhold those funds for that

1 particular beneficiary at that time.

2 That concern about the control of the endowment  
3 has now been resolved, and we feel it's appropriate now,  
4 at this time, to send those monies. And we need your  
5 approval to do so.

6 BOARD MEMBER HARRIS: I will move that we approve  
7 both the --

8 THE REPORTER: Excuse me. Speak into your  
9 microphone. I can't hear you.

10 BOARD MEMBER HARRIS: I will move that we approve  
11 the distribution by the Bay Meadows Foundation as well as  
12 a Hollywood Park Racing Charities distribution of monies  
13 to the Disabled Jockeys Endowment Fund.

14 VICE CHAIRPERSON MORETTI: So we're coupling the  
15 next two items, 6 and 7.

16 Is there a second?

17 BOARD MEMBER MOSS: I will second.

18 VICE CHAIRPERSON MORETTI: All those in favor?

19 (All ayes.)

20 CHAIRPERSON SHAPIRO: Thank you.

21 On Item Number 9, I received a call asking this  
22 matter --

23 THE REPORTER: I can't hear you. Start over,  
24 please.

25 CHAIRPERSON SHAPIRO: I received a telephone call

1 asking that these matters be put off. Rod Blonien, who is  
2 lobbyist and an attorney for Los Alamitos, called and ask  
3 that this matter be deferred because they had some issues  
4 with the language as it's currently written.

5 Therefore, unless there's an objection from  
6 anybody in the audience or on the Board, I will defer  
7 this.

8 Mr Couto.

9 MR. COUTO: Drew Couto on behalf of the  
10 Thoroughbred Owners of California.

11 The document was signed by Los Alamitos  
12 representatives, I do believe, and we received a call this  
13 morning from Santa Anita Simulcast Director advising me  
14 that he had been contacted by Los Al, saying they didn't  
15 have a problem with this agreement and that they didn't  
16 know who Mr. Blonien was acting on behalf of.

17 So I would like to know who he is acting on behalf  
18 of, because Los Al's a signatory; Bay Meadows is a  
19 signatory; Santa Anita's a signatory; TOC is a signatory.  
20 We all negotiated the language. We are all content with  
21 it, so I'm a bit confused as to who he is, in fact,  
22 representing.

23 CHAIRPERSON SHAPIRO: All I can tell you is, I  
24 have a voice mail from Mr. Blonien saying that he was  
25 saying on behalf of Dr. Alred -- that Dr. Alred was not

1 satisfied with the language as it's currently written.

2 He did not sign the agreement and therefore was  
3 asking that we defer the matter. Out of respect for the  
4 parties, I am offering to do that.

5 However, if the parties wishes to hear this  
6 matter, it's fine with me also.

7 BOARD MEMBER HARRIS: Is anyone going to be  
8 disadvantaged if we put it over?

9 I had some concerns to some of the language as far  
10 as what defines an evening event versus a morning event, a  
11 lot of things like that.

12 CHAIRPERSON SHAPIRO: Therefore, due to the  
13 conflict of not wanting to disadvantage anybody, I would  
14 recommend that we hold this matter over to our next Board  
15 meeting.

16 Unless there's any objection, we will hold it  
17 over.

18 Item Number 10. Item Number 10 is something we've  
19 already touched on, which deals with where we stand on the  
20 ADW issues and certainly controversies that exist.

21 As I mentioned previously, Senator Florez has been  
22 involved in talking to the various parties that are  
23 involved in this matter.

24 And I would like simply to hear from all of the  
25 parties that are involved, which includes Magna, TVG,

1 Thoroughbred Owners of California, or any other ADW wager  
2 here that they have no problem with our putting this  
3 matter over for another 30 days.

4 Or let me change it another way.

5 Is there any objection from anybody in the  
6 audience that we're going to hold this matter over for  
7 another 30 days?

8 There being no objection, this matter will be  
9 deferred.

10 Item Number 11. Video camera blind spots and  
11 camera angles at California racetracks.

12 I don't know -- Commissioner Harris, is this  
13 matter going through you?

14 BOARD MEMBER HARRIS: I have been concerned about  
15 it. I don't think that I specifically requested it.

16 One concern, the stewards really have to feel that  
17 they can well see any incident that could potentially  
18 occur in a race. And if there are any blind spots that  
19 they need to, you know, work with the track and we need to  
20 get it resolved and get -- And I'm not clear if it's a  
21 problem now or not, but if it is, I don't think we should  
22 tolerate it.

23 EXECUTIVE DIRECTOR FERMIN: Initially, when I  
24 first came on --

25 THE REPORTER: Speak up, please.

1 EXECUTIVE DIRECTOR FERMIN: Yes.

2 Initially, when I first came on, I had put it on  
3 because the stewards had indicated that a 5/16ths camera  
4 would be very helpful, as I mentioned earlier.

5 There's a blind spot as they come around between  
6 the three-eighths and the one-quarter.

7 It seemed at the time -- this was several months  
8 ago -- that the Board was very sympathetic and interested.  
9 There was comment from the associations that they were  
10 willing to move forward on it. I know that Bay Meadows  
11 has and now Hollywood is. To my knowledge, none of the  
12 other tracks have made that move yet. There is not a  
13 5/16ths in Santa Anita. Del Mar will be coming up and I'm  
14 just hoping that the Board would support the stewards.  
15 The jockeys know there's a blind spot there. It's very  
16 difficult to see depth of whether horses have dropped in  
17 or drifting out, so hopefully there could be --

18 BOARD MEMBER HARRIS: I think we need to be really  
19 very diligent in assuring we have whatever cameras we  
20 need, including the 5/16ths, because there's millions of  
21 dollars involved in wagering on horses. It's not a really  
22 good excuse to say there are blind spots.

23 CHAIRPERSON SHAPIRO: I fully agree with that, and  
24 I think that we should ask each of our racing associations  
25 to install 5/16ths cameras to avoid this blind spot.

1           And I compliment those that are taking the action  
2 on their own, but perhaps we should consider something  
3 that requires a 5/16ths camera.

4           EXECUTIVE DIRECTOR FERMIN: Perhaps we need --

5           THE REPORTER: Do you want this on the record? I  
6 can't hear you.

7           CHAIRPERSON SHAPIRO: Perhaps what we could do is  
8 have staff put out an advisory to all the racing  
9 associations that in the future we are going to require a  
10 5/16ths camera.

11           Is there anything else on this matter?

12           There being none, we will move on to Item Number  
13 12.

14           MR. REAGAN: Commissioners, John Reagan, CHRB  
15 staff.

16           This item has kind of morphed the last few weeks  
17 since we first discussed it. We were first thinking about  
18 updating you on the fact that the total contract in  
19 California has been extended for a year and still working  
20 on the new contract.

21           Since that time, of course, we've had much more  
22 information regarding the data center that has now been  
23 established and working on the East Coast under the  
24 Scientific Games Organization, and the fact that we'll  
25 have a similar item, a similar data center established in

1 Sacramento, hopefully but June or July this year, a  
2 state-of-the-art data center, which I have worked with the  
3 Scientific Games people on several occasions.

