

BOARD MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
_____)

SANTA ANITA PARK RACE TRACK
285 WEST HUNTINGTON DRIVE
ARCADIA, CALIFORNIA

THURSDAY, JANUARY 20, 2011

9:47 A.M.

Reported by:
Mark J. Goena

APPEARANCES

COMMISSIONERS

Keith Brackpool, Chairperson

David Israel, Vice Chairperson

Richard Rosenberg

Jesse H. Choper

Jerry Moss

John C. Harris

Bo Derek

STAFF

Kirk E. Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Dr. Rick Arthur, Equine Medical Director

Mike Marten

PRESENTER

Mark Thurman, CHRIMS

ALSO PRESENT

Laura Rosier, San Luis Rey Downs

Gary Hallman, Winning Ways Stable

Jerry Jamgotchian

Michael Wellman

Doug Burge, CTBA

APPEARANCES (CONT.)

ALSO PRESENT (CONT.)

Darrell Haire, Jockeys Guild

John Bucalo, Barona Casino and Resort

Peter Miller

Tim Briggs, Sycuan Casino

Ross Nichols, Local 280

Roger Way

Rod Blonien, Los Alamitos

John Hindman, TVG

Scott Daruty, MI Developments

David Elliott, Cal Expo

Richard Castro, Local 280

Brad Blackwell, TwinSpires

Jack Liebau

Guy Lamothe, Thoroughbred Owners of California

Greg Scoggins, XpressBet

Craig Fravel, Del Mar Thoroughbred Club

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15. Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personal matters, as authorized by section 1126 of the Government Code. 176
- A. The Board may convene a Closed Session to confer with and receive advice from counsel, considering pending litigation described in the attachment to the agenda captioned "Pending Litigation," as authorized by Government Code section 11126(e).
 - B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).

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PROCEEDINGS BEGIN AT 9:47 A.M.

(The meeting was called to order at 9:47 A.M.)

ARCADIA, CALIFORNIA, THURSDAY, JANUARY 19, 2011

MEETING BEGINS AT 9:47 A.M.

EXECUTIVE DIRECTOR BREED: This meeting of the California Horse Racing Board will come to order. Please take your seats. This is the noticed regular meeting of the California Horse Racing Board to be held on Thursday, January the 20th, 2011 commencing at around 9:30 a.m. in the Baldwin Terrace Room at the Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California.

Present at today's meeting are: Keith Brackpool, Chairman; David Israel, Vice Chairman; Jesse Choper, Member; Bo Derek, Member; John Harris, Member; Jerry Moss, Member; and Richard Rosenberg, Member.

Before we go on to the business of the meeting I need to make a few comments. The Board invites public comments on the matters appearing on the meeting agenda. The Board also invites comments from those present today on matters not appearing on the agenda during a public comment period if the matter concerns horse racing in California.

In order to ensure all individuals have an opportunity to speak and the meeting proceeds in a timely fashion I will strictly enforce the three minute time limit rule for each speaker. The three minute time limit will be

1 enforced during discussion of all matters on -- stated on the
2 agenda, as well as during the public comment period.

3 There is a public comment sign-in sheet for each
4 agenda matter on which the Board invites comments. Also there
5 is a sign-in sheet for those wishing to speak during the public
6 comment period for matters not on the Board's agenda if it
7 concerns horse racing in California. Please print your name
8 legibly on the public comment sign-in sheet. When a matter is
9 open for public comment, your name will be called. Please come
10 to the podium and introduce yourself by saying your name and
11 organization clearly. This is necessary for the court reporter
12 to have a clear record of all who speak.

13 When your three minutes are up the Chairman will ask
14 you to return to your seat so others can be heard. When all
15 the names have been called, the Chairman will ask if there is
16 anyone else who would like speak on the matter before the
17 Board. Also the Board may ask questions of individuals who
18 speak. If a speaker repeats himself or herself, the Chairman
19 will ask if the speaker has any new comments to make. If there
20 are none, the speaker will be asked to let others make comments
21 to the Board.

22 Thank you, Mr. Chairman.

23 CHAIR BRACKPOOL: Thank you. Good morning everybody.

24 Before we get started I, of course, want to - on
25 behalf of the whole Board - and I would believe everybody in

1 this room offer our heartiest congratulations to Jerry and Ann
2 Moss for Zenyatta's horse of the year. It's a wonderful
3 achievement and much-deserved, so many, many congratulations
4 from all of us.

5 The first item of business is approval of the minutes
6 of December 16th, 2010. Have any comments on the meeting --
7 on -- on the minutes?

8 No comments. Do I have a motion to approve?

9 COMMISSIONER ROSENBERG: I move to approve.

10 CHAIR BRACKPOOL: Yeah, Commissioner Rosenberg motions
11 to approve.

12 VICE CHAIR ISRAEL: Second.

13 EXECUTIVE DIRECTOR BREED: Vice Chair Israel seconds.
14 All in favor?

15 ALL MEMBERS: Aye.

16 CHAIR BRACKPOOL: Minutes are passed. Do that.

17 Just before we get to the -- the public comment
18 period I have a couple of short announcements to make. You'll
19 notice from this agenda that the 2011 balance race dates for
20 2011 were not on the January agenda. They will be on the
21 February agenda and I believe we will be able to devote and
22 conclude those on the February agenda. So although this is not
23 on here the discussions I think have been very fruitful, and I
24 think we'll have that resolved for the February meeting. And I
25 just wanted to point that out.

1 Just in connection with that, there was an email that
2 went out from the TOC to a lot of the tracks and CTT, etcetera,
3 saying they had been asked by the CHRB to work with everyone on
4 the calendar for 2012. I think there was probably some
5 unfortunate wording in there. We -- we have said many, many
6 times that as much as you can all come to this Board with
7 consensual agreement the -- the better it is. But we have not
8 authorized anybody to negotiate on behalf of the Board. And so
9 I'm told by TOC it was just some inadvertent wording in the
10 email but it just caused me to get another seven emails, so
11 let's just try and be tight on that next time -- next time
12 around. But I wanted to clear that up that we have not
13 abrogated our responsibility in choosing race states.

14 The -- the third issue is we received the -- the
15 letter from the California Thoroughbred Trainers, as requested
16 by the Board last time, with a useful statement of their
17 positions with regard to the -- the backstretch pension plan
18 and their fiduciary responsibilities on the same. And so I
19 think we will go with what Commissioner Choper, I believe, had
20 suggested at the last meeting, which is to have a small group
21 of -- small, I suppose, ad hoc committee of this board sit down
22 and try and see if that issue can't be resolved. So we will --
23 we will be getting with CTT on -- on that issue and staff will
24 follow up and make those -- make those arrangements. But I
25 thank them for providing that -- that information to us.

1 And the, I suppose, the third issue that -- the
2 fourth issue that would be somewhat related to that is, again,
3 if either the CTT and/or TOC either jointly or separately feel
4 that with the issues they're trying to work through, that we
5 can be of any help or assistance in between these monthly
6 meetings, our -- our doors are open and we'd be more than happy
7 to -- to continue those conversations and see if we can't work
8 through some of those issues.

9 So that's where we are with -- with -- with that.
10 The final thing that I wanted to point out is there's been a
11 lot of noise about purse account misappropriations, all sorts
12 of other strong accusations that have been going around. The
13 CHRB concluded -- or it commenced an inquiry and has recently
14 concluded that inquiry. And I just thought for the record I
15 would have counsel just give the briefest summary of that
16 situation.

17 STAFF COUNSEL MILLER: Thank you, Mr. Chairman.
18 Robert Miller, counsel for the California Horse Racing Board.

19 As the Chairman indicated the California Horse Racing
20 Board has concluded an inquiry into allegations of
21 misallocation of funds received by the Thoroughbred Owners of
22 California. Shortly, within the week, the California Horse
23 Racing Board will be issuing a formal letter with comprehensive
24 findings regarding that -- that inquiry.

25 However, suffice it to say that there was no

1 misallocation of funds. The funds received by the Thoroughbred
2 Owners of California were never intended for purses, and there
3 was no violation of Business and Professions Code Section
4 191 -- 19613.05. The Thoroughbred Owners of California were
5 remiss in not providing expenditures as required by Business
6 and Professions Code Section 19613.2. However, the California
7 Horse Racing Board has now received reports for the years 2006,
8 2007, 2008 and 2009.

9 But again, the -- the California Horse Racing Board
10 will be issuing a formal letter with comprehensive findings
11 that will state -- will conclude, I should say, that there was
12 no misappropriation of funds.

13 Thank you, Mr. Chairman.

14 CHAIR BRACKPOOL: Thank you, Counsel. Okay.

15 Moving on to item number -- public comment, the first
16 speaker I have is Laura Rosier from San Luis Rey Downs.

17 MS. ROSIER: Thank you. Laura Rosier from San Luis
18 Rey Downs. At the last meeting the Board directed SCOTWINC to
19 provide data and to come up with an equitable plan for San Luis
20 Rey Downs horsemen. SCOTWINC followed neither of the CHRB's
21 directives. SCOTWINC's delay is beneficial to them and
22 financially damaging to San Luis Rey Downs.

23 We cannot fairly compete with facilities that are
24 being funded. When this funding was created, it was intended
25 to provide extra stalls for runners. Now we need runners.

1 Does Southern California racing really want to turn -- turn
2 away runners?

3 We respectfully request that the Board persuade
4 SCOTWINC to proceed with their directives before the next
5 meeting and that we, again, be placed on the agenda. We also
6 ask that because of the negative results of the last meeting
7 between San Luis Rey Downs and SCOTWINC that you would provide
8 one of your commissioners to join us, possibly Mr. Rosenberg or
9 Mr. Choper. Thank you.

10 CHAIR BRACKPOOL: Thank you. Next speaker I have is
11 Gary Hallman from Winning Ways Stables.

12 MR. HALLMAN: Chairman Brackpool, Board Member Moss,
13 and all esteemed members of the CHRB, thank you for the
14 opportunity to speak this morning and thank you for doing a
15 thankless job. My name is Gary Holman. I've been coming to
16 Santa Anita for the last 55 years.

17 I remember coming to Santa Anita on Washington's
18 birthday in '55, St. Vincent winning the big race with Johnny
19 Longden. I was here opening day of Oak Tree in 1968 and did
20 not miss a day at Oak Tree until it moved to Hollywood last
21 year.

22 April 1, '79, I claimed my first horse, Stone Point
23 with Joe Manzi. Saint Patrick's Day '88 I won the Win Pick 9
24 for 1.1 million, went up to the money room and Mutual
25 Supervisor George Haines handing me bricks of hundred dollar

1 bills. My son, Peter Miller, winning his first race, April 25,
2 1988 with Dinah Shield, their ten claimer with Gary Stevens
3 riding.

4 After witnessing the greatness of Affirmed, John
5 Henry, Spectacular Bid, Zenyatta, I find myself nearly alone
6 every day in the Turf Club at Santa Anita. This deeply saddens
7 me, as I'm sure it does you, and to that end I am offering my
8 sincere help today to California horse racing. As we all know,
9 our sports problems are huge.

10 By no means is this complete, but I would like to ask
11 you to respectfully consider the following: the Board must
12 rescind the recent takeout increases. This year's plan to
13 increase purses at Los Al and Santa Anita --

14 EXECUTIVE DIRECTOR BREED: Gary, you have one minute
15 left.

16 MR. HALLMAN: -- and at Santa Anita with a double-
17 digit jump in the takeout has pushed many of the race tracks's
18 best customers to the point of widespread organized boycotts.
19 In the past these increases in the take were ignored by most
20 players. But now many more angry customers have decided that
21 they have been gouged enough and they are not going take
22 anymore.

23 In order to prosper racing needs to be competitive
24 with other forms of gambling. However, this year with these
25 additional tax increases we are moving in the opposite

1 direction, pricing our best customers out of the market, away
2 from the race tracks and away from this state. Clearly these
3 declines are not a future that we embrace and we need to
4 explore other avenues to race purses.

5 Thank you for the opportunity to speak today and I'm
6 available to discuss this further, should you --should you so
7 wish. Thank you.

8 CHAIR BRACKPOOL: Thank you, sir. Next speaker --
9 next speaker is Jerry Jamgotchian.

10 MR. JAMGOTCHIAN: Chairman Brackpool, Members of the
11 Board, let's face it, the current California Horse Racing Board
12 is doing a very bad job. They are systematically destroying
13 California horse racing. They're forcing owners and trainers
14 out of the state. They're allowing the TOC to basically steal
15 money and be controlled by the race tracks and ADW companies.
16 They're not enforcing medication rules. They're cheating the
17 customer and ignoring the customer. And more importantly,
18 they're destroying the dreams of people who love horse racing,
19 as well, as the lives of race tracks related employees.

20 People ask me how can this thing turn -- be turned
21 around? And I -- I -- I look -- look to them and I say I don't
22 think it could be turned around with the current leadership of
23 this Board. In fact, I really think that the best way to
24 change this Board is to ask the majority of you to step down,
25 or to ask the Governor to just eliminate this Board and move it

1 into another section of the -- of the California government.

2 Many people in this room certainly -- certainly will
3 agree with me that the latest faux pas that this Board took to
4 basically screw the customer with the increased takeout has
5 done nothing but force wagerers away from Santa Anita -- away
6 from California horse racing and, more importantly, opened it
7 up to ADW providers to further steal on track wagering, as well
8 as killing on-track attendance.

9 And I believe that members of this Board are pretty
10 well aligned with Betfair, and I can understand their position
11 on how Betfair and companies can certainly come in and pirate
12 wagering dollars in California. And if that's the intention of
13 this Board to allow the destruction of this sport in
14 California, then you people will certainly be accomplishing
15 your goal.

16 We're depending on you to make the right decisions on
17 California horse racing because there are lives at stake here,
18 none of which you seem to desire to be interested in or
19 listened to. When people come to this microphone the majority
20 of you just turn off. The majority of you don't even have a
21 major and substantial investment in horse racing like I do and
22 many other people. But you make the decisions that you make
23 without, a) understanding the facts, b) really knowing what's
24 going and being involved in the process, and most of you take
25 this job ceremoniously. So I would ask that the people

1 really -- that the Board members --

2 EXECUTIVE DIRECTOR BREED: Just one minute, Jerry.

3 MR. JAMGOTCHIAN: Thank you. I would ask that the
4 current Board members look at themselves and say am I really
5 doing what's right? Am I studying the issues? Am I listening
6 to the people that race in California? More importantly, am I
7 making the right decisions?

8 Because if you want to be a puppet behind the
9 Chairman or other people who are essentially putting in time
10 for what I consider to be vested interest, then maybe you're
11 not doing what -- what you should be doing to help California
12 horse racing. Because the people in this -- in this room, as
13 well as the people in the backstretch are looking to you for
14 leadership, and in my opinion, the leadership is not being
15 provided. And I think the evidence will show that the
16 leadership is destroying California horse racing. Thank you.

17 CHAIR BRACKPOOL: Next speaker, Michael Wellman.

18 MR. WELLMAN: Chairman Brackpool, Director Breed and
19 Board Members, good morning. Michael Wellman, owner and
20 breeder. What I want to intend to read right now, is a letter
21 that I sent on January 10th to the CHRB members for the record,
22 and due to the items that are on the agenda today regarding
23 ADW. Again, this was written to everybody on January 10, so it
24 is a little past dated already.

25 "Dear Chairman Brackpool and all, as stated previously in

1 a letter sent to all of you in August and prior to AB 2414
2 being approved, I voiced my concern about any long-term
3 success. Now just two weeks into the Santa Anita meet it
4 seems clear that the optimism for increased purses long-
5 term based on the additional takeouts is clearly in
6 extreme jeopardy due to dismal handle results.

7 "Recognizing that you still may feel it too early to draw
8 any final conclusion, when might it be considered too
9 late? What contingency plans are in place in case
10 something like this short fall continues to occur?

11 "In addition to the short fall from the purses in place,
12 we appear to have lost and alienated a significant portion
13 of our customers. We must not let this slide any further.
14 We can not just continue to go down the path without
15 making the necessary modifications.

16 "On a separate but related issue, I believe now noted as
17 Senate Bill 1072, I received a new year's update from the
18 TOC" -- which I had enclosed with my letter -- "which on
19 top of many assertions noted that, quote, 'The TOC with
20 race tracks was instrumental in ensuring that 100 percent
21 of the 2011 takeout increase goes only to purses.' I find
22 this statement to be misleading and not factual. Any
23 statement knowingly not true should not be allowed to be
24 sent to our constituency. It is clearly abusive to the
25 good faith we rely on from the TOC to inform us with

1 facts.

2 "With the information shared at the December meeting" --

3 EXECUTIVE DIRECTOR BREED: You have one minute, Mr.
4 Wells.

5 MR. WELLMAN: -- "it is more than obvious" -- excuse
6 me?

7 EXECUTIVE DIRECTOR BREED: You have one minute left.

8 MR. WELLMAN: "It is more than obvious and clear that
9 the deals have already been approved where there is a
10 split. There continues to be three or four major
11 California providers that continue to operate, although
12 the CHRB has yet to formally approve them for 2011."
13 That's, I guess, happening today. "At least one,
14 TwinSpires, was not willing to give the 100 percent to
15 purses. My strong suspicion is today the other providers
16 with pending agreements will agree not to give up the 100
17 percent also. Who are we fooling but ourselves?
18 "Please, I look forward to anybody that can advise me that
19 I am incorrect on this point of SB 1072 not being split
20 and that 100 percent of all revenues are, in fact, going
21 into purses. This sort of distorted information being
22 reported by the organization that is supposed to represent
23 all California is extremely damaging to the California
24 industry. Intentional and knowingly giving this
25 information can only lead to further divisiveness --

1 EXECUTIVE DIRECTOR BREED: Time is up, Mr. Wellman.

2 Thank you.

3 MR. WELLMAN: -- to the industry and it must be
4 stopped."

5 EXECUTIVE DIRECTOR BREED: Thank you.

6 MR. WELLMAN: Thank you.

7 CHAIR BRACKPOOL: Okay. No further public comment
8 speakers. We'll move on with the agenda.

9 Item number three, Jackie. This might be the longest
10 named agenda item I've ever seen. So who gets to read it, me
11 or you?

12 MS. WAGNER: I'll read it for you.

13 CHAIR BRACKPOOL: Well, how about that.

14 MS. WAGNER: Okay. Jackie Wagner, CHRB staff. The
15 item is discussion and action by the Board regarding the
16 proposed amendment of CHRB Rule 1974, Wagering Interest, to 1)
17 provide that a horse that is removed from the wagering pool in
18 error shall run as a non-wagering interest for purse only, and
19 the following affected regulations, these are our pari-mutuel
20 rules: CHRB rule 1954.1, Parlay Wagering on win place or show;
21 1957 Daily Double; 1959, Special Quinella; 1976 Unlimited
22 Sweepstakes; 1976.8, Place Pick (n); 1976.9, Place Pick (n)
23 Pool; 1977, which is our Pick Three; 1978, Select Four; 1979
24 which is Trifecta; and 1979.1, Superfecta.

25 In addition, number two on the proposed amendment to

1 CHRB Rule 1606, Coupling of Horses, to repeal the provision
2 that requires two or more horses to be coupled as a single
3 wagering interest when such horses are owned in whole or in
4 part by the same person or persons, and to provide that the
5 Racing Association inform the public when two or more horses
6 entered in the same race are owned in whole or in part by the
7 same person or persons or are trained by the same trainer.

8 Without going into a lot of detail the item that I
9 just read kind of outlines exactly what the proposal is. This
10 is a proposal to Rule 1974 to allow the horse to run for purse
11 only in the event that there is an error.

12 And in addition, we are going to be putting out a
13 proposal to amend Rule 1606 which is coupling of horses, that
14 eliminates coupling. Instead Rule 1606 will require that the
15 Racing Association take actions as are necessary to adequately
16 inform the -- the public when two or more horses are running
17 that -- that are owned in whole or part by the same person.

18 We are also going to be changing the title of that
19 rule to reflect association to disclose ownership. The pari-
20 mutuel rules that I mentioned are being amended because they
21 reference wagering interest.

22 Staff recommends the Board instruct us to implement
23 the 45-day comment period.

24 CHAIR BRACKPOOL: Yeah. I mean, my -- my reading of
25 this is that this reflects the discussion we had at the last

1 meeting. And that what we need to do now, is to put this out
2 for public comment and then have a discussion, I guess, at the
3 March meeting once we've seen the comments as to whether we
4 approve or modify based on the comments received.

5 MS. WAGNER: That's correct --

6 CHAIR BRACKPOOL: So unless --

7 COMMISSIONER CHOPER: So moved.

8 CHAIR BRACKPOOL: -- anybody has any addition would
9 move on with that. So the motion is moved by --

10 COMMISSIONER HARRIS: I'll second.

11 CHAIR BRACKPOOL: -- by Commission Choper, seconded
12 by Commissioner Harris. All in favor?

13 ALL MEMBERS: Aye.

14 CHAIR BRACKPOOL: Move ahead. Thank you with that
15 one, Jackie.

16 COMMISSIONER HARRIS: I want to make sure everyone
17 knows about it when it goes out for comment, though, that we
18 don't rehash the whole thing and --

19 CHAIR BRACKPOOL: Well, it will -- it will be in
20 our -- it will be in our summary of the meeting and we'll have
21 it in there.

22 MS. WAGNER: Absolutely.

23 CHAIR BRACKPOOL: And --

24 MS. WAGNER: Once it goes out for comment.

25 CHAIR BRACKPOOL: Yeah.

1 MS. WAGNER: When it comes back before the Board,
2 when you see it again, it'll be up for adoption. And by --
3 during that comment period if we -- if anybody does have
4 concerns or questions about it, that's the time for them to let
5 us know, when it comes before you again --

6 VICE CHAIR ISRAEL: Has this been raised anywhere in
7 any venues?

8 MS. WAGNER: I'm sorry?

9 VICE CHAIR ISRAEL: Have any -- opposition -- has any
10 opposition been raised --

11 MS. WAGNER: No.

12 VICE CHAIR ISRAEL: -- by anybody?

13 MS. WAGNER: I have heard none.

14 COMMISSIONER HARRIS: I think it'd be good if -- if
15 Mike Marten could put some version of a press release out
16 explaining what it does and doesn't do and the overall
17 rationale for it, so people kind of understand. Because if
18 you're just reading the summary it's kind of complicated.

19 CHAIR BRACKPOOL: Yeah. I think that's -- that's a
20 good idea. You -- so especially about the decoupling.

21 COMMISSIONER HARRIS: Yeah. And what -- what the
22 rationale is --

23 CHAIR BRACKPOOL: Yeah.

24 COMMISSIONER HARRIS: -- for doing it.

25 CHAIR BRACKPOOL: Okay. All right.

1 VICE CHAIR ISRAEL: You might -- you might include in
2 that, Mike, what the original rationale was for coupling in the
3 first place so people understand what we're -- we're
4 transitioning from this thought process to the second thought
5 process.

6 MR. MARTEN: The original rationale for coupling
7 going back decades, you mean?

8 VICE CHAIR ISRAEL: Yeah. Whatever it was. Yeah.
9 It was -- it was -- obviously there was -- they were -- they
10 were trying to prevent something from occurring.

11 CHAIR BRACKPOOL: Okay. Item number four, discussion
12 and action by the Board regarding the proposed amendment of
13 CHRB Rule 1876, Financial Responsibility, to add financial
14 responsibility complaints from equine medical hospitals,
15 services by horse farms that are directly related to horse
16 racing where the debt exceeds \$1,000, thoroughbred horse
17 auction sales and wage disputes between licensees.

18 Jackie?

19 MS. WAGNER: Jackie Wagner, CHRB staff. As the
20 Chairman indicated, this amendment, what it does is eliminates
21 the requirement of a civil judgment for financial
22 responsibilities. It also adds complaints by equine medical
23 hospitals, horse farms where the debt is 1,000 or more, and
24 horse auction sales authorized by the Board.

25 Since it was published the -- the language that you

1 have in your packet indicates thoroughbred horse auctions. We
2 have received a request from the harness industry to include
3 them, as well. So we're going to eliminate the "thoroughbred"
4 and just have the "horse auction sales," any horse auction
5 sales authorized by the Board added to the rule.

6 Staff would recommend that you instruct us to
7 initiate the 45-day comment period on this proposal.

8 CHAIR BRACKPOOL: Before we have anything, I have a
9 speaker on this, Doug Burge from CTBA.

10 MR. BURGE: Doug Burge with the California
11 Thoroughbred Breeders. I just want to add that we definitely
12 support this amendment, and specifically the current version
13 which requires documentation of services and fees that doesn't
14 necessarily require the civil judgment. That would just be
15 another cost that would be absorbed by the farms and it would
16 ultimately have to be recouped.

17 So we'd like to see this -- this language as written
18 and we definitely support it. Thank you.

19 CHAIR BRACKPOOL: Thank you. Commissioner Rosenberg?

20 COMMISSIONER ROSENBERG: I just have one question
21 about the language. On Section 1876, I guess it's (d)(E) on
22 the financial responsibility complaints submitted by hospitals,
23 horse farms, and thoroughbred horse -- horse auctions.

24 MS. WAGNER: Uh-huh.

25 COMMISSIONER ROSENBERG: The language used is they

1 have to be directly related to the California horse racing
2 operations of a person licensed by the Board. Does that mean
3 that a farm can not go after a board bill for -- for a horse
4 that's standing at -- that's at the farm for breeding purposes?

5 MS. WAGNER: If -- if he is not a -- if the person is
6 not under our jurisdiction, if they're not our licensee, we
7 would not be able to -- to entertain that.

8 COMMISSIONER ROSENBERG: But --

9 VICE CHAIR ISRAEL: But --

10 COMMISSIONER ROSENBERG: I thought that the word --
11 the term "horse racing operations" implies racing as opposed to
12 breeding. So breeders should be concerned of about breeding
13 for the --

14 COMMISSIONER HARRIS: Yeah. I think the intent
15 originally was that it would cover a brood mare, for instance,
16 at the -- at a farm if it was owned by somebody who was
17 planning to race the progeny --

18 MS. WAGNER: That's correct.

19 COMMISSIONER HARRIS: -- or where that was the normal
20 course of business.

21 MS. WAGNER: If -- if we need to tweak that
22 language --

23 COMMISSIONER ROSENBERG: I think so.

24 MS. WAGNER: -- Commissioner, we will do that.

25 COMMISSIONER HARRIS: Maybe we could take out the

1 "directly." It's just related to --

2 MS. WAGNER: Okay.

3 COMMISSIONER HARRIS: -- or -- because it's not --
4 it's not like just lay up horses that are going to go back to
5 the track next week.

