

APPEARANCES

COMMISSIONERS

Keith Brackpool, Chairperson

David Israel, Vice Chairperson

Richard Rosenberg

John C. Harris

Bo Derek

Jesse Choper

Jerry Moss

STAFF

Kirk E. Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

Dr. Rick Arthur, Equine Medical Director

ALSO PRESENT

Lou Raffetto, TOC

Richard Mandella

Darrell Haire, Jockeys' Guild

Michael Wellman

Alan Balch, CTT

John Sadler, CTT

APPEARANCES (CONT.)

Dr. Mark Dedomenico, TOC

Dr. Don Shields

Jeff Blea, DVM

John Barr, Jockey Club

Robert Hartman, CMC and Golden Gate Fields

John Bailey, Bailey Gardner

Ryan Thompson, Bailey Gardner

Greg Joumas, Bailey Gardner

Carrie Jones, Bailey Gardner

Shannon McDonald, CMC

John Bucalo, Barona Casino

Mike Cedar, Fairplex

Michelle DeMott, Fairplex

Cliff Goodrich

Guy Lamothe, TOC

George Haines, Santa Anita

Rick English, Los Alamitos Race Track

Madeline Auerbach, CARMA

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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).
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PROCEEDINGS BEGIN AT 9:43 A.M.

(The meeting was called to order at 9:43 A.M.)

INGLEWOOD, CALIFORNIA, THURSDAY, JULY 21, 2011

MEETING BEGINS AT 9:43 A.M.

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

This is the regular noticed meeting of the California Horse Racing Board on Thursday, July 21, 2011 at Del Mar Surfside Race Place, 2260 Jimmy Durante Boulevard, Del Mar, California.

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

Before we go on to the business of the meeting I need to make a few comments. The Board invites public comment on the matters appearing on the meeting agenda. The Board also invites comments from those present today on matters not appearing on the agenda during 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 -- and the meeting proceeds in a timely fashion I will strictly enforce the three-minute time

1 limit rule for each speaker. The three-minute time limit rule
2 will be enforced during discussion of all matters so stated on
3 the agenda, as well as during the public comment period.

4 There is a public comment sign-in sheet for each
5 agenda matter on which the Board invites comments. Also, there
6 is a sign-in sheet for those wishing to -- to speak during the
7 public comment period for matters not on the Board's agenda if
8 it concerns horse racing in California. Please print your name
9 legibly on the public comment sign-in sheet.

10 When a matter is open for public comment your name
11 will be called. Please come to the podium and introduce
12 yourself by stating your name and organization clearly. This
13 is necessary for the court reporter to have a clear record of
14 all who speak. When your three minutes are up the Chairman
15 will ask you to return to your seat so matters can be heard.

16 When all the names have been called the chairman will
17 ask if there is anyone else who would like to speak on the
18 matter before the Board. Also, the Board may ask questions of
19 individuals who speak.

20 If the speaker repeats himself or herself the
21 chairman will ask if the speaker has any new comments to make.
22 If there are none the speaker will be asked to let others make
23 comments to the Board.

24 Mr. Chairman.

25 CHAIR BRACKPOOL: Good morning, everybody. Let's get

1 right to it this morning.

2 First item of business, approval of the minutes of
3 the June 23rd, 2011 meeting that we had at Hollywood Park. Do
4 I have any speaker comments, commissioner comments on the -- on
5 the minutes?

6 COMMISSIONER ROSENBERG: Yes.

7 CHAIR BRACKPOOL: Commissioner Rosenberg.

8 COMMISSIONER ROSENBERG: Mr. Chairman, on page 117,
9 when they're discussing financial statement requirements, the
10 first full sentence there are words missing at the end. After
11 the word "each" I believe it should say each race meeting, 90
12 days after the end of each something; right?

13 CHAIR BRACKPOOL: Okay.

14 MS. WAGNER: I'll get that added.

15 CHAIR BRACKPOOL: Yeah.

16 COMMISSIONER ROSENBERG: Okay. All right.

17 CHAIR BRACKPOOL: Okay. Yeah. That clarifies it.

18 Anybody else? Do I have a motion to approve the minutes?

19 COMMISSIONER CHOPER: Moved.

20 CHAIR BRACKPOOL: Commissioner Choper moves.

21 COMMISSIONER MOSS: Second.

22 CHAIR BRACKPOOL: Commissioner Moss. All in favor?

23 ALL COMMISSIONERS: Aye.

24 CHAIR BRACKPOOL: Motion is approved.

25 Item number two, public comment. I only have one

1 speaker card for public comment at this stage, Lou Raffetto
2 from the TOC.

3 MR. RAFFETTO: Mr. Chairman, I would like to speak on
4 number three on the agenda.

5 CHAIR BRACKPOOL: Well, it says number two here. So
6 anyway, all right.

7 Any other public comments? That's a first. That's
8 good. Okay.

9 Moving right on then to item number three, the first
10 speaker I have on item number three is Richard Mandella.

11 Before -- actually, we do that, sorry, I have to have
12 Jackie actually say what the item is, sorry, before we move
13 through it without public comment there.

14 Item number three is public hearing and action by the
15 Board regarding the proposed amendment of CHRB Rule 1658,
16 Vesting of Title to a Claimed Horse, to void a claim if a
17 claimed horse suffers a fatality during the race -- during the
18 running of the race or before it is returned to be unsaddled.

19 Just give us the briefest status report, Jackie.

20 MS. WAGNER: Jackie Wagner, CHRB Staff. The proposal
21 before the Board is as the chairman has read it. During the
22 45-day comment period Staff did receive seven comments on this
23 proposal. We received three comments opposing the proposed
24 amendment, and three comments in favor of the proposed
25 amendment. Included in the favorable comments were comments

1 from the Environmental Training Practices Committee of the
2 Welfare and Safety of the Race Horse Summit. They are
3 supportive of the proposal.

4 The Jockeys' Club Thoroughbred Safety Committee also
5 wrote in support of the proposal. However, that committee did
6 suggest that the language be modified to allow owners a
7 reasonable opportunity to request the stewards void a claim if
8 the horse was unable to return to be unsaddled as a result of
9 injuries suffered during the race.

10 It should be noted that if the Board agrees with the
11 proposed suggestion that the rule would have to be noticed for
12 another 45 days in order to make that change.

13 CHAIR BRACKPOOL: I don't understand how that change
14 could take place, because we already changed it to say it was a
15 fatality only. So how can -- I don't understand what they're
16 requesting.

17 COMMISSIONER HARRIS: I think that was a
18 misunderstanding. I may -- I think I was on that call with
19 that committee. And I think we're on the same page -

20 MS. WAGNER: Okay.

21 COMMISSIONER HARRIS: -- as far as what we want.

22 MS. WAGNER: Great. Thank you for clarifying.

23 Included in the comments that were opposed to the
24 proposed regulation we have received comments from a horse
25 owner who is involved in the industry. And his -- he basically

1 states that claiming is a naturally self-regulating process and
2 there's no need for the proposal.

3 Michael Wellman wrote that while the proposed
4 amendment might have some benefit it was flawed in effectively
5 determining how and precisely when title of ownership was
6 transferred.

7 CHAIR BRACKPOOL: Well, these are all the comments
8 that we have in our package?

9 MS. WAGNER: Correct. Correct.

10 CHAIR BRACKPOOL: Okay.

11 MS. WAGNER: And I'm just -

12 CHAIR BRACKPOOL: We don't need to read all of the
13 comments.

14 MS. WAGNER: No.

15 CHAIR BRACKPOOL: They're in the package.

16 MS. WAGNER: I'm just kind of putting it on the
17 record so you -- you are aware -

18 CHAIR BRACKPOOL: Okay.

19 MS. WAGNER: -- that there were comments -

20 CHAIR BRACKPOOL: Okay.

21 MS. WAGNER: -- to the proposal.

22 CHAIR BRACKPOOL: Well, before we have discussion
23 amongst the -- the Board let's go to public comment, and then
24 maybe come back to discussion. We've certainly read the --
25 read the package. Unless any Commissioners have something

1 before public comment?

2 VICE CHAIR ISRAEL: Well, I do.

3 CHAIR BRACKPOOL: Commissioner Israel.

4 VICE CHAIR ISRAEL: I have one comment. I'm in favor
5 of the rule. But I think that there's an ambiguity that needs
6 to be clarified in the language, although counsel can correct
7 me. It doesn't define what "before the horses return to be
8 unsaddled" means. And I'm afraid that somebody is going to
9 construe that as you can stick the horse in an ambulance or a
10 van, van it back to be unsaddled and the claim is still good,
11 which will lead to arguments over exactly how to handle this
12 horse in distress on the race track that would not be
13 particularly interesting or helpful to see.

14 So I think somehow we just need to clarify that. I
15 don't want to see trainers and vets getting into it over
16 whether to euthanize a horse because he's in distress on the
17 race track.

18 COMMISSIONER HARRIS: I think the intent was to --
19 the unsaddling area.

20 VICE CHAIR ISRAEL: Huh?

21 COMMISSIONER HARRIS: I think there was -- the intent
22 was, anyway, that there was a traditional unsaddling area.

23 VICE CHAIR ISRAEL: Well, all you've got to do is add
24 "under its own power."

25 CHAIR BRACKPOOL: Well, if we start changing

1 language -

2 COMMISSIONER DEREK: Yeah.

3 CHAIR BRACKPOOL: -- it goes back out and we go
4 through the whole thing again. So let's -- let's see if we
5 can't have some advice from counsel. And I mean, this must be
6 a practice. I mean, we -- we can't legislate every last word.

7 MR. MILLER: Robert Miller, Counsel of the California
8 Horse Racing Board.

9 The phrase is a term of art in the industry and is to
10 be defined by industry practices as to that particular phrase.

11 COMMISSIONER HARRIS: Okay.

12 CHAIR BRACKPOOL: And I think we have to rely on
13 that.

14 COMMISSIONER HARRIS: Yeah.

15 CHAIR BRACKPOOL: And I'm sure we could go through
16 our rule book, David, and have this conversation on almost
17 every rule as to the, perhaps, literal meaning of it. But -

18 VICE CHAIR ISRAEL: It's still going to be
19 contentious. That's why with clarification I thought it would
20 work.

21 CHAIR BRACKPOOL: Well, I think when someone looks
22 back at the legislative discussion here I think they can look
23 to this discussion that Commissioner Israel's point is
24 something that we don't believe that there are games to be
25 played here, that this should be pursuant to industry practice.

1 VICE CHAIR ISRAEL: Okay.

2 COMMISSIONER MOSS: Well -

3 CHAIR BRACKPOOL: Commissioner Moss.

4 COMMISSIONER MOSS: Yeah. I just wanted to bring up
5 the fact that, Mr. Chairman, that we're going through all this,
6 basically because one trainer perhaps celebrated a little too
7 vigorously when they moved a horse on that -- along that wasn't
8 very well. That's what we're reacting to, basically, is that
9 one trainer's celebration.

10 So we're changing a big rule here over somebody
11 perhaps misbehaving. But I think we should hear some public
12 comment.

13 CHAIR BRACKPOOL: Yeah.

14 COMMISSIONER HARRIS: Just to clarify, that, with due
15 respect, that was not the reason we're changing it. I mean,
16 there -- this topic has been debated for -- for years. It's
17 not -- not any one instance that -

18 COMMISSIONER MOSS: Well, that took us over -

19 COMMISSIONER HARRIS: -- that led to this being done.

20 COMMISSIONER MOSS: It took us over the top.

21 CHAIR BRACKPOOL: All right. Let's go to public
22 comment on this, and then come back to commissioner debate.

23 The first speaker, Richard Mandella. I'm sorry I
24 called you up prematurely before.

25 MR. MANDELLA: It's okay. I'm still young enough, I

1 can get up twice.

2 CHAIR BRACKPOOL: State your name and affiliation for
3 the record, please.

4 MR. MANDELLA: My name is Richard Mandella. I'm a
5 trainer here in Southern California. I'm also the chairman of
6 the necropsy study at University of Davis since it was -- since
7 it was developed. I'm also on the RMTC. I'm on a board of
8 director of Oak Tree Racing.

9 The subject about voiding a claim for a horse that
10 did not finish or -- or if you want to just take it to the very
11 basics, the claiming rule I believe reads "dead or alive." If
12 you want to just start there it is a good place to start.

13 I'd like to start this with the same comment I used
14 when I introduced this idea at Keeneland in one of the
15 symposiums, maybe six or seven years ago. And I started by
16 saying I have played the game. I don't want somebody to say
17 who are you to talk. I have played the game. And I'm asking
18 you to consider removing the temptation for me to drop a horse
19 in to put a bomb on somebody, and that is how the game is
20 played. And at that extreme, if that's what's holding the
21 success of this industry up, shame on us.

22 Now I know it is difficult to get down to the last
23 detail of did not finish or exactly where that stands. But I'm
24 sure you could get an intelligent group of people together,
25 state vets, a couple of the vets from around the back side to

1 come up with -- with a standardized program on that. But
2 surely if it was -- had to be put to sleep I think it should
3 begin there and take -- take it where you'd like.

4 And I don't have a lot of personal interest in that,
5 other than I'm asked to do a lot of speaking on behalf of the
6 industry. I was asked to come here today. I didn't just come
7 on my own. And if I'm asked I'm going to say my peace. So if
8 that's what's holding the success of this game up, shame on us.

9 Now I've got to -- I've got to leave, I'm short of
10 time. And I'd like to just put on the record the argument
11 about the bute level. In my barn, if I've got a horse that I'm
12 trying to figure out a lameness the last thing I do is give him
13 bute. I take the bute away to see how lame he is. And I'd ask
14 -- like to ask any other trainers or veterinarians in this room
15 -- in this room if that would be their same practice. If
16 you're trying to understand a lameness do you give them bute to
17 look at them or do you take it away to find out how sore they
18 are. That's pretty simple.

19 You're going to get a lot of scientific and legal
20 opinions here of -- of how this ought to be looked at, and I
21 can't equal that. I can only talk as a horseman. And maybe
22 you all, if you were going to the doctor to see how bad your
23 wrist was hurting would think about whether you'd take a few
24 Advil to go or show him the real thing.

25 CHAIR BRACKPOOL: Richard, in the -

1 MR. MANDELLA: I'm trying to simplify it.

2 CHAIR BRACKPOOL: In the interest of fairness we're
3 not yet onto that issue. I understand you have a -

4 MR. MANDELLA: Yeah.

5 CHAIR BRACKPOOL: -- you have a -- you have a time
6 problem, and we will record the fact that you would be in favor
7 of the -- of the item. But I can't let the meeting -

8 MR. MANDELLA: Okay.

9 CHAIR BRACKPOOL: -- jump around.

10 MR. MANDELLA: I appreciate that, and I'll excuse
11 myself. And I look at the other side with respect to their
12 opinions. I know we're all here to try and help the horse.
13 Thank you.

14 CHAIR BRACKPOOL: Thank you very much.

15 COMMISSIONER ROSENBERG: Can I ask a question of Mr.
16 Mandella before he -

17 COMMISSIONER ROSENBERG: Richard?

18 CHAIR BRACKPOOL: Yes. Richard, Commissioner
19 Rosenberg has a question.

20 COMMISSIONER ROSENBERG: Could you specify what you
21 meant exactly with regard to -

22 MR. MANDELLA: I thought Mr. Brackpool told me to
23 leave.

24 COMMISSIONER ROSENBERG: -- claiming rule when you
25 said "drop a bomb." Were you speaking about -

1 MR. MANDELLA: Okay. I've got to -

2 COMMISSIONER ROSENBERG: Let me -

3 MR. MANDELLA: Yeah. I'm sorry. Go ahead.

4 COMMISSIONER ROSENBERG: Let me phrase my question.

5 If you were -- were you referring to a trainer that knowingly
6 or knows his probability or even a possibility of a horse
7 breaking down during a race, or were you referring to a horse
8 that is -- has a problem but not necessarily that the trainer
9 believes that the horse would possibly break down during the
10 race? Because people get rid of horses that may have little --
11 little problems because they think they're not going to go
12 anywhere but not necessarily put them in a race to break them
13 down.

14 MR. MANDELLA: You're absolutely right. You're
15 absolutely right. And I -- and I play this game. As long as I
16 train horses I've got to be competitive. But -- and none of
17 the -- very few of the horses, if any, are 100 percent. Very
18 few of us are 100 percent. We all have something wrong,
19 something that's not just right. But if you x-rayed a horse
20 and your veterinarian told you he might have one or two more
21 races in him and he just ran second for 50,000 claiming it's a
22 pretty big temptation to say, well, I'll put him in for 32 and
23 he's sure to get claimed and I'll be 32,000 ahead of the game,
24 that's the bomb I'm talking about.

25 COMMISSIONER ROSENBERG: But one or two races before

1 he breaks down or one or two races before he goes lame?

2 MR. MANDELLA: I meant what I said, one or two races
3 before he breaks that leg.

4 COMMISSIONER ROSENBERG: Okay.

5 MR. MANDELLA: And in my 35 years of experience I've
6 heard that statement more than one time.

7 COMMISSIONER ROSENBERG: All right.

8 MR. MANDELLA: So we all deal with day-in, day-out
9 lamenesses and -- and problem horses. But once in a while we
10 do know that -- we're warned that it's one or two more times.
11 And it's a pretty fine line of whether there's actually one or
12 maybe half of one, and the other half puts a jockey at risk and
13 a horse.

14 CHAIR BRACKPOOL: Thank you.

15 MR. MANDELLA: So if -- if I -- any other questions?
16 I didn't mean to walk away.

17 CHAIR BRACKPOOL: No. Thank you very much.

18 MR. MANDELLA: I was just doing what you told me.

19 CHAIR BRACKPOOL: Thank you very much.

20 MR. MANDELLA: All right. Thank you. Thank you.

21 CHAIR BRACKPOOL: I hope everybody else does.

22 Next speaker, Lou Raffetto, TOC.

23 MR. RAFFETTO: Lou Raffetto, president of the TOC.

24 Good morning, Commissioners, Mr. Chairman.

25 By way of background, I just want you to know that I

1 have been a trainer, I've been a racing official, and I've been
2 a track operator. So over the years I've been in the business
3 I've seen many injuries, some life threatening, some not. I
4 was around to see Ruffian break down and go for one, and -- and
5 specifically Barbaro. I was operating the Maryland Jockey Club
6 at the time and I was standing on the track when Barbaro broke
7 down.

8 And I say that just as -- as -- by way of an example.
9 If Barbaro had been a claiming horse that day, with the type of
10 fracture that Barbaro suffered more than likely the horse would
11 have been down. But the horse would never have been put down
12 on the race track simply because the nature of the crowd that
13 day right in front of the stands. They would have a boot on
14 the horse, just like they did Barbaro. They would have brought
15 the horse back to the barn. The horse would have been put down
16 at the barn. Barbaro is a little bit of a different situation.

17 I think we're opening up a can of worms if we -- if
18 we look to do this. You know, I think that Commissioner
19 Israel, you know, his comments regarding it are extremely
20 relevant. This is a very contentious issue.

21 Take, for example, if a horse breaks down who makes a
22 decision whether this horse gets put down on the track, the
23 trainer who currently trains him who then says, oh, no, no,
24 it's a filly, I want to breed her, bring her back to the barn,
25 we're going to put a boot on this horse, or the new trainer?

1 It can't be the new trainer, because as soon as he makes the
2 decision to put the horse down it goes back to the old trainer.
3 So -- and you can have so many situations where a horse is a
4 fatality. It could be a horse clips heels, go over and breaks
5 his back and the horse has to be put down. That's not the
6 fault of the trainer.

7 So my only point being that you can't -- and as
8 Commissioner Moss points out, I don't think it would make sense
9 to change a rule because a certain situation may have occurred
10 that brought this to light. You know, if you buy a two-year-
11 old more than likely the two-year-old is sound, just like
12 buying a new car. If you buy a used car you know there's going
13 to be some issues. A horse is in a claiming race, maybe
14 because he's slow, may have some minor issues. But believe me,
15 it's not like that trainer is sending that horse out thinking
16 he's going to break his leg. And I just don't think that the
17 rule needs to be changed, because I think you are going to open
18 up a can of worms here that you will regret at some point in
19 the future.

20 CHAIR BRACKPOOL: Thank you.

21 COMMISSIONER DEREK: May I make a comment on -- on
22 that?

23 It's my understand that if we do enact this rule
24 change that that decision would be made by the owner of the
25 horse. And until that horse is returned to the saddling area

1 it -- that decision to euthanize or not euthanize would be the
2 owner of the horse.

3 MR. RAFFETTO: Now the owner when the horse went in
4 the starting gate, I assume you mean.

5 COMMISSIONER DEREK: Yes. Yes.

6 MR. RAFFETTO: All right. And if that's the case, if
7 the owner happens to be there, okay, you have a situation, if
8 the owner is not there I assume it's going to be the trainer
9 representing the owner.

10 COMMISSIONER DEREK: Exactly.

11 MR. RAFFETTO: And if I'm the trainer I'm going to
12 say the horse pulls up, he may have fractured a sesamoid or
13 pulled his XYZ ligaments, and you're not 100 percent sure, I'm
14 going to say just put the boot on the horse and we'll van him
15 back to the barn. If the horse doesn't get put down the claim
16 goes through. That's my point. You don't necessarily just put
17 the horse down on the track. It doesn't really work out that
18 way.

19 CHAIR BRACKPOOL: I understand. I have Commissioner
20 Choper, but I see -- are you responding to Commissioner Derek's
21 point, Dr. Arthur?

22 DR. ARTHUR: Yes. I'd like to -- this is Dr. Arthur,
23 Equine Medical Director.

24 For clarification, the track or racing veterinarian
25 for California has the authority and makes the decision whether

1 a horse needs to be put down on a race track during or
2 subsequent to the running of the race. It's -- rarely is an
3 owner consulted -

4 CHAIR BRACKPOOL: Right.

5 DR. ARTHUR: -- under those circumstances. It's in
6 our rules.

7 COMMISSIONER DEREK: And I don't find this so
8 ambiguous, the idea. The -- the original owner of the horse,
9 if he makes the decision to take the horse back in a boot it
10 remains his horse because he did not return to the saddling
11 area. Is that not correct?

12 MR. RAFFETTO: The way I understood it, if -- if the
13 horse is put down on the race track before the horses are
14 unsaddled he would -- the claim would be void.

15 COMMISSIONER DEREK: The claim would be void -

16 CHAIR BRACKPOOL: Correct.

17 COMMISSIONER DEREK: -- as well as if the horse -

18 MR. RAFFETTO: My understanding -

19 COMMISSIONER DEREK: -- is put -

20 MR. RAFFETTO: I'm sorry.

21 COMMISSIONER DEREK: -- in a boot and returned, it
22 stays with the original owner.

23 MR. RAFFETTO: That's not my interpretation -

24 COMMISSIONER DEREK: It's -

25 MR. RAFFETTO: -- of this.

1 COMMISSIONER DEREK: It's not ambiguous.

2 MR. RAFFETTO: Yeah. I'm sorry, but that, again,
3 that's my -- not my interpretation. My interpretation of this
4 was that the horse would have to be put down on the track
5 before coming down. So -

6 CHAIR BRACKPOOL: To void the claim.

7 MR. RAFFETTO: To void the claim. So again you have
8 this ambiguity. And you're going to create a situation where
9 there's going to be -- and I hear what Dr. Arthur says, but
10 you'll have a situation at some point in time where it will be
11 a filly. He may say this filly needs to be put down, but they
12 may try to save the horse. At least that would be the story
13 that would be put out there.

14 CHAIR BRACKPOOL: Well, we have the same issue now.
15 It's the same issue now.

16 COMMISSIONER DEREK: It's the same now.

17 CHAIR BRACKPOOL: The only issue we're talking about
18 here is a transfer of the claiming price. The issue about
19 putting down a filly that may go on to breed is the same now.
20 The track veterinarian has the authority under our rules to do
21 that. They don't consult an owner. It has nothing -- I think
22 you're confusing the two -- the two points.

23 Commissioner Choper asked to make a point.

24 COMMISSIONER CHOPER: Well, there's one thing that I
25 have some difficulty understanding, maybe more than one but one

1 that I want to ask about. You represent -- today you represent
2 the Thoroughbred Owners of California.

3 MR. RAFFETTO: Correct.

4 COMMISSIONER CHOPER: There's certainly a great deal
5 of uncertainty as to why a horse is going to, you know, go down
6 on the track one way or another so -- so that this rule would
7 operate. We -- we heard Mandella say that, you know, some
8 trainers -- and, you know, I don't know a lot of them. I don't
9 -- who would know that. But they're going to have to --
10 they're going to take chances; right? Others say I'd never do
11 that.

12 The fact is that the people who stand to gain or lose
13 by the change of the rule are all horse owners. Okay.

14 MR. RAFFETTO: Yes, sir.

15 COMMISSIONER CHOPER: That's right, isn't it? So --
16 and indeed they are horse owners who run claiming horses, who
17 are in the -- the claiming part of the game. So that -- that
18 being the case there are going to be some cases over a period
19 of time in which the rule is going to operate differently than
20 it did before.

21 But it just seems to me that if you're in the
22 claiming game as a general matter this is simply the
23 distribution of the risk which is going to have a pretty good -
24 - I mean, there's always one winner and one loser in a
25 situation like this. So it's got to work out.

1 Having said that, if you accept that proposition that
2 this is simply a question of, on occasion, of risk between the
3 same group of people each time -- obviously that's not 100
4 percent true, but generally it is -- then this notion that
5 there are some, maybe very few, who will send a horse out
6 despite the fact that they know that the horse has a good chance
7 of breaking down. All right. And anyone who handicaps the
8 races looks all the time at that, they say, gee, what's going -
9 - something must be wrong with this horse. The issue is will
10 the horse make it through the race. Okay. If it makes it
11 through we've got a winner, if it doesn't make it through --
12 anyway.

13 So I -- I think there is this impression. And
14 appearances in a game like ours, in a business like ours is not
15 unimportant. So I tend to favor this, even though, you know,
16 many of the things that are going to be said on both sides are
17 true; right? People will say I've never sent a horse out. I'm
18 sure that's true. And you may never send a horse out that --
19 that way, but you could get stuck claiming a horse that way;
20 right? So in the end it sort of works itself out pretty
21 evenly, I think. And that's why given the public impression
22 that this creates I'd be in favor of passing the law, enacting
23 the law.

24 MR. RAFFETTO: Well, if I may respond quickly -

25 CHAIR BRACKPOOL: Quickly. It's not a debate.

1 MR. RAFFETTO: -- you know, and not that -- not that
2 other jurisdictions should matter. I'm not -- you know, I've
3 worked in a lot of jurisdictions. I've never seen a rule such
4 as this. But the point of the matter is I think we're looking
5 to -- you're -- you're going to have situations where horses
6 are going to break down through no faults of the prior trainer.
7 And I don't think it's fair to penalize that trainer or owner,
8 and that's really my point. For -- for one or two situations
9 it may arise.

10 CHAIR BRACKPOOL: Thank you. Commissioner Choper.

11 COMMISSIONER CHOPER: Just one quick response.

12 CHAIR BRACKPOOL: Commissioner Choper, then
13 Commissioner Harris.

14 COMMISSIONER CHOPER: And, of course, you're right.
15 But sometimes that -- that trainer loses a horse through -- or
16 who loses the claim, gets stuck with the horse that broke down,
17 even though it's no fault of the trainer. Nonetheless, in some
18 cases it's going to have the opposite result. He is going to -
19 - he spared a claim, even though it was no fault of the other
20 trainer in that race. And it's got to work generally.