4 And in fact, I think some of the commissioners saw  
5 a presentation last fall on the state-of-the-art type data  
6 center that will be established in Sacramento and as a  
7 backup, so to speak, for the one of the East Coast.  
8 They'll back each other up. And it is the, like I say,  
9 the latest available equipment, security, and the facility  
10 should be a credit to all of us.

11 Also included in this item is a brief discussion  
12 of a communication problem that occurred on February 18th.  
13 And if you had any particular questions regarding that  
14 issue that's included in this item or any of this  
15 information, we would be happy to try and answer your  
16 questions.

17 CHAIRPERSON SHAPIRO: Thank you.

18 I do have a question here. There's two of them,  
19 actually.

20 First of all, in the report that was provided to  
21 us by you on March 9th, there was an attachment which was  
22 a memo to you from Jenny Lind, at which point we were told  
23 that New Edge was one of the Telecom survivors, and then  
24 it goes on to say they were following up with SBC and New  
25 Edge to see about getting some financial relief as a

1 result of the lost revenue from the failure.

2 Do you know if there was any, in fact, relief or  
3 financial compensation that was paid to any of the tracks  
4 or the state?

5 MR. REAGAN: I am not aware of these payments at  
6 this particular time. And I know from prior experience in  
7 these situations, it's pretty difficult to obtain.

8 But I do not know -- and I believe I've seen Jenny  
9 Lind or some of the people here today that may be able to  
10 update you on this particular -- As of this day, I haven't  
11 had an update on this particular item.

12 CHAIRPERSON SHAPIRO: Are they in the room?

13 MR. REAGAN: Yes, I thought I had seen them.

14 BOARD MEMBER HARRIS: Are these different  
15 parties -- This can get pretty complicated with all these  
16 different parties.

17 Are they licensed by the California Horse Racing  
18 Board?

19 MR. REAGAN: No, sir.

20 You mean the -- these communication companies?

21 BOARD MEMBER HARRIS: Yeah.

22 MR. REAGAN: They are not licensed by this Board,  
23 no, sir.

24 BOARD MEMBER HARRIS: The positive thing is we are  
25 licensed -- you fine some jockey for being late for work.

1 And one of those companies could have a failure that may  
2 or may not have been their fault. But we don't really  
3 have any way to sanction them.

4 MR. REAGAN: Right. I think these providers are  
5 probably licensed under federal or other state agencies  
6 for communications-type organizations.

7 But Ms. Lind is here, and I think she probably has  
8 more information on that.

9 CHAIRPERSON SHAPIRO: And Ms. Lind, you work for  
10 CHRIMS?

11 MS. LIND: Yes. Jenny Lind, CHRIMS.

12 To answer your question, I did have communication  
13 with Tina at SBC, who is our rep there. And she is  
14 following up on seeing if we could get some compensation.  
15 But like John said, it's very rare. It is a provision for  
16 any of the contracts.

17 CHAIRPERSON SHAPIRO: Well, as I understand, the  
18 meets that were affected were, I believe, Los Alamitos,  
19 Golden Gate, and Santa Anita; is that correct?

20 MS. LIND: That's correct.

21 CHAIRPERSON SHAPIRO: All of them suffered  
22 tremendous loss of revenue and income as a result of this,  
23 and I find it very disappointing that we have antiquated  
24 systems and that these people are not held responsible,  
25 because it affects our horsemen; it affects the state; and

1 it affects our partners. And I would hope that we will  
2 really make a considered effort and not just lay down and  
3 accept that they are got going to give us money, because  
4 the outage was a significant outage and a delay to them.

5 I also note that this is not the only tote  
6 problem. In the steward's report from the Golden Gate  
7 Field education meeting dated January 2nd, there were --  
8 all the tote malfunctions were caused by moisture in the  
9 circuitry, after a rainstorm.

10 Now, this is not necessarily your problem, and I  
11 understand that.

12 But the question I have is, I was disappointed to  
13 hear that the installation of tote equipment has been put  
14 off a year. It is my understanding that those contracts  
15 were due to expire last September; is that not true?

16 MR. REAGAN: That is true.

17 CHAIRPERSON SHAPIRO: So we're continuing to wager  
18 on antiquated, out-dated equipment. And what I don't  
19 understand, as Commissioner Harris said, we will find some  
20 jockey who, you know, doesn't wear something right and yet  
21 we're permitting everybody to just continue with old,  
22 delapidated equipment.

23 MS. LIND: I don't have responsibility for the  
24 tote equipment, but from a Telecom point of view, we do  
25 have up-to-date equipment. A lot of equipment was

1 replaced last year, and we are using SBC's frame circuit  
2 technology, and it is not antiquated.

3 I can't speak for the tote.

4 CHAIRPERSON SHAPIRO: Okay. I appreciate that  
5 from that perspective.

6 BOARD MEMBER HARRIS: The real problem is it's  
7 only as strong as its weakest link, and there's so many  
8 links in this thing, it's hard to wrap your arms around  
9 it. And there's all these terms we don't understand.

10 But I think what the Board wants is something that  
11 works, is state of the art, and builds customer confidence.

12 CHAIRPERSON SHAPIRO: You're absolutely right.

13 And I think it's foolhardy for the tracks not to  
14 move forward and delay this a year, for what reason I  
15 don't know. And I question what authority we have to  
16 insist that we get the tote equipment at these racetracks.  
17 It's going to improve handling and improve customer  
18 convenience and make the tracks more competitive with the  
19 ADW providers, who are far better than what we have in  
20 terms of convenience.

21 BOARD MEMBER HARRIS: It's really the tote systems  
22 we have in the tracks are really not any improvement over  
23 what we had 20 or 25 years, for the most part. And it  
24 just seems to me that that's just one problem that racing  
25 has and we haven't kept it up. And I don't know what the

1 logic of the tracks are to put it off the way they do with  
2 slots or something. But I think we need to upgrade.

3 MR. REAGAN: Excuse me, Commissioner.

4 The delay in the contract was not related to any  
5 particular equipment situations.

6 However, as I have reported, we will have the new  
7 data center in Sacramento. This is the improvement we've  
8 all been looking for. Now, also --

9 CHAIRPERSON SHAPIRO: Well, that's only one part  
10 of it, John. And maybe that is an improvement from the  
11 back end.

12 But my concern is that there are people that come  
13 to the racetrack and they have to stand in line for the  
14 old equipment and, you know, it's antiquated. We're not  
15 making it fan friendly. We're not giving them a chance  
16 that if you're sitting at a table, you can wager at a  
17 table.

18 And all the new technology is out there. We're  
19 not using it in California; it's being used in other  
20 states.

21 So I would like to ask if there's any of the  
22 track, you know, track owners here, track partners, if  
23 they can tell us why we're not moving forward.

