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CALIFORNIA HORSE RACING BOARD

REGULAR MEETING

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Wednesday, September 15, 2004
9:40 A.M.

Hinds Pavilion (Barrett's)
Fairplex Park
Pomona, California

BOARD MEMBERS PRESENT:

- JOHN C. HARRIS, Chairman
- ROGER H. LICHT, Vice-Chairman
- WILLIAM A. BIANCO, Commissioner
- SHERYL L. GRANZELLA, Commissioner
- MARIE G. MORETTI, Commissioner
- JEROME C. MOSS, Commissioner
- JOHN C. SPERRY, Commissioner

Reported by: NEALY KENDRICK, CSR 11265
Job No.: 04-26811

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20
21
22
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24
25

A G E N D A

PAGE

Action Items

1. Discussion and action by the Board on the approval of the minutes of the regular meeting of July 22, 2004. 5
2. Discussion and action by the Board on the Application for License to Conduct a Horse Racing Meeting of the Pacific Racing Association (T), from November 10 through January 30, 2005, inclusive. 5
3. Discussion and action by the Board on the Application for License to Conduct a Horse Racing Meeting of the Churchill Downs California Fall Operating Company (T), from November 3 through December 20, 2004, inclusive. 10
4. Discussion and action by the Board on the approval of the Race Dates calendar for 2005 for Central and Southern Thoroughbred meets and Fair. 13
5. Discussion and action by the Board for the 45-day notice on the proposed regulatory addition of CHRB Rule 1843.6 -- Total Carbon Dioxide Testing. 63
6. Report by representatives of the California Animal Health and Food Safety Laboratory on the Postmortem Program. 79
7. Discussion and action by the Board on the request of XpressBet to amend their ADW application to allow for the operation of the new Simplified Wagering Machines that will commence operation at Golden Gate Fields on November 10, 2004. 96
8. Discussion and action by the Board on the request of the California Thoroughbred Horsemen's Foundation, Inc., to approve four persons to its Board of Directors pursuant to CHRB Rule 2049. (WITHDRAWN) 79
9. Presentation by the San Mateo County Fair of their intention to file an application for license to conduct satellite wagering

1	A G E N D A (continued)		
2	9. (continued)	PAGE	
3	pursuant to Business and Professions Code		
4	section 19605.45.	107	
5	10. Discussion and action by the Board on the		
6	request by Capitol Racing, LLC, concerning		
7	the location and availability of the harness		
8	satellite signal at the Los Alamitos.	114	
9	11. Staff report on the following concluded race		
10	meetings:	138	
11	A. Sonoma County Fair at Santa Rosa from		
12	July 28 through August 9, 2004.		
13	B. San Mateo County Fair at Bay Meadows from		
14	August 11 through August 23, 2004.		
15	C. Humboldt County Fair at Ferndale from		
16	August 12 through August 22, 2004.		
17	D. Capitol Racing, LLC, at Cal Expo from		
18	March 5 through July 31.		
19	Committee Reports		
20	8. Report of the Ad Hoc Security Committee	138	
21	Vice Chairman Roger Licht, Chairman		
22	Commissioner William Bianco, Member		
23	Other Business		
24	7. General Business: Communications, reports,		
25	requests for future action of the Board.	139	
26	8. Old Business: Issues that may be raised		
27	for discussion purposes only, which have		
28	already been brought before the Board.	141	
29		(NA)	
30	9. Executive session: For the purpose of		
31	receiving advice from counsel,		
32	considering pending litigation, reaching		
33	decisions on administrative licensing and		
34	disciplinary hearings and personnel		
35	matters, as authorized by Section 11126		
36	of the Government Code.		
37	A. Personnel.		
38	B. Board may convene an Executive Session		
39	to consider any of the attached pending		
40	litigation.		
41	C. The Board may also convene an Executive		
42	Session to consider any of the		
43	attached pending administrative		
44	licensing and disciplinary hearings.		

1 POMONA, CALIFORNIA; WEDNESDAY, SEPTEMBER 15, 2004

2 9:40 A.M.

3 EXECUTIVE DIRECTOR WOOD: Good morning,
4 everyone, and welcome to the regularly scheduled
5 meeting of the California Horse Racing Board. This
6 meeting's being conducted on Wednesday, September the
7 15th, 2004. And we're in the Hinds Pavilion in
8 Fairplex Park in Pomona, California.

9 Present at today's meeting are
10 Chairman John Harris, Vice-Chairman Roger Licht,
11 Commissioner William Bianco, Commissioner Sheryl
12 Granzella, Commissioner Marie Moretti, Commissioner
13 John Sperry, and Commissioner Jerry Moss.

14 Before we go forward with the meeting
15 this morning, I would respectfully request that, if
16 anyone has testimony to provide to the Board, that
17 you please state your name and your organization for
18 our court reporter. If you have a business card to
19 provide the court reporter, it would be very helpful.

20 With that, I'd like to turn the
21 meeting over to our Chairman, Mr. John Harris.

22 CHAIRMAN HARRIS: I'd like to welcome everyone
23 to the meeting. I appreciate Fairplex hosting us.
24 It's a great location for our meeting.

25 The first item on the minutes is

1 discussion and action by the Board -- approval of the
2 minutes of the regular meeting of July 22, 2004.

3 Anybody have any -- I had one minor point on this.

4 Any other questions?

5 On Page 3, just to clarify, if this
6 comes up sometime is the statement that "John Harris
7 said he was more concerned with the quality of
8 Capitol Racing's assets versus the purse account and
9 loans to horsemen."

10 What I was trying to say is that the
11 quality of the -- the net worth related to the
12 collectability. Just a minor point. But I just
13 wanted to clarify that.

14 Any other questions?

15 Can I get a motion?

16 COMMISSIONER MORETTI: So moved.

17 COMMISSIONER SPERRY: Seconded.

18 CHAIRMAN HARRIS: So moved and seconded.

19 All in favor?

20 BOARD MEMBER VOICES: Aye.

21 CHAIRMAN HARRIS: Opposed?

22 (No audible response.)

23 CHAIRMAN HARRIS: So moved.

24 The next item is discussion and action
25 by the Board on the application for a license to

1 conduct a horse racing meeting of Pacific Racing
2 Association from November 10, 2004, through January
3 30, 2005, inclusive.

4 MR. MINAMI: Roy Minami, Horse Racing Board
5 staff.

6 THE REPORTER: Could you turn the microphone
7 on, please? I'm having trouble hearing you.

8 CHAIRMAN HARRIS: Could you turn the
9 microphone on.

10 MR. MINAMI: Is it on? Roy Minami, Horse
11 Racing Board staff. This is the application for
12 Golden Gate Fields -- Pacific Racing Association.

13 They plan to race from November 10 to
14 January 30, 2005 -- 58 days. There will be racing 5
15 days a week, Wednesday through Sunday, with 8 races
16 weekdays and 9 to 10 on weekends, holidays, and days
17 of special interest. The first post will be 12:45.

18 We still need information on the
19 horsemen's agreement -- the stakes schedule is in to
20 the office -- and fire clearance for Albany and
21 Berkeley and the name of the racing secretary.

22 The staff recommends that the Board
23 approve the application, conditioned upon receipt of
24 the additional information.

25 CHAIRMAN HARRIS: You say you do have a

1 horsemen's agreement?

2 MR. MINAMI: We do not. We have the stakes
3 schedule, but we do not have the horsemen's
4 agreement.

5 MR. COUTO: Good morning, Drew Couto,
6 Thoroughbred Owners of California.

7 THE REPORTER: Could you turn the mike on?
8 I'm sorry. Could you turn the mike on, please?

9 VICE-CHAIRMAN LICHT: She can't hear you.

10 MR. COUTO: I'm sorry.

11 THE REPORTER: Is the mike on?

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

14 Mr. "Vidella" (phonetic) has advised
15 me that there is no contract, new horsemen's
16 contract. And he has yet to receive a copy of the
17 stakes schedule. So he wished me to bring that to
18 the attention of the Board this morning.

19 Preliminaries have not been done yet. We don't have
20 any idea who the racing secretary is.

21 CHAIRMAN HARRIS: So are you suggesting that
22 we approve or do not approve the license?

23 MR. COUTO: I don't know if it's possible to
24 do it on a conditional basis. I'm assuming -- we
25 have had a good relationship with them -- working

1 with them in the past. I think we all recognize that
2 there is some uncertainty as to who the racing
3 secretary will be -- when that will be. I would
4 anticipate that we will have an agreement. We just
5 do not have one at this time.

6 CHAIRMAN HARRIS: Okay.

7 MR. TUNNEY: I'm Peter Tunney.

8 Mr. Couto's absolutely correct. The
9 schedule was expected to go as a tentative -- in a
10 letter as, tentatively -- tentative first agreement.
11 And we do not have a purse agreement. We expect one
12 in the next 30 days. And at the same time, we will
13 be naming a racing secretary within the next 30 days.

14 So between now and the next Board
15 meeting, if you're going to conditionally approve us,
16 we will have those issues in place.

17 The fire clearance, which usually
18 comes just before the beginning of the meet -- that's
19 historical with most racetracks -- because they're
20 doing the review; making improvements, if there are
21 any; and then the fire clearance is given, obviously
22 not too far in advance because they want it to --
23 they want us to be up to code.

24 CHAIRMAN HARRIS: Okay. What's the pleasure
25 of the Board?

1 COMMISSIONER SPERRY: I would move that we
2 approve it, conditioned upon the additional
3 information necessary to conduct the meet.

4 COMMISSIONER BIANCO: Second.

5 CHAIRMAN HARRIS: Any discussion on this?

6 I think we realize that things happen
7 sometimes; but it would be so much better, so much
8 easier if we get all of these things in. Everyone
9 knows the meeting's coming up. They know how to get
10 ahold of people who can somehow make it happen, move
11 it along.

12 At the meetings, it gets frustrating
13 that almost continually this situation -- it's almost
14 continually these things happen.

15 But actually, one more thing on the
16 application, while this vote is still on the floor,
17 still in discussion, there is one thing I requested
18 for a long time is with respect to "scales"
19 (phonetic) in the document and the document "scales"
20 (phonetic) with newer technologies available.

21 So if you've got time to do that for
22 this meet, you might want to take look at that. But
23 that said, all in favor of the motion?

24 BOARD MEMBER VOICES: Aye.

25 CHAIRMAN HARRIS: Opposed?

1 (No audible response.)

2 CHAIRMAN HARRIS: Next is application for
3 license to conduct a horse racing meeting of the
4 Churchill Downs California Fall Operating Company
5 from November 30 -- November 3 to December 20, 2004.

6 MR. MINAMI: Roy Minami, Horse Racing Board
7 staff. And this is the application of Churchill
8 Downs California Fall Operating Company at Hollywood
9 Park, running from November 3 through December 20,
10 2004 -- 36 days, which is 6 days more than 2003.

11 They'll be racing 5 days per week,
12 Wednesday through Sunday, with 8 races Wednesday,
13 Thursday, Friday and 9 or 10, on a selected basis, on
14 weekends. 10 races on November 26 through the 28th.
15 And there will be racing Monday, November 20. First
16 post will be 12:30 daily and 7:05 P.M. post on
17 Friday.

18 The staff still requires some
19 additional information -- the horsemen's agreement --
20 the stakes schedule is in our office -- and we have
21 not yet received a fire clearance.

22 Staff recommends that the Board
23 approve the application conditioned upon receipt of
24 the additional information.

25 CHAIRMAN HARRIS: Do you have a comment, Equal?

1 MR. WYATT: Eual Wyatt, Hollywood Park.

2 We do have a horsemen's agreement
3 that's -- we had some language changes which have
4 been made. And we would anticipate having it in to
5 the Board by the middle of next week.

6 CHAIRMAN HARRIS: Any comments from any Board
7 Members?

8 VICE-CHAIRMAN LICHT: I have a question. What
9 security are you going to provide for these races?

10 MR. WYATT: We'll provide whatever the Board
11 directs us to provide.

12 VICE-CHAIRMAN LICHT: I'd like to see one
13 person per stall on all the race horses, maybe, like,
14 Del Mar has. I know that this might be late notice,
15 but I'd like to see Hollywood do that. I think Oak
16 Tree is doing that.

17 MR. WYATT: If that's the Board's desire, then
18 that's what we'll do.

19 CHAIRMAN HARRIS: Well, I'm going to talk
20 about a concern that's come up before -- a concern
21 that we take these applications for wholly-owned
22 subsidiaries, which basically the organization
23 conducting this race meeting is actually not
24 Churchill Downs but it's a company that we don't know
25 anything about -- technically about.

1 We need to make sure that we get the
2 insurance back, liability insurance, naming the
3 California Horse Racing Board as "additional
4 insured" -- just list the insured as "Churchill
5 Downs" but it should show that "also insured" is
6 "Hollywood Park Operating Company" or whatever it is.

7 Everyone here realizes that we need
8 them to keep in mind that whatever company they
9 have -- they have got to have a financial statement
10 and liability insurance and not just the parent
11 company -- the parent company doesn't really
12 necessarily represent the guarantees back into the
13 other company.

14 MR. WYATT: I will send a certificate to that
15 effect.

16 CHAIRMAN HARRIS: Okay.

17 VICE-CHAIRMAN LICHT: I will agree to accept
18 the application, subject to Hollywood advancing to
19 the security of one person per stall --

20 CHAIRMAN HARRIS: And substitute the
21 procedural --

22 COMMISSIONER SPERRY: Second.

23 CHAIRMAN HARRIS: All in favor?

24 BOARD MEMBER VOICES: Aye.

25 MR. WYATT: Thank you.

1 CHAIRMAN HARRIS: Okay. Thank you.

2 Next item is discussion and action by
3 the Board on the approval of race dates calendar for
4 2005 for Central and Southern Thoroughbred meets and
5 fair.

6 MR. REAGAN: Commissioners, John Reagan, CHRB
7 staff. I'm here with information.

8 As you know, in the package, there is
9 a proposal by the CHRB Race Dates Committee.
10 However, I understand that other proposals may have
11 come forward and am awaiting direction.

12 CHAIRMAN HARRIS: This is a -- would Sheryl
13 like to comment?

14 COMMISSIONER GRANZELLA: Why don't you read
15 the current proposal into the record?

16 MR. REAGAN: Okay. That proposal would cover
17 the Southern fair situation. I can read the schedule
18 for you into the record, and you can take it from
19 there.

20 The year would start with the meet at
21 Santa Anita -- 85 days -- from December 29, 2004,
22 through April 24, 2005. The rest of the dates will
23 be 2005. Hollywood Park -- 62 days -- from April 27
24 through July 17. Del Mar -- 42 days -- from July 20
25 through September 7. And the fair at Pomona -- the

1 L.A. County Fair at Pomona -- 17 days -- from
2 September 9 through September 25.

3 The Santa Anita fall meet, Oak Tree --
4 31 days -- September 28 to November 6. And, finally,
5 the Hollywood Park fall-winter meet -- 34 days --
6 November 9 through December 24. That is the current
7 proposal.

8 CHAIRMAN HARRIS: Would Sheryl have some
9 comments?

10 COMMISSIONER GRANZELLA: Well, Commissioner
11 Moretti and I -- we went through so many schedules --

12 THE REPORTER: I'm sorry. I just cannot hear
13 well at all. Can someone turn the speaker around so
14 I can hear people speaking? Could a technician be
15 called to turn the speaker around?

16 (Brief interruption: Speaker
17 equipment adjusted to allow
18 reporter to hear participants
19 much more clearly.)

20 COMMISSIONER GRANZELLA: Okay. Commissioner
21 Moretti and I felt that the schedule's going to
22 balance between the State license fees versus
23 commissions and other distributions for
24 Southern California Thoroughbred racing.

25 We also felt that the additional days

1 were going assist the union workers in attaining the
2 number of days that they need to maintain their
3 benefits.

4 This committee also strongly
5 recommends that, next year, we do a three-year
6 schedule instead of a one-year schedule. And that's
7 just about it.

8 This has not been an easy process.
9 We've heard -- we've had -- I don't know how many
10 meetings we've had. We've heard testimony from
11 everyone. And, you know, everybody's got a better
12 idea. But this is what Commissioner Moretti and I
13 came up with. So this is it.

14 MR. REAGAN: Commissioners, as indicated, that
15 is the schedule that the committee has worked on and
16 before you today. And if we can get four votes, we
17 can get it done.

18 CHAIRMAN HARRIS: Well, my concern on this
19 schedule -- I realize that a tremendous amount of
20 work has gone into this by the committee and the
21 staff and it's a terribly tough process to sort out.
22 But I personally have problems with this latest
23 proposal in that it seems to me that we were losing 3
24 days that could be very good days -- December 26, 27,
25 and 28th -- or conceivably maybe we could drop the

1 28th.

2 But I would just hate to have us walk
3 away from opening Santa Anita on December 26. And
4 also I've heard from Hollywood Park on their concerns
5 on their total number of weeks -- that they feel that
6 they have really lost a week here that they would
7 like to get back, which could happen except it would
8 force everything back a week, which would push Del
9 Mar into an additional week, which I know that they
10 have concerns with.

11 But I think the trade-off, of pushing
12 Del Mar into an additional -- into an additional week
13 is, you know, a not-that-serious of a thing.

14 And I guess part of the thing started
15 out on the necessity of a long holiday break. And it
16 seems like, as we've really massaged the thing
17 around, I just don't know if I buy into personally
18 that we need a long break because we, you know, we're
19 in the entertainment business and horses are being
20 fed and cared for every day and that I just don't buy
21 into the break idea, personally.

22 This, actually, calendar would have a
23 break from -- the last day of racing this year,
24 anyway, would be December 20th at Hollywood Park.
25 And they start back on December 29th at Santa Anita.

1 To me, that is not a good solution.

2 VICE-CHAIRMAN LICHT: Well, I think the
3 committee changed so dramatically from the proposal
4 of the last meeting. Did some new evidence come
5 forward or something?

6 COMMISSIONER MORETTI: One of the things that
7 we did was look at loss of purses -- the loss of
8 revenue of the -- also of the license fees.

9 CHAIRMAN HARRIS: Do we have any data or
10 anything?

11 MR. REAGAN: I'm sorry?

12 CHAIRMAN HARRIS: Do we -- I don't know if the
13 Board has really has -- I mean it's kind of
14 cumbersome where we get these schedules but we don't
15 really get the supporting data of why -- you know,
16 why license fees would be better this way versus that
17 way and all that.

18 MR. REAGAN: Well, I think, in this particular
19 case, we're simply talking a greater number of days.

20 CHAIRMAN HARRIS: Well, it looks like not -- I
21 mean I don't see this as being more days necessarily
22 than the other proposals.