21 CHAIR BRACKPOOL: Commissioner Harris.

22 COMMISSIONER HARRIS: Okay. I think we have to keep
23 in mind, too, that this rule is just a minor step forward. And
24 any rule we have, maybe there's better ways to do it or other
25 ways to look at it or, you know, we can argue forever how big

1 of -- is the perfect uphold of the good.

2 But I think it moves us forward and encourages people
3 to not run, which I think we've all done to some extent, horses
4 that are -- that are suspect. And I mean, there's different
5 kinds of injuries. You've got career-ending injuries and
6 career-threatening injuries. And you've got basically life-
7 ending injuries, and these are dealing with the life-ending
8 injuries.

9 But I'm also concerned if -- if the owners of the
10 California, which you know there's, you know, thousands of,
11 have really been surveyed very well by TOC on this or is this
12 just something that -- that -- how did you come up with the
13 position for TOC?

14 MR. RAFFETTO: In -- in this particular case I came
15 up from -- just from my experience in the game, being logical
16 and envisioning the -- the issues that will arise as a result
17 of the change.

18 COMMISSIONER HARRIS: Yeah, I know you're -

19 MR. RAFFETTO: Right.

20 COMMISSIONER HARRIS: I appreciate your position.
21 But representing the Thoroughbred Owners of California as a
22 group, which represents a whole set of people, I don't know if
23 -- if they, you know, as a group have -- have ever really
24 debated this issue.

25 CHAIR BRACKPOOL: Well, I think the question was, was

1 this debated at the membership -

2 COMMISSIONER DEREK: It wasn't.

3 CHAIR BRACKPOOL: -- board level or this your
4 recommendation?

5 MR. RAFFETTO: This was not debated at the membership
6 board level, no.

7 CHAIR BRACKPOOL: This is your recommendation?

8 MR. RAFFETTO: Yes.

9 UNIDENTIFIED FEMALE: (Off mike.) Well, yes, it was.
10 I'm sorry.

11 MR. RAFFETTO: Oh, I'm sorry. Go ahead.

12 UNIDENTIFIED FEMALE: We did over and over. We've
13 talked about this until we were blue in the face. And the
14 basic position -

15 CHAIR BRACKPOOL: Well, I -- anyway -

16 UNIDENTIFIED FEMALE: Okay.

17 CHAIR BRACKPOOL: Okay.

18 MR. RAFFETTO: I apologize. Being new here I was not
19 aware of that.

20 CHAIR BRACKPOOL: Okay. All right. Thank you.

21 Next speaker -- sorry. Commissioner Rosenberg?

22 COMMISSIONER ROSENBERG: Just one -- one point that
23 has been mentioned, the statistics that were attached to the
24 report talk about the fact that the Equine Injury Database
25 summary in California, except -- excluding Los Alamitos, there

1 were only six claimed -- six horses that were claimed which had
2 fatalities during the race. So this would only impact on six -
3 - would have impacted on six horses for the period, I guess
4 November 1, '08 through September 1 for a year -- no, not a
5 year, it's less than a year.

6 So we're talking about a rule here -- I'm not -- I'm
7 not just taking a position here. I'm just saying it's
8 interesting that they're talking about the -- the objections of
9 the TOC and others who -- who -- who object to this rule. It
10 only affects six horses.

11 So will this change the claiming game in that period?

12 CHAIR BRACKPOOL: Well, I think there's -

13 COMMISSIONER ROSENBERG: Will this change the
14 claiming game?

15 CHAIR BRACKPOOL: I think there's -- I think there
16 are two issues here, and maybe best left for commissioner
17 comments at the end. But I think there are two issues here.
18 One is the actual -- there -- there are -- there are two issues
19 here that are -- that are separate. One is the exact precise
20 number of horses, and therefore claims, that would have been
21 voided in this case. And you cite the number six. It's been -
22 - it's been different each year. But I agree, it's a very
23 small number.

24 And then there is the -- the perception issue. And
25 we've received a lot of comments over the last couple of months

1 and today, and I'm sure we will continue to on the fact that
2 this Board should not look at the perception issue, it should
3 only look at the reality issue.

4 I personally believe that this sport has to look at
5 the perception because I believe it does have an affect on the
6 overall people's view of the sport. So I don't think that --
7 that -- that you should ignore the perception. I think you
8 have to weigh it and you have to weight it with the others.
9 But I think that there are -

10 COMMISSIONER ROSENBERG: But that's -- that's -

11 CHAIR BRACKPOOL: -- there are -- there are two
12 different issues.

13 COMMISSIONER ROSENBERG: That's one side of the
14 argument. And I could also argue that the perception issue
15 would not be changed that much.

16 CHAIR BRACKPOOL: I agree. I agree. But I'm
17 saying -

18 COMMISSIONER ROSENBERG: You know, you could argue
19 that maybe. I don't know.

20 CHAIR BRACKPOOL: -- that those are the two separate
21 issues.

22 COMMISSIONER ROSENBERG: Right.

23 CHAIR BRACKPOOL: Let's finish with the speaker --
24 speaker comments. Next speaker, Darrell Haire, Jockeys' Guild.

25 MR. HAIRE: Darrell Haire, Western Regional Manager

1 for the Jockeys' Guild. Good morning, Mr. Chairman, Members of
2 the Board.

3 The Jockeys' Guild supports this amendment to this
4 rule. I rode races for 15 years, and I can't count the times
5 that I walked in the paddock and I was on a horse that was
6 dropping. And trainers would say to me, "Darrell, you know,
7 just take care of this horse but -- and take care of yourself.
8 This horse has got enough class you ought to win for this price
9 but -- if he makes it around there."

10 I've had that said to me plenty of times. They're
11 just trying to unload them. They've got problems coming on.
12 He might tell me he's got a little knee or a little tendon
13 coming on, and they're just trying to get rid of him, trying to
14 unload.

15 So I don't think it's this isolated or this incident.
16 It happens. And I know that's how the game is played. For the
17 safety of the riders I think this rule, this amendment, it can
18 only -- again, for the safety of the riders and for the
19 integrity of the game I think this needs to be amended.

20 CHAIR BRACKPOOL: Thank you, Darrell.

21 COMMISSIONER ROSENBERG: Can I ask a question?

22 CHAIR BRACKPOOL: Commissioner Rosenberg.

23 COMMISSIONER ROSENBERG: Why do you think this rule
24 would change things? When you say that a horse might have a
25 few problems, the same question I asked Mr. Mandella, is this

1 really a problem? Are you saying the horse is going to break
2 down or the horse is having some problems and just -- you know,
3 not that he's necessarily going to break his legs during the
4 race. I'm just curious, why do you think -

5 MR. HAIRE: Well -

6 COMMISSIONER ROSENBERG: Why will this change things?

7 MR. HAIRE: I think more trainers, because they're
8 not dropping them in half to lose them, I think more trainers
9 will understand that they can't do this anymore.

10 COMMISSIONER ROSENBERG: But then we'll drop the
11 horse in half to lose them. If they want to lose them, people
12 do drop horses for various reasons including -

13 MR. HAIRE: Right.

14 COMMISSIONER ROSENBERG: -- they have a few problems
15 that they haven't figured out yet; right?

16 MR. HAIRE: Right. And that -- you know, and not all
17 trainers do it to, you know, to -- to drop them -

18 COMMISSIONER HARRIS: Yeah. I think, I mean,
19 there's -

20 MR. HAIRE: -- because they've got many problems.
21 They do it -

22 COMMISSIONER HARRIS: There's dozens reasons why
23 someone drops it, whether they're trying to win a race or all
24 kinds of things. But we're just focusing on the -- if -- if 90
25 percent of the reason is they think this horse is very near the

1 end of his life almost, if he runs a few more times he's done
2 and -- and somebody will claim him, that would be a motivation.
3 It's just -- it's not that -- it doesn't happen that often but
4 it has happened and that's -- that's the aspect that we're
5 attacking here.

6 CHAIR BRACKPOOL: I really think that in order to get
7 through this we should get through the speaker comments -

8 COMMISSIONER ROSENBERG: Okay. Sorry.

9 CHAIR BRACKPOOL: -- and then have the commissioner
10 comments.

11 Next speaker, Michael Wellman.

12 MR. WELLMAN: Mike Wellman, owner and breeder. I've
13 already written my comments.

14 CHAIR BRACKPOOL: Right.

15 MR. WELLMAN: And I'm really concerned about how you
16 implement this in terms of flaws in just the timing of it, who
17 has ownership. And the first thing I want to bring up that so
18 far hasn't been discussed here today is aren't all horses
19 before racing pre-vetted? Do we have competent vets?

20 I mean, we can send a horse out very, very sound and
21 god forbid something happens. We could have a horse that has
22 maybe something that's a little bit questionable. Things
23 happen on the race track, that's the reality. And for us to
24 try to determine exactly what the reason is that a guy ran a
25 horse, I wouldn't -- I wouldn't claim a horse that went from 50

1 to 25. Someone that does, I mean, so be it.

2 The thing I wanted to just bring up, Dr. Arthur did
3 say something that -- you know, I've owned horses for over 30
4 years, and he maintains that the vet has the final say, and I'm
5 sure he does. The Barbaro situation, I think in 99 out of 100
6 cases that horse would have been put down, other than the
7 circumstances.

8 I'm looking at Mr. Moss here, a horse that is loved
9 by everybody, thank god nothing ever happened to Zenyatta.
10 Okay. If you're telling me that there may have been a
11 situation where that horse had something that was questionable,
12 50-50, and Mr. Moss wouldn't do anything within his power,
13 heroically or not, just as Barbaro, to try to save that animal
14 and tell me that the vet had final say, I'm sure he would
15 certainly consider the vet. But with a certain glimpse of hope
16 I'm sure he would also want to save the animal.

17 You don't determine from what this -- how this thing
18 is written, as far as I'm concerned, in who has ownership.
19 Right now ownership passes basically as soon as that starting
20 gate opens.

21 I've got a wife that loves her horses. If we ran a
22 horse for \$50,000 or \$75,000 that we thought we wanted to
23 breed, okay, and someone took it, that's the game. But to let
24 somebody else determine because ownership passes back to us and
25 we don't have anything to say about the outcome of the future

1 of the horse, there are gray areas. And all I can tell you is
2 this rule is very flawed. You're going to have problems. And
3 you're talking about an anomaly. There are very situations
4 that occur, but when they do occur the way you implement it
5 will be critical. And I don't see anybody that's capable of
6 doing that.

7 CHAIR BRACKPOOL: Thank you. Thank you for the vote
8 of confidence.

9 Item number -- next speaker, Alan Balch, CTT.

10 MR. BALCH: Alan Balch, CTT. CTT, as an
11 organization, has discussed this on numerous occasions. We
12 just had a change in leadership. Our board opposes this rule.
13 We -- I think basically everything that's been said in
14 opposition to the rule we would endorse. We do call your
15 attention to the fact that we think Mr. Raffetto is correct in
16 his reading of this that claim is not voided unless the horse
17 suffers a fatality.

18 I would also say that we would welcome the
19 opportunity, since this is a big issue of perception, we agree,
20 to really examine the overall claiming rule and a major change
21 to the claiming rule or the whole claiming process, perhaps
22 along the lines of the people in Europe and have an auction
23 process, and so forth, that would take a lot of time to
24 develop. But we think it would probably provide a disincentive
25 for nefarious behavior.

1 But also look at the upside claiming. We haven't
2 talked at all about what happens to the person who puts a horse
3 in for a price and the horse wings by 20. You know, that --
4 that grade horse has just been lost for potentially a bargain
5 price.

6 Now I think there is a lot of things as to claiming
7 that we could look at that we really -

8 CHAIR BRACKPOOL: And we're on -- we're trying to
9 stay on this particular issue.

10 MR. BALCH: Well, this is the -

11 CHAIR BRACKPOOL: Don't start getting broader -

12 MR. BALCH: Mr. Chairman -

13 CHAIR BRACKPOOL: -- because we have a lot of
14 things -

15 MR. BALCH: -- with respect -

16 CHAIR BRACKPOOL: -- to get through today.

17 MR. BALCH: -- this is about claiming. And we're --
18 we're suggesting that -

19 CHAIR BRACKPOOL: Well, I'm asking you to speak about
20 the claiming issue that's in front of you now, not the merits
21 or lack thereof of changing many, many aspects of the claiming
22 rules.

23 MR. BALCH: This -- this proposal is essential to the
24 overall claiming scheme. And we think there are other things
25 that could be done that would address the problem more

1 seriously and more positively. Thank you.

2 CHAIR BRACKPOOL: Thank you. Next speaker, John
3 Sadler, CTT.

4 MR. SADLER: Good morning. John Sadler, President,
5 CTT. You know, most of our concerns are similar to what's been
6 aired here already. The fact that Commissioner Rosenthal [sic]
7 said this is a very small number -

8 CHAIR BRACKPOOL: Rosenberg.

9 VICE CHAIR ISRAEL: Rosenberg.

10 MR. SADLER: Rosenberg. Sorry. You know, so we're
11 worried about the application, you know, and I -- and we're
12 worried about the unintended consequences of a rule change like
13 this. I mean, I can see scenarios where the dark trainer that
14 wants to put a horse in says break him from the gate but don't
15 -- don't try on him, don't pull him up. So you're running a
16 bad horse. It probably won't break down, but they've laid
17 another egg on somebody.

18 So I mean, there's a lot of -- there's a lot of ways
19 -- you know, I'd like to see this delayed. We could work on
20 the language, who makes the decision. You know, this is -- a
21 lot of this is gray area. And just to make this sweeping
22 change at this time I think is a mistake.

23 CHAIR BRACKPOOL: Thank you. Commissioner -- that
24 concludes the public speakers on this -- on this issue.

25 Other commissioner comments? Commissioner Harris.

1 COMMISSIONER HARRIS: Well, I was one of the ones
2 that have supported this. I realize it's not -

3 CHAIR BRACKPOOL: I think all the mikes have -- has
4 your mike gone as well?

5 COMMISSIONER HARRIS: Is the mike on? Is this on?
6 Anyway, the rule might not be a perfect rule. There's probably
7 maybe ways to improve it. And some of the -- there might be
8 different ways to improve the total claiming game. But -- but
9 I think it does send a signal that -- that California racing
10 does not want to encourage people running horses that have a
11 high likelihood of breaking down with the main intent of
12 running a horse just to get it claimed. And that happens very
13 rarely. And I mean, there's a lot of reasons to run a horse.

14 We've all, as Richard Mandella commented, played the
15 game to some extent, but it's just how far you can push it.
16 And this -- this is just trying to police the extreme pushing
17 of it. And I think it's a very minor step, but it sends a
18 signal. And a lot of it is the -- in the signal that people
19 under it, it defers, like any kind of a pill, it defers conduct
20 that you want to discourage.

21 So it may not be of those five horses that -- that
22 were impacted last year were that big a deal -- I mean, they
23 are a really big deal to the horse -- but hopefully you
24 discourage people going forward, more than just the people that
25 are going to let a horse break down. They're -- they're not

1 going to run a horse that's suspect because whatever added
2 incentive there was to lose a horse is now going away. And I
3 mean, obviously, many horses get claimed that don't break down
4 but still are not a very good claim. We're -- we're not going
5 to prevent that, and maybe we don't want to prevent that. But
6 -- but we're just trying to prevent really behavior that we
7 feel is -- is inappropriate.

8 And if I ran a horse and it broke down, I mean, and
9 I'd purposely run it to do that I would feel terrible. And I'd
10 feel -- I wouldn't mind just taking the horse back because I
11 didn't -- that's not the -- it shouldn't be the -- I mean,
12 we're supposed to be in a sport here and you're not supposed to
13 try to -- to dump a horse that's about to go on somebody. I
14 mean, any horse that gets claimed might not be 100 percent
15 sound, but we want to prevent behavior that -- that is not
16 really becoming of the game.

17 CHAIR BRACKPOOL: Thank you. Commissioner Moss.

18 COMMISSIONER MOSS: The claiming business has been a
19 big part of our game. And I think the interesting part of it
20 is the finality, if I can use that word, of it.

21 I think also we should keep in mind that before a
22 trainer or an owner claims a horse they pretty well know that
23 horse and they watch that horse work before they claim it.

24 VICE CHAIR ISRAEL: Excuse me. John, can you give
25 Jerry your mike?

1 COMMISSIONER HARRIS: Yeah.

2 COMMISSIONER MOSS: So I made the point that before a
3 horse is claimed usually that trainer is knowledgeable of that
4 horse and is claiming it because he thinks it's a bargain or he
5 thinks it's a good buy or he'd like to some day keep the mare
6 for potential breeding. I think this rule is well-intentioned.
7 I don't believe that there are. And I also believe that there
8 is some safety for the jock involved in this and we have to be
9 concerned about that.

10 But I think you're changing a rule that's existed for
11 a long time. And I would probably vote yes on the basis that I
12 think you're -- you're -- you're saying that these trainers
13 need a greater reminder than they already have. And I think
14 most trainers walk around understanding that responsibility and
15 would react pretty honorably to it. Thank you.

16 CHAIR BRACKPOOL: And Commissioner Derek.

17 COMMISSIONER DEREK: Yes. I believe that this does
18 go on, this behavior. I believe that their rule as it stands
19 now encourages this behavior. And I think that it's not too
20 much of a hardship. We're looking at in the past months,
21 almost a year, six horses. I don't think it's a one-time --
22 someone's bad behavior just once that -- that -- that caused
23 this rule to be examined again.

24 I think that a benefit of this rule change would be,
25 also, that someone new coming into the business would actually

1 claim a live horse. I think it's -- I know there is claiming
2 insurance. But I think that buying a race horse, a beautiful
3 race horse, is not just a financial decision, it's an emotional
4 one as well. And I don't think getting the insurance money is
5 going to keep the enthusiasm for a potential new owner to come
6 into the business.

7 I think that we're obliged to make sure that there is
8 no incentive for a trainer to run a horse that is compromised.

9 CHAIR BRACKPOOL: Commissioner Rosenberg.

10 COMMISSIONER ROSENBERG: I find this a very difficult
11 issue. I personally don't think this -- this rule will change
12 the behavior of -- of trainers and owners who enter their
13 horses at all. I don't see the change -- I see it as a small
14 little -- if they were willing to take that risk before they'll
15 take it again. So I guess -

16 COMMISSIONER DEREK: But there won't be a reward.

17 VICE CHAIR ISRAEL: There's no reward.

18 COMMISSIONER DEREK: There's no reward at the end of
19 the race.

20 COMMISSIONER ROSENBERG: They're not looking for a
21 reward. They're looking to get rid of their horse.

22 COMMISSIONER DEREK: They get -- they get the claim,
23 they get the money. There will be none.

24 COMMISSIONER ROSENBERG: But they -- but they're
25 looking to get rid of the horse is -- are you saying that we

1 shouldn't allow claiming races because the intent is to get rid
2 of a horse?

3 CHAIR BRACKPOOL: No. What -

4 COMMISSIONER DEREK: No, of course not.

5 CHAIR BRACKPOOL: -- Commissioner Derek is saying is
6 if the horse under this circumstance -

7 COMMISSIONER ROSENBERG: Which circumstance?

8 CHAIR BRACKPOOL: -- suffers a tragic fatality -

9 COMMISSIONER ROSENBERG: Yeah.

10 CHAIR BRACKPOOL: -- then that particular owner-
11 trainer combination would not get the money.

12 COMMISSIONER ROSENBERG: I think it's over-
13 regulation. I think it's a perception. And the perception
14 issue is -- is not going to change much in terms of the public.
15 We'll still have great racing.

16 CHAIR BRACKPOOL: Commissioner Choper, Commissioner
17 Israel, any comments?

18 VICE CHAIR ISRAEL: No. I'd just like to clarify.
19 Lou Raffetto when he spoke made it seem is if I agreed with
20 him. I only agree with him insofar as I think the -- the
21 language needs to be improved slightly. Other than that I am
22 fine with the change of the rule.

23 CHAIR BRACKPOOL: Okay. Do I have a motion?

24 COMMISSIONER HARRIS: I'll move that we accept the
25 rule.

1 CHAIR BRACKPOOL: Commissioner Harris moves to
2 approve the rule. Do I have a second?

3 COMMISSIONER CHOPER: Second.

4 CHAIR BRACKPOOL: Commissioner Choper seconds. All
5 in favor?

6 CHAIR BRACKPOOL: Aye.

7 COMMISSIONER DEREK: Aye.

8 VICE CHAIR ISRAEL: Aye.

9 COMMISSIONER CHOPER: Aye.

10 COMMISSIONER HARRIS: Aye.

11 CHAIR BRACKPOOL: All opposed? The motion carries
12 five to two. Commissioners Rosenberg and Moss vote against.
13 The motion carries.

14 Item number four, Jackie (applause). Please let's --
15 thank you. Otherwise it becomes a competing set of --

16 VICE CHAIR ISRAEL: Well, not only that, in about
17 five minutes we'll give you something to boo about.

18 CHAIR BRACKPOOL: Item number four, public hearing
19 and action by the Board regarding the proposed amendment of
20 CHRB Rule 1843.3, Penalties for Medication Violations -- I
21 won't read every one of the penalties.

22 But perhaps you could just -- and Dr. Arthur, perhaps
23 you could assist here. Just give us the briefest of
24 summarizes. This is obviously a prelude to the next item.

25 MS. WAGNER: Jackie Wagner, CHRB Staff. The proposal

1 to Rule 1844 will change the penalties under Category C that
2 will allow the allowable level of flunixin to be reduced from
3 50 nanograms to 20 nanograms. It would change the penalty for
4 violation of that. It also changes the penalty for a violation
5 of low levels of bute. We are going to be establishing a
6 penalty for bute levels that come in between 2.1 milliliters to
7 5.0 milliliters. The current level of bute for overages that
8 are over five does not change.

9 We are also establishing a penalty for Category D
10 penalties. Those penalties would range from a written warning
11 to a maximum fine of \$250 for a first offense, and a minimum
12 fine of \$500 and a maximum fine of \$750 for a third offense.

13 The rule has been out for 45 days. We have not
14 received any comments on the proposal.

15 CHAIR BRACKPOOL: Okay. Dr. Arthur, would you just
16 summarize in English what Jackie was just forced to say in
17 legalese?

18 DR. ARTHUR: Certainly. Dr. Arthur, Equine Medical
19 Director, California Horse Racing Board.

20 What we've established there are penalties for
21 violations of 1844(c), which is a non-steroidal anti-
22 inflammatory regulations that deal with phenylbutazone
23 specifically between the levels of 2.1 and 5.0. Currently
24 these are category -- over five micrograms is a Category C
25 penalty, and that will remain unchanged except for one

1 provision where you get one -- one -- three -- or an
2 opportunity for a warning every three years.

3 In this particular instance they -- these will be
4 Category D between 2.1 and 5.0. These are consistent with the
5 penalties that were laid out by the RCI or are going to be
6 adopted by the RCI. In fact, there was a press release, I
7 think today about this. These are somewhat more lenient than
8 the RCI's, but they're essentially identical. It does give the
9 stewards the opportunity to issue a warning over the first one,
10 I think. And I can't see it here.

11 CHAIR BRACKPOOL: Yeah. Let's -- let's -- let's try
12 and summarize, not read the rule.

13 DR. ARTHUR: Oh. Okay. Fine. Fine.

14 CHAIR BRACKPOOL: You're -- you're slipping back into
15 Jackie-talk here.

16 DR. ARTHUR: I'll get to the bottom line. The bottom
17 line is that the first penalty is \$250, and the stewards have
18 the opportunity to issue a warning. And that's -- you get that
19 for every two years. And if you don't get another one it's
20 expunged from your record.

21 CHAIR BRACKPOOL: Right. Let me ask a technical
22 question of Jackie, and perhaps Counsel here. If the Board
23 votes on this issue now and this issue is -- this item is
24 approved by the Board, and I don't know whether it would be or
25 not it is approved, and then depending on where we go on the

1 next item, are the two tied together or does this become -- I'm
2 not sure what the meaning of this is prior to the next item.

3 DR. ARTHUR: Yeah. This -- Jackie should answer this
4 question. But this should have come after -

5 CHAIR BRACKPOOL: Well -

6 DR. ARTHUR: -- the next item, and -- and that's the
7 problem.

8 CHAIR BRACKPOOL: Well, I think what we'll do is
9 this, I think that the important point here is that the
10 penalties have been lowered in anticipation of the lowering of
11 the level.

12 DR. ARTHUR: Correct.

13 CHAIR BRACKPOOL: Right. Let's now have -- let's
14 defer this item now. Let's then hear item number five. I have
15 several speakers who wanted to speak on four and five. I'm
16 going to allow those speakers to just speak on the combined
17 issues because it's really the same issue. And then we'll come
18 back and take a vote on this one when we see what happens on
19 item number five. Okay.

20 Item number five, public hearing and action by the
21 Board regarding the proposed amendment to CHRB Rule 1844,
22 Authorized Medication, to reduce the permitted level of bute in
23 an official test sample from 5 nanograms per milliliter of
24 blood plasma or serum to 2 nanograms per milliliter of blood
25 plasma or serum, and to reduce the permitted level of flunixin

1 in an official test sample from 50 nanograms per milliliter of
2 plasma or serum to 20 nanograms.

3 MS. WAGNER: Jackie Wagner, CHRB Staff. The proposal
4 before the Board is as the Chairman has outlined it. During
5 the 45-day comment period on this proposal staff received
6 numerous comments on the proposal. This morning we received a
7 comment -- a letter of support from the Breeders' Cup on the
8 proposal. They are supporting the proposal as presented. We
9 received comments in opposition from the -- of the proposal
10 from California Exposition and State Fair, the CTT, and Don
11 Shields. Specifically, Cal Expo commented that the reason for
12 amending the -- the rule was that thoroughbred horses undergo -
13 - underwent a pre-race examination. And that by lowering the
14 allowable level would allow the vet to more readily identify
15 what the circumstances are, the preexisting conditions.

16 CHAIR BRACKPOOL: Well -- well, Jackie, let's --
17 let's do this, we've all read the pack. Again, we have letters
18 in support and we have letters in opposition; right?

19 MS. WAGNER: Correct. That is correct.

20 CHAIR BRACKPOOL: I just refer the commissioners that
21 we have two additional -- three additional letters subsequent
22 to the pack, and they are in front of us, and some have been
23 sent around. We have a joint letter from Alan Balch
24 representing CTT and TOC, again expressing their -- it's
25 actually a copy -- it attaches a copy of Dr. Shields -

1 MS. WAGNER: That's correct.

2 CHAIR BRACKPOOL: -- July 13th letter.

3 MS. WAGNER: That's correct.

4 CHAIR BRACKPOOL: It says they're supportive in that
5 letter. Dr. Shields himself had sent in a subsequent letter on
6 July 18th, and we've read those. And we also have in front of
7 us a letter today -- well, sent a couple of days ago but in
8 front of us today -- from the Breeders' Cup supporting the --
9 the item. So we have various opposition and support letters,
10 all of which have been made available to commissioners. And I
11 believe commissioners have -- have -- have read them.

