

MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD
REGULAR MEETING

CONFERENCE ROOM
SHERATON FAIRPLEX SUITES
601 W. MC KINLEY AVENUE
POMONA, CALIFORNIA

THURSDAY, SEPTEMBER 18, 2008

9:00 A.M.

TROY A. RAY, REPORTER

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSION MEMBERS

Richard Shapiro, Chairman

John Harris, Vice Chairman

Jesse H. Choper, Member

Bo Derek, Member

David Israel, Member

Jerry Moss, Member

STAFF

Kirk Breed, Executive Director

Mike Marten, Public Information Officer

Robert Miller, Staff Counsel

ALSO PRESENT

Ed Halpern

Leigh Ann Howard

Darrell Haire

Allen Gutterman

John Hindman

Cathy Christian

Drew Couto

Jack Liebau

Michael Brodsky

Ron Charles

Greg Scoggins

APPEARANCES

ALSO PRESENT

Rod Blonien

Richard Castro

Eual Wyatte

Diane Greeley

Jim Perez

Chris Korby

Scott Daruty

Cliff Goodrich

John Bucalo

Dr. Rick Arthur, Equine Medical Director

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PROCEEDINGS

EXECUTIVE DIRECTOR BREED: This meeting of the California Horse Racing Board will come to order. Please take your seats.

This is the regular noticed meeting of the California Horse Racing Board, on Thursday, September 18th, 2008, at the Sheraton Fairplex Suites, 601 W. McKinley Avenue, Pomona, California.

Present at today's meeting are Chairman Richard Shapiro, Vice Chairman John Harris, Commissioner Jesse Choper, Commissioner Jerry Moss, Commissioner Bo Derek, and Commissioner David Israel.

Before we go on to the business of the meeting, I need to make a few comments.

One, the Board invites public comment on the matters appearing on the meeting agenda. The Board also invites comments from those present, today, on matters not appearing on the agenda, during public comment period, if the matter concerns horseracing in California.

In order to ensure all individuals have an opportunity to speak and the meeting proceeds in a timely fashion, I will strictly enforce the three-minute limit rule for each speaker. The three-minute time limit will be enforced during discussion of all matters stated on the agenda, as well as during the public comment period.

1 There is a public comment sign-in sheet for each
2 agenda matter on which the Board invites comment. Also,
3 there is a sign-in sheet for those wishing to speaking
4 during the public comment period for matters not on the
5 Board's agenda, if it concerns horseracing in California.

6 Please print your name legibly on the public
7 comment sign-in sheet.

8 When a matter is open for public comment, your
9 name will be called. Please come to the podium and
10 introduce yourself by stating your name and organization
11 clearly.

12 This is necessary for the court reporter to have a
13 clear record of all who speak.

14 And I'd ask your attention about this one point.
15 The recorders have asked that you do not interrupt or run
16 into the speaking of another person. That if one person is
17 speaking, allow that person to finish speaking, in a polite
18 way, and then start your speech. So don't run on speaking
19 and to interrupt people, because we can't figure out who's
20 talking.

21 When your three minutes are up, the Chairman will
22 ask you to return to your seat so others can be heard.

23 When all the names have been called, the Chairman
24 will ask if there is anyone else who would like to speak on
25 the matter before the Board. Also, the Board may ask

1 questions of individuals who speak.

2 If a speaker repeats himself or herself, the
3 Chairman will ask if the speaker has any new comments to
4 make. If there are none, the speaker will be asked to let
5 others make comments to the Board.

6 Thank you, Mr. Chairman.

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
8 much. Good morning to everybody.

9 And maybe somebody can either tell the other
10 people to come on in the room, otherwise we'll jump around
11 the agenda and deal with those issues that they're really
12 here for and say they missed it.

13 And then if somebody could close the door. Thank
14 you very much, appreciate that.

15 Good morning to everybody, and it's nice to be
16 here at Fairplex. Appreciate the hospitality that is
17 extended to us by Mr. Henwood. Thank you, very nice, and
18 appreciate it very much.

19 The first item on the agenda is approval of our
20 minutes of the regular meeting of August 19th, 2008. I
21 assume that the Commissioners have had a chance to review
22 them.

23 Does anybody have any questions, comments,
24 additions? If not, I'll entertain a motion.

25 COMMISSIONER MOSS: So moved.

1 COMMISSION CHAIRPERSON SHAPIRO: Second?

2 MR. EMERSON: Second.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, all in
4 favor?

5 (Ayes.)

6 COMMISSION CHAIRPERSON SHAPIRO: It is approved.

7 I should also tell you that it is my intention
8 this morning that I'm going to jump around the agenda a
9 little bit, if somebody doesn't have any objection to that.

10 So I'd like to get some of the -- a few issues out
11 of the way before we get into what I think will be the
12 meatier issues on the agenda.

13 The next -- I am, therefore, going to skip Item
14 Number 2 at this time. We will come back to it.

15 Item Number 3, public hearing and action by the
16 Board on the proposed amendment of CHRB Rule 1481,
17 Occupational Licenses and Fees, Rule 1486, Term of Licenses,
18 and the addition of CHRB Rule 1504.5, Provisional Exercise
19 Rider, to initiate a provisional exercise rider program to
20 provide a training program to allow aspiring exercise riders
21 to gain experience before becoming licensed exercise riders.

22 As we will all recall, this matter was previously
23 heard by the Board. It was sent back for some further
24 clarifications, and I believe that has been made and given
25 to us.

1 Is Leigh Ann Howard here?

2 MR. HALPERN: Ed Halpern. Leigh Ann did say she
3 was on her way.

4 COMMISSION CHAIRPERSON SHAPIRO: Oh. Well, then
5 if she's not here --

6 COMMISSION VICE CHAIRPERSON HARRIS: Why don't we
7 go on to the next one, then.

8 COMMISSION CHAIRPERSON SHAPIRO: Yeah, then I'm
9 going to come back to this item because I don't think it
10 would be fair if she wasn't here, and I think that we should
11 hear from her. I didn't know that.

12 Okay, so we'll come back to Item Number 3.

13 Item Number 4 is the public hearing and
14 adoption --

15 MR. HALPERN: There she is, there's Leigh Ann.

16 COMMISSION CHAIRPERSON SHAPIRO: Oh, Leigh Ann.

17 Come on in, we're back to 3. Put yourself down, take a deep
18 breath. How was the traffic? All those good things.

19 MR. HALPERN: She's got audio visual.

20 MS. HOWARD: I have graphics for you.

21 COMMISSION CHAIRPERSON SHAPIRO: You're the best.
22 We love graphics.

23 MS. HOWARD: My name is Leigh Ann Howard.

24 COMMISSION CHAIRPERSON SHAPIRO: Leigh Ann, I
25 simply introduced the issue and basically said that we

1 discussed it at a prior meeting, we asked you to make a
2 graph of, basically, what the difference is that's being
3 proposed, which appreciate either your or staff did.

4 And so I think that it's clearer for us, on page
5 3-7 of the materials in front of the Board Members, I think
6 we can more clearly understand what it is that is being
7 proposed to us.

8 So why don't I let you reintroduce and state why
9 you believe it should be adopted, the purpose of it, and
10 what the differences are. Okay.

11 MS. HOWARD: I believe this new licensing --

12 COMMISSION CHAIRPERSON SHAPIRO: Say your name and
13 who you are.

14 MS. HOWARD: I'm sorry, Leigh Ann Howard. Do you
15 want to know which Hat I'm wearing?

16 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

17 MS. HOWARD: I'm not real clear on this right now,
18 I guess as a trainer.

19 COMMISSION CHAIRPERSON SHAPIRO: Very good.

20 MS. HOWARD: A lot of us feel like the existing
21 exercise rider's license is not a good, safe issue at this
22 point, we want to do a little adaptation to the license.

23 If you all have read what we want to do, it's
24 pretty simple. There are three basic parts to this.

25 We want the prospective exercise rider to have an

1 arrangement with a registered trainer, licensed trainer at
2 one of the approved racing -- one of the approved training
3 facilities, CHRB approved training facilities. That is in
4 this folder that shows the contract, an example of a
5 contract.

6 We want the rider, the prospective rider or the
7 inexperienced rider to wear a distinctive vest so that --
8 and helmet cover, so that they are distinguished by everyone
9 on the racetrack.

10 COMMISSION VICE CHAIRPERSON HARRIS: Green.

11 COMMISSION CHAIRPERSON SHAPIRO: He wants green.

12 COMMISSION VICE CHAIRPERSON HARRIS: Green.

13 MS. HOWARD: Green?

14 COMMISSION CHAIRPERSON SHAPIRO: Yeah, he wants
15 green, and then the vest to have green diamonds.

16 MS. HOWARD: That sounds fine, John.

17 I have some graphics here. This one shows the
18 situation, now. As you can see, these four horses are in
19 somewhat of a training race. All four riders look the same,
20 basically the same.

21 One rider here has been riding for 40 years,
22 another's been riding for 28 years, another for 32 years.

23 This rider's been riding for a week.

24 But they all have the same license and they're all
25 doing the same things.

1 We really, honestly feel like the three others
2 would be better served by knowing that this rider has only
3 been riding a week, with an exercise rider's license.

4 So that's why we want to create this license. The
5 devil's in the details.

6 We feel like it would be a really good idea for
7 this license to be effective for 60 days.

8 And then it has in the draft here how it's going
9 to dovetail into the other exercise riders' license, which
10 is fine.

11 I think if a rider -- there were some comments
12 about having riders that turn out to be really spectacular
13 riders, and in a week and a half or two weeks you know that
14 they're going to be fine.

15 But the problem is in a week and half, or two
16 weeks, they're not going to experience a horse down on the
17 track, another rider down on the track. I mean, they've got
18 to go through a lot of experiences in one or two weeks to be
19 able to do this sort of thing.

20 So that's why we feel like 60 days is a good idea.

21 The outrider is the one that really needs to
22 decide whether the prospective rider is capable of going a
23 head with a regular exercise rider license.

24 The other thing this does is this rider is
25 contracted to the trainer, so the trainer's responsible.

1 And this rider only rides the trainer's horses, doesn't do
2 any freelancing during this period of time.

3 Do you all know what freelancing is?

4 They go from barn to barn and say I can ride your
5 horse, come, let me ride your horse. And they can tell you
6 any kind of story and you don't have any idea of their
7 ability, so you can put them on a pretty tough horse and we
8 can have a wreck out there. That's what we're trying to
9 avoid here.

10 Okay. then at the end of the 60-day period, the
11 -- I guess at that point in time the -- well, what I would
12 like to do, the one change in here -- actually, there's two
13 changes in here, that I asked for originally, and they just
14 haven't been done, yet.

15 It says here, under number 1 of -- well, I'm not
16 sure what this is under, I don't really understand these
17 things.

18 COMMISSIONER ISRAEL: What page, Leigh Ann?

19 MS. HOWARD: It's page 3-5, the second sentence --

20 COMMISSION VICE CHAIRPERSON HARRIS: Just to
21 clarify, if we put this out for comment, which I think we
22 should, do we have to have it exactly right when it goes
23 out, as far as voting on it going out at this meeting?

24 STAFF COUNSEL MILLER: This is going out for
25 public comment at this time. You can change it, now, and

1 put it out for public comment.

2 COMMISSION VICE CHAIRPERSON HARRIS: We can change
3 it at this meeting and still put it out?

4 STAFF COUNSEL MILLER: Yes.

5 COMMISSION VICE CHAIRPERSON HARRIS: Okay.

6 COMMISSION CHAIRPERSON SHAPIRO: But, again, if
7 it's -- we would be putting it out to a revision of the
8 rule, if there are changes that come up during the 45-day
9 period, then it's my understanding we'd have to put it back
10 out for an additional comment period.

11 STAFF COUNSEL MILLER: That's correct.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay.

13 MS. HOWARD: All right, well, we better make them
14 today.

15 COMMISSION VICE CHAIRPERSON HARRIS: Well, we'll
16 get it the best we can, now, but there's still 45 days to
17 correct it. What we don't want to do is have it go into
18 effect if it doesn't work.

19 MS. HOWARD: Okay. Well, I think these changes
20 are pretty simple.

21 The third line down, on page 3-5, it says "signed
22 by at least two outriders and the stewards" -- this is the
23 card that the rider takes into the stewards.

24 I believe that it should only be signed by one
25 outrider and one starter. The reason why we put in a

1 starter was that we would like to see this provisional rider
2 get over to the gate at some point in time before they're
3 given a regular exercise rider. We'd like the starter to be
4 able to see them, talk to them, and help them out.

5 An interesting thing about our industry is that
6 we're all very competitive, but when you get out there on
7 the racetrack all the oldtimers love to help out a new guy.
8 And if they know it's a new guy out there, there's an awful
9 lot of camaraderie. And this is the kind of thing that we
10 want to encourage, too.

11 Then the second change is --

12 COMMISSION VICE CHAIRPERSON HARRIS: You're going
13 to take out steward?

14 MS. HOWARD: No, no, the stewards -- the stewards
15 are the ultimate. I want to take out one outrider --

16 COMMISSION VICE CHAIRPERSON HARRIS: What would
17 the steward really know about -- I mean, he's probably never
18 seen the rider, all he does is --

19 MS. HOWARD: I know, but the steward get the card.

20 COMMISSION VICE CHAIRPERSON HARRIS: What good
21 does it do for him to sign it?

22 MS. HOWARD: The steward okays it, he signs it and
23 it goes to the licensing department.

24 The first one to sign it is the outrider, the
25 second one to sign it is the starter, and then the little

1 rider takes it over to the stewards, the stewards interview
2 them, they want to get a feel for who this guys is, or girl.

3 COMMISSION VICE CHAIRPERSON HARRIS: Okay, he
4 doesn't just sign it, he actually interviews them and signs
5 them.

6 MS. HOWARD: No, no. No, no. And then this
7 license form, signed by these three different people, goes
8 to the licensing department.

9 Now, somewhere along the line you wanted to add a
10 test?

11 COMMISSION CHAIRPERSON SHAPIRO: Yes. I mean,
12 that's what's proposed here.

13 MS. HOWARD: Right.

14 COMMISSION VICE CHAIRPERSON HARRIS: I'd sort of
15 like to just get back to my question, instead of just saying
16 signed, it could be recommended by two outriders. I mean --

17 COMMISSION CHAIRPERSON SHAPIRO: And approved by
18 the stewards.

19 COMMISSION VICE CHAIRPERSON HARRIS: Somebody will
20 bring something and somebody will just sign this, but they
21 really don't know what they're signing. If they're really
22 recommending that this guy is a good guy, that would be a
23 little more clear.

24 MS. HOWARD: Okay, you don't have a form, the card
25 that's existing, now? I don't have a card that exists, now.

1 EXECUTIVE DIRECTOR BREED: No, wait --

2 MS. HOWARD: You do?

3 EXECUTIVE DIRECTOR BREED: I don't have it with
4 me, no.

5 MS. HOWARD: Yeah. Do you know what it says?

6 EXECUTIVE DIRECTOR BREED: No, I don't. But I
7 think you're best off if you say that has been recommended
8 by at least one outrider, one starter, and cleared -- and
9 approved by the stewards.

10 MS. HOWARD: It actually, on line 2, says "submit
11 a recommendation card," so I guess this is covered.

12 COMMISSION CHAIRPERSON SHAPIRO: All right, so I
13 think what you're saying is that the process would be that
14 one of these riders, who's contracted to a trainer, would
15 get an outrider to sign, certify him or approve him to be an
16 exercise rider. You would have the starter approve or
17 certify him as capable. At which point the rider would take
18 the card to the stewards, where an oral interview or an
19 examination, or a written examination would be provided.

20 And assuming that they pass that, the steward
21 would then approve it and that he would then be able to go
22 to licensing and obtain an exercise rider's license. Is
23 that correct?

24 MS. HOWARD: That's correct. That's correct.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay. So that

1 would be the process.

2 MS. HOWARD: Okay, the issue -- the other issue we
3 have here is C, down under -- whatever it's supposed to be
4 under.

5 COMMISSION CHAIRPERSON SHAPIRO: Only outriders
6 who are currently working, is that the one?

7 MS. HOWARD: Yeah, "currently working at a race
8 meeting for flat racing are authorized to sign a
9 recommendation card for exercise rider applicants."

10 Now, it's not real clear to me what this means. I
11 think it means that a race meeting, that's if you're racing
12 at Santa Anita, these riders can only be approved by an
13 outrider at Santa Anita.

14 I think that's a very poor idea. I think that any
15 outrider, that works at any CHRB approved training
16 facility --

17 COMMISSION CHAIRPERSON SHAPIRO: That's fine.

18 MS. HOWARD: -- should be able to okay it.

19 COMMISSION CHAIRPERSON SHAPIRO: That's fine, I
20 think that's better.

21 MS. HOWARD: Yeah, I do, too.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, we should
23 change it to any outrider currently employed at a CHRB
24 sanctioned facility.

25 MS. HOWARD: Okay.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay?

2 MS. HOWARD: Yeah.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay.

4 COMMISSIONER ISRAEL: I have a couple questions. On this
5 60-day to one year provisional licence, after one year, if
6 you haven't been approved, what happens?

7 MS. HOWARD: Well, let me see what this says.
8 "May apply for a license as exercise rider after a period of
9 at least one month and" -- boy, I'll tell you what --

10 COMMISSIONER ISRAEL: I mean, can you reapply
11 and -- can you restart the clock, can you -- or should you
12 -- or have you exhausted your options of becoming an
13 exercise rider?

14 MS. HOWARD: I would say you've probably exhausted
15 your options.

16 COMMISSIONER ISRAEL: Well, don't we need to have
17 that in the statute?

18 COMMISSION VICE CHAIRPERSON HARRIS: Well, it
19 seems like it should be able to get another one, what if you
20 got hurt or something and you wanted to continue with your
21 provisional licence, but you don't want to throw the guy
22 out, completely.

23 MS. HOWARD: That's true. Do you have any ideas
24 how to word that?

25 COMMISSIONER ISRAEL: I don't know, I mean,

1 essentially somebody could just have a provisional license
2 indefinitely, and make a living as an exercise rider and
3 never be approved by the outriders and the starters. I
4 mean, it's just --

5 MS. HOWARD: That would probably be okay because
6 they'd continue to wear the vest, and everybody would still
7 know who they are.

8 COMMISSIONER ISRAEL: Okay.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, isn't it
10 kind of akin to getting a driver's license? I think that
11 you're probably given, what, three chances to pass and if
12 you don't pass, I think --

13 COMMISSIONER ISRAEL: I don't know. I mean,
14 that's what I'm asking is if there's some -- yeah, it is
15 akin to it.

16 MS. HOWARD: What does happen if a driver's
17 license -- a person can't get a driver's license in three
18 times? Does anybody have any idea? Do they just don't get
19 a driver's license?

20 COMMISSIONER ISRAEL: I'm glad to say I have no
21 personal knowledge.

22 COMMISSIONER MOSS: I think they can keep going
23 back. Isn't it usual that a trainer introduces or sponsors
24 a new exercise rider?

25 MS. HOWARD: Actually, what happens now is when an

1 exercise rider comes in, if it's someone that the trainer
2 wants to get a license definitely they do. But they're not
3 necessarily put on their work list, and they just borrow a
4 horse from a trainer to gallop around for the outrider.
5 They'll gallop around once, maybe twice, and they'll do it
6 late in the day so that they're not a danger to anybody.
7 But it's -- and then they get their license. And it's not
8 really a very safe program.

9 This is better because that way it guarantees that
10 the trainer will be responsible for the rider.

11 COMMISSIONER MOSS: Right.

12 COMMISSIONER ISRAEL: Right. And one other thing,
13 when the riders are on a provisional license are they paid
14 at a lower rate than if they were on a full license?

15 MS. HOWARD: I think it depends on the trainer and
16 the rider.

17 COMMISSIONER ISRAEL: Because then wouldn't you be
18 putting -- at that 60-day mark, let's say that they would
19 get a bump in their fee, at that 60-day mark there's an
20 inordinate amount of pressure that that particular exercise
21 rider is going to start applying on the outrider and the
22 starter to approve his full license, so he can start earning
23 more money.

24 And that can raise a whole series of issues that,
25 I don't know, there's almost no reason to discuss.

1 MS. HOWARD: One of the things that happens on the
2 track is that everyone, all the riders are paid differently,
3 anyway. There's some riders that are getting \$8 a day,
4 there's some riders who are getting \$10, some are getting
5 \$15, some are getting \$12.

6 COMMISSION VICE CHAIRPERSON HARRIS: That's per
7 mount.

8 COMMISSION CHAIRPERSON SHAPIRO: Per mount.

9 MS. HOWARD: Per mount, yeah.

10 COMMISSIONER ISRAEL: Not day.

11 MS. HOWARD: Some are getting 20, some are getting
12 25.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, again, I'm
14 not -- I think what we're talking about is a process here,
15 to try and approve it. I think it's an admirable idea.

16 COMMISSIONER ISRAEL: Yeah, it's a great idea.

17 COMMISSION CHAIRPERSON SHAPIRO: And what I would
18 suggest is -- pardon me?

19 COMMISSIONER ISRAEL: It's a great idea.

20 COMMISSION CHAIRPERSON SHAPIRO: Oh.

21 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

22 COMMISSION CHAIRPERSON SHAPIRO: I would suggest
23 that what we do is that we take action to approve this, put
24 it out for public comment, with the changes that have been
25 made today and, you know, we'll see if we get other,

1 additional input from the public or concerned people that
2 have any concerns about it.

3 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I would
4 second it. I think it's a great idea and something that
5 will help involve more riders. This probably should have
6 happened sooner and I think it will only enhance safety. So
7 I'll second the motion.

8 COMMISSION CHAIRPERSON SHAPIRO: How about making
9 it?

10 COMMISSION VICE CHAIRPERSON HARRIS: Okay, I'll
11 make a motion.

12 COMMISSIONER CHOPER: I take it we have no
13 specifications as to what happens if you don't pass it after
14 one or two times; is that right? Because that's the way it
15 presently reads.

16 COMMISSIONER ISRAEL: Yeah, that was the question
17 I asked and never got an answer.

18 COMMISSIONER CHOPER: That's what I'm saying.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
20 you can continue. I mean, I don't think it's going to be a
21 problem.

22 MS. HOWARD: And I -- I frankly think that these
23 riders, if they get to the point where they realize that
24 they're not going to make it in this industry, or doing what
25 they're doing, they'll find something else to do.

1 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, Jesse
2 just pointed out to me that people can take the Bar for
3 unlimited times.

4 MS. HOWARD: Really.

5 COMMISSION VICE CHAIRPERSON HARRIS: So which
6 might explain the caliber of the people we have.

7 (Laughter.)

8 COMMISSIONER ISRAEL: yeah, but they can't
9 practice law while they're trying to pass the bar.

10 COMMISSION VICE CHAIRPERSON HARRIS: Until they
11 pass it. They got to pass it, yeah.

12 COMMISSIONER ISRAEL: But these guys can exercise
13 horses before they pass the test.

14 COMMISSION VICE CHAIRPERSON HARRIS: Well, when
15 you go into an attorney's office, they don't have anything
16 hanging on the wall that shows how many times they took it.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 COMMISSIONER ISRAEL: You don't want to go into
19 the Mayor of Los Angeles's office if they did, to be honest
20 with you.

21 COMMISSION CHAIRPERSON SHAPIRO: All right, we
22 have one public comment card. Darrell Haire. Darrell, do
23 you have a comment to this item?

24 MR. HAIRE: Yes. Darrell Haire, Western Regional
25 Manager of the Jockey's Guild.

1 I believe what they're doing is, you know, as far
2 as safety goes, it's an excellent idea. But I believe it
3 could be maybe even simplified if they worked closer with
4 the outriders.

5 Because outriders, there's two on the main track,
6 two on the training track, and they watch everything.
7 There's one at the gap and watches everyone that comes onto
8 the racetrack.

9 I believe if a new rider, that comes in town,
10 works close -- the trainer, with the outrider, whether they
11 come on a quarter to 10:00 on the training track, initially,
12 for a week and just kind of weed them in. Get them 9:30,
13 and then when he's ready to go on the main track, I just
14 believe, you know, that's the way we've always -- and where
15 jockeys are concerned, they learn how to gallop horses, work
16 horses, then learn how to come out of the gate and it's a
17 process, and the starter watches them, and we all work
18 together on this, with the outriders. The outriders are
19 there all morning, that's all they have to do is watch what
20 goes on.

21 And they tell people, they yell to you, we've got
22 a green person or a new person on the racetrack, everybody's
23 aware of it. So it's just weeding them in and that's the
24 way it's always worked. So I just --

25 COMMISSIONER ISRAEL: Yeah, but Darrell, what's

1 your objection? I don't understand your objection to the
2 suggestion that they wear some identifying mark and have
3 some defined period in which to be an apprentice,
4 essentially?

5 MR. HAIRE: Commissioner Israel, if that's
6 what -- you know, there's no objection to it, it seems like
7 if they work closer with the outriders, it will be safer for
8 everybody. It just seems like --

9 COMMISSION CHAIRPERSON SHAPIRO: Nothing here
10 prohibits them from doing that. They still can work closer
11 with the outriders, but this is simply trying to create a
12 visual recognition program, and provide some structure, so
13 that we just make sure people are safe. I don't think that
14 anything here is going to stop them from doing that.

15 COMMISSIONER ISRAEL: This more or less formalizes
16 what's been an ad hoc program, that you described, where
17 they will have to make contact with the outrider, and will
18 then know there's a defined period of time in which they
19 have to learn the skills before they're essentially tested,
20 and then given the go ahead to be full time, fully approved
21 exercise riders.

22 MR. HAIRE: Well, there's no objection to it.

23 COMMISSION CHAIRPERSON SHAPIRO: All right, thank
24 you. Thank you for your comment.

25 All right, we have a motion, we have a second.

1 Any --

2 STAFF COUNSEL MILLER: Can I have a point of
3 clarification as to the language -- the exact language that
4 is being proposed?

5 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, the
6 motion is that we put this rule out for comment, you know,
7 as it is, with the changes that were noted.

8 EXECUTIVE DIRECTOR BREED: And I made those
9 notations.

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, which will
12 be that they will get a -- they will get the card, they will
13 get the sign off from the outrider, the starter and,
14 ultimately, the stewards.

15 EXECUTIVE DIRECTOR BREED: Do you want me to read
16 it?

17 COMMISSION CHAIRPERSON SHAPIRO: Yeah, please?

18 EXECUTIVE DIRECTOR BREED: On page 3-5,
19 subparagraph 1, third line, "that has been recommended by at
20 least one outrider, one starter and approved by the
21 stewards."

22 And then down at subparagraph C, under 2, "only
23 outriders who are currently employed at a CHRB facility are
24 authorized to sign a recommendation card," et cetera.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay. All those

1 in favor?

2 (Ayes.)

3 COMMISSION CHAIRPERSON SHAPIRO: Any opposed?

4 It passes.

5 MS. HOWARD: Thank you.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay. Thank you,
7 Leigh Ann, appreciate it.

8 MS. HOWARD: Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Item Number 4,
10 which is public hearing and action by the Board on the
11 proposed addition of CHRB Rule 1689.2, Safety Reins
12 Required, is going to be deferred.

13 There is an agreement between the Jockey's Guild
14 and the California Thoroughbred Trainers, wherein over the
15 next 30-day period they will immediately put in use safety
16 reins, so that they can try to come to a consensus on the
17 value of this, and what the effects of this would be.

18 So if there's no objection from anybody, I would
19 like to defer Item 4 until they have gone through this
20 experiment period which, again, the Guild and the Trainers
21 organization have worked out.

22 COMMISSIONER CHOPER: Commendation, not an
23 objection. I think that's a really good idea. When you
24 read this material, I must say it's difficult to figure out
25 who's right, and exactly what the area of disagreement is.

1 So I hope -- it would be all right with me if you
2 took more than 30 days.

3 COMMISSION CHAIRPERSON SHAPIRO: I'm not sure
4 that --

5 COMMISSIONER CHOPER: And come to an agreement as
6 to what you want to do.

7 COMMISSION CHAIRPERSON SHAPIRO: At least we were
8 able to do that, and so we'll pass on that and defer that
9 item.

10 Moving to --

11 COMMISSIONER MOSS: I'm sorry, Richard?

12 COMMISSION CHAIRPERSON SHAPIRO: Yes.

13 COMMISSIONER MOSS: Is it important or interesting
14 that we know what the trainers' position is on this, or
15 should we just let them --

16 COMMISSION CHAIRPERSON SHAPIRO: The trainers have
17 asked that we defer it.

18 COMMISSIONER MOSS: Oh, okay.

19 COMMISSION CHAIRPERSON SHAPIRO: I have spoken
20 with Barry Broad, representing the Jockey's Guild, and I've
21 spoken with Ed Halpern, representing the trainers. The
22 Trainers' organization is opposed to it, the Guild is in
23 favor of it. But they were able to talk amongst themselves
24 and come to an agreement that will allow them to test them
25 to see if we should be enacting this.

1 COMMISSIONER MOSS: Okay.

2 COMMISSION CHAIRPERSON SHAPIRO: All right.

3 All right, Item Number 5, discussion and action by
4 the Board on proposed waivers of CHRB rules for the October
5 18, 2008 "Living Legends" Race at Santa Anita.

6 I believe in our packet you will find that this is
7 an extraordinary event. It is one race, where there will be
8 wagering. And so the Board is being asked to waive some of
9 its rules that would be customary.

10 In particular, we would be waiving the license
11 fee, that these riders are going to race one race and,
12 therefore, we're being asked to waive the three-year license
13 that they would otherwise, I think, have to procure.

14 A physical examination. Some of them will be
15 flying in before, immediately before, and so they're asking
16 us to waive the physical examination requirement, that at
17 least once a year they have, I guess, this physical
18 examination.

19 And then we are being asked to waive that they can
20 weigh more than 125 pounds. We know the horses are going to
21 be carrying more than 125 pounds.

22 And then also the rule that if a jockey is
23 overweight by more than seven pounds, he can't ride. And
24 so -- and if the Horsemen are willing to do that, I don't
25 know we'd have an objection.

1 I, personally, have no objection to granting a
2 waiver on all these rules. I don't know if anybody else has
3 any discussion.

4 COMMISSION VICE CHAIRPERSON HARRIS: My only
5 concern is on the physical examination. I don't -- I think
6 it's probably unreasonable to require a physical examination
7 the day before. But it would be nice to have one within
8 some appropriate time span of a year, or six months, or
9 sometime to know that these guys are not risking anything by
10 riding, as far as healthwise.

11 It's just so often you hear about some 50-year-old
12 guy that has a heart attack or something, and I'd hate to
13 have this incident marred by something like that.

14 It seems like these guys have got physical
15 examinations --

16 COMMISSION CHAIRPERSON SHAPIRO: Can we adjourn
17 the meeting so I can go to my cardiologist?

18 COMMISSION VICE CHAIRPERSON HARRIS: No, but I
19 don't think it -- I don't think it's -- I mean, we do this
20 of jockeys, anyway, I don't see why it's an undue burden to
21 have some due diligence of the guy's physical condition, I
22 think he might appreciate it.

23 So, I don't know, I'd like to revisit that.

24 I'm a little worried on the insurance aspect, that
25 it's clear that the insurance is more than just worker's

1 comp insurance, it's also third-party liability of the
2 different -- the owner, that had a horse in there, or the
3 track, or whatever, that's not -- there's no -- sometimes
4 worker's comp just goes against the employer, but there's
5 still the third-party liability issues.

6 Unfortunately, the Honorable Commissioner
7 Andreini, who's an insurance expert, is not here. But
8 somebody has looked at that and everyone's happy that
9 they're well protected.

10 MR. GUTTERMAN: Well, we've got a --

11 COMMISSION CHAIRPERSON SHAPIRO: Do you want to --

12 MR. GUTTERMAN: I just wanted to say that we've
13 taken action --

14 COMMISSION CHAIRPERSON SHAPIRO: -- introduce
15 yourself, please?

16 MR. GUTTERMAN: Yeah, I'm sorry. Allen Gutterman,
17 Santa Anita and Oak Tree.

18 And I just want to say that we've taken out an
19 extraordinary policy. Probably, no jockey's ever been
20 insured, no living -- no existing, regular jockey's ever
21 been insured as well as these guys have, well beyond
22 whatever the trainer's responsibility is.

23 And that policy, Jerry Bailey, who will be riding
24 in this race, represented the jockeys and the approval
25 process, and we went through it a number of different times

1 and made additions to it, to cover everything that possibly
2 could be covered, that they were comfortable with, at a
3 significant cost. So we feel comfortable that we're doing
4 right by the insurance policy.

5 COMMISSIONER CHOPER: Was there any discussion
6 with the insurance company in respect to this no examination
7 policy? It seems to me that they're connected.

8 I mean, I looked at the same thing and I have the
9 same concern that Commissioner Harris has.

10 MR. GUTTERMAN: Basically, all -- the insurance
11 policy covers anything that might happen in the way of
12 remuneration for anybody who might be injured, or anything
13 like that, beyond anything that exists today.

14 COMMISSION VICE CHAIRPERSON HARRIS: Who are the
15 named insured, I mean, who are the basically -- obviously,
16 the jockey is the one that's insured, but who all is named
17 as a potential person that might be liable?

18 MR. GUTTERMAN: Well, that would be Oak Tree.
19 And, basically, it's -- I think it's basically Oak Tree and
20 the jockeys' coverage.

21 COMMISSIONER ISRAEL: What about the CHRB? We're
22 issuing these temporary licenses and giving permission.

23 MR. GUTTERMAN: And that's not been -- that's not
24 been part of the insurance.

25 COMMISSION VICE CHAIRPERSON HARRIS: I would like

1 to see it named CHRB and also named whoever owned the horse
2 and trained the horse.

3 MR. GUTTERMAN: I think the owner and the trainer
4 of the horse is covered by the trainer's insurance policy,
5 when they name a rider on there, but I will absolutely find
6 out.

7 COMMISSIONER ISRAEL: And I'm not sure, a lawyer
8 can better answer this question, but it has to be the State
9 of California, through the CHRB, or the CHRB as an agency of
10 the State of California. The State needs to be indemnified
11 some way.

12 COMMISSION VICE CHAIRPERSON HARRIS: Well,
13 hopefully, nothing will happen and it's going to be a very
14 successful event. But if we're going to do it, let's just
15 do it right going into it.

16 COMMISSIONER ISRAEL: Allen, are you going to
17 require that the jockeys get out on the track, which none of
18 them have actually ridden a competitive race over because
19 it's a new track, before this race, or are they going to
20 either -- are they going to work in the morning or are you
21 going to require something?

22 MR. GUTTERMAN: Yeah, they'll be there -- all of
23 them will be there by the morning before, on the Friday
24 before.

25 All of them have been riding in anticipation of

1 this race. Julie Krone and Gary Stevens have been riding
2 for Richard Mandela, down at Del Mar, during the entire
3 summer.

4 COMMISSIONER ISRAEL: Right.

5 MR. GUTTERMAN: Angel Cordero and some of the New
6 York guys have been over at Saratoga, riding in the
7 mornings.

8 COMMISSIONER ISRAEL: But are they going to get
9 out --

10 MR. GUTTERMAN: Chris McCarron -- Chris McCarron
11 rides, because he trains jockeys, trains young men to be
12 jockeys. So, yeah, they will be -- they've all been invited
13 to participate, depending on when they arrive and ride on
14 the track.

15 COMMISSIONER ISRAEL: Are you going to require
16 that they get out there --

17 MR. GUTTERMAN: I can't require it.

18 COMMISSIONER ISRAEL: -- on Friday or Saturday
19 morning?

20 MR. GUTTERMAN: I will require it, David.

21 COMMISSIONER ISRAEL: Okay, thank you.

22 COMMISSION VICE CHAIRPERSON HARRIS: Well, is he
23 going to give more report or --

24 COMMISSION CHAIRPERSON SHAPIRO: All right --

25 COMMISSION VICE CHAIRPERSON HARRIS: This is a --

1 there will be wagering on these races, is that correct?

