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CALIFORNIA HORSE RACING BOARD

REGULAR MEETING

Thursday, September 18, 2003
9:37 A.M.

HINDS PAVILION
FAIRPLEX PARK
Pomona, California

BOARD MEMBERS PRESENT:

- ROGER H. LICHT, Chairman
- JOHN C. HARRIS, Vice-Chairman
- WILLIAM A. BIANCO, Commissioner
- ALAN W. LANDSBURG, Commissioner
- MARIE G. MORETTI, Commissioner
- JOHN C. SPERRY, Commissioner

Reported by: NEALY KENDRICK, CSR 11265
Job No.: 03-25554

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1 POMONA, CALIFORNIA; THURSDAY, SEPTEMBER 18, 2003

2 9:37 A.M.

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5 EXECUTIVE DIRECTOR WOOD: Good morning, ladies
6 and gentlemen. I'd like to ask the meeting to please
7 come to order. This is a regularly scheduled meeting
8 of the California Horse Racing Board. It's being
9 conducted on Thursday, September the 18th, 2003. And
10 we're at the Hinds Pavilion in Fairplex Park in
11 Pomona, California.

12 Present at today's meeting are
13 Chairman Roger Licht, Vice-Chairman John Harris,
14 Commissioner William Bianco, Commissioner Alan
15 Landsburg, and Commissioner John Sperry.

16 Before we go forward with the business
17 of this morning's meeting, I would like to
18 respectfully request that, if you have testimony to
19 give to this board, that you present your name and
20 your organization before you speak. And if you have
21 a business card available, it would be nice to give
22 it to the court reporter after you give your
23 presentation.

24 With that, I'd like to turn the
25 meeting over to our Chairman, Mr. Roger Licht.

1 CHAIRMAN LICHT: Good morning, everybody. I
2 think we're at a real good juncture in the industry
3 right now. It seems like we maybe have turned the
4 corner.

5 Del Mar had a sensational meet.
6 Fairplex is off to a tremendous start. Bay Meadows
7 is off to a good start, from what I hear. And the
8 Kneeland -- Kneeland sales were record breaking. So
9 we have a lot of positive news. And hopefully it's
10 just the start of a turn in the right direction for
11 the industry.

12 First item is the approval of the
13 minutes from our July meeting.

14 COMMISSIONER LANDSBURG: I have one small
15 correction. On Page 1 of the minutes, there's a
16 quote in the last four lines attributed to -- the
17 last three lines attributed to me. I believe it's
18 Mr. Harris's comment that was made.

19 VICE CHAIR HARRIS: I don't think so.

20 COMMISSIONER LANDSBURG: On the first page of
21 the July 24th -- bottom three lines. It should be
22 Commissioner Harris.

23 CHAIRMAN LICHT: Any other comments or
24 questions?

25 Okay. I'd like to hear a motion to

1 approve the meeting minutes as amended by
2 Commissioner Landsburg.

3 COMMISSIONER SPERRY: So moved.

4 COMMISSIONER LANDSBURG: Seconded.

5 CHAIRMAN LICHT: Moved by Commissioner Sperry.
6 Second by Commissioner Landsburg.

7 All in favor?

8 BOARD MEMBER VOICES: Aye.

9 CHAIRMAN LICHT: Opposed?

10 (No audible response.)

11 CHAIRMAN LICHT: Passed unanimously.

12 Next item is the application for
13 Pacific Racing Association to conduct their meet at
14 Golden Gate Fields.

15 SPEAKER: Mr. Chairman, this presentation is
16 to be --

17 CHAIRMAN LICHT: Announce your name, please.

18 SPEAKER: (Inaudible) --

19 THE REPORTER: I'm sorry. I can't hear what
20 you're saying. Is the microphone on?

21 (Off-the-record discussion.)

22 (Microphone turned on.)

23 CHAIRMAN LICHT: Let's get started again.

24 MR. MINAMI: Roy Minami, Horse Racing Board
25 staff. This is the application for Pacific Racing

1 Association to conduct a horse racing, thoroughbred
2 horse racing, meeting at Golden Gate Fields from
3 November 5, 2003, to April 4, 2004. There'll be
4 racing 109 days, which is five more than 2003.

5 There will be racing five days per
6 week, Wednesday through Sunday, with eight races
7 weekdays and nine or ten on -- nine or ten races on
8 weekends, holidays, or dates of special interest.
9 First post will be 12:45 daily. And there will be an
10 11:00 o'clock post on Thanksgiving Day -- November
11 27, 2003.

12 At this time, we show need for the
13 horsemen's agreement, stakes schedule, fire
14 clearance, and worker's compensation insurance to
15 complete this application. The staff recommends that
16 the Board approve the application, conditioned upon
17 receiving the information necessary to conduct the
18 meet.

19 COMMISSIONER LANDSBURG: Is there any problem
20 with the horsemen's agreement? Is that why it's not
21 in?

22 MR. MINAMI: We haven't received it -- to this
23 day, we haven't received the horsemen's agreement
24 yet.

25 MR. LIEBAU: With respect to the horsemen's --

1 CHAIRMAN LICHT: Your name, please?

2 MR. LIEBAU: My name is Jack Liebau, Pacific
3 Racing Association. There really is no substantive
4 problem with the horsemen's agreement. The text of
5 the agreement is agreed to, without question. The
6 only outstanding item is the stakes schedule.

7 There is some discussion going on; and
8 I think, for once, the association is urging that the
9 stakes schedule stay where it is. We would like to
10 maintain our graded races. And in order to do that,
11 we have to have purses of a hundred thousand dollars
12 or more. (Inaudible) --

13 THE REPORTER: I'm sorry. Could you speak
14 closer to the microphone? I cannot hear you. Could
15 you raise the microphone? Thank you.

16 MR. LIEBAU: The purse schedule is being
17 discussed. As probably some of you know, the purse
18 schedule in Northern California is substantially less
19 than in the south. And at Santa Anita, I believe
20 you're looking at 28 percent of the money going to
21 stakes. In Northern California, both at Bay Meadows
22 and Golden Gate Fields, we are at 8 percent.

23 There is a little bit of discussion
24 about whether the purses on the two Grade 3 races
25 should be maintained at a hundred thousand dollars,

1 which they have to be maintained in order to sustain
2 their status as graded races. I really think that
3 we're down to one grade, which is the -- where
4 there's a chance of it getting graded.

5 And we would like to raise it from 75
6 to a hundred thousand dollars in order to possibly
7 achieve that grade. So I would say that we have a
8 \$25,000 problem. And that's it. And I'm sure we
9 will reach agreement today or tomorrow on that.

10 COMMISSIONER LANDSBURG: Then, can we say at
11 the beginning of next week?

12 MR. LIEBAU: Oh, there's no question we'll
13 have it within a week.

14 COMMISSIONER LANDSBURG: Thank you.

15 CHAIRMAN LICHT: Well, I have another
16 question. Racing services -- do you still want to
17 maintain your agreement with them?

18 MR. LIEBAU: I think that it's on there, in
19 case we do. I think, at this point in time, it
20 probably will not.

21 CHAIRMAN LICHT: But do you want to maintain
22 the right to do it?

23 MR. LIEBAU: There's flexibility to do that.
24 But I mean I would say that the chances of doing that
25 are slim to none.

1 VICE CHAIR HARRIS: On the same subject, on
2 these out-of-state systems with regard to Golden
3 Gate. Are those guys trying to make strides to get
4 instantaneous transmission of data? Are they still
5 lacking some of their data?

6 MR. LIEBAU: Well, I think, as you know,
7 Commissioner Harris, that is pretty much of a tote
8 problem as far as transmission is concerned. I think
9 all of the tracks believe that, you know, the system
10 could be improved. And we are putting pressure on
11 our provider -- Autotote -- to do so.

12 I mean, as you've pointed out in the
13 past, you can make a trade on the New York Stock
14 Exchange or Nasdaq almost instantaneously. But we're
15 having a hard time getting funds instantaneously. So
16 that is the concern at all of the tracks, including
17 at Golden Gate Fields.

18 VICE CHAIR HARRIS: Clearly some of them are
19 being transmitted instantaneously. Just some are
20 not.

21 MR. LIEBAU: That is true. I mean it's --
22 what is sent -- I mean one of the problems is that,
23 in some particular states, all of the locations,
24 money has to be sent at the same time. And that
25 does, in fact, hold things up.

1 I think, for instance, Arizona -- the
2 track there -- and I can never pronounce it; it
3 starts with a Y.

4 CHAIRMAN LICHT: Yavapai.

5 MR. LIEBAU: Yeah. There's -- there are some
6 other hubs as opposed to Turf Paradise. And all the
7 money has to go from that track to that hub and back
8 to Turf Paradise before it's sent into SCOTWINC. And
9 that's one of the problems that I'm familiar with.
10 And I think the same is a regulatory problem in
11 Florida.

12 VICE CHAIR HARRIS: Some of those people --
13 they just have to be told how it's got to be because,
14 I mean, it's a problem in California racing.

15 MR. LIEBAU: I think that's true. But I think
16 we're dealing with some regulatory problems in some
17 particular states. And both Florida and Arizona bet
18 considerable amounts in California.

19 CHAIRMAN LICHT: Well, we're supposed to be
20 getting reports from TOC and some of the tracks,
21 including Magna, on their various visits to these
22 places.

23 MR. LIEBAU: That's correct.

24 COMMISSIONER BIANCO: I have one question.
25 I've been gone --

1 THE REPORTER: Could you speak up a little
2 bit. I'm sorry. I can't hear you. Could you speak
3 into your microphone, please.

4 COMMISSIONER BIANCO: What I'd like to find
5 out about is the equine hospital at Golden Gate
6 Fields.

7 MR. LIEBAU: The equine hospital has, in fact,
8 been finished and is in the process of being equipped
9 by the foundation that is taking over the actual
10 operation of it. That is being led by the group up
11 there. I think, hopefully, that that is no longer an
12 issue up there.

13 COMMISSIONER BIANCO: Thank you.

14 CHAIRMAN LICHT: Any other questions or
15 comments on Golden Gate Fields's application?

16 Motion to approve their application?

17 COMMISSIONER MORETTI: I so move.

18 COMMISSIONER LANDSBURG: -- by five business
19 days.

20 CHAIRMAN LICHT: So by September 25?

21 Moved by Commissioner Moretti that the
22 motion for Golden Gate Fields to be approved for
23 their ensuing meet be made and contingent upon
24 receipt of the horsemen's agreement on or before
25 September 25 of this year.

1 Moved by Commissioner Moretti. Second
2 by Commissioner Bianco.

3 All in favor?

4 BOARD MEMBER VOICES: Aye.

5 CHAIRMAN LICHT: Opposed?

6 (No audible response.)

7 CHAIRMAN LICHT: Unanimously adopted.

8 The next item on the agenda is the
9 application for Hollywood Park to race their fall
10 meet.

11 MR. MINAMI: Roy Minami, Horse Racing Board
12 staff. Churchill Downs California Fall Operating
13 Company will be conducting a thoroughbred race
14 meeting at Hollywood Park November 11 through
15 December 21, 2003, for thirty days, which is five
16 days less than 2002.

17 There will be racing five days per
18 week, Wednesday through Sunday, with eight races on
19 Wednesday, Thursday, and Friday and nine or ten on a
20 selected basis on Saturdays and Sundays.

21 First post will be 12:30 daily and
22 with an 11:00 o'clock post on Thanksgiving Day,
23 Thursday, November 27.

24 We are still in need of the horsemen's
25 agreement, fire clearance, and stakes schedule. The

1 staff recommends that the Board approve the
2 application conditioned upon receiving the necessary
3 information.

4 CHAIRMAN LICHT: I have the same question for
5 Hollywood Park now that I had for Golden Gate Fields.
6 What about RSI?

7 MR. WYATT: I already listed ours.

8 Equal Wyatt, Hollywood Park.

9 It's listed in our application. And
10 as somebody said, we would be sending our signal to
11 it as a matter of routine. I'd just answer the same
12 way as Mr. Liebau did.

13 COMMISSIONER LANDSBURG: And your horsemen's
14 agreement is expected when, Mr. Wyatt?

15 MR. WYATT: We have -- we don't a signed
16 agreement. But we do have an agreement. We had some
17 language changed that was consensual. And that's
18 being made. And then we'll sign the contract. We
19 have an agreement.

20 COMMISSIONER LANDSBURG: And we can expect it,
21 again, within the same five business days?

22 MR. WYATT: I would think so. Yes, sir.

23 CHAIRMAN LICHT: Also we're going to defer
24 discussion about your ten-day track rule to our next
25 meeting, at which time I think you and CTT and any

1 other interested party will give us whatever evidence
2 you have with respect to the validity of that and
3 the -- how it affects racing.

4 MR. WYATT: Thank you, sir.

5 CHAIRMAN LICHT: Okay. And I had one other
6 question in my notes here. There was a problem with
7 Hollywood Park opening the back side, the barn area,
8 in a timely manner this year, I understand; is that
9 correct? Was there --

10 MR. WYATT: That is not correct. We
11 traditionally, for as long as I can remember, open
12 the barn area the Friday before Del Mar is closed.
13 And we did so this year.

14 CHAIRMAN LICHT: Okay. So it was done in a
15 timely manner?

16 MR. WYATT: Yes, sir.

17 CHAIRMAN LICHT: Okay.

18 VICE CHAIR HARRIS: There is one issue at
19 Hollywood Park on the timing systems with the tote
20 board. Has that been corrected?

21 MR. WYATT: I'm not aware of any issue. We
22 do, if you're aware, have a new tote board that
23 Southern California tracks will be sharing.

24 VICE CHAIR HARRIS: So you'll be using the new
25 one with the 14 numbers?

1 MR. WYATT: That's correct.

2 CHAIRMAN LICHT: Any other comments or
3 questions?

4 Motion to approve Hollywood Park,
5 contingent on a horsemen's agreement within the same
6 time period -- by September 25, '03.

7 COMMISSIONER MORETTI: So moved.

8 COMMISSIONER LANDSBURG: Seconded.

9 CHAIRMAN LICHT: Moved by Commissioner
10 Moretti. Second by Commission Landsburg.

11 All in favor?

12 BOARD MEMBER VOICES: Aye.

13 CHAIRMAN LICHT: Unanimously passed.

14 MR. WYATT: Thank you.

15 CHAIRMAN LICHT: Next item is the discussion
16 and approval of a nomination to -- of the two
17 directors to the CTHF.

18 MR. REAGAN: Good morning, Commissioners.
19 John Reagan, CHRB staff.

20 The CTHF, the welfare organization for
21 thoroughbreds, has a board. And two members have
22 been renominated to that board. And both of these
23 members -- Noble Threewitt and Mike Ames -- are well
24 known to this staff and have been hard-working and
25 dedicated members of that board. And we recommend

1 you approve their renomination.