12 Would commissioners like to start with some comment
13 on this, or would we like to have some public comment and then
14 -

15 COMMISSIONER DEREK: I prefer public comment.

16 CHAIR BRACKPOOL: So let's have public comment, and
17 then our comments. I think it's probably better. And I think
18 in the interest of time if we can perhaps save ours until
19 afterwards, unless there are specific questions, that would
20 be -- that would be good.

21 My first speaker is Dr. Mark Dedomenico from the TOC.

22 DR. DEDOMENICO: I think I'd rather follow Dr.
23 Shields because I think you would like to have me either agree
24 or disagree with what he's going to say. Okay?

25 CHAIR BRACKPOOL: Okay. Well, then I believe I have

1 a Dr. Shields card. Yes, I do. Dr. Shields.

2 DR. SHIELDS: Dr. Don Shields, Veterinarian and
3 member of the CTT Medication Committee. Good morning,
4 everyone.

5 CHAIR BRACKPOOL: Good morning.

6 DR. SHIELDS: I'd first like to start by addressing
7 what Dr. -- oh, sorry -- Mr. Mandella had mentioned about
8 medication and giving bute and looking at a horse. Please
9 understand that medication is not like a light switch. It's
10 not either on or off. There are variable effects, gradients of
11 effects of medication based upon the level of a medication at
12 the time you are looking at a horse. There are also levels of
13 detection of medications which have no clinical effect.

14 Please understand that I'm not here to argue for more
15 medication. I don't believe that every horse needs bute to
16 race, nor should they. And I don't consider the five microgram
17 per milliliter regulation sacred or untouchable.

18 I hope that any changes are based upon fact, not
19 fiction or opinion. These are medication rules that should be
20 based upon scientific facts and medical knowledge.

21 We all need to understand that in February Dr. Arthur
22 stated that a two gram dose at 24 hours will not go over the
23 limit if it's not in the injection. This simply is incorrect.
24 An MRTC withdrawal study, 20 horses, 2 grams IV, one horse was
25 over the 2 limit at 24 hours. That's five percent inadvertent

1 positives.

2 I do realize that that level was 2.1, and you'll be
3 told that the MU or the lab variation would not make that a
4 positive. So my misspeaking there, that's five percent
5 overages. Statistically that will not be the highest level
6 that you'll see.

7 In another study six horses were fed two grams of
8 bute for four days, and then a two gram injection was given
9 which is legal. The high was 2.6. They did not say whether
10 one or more horses was over 2, but at 1 of six, that's 17
11 percent positives. So depending on the circumstances we're
12 going to have somewhere between 5 percent and 17 percent or
13 more overages, positives. If we still consider the standard 2
14 gram dose IV to be a 24 hour medication.

15 Dr. Soma published this as fact for the Pennsylvania
16 Horse Racing Commission. And it recommends, if you're going to
17 just go give two grams do it at 36 hours.

18 The executive director of the RMTC, the previous
19 executive director stated how they calculate thresholds. Based
20 upon those calculations a threshold would be approximately 2.7.
21 So somewhere around 3 micrograms to keep bute at 2 grams IV
22 dose 24 hours -- a 24 hour medication.

23 The article by Dr. Derrick Lou that's in the packet
24 said to show that higher levels of bute caused injuries. Those
25 injured horses averaged 5.8 micrograms per milliliter; 71

1 percent had both bute and banomine present in their system; and
2 most of the horses who were banomine present were two times,
3 more than two times our legal limit. Three violations under
4 current California law. That does not apply to California
5 horses.

6 What did apply in the study was that the uninjured
7 horses averaged -

8 EXECUTIVE DIRECTOR BREED: Doctor, you have 30
9 seconds.

10 DR. SHIELDS: We're going combined, aren't we?
11 Combined three and four, would that be six minutes?

12 CHAIR BRACKPOOL: Yeah. We -- I'll allow you to
13 carry on and make your -

14 DR. SHIELDS: Thank you.

15 CHAIR BRACKPOOL: -- make your point. I don't want
16 to cut you off.

17 DR. SHIELDS: Thank you.

18 CHAIR BRACKPOOL: But please stay on -

19 DR. SHIELDS: Well, I'm not sure that everybody else
20 has had the chance to see it because it wasn't included in the
21 packet. So -- so the underage of the horses had 4.4 micrograms
22 per milliliter, which is below our limit. And California
23 horses actually averaged less than 2.35 micrograms right now;
24 85 percent of horses are below 2, 90 percent are below three.

25 I could give you many quotes. A standard clinical

1 dose of two grams does effect heart rate and stride length,
2 heart rate, six hours, stride length, eight hours. The level
3 of bute present when its effects were waning, 7.2 to 7.5
4 micrograms.

5 Dr. Keegan (phonetic) stated there are scant
6 objective evidence that a combination treatment with
7 phenylbutazone and flunixin allows horses with lameness to
8 perform as if they were sound, such that veterinarian
9 inspection is compromised.

10 Regulatory veterinarians identified 834 horses with
11 preexisting conditions when bute levels were 2 to 3 times our
12 level. And out of those 834 only 26 or 3 percent became
13 injured. I'll just skip all the other things, unless you have
14 questions.

15 And I'll end with this last quote.

16 "The levels of NSAIDs permitted on race day are
17 arguably well below clinically active dosage. In fact, in
18 California where the 5 microgram per mil in plasma level has
19 been in place for nearly 20 yeas. The vast majority of horses
20 test below the two microgram level. The five microgram level
21 simply provides a safety margin to avoid inadvertent
22 positives."

23 That is from a letter by Dr. Rick Arthur, the Equine
24 Medical Director, to the Oregon Racing Commission in 2006. So
25 please consider the science. If -- if you don't feel we have

1 enough information here we can use what Director Breed -- the
2 program that he mentioned with UC Davis, we could look at the
3 pre-race exam cards. We could look at past performances and
4 see if Sue Stover is correct, world -- world-renowned authority
5 on this issue, that perhaps it's more of a decrease in
6 performance than a unilateral lameness that we can detect
7 during pre-race exams. So thank you.

8 CHAIR BRACKPOOL: Thank you, Dr. Shields.

9 DR. SHIELDS: Thanks.

10 CHAIR BRACKPOOL: And -- and may I say, whatever
11 anybody's view on this Board is of this issue I want to thank
12 you for the time and detail you've put into this. It's been
13 really very interesting reading. And I do thank you for the -

14 DR. SHIELDS: You're welcome.

15 CHAIR BRACKPOOL: -- for the level of detail that
16 you've gone into. It's been very helpful.

17 DR. SHIELDS: Thank you.

18 CHAIR BRACKPOOL: Let's go back now and have Dr.
19 Dedomenico from the TOC.

20 DR. DEDOMENICO: My name is Dr. Mark Dedomenico. I'm
21 a cardiovascular surgeon, and 50 years of cardiovascular
22 research in this country. I've been up for the Nobel Prize on
23 two occasions. I'm here because I love horse racing.

24 Let me say that I have to tell you that I have 160
25 people working for me full-time on research. And I put a bunch

1 of people on this and did a med analysis on bute. I could not
2 find anywhere a scientific study that showed that bute levels
3 of 5 micrograms or less are associated with catastrophic
4 breakdowns or injuries.

5 I then read all the materials that came from Dr.
6 Shields. And I'm going to tell you something, guys, you have a
7 wonderful person here. He's a wonderful researcher. He's an
8 honest man. And we don't find these even in medicine very
9 often. You should listen to what this man has to say. And I
10 think that you've all gotten a lot of the things from him that
11 I got from him.

12 I think where this is going to lead you, it's going
13 to lead you into more positives. And there will be more talk
14 about we're drugging horses because more people are found at a
15 2.1 or a 2.4, a 2.5 micrograms per milliliter. And this
16 increased significance of positive drug violations is just
17 going to make them media say that we do a lot of bad things to
18 horses. And I don't think that we do that, more lawyers and
19 more expenses for trainers in this state. And with lawsuits we
20 get more and more negative attention each time it's reprinted
21 in the media.

22 Lastly, I think you've got a problem you better think
23 about, and that is if you take bute away from these people
24 pretty soon you're going to find steroids, corticosteroids
25 being used, and that's the one thing we don't want to talk

1 about.

2 I think if we would just take -- we have to decide
3 whether we're looking at this emotionally or we're looking at
4 this scientifically. I think if you look at scientifically
5 you'll review what Dr. Shields said and you'll follow him.
6 Thank you.

7 CHAIR BRACKPOOL: Thank you very much. Next speaker
8 on this issue, Alan Balch, CTT.

9 MR. BALCH: Alan Balch, CTT. Clearly we endorse the
10 favorable comments that have -- that we appreciate the chairman
11 making about Dr. Shields work on this. It has been work. It's
12 been extremely laborious and time consuming. And he is a
13 volunteer on our medication committee and has devoted untold
14 hours to it.

15 We want to reiterate that nobody, no constituency is
16 more concerned about the welfare of horses than our
17 professional horsemen are. We believe that therapeutic
18 medication -- therapeutic medication is essential to the well-
19 being of the horse. And we believe that irresponsible
20 therapeutic medication is harmful. And we believe that's the
21 dividing line here. And we think that the existing California
22 rule is tried and true. We think the attacks on therapeutic
23 medication are largely misplaced because they lead to the
24 perception problems that we've heard about, and we don't think
25 we should exacerbate that problem.

1 We want to call your attention to the fact that the
2 proposed change in threshold effectively changes its treatment
3 time. And this is particular issue for the horsemen in
4 Northern California and others, on the fairs particularly, who
5 feed bute or administer it orally. We want to reiterate that
6 there is no evidence whatsoever that California's present rule
7 contributes to racing fatalities, despite the implications and
8 innuendo you have heard from others.

9 So we would respectfully ask you to either study this
10 further or to vote against this rule change for now, because we
11 think there are now funds available to pursue the scientific
12 study that Dr. Shields has proposed. We urge you to make these
13 decisions on the basis of science and objective evidence.

14 Thank you.

15 CHAIR BRACKPOOL: Thank you. Next speaker, John
16 Sadler, CTT.

17 MR. SADLER: John Sadler, President, CTT. All those
18 comments in front of me were very, very good. And I can say
19 that all the thoroughbred trainers in California or the vast,
20 vast majority don't think this rule needs to be changed. And I
21 would hope you would look at us as the guys that have to make
22 these decisions on a daily basis. We've got to make it work.
23 We're the guys in the trenches.

24 You've heard from the doctors. Now you're hearing
25 from the guys that have to go out and find the horses, train

1 the horses, and most importantly produce with the horses. We
2 think our present rule is in good shape and we are very strong
3 that we don't think we need to change at this time.

4 CHAIR BRACKPOOL: John, the only thing I want to say
5 is that you started that by saying all the trainers in
6 California believe that this is the case. I mean, we -- we
7 just had one stand in front of us say the opposite.

8 MR. SADLER: I -

9 CHAIR BRACKPOOL: So please -

10 MR. SADLER: I stand corrected.

11 CHAIR BRACKPOOL: -- just give me a little
12 clarification -

13 MR. SADLER: Yeah.

14 CHAIR BRACKPOOL: -- on the process you've gone
15 through.

16 MR. SADLER: The vast majority.

17 CHAIR BRACKPOOL: Okay. And -

18 MR. SADLER: Ninety percent.

19 CHAIR BRACKPOOL: And going to Commissioner Harris's
20 point to the TOC, we ask it of the CTT, have there been a
21 membership -

22 MR. SADLER: Yes.

23 CHAIR BRACKPOOL: -- debate on this? If you could
24 just -

25 MR. SADLER: Yeah. We've had two meetings in

1 Northern California this year. And the trainers were very,
2 very firm on this in Northern California. This -- this agenda
3 item was on the Northern California when you had your meeting
4 up there and was taken off. There was a lot of them prepared
5 to speak at that time. And you know, I've been here 28 years.
6 I think I know what the vast majority of the trainers are
7 feeling, and they -- they feel this isn't necessary.

8 CHAIR BRACKPOOL: Thank you. I don't believe the
9 issue was on the last -- it as on the -

10 MS. WAGNER: No. Initially the initial hearing was
11 scheduled for an earlier time. The hearing was delayed.

12 CHAIR BRACKPOOL: Right. Yeah. It wasn't that we
13 had it on the agenda -

14 MS. WAGNER: No.

15 CHAIR BRACKPOOL: -- and then didn't hear it.

16 MS. WAGNER: It was never on.

17 CHAIR BRACKPOOL: Next speaker, Darrell Haire,
18 Jockeys' Guild.

19 MR. HAIRE: Darrell Haire, Western Regional Manager
20 for the Jockeys' Guild. The Jockeys' Guild supports this
21 amendment. The Jockeys' Guild has always been of the opinion
22 that less -- the less of medication in a horses system the
23 better. Jockeys like to know what they have underneath them
24 and be able to feel what they have underneath them. So that's
25 it.

1 CHAIR BRACKPOOL: Thank you. Next speaker, Jeff
2 Blea.

3 DR. BLEA: Jeff Blea, a private practitioner in
4 Southern California. We need therapeutic medication on the
5 backside, no doubt. Most of the medication we use is used to
6 keep these horses as athletes. We look after their welfare on
7 a day-to-day basis. All the comments here have been good.
8 They've been positive. But I would speak in support of this
9 rule. Dr. Shields, I have great respect for his opinion, and
10 he's done a lot of work looking at this. Dr. Dedomenico, as
11 well, doing a med search.

12 The one thing I do have to bring up here is, one,
13 there's a lot of gray area in this research, especially from
14 Soma's lab. I haven't seen Dr. Shields's packet so I can't
15 comment on his information.

16 The real crux of the problem here started with the
17 regulatory vets feeling they could not get a good assessment or
18 a pre-race exam of a horse who was on bute early in the morning
19 that day of the race because the level at that time was higher
20 than what would be a five microgram level, as Dr. Shields
21 pointed out. Fine. No big deal.

22 This was kicked around throughout the AAEP Racing
23 Committee, which I am a member of, 30 members of this
24 committee, regulatory veterinarians and private practitioners.
25 We dealt with this issue ad nauseam for well over a year. Do

1 we eliminate phenylbutazone and go to an international type
2 racing style? No. This is American racing. We use
3 therapeutic medications, there are needs for it, and we have
4 ways to manage it. Okay. There are rules in place for it and
5 we understand that. We try and abide -- abide by them as best
6 we can, as John said.

7 The real crux here is do we need this much bute? Do
8 these horses need this much bute? Personally, I don't think
9 so. I'm comfortable with the two microgram level. To me that
10 says I need to treat that horse 24 to 36 hours out. According
11 to Dr. Shields, according -- there was 5 percent or 1 out of 20
12 that came up with a 2.1 microgram which would be called a
13 positive. So in my mind I support this rule because I think
14 it's better for the horse. Less is better, albeit it's still
15 effective.

16 In my mind the real problem here is we need to be
17 able to, if this rule is implemented, provide a guideline to
18 trainers and to veterinarian on when to treat and how to treat,
19 whether it's injectable or oral, so we don't get these
20 positives that become a blemish in racing which we don't need.
21 So as long as we have a grace period to implement these
22 changes, as long as we have a guideline that we can all follow
23 I think it's a workable solution.

24 In this case bute is a necessary, I think therapeutic
25 medication. The consensus of the racing committee was, in

1 fact, the same. It had the same consensus, bute is necessary,
2 and we could all live with the two microgram level. Currently
3 we treat most of our horses well before noon anyway. Talking
4 to one of the biggest -- a practitioner that has one of the
5 largest practices in Northern California, he does all his butes
6 in the morning as well. So we're already theoretically,
7 without scientific data, below or at that two microgram level
8 without even trying.

9 So if we're going to change it I think, one, it's
10 better for the horse. But, two, I think we need to change it
11 with guidelines to keep people out of trouble. So I am in
12 support of this rule.

13 CHAIR BRACKPOOL: Thank you very much. Next speaker,
14 the last speaker I have on this issue, John Barr.

15 MR. BARR: My name is John Barr and I'm representing
16 the Jockey Club here this morning. I have a letter before me
17 dated June the 6th that I sent to the Racing Board. And,
18 unfortunately, for whatever reason it didn't show up in your
19 packet. And so I'm going to read it to you, and I'll try to go
20 through it as quickly as I can.

21 A couple of years the Jockey Club Safety Committee,
22 of which I am a member, undertook the study of -- quotes, as I
23 didn't make this up -
24 "whether or not the existing allowable tolerance levels of
25 phenylbutazone upon race day testing were so high as to

1 disguise by its presence a preexisting lameness of other
2 discomfort in a horse which might otherwise have exhibited
3 itself while being examined by the assigned veterinarian during
4 his routine race day inspection."

5 When we then undertook the study of this issue, which
6 included a great deal of testimony from various segments of the
7 industry, including that of several race-day examining
8 veterinarians. The examining veterinarians without exception
9 each expressed concern about the possibility that such levels
10 might indeed disguise an injury of some import.

11 Following our deliberations and conclusions on the
12 issue we recommended the RMTC, the Racing Medication Testing
13 Consortium, undertake the matter for their further study.
14 Following their examination of existing evidence it was their
15 final decision that the recommended acceptable race-day levels
16 of bute be lowered from 5 micrograms per milliliter to 2
17 micrograms per milliliter to be administered no sooner than 24
18 hours before race time.

19 There is no contention here that the presence of but
20 of bute or other non-steroidal anti-inflammatory drugs are the
21 underlying culprits in causing fractures and other breakdowns.
22 The contention is they may be, by virtue of their pain-killing
23 properties, disguising the normal physical evidence which would
24 be evident in a pre-race examination by a veterinarian. It is
25 a well accepted and scientific fact, as Dr. Arthur has informed

1 your Board, some 85 percent of all fractures resulting on the
2 track, whether it be in an actual race or during a work, are
3 the result of the accumulative effect from prior incidents and
4 stress.

5 These new lower thresholds have been recommended by
6 the RMTC, and subsequently adopted by the RCI, the Jockey Club
7 Safety Committee, the Breeders' Cup, the Jockey Club, TOBA and
8 it's Graded Stakes Committee, and the American Association of
9 Equine Practitioners. The states of Maryland, New Jersey,
10 Pennsylvania, Delaware and Virginia test now at these levels,
11 which is about 25 percent of the racing in America.

12 The bottom line here is that effective January 1st in
13 2012 any racing association which offers graded level stakes
14 must require that the competing horses test at these new levels
15 or any graded rankings will not be allowed or recognized. The
16 whole idea here is to try to prevent catastrophic incidents on
17 the track. And any chemical or substance which might, no
18 matter how remotely, disguise lameness or any other telltale
19 evidence in the gate or the action of a horse during a pre-race
20 examination should be prohibited.

21 To the nitty-gritty, Dr. Arthur has also pointed out
22 any number -- on any number of occasions that about 80 percent
23 of the existing California tests already fall within these new
24 thresholds and thus should not present much of a problem for
25 any but a very few trainers in California. I simply do not see

1 the justification for the concern I have heard expressed to
2 date by a number of trainers on this issue given the existing
3 testing results.

4 One would think that a reasonable penalties or a
5 specified time table for compliance at the outset would allow
6 trainers to learn which of their horses react in different ways
7 to the time period for either the oral or intravenous
8 administration of the product. If it turns out that in the
9 case of certain animals the pre-race timing has to be 36 hours
10 instead of 24, then so be it. It is already 48 hours now in
11 most jurisdictions outside of the U.S. and Canada. The 24-hour
12 rule is not a guarantee but just a normal withdrawal guideline.
13 The final determination, as always, has to be made with the
14 horse's trainer.

15 CHAIR BRACKPOOL: John, thank you.

16 MR. BARR: I urge you to adopt these new levels.

17 CHAIR BRACKPOOL: Hold on a second. Commissioner
18 Israel has a question.

19 VICE CHAIR ISRAEL: John -

20 MR. BARR: Yes.

21 VICE CHAIR ISRAEL: -- I want to understand better
22 the -- the essence of -- of what essentially is the ultimatum
23 from the Graded Stakes Committee. Does -- does that mean that
24 the racetrack has to have the rule implemented for all of its
25 races in order to maintain its graded stakes or just the graded

1 stakes?

2 MR. BARR: I can't answer that question. I'm sorry.

3 VICE CHAIR ISRAEL: Well, that's essential. See,
4 one -- one of -

5 MR. BARR: Yeah, it is. I understand.

6 VICE CHAIR ISRAEL: One of my problems here overall
7 is in this overwhelming mountain of -- of information there is
8 no information about economic impact, field size, and -- and
9 how -- how it will either positively or adversely affect the
10 business. And -- and I think, you know, it's not pleasant to
11 say that, I suppose, you know, but it is an essential part of
12 our analysis.

13 MR. BARR: Well, I understand what you're saying.

14 VICE CHAIR ISRAEL: Yeah.

15 MR. BARR: And I wish I could -- I wish I could
16 answer the question.

17 VICE CHAIR ISRAEL: Okay.

18 MR. BARR: It's probably been ruled upon and I just
19 don't know the answer.

20 CHAIR BRACKPOOL: Before we start commissioner
21 debate, I apologize, John, that we -- I am told we did not
22 receive your letter. So I don't know how that could be. I do
23 urge anybody submitting a letter to the CHRB for a meeting to
24 fax, email and mail the -- the letter. But Jackie -- Jackie
25 assures me that we have not received this letter. We now have

1 it and copies will be made available to -

2 MR. BARR: Fine. Thank you.

3 CHAIR BRACKPOOL: -- to them. So my -- my apologies
4 on behalf of the -- of the Board, but we -- I am told we did
5 not receive the letter.

6 VICE CHAIR ISRAEL: Can you attempt to clarify that
7 ambiguity before we -

8 MR. BARR: Sure.

9 VICE CHAIR ISRAEL: -- are done here?

10 MR. BARR: You bet I will.

11 VICE CHAIR ISRAEL: Okay.

12 MR. BARR: I'll get over here on my telephone.

13 VICE CHAIR ISRAEL: Okay.

14 CHAIR BRACKPOOL: Thank you very -

15 VICE CHAIR ISRAEL: Thanks, John.

16 CHAIR BRACKPOOL: Thank you very much.

17 MR. BARR: Thank you.

18 CHAIR BRACKPOOL: Before I get to Commissioner
19 Comments, Dr. Arthur.

20 DR. ARTHUR: I can actually -- this is Dr. Arthur,
21 Equine Medical Director. The TOBA graded stakes only are
22 applicable to those particular races, only those graded stakes.

23 VICE CHAIR ISRAEL: So if, just for argument's sake,
24 if the rule doesn't pass Santa Anita can run six races that day
25 at the old level and only the graded stakes have to be at the

1 new level?

2 DR. ARTHUR: That's correct.

3 VICE CHAIR ISRAEL: And the Jockey Club is okay with
4 that?

5 DR. ARTHUR: The Jockey Club is not involved in
6 graded stakes.

7 CHAIR BRACKPOOL: Right.

8 DR. ARTHUR: They're -- they're -

9 VICE CHAIR ISRAEL: Well, I know, but -

10 DR. ARTHUR: He's talking about the safety
11 committee -

12 VICE CHAIR ISRAEL: Right. Okay.

13 DR. ARTHUR: -- which would involve all races.

14 CHAIR BRACKPOOL: Dr. Arthur, were you about to make
15 another point, or you are just here to answer questions that
16 the Board may have?

17 DR. ARTHUR: Yeah. Yeah. I'm here to answer
18 questions. I don't know how detailed you want me to get into
19 the rebuttal of some of the scientific arguments. I certainly
20 have a lot. And -

21 COMMISSIONER CHOPER: Maybe you could give us your
22 conclusion. I'm serious about that. I mean, I don't want to
23 stop you from saying anything you feel you ought to say. But
24 if you could finish the sentence to say by my examination of
25 studies that I've read and what I've observed on my own from --

1 from what we've seen and the statistics here, your -- your
2 judgment is -- and I don't want one word, just a couple of
3 sentences, but -

4 DR. ARTHUR: My judgment is that the two microgram
5 rule is necessary to allow our examining veterinarians to do
6 the job that we have tasked them with doing. This has to do
7 with the levels, not at race time but at examination time, that
8 depending on whether it's day or night racing it will be
9 anywhere from 12, 8 to 14 hours prior to post time. So bute
10 levels are much, much higher than what we're talking about at
11 race time.

12 One of the proposals -- I was handed this issue as
13 chairman of the RMTSC Scientific Advisory Committee. And one of
14 the issues we talked about is rather than race time maybe we
15 should have bute levels at exam time, but that's just
16 impractical to do.

17 I would like to -- to address a few things that Dr.
18 Shields, who has done a rather commendable look at this
19 particular issue, has done. Number one, when we talk about
20 averages we're not interested in the average horse. When
21 you're pulled over and your blood alcohol is too high you don't
22 the policeman, well, my average is much lower. When somebody
23 gets a clenbuterol we don't say, well, what's your average
24 clenbuterol.

25 CHAIR BRACKPOOL: And there are some people where

1 that wouldn't make a difference.

2 DR. ARTHUR: There are some people it wouldn't make a
3 difference. So what we're looking for are the outliers. Most
4 of the trainers are -- abide by the rules. We have a very,
5 very responsible group of trainers here, but there are trainers
6 that push the limits. We have monitored bute levels for
7 trainers in Southern California for the last year.

8 And I will tell you, there are trainers that have
9 never had a bute over two. And to use an example, John
10 Shirreffs has ever had a bute over two in the last year.

11 CHAIR BRACKPOOL: Yeah.

12 DR. ARTHUR: And in the five years -

13 CHAIR BRACKPOOL: One of the things I don't want to
14 do is start getting into individuals.

15 DR. ARTHUR: And -

16 CHAIR BRACKPOOL: Because it's -

17 DR. ARTHUR: -- let -

18 CHAIR BRACKPOOL: -- it's unfair -

19 DR. ARTHUR: I will stop.

20 CHAIR BRACKPOOL: -- on anybody named or not named.

21 DR. ARTHUR: Okay. I understand that. But in five
22 years I've never had a horse euthanized by John Shirreffs.

23 CHAIR BRACKPOOL: I just asked you not to do that. I
24 just asked you not to do that.

25 DR. ARTHUR: My -- I apologize.

1 CHAIR BRACKPOOL: I'm really -- I'm -- I'm serious
2 about that. Thank you.

3 DR. ARTHUR: All right. I understand that.

4 CHAIR BRACKPOOL: Well, I'm not sure that -- but,
5 anyway, now you understand that.

6 DR. ARTHUR: Anyway, in terms of effective plasma
7 concentrations the -- Larry -- Dr. Larry Soma, who has
8 published as many articles as anyone in veterinary medicine,
9 very well respected professor at the University of
10 Pennsylvania, has looked after that drug testing program for
11 many years, has an article that has been published in a peer-
12 reviewed journal, came to the conclusion that after 24 hours
13 there is still effective plasma concentrations of
14 phenylbutazone with a two gram dose. That correlates to
15 roughly a one microgram level of phenylbutazone. You can find
16 articles that say one way or the other. His conclusion is that
17 the drug is still effective at 24 hours.

18 What you -- there is -- I think Dr. Shields is
19 correct in as that there is not scientific article that I could
20 find that shows that phenylbutazone causes catastrophic
21 breakdowns. On the other hand, there are no scientific
22 articles that show that phenylbutazone -- phenylbutazone is
23 safe for racing.