24 You don't know why.

25 MR. REAGAN: I can tell you first of all while

1 they are coming up here. We have been --

2 CHAIRPERSON SHAPIRO: No one's rushing.

3 MR. REAGAN: We have been moving forward over the  
4 years. We don't have equipment that's 20 or 30 years old.  
5 However, a lot of times, I know in this new, electronic  
6 age, just like any of us with a personal computer, you buy  
7 a personal computer today, and 30 days from now they've  
8 got something twice as good and for half the price or  
9 something like that, and we all kick ourselves.

10 But over the years I can tell you that even though  
11 some of the boxes in the tote rooms have remained the same  
12 from the outside, I have on many occasions watched the  
13 newest, latest, and best cards being -- the old ones being  
14 pulled out and the new cards being slapped in, so they  
15 certainly have kept up, you know, as best as they could  
16 with the technology. We don't have 20-year-old technology  
17 in our tote rooms.

18 CHAIRPERSON SHAPIRO: I appreciate that.

19 BOARD MEMBER HARRIS: We're talking about --

20 CHAIRPERSON SHAPIRO: We're talking about from the  
21 guy that comes to the racetrack, making it easier and more  
22 enjoyable for him to place a wager at the racetrack.

23 We're not talking about the --

24 MR. REAGAN: Now, without taking too much thunder  
25 from Mr. Moss and his pari-mutuel committee, we were

1 shown, yesterday, the new terminal that Scientific Games  
2 will be hanging at the racetracks that will be coincident  
3 with their new hardware and software and so on and so  
4 forth.

5 CHAIRPERSON SHAPIRO: Hopefully, in that report  
6 we'll hear the "when." Because that's the point of all of  
7 this.

8 MR. KEMPT: Hi. I'm Doug Kempt from Pari-Mutuel  
9 Employees Guild, Local 208.

10 And I would just like to agree with the chairman  
11 that we don't have a contract with the tote company, and  
12 yet we as mutuel clerks may, in fact, suffer losses for  
13 the tote equipment and communication equipment not  
14 functioning properly.

15 So we would just like to get it on the record that  
16 the pari-mutuel clerk should not be held responsible for  
17 any shortages due to whatever transition period we may be  
18 going through here, in the new future.

19 I would like to add that the tote company has  
20 spent a great deal of time with our group, testing their  
21 equipment. And they have made modifications to help with  
22 the employees, and for that we applaud that. And we  
23 believe that the equipment is close at hand and supposed  
24 to be tested recently. And going forward, we anticipate,  
25 as a group, that the equipment comes up to the standards

1 that we expect, Mr. Chairman.

2 And thank you for the time.

3 CHAIRPERSON SHAPIRO: Thank you.

4 And will you be sure to let Mr. Castro know that  
5 we missed him today?

6 MR. KEMPT: I will. Thank you.

7 MR. REAGAN: Commissioners, on that very same  
8 note, Mr. Kempt will tell you that he and I have been in  
9 communication frequently over the last couple of years,  
10 and I've told him even though these are difficult to  
11 identify and to have enough evidence, so to speak, to  
12 determine what happened to a clerk at any given time, if  
13 he will present to me at any time, on any day, enough  
14 information about what happened and we can show that it  
15 was not the clerk's fault, we can certainly take care of  
16 that.

17 So we are open to that possibility.

18 CHAIRPERSON SHAPIRO: Thank you, sir.

19 MR. SIEFOLD: Bob Siefold with Sony Mobile. And  
20 we're a public company based in New York.

21 (Thereupon a discussion was held off the  
22 record.)

23 MR. SIEFOLD: I would be happy to show the new  
24 technology.

25 CHAIRPERSON SHAPIRO: Well, I think we have to

1 look at new technical issues.

2 BOARD MEMBER HARRIS: I think that's exactly what  
3 we need, because we need something that's a real  
4 breakthrough, like what you may have.

5 MR. JAMGOTCHIAN: I will give you a quick answer  
6 to your question.

7 THE REPORTER: Can you come up and use the  
8 microphone?

9 MR. JAMGOTCHIAN: Yes, sorry.

10 Jerry Jamgotchian.

11 The short answer is the racetracks might want to  
12 come up here and confirm it, but the fact is, they are not  
13 interested in putting capital improvements into their  
14 antiquated structure, because none of them are sure about  
15 the future of California horse racing and the leadership  
16 that is being shown by the Board.

17 With regards to the capital costs, if these  
18 racetracks can't get a return on their money or, better  
19 yet, can't amortize their improvements over a period of  
20 time -- like Hollywood Park, like Bay Meadows; that's two  
21 examples -- why should they put significant capital  
22 improvements into their structures?

23 I think that answers your question, Mr Shapiro.

24 CHAIRPERSON SHAPIRO: Thank you. All right.

25 MR. CHILLINGWORTH: Sherwood Chillingworth, Oak

1 Tree Racing Association.

2 We have engaged in additional conversations with  
3 respect to the games by providing a new type of equipment  
4 that makes it easier for the veteran to bet. And we're --  
5 We've looked at some of their equipment, and we're going  
6 to move forward during the next couple of months.

7 We're, as you know, a lessee of Santa Anita, and  
8 if Santa Anita doesn't want to participate, we're willing  
9 to initiate an experiment by ourselves, without their  
10 having to bear any of the cost.

11 CHAIRPERSON SHAPIRO: Thank you. And that's very  
12 noble of you, and if they won't participate, then they  
13 should.

14 MR. KELLIHER: Mr. Chairman, my name is Dan  
15 Kelliher with Scientific Games.

16 And I just wanted to come up and make a couple of  
17 comments.

18 Previously I had been with United Tote, and I made  
19 a change to come on to Scientific Games, and I think  
20 there's one point that the Board should realize from a  
21 technology perspective.

22 You talk about the back end. We are not just  
23 talking about the back end, and that's true. But the two  
24 pieces really need to go together. Having good,  
25 effective, creative devices to engage the patron certainly

1 is a big part of it, but that without the back end  
2 improvements is only half of the equation as well.

3 So when you look at -- Ultimately, if we look six  
4 months out from now, new data centers both on the East  
5 Coast and the West Coast, as well as new terminal devices  
6 and engaging the customers in a more fan-friendly  
7 experience, California actually will leapfrog NYRA,  
8 Churchill Downs, other jurisdictions around the country  
9 and having the complete equation on both an effective  
10 front end and an effective back end to their tote  
11 operations. Nowhere else in the country will have that as  
12 we look forward over the next six months.

13 CHAIRPERSON SHAPIRO: Thank you.

14 MR. CHARLES: Ron Charles, Magna.

15 THE REPORTER: Come up here and use this  
16 microphone, please.

17 MR. CHARLES: Sure.

18 THE REPORTER: And restate your name.

19 MR. CHARLES: Ron Charles, Magna.

20 I couldn't agree more with you, Mr. Chairman.  
21 We're frustrated. I think the racing fans are frustrated  
22 at the equipment we're using right now.

23 One of the issues is a cost issue, but more  
24 importantly, we did buy one more year to let the RFP  
25 process go forward.