2 MR. GUTTERMAN: There will be, yes.

3 COMMISSION VICE CHAIRPERSON HARRIS: I would just
4 move that we --

5 COMMISSION CHAIRPERSON SHAPIRO: Well, shall we go
6 through them?

7 COMMISSION VICE CHAIRPERSON HARRIS: Let's go
8 through each one.

9 COMMISSION CHAIRPERSON SHAPIRO: Let's go through
10 each rule so that we can at least narrow it down.

11 Okay, in terms of waiving Rule 1481, Occupational
12 License and Fees. Does anybody have an objection to doing
13 that?

14 COMMISSIONER ISRAEL: No.

15 COMMISSIONER CHOPER: No.

16 COMMISSION CHAIRPERSON SHAPIRO: If not, then I
17 move that we waive that rule.

18 Second?

19 COMMISSIONER DEREK: Second.

20 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

21 (Ayes.)

22 COMMISSION CHAIRPERSON SHAPIRO: Okay. Physical
23 examination. I would suggest that we will waive that,
24 although that we would -- that we will require that they
25 provide, to the Board, from their own personal doctor or

1 physician, that they have been examined within three months
2 of this event to certify that they're -- you know, that
3 they've passed a physical and they're in good health. I
4 don't think that's a burden on the jockey.

5 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, they're
6 both in good health and physically capable of --

7 COMMISSION CHAIRPERSON SHAPIRO: Capable.

8 COMMISSION VICE CHAIRPERSON HARRIS: -- of riding
9 in a thoroughbred race.

10 COMMISSION CHAIRPERSON SHAPIRO: So I would agree
11 to amend the rule for this situation, such that it would
12 allow them three months, prior to the event, they will
13 submit a physical examination.

14 Is that acceptable to everyone?

15 COMMISSIONER MOSS: Or at least a doctor's letter.

16 COMMISSION CHAIRPERSON SHAPIRO: That's correct.
17 They don't have to give us the actual physical, but a letter
18 from something.

19 COMMISSION VICE CHAIRPERSON HARRIS: It would be
20 just an opinion from a physician.

21 COMMISSION CHAIRPERSON SHAPIRO: Correct. I don't
22 think anybody should have a problem with that.

23 So if that's okay with everybody, I would move
24 that we waive the rule with that modification.

25 COMMISSION VICE CHAIRPERSON HARRIS: Second.

1 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

2 (Ayes.)

3 COMMISSION CHAIRPERSON SHAPIRO: Okay.

4 Qualifications of jockey. I would move there that we waive
5 the 125-pound limitation, since we already know that we're
6 going to allow them to ride at higher weight.

7 Therefore, I would move that we waive that.

8 COMMISSION VICE CHAIRPERSON HARRIS: Well, why
9 don't we just waive both at the same time.

10 COMMISSION CHAIRPERSON SHAPIRO: Oh, waive --
11 fine, 1499 and 1683.

12 Is there a second?

13 COMMISSIONER MOSS: Second.

14 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

15 (Ayes.)

16 MR. GUTTERMAN: And, of course, that will be
17 announced to the public, what their exact weight is.

18 COMMISSION CHAIRPERSON SHAPIRO: That's fine.

19 Now, having done that, I believe that we are
20 asking you to come back to us with clarifications, with
21 respect to the insurance that's being provided, whether or
22 not the California -- the State of California should be
23 indemnified and held harmless, along with other -- what
24 other entities are being indemnified and what insurance
25 coverages are provided, and so forth.

1 And we would ask that you report back to the Board
2 on that. Is that acceptable to everybody?

3 COMMISSIONER MOSS: Yeah.

4 COMMISSIONER DEREK: Yes.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.
6 Okay, thank you, Allen, appreciate it, we know it's going to
7 be a success.

8 MR. GUTTERMAN: Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay, I
10 want to make sure I didn't have a comment card.

11 Ed Halpern, did you turn in a comment card on
12 this? No, you're fine, okay.

13 All right, and I'm sorry, I have one from Sherwood
14 Chillingworth, but I don't think it's necessary unless he
15 raises his hand and says he has something he has to say.

16 MR. CHILLINGWORTH: My father said shut up when
17 you're ahead.

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

19 COMMISSIONER ISRAEL: What did he say?

20 COMMISSION CHAIRPERSON SHAPIRO: He said -- he
21 says his policy is to shut up when you're ahead. And I'm
22 quoting him, that wasn't my words.

23 Okay. It seems that we have a large enough
24 audience and interested parties and, therefore, I'm going to
25 now jump to Item Number 9, which is our favorite subject,

1 ADW wagering.

2 As everybody in the room knows -- oh, I guess I
3 should introduce the item, first.

4 Item 9, discussion by the Board regarding the
5 status of advance deposit wagering, the licensure or
6 approval of ADW providers, and the imposition of conditions
7 for issuance of ADW licensees, including prohibitions
8 against exclusivity agreements/clauses between ADW providers
9 and industry participants.

10 Just to refresh and to -- in case some of our new
11 people don't know this, we periodically license the ADW
12 providers to accept wagers and be licensed here, in
13 California.

14 Last year, last December I think it was, we
15 licensed the four ADW providers in the State of California,
16 Twinspires, XpressBet, Youbet, and TVG on a one-year
17 license.

18 We, in the past, have issued licenses, I believe,
19 up to three years. I don't think there's a prohibition or a
20 limitation on our setting what that term is.

21 There have been over, at least the four years that
22 I've been on this Board, more discussions regarding what the
23 most effective use of ADW is.

24 And as we will all recall, back at the end of last
25 year, when we tried to create a format where all of the ADW

1 providers would receive all thoroughbred sales and accept
2 wagering from all -- and be able to accept wagers on all
3 thoroughbred race meets, and that was achieved for an eight-
4 month period.

5 It was not, as you will recall from our Pleasanton
6 meeting, we had a discussion where we wanted to see if it
7 could be achieved through Del Mar, Fairplex, and Oak Tree.
8 But in those instances, one provider had an exclusive
9 agreement and that precluded the other providers from being
10 able to accept wagers.

11 This Board, over a long period of time, has
12 discussed the notion of making, as a condition of licensure,
13 that all ADW providers and all people contracting with them
14 would make all thoroughbred product available for betting on
15 all of their platforms. Basically, a nonexclusive
16 framework.

17 That does not include broadcasting. The concept,
18 which was part of what we all called the experiment, did
19 provide that there could be exclusive broadcasts of
20 television signals. So that was set aside.

21 What the Board has to now deal with is that --
22 there are a couple things that I think people need to
23 understand and I would ask to be corrected if I misstate it.

24 And that is, this Board has the ability to
25 license, it has the ability to set the conditions of

1 license.

2 What this Board does not have the ability to do is
3 to interfere or set rates between the companies.

4 More often than not, where we find a problem is
5 that the rates that are established between the tracks, the
6 ADW provider, and the horsemen are where the system bogs
7 down and there cannot be -- and there are disagreements, as
8 I expect we will hear today.

9 This Board can establish what the parameters of
10 licensure are, but we cannot interfere or dictate what the
11 economic terms of those agreements are going to be.

12 Therefore, what I would like to do is put out onto
13 the table, as a starting off place, that I believe that,
14 based on all our prior discussions, it's my understanding
15 the consensus of the Board and the consensus of our
16 customers would be that they would like to see that the open
17 wagering on thoroughbred racing continue, whereas all
18 thoroughbred product is offered through all licensed ADW
19 companies.

20 Therefore, as a condition to licensure, I believe
21 the Board should condition -- should consider adopting a
22 rule so that we could, in fact, require that all signals be
23 offered to all ADW companies.

24 Now, because the economics are such a problem
25 there, and that we can't be involved in that, I would also

1 suggest unless, that there's an exception, that all parties
2 to the agreement, which would include the track, the ADW
3 provider, and the horsemen negotiate otherwise and determine
4 it's in the best interest for there to be an exclusive
5 arrangement.

6 Again, I add that because I believe where this
7 breaks down is in the economics.

8 So with that introduction, again I welcome -- I
9 would like to hear input from the Commissioners, from
10 everybody in the audience of how we can best achieve the
11 most beneficial use of ADW.

12 I am distressed to hear that despite what we
13 believe were agreements and representations to this Board,
14 such as at Golden Gate, where we were told that we would
15 have all providers, I believe, carrying our signals, we find
16 that there are disputes that are taking place as we sit
17 here, today.

18 I must also caution, as I saw Mr. Castro come to
19 the podium, that there are also provisions in the law, and
20 that previously we have heard about, card check agreements,
21 and agreements with labor, as we relicense them, we must
22 make sure that all the requirements in the statute are
23 fulfilled and that all the parties must abide by those. And
24 that would include entering into agreements with the
25 applicable union that represents the people, the tellers,

1 and the others.

2 So, therefore, I offer -- I open this up for
3 discussion. Do any Board members wish to make an opening
4 statement, and then we will hear from various stakeholders
5 in the industry.

6 COMMISSION VICE CHAIRPERSON HARRIS: Yeah. I
7 think you covered it pretty well. I think we're all
8 frustrated that there's not more sharing of everything in
9 racing, really. And the experiment showed that a more
10 openness will product more handle and more revenue to both
11 -- you know, to all sides.

12 I'm not sure, just trying to think it through, on
13 the exclusivity -- to have an exclusive arrangement requires
14 two sides. You have the track, which is also the horsemen,
15 and the ADW provider.

16 COMMISSION CHAIRPERSON SHAPIRO: No, I'm saying it
17 would include three -- it would need three parties, the
18 track, the horsemen, and the ADW company.

19 COMMISSION VICE CHAIRPERSON HARRIS: Yeah. But
20 right now, though, I'm not really advocating one way or the
21 other, but I'm not sure as far as our policing power, or
22 regulatory power, I guess, to say that you cannot be
23 exclusive.

24 Are we better saying a track can't be exclusive or
25 the ADW provider can't be exclusive?

1 COMMISSION CHAIRPERSON SHAPIRO: Well, I'm going
2 to defer that to counsel who, I believe, has done some
3 research on this.

4 And, again, if our goal is to create a framework
5 where there is nonexclusiveness, does that mean that we have
6 to make it a condition of the ADW license, and/or the track
7 association license?

8 STAFF COUNSEL MILLER: Well, the Board can make
9 the issuance of the license to an ADW provider on the
10 conditions as noted.

11 If the Board wants to go further and then review
12 the conditions for tracks and horsemen, that's the
13 prerogative of the Board, you can do that.

14 We were only directed to research the issue as to
15 ADW providers.

16 COMMISSIONER ISRAEL: But isn't it the reality if
17 the ADW provider is required by license to enter into a
18 nonexclusive agreement --

19 STAFF COUNSEL MILLER: It's the other way,
20 Commissioner Israel.

21 COMMISSIONER ISRAEL: It would be the track.

22 STAFF COUNSEL MILLER: It is that -- the rule
23 would be phrase, for ADW providers, that there is a
24 prohibition.

25 COMMISSIONER ISRAEL: Right.

1 STAFF COUNSEL MILLER: Rather than a requirement
2 that they'd be nonexclusive, but there would be a
3 prohibition against --

4 COMMISSIONER ISRAEL: Exclusive arrangements.

5 STAFF COUNSEL MILLER: -- exclusive arrangements.

6 COMMISSION VICE CHAIRPERSON HARRIS: I was
7 thinking it was the track who we actually license, you know,
8 periodically.

9 I'm a little bit worried about the interstate
10 issues, as far as telling an ADW provider they can be
11 exclusive or not exclusive, when they've got so many out-of-
12 state activities, too. Are we regulating those as well
13 or --

14 STAFF COUNSEL MILLER: No. We're simply
15 regulating ADW providers as they do business in the State of
16 California.

17 COMMISSION VICE CHAIRPERSON HARRIS: In
18 California.

19 COMMISSION CHAIRPERSON SHAPIRO: All right.

20 Commissioner Choper, did you want to make a --

21 COMMISSIONER CHOPER: Yeah, I certainly don't
22 pretend to know all of the details of the statutory
23 authorization. But, you know, the ordinary power to license
24 is the power to impose conditions. And there would be any
25 conditions, unless they're contrary to some other law.

1 I certainly favor the notion that we ought to let
2 the parties try to do as much as they can in agreeing with
3 it. But in -- in reaching an agreement. You reach an
4 agreement, they're the ones that are concerned with it
5 directly. Usually, that plays for the benefit for the
6 entire industry. But there are situations in which it may
7 not.

8 And I certainly don't know the answer to the
9 question that I'm asking, but it seems -- I mean, I
10 don't -- I'm not confident about the answer as to why we
11 should simply -- what is the argument against saying that we
12 ought to assure that any ADW provider that comes in and
13 takes a signal from a California racetrack cannot do so on
14 an exclusive basis, that cannot exclude other ADW companies
15 from also having that opportunity?

16 I mean, very simply put, that's the question, it
17 seems to me, that's here. And I'd like to -- my inclination
18 is to say that sounds like a good idea to me, and I wonder
19 what's wrong with it?

20 COMMISSION CHAIRPERSON SHAPIRO: Can I just tell
21 you, I believe the statute does, just to answer your first
22 comment, is very clear that we do have the jurisdiction and
23 the ability to set conditions. So I think the law will
24 support that.

25 COMMISSIONER ISRAEL: Does that ability include

1 being able to set fees, is there a license fee charged?

2 COMMISSION CHAIRPERSON SHAPIRO: No. We are -- as
3 I tried to say, there are -- in the law there are certain
4 fees that are capped, I think it's a six-and-a-half percent
5 fee. But we are not allowed to set fees, establish fees, or
6 even participate in the rates that are charged.

7 COMMISSIONER ISRAEL: No, no, no, the fee for
8 giving -- granting a license. Like the driver's license
9 costs money, a car registration costs money.

10 COMMISSION CHAIRPERSON SHAPIRO: There are no
11 fees.

12 COMMISSION VICE CHAIRPERSON HARRIS: We do have
13 fees to get an ADW license, and a track has a fee to get our
14 license.

15 COMMISSIONER MOSS: So in the experimental period,
16 were all the fees generally similar?

17 COMMISSION VICE CHAIRPERSON HARRIS: I think the
18 fee isn't a big number.

19 COMMISSIONER MOSS: I mean, the deal -- the basic
20 thing I'm asking is, during the experimental period, when we
21 deemed this a success, was everybody basically under the
22 same deal?

23 COMMISSION CHAIRPERSON SHAPIRO: No.

24 COMMISSION VICE CHAIRPERSON HARRIS: No.

25 COMMISSION CHAIRPERSON SHAPIRO: There were

1 different deals between the various tracks and ADW
2 companies, I believe there were different rates for both
3 television and also based on -- they negotiated amongst
4 themselves different rates. Okay.

5 COMMISSIONER MOSS: I see.

6 COMMISSION VICE CHAIRPERSON HARRIS: We didn't get
7 involved, but they came up with it.

8 COMMISSION CHAIRPERSON SHAPIRO: Again, we weren't
9 involved in that. We couldn't be involved in that.

10 COMMISSIONER MOSS: So would it help if we could
11 simplify what the deal is and say they either accept that
12 deal or not?

13 COMMISSION CHAIRPERSON SHAPIRO: Well, we could.
14 But let me just ask a question. Because is it -- I'd like
15 to know if the members generally favor the notion of
16 nonexclusive versus allowing to continue the way it is?
17 Should we go down this road at all?

18 COMMISSIONER ISRAEL: Well, I think it's pretty
19 clear, from what everybody said, we do favor it.

20 And what Jerry's suggesting is -- I think, I don't
21 want to speak for him. But that we favor it and that the
22 deals required favored nations in the deals between the
23 racetracks and the ADW.

24 For instance, if TVG makes a deal, then that deal
25 will apply to any of the other licensed ADWs that want to

1 come in and make a deal with Santa Anita or --

2 COMMISSION VICE CHAIRPERSON HARRIS: Well, but
3 that's the sticky point, I think, though, that the most
4 favored nation doesn't fit the situation.

5 COMMISSIONER ISRAEL: Well, isn't that --

6 COMMISSIONER MOSS: That also involves
7 broadcasting, and I'm trying to eliminate -- broadcasting is
8 something else, again.

9 COMMISSION CHAIRPERSON SHAPIRO: Again, I don't
10 believe we have --

11 COMMISSIONER MOSS: But perhaps, rather than
12 getting into a huge negotiation every time, that's what I'm
13 trying to avoid, and that there is a particular deal, or a
14 percentage, or whatever it is on -- there's three or four
15 basic tenets to every deal, that those tenets be the same
16 for anyone that -- any ADW provider. So, therefore, it's up
17 to just the track and the horsemen to approve it.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay. I would
19 love to be able to do that, then we wouldn't have to hear
20 this ever again.

21 COMMISSIONER MOSS: Well, that's what I mean.

22 COMMISSION CHAIRPERSON SHAPIRO: Unfortunately, I
23 think we're going to hear from people who are going to come
24 forward and tell us, A, we don't have the authority to do
25 that without a change in the law.

1 COMMISSION VICE CHAIRPERSON HARRIS: Right.

2 COMMISSIONER MOSS: Right.

3 COMMISSION CHAIRPERSON SHAPIRO: And, B, that
4 there are distinct differences in quality of product, and
5 all kinds of reasons why we can't do that.

6 COMMISSIONER ISRAEL: But I guess -- but,
7 conceptually, it's establishing a takeout mandate, right,
8 for ADW, more or less? It's similar to that.

9 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
10 we're coming in, though, and trumping the free -- I think
11 the free market should do it. The problem is the free
12 market doesn't, you know, work that quickly.

13 But I'd hate to see us have a, you know, one-size-
14 fits-all kind of rate, because I think it's got to -- but
15 what we can do is say we don't know what your rates are, or
16 how you negotiate them or what, but you're not going to get
17 a license to either run the track, or run the ADW company,
18 if you have exclusive arrangements.

19 COMMISSIONER CHOPER: I think the exclusivity
20 provision is much more straight forward than the provision
21 of requiring a most favored nation.

22 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I don't
23 think --

24 COMMISSIONER CHOPER: That may be a good idea, but
25 that's much more complicated, it strikes me.

1 COMMISSION CHAIRPERSON SHAPIRO: Well, and let me
2 just tell you, going to that point, I mean, and I'm not
3 picking on anybody's race meet or anything, but the
4 question's going to be, well, should -- should the same rate
5 be charged for Ferndale product -- should Ferndale get the
6 same revenue as Santa Anita, or Del Mar. You have all these
7 variations.

8 COMMISSIONER CHOPER: That's a similar question.

9 COMMISSIONER ISRAEL: But if it's a percentage of
10 the gross, then they're not getting the same revenue,
11 they're just getting a percentage of the gross.

12 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, but the
13 big issue, though, is the television rights and all that, if
14 that has to figure into the equation. Because I think
15 that --

16 COMMISSION CHAIRPERSON SHAPIRO: Well, we've tried
17 to set TV apart and say, no, broadcast is a second -- is not
18 part of the --

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, but it
20 sort of is, though, because the revenue has got to tie into
21 the wagering. Somebody doesn't want to spend a lot of money
22 on a TV production and somebody else is getting all the
23 revenue.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.

25 So with that, I sense there's a general consensus

1 that we would like to achieve this. I think it's in our
2 fans' best interest, certainly. They clearly have spoken
3 that they would like to see this done.

4 So perhaps we can ask people from the audience,
5 that have views, now. There are a lot of them here.

6 And so I would ask that, you know, people come
7 forward. And why don't I start with the first card I came
8 to, which is John Hindman, you have a comment card.

9 Mr. Hindman, would you like to make comments on
10 this, on behalf of TVG? And, I'm sorry, it's also Cathy
11 Christian.

12 And you're welcome to sit at the table here, you
13 don't have to stand there.

14 MR. HINDMAN: Good morning, Commissioners.

15 COMMISSION CHAIRPERSON SHAPIRO: Good morning.

16 Sorry.

17 MR. HINDMAN: John Hindman, with TVG. And Cathy
18 Christian's also here on behalf of TVG. Appreciate the
19 opportunity to participate in the discussion. And I think
20 it's a good discussion that we're continuing to have, that
21 has been going on for, as we all know, quite some time.

22 I think that -- and we're, you know, obviously
23 delighted to move forward.

24 I think on what was proposed this morning, it's
25 the first time I've heard and I, myself, am a little cloudy

1 about it, and I would love to see it in writing, and for any
2 future discussions, to more clearly understand what it is.

3 COMMISSIONER ISRAEL: What are you talking about?

4 COMMISSION CHAIRPERSON SHAPIRO: We didn't propose
5 anything.

6 MR. HINDMAN: Okay. Well --

7 COMMISSION CHAIRPERSON SHAPIRO: Are you talking
8 about my comments?

9 MR. HINDMAN: Yes. Yeah.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. My comment
11 was simply just a general observation, like how do we
12 achieve this, should we go in this direction, trying to
13 recognize all the issues. There was nothing proposed.

14 MR. HINDMAN: Okay. Well, I apologize for that.
15 And it just sounded like it was getting pretty particular at
16 one point.

17 But anyway, just, you know, speaking in
18 generalities, I think if you look at the marketplace for ADW
19 so far, I think if the goal is -- or if the Board is
20 thinking what the goal is, is to ensure that every ADW
21 provider is taking wages on every track, I don't know that
22 this would do it for you.

23 And I'll just say -- you know, I'll list some
24 examples that I think are pretty straight forward, that you
25 touched on, Chairman Shapiro, in your opening remarks, and

1 just some real life examples.

2 For instance, you know, we've offered content to
3 TrackNet before on, you know, similar terms that we'd
4 offered it to other people and they chose not to take it
5 because they didn't accept those terms. Which is, in my
6 view, certainly their right.

7 And in California we've done this.

8 And coming back, TrackNet has made overtures to
9 TVG before, on business terms that we didn't feel we could
10 operate our business under.

11 So I think where you really get to and what you
12 touched on in your original point is that the price is
13 something that has to be negotiated amongst the parties.
14 The terms are something that has to be negotiated amongst
15 the parties.

16 I don't think anybody here is suggesting that any
17 company is forced or has to do anything.

18 And so I think, from that perspective, it's very
19 complicated when you start to wade into this area.

20 And it's kind of these sorts of discussions that
21 we've had all the way along, including during the very long
22 legislative process in Sacramento, last year, where this
23 issue was discussed intensely over a long period of days.
24 And I'll let everybody else comment on what their view of
25 those discussions were.

1 But what turned out in the law was that these
2 types of things would be left to the negotiation of the
3 parties. And it seems like anything else appears to be
4 very, very complicated.

5 And, again, I think in terms of achieving your
6 goal, I don't know if it would.

7 I think the other thing that I'd mention is it's
8 more than about the ADW providers, it's also, obviously,
9 about the tracks and the horsemen.

10 And, you know, there may be conditions, business
11 conditions that a racing association or a horsemen's group
12 would find to be very advantageous. And I think that the
13 goal of the statute was to not foreclose a racing
14 association to explore those opportunities moving forward.

15 COMMISSION CHAIRPERSON SHAPIRO: So can I ask you
16 a couple questions?

17 MR. HINDMAN: Sure.

18 COMMISSION CHAIRPERSON SHAPIRO: I believe that
19 everyone -- you understand why we, on behalf of really
20 promoting California product, getting the most wagering on
21 California racing would want to see all platforms have
22 access to all product, as well as, clearly, our fans have
23 spoken that they would like that, too.

24 Okay, so you understand the goal.

25 Do you have a suggestion, knowing the facts in

1 much greater detail, and with better knowledge than we do,
2 of how we can achieve that? How we could either seek
3 modifications to our rules or the statute to achieve it?

4 Because here's where I understand the rut to be,
5 and everybody in this room is well aware of this is not just
6 a California issue, this is an issue that's gripping the
7 country with respect to ADW.

8 We all know that there are horsemen's disputes
9 with tracks and ADW companies all over the country.

10 And if you look at what happens, and this is
11 really for the benefit of some of our people that may not
12 know this, I think what we find is that while the takeout of
13 a wager may remain static, where the shortfall comes is that
14 there are certain -- in certain circumstances, where the ADW
15 companies make more money than the tracks or the horsemen.

16 The horsemen feel that, well, they pay for all the
17 horses and it's their product, and the tracks feel they put
18 on the show, and so forth.

19 So I think the root of the problem is, in fact,
20 the economics.

21 And when you look at a wager, and this is just an
22 example, I'm not picking on anybody, because I think it's
23 representative for all.

24 But if you look at an ADW wager that's made on
25 Santa Anita, live, from outside California, XpressBet would

1 make \$12.50 out of the \$19.00 of takeout, and Santa Anita
2 would make \$2.90 and the horsemen would make \$2.90.

3 Therefore, what I think is behind all this is that
4 there are certain situations where there appears to be
5 inequities. And if there was a way to find either a
6 different formula, that would make it so that the horsemen
7 were getting money for desperately needed purses, and the
8 tracks are getting money for desperately needed income to
9 keep and operate the tracks, and the ADW companies could
10 also get a fair share to make it profitable and keep them in
11 business, so what is the solution to try and equalize this
12 and find a way to service our customers, and increase
13 wagering on California product? What's your idea?

14 MR. HINDMAN: Well, I don't have a crystal ball
15 and I don't have any simple answers to this question,
16 Chairman Shapiro.

17 I think what you're seeing, and I certainly can't
18 comment on the XpressBet example because I --

19 COMMISSION CHAIRPERSON SHAPIRO: Well, the same is
20 for TVG, I mean, I just picked one.

21 COMMISSION VICE CHAIRPERSON HARRIS: Was that out
22 of --

23 COMMISSION CHAIRPERSON SHAPIRO: Out of state,
24 yes. I mean, if you look --

25 MR. HINDMAN: I think, just as a point of fact --

1 COMMISSION CHAIRPERSON SHAPIRO: Okay.

2 MR. HINDMAN: -- and I don't want to get into
3 here, because it's not really a California issue. And,
4 again, I can't speak for XpressBet, but I can speak for TVG.
5 We have a lot of other obligations --

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, I don't
7 mean to interrupt you, but please understand, I wasn't
8 picking on XpressBet, I could do the same thing with TVG,
9 it's the same.

10 COMMISSION VICE CHAIRPERSON HARRIS: I think,
11 though, when we look at this it gets complicated because
12 that -- I mean, I'm not happy with any of the distributions,
13 either. But, still, more money is coming back to California
14 in that model than if somebody goes into New York OTB and
15 bets. Where all these other satellites we're going to
16 aren't even that good.

17 MR. HINDMAN: That's correct. That's correct,
18 Commissioner Harris.

19 COMMISSION VICE CHAIRPERSON HARRIS: So, I mean,
20 it's not like you're comparing it to some -- it's better
21 than a lot of things but, you know, we always want to get as
22 much as we can.

23 MR. HINDMAN: And speaking for TVG, we certainly
24 have other obligations outside of California. So to say
25 that whatever it is that didn't go to Santa Anita, in your

1 example, went straight to our pocket, it just isn't true.

2 I wish, you know, from a selfish stand point, it
3 would be nice, and our company would be doing a lot better
4 than it is. But that's not true.

5 And so I think -- you know, I think what you have
6 is a number of competing business models out there right
7 now. We certainly have one, we have had one, we are looking
8 at the market trying to adapt and serve tracks and horsemen
9 the best we can.

10 The horsemen have a model that they are promoting,
11 nationally. TrackNet, which is a vertically integrated
12 group, I think has their own model that they think is best.

13 So for anybody to sit here and say that they have
14 the exact right model, I think that there's so many
15 different viewpoints on that right now that it's really not
16 possible to do.

17 And I would also add, that's not necessarily a bad
18 thing because -- I would say it's not a bad thing because
19 over the last five to ten years there's been a tremendous
20 amount of investment in this area. There's been tremendous
21 advances in this area.

22 And it's competition, like horse racing hasn't
23 seen in a while.

24 I think if you look at the basic horseracing
25 thing, Santa Anita doesn't doesn't run at the same time

1 Hollywood Park does, you know, and satellites have their own
2 areas.

3 In this instance you have companies that are out
4 there, investing tons of money, all of them, to compete with
5 each other for customers every day. And that's a good
6 thing.

7 And there's been a lot of innovation in this
8 industry and there's been a lot of investment in this
9 industry.

10 And so what I think you have is you have people
11 who are making those investments based on business models,
12 that other people agree to. There's nobody has been forced,
13 this is all voluntary. And they're trying to make the
14 industry grow the best they can and they're trying to do
15 what's best for their company.

16 COMMISSIONER ISRAEL: Can I ask you a couple of
17 questions?

18 MR. HINDMAN: Sure.

19 COMMISSIONER ISRAEL: See, this is a nation
20 industry, you know, it's kind of analogous to the movie
21 business in the thirties, forties, and fifties. And they
22 also had vertical integration, where the studios owned the
23 actors, the horses. They owned the movie, the script, they
24 produced it, and they distributed it and exhibited it.

25 You're doing all those things because,

1 essentially, you're getting the races for free.

2 And then there was a consent decree in 1960 which
3 eliminated vertical integration.

4 MR. HINDMAN: We are not vertically integrated,
5 ourselves. This is TVG, we don't own any racetracks.

6 COMMISSIONER ISRAEL: No, but you get the product,
7 essentially, on an exclusive, fairly inexpensive basis. And
8 the internet's supposed to be open commerce.

9 MR. HINDMAN: We pay back, I think, between \$55
10 and \$60 million to the horse racing industry last year, so
11 it wasn't free.

12 And, you know, we're very proud of that and we
13 don't think anybody in the ADW business can make that claim.
14 And so it certainly isn't for free.

15 COMMISSIONER ISRAEL: But you want to retain the
16 right to negotiate an exclusive license with a racetrack;
17 right?

18 MR. HINDMAN: What I'm saying here is that
19 everybody has different business models. We built a very
20 expensive television network based around one.

21 We're adapting and changing all the time. I think
22 that the experiment was an example of that, and other
23 agreements that we've done around the country are also an
24 example of that. And I think people in this room know that.

25 But we're also conscious of, let's face it, the

1 majority of Americans who watch horseracing on television,
2 who want to watch horseracing on television are watching it
3 on TVG.

4 COMMISSIONER ISRAEL: Right.

5 MR. HINDMAN: It's important. And we want to be
6 able to provide them with quality service. And so we're
7 looking for the best way to do it.

8 Other people have differences of opinion.

9 I'm not going to sit here and say our way is the
10 best, or our way is the only way. I'm not going to sit here
11 and say that somebody else's way is necessarily wrong.
12 Everybody has -- everybody is situated differently --

13 COMMISSIONER ISRAEL: But what is your position on
14 the concept that we would require you -- we would prohibit
15 exclusive arrangements between the -- what's your position
16 on the prohibition of exclusive arrangements?

17 COMMISSIONER CHOPER: May I follow up on that,
18 just amplify that question a little bit? I'll take very
19 little time.

20 Let's put aside the division of takeout, and all
21 of that, all of those aspects of a business model of a free
22 market.

23 Suppose we were to have a rule that said, and I
24 think this is totally consistent with what you were asking,
25 no ADW provider can sign a contract that excludes any other

1 ADW provider from taking bets on -- taking the product and
2 handling bets on what goes on at that racetrack.

3 No one's got to come in, but no one can be
4 excluded by purposes of a contract. I mean, that's not a
5 novel arrangement by any means.

6 Indeed, one might argue that it furthers
7 competition in a free market.

8 So that's all -- I mean, we can't -- I don't
9 believe we can take on all of these questions.

10 But that, I think the Chairman indicated, was the
11 central question at least for today, that's probably enough.
12 For me, anyway. But I mean, others can -- so that's what
13 I'd like to --

14 COMMISSIONER ISRAEL: Well, Jesse and I are asking
15 the same question.

16 MR. HINDMAN: The same question.

17 COMMISSIONER ISRAEL: I'll add one comment. Which
18 is when you discussed building your television network and
19 people, like me, who want to watch horseracing on
20 television, do turn on TVG.

21 And the reason why that is, though, and it may
22 have been before you were there, is Fox owns Direct TV, Fox
23 owned TVG. TVG was the only horseracing network that was
24 getting on Direct TV. That was fairly straight forward.

25 MR. HINDMAN: Well, I think, first of all, I don't

1 want to go into details but --

2 COMMISSIONER ISRAEL: But that's no longer the
3 case, Fox doesn't own either one of them.

4 COMMISSION CHAIRPERSON SHAPIRO: So can you just
5 answer, though, his question?

6 MR. HINDMAN: Okay.

7 MS. CHRISTIAN: Mr. Chair, maybe I can try and
8 answer the question. I want to say Professor Choper.

9 COMMISSIONER CHOPER: That's okay.

10 MS. CHRISTIAN: Because he's asking me the kind of
11 question that I'd be asked in another life.

12 The question of whether the parties ultimately
13 decide and the Board encourages in every way possible, some
14 sort of open platform, is a little different, I think, than
15 whether or not, first of all, the Board can condition
16 licenses without enacting regulations. And I think that you
17 would have to do that, at the very least.

18 But in the amendments to the ADW statute, that
19 were enacted last year, the Legislature, in 19604(b)(1)(c),
20 expressly provided that --

21 COMMISSIONER CHOPER: Would you hold on for just a
22 second?

23 MS. CHRISTIAN: Okay, sure.

24 COMMISSIONER CHOPER: Where is it? Do we have it?

25 STAFF COUNSEL MILLER: It is in your books, it is

1 page 9-9.

2 COMMISSIONER CHOPER: All right, let me take a
3 look at this.

4 MS. CHRISTIAN: And thank you to your counsel for
5 letting me borrow the statue, because I didn't have it in
6 front of me.

7 COMMISSIONER CHOPER: Now, where are you reading
8 from?

9 MS. CHRISTIAN: Well, in subparagraph C.

10 COMMISSIONER CHOPER: B.

11 MS. CHRISTIAN: Well, in sub -- well, little "b",
12 large "C." (b) (1) (C).

13 COMMISSIONER CHOPER: (b) (1) (C), I got it.

14 MS. CHRISTIAN: There is reference to the
15 agreement.

16 COMMISSIONER CHOPER: Yeah.

17 MS. CHRISTIAN: And in particular, if you read
18 about midway through the paragraph, "the agreement is to
19 address any arrangements as to the exclusivity between the
20 horseracing association or fair, and the ADW provider."

21 COMMISSIONER ISRAEL: 9-9, what paragraph?

22 COMMISSIONER CHOPER: I see it, the big C, right
23 in the middle.

24 COMMISSIONER ISRAEL: Oh, the big paragraph.

25 COMMISSIONER CHOPER: Yeah. But would you read

1 the language that's -- I'm not -- I just want to find out.

2 MS. CHRISTIAN: Sure. Well, the agreement --
3 there are a number of different things that the agreement is
4 supposed to address, and one of them is "any arrangements as
5 to the exclusivity between the horseracing association or
6 fair, and the ADW provider."

7 COMMISSIONER CHOPER: Where is that?

8 MS. CHRISTIAN: That is at the end of the --

9 COMMISSIONER CHOPER: "The agreement referenced
10 shall be approved in writing." Now, where do you go?

11 MS. CHRISTIAN: Shall be approved in writing.

12 COMMISSIONER CHOPER: Yeah.

13 MS. CHRISTIAN: And then go down the Interstate
14 Horse Racing Act. Right. "Without limitation any and all
15 requirements contained therein with respect to written
16 consents and required written agreements of horsemen's
17 groups," right, "to the terms and conditions of the
18 acceptance of those wagers and any arrangements as to the
19 exclusivity between the horse racing association and the ADW
20 provider."

21 COMMISSIONER CHOPER: Now, what do you say that
22 that language does.

23 MS. CHRISTIAN: And what I'm suggesting --

24 COMMISSIONER CHOPER: I got it, that's good.

25 MS. CHRISTIAN: Right, is that the Legislature

1 acknowledged --

2 COMMISSIONER CHOPER: Yes.

3 MS. CHRISTIAN: -- that those kinds of
4 arrangements may exist.

5 COMMISSION VICE CHAIRPERSON HARRIS: I'm not clear
6 that --

7 MS. CHRISTIAN: But all I'm saying is that it's
8 not -- that the Legislature hasn't spelled out what has to
9 be in those agreements, it is acknowledging --

10 COMMISSION VICE CHAIRPERSON HARRIS: Well, they
11 acknowledge that they exist. But I'm not clear that the
12 horsemen's group would have the ability to say that you, in
13 fact, could not have an exclusive arrangement or not.