6 MS. WAGNER: Correct.

7 COMMISSIONER ROSENBERG: I think the word "racing" is
8 a problem, John.

9 COMMISSIONER HARRIS: It's really horses that are
10 being raised -- for racing.

11 COMMISSIONER ROSENBERG: I think the word "racing" is
12 the issue. You've got to correct that language.

13 COMMISSIONER HARRIS: Yeah.

14 MS. WAGNER: So you want to delete "directly" and
15 "horse racing," correct, to kind of clean --

16 COMMISSIONER ROSENBERG: I don't care about the word
17 "directly". I think the word "horse racing" implies --

18 MS. WAGNER: So clean that up.

19 COMMISSIONER ROSENBERG: -- that it's only related to
20 race horses or turnouts, horses that turned out.

21 MS. WAGNER: Okay. We will make that change.

22 COMMISSIONER ROSENBERG: Okay.

23 MS. WAGNER: Any other comments before?

24 CHAIR BRACKPOOL: We have one other speaker on the
25 issue who just put in a card, Jerry Jamgotchian.

1 MR. JAMGOTCHIAN: My comments on this issue -- Jerry
2 Jamgotchian -- are if you're going to allow the stewards to
3 handle these meetings I think you need to do a few things to
4 make these meetings lawful, one of which is there should be
5 rules of evidence and procedure at these meetings. People
6 should be under the penalty of perjury at these meetings.
7 There should be a recusal opportunity if the steward might be
8 biased towards -- towards the -- one of the parties. And also,
9 there should be a conflict of interest provision with regards
10 to the stewards themselves or they -- they could recuse
11 themselves.

12 Maybe, too, the hearing process has to have definite
13 and specific rules. Nothing in this financial responsibility
14 1876 talks about rules. More importantly, what happens if it's
15 really a bad ruling and the -- and the person wants to appeal
16 it? Does he get an automatic stay from the CHRB to appeal it
17 to the L.A. Superior Court? Or does he have to go to an ALJ
18 hearing? What's the procedure? Maybe Mr. Miller could address
19 those issues?

20 CHAIR BRACKPOOL: Well, why don't you send in your
21 comment letter --

22 MR. JAMGOTCHIAN: I come in through --

23 CHAIR BRACKPOOL: -- in 45 -- in the 45 day period,
24 and we will address them at the time we address the rule.

25 MR. JAMGOTCHIAN: My comments are in the record.

1 They can listen to the record.

2 CHAIR BRACKPOOL: Thank you very much.

3 MR. JAMGOTCHIAN: Sure.

4 CHAIR BRACKPOOL: Okay. Do I have a motion to send
5 this out? Commissioner Derek makes a motion. Do I have a
6 second? Commissioner Moss seconds. All in favor?

7 ALL MEMBERS: Aye.

8 CHAIR BRACKPOOL: Out for 45-day comment period.

9 Item number five was the issue we spent a great deal
10 of time on at the -- at the last meeting. I promised that we
11 would have it back as soon as possible, no later than the
12 February meeting -- January, if possible. I think we've made a
13 considerable amount of progress, probably need a little more
14 time, just a couple of weeks because it was so short over the
15 holiday period of time. But perhaps, Jackie, you could give a
16 brief summary of -- of where we are on that issue.

17 MS. WAGNER: Absolutely. This is the issue,
18 discussion and action regarding the update on the progress of
19 our random drug testing of persons who holds specified license
20 of occupational licenses.

21 As the Chairman indicated, we have, since our last
22 meeting, made substantial progress in the development of
23 this -- of this proposal. We have met with the Jockeys Guild
24 as recently as last Wednesday. We have come to terms as to
25 what the initial proposal will look like. It will encompass

1 the concerns that the Jockeys Guild did have on our original
2 proposal. We anticipate having rules that will cover all of
3 those concerns and that the package will be before the Board
4 next month, for your review. It probably will encompass more
5 than one rule in order to address everything that has come up.

6 So it is -- we are making substantial progress. I'm
7 real pleased about that. So you will have a proposal from the
8 staff next month.

9 VICE CHAIR ISRAEL: Okay. We have one comment,
10 Darrell Haire.

11 MR. HAIRE: Darrell Haire, Western Regional Manager
12 for the Jockeys Guild. Barry Broad met with members of the
13 CHRB staff and he told me they made a lot of progress. But he
14 wanted to make it clear that he is and the jockeys are
15 adamantly opposed to any expense that will be picked up for
16 this testing. He just wanted to clarify that, that he is just
17 concerned about that.

18 COMMISSIONER HARRIS: Yeah. That's their primary
19 concern. They're not concerned about the concept of testing.
20 They're just concerned about who's paying for it?

21 MS. WAGNER: That's correct.

22 MR. HAIRE: That's correct, Mr. Harris.

23 COMMISSIONER CHOPER: Even if it's positive? I mean,
24 I just you ought to think about that.

25 VICE CHAIR ISRAEL: Well, I think there's a procedure

1 set up for -- for retest and things like that.

2 MS. WAGNER: Right. And all that, all of those
3 things will be a part of our package. Barry did make that very
4 clear during our discussion, the cost not being passed on to
5 the jockeys. So we are going to address that.

6 COMMISSIONER HARRIS: Yeah. Because it's really a
7 jockey safety issue. I think most -- most jockeys do not want
8 to be riding against someone who -- who is on some medication
9 that might -- might hamper the race. So it's really something
10 I hope jockeys would support. I can understand that they
11 don't -- they shouldn't pay for it if it's really for the
12 protection of the public but -- but hopefully, you know,
13 endorse. But we need to get it out for comment at some point
14 because we've been kind of massaging this for --

15 CHAIR BRACKPOOL: We're going to get it out for
16 comment at the February meeting.

17 COMMISSIONER HARRIS: Great.

18 CHAIR BRACKPOOL: So the -- the rule will be -- be
19 done. We've given Barry --

20 MS. WAGNER: Correct.

21 CHAIR BRACKPOOL: -- the extra week or two to recover
22 from his vacation and get things done. We'll take Darrell's
23 comments in and we'll -- and we'll have it out. So this will
24 be on the February agenda --

25 MS. WAGNER: Absolutely.

1 CHAIR BRACKPOOL: -- with the rule. And as long as
2 we're okay with the rule, we'll send it out for the 45 days.
3 Okay.

4 Moving on, item number six. Item Number six is
5 discussion and action by the Board regarding the distribution
6 of race dates charity proceeds of the Hollywood Park Racing
7 Association in the amount of \$110,000 to 22 beneficiaries. Do
8 we --

9 MS. WAGNER: Jackie Wagner, CHRB staff. As -- as the
10 Chairman stated, this is a request from the Hollywood Park
11 Racing Association to distribute their charity race dates
12 proceeds in the amount of \$110,000 to 22 beneficiaries. Staff
13 does note that 53 percent of the proceeds will given to racing
14 related organizations. And we would recommend that you approve
15 the request as presented.

16 CHAIR BRACKPOOL: I've read the list. I have no
17 problem with anything on the list. So I make a motion to
18 approve. Do I have a second? Commissioner Choper seconds.
19 All in favor?

20 ALL MEMBERS: Aye.

21 CHAIR BRACKPOOL: Including Commissioner Israel, I
22 can see. Motion approved.

23 Item number seven, discussion and action by the Board
24 regarding adoption of proposed recommendations for inclusion in
25 the 2009/2010 annual report. Who is presenting on this one?

1 Kirk?

2 EXECUTIVE DIRECTOR BREED: Yes, Mr. Chairman. Kirk
3 Breed of the California Horse Racing Board. For many years, I
4 think as long as I can remember anyhow, 35 years at least,
5 we've had an item in the agenda that the Horse Racing Board is
6 to make an annual report to the governor and to the legislature
7 and to the industry. And included in that annual report as to
8 the activities of the Horse Racing Board, we are to submit
9 recommendations.

10 To my knowledge, and anyone is definitely open to
11 correct me if they can come up with any, but in my knowledge
12 during that time there's never -- the -- the Horse Racing Board
13 has never made any recommendations. And this year what we --
14 what we're encouraging the Board to consider in the annual
15 report that we're getting ready to publish are these series of
16 recommendations. Rather than reading these recommendations
17 they've -- they've been in the --

18 CHAIR BRACKPOOL: Why don't you read the categories.

19 EXECUTIVE DIRECTOR BREED: The categories. The
20 categories are: number one is -- is basically safety, which is
21 the CHRB is going to encourage -- is the Davis Necropsy Program
22 to be expanded upon to determine the cause of an injury, as
23 opposed to simply determining what happened to the horse. In
24 other words, the horse broke its leg, well, why did it break
25 its leg; investigating and analyzing racing and training

1 accidents, injuries and fatalities; monitoring, analyzing and
2 making recommendations to improve veterinary in training
3 practices; developing and adopting safety standards for
4 evaluation and control of track surfaces; monitoring, analyzing
5 and making recommendation to improve track surface material and
6 maintenance procedures; developing, continuing education
7 programs for licensees responsible for horse care.

8 In addition to track safety, the Board intends to
9 ensure the adequate funds are being devoted to marketing horse
10 racing in California. The Board will consider revising the
11 application for a licensure to operate a race meet by requiring
12 each applicant to submit its audited financial statements,
13 including a statement of financial position, statement of
14 activities, and statement of cash flows relating to the
15 specific race meet in the license application. This would
16 enable the Board to determine a judgment of the racing
17 commissioners, if the applicant is spending enough to promote
18 horse racing.

19 The Board also intends to develop and implement a
20 strategy to increase attendance at brick and mortar wagering
21 facilities in the state. This would involve legislation, but
22 at a minimum will require updating and expanding the CHRB
23 regulations pertaining to the conditions and operation of
24 simulcast wagering facilities.

25 CHAIR BRACKPOOL: Thank you. Well, obviously I've

1 read these. I think it's a good start. It summarizes a lot of
2 the work we're doing.

3 Do I have any comments from any commissioners on
4 this? I think most of us have seen them and taken a look.

5 COMMISSIONER HARRIS: Yeah. I -- I think it's good.
6 We need to do all these things. We -- it would be good if we
7 could get kind of a checklist of what we're doing now and what
8 we're adding and what we're taking away. Because some of those
9 applications were developed, you know, over a period of time
10 and some are more relevant or --

11 CHAIR BRACKPOOL: Well, the race day -- the -- the
12 race association meeting application item we're hoping to have
13 on either the March --

14 MS. WAGNER: February.

15 CHAIR BRACKPOOL: -- hopefully having it on the
16 February agenda, but certainly by the March agenda.

17 MS. WAGNER: Absolutely.

18 CHAIR BRACKPOOL: And at that time we would
19 definitely have, I think, a pretty comprehensive analysis of
20 what was in the previous one, what will be proposed for the new
21 one, why the changes, etcetera. So I think on the race
22 association applications we can certainly do that.

23 I think on almost all of these other issues, these
24 are just new additions --

25 MS. WAGNER: Correct.

1 CHAIR BRACKPOOL: -- correct? We're not --

2 MS. WAGNER: That is correct.

3 CHAIR BRACKPOOL: We're not deleting any of our
4 existing responsibilities?

5 MS. WAGNER: No, we're not deleting any of our -- our
6 responsibilities. We are really highlighting and expounding on
7 what -- some of the current programs that we have in -- in --
8 in charge that we're doing right now.

9 EXECUTIVE DIRECTOR BREED: Yes. And Mr. Chairman,
10 what we plan on doing as we develop these strategies, along
11 with Commissioner Harris's comment, is to develop goals and
12 objectives, and then a time line in which these are -- a
13 checklist or timeline which these -- these objectives are being
14 met. So --

15 CHAIR BRACKPOOL: Okay. Then I would be happy to
16 make a motion that we do go ahead and -- and include these. Do
17 I have a second?

18 VICE CHAIR ISRAEL: Second.

19 CHAIR BRACKPOOL: Second by Vice Chair Israel. All
20 in favor?

21 ALL MEMBERS: Aye.

22 CHAIR BRACKPOOL: Motion approved.

23 Next one is discussion and action by the Board on a
24 report from CHRIMS regarding their annual activities and plans
25 for 2011 and beyond. And Mark Thurman is going to join us to

1 give that presentation.

2 MR. THURMAN: Thank you, Mr. Chairman. Mark Thurman,
3 president of CHRIMS, Inc.

4 EXECUTIVE DIRECTOR BREED: You need to turn around.

5 CHAIR BRACKPOOL: Oh, we have a show.

6 MR. THURMAN: We have a show.

7 CHAIR BRACKPOOL: Can everybody see at the back or do
8 we need to dim the lights? You can. Thank you. All right.

9 MR. THURMAN: Being technical, I like PowerPoints.
10 So what I thought I'd try to do is just go -- a lot of people
11 don't understand what CHRIMS does and, you know, what -- what
12 our role is in the California racing industry. So I thought
13 I'd -- I'd walk them through that.

14 CHAIR BRACKPOOL: Okay.

15 MR. THURMAN: We consider ourselves an industry
16 service bureau in an industry resource. And we also feel like
17 we're an industry leader compared to -- there's no other state
18 in the United States that has the full state database like we
19 have in California. There's been states that have tried but
20 nobody's gotten as far as we have, where we actually provide
21 information for the horse -- horse racing board, the race
22 tracks, and also the horsemen.

23 We provide a lot of different services to the
24 California horse racing industry. One of our primary purposes
25 is to take the -- the different totes' data files out there

1 and -- and it's all over the place. It's literally -- some of
2 it's in Sacramento, some of it's in Maryland, it can be all
3 over the country. And we download that information on a daily
4 basis, and then process it so that you can -- it can become
5 usable.

6 Our systems include settlements accounting. That's
7 the money room shift or the -- the ticket paid variance between
8 different states or race tracks or bank rolls, and that's --
9 that's a huge amount of money. And we calculate that on a
10 daily basis.

11 We provide an accounting platform where they -- where
12 we actually are doing the -- the pari-mutuel distributions so
13 that the race tracks can pay the license fees, and all of the
14 various -- all the various distributions underneath the
15 California racing law.

16 We do race card integration. And what I mean by that
17 is totes have -- what a tote is there for is to calculate a
18 price. And what CHRIMS is there for is to figure out the
19 accounting on it. Well, I mean, we -- obviously we have all of
20 the handle information. But we're there to -- to go through
21 the California racing law and distribute it accordingly. And
22 we work with the CHRB staff to come up with the methodology and
23 how -- how you are going to do the distributions. A good
24 example is 1072. We worked with the CHRB staff on the
25 methodology. CHRIMS doesn't purport to come up with those

1 decisions. We work with the staff of the CHRB in the industry
2 to do that.

3 Another thing that CHRIMS has been involved in for
4 years is the telecommunications network within the state of
5 California. California was the first state, again, to go to
6 the -- just -- I'll describe it as like the Internet technology
7 platform. We did this in the mid-90s and it saved a tremendous
8 amount of money for the horse racing industry. The difference
9 was that with -- you used to go into a tote room you would --
10 you would literally see hundreds of phone lines going into it.
11 And then now you go in and it's clean and it's one line, and we
12 can do it just through a network. We support various databases
13 and then we do software development and we also do software
14 maintenance.

15 We also have -- a fairly large part of our business
16 is consulting. We just did a massive project with New York
17 Racing Association and helped them upgrade their accounting
18 systems. Again, we do system integration based on, you know,
19 whether it's their banking and things like that, strategic
20 planning, industry supports and project initiatives.

21 Here's how we pull in the data. This is just an
22 example. There's the tote companies on the left. And then
23 what we do is we take in the tote data and then process it so
24 that -- that it's usable. Part of our -- our role is to create
25 the settlements to tell the various accounting departments who

1 owes who what. That's going to include the host fees and it's
2 also going to include -- include these money room shifts. And
3 then from there we will do the pari-mutuel distributions and --
4 and do -- and do like that.

5 The one thing that's interesting, when you go through
6 the California law over the years you kind of have to have
7 stayed with it, because when I first started there was just on-
8 track wagering and so that's all the distributions you did.
9 Now you have on-track, off-track, intra-state racing, inter-
10 state racing, international racing, ADW, and all of that
11 creates complexities to be able to maintain this -- these
12 databases that actually do the calculations.

13 This is pretty much just another list of the kind
14 of things that we do. We also work with the California
15 Marketing Committee. What we do there is, again, on a daily
16 basis we download the data from the -- from the tote company
17 and -- and calculate or pull in how much anybody that's part of
18 the significant players, what -- how much they've wagered. And
19 the way it works in California is that each race track has
20 their own club, like a Thoroughbred Club or the Diamond Club,
21 and we maintain that part of the database and actually do the
22 accounting for it.

23 There's an attendance-based systems out at the fairs
24 that's -- that's -- was developed by CHRIMS and we maintain
25 that for them. So there's -- if you go up and you pay your

1 admissions, then you can go through and we track that for them.

2 Cal Racing, we help support the -- there's a Cal
3 Racing website and we help support that. And then anybody
4 that's signed up on the email blasts for the Pick Six's and
5 like that, that's actually coming from CHRIMS systems.

6 COMMISSIONER CHOPER: Excuse me. Can I --

7 MR. THURMAN: Sure.

8 COMMISSIONER CHOPER: Can you calculate the amount of
9 money that comes in from basic betting, that comes in on
10 internet betting --

11 MR. THURMAN: Sure.

12 COMMISSIONER CHOPER: -- and where it comes from?

13 MR. THURMAN: Well, that's -- that's an interesting
14 question --

15 COMMISSIONER CHOPER: And -- and an email address or
16 what -- however that --

17 MR. THURMAN: That's an interesting question. What
18 we do in California with the California horse racing law --
19 account wagering was a very, very different statute. It's a
20 whole different section. What we do with the account wagering
21 companies is we download their data separately from the regular
22 brick and mortar and then we calculate their. What they give
23 us is where the wagers are made by zip code. They're not going
24 to give us their customer names, but they give us where the
25 wagering is by zip code. You have to have that because

1 California account wagering law is -- is tough. You have to
2 know whether it was in the Northern California or Southern
3 California, you have to know if it was before 6 p.m. or after 6
4 p.m., and you have to know what zip code it's in. So it's --
5 it's complicated.

6 COMMISSIONER CHOPER: And the -- what we hear so much
7 about these offshore --

8 MR. THURMAN: Right.

9 COMMISSIONER CHOPER: -- betting operations.

10 MR. THURMAN: Right.

11 COMMISSIONER CHOPER: Where do they fit into this
12 picture?

13 MR. THURMAN: Well, let's -- there's a lot of
14 different, you know, understanding of what offshore is. If
15 you're talking about, you know, somebody that's set up in the
16 Caribbean and coming through, those are -- have been, you know,
17 tackled by the industry in a -- in a big way.

18 But like, let's take Elite. Elite is a -- is a
19 really large player in -- in the industry. They actually go
20 through LVDC which is in Las Vegas, so they fall under those --
21 that jurisdiction. And those wagers come in to us and we -- we
22 take them in. The nice thing with Elite is that everyone of
23 their players ends up being a separate, what we could consider,
24 customer -- or a location, so that we can see the -- the
25 granularity on that so we can -- we can pull it.

1 COMMISSIONER CHOPER: But every -- every dollar that
2 comes into the system has a source that can be accounted for by
3 CHRIMS?

4 MR. THURMAN: Correct. Correct.

5 COMMISSIONER CHOPER: Which would include not
6 licensed --

7 MR. THURMAN: No. The -- what -- what's going to
8 come into CHRIMS is what's going through the tote systems?
9 So --

10 COMMISSIONER CHOPER: What's going through the tote
11 systems.

12 MR. THURMAN: So it -- from that point every --
13 there's a contract. There's going to be --

14 COMMISSIONER CHOPER: I understand.

15 MR. THURMAN: -- a contract with that, so it's not
16 like they're -- now that doesn't mean that -- that you couldn't
17 have collusion or something like that where, you know, other
18 entities could try to back door the system but that's --
19 because we have state-by-state regulations, that's not likely.

20 One of the big initiatives that we've been working
21 on, and I met with Mr. Brackpool about this, is we're -- we're
22 working on trying to set up a nationwide clearinghouse. This
23 has been -- this is for the accounting and being able to do the
24 host fees and like that.

25 The other initiative this year is we're working on

1 the TRPB, the centralized tote monitoring system. We want to
2 be in big support of that. That will actually help on the post
3 times, I mean, as far as like the stop-betting and making sure
4 that that's not going on, you know, the changing of the odds.
5 It's not going to go away completely but it's -- this is a good
6 step.

7 The California Horse Racing Board, some of the other
8 things we're going to do is we want -- we've been tasked with
9 working on the account -- on the ADW as far as accounting and
10 auditing standards with them. Centralized database, brick and
11 mortar combined. One of the things that happened was because
12 of the laws being so different, brick and mortar and ADW are
13 two separate databases within CHRIMS, and that should never
14 have been done. So we're going back and we're -- we're redoing
15 the databases there.

16 We're working with the CHRB on automating the CHRB
17 statistical reports. We're doing the CHRB support
18 reconciliation, as far as making sure that they have a system
19 where if when they're getting their checks in that they can --
20 they can maintain that. And then standardized handle on
21 attendance comparisons.

22 One thing we've been talking about just recently with
23 all of the questions about handle and like that, we -- what we
24 want to do is we will create a small database that has the
25 handle figures and then we'll set that up on Cal Racing so

1 people can go in and look at the numbers.

2 CHAIR BRACKPOOL: Any questions?

3 COMMISSIONER ROSENBERG: Yes. The report says that
4 you're a non-profit and that --

5 MR. THURMAN: Correct.

6 COMMISSIONER ROSENBERG: -- what's unclear to me is
7 that there's a -- memorandum -- memorandum of understanding
8 with the CHRB clarifying the -- the -- the relationship. But
9 is CHRIMS wholly owned by CHRIMS, a nonprofit organization now,
10 or is some -- there's some --

11 MR. THURMAN: We have -- there's -- there's two
12 members of CHRIMS. It's NOTWINC and SCOTWINC. There -- there
13 our members. And so -- and we did that way years ago so that
14 we could maintain the representation of the whole industry.

15 COMMISSIONER ROSENBERG: Okay. Second question is:
16 The revenues you referred to as other revenues and the
17 substantial part of your income, what are those revenues?

18 MR. THURMAN: That's us doing other services for out-
19 of-state customers, like New York Racing Association. We -- we
20 do Keenland in Kentucky. We do the Kentucky Horse Racing
21 Commission.

22 COMMISSIONER ROSENBERG: Right.

23 MR. THURMAN: Gulfstream. We do a lot of other out
24 of state --

25 COMMISSIONER ROSENBERG: And do you get paid by the

1 local race -- by the race tracks a fee for providing them with
2 these services?

3 MR. THURMAN: Yes.

4 COMMISSIONER ROSENBERG: I think that CHRIMS is a
5 tremendous resource for California and I'm sure glad we have
6 it. And it's a wonderful database and very credible. As you
7 know, all these questions in the industry you have on how much
8 is bet here and there and takeouts and all this stuff, but I
9 think it's important to have to be transparent. It -- I mean,
10 every -- as I understand, everything that CHRIMS has is
11 basically transparent. Just some of it's so complicated that
12 a normal person couldn't really figure it out.

13 But I think it's a great idea you're going to put
14 that on Cal Racing where you've got somewhat of a summary of --
15 of what happened or if people that say that it was this that
16 you're going to really all agree on. Because some of these in
17 the Racing Form and Equibase and all in their charts have got
18 numbers that don't necessarily tie-in to what the numbers
19 really are.

20 MR. THURMAN: Well, CHRIMS can match any number
21 that's in the Daily Racing Forum or Equibase. Their issue with
22 CHRIMS is we are an accounting system, so we are -- Northern
23 California and Southern California, you've got Golden Gate and
24 you've got Santa Anita running right now. So Santa Anita, the
25 way our law works, is the host for all of Southern California.

1 So the distributions on whether they're wagering on their own
2 races, whether they're wagering on out-of-state races or intra-
3 state races from Golden Gate, they distribute that money. So
4 that's how it's controlled. That's how the system is built.

5 So, if you go into CHRIMS and run a report and don't
6 know how to do it you're going to get erroneous numbers,
7 because you would look at the North isn't hosted by -- by Santa
8 Anita on their own races. So you have to know how to go in and
9 actually use the system. And that's why it gets complicated
10 and it's, you know, it's just trying to reflect the -- the
11 California horse racing law.

12 COMMISSIONER HARRIS: Yeah. I think it would good if
13 we had something that was transparent and yet as simple as we
14 could make it.

15 MR. THURMAN: Right.

16 COMMISSIONER HARRIS: Because basically what people
17 want to know is how much was wagered on track, how much is
18 wagered at satellite facilities within California, how much is
19 wagered at ADW --

20 MR. THURMAN: Right.

21 COMMISSIONER HARRIS: -- both in California and other
22 places. And then you've got this other category of like Las
23 Vegas that is effectively commingled, but they may be
24 subcontracting to other people. If that -- I guess, that's a
25 category versus all the tracks that -- that were also taking a

1 signal.

2 MR. THURMAN: I -- what I think we need to do is
3 develop the -- the querying or the database application going
4 on to the Cal Racing where it's going to show you live racing.
5 It's not going to -- it's not going to give you the information
6 as far as like how you're going to do the accounting. It's
7 just going go to, here's where the horses are running around
8 and this is what their handle is.

9 COMMISSIONER HARRIS: But it -- I think if somebody
10 really wants to drill down into numbers, as I understand it, it
11 is available. I mean, I think it might not be advisable
12 because for the average person to get too concerned about it.
13 But I don't think -- I think since this is somewhat of a public
14 entity I don't think we want to create the idea that any of
15 this stuff is unavailable, it's available, it's just that --
16 that you don't want to corrupt your -- your -- your files.

17 MR. THURMAN: Well, to me, I have -- I have two
18 issues that I need to be, you know, cognizant of, is that, one,
19 if we opened this up that anybody can come in and start
20 querying these databases.

21 COMMISSIONER HARRIS: Yeah.

22 MR. THURMAN: One, they're going to get erroneous
23 numbers. And, two, for us to do the training, we don't have
24 the staff or the manpower to go do that. Now that doesn't mean
25 that we won't give data to people on request. But I think if

1 we do this thing with the Cal Racing website, that that should
2 go a long ways to --

3 CHAIR BRACKPOOL: That's a good idea.

4 COMMISSIONER HARRIS: Yeah. I think that -- that
5 will do it really. But I think just as an official policy
6 it -- it's all available. There's nothing being hidden. It's
7 just a matter of -- of that -- how we present it and in the
8 manner that people can figure it out.