23 MR. REAGAN: Well, I think, from the original
24 proposal, it's a few extra days. And that simply
25 means more handle; more commissions, purses, license

1 fees.

2 VICE-CHAIRMAN LICHT: The committee doesn't
3 think the 26th is an important day? I mean to me,
4 just as a fan, the 26th has always been important.
5 And I know I discussed this with Santa Anita --
6 they'd be willing to rework part of this -- the
7 26th --

8 COMMISSIONER MORETTI: If there's a new
9 proposal or something else that can -- another
10 compromise, then I think -- speaking for myself, I'm
11 open to hearing it again. We were really hoping --
12 and I think that Mr. Baedeker and Mr. McDaniel and
13 others put a very strong, concerted effort into
14 trying to come up with something, you know, that's
15 good. This is the one that we came up with.

16 VICE-CHAIRMAN LICHT: Right. I guess --

17 COMMISSIONER GRANZELLA: It's not perfect by
18 any means.

19 VICE-CHAIRMAN LICHT: And TOC's position --
20 TOC has always been very pro the holiday break. This
21 does not include a holiday break. So I would assume
22 TOC is against this proposal? Is that appropriate?

23 MR. COUTO: Good morning, again. Drew Couto.

24 Throughout the -- one, I'd like to
25 thank the Dates Committee. This has -- this has been

1 an impossible journey in which you've put in so much
2 effort and tried so hard to resolve. And on behalf
3 of the owners, we'd like to thank you, begin by doing
4 that.

5 With regard to the break, for 10
6 years, our organization has put fought to work a
7 Christmas break into the schedule because of the
8 strong belief that the break is necessary for fans,
9 for horses, and even for backstretch personnel.

10 And we've always felt that, you know,
11 you can always make the argument that we're better by
12 running more days in terms of incremental dollars.
13 But there's a trade-off.

14 And we've always felt that a break of
15 three to five days was critical for morale and again
16 for the fans and horses. So we're disappointed, in
17 one sense, that there's potentially no Christmas
18 break moving from 20 -- moving from 2005 tom 2006.

19 To Mr. Harris's point about purse
20 revenues, I would say that, if you look at the 26th,
21 27th, 28th -- days after Christmas -- they have
22 historically been much more productive in terms of
23 purse revenues and track commissions, particularly
24 when the 26th falls on a Sunday, as it would in 2005.

25 It would certainly suggest that the

1 trade-off of those days early in the year for three
2 days before Christmas may not be in the industry's
3 best interests in terms of overall revenues, whether
4 that's commissions or purse revenue.

5 I don't -- we've tried to make it a
6 point, as best as possible, to stay neutral on these.
7 And we're -- we're going to continue to do that but
8 just point out, again, that we are very much in favor
9 of a break and would appreciate that being
10 considered. Thank you.

11 MR. "DOUGHERTY": "Charlie Dougherty"
12 (phonetic) of California Thoroughbred Trainers.

13 I too would like to echo that, for a
14 great number of these past years, CTT has been a very
15 strong advocate for a holiday break. What we have
16 found is that just the mood of the entire barn area
17 finds it a refresher to have this break, a sense of
18 what goes on if people understand they have the
19 ability to get away for the three; five; you know,
20 six days -- whatever.

21 For the trainers who are training
22 their horses year-round, it gives them a chance to
23 relax their barn, to allow their help to take some
24 extended vacations at Christmastime if they choose.

25 To Mr. Harris's point, yes, the horses

1 still are being fed and watered. But at the same
2 time -- I think you could ask any one of your
3 trainers -- it is a completely different atmosphere
4 on a dark day versus a race day at a barn. There is
5 more help involved when there's race days versus dark
6 days.

7 And that break at the holiday gives
8 'em a chance to really, as I say, relax the help.
9 And I can tell you the barn help has enjoyed the
10 holiday break. We too don't want to take sides on
11 this on any one particular track. But we would
12 strongly ask that a holiday break be given. Thank
13 you.

14 COMMISSIONER MORETTI: I don't think there's
15 anything that we can do that doesn't look like we're
16 taking sides on one way or another. I'm kind of --
17 I'm over that, at this point in time, because we
18 don't want to penalize any one of the racing
19 associations and, you know, it's -- first, it's Santa
20 Anita; and then it's Hollywood. Then it's Del Mar.

21 So I mean that's -- you know, we
22 didn't go in there trying to get at anyone.

23 I do want to make one point, though.
24 On the three-year plan -- we strongly suggest that.
25 Unfortunately by the time that we had decided to do

1 that, we -- the Board had already adopted the
2 Northern California schedule, which put us out of
3 whack to try and implement a valid three-year plan.

4 The staff tried to maneuver that in
5 some way, shape, or form. And I'm told that it
6 didn't work.

7 COMMISSIONER GRANZELLA: So the whole process
8 would have to start all over again.

9 EXECUTIVE DIRECTOR WOOD: I just want to
10 clarify.

11 Mr. Dougherty, did you say that, in
12 2005, there was no break, no holiday break -- 2005 to
13 2006 calendar schedule?

14 MR. COUTO: Mr. Woods, I believe that was me
15 who said we had a concern. If you looked at the
16 schedule, it's unclear what the break would be at the
17 end of 2005-2006. If we were to return to the
18 traditional calendar -- I hate to say
19 "traditional" -- but what has historically been a
20 December 26 opening -- for the year 2006, you would
21 have essentially one day off.

22 We don't know what -- we don't know
23 what would happen -- if this starting date of the
24 29th would become the new paradigm and move forward
25 or what. So it's just a concern. If you look at the

1 calendar, you can't figure out where that break will
2 be.

3 EXECUTIVE DIRECTOR WOOD: But isn't that
4 argument that you would put up more allocation of
5 race dates -- excuse me -- for next year? And what
6 is the break for this year, this coming year?

7 MR. COUTO: I calculate the break for the end
8 of this year -- 2004 -- to be approximately a nine-
9 day break or an eight-day break. For 2006 -- for
10 the --

11 EXECUTIVE DIRECTOR WOOD: No. For just 2004,
12 there's a eight- or nine-day break? I guess --

13 CHAIRMAN HARRIS: Would you, just to clarify
14 it, though, would you as -- I mean just -- I just
15 want to understand TOC's position, which I've been
16 accused of questioning exactly where they are at
17 times -- which is why I want to clarify this one.

18 Now, would you support -- would you
19 prefer a nine-day break over a six-day break?

20 MR. COUTO: Would I -- would we support it?

21 CHAIRMAN HARRIS: Not "support" -- prefer.
22 You got two choices. You got a nine-day break or a
23 six-day break. I'd just like to pin you down --
24 which one you'd like.

25 MR. COUTO: All right. As I said early on, I

1 mean, we can have an extreme position, too. We can
2 race 365 days and have incremental gain, or we can
3 have a nine-day versus six-day break. I think if you
4 trade everything off, the reality is the nine-day
5 break is probably unrealistic.

6 I mean that's, I think, the reality of
7 the situation. And we're not here to be dogmatic and
8 say, "More days off is a better way to go." We've
9 always sought a reasonable break. And, you know,
10 nine days is probably something that has -- that I
11 don't think anybody would see as a reasonable break
12 anymore.

13 Would we like it? Sure. Is it
14 reasonable? Probably not.

15 CHAIRMAN HARRIS: Well, I mean to make the
16 issue clear, you don't generate any purse money on a
17 day off that I can understand except -- am I missing
18 something here?

19 MR. COUTO: No. What I'm missing is the
20 correlation between a nine-day break and the dates
21 issue in front of us. I'm pointing out that the
22 schedule, if it begins on the 29th, means that, at
23 the end of this year, there's a nine-day break. And
24 at the 2005-2006 year, nobody knows what the break
25 will be.

1 It's conceivable that it could be one
2 day. We don't know. We just raised that question.

3 EXECUTIVE DIRECTOR WOOD: Mr. Chairman, I'd
4 like to hear from Hollywood Park, and then I'd also
5 like to hear from the public as to what their thought
6 is.

7 MR. BAEDEKER: Thank you, Commissioners. Rick
8 Baedeker, Hollywood Park.

9 First of all, I feel that it's
10 necessary to address the proposal that is currently
11 on the table from the Dates Committee. I know that I
12 have supplied each of the Commissioners with our
13 thoughts. But I think it's important to mention a
14 couple of those things for the record.

15 If the purpose in fashioning the
16 calendar is to maximize commissions and purses, then
17 I would argue that we should run year-round at Del
18 Mar. Said another way, there's no question that
19 Hollywood Park is low man on the totem pole when it
20 comes to generating purses and commissions.

21 I'd love to have that switch one day.
22 We're working every day to make that happen. That's
23 a good, positive thing.

24 To take a week out of the
25 spring-summer season at Hollywood Park decimates our

1 stakes schedule. We have already had to trim that
2 schedule, as you're aware, over the last three years.
3 By losing the first week of our meet, we would have
4 to trim about 450,000 from the stakes schedule going
5 forward. At some point, we don't have a meet.

6 And I would argue before this Board
7 that the circuit is important in Southern California.
8 The change of scenery is a good thing for the
9 product, not only locally but also around the
10 country. It is a good thing in terms of the racing
11 surfaces -- keeping -- keeping surfaces fresh and
12 safe, particularly the turf courses.

13 So I think there's perhaps more to
14 this than that just trying to finalize a calendar for
15 next year. The Dates Committee, in trying to be
16 fair, threw a couple of Wednesdays after holidays
17 back into the spring-summer meet, to take Hollywood's
18 spring meet from 60 to 62 days.

19 And as I pointed out to the Board
20 Members, we simply could not run on July 6. That
21 falls equidistantly between our American Oaks weekend
22 and our Hollywood Gold Cup weekend, both of which
23 offer guaranteed Pick 6's.

24 As the racing secretaries can attest,
25 they work for several weeks to guarantee that we've

1 got full fields on those days so that we do have a
2 great product on those days and can sustain a
3 million-dollar guarantee on the Pick 6. If you've
4 been there, you know.

5 I mean all the tracks around Southern
6 California are doing it. They're throwback days.
7 We've got full fields all day. The public loves the
8 days. They're success stories.

9 If we throw an additional day of
10 racing on July 6, at a time when a lot of horsemen
11 are beginning to lay in wait for the Del Mar meet, it
12 is doubtful whether or not we can field a card that
13 day. And we're very troubled that our big days --
14 American Oaks and Gold Cup Day -- would also have
15 fewer horses available to compete.

16 So taking a week out of the Hollywood
17 spring meet is just deadly for our meet.

18 If I might, I'd like to go back a
19 month to the proposal that the Dates Committee made
20 at the August meeting at Del Mar. It's the same
21 proposal that surfaced when, I think, the Dates
22 Committee first met. It's a calendar that is very
23 similar to that created by the California Horse
24 Racing Board in 2001 for the 2002 season.

25 It has a six-day break before

1 Christmas. And to create that break, all of the
2 meets were shoved backwards. And the final week of
3 the Santa Anita meeting was swallowed up. The
4 reasoning at the time was that Santa Anita would
5 benefit from the -- a business windfall, given a
6 significant break before their winter meet.

7 Now -- granted -- the results weren't
8 as positive as everybody thought they would be.
9 Santa Anita's argued very eloquently along those
10 lines. I don't know if, as a matter of fact, there
11 is still support for a Christmas break. I'm hearing
12 that most people don't think the Christmas break is
13 going to work after Christmas.

14 I said, early on, in private
15 discussions with Mr. McDaniel that, if everybody else
16 in the industry decided that the Christmas break was
17 no longer important, that I would capitulate and go
18 along. I never thought that would happen. It just
19 backfired in the worst kind of way.

20 But apparently that's where we're
21 headed. So if the industry and the Horse Racing
22 Board no longer believe that a Christmas break is
23 desirable or necessary, then my fallback proposal
24 would be to go back to the old way it was done prior
25 to the Board's having made a change from 2001 to

1 2002.

2 What that means is that Santa Anita
3 gets another week at the end of their meet. The rest
4 of the calendar is shoved back forward towards
5 Christmas, with Hollywood Park racing up through
6 December 24th. Granted -- Del Mar, shoved back a
7 week. It closes a week after Labor Day. Oak Tree
8 May have some issues with Breeders' Cup events. But
9 honestly that's the way it used to be.

10 So to summarize and to clarify, I'd
11 like to make three points.

12 I strongly urge the Board not to
13 accept the most recent proposal by the Dates
14 Committee. Very injurious to Hollywood Park.
15 Hollywood Park's position is in support of the
16 calendar that was submitted at the August meeting at
17 Del Mar.

18 But I would also like to go on the
19 record as saying that, if as a matter of fact, we
20 decide here today that a Christmas break is not
21 desirable, then I would suggest that the most fair
22 solution is to go back to the calendar as it existed
23 before 2002. Thank you.

24 CHAIRMAN HARRIS: Additional comments from --

25 MR. McDANIEL: Jack McDaniel, Santa Anita

1 Park.

2 I'd like to thank Mr. Baedeker for his
3 comments. I think he framed the problems that we've
4 all been dealing with quite accurately. Some points,
5 though, I think that may draw some of these into a
6 little sharper focus -- let's start with the
7 Christmas break because I think the Christmas break
8 is really at the root of all of this.

9 It did, in fact, lead to a decision in
10 2001 to radically change historical pattern of
11 calendars and probably set in motion the difficulty
12 that this Board and all of us have been having this
13 past several months.

14 The one point that I differ with
15 Mr. Baedeker on and to that, you know, maybe to the
16 benefit of the -- of the concern that's addressed by
17 TOC and the CTT is that I don't think that this
18 proposal, as the Board has drafted it, in fact,
19 eliminates the Christmas break.

20 We have put on the table -- we
21 continue to put on the table -- we can't back away
22 from what we have offered and promised -- that, if
23 there is a Christmas break -- there's no other way to
24 deal with the Christmas break other than to hurt
25 either the Hollywood fall meet or the Santa Anita

1 meet, then we would accept the pain of absorbing that
2 break. We would do so on the other side of the
3 Christmas.

4 Now, that's generated a great deal of
5 controversy in terms of the movement of our opening
6 date or the clearing of dates after our opening date.
7 It's on the table, though. It's really an issue that
8 can be discussed next year or, for that matter, for
9 the next 12 months until we get back to this point in
10 time.

11 We do have time to discuss that.
12 We're not going to back away from a promise to create
13 the break if indeed that's what the industry wants.
14 So we stand committed to that opportunity. It seems
15 like the larger issue is not about Christmas. It's
16 about breaks. We don't have breaks between any of
17 our meets.

18 We believe, in reviewing the history,
19 that what really happened that motivated this Board
20 to look for a break was not just at the Christmastime
21 but throughout all the schedules and all the meets.
22 And I think that's a larger, more difficult issue for
23 each of the associations to address among themselves
24 and perhaps come back with some consensus report on
25 that matter.

1 We've looked at ways in trying to
2 clear dates inside our meet. All these things, I
3 think, have merit. They need to be thoroughly
4 discussed. The point that we -- I think we're all
5 making to the Board is this: There's some radical
6 opportunity here for great injurious harm to one or
7 more of these associations.

8 You know, and obviously as our case
9 presented, inasmuch as Santa Anita would suffer the
10 most if we went back to the proposal that was on the
11 table at the last meeting, Santa Anita would not hurt
12 as much if we moved to the proposal that's on the
13 table now from the Board.

14 I absolutely concur with Mr. Baedeker.
15 It would be hard to suffer the loss of a week to the
16 stakes schedule. However, he's -- he has an
17 opportunity we don't have. He can move that week
18 down to the beginning of his fall meet. It's not
19 attractive, and I acknowledge that.

20 But it's much less attractive if you
21 consider the 450,000 he might lose in stakes money
22 would be 600,000 that we'd have to lose in stakes
23 money. We'd have to juggle our series around and
24 start -- we start series on top of series. It's
25 really a devastation.

1 I think, at this point in time, what
2 we can present, again, to you is perhaps, in the
3 abundance of caution, the road map that we've got for
4 25 years may be the safest place for all of us to
5 return back to again.

6 Indeed, if you look at this
7 document -- we can give you more copies if you'd like
8 to, you know, reexamine 'em -- in 1983, the first
9 time that this -- this very calendar that we're
10 looking at came up, the pattern of dates that was
11 distributed by the Board is identical to the pattern
12 of dates that we've, you know, essentially proposed
13 for the last several months and the one that
14 Mr. Baedeker refers to as his -- his "secondary
15 position."

16 It does the least harm to all of us.
17 It doesn't give Del Mar the more favorable position
18 that they seek, but it certainly doesn't give
19 Hollywood any less than they would have historically
20 expected. And it doesn't give Santa Anita any less
21 than it has historically expected. Can I answer any
22 questions?

23 CHAIRMAN HARRIS: It gets a little
24 complicated. I personally support what I think is
25 the Santa Anita position on this calendar, where

1 effectively the difference is you start -- you'd push
2 everything back. But we basically -- we start --
3 your meet would go -- your spring meet would go
4 through the 24th.

5 MR. McDANIEL: Chairman Harris, we have copies
6 of that.

7 CHAIRMAN HARRIS: Yeah.

8 MR. McDANIEL: Would it help the Board?

9 CHAIRMAN HARRIS: It would probably -- it
10 might be helpful 'cause we've got so many different
11 things here.

12 VICE-CHAIRMAN LICHT: That would put Del Mar a
13 week after Labor Day and -- and --

14 MR. McDANIEL: That would put Del Mar a week
15 after Labor Day this coming year.

16 VICE-CHAIRMAN LICHT: And it would also --

17 MR. McDANIEL: I believe that, three or four
18 years forward, just by operation -- the way the
19 calendar moves -- they move up to the favorable
20 position which is what they like, which is one day
21 after Labor Day. And they'd stay in that position
22 for two years. And then they'd revert back to this
23 historical pattern, which, you know, a week -- a week
24 beyond --

25 VICE-CHAIRMAN LICHT: I think that that's a

1 major problem for our horse -- our stakes horses. I
2 guess Chilly or TOC would know more about that than I
3 would. But you end up with a lot of races --
4 Breeders' Cup preps -- very close to the Breeders'
5 Cup. I don't know. I don't know. Like we said or
6 John said -- there's no way to please everybody here.

7 CHAIRMAN HARRIS: When is the Breeders' Cup?
8 In this year, it's -- what's the date?

9 UNIDENTIFIED SPEAKER: 30th.

10 CHAIRMAN HARRIS: 30th. What is it next year?

11 VICE-CHAIRMAN LICHT: It hasn't been set yet,
12 as far as what we found out.

13 Right, Rick?

14 And I think Rick looked, and it was
15 either October 29 or November 5. They hadn't decided
16 yet.

17 CHAIRMAN HARRIS: The preps -- there are --
18 it's always been an issue on these prep races. But I
19 don't know if we can really set our racing calendar
20 strictly based upon that. Just --

21 COMMISSIONER MOSS: It is a pretty safe bet,
22 too, that Oak Tree's last three days in September --
23 obviously it's helpful, you know, to have those
24 preps.