2 CHAIRMAN LICHT: Any discussion or comments?

3 COMMISSIONER MORETTI: Two-year term, John?

4 MR. REAGAN: Yes, ma'am.

5 CHAIRMAN LICHT: A motion to --

6 COMMISSIONER SPERRY: So moved.

7 COMMISSIONER BIANCO: Seconded.

8 CHAIRMAN LICHT: Moved by Commissioner Sperry.

9 Seconded by Commissioner Bianco.

10 All in favor?

11 BOARD MEMBER VOICES: Aye.

12 CHAIRMAN LICHT: Opposed?

13 (No audible response.)

14 CHAIRMAN LICHT: Those two are unanimously
15 approved.

16 The next item is a request of Oak Tree
17 to suspend our Rule 1606 regarding the coupling of
18 horses so that the same owner, same trainer of horses
19 will not have to be coupled with a non-Breeders' Cup
20 races -- on Breeders' Cup Day.

21 MR. REAGAN: Yes, Commissioners. This is a
22 situation where the first request wasn't quite as
23 complete as we thought. They asked that the
24 Breeders' Cup races on October 25 be run with 1606
25 waived.

1 Come to find out that the additional
2 four races run by Oak Tree were not covered by that
3 request. And there are a certain amount of state
4 jurisdictions that can't mix the rules, given their
5 tote systems. And they would, of course, drop the
6 Oak Tree races and gone with the Breeders' Cup races.

7 In order to avoid that kind of mix-up,
8 Oak Tree has now requested that their races, in
9 addition to the Breeders' Cup races, be run with 1606
10 waived to make it kind of a consistent program. That
11 seemed like a reasonable request.

12 CHAIRMAN LICHT: Any discussion or comments on
13 this?

14 VICE CHAIR HARRIS: How does this work as far
15 as if there's an interference problem with a horse
16 that's not coupled with the same ownership? Does
17 that reflect on the placing of the other horse?

18 MR. REAGAN: Well, I think that would be up to
19 your stewards. But I wouldn't think so.

20 VICE CHAIR HARRIS: It would if it was an
21 injury, I think. There is an issue if a horse is
22 interfering with another horse and the other half of
23 the entry wins -- what happens to the other horse?

24 MR. REAGAN: You got me.

25 EXECUTIVE DIRECTOR WOOD: What was your

1 question, Mr. Harris?

2 VICE CHAIR HARRIS: If you've got -- say
3 you've got an entry, 1 and 1-A, and 1 wins. But one
4 of the reasons 1 wins is because 1-A wiped out the
5 field. Does the 1's victory still stand?

6 EXECUTIVE DIRECTOR WOOD: Yes. It does -- if
7 you're talking about in a coupled entry?

8 VICE CHAIR HARRIS: Yeah.

9 EXECUTIVE DIRECTOR WOOD: If 1 comes down --
10 1 -- Number 1 comes down, the other one comes down
11 too.

12 VICE CHAIR HARRIS: So they both come down?

13 EXECUTIVE DIRECTOR WOOD: Right.

14 VICE CHAIR HARRIS: So that victory does not
15 stand?

16 EXECUTIVE DIRECTOR WOOD: Yeah.

17 VICE CHAIR HARRIS: Okay. But in this
18 instance, how would you handle that?

19 EXECUTIVE DIRECTOR WOOD: It would be
20 different numbered horses. It would be uncoupling --

21 VICE CHAIR HARRIS: So in this instance, it
22 would stand?

23 EXECUTIVE DIRECTOR WOOD: It would stand -- if
24 officials would -- if the other horse interferes, he
25 was -- assuming he was the cause of the interference

1 and either one would stay, he would still stay up.

2 VICE CHAIR HARRIS: I mean that would be the
3 issue. We would hope it wouldn't happen. But that
4 would be one of the concerns.

5 EXECUTIVE DIRECTOR WOOD: And that's why we
6 have the rule as it is today for the coupling issues.
7 But in this particular case, we're talking about four
8 races on Breeders' Cup Day.

9 MR. REAGAN: Yes, sir.

10 VICE CHAIR HARRIS: I don't understand what
11 the out-of-the-state problem is. I mean they're just
12 taking bets on the numbers. I don't see -- it would
13 be immaterial if there was an injury or not an injury
14 or what.

15 MR. REAGAN: I agree with Mr. Harris. This
16 information was passed on to me from Oak Tree --
17 their people.

18 But apparently there are a couple of
19 out-of-state locations that, once they set the post
20 for the day and they set the parameters for rules --
21 in other words, they would say, "For this given day,
22 we're going to go without coupling," because I think,
23 in Breeders' Cup, if one of the Oak Tree races came
24 through with a coupled injury, apparently that would
25 throw that race out of the mix and cause those kind

1 of problems. So --

2 COMMISSIONER LANDSBURG: There's no real logic
3 to that.

4 VICE CHAIR HARRIS: Yeah. I mean still it
5 would matter --

6 COMMISSIONER LANDSBURG: It's numbers and
7 numbers.

8 VICE CHAIR HARRIS: Which jurisdictions did
9 they come up with that had that problem?

10 MR. REAGAN: I don't really recall.

11 CHAIRMAN LICHT: I want to hear from Chilly
12 Chillingworth and also Autotote. Autotote is here
13 today, too.

14 MR. CHILLINGWORTH: Sherwood Chillingworth,
15 Oak Tree Racing.

16 Insofar as the first issue's
17 concerned, I think that, if you have an uncoupled
18 entry, interference by 1 -- Number 1 with Number 2 --
19 wouldn't disqualify Number 1-A if he won the race. I
20 think that's an old -- that's one of the purposes of
21 the coupled entry.

22 And the second thing is to create
23 more -- a larger betting field. The reason we want
24 to do this is that we're planning on having a
25 guaranteed Pick 4 for the last four races. And we

1 want to have big fields to encourage more wagering.
2 And with uncoupled entries, you always have a better
3 chance of doing that.

4 Insofar as the technical question's
5 concerned, about why some jurisdictions can't, you
6 know -- the tote systems can't handle eight races one
7 way and four the other, I don't know.

8 (Mr. Liebau and Mr. Chillingworth
9 confer at the microphone.)

10 MR. CHILLINGWORTH: Well, Jack advised me.
11 It's Great Britain is the problem. So how that
12 figures into the matrix, I don't know.

13 CHAIRMAN LICHT: Well, it just seems like it
14 just makes more sense irrespectively of that -- I
15 mean to have 'em coupled -- not to have 'em in
16 couples. We can get more betting interest.

17 I don't think there's any dispute that
18 everybody is going to be trying to their maximum to
19 win these races. There's a lot of prestige.

20 MR. CHILLINGWORTH: Yes. My thinking is that,
21 on a day like this, the people involved, horses
22 involved -- you know, you're not going to have any
23 shenanigans like --

24 CHAIRMAN LICHT: Yeah.

25 MR. CHILLINGWORTH: -- holding back one horse

1 to let the other horse win. And it obviously
2 increases -- it has a great probability of increasing
3 the number of betting entries. We need as many as
4 possible.

5 We are going to have a -- on our
6 opening day -- September 28 -- we're going to do a
7 guaranteed Pick 4. And we're going to see what that
8 does in the way of handle before we commit to a
9 guaranteed Pick 4 on the Breeders' Cup Day.

10 But, nevertheless, having said that,
11 thee more entries you have, the better chance you
12 have of a larger handle.

13 VICE CHAIR HARRIS: Clearly, now, when you
14 have any given coupled entries, the problem being
15 that the ownership --

16 MR. CHILLINGWORTH: Ownership interest is
17 common.

18 CHAIRMAN LICHT: Any questions or comments
19 or --

20 COMMISSIONER SPERRY: I move approval, Mr.
21 Chairman, of the suspension of Rule 1606 on the four
22 races to be run at Oak Tree on Breeders' Cup Day.

23 CHAIRMAN LICHT: Moved by Commissioner Sperry.

24 Is there any second?

25 COMMISSIONER BIANCO: Second.

1 CHAIRMAN LICHT: Second, Commissioner Bianco.

2 All in favor?

3 BOARD MEMBER VOICES: Aye.

4 COMMISSIONER LANDSBURG: I abstain, Roger.

5 CHAIRMAN LICHT: Anybody opposed?

6 It's five -- four, with Commissioner
7 Landsburg abstaining. It's passed.

8 Okay. Number 6 -- the discussion to
9 suspend Rule 2040 regarding directors to serve
10 simultaneously on TOC and on Oak Tree.

11 MR. REAGAN: Commissioners, as indicated by
12 the letter in the package, two of the board members
13 of the TOC have been asked to join the board of the
14 Oak Tree Racing Association. This is contrary to our
15 Rule 2040(a). And they're asking for a waiver of
16 this rule.

17 I see that there are members from the
18 TOC here to speak to that.

19 CHAIRMAN LICHT: Okay.

20 MR. VAN DE KAMP: Good morning, Mr. Chairman,
21 Hello, Commissioners.

22 CHAIRMAN LICHT: Identify, please.

23 MR. VAN DE KAMP: John Van de Kamp, TOC.

24 At our September 5 board meeting, we
25 discussed the acceptance by Mr. Lewis and Ms.

1 McCaffry to positions on the Oak Tree board. Both of
2 them requested the opportunity to remain on the TOC
3 board.

4 In Bob's case, he'd been with us for
5 close to seven years. He'd been our chairman. He
6 had been a representative on the NCRA board. And I
7 don't think I have to tell you how valuable Bob Lewis
8 has been to California racing as a great owner, as a
9 charitable benefactor. I think the Lewises, you
10 know, stand on top of the California racing -- what
11 they've done for ownership and for California owners.

12 And Trudy McCaffry, as you know, has
13 been extraordinarily active and successful as a
14 owner; again, charitably minded; involved in all
15 aspects of racing, including membership on the board
16 of CTBA, organizer of "Kids to the Cup."

17 Our board talked about this at some
18 length, very much aware of the Rule 2040(a), which
19 says that you cannot be a member of the TOC board,
20 unless you're an honorary director, as well as a
21 racing association.

22 And after discussion -- and it was
23 resolved unanimously -- every member of the board --
24 to come to this Board and ask for a waiver under Rule
25 1406, for them only, so that they might remain on the

1 board, certainly, till the end of their terms.

2 Oak Tree, as you know, is a nonprofit
3 organization. We believe -- and I talked to Mr.
4 Chillingworth about this -- that, in both of their
5 cases, they can and they said they will refrain from
6 voting on issues that are related between the two,
7 whether they're serving on the TOC board on Oak Tree
8 issues or vice versa.

9 They are people of goodwill. And they
10 are terrific advocates for California racing. I
11 think they can continue to make a great contribution
12 to us. And with the understanding and admonition
13 that they would have to avoid conflicts of interest
14 between the two, I think that it can work. And I
15 request that this waiver of the rule be granted in
16 their case.

17 We have asked -- I think through
18 Mr. Charles, through Mr. Harris -- for an attorney
19 general's opinion on this. We believe they can serve
20 with the understanding that they refrain from voting
21 on related issues. I have, for the Board this
22 morning, a copy of the statement that I prepared for
23 our board back in 1999 about conflicts of interests.

24 In fact, I think Mr. Landsburg at that
25 time was on the board and also, I think, had been on

1 the board at that time, if I'm not mistaken of
2 YouBet. And he continued to serve on our board and
3 very carefully refrained from any voting on issues
4 that pertained to YouBet.

5 So this statement was prepared. I
6 think there's a fairly rough statement of existing
7 law. And Mr. Knight can certainly take a look at it
8 and even have his own opinion about it. Let me just
9 pass this to him and to the Board.

10 CHAIRMAN LICHT: While you're doing that, the
11 things that would interest me and influence me here
12 are three key issues. I think that Number 1 is
13 "What's best for the industry? Is it best for
14 industry to have them on both boards or not to be on
15 both boards?"

16 The question of "How much is diversity
17 of value to the industry, just having different
18 people that have different inputs?" That would be
19 Number 2.

20 And Number 3 -- the idea of conflicts.
21 And I'd like to hear some discussion on all three of
22 those.

23 MR. VAN DE KAMP: Well, I think I've addressed
24 the issue of conflict. We don't think it's going to
25 come up very often.

1 In terms of diversity, they also have
2 the experience in this business that very few have.
3 That, I think, is truly beneficial to the industry on
4 both boards. Oak Tree, in large measure, does
5 significant charity work. Both of them have
6 significant charity background. That is not a
7 conflict, of course, with what we do at TOC.

8 What could conflict, of course, are
9 contracts between the two of us. And I'm going to
10 say that, in both instances, whether they're serving
11 on the Oak Tree board or on the TOC board, they be
12 recused from that and recused from discussions of
13 those issues pertaining to the two.

14 And they have to walk carefully.
15 There's no question about it. But I think with, you
16 know, proper advice as to when they can or cannot get
17 involved, that they can handle that conflict quite
18 effectively.

19 In terms of diversity, we love to have
20 diversity. We now have 15 members on our board --
21 actually 14. John Amerman recently resigned, because
22 of other board responsibilities, to go elsewhere.
23 But now we have, you know, trainers on the board.

24 We have some members who are on the
25 CTBA board. And Mr. Harris is still on the CTBA

1 board, as I understand it. And that is not a
2 conflict of interest here, apparently.

3 We think their stature in the industry
4 and their involvement -- and I can only tell you that
5 both Bob and Trudy come to all the meetings. They're
6 heavily involved in everything we do.

7 And if you think that the work we do
8 is just a once-over-lightly situation, you're wrong.
9 We meet once a month. We have four-hour meetings.
10 We have occasional committee meetings. The actual
11 hours that are put in -- and Bob and Trudy can speak
12 to this themselves -- that it is enormous.

13 And both of them would like to stay on
14 the board and think that they can serve effectively
15 on our board as well as on the Oak Tree board. And
16 we think they're extraordinarily valuable.

17 And that's why every member of our
18 board, cognizant of the, you know, potential issues
19 where they'd have to recuse themselves, felt that we
20 should come to you and ask for a waiver in their
21 particular situation.

22 We're not asking for elimination of
23 the rule 'cause we think the rule, in many ways,
24 makes sense. In their case, however, we're asking
25 for a waiver and, I would say, until the completion

1 of their terms. And I think, in one case, it's two
2 years. And I think, in the other, it's a three-year
3 term that they would be finishing up. Our terms
4 start July 5. So they're both less than three years.

5 CHAIRMAN LICHT: Mr. Friendly, I think you
6 wanted to speak?

7 COMMISSIONER LANDSBURG: Before he does, I'd
8 like to set our record straight, please. With all
9 due respect to Mr. Van De Kamp, I was serving on two
10 boards until the TOC determined, by a board vote,
11 that you cannot serve on two boards at once.

12 And, in fact, the board called for my
13 resignation. It was a point of not so much my
14 serving on two boards but who was serving and how I
15 was serving. Three months after that event, I did
16 resign from the board of my own and for a very good
17 reason.

