

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

BAY MEADOWS RACE TRACK

LONGCHAMPS ROOM

2600 S. DELAWARE STREET

SAN MATEO, CALIFORNIA

THURSDAY, MARCH 27, 2008

9:30 A.M.

Reported by:
Richard Friant

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson
John C. Harris, Vice Chairperson
John W. Amerman
Jesse H. Choper
Jerry Moss

STAFF

Kirk Breed, Executive Director
Richard Bon Smith, Assistant Executive Director
Derry L. Knight, Deputy Attorney General
Jacqueline Wagner, Staff Services Manager I
Francisco Gonzalez

ALSO PRESENT

Dr. Rick Arthur, Equine Medical Director
Richard Castro
Anne Yen
Gregg Scoggins
Brad Blackwell
Dan Perini
Gene Chabrier
Jack Liebau
Eual Wyatt

APPEARANCES CONTINUED

ALSO PRESENT

Guy Lamothe

Sherwood Chillingworth

Marsha Naify

Michael Power

Robert Hartman

Charlie Dougherty

tom Bachman

Chris Korby

Ed Moger

Cliff Goodrich

Susan Branch

Allen Branch

Chris Carpenter

Jim Perez

Brian Pitnick

Edward Murphy

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1

PROCEEDINGS

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EXECUTIVE DIRECTOR BREED: Let's take our seats
and get started, please. Can we have it quiet, please?

4

Ladies and gentlemen, will the meeting come to order,

5

please.

6

7

This is a Regular Meeting of the California Horse
Racing Board on Thursday, March 27th, 2008, at Bay Meadows,
2600 S. Delaware Street, in San Mateo, California.

9

10

Present at today's meeting are Chairman Richard
Shapiro, Vice Chairman John Harris, Commissioner John
Amerman, Commissioner Jesse H. Choper, and Commissioner
Jerry Moss.

11

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14

Before we go on to the business of the meeting,
I'd like to ask everyone to please state your name and
organization clearly, for our court reporter, when it comes
time for you to speak.

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Now, I've been asked to read the general opening
statement.

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This is the meeting procedure for public comments.
The Board invites comments from the public about items on
its agenda. It also invites public comment about items not
on the agenda, that are related to horse racing, during the
public comment period.

24

25

Please note that unduly repetitious comments or
extended discussion of irrelevancies disrupt the meeting and

1 prevent the Board from accomplishing its business in a
2 reasonably efficient manner.

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

11 The shorter, three-minute limit is necessary today
12 because of the lengthy agenda of 21, I think, not quite that
13 many, open session items. The goal of this rule is to
14 assure that each person's right to make their views known is
15 not disrupted by another person's conduct.

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

21 The sheets are located right over there at the
22 table.

23 Please print your name legibly so that the
24 Chairman does not mangle it.

25 Just prior to our discussion of the item, the

1 comment sheet will be brought to the Chairman after initial
2 statements from staff and interested parties, and the Chair
3 will ask for public comment.

4 When the Chair calls your name, please come to the
5 podium to speak. The Chair will let you know when your time
6 has commenced, when there is one minute left, and when your
7 time is up. When your time is up, you will be expected to
8 return to your seat so that the Chair may call the next
9 person waiting for the podium.

10 When all the names have been called, the Chair
11 will ask if anyone else has a comment on the agenda item,
12 who has not already spoken.

13 At that point, the Board will not take any further
14 comment on an item, unless the Board has specific questions
15 it wishes to address.

16 If the time is up, the Chair will ask the speaker
17 to please take his or her seat.

18 If the speaker is repeating himself or herself,
19 the Chair will ask the speaker if he or she has any new
20 comments to make. If not, the Chair will ask the speaker to
21 allow the next speaker to come to the podium irrespective of
22 the time remaining, unless a Board member indicates that he
23 or she still wishes to hear from the individual.

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

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

5 COMMISSION CHAIRPERSON SHAPIRO: I think you
6 should get an applause for that. That's a much better job
7 than I do.

8 (Applause.)

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.
10 Breed.

11 A few things before we get started. First of all,
12 I would like to congratulate Commissioner Harris and
13 Commissioner Choper, as I understand that they were
14 confirmed yesterday and are duly seated as members of the
15 Racing Board for your extended periods, which I think is a
16 very good thing.

17 (Applause.)

18 COMMISSION CHAIRPERSON SHAPIRO: I also would like
19 to just make note that Marie Moretti has resigned from the
20 Board and is no longer going to be serving on this Board. I
21 think that's a loss for all of us in this industry, but I
22 think we all want to express our gratitude and appreciation
23 that Marie served I think it was close to eight years on
24 this Board. And besides being, certainly, the best looking
25 of us, she also was a very insightful, caring person in

1 terms of this industry and did a lot over the years
2 that -- you know, so many things that she worked on that
3 have benefitted this industry.

4 And I just want the record to reflect that we are
5 very appreciative, and sorry that she decided to step off
6 the Board but, again, very appreciative of her service. So
7 thank you, Marie, if you're watching out there.

8 COMMISSION VICE CHAIRPERSON HARRIS: I might also
9 add that, actually, Marie was on the Board when I got off
10 the Board, and she's been an excellent Board member and very
11 caring about the industry, and the people in it, and the
12 horses, and she'll be missed. But I appreciate the work
13 that goes into this Board, obviously, and it's hard for all
14 of us to do it.

15 So we do need to be looking for other people that
16 would be interested in the Board, because it's an important
17 position and we need to assure that we've got and the
18 Governor has a good group of applicants to look at.

19 COMMISSION CHAIRPERSON SHAPIRO: So thank you.
20 And I'm sure staff will come up with the appropriate
21 recognition that we can give to Marie as a thank you.

22 All right. Now, moving to the agenda, the first
23 item on the agenda is Item Number 1, which is approval of
24 the minutes of the Regular Meeting of February 28th, 2008.

25 Are there any comments, corrections, additions?

1 If not, I'd entertain a motion to approve them.

2 COMMISSIONER CHOPER: So moved.

3 COMMISSION CHAIRPERSON SHAPIRO: It's moved. Is
4 there a second?

5 COMMISSIONER MOSS: Second.

6 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

7 (Ayes.)

8 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay,
9 Item Number 2. Item Number 2 is a discussion and action by
10 the Board regarding the status of the card check agreement
11 between the Pari-Mutuel Employees Guild, Local 280 and the
12 licensed Advanced Deposit Wagering providers.

13 I'd like to provide a little bit of background on
14 this issue and then I'm going to ask that we hear from both
15 Local 280, and that we also hear from the ADW providers that
16 are present, which I think would be XpressBet, Twin Spires,
17 I'm assuming somebody from Yobet's here. And if somebody
18 is here from TVG, I'd like them to also come forward.

19 This issue was accidentally or inadvertently
20 omitted from our last Board meeting, and we said that this
21 issue would be brought back as one of the first items that
22 we would deal with.

23 On January 1st of this year, law was enacted that
24 essentially extended and renewed AB 765, renewed and
25 extended the ADW law in California.

1 As part of that, certain new provisions were
2 written into the law. Some of those provisions or one of
3 those provisions was that the ADW providers and the union,
4 in this case Local 280, would enter into a neutrality
5 agreement or a card check agreement.

6 It is my understanding that that agreement was to
7 provide, and in the law it's specified, that the agreement
8 would provide that the ADW companies would agree to
9 recognize and bargain in good faith with the labor
10 organization, which had demonstrated a majority status by
11 submitting authorization cards signed by employees.

12 That the labor organization must have historically
13 represented employees who accept or process any form of
14 wagering in California.

15 The ADW providers are to remain neutral concerning
16 those employees' choice, whether or not to authorize the
17 labor organization to represent them or not.

18 And employees include those who accept or process
19 any form of wagering for which California ADW license is
20 required, whether employed in California or outside of
21 California.

22 And labor organization must request such an
23 agreement in writing no later than 90 days prior to the
24 licensing.

25 Now, the agreement applies to those

1 classifications of employees who accept or process wagers
2 for which a California license is required, whether the
3 facility is located within or outside California.

4 Essentially, I think that captured what the issue
5 was about. In the intervening period between our last
6 meeting and this meeting, there have been a series of
7 discussions and correspondence that's gone back and forth.
8 On March 13th there was a conference call, to which I
9 participated, along with Kirk Breed, Bon Smith, Jackie
10 Wagner, of the CHRB, Derry Knight, our counsel, and
11 representatives of Local 280, their counsel, and the three
12 ADW providers, Twin Spires, XpressBet, and Youbet.

13 The purpose of that call was to try and come to an
14 agreement, so that there could be a neutrality agreement in
15 place that would adhere to what is required to be met in the
16 law.

17 This Board, as a condition of the licensure of
18 these ADW companies, is required that we see that this
19 neutrality agreement is in place.

20 I believe the Board is desirous of doing that and
21 we've tried in every way possible to do that.

22 During that conference call there was -- or that
23 conference meeting, there was discussion about two
24 particular issues that I recall and, again, I stand to be
25 corrected by anybody that participated, that there were two

1 issues that seemed to be in conflict.

2 The first was who and what classifications of
3 employees? In particular, there was discussion about
4 customer service operators or representatives, that are
5 employed by the ADW companies, and were they, in fact,
6 historically recognized as people that would be represented
7 by the union. There seemed to be debate and disagreement on
8 that issue.

9 The other was that if one of the ADW -- if any of
10 the ADW providers subcontracts out its work to a third
11 party, is that third party then obligated or bound to this
12 law?

13 During our discussion, while we did not come to
14 any agreement, there was -- a notion was put out that this
15 would be put to binding arbitration. And all of the ADW
16 parties agreed that they would agree to incorporate into any
17 neutrality agreement, or agreement with the union, the
18 decision of a binding arbitrator would be incorporated into
19 the agreement and, therefore, would bind them.

20 I am aware, because I've received copies of, a
21 neutrality agreement that was put forward to Local 280,
22 wherein each of the ADW providers, that I'm aware of, said
23 that they would execute such an agreement.

24 Unfortunately, I've not seen a response or heard
25 any response from the union at this point in time.

1 So it is this Board's posture and desire that we
2 want to see a neutrality agreement in place. Personally, I
3 would not want to see that we had to terminate the ADW
4 licenses. I think that we would all be well served and
5 better serve the industry if we can get this agreement in
6 place. And, quite frankly, I don't know what the problem
7 is.

8 Now, I am aware, and DAG Derry Knight can advise
9 me at this point, that this Board was served with a lawsuit,
10 I believe yesterday, in this matter, suing us with respect
11 to not having a neutrality agreement in place. I believe
12 this Board, the purpose of this discussion is to try and
13 facilitate that. The discussions that we have been having
14 and continue to have is trying to get this agreement in
15 place.

16 I have yet to hear any party that doesn't want the
17 agreement in place. We have offered that it go to binding
18 arbitration, and agree to what the binding arbitration
19 decision would be. If this Board should hear it, this
20 Board, I think, is willing to hear it.

21 But at this point, I'm not sure what we can do,
22 now given that we've been served with a lawsuit.

23 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, I think the
24 lawsuit needs to be evaluated. I haven't personally seen
25 it, but I understand that Kirk was served yesterday with a

1 lawsuit. And as I understand it, it's a mandate action to
2 mandate that the existing ADW licenses be invalidated.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, what I
4 would like to do, unless there's a problem, is I would like
5 to allow each party to come forward. Have Local 280, I see
6 they have representation here and they're here, let them
7 state what they view is the problem, or what's stopping this
8 from going forward, as well as the ADW companies.

9 I am aware that TVG does have a neutrality
10 agreement in place with the union. And I did ask that -- I
11 did offer that perhaps the other companies would be willing
12 to execute the same neutrality agreement and get this out of
13 the way, but at this point Local 280 has asked that we not
14 share that agreement, and there's some uniqueness to it.

15 So with that being said, I would invite at this
16 time that Local 280 and the ADW companies come forward and
17 state what we can do to get this done.

18 Don't all run up here at one time.

19 MR. CASTRO: My name is Richard Castro, I'm
20 representing Local 280, and I've brought with me Ann Yen, Y-
21 e-n, from the Weinberg law firm.

22 MS. YEN: Good morning.

23 COMMISSION CHAIRPERSON SHAPIRO: Good morning.
24 Good morning.

25 Mr. Castro, first of all I understand you had a

1 terrible day yesterday, and I'm sorry to hear about that, I
2 hope things are getting better.

3 MR. CASTRO: Well, I had a terrible day this
4 morning, too. Somebody broke into my car and ripped
5 everything off, so I don't have any documents with me,
6 either. I've had a bad 72 hours. But we're going to go
7 through this.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, well, I'm
9 sorry for that, personally.

10 But Mr. Castro, as you and I both know, because
11 we've corresponded a lot on this and talked about this, we
12 certainly want to see that a neutrality agreement is put in
13 place, as was bargained for by you and the ADW companies,
14 when the ADW law was extended. This Board would like to
15 facilitate that in every way we can.

16 I think you would agree that I certainly, on
17 behalf of the Board, have done everything I know to do to
18 try and make that happen.

19 When we left this discussion last time, I thought
20 there was an agreement that the ADW companies would put
21 forth an agreement to facilitate that, and you and your
22 people would respond to it, to see if, in fact, that
23 agreement they put forward was acceptable.

24 I know I got a copy of the agreement. I've not
25 seen any response from Local 280 with what is wrong with

1 that agreement, since it appears they are offering agreement
2 to adhere to the law. So what is the problem at this point?

3 MS. YEN: Well, my understanding is that the
4 problem is --

5 COMMISSION CHAIRPERSON SHAPIRO: Can you speak up,
6 please, speak up?

7 MS. YEN: And Commissioners, I appreciate how
8 succinctly the issues were summarized during the opening.
9 My understanding is that the problem with the agreement is
10 that --

11 EXECUTIVE DIRECTOR BREED: Excuse me, could you
12 state your name for the record, please?

13 MS. YEN: Oh, Ann Yen.

14 COMMISSION CHAIRPERSON SHAPIRO: Yeah, it's hard
15 to hear you.

16 MS. YEN: Okay, thank you. Thank you. My
17 understanding is the problem with the agreement is that the
18 issues that you identified, when you introduced the item
19 today, the issues regarding who is covered. And we believe
20 the statute is clear about who's covered.

21 And since there is a disagreement with certain
22 providers about the scope of coverage, that's why there
23 hasn't been an agreement.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask
25 you about that, then. Okay, because I'm not sure -- I'm not

1 sure that the statute is, in fact, clear. If you look at
2 the statute, it does not delineate the various
3 classifications of employees. It doesn't say a Mutuel
4 teller that accepts money. It does not say a phone operator
5 that accepts a wager. It does not say customer service
6 representatives.

7 What it says is that it is for people that the
8 labor organization has -- historically represented
9 employees, who accept or process any form of wagering at the
10 nearest horse racing meeting located in California.

11 Now, we, as a Board, don't know exactly what
12 classifications that includes. You may feel that that
13 includes a customer service person. But the other side is
14 saying, no, we don't think that includes it.

15 And, unfortunately, there's enough ambiguity in
16 the statute that it's not clear. So what we talked about,
17 and I believe the agreement that was circulated said, look,
18 we agree to enter into a neutrality agreement, we agree not
19 to interfere. We also will let a third party look at the
20 facts and render a decision, and we'll be bound by that
21 decision.

22 So if you're right and they say it includes
23 customer service representatives, they're saying we'll
24 accept that.

25 Now, there's an honest difference of opinion here,

1 is the way I'm looking at it.

2 We're charged with making sure you sign an
3 agreement. The statute's not clear enough, so there needs
4 to be an interpretation. What is wrong with accepting that
5 mechanism, since they're willing to be bound by a third-
6 party arbitrator, that you guys mutually select?

7 MR. CASTRO: I'll respond to some of that.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay.

9 MR. CASTRO: This is a sad day for racing. We
10 clearly thought we were going to be able to get this done.
11 Quite frankly, I thought the first company we were going to
12 get this done with was going to be Youbet. I, honestly -- I
13 didn't tell my team that, but back in August, whatever, back
14 in that time, I really thought Youbet was going to be the
15 first one that we would be signing with. It didn't work out
16 that way.

17 Come December, I honestly thought Twin Spires we
18 were going to be signing, until I got the call from you,
19 asking that I grant a waiver.

20 We do have an agreement with TVG, and TVG is
21 willing to share the agreement. I'm the one that said no.
22 Prior to -- oh, for about four or five months, as far as I
23 was concerned, it was okay to share the agreement. But now
24 that we've had these recent discussions, I've changed my
25 mind because I understand more and more, now, that there's

1 two parts to the agreement.

2 There's the written part and the verbal
3 understanding of it. And the verbal understanding of it is
4 the part that's in conflict with the other ADW companies.

5 With TVG, I have the understanding with them that
6 if they did business with a third party, that that third
7 party would be bound by the California statute and all these
8 provisions would apply.

9 With TVG, and we've had months, years of meeting,
10 where TVG said they had no customer service, they were
11 totally automated, when we had these discussions, based on
12 what took place in the Legislature, meetings that I attended
13 before the law was agreed to, they felt that there were 14
14 jobs, at that time, that fell under the statute.

15 And it's our understanding that the agreement I
16 have with TVG, we don't have to arbitrate anything, they
17 acknowledge under the statute, under the provisions of the
18 statute, just as the way we understand it, customer service
19 counts.

20 It's more than just a bet taker. It's
21 facilitating a wager. That's extremely important.
22 Facilitating the wager. You have to have money to make a
23 bet. I don't care if Shapiro is taking coin, and Harris is
24 taking paper money, and Ann is in some other State taking
25 the bet, you need all three to facilitate a wager. That is

1 customer service.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. But,
3 Richard, again what we have is simply a difference of
4 opinion. I'm assuming everybody, in good faith, is coming
5 forward in good faith. And the agreement also says that the
6 agreement required by subparagraph (b), which is what spells
7 this out, shall not be conditioned by either party upon the
8 other party agreement to matters outside the requirements of
9 subparagraph (b).

10 Now, again, what they're saying is they simply
11 don't agree that a customer service person may be covered.
12 You may be right. How -- let's bring this to a close and
13 why will you not accept that -- let a third party decide
14 whether you're right or they're right, get it over with. If
15 you're right, they sign the neutrality agreement, it's in
16 place. What -- I don't understand that.

17 MR. CASTRO: It's a very easy answer.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay.

19 MR. CASTRO: I'm surprised you're even asking me
20 such a question. Youbet, going back to my good friend, Ron
21 Luneski, when they applied for their license, they agreed to
22 have telephone operators.

23 COMMISSION CHAIRPERSON SHAPIRO: When? When did
24 they do that?

25 MR. CASTRO: Back in 2000. I read it in one of

1 the transcripts.

2 COMMISSION CHAIRPERSON SHAPIRO: But that's back
3 in 2000.

4 MR. CASTRO: Yeah, eight years ago.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 MR. CASTRO: That's right, eight years ago, that's
7 why I'm surprised you're asking me this question.

8 Eight years ago we understood we were getting live
9 telephone operators here, in California. Now, we're here
10 today, we don't have live telephone operators.

11 So what we did was we went to Sacramento, we
12 thought we had an agreement, we thought we had a good faith
13 agreement with the industry that there would be live
14 telephone operators, and we have nothing.

15 So now what happens? About a year and a half ago
16 you asked me to back off, wait until this thing went back
17 through the Legislature, wait until it got amended. It's
18 not my fault that some of these companies didn't
19 participate. I did participate.

20 Now, you're asking me, I have an understanding of
21 what we bargained for, and now you're asking me to waive
22 that right arbitrating --

23 COMMISSION CHAIRPERSON SHAPIRO: No, no.

24 MR. CASTRO: Yes, you are, you're asking me to
25 waive --

1 COMMISSION CHAIRPERSON SHAPIRO: No, I'm not
2 asking you to waive anything, Richard.

3 MR. CASTRO: Well, then tell them to give it to
4 me.

5 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute.
6 Okay, I wasn't there. Nobody sitting here was at any of
7 those discussions, okay. We're looking at a law, we're
8 trying to meet what's required of us. We want to put a
9 neutrality agreement in place. We have two parties. We
10 don't have parties that are willing to enter into an
11 agreement, despite what we do.

12 What you're asking us to do is to terminate the
13 license of the ADW companies because you can't come to an
14 agreement with them. Which, from my perspective, would be
15 very harmful to the horse racing industry.

16 Whereas I look at it and I say, I don't want to
17 harm the horse racing industry, I don't want to harm
18 everybody, so why not find an expert to interpret what
19 agreements were or were not made, or what the law says? Why
20 not do that? If you're right, you will prevail. We weren't
21 there.

22 COMMISSIONER CHOPER: Can I ask a question in a
23 little different way?

24 COMMISSION CHAIRPERSON SHAPIRO: Please.

25 COMMISSIONER CHOPER: You filed a lawsuit, so a

1 judge is going to have to decide this; is that correct?

2 MR. CASTRO: That's my understanding.

3 COMMISSIONER CHOPER: Now, I guess the notion, it
4 seems to me the unanswered question is if arbitration is
5 something that is much quicker than a lawsuit in the
6 California judicial system, why is it that you object to
7 having this decided by an arbitrator that you mutually agree
8 on, this is what -- I think the Chairman keeps asking this
9 question.

10 But in short, why do you object to doing it by a
11 mutually agreed upon arbitrator, than a judge, whom you're
12 going to draw, God knows how, likely to, in all good faith,
13 lean one way or another, subject to appeal, certainly to the
14 Court of Appeals, why is it that you object to having this
15 resolved quickly and expeditiously, at least more so by a
16 mutually agreed upon arbitrator?

17 MR. CASTRO: Before I answer that, I want to thank
18 you, Richard Shapiro and Jack Liebau, for the hard work
19 you've put into the last three weeks of trying to get this
20 resolved. You're all to be complimented on what you've
21 done.

22 Now, I've waited eight years for phone jobs, and
23 it hasn't gotten resolved. And had you been on the
24 conference call that Richard Shapiro was referring to, you
25 would have heard from our side of the law firm, that if we

1 heard it before an arbitrator, either one of the parties
2 could appeal that decision, and you're back into the courts
3 again.

4 I'm not willing to do that anymore, we've had
5 eight years of excuses.

6 COMMISSION CHAIRPERSON SHAPIRO: Wait, I want to
7 correct you, though. What the parties said was they would
8 not appeal it and, in fact, if the arbitrator ruled, they
9 would incorporate it into their agreement with you, so that
10 it would not be appealed and they would not appeal it.

11 And I will ask them to get up and reaffirm that
12 statement.

13 MR. CASTRO: They don't have to. I heard the same
14 remark, but the lawyer - -

15 COMMISSION CHAIRPERSON SHAPIRO: That it won't be
16 appealed.

17 MR. CASTRO: No, no, anybody could appeal it. Any
18 one of these fine people behind me could appeal it, a patron
19 could appeal it.

20 COMMISSION CHAIRPERSON SHAPIRO: No, no.

21 MR. CASTRO: Yes, they could.

22 COMMISSION CHAIRPERSON SHAPIRO: Not if it's a
23 contractual agreement.

24 MR. CASTRO: No, the lawyer made that very clear.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, I'll tell

1 you what --

2 MR. CASTRO: Ask Derry Knight, I think he
3 even --

4 COMMISSION CHAIRPERSON SHAPIRO: No, I think Derry
5 Knight would agree that if it is a contractual agreement
6 between the union and the ADW company nobody has a right to
7 appeal it, it's a contractual agreement.

8 Richard?

9 MR. CASTRO: I'm listening.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay.

11 COMMISSIONER CHOPER: Isn't it possible that all
12 the parties can agree to binding arbitration, binding and
13 whatever the term is, binding and final arbitration, that's
14 the question, put simply.

15 Derry, could you comment on this?

16 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, the only
17 caveat that I had, and this is expressed during the
18 conference call, was that the Board, itself, may have some
19 difficulty in delegating its role to a private arbitrator.

20 However, you'll recall, Mr. Castro, that both the
21 Chairman and myself indicated, based on at least our
22 experience with this Board, that the reality is this Board
23 would go along with a private arbitrator's decision on this
24 kind of an issue.

25 I just don't see that this would be an issue at

1 all if you came back -- if you come back with these
2 agreements, this Board's going to approve it.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, let me add
4 to that. The charge of this Board is not to approve the
5 terms, as I understand it, but only the existence of the
6 agreement, that there's a neutrality agreement in place
7 between the parties.

8 Therefore, if the parties agree that they --
9 whatever terms they agree to, and it's fulfilled as a
10 neutrality agreement, of whoever's classified, it's not our
11 right to appeal or to decide what they agree to.

12 And if you agree with them that it's for everybody
13 who has three eyes to be part of the agreement, frankly,
14 that's an agreement between you and them. We have no
15 standing, nor does anybody else. So it's not something to
16 deal --

17 COMMISSIONER CHOPER: Okay, can I add one thing,
18 can we get you, with the companies, to agree now to binding
19 arbitration, in light of what the Chairman said and what the
20 Board's counsel has said, and that is that the Board will
21 respect the --

22 MR. CASTRO: No, I'm not willing to bend.

23 COMMISSIONER CHOPER: So I guess what I'd be
24 curious to know is why, and then it may settle the whole
25 thing.

1 MR. CASTRO: Again, you go back eight years of
2 promises, eight years of making a deal, eight years of
3 making a commitment. You've been very fair, you've been
4 very understanding.

5 COMMISSIONER CHOPER: No, but you put it in the
6 hands of a judge by filing your lawsuit.

7 MR. CASTRO: I'll take my chances with a judge.

8 COMMISSIONER CHOPER: Why more so than with an
9 arbitrator that you've got approve of?

10 MR. CASTRO: Because it just moves the process
11 along faster.

12 COMMISSIONER CHOPER: The judge?

13 MR. CASTRO: If it's going to end up before a
14 judge anyway, you're going to waste all this time
15 before then.

16 COMMISSIONER CHOPER: No, wait, wait, suppose
17 we --

18 MR. CASTRO: I'm not willing to bend. Is that
19 clear?

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, let me just
21 tell you, your position is clear. I'm going to ask that
22 Brad Blackwell come forward, Gregg Scoggins come forward,
23 and Gene Chabrier come forward. And who's here from Youbet?

24 I must tell you that, again, this Board would like
25 to see these agreements -- this agreement -- these

1 agreements be put in place. It's unfortunate that Local 280
2 is not willing to bend.

3 I don't blame them in feeling that since the year
4 2000, frankly, gentlemen, they feel that they didn't get
5 what they thought they were going to get out of ADW
6 wagering. They thought they were going to get jobs, they
7 didn't get jobs.

8 So I think, personally, what I sense is that
9 they're feeling, once again, that they've been hoodwinked.
10 That's my word, my guess as to what's going on.

11 Okay, we weren't there when there was any
12 discussion about these agreements, job classifications,
13 maybe some of you were, and so I'd like to hear from each of
14 you.

15 Please introduce yourself for the record and tell
16 us what you believe we can do to try to resolve this?

17 MR. SCOGGINS: Thank you, Mr. Chair, my name is
18 Gregg Scoggins, I'm here on behalf of XpressBet and MEC.

19 And for purposes of just getting the record
20 square, before we start talking, I'll ask the other
21 gentlemen to introduce themselves, as well.

22 MR. BLACKWELL: I'm Brad Blackwell, I'm with the
23 Technology Initiatives Company, doing business as Twin
24 Spires.

25 MR. PERINI: Dan Perini, on behalf of Youbet.com.

1 MR. CHABRIER: Good morning. Gene Chabrier,
2 XpressBet.

3 COMMISSION CHAIRPERSON SHAPIRO: Sorry for
4 mangling your name.

5 MR. CHABRIER: No problem.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay. So why
7 don't you -- Greg, why don't you start us off and if you
8 could just tell us -- I know that I received an agreement
9 that I believe you drafted or put forward?

10 MR. CHABRIER: Yes, sir.

11 COMMISSION CHAIRPERSON SHAPIRO: To try and
12 resolve this. And why you can't agree to the position of
13 Local 280?

14 MR. CHABRIER: Okay.

15 COMMISSION CHAIRPERSON SHAPIRO: Or maybe you can,
16 now.

17 MR. SCOGGINS: Mr. Chairman, members of the Board,
18 by way of a little bit of background, XpressBet has two
19 different classifications of employees. One of which are
20 Mutuel tellers, who are located at our Beaverton, Oregon
21 Call Center, and they take and process wagers on behalf of
22 our customers.

23 And then we have a population of employees that
24 are located in our Washington, Pennsylvania offices, and
25 their role is to be customer service representatives. And

1 those roles involve the following; they open and manage
2 accounts on behalf of our customers, they process
3 withdrawals and deposit requests, and then they answer
4 general questions from our customers as it relates to their
5 account or information that they're seeking relative to
6 their account.

7 We have pursued this process from the beginning,
8 with our initial invitation to an agreement with the union,
9 back in October of last year, with the idea of complying
10 with the statute. And we read the statute based on its fine
11 language.

12 And based on the fine language, which talks about
13 employees who process wagers, we interpreted that to be our
14 tellers.

15 Now, neither myself, nor Mr. Chabrier, were in on
16 the discussions that were related to the passage of this
17 law, so I cannot say anything to counter or support what Mr.
18 Castro has experienced.

19 I am aware, through the efforts of a gentleman by
20 the name of Scott Daruty, who I believe all of you Board
21 members know, and he was acting on behalf of TrackNet, with
22 whom we have a relationship --

23 COMMISSION CHAIRPERSON SHAPIRO: Can I ask the
24 people in the back if they'll either go outside and talk,
25 it's a little hard to hear. Thank you.

1 Keep going.

2 MR. SCOGGINS: Thank you. That he participated in
3 some of the conversations and, in particular, the final set
4 of conversations that resulted in the bill that ultimate was
5 passed, and the issue what was meant by the term "employees
6 who process wagers" came up.

7 And the language in subsection (c), about limiting
8 the scope of the agreement to those terms that are specified
9 in (b), where the issue of the employees who process wagers
10 was discussed, and the language in part (c) was what was
11 developed. And the intent was not to allow either party,
12 whether it was an ADW, or the union, to start trying to
13 inject additional terms into an agreement as a condition to
14 executing the agreement.

15 And so we have tried to be loyal to that language
16 and what we understood to have been the discussions that
17 took place right prior to the law was passed.

18 Mr. Castro may have a different understanding. I
19 wasn't at the discussions, so I can't say, definitively,
20 what all was discussed.

21 We presented an agreement back in October. There
22 were comments brought back to us, and in December the union
23 advised us that they wanted to include our customer service
24 representatives, which we disagreed with.

25 We recognized, through a conversation that Mr.

1 Chabrier and I had with Mr. Castro, and his counsel, Mr.
2 Rosenfeld, that there was an agreement to disagree, that
3 neither party really could settle on the other side's view,
4 and the discussion of having arbitration was raised.

5 We had expressed the desire, at that time, that we
6 thought it was in the hands of the CHRB, or a delegate of
7 the CHRB because it has the effect of law based on what the
8 CHRB, or the result of this question is.

9 And at that time the union expressed a desire for
10 a private arbitrator.

11 In the intervening months, we have come to change
12 our view, in an effort to move this view along, because we
13 have always desired, and are ready, willing, and able, and I
14 have a document here that has an XpressBet signature on it,
15 to enter into a neutrality agreement that tries to address
16 this issue.

17 And we have agreed to allow, in response to your
18 question, Mr. Shapiro, we are ready to arbitrate this thing
19 through a private arbitrator, with the results of that
20 arbitration to be binding upon us. We will not seek to
21 appeal. It is what it is and we will move forward.

22 And we have crafted the agreement to specify that
23 the employees who are to be subject to the agreement,
24 whether they be customer service agents, in addition to
25 tellers, or just tellers, that they will be defined by the

1 arbitrator's decision.

2 And as a part of the way that the agreement is
3 structured, that arbitrator's decision defines that
4 component of the agreement.

5 And we have signed that. And Mr. Perini, I
6 understand, has secured the signature of his CEO. And I
7 understand that Twin Spires is prepared to sign it, pending
8 how all this works out today. And we're happy to go forward
9 on that basis.

10 And we do believe, notwithstanding the views of
11 Mr. Castro, that this thing, whether it's this very form, or
12 some altered form, which we haven't received comments from
13 the union or TVG in response, can serve the purpose of what
14 Mr. Choper had asked and what you had asked in terms of the
15 effect on the parties.

16 COMMISSION CHAIRPERSON SHAPIRO: So, okay, so let
17 me ask a question. How many customer service people do you
18 have, how many jobs are we, in fact, talking about?

19 MR. CHABRIER: In Washington and Pennsylvania we
20 have about --

21 COMMISSION CHAIRPERSON SHAPIRO: Just state our
22 name, so that he gets it right, and then speak up?

23 MR. CHABRIER: Gene Chabrier, XpressBet.

24 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

25 MR. CHABRIER: In Washington and PA we have

1 approximately 15 full time equivalent employees for
2 the --

3 COMMISSION CHAIRPERSON SHAPIRO: Okay.

4 MR. CHABRIER: -- through the customer service.

5 COMMISSION CHAIRPERSON SHAPIRO: And those are
6 customer service employees; correct?

7 MR. CHABRIER: Correct.

8 COMMISSION CHAIRPERSON SHAPIRO: They do not
9 accept wagers?

10 MR. CHABRIER: Do not.

11 COMMISSION VICE CHAIRPERSON HARRIS: You know, one
12 issue I had thought of in this is the whole interstate
13 commerce issue, can a State agency, such as the CHRB, impose
14 things on people in other states. Which is in regards to
15 what the validity of the law is.

16 But I did ask this of Derry. As I understand it,
17 we can have imposition of this law binding on employees in
18 other states, unless it's challenged? Can you answer that?

19 DEPUTY ATTORNEY GENERAL KNIGHT: Well, yeah, I
20 think this will be an issue that will be tendered in the
21 litigation, almost certainly, because the ADW providers will
22 be almost certainly brought into the litigation because it
23 challenges their licenses.

24 But there is an issue about the constitutionality
25 of mandating -- California mandating a labor relationship

1 outside the State, and I suspect that will be thrown out in
2 the litigation, if the litigation proceeds. That would just
3 be my preliminary research on that issue.

4 COMMISSION VICE CHAIRPERSON HARRIS: Yeah. Well,
5 that's one reason I liked the arbitration, in that it might
6 be more expedient than extended litigation over interstate
7 commerce.

8 COMMISSION CHAIRPERSON SHAPIRO: One of the other
9 things that we talked about, though, and in our conference
10 call, which maybe I would hope the union might reconsider,
11 was this other issue was in fact discussed, as well.
12 Whether or not those employees that are basically
13 subcontracted out by any of you would also be bound by this
14 if an arbitrator determined that they were applicable, or it
15 applied to those jobs.

16 Am I correct in my understanding that you are also
17 willing to be bound by the arbitrator's decision in that
18 regard, as well?

