

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CALIFORNIA HORSE RACING BOARD

REGULAR MEETING

Thursday, December 2, 2004
9:08 A.M.

HOLLYWOOD PARK RACE COURSE
Turf Club
Sunset Room, Fourth Floor
1050 South Prairie Avenue
Inglewood, California

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BOARD MEMBERS PRESENT:

- JOHN C. HARRIS, Chairman
- WILLIAM A. BIANCO, Commissioner
- MARIE G. MORETTI, Commissioner
- JERRY MOSS, Commissioner
- RICHARD B. SHAPIRO, Commissioner
- JOHN C. SPERRY, Commissioner

Reported by: NEALY KENDRICK, CSR 11265
Job No.: 04-27042

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A G E N D A

PAGE

Action Items

1. Discussion and action by the Board on the approval of the minutes of the regular meeting of September 15, 2004; October 5, 2004; and October 14, 2004. 6
2. Presentation of the California Horse Racing Board Resolution to Roger Licht. 7
3. Discussion and action by the Board on the Application for License to Conduct a Horse Racing Meeting of the Bay Meadows Racing Association (T), from February 2, 2005, through May 8, 2005, inclusive. 8
4. Discussion and action by the Board on the Application for Approval to Conduct Advance Deposit Wagering of ODS Technologies, L.P. d/b/a TVG (ADW) for out-of-state multi-jurisdictional wagering hub, from January 1, 2005, through December 31, 2006. 19
5. Discussion and action by the Board on the Application for License to Conduct Advance Deposit Wagering of YouBet.Com, Inc. (ADW), for California multi-jurisdictional wagering hub and approval for out-of-state multi-jurisdictional wagering hub, from January 1, 2005, through December 31, 2006. 56
6. Discussion and action by the Board on the Application for License to Conduct Advance Deposit Wagering of XpressBet, Inc. (ADW), for California multi-jurisdictional wagering hub from January 1, 2005, through December 31, 2006. 63
7. Discussion and action by the Board on the Application for License to Conduct Satellite Wagering of the Bay Meadows Racing Association (S). 77

1	A G E N D A (continued)		
			PAGE
2	8. Discussion and action by the Board on the		
3	Application for License to Conduct		
4	Satellite Wagering of the San Mateo County		
	Fair (S).	77	
5	9. Discussion and action by the Board on the		
6	request by the Los Angeles Turf Club to		
7	implement the 10-day veterinarian's list		
8	for the 2004-2005 race meet, for any horse		
9	scratched after scratch time (late		
10	scratches) except for horses scratched		
	at the gate.	120	
11	10. Discussion on the status of Total Carbon		
12	Dioxide Testing and related issues and		
13	measures undertaken to complete the		
14	rule-making process.	124	
15	11. Discussion and action by the Board on the		
16	request of the California Thoroughbred		
17	Horsemen's Foundation, Inc., to approve		
18	two (2) persons to its Board of Directors		
19	pursuant to CHRB Rule 2049.	144	
20	12. Public hearing on the adoption of the		
21	following proposed amendments:	145	
22	A. CHRB Rule 1843.5 - Medication, Drugs and		
23	Other Substances Permitted After Entry		
24	in a race.	146	
25	B. CHRB Rule 1844 - Authorized Medication.	148	
26	C. CHRB Rule 1845 - Authorized Bleeder		
27	Medication.	154	
28	13. Report on the current workers' compensation,		
29	health insurance and catastrophic insurance		
30	package provided to California jockeys by		
31	the Jockeys' Guild and the California		
32	racing associations.	165	
33	14. Discussion and action by the Board on the		
34	matter of the Board forming an ad hoc		
35	committee to study, examine, and recommend		
36	measures to improve California horse		
37	racing's popularity and performance.	196	
38			
39			
40			
41			
42			
43			
44			
45			

1	A G E N D A (continued)	PAGE
2	15. Staff report on the following concluded race meetings:	NA - 203
3	A. Bay Meadows Operating Company at Bay Meadows from September 3 through November 7, 2004.	
4	B. Oak Tree Racing Association at Santa Anita from September 29 through October 31, 2004.	
5	C. Fresno District Fair at Fresno from October 6 through October 17, 2004.	
6		
7	16. Election of CHRB Chairman and Vice-Chairman.	203
8	Committee Report	
9	10. Report of the Ad Hoc Security Committee.	
10	Commissioner William Bianco, Chairman	124
11	Other Business	
12	18. General Business: Communications, reports, requests for future action of the Board.	NA
13		
14	19. Old Business: Issues that may be raised for discussion purposes only, which have already been brought before the Board.	NA
15		
16	20. Executive session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personnel matters, as authorized by Section 11126 of the Government Code.	6, 64
17	A. Personnel - Closed session for the purpose of considering the appointment of an Executive Director pursuant to Government Code Section 11126(a).	
18	B. Board may convene an Executive Session to consider any of the attached pending litigation.	
19	C. The Board may also convene an Executive Session to consider any of the attached pending administrative licensing and disciplinary hearings.	
20		
21		
22		
23		
24		
25		

1 INGLEWOOD, CALIFORNIA; THURSDAY, DECEMBER 2, 2004

2 9:08 A.M.

3

4 ASSISTANT DIRECTOR MINAMI: The meeting will
5 now come to order. This is a meeting of the --
6 regular meeting of the California Horse Racing Board,
7 Thursday, December 2, at Hollywood Park Racecourse.

8 Present at today's meeting are John --
9 Chairman John Harris, Commissioner William Bianco,
10 Commissioner Marie Moretti, and Commissioner Richard
11 Shapiro and Commissioner John Sperry.

12 Before we go on to regular business,
13 we ask that those of you who are here to testify will
14 state your name and organization and, if you can,
15 give a business card to our court reporter. And so I
16 welcome you to today's meeting. And I now turn the
17 meeting over to Chairman John Harris.

18 CHAIR HARRIS: I'd like to welcome everybody.
19 I'm pleased that you could be here. We need to have
20 a short executive session. We could do Roger's
21 presentation before that unless if Roger has anything
22 he needs to get to. But if not, we'd like to break
23 for about 20 minutes and come back. So is that okay?

24 MR. LICHT: Well, I'm staying anyway.

25 CHAIR HARRIS: You're staying? Okay. You can

1 think of a speech or something.

2 Well, Jerry's not here anyway. So why
3 don't we go ahead and adjourn, do the executive
4 session? We'll catch Jerry. So we'll be back in
5 about 20, 25 minutes.

6 (The Board adjourns to executive
7 session: 9:10 - 10:02 A.M.)

8 CHAIR HARRIS: Let's get started. Sorry for
9 the delays.

10 We're back to our regular meeting
11 after going into closed session for the -- do the
12 items on that agenda. The first item here is the
13 approval of the minutes of September 15, October 5,
14 and October 14. Any audience or Commissioners have
15 any changes or amendments to that?

16 (No audible response.)

17 CHAIR HARRIS: Hearing none, will someone
18 move?

19 COMMISSIONER SPERRY: I'll move approval, Mr.
20 Chairman.

21 CHAIR HARRIS: Second?

22 COMMISSIONER MORETTI: Second.

23 CHAIR HARRIS: All in favor?

24 COMMISSIONERS' VOICES: Aye.

25 CHAIR HARRIS: Approved.

1 The next item on the agenda is
2 something that is very, very important to me
3 personally. I'm very close to Roger Licht. I'm
4 going to present the Resolution of the Board for his
5 service.

6 Roger? There he is.

7 MR. LICHT: Still here.

8 CHAIR HARRIS: I don't think I'll read the
9 whole thing because what I'd just like to say is that
10 Roger was a very, very important part of the Board.
11 During his term of service, he contributed a lot. He
12 really cares about racing, people in racing; and he
13 was always there. We probably e-mail back and forth
14 and call back and forth every few days on some issue.

15 He tried to move things forward.
16 Things didn't always happen the way we'd like. But
17 Roger is a real asset to the horse racing industry.

18 MR. LICHT: Thanks a lot, John. I appreciate
19 it.

20 (Applause.)

21 CHAIR HARRIS: Let's see. Do we have a -- are
22 we going to sing -- what happened to our --

23 Yeah. Rod, do you want to do that at
24 the end of the meeting or shall we -- we ought to --

25 MR. BLONIEN: Why not get it over with now?

1 CHAIR HARRIS: Let's get it over with. Yeah.
2 This is a tradition for some of you who may not have
3 experienced it. The basically --

4 MR. BLONIEN: Well, Roger, needless to say, we
5 certainly wish you well in your future endeavors and
6 thank you for your years of service to the horse
7 racing industry and all that you did to move things
8 forward.

9 And with that, I would like to say,
10 both to you and your wife, "Happy trails to you until
11 we meet again. Happy trails to you. Keep smiling
12 until then. Happy trails to you until we meet
13 again."

14 (Applause.)

15 CHAIR HARRIS: We'll hopefully see a lot of
16 Roger and "Mary Lou" (phonetic).

17 The next issue is discussion and
18 action by the Board on an application for a license
19 to conduct a horse racing meeting of the Bay Meadows
20 Racing Association from February 2 through May 8.

21 MS. NOBLE: Pat Noble, CHRB staff.

22 Bay Meadows Racing Association is a
23 new association. They filed their app to race 72
24 days. And they've made a change to that. Now they
25 want to race 71 days and just simulcast on Wednesday

1 April 20, due to Hollywood Park not being open. They
2 propose to race 611 races, which averages 8.6 races
3 per day. They'll be racing five days a week,
4 Wednesday through Sunday; 8 races on Wednesday,
5 Thursday, and Friday; 9 or 10 on Saturday, Sunday,
6 holidays, and days of special interest.

7 Their post time will be 12:45 P.M.
8 through April 18, with the exception of Sunday,
9 February 6, when they'll have an 11:15 A.M. post.
10 Then they'll go to a 1:05 P.M. post April 23 through
11 the end of the meet. Fridays -- February 4; April 8,
12 15, 22, and 29 -- will have a 7:20 P.M. post.

13 Items still needed to complete the
14 application is just the Thoroughbred horsemen's
15 agreement. We've received the fire clearance and the
16 workers' comp.

17 Staff recommends the Board approve the
18 application, conditioned upon receiving the
19 Thoroughbred agreement.

20 And, additionally, Bay Meadows
21 Racecourse does have not a covered receiving barn.
22 Staff recommends the Board advise Bay Meadows Racing
23 Association to have a covered racing barn in place
24 before their September 3, 2005, race meet.

25 CHAIR HARRIS: Any items or questions from the

1 audience or the Commission on this application?

2 MR. COUTO: Drew Couto, Thoroughbred Owners of
3 California.

4 I'd like to advise the Commission that
5 there is a horsemen's agreement signed with Bay
6 Meadows. So that will be provided to the Board
7 following the meeting. Thank you.

8 CHAIR HARRIS: I'm not sure if Santa Anita
9 plans to do late afternoon racing on Friday evenings
10 and, if they do, if Bay Meadows was planning to do
11 that also or just go with their regular program.

12 MS. THURMAN: Bernie Thurman, from Bay Meadows
13 Racing Association.

14 That was the purpose of the Friday
15 twilight cards. We'll try to coordinate with both
16 Hollywood Park, when they run on evenings Friday and
17 the two Fridays that Santa Anita will be racing in
18 the afternoon so we can dovetail those post time
19 schedules together.

20 CHAIR HARRIS: Oh, okay. What you're doing is
21 making yours an evening card. I see where you're at.

22 MS. THURMAN: Correct. We did want to change
23 one post time, which was Super Bowl Sunday. We would
24 like to go at 11:15 to coordinate with Santa Anita,
25 which will be going at 11:00, first post.

1 CHAIR HARRIS: Okay. Drew --

2 Oh, Norm Towne?

3 MR. TOWNE: Norm Towne, representing the San
4 Mateo County Fair. Just want to clarify that the
5 granting of a license here does not impact Items 7
6 and 8 on the agenda. And if it does, we'd like to
7 speak to that.

8 CHAIR HARRIS: I think -- unless there's an
9 objection, I will think we will cover 7 and 8
10 together and address those at that point.

11 MR. TOWNE: Thank you.

12 COMMISSIONER SHAPIRO: I have a couple
13 questions, please. As I understand it, this is a new
14 racing association. And can you tell me who "Bay
15 Meadows Main Track Investors" is, please?

16 MR. LIEBAU: Mr. Shapiro, my name is Jack
17 Liebau. I'm the president of Bay Meadows Racing
18 Association.

19 "Bay Meadows Main Track Investors" is
20 a real estate partnership that is funded by a number
21 of pension plans across the country. The largest is
22 in the State of Pennsylvania. And the state fund is
23 the largest investor in that.

24 The general partner in the fund is
25 called "Stockbridge Partners." The person who heads

1 Stockbridge Partners is one "Terry Fancher," who used
2 to head the real estate department of PaineWebber and
3 at one time was the person that was ultimately in
4 charge of the operation of Bay Meadows when
5 PaineWebber owned Bay Meadows.

6 COMMISSIONER SHAPIRO: And is it -- does Bay
7 Meadows Main Track Investors -- are they thinking
8 long-term of maintaining this facility as a racing
9 facility?

10 MR. LIEBAU: I don't know if anything is
11 forever. They are in process of seeking entitlements
12 for the property. As I'm sure you understand, there
13 is a problem in getting entitlements, especially in
14 highly dense urban areas.

15 Those entitlements are proceeding.
16 They have been proceeding probably since 2000. And I
17 don't know if we are -- if they are any closer to 'em
18 than they were then. There, of course, are concerns
19 that neighborhood groups have raised about density,
20 about traffic, things of those -- that nature.

21 COMMISSIONER SHAPIRO: The reason I'm asking
22 is that, with the declining of on-track attendance
23 and so forth, what I'm trying to determine is whether
24 this new association is going to be investing and
25 making any improvements into the facility to attract

1 more on-track attendance and what steps are being
2 taken to do that.

3 MR. LIEBAU: With respect to that, I would
4 like to proudly point out that, in the spring meet at
5 Bay Meadows, on-track attendance was up 7 percent.
6 There was a decline in this last meet. I can assure
7 you that the Bay Meadows Racing Association's budget
8 will exceed -- the marketing budget will exceed that
9 of the spring meet, which was highly successful and
10 was, I think, one of the first meets in California,
11 other than Del Mar --

12 THE REPORTER: I'm sorry. Is the microphone
13 not working?

14 MR. LIEBAU: I'm sorry.

15 -- was one of the first meets in
16 California, other than Del Mar, that showed an uptake
17 of that magnitude. That was the spring meet. We're
18 certainly committed to make the best of it.

19 COMMISSIONER SHAPIRO: Do you plan to do the
20 bicarb testing like other tracks are doing? Are you
21 instituting a program?

22 MR. LIEBAU: That is included in our
23 horsemen's agreement.

24 COMMISSIONER SHAPIRO: Okay.

25 CHAIR HARRIS: How extensive is it?

1 MR. LIEBAU: I think that we certainly aren't
2 going to test every horse. But it will be on a
3 random basis. And we are open to suggestions from
4 the California Horse Racing Board as to the number
5 that should be tested.

6 COMMISSIONER SHAPIRO: Well, if I can address
7 that, I'm very pleased to see the press release that
8 Santa Anita put out today where they're going to be
9 testing all horses, is my understanding of it. And
10 they're also going be implementing a penalty or
11 detention barn -- prerace detention barn.

12 Is Bay Meadows prepared to do the same
13 as Santa Anita is proposing to do at their upcoming
14 meeting?

15 MR. LIEBAU: With respect to having a
16 detention barn? Is that your question?

17 COMMISSIONER SHAPIRO: My question --

18 MR. LIEBAU: I'm sorry. I don't have the
19 benefit of their press release so --

20 COMMISSIONER SHAPIRO: It's my understanding
21 that Santa Anita is going to institute the
22 continuation of testing that's currently being done,
23 which is testing all horses for bicarb. And it's my
24 further understanding that they will be instituting a
25 policy which would include setting aside a barn as a

1 prerace detention barn for any horses that come up
2 positive or any trainers' horses that come up
3 positive.

4 If that's not correct, I hope somebody
5 will correct me.

6 MR. COUTO: Drew Couto, Thoroughbred Owners of
7 California.

8 The Bay Meadows agreement includes
9 language identical to that we crafted with Santa
10 Anita; so the same provisions that Santa Anita
11 pioneered, I think, will be included -- are included,
12 in fact, in the Bay Meadows agreement. And they will
13 be maintaining an area for the detention of horses
14 who do come up with a positive.

15 MR. LIEBAU: One thing with respect to
16 security: I might add that we take over the facility
17 on January 1. It's our plan to put in surveillance
18 cameras in the barns. We have somewhat of an
19 advantage over the other tracks in California in that
20 we have five big barns; and so the surveillance
21 cameras can be placed so that you're going to have
22 surveillance over most of the barn area.

23 We intend to sort of start out with
24 the "Barn 1," which is the barn that most of the
25 shipped -- "ship-in" horses are in. And probably

1 over 50 percent of our horses that run daily are
2 shipped into that barn. And we would hope that we
3 would learn from that, as far as placement and the
4 cameras that are employed and things like that.

5 But we certainly are committed to
6 putting in surveillance cameras and to increase our
7 security.

8 COMMISSIONER SHAPIRO: Are the ship-in
9 horses -- it's my understanding that you have 900
10 stalls and a thousand are used over at Golden Gate.
11 Are the ship-in -- when do the ship-in horses arrive?
12 Do they arrive at least 24 hours in advance of their
13 race to be located in that barn?

14 MR. LIEBAU: No. Under the -- the CHRB
15 regulations require them to be in prior to the -- to
16 them to being treated by "Lasix" (phonetic). And I
17 don't remember the exact time. But I mean it's,
18 like -- it's, like, 10:30 or something like that.

19 But they are coming from an approved
20 auxiliary facility. It's not like Kentucky where
21 horses might be shipping in from farms; or also
22 that's a practice in Florida.

23 COMMISSIONER SHAPIRO: Well, if I understood
24 the gentleman in the back -- and I didn't catch his
25 name --

1 MR. LIEBAU: Drew Couto --

2 COMMISSIONER SHAPIRO: Oh, Drew? Okay.

3 -- I simply want to make sure that it
4 will be Bay Meadows Racing Association or the name of
5 your organization --

6 MR. LIEBAU: That's correct.

7 COMMISSIONER SHAPIRO: -- okay -- that will,
8 in fact, be instituting the same policy that will be
9 instituted down here. Whether or not the horsemen's
10 agreement says it can be done, I want to just hear
11 that it will be done.

12 MR. LIEBAU: We're committed to that.

13 COMMISSIONER SHAPIRO: Thank you.

14 CHAIR HARRIS: It might not exactly mirror it
15 but the, you know, probably --

16 MR. LIEBAU: Not knowing what it is, but I
17 mean let's -- could we make this undertaking that we
18 will work with staff and satisfy staff as to what the
19 process is? I mean I'm not acquainted with exactly
20 what Santa Anita's doing. So I think that, if you
21 would delegate that to staff, we would work with
22 them.

23 CHAIR HARRIS: I commend you upon that. The
24 camera idea is excellent up there because it does
25 lends itself to a camera. We're going to have a

1 Board meeting up there sometime this spring and be a
2 good opportunity for us to get a report from you on
3 how it's working and different instances that it's
4 helped you.

5 Any other issues for the Bay Meadows
6 application?

7 COMMISSIONER SHAPIRO: Mr. Chairman, the only
8 other thing I note is that the simulcast organization
9 is proposed to be Northern California Off-Track
10 Wagering. I assume that's going to come up in a
11 later issue. We're not going to discuss that
12 aspect --

13 MR. LIEBAU: Mr. Shapiro, that stands for
14 "NOTWINC," which is the entity that is responsible
15 for all of the satellite wagering in Northern
16 California as far as --

17 COMMISSIONER SHAPIRO: That is the existing --

18 MR. LIEBAU: Right. Down here, there's an
19 organization called "SCOTWINC." Up there, it's
20 NOTWINC.

21 CHAIR HARRIS: That's a separate issue from --

22 MR. LIEBAU: I won't go into what we would
23 call it if we merged, if it --

24 CHAIR HARRIS: Do you have a head-on camera
25 for your turf course?

1 MS. THURMAN: I believe we've got one placed.

2 CHAIR HARRIS: Good.

3 Any other issues on this application?

4 (No audible response.)

5 CHAIR HARRIS: Well, best wishes for a good
6 meet. And we'll hear from you a little later.

7 MR. LIEBAU: Thank you very much.

8 CHAIR HARRIS: Okay. Oh, yeah. Thanks for
9 that. Is there a motion to approve Item 3?

10 COMMISSIONER SHAPIRO: I'll move to approve
11 it, subject to the discussions that we had with
12 respect to security and surveillance.

13 COMMISSIONER SPERRY: Second.

14 CHAIR HARRIS: All in favor?

15 COMMISSIONERS' VOICES: Aye.

16 CHAIR HARRIS: The third is discussion and
17 action by the Board on the application for approval
18 to conduct advance deposit wagering of ODS
19 Technologies -- TVG -- for out-of-state
20 multijurisdictional race wagering hub from January 1,
21 '05, through December 31, '06.

22 MS. NOBLE: Pat Noble, CHRB staff.

23 TVG has filed their application for
24 two-year approval. They will provide advance deposit
25 wagering services 365 days a year, 24 hours a day.

1 They're providing services to
2 Churchill Downs at Hollywood Park, Del Mar
3 Thoroughbred Club at Del Mar, Los Alamitos Quarter
4 Horse Racing Association at Los Alamitos Racecourse,
5 L.A. County Fair at Fairplex, and Oak Tree Racing
6 Association at Santa Anita Park.

7 The Thoroughbred horsemen's agreement
8 has not been received. Staff recommends the Board
9 approve the application, conditioned upon receiving
10 the Thoroughbred horsemen's agreement.

11 CHAIR HARRIS: I thought they were also doing
12 something with Bay Meadows; is that correct?

13 MR. HINDMAN: Good morning, Commissioner --
14 Commissioners. John Hindman from TVG --
15 H-i-n-d-m-a-n.

16 We are -- it happened after this
17 application was filed so -- but we do plan to.

18 CHAIR HARRIS: Okay. Is there a second?

19 Any discussion on this issue?

20 Go ahead.

21 MR. COUTO: Drew Couto, again. Thoroughbred
22 Owners of California.

23 I'd like to advise the Board that,
24 last evening, we reached agreement with TVG. So
25 there will be a horsemen's agreement coming shortly.

1 Thank you.

2 CHAIR HARRIS: When those agreements come
3 through on these horsemen's agreements, it would be
4 nice if the Board was informed or mailed the
5 agreement just so we know what happened 'cause so
6 often, you know, these things come up and they're
7 sort of pending and then they finally happen.

8 MR. COUTO: Mr. Chairman, we'd like to do
9 that, but unfortunately it took us until 9:10 last
10 night to get the agreement. But we got it done.

11 MR. O'HARA: Chairman Harris?

12 CHAIR HARRIS: Yes.

13 MR. O'HARA: We put together some Power Point
14 slides. We can do it now, if you'd like.

15 CHAIR HARRIS: I think that would be good.
16 Yeah. This is the what? You're going into your
17 third year now or fourth year?

18 MR. O'HARA: Going into our fourth year.

19 The slides take a few minutes, if
20 you'd like --

21 CHAIR HARRIS: Why don't you take about five
22 minutes?

23 MR. O'HARA: With me, I have Tony Allevato,
24 who is our Executive Vice President of Programming,
25 and also "Dimitri Pomerov" (phonetic), who runs our

1 web site and our web business.

2 So what we have is a couple slides
3 just telling you what we're up to and how things are
4 going and what we're planning to do, going forward.
5 And then we have a short 2-minute tape. So all in,
6 it's about 8 minutes' worth of information. And I'll
7 run through -- try to move quite quickly. Thank you.

8 ASSISTANT DIRECTOR MINAMI: Identify yourself.

9 MR. O'HARA: Yes. Ryan O'Hara, President of
10 TVG.

11 First slide. So, first, what we're
12 trying to do in California -- and all these things
13 are things we're doing and that we want to keep
14 getting better and better at. First, we think we're
15 delivering quality television programming. As a
16 television company, that's one of our main goals and
17 the things we spend our effort and resources on.

18 We've driving distribution. We'll
19 have a couple slides on that. We're televising those
20 California races, which we're proud to say. We're
21 leading California in ADW handle, which is another
22 one of our goals.

23 We're returning a lot of revenue to
24 our track partners and their horsemen. And
25 self-serving, although I think it's true, we have a

1 great hard-working staff that's trying to make this
2 business and this industry better.

3 As far as results, we're now in 13.3
4 million households. I'll show you, later, the
5 growth. We do 4,300 races a year for California. We
6 have 56 percent of the market share in California.
7 And we've returned over 44 million to the industry,
8 which we're proud of. And we have over a hundred and
9 seventy- five California-based employees.

10 With that, Tony's going to show you a
11 quick sampling of some of the California racing we've
12 covered most recently, a look at some promos we're
13 doing to promote people to sign up and to bet with us
14 and then a new --

15 (Video shown.)

16 MR. O'HARA: Thanks, Tony.

17 So we have about 10 more slides.

18 Tony, why don't you go through these
19 rather quickly?

20 MR. ALLEVATO: Tony Allevato, Senior Vice
21 President and Executive Producer, TVG.

22 We set out with TVG, five years ago,
23 to become the ESPN of horse racing. And hopefully
24 we're on the path for that. We deliver eight -- up
25 to eight live races an hour, 14 hours a day, 7 days a

1 week. We're the only network in the country where
2 you can catch a live sporting event 14 hours a day.
3 We're proud of that.

4 TVG is all over the place. We're
5 behind the scenes at all the major racetracks,
6 covering major races worldwide and bringing fans
7 real-time odds, track conditions, and all the
8 handicapping information they need to make a wager.

9 But more important than that, we're
10 proud of the fact that we present the industry as a
11 sport, not just from the gambling end of it.

12 Everybody here, I think, is pretty
13 familiar with our program, "The Works," which takes
14 people behind the scenes to see all the workouts for
15 the two biggest events in the horse racing -- the
16 Derby and the Breeders' Cup.

17 We also covered the sales. We, just
18 last month, covered the sale of Smarty Jones's dam
19 for \$5 million. That was live on TVG, which was
20 pretty exciting. We're quite proud of the quarters,
21 which is nightly from Los Alamitos.