25 CHAIRMAN HARRIS: I guess what happened last

1 time, we did the overlap. Is there any more support
2 for the Oak Tree -- the Sunday-overlap program? That
3 was one way it was resolved last time. We could run
4 both Fairplex and Oak Tree on that Sunday.

5 COMMISSIONER MOSS: Could I just say one word
6 about breaks? If we consider ourselves a national
7 industry, there is no break at all. And I think for
8 different barns and different stables, Pomona
9 represents a break of some sort.

10 Santa Anita doesn't take advantage of
11 December 26, which is, I think, as Roger said,
12 everybody knows that's opening date of Santa Anita.
13 It's a big deal. I mean somebody else is racing
14 somewhere else in the country on December 26. So
15 it's not like, if you got a good horse, you're
16 shipping it. So I don't understand the break
17 situation, actually.

18 I know Southern California trainers,
19 that I know, do plan to have breaks at different
20 times and have personnel take over for them and
21 different situations. I just don't, as an owner,
22 understand the Christmas break taking up such a, I
23 think, a substantial amount of the calendar. That's
24 all I want to say.

25 MR. CHILLINGWORTH: Sherwood Chillingworth,

1 Oak Tree Racing.

2 With regard to doing an overlap day,
3 again, could it provide us more prep racing time for
4 the Breeders' Cup? I don't think we favor that. It
5 was a very complicated day last year. And I think
6 both Fairplex and ourselves would not favor trying it
7 again. We're still unravelling some of the financial
8 aspects of it.

9 One of the things I think you all have
10 to consider is that Breeders' Cup -- their
11 relationship, TV-wise, with NBC ends next year. And
12 they may go to another network. Right now, they're
13 constrained in their -- they would rather run the
14 first Saturday in November.

15 But because NBC is committed to Notre
16 Dame football, they have to take what's left. And I
17 know that they're hoping to renegotiate the contract
18 with NBC to try and take care of that problem. But
19 they have another network they are also considering.
20 So beyond next year, I don't think that it's chipped
21 in stone that they're going to be running the last,
22 you know -- the last week in October.

23 VICE-CHAIRMAN LICHT: It has nothing to do
24 with weather? I thought that was a factor in the --

25 MR. CHILLINGWORTH: Well, they don't want to

1 go beyond the first Saturday in November. But they
2 prefer to go the first Saturday in November as
3 opposed to the last Saturday in October.

4 CHAIRMAN HARRIS: Well, we've got quite a few
5 alternatives here. I think we need to keep trying to
6 eliminate any six-day weeks that we can, which is one
7 reason I liked the Santa Anita proposal, I guess.
8 It's the one that was passed out and ended in -- it
9 does eliminate the six-day weeks except the overlap
10 during Del Mar and Fairplex. But it does push Del
11 Mar back a week.

12 I'm not sure -- I mean other than the
13 stakes issues -- how big of a problem that is for Del
14 Mar.

15 MR. FRAVEL: Craig Fravel, Del Mar
16 Thoroughbred Club.

17 I don't want to just cavalierly give
18 away the idea of us closing the day after Labor Day.
19 People think, you know, "Take a successful meet like
20 Del Mar, push 'em back a week -- you know, they can
21 take it. It's no big deal."

22 And it's true that, you know, if you
23 go back to 1983 and the calendar that was created
24 then, we were on that kind of time frame where we
25 ran, most years, a week after Labor Day. And then

1 one or two years, if we'd had good years, we'd close
2 right after Labor Day.

3 If you go back further, however, Santa
4 Anita used to run 55 days and Del Mar ran 43. And
5 maybe we ought to go back to that calendar, if we're
6 really concerned about historical precedents and
7 getting back where we used to be.

8 Fact of the matter is, you know, times
9 have changed since 1983. Schools start at different
10 times. Horsemen, I don't think, are quite as mobile
11 as they used to be. They tend to have homes and
12 families like everybody else. And the fact of the
13 matter is that the week after Labor Day is a -- is
14 something of a hardship on horsemen.

15 A lot of the L.A. schools open right
16 after Labor Day; and we see a lot of people heading
17 back with kids and their families, trying to get back
18 into the rhythm of things in Los Angeles County. So
19 I think it's a meaningful issue for both horsemen and
20 for us.

21 We've run some numbers on it, tried to
22 be realistic about it. I think we sent it to the
23 committee yesterday. I'm not sure they got it in
24 time. You know, our view is that this costs -- that
25 switching the calendar to go the week after Labor Day

1 costs us about \$300,000 in commission income -- if
2 you compare the first week of 2004 with the last week
3 of 2003, when we did run after Labor Day; throw out
4 opening day; switch it with another Wednesday to make
5 it more comparable -- we're in the hole by about
6 \$300,000 of commissions, and purses are negatively
7 impacted by about a quarter of a million dollars.

8 That may not seem as large as what
9 Santa Anita's projecting as their negative impact
10 from the calendar that was proposed by the committee.
11 But -- but to a short meet that has only a certain
12 amount of time to make all its money, doesn't have
13 120 days of racing to count on -- that's a
14 significant impact.

15 And I think I have to remind you also
16 that everything we make ends up going back into the
17 racing product with capital improvements at Del Mar.

18 And our clear preference -- and we've
19 been trying not to make a big deal about it -- but
20 our clear preference is to remain on the current
21 calendar where we close the Wednesday after Labor
22 Day. We think that makes sense from a fairness
23 standpoint, from the horsemen's standpoint.

24 And candidly, I think, from a business
25 standpoint, in all of our cases, it makes sense to

1 highlight the top meet of the year and the top dates
2 of the year. And, clearly, those summer dates are
3 when California racing gets the most prominence other
4 than, candidly, the week after Christmas, when Santa
5 Anita's got the stage.

6 So I would just urge you to take into
7 account the -- not only the financial impacts to us
8 but what makes the most sense in terms of putting on
9 the best show -- and I think the track average is
10 17,000 people a day -- ought to get some credit for
11 doing that in terms of the best dates.

12 CHAIRMAN HARRIS: Thank you. I wasn't quite
13 sure -- I would have liked to have seen the data.
14 That's one of the things with all these things -- we
15 need to get all the data to the Commissioners as
16 promptly as we can, and then they'll argue whatever
17 the case is.

18 But I was under the impression that,
19 like, last year, when you ran the week after Labor
20 Day, that your results were somewhat similar, in
21 attendance anyway, as they were this year when you
22 closed the Wednesday after Labor Day; is that
23 correct?

24 MR. FRAVEL: They're not dramatically
25 different in attendance. But what happens is you

1 have a lot of handle shift from on-track to
2 off-truck. And the negative impact of that is you
3 have to take higher-yielding dollars and turn 'em
4 into lower-yielding dollars because people move back
5 to either Orange County or L.A. or wherever they
6 happen to come from.

7 So, yeah, it's true that, if you just
8 look at the raw numbers, they're not too far off. We
9 managed last year, mainly thanks to some significant
10 promotional efforts involving match races with "Julie
11 Crone" (phonetic). And the year before, we put on a
12 mule match race.

13 And what you have to do is really you
14 pump things. And, whereas, you know, if you're on
15 the better calendar dates, you can focus your
16 resources on more traditional forms of marketing.

17 And, candidly, there's no guarantee
18 that every year you're going to have a Julie Crone
19 and a Pat Valenzuela coming down the wire for the
20 jockey title or "black ruby calves" (phonetic)
21 available for a match race. I think those kind of
22 things - we are kind of lucky to keep the numbers
23 going and keep interest levels high.

24 But the fact of the matter is money
25 shifts. And we end up with a lot more money bet off-

1 track than on. And we just make a lot less money off
2 of that, you know. I'd be happy to go through the
3 numbers with anybody and go through Santa Anita's
4 numbers.

5 I think, you know, that the numbers --
6 it's very hard -- and I pointed this out in a prior
7 letter to the committee; and I know you've seen a
8 million numbers already, both from us and Santa
9 Anita -- candidly, I didn't send you a lot of stuff
10 earlier because, on every calendar I've seen so far,
11 Del Mar was doing fine. So I didn't see the point to
12 making a bunch of big arguments about things.

13 It's only yesterday and today that the
14 idea of getting pushed back, again, seems to have
15 risen to the forefront.

16 But, you know, the numbers are pretty
17 clear. I'm not sure there's a -- I think Santa
18 Anita's estimates of their harm from the preceding
19 calendar, the August calendar, aren't as drastic as
20 they've made 'em out to be.

21 I think we've given a pretty good
22 estimate of what the negative impact on us would be.
23 And, again, I'd certainly be willing to go through
24 those numbers with you if you want to do that.

25 CHAIRMAN HARRIS: Any more comments from the

1 audience?

2 (No audible response.)

3 CHAIRMAN HARRIS: This is a tough decision.

4 Do we need to make this decision at
5 this meeting?

6 EXECUTIVE DIRECTOR WOOD: Well, you have a
7 recommendation from your Race Dates Committee.
8 That's what your -- that's what's on your agenda for
9 this month. And I think, as you did last month, you
10 probably want to see if you have a motion to approve
11 the committee's recommendation on race dates. And if
12 you do, you can vote.

13 If you don't, get the motion to carry
14 that proposal; and the committee may make a
15 recommendation to select another one. Or they may
16 make a recommendation that says, "We put this over to
17 October," which I think that would be about the
18 fourth month we've put this over. So those are the
19 choices you have, it seems to me.

20 But you have an agenda item. And it's
21 a recommendation from the Race Dates Committee for
22 Southern California Thoroughbred and fair race meets
23 for 2005. So if someone on the committee wants to
24 carry that forward, I guess they could.

25 CHAIRMAN HARRIS: I think somebody on the

1 committee needs to --

2 COMMISSIONER MORETTI: Well, I --

3 CHAIRMAN HARRIS: -- as far as the motion.

4 COMMISSIONER GRANZELLA: Oh, one of us? Okay.

5 I make a motion to approve the 2005 race dates as

6 presented in the packet for Southern California.

7 CHAIRMAN HARRIS: Okay. So this has Santa

8 Anita starting on the 29th of --

9 COMMISSIONER SPERRY: Mr. Chairman?

10 CHAIRMAN HARRIS: Is there a second? Is there

11 a second to the motion?

12 COMMISSIONER MORETTI: Well, I guess it would

13 make sense if I seconded.

14 VICE-CHAIRMAN LICHT: I'd like a roll call

15 vote on this.

16 COMMISSIONER SPERRY: Mr. Chairman --

17 COMMISSIONER MORETTI: John, I think, has a

18 motion.

19 COMMISSIONER SPERRY: I think we're open to an

20 amendment to the motion --

21 CHAIRMAN HARRIS: Well --

22 COMMISSIONER SPERRY: -- is a substitute

23 calendar. I would make a motion that we accept

24 the -- the calendar that was presented, I think, I

25 guess, by the gentleman from Santa Anita.

1 CHAIRMAN HARRIS: Well, why don't -- it might
2 be easier to vote this -- the committee
3 recommendation up or down and then go to a --

4 EXECUTIVE DIRECTOR WOOD: Since you have a --
5 that would probably be the correct way to handle
6 this. You've got a motion and a second; so you --

7 CHAIRMAN HARRIS: I understand. I think it's
8 a little complicated.

9 I think basically I'm kind of with you
10 on that. But I think it's -- probably it might be
11 better to just vote on this and then get it all over
12 with.

13 COMMISSIONER SPERRY: Well, but -- but I have
14 a right to make that amendment --

15 CHAIRMAN HARRIS: Well, yeah.

16 EXECUTIVE DIRECTOR WOOD: The person who makes
17 the motion --

18 CHAIRMAN HARRIS: How's that work
19 procedurally?

20 Can anybody -- any Board Member vote
21 to amend a motion? Or you do need the approval of
22 the motion maker?

23 MR. MINAMI: -- on the floor now --

24 COMMISSIONER SPERRY: There has to be a motion
25 and a second --

1 MR. MINAMI: -- go to a second. Then you vote
2 on the substitute motion.

3 COMMISSIONER SPERRY: The substitute motion.

4 CHAIRMAN HARRIS: Okay. The substitute motion
5 is the Santa Anita proposal. Okay. We got a motion
6 or a substitute motion from Mr. Sperry.

7 Is there a second to his motion?

8 EXECUTIVE DIRECTOR WOOD: There has to be a
9 second and then --

10 COMMISSIONER BIANCO: Second.

11 CHAIRMAN HARRIS: The second -- the second to
12 your motion -- so now we're -- we're going to be
13 voting on the substitute motion of Mr. Sperry, which
14 is the -- effectively the Santa Anita proposal, which
15 opens Santa Anita on December 26 and runs --
16 basically moves Del Mar one more week backwards.

17 EXECUTIVE DIRECTOR WOOD: Shouldn't we read --
18 shouldn't we read that into the -- shouldn't we read
19 those dates, so everyone clearly understands them,
20 into --

21 CHAIRMAN HARRIS: Do you want to read those
22 dates into the record?

23 VICE-CHAIRMAN LICHT: What happened to the
24 first motion? That's what I want to --

25 CHAIRMAN HARRIS: Well, we've got to -- we've

1 got to deal with -- I guess, procedurally -- what? --
2 we voted a substitute. Then we go back to the first
3 or what?

4 COMMISSIONER SPERRY: If -- if the original --
5 if the substitute motion passes, then that is the
6 motion. Then it goes in the record.

7 MR. MINAMI: That is --

8 COMMISSIONER SPERRY: If it's defeated, then
9 the original motion is voted on.

10 CHAIRMAN HARRIS: Okay. Does everyone agree
11 with that, on the Board, procedurally?

12 COMMISSIONER MOSS: I think we should
13 describe, you know, what --

14 CHAIRMAN HARRIS: I think we should
15 describe -- I think we described -- I just wanted to
16 see procedurally. Let's have -- well, this was the
17 thing that Jack McDaniel passed out, I believe. So
18 why don't we -- John Reagan can review this just so
19 everyone understands.

20 MR. REAGAN: Commissioners, John Reagan, CHRB
21 staff.

22 For the record, the proposal before
23 us, presented by the Santa Anita Group -- 2005 --
24 Santa Anita, starting on December 26, 2004 -- for 87
25 days -- through April 24th, 2005. The rest of the

1 dates will be 2005.

2 Hollywood Park, Spring: April 27
3 through July 24, for 65 days.

4 Del Mar: 43 days. July 27 through
5 September 14.

6 The L.A. County Fair, Fairplex: 17
7 days. September 16 through October 2nd.

8 Oak Tree, Santa Anita, Fall: 31 days.
9 October 5th through November 13.

10 And the Hollywood Park Fall Meet --
11 Fall-Winter Meet: 29 days. November 16 through
12 December 24.

13 VICE-CHAIRMAN LICHT: I see this as a major
14 negative impact on our racing program, having Del Mar
15 race a week after Labor Day and basically making most
16 of Oak Tree not viable as a Breeders' Cup prep meet,
17 myself.

18 COMMISSIONER MOSS: I agree.

19 CHAIRMAN HARRIS: Okay. We've got a motion on
20 a substitute amendment by Mr. Sperry to approve the
21 calendar that was just stated that was seconded by
22 Mr. "Moss."

23 All in favor?

24 COMMISSIONER MORETTI: It wasn't seconded by
25 Mr. Moss.

1 BOARD MEMBER VOICES: It wasn't seconded by
2 Mr. Moss.

3 COMMISSIONER SPERRY: It was seconded by Mr.
4 Bianco.

5 COMMISSIONER MOSS: Seconded by Mr. Bianco.

6 CHAIRMAN HARRIS: Yeah. Seconded by Mr.
7 Bianco.

8 Okay. Let's have a roll call vote.

9 Would you call the roll?

10 MR. "DOUGHERTY": Excuse me. Excuse me. Is
11 there time for a comment before you make another vote
12 on the motion?

13 CHAIRMAN HARRIS: Well, I think -- what I mean
14 is -- it isn't really -- I guess there's always time
15 for comment. Go ahead.

16 MR. "DOUGHERTY": Well, Charlie Dougherty,
17 California Thoroughbred Trainers.

18 One thing I would like to point out --
19 you have already approved a Northern California
20 schedule. How does this impact the Northern
21 California?

22 And I would just point out, for the
23 record, this, then, has racing up to December 24.
24 And not knowing what would be into the 2006 schedule,
25 again, I would reiterate CTT's position -- whether it

1 be before or after Christmas, we would like some sort
2 of holiday break.

3 CHAIRMAN HARRIS: I think we -- one issue I'm
4 not clear of -- if, down the road, say, we need to
5 modify Northern California's schedule or modify parts
6 of this schedule, does the Board have latitude at
7 some point to make modifications on these dates? Or
8 are these solid? Or how does that work?

9 EXECUTIVE DIRECTOR WOOD: Yes, sir, you do.
10 As a matter of fact, we have to revisit the harness
11 race dates. And we also have to revisit, well, the
12 harness race dates before the end of the year. So
13 you have the latitude to do that.

14 If some new evidence comes forward
15 that you didn't have at the time you were making this
16 decision, that's quite acceptable.

17 Are you ready for a vote?

18 CHAIRMAN HARRIS: Okay. Let's go ahead with
19 the vote.

20 EXECUTIVE DIRECTOR WOOD: Commissioner Licht?

21 VICE-CHAIRMAN LICHT: Opposed.

22 EXECUTIVE DIRECTOR WOOD: Commissioner Bianco?

23 COMMISSIONER BIANCO: For.

24 EXECUTIVE DIRECTOR WOOD: Commissioner
25 Granzella?

1 COMMISSIONER GRANZELLA: Opposed.

2 EXECUTIVE DIRECTOR WOOD: Commissioner
3 Moretti?

4 COMMISSIONER MORETTI: Opposed.

5 EXECUTIVE DIRECTOR WOOD: Commission Sperry?

6 COMMISSIONER SPERRY: In favor.

7 EXECUTIVE DIRECTOR WOOD: Commissioner Moss?

8 COMMISSIONER MOSS: Opposed.

9 EXECUTIVE DIRECTOR WOOD: Chairman Harris?

10 CHAIRMAN HARRIS: Yes.

11 EXECUTIVE DIRECTOR WOOD: That's 4 no's and 3
12 yes's. The motion does not carry.

13 CHAIRMAN HARRIS: Now, we go back to the
14 original motion by Ms. Granzella, which was the
15 committee proposal, which is in your binders, which
16 is -- basically starts Santa Anita on December 29th
17 and allows -- does not have the -- basically closes
18 Del Mar the week -- the day -- Wednesday after Labor
19 Day.