19 MR. SCOGGINS: Well, that's an easy answer for
20 XpressBet, we do not have any subcontracted out.

21 COMMISSION CHAIRPERSON SHAPIRO: You don't have
22 any. I think Twin Spires is the only one who has it.

23 MR. SCOGGINS: I was going to turn the question to
24 Mr. Blackwell.

25 COMMISSION CHAIRPERSON SHAPIRO: So let's have Mr.

1 Blackwell.

2 MR. BLACKWELL: Brad Blackwell, Twin Spires. I'll
3 provide a little bit more background before I answer the
4 question, just to be clear.

5 COMMISSION CHAIRPERSON SHAPIRO: Again, I don't
6 want this going too long. You do have a third-party
7 subcontractor?

8 MR. BLACKWELL: We are the only ADW company that
9 does have a third-party contractor.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, and you now
11 have somebody else, that you contract with, which is doing
12 these jobs?

13 MR. BLACKWELL: Correct.

14 COMMISSION CHAIRPERSON SHAPIRO: So if that was to
15 be arbitrated, along with whether or not customer service
16 jobs, of themselves --

17 MR. BLACKWELL: Right.

18 COMMISSION CHAIRPERSON SHAPIRO: -- would come
19 under this card check agreement --

20 MR. BLACKWELL: Right.

21 COMMISSION CHAIRPERSON SHAPIRO: -- and the
22 arbitrator said, yes, it would, would you accept the
23 arbitrator's decision in that regard?

24 MR. BLACKWELL: Well, we would have to accept.
25 You know, we're willing to go to arbitration, which it would

1 be binding.

2 COMMISSION CHAIRPERSON SHAPIRO: And accept in
3 both issues.

4 MR. BLACKWELL: And we would obviously be in a
5 situation because we have a contract, that's in place, and
6 we're bound by that contract. And as you know, in
7 order -- we do not have any provision in the contract which
8 would allow us out of that relationship, you know, for any
9 reason.

10 COMMISSION CHAIRPERSON SHAPIRO: I don't think
11 you're answering my question. My question is, if the
12 arbitrator said that just because you subcontracted out to a
13 third party --

14 MR. BLACKWELL: Right.

15 COMMISSION CHAIRPERSON SHAPIRO: -- those job are
16 in fact, should in fact be a part of this agreement --

17 MR. BLACKWELL: Right.

18 COMMISSION CHAIRPERSON SHAPIRO: -- you would
19 accept that decision?

20 MR. BLACKWELL: Yes, we would have to accept that
21 decision.

22 COMMISSION CHAIRPERSON SHAPIRO: Fine, fine.
23 Okay.

24 MR. BLACKWELL: You know, we cannot, again, force
25 a third party but, obviously, we would be in a situation

1 where our license is in jeopardy --

2 COMMISSION CHAIRPERSON SHAPIRO: Correct.

3 MR. BLACKWELL: -- and we may have to make a
4 decision whether we can continue to do business in
5 California.

6 COMMISSION CHAIRPERSON SHAPIRO: Correct, or find
7 a way out of the agreement that you have with the third
8 party.

9 MR. BLACKWELL: That's correct.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, so that's
11 what was offered to the union in terms of the binding
12 arbitration. It did include all of the issues that appear
13 to be in dispute is the point I'm trying to make.

14 MR. BLACKWELL: Yes.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
16 now --

17 COMMISSIONER CHOPER: May I ask a question?

18 COMMISSION CHAIRPERSON SHAPIRO: Yeah, please.

19 COMMISSIONER CHOPER: I apologize for being out
20 for a moment. Would someone tell me what -- describe, in
21 some detail, what a customer service representative does?
22 That is, how they're distinguishable from a teller.

23 COMMISSION CHAIRPERSON SHAPIRO: Why don't each of
24 you describe what your customer service people do. There's
25 nobody here from TVG.

1 COMMISSIONER CHOPER: That's all right, I just
2 want to get an idea, I'm sure it's similar around.

3 MR. CHABRIER: Gene Chabrier, XpressBet. Our
4 customer service people are responsible for opening
5 accounts, deposits, withdrawals, and just answering
6 questions about the account, you know, or results for a
7 race, that type of thing.

8 COMMISSIONER CHOPER: Okay.

9 MR. CHABRIER: Our tellers strictly input the
10 wager.

11 COMMISSIONER CHOPER: And there's nobody in
12 between?

13 MR. CHABRIER: No.

14 COMMISSIONER MOSS: Can you just me an approximate
15 of what the difference in wages might be between those two
16 entities?

17 MR. CHABRIER: They're very similar.

18 COMMISSIONER MOSS: They are similar?

19 MR. CHABRIER: Yeah.

20 COMMISSIONER MOSS: So the fact that one would
21 become a union member of a particular union wouldn't affect
22 the wage area too well?

23 MR. CHABRIER: Well, yes, it would, but it would
24 be marginal.

25 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I

1 think -- I think the difference is that if they -- they are
2 currently non-union people, probably earning a non-union
3 wage. If they were covered, if they were part of the union,
4 I have a hunch, I don't know, that the wage rate would be
5 substantially higher if they were union; is that correct?

6 MR. CHABRIER: That's our understanding.

7 COMMISSION VICE CHAIRPERSON HARRIS: Well, I don't
8 know if that should necessarily be an assumption. I mean,
9 there's a lot of union jobs and non-union jobs that are
10 equal, and I think it's all subject to negotiation with the
11 group that's bargaining.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, okay. In
13 any event, do you want to -- does anybody want to add more
14 as to what a customer service representative does, in
15 addition to what Mr. --

16 COMMISSIONER CHOPER: I've got a pretty good
17 notion, now. Now, I understand.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay.

19 COMMISSIONER CHOPER: It's really simple enough,
20 once you hear it.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay. So is
22 there anything that any of the other gentlemen wish to add
23 to this, to try and resolve this? Otherwise, frankly, I
24 think this is something where I look to our counsel, that I
25 believe that at this point, since we've been sued, we more

1 or less have to leave it to the courts to let it take its
2 process, unless somebody wishes to make a motion to
3 terminate the licenses of our ADW providers.

4 DEPUTY ATTORNEY GENERAL KNIGHT: I don't think
5 that's --

6 COMMISSION CHAIRPERSON SHAPIRO: I don't know what
7 to do.

8 DEPUTY ATTORNEY GENERAL KNIGHT: I don't think
9 it's on the agenda.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. Then does
11 anybody else have any comments or questions here?

12 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
13 one of the big problems inherent in these labor relations,
14 in horse racing, is that we are not part of the National
15 Labor Relations Act, which I feel racing should be part of.
16 But, years ago, it was excluded, along with circuses, or
17 something.

18 And it really, in today's world, there is so much
19 interstate activity, and it's such a big function, with so
20 many people involved, that I think if you had something like
21 the NLRA, or the NLRB administrating these things, that
22 would be a better way to do it than having the CHRB trying
23 to be somewhat of a di facto labor agency, which we really
24 don't have any expertise in.

25 But perhaps, by delegating to an arbitrator, we

1 can get there anyway.

2 But I think that racing, in general, I mean this
3 is a bigger issue, needs to look at some way that we're part
4 of the national labor system.

5 COMMISSION CHAIRPERSON SHAPIRO: Frankly, I mean,
6 this Board could certainly act as the arbitrator. I think
7 that would be ill-advised, since we do not have the labor
8 experience and expertise, and that's why we talked about
9 going to third-party professionals, that are expect in the
10 labor law.

11 You know, I appreciate this discussion. I'm
12 frustrated because, frankly, I think this is just totally
13 unnecessary.

14 Mr. Castro, you know that I'm very sympathetic to
15 the issues that concern you, and so forth. I appreciate
16 that you want to get what you believe you bargained for. I
17 simply believe that you're going about it, in this instance,
18 in a manner that's counter productive.

19 These people also agreed that any decision will be
20 retroactive to the first of the year, as I recall, which I
21 don't know that you're going to get by going to court and
22 prolonging this process.

23 And I, for one, am not in favor of the notion that
24 we would harm the rest of the industry by terminating
25 licenses, when I believe this Board, in good faith, has

1 tried to implement the statutes that we're required to
2 implement.

3 So I would really ask that you reconsider finding
4 a way to resolve this immediately. It's for your benefit
5 and everybody else's. And I don't know how to convince you.

6 MR. CASTRO: Well, you can start by asking them to
7 commit to customer service, and keep their license going,
8 and then we'll hear it at some point, and everybody will be
9 happy.

10 COMMISSION CHAIRPERSON SHAPIRO: You're asking us
11 to get them to concede to a view that you hold, that they
12 don't agree with. Okay, that would be the same as my saying
13 that if you'll agree that you don't represent tellers,
14 they'll agree that they represent -- I mean, you're asking
15 us to side --

16 STAFF SERVICES MANAGER WAGNER: What are you
17 telling me to do, void the TVG agreement?

18 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

19 MR. CASTRO: TVG didn't have a problem with it.

20 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro,
21 you're not willing, A, to share the TVG agreement with them.

22 MR. CASTRO: Because of the verbal parts, you know
23 why.

24 COMMISSION CHAIRPERSON SHAPIRO: Excuse me.

25 MR. CASTRO: We've been down this road many times.

1 COMMISSION CHAIRPERSON SHAPIRO: No, no, no. No.

2 MR. CASTRO: You even questioned me whether there
3 was a signed agreement.

4 COMMISSION CHAIRPERSON SHAPIRO: That's correct.
5 And I saw your signed agreement, which is dated December
6 12th, and I don't see any reason why you cannot share that
7 agreement. But you've asked to keep it private, I've
8 respected that.

9 MR. CASTRO: Because of the verbal part, they
10 won't respect the verbal part.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, but okay.

12 MR. CASTRO: The verbal understanding, the good
13 faith, verbal understanding that I have with a lot of people
14 in this room.

15 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro, have
16 you in fact -- have you in fact moved forward to perfect the
17 neutrality agreement with TVG?

18 MR. CASTRO: What do you mean have I -- are you
19 asking me to take --

20 COMMISSION CHAIRPERSON SHAPIRO: Have you done a
21 card check?

22 MR. CASTRO: No, we haven't. But we want to get
23 this resolved, first.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay.

25 MR. CASTRO: You know, a lot has to -- there's a

1 factor that involves TVG with this. We have a good faith
2 agreement with them, why should they get something different
3 than TVG?

4 COMMISSION CHAIRPERSON SHAPIRO: You know what,
5 maybe they don't want anything different, but you won't show
6 it to them, you won't share it with them.

7 MR. CASTRO: Well, if they don't want anything
8 different, then they should agree to the customer service.

9 COMMISSION CHAIRPERSON SHAPIRO: No.

10 MR. CASTRO: His third-party person should agree
11 that he should be bound by the terms of the California
12 statute.

13 COMMISSION CHAIRPERSON SHAPIRO: Show them what
14 TVG agreed with and maybe they will. I don't know.

15 MR. CASTRO: We've already been down that road.

16 COMMISSION CHAIRPERSON SHAPIRO: You won't show it
17 to them.

18 MR. CASTRO: They know about the verbal part of
19 it. I've showed them the part where the 14 customer service
20 people --

21 COMMISSION CHAIRPERSON SHAPIRO: Commissioner
22 Choper. I'm sorry.

23 COMMISSIONER CHOPER: No, no.

24 COMMISSION CHAIRPERSON SHAPIRO: I'm frustrated.

25 COMMISSIONER CHOPER: I'd like to try to sort of

1 summarize where we are, that's all. Now, I just don't think
2 this is the time to think out clearly what the next step
3 ought to be. I mean, I think I know, but what I know ought
4 to be is not what you guys know ought to be; right?

5 One, there's obviously this dispute over the
6 coverage of the statute.

7 Second, until an agreement is signed, it would
8 appear, unless some judicial interpretation gets otherwise,
9 that you don't get a license, and you don't get any more
10 people employed.

11 It just strikes me, standing above the whole thing
12 as --

13 MR. CASTRO: It's ludicrous. I'll say it, it's
14 ludicrous, I agree.

15 COMMISSIONER CHOPER: I don't use that word, but
16 it's certainly unfortunate. All right.

17 Okay, so that's the way it stands.

18 Now, there's a good chance that in this lawsuit
19 that's been filed you're going to get an adjudication, a
20 decent chance that you're get an adjudication of these
21 issues, anyway.

22 It's going to be argued by the other side. You
23 say, well, we don't have to give a license until we -- or we
24 don't get a license until there's an agreement in place, and
25 someone's going to say --

1 MR. CASTRO: Now, licenses, I don't know when you
2 say licenses.

3 COMMISSION VICE CHAIRPERSON HARRIS: There's
4 licensed right now.

5 COMMISSION CHAIRPERSON SHAPIRO: No, the licenses
6 are in place. The licenses are in place and they're going
7 to remain in place.

8 COMMISSIONER CHOPER: So all right, are you going
9 to say the licenses shouldn't be issued because there's no
10 agreement in place.

11 COMMISSION CHAIRPERSON SHAPIRO: Correct.

12 COMMISSIONER CHOPER: So they'll have to fool with
13 that in some way.

14 Here's what I'd like to say, but I'd like Mr.
15 Castro to hear this.

16 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro, are
17 you not with --

18 COMMISSIONER CHOPER: Oh, okay.

19 MR. CASTRO: I heard you say that the licenses are
20 in place, and if they're not going to be moot, as far as I'm
21 concerned, I'm out the door.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay.

23 MR. CASTRO: You've made a decision.

24 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro?

25 COMMISSIONER CHOPER: No, no, we -- there's no

1 decisions are being made until your lawsuit is resolved. I
2 mean, you're trying -- it will be stopped -- this is going
3 to go on. There's a pretty good chance that this is just
4 going to go on. And it will go on in a situation in which
5 employees are not operating in this way? Is that right, or
6 am I wrong about that?

7 COMMISSION CHAIRPERSON SHAPIRO: Well, no, there's
8 simply not going to be any resolution of this. The business
9 will continue as it is now operating. The union will not
10 gain any -- will not be able to do a neutrality agreement,
11 where they may gain some jobs as a result of an arbitrator's
12 decision.

13 COMMISSIONER CHOPER: I see.

14 COMMISSION CHAIRPERSON SHAPIRO: If it goes to
15 court, and the court rules against you, or in your favor,
16 then they may appeal it, which is going to extend it.
17 They're agreeing not to do that in an arbitration.

18 I mean, I'm just completely bewildered at the
19 posture here. I don't blame you for being upset that you
20 didn't get jobs in 2000. I don't blame you for that.

21 But here is an opportunity to resolve something to
22 your benefit, in the most expeditious way, and you're simply
23 saying either you agree with my view, or I'm out the door.
24 There's nothing we can do then.

25 MR. CASTRO: But you're taking the opposite point

1 of view, you're telling me to bend for arbitration.

2 COMMISSION CHAIRPERSON SHAPIRO: I'm asking --

3 COMMISSIONER CHOPER: I don't want to -- I don't
4 want to take any opposite point of view, really. Let me
5 just try on this. I'm just asking -- this doesn't have to
6 be resolved this minute, all right, but what I'd like to do
7 is just get a clear picture and ask you to think about it,
8 ask both sides to think about it.

9 My understanding is that the industry
10 representatives will agree to a binding arbitration, all
11 right, no appeals, no judicial appeals from the arbitration,
12 or anything like that.

13 Second, it's always possible that if either side
14 doesn't like what the arbitrator comes up with, and the
15 arbitrator really is going to be making, on these issues, a
16 legal judgment, what was the intention of the statute in
17 terms of covering customer service representatives and
18 contractors, subcontractors.

19 You can always go back to the Legislature and try
20 to get that changed. That's certainly possible for either
21 side.

22 As I have looked at the statute, and I haven't
23 looked at it carefully, there is no explicit coverage of
24 customer service representatives or subcontractors. I have
25 my own judgments as to what's in, or maybe what ought to be

1 in or what ought to be out, but the arbitrator or judge is
2 going to make that decision.

3 It seems to me -- and I understand, also, that the
4 industry representatives will apply the arbitrator's
5 decision retroactively to a certain date.

6 MR. SCOGGINS: Yes, first of the year.

7 COMMISSIONER CHOPER: Pardon me?

8 MR. SCOGGINS: First of the year.

9 COMMISSIONER CHOPER: First of this year?

10 MR. SCOGGINS: That's correct.

11 COMMISSIONER CHOPER: And I guess you can always
12 put that issue into arbitration, as well, as to how long a
13 retroactive time ought to be, depending on how long these
14 people have been operating. That also may be open.

15 On judgment is that you ought to think about what
16 the best resolution for everybody concerned is. And I would
17 hope that you'd agree on some form of arbitration for this,
18 because I think it's going to be quicker and I think you'll
19 both have a better -- have greater confidence, total
20 confidence in who the arbitrator, who the decision-maker is
21 going to be. That's the benefit of having an arbitrator,
22 instead of getting a judge at random. And, also, getting it
23 resolved.

24 Once and for all, always subject to change by the
25 Legislature.

1 So I'd just urge you to think about it. I think,
2 in the end, you may find that that's the best way to come
3 out.

4 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro, are
5 you willing for us to hold this issue open and let you go
6 meet and talk with these good gentlemen, and see if you
7 can't come to terms? Or are you not interested at all, to
8 where we'll just move on in the agenda and accept this
9 situation?

10 MR. CASTRO: I never shut the door to talk, you
11 know that.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, you were
13 going to walk out the door, so I didn't want you to walk.

14 MR. CASTRO: Well, after your remarks that the
15 issue's resolved, you're not going to terminate their
16 operator's license.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 MR. CASTRO: That's what I heard you say.

19 COMMISSION VICE CHAIRPERSON HARRIS: That wasn't
20 the remark.

21 COMMISSION CHAIRPERSON SHAPIRO: That wasn't my
22 remark. But, Mr. Castro, would you like us to hold this
23 issue open?

24 MR. CASTRO: Of course.

25 COMMISSION CHAIRPERSON SHAPIRO: And I assume

1 these gentlemen, and maybe, I'm sure the next issue
2 isn't -- will deal with something that maybe you wouldn't
3 have a lot of interest in, like first-time geldings or
4 something, and you guys can go out there and --

5 (Laughter.)

6 MR. CASTRO: Well, I'm a stallion, I definitely
7 have an interest in that.

8 (Laughter.)

9 COMMISSION CHAIRPERSON SHAPIRO: Okay. And you
10 guys could go out and see if maybe you, and your counsel,
11 couldn't craft some way of accepting what I hope you hear is
12 our desire to see this thing resolved quickly, and in a
13 manner that is beneficial to both parties, all parties.
14 Are you willing to do that?

15 MR. CASTRO: Of course. I'm always willing to
16 talk, you know that.

17 COMMISSION CHAIRPERSON SHAPIRO: Fine. Then let's
18 move on and I'm going to -- are you gentlemen all willing to
19 go sit with Mr. Castro, and his people, and see what you do?

20 And, Mr. Castro, I know that you lost all of your
21 files because of -- would you like a copy of anything I have
22 here so that --

23 MR. CASTRO: I've got it. Believe me, I've got it
24 my head, I've had eight years of this.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, I have the

1 TVG agreement. If you want it, I'll hand it to you.

2 No, okay.

3 MR. CASTRO: You don't have the verbal part, I
4 heard -- I had help.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. No, I
6 don't have the verbal part, I don't understand that.

7 Okay, then at this point we're going to move on in
8 the agenda. We will come back to Item Number 2, and you
9 guys can just say, hey, we resolved it, or we don't
10 have -- there's nothing resolved, and we'll leave it at
11 that. Thank you very much.

12 All right, we're going to move forward. I hope
13 they don't have a problem -- okay, let's move to Item Number
14 3 on our agenda, which is discussion and action by the Board
15 on the Application to Conduct a Horse Racing Meeting of the
16 Hollywood Park Racing Association, at Hollywood Park,
17 commencing April 23 through July 13th, 2008.

18 If representatives would come forward on this
19 issue, I'd appreciate it.

20 STAFF SERVICES MANAGER WAGNER: Good morning,
21 Jackie Wagner, CHRB staff.

22 The application before you is from the Hollywood
23 Park Racing Association. They have submitted their
24 application to race from April 23rd through July 13th, or 60
25 days. They're proposing to race a total of 516 races, or

1 8.6 races per day.

2 They will be racing five days per week, Wednesday
3 through Sunday, with eight races on Wednesdays, Thursdays,
4 Fridays, and nine or ten races on selected Saturdays and
5 Sundays.

6 The application is proposing a first post time of
7 1:20 p.m., daily.

8 They are proposing a 7:05 post on Fridays, with
9 the exception of two Fridays, which would be May 2nd and
10 July the 4th.

11 They will have a 12:30 p.m. post on April 27th,
12 which is Gold Rush Day. A 12:00 p.m. post on Kentucky Derby
13 Day and the Preakness.

14 Their ADW providers are TVG, Youbet, XpressBet,
15 and Twin Spires.

16 The analysis indicates that the audited financials
17 are outstanding. We have received those. However, we do
18 not have a Horsemen's agreement.

19 There are representatives here from the
20 Association, should you have any questions.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, so let's
22 get into what the real issue -- the major issue here, to
23 decide whether or not we're going to hear this application,
24 which I think we need to hear it.

25 This meets starts, as I recall, April 22nd, or

1 thereabouts?

2 MR. LIEBAU: The 23rd.

3 COMMISSION VICE CHAIRPERSON HARRIS: And just to
4 clarify, too, I think Jackie said they do not have a
5 Horsemen's agreement. Apparently, they do have a CTT
6 agreement, but they don't have a TOC agreement.

7 COMMISSION CHAIRPERSON SHAPIRO: Correct. Right.
8 So let's get into the issue there, and that we have somewhat
9 of a dilemma here.

10 It's my understanding there's a dispute with
11 respect to the Horsemen's agreement. In the past, this
12 Board has not wanted to hear these applications until they
13 were complete, but we don't have time, unless we're going to
14 have a special meeting, or something, since there is an
15 issue that's outstanding.

16 And perhaps, Mr. Liebau, you and a representative
17 of TOC could describe to us what the issue is and can we
18 resolve it.

19 COMMISSION VICE CHAIRPERSON HARRIS: Also, if this
20 is the same issue that Golden Gate Fields is facing --

21 COMMISSION CHAIRPERSON SHAPIRO: It's a different
22 issue.

23 COMMISSION VICE CHAIRPERSON HARRIS: It's a
24 different issue?

25 COMMISSION CHAIRPERSON SHAPIRO: It's a different

1 issue.

2 COMMISSION VICE CHAIRPERSON HARRIS: Oh, okay.

3 COMMISSION CHAIRPERSON SHAPIRO: And we're going
4 to have the same issue with Golden Gate. Golden Gate has
5 two minor issues -- two issues that are outstanding.

6 Theirs is one that is very different, and why
7 don't you describe it, because I did speak to --

8 MR. LIEBAU: I'll let Mr. Wyatt describe it. My
9 name is Jack Liebau, I'm the President of Hollywood Park.

10 Just for some historic perspective, being one of
11 the elders here today, and I think the other person that can
12 confirm this, that's sort of in the same vintage of mine,
13 but not quite as old, is Cliff Goodrich.

14 And I think that we would advise this --

15 COMMISSION CHAIRPERSON SHAPIRO: Making some kind
16 of hand gestures behind your back.

17 MR. LIEBAU: That's okay.

18 (Laughter.)

19 COMMISSION CHAIRPERSON SHAPIRO: I'm just trying
20 to figure out what is that gesture I see. Never mind.

21 MR. LIEBAU: I think that it's fair for this Board
22 to realize that in the past the Horsemen's agreement was not
23 a condition of licensing, and it's this Board who has made
24 it a condition of licensing, and it puts a gun at the
25 track's head, and I don't know whether -- I don't think

1 that's what the Board intends. Because I think what the
2 Board intended was to make sure that there were no problems
3 that developed with respect to a meet that was licensed.

4 But just for historic perspective, in the past, a
5 Horsemen's agreement has not been required, and it does put
6 the track at a distinct disadvantage because in order to get
7 the license, you have to agree with the Horsemen. And if
8 the Horsemen don't move or budget, or don't negotiate, you
9 choose between running and not running, and I don't think
10 that that's a good choice.

11 With that, I'd like Mr. Wyatt to explain to you
12 what the issue is.

13 COMMISSION CHAIRPERSON SHAPIRO: Let me just
14 state, though, it's not our intention to put any party at an
15 advantage, or at a disadvantage, and certainly not -- as you
16 well know, our problem is that inevitably we approve a
17 license and then we find out, oh, whoops, there's a problem
18 with something, or the meet's got a major problem, or
19 there's going to be a hold up, or the meet may not come off.

20 And, frankly, we've tried to make sure that
21 everything's in place so that there isn't going to be a
22 problem as the meet moves forward.

23 MR. LIEBAU: I understand that. And it is a
24 dilemma, and we're in the unfortunate situation of not
25 having everything in place. And we're in the further

1 unfortunate position of the fact that our meet opens prior
2 to the next meeting of the California Horse Racing Board.

3 COMMISSION CHAIRPERSON SHAPIRO: Right. And
4 that's why, if necessary, if we can't get this issue
5 resolved, we can schedule a special meeting, a telephonic
6 meeting, or something, to resolve this issue.

7 I'm not sure that this issue is one that the
8 Board, again, really should be involved in, and that's why
9 I'd like you to describe it.

10 COMMISSION VICE CHAIRPERSON HARRIS: And I think,
11 too, that the idea of the Horsemen's agreement was to have a
12 mechanism where the Horsemen and the track can work on a
13 program that's to the benefit of everyone. It's not, you
14 know, us against them type of thing, it's how can we put a
15 racing program together that will really work, will enhance
16 interest in racing and all this stuff. It seems like we get
17 all these little minor issues emerge, and that's the
18 problem.

19 MR. LIEBAU: Well, Mr. Chairman, I don't mean to
20 be argumentative, but California Horse Racing Board is the
21 regulatory authority. And I believe under the law, one of
22 the things that you're charged with is settling disputes.
23 And also, as the regulatory authority, as the California
24 Horse Racing Board, you are the ones that should interpret
25 the law, when there is a question of the law.

1 COMMISSION CHAIRPERSON SHAPIRO: No, I wasn't
2 saying differently. And, again, as we spoke yesterday,
3 we're willing to do that and wanting to do it.

4 But what I am saying is that it seems that some of
5 these issues I'm not sure -- I just feel some of them should
6 be resolved between the parties, and it's unfortunate that
7 we have to get involved in some business decision.

8 MR. LIEBAU: This particular issue is not one that
9 solely relates to Hollywood Park. Mr. Chillingworth, that's
10 here --

11 COMMISSION CHAIRPERSON SHAPIRO: Well, why don't
12 you tell us what the issue is so that we all understand.

13 COMMISSION VICE CHAIRPERSON HARRIS: It seems,
14 too, that we need to know if there's a dispute, what that
15 is, and if we're the designated arbiter of the dispute
16 we --

17 COMMISSION CHAIRPERSON SHAPIRO: Have to deal
18 with.

19 COMMISSION VICE CHAIRPERSON HARRIS: -- deal with
20 it, up or down, or something. But we can't really deal with
21 an unknown.

22 MR. WYATT: Equal Wyatt, Hollywood Park. There is
23 language that has been inserted in our proposed agreement,
24 by TOC, that, frankly, we're having a little trouble
25 deciphering the language, but that's not the issue.

1 The issue -- we have been told that the language
2 is intended to say that, in my words, that if there is a
3 negative or a deficit in the satellite expense fund -- let
4 me back up. If there is a surplus in that fund, today that
5 surplus is split 50/50 between the track and Horsemen, in
6 the form of purses.

7 The language, we are told, in this agreement, says
8 that if there is a deficit in that fund, the track will bear
9 the entire cost of the deficit and the purses will not share
10 in the deficit.

11 COMMISSION CHAIRPERSON SHAPIRO: Can you just, for
12 background, describe what this fund is and what it's
13 funding, exactly?

14 MR. WYATT: I might need some help with that. But
15 there's a two and a half deduction made on satellite -- or
16 excuse me, on simulcast handle, that goes to Scotwink, in
17 the South.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay, so two and
19 a half percent of the take-out goes to this fund?

20 MR. WYATT: Correct.

21 COMMISSION VICE CHAIRPERSON HARRIS: Just there's
22 a separate fund for Scotwink and Notwink?

23 MR. WYATT: Yes.

24 COMMISSION VICE CHAIRPERSON HARRIS: Well, are the
25 asserting the same issue in the North?

1 MR. LIEBAU: Yes, the issue is who's responsible
2 for any deficit that's incurred? What is irrelevant to our
3 meet is --

4 COMMISSION CHAIRPERSON SHAPIRO: Okay, but --

5 MR. LIEBAU: Wait, let me just point something
6 out. -- is that there is no -- in all likelihood, there
7 will not be a deficit with respect to Hollywood Park
8 Spring/Summer.

9 There is a deficit with respect to Oak Tree, with
10 respect to Hollywood Park Fall, and probably with respect to
11 Del Mar.

12 But what happens in these agreements is that they
13 put a -- you agree to a provision, it becomes a precedent,
14 and once you agree to it, it's in there.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, but let's
16 understand. I still don't understand where -- there's two
17 and a half percent that's deducted from the simulcast
18 handle.

19 MR. LIEBAU: There's two and a half percent that's
20 deducted, that goes into a pot, so to speak.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay.

22 MR. LIEBAU: And out of that pot the cost of
23 wagering, with respect to simulcast wagering, is paid Mutuel
24 clerks, things of that nature.

25 COMMISSION CHAIRPERSON SHAPIRO: At the facility

1 that --

2 MR. LIEBAU: No. In Scotwink, throughout Southern
3 California, all of Scotwink --

4 COMMISSION VICE CHAIRPERSON HARRIS: At those
5 facilities.

6 COMMISSION CHAIRPERSON SHAPIRO: At all of them.

7 COMMISSION VICE CHAIRPERSON HARRIS: So it's
8 dependent -- the amount of money in that is dependent on how
9 much money gets handled and times --

10 MR. LIEBAU: From simulcast wagering. In the case
11 of Hollywood Park, it would be in the Central and Southern
12 zones. With respect to Bay Meadows and Golden Gate, it's
13 with respect to the Northern zone.

14 It does not come up with respect to the fairs,
15 because the fairs have a six percent expense fund, whereas
16 the majors only have a two and a half percent expense fund.

17 COMMISSIONER CHOPER: How has this been resolved
18 in the past?

19 MR. LIEBAU: It has not been resolved and
20 it's --

21 COMMISSIONER CHOPER: Well, what happens if
22 there's a deficit?

23 MR. LIEBAU: As far as I know, nobody's come up
24 with the money.

25 COMMISSION VICE CHAIRPERSON HARRIS: Is it covered

1 in the statute?

2 MR. LIEBAU: No, it's not. The Horsemen's
3 position is that the only amount that can be deducted is two
4 and a half percent. We say, well, we're putting up our two
5 and a half percent, too.

6 As I mentioned, Mr. Chillingworth, of Oak Tree,
7 has gone and spoken to the TOC Board about this. Mr.
8 Chillingworth can speak to this, if he so desires. It's my
9 understanding that he thought he had an agreement that the
10 deficit would be shared. It turned out that he didn't.

11 He offered to submit that to arbitration. And we,
12 here today, are offering to submit this issue to binding
13 arbitration. On behalf of the California Horse Racing
14 Board, it would be better for it to be decided by you.

15 There is a bill now pending, in Sacramento, that
16 raises the expense fund from two and a half percent to three
17 percent. That bill will probably be contested because
18 tracks, some tracks will be in favor of it, and Horsemen
19 will be against it, and we'll have an intramural activity in
20 Sacramento.

21 I think the best thing to do is to go to binding
22 arbitration. We are more than willing to do that.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
24 so now we've heard your provision. Standing behind you is
25 Guy Lamothe, from TOC.

1 Guy, can you give us the TOC's perspective on
2 this?

3 MR. LAMOTHE: Sure, thank you. Guy Lamothe,
4 Thoroughbred Owners of California.

5 I'm getting concerned here that we're detracting
6 from the issue at hand, which is a contractual issue. From
7 what I'm hearing here, is Mr. Liebau is talking about a
8 statutory issue. I don't think this is the forum to discuss
9 the statutory, the interpretation of that, and what the law
10 actually says.

11 We're talking about a contractual issue, and we're
12 talking about language that is being negotiated between two
13 parties to further the statute.

14 So we would not agree to any binding arbitration
15 on the interpretation of the statute. I think we're here to
16 talk about the contract.

17 COMMISSION VICE CHAIRPERSON HARRIS: Well, would
18 you agree to some sort of arbitration on the contract, on
19 this point in the contract?

20 MR. LAMOTHE: Well, let me back up for a moment,
21 here. Drew Couto, President of TOC, is the one who's been
22 working with Eual Wyatt on the negotiation of this contract.
23 And I wouldn't characterize the process as being
24 uncooperative.

25 The fact of the matter is, in any contract process

1 that goes on with the tracks, there are a number of issues
2 that come up for discussion, and back and forth between our
3 organization and the track. And all of the issues have been
4 resolved before we've even gotten here, so it's been a very
5 cooperative process.

6 Now, Drew's ill, somewhere in Texas, and as of
7 Sunday this was -- last Sunday, this was the only remaining
8 item.

9 And the best as I can tell, is that this was close
10 to being resolved in a contractual manner, okay.

11 MR. LIEBAU: We do not think it's close to being
12 resolved. I think that my position with respect to this is
13 probably similar to Mr. Castro's, unfortunately. You know,
14 I think that we're going to have to have a settlement of
15 this.

16 I would ask Mr. Wyatt to go through the content or
17 the background of these negotiations. Because this may be a
18 little bit infuriating to TOC, but there is a pattern that
19 is with respect to TOC, and that is you wait, you wait, you
20 wait and you get up to the meeting, and their gun's at our
21 head.

22 MR. LAMOTHE: That's an unfair characterization.

23 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
24 you know what, I don't think there's any --

25 MR. LAMOTHE: Now, we can go through numerous

1 examples, Jack --

2 COMMISSION CHAIRPERSON SHAPIRO: Stop, stop, stop,
3 please.

4 I don't want to get into any assassination or
5 intent issues as to the process.

6 What we're here today to figure out is how to
7 resolve an issue. We all want Hollywood Park to move
8 forward and conduct its race meeting.

9 We don't -- if we're not going to be able to
10 resolve this issue, and I understand that Drew Couto is ill,
11 and it's not fair that since he's been handling this, that
12 this issue, he doesn't have input into this issue.

13 So I think there's an issue here for the Board.
14 If there's a dispute, I think we're the party that does have
15 to resolve the dispute and have it move forward.

16 What I understand Mr. Liebau's saying is I'm not
17 going to agree to any -- I'm not going to agree to the
18 position that TOC presently is taking. Correct?

19 MR. LIEBAU: Correct.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 MR. LIEBAU: And with all due respect to Mr.
22 Guy --

23 MR. LAMOTHE: On what issue, on the statute or the
24 contract?

25 MR. LIEBAU: The issue in the contract is the

1 same. If it's a matter of law, you don't need the provision
2 because that's the law. So, you know, if it's just -- if
3 that's what you want to put in there and you say that that's
4 the law, there's no use to put it into the agreement.

