



APPEARANCES

COMMISSIONERS

Keith Brackpool, Chairperson

David Israel, Vice Chairperson

Richard Rosenberg

Bo Derek

Jesse Choper

Steve Beneto

Chuck Winner

STAFF

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

ALSO PRESENT

Darrell Haire, Jockey's Guild

Stuart Titus, Humboldt County Fair

Jim Morgan, Humboldt County Fair

Chris Korby, California Authority of Racing Fairs

Jim Morris, Golden Gate Fields

Lou Raffetto, Thoroughbred Owners of California

Eual Wyatt, Betfair Hollywood Park

Bernie Thurman, Betfair Hollywood Park

Dyan Grealish, Betfair Hollywood Park

Stephen Kennelly, TVG-Betfair

APPEARANCES (CONT.)

ALSO PRESENT (CONT.)

Jack Liebau, Betfair Hollywood Park

Carlo Fisco, California Thoroughbred Trainers

Richard Specter, L.A. Turf Club/Pacific Racing Association

Kevin Bolling, California Thoroughbred Horsemen's Foundation

John Hindman, TVG and Betfair

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Account; 2091.6, Powers of the Board to Review and Audit Records; 2092, Exchange Wagers Placed After the Start of a Race; 2092.5, Prohibitions on Wagers to Lay a Horse to Lose; 2092.6, Suspension of Occupational license and Rule 2093, Certain Practices Related to exchange Wagering. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.)

11. Closed Session: For the purpose of receiving 111  
advice from counsel, considering pending litigation,  
reaching decisions on administrative licensing and  
disciplinary hearings, and personal matters, as  
Authorized by section 1126 of the Government Code.

A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel, considering regarding the pending litigation described in the attachment to this agenda captioned "Pending Litigation" as authorized by Government Code section 11126(c).

B. The Board may convene a Closed Session to

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confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 1126(c).

- C. The Board may convene a Closed Session for the Purpose of considering personnel matters as authorized by Government Code section 11256(a).

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P R O C E E D I N G S

9:39 p.m.

PROCEEDINGS BEGIN AT 9:39 A.M.

(The meeting was called to order at 9:39 A.M.)

DEL MAR, CALIFORNIA, THURSDAY, SEPTEMBER 20 2012

MEETING BEGINS AT 9:39 A.M.

MS. WAGNER: Ladies and Gentleman. This meeting of the California Horse Racing Board will come to order. Please take your seats. This is the regular noticed meeting of the California Horse Racing Board on Thursday, September 20th, 2012 at the Sheraton Fairplex Conference Center, 601 West McKinley Avenue, Pomona, California.

Present at today's meeting are: Keith Brackpool, Chairman; David Israel, Vice Chairman; Steve Beneto, Commissioner; Jesse Choper, Commissioner; Bo Derek, Commissioner; Richard Rosenberg, Commissioner; and Chuck Winner, Commissioner.

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

In order to ensure all individuals have an

1 opportunity to speak and the meeting proceeds in a timely  
2 fashion I will strictly enforce the three minute time limit  
3 rule for each speaker. The three minute time limit will be  
4 enforced during discussion of all matters on -- as stated on  
5 the agenda, as well as during the public comment period.

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

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

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

23           If a speaker repeats himself or herself the  
24 chairman will ask if the speaker has any new comments to  
25 make. If there are none the speaker will be asked to let

1 others make comments to the Board.

2 Mr. Chairman.

3 CHAIR BRACKPOOL: Thank you. Good morning,  
4 everybody. Thank you, Fairplex, for arranging this. What a  
5 nice facility to -- to meet in, very, very nice. I've never  
6 felt so distant from my fellow Commissioners. But -- but,  
7 yeah, it's a very nice, very nice facility

8 I don't see Mike. Well, now I see Mike. But he's  
9 normally got a stack of cards. But I have one card for a  
10 later agenda item. Am I missing other cards?

11 MR. MARTEN: Number ten.

12 CHAIR BRACKPOOL: Okay. All right. So then I see  
13 no speakers in public comment, which probably means we  
14 should hold  
15 more meetings here.

16 Item number one, of course, I always miss before  
17 going to public comment. Approval of the minutes of the  
18 meeting of August 23rd, 2012. Do I have any comments on  
19 that?

20 COMMISSIONER ROSENBERG: Motion.

21 VICE CHAIR ISRAEL: Moved.

22 CHAIR BRACKPOOL: Motion to approve by  
23 Commissioner Rosenberg, seconded by Commissioner Israel.  
24 All in favor?

25 ALL COMMISSIONERS: Aye.

1 CHAIR BRACKPOOL: Motion carries. No public  
2 comment.

3 Item number three, report from the Medication and  
4 Track Safety Committee.

5 Commissioner Derek, Chair, would you go ahead and  
6 give us a report on that please?

7 COMMISSIONER DEREK: Yes. I'll keep this report  
8 brief because a couple of items are going to be on the  
9 agenda today, so I'll stick to the ones that are not.

10 Commissioner Chuck Winner and myself held a two-  
11 hour public meeting on August 24th to deal with a number of  
12 issues relating to equine health, race track safety, and  
13 racing integrity. We endorsed a proposal to tighten the  
14 procedure for administering Lasix to horses on the day of  
15 the race. It's based on model rules governing race-day  
16 bleeder medications that were recently adopted by the  
17 Association of Racing Commissioners International. Several  
18 other racing jurisdictions already have a similar program in  
19 place. In California this would mean Lasix would be the  
20 only authorized bleeder medication, eliminating estrogens.  
21 And veterinarians with private practice at the track would  
22 no longer be allowed to administer any medication on race  
23 day. In addition to furthering the paramount goal of  
24 integrity in racing, this program should reduce the cost to  
25 owners for Lasix administration.