1           And I think the entire industry ought to know,  
2 California will be looking at this and probably taking a  
3 serious look and probably will be doing something  
4 significantly different a year from now.

5           CHAIRPERSON SHAPIRO: Does that mean we will have  
6 it a year from now? Or you're going to --

7           MR. CHARLES: No.

8           CHAIRPERSON SHAPIRO: -- begin to select?

9           MR. CHARLES: That means the contract goes for one  
10 year, and we will be prepared to make a change.

11           Again, we're in a little difficult position since  
12 we own part of a tote company, AmTote, but we are, as I  
13 think all of the racetracks are, concerned about the  
14 quality of the product that we're giving to the racing  
15 fans. And so what we're trying to do is improve on that.

16           We needed some additional time and that's why the  
17 RFP process will be this year.

18           CHAIRPERSON SHAPIRO: I'm glad to hear you say  
19 that because it really is woefully bad, and we just -- You  
20 will improve our business if you do that.

21           MR. CHARLES: We agree.

22           CHAIRPERSON SHAPIRO: Thank you.

23           MR. HUNTLEY: My name is Bill Huntley, Scientific  
24 Games.

25           I would like to make a couple of comments in

1 addition to what Dan Kelliher said.

2 Earlier in this conversation it was mentioned that  
3 you need a lot of new products with devices, personal  
4 sorting devices to be used and audio boxes and CDs and  
5 things of that nature.

6 I think it's a common misconception among many  
7 people in the industry that those products are not  
8 available today. But in fact, they are available today.  
9 We've got a full line of all those sorts of products that  
10 doesn't have to wait for a new contract to be able to  
11 deploy those. They are made available.

12 In addition to that, Scientific Games is also  
13 working with third-party providers like Sony that was just  
14 represented. The product they have -- We're looking for  
15 the best developers for additional products because no  
16 company in and of itself has all the solutions. So you  
17 can look forward to a lot of those sort of relationships  
18 coming down the pipe with Scientific Games, to be able to  
19 provide California and other racing jurisdictions with a  
20 full array of products of that nature.

21 CHAIRPERSON SHAPIRO: Before you go, do you think  
22 that California racetracks and their fans are being  
23 treated the way they should be treated at the tote window?

24 MR. HUNTLEY: Let me say that Scientific Games has  
25 had this contract since the early '90s, and the equipment

1 that was put in there at the time was quite revolutionary.

2 It certainly is the case that this equipment is  
3 not allowed to remain in place too long. And like any  
4 equipment that gets old, it's not going to have the same  
5 functionality; it's not as reliable as it was.

6 We like to explain that if it's a matter of  
7 contract, quite frankly, the contracts have been at  
8 cheaper rates than they are going to be when new capital  
9 has to be invested in this environment. And no doubt that  
10 the benefit of cheaper rates was part of a factor in  
11 allowing this equipment to stay in place as long as it  
12 has.

13 But having said that, Scientific Games realizes  
14 that in the last few years, that we have not done the job  
15 that we should have done and to ask the Board that I know  
16 this equipment -- and we've --

17 I'm new in this position. I'm not new to racing.  
18 I was in this business for many years. I moved out about  
19 ten years ago and I'm back now running this racing  
20 business.

21 And everything that you've heard, everything that  
22 you've seen in the last year and a half is a direct result  
23 that I'm operating this business. And the full support  
24 for Scientific Games Corporation is behind me. This is  
25 before corporation. And all the investment that we're

1 making is for the betterment of this business, and I can't  
2 back up, and I can't change time.

3 But I want you to know that we're fully dedicated  
4 to this. We have changed management. We've brought in  
5 new people.

6 I think that any one of the current operators will  
7 tell you that within the last six months, the level of the  
8 service has dramatically improved as a result of that. It  
9 is a fact that it's going to be in place for another year.  
10 It is a very complicated network of systems and computers  
11 in California. That's going to have to be a well  
12 thought-out process to make a change where there's a --  
13 but you have -- it has to go through that. We believe  
14 we're doing everything we can possibly do to ensure that  
15 we provide the best possible experience to the California  
16 players in this interim period.

17 CHAIRPERSON SHAPIRO: Okay. Thank you.

18 I just have to ask the court reporter, I know that  
19 there's a lot of noise and it's difficult to hear, but  
20 you're doing a great job. So we're very appreciative.

21 I would like to continue through the rest of the  
22 agenda and try to get it done unless somebody wants to  
23 take a break.

24 THE REPORTER: I need to take a break.

25 CHAIRPERSON SHAPIRO: You need to take a break?

1 THE REPORTER: Yes.

2 CHAIRPERSON SHAPIRO: Fine. We're going to take a  
3 5-minute break -- 10-minute break right now.

4 (Thereupon a break was taken in  
5 proceedings.)

6 CHAIRPERSON SHAPIRO: Would everyone please take  
7 their seats?

8 Moving on, the next matter on the agenda is Item  
9 Number 13, which is the staff report.

10 I see staff is sitting there, ready to report.

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

13 These three reports have one thing in common. We  
14 have put together long meets here. Of course Los Alamitos  
15 Quarter Horse Race Association goes 200 days throughout  
16 the year and because the Northern Thoroughbred schedule  
17 has been tweaked so many times in the last decade, it is  
18 difficult to find comparable periods where they are still  
19 running at that particular time.

20 We have also presented 100 days or thereabout for  
21 Pacific Racing and Bay Meadows so that we can make some  
22 kind of meaningful comparisons.

23 So those are the three reports, and if you have  
24 any questions, I will try to answer them.

25 BOARD MEMBER HARRIS: I am pleased to see the

1 uptakes at Bay Meadows.

2 (Thereupon a discussion was held off the  
3 record.)

4 MR. REAGAN: Right. Well, what it is in this  
5 particular case, they run a hundred-ish dates each year  
6 for Bay Meadows and Pacific Golden Gate, so we have  
7 compared the hundred-ish days this year to hundred-ish  
8 days last year.

9 BOARD MEMBER HARRIS: Oh, okay.

10 MR. REAGAN: Yeah.

11 BOARD MEMBER HARRIS: I was confused. I was  
12 thinking that -- in particular that, I think Bay Meadows  
13 had a 54 percent increase in ADW, which I would assume was  
14 due to their having all three providers. But that's a  
15 pretty impressive figure, is right.

16 The previous year at Bay Meadows is when we had --  
17 Who did they have before this year?

18 MR. REAGAN: Jack? Your ADW providers?

19 MR. LIEBAU: We now have everybody.

20 CHAIRPERSON SHAPIRO: I think his question is did  
21 you have --

22 MR. LIEBAU: Prior to that, they had XpressBet.

23 CHAIRPERSON SHAPIRO: So in the prior year you had  
24 XpressBet and in the later year you had all three.

25 MR. REAGAN: Yes.

1 BOARD MEMBER HARRIS: But in the prior year you  
2 had XpressBet and YouBet?

3 MR. LIEBAU: Yes.

4 BOARD MEMBER HARRIS: So they added TVG. But I'm  
5 not sure how much of that is due to TVG or if just there  
6 was a growth in ADW in general.