5 MR. LAMOTHE: Correct, let's sit down and talk
6 about it.

7 MR. LIEBAU: We have been sitting down and talking
8 about it, and I'm going to ask Mr. Wyatt to go through how
9 long this issue has been on the table, how many times we've
10 asked for the agreement, how many times we've had responses.
11 Because I do not agree that the process has been one that
12 has moved along with any deliberate speed.

13 COMMISSIONER CHOPER: My understanding is this is
14 not been an issue that has been before you previous to this
15 meeting?

16 MR. LIEBAU: It has never been inserted into a
17 Horsemen's agreement at any racetrack.

18 COMMISSIONER CHOPER: So can I ask if there's
19 a -- so there's a deficit at the end of one of these meets;
20 right? What happens?

21 MR. LIEBAU: Right now, usually what has happened
22 with respect to Hollywood Park and Bay Meadows, they have
23 funded their half of the deficit, and the cash flow of these
24 organizations has carried the rest.

25 But sooner or later there's a day or reckoning.

1 COMMISSIONER CHOPER: So you don't want to do that
2 any longer?

3 MR. LIEBAU: No, we're willing to put up our half,
4 no question about it.

5 COMMISSIONER CHOPER: No, no, I understand, you
6 don't want to fund the whole thing.

7 COMMISSION VICE CHAIRPERSON HARRIS: But it's
8 clear that if there is a surplus, that surplus has been
9 split both ways.

10 MR. LIEBAU: Absolutely.

11 MR. LAMOTHE: Mr. Liebau had his opportunity to
12 talk about his position on the statute. The statute, which
13 I believe, I don't have the book in front of me, 19605.71,
14 for the satellite fund to provide monies for the expenses of
15 running the satellite operations.

16 It says that "funds will be provided out of handle
17 up to 2.5 percent," which effectively makes a cap on that,
18 okay. When we -- when people use the word "surplus" or
19 "deficit," it's a misnomer.

20 The reason why people are using surplus is because
21 for accounting reasons, and administrative reasons, the full
22 2.5 percent is paid out to the tracks on a periodic basis, I
23 imagine.

24 After the meet there's a true-up on the actual
25 cost. So if the cost came in at, let's say, two percent,

1 which would leave .5 percent, that was underneath the
2 amount, that's what people are calling surplus. It's not a
3 surplus, it's just the fact that it was paid up front at 2.5
4 percent. The actual came in later, there's a true-up.

5 Regardless of how that accounting is done, there
6 is a cap of 2.5 percent.

7 Now, in the event costs run above 2.5 percent,
8 well, that becomes a track obligation, that is per the
9 statute --

10 MR. LIEBAU: Where does it say that in the
11 statute.

12 MR. LAMOTHE: -- to 2.5 percent.

13 COMMISSIONER CHOPER: I understand, you differ as
14 whether the statute covers the situation of a shortfall;
15 isn't that right?

16 COMMISSION VICE CHAIRPERSON HARRIS: I think what
17 happened was --

18 COMMISSIONER CHOPER: Mr. Liebau says nothing --
19 he says the statute doesn't talk to that at all. And you're
20 saying, no, the words surplus mean that in some way or
21 another. I don't mean to prejudge, I haven't thought about
22 it at all, but I understand the dispute. Okay, I think
23 that's --

24 COMMISSION CHAIRPERSON SHAPIRO: Isn't the dispute
25 really very simple, that if the expenses are three percent,

1 two and a half percent was from -- who's going to come up
2 with that extra half percent? That's what it comes down to.

3 COMMISSION VICE CHAIRPERSON HARRIS: I think when
4 the statute was originally passed, it wasn't envisioned that
5 this was going to be an issue.

6 COMMISSION CHAIRPERSON SHAPIRO: It would ever go
7 that high.

8 COMMISSION VICE CHAIRPERSON HARRIS: So I don't
9 think that -- maybe there's some legislative history on
10 that.

11 COMMISSION CHAIRPERSON SHAPIRO: And in the
12 past --

13 COMMISSION VICE CHAIRPERSON HARRIS: But it seems
14 out of a fairness thing it was a split up or down.

15 COMMISSION CHAIRPERSON SHAPIRO: In the past --
16 let me ask a question, in the past, if the expenses came in,
17 in the true-up, and it was two percent, and there was half a
18 percent left over, okay, how was that money divided?

19 MR. LAMOTHE: It would be divided as if it weren't
20 pulled.

21 COMMISSION CHAIRPERSON SHAPIRO: Split, it would
22 be split.

23 MR. LAMOTHE: It was effective at two percent,
24 because it fell below the two and a half percent line.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay.

1 MR. LAMOTHE: I would respectfully ask the Board
2 to -- this is an issue with many sides to it, many arguments
3 to it, that has been presented before. And I don't know if
4 this is an agenda item to get into the interpretation of the
5 statute, but we are here to talk about the contract.

6 We're not here to hold a gun to Hollywood Park's
7 head. We want racing to continue and we think that we can
8 do that in very short order.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, then let me
10 ask a question, are you willing -- are you willing to leave
11 it the way -- where you'll agree that it will be split, but
12 negotiate in good faith with Hollywood Park?

13 MR. LAMOTHE: I'm sorry, what would be split?

14 COMMISSION CHAIRPERSON SHAPIRO: Well, the
15 practice has been that if there's been a surplus, you would
16 equally share in that surplus. If there's a deficit --

17 MR. LAMOTHE: I disagree with your
18 characterization of it. I'm not -- and the answer is
19 absolutely not.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 MR. LAMOTHE: We're not putting that in a
22 contract.

23 COMMISSION CHAIRPERSON SHAPIRO: But you're trying
24 to insert something in the contract right now.

25 MR. LAMOTHE: We're trying to clarify the

1 language, the statutory language.

2 COMMISSION VICE CHAIRPERSON HARRIS: It seems what
3 should happen is that this should be a carve-out of the
4 contract, and this issue needs to be arbitrated between the
5 tracks and TOC, hopefully. I mean, there's a lot of ways to
6 attack it, maybe cut expenses at the satellites, or there's
7 all kinds of things you can do.

8 But I don't think it's up to this Board to deny a
9 contract based on this dispute.

10 MR. LIEBAU: We cannot cut costs at the satellites
11 because of the manning clause that was given to the Local
12 280 in connection with the ADW bill. Sorry.

13 COMMISSIONER AMERMAN: Am I correct that this is
14 an issue that goes far beyond Hollywood Park --

15 MR. LIEBAU: Absolutely.

16 COMMISSIONER AMERMAN: -- and it would affect
17 every other track, Del Mar and, you know, Santa Anita?

18 MR. LIEBAU: It does not affect Santa Anita.
19 Tracks that usually run in the first half of the year are
20 okay. It's tracks that don't.

21 This is being inserted into Hollywood Park's
22 agreement so it will be precedent to other tracks, including
23 Hollywood Park Fall.

24 As I said when we started this, this provision
25 really will have no impact with respect to the license that

1 you're now considering, because there, in all likelihood,
2 will be a surplus. We have always deducted two and a half
3 percent, for as long as I can remember, which dates back at
4 least until 1992, that it's a two and a half percent expense
5 fund.

6 What has happened is that over the years the costs
7 of operating simulcast wagering have increased to such an
8 extent that in some instances they exceed the two and a half
9 percent fund.

10 Where tote says, well, it just says two and a half
11 percent. The law is silent as to what happens there. And
12 our position is that we're partners in this deal, when we
13 win we split, and when we lose, we divide it up.

14 COMMISSIONER CHOPER: You're very clear on that, I
15 understand that.

16 MR. CHILLINGWORTH: I wonder if I could --

17 COMMISSION CHAIRPERSON SHAPIRO: Mr.
18 Chillingworth?

19 MR. CHILLINGWORTH: Yes, Sherwood Chillingworth,
20 Oak Tree.

21 I think I can -- I've been involved in this thing
22 a lot longer than anybody else, I think, on the track side.
23 I think I'll give you a little anecdotal statement here and
24 you'll understand what the situation is.

25 In the spring of the year, through June 30th,

1 compared to the handle after June 30th, there's a decrease
2 in total handle of 40 percent. That's because you have
3 football, baseball, people allegedly are betting a lot on
4 football, and so forth, and so there isn't as much going to
5 the track.

6 Secondarily, when the ADW law was passed, labor
7 insisted that we, as one of the quid pro quos, that we
8 increase our manning clauses.

9 So here we go into the second half of the year,
10 when the handle is lower, we're required to have the same
11 employees they have in the spring, and we're penalized, the
12 tracks that run after June 30th are penalized with that
13 commitment.

14 So the law, as I read it, says when there's a
15 surplus, the TOC gets half the surplus. It's silent as to
16 what happens if there's not a surplus. And they take the
17 position that because of silent, the tracks get it all. I
18 just don't understand the reasoning on that.

19 We're partners everywhere else. They get the
20 benefit of the surplus. And in the spring of the year they
21 make a big surplus. In the fall of the year there's a
22 negative, and they should share it, just the way we do.

23 Now, you take Santa Anita, always has a surplus
24 because they operate in the prime time of the year.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay.

1 MR. CHILLINGWORTH: And Drew has said to me -- let
2 me finish one more. Drew said to me we need an industry-
3 wide solution. I tried every possible way to get industry-
4 wide solution. We said we'll raise the expense fund a half
5 of one percent, that will cover everybody, everybody will be
6 treated equally. The people that are at surplus will get
7 more surplus, and we'll break even.

8 No, he said, we don't want to contribute any purse
9 money to this solution. Well, that's the problem. I think
10 that -- and I met with their Board, explained this to them,
11 said we're partners, when we lose, we win, when we win, we
12 win. I thought they had agreed to that, but apparently
13 didn't.

14 The problem is we can't find any way to reach a
15 solution unless TOC agrees to pick up part of the cost of
16 this. And one of the ways of doing it is to raise the
17 expense fund by a half a percent.

18 And I think that we're saying we're willing to
19 submit this to binding arbitration, we're willing to go to
20 court and to litigate it, and then we'll do it. So if
21 they're concerned that they're going to lose the litigation
22 or lose the arbitration, obviously, they don't want to do
23 it.

24 And my position is we ought to arbitrate this,
25 we'll accept whatever the arbitration is, we'll pay

1 immediately.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you,
3 sir.

4 Commissioner Choper?

5 COMMISSIONER CHOPER: As I understand it, this
6 doesn't become a reality, this problem, until after the end
7 of the Hollywood Park meet -- and let me just finish up.

8 MR. LIEBAU: Most likely.

9 COMMISSIONER CHOPER: Okay. So I think you've
10 made your position perfectly clear, and the TOC, I think, is
11 not quite as clear, but fairly clear. You, at least, don't
12 want to agree to this contract at this point; right?

13 You don't want to agree to --

14 MR. LAMOTHE: No.

15 COMMISSIONER CHOPER: You don't want to agree to
16 Hollywood Park's --

17 COMMISSION CHAIRPERSON SHAPIRO: Position.

18 COMMISSIONER CHOPER: A request that this be
19 included in the Horsemen's agreement.

20 MR. LAMOTHE: If we're talking about -- again, if
21 we're talking about the statute --

22 COMMISSIONER CHOPER: No, no, we're talking about
23 the contract. We're talking about what you're willing to do
24 in the case of a shortfall. Which, of course, won't occur
25 in this contract, but once you put it in here, the hope is

1 that it will go into all future contracts, the expectation
2 is. Go ahead.

3 MR. LAMOTHE: And I appreciate your comments in
4 heading towards a solution here.

5 COMMISSIONER CHOPER: Good.

6 MR. LAMOTHE: I do find it unfortunate that this
7 agenda item has been effectively hijacked to discuss a
8 different issue.

9 COMMISSIONER CHOPER: Well, it's been --

10 MR. LAMOTHE: We're talking about the contract,
11 let's try and resolve this.

12 COMMISSIONER CHOPER: We're there, this is like
13 Iraq.

14 (Laughter.)

15 MR. LAMOTHE: No, no. Okay, okay, not really.

16 COMMISSION CHAIRPERSON SHAPIRO: All right, hold
17 on a second.

18 MR. LAMOTHE: Not really, it is not that over-
19 complicated, so let me suggest this --

20 COMMISSION CHAIRPERSON SHAPIRO: Guy, Guy, hold
21 on.

22 Okay, we have to -- this Board has taken the
23 posture that there needs to be a Horsemen's agreement.

24 MR. LAMOTHE: Right.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay?

1 MR. LAMOTHE: Yes.

2 COMMISSION CHAIRPERSON SHAPIRO: We need to have a
3 Horsemen's agreement because we don't to know that there's
4 some other problem that's going to affect the operation of
5 this meet. You have --

6 MR. LAMOTHE: We agree.

7 COMMISSION CHAIRPERSON SHAPIRO: You have put
8 something into that Horsemen's agreement that is different
9 than what you had a year ago; correct?

10 MR. LAMOTHE: Correct.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay. Are you
12 willing to --

13 MR. LAMOTHE: Several other items are different,
14 yes.

15 COMMISSION CHAIRPERSON SHAPIRO: Are you willing
16 to accept -- are you willing to go back and accept the prior
17 Horsemen's agreement language on this issue?

18 MR. LAMOTHE: What I'd like to propose is that you
19 give us seven days, we'll get down with them, and we will
20 have it resolved in seven days.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, hold it,
22 hold it. First of all, we can't do -- we can't reconvene
23 for ten days, if we wanted to reconvene. Now, we can have a
24 committee where we can do this.

25 But, again, this is the only issue on the

1 Horsemen's agreement; is that correct?

2 MR. LIEBAU: Oh, there's one agreement -- there's
3 one issue about how much purse money can be carried over to
4 the next meet. We sense that they're willing to capitulate
5 on that. We think the amount should be the same with
6 respect to Hollywood Park that it is with Santa Anita, and
7 that it should not be the same as it is with Bay Meadows,
8 because of the amount of money, relatively speaking.

9 COMMISSION CHAIRPERSON SHAPIRO: All right, but
10 this --

11 MR. WYATT: But let me -- excuse me, sir. Let me
12 just, in all fairness, we have agreed that that particular
13 issue, while it is important to us, is not part of this
14 discussion.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, that's one
16 issue.

17 MR. WYATT: It can be handled after the fact by a
18 side letter, if we make it happen or not. It does not
19 affect this contract.

20 COMMISSION VICE CHAIRPERSON HARRIS: On the one
21 issue, though, on this two and a half percent issue, if it's
22 denied for both sides, it's really not going to impact this
23 meet. So I can't see why we can't just extract that from
24 the Horsemen's agreement, and mutually agree that there's
25 going to be some global effort to resolve that going

1 forward.

2 COMMISSION CHAIRPERSON SHAPIRO: Correct.

3 COMMISSIONER CHOPER: Hopefully, by the April
4 meeting, and if not then, by the May meeting, that both
5 sides will agree either to resolve it or to arbitrate it.

6 MR. WYATT: It will come up with the Oak Tree
7 meet.

8 COMMISSION CHAIRPERSON SHAPIRO: Keep in mind, we
9 want to see that it's resolved for Oak Tree and the others,
10 as well. This is an issue that's going to have to be dealt
11 with.

12 So are you willing to simply revert back to -- I'm
13 looking -- are you willing to extract this from this
14 agreement, so that we can move forward?

15 MR. LAMOTHE: Can I ask that we have a few minutes
16 with Mr. Liebau?

17 COMMISSION CHAIRPERSON SHAPIRO: Sure, absolutely.

18 MR. LAMOTHE: And then maybe we can return back to
19 the agenda.

20 COMMISSIONER AMERMAN: One point of clarification,
21 where do we stand with going to the three percent, when do
22 we expect that might happen?

23 MR. LIEBAU: Well, there's a bill that's pending
24 in Sacramento with respect to that.

25 COMMISSIONER AMERMAN: Yeah.

1 MR. LIEBAU: You know, it may or may not get
2 passed, it may have an urgency clause, it may not have an
3 urgency clause. Oak Tree is interested in it having an
4 emergency clause, so that would be effective for their meet.

5 COMMISSIONER AMERMAN: I agree, we can't wait to
6 find out what's going to happen. We need to have resolution
7 on the way it is at the present time.

8 COMMISSION CHAIRPERSON SHAPIRO: So what I would
9 like to do is I would like to let you go decide whether or
10 not you can revert back to the old language, and I'm talking
11 to you, TOC.

12 And I would like to hear anything else in this
13 application, so we can consider this license application,
14 and let's hear the Hollywood Park application in front of
15 us, so that when they come back, hopefully, we can see if it
16 can be resolved.

17 MR. CHILLINGWORTH: Could I add -- Sherwood
18 Chillingworth -- one more thought. We've audited the
19 expenses for the latter part of the year, and everybody
20 agrees that we're not being negligent, irresponsible, that
21 our costs are below or equal to any other costs. So we're
22 not creating this deficiency.

23 The second point I want to make is with regard to
24 the connection between the contract here, and the
25 legislation, I've been out of law school many years, and out

1 of practice for many years, but we have a couple lawyers
2 here, but when you take an issue and put it into a contract,
3 that is used as a lever to get something, it's irrelevant to
4 what the other issue is, I think there's a thing called
5 secondary boycott, where you can't use one issue in one
6 context to get your way in another, completely
7 separate --

8 COMMISSION CHAIRPERSON SHAPIRO: All right. But
9 Mr. Chillingworth, what we're trying to do is we're simply
10 trying to hear this application. Why don't we find out if
11 we can extract this from this agreement. We recognize it's
12 an issue that needs to be dealt with, so that in the future
13 we can not have this problem. There will be time with which
14 that it can be amply dealt with, put it out to arbitration,
15 have the Board hear it as a separate issue, interpret the
16 law, as the law is current written. If there's new law,
17 then the new law will resolve it.

18 So I think the issue at hand is that we just want
19 to do on the Hollywood Park license application. Is that
20 okay?

21 COMMISSIONER MOSS: That's good. Now, to be
22 exact, to ascertain for certain, is the TOC asking us not to
23 approve this agreement?

24 COMMISSION CHAIRPERSON SHAPIRO: No, I don't think
25 the TOC is asking us not to approve this license agreement.

1 I don't think that's what they're saying at all. I think
2 what they're saying is, hey, look, we haven't fully resolved
3 an issue in our contract, but I believe they want to see
4 this license granted. Is that not correct, Mr. Lamothe?
5 Are you asking us to hold up this license?

6 MR. LAMOTHE: Absolutely not. This isn't unlike
7 any other issue, whether we're dealing with stall space,
8 entries per race, additional races. We're not dealing with
9 statutory issues.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay.

11 COMMISSION VICE CHAIRPERSON HARRIS: It seems,
12 though, from the TOC's position, you would want the
13 Horsemen's agreement to be a covenant on approving the
14 license. But you're saying the Horsemen's agreement is not
15 an important part of approving the license by the Board?

16 COMMISSION CHAIRPERSON SHAPIRO: No, I don't think
17 he said that.

18 COMMISSION VICE CHAIRPERSON HARRIS: He's not
19 saying that?

20 COMMISSION CHAIRPERSON SHAPIRO: No, not at all.
21 I think what he is saying is that there is a provision that
22 is currently in the contract where they do not agree.
23 Notwithstanding that, they do not want to hold up the
24 license and the meet from going forward.

25 But they would like to resolve this particular

1 issue. And what we're asking them to do is to say, wait a
2 second, can you set that aside for this application. In the
3 interim we can have -- at our next meeting, we can have a
4 whole meeting on this issue, if necessary. But let's get
5 this issue extracted from the Hollywood Park agreement
6 because, in all likelihood it won't even affect this race
7 meeting. Then we can move forward. That's what we're
8 trying to do.

9 COMMISSIONER MOSS: There's this issue and one
10 other issue. And perhaps if we just elaborate what those
11 two issues are, and not withstanding those two issues, just
12 approve the agreement, we can be --

13 COMMISSION CHAIRPERSON SHAPIRO: Well, I believe
14 they have -- the other issue had to do with the amount of
15 purse monies that could be carried over from meet to meet.
16 And while there was some disagreement, I believe what I
17 heard here is they believe they are either close or at an
18 agreement on that issue. Is that correct?

19 MR. WYATT: Eual Wyatt, again, Hollywood Park. I
20 think it's better characterized, we asked for the increase
21 somewhat late in this process. TOC's response was that they
22 will look at it in all good faith, and we jointly agreed
23 that we would talk about the issue aside from this contract.
24 It would be a side letter, or something that would have to
25 be --

1 COMMISSION CHAIRPERSON SHAPIRO: It would not
2 affect the operation of this race meet in any way, no
3 matter -- you will deal with it as a side letter; correct?

4 MR. WYATT: That's correct.

5 COMMISSION CHAIRPERSON SHAPIRO: Fine. Then I
6 don't think -- as long as it won't upset this race meeting,
7 that's what we care about.

8 And you have another issue?

9 COMMISSION VICE CHAIRPERSON HARRIS: I have
10 another issue that's a little more germane to racing,
11 itself. I noticed in the CTT agreement, which I'm glad that
12 you did conclude, and I think this Board should go along
13 with whatever the CTT and the track agrees to.

14 But there's some language in there about how many
15 stalls any one trainer can have. It looks like there's 40
16 under some situations, and 50.

17 But as I recall, previously, there was some theory
18 that you couldn't limit a trainer to stalls, which I'm not
19 arguing the merits of limiting versus not limiting. But is
20 the theory, now, that you can, in fact, limit a trainer to X
21 amount of stalls?

22 MR. WYATT: Well, to answer your question as best
23 I can, that has never -- it hasn't been an issue in Southern
24 California since some time in the mid-eighties. And the
25 language in the agreement with the CTT does allow for some

1 flexibility in giving stalls in the event that, you know,
2 there is stall space available.

3 It has never come to question, in my mind, like I
4 say, since about 1987.

5 MR. LIEBAU: The issue to which you refer, John,
6 is the issue that the HPBA had in their agreements, that a
7 trainer could not have more than X. But where the problem
8 was, that X was absolutely, even if there were extra stalls
9 available. And that, the court found, as I recall, to be
10 illegal. That as long as you have stalls, that limit
11 shouldn't apply.

12 COMMISSION VICE CHAIRPERSON HARRIS: Yeah. Well,
13 it looks like in this agreement you've got that X, but if
14 there's more stalls available, the X because a Y, which is
15 40 to 50.

16 MR. LIEBAU: Exactly.

17 COMMISSION VICE CHAIRPERSON HARRIS: But is
18 this -- are we talking about just stalls at Hollywood Park
19 or stalls in your overall --

20 MR. LIEBAU: No, stalls at Hollywood Park.

21 COMMISSION VICE CHAIRPERSON HARRIS: It's not just
22 the southern tracks? Because it seems like Hollywood Park
23 effectively has control of the stalls at Santa Anita and
24 Pomona, too; don't you?

25 MR. LIEBAU: theoretically, the host racing

1 secretary controls the stalls, the allocation of stalls at
2 the off-site or auxiliary tracks. But not in Northern
3 California.

4 COMMISSION CHAIRPERSON SHAPIRO: So can we ask a
5 few kind of more normal questions about this application?
6 Like are you going to run Wednesday through Sunday or
7 Thursday through Monday?

8 MR. WYATT: Wednesday through Sunday.

9 MR. LIEBAU: Wednesday through Sunday.

10 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

11 MR. WYATT: Wednesday through Sunday.

12 COMMISSION CHAIRPERSON SHAPIRO: Wednesday through
13 Sunday.

14 MR. WYATT: Correct.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, because in
16 your application I thought that there was an opening that
17 you weren't sure, yet, but you have now decided.

18 Okay, and you are also doing the Super High Five
19 bet on the last race?

20 MR. WYATT: Correct.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay. Is there
22 anything else that is new, different? I saw it yesterday,
23 it came late, we got the promotional and advertising
24 material. Is there anything else that's different and new
25 on hand, that you want to comment on?

1 MR. WYATT: Mr. Ziegler can respond to that. And
2 I suspect I know what he's going to say, which I think is a
3 good response, or I can do it for him, if he wants me to.

4 COMMISSION CHAIRPERSON SHAPIRO: He's not moving
5 too quick. And I saw him dump all the stuff in front of
6 you, so --

7 MR. WYATT: As far as the marketing and that
8 aspect of it is, if we have as successful a meet this
9 summer, as we had last summer, I think we're more than
10 pleased. And we don't think it's broken, we think what
11 happened last summer worked.

12 We were up on Friday nights over 30 percent. Mr.
13 Ziegler has got some of those same bands back. One that we
14 actually had to close the gates until we regrouped, we
15 couldn't handle the people. So we're looking forward to
16 that.

17 We have, are in the process of sprucing up our box
18 seat area a little bit. We hope it's a little more
19 attractive. We're also introducing beverage service in the
20 boxes, we think that will help on the Friday nights and on
21 the big days for the box seat holders.

22 COMMISSIONER AMERMAN: I would just comment that I
23 think you've done a terrific job. And since the fall of, I
24 guess, '05, every meet seems to be up and if what you're
25 doing is correct, keep on doing it.

1 MR. WYATT: Appreciate that, sir.

2 MR. LIEBAU: Mr. Wyatt and Mr. Ziegler are doing a
3 hell of a job.

4 COMMISSIONER AMERMAN: Amen.

5 COMMISSION CHAIRPERSON SHAPIRO: What did you
6 say -- I'm helping you here. What did you say, again?

7 MR. LIEBAU: I said that Mr. Wyatt and Mr. Ziegler
8 are doing a hell of a job.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, I'm sure
10 their increased pay will appreciate that.

11 (Laughter.)

12 COMMISSION CHAIRPERSON SHAPIRO: Okay, are there
13 any other questions for Hollywood Park?

14 All right, so I guess what we will do is we will
15 wait to hear -- I mean --

16 COMMISSION VICE CHAIRPERSON HARRIS: Can we move
17 it now and reconsider -- I'll move that we approve the
18 Hollywood application.

19 COMMISSIONER CHOPER: I second.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, we have
21 it -- it's moved and it's seconded. And in terms of
22 discussion, how do you want to deal with the Horsemen's
23 agreement?

24 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
25 we're just approving it regardless of the Horsemen's

1 agreement, effectively, but we're hoping they're going to
2 work that out.

3 COMMISSIONER CHOPER: My own feeling is I'm
4 certainly willing to -- oh, go ahead.

5 COMMISSIONER AMERMAN: I think if there's some
6 conflict that continues, we can handle it the next meeting.
7 It's not going to affect this current meeting, so we can
8 handle it at the next meeting.

9 COMMISSIONER CHOPER: I'd like maybe to formalize
10 that. Certainly, we'll vote to approve the license.

11 But I'd like to add that we agenda this item,
12 again, for the split of the shortfall for the April meeting,
13 in the hope that the TOC and the relevant licensees come up
14 with some solution to what we all understand the issue to
15 be.

16 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, and
17 that they involve all the different stakeholders in it, at
18 that point.

19 COMMISSIONER CHOPER: However it's done, sure.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. Mr.
21 Lamothe?

22 MR. LAMOTHE: Guy Lamothe, TOC. And just so I'm
23 clear, are you -- what's the goal in this, seeking a
24 regulatory solution to this?

25 COMMISSIONER CHOPER: We're seeking a solution by

1 agreement between the parties.

2 COMMISSION CHAIRPERSON SHAPIRO: What we would be
3 doing is we would be rendering a -- there's a dispute. We
4 would be rendering an interpretation, or a regulatory
5 interpretation of the existing statutes.

6 COMMISSION VICE CHAIRPERSON HARRIS: Down the
7 road. I think right now we're approving the application
8 because the dispute is moot, because it's not going to be
9 under-funded, anyway. But going forward, there needs to be
10 an agreement.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay. Why don't
12 we hear from the Chair of TOC.

13 MS. NAIFY: Marsha Naify, Chair of Thoroughbred
14 Owners of California.

15 While we do not agree with Hollywood Park's or Oak
16 Tree's position on this, and we realize that an industry
17 solution is the correct thing, and we need to move forward
18 on that, we're willing to take that language out to get this
19 contract approved between the Horsemen and Hollywood Park to
20 get the license done.

21 COMMISSION CHAIRPERSON SHAPIRO: Terrific.

22 COMMISSION VICE CHAIRPERSON HARRIS: Good.

23 COMMISSIONER CHOPER: Excellent.

24 COMMISSION CHAIRPERSON SHAPIRO: Thank you, I
25 think that's the proper thing to do.

1 Therefore, I'm going to call the question. All in
2 favor of approving this?

3 (Ayes.)

4 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

5 MR. WYATT: I'm sorry, is that with the proviso of
6 the April, as well?

7 COMMISSION CHAIRPERSON SHAPIRO: Well, no, but
8 separate from that we will instruct staff to put it on --
9 we're instructing staff to please make that an agenda item
10 for the next meeting.

11 MR. WYATT: Gotcha. It's not a condition?

12 COMMISSION CHAIRPERSON SHAPIRO: It's not a
13 condition, no. No.

14 Okay, moving forward. The next one is Item Number
15 4, discussion and action by the Board on the Application to
16 Conduct a Horse Racing Meeting of the Pacific Racing
17 Association at Golden Gate Fields, commencing May 13th
18 through June 22nd.

19 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
20 CHRB staff. Pacific Racing Association has filed their
21 application to conduct a thoroughbred race meeting
22 commencing May 14th through June 22nd. They will be running
23 for 30 days.

24 The Association is proposing to race a total of
25 259 races or 8.63 races per day.

1 They will be racing five days per week, Wednesday
2 through Sunday, with eight races weekdays, and nine or ten
3 races on weekends and holidays.

4 They're proposing a first-time -- excuse me, a
5 first daily post of 1:05 p.m. Their advance deposit
6 wagering providers are XpressBet, TVG, Youbet, and Twin
7 Spires.

8 The analysis indicates that the Horsemen's
9 agreement is outstanding. And staff would recommend that
10 the application not be heard until the Horsemen's agreement
11 is received.

12 We do have representatives from the Association.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, before we
14 move forward, I inadvertently did not call for comment, as I
15 should have.

16 Mr. Power, you turned in a card. Is there
17 something that you need to say with respect to the prior
18 item? I'm sorry, I missed the card.

19 MR. POWER: Thank you. Briefly. There were two
20 items. Number one -- Michael Power, breeder, and member of
21 CTBA Board Watch.

22 Two items on the Hollywood Park application.
23 Number one, the two-year-old stake program. You know, for
24 those of us that have been around from the sixties, we
25 recall the days when they ran the week after the Derby,

1 until July, and they had four or five stakes per set for
2 that entire meet.

3 And as I looked at the stakes schedule for
4 Hollywood Park this year, I see only two stakes, only one of
5 which is graded anymore.

6 And I think that's a positive sign, I think it's a
7 positive sign for the industry that the two-year-old season
8 is moving back somewhat.

9 And the comment that I had to make on that is that
10 I would like the CHRB to consider moving the minimum racing
11 age for two-year-olds from the current 24 months, to 30
12 months, two and a half years, which is more in line with
13 what the veterinarian people say is when the knees are
14 closed and the joints are set.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, I
16 appreciate that. But isn't that -- that's really not
17 germane to their license application. That may be a
18 different issue that the Board should look at and consider.
19 So why don't you -- what I would ask you to do is if you can
20 just submit a letter to us, requesting that we consider
21 that, that issue we can deal with. But it really isn't
22 germane to their license application.

23 MR. POWER: The second item I'd like to talk about
24 relates to the suggestion I made last May, when the TOC made
25 the recommendation of having a retirement program funded by

1 the owners, for the retired racehorses.

2 At the time, that meeting was held in Sacramento,
3 I asked the sitting Attorney General, who was not Mr. Knight
4 on that particular day, about the legality of the CHRB
5 requiring the racing associations to contribute to that fund
6 as a part of their receiving their license dates. At the
7 time --

8 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute,
9 wait a minute. Again, that's an issue that is not really
10 pertinent to that license application. That would be an
11 issue that, again, if what I think you're asking us to do is
12 to consider requiring all of the racing associations to make
13 some contribution to CARMA, which is what that fund is now
14 called --

15 MR. POWER: Right.

16 COMMISSION CHAIRPERSON SHAPIRO: Again, if you put
17 that in writing, it's something that we can consider. And
18 direct it to our Executive Director. And then we can have
19 that matter heard at a different time. But it's really not
20 their license application.

21 MR. POWER: Well, I did do that last May and
22 nothing ever came of it. And that's why I'm bring up it up
23 with the Hollywood Park application.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, if
25 you would indulge me and do it that way, I'd appreciate it.

1 MR. POWER: I will do that.

2 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

3 MR. POWER: But if you could assure me that that
4 will be looked into by your --

5 COMMISSION CHAIRPERSON SHAPIRO: I certainly --

6 COMMISSION VICE CHAIRPERSON HARRIS: We had a
7 lengthy discussion on the whole CARMA thing at the time we
8 passed that.

9 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I
10 understand we did, but I think the Board should consider
11 whether it agrees or doesn't agree whether we should be
12 looking for other parties to contribute to enhance it, I
13 don't know whether that's something we should or should not
14 do.

15 MR. POWER: But at the time --

16 COMMISSION CHAIRPERSON SHAPIRO: But, again, this
17 isn't the discussion time for this. So, please, I didn't
18 mean to cut you off but --

19 MR. POWER: Okay, I'll bring it up at another
20 time.

21 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

22 MR. POWER: Thank you.

23 COMMISSION CHAIRPERSON SHAPIRO: All right, now
24 going back to our Golden Gate situation and, unfortunately,
25 before we get too deep into this one, there is an impasse on

1 this one with respect to the Horsemen's agreement as well,
2 as I understand it, and there are two issues.

3 The first is an issue over -- yeah, I'd appreciate
4 it if TOC would come forward.

5 The first issue has to do something with the hot
6 walking machines that are at the track and a disagreement
7 over which vendors, and what the requirements are for the
8 vendors that have hot walkers, and so forth. Which, Mr.
9 Hartman, you can address with Mr. Lamothe.

10 On the other --

11 COMMISSION VICE CHAIRPERSON HARRIS: On the hot
12 walkers --

13 COMMISSION CHAIRPERSON SHAPIRO: There's two
14 issues.

15 COMMISSION VICE CHAIRPERSON HARRIS: Okay.

16 COMMISSION CHAIRPERSON SHAPIRO: The other issue
17 is over the number of extras -- of the language that is
18 being inserted into the contract with respect to the number
19 of extras that are permitted by the racing office and what
20 criteria they have to go through.

21 Now, as of yesterday these issues were unresolved.
22 Are they resolved at this point?

23 MR. HARTMAN: No, they are not resolved. The hot
24 walking issue, I don't believe, is going to become an issue.
25 We just need to work out language, and it's unfortunate that

1 Mr. Couto took ill, because we were going to plan to do that
2 over the past 48 hours.

3 COMMISSION VICE CHAIRPERSON HARRIS: I don't
4 understand why the hot walker issue would not be part of the
5 CTT agreement versus the TOC agreement.