24 VICE CHAIR ISRAEL: Rick -

25 DR. ARTHUR: What we do know -

1 VICE CHAIR ISRAEL: Rick, hold on a second. I want
2 to interrupt you to ask a question.

3 The statistic that jumped out at me that, I think Dr.
4 Blea -- is that -- is that how he says his name -- brought up
5 was 80 percent of the horses race under the limit, only -- the
6 new limit, only 20 percent race over.

7 Is there any statistical analysis that shows us what
8 the fatality or injury rate was in those 2 groups, the 80
9 percent group and the 20 percent group? Was there a
10 statistical aberration that said horses in the 20 percent group
11 were getting injured at a significantly higher rate than horses
12 in the 80 percent group?

13 DR. ARTHUR: The way that was -- the way that was
14 done we were unable to do that, or we haven't done that.

15 VICE CHAIR ISRAEL: But that -- that -- that would
16 actually be a meaningful statistic.

17 DR. ARTHUR: The -- the problem -- the problem has --
18 well, it was done in Kentucky in the Derrick Lou paper. And
19 what they found was that those horses that were injured had a
20 higher phenylbutazone non-steroidal anti-inflammatory rate. I
21 agree with Dr. Shields that these drugs didn't cause the
22 injury.

23 VICE CHAIR ISRAEL: Well, but to understand the
24 impact we need to know what the injury rates are for the horses
25 racing at two point and lower, and for the horses racing at

1 five. There -- there's -- there's a disparity in the number of
2 horses. If 80 percent of the horses race at the new level and
3 20 percent have been racing at a higher one, are they getting
4 injured at different rates?

5 COMMISSIONER DEREK: I think one simple statistic is
6 that over 90 percent of our fatalities have preexisting
7 injuries. So you can -- you might conclude that we're missing
8 something in the pre-race examination.

9 VICE CHAIR ISRAEL: But that doesn't tell us anything
10 about whether the butazolidin -- or whether phenylbutazone, as
11 we call it now, is relevant in that analysis.

12 That's -- that's -- see, there's an emotional appeal
13 that's not statistically oriented that kind of bothers me.

14 DR. ARTHUR: Well, you know, I think you actually
15 have a very good point. And the Derrick Lou paper in -- in
16 Kentucky tried to look at that. And the most important factor
17 in that is that the injured horses did have higher
18 phenylbutazone and banamine, non-steroidal anti-inflammatory
19 levels.

20 VICE CHAIR ISRAEL: Higher than what?

21 DR. ARTHUR: Higher than the horses, the control
22 horses -

23 VICE CHAIR ISRAEL: Oh.

24 DR. ARTHUR: -- the other horses that were tested in
25 a race. So there was a significant difference.

1 The issue is not that those drugs cause the problem,
2 but those trainers knew those horses had problems and gave them
3 more phenylbutazone. That's the issue. And what we have
4 similar to our TCO (phonetic) two levels is because we have
5 such a large safety level is there an opportunity for someone
6 to give a horse that has a problem additional phenylbutazone to
7 get by -

8 VICE CHAIR ISRAEL: But we're -- we're -

9 DR. ARTHUR: -- the examining veterinarian.

10 VICE CHAIR ISRAEL: We're engaging now in -- in the
11 one Advil or two Advil argument. And the question is whether
12 there should be Advil at all. But we don't have to the -- any
13 statistical evidence on whether two Advil is more deleterious
14 than one Advil.

15 DR. ARTHUR: Well, your absolutely right, except -

16 VICE CHAIR ISRAEL: And we have a way of finding out.

17 DR. ARTHUR: -- except I can tell you that two
18 states, Iowa went from two micrograms to five when the RCI
19 tried to get uniform regulation across the country. This was
20 before Barbaro.

21 VICE CHAIR ISRAEL: A long time.

22 DR. ARTHUR: And what they found is their fatality
23 rate went from 1.29 to 1.99.

24 Virginia, in a similar situation, their rate went
25 from 0.96 to 1.5 when they went to the higher level, to the

1 extent that they actually went back down and their fatality
2 rate dropped.

3 So there certainly is indication there that
4 phenylbutazone may have an impact.

5 CHAIR BRACKPOOL: Right. I have several other
6 commissioners. So -

7 DR. ARTHUR: Okay.

8 CHAIR BRACKPOOL: -- Commissioner Choper.

9 COMMISSIONER CHOPER: Thank you. I certainly don't
10 know whether this is the right thing or the wrong thing. And I
11 must say that I rather doubt that anyone knows when you look at
12 these studies. Most studies when they involve living, you
13 know, breathing things are -- are possibly flawed. The biggest
14 study that I know of is hormone replacement therapy for
15 menopausal women that the AMA endorse it and they change it
16 around. I mean, it reached the opposite conclusion.

17 So I'm not saying anybody's right and anybody's
18 wrong. And we can talk a long time about this study or that
19 study and what's wrong with this study and what's not wrong
20 with it, and it may be so. But I don't know.

21 So my -- my -- my view is this, we have an equine
22 medical director who is a distinguished veterinarian. And
23 you've come to the conclusion that this is something that we
24 ought to change. We've had this in front of us for some time.
25 We have -- you can see how many pages we've got in here.

1 So I'm inclined to say let's promulgate the rule.

2 The CTT says let's have more studies. I'm not
3 against more studies. You know, when we put the rule in
4 it's -- it's -- it's not the American Constitution. You can
5 change the rule again if -- if it's in some way strongly
6 indicated that we've done the wrong thing.

7 I was very sympathetic to the speaker who said that
8 we ought to have some sort of period to give the trainers
9 guidelines as to how to handle this change in the rule.

10 And so that's where I come out. And I must say, I
11 find it very difficult to believe that anyone is going to be
12 convinced of anything because, as I say, I rather doubt that it
13 is an issue that is convincible. But -

14 CHAIR BRACKPOOL: Thank you.

15 COMMISSIONER CHOPER: -- that's what I think.

16 CHAIR BRACKPOOL: Thank you. Commissioner -- I know
17 everybody wants to speak. Commissioner Moss next.

18 COMMISSIONER MOSS: I just think, Mr. Chairman, that
19 we have to understand that these are athletes, equine athletes.
20 And just like regular athletes, human athletes, they have -

21 (Colloquy regarding the sound equipment.)

22 COMMISSIONER MOSS: -- certain aches and pains.

23 So I think in answer to Commissioner Choper's
24 situation, wondering whether we're right or wrong on this
25 issue, we have an opportunity to watch what happens. I think,

1 as the gentleman from the Jockey Club mentioned, that 25
2 percent of the country is already involved in this practice,
3 and why don't we wait in California and see what the rest of
4 that -- what that 25 percent is doing? I don't see any reason
5 why California has to jump on this when there are a substantial
6 amount of jurisdictions enacting the two percent rule.

7 I also believe, like -- like, you know, are we going
8 to start measuring the Advil dosage and the cortisone shots
9 that football players take?

10 You know, I -- I think we're over-regulating this.
11 And I'm also concerned that we seem to be disregarding what the
12 TOC says or what the trainers say. And just going on and
13 making these rules that I think are going to be very difficult
14 to manage, I'm worried about the positives that are going to
15 come out of this and the headlines that may come from the
16 positives. And I agree with Dr. Dedomenico that you take away
17 some of these things from the trainers toolbox and some
18 trainers might get steroidal on you and have something a little
19 more dangerous happening.

20 I think I'm in favor of not -- not touching this
21 rule. And I'd like to keep us at five. Thank you.

22 CHAIR BRACKPOOL: Commissioner Rosenberg next.

23 COMMISSIONER ROSENBERG: I just wanted to add that
24 the -- one of the things that bothers me here is this whole
25 groundswell that you read about, national organizations talking

1 about eliminating race-day medications altogether. The -- the
2 breeders -- I mean, the Jockey Club graded stakes rule is
3 coming into place in January. So in some ways I -- this is a
4 six-month fix in a way only. It's a temporary fix. I don't
5 see it as -- I don't see it as a necessary thing right now. I
6 would wait, as Commissioner Moss suggested, I would wait and
7 see what happens with these other states. And I would go ahead
8 and vote against the rule.

9 CHAIR BRACKPOOL: Okay. Commissioner Harris.

10 COMMISSIONER HARRIS: Just following up on that, I
11 think the intent of the implementation of this rule would not
12 need to implement it right away with -- to -- to implement it
13 at some date certain. And the key, I strongly agree with Dr.
14 Blea that -- that there needs to be much information floating
15 back and forth between all the different parties of what -- how
16 the levels are going to work out based on different doses.

17 It seems to me that, I mean, butazolidin is a
18 valuable therapeutic medication. It's going to be around for a
19 long time. It's got a lot of uses. It's fairly cost
20 effective. But all we're talking about here is just a very
21 minor level change that may, and not in every instance, but may
22 on certain instances enable that pre-race examining vet to do a
23 slightly better job, and that seems pretty simple.

24 I can't see where -- where the bute -- maybe we
25 shouldn't have -- people get confused on the race-day

1 medication. Bute is not a race-day medication. It's a 24-hour
2 plus out. The only race-day medication we have are some of the
3 anti-bleeding things, mainly Lasix or Salix, whatever they call
4 it, and that's a whole separate issue. That has nothing to do
5 with -- with the bute issue, although the whole thing gets in
6 one package.

7 But -- but I think we are -- I mean, I was never a
8 hay, oats and water guy. But I think we're moving that way and
9 we need to -- this is kind of a minor step that -- that would
10 just get us up to speed with other people. I don't know, I
11 know TOC and CTT who I respect looked at this. But I'm not
12 sure, were they there when the equine vets and the TOBA and the
13 Breeders' Cup people, the stakes, Graded Stakes Committee
14 people and all that debated this or is this the first go around
15 that they really debated it?

16 CHAIR BRACKPOOL: Thank you. Commissioner Derek,
17 then Commissioner -- well, I'm sorry. Commissioner Israel
18 first, then Commissioner Derek.

19 VICE CHAIR ISRAEL: Thank you. I want to -- I'd like
20 to go back in some ways to the economic impact. And to me
21 there's an element of this that smacks of upstairs/downstairs.
22 The sort of fancy races, the graded stakes, the Breeders' Cup,
23 they're all in favor of this. But that's one percent of our
24 program. And I just don't know what the economic impact is
25 going to be on the other 99 percent of our program. What's it

1 going to do to the trainers who their bread and butter is
2 claiming horses? What's it going to do to people who are
3 trying to get started in the game through claimers and
4 allowance races? How is it going to affect racing between
5 Wednesday and Friday?

6 I really -- I want to understand profoundly what the
7 economic impact of this is. What's it going to do to field
8 size. Where are people -- will people leave the state? That's
9 an essential part of the process of understanding what this
10 rule is going to do.

11 I -- and -- and I also think if butazolidin is that
12 deleterious somebody needs to come forward with a proposal to
13 eliminate it altogether. Really the difference to me between
14 the five and two when -- when there is no statistical evidence
15 that horses break down at a higher rate where there is some way
16 to analyze it because you know what the levels are in a lot of
17 these horses, that study needs to be done before you can get my
18 vote. And I -- and -- and you have to present me with some
19 evidence of how many horses will not run.

20 I'm also concerned, as somebody mentioned, about the
21 effects of more positives and what it's going to look like to
22 the public in general.

23 CHAIR BRACKPOOL: Commissioner Derek.

24 COMMISSIONER DEREK: I'd like to just set the record
25 straight on this a little bit, and how this came about, because

1 I really found the CTT letter from Alan Balch disruptive and at
2 some points offensive. This is not Dr. Arthur's fixation.
3 This came from myself reading *The Blood Horse* that virtually
4 all of our national organizations, including the American
5 Association of Equine Practitioners and the -- the Graded
6 Stakes Committee had found this evidence valid and had voted to
7 lower this -- the threshold of this drug. And I instigated and
8 initiated this to be on the agenda.

9 It's coming to California anyway. I don't understand
10 the upstairs/downstairs argument that this would be penalizing
11 trainers who race Wednesday through Friday. I think that the
12 idea that if -- if certain trainers don't want to spend the
13 \$25.00 to inject bute then I don't think it's too much of a
14 hardship that they give their powder or their pills 36 hours
15 before. I think that's something that -- that -- that they
16 should be able to -- to deal with.

17 I know there are many medical opinions on this issue.
18 I'm sure Dr. Dedomenico can tell us lots of stories about how
19 the medical world differs in their opinions on every issue.
20 But I think that all these national organizations have found
21 this evidence valid, that it does and can effect pre-race
22 exams. And I think that we must -- I don't know why California
23 would want to be different and -- and allow a higher threshold
24 of a pain-masking drug during a pre-race exam.

25 CHAIR BRACKPOOL: Thank you. Well, it seems to me,

1 listening to all of the comments that -- that I've -- that I've
2 heard today, the comments seem to be driven substantially more
3 to the -- the -- the violation of the two milligram limit
4 rather than the concern that going down to two is going to harm
5 a horse. And -- and although again, as I said earlier, and
6 I -- and I do commend the -- the work that's been done by
7 everybody on this, it seems to be are we going to have
8 considerably more violations than we had before? What will
9 that do to us, etcetera? That -- those appear to be the
10 comments.

11 I'm not hearing -- and somebody, Kirk, correct me
12 if -- if I'm wrong on the Board -- but I haven't heard many
13 comments of people saying it's going to be bad for the horse to
14 go from five to two. And if I had heard strong concerns that
15 going from five to two was detrimental to the health of -- of
16 the horse that, to me, would be powerful and persuasive. But
17 I'm hearing more about the -- the penalties.

18 Also, I think it's important to note that -- that
19 whereas Vice Chair Israel may be correct, that the, you know,
20 graded stakes are only one percent of our business, as it's
21 been said here many, many times, you know, stars bring out the
22 fans, fans bring out the handle, etcetera. And we want to
23 continue to do whatever we can in this state to continue to
24 attract the best possible races we can, the best possible
25 additional meets. We're all supportive of trying to -- to

1 bring as many of those here.

2 The Graded Stakes Committee, you know, has said that
3 commencing January the 1st, 2012 this will be the new -- the
4 new rule. I've also heard comments today from people saying
5 that there needs to be a grace period so that people can
6 understand exactly, you know, what's going on here and -- and
7 how we can do this. So I think it's there.

8 The final point that I would make, and this not only
9 goes to -- to this item, but it goes to the item we had on
10 claiming horses, and it will go to the -- the item that -- on
11 veterinarian records and multiple future items, which is people
12 keep standing up and saying the vast majority of people are
13 honest. Well, the vast majority of people don't go around
14 murdering people, but murder is against the law. And we don't
15 write laws in this world for the vast majority of people,
16 because the vast majority of civilized people would understand
17 a code of conduct within which they could live.

18 So to me, whenever we pass one of these this is not a
19 shot against trainers, against horsemen, against anything else.
20 This is just we have to make sure that we're protecting those
21 how wouldn't comply with -- with a civilized code of -- code of
22 conduct, perhaps the same as anyone else.

23 So to me, given all of those points I would be in
24 favor of this, only if we gave it a grace period. And that if
25 we approved it today we said that we would not implement this

1 before January the 1st, 2012, and so that we had an education
2 program that explained to everyone what was going to be
3 happening, how it's going to be happening.

4 We've -- we've already heard item number four, which
5 were the -- the lower penalties. So we are talking here about,
6 you know, as far as I can see very minor penalties, I mean,
7 \$250. I mean, I'm reading the stewards' minutes every week. I
8 mean, people are getting this for open containers in a car.
9 You know, these really are minor, minor penalties.

10 And -- and I understand, Jackie, that -- that the
11 rule doesn't say January the 1st, but -- but there is a way
12 that the staff could -

13 MS. WAGNER: Right.

14 CHAIR BRACKPOOL: -- or we could direct staff that it
15 would not be implemented prior to January the 1st.

16 MS. WAGNER: Correct. During the process the -- the
17 rule making file can be completed and submitted to OAL. So the
18 effective date, by the time they review it and get back to us,
19 could take place by the end of the -- the beginning of 2012.

20 COMMISSIONER HARRIS: Because we have both the rule
21 and the penalties, I can see making the penalties even further
22 out, like -- so that people know exactly what they're --
23 because my -- my concern is that people know, that if they get
24 a violation they know it before they really get -

25 MS. WAGNER: Just for the record on that, John, the

1 process, the OAL process, the rule making process requires us
2 to complete the process a year from when we begin it. So we
3 are talking -- our timeframe is the first day of notice to a
4 year from then. So we do have some time -

5 CHAIR BRACKPOOL: All right. So I'm going to go
6 to -

7 MS. WAGNER: -- for that.

8 CHAIR BRACKPOOL: -- Commissioner Harris's point,
9 just -- and I -- this is an illustrative question only.

10 MS. WAGNER: Uh-huh.

11 CHAIR BRACKPOOL: If we were to implement the new
12 guideline at January the 1st -

13 MS. WAGNER: Uh-huh.

14 CHAIR BRACKPOOL: -- we could implement new penalty
15 guidelines at a date several months after that, if we wished
16 to.

17 MS. WAGNER: Absolutely.

18 CHAIR BRACKPOOL: But would the current penalties not
19 then apply, or this Board would be saying there is no penalty
20 in that period of time?

21 MS. WAGNER: Between the time that they -- the
22 effective date of the January and the new ones, we have some
23 control over that.

24 DR. ARTHUR: The way -- the way that -- that I would
25 interpret it is that there would be no penalties. They would

1 be Class D penalties, which are now just warnings.

2 CHAIR BRACKPOOL: Right.

3 MS. WAGNER: Right.

4 DR. ARTHUR: But I think we can look at that. I
5 think that January 1st is the goal. Dr. Kinish (phonetic), Dr.
6 Stanley and I have already offered to the CTT cooperation in
7 working through this. And we certainly will make levels
8 available. And we can help the trainers avoid positives. Our
9 goal is always to avoid positives.

10 CHAIR BRACKPOOL: Well, there's -- and the other
11 alternative that we would have would be to vote on item number
12 five, which is the lowering of the level from January the 1st
13 and not today vote on number four. Now you're saying we have
14 to complete it within the year from when we started it.

15 MS. WAGNER: Correct. But the Board can -

16 CHAIR BRACKPOOL: When did we start?

17 MS. WAGNER: -- continue this. We started this in
18 March, I believe -

19 CHAIR BRACKPOOL: So you're saying that the -

20 MS. WAGNER: -- March or April.

21 CHAIR BRACKPOOL: -- that the penalty would have to
22 be -

23 MS. WAGNER: We would have to make a decision -- the
24 Board would have to make a decision. The rule-making file will
25 have to be completed, sent over to the office of administrative

1 law within that year timeframe for them to review it and make a
2 determination.

3 CHAIR BRACKPOOL: So you're saying that if we said
4 illustratively March the 1st we would comply with that?

5 MS. WAGNER: Correct.

6 CHAIR BRACKPOOL: If we said August the 1st we would
7 not be in compliance?

8 MS. WAGNER: That's correct.

9 COMMISSIONER CHOPER: Yeah. But if we did it March
10 the 1st when would it take effect? It's got to go through the
11 bureaucratic process.

12 CHAIR BRACKPOOL: No. No. It's got to go through it
13 now, and we can say it could take effect March the 1st, 2012.

14 MS. WAGNER: Right. Essentially -

15 COMMISSIONER DEREK: So latest -- latest.

16 MS. WAGNER: Essentially what will happen, if the
17 Board takes action on these two proposals today, staff has the
18 ability to withhold submitting the rule-making file -

19 CHAIR BRACKPOOL: Right.

20 MS. WAGNER: -- to the office of administrative law
21 until a time certain to give them enough time to review it to
22 make a determination and have that filing date -

23 CHAIR BRACKPOOL: So let me ask you -

24 MS. WAGNER: -- effective date.

25 DR. BLEA: -- in English, what's the latest date,

1 based on when we sit here today, that -- that we would have --
2 that the penalties would start?

3 MS. WAGNER: The latest? We would -- you want the
4 penalties to start January 2012 we would have to have that rule
5 making file to them -

6 CHAIR BRACKPOOL: No.

7 COMMISSIONER CHOPER: No. No. No. The opposite.

8 CHAIR BRACKPOOL: That was not my question.

9 COMMISSIONER CHOPER: We're on the other side.

10 CHAIR BRACKPOOL: My question was if we wanted the
11 penalties to take place at a later stage can we vote on it
12 today with a date certain or do we have to put the item over?

13 MS. WAGNER: We'd have to put the item over.

14 COMMISSIONER MOSS: Can I just ask one question?

15 CHAIR BRACKPOOL: Yes. Commissioner Moss.

16 COMMISSIONER MOSS: Yeah. To Dr. Arthur, how would
17 you rate our lab insofar as testing to the labs in the states
18 that have already accepted this? I mean, like Pennsylvania for
19 example, what kind of lab do they have in Pennsylvania?

20 DR. ARTHUR: Pennsylvania is one of the top labs in
21 the country. It's actually the best funded lab in the country
22 from -- they get a lot of casino money. I don't know who does
23 Maryland. I -- Lou might be able to tell us. Delaware has
24 their own lab. It's a well respected lab.

25 COMMISSIONER MOSS: Well, then we fall -

1 DR. ARTHUR: But they're -- they're competent.

2 They're very good labs.

3 COMMISSIONER MOSS: They're equal to the lab we have
4 here at Davis?

5 DR. ARTHUR: Certainly the Pennsylvania lab is, yes.

6 COMMISSIONER MOSS: So in other words, we -- we can
7 watch what happens in Pennsylvania and get -

8 DR. ARTHUR: Right.

9 COMMISSIONER MOSS: -- an understanding perhaps.

10 And what I'm concerned with is if you take this level
11 of bute out of the trainers' toolbox, you know, what are some
12 trainers going to use in its place? And if they do, then how
13 good are we at testing for that?

14 DR. ARTHUR: We are very good for testing for that.
15 And -- and I would like to point out that anybody that ran in
16 New York, New York had a two microgram rule. And my
17 understanding, they'll be considering that shortly to go back
18 to that. But anybody that ran in New York for years, if you
19 went to Maryland for the -- the Preakness you would have been
20 under the two microgram rule, or whatever race you were running
21 in.

22 VICE CHAIR ISRAEL: And, Rick, didn't that -

23 DR. ARTHUR: Same in Delaware.

24 VICE CHAIR ISRAEL: Didn't that not have so much
25 importance when steroids were legal in New York?

1 DR. ARTHUR: It may -- it may have.

2 VICE CHAIR ISRAEL: Yeah. Yeah.

3 DR. ARTHUR: I don't know.

4 VICE CHAIR ISRAEL: As a -

5 CHAIR BRACKPOOL: Anyway, let's -- let's -- let's get
6 back to the -- let's get back to the -

7 COMMISSIONER ROSENBERG: I just want -

8 CHAIR BRACKPOOL: Commissioner Rosenberg.

9 COMMISSIONER ROSENBERG: I just want to comment to
10 the comment that Sherman made about there's no evidence that --
11 that giving two grams -- micrograms of -- of bute would harm a
12 horse. That's true. But there also, in my opinion, there's no
13 clear evidence that giving between two and five harms a horse
14 either, as Commissioner Israel pointed out by asking those
15 questions about the statistics on injuries of those horses that
16 have received that.

17 COMMISSIONER DEREK: I just would like to clarify
18 the -- the idea of the grace period. Are you saying that
19 between now and January 1st would be the grace period?

20 CHAIR BRACKPOOL: No. I'm saying that the rule would
21 not be implemented until January the 1st, so we would go
22 through an educational period as a grace period. I'm saying we
23 could give a further grace period once it was official, let's
24 say to March the 1st, when the penalties would take place so
25 that there's an educational period.

1 COMMISSIONER DEREK: I have a bit of a problem with
2 that because I think that's an invitation for certain dark
3 trainers, as John Sadler -- Sadler called them, to abuse the
4 situation and to take advantage of the situation. And I think
5 we had that demonstrated or at least we suspect that happened
6 when we made a grace period before I was on the Board with the
7 steroids.

8 CHAIR BRACKPOOL: Yeah.

9 DR. ARTHUR: Mr. Chairman, the -- Commissioner Derek
10 is right. We did that with the anabolic steroids and it was
11 very problematic. We'll have a very good idea by November,
12 December how many people are in compliance. I do think that
13 your approach is a reasonable one. And my understanding is we
14 can go ahead and move forward with this, vote on it now and
15 then submit it when it's an appropriate time -

16 CHAIR BRACKPOOL: Yeah.

17 DR. ARTHUR: -- within the next year.

18 CHAIR BRACKPOOL: We can control the submission dates
19 that it's not effective -

20 DR. ARTHUR: I think -

21 CHAIR BRACKPOOL: -- until January the 1st.

22 DR. ARTHUR: I think the penalties are the least
23 controversial.

24 CHAIR BRACKPOOL: Yeah.

25 DR. ARTHUR: I would hope they're the least

1 controversial. I've worked quite closely with the TOC on
2 those. So -

3 CHAIR BRACKPOOL: Well, and we did not get any public
4 comments on that.

5 COMMISSIONER HARRIS: And those penalties are -- \$250
6 is the maximum. So, you know -

7 CHAIR BRACKPOOL: Right.

8 COMMISSIONER HARRIS: -- the stewards would have
9 latitude -

10 CHAIR BRACKPOOL: Right.

11 COMMISSIONER HARRIS: -- to make it, just to warn you
12 or whatever. But January is a ways off.

13 And the main thing I wanted to see was maximum
14 communication where -- as I understand it -

15 COMMISSIONER DEREK: Right.

16 COMMISSIONER HARRIS: -- the vast majority of horses
17 are not going to be impacted by this anyway. But if somebody
18 is and their normal protocol is going to be more than two then
19 they would have ample warning.

20 CHAIR BRACKPOOL: Well, then would you like to make a
21 motion, Ms. Derek?

22 COMMISSIONER DEREK: I would like to make a motion.

23 MS. WAGNER: If I may, just to clarify the record, I
24 want to put on the record that the motion that the Board is
25 voting on is the text Rule 1844, Authorized Medication, that

1 was initially noticed for the 45-day comment period. That text
2 is absent in your current package, and I just wanted to be sure
3 that -

4 CHAIR BRACKPOOL: Well, you gave it to us -

5 MS. WAGNER: -- the record is clear.

6 CHAIR BRACKPOOL: -- this morning.

7 MS. WAGNER: Yes.

8 CHAIR BRACKPOOL: Yeah. That's -- that's -- so we
9 would -- we would vote on that, but with direction to staff
10 that this is not to be implemented until January the 1st, 2012
11 in coordination with the graded stakes.

12 MS. WAGNER: If I may, can we amend to -- for staff
13 to submit it to the office of administrative law so they can
14 have time to review it following that.

15 CHAIR BRACKPOOL: That's what I said. So the -

16 MS. WAGNER: Okay.

17 CHAIR BRACKPOOL: So the -

18 COMMISSIONER HARRIS: That I'll second. I mean, I
19 think we have to realize that often times our best intentions
20 to implement something take longer. But -- but January 1 would
21 be the earliest.