18 But, at least for the record, John,
19 the board did vote me off because there was a
20 conflict of interest. The fact that another board
21 overturned it is still another part of the story.
22 Thank you. That's for the record.

23 MR. FRIENDLY: My name is Ed Friendly. I'm an
24 owner.

25 For those of you on the board that

1 don't know me, I used to be on the TOC board. As a
2 matter of fact, I'm a founder of TOC and served as
3 their chairman and president for many years. And I
4 too share John Van de Kamp's opinion of Bob Lewis and
5 Trudy McCaffry. I think they're fine, upstanding,
6 wonderful people who have made a great contribution
7 to racing.

8 But I don't think that's the issue
9 here. I think there is a very serious issue of
10 conflict of interest. And I think the precedent
11 would be improper to say, "It's okay for two people,
12 but the board -- but the rule still stands."

13 Basically speaking, even though tracks
14 and owners should be and are compatible and have the
15 same interests at heart, at the same time, they are
16 vying for the same dollars.

17 Some background information: For
18 reasons which I don't understand, there is a law in
19 California that the only money owners can get out of
20 racing is from the handle. The betting money that is
21 put through the track is the only way purse money can
22 be derived.

23 Owners are not allowed to boycott.
24 They're not allowed to strike. Owners cannot
25 negotiate for any form of profit to the racetracks --

1 i.e., programs, concessions, parking, or any other
2 forum. That's a law. I think it's a ridiculous law,
3 but that's the fact.

4 I personally went to the California
5 legislation about nine years ago with Drew Couto,
6 who was then our administrator, and some of our
7 members of the board. And we asked to change that
8 rule.

9 We asked for the right to negotiate
10 for part of the tracks' other income such as the
11 concessions; parking, you know; and programs. The
12 tracks, who have put up a lot more money in lobbying
13 than the TOC could, won and won handsomely. And TOC
14 was denied the opportunity to negotiate.

15 That basically is the conflict here.
16 We, the owners, want part of the income that the
17 tracks earn. Advertising, for example -- the tracks
18 will make a contract to get a sponsor for a race.
19 The owners aren't allowed to get a part of that.

20 I think it would be wrong to deny the
21 owners the right to negotiate against the tracks for
22 that money. Yes. We have the same common interests.
23 But we also are vying for the same dollars.

24 The precedent of letting an owner be
25 on the TOC board and be on the racetrack board is

1 absolutely contrary to the reason TOC was founded ten
2 years ago. And to me, it would be as ludicrous as
3 saying a member of your board could be on a track
4 board. I just think it's a terrible precedent.

5 And I reiterate: I have the greatest
6 respect for Bob Lewis and Trudy McCaffry. But I
7 don't think that should be the issue here. Thank
8 you.

9 MR. CHILLINGWORTH: Sherwood Chillingworth,
10 Oak Tree Racing. I've been a director of Oak Tree
11 for over 14 years. And we've always enjoyed very
12 amicable relationships with TOC. Our interests are
13 very much in common.

14 Mr. Friendly pointed out an instance
15 that I was not aware of where there apparently was
16 some kind of strife. But, as long as I've been with
17 Oak Tree, we've only had one dispute with TOC. And
18 it was the year that we ceded a week to Hollywood
19 Park to run Breeders' Cup.

20 And therefore we had a foreshortened
21 season, and we were running all of our Breeders' Cup
22 preparations, as we normally do, early in the week,
23 which caused us to have something like a 29 percent
24 ratio of stakes and overnight purses. And they
25 objected to that -- I think it was like 28, 27

1 percent.

2 But this was a special occasion. We
3 were doing it on behalf of the industry, to help
4 Hollywood Park get their prep races in here in
5 California. And to my knowledge, that's the only
6 time we've had any even remotely contrary thing to
7 what they want to do.

8 So I'm saying that, theoretically,
9 there may be some problems. Practically, there have
10 never been any problems. Thank you.

11 COMMISSIONER LANDSBURG: Chilly, how many
12 board members do you currently have at Oak Tree?

13 MR. CHILLINGWORTH: We have five.

14 COMMISSIONER LANDSBURG: So that you are now
15 adding to or subtracting from other members besides
16 that?

17 MR. CHILLINGWORTH: We're adding to.

18 COMMISSIONER LANDSBURG: You're adding two?

19 MR. CHILLINGWORTH: Even if they recuse
20 themselves, then, in the case we have a TOC issue, we
21 still have five, which is a clear --

22 COMMISSIONER LANDSBURG: But you're adding two
23 members to your board; correct?

24 MR. CHILLINGWORTH: Correct.

25 COMMISSIONER LANDSBURG: Proposing to add two

1 members to your board?

2 MR. CHILLINGWORTH: Correct.

3 CHAIRMAN LICHT: Well, it's not that they're
4 just replacing people. Someone died and --

5 MR. CHILLINGWORTH: Well, one of our members
6 died.

7 CHAIRMAN LICHT: They're not new? You're not
8 adding -- making the board larger?

9 MR. CHILLINGWORTH: No. The board is not --
10 we're -- we are -- our by-laws provide for seven
11 directors. And we have not filled all seven slots.
12 So this is an effort to increase the board to its
13 full, normal size.

14 COMMISSIONER LANDSBURG: So it will now be
15 six? Is that what you're saying?

16 MR. CHILLINGWORTH: It'll be seven.

17 COMMISSIONER LANDSBURG: It'll be seven?

18 MR. CHILLINGWORTH: Yes.

19 COMMISSIONER LANDSBURG: Well, you said one
20 member died. And with --

21 MR. CHILLINGWORTH: Well, it was six. And
22 then we had one member die. So then we have five
23 remaining members.

24 COMMISSIONER LANDSBURG: I see. Thank you.

25 CHAIRMAN LICHT: What about the idea of

1 diversity in the industry -- having different people
2 that have different inputs, from different places?
3 How do you feel about that?

4 MR. CHILLINGWORTH: Well, I guess my feeling
5 is and our board's feeling is Mr. Lewis and
6 Ms. McCaffry have a wide-ranging, geographically and
7 just inside the State of California, wide-ranging
8 experience which we can benefit by. And the more
9 people you have that are knowledgeable, are
10 interested -- you know, you can get people on your
11 board that don't do anything.

12 But here are two very active,
13 knowledgeable people. And we very much want to have
14 their advice and their knowledge. And, therefore,
15 they are giving us diversity by bringing more data
16 and opinions and so forth to our group.

17 COMMISSIONER LANDSBURG: Thank you, Mr.
18 Chillingworth -- unless you have more. I don't want
19 to interrupt you.

20 MR. CHILLINGWORTH: No. I'm -- I've completed
21 my statement. Thank you.

22 COMMISSIONER LANDSBURG: Having served with
23 Mr. Lewis on the TOC board for a number of years, no
24 one has greater respect for his judgment and his
25 ability. I don't know Trudy McCaffry. I've met

1 casually with her, never served with her on a board.

2 Having said that, in the previous item
3 under discussion, I chose to abstain because what we
4 were doing in doing that was changing a rule to
5 convenience racing; but it was only four races. I
6 felt opposed to it. But I did not want to start, on
7 behalf of this board, a long wrangle over four races
8 which will be done in one day.

9 But I did abstain from voting on it
10 because I can't bring myself to vote down a rule
11 which we have made in good faith.

12 This board has made a rule in good
13 faith and follows rules in good faith in everything
14 it does. I have a great personal fondness -- and
15 this is hard for me to say -- I trust Bob Lewis's
16 instincts. And I'm sure Trudy McCaffry's are just as
17 solid and just as winning.

18 But we have a rule. And if we
19 continue to make aberrations to that rule on behalf
20 of people we love, then we're not serving either
21 racing, the State, or our own Board.

22 So as much goodwill that I have for
23 both of them and as much goodwill I have for John Van
24 De Kamp, I can see no rational reason, except "Let's
25 be nice guys." But "Let's be nice guys" isn't what

1 we're about.

2 And so I would urge the Board not to
3 approve this particular move, with some regret. But
4 I feel very strongly that we have to abide by our own
5 rules.

6 VICE CHAIR HARRIS: Yeah. I agree with Alan
7 on this one. I think -- I mean there's no dispute at
8 all about the credentials of the people, who are
9 outstanding. And if you want to do it for anybody,
10 you want to do it for these two individuals. It's
11 just -- I don't know what the real nexus of the rule
12 was.

13 But I think there are -- actually for
14 the people that are involved, it's hard. I think we
15 need a really strong advocates from all segments --
16 from the associations, TOC, the unions -- everybody.
17 And it's tough to be a strong advocate if you're
18 conflicted and have to abstain or can't participate
19 in a discussion on something.

20 And I think that the people who are
21 elected to TOC were elected by their owners who are
22 paying dues. 1 percent of all their purses go into
23 TOC. And it's not an optional thing. You can't
24 belong -- or not belong. So they have some
25 expectation that the rules, you know, would be

1 followed.

2 I can see some grace period of time
3 that these two people could have full directorships.
4 But I think it would be more a period of -- fairly
5 small period, short period to just allow the TOC to
6 find some new directors, if that was the direction it
7 went.

8 Did we do a research on what the nexus
9 of the rule was?

10 EXECUTIVE DIRECTOR WOOD: Mr. Harris, we tried
11 to research the nexus of the rule and found, through
12 our research, that the rule that addresses this issue
13 had been in effect for quite some time. It wasn't
14 created just at the time the TOC was formed.

15 It was there when the HBPA was in
16 existence, probably not the portion of the rule that
17 says you can't be a member of the horsemen's
18 association and a member of a board -- a racing
19 association. So that's been a rule standing for some
20 quite long time.

21 VICE CHAIR HARRIS: What year did that come
22 in?

23 EXECUTIVE DIRECTOR WOOD: I'm not sure of the
24 year.

25 VICE CHAIR HARRIS: Why did they change the

1 rule? I mean --

2 EXECUTIVE DIRECTOR WOOD: We adjusted the rule
3 to address the formation of TOC when HBPA and CTT
4 split up. And that rule was changed to address the
5 TOC issues.

6 MR. LEWIS: Chairman, a late good morning.
7 Commission People, good morning.

8 CHAIRMAN LICHT: Announce your name.

9 MR. LEWIS: I'm Bob Lewis. And I've given the
10 lady my card.

11 I am embarrassed that a subject of
12 this nature has to come before you and take the time
13 and attention of the California Horse Racing Board.
14 I do also feel -- have the feeling of nostalgia
15 because, in the initial sales here in Perris, in
16 1990, Beverly and I bought our first two horses.

17 And we have been committed to the
18 thoroughbred industry ever since that time, both here
19 in California and in -- we've had the good fortune of
20 racing on a national basis.

21 I would like to speak to you for just
22 a moment, and I will try to not go on at too great a
23 length or stand up on my soapbox here. But I guess
24 it's been a pattern in my life, whether it was the
25 brewing industry or the thoroughbred industry, that,

1 when I'm involved, I like to truly be involved and I
2 like to make a contribution and feel comfortable in
3 my own mind that I'm making that contribution.

4 And the thoroughbred industry has been
5 so unbelievably good to Beverly and I that I can't
6 begin to express to you the kind of gratitude that we
7 feel. In a recent communication that I saw from
8 Commissioner Harris, there was some reference made to
9 the fact that maybe it is only right and fair to give
10 other people the responsibilities to serve.

11 And I certainly subscribe and agree to
12 that. But I can tell you that one person who served
13 longer in the TOC, as its chairman, than its original
14 founder, Ed Friendly, is the man before you right
15 now -- Bob Lewis. I served three years as chairman.
16 I had the privilege of serving with Commissioner
17 Landsburg and Commissioner Harris.

18 And I feel so strongly that and know
19 from experience, having been on two nominating
20 committees for the TOC, that despite Mr. --
21 Commissioner Harris's belief, you just can't rush out
22 and find candidates who are willing to serve on these
23 commissions or these boards. They don't pay that
24 well.

25 And as most of you are aware, I

1 recently or next -- a week from tomorrow, will have
2 the gavel come down. And my business of 47 years
3 will be sold to Anheuser-Busch. And there's no
4 question about it. I am in need of employment. But
5 these opportunities aren't paying very well.

6 But I would like to devote even more
7 of my time to the thoroughbred industry. And I --
8 contrary to Commissioner Harris's belief, you cannot
9 go out and find candidates to run for an office of
10 TOC that easily. It is very difficult.

11 And during the most recent two-year
12 period, we have had three elected directors who have,
13 in turn, turned in their resignation and failed --
14 and I don't like to use the word "failed" -- but
15 failed to fulfill their full commitment. And I'm
16 sure they were for very valid and good reasons.

17 But it's unfortunate that they can't
18 make a further input to the thoroughbred industry.
19 I'm speaking to you on my behalf simply by saying that
20 I would like to make it known to you that I am not
21 going to resign and I'm not resigning from TOC.

22 But if it is in your wisdom and your
23 belief that this would be inappropriate, then I will
24 certainly acquiesce to that and do so and hopefully
25 retain the goodwill of each of you people whom I have

1 been acquainted with through the years.

2 But my desire is to, in every way
3 possible, serve the industry. I will recuse myself.
4 And I think our fellow members of the Oak Tree
5 Association or our fellow directors of TOC will be
6 the first people to be on us if we are not -- if we
7 are acting inappropriately or if we are, in some way,
8 confusing the issues. And that is certainly not our
9 intent.

10 We just don't believe that, overnight,
11 the void of Trudy and I leaving the board can be
12 filled to the effectiveness of the industry. And I
13 don't mean that to speak critically of anybody as a
14 horse owner.

15 But one of the reasons we have felt so
16 strongly about this is that the Oak Tree Association
17 is a horsemen's group. And as many of you who are
18 horse owners, you automatically are members of the
19 TOC.

20 And to those people who are on other
21 commissions and other boards -- they automatically,
22 also, if they own horses in California, are
23 automatically members of the Thoroughbred Owners of
24 California.

25 And I just make mention of that --

1 simply that, our feelings -- I know Trudy's as
2 well -- are that of deep sincerity, love for the
3 industry, and wanting to help in every way possible.
4 I appreciate your time greatly -- your most
5 grateful -- I'm most grateful to you for your time
6 here this morning.

7 And I'm sorry I've taken this much
8 time of your agenda. Thank you very much.

9 CHAIRMAN LICHT: Thank you.

10 COMMISSIONER MORETTI: I have a comment.

11 Thank you, Mr. Lewis. I -- I think
12 you made some very good points. And I don't think
13 there's a person in the horse racing industry that
14 doesn't have utmost respect for you and admiration
15 for Trudy as well.

16 I feel that we are constrained within
17 the rule that we have because, part of our charge, as
18 you know, is to protect the integrity of the industry
19 and the perception of the integrity of the industry.
20 And that's where I have conflict in saying "Okay" to
21 this at the moment. However, this is a CHRB rule.

