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CALIFORNIA HORSE RACING BOARD

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6

REGULAR MEETING

7

Thursday, October 14, 2004
9:51 A.M.

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ARCADIA CITY COUNCIL CHAMBERS
240 West Huntington Drive
Arcadia, California

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BOARD MEMBERS PRESENT:

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JOHN C. HARRIS, Chairman

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WILLIAM A. BIANCO, Commissioner

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SHERYL L. GRANZELLA, Commissioner

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JERRY MOSS, Commissioner

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RICHARD B. SHAPIRO, Commissioner

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JOHN C. SPERRY, Commissioner

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23

24

Reported by: NEALY KENDRICK, CSR 11265

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Job No.: 04-26896

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1 ARCADIA, CALIFORNIA; THURSDAY, OCTOBER 14, 2004

2 9:51 A.M.

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4 EXECUTIVE DIRECTOR WOOD: Good morning, ladies
5 and gentlemen. This is a regular meeting of the
6 California Horse Racing Board. It's being conducted
7 on Thursday, October the "4th," 2004. And we're in
8 the Arcadia City Hall in Arcadia, California.

9 Present at today's meeting are
10 Chairman John Harris; Commissioner William Bianco,
11 Commissioner Sheryl Granzella; Commissioner Jerry
12 Moss; Commissioner John Sperry; and it gives me great
13 pleasure to introduce the newly appointed Racing
14 Commissioner for the Board -- Mr. Richard Shapiro.

15 COMMISSIONER SHAPIRO: Thank you.

16 EXECUTIVE DIRECTOR WOOD: And with that, I'd
17 like to call the meeting to order. I'd like to ask
18 everybody, if you give testimony to this Board, that
19 you please present your name and your organization
20 before you begin speaking. If you have a business
21 card to give our court reporter, that would be very
22 much appreciated.

23 And with that, I'd like to turn the
24 meeting over to our Chairman, Mr. John Harris.

25 CHAIRMAN HARRIS: Thank you, Roy.

1 I'd like to welcome Richard Shapiro to
2 the Board. He has a long heritage in horse racing,
3 including harness racing. And, you know, perhaps
4 he'd like to make a few comments. But I think he'll
5 be a good addition to the Board, and I look forward
6 to working with him.

7 Would you like to --

8 COMMISSIONER SHAPIRO: Thank you. I do have a
9 long heritage in racing, having grown up around
10 Thoroughbred racing initially when I was child. My
11 grandparents had a farm in Canoga Park. We were
12 blessed to have "Native Diver" (phonetic). My father
13 was the president of Western Harness Racing. I
14 succeeded him.

15 Having been too big to be a jockey, I
16 became a harness driver, not a very good one. And I
17 today own Thoroughbreds, none of which are too good
18 either. But I also have been very saddened to see
19 the decline in racing and the problems that racing
20 has. And so I'm very pleased to be on this Board and
21 hopefully help the industry get back to where it was
22 many years ago.

23 CHAIRMAN HARRIS: Thank you, Richard. We'll
24 enjoy working with you.

25 First item on the agenda is discussion

1 and action by the Board -- the approval of the
2 minutes of the regular meeting of August 19, 2004.
3 That was a couple of meetings ago. I'd like to get
4 actually our minutes caught up where we could do it
5 on the preceding meeting. But we've been having some
6 pretty long meetings here so kind of backed it up.

7 Any additions or corrections to those
8 August minutes?

9 (No audible response.)

10 CHAIRMAN HARRIS: None heard, would someone
11 move approval?

12 COMMISSIONER SPERRY: Move adoption of the
13 minutes, Mr. Chairman.

14 COMMISSIONER BIANCO: Second.

15 CHAIRMAN HARRIS: All in favor?

16 BOARD MEMBER VOICES: Aye.

17 CHAIRMAN HARRIS: And the next item is one
18 that saddens me really. This is the last, probably,
19 meeting that -- for Roy Wood. He's actually retiring
20 at the end of the year, but he's got quite a bit of
21 accrued vacation and may not be back for the December
22 meeting.

23 But Roy has been a good friend of mine
24 for many years and a person I've worked with much
25 more closely since I've been on the Board. And he's

1 been out in California, helping California racing for
2 the last 11 years. And it's probably one of the most
3 difficult jobs in -- anywhere. I mean I think we
4 all feel that we have a difficult job. But look at
5 Roy's job. It's really tough.

6 You've got to answer to so many
7 different people, and you're trying to do so many
8 different things. And Roy pulled things together
9 very well, did a lot of things that advanced the
10 sport in California and the overall integrity of
11 racing.

12 We have a presentation to Roy.
13 Perhaps he'd like to comment also. But this is from
14 the California Horse Racing Board.

15 It says, "Whereas, Roy Wood has been a
16 valued member of the horse racing industry for more
17 than 30 years. He began in the private sector as a
18 horse owner in -- at Louisiana Downs in 1973 and then
19 as owner-manager of a trainer center, horse trainer,
20 horse identifier, and farm manager;

21 "Whereas, Roy Wood became -- began
22 public service in 1990, assistant to the Executive
23 Director of the Louisiana State Racing Commission and
24 then served as a Louisiana State Steward prior to
25 becoming Director of Racing for the Texas Racing

1 Commission.

2 "And, whereas, Roy Wood, having served
3 as Executive Director of the California Horse Racing
4 Board since January 1, 1994, will be retiring on
5 December 30, 2004.

6 "And, whereas, during the last eleven
7 years, Roy Wood has effectively led the CHRB and the
8 California Horse Racing industry through a period of
9 significant change involving transfers of racetrack
10 ownership; the staggering growth of simulcast
11 wagering; the advent of account wagering; and the
12 critical issues relating to security, medication, and
13 the integrity of horse racing;

14 "And, whereas, Roy Wood, having
15 recognized, early on, the critical role played by the
16 CHRB and the merit of the California Horse Racing
17 industry, arranged for the development and
18 distribution of the CHRB News and Review, a quarterly
19 newspaper committed to reporting achievements of the
20 Board, with all contributions of the horse racing
21 industry, meritorious actions of participants in the
22 industry, and other information useful to the public
23 and racing community;

24 "Now, therefore, be it resolved the
25 California Horse Racing Board joins with those who

1 hold Roy Wood in high esteem and expresses its
2 recognition and deep appreciation for his great
3 contributions to the public and California horse
4 racing industry."

5 This was approved unanimously by the
6 Board, and we've all signed it. And I'm very pleased
7 to give this to Roy.

8 (Standing ovation)

9 EXECUTIVE DIRECTOR WOOD: Mr. Chairman and
10 Members of the Board and the public that's here
11 today, I just want to take a few minutes to thank all
12 the Commissioners, the people who are serving on this
13 Board today and the prior Commissioners who served on
14 the California Horse Racing Board over the years, for
15 the opportunity to serve as your Executive Director.

16 I've enjoyed every minute of the time
17 I've spent in this job. It's been a dream come true
18 for me to be in this position. I thank you for your
19 support. It's always been there.

20 And I also want to take a few minutes
21 to thank the people who served before you -- the
22 Commissioners who've been along the line these eleven
23 years. We've had some really dedicated, great people
24 do the job of Racing Commissioner. It's not a very
25 thankful job either. It's a lot of tough decisions

1 to be made.

2 And I know each and every one of 'em
3 have tried diligently, as a Commissioner, to do what
4 they thought was best and right for racing. And I
5 know it's been done with integrity and honesty to try
6 to make the sport better than it was when they found
7 it.

8 I'd be remiss without, at least in
9 front of the public, thanking my wife Jenny for her
10 eleven years of service to the State of California
11 and this industry. She was a pretty good horse
12 trainer back in the Midwest when she came to
13 California. And, as many of you know, she's been to
14 just about as many of these functions as we have had.
15 And she's always been supportive of me.

16 And I thank you very much for that,
17 Mrs. Wood. You've always been there for me.

18 (Applause.)

19 EXECUTIVE DIRECTOR WOOD: I have a very large
20 group of people who've been responsible for making
21 all the things happen on an administrative level --
22 the packages and putting meetings together and
23 helping write the rules. And I consider the staff of
24 the California Horse Racing Board the greatest group
25 of people I've ever worked with in my life.

1 And I can say that with a lot of -- a
2 lot of basis because I've worked as regulator in
3 three other -- two other states and I worked for a
4 large corporation for ten years and I've worked with
5 a lot of people. But the people of California and
6 this Board are very, very lucky to have such a
7 dedicated group of professional people working for
8 'em.

9 Without naming all of 'em, I'd like
10 just to mention a few. And that's Roy Minami. He's
11 been the Assistant Executive Director during my
12 tenure.

13 And, Roy, thank you for your support,
14 for those long hours and for the times we've spent
15 together in trying to accomplish some of the tasks
16 given to us. And you've done a great job. And I
17 appreciate your friendship.

18 Paige Noble -- Administrator Chief of
19 our organization. He just is a fantastic person
20 who's helped me through the budget times and all the
21 other things we've had to deal with on an
22 administrative level.

23 John Reagan is probably one of the
24 greatest auditors that the racing industry knows.
25 People across the country call him for questions and

1 answers. And he's always been there to go through
2 ADW and all the other audit problems we've had
3 throughout these years.

4 "Mike Kilpack" (phonetic) and "Bob
5 Niento" (phonetic) are two supervisor and chief
6 investigators in Southern California. What two
7 dedicated people these men are.

8 They've worked constant hours. They
9 have never -- always been able to accomplish the
10 things that the industry had always hoped they had.
11 But they've tried their hardest to do what they
12 thought was right to help the horsemen in California.

13 Mike Marten -- what a special part of
14 my life he's been for eleven years because he's had
15 to answer a lot of the questions that were presented
16 to the Board and myself that we've really had to come
17 up and to deal with on a day-to-day basis.

18 But I thank you very much. I'll miss
19 you all. It's been a great opportunity. I've
20 enjoyed my life here in California, and I look
21 forward to seeing you at the races. And best of luck
22 to you. You're still the best place in the world to
23 race, ladies and gentlemen.

24 I know a lot of people have a lot of
25 problems, and they talk about a lot of things that

1 are wrong. But if you've been in some of the places
2 we've been and raced in some of the scenarios we've
3 raced, you're very fortunate. And I wish you well
4 and hope California racing continues to grow and be
5 successful. Thank you.

6 (Applause.)

7 CHAIRMAN HARRIS: Thank you. Roy, you're a
8 very special person, did a lot for all of us, and a
9 great friend of all of us.

10 Usually we have Rod Blonien sing -- we
11 did in Sacramento -- but why don't we -- I still
12 would like to do it. But I'd rather wait till the
13 end of the meeting 'cause that would really, really
14 be more the "Happy Trails" moment. So we'll defer
15 that to the last agenda item, which -- everyone can
16 think about the lyrics along the way.

17 The next -- the first item we have is
18 discussion, action by the Board on the application
19 for license to conduct a horse racing meeting at the
20 Los Alamitos Quarter Horse Racing Association from
21 December 26 through -- 2004 through December 18,
22 2,005 inclusive. Roy?

23 MR. MINAMI: Roy Minami, Horse Racing Board
24 staff.

25 This is the application for Los

1 Alamitos Quarter Horse Racing Association. They're
2 going to run from December 26, 2004, through December
3 18, 2005. They propose to run 202 days, four nights
4 a week -- Thursday through Sunday. There'll be no
5 racing on December 31, February 6, September 8, and
6 November 24. First live post will be 7:15, Thursday
7 through Friday; 7:00 o'clock, Saturday; and 5:30 on
8 Sunday.

9 We still need the horsemen's
10 agreement, the fire clearance, and the Scientific
11 Games Racing and Autotote contract. The staff
12 recommends that the Board approve the application,
13 contingent upon the Board receiving the additional
14 information.

15 CHAIRMAN HARRIS: Are there any problems with
16 any of those items as far as would it hold up -- is
17 the horsemen's agreement pretty well done?

18 MR. SCHIFFER: Good morning. Dan Schiffer on
19 behalf of the Pacific Coast Quarter Horse Horsemen's
20 Association. Report to you that the agreement is
21 reached, in principle. We're just refining the
22 language. It will be in the hand of the Board by
23 Monday.

24 CHAIRMAN HARRIS: I'm glad that most of our
25 horses run faster than these agreements move along.

1 Any comments from the audience or the
2 Board or -- on this license?

3 MR. NEUMEISTER: Yes, Mr. Chairman. My name
4 is David Neumeister, N-e-u-m-e-i-s-t-e-r. I am a
5 director of the United States Trotting Association
6 and of the California Harness Horsemen's Association.

7 And I am here, regretfully, to ask
8 this Board to condition the license of Los Alamitos
9 on their full compliance with Section 19601,
10 Subsection L, of the Horse Racing Law, which, as all
11 of you have heard over the last few meetings,
12 requires an association that is also operating as a
13 simulcasting facility to display the signal and
14 accept wagers on all live races conducted in this
15 state without regard to breed.

16 I really don't think and I don't think
17 anybody seriously could contend that that means in
18 one room of the racetrack. As you all know, Los
19 Alamitos only accepts wagers and the television
20 signal from Cal Expo, the only other meet in
21 California racing live when they do, in one room of
22 the facility.

23 They have actually disabled the -- the
24 betting machines in every other part of the plant --
25 this, in spite of the fact that, in February of this

1 year, the harness interests in this state -- the
2 horsemen and Capitol Racing -- entered into an
3 agreement with the management of Los Alamitos and
4 their horsemen to put a significant amount of purses
5 and commissions aside every racing night, presumably,
6 we thought, to maintain the status quo at that time.

7 Since then, the management of Los
8 Alamitos has decided to take the law and this entire
9 issue into their own hands, despite the fact that we
10 are keeping our agreement and setting aside purses
11 and commissions every night.

12 Only a small portion of the fans that
13 go to Los Alamitos are able to wager and watch races
14 from the only other live race meet in this state.
15 And I think that is a crime.

16 MR. BLONIEN: Mr. Chairman and Members, Rod
17 Blonien, representing Los Alamitos racecourse.

18 I don't want to rehash the arguments
19 that were made at the last meeting or the couple of
20 meetings before. But you've heard this a number of
21 times in the last year. The bottom line is we are in
22 complete compliance with the law, with all of the
23 regulations of the industry.

24 It's not in one room. It's in an area
25 where there are plenty of self-service machines and

1 pari-mutuel clerks. The -- the attendees are
2 adequately -- more than adequately served in terms of
3 the prominence of the harness signal at Los Al.

4 There are other satellite facilities
5 in the state that treat the night industry different.
6 And the Board has sanctioned that activity. Indeed,
7 and at some of the big racetracks, in certain areas,
8 you can't bet the fair signal, you can't bet the
9 quarter horse or the harness signal when it's a
10 Friday night and there is three tracks racing at the
11 same time.

12 Because we're in complete compliance,
13 we would request that you approve our license without
14 any condition. Thank you, sir.

15 (Buzzing electrical noises.)

16 MR. HOROWITZ: Must be some alien weighing in
17 on this discussion. Alan Horowitz, Capitol Racing
18 Association.

19 I'd like to bring to the Board's
20 attention that this license application contains a
21 provision which would enable Los Alamitos to import
22 harness races from out of state at their discretion
23 and, when those signals are received at Los Alamitos
24 and disseminated through the satellite system in
25 California, those signals can be bet on in every

1 location and, even at Los Alamitos, can be bet on
2 throughout the facility at the same time that the
3 harness signals from California are restricted to
4 that same "area," as Mr. Blonien refers to it.

5 I think that's a travesty that
6 California signals don't have equal treatment and
7 equal protection by this Board as opposed to imported
8 harness signals because they happen to be imported by
9 Los Alamitos Harness Racing.