22 In fact, next week, for the third
23 consecutive year, on Wednesday afternoon we'll be
24 televising the post-position draw for the Champion of
25 Champions and the Los Al Million, live on Fox

1 SportsNet 2. That Saturday -- that Friday, we'll be
2 live from the track during the Los Al Million.

3 And on Saturday, we're doing a
4 three-hour telecast on the Champion of Champions.
5 It'll be on Fox SportsNet 2. The final hour of that
6 show will go out on Fox Sports New York, Fox
7 Southwest, Fox South, and Sunshine Network.

8 And then next year, we're going to be
9 introducing some new special programs. One of 'em is
10 going to be called "Early Birds." It's kind of,
11 like, the view of horse racing or you'll have
12 roundtable discussion early in the morning, kind of
13 previewing what's coming up throughout the day -- and
14 that will be a five-day-a-week show -- as well as
15 "The Tip Sheet," which is kind of a weekend preview
16 show and possibly a weekend stakes recap.

17 In addition to that, we're all
18 familiar with the major events. And we cover from
19 the local tracks and the Derby, the Belmont, Triple
20 Crown and our worldwide telecast of the Arc de
21 Triomphe and the Hong Kong Cup.

22 Recently we've made some changes with
23 our on-air product. We're trying to work closer with
24 Fox to enhance our product. If you look at our
25 ticker, we've changed that 'cause one of the

1 problems -- we've gotten complaints about it in the
2 past -- when you're watching TVG, it's hard to tell
3 what's coming up next.

4 So a lot of times, there are so many
5 races that we'll show, if you're planning on betting
6 a race from Belmont when you're going into the gate
7 with Churchill, you might not be able to make a
8 wager. Now, we've added the bottom line to the
9 ticker that tells people exactly how many minutes
10 there are to each race that's coming up.

11 In far right corner, we've got a
12 "call" that actually lets people know if there's a
13 Pick 6 carryover, guaranteed Pick 4, or just a
14 reminder of how people can open a account.

15 MR. O'HARA: So quickly, our results so far --
16 we're up 47 percent. We've added about a million
17 households. And then I mentioned the market share
18 earlier.

19 If you look at the handle graphics,
20 it's a obviously a good-looking curve. And we didn't
21 complete this year because of financial-disclosure
22 issues with TV Guide. But if you projected that out,
23 some people would say we have a three -- 300 million
24 mark.

25 Next one is on distribution. It's the

1 same kind of curve. We're as good as our
2 distribution. So we spend a lot of time convincing
3 very tough cable operators why they should carry TVG
4 when they have hundreds of channels to choose from.
5 And we've been really successful, in the last 18
6 months, doubling in size. And we look forward to
7 continuing to do that, going forward.

8 We're also shown on Fox Sports. And
9 we're able to beam the signal out. Our partners are
10 all the usual suspects. And this year, we closed a
11 large one with Comcast that's just starting to roll
12 out. So in San Francisco and Fresno, we're getting
13 more distribution and in Chicago, Florida, New York.
14 And we'll continue to see that curve on distribution
15 really spike.

16 This year, the category was up, which
17 was healthy for everybody -- 28 percent growth
18 overall is a good thing. I think, long term, the
19 category growing is real important in any industry
20 and especially in this. And we're proud that our
21 market share has also accelerated faster than the
22 category.

23 This year, handle -- a hundred
24 sixty-five million in California. We've returned,
25 believe it or not, 22 million back to the tracks and

1 their horsemen. And we pay back, you know, a high
2 yield. Most people are betting through the Internet.
3 And then about a quarter of the people bet through
4 the interactive voice-response system. They really
5 like those systems. And we have state of the art in
6 both.

7 If you look at our track -- our
8 payments back to the tracks, I picked our main, you
9 know, exclusive partners. Hollywood Park -- we've
10 had a nice run going from 4 million to 5 million to
11 6.6, so far, with the long meet still in front of
12 you. So that looks like further growth.

13 Del Mar puts on a phenomenal product.
14 And together we're growing that business.

15 Fairplex as well. You see a nice
16 growth trajectory, which we like.

17 Chilly and the horsemen at Oak Tree do
18 a wonderful job. And we're able to take that out to
19 people. And that's through November.

20 And then Los Alamitos, you know -- the
21 timing of their product really works well for us too.
22 It's prime time. And our fans really like it. They
23 like the fast pace and the short races and the great
24 product that the management and the horsemen put on
25 down there. So we're doing quite well there for them

1 and us.

2 As far as some people have asked me,
3 "Are these people new to the track or outside of the
4 track?" This an interesting statistic that I put
5 together yesterday. If you look at where people are
6 betting -- for instance, at Hollywood Park in '02,
7 about 68 percent of the bettors were outside, were
8 more than 20 miles away from Hollywood Park.

9 And that's actually increased. So as
10 our distribution has grown, we've gotten to places
11 beyond the core track areas. We're seeing the reach
12 of the sport go to new places and really drive those
13 areas for some people that might not drive 30, 40
14 miles to go to the track more than once a month.

15 When you think about the
16 marketplace -- we get myopic thinking about the horse
17 racing industry -- but really it's a big bad world
18 out there. I think, on the television side, ESPN Fox
19 SportsNet and these niche networks -- like, the NFL
20 network, Golf channel and other networks -- are
21 really fighting for the consumers' attention and
22 time.

23 And that's who we're competing with to
24 try to get the consumers with these other, you know,
25 pretty powerful networks. So that's why our product

1 needs to be really good.

2 And on the gambling side, same as the
3 industry overall, Indian gaming gives people
4 opportunities to do different types of gaming. The
5 casinos, we see as competitors. The lottery is a
6 competitor for some of the smaller players. And then
7 offshore is a horrible, horrible situation; and it
8 affects us all.

9 So to finish, you saw -- this is one
10 of our spots getting people to sign up. We did
11 another one -- and we spent some good money on
12 this -- to show people actually how to bet, make it
13 simple, and show 'em how easy and fun it can be.

14 We use the value of Fox and "News
15 Core" (phonetic) and TV Guide to help push our
16 product and our partners. So on this, we're able to
17 get the cover of TV Guide magazine for the Derby,
18 which is fantastic. And then we put in a TVG Derby
19 party guide -- told you how to make mint "jubilees"
20 and other things like that and give you incentive to
21 sign up.

22 Lastly, we promote out to our
23 partners -- the cable and satellite operators. So
24 our fifth anniversary was in August. And we'd say to
25 them, "Five years leading the field and we're just

1 getting going."

2 Same with broadcasting cable, which is
3 for other folks. This is a Breeders' Cup ad we did.
4 "If you can't go to the Breeders' cup, bet with us."
5 We're buying local media, when we can afford it, to
6 really tell people we're on air and to come visit us.

7 And then the final last two on here --
8 the next thing we're doing is interactive television,
9 where you can actually bet with the remote. And that
10 will be coming in June, 2005.

11 Before I joined here, I was in London
12 with BskyB and working on interactive television and
13 horse racing in particular. And it was really
14 successful there. So one of the things that I wanted
15 to do was make sure we did this. And I think it adds
16 a whole new kind of sexiness to the sport, to the
17 product, and to the brand.

18 I think that's it. I guess there's a
19 couple last comments that the CHRB staff really did a
20 great job helping us, you know, getting us through
21 this application. John Hindman did a nice job.

22 The Board, in the past, expressed its
23 desire for ADW providers to work cooperatively with
24 both the tracks and the horsemen. While it's our
25 firm belief that the formal agreements between ADW

1 providers and the horsemen are not required by state
2 law, we have had extensive discussions with the
3 horsemen's organizations and our partner tracks and
4 are pleased to say that we collectively have an
5 understanding regarding our ADW activities.

6 And we appreciate your time. And
7 we'll keep trying to do a good job.

8 CHAIR HARRIS: Thank you. Does the audience
9 have any comments on this?

10 MR. HOROWITZ: Alan Horowitz, Capitol Racing.

11 I was wondering. I have a question
12 for the representatives of TVG. And that is, on
13 behalf of the harness industry here in California, I
14 was wondering whether they had any plans for the
15 1990 -- or excuse me -- for 2005 for expanding the
16 exposure and the growth of harness racing on the TVG
17 Network. I know that they've done some extensive
18 exposure of out-of-state harness racing programs.

19 And I think they've been a little
20 remiss with regard to exposure for harness racing.
21 And we've gotten some of our fans, who have TVG or
22 Direct TV, and they wonder why they can't -- they
23 certainly can bet the product, but they don't see
24 much of the product in the evenings.

25 CHAIR HARRIS: The issue is they -- they do a

1 lot of wagering on Capitol, but they're not showing
2 very often.

3 MR. HOROWITZ: Correct.

4 MR. ALLEVATO: Well, we do show Capitol Racing
5 on video streaming. So every race is available to
6 TVG account holders to be able to be viewed on the
7 Internet. And we -- it's kind of an extensive
8 process the way we put together our race schedule
9 every night.

10 Los Alamitos is a partner track of
11 ours. So they're always going to take priority over
12 any other track that's running at that time. So the
13 priority goes to them. And most of our coverage, if
14 you watch at night, is for Los Alamitos.

15 And a lot of times, they're coinciding
16 with Capitol Racing. But we try to get their races
17 in as much as possible as well as other harness
18 racing from around the country.

19 MR. HOROWITZ: I'd like to point out that
20 we've worked with Los Alamitos to make sure that our
21 signals do not overlap, wherever possible, so that
22 we're not coming in on top of quarter horse races per
23 se.

24 And I was hoping that, within the time
25 allotted between the quarter horse products on

1 nights, that we overlap the live quarter horse
2 product that there might be some opportunity for
3 exposure, whether it's the full race or the stretch
4 run or some exposure on the network, that would be
5 helpful. And we think it would be also mutually
6 helpful to the betting on the product.

7 MR. O'HARA: Okay. We -- I understand the
8 question. We'll -- we'll have to look into it. I
9 haven't thought about it that much yet. But we will
10 shortly.

11 MR. HOROWITZ: I appreciate it. Thank you.

12 CHAIR HARRIS: Are there any other questions
13 by the Commissioners or the audience? Other issues?

14 COMMISSIONER SHAPIRO: I have a couple of
15 comments and one question. I appreciate -- the other
16 day I went over to TVG. And you are doing an
17 exceptional job. Your television is terrific.

18 But as I mentioned to you, when I was
19 there, I think that the programming is all geared to
20 the already-established horse player. It is to
21 facilitate wagering on horse racing. And it's doing
22 a great job and so forth.

23 But what I don't see and what I don't
24 know, given your tie-ins with your parent company, is
25 there more that you could do to help facilitate

1 introducing new people, people that are novices and
2 don't know how to wager, don't know how to read a
3 racing form?

4 I mean you certainly have the
5 wherewithal to produce great pieces, that maybe there
6 is a tutorial that you could produce that would be
7 how to read a racing form and a tutorial on what an
8 experience of going to the racetrack involves and
9 explaining and showing what these racetracks are
10 about so that hopefully we can encourage new people
11 to actually come out and see the show live.

12 First question is are you willing to
13 do that, undertake that? And, two, is there another
14 way to air it other than just TVG, given your
15 tie-ins? Because I think anybody who logs on to TVG
16 or watching TVG is already a horse player.

17 MR. O'HARA: Very good questions. Yes. We're
18 very open to it, and we talk about it weekly.

19 One thing we found interesting -- we
20 saw what Rick Baedeker did at Hollywood Park with the
21 "BRF" (phonetic), where they put those Friday night
22 forms out. Did you see that?

23 COMMISSIONER SHAPIRO: It was terrific.

24 MR. O'HARA: And it was terrific. And it
25 simplified how to bet. And I challenged kind of Tony

1 and his team to -- especially, you know, given some
2 of the consumer comments we've had -- to make it more
3 accessible.

4 So an example of things that they're
5 working on -- one is, you know, when someone -- when
6 a horse is 5 to 1, you don't necessarily get \$12.
7 Sometimes you're getting 11.20; sometimes, you're
8 getting 12.80. People really have problems
9 understanding why they're getting what they're
10 getting.

11 And so a piece of technology we're
12 working on is something that says, "If you put -- if
13 you bet 5 to 1 in this race, you'll get 10.80 or
14 you'll get 12.20," and making it simpler and more
15 understandable because people feel like the odds are
16 rigged and they're not necessarily getting a fair
17 shake.

18 And then Tony's also been working with
19 the Fox folks and trying to figure out ways to, on
20 their air, promote people to understand what horse
21 racing is and then to use times, when we don't have a
22 lot of races running, to be more exploratory and
23 explain more.

24 And so you'll see -- we're doing more
25 human interest features where "Todd Shrump"

1 (phonetic) hits the golf course or, you know, there
2 are these different things we're doing.

3 And then what we need to do is come up
4 with things that are, you know, are not going to
5 dominate your whole day but are going to take some
6 time when people are on our network and they can
7 learn how to either be a fan of horse racing or to
8 bet more often, with more frequency.

9 COMMISSIONER SPERRY: Another point is that,
10 when we started ADW, it was with the intent of trying
11 to create as many jobs as we possibly could in
12 California. And I'm wanting to know whether or not,
13 now that you're successful, have you started to
14 create more jobs in California? Have you started
15 California telephone betting where California people
16 are hired?

17 MR. O'HARA: Yeah. I mean we're a California
18 company. So our headquarters -- right by LAX in the
19 old Univision building with a hundred seventy-five
20 employees. They're very highly skilled -- a lot of
21 producers, programmers, broadcast operations,
22 executives, legal, finance, technology types.

23 I think our average salary, you know,
24 is very high, you know. It's -- these are highly
25 skilled people. And I forget the exact number --

1 somewhere between seventy and 90,000 is the average
2 for these hundred-and-seventy-five people. So I
3 think, yes, we've been hiring. We're local.

4 I think, as far as the ADW companies,
5 we're probably the biggest in California, as far as
6 hiring and employment. And we're really proud of
7 being in California and being local.

8 COMMISSIONER SPERRY: Well, I appreciate the
9 knowledge on that; but at the same time, there was a
10 discussion in relationship to the fact that the --
11 the racetrack unions would benefit to some degree on
12 this betting. And I don't see it happening.

13 MR. O'HARA: We do have, at the tracks -- we
14 don't have live phone operators 'cause people use the
15 internet or they use the "IBR" (phonetic). It's not
16 effective to have live operators. You get huge
17 spikes when you have to have 40-people-for-the-Derby-
18 and-1-at-night kind of thing.

19 So the technology -- Internet's
20 fantastic. And that's the way that you really make
21 this business work. So we don't have any live, you
22 know, human operators.

23 But at the tracks, at each track, we
24 have someone who takes deposits and opens accounts
25 for people. And those are, you know, at Hollywood

1 and Oak Tree and Del Mar and the like. And those --
2 those folks are part of the union.

3 COMMISSIONER SPERRY: Okay.

4 CHAIR HARRIS: I think --

5 Mr. Castro, did you want to make a
6 statement?

7 MR. CASTRO: Yes, I do.

8 CHAIR HARRIS: Go ahead. It's fine.

9 MR. CASTRO: Chairman Harris, Commissioners,
10 my name is Richard Castro, representing Pari-Mutuel
11 Employees Guild, Local 280.

12 I'm speaking in opposition to actually
13 all three ADW applications. I want to thank the CHRB
14 staff for including my letter in the packet. And I
15 want to know if I can assume that all of you got our
16 letter from our attorney David Rosenfeld? You do not
17 all have it?

18 ASSISTANT DIRECTOR MINAMI: As of yesterday,
19 Rick, we have not received the letter that I was
20 expecting.

21 MR. CASTRO: May I distribute it now? I've
22 only got a couple here, but I'll go through --

23 CHAIR HARRIS: Just go through the
24 presentation.

25 MR. CASTRO: That will be fine.

1 What I'm using to make our argument
2 can be found in California horse racing law and
3 California horse racing rules and regulations.
4 Within the California horse racing law, Article 9 --
5 "Wagering" -- Section 19590 -- under this section,
6 you authorize pari-mutuel wagering only within the
7 enclosure.

8 "ADW licensees, in and out of state,
9 agree that their business -- businesses are conducted
10 within the enclosure."

11 That's extremely important for this
12 argument. Since this extends the definition of the
13 enclosure, this also mandates that these licensees
14 agree to all California laws, rules, and regulations.

15 Article 9, Section 19595, "Any form of
16 wagering or betting on the results of a horse race
17 other than that permitted by the charter is illegal.
18 Also illegal is any wagering or betting on horse
19 races outside an enclosure where the conduct of horse
20 racing is licensed by the Board."

21 Article 9, Section 19604, Part B:
22 "'ADW' means 'a form of pari-mutuel wagering in which
23 a person residing within California or outside of
24 this state establishes an account with a licensee, a
25 Board-authorized betting system, or a Board-approved

1 multijurisdictional wagering hub located within
2 California or outside of this state.'"

3 For all these previous statements, we
4 maintain this clearly expands the definition of the
5 enclosure to include all out-of-state hubs.

6 When you go to Article 9, 19604 --
7 "ADW may be conducted upon approval of the Board,"
8 which is what you're doing now.

9 Article 9, 19604, Part A, allows
10 partnerships, joint ventures and/or other
11 affiliations which -- we see this ties into our
12 master collective bargaining agreement, which we have
13 a master agreement in place with the various host
14 tracks in California.

15 Under Title 4, California Rules and
16 Regulations, ADW Section 2070 -- "Definitions" --
17 Part M: "'Licensee' means 'an association or fair
18 licensed to conduct a horse race meeting only within
19 the enclosure and on the dates the Board authorizes
20 horse racing.'"

21 Title 4, Section 2072, allows for the
22 approval to conduct ADW by an out-of-state applicant
23 in Part A: "Applicants located outside of the state
24 must be Board approved," which, again, I'm saying
25 expands the definition of the enclosure.

1 Title 4, 2072, Part M: "The
2 applicant -- the out-of-state applicant consents to
3 the jurisdiction of California courts and the
4 application of the California law as to all
5 California wagers and operations."

6 This, we believe, if you expand it,
7 would also include our collective bargaining
8 agreement that we have with the host track. We
9 believe that this provision clearly binds our right
10 to the same or similar job classifications outlined
11 in our collective bargaining agreement. "Similar" is
12 the key word here.

13 Going back to the California horse
14 racing law, Article 9, Section 19604 "PC1," we
15 believe these ADW licensees must have a written
16 contractual agreement with the bona fide labor
17 organization that's historically represented the same
18 or similar classifications of employees nearest the
19 horse race meeting.

20 I maintain that, in this case, these
21 classifications of workers apply to the California
22 host track locations. For all these reasons I have
23 cited, along with the letter from our attorney David
24 Rosenfeld, which I will give you, we feel these
25 applications are -- violate the law and cannot be

1 approved without conditions.

2 What he's saying, as I understand it,
3 is one person at a host track, I understand, is
4 actually paid by the track, not paid by TVG. And
5 that's fine. They have a reciprocal agreement. And
6 we don't have a problem with that.

7 But we believe that all these ADW
8 licensees have other jobs, similar jobs, similar
9 classifications to our collective bargaining
10 agreement. And it is those jobs that we would like
11 to sit down with them and have a collective
12 bargaining agreement with.

13 And we feel that, if CHRB granted
14 these licenses with the condition that they sit down
15 with us, we feel that we could come to a solution.
16 We're not trying to shut anybody down. We sincerely
17 want to be a working partner in industry. We want to
18 sincerely join with all of you to make racing better.

19 However, on this issue, we feel that
20 our interest and our support in helping to bring this
21 about in California have been ignored and it bothers
22 us. This upsets us. We'd like to see it changed.

23 CHAIR HARRIS: Comments from the Board on
24 this?

25 MR. CASTRO: Maybe you would like to take a

1 minute to look at David Rosenfeld's letter. I think
2 it would be worthwhile, please.

3 CHAIR HARRIS: Yeah. I was going -- well, my
4 concern is I'm not sure if we can really superimpose
5 ourself on -- to force anyone into a collective
6 bargaining agreement, absent some election of their
7 employees.

8 But I guess one of the circumstances
9 really is do we need -- as part of the overall two
10 proposals, is there a license requirement that they
11 have some version of live operators or someone --

12 MR. CASTRO: It's not necessarily just live
13 operators. I'm pretty comfortable that -- let's make
14 this a good one. Let's say John Harris places a
15 wager and he is very fortunate and he hits an "IRS
16 signup" (phonetic).

17 Now, I'm assuming that John Harris
18 later on today will want to take me to the Harris
19 ranch and have a chicken-fried steak, mashed
20 potatoes, and gravy. So he's going to want his
21 money.

22 I'm very comfortable that someone will
23 write that check and or write something or do
24 something to transfer that money back to you so that
25 you can take me out to dinner tonight. That would

1 infringe on our contractual right.

2 And, again, we're not trying to shut
3 anybody down. All we're looking for is an avenue to
4 open the door that these parties will sit and
5 negotiate with us. We have no problem with the CHRB
6 staff overseeing the process. We have no problem at
7 all agreeing to binding arbitration.

8 We would like to see this done by July
9 1, 2005. I don't -- frankly, I don't think we're
10 asking for too much.

11 COMMISSIONER MORETTI: I have a comment. Mr.
12 Chairman, the points that Mr. Castro raises are --
13 whether or not the -- not just TVG but YouBet and
14 XpressBet, et cetera, have to engage in collective
15 bargaining is a whole other issue.

16 But I would harken back to the initial
17 days when we licensed the three businesses that we
18 have conducting ADW in this state. We had extensive
19 discussions then about a couple of things. One was
20 trying to create a California hub so California could
21 get more of the proceeds from this.

22 And the other really focussed on
23 creating more jobs. And I certainly appreciate the
24 high-level jobs that TVG has in this state. I think
25 that's worth something, a lot of something.

1 But I would also ask you, each of the
2 three companies, to actively sit down with these --
3 Mr. Castro and the folks and see what you can do
4 because this is not the first time we've had this
5 discussion.

6 These people deserve and were -- I
7 won't use the word "promised" -- but it was certainly
8 inferred that they were going to be part of the
9 discussion, that there were to be new jobs created
10 that would be labor jobs and that California would
11 gain more than it has.

12 I'm glad to see the proceeds going up
13 and our percentages going up, but I'm not sure how
14 much of this is actually accruing to California.

15 MR. CASTRO: Eloquenty spoken. Thank you.

16 MR. O'HARA: I'll let John Hindman answer
17 because he knows the whole subject better than I do.
18 On the proceeds -- the 44 million -- most of the
19 money accrues to California because it's in
20 California. Then all the jobs that are here are the
21 hundred and seventy-five.

22 I think they have union and nonunion
23 relationships throughout their corporate area. And
24 so I'm not sure that, for us, it's relevant; but let
25 me ask John.

1 MR. HINDMAN: Just a couple specific points to
2 clarify a few matters. We appreciate the Board's
3 concern on this issue. You know, first of all, we
4 know that there has been a lot of discussions over
5 the year.

6 And for TVG, you know, our hub is
7 located out of state. And that was -- predated there
8 being ADW in Cal. So we have established there -- we
9 have people there who have worked for us a very long
10 time. For us to let them go to employ people in this
11 state -- it's very difficult decision for us to make.

12 Secondly, I respectfully disagree with
13 a few of the legal points that were made here today.
14 I think that Section 96074 is actually quite
15 particular when it comes to what the requirements
16 are -- the requirements for providers located in
17 California. And we certainly respect those.

18 And when he was mentioning cash
19 distributed at racetracks, as the point was made
20 earlier, that cash is being distributed by somebody
21 at a mutual window here at Hollywood Park.

22 CHAIR HARRIS: Any comments?

23 COMMISSIONER BIANCO: I have one comment. I'm
24 going back to your past. You used to work for
25 YouBet, didn't you?

1 MR. HINDMAN: No. I've worked for TVG always.

2 I'm sorry.

3 COMMISSIONER BIANCO: Because when we first
4 went through and listened four years ago, there was a
5 lot of promises made that this would create union
6 positions and that was from everything that was
7 presented to us.

8 CHAIR HARRIS: No. I don't think they -- I
9 don't think they all made those representations.

10 TVG --

11 MR. HINDMAN: TVG -- we never --

12 CHAIR HARRIS: We can go back and research the
13 minutes. But I don't think they were made by
14 everybody.

15 COMMISSIONER SPERRY: That may be true. But
16 it was implied that the track unions would benefit
17 from the process. And I think it's beholden to you,
18 whether you started the process at the beginning or
19 came in now, that you take an interest and look at
20 that as being something that should be done.

21 MR. CASTRO: Richard Castro, PM Employees
22 Guild. I believe that "Joe Lang" (phonetic) at one
23 time was your lobbyist.

24 And I believe that, if you go back
25 through the CHRB transcripts -- and I'll be more than

1 happy to do it, again -- you will find that Joe Lang
2 speaks at one of these meetings and acknowledged that
3 the agreement was and it was expected that they had
4 this goal of phone-wagering jobs with Local 280.

5 I don't exactly remember what his
6 exact words were, but Joe Lang did speak to that.
7 Ron Liccardo was president then and acknowledged that
8 phone-wagering jobs were promised to P.M.E.G. Local
9 280. That's a fact.

10 MR. HINDMAN: Again, I respectfully disagree
11 with that characterization.

12 CHAIR HARRIS: Mr. Baedeker?

13 MR. BAEDEKER: Rick Baedeker, Hollywood Park.

14 I think, in terms of full disclosure,
15 it should be noted for the Board and everybody else
16 that has been involved in this last exchange --
17 Richard's and his union's support for the ADW
18 legislation -- the racetracks did agree to
19 effectively keep staffing -- use and keep the
20 staffing level at which it existed -- I think it was
21 in 1999, wasn't it? -- for the duration of the
22 contract with the unions when, as a matter of fact,
23 because of the business, we would have required fewer
24 clerks those years.

25 And yet we have the kept the staffing

1 level as high as they were in '99. And that's up for
2 renegotiation, as the contract will be renegotiated
3 over the next several months. But the union -- the
4 union has benefitted over the first few years of ADW.

5 While I'm here, I just feel compelled
6 to say that this is one of the few things in racing
7 that is a success story. And we should be careful
8 with both TVG as well as XpressBet and YouBet. We
9 want them to survive, and we want them to thrive.
10 They need to do well.

11 The TOC exacted its pound of flesh
12 over the last several days, doing business the way it
13 thinks it needs to. And I respect that. I know
14 Richard is looking out for the best interests of his
15 people as he sits there today. But let's not take
16 any of these for granted.

17 This is an important piece of our
18 business now. I can tell you that, you know, our
19 partner is TVG. These guys are great to work with.
20 I want to give you two examples.

21 In the last couple of weeks, we made a
22 mistake in our program, where our \$400,000 Guaranteed
23 Pick 4, which we offer on Thursdays, was
24 inadvertently repeated -- I'm sorry -- which we offer
25 on Saturdays, was inadvertently repeated on Sunday in

1 the program.