22 And perhaps what we should do, if it's
23 causing -- if there really is a shortage and you
24 can't figure out the conflicts and there's no way to
25 put you folks in, into the Oak Tree board as well as

1 the TOC board and such -- and I certainly have no
2 reason to believe that there is a -- that there is
3 not a problem there as you see it -- but perhaps what
4 we ought to do is take an evaluation of that rule,
5 which we don't even have clear understanding as to
6 when it came in exactly and, you know, I mean I can
7 see, on the face of it, there's a lot of reasons for
8 that.

9 But I think I would have to vote "No"
10 today on this, within the context of where we are and
11 what we're charged with at the moment. And it's very
12 difficult to say that to you because you know that I
13 have the greatest fondness for you.

14 But I would suggest, perhaps,
15 Mr. Chairman, that this is something that we should
16 look at and see if it fulfills what we want it to
17 fulfill.

18 CHAIRMAN LICHT: Okay. Mr. Van De Kamp.

19 MR. VAN DE KAMP: Yes. John Van De Kamp, once
20 again. You know, with respect to rules, Rule 1406 is
21 a rule that says, "For good cause, with or without a
22 hearing, the Board may temporarily suspend the
23 application of any its rules upon conditions it may
24 impose." So you know the rules provide for
25 exceptions, as rules should, with good cause.

1 Now, Mr. Harris, you mentioned perhaps
2 there should be a time frame. And one of the other
3 possibilities would be -- we run our elections
4 usually in May. The terms begin July 1st. At the
5 very least, we're asking for a suspension of the rule
6 so they could fulfill their terms.

7 But one way we might do this in a more
8 orderly manner would be to permit them to serve out
9 certainly the next year until a new series of members
10 would be elected. We have staggered terms.

11 CHAIRMAN LICHT: Any other comments from the
12 public? from the commissioners?

13 COMMISSIONER BIANCO: Is it possible to get
14 the attorney general's opinion on this?

15 COMMISSIONER LANDSBURG: We did it. And he's
16 sitting right here.

17 DEPUTY ATTORNEY GENERAL KNIGHT: In terms of
18 an opinion -- I haven't formed or prepared an opinion
19 on the issue. I've looked at the regulation.

20 As Mr. Van De Kamp points out, the
21 regulation does provide for exceptions for great
22 cause, and good cause is just that. There has to be
23 a justification for it. There's no guidelines for
24 what "good cause" is, certainly in this context.

25 I have heard -- I will tell you, in

1 government context, this is the kind of conflict you
2 would not be able to have because there does appear
3 to be situations where there, as the parties have
4 acknowledged, there are direct conflicts, at least on
5 a couple of areas.

6 I'm not aware of any prohibition in
7 the law for this sort of thing in this context where
8 you've got -- you don't have public officials
9 involved such as you do in government. Government
10 officials cannot be in those kinds of conflicted
11 positions.

12 But I'm not aware of anything in the
13 law that would, per se, prohibit it. And you have
14 issues where you find just cause -- "just cause" in
15 your regulation -- you'd have authority to waive all
16 or part of your existing regulations or your rules.

17 COMMISSIONER SPERRY: Mr. Chairman, I don't
18 believe that Oak Tree is any danger of not being able
19 to operate with the five board members it has. I
20 respect those that are wanting to serve as much as
21 anybody. However, I'm not convinced that there's a
22 real need to make immediate change or waive a rule
23 simply to allow the two people that are being
24 proposed to serve on the board.

25 I'm hoping that you can show me that

1 there is a reason that you do need to have
2 additional people.

3 CHAIRMAN LICHT: Well, Mr. Sperry, it's my
4 understanding, from, I guess, just general
5 scuttlebutt and also from the fact that it's TOC
6 that's made this proposal to us that, if we do not
7 pass this waiver, that Mr. Lewis and Ms. McCaffry
8 would resign from TOC and would continue with Oak
9 Tree as opposed to --

10 VICE CHAIR HARRIS: I think that Mr. Lewis
11 stated that he would stay with TOC if that was the
12 choice, but I'm not sure --

13 MALE SPEAKER: We can't really control what
14 Oak Tree does. And I agree with Mr. Sperry that they
15 haven't illustrated that there's a compelling need to
16 have more directors.

17 MR. LEWIS: Mr. Chairman, I believe, if I
18 may -- excuse me, Commissioner Harris.

19 COMMISSIONER LANDSBURG: Please identify,
20 again, Bob.

21 MR. LEWIS: Pardon?

22 COMMISSIONER LANDSBURG: Identify, again.

23 MR. LEWIS: Bob Lewis, a member of the Oak
24 Tree Association and I suppose you should include the
25 TOC as well.

1 But if it is not within the framework
2 of wisdom of the Board to allow us -- Trudy as well
3 as myself -- and I am taking the liberty of speaking
4 on Trudy's behalf -- then, yes, we are going to go to
5 the Oak Tree meet. And we will -- with your
6 insistence, we will resign from the TOC.

7 VICE CHAIR HARRIS: I misunderstood.

8 CHAIRMAN LICHT: That's what I thought.

9 COMMISSIONER SPERRY: Unfortunately, that's
10 their choice to do so. That -- that doesn't change
11 the rule --

12 CHAIRMAN LICHT: No.

13 COMMISSIONER SPERRY: -- or the reason for the
14 rule.

15 CHAIRMAN LICHT: No. But I just wanted
16 everybody to be clear on the fact that it was TOC
17 that made the proposal. And the understanding that I
18 had was they would remain -- would join Oak Tree and
19 not TOC.

20 Do we have a motion at all?

21 VICE CHAIR HARRIS: Just to get something on
22 the table, I would move that we waive the rule only
23 until the next TOC election, which would be in April
24 or May to give them -- the TOC -- time to regroup.

25 But I mean, basically, I think the

1 rule's a good rule that we do need, in spite of the
2 fact that these are actually people who, whatever
3 board they would be on, you know, conflicts are a
4 problem. Perhaps short term, they aren't as big a
5 problem as they are going forward.

6 So my motion is to waive the rule
7 until next April or May or whenever the next election
8 is or --

9 CHAIRMAN LICHT: It's not hardly a short term.
10 It's six or seven months.

11 VICE CHAIR HARRIS: Yeah. Yeah.

12 COMMISSIONER LANDSBURG: I think that either
13 we live by a rule or die by a rule. But this is a
14 median that isn't comfortable for me.

15 MR. LEWIS: And, Chairman Licht, I would
16 certainly say that, in addition to what Commissioner
17 Harris has stated, I believe that Trudy would feel as
18 I do, that if you were to experience adverse thoughts
19 or criticism that would be brought upon you because
20 of our dual membership by a request from the
21 Commissioner, from the Chairman, we would certainly
22 step aside.

23 CHAIRMAN LICHT: Okay. We have a motion I
24 think we should hear, if we have a second, before we
25 have any more discussion. Is there a second to

1 Mr. Harris's motion?

2 (No audible response.)

3 VICE CHAIR HARRIS: I'll drop the motion.

4 CHAIRMAN LICHT: Motion is withdrawn.

5 Is there another motion with respect
6 to this?

7 COMMISSIONER LANDSBURG: I move that we do not
8 concur with the thoroughbred owners' request.

9 CHAIRMAN LICHT: Mr. Knight, I don't believe
10 we need a motion with respect to that. That would be
11 just if there's no affirmative motion.

12 DEPUTY ATTORNEY GENERAL KNIGHT: Correct.

13 CHAIRMAN LICHT: There being no motion, the
14 request is denied. We were going to take a break
15 until a quarter of 11:00.

16 (Break -- 10:37 - 10:50 A.M.)

17 CHAIRMAN LICHT: I'd like to call this meeting
18 back to order, please. Okay. The meeting is back to
19 order.

20 The next item on the agenda is Item 7,
21 discussion regarding compelling each racing
22 association to provide their racing signal to any ADW
23 provider -- any licensed ADW provider.

24 MR. REAGAN: Commissioners, John Reagan, CHRB
25 staff.

1 Yes. As currently construed, the
2 situation now is that, if someone wants to become an
3 ADW provider, the burden is on them to get a contract
4 with a licensed California association.

5 This is a simple question but a very
6 interesting complex question regarding the fact that,
7 what if we twist it around and said, "Every licensed
8 racing association will provide their signal to
9 someone who's a licensed ADW provider"? Very
10 interesting question. And I think there could be
11 some very interesting discussion.

12 CHAIRMAN LICHT: And, Mr. Landsburg, this came
13 out of -- this proposal came out of the committee of
14 Commissioner Harris and Commissioner Landsburg with
15 respect to the value of the license that the various
16 racetracks have and what the Board would be doing to
17 make sure the public gets their value from those
18 licenses.

19 COMMISSIONER LANDSBURG: A comment -- this is
20 anecdotal comment -- people who are utilizing ADW
21 complain that they've got to restructure their
22 betting world each time we change venues for an ADW
23 provider here in California.

24 And my question here is "Are we
25 limiting the amount of -- are we, A, interfering, in

1 a sense, with thebettors' alternatives? B, are we
2 limiting the number of ADW providers under the
3 current circumstance?"

4 That is, we have not had, since the
5 beginning, any other requests for ADW providers. If
6 we do get further ADW providers and they have access
7 to the signal, based on negotiations that are carried
8 out with the TOC, could we realize more handle
9 revenue than the restrictive manner in which we are
10 now involved in providing ADW to potentialbettors?

11 And I keep getting fliers and folders
12 from organizations -- I don't know how they get my
13 name, unless they're provided by ADW people -- for
14 opportunities to illegally bet in California. I gave
15 two such brochures that came in the mail, which
16 encourages me, as a California resident, to sign up
17 with offshore people and provide them with illegal
18 bets, which I will not do.

19 So that this is a matter of
20 examination of whether the racing associations are
21 doing the best possible job they can under the
22 existing conditions of ADW and should they, as part
23 of their license agreement, have to make their signal
24 available, based on the current status of
25 negotiations, to any ADW which this Board licenses

1 for operation in California?

2 That will always be a subject that
3 will be brought up at Board meetings in terms of
4 inviting new applications for ADW service, from
5 services inside and outside California. Will we
6 construct a new audience with this competition?
7 These are questions that I have. I think the very
8 restrictive nature at the moment of the exclusive
9 agreements that are in effect does not provide for
10 an opening to ADW providers from around the country
11 who will then be able to legally take bets from
12 California.

13 And perhaps we will come out at the
14 better end of the deal. I'm not sure about that
15 either. But all of these are questions that I have.
16 And in examining our licensing procedures for racing
17 associations, we've determined that there was a
18 possibility of expanding it through the utilization
19 of this licensing rule. I now invite comment from
20 Board Members or the audience.

21 CHAIRMAN LICHT: I think that this is -- I
22 know that this is on our agenda for discussion only.
23 But so we're just hitting the tip of the iceberg
24 here. But the way I see this is there are two
25 issues -- A, whether it's legal for us to compel the

1 tracks to comply with a request like this; and, B,
2 whether it's proper policy to do so.

3 And I think we should hear arguments
4 with respect to both of those issues.

5 And I think, Derry, why don't you
6 address the legal issue first, first of all?

7 DEPUTY ATTORNEY GENERAL KNIGHT: I have looked
8 at the issue at some length. Neither the statute
9 that sets up ADW nor the implementing regulations
10 address exclusivity. There's no -- I've read 'em,
11 literally, word for word.

12 There's nothing in them that suggests,
13 one way or the other, that providers would be limited
14 to providing the ADW service for just one or all
15 tracks.

16 And as the Board is undoubtedly
17 aware -- well, certainly is aware, more so than
18 myself -- you have the three providers, one of which
19 has exclusive contracts with a number of the tracks.
20 Then you have TVG and YouBet, which have a
21 nonexclusive arrangement in the sense that they've
22 shared the service with contracts that were made by
23 TVG initially, as I understand it.

24 We also have a third situation where
25 the fairs, as I understand it, have negotiated an

1 arrangement where all of the providers handle the ADW
2 for the various fairs. So we really kind of have
3 gone the gamut.

4 I've actually reviewed the minutes of
5 the meetings where the regulations were looked at and
6 where the contracts were negotiated. There was
7 discussion about the exclusivity issue. And the
8 notes that -- everything that I've read suggested
9 that the Board believed that openness and the
10 availability of this to any provider that might come
11 in was to be encouraged.

12 But the reality, as I understand it,
13 was that the ADW providers had, in fact, negotiated
14 contracts with certain tracks and they were
15 apparently -- at least some of them were exclusive
16 contracts.

17 These contracts -- one of the
18 questions that was suggested was "Is there some
19 prohibition, because of the existence of these
20 contracts, for the Board to change -- to make a rule
21 that would require they not be exclusive
22 arrangements?"

23 I don't believe that the Board is
24 restrained in that regard. I think that these
25 contracts -- this is a heavily regulated industry. I

1 think the parties, when they entered those contracts,
2 had to be aware of the existence of potential changes
3 in the rules.

4 So I really think that it's up to the
5 Board to make a decision as to whether or not it's in
6 the best interests of the horse racing industry to
7 consider the rule or the changes that's been put on
8 the table for discussion here. I don't know of
9 anything that -- I'm not aware of anything --
10 impairment of contract or anything -- that really
11 comes into play here.

12 We don't have a situation where the
13 State is a party to a contract or we're changing the
14 rules after we're entered a contract. We have a
15 regulatory body exercising its regulatory police
16 powers. And as far as I'm -- at least from my review
17 of it, I think that the Board has the discretion to
18 do whatever it would find in the best interests of
19 horse racing.

20 CHAIRMAN LICHT: So, then, based on your
21 analysis, the Board would be looking at the public
22 policy as to "How deeply do we want to get involved
23 in people's business affairs? How much do we want to
24 tell them how to run their businesses?"

25 And I mean I think we need to keep in

1 mind, as well -- for instance, TVG has an enormous
2 investment in the industry. And the value that
3 they're looking for is based upon their exclusive
4 contract which they negotiated.

5 So I would like to hear some
6 discussion from Commissioners and from the public
7 with respect to that.

8 VICE CHAIR HARRIS: Part of the problem, I
9 think, is that, in producing the video signal and in
10 the distribution thereof, TVG, in this case, has
11 spent a lot. And I think, in a perfect world, it
12 would be better if everybody could -- that the
13 provider could have every last product.

14 But I guess, from the driver's
15 standpoint, that whoever's spending the money to get
16 the signal out there doesn't really want to have a
17 lot of competition when they're not reimbursed for
18 that. So I think TVG probably wouldn't have come
19 into existence without some degree of exclusivity.

20 MR. VAN DE KAMP: John Van De Kamp, TOC.

21 TOC is not a party to any of these
22 foundation agreements. And indeed we believe that,
23 in a sense, the best model here in California is what
24 happens at the fairs where you have all three
25 entities with separate contracts with the fairs,

1 which we have approved. And they're going head to
2 head.