20 So, anyway, should we just go ahead
21 and vote?

22 VICE-CHAIRMAN LICHT: I have a question on the
23 discussion.

24 John, could you compare -- do you have
25 copies for us? -- from the committee's original

1 proposal compared to that proposal that's now in
2 front of us as a motion?

3 MR. REAGAN: The August proposal?

4 EXECUTIVE DIRECTOR WOOD: Is that the August
5 proposal?

6 VICE-CHAIRMAN LICHT: Yes.

7 MR. REAGAN: I have a bar chart that I can
8 read into the record, or you can examine it. And if
9 you have specific questions, I can certainly answer
10 those.

11 EXECUTIVE DIRECTOR WOOD: Mr. Baedeker may
12 have that --

13 VICE-CHAIRMAN LICHT: Just happened to have
14 it.

15 EXECUTIVE DIRECTOR WOOD: Where's the
16 staff's --

17 Mr. Licht, did you want Mr. Reagan to
18 read any of that calendar into the record? Or do you
19 want to just ask questions?

20 VICE-CHAIRMAN LICHT: Well, I'm just looking
21 at it. Commission Sperry gave me a copy of it.

22 EXECUTIVE DIRECTOR WOOD: He's looking at the
23 August calendar that was presented to the Board last
24 month.

25 VICE-CHAIRMAN LICHT: Essentially, it's my

1 understanding that the committee feels that their
2 proposal for this meeting is better than the prior
3 "proceeding" because -- proposal -- because it
4 generates more income to the State.

5 Is that an accurate synopsis?

6 COMMISSIONER MORETTI: Less --

7 VICE-CHAIRMAN LICHT: Less what?

8 CHAIRMAN HARRIS: We're missing -- yeah --
9 the --

10 So I guess the motion we got on the
11 table is the committee proposal for 2005, which is in
12 the binders. Well, let's go ahead and vote on that.

13 VICE-CHAIRMAN LICHT: Could we have a minute
14 to look at this one?

15 CHAIRMAN HARRIS: Oh, okay.

16 My concern with this one is that it --
17 one of the things is it puts a lot of six-day weeks
18 back into the schedule, which I think we should try
19 to get away from because I think we can build field
20 size somewhat by having five-day weeks in those
21 winter-spring periods, particularly.

22 COMMISSIONER SPERRY: Mr. Chairman, is it
23 necessary that we vote on it today rather than -- in
24 trying to look at all of these calendars that are in
25 front of us and trying to get from each organization

1 the impact on the calendar as it's being proposed to
2 be changed, either the one that's on the table right
3 now or the one that was on the table last -- last
4 month so that one can make a more intelligent
5 decision on how to vote?

6 CHAIRMAN HARRIS: Yeah. I feel that way. I'm
7 concerned that I'm not really able to really see all
8 the data that possibly could be there. But I --

9 Would you be interested in making a
10 motion to table --

11 COMMISSIONER MORETTI: Mr. Chairman, if it
12 would make sense, what I would do is defer my
13 position on the committee to Mr. Sperry because I
14 think that a fresh set of eyes might be something
15 that's needed and that -- and if we don't have to
16 make a decision this meeting, then that would be --
17 we could make it next meeting. That would give him
18 time to look through all the -- all the variables.

19 CHAIRMAN HARRIS: Yeah. Well, right now, I
20 mean, just to get the rules of order in place here,
21 though -- we've got a motion on the table and a
22 second. We need -- if we're going to not vote on it,
23 we need a motion to table it, I guess.

24 EXECUTIVE DIRECTOR WOOD: Somebody at the
25 microphone.

1 CHAIRMAN HARRIS: Go ahead.

2 MR. COUTO: Recognizing that this might not be
3 helpful, but I'll nonetheless suggest it. Is it
4 possible, perhaps, to convene a committee meeting in
5 which all of the data, that I think this Board is
6 looking for, is compiled and submitted to the
7 committee meeting and discussed and, hopefully, in
8 addition to the Committee Board Members, any other
9 Board Members might attend?

10 We could all, with data in hand,
11 hopefully convince one another what the best schedule
12 is and, at the October meeting, perhaps, have a
13 resolution that everybody's prepared to live with?

14 CHAIRMAN HARRIS: Yeah. I think that would be
15 good. I think it should be something open to the
16 total Board, you know, possibly to be in committee
17 meeting but be understood that the Board would be
18 available maybe.

19 MR. COUTO: We -- on behalf of TOC, we
20 indicated last month that we would be prepared to
21 assemble whatever data you'd like. We'd dedicate
22 "Wilson" (phonetic) to that. And I know the
23 racetracks have their resources. And to the extent
24 Commissioners have any particular data they'd like to
25 see, we'd be more than pleased to provide it. Thank

1 you.

2 CHAIRMAN HARRIS: Okay. We've got a -- we
3 need a motion to table. And that's the --

4 EXECUTIVE DIRECTOR WOOD: You've got one
5 motion already before you.

6 CHAIRMAN HARRIS: Okay. We've got to do
7 something to --

8 COMMISSIONER GRANZELLA: So you want me to
9 withdraw my motion?

10 Well, if it makes everybody feel
11 better, for more information, I'll withdraw my
12 motion.

13 COMMISSIONER BIANCO: I second.

14 CHAIRMAN HARRIS: Now, we need to --

15 COMMISSIONER SPERRY: Now I make a motion to
16 table, Mr. Chairman.

17 CHAIRMAN HARRIS: Table the --

18 COMMISSIONER SPERRY: The race dates --

19 CHAIRMAN HARRIS: I think it's tabled if it's
20 not acted on it. And it basically would be to --

21 COMMISSIONER SPERRY: If we don't need to make
22 an official tabling, then that's fine.

23 CHAIRMAN HARRIS: Yeah.

24 MR. REAGAN: Mr. Harris, just one quick note.
25 The October meeting is the 14th, I believe. And if

1 these folks want to get us some information that
2 we'll have time to examine and prepare for that
3 meeting, we'd need to have it by the end of this
4 month.

5 CHAIRMAN HARRIS: Yeah. I'd like to have that
6 meeting, you know, not the morning of the 14th,
7 either. We could have a meeting the week of the 2nd
8 sometime, possibly, that we could really digest all
9 the different material. I'd suggest we do it on a --
10 I don't know -- Wednesday or Thursday, the 5th or 6th
11 or something like that.

12 MR. REAGAN: Then we would need the data even
13 sooner, perhaps within a week.

14 CHAIRMAN HARRIS: I think the data --
15 everyone's kind of got their data. I think it's just
16 a matter of trying to digest it.

17 MR. FRAVEL: Mr. Chairman, Craig Fravel, Del
18 Mar, again.

19 You know, the fact of the matter is
20 that all the data anybody wants is available on
21 CHRIMS. And CHRIMS can do pretty much, subject to
22 time limits, whatever kind of inquiries people want
23 to submit to them.

24 I would suggest, if we're going to
25 have another meeting, that we sort of develop our

1 inquiries ahead of time and ask CHRIMS if they can
2 work with "Wilson Shirley" (phonetic) or whomever to
3 develop some reports so that we can all work off the
4 same kinds of data.

5 Any one of us is clever enough that we
6 can come up with different ways to compare these
7 things, whether it's comparing 2001 to 2004 or this
8 year to last year, that do nothing but thoroughly
9 confuse everybody.

10 And I think it's important that
11 everybody be working off the same kinds of inquiries
12 so that maybe we all frame some inquiries and get 'em
13 to staff and ask CHRIMS to give some input that would
14 be helpful.

15 COMMISSIONER MOSS: Can I just ask one quick
16 question of Santa Anita people?

17 I'm looking at this one set of dates,
18 which has Santa Anita starting on Sunday the 26th,
19 taking a break on the 28th. Santa Anita, on this
20 proposal, has literally four Mondays of the meet.
21 Now, is that objectionable in some way? Am I looking
22 at the right one?

23 MR. McDANIEL: You're looking at the --

24 Jack McDaniel, Santa Anita.

25 Commissioner Moss, you're looking at

1 the handout that "Chris McCarron" (phonetic) gave
2 you?

3 COMMISSIONER MOSS: Yeah.

4 MR. McDANIEL: And the question is about the
5 Monday -- the Monday, the 27th?

6 COMMISSIONER MOSS: The Mondays. Are those
7 objectionable in some way? Or are they --

8 MR. McDANIEL: No. They're not
9 objectionable --

10 COMMISSIONER MOSS: Are those usually holidays
11 or something?

12 MR. McDANIEL: They're all holidays.

13 COMMISSIONER MOSS: Yeah.

14 MR. McDANIEL: They're all holidays. It's a
15 national holiday, the 27th. And we have Presidents'
16 Day and Martin Luther King.

17 COMMISSIONER MOSS: Right. And that would
18 give you just about 17 weekends, wouldn't it?

19 MR. McDANIEL: It would give us 17 weekends.
20 Yes.

21 COMMISSIONER MOSS: And it would have
22 Hollywood starting on the 20th?

23 MR. McDANIEL: Hollywood Park would start its
24 spring meet --

25 COMMISSIONER MOSS: Yeah.

1 MR. McDANIEL: -- on April the 27th.

2 COMMISSIONER MOSS: No. I meant -- on the
3 sheet I have, it would start on the 20th.

4 MR. McDANIEL: I -- I believe --

5 COMMISSIONER MOSS: -- our Board meeting
6 April -- August 19 --

7 MR. McDANIEL: Commissioner Moss, apparently
8 this is what Mr. Baedeker gave you? And this was the
9 committee's recommendation at the Del Mar meeting
10 that was changed for the new recommendation? This
11 one did not give us 17 weekends.

12 CHAIRMAN HARRIS: The -- which version didn't?

13 COMMISSIONER MOSS: Oh, it's not 17. You're
14 right.

15 COMMISSIONER SPERRY: See. That's one of the
16 problems I'm having. I've got so damned many
17 calendars in front of me, and it doesn't say which
18 one was presented particularly by who.

19 CHAIRMAN HARRIS: Well, so --

20 COMMISSIONER MOSS: All right. Thank you.

21 COMMISSIONER SPERRY: I'm just saying --

22 CHAIRMAN HARRIS: I think it would be good if
23 all of us could think of what specific issues we have
24 or what questions or what numbers we want that would
25 help us in our decision. And it's been suggested we

1 have that in October.

2 On the 4th of October, there is a
3 retirement event party for Roy Wood in Sacramento.
4 Would that work to do it in Sacramento that
5 afternoon, when our staff and everybody is up there?
6 That's as close to Fresno as L.A., actually. If that
7 were a possibility, that would be a good day to do
8 it.

9 And that would give us another -- our
10 October meeting is -- I think it's 10 days to see if
11 there's any other things. So you'd have to get that
12 notice out pretty quick.

13 COMMISSIONER SPERRY: Well, my problem is I'm
14 going to be out of the state on the 4th and not
15 returning till the morning of -- the morning of the
16 5th, to be honest.

17 CHAIRMAN HARRIS: Okay. Well, we could do it
18 the 5th.

19 COMMISSIONER SPERRY: I could be there -- I
20 could be there, if you're going to hold it in
21 Sacramento, on the morning of the 5th so that those
22 who go to the party -- and then we could spend all
23 day if we have to --

24 CHAIRMAN HARRIS: Yeah.

25 COMMISSIONER SPERRY: -- on the 5th.

1 CHAIRMAN HARRIS: Okay. Well, would the 5th
2 be acceptable to everyone? Anybody have any other
3 conflicts? Let's think about the 5th. We can decide
4 that if there's some conflict that comes up.

5 Okay. Let's take a short break now.
6 And we'll come right back.

7 (Break: 10:51 - 11:14 A.M.)

8 CHAIRMAN HARRIS: Okay. We're going to
9 reconvene the meeting. Just for the record, I'd like
10 to announce that Ms. Granzella had to leave for
11 another engagement.

12 But our next item on the agenda is
13 Item 5, which is the proposed addition of Rule
14 1843.6 -- Total Carbon Dioxide Testing. Dr. Jensen
15 will present this.

16 DR. JENSEN: Thank you, Mr. Chairman.

17 For some time now, there has been
18 rumors and suspicion that alkalizing agents are being
19 administered to horses -- common name for alkalizing
20 agents are "milkshakes" -- have been administered to
21 horses in an attempt to alter performance.

22 In an attempt to verify the validity
23 of those rumors and suspicions, the Board, with
24 generous financing from Commissioner Bianco and from
25 the Oak Tree Racing Association, conducted a survey

1 to determine if, indeed, alkalizing substances were
2 being administered to horses.

3 Samples were collected and analyzed
4 during the Santa Anita meet, the Hollywood Park meet,
5 the spring Golden Gate Fields meet, and at the spring
6 Bay Meadows meet. At the end of that time, Del Mar
7 Racing -- Del Mar Turf Club volunteered to continue
8 the survey at their race meet; and the survey is
9 still continuing here at Fairplex.

10 The results of those -- of this survey
11 does indicate that some horses have been administered
12 alkalizing substances, or milkshakes, in excessive
13 amounts. At the present time, the Board does not
14 have a rule in place that would facilitate the
15 regulation of the administration of alkalizing
16 substances.

17 Therefore the rule that's in your
18 packet -- 1843.6 -- is a proposed rule that would
19 allow the Board to regulate alkalizing substances, or
20 milkshakes. It's called "Total Carbon Dioxide
21 Testing" because total carbon dioxide is an
22 indication of the amount of alkalizing substances
23 present in a horse's system.

24 The rule that's before you has been
25 drafted, utilizing rules that are in place for other

1 racing jurisdictions, which I should comment that
2 jurisdictions that have rules in place regulating
3 total carbon dioxide or alkalizing substances
4 primarily deal with Standardbred racing. Very few
5 deal with Thoroughbred racing.

6 The rule before you would make it
7 possible to regulate this practice in all breeds.

8 There's one part of this rule that I
9 should point out, and that's Point E. This says,
10 "The provisions of Rule 1859.25 of this article shall
11 not apply to blood samples collected for TC02
12 testing."

13 1859.25 deals with split-sample
14 testing. Total carbon dioxide in blood is not
15 stable. The samples must be analyzed within at least
16 4 or 5 days. The practice is to try to analyze them
17 within 72 hours of collection.

18 Therefore, the split-sample rule, as
19 it is presently drafted or crafted in the rules and
20 in the law, will have to be modified or waived to
21 allow this to take place.

22 As I said it's -- as I mentioned, it's
23 not only in the rule, it's also in the law. So it
24 will either take a law change or an agreement, by --
25 with horsemen, with owners and trainers, that the

1 split-sample -- a split-sample could be collected but
2 it would be need to be analyzed at the primary
3 laboratory that's doing the initial analysis.

4 VICE-CHAIRMAN LICHT: So the "absolute insurer
5 rule" would also apply to this -- right? -- the
6 trainer would be the insured?

7 DR. JENSEN: I assume so. Yes.

8 CHAIRMAN HARRIS: I wasn't clear what
9 sanctions we're suggesting. If a person, you know,
10 violated these levels, what would happen?

11 DR. JENSEN: There have not been sanctions
12 presented. I think, with drug testing, the rules do
13 not specify sanctions.

14 CHAIRMAN HARRIS: I mean, is it clear that
15 that -- I'm not really familiar with exactly the
16 wording on other higher levels, if they exceed, you
17 know, our "clenbuterol" (phonetic) threshold --
18 individual thresholds, say, someone used
19 clenbuterol -- if you exceed the clenbuterol
20 threshold, is that similar to exceeding this
21 threshold as far as the range of penalties?

22 DR. JENSEN: Yes. I would -- well, I don't
23 know about the penalties, but it would be a
24 violation. And the penalties would be decided by
25 either the stewards or by the Board.

1 CHAIRMAN HARRIS: Do the stewards have a kind
2 of a laundry list of things they can do for different
3 types of violations? I mean does this fit some type
4 of violation that they would -- they would have
5 reference to?

6 DR. JENSEN: I think the reference would be
7 what's done in other states. But I don't think there
8 is a laundry list of penalties.

9 EXECUTIVE DIRECTOR WOOD: Well, there's
10 guidelines put together for medication violations.
11 This would be a category -- however you categorize
12 it, this would be a violation which would fit into
13 the guidelines we have. They're only guidelines.

14 CHAIRMAN HARRIS: I know we've got these
15 different categories. But does this fit some
16 category?

17 COMMISSIONER MOSS: What does New York do or
18 Kentucky, for example?

19 DR. JENSEN: New York does not test
20 Thoroughbred horses for total carbon dioxide.
21 Neither does Kentucky.

22 EXECUTIVE DIRECTOR WOOD: What would you
23 classify a violation of TCO2? Would it be a Class 6,
24 5, 4, or 3?

25 DR. JENSEN: Well, I think it would be at

1 least a 3.

2 And I should say also -- I should
3 comment that, last week, the Racing Medication
4 Testing Consortium met in Lexington. And our survey
5 was a topic of discussion. And it led to the
6 agreement, by the Consortium, that they're going to
7 recommend a national guideline for alkalizing
8 substances or TCO2 testing.

9 VICE-CHAIRMAN LICHT: I'd like to -- could we
10 add to this rule to make it a Class 3, with loss of
11 purse?

12 DR. JENSEN: Class 3 would be a loss of purse.

13 VICE-CHAIRMAN LICHT: Yes. That's what I'm
14 saying.

15 EXECUTIVE DIRECTOR WOOD: We can certainly add
16 it to the rule. This is a notice of 45 days. Before
17 we send the notice out, we can add to the rule that
18 this would be a Class 3 violation.

19 VICE-CHAIRMAN LICHT: Which would mean loss of
20 purse, which I think it should be. Give it some
21 teeth.

22 CHAIRMAN HARRIS: Or send it out that way,
23 anyway. People could comment on it. But I think,
24 for publishing purposes, that this should be a Class
25 3.

1 Any comments on this?

2 MR. FRAVEL: Craig Fravel, Del Mar
3 Thoroughbred Club.

4 We would just encourage the Board to
5 adopt this regulation for notice and comment. I
6 think it's very important that the Board have some
7 regulatory guidelines on the quantitative levels that
8 are suspicious or nonsuspicious. And I think it's
9 important that it move forward as quickly as
10 possible.

11 I would suggest that, during that
12 comment period, that issues like Mr. Licht just
13 raised concerning the level of the violation be
14 considered and also some other possibilities because
15 the split-sample issue's going to become problematic.
16 I see the attorney general nodding his head.