22 CHAIR BRACKPOOL: Right. Right. Is -- because
23 that's the earliest go?

24 MS. WAGNER: Right.

25 CHAIR BRACKPOOL: Yeah.

1 MS. WAGNER: Which means we probably will not submit
2 it until October -

3 CHAIR BRACKPOOL: Right.

4 MS. WAGNER: -- November time.

5 CHAIR BRACKPOOL: So Commissioner Derek makes that
6 motion.

7 COMMISSIONER DEREK: Yes.

8 CHAIR BRACKPOOL: Do I have -- John -- Commissioner
9 Harris second. All in favor?

10 COMMISSIONER CHOPER: Aye.

11 COMMISSIONER HARRIS: Aye.

12 COMMISSIONER DEREK: Aye.

13 CHAIR BRACKPOOL: Commissioner Choper. I'm in favor.
14 Four against.

15 VICE CHAIR ISRAEL: Aye.

16 CHAIR BRACKPOOL: Israel, Moss and Rosenberg. The
17 motion carries four to three. That's item number five.

18 Let's go to item number four, the penalties before we
19 leave this item. That the penalties be lowered according to
20 the -- the -- the motion in here. We've already gone through
21 them. We had no public comments on that.

22 Before you go, Commissioner Choper, before we -- I
23 was going to vote on item number four, the penalties.

24 So I would -- you want to make a motion on the
25 penalties? Commissioner -

1 COMMISSIONER DEREK: Yes, I move.

2 CHAIR BRACKPOOL: Commissioner Derek makes a motion.

3 COMMISSIONER HARRIS: This has the same caveat
4 that -- that -- that January 1 -

5 CHAIR BRACKPOOL: January the -- exactly.

6 COMMISSIONER HARRIS: -- would be the very earliest.

7 CHAIR BRACKPOOL: Very earliest.

8 COMMISSIONER HARRIS: If I recall -

9 CHAIR BRACKPOOL: And \$250 is the maximum -

10 MS. WAGNER: I'll submit -

11 COMMISSIONER HARRIS: -- those don't move ==

12 MS. WAGNER: I'll submit the together.

13 COMMISSIONER HARRIS: We've got -

14 CHAIR BRACKPOOL: Right.

15 COMMISSIONER HARRIS: -- got some that have been
16 there forever.

17 CHAIR BRACKPOOL: Yeah. Commissioner -- Commissioner
18 Harris seconds the motion. All in favor of the penalties?

19 COMMISSIONER CHOPER: Aye.

20 COMMISSIONER DEREK: Aye.

21 COMMISSIONER HARRIS: Aye.

22 COMMISSIONER ROSENBERG: Aye.

23 CHAIR BRACKPOOL: Aye. Commissioner Israel?

24 VICE CHAIR ISRAEL: Aye.

25 CHAIR BRACKPOOL: All right. Commissioner Rosenberg,

1 Commissioner Moss?

2 COMMISSIONER MOSS: I don't quite understand the
3 issue myself, so I'll just abstain.

4 CHAIR BRACKPOOL: It's the lowering of penalties for
5 the -- for the to-be-lowered bute.

6 COMMISSIONER MOSS: Yeah. I think this is a rule
7 that should wait until after the bute things come into play
8 myself.

9 CHAIR BRACKPOOL: Okay.

10 COMMISSIONER MOSS: You know, so anyway I'll -- I'll
11 just -

12 CHAIR BRACKPOOL: Okay.

13 COMMISSIONER MOSS: -- abstain.

14 CHAIR BRACKPOOL: So can -- we have six in favor, and
15 Commissioner Moss abstains. That motion carries six to one.

16 What I'm going to do now is I'm going to take one
17 item out of order pursuant to two requests. And it's very
18 unusual that I can make two groups happy with one thing at this
19 meeting.

20 DR. ARTHUR: Mr. Chairman, could I just interrupt? I
21 would like to apologize for not listening to your admonition.
22 I was thinking something entirely different and I apologize.
23 You're absolutely correct, and it was inappropriate.

24 CHAIR BRACKPOOL: Thank you. We're going to hear
25 now, slightly out of order, item number 11, which is discussion

1 and action by the Board regarding the update from the
2 California Marketing Committee and its work with Bailey Gardner
3 Agency on the branding and marketing of California horse
4 racing.

5 Hold on one -- hold on second.

6 And -- and certain veterinarians have asked us to
7 delay hearing on item number six until they've completed their
8 work on the backstretch this morning.

9 (Colloquy Between Chairman Brackpool and
10 Vice Chair Israel)

11 CHAIR BRACKPOOL: Okay. We're being asked for a two
12 minute break while you get that. We're going to take a two
13 minute break and then I'm going to come back, because I promise
14 we're going to get right to you.

15 (Off the Record From 11:27 a.m., Until 11:37 a.m.)

16 CHAIR BRACKPOOL: We are -- we are reconvened. This
17 is item number 11, discussion and action by the Board regarding
18 the update from the CMC, California Marketing Committee, and
19 its work with the Bailey Gardner agency on the branding and
20 marketing of California horse racing.

21 I'm going to ask Robert Hartman, the current chair of
22 the CMC, to introduce what's going to happen, and -- and then
23 we'll go from there.

24 MR. HARTMAN: Good morning, Chairman Brackpool,
25 Commissioners. My name is Robert Hartman and I am the chair of

1 the California Marketing Committee. I am joined by Shannon
2 McDonald, John Bailey, and Ryan Thompson. And we have been
3 working with Bailey Gardner now for well over six months, and
4 we've embarked on an ambitious marketing program. And it
5 really started in research. That was something this industry
6 was lacking, and I think we heard that from the Board in the
7 past. And we did both consumer research and horsemen research,
8 and that helped us develop our strategic plan and the
9 advertising campaign you're about to see. Bailey Gardner
10 helped us with logos, with tag lines, with messaging. John,
11 who I'm going to turn it over to shortly, will take you through
12 how that worked.

13 I would also like to thank, before I do turn it over
14 to John, Commissioner Rosenberg and Commissioner Derek.
15 They've been involved over the past six months in -- in
16 assisting in -- in the marketing of California horse racing.
17 There's been a number of meetings, and we appreciate their
18 input and guidance.

19 John?

20 MR. BAILEY: Hello. Good morning. I'm John Bailey,
21 the CEO of Bailey Gardner. Mr. Chairman, Commissioners,
22 Robert, thank you for having us here today. And I want to say
23 congratulations to everyone on a fantastic record-breaking
24 opening day at Del Mar yesterday. We have had the privilege of
25 working with Del Mar for eight years now and are proud of our

1 role in helping them with that success.

2 Today we're going to give an overview of our
3 marketing plans as we've been working over the past several
4 months on behalf of the CMC. We are going to go over the
5 research findings and statistics and tell you how we've used
6 those -- that information to form strategic marketing plans.
7 We're going to talk to you about target audiences, brand
8 positioning, a new logo that we're ready to show you today, our
9 advertising campaign, our public relations strategy, and our
10 social media strategy.

11 Ryan Thompson is our supervisor in the advertising
12 department. Carrie Jones is the director of public relations
13 and social media. And Greg Joumas is our senior vice president
14 of advertising, and they're going to take you through the
15 programs.

16 MR. THOMPSON: Like Robert and both John mentioned
17 we -- we did conduct primary and secondary consumer research.
18 That was done February through April of this year, starting the
19 process back in December of last year. And what that allowed
20 us to do is take data and develop cluster segments that we're
21 looking at for target audiences on the consumer side. We also
22 participated in helping with some horsemen research and -- and
23 findings along those lines that we passed on to the CMC and
24 worked with them on as well.

25 And basically what this chart is showing is just a

1 quick snapshot of the cluster segment findings. Essentially,
2 on the left side of this spectrum you see that the lead experts
3 make up three percent of the market size. The lead experts are
4 your high frequency players, your enthusiasts. And as we move
5 toward the right side of the spectrum it's more entertainment-
6 socialization focused. And what this is really telling us is
7 the middle three are where opportunity is on the consumer side
8 to talk to. So we've deemed these the moderate core and
9 frequent fringe and horse lovers. And I believe in your packet
10 you have a lot of detail on each of these cluster segments.

11 VICE CHAIR ISRAEL: Oh, it's in this thing?

12 CHAIR BRACKPOOL: Yeah.

13 MR. THOMPSON: Correct.

14 CHAIR BRACKPOOL: Yeah. It's in the back of it.

15 MR. THOMPSON: Okay. Basically what this allowed us
16 to derive is that we know that we have to reach a consumer
17 audience before the age of 34. That's where our -- that's
18 where our opportunity is. We need to talk to them. And the
19 research essentially told us if we do not talk to the consumer
20 before this age we've lost them. So our sweet 21 is really the
21 median age we're looking at targeting when we talk about
22 marketing and looking at media and how we buy media.

23 Again, like I said, our opportunity targets are those
24 three cluster segments down the middle. And what that nets out
25 to is a female, age 18 to 55, a male, age 18 to 35. The

1 geography we're looking at to launch the campaign is
2 California, and we're looking at a household income of \$50,000
3 to \$100,000.

4 MR. JOUMAS: Okay. Part of the -- the process that
5 we go through is to think about the brand. We look at the
6 research and we -

7 CHAIR BRACKPOOL: I apologize, but because people are
8 listening on the web, etcetera, you have to introduce yourself.

9 MR. JOUMAS: Oh, I'm sorry. I'm Greg Joumas. I'm
10 the senior vice president, director of client services, and
11 creative director for Bailey Garner Advertising.

12 CHAIR BRACKPOOL: Thank you.

13 MR. JOUMAS: Thanks. So one of the things we had to
14 think about and wrap our heads around was what -- what is Cal
15 Racing, what do we need to do for Cal Racing. And there's an
16 extreme rich California heritage when it comes to the brand.
17 And while positioning it we wanted to put it back in its proper
18 place as a share of wallet for -- of entertainment. And we
19 want to help get these younger people engaged in the sport so
20 that they become lifelong -- lifelong fans and participants in
21 the sport and move them on a scale, as Ryan just said, towards
22 more frequent -- frequent enthusiasts of the sport and users of
23 the sport.

24 Some of the things we do, we create -- we do brand
25 workshop and we work on the brand positioning, the essence, the

1 relationship with the consumer. And some of the things that
2 is -- the consumer is part of the -- is part of the excitement
3 of the sport. Some sports are more passive. This is a very
4 active sport. People -- with pari-mutuel betting they are
5 often times live at the -- at the track. They're -- they
6 become part of the sport, unlike other sports. You don't get
7 in a ring with a boxer and start fighting. But here you're
8 betting and you're -- you're -- you're -- you're -- you're
9 riding on that horse symbolically yourself.

10 The other things that we wanted to touch upon was
11 that the sport is timeless, it's thrilling, and it's
12 infectious, meaning we -- it's something that gets in your
13 blood, so to speak. So that's -- those are some of the things
14 creatively we try to get to -- to inject into the logo
15 development and the creative you're going to see later.

16 MR. THOMPSON: We developed 14 strategies as part of
17 our marketing plan, and I believe you have more detail on each
18 of these. I'm not going to read through ever -- through each
19 of these because of time constraints. But all of these
20 strategies have tactics supporting them from a public
21 relations, social media and advertising and -- and paid media
22 perspective.

23 The -- the real goal here is to -- to drive
24 interaction with the brand, create awareness, create shared
25 voice in the marketplace for California racing as both the

1 entertainment-social and gaming option, and -- and really move
2 the brand to positive consideration sets and create new visual
3 language for the brand of California racing, and that means
4 logo and all the identity and messaging that goes around the
5 programs for that. And we'll obviously be measuring this
6 campaign and have reporting results as we move through this
7 process.

8 From a paid media perspective we're looking to launch
9 the campaign with geo targeting in San Diego, Los Angeles and
10 San Francisco markets. The campaign we're looking to launch in
11 mid-August and it would run through December of this year to
12 start, and that would be the first phase. Seventy-five percent
13 of the media spend is looking to online and video, and 25
14 percent is out-of-home, which we'll go into. That's like a
15 billboard or an outside posting.

16 Greg?

17 MR. JOUMAS: So I'll talk about the creative here.
18 We had to kind of put some creative buckets out, things that we
19 made sure -- some boxes we needed to check creatively. And
20 they -- can you go to the next slide please.

21 The sport is fun. We had to talk about California.
22 This is the Cal Racing brand. It's not -- it's not Texas, it's
23 California racing. There's this live component to it where
24 people are just part of the sport. I'd also add to that alive.
25 It's a very alive sport where people are very, very engaged

1 when they are participating in the sport. And they are
2 participants in it. They're not just passive, as I mentioned
3 earlier, they're not just passive observers of the sport.
4 They're -- they've got skin in the game, they've got money on
5 the horse. They pick their horse by the name -- maybe pick a
6 horse by -- because it has alcohol in its name, whatever.
7 They -- they have their -- their -- their little intricacies of
8 how they try to gamble. And there's a big gaming aspect which
9 is unique to this sport, unlike any other.

10 So the logo development, it was important to touch
11 upon all those -- those aspects. And logo development is a
12 tricky thing, but you're trying to basically deliver on those
13 four aspects. We were trying to deliver on those four aspects,
14 and here's the logo. "Cal Racing, Fun Runs Here." It captures
15 California.

16 It's, you know, it -- it -- it touches upon the fact
17 that in its heyday it was a classic sport, and we want to make
18 it a more current classic sport, modern, vibrant. Here the
19 horse and the rider become one. It's that magical moment where
20 the horse and the rider are one. Hooves off the ground. This
21 is the -- this is the classic photograph you see on the cover
22 of *Sports Illustrated* when they put a horse race on the cover
23 of their magazine. Go to the next slide, Ryan. Thanks.

24 We're looking at potential revenue generating
25 possibilities with the logo. I would where this hat, I'd where

1 this shirt, I'd buy it.

2 So the campaign, we're going to be doing some -- some
3 video that -- and commercials, per se. And I want to talk
4 about everyone's inner jockey, because this is the basis of
5 this campaign. Everyone has an inner jockey, a little voice in
6 your head that pushes you to -- pushes your id button. It
7 tells you, you know what, push it a little bit, have fun, go
8 for it.

9 So I'm going to walk you through two different -- two
10 different commercials that talk about people's inner jockey.

11 So, Commissioner Derek, this is your inner jockey.
12 Commissioner Harris, this is your inner jockey. Everyone has
13 one. Think of the Great Gazoo from the Flintstones, the little
14 guy that's telling you to do something that you're just not --
15 you're -- it's telling -- it's pushing you, it's pushing you.

16 So the first commercial, I -- you get to indulge me.
17 I have to act this out. I can't really just read a script dry.

18 So the first spot, we open on a young woman in her
19 walk-in closet, and she's trying to figure out what she's going
20 to wear to the race track.

21 And her friend is in her bedroom, says, "What are you
22 going to wear to the track?"

23 "I'm thinking my little black dress."

24 All of a sudden out of nowhere a miniature horseshoe
25 bonks her in the head and clangs on the ground.

1 She's like -- checks herself and says, "Wait a
2 minute, I'm not -- I'm not going for it enough. I'm wearing --
3 I'm going to wear to where my red fuschia dress."

4 Bonk. Another one hits her in the head.

5 She's like -- checks herself again and she goes, "You
6 know what, I'm going to -- I'm going to bring it. I'm wearing
7 six-inch stilettos with a boa and a fancy hat."

8 We cut to -- to a bookcase in her walk-in closet and
9 it's her, it's her little jockey, it's her little inner jockey
10 about this big, looking at her, twirling on her -- on her
11 fingertips a horseshoe, nodding and smiling, saying you got it.

12 The voice over says "Release your inner jockey."

13 We cut to crowds rising up, horses thundering down --
14 down the track. We cut to the logo.

15 The voice over says, "Cal Racing. Fun runs here."

16 So this is the more male oriented one. We had a
17 couple slacker ne're-do-wells hanging out, watching mindless
18 television.

19 CHAIR BRACKPOOL: I was hoping we were going to see
20 what Harris would be wearing.

21 MR. JOUMAS: So a couple young slacker ne're-do-wells
22 watching mindless TV.

23 And the first guy says, "What do you want to do
24 today?"

25 And the other guy -- the second guy says, "You're

1 looking at it. We're doing nothing."

2 All of a sudden a horseshoe hits him in the head, it
3 clangs to the ground.

4 He goes, "You know, let's go to the beach."

5 Not good enough. He gets hit again.

6 He goes, "You know what, let's go to the track. Why
7 don't we go to the track? Let's rock it at the track."

8 We cut across and his -- his little inner jockey is
9 sitting on top of the stereo twirling a horseshoe on his finger
10 tip looking at him, going now you got it."

11 And the voice over says, "Release your inner jockey."

12 We cut to the crowd cheering, the horses thundering
13 down the track.

14 And we cut to the logo and the voice over says, "Cal
15 Racing. Fun runs here."

16 Ryan mentioned we're going to be doing some out-of-
17 home, web postings and outdoor advertising, maybe some things
18 in bars, around colleges to get -- engage younger people to get
19 them in the sport. There are some extensions of the -- the
20 campaign from kind of a poster perspective, "Release your inner
21 jockey," a guy rocking a horse with a beer, a horse head. Two
22 women releasing their inner jockey at the -- at the track. And
23 a guy getting crowd surfed, releasing his inner jockey.

24 I'm going to hand it to Carrie. She's going to talk
25 about some social activity we're going to be doing and

1 interactive.

2 MS. JONES: Okay. I'm Carrie Jones of Bailey
3 Gardner.

4 So social media is a key component in our program,
5 but right here you see an example of how we might engage with
6 people on Facebook. So within the Cal Racing page that we
7 would develop something would pop up about "Release your inner
8 jockey," and it could be a quiz that you could take, having fun
9 with it, asking a simple question about what someone's plans
10 might be on a Saturday night, and then there's options on how
11 they might answer that.

12 What I'm going to cut to next are the PR efforts for
13 the brand overall. You can go to the next slides quickly. But
14 overall we want to target, as Ryan mentioned, that audience
15 that's not currently engaged or familiar with horse racing as a
16 whole. We want to work with media that are familiar or are not
17 familiar with horse racing, or may not even really understand
18 the -- the possibilities for how it may fit in their
19 publication. We also want to create cohesive programs for
20 California as a whole that can be implemented at the track
21 level, also carrying the brand as a whole for throughout the
22 state.

23 We want to leverage an HBO show that's coming out
24 later this year, *Luck*. It's going to capture a new audience
25 for us and we can leverage that and talk about the positive

1 attributes with horse racing.

2 We can go to the next slide which is social media.
3 This is a huge opportunity for us. This is where we can
4 strategically integrate digitally everything having to do with
5 Cal Racing. We would capitalize on the viral nature that is
6 social media. We would be using primary sites such as
7 Facebook, Twitter and YouTube. And the tone overall would be
8 fun, interactive and educational. We wouldn't delve deep into
9 the issues. We would want to keep it focused on that audience
10 we're going after which, again, is that younger target that we
11 have and skew, predominantly female. And that's it.

12 CHAIR BRACKPOOL: Thank you. We have some questions.

13 Can I ask, did we keep the abbreviation Cal just
14 because of the previous website, or did we think the
15 abbreviation was such an obvious one that it's okay anyway.

16 MR. JOUMAS: I'll -- I'll take that one. Yeah, we
17 feel it's -- it's -- many brands out there use like kind of a
18 shortened version of themselves. You hear it with FedEx and
19 brands like that where people give you a name.

20 CHAIR BRACKPOOL: It's actually their name now.

21 MR. JOUMAS: Yeah. Exactly. You know, and so
22 it's -- it's -- I think it's a really great mnemonic and it's
23 highly recognizable. And to spend monies trying to educate the
24 consumer on something they've already shortened for you I think
25 would be folly.

1 MR. HARTMAN: And we talked a lot whether the word
2 thoroughbred should be in there, whether the word horse should
3 be in there. And that's one of the reasons you -- the horse is
4 in the logo because some of the logos we looked at didn't have
5 a horse. So we looked at it in all different ways and actually
6 spent -- spent a lot of time just talking about those two words
7 and -- and whether it should be three words or four words or
8 keep it simple.

9 VICE CHAIR ISRAEL: Okay. I'm going to follow up on
10 that question. What's the value in that -- the identity Cal
11 Racing when people think about going to the name of the race
12 track by the name of the race track?

13 MR. HARTMAN: Right. It's almost like a seal of
14 approval in some ways. So let's say Golden Gate Fields put out
15 an ad. It would say Golden Gate Fields on the top, but you
16 have the Cal Racing -- it's almost like the Good Housekeeping
17 seal of approval. You have the Cal Racing. We're a Cal race
18 track. We're -- we're a part of -- of -- of the best of the
19 best. So that would be -- in my personal advertising for the
20 track that would take a secondary feature to the name of my
21 track.

22 VICE CHAIR ISRAEL: Okay. So -- so there's not a
23 campaign for Cal Racing per se, or there is?

24 CHAIR BRACKPOOL: There is.

25 VICE CHAIR ISRAEL: And is it going to feature the

1 track that's running at that given time or -

2 MR. HARTMAN: Yes.

3 VICE CHAIR ISRAEL: -- or about to start running to
4 weeks hence, whatever?

5 MR. HARTMAN: Yes.

6 VICE CHAIR ISRAEL: Okay.

7 CHAIR BRACKPOOL: Commissioner Harris.

8 COMMISSIONER HARRIS: I think there's a lot of good
9 ideas here. But the problem always is how much money you have
10 to spend and where do you spend it in those markets, what can
11 you really buy. What sort of a budget are you looking at here?

12 MS. MCDONALD: Shannon McDonald, CMC. \$500,000 has
13 been allocated for advertising and production and public
14 relations and social media for 2011. And Bailey has done an
15 excellent job by trying to make the most use out of a limited
16 budget. You know, you're right, it's very expensive to run
17 advertising. And so -

18 COMMISSIONER HARRIS: It seems to me it would -
19 your -- with that amount you're really over-dwarfed by a lot of
20 other advertisers. I mean, for \$500,000 a guy probably
21 couldn't get elected to city council in Inglewood or something.

22 MS. MCDONALD: Ryan, can you talk a little bit
23 specifically about where -

24 MR. THOMPSON: Correct.

25 MS. MCDONALD: -- we're going to be running online?

1 MR. THOMPSON: Correct. So that's -- that's why we
2 selected the mediums we're using, from a pay perspective.
3 That's why we're targeting online video and pre-roll. We're
4 able to get high engagement out of that. And that's where
5 really social media comes into play and makes you a lot bigger
6 than what you seem in terms of spending and just doing
7 traditional advertising. When you look at other -- there's
8 other campaigns out there that have done this, big brands that
9 spend small amounts of budget and launch their campaign online
10 and then phase out additional paid media as they move through
11 an 18-month campaign.

12 COMMISSIONER HARRIS: Well, social media is good
13 because you can -- you get some measurement back. But it would
14 be good if we could -- to really make these things self-
15 sustaining we need to see the payback. And sometimes you're --
16 you're not betting enough to really get a payback because
17 you've got such a vast potential market out there.

18 MR. HARTMAN: Yeah. I think the key question you're
19 answering -- you're asking, Commissioner Harris, is really how
20 much we spend next year, which hasn't been determined. It's
21 \$500,000 this year. We got it in the can, we're ready to go,
22 and then what's our budget for kind of the bigger launch in
23 2012. And we have a meeting in a couple of weeks to determine
24 that.

25 CHAIR BRACKPOOL: John, I sat in, and I think

1 somebody else did, but I sat in on that meeting when we talked
2 about how much you were going to allocate for the first year,
3 etcetera. I mean, my view is that you -- you don't not do this
4 because you might not be able to do it properly in the -- in
5 the interim, and you start. And if you believe it's getting
6 some traction, and there are so many great ways now of checking
7 whether it's getting any traction, then we can all collectively
8 put our heads together and say, okay, how do we really get the
9 resources that are necessary.

10 And I for one hope that's an agenda item in front of,
11 you know, certainly the CMC in the -- in the near future of how
12 do we do this. And, you know, we'll give you whatever support
13 we need if we believe parts of it are getting -

14 COMMISSIONER HARRIS: Yeah. But if we -

15 CHAIR BRACKPOOL: -- you know, getting traction.

16 COMMISSIONER HARRIS: If we could design ways to
17 measure the traction is the key. But -

18 CHAIR BRACKPOOL: I think there are, but why don't
19 you guys answer that. Because I think there are better, much
20 better ways now than there ever were in the past when you sent
21 out direct mail and got a one percent response.

22 MR. THOMPSON: Absolutely. There's -- there's
23 several things we're doing. We're going a pre-awareness study
24 so that we can do a post on the campaign so we can see a list
25 and considerations set and awareness of the brand here in

1 California. Beyond that you have many measurable, trackable
2 entities online. So a number of a fans that we generate
3 through the social media networks, along with website traffic,
4 microsite traffic for the campaign we're generating, and just
5 performance metrics from -- from an online standpoint, as well
6 as tying some of the offline things back to what we're
7 measuring online. We'll have, you know, monthly reports
8 measuring all those on a continual basis.

9 MR. JOUMAS: Yeah. And I would add to that that --
10 an additionally we are -- part of that research is not just the
11 increase in awareness, but also is the campaign shifting
12 peoples' consideration for the sport attitudinally, because
13 that's important that we are telling them the right things that
14 make them want to get engage at that critical age, you know,
15 that 30 -- if they don't -- if they don't really engage the
16 sport before the age of 34 they never will.

17 VICE CHAIR ISRAEL: Yeah. Well, I completely agree
18 with you. And to that end almost -- I would put almost every
19 dollar in social media, because I think anything else for that
20 market is a waste of money. And social media is the principal
21 source of information for people in that age group.

22 But I have a question about something else. Did
23 you -- did you focus group or test market in any way a variety
24 of logos and then come to that as a final logo, or was that
25 devised internally and then selected by the group?

1 MR. JOUMAS: We basically went through a creative
2 exercise. And our focus group was the -- the committee, per
3 se, and our general expertise in -- in these matters. I've
4 personally worked on a lot of logo development for many, many
5 brands. So a lot of it is just touch and feel and expertise.
6 And we did not spend a lot of money on focus groups. Because
7 in my experience qualitatively you're never -- you don't get a
8 lot of unified -- unified feedback from a focus group because
9 it is -- logos are a very subjective thing.

10 So it's -- so focus groups would not have gotten us
11 to the -- I couldn't stand here in front of you and say 50 out
12 of the 50 people we shared with this in a focus group love it.

13 VICE CHAIR ISRAEL: Did you check any copyright
14 infringement or anything?

15 MR. JOUMAS: Yes. We had to do all exhaustive -

16 VICE CHAIR ISRAEL: Okay.

17 MR. JOUMAS: We had to do -

18 VICE CHAIR ISRAEL: It's really close to the
19 University of Wyoming's logo, their athletic team.

20 MR. JOUMAS: Yeah. I mean, we went -

21 VICE CHAIR ISRAEL: Even the same color.

22 MR. JOUMAS: We went through the full on search for
23 the logo.

24 COMMISSIONER CHOPER: What about the term Cal?

25 VICE CHAIR ISRAEL: Well -

1 MR. JOUMAS: Is there one -- you touched upon social
2 on -

3 VICE CHAIR ISRAEL: Jesse worked on the Calvin
4 Coolidge campaign.

5 COMMISSIONER CHOPER: Oh.

6 MR. JOUMAS: Because Ryan mentioned pre-roll. Is
7 everyone familiar with what that -- that term means? Who --
8 who knows and who doesn't know what -

9 VICE CHAIR ISRAEL: What?

10 MR. JOUMAS: Pre-roll, what a pre-roll campaign is.

11 CHAIR BRACKPOOL: Just go through it. This is not a
12 quiz. Go through it.

13 MR. JOUMAS: Okay. A pre-roll campaign is a newer
14 way to really advertise to people with a commercial, but it's
15 just not through paid TV. Nowadays people go to a lot of sites
16 to watch video. And in order to watch a particular piece of
17 video you have to -- you have to go through a commercial in
18 order to view that video. So that it was a pre-roll. And
19 basically it's -- it's a commercial but it's -- primarily
20 it's -- it's online.