10 There's nothing statutorily wrong with
11 their ability to import those signals. It's the
12 treatment of those signals and the discouraging of
13 patrons with regard to betting on the signals that
14 are state signals from Capitol Racing in Sacramento.

15 I think perhaps a condition should be
16 made on this license that, as long as this issue
17 remains contestable between the harness and the
18 quarter horse industry, that any quarter horse --
19 excuse me -- any harness product that is taken from
20 outside the state by Los Alamitos be treated at Los
21 Alamitos in the same fashion that California harness
22 signals are taken. Thank you.

23 DR. ALLRED: Ed Allred, Chairman of Los
24 Alamitos.

25 We're been going over this for years.

1 Mr. Horowitz very well knows that there is a total
2 economic difference, in taking in a harness signal
3 from the East Coast or the Midwest, insofar as the
4 financial return to our horsemen and to our
5 management. We get 2 percent from Cal Expo. We get
6 somewhere between 16 and 18 and 20 percent from the
7 other harness tracks.

8 In addition to that, many times, some
9 of the -- we have a quirk in the law where we bring
10 in signals on behalf of one another when we're not
11 racing. Sometimes the harness signals are brought
12 in, actually, on behalf of Cal Expo or of the harness
13 meet at Cal Expo.

14 The Board has previously voted to
15 enforce the modified version of the "Zum" --
16 so-called "Zumbrun agreement" from way back in the
17 90's. That's in litigation.

18 In the meantime, \$4 million has
19 accumulated, approximately, which is owed under the
20 terms of that agreement and which is being disputed
21 by -- by the harness interests. And our only method
22 of survival is to cut down the "rent-a-crowd." If
23 we're going to rent our crowd, they need to pay us a
24 reasonable amount for it, which they seem to think
25 they don't have to do.

1 We cannot -- cannot condone that. We
2 cannot do it. We cannot survive. My horsemen can't
3 generate enough money. We'd love to be able to go
4 back to the days when we did bring in the signal
5 under the terms of the -- modified terms of the
6 Zumbrun agreement.

7 CHAIRMAN HARRIS: Any comments?

8 Doe the Board have any questions on
9 this or -- it's been a complex issue we've been
10 wrestling with for quite a while.

11 COMMISSIONER MOSS: Why is Cal Expo paying
12 only 2 percent?

13 CHAIRMAN HARRIS: Well, that's -- some of the
14 representatives could explain. It's different --
15 it's a different system for quarters and harness --
16 the night industry, basically. In the day industry,
17 there's no charge, north or south. If you could --
18 if you're at Santa Anita and you bet Bay Meadows,
19 you're -- all the money stays in the south.

20 And it's the same way for Bay Meadows.
21 If you bet Santa Anita, all the money stays in the
22 north. But in the overall night system, as I
23 understand it, there's only a 2 percent commission
24 that goes to the facility where the wager is placed.
25 It's really two different systems. And that's the

1 way it was legislated.

2 But I guess the issue here is "Are
3 they compelled to take it, even though they're only
4 getting 2 percent?" I mean what -- really, the thing
5 cries out for some kind of a economic settlement to
6 try to line up everyone's interests and walk away
7 from it. But it's been a -- kind of a standoff.

8 EXECUTIVE DIRECTOR WOOD: Actually, Mr.
9 Chairman, many of the issues that Mr. Horowitz
10 brought up in his opening statement are part of the
11 ongoing litigation that's still pending between the
12 California Horse Racing Board and the Harness
13 Horsemen's Association and Capitol Racing.

14 The issues concerning the location of
15 the signal in the facility of Los Alamitos were
16 issues that were discussed last month when -- when
17 the harness industry had asked the Board to consider
18 making changes to the alignment of how the signal was
19 displayed through the track at Los Alamitos --
20 probably meant the harness track.

21 I need to bring to your attention that
22 many of the issues of the satellite-facility
23 commissions -- who pays who, what, when -- are under
24 the litigation that's still pending in the superior
25 court in California right now.

1 It's been a very long, arduous task to
2 try to resolve that. We've hoped, over the years,
3 that the parties could make a -- reach agreement.
4 But so far, that hasn't been done, and that
5 litigation is still pending.

6 COMMISSIONER SPERRY: Mr. Chairman, with the
7 understanding that the needed information will be
8 forthcoming to us, as required, I move adoption or
9 move that the license be approved.

10 CHAIRMAN HARRIS: Is there a second?

11 COMMISSIONER GRANZELLA: Second.

12 CHAIRMAN HARRIS: Any more discussion?

13 COMMISSIONER SHAPIRO: I'd like to ask a
14 question because I don't understand it. And I'm
15 sorry to be so naive. But is the harness signal
16 that's coming from California -- is there a harness
17 signal coming from elsewhere in the country that is
18 received at Los Al throughout the facility?

19 CHAIRMAN HARRIS: I think -- I think there is.
20 I think that they could explain that. I guess the
21 issue is that that signal -- that there is more money
22 that stays, you know, at the Los Al.

23 But could you explain that?

24 DR. ALLRED: There are times when -- not all
25 the time -- not tonight, as an example -- but there

1 are times in the year in the wintertime and there are
2 times in the year when harness is not racing at
3 Los -- at Cal Expo, when we are allowed to bring in
4 additional signals on their behalf.

5 They share the money with us. And
6 we -- and sometimes they share money with us when
7 we're dark. We're allowed to bring in twelve signals
8 on those days instead of six. And sometimes it's
9 necessary to bring in harness product.

10 Also, occasionally during the winter,
11 there's no quarter horse racing or cheaper
12 Thoroughbred racing or Arabian racing or paint
13 racing -- all the things that we're entitled to bring
14 in -- so we are entitled to bring in harness signals
15 at that time.

16 The difference, of course,
17 Commissioner Shapiro, is that under the -- we only
18 get a -- a commission of 2 percent from harness
19 racing. And that's just for the facility. My
20 horsemen don't get any of that unless I want to give
21 it to 'em.

22 We get up to 16, 18, 20 percent from
23 the signal outside of California, which we really
24 don't use all that often anyway. And if -- it's
25 certainly not essential to our life and death.

1 But the other is very essential. We
2 have a crowd -- if we have a special event, we spend
3 a lot of money.

4 We get people there, give out
5 vouchers, et cetera; maybe spend 50, a hundred-
6 thousand dollars doing that; and a patron can take
7 that voucher and -- \$5 minimum voucher and whatever
8 else it might be and bet on any product there; and we
9 only get 2 percent.

10 That would not happen at Hollywood
11 Park or Bay Meadows or anywhere else because there's
12 a system to take care of that. Under law, our
13 horsemen can object and they have objected to us
14 bringing in that signal without compensation. It's a
15 long, long history. And many of the Members of the
16 Board have heard it so much they're sick and tired of
17 it, I'm sure.

18 But there was an agreement made in the
19 90's, after court action, which -- called the Zumbrun
20 agreement -- which allocated a larger percentage of
21 the money brought in from Cal Expo to Los Alamitos to
22 our horsemen and to our association. And for a
23 number of years, that was what worked.

24 A change in the leadership of the --
25 in Sacramento and of management resulted in a

1 standoff on this thing. And it has yet to be
2 resolved by the courts. \$5,500 a day or some such
3 sum is kept aside to make up for the possible -- part
4 of the possible amount of money they would have to
5 pay to us. But it's far less than what is actually
6 probably -- in our contention, anyway -- is owed.

7 After many years of not being able to
8 resolve this, we have finally got frustrated. And
9 the Board tried to enter into it and made a decision
10 which we were satisfied with. And the harness
11 industry refused to accept that and continued to
12 litigate it.

13 We throw up our hands because we don't
14 know that it will ever be resolved. And we'd love to
15 bring the harness signal on economic terms that make
16 sense for us and hopefully makes sense for them. I
17 think it would be far better for California racing.
18 We would certainly like to do that.

19 And anything this Board or anyone can
20 do to induce and encourage the parties to come to an
21 agreement would be appreciated.

22 MR. HOROWITZ: Alan Horowitz, Capitol Racing.

23 By and large, that was a pretty good
24 description of the history that has transpired in
25 this issue. It leaves out some items, selectively.

1 But that's fine. I'm not here to redebate the issue
2 with this Board. Most of the Members, except Mr.
3 Shapiro, have heard this, ad infinitum.

4 However, again, I'd like to reiterate
5 that it is patently unfair for an out-of-state signal
6 to be accepted in any facility in California -- and
7 in this case, a very prominent facility for
8 simulcasting -- and be allowed to be wagered on in a
9 manner that is different from the way a harness
10 signal emanating from California is treated.

11 It is patently unfair. You are the
12 California Horse Racing Board. You are here to
13 protect California products, California racing. And
14 we should have our product in California -- from
15 California being treated the same way any other
16 harness product is, regardless of the compensation to
17 the facility.

18 That's a side issue. That's an issue
19 that's before the courts. Thank you.

20 CHAIRMAN HARRIS: Any other questions from the
21 Commissioners?

22 (No audible response.)

23 CHAIRMAN HARRIS: All in favor?

24 BOARD MEMBER VOICES: Aye.

25 EXECUTIVE DIRECTOR WOOD: Do a roll call --

1 CHAIRMAN HARRIS: Want to do it as a roll
2 call? Do a roll call.

3 EXECUTIVE DIRECTOR WOOD: One second.
4 Commission Moss.

5 COMMISSIONER MOSS: Could I just find out
6 exactly what we're voting for?

7 CHAIRMAN HARRIS: We're voting for --
8 basically, we've kind of got involved. Effectively,
9 at this point, what we're voting for is the Los
10 Alamitos license to conduct a race meeting.

11 I guess the side issue is implied in
12 that -- in their application -- is their ability to
13 bring in harness races from out of state, which is a
14 part of all the applications. You can show them all
15 you're bringing in. And that's the part that's being
16 questioned.

17 COMMISSIONER MOSS: And is there some
18 litigation going on about this as we vote on this?

19 CHAIRMAN HARRIS: Yeah. Yeah. It's -- we
20 need to really, for the newer Members of the Board,
21 have a session where we go through this whole -- this
22 whole issue that -- it is pretty -- pretty complex.

23 COMMISSIONER MOSS: But, it seems to me, we
24 need to get their license underway at this point; is
25 that right?

1 CHAIRMAN HARRIS: Yeah. Yeah. I mean I
2 guess, conceivably, even if someone is licensed, we
3 could take away some aspect of that license down the
4 road, I would guess. I mean is that -- would that be
5 correct?

6 If we licensed somebody to do
7 something and then we decided that we didn't want 'em
8 to do it, could we revoke that aspect of a license?

9 ASSISTANT ATTORNEY GENERAL KNIGHT: You
10 certainly could. But it would be easier to -- I
11 mean, from a legal standpoint, it's easier to
12 preclude it, to start with, than to take away rights
13 'cause you're -- you deal with vested-rights
14 arguments and that sort of thing.

15 COMMISSIONER SHAPIRO: Mr. Chairman, I'm not
16 knowledgeable enough to really have an opinion on
17 this, other than I would think that it would be in
18 California's best interests that, to enhance the
19 breeding and racing of horses and horsemen that
20 operate in California, it only makes more logical
21 sense that it's in our best interests to promote
22 harness racing or any breed that's racing in
23 California versus a breed that's racing out of state.

24 Do we have any authority to see that
25 these parties sit down and see if there's some

1 compromise and make their license conditioned upon or
2 at least knowing that they're attempting to resolve
3 this, besides the court action that appears to be
4 stalled?

5 CHAIRMAN HARRIS: Yes. We have been doing
6 that and not very successfully. I'm not sure what
7 more, anything further, we really need to do. I mean
8 it really needs to be resolved.

9 I guess on the -- as far as the issue
10 of benefitting the state horse population, it's kind
11 of a double-edged sword. And if you do it -- the
12 quarter horse horsemen and mixed breed that are
13 racing at Los Al are better served by doing it the
14 way Los Al wants to do it than the way Capitol wants
15 to do it.

16 But then the Capitol harness horsemen
17 are better served doing it the way they want to do
18 it. So it's not a win-win thing that we're doing
19 here.

20 But we could -- I think it's
21 important -- we've got two members of the Board that
22 are not familiar with all the issues -- and it is a
23 pretty convoluted mess -- that, possibly, we could
24 approve their application in total but with the --
25 some stipulation that the aspect of the signals at

1 Los Al coming from out of state be revisited and, you
2 know, either approved or denied, you know, at a
3 future meeting.

4 Would that be something that gives us
5 another window of time that we can look at it?

6 COMMISSIONER SHAPIRO: I think that would be
7 beneficial. And perhaps even staff or somebody could
8 give to me and perhaps Mr. Moss a -- some form of a
9 summary or a memo --

10 CHAIRMAN HARRIS: Yeah.

11 COMMISSIONER SHAPIRO: -- that could give us
12 some history on this and we could get up to speed a
13 little better to understand what we're actually
14 voting on.

15 CHAIRMAN HARRIS: Yeah. I think that would
16 be -- would be fine.

17 I mean the problem at hand is that
18 their meeting does start on December 26. Our next
19 meeting isn't until December something. So my theory
20 is it would be good to get their meeting approved but
21 have a sort of another look where people felt that
22 there are aspects that needed to be changed that
23 could be without creating any undue problem.

24 COMMISSIONER SPERRY: Mr. Chairman, I think it
25 would be beneficial to all of us to revisit it.

1 We've hashed this out so many times
2 and had so many agreements that didn't seem to
3 finalize, that sometimes it gets to the point that my
4 understanding is that, at least that currently at
5 this time, that it's in the courts to try and resolve
6 the issues that we haven't been able to get solved.

7 CHAIRMAN HARRIS: Yeah.

8 COMMISSIONER SPERRY: And, you know, I don't
9 know how -- I keep wondering why it keeps coming up,
10 time after time after time, when it is in litigation
11 and we've sat here -- in fact, I think we sat here at
12 this facility the last time we were here and there
13 was supposedly a deal made out in the hall that
14 wasn't followed through on.

15 MR. BIERI: I'm sorry. I didn't --

16 COMMISSIONER SPERRY: Mr. Bieri?

17 MR. BIERI: No. I didn't mean to cut you off.
18 I kinda stuttered and I --

19 COMMISSIONER SPERRY: I knew you never would.

20 MR. BIERI: I apologize.

21 Well, all of the agreements that were
22 made at the meeting that was here have been followed
23 through. We transferred the check that day. We
24 agreed to allow the money to stay there. We sent the
25 \$500,000. We are putting the money into escrow.

1 Everything that we agreed to that day has been
2 followed through on, to the letter.

3 But what I wanted to say is --

4 COMMISSIONER SPERRY: Could I interrupt a
5 second then --

6 MR. BIERI: Sure.

7 COMMISSIONER SPERRY: -- ask you, "Why hasn't
8 there been a resolve to the issue?"

9 MR. BIERI: Because the amount of money is
10 different between us.

11 But what I wanted to -- and I'd love
12 to have that conversation. But that is what we are
13 talking about in court. And it's -- frankly, it is
14 just money. You know, Doc says this. We say this.
15 And we haven't been able to match them.

16 But I don't want anyone to think that
17 we don't want Los Al to race. We're not looking to
18 do something that says Los Al can't race or doesn't
19 issue their license. We want Los Al to race. We
20 want Los Al to do what it's done for years. We are
21 not anti-Los Al in any way, shape, or form. So
22 please don't -- we're not asking you to stop them
23 from racing.