17 I think you're going to have due
18 process questions that are raised the first time you
19 actually try to suspend somebody from making their
20 living. I would think very carefully about whether,
21 rather than suspending trainers, that we consider
22 putting the horse in jail for some period of time;
23 that, if a positive test, not only consider a
24 forfeiture of purse but some period of time within
25 which that particular horse that tested positive

1 couldn't be reentered in a race.

2 I think this is the kind of problem
3 that will go away once people have confidence in the
4 testing procedures and the efficacy of the
5 enforcement.

6 And if you do things like say, A, "We
7 know we're going catch you," which, I think, if you
8 do the testing in a timely fashion, from what I
9 understand, you're going to identify those horses
10 that have been treated with excessive bicarbonate
11 levels; and if they also know that there are
12 immediate consequences and disclosure of that
13 violation, it's going to go away on its own.

14 You're not going to have spend a lot
15 of time and effort, after you've established this, to
16 keep it happening. I have a pretty high confidence
17 level that, if we just move this forward, people will
18 consider some of those alternatives.

19 It's a little different than the
20 historic split-sample kind of violation. I think you
21 need to look at it a little differently.

22 VICE-CHAIRMAN LICHT: Craig, I think we need
23 to make the Class 3 loss of purse part of this
24 initially. Otherwise, it's going to just delay
25 things. And there's no reason not to --

1 MR. FRAVEL: I'm not suggesting that you
2 shouldn't consider that. I'm just suggesting that
3 you also consider some other alternatives as options
4 that might avoid some of those split-sample issues.

5 CHAIRMAN HARRIS: Can the stewards hear a
6 Class 3?

7 DR. JENSEN: Sure.

8 CHAIRMAN HARRIS: My concern is don't put it
9 in some category that delays justice on it. But they
10 would have -- they would still have the latitude. I
11 personally like the idea of some sanction on a horse
12 for some number of days.

13 I think it would also get people's
14 attention with that. I think -- I'm not sure if they
15 have that latitude now. But I presume they might.

16 EXECUTIVE DIRECTOR WOOD: One of the things we
17 might want to have some consideration for -- some
18 support in the industry is the split-sample law --
19 that's now part of the law.

20 We may need to, maybe between now and
21 the end of the year, try to have some adjustments in
22 that law put forward to exclude this type of testing
23 for that -- the split-sample requirement in the law
24 because that's something we've also looked at, as
25 part of the rule-making process, is an adjustment to

1 the law itself.

2 VICE-CHAIRMAN LICHT: I think we should also
3 move towards getting the tracks to buy this machinery
4 so we can test at the tracks. It's only \$40,000, and
5 it's movable. So all the tracks can come together,
6 buy the machine and --

7 MR. FRAVEL: When we were looking at this
8 issue earlier, both Del Mar and Oak Tree indicated
9 that they were ready and willing to -- actually have
10 spent that money during our current meet.

11 And I think Dr. Stanley, at least, has
12 indicated that performing that testing on location
13 would not be difficult. So we would certainly be
14 willing to participate in moving that forward as
15 well.

16 MR. COUTO: Drew Couto, Thoroughbred Owners of
17 California.

18 Mr. Licht, I think I made this
19 statement with you. If I haven't, TOC's prepared to,
20 through various funding, purchase both machines --
21 one for the North and one for South, if necessary.
22 We'll step forward and do that immediately. So it
23 shouldn't be an issue.

24 COMMISSIONER MOSS: I think also, if I may
25 say, a repeat offense, you know, by the same trainer

1 for the same infraction should -- should cause a
2 greater penalty.

3 MR. "DOUGHERTY": Charlie Dougherty,
4 California Thoroughbred Trainers.

5 Just to go on record that CTT fully
6 supports moving forward with this regulatory
7 procedure. We feel strongly that we need to get rid
8 of the stigma of any unfair advantages out there. So
9 we support this action.

10 MR. CHILLINGWORTH: Sherwood Chillingworth,
11 Oak Tree Racing.

12 At our meet this year, we're going to
13 test every horse in every race for the first week.
14 And thereafter we'll go on a random -- some kind of
15 random method. We'll test maybe 3 races a day, every
16 horse in that race. And we have to devise some
17 method, whether the stewards select a race that --
18 select the races so that it's a very random thing and
19 we're not pointing any fingers.

20 Also we're going to hire some
21 additional security people for our meet. It will be
22 under the jurisdiction of "Dick Hunniker" (phonetic),
23 the Santa Anita chief. And when we -- because we
24 have this extra testing requirement, we're going to
25 get either a grad student or another veterinarian to

1 help Dr. Bell out because he can't be testing horses
2 in the test barn and drawing samples for all those
3 horses.

4 As you already -- as you already know,
5 for every graded stakes this year, we'll have a
6 security person trained on every barn of the horse of
7 the day for 6 hours prior to the post time. And
8 we're hoping that this type of determined effort will
9 improve the situation and create the perception and
10 the reality that we're all playing on the same field.

11 CHAIRMAN HARRIS: I wish we had the same
12 consistency on dates as we do on bicarb, believe me.
13 We'd be in good shape here.

14 Is there additional comment from an
15 expert horse in the field?

16 MR. HOROWITZ: Alan Horowitz, Capitol Racing.

17 Since the inception of Capitol Racing
18 and prior to the inception, several years earlier,
19 the harness industry here in California has been
20 using blood-gas testing. It's done in cooperation
21 with the horsemen -- with the horsemen's agreement in
22 the -- consistent with our license application --
23 submitted as part of our license application.

24 And we test the first two finishers in
25 every race and have been doing this -- we have strict

1 penalties that, since we are unable to fine trainers
2 or owners or personnel licensees -- only the Board
3 has the ability to do that -- and since we do not
4 have the ability to redistribute purses, we have two
5 penalties, in essence.

6 One is a 30-day sanction for that
7 horse and other horses, for 30 days, have to appear
8 in our detention barn at the cost of the trainer
9 involved. A second penalty -- the trainer is out for
10 a year.

11 So I mean we didn't want to fool
12 around. We wanted to make sure that the heavyweight
13 second penalty had an impact so that the first
14 situation wasn't a gimme -- a slap on the wrist. And
15 this, essentially, our people know; and it's really
16 cut down the incidence of high tests. We have a
17 couple a year. But we think it's a good thing to do,
18 at least on Standardbreds.

19 And we're willing to assist the Board
20 in any way. And we would like -- if the Board wants
21 to take over the jurisdiction for doing this.

22 CHAIRMAN HARRIS: I'd like to go the other
23 way, actually. It sounds like the association model
24 sounds very, very sound and eliminates a lot of
25 potential bureaucracy.

1 But do you ever have any people that
2 are questioning the split-sample aspect of it?

3 MR. HOROWITZ: We do our post -- we do
4 post-race testing. There is some school of thought,
5 at least with regard to Standardbreds, that the
6 levels of CO2 are easier to test and -- when they're
7 driven into the horse -- the horse's blood system
8 after performance.

9 And so an hour and a half after each
10 race, we take the samples. If we -- and we do the
11 immediate testing on the grounds. If we find that
12 there was a high reading, we immediately draw a
13 second blood sample from the horse because the horses
14 are still retained there until after the first test
15 clears or we take the second test.

16 So while we don't have the ability of
17 doing a split sample, there is some protection by
18 taking a second test. And then the machine is
19 recalibrated between the first test and the second
20 test to give us -- to make sure that all of the
21 elements have been checked and rechecked so that it's
22 not some fault in the system as opposed to something
23 in the horse's blood.

24 CHAIRMAN HARRIS: It sounds like that's
25 something that racing associations could learn from.

1 Any other issues on this? 'Cause we
2 are going to put it out for notice. And obviously
3 anybody could comment on it at that point.

4 COMMISSIONER MOSS: Could we make a motion
5 about that now -- to put it into law at this point?

6 CHAIRMAN HARRIS: Could we -- I guess --

7 EXECUTIVE DIRECTOR WOOD: All we have to do is
8 make a motion for the 45 days. It can done by the
9 direction of the Chairman, probably.

10 CHAIRMAN HARRIS: Do you want to just -- would
11 you like to make that in a motion -- that we put this
12 out for notice?

13 COMMISSIONER MOSS: Yes.

14 VICE-CHAIRMAN LICHT: Are you including, like,
15 that it would be a Class 3 with purse loss?

16 COMMISSIONER MOSS: I think we should include
17 it be a Class 3 with purse loss. I think we should
18 take the gentleman's suggestion about the horse
19 itself being in some sort of, let's say, 60-day
20 situation where the horse can't run again.

21 CHAIRMAN HARRIS: I think -- yeah. There's a
22 couple different issues here. I think any racing
23 association --

24 COMMISSIONER MOSS: I think, if it's a repeat
25 violation by the trainer, it should be a very serious

1 violation.

2 CHAIRMAN HARRIS: Yes. I think the Board -- I
3 mean some of the things, I think, the racing
4 associations could do similar to what Capitol's done.
5 But I think, clearly, they need to make it a Class 3.
6 The stewards should have a lot of -- a lot of
7 discretion on sanctions.

8 COMMISSIONER MOSS: The interesting thing on
9 this is that, as far as if the bicarbonate is
10 administered with an intent to change the playing
11 field -- it's not -- it can't be an accident, you
12 know. The horse is not going to have a Milk of
13 Magnesia on his own, you know. So I think the
14 penalty should be quite severe.

15 CHAIRMAN HARRIS: But the real bothersome
16 thing is that, apparently, to get these levels,
17 you -- a horse had to be administered the
18 bicarbonates within -- clearly, within 24 hours of
19 the race. And that's clearly prohibited.

20 So if the people are -- if a horse is
21 tested, then it appears that there's been a violation
22 of our 24-hour rule.

23 But I think we need to -- one thing,
24 though, I think we should keep in mind is California
25 by doing this, which I think we can be proud -- is

1 that we will be one of the first Thoroughbred states
2 to do it. And we are a leader in protecting our
3 public against this. I don't think we want to come
4 across that we're, you know, linked to the problem on
5 this at all.

6 We're moving forward. Maybe we should
7 have done it even sooner. But I think it's a good --
8 a good thing to do. Unfortunately, just our
9 rule-making process will take 45 days. And I don't
10 think -- if any racing association wants to adapt its
11 own sanctions, they clearly can do that at any time
12 if it's in their ability to do it.

13 Is there a second to the motion?

14 COMMISSIONER BIANCO: I second it.

15 CHAIRMAN HARRIS: All in favor?

16 BOARD MEMBER VOICES: Aye.

17 CHAIRMAN HARRIS: Okay. We have the
18 postmortem program. Dr. Ardans?

19 EXECUTIVE DIRECTOR WOOD: I want to make an
20 announcement. They've asked that Item 8 be withdrawn
21 from the agenda today. If anyone's here to comment
22 about Item 8 -- that's going to be withdrawn from the
23 agenda.

24 CHAIRMAN HARRIS: Actually, in introducing
25 Dr. Ardans, too, I think we're very important to have

1 the California Animal Health and Food Safety
2 Laboratory, which is at Davis and at several other
3 locations. That has been a real asset to the total
4 horse industry and several other parts of California
5 agriculture.

6 Dr. Ardans has been there for some
7 times and does an excellent job in that position and
8 has literally accomplished very much. And just I
9 hope that you'll pay close attention to his report
10 but also get a copy of the report and get it
11 distributed to everyone you know that would be
12 interested. I'd like to see -- it would be a good
13 thing for those trainers to do on their Christmas
14 break is read this report.

15 But it's got a lot of good material in
16 it which, a lot of times, just gets filed away
17 somewhere. We're trying -- and one key part of
18 getting more horses and more performances is better
19 science and better understanding of why horses break
20 down. And this is a key part of it. There's a whole
21 team at UC Davis that has worked on it.

22 DR. ARDANS: Well, thank you, Commissioner
23 Harris.

24 We very much appreciate the
25 opportunity to come before you and share with you

1 some of our findings of this -- particularly this
2 past year. Unfortunately, today, one of the strong
3 components of our program -- Dr. Sue Stover -- is
4 unable to join us today. But she'll be back in the
5 future.

6 Before I get started, I'd like to
7 introduce one of the newest faculty members in our
8 organization. That's Dr. Francisco Uzal sitting here
9 in the front row. We were very fortunate, several
10 years ago, to recruit him from Argentina.

11 He comes from Patagonia -- that area
12 of Argentina. And he has assumed the responsibility,
13 the overall responsibility, for our postmortem. So
14 you'll be seeing more of Francisco in the future.

15 Now this is our postmortem program as
16 we know it in California. And it's truly a
17 collaborative effort between our laboratory;
18 Dr. Stover's orthopedic research laboratory; and, of
19 course, it's the CHRB's program.

20 But very strong in this are all the
21 racing associations that participate, contribute to
22 the -- to the whole working of this program.

23 Now, when this program was initiated,
24 back in 1990, the Board came to us and asked us --
25 they were very much concerned by the catastrophic

1 injuries that were occurring at that time. And they
2 asked us could we figure out what is causing these
3 injuries, why they're happening, and are there
4 reasons -- are there ways that these injuries could
5 be prevented?

6 So what we thought we'd do is present
7 some milestones and kind of review what has happened
8 with this program. As I said, it started in 1990.
9 One of the first issues that was seen was the stress
10 fractures of the humerus were identified.

11 And this was something that Sue Stover
12 picked up on very, very quickly. We had some
13 meetings in our laboratory, and we brought faculty in
14 from the School of Veterinary Medicine and showed
15 them some of the opportunities that were available in
16 the program.

17 Sue saw this. She took some of these
18 fractured humeri back to her laboratory, was able to
19 digest some of the tissue off. And you can see
20 underneath here -- unfortunately the light doesn't
21 lend itself well in here -- but you can see this
22 fluffy-looking material around the top part of the
23 humerus.

24 And then it may take a little bit of
25 imagination, but here's a stress fracture. And these

1 were the small, little fractures that had been there
2 for some time. And here's the body's attempt to try
3 and heal that fracture. It was laying down new bone
4 in, essentially, as a patch to that fracture.

5 Now, any of you that are runners, you
6 may have -- you've suffered from shin splints. And
7 that's basically what's going on with shin splints.
8 You get these little hairline fractures that occur in
9 the cortical bone here.

10 And as long as the body can heal these
11 fractures and keep 'em in check, we're all in pretty
12 good shape. But, say, if these things are not
13 allowed to heal properly and the insult continues,
14 that's when we end up with these catastrophic
15 fractures.

16 And we started learning a lot about
17 these catastrophic fractures. In 1992, we started
18 looking more in depth at these sudden deaths that
19 were occurring on the track and at the gastric ulcer
20 issue.

21 Now this is an ordinary -- a normal
22 coronary artery. These are the vessels that feed the
23 surface of our heart. This is what President Clinton
24 had bypassed in his recent surgery. I think some of
25 you have seen some of these in the past. Essentially

1 this is a pipeline. And what we've done is we've cut
2 across that so you're looking at a cross-section of
3 this pipe, essentially, or this artery that feeds the
4 heart.

5 Now, characteristic of an artery is
6 this very nice muscle right here. But you see the
7 nice open space through which blood can flow. There
8 was a horse that was racing and training at Santa
9 Anita. The horse worked on Christmas Day, came off
10 the track, and collapsed and died.

11 Previously we'd have missed these type
12 of horses. But one of our pathologists went into
13 that very heart very much in detail. And you can see
14 here this is the only area that was left in that
15 horse's coronary artery for which blood could flow
16 through. The rest of this is scar tissue.

17 And then look at the muscle here in
18 the wall of this artery. This is all infiltrated
19 with scar tissue. So essentially that artery is
20 completely occluded. And I suspect this is probably
21 what some of President Clinton's arteries looked
22 very, very similar to this.

23 Now this is a horse that's had a heart
24 attack. And we call this a myocardial infarct. But
25 here, again, this darkened area -- that horse has had

1 a heart attack. This tissue has died. And that
2 tissue is going to be replaced with this type of scar
3 tissue. And that's going to result in a horse that
4 has a reduced cardiac function.

5 Now, in '93, Santa Anita, through the
6 Southern California Equine Foundation, put a bone
7 scanner, or nuclear scintigraphy right on -- at Santa
8 Anita. And that's the only way that you can pick up
9 these little stress fractures as we talked about with
10 the humerus.

11 Then we started looking at when these
12 humeral fractures were occurring. And you can see
13 that most of these humeral fractures would occur
14 three to five weeks after a horse returned to
15 training from a layup and that over 95 percent of
16 these humeral fractures -- they happen the same way.

17 They don't happen in racing. They
18 happen in training. And they usually happen when
19 horses are just being galloped. For the first time,
20 we started seeing these pelvic fractures. Then we
21 saw that over 90 percent of our major bone
22 catastrophic fractures had a preexisting stress
23 fracture.

24 Here's a nuclear scintigraphy unit at
25 Santa Anita. A lot of you have probably seen this.

1 But I think there is a real tribute to the industry
2 in California. This is just the way we get things
3 done in California. We get in and get the problem
4 resolved.

5 Here's the scanner, and here's the
6 series of these scans that Dr. Rick Arthur gave us.
7 And this has been a very successful program.

8 Now here's the stress fractures of the
9 pelvis. And there was a horse that raced -- that was
10 racing at Del Mar a number of years ago. The horse
11 worked on a Friday, was found with a fractured pelvis
12 on a Saturday morning. And one of our
13 pathologists -- Deryck Read -- in San Bernardino
14 really went into depth on a Saturday afternoon, took
15 that pelvis apart, sent it up to Dr. Stover.

16 And she was able to find that there
17 were 6 -- 6 preexisting stress fractures. And you
18 look at one of 'em up close. Here's the same process
19 that you saw going on in the humerus. The bone is
20 trying to heal itself, putting a patch over that.

21 So in looking at these pelvises very
22 closely, there were new areas that we'd never known
23 before that were causing problems. And one of 'em
24 was here on the wing of the ilium. So they were able
25 to design and devise a new angle on which they could

1 do the bone scan so you can pick up these ones and
2 furthermore start looking at 'em with ultrasound.

3 Then these cannon bone fractures --
4 these -- what we refer to as "lateral condylar
5 fractures" -- but they're a "slap" fracture that
6 happens on the bottom end of the cannon bone.

7 And then we had the scopolamine issue
8 that reared its ugly head that year. But here's the
9 end of the cannon bone that we're referring to here.
10 And here's the stress fracture. And unfortunately
11 you can't see it well in the light here. But you can
12 see is it's just like somebody has sliced a side off
13 of that bone.

14 But in these fractures, we started
15 noticing that there was this lesion here. And it's
16 often referred to as "osteocondrosis," meaning that
17 there's a disease of the bone and there's a disease
18 of the cartilage that's overlying these areas. And
19 it's like a little divot had been taken out of these
20 areas.