2 So we said, "Okay. We'll go ahead and
3 offer the guarantee."

4 Within five minutes, these guys were
5 promoting the heck out of it on the air. It's almost
6 embarrassing how much they promoted it until the
7 betting closed the next day. Fortunately, we made
8 the guarantees. They're good partners.

9 We're doing a promotional things with
10 T.J. Simers of the L.A. Times. We've going to have
11 two teams of jockeys. Whichever team wins -- one was
12 chosen by T.J. Simers; the other, by "Frank Lyons"
13 (phonetic) of TVG -- we're going to benefit
14 charity -- either the Mattel Children's Hospital or
15 St. Margaret's Center here in Inglewood.

16 Here's the point I'd like to make:
17 Hollywood Park put out \$2,500 to benefit the charity.
18 Two thirds would go to the winner; one third, to the
19 loser.

20 TVG, without being asked, said, "We'll
21 match that." They said, "We'll put up another
22 \$2,500."

23 I just want to make the point that we
24 cannot take any of these three for granted. These
25 are new business. They not only are an important

1 part of our revenue streams, but they're great
2 partners for us.

3 And I understand that they need to be
4 great partners for Richard's union as well. But I
5 think that we should look at the entire picture here
6 and not get lost in some of these details, important
7 as they may be. Thank you.

8 CHAIR HARRIS: Okay. We've got a pretty
9 lengthy agenda.

10 Go ahead.

11 COMMISSIONER SHAPIRO: Thank you.

12 Mr. Castro, the part that I'm not
13 clear on is it's my understanding that YouBet and TVG
14 and -- and I don't know about XpressBet -- will be
15 making money at that stage, in terms of
16 profitability.

17 Is that correct for TVG?

18 MR. O'HARA: We actually don't disclose that
19 to the market 'cause we're a public company. So I
20 don't know if I can comment without asking our
21 investor-relations guy 'cause we actually don't say.

22 COMMISSIONER SHAPIRO: They don't have people
23 here in California that are answering phones and
24 taking wagers. So what is it that you specifically
25 are asking of this applicant or the others?

1 MR. CASTRO: We would like to sit down with
2 them and bargain with them and go over what their
3 different job classifications that they have that may
4 be the same or similar to what we have in our
5 collective bargaining agreement.

6 COMMISSIONER SHAPIRO: So if you don't have
7 job descriptions that are similar, then you would
8 waive any issue; is that correct?

9 MR. CASTRO: I would hate to give up my legal
10 rights in this discussion, and I'm not an attorney;
11 so I think we would probably resolve that before an
12 impartial arbitrator.

13 CHAIR HARRIS: There's really nothing stopping
14 you from talking to them now. The whole question is
15 "Do we have, as part of the application, some mandate
16 that they've got to have live operators?"

17 MR. CASTRO: I think if you did give the
18 mandate that they sit and talk with us and make it
19 conditional that we come back to you by July 1st --

20 COMMISSIONER SHAPIRO: Mr. Castro, have you
21 sat and talked with them about what type of jobs they
22 have?

23 MR. CASTRO: I'm a newly elected president of
24 Local 280. I don't know what discussions Ron
25 Liccardo, my predecessor, has had with them.

1 COMMISSIONER SHAPIRO: Then can I suggest that
2 you give O'Hara a call and the other organizations
3 and have a telephone conversation with him and see
4 if, in fact, we're talking about anything, if there
5 are any jobs that would fall into the classification
6 of your --

7 MR. CASTRO: That's fair. We can do that.
8 That's fair.

9 COMMISSIONER SHAPIRO: Thank you.

10 Is that agreeable to you, Mr. O'Hara?

11 MR. CASTRO: I need to add that, in an effort
12 to save time, my presentation basically would apply
13 to the next two applicants.

14 CHAIR HARRIS: Yeah. We'll stipulate that.

15 MR. CASTRO: Thank you.

16 CHAIR HARRIS: Could we have a motion on that?

17 COMMISSIONER SHAPIRO: I'll move to -- no. I
18 don't -- I don't --

19 MR. HALPERN: Ed Halpern. California
20 Thoroughbred Trainers.

21 I was disappointed hear that TVG
22 doesn't want to release their information on profits.
23 My recollection is that, when they were originally
24 licensed, they told this Board that, when they are in
25 a position where they are making a profit, they would

1 reverse the percentages that were paid to the
2 horsemen that they were getting.

3 Now there's some question as to
4 whether they said that or whether they said when they
5 recoup their investment, which, obviously, would take
6 forever or a long time. So I doubt that's what they
7 said.

8 So we can certainly look back in the
9 minutes of when they were originally licensed to see
10 if they're following through with that promise they
11 made to the Board and if, in fact, that was the
12 promise they made to the Board.

13 CHAIR HARRIS: It's really more of an issue
14 with the contract they would have with the tracks and
15 the horsemen -- that those are negotiated. And I
16 think that, hopefully, the horsemen and the track
17 would be negotiating aggressively, sort of
18 irregardless of if TVG was making money or losing
19 money or what happens.

20 MR. HALPERN: I agree with that, Commissioner,
21 as a condition of your giving 'em a license.

22 COMMISSIONER SHAPIRO: Mr. Halpern, I assume
23 that that applies to all three advance wager deposit
24 applicants; is that true?

25 MR. HALPERN: Mr. Shapiro, I'm surprised that

1 I remember that TVG made that promise. And I can't
2 recall what happened with the others.

3 COMMISSIONER SHAPIRO: I'll move to approve
4 this.

5 CHAIR HARRIS: There's a motion to approve the
6 TVG application. Is there a second?

7 COMMISSIONER BIANCO: Second.

8 CHAIR HARRIS: Second.

9 All in favor?

10 COMMISSIONERS' VOICES: Aye.

11 CHAIR HARRIS: Opposed?

12 (No audible response.)

13 CHAIR HARRIS: So moved.

14 Okay. Now we move to the ADW
15 application for YouBet from January 1, 2005, to
16 December 31, 2006.

17 MS. NOBLE: Pat Noble, CHRB staff.

18 This is a two-year license for their
19 in-state location and a two-year approval for their
20 out-of-state location. They will provide advance
21 deposit wagering services seven days a week,
22 approximately 7:00 A.M. to 7:00 P.M. Pacific time.

23 The services will be provided to Bay
24 Meadows Racing Association at Bay Meadows Racecourse,
25 California Authority of Racing Fairs, Capitol Racing

1 at Cal Expo, Churchill Downs at Hollywood Park, Del
2 Mar Thoroughbred Club at Del Mar, Los Alamitos
3 Quarter Horse Racing at Los Alamitos Racecourse, L.A.
4 County Fair at Fairplex, Los Angeles Turf Club, and
5 Oak Tree Racing Association at Santa Anita Park, and
6 Pacific Racing Association at Golden Gate Fields.

7 Items missing are the Thoroughbred
8 horsemen's agreement, the horsemen's agreement for
9 Bay Meadows Racing Association, California Authority
10 of Racing Fairs, Los Angeles Turf Club, and Pacific
11 Racing Association.

12 Staff recommends approval of the
13 application conditioned upon receipt of the missing
14 items.

15 CHAIR HARRIS: I'm not really clear on whether
16 this would apply to all of these where a given ADW
17 provider is going to provide services for different
18 race courses.

19 Does that also imply that the
20 contracts they have with the horsemen and those
21 associations run the same period and, you know, this
22 two-year period coming up? Or does it just mean that
23 they are -- have, you know, some shorter period
24 and --

25 MS. NOBLE: I believe, when they supply it,

1 it's meet by meet.

2 CHAIR HARRIS: It's meet by meet. So they
3 basically -- I mean it's a little complex because
4 we're really approving a two-year license for these
5 people but really don't necessarily have two years of
6 product out there?

7 MR. "TRUE": "Jeff True" (phonetic) for
8 YouBet.com.

9 There's no -- we get these meet
10 contracts as the meets come up and the TOC agreements
11 come with them. To the extent that we don't have
12 content agreement for the entire two-year period, I
13 don't think anyone's ever been able to establish
14 that, given the complexity.

15 CHAIR HARRIS: I think that's all right. Just
16 to clarify -- just sort of a best-effort type of
17 thing as part of the product?

18 MR. "TRUE": Yes. I think, as to a practical
19 matter, when each of these meets come up, we say we
20 do or do not have those agreements in place. If we
21 don't, then we're not providing services for that
22 meet. Typically we've been able to come up with each
23 of them as they've come up.

24 CHAIR HARRIS: Any the issues on this or
25 questions from the audience or the commissioners on

1 this application?

2 MR. COUTO: Drew Couto, Thoroughbred Owners of
3 California.

4 We have an agreement, understanding
5 with YouBet as to hub fees. And that, as with all
6 the ADW companies, will apply at this time next year
7 in their two-year license. Thank you.

8 CHAIR HARRIS: Would be it possible for the
9 Board and, really, the industry, again, to get a
10 breakdown of how much it gets -- as to where all the
11 dollars all flow in these various arrangements? Or
12 are those not public?

13 MR. "TRUE": I don't know that I can answer
14 that. That would be a legal question as to what we
15 can disclose and what we cannot because, as to the --
16 I mean that, with that, of course, the income flow,
17 I'm certain that, if you requested it, we could do
18 some sort of "NDA" (phonetic) and inform the Board,
19 you know, at its discretion. I'm not sure we would
20 be able to make it public.

21 COMMISSIONER SHAPIRO: I think that we'd like
22 to see it. So why don't you request it and see if
23 you can provide it to us.

24 CHAIR HARRIS: As to all the providers?

25 COMMISSIONER SHAPIRO: Correct.

1 MR. "TRUE": If I could ask, if you wouldn't
2 mind having staff direct a memo, telling me exactly
3 what it is you want to see.

4 CHAIR HARRIS: What we want is a simplistic
5 situation where you have a track, like, Hollywood is
6 running and TVG is carrying it and somebody's betting
7 in L.A.

8 But it gets more complicated when
9 someone is betting on Hollywood but they live in
10 Northern California someplace 'cause I understand
11 that, if someone goes to the track operating to the
12 north and it's --

13 MR. "TRUE": I certainly can't tell you how it
14 works.

15 CHAIR HARRIS: -- money that -- I'd like to
16 understand it a little bit better than I do.

17 MR. "TRUE": So would I.

18 ASSISTANT DIRECTOR MINAMI: We'll have John
19 Reagan coordinate with all the ADW companies, and
20 we'll get that information.

21 COMMISSIONER SHAPIRO: I have a question of
22 you. Can you --

23 MR. "TRUE": Yes?

24 COMMISSIONER SHAPIRO: Can you explain to
25 me -- it shows that TVG's your largest shareholder;

1 is that correct?

2 MR. "TRUE": That is no longer correct. They
3 recently divested themselves of all their YouBet
4 holdings.

5 COMMISSIONER SHAPIRO: Okay.

6 MR. "TRUE": That should have been corrected.
7 I think this was actually -- the application was made
8 before that was actually accomplished.

9 COMMISSIONER SHAPIRO: Okay. Can you also
10 tell us what steps you're taking to promote people
11 newcomers to come to the racetrack and come out live?

12 MR. "TRUE": Yes. I'm glad you asked. In
13 fact, in the capacity I'm functioning, the younger
14 age, the younger audience -- one of the things that
15 we do is purchase a schedule on ESPN-dot-com.

16 As a result of the some of the
17 outer -- the nonindustry advertising methods that
18 we've undertaken, we've been able to generate a
19 pretty good younger crowd. And our fastest-growing
20 group of acquisitions by age is in the 21 to 30
21 group. They're growing at a 22 percent annual clip,
22 and that's on top of 16 percent last year.

23 The fastest-growing age group is in
24 the 21 to 30. Over a third of our new acquisitions
25 are 21 to 40. Part of what we're doing is

1 advertising in ESPN, providing live-streaming
2 services on ESPN-dot-com, which is a generalized
3 sport network.

4 So we've kind of hitched our wagon to
5 that train or that truck, rather, and have been able
6 to pull some people into horse racing that otherwise
7 wouldn't be exposed to it. We've also done things,
8 like, in addition to the Financial Times or non --
9 non, you know, other non-horse racing industry
10 publications such as local newspapers or use
11 billboards or things like that.

12 We recently employed "Wayne Lucas"
13 (phonetic) as a spokesman. We'll be using him in
14 some advertisements that will, again, be put in some
15 non-horse race media. He's, we think, the best-known
16 name outside the industry. And we think using him
17 as spokesman will help raise our profile among people
18 that are not already horse racing fans.

19 We specifically don't do a lot of
20 advertising in California. I'll grant you that. But
21 nationwide we do a little bit more than what you
22 would see in California media.

23 CHAIR HARRIS: Any issues? Have a motion on
24 this?

25 COMMISSIONER SPERRY: So moved.

1 COMMISSIONER MORETTI: Second.

2 CHAIR HARRIS: All in favor.

3 COMMISSIONERS' VOICES: Aye.

4 MR. "TRUE": Thank you.

5 CHAIR HARRIS: The next one -- XpressBet.

6 MS. NOBLE: Pat Noble, CHRB staff.

7 XpressBet filed their application for
8 a two-year license from January 1, 2005, through
9 December 31, 2006. They will provide advance deposit
10 wagering services as a California multijurisdictional
11 wagering hub during all times races are run, which
12 could be up to 24 hours a day.

13 Services will be provided for Bay
14 Meadows Racing Association at Bay Meadows Racecourse,
15 California Authority of Racing Fairs, Capitol Racing
16 at Cal Expo, Los Angeles Turf Club at Santa Anita
17 Park, Pacific Racing Association at Golden Gate
18 Fields.

19 The harness horsemen's agreement has
20 been supplied. I don't know if the Thoroughbred is
21 completed or not. Staff recommends the Board approve
22 the application conditioned upon receiving the
23 Thoroughbred horsemen's agreement.

24 CHAIR HARRIS: The horsemen's agreement --

25 MR. COUTO: Yes.

1 Again, Drew Couto on behalf of
2 Thoroughbred Owners of California.

3 An agreement was reached with
4 XpressBet yesterday as well, and it lasts for the
5 upcoming year. Thank you.

6 CHAIR HARRIS: So that's for all the
7 California tracks that they do?

8 MR. COUTO: Yes. We have a fee agreement that
9 covers all their content. Thank you.

10 COMMISSIONER SHAPIRO: I thought that that
11 was a fun meeting.

12 MR. McALPINE: Jim McAlpine. I'm the
13 President and Chief Executive Officer of Magna
14 Entertainment.

15 We have a Power Point presentation
16 that we would like to give. It would take a couple
17 of minutes to set up.

18 CHAIR HARRIS: It would be delightful.

19 MR. McALPINE: Good. See you in a few
20 minutes.

21 CHAIR HARRIS: Do you want to -- we've got --
22 we wanted to reconvene into executive session. Is
23 that going to take too long? Why don't we go ahead
24 and do that? And we'll be back in about 20 minutes.

25 (The Board adjourns to executive

1 session: 11:13 - 11:38 A.M.)

2 CHAIR HARRIS: We're back into regular session
3 after executive session. We have an announcement to
4 make that the Board has selected a new executive
5 director.

6 And that will be "Ingrid Fermen"
7 (phonetic). And Ingrid has had widespread support
8 amongst the Board and has great background in racing.
9 And I am pleased that she has accepted the job, and
10 we will be looking forward to working with her.

11 And I'd like to thank the Search
12 Committee. Jerry Moss and Marie Moretti did an
13 outstanding job of searching for applicants. Perhaps
14 some of the Commissioners would like to make a
15 comment.

16 COMMISSIONER SHAPIRO: I, too, would like to
17 thank the Search Committee and all of the
18 Commissioners who worked very hard to come to this
19 decision. And I also want to thank Dan "Schiffer"
20 and John Reagan, who were the other finalists and who
21 are tremendous, tremendous people and great for the
22 industry and a tremendous asset to all of us.

23 I think Ingrid will be a huge help to
24 us and in helping us deal with some of our current
25 problems. And I just want to encourage everybody to

1 please give her your full support so we can bring
2 this industry forward.

3 CHAIR HARRIS: Okay. We'll move on to our
4 XpressBet presentation.

5 MR. McALPINE: Thank you, Mr. Chairman and
6 Commissioners. I should also introduce the other
7 people at the head table with me today. "Ron
8 Charles" (phonetic) who is no stranger to any of you.
9 Ron is, as you know, the Executive Director of MEC
10 California's operations.

11 Ron Luniewski, beside him, is the
12 president of XpressBet. And on my left is "Richard
13 Peton" (phonetic), who's in our business-
14 development, fan-development group and is going to
15 help me with this slide presentation.

16 If you'll bear with me, I'd direct
17 your attention to the slides; and I will walk you
18 through our presentation today.

19 First of all, in terms of our business
20 model, it starts with producing exciting live-racing
21 entertainment, maximizing distribution to customers
22 around the world, making it convenient and exiting
23 for customers to wager, and encouraging new customers
24 to participate in our game.

25 In terms of the importance of

1 television and account wagering to MEC as a company,
2 I think everybody understands that ADW is one of the
3 fastest-growing segments of pari-mutuel wagering.
4 ADW satisfies our company's desire to provide a fully
5 integrated customer experience for existing and new
6 racing fans at all venues, whether it's on-track,
7 off-track, or in-home.

8 And television is the ideal medium to
9 broadly distribute live horse racing to the world in
10 support of account wagering.

11 And, today, account wagering and
12 television are two cornerstones of the MEC global
13 business strategy. Just looking at account wagering
14 with respect to California, we view account wagering
15 as a extension of service to our traditional on-track
16 California customers.

17 And it is a critical service as we
18 integrate our customer strategy across all platforms.
19 It allows us to compete for new customers with other
20 forms of Internet entertainment. And it is part of
21 our commitment to and investment in California
22 racing.

23 Any profit, that XpressBet-HRTV makes,
24 has been and will continue to be reinvested into this
25 industry, including our California operations. And

1 ADW allows us to maintain the loyalty of existing
2 track customers and develop relationships with new
3 potential on-track customers.

4 As many of you know, MEC's California
5 racetrack investments were only the beginning. We've
6 invested more than \$250 million in the purchase of
7 Santa Anita, Golden Gate, San Luis Ray Downs, and the
8 lease to operate Bay Meadows for a period of years.
9 MEC is committed to developing new fans through the
10 establishment of new racing entertainment events such
11 as the Sunshine Millions.

12 As you know, we put \$1.2 million of
13 MEC's money into the purse supplement for those
14 races; and through 2005, our total commitment will be
15 3.6 million to purses. We also make a major
16 commitment, through NBC, to broadcast the races, and
17 the cost of that undertaking approximates \$3 million
18 over that same period of time.

19 And basically we see this as a major
20 coast-to-coast competition, showcasing California
21 racing and breeding. And we think it's met with
22 great response in its early years. And we thank both
23 the horsemen and the breeders in California who have
24 also shown tremendous support for this event. But
25 it's the kind of thing we can do in the future that

1 will help us attract new racing fans.

2 We've also made additional follow-on
3 investments of approximately a hundred-million
4 dollars in California -- from Front Runners
5 Restaurant to "Ceronas" (phonetic) to the
6 improvements in the Santa Anita apron, the new
7 entryway, the Golden Gate vet clinic, the barn
8 renovations at Golden Gate, substantial improvements
9 and expansion of the Santa Anita broadcast center,
10 and the HRTV California distribution and new-program
11 development -- all of which have been very important.

12 In terms of investing in new products,
13 XpressBet invested over \$650,000 in the development
14 and marketing of the "Magna 5 Pick 5," a new bet that
15 we introduced last year, which will be continuing in
16 2005.

17 The Magna 5 is a multitrack Pick 5
18 wager that is completed in less than an hour. Magna
19 5 typically included a race, each, from both Northern
20 and Southern California. And the Magna 5 drove over
21 \$500,000 in revenue for the California interest.

22 Another way to look at this: In our
23 opinion, this is a made-for-television bet. This
24 allows customers to watch a show, runs about an hour,
25 and see the excitement of five races; and for \$2,

1 have the opportunity to participate in a half-
2 million-dollar guaranteed pool.

3 Another investment we've made, which
4 we've unveiled recently, is the "Horse Wizard
5 Machine," which represents an MEC investment to
6 develop new on-track customers through our XpressBet
7 platform. We couldn't, in fact, do this without
8 having account wagering and XpressBet in California.

9 They're simplified wagering machines.
10 They run on the XpressBet platform. And we've
11 invested millions to bring this product to market.
12 And we're excited about, hopefully, introducing it at
13 other tracks and making it available to other tracks,
14 beyond MEC-owned properties, in the future.

15 Just a quick update on HRTV: We have
16 listened to the industry, to the Commission over the
17 past few years, and believe we have heard a very loud
18 and clear message that television distribution was
19 important. And we have dramatically, within the last
20 six months, expanded our television distribution
21 almost tenfold.

22 Today HRTV is available on cable
23 systems in San Diego, Orange County, Santa Barbara,
24 Sacramento. And just this week, we signed an
25 agreement with Comcast that will provide carriage in

1 the Los Angeles market. HRTV is now available to all
2 Dish Network subscribers on the basic system. The
3 sum of this is that, after only two years of business
4 at HRTV, we now reach 11.5 million homes.

5 For 2005, we've got a number of
6 programming initiatives and a number of marketing
7 initiatives that are aimed at attracting new fans and
8 appealing now to this 11-and-a-half-million-plus
9 subscribers.

10 On the XpressBet side, again, we've
11 listened to our customers, we've listened to the
12 horsemen, we've listened to some Commissioners who've
13 communicated with us. And we continue to make
14 significant investments in XpressBet to support our
15 customer.

16 We created a new call center. We've
17 added a new customer-relationship management system.
18 We've made significant upgrades to the data center
19 and the network environment to satisfy increasing
20 customer demand. And we've created a new wagering
21 interface with improved information -- including
22 horse name, minutes to post, et cetera, and other
23 features -- that will launch this month.

24 XpressBet systems provide consumer
25 protection and quality service. If you look at what

1 we've accomplished, basically what we've done is
2 based upon the following: XpressBet and HRTV have
3 listened to our customers. We've listened to our
4 horsemen partners. And we're seeking the broadest
5 possible distribution of live horse racing.

6 XpressBet and HRTV are working
7 together with the TOC to strengthen the industry for
8 the benefit of all stakeholders. And we look forward
9 to the renewal of our license so that we continue
10 working to achieving our collective goals.

11 We're very pleased to continue to be
12 involved in California horse racing. We're energized
13 about the future. We understand the importance of
14 working with the horsemen to make sure that this
15 product and these services will, in fact, be growth
16 engines for our business.

17 And in the early stages, it was
18 tough -- I can tell you -- to get the kind of
19 carriage on cable and satellite. But as we promised
20 two years ago, we would get it. And today we have
21 got in excess of 11-and-a-half-million homes. And
22 we're proud of that accomplishment.

23 And I would like to thank our track
24 people, who have also been very instrumental. And
25 one of the key focusses for 2005 will be a much

1 better track integration of the Horse Racing TV, the
2 XpressBet, and the on-track experience so that we
3 will be cascading customers from XpressBet, from HRTV
4 to experience the on-track opportunity of
5 participating in our game.

6 So, Mr. Chairman, hopefully, we'll be
7 favored with a relicensing coming out of today's
8 meeting.

9 CHAIR HARRIS: Any questions from the
10 Commissioners or the audience?

11 (No audible response.)

12 CHAIR HARRIS: On your new form of wagering,
13 how is it? Have you expanded out to the XpressBet
14 that you had at Oak Tree? Is that out in other
15 tracks now?

16 MR. McALPINE: You mean the "Horse Wizard"?

17 CHAIR HARRIS: Yes.

18 MR. McALPINE: The "Horse Wizard" -- what we
19 did is we created four centers across the country --
20 in Northern California and Southern California as
21 well as they've been introduced at Laurel, and they
22 were at the Breeders' Cup at Lone Star Park.

23 And so we will use those as test
24 markets. To a certain extent, we use them as
25 showrooms so that we can bring other track operators

1 to see the "Horse Wizard" and its features and we'll
2 try to introduce it to the marketplace across all of
3 our tracks. And we will expand this winter meet at
4 Santa Anita with more machines to grow that piece of
5 the business.

6 CHAIR HARRIS: Any issues here? Can I have a
7 motion?

8 COMMISSIONER MOSS: No. I just had one
9 question that, you know, I noticed you worked with
10 NBC in helping to promote some of the races,
11 certainly the Sunshine Million Race.

12 MR. McALPINE: Yes.

13 COMMISSIONER MOSS: Did anything ever come up
14 in those negotiations where you would like them to,
15 perhaps, show some races on their sports programs,
16 just general sports programs, you know, just to, in
17 that sense, help promote the sport at Santa Anita,
18 for example?

19 MR. McALPINE: We have ongoing discussions
20 with NBC. I guess we've got two primary
21 relationships with them. One is with regard to
22 Sunshine Millions. The other is that, currently,
23 they're the broadcaster of choice of the Triple Crown
24 Productions. And we're a one-third owner in Triple
25 Crown Productions.

1 So we've got a decent relationship
2 with them. And, frankly, they've done a pretty good
3 job for the sport.

4 The other program that we're involved
5 in, through our association with the NTRA, is we,
6 together with the NTRA and other members of the NTRA,
7 make our races available for a series of shows, some
8 of which are on different networks, through the
9 January time frame right through to the springtime.

10 And I think there are opportunities to
11 expand that. To me, one of the biggest missing
12 ingredients with those shows is there's not enough
13 what I would call "cascading." You've got this great
14 opportunity. You're in front of 85 million homes.
15 And we're not telling people enough about the
16 on-track experience.

17 And one of the things that I think is
18 critical for '05 is to really make sure that those
19 broadcasts do show people not just the horse race
20 that takes place, which is absolutely critically
21 important, but also the rest of the things that you
22 could experience at a racetrack if you came out.

23 And I think that a little bit gets
24 caught up in the politics of Track Company A versus
25 Track Company B versus other members of the NTRA.

1 And one of the missions that we're
2 trying to accomplish in 2005 is to get that clutter
3 out of the way and say, "Look. Those are unique
4 opportunities -- an hour or two on a weekend. Let's
5 try to make them cascade right through the system and
6 make sure that the customer knows that there's
7 something exciting happening on the track, in
8 addition to being able to watch it in the living
9 room."

10 COMMISSIONER MOSS: And, if NBC is amenable, I
11 mean perhaps all the advertising money that's used
12 from every track in the area should go NBC, provided
13 that they show a horse race every, you know, once in
14 a while on a sports program, to the general sports
15 audience, you know.