14 MS. CHRISTIAN: The horsemen's -- do you want to
15 answer?

16 MR. HINDMAN: The intent -- I believe that the
17 intent of that section of law was to set forth how bets on
18 California races get made, it required two things, an
19 agreement between the track and the ADW provider, and the
20 written approval of the horsemen's association, pursuant to
21 the Interstate Horse Racing Act, to all terms and conditions
22 as -- and including without limitation those in the statute.

23 COMMISSION CHAIRPERSON SHAPIRO: I agree with you.
24 But I don't think that addresses -- what that says is that
25 there could be exclusive agreements, but it doesn't --

1 there's no prohibition placed from this Board setting, as a
2 condition of license, that we could prohibit.

3 Do you agree with that?

4 MS. CHRISTIAN: I don't agree with that but --

5 COMMISSION CHAIRPERSON SHAPIRO: Can you tell me
6 where it says specifically --

7 MS. CHRISTIAN: No, when you're enacting
8 regulations, assuming you're going to do that, to be
9 consistent with the horse racing law, if you were to impose
10 a flat out prohibition that the horse racing law doesn't
11 contemplate, at least there's an argument that that might be
12 outside of your scope in order to enact the regulation, and
13 you should consider that.

14 I mean, obviously, we haven't seen anything, we
15 don't know what you're proposing, there is no regulation in
16 front of it.

17 COMMISSION CHAIRPERSON SHAPIRO: We just discussed
18 it.

19 MS. CHRISTIAN: Right, but that would be an issue,
20 that would be a concern. And there may be better ways to
21 encourage what you're looking for. I mean, the
22 parties -- but when the business models, and the way people
23 are figuring out how to conduct their businesses is -- runs
24 a -- you know, when you are trying to say you have to do it
25 a certain way and, if you don't do it that way, you can't

1 have a license, then it's important, I think, what the
2 statute says and whether or not you're consistent with the
3 spirit of the statute.

4 And beyond that, I don't think we have -- we
5 couldn't comment any further.

6 COMMISSIONER ISRAEL: Would you cease to negotiate
7 these deals if you didn't have the option of exclusivity at
8 certain California tracks?

9 MR. HINDMAN: I can't answer that question.

10 COMMISSIONER CHOPER: Take the 5th Amendment.

11 COMMISSION VICE CHAIRPERSON HARRIS: But back to
12 the statute, though, I'm not clear if in fact a -- I mean,
13 it seems to me what should really happen is the horsemen and
14 the track agree that this thing, with exclusive, or without
15 exclusive, or whatever is fine.

16 But if the horsemen took the attitude that they
17 didn't like the exclusive part, or you'd take an attitude
18 this would support that?

19 MS. CHRISTIAN: No, the Interstate Horse Racing
20 Act is what it is, we're not trying to --

21 COMMISSION VICE CHAIRPERSON HARRIS: No, no, not
22 the Interstate, this -- well, I'd just refer back to that.

23 MS. CHRISTIAN: Yeah.

24 MR. HINDMAN: That's what it's referencing --

25 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

1 MS. CHRISTIAN: It refers back to that, yeah.

2 MR. HINDMAN: -- is the Horse Racing Act.

3 MS. CHRISTIAN: Yeah, and it's not an attempt
4 to --

5 MR. HINDMAN: And it clarifies that the Interstate
6 Horse Racing Act applies to all bets that the licensed
7 provider is going to take.

8 COMMISSION CHAIRPERSON SHAPIRO: So can I ask you
9 a question, because I'm a little surprised here. And that
10 is, so am I correctly understanding that you don't feel this
11 Board has the ability to enact regulations as a condition of
12 license, knowing that the Horse Racing Law provides us with
13 the authority of setting conditions of licensure that could
14 require that there is a prohibition on exclusive; is that
15 your position?

16 MR. HINDMAN: I don't think we're taking any
17 position on a proposed rule that hasn't been proposed.

18 COMMISSION CHAIRPERSON SHAPIRO: I'm not talking
19 about a proposed rule.

20 MR. HINDMAN: So, I'm --

21 COMMISSION CHAIRPERSON SHAPIRO: I'm asking a
22 question just to get some help.

23 MR. HINDMAN: We pointed out -- we pointed out an
24 area of the statute that we think is important in this
25 discussion, nothing more, nothing less.

1 COMMISSION VICE CHAIRPERSON HARRIS: Just to point
2 out, though, this statute was written before there was ADW
3 or -- I think.

4 MS. CHRISTIAN: Not this particular --

5 COMMISSION VICE CHAIRPERSON HARRIS: Not this one,
6 but the reference back to the Interstate Horse Racing Act is
7 a reference to a law that was made before -- it didn't
8 really envision this, exactly, but they were trying to kind
9 of back into it and see how that impacts ADW.

10 Now, I'm still not clear whether horsemen's
11 approval is needed for these agreements or not, and maybe
12 Mr. TOC would like to comment.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, let me make
14 one clarification, we are only talking about ADW in the
15 State of California.

16 The Interstate Horse Racing Act is what governs
17 the wagering or transmission of wagers beyond the State of
18 California, interstate versus intrastate. Do we agree on
19 that?

20 MR. HINDMAN: Well, I think if you look at the
21 statute, it was actually imported straight into the State,
22 that's what that provision is speaking to.

23 COMMISSION CHAIRPERSON SHAPIRO: Fine, so --

24 MR. HINDMAN: It was imported to apply to -- for
25 wagering on a California race.

1 COMMISSION CHAIRPERSON SHAPIRO: Interstate
2 racing.

3 MR. HINDMAN: No, that section that I was
4 referring to starts out laying out the qualifications for a
5 wager by a California resident on a California race.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, so that
7 would be an intrastate wager?

8 MR. HINDMAN: Yes.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay.

10 MR. HINDMAN: And then there's another section
11 regarding intrastate wagers.

12 COMMISSION CHAIRPERSON SHAPIRO: I mean, I agree
13 that we don't have authority over wagers, you know,
14 interstate wagering, that is the Interstate Horse Racing
15 Act.

16 COMMISSIONER ISRAEL: Can I ask a couple
17 questions?

18 COMMISSION CHAIRPERSON SHAPIRO: Of course you
19 can.

20 COMMISSIONER ISRAEL: Can I ask a couple questions
21 that aren't -- you know -- hello? I'd like to ask a couple
22 of questions that aren't at all speculative or hypothetical.

23 What percentage of your handle is based on races
24 run at California tracks?

25 MR. HINDMAN: I don't know.

1 COMMISSIONER ISRAEL: Okay, could you find out and
2 get back to us on that?

3 MR. HINDMAN: Sure.

4 COMMISSIONER ISRAEL: And I'd also like to know
5 what percentage of your handle is generated by horse
6 players, customers who live in California.

7 MR. HINDMAN: Okay.

8 COMMISSIONER ISRAEL: Those are two important
9 numbers.

10 MR. HINDMAN: Okay.

11 COMMISSION CHAIRPERSON SHAPIRO: Mr. Couto, you're
12 sitting there, standing there patiently. Do you wish to add
13 to this discussion?

14 MR. COUTO: I thought Mr. TOC was going to speak,
15 first.

16 Drew Couto, TOC.

17 One thing I wanted to point out, in the context of
18 your discussion as to what you can or cannot regulate, I
19 think you nailed it there, that you can regulate intrastate
20 wagers, the activities that relate to intrastate wagers.

21 To the extent you're imposing -- in my opinion, to
22 the extent you're imposing conditions on licensure, it would
23 be conditions on licensure related to intrastate wagers.

24 COMMISSION CHAIRPERSON SHAPIRO: Right.

25 MR. COUTO: The way in which we're currently set

1 up, with every one of the California licensed ADW providers
2 operating their hub out of state, every single wager taken,
3 whether that's a California resident, wagering on a
4 California race, is an interstate wager. It's controlled by
5 the Interstate Horse Racing Act.

6 So you have to be careful, even if you're trying
7 to focus on Californians betting on a California product,
8 you're really looking at a -- you're looking at a situation
9 that is interstate wagers and not intrastate wagers, because
10 that wager has to travel out of the State of California to
11 the hub in Oregon, and then back to California. And that's
12 the definition -- that's the enabling statute that allows
13 you to do that, currently.

14 COMMISSION CHAIRPERSON SHAPIRO: So, I see Ms.
15 Christian's shaking your head up and down, so you're
16 agreeing?

17 MS. CHRISTIAN: Yes.

18 COMMISSIONER CHOPER: Can I ask a question?

19 COMMISSION CHAIRPERSON SHAPIRO: Please.

20 COMMISSIONER CHOPER: The suggestion has been made
21 and, you know, this is a long paragraph, I don't read that
22 fast or understand that fast. But the suggestion has been
23 made that in some way this provision that was read prevents
24 this -- prevents, as a condition of licensing an ADW wagerer
25 to come into the State of California from exclusivity, from

1 demanding exclusivity.

2 Is it your understanding that that's what the
3 statute provides? And if -- and/or does the
4 Interstate -- what's the name of it?

5 COMMISSION CHAIRPERSON SHAPIRO: The Horse Racing
6 Act.

7 COMMISSIONER CHOPER: The Interstate Horse Racing
8 Act speak to this at all or have any relevance to the
9 discussion that we're having today?

10 MR. COUTO: Sure.

11 COMMISSIONER CHOPER: No matter where the bet is
12 placed.

13 MR. COUTO: Sure. The IHA does address
14 specifically exclusivity, and it addresses that specifically
15 within the conditions, the terms and conditions that
16 horsemen are entitled to impose on a signal under the
17 consent arrangement.

18 COMMISSIONER CHOPER: That horsemen are entitled
19 to --

20 MR. COUTO: Horsemen are permitted to include as
21 one of the terms and conditions under which they grant their
22 consent.

23 And, of course, that consent is a condition
24 precedent to any use of the signal under the IHA.

25 COMMISSIONER CHOPER: I'm not sure I understand

1 that. So if my company is an ADW company, and I want to
2 make an exclusive agreement that we're the only ones, all
3 right, that can receive bets, either from in state or out of
4 the state for the races at Golden Gate Fields, all right,
5 then the Interstate Horse Racing Act says that's okay if you
6 get the horsemen's agreement to it?

7 MR. COUTO: Basically, yes. Basically, if the
8 parties agree to exclusivity and that is one of the terms
9 under which the horsemen can impose, it's one of the terms
10 they can address in the context of their consent --

11 COMMISSIONER CHOPER: Yes, the suggestion here is
12 that that's very much the same thing that this
13 provision --

14 MR. COUTO: There's no coincidence. We used the
15 language from the IHA in here to ensure that -- you know,
16 what we had was a situation in which the racetracks and the
17 ADW had entered into arrangements that included exclusivity,
18 despite the horsemen not consenting to that.

19 The horsemen's option was either to sue all the
20 parties and to end up in an absolute mess, or to go along
21 during the period of time which these contracts existed,
22 which we thought for the best interest of the industry was
23 the way to go.

24 So this statute was to deal with arrangements
25 prospectively, and I think we all worked together last year,

1 beat each other quite a bit, and came to the conclusion that
2 this was the language with which we would go forward.

3 I had to argue for Ms. Christian, but I think the
4 point she's trying to make, and I'm going to address your
5 question, I'm sorry it took me so long to get to the heart
6 of it, is her position is with regard to the issue of
7 exclusivity, the statute implicitly acknowledges that
8 exclusivity --

9 COMMISSIONER CHOPER: It contemplates it.

10 MR. COUTO: Yeah. It is something that the
11 parties are able to negotiate. And her argument, I believe,
12 is that the Horse Racing Board couldn't create a regulation
13 that was inconsistent with the statute to the extent it
14 regulated.

15 COMMISSIONER CHOPER: I understand you. I'm
16 sorry, maybe you wanted to add something to that. But I
17 understood both of you. I guess I'd want to check it, but
18 it's -- I believe that.

19 COMMISSIONER ISRAEL: Drew, can I ask you a simple
20 question? Do you think an exclusive arrangement is a good
21 idea?

22 MR. COUTO: In general terms, no. I think
23 exclusivity has limited distribution and the sources of
24 revenue for all of us.

25 But my track partners, and my ADW partners have

1 prevailed on TOC over the last year to say don't foreclose
2 the possibility that there may be a situation in which the
3 economics work out better to have an exclusive arrangement.
4 We'll wait and see. So far we haven't seen one and we tend
5 to lean towards this nonexclusive arrangement, but we're
6 giving everyone a chance to convince us that there is a
7 situation in which exclusivity may be better for everybody.

8 COMMISSIONER CHOPER: Well, I think there's a lot
9 to that.

10 COMMISSIONER ISRAEL: Yeah.

11 COMMISSIONER CHOPER: That is to say, to leave a
12 window open is not to say that in the absence of some
13 demonstrable benefits to the industry, and that's what we're
14 all in here to --

15 COMMISSION CHAIRPERSON SHAPIRO: Commissioner
16 Choper, that is why when I made my opening remarks is, I
17 believe that we favor -- I believe the Board has generally
18 said we favor the idea of nonexclusive.

19 But in the event that the horsemen, the tracks,
20 and the ADWs find otherwise, that it is in the best interest
21 of all parties and the industry, that we should leave the
22 door open so that there can be an exclusivity.

23 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
24 that's where we are.

25 I'm not clear, though, if we have -- I mean, that

1 seems to me that it's a fair outcome, is if all the parties
2 agree it should be exclusive, that's fine with us.

3 But don't we have a situation, now, that the
4 horsemen don't want exclusive in a given situation, but that
5 the ADW companies and, arguably the track, because they're
6 contractually obligated, one, that horsemen can't really
7 trump the --

8 COMMISSION CHAIRPERSON SHAPIRO: Well, no, because
9 for interstate wagers the horsemen have the right to approve
10 or disapprove -- to approve or not approve. And I don't
11 think anybody questions that on an interstate wager.
12 Correct?

13 MS. CHRISTIAN: Correct.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, fine. And
15 I think what -- I think that what the new law did, also,
16 when it was extended in the statute and the statute was
17 modified, also said that the horsemen have the right to
18 approve. Is that correct?

19 MS. CHRISTIAN: I think, I mean, they couldn't
20 have done otherwise because the Federal law requires that.
21 So the question that I thought we were addressing, though,
22 is whether you would deny a license based on that, which is
23 a different question than whether or not the horsemen think
24 it's a good idea, or the track thinks it's a good idea.
25 Because that is a separate question.

1 And, in fact, TVG has put on the table a full
2 exchange of content, all of our content, for all of the
3 other content and it hasn't been accepted.

4 So the parties are trying to --

5 COMMISSIONER ISRAEL: I'm sorry, it hasn't been
6 accepted by whom?

7 COMMISSIONER CHOPER: Would you explain that just
8 a little bit more and slowly?

9 MR. HINDMAN: Well, that was discussed at the June
10 meeting, and I understand you weren't there, Mr. Israel.

11 COMMISSIONER ISRAEL: No, I wasn't.

12 MR. HINDMAN: But we did state that, you know, we
13 would be willing to entertain exchanging all of our content
14 for all of TrackNet -- any content held by TrackNet or, in
15 the alternative, a reciprocal exchange of content at fair
16 rates.

17 We obviously feel like we did that once last
18 November. And just to be clear, we're still -- we continue
19 to talk to TrackNet, and everybody else in the industry all
20 of the time because, obviously, we're interesting in giving
21 our customers the best wagering experience we can, too.

22 So we have, you know, market forces on us and
23 we're certainly reacting to those, and we're engaged in
24 those negotiations.

25 COMMISSIONER CHOPER: You mean content, you mean

1 television?

2 MR. HINDMAN: No, no.

3 COMMISSIONER CHOPER: I mean, one thing, I mean,
4 you have an exclusive license and you're willing to share it
5 with someone for a particular rate, if the rate's right.

6 MR. HINDMAN: Well, first of all, just to be --

7 COMMISSION CHAIRPERSON SHAPIRO: Yeah, right.

8 COMMISSIONER CHOPER: Well, that's a -- I mean,
9 the devil is in the rate.

10 COMMISSION CHAIRPERSON SHAPIRO: That's correct.

11 MR. HINDMAN: But just to be clear, we have shared
12 our exclusive content with Youbet.com since 2001.

13 COMMISSIONER ISRAEL: With who?

14 MR. HINDMAN: All of it. Youbet.

15 COMMISSIONER ISRAEL: Youbet.

16 COMMISSION VICE CHAIRPERSON HARRIS: Well, the
17 term "share" is a little broad.

18 MR. HINDMAN: I mean, we have --

19 COMMISSIONER CHOPER: Sell.

20 MR. HINDMAN: We have provided, we have sold,
21 exactly, so our content with --

22 COMMISSION CHAIRPERSON SHAPIRO: They pay us a
23 license fee for all of that, don't they?

24 MR. HINDMAN: They pay contractual fees to us for
25 the rights that they got from us.

1 COMMISSION VICE CHAIRPERSON HARRIS: Well, one
2 issue I'm not clear on, though, is the experiment we had,
3 which I was really glad that we did, it appeared to me that
4 everybody came up ahead, including -- but I'm not clear if
5 TVG took the attitude that you really didn't come out ahead,
6 or you didn't come out as far enough as you might have if
7 some other scenario, or what was the problem that you saw
8 that made the experiment be something that you didn't want
9 to repeat?

10 MR. HINDMAN: Well, in June, when I addressed the
11 Board, you know, I pointed out that it didn't increase
12 overall ADW. The theory was that it would -- that if all
13 sites had all signals, fans would bet more in the aggregate.
14 It didn't. It was robbing Peter to pay Paul.

15 COMMISSION VICE CHAIRPERSON HARRIS: Well, I
16 thought it did.

17 MR. HINDMAN: So during certain portions of the
18 experiment TVG benefitted, during certain portions of the
19 experiment other ADW companies benefitted and TVG did not.
20 And that's, essentially, what happened.

21 COMMISSIONER ISRAEL: So you're saying the handle
22 didn't increase?

23 MR. HINDMAN: Not in the aggregate. Not compared
24 to any prior periods.

25 COMMISSION VICE CHAIRPERSON HARRIS: I thought the

1 data we had showed that it, in fact, did.

2 COMMISSIONER CHOPER: We went back and forth about
3 that a bunch of times.

4 MR. HINDMAN: Well, that was my thesis at the
5 meeting and, again, as --

6 COMMISSIONER CHOPER: As I understand -- can I try
7 one thing and then I promise to make it quick.

8 COMMISSION CHAIRPERSON SHAPIRO: Please, go ahead.
9 No, don't quit.

10 COMMISSIONER CHOPER: I understand -- let me state
11 your position in the most unfavorable way to you -- not the
12 most unfavorable. But the statute does permit exclusivity
13 in any agreement that you make with the racing associations
14 and the horsemen, right, they've got to be parties to this
15 agreement. Or the fairs, I include them with the racing
16 associations.

17 COMMISSION CHAIRPERSON SHAPIRO: Right.

18 COMMISSIONER CHOPER: They have the right to
19 reject exclusivity under both the Federal and State
20 statutes; is that right, Ms. Christian MS. CHRISTIAN: I
21 would just say just a slight refinement of that.

22 COMMISSIONER CHOPER: Yeah.

23 MS. CHRISTIAN: That the agreement's between the
24 horsemen and the track. The track also has an ADW
25 agreement. If the horsemen don't agree with that, they

1 don't have to allow their signal and that's what the Federal
2 Interstate Agency allows.

3 COMMISSION CHAIRPERSON SHAPIRO: They have
4 approval.

5 COMMISSIONER CHOPER: If the horsemen and the
6 racing associations don't want exclusivity, then they can
7 accomplish that, under the law.

8 MR. HINDMAN: Yeah, correct.

9 COMMISSIONER ISRAEL: How many parties have to
10 sign the contract?

11 MS. CHRISTIAN: Well, as I said, the horsemen --
12 go ahead.

13 COMMISSIONER CHOPER: There's two contracts, I
14 guess.

15 COMMISSIONER ISRAEL: Two separate contracts or is
16 it three signatures?

17 MR. HINDMAN: Yeah, there's a horsemen's
18 agreement, with the horsemen's group and the racing
19 association, and there's a license agreement, this is
20 generally how it works, between the racing association and
21 the ADW provider.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, well --

23 COMMISSIONER CHOPER: Well, I think -- yeah, go
24 ahead.

25 MS. CHRISTIAN: We should let others have their

1 turn.

2 COMMISSIONER CHOPER: Well, I think we've all --
3 well, I mean, I've learned from this and I thank you for it.
4 But I guess what I come away from the thing, from this, is
5 someone who believes in a market, but also believes in
6 competition.

7 I come away from it saying, well, if you can in
8 some way persuade both the horsemen and the racing
9 association, if it's to their benefit to give you an
10 exclusivity, all right, an exclusive arrangement, then I
11 guess we -- I want to check it through again, but as I
12 understand what you're saying, then we can't -- the Board
13 can't do anything about it. They cannot -- at least they
14 can't use a license denial to try to force a different
15 result.

16 COMMISSION CHAIRPERSON SHAPIRO: And we shouldn't,
17 is what you're saying.

18 COMMISSION VICE CHAIRPERSON HARRIS: And we
19 shouldn't.

20 COMMISSIONER CHOPER: My experience is, though, I
21 should say this while you're here, again I could be wrong on
22 the facts, but it seemed to me that Del Mar, which is the
23 one that had a great deal of discussion about this,
24 want -- they had an exclusive agreement with you. You had
25 the experiment, they liked it, you didn't. They wanted to

1 go one more year on the experiment and now the license, and
2 now the contract is up; is that right?

3 MR. HINDMAN: Well, the thing that I would add is
4 we --

5 COMMISSIONER CHOPER: Go ahead.

6 MR. HINDMAN: -- we tried.

7 COMMISSIONER CHOPER: I understand, of course.

8 MR. HINDMAN: We tried about three or four
9 different ways to accomplish what -- obviously, it's
10 important to us when Del Mar states its opinion, and they're
11 an important relationship that we have. We tried three or
12 four different ways. It was very complicated and,
13 unfortunately, that didn't get accomplished in many people's
14 eyes, but we did try.

15 And I think everybody knows that we engaged in
16 those discussions and we tried.

17 The one thing I'd like to leave you with and then
18 I think it's other people should speak, is two things.
19 Commissioner Choper, when you're talking about competition,
20 I can assure you from being in this industry, this is the
21 most competitive area of horse racing.

22 COMMISSION CHAIRPERSON SHAPIRO: And contentious.

23 MR. HINDMAN: Well, that goes with competition.
24 And so I think that the -- that what has happened to date
25 has fostered the most competitive area of horse racing.

1 And the second thing I'd say is I want everybody
2 to know we're not here today saying -- stating some position
3 as an absolute. We're not here today stating some position
4 about something we haven't even heard or seen yet. We're
5 open minded.

6 The only thing that we tried to do is point out a
7 section of 19604 that is important to the discussion. We
8 are stating no other position on the record.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, Mr.
10 Hindman, we appreciate it and I think you've done that, and
11 I've got a lot of other cards.

12 COMMISSIONER ISRAEL: I want to ask, though --
13 that's fine. I want to ask that you submit, in writing, the
14 answers to the questions that I asked.

15 MR. HINDMAN: Okay.

16 COMMISSIONER ISRAEL: The percentage of handle
17 generated by the California racetracks, your handle, and the
18 percentage of your customers and their handle, or
19 California's.

20 And I'd like to add one more thing, I'd like to
21 know how many employees you have in California and what are
22 the total salaries that they're paid.

23 MS. CHRISTIAN: Could I ask, is that a general
24 request to the industry that the Board is making? I mean,
25 you get regular reports on all of these kinds of things.

1 But is this a specific kind of information and is it -- does
2 it go to all the --

3 COMMISSIONER ISRAEL: I would ask it of every ADW
4 provider. Okay.

5 COMMISSION CHAIRPERSON SHAPIRO: I think -- that's
6 fine, I have no problem with it. I'll leave it at that.

7 I think when you see the applications that we get,
8 the information we get, that's where it is.

9 COMMISSIONER ISRAEL: Well, how are we supposed to
10 make a decision? I want to know what their impact on the
11 California economy is.

12 COMMISSION CHAIRPERSON SHAPIRO: No, no, I
13 understand.

14 Okay, I'd like to move on. Mr. Couto, are you in
15 the room?

16 Do you have more that you choose to add to this
17 discussion, that wasn't necessarily just in that side of it,
18 before we move on, again?

19 I'd like to remind everybody, no one is being
20 picked on here. We are trying to find a better way. We are
21 trying to find a way to serve our customers and serve
22 California horse racing. That is what, certainly, my goal
23 is.

24 And how can we get the widest distribution
25 possible and the best methods possible.

1 So with that, Mr. Couto, do you have any other
2 comments that you'd choose to add at this time, to this
3 discussion?

4 MR. COUTO: No, not as you've listed the Item 9, I
5 don't -- I don't think so.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay.

7 MR. COUTO: I'll respond if anything comes up.

8 COMMISSION CHAIRPERSON SHAPIRO: Fine.

9 Mr. Liebau?

10 MR. LIEBAU: My name is Jack Liebau, I'm President
11 of Hollywood Park. And as some people will point out, I'm
12 also Chairman of the Board of Youbet.com. Sometimes people
13 say I have a conflict. I would like to say that if I do
14 have any conflicts, that is a problem between me and
15 Hollywood Park, and Youbet, and I don't really think that's
16 anybody else's problem.

17 So when people throw that at me, I have a problem
18 figuring out why they're worried about that. If anybody
19 should be worried about it, I should be.

20 First, first of all I would like to say that I'm a
21 little bit confused because I don't quite understand why
22 we're talking about the promulgation of a regulation in
23 order to condition licenses.

24 I think that as Mr. Miller pointed out in his
25 opening, and I hope I'm not misinterpreting what he said,

1 but I do think that the Board has the right to condition
2 licenses as they see fit.

3 And, in fact, if you look at the regulations and I
4 know that sometimes I attack regulations and sometimes I
5 acknowledge them, but in Section 1485, paragraph D, it does
6 say "the Board may place conditions on any licenses it
7 issues. All licenses shall strictly comply with any
8 conditions imposed by the Board."

9 Sometimes that is a problem, as you know.

10 With respect to this so-called experiment, that
11 started at Hollywood Park in the fall, and if I have my
12 dates right, it's probably 2006.

13 COMMISSION VICE CHAIRPERSON HARRIS: It was 2007,
14 I think.

15 MR. LIEBAU: Was it 2007?

16 COMMISSION CHAIRPERSON SHAPIRO: Yeah, 2007.

17 MR. LIEBAU: Yeah, time flies when you're as old
18 as I am.

19 COMMISSION CHAIRPERSON SHAPIRO: Yeah, 2007 is
20 when it started and it continued for eight months.

21 MR. LIEBAU: 2007. I always wondered why it has
22 been denoted as the "experiment." It came out of necessity.
23 Hollywood Park had an exclusive agreement with TVG that had
24 lapsed. I was, I don't know, smart enough or I felt that
25 the tide was running against exclusivity. But I also was

1 very much cognizant of what the television that TVG provided
2 to Hollywood Park did to our handle, and was necessary for
3 the overall success of our meet.

4 So I tried to get something crafted that would
5 give me the best of both possible worlds. And in order to
6 do that, I needed the cooperation of a lot of parties.

7 And I think that that's one thing that you have to
8 focus on as far as the so-called experiment is concerned, in
9 that there was reciprocalness in that, in that TVG was
10 assured of getting the Santa Anita signal.

11 And by reason of doing that on the other side,
12 Twinspires and XpressBet were assured of getting the
13 Hollywood Park signal, and without the reciprocalness and
14 the consent of all of those parties, the so-called
15 experiment would never have taken place or never been --
16 would never have come about. And it sort of was a
17 compromise between everything.

18 I think that from my own posture, I can tell you
19 that television and TVG is of extreme importance to the
20 success of Hollywood Park, as far as their ability to drive
21 handle.

22 I also believe that it's important for the
23 wagering aspects to be opened to all ADW providers.

24 And I would not that as part of this "experiment"
25 that TVG was compensated by the ADW providers that handle

1 wagering at Hollywood Park through a television fee. And
2 the reciprocal was also true at Santa Anita for HRTV.

3 So this experiment needed everybody to come
4 together and was born, in my mind, out of necessity.

5 The one thing that I do think that is of
6 importance, that Commissioner Israel pointed out is, you
7 know, you can say there can be no -- exclusivity is bad, but
8 that can be accomplished through rates.

9 And, you know, Commissioner Israel brought up the
10 need for most favored nations, and I thought maybe it was
11 pooh-poohed a little bit. Let me tell you, I think that is
12 extremely important.

13 I will put on my Youbet hat and say that, you
14 know, at Golden Gate Fields, which just opened, Youbet was
15 told the rate was nine percent. Now, I think that may
16 change and other ADW providers yesterday, and today, will be
17 offering wagering and will be paying less than nine percent.

18 I think that that's something that happened, that
19 will be remedied. But I want to think that some credence
20 should be given to what Commissioner Israel said about
21 either most favored nations or a discrimination with rates
22 between ADW providers.

23 Because that, in and of itself, can lead to
24 exclusivity.

25 If you have any questions about the so-called

1 experiment, I would be glad to answer them.

2 But, you know, one thing that when you talk about
3 what people get in California, the ADW providers really
4 don't get that much in California. I mean, they get a hub
5 fee, and the hub fee is somewhere between six and four and a
6 half percent.

7 I don't know where Mr. Couto goes, but he knows
8 those numbers much better than I do. But that's what
9 they're getting.

10 If there's any questions about the experiment, I'd
11 be glad to answer them.

12 COMMISSIONER ISRAEL: Well, your initial comment,
13 were you saying that there were two laws in conflict, the
14 one that entitles the Horse Racing Board to issue licenses
15 with conditions and this --

16 MR. LIEBAU: Well, I never touched that. I mean,
17 I have to tell you that the wording of that section, as Ms.
18 Christian can say, is heavily debated. And I was not in the
19 room, but I know that I got a couple calls at night, when it
20 was pretty late, and all I could say is it was ambiguous.

21 So, I mean, I don't think there's any conflict. I
22 think that provision just says what's under the Interstate
23 Horse Racing Act.

24 COMMISSIONER ISRAEL: Okay. Now, to be fair, by
25 the way, I'd like to ask for Youbet to provide the same

1 statistical information.

2 MR. LIEBAU: No, that we'll do. I think that -- I
3 don't know those numbers offhand, but I do think that our
4 wagering from California residents is about 25 percent of
5 our business. But we would be very glad to give you those,
6 no problem.

7 COMMISSIONER CHOPER: So you were not persuaded by
8 the argument that the -- the section we focused on
9 earlier --

10 MR. LIEBAU: I really --

11 COMMISSIONER CHOPER: -- contemplates that that's
12 something that is an established fact as a limitation of a
13 license.

14 MR. LIEBAU: I don't even go there. As a track
15 operator, I did not think it was in my track's best
16 interest, namely Hollywood Park, and Bay Meadows at that
17 point in time, to have an exclusive arrangement with respect
18 to broadcast and with respect to wagering. I did think it
19 was in our best interest to have an exclusive arrangement
20 with respect to broadcast.

21 COMMISSIONER CHOPER: No, I understand that. But
22 let me just -- so you're not saying --

23 MR. LIEBAU: I don't have an opinion on that.

24 COMMISSIONER CHOPER: Okay.

25 MR. LIEBAU: I don't have a dog in that fight.

1 COMMISSION VICE CHAIRPERSON HARRIS: This so-
2 called --

3 COMMISSIONER CHOPER: Well, you can still have an
4 opinion.

5 MR. LIEBAU: Well, you know, on that I'd rather
6 not have an opinion.

7 COMMISSION VICE CHAIRPERSON HARRIS: Do you have
8 any opinion on the experiment, which I think it was pretty
9 miraculous that you and others negotiated that thing and got
10 something that everyone bought into, and it appeared to me
11 that basically it worked.

12 But what is your estimation of the experiment, did
13 it work or not work?

14 MR. LIEBAU: Well, I think it worked. I don't
15 know, I know that people are here from Santa Anita. I would
16 say that from what I know, and looking at the numbers, it
17 probably worked better for Santa Anita than it worked for
18 Hollywood Park, but we certainly didn't get hurt by it.

19 I mean, Santa Anita, and I don't mean to -- you
20 know, these numbers are publicly held out there, but I mean
21 there was more incremental wagering because of TVG getting
22 the Santa Anita signal than there was incremental wagering
23 at Hollywood Park because of XpressBet and Twinspires.

24 Now, Twinspires was just coming on stream in
25 California.

1 But I do think that, you know, as I said, as a
2 track operator at that point in time, and I would continue
3 to have this opinion, and Hollywood will continue under a
4 contract with TVG to have exclusivity with respect to
5 broadcasting. But I wholeheartedly favor the nonexclusivity
6 with respect to all ADW providers. I want my signal -- when
7 I say my, Hollywood Park's signal, distributed as broadly as
8 possible. That's, I feel, in my best interest.

9 COMMISSION CHAIRPERSON SHAPIRO: So can I ask you
10 a question then? In going to this most favored nations
11 concept, given we really don't have the authority to set
12 rates and enter into negotiation of rates and business
13 terms, wouldn't that be, in your opinion, or is it not in
14 your opinion, that we would have the authority to find a way
15 to say that it shall be offered, and how would we
16 incorporate a most favored nations --

17 MR. LIEBAU: Well, I don't know. But I mean the
18 problem that you've got, you know, you sort of have to look
19 at the landscape. I mean, some ADW providers are associated
20 with tracks and some are not.

21 COMMISSION CHAIRPERSON SHAPIRO: Right.

22 MR. LIEBAU: And so, presumably, a track to some
23 extent, that has also got an ADW operation, is taking money
24 out of one pocket and putting it in another.

25 Whereas, you know, that's not the case with the

1 ADW providers that are not owned by tracks or affiliated
2 with tracks.

3 COMMISSION CHAIRPERSON SHAPIRO: And I agree with
4 you, okay. So while it sounds good, I'm questioning how
5 could -- I mean, look, you're obviously very well versed in
6 all sides of the issue. You've been around since the
7 inception of ADW.

8 MR. LIEBAU: Too long, I might add.

9 COMMISSION CHAIRPERSON SHAPIRO: Right, ADW. I
10 mean, I share with you the notion of, gee, it's in our
11 customers' best interest and our sport's best interest to
12 get our signal as widely distributed as possible.

13 How do you feel that can be done, given the law
14 that we have and the inability for us to establish rates,
15 since we can't go there? We've got the Interstate Horse
16 Racing Act component of states -- of wagers crossing state
17 lines, and how do you see that this Board could be useful?
18 Because my view is we're just trying to facilitate a better
19 way.

20 MR. LIEBAU: Maybe just say that there is no
21 discrimination between ADW providers that you license. I
22 mean, certainly, when you license these ADW providers you
23 have some criteria and have determined that they're
24 operating in an effective manner.

25 And I would assume that in licensing ADW providers

1 that you are mostly concerned with the integrity of their
2 operation and --

3 COMMISSION CHAIRPERSON SHAPIRO: Correct, and the
4 wagering systems.

5 MR. LIEBAU: Wagering systems. But probably, also
6 I would think, as far as their service to the California
7 fan. I mean, you know, that's where ADW providers live and
8 die is at the consumer level.

9 I mean, we can talk about all this product and
10 everything else, but if you don't take care of your
11 customers, no ADW provider is going to survive. And that's
12 what makes, you know, for good business, and competition,
13 and whoever has the most efficient and friendly, user-
14 friendly systems and customer service, that's the ADW
15 provider that probably, in our system deserves to -- but
16 you're going to have minimum requirements in issuing
17 licenses with respect to those elements, I would think.
18 If I was sitting over there, that's what I'd do.