21 And the importance of that will, I
22 think, be shown later because those are the things
23 that we feel weaken the end of the bone here and set
24 that bone up and predispose it to making these types
25 of fractures.

1 And now here's the scopolamine. And
2 that's a very common weed in California -- the
3 jimsonweed. And all of it is toxic. But the most
4 toxic parts of it are these seeds here. And that was
5 the unfortunate thing -- that some bedding was
6 contaminated and some hay was contaminated with this
7 material.

8 Scopolamine is used -- any of you that
9 have problems with motion sickness -- this is what's
10 in the drug that's in the little patches that you put
11 behind your ears.

12 And I'm told, in the days of
13 Haight-Ashbury in the late 60's, these were referred
14 to -- what a lot of the folks referred to as the
15 seeds and they would very get very high on the -- on
16 these seeds. But I think people now are aware of
17 the possibility of -- or the concerns with
18 jimsonweed.

19 Now, we saw, then, later, that over a
20 quarter of all the catastrophic injuries in
21 California were associated with stress fractures in
22 four major bones and furthermore started looking at
23 exercise regimes that you could get out of work
24 records and some of those aspects.

25 And you could see that some of those

1 animals that had had these intense exercise regimes
2 were at 7 times the risk for a fatal musculoskeletal
3 injury during a race and 3 times the normal risk
4 during a training.

5 In 1996, Sue started looking at the
6 possible risk associated with the toe grab, started
7 seeing a high percent of stress fractures in the
8 lower vertebrae of the back and the pelvis.

9 And these were horses that had died
10 for some other reason other than a fractured pelvis
11 or fractured vertebrae. And we started looking in
12 depth, and we saw that most horses had some kind of
13 a -- some level of osteoarthritis or arthritis in
14 their lower back.

15 Here's the toe grab issue. And Sue
16 has had a very extensive survey. And all the data is
17 in now on that two-year survey. And she should be
18 summarizing that in the future. But suffice it to
19 say that, in the most recent work, she saw that a lot
20 fewer horses were wearing toe grabs than what the
21 initial study showed.

22 So maybe there has been some effect of
23 the initial findings showing that there looked like
24 there was a risk for injury with these, especially
25 the higher toe grabs.

1 Now here's the vertebral stress
2 fractures that we talked about. And if you can see
3 and if you just imagine, here are what we refer to as
4 the dorsal process of the vertebrae. If you feel up
5 and down your back, to feel the individual little
6 bumps -- that's what you're feeling. You're feeling
7 these dorsal processes here.

8 And here's a horse's dorsal process.
9 Here's one that was completely fractured. And you
10 could take that, just pick it up, and the spinal cord
11 was right there, totally exposed. And it's just
12 amazing how many of these we're seeing in these
13 horses now.

14 We started looking at the equine
15 protozoal myelitis, the problem that has caused the
16 rear lame -- rear leg problem in a lot of our horses.
17 There was a very controversial test as to its
18 meaning. We're very fortunate that we have an
19 advisory committee to this program. And it's chaired
20 by one of our leading trainers -- Richard Mandella.

21 And one day, we were at Del Mar. And
22 Richard and Rick Arthur came up and said, "Why don't
23 you start looking at these EPM horses that are coming
24 through the postmortem program?" and see if we could
25 associate that with the predictability of the test.

1 And we put together a program, and we're able to come
2 up with some conclusions on that.

3 Then Sue further looked at the toe
4 grab issue and saw that just the regular toe grab
5 seemed to increase the risk of catastrophic injuries.

6 Here's our EPM project. You can see
7 horses will present various forms of the disease.
8 This is one of the more severe, where a horse is
9 unable to rise. It's a disease of the spinal cord.
10 And here is the -- a horse that's just off a little
11 bit in the rear end.

12 The effect of our study showed that,
13 if you have a negative test, that test is almost as
14 good as gold that that horse does not have EPM.
15 We -- unfortunately, we can't say the same as --
16 there isn't a strong association with the positive
17 test.

18 Then, in '99, started really looking
19 in depth at the lower back and the pelvic pathology.
20 And here, again, we go back to the skeleton. And
21 here these -- a close-up of these lumbar vertebrae.
22 And the area that we're going to be concentrating on
23 is right here.

24 These are referred to as the "facets,"
25 or these are essentially the joints. This is what

1 moves back and forth with a horse. And here's a
2 normal one. And here's one you can see it's starting
3 to become a little roughened. And you can see this
4 one is yet a little rougher.

5 And some of you that may have
6 arthritis -- you can appreciate how painful some of
7 these roughened surfaces are. And yet here's one
8 where it started to get bone growth. Here's one
9 where it's almost solidified.

10 And here's where one is completely
11 grown over, where we refer to this as "ankylosis."
12 This is essentially fused vertebrae. There's going
13 to be no motion. While this one is going to be very
14 painful, the pain should leave once those things fuse
15 like that.

16 Then in nineteen -- or in 2000, we
17 were very fortunate that we added -- through the
18 efforts of the late Senator Kenneth Maddy, we added
19 the Equine Analytical Chemistry Lab to our laboratory
20 in Davis. Here's the laboratory. It's a nice
21 addition. It's a state-of-the-art facility. Here's
22 Ken -- Senator Maddy -- who was very proud of this
23 facility.

24 And any of you that have not visited
25 our -- that facility, if you should ever want to, I

1 would encourage you to stop in; and we'd be happy to
2 show you around that laboratory.

3 Then Sue started seeing that just
4 mild suspensory apparatus injury was predisposing to
5 a number of these injuries, as we've talked about
6 here. And then she got in and started really looking
7 at these horses that were coming through the
8 postmortem program and looking at these suspensory
9 apparatus.

10 Now, if you go down on the backside of
11 a cannon bone of a horse, you can feel the suspensory
12 ligament. But that's part of the suspensory
13 apparatus that consists of the ligaments around the
14 fetlock, the sesamoid bones themselves.

15 But in cutting across those, you can
16 see that, in one side or one branch of the suspensory
17 ligament, here is some disease that was going on.
18 There was an active inflammation. You can see the
19 hemorrhage here.

20 But then started looking at these
21 ligaments below the fetlock. And this is something
22 that very few people had any concerns with. Here's a
23 rather normal looking one. But here would be -- on
24 one side, you can start to see the hemorrhage. And
25 then here's filling in with some scar tissue.

1 And you can imagine -- unfortunately,
2 again, with the light -- you can see this grossly,
3 that this is one of those areas. But these are the
4 kind of injuries that were setting these horses up to
5 further injuries. And we're seeing that these type
6 of injuries set these horses up for these lateral
7 condylar fractures -- are setting horses up for the
8 sesamoid fractures.

9 Then we started -- last year, started
10 noticing additional sources of heart problems. And
11 in specific, last year, we saw a case of yew
12 toxicity. These are very common ornamental plants in
13 California -- the English yews, the Japanese yews.

14 But they are very cardiotoxic, meaning
15 that they're very toxic to the heart. Here's a heart
16 that has been poisoned with yew. The heart from an
17 animal that has been poisoned with oleander would
18 look very much the same -- the hemorrhaging here.
19 But those are the things that are so severe and they
20 cause the loss of heart function.

21 Here's the common oleander. We've
22 seen a couple of cases of oleander toxicity coming
23 off of tracks. This is probably one of the most
24 toxic plants that we have in California. Just a mere
25 handful of those leaves are enough to kill a horse.

1 We see a number of cattle die every
2 year with these things. And, in fact, our laboratory
3 was the first one in the country to get an assay for
4 this. And it has been used in a couple of human
5 homicides now.

6 Several years ago, there was an
7 individual whose previous husbands had died
8 mysteriously. And her third one ended up in the
9 emergency room, and he tested positive for digitalis.
10 And he wasn't on digitalis. And that's one of the
11 toxic principles of oleander.

12 Well, when he died, we got some of the
13 individual's stomach contents, some of his liver,
14 some of his blood. And he tested positive for
15 oleander. His spouse, it seems, had slipped him just
16 a little bit of oleander. And that was in the
17 case -- in her trial just last year, she was
18 convicted, based on the findings of our laboratory.

19 So that is just a summary. I won't go
20 into Sue's stuff in the interests of time. But
21 that's just a quick little summary of some of the
22 things we've picked up in our postmortem program.

23 It's one of the, I think, unique
24 things that we have in California. It was a seminal
25 program in the nation. There's a number of states

1 now that are starting to emulate what we have going
2 in California.

3 I was at a meeting recently, and a
4 colleague from Washington state told me that they're
5 just starting to put one in up there, asking --
6 pardon me -- for advice on how we got ours started
7 here.

8 So, again, thank you for providing us
9 the opportunity to come before you today.

10 (Applause.)

11 DR. ARDANS: Thank you.

12 CHAIRMAN HARRIS: Yeah. I'd like to thank
13 Dr. Ardans for that report. We really have a great
14 resource in the total health system we have in
15 California. We need to use it more than we do.

16 Next item is the request by XpressBet
17 to amend their ADW application to allow operation of
18 the new Simplified Wagering Machines. Hear from --

19 MR. REAGAN: Commissioners, John Reagan, CHRB
20 staff.

21 As you can tell by the information
22 included in your package, this amendment for this new
23 machine is quite interesting, something we haven't
24 seen before in California. The machine we're talking
25 about is simply not a new model of an existing system

1 machine -- wagering machine. This is a whole new
2 breed of animal altogether.

3 And as you can tell by the picture
4 there, in Figure 1, you've got your screen, your
5 keyboard, your kind of a work area, and your chair
6 all included as one unit. We have some information
7 from Magna -- MEC -- on this.

8 And at this point, we understand that
9 this system is being -- this new equipment is being
10 manufactured by AmTote so that we have some
11 confidence, before actually seeing a live machine,
12 that the system will be compatible since AmTote
13 produces a lot of wagering equipment that is
14 compatible in the current nationwide system. So we
15 have some confidence there.

16 But until we do see the actual machine
17 hooked up to a system in California and we can
18 actually run some tests and whatnot, we have simply
19 the information provided. But we do feel that this
20 is an interesting piece of equipment.

21 And I guess the approval we would
22 recommend would be approving the amendment to the
23 license so that we can move forward and make it
24 conditional so that, after the equipment is brought
25 to California and hooked up to the system, there is

1 time for all of us -- the CHRB as well as the
2 pari-mutuel systems over at Bay Meadows and
3 whatnot -- to run this machine live and to make sure
4 that it is compatible and we have all the security
5 features we need.

6 Until we actually have a prototype, of
7 course, we can't do that. So that's where we stand
8 at this point.

9 CHAIRMAN HARRIS: So what are our options now,
10 then?

11 MR. REAGAN: Well, we think perhaps approving
12 this, conditional upon testing actual equipment tied
13 into the California system.

14 CHAIRMAN HARRIS: But I mean, in a way, it's
15 no -- not too much different than an ADW system
16 that -- any ADW provider can come out with a lot of
17 different actual hardware things at any time, I
18 guess, that we don't really approve.

19 But I'm fine with what you suggest
20 but --

21 MR. REAGAN: Yeah. Actually, I think what we
22 have now with an ADW system, of course, is that
23 everybody has their own individual equipment. I have
24 my own computer. You have yours, maybe a telephone.
25 I mean there's no consistency in regard to what is

1 required. Obviously, we simply interface with the
2 system.

3 This is a kind of a unique approach in
4 that they're actually proposing a specific piece of
5 equipment. And not only that, but this equipment is
6 situated so that, once someone interacts with the
7 machine, the wagering options on this machine are
8 very limited.

9 First of all, the races you can bet on
10 are actually programmed through a server. And every
11 machine that we're talking about will have the exact
12 same races offered to you. You have no options in
13 terms of picking races.

14 Whatever this system will provide to
15 you every, let's say, every 5 to 7 minutes or
16 something, they -- the server that runs all these
17 systems, all these machines -- will offer the same
18 race to every unit at the same time. And you have
19 that race and only that race to bet on. You can
20 decide whether you want to play or not. But those
21 are the only choices you have.

22 And then, secondly, when you make your
23 bets, you have an extremely limited number of
24 wagering options of win; win, place, and show. And
25 then the dollar amounts are preset.

1 So this is obviously, as indicated, a
2 system that they would like to present to the novice
3 wagerer and then get the person used to those type of
4 wagering and then perhaps develop them into a
5 full-blown fan. But the system, as it presents
6 itself now, is very limited in terms of the wagering
7 options.

8 And like I say, it's a preset program
9 of races and, once again, a unique idea in terms of
10 ADW in that, if we're offering you hardware, that the
11 person then sits down and participates in the racing
12 program with you.

13 CHAIRMAN HARRIS: Yeah. I think it's an
14 innovative idea. I'm not completely convinced it
15 will be popular, but it's certainly worth a try. We
16 need new ideas. It, you know, conceivably could
17 attract new fans. With the different application,
18 there's probably going to be a learning curve.

19 But do we actually need action to -- I
20 guess we need to really take action to approve it,
21 subject to our staff reviewing the specific machine?

22 MR. REAGAN: Yes, sir.

23 CHAIRMAN HARRIS: Any comments on this?

24 MR. DARUTY: Scott Daruty with Magna
25 Entertainment.

1 I would like to just clarify a couple
2 of things in our request. First of all, the agenda
3 item was formulated as a request to implement this at
4 Golden Gate Fields, starting on November 10, when
5 that meet opens.

6 What we actually had requested -- and
7 I apologize about any ambiguity in our request -- was
8 to also have these available at Santa Anita during
9 the Oak Tree meeting. It will be a challenge,
10 obviously, to get everything technical -- all the
11 technical side ready by the opening day. And I don't
12 know that we'll be able to meet that.

13 But we would like the opportunity to
14 put these machines at Santa Anita during the Oak Tree
15 meeting.

16 The other thing -- I would also like
17 to modify slightly our request. At this point, we
18 would like whatever action -- and hopefully
19 approval -- the Board takes to be limited to
20 operating these machines prior to 6:00 o'clock in the
21 evening and that we would not be able to operate
22 after that time without coming back to this Board and
23 asking for further approval.

24 As you might guess, that is an
25 accommodation to the nighttime racing industry at

1 this point. We would intend to continue to work with
2 them and hopefully reach an understanding under which
3 these machines could operate later into the evening.
4 But we just don't have that understanding right now.

5 CHAIRMAN HARRIS: Yeah. As I mentioned, I
6 like the idea. I'm not really -- just as a business
7 plan, I don't know if I would make that -- operate
8 them at Oak Tree and you don't have Oak Tree in your
9 stable of XpressBet bets.

10 I'm just a little confused -- that's
11 going to confuse the fans. He's at Oak Tree, but he
12 can't bet Oak Tree; where I can see you being at
13 Golden Gate because Golden Gate, he will be able to
14 bet, in addition to other tracks. But --

15 MR. DARUTY: The people sitting down at these
16 machines are not going to be people who are
17 handicappers, we don't believe. They're not going to
18 be people who are specifically concerned about an
19 individual race. These are likely new fans, people
20 who aren't wagering anyhow; people who, you know, as
21 shocking as this may sound, don't know the difference
22 between Oak Tree and Golden Gate.

23 They're going to sit down at a
24 machine, and the product is going to be delivered to
25 them, without them having to put any thought into the

1 process. And so you couldn't -- even if you wanted
2 to bet Golden Gate races up at the Golden Gate
3 Fields -- sit down at a machine and guarantee that
4 you're going to see a Golden Gate race. You likely
5 will.

6 But it depends on the scheduling and
7 the product that's put into these machines. So we
8 don't feel like it is a drawback that these will be
9 at Santa Anita during the Oak Tree meeting and won't
10 have Oak Tree content. Again, the people playing
11 these machines aren't going to be focussed on that
12 issue.

13 CHAIRMAN HARRIS: How would the money flow?
14 The money would flow similar to the way the ADW money
15 flows, I guess.

16 MR. DARUTY: Right.

17 CHAIRMAN HARRIS: So it would be -- if, in
18 fact, they were at Golden Gate, it would just be like
19 making a bet at Golden Gate.

20 MR. DARUTY: XpressBet. Yes. It would.
21 It -- it will be -- well, that is correct, by and
22 large, if this is an ADW wager. So the ADW economic
23 model applies.

24 We have talked with the TOC. They
25 raised a concern which, you know -- we discussed with

1 them over how this is going to impact purses. And
2 what we told them is we are agreeing to work with
3 them to make sure the purse -- treatment of the purse
4 is the same on these wagers as it is for "in-
5 contract" (phonetic) live wager.

6 CHAIRMAN HARRIS: Okay.

7 Any other stakeholders have any
8 comments on this?

9 MR. COUTO: Drew Couto, Thoroughbred Owners of
10 California.

11 I believe Mr. Daruty has correctly
12 summarized that we will be -- pending approval by the
13 Board, we'll be redrafting or amending the existing
14 ADW contract with them to reflect a rate that will be
15 a favorable rate in terms of purses for those wagers
16 placed through the machines. So we support their
17 efforts to get these machines up and running. Thank
18 you.

19 MR. BLONIEN: Mr. Chairman and Members, Rod
20 Blonien, on behalf of Los Alamitos Racecourse.

21 We didn't have a dialogue with Magna
22 relating to this machine until a short time ago this
23 morning, and so we're frankly uncomfortable with the
24 impact that this could pose on the night industry.

25 We support Mr. Daruty's offer so that

1 the machines would not operate after 6:00 P.M. We
2 further would like the motion to be clear, if you
3 decide to approve the machine, that it's available
4 for win, place, and show wagers only.

5 And we would like to see the machine
6 demonstrated. And we may join with Magna, at some
7 point, in asking you to reconsider the position in
8 terms of the night industry. But, right now, we
9 don't really know what impact it would have on the
10 night industry and whether there are even enough
11 races out there that they could bring in so that it
12 could operate in the evening hours.

13 But just to reiterate, the machine
14 would not operate after 6:00 P.M. -- we'd like that
15 to be part of the motion -- and that it also be
16 limited to win, place, and show wagers. Thank you.

17 CHAIRMAN HARRIS: Just by design, I think that
18 is the situation.

19 EXECUTIVE DIRECTOR WOOD: Mr. Chairman, to
20 clarify, is the wager "show" only?

21 CHAIRMAN HARRIS: Yeah. It's win, place --
22 you got a choice of win, place, or show or either of
23 those.

24 MR. DARUTY: The wager type depends upon the
25 dollar amount wagered. The dollar -- the dollar

1 amounts that you have the choice of wagering are
2 generally 6, 15 -- and I'm going to lose my math
3 now -- but probably 30. I mean they're increments of
4 3.