6 MR. HARTMAN: Thank you, we agree.

7 COMMISSION VICE CHAIRPERSON HARRIS: So it would
8 seem like it -- you now, right or wrong it should be in the
9 CTT agreement. Did CTT waive your responsibility or
10 something, or what happened there?

11 MR. HARTMAN: We signed the CTT agreement with no
12 problem. I had not heard from any trainer that hot walkers
13 were an issue. The first time this has come to my attention
14 was a revision in the TOC agreement, which caught me by
15 surprise. Because the hot walking machines, or whatever,
16 are all paid for by the trainers, as I understand it.

17 COMMISSION CHAIRPERSON SHAPIRO: So why is this an
18 issue with TOC, then, and can we get rid of this issue?

19 MR. LAMOTHE: Yeah, Guy Lamothe, TOC.
20 Unfortunately, I don't have the historical background on how
21 this got into the contract. Perhaps somebody from CTT can
22 provide an explanation for that?

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, he's
24 right behind you. Mr. Dougherty?

25 MR. DOUGHERTY: Charlie Dougherty, CTT, I don't

1 know what the dispute is.

2 (Laughter.)

3 COMMISSION VICE CHAIRPERSON HARRIS: It's pretty
4 frustrating for us, as a Board, to have people come before
5 us with unresolved problems, but they don't really know what
6 they are.

7 COMMISSION CHAIRPERSON SHAPIRO: Can we consider
8 it's resolved?

9 MR. HARTMAN: I believe that Guy and I will work
10 together to fix the hot walking.

11 COMMISSION VICE CHAIRPERSON HARRIS: Why don't you
12 take a walk?

13 (Laughter.)

14 COMMISSION CHAIRPERSON SHAPIRO: Again, we're
15 going to assume that the hot walking machine problem is
16 going to get resolved and so forth.

17 So let's deal with what I consider the bigger
18 issue here. Okay, and this also seems to be an issue with a
19 lot of different race meetings, okay. And I'm going to
20 admit that I'm biased, all right, so right up there on the
21 beginning.

22 The language that I have a copy of, that's been
23 inserted, that's proposed inserted into the agreement
24 for -- with respect to what the racing secretary can do, or
25 the racing office can do, and how many extras they can

1 write, honestly, I've read it twice, I don't have a clue
2 what it's saying. You've got to be a lawyer to understand
3 this.

4 COMMISSION VICE CHAIRPERSON HARRIS: Did we get
5 that?

6 COMMISSION CHAIRPERSON SHAPIRO: No, I got it off
7 an e-mail.

8 And honestly, I just don't understand why we don't
9 let the racing secretaries do their job. They're employed.
10 They're paid, I assume, a decent salary. They know what
11 their inventory is. It's a fluid situation. I just don't
12 know why the racing offices are being micromanaged to an
13 extent to where it's so complicated.

14 So I admit my bias here but --

15 COMMISSION VICE CHAIRPERSON HARRIS: I might say
16 that, I mean, the number of extras sometimes is an irritant,
17 just looking at an overnight, but I do appreciate,
18 especially up north, that there are a lot of problems
19 filling races and I do think you need to have some
20 flexibility.

21 MR. HARTMAN: Well, and just to give you some
22 perspective, this has never been in the TOC contract before.
23 We met with Mr. Bachman, and other TOC representatives, and
24 they shared Mr. Harris's opinion about there being too many
25 extras. So we agreed that we would limit our extras to

1 eight extras per day, which the TOC agreed to, we agreed to,
2 we thought that was a fair compromise.

3 And then, in this agreement, we get legalese that,
4 you know, I'm not a lawyer, our racing secretary, Sean
5 Greeley, and I went over the document for close to an hour,
6 we couldn't figure it out. I mean, we couldn't figure out
7 the language.

8 And we only have 2,000 horses up north. Our
9 racing secretary can't work with one hand tied behind his
10 back to follow some legal language in a contract that,
11 honestly, doesn't make much sense.

12 There's also a CHRB rule, which is 1581, that
13 basically says the racing secretaries establish the
14 conditions for the race and they're the ones that conduct
15 entries for a race meet.

16 And the TOC has inserted themselves into this
17 process, as they have other processes. And I think if we
18 can stick to the eight-race limit, that's a fair compromise.

19 COMMISSION CHAIRPERSON SHAPIRO: So, Mr. Bachman,
20 or Ms. Naify, or Guy, can we -- I mean, this is not an
21 issue, and now I'm breaking our own rule here, I've heard
22 this in a number of situations besides Golden Gate. And the
23 truth is aren't these -- I mean, these people have staffs
24 and they have racing secretaries, they have experts, why
25 would the owners want to -- I just don't understand why the

1 owners want to micromanage this to the level that it's being
2 done. What am I missing?

3 MR. BACHMAN: Tom Bachman, TOC, Vice Chair North.
4 I don't think it's a question of micromanaging. I think it
5 really comes down to wanting to have knowledge of when your
6 horse might run, and what is good for the horse and what is
7 good for the owner.

8 If you get involved in writing -- I mean, at one
9 point we were up to about 15, 16 extras a day. And when
10 that happens, you can't train a horse to a point where you
11 know he's going to run because the book does not go.

12 You constantly, now, are going through a daily
13 guess of when that horse might run, which forces you to do
14 nothing but a bunch of little half-mile works, which ends up
15 shrinking the distance races -- don't exist, because you can
16 only just keep doing half-mile, half-mile, half-mile because
17 you don't know when you're going to run.

18 It is to the benefit of the owners and of the
19 horses to have a book go.

20 COMMISSION CHAIRPERSON SHAPIRO: But don't you
21 think the track wants that, too?

22 MR. BACHMAN: Not -- well, I don't know that. I
23 don't know whether they do or they don't, I just know the
24 reality of what was happening.

25 And so we had an agreement. Now, why it has to be

1 contractual, I don't know.

2 COMMISSION CHAIRPERSON SHAPIRO: Have you read
3 this language?

4 MR. BACHMAN: No, I have not.

5 COMMISSION VICE CHAIRPERSON HARRIS: Well, I wish
6 that you guys would read this stuff before you get in these
7 big arguments on it.

8 COMMISSION CHAIRPERSON SHAPIRO: I mean, read this
9 language.

10 MR. BACHMAN: I don't think I need to.

11 (Laughter.)

12 MR. BACHMAN: If you don't understand it, why
13 would I understand it. I mean, we had an agreement.
14 Whether Drew inserted some language that he felt was
15 beneficial, that was Drew's work. We have what we thought
16 was a working agreement that had to do with extras and subs,
17 and we were moving forward with it. Why it's put into a
18 contractual situation, I don't know.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, one of
20 the important things that --

21 COMMISSIONER AMERMAN: Well, maybe I'm missing
22 something here, but you say there were -- you say there's
23 maybe 15 or 16 extras, but Mr. Hartman says --

24 MR. BACHMAN: Well, no, no, no, I said -- that was
25 why we came to the agreement up north that we came to, which

1 was we were going to limit it to eight, because it had
2 gotten out of control.

3 COMMISSIONER AMERMAN: Okay, and so I hear you
4 saying that eight is fine.

5 MR. BACHMAN: Well, then what's the disagreement?

6 COMMISSION VICE CHAIRPERSON HARRIS: What's the
7 problem?

8 COMMISSIONER AMERMAN: Why don't we just --

9 MR. BACHMAN: I don't know why it needs to be
10 contractual, that is the --

11 COMMISSIONER CHOPER: Maybe you could explain that
12 to us?

13 MR. LAMOTHE: No, I don't think I can explain it
14 to the extent you want. But the fact of the matter is this
15 disagreement is ahead of schedule. I wouldn't call it an
16 impasse, I think we can work this out.

17 And I believe this language was in the last
18 contract, the Bay Meadows contract, and that's where --

19 COMMISSIONER CHOPER: Where it came from.

20 MR. LAMOTHE: We just moved it onto this contract,
21 as well.

22 COMMISSION CHAIRPERSON SHAPIRO: But you know
23 what, they --

24 MR. LAMOTHE: If they're having a hard time, we
25 can work on the language.

1 COMMISSION CHAIRPERSON SHAPIRO: But the point,
2 there's a bigger point here, okay. And the bigger point is
3 everybody's interests are the same, everyone's sitting on
4 the same side of the table here. And while I think there's
5 a zeal to do the right thing, and I understand what Mr.
6 Bachman just said, the track has the exact same incentive.
7 And I just think it's somewhat invasive, or pervasive, and
8 when you read the law, or our rules, they need to be able to
9 do their job.

10 And we can't have it to where they can't do their
11 job and someone's going to be micromanaged to some extent.

12 MR. BACHMAN: Commissioner Shapiro, I beg to
13 differ a bit. I don't think that the tracks and the
14 horsemen are always on the same page. The tracks love to
15 have full fields because it garners more income.

16 COMMISSION CHAIRPERSON SHAPIRO: Of course.

17 MR. BACHMAN: And you say that's good for the
18 horsemen, as well, and I understand that. But I also
19 understand that there is a need, especially in the north,
20 for the better horses to be able to run. And a lot of times
21 that means a five- or six-horse field to get that race to
22 go.

23 COMMISSION CHAIRPERSON SHAPIRO: And you know
24 what, I agree with you totally, and I think they do that.

25 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, that

1 could be. I think it is a point that that be part of an
2 agreement that you do allow races to go with five, you know,
3 perhaps with TOC's concurrence, or whatever. Because as Tom
4 points out, it is frustrating for horsemen to point for a
5 race, and have the race never go and all that.

6 But conversely, I can see where the racing
7 secretaries need the flexibility of extras.

8 So it seems like you're not really that far apart.
9 And I agree, strongly, we're all trying to get the same
10 thing done.

11 COMMISSIONER CHOPER: Is there any reason to
12 believe that there is a difference between the Northern
13 California horsemen and Golden Gate Fields as to how this
14 works?

15 MR. HARTMAN: No, the bit difference, honestly, is
16 that we --

17 COMMISSIONER CHOPER: Is the language of the
18 contract?

19 MR. HARTMAN: Yeah, right. Well, the major
20 difference that we deal with, Mr. Choper, is we have to fill
21 races with only a horse population of 2,000 horses --

22 COMMISSIONER CHOPER: I understand.

23 MR. HARTMAN: -- where down south they fill the
24 same number of races with double that population.

25 And any impediment that hurts us from filling

1 races could cause a race card not to go. So we're under
2 much more pressure in the north to fill races.

3 And, you know, our last meet, where we average
4 over eight horses per race, was phenomenal.

5 COMMISSION CHAIRPERSON SHAPIRO: But you do agree
6 that there are certain times where there are a class of
7 horse that needs to get raced, and that means you're going
8 to have to go with the five to six --

9 MR. HARTMAN: Absolutely.

10 COMMISSION VICE CHAIRPERSON HARRIS: And you
11 haven't been denied that? I mean, I don't think that's the
12 idea of what you're trying to do is deny the five-horse deal
13 from going; is it?

14 MR. HARTMAN: No, absolutely not. And we actually
15 changed language in this current contract, that we're
16 talking about, where we reduced the number of horses in an
17 overnight stake to go from five to four. So we want those
18 overnight stakes to go. We understand getting black type is
19 important, we understand those horses need to run.

20 COMMISSION CHAIRPERSON SHAPIRO: I just think that
21 maybe there can be some general language in the contract
22 that says the intent of the parties is to present a well-
23 balanced racing program that includes providing racing
24 opportunity for all levels of horses, and all classes. You
25 know, just something.

1 MR. HARTMAN: I couldn't agree more.

2 MS. NAIFY: Commissioner Shapiro?

3 COMMISSION CHAIRPERSON SHAPIRO: Yes, go ahead.

4 MS. NAIFY: Marsha Naify, Chair, TOC. We have a
5 couple of issues here, we're not really that far apart. The
6 Golden Gate meet, I believe, starts in May. We still have
7 an April CHRB Board meeting. Would it be possible for us to
8 sit down and work this out, for the TOC and Golden Gate to
9 work this out in the next couple of weeks, because I think
10 we can do that.

11 COMMISSION CHAIRPERSON SHAPIRO: It's fine with
12 me, I have no problem with that.

13 Is it fine with you?

14 MR. HARTMAN: No, it's actually not fine with me.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 MR. HARTMAN: Because I just feel like these
17 things keep getting held up and it's not fair to the
18 Association.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, it
20 sounds like you're pretty close. It seems like it is worked
21 out if, right today, everyone agrees that eight extra --

22 MR. HARTMAN: Well, is it possible that the Board
23 could approve the application conditioned on --

24 COMMISSION CHAIRPERSON SHAPIRO: Yes, I was just
25 going there. I was going there.

1 Tell you what we're going to do, let's try to
2 approve this application conditioned upon a satisfactory
3 resolution of this, which will be reported to us at our next
4 Board meeting.

5 Is that acceptable to TOC?

6 MS. NAIFY: Yes.

7 COMMISSION CHAIRPERSON SHAPIRO: Is that
8 acceptable to you? Great.

9 So let's hear the rest of the application, that
10 will be a condition of approval of this license.

11 Okay, does anybody else have any other questions?

12 COMMISSION VICE CHAIRPERSON HARRIS: Well, on the
13 stakes program, it looks like you're cutting the amount of
14 money in the stakes, but maybe on a per-day basis it's not
15 that big of a deal. But were you purposely trying to cut
16 stakes?

17 MR. HARTMAN: No. The reason for that is the San
18 Francisco Mile, which is our grade two featured stake, which
19 was a \$300,000 race, had to get cut from the program because
20 it had a nice spot in late April for us, it fell between the
21 Kilroe Mile at Santa Anita, and the Shoemaker Mile at
22 Hollywood Park.

23 And now, our racing meet doesn't start until May
24 14th, and there's no natural slot within those 30 days to
25 run that stake.

1 We tried to work with Southern California to see
2 if they could move their stake around, to see if it would
3 work out, and it just didn't work. And it would turn out
4 that the Shoemaker and our race would fall right on top of
5 each other. And it's the last grade two in Northern
6 California. If we risked the bad running, it would probably
7 be downgraded to a grade three. So we took that stake out.

8 We supplemented some of that money back, but with
9 a 30-day meet, we didn't supplement it all back.

10 COMMISSION VICE CHAIRPERSON HARRIS: If you take
11 it out of there are you going to lose that completely?

12 MR. HARTMAN: No.

13 COMMISSIONER AMERMAN: But on the other hand, you
14 probably will lose that grade if you don't run it two years
15 in a row.

16 MR. HARTMAN: Two years in a row is the key point.
17 We're allowed a one-year exemption from the graded stakes
18 committee and we're taking advantage of that one-year
19 exemption without being downgraded. So we felt that we
20 would protect our race by taking that one year. We plan to
21 run it next year, once we have our late April dates, again.

22 COMMISSION VICE CHAIRPERSON HARRIS: Because on
23 your overall stakes program, I think you and TOC need to
24 work together to encourage overnight stakes. They don't
25 have to be really big stakes, but to allow some more black

1 type opportunities for Northern California horses. So hope
2 you take a good look at that.

3 MR. HARTMAN: Thanks.

4 COMMISSIONER CHOPER: Do you have any idea of what
5 the forecast is for the horse population for this spring
6 meet?

7 MR. HARTMAN: It's really going to depend on how
8 successful we are recruiting horses from out of state,
9 again.

10 COMMISSIONER CHOPER: No, I understand that. And
11 you're taking action?

12 MR. HARTMAN: We are.

13 COMMISSIONER CHOPER: You're doing what you can do
14 in respect to that?

15 MR. HARTMAN: Correct. The racing secretary has
16 already made a trip to Arizona. For the first time we're
17 working cooperatively with the racing fairs, where we're
18 coming down together to Arizona, again, to visit with
19 horsemen. And we're giving added incentive for Arizona
20 shippers to -- a financial incentive for Arizona shippers,
21 shipping to Northern California.

22 COMMISSIONER CHOPER: Is Arizona the only big
23 source of population?

24 MR. HARTMAN: That's the major source, that's the
25 one major source.

1 COMMISSIONER CHOPER: Canada just doesn't work in
2 the spring?

3 MR. HARTMAN: Correct, Emerald Downs and Hastings
4 Park are both running.

5 COMMISSIONER CHOPER: Are running.

6 MR. HARTMAN: Many of the -- not many. A few of
7 the Canadians have actually stayed on with us. Two of them
8 I know have bought homes in Northern California, so we've
9 made some inroads with those trainers, and they're going to
10 leave a string here year round.

11 COMMISSIONER CHOPER: Because it really was a good
12 prior meet in terms of numbers. We're all on the same page
13 with this, too, but anything you can do to do that, or
14 anything that this Board can do to help you in some way, for
15 speaking for myself at least, I'd certainly be open to that.

16 MR. HARTMAN: Great.

17 COMMISSION VICE CHAIRPERSON HARRIS: I've always
18 thought it would be good if there were some, it didn't have
19 to be a hundred percent, but some subsidy of horses shipping
20 from the south, too.

21 But is that money on those horses shipping from
22 Arizona, where does that come from?

23 MR. HARTMAN: That comes out of the California
24 Marketing Committee Fund.

25 COMMISSION VICE CHAIRPERSON HARRIS: And they can

1 talk to them about -- I mean, I think it's pretty expensive
2 anymore to ship a horse to Northern California, and
3 sometimes that can be your sixth or seventh horse in a race.

4 COMMISSIONER AMERMAN: What is the alternative for
5 the Arizona horsemen? Do they go up to Prescott, I guess,
6 in the summer?

7 MR. HARTMAN: Actually, I think some of them are
8 going to Hollywood Park. I know they're recruiting more
9 heavily from Arizona, based on the call that I had with Mr.
10 Panza.

11 COMMISSIONER AMERMAN: Yeah.

12 MR. HARTMAN: So, you know, we're probably the
13 best alternative, our racing surface is still going very
14 well, knock on wood. And I think we're going to be more
15 successful in Arizona than we ever have before, just like we
16 were more successful in Seattle and Canada this year, than
17 we ever have been before.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay. Any other
19 comments from the Board?

20 Mr. Korby, I see you standing there.

21 MR. KORBY: Yes, I'd just like to --

22 COMMISSION CHAIRPERSON SHAPIRO: You want to
23 identify yourself for the record?

24 MR. KORBY: Chris Korby, California Authority of
25 Racing Fairs.

1 I just want to note that we're really pleased to
2 be working with Golden Gate on expanding the recruitment
3 program to Arizona. The change in schedule makes it work
4 even better, I think, this year, with Stockton moving it's
5 dates to September and Golden Gate running a couple extra
6 weeks in June. I think this cooperative effort will bear
7 fruit.

8 And just to give you some metrics, last year the
9 recruitment program that CARF conducted attracted 154 horses
10 from out of state, and that resulted in an average field
11 size increase of one runner per race. So it's a significant
12 benefit to Northern California.

13 COMMISSION CHAIRPERSON SHAPIRO: Thank you. All
14 right, I will then enter -- well, wait a minute, let me make
15 sure I don't have any other cards. Hold on, hold on. No, I
16 don't have any. There are a lot of them.

17 I will then entertain a motion to approve this
18 license conditioned upon --

19 COMMISSIONER CHOPER: So moved.

20 COMMISSION CHAIRPERSON SHAPIRO: It's moved.

21 Second?

22 COMMISSIONER MOSS: Second.

23 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

24 (Ayes.)

25 MR. HARTMAN: Thank you.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

2 All right, let's go on to Item Number 5,
3 discussion and action by the Board regarding the proposed
4 amendment of CHRB Rule 1865, Altering of Sex of Horse, to
5 provide for a minimum \$1,000 fine for any horse entered to
6 race not properly identified as a first time gelding in the
7 official program, or to provide that any horse entered to
8 race that has been gelded since a prior start shall be
9 scratched if the horse's true sex is not correctly
10 identified in the official program.

11 Here's an issue that we have been down and we've
12 looked at every which way it seems, and so here it is back,
13 again. And I just want to note that in staff's report, that
14 during the -- during the June '07 fiscal year, the stewards
15 issued 44 rulings against trainers who do not report the
16 gelding of a horse at the time of entry, and the typical
17 fine was \$300 for this. So this is a problem.

18 And I also think it should be noted, and I think
19 that Dr. Arthur could -- could you actually comment on this,
20 I see him sitting there. That California is probably one,
21 if not the only state, that has been way out front on this
22 issue, and it seems that a lot of other states simply ignore
23 this, is what I'm hearing.

24 So what we're trying to do here is for the
25 protection of the bettor. I mean, this is the ultimate

1 equipment change and we're trying to protect the bettor's
2 interest.

3 Pardon me?

4 COMMISSION VICE CHAIRPERSON HARRIS: I wanted to
5 say something.

6 COMMISSION CHAIRPERSON SHAPIRO: You wanted to say
7 something?

8 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, I'll let
10 you say something. Do you want to say something before Dr.
11 Arthur?

12 COMMISSIONER CHOPER: It's the ultimate equipment
13 change.

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, yeah.
15 Well, I was one of the ones that have been pushing this. I
16 want to clarify, I'm not for fining trainers or creating,
17 you know, more money into the General Fund just because
18 someone didn't report a gelding.

19 But I think the real issue the transparency we
20 have in racing on a lot of things, that people -- we've got
21 a sport that you wager on, and we need a full disclosure on
22 what's going on. And if we have a horse racing as a
23 gelding, that was formerly raced as a colt, we need to know
24 about it.

25 But the real solution, I think, is some database,

1 which I think Encompass is very close to having, wherein it
2 can be on the program and in the form, and so for that
3 reason I think if it's not correctly on the program, the
4 horse should be scratched.

5 So I just wanted to say I like this scratch idea
6 versus the fine idea.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. And
8 Commissioner Moss, I know that you and your Pari-Mutuel
9 Committee have covered this time, and time, and time again.
10 Do you want to comment on it?

11 COMMISSIONER MOSS: This is always a huge, I would
12 say, item at the Pari-Mutuel. The wagering public is
13 incensed when a late scratch shows up because this
14 interferes with their Pick-Six requests, the Pick-Fours, and
15 it's just unfair.

16 And I believe that we've asked the trainers, in
17 every possible way, to acknowledge when a horse is gelded,
18 and they say it's a hard thing to do because a lot of them
19 are gelded at farms, and they don't know when they're coming
20 and what kind of shape they're in, and it's a difficult
21 problem.

22 But I'm in favor of not scratching the horse, I
23 don't think that's good for the owner. I'm in favor of the
24 \$1,000 fine. That's about it.

25 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur, is

1 there something you want to add to this?

2 EQUINE MEDICATE DIRECTOR ARTHUR: Well, you'd
3 asked me to comment and I was just going to reaffirm what
4 you had said, is that it's amazing how many ways that this
5 can get messed up. It should be simple. But, certainly,
6 California pays more attention to this than any other racing
7 jurisdiction, and it's probably because we have one of the
8 most popular national bets, and that is our Pick-Six. We
9 get very, very significant Pick-Sixes. And, quite frankly,
10 anytime you lose a Pick-Six, you get frustrated when things
11 are a surprise to you.

12 But what I do think that we have to pay attention
13 to is we have put a lot of work into this, the racing office
14 has, there have been conversations with Encompass, the
15 Jockey Club. The real issue is that -- and there was an
16 incident just recently, where the registration papers and
17 the sex of the horse matched, but it was not noted as a
18 first-time gelding. And so if people are unaware of that,
19 there has to be a process to let people know that there has
20 been the ultimate equipment change or, as we call it, brain
21 surgery, Commissioner Choper.

22 (Laughter.)

23 EQUINE MEDICATE DIRECTOR ARTHUR: But, you know,
24 there are a lot of ways to do it, we are working on it. The
25 racing office is very attuned to this. There have been

1 times when the sex has not been properly reported because of
2 racing office screw ups.

3 I think that I have no problem with the fine.
4 We've been trying to get the stewards to fine more, for a
5 long time, and I think certainly this puts a shot across the
6 bow.

7 I'm a little disappointed that it only directs the
8 thousand dollar fine to trainers, rather than the licensee
9 responsible for the error, but that's a different issue.

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
11 the idea would be that a trainer would enter in the horse,
12 he looks at the overnight, which is usually three days ahead
13 of the race, and see what the sex of that horse is
14 designated on the overnight. If it's not correct, at that
15 point he notifies the racing office and says, look, that
16 horse that you show as a horse is really a gelding.

17 And then, subsequently, the racing office can
18 correct it.

19 But what's really needed is an Encompass deal to
20 flag that first-time gelding, where it's not so much word of
21 mouth things that can get lost in the shuffle.

22 EQUINE MEDICATE DIRECTOR ARTHUR: Yeah, the racing
23 office and Encompass are aware of this problem, and the
24 Jockey Club, and I think we're trying to work to sort it
25 out.

1 But the fact of the matter is I agree with you one
2 hundred percent, somebody has to be responsible to make sure
3 that if that horse has been gelded that it's properly
4 reported. Usually, the most common problem is when a horse
5 goes out with one trainer, out to the farm, it's gelded at
6 the farm and comes back to a second trainer.

7 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it's
8 hard for a trainer. I mean, somebody could send somebody
9 like Gold, say, for instance, since it's the Kentucky horse
10 farm, he comes back in, he's a gelding, I don't know if he's
11 a first-time gelding or not. I mean, just hypothetically.
12 But I think somehow we need a program to show when that
13 first gelding occurred.

14 COMMISSION CHAIRPERSON SHAPIRO: Well, I know
15 Commissioner Harris and I were both, and Dr. Arthur was
16 there, too, at the Welfare Safety Summit, and I know that we
17 had a lot of discussions on this issue, trying to perfect
18 it.

19 And, you know, I didn't realize how complicated
20 this really is, and where all the mistakes can occur. But
21 on the other hand, we need to do everything we can to
22 protect the wagering public. And, you know, we'd probably
23 take some hits because we are out front in doing it, but we,
24 nevertheless, need to continue on that path.

25 So I'm not sure how to -- I'm frustrated that it

1 doesn't seem that we make headway.

2 Charlie, do you want to add something here?

3 MR. DOUGHERTY: Charlie Dougherty, California
4 Thoroughbred Trainers.

5 Just to clarify your point about when the
6 overnights come out, there is nothing on the overnight that
7 stipulates whether a horse has been gelded since it's last
8 start or not.

9 COMMISSION VICE CHAIRPERSON HARRIS: But on the
10 overnight it shows if the horse is a gelding, or a filly, or
11 a colt, or a horse, I think.

12 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

13 MR. DOUGHERTY: No, it doesn't. And I've got two
14 trainers here, with me, Ed Moger and Brian Pitnick, who
15 could speak to that. But it states what type of race,
16 whether it's a colt and gelding, and all that, but it does
17 not --

18 COMMISSION VICE CHAIRPERSON HARRIS: I know on the
19 Equibase official entries which, you know, as opposed to the
20 program, it shows that. But I have to go back and take a
21 look at it.

22 COMMISSIONER CHOPER: But that could be fixed,
23 couldn't it? I mean, if you'll excuse the expression.

24 (Laughter.)

25 COMMISSIONER CHOPER: You could require the

1 overnights to have that information.

2 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, that's
3 a good idea.

4 EQUINE MEDICATE DIRECTOR ARTHUR: The overnights
5 can be printed in different formats and I'm fairly sure we
6 can get that. I don't want to say -- you know, the racing
7 office and Encompass are working on this, they're aware of
8 the problem. We certainly want to protect our bettors as
9 much as possible.

10 We do think the Pick-Six is a very, very good bet
11 for California and we want the wagering public to be
12 comfortable and have as much information as they possibly
13 need.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 COMMISSIONER AMERMAN: I think that Dr. Arthur is
16 correct, that the problem is complicated and so forth. I
17 don't believe, though, that increasing the fines to a
18 thousand dollars is going to change one thing, except the
19 trainer will doubly upset when he finds out he's been
20 caught, rather than \$500.

21 I suggest that we leave things the way they are
22 and find another solution, and I know we've been working on
23 it, but I suggest we ought to work even harder to find it
24 through Encompass, or the Jockey Club, or whatever. And
25 being a member of the Jockey Club, I'd be happy to tackle

1 that issue with them.

2 EQUINE MEDICATE DIRECTOR ARTHUR: Well, the Jockey
3 Club has been cooperative with Encompass on this.

4 COMMISSIONER AMERMAN: I know they have, yeah.

5 COMMISSION VICE CHAIRPERSON HARRIS: I think we
6 can get that done and, you know, perhaps this should be
7 tabled for a couple of months and get it -- but I just hate
8 to see it go on. We've been talking about this, I've been
9 on the Board for about seven years, and it's one of the
10 first things they brought up.

11 But there's really no reason Encompass can't get
12 it done, and I think they're committed to doing it. So I
13 move we just table this issue and bring it back in 60 days,
14 or whenever that meeting and, hopefully, in the interim that
15 a database solution is found.

16 COMMISSIONER CHOPER: I'll second that.

17 COMMISSIONER MOSS: I just want to say that every
18 time we do that the fan committees, the pari-mutuel people,
19 they're always saying, well, you're not doing anything about
20 this, and this is their biggest complaint and we're not
21 dealing with it.

22 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
23 it --

24 COMMISSIONER CHOPER: My only concern is you're
25 not going to solve the problem by just raising the fine.

1 COMMISSION CHAIRPERSON SHAPIRO: Well, I'm going
2 to kind of disagree with you there. I think that at a
3 certain point people are going to start paying attention. I
4 think it's unfortunate that we haven't -- I agree, we can
5 always come back and make it better.

6 You have a little more faith than I do that
7 there's going to be a solution in 60 days and, yet, we have
8 had -- I get more e-mails on this and, frankly, I think that
9 if there was a thousand dollar fine, I think people are
10 going to start paying a little more attention, and they're
11 going to start looking a little bit more carefully.

12 And to me, it's time to just take a step.

13 COMMISSION VICE CHAIRPERSON HARRIS: Well, maybe
14 we could have it -- I mean, I think the horse -- I mean, the
15 fine is -- I don't really think it makes a lot of difference
16 if it's 500 or a thousand, but it's really --

17 COMMISSION CHAIRPERSON SHAPIRO: Well, our average
18 is 300.

19 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, well, I
20 think we have gone to 500, lately.

21 COMMISSION CHAIRPERSON SHAPIRO: No.

22 COMMISSION VICE CHAIRPERSON HARRIS: But the real
23 problem is scratching the horse. But I think we should
24 really scratch the horse at some point. But maybe we need
25 to implement that down the road.

1 COMMISSION CHAIRPERSON SHAPIRO: So, I mean, there
2 is a motion and a second, and we can consider that. I,
3 personally, would prefer to see we -- I see you, I'm not
4 done, yet.

5 I, personally, would like to see that we go the
6 thousand dollar direction, but let's hear from more people.
7 Mr. Moger?

8 MR. MOGER: Yeah, Ed Moger, CTT President.

9 Number when, when the overnight comes out, the
10 form is already printed out, so it's going to be wrong on
11 the form right off the bat. Because I actually got fined
12 last year, and the form came out and I'm in the -- yeah, the
13 form came out and I saw it was a colt, and so I told the
14 race office before the program came out, and it was too
15 late, I still got fined.

16 COMMISSION VICE CHAIRPERSON HARRIS: No, I think a
17 proposal would be the program.

18 COMMISSION CHAIRPERSON SHAPIRO: The program.

19 MR. MOGER: Yeah, like I say, I told them before
20 the program came out and I still got fined because the Forum
21 was out, the Forum was out already.

22 So I think that -- you know, there's so many ways
23 you can get the wrong sex, and I think if you just scratch
24 the horse, then no bettors will ever get upset about it
25 because they did not bet a horse that was a gelding that

1 they thought was a colt. And I think the fine, \$300, is a
2 big fine to almost any trainer. A thousand is also bad. I
3 mean, 300 is as bad a penalty as a thousand dollars is to a
4 trainer.

5 So I think if you scratch the horse and you could
6 fine the trainer just for not running -- you know, because
7 they had to necessitate it -- they had to scratch the horse
8 just because, you know, for some reason, and it's a \$300
9 fine normally, I think that would be the way to go.

10 If you scratch the horse, at least they won't
11 be -- the public won't be betting on the wrong horse.

12 COMMISSION VICE CHAIRPERSON HARRIS: Well, if CTT
13 is okay with scratching the horse, I withdraw my motion.
14 Because it's going to take us a while to get this as a rule,
15 in any event, and in that way, while we're putting it out
16 for comment, by then, hopefully, Encompass will have their
17 program set. Because I think scratching a horse is the way
18 we best protect the bettor.

19 MR. DOUGHERTY: Charlie Dougherty, CTT. First of
20 all, our Board, albeit we aren't the ones receiving the e-
21 mails from the disgruntled bettors, the grand majority of
22 trainers don't believe this to be that big of an issue, as
23 an equipment change.

24 However, our Board has taken the position that we
25 don't believe, given the fact that there are so many

1 circumstances going into why it is not reported as a gelded
2 from its last race, we are supportive of the position to
3 scratch the horse at this time.

4 We feel it's very radical and it obviously
5 penalizes --

6 COMMISSION CHAIRPERSON SHAPIRO: I'm sure the
7 horse feels that way, too.

8 (Laughter.)

9 MR. DOUGHERTY: Yeah. However, we just do not
10 believe it's fair to the trainer to have to receive the
11 brunt of the fine when, as Ed Moger has indicated, there are
12 various times where there are errors made by the racing
13 office, and it's the trainer who's fined for scratching of
14 the horse, and it's not the racing office.

15 So if we are going to clearly send a message that
16 this has to be changed and a better system put in place, we
17 are going to have to change.

18 COMMISSION CHAIRPERSON SHAPIRO: All right.
19 Marsha?

20 MS. NAIFY: Yes, Marsha Naify, TOC. The TOC
21 strongly is in favor of the thousand dollar fine or more.
22 We are not in favor of scratching the horse. As we stated
23 at the last CHRB meeting, we feel this unfairly penalizes
24 the owner. What it costs to take -- what it costs to get a
25 horse to the race, the timing involved, the condition book,

1 all of that considered.

2 Secondly, in the effort to find a solution to this
3 problem, there is a teleconference call set up with the
4 Jockey Club, and Encompass, along with the CTT, TOC, and
5 racing secretaries on April 16th, so we are trying to
6 address this issue and solve it.

7 But the TOC is not in favor of having the horse
8 scratched, we are in favor of the fine.

9 COMMISSION VICE CHAIRPERSON HARRIS: Would anyone
10 be opposed if we put -- I'll withdraw my previous motion and
11 make a motion that we do implement a mechanism where a horse
12 if scratched, if it's sex is not properly identified in the
13 official program. But we'll have to put this out for a 45-
14 day comments. It's going to be probably a couple of months
15 before it comes back for the Board to take any action. And
16 in the interim, hopefully, the database can be corrected and
17 some of the problems can be kind of beyond us, and then that
18 would be when people can also comment, you know, from the
19 owners' viewpoints of why they do not like it, or whatever,
20 and I think that would keep us moving along and give us a
21 deadline to get something done by.