9 MR. THURMAN: Right.

10 VICE CHAIR ISRAEL: I -- I have a couple questions,
11 Mark. One -- the first one is prosaic, and maybe I missed this
12 in your written presentation. How do you fund your deficits?
13 You seem to be running a deficit of \$100,000, \$200,000 a year.

14 MR. THURMAN: Well, in the past what we've had to do
15 is -- when I first came back to CHRIMS -- I was around and
16 helped start CHRIMS in 1989. And when I came back, we were
17 running at about \$370,000 a year deficit.

18 VICE CHAIR ISRAEL: Right.

19 MR. THURMAN: So the only way to -- I had to go raise
20 money.

21 But we've had two basic problems. We've had the
22 money -- the vouchers, unclaimed vouchers, so that, you know,
23 that was one of our biggest revenue sources. It's gone from
24 800,000 down to about 375,000.

25 VICE CHAIR ISRAEL: Because betting has moved from --

1 MR. THURMAN: Right.

2 VICE CHAIR ISRAEL: -- race tracks to the internet?

3 MR. THURMAN: Right. And -- and then the other thing
4 that's happened is that when I came back I said, well, we've
5 got to make up these deficits, so we went out and really pushed
6 our out of state business. And so like when you have like NYRA
7 and, you know, Gulfstream and those, we've -- we've -- it --
8 that's over -- that's close to over 50 percent of our revenue.

9 CHAIR BRACKPOOL: So that's how you've reduced the
10 deficit.

11 VICE CHAIR ISRAEL: You're -- you're just making --

12 CHAIR BRACKPOOL: But to go David's question, how
13 have you actually funded the deficit?

14 VICE CHAIR ISRAEL: Last -- I mean, for instance,
15 2009 you were in the hole \$54,000. 2008 you were in the hole
16 \$170,000, give or take, something like that.

17 MR. THURMAN: Well, one -- one of the other things
18 that the industry has done is that they -- there was a
19 supplement that we would bill out to the race tracks and the
20 various users of CHRIMS, and that was one way that we were able
21 to -- to offset the deficit. And then -- and, again, it's just
22 being able to come in and -- and grow the business.

23 VICE CHAIR ISRAEL: Okay. Now the second question is
24 I -- my concern is improving attendance at the race tracks.

25 MR. THURMAN: Right.

1 VICE CHAIR ISRAEL: And -- and one of the suggestions
2 that's made, which I think is -- is viable, is in some way
3 making it -- offering a customer at a race track a better deal
4 than an ADW customer gets, or even a satellite facility
5 customer gets. So for instance, if you're at Santa Anita and
6 you bet on a race that's run at Santa Anita, can you get a
7 better deal? Is that -- would that be a hard software to
8 develop?

9 MR. THURMAN: Are -- now what kind of a better deal?
10 What are -- what are you suggesting?

11 VICE CHAIR ISRAEL: In WPS.

12 MR. THURMAN: Okay.

13 VICE CHAIR ISRAEL: Okay. WPS you got -- you takeout
14 15.68 percent or some such; right?

15 MR. THURMAN: It's technically doable.

16 VICE CHAIR ISRAEL: So let's say if you buy the
17 ticket here, you cash the ticket here --

18 MR. THURMAN: Uh-huh.

19 VICE CHAIR ISRAEL: -- and the race is run here your
20 takeout's 13-and-a-half percent of 14 percent.

21 MR. THURMAN: It's -- it's technically doable.

22 VICE CHAIR ISRAEL: It's technically doable?

23 MR. THURMAN: Right. It's -- it's --

24 CHAIR BRACKPOOL: How difficult would it be to --

25 MR. THURMAN: What -- what's going to happen, though,

1 is you're going to have different pay offs at the on-track or
2 Santa Anita than you would at other locations.

3 VICE CHAIR ISRAEL: Yeah, I know.

4 MR. THURMAN: And then now you're -- now you're fans
5 are going to be confused when we start trying to, you know,
6 disseminate this information --

7 VICE CHAIR ISRAEL: Well, anything new confuses
8 people. But what -- what this would do is get them to come here
9 because they're getting a better deal.

10 MR. THURMAN: No. I --

11 VICE CHAIR ISRAEL: And -- and if they come here,
12 they have to park, they use the concession stand. It's better
13 for the business.

14 MR. THURMAN: Uh-huh.

15 VICE CHAIR ISRAEL: Okay. And it creates excitement
16 at the race track, and creating excitement at the race track is
17 what's missing. You know, bodies in a small room creates
18 excitement.

19 MR. THURMAN: Right.

20 VICE CHAIR ISRAEL: It's an illusion but it's -- it's
21 a principal --

22 CHAIR BRACKPOOL: But not this room, yeah.

23 VICE CHAIR ISRAEL: So --

24 MR. THURMAN: Well, one -- one thing --

25 VICE CHAIR ISRAEL: Depends on which bodies you look

1 at.

2 MR. THURMAN: One of the other projects that I've
3 been very involved in is OC Tavern. And I'm -- that is a
4 major, major hurdle that we got through. And people worked
5 very hard for over a year to get that thing up and running, and
6 it's being very successful. That's our first, quote unquote,
7 "sports bar" --

8 VICE CHAIR ISRAEL: Right.

9 MR. THURMAN: -- that's not a card club, and it's --
10 it's doing well.

11 VICE CHAIR ISRAEL: Why was it so hard?

12 MR. THURMAN: The -- the problems that we had were
13 running into the city regulations and, you know, and we had
14 certain members of that -- of that council that were concerned
15 about the gaming, but we got through that.

16 CHAIR BRACKPOOL: Well, that's a -- that's an
17 entitlement issue. I think Commissioner Rosenberg is saying
18 what is specific to the pay out in the CHRIMS aspect of it?

19 MR. THURMAN: Well, I -- because I felt passionate
20 that we needed to build out other sites. That's why I got
21 involved into it.

22 But one of the things that CHRIM -- CHRIMS was able
23 to do is do the analysis. Like one thing I can do because I
24 can have the data by zip code, I can go into any geographic
25 area and tell you how much is being wagered in total through

1 the account wagering companies. So like when we looked at San
2 Clemente, and thank god it was 20 miles away from everything,
3 it was wagering approximately \$20 million a year just through
4 the account wagering.

5 CHAIR BRACKPOOL: But -- but again, you're talking
6 about using the data that you've accumulated to buttress the
7 argument that the project should be entitled.

8 MR. THURMAN: Right.

9 CHAIR BRACKPOOL: Right. So that -- that was right.

10 VICE CHAIR ISRAEL: Okay. Thanks.

11 CHAIR BRACKPOOL: Thank you, Mark.

12 MR. THURMAN: One --

13 CHAIR BRACKPOOL: Before you -- go ahead.

14 MR. THURMAN: One of the things that we -- that was
15 part of the agenda is that we worked out a new memorandum of
16 understanding with the CHRB staff --

17 CHAIR BRACKPOOL: Uh-huh.

18 MR. THURMAN: -- and then we want to move forward and
19 complete that.

20 CHAIR BRACKPOOL: Uh-huh. Stay where you are, we
21 have some speakers on this issue. First speaker is Jerry
22 Jamgotchian.

23 MR. JAMGOTCHIAN: Mr. Brackpool -- Chairman
24 Brackpool, Members of the Board, this is kind of an interesting
25 subject.

1 I was attempting to get a log in code on CHRIMS, and
2 I'm working on that right now, to be able to access the
3 information and understand the access protocol. But I think
4 it's -- and I think as one of you mentioned it, that since Mr.
5 Harris mentioned it, wanting to be more transparent with
6 regards to the numbers. It certainly would be beneficial for
7 these numbers to be available, either on the CHRB website or on
8 the Cal Racing website, but consistent, and numbers that people
9 could understand, or given the option of a login into the
10 CHRIMS system so we could understand the protocol and do it
11 ourselves. So maybe that's something that this Board could do
12 if they actually want to be transparent.

13 CHAIR BRACKPOOL: Well, that's just what he agreed
14 to.

15 MR. JAMGOTCHIAN: Yeah. But that doesn't mean it's
16 going to happen. It doesn't mean it's going to happen. You
17 guys talk about --

18 CHAIR BRACKPOOL: All right. Carry on. Carry on.
19 Carry on.

20 MR. JAMGOTCHIAN: Okay. With regards to -- to
21 something that he further said was, he said that not every
22 dollar is calculated and not every dollar is received. And
23 also, he didn't mention the fact that some of these ADW
24 providers are signing their signals. Now I'm aware of exchange
25 wagering that's being done on the California signal right now

1 and in Europe and in Australia and other -- other countries,
2 and none of that money is hitting the -- the ADW -- the -- the
3 pools of racing in California. In fact --

4 COMMISSIONER HARRIS: But by signal you mean -- you
5 mean the -- what -- what signal? Not -- they're not co-
6 mingling there, it's just the video?

7 MR. JAMGOTCHIAN: The -- the video signal is being
8 taken by Betfair or -- or other entities and being used for
9 exchange wagering in -- in Europe. And none of that money
10 that's being wagered through Betfair or the other entities that
11 are taking the wagers is ever hitting the system. So it's
12 money that's lost. It's money that's not -- not benefiting the
13 purses or the horsemen. And more importantly, it's opening up
14 our signal to illegal wagering, bookmakers --

15 CHAIR BRACKPOOL: This is not a CHRIMS issue. This
16 is a -- this is a different --

17 MR. JAMGOTCHIAN: Well -- well, actually, well, wait.
18 I know --

19 CHAIR BRACKPOOL: Well, I just --

20 MR. JAMGOTCHIAN: I know you want to stop the
21 discussion, Mr. Brackpool. But let's just talk about the
22 specifics with regards to --

23 CHAIR BRACKPOOL: If you're going to talk about
24 CHRIMS, you can talk about CHRIMS.

25 MR. JAMGOTCHIAN: I'm talking about --

1 CHAIR BRACKPOOL: You veer off subject whenever you
2 have a moment to.

3 MR. JAMGOTCHIAN: I -- I -- I know -- I know it
4 bothers you to talk about Betfair, but let's just discuss
5 CHRIMS then.

6 With regards to CHRIMS, if they're the entity that's
7 going to do the accounting, I think he mentioned to you that
8 they're not able to do the accounting because many of the
9 numbers don't come into the system. They're -- they're numbers
10 that are from signals that are assigned to other people.

11 CHAIR BRACKPOOL: He's -- he did not say that, and
12 he's shaking his head. So I'll let him respond to that. So --

13 MR. JAMGOTCHIAN: Well, I --

14 CHAIR BRACKPOOL: -- are you done?

15 MR. JAMGOTCHIAN: Well, if he wants to respond to it
16 let him respond.

17 CHAIR BRACKPOOL: Are you done?

18 MR. JAMGOTCHIAN: No, I'm not done. I'm trying to
19 get a response to the question.

20 CHAIR BRACKPOOL: Well, this is not a question and
21 answer session.

22 MR. JAMGOTCHIAN: Oh, he doesn't want to answer it.

23 CHAIR BRACKPOOL: Sit down. Sit down.

24 Mark, please.

25 MR. JAMGOTCHIAN: Is there some reason why --

1 CHAIR BRACKPOOL: You're finished. Sit down. The
2 item is finished. He is now going to respond to questions
3 we're going to ask him.

4 MR. JAMGOTCHIAN: Oh, so you don't want to talk about
5 the illegal wagering or wagering that's not going to --

6 CHAIR BRACKPOOL: I want you to sit down.

7 MR. JAMGOTCHIAN: Boy, I guess Betfair is really
8 focused here, huh?

9 CHAIR BRACKPOOL: You're such a sad little man.
10 Okay. Carry on.

11 MR. THURMAN: Any -- any wager that's made through
12 the pari-mutuel network comes in through CHRIMS. And it's --
13 and it's -- what we do is we pull it in from the various tote
14 companies and we make sure that that all balances and that it
15 is accurate. So as far as exchange wagering, that's not pari-
16 mutuels and that does not go through CHRIMS.

17 CHAIR BRACKPOOL: Thank you. Next speaker, John
18 Bucalo.

19 MR. BUCALO: Good morning, Chairman Brackpool and
20 Vice Chairman Israel, and the distinguished Members of the
21 Board. I'd just like to ask of any of the -- when there's a
22 deficit, are any of the monies that are funded or paid into the
23 deficit from CHRIMS funded by the satellite facility promotion
24 money that's been withheld from guests playing at satellites?
25 I looked at some numbers and it appeared that some of those

1 monies were funded for deficit purposes.

2 MR. THURMAN: That's incorrect. There -- up until
3 this last year CHRIMS had a contract with the CMC to provide
4 some of the services that I just went over, and that funding is
5 no longer there.

6 CHAIR BRACKPOOL: Thank you. Next speaker is Peter
7 Miller.

8 MR. P. MILLER: Hi. My name is Peter Miller and I'm
9 a trainer, but I'm also a gambler.

10 And my question for the gentleman here is, I have
11 a -- I've been coming to the races for all my life, and I've
12 noticed that there seems to be a big odds change after the
13 races are already halfway through. Now we know that the Pick
14 Six was tampered with during the Breeder's Cup years back. We
15 know it can be done.

16 What are we doing to either prevent this, number one?
17 Because I've heard the argument that the money comes in late,
18 the money comes from the ADW's and everywhere late. The odds
19 never go up on these horses. So if the money comes late
20 sometimes they should go up and sometimes they should go down.
21 But the horse on the lead invariably at the half mile pole
22 drops. What are we doing to ensure the integrity of our pools?

23 MR. THURMAN: That's more of a tote question but
24 I'll -- I'll address it.

25 MR. P. MILLER: Thank you.

1 MR. THURMAN: The -- the issues that you have with
2 what they call the late odds changes, one, we're trying to
3 address with the TRA/TRPB project and that's going to
4 centralize how the -- how the wagering pools are being closed,
5 so that we have an accurate audit of when things are closed.

6 The problem that you have when you're using different
7 computer systems, and you have to understand, we do batch
8 wagering. We have separate systems that are collecting wagers
9 and then shipping them into a common pool. When you do that
10 you have lag time, and then that's what's creating the -- the
11 odds changes after the race is off. The stop betting is
12 happening but it's trying to accumulate all of that data as
13 it's coming in. And it'll come in milliseconds and sometimes,
14 a few seconds behind.

15 One of the things the industry's done is we've gone
16 to -- when we come into the last minute of the cycles we start
17 dropping down to a 10 to 12 second commingling of the monies,
18 and that -- that's helped it immensely.

19 I would also state that I don't know that what you
20 said, that all things go down, is correct. I mean, I've --
21 I've looked at that and I haven't found that to be true.

22 CHAIR BRACKPOOL: Mike Marten wishes to say something
23 on this.

24 MR. MARTEN: Yes. Mike Marten of the CHRB staff. I
25 know it's not true that -- that all go down because I've been

1 personal studies and I've seen many go up and -- but I don't
2 want to get in a debate on that.

3 We do -- within 10 or 11 seconds after the start of
4 the race, we have what's called a forced odds cycle. Ninety-
5 nine point nine percent of the money is in by that point.

6 Peter, I'd be surprised if -- if there's been
7 something that's gone dramatically different from -- after 11
8 seconds, I haven't heard about it recently. I -- I --

9 MR. P. MILLER: I ran a filly last week that left the
10 gate 29-to-1, down the hill. It was 29-to-1 when they went
11 behind the -- the bushes. It was 29-to-1 when they came back
12 out. When she crossed, she was 21-to-1.

13 CHAIR BRACKPOOL: Well, I tell you what, give us the
14 name of the filly -- the race to Mike after this. We'll take a
15 look at it, we'll discuss it with the stewards and we'll let
16 you know our findings.

17 MR. P. MILLER: Thank you.

18 COMMISSIONER HARRIS: I mean, it's a great thing
19 about this database, you can -- you could track that back to
20 exactly where --

21 CHAIR BRACKPOOL: Exactly, we can look at it. We can
22 track it and do that.

23 VICE CHAIR ISRAEL: And not only that, you can time
24 the odds fluctuations --

25 MR. THURMAN: Right.

1 VICE CHAIR ISRAEL: -- to the video.

2 CHAIR BRACKPOOL: Right.

3 VICE CHAIR ISRAEL: So I mean, you can just match
4 them easily. So that's not -- that's not hard for you.

5 MR. MARTEN: I guess, one final statement I'd make,
6 and we'll -- we'll look at this, Peter, I would say that in the
7 last ten years we've probably looked 50 instances like you're
8 describing, and in every -- in every case the money was in
9 before the start of the race. But we will -- we will look at
10 it because --

11 CHAIR BRACKPOOL: Sir, thank you. Thank you. Next
12 speaker, Michael Wellman.

13 MR. WELLMAN: Michael Wellman. Actually, I've got
14 two points.

15 One, I think I want to answer something that
16 Commissioner Israel had asked about incremental betting in
17 terms of payoffs potentially at the race track, as opposed to
18 away from the race track.

19 CHAIR BRACKPOOL: Well, I want this to be about
20 CHRIMS. So --

21 VICE CHAIR ISRAEL: I was just asking CHRIMS if they
22 had the --

23 MR. WELLMAN: Well, he asked a question that someone
24 wasn't able to answer, and I think I'm able to answer it.

25 VICE CHAIR ISRAEL: He answered it. He said --

1 CHAIR BRACKPOOL: He answered it. Was the technology
2 available --

3 VICE CHAIR ISRAEL: He said -- he said --

4 CHAIR BRACKPOOL: -- and he answered it.

5 VICE CHAIR ISRAEL: -- they could -- they could do --

6 MR. WELLMAN: It already exists and is being done.

7 Okay. It's being done. So I could tell you later, if you're
8 not interested.

9 In terms of CHRIMS, okay, it's unfortunate, but I
10 think this is relative in regarding CHRIMS. I believe in Del
11 Mar at one of the meetings -- I think there were two there --
12 there were requests, and I think they were from Commissioner
13 Rosenberg, regarding a way to show exactly the way the pie is
14 divvied up. And to have something much more specific about it
15 that you had, Chair Brackpool, said would take place after
16 vacation time in somewhere in September or October. We haven't
17 seen it yet. And I believe, again, last month at the
18 meeting -- because I read the transcripts -- Commissioner
19 Harris had asked for something very similar. I'm not asking
20 for it to be -- happen today, but I would appreciate and I
21 think it is very important for all of us, because the
22 breakdown of the way the money is actually divided --

23 CHAIR BRACKPOOL: Well, again, this is not a CHRIMS
24 issue, it's an agenda item issue. We have said --

25 MR. WELLMAN: But --

1 CHAIR BRACKPOOL: We have said we will be bringing
2 that back. It is set for either February or March.

3 MR. WELLMAN: Thank you.

4 CHAIR BRACKPOOL: Part of what we have to do when we
5 balance these things is to make sure we don't have eight-hour
6 agendas with everything on. So we go through the agenda and we
7 see. But, yes, that takeout pie, as I think I described it, is
8 on the agenda to come back. But I don't view it as a CHRIMS
9 issue, I view it as a -- as a racing overall issue.

10 COMMISSIONER HARRIS: I think it would be good, too,
11 if the tracks could publish what the takeouts are for the
12 various venues that are wagering on that day someplace.
13 Because, as you all know, we've gotten all these barrage of
14 emails, much of them containing inaccurate information,
15 assuming that Florida had lower takeouts on exotics than we do
16 and --

17 CHAIR BRACKPOOL: Right.

18 COMMISSIONER HARRIS: -- there's all kinds of
19 different scenarios. But what we really need to do is just get
20 back to our fact-based decisions.

21 CHAIR BRACKPOOL: Last speaker on this item, and then
22 I've got multiple speakers on the next few items. Stephen

23 Burn. MR. BURN: Thank you, Mr. Chairman and
24 Commissioners, I'm Stephen Burn. I'm the global director of
25 racing for Betfair and the president of TVG.

1 Just on a point of clarification, if I may,
2 specifically in relation to CHRIMS, we do have wagering
3 agreements with some California tracks. We do accept bets on
4 Betfair internationally with customers and those bets are put
5 directly into the California pools, despite some of the remarks
6 that were made earlier.

7 Also as far as exchange wagering is concerned, which
8 I appreciate isn't a CHRIMS issue, but again, just for a point
9 of clarification, we only offer exchange wagering when we have
10 an agreement with the tracks directly, and we have revenue
11 share agreements with those tracks that have been agreed.

12 We're very happy to support the Board and anyone else
13 who would like further information and I'm happy to make that
14 available as and when it's requested.

15 CHAIR BRACKPOOL: Thank you. Okay. Well, there's no
16 action required.

17 MR. THURMAN: Do we need an action on the MOU?

18 CHAIR BRACKPOOL: On the MOU, staff authorization,
19 and -- and do that.

20 MR. THURMAN: All right. Thank you.

21 CHAIR BRACKPOOL: Item number nine, Jackie,
22 discussion and action by the Board on the application for
23 license to operate a simulcast wagering facility at the --

24 MS. WAGNER: Sycuan.

25 CHAIR BRACKPOOL: -- Sycuan Casino, El Cajon,

1 California submitted for the purpose of relocation of the
2 wagering area at its simulcast facility.

3 MS. WAGNER: Jackie Wagner, CHRB staff. This is --
4 this application is purely before the Board as a procedural
5 item. The Sycuan Casino is up and running. They have notified
6 us that they are going through a \$27 million renovation and
7 they are going to be moving the -- the simulcast wagering
8 location during the remodel. The new room is virtually
9 identical to the existing location. It's going to be on the
10 other side of the building and it's going to -- they're going
11 to have additional seating. So this facility is being
12 upgraded. And as a point of procedure the application needs to
13 come to the Board, so the Board is aware of what's happening.
14 We do have a representative from Sycuan if you have any
15 questions.

16 MR. BRIGGS: Tim Briggs, Sycuan Casino. I oversee
17 poker as well as the OTB sites.

18 VICE CHAIR ISRAEL: Look, I'm all for expanding
19 wherever we can expand. I -- I will say that I -- your -- this
20 little drawing, what do you call this, the schematic --

21 MR. BRIGGS: The schematic.

22 VICE CHAIR ISRAEL: -- isn't entirely clear to me.
23 I'm not sure what goes where. I know where the office is.

24 MR. BRIGGS: I -- I can explain it to you --

25 VICE CHAIR ISRAEL: Okay.

1 MR. BRIGGS: -- if you'd like. I don't have --

2 VICE CHAIR ISRAEL: Where are the -- how many TVs do
3 you have? Where are they?

4 MR. BRIGGS: How many TVs? We have TVs on the wall.
5 We're going to have ten on the right-hand of the page wall.
6 We'll have four on the left-hand side. Four on the tables, so
7 we'll have approximately 16 TV's, a few extra -- a few more
8 TV's than we have right now.

9 VICE CHAIR ISRAEL: Okay. That's what I needed to
10 know. And you have seating in the middle there?

11 MR. BRIGGS: And seating in the middle.

12 VICE CHAIR ISRAEL: Okay.

13 CHAIR BRACKPOOL: Commissioner Moss?

14 COMMISSIONER MOSS: Yes. So you had an operation on
15 one side of the building and you're moving it to the other
16 side; is that correct?

17 MR. BRIGGS: Yeah. We're doing a \$27 million
18 renovation which basically the Poker Room, as well as OTB, is
19 now going to be a new buffet area. So we're moving into the
20 other side of the building. It's not more than probably a
21 hundred feet away. It just happens to be on the opposite side
22 of the casino.

23 COMMISSIONER MOSS: And I take it, it's been -- a
24 successful operation for you?

25 MR. BRIGGS: Yes. Yes.

1 COMMISSIONER MOSS: And do you feel it growing? Do
2 you feel it developing?

3 MR. BRIGGS: I think with the renovation, with the
4 little -- we're getting a few more seats, not a whole lot more
5 seats, but with the renovation and the renovation I think we'll
6 draw -- drive more business.

7 COMMISSIONER MOSS: Do -- do you advertise the fact
8 that you have off-track wagering at that facility?

9 MR. BRIGGS: They do internally. I don't know, I'm
10 not sure how -- what they do outside.

11 COMMISSIONER MOSS: Thank you.

12 VICE CHAIR ISRAEL: Do you ever -- do you ever show
13 ball games on a Saturday, say, or a Sunday during football
14 season or during the final NCAA basketball tournament to get
15 people into the, you know --

16 MR. BRIGGS: No, but it's a good idea. We are --

17 VICE CHAIR ISRAEL: Just build traffic and then get
18 them betting while they're there.

19 MR. BRIGGS: Right. We don't -- we don't right now.
20 But part of the renovation is we're going to have a sport's
21 grill, which will be in the casino.

22 VICE CHAIR ISRAEL: Right in this?

23 MR. BRIGGS: No, that is a different location but
24 that will also drive -- drive traffic. And people that watch
25 the sporting games are -- would like -- you know, are closely

1 related to horse betters and they would like to know --

2 VICE CHAIR ISRAEL: Yeah. Because --

3 MR. BRIGGS: -- that we have that in our facility to
4 be a full-service casino.

5 VICE CHAIR ISRAEL: Okay.

6 CHAIR BRACKPOOL: Commissioner Harris?

7 COMMISSIONER HARRIS: I'm glad to see you doing this.
8 I think it's an important step. But one of the frustrations
9 I've had in racing is that we haven't expanded more into the
10 tribal casinos. And I know it goes back to some of the
11 original compact negotiations. And -- but there -- there are
12 numerous major Indian casinos out there that don't have access
13 to wagering.

14 Is -- any ideas have that -- how to -- how do we get
15 into those?

16 MR. BRIGGS: I'm not sure how to get into them. But
17 they -- like I said, it's -- it's well run. It's, you know,
18 from my standpoint it's low headache. I mean, you guys -- they
19 do a great job taking care of all the -- the stuff that needs
20 to be done. So I don't know how to get into the casinos.

21 COMMISSIONER HARRIS: Okay. I think -- but one of
22 the problems is, is it requires an amended compact, and a lot
23 of the people don't want to do that. But I know racing every
24 so often gets the idea that, yeah, we're going to get into more
25 casinos and -- and they just never do. But maybe some of the

1 people in racing can work on that.

2 VICE CHAIR ISRAEL: One other thing, you're unclear on the
3 number of pari-mutuel terminals. How many are you
4 anticipating?