21 COMMISSIONER CHOPER: You know, for whatever it's
22 worth, I think there's a substantive message that would be --
23 if you could get it across and it's not too complicated, and
24 that is two things.

25 One, you're stressing fun; right? Well, there --

1 there are several ways to that fun at the race track. One is
2 so that you know the thrill of a stretch run. There's very
3 little that can duplicate that.

4 The second is gambling. I take it people are
5 interested in gambling. I think the message about the gambling
6 is that there are many levels of gambling available to you in
7 playing the horses. You know, people go into a casino and they
8 play roulette. Well, I mean, that, you know, that's a no-
9 brainer. You can do the same thing at the races. That's what
10 you're doing when you pick a horse and you don't know anything
11 about it. There's nothing wrong with that. You pick your
12 lucky number, you pick your lucky horse, whatever their name
13 is.

14 And this is more subtle but -- but it's the same
15 thing. You know, the odds are a general reflection, a pretty
16 damned informed reflection of what the -- you know, what a
17 pretty fair percentage payoff is for you. And you can -- you
18 can -- you can bet smaller bets, I mean, in terms of you can
19 make a place bet. With our field size it's almost a winner.
20 You don't make any net gains at the end, but you cash tickets
21 which is fun.

22 And the other -- the other thing is that there -- you
23 know, then there are levels of handicapping too. I mean, there
24 are some people who can do it. They look at the thing for 15
25 minutes, they got the winner. Other people are crazier and,

1 you know, they pour over the documents for a long time and
2 don't win anyway. But that -- anyway, that is -- I mean,
3 that's a message. It's very different.

4 You go into a casino, I mean, I've done that plenty,
5 I don't think that there's -- there's as much fun in there, you
6 know? You're -

7 CHAIR BRACKPOOL: Okay. Let's have a response to
8 that, and then we'll cover others, and then we've got to move
9 on.

10 MS. JONES: A quick reply to that would be using
11 social media and PR to really delve into that level of
12 information and education. That will be a key component to our
13 content.

14 CHAIR BRACKPOOL: Okay. Commissioner Harris.

15 COMMISSIONER HARRIS: Well, as I said, I think the
16 key is to figure out how much this is going to take to really
17 move the needle. And we get so many campaigns that help some,
18 but we need to quantify how -- how we'll really change the
19 whole outlook toward -- towards racing, which is what you're
20 doing. But it should be in conjunction with the tracks where
21 the tracks are also working on the same thing. It all benefits
22 them.

23 But also the funding source, as I understand it,
24 is -- is all out of the satellite wagering. Is that -- is that
25 correct? So it's -- the funding source, unfortunately, is

1 going down because wagering at the traditional satellites is
2 going down. And I think the industry needs to look at, you
3 know, assuming marketing is good and it's -- it's a viable
4 thing to have and it will make you money, is a good payback, we
5 need to look at how -- how -- other ways to fund it going
6 forward.

7 CHAIR BRACKPOOL: Well, on that, two points, and then
8 we'll wrap up. On -- on John's point about funding, I think it
9 is crucial. We are going to be having -- we'll be releasing
10 the details shortly -- this Board workshop on, you know, the
11 ADW structure. And obviously this is a part of it. We could
12 have previously other, you know, ideas that become part of it.
13 But we -- we have to make sure that the funding source for this
14 is related to the overall handle that's taking place and not a
15 piece of the handle that may or may not be affected positively
16 and do that.

17 The second thing, just to reiterate what Commissioner
18 Choper said, I can't tell you how many times I bring people to
19 the race track or I meet people at the race track who say I
20 have absolutely no idea how to bet. How would you -- I mean,
21 to anyone sitting here probably in this audience it's how could
22 you not have any idea. We're obviously, as an industry, not
23 doing something right because still people struggle with it.
24 And you know, Hollywood this year came out with this beginners'
25 guide. I don't know whether Del Mar has got one at all or

1 whatever. But you know, anything you can be doing on that, to
2 reiterate what Commissioner Choper said, I think is huge.
3 Because not just explain how it's fun, but it overwhelms people
4 and it shouldn't; right? And probably we overwhelm people by
5 telling them there are 57 versions of bets.

6 Have you ever heard anybody describe to you how to
7 play craps? You sit there. And it's actually not very hard.
8 But if someone tries to explain to you how you play craps
9 you're just so overwhelmed with the possibilities that you
10 don't know how to think.

11 COMMISSIONER ROSENBERG: Yeah.

12 CHAIR BRACKPOOL: And we need to do a much better job
13 on that.

14 COMMISSIONER ROSENBERG: Just to answer Commissioner
15 Harris's point about the tie-in with the tracks, the tracks,
16 the major tracks were all represented on their committee. So
17 they -- they're fully familiar with it -

18 CHAIR BRACKPOOL: Right.

19 COMMISSIONER ROSENBERG: -- and developed this.

20 COMMISSIONER HARRIS: The original aim of this was to
21 supplement what the tracks were doing, not support them.

22 CHAIR BRACKPOOL: Right.

23 COMMISSIONER ROSENBERG: But also, you know -

24 CHAIR BRACKPOOL: Put them in the direction of -

25 COMMISSIONER ROSENBERG: Yeah. Yeah.

1 CHAIR BRACKPOOL: Yeah. Commissioner Israel, and
2 then we've got to move on.

3 VICE CHAIR ISRAEL: I have one more question about
4 social media. Are you using adly.com (phonetic) -- do you know
5 what that is -

6 MS. JONES: Yeah.

7 VICE CHAIR ISRAEL: -- and trying to find somebody
8 who can move the needle to tweet from a race track? You
9 know -- you know what I'm talking about. Yeah.

10 MS. JONES: We haven't built -- gotten into it with
11 each track yet because we just presented. And we'll be
12 starting to build the programs out right now. So in the coming
13 months we'll look at how we're going to have a presence onsite
14 at each track. The original strategy was to supplement in
15 which we -

16 VICE CHAIR ISRAEL: But it may be worth it to buy -

17 MS. JONES: Yeah.

18 VICE CHAIR ISRAEL: -- you know -

19 MS. JONES: Yeah.

20 VICE CHAIR ISRAEL: -- I mean, for lack of a better
21 example, Kardashian or Sheen or somebody. Because they -- I
22 mean, they're getting -- they're getting two, three, four
23 million hits and they're turning people out for stuff -

24 MS. JONES: Right.

25 VICE CHAIR ISRAEL: -- that's unimaginable.

1 MS. JONES: Right.

2 VICE CHAIR ISRAEL: Yeah. And it's very inexpensive.

3 CHAIR BRACKPOOL: Okay. Thank you for that. I think
4 what would be good -- I'm sure the CMC is going to continue to
5 follow this closer. But, Jackie, what we'd like to do is get a
6 report, you know, a couple of months, perhaps, after this has
7 been launched so that we can start to track and start to feel
8 this. It's very good to get the education of -- of as many
9 people as possible. But we're excited. I look forward to
10 seeing the commercials. Thank you.

11 MS. JONES: Thank you very much.

12 CHAIR BRACKPOOL: Thank you.

13 MR. JOUMAS: Thank you.

14 CHAIR BRACKPOOL: We're now going to go to item
15 number six which we deferred, public hearing and action by the
16 Board regarding the proposed amendment of CHRB Rule 1846.5,
17 Postmortem Examination, to require the preceding six months of
18 veterinary records to be submitted within 48 hours after
19 submission of the Necropsy Submission Form.

20 Jackie, let's move this along.

21 MS. WAGNER: Jackie Wagner, CHRB Staff. The proposal
22 before the Board is as the chairman read it. This proposal
23 adds a new subsection which requires the owner's or trainer's
24 veterinarian to provide the veterinary medical record for the
25 preceding six months of any horse that dies or is euthanized on

1 the grounds of a facility under the jurisdiction of the Board.

2 CHAIR BRACKPOOL: Oh, I'm sorry. I was handed a card
3 during the last presentation. John Bucalo, Barona Casino. I'm
4 sorry. I didn't see the card when he came in.

5 MR. BUCALO: I'm sorry. John Bucalo, Barona Casino
6 Off-track Betting.

7 The -- the California Marketing Committee is funding
8 this promotion or -- or this advertisement and I think the
9 exposure is fabulous for the racing, and that's exactly what we
10 need. However, these monies that fund this are taken out of
11 the wagers that are made by guests who go to the satellite
12 facilities. And I'm just wondering what their reward is and
13 why there isn't a contribution from the race tracks and the
14 ADWs -

15 CHAIR BRACKPOOL: Well, I don't know -

16 MR. BUCALO: -- in addition to this.

17 CHAIR BRACKPOOL: -- if you were listening to what I
18 said, but that was exactly what I said, that we're going to
19 have a workshop, we're going to do this. And plainly we need
20 to be able to restructure the CMC funding in a way that it is
21 representative of the overall handle.

22 MR. BUCALO: Well, that certainly should be -- would
23 be fair, and I think that's what it should be.

24 CHAIR BRACKPOOL: Thank you.

25 MR. BUCALO: Thank you very much for the opportunity.

1 CHAIR BRACKPOOL: Thank you very much, John. All
2 right.

3 MR. BUCALO: Yeah.

4 CHAIR BRACKPOOL: We now resume item number six,
5 Jackie. And we know what the -- the issue is, so the briefest
6 of summary please.

7 MS. WAGNER: Staff received numerous comments on this
8 proposal, most of them speaking in opposition to the proposal.
9 We received comments from the Southern California Equine --
10 excuse me -- Foundation. We received comments from Dr. Don
11 Shields as well. And I believe those are -

12 CHAIR BRACKPOOL: Well -

13 MS. WAGNER: -- the two -

14 CHAIR BRACKPOOL: -- anyway, we received comments.

15 MS. WAGNER: -- and they are here. Yeah.

16 CHAIR BRACKPOOL: All right.

17 MS. WAGNER: We got comments. Representatives are
18 here to say those comments in front of the Board.

19 CHAIR BRACKPOOL: Yeah. Shall we do the same? Shall
20 we go to speaker comments on the issue first because this is a
21 reading of -- of a rule, and then we can have commissioner
22 comments? Is that going to be it? Okay.

23 I'd like to start with Dr. Dedomenico from the TOC.

24 DR. DEDOMENICO: I guess I was in postmortem exam up
25 there. So we discussed this at the -

1 EXECUTIVE DIRECTOR BREED: State your name, Doctor.
2 DR. DEDOMENICO: -- Thoroughbred Owners Association.
3 And -
4 EXECUTIVE DIRECTOR BREED: Doctor -
5 DR. DEDOMENICO: Yes?
6 EXECUTIVE DIRECTOR BREED: -- state your name please.
7 DR. DEDOMENICO: My name is Dr. Mark Dedomenico.
8 EXECUTIVE DIRECTOR BREED: Thank you.
9 DR. DEDOMENICO: We assessed this at -- at the TOC.
10 And we only had one thing that we wanted to have done with
11 this, and that was this was to be a blind study, and that there
12 was not -- this was not to be a witch hunt. People were not to
13 come back on trainers or owners or other people because of
14 findings in these studies. And I also explained to Rick Arthur
15 at the time how to do -- how we had done a double-blind study
16 with 10,000 people at Microsoft and no one ever knew anything
17 about anybody. Because, you can imagine, it's the same things
18 with humans as it is with people that own horses, if you have
19 diabetes you don't want your employer to know about it. And we
20 never had that problem. So there a number of ways to do that.
21 So the only thing that we're insisting on here is
22 that this be a study in which there no witch hunt going on.
23 Nobody's coming back on a trainer or an owner or anybody like
24 that, and there will be no lawsuits coming back down saying
25 that horse broke down because of this and that or other things.

1 Okay?

2 CHAIR BRACKPOOL: Thank you, Doctor.

3 Next speaker, is Jeff Blea.

4 MR. BLEA: Jeff Blea, private practitioner.

5 CHAIR BRACKPOOL: Sorry, Jeff. I mispronounced your
6 name.

7 MR. BLEA: That's okay, Commissioner. If I'm here
8 long enough for enough times it will -- it will become second
9 nature.

10 You know, I'm not opposed to transparency. I think
11 transparency is good for the industry, and I've said that on
12 record before. I do have more questions than I do comments
13 about 1846.5, and they relate to what happens to these records.

14 In California the necropsy program is a gold standard
15 for the industry. We use that program to learn as
16 practitioners, as trainers and owners, and a lot of information
17 has come out of that program. I'd hate to lose that program
18 due to litigious proceedings that would impede that program
19 from continuing.

20 Relative to 1846.5(e)(1), the question is two
21 questions. You're asking us to provide records on our patients
22 who either are euthanized or died within 48 hours. Forty-eight
23 hours in most cases is -- is going to be a timeframe that's not
24 going to be able to be met by most practices due to staffing,
25 due to the availability to collect records and send them.

1 With those records are you asking for medical records
2 in a written format or are you requesting radiographs, nuclear
3 scintigraphy, ultrasound images in the form of a digital
4 format? These are all questions that I think my colleagues are
5 asking me to ask you.

6 And provide these records to the official
7 veterinarian. In subsection two of that amendment it says,
8 "These records remain confidential," which we've always felt
9 comfortable with that, "except in a proceeding before steward
10 or a board or any exercise of a board's jurisdiction, or
11 illness or injury."

12 And our question that we get from practitioners, are
13 we doing an injury study and analysis of injuries? If we are
14 we'd like to be involved. If we're looking for information
15 that's going to go to the CALFS (phonetic) lab to provide a
16 causal relationship for the reason why the horse was euthanized
17 or died that's good information. But we'd also like to be
18 included. We'd like to be at the table.

19 So at this point, whether we're looking for research
20 or whether we're looking for causal relationships, my
21 recommendation to the board would be -- we're -- I'm fine with
22 transparency, and I think most veterinarians are. But I would
23 recommend that we table this, we talk to you guys. We'd like
24 to have a meeting with the veterinarians and some of the
25 commissioners, and we'd like to be involved in this process so

1 we can get as much information as possible. If there is some
2 research to be done we'd like to be involved, we'd like to be
3 at the table. But at this time I would recommend we table this
4 until we can meet as veterinarians with some of the
5 commissioners.

6 CHAIR BRACKPOOL: Thank you.

7 MR. BLEA: Thank you.

8 CHAIR BRACKPOOL: Next speaker, Joe Dowd.

9 DR. DOWD: Hi. Doctor Joe Dowd, private
10 practitioner. I'll be brief. I just want to reiterate some of
11 Dr. Blea's comments that -- and pass on some of my own. And my
12 biggest problem with this issue is that it has a mean spirit to
13 it if you're a veterinarian. "Within 48 hours;" that clause is
14 probably the biggest problem that all the veterinarians have
15 with it.

16 And I remind the Board in a letter to -- addressed to
17 Mr. Harris that I think you have that this race track,
18 unlike -- I don't know of any other tracks or group of race
19 track veterinarians around the country that have done so much
20 in the way of research. And that research has extended from us
21 veterinarians here and collaborated with researchers at -- at
22 UC Davis at -- or Colorado State University. It's taken in
23 farms. In my own experience, Megally Farm (phonetic) and
24 Harris Farm have been involved in some of the studies that
25 we've carried out as veterinarians here. And I think it goes

1 against that grain of good spirit.

2 And -- and I -- and I want to emphasize that the real
3 medical experts, the guys that know the most across the board
4 about racing injuries are the guys that are out here every
5 morning and every evening working with these animals.

6 And so if you really want to design a good study
7 stick with what's always worked well for us, and that is
8 including us in that group. And I agree that we should
9 probably table this. And I would suggest a committee that
10 involves some veterinarians that organize just exactly how this
11 data is to be collected and how it's to be utilized.

12 CHAIR BRACKPOOL: Thank you.

13 DR. DOWD: Thank you.

14 CHAIR BRACKPOOL: Thank you. Commissioner comments?
15 Commissioner Harris.

16 COMMISSIONER HARRIS: Well, actually, I tend to agree
17 with -- the doctors has laid it out -- on their specific
18 suggestions. I think this is something we need to do -- get
19 done. I don't know if it's something we have to get done
20 today. I'd rather get it right than -- than try to rush it
21 through. And I agree that the 48 hour deal doesn't have to be
22 48, it could be more. It could be digital records. There
23 should be, obviously, collaboration.

24 But basically we do want to get there. We don't want
25 to just sweep this under the rug and say we're never going to

1 do it.

2 And I don't agree with the concept that there should
3 be no -- I agree with transparency. But I don't think that
4 horses or equines that are dead have a special right to -- to
5 keep their health records confidential. I don't think that's
6 just an inherent right. I think that's -- if that helps
7 research to open that up it should be in there. Also, if
8 there's litigation they're going to get that anyway. And the
9 CHRB already has subpoena power to -- to subpoena health
10 records.

11 So really this doesn't do anything that dramatic to
12 start with. It just -- but maybe we -- we err to not purposely
13 make it more collaborative and, you know, be more inclusive of
14 the way it is. But I think if we table it we definitely need
15 to revisit it.

16 COMMISSIONER DEREK: I'd like to hear from -

17 CHAIR BRACKPOOL: Commissioner Derek.

18 COMMISSIONER DEREK: I'd like to hear from Dr.

19 Arthur.

20 CHAIR BRACKPOOL: Oh. Commissioner Moss first.

21 COMMISSIONER MOSS: What -- what -- what can happen
22 if, you know, just as an example, if on necropsy you find that
23 this horse has had some illegal steroid or something like that,
24 is there penalties then for the trainer? Are there penalties?
25 Can you post -- you know, give people penalties for carrying

1 around certain medicines or steroidal influences that may not
2 be very good for the horse?

3 I mean, in itself, you know, I'm -- I'm always just
4 trying to head off litigation here. And I think the things
5 we've approved of, and not to go back over them, have increased
6 the possibility of litigation. And I see this -- this bill
7 again, this -- this measure maybe increasing the possibility of
8 litigation once again. And I'm -- I'm just wondering if -- if
9 we shouldn't let the -- the veterinarians decide, you know, how
10 this should work if we really have a tendency to vote on it.
11 That's all I'm saying.

12 CHAIR BRACKPOOL: Dr. Arthur.

13 DR. ARTHUR: Dr. Arthur, Equine Medical Director.

14 Sometimes I get confused why these things become so
15 controversial. This was first proposed over -- what was it --
16 16, 18 months ago. And we'd discussed it at medication
17 meetings. They've been publicly announced. Ironically, in
18 this case it was to try to defuse the confrontational
19 adversarial subpoena power which the Board currently has.

20 I think the 48 hours is onerous. I don't know where
21 that comes from. So -- and I can't remember 18 months ago or
22 whatever it was. But you know, it is -- the intention is to be
23 collaborative. It -- the necropsy program, this aspect of it
24 is not to be pointing fingers. However, we do subpoena records
25 on specific issues where jockeys are injured. The Sam Thompson

1 case, the Juan Briano (phonetic) case, the Bernadette case, but
2 those are unrelated to the necropsy program. Those are related
3 to actual commission investigations.

4 So you know, there's two ways to go. I mean, one
5 way, if this moves forward I think it would force the -- the
6 veterinarians to -- to deal with this. I'm -- I'm very open.
7 The point is that it should be collaborative. I do think
8 there's a number of unanswered questions as to exactly what
9 records need to be provided in what period of time -

10 CHAIR BRACKPOOL: Okay. Thank you.

11 DR. ARTHUR: -- and we can sort those things out.

12 CHAIR BRACKPOOL: Commissioner Derek.

13 COMMISSIONER DEREK: Yeah. I just -- I just wanted
14 to add that as we do have subpoena powers now, all those
15 logistics seem to work when we subpoena these records. So I
16 know there are a lot of questions about logistics. It does
17 seem to work when we ask for the records through subpoena
18 powers.

19 And it seemed to me that it would be a benefit to
20 both sides. I think it's expensive to the Board. I think it's
21 expensive to the owners to -- to go through the subpoena
22 process. And I don't know why a trainer or an owner would not
23 want to provide these records for the benefit of research.

24 CHAIR BRACKPOOL: Well -

25 VICE CHAIR ISRAEL: I agree.

1 CHAIR BRACKPOOL: Okay. Go ahead. Do you -- are you
2 pointing at the microphone or are you -

3 COMMISSIONER CHOPER: No.

4 CHAIR BRACKPOOL: -- trying -

5 COMMISSIONER CHOPER: As I understand it -

6 CHAIR BRACKPOOL: Commissioner Choper.

7 COMMISSIONER CHOPER: -- once you -- once you get --
8 I mean, I understand the motivation behind not putting them in,
9 and that is they're not confidential in terms of litigation,
10 that state law gives a litigant, that's someone dissatisfied --
11 you know, you can imagine all kinds of people who might be with
12 the death of the horse -- bring an action against the owner.
13 So they are subpoenaed and they're subject to subpoena and
14 litigation.

15 DR. ARTHUR: They -- they would not -- that language
16 is actually taken right out of 1942, the Veterinary
17 Confidentials. And what it really does is I believe protect
18 the information for Public Records Act request. Maybe Counsel
19 Miller can answer that.

20 MR. MILLER: That's correct. Robert Miller, Counsel
21 for the California Horse Racing Board.

22 COMMISSIONER CHOPER: Well, how about just an
23 ordinary discovery request?

24 MR. MILLER: You mean in an ongoing litigation?

25 COMMISSIONER CHOPER: Yeah.

1 MR. MILLER: It would have to be from -- the court
2 would have to make the decision.

3 COMMISSIONER CHOPER: Yeah. Well, I understand.

4 MR. MILLER: Yeah.

5 COMMISSIONER CHOPER: But there's no -- is the
6 veterinarian's privilege a defense to a discovery request?

7 MR. MILLER: Yes.

8 COMMISSIONER CHOPER: Oh, it is?

9 MR. MILLER: Same as attorney-client privilege.

10 COMMISSIONER CHOPER: Oh. Well, then it's not -
11 then what I said is not accurate.

12 MR. MILLER: No.

13 COMMISSIONER CHOPER: I said I assume you could do
14 it. If you -- if you can't get it then you can't get it.

15 CHAIR BRACKPOOL: Well -

16 VICE CHAIR ISRAEL: Wait. Veterinarian has the same
17 privilege as a doctor who works on people?

18 COMMISSIONER CHOPER: That's correct.

19 COMMISSIONER HARRIS: I thought in a litigation
20 that's -- that's a whole different issue than an attorney-
21 client privilege. I thought in litigation someone could
22 discovery various health records. I mean, you do with medical
23 records.

24 COMMISSIONER CHOPER: Health records of a horse.

25 MR. MILLER: The -- the holder of the privilege, of

1 the veterinarian privilege is the owner. And the veterinarian
2 is only the agent of the owner.

3 COMMISSIONER ROSENBERG: Counsel, doesn't this
4 proposed rule change that rule by saying that you've -- it's
5 provided to the Board?

6 MR. MILLER: No.

7 COMMISSIONER ROSENBERG: And -- and -- wait. And
8 could -- and during a hearing on the matter before the stewards
9 or whatever it could be disclosed? That's a public disclosure,
10 isn't it?

11 MR. MILLER: That -- that is troubling -

12 COMMISSIONER ROSENBERG: Yeah. I mean -

13 MR. MILLER: -- as I look at the rule. And you could
14 call it confidential, and then to say, well -

15 COMMISSIONER ROSENBERG: Yeah.

16 MR. MILLER: -- except you can take it to the board
17 of stewards.

18 CHAIR BRACKPOOL: Look, here's what I personally
19 would like to do on this, leaving aside the fact that too many
20 issues we have people come up and say this is the first I've
21 heard of it, and we've actually been talking about it forever.
22 I think this one is important. And what I would like to do is
23 get the -- and I don't want to make this a witch hunt. I agree
24 with -- with -- with the TOC's position on this that, you know,
25 the last thing this is intended to be is a witch hunt. It's

1 not intended to be -- it is intended to be for -- for research
2 purposes. And we're trying to do, you know, the right thing by
3 the animals here.

4 I think what we should do is I would make a motion to
5 put this over. Why don't -- why don't we just put this over
6 for a defined period of time? Let's bring it back at, let's
7 say the -- the October meeting and let's, in that period of
8 time, get a working group that comprises of staff, counsel in
9 this one, along with the veterinarians, along with the TOC.
10 And then when it comes back to us let's delineate. This was
11 the position. This is his view of it. This is her view of it.
12 This is where we go.

13 Right now we're sitting here and we've got counsel
14 saying he's troubled by certain provisions, etcetera. I don't
15 feel comfortable moving -- moving ahead with it at this stage.

16 COMMISSIONER CHOPER: Yeah. Just to follow up on
17 Commissioner Moss's point, I'd like to know what the --
18 authoritatively what happens to this information once it gets
19 to the Board in respect to private litigation?

20 CHAIR BRACKPOOL: Right.

21 COMMISSIONER ROSENBERG: But also the -- the point
22 about research he made is on my mind as well. And it does
23 mention something very vaguely with that language. It should
24 be cleaned up to make it clear it could be used for research.

25 CHAIR BRACKPOOL: Right.

1 COMMISSIONER ROSENBERG: The last part of section -

2 CHAIR BRACKPOOL: Right.

3 COMMISSIONER ROSENBERG: -- two.

4 CHAIR BRACKPOOL: Right. Dr. Dedomenico, you have a
5 follow-up?

6 DR. DEDOMENICO: Well, I think maybe -- I don't want
7 to confuse you. I thought this was a research project. If
8 you've got -- if you've got a problem with a horse dying on the
9 track and need certain things you better get all his records
10 and you better find out what happened if you think there's
11 something illegal going on. We're not talking about
12 illegalities here.

13 We're talking about a research project; am I correct?
14 Or are we talking about a combination of both?

15 VICE CHAIR ISRAEL: No. We're talking about
16 research.

17 COMMISSIONER DEREK: Research.

18 DR. DEDOMENICO: Okay. And research, then I think
19 you've got to hold -- you know, you've got to be a little more
20 careful with the information that you have.

21 COMMISSIONER HARRIS: I think that this -

22 DR. DEDOMENICO: Do you understand what -

23 COMMISSIONER HARRIS: -- is a combination of both.

24 DR. DEDOMENICO: I think there's a total difference.
25 You're talking on one side about, you know, that I have the

1 right to -- to get these records and everything else. Of
2 course you do if you really think something's going wrong.
3 Okay.

4 But on the other hand, if there's nothing wrong and
5 you -- and you want to do 100 or 500 horses or whatever you're
6 doing in your total study here, I think this is a research
7 project that has to be totally dealt differently than when
8 you're dealing with horses that you are afraid or you're aware
9 or you think something may have happened to them or they
10 were -- they were given the wrong drugs or something. You're
11 going to get your blood test anyhow. So you know -

12 CHAIR BRACKPOOL: We -- we -

13 DR. DEDOMENICO: -- I don't know where all that is.
14 Do you follow where I'm at? That's where -- that's where the
15 TOC is coming from.