16 I think it's, you know -- we all watch
17 them run off every other sport. And for some reason,
18 we just don't seem to get a horse race on there, you
19 know. I would think that, if you're doing business
20 with NBC -- whether it's you or whether it's
21 Hollywood Park in any capacity -- you could certainly
22 either buy the time or you could make sure that they
23 represent horse racing as their panorama of sports
24 programming. That's all I'm saying.

25 MR. McALPINE: I agree with you. It's a great

1 opportunity.

2 CHAIR HARRIS: Any further issues?

3 (No audible response.)

4 CHAIR HARRIS: Can I have a motion?

5 COMMISSIONER SPERRY: So moved.

6 CHAIR HARRIS: It's moved. And seconded by
7 Marie to approve the XpressBet application.

8 All in favor?

9 COMMISSIONERS' VOICES: Aye.

10 CHAIR HARRIS: Okay. I do appreciate your
11 expanded coverage on HRTV. You guys have done a lot
12 more in the last year or two, especially getting on
13 the dish.

14 MR. McALPINE: Thank you.

15 CHAIR HARRIS: Okay. We've got two items
16 here -- Items 7 and 8 -- which I think we'll do
17 concurrently because they both deal with who will
18 operate the simulcast wagering facility at the San
19 Mateo -- well, at Bay Meadows or at the San Mateo
20 County Fair -- or that -- that right, really. Who's
21 going to present on that?

22 MS. NOBLE: Pat Noble, CHRB staff.

23 Bay Meadows Racing Association
24 proposes to operate as a simulcast wagering facility
25 at Bay Meadows Racecourse. This is a change in

1 ownership, not in location. It's the existing site
2 that's being used. They will operate on all days
3 that pari-mutuel wagering is conducted by a licensed
4 California meet. All items have been supplied for
5 that one.

6 And for San Mateo County Fair --
7 they're proposing to be at a new location -- the San
8 Mateo County Expo Center. They will operate all-day
9 simulcasting as conducted in Northern California
10 except the days Bay Meadows Racing Association is
11 conducting live race meets.

12 There are numerous items missing from
13 that application. And they're listed in the staff
14 analysis. Staff recommends that you hear from the
15 representatives.

16 CHAIR HARRIS: Easy way out.

17 Do we have representatives from Bay
18 Meadows and San Mateo County who would like to make a
19 short presentation of issues? As I see it, this is
20 really a legislatively -- interpretation of
21 legislative language. Jack or Rod? Someone?

22 MR. BLONIEN: Mr. Chairman, Members: Rod
23 Blonien, on behalf of the Bay Meadows Racing
24 Association.

25 We would respectfully request that our

1 application to operate the satellite-wagering
2 facility be granted and that the application of the
3 Fair's be set aside and not acted on.

4 First of all, I would like to indicate
5 that we have met all the requirements, all the legal
6 requirements, for licensure.

7 The Fair, on the other hand, has nine
8 items that are missing, including approval from the
9 Department of Food and Agriculture, approval of
10 NOTWINC, and on and on. They're listed in your
11 analysis.

12 But I would also like you to note that
13 we are supported by nine labor unions, who have given
14 us letters of support. And we'll be passing those
15 out to you shortly. We are supported by the hotel
16 employees and restaurant employees, SEIU 280,
17 Teamsters 450, IBEW, Teamsters 665, SEIU 1877, and
18 the San Mateo Building and Trades Union, as well.

19 We also have some pictures of our
20 facility that we'll be --

21 Could you get a little faster?

22 Okay. Thanks.

23 CHAIR HARRIS: I think we've got 'em already.

24 MR. BLONIEN: Okay. You've got the pictures
25 of our facility? Mr. Shapiro, earlier, was wondering

1 about money being spent on capital outlay at Bay
2 Meadows.

3 I don't know if you've been there in
4 recent years, but there have been substantial
5 improvements to the backside, in terms of stables and
6 quarters for the backstretch employees. And you can
7 see, in these pictures, it's a very attractive
8 facility.

9 Additionally, our facility -- not only
10 in terms of amenities is our facility superior to
11 that of the Fair's, but we can handle up to 10,000
12 people for satellite wagering.

13 The Fair, in their application,
14 indicates that they can accommodate 1,500 for general
15 admission and another 200 for premium admission; so a
16 total of 1,700.

17 Last year, there were a hundred-and-
18 fifty-one days of satellite wagering available when
19 live racing was not conducted. The average daily
20 attendance was 1,638. 50 percent of the time, the
21 attendance exceeded 1,500. On 39 days, the
22 attendance was between 2,000 and 3,319.

23 So in terms of the facility that the
24 Fair's proposing, according to their application,
25 they would be very stretched in terms of handling the

1 2,000. And they simply could not handle 3,319.

2 And also we had 8 days, in addition to
3 the 39, when we had attendance in excess of 2,500 up
4 to the 3,319. So we think, in terms of amenities,
5 we're superior. We meet all the requirements of the
6 statute. And we have a larger facility that can
7 accommodate the crowds that have been attending Bay
8 Meadows in recent years.

9 You -- most of you were present at the
10 CHRB meeting in September, when we went through the
11 legislative intent behind the enactment of this
12 section. And we feel compelled to go through that
13 again. We're going to do it in brief fashion.

14 Mr. Shapiro, I know that you were not
15 there. You hadn't been -- I think it was prior to
16 your appointment.

17 And so we will go through the
18 legislative intent. You --

19 COMMISSIONER SHAPIRO: If you're going through
20 it for me, I'm aware of this already. And you can
21 save the time. You don't need to; but if you want to
22 do it, do it.

23 MR. BLONIEN: Okay. You received a letter
24 from the Council for the San Mateo County Fair
25 indicating that legislative intent should only be

1 considered when you're looking at a statute that is
2 ambiguous.

3 However, and that -- there are many
4 cases that support that. But what we're looking at
5 here is we're looking at a statute that gives this
6 Board the discretion of whether or not to issue that
7 license to San Mateo County.

8 The law says that the Board may
9 authorize satellite wagering from San Mateo County.
10 That's Section 19605.45.

11 Going down to the next section, it
12 says, "The Board may authorize the satellite." It's
13 all discretionary. And in determining whether or not
14 for you to utilize your discretion, you need -- you
15 need to look at legislative intent. What did the
16 legislature intend when they gave this Board the
17 discretion to issue a license?

18 And so what I'm going to try to do, in
19 hurried fashion, is to go through the legislative
20 intent behind the enactment of this statute. And I
21 think I can speak loud enough that everyone can hear
22 me. I don't need a microphone.

23 But the first thing we'd point to is
24 the analysis from the Assembly Governmental
25 Organizations Committee. And just going down to the

1 bottom, it says, "This bill attempts to address the
2 problem by providing that, if Bay Meadows closes, the
3 Fair can operate satellite-wagering facilities on its
4 grounds, which is next to the San Mateo County Fair."

5 So it's premised on the closure of Bay
6 Meadows.

7 Next, we go to the analysis that was
8 submitted by the California Horse Racing Board,
9 signed by Roy Wood.

10 "Summary: This bill would allow San
11 Mateo County Fair to operate a satellite-wagering
12 facility on the fairgrounds or on leased property if
13 the Bay Meadows racetrack closes. This bill would
14 allow continuation of satellite wagering at San Mateo
15 County in the event that Bay Meadows racetrack
16 closes."

17 Next, we have a letter, from the
18 author to the governor, after the bill has cleared
19 the legislature. And it says, "AB 2338 simply
20 provides the San Mateo County Fair may operate a
21 satellite-wagering facility on its Fairgrounds or on
22 leased premises in San Mateo County contingent --
23 contingent upon the closure of Bay Meadows."

24 We have a letter from a member of the
25 Board of Supervisors in San Mateo County --

1 Mr. "Terry Hill" (phonetic). It says, "AB 2338 would
2 clarify the law by permitting satellite wagering in
3 San Mateo County if Bay Meadows closes."

4 Then we come back, and we have two
5 letters from the general manager of the Fair. The
6 first one is addressed to "Jerome Horton" (phonetic).
7 It says, "In anticipation of the closure of Bay
8 Meadows" -- it goes on -- "in certainty of the
9 outcome, once the track is closed and communicated
10 for the passage of this bill."

11 Then we have a letter from Mr. "Rood"
12 (phonetic), again, the general manager, to the
13 governor when the bill's on the governor's desk. And
14 he goes, "This will result in no horse racing at the
15 facility in the future" -- talking about the closure
16 of Bay Meadows -- "when this occurs, the bill will
17 allow them to have satellite wagering."

18 This is a copy of the enrolled bill
19 memorandum that the governor's staff prepares when
20 the bill file goes in to the governor.

21 And you will note that here it says,
22 "Bay Meadows closes its facility. San Mateo
23 currently conducts pari-mutuel wagering activities
24 and satellite-wagering facility housed in the Bay
25 Meadows grandstand. If and when Bay Meadows closes,

1 so does San Mateo's satellite operation."

2 Key words -- "if and when Bay Meadows
3 closes."

4 Governor Davis, then, after he read
5 the analysis, considered all of this issue in a
6 signing statement. That doesn't happen on every
7 bill. It's a somewhat -- it's not unusual, but it
8 happens infrequently.

9 "I'm signing AB 2338, which will allow
10 the San Mateo Fair to operate a satellite-wagering
11 facility on its grounds or on leased property if the
12 Bay Meadows Racetrack closes its facility. This bill
13 will allow for the continuance of satellite wagering
14 in San Mateo County in the event that Bay Meadows
15 Racetrack closes."

16 I mean seldom do you see such weight
17 of legislative intent expressed across the board.
18 And you have the words, the letters from the manager
19 of the Fair saying, "This is going -- we're going to
20 make this application once the satellite-wagering
21 facility closes."

22 Let me talk about what's in the best
23 interest of horse racing 'cause I think that is
24 the -- what this Board is really charged with doing.
25 If you decide to deny Bay Meadows's application, you

1 will have a situation where there will be only one
2 racetrack in the whole state that doesn't have a
3 satellite-wagering facility.

4 We all know that horse racing is very
5 fragile in this state. And we need -- more than
6 satellite-wagering facilities, we need racing venues.
7 We need places where people can take their horses and
8 run them. Right now, it's a touch-and-go situation
9 with respect to Bay Meadows because of the value of
10 the land.

11 The owner is making a commitment to
12 continue racing, at least in the near future. And
13 how far that goes out, I don't think anyone knows.

14 We also need to dial in and look at
15 what's happening in terms of Golden Gate Fields and
16 Casino "San Pablo" (phonetic). The governor has
17 signed a compact with the tribes for 2,500 slot
18 machines at Casino San Pablo, which is less than
19 seven miles from Golden Gate Fields.

20 At this point, the continued operation
21 of Golden Gate Fields is on the bubble because of
22 that facility. And I don't -- you know, last time I
23 talked about what happened to the Woodlands in Kansas
24 City when the riverboats got slot machines a short
25 distance away -- went from having record handle to

1 going out of business.

2 We also know what happened in
3 "Canterbury" (phonetic) Downs. We also know what
4 happened at other places. This full-scale casino
5 gambling and horse racing is incompatible. And
6 unfortunately, horse racing ends up being the more
7 fragile part of the industry. And it goes away.

8 So if that happens, you're only left
9 with one facility in Northern California. And we
10 need to ensure that Bay Meadows continues to operate
11 as a racing venue.

12 I think that, overall, if you look,
13 again, at what's best for California horse racing; if
14 you take a look at the size of our facility, compare
15 it with their facility; if you look at the fact that
16 we have complied with all the requirements, including
17 the workers' comp that was referenced in your
18 analysis -- it's there now; we have satisfied that
19 requirement -- that you are compelled to grant us our
20 license and to set the one for the Fair aside.

21 And with that, I thank you. And I'd
22 be happy to answer any questions that you may.

23 COMMISSIONER SHAPIRO: I have a question.

24 MR. BLONIEN: Yes, sir.

25 COMMISSIONER SHAPIRO: Let's cut to the chase.

1 How long can we count on Bay Meadows being there to
2 conduct horse racing? I mean I understand all those
3 arguments. And I couldn't agree with you more that
4 we want to see horse racing in Northern California
5 exist.

6 And both tracks are up in precarious
7 positions. How long are the owners of Bay Meadows
8 willing to commit to the California horse racing
9 industry to keep it open for horse racing? That's
10 what it comes down to.

11 MR. LIEBAU: Mr. Shapiro, I'm -- my name is
12 Jack Liebau, again. I'm president of the Bay Meadows
13 Racing Association.

14 I'm really not in any position to make
15 that commitment. I would say that every day that Bay
16 Meadows racetrack is open is better than having it
17 being closed. We certainly have put together
18 another -- a management team to run the track. Those
19 people have been given all long-term contracts.

20 So I mean there is no indication that
21 the track is going to close immediately.

22 I would say that I have in my hand
23 here an article -- and I don't know whether people
24 put much faith in what's written -- but the article
25 is from the San Francisco Business Times. And it

1 says, "Next step in San Mateo track makeover hits
2 snag. After a smooth approvals process for the first
3 stage of the Bay Meadows redevelopment, things are
4 starting to get complicated in -- for the developer
5 of Bay Meadows Land Company."

6 I mean right next door to Bay Meadows
7 in San Mateo -- and I'm certainly not saying that
8 this is going to happen in San Mateo, but it's a fact
9 of life -- Redwood Shores just had a development that
10 was not quite as big as the Bay Meadows site. It was
11 approved by all of the agencies and the city council
12 and everything else.

13 There was a referendum. It was voted
14 down. There's just no control in California as to
15 how long it's going to take in the entitlement
16 process. Nothing can happen until you get the
17 entitlements. If the neighbors, which is called "The
18 Save Bay Meadows Committee," goes for the referendum,
19 that's another thing.

20 If Bay Meadows had gotten its
21 entitlements in 2000, it would have been all for
22 office buildings because that's what the market was
23 at that point in time. As you know, there is no
24 market on the peninsula right now. We have
25 see-through office buildings.

1 So we're not only looking at it being
2 speculated as to when we will get those entitlements,
3 you got to speculate on what the market's going to be
4 at that point in time. And all I thought I can leave
5 you with is I don't think that we're going to be
6 going out of business in the near future. And every
7 day we're in business, I think it's in the best
8 interest of racing in Northern California.

9 CHAIR HARRIS: Could you also say that, by
10 being a satellite facility, is an additional reason
11 to stay there as a track?

12 MR. LIEBAU: Oh, absolutely, because I mean
13 the stream -- the revenue stream to any live track
14 that it gets during the off season is extremely
15 important. I mean it -- I mean that's just a given.

16 I mean there's no question that the
17 operation of the satellite facility is profitable and
18 contributes to our bottom line and, for that reason,
19 makes it possible for us to stay in business. If we
20 didn't have that, I can assure you that the demise of
21 Bay Meadows will be sooner than later.

22 I'm not too sure that there isn't any
23 racetrack in California, probably other than Del Mar,
24 that's not sitting on land that at some point in
25 time, has more -- better use as far as the return

1 that can be derived from it, whether it's Hollywood
2 Park, Los Alamitos, or wherever. I mean it's just a
3 fact of life.

4 I will say this, that, in 1992, when I
5 first went to Bay Meadows, it was predicted, at that
6 point in time, that we would be out of business and
7 as I -- you may or may not know -- Mr. Harris was
8 then chairman of the board. We were in proxy fights
9 about closing down Bay Meadows and moving everything
10 to Golden Gate Fields.

11 So I mean there's just no question. I
12 mean I -- it's, you know -- what? -- 12, 13 years
13 since Bay Meadows was supposed to be closed then.

14 CHAIR HARRIS: Well, can we hear from the San
15 Mateo arguments too?

16 MR. CARPENTER: First of all, thank you for
17 your time today. I'm Chris Carpenter, General
18 Manager of the San Mateo County Expo Center, San
19 Mateo County Fair.

20 And we do respectfully request your
21 approval on our applications for license to conduct
22 satellite wagering. I think, to begin, I'd like to
23 point out that, on two separate occasions, we have
24 met with Bay Meadows at length over a few days.

25 And this -- the last meeting just

1 recently ended Tuesday afternoon of this week to
2 negotiate another long-term agreement. Those
3 negotiations ended Tuesday in not putting together a
4 formal agreement.

5 And that also is why we're meeting in
6 front of you today, asking for a request to approve
7 our license for a satellite-wagering facility. There
8 are certain items missing in our application at this
9 point. But we are very much ready to move forward
10 very quickly and would even go so far as to say that
11 there are plans for this facility out there.

12 CHAIR HARRIS: Is there a consensus by all the
13 parties that this -- the language is "may? I mean
14 the Board would have the right to give to either --
15 either facility? I mean is that a given? Or is San
16 Mateo taking the attitude that you should have it
17 because of the law?

18 MR. McCARTHY: Niall McCarthy. I'm the
19 attorney for San Mateo County Fair, the one who
20 submitted the November 18 letter.

21 In fact, just the opposite is true.
22 The Board has essentially two options here. One is
23 to give no satellite-wagering license; and, two, is
24 to give it only to San Mateo County Fair.

25 We had a discussion there -- the

1 legislative history. And what I found was
2 interesting was there was no discussion of the
3 statute. And the statute itself is extremely clear.

4 What the statute says is, if the
5 entity who had a license in 2002 is not licensed in
6 the subsequent year, San Mateo County Fair has the
7 right to satellite wagering. And if you look at the
8 statute, there certainly is the word "may." But if
9 you read the entire sentence, it says, "The Board may
10 authorize satellite wagering in San Mateo County only
11 as provided in this section."

12 And the section then describes the
13 Fair has the exclusive right, the point being
14 relatively simple from the legal perspective that, if
15 a statute is unambiguous, you, as public officers,
16 have a duty to discharge the statute.

17 And the reason I would suggest that
18 Mr. Blonien didn't refer to the statute is because
19 just that. The statute is extremely clear that San
20 Mateo has that exclusive right -- San Mateo Fair.

21 Does that answer your question?

22 CHAIR HARRIS: Yes.

23 Any questions? Or maybe I guess Norm
24 is -- go ahead.

25 MR. TOWNE: Yes. I'd like to speak briefly to

1 intent. If the intent of the legislation is, as Bay
2 Meadows Racing Association represents it --

3 ASSISTANT DIRECTOR MINAMI: Identify yourself,
4 please.

5 MR. TOWNE: Norm Towne, representing San Mateo
6 County Fair.

7 THE REPORTER: Thank you.

8 MR. TOWNE: If the intent of the legislation
9 is, as Bay Meadows Racing Association says it is,
10 that the trigger point for the Board to exclusively
11 license the facility to the San Mateo County Fair is,
12 in fact, the closure or cessation of racing at Bay
13 Meadows, we wouldn't have run the bill in the first
14 place because, if Bay Meadows closes or racing ceases
15 there, the only party that could have a
16 satellite-wagering facility in San Mateo would be a
17 fairground, namely, the San Mateo County Fair.

18 We wouldn't have run the bill. No.
19 The intent, all along, was the fear that the owner of
20 the property, who had already demonstrated that they
21 were willing to take half of it and devote it to
22 nonracing uses, would continue to pursue development
23 and there would be no live racing and no satellite
24 wagering in San Mateo County to the detriment of both
25 the Fair and the then-operator Magna.

1 Magna and the Fair went jointly to the
2 legislature to get this bill passed. And that
3 specific language was inserted because it was in the
4 best interests of the Fair and the best interests of
5 the then-operator Magna not to have the property
6 owner be the licensee and/or a designated licensee of
7 the property owner in a subsequent year when Magna
8 wasn't licensed whose best -- who didn't have the
9 best interests of Northern California Thoroughbred
10 racing at heart.

11 In fact, the subsequent operator could
12 have been another breed operator, not to denigrate
13 any other breeds. But Magna and the San Mateo County
14 Fair and Thoroughbred racing in California --
15 Northern California in particular -- were best served
16 by this bill because it's the best of both worlds.

17 The first preference of the Fair, all
18 along, has been for the Bay Meadows Racing
19 Association to continue to operate the live fair race
20 days and to continue to operate the satellite-
21 wagering facility in its present location.

22 We have offered the Bay Meadows
23 Racing -- to the Bay Meadows Racing Association to
24 allow them to do that very thing, without
25 compensation, so long as they conduct a live race

1 meeting. I don't know what else the Fair can do in
2 this instance or how more fair they can be -- pun
3 intended. There is no loss to Bay Meadows.

4 The only issue here is "Who gets the
5 license? Who holds the license?"

6 If the Fair is willing to hold the
7 license -- as the law says, that's the only licensee
8 that this Board can recognize -- if the Fair is
9 willing to hold the license and allow the Bay Meadows
10 Racing Association exclusively to operate so long as
11 they conduct live racing, without compensation, why
12 is there any harm here?

13 And why isn't that in the best
14 interests of racing, speaking to Mr. Blonien's point?

15 COMMISSIONER MORETTI: Can I just clarify
16 something? So the Fair -- satellite wagering would
17 continue at Bay Meadows Racetrack, but it would be
18 operated by the Fair?

19 MR. TOWNE: No. Based on our last offer to
20 the Bay Meadows Racing Association, as I understand
21 it --

22 And, Chris, you can correct me and
23 Mr. Liebau can also if it's not correct.

24 -- but the last offer, as I understand
25 it, was that the San Mateo County Fair would apply

1 annually to the Board for a license to conduct
2 satellite wagering at the Bay Meadows Racetrack and,
3 in our agreement, exclusively appoint the Bay Meadows
4 Racing Association as the operator of that satellite-
5 wagering facility, both during the time they're
6 running live racing and in the off parts of the year
7 when they're not conducting live racing, under the
8 Fair's license without compensation to the Fair, so
9 long as they are running live racing.

10 CHAIR HARRIS: So could you comment on that?

11 MR. LIEBAU: Yes. I can comment on two things
12 that Mr. Towne might want to address.

13 First of all, there's legislation that
14 has been passed where the Cow Palace could put a
15 satellite at their facility in Daly City. If the Cow
16 Palace put that facility in Daly City and this
17 legislation did not exist, the San Mateo County Fair
18 would not be able to have a satellite facility
19 because of the 20-mile limitation. That's a problem.

20 As far as what the proposal has been,
21 we have had proposals from this Fair board that we
22 frankly consider to be extortion. Their first offer
23 was that they wanted us to pay 'em \$750,000 annually.
24 We don't even make that much from the satellite.

25 Their second proposal was that, after

1 so many years, we would pay -- I think after five
2 years, we would start paying them \$250,000 a year.

3 We were close to an agreement. But I
4 have in my hand here a letter from the county
5 counsel. It's completely contrary to what they're
6 now saying. I'll read: "This grant of an exclusive
7 right to Bay Meadows Racing Association will be --
8 will be without compensation to the Fair for five
9 years or until live racing ceases at Bay Meadows
10 Racecourse, whichever occurs" --

11 I have a little credibility problem
12 here. And I also have a problem with how the
13 California Horse Racing Board can grant a license to
14 the Fair that's a complete and total sham. They have
15 no interest in the Bay Meadows Racetrack. They have
16 no lease. They have nothing.

17 And are you going to license the Fair
18 and then just blink and have it be operated by the
19 Bay Meadows Racing Association? I mean this is --
20 what -- what --

21 COMMISSIONER MORETTI: The live racing
22 continues at Bay Meadows.

23 MR. LIEBAU: Yes.

24 COMMISSIONER MORETTI: We're not talking
25 about --

1 MR. LIEBAU: No. I understand that. I
2 understand. But I mean what they are suggesting,
3 which is contrary to the offer that was submitted to
4 us on -- at 12:00 noon on November 30, where they're
5 saying that, you know, "We don't want any money and
6 that it's forever until you quit" is just not true.
7 It's just not there.

8 And what they're -- what I was
9 thinking --

10 COMMISSIONER MORETTI: Is that what you -- are
11 you in agreement with him?

12 MR. CARPENTER: Well, no. I have the same
13 document. And as Jack read, I guess, which is what I
14 don't understand is this grant of exclusive right to
15 BMRI will be "without compensation to the Fair for
16 five years or until live racing ceases at Bay Meadows
17 Racecourse, whichever occurs sooner."

18 MR. LIEBAU: And what happens -- what happens
19 after the five years if we're still running?

20 MR. CARPENTER: If you're still running, it's
21 covered in there.

22 MR. LIEBAU: No. I --

23 MR. CARPENTER: -- till live racing ceases --

24 MR. LIEBAU: No, it does not, Mr. Carpenter.

25 You know, you have to read. It says,

1 "whichever occurs first." If the five years comes
2 first and we're still running, you would -- there --
3 you're not saying it's without compensation.

4 MR. CARPENTER: Well, in a conversation that I
5 had with "Paul Scannel" (phonetic), who has been
6 leading up our negotiations on this, which is
7 assistant county -- Assistant County Manager for San
8 Mateo County, he stated that, in the negotiations, we
9 would even be willing to change that to say 6, 7, 8
10 years -- whatever Bay Meadows would like to see in
11 the agreement.

12 And we stand on that same premise.

13 COMMISSIONER SHAPIRO: Are you willing to make
14 it say "the latter of"?

15 MR. LIEBAU: Well, Mr. Shapiro, I don't know
16 whether they are or not.

17 I mean the problem is would the Horse
18 Racing Board be comfortable in licensing an entity
19 that has no prior experience in this business, that
20 doesn't have any interest in the property where their
21 satellite facility is going to be conducted, and is
22 not going to have anything to do with the operation
23 of the facility? It's a complete and total sham.

24 CHAIR HARRIS: I -- I think the only reason to
25 do that would be that if we felt that was the only

1 option we had because of the legislation.

2 But I think what's clear is that if
3 Bay Meadows -- if racing at Bay Meadows goes away and
4 it's developed, clearly the current Bay Meadows
5 operation would not have a satellite facility. They
6 wouldn't. It's just what's happening in the interim.

7 So really we're -- you're, in a way,
8 not that far apart with this offer. But I don't see
9 what the purpose of the offer is other than if, you
10 know, we legally couldn't license Bay Meadows.

11 MR. McCARTHY: If I can go -- Niall McCarthy
12 speaking.

13 If I could just go back to a
14 fundamental point -- it's certainly admirable that
15 both sides have sat down and tried to work this out.
16 But if I could just direct the Board's attention to
17 the Business and Professions Code, Section
18 19605.45 -- again, we saw this in the legislative
19 history -- no one actually told you what the statute
20 says.

21 And it is extremely clear. It says --
22 quote -- "The Board may authorize satellite wagering
23 in San Mateo County only as provided in this
24 section."

25 It then states, "The facility may be

1 operated by the Fair, or the Fair may contract for
2 the operation and management of that satellite-
3 wagering facility."