5 MR. BRIGGS: Putting the same number that we have
6 now, and I'm not --

7 MS. WAGNER: My understanding is I spoke with Ms.
8 Reeves.

9 MR. BRIGGS: Right.

10 MS. WAGNER: But that's going to increase. And as
11 soon as the build out is completed she's going to give me
12 that -- that number.

13 VICE CHAIR ISRAEL: Well, you -- you don't know? How many
14 are there now? Because our document it said it's --

15 MS. WAGNER: You know --

16 VICE CHAIR ISRAEL: -- not specified.

17 COMMISSIONER CHOPER: You mean seats?

18 MS. WAGNER: I --

19 VICE CHAIR ISRAEL: No.

20 MS. WAGNER: I don't have that number. I don't have
21 that number.

22 VICE CHAIR ISRAEL: Betting terminals.

23 MR. BRIGGS: My associate says we have about 13.

24 VICE CHAIR ISRAEL: Thirteen?

25 MR. BRIGGS: He --

1 VICE CHAIR ISRAEL: Okay.

2 MR. BRIGGS: He's --

3 VICE CHAIR ISRAEL: And you'd like to go to more?

4 MR. BRIGGS: Of course. The --

5 VICE CHAIR ISRAEL: We'd like you to go to more.

6 MR. BRIGGS: Yeah. The easier it is to bet the --

7 the more bets they can make --

8 VICE CHAIR ISRAEL: Right.

9 MR. BRIGGS: -- without standing in line. It's --

10 VICE CHAIR ISRAEL: People hate standing in line.

11 That's --

12 MR. BRIGGS: That's an amen.

13 VICE CHAIR ISRAEL: That's real life.

14 COMMISSIONER DEREK: I have one question. Is this --

15 will this be the permanent location for this? Or when the

16 remodel is finished will you move --

17 MR. BRIGGS: No. This is --

18 COMMISSIONER DEREK: -- back?

19 MR. BRIGGS: We are the first -- we're in the first

20 stage of the remodel, so this will be the permanent location.

21 COMMISSIONER DEREK: All right.

22 COMMISSIONER MOSS: I'm just curious, how many

23 tellers will you employ at this situation?

24 MR. BRIGGS: I'm not sure how many tellers they have.

25 I know they -- they have the manager. And then depending on

1 the race day is how many tellers they bring in.

2 CHAIR BRACKPOOL: Is that the answer to the question?

3 MR. BRIGGS: No. He's saying it's sometimes they
4 have -- they have a night manager, which he does the night --
5 the night racing. And -- and up to three -- three on the race
6 day, depending on the race day. But I know some days there's
7 only the one manager, depending on --

8 COMMISSIONER HARRIS: Are -- are these actually all
9 employees of -- of SCOTWINC or no? The -- the pari-mutuel
10 group you've got there are really the SCOTWINC employees?

11 MR. BRIGGS: Yes. Yes.

12 VICE CHAIR ISRAEL: Yeah. That's the way it works.

13 COMMISSIONER HARRIS: Oh. They're -- they're --
14 they're members of the Pari-Mutuel Clerk Union?

15 MR. BRIGGS: Yes.

16 VICE CHAIR ISRAEL: Yes.

17 COMMISSIONER HARRIS: Yeah.

18 CHAIR BRACKPOOL: All right. Do I have a motion
19 to --

20 VICE CHAIR ISRAEL: He's -- he's got a question.

21 CHAIR BRACKPOOL: I'm sorry?

22 MR. NICHOLS: I'm Ross Nichols with the Local 280.
23 You're talking about Sycuan. We have the list here for the
24 clerk requirements.

25 CHAIR BRACKPOOL: I don't --

1 MR. NICHOLS: Sycuan has one on the weekdays, two on
2 the weekends. Thirteen is way out of the park.

3 MR. BRIGGS: The monitors?

4 CHAIR BRACKPOOL: Thank you.

5 MS. WAGNER: No.

6 CHAIR BRACKPOOL: Thank you.

7 VICE CHAIR ISRAEL: Number of employees.

8 MR. BRIGGS: Clerks.

9 MR. NICHOLS: Oh, I see.

10 MR. BRIGGS: Clerks.

11 CHAIR BRACKPOOL: Thank you.

12 MR. NICHOLS: Okay.

13 MR. BRIGGS: I didn't say -- I said monitors, not --

14 CHAIR BRACKPOOL: Yeah.

15 MR. BRIGGS: -- not employees.

16 CHAIR BRACKPOOL: He's talking about something
17 different.

18 VICE CHAIR ISRAEL: Yeah.

19 CHAIR BRACKPOOL: Okay. Do I have a motion to
20 approve the relocation?

21 COMMISSIONER MOSS: I move it.

22 CHAIR BRACKPOOL: Commissioner Moss.

23 COMMISSIONER CHOPER: Second.

24 CHAIR BRACKPOOL: Second by Commissioner Choper. All
25 in favor?

1 ALL COMMISSIONERS: Aye.

2 CHAIR BRACKPOOL: Thank you.

3 MR. BRIGGS: Thank you.

4 CHAIR BRACKPOOL: Stay there, Jackie. Item number
5 ten, discussion and action by the Board regarding the request
6 from Los Alamitos Racing Association to amend its November 9th,
7 2010 application for license to conduct a horse race meeting to
8 include implementation of the provisions of Business and
9 Professions Code Section 19601.3.

10 MS. WAGNER: Jackie Wagner, CHRB staff. As you know,
11 at the Board's November meeting the application from Los
12 Alamitos was heard and approved. That application was
13 predicated on the -- on the rates that are currently being
14 conducted at Los Al. All the figures were predicated on that.

15 We are submitting the application in order to make it
16 clear that the rates pursuant to 19601.3 will -- will fall for
17 this race meet, as well, 2011. So we're asking that the Board
18 formally amend the application to reflect the current rates --

19 CHAIR BRACKPOOL: But there's no --

20 MS. WAGNER: -- being accepted.

21 CHAIR BRACKPOOL: -- new information --

22 MS. WAGNER: No --

23 CHAIR BRACKPOOL: -- from what we did?

24 MS. WAGNER: -- new information?

25 CHAIR BRACKPOOL: This was an administrative --

1 MS. WAGNER: It's an administrative --

2 CHAIR BRACKPOOL: -- cleanup --

3 MS. WAGNER: -- function --

4 CHAIR BRACKPOOL: -- item from where we are? I

5 have --

6 COMMISSIONER HARRIS: I'm not clear on this though.

7 The -- originally Los Al raised their takeout on exotics. And

8 I don't know, was that all directed towards purses?

9 EXECUTIVE DIRECTOR BREED: No.

10 COMMISSIONER HARRIS: No. I don't think it was.

11 MS. WAGNER: No.

12 COMMISSIONER HARRIS: And this new -- this new

13 version, is it directed all towards purses or is it --

14 CHAIR BRACKPOOL: It's --

15 MS. WAGNER: No.

16 COMMISSIONER HARRIS: -- just the continuation?

17 CHAIR BRACKPOOL: It's a continuation of what they're

18 doing.

19 MS. WAGNER: It's the continuation of --

20 CHAIR BRACKPOOL: Because their law is different.

21 MS. WAGNER: It's -- nothing has changed.

22 COMMISSIONER HARRIS: We've got a whole different

23 changed.

24 CHAIR BRACKPOOL: Their -- their law was passed

25 before --

1 MS. WAGNER: Right.

2 CHAIR BRACKPOOL: -- the recent one.

3 MS. WAGNER: Nothing is changing at Los --

4 MR. NICHOLS: Nothing has changed.

5 MS. WAGNER: -- at Los Alamitos.

6 CHAIR BRACKPOOL: They're not -- they're not changing
7 that at all.

8 I have a speaker on this issue, Roger Way.

9 MR. WAY: Los Alamitos, when this first occurred,
10 this two percent increase, HANA presented you with figures of
11 27 percent down, and it was a spreadsheet presented by our
12 President Jeff Platt. And then there was a period it went for
13 review. And what happened, the figures were ignored and the
14 request from Los Alamitos was granted, and so forth.

15 Then there was another review period, and it's coming
16 up now, I guess. Carolyn Betts, who is an economic professor
17 at USC, prepared figures again for Los Alamitos, and they are
18 down 24 percent. So -- and this was sent to you by -- a chart
19 by email to each member. These figures are being ignored. And
20 if you like the way things are going then you'll probably
21 approve to continue.

22 We didn't prepare any spreadsheet for today. But,
23 gee whiz, you're going on the wrong course by raising takeout
24 to make up for missing patrons. Yes, you've alienated the
25 patrons of not only Los Alamitos, but for Santa Anita too. So

1 I just ask you to start looking at the gaming portion and the
2 customer service portion of this game, which I think you have
3 totally ignored in the recent past.

4 CHAIR BRACKPOOL: Thank you.

5 MR. WAY: Thank you.

6 CHAIR BRACKPOOL: Los Al?

7 MR. BLONIEN: Thank you, Mr. Chairman and Members,
8 good morning. Rod Blonien on behalf of Los Al.

9 With all due respect to the gentleman who just spoke,
10 our numbers do not compare with his. Comparing 2010 to 2011
11 with everything, ADW, in-state, out-of-state, on-track, we're
12 up 15 percent. In 2010 we were up over 2009.

13 Mr. Israel, I'm happy to tell you that even on-track
14 we're up over ten percent. It has not been a problem. And we
15 believe it has helped our -- our -- our purse program. One
16 percent of the money, Mr. Harris, goes to the night satellite.
17 Some of them were going to close down. We have spread the
18 money. And we think it's good for the industry, and we
19 strongly encourage you to approve this today. Thank you.

20 CHAIR BRACKPOOL: Thank you. Is there a speaker on
21 this? No.

22 COMMISSIONER CHOPER: Can I say something?

23 CHAIR BRACKPOOL: Please, Commissioner Choper.

24 COMMISSIONER CHOPER: You know, there's been no
25 shortage of statistics circulated. If you have yours, Mr.

1 Blonien, I wish you'd circulate them to us too. Maybe even --
2 there's -- there's an email list you can find without too much
3 difficulty of some of the people who have been participating in
4 this.

5 I think, you know, it is fair to say that no one -- I
6 don't think the race tracks are not interested in making more
7 money. This is something that -- that the Chairman mentioned
8 to me the other day. I mean, that -- and it's very close to
9 the bottom line, if not the bottom line itself in this.

10 So I -- I think if some of the energy could be
11 devoted more to a rational presentation of this and a
12 dispassionate analysis of these things I -- I -- it seems to me
13 that people are open to being -- to being persuaded on this.
14 People on the Board I think, I can only speak for myself, we
15 voted for this for one reason, I voted for this for one reason,
16 and that was to present a better racing product to the betters
17 because we had statistics showing how horses were -- not
18 statistics, stories to tell -- I don't know if they were
19 statistics. Trainers were taking horses to Manmouth. They
20 were -- they were taking them to Arkansas, as I recall. I saw
21 some.

22 And there was no issue as to why they were doing it.
23 They didn't like the weather there, they liked -- they liked
24 the purses. And the general feeling was that if we don't do
25 something for the purses then we're going to continue losing

1 horses, which is not a good thing, it seems to me, for anybody.

2 Now, you know, people make mistakes. But so far
3 the -- the data just -- it seems to me it is so conflicted.
4 This -- this is not a uniform product, the data. And I think
5 we ought to try in some systematic way to determine how it
6 works, and at least get -- I mean, what you just said is quite
7 startling --

8 CHAIR BRACKPOOL: Well, let's --

9 COMMISSIONER CHOPER: -- I must say.

10 CHAIR BRACKPOOL: Let's -- let's just summarize
11 the --

12 COMMISSIONER CHOPER: Okay.

13 CHAIR BRACKPOOL: -- the other point here. Because I
14 think there's a great deal of confusion as to the process that
15 takes place. This is not top-down decisions from this Board
16 telling a track what to charge. What we do is debate and vote
17 on a track's application. And when we had the first set of
18 statistics that Mr. Way referenced we dispatched our staff, our
19 audit staff, the CHRIMS staff to sit down with the president of
20 HANA, with Los Al, etcetera, and they came back with different
21 numbers. So we had the different sets of numbers. The
22 different sets of numbers were it wasn't possible to be
23 completely apple to apple. It was racing less days. It was
24 racing on different days of the calendar, and etcetera,
25 etcetera. So we all -- we all -- we all tried to do our best

1 to take a look at those.

2 But I can tell you that in addition to wanting to do
3 the right thing, which I may be naive, I still believe people
4 on this board do want to do the right thing, we also have to
5 listen to the tracks who are running a business. And if the
6 tracks were standing here alongside you saying we would be so
7 much better off if we reduced takeout by 50 percent because
8 here are the numbers, here's the volume that would be
9 generated, etcetera, I can assure you people here would be
10 listening. That's not the case.

11 So what we -- what we need to do -- excuse me, sir --
12 what we need to do -- there are people behind you. There are
13 people behind you. One second.

14 What we need to do in -- in this business is, as
15 Commissioner Choper says, after a period of time, when you
16 really can do an apple-to-apple comparison, not two days into
17 the beginning of a meet or three days into the beginning of the
18 meet when it's monsoons out here, we need to have a balanced
19 conversation.

20 If Los Al is sitting here right now and giving us
21 these numbers, that's certainly a very encouraging set of
22 numbers. So what I'm going to ask is to do what Commissioner
23 Choper requested, which is for Los Al to send us those numbers
24 and we'll take a look at those numbers. And at some future
25 time here in the coming months we will have another set of

1 numbers from both your organization, as well as Los Al, and
2 we'll start to see where we -- where we go.

3 But if I have the tracks standing here saying this is
4 a disaster it would be one thing. We've got the track standing
5 here saying our numbers are up. Our attendance is up and our
6 numbers are up. That's a pretty compelling statement for this
7 Board to listen to.

8 MR. WAY: I have a comment.

9 CHAIR BRACKPOOL: One second. Let him finish.

10 MR. BLONIEN: I just wanted to indicate that our
11 horsemen support this amendment. And Dr. Allred, of course,
12 who owns Los Al, owns the real estate and has a major
13 investment in quarter horse racing is -- is cheery and excited
14 about the prospects for this year, and was also quite pleased
15 to see that there was a slight -- there was uptake last year.
16 And we do not believe this is detrimental in any way to our
17 racing program or to Los Al, otherwise we wouldn't be here
18 asking for it.

19 CHAIR BRACKPOOL: Right. And if your comment, Roger,
20 is specifically on this Los Al point, then it's okay. I can
21 not go into a general discussion. We'll be here for hours and
22 hours and it's unfair on the audience.

23 MR. WAY: I just want to submit to you that you've
24 been listening to the race tracks constantly and ignoring the
25 other factors, and that is the customers. And so what is the

1 use of somebody putting up numbers and -- and from the
2 customers point of view and what's happening if you're just
3 going to listen to the race track anyway? Why even have a
4 hearing? And that's what's been going on, and that's why
5 you're going down.

6 CHAIR BRACKPOOL: We're going to listen to the
7 numbers and read the numbers and read the factual information.

8 MR. WAY: Well, I thought we did that before, and it
9 was pretty conclusive. And then it was a rubber stamp, going
10 whatever they said. So that's --

11 CHAIR BRACKPOOL: Well, people didn't agree with your
12 numbers, but thank you very much.

13 MR. WAY: Oh. Okay.

14 CHAIR BRACKPOOL: Thank you. And so do I have a
15 motion to -- to approve this item?

16 COMMISSIONER HARRIS: So moved.

17 CHAIR BRACKPOOL: Commissioner Harris moves.

18 COMMISSIONER ROSENBERG: Second.

19 CHAIR BRACKPOOL: Commissioner Rosenberg seconds.

20 All in favor?

21 ALL MEMBERS: Aye.

22 CHAIR BRACKPOOL: Thank you. Motion approved.

23 Item number 11, discussion and action by the Board on
24 the application for approval to conduct advance deposit
25 wagering of ODS Technologies, LP, doing business as TVG for an

1 out-of-state multi-jurisdictional wagering hub for a period of
2 up to but no exceeding two years.

3 The way I did this last time was I had all of the ADW
4 companies come up at once to try and condense the meeting. I
5 really can't do that this time because every application is in
6 a slightly different stage and I just think it will confuse.
7 So it's probably easier to do it this way, one by one, and then
8 we'll move through them and -- and -- and do it.

9 MS. WAGNER: Jackie Wagner, CHRB staff. Since the
10 last time -- our last Board meeting where -- where our ADW
11 applications were discussed, TVG at that time had one item, I
12 believe, that was outstanding. They have supplied -- and that
13 item was the bond. And we have recommended that they secure a
14 bond that will -- will cover the request to term, which was a
15 one-year term ending December 2011.

16 I am pleased to report that the bond has been
17 extended through 2011, and that makes this application
18 complete.

19 VICE CHAIR ISRAEL: What about horsemen approval?

20 MS. WAGNER: Have the horsemen's approval from --

21 MR. HINDMAN: Generally the TOC issues approvals on a
22 meet-by-meet basis. So we understand that when Hollywood Park
23 and Del Mar --

24 VICE CHAIR ISRAEL: All right. Okay.

25 MS. WAGNER: And that will -- and that will --

1 VICE CHAIR ISRAEL: Never mind.

2 MS. WAGNER: That will go for all of the
3 applications.

4 CHAIR BRACKPOOL: Uh-huh.

5 VICE CHAIR ISRAEL: Right.

6 CHAIR BRACKPOOL: John.

7 MR. HINDMAN: Thank you. Good morning,
8 Commissioners. I'd just like to make -- make a few comments.
9 I've heard, obviously, a lot about the ADW industry over the
10 course of the last couple of meetings. And I just wanted to
11 say a few things about TVG and -- and our activities here in
12 California.

13 You know, I think that there are a couple of -- of --
14 of misconceptions and that, you know, number one is that ADWs
15 are somehow pillaging the industry, and number two is that
16 we're laughing all the way to the bank while the industry
17 burns, and neither of those are true.

18 You know, in -- in 2010 TVG made cash -- cash
19 distributions to the racing industry totaling -- in California
20 totaling over \$50 million in one year. We invested millions of
21 dollars more in television, producing and distributing
22 television. We sponsored several races in the state, including
23 the only way that the -- that the Pacific Classic was a \$1
24 million race we was because we sponsored the race and helped it
25 remain a \$1 million race. We couldn't be any more invested

1 in -- in the -- in the California horse racing industry than we
2 are. And I assure you, we will -- we will remain that way.

3 How -- how the money gets distributed, and -- and I
4 know that we'll -- we'll all work together on -- on some --
5 some additional information, but it's very simple. Takeout on
6 any wager is about 20 percent on a blended basis, between WPS,
7 exotics, you add it up at the end of the day it's about 20
8 percent; we keep 5. All the other ADW providers you see today,
9 you'll hear from them today, they also keep five. So we keep
10 25 percent of the total revenue. We're sending 75 percent of
11 the total revenue back to the racing industry. We're bearing
12 100 percent of the cost. So it's really, you know, not -- not
13 such a bad deal, I don't think, from any -- any legitimate
14 or -- or --

15 COMMISSIONER HARRIS: John, can I interrupt just for
16 a second?

17 VICE CHAIR ISRAEL: And at what cost?

18 MR. HINDMAN: Of running the operation. Of -- of --
19 of running the -- the computers and the --

20 VICE CHAIR ISRAEL: Oh. Okay.

21 MR. HINDMAN: -- the people and the staff and the
22 customer service and the -- and the -- and the television
23 network and everything else.

24 VICE CHAIR ISRAEL: This is -- but not this cost?

25 MR. HINDMAN: No. No. But I'm just saying, of -- of

1 the operation.

2 VICE CHAIR ISRAEL: Right.

3 MR. HINDMAN: I'm sorry.

4 COMMISSIONER HARRIS: Is the pie, that's -- that's
5 what's referred to sometimes as the hub fee?

6 MR. HINDMAN: That's correct.

7 COMMISSIONER HARRIS: And then that -- as I
8 understood it that -- because also we hear that legislatively
9 that could be six point five, so that's been negotiated from
10 six point five down to five?

11 MR. HINDMAN: That's correct.

12 COMMISSIONER HARRIS: Yeah.

13 MR. HINDMAN: Yeah. And -- and it's the same for all
14 of us.

15 And -- and the other thing is for -- for out-of-state
16 bets all of us, I think everybody you'll hear from today
17 including TVG, pays some of the highest host fees that go back,
18 probably the highest host fees that go back to California
19 tracks of anybody in the country. So even if you're betting
20 out of state you're better off having -- California is better
21 off if that -- that comes through an ADW provider such as one
22 of the three here today than they are if it goes through a
23 regular off-track betting company.

24 So -- and then, you know, the -- the second thing is,
25 I think we've talked a lot about, you know, the first three

1 weeks of -- of -- of the Santa Anita meet. And, you know, I --
2 I got on last week out of curiosity onto CHRIMS and I looked
3 and -- because I knew we were down in California, TVG. Every
4 ADW provider is down in California so far since -- since the
5 start of the Santa Anita meet. And we're not down just on
6 Santa Anita. We're down on everything. So I think, you know,
7 if -- if -- if there's a simplistic view, there's one reason
8 why, you know, something isn't going as well as we'd like it to
9 I -- I -- I don't think you can look at it that simplistically.
10 I think if you look at the fact that California is still
11 struggling economically, I think that probably has as much to
12 do with --

13 VICE CHAIR ISRAEL: Well, you need --

14 MR. HINDMAN: -- what's going on as anything.

15 VICE CHAIR ISRAEL: You need to define down on
16 everything, meaning bets placed by Californians in other tracks
17 in other jurisdictions --

18 MR. HINDMAN: Correct.

19 VICE CHAIR ISRAEL: -- or down on everything at all
20 tracks in California?

21 MR. HINDMAN: No. The ADW providers, from as far as
22 I could tell, they're all down in total wagering by California
23 residents. So total residents by California residents means
24 wagering on California tracks and wagering on out-of-state
25 tracks.

1 VICE CHAIR ISRAEL: So wagering at fairgrounds is
2 down? Wagering on Gulfstream is down? Wagering -- all of
3 those?

4 MR. HINDMAN: I didn't look on a track by track
5 basis. I can tell you in --

6 VICE CHAIR ISRAEL: I'm not saying --

7 MR. HINDMAN: -- in the aggregate it's not like the
8 only place where any of us is down is wagering on one
9 particular track.

10 VICE CHAIR ISRAEL: Okay.

11 MR. HINDMAN: So I think the tracks that haven't
12 changed their takeout are -- are experiencing -- and -- and --
13 and, you know, our wagering from residents of other
14 jurisdictions isn't down. So you know, California is a bit of
15 a unique case. But I don't think it's -- it's -- it's related
16 to one particular thing.

17 VICE CHAIR ISRAEL: Okay.

18 CHAIR BRACKPOOL: I have many speakers on these
19 issues today. So I need you to stay where you are right now.
20 I'm going to start with John Bucalo.

21 COMMISSIONER HARRIS: Could we get some clarification
22 while he's still -- as part of the presentation. Was the two
23 percent increase in exotics, that was passed on?

24 CHAIR BRACKPOOL: Yeah. I have --

25 COMMISSIONER HARRIS: Yeah.

1 MR. DARUTY: -- Scott Daruty who concluded all the
2 negotiations coming to speak on that --

3 COMMISSIONER HARRIS: Oh. Okay.

4 CHAIR BRACKPOOL: -- in one second.

5 MR. BUCALO: John Bucalo, Barona Casino Off Track
6 Betting Manager. I just feel that we should be on a fair
7 playing field with the ADWs. And according to the California
8 Horse Racing Board Law Section 19604, Item J,

9 "A racing association, a fair or a satellite wagering
10 facility may accept and facility the placement of any
11 wager from a patron in its facility -- facility that a
12 California resident could make through a betting system or
13 multi-jurisdictional wagering hub offering advance deposit
14 wagering in this state."

15 And we do not -- we are not able to offer full card
16 wagering, however they do. And when we're allocated, as an
17 example, Aqueduct, Gulfstream Park, by the race track to carry
18 racing on -- or offer that as a wagering, why can we not start
19 with race one? We have -- get -- we have betters in our parlor
20 at nine o'clock in the morning.

21 VICE CHAIR ISRAEL: John, I completely agree with
22 you. I think the race tracks ought to be able to offer full
23 card wagering. But somebody's going to have to run
24 legislation. That's the only solution. This isn't something
25 we can do.

1 MR. BUCALO: But -- but can we -- can't we use the
2 law -- the California Horse Racing Board law book? Because, I
3 mean, I'm reading the rule out of the law. They're offering --
4 you can be Aqueduct over an ADW over the phone, and you can not
5 bet it at our facility.

6 CHAIR BRACKPOOL: You know, here's what I'm going to
7 do for the benefit of everybody's time and the -- the crowd,
8 I'm going to have staff respond to you directly on this issue
9 as to whether we can or we can't. And if we can we'll have it
10 on the agenda and we'll talk about it. And if we can't we'll
11 explain why we can't.

12 MR. BUCALO: Okay. I think that --

13 CHAIR BRACKPOOL: All right.

14 MR. BUCALO: -- that's fair. And it means more money
15 to the state, to the horsemen --

16 CHAIR BRACKPOOL: Oh, we -- we --

17 MR. BUCALO: -- to the purses.

18 CHAIR BRACKPOOL: We -- we understand. I think the
19 difficulties are legislative. But let's -- let's get back
20 and -- let's get back and -- and do that.

21 MR. BUCALO: I thank you all for the time.

22 CHAIR BRACKPOOL: Thank you. Given that I see the
23 next -- without completely assuming the -- the reasons for all
24 of the next speakers, maybe to -- to preempt and to go to
25 Commissioner Harris's point, maybe, Scott, I could ask you

1 to -- to step forward here. There -- there appear to be a
2 considerable of confusion last time as to -- as to who was
3 paying what and what the ADWs were paying, etcetera. It's my
4 understanding that all of the tracks got together, hired
5 Monarch to be the exclusive negotiator around the country of
6 the signals. And so maybe you could summarize the situation,
7 Scott.

8 MR. DARUTY: Sure. Scott Daruty with MI
9 Developments. But I also work with the organization known as
10 Monarch, which has taken on the responsibility to represent all
11 of the California race tracks and the sale of their simulcast
12 systems. We also represent a number of other race tracks
13 across the country primarily owned by MI Development, such as
14 Gulfstream Park, Laurel, Pimlico, but also some independent
15 tracks such as Tampa Bay Downs, etcetera. So all total we have
16 about 13 race tracks. We put the content in a package and then
17 go out and sell it to all of the various wagering outlets
18 across the country and across the world.