24 But what we are asking you to is that,
25 if they're taking a harness signal from California

1 and they're putting it in a certain place and they're
2 taking a harness signal from someplace else, it would
3 seem that those signals belong in the same place. If
4 one goes throughout the whole place and one goes into
5 the restricted area, that didn't seem right.

6 But under no circumstances should you
7 take what we are saying to be anti-Los Al and their
8 license or racing or anything like that. We are not
9 thinking that at all. We're just looking for harness
10 to be as widespread throughout that facility as it
11 can and for harness, in state and out of state, to be
12 treated the same.

13 MR. BLONIEN: Mr. Chairman and Members: Rod
14 Blonien, for one last moment.

15 Mr. Sperry, your recollection is
16 excellent. Last January, this Board took a recess
17 for about an hour, and the parties tried to work
18 something out. Didn't happen.

19 Came back in February. I think you
20 took a recess for about an hour and a half that time.
21 Parties could not work it out.

22 In terms of the races that are being
23 imported from out of state, both harness and quarter
24 horse is benefitting from that. And the difference
25 is that, with those races that come in from out of

1 state, we get 16 or 18 percent. And depending upon
2 whether they're racing or not, we share that money
3 with them. It goes into our purse account.

4 Quarter horse industry is very, very
5 challenged in California. There are five states that
6 principally have major quarter horse racing meets.
7 Beginning in January, three of those states are going
8 to have purses that are supplemented from slot
9 machine wagering.

10 So you may have a meet where they have
11 three months of racing but they have slot machines
12 going 365 days a year, sometimes 24 hours a day,
13 sometimes 18 hours a day. So a horse that's running
14 at Los Al for 5,000 can probably run in New Mexico
15 for 7,500; in Louisiana, for more than that; in
16 Oklahoma, probably even more than that.

17 We are holding on and competing with
18 those "racinos." Now, if you take some action to
19 restrict our ability to bring in those other signals
20 and have our horsemen benefit, as well as the harness
21 horsemen, you're putting us really behind the eight
22 ball. We'd request that you approve our license for
23 the full year with no conditions. Thank you.

24 CHAIRMAN HARRIS: Okay. We've got a motion on
25 the table. Let's go ahead and vote.

1 EXECUTIVE DIRECTOR WOOD: Okay.

2 CHAIRMAN HARRIS: And if there's another
3 motion, we can --

4 EXECUTIVE DIRECTOR WOOD: Mr. Moss?

5 COMMISSIONER MOSS: Yes, on the conditions
6 that -- what Mr. Shapiro suggested.

7 CHAIRMAN HARRIS: Well, we need to amend the
8 motion if we're going to put conditions on it. If we
9 want to do that, we can. I kind of -- I don't think
10 we can really vote on a motion based on conditions
11 that haven't been exactly stated.

12 EXECUTIVE DIRECTOR WOOD: It was Mr. Sperry's
13 motion -- it was Mr. Sperry's motion, if he wants
14 to --

15 CHAIRMAN HARRIS: Could you amend your motion,
16 John, to allow the Board to revisit this at the
17 January meeting or some special meeting or something?

18 COMMISSIONER SPERRY: I think the Board has
19 the right to do that anyway. It doesn't need a
20 motion.

21 CHAIRMAN HARRIS: Yeah. I guess we can -- I
22 mean that -- I guess we can. So that's fair. Okay.

23 So we were -- we -- basically we're
24 voting on the motion with the thought that that could
25 be reviewed at some future meeting.

1 COMMISSIONER MOSS: I vote, "Yes."
2 EXECUTIVE DIRECTOR WOOD: Mr. Bianco?
3 COMMISSIONER BIANCO: Yes.
4 EXECUTIVE DIRECTOR WOOD: Ms. Granzella?
5 COMMISSIONER GRANZELLA: Yes.
6 EXECUTIVE DIRECTOR WOOD: Mr. Sperry?
7 COMMISSIONER SPERRY: Yes.
8 EXECUTIVE DIRECTOR WOOD: Mr. Shapiro?
9 COMMISSIONER SHAPIRO: Yes.
10 EXECUTIVE DIRECTOR WOOD: Mr. Harris?
11 CHAIRMAN HARRIS: Yes.
12 EXECUTIVE DIRECTOR WOOD: Unanimous vote.
13 CHAIRMAN HARRIS: Okay. Motion's approved.
14 And I -- let's try to set up some sort
15 of a meeting with the new -- newer commissioners to
16 get them briefed on some of the history. That would
17 also be open to all of us to revisit this.
18 The next is discussion and action by
19 the Board on a application for a license to conduct a
20 horse racing meeting of Capitol Racing from January 7
21 through July 30, 2005.
22 MR. MINAMI: Roy Minami, Horse Racing Board
23 staff.
24 This is the application for Capitol
25 Racing, LLC, to run a harness meet at Cal Expo. They

1 plan to race 122 nights. There will be racing
2 Wednesday through Sunday through March 20, Wednesday
3 through Saturday through July 2, and Thursday through
4 Sunday through July 30. First live post will be 6:30
5 daily.

6 We still need some information from
7 them -- the horsemen's agreement, the fire clearance,
8 stakes schedule, Autotote contract, and insurance
9 policy for implementing alternative methodologies to
10 track safety standards. Now, their current policy
11 expires November 3.

12 The staff recommends that the Board
13 approve the application, conditioned upon the Board
14 receiving the additional information.

15 CHAIRMAN HARRIS: Are there comments on this
16 application?

17 MR. HOROWITZ: Thank you. Alan Horowitz,
18 Capitol Racing.

19 I'd like to point out that all of the
20 missing items -- essentially this application would
21 have been filed in November. And -- and so, with no
22 Board meeting in November, we've -- we've sort of
23 jumped ahead a month. And so some of these items
24 would be completed between now and what would be your
25 November meeting. They all will be completed within

1 the next 30 days.

2 The horsemen's agreement, essentially,
3 is not a big issue. David is here to comment on
4 that. It should be resolved.

5 One of the things that we have to do
6 is get a little further into this meet to gather up
7 information with regard to our purses because the
8 loss of our signal and the exposure of that signal at
9 Los Alamitos has resulted in a 15 percent purse cut
10 for our horsemen in terms of funds generated off of
11 our imported races and our live races.

12 But, in any case, all of that
13 material should be forthcoming in the next 30 days.
14 And in the case of the November 3rd deadline on one
15 of the items -- that should be done in another week.

16 The other thing is Chairman Harris had
17 asked all of the associations to comment on security
18 and security measures in the backstretch as part of
19 the license-application process.

20 And in response to that, I'd like to
21 indicate that we have 10 to 12 state fair police who
22 represent the security staff. And they do patrol the
23 backstretch, the barn area, and areas of the
24 enclosure on a schedule that's set by the fair and
25 the state fair police.

1 And in addition to that, when we
2 conduct our detention barn, we have a staff of an
3 additional 4 to 6 state fair police that maintain
4 vigilance and security over the test barn itself.

5 We do not have, at this point, cameras
6 in the backstretch. There are cameras in the
7 grandstand and areas of that part of the enclosure
8 but not in the backstretch at this point in time.

9 CHAIRMAN HARRIS: On the security -- I had
10 brought this up previously; so I don't think we need
11 to spend a lot of time with this application -- but
12 my thought is we need a protocol for all backstretch
13 security that the industry feels is adequate. But
14 I'm not that concerned about this particular one.

15 MR. HOROWITZ: Thank you.

16 MR. NEUMEISTER: David Neumeister, California
17 Harness Horsemen's Association.

18 I just wanted to add that there is no
19 substantive issue concerning the horsemen's contract.
20 As far as I'm concerned, it's just a formality. I'm
21 not aware of any issues between us and Capitol Racing
22 that would keep a horsemen's contract from happening
23 well before the meet.

24 COMMISSIONER SPERRY: Mr. Chairman, with the
25 additional information provided to us, I move

1 approval of the application.

2 CHAIRMAN HARRIS: We still got another
3 comment from the audience here.

4 MR. SCHIFFER: Dan Schiffer, again, for the
5 PCQHHA.

6 And I hate to further open Pandora's
7 box; but, unfortunately, I believe it's necessary.
8 The horsemen at Los Alamitos object to the approval
9 of this license.

10 Without going through what we've
11 already been through, at the July meeting of this
12 Board, it was my understanding that the Board ordered
13 that Capitol provide audited financials of their
14 business to the Board. It was assured, by them, that
15 they would do so promptly.

16 To my knowledge, that has never been
17 done. We are in a quagmire of litigation. And this
18 is taking a lot of time. Thanks to Los Alamitos, the
19 horsemen at Los Alamitos are going to be the
20 beneficiary of some of the awards of that litigation,
21 should we prevail.

22 We are extremely concerned that that
23 \$4 million, of which we will be entitled to half and
24 which keeps growing on a daily basis, will not be
25 capable of being paid by Capitol should they

1 ultimately be found responsible for those damages.

2 The Board has the power, pursuant to
3 the regs, to order the audited financials of Capitol.
4 Until they do so, we request that the application be
5 held in abeyance. And if the Board chooses to grant
6 the license, we further request that the 50 percent
7 of the simulcast monies continue to be put in the
8 blocked account that the CHRB is administering.

9 Thank you.

10 CHAIRMAN HARRIS: I think I had originally
11 brought up the audited financial-statement issue. My
12 concern was that, as a licensing agency, that we need
13 to be sure that any indebtedness that, you know,
14 results from a race meet can be paid off and that I
15 was concerned if their -- if Capitol had financial
16 resources to do that.

17 But go ahead.

18 MR. BIERI: As I said, we don't want to put
19 Los Alamitos out of business. And we don't want them
20 to stop racing. I'm disappointed that they would
21 want us to stop.

22 As it relates to the audited financial
23 statements, we went, following that meeting, and
24 contacted "Pete, Marwick, and Mitchell" (phonetic) in
25 San Diego because they were the ones that do Del Mar.

1 Oh, I'm sorry. Steve Bieri, Capitol
2 Racing. I'm the fellow who forgot to introduce
3 myself the last time; so it's B-i-e-r-i.

4 And we talked to them. They went
5 through it. And while they had the expertise --
6 because not everybody and their brother is used to
7 auditing race operators -- they said they could not
8 work us into their schedule. They were too busy.

9 So we were then transferred up to
10 Pete, Marwick, and Mitchell in Sacramento because
11 that's where our offices are. And we tried them.

12 And they went through it. And they
13 got back to us and said that they did not have the
14 expertise in Sacramento to do it.

15 So we then looked again and found
16 "Ernst and Young" (phonetic), who are the auditors
17 for Santa Anita. And they are the ones that we have
18 sent our information to. And they are processing
19 through on the audit.

20 As I said, we are not afraid of the
21 audit. We are very confident in our numbers. And I
22 don't have the schedule on the top of my head right
23 now as to when Ernst and Young will do this.

24 But one of the things that we had said
25 was we had wanted to go outside of our existing

1 auditors and our existing accountants because there
2 seems to be this aura of deeds we are supposedly
3 guilty of on the financial statement. And so we're
4 looking for the large firm that can give their
5 imprimatur to it. And Ernst and Young is the group
6 that is processing that at this time.

7 But, you know, the timing -- I can get
8 in touch with them and then call John Reagan and let
9 him know so that he can update the Board as to what
10 the timing is for that.

11 But we've been racing for eight years.
12 I believe Mr. Sperry made the right motion in
13 approving it with those conditions. We will continue
14 to cooperate and get that audit done and race and do
15 as well as we can.

16 I'd appreciate your approval of our
17 license. Thank you.

18 COMMISSIONER SHAPIRO: Can I ask you --

19 MR. BIERI: Certainly.

20 COMMISSIONER SHAPIRO: -- if you've retained
21 Ernst and Young --

22 MR. BIERI: Yes.

23 COMMISSIONER SHAPIRO: -- have they not given
24 you an estimated date of completion?

25 MR. BIERI: Not specific because they're

1 really -- I think you're going to get this when you
2 have your meeting and update as a new member of the
3 Board. There are really two issues on the financial
4 statement that are causing our opponents to be upset.

5 One has to do with the loans to
6 horsemen, and one has to do with overpaid purses and
7 how those are treated, amongst other things that they
8 are claiming on the financial statements.

9 COMMISSIONER SHAPIRO: Well, I'm not
10 concerned --

11 MR. BIERI: And what -- and what we -- just to
12 finish the point, though, is that, in order to do the
13 audit, you have to send out verifications to all of
14 the people that have the loans. That takes a certain
15 amount of time to go out, get back in, and go through
16 all of that.

17 And so it's not, like, a time certain,
18 where they control the whole time line. So I don't
19 have a specific time line. Between now and the end
20 of year? Sure. But I don't know exactly which week
21 that would fall into. I didn't mean to be
22 nonresponsive -- to cut you off there. But I wanted
23 to, at least, finish that thought.

24 COMMISSIONER SHAPIRO: Well, I'm not concerned
25 with Los Alamitos's position on this. I'm concerned

1 with what Chairman Harris said is that this Board
2 should know that you have economic wherewithal to
3 meet all of your obligations --

4 MR. BIERI: Well, what we can say is that, for
5 the last eight years, we've been the major harness
6 operator in the State of California. For the last
7 four years, we've been the only harness operator in
8 the State of California.

9 We have paid all of our bills. We
10 have paid all of our purses. We have, in fact,
11 overpaid the horsemen's purses. We have paid all of
12 our rent. There's been never any question about it.

13 This is just basically accountants'
14 manipulating numbers. They say one thing. We say
15 another. Our accountants say we're right. They're
16 saying it should be looked at in another way. There
17 is no financial difficulty with Capitol Racing.

18 And I do stand behind Capitol Racing.
19 And my net worth is substantial.

20 CHAIRMAN HARRIS: I think it would solve the
21 problem if there could be personal guarantee that you
22 made or something to assure that -- my concern is
23 that the loans to horsemen and overpaid purses are
24 shown as an asset of Capitol Racing.

25 MR. BIERI: Yes.

1 CHAIRMAN HARRIS: And it may be that your
2 assets are overstated, depending on the
3 collectability of those things and, which is, you
4 know, fairly solvable as long as somebody, someplace
5 is going to stand behind the corporation.

6 And -- and I think there would be some
7 mechanism to do that. It's -- even if you get the
8 audited statement, it may not show, you know --

9 MR. BIERI: Well, at this point, as I say,
10 we -- there is no demonstration, other than some
11 fiction that several accountants from the other side
12 have put together. And they claim our numbers are
13 fiction, too. I mean it's just, like, "your
14 attorney, my attorney" kind of a thing.

15 But we are paying -- I mean what
16 purveyors haven't been paid? What payrolls have
17 bounced? What issues are we talking about here? The
18 practical fact is we don't have a financial problem.

19 When we get done with the audit, then
20 their accountants and their version of how it should
21 be and our accountants and our version will get
22 together. And they probably won't agree any more
23 than we agree with their attorneys. But at least we
24 can have both sides of it.

25 CHAIRMAN HARRIS: Okay.

1 MR. BIERI: But at this point in time, we are
2 not nor has there been any question as to our
3 viability. As a matter of fact, we've increased our
4 racing from 10 weeks to 10 months.

5 CHAIRMAN HARRIS: No. I agree that Capitol's
6 done a lot of good things with harness racing.
7 It's -- but my concern is that it looks, from my
8 remembrance of the other statements, somewhat
9 dependent on a continuation of your race meets into
10 the future to maintain an economic viability.

11 And if, for some reason, someone else
12 were to succeed you at Cal Expo, then I'm just
13 concerned that -- that you may not be able to pay off
14 the liabilities to the various people.