3 Frankly, one of the things that
4 Mr. Landsburg and I agree on -- there's something --
5 is that the broader distribution of our signal is in
6 the best of interest of all of us. And, frankly, you
7 know, to have single places where one can go to bet
8 also is in our best interests, ultimately.

9 But this Board better think about
10 this: You have contracts that have been reached many
11 years ago, especially between TVG and the various
12 tracks involved. As Mr. Licht has said, you have big
13 investments made.

14 And you have the potential, frankly,
15 of, if you try to put a limit on what they can do or
16 what they have to do -- what tracks have to do to
17 open up to everyone else -- I think potential
18 litigation that you're going to have to assess in
19 terms in of its total efficacy as well as its cost to
20 this Board.

21 Another point to be made is -- all
22 right. So you tell Hollywood Park, for example, that
23 "You have to offer your signal to HRTV." At what
24 price? Who is to set the price? Right now, HRTV or
25 Magna tries to deal with its competitors by charging

1 rates that are, you know, extraordinarily high and in
2 some cases make it impossible for others to come in.

3 The question is, I think, is how much
4 you want to get involved in this. And I think, as
5 cheerleaders, I think it's very important that, you
6 know, discussions like this take place. You have
7 some basic contractual issues you're going to have to
8 face down the line because this is ultimately going
9 to lead to that if you put and try to regulate the
10 price and what is being offered at each site.

11 So I think enough said. There may be
12 others who can add to this. Thank you.

13 CHAIRMAN LICHT: I think also what we're
14 looking at is TVG has had much more success than HRTV
15 at least in one area -- distribution. It's clearly
16 much greater distribution for TVG.

17 So are we -- if we go ahead with this
18 proposal, will we be bringing both of them down to a
19 common level as opposed to trying to get HRTV to
20 achieve what TVG has in the area of distribution?

21 COMMISSIONER LANDSBURG: I just disagree with
22 the problem. The problem here is one of
23 accommodating a couple of areas -- the accommodation
24 to outside ADWs. Now, they have to meet California
25 regulation. They have to meet what we determine as

1 their -- the guidelines for entering into an ADW
2 contract with approval of the Board.

3 At that point, we turn the mechanism
4 back to those who have been contributors. The
5 horsemen must agree to that contract. And the racing
6 association and the ADW provider must enter into a
7 negotiation. That's the only part of this rule.

8 Now, I can't be concerned, as a member
9 of this Board, with the contractual relationships
10 that are currently existing and may have been in
11 existence for a long time. I simply say that this is
12 in addition to anything that's been going on -- that
13 there should be an open signal.

14 Right now, we virtually have an open
15 signal. Right now, there is broadcast of all our
16 races somewhere at some time. And allowing the two
17 licensed or three licensed ADWs to be involved in all
18 of it can only bring, from my point of view, more
19 money into the handle.

20 That's the concern of this Board
21 because we don't want to see racing die. And we
22 don't want to see it die in the face of individual
23 greed, if you will, or corporate greed of any kind.
24 We want to see it emerge as a living and continuing
25 association. All I'm asking is, is it more

1 profitable?

2 Mr. Van De Kamp answered that quite
3 rightly, saying it should be more profitable. I now
4 leave it open for further discussion.

5 MR. FRAVEL: Mr. Chairman, Craig Fravel, Del
6 Mar Thoroughbred Club.

7 I think that's an issue in terms of
8 whether this is more profitable or not under the
9 current scenario or if the rule would be to propose
10 and adopt it. It's probably a relevant question
11 although it's one that, candidly, we spend a lot of
12 time thinking about and working on, doing analysis
13 on.

14 And I guess I differ in many respects
15 as to whether this rule is a good idea but from some
16 simple perspectives. One is the issue -- how
17 difficult is it for people to access these accounts?
18 And when we switch from Del Mar, Oak Tree to Magna in
19 January, have we really compromised the interests of
20 the bettor?

21 I can tell you, very candidly, having
22 opened accounts with at least two providers -- and I
23 can tell you, my friends at YouBet, I had a board
24 member of my board of directors who wanted to watch a
25 race from Philadelphia Park that we didn't have being

1 brought in from simulcast. We didn't have it on TVG
2 on television.

3 So I said, "Well, we can watch it on
4 YouBet." I had that account with them, with post
5 time about six minutes off, opened in the space of at
6 least of three minutes. And from then on, I was able
7 to access anything I wanted to on YouBet till they
8 changed the rules on how much you had to have in your
9 account to watch the signal.

10 But my point is I don't think we've
11 created a scenario where consumers are greatly
12 disadvantaged here. And I analogize this to Amazon
13 dot com. I have an account with Barnes and Noble and
14 with Amazon.

15 If I go on to buy a book at Amazon and
16 they don't have it, I go to Barnes and Noble. And,
17 within the space of four minutes, I have the book
18 purchased, which is a lot easier than going to the
19 bookstore.

20 So I part company with the issue that
21 we've created some scenario where everyone's greatly
22 disadvantaged. And I do think we have to keep in
23 mind both that YouBet, Xpress Bet, and TVG -- they've
24 all invested enormous amounts of capital on the basis
25 of certain expectations in terms of what the law

1 provides.

2 And to change the rules on them right
3 now -- and I think some of them may probably advocate
4 changing the rules -- but I think, from our
5 standpoint, changing the rules at this point -- and I
6 disagree to some degree with the attorney general,
7 though, that the impairment of the contracts, I
8 think, is very relevant in this case with existing
9 agreements and the ability to cover bases and pass
10 rules that are contrary to those existing agreements.

11 But, finally, I just want to point out
12 our handle at Del Mar this summer, with full
13 television signal throughout San Diego County on Cox
14 Cable showing TVG all day plus the Fox regional
15 direct -- our contract attendance was up over 8
16 percent and our advance by the wagering handle and
17 income was up roughly 40 percent.

18 We had put \$1.6 million in purses this
19 year. If we can maintain those kind of levels of
20 growth -- we haven't probably hit the home run many
21 of us thought we had done, but we've certainly done a
22 lot better than we've been doing in the past five
23 years.

24 And I guess this is one of those
25 scenarios where I would say, "If it ain't broke,

1 don't try to fix it at this point." I think the
2 potential for growth is there.

3 The opportunity for us to really
4 exploit these signals and this technology, whether
5 it's through TVG or YouBet, is essentially a business
6 decision. And I would encourage you to leave it that
7 way. Thank you.

8 MR. FRIENDLY: Fred Friendly, owner and
9 chairman emeritus, or whatever it's called, of TOC.

10 I think something that hasn't been
11 raised here is that the various signals are shown on
12 different venues. For example, the TVG may be on the
13 dish. Another one on may be on Direct TV. It's
14 difficult for people at home to get all three signals
15 if they subscribe to only one satellite or one cable
16 channel. They don't all go to the same -- all go to
17 the same place.

18 Did I make myself clear on that?

19 CHAIRMAN LICHT: I think a correction -- I
20 think, when you're talking about the three signals,
21 YouBet is strictly on computer. So that has nothing
22 to do with --

23 MR. FRIENDLY: You have to have different
24 things at home.

25 CHAIRMAN LICHT: Okay.

1 MR. FRIENDLY: In other words, it isn't that
2 simple for the -- what Craig said is, "If it ain't
3 broke, don't fix it." It is broke because a lot of
4 us can't get certain signals unless we subscribe to
5 other services. You can't get, I don't believe, TVG
6 and the HRTV on the same venue. I don't think
7 they're both on Dish or both on --

8 CHAIRMAN LICHT: Well, again for the record,
9 at this point TVG is on Dish and Direct, who are the
10 two biggest satellite providers.

11 MR. FRIENDLY: Not all --

12 CHAIRMAN LICHT: As far as cable, it's up to
13 your local cable. That, I don't know.

14 MR. FRIENDLY: I don't think they're on "Taft"
15 (phonetic), at least.

16 CHAIRMAN LICHT: Well, okay. I don't know.

17 MR. FRIENDLY: Well, my point is just the way
18 a presidential debate will be shown on all three
19 networks or on all channels, it's a point of obvious
20 the more -- the bigger the distribution, the more --
21 the more people can watch. The more people can
22 watch, the better your signal will be received.

23 So I disagree with Craig, quite
24 frankly, when he says, "If it ain't broke, don't fix
25 it." I think it behooves the California Horse Racing

1 Board to do everything in its power to see that this
2 wagering get the broadest circulation. And the
3 broadest possible circulation is to let as many
4 competitors to show the same signal.

5 You wouldn't give CBS the right to
6 just have one presidential debate and deny NBC the
7 rights. That's what we've done in horse racing. We
8 need to get as broad a signal as possible. Anybody
9 who thinks you're going to lose money by having our
10 signal on three different venues, I believe, is
11 wrong. I believe, the more people that have it
12 available, the better you'll see it.

13 And I think it's also pointedly
14 obvious that the HRTV is owned by a company who wants
15 to monopolize as much of television as possible.
16 That's my read on it. I believe they don't want
17 their signal to be on TVG because they don't think
18 they want TVG to succeed.

19 And I think this Board, when there
20 were other members on it, may have made a grievous
21 error by permitting one company to own three tracks
22 in California because I believe it puts too much
23 control in one party's hands. And I think that's one
24 of the problems that this Board should address itself
25 to, along with the signal, because they go hand in

1 glove.

2 Golden Gate, Bay Meadows, and
3 Hollywood Park are not allowed to go on TVG, not for
4 altruistic reasons, but for financial reasons. And I
5 don't think this Board should permit individual
6 corporate financial reasons to overweigh what's best
7 for California racing.

8 So I would encourage you to find a way
9 to let the signal of all tracks go in to anybody who
10 wants to see it or anybody that wants to use it. And
11 I'll guarantee that the industry will grow from this.
12 Nobody will lose. Everybody will gain. That's my
13 opinion.

14 CHAIRMAN LICHT: As an experienced TV person,
15 Mr. Friendly, how do you differentiate what you say
16 about the debates versus, say, Dodger baseball or
17 some situation comedy that's on CBS? Why shouldn't
18 ABC be able to show that situation comedy?

19 MR. FRIENDLY: The great difference is that
20 the FCC has a rule that says anything political must
21 be treated with the Fair Practices Rule. Baseball is
22 not regulated by a government commission. It is not
23 for the betterment of the public.

24 This particular Board is charged with
25 seeing what's best for racing. That is not true of

1 baseball, football, basketball, or any other sport.
2 Nor does the State license how many -- how much
3 racing commissions can make.

4 You get your -- you get your finances
5 from racing. That's the way you control it because
6 it contributes to the State, same as Las Vegas or
7 Nevada, if you will, has a racing commission -- a
8 gambling commission. Totally different, Roger.

9 VICE CHAIR HARRIS: But isn't part of the
10 problem, though, that there's no one out there really
11 to take the signal? I mean you can find somebody to
12 buy time. But are there really any outlets that
13 would really take the signal from racing without
14 charging?

15 COMMISSIONER LANDSBURG: If you'll excuse me,
16 Mr. Friendly, let me answer this, just in part.

17 MR. FRIENDLY: Please.

18 COMMISSIONER LANDSBURG: An ADW will have the,
19 really the obligation because they won't be able to
20 get audience for their signal -- for their service
21 unless they have the signal. Once they have the
22 signal, they get an audience for their service.

23 Then the only way in which they can
24 increase their take, their handle is to have it in a
25 public venue of some sort so that its audience can

1 reach to that ADW for betting. That's why I said a
2 "free for all" of ADWs, provided they meet the
3 California Horse Racing Board's set of regulations,
4 becomes an open place in which we can garner new
5 viewers.

6 VICE CHAIR HARRIS: I agree with that.

7 MR. FRIENDLY: I think the issue here is to --
8 and you alluded to my television career -- the issue
9 here is getting the broadest possible circulation for
10 our product. And our product is gambling. We should
11 do everything in our power to see that the gambling
12 portion of our industry is given the broadest
13 possible circulation.

14 We should make it as easy as possible
15 for everybody at home to get our signal and to be
16 able to bet on our signal if that's the business
17 we're in. And that is the business we're in.

18 CHAIRMAN LICHT: You think that TVG would
19 devote the resources that they have, had they not had
20 their exclusive relationships?

21 MR. FRIENDLY: Yes.

22 CHAIRMAN LICHT: You do?

23 MR. FRIENDLY: I think TVG would have done
24 anything to have gotten Santa Anita. I think they
25 would have shared it. I do think they would have

1 shared it because I think it's the old Henny Youngman
2 joke.

3 He says, "How's your wife?"

4 "Compared to what?"

5 If you can get racing on as many
6 channels as possible, that's the "compared to what."
7 It's compared to one. Thank you.

8 MR. KORBY: Chris Korby, Executive Director,
9 California Authority of Racing Fairs. A couple of
10 previous speakers have noted that the fairs didn't
11 negotiate contracts with all three licensed ADW
12 providers. Early on, when the prospects for this
13 summer took shape, we made a determination that that
14 was going to be the business plan that we pursued --
15 to negotiate, with all three of them, nonexclusive
16 agreements.

17 We think that's been successful for
18 us. And we're glad that we did it. So in a sense,
19 we don't have any position on this discussion because
20 the fairs are already doing this.

21 But I would like to note, for the
22 record, that we had those negotiations in an open
23 market without any compulsion from the outside on any
24 of the parties. And it was our determination to
25 proceed in this manner that we think allowed us to do

1 that. So I just offer that for your inspiration.

2 CHAIRMAN LICHT: Thank you.

3 MR. COUTO: Drew Couto, on behalf of
4 Thoroughbred Owners of California. I'd like this
5 Commission to look at the possibility of dealing with
6 this issue on two different parts. One is the AV
7 signal that we're talking about. The other is the
8 right to wager.

9 For business reasons, I think we all
10 understand TVG's position and HRTV's position
11 regarding the value of exclusivity and the control of
12 the AV signal. But it seems to us at TOC that there
13 is an economic model that the parties have not either
14 been forced to address or willing to address dealing
15 with the right to wager on one another's signal
16 without the right to see the video.

17 And I think that this is an economic
18 question. At what price can one sell the signal to a
19 competitor, allowing that competitor to bet but not
20 necessarily have that image which, again, is
21 considered very valuable property?

22 So if the Committee is going to look
23 at compelling anyone to do anything, I think they
24 should perhaps step back and look at it with both
25 components -- both the AV as one issue and the right

1 to wager because, as Mr. Friendly said, if the
2 product here is gambling, what we're trying to do
3 is -- I don't want to use the term "gamble" -- but if
4 what we're trying to do is broaden the distribution
5 such that additional players can play when they want
6 to, by allowing each of the ADWs to place wagers on
7 the other's signals but perhaps not showing the
8 signals might be the best way accomplish this
9 objective rather than forcing each to sell both the
10 signal and the right to wager.