19 One of the key initiatives we undertook this year
20 related to the California takeout increase and our efforts on
21 behalf of the California race tracks and horsemen to achieve as
22 high a possible return to the California industry and -- and to
23 California purses from the takeout increase.

24 With -- specifically with respect to the four account
25 wagering companies that are here today for their licensing

1 hearings, all four of them, TVG, TwinSpires, YouBet, and
2 XpressBet have all agreed and have been paying 100 percent of
3 takeout increases from California wagers back to the tracks.
4 The payment actually goes to the tracks, but then it gets paid
5 over to purses. So on any wager taken from a California
6 resident through any of the four ADW companies appearing before
7 you today, 100 percent of the takeout increase finds its way
8 into California purses.

9 With respect to out-of-state wagers, out-of-state
10 wagers have been negotiated by Monarch on behalf of the
11 California interests with all locations outside the State of
12 California. That includes, for example, the New York OTB
13 system. It includes the casinos in Nevada. It includes every
14 race track across the country. And it also includes the -- the
15 account wagering companies. I will say that every interest
16 outside of California has agreed to make a payment to the
17 California interests to go into purses.

18 There's been discussion about has Nevada, you know,
19 agreed to pay or not agreed to pay. I can tell you, Nevada is
20 a making a contribution towards California purses. Every race
21 track in the country is making a contribution towards
22 California purses.

23 And with respect to the ADW companies, they have all
24 agreed to make a payment which is in excess of any other
25 location. In other words, of all the different negotiations we

1 had, these four account wagering companies are paying the most
2 of anybody back to the California industry. And when the
3 payment comes back to the California industry 100 percent of it
4 goes into purses. So hopefully that answers the question.

5 CHAIR BRACKPOOL: Well, would it be fair for me to
6 ask you one question for clarification? Would it be fair to
7 say that when this was all proposed there was, obviously with
8 the assumption that you're looking like-for-like 2010 bets to
9 2011 bets. Now that the negotiations are concluded the
10 percentage overall recovery would be higher or lower than you
11 had projected?

12 MR. DARUTY: It's higher than what we projected.
13 It's -- it's -- it's higher. One hundred percent of the wagers
14 in the State of California are going to purses. And in excess
15 of 50 percent when you look on a blend across all of it of out-
16 of-state wagers are going toward --

17 CHAIR BRACKPOOL: And ADW companies out of state are
18 paying more than the brick and mortar facilities out of state?

19 MR. DARUTY: Absolutely. Yes.

20 CHAIR BRACKPOOL: Right. And think there's --
21 there's a great deal of confusion as to whether someone needs
22 to take your signal, not needs to take your signal or whatever,
23 so --

24 MR. DARUTY: If -- if I might just add one -- one
25 piece, because I -- I heard some comments about perhaps some of

1 the ADW companies have agreed to this, but then they're, you
2 know, licensing or passing the content along to some other
3 people who haven't agreed. I can tell you, that is not the
4 case either. Our contract is actually very specific when we
5 sell to a location where -- you know, including an ADW company,
6 that it's for their use only, and only if we have authorized
7 them to then pass it on to someone else are they allowed to do
8 so. And if they're allowed to pass it on it's on the same
9 terms and conditions.

10 CHAIR BRACKPOOL: Right.

11 MR. DARUTY: So anybody who's taking the signal is
12 making that contribution.

13 CHAIR BRACKPOOL: Is making the contribution to
14 purses?

15 MR. DARUTY: Correct.

16 CHAIR BRACKPOOL: Right.

17 VICE CHAIR ISRAEL: Scott, I'd like to ask you a
18 question. Let's segregate this and just discuss the -- the
19 four licensed ADW companies. When we had this conversation
20 last month two of them as, I understand it, TCV and XpressBet,
21 had agreed to pay 100 percent out-of-state and in-state into
22 the purse fund; is that correct?

23 MR. DARUTY: That is correct.

24 VICE CHAIR ISRAEL: And what changed?

25 MR. DARUTY: Well, it's -- it's been important to --

1 to -- to us, us being the California industry, the -- the
2 tracks and the horsemen, that we are -- are treating everybody
3 fairly and -- and comparably within a segment of the business.
4 So we -- we -- if there's two -- two people who take our signal
5 and they're similarly situated we don't want to treat one
6 better than the other or one worse than the other. We want to
7 make sure we have a fair, appropriate pricing strategy and
8 apply it to everybody consistently.

9 So with respect to the ADWs, there was one ADW that
10 refused to pay 100 percent. And so through a back and forth
11 negotiation it was determined that in our best interest we
12 would take less than 100 percent, and that we needed to treat
13 everybody within that category comparably.

14 VICE CHAIR ISRAEL: But what -- what consideration
15 was made to refusing to do business with the recalcitrant
16 entity and -- and, you know, demanding 100 percent, getting it
17 from TVG and XpressBet and --

18 MR. DARUTY: Well, nothing like putting me on the
19 spot. But, I mean, I guess the --

20 VICE CHAIR ISRAEL: That's my job.

21 MR. DARUTY: -- the -- the view that --

22 VICE CHAIR ISRAEL: I earn my \$100 a month.

23 MR. DARUTY: The -- the -- the view that I have
24 always taken is in selling simulcast signals you are performing
25 a delicate balance between maximizing your revenue but not

1 doing so at the expense of limiting your distribution. So I
2 think every negotiation we're involved in we have to decide if
3 we push the price higher and we lose the distribution are we
4 better off or are we worse off. In some cases, to be perfectly
5 honest, we're better off in not having the distribution at all
6 than -- than taking the price that's being proposed.

7 VICE CHAIR ISRAEL: Certainly. Right.

8 MR. DARUTY: In this particular case there are a lot
9 of people involved from the tracks and the horsemen and
10 everybody in the California industry, and it was determined
11 that on balance the distribution was important and we should
12 make the deal.

13 VICE CHAIR ISRAEL: So you blinked?

14 MR. DARUTY: We believe the distribution was
15 important and we made the deal.

16 CHAIR BRACKPOOL: Well, and we also got 100 percent
17 in California, all those wagers, which wasn't being offered to
18 prior too as well?

19 MR. DARUTY: Correct.

20 CHAIR BRACKPOOL: So there's -- that's why the
21 overall number is higher rather than lower.

22 MR. DARUTY: Uh-huh.

23 CHAIR BRACKPOOL: John?

24 COMMISSIONER HARRIS: Are these numbers public or --
25 or accessible by the public or -- or -- or how they -- can

1 somebody take a look at them?

2 MR. DARUTY: The specific rates?

3 COMMISSIONER HARRIS: The different rates, yeah.

4 MR. DARUTY: They're not public. And I -- I would
5 caution this Board that I don't think it's in the interest of
6 the California race tracks to have the outcome of every
7 negotiation published. I think there's -- I believe, you know,
8 handle information is -- is one thing. But I -- I think we've
9 got to be very careful when we start to talk about access of
10 the public of all of the data, including the host fees.
11 Because if that information becomes known to out-of-state
12 interests it's going to be -- it's --

13 CHAIR BRACKPOOL: Well, surely --

14 MR. DARUTY: -- it's --

15 CHAIR BRACKPOOL: -- everyone will just then demand
16 the lowest one.

17 MR. DARUTY: Exactly.

18 CHAIR BRACKPOOL: Right. So it would be very -- very
19 detrimental to purses.

20 COMMISSIONER HARRIS: It could be. I mean, I'm
21 just -- I'm not necessarily proposing it. I just wanted to
22 have a clarity of what -- what the situation is.

23 CHAIR BRACKPOOL: Well, Commissioner Harris, have you
24 ever agreed to pay a higher price when you knew someone was
25 paying a lower price?

1 COMMISSIONER HARRIS: Well, it puts more pressure on
2 the negotiators, for sure.

3 VICE CHAIR ISRAEL: No. He actually wanted a lower
4 price than the lower price.

5 CHAIR BRACKPOOL: I think that I'm going to go to
6 public comment. I may come back to you in a moment but I
7 think -- I just wanted you to go through that beforehand.

8 MR. DARUTY: Okay.

9 CHAIR BRACKPOOL: First speaker I have on this is
10 Mike Wellman.

11 MR. WELLMAN: Good, I guess, maybe afternoon by now.
12 Michael Wellman again. You know, I'm confused. I consider
13 myself reasonably sophisticated. And I just heard a lot of
14 smooth tap dancing, and I'd like to clarify it. And I know
15 this isn't question and answer, so I really need to rely on the
16 CHR Board to protect me.

17 I heard Mr. Daruty speak about, I believe, currently
18 100 percent of the four applicants today are currently paying
19 that 100 percent. I'm not really clear on what they're going
20 to be paying after you agree to allow them to operate.

21 You know, I try to get involved and I try to stay
22 reasonably, I don't know, what is constructive. Mr. Hindman
23 mentioned a little bit earlier regarding the five percent that
24 he retains, that he knew very clearly what his competitors, the
25 other three ADWs received, and they're all the same.

1 Now Mr. Daruty speaks now and talks about needing to
2 keep all that private because it would be silly to be able to
3 mix that information up, and we have to deal and -- and
4 negotiate independently. I have requested from the TOC on a
5 number of occasions information regarding exactly what is
6 happening with this two and three percent. I'm still not
7 comfortable with it. Maybe I never will be comfortable with
8 it. I know it's hurting. I know it's hurting, you know, a
9 sport I love. And I just hope that the CHRB really verifies in
10 every case, on all of this 11, 12, 13, 14, what is going to be
11 the deal as of the agreement.

12 CHAIR BRACKPOOL: Thank you.

13 MR. WELLMAN: Thank you.

14 CHAIR BRACKPOOL: Thank you very much. Next speaker,
15 Jerry Jamgotchian, who has added a smiley face to his speaker
16 card. And I only have one request, and that is that you go to
17 John Bucalo's printer and have them made up like this
18 permanently.

19 MR. JAMGOTCHIAN: You know, I just don't want you to
20 have a heart attack. That's why I put that smiley face.

21 CHAIR BRACKPOOL: I have a very good heart. I'll
22 probably die of something else, but I have a very good heart.
23 Thank you for asking.

24 MR. JAMGOTCHIAN: I'm glad to hear that. I really
25 don't want to sit here and bash Betfair because all three --

1 the additional ADW providers are -- are also in the same kind
2 of boat. But the ADW is essentially reducing attendance.
3 Everybody knows that. It's reducing our on track handle.
4 Everybody knows that. And let's face it, you guys are going to
5 issue their licenses. Everybody knows that. They're taking
6 money away from California horse racing. Everybody knows that.

7 But now what everybody doesn't know is that Betfair
8 is doing exchange wagering on the California signal with the
9 authority of the TOC. There's a letter dated December 15th,
10 which everybody probably has received -- it's not -- you can
11 certainly get it from the CHRB -- where Betfair is conducting
12 exchange wagering in -- in Europe and wherever else.

13 Now how is this authorized? Number one, how is the
14 TOC actually authorized to authorize Betfair to allow exchange
15 wagering? And more important, guess what, none of the money
16 that's being wagered is coming into our purse pools.

17 CHAIR BRACKPOOL: You know, you stepped out of the
18 room, Jerry, when Betfair --

19 MR. JAMGOTCHIAN: Excuse me. I'm talking. Why don't
20 you just save your comments until after. I've got my wonderful
21 time here, so you just sit there and enjoy it.

22 CHAIR BRACKPOOL: All right.

23 MR. JAMGOTCHIAN: Okay.

24 CHAIR BRACKPOOL: We'll do that.

25 MR. JAMGOTCHIAN: You know, and then we find out,

1 thanks to Mr. Miller, that the million six that the TOC got
2 from the NTRA really wasn't NRTA money. It was Betfair money
3 laundered through the NTRA. And we'll certainly get to that,
4 because why would Betfair give a million six to the TOC? And
5 we'll get into that in litigation. But obviously Mr. Miller,
6 he knows that, and I'm hopeful that his ruling will come out.

7 So I'd -- I'd like everybody to see the December 15th
8 letter that. If they need a copy, you can certainly get it.

9 So what does ADW do to California horse racing? It's
10 going to lower the purses. It's going to force more horses out
11 of the state. It's going to force --

12 EXECUTIVE DIRECTOR BREED: You have one minute --

13 MR. JAMGOTCHIAN: Thank you.

14 EXECUTIVE DIRECTOR BREED: -- Mr. Jamgotchian.

15 MR. JAMGOTCHIAN: It's going to force owners like me
16 to once again leave, and obviously this is a detrimental
17 ailment. And it's your position as the CHRB to address this
18 and listen to the customer and attempt to resolve what's going
19 on.

20 Mr. Daruty comes up and says he's doesn't think that
21 the signals are being assigned. Well, there's no enforcement
22 that is -- that you guys have or anybody has to confirm that
23 Betfair or any of the other ADW providers are not allowing
24 their signals to be sent to illegal bookmakers across the
25 world. And none of that money is ever going to see our pools,

1 but it's going to continue to draw off-track money. We have
2 the TOC permitting exchange wagering without the authority.

3 Commissioner Israel asked -- asked a pretty good
4 question on -- with regards, how do you -- how do you get this
5 situation turned around. Obviously, it's within your purview
6 to turn it around. The only answer I can come up with,
7 unfortunately, is that we have to stop wagering on California
8 horse racing.

9 EXECUTIVE DIRECTOR BREED: Time.

10 MR. JAMGOTCHIAN: Thank you. We have to stop
11 wagering --

12 CHAIR BRACKPOOL: Thank you.

13 MR. JAMGOTCHIAN: -- on California horse racing until
14 you rescind the takeout on this.

15 CHAIR BRACKPOOL: Next speaker --

16 MR. JAMGOTCHIAN: Thank you.

17 CHAIR BRACKPOOL: -- Dave Elliott, Cal Expo

18 MR. ELLIOTT: Dave Elliott from Cal Expo. Last month
19 I was in front of this Board asking for the Board's assistance
20 and help to maybe gently nudge. I'm not here to officially
21 oppose that TVG license that. I asked this Board if they would
22 gently nudge TVG into perhaps opening up their door so that
23 they could perhaps maybe take a couple of our races late at
24 night when there's nothing else in the air, with the exception
25 of Cal Expo Harness. We go very, very late. Commissioner

1 Choper and Commissioner Rosenberg, they asked Mr. Hindman if
2 perhaps maybe the door would be opened and we can negotiate.
3 No negotiation has -- has taken place.

4 I'm speaking here today because of this letter
5 addressed to Jackie on January 10th that I never received a
6 copy of. And I just -- I couldn't let this go by without at
7 least addressing it and -- and addressing the truths and
8 untruths of the this letter. And I -- I promise I'll stay
9 within my three minutes.

10 Number one, Mr. Hindman states that Cal Expo has
11 elected not to enter into such an agreement with TVG where they
12 would be compensated for our signal being on their network.
13 We've never been asked. I've asked Mr. Cunningham, Mr. White,
14 Mr. Alevado (phonetic), Mr. Burn who's in the audience here
15 today, they've all been very cordial, very nice, very
16 gentlemanly. The doors always been shut. Number one.

17 Number two, Mr. Hindman uses in his letter this
18 promotion that we're doing with TwinSpires as the reason that
19 we're not -- that they're not -- they were concerned that we
20 were doing this promotion with TwinSpires, that his players
21 somehow would have to pay the takeout and others would not.
22 It's -- it's -- this is a prize. It's a bonus program. TVG
23 has every opportunity in the world to give a prize to their
24 customers on winning wagers anytime they want. They can give
25 back their \$.25 per bet as a rebate if they want, if they -- if

1 they choose to do that. This prize program that we're doing
2 comes out of our pocket and TwinSpires pockets. We're paying
3 for it. It's effectively a zero percent takeout but it's a 15
4 percent takeout, of which the TVG customers get the benefit of.

5 COMMISSIONER CHOPER: I didn't -- we -- I didn't
6 follow that.

7 MR. ELLIOTT: The promotion that we're doing, sir,
8 that we're doing since November 27th.

9 COMMISSIONER CHOPER: Excuse me.

10 MR. ELLIOTT: Sorry.

11 COMMISSIONER CHOPER: Would you do the same promotion
12 with TVG that you've done with TwinSpires?

13 MR. ELLIOTT: We -- I can't do it now with TwinSpires
14 because the agreement I'm in the TwinSpires, I can't do that
15 promotion. But TVG can --

16 COMMISSIONER CHOPER: How long is your agreement with
17 TwinSpires?

18 MR. ELLIOTT: It goes to the end of our meet in June.

19 COMMISSIONER CHOPER: To June?

20 MR. ELLIOTT: But TVG can do any type of promotion
21 they want to give rebates back their players based on winning
22 wagers. The takeout is only paid by the guys that win. The
23 guys that lose, it -- that -- it's -- it doesn't matter.

24 COMMISSIONER CHOPER: Well, then you're --

25 CHAIR BRACKPOOL: Except the promotion has a limit of

1 \$500 on any maximum --

2 MR. ELLIOTT: It does, sir.

3 CHAIR BRACKPOOL: -- winning ticket.

4 MR. ELLIOTT: It does.

5 CHAIR BRACKPOOL: So it's not a zero takeout.

6 It's --

7 MR. ELLIOTT: It's --

8 CHAIR BRACKPOOL: -- \$500 --

9 MR. ELLIOTT: It's zero --

10 CHAIR BRACKPOOL: -- up to \$500 of your takeout back.

11 MR. ELLIOTT: Zero with an asterisk. Yes, sir.

12 COMMISSIONER HARRIS: I think the -- the real big

13 issue is that you just like to see some of the --

14 MR. ELLIOTT: Period.

15 COMMISSIONER HARRIS: -- your races on TVG --

16 MR. ELLIOTT: Late at night.

17 COMMISSIONER HARRIS: -- which I don't think anyone
18 would -- would -- I'm not clear why TVG, if they could make
19 money on them -- obviously, if they can't profit from it -- but
20 I would hope TVG would look at it as an opportunity to increase
21 revenue. But I'm not really clear why it's a problem.

22 COMMISSIONER ROSENBERG: We asked the same question
23 last time.

24 MR. ELLIOTT: And -- and I've gotten -- listen, it's
25 humbling for me to stand up here in front of this Board and --

1 and the entire industry asking for crumbs. It is very
2 humbling. However, at night two Australia signals Thursday
3 night, Friday night, we're the last one up, we're just -- and I
4 stand here today to give them another half a point hub fee if
5 they would throw up three races a night late at night. We're
6 going to negotiate.

7 CHAIR BRACKPOOL: As I said last time, David, I
8 really believe this is an issue for you and -- and -- and them.
9 I think you've made your points. I think they've made -- no,
10 no. Hold on a second. Hold on a second. I think this is
11 something that you should continue to negotiate. I think this
12 Board has said we'd like to see you guys try and work something
13 out. I saw the -- the letter that evidently you're saying you
14 didn't --

15 MR. ELLIOTT: I didn't get a copy.

16 CHAIR BRACKPOOL: -- see. I don't know how you
17 didn't get -- get a copy, but you now have a copy.

18 MR. ELLIOTT: I do.

19 CHAIR BRACKPOOL: So respond to the letter, send us a
20 copy of what your responses are in the letter and we'll look it
21 through. I don't think we're going to sit here today and
22 dictate to whichever TV company which races they're going to
23 show, irrespective, whatever. You know, by my reading of the
24 letter they're not thrilled that you signed a promotion with a
25 competitor. You're now saying when that promotion is over I'll

1 sign one with you. Let's see whether something works out and
2 see where it goes.

3 MR. ELLIOTT: The precedent has been set, sir, of
4 this Board jumping in and helping Cal Expo with TVG in March of
5 '08 when Chairman Shapiro talked to David Nathanson who was an
6 employee of TVG at the time. They were -- they -- they
7 wouldn't sign a deal with us for whatever reason. Finally this
8 Board stepped in with a gentle nudge to David Nathanson and --
9 and they took our races, and we were on television as well.

10 And regarding the promotion, regarding the promotion,
11 I mean, Del Mar, greatest race track in this country that I
12 know of, they have their own DelMarBets and OakTreeBets, they
13 have OakTreeBets and what, they're absolutely in competition
14 with TVG, unless there's a deal that I don't know about. But
15 they continue to show Del Mar races on their broadcasts. I --
16 I'm kind of -- if there's another reason -- if there's another
17 reason, I don't know what it is. I was hoping that this Board
18 could give them a gentle nudge to work some kind of small deal
19 for crumbs for us.

20 CHAIR BRACKPOOL: Thank you.

21 COMMISSIONER ROSENBERG: Mr. Chairman, I -- I just
22 think we do have an obligation here --

23 CHAIR BRACKPOOL: Please --

24 COMMISSIONER ROSENBERG: -- in this sense.

25 CHAIR BRACKPOOL: -- David, wait, in case

1 Commissioner Rosenberg has a question for you.

2 COMMISSIONER ROSENBERG: We have an obligation in
3 this sense, TVG happens to have a television -- you know, there
4 are only two people broadcasting races. They have an
5 obligation in my opinion to promote horse racing. And here's a
6 case of they're taking an Australian signal and refusing to
7 take a local signal from California. I don't get it. How much
8 could it possibly cost you to broadcast two races a night from
9 Cal Expo?

10 MR. HINDMAN: I don't know the answer of how much
11 that would cost us to broadcast two races a night from Cal
12 Expo. You know, I -- I can tell you, and -- and as I began
13 speaking today, we -- we show 24,000 races a year. And by far,
14 more of those races are from California than from anywhere
15 else. We invest millions of dollars in televising California
16 racing, and we will continue to do so in -- in -- in the
17 future.

18 You know, as it relates to -- to Cal Expo, you know,
19 I sat here last time and -- and -- and understood the
20 criticism. And -- and we will try to work with Mr. Elliott,
21 and we will try to get the races on the air. We've been very
22 straightforward, and hopefully the letter explained what our
23 concern was. So we -- we -- we were asked to provide a letter
24 and we did. And -- and so we will continue to -- to work with
25 that.

1 But, you know, I -- I sat here and -- and -- and took
2 the criticism, while it was also discussed that our competitor
3 never showed a single race from there, isn't even on the air at
4 that time of night. So you know, I -- I think that we all --
5 we all have the right to make those choices.

6 And -- and but, again, as I said in the letter, we
7 are fully supportive of California racing. And -- and we will
8 sit down with Mr. Elliott and -- and try to get some of his
9 races on the air and -- and do so as expeditiously as possible.

10 MR. ELLIOTT: And the Board needs to know that 60
11 percent of TVG's business is California residents, as well,
12 so -- but hence the reason they show a lot of California
13 product, with the exception of Cal Expo.

14 VICE CHAIR ISRAEL: Well, true. But, John, you show
15 more California racing than New York racing?

16 MR. HINDMAN: Yes, we do. Absolutely.

17 VICE CHAIR ISRAEL: Because of Los Al?

18 MR. HINDMAN: And -- and the fairs, as well.

19 VICE CHAIR ISRAEL: Oh. Okay.

20 MR. ELLIOTT: There's -- there's two simultaneous
21 thoroughbred tracks going on in California year round. There's
22 one in New York.

23 VICE CHAIR ISRAEL: Yeah.

24 MR. ELLIOTT: They aren't allowed to show --

25 VICE CHAIR ISRAEL: They don't show Santa Anita or

1 Golden Gate.

2 CHAIR BRACKPOOL: They don't show Santa Anita or
3 Golden Gate.

4 VICE CHAIR ISRAEL: Or Golden Gate.

5 CHAIR BRACKPOOL: Right.

6 VICE CHAIR ISRAEL: So that's why I was --

7 COMMISSIONER CHOPER: Yeah.

8 CHAIR BRACKPOOL: That's he was asking the question.

9 VICE CHAIR ISRAEL: I was asking the question because
10 the -- the thoroughbreds are only showing Hollywood and --
11 and -- and Del Mar and Oak Tree.

12 MR. HINDMAN: And Oak Tree and Fairplex.

13 COMMISSIONER HARRIS: Well, we do need to keep in
14 mind that you do commingle. I mean, you can bet Cal Expo
15 wanted this on TVG.

16 MR. ELLIOTT: Right.

17 COMMISSIONER HARRIS: So you're taking the wagers.
18 And I think the frustration is we'd just like to see more
19 California racing on TV in general.

20 VICE CHAIR ISRAEL: Look, they're -- they're just
21 talking about the television signal now.

22 COMMISSIONER CHOPER: Yeah.

23 VICE CHAIR ISRAEL: The truth is, John, I'm -- I work
24 in television, as you know --

25 MR. HINDMAN: Yeah.

1 VICE CHAIR ISRAEL: -- the cost is minimal because
2 you already have a studio up and operating. All you're doing
3 is taking a drop from the satellite of -- of the race itself.

4 MR. HINDMAN: Sure.

5 VICE CHAIR ISRAEL: I mean, it doesn't make sense why
6 you're not doing it.

7 COMMISSIONER CHOPER: You know, this -- this seems to
8 have come down to a question. The phrase "blinking" was used
9 before. If you're going to blink, do it expeditiously. Now
10 you said expeditiously. There's nothing wrong with a blink
11 once in a while; right? Thank you.

12 COMMISSIONER HARRIS: I think we need to keep in
13 mind, too, that the harness industry in California is in dire
14 straights. And it's -- it's not like they're going great and
15 it wouldn't really matter. But anything -- any life raft we
16 can show them is -- is helpful.

17 MR. ELLIOTT: Absolutely. And Commissioner Choper
18 mentioned on another agenda item about the bottom line, and
19 we're -- we're at the bottom line. We're -- we're very close
20 right now. We have a \$600,000 overpayment right now that we're
21 trying to whittle down as well.

22 COMMISSIONER MOSS: Well, and also, as the board
23 we're obligated to promote California racing.

24 VICE CHAIR ISRAEL: Right.

25 COMMISSIONER MOSS: I think then there should be some

1 sort of requirement in all of these ADW contracts. And I think
2 these ADW contracts should be all under the same rate, so
3 there's no real negotiating every time we get into this
4 situation.

5 The other thing I should say is even though we know
6 that these ADWs are taking in let's say some business from the
7 race tracks, they are giving an opportunity for betters that
8 can't travel. And they're -- they're establishing let's say
9 greater numbers because there's more people who want to stay in
10 their homes and bet. So they do provide a great service to our
11 industry as well. I mean, but there's -- there's --

12 CHAIR BRACKPOOL: And they are all paying the same
13 rate under this agreement.

14 COMMISSIONER MOSS: And they're -- as long as they're
15 all paying the same rate then that's fine, you know? But there
16 should be requirements that have California first, because
17 that's our charter.