19 COMMISSION VICE CHAIRPERSON HARRIS: It seems like
20 there would be some virtue of having some type of
21 arbitration or mediation, or something, because it's almost
22 like a labor/management dispute where there's an impasse,
23 and the impasse results in a lot of ripple benefits on other
24 people that are being hurt.

25 MR. LIEBAU: No, I think that's right, Mr. Harris.

1 But, I mean, I think the problem is that if I was sitting on
2 the other side, as far as the horsemen's concerned, they're
3 saying, you know, I've got this lever through the Interstate
4 Horse Racing Act and that's my deal, and I'm not giving it
5 up, baby.

6 COMMISSION VICE CHAIRPERSON HARRIS: Well, that's
7 definitely a tool they have and a bargaining chip. But it
8 seems like there needs to be some way that it's more
9 arbitrated than just a standoff.

10 MR. LIEBAU: No, I would hope that they would use
11 it in a very responsible, and fair, and equitable manner.

12 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
13 thank you, Mr. Liebau.

14 MR. LIEBAU: Okay.

15 COMMISSION CHAIRPERSON SHAPIRO: We'll move on, I
16 think, to Michael Brodsky. I have a card.

17 MR. BRODSKY: I'm Michael Brodsky, I'm the CEO of
18 Youbet.com. Just a couple of points to make.

19 As it relates to exclusivity and ADWs, Youbet's
20 been a beneficiary of exclusivity. There's certain tracks
21 over this year and past years that we've had exclusive
22 rights to.

23 And, as well, we've experienced the experiment.
24 And I can tell you, and anyone who's looked at the results
25 from the past year, we actually took a hit during the course

1 of the experiment. We had to compete.

2 And, actually, our handle, as it related to
3 California residents, was down.

4 And so I kind of feel like Youbet has more
5 standing in terms of our ability to see the issue. We had
6 Del Mar, when Twinspires and XpressBet didn't.

7 And our view is, of this, coming back to what Jack
8 was saying, that at the end of the day, this battle's going
9 to be won and lost with the customers. And so we didn't do
10 a good enough job. We didn't serve our customers well
11 enough.

12 We were, to some extent, disadvantages because TVG
13 had TV and they promoted their TV -- their site to their
14 customers, on their TV channel, and they had something we
15 didn't have, and we saw a decline.

16 I think that, really, the best thing that we can
17 do as an ADW, and I think the best thing that we can do as
18 an industry is to say, look, that everyone should compete,
19 everyone should compete as vigorously as they can, and
20 through innovation, through customer service, and through a
21 nonexclusive access to content.

22 And if you lose, you lose. That's part of playing
23 the game. And if you win, that's because you're doing a
24 great job.

25 And, yeah, I think the worst thing that we can

1 have is to continue having these scenarios where, you know,
2 if I'm betting on this race, I've got to have this account,
3 if I'm betting on this race, I have to have this account.
4 That's bad for the industry, that's bad for the companies.
5 It's illogical.

6 You know, at the end of the day what really
7 matters here is creating a circumstance to serve customers
8 and the industry in the best way we can.

9 And so, you know, just with that perspective I'd
10 like to support the proposition of a nonexclusive
11 circumstance and to say that, you know, we've -- we've seen
12 it from both sides and, based on that, I think that we're
13 pretty comfortable with it.

14 We'd like to succeed based on the innovation,
15 customer service, and a full array of product that we can
16 offer to our customers.

17 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.
18 Brodsky, appreciate the comments.

19 COMMISSIONER CHOPER: Can I say something?

20 COMMISSION CHAIRPERSON SHAPIRO: Please, go ahead.

21 COMMISSIONER CHOPER: Do you think that extends,
22 as well, to rate differentials?

23 MR. BRODSKY: You know, I think part of the
24 problem --

25 COMMISSIONER CHOPER: How does that cut in respect

1 to your favoring competition after entry is permitted?

2 MR. BRODSKY: Well, you know, I -- well, I would
3 love to get a better rate and I'd love to get exclusivity.
4 You know, I think that doesn't --

5 COMMISSIONER CHOPER: Can you separate the two?
6 That is to say, I heard you say, well, exclusivity you'll
7 concede.

8 MR. BRODSKY: No but, you know, I'm also willing
9 to concede rate differentials. If that's the question --

10 COMMISSIONER CHOPER: Do you think it's a good
11 idea or a bad idea?

12 MR. BRODSKY: I think -- I think equality among
13 rates also supports the proposition of serving customers in
14 the best way possible and succeeding on innovation in
15 customer service.

16 COMMISSIONER ISRAEL: And so --

17 MR. BRODSKY: And I would go further, and part of
18 the problem that we see is certain ADWs have content, and
19 certain ADWs don't, and so we could end up in a circumstance
20 where, through either a transfer pricing sort of
21 circumstance, or a circumstance where certain -- you know,
22 there are deals being made and we don't have a situation
23 where we have tracks.

24 COMMISSIONER ISRAEL: So you would be opposed to
25 the 900-pound gorilla, whoever that may be, getting sort of

1 the WalMart discount because it does higher volume?

2 MR. BRODSKY: Yes. I think everyone should have
3 the same rates.

4 COMMISSIONER ISRAEL: Okay.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. I'd like
6 to move on then. Thank you, Mr. Brodsky.

7 Ron Charles.

8 Just so you know, before he gets here, I'm hoping
9 we're going to take a break when we get past this item. So
10 I'm aware of the time.

11 MR. CHARLES: That wasn't along the lines of how
12 long I usually talk, okay.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, he tends to
14 be a little long-winded so --

15 MR. CHARLES: Yeah, I'm going to make --

16 COMMISSIONER ISRAEL: And he would be the only
17 one?

18 MR. CHARLES: I'm going to make this real short,
19 Ron Charles, Magna.

20 First of all, just to clarify a few of the
21 percentages, Santa Anita was up this year, with open
22 distribution up roughly 39 percent.

23 And by the same token, Del Mar, that didn't have
24 open distribution, was devastated by not having it. Number
25 one.

1 Number two, our position is very simple. We, as a
2 track, would like to negotiate with the horsemen, with a
3 fair and equitable rate, and make that rate available to all
4 ADW providers.

5 COMMISSIONER ISRAEL: So favored nation,
6 essentially?

7 MR. CHARLES: Yeah. It's the rate's
8 available -- that we agree with the horsemen and make that
9 available to all ADW providers.

10 I think it's the fairest way to go, it's the
11 safest way to go, and it ensures the stakeholders and the
12 horsemen the maximum return.

13 COMMISSION CHAIRPERSON SHAPIRO: So, again, then
14 how does it -- what I'm unclear about is how does the
15 favored nations work? Explain what you're -- I'm unclear.

16 COMMISSIONER ISRAEL: In other words, my
17 assumption, I'll speak -- you could probably get at this
18 better than I.

19 You negotiate a rate and you offer the exact same
20 business proposition to every ADW operator who comes to you,
21 who's licensed by the State of California and asks for the
22 opportunity to do races; is that right?

23 MR. CHARLES: That's right. That's exactly right.

24 COMMISSION CHAIRPERSON SHAPIRO: And if they say
25 no?

1 MR. CHARLES: They don't have to carry it, but
2 we're going to offer it to everyone, every ADW platform. I
3 don't know how we can be more fairer than that.

4 COMMISSION VICE CHAIRPERSON HARRIS: It ties into
5 the TV, though. You offer -- I mean, that package is more
6 complicated than just --

7 MR. CHARLES: Well, there would be some TV fees,
8 but the TV fees -- I think everyone in this industry
9 understands, hopefully -- well, almost everyone in this
10 industry understands the importance of TV.

11 As Jack said, TVG was incredibly important for
12 them. We believe HRTV and the growth of HRTV will be
13 equally important. And TV is important and TV fees will be
14 part of the negotiations that everyone will have the same
15 opportunity to participate in.

16 COMMISSIONER ISRAEL: So they'll be available for
17 streaming, for cable --

18 MR. CHARLES: Wagering. I'm talking all wagering,
19 is what I'm talking. Not broadcast.

20 COMMISSIONER ISRAEL: Not broadcast.

21 MR. CHARLES: HRTV would have, would continue to
22 have an exclusive, as would the TVG.

23 COMMISSIONER ISRAEL: But wagering, but that means
24 you wouldn't stream your races online, for instance for
25 Youbet, is that --

1 MR. CHARLES: Sure.

2 COMMISSIONER ISRAEL: Oh, you would.

3 MR. CHARLES: Youbet could.

4 COMMISSIONER ISRAEL: So you want --

5 MR. CHARLES: Youbet could stream the video, TVG
6 could.

7 COMMISSIONER ISRAEL: Right. But they couldn't
8 put it up on a satellite signal for broadcast --

9 MR. CHARLES: Well, TVG -- TVG --

10 COMMISSIONER ISRAEL: -- for broadcast, cable, or
11 satellite transmissions.

12 MR. CHARLES: That's right, TVG would just not be
13 allowed to show those races.

14 COMMISSIONER ISRAEL: Okay.

15 MR. CHARLES: Okay.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

17 Greg Scoggins.

18 MR. SCOGGINS: Greg Scoggins, with XpressBet. I'm
19 going to be real short, I have nothing further to add. I
20 think everyone's covered it pretty well.

21 COMMISSIONER ISRAEL: Well, I'd like to ask you,
22 to be fair, to supply the same statistical information that
23 I asked of the others.

24 MR. SCOGGINS: That's fine.

25 COMMISSIONER ISRAEL: Thank you.

1 MR. SCOGGINS: We'll be happy to provide that.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
3 I don't have any more cards on this matter, to my knowledge.
4 But I see Mr. Blonien is raising his hand.

5 Go ahead, Mr. Blonien.

6 MR. BLONIEN: Mr. Chairman, Members, Rod Blonien
7 on behalf of Los Alamitos Racecourse.

8 Los Al does have an exclusive agreement. We think
9 it gives substantial value to our horsemen and to the
10 quarter horse industry, and we would like to be able to
11 continue an exclusive agreement, if that should be the best
12 thing for our owners, trainers, and for the racetrack. So
13 we'd like you to keep that mind. Thank you.

14 COMMISSION CHAIRPERSON SHAPIRO: Thank you. And,
15 again, the discussion has really been focused on
16 thoroughbred, and it was stated that way. I don't know if
17 you were in the room.

18 And, also, I think that -- I don't think we're
19 precluding there being an exclusive, if all parties agreed
20 that it's in their best interest.

21 Okay, so -- you don't agree?

22 COMMISSIONER ISRAEL: No, I'm not sure that I --
23 first of all, we haven't agreed on anything.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay.

25 COMMISSIONER ISRAEL: We haven't voted.

1 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro?

2 MR. CASTRO: I'm late with the card, the card's
3 over here.

4 COMMISSION CHAIRPERSON SHAPIRO: I don't believe
5 you got one.

6 MR. CASTRO: My name is Richard Castro,
7 representing Pari-Mutuel Employees Guild. I would like to
8 have you explain to me how labor fits into this equation.

9 COMMISSION CHAIRPERSON SHAPIRO: I don't
10 understand, can you -- I need more to answer that question,
11 I think.

12 MR. CASTRO: In 30 seconds. I had just made it
13 under the time. AB 765, to require a condition of a
14 licensee, the ADW operator seeking a new or renewed
15 agreement, blah, blah, blah, must enter into a labor
16 agreement. That's what I'm talking about.

17 COMMISSIONER ISRAEL: So you're saying ADW
18 providers need to have union labor agreements?

19 MR. CASTRO: Yes, I am. I didn't think I
20 stuttered.

21 COMMISSIONER ISRAEL: Yeah.

22 COMMISSIONER CHOPER: Why don't you point out
23 where -- if someone will give us the -- just for the record,
24 where it is in our book here.

25 STAFF COUNSEL MILLER: The code section.

1 COMMISSIONER CHOPER: Yeah, the code section, just
2 so we're familiar.

3 STAFF COUNSEL MILLER: It is right below --

4 COMMISSIONER CHOPER: Go ahead.

5 STAFF COUNSEL MILLER: Chairman and Members of the
6 Board, it is right below that section that the TVG
7 representatives cited. If the Commissioners turn to their
8 binders, page 9-9, and go down to Business and Professions
9 Code Section 19604.

10 COMMISSION CHAIRPERSON SHAPIRO: Can I help here?
11 If you'll go to page 6, page 9-11, and if you look at the
12 very, very bottom of 9-11, which is page 6.

13 COMMISSIONER CHOPER: The labor organization.

14 COMMISSION CHAIRPERSON SHAPIRO: The labor
15 organization that historically represents employees.

16 Okay, I believe that in the law there are
17 provisions which deal with the terms of entering into labor
18 agreements.

19 I thought, when I saw you rip up the card, that I
20 think everybody was clear that they must adhere to the
21 provisions of this law with respect to entering into labor
22 agreements with the applicable employees, and their union
23 representatives.

24 MR. CASTRO: Before I respond to that, let me
25 apologize to you for my short remark. You don't have the

1 history with me that I do with some of your fellow
2 Commissioners. And I do respect all of them. Believe me, I
3 really do.

4 But this is an issue that's really burning in our
5 organization.

6 That same law applied back in March, and we ended
7 up filing an unfortunate lawsuit. But we looked at it as a
8 necessity.

9 COMMISSIONER ISRAEL: Are you saying that all the
10 ADW agreements that have been reached heretofore have been
11 illegal?

12 MR. CASTRO: No, I'm saying that I have an
13 outstanding agreement with TVG, that I'm very pleased with.
14 But I don't have an agreement with the other three.

15 COMMISSIONER MOSS: Does that have something to do
16 with the fact that their hubs are out of the state or does
17 that affect it in any way?

18 MR. CASTRO: No, it has to do with they have one
19 interpretation of how they think things should work, and we
20 had a different interpretation, and we needed additional
21 time, especially our side, to research what they were
22 saying. And I think we've come to the conclusion that they
23 were probably more right than we were, and we were banking
24 on what the deals were made in closed door sessions, with
25 half the industry that's in this room, with Legislators.

1 And it looks like what we were told and what we understood
2 may not have been completely correct.

3 COMMISSIONER CHOPER: So does that mean that you
4 now are much closer to reaching an agreement with those
5 other three ADW providers, so that --

6 MR. CASTRO: Well, what the Commission did, and
7 you were part of the Commission, you basically took away our
8 bargaining rights, you basically pulled the rug out from
9 under us.

10 But in spite of that, we have still tried -- we
11 have open communication with the other ADW companies. We're
12 not fighting. We're not fighting at all. We're having good
13 communications. I'd be very surprised if they said anything
14 different.

15 My executive board has told me not to sign the
16 current agreement that we have, that's been researched by a
17 number of people, including lawyers at Cal, lawyers at UCLA,
18 lawyers at USC.

19 My board has told me that --

20 COMMISSIONER CHOPER: Okay, you lost me with the
21 last one.

22 (Laughter.)

23 MR. CASTRO: Go Bears, how's that, go Bears.

24 You know, my executive board, not one person has
25 told me to sign the current agreement that we're looking at

1 right now. They've all reviewed it. SEIU International has
2 reviewed it.

3 I'm going to make a quick run for my binder back
4 there because I have signed our side of the agreement. I
5 have signed it. And I was hoping today, under general
6 business, I think Item 4 -- I didn't put a card in for 5, I
7 meant to put a card in.

8 I was going to tell you today that I've got them,
9 and I was going to give them to you. Then I started
10 listening to some of the presentations this morning and I'm
11 hesitant, I'm not going to give them to you.

12 But, yes, we are quite a bit closer. I think we
13 have a clear understanding with the internet companies.

14 They keep insisting to me that, yes, we're going
15 to get jobs. And what we understood was that if this side
16 of the room -- this side of the room is -- takes California
17 wagers in Oregon, and this side of the room does not, we
18 have the right to get these people, but we don't have the
19 right to get these people.

20 But when we were in the Legislature, we understood
21 we would have the right to card check all of them.

22 So, basically, our concern with the internet
23 companies is that if they wanted to, they could take 90
24 percent of the people on this side of the room, and leave
25 one or two to handle the California people, and bring

1 everybody else over here, and we would end up with one or
2 two jobs. And we don't find that fair.

3 Now, in the case of TVG, they were in the
4 negotiations in Sacramento, and as far as I'm concerned,
5 they followed what I understood was correct. The agreement
6 that I have with them, verbal part of it, written part of
7 it, but I believe they will uphold it, they gave us 12
8 customer service -- 12 to 14 customer service jobs.

9 The other companies said that basically they
10 really didn't have to, and then they've come around to say,
11 yes, we'll consider it, yes, we'll look at it, yes, we'll
12 figure something out.

13 TVG really didn't hesitate, they said yes, in good
14 faith, and that's what happened.

15 COMMISSIONER CHOPER: So why --

16 MR. CASTRO: It's a lot easier for me to do
17 business with TVG than it is with the other three companies,
18 but I'm not fighting with the other guys.

19 COMMISSIONER CHOPER: So you're very close, then,
20 to signing an agreement with the other three companies, as
21 well.

22 MR. CASTRO: Yeah, they're right here, I've got
23 the three signed.

24 COMMISSIONER CHOPER: That you're signing.

25 MR. CASTRO: This one says Twinspires and my

1 signature's --

2 COMMISSIONER CHOPER: But you said your board
3 won't sign it?

4 MR. CASTRO: My executive board.

5 COMMISSIONER CHOPER: Yes.

6 MR. CASTRO: My executive board is telling me not
7 to. My executive board is absolutely livid that we have
8 spent a considerable amount of money and time in Sacramento,
9 and we're not getting a return for our investment.

10 COMMISSION VICE CHAIRPERSON HARRIS: Well, welcome
11 to California.

12 (Laughter.)

13 COMMISSION VICE CHAIRPERSON HARRIS: But the
14 problem I have is I don't like the way that you characterize
15 this Board as damaging your bargaining rights. I don't
16 think this Board wants to damage the bargaining rights of
17 labor, or management, or any side.

18 But on the other hand, I don't know if we have the
19 authority to impose a contract on anybody.

20 MR. CASTRO: Well, when you read what's in the
21 statute and what the understanding was that we had in the
22 statute, it said there had to be an agreement. We entered
23 into good faith bargaining.

24 And how can I not hold you responsible when, at
25 that meeting, you didn't even take a vote. You just said

1 that, basically, the position of the Board was -- the Horse
2 Racing Board was that you were not going to stop the revenue
3 source.

4 Well, we don't want to stop the revenue source,
5 either, we just want a few jobs.

6 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, what's
7 unfortunate in horse racing is that we're not under the
8 National Labor Relations Act. It should really happen where
9 a dispute like this goes to some arbitrator, or something.
10 I mean, would your union be okay if we brought in, you know,
11 some state agency to arbitrate this?

12 MR. CASTRO: No, we said no to that.

13 COMMISSION VICE CHAIRPERSON HARRIS: Oh, okay.

14 MR. CASTRO: We didn't feel that we had to
15 arbitrate something when the law is clear.

16 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro?

17 MR. CASTRO: But, however, regardless of what you
18 feel has been done, or whether you need the NLRB or not, I
19 think the internet companies will say we've left the door
20 open and we've tried. I've been accused of stalling and
21 this and that. That really wasn't true.

22 Part of the time I had medical issues. The other
23 part of the time I really was out trying to get other
24 opinions, to try to figure out what really was correct.
25 Because we were in a federal area that I know very little

1 about and I'm not a lawyer.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, Mr. Castro,
3 I'm not looking to debate with you. We -- I believe that,
4 other than Commissioner Israel and Commissioner Derek, I
5 think most of us recall, having been on this Board, what
6 occurred last year. And there's no point in going through
7 history of all of the dialogue, and all the negotiations,
8 and all the attempts that were tried that went into trying
9 to come up with the proper agreements that would facilitate
10 there being a card check agreement with your union, okay.

11 MR. CASTRO: I agree.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay. And
13 honestly, while I don't agree with your characterization of
14 the past, let's try to look to the future.

15 And as I think I said at the onset, it's certainly
16 my desire, and I believe it's the desire, and each of the
17 ADW companies can reaffirm it, to uphold and adhere to what
18 was agreed to, and what their legal responsibility is to the
19 labor union.

20 So all I can say is I believe that we're cognizant
21 of your desires, we're cognizant of what we need to do. I
22 believe we will do our best to do that. I don't know what
23 else we can say.

24 MR. CASTRO: Well, I was just asking where I stand
25 because basically what you're --

1 COMMISSION CHAIRPERSON SHAPIRO: You're standing
2 behind the podium.

3 MR. CASTRO: Thank you very much, I'll excuse
4 myself.

5 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

6 COMMISSIONER CHOPER: Can I say one more word?

7 COMMISSION CHAIRPERSON SHAPIRO: Please?

8 COMMISSIONER CHOPER: I really hope that you'll
9 get your executive board to sign onto what you have agreed
10 to as a result of this negotiation. And if there's anything
11 that this Board can do, collectively or individually, to
12 help that, I think you ought to know that you've got our
13 support on that.

14 MR. CASTRO: I've always known that. Thank you.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

16 Mr. Scoggins?

17 MR. SCOGGINS: Greg Scoggins, with XpressBet. I
18 apologize for reneging on my earlier promise, but since this
19 matter touches XpressBet and the discussions that we have
20 had with the union, I felt like I needed to make sure that a
21 fuller picture was presented.

22 Youbet, Twinpires and XpressBet do not currently
23 have an agreement with the SEIU Local 280, as it relates to
24 the requirements under the statute. All four parties have
25 been negotiating since November, I believe, or December of

1 last year to try and reach that.

2 There have been questions, and discussions, and
3 arguments over the scope of what that agreement is to cover,
4 as to whether or not it's supposed to cover just tellers,
5 whether it's supposed to cover customer reps, et cetera.

6 We have agreed, the three of us, the three
7 internet entities, the ADWs have agreed to allow for
8 customer reps to be included.

9 There is a question that we have about whether
10 California law, and the extent to which California law can
11 bind tellers, or customer service reps, who do not have any
12 contact with California customers.

13 That's a legal issue. It's one that currently, I
14 think, is the last, and what I hope to be the last remaining
15 issue.

16 We've submitted a contract draft that reflects our
17 understanding of what the law requires.

18 We've had numerous positive conversations with the
19 union. We've had a number of exchanges.

20 I was aware, back in August, that the Local 280
21 Board was not willing to sign the agreement that we
22 presented.

23 We stand here, as we have since the time that this
24 discussion has commenced back last year, ready, willing and
25 able to sign the agreement that we've proposed, and we just

1 kind of feel like, in some respects, we're kind of swinging
2 in the wind. And we want to get the issue resolved as
3 quickly as we can, but we have to rely on the union to be
4 willing to sign an agreement.

5 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.
6 Scoggins.

7 MR. SCOGGINS: Thank you.

8 COMMISSION CHAIRPERSON SHAPIRO: Any comments?

9 None.

10 Okay, so I think that we've had, certainly, enough
11 discussion on this. I think the issue now is where we want
12 to go with it. Does anyone care to proffer any suggestions
13 or ideas as to what we -- Mr. Moss.

14 COMMISSIONER MOSS: Well, it seems Ron has really
15 summed it up very well. I think that he's already created a
16 situation where the ADW companies can work all under the
17 same basic agreement, with some fees being awarded to their
18 broadcasting site.

19 But there again, it's easier to do that certainly
20 with Santa Anita because they own HRTV. So that makes that
21 aspect much easier than, say, Hollywood Park, who does not
22 own TVG.

23 So I think this discussion will continue. And,
24 hopefully, we seem to be on the path at least of
25 recognizing, I hope, that nonexclusivity is what we want.

1 You know, what we think is best for the fans and what is
2 best for the industry and, hopefully, best for labor. So I
3 think that's where we left this conversation. And now,
4 trying to review, and we'll go on from there.

5 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

6 Anybody else have any other comments?

7 Okay. Well, then what I would again ask is that
8 our counsel advise us, as best as possible, how we can craft
9 any condition that -- and bring it back to us, so that we
10 can look at figuring out how we can legally and properly
11 license ADW providers so that there would be a fair and
12 equal accessible use of ADW to all platforms, if that is
13 what the Board is desiring.

14 COMMISSION VICE CHAIRPERSON HARRIS: Well, it does
15 get tricky because I think if we have a situation where the
16 horsemen, and the track, and the ADW company like that
17 model, even though it is exclusive, which I think maybe they
18 wouldn't, I don't know if the Racing Board should stand in
19 the way.

20 I think it's more -- there's already veto power
21 there, amongst the different parties, to exclusivity, as I
22 understand it. So I don't see why the Racing Board has to
23 kind of further intervene with something, if you've got
24 consenting adults who are all agreed on this point.

25 COMMISSION CHAIRPERSON SHAPIRO: I personally

1 agree with you. I personally agree with you that I think
2 that certainly the whole point we started out is that we
3 would prefer to see nonexclusive wagering.

4 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

5 COMMISSION CHAIRPERSON SHAPIRO: On the other
6 hand, maybe there's a situation where, you know, TVG says,
7 okay, we're going to pay the horsemen such a premium, and
8 pay the track such a premium, and we're going to do nothing
9 but televise that track, and make it such a sweet deal
10 that's in the best interest of all the parties and we want
11 to do that, I hate the notion that we're standing in their
12 way to do that.

13 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

14 COMMISSIONER ISRAEL: But at some level -- at some
15 level we're the surrogate for the customer, and the
16 customer's representative. And if the customer benefits by
17 more options, more stores at which he can buy his betting
18 slip, then we have to take that into consideration.

19 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, and
20 obviously --

21 COMMISSIONER ISRAEL: You know, it's just Amazon
22 competes with Barnes and Noble.com and some other dot coms,
23 and because there's that competition the price of books
24 varies, the delivery charge varies. And in that respect,
25 internet is the purest form of capitalism.

1 And ironically enough, it's untaxed because of the
2 interstate commerce.

3 So if we don't actively encourage that kind of
4 competition, ultimate, the customer may be the one who
5 suffers the most damage. And if the customer starts to
6 suffer damage, then eventually I think revenues will
7 decline, the totality of the revenues will decline.

8 COMMISSION VICE CHAIRPERSON HARRIS: I think
9 that's going to be the outcome, anyway, that there is going
10 to be the competition.

11 But I think the problem we've had over the past
12 few years is that there were these exclusive arrangements
13 made, for whatever reason, probably at the time it might
14 have made a lot of sense because they were a start-up
15 operation, and they were just getting going, and they needed
16 an incentive to have exclusive. But going forward, it needs
17 to be looked at.

18 But I don't know if the Racing Board is the one
19 that needs to be the traffic cop, as much as the other
20 parties.

21 COMMISSIONER ISRAEL: Well, I mean, I think by
22 statute we are. We're the licensing body and this is a
23 licensed activity. And, you know, so in some sense the only
24 way that the free market can do its job is if we demand that
25 it do its job, because we grant licenses under conditions.

1 So we need, I think, to take that into
2 consideration when we grant the license, that it's our
3 responsibility to ensure that the free market obtains, that
4 competition exists.

5 That the monopoly -- if somebody is to actually
6 get a monopoly it will be because they've done a better job
7 competing with everyone on a fair playing field, not because
8 they just, you know, muscled out other competitors.

9 And that's a function of competition in the free
10 market place, and the customer eventually makes that
11 decision.

12 If company XYZ offers a product that's going to
13 get 95 percent of the business, as opposed to company ABC,
14 then it will survive and ABC will die.

15 But I think we have to establish the foundation
16 for them to compete at that level.

17 COMMISSIONER CHOPER: Well, we're going to get the
18 Attorney General's opinion as to whether we can. That may
19 moot the whole thing if we can't.

20 COMMISSION CHAIRPERSON SHAPIRO: Right.

21 COMMISSIONER CHOPER: If we can, it doesn't mean
22 that we must. Then we can talk about whether we should do
23 it on a flat basis, or leave a little window, or pursue
24 these other questions.

25 COMMISSION CHAIRPERSON SHAPIRO: All right. And

1 so on that --

2 COMMISSION VICE CHAIRPERSON HARRIS: Bob's got a
3 question.

4 STAFF COUNSEL MILLER: On that -- in speaking to
5 Commissioner Choper's point about -- prior to today's
6 meeting I did contact the Office of the Attorney General
7 with regards to whether or not a condition could be placed
8 on a license prohibiting the licensee from engaging in an
9 exclusive arrangement.

10 And, informally, I was told that it was
11 permissible, that this Board could do it.

12 If the Board is looking for a roadmap as to where
13 to go, what is the next step, I would suggest that the staff
14 be directed to prepare a proposed regulation. Then to bring
15 it to this Board at the next Board meeting.

16 Then, as the representatives from TVG pointed out,
17 they did not have a proposed regulation in front of them
18 from which they could offer their comments. They would then
19 have that.

20 The Board would then listen to the input, make
21 whatever changes they wish to make, and then put it out for
22 a 45-day comment period thereafter.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, I think
24 that's a good idea. Can you also expand, though, in seeing
25 if the Board has the authority to essentially establish a

1 most favored nations provision as part of that?

2 STAFF COUNSEL MILLER: Very well.

3 COMMISSION CHAIRPERSON SHAPIRO: Because, again,
4 I'm unclear on whether or not we have the authority to do
5 that.

6 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, because
7 that's the real key.

8 COMMISSION CHAIRPERSON SHAPIRO: That's the crux
9 of the whole issue.

10 COMMISSION VICE CHAIRPERSON HARRIS: And, you
11 know, the whole favored nation so much depends on have you
12 got the same terms and conditions, and it really gets
13 complicated.

14 COMMISSION CHAIRPERSON SHAPIRO: I love the idea,
15 I just don't know how it's going to work and --

16 COMMISSIONER ISRAEL: Well, perhaps you can
17 bifurcate it so that broadcast becomes a separate contract.

18 COMMISSION CHAIRPERSON SHAPIRO: Oh, I've always
19 -- you're right, I've always thought that broadcast is not
20 part of this.

21 COMMISSION VICE CHAIRPERSON HARRIS: The broadcast
22 revenue must transfer back somehow through wagering. So
23 that the person that's broadcasting may need to get revenue,
24 even though the wager is made on some other platform.

25 COMMISSION CHAIRPERSON SHAPIRO: All right. So

1 with that, I think that we will move on from this agenda
2 item.

3 We've asked Counsel Miller, he will take it from
4 there, he'll work with staff.

5 And now, there being nothing else on that, I'd
6 like to take a short adjournment, a time out, a break,
7 whatever you want to call it.

8 Why don't we take ten minutes. We'll come back
9 and the next issue we're going to hear will be Item Number
10 2.

11 (Off the record.)

12 COMMISSION CHAIRPERSON SHAPIRO: All right, just
13 so everybody knows, everybody is invited to attend today's
14 fair. And if you choose to do that, right behind this hotel
15 there's an entrance gate that says "the red gate." And if
16 you just go to that gate and say that you were from the CHRB
17 meeting and you'd like to go to the fair, they will let you
18 in. And I assume they'll stamp your hand or give you a
19 voucher for a blooming fried onion or something, I'm not
20 sure. But good luck.

21 COMMISSION VICE CHAIRPERSON HARRIS: For a what?

22 COMMISSION CHAIRPERSON SHAPIRO: Well, they have
23 these things they sell, these blooming -- you should have
24 seen the line yesterday.

25 Okay, so next up will be Item Number 2, discussion

1 and action by the Board on the application to conduct a
2 horse race meeting of Hollywood Park Fall Racing Association
3 at Hollywood Park, commencing October 29th, 2008 through
4 December 21st, 2008, inclusive.

5 I see that Mr. Liebau and Mr. Wyatte are coming
6 forward. Appreciate that.

7 One second, please bear with. These are the dates
8 that are -- were allocated last year. I don't see that
9 there's any variation in the dates. The application looks
10 rather -- I mean, there's nothing that seems to stand out in
11 it.

12 I would like to ask, however, first of all, I had
13 read that your track was going to be refurbished or --
14 you're a new face.

15 MR. GREELEY: Hi.

16 COMMISSION CHAIRPERSON SHAPIRO: Hi.

17 MR. LIEBAU: Yeah, this is Diane Greeley, she's
18 head of our marketing and has been with Santa Anita, or Bay
19 Meadows, or Golden Gate, or wherever I've traveled for about
20 15 years. And there are only so many players left on the
21 chessboard, so she's moved entirely from one office, and now
22 is trying to do both, Mr. Ziegler's job and her past job.

23 COMMISSION CHAIRPERSON SHAPIRO: Oh, well, it's
24 nice to see you, and it's a pleasure to meet you. And we'll
25 give you a gold star for following Mr. Liebau around all

1 those years.

2 MR. LIEBAU: I don't know whether that shows a
3 great deal of sense but --

4 COMMISSION CHAIRPERSON SHAPIRO: Hey, I just said
5 a gold star.

6 All right, so my first question was going to be
7 can you tell us, I had read the track was being refurbished,
8 rewaxed, and so forth, and perhaps you can just enlighten us
9 on what's going on there.

10 MR. WYATTE: Eaul Wyatte, Hollywood Park. We
11 closed the main track just prior to the conclusion of Del
12 Mar and did renovate it. The process included an extensive
13 grading of the track, to get it back to perfect grade.

14 It also included a rototilling of track to bring
15 up, for lack of a better word, some of the virgin material
16 underneath the racing cushion, that is very difficult to get
17 to while we're racing or training because it's sort of a
18 tedious process, because you have to be very careful that
19 you don't go down into the mat that covers the drainage. So
20 we did that.

21 We added wax.

22 We have tested the track, we're waiting for
23 results to come back to see if we need to add any fiber to
24 the track, which we have on hand. If we do, it will not
25 entail closing the track, we can do that -- you know, we can

1 do that during the regular training process, we can do it
2 when horses are on the track.

3 COMMISSION CHAIRPERSON SHAPIRO: So as you went
4 through this process were there any lessons learned to
5 share, as we're evolving, the knowledge is evolving?

6 I know you've been on lots of different -- you and
7 Dennis have been on lots of panels and met a lot of people.
8 Is there any lesson learned here, that should be shared?

9 MR. WYATTE: Had I known you were going to ask
10 that question, I'd have brought Dennis.

11 To be very frank, I think, and I don't intend this
12 to be a criticism, please understand that. I think, prior
13 to putting our track in, and I can only speak to ours, we
14 recognized that our track was going to get much more work,
15 much more usage than anything we saw in England. I don't
16 think we really appreciated what that meant.

17 These tracks will change over a period of time. I
18 anticipate that -- especially the tracks in the Los Angeles
19 area, with the amount of usage they get.

20 Perhaps if we'd known that, we would -- I don't
21 know what we'd have done about it. I don't know if we would
22 have modified the track before it went, I have no idea. But
23 we did learn that.

24 And now we've learned that -- our track has been
25 open every day for training since we put it in, in September

1 of 2006. It is -- it tends to wear out. And we have found
2 that we need to refurbish it.

3 We thought after a short period of time that we'd
4 be on a yearly basis. I don't think that it's probably
5 every six months. In some manner. I'm not saying, to the
6 extent that we did this last time, but maybe, I don't know.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
8 again, it was --

9 COMMISSION VICE CHAIRPERSON HARRIS: I'm a
10 committee, it's called the Horse Welfare Committee, and one
11 of the subcommittees is the track surfaces, and they've been
12 talking about these different measurement tools that you can
13 have to measure track, as far as the hardness, and the
14 cushion, and all this stuff.

15 Do you have like a program where you do that every
16 so often?

17 MR. WYATTE: We do. We work very closely with
18 Mick Peterson, who I think you all know is sort of a track
19 engineer expert. We take temperatures of the track two or
20 three times a day, trying to get as much around the track as
21 we can. And there is a significant difference in these
22 surfaces between morning and afternoon, sometimes up to 40
23 to 50 degrees in the summertime.

24 We take Cleg readings, which is what has been used
25 on the old main tracks and the turf courses.

1 We also have a knew instrument that makes -- that
2 has found in England, that they use on those tracks, and
3 they're relatively expensive. We do have one and we've just
4 now started to use that as another guide.