11 COMMISSIONER LANDSBURG: A bit of history,
12 Mr. Couto: When Commissioner Licht and I were making
13 informal discussions so that we could present a
14 logical ADW license to the Board, both major parties
15 in this ADW market -- Xpress Bet and TVG -- offered
16 in meetings to say they would certainly consider
17 working with each other's signal, which, next to
18 Mr. Goebbels's, was one of the biggest lies ever
19 told, apparently.

20 Nobody was willing to negotiate a
21 signal. So while I respect your vision of a possible
22 solution, having been through it once, I don't know
23 whether we can go through it again. The fact is that
24 we have two valuable signals, two organizations that
25 have had two years with which to build an audience

1 for their ADW.

2 That audience has levelled, to a large
3 extent, for both of them. They are showing, in the
4 last six months, very little growth, very little
5 advancement in the numbers of people who are
6 accountable. We are seeing an advance in the amount
7 of money. That's fine.

8 But if there's more out there and
9 there's a way to achieve more, we examine the process
10 of licensing racing associations, on the basis of
11 their making their signal available to licensed ADW
12 providers. It's a very limited scope.

13 There were only, when ADW began in
14 California, three other, I believe, potential bidders
15 who backed out at the moment that they heard that
16 they couldn't get a signal because it's invalid to
17 them to have ADW without a signal.

18 This is a way to -- now that we have
19 had two years of experience, we have levelled out the
20 audience that each of these providers can develop.
21 There has to be another way to get a broader
22 expansion of the signal. And frankly, licensing the
23 racing association on the basis of its providing,
24 among other things, its signal to licensed providers
25 is an avenue to expanding the ability to generate

1 handle in California. It's as simple as that.

2 MR. COUTO: Mr. Landsburg, despite the
3 rhetoric from the two ADWs that we're talking around,
4 I think what we found with the private wagering
5 networks and a lot of other ADW sites -- they're
6 doing quite well. They're quite profitable without
7 any visual signal at all. And I think we know who
8 we're talking about.

9 Down in the Caribbean, they're doing
10 quite well without providing signals to any players.
11 It might be time to revisit this -- these issues. I
12 know it was frustrating two years ago to get
13 everybody together.

14 But it might be an appropriate time to
15 revisit these issues and, whether it's in a committee
16 form or informal discussions, get the parties
17 together to explore exchanging the right to wager,
18 without necessarily that signal, because we've seen
19 it successful.

20 We've seen a tremendous amount of
21 money shift offshore where they're just taking the
22 wagers without the signal. So I think perhaps we
23 should consider that as another option.

24 COMMISSIONER LANDSBURG: Thank you. We
25 consider all comers.

1 MR. FRIENDLY: Ed Friendly. Forgive me for
2 coming back. But I forgot to say something in answer
3 to your question, Commissioner -- Chairman, about
4 whether one company would accept a nonexclusive over
5 the other.

6 It seems to me that, from a business
7 standpoint, if TVG could show Santa Anita's signal,
8 it seems to me they'd make an awful lot of money and
9 it might make up for what they lost in exclusivity.
10 And the same is true of Santa Anita.

11 What we now have is a person that
12 belongs to -- subscribes to one or the other can only
13 get one track. I sit at home. And as a subscriber
14 of TVG, I can't see Santa Anita or Golden Gate or Bay
15 Meadows. I don't think that's good for the industry.
16 And I think that, if each took the other's signal,
17 that would make up for the exclusivity.

18 The other point I forgot to mention
19 earlier was by giving these -- by having it the way
20 it now is, we're encouraging offtrack or out-of-state
21 or foreign illegal gambling because people can't get
22 the signal or don't want to pay for two or three
23 different services all at once. We're helping the
24 people offshore make money.

25 And I think that's something this

1 Board needs to address -- how to keep as much of that
2 money here in the country as we can.

3 CHAIRMAN LICHT: How does it help encourage
4 people to bet illegally? In other words, if
5 somebody's going to bet with a bookmaker, for
6 instance, the fact whether they have TVG or if TVG
7 had Santa Anita, why would that discourage them from
8 betting with a bookmaker? I don't understand.

9 MR. FRIENDLY: Let's take me, for example. I
10 subscribe to TVG. I can't see -- I can't see or bet
11 on Santa Anita. So if I were so inclined and I
12 wanted to bet on Santa Anita, that would encourage me
13 to bet with a bookmaker or go offshore -- shore.

14 CHAIRMAN LICHT: But you could still open an
15 account with Xpress Betting even though you couldn't
16 see it. I mean it would be exactly the same as
17 betting --

18 MR. FRIENDLY: If I wanted to pay for those
19 services, yes. But wouldn't it be a benefit to the
20 public if we had only one service and let them choose
21 between which service they preferred? Wouldn't that
22 be a benefit?

23 CHAIRMAN LICHT: It could be deemed a benefit.
24 But I think, in my opinion, what you're saying is
25 that those are business decisions and not regulatory

1 decisions as far as whether or not, for instance, the
2 income would be made up to TVG by having Santa
3 Anita's signal and what would be lost by losing their
4 exclusivity on others. I think that's a business
5 decision.

6 MR. FRIENDLY: Yeah. But this Board does have
7 the authority to tell a racetrack, "You don't get a
8 license unless you send your signal to anybody that
9 wants to carry you." Wouldn't that be a service --

10 CHAIRMAN LICHT: Would it be a service?

11 MR. FRIENDLY: -- to the public and to the
12 industry and to the income? Might not be good for
13 the business of the racetrack. But wouldn't it be a
14 benefit to the industry?

15 CHAIRMAN LICHT: But I haven't seen it -- if
16 that were true, yes, I think it would be. But I
17 haven't seen any evidence of anywhere, even going
18 back to the days when we passed ADW or passed the
19 regulation for ADW, that it would be better for the
20 State to have -- the revenue would be better for the
21 State.

22 MR. FRIENDLY: We haven't had a chance to see
23 it.

24 CHAIRMAN LICHT: Okay. Thank you.

25 Greg. Let Greg up. He's been waiting

1 here, trying to push his way through.

2 What I'm going to do, by the way,
3 now -- what I'm going to do is set this for a
4 Pari-Mutuel Committee meeting in October because
5 obviously we're getting a lot of people who want to
6 talk about it and I think we're going to continue it
7 there because I want to give everybody a chance to
8 express their opinion.

9 Greg?

10 MR. BADOVINAC: I'm Greg Badovinac, individual
11 horseplayer. In the real world, I'm a free market
12 person. However, in the world of horse racing, the
13 free market does not exist outside the State of
14 Florida.

15 We saw what the free market did to the
16 state of horse racing in Florida. It killed Hialeah.
17 The tracks in California are given a government
18 license for an exclusive product to present to the
19 people.

20 As a horseplayer, yes, when Santa
21 Anita runs, I have to use my Xpress Bet account.
22 When the other thoroughbred tracks in Southern
23 California are there, I have to use a TVG account.
24 I, as a consumer, am stuck with three choices, all of
25 which have positives, all of which have negatives.

1 The idea that you would require, as a
2 condition of a license, that the racetracks provide
3 their -- the betting option to any licensed ADW
4 player can only help to benefit.

5 Mr. Landsburg, I believe that we need
6 to also separate the video signal between that which
7 goes out in -- quote -- "mass media," whether it be
8 satellite, cable, or over-the-air television and that
9 which would come over the computer as part of the
10 betting service.

11 It is my -- when I'm playing the
12 races, I much prefer to be able to see the races,
13 even if it is a 2-inch square on my screen where I
14 can get the video and the audio and see what's
15 happening. It makes me more liable to make a wager
16 on that track than a track which I can make the bet
17 on but I cannot see.

18 Yes. YouBet has that opportunity, but
19 they charge unless you're going to bet enough for it.
20 We need to open this up to as many providers out
21 there. Last count I saw, there were 12, including,
22 you know, a couple companies -- America Tab, Penn
23 National, Philadelphia Park -- all of which have
24 different racetracks.

25 There is not one single ADW provider

1 that will allow, whether you're in California or not
2 in California, access to every racetrack in the
3 country. But it should be the goal to allow
4 California wagerers as much access with a single
5 account, which they choose, to have access to as many
6 tracks around California and the nation to make their
7 wagers.

8 And so, as a proposal, it sounds good.
9 Of course, the devil's always in the details on the
10 regulatory side. But I would -- I appreciate the
11 opportunity to come back in October. And hopefully
12 we can cast a blueprint as to the what board's going
13 to have for a concept of their requirement of the
14 racetracks. Thank you.

15 MR. BAEDEKER: Rick Baedeker, Hollywood Park.

16 Given the opportunity to speak about
17 this at length at a later date, I'll just keep my
18 remarks short. I just would like to address one
19 comment which Commissioner Landsburg made which I
20 think was incorrect. And that is that there has been
21 growth in the last six months, which goes about just
22 prior to our meeting at Hollywood Park.

23 Since that time, TVG has added Direct
24 TV. They have cable television in Orange County.
25 They have cable television in San Diego County. And

1 I think also some already are up north. So we saw a
2 45 percent growth in our account wagering during our
3 meet. Craig talked about the growth during Del Mar.

4 The only other point I would make is
5 that you have to differentiate here, as has already
6 been done, between the wagering component and the
7 television component.

8 And when we entered into these
9 exclusive agreements -- I think back about 1996 or
10 so -- it was really based, not on the wagering
11 platform, which was already available at that time,
12 but it was based on the business plan that said that
13 exclusive content would, in fact, translate to
14 distribution.

15 TVG is in 7 million homes in
16 California after a year and a half of legalized ADW
17 in the state. We're pleased with that distribution.
18 There is every indication that it will continue to
19 grow.

20 The final point I would make is that I
21 would hope that the Board would be very reluctant to
22 overturn contracts that the associations have entered
23 into. I have an exclusive deal with Pepsi. I'm sure
24 a lot of my folks prefer Coke. However, that's a
25 business decision that we had to make, none of which

1 are easy.

2 I'm not trying to analogize this to
3 Pepsi, but I am trying to make a point about the
4 Board's involvement in our business. Thank you.

5 COMMISSIONER LANDSBURG: One question, Mr.
6 Baedeker, if you don't mind. When I referred to
7 "growth," I was referring to numbers of subscribers.
8 The last subscriber numbers I saw were rather level.

9 That's what I was referring to, not --
10 now we've seen a per capita raise in the amount of
11 betting that's been done in every sense at both the
12 tracks and through ADW. So I'm grateful for that
13 rise.

14 But I'm looking for a whole new
15 customer base, whether it's in California or around
16 the country, where we can encourage an ADW to come in
17 and exploit our signal, what you're seeing, if you
18 will, for ADW market that may not have our signal
19 available and make more fans for California racing
20 and thus, by extension, more money.

21 CHAIRMAN LICHT: Well, obviously there's a lot
22 of contention here that would be best suited in a
23 committee meeting where we have an opportunity to let
24 everybody speak freely.

25 Yes.

1 MR. CHILLINGWORTH: Sherwood Chillingworth,
2 Oak Tree. Let me make one final comment. We entered
3 into our contract with TVG on the principle that
4 they couldn't raise the investor money to create
5 their television cable network without having
6 exclusive right to our signal and the other tracks.

7 I'm not a constitutional lawyer, but
8 the U.S. patent law was developed so that an inventor
9 could go out and spend money and develop a product
10 and have a right to enjoy the royalties from it
11 exclusively for a period of time.

12 When you encourage someone to do that,
13 as we have, and they spend the money and then we come
14 along and say, "Well, we're changing the rules on
15 you," to me it's a constitutional issue that we
16 should look at.

17 COMMISSIONER LANDSBURG: I'm sorry. Did we --
18 how did we force you -- Oak Tree -- to spend more
19 money?

20 MR. CHILLINGWORTH: No. You did not.

21 COMMISSIONER LANDSBURG: Well, that's what you
22 just said, that --

23 MR. CHILLINGWORTH: No. No. I said, "TVG."

24 COMMISSIONER LANDSBURG: Oh, you're
25 representing TVG?

1 MR. CHILLINGWORTH: No, I'm not. I'm
2 representing Oak Tree. I'm telling you what Oak
3 Tree's decision was because we were in belief that
4 they needed exclusive contracts from a number of
5 tracks in order to raise the equity money to build a
6 system they have now built.

7 We have enjoyed an enormous increase.
8 This year we're forecasting a 72 percent increase in
9 ADW handle.

10 And I'm saying that, under the U.S.
11 patent system where people are encouraged to spend
12 money in developing a product, they're protected for
13 a period of years from anybody else encroaching on
14 that product. And I'm saying that there's a direct
15 analogy there and there's a constitutional issue
16 here.

17 CHAIRMAN LICHT: I think that this is clearly
18 a situation that there are strong feelings on all
19 sides. And the Board needs to take a very active and
20 very close look at whether some of the ADW rules and
21 regulations and whether licensing applications need
22 to be changed. And I think the proper forum would be
23 the Pari-Mutuel committee.

24 And I'd ask Chairman Landsburg to set
25 a meeting in October for a discussion of this issue.

1 COMMISSIONER LANDSBURG: No problem in setting
2 an October meeting. I would like to continue the
3 discussion because I think one of the most important
4 rules is to look forward in racing instead of hanging
5 onto what was yesterday.

6 CHAIRMAN LICHT: Okay. We'll set it hopefully
7 in conjunction with the Board meeting. The Board
8 meeting is Breeders' Cup week; so we know everybody
9 would be around.

10 Item Number 8 has to do with worker's
11 comp insurance. And I'd like Commissioner Moretti to
12 give us an update on the status in Sacramento and
13 what's going on with the worker's comp.

14 COMMISSIONER MORETTI: Thank you.

15 We've just completed the first year of
16 a two-year session in Sacramento -- thank goodness --
17 although they might be called back into session. Let
18 me give you a brief overview of what happened in
19 worker's comp, and then I'll deal specifically with
20 horse racing legislation.

21 As most of you know, this is
22 probably -- not "probably" -- it was the most
23 important issue for California businesses this year.
24 The tremendous rise in worker's compensation costs
25 have caused innumerable problems for small to large

1 businesses.

2 Basically, in a nutshell, there was a
3 conference committee -- a Republican and Democratic
4 conference committee which was called. And they
5 hammered out an agreement that I'm sure will be
6 signed shortly by the governor, which basically put
7 together a legislative package that includes a number
8 of items to control the cost of worker's
9 compensation.

10 We don't know and we won't know for a
11 while whether or not those costs will actually go
12 down. But what is anticipated is that the costs will
13 be controlled as of November of this year. To just
14 give you a brief description of what happened up
15 there, the main focus is to take the model of managed
16 care, which has been very successful in the health
17 care field, and put that over into the worker's comp
18 field.

19 There are some people -- Rod, I know,
20 is very involved in one of the more controversial
21 areas of the worker's comp reform package which was
22 to set fee schedules for outpatient surgery centers.
23 One of the things that was also part of all the
24 discussions was cracking down on fraud from both the
25 employee and the employer side, expanding the use of

1 alternative dispute resolution, and generic drugs.