22 Because we aren't really going to get anything
23 done starting tomorrow, anyway.

24 EQUINE MEDICATE DIRECTOR ARTHUR: Yeah, there are
25 alternatives to this, whereby you can actually have a

1 combination, where a horse can be scratched, I believe the
2 trainer can have a thousand dollar fine or scratch the horse
3 to avoid the fine. Then, of course, they'd get a late
4 scratch penalty. There are several ways to do it.

5 COMMISSION VICE CHAIRPERSON HARRIS: No, there are
6 ways to do it. But I think the fine doesn't really do
7 anything for the person wagering on the race, that was
8 unaware of it. It's immaterial to him if the trainer got
9 fined or not, he bet on what was a different horse than what
10 he thought he was betting on.

11 COMMISSIONER CHOPER: You know, I seconded the
12 motion, so I would agree --

13 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute,
14 which motion, now, are you --

15 COMMISSIONER CHOPER: I seconded the original
16 motion.

17 COMMISSION CHAIRPERSON SHAPIRO: And now he's
18 withdrawn his motion.

19 COMMISSIONER CHOPER: Yes.

20 COMMISSION CHAIRPERSON SHAPIRO: And are you --

21 COMMISSIONER CHOPER: And I'm happy to withdraw
22 the second, with the following rationale. I think that you
23 plainly have a conflict of views on this. The trainers
24 don't want to get fined, the owners don't want the horse to
25 get scratched, and the bettors want the information.

1 And so it's got to -- and what is clear is that
2 the solution doesn't lie -- I mean, the solution for
3 everybody does lie in a better information system. All
4 right. And I think maybe putting it on the -- putting it
5 out as a proposal will --

6 COMMISSION CHAIRPERSON SHAPIRO: As a proposed
7 rule change.

8 COMMISSIONER CHOPER: -- will act as an impetus
9 for getting the information thing improved.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, I agree. I
11 do not think -- the least course of action is to do nothing,
12 all right. I mean, we owe it to our fans, we owe it to the
13 betting public. And what I'm hearing here is I don't hear
14 anybody who doesn't agree with that.

15 So you have more faith in the information system
16 than I do. I think we have to take some action today, is
17 the right step.

18 COMMISSION VICE CHAIRPERSON HARRIS: You know,
19 that was the motion I had, it's just going to take some time
20 to get that done, anyway.

21 But, I mean, I guarantee that when we get this
22 done, there aren't going to be many scratches. It's sort of
23 like a nuclear weapon in the hands of somebody usually it's
24 something that prevents nuclear war because anyone's afraid
25 to use it. And it will just stifle --

1 COMMISSIONER AMERMAN: The question about a little
2 bit of history, and I am an owner of horses. Has anyone
3 considered that the fine be divided between the trainer and
4 the owner?

5 EQUINE MEDICATE DIRECTOR ARTHUR: The rule
6 actually has a provision already for fining the owner, but
7 owners seldom -- I don't know any time that an owner has
8 been fined. It's Rule 1865.

9 COMMISSIONER AMERMAN: Well, all I'm trying to say
10 is that I think the owner knows a little bit about whether
11 his horse is gelded, and the trainer should know. And
12 between the two of them I think you have a better chance of
13 getting the right information out, on a short-term basis. I
14 think the longer-term solution, as we've talked about, is to
15 get better information.

16 COMMISSION CHAIRPERSON SHAPIRO: Right.

17 EQUINE MEDICATE DIRECTOR ARTHUR: You know, one
18 thing I think that everybody should understand here, we do a
19 better job of this in California than any other racing
20 jurisdiction.

21 COMMISSIONER AMERMAN: But you couldn't get that
22 from the racing public, though.

23 EQUINE MEDICATE DIRECTOR ARTHUR: No, I understand
24 that.

25 COMMISSION CHAIRPERSON SHAPIRO: All right, Mr.

1 Goodrich?

2 MR. GOODRICH: Mr. Chairman, Cliff Goodrich, for
3 Fairplex. To confuse things further, I think there really
4 is another alternative that at least ought to be considered,
5 whether during the 45 days or now, and that is to let the
6 horse run, but for purse money, only. Okay. You can still
7 deal with the fine, if you want to.

8 Some people have said, well, that costs us money
9 because you're taking away a wagering interest. It's the
10 same as a scratch, that is correct. But the protection of
11 the public trumps the lost revenue, at least in the eyes of
12 Fairplex.

13 So whether it's the best of both worlds, it might
14 confuse the public if some announcement is made, but that
15 confusion, I think, would be better understood if at the end
16 of the day they understand that that action was taken in
17 order to protect the public first and foremost. The owner
18 gets his purse money.

19 Now, other horsemen may feel that's not fair,
20 we're competing against somebody who has some advantage,
21 that would have to be sorted out. I have not talked about
22 this with anybody, but I think it ought to at least be
23 thrown on the table as another possible solution.

24 COMMISSIONER CHOPER: But what do the bettors get?

25 MR. GOODRICH: The bettors are not involved in a

1 horse --

2 COMMISSION VICE CHAIRPERSON HARRIS: Unless you
3 liked that horse.

4 MR. GOODRICH: Well, but the horse is a late
5 gelding that -- you know, you don't want to read in the
6 paper some horse paid boxcars, who was gelded, and the
7 public didn't know about it.

8 So if you find out shortly before the
9 race --

10 COMMISSIONER CHOPER: So a horse that finishes
11 second is the winner, so far as the bettors are concerned.

12 COMMISSION VICE CHAIRPERSON HARRIS: I think that
13 would just be confusing for bettors. But I would just
14 suggest everyone put their comments into the record.

15 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
16 let's move this forward, if we can. I think there's a
17 consensus that we want to move forward. So should we and
18 can we, could we move it forward as either/or, which could
19 allow us both options, and let those go through as the rule
20 change, as it's currently written, and just make it
21 either/or.

22 Are you guys listening?

23 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, yeah.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. Or do we
25 want to pick one as a fine and do we want to go the scratch

1 route or the fine route?

2 COMMISSION VICE CHAIRPERSON HARRIS: Well, we
3 already have a fine route.

4 COMMISSION CHAIRPERSON SHAPIRO: Why don't we put
5 this out as either/or, a scratch or a minimum thousand
6 dollar fine, and that way we'll get a consensus during the
7 45 days.

8 COMMISSION VICE CHAIRPERSON HARRIS: I don't know
9 if we really have a rule that says "or," I mean, can you?

10 COMMISSIONER CHOPER: No, but we can adopt either
11 one. Is that all right to put it out that way?

12 COMMISSION CHAIRPERSON SHAPIRO: Yeah, that's what
13 I'm trying to do. Is that okay with the AG?

14 DEPUTY ATTORNEY GENERAL KNIGHT: Well, I'm sure.

15 COMMISSION CHAIRPERSON SHAPIRO: Great.

16 DEPUTY ATTORNEY GENERAL KNIGHT: I mean, you're
17 still seeking public comments.

18 COMMISSION VICE CHAIRPERSON HARRIS: We put it out
19 both -- it wouldn't be or, it would be you want to get it
20 this way or this way.

21 COMMISSION CHAIRPERSON SHAPIRO: Yes, I'm trying
22 to put them both out, okay.

23 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

24 COMMISSION CHAIRPERSON SHAPIRO: Maybe I'm not
25 doing it articulately.

1 Okay, then I move that we put these out for public
2 comment in the form that is currently in front of us. Is
3 there a second?

4 COMMISSIONER MOSS: Second.

5 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: It's approved.

8 DEPUTY ATTORNEY GENERAL KNIGHT: I'm sorry, just
9 for clarification, you said in the form currently before
10 you.

11 COMMISSION VICE CHAIRPERSON HARRIS: But add
12 the --

13 DEPUTY ATTORNEY GENERAL KNIGHT: That doesn't add
14 the alternative though, does it?

15 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it has
16 two different things.

17 COMMISSION CHAIRPERSON SHAPIRO: It's two
18 different things. Okay?

19 DEPUTY ATTORNEY GENERAL KNIGHT: Oh, I see, got
20 you.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay,
22 we're going to move on to Item Number 6. What time is it?
23 Okay, we're still okay.

24 Item Number 6, public hearing and action by the
25 Board on the adoption of the proposed amendment to CHRB Rule

1 1420, Definitions, to revise the definition of a claiming
2 race, and the proposed addition of CHRB Rule 1634, Claiming
3 Option Entry, to provide that horses entered in a claiming
4 race may be declared ineligible to be claimed under
5 specified conditions.

6 And perhaps TOC wants to come forward, they were
7 the party that I think originally brought this to the
8 forefront.

9 I think what we're trying to do here is find a way
10 to give a horse -- the owner an incentive to put a horse out
11 for some R&R, allow that horse to come back, the owner's
12 made an investment in refreshing the horse and he doesn't
13 want to see that his first time back he loses the horse and
14 his investment.

15 MR. BACHMAN: Tom Bachman, TOC. That's exactly
16 what the rationale was. We would like to have horses have
17 the opportunity to be rested, lengthening their career. And
18 it is to the owner's advantage to be able to bring that
19 horse back and run them one time at the level that his last
20 race was, and not have to worry about somebody claiming his
21 horse and taking advantage of the time and the money spent
22 in the rehab of the horse. It's as simple as that.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.
24 I, obviously, believe this is a good idea, the concept of
25 it.

1 Commissioner Harris, you've certainly thrown out a
2 lot of concepts.

3 COMMISSION VICE CHAIRPERSON HARRIS: The concept
4 is very good. And I was -- I mean, the concept is that
5 we've got a lot of horses, especially in Northern
6 California, where you've got a horse that's worth eight or
7 ten thousand, and it's going to well cost eight or ten
8 thousand to rehabilitate it and bring it back.

9 It's probably not as big of a problem if you've
10 got a \$60,000 horse and you spent 20,000 on it, you're still
11 going to bring it back.

12 But if you've got an eight or ten thousand dollar
13 horse, it's really not an economic proposition to even try
14 to bring it back. You're better off, you know, doing
15 something, giving it away, or euthanizing it or something,
16 which I'm not advocating.

17 But the only problem is I think that this is a
18 good start. I'm not really opposed to this, although I
19 think it should be -- I think I'd make it back to the
20 original TOC language, that it was the same level that it
21 left at, not a higher level.

22 But, also, I would hope that there's a lot of
23 other solutions that are at hand, now, with the racing
24 offices, they could write races, different races. I don't
25 think -- I think the original opinion that Derry Knight gave

1 us, he wasn't quite aware of all the racing things that we
2 have. I mean, I think we need to write optional claiming
3 races, where you have a race for horses that haven't started
4 in so long, or claiming price, whatever, and it can be lower
5 prices. Or you could have a claiming race where you could
6 say the claiming price is 10,000, however, if they haven't
7 raced for long, they could be entered for 16,000 or
8 whatever.

9 So I think there's a lot of races we can write
10 without really making a rule change. So I'm not really
11 opposed to the rule change, it probably costs the State, I
12 don't know, eight or ten thousand to fool around and make a
13 rule change. But if everyone's got their heart set on doing
14 that, I'm okay with it.

15 But I think, I just hope that -- I don't think
16 this particular rule change will have as much impact as
17 opening up the whole subject to a lot of creative ways to
18 fix it.

19 MR. BACHMAN: Well, we're trying to operate under
20 the KISS theory. And it's the simpler the theory and the
21 simpler the writing of the race is, the more likely it's
22 going to go and be used.

23 And when you start adding language and making it
24 more complicated -- it's tough enough to get a race to go up
25 here right now. If you simply allow the horse, who's been

1 away for six months, to come back at the same or higher
2 level that he last raced, and gets one race -- it's tough
3 enough to bring a horse back and try and win that first time
4 out.

5 So it's a situation where you just keep the theory
6 simple and let it go forward with the same level or greater
7 one time.

8 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, so we
9 need to change the language to make that -- take out this at
10 least one level higher.

11 COMMISSIONER MOSS: Yeah, I think it should be one
12 level higher. They get a free ride, one level higher.

13 MR. BACHMAN: Well, we're trying to do this for
14 the horse. And a lot of times in California one level
15 higher doesn't exist, or that race doesn't go. And you're
16 trying to bring that horse back from six months off, and
17 trying to give him a race where it should be somewhat easy
18 for him to have a good race.

19 You bring him one -- say you have a horse with a
20 bow, and you've given him six months or a year off, and you
21 bring him back and you're asking him to extend himself even
22 more the first time back, maybe around against a higher
23 level horse, the chance of that horse getting injured again
24 is much greater. You've got to give him the benefit of the
25 doubt.

1 COMMISSION VICE CHAIRPERSON HARRIS: I mean, the
2 problem is you're not going to lose the horse a level
3 higher.

4 COMMISSIONER MOSS: I'm thinking of the other
5 horses in that race, though, and the owners in that race,
6 you know, it's --

7 MR. BACHMAN: You know, up here, if your last was
8 20, you're coming back in an allowance race. I mean, you
9 don't have that option. So, you know, it may work in
10 Southern California, where you have a lot of categories, but
11 up here that just doesn't happen.

12 COMMISSIONER CHOPER: Well, if it's up in the 20,
13 25 thousand dollar level, it's not so hard to write an
14 optional claiming race for horses like that.

15 MR. BACHMAN: Well, he just gets to come back at
16 that level, and his one race back he can't be claimed, at
17 whatever level.

18 COMMISSION VICE CHAIRPERSON HARRIS: Well, this is
19 a start. I think longer term you need to really justify,
20 with all the expense that goes into a horse, you need more
21 than maybe just one chance back.

22 But it's a complicated deal and I think it's going
23 to be a growing concern. I'm worried that somebody's going
24 to be sitting around here at some point, there's going to be
25 a thousand horses in California because they've all gone

1 somewhere.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, I
3 personally believe that we ought to move forward and allow
4 the horses to come back at least one time at the same level
5 that they previously started.

6 If they haven't raced in 180 days, you know,
7 they're probably going to need a race. I don't think it
8 should be made that much tougher on them. I think this is a
9 good thing, I think it's for the health of the horse. And
10 so I, personally, would favor seeing that we move forward
11 with this in that form.

12 COMMISSIONER AMERMAN: I would second that.

13 COMMISSIONER MOSS: And you're making it
14 conditional on them having not raced for 180 days.

15 COMMISSION CHAIRPERSON SHAPIRO: Yes.

16 COMMISSION VICE CHAIRPERSON HARRIS: At one level,
17 I don't know if that is the right number, should it be --

18 COMMISSION CHAIRPERSON SHAPIRO: No, what I'm
19 saying is at the same level. The same level.

20 COMMISSION VICE CHAIRPERSON HARRIS: The same
21 level, yeah.

22 COMMISSION CHAIRPERSON SHAPIRO: So I, personally,
23 would make -- and I think there's cards, so I better be
24 careful. I would like to make a motion that we accept this,
25 the horse can come back at the same level at which it last

1 competed, has not raced for 180 days, and he gets a one-time
2 exemption.

3 MR. BACHMAN: The same level or greater --

4 COMMISSION VICE CHAIRPERSON HARRIS: Well, he
5 could come back greater.

6 COMMISSION CHAIRPERSON SHAPIRO: Greater, yeah, it
7 could be greater.

8 COMMISSION VICE CHAIRPERSON HARRIS: It can't get
9 a 12/5 to fill, but there's a 16, and he can come back.

10 COMMISSION CHAIRPERSON SHAPIRO: The same or
11 greater.

12 MR. BACHMAN: That's great.

13 COMMISSIONER AMERMAN: I second that motion.

14 MR. BACHMAN: Thank you.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
16 now let me go to other public comment here. I think there's
17 quite a few cards on this one.

18 Charlie, do you have a comment on this? I think
19 Cliff was there last time.

20 MR. DOUGHERTY: Charlie Dougherty, California
21 Thoroughbred Trainers. We are in support of the motion that
22 has been put forward.

23 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

24 And, Guy, you've already spoken. Tom, you've
25 already spoken. Let me make sure I'm not missing anybody

1 here.

2 Okay, I don't see that I'm missing anybody else.
3 If there's no other comment, then I'm going to call the
4 question.

5 All those in favor?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: Opposed? Motion
8 passes.

9 Okay. Item Number 7, public hearing and action by
10 the Board on the adoption of the proposed addition of CHRB
11 Rule 1843.3, Penalties for Medication Violations and the
12 proposed amendment to CHRB Rule 1843.2, Classification of
13 Drug Substances.

14 The rule change that will never, ever stop coming
15 back to us.

16 Okay, so is staff going to advise, Dr. Arthur or
17 somebody, where are we at with this never-ending tale?

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

20 Hopefully, this is the last time. This proposal
21 will amend Rule 1843.2, Classification of Drug Substances,
22 and it will add the Rule 1843.3, Penalties for Medication
23 Violations rules.

24 The rule was most recently noticed for 15 days to
25 modify the maximum trainer fine for a second offense for a

1 category A penalty. During that 15-day comment period staff
2 received no comments on the modification, and we recommend
3 that the Board adopt the proposal as presented.

4 COMMISSION CHAIRPERSON SHAPIRO: If you promise
5 not to bring it back to us again, I'm going to move that.

6 STAFF SERVICES MANAGER WAGNER: I'm going to
7 promise.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay. Do we have
9 confidence, at this point, that the way that -- do we have
10 confidence that what we're now putting forward will now pass
11 muster?

12 STAFF SERVICES MANAGER WAGNER: Yes, we do. I do
13 have that confidence.

14 COMMISSION VICE CHAIRPERSON HARRIS: Well, I agree
15 it's important to move forward.

16 I'm still not clear on the anabolic steroid part
17 of this, how that exactly works. If it's in here like this,
18 when are we going to actually start calling those and
19 sanctioning those?

20 EQUINE MEDICATE DIRECTOR ARTHUR: I can answer
21 that very quickly. First of all, this has been delayed so
22 long that we're getting our anabolic steroid rules crossing
23 in the night here.

24 We will have an option, if this gets approved by
25 AOL, to actually decide when we want to start penalizing for

1 anabolic steroids.

2 This particular rule actually decreases the
3 classifications for anabolic steroids in the interim, but we
4 thought this was going to be passed back in January.

5 We still will be coming back, within a couple of
6 months, when the 19 -- or 1844 changes we made are in place,
7 and then reclassifying the four key anabolic steroids,
8 that's testosterone, stanozolol, nandrolone, and boldenone.
9 And then we'll make a decision on where we want to go.

10 I just came back from the RCI meeting in Texas,
11 where there was a lot of discussion on anabolic steroids,
12 and maybe at the next meeting I can keep the Board up to
13 date on that. We're still on schedule.

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, my only
15 concern was we can legally sort of carve out part of this,
16 relative to anabolic steroids, and keep everything else
17 moving forward?

18 EQUINE MEDICATE DIRECTOR ARTHUR: It all goes
19 together, it's all been designed, it works real well with
20 anabolic steroids, we have no problem.

21 COMMISSION VICE CHAIRPERSON HARRIS: My concern
22 was that if some horse, say the Breeder's Cup's coming,
23 there would be a horse that someone would allege was on
24 anabolic steroids and we did not enforce this rule, and how
25 would we address that?

1 EQUINE MEDICATE DIRECTOR ARTHUR: The drug
2 classification has to go forward. We tried to do that
3 separately. There's never been an issue with the drug
4 classification, the only problem is that there's a cross-
5 reference between the two, and for that reason they have to
6 go together.

7 But right now, this particular penalty guideline
8 will have no problems in the Breeder's Cup, even if we make
9 no changes.

10 COMMISSION VICE CHAIRPERSON HARRIS: So even -- I
11 mean, so you are advised to someone running in Breeder's Cup
12 would be -- on steroids, would be don't worry about it, just
13 do whatever you normally do, or what?

14 EQUINE MEDICATE DIRECTOR ARTHUR: No.

15 COMMISSION VICE CHAIRPERSON HARRIS: No?

16 EQUINE MEDICATE DIRECTOR ARTHUR: No, we have
17 plenty of time to do that.

18 COMMISSION VICE CHAIRPERSON HARRIS: Well, but I'm
19 thinking people are starting regimes on these steroids, and
20 I think they've got to know.

21 EQUINE MEDICATE DIRECTOR ARTHUR: The regime, it
22 will not become an issue for late October, until August.

23 COMMISSION CHAIRPERSON SHAPIRO: He's saying the
24 withdrawal time is far enough away that it's not an issue.

25 Now, I think the point that Commissioner Harris is

1 making is that so we don't have a problem, as we move
2 forward, I'm assuming you're going to adopt some program
3 where you will clearly let everybody, who's aiming for the
4 Breeder's Cup race know what our policy is, so that they
5 don't have a positive.

6 EQUINE MEDICATE DIRECTOR ARTHUR: That's
7 absolutely right. And, unfortunately, because of this
8 regulatory delay, it's a little uncertain what's going to
9 happen exactly when. I have graphs of that, I've met with
10 Breeder's Cup, you know, so we're -- and I'm actually
11 writing an article right now for the CTT Magazine, on
12 anabolic steroids. We'll have plenty of time to warn people
13 about what they're going to need to do to meet our
14 particular criteria.

15 We can get into this next time, but there is --

16 COMMISSION CHAIRPERSON SHAPIRO: And I assume you
17 could work with Breeder's Cup to help -- they would help
18 publicize it, too?

19 EQUINE MEDICATE DIRECTOR ARTHUR: Absolutely, yes.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 COMMISSION VICE CHAIRPERSON HARRIS: Because the
22 thing is somebody -- I mean, I admit that you can say, well,
23 I'm going to stop using steroids as of September 1st, or
24 August 1st, or whatever. But if somebody has a gelding, or
25 whatever, that's been on steroids all the time, it might be

1 better for that horse to sort of wean him off of it, rather
2 than just stop abruptly.

3 EQUINE MEDICATE DIRECTOR ARTHUR: Right. I will
4 tell you, the RMTC has recommended that through the end of
5 the year that the penalty be no more than a class C penalty,
6 so that all the states can move simultaneously.

7 Frankly, I am amazed to find out that California
8 is probably one of the few states that is 100 percent ready
9 and able to regulate anabolic steroids, and there's other
10 states that laboratories just aren't ready to move forward.

11 COMMISSION CHAIRPERSON SHAPIRO: Despite what Dr.
12 Katlin said?

13 EQUINE MEDICATE DIRECTOR ARTHUR: In spite of what
14 Dr. Katlin said.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

16 EQUINE MEDICATE DIRECTOR ARTHUR: And you can
17 quote me on that.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, that's why
19 I said that, I wanted it on the record.

20 Okay, let's go back to where we are then. Item
21 Number 7, we have -- we have moved it and there is a second.
22 We have a public comment card from Mr. Power.

23 MR. POWER: Thank you, Michael Power, again.

24 A couple of questions and first a statement. I
25 think it's a sad day for racing when the list of medications

1 that are given to horses is four pages long. I think that
2 is what's killing our sport. Our public sees it that way.
3 And unless they just say no to drugs, all of them, we are
4 going to dig the grave for our sport.

5 Number two, in going over this list, I did not see
6 HGH on the list. I may have missed it. Perhaps Dr. Arthur
7 can fill me in?

8 EQUINE MEDICATE DIRECTOR ARTHUR: It should be a
9 Class -- let me see, I'll give you the page.

10 MR. POWER: Thank you.

11 EQUINE MEDICATE DIRECTOR ARTHUR: It is on page 1,
12 it is the lower right-hand side, recombinant human-growth
13 hormone.

14 MR. POWER: Okay, and that's a Class A?

15 EQUINE MEDICATE DIRECTOR ARTHUR: It's a Class 1
16 drug, Class A penalty.

17 MR. POWER: Class 1.

18 EQUINE MEDICATE DIRECTOR ARTHUR: The highest, the
19 biggest you can get.

20 COMMISSION CHAIRPERSON SHAPIRO: There's no
21 purpose for it whatsoever in the use in a horse.

22 MR. POWER: Absolutely. Absolutely.

23 COMMISSION CHAIRPERSON SHAPIRO: That's what that
24 is.

25 MR. POWER: Absolutely. The third thing that I

1 wanted to mention is that, as we all know, this has been
2 well publicized as a function of the veterinarian industry.
3 The vets have created the list and discussed it among
4 themselves, for the most part.

5 COMMISSION CHAIRPERSON SHAPIRO: No, no, no, no.

6 MR. POWER: Well, I know that you've been
7 involved, Richard, and --

8 COMMISSION CHAIRPERSON SHAPIRO: Not even me. But
9 no, there are actually a lot of people throughout the
10 country who have been working on this list with Dr. Arthur,
11 and the RMTTC. I mean, there's a long, long list of experts
12 and people that have worked on this very diligently.

13 EQUINE MEDICATE DIRECTOR ARTHUR: Let me just
14 correct this right now. This list is derived from the
15 Veterinary Pharmacologist Committee of the RCI. Right now
16 the Committee is composed for Dr. Larry Soma, from the
17 University of Pennsylvania, Dr. Rick Sams, from the
18 University of Florida, Dr. Tom Tobin, from the University of
19 Kentucky, and Dr. Cynthia Kollias-Baker, who used to be the
20 Equine Pharmacologist at UC Davis.

21 And they recommend how drugs are classified, and
22 then it has to go to the entire RCI Board Commissioners for
23 their approval. So there's a very disciplined process for
24 this to take effect.

25 And Mr. Powers really doesn't understand how this

1 list came about or what it's used for. These are not drugs
2 that are necessarily approved, they're drugs that show up
3 from time to time.

4 Some of these drugs we will never, ever, ever see,
5 but in case we possibly do sometime, someplace, we need to
6 have them classified.

7 COMMISSION CHAIRPERSON SHAPIRO: So could I maybe
8 change that to where these are drugs that are detectable, or
9 have been detected, may or may not be used, and you are
10 classifying them into categories in case they are detected,
11 with respect to what therapeutic value they have, if any,
12 and all the way up to drugs that have no therapeutic value
13 and are totally illegal at all times.

14 EQUINE MEDICATE DIRECTOR ARTHUR: Absolutely. In
15 fact, the vast, vast majority of these drugs are drugs we
16 will never, ever see.

17 COMMISSION CHAIRPERSON SHAPIRO: Right.

18 EQUINE MEDICATE DIRECTOR ARTHUR: We just know
19 that they're available somewhere in the world, they may show
20 up in a horse, and if they do, we want to be prepared for
21 it.

22 Of these drugs, there are probably about 50 that
23 are used to some degree therapeutically, not many more than
24 that.

25 COMMISSION CHAIRPERSON SHAPIRO: See, I think,

1 Michael, you're reading it a little bit wrong in that what
2 these drugs are really doing is saying, hey, we see all
3 these drugs, they'll show up, we'll catch them. And I think
4 that's what we want, we want this list to be as big as
5 possible so that we can identify them.

6 MR. POWER: No, I do understand that.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay.

8 MR. POWER: But it leads me to my question. Since
9 you've now expanded the penalties to include owners, why
10 aren't vets on the list?

11 COMMISSION CHAIRPERSON SHAPIRO: They are.

12 MR. POWER: Well, as I read it, the stewards have
13 the capability to deal with the vets.

14 COMMISSION CHAIRPERSON SHAPIRO: No, no, I think
15 Dr. Arthur can address that.

16 MR. POWER: Please do.

17 EQUINE MEDICATE DIRECTOR ARTHUR: There is a
18 specific provision in here, and if you'll give me a minute,
19 I'll pull it out. We actually had to change it because AOL
20 didn't like the wording, but the entire intention. It
21 basically says the licensee responsible for the violation is
22 subject to the same penalties.

23 And it's not a veterinarian ensure rule, it's not
24 an owner ensure rule, it's not an assistant trainer ensure
25 rule, it's the person responsible.

1 COMMISSION CHAIRPERSON SHAPIRO: And I think you
2 can almost see practical evidence of that in the case that
3 had to do with Patrick Biancone, to some degree.

4 MR. POWER: Well, that was --

5 COMMISSION CHAIRPERSON SHAPIRO: Well, but what
6 I'm saying is the vet was held responsible. We have it in
7 these rules.

8 MR. POWER: But he's a trainer, not a vet.

9 COMMISSION CHAIRPERSON SHAPIRO: No, no, the vet,
10 also.

11 EQUINE MEDICATE DIRECTOR ARTHUR: Dr. Stuart is
12 actually ruled off in California.

13 COMMISSION CHAIRPERSON SHAPIRO: That's what I'm
14 saying, the guy -- he was penalized.

15 MR. POWER: Okay, I just did not see a comparable
16 chart in the full package.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, read the
18 language. Dr. Arthur, will you read the language.

19 MR. POWER: That related to the same penalties.

20 EQUINE MEDICATE DIRECTOR ARTHUR: If you
21 look -- no. If you look at provision H, it's on page 736,
22 any -- and you actually took out licensed veterinarian and
23 owner, and just said "any licensee found to be responsible
24 for the administration of any drug substance resulting in a
25 positive test may be subject to the same penalties set forth

1 for the licensed trainer, and his presence may be required
2 at any and all hearings relative to the case."

3 MR. POWER: Okay, if that is the case, then why do
4 I read about so many trainers being fined, and actually very
5 few of them being suspended, which I think is a major error.
6 You need to suspend these guys for a long time. But why
7 don't I see any vets, other than one vet that was up here,
8 who claims that he didn't know what was going on?

9 COMMISSION CHAIRPERSON SHAPIRO: Well, again, I
10 don't think we can, in this forum, really address that,
11 other than there are --

12 MR. POWER: I don't see vets being suspended.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, you're
14 raising a couple of issues, and I don't want to get too far
15 afield. But the truth is that what we are trying to do is,
16 you know, there's a debate. Whether a suspension is better
17 or a fine is better, it really matters where -- you know,
18 where is the person going to feel the impact from it, that
19 it's going to make a positive difference and help the game.

20 And there are different schools of thoughts for
21 how to deal with those things. In some cases -- you know,
22 let's use a jockey. A jockey that rides five races a week,
23 he gets a week suspension, it's probably not a big deal.

24 But if it's Garrett Gomez today, and he gets a
25 week, that's a huge thing. So are we better off suspending

1 or fining? I mean, those are the debates that we go through
2 in all of these things.

3 And with respect to vets being penalized or fined,
4 if they've been found to be culpable, I believe they have
5 been found to be responsible, they're held responsible.

6 MR. POWER: Well, I keep pretty good track of
7 who's suspended and I've only seen one vet in Northern
8 California suspended in the last three years.

9 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I can't
10 address that. I can tell you, though, you can see in our
11 rules we are addressing it, that we are holding everybody
12 responsible. If we can find out who administered something
13 they shouldn't have done and when, they will be held
14 responsible.

15 MR. POWER: I hope so. Because you're --

16 COMMISSION CHAIRPERSON SHAPIRO: That's the
17 intent.

18 MR. POWER: -- penalizing, properly so, the
19 trainers and the owners who participate in this, but not the
20 people who inject them.

21 COMMISSION CHAIRPERSON SHAPIRO: I assure you, you
22 will find no bigger fan and advocate for making sure the
23 integrity is upheld, as I am, and this Board is. I believe
24 we are taking huge strides forward.

25 Dr. Arthur has meticulously been working on this,

1 and our staff, as well.

2 And so I think we're on the right track, okay.

3 MR. POWER: You know, Richard, I think the sun
4 rises and sets in you.

5 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

6 MR. POWER: However -- however, I think I will be
7 satisfied when I see some names of veterinarians listed on
8 the suspension list and fine list for injecting horses with
9 these substances.

10 COMMISSION CHAIRPERSON SHAPIRO: All right, thank
11 you. Thank you.

12 EQUINE MEDICATE DIRECTOR ARTHUR: Well, the
13 goal -- the goal, obviously, is to have no violations,
14 because that's what all of drug testing is a deterrent.

15 And I would like to point out that the entire
16 purpose of these penalty guidelines is to address the very
17 issue that Mr. Power's identified.

18 COMMISSION CHAIRPERSON SHAPIRO: I appreciate
19 that.

20 All right, I would like to take the vote on this
21 and then we're going to take a short break.

22 Therefore, I'd like to call the question. All in
23 favor --

24 EXECUTIVE DIRECTOR BREED: I'm sorry, Commissioner
25 Harris. You need all four votes.

1 COMMISSION CHAIRPERSON SHAPIRO: We need all four?
2 I think we'll get them. If we don't get four, then we'll
3 have to recall the question.

4 All in favor of the motion, which is to approve
5 these, aye?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: We got four,
8 great. Okay.

9 With that, why don't we take -- reconvene at one
10 o'clock, half an hour. All right, we'll reconvene at ten
11 minutes to 1:00.

12 (Off the record.)

13 COMMISSION CHAIRPERSON SHAPIRO: I'm going to
14 bring the meeting back to order. I wanted you all to know
15 that Commissioner Harris had a horse on that last race and
16 he'd said that he was buying everybody gourmet lunch if it
17 won, and it didn't win.

18 COMMISSION VICE CHAIRPERSON HARRIS: There is a
19 nice buffet out there.

20 COMMISSION CHAIRPERSON SHAPIRO: That you can all
21 pay for.

22 COMMISSION VICE CHAIRPERSON HARRIS: No, I'm sure
23 Bay Meadows would like you to share.

24 COMMISSION CHAIRPERSON SHAPIRO: Oh, is Mr. Liebau
25 still in the room. Can somebody ask him to step in?

1 (Laughter.)

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, we'll get
3 going and we are now on Item Number 8. Discussion and
4 action by the Board on the proposed amendment to CHRB Rule
5 1849, Nerving, to prohibit nerved horses from the grounds of
6 the racing association; from entry in a race; or from being
7 sold or offered for sale on the grounds of a facility under
8 the jurisdiction of the Board; and the proposed repeal of
9 CHRB Rule 1850, Posterior Digital Neurectomy and CHRB Rule
10 1851, List of Nerved Horses.

11 As you will recall, this issue was discussed at
12 our last Board meeting, and there were some members who were
13 not present, so we decided to bring it back for this Board
14 meeting. And we said that we were going to limit the
15 discussion, but I believe there was some objection by
16 somebody, so we don't intend to limit the discussion.

17 We do have some comment cards. I see the Doctor
18 has moved forward and also --

19 COMMISSION VICE CHAIRPERSON HARRIS: Can I also
20 comment?

21 COMMISSION CHAIRPERSON SHAPIRO: One thing before
22 you do. And, also, I would like to, as Mr. Breed just
23 pointed out, we are looking at, perhaps, a proposed
24 resolution of this in a different manner, that may be more
25 acceptable to some others, which was to basically

1 grandfather in those horses that may have had this
2 procedure, and not make this effective immediately for
3 existing horses.

4 But why don't we have Dr. Arthur propose the
5 analysis, or describe the analysis and also what it is
6 you're proposing?

7 EQUINE MEDICATE DIRECTOR ARTHUR: Yes, as I -- I'm
8 not going to reiterate my opposition to this, because I do
9 believe it's unnecessary, unwarranted and unenforceable.

10 COMMISSION CHAIRPERSON SHAPIRO: You just did.

11 EQUINE MEDICATE DIRECTOR ARTHUR: But I will --
12 Mr. Amerman asked me to check into international rules on
13 heel nerving, and except in the Americas, it is not an
14 allowed practice.