18 CHAIR BRACKPOOL: Well, and then that goes to -- that
19 goes to the -- to the point that if -- if this Board wishes to
20 mandate that every track in California has a level of
21 television visibility, then there has to -- there has to be an
22 arrangement that works that out and that's -- so that HRTV and
23 TVG have to work something out to where they've got some mutual
24 understanding that they're both -- they both --

25 COMMISSIONER MOSS: That some --

1 CHAIR BRACKPOOL: -- have that responsibility.

2 COMMISSIONER MOSS: Create some pool --

3 CHAIR BRACKPOOL: Right.

4 COMMISSIONER MOSS: -- that this -- you know, they --
5 they both don't have to carry or it's not mandated that they
6 both carry these races, but -- but they should be exposed, you
7 know?

8 COMMISSIONER HARRIS: Yeah. I hate to see us
9 regulate it, but I'm hopeful they would just do it. Because, I
10 mean, we can't -- you know, we could go to Fox and say --

11 CHAIR BRACKPOOL: Well, that was what I was trying --

12 COMMISSIONER HARRIS: -- all right, why don't you --

13 CHAIR BRACKPOOL: -- to say to David.

14 COMMISSIONER HARRIS: -- put us on --

15 CHAIR BRACKPOOL: I think at this stage we've made
16 this reasonably clear. I don't know why you didn't get the
17 letter. That's certainly disturbing. But you have the letter.
18 He has it there. And I absolutely know that you guys in the
19 next two days are going to talk. I just -- I just feel it.

20 COMMISSIONER ROSENBERG: So moved.

21 MR. ELLIOTT: I hope so. Thank you.

22 CHAIR BRACKPOOL: Okay. The next speaker I have on
23 this issue is Richard Castro.

24 MR. CASTRO: Greetings. My name is Richard Castro.
25 I represent Local 280. I just wanted to make sure you knew

1 that we had an agreement with TVG.

2 CHAIR BRACKPOOL: Thank you, Richard.

3 MR. CASTRO: I also want to make sure that you got
4 our lawyer's January 18th, 2000 email, as well.

5 CHAIR BRACKPOOL: I did.

6 MR. CASTRO: All right.

7 CHAIR BRACKPOOL: I did. Thank you.

8 MR. CASTRO: I'm done. Thank you.

9 CHAIR BRACKPOOL: You're done on this issue. Yeah.
10 Thank you. Okay.

11 So with that and going back and referring to -- oh,
12 do we have any other -- or, no, the speakers. Do we have any
13 other commissioners comments?

14 Going back to I think the discussion we had in
15 December and today, I think a lot of the points that have been
16 raised about ADWs are valid. I don't think that they are the --
17 the evil empire because it takes me an hour from my house to
18 get to Santa Anita, so I can't come to the track every single
19 day and make a bet on one race or whatever, so I don't think
20 they are. I think it's the way of the future. I think it's
21 the way the rest of the world operates as -- as well. So
22 forcing people just to go to a brick and mortar facility I
23 don't think is -- is a business plan that has a lot of logic.

24 Having said that, these things were introduced and
25 authorized in a fairly late night bargaining session some ten

1 years ago now. I don't think that means they all have to stay
2 the same.

3 So for me I would make a motion that now that all of
4 these agreements for this one are in place, that we authorize
5 this through the end of 2011, not a two-year but a one-year,
6 and that at some stage during this year we have, whether it's
7 at one of these meetings or whether it's one of our committee
8 meetings, we start to have a really in-depth discussion about
9 the necessary restructuring issues that -- that this Board and
10 other participants may feel are -- are necessary.

11 COMMISSIONER CHOPER: Second.

12 CHAIR BRACKPOOL: And I think that by doing that we
13 protect the purse money going to horsemen. We don't throw the
14 baby out with the bath water immediately and take precipitous
15 action.

16 So I would make the motion. I have a second from
17 Commissioner Choper for an extension through December 31st,
18 2011 with all of the agreements, Jackie, that you are
19 confirming to us we have --

20 MS. WAGNER: Yes. They have submitted.

21 CHAIR BRACKPOOL: -- which we now have, the hub, the
22 simulcast, the horsemen's agreement, etcetera --

23 MS. WAGNER: Yes.

24 CHAIR BRACKPOOL: -- so we know what is being paid.

25 COMMISSIONER MOSS: And all of them are applying to the

1 100 percent issue on the takeout situation.

2 CHAIR BRACKPOOL: In California. And all of them
3 have agreed to the identical rate with 100 percent of the money
4 going to purses on any wagers that come in from outside of
5 California.

6 COMMISSIONER MOSS: Okay.

7 CHAIR BRACKPOOL: As agreed by -- I mean, that's all
8 negotiated by the TOC, not by this board.

9 COMMISSIONER MOSS: Right.

10 CHAIR BRACKPOOL: So it's --

11 COMMISSIONER HARRIS: It's -- it's clear that TOC is
12 signing off and everything.

13 CHAIR BRACKPOOL: Exactly. Exactly. This is not
14 this Board going top down.

15 COMMISSIONER HARRIS: Right.

16 CHAIR BRACKPOOL: I mean, this is agreements that
17 have been sent to us.

18 COMMISSIONER HARRIS: That have been reported to us.

19 CHAIR BRACKPOOL: Right. So with that, all in favor?

20 ALL MEMBERS: Aye.

21 CHAIR BRACKPOOL: Approved.

22 MR. HINDMAN: Thank you very much.

23 CHAIR BRACKPOOL: Thank you. The next item on the
24 agenda is item 12 which is the application for Churchill, and
25 item 13 which is the application for YouBet. So I'm certainly

1 hoping these two get heard at the same -- the same time. So
2 I'll quickly read the -- the item.

3 Item 12, discussion and action by the Board on the
4 application for approval to conduct advance deposit wagering of
5 Churchill Downs Technology Initiatives Company doing business
6 as Twinspires.com for an out-of-state multi-jurisdictional
7 wagering hub for a period of up to but not exceeding two years.

8 Item 13 is identical, except the application is
9 YouBet.com, Inc., for a California multi-jurisdictional.

10 MS. WAGNER: Jackie Wagner, CHRB staff. For both of
11 these ADW providers there -- there are a number of outstanding
12 items that include the contracts. The -- we received the
13 horsemen's approval for the two race meets that are -- are
14 being conducted presently. We do not have a hub agreement. I
15 understand there -- there is a hub agreement in place, we just
16 have not received that. We do not have a labor agreement. And
17 for these two providers we have one licensing issue of an
18 employee that needs to be completed, and that's it. And the
19 representative is here.

20 VICE CHAIR ISRAEL: We have a hub agreement?

21 MS. WAGNER: We do.

22 MR. BLACKWELL: We do have a hub agreement. And
23 pursuant to the direction --

24 EXECUTIVE DIRECTOR BREED: Give your name please.

25 MR. BLACKWELL: Excuse me. Brad Blackwell on behalf

1 of TwinSpires. We do have a hub agreement. Pursuant to the
2 direction of this Board that hub agreement was entered into
3 prior to January the 1st. I've submitted a copy of that
4 agreement, and I apologize if there was any miscommunication.

5 CHAIR BRACKPOOL: Well, why wasn't a copy submitted
6 to our staff and notice given to the TOC in the -- the
7 appropriate manner?

8 MR. BLACKWELL: And one of the things, you know, I
9 would, you know, potentially ask our track partner in that
10 agreement to maybe speak on this issue as well. But I was
11 prepared to provide a copy right away and was, you know, told
12 to submit it in due course. And so I just wanted to make sure
13 that we weren't inferring with any other issues in California.
14 So --

15 CHAIR BRACKPOOL: Well, last time you were --

16 MR. BLACKWELL: -- certainly we --

17 CHAIR BRACKPOOL: Last time you were here you quoted
18 at length and with passion from the statute as to why you
19 didn't have to have a labor agreement because someone didn't
20 send you a letter on the specific day. But now you're going
21 the other way.

22 MR. BLACKWELL: Well, no. And actually -- and, you
23 know, I want to clarify that. Because, you know, I did state
24 that we have no issue in entering into a labor agreement. We
25 have had a labor agreement for the last three years. And it

1 was my intention not to have this issue interfere with the
2 license process, and not to get the CHRБ caught up in that
3 process. Because I think it was two-and-a-half or three years
4 ago there was a lawsuit, if -- if not just threatened, actually
5 filed against the CHRБ regarding the union issue.

6 And so as I stated on the record then, and I
7 apologize if -- if -- if I did not come across clear, but we
8 have no problem entering into a labor agreement. As I
9 mentioned, we've had one for the last three years. We stand
10 ready and willing. As I mentioned at our last meeting, I've
11 had numerous conversations with numerous union representatives.
12 Our problem is not with the agreement. We're willing to extend
13 the agreement we've had the last three years, or enter into an
14 agreement that specifically addresses the statutory
15 requirements.

16 COMMISSIONER CHOPER: Does your agreement agree to
17 accept -- to employees -- it applies to those classification of
18 employees who accept and process wagers for which a California
19 ADW license is required, whether the facility is located within
20 our outside of California?

21 MR. BLACKWELL: Yes, it does.

22 COMMISSIONER CHOPER: It does?

23 MR. BLACKWELL: Yes.

24 COMMISSIONER CHOPER: So my difficulty -- you got the
25 letter from -- from Mr. Rosenthal; right?

1 MR. BLACKWELL: I did.

2 COMMISSIONER CHOPER: Would you talk a little bit to
3 that?

4 MR. BLACKWELL: Sure. I think the letter that you
5 mentioned I received via email. And it was essentially
6 stating --

7 COMMISSIONER CHOPER: Yeah.

8 MR. BLACKWELL: -- that the union --

9 COMMISSIONER CHOPER: And U.S. Mail, it says. It's
10 dated January the 18th.

11 MR. BLACKWELL: Right. I think I received --

12 COMMISSIONER CHOPER: All right.

13 MR. BLACKWELL: -- a copy via email. But, yes, that
14 letter, if I recall it correctly, stated that the union had
15 entered into an agreement with TVG, which essentially extended
16 their agreement, which is to my knowledge different than the
17 agreement that the other three California licensed ADW
18 providers had entered into. And it also introduced a new
19 concept of requiring the ADW to agree not to subcontract jobs
20 unless they had the approval of the union.

21 And as I explained to the union representatives now
22 and as we discussed two-and-a-half or three years ago, when
23 TwinSpires we contracted with a third party in Oregon to
24 basically provide the telephone service for accepting wagers.
25 That's how our business was set up. It was set up that way

1 before we were even -- had a California license. And so our
2 business is ran differently than TVG. So a particular issue
3 which, according to my reading of the statute, Commissioner
4 Choper, this type of issue is outside --

5 COMMISSIONER CHOPER: That was the statute --

6 MR. BLACKWELL: -- the scope.

7 COMMISSIONER CHOPER: -- that I was reading you;
8 right?

9 MR. BLACKWELL: Correct. Correct. And so the
10 issue --

11 COMMISSIONER CHOPER: So if the agreement has to --

12 MR. BLONIEN: -- that they mentioned it.

13 COMMISSIONER CHOPER: Are -- are you -- do these
14 people in Oregon accept and process wagers for which a
15 California ADW license is required?

16 COMMISSIONER CHOPER: They -- they would process
17 wagers from California residents. Yes.

18 COMMISSIONER CHOPER: When do the -- and it's located
19 outside of California?

20 MR. BLACKWELL: Obviously, yes, in Oregon.

21 COMMISSIONER CHOPER: So they're covered --

22 MR. BLACKWELL: Yes.

23 COMMISSIONER CHOPER: -- by the union agreement?

24 MR. BLACKWELL: By the union agreement we had entered
25 into in which had covered us over the last three years. Yes.

1 COMMISSIONER CHOPER: It will continue to be covered?

2 MR. BLACKWELL: Yes.

3 COMMISSIONER CHOPER: Uh-huh.

4 COMMISSIONER HARRIS: Are they covered by the

5 agreement --

6 MR. BLACKWELL: So --

7 COMMISSIONER HARRIS: -- or are they actually union

8 employees, or how does that work?

9 MR. BLACKWELL: They're not union employees, but they

10 were covered under the agreement. And at the time we actually

11 had to go -- and we were in a difficult position because these

12 were not our employees, and so we could really not speak on

13 behalf of those employees. Those employees take wagers for,

14 you know, some other providers as well.

15 COMMISSIONER CHOPER: So these people were -- they

16 were subcontractors?

17 MR. BLACKWELL: Right. We were contracting with a

18 third party.

19 COMMISSIONER CHOPER: Yes.

20 MR. BLACKWELL: And these were employees of that

21 third party.

22 COMMISSIONER CHOPER: But nonetheless they meet the

23 qualifications?

24 MR. BLACKWELL: Correct.

25 COMMISSIONER CHOPER: So what's the dispute about?

1 MR. BLACKWELL: I think the dispute is, and I welcome
2 union to weigh in on this, but it was the introduction of this
3 new issue that we would agree not to subcontract jobs unless we
4 had the approval of the union.

5 And as I've just pointed out, Commissioner Choper, we
6 are already contracting with a third party. And I was very
7 clear with that with union, you know, two or three years ago
8 and so we could not agree to the --

9 COMMISSIONER CHOPER: But you're not -- but not as a
10 subcontract.

11 MR. BLACKWELL: It is a contract with the --

12 COMMISSIONER CHOPER: And you agree with that that
13 will be subject to the union contract?

14 MR. BLACKWELL: Right.

15 COMMISSIONER CHOPER: So why don't you sign the damn
16 thing?

17 MR. BLACKWELL: Well, they're --

18 COMMISSIONER CHOPER: Are you doing it -- I mean,
19 maybe I'm not clear. So --

20 MR. BLACKWELL: Right. Right. And let me -- let me
21 just, you know --

22 COMMISSIONER CHOPER: Yes.

23 MR. BLACKWELL: -- let's try to follow through this.
24 I think it would --

25 COMMISSIONER CHOPER: Yeah.

1 MR. BLACKWELL: -- you know, certainly be helpful.
2 So, one, we agree that the statute is clear in terms of what
3 should be in this agreement. And there is language, and -- and
4 I'll -- I have it in front of me, that basically says that --

5 COMMISSIONER CHOPER: Is it a contract you're reading
6 from?

7 MR. BLACKWELL: This is the statute that I'm reading
8 from.

9 COMMISSIONER CHOPER: Oh, the statute. Go ahead.

10 MR. BLACKWELL: And it says, "The agreement required
11 by subparagraph (b)," which is essentially the -- the
12 requirements that should be in this union agreement, "shall not
13 be conditioned by either party upon the other party agreeing to
14 matters outside the requirements of subparagraph (b)."

15 COMMISSIONER CHOPER: Uh-huh.

16 MR. BLACKWELL: So it essentially caps what's in this
17 agreement.

18 So the introduction of this new concept that is
19 outside the agreement we've had over the last three years, and
20 certainly outside the scope of this statute, is asking us to
21 agree not to do something that we're already doing unless the
22 union approves us to do that.

23 COMMISSIONER CHOPER: Can I ask you a simple
24 question?

25 MR. BLACKWELL: Absolutely.

1 COMMISSIONER CHOPER: Would you agree to the -- now
2 obviously if you're -- you're -- you're a company who
3 subcontract for people who look over the electrical equipment,
4 right, that you have some place, they're not subject to the
5 statute. I think -- I think -- I think the union would agree
6 with that; right?

7 MR. BLACKWELL: Right.

8 COMMISSIONER CHOPER: So why -- why -- why don't
9 you -- because it's only those who accept or process wagers.

10 MR. BLACKWELL: Right.

11 COMMISSIONER CHOPER: So would you be willing to add
12 a provision to your contract, even though it was effectively
13 covered; right? Obviously, if you signed the contract to agree
14 to the provisions of the statute, right --

15 MR. BLACKWELL: Right.

16 COMMISSIONER CHOPER: -- and you didn't cover these
17 people who were accepting and processing wagers in Oregon you'd
18 be in breach of the contract, but you're not?

19 MR. BLACKWELL: Right. But -- but the contract does
20 cover those employees.

21 COMMISSIONER CHOPER: I mean, I understand. If you
22 didn't. I said if you didn't you'd be --

23 MR. BLACKWELL: Okay. Sure.

24 COMMISSIONER CHOPER: -- in breach. So I mean, I
25 don't -- what -- what they're concerned with is your, or

1 somebody else, not honoring that particular provision.

2 Now the bottom line, the fact of the matter is that
3 there is some real doubt under the constitution as to whether
4 that's lawful or not.

5 MR. BLACKWELL: Correct.

6 COMMISSIONER CHOPER: Right. So I don't know, maybe
7 that's stopping you in some way. But, you know, you ought to
8 be bring it back. If you think it's unconstitutional you ought
9 to try -- try to get out of it, or -- or maybe you ought to
10 persuade the union that it's not worth it to haggle over this
11 sort of this thing if you continue to abide by what the statute
12 19604(d)(B)(4) says. That's what I -- read you.

13 MR. BLACKWELL: Right.

14 COMMISSIONER CHOPER: That has to do with the
15 subcontracting, or I guess doing it yourself, taking outside
16 the state, opening an office, right, and not covered. You --
17 you know, you have -- I guess you have a shot, a decent shot at
18 finding that to be invalid, as well, if you employee outside.
19 But -- but in any event, why don't we clear this up in some
20 way.

21 MR. BLACKWELL: Oh, absolutely. We -- we certainly
22 want to clear this up and --

23 COMMISSIONER CHOPER: You want to assure them that
24 people who accept or process wagers for TwinSpires, no matter
25 where located, will be subject to the contract.

1 VICE CHAIR ISRAEL: Or YouBet. And YouBet.

2 MR. BLACKWELL: Right. And that's -- and that's --

3 COMMISSIONER CHOPER: Or for you or whatever, you
4 to --

5 MR. BLACKWELL: Right.

6 COMMISSIONER CHOPER: For the -- the companies you
7 represent.

8 MR. BLACKWELL: And that's in the agreement that
9 we're prepared to extend.

10 COMMISSIONER CHOPER: Okay.

11 MR. BLACKWELL: And as I mentioned, we're
12 certainly --

13 COMMISSIONER CHOPER: Okay.

14 MR. BLACKWELL: -- willing to enter into a new
15 contract as long as it addresses the requirements of the
16 statute. So we have no issue and have never had an issue with
17 entering into --

18 COMMISSIONER CHOPER: So all of that --

19 MR. BLACKWELL: -- that type of a contract.

20 COMMISSIONER CHOPER: -- is now on the record here;
21 right?

22 MR. BLACKWELL: Yes.

23 COMMISSIONER CHOPER: Okay. Thank you.

24 MR. BLACKWELL: Thank you.

25 CHAIR BRACKPOOL: Before we -- I haven't finished on

1 the -- the other agreements yet. But while we're on this one
2 and it's fresh in our mind, I have a speaker card from Richard
3 Castro. So now will be the time for this conversation.

4 MR. BLACKWELL: Great.

5 MR. CASTRO: My name is Richard Castro representing
6 Pari-Mutuel Employees Guild, Local 280. He answered correctly
7 about those workers that were in Oregon. We understood those
8 workers were in a union. And when this legislation was drafted
9 we agreed that we would not interfere if the bargaining unit
10 was with another union. He told me today that these people are
11 not in a union. And -- and I guess I made the mistake that --
12 our group made the mistake that we thought they were union
13 workers.

14 But that's not the issue of why we want him to add to
15 the agreement, the parties further agree that this agreement is
16 applicable to all employees of -- and it would be TwinSpires --
17 that accept and process wagers in California, and that
18 TwinSpires will not subcontract the services of any such
19 employee to a third party entity without the written consent of
20 Local 280.

21 This was really brought on by dot com, Oak Tree, dot
22 com, Del Mar. This is what really triggered this. We felt
23 that when you licensed the applications of -- of Del Mar and
24 Oak Tree with the provision you submarined us. And -- and we
25 feel that you violated the law. We didn't know exactly how we

1 were going to handle it.

2 COMMISSIONER CHOPER: Would you --

3 MR. CASTRO: He is. At one time we did --

4 COMMISSIONER CHOPER: Would you repeat. You're
5 talking not about the TwinSpires now?

6 MR. CASTRO: Yeah. I'm -- yeah. And we don't -- and
7 we want to cut that off. That's why we have asked TVG to sign
8 the agreement with that language, and they have. We've asked
9 TwinSpires to do the same thing. We've had a good working
10 relationship with them. We have not interfered with those
11 other employees.

12 COMMISSIONER CHOPER: Because they're not -- because
13 they're outside the state.

14 MR. CASTRO: Well, I'm not saying that it's going to
15 be that way for ever and ever. It's my understanding when we
16 negotiated -- when I was involved in the negotiations of this
17 statute that anywhere the California signal went, we could go
18 into those jurisdictions, card check the people and see if we
19 could get them in the union. And then we ran into other
20 problems, which I'm not going to say here.

21 VICE CHAIR ISRAEL: Richard, are you speaking about
22 Churchill Downs now, or are you speaking about --

23 MR. CASTRO: I'm speaking about Churchill Downs.
24 We're asking them to sign. The one sentence that -- that he
25 has a problem with and that he started to talk about was, and

1 that TVG had no problem -- well, they did have a problem but we
2 convinced them to sign it, The parties further agreement that
3 this agreement is applicable to all employees of TVG that -- or
4 to TwinSpires that accept and process wagers in California, and
5 that TwinSpires will not subcontract the services of any such
6 employee to a third party entity without the prior written
7 consent --

8 CHAIR BRACKPOOL: And without skipping ahead --

9 MR. CASTRO: -- of Local 280.

10 CHAIR BRACKPOOL: -- my understanding is that that's
11 the -- the issue you have with Churchill is the same problem
12 you have with XpressBet.

13 MR. CASTRO: They -- yeah.

14 CHAIR BRACKPOOL: That they won't sign this like
15 that.

16 MR. CASTRO: They won't -- they won't sign this
17 either. And the reason this all came about was because of
18 Oaktree.com and -- and --

19 VICE CHAIR ISRAEL: But -- but as it relates to
20 TwinSpires and YouBet who are being considered as an entity
21 here really, for all intents and purposes, you -- they're --
22 they're -- you're concern is entirely hypothetical? There is
23 no activity now, is there?

24 MR. CASTRO: I'm not aware of any activity now.

25 VICE CHAIR ISRAEL: Right.

1 MR. CASTRO: But when we get to the XpressBet
2 application I think we've got --

3 VICE CHAIR ISRAEL: We're -- we're not -- we're --
4 we're focused on the two entities that are owned and
5 operated --

6 MR. CASTRO: I --

7 VICE CHAIR ISRAEL: -- by Churchill downs.

8 MR. CASTRO: Then maybe I'm not aware.

9 COMMISSIONER CHOPER: Richard, can I make --

10 MR. CASTRO: He has to testify to that.

11 COMMISSIONER CHOPER: On what we've heard it seems to
12 me that if they subcontract employees, the employees who accept
13 or who process wagers in California, right, more or less agree
14 that they're going to cover them and that the contract that
15 they've signed which incorporates this statute covers it and
16 they're in breach of contract. So you really -- I guess I'm --
17 I'm not clear as to why you don't think you have that situation
18 covered.

19 MR. CASTRO: But when you --

20 COMMISSIONER CHOPER: Obviously, all of a sudden if
21 someone -- if -- if -- if someone comes in and takes all the
22 employees they have in their whole operation, that it's
23 accepting wagers, right, and they -- they say, well, we're
24 going to do it, if they contract with an independence
25 subsidiary -- not a subsidiary, an independent company, right,

1 they say, well, we're not doing it anymore, they're doing it.
2 Well, I mean, I would say most anyone reading the contract
3 would say, well, you can't do that. You can't avoid the
4 contract that way and say, oh, we're the only ones who agreed
5 to. Now they're not working for us anymore. It's an
6 independent company that's doing it. They've subcontracted it
7 out; right? They're covered. That's what he said.

8 MR. CASTRO: We -- we tell --

9 COMMISSIONER CHOPER: Is that right? Is that? Is
10 that?

11 MR. BLACKWELL: Yes.

12 COMMISSIONER CHOPER: That's what --

13 CHAIR BRACKPOOL: He said it on the record.

14 MR. CASTRO: We -- we felt that our collective
15 bargaining agreement, any agreement that we had -- we have with
16 the ADW companies would never allow for what happened with
17 DelMar.com and OakTree.com.

18 COMMISSIONER CHOPER: Yeah. Would you explain that?
19 Maybe I'm -- I would like to be clear on that.

20 VICE CHAIR ISRAEL: Wait. Isn't it better -- can't
21 we get through Churchill first and come back to --

22 COMMISSIONER HARRIS: Let's get through Churchill
23 first.

24 VICE CHAIR ISRAEL: -- XpressBet before --

25 MR. CASTRO: Okay. I'm just saying how the

1 language -- why we're doing it.

2 CHAIR BRACKPOOL: But we're going to have the same
3 issue with Churchill. So I have -- I have a suggestion on how
4 we -- how we do that. But --

5 COMMISSIONER HARRIS: Well, one issue I think is that
6 I'm not clear, in Oregon do you have a pari-mutuel clerks union
7 in Oregon for the regular race tracks --

8 MR. CASTRO: We have not --

9 COMMISSIONER HARRIS: -- up there?

10 MR. CASTRO: We have not card checked anybody outside
11 of the state of California --

12 COMMISSIONER HARRIS: As part --

13 MR. CASTRO: -- as yet. As yet.

14 COMMISSIONER HARRIS: Yeah. Part of the issue here
15 is that horse racing in general is not covered by the National
16 Labor Relations Act, so there's really no mechanism to organize
17 employees. I don't know how they --

18 MR. CASTRO: This -- this -- this agreement does
19 that. It's a card check agreement. I can come up to you --
20 let's use Harris Farms. Forget about racing. I can go to
21 Harris farms with this --

22 COMMISSIONER CHOPER: Don't do it.

23 MR. CASTRO: -- if this --

24 COMMISSIONER CHOPER: Don't -- don't go there.

25 MR. CASTRO: He knows I love to eat there.

1 COMMISSIONER HARRIS: We're -- we're engaged with
2 unions. But you've got to -- you're doing it under a
3 structure.

4 MR. CASTRO: That's correct.

5 COMMISSIONER HARRIS: There's really no structure
6 that you can do it under the Agricultural Labor Relations Act
7 or the national one at -- at a feed plant or something like
8 that. But you couldn't just go into Oregon, and -- and there's
9 no real agency that's organizing these workers.