5 COMMISSION VICE CHAIRPERSON HARRIS: That sounds
6 good. I think it's so important if you can quantify because
7 everybody that's, you know, going from zero to 50 in their
8 racing stable thinks it's the track's fault. If they've one
9 the last two or three, you know, they love it.

10 But we need to quantify what's good or bad about a
11 track, and try to share that information where people can
12 all get on the same page.

13 MR. WYATTE: Correct.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 COMMISSIONER ISRAEL: I'm just curious for, I
16 guess, my own education. How is this different from what
17 you had to do to maintain the dirt track, and is it less
18 expensive or more expensive?

19 MR. WYATTE: Sometimes we actually -- these tracks
20 are so weather sensitive, and there's ambient temperature,
21 and there's ultraviolet rays, and there's all kinds of
22 theories about what affects them.

23 I'm talking about our track, which is a wax-based
24 track.

25 So sometimes we don't do much at all to it, and

1 sometimes we just -- we found last winter, or last fall,
2 that because of our proximity to the ocean, or anywhere,
3 that before training our track could be in the thirties. So
4 we started working it before we opened the track in the
5 morning. And then we'd do it once after training and that
6 was it, you know, three times a day when we were just
7 training.

8 And different times of the year we'll work it
9 after training and not touch it again until after racing.

10 And other times of the year we will go out there
11 almost every race. And this track -- and, I mean, I know it
12 sounds a little far-fetched or unbelievable, but unless
13 you're out there on it, unless you're dealing with it, you
14 can't appreciate how much it changes just as a result of the
15 temperature.

16 So to answer your question, I don't think we're
17 saving any money, no.

18 MR. LIEBAU: Yeah, I would say that based on our
19 financials we aren't saving any money. And, in fact, it
20 might be a little bit more costly as far as the actual
21 maintenance.

22 As far as the safety of the horse it's, you know,
23 better.

24 COMMISSION VICE CHAIRPERSON HARRIS: Now, one
25 thing I just noticed on most of the tracks, one of the

1 things I've always somewhat questioned at Hollywood Park is
2 the Turf Festival, which has a long heritage, and we all
3 like to see big races, but it looks to me like you're giving
4 away like almost two or three million dollars, in two or
5 three days, in a stakes.

6 Do you -- it's not really my problem, it's really
7 the trainers and the horsemen.

8 But do you feel that that's a real viable way to
9 run your stakes program?

10 MR. WYATTE: You know I'm going to answer yes to
11 that.

12 COMMISSION VICE CHAIRPERSON HARRIS: You don't
13 have to answer yes.

14 (Laughter.)

15 MR. WYATTE: I just -- for some clarification, I
16 guess, the Turf Festival is certainly the highlight of the
17 meeting. It is something we can talk about. It's something
18 that goes to what we're in business to do, it presents
19 really high caliber racing in a short period of time, on the
20 best weekend of our meeting to attract crowds.

21 The perception that we're giving away 200,000 in
22 -- or \$2 million in stakes is that money is being offered as
23 purse money, and as we all know, or maybe some of us don't,
24 the bulk of that -- not the majority, but a bulk of that is
25 horsemen's fees. Those are guaranteed races and so it's not

1 all purse money.

2 And when I say that about the Turf Festival, I
3 certainly don't want to slight the resurgence of what used
4 to be the Hollywood Park Futurity, which is now the Cash
5 Golf Futurity, which last year proved to be, actually, one
6 of the best days of the meeting.

7 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I
8 realize that, you know, there's a lot of good thoughts
9 behind it, but I'd just like to know that, hopefully, that
10 somebody's looking at the money as far as the profit and
11 loss made, and somehow that you can sit back and say that,
12 wow, this thing really brings in the people, they bet the
13 heck out of it, it's really a great idea. And not just,
14 well, that's what we've done every year so we'll keep doing
15 it.

16 MR. WYATTE: I have to say that's subject to a
17 lively debate within the corridors of Hollywood Park.

18 COMMISSION VICE CHAIRPERSON HARRIS: I just -- you
19 know, we just want to see some due diligence.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. So are
21 there any other questions before we get to the question of
22 do you have a horsemen's agreement, do you have a CTT
23 agreement, and what -- are you going to be using TVG,
24 Youbet, XpressBet, and Twinpires as your ADW providers?

25 Are there any other questions about anything else

1 on this race meeting, other than those.

2 EXECUTIVE DIRECTOR BREED: Worker's comp.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, well, we'll
4 do a worker's comp.

5 There being none, then I will ask the question --
6 I'll ask the question, do you have a workman -- a horsemen's
7 agreement, a CTT agreement, and a workman's -- and your
8 workmen's compensation, which expires in the next couple of
9 days. I assume you'll get that renewed.

10 MR. WYATTE: I can answer that first, that's the
11 easiest one.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay.

13 MR. WYATTE: Obviously, our workmen's compensation
14 is in the process or has been renewed, and as soon as we get
15 the insurance cert we'll forward it on to the Board.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

17 MR. WYATTE: Of course, with the Board named as a
18 co-insured.

19 We have a CTT agreement. The Board does not have
20 it. We have an agreement. Unfortunately, Mr. Halpern and
21 I, probably more my fault than his, it sort of got
22 crisscrossed in the mail, but we do have an agreement.

23 We do not have a TOC agreement and, perhaps Mr.
24 Liebau might want to speak to that.

25 MR. LIEBAU: And this point in time we do not have

1 a horsemen's agreement. And I direct your attention to
2 Section 2484 of your rules and regulations, in which it
3 states that in the event that we don't have an agreement,
4 the Board may, upon notice to prospective parties to the
5 agreement, conduct a hearing with regard to the conditions
6 for the meeting and taking such action as it may deem
7 appropriate to ensure continuity of the race meeting.

8 I would assume and hope that the Board will
9 conduct such a hearing into the matters that are in
10 question, as far as the horsemen's agreement are concerned
11 and, hopefully, prior to the scheduled hearing the matters
12 might be settled. But they are not settled at this point in
13 time.

14 COMMISSION CHAIRPERSON SHAPIRO: Well, okay,
15 perhaps we should ask TOC, I mean, and understand are
16 you -- is there some impediment to getting the horsemen's
17 agreement in place in the very near future, or that would
18 require such a special meeting or not?

19 And he's right behind you, just so you know, Jack.

20 Drew, do you want to address this?

21 MR. COUTO: Sure. Drew Couto, Thoroughbred Owners
22 of California.

23 We had understood until about Monday that we had
24 an agreement. I understand that changed when we didn't
25 agree to additional terms that had never been in a

1 horsemen's agreement before, relating to ADW.

2 We had reached agreement on all the traditional
3 terms. We had final language.

4 And then, when we rejected the new language
5 submitted to us regarding ADW, we were told that, in fact,
6 we didn't have an agreement and that one of the what we
7 understood provisions that was going to be included back
8 into the TCO2 was now objectionable.

9 So I think you should have the hearing. We're
10 glad to talk about it before the Horse Racing Board.

11 I'd like to think that we could resolve this, but
12 we are not going to be put into a position where ADW is
13 forced into the horsemen's agreement, as it has never been
14 before, and forced to deal with it as a condition of the
15 race meet, instead of under the Interstate Horse Racing Act,
16 the way it should be run so --

17 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
18 it would be best to have the hearing or schedule it as soon
19 as we can and, in the interim, the parties can work out
20 something and it will be unnecessary. But we can't just let
21 it drag along.

22 MR. LIEBAU: I'd like to just say, you know,
23 there's always two sides to every story, and sometimes I --

24 COMMISSIONER ISRAEL: Three sides.

25 MR. LIEBAU: Three sides. I was going to --

1 COMMISSIONER ISRAEL: There's your side, his side,
2 and the truth.

3 MR. LIEBAU: Oh.

4 (Laughter.)

5 MR. LIEBAU: Either that or I was going back to my
6 days when I was a lawyer, you get a lawyer in the room and
7 there's always on one hand and on the other hand, you know,
8 three different opinions on the same thing.

9 We did in fact receive the horsemen's agreement
10 last Friday. Prior to that time I did have some discussions
11 or a short discussion with the leadership of TOC, and I'm
12 not too sure it's correct that we ever had an agreement with
13 everything that is in a horsemen's agreement.

14 I think that the ADW is necessary. We just can't
15 have situations anymore when we go up to the last minute, as
16 Mr. Harris and Mr. Shapiro attest, there have been some
17 Christmas Days and Christmas Eves that have been spent on
18 this, and I'm just too old, and I think we need to get all
19 our cards on the table so that we can do our planning for
20 this meet and get on with it.

21 COMMISSION CHAIRPERSON SHAPIRO: Well, I --

22 COMMISSIONER CHOPER: Does the rule that you --
23 oh, I'm sorry.

24 COMMISSION CHAIRPERSON SHAPIRO: I would just like
25 to tell you, I happen to agree with you. Frankly, I've

1 spent Thanksgiving Eve, I think, at Youbet.

2 MR. LIEBAU: Hollywood Park and --

3 COMMISSION CHAIRPERSON SHAPIRO: No, Thanksgiving
4 Eve was at Hollywood Park. One Christmas Eve was at Youbet
5 and the other was at TVG.

6 So I agree with you, I think that it's a good idea
7 that we bring this to a head, and we have a special hearing
8 and figure out what the Board needs to do to facilitate
9 there being an agreement on the --

10 MR. LIEBAU: I would also like to just add, if I
11 could, and I don't think we need to enter into an extended
12 debate on this, but the basis of a horsemen's purse
13 agreement is really the overnight schedule for purses that's
14 contained therein and the stakes schedule.

15 Both of those things, the overnight purse schedule
16 and the stakes schedule are predicated on anticipated
17 wagering, and anticipated wagering includes ADW.

18 And if you go into the meet and all of a sudden
19 you don't have the ADW, you are cutting purses, and that's
20 exactly what happened at Caulder, and at Churchill Downs.
21 And I just want to make sure that when we go ahead and make
22 all of our plans for this meet that we're all moving
23 together in unison, and that we all know what's going to
24 happen, and there's certainty.

25 COMMISSIONER CHOPER: I take it, one, you

1 understand what you read us gives the Board to resolve the
2 issue?

3 MR. LIEBAU: I understand that.

4 COMMISSIONER CHOPER: Okay. I mean, that's what
5 -- it says may deem the --

6 MR. LIEBAU: No, that's also the case and I have
7 actually, you know, never really found anything that says
8 you have to have a horsemen's agreement, because of the fact
9 of the action that can be taken by the Horse Racing Board.

10 COMMISSIONER CHOPER: I notice that our next
11 scheduled meeting is two weeks before the -- I think I'm
12 right about this, before your opening on the 29th.

13 MR. LIEBAU: I would hope that you would conduct
14 the special hearing right away.

15 COMMISSIONER CHOPER: Before that?

16 MR. LIEBAU: Yes.

17 COMMISSION CHAIRPERSON SHAPIRO: Oh, absolutely.

18 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
19 we need to move on with it, we need to get staff to poll the
20 Board on dates that might work and try to get it done.

21 COMMISSION CHAIRPERSON SHAPIRO: We will have
22 staff go through, and we'll try to do it. We do have give,
23 as you know, ten days' notice and so forth, and we'll take
24 it from there.

25 MR. LIEBAU: I will point out that in the past,

1 when there have been situations such as this, to which I
2 have been a party, but many years ago, it didn't necessarily
3 include all of the Board, and I'm sure that's up to the
4 Chairman as to whether he --

5 COMMISSION CHAIRPERSON SHAPIRO: Right.

6 MR. LIEBAU: -- wants to appoint a committee to
7 hear it, or the Board in blanc.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay. And we'll
9 make that decision.

10 Mr. Couto?

11 MR. COUTO: Sure. I have one question and one
12 observation. The purse agreement that we're talking about
13 is the agreement that we've been executing with racetracks
14 for 15 years, every racetrack, every thoroughbred track in
15 the State of California, essentially.

16 Rumors are -- rumors often create a lot of anxiety
17 and problems in the industry. And yesterday, from sources
18 in Kentucky, I was told that management at one of the
19 racetracks there, in conjunction with the ADW dispute, has
20 mentioned, and I have no idea whether this is true or not,
21 that Hollywood Park has indicated to at least one track
22 management out of state that if we don't have an agreement
23 on ADW, that they would consider not running their meet and
24 closing their track.

25 And just as, you know, it's important to have a

1 resolution of these ADW issues, as Jack pointed out, it may
2 impact his meet, I'd like to know if that is in fact the
3 case with Hollywood Park, if the ADW agreement isn't reached
4 they may consider closing their track. And if that is in
5 fact the case, then I'd also ask that we have an emergency
6 hearing to consider the extension of the Oak Tree meet
7 should Hollywood Park elect not to run its meet because of
8 the impasse over ADW.

9 And I think we have to look at -- look at
10 everything here. I think it would be incredibly unwise of
11 the industry to have one track, which is also managed by the
12 same group -- or a similar management with an ADW company
13 that has an interest, different in the resolution of these
14 ADW issues.

15 If they were to say to the California racing
16 industry in California, if we don't resolve these ADW issues
17 in a fashion we consider appropriate, we're going to shut
18 our track down and leave the industry in a lurch.

19 I think we should have all of these issues held,
20 discussed, and if that is in fact the case, perhaps an
21 extension of the Oak Tree meet may be appropriate.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, first, Mr.
23 Couto, we don't even know the extent and role that the
24 issues are that are in dispute. All we know there's not a
25 horsemen's agreement, we're being told there's a dispute,

1 we're being requested for a special hearing. I think that's
2 a very good idea, I think we should do it.

3 And I would guess that perhaps the -- you know, I
4 mean, I don't think any of us want to see that Hollywood
5 Park isn't going to proceed and race.

6 But unless there's an answer to that question, I
7 would presume it will come out of the hearing and we can
8 incorporate it into the discussion that we would have at the
9 special meeting.

10 MR. COUTO: Great, that's appreciated, thank you.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay with you,
12 Mr. Liebau?

13 MR. LIEBAU: Fine.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
15 okay, if that's the case, then what I would suggest is that
16 we -- yeah, I think that perhaps what we should do is either
17 defer this application until -- and defer it to the action
18 of the special hearing that will take place, or approve it
19 contingent upon a resolution, a satisfactory resolution,
20 whatever satisfactory is.

21 MR. LIEBAU: We would request the latter.

22 COMMISSION VICE CHAIRPERSON HARRIS: I think it's
23 better to wait. We've got plenty of time, the meet doesn't
24 open until --

25 COMMISSION CHAIRPERSON SHAPIRO: I'm fine.

1 COMMISSIONER ISRAEL: Can you pick the date,
2 though, so that there's some time certain to which you're
3 trying -- the goal for you, in terms of resolving the
4 dispute. Otherwise it -- the eleventh hour --

5 COMMISSION VICE CHAIRPERSON HARRIS: Well, if it
6 isn't resolved by the parties then --

7 MR. LIEBAU: Commissioner Israel, that's the exact
8 reason why I have raised this issue as far as being in the
9 purse agreement is because it has gone to the eleventh hour
10 at many tracks and, in fact, has gone that way at Golden
11 Gate Fields today, or yesterday, or the day that it opened.

12 So I mean, I am --

13 COMMISSIONER ISRAEL: And that's not a good thing,
14 right?

15 MR. LIEBAU: That's bad.

16 COMMISSIONER ISRAEL: Okay, that's what I thought.

17 MR. LIEBAU: I'm trying to avoid those situations
18 by today, whatever the date is, and I don't open up for
19 another month or so, you know, so then we've settled it.

20 COMMISSIONER ISRAEL: Yeah, you have about 40
21 days.

22 MR. LIEBAU: Forty days.

23 COMMISSIONER ISRAEL: Yeah, something like that.

24 MR. COUTO: Commissioner Shapiro?

25 COMMISSION CHAIRPERSON SHAPIRO: Yes.

1 MR. COUTO: I'd like to respond to that. I think
2 everybody's aware that for the start of the Del Mar meet TOC
3 required all four ADW companies to execute letters of
4 intent, obligating them to sit down and negotiate with TOC
5 and THG to resolve the ADW issues ongoing, on behalf of
6 California.

7 And we set that timeline so that we didn't end up
8 with an eleventh-hour situation.

9 And some ADW companies engaged in those
10 discussions in a meaningful fashion, others did not.

11 So to the extent there is some implication that
12 TOC has dragged this out to the eleventh hour I want
13 to -- you all are aware of that fact, you all are aware that
14 we required this, we have met with the ADW companies.

15 In fact, we've submitted four different proposals
16 to them and not had a single response from any of them,
17 other than to say --

18 COMMISSIONER ISRAEL: I wasn't implying anything.

19 MR. COUTO: Okay.

20 COMMISSIONER ISRAEL: I was just saying it would
21 be beneficial if we worked to some date certain, that's all.

22 MR. COUTO: That would be great, thank you.

23 COMMISSIONER MOSS: So you got -- let me ask you
24 something, Mr. Couto. So nobody of the four ADW companies,
25 nobody responded?

1 MR. COUTO: No, I would say that MEC in fact did
2 respond. It's interesting, they have indicated to THG and
3 to us that they concur with our view on how the allocation
4 of revenue should go.

5 They made a public statement, a press release to
6 that effect a week or so ago. They've been very cooperative
7 and agree in the sense that the stakeholders, racetracks and
8 horsemen, should receive a greater share currently, than we
9 do. So we have one.

10 But the interesting thing is, again, getting these
11 rumors, they're in partnership with a company, Churchill
12 Downs, who is telling their horsemen in Kentucky, that deal
13 will never come off because Churchill will sue MEC if they
14 try and do that deal.

15 I don't know this to be a fact. These are the
16 rumors that get there.

17 So we have what appears to be some collusive
18 behavior, really making this difficult.

19 It's much more -- there's much more to this story
20 than one racetrack and one horsemen's group can't come to a
21 deal on ADW.

22 We're talking about right now, if you look at the
23 four ADW providers we're talking about, together they
24 control about 90 percent of the ADW market in the country.

25 And to the extent they are, you know, we're

1 concerned, very concerned that there are some collusive
2 activities going on.

3 When you're talking about entities, four entities,
4 or three entities that control 80 percent of a market, there
5 are serious anti-trust implications there. There are
6 serious issues beyond whether or not we can agree to some
7 terms that are being forced on us to do that.

8 So this is a very, very, very heady and a very,
9 very dangerous issue that's going on right now.

10 And we welcome any help, we are concerned, as you
11 can see.

12 MR. LIEBAU: I think that, you know, I'm not party
13 to these rumors in Kentucky as to what Hollywood Park is
14 doing, or what Churchill is going to sue MEC. I mean, we
15 don't have anything to do with that.

16 COMMISSION CHAIRPERSON SHAPIRO: No, I don't think
17 we have to get into that here.

18 MR. LIEBAU: I don't even know why we're getting
19 into this.

20 COMMISSION CHAIRPERSON SHAPIRO: Mr. Liebau, I
21 agree, let's not get into rumors.

22 COMMISSIONER MOSS: I move that we accept the
23 second measure of that suggestion you made before.

24 COMMISSION CHAIRPERSON SHAPIRO: Fine.

25 COMMISSIONER CHOPER: Second.

1 COMMISSION CHAIRPERSON SHAPIRO: And there's a
2 second. All those --

3 COMMISSION VICE CHAIRPERSON HARRIS: So that the
4 motion would be that we attempt to meet, in the relatively
5 near future, to --

6 COMMISSIONER MOSS: Can we approve, can you set
7 the date?

8 COMMISSION VICE CHAIRPERSON HARRIS: No, we
9 approve in --

10 COMMISSIONER MOSS: We approve the license
11 and --

12 COMMISSIONER CHOPER: Conditionally.

13 COMMISSIONER MOSS: Conditionally.

14 COMMISSION VICE CHAIRPERSON HARRIS: Well, I don't
15 know -- I think we should -- I thought the second idea was
16 not to approve it until -- we might as well -- I mean, we
17 can't really approve it, it's not over until it's over, and
18 we might as well wait until it's all done.

19 EXECUTIVE DIRECTOR BREED: I thought the second
20 was defer approval until --

21 COMMISSION CHAIRPERSON SHAPIRO: I'm actually
22 indifferent on which we do, I don't think it matters.

23 COMMISSIONER MOSS: Well, I made a motion, and if
24 you want to vote it or not vote it, it's up to you. But
25 that's fine.

1 COMMISSION CHAIRPERSON SHAPIRO: And your motion
2 is to approve it as an --

3 COMMISSIONER MOSS: Approve it conditionally on --

4 COMMISSION CHAIRPERSON SHAPIRO: Conditionally,
5 fine.

6 Commissioner Moss has made a motion to make a
7 conditional approval, subject to resolution of this.

8 Is there a second for that?

9 COMMISSIONER CHOPER: Yeah, I seconded it.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, I needed to
11 confirm that.

12 Okay, second.

13 All those in favor of that?

14 (Ayes.)

15 COMMISSION VICE CHAIRPERSON HARRIS: No.

16 COMMISSION CHAIRPERSON SHAPIRO: No, fine.

17 The motion passes.

18 Okay, we will schedule, we will poll the
19 Board -- we'll figure out how to do this hearing, where to
20 do this hearing, and what date we will do this as quickly as
21 possible, we understand. And I think that it's a good idea
22 that you brought this, let's bring this to a head, let's get
23 this so we're not dealing with last-minute issues.

24 COMMISSIONER CHOPER: I would hope that when we
25 schedule this, even before -- Drew, I hope you both get

1 together and schedule sort of a briefing schedule, so we can
2 get the written material and there -- and get as much
3 agreement as to at least what the facts are before the
4 meeting.

5 MR. LIEBAU: Will do.

6 COMMISSIONER CHOPER: Thanks.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay.

8 COMMISSION VICE CHAIRPERSON HARRIS: I'd like to
9 clarify, too, that my vote against -- I'm all for the
10 Board's involvement. It's just that I was looking at it as
11 a total solution. Sometimes it's better to have all items
12 open when you conclude it, than just rifle shooting on one
13 item, which -- but I'm fine with what we did.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.

15 MR. LIEBAU: Thank you.

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
17 much.

18 All right, I'm going to try to move this along. I
19 think we're getting through the heavier issues.

20 The next item is Item 6, discussion by the Board
21 regarding the status of Sacramento Harness Association.

22 Executive Director Breed, who is going to make a
23 comment on that.

24 EXECUTIVE DIRECTOR BREED: We have a letter here
25 from Bob.

1 COMMISSION CHAIRPERSON SHAPIRO: Bob.

2 STAFF COUNSEL MILLER: Yes, Mr. Chairman, and
3 Members of the Board.

4 I've placed before you a letter that came to us
5 from Sacramento Harness Association, after the Board books
6 were disseminated, and was informed that a representative
7 would not be present here, today.

8 However, as to the status of the matters, they
9 have reached an agreement with Mr. Bartus -- reached an
10 agreement with Cal-Expo, are in the process of attempting to
11 have an agreement with the satellite wagering facilities.

12 And they state the following:

13 "If we are not able to come to an
14 agreement with the satellite operators
15 by September 30, 2008, we will have no
16 other choice than to proceed with one of
17 the following options. We are currently
18 pursuing two paths and we will make a
19 decision by September 30th, 2008 as to
20 which process we believe will be in the
21 best interests of our creditors. The
22 first is an assignment for benefit of
23 creditors and the second is the filing
24 of a Chapter 7 proceeding."

25 COMMISSION CHAIRPERSON SHAPIRO: Okay.

1 COMMISSION VICE CHAIRPERSON HARRIS: I'm not clear
2 on the agreements that were made, without judging that they
3 were good agreements or bad agreements or what, but I
4 thought that there was some bankruptcy theory that you can't
5 really make agreements with creditors within some time span.
6 Or that any agreements made with creditors within a certain
7 time span before you file bankruptcy are invalid.

8 STAFF COUNSEL MILLER: Yeah, they're considered
9 preferential transfers.

10 However, what is envisioned by Sacramento Harness
11 Association is an agreement with all its creditors.

12 COMMISSION VICE CHAIRPERSON HARRIS: Well, but
13 they may wish some. My concern is just I think whatever
14 they did, they did.

15 But I think when we read the letter we have to
16 have sort of a footnote that that agreement may not be
17 binding.

18 STAFF COUNSEL MILLER: Unless it's with all
19 creditors.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, how did
21 they come to an agreement with Cal-Expo and Mr. Bartus,
22 then?

23 COMMISSION VICE CHAIRPERSON HARRIS: They just
24 did, but it might not -- it might be subject to challenge
25 with preferential treatment and all that.

1 STAFF COUNSEL MILLER: I don't know the conditions
2 of it, but I would assume that it's conditioned on coming to
3 an agreement with all creditors.

4 COMMISSION CHAIRPERSON SHAPIRO: All right, and in
5 connection with this, also, I think there are monies that
6 are being held at Scotwinc and Notwinc, and there's been
7 issues with respect to monies that are due -- claims of
8 monies that are due other third parties, like the horsemen,
9 and those that feel that they have some preferential right
10 to monies because of simulcasting and -- and the simulcast
11 facilities.

12 Do we have an idea of what is happening with
13 regard to getting -- I see Mr. Perez is standing there -- to
14 getting the horsemen the money that is rightfully theirs,
15 and others?

16 STAFF COUNSEL MILLER: I can only read from their
17 letter, which states, "as part of any agreement reached with
18 the satellites, the funds owed to Sacramento Harness
19 Association by Scotwinc, Notwinc, and Los Alamitos, net of
20 funds payable through the satellites would be distributed to
21 SHA."

22 COMMISSION CHAIRPERSON SHAPIRO: Okay.

23 MR. PEREZ: Good afternoon, Mr. Chair --

24 COMMISSIONER ISRAEL: Could I just be clear?

25 COMMISSION CHAIRPERSON SHAPIRO: Sure.

1 COMMISSIONER ISRAEL: You know, I read this
2 yesterday. We asked somebody to appear on September 10th,
3 and there were three alternatives, and none of them were
4 available eight days later, or whatever it was?

5 COMMISSION CHAIRPERSON SHAPIRO: That's what they
6 are telling us. Frankly, I don't think they're anxious to
7 appear. And I believe that our Board should -- our staff
8 should follow up and look at ways to compel them to appear.

9 COMMISSIONER ISRAEL: Do we have subpoena power?

10 STAFF COUNSEL MILLER: Uh-hum.

11 COMMISSION CHAIRPERSON SHAPIRO: Mr. Perez.

12 MR. PEREZ: Good afternoon, Jim Perez, CHHA.
13 We're unaware of the agreements they've made with anybody.
14 We were here last time asking for the outs money that, by
15 statute, goes to the backstretch and welfare accounts, that
16 enable our families on the backside to continue their
17 insurance program that we subsidize with that money.

18 Being said, Notwinc's holding approximately
19 \$113,000. All we've asked before was to direct that money
20 -- instead of releasing them to SHA, release those monies
21 that are due, by statute, to CHHA, so we can continue our
22 insurance programs for the families.

23 I know you guys -- Bob's been back and forth with
24 our attorney, Jerry Mandel, and we'd just like to work out
25 something to expedite this as quick as you can, it would

1 help us tremendously. Thanks for everything that you've
2 done. And we just need to keep these horsemen on the
3 backside, which are owners, grooms, trainers and drivers
4 insured.

5 COMMISSION CHAIRPERSON SHAPIRO: Mr. Perez, as you
6 know, I fully am supportive of this and believe that we
7 should be doing everything that we possibly can within the
8 law to facilitate that on your behalf. And we have asked
9 counsel to advise us. And staff, I believe, is working, you
10 know, to try and get that done.

11 MR. PEREZ: I understand and I appreciate that.

12 COMMISSION CHAIRPERSON SHAPIRO: I, honestly,
13 don't understand the hold up but --

14 MR. PEREZ: Okay. Well, thank you very much.

15 COMMISSION CHAIRPERSON SHAPIRO: Mr. Liebau?

16 MR. LIEBAU: My name's Jack Liebau, I'm from
17 Hollywood Park, and also was the President of Bay Meadows.
18 Bay Meadows and Hollywood Park are owed approximately
19 \$120,000 in location fees.

20 I have appeared before this Board on numerous
21 occasions because of this issue. And Mr. Shapiro and the
22 other Board Members may take exception to what I'm about to
23 say, but when you say that you think the Board and the staff
24 are doing everything possible to get this settled, I am,
25 frankly, unaware of what is being done.

1 I think that you've had the outs here to go to the
2 welfare funds. I think everybody in racing has always
3 thought that the distributions that are mandated under the
4 California Horse Racing Board are, and are supposed to be
5 made, and are sacrosanct, and that those are funds that are
6 distributed right away.

7 I have asked this Horse Racing Board to make a
8 ruling to that effect and they have not come up with it.
9 And the only conclusion that I can come to is that this
10 Board is determining that everybody that is a distributee of
11 an amount wagered is a general creditor. And God help us if
12 that's the case, as far as the integrity of the betting
13 pools in this State.

14 Because to tell these people that are making those
15 bets on a day-to-day basis that they are a general creditor
16 is, frankly, absurd.

17 And, you know, as far as what's being done, Mr.
18 Axelrod did contact me, as did Mr. Scurfield, three or four
19 weeks ago, and asked if I could then be sent to them the
20 amount that was owed to the satellite facilities. And I did
21 forward a letter from Mr. Korby, who has also asked the
22 Board to take action with respect to this matter, on behalf
23 of the fair satellites.

24 I then contacted Mr. Hartman, and Mr. Hartman very
25 expeditiously sent a letter, again, saying how much was owed

1 to the MEC facilities.

2 And, you know, as far as contacting the parties, I
3 did get an e-mail from Mr. Axelrod, I think two or three
4 days ago, saying that he was going to get back to me.

5 I think that these monies are supposed to be paid
6 out to the satellites, and to THG, and to whoever else.

7 And, in fact, at one CHRB meeting, in open
8 discussion, it was so decided. And I think that, you know,
9 I brought one meeting to and read the transcripts from that
10 meeting. And nothing has happened.

11 And, you know, I understand, I see what's going on
12 up here. You know, the scuttlebutt that Mr. Couto was
13 talking about, rumors coming out of Kentucky. Well, believe
14 me, there are rumors coming out of California that the
15 Attorney General thinks that this Board is going to get sued
16 if they give a ruling that these things are mandatory
17 distributions and that you are unable to interpret the
18 California Horse Racing law. I think that's absurd.

19 But I will tell you, and I know that this is going
20 to be upsetting, that this meet that you had conducted here,
21 at the Sacramento Harness Meet, should have never taken
22 place. The conditions of this licensing were never met.

23 And if the meet hadn't been held, I wouldn't have
24 been owed \$120,000, I wouldn't have been owed and I would
25 have incurred those expenses, and wouldn't any of these

1 other satellites.

2 And you know what the problem is with the Attorney
3 General, whoever it is at this point in time, Mr. Brown, you
4 know, maybe some creditor at some point in time is going to
5 ask where the \$450,000 letter of credit was that was a
6 condition of this Sacramento Harness operating, that was
7 supposed to be for the benefit of any and all creditors.

8 So, I mean, I'm amazed, I don't understand why
9 this Board can't go ahead and issue a simple ruling that
10 these distributions are mandatory, and that they are held in
11 trust. And that these distributees, whether it be with
12 whoever, are not general creditors. And that would
13 absolutely -- you know, Mr. Axelrod has told me that if we
14 got that ruling that he would accept it, and the money would
15 be distributed to whoever the distributees are, the excess
16 would then go to SHA and they would pay the remainder of
17 their creditors.

18 But, you know, I've been at this thing for about
19 -- I don't know whether it's a year, or nine months, or
20 whatever it is, and I'm getting no place.

21 So, I mean, this is the last time that I will
22 appear and we will just take our chances in court against
23 whoever our defendants might be, and I'm sorry.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, Counsel
25 Miller, do you want to respond to this? I mean, we've had

1 -- no.

2 COMMISSION VICE CHAIRPERSON HARRIS: Well, as I
3 understand it, it is clear that these class of creditors
4 that Jack has referred to are preferred creditors over the
5 general creditors. Isn't it the problem that how do we sort
6 out the preferred creditors on who gets what?

7 It's not like we're saying that everyone's a
8 general creditor.

9 COMMISSIONER CHOPER: Can I add to that? My
10 understanding is that no monies have been distributed to
11 anybody. And there was a question as to the extent to
12 which -- Jack, the extent to which this Board can decide it,
13 or whether we are going in some way to interfere with the
14 jurisdiction of the bankruptcy court in determining who,
15 under State and Federal law, is entitled to this money.

16 I understand your argument very clearly. And I
17 know that everyone would like, you know, prefer to get their
18 money as soon as possible, on the one hand.

19 On the other hand, I have some hesitation on our
20 overstepping our bounds in respect to making a determination
21 that ultimately would be subject to the bankruptcy court.

22 MR. LIEBAU: Well, Mr. Choper, let's take a
23 hypothetical that I'm sure you used to throw to students
24 when I was there.

25 COMMISSIONER CHOPER: I throw them, I don't answer

1 them.

2 MR. LIEBAU: Yeah, I know.

3 (Laughter.)

4 MR. LIEBAU: I have to remember, too, in my first
5 day or so in property class, I raised my hand and asked a
6 question and the professor said, you know, I'm not up here
7 to ask -- to take your God damned fly balls, and I never
8 asked another question in law school.

9 (Laughter.)

10 MR. LIEBAU: But I mean, if you and I were to pool
11 our resources and take two dollars and go over to Fairplex
12 and place a bet, and if we happened to win, which is
13 doubtful --

14 COMMISSIONER CHOPER: Right.

15 MR. LIEBAU: -- and if we didn't cash that ticket
16 for a number of days, I really don't think that we're
17 general creditors. I don't think that we're preferred
18 creditors, I think that our winnings are being held over
19 there in trust and --

20 COMMISSIONER CHOPER: No, I just want to say what
21 you say makes a lot of sense. I'm not arguing with you, I'm
22 not saying that you're a general creditor.

23 MR. LIEBAU: Yeah, and that's all I'm asking
24 that --

25 COMMISSIONER CHOPER: And neither did Mr. Miller.

1 MR. LIEBAU: And all I'm asking for is that the
2 Horse Racing Board so rule so that the wagering pools in
3 California have integrity and people can realize that they
4 aren't a general creditor, they aren't a preferred creditor,
5 the money's there to pay them off when they make that wager.
6 That's all I've been asking for nine months.

7 COMMISSIONER CHOPER: What would follow from that?

8 MR. LIEBAU: From that, as I understand it, Mr.
9 Axelrod has told me that if --

10 COMMISSIONER CHOPER: He'd give you the money?

11 MR. LIEBAU: He'd give us the money because that
12 would cover him.

13 COMMISSIONER CHOPER: As I said, I would have some
14 concern, without some pretty confident legal advice that we
15 are not in some way stepping into the jurisdiction of the
16 bankruptcy court, because that's coming here one way or
17 another. And so long as the monies aren't being
18 distributed, in the end you're protected.

19 MR. LIEBAU: Well, I don't have the use of the
20 money but --

21 COMMISSIONER CHOPER: No, I understand that. No,
22 of course I understand that.

23 MR. LIEBAU: And so I'm going to sit around and
24 wait for the bankruptcy court. And in the meantime, if you
25 interpret the law, I have a hard time when I argue with you,

1 Mr. Choper, because, you know, our intellectual difference
2 in law difference is so much over here I don't have a
3 chance, but --

4 COMMISSIONER CHOPER: No, no, no, no --

5 COMMISSION CHAIRPERSON SHAPIRO: You don't have
6 any problem arguing with the rest of us.

7 MR. LIEBAU: No, I don't have a problem with you,
8 Mr. Shapiro, but I have a problem with Mr. Choper.

9 COMMISSION CHAIRPERSON SHAPIRO: I got the point.

10 MR. LIEBAU: You know, what does the Horse Racing
11 Board lose by interpreting the law which is, in fact, what
12 they're supposed to be doing? That's what I don't
13 understand.