15 MR. BIERI: Well, the only liability that is
16 really in question here is this liability of the
17 lawsuit. And that's going to be required for a court
18 to finally make a decision unless someone else can
19 come to a saner conclusion sooner.

20 And if a court, down the road, orders
21 me to make payments, that would be between me and the
22 court to make the payment and --

23 CHAIRMAN HARRIS: Well, it's not really
24 between you and the court. I mean are you willing to
25 personally guarantee those payments? Because really

1 the court would order Capitol Racing to make the
2 payments.

3 MR. BIERI: I'm not prepared now to -- the
4 theory -- we've stand -- we have stood behind every
5 debt that we have had. When I first bought this
6 company, it was losing money. And I put in the money
7 that was necessary to cause it to operate profitably.

8 But we are being asked to sustain
9 great financial hardship while we go through this
10 lawsuit. Los Alamitos is sustaining no financial
11 hardship. They are sitting on our money. We are
12 taking money out of our purses and putting it up.
13 And we are the ones that are suffering the loss of
14 the handle.

15 As you saw from the numbers I gave you
16 last time, there is no financial hardship of any
17 magnitude that Los Al is going through. We have a
18 very unbalanced situation here. Well, we're enduring
19 that as best as we can.

20 To now say even more and further --
21 that was something that I'd rather talk about for
22 more than three minutes in front of you here. But
23 it's -- I mean whatever's reasonable is reasonable.
24 And I'm open to rational conversational on all of it.

25 CHAIRMAN HARRIS: But I would like to know how

1 much basic liability might be out there that Capitol
2 could be responsible for. So it -- I don't know. If
3 the quarter horsemen are, you know, all right with
4 it, it's fine. But, as I understand it, that was
5 their concern.

6 Is that correct?

7 MR. SCHIFFER: I'm not the number cruncher.
8 But there's a potential of \$4 million in liability as
9 of approximately now, of which, I believe, there is a
10 \$1 million bond and some 500,000 in accrued purses in
11 an account. So there's a contingent liability, as I
12 understand it, of \$2-and-a-half million that grows
13 every day that the signal comes in.

14 CHAIRMAN HARRIS: I'm not clear if it's
15 growing 'cause Mr. Bieri was indicating it doesn't
16 grow -- that you hold onto that money.

17 MR. SCHIFFER: I -- I'm not sure.

18 MR. BIERI: I can answer that.

19 Don't go away. My newest best friend.

20 If you believe the numbers and we lose
21 everything, then the amount of money that is
22 currently being set aside would not be sufficient to
23 cover.

24 However, we did have a meeting in
25 February and in March of this room -- in this room.

1 And we made an agreement. They did, and we did.

2 And what they have is \$500,000, which
3 you alluded to; a million-dollar bond, which I
4 personally put up and guaranteed; 1.3 to \$1.4 million
5 of monies that -- they are due our horsemen that they
6 are sitting on, that I have prepaid to our horsemen,
7 which is part of our overpaid purses.

8 So they actually have a million --
9 roughly 2 million in dollars, maybe a little less,
10 plus a million in a bond, plus whatever has accrued.
11 So the negative, right now, might be in the vicinity
12 of another million dollars. I'm -- I'm really not
13 sure. But there's more there than what you had
14 thought.

15 MR. SCHIFFER: Well, and I -- and I -- in
16 response to your specific question, my understanding
17 is the amount that's going in, on the daily basis,
18 does cover the amount that accrues. That's my
19 understanding from Los Alamitos.

20 CHAIRMAN HARRIS: So that's going into some
21 kind of an escrow account or something that --

22 MR. SCHIFFER: Well, it's going into an
23 account overseen by the Horse Racing Board.

24 MR. BIERI: We pay that money in to you every
25 week. And you folks have all of that money. So

1 we've got an awful lot of money already prepaid that
2 we're going to get a refund if we lose -- if we win.
3 And if we lose, then, yes, there would be some level
4 of deficit.

5 But -- don't forget -- we made an
6 agreement in this room that we would live by that,
7 and that's what we are doing. Thank you.

8 EXECUTIVE DIRECTOR WOOD: So it's still in the
9 escrow -- the money continuously. It's not just
10 that, as of right now, it stops? It continues --

11 MR. BIERI: Oh, no. We have -- we have --
12 while we want it to stop in the worst way -- why we
13 want this to be resolved in the worst way -- no. We
14 are not changing the deal we made here on March -- in
15 March. We are not asking you to change that one
16 bit.

17 EXECUTIVE DIRECTOR WOOD: But did not the
18 audit company send us a letter, Mr. Reagan, to
19 indicate what date they may provide us the audited
20 financial statements?

21 MR. REAGAN: I have received no such letter,
22 sir.

23 MR. BIERI: But if you would like one, I can
24 have one sent to Mr. Reagan from Ernst and Young.
25 I'll be glad to do that.

1 MR. SCHIFFER: And just one more thing -- I
2 would like point out that what Mr. Bieri is saying is
3 that, in anticipation of his winning the lawsuit, he
4 has paid purses to his horsemen.

5 If he loses the lawsuit and owes us
6 the money, despite the fact that he has set aside
7 some money, he is going to have a claim from his
8 horsemen for the money that has been overpaid. In
9 other words, he's not going to be able to make the
10 purses in the future because he has overpaid in
11 anticipation of winning this lawsuit, which may or
12 may not happen.

13 So it's not as quite as rosy as he
14 would portray it.

15 MR. BIERI: Last word here: I don't think
16 it's rosy at all.

17 I did not overpay the purses in
18 anticipation of winning the lawsuit. I overpaid the
19 purses in anticipation of our horsemen needing money
20 and Doc Allred and Los Alamitos were withholding that
21 and not sending it to them. And without me advancing
22 the money on the purses, we would have been out of
23 business a long time ago.

24 It has nothing to do with the merits
25 of the lawsuit at all. It has to do with keeping the

1 harness industry viable in the State of California,
2 which is what I have done out of my pocket to date.

3 CHAIRMAN HARRIS: Well, what I would like to
4 see, at some point, is an audited statement and then
5 some kind of projection of worst-case, best-case
6 ability of Capitol to pay and where that money comes
7 from, which we'll save for another meeting.

8 But we do have a motion -- did
9 somebody make a motion on this?

10 COMMISSIONER SHAPIRO: Yeah. I'll move that
11 this application be accepted, subject to the five
12 remaining items that are unfulfilled. And I would
13 also add a sixth, which is: "Prior to the end of the
14 year, that we receive an audited financial statement
15 and/or the posting of an additional million dollars'
16 bond to cover any potential liability."

17 CHAIRMAN HARRIS: If, possibly, you mean that
18 for the audit statement, if it indicated less than a
19 million dollars' net worth or is less than --

20 COMMISSIONER SHAPIRO: Right.

21 CHAIRMAN HARRIS: -- some net worth that would
22 be needed to pay the contingent liabilities?

23 MR. BIERI: Since it's, again, my pocket that
24 we're talking about here, let me make sure I
25 understood that. You -- we would give you an audited

1 statement by the end of the year. And then there was
2 something else added about a certain net worth?

3 CHAIRMAN HARRIS: Well, the issue would be --
4 I mean you could give us an audited statement that
5 showed a negative net worth -- so that, you know,
6 wouldn't really help the overall problem. But as
7 long as we knew that, even if you had a negative net
8 worth, that there was a bond that was there that
9 could take care of contingent liability.

10 MR. BIERI: Well, it's certainly fair that you
11 folk have confidence in our ability to make our
12 payments. I'm not disputing that. It's certainly
13 fair that you have confidence in our ability to make
14 the payments. And I'm not disputing that in the
15 slightest. And so we will -- I will accept the
16 condition of December 31st.

17 I'm doing that, not knowing whether
18 Ernst and Young will really get it done by then
19 because I don't know what's going to happen around
20 Christmastime. But, hopefully, they're going to get
21 it done by then. I believe they will.

22 If not, you're looking for a million-
23 dollar net worth. So what we would do at that time
24 is we would also then -- what? -- pull up, using
25 whatever basis is done in that audited report, what

1 we are currently. And if we're showing less than a
2 million-dollar net worth, you would like whatever
3 facilities are required to see that that net worth is
4 a minimum of a million dollars?

5 If that's the case, I have no trouble
6 with that at all.

7 COMMISSIONER SHAPIRO: I don't think that was
8 exactly what we're asking for --

9 MR. BIERI: Well, that's why I wanted to make
10 sure because, if I'm making a commitment, I want to
11 make sure what I'm doing.

12 COMMISSIONER SHAPIRO: I think what we've
13 heard is that there's a contingent liability. You
14 have overpaid your horsemen a million dollars.

15 MR. BIERI: I've actually overpaid them 2.5
16 million.

17 COMMISSIONER SHAPIRO: Okay. But there is,
18 potentially, a liability as a result of this lawsuit.

19 MR. BIERI: That's correct.

20 COMMISSIONER SHAPIRO: Okay. And since we
21 haven't seen any financials, I would simply be more
22 comfortable knowing that your -- your company has the
23 wherewithal to meet its obligations. And also, as a
24 result of potential damages of that lawsuit, what I
25 heard here was there could be a potential million-

1 dollar shortfall.

2 Did I hear that wrong?

3 MR. BIERI: In the worst case, that's probably
4 right. That's probably --

5 COMMISSIONER SHAPIRO: That's worst case.

6 MR. BIERI: I don't have all the numbers in
7 front of me but close enough for bank work.

8 COMMISSIONER SHAPIRO: Okay. So I guess what
9 I'm asking for is that, A, we want to see that there
10 is audited financials showing that your company is
11 solvent and able to meet its obligations and also can
12 withstand any worst-case outcome from the lawsuit.

13 MR. BIERI: I'm not a C.P.A. I'm not sure.
14 That sounds like that's different because there's
15 different ways that lawsuits are treated in
16 accounting.

17 COMMISSIONER SHAPIRO: I don't think --

18 MR. BIERI: I think you just said something
19 that's maybe not what you meant. But I'm not smart
20 enough to tell you why I think that.

21 CHAIRMAN HARRIS: Well, I think that's what we
22 want. I mean the -- I don't see where you're being
23 damaged by this because obviously you're -- if the
24 company's well-enough capitalized, it's really your
25 money. And, obviously, if you win the lawsuit,

1 you're not paying it out.

2 But we just want to know there's a
3 safety net there.

4 MR. BIERI: I learned a long time ago to not
5 make commitments that I don't fully understand.

6 COMMISSIONER SHAPIRO: Well, the only thing
7 you really have at risk here is the cost of the bond.
8 If you're solvent and if you have no concerns that
9 you'll remain solvent, the only exposure you have is
10 the cost of the bond.

11 MR. BIERI: Let me ask you this: If I can
12 come to you and show you, on the financial statement,
13 a million-dollar net worth, based on the accounting
14 principles that are done on an audited statement or
15 post a million-dollar bond -- if those are my two
16 things, I think that's fine.

17 COMMISSIONER SHAPIRO: I don't think that what
18 we're looking for is to see that there is a net worth
19 of a million dollars in Capitol Racing.

20 What we're asking for is that Capitol
21 Racing is capitalized to the extent that it can meet
22 all of its obligations, without concern, and also
23 including being able to withstand any outcome from
24 the lawsuit which would be detrimental to you.

25 We don't know what that is. And what

1 I've heard here is that it's a million dollars,
2 potentially, for the case so that that means you have
3 to have a net worth to sustain Capitol Racing and
4 meet a million dollars.

5 CHAIRMAN HARRIS: Yeah. I'm not sure. It
6 might be -- if we stipulate that it was million
7 dollars -- I'm not sure what the numbers are because
8 we're --

9 COMMISSIONER SHAPIRO: Right.

10 MR. BIERI: Well, here's the problem that I've
11 got with all of this. Back in March, we made an
12 agreement of what we were going to do. We have now
13 done that. And we haven't varied from that at all.
14 We put up the money we said we would do. We've paid
15 the money in, when we said we would pay it. We are
16 continuing to escrow the money we said we would do.

17 We were asked for an audited financial
18 statement. We are now dealing with some speculation.
19 We don't know what the audited financial statement
20 said.

21 Mr. Shapiro, what I would suggest is
22 let's get the audited statement and see what it says
23 because there's so much perspective there that it's
24 very hard for me to agree. What you're saying may be
25 just fine. But I don't know. And I don't have the

1 financial --

2 CHAIRMAN HARRIS: Why don't we make -- the
3 motion can be -- if that's just a condition of the
4 license, that we've got to see the audited
5 statement --

6 MR. BIERI: Yes.

7 CHAIRMAN HARRIS: -- that would be acceptable
8 to us and that so basically we're granting a
9 conditional license, based on something happening.

10 But I don't think we want to grant the
11 license, you know, unconditionally.

12 MR. BIERI: Well, I understood the condition
13 was that you had to have it by -- what I heard was
14 you had to have it by December 31.

15 CHAIRMAN HARRIS: We make the conditions.
16 You're not the one that dictates what the conditions
17 are.

18 MR. BIERI: No. No. John -- Mr. Harris, I --

19 CHAIRMAN HARRIS: Yeah.

20 MR. BIERI: -- do you think I was just
21 dictating?

22 CHAIRMAN HARRIS: No.

23 MR. BIERI: I was just asking to clarify
24 because, as I said, it's what you're going to ask me
25 to do. I just want to know what it is for sure.

1 CHAIRMAN HARRIS: Okay. As I understand it --
2 and everyone else can help -- that we'd be granting
3 the license; but, besides the other conditions that
4 were outlined, it's got a condition that this Board
5 have an audited financial statement that shows that
6 Capitol Racing is able to handle any liabilities
7 going forward that could result from various
8 settlements of the lawsuit.

9 MR. BIERI: According to generally accepted
10 accounting principles --

11 CHAIRMAN HARRIS: Yeah.

12 MR. BIERI: -- yes. That's fine.

13 CHAIRMAN HARRIS: Well, I don't know if we
14 really need to condition it to where we come back and
15 we get into some big argument over it. I mean I
16 think the Board's got the wherewithal to say that we,
17 you know, we'll cross that bridge when we get to it.
18 I don't think we want to limit ourselves to exactly
19 what we're going to do.

20 MR. BIERI: The only reason I said that is
21 'cause generally accepted accounting principles are
22 known. That was all. Anyway, I've done too much
23 talking.

24 COMMISSIONER SHAPIRO: The problem is that
25 they're scheduled to start on January 7th; is that

1 correct?

2 CHAIRMAN HARRIS: Yeah.

3 COMMISSIONER SHAPIRO: And if we get it on
4 December 31st and business doesn't recommence
5 probably until January 2nd, 3rd, somewhere around
6 there and we find that there's a financial statement,
7 by the time we all get it and review it, if we have a
8 concern, I think that we have to have the authority
9 to request that, before they start operations, that
10 we have some power with which to insist that there be
11 some mechanism to post sufficient security that makes
12 us comfortable that they're going to meet the
13 obligations of the Board.

14 And, again, I'm not trying to enter
15 into the -- the fray with Los Alamitos and Cal Expo
16 but to make sure that we don't get ourselves in a
17 problem because we find that there is some financial
18 problem.

19 We're being asked to approve an
20 application subject to what we're being told is
21 they're well capitalized. But we don't have any
22 financials to where we can understand that.

23 And so I don't know what mechanism
24 we'll have. And, frankly, I don't know whether the
25 bond should -- there should be a bond or there should

1 be a bond that's \$2 million? I don't know.

2 CHAIRMAN HARRIS: I think we just need to
3 look. I think you're amazingly quick study on what
4 the issues are here. But I think we just need to
5 come back in December and revisit it and see where we
6 are.