15 Australia, however, had a very similar situation,
16 as California is now facing, where it was a permitted
17 procedure and they moved forward to prohibit it, as this
18 Board is trying or proposing to do. And that is in your
19 packet. And basically, what they did, is they put a date
20 certain after which time the procedure was not going to be
21 allowed any further.

22 This allows horses that were heel nerved properly,
23 according to the regulations, to continue to race and to
24 solve the problems going forward. I have proposed language
25 that addresses this. Not only does it address the

1 grandfather issue, but the way I proposed it, it solves the
2 issue as to the slim, admittedly slim possibility, that a
3 horse was heel nerved that would be running in the Breeder's
4 Cup the next two years, and also it gives this Commission an
5 opportunity to advocate uniform national rules on heel
6 nerving moving forward.

7 The first part of the date certain, I think, is a
8 real key element of this. I think it's really unfair for
9 people to have behaved according to our rules, done things
10 properly, and then no longer be allowed to race here.

11 The other, dealing with the possibility of a horse
12 running in the Breeder's Cup being excluded, like Brave Act
13 would have been if we would have had the Breeder's Cup at
14 that particular year, going forward, and getting an
15 opportunity to get a national consensus on this I think are
16 less important, but I do think they are goals that the Board
17 should consider.

18 COMMISSION CHAIRPERSON SHAPIRO: All right. I,
19 personally, would be very -- would be comfortable with what
20 you proposed and what your view is. I agree that I don't
21 think it's fair to penalize anybody that has legitimately
22 and legally done this, and there is no prohibition on it.

23 I do feel, however, that it's something we should
24 move nationally to move forward to not permit. And I agree
25 that we should participate on a national basis in an effort

1 to do that.

2 And so, personally, I would be comfortable with
3 the compromise. I do feel, though, that we should not
4 permit horses that are heel nerved to remain in racing. So
5 that's my bias on it.

6 Does anybody else on the Board wish to comment on
7 it?

8 COMMISSIONER MOSS: I'm in agreement with you, Mr.
9 Chairman, I think anything that exposes the jockey to any
10 unnecessary, or unexplained, or unannounced danger is worth
11 going through with at this point.

12 And so I think if you grandfather in everything
13 Dr. Arthur suggested and move forward with no further heel
14 nerving of racehorses, that would be fine with me.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I would
17 favor some current ban on the practice. I'm not clear that
18 there's absolute scientific evidence that it does any harm,
19 but there's probably enough perception of harm and the
20 possibility that -- and it's done so seldomly that I think
21 we can safely ban it. However, I agree that there needs to
22 be a phase-in period, and I'm not sure what that should be.
23 But it should be something.

24 COMMISSIONER AMERMAN: Yeah, I agree that we
25 should be banning this practice but, clearly, we do need to

1 grandfather the issue because people have done what they've
2 done in good faith, and current rules, and there's no reason
3 why they should be penalized.

4 I would ask Dr. Arthur a question, though. Is
5 there not -- in talking on the backstretch to a number of
6 people, everyone seemed to say, that I talked to, that there
7 may be some alternatives that can be used that would
8 accomplish the same thing as the heel nerving. Could you
9 comment on that?

10 EQUINE MEDICATE DIRECTOR ARTHUR: Cobra venom
11 being one of them.

12 COMMISSIONER AMERMAN: No, I don't think that's
13 what they're suggesting.

14 EQUINE MEDICATE DIRECTOR ARTHUR: I will tell you
15 there is an issue, and I've sent out a notice to official
16 veterinarians on this regard.

17 COMMISSION CHAIRPERSON SHAPIRO: Is it
18 napivocaine?

19 EQUINE MEDICATE DIRECTOR ARTHUR: Napivocaine
20 would do it yes.

21 But there were a number of horses that were freeze
22 nerved, percutaneous freeze nerving, where a cold is -- a
23 cryosurgery is done over the nerve. Those horses have not
24 been reported as nerved horses. And they actually are
25 nerved for, looking at the literature, anywhere from three

1 weeks to six months.

2 And in my opinion, those horses should have been
3 listed as heel nerved.

4 COMMISSION CHAIRPERSON SHAPIRO: Well, how do we
5 protect against that?

6 EQUINE MEDICATE DIRECTOR ARTHUR: Well, usually,
7 the only way we found them, it was Dr. Isbell, the examining
8 veterinarian up here, identified a horse that had scars over
9 his nerves that had been done, and it was a very telltale,
10 you know, evidence that the horse had had cryosurgery. It
11 is a hard thing to identify, they don't always scar, they
12 don't always give the telltale sign, even though they
13 frequently do.

14 That's one of the problems I have with this rule,
15 as you know, is it's relatively unenforceable.

16 COMMISSIONER AMERMAN: How many horses are nerved
17 during the year in California?

18 EQUINE MEDICATE DIRECTOR ARTHUR: Right now there
19 are three on the permanent heel nerving list and there are
20 six horses that have had cryosurgery over the nerves as
21 well, so that's nine.

22 COMMISSIONER AMERMAN: You're saying there may be
23 more?

24 EQUINE MEDICATE DIRECTOR ARTHUR: There may be
25 more, right.

1 COMMISSION CHAIRPERSON SHAPIRO: But there are, as
2 of today, nine known horses?

3 EQUINE MEDICATE DIRECTOR ARTHUR: Yes, in Southern
4 California. I don't have the number up here.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
6 again, it's very important that the record show that
7 nobody's done anything wrong, we're not accusing anybody of
8 doing anything wrong, there's no insinuation of any wrong
9 doing.

10 All right, I'm going to open it up to some public
11 comment, if I could. I had Susan Branch.

12 MS. BRANCH: I'm Susan Branch, I'm a horse owner.
13 And I guess I can count the votes here. But I do think you
14 need to hear from a horse owner who's really opposed to this
15 change.

16 I first looked into this because we had a horse,
17 we had a problem with her hoof, and we did everything, and
18 we had the vet heel nerved her. But I discovered in my
19 research, and talking with various veterinarians, and then
20 learning that you had proposed to change the rule, and then
21 if I had heel nerved her, I might not be able to run her
22 here, that in fact there are some conditions that
23 traditional care, special shoeing don't respond to, and I
24 would be faced with the prospect of not being able to run
25 that horse.

1 I also looked into the issue that I know you're
2 concerned about, which is safety, and there isn't any
3 evidence that this is a safety issue, both to the horse or
4 to the personnel on the track.

5 And so what I'm distressed about is owners,
6 whether they're two, or one, or nine, or ten invest a lot of
7 money in horses, and if you have a safety issue I understand
8 that you have to do something. But you don't have a safety
9 issue. So the persons who will feel the pain are the
10 owners. They invest a lot in a horse and then they can no
11 longer run them in the State of California.

12 And, you know, if the Board wishes to look at
13 this, and work with other states, and get a comprehensive
14 idea of what -- how they're -- you know, I support
15 continuing to look at it, but at this state, I really think
16 it's unfair to owners to take away any possibility for
17 continuing to race the horse.

18 I think the current rules are good, they protect
19 the industry, they provide for notice, and I just think that
20 this is an inopportune time, it's premature to change the
21 rules, and I would request that you not do that at this
22 time.

23 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Allen
24 Branch?

25 MR. BRANCH: Excuse me, Allen Branch, owner and

1 breeder. I still get that feeling that we just don't
2 understand, and I know you do, Dr. Arthur's explained it to
3 you. But in the case of our horse, after six months off,
4 everything in the world, we still apparently have something
5 in there. So the horse -- a lady stood up, after I spoke at
6 the last meeting, and said, well, why don't you just retire
7 them. But the other thing, this pain is going to be there.

8 It somehow comes along as a public perceive
9 cruelty to animals to take away the horse's pain in a
10 portion of its horse, as the Doctor pointed out last time, a
11 portion of the hoof, at the bottom, that he can't get rid
12 of. And it's probably going to be there if it's standing in
13 its stall. And probably, I'm told, and it doesn't show up
14 on an X-ray, it does show up on a nuc scan.

15 So why wouldn't you relieve the horse's pain and
16 let him continue to run. If he's got to go stand in his
17 stall and walk around, and that's why it won't heal.

18 I talked to some people in Kentucky, who tried
19 everything, and they got the same result.

20 So you're just stuck, the horse is stuck. Unstick
21 the horse. Thank you.

22 COMMISSION CHAIRPERSON SHAPIRO: Michael Power?

23 MR. POWER: It's too bad the owners aren't quizzed
24 before they're given licenses about their feelings about
25 animals.

1 I have strong feelings about this. I'm very
2 concerned that it's a barbaric practice that's carried out,
3 only to pursue selfish economic gain.

4 I'm also very concerned that your Equine Medical
5 Director performed such an operation in August of '06.

6 COMMISSION CHAIRPERSON SHAPIRO: No, no, no. Hold
7 it, hold it, hold it, hold it. I'm going to stop you.
8 Michael, Michael, I'm going to stop you because you are
9 getting into a specific situation, a specific case. And
10 frankly, so far what I've heard is inaccurate, it's wrong.
11 And I'm not going to -- if you want to deal with what we're
12 dealing with here, which is whether or not the Board should
13 repeal these rules, that's what we're going to talk about.

14 Please, let's not go down any path of any specific
15 incident, I ask you. Thank you.

16 MR. POWER: A policy is only as good as it's
17 specifics are. And what I'm saying is that, personally, I
18 don't have any faith in the Medical Director to apply your
19 policy, whatever it may be, because he not only supports the
20 practice of heel nerving, he performed it in the summer of
21 '06, on a horse trained by Richard Mandela, who
22 subsequently --

23 COMMISSION CHAIRPERSON SHAPIRO: Michael.
24 Michael, michael. Look, okay, I'm more than willing to let
25 you have your views about this practice, okay. I'm asking

1 you to please refrain from any comments about any specific
2 instance that has no relevance to this.

3 And I will tell you that the procedures in that
4 particular case, there was nothing that was done illegally,
5 okay. It was all done above board and right.

6 MR. POWER: He didn't report it --

7 COMMISSION CHAIRPERSON SHAPIRO: Yes, it was.
8 Yes, it was. And I don't want to get into it.

9 MR. POWER: Well, you're not hearing the rest of
10 this, in January of --

11 COMMISSION CHAIRPERSON SHAPIRO: Michael, do you
12 have a comment about the practice? Are you in favor of it
13 or are you not?

14 MR. POWER: Those are the facts, Richard.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, are you in
16 favor of our repeal of this rule?

17 MR. POWER: Yes, but not with the changes.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay, I thank
19 you.

20 EQUINE MEDICATE DIRECTOR ARTHUR: I'm going to
21 just say right now, just note these are absolutely,
22 factually wrong, ignorant, uninformed comments.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. Dr.
24 Arthur, please --

25 MR. POWER: Well, that's --

1 COMMISSION CHAIRPERSON SHAPIRO: Okay, I'm going
2 to ask that we not engage in this discussion. Okay,
3 Michael, please, let's move forward. Okay.

4 MR. POWER: I'm against the policy.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. Charlie
6 Dougherty, I can't even say your name right now. Charlie,
7 do you have a comment?

8 MR. DOUGHERTY: Charlie Dougherty, California
9 Thoroughbred Trainers.

10 COMMISSION CHAIRPERSON SHAPIRO: Look what you did
11 to it. There you go.

12 MR. DOUGHERTY: Charlie Dougherty, California
13 Thoroughbred Trainers. We feel that Rules 1850 and 1851 do
14 provide the full disclosure, and by repealing 1849 we don't
15 believe we'll be serving the purpose, albeit we are willing
16 to accept Dr. Arthur's proposal, the grandfather clause. If
17 he feels, you know, this is a compromise that would suit all
18 the people in place, we're willing to go along with it. But
19 we do not support the repealing of 1849.

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay,
21 again, you know, I appreciate the comments of those people
22 that spoke and, you know, from my perspective, it's a
23 practice which is not widely used. Clearly, we've had lots
24 of different testimony, from lots of different vets, that
25 there is a therapeutic purpose to this procedure, and it is

1 used on trail horses, and mares, and other things.

2 My problem with it is that we're talking about
3 racehorses, and racehorses have jockeys on them, and
4 racehorses are going 40 miles an hour, and I just don't
5 think that we should run the risk. And so that's why -- you
6 know, I'm not opining that it's a bad procedure, I just
7 don't think it's a good procedure for horse racing.

8 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
9 we need to look at the grandfather clause, which I like the
10 concept, but I think having a grandfather thing after foaled
11 after '08 is, you know, too luxurious of a grandfather
12 clause, and maybe it would be anything that -- well, some
13 nearer date.

14 It seems like we want to stop the procedure, and
15 perhaps any horse that's had it has a window of time that
16 they can continue racing. But to say that foals of this
17 year can have it and still can race, doesn't make sense.

18 COMMISSION CHAIRPERSON SHAPIRO: All right, so
19 would you -- well, if it was foals of '07?

20 COMMISSIONER CHOPER: It would have it under the
21 grandfather clause.

22 COMMISSION VICE CHAIRPERSON HARRIS: Under this
23 grandfather. But I mean, I don't think we've said it on the
24 grandfather clause, but maybe it can be sorted out in the
25 discussion. But, I mean, I think the grandfather clause, we

1 need to have one, but it doesn't really prove too much if it
2 takes forever and ever to implement it.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, so what is
4 it you -- you want to make a motion as to what you would
5 propose, then?

6 COMMISSION VICE CHAIRPERSON HARRIS: Well, I would
7 think that if you've already had it done, you can continue
8 to race.

9 COMMISSION CHAIRPERSON SHAPIRO: Exempt it. Okay.

10 COMMISSION VICE CHAIRPERSON HARRIS: But if you
11 haven't had it done, you can't do it.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay, so any
13 horse that has had this procedure and is on the heel nerved
14 list, or any horse in the country I assume, for that matter,
15 that has had this done would be permitted to race in
16 California.

17 Okay, so what do you do with a horse that has just
18 turned two?

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, I
20 mean, it would be very few that would need this procedure,
21 anyway, or that would be the best thing for them. But in
22 that case, he would not be able to get that procedure.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, I
24 thought that what Dr. Arthur proposed was January 1st, 2008
25 foaling.

1 COMMISSION VICE CHAIRPERSON HARRIS: Foaling.

2 COMMISSION CHAIRPERSON SHAPIRO: Foaled, correct,
3 a horse that was foaled.

4 COMMISSION VICE CHAIRPERSON HARRIS: That's a
5 horse that could have been born prior to. So, basically,
6 any yearling of this year would be grandfathered in. But I
7 don't see why we need to grandfather in yearlings.

8 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur, is
9 there some reason you picked that date?

10 EQUINE MEDICATE DIRECTOR ARTHUR: Yeah, very
11 simply, what it does, as I explained before, that avoids any
12 of the Breeder's Cup issues that we possibly could occur,
13 even though it's remote, a Brave Act type of situation, a
14 horse not being able to perform. Because you won't have any
15 horse foaled after this year running the Breeder's Cup in
16 2009. That's the reason I chose that particular date.
17 And it's as simple as that.

18 The other time, it just gives you time to get a
19 uniform national policy, as we've talked about, as I've
20 mentioned before. It basically gives a -- in two years
21 you're going to be -- in less than two years, about 21
22 months, that's when the cutoff date's going to be. Does
23 that make sense?

24 COMMISSION VICE CHAIRPERSON HARRIS: Have we
25 really heard from the Breeder's Cup that they're concerned

1 about this?

2 COMMISSION VICE CHAIRPERSON HARRIS: I don't think
3 the Breeder's Cup's that concerned about it at all. But you
4 will have -- the issue is, as the example of -- this isn't
5 as big an issue as picking a date certain to move forward.
6 But the point being that it eliminates any possibility, and
7 it also gives you an opportunity to develop a national
8 consensus on this. Twenty-one months to get a national
9 consensus is a very short time.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, but we're
11 not -- we're going to move forward to get a national
12 consensus, but we're not making this conditioned on the
13 national consensus.

14 EQUINE MEDICATE DIRECTOR ARTHUR: Whatever -- I've
15 given you the concept, whatever dates you want to put in
16 will be your decision.

17 COMMISSION VICE CHAIRPERSON HARRIS: I think we'd
18 have something here. I mean, obviously, if someone did not
19 want to race their horse in California, because they weren't
20 able to, they could possibly find some other state to race
21 in, but this is what we're doing here. But maybe we're
22 trying to grandfather in some that are racing here now.

23 COMMISSION CHAIRPERSON SHAPIRO: Right.

24 COMMISSION VICE CHAIRPERSON HARRIS: So I'd say
25 that, you know, maybe another two years, or a year, or

1 something, if you're heel nerved now, you can hang around
2 for another -- until the --

3 COMMISSION CHAIRPERSON SHAPIRO: Well, I would say
4 that any horse that is currently heel nerved and on the
5 list, that he's eligible to race for as long as his racing
6 career.

7 COMMISSION VICE CHAIRPERSON HARRIS: Exactly.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, and I'm not
9 going to penalize anybody. On the other hand, I don't see
10 why we can't say that any horse born after January 1st,
11 2007, because none of those horses are racing yet, shall not
12 be permitted to be -- to race in California if you have a
13 posterior digital neurectomy.

14 COMMISSION VICE CHAIRPERSON HARRIS: I'd say prior
15 to January 1, '07, it's going to be a current two-year-old.

16 COMMISSION CHAIRPERSON SHAPIRO: Fine, okay. So
17 I'll make that motion.

18 COMMISSION VICE CHAIRPERSON HARRIS: Well,
19 somebody could check the stud career of Brave Act and see if
20 any of his foals needed heel nerving.

21 COMMISSION CHAIRPERSON SHAPIRO: Oh, okay.
22 So this has to go out for comment; correct? All right, so
23 my motion is to change it to any horse that was foaled prior
24 to January 1st, 2070. Or '07, 2007, sorry. Shall not be
25 permitted --

1 COMMISSION VICE CHAIRPERSON HARRIS: So like I
2 said, the foaling changed from 2008, but then performed
3 prior to --

4 COMMISSION CHAIRPERSON SHAPIRO: Yeah, 2010.

5 COMMISSION VICE CHAIRPERSON HARRIS: I think that
6 should be prior to maybe '08, or pretty soon.

7 COMMISSIONER MOSS: How about a suggestion, if
8 you're not on the nerved list by, you know, April 30th or
9 something, that's it.

10 COMMISSION CHAIRPERSON SHAPIRO: You could do it
11 that way.

12 COMMISSIONER MOSS: I mean, you know, the horses
13 that are already on the list are obviously not ruled off
14 but --

15 COMMISSION CHAIRPERSON SHAPIRO: You may be making
16 it way too simple and smart.

17 COMMISSIONER MOSS: I mean, there are people that
18 feel they need to deal with certain horses with certain
19 problems, you know, have 60 days or 30 days --

20 COMMISSION CHAIRPERSON SHAPIRO: So why don't we
21 say as of June 1st, 2008. I mean, just pick a date.

22 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

23 COMMISSIONER CHOPER: I second that.

24 COMMISSION CHAIRPERSON SHAPIRO: Second.

25 All in favor?

1 (Ayes.)

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
3 And Commissioner Moss, thank you for making it so simple.

4 DEPUTY ATTORNEY GENERAL KNIGHT: I have a feeling
5 I may need to help draft this. I'm not sure I understand
6 what dates you're playing with.

7 COMMISSION CHAIRPERSON SHAPIRO: What we're doing
8 is we're saying that any horse that is -- any horse not on
9 the list --

10 COMMISSION VICE CHAIRPERSON HARRIS: The list now,
11 so you're on the list or not on the list, allegedly.

12 COMMISSION CHAIRPERSON SHAPIRO: Right. As of
13 June 1st we're going to close the list. Okay, if you're not
14 on the list, you don't get to race.

15 DEPUTY ATTORNEY GENERAL KNIGHT: So if it's had
16 the procedure, it's going to be on the list.

17 COMMISSION CHAIRPERSON SHAPIRO: Yeah, you've
18 either done it or you haven't.

19 EQUINE MEDICATE DIRECTOR ARTHUR: If you look at
20 the Australian rule example that was in the packet, and if
21 you look at the rule that I sent you, I know what they're
22 trying to accomplish and I can send it to you, you only need
23 one date.

24 COMMISSION CHAIRPERSON SHAPIRO: Thank you.
25 That's true.

1 COMMISSION VICE CHAIRPERSON HARRIS: But we need
2 to put it -- by the time it goes out to comment and comes
3 back, and all that, will the timing work?

4 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, it will go
5 out.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay. I'm going
7 to come back. I see that all our ADW friends, I think are
8 back.

9 (Applause.)

10 COMMISSION CHAIRPERSON SHAPIRO: And I'm hoping
11 that that clap means he's excited because you have resolved
12 the issue and we can all be gleefully happy, and I'll even
13 give you a hug.

14 (Laughter.)

15 MR. CASTRO: My name is Richard Castro,
16 representing Local 280.

17 COMMISSION CHAIRPERSON SHAPIRO: Richard, yeah,
18 that microphone got tired, so we use this one.

19 MR. CASTRO: Chairman Shapiro, Commissioners, my
20 name is Richard Castro, representing Local 280. One of the
21 conditions that when we came back into the room, I was told
22 to put on my happy face, so that's what I tried to do. We
23 do not have an agreement.

24 However, we did make an awful lot of progress
25 going forward. They asked us for information that we will

1 comply with. We have given them the TVG agreement. We've
2 explained completely the verbal part of it.

3 I'm optimistic that the progress that we made and
4 the understanding that we have, that at some point in the
5 very near future this issue will be resolved. I'm hopeful
6 of that. I'm not going to discuss what took place in the
7 meeting.

8 COMMISSION CHAIRPERSON SHAPIRO: We don't want to
9 know what took place in the meeting. All we want to know is
10 that you have and can get to where there is a neutrality
11 agreement executed with all the ADW providers, and that it
12 will go forward. And we wish all the parties well.

13 And we'll ask you to dismiss the lawsuit as soon
14 as you reach an agreement.

15 MR. CASTRO: Yeah, we're not dismissing the
16 lawsuit, we're going to go forward --

17 COMMISSION VICE CHAIRPERSON HARRIS: When do we
18 have to start filing responses to that lawsuit? When do we
19 have to reply?

20 DEPUTY ATTORNEY GENERAL KNIGHT: I haven't seen
21 it, yet, but the soonest would be 30 days. There's no
22 hearing date scheduled, as I understand it. But the
23 attorneys -- I won't be handling that, but we'll need to
24 talk to your attorney about whether we let it sit while the
25 negotiations are going on or not. I mean, that will

1 be --

2 MR. CASTRO: I would suggest you talk to David
3 Rosenfeld, no deference to Ann.

4 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, will do.

5 MR. CASTRO: But I'm optimistic that the progress
6 we made today, and the information they've asked from us,
7 and the good faith sharing of information that, hopefully,
8 we can get this resolved fairly soon.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, Richard, I
10 know that everybody on the Board shares with me that we hope
11 that's the case, we hope that it can work out. And I hope
12 you also will acknowledge and recognize this Board is
13 desirous of doing the proper thing, and that's all we're
14 trying to do, too.

15 MR. CASTRO: I understand.

16 COMMISSION CHAIRPERSON SHAPIRO: All right.

17 MR. CASTRO: Thank you.

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
19 much.

20 MR. CASTRO: Is that fair, you guys? Okay.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number
22 9, discussion and action by the Board regarding the proposed
23 amendment to CHRB Rule 1606, Coupling of Horses, to allow an
24 owner with partial interest in two horses with different
25 partners to run uncouple in thoroughbred races, if they are

1 trained by different trainers.

2 This issue -- do I hear somebody? No. Okay. In
3 terms of background on this issue, we've heard this, again,
4 a couple of times. We heard it at our last Board meeting.

5 COMMISSIONER MOSS: I think, yeah, excuse me, Mr.
6 Chairman, this is what was discussed, again, at Pari-Mutuel,
7 you're talking about Number 9?

8 COMMISSION CHAIRPERSON SHAPIRO: Yeah, please?

9 COMMISSIONER MOSS: And this is what we've come up
10 with. I think the racing secretaries like this. I know, I
11 think this is something Mr. Harris suggested, I believe.

12 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I
13 looked at it as a step. That maybe, ultimately, we can go
14 further, but this is at least a step in the right direction.

15 COMMISSIONER MOSS: I would agree. So I think all
16 we need is comment and a vote.

17 COMMISSION CHAIRPERSON SHAPIRO: Great. If that
18 being the case, do any other Board members, while I'm
19 looking for cards here?

20 If not, then I'll call Marsha Naify? Marsha, did
21 you want to, you have an "if necessary."

22 MS. NAIFY: No.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. Robert
24 Hartman? Robert, you're on. Coupling.

25 MR. HARTMAN: Robert Hartman, Golden Gate Fields.

1 At the last meeting, the January meeting, we talked about
2 total uncoupling, and I believe there's an opportunity to
3 total uncouple in the north as an experiment for a number of
4 meets. I've spoken with Mr. Charles, I believe Mr. Liebau
5 is on record as favoring total uncoupling. Drew, from the
6 TOC, favors that as well. So I think it's something that we
7 need to continue to look at moving forward.

8 One issue we have in the north is so many trainers
9 own a piece of the horse, and we just have a number of
10 entries, and that doesn't, obviously, help fill fields.

11 So, you know, Jerry Hollendorfer is a good
12 example, and there are a lot of others.

13 So just maybe we can try it in one zone. I know
14 there's a little bit of a reluctance from a fan perspective,
15 and a perception. So if we could try it in the northern
16 zone and kind of see how that goes, and maybe roll it out to
17 the rest of the State, if the experiment goes well.

18 COMMISSIONER MOSS: I think we did try this and it
19 was already successful, as I remember, the uncoupling
20 everything. But there was a cry raised that there was an
21 integrity issue somehow.

22 And I believe, as I remember from the Pari-Mutuel
23 meeting, Mr. Charles was going to talk to the Fans
24 Committee, whomever they might be, and come up with a
25 response in some way. So that's the last I'd heard about

1 it.

2 MR. HARTMAN: Yeah, I just spoke with Mr. Charles
3 and he -- it was agreeable to him to try an experiment in
4 the north, and kind of see how that goes moving forward. So
5 I don't think it's going to be necessarily decided upon
6 today, it's just something that I wanted to get out there
7 and maybe we can talk about it at a future meeting.

8 COMMISSION VICE CHAIRPERSON HARRIS: I think the
9 Board does have the ability to waive a rule for some time,
10 which is what we did before on that, did we?

11 COMMISSION CHAIRPERSON SHAPIRO: Uh-hum.

12 COMMISSIONER AMERMAN: Without the notice and
13 everything?

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, we're
15 changing the rule, but you can have waiver ability.

16 COMMISSION CHAIRPERSON SHAPIRO: Yeah, in August
17 of 2006 I think we temporarily waived Rule 1606, as an
18 experiment.

19 But, you know, personally, I'd rather take the
20 step that we're taking than go to that. I think there is an
21 integrity issue, I think there's a perception issue. And,
22 you know, I recognize it's hard up here, but I just don't
23 personally --

24 COMMISSIONER AMERMAN: Yeah, I think it's
25 important to just take one step at a time, and let's put the

1 first step behind us and then move on to thinking about
2 uncoupling everything as a test.

3 MR. HARTMAN: Thank you.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay.

5 COMMISSIONER AMERMAN: I think Mr. Liebau had a
6 comment.

7 COMMISSION CHAIRPERSON SHAPIRO: He didn't turn in
8 a card.

9 (Laughter.)

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, he did.

11 COMMISSION CHAIRPERSON SHAPIRO: But Chillingworth
12 did. Come on, Chilly, you go before him, you turned in a
13 card.

14 MR. CHILLINGWORTH: I want to preempt him.

15 (Laughter.)

16 COMMISSION CHAIRPERSON SHAPIRO: Jack, you're at a
17 mike that doesn't work, by the way.

18 MR. LIEBAU: Chilly, I got to get on a plane to go
19 to Houston.

20 MR. CHILLINGWORTH: Sherwood Chillingworth, Oak
21 Tree. This is a kind of a confusing issue, uncoupling,
22 coupling, mirrored ownerships, non-mirrored ownerships, you
23 know.

24 COMMISSIONER CHOPER: It's got a bunch of
25 variables here, very difficult.

1 MR. CHILLINGWORTH: A bunch of variables. And the
2 issue is a question of perception on the part of the fan,
3 the better, that there's some manipulation going on. If the
4 horses aren't coupled, somebody's going to run a horse with
5 no intent to win, and the other with intent to win, and that
6 sort of thing.

7 My feeling is that our present rule is that
8 trainers run uncoupled. And it's just my personal belief
9 that trainers have more accessibility, or have the greater
10 ability to affect the manipulation of a horse in some
11 manner, than an owner does, particularly when he's 20
12 percent, 30 percent owner.

13 So I don't understand why, in today's world, when
14 we have these new, Little Red Feather, and other syndicated
15 operations, that somebody has an ownership interest, 30
16 percent in one horse and 20 percent in the other horse that
17 they have to use different trainers. Because the trainers,
18 if the trainers can run uncoupled with any ownership, what
19 difference does that ownership make?

20 I mean, logically, I don't understand that
21 conclusion. So if anybody can correct me on that, I'd be
22 happy to --

23 COMMISSION VICE CHAIRPERSON HARRIS: I think that
24 the logic was that we couldn't get it through the other way,
25 and that good is not the enemy of the perfect.

1 MR. LIEBAU: I think that when you say you
2 couldn't get it through the other way, I think that was
3 because at that point in time there was perceived opposition
4 from the thoroughbred owners in California, which I now
5 understand has dissipated.

6 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it was
7 more than perceived, they were testifying against us.

8 MR. LIEBAU: And I would like to say that we
9 entered into an experiment, and the experiment was
10 successful by all standards, but yet, we're not doing it.

11 And then, you know, the other thing I hear,
12 whenever this coupling issue comes up, what about the
13 rabbit? Well, you know, guys, I'd like anyone of you to
14 tell me the last time there was a rabbit in a race. I think
15 it was with Charlie Wittingham, many, many years ago.

16 COMMISSION CHAIRPERSON SHAPIRO: William Perry's
17 horses.

18 MR. LIEBAU: The problem is that today the
19 economics are such that the purses, in order to survive you
20 run to win. There's just no question about that. I don't
21 know, maybe some other people don't, but I mean, us little
22 guys, every time we're in a race, we've got to try to win.

23 And, you know, this coupling thing, as Chilly
24 pointed out, I mean, the elephant in the room is that
25 there's no way that owners have any control over their

1 horses compared to what a trainer has. And I'm not sure how
2 much control the trainer has.

3 COMMISSION VICE CHAIRPERSON HARRIS: And we're not
4 accusing the trainers of anything.

5 MR. LIEBAU: I mean, I just think you ought to
6 waive the rule and get on with it. And you had your
7 experiment. And, you know, if we have another experiment
8 and it turns out, what are we going to do then? You're
9 going to talk about the rabbit, and I don't know where the
10 rabbit is.

11 MR. CHILLINGWORTH: We'll give you a little story
12 here, Jack and I owned a horse together called "Yashcan,"
13 and we bought him from the Aga Khan. We went to see him run
14 in Paris, and our horse, Yashcan, was the rabbit. At the
15 last pole, he was leading by 15 lengths coming in at the
16 home stretch, and his jockey was pulling him up like crazy
17 because the Aga Khan wanted the other horse to win.

18 Fortunately, they were all one ownership, so that
19 didn't count as a bad thing. So we do have some experience
20 with rabbits.

21 (Laughter.)

22 MR. CHILLINGWORTH: I just think it's
23 illogical --

24 COMMISSION CHAIRPERSON SHAPIRO: Okay, well,
25 integrity, integrity, integrity.

1 MR. CHILLINGWORTH: It's completely illogical, if
2 you're going to uncouple owners, to uncouple multiple
3 ownerships.

4 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
5 one of the issues of uncoupling and one of the reasons I
6 think it's worthwhile is because in today's world, if
7 there's a scratch, there's a late scratch, you've got a
8 favorite entry, and they're all betting on the one, but the
9 one gets scratched and the one's still in there --

10 COMMISSIONER CHOPER: And nobody knows about it.

11 COMMISSION VICE CHAIRPERSON HARRIS: -- there's
12 all kinds of multiple bets, you know, you've got Pick-Sixes,
13 and Pick-Threes, and all this stuff, that there are some
14 innocent bystanders that are impacted.

15 COMMISSIONER CHOPER: There are a lot of innocent
16 bystanders because you don't know, it's less than clear.
17 Now, at least, they have the 1A and the 1B on the -- the 1
18 and the 1A, and you can see, you know, on the monitors.

19 But if you're sitting out at the track you don't
20 know, just looking at the tote board. You think there's two
21 horses there, there's only one.

22 It's particularly bad when the one you liked is
23 the one that's scratched. But I've won that way, too,
24 actually.

25 COMMISSION VICE CHAIRPERSON HARRIS: Well, I'm not

1 sure, too, on inquiries, if there's an entry and say the one
2 wins with not bothering anybody, but the 1A does bother the
3 horse that ran third, does that disqualify the --

4 COMMISSION CHAIRPERSON SHAPIRO: I watched the
5 same race and I heard the same comment the other day, and I
6 was dumbfounded that they said that the horse that won, had
7 he bothered the horse that was second --

8 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, the
9 other one. The one that ran third -- or the one that ran
10 second, I think, actually, was a Buddy Johnston entry, kind
11 of, it was a common ownership.

12 But, anyway, the horse that won didn't bother
13 anybody. The horse that ran second, which was part of the
14 entry, arguably bothered the horse that ran third. Because
15 they disqualified that horse, they might have --

16 COMMISSION CHAIRPERSON SHAPIRO: The whole thing,
17 I didn't understand that.

18 MR. CHILLINGWORTH: Well, my understanding of the
19 New York rule is if you run two horses in an entry, and
20 let's say your number two horse bothers somebody, bothers
21 the number six horse, and your number one horse wins, your
22 number one horse is put back to the sixth horse, that they
23 impose the penalty on the horse that won, even though it was
24 the second entry that caused the infraction.

25 COMMISSION VICE CHAIRPERSON HARRIS: I think

1 that's the thing here, if the HRT commentators were correct,
2 which I wouldn't bet on.

3 MR. CHILLINGWORTH: Yeah.

4 COMMISSIONER MOSS: Can I just say, Mr. Chairman,
5 maybe we should vote on this, and approve this, and perhaps
6 have a full discussion on coupling or uncoupling at the
7 earliest possible meeting?

8 COMMISSION CHAIRPERSON SHAPIRO: I totally agree
9 with you, that's what I think we should do. I mean, I'm not
10 ready to go to full uncoupling, yet.