4 There's only one option available
5 under this law as it's written, which is San Mateo
6 County Fair gets the license. So without going to
7 the factual history of why Mr. Liebau is wrong on his
8 criticisms, it's -- frankly it's irrelevant. And the
9 legislative history is irrelevant. We have a law
10 that is extremely clear, written by the legislature.

11 And if the Bay Meadows group has a
12 problem with it, frankly, their problem should be
13 directed to the legislature. But I would suggest,
14 respectfully, to this Board that your obligation
15 would be to follow this licensing requirement.

16 I don't think there's really any
17 ambiguity in what the language says.

18 COMMISSIONER MORETTI: So we have a obligation
19 between law, intent. Very frankly, it doesn't sound
20 like you're prepared to turn around and operate it.
21 You don't have all of the --

22 MR. TOWNE: Let me speak to the preparation
23 thing, if I may. And I think Mr. Harris alluded to
24 this.

25 If, in fact, the Bay Meadows Land

1 Company goes before the planning commission, the city
2 council, and development rights move ahead for that
3 property and it's on a fast track and the license is
4 being held by the Fair and Bay Meadows is operating
5 their live meet and their satellite-wagering
6 facility, then we know that that facility is going to
7 be developed.

8 The San Mateo County Fair, just as all
9 fairs in California, who have spent \$67 million
10 dollars developing the satellite network, would be
11 prepared to put a facility in place, a first class
12 facility. We also, you know, are not -- we're trying
13 to be good citizens and do things in the best
14 interests of racing here. We're not holding anyone
15 up in terms of their monetary loss to Bay Meadows
16 Racing Association or to the industry in general.

17 COMMISSIONER SHAPIRO: It's -- the real crux
18 of the issue here is that law states that, if Bay
19 Meadows Operating Company ceased to race -- to
20 exist -- okay? -- but now there's Bay Meadows Racing
21 Association. Okay?

22 And -- and they are conducting the
23 live racing. And crucial to their business is
24 conducting the simulcasting as well.

25 Now you're stepping in, if I

1 understand this -- and correct me if I don't -- and
2 you're saying, "But the law says that, if Bay Meadows
3 Operating Company" -- unfortunately it named the
4 operator -- "ceases to exist, they don't have the
5 right. We have the right."

6 Isn't that really what your position
7 is here?

8 MR. McCARTHY: I'll just quote the statute for
9 you.

10 COMMISSIONER SHAPIRO: Don't quote the
11 statute. Just tell me -- just tell me. Isn't that,
12 in layman's terms, what's happening?

13 MR. McCARTHY: Layman's terms, you're
14 essentially correct. What it says is --

15 COMMISSIONER SHAPIRO: Okay. So --

16 MR. McCARTHY: -- license.

17 COMMISSIONER SHAPIRO: All right. But there
18 is an active racing association. The racetrack is
19 still a racetrack and operating as a racetrack. So
20 aren't you really looking at a technicality as a
21 means to grab the simulcasting?

22 MR. McCARTHY: Oh, not at all. I think the
23 problem with the premises your -- of your question is
24 that you're assuming Bay Meadows Operating Company is
25 essentially the same entity as the --

1 COMMISSIONER SHAPIRO: No. I'm not.

2 I'm saying that law, unfortunately,
3 didn't recognize that another racing association
4 conducting racing at the same time and the same
5 place, that's supporting the overall racing industry
6 by doing that, should have been able -- and it
7 probably was the intent, based on all the
8 communications I've seen -- that it was really the
9 intent that, so long as the track continued to
10 operate as a live racing facility, that's where the
11 simulcasting should be.

12 What you're doing is you're saying,
13 "It doesn't matter that they're a live racing
14 association. Technically, the law says that their
15 ability to hold simulcasting expired in 2002, when
16 Bay Meadows Operating Company ceased to exist."

17 And I don't think that is in the
18 benefit of California horse racing. We appreciate
19 that you want -- or I appreciate that you want to
20 continue simulcasting and build a nice facility. I
21 wish they had a long-enough commitment that they
22 could do that on their facility.

23 But to take it away from the operating
24 track would put them at a tremendous unfair
25 disadvantage. I'm assuming you see that. Do you

1 not?

2 MR. TOWNE: Yes. Other than -- except that
3 all we're taking away from them is the technicality,
4 none of the practicality --

5 COMMISSIONER SHAPIRO: No. You're using the
6 technicality to take away the license --

7 MR. TOWNE: The reality --

8 COMMISSIONER SHAPIRO: -- feature of their
9 business.

10 MR. TOWNE: The reality is they will still
11 operate their business just as they do --

12 COMMISSIONER SHAPIRO: Unprofitably.

13 MR. TOWNE: No. We're not extracting money
14 for that. There's no compensation required.

15 COMMISSIONER SHAPIRO: There's just --

16 CHAIR HARRIS: I mean I guess there's -- the
17 bothersome thing is it's not straightforward. It's
18 just more straightforward to license Bay Meadows.
19 And eventually, if they ever go away, it's going to
20 be San Mateo anyway.

21 But to have this period of time -- I
22 don't know what that really accomplishes.

23 MR. BLONIEN: Mr. Harris --

24 COMMISSIONER MORETTI: But the --

25 MR. BLONIEN: Pardon me.

1 COMMISSIONER MORETTI: Oh, I just wanted to --

2 CHAIR HARRIS: Yeah. I guess we've got a case
3 here where the intent of the law -- as I remember the
4 law, when I was going through -- clearly the intent
5 was not the way the thing has played out.

6 MR. BLONIEN: We have a letter from Jerome
7 Horton, who's the chairman of the Assembly
8 Governmental Organizations Committee, which this bill
9 went through. And it's in support of the Bay Meadows
10 Racing Association application. And the letter's
11 being handed out to you.

12 Let me just quote the second-to-last
13 paragraph. "It's important to promote and encourage
14 the continuation of live racing. By stripping --
15 stripping the racetrack of its right to continue to
16 conduct satellite wagering, it jeopardizes the
17 racetrack's economic viability. It is important that
18 Bay Area racetracks, like Bay Meadows and Golden Gate
19 Fields, continue to receive public support and
20 visibility to maintain the vital industry's economic
21 stability."

22 And on this issue of legislative
23 intent, we found a case -- it's a brand-new case.
24 It's July 21 case from the Second District Court of
25 Appeal here in Los Angeles. We're going to hand that

1 to you as well. Let me quote from the case in part.

2 "Words are inexact tools, at best.

3 And for that reason, there is wisely no rule of law
4 forbidding resort to explanatory legislative history,
5 no matter how clear the words may appear on
6 superficial examination. Thus, where the statutory
7 language is not ambiguous, the intent of the
8 legislature is the end and aim of all statutory
9 construction."

10 Gentlemen and Miss Moretti, I got to
11 tell you: I think this is an issue of integrity.
12 How can you go to Sacramento, tell the Assembly G.O.
13 Committee, tell the Senate G.O. Committee, tell the
14 Appropriations Committees in both houses, tell the
15 governor that this will happen when Bay Meadows
16 ceases to exist as a racetrack, then come here and
17 say, "No. If there's a change in the operating
18 company, then this triggers"?

19 How can they do that? I mean I
20 wouldn't have the gall to go to the legislature and
21 tell them one thing and come here and tell you
22 something else. I mean good heavens.

23 COMMISSIONER SHAPIRO: Mr. Blonien, I spoke
24 with Assemblyman Horton. And he also offered to get
25 "Lou Papet" (phonetic) on the phone. And you're

1 right. And I think he made it very clear that the
2 legislative intent was for Bay Meadows, as long as it
3 operated as a racetrack, to continue to hold the
4 license.

5 The question is, if they're willing to
6 stand in, as a licensee, at no cost to you and would
7 commit to a sufficient term, why is that not
8 acceptable, then, to you? What are you giving up by
9 doing that?

10 MR. BLONIEN: Well, I, just from a --

11 MR. LIEBAU: Just one minute, Rod.

12 One other part of their agreement is
13 that we pay 'em \$250,000 for planning on their
14 property.

15 COMMISSIONER SHAPIRO: You know you're making
16 me dizzy with all this --

17 MR. LIEBAU: Yes. I understand. But I mean
18 the facts here are being somewhat skewed.

19 COMMISSIONER SHAPIRO: Okay.

20 MR. LIEBAU: I mean they're telling you that,
21 oh, we can be there forever, when their negotiator
22 has sent us a letter and said, "No." They're saying
23 it's without compensation.

24 You know, it's just baloney. They
25 want 250,000 on top of all this for planning. You

1 know, let's get down and tell the truth, guys. Let's
2 get with the integrity.

3 COMMISSIONER SHAPIRO: Okay. They want
4 \$250,000 for what? For planning?

5 MR. LIEBAU: Planning on their property, sir.
6 It's in the agreement.

7 COMMISSIONER SHAPIRO: Okay. Is that true?
8 Are you willing to waive that, then?

9 MR. CARPENTER: Jack Liebau offered that in
10 negotiations. We did not ask for that.

11 COMMISSIONER SHAPIRO: Okay. Well, let's say
12 he offered it and changed his mind. Are you willing
13 to --

14 MR. LIEBAU: If anybody thinks Jack Liebau
15 would offer \$250,000, they're nuts.

16 CHAIR HARRIS: Maybe he thought it was \$250.

17 COMMISSIONER SHAPIRO: Well, Mr. Carpenter,
18 if he offered it and he didn't mean it, are you
19 willing to waive the \$250,000 and stand in their
20 place?

21 MR. CARPENTER: I can talk to Paul Scannel,
22 who was selected on San Mateo County to negotiate the
23 agreement. And, yes, I will talk to him.

24 COMMISSIONER SHAPIRO: And, Mr. Liebau,
25 would -- come on back now.

1 CHAIR HARRIS: The whole other part of the
2 issue, though, do we -- I mean, unless we absolutely
3 have to do it this way, do we really want to do it?
4 I mean it seems like we ought to have a more
5 straightforward process.

6 But I guess it's really a legal
7 question.

8 MR. BLONIEN: I mean if there are deficiencies
9 and you need to take action against the licensee,
10 that's the Fair. But the folks that are operating
11 are -- is Bay Meadows. I mean I don't think you want
12 to set this precedent -- well, I mean having someone
13 hold the license and somebody else operate.

14 CHAIR HARRIS: The only reason we'd do that
15 would be if we had some legal opinion that we
16 absolutely had to do that. But as I see it, it's
17 ambiguous enough and there's these court cases that
18 there's justification to just license directly.

19 MR. BLONIEN: And there's one last thing: I
20 would respectfully request that, if there is a motion
21 made to grant the license to Bay Meadows, that it be
22 indicated that this is the opinion of the Board for
23 the best interest of horse racing because we've been
24 told that we're likely to be in superior court and
25 have this challenged.

1 And if you indicate this is for the
2 best interest of horse racing, it makes it much more
3 difficult for them to overturn the ruling of the
4 Board.

5 COMMISSIONER MORETTI: I'm told that our
6 deputy attorney general has an opinion on this. I'd
7 like to hear it.

8 DEPUTY ATTORNEY GENERAL KNIGHT: Yes. We've
9 been asked to look at the issue.

10 And we have. It's our informal advice
11 that the County's position is essentially the correct
12 one. That's how we come out on it for a couple of
13 reasons. The statute -- as they point out, the
14 language of the statute is unambiguous. It's very
15 clear what it says.

16 And, secondly, in addition to -- and,
17 admittedly, the legislative intent was all talking
18 about the closure of Bay Meadows. No question about
19 that. They didn't seem to envision this scenario
20 even happening when the bill was going through the
21 legislature.

22 However, there's another piece of
23 legislative background which was not brought out.
24 And that is that there was, in the same bill, this
25 trigger language.

1 This same trigger language was added
2 to another statute which allowed the County -- which
3 is a statute which allows the County to shop for a
4 new venue to race. And that statute already had, in
5 it, the trigger language of the closure of Bay
6 Meadows.

7 So this legislative change added the
8 trigger language of the licensee no longer existing
9 to a statute that already had the trigger language of
10 the closure of Bay Meadows. So we found that to be
11 significant in our legal analysis, you know.

12 Just so you know, that was the thought
13 process we went through.

14 CHAIR HARRIS: Did you --

15 DEPUTY ATTORNEY GENERAL KNIGHT: This is not
16 an absolute. There's no black and white on this.
17 This is our best advice.

18 CHAIR HARRIS: This case -- this Kramer
19 case -- somebody mentioned that. I mean the real
20 point is, is this the letter of the law or the intent
21 of the law? And it looks like this Kramer case talks
22 about that and says --

23 DEPUTY ATTORNEY GENERAL KNIGHT: There are
24 some cases -- and we've cited in our advice to the
25 Board as well -- there are cases that have said in --

1 if it make -- if it leads to an absurd result that
2 you can -- the courts have, in the past, ignored the
3 literal language of the law.

4 However, in this case, the intent is
5 clearly to continue satellite wagering in San Mateo
6 County, which is met by this. And that sort of went
7 into our thinking. Again, this is a balancing --
8 it's a sort of a -- it's a -- there's no black-and-
9 white square corners that you can reach on this kind
10 of a dilemma.

11 But we did conclude that was our best
12 advice to the Board that -- that the closure or --
13 I'm sorry -- that the change in the licensure did
14 trigger the language that now makes the County the
15 exclusive licensee or its -- it can contract, as was
16 pointed out by its counsel.

17 The statute specifically provides that
18 the County can contract for provision of satellite
19 wagering.

20 CHAIR HARRIS: But, clearly, if Bay Meadows
21 Operating Company had stayed in place, this wouldn't
22 be an issue. It seems to me that law maybe was
23 encouraged by Magna to give them better negotiating
24 strength with the landowner.

25 MR. DARUTY: Chairman Harris, Scott Daruty,

1 Chief U.S. Counsel for Magna Entertainment.

2 I would like to address that point if
3 I might. And I'd also like to address -- Norm Towne
4 had made some comments earlier that this legislation
5 was passed at the insistence or suggestion of Magna.
6 That is simply not correct.

7 It was passed at the behest of one
8 individual person. That person used to be in charge
9 of California's -- Magna's California operations. I
10 think we all know who that is. He's now arguing that
11 the statute doesn't mean what it says it means.

12 No one within Magna's organization,
13 including myself, was aware of that statute until
14 after Mr. Liebau's departure. So, you know, we don't
15 really have a dog in this fight. And I just wanted
16 to make clear this was not some sort of Magna plot to
17 put ourselves in better negotiating position. Thank
18 you.

19 CHAIR HARRIS: If I could -- I think you had a
20 dog in the fight, but the dog left.

21 MR. McCARTHY: If I could, very briefly, I've
22 been waiting to circle back to you, Commissioner
23 Shapiro, on this issue of "Was it a technical change
24 in the law? Are we capitalizing on a technicality?"

25 If you have a chance and review the

1 letter brief we submitted, beginning on Page 4, you
2 will see that there are various triggering provisions
3 in the statute. The one we're talking about is the
4 "failure to relicense." But there's other triggering
5 provisions, which the attorney general just
6 mentioned, that specifically require a closing.

7 So the legislature had the option of
8 requiring the closure of Bay Meadows as the
9 triggering provision for this satellite wagering.
10 They chose not to do that.

11 Then we walk through the legislative
12 history after that. And one thing you'll find, as
13 you look at legislative history, is the purpose of
14 legislative debate is to get both sides of every
15 equation. And we detail the letters that essentially
16 oppose the ones you're seeing here.

17 The end result is really what matters.
18 In any type of legislative history, you'll have reams
19 and reams of paperwork on both sides. The key is how
20 the law ends up. And if you look at our brief, I
21 think you'll see it's more than a technical issue
22 we're arguing.

23 The legislature had a specific option
24 to choose between closure and relicensing.

25 COMMISSIONER SHAPIRO: I appreciate that. But

1 having spoken to one of the authors and one of the
2 people that handled this legislation and knowing what
3 I think the intent was, which was similar to all
4 racing associations -- that they be allowed to
5 conduct simulcasting -- it doesn't make sense, the
6 position that you're taking.

7 I think that you are using what is a
8 glitch in the way the law was written to your
9 advantage. And I just think that it's unfair. And I
10 think that your application is woefully incomplete.
11 And I just think this is unfair to do to Bay Meadows.
12 I think that you should be giving -- they are the
13 rightful people, as long as they are operating
14 racetrack, a live racetrack, to operate the
15 simulcasting.

16 And I think that the law -- you made
17 your interpretation of it. But the authors of it
18 don't support that interpretation.

19 MR. McCARTHY: I think, on the horse racing
20 side, I'll let these gentlemen speak to the
21 application. On the legal --

22 COMMISSIONER SHAPIRO: I'm not a lawyer; so
23 don't talk to me about the law.

24 MR. McCARTHY: All I can say is that, from a
25 plain-language perspective, if you look at a statute

1 and the legislature has the option of picking one
2 trigger or closure or another trigger -- this is in
3 the same statute -- your relicensing requirement --
4 and they pick the relicensing requirement, there's a
5 reason for that.

6 And the one gentleman you spoke to may
7 disagree with that reason. But we have to look at
8 end product is all I'm respectfully suggesting.

9 MR. BLONIEN: Just one last thing -- again,
10 the Kramer case. "Thus, even where the statutory
11 language is not ambiguous, the intent of the
12 legislature is the end and aim of all statutory
13 construction."

14 Thank you.

15 CHAIR HARRIS: This application, basically,
16 is -- is it, if you get one and you just have it? Is
17 it a yearly process or what?

18 MR. BLONIEN: It's a yearly process.

19 CHAIR HARRIS: So if we do could it this
20 year -- I mean my suggestion would be to give it to
21 Bay Meadows this year. And you guys sort it out over
22 the year and get the legislative clarification, and
23 then we come back and go from there the next year.

24 COMMISSIONER BIANCO: I would like to make
25 that motion, John.

1 COMMISSIONER MOSS: I second it.

2 CHAIR HARRIS: Is it -- it's just -- I think
3 that the motion would be that that's -- the reason
4 we're doing it, it would be in the best interest of
5 racing.

6 COMMISSIONER SPERRY: Best interest of racing.

7 MR. TOWNE: Mr. Chairman, may I make one
8 point?

9 On the lack of some items in the -- in
10 the application of the San Mateo County Fair --
11 specifically, the approval of the California
12 Department of Food and Agriculture -- they also
13 reviewed the statute. And it is their
14 interpretation, as it is mine, that the approval of
15 the Department of Food and Agriculture is unnecessary
16 because Section 19605.45 specifically excludes those
17 sections that require the approval of the Department
18 of Food and Agriculture.

19 And while they're supportive of our
20 efforts, they don't believe that they should set a
21 precedent and step in where they're not asked to step
22 in specifically by statute.

23 CHAIR HARRIS: We've got a motion --

24 COMMISSIONER SHAPIRO: I'll second.

25 CHAIR HARRIS: -- and a second.

1 Any discussion?

2 (No audible response.)

3 CHAIR HARRIS: All in favor?

4 COMMISSIONERS' VOICES: Aye.

5 COMMISSIONER MORETTI: I abstain.

6 CHAIR HARRIS: One abstention.

7 MR. BLONIEN: Thank you, Mr. Chairman and
8 Members.

9 CHAIR HARRIS: Thank you.

10 Now we're to 9. This is the Santa
11 Anita Park's request for a 10-day vet-scratch rule.
12 Do we have somebody to present this?

13 Okay.

14 MR. CHARLES: Hi. Ron Charles, MEC.

15 I guarantee you this will be very
16 boring compared to that. Basically we're here -- the
17 Los Angeles Turf Club is here to request to implement
18 the 10-day veterinarian list for 2000 -- 2005, for
19 any horse scratched after scratch time -- late
20 scratches -- except for horses scratched at the gate.

21 The rule is in existence here in -- at
22 Hollywood now. The TOC, CTT strongly support this.
23 And I've spoken with your staff -- John Reagan, Roy
24 Minami -- and we've set up a meeting for December 13
25 to look at the complexities of what might be

1 involved --

2 (Commissioner Sperry and Commissioner
3 Moretti leave the proceedings.)

4 MR. CHARLES: -- what this may involve with
5 the implementation of this rule.

6 CHAIR HARRIS: Yeah. I have spoken to you on
7 that. I think the devil's in the details on this
8 thing.

9 MR. CHARLES: Exactly.

10 CHAIR HARRIS: Conceptually, I think it's
11 probably okay. My concern is I really think we need
12 to think where we're trying to go to get maximum
13 participation and still have a fair system. And I
14 think the whole thing needs to be revisited.

15 But I would be in favor of it, at this
16 time, as long as that's contingent on further
17 discussion.

18 MR. CHARLES: That's all we're asking right
19 now because we'd like to print our condition book.
20 And, then, I think the entire industry will be there
21 on the 13th, and we will resolve this issue so that
22 everyone feels it's fair.

23 CHAIR HARRIS: Is that part of the horsemen's
24 agreement? What are the issues as to how much you
25 can scratch down to, you know, prior to scratch

1 time --

2 MR. CHARLES: That's more or less a house
3 rule. We right now -- at Santa Anita, we're
4 encouraging scratching down to 10. But I think that
5 will be part of the discussion on the 13th.

6 CHAIR HARRIS: Okay. So you've got comments
7 from CTT and TOC?

8 MR. CHARLES: Yes. Everyone's supportive of
9 this. And they will all be participating in the
10 December 13 meeting, as will your staff and the CHRB
11 Stewards Committee.

12 CHAIR HARRIS: Anyone like to say anything?

13 All right.

14 MR. HALPERN: Ed Halpern, California
15 Thoroughbred Trainers.

16 I just wanted to make a comment for
17 the future. We are supportive, at this time, with
18 strong reservations, as we've had over the past
19 couple of years about this issue so that we'd just
20 like the Board to know, if -- we are planning on
21 working this out.

22 If this comes back next year, we would
23 just like the Board to be aware that, at this time,
24 we're doing it with strong reservations and, at that
25 time, would not want that raised as a reason for

1 continuing the program -- that we are now supporting
2 it.

3 CHAIR HARRIS: Okay. Yeah. I agree with
4 that. I think it's not a particularly good system we
5 have. But I'm not sure if we can design a lot
6 better one.

7 MR. CHARLES: Yeah. I think we all agree --
8 the system isn't correct. And that's what we'll be
9 dealing with on the 13th. Okay?

10 CHAIR HARRIS: Sounds good. Okay.

11 So do we need to vote on that?

12 ASSISTANT DIRECTOR MINAMI: Yes.

13 CHAIR HARRIS: Okay. So I move that we adopt
14 the 10-day vet-scratch rule.

15 COMMISSIONER SHAPIRO: Second.

16 CHAIR HARRIS: Moved and seconded.

17 All in favor?

18 COMMISSIONERS' VOICES: Aye.

19 THE REPORTER: I'm sorry. Who made the
20 motion?

21 CHAIR HARRIS: I moved.

22 THE REPORTER: Thank you.

23 MR. HALPERN: Mr. Harris, would you clarify
24 that as to the period of time? I believe that's for
25 the Santa Anita meet?

1 CHAIR HARRIS: Yes. For the Santa Anita
2 Spring Meet.

3 Okay. Got an update on the racetrack
4 security and TOC testing -- TCO2 testing.

5 COMMISSIONER BIANCO: Mr. Chairman, I believe
6 that's something that I've been asked to report on.

7 I think, if you could read Section 10,
8 it's an update on where we've been for the last year
9 just about on, Number 1, security and TCO2 testing.

10 Number 1, when the governor asked for
11 volunteers for this position, he didn't tell me I'd
12 have to be a Philadelphia lawyer. I'm not a lawyer.
13 I try to do things, as I see fit, that are right.
14 And I try to take into consideration all the parties
15 involved.

16 This has been something that we've
17 worked on for about eleven months. And initially it
18 was led very strongly by Roger Licht, who did a hell
19 of a job, with some other people. One of 'em -- I'd
20 like to pay some compliments to three or four people.

21 One of them is Ed Halpern. The other
22 one is Trainer "Derrell Vienna" (phonetic). The
23 other one is a woman who's always been there and been
24 very supportive of a lot of good ideas -- Mrs.
25 "Headley" (phonetic).

1 There's been a lot of people that have
2 given input. And we tried to get together on
3 security cameras. Down at Del Mar, Del Mar
4 Thoroughbred Club spent approximately over a hundred
5 thousand dollars on cameras. Did it give us an
6 ultimate result? We think it has.

7 But, here again, we're still looking
8 to have detention barns. And my recommendation,
9 after going through and listening for the last year
10 and going with different ideas, is it's heading
11 towards making it mandatory that there would be
12 detention barns because the camera issue and having
13 video cameras throughout the race backstretch area is
14 pretty damned expensive.

15 And my recommendation to my Board here
16 would be that we should make our -- make it mandatory
17 to have a detention area at each one of our
18 racetracks and come up with the proper regulations to
19 enforce that.

20 So that's my recommendation after a
21 year. I know it's going to be expensive. These
22 racetracks -- Del Mar, Hollywood, Santa Anita, Oak
23 Tree -- they stepped up to the plate. They are the
24 reason that this CO2 testing has come to a reality --
25 by spending their own money, doing the testing. And

1 I think the testing is mandatory.

2 And I think the regulations that we
3 have that were in place right now with public notice
4 for the rule that's going to come down is a start.
5 And I think these people -- I take my hat off to
6 these racetracks because they stepped up when we had
7 a problem, they attacked it right away, and they
8 spent good money doing it.

9 And to me, they deserve a pat on the
10 back and a "Thank You." So my recommendation, after
11 going through almost a year, is -- a lot of people
12 now are back on recommending detention barns -- and I
13 know it's a major expense to a lot of the
14 racetracks -- but that would be my recommendation to
15 the CHRB Board. Thank you.

16 CHAIR HARRIS: So are we talking about
17 detention barns across the board or just for horses
18 that, you know, when a certain trainer had a problem
19 or a horse who had a problem or just take all horses
20 in the whole "cart"?

21 COMMISSIONER BIANCO: Well, I think, right
22 now, because of the -- I think it would be probably
23 cost effective to do it to all the horses that are
24 going to be racing, John. Right now, we're doing
25 surveillance with different security guards on major

1 race days.

2 But I still think there's a lot of
3 people out there that I believe in that would like to
4 see it for all races, John.

5 COMMISSIONER MOSS: Can I just make a
6 suggestion? I mean the only thing I'm thinking of a
7 detention barn -- I'm thinking it would perhaps
8 penalize those trainers that have never been pointed
9 to for excesses to the levels we're discussing
10 here -- the 37 or the 39.