2 There are a lot of different
3 components. And those of you who run your own
4 businesses and association and all that will begin to
5 see the road map for how these worker's comp costs
6 can be controlled, relatively soon.

7 Stepping aside from the worker's comp
8 legislation, specifically let me talk about the horse
9 racing legislation -- that was AB 900 -- which was
10 Assemblyman Horton's bill that originally was passed
11 when we first talked about legislation. And that was
12 a couple of dozen measures that were -- that we had
13 about four months ago -- back in the spring, I think.

14 Anyway, AB 900 was what we call a
15 "button amend." It was originally a study bill.

16 And it was taken and transformed into
17 a bill that I think was actually a very laudable bill
18 in that the horse racing industry is the only
19 industry that I know of that actually wanted to help
20 itself out of the worker's compensation crisis and
21 has already done that by taking funds from the CMC
22 fund to help the worker's compensation.

23 But the law -- the bill became very
24 controversial for a variety of reasons. To give you
25 just a quick review of what happened, it had passed

1 out of the senate and went to the assembly.

2 There was a political move that
3 affected not just this bill but many bills that were
4 in the assembly that had a two-thirds requirement
5 with an urgency measure in it. And because the
6 Republicans refused to vote on any two-thirds bills,
7 they all died. They didn't -- they were not voted
8 on. So they did not pass out.

9 So what happens now is that AB 900 is
10 actually still alive and will come back in January
11 for more committee hearings, I believe, because at
12 the last week or so, as many of you are intimately
13 familiar, there was a -- although it was too late to
14 put another amendment into that particular bill,
15 there was an agreement among many parties that are in
16 this audience today to put together a letter to -- in
17 the legislative journal and to put together a letter
18 to the governor requesting that -- to ask him to
19 speak to the -- take a review of this and to consider
20 a potential sunset clause for this legislation.

21 The legislation basically was
22 controversial because of its effect on the takeout.
23 There were a number of people -- there are a number
24 of people who are very concerned about tampering at
25 all with the takeout. But, on the other hand, it was

1 something that was for worker's compensation, which
2 is killing a lot of other businesses too.

3 So all that to say it's on hold at the
4 moment. Come January, legislature will be back in
5 session.

6 And you will just -- for those of you
7 not that familiar with the goings-on in Sacramento,
8 you may hear that the legislature actually goes back
9 in session within either this week or next week
10 because one of the other victims of that two-thirds
11 rule was the Megan's Law, which, I don't think
12 there's a person in the legislature who would -- who
13 was opposed to that.

14 Megan's Law had a sunset on it.
15 Megan's Law is the one that requires sex offenders to
16 register in the community and allows us, the public,
17 to go to the D.A. and go to the police department and
18 find out if there is a sex offender, registered sex
19 offender, in our neighborhood, to give you more
20 detail than you want.

21 But when you hear that the legislature
22 is called back into session, it's because of that one
23 particular bill. And so our bills, horse racing
24 bills, will, as I said, come back again in January.
25 That's it -- the bottom line.

1 CHAIRMAN LICHT: And amendments are possible,
2 between now and January, anytime.

3 COMMISSIONER MORETTI: Absolutely. Yes, they
4 are.

5 CHAIRMAN LICHT: We don't have that short
6 view. So I think it's been the industry's pledge
7 that there's going to be a look to the entire
8 industry to review this bill and add their input and
9 have the Horse Racing Board involved in, hopefully,
10 getting something passed that's workable for our
11 problems.

12 COMMISSIONER MORETTI: What I'm not clear
13 about -- and Rod is up here; you might know the
14 answer or maybe Jack Liebau might know the answer on
15 this -- is the effect of the potential sunset on the
16 CMC -- the marketing committee -- what that effect
17 will be to worker's comp issues.

18 That might be a separate discussion
19 from this Board meeting. But I would, at some point,
20 like to get the answer on that and how it would
21 affect the results of the --

22 MR. BLONTEN: Mr. Chairman, Rod Blonten,
23 representing TOC. I gave Marie an A-double-plus for
24 her report. I think it was very complete and very,
25 very accurate.

1 I just wanted to add that we had hoped
2 that the assembly Republicans would cave and change
3 their mind, as the evening wore on the last night,
4 because in previous years they have held up bills for
5 one reason or other but ultimately, close to the
6 deadline, had relented.

7 They were unrelenting this time and
8 kept talking through the evening. And finally at
9 2:30, we pulled one of the leadership off the floor
10 and explained again the dire circumstances that we
11 find ourselves in, in terms of worker's comp costs.

12 And we were told, "Look. We're going
13 to take all the heat because we're going to, in
14 essence, allow Megan's Law to expire. If we're not
15 going to do it for Megan's Law, we're not going to do
16 it for horse racing."

17 But we had held out a hope that, at
18 the end, they would cave and allow a couple of bills
19 to go. It is just so asinine that, because they're
20 angry with Senator Burton, that they punch us in the
21 nose and they punch potentially young children in the
22 nose that might be victims of Megan's Law. I guess
23 they made their point.

24 And when they come back to their
25 special session, they're talking about an initiative

1 on Megan's Law -- I don't know -- but it's really
2 unfortunate that we ended being part of the
3 collateral damage.

4 COMMISSIONER LANDSBURG: Rod, one question on
5 this bill. I was told -- and I don't know; I'm not
6 sure of the source anymore -- that the bill, as
7 constituted, was not amendable for the next session.
8 Is that --

9 MR. BLONTEN: No. No. It can definitely --
10 what we need to do, Alan, is we need to send the bill
11 back to -- we can't amend it in the assembly. It
12 goes back to concurrence. So what we would do --
13 send it back to the senate, expunge the vote in the
14 senate. At that point, it could be amended.

15 COMMISSIONER LANDSBURG: I see.

16 MR. BLONTEN: I think it is clearly possible
17 that, in the first ten days or even the first five
18 days of the next legislative session, this bill could
19 be on the governor's desk. And the legislature comes
20 back on January 5.

21 VICE CHAIR HARRIS: I think we've got to
22 always remember to take a little bit of time and, you
23 know, review our input into the bill. I think one of
24 the concerns I have would be some sunset, maybe a
25 two-year sunset, because one of my concerns is this

1 is a lot of money and how it's going to be spent.

2 The other part, which I don't know if
3 we should have input or not, but this committee has
4 no input into how the money is spent or approval
5 authority of how it's spent, which maybe is okay.
6 But it's kind of bothersome that you just got
7 somebody someplace spending this \$6 million and we
8 don't even know where it goes.

9 CHAIRMAN LICHT: Also is it 10 million? 6
10 million? 17 million? We have a lot of different
11 figures here.

12 VICE CHAIR HARRIS: Also another issue would
13 be, would it be better to -- if this impacts all
14 exotic wagering, where some states look at exotic
15 wagering as a couple different categories, one
16 involving two basic selections like exactas and a
17 daily double and the other three or more -- trifecta,
18 "two-fecta," Bet 6 -- possibly increasing 1 percent
19 on that and not all on these tracks, I hear a lot of
20 things need to get looked at.

21 And hopefully we've got time to do it
22 in because it's kind of a 11th hour thing. The whole
23 bill was -- I wouldn't -- I mean I'm not sure what
24 the problem with Megan's Law was, why they didn't
25 move on that. But this bill did come kind of at the

1 last minute. So I don't think it's strictly the
2 legislature's fault.

3 MR. BLONTEN: And, Ms. Moretti, I can't really
4 respond to your question about the CMC. I know that
5 one part of the CMC law sunsets, I believe, July of
6 next year. Another portion of it sunsets January of
7 '05.

8 We had had discussions -- we, TOC --
9 with the separate racing associations. We were going
10 to extend the sunset so the whole law would sunset in
11 January of '05. Then at the last, toward the end, it
12 was decided we would hold off. And we can address
13 that issue next year.

14 But there's a possibility, I would
15 think, now in the interim, that we could take a look
16 at that and do some work there as well. I think,
17 right now, there probably is not uniformity of
18 opinion in the industry as to what should be done.

19 CHAIRMAN LICHT: Okay. And we'll work on this
20 over the next few months.

21 MR. FRAVEL: Craig Fravel, Del Mar
22 Thoroughbred Club.

23 I think I can speak on behalf of the
24 other associations that we welcome the opportunity to
25 sit down with you guys and find something that -- I

1 think there's nobody that's been involved in this
2 process that thinks they have all the answers.

3 We just know there is a big, big
4 problem. And whoever can help us solve that is more
5 than welcome to be at the table with us. So I
6 appreciate your interest in it.

7 CHAIRMAN LICHT: All right. We'll leave it up
8 to you to schedule something, Craig.

9 MR. BADOVINAC: Greg Badovinac, individual
10 horseplayer.

11 I see the benefits of this for every
12 group except the people who are going to pay the
13 bill. It's good for the owners and trainers to help
14 reduce the costs so they can stay in the business and
15 be successful. And I'm for that.

16 It helps out the racetracks and racing
17 associations because, without the horses, they can't
18 run. If they can't run, all of their major capital
19 investments are not going to generate the return. I
20 support that.

21 This half percent out of the wager --
22 out of the exotic wagers is coming out of the
23 horseplayers. What are we getting out of this?
24 We're getting good California horse racing. But in
25 this era of ADW, there's no guarantee that, after

1 this is passed and signed into law by the governor,
2 that this is going to make California racing any
3 better.

4 You know, it's still -- it's still
5 probably better for me, as an individual player, to
6 play some out-of-state races even though I don't
7 necessarily play the ninth race yesterday in Belmont
8 and know who the sires are of all of the horses in
9 Belmont Park.

10 But what are we horseplayers getting
11 out of it? My suggestion is, if you're going to take
12 this out of the horseplayers' pockets, give us
13 full-card simulcasting. We -- the 23 limit is a dead
14 issue with ADW. Give us something in return for
15 paying the bills on this.

16 And I encourage the Horse Racing Board
17 to use this an opportunity to push for full-card
18 simulcasting in California.

19 CHAIRMAN LICHT: Let me just sort of shorten
20 this because I'm sure there are a lot of people who
21 can answer some of your questions. First of all, I
22 agree with you that the player is the one paying for
23 it.

24 But the argument on the other side, as
25 you know, is that, in any business, whatever you do,

1 when the costs -- when your costs go up, you're
2 entitled to raise your prices to the public. And
3 that's essentially what has been explained to me.
4 Now, I don't totally accept that. But that's the
5 explanation.

6 The other side of it is what the
7 players are going to gain, theoretically and
8 hopefully, is a bigger field with more betting
9 opportunities and bigger payoffs. And that's why --
10 and I'm not sure that's going to happen either.

11 But that's why the idea of the
12 sunset -- one of the reasons why the sunset comes
13 in -- to make sure that that does happen.

14 MR. LIEBAU: Jack Liebau from Santa Anita.

15 Just with respect to comments made by
16 the last gentleman, first, about the impact of
17 so-called free enterprise in Florida that killed
18 Hialeah, I would submit that Hialeah killed itself.
19 One of the things that Hialeah had was the highest
20 takeout of WPS known to man. I think a lot of those
21 things worked against Hialeah.

22 But as far as the gentleman is talking
23 about going off and betting in other jurisdictions, I
24 would point out that, even if our takeout on exactas
25 is raised by .5 percent, we still will be the second

1 lowest in the country.

2 And if the gentleman wants to divert
3 his money to the other jurisdictions, it's really not
4 a good investment because he will be paying higher
5 takeout in almost all of them. The takeout in some
6 of these jurisdictions are astounding. Thank you
7 very much.

8 COMMISSIONER LANDSBURG: One quick comment --
9 not to you, Jack; I was just going on -- in the
10 discussion with the insurance commission, the State
11 Insurance Commission, they're looking forward, within
12 a year, to save \$6 billion out of the readjustments
13 to the workmen's compensation.

14 So, whatever we're doing now will be
15 reflected in about a year from now when the way in
16 which workmen's compensation pays its bills will be
17 changed and changed to the -- hopefully, for the
18 better. One never knows, but it looks like they have
19 a \$6 billion comeback in terms of costs.

20 And, secondly, I hope, when Mr. Fravel
21 calls that meeting, that we can sit down because
22 there are ways in which to use the money which may be
23 far more profitable for racing than those suggested
24 in the bill.

25 MR. KORBY: Chris Korby, California Authority

1 of Racing Fairs. I'll be very brief. Fairs has
2 supported this legislative package with this concept.
3 We support this bill. We will continue to support
4 it.

5 I would like to note, however, that
6 although the increased takeout of exotics affects all
7 racing associations in California, the fairs are not
8 named in the body of the legislative language
9 covering how the monies are spent. And we would like
10 to see a revision of the language to include the
11 fairs on that point. Thank you.

12 CHAIRMAN LICHT: Okay. This is something that
13 we'll be talking about, I'm sure, at length over the
14 next few months.

15 Item Number 9, the four-second
16 cancellation delay.

17 MR. REAGAN: Commissioners, John Reagan, CHRB
18 staff.

19 As you know, in the last couple of
20 years, there has been intense focus on the final
21 cycles, the final cycle odds of racetracks in
22 California. We've looked at it from the aspect of
23 import from out of state and delays there.

24 We've also looked at increasing the --
25 shortening the cycles of the win odds so that the

1 odds are more current as we go to the start of racing
2 and so on and so forth.

3 Mr. Licht was also interested in what
4 effect, if any, that the four-second cancel delay had
5 on the final cycles. After a quick survey of the
6 pari-mutuel managers in California, we felt there
7 probably wasn't that much impact.

8 I did some testing at the recent Del
9 Mar meet. And those numbers are included in the
10 package items. But certainly for a given day, none
11 of the amount -- number of cancellations or the
12 dollar amount seemed significant at this point.

13 We are still going to monitor that,
14 but we don't believe that's going to have any
15 negative impact on those cycles. I'll answer any
16 questions you might have.

17 CHAIRMAN LICHT: Yeah. I think what I'd like
18 is to have this on the agenda for the Pari-Mutuel
19 Committee for a more in-depth discussion.

20 I think that it's important enough,
21 Mr. Marten, to make sure that it's in our release so
22 that the betting public does know that there is a
23 four-second delay. I've had people come up to me and
24 say, "I didn't know that."

25 Many people who have become frustrated

1 with the changes in odds, first attributed that to
2 betting after the start of the race. I think that
3 those -- that direction has been thwarted. And now
4 many of them are going to, "Well, there are
5 cancellations after the start of the race."

6 And I have some in-depth statistics
7 from RGS, the biggest offshore player. And, to me,
8 they negate any possibility -- certainly any
9 probability -- that there is any shenanigans in the
10 last-second cancellations.

11 I know Del Mar has done an in-depth
12 study in connection with the auditor and their own
13 pari-mutuel people. And I look forward to an
14 in-depth report on that.