7 MR. LIEBAU: I think there's been a growth in ADW  
8 in general, but I also think that there has been an  
9 immense quantum leap in TV exposure through TVG and  
10 northern California having Comcast.

11 BOARD MEMBER HARRIS: It says too that your  
12 average on-track and off-track are still all right.

13 I mean, there are allegations, but the  
14 capitalizations doesn't jump out at you, looking at these  
15 numbers.

16 MR. LIEBAU: Those numbers that John has presented  
17 are averages. Bay Meadows is Bay Meadows. The numbers  
18 are substantially higher if you look at the comparative  
19 dates, because this last year, the date schedule has been  
20 changed.

21 BOARD MEMBER HARRIS: It's nice to see an update.

22 CHAIRPERSON SHAPIRO: I also would like to  
23 compliment Michael Kilpack on his end-of-race meet  
24 security report for Los Alamitos, which I thought was  
25 complete and informative. And I would encourage that the

1 same form of report or that report be shared with other  
2 supervising investigators who I kind of felt phoned it in  
3 when I read the other two that were in the book.

4 But I thought it was very helpful to get a report  
5 that showed county investigations and what they had done  
6 and so forth. I thought that was very useful, so could  
7 you please pass that on.

8 MR. REAGAN: We certainly will.

9 CHAIRPERSON SHAPIRO: Are there any other comments  
10 to the end-of-meet reports?

11 There being none.

12 Okay. Committee reports.

13 Number 14, the report of the Medication Committee.

14 BOARD MEMBER MOSS: Richard, we met yesterday and  
15 we discussed at length the Intercontinental -- I'm going  
16 to call it a review.

17 And basically I would turn it over to you now,  
18 because you ran the meeting, because I've been out of  
19 touch with a lot of this stuff, because I've been  
20 traveling.

21 CHAIRPERSON SHAPIRO: All right.

22 Yesterday there was a Medication Committee  
23 meeting, and the sole matter on the agenda was to review a  
24 matter that had been brought forth by Mr. Jamgotchian at  
25 our last Racing Board meeting, where there was a late

1 Lasix shot that had been administered to Intercontinental.

2 We appointed a special person, Scott Chaney, who  
3 is an attorney, a former assistant trainer, and a current  
4 steward, who has knowledge of both the backside and the  
5 law to review the entire matter from his investigation.

6 What he reported back to the Committee was that he  
7 had interviewed over 30 different people, 14 of which he  
8 took declarations under penalty of perjury and reviewed  
9 this entire incident, all of the allegations that were  
10 made associated with that incident.

11 His report was delivered orally to the Committee,  
12 and he prepared a written report, which was not delivered  
13 to the Committee, purposely.

14 His findings, if I can summarize them, were that  
15 there certainly was no cover-up and no intentional  
16 wrongdoing on anybody's part related to the California --  
17 related to staff or the California Horse Racing Board, but  
18 that there were some mistakes that were made related to  
19 Intercontinental getting a late administration of Lasix.

20 What it also did was it highlighted to us that we  
21 need to look into better ways and better methods with  
22 which to ensure situations like this don't exist. And  
23 therefore, I believe that in the future date, we will look  
24 at ways in which we can prevent situations like this from  
25 happening.

1           And as an outgrowth of that, there also was -- has  
2    been a protest filed by two of the horse -- the owners of  
3    the horses that participated in that race where they are  
4    seeking that there be a hearing to consider the  
5    redistribution of the purse of that race.

6           The Board has -- there is a rule, which is  
7    basically a 72-hour rule, which has timed out at this  
8    point.

9           However, it was the Medication Committee's belief  
10   that we should waive that rule and we should allow those  
11   horse owners that participated in that race that want to  
12   file a protest and have a hearing, for them to do so.  
13   Therefore, it is the Medication Committee's recommendation  
14   to this Board that the Board allow that those horse owners  
15   be given a 72-hour notice now so that they can timely file  
16   any protest to the outcome of that race.

17           And further, that those protests that have been  
18   submitted to date would be considered, that they are valid  
19   and they are recognized.

20           So accordingly, the Board is not in the position  
21   to want to hear specific information about this incident,  
22   because as you know, we sort of sit as an appeals court,  
23   and therefore that is why the written report was not given  
24   to any of the Board members.

25           But nonetheless, Mr. Jamgotchian, I want to thank

1 you for bringing to this our attention. It is  
2 appreciated. It is unfortunate that the horse passed the  
3 time when Lasix should have been administered, and at this  
4 point, the horse owners will have the ability to file or  
5 acknowledge any protest that they deem necessary.

6 So that was the report of the Medication  
7 Committee.

8 I will then ask for a motion to adopt the  
9 Committee's recommendation that the owners of horses that  
10 were in the Palomar handicap be given 72 hours from this  
11 date to file any protest related to the outcome of that  
12 race and that those protests that have been filed to date  
13 be recognized.

14 Is there a second?

15 BOARD MEMBER HARRIS: Just to clarify, we're  
16 recognizing, I believe, there's at least two protests to  
17 file.

18 CHAIRPERSON SHAPIRO: Yes.

19 BOARD MEMBER HARRIS: They don't have to do  
20 anything else. But the other rule is to remain in play as  
21 far as any purse redistribution they need to file.

22 CHAIRPERSON SHAPIRO: They need to file within 72  
23 hours from now if they intend to file a protest.

24 BOARD MEMBER HARRIS: If they don't file a  
25 protest --

1 CHAIRPERSON SHAPIRO: Then they will be timed out.

2 BOARD MEMBER HARRIS: I think before we notify  
3 them, we should be proactive in notifying them  
4 because they --

5 EXECUTIVE DIRECTOR FERMIN: They are going to move  
6 forward with a hearing on redistribution no matter what,  
7 because we have the two, and they certainly would not be  
8 exempt just because they hadn't filed.

9 BOARD MEMBER HARRIS: That's the issue, I guess.  
10 It seems like we already got two people that filed  
11 and that reaches a threshold. I don't know what we're  
12 accomplishing by necessarily telling everyone they got --

13 CHAIRPERSON SHAPIRO: Well, that's fine.

14 I just think that we should ask staff to make sure  
15 that each of the participants that had a horse in that  
16 race, make them aware of this.

17 BOARD MEMBER HARRIS: Yeah.

18 CHAIRPERSON SHAPIRO: I think we should have staff  
19 do that.

20 BOARD MEMBER HARRIS: I don't know if we need the  
21 two that have filed, to require them to file again.

22 CHAIRPERSON SHAPIRO: No, no, no. No one's asking  
23 them to file again.

24 BOARD MEMBER HARRIS: It's clear that if you  
25 didn't file for redistribution, you're eligible for it.

1           CHAIRPERSON SHAPIRO:  It's going to be considered  
2 in the hearing.

3           Mr. Couto.

4           MR. COUTO:  Drew Couto, Thoroughbred Owners of  
5 California.

6           I would like to request that the Horse Racing  
7 Board notify each owner who ran a horse in that race and  
8 give them 72 hours so that if they -- if they do file a  
9 protest based on some other valid objection, other than  
10 what's contained in the current two protests, it might  
11 broaden the scope and they might have a valid objection  
12 that's in addition to that.