11 I would recommend, in my own sense,
12 perhaps, detention barns for those trainers that are
13 under surveillance -- for those horses by those
14 trainers that are under surveillance. But if a
15 trainer has been operating, certainly, on his own,
16 and not having had any experience or being pointed to
17 for having an excess reading come to any of his
18 horses, I don't know if that trainer should be so
19 penalized. That's what I'm suggesting.

20 CHAIR HARRIS: That's my concern. If we have
21 a -- if we've got a problem, we need to address it.
22 But I'm just concerned that across-the-board
23 detention barns would be a pretty big step for --
24 costly for both the horsemen and the tracks and it
25 might impact performance. And I'm just not sold that

1 that's the way to go.

2 Maybe we can hear from the horsemen.

3 COMMISSIONER SHAPIRO: Can I just add to that,
4 first, John?

5 I agree it would be expensive.

6 However, I do favor prerace detention barns pretty
7 seriously. And I think that is a -- perhaps a
8 compromise would be that, for certainly any trainer
9 that's experienced any positive for any type of
10 medication -- I mean I don't think it should be --
11 maybe we should come up with the right classes -- but
12 I don't even want to limit it to TCO2 -- but those
13 trainers that have positives should be required to
14 report, with their horses, 24 hours in advance of a
15 race to a prerace detention barn.

16 And I think we should, at least, have
17 a random race selected each day so that we are
18 keeping everybody on their toes. It's no different
19 than -- none of us like getting on airplanes today.
20 But we have to take precautions, and we didn't do
21 anything. And the industry needs dramatic help here.

22 And I would be in favor of, Bill, what
23 you're saying. But perhaps we could start out with a
24 random race selected by the stewards and, you know,
25 and see if we can't clean it up. It's one of the

1 most critical issues that is facing us.

2 I have a couple other comments on the
3 report. I thought you did an excellent job in coming
4 up with this report and also to the racing
5 associations that supported it.

6 One of the things that has come to my
7 attention is that, apparently, we have an issue -- as
8 outlined in this report, that we have a problem with
9 guards lifting the lip of horses so that we know
10 who's on the grounds and who isn't.

11 And I would encourage us to ask each
12 racing association to hire a "lip-raiser" or somebody
13 or define the hours that horses can come on and off
14 the grounds, as I don't think we know who's on the
15 backside of our racetrack in terms of who's coming in
16 and who's going out. And I don't think that's
17 acceptable.

18 So I would strongly suggest that we
19 try to put a policy in place where somebody is
20 qualified who can read a lip back there so that we
21 know who we have on the grounds.

22 COMMISSIONER BIANCO: I have no problem of,
23 you know, modifying the motion.

24 One of the big areas of contention --
25 I don't think we want a security guard going into a

1 trailer in a confined area. But I've heard so much
2 about microchips -- implanting microchips into a
3 horse and actually having a scanning device where
4 that guard could actually just scan, rather than
5 going into a confined area and picking up somebody's
6 lip.

7 CHAIR HARRIS: Yeah. That's going to be the
8 wave of the future -- is us trying to sort out the
9 different technologies.

10 COMMISSIONER BIANCO: But I think we should
11 get to that technology, you know. Here, again, maybe
12 that's something for "New Business" to make a
13 recommendation that, you know, I'd like to see this
14 Board actually pursue that type of technology.

15 And it would be cheaper. They tell me
16 a tattoo -- they tell me -- is 60 to \$70. A
17 microchip is 10 to \$12, plus about \$25 to insert it.
18 So we're looking at about half the price and a lot
19 less discomfort for the horse.

20 CHAIR HARRIS: I think there's a national
21 program, I think, that the Jockey "Club" and then
22 others are working on. But we can't really take any
23 action on this right now. But we can direct staff to
24 investigate any, well, identification systems.

25 But also I'd like to just have staff

1 look at the costs -- sort of the cost benefits of
2 detention barns and various scenarios for those.

3 COMMISSIONER SHAPIRO: In the interim, can we
4 at least make a request of the racing associations
5 that they employ a vet assistant or somebody that
6 would stand by to be willing to lift a lip until we
7 can come up with the chips?

8 CHAIR HARRIS: I don't know if we really have
9 a problem, with ringers or anything like that, that
10 that we've got to -- I mean I don't know what the
11 end product we're trying to get to with lifting all
12 these lips.

13 COMMISSIONER BIANCO: One of the problems that
14 we've had was there was an awful lot of complaints by
15 people of horses being vanned off in the middle of
16 the night and then being brought onto the site after
17 they go down and had some type of "shock-therapy"
18 treatment.

19 COMMISSIONER SHAPIRO: That's right.

20 COMMISSIONER BIANCO: So this is the biggest
21 reason that we even talked about having, you know, a
22 security guard read, you know, the identification
23 marks -- the tattoo. So there's a whole bunch of
24 different things that the trainers' associations, the
25 breeders' associations have given us that they would

1 like to see implemented.

2 And I was going to try to work that
3 out with Roy Minami and plus the new executive
4 director to see if we can have some charge into that
5 area to try to alleviate some of the things that
6 they've told me that's happening.

7 And we need to clean it up -- period.

8 ASSISTANT DIRECTOR MINAMI: If I may,
9 Commissioner Shapiro, this might be a good issue for
10 the Security and Licensing Committee to discuss
11 further and also get input from the associations on
12 adding an extra person to read the tattoos and to
13 talk about the microchips.

14 We could do some staff research on
15 that and do a kind of a presentation. But this might
16 be an issue for the Security and Licensing Committee.

17 CHAIR HARRIS: I think you have a good idea.
18 We really need to look at the whole thing. I don't
19 know if the problem is so much that horses, you know,
20 if we even had the right horse or the wrong horse --
21 we don't have any prohibition of taking a horse off
22 and bringing it back.

23 But we need to look at the total
24 inventory systems in place. But I really don't think
25 there's a big problem in this area personally.

1 But if either Ed or Drew would like to
2 comment --

3 MR. HALPERN: Ed Halpern, California
4 Thoroughbred Trainers.

5 Speaking first to that issue, there
6 are rumors floating around that there are people
7 shipping their horses off-track for "shock-wave"
8 therapy and then shipping 'em back in. Whether
9 they're true or not, who knows?

10 But it does raise the specter of the
11 fact that we don't know whether they're naming the
12 right horse, when they ship them out and ship them
13 back, because the horses are detailed, as they come
14 in and go out. But certainly we don't know whether
15 they're naming the right horses on the form.

16 The devil -- as with other things here
17 in this category of problems, the devil is in the
18 details. And figuring out just how to solve that
19 problem, if it is a real problem, is fairly complex.
20 And I would hope that you would send it to a
21 committee to study it, completely.

22 Just for an example, if the tracks
23 were to limit the time you could come in and go
24 out -- well, we have horses coming from all over the
25 country and all over the world. And just by the

1 schedules of airlines and trucks, they come every
2 hour of the day, not necessarily with anywhere else
3 to go.

4 And so it becomes problematic not to
5 have the facility available when they get here. So
6 merely an example of why we need to look at this very
7 closely as to how we do it.

8 On the issue of overall security, I'd
9 like to thank Mr. Bianco and Mr. Harris for their
10 interest in this and their work and Mr. Licht.
11 Again, these are all issues -- especially the
12 detention barn, which, after four years of sitting
13 through meetings of how that works, I can tell you
14 the arguments on both sides are numerous and very
15 convincing.

16 And it's just not an easy -- easy
17 solution unless somebody's willing to pay a lot of
18 money, both for creation of the barns and for
19 staffing and for horsemen who have to put in extra
20 time to take care of the horses that are in there and
21 watch the horses that are in there.

22 So it's going to cost the whole
23 industry -- from owners to trainers to the tracks --
24 a lot of money, which may not be the most fruitful
25 way of handling the problem.

1 On the immediate front, in the
2 agreement that was cited earlier with Santa Anita,
3 through the work of Santa Anita staff and the TOC and
4 my office, we have come up with an agreement for
5 limited security barns for people who do reach CO2
6 levels of over 37.

7 And the idea of doing it for other
8 positives of certain classes certainly is worth
9 throwing into that mix at some point here. But we've
10 made a huge step forward with everybody's progress --
11 with everybody's cooperation in setting that up for
12 the Santa Anita meet.

13 And the same terms are going to be
14 incorporated in the Bay Meadows -- or already have
15 been, by agreement, into the Bay Meadows contract.
16 So we'll be doing the same thing up north.

17 And should someone have over a 37,
18 there will be the option of putting them in a
19 security barn for the remainder of the meet and then
20 should they have high readings after that, should it
21 continue, there are further penalties and more
22 serious penalties after that.

23 The -- probably just to let you know
24 one of the terms of that and probably one of the best
25 terms of that is that we found that just sending out

1 security to barns, who have been found with positive
2 results on tests, hasn't solved the problem; that we
3 still see the problem in some of those barns that
4 have short-term security on them.

5 So this idea of putting those "barns"
6 into a security barn for a much longer period of
7 time, we hope, will solve that problem. Thank you.

8 MR. COUTO: Again, Drew Couto, Thoroughbred
9 Owners of California.

10 I'd like to echo what Ed just said.
11 We think the new language in the agreement is a good
12 first step in bringing this process. And as
13 Mr. Bianco knows, there's been a series of steps
14 escalating sort of the consequences of having a
15 positive.

16 Of recent -- as we concluded the
17 language related to the TCO2, we also began to
18 consider whether this could extend to Class I, II,
19 and III violations.

20 And with the help of the CHRB, I'm
21 sure that the CTT, the racing associations, and the
22 TOC would incorporate language that would extend that
23 detention to other violations other than the bicarb.
24 We're working with you. And we're glad to do it.
25 And I think we're making progress. Thank you.

1 MR. CHARLES: Ron Charles, MEC.

2 Just one point that Commissioner
3 Shapiro made -- and I think it's a good point -- with
4 regards to additional random testing: One of the
5 most troubling points of that in this last year, when
6 we have tried to introduce random testing, was there
7 was common knowledge as to who was going to be tested
8 as opposed to being random.

9 And it was frustrating to the other
10 horsemen when this information was out. And I'm just
11 wondering if we can do a little better job of
12 security, making sure that, if it's a race --
13 specific horses or whatever -- that that security --
14 no one absolutely knows who is going to be tested.

15 CHAIR HARRIS: I thought the random testing
16 was every horse in a given race and Dr. Jensen was
17 picking a race and it was very, very well -- you
18 know -- not -- it was very secretive, in the way it
19 was --

20 MR. CHARLES: The complaints to me were -- I
21 can just tell you -- over and over that so many of
22 the trainers knew which race was going to be the
23 random race. All I'm saying is "Let's just make sure
24 of the security of that, as we go forward."

25 CHAIR HARRIS: That was sure not the intent.

1 I don't know.

2 Mike, why don't you comment?

3 MR. MARTEN: Yes. Mike Marten, California
4 Horse Racing Board.

5 It was the official vets -- and,
6 locally, it would be Dr. Bell -- who made the
7 decision. And it was, as he has stated at the TOC
8 Medication Committee, that -- and I think, Ron, I
9 think you were there -- he said he made that decision
10 just -- just minutes before. And he just was
11 emphatic that this information did not get out.

12 We've both been around the backstretch
13 long enough to know that there are a lot of rumors
14 out there. This is one that, unless you're
15 challenging the credibility of Dr. Bell, that you
16 probably should ignore.

17 MR. CHARLES: I'm certainly not challenging
18 the credibility of him. I'm just saying, when it's
19 been out there, double-checking the security to make
20 sure the random test is --

21 CHAIR HARRIS: Basically the only way it
22 could've gotten out is if you question the
23 credibility of Dr. Bell because he's the only one
24 that knew. So if it got out, you're saying that
25 Dr. Bell told somebody.

1 MR. CHARLES: I'm saying that's what the
2 rumors were. I'm not -- all I'm doing is trying to
3 protect us.

4 CHAIR HARRIS: Yeah. I'm just saying that I
5 mean it's great that we're getting it on the table.
6 But we've got to have rumors we can verify at some
7 point.

8 MR. CHARLES: Absolutely.

9 MR. HALPERN: Ed Halpern, again.

10 Just on that very issue, and so as not
11 to attack Dr. Bell, the latest rumor, as silly as it
12 may sound -- and this, again, points out why the
13 devil is in the details -- is that, when the horses
14 come in for a random race and suddenly the first one
15 that comes in is given a blood test or blood is
16 taken, somebody may be standing outside of the
17 receiving barn week. They can see in. They see that
18 blood is being taken. And they call back to the barn
19 and say, "This race is being tested."

20 Whether that happens or not or whether
21 that's somebody's James Bond imagination, I don't
22 know. But that story has gone around so --

23 CHAIR HARRIS: Well, they got to be pretty
24 quick 'cause -- unless they -- I mean there's
25 probably -- I mean you're looking at a horse, where

1 you're leading the horse over. And by then, I don't
2 think you got time to call back and -- I don't -- I
3 mean conceivably that could happen but --

4 MR. HALPERN: Conceivably, it could happen.

5 CHAIR HARRIS: -- but I really think one of
6 the things in some of those initial tests -- a lot of
7 the tests were done on "route" races. So maybe
8 somebody could insinuate that distance races were
9 more likely to be tested.

10 MR. HALPERN: Well, I guess the point is that
11 we want to be careful about these things and make
12 suring -- making sure that we do it in the best
13 possible manner.

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

16 We tested every horse. We tested
17 1,773 horses. We missed one, for temperamental
18 reasons. But I know that Santa Anita's planning to
19 do the same thing. So this discussion about random
20 testing may be applicable to Hollywood Park, but not
21 to either Oak Tree or Santa Anita.

22 CHAIR HARRIS: Well, let's move on to the --
23 basically that was the report -- oh, we got one more.

24 MR. HOROWITZ: Alan Horowitz, Capitol Racing.

25 On behalf of the harness industry,

1 we're very supportive of both the programs for CO2
2 testing and also detention barns.

3 We've been using a detention barn for
4 two years. And we've been doing the testing of blood
5 gas on the winners of the first -- the first
6 finishers, the first two finishers, of every race for
7 about 10 years now. It's a postrace testing program,
8 which is a little different than what is currently
9 being used by the Thoroughbreds.

10 But what I'd like to point out is we
11 have, in our detention barn, two races picked at
12 random, unless they're stakes races, in which case,
13 those races come in. And we have a limited use of
14 stalls in the facility. We lease the facility in Cal
15 Expo.

16 And so if we were to have a Saturday
17 night where we have a hundred-twenty-five horses in,
18 it would be prohibitive for us to designate the
19 number of stalls. That would be about at a tenth of
20 the stalls or actually almost even 15 percent of the
21 total stalls that we have allotted to racehorses at
22 the Cal Expo facility.

23 We are very, as I say, very supportive
24 of it. And we've done this on our own because we
25 think it's necessary and we've had the support of the

1 horsemen. If we're looking to do it beyond a certain
2 number of races per night, I think we would have
3 significant difficulties having enough room for
4 horses on the grounds. And then we don't really have
5 a lot of off-training -- off-site training
6 facilities. Thank you.

7 CHAIR HARRIS: So since you do that on your
8 own, which I commend you for it, how do you sanction
9 the -- any offender?

10 MR. HOROWITZ: Oh, you want to know? The
11 first high test, the horse gets 30 days -- it can't
12 enter. And when that horse is in for 90 days, he's
13 got to up show up and be tested. He has to be in
14 detention.

15 The second high test is -- we've
16 worked out an agreement, with our horsemen, where the
17 horse -- the horse is essentially -- if it's the same
18 horse, the horse is excluded.

19 And the trainer of record, if it's the
20 same trainer of record having two successive high
21 tests in the course of a 12-month period, is denied
22 the use of the privileges. He's essentially not
23 allowed to race at the race meet.

24 CHAIR HARRIS: The horse or the trainer?

25 MR. HOROWITZ: The horse -- if a horse has a

1 second high test, the horse is essentially barred
2 from racing -- period. No -- no number of months.

3 If a trainer has a second high test,
4 they are essentially -- they lose the right to race
5 and access to the backstretch.

6 CHAIR HARRIS: So you know that's -- that's --

7 MR. HOROWITZ: That's a pretty severe penalty.

8 CHAIR HARRIS: Has it ever been challenged as
9 not having due process or something?

10 MR. HOROWITZ: Oh, the horsemen's agreement is
11 supportive of it. And we had a challenge with regard
12 to the CO2 testing program because it wasn't a Board-
13 operated program.

14 And, frankly, since it was a
15 contractual item, the -- after several months of
16 moving through the legal process, the party that was
17 aggrieved by it essentially dropped the lawsuit.

18 CHAIR HARRIS: Well, I'd encourage -- you
19 know, I'd like to see more things like that occur in
20 the Thoroughbred sector so we're not sitting around
21 here at 2:00 in the afternoon talking about it.

22 MR. HOROWITZ: Well, I -- we're not looking
23 for points on this thing.

24 CHAIR HARRIS: Yeah, I know.

25 MR. HOROWITZ: Our point is that, if the Board

1 is going to consider doing this -- for example, for
2 every horse that's in -- that that wouldn't be
3 particularly egregious to our --

4 COMMISSIONER SHAPIRO: Alan, I don't think
5 that's what the intent was. You guys are doing a
6 great job. And you're the model for this. So --

7 MR. HOROWITZ: Oh, we don't want to be the
8 model. We just want to continue doing what we're
9 doing. Thank you.

10 CHAIR HARRIS: Okay. Anything else on this?

11 (No audible response.)

12 CHAIR HARRIS: Let's move on to Number 11. It
13 is a request from the California Thoroughbred
14 Horsemen's Foundation.

15 Who's going to present this?

16 MR. REAGAN: John Reagan, CHRB staff.

17 Commissioners, this is an
18 administrative item. Two new directors have been
19 appointed to the CTHF board. And, per our rule, they
20 must be approved by this Board. And we recommend
21 their approval.

22 COMMISSIONER SHAPIRO: So moved.

23 CHAIR HARRIS: Second? I'll second.

24 All in favor?

25 COMMISSIONERS' VOICES: Aye.

1 We got -- did we lose somebody?

2 UNIDENTIFIED SPEAKER: We have one more
3 coming.

4 CHAIR HARRIS: Are you okay on these two new
5 directors?

6 All in favor say, "Aye."

7 COMMISSIONERS' VOICES: Aye.

8 CHAIR HARRIS: Ayes have it.

9 Let's move on to the public hearing
10 and adoption of the proposed -- following proposed
11 amendments. Dr. Jensen?

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

14 The racing industry has long asked for
15 uniformity in drug testing and medication policies.
16 The rule changes -- the medication rule changes that
17 you see before you are a result, in part, of
18 recommendations by an organization known as "The
19 Racing Medication and Testing Consortium," which is a
20 national organization made up of representatives from
21 all facets of the racing industry.

22 They have drafted these rules -- these
23 rule recommendations we have adopted or have modified
24 to fit into the medication rules in California.
25 There are three different rules involved. And with

1 your permission, I think maybe it would be best to go
2 through the three, one at a time, if that suits you.

3 CHAIR HARRIS: Okay.

4 DR. JENSEN: The first rule -- 1843.5 -- has
5 been -- all three of these have been subject to
6 public notice and have received public comments.

7 The first rule -- 1843.5 -- the change
8 in that rule has a provision where a practicing
9 veterinarian or a veterinarian other than an official
10 veterinarian or the racing veterinarian should not
11 have contact with the horse that's in the race that
12 day.

13 This language was crafted at a
14 Medication Committee meeting in August. And at that
15 meeting, there were -- there were no representatives
16 from the nighttime track -- the quarter horses and
17 the standardbred tracks.

18 When this was put out to notice, it
19 was pointed out that it probably is not a good idea,
20 with the quarter horse and with the standardbred
21 tracks, because they race at night and there is no
22 official veterinarian on the grounds during the
23 daytime.

24 And the rule has stated that the --
25 after the -- the practicing veterinarian should not

1 have contact with the horse on race day without
2 permission of the official veterinarian. So I think
3 the comment that was submitted is well taken. And I
4 think that that probably needs to be modified to
5 specify a time before racing.

6 And so my recommendation on this would
7 be that Rule 1843 not be acted -- 1843.5 not be acted
8 on at this time and that it be -- the language be
9 crafted so that it's got enough flexibility to affect
10 all the racing breeds at all the racetracks in
11 California.

12 1844 --

13 COMMISSIONER SHAPIRO: Would you favor it
14 being enacted just applicable to daytime racing,
15 though, at this time?

16 DR. JENSEN: I think it should be applicable
17 to all -- all breeds.

18 COMMISSIONER SHAPIRO: All breeds running in
19 the daytime -- you wouldn't have a problem with that?

20 DR. JENSEN: No. No. I would. I think what
21 the comment brought out was that there's a lot of
22 veterinarians are asked to look at a horse prior to
23 the racing -- prior to the administration of the
24 bleeder medication, either for soundness or for
25 whatever question. And that would certainly preclude

1 them from doing that.

2 I think what we need to do is craft a
3 language that says a specific time period, such as
4 four hours prior to racing or after the
5 administration of the bleeder medication, that they
6 should not have contact.

7 CHAIR HARRIS: I think that would be better
8 'cause it would be silly to have a colicky horse at
9 4:00 in the morning or something that you couldn't
10 call a vet because you couldn't find an official vet.

11 DR. JENSEN: I think also that we have to make
12 clear that there has to be some flexibility in that;
13 if, for whatever reason, the official veterinarian is
14 not around or can't be contacted, if it's an
15 emergency, that the vet absolutely has the right to
16 treat that the horse and report to the official
17 veterinarian.

18 So that would be my recommendation.

19 CHAIR HARRIS: Is that the only change in that
20 one so we can --

21 DR. JENSEN: Yes.

22 CHAIR HARRIS: -- deal with that one and go on
23 to 44?

24 DR. JENSEN: 1844 changes the levels of
25 authorized medications, specifically flunixin and

1 ketoprofen. The change in flunixin is recommended
2 from a present regulatory level of 500 nanograms to a
3 level of 20 nanograms. The level of ketoprofen
4 currently allowed by CHRB rules is 50 nanograms. The
5 recommendation is that it be changed down to 10
6 nanograms.

7 There have been some comments that
8 those recommendations may be too low.

9 The literature -- the recommendations
10 by the RMTC were made after a thorough review of the
11 literature, the scientific literature that's in
12 place, concerning these two medications and have
13 determined that these levels -- if the medications
14 are given at the manufacturer's recommended dose, by
15 the intravenous route only, at least 24 hours prior
16 to racing, they should not usually have any
17 difficulty with attaining these levels.

18 If those medications are given at a
19 different route or at a different dose, there may be
20 some difficulty. I think the literature is pretty
21 sound on these -- on these recommendations for these
22 levels based on the scientific literature.

23 What I would suggest is that this rule
24 be passed -- 1844 -- as it is written with the
25 understanding that we have some sort of phase-in

1 period to adjust veterinarians' and trainers'
2 medication practices to conform to these particular
3 rules and that the phase-in period last perhaps 60
4 days and that the present rules be used in
5 determining violations.

6 If the levels are greater than the
7 recommended recommendations -- recommended levels,
8 that there be a warning and some counseling with the
9 trainer or the horsemen involved and try to ease into
10 this regulation without too much trauma. And that
11 would be my recommendation -- 1844.

12 CHAIR HARRIS: So that, if we were to approve
13 this today, this would go into effect today because
14 it's been out for comment already?

15 DR. JENSEN: No. And I'm not expert on this,
16 but I believe it has to go to the second --

17 ASSISTANT DIRECTOR MINAMI: Yeah. If the
18 Board approves this today, then it would be probably
19 between 30 and 60 days before it actually becomes
20 effective. The adopted rule must go through the
21 Office of Administrative Law. They have 30 days to
22 approve it. And then it goes to the Secretary of
23 State. They have 30 days to approve it.

24 So we're talking somewhere around 60
25 days. And so I think, within that period of time, we

1 could start kind of --

2 CHAIR HARRIS: Well, I think --

3 ASSISTANT DIRECTOR MINAMI: -- once it's
4 adopted, we could start phasing it in.

5 CHAIR HARRIS: Yeah. I think we could call
6 them, you know -- if somebody had a -- was in
7 violation, they'd get called. It's just that the
8 stewards would take into consideration that there
9 was, maybe, a phase-in period.

10 Basically, the "butazolidin," which is
11 more what they're really using 24 hours out anyway,
12 is not changing.

13 DR. JENSEN: That's correct.

14 CHAIR HARRIS: I think a lot of people, like,
15 prior to that were using "banamine" or "ketafin" or
16 something, and that's the one that's going down.

17 DR. JENSEN: The last time I checked, which
18 has been a couple of three years, but the use of
19 flunixin, which is the one of the permitted
20 medications, nonsteroidal medications, with a
21 regulatory level, is around 10 percent throughout the
22 whole state. Now, there are variations.

23 CHAIR HARRIS: I think the thing is they're
24 not using it -- they're using it further out, though.
25 They're not using it as their sole --

1 DR. JENSEN: In these 10 percent, that was
2 their sole -- that was their declared nonsteroidal.

3 CHAIR HARRIS: Yeah. I think that this -- as
4 I understand it, a lot of people are using "butisol"
5 as the nonsteroidal whatever it is. But they're
6 using the others further out, where they figure they
7 can get by with it testing low enough.

8 DR. JENSEN: That could be. Yes. That could
9 be. But like I said, there're only -- there is some
10 breed variation. There is some track variation. The
11 standardbreds use -- about 20 percent of the horses
12 are declared to race with "banamine" or flunixin.
13 And the fairs are somewhere around 16 percent. But,
14 overall, it's about 10 percent. So it's not the
15 greatest --

16 CHAIR HARRIS: I mean I think they're all
17 getting used. It's just they're not -- by the time
18 the horse runs, some of 'em are at low-enough levels,
19 it doesn't matter. But, now, if we lower the levels
20 more, it's going to matter. But I think people can
21 live with it.

22 DR. JENSEN: But that -- again, that would
23 be -- my thought would be that, during the phase-in
24 period, that there would still be a violation if
25 they're over the levels that are currently in place.

1 CHAIR HARRIS: Yeah.

2 DR. JENSEN: If they're between the levels
3 that are in place and the recommended levels, then
4 there would be a warning and some counseling, as best
5 we could, to make sure that they can comply with the
6 rule.

7 ASSISTANT DIRECTOR MINAMI: What we're asking
8 for the Board to do now at this point is to adopt
9 that regulation, and then the staff will work out the
10 phase-in and changes.