16 CHAIR BRACKPOOL: We follow. We follow.

17 DR. DEDOMENICO: We think this is a research project.

18 CHAIR BRACKPOOL: We -- we follow. We know what it
19 is.

20 DR. DEDOMENICO: Thank you.

21 CHAIR BRACKPOOL: So would everybody be okay with
22 putting this off to -- putting it off -- putting this over
23 until October but with a definitive, you know, plan that comes
24 in?

25 And maybe, Kirk, you could get us -- get the Board a

1 memo of exactly all of the issues that are going to be looked
2 at, so that if any commissioners have comments they could --
3 they could tighten that up a little bit.

4 EXECUTIVE DIRECTOR BREED: Got you.

5 CHAIR BRACKPOOL: That would be -- that would be
6 good. Okay.

7 Item number seven, discussion and action by the Board
8 on the application for license to conduct a horse race meeting
9 of the Los Angeles Turf Club at Golden Gate Fields, commencing
10 August 19th, 2011 through October 2nd, 2011, inclusive.

11 MS. WAGNER: Jackie Wagner, CHRB Staff. The
12 application before you is from the Los Angeles Turf Club. They
13 have filed their application to conduct the horse racing
14 meeting at Golden Gate Fields. They are proposing to run
15 August 19th through October the 2nd. This is 22 days. They
16 are proposing to race a total of 205 races, or 9.32 races per
17 day, which is contrary to the usual 8.6 races that we normally
18 run.

19 On -- they will be racing three days per week, racing
20 Friday through Sunday the first two weeks, Friday through
21 Monday the third week, and Friday through Sunday the last four
22 weeks. They're going to be racing weekdays, eight races on
23 weekdays, nine on weekends and holidays. And if the population
24 permits they are asking permission to add additional races over
25 the three days per week. Their first post time is 12:45 p.m.

1 CHAIR BRACKPOOL: Yeah. We've read all that. We've
2 read all that.

3 MS. WAGNER: Not a problem.

4 CHAIR BRACKPOOL: Robert, what would you -- what --
5 what would you -- and there's nothing missing in the
6 application?

7 MS. WAGNER: No. No. Everything's complete.

8 CHAIR BRACKPOOL: Robert, what would you add? And
9 then we've got some questions.

10 MR. HARTMAN: Robert Hartman representing Golden Gate
11 Fields.

12 We decided to -- to try something new. We've been
13 averaging six and seven horse fields. And we felt that our
14 product was not competitive with -- with other -- with other
15 race tracks across the country; our out-of-state handle
16 especially. So these are people that have a menu of all the
17 tracks in the country. And we've seen the out-of-state handle
18 decline -- decline pretty significantly. So by cutting from
19 four days a week to three days a week we think that's really
20 going to help improve field size, which we feel is key.

21 And the other thing it allows us to do, with a 22-day
22 race meet we could have a promotion every single day of the
23 meet. So whether you come on Friday, Saturday or Sunday
24 there's always going to be something going on every day over
25 those 22 days.

1 So we think it's -- it's a good change. You can look
2 at it as a seven week experiment to see if it does stabilize
3 business. And we hope that you will approve the application.

4 CHAIR BRACKPOOL: Commissioner Israel first. And
5 then I have others.

6 VICE CHAIR ISRAEL: As both of you know, my principal
7 problem with the application isn't any of this stuff, it's that
8 MID essentially is applying for the license. We have 363 pages
9 here, 350 of which are MID's financial information. MID
10 doesn't exist anymore insofar as a racing entity in California
11 and it hasn't since July 1st.

12 So who are we approving, and what is their financial
13 position, and how do we know that they're going to fulfill all
14 of their obligations to California racing?

15 CHAIR BRACKPOOL: We're approving the -- I'm not
16 going to -- we're approving the Los Angeles Turf Club which is
17 a wholly owned subsidiary now of ultimately the Stronach Group
18 to which we gave the waiver at the June meeting -

19 VICE CHAIR ISRAEL: Right.

20 CHAIR BRACKPOOL: -- pursuant to the terms of the
21 waiver -

22 VICE CHAIR ISRAEL: All right. So -

23 CHAIR BRACKPOOL: -- which were audited financials,
24 letter of credit, etcetera, etcetera.

25 VICE CHAIR ISRAEL: Yeah.

1 MS. WAGNER: And we have received them.

2 CHAIR BRACKPOOL: Your real point about why we've all
3 been lugging around these books with -

4 VICE CHAIR ISRAEL: Yeah. Yeah.

5 CHAIR BRACKPOOL: -- MID's 10-Ks and 10-Qs is -- is
6 personally a more important point, although I should be able to
7 lift a few more weights after this.

8 VICE CHAIR ISRAEL: Well, actually, I will say I used
9 it to my advantage. Because on the Coliseum Commission people
10 were complaining about how much they had to read in their
11 briefing books. And I pulled this one out and said, "Don't
12 complain."

13 CHAIR BRACKPOOL: But I think this is more to do with
14 our -- our application process and where, frankly, it's
15 somewhat dated information.

16 Commissioner Rosenberg.

17 MS. WAGNER: If -- if I may, Commissioners. You have
18 that MID information. Because when the application was
19 submitted the application was required to be before the Board
20 90 days before the date of the race meet. MID at that time did
21 own this track.

22 CHAIR BRACKPOOL: It's required to be with you 90
23 days before -

24 MS. WAGNER: Correct. Correct.

25 CHAIR BRACKPOOL: -- not with us. We didn't need

1 this. Because by the time you sent this Board book out MID was
2 no longer the owner.

3 VICE CHAIR ISRAEL: For instance -

4 CHAIR BRACKPOOL: There's a difference between you
5 and -- and -- and the Commissioners.

6 VICE CHAIR ISRAEL: Now have you gotten, for
7 instance, new information on the insurance certification and
8 all that?

9 MS. WAGNER: All of that -- everything that you have
10 in this packet is -- is -- is current.

11 VICE CHAIR ISRAEL: No. No.

12 MS. WAGNER: Yes.

13 VICE CHAIR ISRAEL: The insurance certification is to
14 MI Developments. I'm reading it.

15 CHAIR BRACKPOOL: And doing business as Los Angeles
16 Turf Club.

17 VICE CHAIR ISRAEL: Yeah. Yeah. But -- but -

18 COMMISSIONER MOSS: Can I ask -

19 CHAIR BRACKPOOL: Yes. Commissioner Moss.

20 COMMISSIONER MOSS: Robert, what's -- what is your
21 biggest race of this meet? I couldn't find it.

22 MR. HARTMAN: Yeah. That's another change we've had.
23 We decided not to run any stakes over this short period of time
24 in order to put more money towards the -- the bread and butter
25 horses, the claiming horses and the allowance horses. It's

1 another strategic change. We're going to see if it has any
2 impact.

3 Traditionally our stakes races and the purses we pay
4 out really supplement the -- the lower level races. They --
5 I'm sorry. The lower level races supplement the stakes races.
6 So if we have a field of six stakes horses and a field of ten
7 claiming \$4,000 horses we handle more on the ten horse \$4,000
8 claim race.

9 COMMISSIONER MOSS: And as far as your attendance is
10 concerned, have you found that without stakes your attendance
11 suffers?

12 MR. HARTMAN: I think we're going to learn. I think
13 that's part of this process is, you know, I call it experiment
14 meet in some ways. We're going to see if -- if those Saturdays
15 where we traditionally put stakes -

16 COMMISSIONER MOSS: Right.

17 MR. HARTMAN: -- if we see any decline because
18 there's no stakes races. So I think that's one of the
19 observations we'll find after this short meet.

20 COMMISSIONER MOSS: Because I think from a marketing
21 standpoint, you know, people may show up for -- for -- for an
22 occasion. You know what I'm saying?

23 MR. HARTMAN: Right. What this allows us to do --
24 and we're planning in the fall meet, so I'll be back before you
25 next month for -- for our next application. And we have a

1 heavy, heavy stakes schedule currently in -- in -- in the
2 works. That's what we're planning for. If we find out that
3 the no-stakes schedule works, doesn't work we may alter what
4 we're going to do in the fall.

5 CHAIR BRACKPOOL: Commissioner Harris next, then
6 Commissioner Rosenberg.

7 COMMISSIONER HARRIS: Yeah. I like the 22 days, and
8 I like the 3 days a week. I think it's a good move. I do
9 quarrel with the stakes schedule, though, although TOC is the
10 body that has approved it and they're the ones that really --
11 the only one that really has to approve it. The Board didn't
12 approve stakes schedules.

13 But I know that owner-breeders in Northern California
14 stakes are important. And it's not so much the value of the
15 stake, it's the black type that goes with it and all that. And
16 I'd urge you to take a little harder look at stakes, without
17 necessarily pain. It doesn't have to be a big stake, just --
18 just a \$50,000 stake, which is pretty much on par with your
19 allowance races anyway. And because I'm afraid that Northern
20 California racing in general could just drift into oblivion
21 because there's not stakes opportunities for owners and
22 breeders to race up there.

23 CHAIR BRACKPOOL: Commissioner Rosenberg.

24 COMMISSIONER ROSENBERG: Yeah. I have a question.
25 The recent press reports about the possible sale of the

1 property on which the race track sits, and I know it's just
2 rumors at this point, although some very specific things have
3 come out about the potential use of the property and some
4 comments that were made by, I believe, someone at -- either at
5 MID or at the new Stronach Group, that made reference to the
6 fact that they would attempt to build another track. But it
7 seems to me that we already have a shortage of horses and a
8 shortage of activity up there. And a lot of trainers and some
9 owners would be concerned about timing on something like this,
10 even though there's no sale pending.

11 Can you -- do you have any comfort you can give to
12 anyone about how many years it would take to get anything like
13 this done?

14 MR. HARTMAN: Yes. Absolutely. I'm actively
15 involved with -- there's only one possible project currently
16 out there, and that is the University of California Lawrence
17 Berkeley National Lab project. So it's not like we're shopping
18 around the property to the highest bidder. There's one -
19 one -- one group that put out an RFP looking for a piece of
20 land, and we're one of six finalists for that project. The lab
21 is planning to make a decision by the end of the year on the
22 preferred site. And they wouldn't break ground until 2014 or
23 2015.

24 So racing is secure at Golden Gate Fields, at least
25 for the next three years. Now these -- these projects tend to

1 get pushed back even -- even further. And we may not be
2 selected. I mean, you know, there -- there's five other
3 runners, so it's a six-horse field, and we're one of -- we're
4 one of the entries. So we'll know by the end of the year where
5 we stand.

6 But I also want to state that -- that Frank Stronach
7 is committed to horse racing in Northern California. He's told
8 that to me personally.

9 The one big issue we have, as -- as everybody in this
10 room knows, is -- is the business model is broken; right? I
11 mean, it's -- it's tough to invest \$40 million, \$50 million,
12 \$60 million dollars in a new racing facility if you're going to
13 get no return. So I think we want to try to fix that business
14 model. And I am actively looking, even today, at other sites
15 in Northern California for that relocation to take place in
16 case we do get chosen at the end of this year. That's actively
17 going on as well.

18 COMMISSIONER ROSENBERG: Has there ever been a
19 discussion about the different type of racing model that's very
20 different from the type of race tracks we operate today?

21 MR. HARTMAN: That's -- that's exactly what we're
22 talking about as -- as part of this relocation. Obviously
23 you'll have modern facilities. This is a great opportunity to
24 build a race track of the future. Golden Gate Fields right now
25 is -- is 95 percent empty on a daily basis. It was built

1 during a time when -- when we had 30,000 racing fans, and on a
2 week day we have 1,200 racing fans. So you know, it feels
3 like -- like a ghost town on some days.

4 So if you build it the right way with the right
5 amenities, I think even having other entertainment and
6 restaurant facilities around it so people can stop in for a
7 couple of races. You can go to -- to lunch at a high-end
8 restaurant and stop in for a couple of races. So I think we
9 have to look at the -- the whole model and determine, A, where
10 we'll be relocated in Northern California and, B, what that
11 business model looks like.

12 CHAIR BRACKPOOL: Thank you. Commissioner Choper.

13 COMMISSIONER CHOPER: Just three quick related
14 questions. Where in the -- in the West, I guess in the
15 Northwest and in the Southwest are potential people to bring
16 horses in for this little meet that you have? Second, how do
17 the purses compare in those places to what we can offer? And,
18 third, what's the chances of getting some in?

19 MR. HARTMAN: Yeah. The real places to look are
20 horses from Arizona and horses that were slated to run in
21 Minnesota because they've had -

22 COMMISSIONER CHOPER: Minnesota?

23 MR. HARTMAN: -- they've had a number of problems.
24 Yes. And then in -- once the summer meet is over the horses
25 come from the Northwest from Emerald Downs and from the

1 Vancouver area.

2 And the second question, it's kind of a tricky one,
3 about purses, our real problem isn't purses, it's the cost of
4 doing business as a horse owner -- and this is my opinion --
5 the cost of doing business as a horse owner in this state.

6 It's vet -

7 COMMISSIONER CHOPER: In California?

8 MR. HARTMAN: In California. It's vet bills. It's
9 cost of living, putting up your help, feed bills and whatnot.
10 So even if you raise the purses a little bit it's very
11 difficult sometimes to break even given the -- the -

12 CHAIR BRACKPOOL: But answer the Commissioner's
13 question, which is how do the purses relate?

14 MR. HARTMAN: I'm sorry. I -

15 COMMISSIONER CHOPER: How do the purses relate?

16 CHAIR BRACKPOOL: How do the purses relate?

17 VICE CHAIR ISRAEL: Compare to the -

18 COMMISSIONER CHOPER: Just the purses.

19 MR. HARTMAN: Oh, they're higher. Oh.

20 COMMISSIONER CHOPER: They're higher?

21 MR. HARTMAN: The purses at Golden Gate Fields are
22 higher than purses in Arizona and -- and other states, yeah.

23 COMMISSIONER CHOPER: Well, I guess you're looking at
24 what Del Mar is doing about this bonus to bring a horse in. I
25 mean, it's an interesting proposition.

1 MR. HARTMAN: Right.

2 COMMISSIONER CHOPER: And I guess I just want to add
3 one other thing. When you say \$4,000 claimers, if you have ten
4 of them it would do better than \$600 stakes. My -- my guess
5 is -- I mean, we've got plenty of \$4,000 claiming races.

6 My guess is that if you could get some, you know,
7 \$20,000 claiming races in, for most of the betters that's as
8 good as a stakes race. Now it's true, there are a lot of other
9 things that -- that people have mentioned, right, that -- that
10 are -- that are advantages to stakes races. It's only a very
11 few of them that get the crowds out, and you're going to have
12 those anyway. I mean, they're wonderful the way, you know, for
13 some big races they come out.

14 MR. HARTMAN: Yeah.

15 COMMISSIONER CHOPER: Yeah.

16 MR. HARTMAN: That's interesting. That's the area of
17 horse that has disappeared throughout the whole state, that --
18 that middle claiming rank. So Santa Anita has the -- or
19 Hollywood Park or Del Mar has the lower claimers and the higher
20 claimers, but the middle is gone. And it's just very
21 interesting.

22 COMMISSIONER CHOPER: Where are they.

23 MR. HARTMAN: Both north and south.

24 COMMISSIONER CHOPER: They're not in Arizona?
25 They're not in Washington and British -- B.C.?

1 CHAIR BRACKPOOL: Can I just check one thing? So
2 last year you ran 27 days.

3 MR. HARTMAN: Correct.

4 CHAIR BRACKPOOL: And this meet is?

5 MR. HARTMAN: Twenty-two.

6 CHAIR BRACKPOOL: Twenty-two days. So when I look at
7 the average daily purse is intended to be up roughly ten
8 percent, right, that's really more than that if you -- well,
9 what's the total number of races? I know you're racing more
10 this time compared to last time.

11 MR. HARTMAN: I think we're going to only lose 26
12 races with this plan.

13 CHAIR BRACKPOOL: Right.

14 MR. HARTMAN: So we -- we -- yeah.

15 CHAIR BRACKPOOL: Right.

16 MR. HARTMAN: So 231 to 205.

17 CHAIR BRACKPOOL: Right. And are you, as part and
18 parcel of this with your agreement with TOC, trying to get back
19 an overpayment from last year?

20 MR. HARTMAN: We're currently in -- in a pretty
21 significant overpaid situation. The way we manage this week is
22 to break even for the meet, not make up any of the -

23 CHAIR BRACKPOOL: You're not trying to make up -

24 MR. HARTMAN: No.

25 CHAIR BRACKPOOL: -- any of the -- any of the -

1 MR. HARTMAN: Not during this meet.

2 CHAIR BRACKPOOL: -- any overpayment?

3 VICE CHAIR ISRAEL: How do you do that, later on?

4 MR. HARTMAN: Later on.

5 CHAIR BRACKPOOL: Okay.

6 COMMISSIONER CHOPER: But not with this little five
7 week period?

8 MR. HARTMAN: Seven week period, right.

9 COMMISSIONER CHOPER: Or seven weeks. Excuse me.

10 MR. HARTMAN: The way the purses are -- we are hoping
11 that the purses match the handle -

12 COMMISSIONER CHOPER: Yeah. Yeah. Yeah.

13 MR. HARTMAN: -- and this meet breaks even. And
14 we're just going to carryover the overpayment to -

15 COMMISSIONER HARRIS: Wouldn't the purses be up,
16 though, if -- with the new increased takeout?

17 CHAIR BRACKPOOL: They are up.

18 MR. HARTMAN: They are up.

19 CHAIR BRACKPOOL: They're up ten. And I would have
20 thought they'd be up a little more than ten with 1072 because
21 they should be up a little more than that.

22 MR. HARTMAN: Well, the business is just down. I
23 mean, that's -- that's the problem. If business had stayed the
24 same -

25 CHAIR BRACKPOOL: Well, but you're -

1 MR. HARTMAN: -- we would be up.

2 CHAIR BRACKPOOL: Well, no. You're projecting it
3 will be down.

4 MR. HARTMAN: We're projecting business.

5 CHAIR BRACKPOOL: I mean, Hollywood just ended
6 basically even.

7 COMMISSIONER HARRIS: Yeah.

8 MR. HARTMAN: Right. Obviously that's a projection.

9 CHAIR BRACKPOOL: So you're -- you're projecting
10 you'll be down.

11 MR. HARTMAN: Correct.

12 COMMISSIONER HARRIS: I thought that Stockton and
13 Pleasanton were up a little bit.

14 CHAIR BRACKPOOL: Pleasanton is up quite
15 considerable.

16 COMMISSIONER HARRIS: Stockton is up.

17 CHAIR BRACKPOOL: And Stockton was up.

18 VICE CHAIR ISRAEL: Yeah. They did very well.

19 CHAIR BRACKPOOL: So -- and -- and why is it that
20 you're projecting on being down given that, you know, Hollywood
21 was even, those two fairs were up? Why are you projecting on
22 being down?

23 MR. HARTMAN: Well, when we submitted this
24 application over 90 days ago our business was off between 12
25 and 15 percent. So that's what we based our -- our numbers on

1 was the data we had at the time that we submitted the
2 application.

3 CHAIR BRACKPOOL: So we look forward to a better
4 performance then based on current data?

5 MR. HARTMAN: That would be wonderful.

6 COMMISSIONER MOSS: Robert, are you participating in
7 any more like satellite opportunities, or any thoughts about --
8 when we talked, I think once, about trying to get satellite in
9 China Town or San Francisco or something like that. Is that --
10 is that dead or is that a possibility?

11 MR. HARTMAN: No. No. We're actually still working
12 on finding locations.

13 CHAIR BRACKPOOL: Thank you. All right. Well, I
14 personally think that it's a good idea to go try the three day
15 thing, and I think it will be interesting to see. But I --
16 let's -- I really am going to be interested to see these
17 numbers because I believe that just running on a Friday,
18 Saturday and Sunday like that, along with the fact that you
19 projected a decline, and I'd expect to see your numbers come in
20 better than projected here. And so let's hope we get some
21 update on that, and we'll see.

22 VICE CHAIR ISRAEL: Are you going to do any of your
23 football promotions during this meet that you did last year?

24 MR. HARTMAN: Absolutely. I mean, we have a ton of
25 promotions. I didn't go into all of them. But we have a food

1 truck festival every Saturday. We have the college package
2 every Saturday. We have the NFL package ever Sunday with the
3 dollar day. Yeah. I mean, this is promotionally packed.

4 VICE CHAIR ISRAEL: All right. All right. So your
5 full -

6 MR. HARTMAN: We're fully -

7 VICE CHAIR ISRAEL: Okay. Got it. Okay.

8 MR. HARTMAN: -- fully packed. So -

9 VICE CHAIR ISRAEL: Good.

10 MR. HARTMAN: Yeah.

11 VICE CHAIR ISRAEL: Good.

12 CHAIR BRACKPOOL: Okay. I would make a motion -- I
13 would make a motion to approve the meet.

14 COMMISSIONER MOSS: Second.

15 CHAIR BRACKPOOL: Seconded eagerly by Commissioner
16 Moss who wants to note that he's voting yes.

17 And Commissioner Rosenberg, are you in favor?

18 COMMISSIONER ROSENBERG: Aye.

19 CHAIR BRACKPOOL: All in favor?

20 ALL COMMISSIONERS: Aye.

21 CHAIR BRACKPOOL: This motion carries unanimously.

22 MR. HARTMAN: Thank you.

23 CHAIR BRACKPOOL: So I would leave the building
24 immediately.

25 VICE CHAIR ISRAEL: And don't destroy as many trees

1 next time.

2 CHAIR BRACKPOOL: Item number eight, discussion and
3 action by the Board on the application for license to conduct a
4 horse race meeting of the Los Angeles County Fair at Fairplex,
5 commencing September the 9th, 2011 through September 24th,
6 2011.

7 MS. WAGNER: Jackie Wagner, CHRB Staff. The
8 application is as the chairman read it. The Los Angeles County
9 Fair is proposing to race September the 9th through the 25th.
10 This is 13 days, two days less than they raced in 2010.
11 They're proposing to race 136 races. They'll be racing Friday
12 through Sunday the first week, Wednesday through Sunday the
13 second week and third week. They're proposing to race nine
14 races per day on Wednesday, September the 14th and on
15 Thursday -- ten races on Wednesday, September 21st and Friday,
16 September 9th and the 16th -

17 CHAIR BRACKPOOL: Yeah.

18 MS. WAGNER: -- and 11 races on specified days that
19 are noted in the analysis.

20 The first post time is the 1:00 p.m. post time daily.
21 They're proposing a 4:00 p.m. post time on Wednesday that is
22 noted in the letter that I placed on your books this afternoon.

23 Their ADW providers are TVG and XpressBet. The
24 analysis indicates that there are two missing items on the
25 application. I'm pleased to report we have received the

1 Arabian Stakes schedule and the fire clearance.

2 Staff recommended the Board approve the application
3 as presented. And we have representatives.

4 VICE CHAIR ISRAEL: Yeah. My first question, why
5 only TVG and XpressBet? What happened to Twinpires?

6 MS. WAGNER: No. It's TVG, XpressBet and Twinpires.

7 CHAIR BRACKPOOL: You just -- you just missed out.

8 VICE CHAIR ISRAEL: I missed it.

9 CHAIR BRACKPOOL: They're all -- they're all there.

10 MS. WAGNER: I'm sorry. I just didn't -

11 VICE CHAIR ISRAEL: Okay.

12 MS. WAGNER: I just didn't say it. I'm sorry.

13 VICE CHAIR ISRAEL: Good. Thank you.

14 MS. WAGNER: I'm sorry.

15 VICE CHAIR ISRAEL: I was a little -- I thought -

16 CHAIR BRACKPOOL: I know we have some questions. But
17 why don't you give us your brief summary of the fair.

18 MR. CEDAR: Good afternoon, Commissioners. Mike
19 Cedar, Chief Financial Officer at Fairplex. I have with me
20 Michelle Demott who is our director of marketing, and Kim Wood,
21 our equine manager. Also with us, Cliff Goodrich and Bob
22 Forknown (phonetic), and Tom Knust (phonetic), our racing
23 secretary.

24 As in the past, our race meet will run concurrent
25 with the L.A. County Fair. The fair runs from September the

1 3rd to October the 2nd. So the race meet sits in the middle of
2 that five week period.

3 You'll notice there's some -- some significant
4 changes to our application from the past. We have reduced the
5 number of racing days. Frankly, we weren't satisfied with last
6 year's results. We had field sizes that were around seven, and
7 historically we've been seven-and-a-half to eight. So we felt
8 it was time to -- to prune our race meet. And not only have we
9 taken a couple of days off of the meet, but within the other
10 days we have fewer races on certain days.

11 So what we think we'll be able to provide is better
12 quality racing, more competitive, and better field sizes.
13 Those are things that I think we all are looking forward to.
14 In the face of declining inventory we felt it was best to -- to
15 take some significant actions this year.

16 Additionally, you'll see in our application that our
17 average purse size per day is declining. In part that's
18 because we're anticipating a lower handle, average daily handle
19 which generates less purse money. We also have fewer races per
20 day on those same days. And we are fighting an overpayment
21 that's been with us for a couple years. In fact, we did talk
22 about that last year at this meeting. So we're attempting to
23 recapture about half of that overpayment. We don't have the
24 luxury of being able to do that at any other time. So as we've
25 gone into this meet we're attempting to do that and have talked

1 about that with the horsemen.

2 You have our marketing information. And Michelle is
3 prepared to go through that, if you wish, and we're prepare to
4 answer questions that you might have.

5 CHAIR BRACKPOOL: You can certainly give us just a
6 brief summary of anything you're doing differently on the
7 marketing side. And then I think, as you know, I have some
8 questions on the -- on the purse projections.

9 MS. DEMOTT: Thank you. Michelle Demott, Director of
10 Marketing and Communications at Fairplex.

11 I think one of the unique opportunities that we have
12 with our meet is that we are marketing the fair and horse
13 racing to the entire Southern California market. In addition
14 to the 1.4 million guests who are on our grounds during our
15 fair, our best efforts will continue to target the core race fan
16 through our racing industry media. But in addition, our fair
17 marketing targets a much broader audience.

18 I think you'll find that a lot of the things we're
19 doing are really in alignment with some of the strategies that
20 were presented by Bailey Gardner's presentation earlier on
21 today. Our greatest opportunity lies in attracting new fans to
22 racing.

23 Equally important though, we feel, is that once the
24 new fan comes to our track we need to deliver an exceptional
25 experience. And I think you'll find from our plan that we've

1 made enhancements to our grounds, as well as enhancements to
2 the entire racing experience that will ensure that we're not
3 only bringing a fan to the sport but we're converting them into
4 a true race fan.

5 We've made enhancements to our facility with the
6 opening of our Long Board Bar. We opened last year. This year
7 we've taken some walls down so there's actually a breezeway
8 that extends from Broadway, the main thoroughfare of the fair,
9 directly onto the race track.

10 We're also capitalizing on the popularity of food
11 trucks and the fact that the number one reason that people come
12 to the L.A. County Fair is to eat. And we are bringing in more
13 than 50 food trucks into the infield our opening weekend.

14 And once again, once we get them there we have got to
15 deliver a great experience. So we're offering beginning better
16 workshops, better guides. We'll have walk around clerks in
17 the food truck festival area, things that take away the
18 intimidating factor of placing that first wager.

19 We are also -- we've increased our picnic business on
20 our infield. We have more than 50 percent booked ahead of
21 where we were at last year, so we'll see more traffic in our
22 infield all of our racing weekends. So we're bringing our fans
23 in.