15 MR. REAGAN: We'll put it on the agenda.

16 CHAIRMAN LICHT: Thank you.

17 MR. FRAVEL: Mr. Chairman, we had an incident
18 where odds changed in the middle of a sprint race and
19 created some interest on the part of the media and
20 the public. So we did -- we started collecting
21 information based on when we were receiving money
22 from out-of-state pools final into our pools.

23 And I'm going to present, within the
24 next couple of weeks, to Reagan and to yourself, the
25 results of that. And I think it should be

1 informative.

2 One of things that you'll notice,
3 particularly in dealing with RGS or Nevada or even
4 SCOTWINC, is that that money typically is final into
5 our mutuel pools between 8 and 10 seconds after the
6 stop-betting button has been pushed by the stewards,
7 which is a signal that goes out around the world, I
8 guess, and disables tote systems and further wagering
9 on our races.

10 Something that's important to note in
11 the relevance of the four-second cancel delay is
12 twofold. One is the issue you raised about whether
13 it's possible to watch the monitor and see a horse
14 stumble and give somebody a signal to cancel the
15 betting on that in four seconds. I think that's a
16 difficult thing to do, to be honest with you.

17 But and we've reviewed our history of
18 cancellations. And typically it's very rare. It
19 happens mainly on Opening Day and Pacific Classic
20 Day, when you have a lot of novices around. And the
21 denominations, at best, are two to \$6. We're not
22 talking about the kind of bets that move mutuel pools
23 around.

24 And I'll be happy to share that
25 information with you, as well, because that's a more

1 random thing.

2 The other relevance, just in terms of
3 the public-confidence issue, is that the reason that
4 it takes 8 to 10 seconds for those pools to be
5 finalized is that our tote system doesn't even
6 request those pools from out-of-state jurisdictions
7 until the four-second cancel delay has expired.

8 So you have the stop-betting button
9 hit; four seconds; and then a computer signal goes
10 out, requesting the wagering pools to transmit -- be
11 transmitted. Afterwards, they're transmitted.

12 So, you know, in the cases like RGS or
13 Nevada, basically what you're talking about is monies
14 that comes into our pools within six seconds, at the
15 outside, from the time that our tote system actually
16 requests it to be imported. And given the amount of
17 the data involved and everything, to my layperson's
18 mind, that's not a big number.

19 But I actually have a technical
20 consultant that the TRA is looking at hiring on these
21 issues who I'm going to ask to kind of give me some
22 advice on whether those kind of communication delays
23 are relevant or irrelevant. So I hope to have a lot
24 more information for you on this subject when you
25 have this committee meeting.

1 COMMISSIONER LANDSBURG: Generally, in doing
2 the research that we did, 51 seconds to 71 seconds
3 before all monies are on the board and have been
4 shown.

5 MR. FRAVEL: There are -- there are -- well,
6 "and have been shown" is a different issue because
7 one thing we realize is that the tote system cycles
8 every 30 seconds and they're, you know -- it then
9 cycles within those lag times and it basically pushes
10 out the actual display of the final odds, which
11 isn't -- just intellectually, it's a much different
12 issue in terms of when the pools are final as opposed
13 to when they're displayed.

14 If, for example, you're watching a
15 television set, that's delayed substantially beyond
16 the amount of time that the tote board at the
17 racetrack is, which is what causes a lot of public
18 consternation, to be honest with you.

19 And I think we have to look at all
20 those technical issues to find out how we can get
21 more and more and more and more real time with the
22 finalization of the pool as well as the display. And
23 I think your committee's a great place to talk about
24 that.

25 COMMISSIONER LANDSBURG: That minute -- that

1 one-minute average is there before it can be on the
2 board in the -- at the track. In the rest of the
3 electronic world, it's still even later than that,
4 unless you want to cut off betting earlier, which is,
5 I think, a crazy solution to that.

6 CHAIRMAN LICHT: And the four-second delay,
7 just so it is clear in our press releases, is to
8 protect the pari-mutuel clerk from a guy coming up at
9 the last second and saying, "Give me 500 to win on
10 the one." And then he says, "Oh, no. I didn't mean
11 that." And then the clerk is stuck with the bet.

12 MR. CORRELL: Hi, my name is Jim Correll, and
13 I'm with the Pari-Mutuel Employee Guild. And I'd
14 like it on the record that the mutuel clerks are in
15 favor of the four-second delay. We wish to maintain
16 it. Thank you.

17 CHAIRMAN LICHT: Okay. We'll continue this
18 discussion.

19 Rick, did you want to say something?

20 MR. BAEDEKER: Rick Baedeker, Hollywood Park.

21 I suppose I would just serve notice
22 that the Churchill tracks have adopted the
23 zero-seconds policy, in other words, no cancellation
24 policy. There has been a good deal of discussion and
25 argument back and forth on this issue, I think, over

1 the last six to nine months. And I think that there
2 are two issues.

3 One is the one that Alan has really
4 explained to us, visually, through the work that he
5 did prior to our meet. And I think that we
6 understand that that's going to take a while to get
7 that fixed.

8 But this is really one of a
9 past-posting issue. And I also fully respect the
10 opinion of the union and the clerks. If we were to
11 change to zero -- and I'll look forward to that
12 discussion -- then the clerks would necessarily have
13 to have their money in hand before they punched out
14 that last-minute ticket.

15 That's going to slow things down.
16 That also could cause some drop in handle. I'm not
17 sure it would be significant. But we would have to
18 deal with those surprises. But I just wanted to let
19 you know that, on behalf of my company, I will be
20 arguing for zero seconds.

21 CHAIRMAN LICHT: You know all of the bets shut
22 out would all be winners.

23 MR. BAEDEKER: I know.

24 VICE CHAIR HARRIS: That is an awful lot of
25 money that is not necessarily going to be lost to

1 get 20 percent takeout.

2 CHAIRMAN LICHT: Okay. Item Number 10 -- the
3 staff report on the concluded fair meetings.

4 MR. REAGAN: Commissioners, this is John
5 Reagan, CHRB staff. This is our standard group of
6 end-of-the-meet reports for the three fairs. I did
7 note, in one of the fairs -- the Humboldt County
8 Fair -- that they took quite a hit.

9 I was concerned about that. I
10 reviewed the five-year spread that's included in the
11 report. And really what I think what happened is
12 they had a pretty good year last year that was well
13 above their average. And this year's meet kind of
14 fell back into the five-year average.

15 So I don't think there was any
16 particular downtrend here versus just an average year
17 following a very good year. Other than that, most of
18 the reports seem to be pretty straightforward. As
19 we've noted in prior discussions, the increases in
20 ADW are pretty big right now because we're only
21 comparing the beginning year versus the second year.

22 We'll obviously continue to track
23 those numbers for you in the future. So right now
24 that's what we have for you.

25 CHAIRMAN LICHT: Thank you.

1 VICE CHAIR HARRIS: I think it's helpful to
2 hear these numbers. But I was wondering if we could
3 also get, in this meeting, reports on the tracks,
4 just on some of the things that maybe have occurred,
5 if there are any problems stewards had with the
6 cameras or any tote board problems or anything like
7 that.

8 MR. REAGAN: Okay. We'll look at that. Yes,
9 sir.

10 CHAIRMAN LICHT: Okay. Thank you.

11 The next item is the general business,
12 new business. Any new business?

13 Who's coming up?

14 MR. FRIENDLY: Am I coming up?

15 EXECUTIVE DIRECTOR WOOD: Yes. Three people
16 are coming up.

17 CHAIRMAN LICHT: Mr. Friendly.

18 MR. FRIENDLY: Fred Friendly, again. I only
19 come up here every three or four years; so I figure I
20 might as well make it worth the drive.

21 I handed out -- gave Ron Wood a memo
22 to all Board Members as possible ways to increase
23 field size. And I think we all recognize that one of
24 the major problems of our racing in California is our
25 small field sizes.

1 I would ask Roger that you make the
2 assignments to the appropriate committee so we can
3 discuss it further.

4 Briefly, the two thoughts are to
5 change the also-eligible scratches from 24 hours
6 before to the day of the race. Right now, if you're
7 racing on Friday, you have to scratch on 9:00 o'clock
8 on Thursday morning. And recently, the programs have
9 been posting 14 horses as opposed to 12. They post
10 14 horses even though 12 run. They include 2
11 also-eligibles.

12 And then, as we all know, when we go
13 to the races, we'll hear our program scratched the
14 morning of the race. And the also-eligibles have
15 been scratched 24 hours ahead of time; so
16 consequently they're off. And then, in the program,
17 scratches are off. So maybe a 12-horse field is down
18 it 10 horses.

19 CHAIRMAN LICHT: I think it's a real good
20 suggestion. I think that New York, I'm pretty sure,
21 does it this way as well.

22 MR. FRIENDLY: They do.

23 CHAIRMAN LICHT: I think so. I think it would
24 be -- I think that would be something that we could
25 add to that pari-mutuel agenda. I don't see any

1 reason not to do it other than one reason -- and
2 we'll discuss it then -- is on the pre-racing horses,
3 you'd have to pre-race your horse to run, and you
4 wouldn't really know whether or not he'd be running.

5 MR. FRIENDLY: I believe that's up to the
6 trainer, whether to give it to 'em or not.

7 CHAIRMAN LICHT: Right. But it --

8 MR. FRIENDLY: I think it would be true,
9 Roger, of the late scratches -- maybe 1:00 o'clock or
10 2:00 o'clock scratches. I don't know if it would if
11 it was a 9:00-o'clock-in-the-morning scratch or a
12 10:00-o'clock-in-the-morning scratch.

13 CHAIRMAN LICHT: I think that's a great idea.
14 And I also think that we might want to look at
15 main-track-only entries at that time, also, the way
16 they do on the East Coast, because of the rain in the
17 winter and so forth.

18 MR. FRIENDLY: Right. The other thought was
19 to encourage or force the racetracks not to run a
20 mile race where they limit the field to only 10. As
21 my note says, the tracks will tell you they run a
22 mile race which is limited to 10 because the trainers
23 will never -- a mile and a sixteenth, a mile and a
24 quarter -- that, if they didn't break the mile race
25 or they only run a mile and a sixteenth or 6 or 7

1 furlongs, they'd get it. They'd have no other
2 alternative.

3 But I think we are limiting our fields
4 right now. I think we're limiting our fields by
5 riding short races such as 5, 5 and a half, where we
6 only take 10 horses.

7 And we're limiting our fields on the
8 turf by moving the rail out so that they can only
9 accommodate 8 horses. As my note shows, there were
10 some 8-horse races where there were 13, 14 entries.
11 There were two program scratches. We had 6 horses
12 running. We could have had 10 or 12.

13 I don't think the tracks should move
14 their rails unless they know it's going to be a
15 6-horse race ahead of time.

16 And then there's one that I forgot to
17 put in here, and I can't remember what it is myself
18 now. But I'll send you a note because there is
19 another way -- there is a third way to increase field
20 sizes. Thank you.

21 CHAIRMAN LICHT: Thank you. We'll add that to
22 the pari-mutuel agenda as well.

23 VICE CHAIR HARRIS: I think some of those
24 points, too, that you brought up -- that really the
25 TOC and the tracks and the CTT have to work on some

1 of those issues themselves and see what they can come
2 up with.

3 CHAIRMAN LICHT: Okay. Any other new
4 business?

5 Dr. Jensen?

6 DR. JENSEN: Dr. Ron Jensen, Equine Medical
7 Director for the Horse Racing Board.

8 For your information, a dead crow
9 found in Arcadia, Los Angeles County, has been
10 confirmed as having West Nile virus. This is
11 following previous identification of the virus in
12 mosquito pools, in sentinel chickens in Imperial
13 County, and in sentinel chickens in Riverside County.

14 So West Nile virus is now in
15 California. It should not be a surprise. It's been
16 predicted and it's been anticipated for several --
17 for the past two or three years that it would be here
18 in 2003. I think California is probably pretty well
19 protected, pretty well ready for it, I should say.

20 My sense is that most of the horses
21 here, in visiting with veterinarians on the
22 racetrack, is that most horses who were at the track
23 have been vaccinated. We'd recommend that horsemen
24 consult with their veterinarians to be sure that
25 their vaccination schedule is current. And we

1 encourage the tracks to do a good job of mosquito
2 control. And we'll be all right.

3 VICE CHAIR HARRIS: I think one key is the
4 tracks really have to watch the mosquito control
5 because I think the horses are better protected than
6 the people because we have no vaccine for people and
7 I'm fearful that, you know, these people living
8 around the horses, where there's water, will have
9 mosquitoes.

10 CHAIRMAN LICHT: Thank you Dr. Jensen.

11 Mike?

12 MR. SEDER: Commissioners, Mike Seder, L.A.
13 County Fair Association. I just wanted to say, on
14 behalf of the association, we're pleased to have you
15 here today at Fairplex. And I'd like you to join us
16 and join -- and everyone here as well -- to join us
17 for lunch today. We're going to have a barbecue
18 right out in the back here of the pavilion.

19 And beyond that, we'd love to see you
20 at the track. So please feel free to join us after
21 lunch at the fair or the track or both. We'll
22 have -- you have your vehicles parked out here.

23 If you'd like to move them a little
24 closer to the track, we're going to have you park
25 over in the horsemen's lot, which is just along the

1 service road here. And I'd be happy to have you
2 trammed from there to the racetrack.

3 So, again, thank you for being here.
4 And we appreciate your support.

5 CHAIRMAN LICHT: Thank you.

6 MR. MARTEN: Mike Marten with the California
7 Horse Racing Board. We have a video queued up. It's
8 only a three-minute video. You know, we're used to
9 seeing fair and impartial coverage in the print
10 media; but when we see it on television, it's usually
11 because of a bad spill or an accident or something.

12 This is an exception. We worked with
13 a television station in San Diego. We came down to
14 Hollywood Park, took some footage -- interviews with
15 CHRB and the veterinary personnel. And they ran this
16 the second day of the Del Mar meet.

17 It's so exceptional that I thought I'd
18 take the unusual step of queuing it up here. And if
19 you'll just step down off of there, you can look at
20 up at these monitors.

21 (Video shown.)

22 CHAIRMAN LICHT: Everybody's lost interest
23 here but "Old Business" -- the only thing is I want
24 to report is that Los Al and the harness horsemen
25 are going to be meeting in the next month and

1 hopefully resolving some of those issues.

2 And that concludes the public portion
3 of the meeting. We have a short executive session.

4 COMMISSIONER LANDSBURG: So please clear out.

5 (Proceedings concluded at 12:18 P.M.)

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REPORTER'S CERTIFICATE

I, NEALY KENDRICK, a Certified Shorthand Reporter in the State of California, do hereby certify:

That the Regular Meeting of the California Horse Racing Board was taken before me at the time and place set forth, and was taken down by me in shorthand and thereafter reduced to computerized transcription under my direction and supervision, and I hereby certify that the foregoing transcript of the meeting is, to the best of my ability, a true and correct transcript of the aforesaid proceedings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 23rd day of September, 2003.

NEALY KENDRICK
CSR 11265