7 And, I mean, hopefully, I'm sure that
8 Capitol's going to go on. It's just I think the
9 Board's in a peculiar position that we would license
10 people. We -- it's a little -- we have a need to
11 know that obligations are going to be paid.

12 COMMISSIONER SHAPIRO: Do we have a December
13 meeting?

14 CHAIRMAN HARRIS: Yes.

15 COMMISSIONER SHAPIRO: I thought I saw one.

16 CHAIRMAN HARRIS: December the 2nd, I think it
17 is.

18 EXECUTIVE DIRECTOR WOOD: Second of December.

19 CHAIRMAN HARRIS: So that would give us time
20 to get some of this done.

21 EXECUTIVE DIRECTOR WOOD: Mr. Bieri, is there
22 any possible way that your accounting company could
23 comply, by December the 2nd, with the audited
24 financial-statement requirements?

25 MR. BIERI: Of course, it's possible. But I

1 don't know. It's also possible not. But what I
2 hadn't been prepared for was to have the Board to
3 change its ruling of March and change the rules here
4 now.

5 CHAIRMAN HARRIS: We're not changing the
6 ruling. All we're doing is, is -- we're not -- we're
7 just licensing a racing meeting just like we license
8 any racing meeting so regardless of what the past
9 history is.

10 EXECUTIVE DIRECTOR WOOD: It's been quite some
11 time but as long as the financial statements have
12 been coming in. It's been quite a while --

13 MR. BIERI: I will do the very best I can to
14 get it done because it's in my best interest to get
15 it done.

16 CHAIRMAN HARRIS: Well, I mean, you know --

17 COMMISSIONER SHAPIRO: Mr. Chairman, can we
18 postpone this particular matter until later in the
19 meeting? Perhaps Mr. Bieri could call Ernst and
20 Young to see if they can get an idea as to when that
21 could be done.

22 MR. BIERI: Be glad to.

23 COMMISSIONER BIANCO: The other thing, John --
24 can he call his bonding company to see if they can
25 increase his performance bond to \$2 million?

1 CHAIRMAN HARRIS: I just think, if there's a
2 performance bond, I think that it's not that critical
3 that the financial statement be in play. But I think
4 we're just concerned that, absent a performance bond
5 or a financial statement, we're not really sure what
6 we're dealing with.

7 Well, what shall we -- what's the
8 pleasure of the Board on this?

9 COMMISSIONER BIANCO: Well, I'd like to add
10 that to the motion.

11 CHAIRMAN HARRIS: Okay. We've got a motion --
12 do we have a motion? We've got a suggestion that we
13 delay it to the end of the meeting.

14 So what does the Board want to do?

15 COMMISSIONER BIANCO: That's fine.

16 COMMISSIONER SPERRY: Let's delay the item to
17 the very last, Mr. Chairman.

18 CHAIRMAN HARRIS: Okay.

19 COMMISSIONER SPERRY: Mr. Bieri, just if
20 you'll go and make the calls.

21 CHAIRMAN HARRIS: Just before the "Happy
22 Trails" song, we're going to get back to that.

23 Okay. Let's go to something less
24 contentious, like race dates. Now, this says the
25 race dates calendar for central and southern -- I

1 thought we did that at the other meeting. So this
2 item has basically been accomplished.

3 But we do need an item to look at the
4 northern dates, which were issued at a previous
5 meeting before we'd really resolved the southern
6 dates. And to have a better continuity, we need to
7 redo the northern dates. But that's not on the
8 agenda. So we need to do that in December, which
9 will probably somewhat be out here with the southern
10 dates.

11 So the next item is application for
12 license to conduct a horse race meeting of the
13 Los Angeles Turf Club for December 26, '04, through
14 April 18, '05.

15 MR. MINAMI: Roy Minami, Horse Racing Board
16 staff.

17 At the October 5 Board meeting in
18 Sacramento, the Board allocated the Los Angeles Turf
19 Club 83 days. However, in this application, the
20 Los Angeles Turf Club is requesting 85 days. So they
21 are proposing to race from December 26, '04, through
22 April 18, '05 -- 85 days.

23 And they are requesting two additional
24 days -- Wednesday, January 19, and February 23. They
25 will be racing five days per week, first post at 1:00

1 o'clock weekdays and 12:30 on weekends.

2 We have -- we still need the
3 horsemen's agreement. And the rest appear to be
4 somewhat technical -- the fire clearance; stakes
5 schedule; total number of races per meet; amounts for
6 purse program; cost for programs, on-track and
7 off-track; date and post time for Sunshine Millions;
8 date for "Strub Stakes" (phonetic), Santa Anita
9 Handicap, and Santa Anita Derby.

10 And so the -- at this time, the staff
11 would recommend that the Board approve the
12 application, contingent upon the staff receiving all
13 of the information.

14 CHAIRMAN HARRIS: Well, the dates that we
15 approved at the October 5th meeting did not include
16 these two Wednesdays, which would be -- in that case,
17 which I personally have concerns about six-day weeks.
18 I mean I like to see tracks, you know, have
19 flexibility in their dates.

20 But I've got concerns that, with our
21 field size and our -- I mean I've heard from a lot of
22 fans that very -- I don't think I've ever heard from
23 any fan that said, "We really need six-day weeks."

24 And this reimposes that, and I think
25 that we had worked hard to eliminate some of those.

1 And I feel that, by not racing the six-day, you
2 generate bigger fields sizes the five days you do
3 race and more interest in the sport and a better
4 chance of having better average daily attendance and
5 average daily handle. So that is my thought on the
6 six days.

7 But I'd like to open it up for
8 discussion and hear from the Board and the audience.

9 COMMISSIONER MOSS: I think there was also, in
10 connection with that, to relax the rule of 8.6 --

11 CHAIRMAN HARRIS: Yeah. That was one of the
12 issues that we felt, at that meeting, that if --

13 COMMISSIONER MOSS: Yes. That that --

14 CHAIRMAN HARRIS: -- in a way to aid Santa
15 Anita would be to -- we had had a thing that the most
16 races you could have on a day was 8.6 average, that
17 we could be more lenient in that and --

18 COMMISSIONER MOSS: Relax that --

19 CHAIRMAN HARRIS: Yeah. If they wanted to go
20 to a certain day that they had nine or certain days
21 that they had ten or eleven or whatever, but that was
22 a tradeoff for, you know, the overall other date
23 issue.

24 MR. MCDANIEL: Jack McDaniel, Santa Anita
25 Park.

1 Mr. Chairman, the trade-off between
2 adding additional races versus a full day of racing
3 is just not quite calculable. We've talked at length
4 with the racing department. They certainly are
5 intrigued by the possibility of maybe adding
6 additional races.

7 In our particular case, we might not
8 be able to do that until the second half of our meet.
9 We have to be mindful of daylight savings time in the
10 length of time we race in a given day.

11 The one thing that they would not
12 desire is that we mandatorily tell them how many days
13 or races they have on a particular day. Therefore,
14 we end up with a -- an opportunity but a speculative
15 opportunity.

16 Our suggestion is that that, if it's
17 the desire of the Board, that we perhaps explore this
18 opportunity of maybe selectively adding additional
19 races but give that authority, if you will, to our
20 racing department to make that determination. They
21 do essentially that now.

22 They juggle the inventories, and they
23 move races as necessary. They believe that, at most,
24 perhaps ten additional races throughout the entire
25 season may be the maximum that they could perhaps

1 implement. But, again, I think it's one of those
2 matters that we can't take it to the bank. We
3 don't -- we wouldn't want to force the racing
4 department to have to necessarily deal with that --
5 that demand.

6 We'd like to give it to them
7 electively and suggest to the Board that perhaps, on
8 a experimental basis, the rule's relaxed from 8.6 to
9 8.7 for this year only and we come back to the Board
10 and give them our findings on some -- you know,
11 hopefully -- grounded, analytical basis.

12 The requested additional days -- and
13 we talked about this at length -- you know, it's not
14 our desire to race six-day weeks. We all understand
15 horse-inventory problems. In Santa Anita's
16 particular case, the racing department is very
17 comfortable, if we have great weather, that we should
18 have no problem filling these days.

19 We have to be very candid with you.
20 If we have poor weather, then we have a problem. But
21 that problem doesn't extend just to those additional
22 days. It extends to the entire meet.

23 What we're talking about here is
24 essentially adding fewer than 3 percent to our
25 overall award of 83 days. So in the magnitude of

1 what is -- what's at stake for us for this time of
2 year, it really doesn't become that big an issue.

3 We have a very difficult time -- and I
4 think everyone in the industry can affirm this -- in
5 really identifying exactly what the impact of these
6 additional days are.

7 In terms of handle, our expectation is
8 that they would handle those Wednesdays on an average
9 basis of \$8 million per day. Our expectation is
10 that, if we add those days back, that's what's going
11 to happen to us.

12 At the -- at the September Board
13 meeting, the Dates Committee had generously offered
14 an 85-day schedule that included 17 weeks and 17
15 weekends. Those weekends are very important to us.
16 This -- this -- the comparison between that offer and
17 what we have looking at us, facing us now, with 83
18 days, is -- it represents a net swing of \$25 million
19 in handle.

20 In other words, if the Board had
21 approved that particular recommendation from the
22 Dates Committee, we'd be \$25 million better to the
23 good than we are with the -- the proposal that we're
24 dealing with now.

25 So, essentially, we're looking to cut

1 that loss, if you will, both of Santa Anita and into
2 the industry down somewhat by adding back in these
3 additional Wednesdays. And we're comfortable that we
4 will manage them appropriately.

5 CHAIRMAN HARRIS: Okay. Any additional
6 comments from the audience? Do you want to question
7 Mr. McDaniel now or --

8 COMMISSIONER GRANZELLA: Are these the only
9 two six-day weeks of the year?

10 CHAIRMAN HARRIS: Well, no. There are several
11 six-day weeks, like, Del Mar and --

12 COMMISSIONER GRANZELLA: Del Mar.

13 CHAIRMAN HARRIS: -- actually they have a
14 six-day -- we even have one six-day week in -- the
15 first week of the meet is a six-day week.

16 But then the issue is, where we have a
17 Monday holiday, do we come back on a Wednesday? Or
18 do we take two days and come back on Thursday? And
19 the two Monday holidays are -- in January, it's
20 Martin Luther King day on the 17th, and it's
21 Presidents' Day on the 21st.

22 I don't know. Did -- how did we do
23 that in 2004? Did you operate on those Wednesdays?

24 MR. MCDANIEL: No, we did not,
25 Mr. Commissioner. The last time that we ran on a

1 Wednesday following a holiday was in 2001. And that
2 year, we ran on Presidents' Day.

3 CHAIRMAN HARRIS: So you ran Presidents' Day,
4 and you came back on the Wednesday?

5 MR. McDANIEL: We ran on the Wednesday
6 following Presidents' Day.

7 CHAIRMAN HARRIS: Let's go ahead and hear
8 different comments here.

9 MR. CASTRO: Hello. My name is Richard
10 Castro, representing Pari-Mutuel Employees Guild
11 Local 280. We would prefer the 85-day schedule
12 rather than the additional races. Thank you.

13 MR. COUTO: Good morning. Drew Couto, on
14 behalf of Thoroughbred Owners of California.

15 I'm a bit confused. I guess that's
16 not something new here. But are we talking about --
17 it's difficult for us to comment, receiving the
18 application only a half an hour before the Board
19 meeting.

20 So it's unclear to me whether we're
21 now talking about an additional two days added beyond
22 the two days that were added at the Dates Committee
23 meeting or we're just talking about those two days
24 that were added. I'm confused because I haven't had
25 a chance to go through this.

1 CHAIRMAN HARRIS: It is a little confusing.

2 I think that the dates -- and there
3 are so many different versions of calendars we had.
4 I think, at the Dates Committee, we added a day where
5 Santa Anita closes on a Monday. And then there's
6 going to be a three-day gap, and then Hollywood opens
7 on a Friday. So that was one aspect so that you got
8 a day.

9 But, then, depending on which scenario
10 you look at, they're -- they did -- one of the big
11 issues is "When do they end?" "Do they get that last
12 additional week in April? "Or when do you start and
13 end?" -- and all this stuff. But the -- clearly, the
14 Dates Committee, at the October 5th meeting, approved
15 83 days. So now we're looking at 85 days. But the
16 83 days did include closing on a Monday.

17 MR. COUTO: And help me. I thought, in
18 addition, the Dates Committee recommended two
19 additional Wednesdays, as part of that
20 recommendation, up in Sacramento. And I -- are we
21 talking about those two Wednesdays or two additional
22 Wednesdays?

23 CHAIRMAN HARRIS: Well, no. I don't think
24 we -- the Dates Committee recommend -- I mean maybe
25 the Dates Committee did. But what we approved, voted

1 on was to eliminate those two Wednesdays.

2 MR. COUTO: Okay. Well, therein lies the
3 confusion. If there's going to be further analysis
4 done -- which I think there might have to be and I
5 think Mr. McDaniel alluded to -- we need to do
6 together.

7 I think we've said before, in
8 principle, we are opposed to -- to six-day weeks for
9 these types of meets. We would prefer five-day
10 weeks.

11 We've also said -- a review of
12 inventory, despite what the racing secretaries are
13 saying -- a review of inventory numbers over the last
14 11 years -- or, actually, almost 14 years -- reflects
15 a 20 percent decrease in individual starters in
16 Southern California. It's difficult to reconcile the
17 decreasing number of individual starters and starts
18 against increasing the number of days.

19 So without opposing or supporting --
20 given that we just received this a half an hour,
21 there is some confusion -- I'm reluctant to say
22 anything other than, in general, we have a problem
23 with that.

24 CHAIRMAN HARRIS: Any additional comments?

25 MR. MCDANIEL: Jack McDaniel, Mr. Chairman.

1 Mr. Couto, we are talking about the
2 two additional Wednesdays the -- that were brought up
3 at the last dates hearing. They're -- we're not
4 adding another two Wednesdays to this discussion.

5 I might point out that -- that the
6 Board understood, when they moved the Opening Day for
7 Hollywood Park Spring, that there was some -- some
8 necessity for compensation and gave Hollywood Park a
9 six-day week with a Wednesday following Memorial Day.

10 So, in a sense, you know, we are
11 asking for additional -- additional days to the
12 calendar. We are asking for two additional six-day
13 weeks. It's not nonprecedential, and it is -- it is
14 in direct reaction to the -- to the scope of the
15 financial loss that we will experience under the
16 83-day proposal that we implore the Board to make --
17 to give us some consideration for.

18 CHAIRMAN HARRIS: Yeah. One of my concerns
19 that I didn't bring up at the meeting is just how --
20 if we could get some data on how these days do. My
21 concern is that, as I recall, at some of the -- a day
22 like that might be relying on attendance that might
23 be 3,500, 4,000 people. That isn't very many.

24 MR. MCDANIEL: I'm not so certain that in that
25 arena we didn't run the numbers on attendance. The

1 handle, though, for on an on-track basis, represents
2 roughly 20 percent of our overall handle for the day.

3 What's important is really what
4 happens out of state. As we noticed yesterday, in
5 the Oak Tree meet, Oak Tree ran a Wednesday following
6 a Monday holiday. And on that day, they did very,
7 very well. They did close to \$7 million in total
8 handle.

9 Notably they did -- they were up 13
10 percent over the same -- over the comparative day
11 last year on out-of-state handle. Why? There was
12 nothing to race -- to bet on from New York. New York
13 was dark.

14 There is an advantage, I think, in
15 positioning some of these days against dark days in
16 the East. And I think that, you know, it's a
17 suspicion of our simulcast department. I think it
18 was borne out by the numbers we saw yesterday. We
19 believe that we're not going to see a substantially
20 greater or lesser handle on these days.