5 So if you bet, for example, a \$6 bet,
6 you automatically get a win-place-show wager across
7 the board. So it's \$2 for each ticket, essentially.
8 The only exception to that -- so in other words,
9 every wager is a across-the-board wager.

10 The only exception to that is, if you
11 choose to wager only \$2 -- that's obviously not
12 enough money to cover all three bets -- so in that
13 case, it would be a "show" wager.

14 That's the way the machines are
15 designed today. We're not sure that will always be
16 the way the machines are designed. But we are
17 willing to agree, as Mr. Blonien said, that the
18 approval granted today would be just for those sorts
19 of wagers and anything different would have to come
20 back before this Board.

21 CHAIRMAN HARRIS: Yeah. I think it's going to
22 be an evolving thing. I would almost bet anything
23 that the way it's designed today is not the way it's
24 going to end up. So that's pretty certain probably.

25 But could I entertain a motion -- to

1 keep it moving along, since this is more of a
2 trial -- that we approve this request, subject to our
3 staff reviewing the actual type of machines in play
4 and with the assurance that it is, you know, in
5 compliance with the rest of our rules.

6 COMMISSIONER MORETTI: So moved.

7 CHAIRMAN HARRIS: And that it won't be used
8 after 6:00.

9 COMMISSIONER MORETTI: Yes.

10 CHAIRMAN HARRIS: All right. I guess I got to
11 make the motion. All right.

12 COMMISSIONER MORETTI: I'll second.

13 CHAIRMAN HARRIS: All in favor.

14 BOARD MEMBER VOICES: Aye.

15 CHAIRMAN HARRIS: Okay.

16 I did see a prototype of those and
17 some others. It's interesting. I'll say that for
18 it.

19 Presentation by San Mateo County
20 Fair -- their intention to file an application for a
21 license to conduct satellite wagering pursuant to
22 Business and Professions Code.

23 MR. CARPENTER: Hi. I'm "Chris Carpenter"
24 (phonetic), General Manager of the San Mateo County
25 Expo Center. When we asked for this to be placed on

1 your agenda, it was for informational purposes and
2 discussion.

3 So we'll be brief today in just,
4 again, reiterating our intent. And that intent is to
5 potentially file for an application for the San Mateo
6 Expo Center to conduct satellite wagering at the San
7 Mateo County Fair and the County Expo Center.

8 Our intent for license is pursuant to
9 Business and Professions Code 19605.45. Again, we
10 ask for this to be added on the agenda for
11 informational purposes. And we would be prepared to
12 give a full presentation at a subsequent Board
13 meeting.

14 We do plan at this point to file
15 potentially the application and, as I say, add that
16 to a subsequent Board meeting in the future,
17 perhaps -- perhaps October. We're not prepared for
18 any other type of presentation at this point in time.
19 We have had discussions with many people about this.

20 I think Chris Corby is prepared to
21 speak today in terms of a meeting that occurred last
22 week with the CARF board members -- also stating our
23 intention with them to move forward with this
24 request. We feel that our options are still open.
25 We still have discussions with Bay Meadows Racing

1 Association going on but also with Magna at this
2 point in time.

3 And, again, we stand here with our
4 intent today to bring it up for discussion
5 purposes -- propose our intent. Thank you.

6 CHAIRMAN HARRIS: Anything else on this?

7 MR. "CORBY": Chris Corby, California
8 Authority of Racing Fairs. In the event that the
9 conditions envisioned in this section of the statute
10 do apply, our organization is prepared to support and
11 assist the San Mateo fair in their efforts in this
12 regard.

13 MR. BLONIEN: Mr. Chairman and Members, Rod
14 Blonien on behalf of Bay Meadows Racing Association.
15 We'd like to be heard on the matter. And if it may
16 please the Chair, I'd probably like to speak from
17 down here.

18 CHAIRMAN HARRIS: Yeah. The only thing is
19 there's no -- I mean it's kind of bothersome that
20 even things like this come up where there's no --
21 there's nothing really on the table. We're talking
22 about -- we could talk about all kinds of
23 interpretations of racing law.

24 But I think, you know, it's an
25 interesting issue. But why don't you go ahead and

1 make a presentation?

2 MR. BLONIEN: Okay. Thank you very much, Mr.
3 Chairman and Members of the Board. Again, Rod
4 Blonien.

5 What we have done is gone and done
6 extensive research in terms of the legislative intent
7 behind the enactment of Section 19605.45. And you've
8 all received the packet from me that goes through the
9 legislative history. And I'd like to go through that
10 briefly here this morning.

11 The first thing we have presented here
12 is a copy of the analysis that went to every member
13 of the assembly who voted on this bill when it was
14 heard in 2002. And I think the last couple of lines
15 on Page 2 of that analysis are very telling.

16 It says, "This bill attempts to
17 address the problem" -- and that is that of the Bay
18 Meadows Racetrack closing -- "that, if Bay Meadows
19 closes, the fair can operate satellite wagering
20 facilities on its grounds, which is next door to the
21 present racetrack property, or on leased premises in
22 San Mateo County, subject to the CHRB approval."

23 But it clearly indicates subject to
24 the closure of the Bay Meadows Racetrack.

25 We next have the "enrolled" (phonetic)

1 bill analysis that was done by the Horse Racing Board
2 on the subject bill. And it says, "This bill would
3 allow San Mateo to operate satellite wagering
4 facilities if the Bay Meadows Racetrack closes its
5 facility."

6 "The purpose of the bill: This bill
7 will allow for the continuation of satellite wagering
8 at San Mateo County in the event that the Bay Meadows
9 Racetrack closes."

10 Next, we have a letter from
11 Assemblyman "Pappin" (phonetic) who was the author of
12 the bill that made this change to the governor. And
13 it says, "Assembly Bill 2338 simply provides that the
14 San Mateo County Fair may operate a satellite
15 wagering facility on its fairgrounds or on leased
16 premises in San Mateo County contingent -- contingent
17 upon the closure of Bay Meadows Racetrack."

18 Next, we have a letter from Mr. "Jerry
19 Hill" (phonetic), who was then president of the Board
20 of Supervisors in San Mateo County and who, I
21 understand, is the individual that's responsible for
22 working very closely with the fair.

23 This is a letter to Governor Davis in
24 support of signing AB 2338 by Assemblyman Pappin.
25 "AB 2338 would clarify the law by permitting

1 satellite wagering in San Mateo County if Bay Meadows
2 closes. This bill would provide, upon the closure of
3 Bay Meadows, that the fair can operate satellite
4 wagering on its fairgrounds, which is next door to
5 the present racetrack or on leased premises" -- but
6 the important thing, again -- "if Bay Meadows
7 closes."

8 This is the person on the Board of
9 Supervisors who oversees the operation of the fair.

10 Next, we have an analysis that was
11 done by Governor Davis's staff to him. And this is
12 the first sheet that the governor sees when he opens
13 the bill file. And it says, again, up in the first
14 paragraphs, "if Bay Meadows closes," and then the
15 bottom line, "if and when Bay Meadows closes, so does
16 San Mateo's satellite wagering facility. This bill
17 was introduced to preserve the current revenue stream
18 received by the San Mateo County Fair" -- et cetera.

19 The last thing I'd like you to
20 consider is a signing statement that the governor did
21 after he signed the bill to clarify his intent upon
22 signing the bill. And it says, "This bill would
23 allow for the continuation of satellite wagering in
24 San Mateo County in the event that Bay Meadows
25 Racetrack closes."

1 Now, you know, I got to tell you.
2 I've been looking at legislative intent for 30 years,
3 and seldom have I seen so much evidence that's so
4 overwhelming in terms of what the intent of the
5 legislation was.

6 If Bay Meadows closes, ceases to
7 operate as a racetrack, San Mateo may have another
8 satellite facility. The event has not occurred. The
9 condition precedent has not taken place.

10 In any event, the Bay Meadows Land
11 Company has made a renewed commitment to horse
12 racing. And we hope to have horse racing at Bay
13 Meadows for many years to come.

14 We're facing uncertainty enough in
15 Northern California with the "San Pablo compact."
16 We're all fighting to keep Golden Gate and Bay
17 Meadows both open. And if you were to allow San
18 Mateo to have this facility, it would send a very,
19 very negative message to the land company.

20 And so, although this is for
21 informational purposes only, I think it might
22 forestall you receiving an application if you were to
23 somewhat indicate the intent of the Board at this
24 time. Thank you, Mr. Chairman.

25 CHAIRMAN HARRIS: Thank you.

1 Any questions of the Board of any
2 party?

3 From my perspective, it does seem
4 clear that Bay Meadows, if they're operating a meet,
5 does have a satellite facility. Clearly, if they
6 don't operate the meet, then San Mateo County Fair is
7 in a good position to have one. But I guess that
8 will be fought another day, at an earlier hour,
9 hopefully.

10 Let's move on to -- discussion and
11 action by the Board on the request by Capitol Racing
12 concerning the location and availability of the
13 harness satellite signal at Los Alamitos.

14 MR. REAGAN: Commissioners, as you know, this
15 item was before the Board in June. It was on the
16 August meeting but carried over till this meeting.
17 Obviously a situation where some wagering facilities
18 and amenities were rearranged at Los Alamitos and
19 Capitol Racing feels that was a detriment.

20 Obviously, at this point, Capitol
21 hasn't been running since the end of July. But they
22 will begin shortly, within a week or two here. And
23 they want to address this issue with you today. And
24 I believe they are here to speak to it.

25 CHAIRMAN HARRIS: Just for background, I'm not

1 sure how much latitude we have on an issue like this,
2 as far as how nice a facility is or whatever a given
3 satellite operator has to have, conceivably. I mean
4 do we have -- how much latitude do we have on that?

5 MR. REAGAN: Mr. Knight, do you have --

6 DEPUTY ATTORNEY GENERAL KNIGHT: Excuse me.
7 In terms of discretion of the Board, I believe the
8 horse racing law does provide the Board with some
9 authority to approve the facilities where the
10 wagering does occur. So that is part of the role of
11 the Board.

12 But I think, you know, it's not very
13 specific. The law is very general. But you do, in
14 general, have the approval of the wagering facility
15 and including any changes or remodels of the wagering
16 facilities. That's specifically covered by one of
17 your regulations. So I do think you do have some
18 authority to deal with this.

19 CHAIRMAN HARRIS: Go ahead.

20 (Brief interruption as reporter
21 changes paper.)

22 (Off-the-record discussion.)

23 MR. BIERI: My name is Steve Bieri. And I'm
24 the managing member of Capitol Racing, LLC.

25 And, first, I want to thank you for

1 hearing this item today. And I do want to take a
2 moment to clarify the staff analysis that was handed
3 out at the last meeting.

4 In there, it talked about this Capitol
5 simulcast signal -- the wagering -- the facilities
6 had been redesigned. And this implies that there was
7 an area already and it was simply redesigned. And
8 this, really, we believe, is not a fair portrayal --
9 that actually what happened was that we went from
10 full access of the facility to severely restricted
11 access of the facility.

12 Also in the report it says that we
13 felt that this action was an inconvenience to our
14 patrons.

15 And we actually would say, stronger,
16 that we think it is an affront to our patrons.

17 What I would like to do is read the
18 presentation that I just gave you.

19 "Our most recent meeting closed at the
20 end of July. The numbers are in as to the effect of
21 the segregation policy instituted by Los Al in
22 mid-May that was directed at the California harness
23 industry and its fans.

24 "The results are quite clear and
25 unambiguous. Who benefited from the policy of

1 segregating California harness fans at Los Alamitos?

2 No one. What good has come from this policy?

3 Nothing.

4 "Who has suffered from this policy?

5 "A segment of California racing fans
6 whose only guilt is that they are fans of California
7 harness racing, since out-of-state harness product
8 imported by Los Alamitos could still be bet on
9 anywhere within the Los Alamitos facility; the State
10 of the California, since lower handle means less
11 money for the State; California's harness horsemen,
12 who have lost approximately \$250,000 in purse money;
13 Capitol Racing, which has lost approximately \$250,000
14 in commissions.

15 "What bad has come from this policy?

16 "Overall horse racing in California
17 has suffered a black eye because it is now clear that
18 the stated goal of this Board and every racing
19 association within the state to get people out to the
20 track, provide an enjoyable experience, and then
21 bring them back, thus increasing the fan base
22 attending the tracks, is simply not true.

23 "It has now been proven that Los
24 Alamitos taking our signal does not divert monies
25 away from being wasted on quarter horses at its

1 track."

2 John Reagan of your staff can verify
3 that. I've spoken with him, and he agrees.

4 "However, taking our signal allows a
5 portion of state citizens, those who wish to bet on
6 California harness racing, to be served. No one
7 wants or is asking the Board to micromanage
8 day-to-day operations of Los Alamitos.

9 "What Los Al wants to spend on
10 advertising, what material it wants to cover its
11 chairs with, which people to do what job for how much
12 money -- none of these types of issues are of concern
13 here.

14 "What is of concern is how a segment
15 of the people of California are treated when they go
16 to a state-licensed event. It is not micromanagement
17 to tell Los Alamitos that all racing fans need to be
18 treated the same. It is in the best interests of
19 racing, and it is the right thing to do.

20 "The attached analysis sheet gives you
21 numerical verification of what has been stated in
22 this memorandum.

23 "On behalf of the fans of California's
24 harness racing, California's harness horsemen, all
25 individuals and companies related to California's

1 harness industry, and ourselves, we strongly request
2 that the CHRB act today and direct Los Alamitos to
3 display our signal and accept wagers on it in at
4 least the same locations and manner that it did prior
5 to May the 12th, 2004.

6 "Harness and California's harness
7 industry, in particular, and horse racing fans, in
8 general, deserve no less.

9 If you do look at the sheet that
10 you've been given, you will see that, on Thursdays,
11 our handle has -- what's here is to -- I'm not
12 looking to the specifics, to the pennies of the
13 numbers. But I'm looking for the order of magnitude
14 in the trend.

15 "Our handle went down \$61,000 a night.
16 The Quarters' handle went up about a little over
17 2,000. On Fridays, our handle went down a
18 hundred-and-nine-thousand dollars a night. Quarters
19 went up a little over 3,500. On Saturdays, we went
20 down over a hundred thousand dollars a night. The
21 Quarters did go up, depending on how you want to
22 interpret it, somewhere between twenty to \$45,000 a
23 night.

24 "But the bottom line, based on our
25 analysis, is that we have lost over three -- nearly

1 three-and-a-half million dollars in handle. And
2 the -- if you took the gains the way that I
3 calculated 'em, we would still be, net, over 3
4 million lower in handle. That means that we are
5 losing handle."

6 And earlier today, there was a lot of
7 discussion about doing what the Board could to see
8 that handle increased and that license fees increased
9 to the State.

10 "What's happening now? We are losing
11 handle, license fees are decreasing to the State, and
12 we are losing patrons. If this continues on for our
13 fall meet, we will lose, on those same numbers
14 projected out, approximately another three-and-a-half
15 million dollars in handle.

16 "If you still allow this to go on next
17 year -- January through July -- we will lose nearly
18 another \$9 million in handle. That is a significant
19 loss in handle. It is a significant detriment to the
20 horsemen. It is a significant loss of money to the
21 State. And it's just flat-out wrong."

22 CHAIRMAN HARRIS: Just to clarify, how much
23 license fee do you pay to the State?

24 MR. BIERI: I think we're working here at the
25 level of 1 percent. So if we lose the 9 million plus

1 the 3 and a half, plus the 3 and a half would be 7 --
2 it would be a million six -- it would cost the State,
3 over the course of time, \$160,000.

4 And it will cost the harness horsemen
5 over a million dollars in lost purse. And it would
6 cost us that amount of money also.

7 Now, not only do you have in your
8 guidelines, Chairman Harris, the actual requirement
9 to approve the modifications and the satellite
10 facilities, which -- you were supposed to be given 15
11 days' notice before that was changed.

12 I'm not sure that you were given those
13 15 days' notice back in May. And I'm not sure that I
14 was at a meeting where you acted and approved those
15 to be done. But that is called for in your
16 regulations.

17 But also, in the rules and
18 regulations, it talks about a guest association
19 providing a patron area for pari-mutuel wagering and
20 the observation of satellite signal. It says that
21 area shall be the "enclosure public."

22 The "enclosure public," according to
23 the rules -- 19410 -- you think of three things at
24 Los Alamitos. You think of the whole facility
25 divided into the parking lot and everything else.

1 The "enclosure" is defined as "everything but the
2 parking lot." So that's out.

3 So now everything but the parking lot
4 is the enclosure. The enclosure is divided into two
5 things -- "enclosure restricted" and "enclosure
6 public."

7 The "enclosure restricted" are those
8 areas where a special pass is required to get into --
9 the money room, the backstretch, wherever else you
10 would want to go. And it says, in 19410-dot-5, "All
11 other areas are the enclosure public."

12 So it states clearly that you need to
13 provide an area for wagering and observation of the
14 satellite signal, that area shall be the enclosure
15 public, and the enclosure public is everything that
16 is not restricted access or the parking lot. It's
17 not a part of the enclosure public. It's the
18 enclosure public.

19 And the word "all" is in 19410-dash --
20 dot-5. So, yes, you do have the authority to approve
21 something that I don't think you really approved that
22 they've changed.

23 Second, you have the guidelines here
24 that say it should be the entire facility.

25 And, third, regardless of any of that,

1 driving fans away from horse racing now is horrible,
2 and we should not allow that to occur. That is
3 what's happening, notwithstanding all the financial
4 numbers.

5 VICE-CHAIRMAN LICHT: Do you not believe that
6 some of the fans who are unhappy playing the Quarters
7 at Los Al have gone to Hollywood or gone to ADW? For
8 playing the harness. I'm sorry.

9 MR. BIERI: It is possible that they did. But
10 the point that we're talking about here is, by
11 restricting our people to the signal, the money did
12 not transfer over to Quarters. So nobody benefited
13 from this. You know, it just didn't do anything for
14 anybody.

15 But it hurt the handle. It hurt the
16 patrons. It hurt the industry to show that the
17 industry would allow people to be segregated within
18 an area, depending on what they wanted to bet on.

19 VICE-CHAIRMAN LICHT: No. I'm saying it might
20 have helped Hollywood Park. It might have helped the
21 ADW; right?

22 MR. BIERI: It might have. Our handle did go
23 down overall. So we didn't get it back. The
24 specifics of what I'm talking about today is, if the
25 arguments we've heard in the past were right, when

1 they didn't bet on us, they should've bet on them.

2 They didn't bet on us, and they didn't bet on them.

3 All that lost were fans and the State
4 and the harness horsemen and ourselves. You do have
5 the authority to right this wrong. Thank you.

6 COMMISSIONER SPERRY: John, based on the
7 financial information that they gave -- provided for
8 you, does it show that the product had an overall
9 loss everywhere or just specifically in certain
10 areas?