13           So I think it would be an appropriate procedure to  
14 make sure they are all notified and given 72 hours.

15           CHAIRPERSON SHAPIRO:  I think you're right.

16           And in light of this discussion, I would like to  
17 amend my motion that we will give them 72 hours from the  
18 date at which they have all been notified.  And so they  
19 can do that, so we can direct staff to immediately notify  
20 each of them and then we will move from there.  Okay.

21           BOARD MEMBER MOSS:  Mr. Chairman?

22           CHAIRPERSON SHAPIRO:  Yes.

23           BOARD MEMBER MOSS:  One small question.

24           Did anything come up by Mr. Chaney or anybody  
25 suggesting that the Lasix shots in the future be

1 administered by one person or a track vet, preferably? Or  
2 should we have the Medication Committee discuss what that  
3 actually amounts to?

4 CHAIRPERSON SHAPIRO: I believe that we did not  
5 get into specifics as to what took place there, but what  
6 we did agree to is that we should have the medication  
7 committee look at the standards that are used and  
8 procedures that are used to try and eliminate this from  
9 being done in the future.

10 Towards that end, there are certain states that  
11 use an official vet or a state vet to do it, versus  
12 private vets. But that gets into manpower and cost and  
13 things like that. And since our budget is not  
14 overflowing, unfortunately, it would be difficult for us  
15 to undertake that, but I think that the Medication  
16 Committee should reconvene and look at this and look at  
17 how we can best monitor and regulate that process.

18 BOARD MEMBER HARRIS: I think we also need to  
19 include the horsemen in that, because it may well be that  
20 the user-paid type of system will be subject to trade with  
21 owners and tracks and everyone who cooperated.

22 CHAIRPERSON SHAPIRO: I agree, and I think that  
23 whole discussion should be helpful to our Medication  
24 Committee meeting.

25 There is a motion and there's a second.

1 All in favor?

2 (All ayes.)

3 MR. JAMGOTCHIAN: Mr. Chairman and members of the  
4 Board, I don't intend on commenting on Mr. Chaney's  
5 report, just to offer you a couple suggestions.

6 According to the Indiana Horse Racing Commission,  
7 "Integrity '06" relates to their proposal to essentially  
8 clean up this problem in Indiana.

9 I don't know why I'm doing work for the staff, but  
10 in essence the four components of this plan are oversight  
11 of the horses that are in the race on the day; veterinary  
12 practice and initiatives; blood gas programs; and  
13 wagering/monitoring systems.

14 Interestingly enough, and the staff can -- if they  
15 want a copy of this I would be happy to share it with  
16 them, the veterinary practices in the state of Indiana are  
17 what they say -- and it's true. They are a model.

18 And they want them to be the best practices in the  
19 racing industry, but few of these practices are in effect  
20 in any of the states. "And collectively these initiatives  
21 would take Indiana from the middle of the pack and make us  
22 the leader of the pack."

23 Now, I don't know if Ms. Fermin and the Board want  
24 to be leaders of the pack when it comes to medication, but  
25 if they do, somebody ought to figure out what they are

1 doing in Indiana.

2 CHAIRPERSON SHAPIRO: Well, thank you.

3 Both Executive Directive Fermin and I will be at  
4 RCI next week at which we will be sitting in on some of  
5 those meetings.

6 And if you would be kind enough to send a copy of  
7 that report so we can review it, that would be helpful.

8 And we thank you.

9 MR. JAMGOTCHIAN: Also, with regards to  
10 Mr. Chaney's report, I was happy to see him cite Rule 16  
11 of the California Horse Racing Board, Sacramento Horse  
12 Racing Association, which essentially revised the order of  
13 the finish.

14 I was hoping that he used this report -- he used  
15 this ruling in his report, because if he didn't, I was  
16 here to share it with you.

17 CHAIRPERSON SHAPIRO: Thank you very much.

18 Okay. Next is the report of the Pari-Mutuel/ADW &  
19 Simulcast Committee.

20 Commissioner Moss.

21 BOARD MEMBER MOSS: Thank you, Mr. Chairman.

22 We had a conversation yesterday regarding the  
23 20-mile restriction on satellite locations. And I think  
24 our committee is starting to address this matter, and it  
25 ended up -- at least this action item ended up -- with

1 staff is going to develop a report based on the fact that  
2 we are going to try five locations, connecting with five  
3 different racetracks, to see if we can perhaps push  
4 through something like this happening in the legislature.

5 At least that's the way I understood it. Is that  
6 right, John?

7 MR. REAGAN: Yes, sir.

8 BOARD MEMBER MOSS: You know, this discussion took  
9 place because we still have basically 35 off-track places  
10 to bet in the state.

11 And we believe that without too much difficulty,  
12 we can certainly extend that number successfully with the  
13 association, the racetracks, and hopefully the clerks.

14 The second thing they had was presentation by  
15 Scientific Games. You met Bob and George, and they gave  
16 us a nice demonstration of how modernized they've become,  
17 and we're going to soon receive the benefit of that  
18 updating of technology.

19 I think we decided that since we already approved  
20 a rule to dealing with scratches and what happens insofar  
21 as the win tickets are concerned, we've accommodated place  
22 tickets as well. So that suggestion has been put into  
23 action. We're hoping to get something resolved on that  
24 pretty soon.

25 (Thereupon a discussion was held off the

1 record.)

2 MR. REAGAN: We amended the rule to allow for the  
3 surface change, and we're going to do that. We're going  
4 to place a big bet. We will start that process.

5 BOARD MEMBER MOSS: Thank you, John.

6 And then we had a brief discussion in regard to  
7 the suggestions that might limit illegal gambling in  
8 California by off-shore entities, and I think this is part  
9 of a greater conversation in the future.

10 That was our meeting.

11 Thank you, Mr. Chairman.

12 CHAIRPERSON SHAPIRO: Thank you. I did -- I did  
13 sit in on it and it looked like some really good things  
14 were going on. And I appreciate the work.

15 BOARD MEMBER MOSS: And we are going to discuss, I  
16 gather, the coupling issue.

17 CHAIRPERSON SHAPIRO: That will be heard at our  
18 next meeting. And we will be dealing with the coupling  
19 and uncoupling. I know we're getting a lot of feedback,  
20 which is very helpful. And in terms of e-mails and calls,  
21 and it's very helpful to us.

22 The next issue is other business.

23 I wanted to remind you that there is a five-minute  
24 limitation for each person to address the issues that are  
25 on the general business.