11 COMMISSION VICE CHAIRPERSON HARRIS: Maybe we can
12 get something from the quarter horse folks, too.

13 COMMISSIONER MOSS: But let's just get this one
14 done and keep on moving.

15 COMMISSION CHAIRPERSON SHAPIRO: I agree with
16 that.

17 COMMISSIONER MOSS: And we can bring it up next
18 meeting, or if you want to calendar a discussions, a full
19 discussion on coupling for the next meeting, we certainly
20 have every opportunity to do that.

21 COMMISSION CHAIRPERSON SHAPIRO: I agree with
22 that. And, therefore, I'm assuming that's a motion?

23 COMMISSIONER MOSS: Yes.

24 COMMISSION CHAIRPERSON SHAPIRO: And second it?

25 COMMISSION VICE CHAIRPERSON HARRIS: Second.

1 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

2 (Ayes.)

3 COMMISSION CHAIRPERSON SHAPIRO: We're done.

4 Thank you.

5 Okay, Item Number 10, report and presentation from
6 representatives of the San Mateo County Event Center
7 regarding their preparations for opening a Satellite
8 Wagering Facility.

9 I see Mr. Carpenter is here, welcome. And this
10 nice lady, who wants us to move.

11 MR. CARPENTER: While Heather is starting I'll
12 begin, if you don't mind. Again, I'm Chris Carpenter,
13 General Manager of the San Mateo County Event Center and
14 Fair. Thank you, Chairman Shapiro, and members of the Board
15 for this opportunity to speak to you for the first time
16 relative to our development plans of a satellite wagering
17 facility to open August 18th, is our projected date on the
18 satellite wagering facility.

19 Just wanted to mention that we will come back to
20 you, obviously, for the license, but also for status reports
21 as often as you'd like. But we plan on discussing mostly on
22 the design and development today, but coming back to one of
23 your meetings in the future to talk and get a little bit
24 more into the operations of the satellite wagering facility.

25 Joining me today, as part of our development team

1 through the whole process, obviously, you know Chris Korby,
2 with the California Authority of Racing Fairs. But we also
3 have John Pike, who is our construction manager, with
4 California Construction Authority. And also Gordon Gong,
5 with Froelich, Kao, and Gong Architects, Incorporated who,
6 of course, have done all the plans on the facility.

7 Wanted to talk a little bit further on the
8 partnership that exists with this project. Again, our many
9 thanks in advance to the CHRB Board for hearing us, and
10 working with us on this.

11 The San Mateo County, California Department of
12 Food and Agriculture, Fairs and Expositions, California
13 Authority of Racing Fairs, California Construction Authority
14 and, of course, our Board of Directors.

15 There's funding of the project includes San Mateo
16 County, San Mateo County Event Center, California Department
17 of Food and Agriculture, Fairs and Expositions, and the
18 California Authority of Racing Fairs.

19 California Construction Authority will play a big
20 role in the development process. Obviously, we're going to
21 work very closely with John Pike and his team. We had a
22 very good pre-bid meeting yesterday. We had 16 people show
23 up for the meeting. Out of those 16 people, we had eight
24 contractors. It was not a mandatory meeting, so we've had
25 additional contractors pick up bid documents and plans. All

1 of those proposals are due back to us April 10th, at which
2 time we'll open and make a decision shortly thereafter.

3 Oak Hall is the facility, and Chris is going to go
4 through a PowerPoint that will show some floor plans of that
5 here, in just a moment. And I believe you also have the
6 packages that show the space in general.

7 But Oak Hall is the main facility that we'll be
8 renovating to house the satellite wagering facility.

9 What we will show you today is what we refer to as
10 an add alternate, and that would be a build-out on Oak Hall.
11 At the present time we do not have funding to do that build-
12 out. So, again, with the \$4.6 million on this project, we
13 will be doing Oak Hall as it exists today, and holding
14 Cypress Hall as not only a backup facility, but a facility
15 that we can also use to open, if necessary, on big days of
16 races, including Saturday and Sunday, and also the big days
17 of racing including Derby Day, and especially the three
18 other big days of racing.

19 Just a few other notes. I've attended a Bay
20 Meadows Workforce meeting, and this gets into a little bit
21 of the operations. But we have talked to representatives
22 with SEIU, talked to representatives with Teamsters,
23 relative to some tentative numbers, but we're still on the
24 tentative process on that.

25 Working closely with the Bay Meadows Racing

1 Association team, working with Bay Meadows on determining
2 what equipment there is at Bay Meadows that we can
3 potentially purchase for the satellite wagering facility
4 that will be open.

5 And, of course, working with them on overall
6 operations of the satellite wagering facility. But we've
7 also spent a great deal of time in traveling, mostly in
8 Northern California, but also Southern California, to visit
9 and observe most of the satellite wagering facilities all
10 over the country. And, of course, Chris has experience with
11 22 to 23 facilities across the country, and also the
12 development of those.

13 So that will give you a bit of an overview. And I
14 think at this point I'll turn it over to Chris to go through
15 a PowerPoint that he has, and also it's in the package that
16 you have. And then, afterwards, open it up for any
17 questions that you have. Thank you.

18 MR. KORBY: Thanks, Chris. And thanks to the
19 Chairman and Board members for the opportunity to speak
20 here, today.

21 Before I start on this presentation, I think it's
22 appropriate to offer both a personal and professional
23 observation, that I certainly regret knowing that Bay
24 Meadows will close as a racetrack. The facility here, and
25 the people who work here have been a pillar of racing in

1 California for 75 years, and the industry owes them a deep
2 debt of gratitude.

3 But that said, statute provides that in the event
4 that they no longer conduct racing, that the satellite
5 wagering facility -- you have authorization to run the
6 satellite wagering facility devolves to the San Mateo Fair.

7 So based on what we understand about the future
8 for Bay Meadows, we began actively planning how we would put
9 together a development team and package to implement
10 satellite wagering at the San Mateo County Fair.

11 Chris described a little bit the group that's come
12 together. I can't speak highly enough about the level of
13 cooperation that has characterized this project. We began
14 in October and we are already at the point where
15 construction pre-meetings, the construction bidding is
16 underway. Construction bids are scheduled to be open on
17 April 10th. We'll get into that timeline in just a moment.

18 As he said, it's an active collaboration of the
19 Department of Food and Agriculture, CARF, the Fair, itself,
20 with construction overseen by the California Construction
21 Authority.

22 The financing package is coming from a combination
23 of sources. You have some more detailed breakdowns in the
24 packet that you received, coming from the Department of Food
25 and Agriculture, CARF, and County of San Mateo, plus a

1 significant contribution from the Fair, itself.

2 I'd like to talk to you a little bit about the
3 timeline that has -- that we've moved through already, and
4 the timeline that we anticipate for the remainder of the
5 project.

6 As I said, we began in October with a presentation
7 of a prospectus that CARF prepared and gave to the San Mateo
8 County Fair Board, as an outline of how we could provide
9 assistance, in collaboration with other entities, to assist
10 them in implementing and then operating a satellite wagering
11 facility on their fairgrounds, so that they could receive
12 the full benefits of operating a satellite facility.

13 At this time we're now at the end of March, first
14 part of April, so we're halfway through this. It's pretty
15 self-explanatory as to what each of the steps were.

16 I think the important thing to note is that we
17 have -- even though this is an extraordinarily aggressive
18 schedule, largely by virtue of the level of cooperation
19 amongst all the parties, we've come as far as we have and
20 we're still on schedule. And we anticipate having a
21 facility ready to open by the third week of August, assuming
22 that that's when the necessity will exist for it to be open.

23 If that situation changes, for whatever reason, we
24 will have a facility ready to go, and it will be ready to
25 open for operation when necessary.

1 We're basing that on what we know about the
2 schedule that -- on which Bay Meadows will remain open.
3 Should that change, we're ready to change.

4 We could not open any earlier, but I don't think
5 that's necessary, because we understand Bay Meadows has a
6 commitment to operate the satellite wagering facility, and
7 the San Mateo County Fair meet through the third week of
8 August.

9 Following that, if they close, we intend to be
10 ready to open.

11 I'd just like to give you a notion of the site
12 plan. The building that we selected, some of the thought
13 that went into the selection of the building that would be
14 renovated for this purpose, and emphasize how suitable it is
15 for this renovation.

16 First of all, the building that's going to be
17 renovated is part of a sort of set of twin buildings, it's
18 this building right here. It is one-half of the this set of
19 twin buildings around a central courtyard. You'll note
20 there's ample parking around here.

21 I don't know, Chris, how many parking places do
22 you have out there?

23 MR. CARPENTER: Parking places that exist in the
24 west parking lot are 800, so we have ample parking just in
25 the west parking, alone, but additional parking on the east

1 side of the project.

2 MR. KORBY: And there's easy access from Saratoga
3 Street, and Delaware Street is over here. Delaware Street
4 is the same track that leads into Bay Meadows, so it will be
5 just an earlier left turn for patrons who are accustomed to
6 coming into Bay Meadows.

7 So the core project will be the renovation of this
8 hall right here. And that hall will be completely made over
9 as a satellite wagering facility.

10 Let's go ahead to the floorplan on that one and we
11 can come back to this one. Let's go ahead one more. One
12 more.

13 This shows the base bid renovation for Oak Hall.
14 Seating of various kinds, carol seating, table seating,
15 another type of table seating. This is a general admission
16 area, and this will be more of an upscale area.

17 There are some party rooms, as we're calling them,
18 that will be comparable to a Directors Room or a Turf Club
19 room. there may be a membership only opportunity for the
20 Fair, if they wish to do that. That's yet undetermined.

21 We're looking at viewing screens that would
22 essentially surround the seating areas. Primary orientation
23 of the viewing would be in the -- over the mutuel line,
24 which would be in this area, on both sides, here and here.
25 A combination of probably 50 projection screens and flat

1 screen displays around the facility.

2 We're still refining the precise configuration of
3 what those will look like.

4 Heather, let's go back to the site plan part of
5 it. One more. One more. There, thanks.

6 This building is 16,000 square feet. The design
7 calls for an add alternate addition of approximately 7,000
8 square feet here. I'll touch on that in just a moment. But
9 we looked carefully at the attendance patterns for Bay
10 Meadows, and their attendance varies roughly, depending on
11 the day of the week, between six, seven hundred on a
12 weekday, to 1,200 on a Saturday. Significantly more on
13 larger days.

14 We wanted to be sure that any location that we
15 selected on the fairgrounds had ample space for overflow, to
16 accommodate as many people as we needed to, given any
17 attendance scenario.

18 So one of the advantages of selecting this
19 particular pair of buildings is that there is a large, very
20 nice courtyard in the middle of these two buildings, which
21 will be enhanced with a change in landscaping and outdoor
22 seating. There's a covered breezeway around the buildings,
23 around the courtyard, and this breezeway also leads to the
24 other building, over here.

25 We're going to equip this building, Cypress Hall,

1 initially, with projection screens, pari-mutuel terminals,
2 and seating for overflow. This building is an additional
3 16,000 square feet, so we can accommodate quite a number of
4 people in here, if necessary.

5 Let's go ahead to the add alternate part.

6 In the event that we are able to secure funding,
7 either sooner or later, part of the design includes an
8 integrated, add alternate, 7,000 square foot addition to the
9 western side of the building that's going to be the core
10 satellite wagering facility.

11 That will also include the new entrance treatment
12 that you saw on the cover of the materials that we
13 submitted. So we're vigorously working to secure the
14 additional funding necessary to build this add alternate,
15 but at this point we do not have that.

16 So we are providing for plenty of overflow space
17 for additional seating, viewing, and pari-mutuel operations,
18 as needed.

19 I'll just talk very briefly about the seating and
20 layout in the add alternate part, and then open it up for
21 any questions. I think that completes most of what we're
22 talking about here.

23 In the event that the add alternate is added, we
24 would consider that as more of an addition to the upscale
25 nature of the facility, and the seating and amenities would

1 be furnished and treated as such.

2 So that's a quick step through of the progress
3 we've made. We're on track so far. Intend to have this
4 open for operation the third week of August, if necessary.

5 And we'd like to answer any questions from you, if
6 you have them.

7 COMMISSIONER CHOPER: You said the present -- the
8 present facility for offtrack betting at Bay Meadows seats
9 up to 1,200, or they've had 1,200, you said?

10 MR. CARPENTER: No, that's 1,200 is a regular
11 Saturday.

12 COMMISSIONER CHOPER: Is a regular Saturday,
13 sorry. Well, let's take the regular Saturday, how many are
14 you going to have without the add on?

15 MR. CARPENTER: Without the add on --

16 COMMISSIONER CHOPER: Without the add on.

17 MR. CARPENTER: At Oak Hall, our capacity is
18 around 780. The outdoor seating area is around 250. And
19 that's why we're going to hold Cypress Hall, which is
20 literally just about 150 feet away, and we're going to set
21 up that hall, as Chris mentioned, with mutuel lines, and
22 projection TVs in that space, as well.

23 COMMISSIONER CHOPER: So in order to accommodate
24 what they usually have here on a Saturday, right?

25 MR. CARPENTER: Correct.

1 COMMISSIONER CHOPER: What will the seating be
2 with the add on, 700 without the add on?

3 MR. CARPENTER: 780 without the add on.

4 COMMISSIONER CHOPER: And the add on, the add on
5 that you showed up there.

6 MR. KORBY: That would raise it to about a
7 thousand.

8 COMMISSIONER CHOPER: That will raise it to about
9 a thousand. And if you get your second installment done in
10 the hall across, and fix that up, how many will that have?

11 I guess what I'm thinking is this, the comparison
12 of what Bay Meadows does, when it is -- when there's no
13 racing going on here is probably a fairly good comparison.
14 How many do they get -- but how many do they get here live
15 during the Bay Meadows meet? On a Saturday, 3,000, 3,500?

16 MR. KORBY: While racing is being conducted?

17 COMMISSIONER CHOPER: Yeah. Do you know?

18 MR. KORBY: I don't know what those figures are.

19 COMMISSIONER CHOPER: Because the question is
20 where are those people going to go if Bay Meadows is no
21 longer open?

22 MR. KORBY: They'll probably be going to Golden
23 Gate Fields or the fairs.

24 COMMISSIONER CHOPER: Well, they may.

25 COMMISSION CHAIRPERSON SHAPIRO: Where are you

1 trying to go with this? Are you trying to figure out what
2 the capacity is and what we're going to lose?

3 COMMISSIONER CHOPER: Yeah, I guess I would hope
4 that you're going to have -- you're going to have
5 opportunities for more people off track -- I mean, more
6 people at your facility, if Bay Meadows closes, and live
7 racing ceases here, you're going to have more than that.

8 I would say the minimum that you should expect to
9 have.

10 MR. CARPENTER: Well, that's our desire. And
11 certainly, everyone's desire that we are that successful,
12 and that's why we've taken Cypress Hall, a hall that we used
13 to book in the past, but we've taken it off the market and
14 we're holding that space, and that's a good 16,000 square
15 feet.

16 COMMISSIONER CHOPER: Because there are some
17 people who aren't going to travel to Golden Gate or to
18 Pleasanton. I take it those are the two closes places, at
19 all, who are just used to -- who are used to going to the
20 races over a particular season of the year, and they come
21 here. Now, they're out of luck. They don't drive to other
22 places in Northern California.

23 MR. KORBY: And I believe that's why it's fair to
24 look, at a reference point, what Bay Meadows -- the
25 attendance that Bay Meadows has when it's not racing.

1 There's another factor here that I would offer,
2 and one that went into some of the calculations on our
3 financial projections for this, there's a significant
4 component of daily attendance and handle that is generated
5 from all the people who are here by virtue of the fact that
6 horse are stabled and training here.

7 When that activity goes away, that component of
8 daily attendance and handle at the San Mateo facility will
9 very likely go with it.

10 So to be on the conservative side with our
11 financial projections, we based all of those on a 30 percent
12 reduction in attendance and handle.

13 COMMISSIONER CHOPER: Yeah.

14 MR. KORBY: Now, that -- we're calling that
15 conservative and we hope the impact is not that great, but
16 there will be an impact, there's no doubt in my mind about
17 it.

18 COMMISSIONER CHOPER: Sure.

19 MR. KORBY: What it is, who knows.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, can I ask a
21 question? As I understand it, you're going to have this
22 ready in August, the latter part of August?

23 MR. CARPENTER: August 18th is our target date.

24 COMMISSION CHAIRPERSON SHAPIRO: August 18th. And
25 is it -- Bernie, I do see you there. And I don't see Jack.

1 So it's my understanding that the plan is -- has
2 it been worked out that Bay Meadows will close, and
3 everything will be transferred over to you without any
4 issues, so that you can open on August 18th?

5 MR. CARPENTER: That's the present plan and
6 it's --

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, and
8 Bernie's shaking her head affirmatively, yes, that
9 it's --

10 COMMISSION VICE CHAIRPERSON HARRIS: A seamless
11 transfer, we don't want to --

12 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

13 MR. KORBY: Yes, and I want to say that the level
14 of cooperation that I was talking about earlier is now
15 extending to Bay Meadows. We have had discussions about how
16 we work through the transition details with them, and it's
17 been a very cooperative conversation.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, I
19 mean --

20 MR. KORBY: I can't say we've gone through
21 the -- we've created the checklist and gone through
22 everything, but we will be doing that.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, and do
24 we -- Bernie, and I don't mean to put you on the spot, but
25 are they correct, will the barn area and everything still be

1 open at that time?

2 MS. THURMAN: That's correct.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, through the
4 end of the year?

5 MS. THURMAN: Yes.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, and then
7 that will all go away and you guys will be up and running.

8 COMMISSION VICE CHAIRPERSON HARRIS: Well, they're
9 be up and running in August, maybe.

10 COMMISSION CHAIRPERSON SHAPIRO: In August, right.

11 MR. KORBY: Yes.

12 COMMISSION CHAIRPERSON SHAPIRO: So our fans will
13 have a place here --

14 MR. KORBY: Yes.

15 COMMISSION CHAIRPERSON SHAPIRO: -- at the Event
16 Center, and continuous, and we shouldn't have any problems.

17 MR. KORBY: And then we will expect to see
18 whatever impact there is with horsemen going somewhere else
19 occur at that time.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
21 listen, I think that you guys have certainly done a lot of
22 work, and I think it's great that we're still going to
23 capture the fan base that's around Bay Meadows, and there
24 will be a wonderful opportunity for them.

25 And I know that in speaking to you, that Chris,

1 there are two Chris's, that you've been working on this a
2 long time, and I appreciate your Board, and everybody that's
3 working on it. And we certainly want to support you, and
4 help you, and it's in the best interest of our game.

5 And to Bernie, and her people, you know, I want to
6 thank them for making this as seamless a transition as
7 possible, unfortunately, with this track going away.

8 If there aren't any other questions, we'll move
9 on. But thank you very much.

10 MR. KORBY: Thank you.

11 MR. CARPENTER: Thank you.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number
13 11, report and discussion by the Board regarding the status
14 of the closure of the Sacramento Harness Association.

15 MR. GONZALEZ: Francisco Gonzalez, CHRB staff.
16 This item is --

17 COMMISSION CHAIRPERSON SHAPIRO: Can you bring the
18 microphone closer to you? Thank you.

19 MR. GONZALEZ: Francisco Gonzalez, CHRB staff.
20 This item is presented for information and discussion
21 purposes.

22 As directed by the Board, the CHRB staff met with
23 Donna Newman, Controller of the Sacramento Harness
24 Association, on March 12th, to review the plans to cease
25 their operations. We were provided with a list of their

1 accounts receivables and accounts payables.

2 This list, we were told that will be changing, due
3 to any accounts receivables that probably were collected
4 since then.

5 According to what we were told by the Sacramento
6 Harness Association, their payment plan is as follows; they
7 plan to pay the horsemen, and the Sacramento Harness
8 Association employees first, the satellite expenses, and
9 everyone else.

10 Yesterday, we received a letter from Ivan Axelrod,
11 President of the Sacramento Harness Association, indicating
12 that they expect to make final payment to the Horsemen's
13 Purse Account by the end of the month.

14 COMMISSION CHAIRPERSON SHAPIRO: And would that be
15 full payment?

16 MR. GONZALEZ: Full payment.

17 COMMISSION VICE CHAIRPERSON HARRIS: And that
18 would be -- did they prioritize their debts? I mean, the
19 horsemen are getting money ahead of some of the other
20 creditors they have?

21 MR. PEREZ: I can actually clarify that, Jim
22 Perez, Executive Director CHHA.

23 We've been -- well, I've been in discussion with
24 Donna Newman, and Ben Kenney also has. We have come to an
25 agreement and the horsemen will begin being paid as of

1 tonight.

2 And from Donna's -- from my understanding from
3 Donna, their Paymaster Account will be whole and horsemen
4 can start collecting tonight.

5 COMMISSION CHAIRPERSON SHAPIRO: All right, so as
6 of tonight if all the horsemen came in to get their money,
7 would they be able to get their money?

8 MR. PEREZ: That's what we were told.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay.

10 MR. PEREZ: We have an agreement with them, CHHA
11 did, we signed it, it's a done deal, everything's moving
12 forward. And the monies that we guaranteed them to move
13 over are being done and we feel that -- and Sac Harness also
14 feels they're quite comfortable with the Paymaster account.

15 COMMISSION VICE CHAIRPERSON HARRIS: Well, one of
16 the issues was there was an overpayment in previous years,
17 and it might have been different horsemen, there was that
18 overpayment issue. Is that part of the deal?

19 COMMISSION CHAIRPERSON SHAPIRO: That's part of
20 the deal.

21 COMMISSION VICE CHAIRPERSON HARRIS: Well, I don't
22 know if that's completely fair because that's really
23 different horsemen but --

24 COMMISSION CHAIRPERSON SHAPIRO: No, but I believe
25 what it is, is the track overpaid purses, and correct me if

1 I'm wrong, Jim, okay, to the horsemen, and the horsemen are
2 giving them a credit back for that.

3 MR. PEREZ: Correct. Correct.

4 COMMISSION CHAIRPERSON SHAPIRO: And that has been
5 worked out in agreement between --

6 MR. PEREZ: CHHA and SHA.

7 COMMISSION CHAIRPERSON SHAPIRO: -- CHHA and SHA.

8 MR. PEREZ: Correct.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, and I think
10 that's okay, from what I've seen.

11 COMMISSION VICE CHAIRPERSON HARRIS: That's okay,
12 huh?

13 COMMISSION CHAIRPERSON SHAPIRO: Yeah. Okay.

14 MR. PEREZ: Yeah, our main concern at CHHA is, as
15 you know, the horsemen. I mean, that's what we're there
16 for.

17 COMMISSION CHAIRPERSON SHAPIRO: So let me ask
18 another couple of questions, okay?

19 MR. PEREZ: A couple, okay.

20 COMMISSION CHAIRPERSON SHAPIRO: The California
21 Standard Bred Sires Stakes Committee.

22 MR. PEREZ: Correct.

23 COMMISSION CHAIRPERSON SHAPIRO: All right, I have
24 a letter from them that says they are due and owing income
25 of a hundred and thirty-four thousand some odd dollars?

1 MR. GONZALES: Well, according to the books, the
2 Sacramento Harness Association do show on their books that
3 they owe about close to that amount, within ten percent.
4 That is still a debt. And according to their plan, the
5 payment plan, the horsemen, and employees, and satellite
6 expenses, and then everyone else at the end.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, I'm not
8 sure I understood you. So the horsemen in the purse
9 account, in the Paymaster account --

10 MR. GONZALES: Correct.

11 COMMISSION CHAIRPERSON SHAPIRO: -- are going to
12 get their money?

13 MR. GONZALES: Correct.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, this money,
15 I think should have been held separately, in a separate
16 account. The take-out provides for this sires stakes
17 program to be funded, and yet the money has not yet been
18 paid to the Sires Stakes Committee; correct?

19 MR. GONZALES: Correct.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, where is
21 that money?

22 MR. GONZALES: I don't know where the money is.
23 However, they do recognize that they have that liability
24 sitting in their books.

25 MR. PEREZ: We've also addressed it. We've

1 addressed it by e-mail, and by phone conversation, and I
2 know Ben has. And we get the same answer we give, we'll
3 address that.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, I
5 would like to ask -- is Derry not there? Where did he go?

6 COMMISSIONER CHOPER: He's in the back.

7 COMMISSION VICE CHAIRPERSON HARRIS: I'm not sure
8 what our role is in all this, though. I mean, it seems to
9 be we've got probably, essentially, a bankrupt company here
10 that has a whole bunch of creditors.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, but we're
12 holding some money. There's money at Scotwink and other
13 places, and my concern is --

14 COMMISSION VICE CHAIRPERSON HARRIS: But they
15 really need -- I'm just worried about all this money being
16 held by people, absence more of a bankruptcy administrator
17 type situation, it's pretty cumbersome to administer.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, but I think
19 that we have an obligation to at least try to get -- like
20 the Sires States program and the horsemen, those are not
21 their monies, those were not Sacramento Harness
22 Association's monies.

23 As I understand it that money was, by law,
24 allocated to go to a Sires Stakes program. Now, if they
25 used that money and used it for other purposes, including

1 their operations, then I think it's something that we should
2 have our counsel look at.

3 COMMISSION VICE CHAIRPERSON HARRIS: I think the
4 thing is they've got a bunch of creditors, and some of them
5 are effectively preferred creditors, because they weren't
6 really creditors, they were just using their money to do
7 things, but somebody's got to sort all that out.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, again, I
9 guess I would ask Derry to advise us, because my concern is
10 what obligations do we have if money was perhaps improperly
11 used? That's my concern here.

12 DEPUTY ATTORNEY GENERAL KNIGHT: Well, I certainly
13 can't answer this question in the aggregate, but I can just
14 remind you that you're a licensing Board and, certainly, you
15 have authority to deal with licenses. But in terms of the
16 financial arrangements between third parties, for the most
17 part I think Commissioner Harris is correct, it's going to
18 be a matter of sorting through the priorities.

19 And assuming there are more claims than there are
20 monies, there's going to have to be somebody to sort out
21 those priorities. And there's going to be certainly -- if
22 there's trust funds that were arguably misappropriated,
23 there may be some issues there.

24 You know, I don't know what the facts are. Until
25 somebody sorts through all the facts, it will be hard to

1 tell. But I'm not sure that it's this Board's role to sort
2 all this out.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, I would
4 like you to advise us of what our role is, then. Because if
5 the Sire Stakes program is not funded, as it should have
6 been funded, then I question whether -- what
7 responsibilities, if any, we have there.

8 We have the Federation of California Racing
9 Associations has sent a letter, asking us to hold up on any
10 disbursements that might be going from Scotwink, or other
11 funds, to pay for \$244,000 in pension liability. And,
12 again, if those are monies which are -- and I know we have a
13 hundred thousand dollars, I think, in a financial
14 instrument.

15 All I'm trying to do is before monies go out the
16 door, make sure that we're doing what our job is.

17 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, to the
18 extent that the Board has funds, if there's enough evidence
19 to suggest a shortage, you may very well want to hold onto
20 those funds until this gets all sorted out. And those funds
21 would have to be put in the pot to be sorted out by the
22 creditors.

23 COMMISSION CHAIRPERSON SHAPIRO: All right.

24 DEPUTY ATTORNEY GENERAL KNIGHT: I agree with you
25 on that. I mean, you don't want to just keep paying as

1 usual.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, can you get
3 with staff and at least advise us what the Board's role is,
4 so that we are making sure that we're doing everything
5 proper before --

6 DEPUTY ATTORNEY GENERAL KNIGHT: Sure.

7 COMMISSION VICE CHAIRPERSON HARRIS: It seems like
8 somebody needs to advise, and not us, but Sacramento
9 Harness, I mean, that they -- of their situation, and
10 they've got Director's liability issues, all kind of issues.
11 They need to get their arms around what they're going to do,
12 and which may well be that they need to file bankruptcy and
13 get this into some kind of a bankruptcy receivership.

14 DEPUTY ATTORNEY GENERAL KNIGHT: And there may be
15 issues with -- as I understand it, there's a substantial
16 issue with Cal-Expo, itself, their landlord.

17 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I did
18 receive an e-mail that I believe they're -- they're claiming
19 they're due over a million dollars.

20 But again, that's been them and -- you know,
21 frankly, between them and their landlord. I am concerned
22 about the harness horsemen, and people who have money in a
23 trust account, or a Paymaster account, and their money's not
24 there.

25 COMMISSION VICE CHAIRPERSON HARRIS: You know,

1 clearly, those trust accounts should get priority, but I
2 don't know if that's our role to sort that out.

3 COMMISSION CHAIRPERSON SHAPIRO: And I don't,
4 either. But I just want to make sure we do it.

5 COMMISSIONER CHOPER: Well, this ultimately is
6 going to have to be sorted out probably in court, or
7 bankruptcy court, or something like that.

8 But I certainly agree with Derry that given the
9 way the situation looks, which is that they're insolvent,
10 that we ought not, unless we have a very clear legal
11 obligation, we ought not to pay over any funds that we have
12 control over --

13 COMMISSION CHAIRPERSON SHAPIRO: I agree.

14 COMMISSIONER CHOPER: -- until the matter
15 gets -- we shouldn't pay it over until we're told we have
16 to, let me put it that way.

17 COMMISSION CHAIRPERSON SHAPIRO: I agree with you.
18 And I, simply, would like to get advice from staff, in
19 consultation with the AG, that we're doing everything that
20 we should be doing to protect the interests of the people.
21 Okay. All right.

22 MR. GONZALES: Well, there is a couple of points
23 more that I would like to let you know regarding the letter
24 that we received yesterday.

25 The letter also indicated that currently they are

1 in the process of liquidating their non-cash assets. They
2 plan for this to take between 35 -- I mean, between 30 to 45
3 days. Once this is done, they'll be paying the creditors in
4 accordance with California law.

5 They have retained an attorney, already, and once
6 all of this is sorted out, they have agreed to provide us
7 with monthly status reports on how things are working out.

8 COMMISSION VICE CHAIRPERSON HARRIS: I just hate
9 to see CHRB be the kind of de facto administrator of this
10 bankrupt estate. We don't want to get into that position.

11 COMMISSIONER CHOPER: That's right.

12 COMMISSION VICE CHAIRPERSON HARRIS: I mean, I
13 think we're concerned about some of these trust funds, but
14 we're not -- that's not our job is to administer bankrupt
15 estates.

16 DEPUTY ATTORNEY GENERAL KNIGHT: No. That's all
17 you'd do if you do that.

18 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

19 DEPUTY ATTORNEY GENERAL KNIGHT: I mean, yeah, I
20 agree with that. I mean, generally, a regulatory body does
21 not take over that kind of a role.

22 COMMISSION CHAIRPERSON SHAPIRO: I'm not trying to
23 take over that kind of a role. But I do --

24 DEPUTY ATTORNEY GENERAL KNIGHT: I mean, a
25 licensing agency.

1 COMMISSION CHAIRPERSON SHAPIRO: Well, I don't
2 want to be in that -- I don't want us in that role. But I
3 also don't want to find out that, gee, we should have done
4 something that we didn't do. That's all I'm trying to make
5 sure of.

6 DEPUTY ATTORNEY GENERAL KNIGHT: Okay. Okay.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

8 MR. PEREZ: Mr. Shapiro, just for the record --

9 COMMISSION CHAIRPERSON SHAPIRO: Yes.

10 MR. PEREZ: Just for the record, CHHA does not
11 know how much debt, we don't have a list of who they owe.
12 Our main concern was the horsemen, as you mentioned before.
13 And when we're content with that part of it, of our
14 agreement, we think it's fulfilled, and it will be fulfilled
15 starting tonight, but after that we have no idea what else
16 is out there. So that's how it is.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

18 Item Number 12, discussion and action by the Board
19 to direct staff to develop minimum net worth standards for
20 racing associations submitting applications for a license to
21 conduct a horse racing meeting at both public and private
22 race tracks.

23 This item, as we will all recall, is that today we
24 see that we have shell corporations, LLCs, and other things
25 that are licensees, which really don't have assets. And,

1 frankly, the Board has not developed any policy on what the
2 minimum net worth standard should be.

3 As an example, when Hollywood Park was acquired by
4 its current ownership, which was an LLC, I think we required
5 them to post a bond.

6 And for the licensee, Sacramento Harness, we
7 required them to post a letter of credit or a bond.

8 So the issue is should the Board develop some
9 minimum net worth standards for situations like we were just
10 discussing?

11 COMMISSION VICE CHAIRPERSON HARRIS: And I think,
12 furthermore, what sort of standards we should have for
13 segregation of funds, whether it's a purse account, or a
14 pitch account, or whatever, how are we assured that those
15 monies are not commingled with operating funds.

16 COMMISSION CHAIRPERSON SHAPIRO: Right. And so
17 what I -- the only reason that this is here is, I don't
18 expect anybody to say I've got the answer at this meeting,
19 but I think what we should be doing is directing staff to
20 come up with some guidelines, do some research, and see if
21 we can't develop some standards that would be applicable
22 throughout the State, and be fair to everybody.

23 And does anybody else want to comment?

24 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it
25 seems like there might be some other models in State

1 government on highway contracts, or running of concessions
2 at State parks, or whatever, that's something we can go to
3 and say here is kind of the way they do it, because I don't
4 think we're probably doing it right.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. I agree, I
6 just think we need to do it, and I don't know if -- okay?

7 EXECUTIVE DIRECTOR BREED: Yeah, we did some
8 stuff, already, and we brought it along.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, terrific.
10 Is there any other comment from anybody on that? If not,
11 we'll just trust the staff and move forward. Okay.

12 COMMISSIONER CHOPER: The only comment I would
13 make is if the -- I mean, what caught my attention was that
14 virtually none of these states, other horse racing states,
15 have any requires. Well, I think --

16 COMMISSION CHAIRPERSON SHAPIRO: We're smarter
17 than they are.

18 COMMISSIONER CHOPER: And it said that -- well, I
19 think they must have some requirements, they're just not
20 part of the statute, or part of existing regulations.

21 I can't believe, for example, that if someone in
22 Texas wants to get a license to run a horse racing
23 operation, like our associations do, that whoever regulates
24 racing in Texas just says, well, go ahead.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, no --

1 COMMISSIONER CHOPER: They're going to ask them
2 for bonds, they're going to -- they may not have any
3 minimums, but they may have --

4 COMMISSION CHAIRPERSON SHAPIRO: We haven't.

5 COMMISSIONER CHOPER: Pardon me?

6 COMMISSION CHAIRPERSON SHAPIRO: We haven't.

7 COMMISSION VICE CHAIRPERSON HARRIS: I think in
8 New York they came up with some humongous amount of negative
9 net worth.

10 COMMISSION CHAIRPERSON SHAPIRO: But keep in mind,
11 that's the whole thing, we have not established a minimum
12 net worth standard.

13 COMMISSIONER CHOPER: But as you said, you -- when
14 Hollywood Park came in, you required them to post a bond.

15 COMMISSION CHAIRPERSON SHAPIRO: Well, we, in that
16 case, recognizing it was an LLC --

17 COMMISSIONER CHOPER: Yes.

18 COMMISSION CHAIRPERSON SHAPIRO: -- and it
19 virtually was a shell --

20 COMMISSIONER CHOPER: I understand.

21 COMMISSION CHAIRPERSON SHAPIRO: -- we did it.
22 But it was, oh, okay, we'll have them to this.

23 COMMISSIONER CHOPER: But at least we ought to
24 find out what they do, apart from what the formal
25 requirements might be.