14 I mean, if you read what you're supposed to be
15 doing and --

16 COMMISSIONER CHOPER: If the bankruptcy court
17 decides otherwise and we've distributed the money --

18 MR. LIEBAU: No, you haven't distributed the
19 money.

20 COMMISSIONER CHOPER: But then it doesn't make
21 any -- I mean, it doesn't make any difference if you agree,
22 you're willing to -- you're going to have to wait for it. I
23 don't understand.

24 MR. LIEBAU: Well, if you give me the letter, it's
25 possible that Mr. Axelrod is going to distribute the money.

1 COMMISSIONER CHOPER: Yes, that's what I mean.

2 MR. LIEBAU: And if Mr. Axelrod distributes the
3 money, it's his problem, not your problem, or my problem, or
4 the bankruptcy court can come after me as a preference.

5 COMMISSIONER CHOPER: Well, if he distributes it
6 pursuant to a legal ruling by this Board --

7 MR. LIEBAU: No, no, I'm not asking for that.

8 COMMISSIONER CHOPER: An interpretation of the law
9 which says that you're -- that the money's held in trust for
10 you, which may be right.

11 MR. LIEBAU: I'm just asking that you, the Horse
12 Racing Board, are interpreting the law --

13 COMMISSIONER CHOPER: Interpreting the law.

14 MR. LIEBAU: -- where it says, you know, from the
15 distributions, these distributions shall be made, all I'm
16 asking is that you tell us that that money, they have an
17 absolutely right to do that, that that money is being held
18 in trust for the distributees, whether it's the betting
19 public, or the location fees, or the equine medical center,
20 or whoever else it is.

21 COMMISSIONER CHOPER: Suppose we were to do that
22 and say that the money shall be distributed to no one else,
23 this is our judgment as to what the law requires, but no
24 money shall be distributed until the matter is finally
25 adjudicated by a Federal Bankruptcy Court.

1 MR. LIEBAU: I don't even want you to say that the
2 money shall be distributed. I just want a ruling from the
3 administrative body, period, end of report, that's all.

4 COMMISSIONER CHOPER: But you told us that if you
5 got such a ruling, then you take it to Mr. Axelrod, then he
6 distributes the money. And he distributes it in reliance on
7 our opinion.

8 MR. LIEBAU: I think that every day that everybody
9 is over there betting is relying on the fact that they are
10 not a general creditor.

11 COMMISSIONER CHOPER: They're hoping that
12 Hollywood Park will pay it off at the window and won't go
13 bankrupt.

14 MR. LIEBAU: I'm not worried about Hollywood Park,
15 sir.

16 COMMISSION VICE CHAIRPERSON HARRIS: Actually,
17 when I mentioned the general creditor versus preferred, and
18 all that, I was just trying to differentiate.

19 But, really, I guess what we're looking at is sort
20 of this trust fund creditor, or whatever, the people that
21 actually the money -- where it was always their money, it's
22 just being held in this trust.

23 Now, I'm not clear in this overall deal, as to
24 when you put that pool of money is there enough -- are there
25 enough assets held by Capital, that there are a bunch of

1 receivables, are the receivables they have --

2 COMMISSION CHAIRPERSON SHAPIRO: No, SHA.

3 COMMISSION VICE CHAIRPERSON HARRIS: SHA, I'm
4 going too long.

5 Is there enough money to pay off all the so-called
6 trust funds?

7 COMMISSION CHAIRPERSON SHAPIRO: No, there is not.

8 COMMISSION VICE CHAIRPERSON HARRIS: Just the
9 trust funds, not everybody else?

10 COMMISSION CHAIRPERSON SHAPIRO: There's not.

11 COMMISSION VICE CHAIRPERSON HARRIS: Oh, just the
12 trust. Because, obviously, there's not enough to pay off
13 everybody. That's the whole issue. If there's plenty of
14 money, it's not as big of a deal. It's even if you do that,
15 there's not enough money to sort it all out.

16 COMMISSION CHAIRPERSON SHAPIRO: Look, I'm very
17 sympathetic to Mr. Liebau's arguments. And, in fact, I
18 personally feel very similar to the sentiments that he
19 raises and he makes.

20 The problem is that we've been told by counsel
21 that our taking action could in fact cause considerable harm
22 and a problem, if we were to render some decision. And it's
23 for that reason that the Board has not moved forward, on
24 advice of counsel.

25 Notwithstanding my personal beliefs that I happen

1 to think he's right. But, again, I don't think our Board
2 should go against counsel in this position. And so that's
3 why I think the situation is as it is.

4 Mr. Korby, I see you standing there. I'm going to
5 assume that you'll just echo everything that's been said on
6 behalf of your constituents and it's the same situation; is
7 that correct?

8 MR. KORBY: That's partly correct. Chris Korby,
9 California Authority of Racing Fairs.

10 First of all, I'm glad to hear what appeared to be
11 a letter or communication of some kind that the Sacramento
12 Harness people were attempting to communicate with those of
13 us who are owed money. I have not received such a
14 communication, and we represent all the fair satellites
15 around the State, who are owed just under \$200,000.

16 So if anyone from Sacramento Harness is listening,
17 we'd like to hear such a communication and such a
18 commitment.

19 I just want to echo what Mr. Liebau said in one
20 regard. I think there is an integrity issue here. I think
21 that, frankly, the Board starts down a slippery slope if you
22 don't enforce the statute that protects the peri-mutual
23 distributions. And I think it's an obligation to protect
24 those of us who rely on those for our livelihood. And I'll
25 just leave it at that.

1 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
2 much.

3 You know, Commissioner Choper, I think you're
4 correct.

5 And, Counsel Miller, have we gotten an AG's
6 opinion on this?

7 STAFF COUNSEL MILLER: No, we have not, not a
8 formal opinion.

9 COMMISSION CHAIRPERSON SHAPIRO: Can we seek a
10 formal opinion?

11 STAFF COUNSEL MILLER: Yes.

12 COMMISSION CHAIRPERSON SHAPIRO: Can we do that
13 poste haste?

14 STAFF COUNSEL MILLER: Yes.

15 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, just on
16 this so-called trust, the money held in trust.

17 COMMISSION CHAIRPERSON SHAPIRO: Yes.

18 COMMISSION VICE CHAIRPERSON HARRIS: Not
19 necessarily on all of these other categories of creditors.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 COMMISSIONER ISRAEL: How much money is held in
22 trust?

23 COMMISSION CHAIRPERSON SHAPIRO: Say it again, I
24 didn't hear you?

25 COMMISSIONER ISRAEL: What's the total amount of

1 money that is being held in trust, does anybody know?

2 COMMISSION CHAIRPERSON SHAPIRO: We have a
3 breakdown. Do you have the breakdown?

4 STAFF COUNSEL MILLER: Yeah, I don't have the
5 breakdown with me, but it is in excess of what is owed to
6 the satellite --

7 COMMISSIONER ISRAEL: So the money does exist to
8 pay everybody?

9 STAFF COUNSEL MILLER: The money is there. The
10 problem that runs in is that action by this Board to give
11 preference, give the appearance of preference to one class
12 of creditors over another exposes this Board, I believe, to
13 liability.

14 COMMISSIONER CHOPER: Yes.

15 STAFF COUNSEL MILLER: By the unsecured creditors.

16 COMMISSIONER CHOPER: Yes, we can avoid that by
17 saying that we aren't going to distribute any of the money.

18 STAFF COUNSEL MILLER: The other thing is that the
19 term "trust funds" is used here, the statute does not say
20 trust funds.

21 COMMISSIONER CHOPER: No, no, that was just in
22 quotes.

23 STAFF COUNSEL MILLER: I know. But it's important
24 to understand that in the language here, the statute
25 provides the manner in which the monies will be distributed.

1 COMMISSIONER ISRAEL: So the statute doesn't
2 supersede a bankruptcy court filing?

3 STAFF COUNSEL MILLER: That's for the bankruptcy
4 court to determine, as to what are the -- what -- is this
5 class of debtors, are they preferred over others, over the
6 general vendors that did business with --

7 COMMISSIONER ISRAEL: Right, right.

8 STAFF COUNSEL MILLER: It is the position of the
9 horsemen's association and the satellite wagering facilities
10 that, yes, they are entitled to a preference. That this
11 really is not Sacramento Harness money, it is their money.
12 Correct?

13 MR. PEREZ: Correct.

14 STAFF COUNSEL MILLER: And that, therefore, it
15 really shouldn't come into Sacramento Harness books.

16 But the problem is that this money has
17 traditionally been distributed by Sacramento Harness.

18 COMMISSIONER ISRAEL: Okay, then I have just one
19 other question. The implication or the allegation was that
20 the condition of the license that was granted was the
21 posting of a \$450,000 letter of credit. And is it true that
22 the letter of credit was never posted?

23 STAFF COUNSEL MILLER: I have no knowledge of
24 that. I do know that the California Horse Racing Board is
25 holding a \$100,000 deposit from Sacramento Harness

1 Association.

2 COMMISSIONER ISRAEL: That's \$350,000 less than
3 \$450,000.

4 EXECUTIVE DIRECTOR BREED: That wasn't the
5 condition.

6 COMMISSIONER ISRAEL: That wasn't the condition?
7 No, okay.

8 COMMISSION VICE CHAIRPERSON HARRIS: Well, where
9 did we get that --

10 COMMISSIONER ISRAEL: It was Mr. Liebau, Mr.
11 Liebau said that --

12 COMMISSION CHAIRPERSON SHAPIRO: Wait a second.
13 You asked was that a condition; correct?

14 COMMISSIONER ISRAEL: No, I asked if the letter
15 was posted -- I asked -- he alleged that the condition
16 was -- I mean, Jack, am I saying this right?

17 You said that they were granted a license
18 conditioned upon posting a \$450,000 --

19 COMMISSION CHAIRPERSON SHAPIRO: I don't think the
20 number's right, I don't think it was 450 but --

21 MR. LIEBAU: Well, we've had disputes about
22 numbers before, but --

23 COMMISSIONER ISRAEL: Yeah, I'm trying to find out
24 what you said five, ten minutes ago.

25 MR. LIEBAU: No, I think it was 450,000. I think

1 the condition was actually imposed, or suggested, or
2 whatever by Mr. Choper.

3 COMMISSIONER ISRAEL: Okay, and so the letter was
4 never provided?

5 EXECUTIVE DIRECTOR BREED: Not to my knowledge.
6 All we had was --

7 COMMISSION CHAIRPERSON SHAPIRO: Well, I'm trying
8 to answer your question, because I think it's very fair and
9 legitimate.

10 And the answer was I believe it was a condition of
11 licensure.

12 COMMISSIONER ISRAEL: And was the letter --

13 COMMISSION CHAIRPERSON SHAPIRO: And I do not
14 believe that it was supplied to us, which I believe was not
15 discovered until later, and I believe that --

16 MR. LIEBAU: I raised the issue, Mr. Israel, as
17 probably not surprisingly.

18 COMMISSIONER ISRAEL: Well, here, maybe I can help
19 clarify. The letter would have been provided by "IndyMac"
20 so it wouldn't have amounted to anything, anyway, how's
21 that?

22 MR. LIEBAU: That's possible. But maybe FDIC, I
23 could have got something out of that, I don't know.

24 COMMISSIONER ISRAEL: Not with "IndyMac."

25 COMMISSIONER CHOPER: You know, to answer, David,

1 your other question?

2 COMMISSIONER ISRAEL: Yeah.

3 COMMISSIONER CHOPER: The Federal -- I don't know
4 much about bankruptcy --

5 COMMISSIONER ISRAEL: Well, you know a hell of a
6 lot more than I do.

7 COMMISSIONER CHOPER: Well, it's 50 years old,
8 when I took a bankruptcy course. But, nonetheless, it has
9 the power to trump state law, and it also, the bankruptcy
10 law has traditionally been interpreted as strongly favoring
11 equality among creditors.

12 COMMISSIONER ISRAEL: Okay.

13 COMMISSIONER CHOPER: And that's why even though,
14 Mr. Liebau, you make a very strong argument with respect to
15 the security of that money, I --

16 MR. LIEBAU: Not a winning one.

17 COMMISSIONER CHOPER: No, you can win here. But
18 in the end you can lose. And I wouldn't want to be
19 complicit in doing something that would remove the
20 availability of those from the bankruptcy court's order. I
21 mean, that's what it comes down to.

22 And I think, as the Chairman said, we're pretty
23 much in sympathy with what -- more than pretty much, with
24 what you said.

25 But maybe we should look into it again. But I

1 wouldn't do anything except do it on condition that we make
2 a statement that's subject to the final disposition by the
3 bankruptcy court.

4 MR. LIEBAU: Mr. Choper, I guess that to put all
5 my cards on the table, I've got a hell of a lot better
6 chance in the bankruptcy court if I've got an interpretation
7 of the law from the California Horse Racing Board, and
8 that's what I'm trying to get to.

9 COMMISSION CHAIRPERSON SHAPIRO: And you know
10 what, I think we're trying to get that for you, Jack.

11 Okay, let's move on. Mr. Perez?

12 MR. PEREZ: Just real quick, real quick.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay.

14 MR. PEREZ: Mr. Choper, in 2006 -- I don't know if
15 you're aware of this or not, but the Board did ask Scotwinc
16 to release the monies that were from Capital Racing, for the
17 outs directed to horsemen. And that was in -- that was a
18 recommendation from the Board to the staff, and staff
19 recommended that.

20 And to answer, Mr. Israel, your question, all I
21 know is there was a hundred thousand with the Racing Board,
22 and 113,000 at Notwinc, and I don't know what else is out
23 there. But anything you could do to help would be
24 appreciated.

25 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

1 Okay, moving onto Item Number 7, discussion and
2 action by the Board regarding requiring certification of
3 Secondary Pari-Mutuel Organizations by the Association of
4 Racing Commissioners International in conjunction with other
5 racing jurisdictions.

6 I am the party that basically put this on the
7 agenda. And given -- it's more to introduce the concept.
8 There's no decision, I think, to be reached here today. But
9 to basically make aware what the ARCI is doing in this
10 regard.

11 And I would ask that the Commissioners turn back
12 to Item Number 2 in their package. Item Number 2 in their
13 package, which is the Hollywood Park License application,
14 and I'm only using Hollywood Park as an example.

15 But contained within that application you will see
16 that there are a list of secondary pari-mutuel organizations
17 that we license -- that are part of their license.

18 Since I have been on this Board, I have always
19 been troubled with the notion that implicit with our
20 licensing of these racing -- our racing license, we are
21 deemed -- we are approving the list, on page 2 of 20 --

22 COMMISSION VICE CHAIRPERSON HARRIS: It's 219.

23 COMMISSION CHAIRPERSON SHAPIRO: Or 219 and 220.

24 Now, we all will know who Oak Lawn Park is, I don't know
25 anything about Hipodromoenlinea.com\racelinebet.com. That

1 is a secondary pari-mutuel organization. And when we
2 approve this license application my concern has always been,
3 since I've been on this Board, that we, in essence, are
4 approving these people that should receive our racing
5 signal. We are, in essence, endorsing that they are
6 legitimate concerns. That they are entering into our racing
7 pools.

8 And I believe that it raises a big issue with
9 respect to wagering security and integrity issues. Not that
10 I have any knowledge about anybody in particular, but I
11 simply don't know who's doing due diligence on all of these
12 issues, on all of these secondary pari-mutuel organizations.

13 So, as a member of ARCI, I brought this up and had
14 a discussion with various different states, and the ARCI
15 board had determined to move forward on a national basis to
16 try and create a Good Housekeeping Seal, so to speak, so
17 that one could be issued to all of these organizations and
18 we could know that they are wagering in our pools, they are
19 of good character, the wagering is secure, and the integrity
20 of the game is protected.

21 Now, I'm also aware that TRPB does work for those
22 entities, those thoroughbred racing entities that I guess of
23 which are members, or how that works I'm not sure, but we
24 don't see their due diligence. We don't have the staff,
25 ourselves, to do this.

1 In talking to other racing jurisdictions, none of
2 them have the staff to do this due diligence.

3 So this would be a program that would be basically
4 run by the ARCI and/or the National Racing Compact. They
5 would go in, they would do due diligence, they would make
6 that available to not only the California Horse Racing
7 Board, but also to Kentucky, which is considering a similar
8 action, NARI, Florida, and everywhere else.

9 So that if the Hipodromo something or other wants
10 to accept it, we know we're dealing with good people and
11 good character.

12 COMMISSIONER ISRAEL: You know, Hipodromoenlinea
13 is actually Churchill Downs, believe it or not.

14 COMMISSION CHAIRPERSON SHAPIRO: That's who that
15 is?

16 COMMISSIONER ISRAEL: Yeah.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, there are a
18 lot of names that we don't know who they are, who the people
19 are.

20 COMMISSIONER ISRAEL: Yes.

21 COMMISSION CHAIRPERSON SHAPIRO: So this is more
22 or less a certification program.

23 I'm not suggesting that California should move
24 alone. In fact, we certain. We don't want to see our
25 tracks, our track partners, our ADW companies disadvantaged,

1 that we're setting limits or requirements here that are so
2 much more stringent that we can't do business with those
3 people we want to do business is with.

4 But the notion is here for the Board to look at
5 moving forward and joining with what I expect is a national
6 program that will move forward to create and protect
7 integrity, to create more security and to protect the
8 integrity of our wagering systems.

9 COMMISSIONER ISRAEL: What will it cost us?

10 COMMISSION CHAIRPERSON SHAPIRO: It will not cost
11 us anything. The concept is that the people that wish to be
12 certified would pay the cost of the certification process
13 through ARCI, it's their cost of getting this Good
14 Housekeeping Seal, so to speak.

15 COMMISSIONER ISRAEL: Right.

16 COMMISSION CHAIRPERSON SHAPIRO: And it will be a
17 benefit to them in that they will be able to use -- be able
18 to show this throughout the country. So we would not incur
19 any cost.

20 COMMISSIONER ISRAEL: And what kind of oversight
21 do we have of the ARCI investigators?

22 COMMISSION CHAIRPERSON SHAPIRO: We are a member
23 of ARCI. ARCI makes model rules. We're a member of their
24 Board. And just as -- and we are a member of that
25 association. We would have input, just as all other member

1 states would, into approving the method of which they would
2 go through this process. They're basically a vendor
3 providing service.

4 And the recommendation -- they're basically saying
5 here's what we're done, you will make the decision of
6 whether you approve them or not.

7 COMMISSIONER ISRAEL: It sounds like a good idea.
8 My only concern would be if something untoward happens and
9 one of these people who we've now certified doesn't pay off,
10 does something wrong, are we then, by virtue of the fact
11 that we've participated in this certification process that
12 we then become liable in a way that we wouldn't have if we
13 didn't participate.

14 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
15 we imply, now, in looking at the write-up, that there has
16 been due diligence done, where there really isn't. So this
17 might not be perfect, but it's better than what we have.

18 COMMISSIONER ISRAEL: Well, I mean, I guess a
19 better question is, Bob, do we get any liability, are we any
20 more liable by participating than we would be by not
21 participating?

22 STAFF COUNSEL MILLER: No.

23 COMMISSIONER ISRAEL: Same difference.

24 STAFF COUNSEL MILLER: Same difference.

25 COMMISSIONER ISRAEL: Then I don't care, that's

1 fine.

2 COMMISSION CHAIRPERSON SHAPIRO: Is there any
3 other comment from any Member of the Board? Otherwise, I
4 think there may be some public comment. Item Number 7,
5 Scott Daruty?

6 MR. DARUTY: Good afternoon, I'm Scott Daruty,
7 from TrackNet Media Group, and we're essentially the sales
8 agent for approximately 18 different racetracks across the
9 country. That includes all the Magna tracks, Santa Anita,
10 and Golden Gate, and Magna's out-of-state tracks, as well as
11 Churchill Downs racetracks, and some third-party independent
12 racetracks, such as Oak Lawn Park, and others.

13 Nobody, I believe, in this room would stand up and
14 tell you that wagering security and the integrity of our
15 pools is an unimportant issue. We all agree that it's of
16 utmost importance to have our customers', our betting
17 public's confidence in the pools, to know who we're dealing
18 with when we sell our signals, and to make sure those people
19 who we're dealing with are above board and of highest
20 integrity. Everybody agrees to that.

21 I think when you start to talk, however, about
22 imposing this sort of regulatory regime over our industry, I
23 think that's when you have to stop and say, hey, wait a
24 minute, is this the best way to really achieve the goal that
25 we all need to achieve?

1 When TrackNet was formed, almost two years ago,
2 one of the key initiatives that we undertook was a similar
3 initiative to which you all are trying to undertake, which
4 is we need to get better control of our signals, we need to
5 better understand who we're selling to, how they're
6 licensed, how they're regulated, what their history is.

7 Traditionally, in our industry, and this is
8 pointing blame on anybody, it's sort of a fact of the
9 industry we're in, because it's so fragmented, because you
10 have so many racetracks, you know, here just in California,
11 you know, we've got tracks that run for three months, four
12 months, and then turn it over to somebody else for the rest
13 of the year, it was really -- it was a very difficult
14 environment in which each track would have to do this sort
15 of diligence.

16 And because nobody could justify that for four
17 months sometimes, perhaps, there wasn't as much done as
18 should have been.

19 And so when TrackNet was formed, with kind of a
20 critical mass of racetracks, we had both the budget and the
21 time, and with the budget, the manpower to go out and hire a
22 vice president of wagering integrity to start to take on
23 this challenge.

24 So in speaking for Santa Anita and Golden Gate, I
25 can tell you that there's an extensive process that that

1 list of secondary sites, that you don't know who they all
2 are, there's an extensive background process that goes
3 through -- that we go through before we decide to sell our
4 signal to somebody.

5 And to give you an example, if a company comes to
6 us today, that says I'm a new offshore rebate company, I
7 want to buy the TrackNet signals, setting aside the business
8 issues and price, and do we -- you know, we could debate is
9 rebating good or bad, and should we allow more people, and
10 set that aside, what we would do if we decided from a
11 business stand point to move forward, is a pretty extensive
12 process, which I'll outline just briefly for you.

13 First of all, we would have a very, very detailed
14 application submitted, which tells us things like where are
15 they licensed, how long have they been licensed. Typical
16 questions like have you ever had regulatory problems, have
17 you had licensed revoked, have you had criminal files
18 charged, have you been involved in civil lawsuits? If any
19 of those are yes, provide all the background, provide all
20 the documents.

21 We go into how their business operates, what is
22 their business model? In other words, do you pay rebates,
23 do you not pay rebates, are you a walk-up location or are
24 you an account wagering company?

25 If you are a walk-up location, then perhaps you're

1 in another country. Are there other betting activities that
2 take place at your facility? In other words, are you a
3 casino, are you purely an off-track betting location. It's
4 very exhaustive.

5 We then go into each individual who is an owner or
6 a key executive of that business and get personal history,
7 everything from job history, to residence history, to the
8 same sort of litigation and criminal liability type of
9 questions.

10 Once we have those applications, we can look at
11 that and that gives us a better understanding of is this a
12 business we want to partner with, do we want them to be
13 distributing our product?

14 The next step is to hire an outside agency, and we
15 do use the Thoroughbred Racing Protective Bureau, who will
16 run background checks on both the individuals and the
17 companies. The background checks would, again, confirm what
18 was in the application, no criminal history, no regulatory
19 problems, licenses are in order.

20 We do check with the agency who issued the license
21 to make sure that it is, in fact, valid and it's in good
22 standing.

23 We'd then for certain -- and that's the basic
24 package. Everybody who gets our content, but who's not a
25 racetrack who we've traditionally done business with, goes

1 through that process.

2 Then for the high volume rebaters, we go through a
3 further, secondary process which involves tote analysis,
4 wagering analysis. That's done by the TRPB, but we work
5 side by side with them.

6 In fact, one of the major rebate companies, Elite
7 Turf Club, had our vice president of wagering integrity and
8 the TRPB at their facility a few weeks ago. They were very
9 cooperative. It was a two- or three-day meeting, that
10 included meeting with the secretary of some ministry in
11 Curacao, I can't remember what it is, but the person who
12 actually issued the license, to find out that this is all
13 legitimate.

14 It was followed up by meetings at the company's
15 hub, tote hub in Las Vegas, to check on the technical
16 aspects.

17 So I give you all this detail, not to bore you,
18 but to let you know that it may be from your perspective
19 that there's a long list of people who you're not sure who
20 they are, but I can tell you that the tracks, at least Santa
21 Anita and Golden Gate, and then within California we
22 obviously talk, and so while Hollywood, and Del Mar, and
23 others are not doing the exact same thing, they do have some
24 assurance that it is taking place.

25 There's never been an intent, I think, to exclude

1 the CHRB as to who these people are, and we'd be happy to
2 have our staff work with the CHRB staff, so that you're as
3 up to speed on every one of these outlets as we are.

4 And it may very well be that they're -- it might
5 be appropriate, under some circumstances, to have a
6 regulatory regime doing the same thing, although I worry a
7 little bit that at some point we're going to overwhelm some
8 of these secondary sites, that they're spending so much time
9 with compliance and licensing that they don't have time to
10 run their business.

11 And as I've looked at the RCI proposal, there were
12 a couple of things that really jumped out at me as being
13 pretty problematic.

14 One, and it's sort of a threshold issue, is I'm
15 not sure it's the best public policy, and from a legality
16 stand point, whether it's legal or not, I'll set aside. I'm
17 not sure it's the best public policy for this Commission to
18 essentially delegate that review process to an out-of-state
19 association of multiple regulators.

20 And the reason I say that is because there are
21 important issues that we talk about every day in these sorts
22 of meetings, or every month in these sorts of meetings that
23 have so many different aspects, how do they relate to
24 California racing versus out-of-state racing, and I would
25 hate to see our racetracks in a position where because an

1 out-of-state agency has said you can't do business with XYZ
2 company, our tracks weren't able to do business.

3 And let me give you a couple of specific examples.
4 Because when you're talking about this sort of wagering
5 integrity, by definition there is balancing that has to take
6 place, there's discretion that has to take place.

7 We see, from time to time, an applicant who comes
8 to us and says we'd like to buy TrackNet product. And we
9 say, wait a minute, aren't you the company that three years
10 ago had this problem, whatever the problem is. Maybe it was
11 a wagering issue, or maybe there was some sort of regulatory
12 investigation, whatever it is, didn't you have a problem?

13 And the answer, sometimes, is yes, we did. We had
14 a certain individual who did something wrong, and we found
15 out about it, and we paid our regulatory price, so to speak.
16 We got rid of that person, we've cleaned up our act. We've
17 been operating for X period of time and now everything's
18 fine.

19 And we look at it and we make a decision.
20 Sometimes we say, you know what, we buy that story, and
21 sometimes we say we don't buy that story.

22 But I think we, as racetracks, and you, as a
23 California regulator, should be the ones who make that
24 decision. I'm not sure I like the fact that some
25 association out of state is deciding how to come out on that

1 discretion, how to come out on that balancing.

2 So I would like to keep that control with the
3 racetracks and then, ultimately, such to the approval of the
4 regulators. And again, if you feel like --

5 COMMISSION CHAIRPERSON SHAPIRO: Well, I think the
6 intent was for them to simply make recommendation and for
7 each of the different racing jurisdictions to make their own
8 approval.

9 MR. DARUTY: And that's fine, and that's where,
10 again, the concern is. That when you start to impose the
11 breadth and the expense of this approval process -- I just
12 was speaking with the gentleman who's here from XpressBet,
13 who pointed out that as he reads these regulations, or this
14 proposed regulation, it would be somewhere in the
15 neighborhood of \$250,000 of expense, just for Magna, for
16 each different betting outlet that would fall under these
17 classifications.

18 I think the definition of SPMO, that's in here, is
19 extraordinarily broad. I think you would be required to go
20 get approval for every casino in Nevada that's taking
21 wagers. You would have, you know XpressBet, Twinspires,
22 TVG, Youbet, companies that have been doing business here,
23 in California, in many instances for the past seven years,
24 would be required to now go out and have this expensive
25 process undertaken.

1 The proposal that I'd seen has every person, who's
2 a one percent shareholder, subject to these licensing and
3 background check requirements.

4 Again, we've applied discretion in our process.
5 If somebody has control, or has five percent or ten percent,
6 that might be one thing. But when you're talking about
7 public companies, I think the one percent threshold is very
8 problematic.

9 So I guess the purpose of my statement is, one, to
10 assure this Commission that there is a high level of due
11 diligence that goes into these sites. And if anybody would
12 like to, you know, have access to that information, of
13 course subject to confidentiality agreements, we'd have to
14 get these sites to agree that we could disclose it to you,
15 I'm sure we would, but we'd be happy to work with you to
16 make sure you have as much comfort with these sites as we
17 do.

18 I think we can get there without imposing another
19 layer of regulation.

20 And I'm also concerned about the ability to really
21 implement this. I notice that there's a January 1, 2010
22 start date. I have a concern that we're going to, now, in
23 our process, run up against a brick wall with everybody,
24 because everybody's going to say, well, we're not going to
25 go through the process the tracks are pushing now because

1 there's going to be a new process come online in 12 months.

2 And I think as we all know, as these things work
3 out, it usually ends up being longer than we expect, so
4 maybe it ends up being 24 months. Well, now, we've all sort
5 of taken a pass on the issue for the next 24 months because
6 we're waiting for this new regime to come in place. I'm
7 concerned about that.

8 And I'm also concerned about the need for -- you
9 know, to get everybody through this at one time is
10 impossible. So, certainly, there's got to be discretion
11 applied as to who are the most important companies we should
12 start with. And, again, I think that's a level of
13 discretion that I think should be applied here, in
14 California, not by a national association.

15 COMMISSION CHAIRPERSON SHAPIRO: Let me -- I think
16 you -- I appreciate all these comments, and they're great
17 comments. And I think there's a bit of an over-reaction to
18 the status of where this is.

19 As I said, this is basically being put forth to
20 all of the jurisdictions that signed on to want to improve
21 the integrity, and to protect the integrity, and the
22 security of the wagering.

23 Okay. We are looking to work -- we, ARCI, are
24 looking to work with all of you and have your input, get
25 your input into ways to do this, so that it's not an undue

1 burden or cost to anybody. But perhaps there would be
2 efficiencies, as well as providing Boards, just like this
3 one, where we don't have the staff, where essentially we get
4 a license application, all these names are there, we don't
5 know who they are, or what they are, or what work's been
6 done.

7 Because as you, yourself, know none of this --
8 it's never presented to us -- who's behind these names.

9 So looking at it from our perspective, wanting to
10 protect the State of California, our industry, the integrity
11 of the game, it's like, hey, wait a second, if there's a way
12 to have something that's -- we know that there's a process
13 in place, that's what we're looking for.

14 So I would encourage you to work with ARCI, and
15 the committee that's working on this, to give them comment
16 and input.

17 There's no action, I don't think, for us to take
18 here at this point, other than to express even interest on
19 finding a way to make sure that we're protecting all of our
20 interests and that there's some due diligence process in
21 place.

22 Anybody have an issue with that?

23 Okay, thank you.

24 MR. DARUTY: Thank you.

25 COMMISSION CHAIRPERSON SHAPIRO: I know there's

1 comments cards, I think from Mr. Scoggins. In light of
2 what's been said, I see him shaking his head, no, he doesn't
3 need to speak.

4 Mr. Hindman, is there any -- no, he's shaking his
5 head.

6 Are there any other comments from the Board?

7 I, again, believe that this is an important
8 element to protect the public and to protect the integrity
9 of the game, and it's something that we need to be focused
10 on.

11 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I've
12 long been bothered by the same thing that you are, Richard,
13 that we see all these names, but they don't really mean
14 anything. They don't really have to mean anything to us as
15 long as, in fact, there has been some due diligence done.

16 But I was under the impression that there wasn't
17 much due diligence done on many of the names we see. But we
18 don't want to develop a redundant sort of system, or
19 something that's really so costly it doesn't figure.

20 But we've got to have some way, when somebody's
21 taking our wagering, that there's some version of integrity
22 there.

23 COMMISSION CHAIRPERSON SHAPIRO: And trying to
24 work with other jurisdictions, that have the exact same
25 issues, we would think there would be some economies of

1 scale.

2 COMMISSIONER ISRAEL: If I'm not mistaken, but I
3 thought you said there was no cost so, John, there shouldn't
4 be.

5 COMMISSION VICE CHAIRPERSON HARRIS: Well, there's
6 no cost -- I think there's always a cost.

7 COMMISSION CHAIRPERSON SHAPIRO: To the SPMOs.
8 And we think that those people, rather than if we -- if
9 California says, okay, we want you to do this, and New York
10 says we want you to do this, versus if there's one central
11 authority that's doing due diligence, it may be more
12 efficient in cost to the SPMOs. That's part of the thought.

13 COMMISSIONER ISRAEL: Well, that's --

14 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

15 COMMISSIONER ISRAEL: That's kind of --

16 COMMISSION CHAIRPERSON SHAPIRO: There's no cost
17 to us.

18 COMMISSIONER ISRAEL: There's no cost to the State
19 of California?

20 COMMISSION CHAIRPERSON SHAPIRO: No. No.

21 COMMISSIONER ISRAEL: Okay, that's --

22 COMMISSION CHAIRPERSON SHAPIRO: No. But I'm just
23 saying we get some security, some protection and assurances,
24 and we think it will even be a less cost to the SPMOs by
25 having all the states kind of working together. It would be

1 better for them, too. And that's some of the input we got.

2 COMMISSIONER CHOPER: Just one quick -- Mr.
3 Daruty, are you still there?

4 MR. DARUTY: Yes.

5 COMMISSIONER CHOPER: Did you look at the list
6 that we had here for Hollywood Park? I mean, you don't have
7 this book, I know, so --

8 COMMISSION CHAIRPERSON SHAPIRO: Yeah, but he's
9 very familiar with it.

10 COMMISSIONER CHOPER: I mean, there are -- how
11 many -- how many are there, I can't count that far. I guess
12 my question I wanted to ask is have you investigated every
13 one of those things?

14 MR. DARUTY: Well, it's --

15 COMMISSIONER CHOPER: I know it's Hollywood and
16 not Santa Anita, but I take it, it must be very similar.

17 COMMISSION CHAIRPERSON SHAPIRO: It's the same
18 ones.

19 COMMISSIONER CHOPER: It's the same ones. Have
20 you investigated all of those?

21 MR. DARUTY: We have not gone through the process
22 I described for every one of these, no, but we --

23 COMMISSIONER CHOPER: But do you have a process in
24 which you plan to go through all of them?

25 MR. DARUTY: Well, what we have done is we've

1 taken licensed, regulated racetracks out of the equation.

2 COMMISSIONER CHOPER: Yeah, I understand.

3 MR. DARUTY: And then what we've done is we've
4 started with either -- either new entities, or particularly
5 large entities, and our analysis was where there's more
6 money bet, there's potentially more risk for something to go
7 wrong, so we'll start with the large ones.

8 Many of these have not -- we have not gotten to,
9 yet, but they're companies or businesses who -- who the
10 tracks in California have done business with for years.

11 That doesn't mean they shouldn't ultimately get
12 this background check, but there's a lower risk with
13 somebody we've known and trusted for years --

14 COMMISSIONER CHOPER: What would you project --

15 MR. DARUTY: -- than there is with someone who's
16 new.

17 COMMISSIONER CHOPER: Excuse me for interrupting.
18 What would you project, offhand, for your march right there?

19 MR. DARUTY: Well, I mean, that's a good question,
20 and that kind of gets to one of the points I was trying to
21 make on the RCI process. This is incredibly time consuming.
22 When you're going to go and you're going to sit down with
23 regulators, and analyze the tote system, look at computer
24 systems, looking at betting pattern and history, it's
25 usually a long process.

1 COMMISSIONER CHOPER: Yes.

2 MR. DARUTY: And each one of those is, you know,
3 in the approximately six-month time frame, you know, between
4 doing that, and asking follow-up questions, and having
5 secondary meetings, and so it is time consuming. And you
6 simply can't apply it to everybody all at once, which was,
7 again, why --

8 COMMISSIONER CHOPER: I understand. What would
9 you guess? Or if you don't want to, that's all right. But
10 I just wondered if you had any answer to that question?