21 The issue of the horse inventory is
22 just one that we cannot fully calculate at this point
23 in time. We have to get closer to the day. But on
24 the basis of handle, I think history tells us that
25 these days should perform on the average of a

1 Wednesday.

2 In our case and in the LATC meet,
3 that's roughly \$8 million day. So we're expecting
4 15- to 16-million dollars for these two Wednesdays.
5 And that is a -- that's a financial contribution of
6 significance that we think is merited to consider.

7 CHAIRMAN HARRIS: Yeah. One issue is that we
8 do have to look at those northern dates and
9 traditionally, when we've done the south, we've done
10 the north, though we don't necessarily have to.

11 But one of the things, too, I think we
12 bring up at the meeting, if you were dark on one of
13 those Wednesdays, you would be able to open for
14 "full-CART" (phonetic) simulcasting and generate --
15 you know, employ pari-mutuel clerks and generate
16 purses and commissions that, at least, the purses
17 that were generated wouldn't be paid out and could be
18 used on other days.

19 'Cause my concern is we've just seen
20 such a gradual decline in purses from the -- and
21 obviously now the slots initiative is not going to go
22 and we're just in a time that I think that we need to
23 look at anything we can to increase average purses
24 per race. So I think by doing, you know, a day like
25 this might actually decrease average purses per race.

1 But I'll leave it up to the Board.

2 COMMISSIONER MOSS: Is that a certainty that
3 the average purses per race are going to drop if we
4 add those two Wednesdays?

5 CHAIRMAN HARRIS: Well, I think those days
6 will be lesser days than -- they might, you know --
7 I'm not sure -- they may be -- even if they're an
8 okay day, they are not going to be as good of a day
9 as the average day for the meet.

10 MR. MCDANIEL: Mr. Chairman, I don't think
11 that's necessarily true. I mean, as we look at these
12 days, the average day last season for, let's say, the
13 Oak Tree meet, because we're in that meet right now,
14 for a Wednesday was \$7.2 million. Yesterday, they
15 handled \$7 million. I mean they're very, very close.

16 And the, you know, the eccentricities
17 of our sport essentially dictate, day to day, what
18 happens. I mean the weather is a very big factor.
19 We've noted that before. What happens with
20 out-of-state signal is very, very important.

21 You know, these factors are factors
22 you really can't -- you know, we can't really fully
23 consider except to say that, when we do the analysis,
24 a Wednesday looks very much like a Wednesday, whether
25 it's a six-day week or not.

1 CHAIRMAN HARRIS: No. My concern was just the
2 impact of other days if that total week is impacted
3 in the attendance or whatever by the virtue of having
4 more days. I mean maybe, if it's not impacted, we
5 should race seven days every week. I mean sort of
6 where the tipping point is, is the big issue.

7 MR. McDANIEL: We've seen no evidence that it
8 does impact the balance of those weeks. And we've
9 studied it very closely. I wish we could, you know,
10 give you something much more definitive. We just
11 can't.

12 In terms of our racing seven days a
13 week -- no one wants to do that. It's -- it would be
14 a severe stress on the horsemen and on our management
15 and our employees. It's not the most popular thing
16 that I'm proposing here. But it is a very vital
17 thing for our meet.

18 You know, we rely on the economic
19 sustenance of these -- of the handle we're receiving.
20 This -- these are big-handle days. And so we finally
21 had to weigh all those considerations and
22 respectfully submit the request to add those days
23 back into our calendar.

24 CHAIRMAN HARRIS: Any other comments?

25 MR. CHILLINGWORTH: Sherwood Chillingworth,

1 Oak Tree Racing.

2 I want to back up Mr. McDaniel's
3 statements. Our meet this year has been
4 exceptionally good on handle, particularly our
5 Wednesday's been very good. It has not affected any
6 other day. The per cap --

7 CHAIRMAN HARRIS: It's very hard to say that
8 it's affecting any other day. It was just yesterday.

9 MR. CHILLINGWORTH: Well, we had a prior week.

10 CHAIRMAN HARRIS: Well, the prior week was --
11 you had a two-day gap before you started it to --

12 MR. CHILLINGWORTH: Well, that's true.

13 But you were saying that, if the
14 Wednesday was good, it might impact, adversely, the
15 succeeding days. And that did not occur last week.
16 And I think that the attendance has not been that
17 good, but the handle's been marvelous.

18 Out of state's been way up. And I
19 agree that, in today's world, we're getting a lot of
20 our handle from out of state. And if we run on
21 Wednesdays, we pick up those people who can't bet
22 elsewhere. I think it's a good idea. Thanks.

23 MR. MCDANIEL: Mr. Chairman, this may help in
24 speaking with the TOC. The recommendation is,
25 perhaps, this: That we -- that we ask for your

1 approval for this license for these 85 days; that we
2 make contingent these additional Wednesdays, subject
3 to our thorough discussion with them on horse
4 inventory and all of the other issues that are --
5 that concern this Board; and we'll move forward, as
6 partners, in executing that plan very quickly.

7 COMMISSIONER MOSS: In fact, you could also
8 add to that perhaps Santa Anita can conditionally
9 accept the same security situations that Oak Tree has
10 given us in this last meet so we can add some
11 additional security and surveillance during the Santa
12 Anita meet that would match what Oak Tree's given us.

13 CHAIRMAN HARRIS: Yes. That's a good point.
14 That's sort of separate than the dates itself. But
15 does that -- is that implied in their -- in their
16 license application? Do they lay out the security
17 that would be somewhat comparable to Oak Tree's?

18 EXECUTIVE DIRECTOR WOOD: Security is listed
19 under Section 11 of the license application but not
20 specifically the details of what Oak Tree is
21 supplying. But we need to be sure Mr. McDaniel
22 understands what Oak Tree's doing and continues on
23 with that, I guess, if that's what your pleasure is.

24 MR. MCDANIEL: Commissioners, I have a
25 suggestion on this particular item. I believe the

1 Security Committee is going to get into full range of
2 issues that we've been investigating, as a group, for
3 quite a long while.

4 Perhaps we can, you know, not put that
5 ahead in this particular conversation but put it back
6 to the back end of the agenda; let all that
7 information come out; and then I think we can,
8 perhaps, come to a balanced decision then.

9 COMMISSIONER BIANCO: We're not going to make
10 that recommendation at this particular meeting. We
11 still have some points we need clarify before we
12 bring it to the Board on the December 2nd meeting --
13 the security requirements that we would like to see
14 imposed.

15 CHAIRMAN HARRIS: Yeah. I think, whatever the
16 requirements are, we can impose, I guess -- maybe we
17 can make a rationale that, with these extra dates,
18 that Santa Anita's going to generate enough income to
19 be very happy to -- to comply with all of them.

20 COMMISSIONER BIANCO: I would like to make a
21 recommendation that we approve the two additional
22 dates that they're requesting.

23 COMMISSIONER GRANZELLA: Second.

24 COMMISSIONER MOSS: Second.

25 CHAIRMAN HARRIS: We've got a -- I've got one

1 more statement here. Why don't we --

2 COMMISSIONER BIANCO: Oh, I'm sorry.

3 CHAIRMAN HARRIS: Let's go ahead. We've got a
4 motion and a second.

5 But go ahead and make one more
6 statement.

7 MR. HALPERN: Ed Halpern, California
8 Thoroughbred Trainers.

9 I just wanted to point out -- I tend
10 to agree with you, Mr. Harris, in that, in looking at
11 these figures, we really don't know what it all means
12 because, if we're talking about 14 million to \$16
13 million additional handle on those two days and you
14 divide that up over the entire meet and, because of
15 horse inventory, the rest of your meet only goes
16 down -- what? -- a hundred-and-seventy thousand per
17 day, you've lost what you made up in those two days.

18 So you need a fuller analysis than
19 looking at a given week. And the horse-inventory
20 analysis certainly has to come into it.

21 But I'm really here to ask that, if
22 the Board does make it contingent, these extra two
23 days contingent on an agreement with the TOC, that
24 the CTT have that contingency in there also, as horse
25 inventory concerns us also. Thank you.

1 COMMISSIONER BIANCO: I'd add that to my
2 motion.

3 CHAIRMAN HARRIS: So we've got a motion to
4 approve the application, which includes 85 days and
5 is subject to an agreement with TOC and to include
6 CTT acceptance, to -- which basically would include
7 85 days.

8 And I'd also like to -- if you'd add
9 to the motion, at the end of the meet, that we get a
10 good review of what happened and how -- how this
11 meeting went, compared to -- like, last year would
12 have been a good comparison, when they didn't have
13 the six-day weeks -- and we try to get some
14 scientific -- 'cause all I want to do is I mean I can
15 sure sympathize with the need for maximum generation
16 of revenue.

17 And that's what we all want to do.
18 It's just that I'm concerned that we, at some point,
19 we get so much racing that we don't really maximize
20 the fan interest. And that's the whole issue to me.

21 But so we've got that motion, which is
22 on the table. Anything else?

23 COMMISSIONER MOSS: Second.

24 CHAIRMAN HARRIS: It's seconded. Yeah.

25 COMMISSIONER GRANZELLA: Second.

1 Never mind.

2 CHAIRMAN HARRIS: Okay. It's moved and
3 seconded -- we approve Santa Anita's application,
4 subject to the conditions. All in favor?

5 ASSISTANT ATTORNEY GENERAL KNIGHT: Mr.
6 Chairman?

7 CHAIRMAN HARRIS: Yeah.

8 ASSISTANT ATTORNEY GENERAL KNIGHT: Does that
9 include the items that are missing now as well?

10 CHAIRMAN HARRIS: Yeah. All items that are
11 missing. Yes. But we added another item. Well, I
12 guess maybe the horsemen's agreement is missing. So
13 really horsemen's agreement would include that also,
14 I guess.

15 All in favor?

16 BOARD MEMBER VOICES: Aye.

17 CHAIRMAN HARRIS: Okay. Next item.

18 She has to change her paper. Let's
19 take a break for just about ten minutes. Five.
20 Yeah. Really five. Start in about five.

21 (Break: 11:35 - 11:44 A.M.)

22 CHAIRMAN HARRIS: Next item is discussion and
23 action on the request by Hollywood Park to implement
24 the ten-day veterinarian's list.

25 MR. "HOWELL": "Mike Howell" (phonetic), Santa

1 Anita.

2 Before you begin, we'd like to request
3 that we implement the same rule at Santa Anita.
4 Therefore, with the Board's approval, we'd like to
5 amend the agenda item to include the LATC in the
6 winter.

7 CHAIRMAN HARRIS: Yeah. We can do that at the
8 December meeting or January, with all the better
9 formality to do it. But why don't we get this one
10 out of the way first?

11 MR. BAEDEKER: Rick Baedeker, Hollywood Park.

12 I might just add to what Mike has
13 said. I've spoken with each of the association
14 representatives here today. And they -- they
15 obviously can speak for themselves. But they have
16 agreed to support the change to 10 days.

17 And we would suggest that the Board
18 consider allowing the industry to conduct a one-year
19 experiment so all of the associations between now and
20 next year at this time, up to and including Oak Tree,
21 would agree to adopt the new rule if the Board so
22 directs.

23 Hollywood Park is asking for the
24 ability to implement, once again, the ten-day vet's
25 list rule. We approached the Board prior to the 2003

1 summer meeting and received permission to conduct an
2 experiment during that meeting.

3 The proposal called for the vet's list
4 to be expanded from a five-day restriction to ten
5 days but there was -- there was an important
6 exception given to the state vet, who could reduce
7 that number all the way down to three for vet
8 scratches made on the racetrack.

9 And the purpose of that was to make
10 sure that a jockey was not discouraged from going up
11 to the vet if he felt that his horse had an issue.
12 We didn't want the jockey nor did the jockey want to
13 be subject to the trainer or owner's wrath should he
14 approach the vet about taking the horse out of the
15 race.

16 So there's two components here. One
17 is generally expanding the rule from five to ten days
18 and with the proviso that the state vet can make an
19 exception for vet scratches on the racetrack.

20 We approached the Board to conduct
21 this experiment prior to the 2003 spring season.
22 We've provided the staff with the statistics. In
23 2002, when there was a five-day list in effect, we
24 had 239 scratches. In 2003, with the rule changed to
25 ten days, we had a 47 percent reduction in these

1 scratches -- down to a hundred and thirty-six.

2 The Board chose not to allow us to
3 continue the experiment for the 2004 meet. And so we
4 went back to five days and showed a 31 percent
5 increase in these late scratches.

6 And so I would suggest, ask the Board
7 that, in order to reduce the abuse of the vet's
8 scratch -- and in previous testimony, we heard, from
9 the trainers' organization and from the owners'
10 organization, an acknowledgement that, as a matter of
11 fact, a lot of times this was used simply as a
12 convenience tool to find a better place for a
13 particular horse to run than what might have occurred
14 that particular day.

15 So I would suggest that the Board
16 should consider making this change so that we can
17 reduce that abuse but more importantly so that we can
18 maximize field size. We've heard that repeatedly
19 today -- that that is an extremely high priority for
20 all of us.

21 We all know -- anyone that plays the
22 races -- we're all familiar with the short fields
23 that already exist. And there's been several
24 instances throughout the course of our seasons -- and
25 I believe others -- where seven-horse fields are

1 reduced to five and sometimes even four and a player
2 that has handicapped that race now gets to the
3 racetrack and finds that that race is not bettable.

4 So the compelling reason -- the most
5 compelling reason, in our opinion -- to make the
6 change is to keep as many horses on the racetrack as
7 we can to improve the product.

8 And so I would ask the Board to allow
9 Hollywood Park, during its upcoming fall meet, to
10 reinstate the rule that was in place during our
11 experimental period, allowing us to go to ten days on
12 the vet's list, with the proviso that the state vet
13 has the discretion to reduce that down to three days
14 for vet's -- vet's scratches made on the racetrack.

15 CHAIRMAN HARRIS: Are there any other ways
16 that could be reduced, I mean, if a racing secretary
17 needs a horse or something? Or is that -- that's a
18 hard and fast -- and who has the ability to reduce
19 the days?

20 MR. BAEDEKER: Only the state vet has the
21 ability to reduce the --

22 CHAIRMAN HARRIS: And only on horses that are
23 on the track that were scratched --

24 MR. BAEDEKER: That are scratched on the
25 racetrack.

1 CHAIRMAN HARRIS: Or in the paddock, I guess,
2 maybe, too.

3 MR. BAEDEKER: Yes, sir. That's correct.

4 CHAIRMAN HARRIS: So how do the ten days
5 actually work as far as -- is it ten calendar days or
6 race days or what?

7 MR. BAEDEKER: You know, I'm going to ask Mike
8 about that. Is it calendar or race days?

9 MR. "HOWELL": It's calendar. It's starting
10 the day after --

11 MR. BAEDEKER: Calendar -- it's calendar days.

12 CHAIRMAN HARRIS: It's not injury days. It's
13 really calendar days?

14 MR. BAEDEKER: Calendar days.

15 CHAIRMAN HARRIS: Well, I mean I originally
16 opposed this rule. But I can see that, if it's
17 something that tracks and the horsemen want to do,
18 I'm fine with it. I think it's just one tool in the
19 whole issue of field size. I'm not clear if it's
20 necessarily the most important tool. But I think we
21 need to let you try anything you want.

22 MR. BAEDEKER: Certainly agree with you, Mr.
23 Chairman, that, you know, this isn't going to change
24 our lives. But it is going to be an improvement.
25 And, you know, we're in a very difficult situation

1 here, fielding cards these days. And if we can do
2 something that will improve field sizes, we believe
3 we should do it.