24 Our -- our next step is to deliver a great
25 experience. We have an equal frequency of our messages in the

1 marketplace and a very extensive reach that we think could be
2 very essential in capturing new fans.

3 CHAIR BRACKPOOL: You see, what disturbs me is that
4 you have this great marketing ambition and program of what you
5 want to accomplish. And yet with all of these new things
6 you're talking about doing you're talking about a further
7 decline in projected handle. And I just -- I just -- that's
8 the part I don't understand. The overpayment we can talk about
9 because, you know, yes, there has to be a time to catch up on
10 overpayment. Whether, frankly, you should be catching up, the
11 percentage you're trying to catch up, well, that's sort of
12 between you and the TOC probably. I don't know that I would
13 have been so easy to deal with. But, you know, it is what it
14 is.

15 But the -- what concerns me is the continued -- the
16 projected continued decline when we're not seeing it now in
17 other places. We're not seeing it at other fairs.

18 I just -- I was at Pleasanton a couple of weeks ago.
19 And you know, they had record crowds. I think they were up 16
20 or 17 percent handle year-on-year. It was tremendous
21 enthusiasm. They were trying different things. And yet you're
22 sitting in front of us telling us you've got all these great
23 things and telling the purses are down again because we're
24 projecting a continued decline. And I just don't understand
25 where that goes, how those two things tie in together.

1 MR. CEDAR: Well, I understand your comment. I think
2 from our standpoint, we've looked at historical handle. We've
3 looked at Fairplex and what we've done. And we also have
4 looked at the industry prior to -- when we put in our
5 application we have that as our -- as our basis, as our
6 benchmark. That -- that doesn't mean that we won't be trying
7 everything we possibly can to bring new customers to the fair
8 and taking people that are at the fair and converting them into
9 race fans. That's really always been part of our mission. And
10 maybe we've been successful at it sometimes and not other
11 times, but we continue to try to make that happen.

12 We mentioned, and you have a letter here, that we're
13 going to try a four o'clock post time on Wednesday nights. One
14 of the reasons for doing that is we have some very significant
15 promotions that take place on Wednesdays. And so we're
16 bringing out a lot of customers who are coming out from three
17 o'clock until the end of the day. We're trying to bring those
18 two together and see if we can't create a little more
19 excitement.

20 CHAIR BRACKPOOL: But I understand that. I'm talking
21 about the dichotomy between all the things you're talking about
22 doing, and yet even with all these new things you expect to
23 continue decline. And that's what we struggle with because,
24 you know, we're going -- seeing other fairs, you know,
25 increasing their handle. So you're -- so how much would your

1 handle be projected to be down were you not doing all these new
2 things? I can't even imagine how much you project it would be
3 down.

4 So that's -- that's where I'm struggling with this.

5 COMMISSIONER CHOPER: Can I ask the question a little
6 different way? I think, you know, that Pleasanton did real
7 well. I don't know if it continued for the full three weeks.
8 And Stockton we know did much better than before. I don't know
9 how Cal Expo is doing. But you are, I take it, talking to them
10 to see if they got the, you know, the magic solution to some of
11 this or whether they don't understand it either. I would.
12 It's to everyone's interest to do that. It's sort of the
13 question that -- that the chairman is asking.

14 MR. GOODRICH: If I could take a little shot at this
15 as somewhat of an outsider -

16 CHAIR BRACKPOOL: Name for -

17 MR. GOODRICH: Cliff Goodrich. And I act as a
18 consultant from time to time with Fairplex on racing matters.
19 And as their license came up and Jim is out of the country, Jim
20 Henwood, they asked me to lend a hand and give my observations.
21 And -- and I've seen them go through these purse predictions.

22 What happened is -- is in 2008 when the Wall Street
23 banking -

24 CHAIR BRACKPOOL: Well, we're not talking about the
25 overpayment.

1 MR. GOODRICH: No. I -- well, no.

2 VICE CHAIR ISRAEL: Right now.

3 MR. GOODRICH: We are though.

4 CHAIR BRACKPOOL: We're talking -

5 MR. GOODRICH: I'm -

6 CHAIR BRACKPOOL: We're going to get there. I'm
7 talking right now about the marketing program and that. So
8 let's not go to the overpayment right now.

9 MR. GOODRICH: Okay. I won't go to it, except to say
10 I think Fairplex is a little leery as they've overshoot the mark
11 on their estimations for the last three meets. And if they do
12 better than projected, which they hope and are seeking to do,
13 the overpayment will be further reduced so that next year we
14 don't have to deal with this. So I think they're a little gun
15 shy. Because if they miss and overshoot the mark again the
16 overpayment is just going to be worse -

17 CHAIR BRACKPOOL: And so -

18 MR. GOODRICH: -- next year.

19 CHAIR BRACKPOOL: And so the -- the answer is we hope
20 to do much better and we hope that by doing much better we take
21 the -- the overpayment down even further, not increase the
22 purses?

23 MR. GOODRICH: I think if they did much better, in
24 consultation with the TOC, I think they would want to reduce
25 the overpayment further so that next year they could start with

1 a clean slate.

2 CHAIR BRACKPOOL: Commissioner Rosenberg first, then
3 Commissioner Israel.

4 COMMISSIONER ROSENBERG: How do you determine the
5 amount that you spend, which you've listed in your application,
6 for promotion and advertising? I mean, it's a two-part
7 question, so let me give you both sides of this.

8 The second part of it is related to the first part in
9 the sense that you're -- the L.A. County Fair operates. There
10 is not a separate operator running the race meet, you're
11 operating it. And there are no financial statements attached
12 of any kind that show a profit and loss statement for the --
13 for the meeting, the prior meetings which will be required for
14 your next application based on the new forms.

15 Do you break out your profit and loss for the race
16 meeting on behalf of the overall fair entity each year?

17 MR. CEDAR: Yes, we do.

18 COMMISSIONER ROSENBERG: And do you have any -- so
19 we'll be able to get that next time; correct?

20 MR. CEDAR: That's correct.

21 COMMISSIONER ROSENBERG: Okay. So I ask another
22 question. How do you come up with a budget?

23 MS. DEMOTT: We -- we have a target total rating
24 points, number of impressions that we'd like to make in the
25 audience in the marketplace for our meet that is in relation to

1 total revenues. And so we are -- we are at a percentage
2 that -- that in the -- in the marketing world is -- is
3 significant with the \$200,000 plus that we spend.

4 But in addition, there's \$2.5 million that's spent
5 marketing the L.A. County Fair. And part of the main messaging
6 of what goes on at the fair is that we have live horse racing
7 that you are able to participate in.

8 So when you look at the total buy it is very
9 significant in relation to the total revenues from our racing.

10 CHAIR BRACKPOOL: Commissioner Moss.

11 COMMISSIONER MOSS: I was just curious if the
12 marketing, if there's been any question of when precisely the
13 fair is taking place? In other words, are these series of
14 dates in September a certainty, or have we discussed maybe
15 moving the time of the fair to perhaps December or anything
16 like that or has that come up in any conversation?

17 MR. CEDAR: Well, the -- frankly, the fair has been
18 in September since 1922. It's not something that we would
19 really consider moving because it's -- it's so deeply rooted in
20 Los Angeles that people know it's coming every year, they
21 prepare for it, and they just can't wait to get there. So for
22 us to -- to consider some other time of the year I think would
23 be financially suicide.

24 VICE CHAIR ISRAEL: Okay. I have some questions I
25 think you can answer with brief responses. How many people

1 will attend the fair during the weeks that the track is in
2 operation?

3 MR. CEDAR: Yeah. I would say about -- well, it's
4 about a million or so.

5 VICE CHAIR ISRAEL: And how many people will walk
6 into the race track?

7 MR. CEDAR: Once visitation is probably 50 percent or
8 so will make it to the race track. Now they don't stay. We
9 have people that are -

10 VICE CHAIR ISRAEL: So a half million people will
11 walk -

12 MR. CEDAR: -- coming -

13 VICE CHAIR ISRAEL: -- into the race track?

14 MR. CEDAR: Coming and going.

15 VICE CHAIR ISRAEL: Yeah. Because it's a free -- I
16 know it's a free admission.

17 MR. CEDAR: That might be a little high. I don't
18 know.

19 VICE CHAIR ISRAEL: You actually -- is there some way
20 that you track the number of people who enter, the number?

21 MR. CEDAR: Well, we, you know, really we don't have
22 a separate admission for it.

23 VICE CHAIR ISRAEL: I know.

24 MR. CEDAR: So we -

25 VICE CHAIR ISRAEL: But you don't have -

1 MR. CEDAR: We have a -

2 VICE CHAIR ISRAEL: -- a turnstile count? You don't
3 have any -

4 MR. CEDAR: We know the -- we have the turnstile
5 count from the outside gate. We don't really have -

6 VICE CHAIR ISRAEL: No. The turnstile count for the
7 race track.

8 MR. CEDAR: No. We don't have a separate -

9 CHAIR BRACKPOOL: He's just wondering if there's -

10 MR. CEDAR: -- count.

11 VICE CHAIR ISRAEL: I know. I know. I know there's
12 no -- but for -

13 MR. CEDAR: What we -

14 VICE CHAIR ISRAEL: -- marketing purposes, having an
15 actual count of people who walk in and stay at the race track,
16 you know, would be some -- there would be real value in that.

17 MR. CEDAR: Right. The -- the way -- the way we can
18 figure that is we know in terms of visitation because we do
19 exit surveys. So we know who has visited what various
20 attractions of the fair so we can extract the percentage of
21 people that go to racing, because that is a question asked, and
22 apply that against the overall attendance.

23 VICE CHAIR ISRAEL: I mean, because you have one
24 great advantage over all the other tracks in Los Angeles. Now
25 you have a disadvantage compared to many of the other fairs

1 because you're not the only race meet of the year and it's not
2 central to everybody's life. But you have a great advantage.
3 You -- you actually have walk-up customers. You're almost
4 in -- you create your own little city for the time that the
5 fair is in business. And I would think that would -- would
6 somehow correspond with a better, a financially sounder and --
7 and greater race meet. And it's -- the equation is not working
8 out. I don't understand it.

9 MR. CEDAR: Well, it is -- I mean, it continues to be
10 one of our biggest challenges is -- is getting that body of
11 attendance from one side of the grandstand to the other, and
12 we're trying to find ways to do that. I think we would agree
13 with you that we wanted -- we want to get those customers
14 exposed to racing. So some of the different promotions that
15 we're trying, they're new. This four o'clock Wednesdays is a
16 new thing. And attempt to expose people to the races.

17 VICE CHAIR ISRAEL: Have you thought about giving
18 people like a free voucher, a voucher to go make a \$2.00 bet so
19 you get them to walk up to the window?

20 MR. CEDAR: We actually -- we have done that. We've
21 done that. We've had people standing on Broadway handing out
22 \$2.00 bets to pull people into the track. I mean -

23 VICE CHAIR ISRAEL: And what happened?

24 MR. CEDAR: -- we've had people -- so-so. We've had
25 people -

1 VICE CHAIR ISRAEL: They still wanted to go -
2 MR. CEDAR: -- dressed in jockey's costume.
3 VICE CHAIR ISRAEL: -- eat cotton candy or -
4 MR. CEDAR: There -- there busy.
5 VICE CHAIR ISRAEL: -- something deep fried and -
6 MR. CEDAR: Yeah.
7 VICE CHAIR ISRAEL: -- chocolate?
8 MR. CEDAR: They're out there doing things.
9 CHAIR BRACKPOOL: Commissioner Harris liked the
10 promotion, the free \$2.00 voucher.
11 COMMISSIONER HARRIS: Oh, that would be good. Yes.
12 CHAIR BRACKPOOL: He's get a bunch of them.
13 COMMISSIONER HARRIS: I could use them at Del Mar.
14 VICE CHAIR ISRAEL: I'd just go get as many as I
15 could for all the people who didn't want to use them.
16 COMMISSIONER HARRIS: The -- the -- you know,
17 Fairplex is one of my favorite fairs, next to Fresno.
18 VICE CHAIR ISRAEL: Who -- who figured?
19 COMMISSIONER HARRIS: But it's -- it's -- it's such -
20 - I don't know how you can sell it, but you're so up and close
21 to the horses. I like the -- the lowering five-eighths mile
22 track as -- actually can be sold as an advantage to watch
23 races. You've got so many little places you can go to hang out
24 with friends or have little groups or whatever. It's just
25 discouraging that you're not getting more people to -- to enjoy

1 it. I don't know. You've got your good location and
2 everything.

3 But I think what we need for all these meets is some
4 sort of a necropsy -- that was the -- that was the word of the
5 day -- and get collaboration and all this stuff with all the
6 different players and try to figure out how to do it better and
7 what would you do differently and the whole thing.

8 CHAIR BRACKPOOL: Well, look, we have a speaker for
9 the TOC. And I actually want to hear from him because this
10 purse issue is certainly of concern. Guy Lamothe.

11 MR. LAMOTHE: Thank you, Mr. Chairman. Guy Lamothe,
12 TOC.

13 I just want to clarify what I thought I heard, one
14 comment regarding performance of the meet, if it were better
15 than expected results that those results would go to pay down
16 full the overpayment. That's not the case. We did not discuss
17 that at all in our racing affairs. So I'm -- I'm sorry if
18 there's that impression there.

19 CHAIR BRACKPOOL: Well -

20 MR. LAMOTHE: The discussion -

21 CHAIR BRACKPOOL: -- it was a direct answer -

22 MR. LAMOTHE: -- was on half -

23 CHAIR BRACKPOOL: It was an answer to direct question
24 that I gave.

25 MR. LAMOTHE: And -

1 CHAIR BRACKPOOL: So I said -- sorry. The question I
2 raised was if you do do better what would happen? They said
3 then we would try and eliminate the overpayment completely. So
4 that -- that was the -- that was the response I got, which to
5 me is disappointing that it's not going to go to, you know, the
6 current purse.

7 MR. LAMOTHE: We -- the discussion was up to half, so
8 better than expected. That would be an entirely new
9 discussion. And we certainly would consider the horsemen
10 running at the meet first and foremost.

11 MR. GOODRICH: Just to add, and I think I said I
12 words, I certainly hope so, I said in consultation with the
13 TOC. I said I assumed it would go to pay down the
14 underpayment -- overpayment. But that would be after
15 consulting with the TOC. And I hope I said those words. I
16 think I did. Because it -- it would be a -

17 CHAIR BRACKPOOL: Well -

18 MR. GOODRICH: -- a joint agreement of what should w
19 do with this excess money -

20 CHAIR BRACKPOOL: Well -

21 MR. GOODRICH: -- because it's their money.

22 CHAIR BRACKPOOL: All right. Well, look, I think
23 we've made our point clear. I mean, I think a decline in purse
24 projection is -- is very disappointing indeed.

25 But anyway, do we have a motion to approve the fair?

1 Commissioner Moss make a motion -

2 COMMISSIONER HARRIS: I'll second.

3 CHAIR BRACKPOOL: -- to approve the fair.

4 Commissioner Harris makes a motion to approve the fair. All in
5 favor?

6 ALL COMMISSIONERS: Aye.

7 CHAIR BRACKPOOL: Okay. The motion carries.

8 MR. CEDAR: Thank you.

9 CHAIR BRACKPOOL: The next item -- we're almost
10 there -- discussion by the Board regarding a report to the
11 progress of the dirt and turf race courses at Santa Anita Race
12 Track.

13 COMMISSIONER MOSS: What about nine?

14 CHAIR BRACKPOOL: Nine is withdrawn. It's in the
15 book as withdrawn. They were -- they were not ready with
16 their -- with their presentation and their agreements.

17 COMMISSIONER MOSS: I have a little celebration every
18 time one of these things is on there.

19 CHAIR BRACKPOOL: No, I understand. But
20 unfortunately you've got to wait until the -

21 COMMISSIONER MOSS: All right.

22 CHAIR BRACKPOOL: -- hopefully the September meeting
23 for that one.

24 MS. WAGNER: August.

25 CHAIR BRACKPOOL: August. We're going to do it in

1 August, I'm told.

2 George, please state your name for the record and
3 give us a brief summary of -- of where we are.

4 MR. HAINES: George Haines, Santa Anita.

5 I'm happy to report we're doing well on the race
6 track. Things are coming along very, very good. We're about
7 halfway through putting the surface back on the track after it
8 has been blended out in the parking lot. We're confident in
9 the -- the blend that we have is within the established
10 parameters that we established when we were designing the
11 track. So we're well on our way.

12 I want to thank Hollywood Park for staying open
13 during this time. I know they want to close. We hope to be
14 open for training next Tuesday the 26th. And Dr. Peterson is
15 onsite testing. The CHRB representatives have been there most
16 of the time. So everything is -- is right where we want to be.

17 CHAIR BRACKPOOL: Kirk, would you add anything to --
18 to that from CHRB working with Santa Anita on this?

19 EXECUTIVE DIRECTOR BREED: No. I think that he -- I
20 think George explains it very well. We are satisfied. This
21 been kind of a trilateral agreement here with the CTT and --
22 and Santa Anita. So we're very satisfied with the progress
23 they're making on this race track -

24 COMMISSIONER HARRIS: So the -

25 EXECUTIVE DIRECTOR BREED: -- as the inspector.

1 COMMISSIONER HARRIS: So the plan would be on the
2 26th. Then -- then at what point would Hollywood essentially
3 close down and -- and the stabling shipped over?

4 MR. HAINES: Well, we're having that discussion right
5 now. Because as we get closer, you know, we'll have a definite
6 day. We might be a day or two late.

7 COMMISSIONER HARRIS: I mean, there's -

8 MR. HAINES: So we don't want to give anything in
9 stone right now.

10 CHAIR BRACKPOOL: Okay. My understanding is that the
11 level of cooperation here has been excellent, but not just CHRB
12 but importantly CTT -

13 MR. HAINES: Yes.

14 CHAIR BRACKPOOL: -- TOC -

15 MR. HAINES: Yes. Absolutely.

16 CHAIR BRACKPOOL: -- etcetera.

17 MR. HAINES: CTT has had an onsite advisor with us
18 the whole project.

19 CHAIR BRACKPOOL: Good excellent. Well, we all look
20 forward to it opening. I for one want to go on the record as
21 also thanking Hollywood Park for -- for making these -- these
22 extra allowances. It's allowed you to have the time to do the
23 right thing, and I'm pleased that the right thing is being
24 done. I can't wait to see the track reopen.

25 MR. HAINES: Good.

1 CHAIR BRACKPOOL: Thank you. Item number 12,
2 discussion and action by the Board regarding the distribution
3 of race day charity proceeds of the Los Alamitos Quarter Horse
4 Racing Association in the amount of \$42,574 to four
5 beneficiaries.

6 Do we have any questions on that allocation?

7 COMMISSIONER DEREK: I do.

8 CHAIR BRACKPOOL: Commissioner Derek.

9 COMMISSIONER DEREK: Yes. In this I see, I know it's
10 not required, but I see that there is nothing for the welfare
11 or retirement of horses. And this is the first time I think
12 I've seen that.

13 CHAIR BRACKPOOL: Well, I actually looked at slightly
14 differently. And my only comment on it was I was pleased to
15 see an application where it was all going to horse related
16 activities as opposed to civic institutions.

17 COMMISSIONER DEREK: Yes.

18 CHAIR BRACKPOOL: So perhaps I see Mr. English is in
19 the audience. Could you just answer Commissioner Harris's
20 question.

21 COMMISSIONER HARRIS: No, not Harris.

22 CHAIR BRACKPOOL: Commissioner -

23 COMMISSIONER HARRIS: Derek's. Derek's.

24 CHAIR BRACKPOOL: -- Derek's question.

25 MR. ENGLISH: This is Rick English representing Los

1 Alamitos Race Track. And my comment would be this is the first
2 time in numerous years we've had profits on charity days. And
3 next year -- this year our main -- our main considerations
4 comply with the law in distributing within the industry. We'll
5 certainly consider the horse as part of the distribution next
6 year if we're so lucky to be in this position.

7 COMMISSIONER DEREK: Thank you.

8 CHAIR BRACKPOOL: I feel confident you'll be lucky
9 enough to be in this position next year.

10 VICE CHAIR ISRAEL: I just -- I mean, it would be
11 nice actually if -- you're saving a lot of souls, apparently,
12 because about two-thirds or three-quarters of what you're doing
13 is to the chaplain. Can you save a few horses?

14 MR. ENGLISH: We save who we can.

15 VICE CHAIR ISRAEL: Thank you.

16 MR. ENGLISH: We try to.

17 CHAIR BRACKPOOL: Thank you very much. The final
18 item before we go into closed session, discussion and action by
19 the Board on the approval of the -- oh, well, I guess I have to
20 take a vote on that; right?

21 All in favor of item number 12, the distribution of
22 race charity?

23 ALL COMMISSIONERS: Aye.

24 CHAIR BRACKPOOL: Any opposed? The motion carries.

25 And number 13, discussion and action by the Board on

1 the approval of the 2010/2011 agreement providing funding
2 support for the Board.

3 EXECUTIVE DIRECTOR BREED: Mr. Chairman, Kirk Breed
4 of the California Horse Racing Board. Under the -- under the
5 law for the last three years all racing associations and fairs,
6 including all breeds of racing, shall participate in the
7 funding of the Board in accordance with a formula devised by
8 the Board in consultation with the industry. We have done so
9 over the -- the last two years. This is the third year of our
10 program.

11 We worked very closely with the controller,
12 especially Bernie Thurman, in the development of this -- of
13 this formula. It has been developed. I also have Francisco
14 Gonzales, our chief auditor and financial officer who is
15 present today if you have any questions concerning this.

16 The formula number which we're asking you to vote for
17 is 47 -- I mean, 57.83 percent.

18 COMMISSIONER ROSENBERG: Of what.

19 EXECUTIVE DIRECTOR BREED: Of 57.83 percent of the
20 savings as proposed -- as developed under SB -- what's that
21 number on -

22 MR. GONZALES: Sixteen.

23 CHAIR BRACKPOOL: SB -- yeah. So if the savings
24 is -- our estimate of the savings on this -- this particular
25 year is how much, Francisco?

1 MR. GONZALES: The estimated savings estimated for
2 this year would be \$20,257,000.

3 EXECUTIVE DIRECTOR BREED: So our budget, which is
4 11.77 is approximately 57.83 percent of those savings.

5 MR. GONZALES: That's correct.

6 CHAIR BRACKPOOL: And I read the number. This is the
7 most tortured way to get to a number, but I understand how this
8 works. This is kind of entertaining reading, actually, maybe.

9 Does -- does anybody else have any questions on -

10 COMMISSIONER HARRIS: I think it is important that --
11 that the public understands there's no general fund monies. I
12 mean, this whole Board is not -

13 CHAIR BRACKPOOL: It's industry funding.

14 COMMISSIONER HARRIS: -- supported at all by -

15 CHAIR BRACKPOOL: Exactly.

16 COMMISSIONER HARRIS: -- by any taxpayer out there.

17 VICE CHAIR ISRAEL: The industry is paying all the
18 taxes to -

19 CHAIR BRACKPOOL: The industry is paying all the
20 taxes. Exactly.

21 VICE CHAIR ISRAEL: -- to promulgate and operate this
22 Board.

23 CHAIR BRACKPOOL: And I would also say that having
24 made this point to the race day applications, race meeting
25 applicants in front of us today, you know, I would hope that --

1 that -- that we end up here in a credit situation. Because I
2 think handle should be higher than has been projected on these.
3 So we will look as we go through this, but I would certainly
4 hope that based on the success, primarily of the Fresno Fair.

5 COMMISSIONER HARRIS: Yeah.

6 VICE CHAIR ISRAEL: To -- to the -- and to the two
7 dozen people who are still listening, you're getting more than
8 your money's worth.

9 CHAIR BRACKPOOL: Can I have a motion to approve the
10 funding for 2010/2011 fiscal year?

11 VICE CHAIR ISRAEL: I'll move.

12 CHAIR BRACKPOOL: Moved by Commissioner Israel. And
13 I'm going to ask for a second from Commissioner Moss, that he
14 votes for something else today.

15 COMMISSIONER MOSS: You got it.

16 CHAIR BRACKPOOL: And enthusiastically seconded by
17 Commissioner Moss. All in favor?

18 ALL COMMISSIONERS: Aye.

19 CHAIR BRACKPOOL: How about that, another unanimous
20 one.

21 And just before we convene into public sessions,
22 Madeline Auerbach wants to tell us about a fun tournament
23 that's about to take place for a worthy cause.

24 VICE CHAIR ISRAEL: You should have done this in
25 comment

1 MS. AUERBACH: I know.

2 COMMISSIONER DEREK: Yes.

3 VICE CHAIR ISRAEL: -- when people were here.

4 MS. AUERBACH: I know. I know.

5 CHAIR BRACKPOOL: But we're listening.

6 MS. AUERBACH: I know. My record of being perfect is
7 now shot. I'm sorry. I apologize to all of you. And besides,
8 I'm having such a good time I wanted to keep it going, and I
9 know you are too; right? Right? I should have done this
10 before.

11 CHAIR BRACKPOOL: Make it really quick now.

12 MS. AUERBACH: All right. Everybody knows about
13 CARMA. And it's through the auspices and with the Board's
14 approval that we have CARMA. And I just wanted to remind
15 everybody that Saturday night after the races is our big fund
16 raiser. And it is more fun than anything we do in the
17 industry. It's the only time that all of us are together in a
18 room and we don't argue. The only thing we do is dance, eat
19 and play poker. It's across the street from the Hilton. It
20 all goes to pay for these horses.

21 If any of you are in town I will spot you. I will
22 support you. You don't have to pay. I will put up the \$200
23 for any of you that are there.

24 CHAIR BRACKPOOL: That would be a gift which we could
25 not and would not possibly accept.

1 MS. AUERBACH: Then we won't -

2 CHAIR BRACKPOOL: But if any of us are in town -

3 MS. AUERBACH: -- tell anybody.

4 CHAIR BRACKPOOL: -- I know Commissioner Harris would
5 be delighted to sub us in.

6 MS. AUERBACH: Well, anyway, I hope that you'll be
7 there. And I just want to thank you so much for -- for your
8 support.

9 VICE CHAIR ISRAEL: And, Madeline, while you're still
10 there -

11 MS. AUERBACH: Yes.

12 VICE CHAIR ISRAEL: -- if -- if Barry is listening,
13 Barry Abrahams, and he's still awake -

14 CHAIR BRACKPOOL: Yeah. Wish him well.

15 VICE CHAIR ISRAEL: -- I'd like to wish him a speedy
16 recovery.

17 MS. AUERBACH: Thank you. He's -

18 CHAIR BRACKPOOL: Yeah.

19 COMMISSIONER DEREK: Yes.

20 MS. AUERBACH: -- he heard every word and he's let me
21 know what he thought about all of you on occasion. Thank you.

22 CHAIR BRACKPOOL: Well, depending on what he said we
23 may or may not wish him as well.

24 CHAIR BRACKPOOL: All right. Barry, go to hell.

25 MS. AUERBACH: Thank you.

1 CHAIR BRACKPOOL: All right. The meeting is
2 adjourned to closed sessions. Thank you.

3 Thereupon the California Horse Racing Board
4 Regular Meeting went into a Closed Session at
5 1:28 p.m., then was Adjourned)

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