1           Is there any general business that needs to come  
2 before the Board?

3           MR. CASWELL:   Ron Caswell again.

4           As I discussed before, I represent Jerry  
5 Jamgotchian.  And a little earlier, you discussed the  
6 insecurity of Hollywood Park and the problems with  
7 security elsewhere, until this period.  So I have delayed  
8 until now.

9           On Monday, I deposed Douglas Aschenbrenner in  
10 connection with the lawsuit.  Aschenbrenner raised some  
11 issues that concerned him about security.  So I really  
12 thought I would just pass them on to you, because I  
13 thought there was something that the Board would want to  
14 consider.

15           Mr. Aschenbrenner noted in his testimony that --

16           THE REPORTER:  Excuse me.  Can somebody close that  
17 window?  I can hear a voice, but it's not yours.

18           Okay.  Go on.

19           MR. CASWELL:  Okay.  Mr Aschenbrenner noted that  
20 there were some problems with security.  And he seemed  
21 rather concerned about it, so since I am here today, I  
22 thought I would pass it on.

23           He said one of the things that he noted at the  
24 racetracks is that there are not enough cameras to  
25 actually monitor the horses that are being videotaped.

1 That seems significant, but inconsequential. It seems  
2 like a small capital outlay to take care of that.

3 And then he noted that a lot of the cameras that  
4 were at the racetracks didn't work. Again, it's the same  
5 problem, just a slightly different twist on it. His  
6 biggest concern was that the security companies that are  
7 being hired by the racetracks are not licensed. Or the  
8 security company is licensed, but the people, the  
9 personnel, are not licensed.

10 And in the middle of his testimony he said that he  
11 was concerned that there were felons who were being  
12 retained at the racetracks.

13 I can see where that would present the problem for  
14 the Board. So I didn't really intend to take a lot of  
15 time on that, but I thought that I would pass that on  
16 because it does seem disconcerting. It does seem like he  
17 was practically asking me to bring that up to date.

18 THE REPORTER: Stop.

19 I cannot hear him.

20 CHAIRPERSON SHAPIRO: All right. You can't hear  
21 because of back behind me?

22 THE REPORTER: Yes, or wherever those voices are  
23 coming from.

24 CHAIRPERSON SHAPIRO: Okay. Well, we'll see if we  
25 can't --

1           We do appreciate your comments and we would ask  
2 that perhaps you can send them to us, because these are  
3 all very helpful.

4           MR. CASWELL: I can send you the comments and I  
5 can send you a copy of the deposition transcripts so you  
6 can see --

7           CHAIRPERSON SHAPIRO: I don't want a copy of the  
8 deposition, but I would like -- You're making some good  
9 points, and so we don't miss anything.

10          I think they are good points.

11          MR. CASWELL: Two other things I wanted to bring  
12 forward because I understand this is where we're going for  
13 future action.

14          I filed a couple of objections which pertain to  
15 the 1582 rule, and the objections were germane because the  
16 stewards hadn't prepared a proper record.

17          We volunteered to waive the stewards' rehearing,  
18 because it really is a lot of time and effort on  
19 everybody's part. And if it goes the way we anticipated,  
20 it would go -- We probably would be going to superior  
21 court, so I would ask that the Board consider just dealing  
22 with all the administrative recommendations and then we  
23 can save everybody time and money in that effort.

24          And then the last thing that I would bring up -- I  
25 don't want to take anymore time than we need to -- is I

1 lodged a protest against one race. We simply haven't  
2 heard anything. It's been about three weeks.

3 We would just ask just the timing of this issue  
4 that the Board concede the hearing of the protest.

5 CHAIRPERSON SHAPIRO: All I can do is -- I'm  
6 familiar with them, obviously.

7 And I can just refer to staff to give a report  
8 back to us so we can address those issues.

9 MR. CASWELL: Thank you very much for you time.

10 CHAIRPERSON SHAPIRO: Thank you.

11 Okay. Does anybody else have anything?

12 MR. JAMGOTCHIAN: Mr. Chairman, this five-minute  
13 limit, I think, is based upon my activities. And I got to  
14 tell you that I think it's totally improper to do it at a  
15 hearing without discussing it with the Board.

16 But more personally, in this leadership role that  
17 you have, you've got to listen and communicate with  
18 people. If you're going the sit there and say five  
19 minutes and your time's up, I think this is just wrong.  
20 You know, I will try --

21 CHAIRPERSON SHAPIRO: Mr. Jamgotchian, there's a  
22 law that allows it, permits it.

23 Use your five minutes and move on.

24 MR. JAMGOTCHIAN: There was no law until this  
25 meeting. Your unilaterally elected to change the law and

1 I just wanted to note that.

2 With regards to the security submitted by  
3 Mr. Caswell and Mr. Aschenbrenner then testified to, the  
4 incident is not one at Santa Anita. It happens all the  
5 time.

6 There's two incidents I'll bring to you.

7 THE REPORTER: Speak into the microphone, please.

8 MR. JAMGOTCHIAN: One was, as I discussed earlier,  
9 with Mr. Moss's horse, Giacomo had no camera, had no  
10 security during Santa Anita. Check your records. Giacomo  
11 wasn't the only horse. There were, like, 12 or 15 horses  
12 that didn't have it.

13 (Thereupon a discussion was held off the  
14 record.)

15 MR. JAMGOTCHIAN: So if you don't have cameras and  
16 you don't have security, why do the security controls  
17 under the Santa Anita as well as Hollywood Park permits,  
18 which require them to have this, there's no enforcement in  
19 this? Why don't you just eliminate this? Why do you even  
20 have security?

21 In the Intercontinental case you wouldn't even  
22 have the issue. Let all these horses get the competitive  
23 advantage that Intercontinental got by getting a late  
24 Lasix shot, and just ignore the rule for medications,  
25 because that's what's happening here. If the Board

1 doesn't want to have these horses watched or videotaped,  
2 then eliminate the rules, because that's what's happening.

3 With regards to the unlicensed security people,  
4 Rule 1924 says, if you're in the backstretch, you got to  
5 be licensed. These people aren't licensed. These people  
6 are picked up off the street, in some instances, because  
7 they need people.

8 So I don't know if the Administration of Horse  
9 Racing -- It really disturbs me because I have a  
10 substantial investment. I don't see a lot of good things  
11 happening. You bring up antiquated tote systems. You're  
12 right. You bring up small fields. You're right. You  
13 bring up the breeding industry in the state, which is  
14 minimal. And I have to send all my horses out of state to  
15 get bred.

16 This is a really serious problem that's in front  
17 of you. And I wish the Board would really look at the  
18 seriousness, because if you want horse racing to improve  
19 in California, you're going to really have to look at the  
20 people that administrate it, and it is not about track  
21 services.

22 Look at the facility that we're in today. Compare  
23 this to a NASCAR facility. Compare this to a new  
24 racetrack or racino somewhere. This isn't what the  
25 industry is.

1           Now, you might have only the best intention in the  
2 world to change it, but cutting off people, treating them  
3 rudely, and more importantly, ignoring what they are  
4 telling you -- which is your right -- is wrong.