1 COMMISSION VICE CHAIRPERSON HARRIS: I think that
2 sometimes it's more than just net worth, too. Because
3 somebody could have an adequate net worth, but there's
4 really no funds at hand.

5 COMMISSION CHAIRPERSON SHAPIRO: Liquidity.

6 COMMISSION VICE CHAIRPERSON HARRIS: Liquidity. I
7 think it's the best way would be if there's a bond, or a
8 letter of credit, something that was very clear cut.

9 COMMISSION CHAIRPERSON SHAPIRO: Right, I agree,
10 yeah. I agree, it should be liquidity, as well.

11 Okay, Item Number 13, discussion and action by the
12 Board regarding the feasibility of amending CHRB Rule 1876,
13 Financial Responsibility, to require that financial
14 complaints above an amount that can be adjudicated by small
15 claims not be heard by the Board, or the repeal of CHRB Rule
16 1876, which will eliminate financial complaints from being
17 heard by the Board.

18 This is an issue where, frankly, our stewards are
19 bogged down as bill collectors way too often.

20 COMMISSION VICE CHAIRPERSON HARRIS: Yeah. We did
21 this Board directive --

22 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

23 COMMISSION VICE CHAIRPERSON HARRIS: We did this
24 Board directive back in '05, saying that there would be -- I
25 mean, the concept, that I recall during '05, was that if

1 somebody had a credit or issue, they could go to small
2 claims court and, subsequently, bring it to the Board for
3 enforcement. But, apparently, that never got carried out.

4 COMMISSION CHAIRPERSON SHAPIRO: Yeah. So I don't
5 know if we can -- if there is a Board directive, dated
6 January 26th, 2005, we can enforce it. But we should do
7 this as a regulation so, once and for all, we get out of the
8 bill collecting department and our stewards and our staff
9 can spend time helping the horse racing, doing productive
10 things.

11 Now, there may be a couple of exemptions that we
12 should consider, such as wage disputes. If a groom is
13 having trouble getting paid by a trainer, you know, I think
14 that rather than he would have to go to court, that's
15 something the stewards should be able to intercede with.

16 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
17 we clearly should handle wage disputes. Although, I think
18 we should also bring in the -- whatever the State agency is
19 that does that, at the same time, because they are better
20 equipped. But, clearly, no worker would have to go to a
21 court, labor relations people.

22 COMMISSIONER CHOPER: Yes, Derry said that there's
23 an avenue for employees, also, to pursue.

24 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, there's a
25 State agency, that's what they do.

1 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, because
2 it's bothersome, when I read some of the steward's minutes,
3 they talk about somebody that wasn't paid, and the remedy
4 was that they finally paid.

5 Well, that's not the way. I mean, you're supposed
6 to be very strict and you got to pay.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, and then I
8 think there's also an issue with workman's comp claims, that
9 if there's a problem there. Again, I'm not trying to
10 take -- I don't think we want to take everything away from
11 the stewards. But on the other hands, as bill collectors,
12 that the feedman, and the tackman and, you know, Bob didn't
13 pay George, we shouldn't be bill collectors.

14 DEPUTY ATTORNEY GENERAL KNIGHT: Mr. Chairman, can
15 I just comment?

16 COMMISSION CHAIRPERSON SHAPIRO: Of course.

17 DEPUTY ATTORNEY GENERAL KNIGHT: As the Board's
18 counsel, I've gotten not a lot, but a few calls on these
19 kinds of issues, and I think you might find it of interest.
20 My own sense is that in many instances this is -- the kinds
21 of questions that the stewards are presented with are really
22 not in their area of expertise.

23 COMMISSION VICE CHAIRPERSON HARRIS: That's for
24 sure.

25 DEPUTY ATTORNEY GENERAL KNIGHT: They get

1 questions -- you know, the kinds of questions that I've
2 seen, for example, are can we order them to pay? And, of
3 course, the ultimate sanction is license discipline if they
4 don't pay. There's a bankruptcy pending, you know, what's
5 the impact of the bankruptcy.

6 You raised these labor issues, for example. I
7 mean, there are labor provisions that you really -- I think
8 it's asking, perhaps, too much for the stewards to really
9 have the kind of expertise you need in this area.

10 So I mean, I sort of concur with the -- I'm not
11 the -- it's not my issue, but I just want you to know there
12 are legitimate issues in the stewards trying to comply with
13 this rule.

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

15 DEPUTY ATTORNEY GENERAL KNIGHT: And this is
16 purely a policy issue. This is not mandated by statute,
17 this is a rule that's been on the books for many years, so
18 the Board has a great deal of discretion on what they want
19 to do with this rule, either appeal it or amend it.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, is there
21 any objection or thought that to our taking this away -- I
22 mean, moving this away from our stewards and letting small
23 claims courts and other parties be the bill collectors?
24 Does anybody have any objection to that?

25 COMMISSIONER CHOPER: No, I can see none at all,

1 except it would be helpful to know, before we just take it
2 all away, that there are other avenues that the whole range
3 of creditors can pursue.

4 It seems to me that every one -- every kind that's
5 been brought up so far, Derry says, well, they can go here,
6 they can go there. And my instinct was if there's a -- they
7 can go to small claims court, realistically, then that's
8 where they ought to go.

9 So if there's -- unless it's pretty clear that
10 there's a class of creditors, potential creditors that can't
11 get their bills paid by reasonable means, we ought to
12 relieve the stewards of that responsibility.

13 COMMISSIONER MOSS: Yeah, but the stewards at
14 least are somewhat familiar with the area which generated
15 these problems, you know what I'm saying. And somebody
16 going to a small claims court in regard to, you know, a
17 racing matter, then has to explain everything to people, and
18 it's a colder place to go.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, that's
20 the same problem any business faces. I agree completely
21 that any labor issue ought to go to the Department of
22 Industrial Relations or whatever.

23 But if somebody's got a dispute on a bill, even
24 though the stewards maybe would have some knowledge of it, I
25 don't know if they would have, you know, expertise.

1 COMMISSION CHAIRPERSON SHAPIRO: And I will tell
2 you, in speaking to our stewards, they say that they spend
3 so much time --

4 COMMISSION VICE CHAIRPERSON HARRIS: Our
5 investigators, too.

6 COMMISSION CHAIRPERSON SHAPIRO: And our
7 investigators. That's it's just overwhelming them, that it
8 doesn't allow them to do their job, where they might be more
9 careful in finding first-time geldings and other fun things.

10 Okay, there's some public comment. Brian Pitnick.
11 I didn't call Charlie, I called Brian.

12 MR. PITNICK: I think Charlie wanted to say
13 something for the CTT, and then I'll put my two cents worth.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, so do you
15 want Charlie to talk first, Brian?

16 MR. PITNICK: Sure.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 MR. DOUGHERTY: Charlie Dougherty, California
19 Thoroughbred Trainers.

20 Sitting to my left is Brian Pitnick, who is a
21 licensed trainer, and also a Board Member of CTT.

22 COMMISSION CHAIRPERSON SHAPIRO: And a lawyer.

23 MR. DOUGHERTY: And a lawyer.

24 COMMISSION CHAIRPERSON SHAPIRO: Trying to help
25 you here, Brian.

1 MR. DOUGHERTY: Just to clarify, and I appreciate
2 what Commissioner Shapiro has brought up, a couple of the
3 points that we feel is necessary to remain within the
4 responsibilities of the stewards under financial
5 responsibility.

6 First and foremost, this is a request from Ed
7 Halpern, on behalf of the -- it's not so much workman comp
8 claims, it's the CHSA, which is the industry-wide workman's
9 comp program.

10 On very rare occasions, albeit it has happened,
11 that people have become behind on their premiums to the
12 workman's comp program. The CHSA has asked the stewards to
13 call that particular trainer in and get payment made.

14 And Ed feels it's very important that the stewards
15 stay involved with that, given the fact that it is -- it's
16 all industry monies, and it would be the time, trouble, and
17 cost to go to the courts by all facets of the industry, Ed
18 does not believe it's prudent, and he would really ask that
19 that remain within the stewards' jurisdiction.

20 Secondly, in answer to the question regarding wage
21 issues, I think it's important that this Board understand
22 the -- our Association gets involved in a lot of different
23 circumstances when, say, an exercise rider, a groom, a pony
24 person says that they have not been paid. I, myself, will
25 go to a trainer and try to mitigate the circumstance,

1 myself, and if it doesn't, you know, we'll recommend that
2 that person go to the racing board.

3 And I think it's very important that this Board
4 realize that for a lot of those people, they're not going to
5 go to outside agencies, they're just not going to. The
6 mindset is they would far rather just not get paid versus
7 going -- you know, in most cases you're talking about
8 somebody saying, hey, trainer A owes me \$400 for two weeks
9 worth of exercise rides, or something like that.

10 And the workforce that we have back there, the
11 mindset is they're just not going to go out.

12 And so I still would very much encourage that the
13 people in the barn area, the workers, still have the ability
14 to go to the racing board. And generally, most people come
15 away with a satisfactory feeling of what they've gone before
16 the stewards and had the ability to get paid that way.

17 So at that time, speaking on those two issues, I
18 would defer to Brian on a couple of other points that he
19 feels are important.

20 MR. PITNICK: The financial responsibility rule is
21 the one mechanism within the CHRB rules that allows a
22 trainer to advance all of the costs for training the horse,
23 and to bill his client, the owner, at the end of the month.
24 It's the only thing that allows a trainer to put out all
25 that money every month, and those costs have gone up

1 significantly in the last year, with the increase in
2 transportation costs, all the feed has gone up
3 significantly, bedding has gone up significantly. Recently,
4 exercise riders all raised their rates two dollars per head
5 per day. Pony people have raised their rates, as well.

6 The trainer advances all that for the benefit of
7 the client. The only mechanism the trainer has, that allows
8 him to recoup that money, if the client doesn't pay, is to
9 file a financial responsibility complaint.

10 If you repeal the financial responsibility rule,
11 you're going to drastically change the way trainers relate
12 to their clients with regard to the financial aspect and the
13 business of managing horses.

14 Trainers are either going to require contracts up
15 front, that they can take to small claims court, or some
16 other venue, to prove a breach of contract for not paying,
17 or trainers are going to all require deposits in advance, or
18 have to bill in advance.

19 So I think you're going to have to look at what
20 the ramification of taking a simple mechanism away, how
21 that's going to alter the business of training horses, and
22 the ability to make ends meet, it would be very, very
23 significant.

24 Trainers are not allowed to hold papers on a
25 horse. Some owners have gotten behind on bills, walked away

1 from horses, or transferred horses to other trainers, and
2 then they go on with the other trainer, but leave the prior
3 trainer in the lurch, even though he advanced all the money
4 to get that horse to the point where it was. Not to mention
5 all the time that the trainer puts in to try and get a horse
6 ready to run.

7 It's a very difficult situation. I realize the
8 stewards don't want the responsibility of this, but it's
9 necessary to allow the business of training horses to
10 continue as it's been for a long, long time.

11 I do think there are possibilities for other
12 mechanisms, and I think the TOC and the CTT could get
13 together, certainly, and come up with other ideas.

14 For instance, you could have a CTT Board Member,
15 such as myself, and a TOC Board Member, act as a panel and
16 provide a forum to hear financial responsibility complaints.
17 The cost of that, there could be a set fee for doing it, the
18 fee could be borne by the losing party. It could be no more
19 expensive than going to small claims court. Small claims
20 court presents problems. It's one thing to get a judgement,
21 it's another thing to collect upon it.

22 The stewards, if this rule is repealed, are the
23 stewards still going to be willing to enforce a small claims
24 judgment and suspend an owner on financial responsibility
25 grounds, and keep them from running their horses with other

1 trainers if they don't pay that judgment?

2 So I think it's a lot more complicated than just
3 saying the stewards don't want to be collection agents for
4 the horsemen or the vendors.

5 And I think before you repeal this rule, we should
6 look at the practical ramifications and consider can we come
7 up with another mechanism that takes the burden off of the
8 stewards, but allows the horsemen to continue to function,
9 business as usual. Thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you,
11 Brian. Go ahead.

12 COMMISSIONER MOSS: I think you made a good
13 argument, and I agree with you a hundred percent. I don't
14 think it will be a very easy thing to shift this
15 responsibility.

16 So I know this discussion's going to go on, but we
17 have to consider the ramifications, I think, as Mr. Pitnick
18 suggested.

19 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
20 that -- I can sympathize with the trainers, but I think all
21 of us in business have to get with the times, and it would
22 be good for trainers to have contracts with their owners, to
23 have deposits, whatever.

24 Because if you've got an owner that can't pay, it
25 doesn't matter what kind of judgment you got, if he's not

1 going to pay, he's not going to have to pay. I mean, you
2 could say you could take away his license, but some guy's
3 got one horse and he doesn't care, anyway.

4 But I think that TOC and CTT can work together on
5 some of this arbitration type thing that you're talking
6 about. But we're just trying to get the CHRB out of an area
7 that it doesn't, really, absolutely have to be in, and maybe
8 it's been in it for hundreds of years or whatever, or
9 somebody's been in it. But I just think that we need to get
10 into the 21st Century.

11 COMMISSION CHAIRPERSON SHAPIRO: You know, I --

12 MR. DOUGHERTY: Can I comment to that? I don't
13 know if you fully understand, the threat of a license
14 revoked by the Board of Stewards, to any person that goes in
15 there, is a very powerful tool. And anyone who knows that
16 if they do not comply with a steward's decision, or a
17 ruling, the threat of their license, that means everything
18 to that licensee.

19 COMMISSION CHAIRPERSON SHAPIRO: No, Charlie,
20 look, from my perspective, if we could hire an extra steward
21 to just hear financial complaints, and it was paid for
22 through the process, and the existing stewards could do
23 their job, then that could all -- then it would all be fine.

24 The problem is that the State is bearing the
25 burden of bill collecting. And, more importantly, it's

1 taking away the time of these people from doing things to
2 enhance our game, and do other things that they could be
3 spending their time better on.

4 They say that it is a major, major component of
5 their time. It's wrong. So I'm not necessarily opposed to
6 their being some other manner that would keep the stick,
7 keep the leverage, and maybe it is that CTT, and TOC,
8 whoever it is that wants this, actually could find a way to
9 pay so that the State isn't paying for it, and our stewards
10 aren't over-burdened, we could get, you know, once a week.
11 You know, once a week a guy's going to get paid, work an
12 extra day, and they'll be paid out of that process.

13 It's not fair the way it is now, though.

14 MR. PITNICK: Would you at least give us an
15 opportunity to try and come up with an alternate mechanism,
16 before you go ahead and repeal the financial --

17 COMMISSION CHAIRPERSON SHAPIRO: We're not trying
18 to shove anything down your throat.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, one
20 thing, though, I think everyone needs to do is go back and
21 read the steward's minutes on the website, and you see so
22 many of these things. I could see if there's, once in a
23 while, there's some case that really needed to be taken care
24 of, but a lot of them are cases that could have been done
25 privately.

1 COMMISSION CHAIRPERSON SHAPIRO: These are \$50
2 issues. I mean, you know, small, small issues.

3 I mean, I was speaking to a couple stewards last
4 week and they said, you just can't imagine the minutia that
5 we get involved in. And, unfortunately, they're -- you
6 know, we're spending a lot of money for them to do their
7 jobs, and we can kid about it but, you know, whether it's
8 better training in knowing the rules, or checking horses, or
9 other things that will help our business, that's what they
10 should be doing, not collecting \$25 for so and so.

11 MR. PITNICK: But for every complaint like that,
12 there's also a complaint of a trainer who has a client who
13 defaulted on his last month's bill, and maybe it's \$2,000,
14 or \$2,500.

15 The client has a horse with another trainer, is
16 over here betting Pick-Sixes every day, and the only thing,
17 the only resource that trainer has is the threat of
18 him -- preventing him from running his other horse. And
19 that is the one thing that will get that trainer paid.

20 COMMISSION CHAIRPERSON SHAPIRO: And I understand
21 that. But why don't we go back and look to see what we can
22 do to see if there isn't a way that we can keep that stick
23 out there, I'm going to go and do that as the ultimate, but
24 not as the first course of action.

25 COMMISSIONER CHOPER: I think that you both made a

1 number of good points, certainly that I hadn't thought of
2 before, and causes me to rethink a little bit my initial
3 comment, maybe more than a little bit.

4 I certainly would see no objection, maybe there is
5 some, but I don't see any, to creating a system of the kind
6 that you suggested, between a panel of CTT and TOC people on
7 these contract claims. And that's it, there's an agreement
8 that they go to that, and that's certainly one way of doing
9 it.

10 It seems to me that if you have a civil judgment,
11 I take it the license is a valuable asset that you can levy
12 on in some way, and the only way you can use it to collect
13 the debt is to get someone to threaten the removal of the
14 license.

15 Well, maybe -- I don't know that they'd become
16 bill collectors in a sense, it's just you go to them and say
17 here's a judgment, no one's appealed this judgment, it's a
18 final judgment by small claims court, or whatever it is, and
19 it involves an internal transaction, I think we ought to
20 think about how we handle licenses in that situation.

21 Because that's the thing of value that is
22 possessed.

23 I'm also concerned about the kind of people I
24 understand who work on the backstretch, who maybe are simply
25 incapable, effectively, realistically incapable of going

1 through the Labor Commission process, whatever that is, and
2 some amount of time maybe that some internal group ought to
3 be able to set that up, deal with that as well, before it
4 gets to the stewards. I don't know.

5 MR. DOUGHERTY: Commissioner, what I was referring
6 to, obviously, we have a large Hispanic-speaking population
7 back there. And as I say, they will come to our offices,
8 both north and south. They have a comfort zone with us and
9 we do try and make sure, if they have a legitimate
10 complaint, that we'll go to the trainer and talk to them.

11 As I say, I get involved with those situations,
12 you know, quite often. I shouldn't say quite often, but
13 when approached.

14 But I'm just telling you the mindset back there is
15 they just will not want to deal with going to an outside
16 agency, and filing proper paperwork. We see it day in and
17 day out on just, you know, any issues. I mean, I can just
18 even tell you how irritated people get, because of our
19 workman's comp program, that is so successful, now, just
20 even filling in paperwork to get a claim that is
21 legitimately having some money coming to them, and they get
22 irritated that they have to fill out forms.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, look --

24 COMMISSION VICE CHAIRPERSON HARRIS: I think we
25 need to change the culture, though.

1 COMMISSION CHAIRPERSON SHAPIRO: I agree.

2 COMMISSION VICE CHAIRPERSON HARRIS: I mean, if
3 you've got a culture that is just oblivious to any way to
4 help a person help themselves, that's bad.

5 Somehow CTT, and TOC, and all of us need to have a
6 culture back there that people, if they are being
7 mistreated, or not paid, or whatever by somebody --

8 MR. DOUGHERTY: And, John, in no way am I trying
9 to present that people are being mistreated. They have a
10 comfort zone coming to our Association, is what I'm trying
11 to get the point across to you.

12 COMMISSION VICE CHAIRPERSON HARRIS: Well, I mean,
13 the comfort zone should be that you go -- I mean, you can go
14 to the labor agency, or whatever. I mean, you can go tell
15 the trainer you're going to go to the labor agency. I can
16 guarantee you, if some trainer knows that he's going to open
17 a whole can of worms with the wage and hour board, he's
18 going to behave himself pretty well.

19 COMMISSION CHAIRPERSON SHAPIRO: You know, look,
20 the truth is it's free. It's real easy, it's convenient,
21 and it's free to go to the stewards.

22 I think that Brian brings up a very good point
23 that maybe there should be a first line of defense which is
24 some -- so you have to go through some process, it's kind of
25 like in a lawsuit, you got to go to a mediation before you

1 get to go to court, okay.

2 Let the private parties come up with a process
3 before it gets to the stewards. Hopefully, we'll get rid of
4 75 percent of those cases.

5 Now, if it can't be, then you say, okay, if you
6 want to go to the stewards, we'll go to the stewards. But,
7 you know what, maybe the stewards hear these issues once a
8 week, instead of every day, and on that day whoever loses
9 has to pay the cost of the steward.

10 Okay, now it's not free, it's not so convenient,
11 there's a first process, and we get through to where we let
12 the stewards do their jobs, and the investigators.

13 EQUINE MEDICATE DIRECTOR ARTHUR: Mr. Chairman,
14 I've seen this from both sides and I will tell you that it
15 is an absolute waste of time the way it's done. It's a
16 waste of time for the investigators, who have better things
17 to do. It's a waste of time for the stewards, and I don't
18 see why you'd need three of them.

19 There is a way, Ingrid and I had talked previously
20 about trying to set up a system where you have an auxiliary
21 steward to hear these once every two weeks, and there's a
22 filing fee that pays for the entire process.

23 I think we need to revisit this, but I think
24 everybody should recognize that the way business is done,
25 and whether it's archaic or not in horse racing, it's a

1 house of cards. Trainers, when they bill a dollar, it's
2 lucky it didn't cost them a dollar three.

3 Veterinarians, maybe it costs them 50 cents on the
4 dollar what they bill. I don't know what van and feed
5 companies cost. But, you know, it is -- there's a lot of
6 money put out there and it is a house of cards that needs
7 some system that works.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, and I think
9 that's what we're talking about. And so what I would again
10 do is encourage staff to perhaps get together with TOC, who
11 probably is rolling their eyes and saying, oh, God, not
12 another thing for us to do. The CTT, and actually meet with
13 a few of the stewards, and see what they would recommend,
14 and develop a plan that takes it off of our responsibility
15 and put some financial teeth into it where it's just not
16 free, you know.

17 COMMISSION VICE CHAIRPERSON HARRIS: One of the
18 big things is the vets, too, there's a lot of these they do
19 with veterinarians. Which I think it's bothersome to me
20 that a veterinarian is doing business with somebody, and
21 they don't know anything about their credit worthiness
22 or -- we just need to get this business into a situation
23 where people just don't figure that I can do anything I want
24 with anybody, and if I have a problem I can go to the
25 stewards.

1 COMMISSIONER CHOPER: There's certainly a
2 difference between a vet and a hot walker.

3 COMMISSION CHAIRPERSON SHAPIRO: And believe me,
4 there are a lot of vets, there's a lot of them.

5 COMMISSION VICE CHAIRPERSON HARRIS: Hot walkers
6 or --

7 COMMISSION CHAIRPERSON SHAPIRO: No, no, a lot of
8 the vets have financial complaints that they're not getting
9 paid by the trainer or the owners.

10 COMMISSION VICE CHAIRPERSON HARRIS: But that's
11 like any kind of business, any veterinarian across the
12 country.

13 COMMISSIONER CHOPER: That's the cost of doing
14 business, I agree with that.

15 MR. BACHMAN: Tom Bachman, TOC. And I'm sure
16 Commissioner Harris is well aware of this, but we have the
17 same problem on farms. And one of the things, the
18 resolution the farm does is upon a horse arriving is a
19 contract and an automatic lien put on that horse.

20 And I think Brian, as a lawyer, Halpern's a
21 lawyer, if they were to put some standard contract together
22 that had a lien, so that when a person comes to a trainer,
23 to train his horse, you get the lien right to that horse,
24 and then all this stuff of moving horses around and leaving
25 debt behind wouldn't happen because the papers could not

1 transfer. It's a very simple thing to do.

2 COMMISSION VICE CHAIRPERSON HARRIS: That's an
3 "Agiters Lien," I think it's old common law, or something,
4 that if you have a horse under your care, or you've got a
5 lien on it, it's feed and all that.

6 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
7 can we move forward with the understanding --

8 MR. PITNICK: I have just one comment on that. I
9 think the problem is more often encountered with a horse
10 that comes up with a problem and it's not going to continue
11 training, the horse is going to be turned out or given away.
12 And, yes, it happens. And there needs to be some mechanism
13 to keep the system --

14 COMMISSION CHAIRPERSON SHAPIRO: Well, Brian --

15 MR. PITNICK: If you could just give us some time
16 to --

17 COMMISSION CHAIRPERSON SHAPIRO: -- I'm assuming
18 that you have just volunteered to participate in this
19 committee. I vote -- yeah, you did. Didn't everybody else
20 hear it?

21 MR. PITNICK: I know, I'm willing.

22 COMMISSION CHAIRPERSON SHAPIRO: And Guy?

23 MR. LAMOTHE: Guy Lamothe, Thoroughbred Owners of
24 California. I felt it necessary to respond, since we're
25 being volunteered for all sorts of things here. But I do

1 find it interesting that an hour or so ago we were -- TOC
2 was accused of inserting itself in various roles, and stay
3 out of the racing office incentives, now we're being
4 enlisted to this.

5 Look, we understand there's a problem, but we're
6 willing to offer our --

7 COMMISSION CHAIRPERSON SHAPIRO: What?

8 COMMISSION VICE CHAIRPERSON HARRIS: Well, a lot
9 of the claims have to do with --

10 MR. LAMOTHE: Golden Gate, during -- look, I would
11 just caution. Let's take a look at it, but I would caution
12 against adding another layer in the regulatory process.
13 Such a panel can present a lot of challenges, conflicts of
14 interest, lack of resources, and what power do they really
15 have to impose penalties if somebody doesn't follow what
16 they're doing.

17 So before we jump all into this and say a panel is
18 such a great idea, it really needs to be fleshed out here.
19 Thank you.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 MR. PITNICK: Thank you very much.

22 COMMISSION CHAIRPERSON SHAPIRO: All right, thank
23 you. Item Number 14, staff report on the following
24 concluded race meets.

25 Okay. Well, no, let me just tell you -- is Bernie

1 still here? Hi, Bernie. I want to thank Bernie. Bernie
2 sent me an e-mail yesterday, and I guess -- Bernie, correct
3 me if I'm wrong, but you reviewed these and you said that
4 you saw that there were some corrections that were needed,
5 would be a nice way of saying that?

6 MS. THURMAN: Correct.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. And in
8 light of that, and knowing that Bernie is the absolute
9 wizard with the numbers, unless there is a compelling reason
10 to hear this today, I would prefer that we held these over
11 and ask staff to consult with Bernie Thurman, to make sure
12 that these numbers are correct, since her observation was
13 they were not.

14 COMMISSION VICE CHAIRPERSON HARRIS: Is that just
15 Bay Meadows, or all of them?

16 COMMISSION CHAIRPERSON SHAPIRO: I think
17 throughout. And, therefore, I would like to recommend that
18 this item be put over, if that's acceptable to the Board.

19 COMMISSIONER AMERMAN: Excellent.

20 COMMISSIONER CHOPER: You're the Chairman. So
21 moved.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

23 MR. CHILLINGWORTH: Could I make one comment?

24 COMMISSION CHAIRPERSON SHAPIRO: Go ahead.

25 MR. CHILLINGWORTH: Chillingworth, Oak Tree. This

1 is the third time we've been put over. I'd have been on a
2 plane two hours ago, if I had known this.

3 COMMISSION CHAIRPERSON SHAPIRO: Is this what you
4 came up for?

5 MR. CHILLINGWORTH: No, but it's the last thing I
6 came up for.

7 COMMISSION CHAIRPERSON SHAPIRO: No, Chilly, do
8 you want to go through your --

9 MR. CHILLINGWORTH: All I wanted to point out was
10 the numbers put out by the CHRB reflect a comparison between
11 the year 2006 and the year 2007, which is we run five weeks
12 one year, and six weeks the next year, so this is very -- it
13 makes us look great.

14 What we really need to do is have it done on an
15 average daily basis, that's the only way you can compare one
16 meet of ours to the next meet.

17 COMMISSION CHAIRPERSON SHAPIRO: You're absolutely
18 right. And, again, I think that what we'll do is we'll
19 appoint you to the committee with Bernie, okay.

20 (Laughter.)

21 COMMISSION VICE CHAIRPERSON HARRIS: TOC wants to
22 be on it, too.

23 MR. CHILLINGWORTH: Bernie and I have already
24 discussed this.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay. And again,

1 we want to get them right. And I think that it's proper
2 that the racing associations give us how they interpret
3 their numbers and compare them, so we can all at least agree
4 on what we're looking at.

5 MR. CHILLINGWORTH: Can I go home now?

6 COMMISSION CHAIRPERSON SHAPIRO: Yeah, you can go
7 home. Chilly, there's still a few more races out there.

8 And Harris, no, you're okay.

9 All right, with that we're going to do some public
10 comment here.

11 And I have cards from William Anton. Did he
12 leave? Okay.

13 COMMISSIONER CHOPER: We filibustered him out of
14 here.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, Edward
16 Murphy? Mr. Murphy?

17 MR. MURPHY: Yes.

18 COMMISSION VICE CHAIRPERSON HARRIS: He looks
19 familiar from somewhere.

20 MR. MURPHY: Gentlemen, my name is Ed Murphy. I
21 am a business development professional, I'm a graduate of
22 UCLA, and I'm also the only grandson of C.W. Harder, who
23 founded the National Federal of Independent Business.

24 For a time, I was also the step-son of John
25 Andreini who, of course, is a member of this Board. In the

1 1960's --

2 COMMISSIONER CHOPER: Who was that?

3 MR. MURPHY: John Andreini.

4 COMMISSIONER CHOPER: Oh, John Andreini?

5 MR. MURPHY: In the 1960's, when John Andreini was
6 married to my mother, he forged my grandfather's signature
7 to obtain a bank loan from United California Bank in
8 Burlingame. Ten years later, John Andreini was involved in
9 the manipulation of horse races here, at Bay Meadows. In
10 essence, John and a group of other owners took turns winning
11 races on one occasion here, at Bay Meadows.

12 This type of behavior, on John's part, dates back
13 to his high school days, when --

14 COMMISSIONER CHOPER: I'm sorry.

15 MR. MURPHY: All right, I will stop there.

16 COMMISSIONER CHOPER: No, because we're -- you're
17 engaged -- you're making public statements for which you're
18 potentially liable in various ways, and it's just outside
19 the purview of this Board to handle the kinds of charges
20 you're making. And, particularly, in the absence of the
21 person you're making them against.

22 I understand you feel strongly about it, but I
23 really do think that it is not part of the agenda of the
24 Board, or proper for us to provide a public venue for these
25 kinds of charges. They go into the minutes, they're on

1 closed -- they're on the internet and so forth.

2 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, this is
3 supposed to be for future actions of the Board. I mean, if
4 there's some specific thing you would like to request on a
5 future action is one thing, but just to degrade
6 someone --

7 MR. MURPHY: Sir, again, this is my first Board
8 meeting. I came here from Arizona to make these comments.
9 It's my understanding that the Bagley-Keene Act allows for
10 public criticism of the Board, and I understand that this is
11 a portion that is reserved for general comment, anything
12 related to horse racing.

13 It's unfortunate that John is not here today, I
14 was hoping to speak to him face to face.

15 I think that John sitting on this Board is --
16 being entrusted with the protection of the betting public,
17 is akin to asking a wolf -- or having a wolf guard sheep.

18 I have a solution, because at this point it would
19 be my word against John's. He was my step-father for quite
20 a period of time.

21 I know about the incident at Bay Meadows, because
22 of his youngest daughter, who was with him that night, and
23 he detailed for her his actions that night, and that of the
24 actions of the other owners.

25 I would call on John to swear, on the lives of his

1 children, that what I've said is not true. It's very
2 simple. I don't think he'll do that, but that would be one
3 way of proving that my claims are true or false. Thank you
4 for your time.

5 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay,
6 if there is no other comment -- oh, Mr. Power, I'm sorry, I
7 may have lost your card. I'm sorry.

8 MR. POWER: I wouldn't blame you if you did.

9 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

10 MR. POWER: I wouldn't blame you if you did.

11 (Laughter.)

12 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

13 MR. POWER: Michael Power. Several years ago I
14 asked and received favorable information from you about the
15 accuracy and the publication of the CHRB vet's list.
16 Subsequent to that time you've included it -- you now
17 include it on your website, and a lot of the racetracks post
18 it, as well, which I think, in accordance with your movement
19 towards more transparency, is a step in the right direction.

20 However, because I do look at it every week, as it
21 comes out, I must reiterate my ongoing concerns about its
22 inaccuracies, about it's -- horses being posted on it from
23 15, 20 years ago. That it is not explicit in the exact
24 affliction of the horse's that are placed on it. So to draw
25 any conclusions or inferences from it is very difficult.

1 It's simply not a user-friendly document.

2 And I know, Richard, you and I have talked about
3 this, and I know that you share some of my concerns, at
4 least. And I would just simply like to ask the Board,
5 again, to have the Medical Director approach this and fix
6 it.

7 COMMISSION CHAIRPERSON SHAPIRO: Well, let me tell
8 you, he is working on it.

9 MR. POWER: Well, you told me that a year ago.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, I can tell
11 you, he's the first one to try to work on it in many years,
12 okay, and it is a daunting task, given the computer system
13 that we have, and the tools that he has.

14 We are going through, as staff can verify, and
15 putting in new computers --

16 MR. POWER: I understand.

17 COMMISSION CHAIRPERSON SHAPIRO: -- and working
18 with new software. And I know he is diligently working on
19 it. But, unfortunately, it's just not an easy fix.

20 MR. POWER: Well, I understand that, as I did a
21 year ago. The same names appear on it that did a year ago,
22 that have been outdated for 20 years.

23 It has had some improvement, I agree, but it's an
24 embarrassment, it's a public embarrassment.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, all I can

1 tell you is, and if Dr. Arthur wishes to respond, I can just
2 tell you that he is working diligently on it, and it is a
3 very daunting task.

4 MR. POWER: Well, in between heel nervings, maybe
5 he could do more on it. Thank you.

6 COMMISSION CHAIRPERSON SHAPIRO: Don't take the
7 thought --

8 EQUINE MEDICATE DIRECTOR ARTHUR: No, real
9 quickly, there are problems with the way the vet's list is
10 put on, and let me just explain the real serious problem, is
11 that it's posted as a PDF file from our current system,
12 which is an archaic computer system, once a week. And there
13 is confusion because in a week anywhere between 100 or 150
14 horses can come on or off. There are problems with it, and
15 we're actually looking to use the Encompass system, which
16 will be real-time, similar to the way workouts are posted on
17 a daily basis, and it looks like it's going to work quite
18 well.

19 MR. POWER: Thank you.

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you. All
21 right, with that, if there is no other business of the
22 Board, because we have a closed session --

23 DEPUTY ATTORNEY GENERAL KNIGHT: We have a closed
24 session.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, then, this

1 will adjourn the public portion of our meeting, and we will
2 remain in, because we have to go into closed session.

3 But, otherwise, thank you, and thank you to
4 everybody for attending.

5 (Thereupon the California Horse Racing
6 Board Regular Meeting resolved into
7 Closed Executive Session at 3:00 p.m.
8 subsequently adjourned.)

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CERTIFICATE OF REPORTER

I, RICHARD FRIANT, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California Horse Racing Board; that thereafter the recording was transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of April, 2008.

Richard Friant

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