11 MR. DARUTY: Well, I think we would be --
12 certainly, we've prioritized the rebate companies. I would
13 anticipate we'd be through the rebate companies in the next
14 six to 12 months. And then, after that, we'd turn our
15 attention to some of the other --

16 COMMISSIONER CHOPER: Several years, you would
17 say?

18 MR. DARUTY: Probably, yes.

19 COMMISSIONER CHOPER: Let me ask -- I'm sorry, I
20 just want to know, what do you think we ought to do? I
21 mean, you gave us a lot of information.

22 So there's a proposal that we join up with this
23 International Racing -- whatever, Racing Association, right?

24 COMMISSION CHAIRPERSON SHAPIRO: RCI.

25 COMMISSIONER CHOPER: RCI. What do you think the

1 Board ought to do?

2 MR. DARUTY: Well, I think Mr. Shapiro's
3 suggestion is a good one that, we, the racetracks, can
4 perhaps work with RCI and make sure we come up with a
5 process that is efficient, non-redundant, and also gives
6 everybody all the information that we want.

7 Because the question you're asking is a perfectly,
8 legitimate, great question, and it's something that we, as
9 an industry, need to make sure we know the answer to who are
10 all these people and have they been licensed and --

11 COMMISSIONER CHOPER: Have you talked to RCI,
12 ever?

13 MR. DARUTY: Well, ever, yes. Recently, no. And
14 I think there was concern among, particularly the account
15 wagering companies, in seeing this agenda, that it appeared
16 that this item may have been much farther down the road than
17 you're now telling us it is.

18 COMMISSIONER CHOPER: Well, I think you ought to -
19 - I mean, no one's interested in reinventing the wheel here.
20 If you're doing it, they're planning to do it, there ought
21 to be room for a collaboration or something. But I think
22 we'd be interesting in seeing what's going on there. It's a
23 good idea to investigate all these operations, there's no
24 question about that.

25 And the question is how do we do so most

1 effectively and efficiently?

2 MR. DARUTY: And that is why we will follow up
3 with Mr. Shapiro's suggestion and get together them.

4 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank
5 you very much.

6 We'll move on, now, to Item Number 8, discussion
7 and action by the Board regarding the allocation of race
8 dates and related issues for 2009 and beyond.

9 This item is -- well, it's hard to believe, but
10 here we are in September of 2008, and we need to start
11 dealing with 2009 and beyond's calendar.

12 We know that we no longer in the north have Bay
13 Meadows, unfortunately. We know that we need to have a
14 revised and new racing -- a new racing schedule up in the
15 north.

16 I don't think that there's anything that we need
17 to discuss today on the night calendar, so I would suggest
18 that we just leave this, unless there's an objection. And I
19 think that Rod Blonien was here for the quarter horses, and
20 I've spoken to people in the harness industry, there's
21 discussions taking place.

22 So I think today we ought to talk about the
23 calendar of the Northern and Southern California
24 thoroughbred circuits.

25 So, therefore, I'm not aware of any calendars that

1 have come to pass. I've not seen any. And perhaps what we
2 need to do is schedule a Strategic Planning and Race Dates
3 Committee meeting, so we can specifically deal with that.

4 The calendar that's in our book, for the south, is
5 probably applicable, but in the north is not really
6 relevant, since Bay Meadows no longer exists as a racing
7 venue.

8 So with that, I would simply like to suggest that
9 as we look at calendars, it seems to me that we have fewer
10 horses, our field size is an issue. And for Northern
11 California, on the fairs, and throughout the year, frankly,
12 I think, other than probably a few exceptions, and Del Mar
13 being one of those, that we should look to try and not have
14 six-days-a-week of racing, but no more than five, maybe four
15 in certain circumstances. And we should look at how we can
16 reduce certain numbers of race dates so that we can get
17 field size up, we can get interest up, and we can improve
18 the quality of our product.

19 I don't have the answers, those are just a couple
20 of ideas. And I think that I'd like to hear from Board
21 Members, and then anybody who chooses to address this.

22 COMMISSION VICE CHAIRPERSON HARRIS: I agree. I
23 think to really do it right, we need to have sort of a
24 special meeting just on this issue.

25 COMMISSION CHAIRPERSON SHAPIRO: Right.

1 COMMISSION VICE CHAIRPERSON HARRIS: But I agree,
2 especially in the north we have problems, I think, just the
3 economics have gotten worse and I'm worried going forward.

4 I mean, we've kind of gotten through this year
5 okay, but I think we need to take a hard look at ways we
6 can -- basically, what we need to do is increase the purse
7 per race, which is tough to do with declining handles.

8 But I think that going to four-day weeks may help
9 that because it will -- not four-day weeks throughout, but
10 several four-day weeks will enhance field size, which will
11 lead to more wagering, but it will also allow the tracks to
12 bring in the southern signal, plus other signals, on their
13 northern dark day, and that money will stay in the north and
14 be used to enhance commissions and purses on their regular
15 days.

16 And I think we have to stay ahead of the curve, we
17 can't wait until it gets to be a crisis.

18 I, personally, don't like -- I know it's been
19 suggested that we have long breaks here and there, like the
20 so-called old days. I don't really like the long break
21 theory. I think, you know, a three-, four-, five-day break
22 may be prudent, but I'd hate to see a real gap because then
23 I think you start losing your fans, and the horses are
24 getting fed and cared for every day, so it wouldn't really
25 save on expenses.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay. Anybody
2 else care to make a comment?

3 COMMISSIONER CHOPER: I thought, from Northern
4 California -- I mean, Golden Gate did so well in terms of
5 field size last time around, I think it would be very
6 interesting to see, with the much longer period, I mean, the
7 takeover of all of the Northern California dates, all of Bay
8 Meadows dates, where you can keep up that number.

9 If you do, that will tell us a lot about what we
10 ought to plan for the future. Because you had over eight
11 horses on average, and that's a pretty good number.

12 If you keep -- and I read someplace, maybe it was
13 in one of these columns that Mike Marten sends around, that
14 you had a lot of horses from up north coming down, from
15 Canada, and similar to last year. So that's just very
16 encouraging, if so.

17 COMMISSION CHAIRPERSON SHAPIRO: I don't know
18 about the fairs, though.

19 COMMISSIONER CHOPER: I think the fairs --

20 COMMISSION CHAIRPERSON SHAPIRO: And the comment
21 -- to the fairs.

22 COMMISSION VICE CHAIRPERSON HARRIS: No, I agree,
23 that Golden Gate did a good meet. We don't want to -- if
24 they're able to sustain that, we don't -- I mean, on a four-
25 day week, that idea is viable. But I think we need to look

1 at things like that.

2 And the fairs, I question the six-day weeks there,
3 even if they are overlapping Del Mar, that it just goes
4 through so many horses. Plus, I think we can get rid of the
5 fair overlaps, even at Ferndale, and particularly,
6 definitely at Fresno, because there just aren't the horse
7 population and we need to better focus on what we're doing.

8 And I know it's going to be a touchy deal as far
9 as some of the fairs, like Vallejo, and possibly Stockton,
10 if that's the best venue to give two weeks to, anyway, or
11 are we better off moving those, and sort of ripple effects
12 that's going to have.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay.

14 COMMISSIONER CHOPER: Could we have the Vallejo,
15 and let's say the Stockton fair, which has really had a very
16 difficult time this year, can we have that Stockton fair run
17 at Golden Gate Fields, or Pleasanton, for that matter?

18 COMMISSION CHAIRPERSON SHAPIRO: Well, they can
19 have combined meets.

20 COMMISSIONER CHOPER: Combined meets.

21 COMMISSION CHAIRPERSON SHAPIRO: The fairs can
22 have combined meets, and the Board did encourage a combined
23 meet when Vallejo and Santa Rosa got together, remember
24 that --

25 COMMISSIONER CHOPER: I remember that.

1 COMMISSION CHAIRPERSON SHAPIRO: -- and then it
2 wasn't continued.

3 I think there may be some latitude in the law
4 where I think Pleasanton could run at Golden Gate, but I
5 don't want to interpret that.

6 But I think what we have to do is find what is the
7 most creative solution to creating good racing throughout
8 the year. And, you know, and can weigh into that, that are
9 we oversaturating the market with racing? Are we putting on
10 a good enough show throughout the year? And, you know,
11 should we be making some -- getting rid of -- as
12 Commissioner Harris said, getting rid of the overlaps, and
13 some of the other things, that may provide better racing.

14 COMMISSIONER CHOPER: Yes.

15 COMMISSION CHAIRPERSON SHAPIRO: And we have to
16 look to the industry to do that.

17 Now, it's my understanding that there's been
18 meetings taking place amongst the stakeholders, so perhaps
19 they will come forward, now.

20 Drew, are you in the room? Thank you. You want
21 to come and -- I know you're doing a million things, you
22 want to come up and you have a comment card here?

23 MR. COUTO: No, I don't have anything to add.

24 COMMISSION CHAIRPERSON SHAPIRO: You have nothing
25 to add?

1 MR. COUTO: No.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. So the
3 horsemen don't choose to opine on this, on the status of it.

4 COMMISSIONER ISRAEL: Before --

5 COMMISSION CHAIRPERSON SHAPIRO: Go ahead.

6 COMMISSIONER ISRAEL: In evaluating which way to
7 go on the number of racing dates, I mean, it would be
8 helpful, I think, to understand the impact, not just at the
9 racetracks and fields, but also on ADW wagering and things
10 like that. And I don't know, do we have all that
11 information at our fingertips, on how that's impacted?

12 COMMISSION CHAIRPERSON SHAPIRO: Well, we do in
13 terms of meet-to-meet comparisons of ADW handle, and you can
14 look at it, probably, through our CRIMMS reports, and things
15 like that.

16 COMMISSIONER ISRAEL: Right.

17 COMMISSION CHAIRPERSON SHAPIRO: Where you could
18 pull all that data together.

19 So the answer is we can do all that and look at
20 it.

21 COMMISSIONER ISRAEL: So, I mean, if we need to
22 see if -- well, a lot of races -- I mean, a lot of races
23 haven't filled. I mean, there's no question about that.
24 And had to be dropped from cards.

25 But, you know, I guess the question is, so are we

1 better off going four days or -- would gross handle increase
2 by going four days or will the gross handle decline by going
3 four days, and that's the real --

4 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
5 the gross live handle will probably decrease, but my theory
6 would be that the handle per race would increase. And, on
7 top of that, you would also have an inflow of money from the
8 dark day that would subsidize, effectively, that day.

9 COMMISSIONER ISRAEL: But the question is, with
10 ADW being so important, is going dark going to encourage
11 bettors, who otherwise would focus their energies on
12 California, to start thinking about other tracks, and
13 follow -- and follow the other tracks closely enough so that
14 even on the dates that we're open, we've lost them to
15 Nebraska, and Texas, and Minnesota --

16 COMMISSION CHAIRPERSON SHAPIRO: Right.

17 COMMISSIONER ISRAEL: -- when they wouldn't even
18 consider handicapping those races if we had live racing that
19 day?

20 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, no, the
21 best of all worlds is here. But if we're dying, we've got
22 to take, you know, drastic means sometimes.

23 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I think you
24 raise very valid points, that we need to consider and look
25 at the whole thing. The question is --

1 COMMISSIONER CHOPER: And it's not only the ADW?

2 And it's not only the ADW, it's the --

3 COMMISSIONER ISRAEL: No, it's satellite wagers --

4 COMMISSIONER CHOPER: -- all off-track handle.

5 COMMISSIONER ISRAEL: Yeah, all off-track. I

6 mean, since off-track is what proportion of the total

7 handle, now? It's big, 85?

8 If we started encouraging people to use -- you

9 know, the regular, every-day bettor to start handicapping

10 races that he wouldn't have even looked at in the past, are

11 we going to start eviscerating our own business? I mean,

12 that's --

13 COMMISSION VICE CHAIRPERSON HARRIS: The part of

14 the theory, though, is that the money bet in California, the

15 bulk of it stays in California. Even though a person,

16 maybe, is at Fresno, and they're betting on Belmont Park,

17 because the Golden Gate or somebody's dark, is that money

18 will still stay in the Northern California purse pool, so

19 that would --

20 COMMISSION CHAIRPERSON SHAPIRO: Yeah, but I think

21 David brings a good point up, which is you don't want to get

22 them addicted to someone else's race --

23 COMMISSIONER ISRAEL: Right. You know, Aksarben,

24 if it still exists, and I don't even know if it does, I

25 always liked it because it was Nebraska spelled

1 backwards --

2 COMMISSION CHAIRPERSON SHAPIRO: yeah.

3 COMMISSIONER ISRAEL: -- you know, nine out of ten
4 horse players in California wouldn't even look at those
5 charts and those entries. You know, if they're not getting
6 enough action because there aren't enough races in
7 California on any given Thursday, are they going to start
8 looking at those races?

9 COMMISSIONER CHOPER: Yeah, and a lot of it has to
10 do -- I think some of it -- I don't know, I think the
11 figures would show this, has to do with the timing.

12 You know, if you want to bet Aksarben, or
13 Saratoga, you've got to spend a long time out at that
14 racetrack, or in front of your television all day long.

15 Whereas if you're in California, you're just
16 betting the two California tracks, you get it done in only
17 six hours.

18 COMMISSION VICE CHAIRPERSON HARRIS: Yeah. No,
19 I'd love to have these in California. Just the problem, as
20 I see it, is the cost of keeping a horse in training is
21 about 3,000 a month, now, and there's just not enough purse
22 money to make that work. I mean, horsemen have always lost
23 money. But I'm just concerned that the spigot's going to
24 get turned off, and the supply of horses we have coming on
25 just aren't going to be there, so we've got to adapt to what

1 we have.

2 If we've got the supply and we've got the races to
3 run, it's great. But if we don't, how are we going to react
4 to that?

5 COMMISSION CHAIRPERSON SHAPIRO: Mr. Goodrich?

6 MR. GOODRICH: Mr. Chairman, Commissioners, Cliff
7 Goodrich, representing Fairplex.

8 Just these are all very relevant issues and
9 problems you're going to be dealing with, but there -- I
10 think everybody's kind of waiting for that Strategic
11 Planning Committee.

12 You mentioned a four-day week, that brought Mr.
13 Castro out of his chair, I know why. And I don't think
14 anybody has any -- they may, with some of the things stated,
15 but I think everybody's -- it's been a long time, and I
16 think everybody's waiting for the scheduling of that
17 meeting, where we can get into a lot of detail and have
18 discussion.

19 My sense is, at least in Southern California, I
20 don't think anybody has a major problem with the calendar,
21 but I think everybody's kind of looking for the scheduling
22 of that meeting to air out these things.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, okay. And
24 just so you know, at many of the stakeholders' requests, we
25 did not schedule any Strategic Planning and Race Dates

1 Committee meetings because we were asked to let you, as an
2 industry, work on this without our intervention and our
3 involvement.

4 And so we've been very patient, as you know, in
5 allowing you to do that. And when I say "you," I mean you
6 and the other people with who we had those discussions.

7 So we will schedule a Strategic Planning Committee
8 meeting and we will move forward, Cliff. So I do appreciate
9 that.

10 Is there anybody else that chooses or wishes to
11 comment on this item, at this time?

12 Mr. Castro, you have a card, do you still -- I
13 don't see where he is? There he is.

14 MR. CASTRO: Jack says I should pass, he's got a
15 hand on my suspenders.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

17 (Laughter.)

18 COMMISSIONER ISRAEL: Are you sure it isn't just
19 because he likes you?

20 MR. CASTRO: Yeah, and I like Jack, too.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay.

22 Oh, you're back. Do you want to comment, Richard?

23 MR. CASTRO: All I'm going to say is that -- yeah,
24 I wasn't going to say anything, I wrote you a note. No,
25 we're not having lunch tonight -- dinner.

1 No, what I was going to say is when you go to four
2 days a week, let's say you take a -- let's say Santa Anita
3 was running six and you go to four, they still have the
4 light bill, they still have the security, they still have a
5 lot of bills to pay on those two dark days that you're
6 proposing.

7 Our union, we don't understand why you don't just
8 cut the number of races and then maybe bring in more
9 simulcast races. I mean, how much do you want to cut our
10 wages?

11 We're having trouble, now, keeping people working
12 in this industry. You want qualified -- the industry wants
13 qualified clerks, it's hard to get people to cross the Bay
14 Bridge to go to work, it's hard to get people to go from
15 Hollywood to Santa Anita.

16 We've proposed this before, I'm just asking that
17 you think about it.

18 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro, I
19 appreciate those comments. And I assure you, I don't think
20 any of us want to cut anybody's wages or do anything. You
21 guys are part of the solution and part of the issue.

22 We're dealing with horse owners that, you know,
23 are losing money, and tracks, and everything. You guys
24 are -- we're all in this together. Your problem isn't any
25 different than the rest, and the rest isn't any different

1 than yours.

2 MR. CASTRO: You know, some of us -- I'm going to
3 bring up another little issue and --

4 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute,
5 I've got five comment cards for coming up on Item 13.

6 MR. CASTRO: Yeah, we're not there, yet.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, so is this
8 on the same issue?

9 MR. CASTRO: No, it's not.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, so should
11 we wait for --

12 MR. CASTRO: I was just going to leave a passing
13 thought that --

14 COMMISSION CHAIRPERSON SHAPIRO: Oh, okay.

15 MR. CASTRO: -- it would have been nice, you know,
16 had the industry gotten together when the indian prop issue
17 came up, and that we were able to work out something better.
18 Because to this day, I still don't see indian tribal money
19 coming into racing. And I thought that was, you know, one
20 of the promises. I don't see indian tribal money going into
21 highways, schools, et cetera.

22 We just have to do a better job. Thank you.

23 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

24 All right, I'm going to move on, now, to Item
25 Number 10, which is discussion --

1 COMMISSION VICE CHAIRPERSON HARRIS: Here's the
2 tribe. We've got a comment here.

3 COMMISSION CHAIRPERSON SHAPIRO: Oh.

4 MR. BUCALO: No, I just have a comment.

5 COMMISSION CHAIRPERSON SHAPIRO: All right, do you
6 want to -- I don't have a card.

7 MR. BUCALO: Yeah, I'm sorry, I didn't put in a
8 card. I just wanted to comment on what Mr. Castro just
9 said.

10 COMMISSION CHAIRPERSON SHAPIRO: And would you say
11 your name, please?

12 MR. BUCALO: John Bucalo, from Barona Casino, off-
13 track betting.

14 COMMISSION CHAIRPERSON SHAPIRO: Oh, hi, John.

15 MR. BUCALO: Hi. There is indian tribal money
16 coming into racing. In fact, Barona Casino had a \$1.5
17 million sponsorship deal with Del Mar which, I believe, was
18 the biggest sponsorship deal at that time.

19 We also continue with the sponsorship deal with
20 Del Mar. We have a suite there, where we bring our highest
21 end players to the racetrack, and introduce them to racing.
22 Some of which, and two I know in particular, have purchased
23 racehorses, that I've convinced that racing is a good game.
24 And we do spend our money in other areas, too, in the
25 community.

1 So the tribal gaming is a participant in a strong
2 way. I know Sam Manuel is a big sponsor of Santa Anita,
3 Fairplex Park, and maybe Hollywood, I'm not sure.

4 But a lot of these tribal casinos are getting
5 involved in racing and putting up a lot of big dollars, and
6 I think they should be recognized for it.

7 What I'm hearing sometimes, when I come to these
8 Board meetings, is that the tribes don't pay the tax, state
9 license fees, and other places may be getting shortchanged.
10 And I don't agree that they are getting shortchanged.

11 They may be getting a smaller commissioner than
12 the tribes, because they do get the license fee monies back,
13 but they are contributing much more.

14 I don't know of any satellite facility who does
15 have a sponsorship deal with the tracks. I don't know of
16 any of them that spent \$35,000, approximately, to rent a
17 suite at Del Mar.

18 COMMISSION CHAIRPERSON SHAPIRO: You know, sir, I
19 think you missed the point of what Mr. Castro was saying.

20 And Mr. Castro's point, I think, was, gee, the
21 industry is facing difficult times. And while there may be
22 some sponsorship deals and things that are taking place,
23 which is true -- I mean, this very hat has Sam Manuel on it,
24 here, at Fairplex, I appreciate that.

25 But it doesn't go to the foundation of what Mr.

1 Castro, I think was saying, which was, gee, I wish there was
2 a way that racing could work with the tribes, so that we
3 could create a healthy environment, which would secure jobs
4 and a better economic climate for racing and the tribes.

5 I think that was his point, okay. And I don't
6 think there's been much negativity with respect to any
7 particular tribe. You know, I think he was making a
8 heartfelt statement that wouldn't it be better if we could
9 find a way that we could improve the landscape for all
10 parties. I think that's what he meant.

11 MR. BUCALO: Okay.

12 COMMISSION CHAIRPERSON SHAPIRO: Richard, is that
13 okay, or not?

14 MR. CASTRO: No, you did correct. I apologize if
15 you felt that any of my remarks were negative. We have a
16 good working relationship with those folks.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 MR. CASTRO: I would just like to see a little bit
19 more done. I don't see any of that money going into
20 horsemen's purses, and we've already supported that.

21 COMMISSION CHAIRPERSON SHAPIRO: No, I agree, I
22 thought your comment was that.

23 Okay, let's move on to Item Number 10. Discussion
24 and action by the Board on the proposed amendment of Rule
25 2073, Operation of an Advance Deposit Wagering Account for

1 All Entities, to remove restrictions on the number of
2 depositions an account holder may make each racing day, and
3 to allow access to such deposits the day they are made.

4 Frankly, I didn't know there was. Don't know why
5 there is. I don't know if anybody has an objection.

6 COMMISSIONER CHOPER: I second your motion.

7 COMMISSION CHAIRPERSON SHAPIRO: I secondly have
8 -- I have no problem with --

9 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
10 we -- I think I recall when that was made, it was kind of an
11 abundance of caution, you know, kind of a very safe
12 approach. But I think it's proven it hasn't been a problem,
13 and I think each ADW company should have their own policy,
14 whatever they want to do, they can do. I don't think it
15 should be something we regulate.

16 So I'll move that we accept the amendment
17 for -- I guess we have to put it out for comment or can take
18 a -- no, we've got it for action, I guess.

19 EXECUTIVE DIRECTOR BREED: No, it goes out.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
21 this does go -- this does go out for comment.

22 COMMISSION VICE CHAIRPERSON HARRIS: It goes out
23 for comment, okay.

24 STAFF COUNSEL MILLER: Yes.

25 COMMISSION CHAIRPERSON SHAPIRO: All right, I'll

1 second that we put it out for comment.

2 All those --

3 MR. LIEBAU: Why don't you revoke it in the
4 meantime.

5 COMMISSION CHAIRPERSON SHAPIRO: You know, I think
6 you're absolutely correct. I think what we ought to do is
7 do that. But I think we have had it where we've waived
8 certain rules. And I would -- I would -- and I agree with
9 Mr. Liebau. Why don't we waive this rule in the interim.

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, if it
11 causes a worldwide financial crisis, we'll --

12 COMMISSION CHAIRPERSON SHAPIRO: Nobody's got any
13 money left, anyway.

14 (Laughter.)

15 COMMISSION CHAIRPERSON SHAPIRO: I don't.

16 So how about making -- can we suspend this rule?
17 I move that we suspend this rule effective immediately.

18 Is there a second?

19 COMMISSION VICE CHAIRPERSON HARRIS: Second.

20 COMMISSIONER CHOPER: Second.

21 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

22 (Ayes.)

23 COMMISSION CHAIRPERSON SHAPIRO: It's not
24 suspended.

25 Now, it --

1 COMMISSIONER CHOPER: And it goes out for comment.

2 COMMISSION CHAIRPERSON SHAPIRO: And now it will
3 go out for comment. That's part of my motion that we will
4 put this out for comment, and we will move to do it on a
5 more permanent basis. Okay.

6 COMMISSIONER CHOPER: Yeah, the suspension also
7 has the advantage of seeing how it works during the comment
8 period.

9 COMMISSION CHAIRPERSON SHAPIRO: You're absolutely
10 right.

11 And, you know, there was another one where
12 apparently, I think it was TVG, are they still in the room?
13 Yeah, they wanted to be able to have a canceled bet function
14 and I don't know what the problem was --

15 COMMISSIONER ISRAEL: We've made it.

16 COMMISSIONER CHOPER: We got that.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, we granted
18 it. Okay, fine.

19 MR. HINDMAN: Yeah.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, fine. All
21 right, thanks. All right, great.

22 Okay, Item Number 11, discussion and action by the
23 Board regarding a proposal to amend CHRB Rule 1690.1, Toe
24 Grabs Prohibited, to modify the height of permissible front
25 shoe toe grabs from four millimeters to two millimeters.

1 This is, again, a recommendation that is coming
2 down from lots of national organizations, including the
3 NTIA, TOBA, I believe TOC is signed onto this.

4 Basically, it moves toe grabs to a wear plate, and
5 we would simply be coming into conformance with, I think,
6 the rest of the country in doing this. It's for the safety
7 and health of the horse.

8 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it's
9 a --

10 COMMISSION CHAIRPERSON SHAPIRO: You're on the
11 committee, aren't you?

12 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it's
13 a -- actually, I think first of all, California was the
14 first state to move on the overall issue, and this is just a
15 modification of that. And it's four versus two is not a big
16 deal, and this is gets us in conformity with everybody else.

17 So I'll move that we do it.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay.

19 COMMISSIONER ISRAEL: Second.

20 COMMISSION CHAIRPERSON SHAPIRO: It's moved, it's
21 seconded. All in -- okay, do you have a comment, Mr.
22 Halpern?

23 MR. HALPERN: I do.

24 COMMISSION CHAIRPERSON SHAPIRO: Is this short?

25 MR. HALPERN: Well, I've waited all day to make

1 it, so I'll make it as short as I can. I apologize. But I
2 understand your concern.

3 I was just going to say that, with all due
4 respect, I think this is premature at the Board level, that
5 this Board has gotten into the habit of putting everything
6 that comes in front of it out to a 45-day notice, without
7 going to committee. And I'm just going to recommend that
8 you send it to committee, first, so that it can have full
9 contemplation and discussion, and so that we're not here, at
10 a Board meeting, dragging them out four or five hours
11 talking about these issues in front of everybody that has to
12 waste their time listening.

13 COMMISSION CHAIRPERSON SHAPIRO: So you're
14 suggesting that --

15 COMMISSION VICE CHAIRPERSON HARRIS: Well, you're
16 saying the comment period doesn't work?

17 MR. HALPERN: I'm saying the comment period is not
18 real effective. That what happens is people do send in
19 comments. I'm sure that you don't get those packages until
20 a few days before the meeting, and you get a package that's,
21 what, 200 pages long, and you're supposed to digest it in a
22 couple days. It asks a lot of you and I think it is
23 relatively ineffective on technical issues.

24 COMMISSION VICE CHAIRPERSON HARRIS: But this is
25 being done. And, I mean, even those hard boots in Kentucky

1 are buying into this one, now.

2 MR. HALPERN: I understand. Let me finish real
3 quick. I'll try to be.

4 Unfortunately -- unfortunately, Mr. Moss is not
5 here, but one of his trainers called me with some comments
6 on this, and is most concerned. And let me see if I can
7 quickly educate you as to his thinking and many people's
8 thinking.

9 He says that horses need to get into a track.
10 That means they must break the surface. They call it the
11 need for the surface to fail, is what the scientists call
12 it. This is why we don't use a tartan track, which is what
13 the humans use, where it doesn't break open.

14 That being the case, these tracks are sort of a
15 compromise that allow a horse some spring, but also allow it
16 to break into the track. But that's not always so easy,
17 they don't fail.

18 So his argument goes on that, therefore, you do
19 need a toe grab, and depending on the length is the
20 question, to break into it, in order to allow the horse to
21 complete its natural motion, which is to break over in front
22 and allow the ankles and the hoof to turn back before going
23 into the next strike.

24 I just wanted to point out that most of the rules
25 across the country, I believe, are based on Sue Stover's

1 report, and your original ruling that changed the toe grab
2 rules, and everybody's just sort of following along at this
3 point, I think, in a move to safety.

4 And I just want to take 30 seconds to read you a
5 quote from her report, or actually her testimony to this
6 Board or to a committee.

7 "The low toe grab and very low toe grab
8 actually have the lowest risk for
9 injury. Though, at the moment, if you
10 were to ask us for our recommendations,
11 we still feel strongly that regular and
12 high toe grabs place horses at increased
13 risk for musculoskeletal injury, but that
14 the very low and the low height toe
15 grabs are not necessarily a bad thing."
16 That's the two and the four, the very
17 low. The two, the four millimeter, the
18 low.

19 So we have evidence from the people who created
20 this whole storm --

21 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
22 you're talking her study out of context. What she was
23 saying, she was a scientist who was saying, based on
24 evidence that she had, that she could definitely make a
25 case. But I don't think she was saying it was any problem

1 at all having it low.

2 In fact, I've seen some studies, lately, that
3 indicate that, particularly on synthetic tracks, horses need
4 to slide more than they would on a -- they aren't sliding as
5 much as they would on a dirt track, and that's causing more
6 of a --

7 MR. HALPERN: Well, they do need to slide, but
8 they also need grab. I don't want to argue the issue. And
9 this is the reason that I'm saying it ought to go to
10 committee for a full investigation of the issue.

11 COMMISSION VICE CHAIRPERSON HARRIS: Well, I'll
12 call the question.

13 MR. HALPERN: Well, can I finish, first.

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

15 MR. HALPERN: I'm sorry that it differs with your
16 opinion, Mr. Harris, but I think the argument is not
17 unreasonable.

18 COMMISSION VICE CHAIRPERSON HARRIS: Okay.

19 MR. HALPERN: And maybe your own trainer would
20 feel the same way. I think she does.

21 COMMISSION VICE CHAIRPERSON HARRIS: No, she
22 don't.

23 MR. HALPERN: You know, Golden Gate has done it,
24 has changed the rule by house rule. We think it's
25 premature.

1 Let me give you one more example, real quick.
2 There was a problem down at Bay Meadows -- I mean, sorry, at
3 Del Mar, with on the turns the horses leaving large
4 hoofprints, where they moved all over the place, because
5 probably because they weren't getting enough traction.

6 What that led to was the need to put tractors on
7 the track more.

8 Horsemen have been saying, ever since these tracks
9 were put in, that the worse thing you can do is put
10 equipment on these tracks.

11 That is agreed to by Ian Pierce, by the way, who
12 is set up at Santa Anita, we're not going to put the
13 equipment on the track at all, if we can help it, probably
14 once a day.

15 So there are all sorts of ramifications of what
16 we're doing here, and all I'm asking is for a complete
17 review, even though you may have a very strong opinion about
18 it.

19 COMMISSION CHAIRPERSON SHAPIRO: Well, look, I
20 agree that there should be a complete review. The only
21 difference is, I guess, and I don't know that there is such
22 urgency here, that you, as I understand it, what you're
23 asking for is that there be a Medication Committee meeting
24 to discuss this, and then for the Board to hear a report and
25 come back with an action at that time.

1 MR. HALPERN: Exactly.

2 COMMISSION CHAIRPERSON SHAPIRO: And then go to a
3 45-day period.

4 MR. HALPERN: That's correct.

5 COMMISSION CHAIRPERSON SHAPIRO: The difference is
6 that the way we have structured this is that we would --
7 basically, we're saying, okay, let's move this forward, but
8 we're not making final action. There's a 45-day period for
9 all of these questions to be submitted. And God knows that
10 we certainly have been through it with first-time geldings,
11 and other things, where it just has gone on and on.

12 So, you know, it's just a matter of form over, I
13 think, what the substance is.

14 MR. HALPERN: Well, we would disagree on that. I
15 don't think you get a full or fair hearing at these 45-day
16 hearing processes.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, frankly, I
18 don't see that there's urgency here.

19 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, but it
20 doesn't seem like we're -- I mean, I could see if we're
21 going to do this tomorrow. But we're putting it out for 45-
22 days, then we're going to have a meeting at some point after
23 that.

24 I mean, this just brings it in conformity with the
25 vast amount of racing states that are doing this already,

1 and there's good evidence -- there's no evidence that this
2 might create a danger, there is evidence that -- I mean,
3 really, there's not much difference between a four and a
4 two, in my estimation.

5 COMMISSIONER ISRAEL: Well, can I just ask, is
6 your comment, Mr. Halpern, based on the fact that are big
7 tracks are all running on artificial surfaces, and if it was
8 dirt you would be okay with this or --

9 MR. HALPERN: No, no, no. Actually, I just --
10 what I say is in both cases there are a question, a question
11 raised by Sue Stover. But that when you start now talking
12 about synthetics, it becomes even more complicated.

13 And everybody's jumping the gun. And all I have
14 to do about jumping the gun is point out the subprime
15 mortgage crisis. We're not there, but that was a jumping
16 the gun issue here.

17 Let's take a few -- a couple months and talk about
18 it.

19 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

20 Dr. Arthur?

21 EQUINE MEDICAL DIRECTOR ARTHUR: Dr. Arthur,
22 Equine Medical Director.

23 COMMISSIONER ISRAEL: I'm confused about the
24 analogy.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay. I don't

1 know the analogy, I just --

2 COMMISSIONER ISRAEL: I don't know, the analogy
3 alluding me.

4 EQUINE MEDICAL DIRECTOR ARTHUR: I had difficulty
5 with that one, as well.

6 Anyway, two millimeters is a twelfth of an inch,
7 that's what we're talking about here.

8 And contrary to what Mr. Halpern stated, this
9 recommendation from the Jockey Club Safety Committee is
10 derived from high-speed video research that was done on
11 synthetic surfaces at Kentucky, as part of the Welfare and
12 Safety Summit. Bill Casner is involved in that, and
13 presented that at the Jockey Club Roundtable. And I think
14 that's probably available, if anybody wants to look at it.

15 You know, whether this -- the Jockey Club
16 recommended -- the Safety Committee recommended this be
17 implemented as a house rule, and I think the Board could
18 certainly encourage that, with or without the 45-day period.

19 I would like to point out that they're also
20 looking at hind shoes, as well. And it may be more prudent
21 to wait until that research is completed and we can get a
22 comprehensive shoeing program.

23 So my comment, basically, is that there's a lot of
24 ways to look at this. Some of the information that Mr.
25 Halpern gave was incorrect in regards to Dr. Stover's work

1 being the source of the two millimeter recommendation.

2 But there certainly is a relationship between the
3 way horses are shod, even the two millimeters makes a
4 difference when a horse is training on a synthetic surface,
5 particular.

6 COMMISSIONER ISRAEL: It makes a difference in
7 what way?

8 EQUINE MEDICAL DIRECTOR ARTHUR: Well, it
9 actually -- horses actually have to dig into the racetrack,
10 and when you have -- they actually push dirt out in front of
11 them, or surface out in front of them. And when you have a
12 toe grab, it's more like a snowplow and that force is put
13 back up the leg.

14 COMMISSIONER ISRAEL: Well, I understand that.
15 But what's the difference? You say it makes a difference in
16 the artificial --

17 EQUINE MEDICAL DIRECTOR ARTHUR: The research was
18 done on the artificial surface. There's been research done
19 on the dirt surface, and it's just -- it's very, very
20 similar.

21 COMMISSION VICE CHAIRPERSON HARRIS: There's more
22 pressure back on the bones and everything because you're
23 hitting, you're not sliding.

24 COMMISSIONER ISRAEL: Right.

25 COMMISSION VICE CHAIRPERSON HARRIS: There's some

1 shoes that are going the other way where --

2 COMMISSIONER ISRAEL: Well, it's the same concept
3 as the length of cleats changed between grass and football,
4 and baseball, between grass and artificial surfaces, you use
5 completely different shoes.

6 EQUINE MEDICAL DIRECTOR ARTHUR: Absolutely. I
7 would like to point out, and we've had this discussion
8 before, the racetracks and house rules have regulated the
9 way horses are shod on turf surfaces for many, many years.
10 And, basically, we're talking about shoeing horses on
11 synthetics, which are quite similar to turf, in the same
12 way.