11 COMMISSIONER SHAPIRO: I'll move to adopt the
12 regulation, which also should include that there will
13 be a 60-day phase-in period, which will be written
14 into the rule or the --

15 CHAIR HARRIS: It wouldn't be written into the
16 rule, I don't think.

17 ASSISTANT DIRECTOR MINAMI: It won't be
18 written into the rule.

19 COMMISSIONER SHAPIRO: -- into the procedures
20 of the way it's implemented.

21 ASSISTANT DIRECTOR MINAMI: -- into the
22 process.

23 You need a second.

24 COMMISSIONER BIANCO: Second.

25 CHAIR HARRIS: All in favor?

1 COMMISSIONERS' VOICES: Aye.

2 DR. JENSEN: 1845 deals with changes in the
3 authorized bleeder-medication procedure. The new
4 recommendation would not require a horse to
5 demonstrate "E.I.P.H." or bleeding to qualify to race
6 with an approved bleeder medication. Prior to this
7 time, there had to be some witnessing of the bleeding
8 episode or the "I.P.H." episode to qualify for
9 Lasix -- or for bleeder medication, I should say.

10 CHAIR HARRIS: So effectively, it was written
11 that way; but, in actuality, that didn't necessarily
12 happen?

13 DR. JENSEN: The fact of the matter is that
14 most horses bleed. I mean if you look long enough,
15 hard enough, you will find a horse will exhibit
16 "I.P.H." or bleeding. So it just became apparent
17 that it was probably -- it was unnecessary to have
18 that requirement that they demonstrate some bleeding
19 because, in some jurisdictions, the official
20 veterinarian has to certify -- he has to witness the
21 bleeding.

22 And that caused all kind of problems
23 when a horse came from a jurisdiction that didn't.
24 So in the interest of uniformity, it has been
25 determined that it would be best not to have that.

1 Still, trainers of those horses still
2 have to notify the official veterinarian that they
3 intend to race with bleeder medication and the public
4 will still be notified via the program.

5 The other change in this Rule 1845 is
6 that there will be a minimum and a maximum dose.
7 That's prescribed right now. It's 250 milligrams --
8 not more than 250 milligrams. The present proposed
9 regulation has a range of 150 milligrams to 500
10 milligrams. And the reason for that is that there
11 are different-sized horses and that maybe one dose
12 doesn't fit all so that you need to adjust the dose
13 accordingly.

14 And they've also demonstrated that
15 that doesn't have any deleterious effect on the
16 dilution of the urine sample or other testing of
17 other drugs. There's been a comment that -- oh, I'm
18 sorry.

19 In addition to that, a horse that's
20 declared to race with furosemide -- with Lasix; trade
21 name Lasix -- must show a level in either the blood
22 or the urine, or it's a violation. And the thought
23 there is that, if a horse is advertised, announced to
24 the public that it's racing with furosemide, then he
25 should -- it's not unreasonable to expect him to show

1 a level in the postrace sample. So that's a bit new.

2 We've had a comment that maybe 150
3 nanograms -- a hundred-fifty milligrams is not low
4 enough, that some horses would receive as much as --
5 as little as 50 milligrams.

6 But, again, in my view, it's
7 considerably less than the manufacturer's recommended
8 dose -- hundred-and-fifty nanograms -- a
9 hundred-and-fifty milligrams is less than the
10 manufactured -- manufacturer's recommended dose.

11 And, again, that doesn't seem
12 unreasonable, to me anyway, that, if a horse is
13 listed to race with furosemide, that he should show a
14 detectable level.

15 The other aspect of this rule change
16 is that the specific gravity of all urine from horses
17 that are subjected to testing, be measured. And the
18 specific gravity is a measurement of dilution of the
19 urine. The concern with the use of diuretics -- the
20 diuretic furosemide -- is that it dilutes the urine
21 where it makes the detection of other drugs in the
22 urine more difficult.

23 So the real concern with it is, is
24 that you don't want to have a dilute urine. So all
25 urines are going to be subjected to specific gravity.

1 If those horses have a specific gravity, a low
2 specific gravity below 1.010, then the corresponding
3 blood sample of that horse will be measured for --

4 Thank you.

5 (Mr. Marten brought Dr. Jensen a
6 glass of water.)

7 DR. JENSEN: -- for a quantitation of
8 furosemide. And the upper level of furosemide that
9 will be permitted is a hundred nanograms. And the
10 hundred nanograms, if it's exceeded, would be
11 considered a violation -- excuse me -- a violation.

12 CHAIR HARRIS: So this is new. Previously, as
13 I understood it, there was really no test for upper
14 levels of Lasix.

15 DR. JENSEN: There is a test available, but
16 it's not utilized. It's not in the rule.

17 CHAIR HARRIS: This would be a new thing here
18 that you would have a way to see if people were
19 giving too much Lasix.

20 DR. JENSEN: Too much or inappropriate -- in
21 an inappropriate manner because the rule requires --
22 continues to require that furosemide be given
23 intravenously only.

24 There has been a concern expressed, by
25 Dr. Hester of Truesdail Laboratories, that maybe

1 the -- that the violation should be if there's a low
2 specific gravity or a high furosemide level in the
3 blood -- a low specific gravity or a high level of
4 furosemide.

5 And the intent, in my view, is to be
6 concerned about the level of furosemide if it causes
7 a dilute urine. So if it doesn't cause a dilute
8 urine, the thought is that there's no necessity to
9 quantitate that level of furosemide in the blood.
10 And that's the national recommendation to be had.

11 And I don't want to speak for
12 Dr. Hester. If he would like it address that, he
13 certainly will do that.

14 CHAIR HARRIS: He's going to address that.

15 Go ahead, Dr. Hester.

16 DR. HESTER: First, I want to say that I'm
17 very supportive of what we're going to do here. And
18 my suggestions here are really to try to avoid
19 controversy. In fact, I've been seeing all day where
20 the wording somehow gets twisted by attorneys later
21 down and keeps us from doing what we want to do here.

22 Aside from the dilute urine, there has
23 been some studies at Pennsylvania that have raised
24 some issues that furosemide may, in fact, have some
25 performance-enhancing effect. Not everybody agrees

1 with their interpretations of their own data, but
2 there is that point of controversy out there.

3 And if there is some worry about
4 furosemide having some enhancing effect, everybody
5 needs to be on a level playing field, in terms of how
6 much they give the animal and when.

7 And the -- really the only effective
8 way of determining whether they have given the proper
9 amount, the proper time out, is to quantitate -- be
10 able to quantitate the plasma. So that's what I'm
11 saying has to be one of the criteria that we can --
12 can enforce.

13 I'm really concerned about the way the
14 wording is here -- just the wording. If you look at
15 what's proposed in the wording, it implies that you
16 have to have both a low specific gravity and a high
17 plasma level before there's a violation. Now, that's
18 my take on reading it. So I let other people put
19 their opinions on that.

20 My recommendation is that we make the
21 wording very clear that, if there is either a low
22 specific gravity or a level that is higher than the
23 recommended level in the plasma, that it's a
24 violation. So that -- that's kind of where -- where
25 I'm coming from on this.

1 DR. JENSEN: I think that it --

2 CHAIR HARRIS: All right. Dr. Arthur had a
3 comment and then --

4 DR. "ARTHUR": I'm Dr. "Arthur" (phonetic). I
5 have represented Oak Tree on the RMTTC for four years,
6 and exactly what Dr. Hester was talking about was
7 discussed.

8 The reason it needs to be "and" --
9 "the low specific gravity 'and' a furosemide
10 level" -- is that horses can have a low specific
11 gravity that is not caused by furosemide. That's
12 been done, shown by research by Dr. "Soma" (phonetic)
13 in the past and what this does.

14 And the only issue we're really
15 concerned with is whether or not the urine is dilute.
16 And if it's dilute because somebody has manipulated
17 it with furosemide -- that's the issue in terms of
18 this authorized medication program.

19 So that's why it has to be specific
20 gravity below "ten-ten" or "ten-twelve" -- I can't
21 remember what it is -- and a 100-nanogram level in
22 the plasma. So they go together. And it's been
23 reviewed. And this program's been applied in certain
24 jurisdictions. Otherwise, you're going to have
25 inadvertent positives on this.

1 ASSISTANT DIRECTOR MINAMI: But, Dr. Arthur,
2 you're satisfied with the language as it is now?

3 DR. "ARTHUR": Yes.

4 DR. JENSEN: I neglected to say that the rule
5 also includes that, if you have a horse that does not
6 have a urine sample to measure the specific gravity
7 in -- and occasionally you get a horse that you do
8 not get a urine sample on -- then that corresponding
9 blood sample is automatically quantified and the rule
10 that -- of the hundred-nanogram limit applies.

11 DR. HESTER: I'd like to -- I have more of the
12 recommendation. And one is that, first of all, I
13 like quantitating the blood.

14 The other is that there be the ability
15 to test samples that have been found to be suspect or
16 in which there has been a drug confirmed; that the
17 lab be allowed, if not required, to test the plasma
18 to see if there's been an effort to dilute that
19 sample to perhaps make it harder to find.

20 And if that's the case, there would
21 be, of course, two penalties applied to the person,
22 one for putting a drug in that shouldn't be in and
23 another for trying to hide it.

24 There's also more that I suggested,
25 too, that, regardless of what we decide here to do,

1 is that, when we have, in the next paragraph down --
2 "Threshold Levels" -- that, if it is found that there
3 has been, through testing, an effort to dilute the
4 urine, that we waive the threshold levels and say,
5 "Instead of having these thresholds in urines that
6 you have to be above a certain level for those drugs,
7 if it is found that there is dilution effect that's
8 taken place because of illegal medication, I would
9 simply waive the threshold.

10 "That, if there is any of the drugs
11 for which we currently have a threshold found, that
12 any level be a positive if there is concurrently
13 evidence that there's been an effort to dilute the
14 urine to prevent that kind of violation."

15 So I've suggested some wording to that
16 effect so that a dilution is not going to be a very
17 high-level class violation.

18 If someone dilutes the urine and
19 somehow gets around having a positive for a Class II
20 drug, that seems like a small penalty for him to pay
21 when, in fact, he's given a more -- a more potent
22 drug to try to alter the race; that I'm just
23 suggesting we put some words, below those thresholds,
24 to say, "Okay. If you're found to be using dilutant,
25 thresholds would help."

1 So that's another suggestion I put in.

2 CHAIR HARRIS: I would be under the impression
3 there wouldn't be as much dilution of urine. I mean
4 wouldn't it be the other way -- that there would be,
5 like, Lasix or something would concentrate urine or
6 dilute urine?

7 DR. JENSEN: No. It -- it -- the furosemide,
8 as you know, creates an increase in urine volume.
9 So, therefore, if you do have a prohibited --
10 another prohibited drug in the urine, you're looking
11 for it in a much larger volume of fluid than you
12 would be if it wasn't dilute. So that --

13 CHAIR HARRIS: Yeah. I guess you're -- I
14 guess you're dehydrating the horse somewhat; but in
15 that process, you dilute the urine.

16 DR. JENSEN: You may dehydrate the horse, but
17 you're diluting the urine.

18 DR. HESTER: I also added in there -- we're
19 talking about CO₂, down the road. It is my
20 understanding that, if they're giving a horse a huge
21 dose of bicarbonate, one of the major effects is that
22 it also causes a massive production of urine in the
23 process.

24 And I would not only suggest we waive
25 the threshold levels for a positive for a Lasix

1 violation but we also waive the thresholds if it's
2 also found that the horse has a CO2 -- total CO2
3 violation but because that process also dilutes the
4 urine.

5 CHAIR HARRIS: I think we're trying to get a
6 national standard, though. And I kind of hate to
7 have a separate situation here.

8 DR. "ARTHUR": Well, that would -- Dr. Arthur,
9 again.

10 You know what Dr. Hester has said is
11 actually correct as long as you use urine threshold
12 levels. The ultimate goal of the RMTC is to use
13 blood levels, which is not -- which are not affected
14 by urine dilution. That's in the future.

15 What we've tried to do is make our
16 recommendations based on scientific evidence. Trying
17 to manipulate our deal, with what Dr. Hester is
18 talking about, without actually having research to
19 back it up, I think is -- would be an awkward
20 situation. His point is well taken.

21 I just don't think it's necessary for
22 this rule. And it's a side issue on this, and it
23 could be addressed at a different time.

24 COMMISSIONER SHAPIRO: Dr. Jensen, are you
25 recommending that we pass this rule as it is

1 currently written?

2 DR. JENSEN: That's correct. Yes.

3 COMMISSIONER SHAPIRO: I'll offer the motion
4 to do that, please.

5 COMMISSIONER BIANCO: Second.

6 CHAIR HARRIS: All in favor?

7 COMMISSIONERS' VOICES: Aye.

8 DR. JENSEN: Thank you.

9 CHAIR HARRIS: Be sure that all the practicing
10 veterinarians in California at the tracks know these
11 things are coming along too.

12 Okay. We've got jockey insurance
13 program.

14 MR. REAGAN: Commissioners, John Reagan, CHRB
15 staff.

16 After a couple of regrettable and
17 horrendous accidents outside of California, in which
18 jockeys were permanently disabled, quite a bit of
19 conversation has taken place as to what kind of
20 coverage jockeys have. This specific item is --
21 staff was requested to determine the insurance
22 available to California jockeys.

23 We have done that. First of all, as
24 we all know, California is a workers' comp state. So
25 a jockey injured on the job has that program

1 available to them.

2 The Thoroughbred tracks offer an
3 additional item, from the TRA, which, based on the
4 signing of a waiver or not, you are either a Class I
5 or Class II level. And the eligibility requirements
6 and the benefits attached thereof are included in
7 this package as Exhibit 13A.

8 There's a kind of a binder cover here
9 that outlines those. So the California jockeys not
10 only have the workers' comp but they have additional
11 insurance available to them for serious injury and
12 whatnot. And, as I say, those are included in this
13 package for your review.

14 Finally, California jockeys have
15 another unique program available only in one or two
16 other states, but it started out in California. And
17 that's the funding of a health and welfare program
18 for California jockeys from uncashed refunds. That
19 runs about a million dollars a year and is
20 administered by the Jockeys Guild.

21 For your review, we included the 2003
22 financial statements -- well, not "financial
23 statements" -- but the review of the schedule of
24 costs for that program. So obviously we'll be
25 getting the 2004's in the next few months. And we

1 will certainly have that for you.

2 But for your review, you can look at
3 this report. And it talks about the various health,
4 dental, and vision; a self-insurance program; life-
5 insurance cost; disabled; injured; and some other as
6 well as some administrative costs.

7 So I think, to be brief here, I think
8 the California jockeys seem to have a pretty good
9 program. I'm sure we can always improve it. But I
10 think, compared to the rest of the nation, they seem
11 to have a pretty good program. I'm sure others may
12 want to say something about that.

13 COMMISSIONER SHAPIRO: John, I appreciate
14 that.

15 Is there anybody from the Jockeys
16 Guild here?

17 MR. REAGAN: They were earlier.

18 COMMISSIONER SHAPIRO: Yes.

19 MR. REAGAN: He's still here.

20 MR. FISS: Albert Fiss, with the Jockeys
21 Guild.

22 COMMISSIONER SHAPIRO: How are you?

23 Obviously the reason that we want
24 to -- we're trying to understand this at or at least
25 I'm trying to understand this -- as well as with all

1 the notoriety has gone on as of late, it caused us --
2 me -- to have serious questions and wanted to make
3 inquiry as to the health of the Jockeys Guild and
4 understand that the funds that are there for the
5 benefit of the jockeys are there and try to get a
6 better understanding, from you, as to what the
7 situation is.

8 Racing doesn't need more black eyes,
9 but this is certainly a huge black eye for us. And
10 it seems the Jockeys "Club" is at the center of it.
11 So perhaps you could --

12 CHAIR HARRIS: Jockeys Guild.

13 COMMISSIONER SHAPIRO: -- shed some light on
14 what the situation is.

15 MR. FISS: Well, there's a bit of history that
16 goes along with this. And it's going to take some
17 time, if you'll allow me to.

18 Back in August of 2002, the Jockeys
19 Guild had a family health insurance plan through a
20 company called "Ullaco" (phonetic) -- called Union
21 Labor Life. That plan -- or the Jockeys Guild that
22 was paying the premiums on that plan was subjected to
23 extremely high increases in the premiums. That
24 occurred over an extended period of time,
25 approximately six, seven, eight months.

1 The key reason for the increase in the
2 cost of the premiums, as stated by the underwriters
3 to the former management of the Guild, effectively,
4 was due to a single accident that occurred at
5 Prescott Downs in Phoenix, Arizona.

6 If I could digress for just one
7 minute, that family health insurance plan -- the
8 "Ullaco" plan, had two functions. The functions --
9 the primary function was that of providing family
10 insurance -- family medical and health insurance for
11 jockeys and their families. The Guild at the time
12 had about 610 members.

13 And the secondary part of the policy
14 was to provide medical-claim payments for jockeys
15 that were injured, in nonworkers' comp states, due to
16 on-track injuries. So, effectively, it was a -- it
17 was utilized as a catastrophic policy for -- for
18 injuries occurring in the 33 nonworkers' comp states.

19 Arizona is a nonworkers' comp state;
20 so when the jockey at Prescott Downs -- at Prescott,
21 Arizona, was injured, in August of 2000, her medical
22 bills, once they exceeded the hundred-thousand-
23 dollar cap that the -- that Prescott Downs had on
24 jockey -- on-track injuries for jockeys, the Jockeys
25 Guild's medical plan kicked in.

1 Over the course of approximately six
2 months, those medical bills totalled in excess of
3 \$650,000. So, consequently, all those medical bills
4 were paid by the Jockeys Guild's family health
5 insurance plan -- the "Ullaco" plan.

6 As those medical bills came in, the
7 former manager of the Jockeys Guild would go back to
8 the Board of Directors of the Jockeys Guild and ask
9 for an in -- an approval to pay this -- an increased
10 premium. First, it was 10 percent. Then, it was 15
11 percent. Then, it was 25 percent.

12 Ultimately, in February of 2001, it
13 became -- the underwriters for the "Ullaco" plan said
14 they were going to have to increase it to 43 percent.
15 That meant that the total cost of the plan would go
16 from \$2.8 million to over \$4 million.

17 At that point in time, it was
18 recommended, by the executive committee, that they do
19 not renew that insurance policy and, rather, cancel
20 the insurance policy.

21 In order to -- for political reasons,
22 in order to protect their jobs, the Jockeys Guild
23 management decided that they needed to place a
24 one-year -- purchase a one-year policy of
25 catastrophic injuries for jockeys that were injured

1 in the nonworkers' comp states, where the bills rose
2 above a hundred-thousand dollars.

3 That one -- that one-year policy
4 covered approximately 400 jockeys, in a -- in an
5 industry that has over 1,300 active, licensed jockeys
6 that -- that make race-riding their primary
7 profession. It was obviously a Band-Aid that was
8 insufficient to cover all the jockeys in this
9 country.

10 The policy itself cost somewhere in
11 the neighborhood of \$450,000. So if you extrapolate
12 the necessity to cover the other 900, the 1,000
13 jockeys that aren't covered -- that weren't covered
14 under that plan, you're looking at a total cost on a
15 catastrophic policy of well over a million dollars.

16 The Guild has limited resources. So
17 when we -- when you --

18 COMMISSIONER SHAPIRO: Excuse me. Do all of
19 the 1,300 jockeys pay into the Guild? Do they, all
20 1,300 of them, pay in -- premiums?

21 MR. FISS: When we -- when we -- well, I'll --
22 let me finish with the little bit of history that's
23 left in this explanation.

24 A few months later, the executive
25 committee of the Board of Directors of the Jockeys

1 Guild decided that they wanted to change managers and
2 use somebody from outside the industry to come in,
3 evaluate their organization, evaluate the industry,
4 and see what they could do to improve the quality of
5 life for jockeys around the country.

6 The suggestions that we -- one of the
7 suggestions that we made was that, in order to be an
8 organization that had some kind of clout in this
9 industry, you needed to -- they needed to increase
10 their membership from 510 members to closer to 1,200
11 to 1,300 members.

12 The difference is that, back then,
13 that the 610 members rode approximately 53 percent of
14 all the mounts ridden in this country. Today, the
15 Guild has an active member membership base of 1,260
16 members and ride 95 percent of all the mounts ridden
17 in this country. And with that, obviously, comes an
18 increase in the cost of the benefits.

19 The Guild charges, currently, \$3 per
20 mount to its members. And so, consequently -- so,
21 consequently, you can see that the numbers don't add
22 up with regards to purchasing both on-track accident
23 insurance coverage and family medical insurance.

24 And so we had to make a decision,
25 based on our recommendation to the Board of

1 Directors, as to which insurance product they wanted
2 to purchase: a catastrophic policy that basically,
3 from our position, covers the racetracks in the
4 nonworkers' comp states for obligations that are
5 wholly their -- their obligations? Or do we protect
6 jockeys, their spouses, and their -- and their
7 children?

8 COMMISSIONER SHAPIRO: Okay. So 1,300 jockeys
9 have paid into a plan, but 1,300 jockeys aren't going
10 to get the benefits if there is more than one or two
11 injuries? Would be that correct?

12 MR. FISS: I don't understand the question.

13 CHAIR HARRIS: The health plan -- they paid
14 into it --

15 MR. FISS: No. Of the 1,300 active members in
16 the Guild, approximately 600 of them optioned for
17 a -- for the family health insurance plan. They paid
18 an additional amount of money to that family health
19 insurance plan.

20 COMMISSIONER SHAPIRO: All right. But I'm
21 trying to focus on the catastrophic issues.

22 MR. FISS: Okay.

23 COMMISSIONER SHAPIRO: I mean, clearly,
24 there's a major problem here.

25 MR. FISS: Not in California, though.

1 CHAIR HARRIS: You have to separate

2 California --

3 COMMISSIONER SHAPIRO: I know we're a

4 workman's comp state and --

5 CHAIR HARRIS: Well, in addition to that, as I

6 understand, in California, not only do the jockeys

7 have a million dollars of catastrophic insurance if

8 they sign a waiver -- if they don't, it's 100,000, I

9 guess; I'm not sure if that waiver issue is a big

10 issue or what; is that true?

11 MR. FISS: Yeah. Based on the old TRA

12 negotiation document, that's correct.

13 COMMISSIONER SHAPIRO: So our jockeys,

14 assuming they've all signed the waiver, have a

15 million dollars' worth of coverage; is that correct?

16 MR. FISS: In essence, it is. In essence, it

17 is. It's really -- it's not just a million dollars.

18 It has degrees of --

19 COMMISSIONER SHAPIRO: A million four, a

20 million one.

21 MR. FISS: Sure. Sure. Sure.

22 COMMISSIONER SHAPIRO: I saw the chart.

23 MR. FISS: Uh-huh.

24 COMMISSIONER SHAPIRO: Okay. And how do they

25 know that their premiums are being properly managed?

1 MR. FISS: Well, we don't purchase that
2 catastrophic policy. The racetracks do.

3 COMMISSIONER SHAPIRO: Okay.

4 CHAIR HARRIS: That's a TRA function or --

5 MR. FISS: That's a -- well, the TRA's the
6 negotiating arm of the racetracks -- of about 60
7 percent of the racetracks in this industry. And the
8 agreement is such that the TRA member tracks can --
9 can agree to abide by the agreement between the
10 Jockeys Guild and the TRA or it can -- or it can
11 disavow themselves from the agreement.

12 CHAIR HARRIS: Are the jockeys in California,
13 at the tracks in California, under that?

14 MR. FISS: Yes. All tracks in California
15 effectively abide by the TRA agreement.

16 COMMISSIONER SHAPIRO: Is John Reagan still
17 here?

18 No? Oh, okay.

19 Well, then, Roy, maybe you can answer
20 it. And the CHRB contributes money to the Jockeys
21 Guild in terms of some fund; is that correct?

22 CHAIR HARRIS: We don't contribute any money.

23 MR. FISS: No. As a matter of fact, at this
24 time, I'd like to take the opportunity to thank the
25 state legislature in California and former Governor

1 Wilson, who were the ones that actually passed
2 legislation to what you're speaking about.

3 CHAIR HARRIS: The fund -- it's uncashed --
4 uncashed mutual tickets --

5 MR. FISS: Correct.

6 CHAIR HARRIS: -- or something. And it
7 accrues --

8 COMMISSIONER SHAPIRO: And who's the guardian
9 of those funds?

10 CHAIR HARRIS: We allocate it out to them,
11 based on their request, I guess.

12 MR. FISS: It's a combination of the CHRB and
13 the TOC that are the guardians of the fund. We are
14 the -- we are the -- currently contracted as the
15 administrators of the money.

16 COMMISSIONER SHAPIRO: And do you provide us
17 with financials --

18 MR. FISS: Yes.

19 COMMISSIONER SHAPIRO: -- of the Jockeys
20 Guild?

21 And they're current on those?

22 MR. FISS: Yes.

23 ASSISTANT DIRECTOR MINAMI: Yes. So far,
24 they've provided us with audited financials for 2003.
25 And we have yet to receive request from them for 2004

1 and, in which case, I think the Jockeys Guild is
2 already on notice that we would be demanding a --
3 audited financials before we release that money,
4 again, for 2004.

5 MR. FISS: That's correct. One of the
6 problems is that, because they are uncashed tickets,
7 they have a, I believe, 180-day moratorium on them
8 for people to cash these tickets, in case they are
9 lost in their wallet or whatnot.

10 COMMISSIONER SHAPIRO: Obviously, the reason
11 I'm asking this questions --

12 MR. FISS: Sure.

13 COMMISSIONER SHAPIRO: -- are the articles
14 that I've read recently which allude to -- and I'm
15 not saying it's true or it's not true --
16 misappropriation of funds and other irregularities
17 with the Jockeys Guild.

18 And I want to make sure that our
19 jockeys have all the coverage that they're paying
20 for. We have no jurisdiction outside of the state.

21 But it's certainly a horrible
22 situation that's occurred. I know "Gary Bursar"
23 (phonetic). And so I'm upset that a situation like
24 this exists.

25 And I just want to make sure that

1 we're getting everything -- well, I'd like to
2 understand and know how the Jockeys Guild is
3 currently organized and what steps are being taken to
4 rectify the situation. So that's the reason for the
5 question.

6 MR. FISS: I see.

7 COMMISSIONER BIANCO: Other question -- has
8 there been a drop-off since we've gone to the advance
9 deposit wagering? I was always concerned that we'd
10 have a drop-off where there wouldn't be that many
11 uncashed tickets.

12 MR. FISS: You know, I asked -- I asked John
13 Reagan the same question.

14 And he said that he had to do a study
15 to determine that. I don't have the numbers to
16 determine that, one way or the other. What we get
17 under the -- under the statute in California is, I
18 believe, 20 percent of the total value of the
19 uncashed tickets. Whether or not that has gone up or
20 down is an unknown.