10 MR. CASTRO: No. We can -- we can -- the card check
11 agreement allows us to go to Oregon. And the agreement that we
12 have with the ADW companies, with the protection of the
13 statute, is that they remain neutral. And all these companies,
14 ADW companies, have -- have made it very clear to us the door
15 is open. The door is open. There -- there are other things
16 going on that I'm not discussing here.

17 But -- so the card check agreement really does help
18 us. It's not like if I go to a place and they see that I am a
19 union organizer they kick me off the property. That's usually
20 what happens in organizing drives. This is not the case with
21 this card check agreement. This was a hard, flat issue in the
22 legislature for us to be able to get this.

23 COMMISSIONER HARRIS: I can see it covers California.
24 It's just these out-of-state --

25 MR. CASTRO: No. It goes where the signal goes. You

1 guys license somebody and the signal goes here and the signal
2 goes there. It gives us the right to go as long as the
3 employees there are nonunion. If there's another union in
4 place we've agreed that we won't interfere with that union
5 bargaining unit.

6 CHAIR BRACKPOOL: You know --

7 MR. CASTRO: We also have the same agreement through
8 SEIU.

9 CHAIR BRACKPOOL: You know, here's what -- I have a
10 suggestion as to how to resolve --

11 MR. CASTRO: I'm open.

12 CHAIR BRACKPOOL: -- what we do today. Yeah. I've
13 got to go through two other issues first, so take a seat for a
14 moment please, Richard.

15 The -- so going back, leaving this labor thing to one
16 side because this Board is not labor lawyers, although Jesse is
17 doing a fine impersonation of being one, but -- so I have a
18 suggestion of how we overcome this conditionally.

19 The hub agreement, right, supposedly we now have it?

20 MS. WAGNER: He just gave it to me. I have it.

21 CHAIR BRACKPOOL: Okay. Why was it not delivered to
22 the TOC pursuant to the statute? That -- that's -- that's my
23 big question.

24 MR. BLACKWELL: Right. And -- and I would welcome
25 our track partner on that. Because, you know, it's obviously

1 an agreement that we have with them. And -- and I had inquired
2 when I signed it if we should go ahead and forward it to the --
3 to someone at TOC.

4 CHAIR BRACKPOOL: Well, is there somebody from
5 Hollywood Park here? Jack, can you respond to that? Because
6 you were just thrown under a bus moving at great speed.

7 MR. BLACKWELL: No. I'm certainly not throwing him
8 under a bus.

9 MR. LIEBAU: Yes. I think I was thrown under the
10 bus.

11 CHAIR BRACKPOOL: Yeah. You're looking rather flat
12 at the moment.

13 MR. LIEBAU: I think that first of all let me say
14 that Hollywood gave a one-year hub agreement to TwinSpires
15 in -- so that negotiations could continue. And those
16 negotiations, TwinSpires and Mr. Daruty, as I recall, were
17 trying to get a two-year deal and they wanted a two-year hub
18 agreement.

19 It was my understanding that TwinSpires would deliver
20 the agreement to -- to TOC. I will say that Mr. Blackwell and
21 Mr. Troutman (phonetic) really aren't too happy with the
22 wording of the hub agreement, and we're told in no uncertain
23 terms that it was take it or leave it. And I thought that they
24 were going to go ahead and give it to TOC. I did not think
25 that that was up to Hollywood Park.

1 CHAIR BRACKPOOL: Well, here's -- here's the --
2 here's the issue. We don't ask for agreements to be delivered,
3 irrespective of what may be in the agreement. We asked for an
4 agreement to be delivered, and then staff has to look at the
5 agreement and tell us whether it complies with the law,
6 etcetera.

7 MR. LIEBAU: Exactly. But I mean, this --

8 CHAIR BRACKPOOL: So that's the purpose of --

9 MR. LIEBAU: -- this --

10 CHAIR BRACKPOOL: -- noticed provisions and delivery
11 provisions.

12 MR. LIEBAU: Right. I mean, it's -- it's -- it was
13 TwinSpires application. And in that application and under the
14 law they have to have a hub agreement. So I would assume that
15 they would deliver the hub agreement. And that wasn't -- it
16 wasn't a problem that Hollywood Park has done something wrong
17 by not delivering the hub agreement.

18 CHAIR BRACKPOOL: Well, I'm being told you told them
19 not to deliver the hub agreement.

20 MR. LIEBAU: I -- that is not the case. Sorry.

21 COMMISSIONER HARRIS: I thought the rate of the hub
22 agreement was mutually agreed to be five percent by everybody.

23 MR. LIEBAU: The hub agreement only says that the hub
24 fee is five percent. That means exactly how much the ADW
25 provider gets for processing a bet in California no matter what

1 it is. And if you're --

2 CHAIR BRACKPOOL: It's a standard agreement.

3 MR. LIEBAU: -- like --

4 CHAIR BRACKPOOL: But it's like being issued a permit
5 or a license is really what it is. But I haven't seen it and
6 so we have to make sure we're good. The TOC hasn't seen it and
7 they have to make sure they're good.

8 So here is what I would suggest to resolve this
9 situation: I would move a similar motion to that that we moved
10 for TVG which is an extension of the ADW license through
11 December of -- December 31st, 2011 subject, however, to three
12 items, the first being that the hub agreement is reviewed by
13 our staff and by TOC and found to be acceptable. If it's not
14 found acceptable then the license would -- to -- to do business
15 would be revoked until we work through the issue. It's
16 supposedly a standardized agreement. The second issue along
17 the same lines would be -- and these documents would be --
18 well, they have been delivered immediately, so we would have,
19 you know, ten days to reject them or review and reject.

20 The second one will be with the simulcast agreement,
21 however it's defined as an agreement, the agreement that you
22 have with Monarch, I would imagine.

23 MR. BLACKWELL: And I -- and if I may, I think that
24 agreement, and Mr. Daruty can weigh in on this, it's not only a
25 simulcast agreement but could also serve as a hub agreement.

1 So I think that we would be covered.

2 CHAIR BRACKPOOL: Okay. All right. So both of those
3 have been delivered. And if -- you know, we'll let you know
4 within ten days whether they're acceptable, and especially the
5 TOC has to look at the agreement.

6 As far as the labor agreement, Commissioner Choper, I
7 was thinking something along these lines, because this is
8 certainly a difficult -- a difficult issue. I think this Board
9 has made it pretty clear that, you know, we'd like to support
10 these jobs and support these jobs being in California. But I'm
11 also not going to sit here and dictate provisions to you that
12 may or may not be, you know, legal and -- and may or may not be
13 fair. So what I was going to suggest is that we give them the
14 agreement. It is conditional upon -- by, you know, some date,
15 let's call it --

16 VICE CHAIR ISRAEL: Tuesday the 25th.

17 CHAIR BRACKPOOL: Well, no, the labor agreement.

18 VICE CHAIR ISRAEL: Oh, the labor agreement.

19 CHAIR BRACKPOOL: You know, we -- 30 days from --
20 from now we are told whether or not -- or 21 days, I guess,
21 would make sense, before the Board meeting maybe, as to whether
22 they've reached agreement with the labor union or not. And if
23 they haven't then the Board has to hear the issue and make a
24 ruling on the labor issue. And -- and I think that's really
25 the only way that we can do this and -- and move forward.

1 COMMISSIONER ROSENBERG: It will be helpful to have
2 counsel for the labor union here to explain some of this in
3 more detail.

4 CHAIR BRACKPOOL: Exactly. So I don't know whether
5 this is realistic to have done for the February meeting, or
6 whether we license it and this is -- if there's a dispute we're
7 told in time for the March meeting so that we then have, you
8 know, labor counsel. It's probably more realistic, because I
9 think Commissioner Rosenberg is right.

10 So if everybody understood that motion it's the --

11 EXECUTIVE DIRECTOR BREED: Is it March of February?

12 MS. WAGNER: March.

13 CHAIR BRACKPOOL: March, for the Board meeting. But
14 they would have to tell us --

15 COMMISSIONER HARRIS: On the labor piece.

16 CHAIR BRACKPOOL: Just on the labor piece.

17 MS. WAGNER: They need to tell us.

18 CHAIR BRACKPOOL: All of this has to be done
19 immediately.

20 COMMISSIONER HARRIS: On the overall rate structure,
21 though, is it clear that -- that everyone is -- is --

22 CHAIR BRACKPOOL: They all have to -- they have to be
23 the same.

24 COMMISSIONER HARRIS: Everyone is the same?

25 CHAIR BRACKPOOL: They have to be the same.

1 COMMISSIONER HARRIS: So there's no one getting
2 advantage on rates?

3 CHAIR BRACKPOOL: Exactly. Exactly.

4 COMMISSIONER HARRIS: I think, isn't there some part
5 of those that deal with telecasting where -- where if -- if
6 you're HRTV or TVG you're getting some premium if you're
7 actually showing that race?

8 CHAIR BRACKPOOL: I think that's done as a separate
9 issue, isn't it?

10 COMMISSIONER HARRIS: Separate agreement?

11 CHAIR BRACKPOOL: It's a separate agreement because
12 you are the TV provider, and so you get paid as the TV
13 provider --

14 COMMISSIONER HARRIS: And that's not part --

15 CHAIR BRACKPOOL: -- not the ADW.

16 COMMISSIONER HARRIS: That's not part of that -- that
17 agreement?

18 CHAIR BRACKPOOL: As far as I understand that's not
19 the case. Let's have Scott Daruty just address that.

20 COMMISSIONER HARRIS: Can you clarify that.

21 COMMISSIONER CHOPER: Also, are we covering a YouBet
22 as part of this motion?

23 CHAIR BRACKPOOL: I'm just going to ask him. Do you
24 really need the YouBet one?

25 MR. DARUTY: No. And the last meeting we had

1 requested, since ADW licenses were being extended for a month,
2 just in abundance of caution as we were working through
3 migration, that --

4 CHAIR BRACKPOOL: So we can withdraw --

5 MR. DARUTY: -- that YouBet application --

6 CHAIR BRACKPOOL: -- that application now?

7 MR. DARUTY: Correct. There was an extension to --

8 CHAIR BRACKPOOL: Yeah. Right.

9 MR. DARUTY: -- to get us through a period of time.

10 So I appreciate that comment.

11 CHAIR BRACKPOOL: And I do have speakers. I'm just
12 trying to go through the motion.

13 MR. DARUTY: Thank you.

14 COMMISSIONER HARRIS: But on the rates, all these
15 rates -- and I know that there was reasons for confidentiality
16 on some of the sales to -- but it will be transparent on all
17 the California rates --

18 CHAIR BRACKPOOL: Uh-huh. Correct.

19 COMMISSIONER HARRIS: -- how much everybody gets --

20 CHAIR BRACKPOOL: Correct.

21 COMMISSIONER HARRIS: -- for what?

22 CHAIR BRACKPOOL: Correct. What was the answer to
23 John's question?

24 MS. WAGNER: I'm sorry, John.

25 CHAIR BRACKPOOL: Scott?

1 MR. DARUTY: I'm sorry. If -- if you don't mind,
2 could you repeat what it was I was supposed to be answering?

3 COMMISSIONER HARRIS: Well, I know there's some
4 concerns from Monarch that you don't want to disclose how much
5 New York pays versus Pennsylvania pays or whatever, which I
6 could argue the merits or demerits of, but -- but within
7 California to be very transparent exactly how much everyone
8 gets in an ADW wager from a Californian.

9 MR. DARUTY: That is correct. And the reason why all
10 the ADW companies know everybody else's ADW rates is because
11 we've told them all we're going to treat you all the same,
12 because to do --

13 COMMISSIONER HARRIS: Right.

14 MR. DARUTY: -- anything otherwise would be unfair.

15 COMMISSIONER HARRIS: Yeah.

16 MR. DARUTY: So when they know their rate then they
17 know the other guy's rate.

18 CHAIR BRACKPOOL: So we have the ability to confirm
19 that?

20 COMMISSIONER HARRIS: Yeah. I mean, I think that
21 will help everybody because there's a lot of misinformation
22 sometimes that floats around. I think just put everything on
23 the table and people can see what it is.

24 CHAIR BRACKPOOL: So that -- so that will be my
25 motion, that within ten days we get to reject the agreements if

1 they're not good, and that's just your risk because you were
2 late in sending them through. And by 21 days from now -- or by
3 the February Board meeting we have to be told whether you've
4 reached agreement with labor or not. If not it's agendized for
5 the March meeting, and this Board will make a decision at that
6 stage on what -- on what to do.

7 COMMISSIONER HARRIS: Is it clear that all these
8 agreements are agreed to also by the group representing the
9 horsemen?

10 CHAIR BRACKPOOL: Yes. The TOC has to have signed
11 off --

12 MS. WAGNER: They have --

13 CHAIR BRACKPOOL: -- on all of these.

14 MS. WAGNER: They have to approve that.

15 CHAIR BRACKPOOL: Absolutely.

16 COMMISSIONER ROSENBERG: I'll second the motion.

17 CHAIR BRACKPOOL: Okay. Commissioner Rosenberg
18 seconds the motion. All in favor?

19 COMMISSIONER ROSENBERG: Aye.

20 COMMISSIONER MOSS: Aye.

21 COMMISSIONER HARRIS: Aye.

22 CHAIR BRACKPOOL: Aye.

23 COMMISSIONER CHOPER: Aye.

24 COMMISSIONER DEREK: Aye.

25 VICE CHAIR ISRAEL: No.

1 CHAIR BRACKPOOL: Commissioner Israel votes no.

2 VICE CHAIR ISRAEL: And for the record, I abstained
3 on TVG's approval.

4 CHAIR BRACKPOOL: Okay. And that's a one-year. And
5 that's item number 13 is withdrawn. You're -- you're
6 withdrawing your application on item number 13?

7 MR. DARUTY: Yes, Chairman.

8 MR. MARTEN: There were some speaker cards somewhere.

9 CHAIR BRACKPOOL: You're absolutely right. I'm
10 sorry. There is one speaker card on this. Mike Wellman.

11 MR. WELLMAN: I know it's --

12 CHAIR BRACKPOOL: I apologize. I had thought you had
13 said you --

14 MR. WELLMAN: No. No. No. No. No.

15 CHAIR BRACKPOOL: -- at a minimum --

16 MR. WELLMAN: Look it. Look it.

17 CHAIR BRACKPOOL: -- your comments were the same --

18 MR. WELLMAN: I can't keep my --

19 CHAIR BRACKPOOL: -- on 11, 12, 13.

20 MR. WELLMAN: I can't keep my train of thought. But
21 I -- as things come up --

22 CHAIR BRACKPOOL: I apologize.

23 MR. WELLMAN: -- I wanted to be in position to do it.
24 And I hope you allow me to clarify a couple of things again.
25 And I want to make it clear, you know, I'm not against the

1 ADWs. And I'm not crazy about the SB 1072, if you haven't
2 noticed. But I want to make sure that what we're doing really
3 makes sense, and I'm still confused. Pardon me. And maybe
4 staff counsel could help me. And I'm trying to get the train
5 of thought where maybe I could express it where I could lead to
6 an answer that I understand.

7 I thought, and I read the transcript -- I wasn't here
8 last month -- it was pretty well stipulated that 1072, there
9 was a two and three percent additional takeout, and I thought
10 that it was 100 percent. There was no specifics about out-of-
11 state, in-state, on Mars, you know, I don't know if -- Pluto
12 isn't a planet anymore I guess. And -- and now this is all
13 getting cut up.

14 VICE CHAIR ISRAEL: No. But Uranus is.

15 MR. WELLMAN: Yeah. Excuse me. Excuse me. Anyway,
16 and -- and again, I'm relying on you. You're -- you're the
17 experts. I'm just here trying to watch out for the best
18 interests of the sport I love. I'm trying to be constructive.

19 Does SB 1072 allow for any breakage, split, any
20 dollars other than 100 percent of the takeout bet allowed to go
21 anywhere but to purses?

22 CHAIR BRACKPOOL: The -- Scott, would you like to
23 legally answer that question?

24 MR. WELLMAN: I -- I read the transcripts. I mean,
25 I've read the -- you know, I'm confused. I just --

1 CHAIR BRACKPOOL: Well, they're going to give you the
2 answer.

3 MR. WELLMAN: And I'd like to continue. All right.
4 I was just asking for staff counsel really. I didn't really
5 want him. He's selling. He's the counsel there.

6 CHAIR BRACKPOOL: Excuse me. Scott, answer the
7 question please.

8 MR. DARUTY: Scott Daruty. The -- again, 100 percent
9 of all wagers inside the State of California from whether it's
10 this facility or a SCOTWINC facility or an account wagering
11 company are going to purses. I think if you look at the
12 statute it actually -- if you look at the statute it actually
13 specifies a negotiation process that takes place between the
14 California industry and the out-of-state industry. This Board
15 can't dictate what a facility in New York or Kentucky or
16 Florida pays. So there was a specific negotiation statute
17 called out, a specific --

18 CHAIR BRACKPOOL: I wouldn't complicate it beyond
19 that.

20 MR. DARUTY: Okay.

21 CHAIR BRACKPOOL: The statute very simply says within
22 California 100 percent of the money has to be taken, has to go
23 to purses. That is all the California Legislature is
24 authorized to do. It can't go outside.

25 COMMISSIONER HARRIS: I think outside, too, that

1 Monarch did negotiate --

2 CHAIR BRACKPOOL: It did negotiate.

3 COMMISSIONER HARRIS: -- and TOC did accept that --

4 CHAIR BRACKPOOL: Did approve.

5 COMMISSIONER HARRIS: -- that negotiation.

6 CHAIR BRACKPOOL: And that's what happens in a -- one
7 second. And that's what happens --

8 MR. WELLMAN: I'm letting you talk.

9 CHAIR BRACKPOOL: -- in a -- in a democracy. The TOC
10 is the authorized negotiating representative for the horsemen.
11 The tracks got together and authorized Monarch to negotiate.
12 And as I said earlier -- well, I asked Scott Daruty earlier and
13 he answered the -- the end amount of money was higher rather
14 than lower in terms of what was projected when the bill was
15 introduced.

16 MR. WELLMAN: Well, we could have projected three
17 percent, and we know we're going to get more than that. I
18 don't think that's a fair -- you know, that's just an
19 assumption.

20 CHAIR BRACKPOOL: Okay.

21 MR. WELLMAN: Again --

22 CHAIR BRACKPOOL: And if you'd just --

23 MR. WELLMAN: -- you clarified it for me. I
24 appreciate that part.

25 CHAIR BRACKPOOL: Thank you.

1 MR. WELLMAN: But again, I'd like to make a statement
2 that nowhere in terms of TOC transmitting in their bulletins,
3 on the airwaves, whatever did they differentiate between bets.
4 And I didn't understand it that way. And I think it's
5 unfortunate that we would allow, okay, our California
6 constituency to be penalized or somehow get 100 percent. And
7 that's good that it's going to purses, but at least do the same
8 thing for the other side.

9 VICE CHAIR ISRAEL: Well, hold it. The customers
10 aren't being --

11 CHAIR BRACKPOOL: The customers aren't being --

12 VICE CHAIR ISRAEL: -- cheated.

13 MR. WELLMAN: No, not the customers, the purses. The
14 purses.

15 VICE CHAIR ISRAEL: Oh. Oh.

16 MR. WELLMAN: The purses aren't getting 100 percent
17 of the dollars --

18 VICE CHAIR ISRAEL: But, Mike, well --

19 MR. WELLMAN: -- that are being taken out.

20 VICE CHAIR ISRAEL: -- I -- I voted no here because
21 of that issue.

22 MR. WELLMAN: Well --

23 VICE CHAIR ISRAEL: I abstained. Wait. Let me
24 finish. I abstained because of that issue. I -- I -- TVG and
25 XpressBet had agreed to pay 100 percent --

1 MR. WELLMAN: Exactly.

2 VICE CHAIR ISRAEL: -- from all constituencies and
3 all jurisdictions previously. Churchill was recalcitrant --

4 MR. WELLMAN: That's true.

5 VICE CHAIR ISRAEL: -- and changed it. So I -- I
6 would rather they not do business here.

7 MR. WELLMAN: Thank you.

8 VICE CHAIR ISRAEL: That's me personally.

9 MR. WELLMAN: Okay.

10 VICE CHAIR ISRAEL: And -- and -- but, you know --

11 MR. WELLMAN: Hey --

12 VICE CHAIR ISRAEL: -- the fact is --

13 MR. WELLMAN: -- that's why we have the Board.

14 VICE CHAIR ISRAEL: -- that majority rules --

15 MR. WELLMAN: I -- I just want --

16 VICE CHAIR ISRAEL: -- and that's the way it is.

17 MR. WELLMAN: -- it clarified and really understand
18 what the heck we're doing.

19 COMMISSIONER HARRIS: Yeah. I think it needs to be
20 clear though that -- what the Board approved was agreed to
21 by -- by TOC.

22 MR. WELLMAN: Exactly.

23 COMMISSIONER HARRIS: So I mean, if there's somebody
24 here from -- that represents TOC that disagrees with your
25 approval of that you should speak up. But not -- I mean,

1 that -- it's -- the board of TOC or the --

2 CHAIR BRACKPOOL: Well, it's an issue between Mike
3 and TOC, not between Mike and us.

4 MR. WELLMAN: I -- well, then on that point I would
5 just like to say I have for the last two months requested
6 information from the TOC that they have been remiss in getting
7 back to me on to try to explain how that works.

8 CHAIR BRACKPOOL: Okay. Thank you.

9 MR. DARUTY: I apologize.

10 CHAIR BRACKPOOL: All right. Item number --

11 MR. LAMOTHE: I can't really let some of that go by.
12 I had -- this is Guy Lamothe from Thoroughbred Owners of
13 California. Mike and I did have the occasion to speak for
14 about 45 minutes a week ago Friday. I've received his emails.
15 And as I -- I attempted to explain to him, I wasn't successful
16 because he's asked for further clarification today in that what
17 we're talking about is the return to California from the out-
18 of-state wagers. And hopefully it's been clarified today.

19 So that is a normal industry practice. If other
20 states like New York or Florida were to increase their takeout
21 it would be in the same position. We wouldn't necessarily,
22 here in California, be paying 100 percent of the takeout
23 increase automatically. Those would be negotiated rates.

24 CHAIR BRACKPOOL: Okay.

25 MR. LAMOTHE: Thank you.

1 CHAIR BRACKPOOL: Thank you, Guy.

2 MR. LAMOTHE: So --

3 CHAIR BRACKPOOL: I think we can -- I think we -- I
4 think we can --

5 MR. LAMOTHE: -- we have tried to respond. I
6 appreciate your time. Thank you.

7 CHAIR BRACKPOOL: I think if we're going to have that
8 baby we can move on.

9 Do you have something else, Commissioner?

10 COMMISSIONER HARRIS: No. I think we do just need
11 to -- where people understand it. Because a lot of times
12 people blame the Racing Board for something that we didn't have
13 anything to do with really. It's just negotiated deals. And
14 anytime the -- the deal is negotiated it's going to be
15 different theories.

16 CHAIR BRACKPOOL: Thank you. I can throw away those
17 two speaker cards then. Okay.

18 So item number -- thank you.

19 MR. DARUTY: Thank you.

20 CHAIR BRACKPOOL: Item number 14, discussion and
21 action by the Board on the application for license to conduct
22 advance deposit wagering of XpressBet doing -- doing business
23 as XpressBet.com, DelMarBets.com, and OakTreeBets.com for a
24 California multi-jurisdictional wagering hub for a period of up
25 to but not exceeding two years.

1 MS. WAGNER: Jackie Wagner, CHRB staff. The -- your
2 Board package reflects that the labor agreement and the surety
3 bond are outstanding for this application. We have received
4 notification that the surety bond has -- has been executed, and
5 they do know have a surety bond that flows through December
6 2011 which covers the term that they are applying for.

7 COMMISSIONER HARRIS: How much is that surety bond?

8 MS. WAGNER: It's 500,000.

9 COMMISSIONER HARRIS: I mean, that -- this is not
10 directed towards XpressBet. But --

11 MS. WAGNER: All of those.

12 COMMISSIONER HARRIS: -- I do think we need to
13 address --

14 CHAIR BRACKPOOL: But that's been changed.

15 MS. WAGNER: We are -- we are -- when you see the
16 application, because we're working on modifying everything, and
17 this is one of the items that we are going to be looking at.

18 CHAIR BRACKPOOL: Well, what -- what happened, John,
19 is that the -- the application had that as the number.

20 MS. WAGNER: Correct.

21 CHAIR BRACKPOOL: That was in there as the number.

22 COMMISSIONER HARRIS: It's --

23 CHAIR BRACKPOOL: So that's one of the reasons why I
24 don't want to extend these beyond a year, because these numbers
25 are ten years old --

1 MS. WAGNER: They're going to change.

2 CHAIR BRACKPOOL: -- and they had no inflator in them
3 and no logic as to how much business was being handled through
4 them.

5 MS. WAGNER: Right.

6 COMMISSIONER HARRIS: Yeah. I think at the time, if
7 I remember, that we just pulled that out of the air.

8 CHAIR BRACKPOOL: Exactly.

9 COMMISSIONER HARRIS: I don't know.

10 CHAIR BRACKPOOL: It sounded like --

11 COMMISSIONER HARRIS: It should be --

12 CHAIR BRACKPOOL: -- a big number at the time.

13 MS. WAGNER: Yeah.

14 COMMISSIONER HARRIS: -- how much money is on deposit
15 or something.

16 CHAIR BRACKPOOL: Right.

17 MS. WAGNER: That -- that will change.

18 CHAIR BRACKPOOL: So that's one of the things --

19 MS. WAGNER: We're working on that right now.

20 CHAIR BRACKPOOL: -- we'll go through as we go
21 through this application which is --

22 MS. WAGNER: So the only item that we're having
23 outstanding on XpressBet right now --

24 CHAIR BRACKPOOL: Is --

25 MS. WAGNER: -- is the labor agreement.

1 CHAIR BRACKPOOL: Is the labor agreement.

2 MS. WAGNER: Uh-huh.

3 CHAIR BRACKPOOL: So given how much time we've all
4 spent and -- on this issue today can I ask both XpressBet and
5 the union, is the issue that separates them the same issue that
6 we just debated for the last half-an-hour? And if it is then I
7 certainly would be prepared to make a motion the same as we did
8 on the previous applicant that we give you, you know, a month
9 to work this out, and if not this Board is going to have to
10 make a ruling with the advice of labor counsel.