4 CHAIRMAN HARRIS: Any comments from the
5 audience or the Board on this?

6 MR. McCARRON: Yes. Chris McCarron, Santa
7 Anita Park.

8 One quick comment: In order for a
9 horse to get off the vet's list, he has to work at
10 least five eighths -- five eighths of a mile --
11 right? -- and, I think, in 1.03 or better.

12 CHAIRMAN HARRIS: Well, I think there's two
13 types of vet's lists, as I recall; is that correct?
14 Does any horse have to -- if a horse is sick or
15 something, I'm not sure.

16 Could somebody explain that, Dr.
17 Jensen?

18 DR. JENSEN: Dr. Ron Jensen, Equine Medical
19 Director for the California Horse Racing Board.

20 Horses that are scratched for lameness
21 or unsoundness have to work for the official
22 veterinarian in a -- at five eighths of a mile in a
23 time of 1.03 unless the track conditions that day
24 indicate that a little slower time would be
25 appropriate. Horses that are scratched for being

1 sick do have not to work to come off the vet's list.

2 MR. McCARRON: My only concern would be that
3 no waivers of that rule be given to a horse that
4 was -- is going to be afforded this three-day
5 exemption or three-day change that -- that the -- you
6 know, if a horse is scratched for an unsound reason,
7 he still has to work for the vet.

8 I just can't think of too many horses
9 that wouldn't work at five eighths of a mile two days
10 before they run. See what I'm saying?

11 CHAIRMAN HARRIS: Well, yeah. I guess the
12 purpose of that, which was -- of the three-day rule
13 was, I presume, was -- was something to do with, if
14 the horse was just fine, that that he -- what was the
15 purpose of that?

16 MR. BAEDEKER: We wanted to make sure that a
17 jockey did not hesitate to take a horse up to the
18 gate if he was concerned about the soundness of that
19 horse. And if a jockey had to worry about the
20 trainer castigating him for now taking the horse out
21 of action for ten days, he might think twice before
22 taking that horse up to the gate.

23 So we wanted to make sure that this
24 was not an impediment for a jockey to take a -- to
25 take a horse up to the gate and have the vet look at

1 him and possibly scratch him.

2 CHAIRMAN HARRIS: So it's, usually in my
3 observation of racing over many years, that the main
4 reason that jockeys scratch horses at the post parade
5 is 'cause there's a claimant for the horse and
6 someone has told him that, which we don't
7 particularly endorse that either.

8 COMMISSIONER SPERRY: Too true.

9 COMMISSIONER SHAPIRO: Does Mr. Halpern have a
10 position on this? Is he in here?

11 AUDIENCE MEMBER: You're being called out, Ed.

12 MR. HALPERN: I'm sorry. Were you asking for
13 a comment?

14 COMMISSIONER SHAPIRO: Yes. I'm asking your
15 opinion, representing the trainers, on this rule?

16 MR. HALPERN: We have long opposed, over the
17 last three years, this change in the rule. Given
18 information that I was -- that was provided to me by
19 the racing secretary at Hollywood Park, it appears to
20 me that whether it's five days, as normal, or ten
21 days is pretty much irrelevant.

22 The number of horses that reenter
23 within ten days can almost be counted on one hand.
24 We went through the information provided and all the
25 scratches that have taken place after scratch time.

1 And in the last meet, I think 21
2 horses were reentered within 13 days. The meet
3 before that, it was 3. The meet before that, it was
4 3. The meet before that, it was 2. So my -- my
5 basic assumption is that it doesn't -- at this point
6 is that it doesn't matter much whether it's five days
7 or ten days.

8 But as long as I'm up here, let me
9 just pontificate for one moment. I think we should
10 be giving owners incentives to run, not disincentives
11 not to run. The main problem we have in this game,
12 although most people seem to think it's a lack of
13 horses or a lack of fans -- it's lack of owners.
14 That's why we don't have horses anymore.

15 And every time we make it a little
16 harder for them or upset them a little more, we lose
17 a few more owners. So I would hope that, at some
18 point here, we start looking for other ways to deal
19 with this problem, if it truly is a problem.

20 Thank you.

21 EXECUTIVE DIRECTOR WOOD: Just to clarify, we
22 need to be sure everyone understands. We're not
23 changing the rule. It's not really a rule. This is
24 a procedural format that's followed by the
25 veterinarians at the racetrack, set by the Board as

1 to how horses are scratched.

2 So all we're doing is changing the
3 procedure in which we scratch -- horses are scratched
4 and how many days they stay on the vet's list. It's
5 not a change in a rule.

6 CHAIRMAN HARRIS: Well, is there a motion to
7 do this?

8 COMMISSIONER SHAPIRO: I'll so move.

9 CHAIRMAN HARRIS: Second?

10 Okay. It's just for the Hollywood
11 Park meeting. And we'll consider other meetings
12 after that.

13 COMMISSIONER GRANZELLA: I'll second that.

14 CHAIRMAN HARRIS: There's a second from
15 Sheryl.

16 Okay. All in favor?

17 BOARD MEMBER VOICES: Aye.

18 CHAIRMAN HARRIS: Passed.

19 Okay. Discussion by the Board on the
20 California Performance Review Commission Report.
21 This is the C.P.R., which is a pretty critical area.

22 MR. NOBLE: Good morning, Commissioners.
23 Paige Noble, Horse Racing Board staff.

24 I'd like to bring you up to date on
25 the California Performance Review Report. The report

1 itself, just to back up a little bit, was originally
2 issued in early August. And this report contained a
3 lot of recommendations regarding streamlining
4 California services given to the public and also
5 contained recommendations regarding reorganizing a
6 lot of State agencies and departments.

7 The Horse Racing Board itself is being
8 impacted by this report because it's recommending
9 that the Board itself be abolished and that the
10 responsibilities of the Board be transitioned to the
11 new Department of Commerce and Consumer Protection.

12 Now, subsequent to the issue of the
13 report in August, the -- the -- what we call the
14 "C.P.R." -- the California Performance Review -- the
15 CPR commission began conducting hearings throughout
16 the state to receive input from the public on the
17 recommendations contained in the report.

18 They've held several -- seven public
19 hearings. The last hearing was heard on September
20 27. And so now, on October 20, the CPR Commission
21 will meet to digest all the input that was received,
22 and then they will make their own report and
23 recommendations and submit that to the governor.

24 And it's my understanding they plan to
25 submit that report to the governor around the end of

1 October.

2 Now, if and when the governor decides
3 to submit a reorganization plan to the legislature,
4 he, first, needs to submit it to the Little Hoover
5 Commission. And the Little Hoover Commission is to
6 receive it 30 days prior to the plan being submitted
7 to the legislature.

8 And then the Little Hoover Commission
9 will conduct its own hearings and submit an advisory
10 report to the governor and the legislature within 30
11 days of the reorganization plan being submitted to
12 the legislature. So, in effect, what this means is
13 the Little Hoover Commission gets 60 days to review
14 the governor's plan.

15 Now, the governor's reorganization
16 plan, if he choses to submit it to the legislature --
17 it must be delivered to the legislature during any
18 regular session. And by "regular session," what I
19 mean is the legislature must have 60 calendar days of
20 a continuous session to review the plan.

21 So the first session that would be
22 considered a "continuous session" would be the one
23 that begins -- I believe it's January 3 of next year.
24 Now, the governor's plan would become effective on
25 the 61st day after it has been given to the

1 legislature unless the senate or the assembly adopts
2 by a majority vote or a resolution rejecting the
3 plan.

4 CHAIRMAN HARRIS: Yeah. It's up or down vote?

5 MR. NOBLE: Up or down. Yes. I'd be happy to
6 answer any questions I can for you.

7 CHAIRMAN HARRIS: Any comments received in
8 these hearings regarding the CHRB? Or did any horse
9 interests comment?

10 MR. NOBLE: Not -- not to my knowledge. No.

11 CHAIRMAN HARRIS: Did any horse interest ever
12 read a report or vaguely aware of what it's all
13 about? Typical. You know, you guys spend millions
14 on lobbyists and --

15 MR. FRAVEL: It sounded good to us.

16 CHAIRMAN HARRIS: Well, the issue is -- it
17 sounds good to me, too, after putting up with all you
18 guys.

19 But the issue, I think, is, is how
20 horse racing wants to be regulated and do you, you
21 know -- I think there's no perfect way. Do you want
22 to lose the Racing Board and have it be part of the
23 Department of Consumer Affairs and not really have a
24 Racing Board but have it be a director or -- of some
25 sort, I think, is the way I read it?

1 But I think you all need to go through
2 and read that and see how it impacts your operation
3 and what you think about it because, absent some
4 feedback from the industry, I would predict that the
5 Racing Board will probably go away.

6 But I would also predict that, knowing
7 the industry -- sometimes they get to the party a
8 little late, but they're kind of loud once they get
9 there -- that there's going to be a lot of discussion
10 on this.

11 Any comments from the Commissioners?

12 COMMISSIONER SPERRY: My comment would be:
13 "Be careful what you wish for."

14 CHAIRMAN HARRIS: Yeah. It would change the
15 whole -- I mean what we've got here now, as I see it,
16 is sort of a process that is fairly cumbersome that
17 we have these meetings and we hear all these
18 different inputs, and we try to mitigate things and,
19 you know, get things moving forward or -- but it
20 would change the whole format.

21 All the stuff we've done today would
22 just go to an individual, I presume, that would say,
23 "Yes. Do the scratch rule this way"; "No. Capitol,
24 you got to have this or that"; or it wouldn't be as
25 much of a process as we have now.

1 MR. NOBLE: That's true. There's no
2 requirement for public meetings nor for a public
3 hearing under a director or secretary for the new
4 agency.

5 COMMISSIONER MOSS: I just believe our
6 industry is too large to be sorted out to some
7 bureaucracy that I don't think would treat it with
8 the same sensitivity that we try to.

9 MR. FRAVEL: Mr. Harris, Craig Fravel, Del Mar
10 Thoroughbred Club.

11 Notwithstanding earlier jokes from the
12 peanut gallery there, yeah, I have actually talked
13 with some legislatures about -- legislators about
14 this subject. And my impression was that the overall
15 report may not be greeted with as much enthusiasm as
16 the original report was, particularly in cases like
17 this, where there really isn't any budgetary impact
18 of the action.

19 We do have a meeting next week, I
20 think, of the racing interests -- and somebody from
21 the staff, I think, would be welcome to come to
22 discuss this particular issue -- and perhaps we could
23 up with a coherent response and comment for, at
24 least, the next commission. If -- maybe if Paige
25 could circulate a timetable by e-mail or something

1 that we could all get a little focus on, we could
2 bring it up --

3 CHAIRMAN HARRIS: Yeah. I think that could be
4 good because I think that I don't really feel that
5 comfortable if the Racing Board itself should become
6 a lobbyist to perpetuate itself. I mean we should be
7 more, you know, explain what we do and all that.

8 But the industry needs to look at it
9 and see what they really want. There may be aspects
10 of what we do that could well be done by some other
11 agency or, you know, how do we, you know, reinvent
12 government? It needs to be a -- kind of a pretty
13 broad look at everything.

14 But just for a lot of the things that
15 the Racing Board does are so critical and so
16 intrinsic just to racing, that it seems like, if the
17 whole thing went away, it would -- could hurt racing.

18 MR. FRAVEL: I think it would be very helpful
19 if we got together with the staff, at least, and
20 tried to come up -- I don't think you're going to be
21 able to say, "No. It's a bad idea." I think you
22 have to come up with some alternatives here. So I'd
23 be happy to get together and do that.

24 CHAIRMAN HARRIS: Any comments from the
25 Commissioners?

1 We just -- Paige put out a two- or
2 three-page summary of it that -- it's well done --
3 that we need to make sure we circulate that broadly
4 and everyone's aware of the briefing on it.

5 MR. NOBLE: Okay.

6 CHAIRMAN HARRIS: Okay. Well, thank you.

7 Okay. Next, we have staff report on
8 concluded race meetings.

9 MR. REAGAN: Commissioners, John Reagan, CHRB
10 staff.

11 We have the standard reports for the
12 Del Mar Thoroughbred Club, California State Fair, and
13 the Los Angeles County Fair. Those were the recently
14 concluded meets. As indicate in the summaries, for
15 Del Mar, we have a total handle up off-track,
16 on-track down. Of course, big increase continuing in
17 the account wagering. And we find similar patterns
18 in the State Fair and also L.A. County Fair.

19 If you have any specific questions,
20 we'll try to answer 'em. But I think that they're
21 the pretty standard reports -- what we've been seeing
22 the last few years here.

23 CHAIRMAN HARRIS: Any comments on those
24 reports? All of our Board package's available on our
25 website. If you ever want to, you know, see what

1 we're looking at up here, you can download the
2 whole -- the whole packet every month.

3 Committee report from the Ad Hoc
4 Security?

5 COMMISSIONER BIANCO: We're going to have a
6 presentation, but it's going to be before the
7 December meeting.

8 CHAIRMAN HARRIS: Okay. I know you have been
9 having some meetings on that. So we need to go back,
10 before we go to "Other Business," be sure we go back
11 to the --

12 EXECUTIVE DIRECTOR WOOD: Mr. Bieri with the
13 Capitol Racing.

14 CHAIRMAN HARRIS: -- the issue with Capitol
15 Racing.

16 COMMISSIONER SPERRY: Back to Item 4.

17 CHAIRMAN HARRIS: 4.

18 MR. BIERI: Mr. Chairman, Members of the
19 Commission. My name is Steve Bieri of Capitol
20 Racing.

21 I tried to reach the partner in charge
22 at Ernst and Young. She's out at a client. And they
23 tried to reach her, but she hasn't called yet. So,
24 hopefully, maybe I'll hear over the lunch break.

25 But I did hear something that you

1 said, Mr. Harris, I believe, which is, if I was
2 willing to post another million dollars, maybe that
3 would take the -- I think your words were "Take the
4 financials out of play."

5 We do need to get approved today -- I
6 don't -- because I don't want our horsemen to think
7 that there are other issues that are going to cause
8 problems.

9 So if we can move forward, I am
10 willing to agree to post an additional million
11 dollars in the form of either a bond or a letter of
12 credit -- just to clarify, because we had some
13 confusion from the last time -- and/or replace the
14 one that we have for one with \$2 million.

15 And if we can do that and move
16 forward, all the money that I would have to be
17 spending, on this unprecedented expense on the audit,
18 I can transfer over to the expense of the letter of
19 credit.

20 And I'd be willing to do that because,
21 without that, given the money that I'll spend on the
22 letters of credit or the bonds and the audit --
23 that's going to get close to another one-hundred-
24 thousand dollars of cost.

25 So just to get off the dime, I'm

1 willing to go up to the \$2 million bond or letter of
2 credit.

3 CHAIRMAN HARRIS: I think the problem is,
4 without some version of an audit, I don't know if we
5 know what the right number is for the letter of
6 credit.

7 MR. BIERI: Well, we know the calculations,
8 and we know we're about a million short. So that's
9 why I'm -- just to move it forward. I mean we may be
10 off by a couple of bucks but not by much. And so I
11 will post additional money or whatever so you will
12 have a bond or letter of credit.

13 Last time, it took me over 30 days.
14 So I'd say some time between now and the end of the
15 year 'cause I've got to post some extra security to
16 get that done, which I'll be glad to do. But there
17 are processes that that's required. But I will make
18 that commitment and honor it, just like I did the
19 last time. So you'll have \$2 million in security.