11 MR. REAGAN: John Reagan, CHRB staff.

12 To answer your question, Mr. Sperry,
13 the generalized numbers as indicated by Mr. Sperry --
14 I mean by Mr. Bieri -- are correct in their
15 magnitude, as he indicated; and also we did not see
16 an increase elsewhere. So, overall, the harness
17 handle dropped. There was no compensation elsewhere.

18 Of course, with the whole issue of
19 ADW, it was very difficult to see any variation in
20 the ADW that could be pointed to this particular
21 situation. But in terms of the California handle,
22 there was no compensating increase elsewhere.

23 CHAIRMAN HARRIS: But these purse losses -- do
24 they take into consideration, again, that that's
25 money that's being held under some escrow money

1 that's kind of an impact fee on Los Al?

2 MR. REAGAN: Right. That's not taken -- this
3 is just the raw number that would be generated from
4 this handle. And, you know, whether it would
5 actually be paid at that particular time or
6 whatever -- that's not part of this calculation.

7 This is just the raw number from the
8 handle that was increased or decreased.

9 MR. BIERI: I'm not here discussing cash flow.

10 CHAIRMAN HARRIS: Okay. Well, next?

11 MR. KENNEY: Ben Kenney, President of the
12 CHHA.

13 Commissioners, I would like to say
14 this: Capitol has -- Capitol Racing has said that
15 the horsemen are going to take a 15 percent cut.
16 That's 15 percent cut for the fall purses of this
17 year.

18 They've also said, if Los Alamitos
19 turns back on the televisions throughout their
20 facility, that they will make the purses whole for
21 what we've enjoyed for the last couple of years. The
22 15 percent cut will not be levelled on the horsemen.

23 Last meeting at Del Mar, this Board
24 was very concerned with the horse shortage in
25 Northern California.

1 Well, I can tell you, if you think
2 that the Thoroughbreds are going to have a problem,
3 we're going to be decimated. People are going to
4 send their horses to Canada, to the Midwest, to the
5 East Coast. They can't survive on this cut. I'm
6 here from the Association to ask for your help.
7 Thank you.

8 MR. BLONIEN: Mr. Chairman and Members, Rod
9 Blonien on behalf of Los Alamitos Racecourse and Los
10 Alamitos Racing Association.

11 First of all, there are no statutes,
12 no regulations at Los Alamitos that this is in
13 violation of. What I have just handed out to you is
14 a schedule that shows what has happened with the
15 handle at Hollywood Park, southern satellites taking
16 out Los Alamitos and Hollywood Park, and the northern
17 satellites and also showing their on-track handle.

18 Basically what this shows is that,
19 from May 10 to the 1st of August, the handle at
20 Hollywood Park is down 12.2 percent. The handle from
21 the other Southern California satellites, excluding
22 Hollywood and Los Al, is down by almost 25 percent --
23 24.5 percent. The handle on the Northern California
24 satellites is down 11-and-a-half percent. The on-
25 track handle is up a bit -- 1.3 percent.

1 What this shows is that, yes, the
2 handle's down at Los Al. But the handle is down
3 every place else except a little bit on-track. And
4 the reason for that, we're uncertain of.

5 But that -- I think there's an issue
6 in terms of satellite -- or excuse me -- harness
7 racing -- harness racing at Los Al. Again, we have
8 an area that is for those interested in harness
9 racing. We have 200 to 450 people there a night.

10 We have plenty of self-service
11 machines. We have enough windows that are open. We
12 accommodate those people that want to bet on harness
13 racing. And this is not dissimilar -- this is not
14 dissimilar to what happens at other racetracks.

15 Do you think that, at night, at Santa
16 Anita, when quarter horse racing is being conducted,
17 that we have the run of the place? Do you think that
18 we have the benefit of using the turf club and other
19 areas of the premises? Of course not. Nor do we
20 have that benefit at Hollywood Park, even if you go
21 to the satellites.

22 We received a complaint from somebody
23 that wagers at Monterey. And they indicate, "Gee, in
24 the daytime, when thoroughbreds are racing, we can go
25 to this nice dinner club and have a nice lunch and in

1 plush surroundings. But in the evening, the place
2 isn't open."

3 That's a decision that is made by the
4 person that operates the Monterey facility. Every
5 operator makes business decisions. And Dr. Allred
6 made a business decision in terms of harness racing
7 at Los Al. I don't think you want to get in the
8 business of telling every satellite facility how many
9 televisions have to be featuring this product and
10 that product.

11 Who's going to regulate it -- how many
12 self-service machines you're going to have, how many
13 windows you're going to have open? Again, satellite
14 operators have been given latitude by this Board in
15 terms of how best to manage their facilities. And I
16 don't think you want to get in that business now of
17 making changes and enforcing regulations that are not
18 in effect and have never been written.

19 Also in answer to the question about
20 the license fee that is paid: The license fee that
21 harness pays is the same license fee that quarter
22 horse racing pays on satellite product. And that's
23 not 1 percent but 4/10 of 1 percent. I thank you.
24 That's provided for in Section 19605.71.

25 DR. ALLRED: Dr. Allred, chairman and owner of

1 the Los Alamitos race course. Mr. Bieri tells us
2 that this whole --

3 VICE-CHAIRMAN LICHT: Could you speak up?

4 CHAIRMAN HARRIS: Speak up a little.

5 VICE-CHAIRMAN LICHT: It's hard to hear --

6 DR. ALLRED: -- this whole dispute results
7 from the noncompliance with the Board's action
8 establishing an impact fee based on a modified
9 version of the Zumbrun agreement, so-called Zumbrun
10 agreement, of years ago.

11 For many years, we promoted --
12 actively, aggressively -- the harness signal
13 throughout our plant because we had an economic
14 reason to do it for us and for our horsemen.

15 Because of the stonewalling that's
16 resulted in the litigation in the last few years, it
17 seems unlikely that millions of dollars -- there's
18 over \$4 million that's not been paid at this point.
19 Our horsemen suffer. We suffer. Our handle did, in
20 fact, increase, by the way, during this time by at
21 least 10 percent on-track, which is very significant
22 revenue.

23 We're very happy with the way things
24 are going. We take very good care of the people that
25 are visiting our simulcast area. It's a perfectly

1 good area. We keep it very clean. There are plenty
2 of machines there. We had one week of adjusting to
3 that. We've totally taken care of that.

4 Anyone that wants to bet on harness,
5 they can do so. It's not that hard. You can go
6 there even to make a spot bet and then go somewhere
7 else.

8 We didn't invest millions of dollars
9 in the "Vessels Club" (phonetic) and all these things
10 that we've done at Los Alamitos to get a few percent
11 return by "wrecking" our live crowd. We can't do it,
12 and we won't do it. And we'd be very happy, however,
13 to make an agreement with the California harness
14 industry that would be successful and profitable for
15 both. So far, that just has not been done. Thank
16 you.

17 MR. ENGLISH: My name is Richard English. I'm
18 a CPA. I provide consulting services to Los Alamitos
19 and the "Coast Quarter Racing Association"
20 (phonetic). I've reviewed the handle at Los
21 Alamitos -- the live handle before and after the May
22 9 cutoff or restriction of the signal. And my review
23 shows that the live handle on-track has increased
24 over 10 percent on Thursday, Friday, and Saturday
25 nights.

1 I disagree with some of Mr. Bieri's
2 assertions. I'd like to point out -- and I have a
3 handout that I'd like to give to you -- that the
4 Thoroughbred associations, when they bring a
5 signal -- a signal into their live meet, pays zero to
6 the Northern -- to the Southern California Racing
7 Association -- Thoroughbred Association.

8 They pay zero to the Northern
9 California -- to the Northern California meet. They
10 bring a race to Bay Meadows. They pay zero to Bay
11 Meadows. And they keep all the on-track revenues.
12 During the period of this dispute, the Thoroughbred
13 industry has generated, on out-of-zone races -- has
14 generated \$82 million in purses and commissions
15 during the period April through August 1.

16 \$82 million in revenue and purses and
17 zero in host fees to the -- to Northern California or
18 Southern -- to the reciprocal. And although our
19 agreement, when you look at it on the face, it says
20 they only -- the North only gets 2-and-a-half
21 percent, if you factor in all the factors that come
22 into what compensation is, including the SCOTWINC
23 expense fund, the actual breakdown, when you consider
24 the two -- the SCOTWINC expense fund and the location
25 fee that Los Alamitos gets, the actual

1 distribution's -- 10.7 percent of the handle goes to
2 Los Alamitos, and the harness industry keeps 7
3 percent.

4 We're almost partners as it is. And
5 that's the agreement that Mr. Bieri's organization's
6 failed to live up to. And there are patrons at that
7 point in time.

8 Again, to reemphasize -- our handle
9 has gone up by over 10 percent during the effective
10 period. And I'd like to give you this handout.

11 CHAIRMAN HARRIS: Well, does the Board --

12 I don't know if that concludes the
13 presentation.

14 Does the Board have any input on this?

15 COMMISSIONER SPERRY: John, I can only say
16 that the patrons at Los Alamitos -- that I sometimes
17 envy the way they keep the harness area clean
18 compared to the rest of the racetrack. Where I go,
19 for watching one or two of the races where my horses
20 run, is not kept anywhere near as clean as it is
21 there.

22 In fact, I was commenting to Marie
23 that I had a horse run at Los Alamitos, and I was up
24 in the Bay Area. So I had to go to Bay Meadows. And
25 I had to wade through a filthy place just to be able

1 to even watch my horse run.

2 MR. BIERI: We don't need to indict the other
3 people.

4 COMMISSIONER SPERRY: I'm just saying I think
5 that the facility that Los Alamitos provides for all
6 patrons is a decent place, and they provide enough
7 staff to take care of anyone's needs.

8 MR. BIERI: In all due respect, "separate but
9 equal" went away a long time ago. And to merely say
10 that it's as good as the other or better than the
11 other misses the point that we're trying to make.
12 Everybody has the right to go anywhere that they want
13 to go.

14 I am a little disappointed. I tried
15 to keep this on point, just dealing with the issues
16 of the lack of taking our signal down and not
17 bringing the other lawsuit in. That's going to take
18 care of itself over time.

19 I'm also a little disappointed in that
20 I did call Rick English last week, left a message. I
21 was able to reach him the other day and said, "Were
22 our numbers correct?"

23 He said, "Generally, they were." So
24 this is the first time that I've seen that. I was
25 hoping to avoid a confrontation on numbers because I

1 am not a trained accountant. But I'd love to sit
2 down and go through those with him.

3 But whether it's 10 percent or not,
4 over \$3 million went out of the handle at Los
5 Alamitos. Our people are being treated improperly,
6 not equally. And it's hurting the industry. And
7 it's hurting ourselves and the whole harness
8 industry.

9 I just would like you to take that
10 into effect. A lot of what Rod Blonien says is other
11 things not related to what we're talking about here.
12 They're interesting, and they can be discussed. But
13 the point we're talking about is having the signal
14 taken at Los Al like it always has been. And I'd
15 appreciate your going along with that today. Thank
16 you.

17 MR. HOROWITZ: Alan Horowitz, Capitol Racing.

18 I'll try to be very brief.

19 With regard to the remarks that Rod
20 made with regard to the handle of the harness racing
21 being down at Hollywood Park and some of the other
22 satellites, post May 12, which was the cutoff point
23 for the restricted area -- the beginning of the
24 restricted area at Los Al -- when you take 15 percent
25 out of the handle statewide, the handle also goes

1 down in other places because, as those of you who
2 know, when -- that, when you bet and you look for
3 value in betting, the larger the pools are, the more
4 likely you are to bet into these pools.

5 The smaller the pools are, the less
6 your return and the less your interest in betting
7 more money.

8 So if there's 15 percent, which is
9 what that chunk of money lost at Los Al on a nightly
10 basis is -- if you take that -- on the harness -- you
11 take that money out of circulation, out of the pools,
12 you expect there to be a decline in all of the
13 existing other satellites. It can't be maintained
14 because patrons are looking for value in wagering.

15 And that's what substantiated the
16 numbers that he was looking at.

17 With regard to the restricted area
18 itself, inside the restricted area, it's somewhat
19 okay. For Rod to represent that there are
20 restrictions at other tracks around the state, there
21 is no restriction at any facility, short of a pricing
22 to go into a turf club or to go into a clubhouse
23 area, that is breed specific -- that is breed
24 specific.

25 The other facilities are -- are --

1 they roll back some of the areas and they don't
2 exclude -- and they don't let the night patrons
3 race -- go to and frequent certain areas. It is not
4 breed specific.

5 There aren't even problems, from our
6 perspective, if associations are looking at the
7 market -- that is, on a Friday night, if there are
8 more Thoroughbred patrons because there's
9 Thoroughbred racing on a Friday night and somehow a
10 satellite wants to adjust the distribution of TVs to
11 reflect the larger number of patrons in one of the
12 breeds, that, at least, has a proportional
13 business -- basis.

14 It's not restricting an area and a
15 type of betting of a particular breed's product,
16 which is being done here. And the fact is this is
17 just plain and simple fan bashing. When you have 60
18 percent of your handle declining overnight and being
19 consistently sustained throughout a period of time --
20 11 weeks -- you expect there to be a situation where
21 your patrons aren't going to the track.

22 It's not that they're all going and
23 they're just betting less or because they can't fit
24 into it. For whatever reason, the harness player at
25 Los Al has left. And that's fan bashing.

1 As Steve said, "We can't -- in racing,
2 we can't afford to disenfranchise any fan," whether
3 it's a Thoroughbred fan, whether it's a quarter horse
4 fan, whether it's a mule fan. And we certainly can't
5 disenfranchise, at a major satellite facility, one of
6 the racing breeds -- harness racing. Thank you.

7 CHAIRMAN HARRIS: Okay. We need to keep
8 moving along here. I think we understand the issue.

9 Do any of the Commissioners have any
10 questions or comments on the issue?

11 Well, hearing no--

12 COMMISSIONER MOSS: What's the downside of
13 just voting or making a motion to agree with what the
14 gentleman is saying?

15 CHAIRMAN HARRIS: Well, I mean I guess the
16 issue is how much resolve the Board has to dictate to
17 a track or satellite operation how exactly they're
18 going to run their operation. And I mean, in a
19 perfect world, I wish they could just get together
20 and figure out something and everyone's happy. But I
21 don't know if we can really intervene. That's the
22 problem.

23 Well, with the lack of motion, we'll
24 move on to the next item and keep that under
25 advisement.

1 Okay. We've got staff reports on the
2 concluded race meets. We've got to keep moving along
3 here. So all of those -- if we can just, unless
4 there's anything in there that is of particular
5 significance, it would be better if we just -- those
6 are available on the record. Everyone can review
7 'em.

8 Let's move on to the committee
9 reports -- the Ad Hoc Security Committee meeting.

10 VICE-CHAIRMAN LICHT: We met toward the end of
11 Del Mar. It was very productive meeting. We
12 discussed the results of the milkshake testing, which
13 Dr. Jensen reported to you generally here today. We
14 understand how serious the issue is to the industry
15 in general. And the committee is well aware of that.
16 We've obviously acted by proposing this rule today.

17 We also talked about increased
18 security. We saw additional demonstrations of
19 security cameras that TOC is working on, along with
20 some of the tracks. Del Mar has somewhat of a system
21 in already; and hopefully, by next year, it will be
22 even more -- it will permeate beyond the extent of
23 the area that it is today. And I think that this
24 committee is an important addition to the Board and
25 is doing some real good in the industry.

1 CHAIRMAN HARRIS: Yeah. It has been a lot of
2 work into that committee. We thank 'em for all the
3 specific recommendations going forward.

4 Anything under General Business?

5 One thing I would like it bring up,
6 under General Business is, as you know, our Executive
7 Director Roy Wood will be retiring at the end of the
8 year or resigning. And we've appointed a search
9 committee to find a good replacement for Roy, which
10 is going to be Marie Moretti and Jerry Moss, with the
11 help of the entire Board.

12 Paige Noble will be the point person
13 at CHRB as far as actually taking applications. And
14 we have some information as far as the job
15 qualifications and details on the actual position.
16 But I think all of us in the industry -- we would
17 request everybody in the industry to help us find a
18 good person for this job and try to -- we'll try to
19 get someone in place.

20 And the earliest someone could be in
21 place would be January 1 of '05 because actually Roy
22 will be actually technically employed till then.
23 He'll actually be here through October. So we've got
24 a little bit of some time. But we wanted to get
25 started and try to get the process started.

1 Appreciate Marie and Jerry helping on it.

2 Any other General Business?

3 MR. BLONIEN: Mr. Chairman and Members, Rod
4 Blonien.

5 I guess on behalf of all my clients,
6 I'd like to thank you for sending a letter to the
7 governor on the San Pablo compact. And so you all
8 know, we were able to forestall the adoption of that
9 compact.

10 But we're going to be back into the
11 thick of it in December and January, when the
12 legislature returns, because the governor's
13 indicating that he's going to, again, seek to have
14 that compact ratified.

15 And I'm going to be working with the
16 various racing associations and the labor unions to
17 try and maintain our resolve in that regard because
18 there's no doubt in my mind that Northern California
19 circuit is going to be on life support if that
20 compact is ratified.

21 Now there's been no place in the
22 country where full-scale casino gambling's been able
23 to coexist 7 miles away from a racetrack. So we're
24 going to be tackling that. So I wanted to thank you.

25 I also wanted to ask a question, and

1 that is: Do you think there would be a conflict if I
2 applied for the Wood job and kept my other clients?

3 CHAIRMAN HARRIS: I wouldn't think so. I
4 don't think we could afford you, even part-time, is
5 the problem.

6 MR. BLONIEN: Thank you.

7 CHAIRMAN HARRIS: Okay. Any other General
8 Business? Old Business? That concludes --

9 COMMISSIONER SPERRY: Mr. Chairman, I think,
10 as this is Roy's last official --

11 CHAIRMAN HARRIS: No. We're going to be in
12 October -- he'll be here through the October meeting.
13 Yeah.

14 COMMISSIONER SPERRY: Never mind.

15 CHAIRMAN HARRIS: Keep in mind, too, that
16 we'll set a meeting -- maybe it'll be just at the
17 Board meeting, possibly, since all the Board members
18 are interested in it -- for that October 5 date, to
19 regurgitate everybody's information on the dates.

20 So I'd like to thank Fairplex and "Jim
21 Henwood" (phonetic) and all his people for hosting
22 this little barbecue which is going to -- it's been
23 going on next door, where I hope there's food left
24 for us. I'm sure that you're all invited over there.

25 (Proceedings concluded at 12:54 P.M.)

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