11 MR. SCOGGINS: Greg Scoggins appearing on behalf of
12 XpressBet. Essentially the issue is the same. I had prepared
13 a handout that has been circulated to you that provides some
14 background information on the issue as it relates to XpressBet.
15 I'd like you to enter it into the record. I'm happy to speak
16 to it for purposes of clarifying the record as it relates to
17 XpressBet. But I'm also very sensitive to the timeframe and
18 not lingering too long on the subject.

19 CHAIR BRACKPOOL: I don't think it's so much the
20 timeframe. I just don't think -- I think we've stated that I
21 don't think this Board has the ability to make a determination
22 as to who's right or who's wrong. We're going to need counsel
23 for that. And so we need to resolve this.

24 So unless you're telling me you can resolve this with
25 Richard today then --

1 MR. SCOGGINS: I do not think that's --

2 CHAIR BRACKPOOL: -- then --

3 MR. SCOGGINS: -- a resolvable issue.

4 CHAIR BRACKPOOL: -- then the only way forward that I
5 can see is giving you the same condition that we gave the --
6 the previous applicant, which is you've got to get resolved in
7 30 days and if you don't you're both taking the risk that we're
8 going to rule one way or the other.

9 MR. SCOGGINS: Yeah. And we are fine with that
10 approach.

11 CHAIR BRACKPOOL: Uh-huh.

12 COMMISSIONER CHOPER: Can I ask one question? I
13 want -- it's the same question.

14 CHAIR BRACKPOOL: Yeah.

15 COMMISSIONER CHOPER: Do you agree that the -- that
16 XpressBet will have all people -- agrees that all employees who
17 accept and process wagers, whatever that says, are subject to
18 the statute?

19 MR. SCOGGINS: Yes.

20 COMMISSIONER CHOPER: You agree to that?

21 MR. SCOGGINS: Yes.

22 COMMISSIONER CHOPER: Whether or not they're your
23 direct employees or whether or not you decide to subcontract
24 this employment to some other company?

25 MR. SCOGGINS: I'm glad you asked that question.

1 Because I think we have two subcontract relationships that's
2 need to be clarified. And -- and there is a situation where
3 TwinSpires has. They've subcontracted for the telephone
4 wagering services. What I understand Local 280's concern to be
5 is not that situation. That was addressed in the contract that
6 TwinSpires entered into with Local 280 three years ago.

7 The issue that is now concerning Local 280 is that
8 the ADW, in this case XpressBet, with the DelMarBets.com and
9 the OakTreeBets.com, is we subcontract with a third party to do
10 their ADW activities. The SEIU feels that -- that -- and I
11 will ask Mr. Castro to clarify this because I don't want to
12 speak for him -- but the SEIU, as I've understood from my
13 conversations, believes that DelMarBets.com and OakTreeBets.com
14 should have been operated by those two entities and they should
15 have been California jobs. And by us -- by XpressBet providing
16 those services through the marketing agreement that we did with
17 Oak Tree Bets and Del Mar Bets that we somehow subverted the
18 ability to have California jobs.

19 COMMISSIONER CHOPER: Where -- where are the -- where
20 is the company that you subcontracted with?

21 MR. SCOGGINS: We didn't -- we subcontracted -- we
22 entered into a marketing agreement with Del Mar and with Oak
23 Tree to be able to utilize their trademarks for purposes of --
24 of people signing up as XpressBet customers, using XpressBet
25 employees to service their -- their ADW agreement.

1 VICE CHAIR ISRAEL: So -- so as I understand it --
2 well, let me draw an automobile manufacturing analogy.

3 MR. SCOGGINS: Okay.

4 VICE CHAIR ISRAEL: Okay. It may be easier to
5 understand. You're Ford, and you've only been building
6 Tauruses and Mustangs, and now you're going to build Explorers
7 and Escapes.

8 MR. SCOGGINS: Right.

9 VICE CHAIR ISRAEL: And -- and that's -- you're still
10 Ford. They're just different labels on the car and they look a
11 little different. But you're using union employees to do the
12 work, just the same as you were?

13 MR. SCOGGINS: We are using employees that are not
14 currently unionized. But we have agreed to allow the SEIU to
15 do a card check arrangement in order to decide -- let them
16 determine if they want to be unionized.

17 COMMISSIONER CHOPER: So what do they want that you
18 haven't given them?

19 MR. SCOGGINS: They want us to seek their approval
20 before we enter into any other types of arrangements to build
21 yet a fifth type of car that is still a Ford.

22 COMMISSIONER CHOPER: Do you agree that if you were
23 to do that they would be subject to the statute too?

24 MR. SCOGGINS: They would still be the same
25 employees. So they would be XpressBet employees that would be

1 subject to the agreement.

2 CHAIR BRACKPOOL: What if you --

3 VICE CHAIR ISRAEL: No replacement or change.

4 They're just -- they're just --

5 CHAIR BRACKPOOL: Just handling a different account.

6 VICE CHAIR ISRAEL: Yeah. Ford is selling,
7 basically, the same number of cars, they're just selling --

8 CHAIR BRACKPOOL: They're handling the same account.

9 All that's happening is XpressBet employees are sitting at a
10 desk during Del Mar and/or Oak Tree --

11 COMMISSIONER CHOPER: Go ahead. This is a good
12 explanation. Now I get that.

13 CHAIR BRACKPOOL: -- during Del Mar and/or Oak Tree.
14 The person is calling what he thinks is DelMarBets.com, but
15 it's actually XpressBet.

16 COMMISSIONER DEREK: XpressBet. Right.

17 COMMISSIONER CHOPER: Are they covered by the
18 contract?

19 VICE CHAIR ISRAEL: Yeah.

20 MR. SCOGGINS: Yes.

21 COMMISSIONER CHOPER: That's what I wanted to know.

22 Yes?

23 VICE CHAIR ISRAEL: They're the same people.

24 COMMISSIONER CHOPER: I don't get it.

25 CHAIR BRACKPOOL: Yes, they're the same people.

1 COMMISSIONER CHOPER: So I don't -- I don't --

2 VICE CHAIR ISRAEL: In other words -- in other words
3 a different --

4 COMMISSIONER CHOPER: I guess we --

5 VICE CHAIR ISRAEL: -- a different number rings.

6 COMMISSIONER CHOPER: Keith, I think you're -- yeah,
7 I think you're right. I think we ought to hear from Mr.
8 Rosenfeld because --

9 VICE CHAIR ISRAEL: Yes.

10 COMMISSIONER CHOPER: -- Richard, I don't think -- I
11 think you need to -- well, I -- we have to hear from -- from --
12 from him.

13 VICE CHAIR ISRAEL: Yes.

14 CHAIR BRACKPOOL: Well, on this issue, before we go
15 any further, I have -- well, Richard, hold on one second. Hold
16 on one second. I want -- Craig Fravel has got a speaker card
17 in here as to this issue on Del Mar. So, Craig, I would like
18 you to go first, and then Richard.

19 MR. FRAVEL: Craig Fravel, Del Mar Thoroughbred Club.
20 I did want to point out one thing, and that is there is
21 currently an arbitration pending between 280 and Del Mar and
22 Oak Tree, I guess, on the subject. I certainly don't mind
23 if -- if this Board wants to adjudicate that issue instead of
24 an arbitrator, and if you want to appoint an ALJ or something
25 to hear it. But --

1 COMMISSIONER CHOPER: What is the issue being
2 arbitrated?

3 MR. FRAVEL: Well, the issue is whether we are
4 permitted to enter into this arrangement. And I think
5 Commissioner Israel has described it quite clearly. This is a
6 marketing arrangement. It's -- we're not -- Del Mar is not
7 operating an ADW company. We contracted with XpressBet to
8 accept wagers through a branding called DelMarBets.com hoping
9 to leverage the strength of the Del Mar brand to get additional
10 customers. And -- and with some --

11 COMMISSIONER CHOPER: But they're all union
12 employees.

13 VICE CHAIR ISRAEL: Yeah. So --

14 MR. FRAVEL: Well, they're not union employees, but
15 they're subject -- subject to organization under that
16 agreement.

17 COMMISSIONER CHOPER: They are subject to the
18 statute.

19 CHAIR BRACKPOOL: And so --

20 MR. FRAVEL: Mr. Castro and I have had a number of
21 discussions on the subject and we have a different perspective
22 on it. But --

23 CHAIR BRACKPOOL: Well, if I -- if I may --

24 MR. FRAVEL: If you -- if you guys want to adjudicate
25 it, it's fine by me if it's okay by him.

1 CHAIR BRACKPOOL: Well, my understanding was that
2 there was not a mutual agreement as to what the subject of the
3 arbitration should be. So if there is an arbitrator prepared
4 to arbitrate this particular issue I think you would get a
5 fairly unanimous vote from this Board that they would go with
6 the arbitrators.

7 MR. FRAVEL: That ain't going to happen until August,
8 so -- so --

9 CHAIR BRACKPOOL: Right. So that doesn't really
10 help.

11 MR. FRAVEL: -- it doesn't get you off the hook.

12 CHAIR BRACKPOOL: And so, Richard, when I read your
13 speaker's card here, which has a little memo on it, you're
14 saying we will go forward with an arbitration, but XpressBet
15 wants to arbitrate the statute, you only want to arbitrate a
16 provision?

17 MR. CASTRO: Richard Castro. That's correct. What I
18 was saying earlier when TwinSpires was there that this
19 DelMar.com, OakTree.com issue we feel violates our contract,
20 and that's the issue that's going before the arbitrator. And I
21 wanted to make that clear that we were not going forward with
22 an arbitration over what the statute says or means, which is
23 what Greg would like to see happen. That actually was
24 scheduled on December 16th. There were two arbitrations that
25 day, and it was the employer that canceled it. You know, so

1 he -- and Greg is correct, the next date is -- and I -- don't
2 even ask me how. It's unbelievable to me that we have to wait
3 until August 22nd --

4 COMMISSIONER CHOPER: May I -- may I ask you a
5 question?

6 MR. CASTRO: -- to meet again.

7 COMMISSIONER CHOPER: Do those people who are
8 accepting and processing bets at Del Mar races under this
9 situation? Are you able to do your thing with them, aren't
10 you?

11 MR. CASTRO: No. That's why we're arbitrating it.

12 COMMISSIONER HARRIS: Well, isn't -- aren't you
13 saying --

14 COMMISSIONER CHOPER: Where are they -- where are
15 they located?

16 COMMISSIONER HARRIS: Who are the same people?

17 MR. CASTRO: We're -- we're saying -- we're saying
18 this, if he's going to take a California business in California
19 and do DelMar.com and someone on their cell phone or whatever
20 wants to make a bet he should be able to call a California
21 person. It shouldn't go to XpressBet in Oregon.

22 You -- you need to remember --

23 COMMISSIONER CHOPER: Okay.

24 MR. CASTRO: -- when this statute was first
25 originated part of it was for jobs. We have been left out of

1 this equation. It -- it's even more important than that, and
2 it goes back to your mission statement. Just give me a second
3 here.

4 COMMISSIONER HARRIS: Well, isn't the amount of
5 handle on DelMar.com and OakTree.com fairly insignificant
6 compared to the total ADW handle?

7 CHAIR BRACKPOOL: Yes, it was.

8 MR. CASTRO: I'm going to read from Proposed
9 Amendments of Constitution and Propositions.

10 CHAIR BRACKPOOL: How -- how much are you going to
11 read?

12 MR. CASTRO: It's going to take two minutes at the
13 very most, but I think it's a very important part. This is --

14 CHAIR BRACKPOOL: I don't think that -- I don't know
15 that what -- what --

16 MR. CASTRO: Just give me one minute.

17 CHAIR BRACKPOOL: One minute.

18 MR. CASTRO: It's dated June 27th, 1933.

19 CHAIR BRACKPOOL: Oh, god.

20 MR. CASTRO: This is when racing came into
21 California. You go to page five.

22 CHAIR BRACKPOOL: The house of representatives just
23 did this. They all took turns.

24 VICE CHAIR ISRAEL: Yeah.

25 MR. CASTRO: Thirty second.

1 VICE CHAIR ISRAEL: Okay.

2 MR. CASTRO: "Regulated racing" -- this is to put it
3 on the ballot. This is what the people of California voted
4 for.

5 "Regulated racing will place the sport on a high plain.
6 It will attract tourists to California, bring employment
7 to thousands."

8 That's the part that irritates me with that
9 statement. Labor is part of this, be it grooms or whatever.
10 And somehow labor always seems to be getting left behind. I
11 took my minute.

12 VICE CHAIR ISRAEL: Okay.

13 MR. CASTRO: Thank you.

14 CHAIR BRACKPOOL: Thank you, Richard. Commissioner
15 Rosenberg?

16 COMMISSIONER ROSENBERG: Is there a motion on the
17 floor?

18 CHAIR BRACKPOOL: I'm prepared to -- if -- if
19 everybody is happy with it, if the August 22nd date is the
20 thing that -- why is it as late as August 22nd?

21 MS. WAGNER: Arbitration.

22 CHAIR BRACKPOOL: Well, it was going to be in
23 December. Why is it now August?

24 MR. CASTRO: I have done my best to get it to be
25 moved up.

1 CHAIR BRACKPOOL: I'm asking --

2 COMMISSIONER ROSENBERG: Well, who -- who's --

3 CHAIR BRACKPOOL: I'm asking Craig. Why is it eight
4 months?

5 MR. FRAVEL: Well, I'm looking around the room
6 because Mr. Walker handles things related to arbitrations on
7 labor matters, and he's the one who deals with the arbitrator
8 and the --

9 CHAIR BRACKPOOL: Well, the bus got Liebau. It's
10 getting you now, so hurry up.

11 MR. FRAVEL: I don't know.

12 CHAIR BRACKPOOL: You don't know.

13 MR. FRAVEL: I don't know the answer to that. I
14 don't know. I think it had to do with the availability of the
15 arbitrator. You got me.

16 CHAIR BRACKPOOL: Well, we have unemployment, but
17 evidently not amongst arbitrators. It's just -- it's -- it
18 makes no sense to me eight months down the -- down the road for
19 a contract that will only have four months left in it at that
20 stage anyway.

21 COMMISSIONER HARRIS: It will cost more for this
22 arbitration than the net revenue of DelMar.com is.

23 CHAIR BRACKPOOL: Exactly.

24 MR. SCOGGINS: Mr. Chairman, if I might, Richard did
25 make a point or a distinction between the issue that XpressBet

1 has with the SEIU and that Oak Tree and Del Mar have. It
2 relates to the Del Mar Bets and the Oak Tree Bets sites but
3 they're different. One has to deal with -- and this is the
4 case involving Oak Tree and Del Mar -- their CBA, and whether
5 or not under the -- the collective bargaining agreement Del Mar
6 and Oak Tree acted appropriately. That's my understanding.

7 COMMISSIONER CHOPER: Excuse me. Under what?

8 MR. SCOGGINS: Under their collective bargaining.

9 COMMISSIONER CHOPER: CV -- CVA?

10 VICE CHAIR ISRAEL: Collective bargaining.

11 MR. SCOGGINS: CBA, collective bargaining agreement.

12 VICE CHAIR ISRAEL: Yeah.

13 COMMISSIONER CHOPER: Oh. Beg your pardon.

14 MR. SCOGGINS: That is not -- that is not an
15 arbitration that we are a party to.

16 VICE CHAIR ISRAEL: Right.

17 CHAIR BRACKPOOL: So the arbitration does not involve
18 you, it involves Del Mar and Oak Tree?

19 MR. SCOGGINS: Yes, sir.

20 CHAIR BRACKPOOL: Okay. So then how about this as a
21 motion --

22 VICE CHAIR ISRAEL: Well, it's the second part
23 though.

24 CHAIR BRACKPOOL: -- we go -- right. We go with
25 the -- we go with the same condition that we had for TwinSpires

1 for you on the labor agreement, right, apart from this piece of
2 DelMarBets.com and OakTree.com, and that gets done by the
3 arbitrator as is already scheduled. Because all that work must
4 have been in progress. You've obviously spent lots of money.
5 I don't want to duplicate all of the costs or preparing the
6 motions and doing everything else for that. So -- and that
7 gets resolved one way or the other. And we've got to pick a
8 date certain that that gets resolved by, the end of August.

9 VICE CHAIR ISRAEL: Although, wait, Del Mar opens
10 July 21st. Then what do we do?

11 CHAIR BRACKPOOL: They're in my -- they're --
12 they're --

13 MR. FRAVEL: Well --

14 CHAIR BRACKPOOL: -- they're in business until the
15 arbitrator.

16 MR. FRAVEL: There's two problems here, or one
17 problem really. I agree with -- that the -- the arbitration is
18 not something that XpressBet is a party to. But the issue as I
19 understand what Richard is asking for, if I hear correctly what
20 they're asking the ADW companies, is that they will not engage
21 in white label type activities with licensees. I mean, that's
22 really what we're talking about.

23 VICE CHAIR ISRAEL: Well, he's -- I mean, I think
24 what he's asking additional is -- is for you -- for you and Oak
25 Tree to create infrastructures which aren't really practical to

1 handle these bets in California.

2 MR. FRAVEL: Correct. But at some point --

3 VICE CHAIR ISRAEL: And -- and --

4 MR. FRAVEL: -- this Board is going to have to

5 rule --

6 VICE CHAIR ISRAEL: But -- no.

7 MR. FRAVEL: -- whether or not --

8 VICE CHAIR ISRAEL: But wait. Let's --

9 MR. FRAVEL: -- what we have done is legitimate.

10 VICE CHAIR ISRAEL: Let me finish, Craig. Let me
11 finish. Let's go -- let's go to that point, which is marketing
12 and improving, and to Richard's point which is creating jobs.
13 Unless we expand the business, and this may help expand the
14 business in very small but incremental ways by -- by getting
15 new people to call up and place bets on -- on the XpressBet
16 system through these two different promotional venues, which
17 are Oak Tree and DelMarBets we're going to continue to lose
18 jobs. The business is going to continue to contract.

19 So this is an effort that is -- is attempting to
20 expand the business which will ultimately create jobs and get
21 done for you and you're fighting it, which makes no sense to
22 me. Because if you ask them to establish these infrastructures
23 to process the bets and then, you know, create a whole company
24 for the small amount of business they're doing they're just
25 going to say screw it and walk away, but this will be lost.

1 MR. FRAVEL: And I've also told Mr. Castro candidly,
2 if we hired one clerk and put them on the phone to handle this
3 that there's not enough money being handled to even pay the
4 clerk. I mean, at the end of the day --

5 VICE CHAIR ISRAEL: Well, that's -- that's --

6 MR. FRAVEL: -- you know --

7 VICE CHAIR ISRAEL: That's the point.

8 MR. FRAVEL: -- and we'll be happy to share the
9 information with anybody --

10 VICE CHAIR ISRAEL: You got to let it grow.

11 MR. FRAVEL: -- on how much money is handled. It --
12 it's not what you'd call a booming success. But -- but it --
13 it has created a great angst amongst Mr. Castro and his --

14 VICE CHAIR ISRAEL: I understand. But the point of
15 it -- the -- the point of your request is completely
16 impractical, so -- Richard's request. And the point of the --
17 the business is to ultimately create more interest, promote the
18 sport, and create jobs. And we need to allow, in my opinion,
19 you know, and maybe -- for these things to sort of establish
20 roots and see if they can grow. And that's the only -- this is
21 the only way to do it that I can think.

22 CHAIR BRACKPOOL: Well, based on that we can just go
23 with the same motion we had with TwinSpires where it's either
24 agreed within a month or it's adjudicated by this Board.

25 COMMISSIONER CHOPER: Yeah. One -- one last

1 question.

2 CHAIR BRACKPOOL: Yeah.

3 COMMISSIONER CHOPER: So -- so you subcontracted with
4 XpressBet to take the bets?

5 MR. FRAVEL: Well, yeah, we have subcontracted, but
6 using the term subcontracting --

7 COMMISSIONER CHOPER: Whatever you want to say --

8 MR. FRAVEL: -- is a bad term.

9 COMMISSIONER CHOPER: -- what did you do?

10 MR. FRAVEL: We -- we did the same thing with
11 XpressBet that we did with TVG, with TwinSpires, with everyone
12 else, we entered into an ADW contract with them to process
13 wagers. We don't do anything.

14 COMMISSIONER CHOPER: I understand --

15 MR. FRAVEL: -- other than say you can call it
16 DelMarBets.com.

17 VICE CHAIR ISRAEL: Right. You licensed the right
18 for them to use your name and attach -- and attach --

19 MR. FRAVEL: And -- and -- and when -- when
20 somebody --

21 VICE CHAIR ISRAEL: -- a web address --

22 MR. FRAVEL: -- and when someone picks up --

23 VICE CHAIR ISRAEL: -- and a telephone.

24 MR. FRAVEL: -- the phone it's --

25 VICE CHAIR ISRAEL: Yeah.

1 MR. FRAVEL: -- if it's coming in on a certain line
2 they answer DelMarBets.com.

3 VICE CHAIR ISRAEL: Yeah, of course.

4 MR. FRAVEL: If it comes in on the line next to it --

5 VICE CHAIR ISRAEL: Yeah.

6 MR. FRAVEL: -- they answer XpressBet. It's -- I
7 mean, it's -- it's not a sham but it is a marketing
8 arrangement.

9 COMMISSIONER CHOPER: Can I have -- can I ask you --

10 VICE CHAIR ISRAEL: They licensed the name. It's
11 just --

12 COMMISSIONER CHOPER: Can I ask you a question?
13 You -- is it your understanding that the people who process
14 those bets are subject to the statute?

15 MR. FRAVEL: It's my understanding that XpressBet or
16 anyone else -- if we -- if we decided to do the same deal with
17 TVG they would be subject to the same law, have the same
18 requirements under their --

19 COMMISSIONER CHOPER: Okay.

20 MR. FRAVEL: -- labor agreements.

21 COMMISSIONER CHOPER: And you said that it's subject
22 to the statute; right?

23 MR. FRAVEL: Yes.

24 COMMISSIONER CHOPER: That's -- okay.

25 CHAIR BRACKPOOL: On the record.

1 VICE CHAIR ISRAEL: And Richard said --

2 COMMISSIONER CHOPER: I guess I --

3 VICE CHAIR ISRAEL: -- they're subject to the
4 statute.

5 COMMISSIONER CHOPER: Well, I don't -- I guess I
6 don't --

7 MR. FRAVEL: I don't see any issues, personally. But I'm
8 happy to sit down for hours on end to talk to Mr. Castro about
9 it.

10 CHAIR BRACKPOOL: No.

11 COMMISSIONER ROSENBERG: The counsel for the union
12 isn't here. He may have some other answers. Why don't we just
13 go on with it.

14 CHAIR BRACKPOOL: Yeah. So -- so here's what we're
15 going to do, we're going to make a motion that says that the
16 license for XpressBet is approved through December 31st, 2011
17 subject to signing a labor agreement. If that labor agreement
18 is not signed by whatever date it was I said in the previous --

19 MS. WAGNER: Twenty-one days.

20 CHAIR BRACKPOOL: -- 21 days then it's noticed for
21 the --

22 MS. WAGNER: March.

23 CHAIR BRACKPOOL: -- Board meeting. And if it's not
24 done before the March Board meeting this Board will make a
25 ruling --

1 MS. WAGNER: Correct.

2 CHAIR BRACKPOOL: -- at that stage.

3 COMMISSIONER HARRIS: I think we'd have to make a
4 ruling that -- that there is -- it's not necessary to have a
5 labor agreement or it's not necessary to have that part of the
6 labor agreement or whatever, we make -- get some closure on it
7 anyway.

8 CHAIR BRACKPOOL: Exactly. Exactly. So I make that
9 motion, unless anybody wants to try and repeat it. Do I
10 have --

11 VICE CHAIR ISRAEL: Whatever you say.

12 CHAIR BRACKPOOL: Do I have -- do I have a second --

13 COMMISSIONER CHOPER: Whatever motion you make, we'll
14 go ahead and we'll --

15 CHAIR BRACKPOOL: Do I have a second?

16 COMMISSIONER DEREK: I'll second.

17 CHAIR BRACKPOOL: Second by Commissioner Derek. All
18 in favor?

19 COMMISSIONER ROSENBERG: Aye.

20 COMMISSIONER MOSS: Aye.

21 COMMISSIONER HARRIS: Aye.

22 CHAIR BRACKPOOL: Aye.

23 COMMISSIONER CHOPER: Aye.

24 COMMISSIONER DEREK: Aye.

25 CHAIR BRACKPOOL: The motion --

1 VICE CHAIR ISRAEL: And I'll abstain, just for the
2 record, for the same reason I abstained on TVG because I --

3 CHAIR BRACKPOOL: Motion approved.

4 MR. FRAVEL: Mr. Chairman, if I may --

5 VICE CHAIR ISRAEL: -- this is about the --

6 MR. FRAVEL: -- I would hate to see us come up to a
7 Board meeting in March, because Richard and I have been arguing
8 about this for a year-and-a-half now, and I doubt we're going
9 to get it done by February. But we would be more than happy to
10 stipulate to a set of facts so that we don't have to go through
11 two hours or a Board meeting to present our different views on
12 the facts of this matter.

13 CHAIR BRACKPOOL: Yes. That would be great.

14 MR. FRAVEL: And if you want to set up or have Mr.
15 Miller set up a timeframe that we can both agree to we'll
16 submit, you know, copies of agreements and --

17 CHAIR BRACKPOOL: That would be very helpful.

18 MR. FRAVEL: Thank you.

19 CHAIR BRACKPOOL: And we'll know whether that's
20 necessary after 21 days. You're telling me you think it's
21 going to be, but we'll know whether it's necessary.

22 MR. SCOGGINS: Mr. Chairman, I'd like to, just for
23 the record, say that I agree with what Craig said. I believe
24 this is a legal issue, not a factual issue. And I think that
25 there's a reasonable ability to -- to stipulate to facts and

1 turn it over to you for decision on the legal issue.

2 CHAIR BRACKPOOL: Which we'll take advice of counsel
3 and -- and --

4 MR. SCOGGINS: Right.

5 CHAIR BRACKPOOL: -- and do.

6 That concludes the open part of this meeting. We
7 will now adjourn into a closed session before coming back to
8 close it. Thank you, everybody.

9 (Thereupon the California Horse Racing Board
10 Regular Meeting went into a Closed Session at
11 12:59 p.m., then was Adjourned.)

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TRANSCRIBER'S CERTIFICATE

I, Martha L. Nelson, attest that the foregoing proceedings were transcribed to the best of my ability.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 25th day of January, 2011.

 /s/ Martha L. Nelson