5           Craig Fravel and Joe Harper said in the  
6 declaration, that "Gee, we didn't even know about  
7 Intercontinental until February of this year" and Harper  
8 didn't know about it until he read it in the newspaper.

9           If you believe that, you believe that 9/11 didn't  
10 happen, because Sam Templeton works for those guys, and  
11 he's been there for 30, 40 years.

12           Now, Chaney's statement with regards to Sam  
13 Templeton said, "Hey, I told CHRB investigators." Well,  
14 why didn't the CHRB investigators tell anybody else? They  
15 did. And she's sitting to your right.

16           Thank you.

17           CHAIRPERSON SHAPIRO: Mr. Jamgotchian, I  
18 appreciate your comments.

19           And I would like to respond, and I would just ask  
20 that you listen.

21           MR. JAMGOTCHIAN: Oh, I will. I will listen to  
22 whatever you say.

23           CHAIRPERSON SHAPIRO: Thank you.

24           First of all, I want you to understand that  
25 despite the 104 e-mails that you sent to my office, I am

1 required, as are all other Board members, not to read them  
2 and not to respond to them. Okay? So I want you to  
3 understand that when there are issues that are pending  
4 investigation, we are required by the attorney general not  
5 to read them and not to respond to them.

6 Now, I happen to think that you and I share  
7 something in concert, and I think you share it with the  
8 rest of this Board. We all have a passion for this Board.  
9 We're all doing what we can to move this Board forward.  
10 We all recognize that there are lots of problems and lots  
11 of challenges in this industry.

12 I would invite you to become a positive force in  
13 helping move the industry in a positive way. There's no  
14 doubt, people make mistakes. Anybody that's trying is  
15 going to make mistakes.

16 On the other hand, to simply make allegations  
17 which are unfounded and in all of these discursions that  
18 you continually make, when you don't have all the  
19 knowledge -- I agree with you, and I think everybody up  
20 here would agree with you. We would love to have the best  
21 sophisticated camera equipment, surveillance equipment  
22 possible, but we have budgetary limits.

23 For example, we are trying to get an increase from  
24 the State of California to approve our testing program.  
25 We are battling uphill. We were turned down by the

1 legislature. We were circling back. We have limited  
2 resources, and unfortunately, we don't have the luxury  
3 that you might have in private business and I might have  
4 in private business to have all the resources to do  
5 everything that we would like.

6 So I appreciate your passion. Okay? I may feel  
7 that you are misguided in a way that you direct it at  
8 times. But I wish that you would take that energy, which  
9 is a very useful tool, and help make it a positive tool to  
10 help us.

11 I am glad you brought up the Intercontinental  
12 matter. I am glad you bring these issues to our attention  
13 because we only have limited resources.

14 And not one person is running this Board. Not one  
15 is running this staff. It is a joint effort. We can't be  
16 in five different racetracks every day.

17 So I simply invite you -- and I please ask that  
18 you not respond, other than to think about it. We  
19 recognize you have a significant investment. We value  
20 your participation in this Board.

21 I hope that you would simply redirect it in a way  
22 that would be more useful to us.

23 MR. JAMGOTCHIAN: My only concern with that is  
24 that the leadership is what's important in any business,  
25 whether it's your business or my business. If you don't

1 have leadership that gives you the direction that you need  
2 to make critical decisions, you're not going to be  
3 successful.

4 Now, when you have a critical decision in front of  
5 you, if that critical decision requires action, you're  
6 sitting in the position to make the decision.

7 CHAIRPERSON SHAPIRO: And Mr. Jamgotchian, all I  
8 can tell you is I believe that each of these Board members  
9 that sit up here, including staff, are extremely dedicated  
10 and committed to trying to improve this industry.

11 None of us -- None of us are getting highly paid  
12 or rich by what we do. We are committed because we care  
13 about the game. And that is not to say we won't make  
14 mistakes, because we will.

15 And all I'm saying is rather than being a  
16 destructive force and somebody who is looking to tear down  
17 what we're doing, which is what it appears -- and I don't  
18 think it's your intention. I think it would be more  
19 useful if you and your attorney and people you know say,  
20 "Hey, did you know that this happened?" or "Let me tell  
21 you about this or that," in a positive way, I think you  
22 would be welcomed, frankly. And I really don't want to  
23 engage in a debate.

24 MR. JAMGOTCHIAN: The problems with that is that  
25 the way that things are addressed, there needs to be

1 resolution and there's never resolution.

2 CHAIRPERSON SHAPIRO: There is.

3 Unfortunately, we're a bureaucratic agency, and I  
4 understand that frustration. And I understand that  
5 frustration, okay, because it's frustrating for all of us,  
6 frankly. As business people and as people in the private  
7 sector, we loathe to go and say, "We screwed up. We're  
8 going to fix it, get it fixed." But there are processes  
9 that we are forced to go through. All I'm telling you is,  
10 we are working to resolve a whole host of issues. It is  
11 complex; it covers the entire state. There's racing  
12 associations; there's horsemen associations; there's  
13 employees; there's fairs. It's very complex. Okay?

14 And all I'm telling you is we have a handful of  
15 people to deal with all this. We are doing our best and I  
16 would like to leave it at that, and I only ask that I  
17 would hope that you would change your focus and look to be  
18 a positive force.

19 MR. JAMGOTCHIAN: I only have one request.

20 CHAIRPERSON SHAPIRO: Okay.

21 MR. JAMGOTCHIAN: My only request is that in any  
22 matters, if you legitimately want change and honestly want  
23 change, that you waive the administrative remedies that  
24 allow me to get into the court system to determine if I'm  
25 right or wrong. Because as long as you guys keep

1 everything bottled up here, it just makes the matters  
2 worse.

3 In the case of 1582, as an example --

4 CHAIRPERSON SHAPIRO: Mr. Jamgotchian, I don't  
5 want to go there.

6 I was trying to simply make and to put out an  
7 olive branch to you, to welcome you, to let you know that  
8 we appreciate you as an owner. We appreciate your vested  
9 interest and your commitment to racing. Okay?

10 That's all I'm trying to say is to let you know  
11 that nobody up here does not appreciate your involvement.  
12 We only wish that it can be delivered in a more productive  
13 way.

14 And I wish you good day. Thank you.

15 MR. JAMGOTCHIAN: Thank you.

16 CHAIRPERSON SHAPIRO: Is there any other business?

17 If not, I will adjourn the meeting.

18 The meeting is adjourned.

19 (Thereupon the California Horse Racing Board  
20 meeting adjourned at 12:52 p.m.)

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CERTIFICATE OF REPORTER

I, KATHRYN S. KENYON, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing California Horse Racing Board, Full Board Meeting was reported in shorthand by me, Kathryn S. Kenyon, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop nor in any way interested in the outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of March, 2006.

KATHRYN S. KENYON, CSR  
Certified Shorthand Reporter  
License No. 13061