21 In fact, I talk about that to the
22 California jockeys all the time. I let 'em know that
23 this is something that, five years from now, with
24 automatic reconciliation could, in fact, be a problem
25 for them. We do need to find a new -- an alternative

1 source for this money that they're currently getting.

2 CHAIR HARRIS: Well, yeah. It would have to
3 be legislated, I think. But I think that the
4 California system is a pretty good system, where
5 the -- I mean most independent contractors are not
6 paid -- they don't get their health insurance paid.

7 MR. FISS: It's a model system. If you think
8 about it, California does the three things that are
9 needed to be done in every other state. Number 1,
10 they provide on-track accident insurance coverage
11 that that is at workers' comp levels. Number 2, they
12 provide money for subsidy of family health insurance
13 to jockeys. And, Number 3, the catastrophic issue is
14 covered as well.

15 CHAIR HARRIS: Yeah.

16 MR. FISS: What's happening -- what you read a
17 lot of, in the press, with regards to the other
18 states or especially the nonworkers' comp states, is
19 that they do not distinguish between those three
20 different issues.

21 For example, that insurance policy
22 that was purchased by the former management of the
23 Guild, on one-year basis, was a million-dollar
24 catastrophic policy that kicked in after the hundred-
25 thousand dollars paid by the racetrack for medical

1 bills.

2 Gary Bursar, as an example -- his
3 total bills were seven-hundred-and-fifty or \$800,000.
4 That means that that catastrophic policy would have
5 paid those medical bills to the doctors and the
6 hospitals.

7 And I'm not here to suggest that they
8 shouldn't get paid. But it does -- it does nothing
9 to go to the fact that he's going to need a hundred-
10 and-twenty to \$150,000 a year for caregiving for the
11 rest of his life.

12 CHAIR HARRIS: On these -- this catastrophic
13 program we have in California -- on the waivers --
14 are those -- as I understand it, that's a waiver the
15 jockey signs saying he will not sue the track?

16 MR. FISS: Except for cases of negligence,
17 yes.

18 CHAIR HARRIS: Okay. How about -- is the
19 owner covered by any of those waivers -- the owner of
20 the horse or the trainer of the horse he's on?

21 MR. FISS: I can't -- I don't know.

22 CHAIR HARRIS: Yeah. Probably not.

23 Ed or Drew, do you know that?

24 MR. COUTO: I'm sorry. I was --

25 CHAIR HARRIS: We're just talking about these

1 waivers that the tracks have, saying -- for
2 catastrophic -- basically they provide a million
3 dollars in coverage if the guy signs a waiver.

4 But does that waiver also address
5 lawsuits against owners and trainers?

6 MR. COUTO: I don't believe it does.

7 I was just asking Mr. Baedeker about
8 the catastrophic coverage here. I'm not sure what it
9 covers because the workers' comp statute basically
10 covers all the medical and associated benefits with a
11 industrial-related accident or an accident on the
12 track.

13 So it must provide some coverage to
14 the tracks, as between the tracks and the riders.
15 But I'll let Mr. Liebau probably answer that
16 question.

17 MR. LIEBAU: No. If the waiver is signed by
18 the jockey, he has no -- he has supposedly --
19 supposedly -- given up his claim against the track.
20 I don't exactly know how it's paid out.

21 But I do know that there was accident
22 at Bay Meadows with "Marco Castenada" (phonetic).
23 And we all hunted around -- everybody -- to try and
24 find the waiver so that they would get the coverage
25 under the million dollars besides workers' comp.

1 I did take a look, recently, because
2 this issue came up. And I think that, at Santa
3 Anita, of the top 20 or so jockeys, about 12 of 'em
4 had signed the waiver. And at Bay Meadows at that
5 time, of the 16 top, 12 had signed.

6 And I don't quite know what the, you
7 know, the opinion is of the Jockeys Guild is with
8 respect to these waivers. But I think that the
9 tracks -- that we have probably been not as
10 aggressive as we should have been in giving the
11 jockeys the opportunity to sign these waivers if they
12 were so inclined.

13 CHAIR HARRIS: Yeah. I would suspect that
14 some of 'em didn't sign this because they didn't ever
15 get around to it or know about it or whatever. But
16 it seems like something we need to get done unless
17 there's something, you know, they've got some theory,
18 legally, they don't want to sign 'em but --

19 MR. FISS: Well, right now, it's currently --
20 you can effectively say it's currently under
21 negotiation. Right now, we are negotiating with the
22 TRA to renew that contract. We've added numerous
23 items to the -- to the suggestion box, if you will,
24 of what we would like to be -- have included in
25 that -- in that document.

1 CHAIR HARRIS: Well, this isn't really the
2 Jockeys Guild's problem exactly but -- well, sort of
3 if you're in the Jockeys Guild. But I've always been
4 concerned that the workers' comp coverage that
5 owners basically have is through the trainer and that
6 there could be, if it's that clear, that owners are
7 covered or at least as a workers' comp employer could
8 not be sued or not --

9 MR. COUTO: Well, Mr. Harris, on that issue,
10 we've begun discussions with AIG recently to have
11 them to name all owners, within a barn, as additional
12 insureds. And it appears that they will do that in
13 the next policy period. So that will cover all
14 owners.

15 The question I have is that, under
16 Business Code -- Business and Professions Code
17 19612.9, as Mr. Fiss notes, TOC is the party
18 responsible for negotiating the agreement, with the
19 Jockeys Guild, regarding health and welfare benefits
20 paid under unclaimed refunds.

21 We appreciate the information,
22 financial information, that the Guild's provided as
23 far as how the money's been used; but I'm not aware
24 at this point -- perhaps it's something we missed --
25 I'm not aware of any documents indicating what

1 coverage has been purchased and what benefits have
2 been paid and the cost of those.

3 It's unclear to us, really, if this is
4 a self-insured program, if it's insured by a third
5 party or what. And we'd like to ask that the Board,
6 pursuant to 19612.9(b) obtain -- it says, "The
7 organization shall make available to the Board all
8 records and documents necessary for the performance
9 of these duties."

10 To the extent they haven't yet been
11 provided, I'd ask the Board to request clarification
12 as to what policies have been purchased with the
13 moneys paid under this provision. Has it been
14 limited to California riders or former California
15 riders, as required by this section?

16 And just some clarification because of
17 the, as Mr. Shapiro said, the stories and notoriety
18 lately, I think we all have to be prudent -- in
19 particular, TOC -- since we are the party negotiating
20 this contract, we need to know that there is coverage
21 in place and who it's with and how it's being
22 administered. Thank you.

23 CHAIR HARRIS: You could do that, really,
24 absent the Board's involvement, probably.

25 MR. FISS: Absolutely. I think it's already

1 been provided. But I'll check with John Reagan and
2 make sure that it is, if it wasn't.

3 One thing that the Commission may want
4 to be aware of is that the policy that -- the family
5 health insurance policy that is provided to the
6 jockeys here in California is -- was the same -- is
7 the same policy that's provided to the jockeys -- all
8 jockeys in all states that have pari-mutuel racing.

9 Recently, we changed network
10 providers, based on the request of the Southern
11 California Thoroughbred Jockeys to increase the
12 number of hospitals and doctors in the network. We
13 were successful and able -- successfully able to do
14 that, at very minimal costs, starting in October of
15 this year.

16 The -- the other -- there was a
17 question that Drew had asked.

18 And I wanted to answer it immediately
19 if I could. But I blanked out a little bit here on
20 what the question was.

21 COMMISSIONER SHAPIRO: Is there anything that
22 the Guild can do, though? I mean a million dollars
23 today, unfortunately, isn't a lot of money for a guy
24 that -- these guys are putting their life on the line
25 and they take a spill. You know, their doctors'

1 bills can be through the roof.

2 And if they're denied their -- a way
3 to earn a living from this point forward, what do
4 they do? I mean, you know, they can't earn a living
5 doing the livelihood that they once did.

6 MR. FISS: That is correct.

7 COMMISSIONER SHAPIRO: Is there any notion or
8 any thought being given that the Guild has to
9 build -- to buy an umbrella policy or anything above
10 the million dollars for the benefit of the jockeys?

11 MR. FISS: No. If you look at the -- let's
12 look at workers' comp rates. Here in California, I
13 believe it's \$66 per --

14 COMMISSIONER SHAPIRO: They're outrageous.

15 MR. FISS: -- per mount. In New York, it's
16 somewhere around 30, \$35 per mount; in Maryland,
17 probably somewhere around the same; New Jersey, as
18 well. The jockeys pay, into the Guild, \$3 per mount.
19 It's pretty easy to do the math.

20 COMMISSIONER SHAPIRO: Well, I understand
21 that --

22 CHAIR HARRIS: I think really what's needed is
23 just the individual jockeys need to be counseled on
24 different options they have for disability insurance
25 or life insurance or whatever they want but --

1 MR. FISS: And our position is that it's
2 the -- it's the duty of the Guild to negotiate those
3 types of benefits on the behalf of jockeys.

4 CHAIR HARRIS: The question is are those
5 negotiated benefits that are paid by somebody else?
6 Or I could see some of them being paid by somebody
7 else. But I don't know if the industry can really
8 provide, you know, unlimited benefits.

9 And it seems like the individuals need
10 to also look at their own situation and decide that
11 they want to buy some supplemental insurance.

12 COMMISSIONER SHAPIRO: I mean do you meet with
13 them and counsel them? I mean these may not be guys
14 that are focussed on insurance. They're one of the
15 more horrible things to have to focus on. Okay?
16 None of us really likes it.

17 But do you sit down with them? I mean
18 I can't imagine why any jockey would not sign that
19 waiver. And I would think, as the Guild, you're in
20 there telling each one, "Hey, you know, Bob. You'd
21 better -- you need to sign this in case you get
22 hurt."

23 I don't know why there wouldn't be a
24 hundred percent of the jockeys signing it. Maybe
25 there's some other reason I don't understand. But

1 are you in there talking to the jockeys --

2 MR. FISS: Yes.

3 COMMISSIONER SHAPIRO: -- and -- and providing
4 them with alternatives for umbrella coverage and
5 other things?

6 MR. FISS: Yes. But our primary -- the first
7 thing we tell them, though, is that -- to be quite
8 frank, is that it's our position that it is the
9 racetrack's responsibility to provide that coverage.

10 CHAIR HARRIS: I don't know if that's -- I
11 mean I agree that there should be, you know, funds
12 expended for that. But I think you're just sort of
13 sending them the wrong signal if you give them the
14 idea that you're taking care of everything, that they
15 don't have to take care of anything.

16 And the individual needs to be, you
17 know responsible, like all of us are, and look at
18 their own situation and hope that the Guild is
19 representing them well too. But in any kind of a
20 business or government or whatever -- it doesn't just
21 have unlimited insurance.

22 MR. COUTO: Mr. Shapiro, I'd like to clarify
23 something. Again, if a rider's injured in an
24 accident on the track, they are covered -- full
25 medical -- under the workers' compensation.

1 Mr. "Fitz" -- Mr. Fiss just indicated
2 that that's \$66 a jock mount here in California.
3 It's actually 115 -- \$116 a jock mount. We pay \$50
4 through a subsidy to bring it down to 66.

5 Anyway, the coverage provided under
6 workers' comp would pay all medical bills, unlimited,
7 for that injury. And we were advised last week that,
8 beginning 2005, the weekly permanent disability
9 benefit will be in excess of \$800 in the State of
10 California -- \$800 per week for any permanently
11 disabled rider with a full disability.

12 So above that \$800 per week, as
13 Mr. Harris indicated, as with all of us, we would
14 purchase an individual disability policy to cover
15 loss of income above whatever we're going to receive
16 through the workers' comp program.

17 But that's currently the insurance
18 that exists for work-related injuries in California.

19 COMMISSIONER SHAPIRO: I appreciate that. I'm
20 trying to make sure that it's getting filtered down
21 to the jockeys themselves so that the certain -- any
22 jockey doesn't find himself in the position where he
23 thought he had coverage -- he doesn't have enough
24 coverage -- he's got \$800,000 worth of bills, and he
25 has no livelihood.

1 MR. FISS: Right.

2 CHAIR HARRIS: I think the thing is that you
3 can -- that the bills are going to be taken -- the
4 medical bills are okay. The problem is that you've
5 got somebody that's making five or 600,000 a year and
6 then, you know, they're basically disabled and
7 they're getting their 800 a week. I mean it's, you
8 know --

9 MR. FISS: No. It's both. Even the medical
10 bills aren't being paid.

11 CHAIR HARRIS: Well, the medical bills are --
12 in California, are.

13 MR. FISS: In California --

14 CHAIR HARRIS: In California, if a jockey had,
15 you know, if a jockey had, you know -- I mean "Sam
16 Lemonky" (phonetic) could have \$2 million worth of
17 medical bills. They're going to get paid. But the
18 problem is the life-style change he has to go through
19 because he is, you know, a very high-earning person
20 that suddenly is not a high-earning person. And
21 that's, I think, what the jockeys need to look at. I
22 think, as Richard mentioned, that it sends 'em the
23 wrong signal if they sort of feel everything is kind
24 of taken care by somebody else, where it's really
25 not.

1 MR. FISS: Right. But, remember. You have
2 to -- you really have to segregate the jockeys into
3 two classifications -- those that make enough money
4 to purchase insurance on their own and those that
5 can't. The majority of them --

6 COMMISSIONER SHAPIRO: You have to address --

7 MR. FISS: -- can't afford --

8 COMMISSIONER SHAPIRO: -- them into
9 classifications too. Yeah. It's great for the top
10 10 riders who can afford it. But the top -- the
11 below -- you know, the lower riders -- they need to
12 understand what they're putting on the line and what
13 they're getting into.

14 And my concern is that some of them
15 may be great riders but not great businessmen or may
16 not being advised and may not understand. And I just
17 feel an obligation that this Board has and this
18 industry has to make sure that we're disseminating or
19 you're disseminating information to them that allows
20 them to make informed decisions. That's all.

21 MR. FISS: Right.

22 COMMISSIONER SHAPIRO: And it doesn't sound,
23 from what I have read, that a lot of that was done.
24 I mean we have a jockey who, in the country, who
25 thought he had more coverage, is paralyzed, and he's

1 penniless.

2 MR. FISS: More than just -- more than just
3 one, quite frankly.

4 COMMISSIONER SHAPIRO: And that's horrible.

5 MR. FISS: You're absolutely right.

6 COMMISSIONER SHAPIRO: And that's not a
7 tolerable situation for an industry that deals in
8 billions of dollars.

9 MR. FISS: That is correct.

10 CHAIR HARRIS: But it doesn't exist -- in
11 California, it is a different situation.

12 COMMISSIONER SHAPIRO: I agree it's different
13 here. But I just want to make sure -- and I don't
14 know if Chris is still there. Maybe he wants to
15 weigh in on making sure that, you know, from a
16 perspective of a jockey. I don't know.

17 (Brief interruption as reporter
18 changes paper.)

19 CHAIR HARRIS: But that is a problem, I think,
20 that, in California, even in California, that there
21 would have -- that would be an issue with his ongoing
22 income being if he was -- especially if there's some
23 jockey that only made twenty-five or 30,000 a year
24 wouldn't be as abrupt of a life-style change, at
25 least. But it certainly would for the higher.

1 And so it seems like -- I think
2 every -- the problem is, I think we're just concerned
3 that these jockeys understand what they have and what
4 they don't have. And, you know, some of the things
5 they don't have, maybe there's some way to get it
6 or -- individually or collectively.

7 Okay. Anything else on this?

8 MR. McCARRON: This is Chris McCarron,
9 speaking on behalf of myself.

10 I just want to say, "Thank you very
11 much, Mr. Shapiro, for your concern." It's very
12 refreshing to -- not to take anything away from any
13 of the other Commissioners, but it's very refreshing
14 to hear someone from -- in your position to be
15 offering a great deal of support and concern and
16 asking the right questions of not just the Jockeys
17 Guild but of the industry itself.

18 And as a retired jockey, I appreciate
19 that a great deal. And --

20 COMMISSIONER SHAPIRO: Chris, are there any
21 suggestions that you have that we, as a Board, should
22 be paying attention to or that we should be doing to
23 make sure that the jockeys are informed? I don't
24 know how it works with the jockeys and how they're
25 advised.

1 Are there procedures that should be in
2 place?

3 MR. McCARRON: Well, I think my major concern,
4 as being a retired California jockey, would be
5 that -- and for all those other California jockeys,
6 any retired California jockeys, is that the Board and
7 its staff do the due diligence to make sure that the
8 moneys that are received from the uncashed tickets,
9 from scratches, is actually going to California
10 jockeys.

11 I think that's a very important issue,
12 and I'm pleased that the TOC raised that issue. I
13 think it's crucial to the success of that program,
14 the long-range success of that program, because of
15 the fact that ADW will eventually have a great impact
16 on that.

17 And I agree with Albert that
18 alternative funding needs to be looked at, you know,
19 along in the future. But I also feel strongly that
20 those funds should be used for California jockeys.

21 CHAIR HARRIS: But that -- is that the case
22 where California has a distinct fund that money's
23 going in and out of? Or is that basically part of a
24 national fund?

25 MR. FISS: No. It's distinct.

1 CHAIR HARRIS: It's a separate fund -- state?
2 'Cause the problem with a national fund would be, if
3 you get a nonworker comp state, as you pointed out,
4 that an injury would be using up a lot of the health
5 stuff. With California, it's a good situation, where
6 you've got both the workers' comp and the health
7 insurance.

8 MR. FISS: Correct.

9 MR. COUTO: And, just one more thing -- I
10 would be remiss if I didn't also thank TOC. It was
11 TOC, in fact, that initiated this program and brought
12 it -- I believe that's the case anyway -- that Mr. Ed
13 Friendly and his friends brought this idea to the
14 Board. And it was through the Board's impetus that
15 this program was put into place. I'm very
16 appreciative.

17 MR. MARTEN: Mike Marten, Horse Racing Board.

18 I did have a conversation with John
19 Reagan on this because I've had inquiries from the
20 media.

21 And he explained -- this should answer
22 Drew's questions -- that a full audit, he went over,
23 verified that everything was aboveboard and that the
24 funds were segregated. He used that word --
25 "segregated."

1 COMMISSIONER SHAPIRO: Thank you.

2 CHAIR HARRIS: So is there some ongoing
3 effort? It seems like one thing that's pretty easy
4 to fix is these jockeys that haven't signed up for
5 the million-dollar coverage, unless they, you know,
6 are -- consciously don't want to do it.

7 But I think with the -- the Jocks
8 Guild ought to get them signed up if they don't have
9 some objection to it.

10 Okay. Anything else on this?

11 (No audible response.)

12 CHAIR HARRIS: Let's move on to --

13 MR. FISS: Thank you.

14 CHAIR HARRIS: Thank you, Albert.

15 -- to 14 is an item that Richard
16 Shapiro brought up. It's discussion and action by
17 the Board on the Board forming an ad hoc committee
18 to study, examine, and recommend measures to improve
19 California Horse Racing's popularity and performance.

20 I'll let him elaborate.

21 COMMISSIONER SHAPIRO: Anybody who's sat
22 through this extremely long meeting -- I apologize
23 for that -- probably has an idea of where I'm coming
24 from. Racing -- 20, 30 years ago -- was flying at
25 32,000 feet. And things were great. We're at 5,000

1 feet today. And the plane isn't headed upward. It's
2 headed down.

3 And I am frustrated and concerned that
4 we, as an industry, need to step back. And we have
5 to take very harsh and dramatic steps to revive
6 getting people to the racetrack. I'm not a fan of
7 the advance deposit wagering only because I think it
8 encourages people to not come out and see the show.

9 Consequently, there's not a lot of
10 people at the -- here at the track. And so the
11 tracks don't improve the facilities. And we sit here
12 in antiquated facilities that are uncomfortable.
13 Whether you're a patron or whatever, just to watch
14 the races, you're sitting by yourself.

15 And so what I would like to do is I
16 think that we know we're not, in the near future,
17 going to get any relief from slots. Maybe there's
18 some way to do it. But I don't see it in the near
19 future, since it takes a constitutional amendment.

20 And I think that we need to step back
21 and create some committee that will get off its ass
22 and figure out what we're going to do, as a
23 stopdash -- stopgap measure, to try and improve
24 things.

25 I think we're making great strides in

1 the security and the medication. And I hope those
2 continue. But we have to figure out how to bring
3 people back here. Otherwise, we're going to become a
4 studio sport. Sacramento gets 250 people a night at
5 their races. They are a studio sport. There's no
6 on-track attendance.

7 Yesterday there was 3,300 people here.
8 This place -- I'm not picking on Hollywood Park --
9 but there are -- there are lots of steps that aren't
10 being taken. And I think we have to figure out how
11 we're going to market ourselves to get new people to
12 come here.

13 And so I would like to see if we can't
14 have some form of ad hoc committee that's -- and I
15 know that -- I'm not a big fan of committees either.
16 They usually sit around and talk and nothing happens.
17 If that's what's going to happen, I'm not interested
18 in a committee either.

19 But I'm hopeful that we can go to this
20 governor with a plan, hoping to get some relief;
21 that, perhaps, we can demonstrate to the governor --
22 who, I think, is not anti-racing at all -- that we
23 deserve a break.

24 I don't think we're going to be able
25 to walk in and say, "Well, give us more money,"

1 because the State's getting less and less. But there
2 are things that we need to do to help ourselves to
3 demonstrate that we get some support.

4 So it would be my hope that there
5 would be people from various segments of the
6 industry -- and it's not limited to any segment --
7 including the racetracks themselves, that perhaps
8 could band together and come up with a better way to
9 market it, be it, you know, tutorials that are given
10 on campus at colleges and CD-ROMS and things that are
11 more of the 21st Century 'cause, I mean, the way
12 we're doing it isn't working.

13 So I would just like to try and see if
14 we can set up a committee to do that.

15 CHAIR HARRIS: Would you like to -- I mean
16 what do you propose? Do you want to pick people or
17 people get to you --

18 COMMISSIONER SHAPIRO: Well, I'm obviously
19 very accessible. And if there are people that are
20 interested in it -- I will be contacting various
21 racetrack managements to ask them to participate in
22 it.

23 And I would hope that we'd get
24 representatives that are owners and trainers and
25 jockeys and anybody else that can help us promote the

1 sport back to what we can make it to be.

2 CHAIR HARRIS: Yeah. I think we all
3 benefit -- or are damaged by the, you know, the lack
4 of growth. And it's pretty alarming that we're not
5 showing any growth. And obviously expenses are going
6 up and but we've got a sport that's been around
7 forever. And there's some way to bring it back. I
8 know we've talked about it forever.

9 But I think we need to really try to
10 reinvent ourselves.

11 COMMISSIONER SHAPIRO: How was the Ad Hoc
12 Security meeting -- committee formed?

13 CHAIR HARRIS: I don't know. Sort of
14 haphazard.

15 ASSISTANT DIRECTOR MINAMI: The Chairman
16 appointed two Board Members as part of the committee.
17 And from there, they selected and received volunteers
18 from various segments of the industry to work on the
19 security and licensing -- the security -- the Ad Hoc
20 Security committee. So we could probably do the same
21 thing here.

22 COMMISSIONER SHAPIRO: Okay.

23 CHAIR HARRIS: I think it would be important
24 to get -- I mean basically get owners, trainers,
25 jockeys, labor --

1 COMMISSIONER SHAPIRO: I think Jerry Moss will
2 join me in that. And so perhaps we can try to get
3 some people that will get on that committee.

4 COMMISSIONER BIANCO: John, can we get a
5 report on the marketing dollars that we're spending
6 now because I don't see the return that I feel that
7 we should be seeing.

8 CHAIR HARRIS: Yeah. We have a -- well, a
9 couple ways we're doing that. But, you know, we
10 should cover that at a meeting. Basically there's a
11 California marketing fund, and then there's also the
12 NTRA efforts. And then --

13 COMMISSIONER BIANCO: I think, in the future,
14 if we don't have something with a family theme to it,
15 then I think we'll continually go downhill. So I
16 don't think we've gotten our money's worth out of the
17 plan that's in effect right now.

18 ASSISTANT DIRECTOR MINAMI: Mr. Chairman, what
19 I would suggest, then, is, if Mr. Shapiro and
20 Mr. Moss are members of the ad hoc committee, then
21 anybody from the industry who wishes to
22 participate -- why don't you send a letter or e-mail
23 or telephone call to my office?

24 I'll connect as a central
25 clearinghouse. And then I'll make sure that

1 Commissioner Moss and Shapiro get those names. Then
2 from there, they could form the ad hoc committee. So
3 I would suggest -- say, within the next 10 days -- if
4 you could get your names to me, then we'll form the
5 committee.

6 COMMISSIONER SHAPIRO: And, Roy, I don't know
7 if there are people here from Magna or Churchill, but
8 I would certainly want to invite them and Los Al and
9 Bay Meadows and whatever other tracks there are to
10 participate in that.

11 ASSISTANT DIRECTOR MINAMI: I think what we
12 could do is we could put out a press release after
13 the Board meeting.

14 So, Mike, if you'll include that in
15 the press release.

16 MR. BLONIEN: Mr. Chairman and Members, Rod
17 Blonien.

18 Mr. Shapiro, I'd also suggest that you
19 try to include members of the public. We have a
20 couple of fan groups, and it might be good to invite
21 them, too, from the user standpoint and see what
22 their thoughts are.

23 CHAIR HARRIS: And I think it's, you know --
24 as Richard mentioned, sometimes we can meet to death
25 on these things. But I think that this, if we could

1 get it off to a good start and get the right people,
2 we could come up with some exciting ideas.

3 Okay. The last is the election of
4 chairman and vice-chairman.

5 COMMISSIONER SHAPIRO: I'd like to move that
6 we elect John Harris as our Chairman and William
7 Bianco as our Vice-Chairman.

8 COMMISSIONER MOSS: Second the motion.

9 CHAIR HARRIS: It's been moved and seconded.

10 All in favor?

11 COMMISSIONERS' VOICES: Aye.

12 CHAIR HARRIS: Well, I appreciate the
13 confidence. And I hope to do well, going forward.

14 COMMISSIONER SHAPIRO: You get all the work.

15 CHAIR HARRIS: Yeah. Jeez. This is
16 actually -- this is not necessarily a long-term job.

17 You guys got to move pretty quick.

18 The meeting -- yeah. I think the
19 meeting is adjourned. We're going to skip the --

20 those racing reports till later.

21 (Proceedings concluded at 2:38 P.M.)

22 --0o0--

23

24

25