13 But whether this is done today, whether it's done
14 60 days from now, whether it's done as house rules, I don't
15 think it's -- it's certainly at the pleasure of the Board.

16 COMMISSION VICE CHAIRPERSON HARRIS: Well, I'll
17 call the question.

18 COMMISSION CHAIRPERSON SHAPIRO: All right, the
19 question's been called. Is there a second?

20 COMMISSIONER ISRAEL: Could you just rephrase it?

21 COMMISSION VICE CHAIRPERSON HARRIS: Well, it
22 would be that we proceed with the 45 days. We're still not
23 implementing it. It would be 45 days of comments. The next
24 meeting, after that, we would vote it up or down to two
25 centimeters -- millimeters.

1 COMMISSION CHAIRPERSON SHAPIRO: We're basically
2 voting to put this out for comment.

3 Is there a second? Did you second it, David?

4 COMMISSIONER ISRAEL: Okay, fine.

5 COMMISSIONER DEREK: I'll second it.

6 COMMISSION CHAIRPERSON SHAPIRO: You second it?
7 Bo seconded it.

8 All those in favor?

9 (Ayes.)

10 COMMISSION CHAIRPERSON SHAPIRO: Opposed?

11 All right, it's passed.

12 Okay, don't move, because you're up. Number 12,
13 report of the Medication Committee.

14 EQUINE MEDICAL DIRECTOR ARTHUR: Well, this was a
15 two-hour meeting, so I'm going to give you the very short
16 version of this, and a lot of this material will be
17 available in the transcript, if you're interested.

18 We talked about the preparations for Breeder's
19 Cup. I think we're very well prepared. We're going to have
20 three ambulances, we're going to have trauma teams from the
21 School of Veterinary Medicine Surgery Department on site,
22 and we'll have plenty of veterinary support there.

23 They will, by the way, be using the two millimeter
24 rule during the Breeder's Cup, that you have just voted to
25 notice, as part of a house rule. Actually, Breeder's Cup

1 program. We will be doing --

2 COMMISSIONER ISRAEL: Can I ask a question?

3 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

4 COMMISSIONER ISRAEL: Given the speed at which
5 television is likely to report any incident that might
6 occur, if there's an unfortunate incident, are you -- do you
7 have a procedure for who will speak on behalf of your
8 veterinary staff, how and what --

9 EQUINE MEDICAL DIRECTOR ARTHUR: Actually, the On-
10 Call Program will be here. I'm a member of the On-Call
11 Program, but Dr. Larry Bramlage will be in charge. Dr.
12 Wayne McIlwraith will be there, as well.

13 We will actually have an on-call veterinarian in
14 the track veterinarian's vehicle, who will be in
15 communication with Dr. Bramlage immediately.

16 COMMISSIONER ISRAEL: Okay.

17 EQUINE MEDICAL DIRECTOR ARTHUR: We've worked
18 through a lot of these details.

19 One of the issues we are going to deal with is we
20 are going to make a concerted effort not to euthanize any
21 horse. If there was an injury on the racetrack, we will
22 anesthetize those horses and take them to the hospital for
23 examination.

24 So we're going to take a little bit -- a quite a
25 bit different approach this time. And we did this, by the

1 way, in 2003 and we, fortunately, had no injuries.

2 COMMISSIONER ISRAEL: Is this in response to the
3 Eight Bells incident?

4 EQUINE MEDICAL DIRECTOR ARTHUR: Eight Bells,
5 right.

6 But I think we're very well prepared with the
7 Breeder's Cup. And if anybody has any questions, just let
8 me know.

9 The vet's list is now being maintained on
10 Encompass. We're still maintaining the backup vet's list in
11 our CRISS system. Encompass is a much more robust system
12 and gives us a lot of more flexibility, and it integrates
13 well with the racing office.

14 You can actually look at the search mechanism on
15 that at Oaktreeracing.com. The CHRB IT staff hasn't had an
16 opportunity to put that up on our website, as of yet. But I
17 think there's a real advantage to this. And this is being
18 done at no cost to the CHRB.

19 And if this works well, hopefully, we can put the
20 lasics lists, and some of the other lists that we have to
21 maintain, on Encompass. There's a real advantage to doing
22 that, that's technical, that I don't want to get into here.

23 The other issue we discussed were pre-race
24 examinations. Frankly, in response to Eight Bells, we have
25 been more rigorous. We were actually more rigorous earlier

1 in the year, at the urging of Santa Anita.

2 Trainers don't like it. You know, nobody likes to
3 be told that they've entered a horse that can't run. But
4 the veterinarians are doing a very thorough job, and I think
5 it's appropriate.

6 And our goal is to eliminate those horse that are
7 at risk. We do recognize the fact that we have to err on
8 the side of the horse, and that's the philosophy that we
9 have been trying to promote.

10 We had a rather long discussion on anabolic
11 steroids. This program actually is going very well. I
12 don't want to go over what we discussed at that meeting, I
13 think it got enough public exposure.

14 I will tell you, in August we have had ten
15 violations or positive tests, out of 1,296 tests. Five
16 complaints were filed against one trainer, Steve Biatti, in
17 Northern California, and five other samples are out for
18 split sample analysis.

19 Eight of the ten were from before August 10th.
20 And two of them, obviously, were in the latter half of the
21 month. And those will be announced, if the split samples
22 confirm, which I expect almost all of them, if not all of
23 them will be.

24 To date, in September, we have no anabolic
25 steroids have been identified in any samples through this

1 test cleared through September 11th, and they're working
2 over last weekend, and there's no indication of any anabolic
3 steroids.

4 We did implement the vet's list, the 30-day vet's
5 list for horses treated with anabolic steroids. That's been
6 somewhat controversial, but I will point out that boldenone,
7 the only -- Equipoise, the only manufactured anabolic
8 steroid that is produced as a pharmaceutical, is approved by
9 the FDA for sick and debilitated horses.

10 And we've taken the approach that if a horse is
11 sick and debilitated, it needs to be treated as sick and
12 debilitated, that they go on the vet's list.

13 It basically is an effort to keep the trainers
14 from making mistakes.

15 I will say the pre-entry testing program is
16 working fairly well. I'm a little bit disappointed because
17 we have had trainers submit false samples. One trainer
18 submitted a horse sample from a horse that was no longer
19 even in his barn.

20 We have trainers claim they treated a horse with
21 one anabolic steroid, just to see if we pick up another one.

22 I do think we should keep this program going
23 through Breeder's Cup, simply because we told people we
24 would do that.

25 But I would point out that in other jurisdictions,

1 the horsemen are being charged \$300 a sample for this
2 service that we're providing at no cost. But it is, I
3 think, working fairly well.

4 COMMISSION CHAIRPERSON SHAPIRO: Why are we doing
5 it for no cost?

6 EQUINE MEDICAL DIRECTOR ARTHUR: We agreed to do
7 this early on, it was in the early part of our discussions.
8 And we can terminate that most any time.

9 I do think it is -- we did -- I did have that
10 inserted in part of the out-of-competition testing program,
11 which is what we're doing the anabolic steroids in, that we
12 do have 500 tests that we can do pre-entry, as part of the
13 original contract, so the laboratory is obligated to do that
14 at our request.

15 The last issue that we discussed -- do you want to
16 discuss that anymore?

17 COMMISSION CHAIRPERSON SHAPIRO: Well, no. It's
18 just I just think at a certain point of time I think, you
19 know, we are looking to save on our budget, and we have
20 other needs, and at a certain point in time I think that we
21 ought to -- you know, we've been generous and we should be
22 generous. But at a certain point in time, I think we've got
23 to give notification that we're not going to do it.

24 EQUINE MEDICAL DIRECTOR ARTHUR: I agree,
25 entirely.

1 COMMISSION CHAIRPERSON SHAPIRO: All right.

2 EQUINE MEDICAL DIRECTOR ARTHUR: I'll keep a very
3 close eye on that. I do think we should keep the program in
4 place for out-of-state horses, that are coming in for the
5 Breeder's Cup.

6 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

7 EQUINE MEDICAL DIRECTOR ARTHUR: And we're doing
8 the same thing for horses that are claimed, or transferred,
9 which account for a very small number.

10 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I agree.

11 COMMISSION VICE CHAIRPERSON HARRIS: I think maybe
12 some token charge, like a hundred dollars, or something, but
13 300 sounds kind of high.

14 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, we'll work
15 that out.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, will you
17 please lay it out? I mean, again, we are challenged
18 budgetarily and, therefore, I think that we ought to revisit
19 that.

20 EQUINE MEDICAL DIRECTOR ARTHUR: I will talk to
21 Dr. Stanley and --

22 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

23 EQUINE MEDICAL DIRECTOR ARTHUR: -- I'll work with
24 the Executive Director, and we'll get something in place.

25 COMMISSION VICE CHAIRPERSON HARRIS: Do we have a

1 program on the Breeder's Cup to go the extra mile to make
2 sure all the Breeder's Cup horses are well aware of our
3 policy?

4 EQUINE MEDICAL DIRECTOR ARTHUR: We had -- in
5 fact, Mike Marten and I had worked with it, and I had
6 totally redone the horsemen's brochure, part of the
7 Breeder's Cup information. We were waiting, actually, for
8 the July 17th vote.

9 That's been all of the anabolic steroid
10 information is available. And you can find the information
11 at Del Mar and Oak Tree's website on how to do the out-of-
12 competition testing.

13 COMMISSION CHAIRPERSON SHAPIRO: Is it on the
14 Breeder's Cup website, too?

15 EQUINE MEDICAL DIRECTOR ARTHUR: I don't know if
16 it's on the Breeder's Cup, I'll make sure it is. I'd like
17 to get it on the Horse Racing Board's website, in a more
18 easily identifiable place, but I can work with the Executive
19 Director on that, as well.

20 COMMISSION CHAIRPERSON SHAPIRO: And maybe talk to
21 Breeder's Cup and see if they'll put something on or help.

22 EQUINE MEDICAL DIRECTOR ARTHUR: We'll do that.
23 They're very amenable to these sorts of issues.

24 In fact, I think Oak Tree actually purchased an ad
25 that went nationwide, about the anabolic steroid testing

1 policy and rule in California.

2 The last issue that we talked about is there was a
3 lot of discussion on looking and reevaluating the medication
4 programs in the U.S. TOBA, Jockey Club, NTRA, Association
5 of Racing Regulatory Veterinarians are all coming up --
6 AAEP -- are all coming up with recommendations.

7 Of particular interest is the Association of
8 Racing Regulatory Veterinarians, the veterinarians that are
9 examining the horses in the morning are coming out against
10 the non-steroidal anti-inflammatory use, bute, banamine,
11 that as we now, they're recommending 72 hours. And a
12 prohibition of uniarticular injections of cortisone, and
13 cortisone injections within five days because they mask
14 infirmities in horses.

15 The point here is that how this is all going to
16 sort out, I don't know. But there's a lot of change in the
17 philosophy in the way horses are medicated. And, you know,
18 I think we're fairly strategically well placed to keep an
19 eye on this. I'm involved in a lot of this nationally, I
20 know the Chairman has been, as well.

21 But there is a lot of discussion as to how we can
22 make racing safer for horses. The NTRA Safety and Integrity
23 Taskforce or initiative is actually looking at a goal to
24 reduce fatalities in horseracing by 50 percent in 2015, and
25 I certainly think we should go -- accept that goal. And,

1 actually, I'd like to see us accelerate that time frame.

2 So, anyway, that's basically what we discussed
3 during the Medication Committee. A lot going on in this
4 area and I think we have to be pleased that we're in the
5 forefront of most of these issues and we expect to stay
6 there.

7 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you
8 for the report. I think you're doing terrific work on a lot
9 of different fronts. And I think that it's evidenced when
10 we go to these national meetings and, you know, you go --
11 last week I was at Kentucky, at the NRTA Safety Summit
12 discussions, and I've been to the Grayson Jockey Club, and
13 participated in the Tobelon, and then you were at the Jockey
14 Club Roundtable.

15 And what is so clear is that they look to the work
16 that we're doing out here as blazing the path to create a
17 safer environment for our horses and our riders, and I think
18 it's terrific, and you're doing great work.

19 It comes with a lot of flak, I understand that,
20 but good work.

21 Mr. Charles, are you standing there?

22 MR. CHARLES: Yeah. Dr. Arthur, just one quick
23 question. First of all, I'd like to commend you, and all of
24 the State vets. I think that we can attribute the fact that
25 we've had less breakdowns, less fatalities of the strengthen

1 of the State vets' inspection in the morning. I think
2 that's critical.

3 But we also discussed, at the last meeting,
4 potentially having a vet out there in the morning, as these
5 horses are galloping by, and we've got 13, 15 hundred horses
6 going by. Some of them, obviously, not doing well. I don't
7 want to say distressed, but some of them are off.

8 And was that discussed at all? Because what we'd
9 love to do is be able to have horses that are going by,
10 obviously not in the condition that they should be, and the
11 State then being able to take a look at those, and follow up
12 to make sure that those horses come off the track, and we
13 follow those horses a little bit closer.

14 Because there's nothing worse than to see a horse
15 go by, as we've done, often, in the Clocker's Corner, and
16 then see that horse race two days later and break down, when
17 we could see, for ourselves, the horse going by in a poor
18 condition.

19 EQUINE MEDICAL DIRECTOR ARTHUR: Unfortunately,
20 Mr. Charles, we really don't have the infrastructure in
21 place to do that. We would have to change the way we do
22 business.

23 I, certainly, as you know, you and I have
24 discussed, I think that would be a big step forward in terms
25 of identifying horses at risk, but we just don't have the

1 infrastructure available to do that at this time. And I'm
2 certainly willing to look at that particular approach to
3 identifying those horses.

4 MR. CHARLES: Okay, even if the racetrack was to
5 assume the financial responsibility?

6 EQUINE MEDICAL DIRECTOR ARTHUR: Is that was the
7 case, then I think we can move very quickly.

8 (Laughter.)

9 MR. CHARLES: Okay.

10 COMMISSION VICE CHAIRPERSON HARRIS: I think if
11 maybe the racetrack could just do it and in conjunction with
12 some other people that could help --

13 MR. CHARLES: Well, that's what I want to do.

14 COMMISSION VICE CHAIRPERSON HARRIS: And you'd
15 almost put a suspect list together, I mean, and that might
16 be the rub. But have, okay, this morning we saw these five
17 horses all going very choppy.

18 EQUINE MEDICAL DIRECTOR ARTHUR: I will say we've
19 done several ways we examine horses much differently. We
20 start going to identify horses as they race, we look at them
21 the next morning, it's caused some consternation with the
22 trainers.

23 But I do think the goal is to identify those
24 horses at risk and usually things work out, and everybody
25 does what's best for the horse, and that's what our goal is.

1 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank
2 you, Mr. Charles.

3 Okay, that brings us --

4 STAFF COUNSEL MILLER: Mr. Chairman?

5 COMMISSION CHAIRPERSON SHAPIRO: Yes.

6 STAFF COUNSEL MILLER: Just a point of
7 clarification. With regards to Item 10, I know that the
8 Board made a motion to immediately suspend the rule, but did
9 the Board then vote to put it out to comment?

10 COMMISSION CHAIRPERSON SHAPIRO: Yes, we did both.

11 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

12 STAFF COUNSEL MILLER: Did both. Okay, thank you.

13 COMMISSION CHAIRPERSON SHAPIRO: Yeah, we did it
14 right, we waived it.

15 EXECUTIVE DIRECTOR BREED: It was sub M that we
16 suspended.

17 STAFF COUNSEL MILLER: I was working with Mr.
18 Marten to get the arrangements for the closed session, that
19 I just wanted --

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. I don't
21 know what sub M is but --

22 COMMISSION VICE CHAIRPERSON HARRIS: There's a
23 bunch of this stuff, we waived the whole rule.

24 STAFF COUNSEL MILLER: There were two votes,
25 that's all I wanted to know.

1 COMMISSION CHAIRPERSON SHAPIRO: Yes, we did.

2 STAFF COUNSEL MILLER: Okay.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, that brings
4 us to public comment, and I have a series of public comment
5 cards from Mr. Castro, and it looks like I'm going to get
6 more. And one other person.

7 And, okay, Mr. Castro.

8 MR. CASTRO: Do you want to take the other person,
9 first?

10 COMMISSION CHAIRPERSON SHAPIRO: Well, it probably
11 makes sense, only because you have a series of them. And,
12 Richard, if you want to come and sit down here, so you don't
13 have to stand the whole time?

14 MR. CASTRO: Thank you. It's been a long time
15 since I've sat this close to this wonderful Board.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay.

17 MR. CASTRO: That's a compliment.

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

19 Okay, so why don't you just stay there for a
20 second and, Mr. Bucalo, from Barona Casino Off-Track
21 Betting. Nice, to see you again.

22 MR. BUCALO: My pleasure, thank you.

23 COMMISSION CHAIRPERSON SHAPIRO: What can we do
24 for you?

25 MR. BUCALO: I just want to make a couple of

1 comments. One on the tote situation that we're in,
2 experiencing at Barona. We've had tote machines break down
3 since the implementation of them back in June or July, and
4 it definitely costs us some negative in our handle due to
5 the constant breakdowns.

6 One day we had four machines turned off, and every
7 single racing day we have machines that are down. They have
8 been working on them but, for some reason, they're not
9 getting back up into action.

10 And because there's not a tote tech on property at
11 all times, the pari-mutuel supervisor, who also works as a
12 teller, has to close their window and walk around and fix
13 the problem, and it leaves guests not able to bet or getting
14 shut out.

15 And although it isn't a significant amount that
16 we're experiencing, that we are losing, I'm of the opinion a
17 little bit here, a little bit there adds up to a lot at the
18 conclusion of the year. And this has gone on far too long
19 with the tote problems and issues.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, first of
21 all, we clearly are on the side here that we would like to
22 see it get fixed. And I'm not sure, and I have a hunch that
23 Mr. Castro, and perhaps some others, are going to be able to
24 enlighten us on how we can best help facilitate that.

25 The Racing Board's not a contract with the tote

1 company, the racetracks contract with the tote companies.
2 So they're the ones that selected them, they're the ones
3 that did the due diligence on them.

4 But we don't want to see any customers turned away
5 and we want to help you. So to the extent our staff is
6 necessary to help or participate, they should be available
7 to do that.

8 I know, Mr. Castro, you are most likely, in some
9 of these comments, going to tell us some of the problems
10 you've had.

11 And what I'm not sure is how we can best get
12 action on these issues when it is the tracks, themselves,
13 that are the ones that contracted for this equipment. We
14 didn't select it, it wasn't our choice, we had no voice.

15 So now let's figure out how we can help you
16 because it's a very legitimate concern.

17 MR. BUCALO: Okay.

18 COMMISSION VICE CHAIRPERSON HARRIS: I think we do
19 license the tote company, and with that's the expectation of
20 good service.

21 COMMISSION CHAIRPERSON SHAPIRO: Correct. So
22 thank you. I hear you. I'm going to ask that staff --
23 would please ask staff to immediately participate in that
24 and any other tote issues that we're about to hear,
25 prospectively.

1 MR. BUCALO: Okay. And the other comment was the
2 dropping of the horseracing by the local newspapers I think
3 has made a significant dent in our -- not only our handle,
4 but our popularity of horseracing. I mean, if it's out of
5 sight, out of mind with our guests. And I've had many, many
6 complaints from guests, too, who are concerned about the
7 papers not covering it at all -- them at all.

8 COMMISSION CHAIRPERSON SHAPIRO: I can tell you
9 this, I canceled my subscription, after 50 years, to the
10 L.A. Times, or whatever. And couldn't agree with you more.

11 MR. BUCALO: You bet. I was just wondering if the
12 tracks couldn't get together and maybe purchase a half a
13 page in every county and --

14 COMMISSION CHAIRPERSON SHAPIRO: You know what,
15 why don't you turn around and ask that guy, and I think
16 you'll hear something.

17 MR. BUCALO: Okay, thank you.

18 MR. CHILLINGWORTH: Sherwood Chillingworth, Oak
19 Tree. Your wish has been answered. I think it will be
20 initiated with our meet.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

22 Okay, so Mr. Castro, we saved the best for last,
23 and you're it.

24 MR. CASTRO: No, not really. To your previous
25 speaker, you know, I sincerely want to apologize, also, on

1 behalf of our membership, our union. We've really been
2 frustrated with the tote problems and we've actually
3 done -- the clerks have actually done work on the machines,
4 like that supervisor did, and those really aren't are job
5 classifications, but we've tried very, very hard to keep the
6 system up, keep it going.

7 What I also would like to tell you, and this is
8 very sincere, I've been in the union since 1966, and I can
9 honestly say that right now, today, the best working
10 relationship we have ever had with track management, the
11 tote company, and our union working together to solve
12 problems is currently in existence right now. It is far
13 from perfect.

14 All our members, our officers, myself, we are just
15 so frustrated with all the tote problems that we're having,
16 and I'm going to touch on that a little bit later, when I
17 start my presentation.

18 I'm going to go from what the number one card is
19 that I have, that I gave you. I listed them up at the top,
20 so you'd have kind of a general idea and wouldn't hit you
21 blind.

22 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
23 hold on, I've got --

24 MR. CASTRO: And I'll go quick, I promise.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, number one,

1 minisatellite issue.

2 MR. CASTRO: Yeah, at the last meeting the issue
3 of the minisatellites came up, and I asked if our contract,
4 our members were to get those jobs, and I understood that
5 you were going to check on that, you were going to get some
6 follow up on it.

7 I haven't got a letter, I haven't got an e-mail, I
8 haven't got an answer, and I'm just bringing it up again.

9 I firmly believe that we are the contractual union
10 that should get those jobs.

11 I don't know if Rod Blonien is still behind me
12 but --

13 COMMISSION CHAIRPERSON SHAPIRO: No, I think he
14 left.

15 MR. CASTRO: Okay. You can check with him, when
16 he was part of that legislation, it was designed that we
17 were to get --

18 COMMISSION CHAIRPERSON SHAPIRO: Mr. Castro, I
19 agree, without legal input and without expertise, I think
20 you get those jobs, too, assuming there are jobs.

21 I don't know enough about it, but you are the
22 union that is the one that sells pari-mutuel tickets, so I
23 would assume that. But I don't know if any work has gotten
24 any further to even get to that point, I simply don't know.

25 MR. CASTRO: Well, we're in the process of trying

1 to work on an agreement with the racing associations and I
2 just don't want to get blinded. I'm gun shy.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, I
4 understand that, and I don't think you would find a problem,
5 certainly with me. If there are jobs selling tickets, your
6 union is the one that does it.

7 EXECUTIVE DIRECTOR BREED: Right, that's what the
8 law says.

9 COMMISSION CHAIRPERSON SHAPIRO: That's what the
10 law says. Okay. So is that number one down?

11 MR. CASTRO: Then number one is down.

12 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

13 MR. CASTRO: Number two, I made a request for
14 documents. What I've asked for were three years, the
15 previous three years of the Scotwinc financial statements.

16 And what I did was I got a reply from the Horse
17 Racing Board, that they got my request, they'd work on it,
18 and then I got another letter that they needed an extension
19 of time, another 14 days.

20 I'm not picking on Hollywood Park, but I'd like to
21 call attention, quickly, to the Hollywood Park application.
22 That on page 22 you'll see "specific information still
23 needed." You don't see anything about a Scotwinc financial
24 statement there.

25 If you go a little farther into the application,

1 and on page 212, under item 8, you'll see that the balance
2 sheet is on file with the CHRB.

3 This leads me to believe that you have the
4 document on file.

5 When you go to page 217, 9A, "simulcast wagering
6 engaged by the association to collect simulcast wagering is
7 Scotwinc, Southern California Off-Track Wagering," and
8 they've attached the agreement.

9 You clearly have the documents and it's just
10 unreasonable to me to think that I make a request, a
11 reasonable request, and I get two letters that are basically
12 excuses and I don't have the documents.

13 You can go back to staff and you can tell them to
14 forget my request. Because today I went and asked Tom
15 Varela, look, would you make these documents available so
16 that we can move negotiations along?

17 Not only did the industry say that they would give
18 me the documents, they said that they would make time and
19 sit down with us, my group, and go line by line and answer
20 whatever questions we want answered.

21 So, you know, I'm just pointing a flaw in our
22 working relationship with staff, that's all -- and I'd like
23 to see it corrected. Corrective criticism, can I get away
24 with that?

25 Item three, we're going to go to the article in

1 the Blood Horse.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, you have 3A
3 and 3B.

4 MR. CASTRO: Yes, I'm going to do it in two parts.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 MR. CASTRO: There was an article that came out in
7 the Blood Horse, and this was on September 4, 2008, and it
8 involved the Quick Pick. And I'm quoting:

9 "Castro said in the August 28th
10 interview that Scientific Games
11 currently has engineers at California
12 tracks trying to fix various problems.
13 He also confirmed that he wrote a letter
14 to the CHRB on May 16th, 2008, on behalf
15 of the union, requesting the Quick Pick
16 option be removed."

17 I have the letter with me, if anybody wants to
18 question that. And it did go to the CHRB, and I know that
19 Kirk got it, because we talked about it.

20 "And he further claimed that the CHRB
21 threatened employees with disciplinary
22 action, including possible termination,
23 and license revocation if they continued
24 to process Quick Pick bets through
25 manual machines."

1 What I'd like to say about that is that letter was
2 sent. Kirk sent it. But what Kirk failed to do, and I have
3 the letter with me, is that he listed approximately eight or
4 nine people that got copies of that letter.

5 Here, I'm the representative of the people who's
6 selling cash, the betting tickets, and we were not covered
7 on that letter.

8 Now, this resulted in a huge screaming match
9 between us and some of the industry people. And at one
10 point, management put out a letter, basically saying what
11 was in Kirk's document, that we were not to sell the
12 tickets.

13 This is what was said on May 23rd:

14 "We have been notified that some pari-
15 mutuel employees have issued quick pick
16 wagers, which is a violation of the
17 directives that have been issued.

18 Please be advised that if you
19 intentionally issue a quick pick wager,
20 you will be subject to disciplinary
21 action, including possible termination."

22 Then I guess this letter came from the Horse
23 Racing Board and the notice was changed to this:

24 "We have been notified that some pari-
25 mutuel employees have issued quick pick

1 wagers, which is a violation of
2 directives that have been issued.
3 Please be advised if you intentionally
4 issue a quick pick wager, you will be
5 subject to disciplinary action,
6 including possible termination. You may
7 also be subject to possible sanctions by
8 the California Horse Racing Board, which
9 could include fines, suspensions, or
10 license revocations."

11 I'd like to see the communication opened up a
12 little bit more, that we're included on some of this stuff.
13 We did work closely with management, but we have clerks
14 moving around. We have clerks that only work on Saturday
15 and Sunday, they don't get these directives.

16 We actually did have meetings with mutuel
17 managers, over clerks who did sell tickets, not knowing that
18 they were not supposed to do it.

19 It's unbelievable to me, here's one for the tote,
20 how they could take a bet out of the self-serve terminal,
21 but they couldn't take it out at the same time with the
22 clerk's terminal.

23 What they did, they took the button off the
24 machine. Well, there are parts that are missing on the
25 machines, we don't complain about it, there are some buttons

1 missing. We know that the win button is in this corner, and
2 we know the delete key is in this corner, so there were
3 clerks that didn't know about the directive and were pushing
4 tickets.

5 I want to commend Kirk, when he found out what was
6 going on, he did work with us. Nobody got terminated,
7 nobody got a written write-up, and it was appreciated.

8 I would just like to see better communication.

9 The second issue. Commissioner Moss is here,
10 Commissioner Shapiro -- Chairman Shapiro is here, and
11 Commissioner Choper is here.

12 I know for a positive fact that over the last
13 year, maybe even two years, at numerous meetings, including
14 Pari-Mutuel Committee meetings, I have brought up the issue
15 of tote problems. I think the three of you can verify that
16 at least once in the last two or three years you have heard
17 from me my concern with the tote problems.

18 In that same article, in bold print:

19 "Be advised that from this date and time
20 forward any" --

21 Oh, that was the other thing. It's this, he
22 claims -- this is what your staff person is telling the
23 Blood Horse.

24 "He wasn't aware of any other issue with
25 Scientific Products or protocol, and

1 suggested the union is in the habit of
2 protecting itself, however it can, in an
3 era of declining membership."

4 He goes on to say, and this is the part that
5 really fries me:

6 "If they have questions, if they have
7 beefs, we will look into them."

8 Well, I know positively --

9 COMMISSION VICE CHAIRPERSON HARRIS: Who are
10 you --

11 COMMISSION CHAIRPERSON SHAPIRO: Who's being
12 quoted?

13 MR. CASTRO: I really don't like giving names.

14 COMMISSION CHAIRPERSON SHAPIRO: Well, you're
15 reading an article. You're reading an article.

16 MR. CASTRO: It's Bon Smith, and he's not
17 here -- he's not here to defend himself.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay.

19 MR. CASTRO: But I'm reading it off the article.

20 COMMISSION CHAIRPERSON SHAPIRO: We're not --
21 we're just trying to follow along.

22 MR. CASTRO: Okay, I'm reading it off the article,
23 and I can give you a copy of it.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay.

25 MR. CASTRO: But when he's talking on this line,

1 what he is saying is that if problems were brought to you,
2 tote problems were brought to you, that you would look into
3 them, and you would do this, and you would do that. It's
4 hogwash, you guys really haven't done it. You've really
5 dropped the ball on us, in my opinion.

6 I'm not going to spend the two hours, that I was
7 prepared to go with him, hoping that he was sitting here, to
8 go over problem, after problem, after problem.

9 But I will do this -- and there have been many. I
10 was going to ask him just in regards to one problem. And
11 I'm reading from an August 18th, 2008 brochure, whatever,
12 from the tote company.

13 "Terminals at Del Mar were experiencing
14 a high rate stuns that lock up the
15 terminal. The problem often occurs when
16 a ticket is processed through the
17 scanner."

18 Also in this packet here, I've got a letter that
19 goes back to 2005, April 26th, 2005, that I sent to the
20 California Horse Racing Board. I was complaining about the
21 number of stuns.

22 And I was going to ask Bon, okay, you guys have
23 got the notice, I've got the documentation, what have you
24 done to remedy that problem?

25 I don't believe you're doing the testing that you

1 should be doing. I don't believe you're taking it serious,
2 the problems that this tote system is having.

3 I really want to underline the fact, though, that
4 at this point in time we are working closer with the tote
5 company, track management, and our union members to do what
6 we can to resolve these problems. It's far from perfect.
7 This is the worst tote system that I've seen.

8 Poor Doug Kempt, every month I've got to listen to
9 him, "I'm going to quit, I'm going to quit," because he's
10 got logs like this, in his office, trying to find lost
11 money.

12 And I'm not going to go into detail. I've
13 contacted three of you, I told you that I would sit down
14 with you privately. I can't do it with three, I have to do
15 it one, individually.

16 I'm going to go over and show you things where the
17 clerks have taken their cell phone, taken a picture of the
18 screen, and we've run a log, the same transactions, and the
19 bets are not being recorded. They're lost in space. That
20 clearly questions the integrity of the system.

21 It bothers me, it bothers my members, it bothers
22 the racing associations. We don't usually talk about that.
23 I don't like talking to it here, I'm going to go to another
24 subject.

25 Advance deposit wagering. I do -- I did find the

1 document. And after this meeting started this morning, I
2 heard some things that made me have second thoughts of
3 whether I -- what I was going to do was just give it to you
4 and let you get a hold of the ADW companies, and see if they
5 would sign it.

6 Some of the things that were said this morning
7 made me question whether I should that. I called our lawyer
8 and our lawyer told me not to -- not to distribute the
9 document to the ADW people.

10 But what I am going to do is I've made additional
11 copies, I'm going to leave them for you. They are not for
12 the general public. But you can see what we've done and
13 where we're at, if you so desire.

14 You don't want them?

15 COMMISSION CHAIRPERSON SHAPIRO: Let me just tell
16 you, if you give them to us, they become part of the public
17 record. Your choice.

18 MR. CASTRO: Well, that ends that.

19 COMMISSIONER ISRAEL: What did you hear that
20 discouraged you from doing this?

21 MR. CASTRO: Pardon me?

22 COMMISSIONER ISRAEL: What did you hear that led
23 you to make this decision?

24 MR. CASTRO: It's you were told correctly this
25 morning that there have been a lot of talks and a lot of

1 discussions over this issue. I do believe, I sincerely
2 believe, the majority of your Board members up there really
3 want to see this issue get done.

4 And some of them really put in double time to try
5 to make it work for everybody.

6 And for whatever reason, I'm not going to say
7 right or wrong, I'm not going to pick sides, this Board
8 chose to allow the internet companies to be licensed and
9 conduct business as usual, and for eight years now we've
10 been hurt in the process.

11 And what's really frustrating to me is that some
12 of the people that are sitting behind me, or that were
13 behind me today, were in the Legislature with me in these
14 private meetings.

15 And I've been telling the truth, just like I said
16 with TVG, they went up far and beyond what the others were
17 willing to do at the time, and they were in the meetings.
18 They questioned some of the things, but they kept their
19 word, we kept our word, and we came to an agreement with
20 them.

21 The problem with the agreement that I have with
22 TVG, a lot of it was verbal, and I can't really take it
23 verbal to somebody else. That was my mistake, I was
24 slipshod on that. But I trusted them, and I still do.

25 So what happened today was I kind of heard that

1 this Board seems to have a renewed interest, at least
2 publicly so, that they want to see the issue get resolved
3 with labor. And we have always been willing to work with
4 this.

5 This has been extremely, personally frustrating
6 for me, because I consider myself a really good negotiator,
7 I don't like to fail. I try to be fair, but so far I've
8 failed on this. It's hard for me to take failure.

9 And what I heard today made me think that, you
10 know, maybe we can work a little bit better, maybe there can
11 be a little more communication with the other three.

12 We don't really want TVG out here, by itself, the
13 other three over here. We would rather treat all four the
14 same.

15 And I'm actually a little bit excited that I think
16 that will get done.

17 So I'm going to hold off and I'm going to continue
18 to try to remedy some of these issues.

19 We don't want to hurt the industry, we sincerely
20 don't.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay. Mr.
22 Castro, thank you, I appreciate your comments. I believe
23 the Board and everybody here appreciates them.

24 I can only tell you that I'm thrilled to hear that
25 there is a good working relationship between the tracks, the

1 tote company, and you, and your people.

2 I don't know why it's taken so long. I'm glad to
3 hear that they are reacting to our efforts to get them to
4 react to, and that there is this good working relationship,
5 which I hope is beneficial and useful. I believe our staff
6 should be responsive.

7 And, you know, all I can tell you is that I think
8 you bring some very legitimate, good issues to our
9 attention, and I hope that we can deal with them in the best
10 way possible for the industry. So thank you.

11 MR. CASTRO: Commissioner Israel, I was kind of
12 short with you this morning, I just want to apologize, you
13 hit a nerve.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 COMMISSIONER ISRAEL: It won't be the last time.

16 COMMISSION CHAIRPERSON SHAPIRO: No, we're going
17 to go at it again, trust me. Okay.

18 (Laughter.)

19 COMMISSION CHAIRPERSON SHAPIRO: I have no more
20 comment cards. I have nothing else that I'm interested in
21 -- that any of us have any need to talk about. Therefore,
22 the public session of this meeting is going to adjourn.

23 There is an Executive Session, afterwards.

24 And Mike is telling me -- where is it, Mike? Mike
25 will lead us to the pass.

1 (Thereupon, the September 18, 2008 Regular Meeting
2 of the California Horse Racing Board resolved into
3 Closed Session at 2:32 p.m.)

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CERTIFICATE OF REPORTER

I, RONALD J. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California Horse Racing Board, was recorded under my supervision, transcribed in typewriting, and thereafter personally proofread by me, Ronald J. Peters, a Certified Shorthand Reporter of the State of California.

I further certify that I am not of counsel or attorney for any of the parties in this matter, nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this:
September 25, 2008

Date

RONALD J. PETERS, CSR, RPR, CMRS
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