20 CHAIRMAN HARRIS: Well, we do meet in
21 December. We could -- we could finalize it at that
22 point. I think we're --

23 MR. BIERI: I really want certainty.

24 CHAIRMAN HARRIS: I know.

25 MR. BIERI: I mean Los Alamitos has got their

1 whole year approved for next year. Our horsemen have
2 been going back and forth here. I will come up with
3 another million dollars, if that's what it takes to
4 make people more comfortable and be con -- and be
5 more assured that we have wherewithal to do this.

6 COMMISSIONER BIANCO: I think that would be
7 one of the requirements. But I'm not for waiving the
8 audit. I'm sorry you have to go through the expense.

9 MR. BIERI: Well, it's just the audit's north
10 of \$50,000. And I don't know exactly what it is. It
11 could be 50. It could be 60. It could be 70. The
12 first bond cost me \$20,000. It cost me two points.
13 The next one, I'm assuming, is going to cost the
14 same.

15 You've just increased my costs by a
16 hundred-thousand dollars. And if it comes out okay
17 and we win the lawsuit, I've just burned a hundred-
18 thousand dollars for no good reason. So I'm just
19 going by what Mr. Harris had said, which is, if I put
20 up that million dollars, that might make the -- the
21 other go out of play.

22 It's 'cause I just want to save the
23 expense. There's just -- this is just an ongoing
24 drain on ourselves. And if the concern is "Do we
25 have the ability to do it?" I'll post another million

1 bucks.

2 CHAIRMAN HARRIS: I think we do need a
3 statement. I haven't looked at the, you know, audit
4 statements. But the problem is, it doesn't -- a
5 letter of credit doesn't really mean too much if the
6 statement is --

7 MR. BIERI: No. The letter of credit would
8 not come from me. It could come from a bank. And
9 what it -- it's just like a bond. What happens is --

10 CHAIRMAN HARRIS: I understand that part. But
11 if you have a letter of credit for 2 million but
12 you've got a negative net worth of 5 million or
13 something, it's still not quite there.

14 MR. BIERI: But, sir --

15 CHAIRMAN HARRIS: Yeah.

16 MR. BIERI: -- the operations of Capitol
17 Racing have never come under question. What's under
18 question is, if in the worst-case scenario, we lose
19 the lawsuit, is there enough money to cover that?
20 We've -- we heard others talking this morning --
21 we're a million dollars short on that. I'll put up
22 another million dollars.

23 I mean we just are getting punished
24 here and having to ex- -- you know, run into expense
25 that I'm just trying to -- I don't want to spend any

1 more money on this than I have to. But I'll put up
2 another million.

3 COMMISSIONER SHAPIRO: Mr. Bieri, I assure you
4 my intentions were certainly not to be punitive in
5 any way, shape, or form.

6 MR. BIERI: Just the effect is.

7 COMMISSIONER SHAPIRO: Pardon me?

8 MR. BIERI: The effect is.

9 COMMISSIONER SHAPIRO: Well, okay. What I'm
10 trying to find out is -- you must know if Capitol
11 Racing is profitable or unprofitable.

12 MR. BIERI: It is profitable.

13 COMMISSIONER SHAPIRO: Okay. And I'm assuming
14 you know to what extent. Now, I don't know if we
15 have a reviewed statement --

16 MR. BIERI: Yes, we do.

17 COMMISSIONER SHAPIRO: Okay. And it's been
18 submitted --

19 MR. BIERI: Absolutely. Just like every other
20 racing operation in the State of California. And
21 those reviewed statements have been the same ones
22 we've been producing year after year after year. But
23 there are some people who are causing us a great deal
24 of aggravation, who have challenged those statements,
25 saying that we don't have the wherewithal to cover

1 what our debts are.

2 In May -- or in last March, I said I'd
3 put up a million-dollar bond. I did. I'm now saying
4 I'll up it to 2. Capitol Racing is profitable. And
5 the other voodoo is baloney.

6 COMMISSIONER SHAPIRO: Mr. Wood, do we have
7 those reviewed statements?

8 EXECUTIVE DIRECTOR WOOD: Yes, sir. We've had
9 the reviewed statements for quite some time. It's
10 been historical that the racing associations have
11 provided reviewed financial statements before their
12 applications are reviewed. Recently, the Board has
13 asked that these financial statements be more
14 detailed -- audited-type financial statements.

15 Several months ago, one of the harness
16 participants requested our intervention in the review
17 of the audit of the reviewed financial statements
18 because of the "undocumentation" of loans to horsemen
19 and overpaid purses. And the Board's received
20 several letters from this individual requesting that
21 we look at a audited financial statement.

22 As part of the review of the
23 application for this licensee months ago, we asked
24 them to provide an audited financial statement. To
25 this date, we do not have the audited financial

1 statement. We do have the reviewed financial
2 statements.

3 And Mr. Reagan, our audit manager, has
4 reviewed the reviewed financial statements. And
5 because of the inquiries of certain parties, we've
6 asked for an audited financial statement to assure
7 the Board that the resources are there to address the
8 litigation, overpayment of purses.

9 CHAIRMAN HARRIS: I'm not sure that the date
10 of our latest reviewed statement, even though is
11 not --

12 MR. BIERI: It's for 2003 -- December 31st.
13 And what we -- that same individual that is causing
14 me all of this displeasure is the same one who wrote
15 a letter insinuating that we were stealing from the
16 horsemen's purses and had proof that we had
17 misappropriated funds out of the horsemen's purse
18 account.

19 Your own staff came to our offices,
20 checked it out, and saw that that was not true. I
21 don't understand why the Board continues to listen to
22 this harassment.

23 But I will put up another million.
24 That's better than what my financial statements says,
25 unless you're going to put up a letter of credit or a

1 bond. I mean the financial statement says I'd have
2 the ability to pay it.

3 The letter of credit or bond is
4 pledged against it. And you have the right to pull
5 it. So it saves you a lot of aggravation to collect
6 if you ever have to.

7 EXECUTIVE DIRECTOR WOOD: In all fairness, Mr.
8 Bieri, the individual who wrote the letter also was
9 accused of stealing money while he was a Commissioner
10 of this Board also. So it's been back and forth.
11 These two people have accused each other of all kinds
12 of things.

13 So --

14 MR. BIERI: If we could --

15 EXECUTIVE DIRECTOR WOOD: -- we really and
16 truly have been very patient, asking for the audited
17 statement. And I understand the problems that we
18 have in getting it. But the audited statement is
19 really a necessity for us to kind of close the file
20 on the complaints that we've gotten from someone
21 else. And it's been one --

22 CHAIRMAN HARRIS: All we want is them to be
23 sure that the company is well capitalized, I mean,
24 because there's no -- nothing in place now to prevent
25 whoever owns the company from -- from pulling money

1 out of the company.

2 EXECUTIVE DIRECTOR WOOD: Exactly.

3 CHAIRMAN HARRIS: And you're just -- we got to
4 be --

5 MR. BIERI: But I just don't want to -- but,
6 if I'm right and when I'm done, I'm out a hundred
7 thousand dollars. But if they're wrong, they're out
8 nothing except the hundred thousand dollars plus all
9 the aggravation they cost me.

10 I was just suggesting I'll put up the
11 extra million dollars, taking what you said, Mr.
12 Harris -- the financials would be out of play. That
13 would give me an opportunity to shut off one meter
14 and pay it into another, just to minimize my costs.

15 COMMISSIONER SHAPIRO: Mr. Bieri, I didn't
16 hear Chairman Harris say the financials would be out
17 of play at all.

18 MR. BIERI: Okay. I thought I -- I must have
19 misheard him, then.

20 COMMISSIONER SHAPIRO: That wasn't my
21 understanding.

22 MR. BIERI: All right.

23 COMMISSIONER SHAPIRO: No one is trying to
24 cost you money. You know that you're going to have
25 reviewed statements at the end of the year. And I

1 don't think that the surcharge of going from review
2 to an audit is going to cost you a hundred thousand
3 dollars.

4 MR. BIERI: No. It's going to cost me --

5 COMMISSIONER SHAPIRO: May I finish, please?

6 MR. BIERI: Yes. Yes.

7 COMMISSIONER SHAPIRO: Thank you. Okay.

8 And we obviously have some concerns.

9 And I think that, if you will post your irrevocable
10 letter of credit in the name of the Racing Board for
11 an additional million dollars, then I think we can
12 put this to rest, issue you your license. But we
13 still do need audited financial statements.

14 MR. BIERI: And let me clarify. It wasn't
15 that the audited financial statements themselves cost
16 an extra hundred. It's the cost of the first
17 million, the cost of the second million, and the cost
18 of the audit, when you add it all up together.

19 But if we can get the license, I will
20 issue -- I will cause that to be done to help you
21 folks get on with it today. And as soon as I can
22 reach the partner at Ernst and Young, I will let John
23 Reagan know when those audits will be forthcoming.

24 COMMISSIONER SHAPIRO: If I can amend the -- I
25 think we have a motion in front of us -- that if I

1 can amend the motion to approve the application for
2 the racing dates of Capitol Racing, subject to the
3 prior conditions; the receipt of an audited financial
4 statement by December 31, 2004; and the posting of an
5 irrevocable letter of credit or bond in favor of the
6 Racing Board, I would move to approve the license.

7 COMMISSIONER SPERRY: Second the motion.

8 COMMISSIONER MOSS: Second.

9 CHAIRMAN HARRIS: Okay. All in favor?

10 BOARD MEMBER VOICES: Aye.

11 CHAIRMAN HARRIS: Approved.

12 MR. BIERI: Thank you.

13 CHAIRMAN HARRIS: Okay. We're going to
14 "General Business." We've got a request from
15 Mr. Castro.

16 MR. CASTRO: Richard Castro, Pari-Mutuel
17 Employees Guild.

18 I'm bringing up the issue of phone
19 wagering. Once again, our support for ADW was that
20 we -- Local 280 -- would get live phone-operator jobs
21 in California. I hereby state that our position is
22 that no one be licensed in the future, as an ADW
23 operator in California, until some kind of an
24 agreement is reached for California-licensed
25 pari-mutuel operators to man this classification of

1 work.

2 We feel it would be best if some kind
3 of joint venture included SCOTWINC or NOTWINC or some
4 kind of combination between them. If the California
5 TOC chose to run such a venture, we would support
6 that as long as it included all of the provisions of
7 our master collective-bargaining agreement. We are
8 also willing to work with the industry to change the
9 law if necessary.

10 A second issue related to this: I
11 would like a response, within 10 days, that since the
12 inception of ADW regarding California accounts, on a
13 monthly basis, how much money is spent over the
14 phone, how much money is spent over the Internet. In
15 addition, I would like to know what is the average
16 amount bet per transaction from the California-
17 generated accounts.

18 And I've put this in writing and given
19 it to John Reagan today.

20 My third issue is a very irritating
21 issue. And I will say this: During the break, there
22 may have been some miscommunication. So please keep
23 that in mind.

24 On October 12, Tuesday, I expected a
25 CHRB staff person to meet with our members and

1 Executive Board; and they failed to show up. I set
2 this up about two months ago and tried to keep this
3 issue in-house. I left numerous calls to the person
4 I understood assigned to this issue.

5 About three weeks ago, I met this
6 staff person and saw him mark the date in his
7 calendar book. Aside from the embarrassment of
8 having an Executive Board plus an additional 20-or-so
9 members, some of which came from Southern
10 California -- I find this kind of behavior is
11 unacceptable. It's actually despicable.

12 We waited from 10:00 o'clock in the
13 morning until 4:00 P.M. and never even got a courtesy
14 call. What I heard, at this meeting on 10-12, for
15 the first time, that clerks, having tote problems,
16 are now putting dollars out of their pocket to make
17 the box balance.

18 Management, clearly, does not want
19 this to happen. Union, clearly, does not want this
20 to happen. However, apparently your staff doesn't
21 even care because the CHRB staff person or persons
22 failed to show up and hear these claims on 10-12.

23 I tried. I tried very hard to work
24 within the framework of the CHRB. But, once again,
25 in my opinion, your staff has failed the

1 CHRB-licensed pari-mutuel clerks.

2 In your executive session today, I
3 respectfully ask that you consider, immediately, to
4 reimburse all pari-mutuel clerk license fees that you
5 have collected; in addition, that you adopt a future
6 policy that to never again collect another dollar
7 from a licensed pari-mutuel clerk.

8 Since your staff has failed so badly
9 on this issue, consider it fair that I present this
10 issue elsewhere. Thank you for taking the time to
11 hear my issues.

12 CHAIRMAN HARRIS: Any questions of Mr. Castro?

13 I don't think we could discuss
14 anything today because it's not on the agenda. I
15 guess there's two or three different things here.

16 As far as the live operators being a
17 requirement for licensing -- I think we probably need
18 to put this whole thing on an agenda, I presume, to
19 really get into it. But I think to really accomplish
20 some of the things would take rule changes and
21 possibly law changes.

22 MR. CASTRO: Thank you. That would be
23 appreciated.

24 CHAIRMAN HARRIS: Okay.

25 Any other "General Business"? Any

1 "Old Business"? We have an executive session today
2 and --

3 EXECUTIVE DIRECTOR WOOD: No. We don't,
4 Mr. Chairman.

5 CHAIRMAN HARRIS: Yeah. We do.

6 EXECUTIVE DIRECTOR WOOD: Oh, we do? We do.

7 CHAIRMAN HARRIS: Yeah. We do. It's on here,
8 yeah.

9 EXECUTIVE DIRECTOR WOOD: Oh.

10 CHAIRMAN HARRIS: But we appreciate all your
11 time today and want to welcome Richard, again.

12 COMMISSIONER SHAPIRO: Thank you.

13 CHAIRMAN HARRIS: Appreciate it greatly.

14 Now, it's not over till it's over,
15 but --

16 EXECUTIVE DIRECTOR WOOD: No wonder everyone
17 left -- because they anticipated Rod Blonien singing
18 a song.

19 MR. BLONIEN: Rod Blonien, on behalf of the
20 world. Well, this is a part of the program where the
21 fat boy sings. And it isn't over till the fat boy
22 sings. So it's our time.

23 Roy, as John has said and as your many
24 friends said at your retirement party, 10 days ago or
25 so ago in Sacramento, you and Jenny will be sorely

1 missed. And as has become a tradition, we now send
2 you to off to Bossier City, Louisiana, with lots of
3 love and wishes for very successful times.

4 And before you leave, though, we'd
5 like to say, "Happy trails to you, until we meet
6 again. Happy trails to you. Keep smiling until
7 then. Happy trails to you, until we meet again."

8 (Applause.)

9 EXECUTIVE DIRECTOR WOOD: Thank you, Rod.

10 MR. BLONIEN: I cut a deal with Jerry Moss at
11 the break. We're going to put it on a new album.

12 EXECUTIVE DIRECTOR WOOD: Yeah.

13 MR. BLONIEN: I still want to know, Jerry.
14 Who -- who put the whipped cream on that gal on the
15 album cover from 1964?

16 COMMISSIONER MOSS: I'll tell you later.

17 AUDIENCE MEMBER: Don't quit your day job.

18 (Proceedings concluded at 12:14 P.M.)

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REPORTER'S CERTIFICATE

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

That the October 14, 2004, meeting of the California Horse Racing Board was taken down by me in shorthand at Arcadia City Hall Council Chambers and was thereafter reduced to computerized transcription under my direction and supervision, and I hereby certify that the foregoing transcript is, to the best of my ability, a true and correct transcript of the meeting.

I further certify that I am neither counsel for nor related to any party to any actions discussed or taken during the course of this meeting nor in anywise interested in the outcomes thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 23rd day of October, 2004.

NEALY KENDRICK
CSR 11265