1           The committee referred to the advisory -- the  
2 committee referred to our advisory committee proposals to  
3 establish strict requirements for the renovation of both  
4 dirt and synthetic tracks and safety standards for all  
5 racing. This was a case where we were presented with a lot  
6 of technical information, and we've decided to discuss it  
7 further with the committee.

8           Dr. Sue Stover -- Sue Stover reported progress in  
9 the development of a comprehensive program for the  
10 continuing education of trainers and veterinarians as part  
11 of the CHRB-UC Davis Racing Injury Prevention Program. This  
12 program will be web-based and readily available to all  
13 licensees.

14           CHAIR BRACKPOOL: Excellent. Thank you. And  
15 thank you, Commissioner Winner, for your work on that  
16 committee as well.

17           Item number four, discussion and action by the  
18 Board regarding Breeders' Cup races, to limit authorized  
19 bleeder medication to furosemide administered by CHRB  
20 licensed veterinarians approved by Breeders' Cup and who are  
21 not otherwise attending horses competing in the Breeders'  
22 Cup races.

23           Commissioner Derek, you want to take the lead on  
24 this one?

25           COMMISSIONER DEREK: Yeah. This is -- it

1 reaffirms the race conditions set forth in the Fall license  
2 application for Santa Anita Park during Breeders' Cup races.

3 And in essence, they've asked us to approve no horse on the  
4 CHRB authorized bleeder medication list will be allowed to  
5 enter or start in a two-year-old Breeders' Cup championship  
6 race as a condition of the race. Only Breeders' Cup CHRB  
7 licensed veterinarians approved by Breeders' Cup will be  
8 allowed to administer CHRB authorized bleeder medication to  
9 horses entered in Breeders' Cup championship races.

10 The Breeders' Cup reserves the right to limit  
11 authorized bleeder medication to Lasix only in Breeders' Cup  
12 championship races.

13 CHAIR BRACKPOOL: I think we all know the issue.  
14 And I have various letters of support from Breeders' Cup,  
15 Santa Anita, etcetera, here.

16 I guess my question is one of Staff, either  
17 Counsel or Jackie. Staff recommends the Board reaffirm the  
18 race conditions. As we agreed earlier this year, it was a  
19 condition of Breeders' Cup races that they were going to  
20 make these. But what are we, as a Board, actually being  
21 asked to do? Is this is a resolution in support? What is  
22 this, we reaffirm the conditions? Are we taking a vote on  
23 something? I'm just slightly --

24 COMMISSIONER CHOPER: We already approved it, is  
25 your answer.

1 CHAIR BRACKPOOL: Right.

2 COMMISSIONER DEREK: Yeah.

3 MR. MILLER: Robert Miller, Counsel for the  
4 California Horse Racing Board.

5 That's exactly what you're doing. You're  
6 reaffirming it. It's -- it is a statement to the world that  
7 if you come to the Breeders' Cup these are the -- these are  
8 the conditions.

9 CHAIR BRACKPOOL: Okay.

10 MR. MILLER: So there's no argument --

11 CHAIR BRACKPOOL: Right.

12 MR. MILLER: -- if someone comes in from another  
13 jurisdiction.

14 COMMISSIONER CHOPER: Moved.

15 CHAIR BRACKPOOL: Okay. Move to reaffirm.

16 COMMISSIONER WINNER: Second.

17 CHAIR BRACKPOOL: That's the motion; right?

18 MS. WAGNER: Yes.

19 CHAIR BRACKPOOL: So -- but before I do that,  
20 anyone have any comments or -- so I agree. I mean, this was  
21 debated by us all extensively at an earlier time. So I'm  
22 going to take -- Commissioner Choper makes a motion to  
23 reaffirm our condition.

24 We don't need to reaffirm next month, do we, our  
25 reaffirmation?

1 MR. MILLER: No. I think it will be --

2 CHAIR BRACKPOOL: Just once?

3 MR. MILLER: This will be sufficient.

4 CHAIR BRACKPOOL: Okay. So we are only going to  
5 once reaffirm our reaffirmation of the race conditions, and  
6 that motion is made by Commissioner Choper, seconded by  
7 Commissioner Winner. All in favor?

8 ALL COMMISSIONERS: Aye.

9 CHAIR BRACKPOOL: Reaffirmation is affirmed.

10 Item number five, discussion and action by the  
11 Board regarding the proposed amendment of CHRB Rule 1658,  
12 Vesting of Title to Claimed Horse, which allows a claim to  
13 be void if a claimed horse suffers a fatality during the  
14 running of the race or before it is returned to be  
15 unsaddled.

16 I'm going to take this sizzling potato and pass it  
17 down to Commissioner Derek and Commissioner Winner.

18 COMMISSIONER DEREK: That's a funny phrase because  
19 that's what a lot of people complained about the -- the  
20 claiming game, so to speak, that some horses are tossed  
21 around like a hot potato.

22 CHAIR BRACKPOOL: Right.

23 COMMISSIONER DEREK: I know this is very  
24 controversial. It was brought to my attention by trainers  
25 and owners some time ago. We have been officially

1 discussing this for a year-and-a-half at various meetings,  
2 had various versions of language.

3           At our last meeting August 24th we were getting  
4 into the procedural problems of when a horse must be  
5 euthanized and who decides, and when would it void a claim.

6       During the meeting it was suggested that claims be void if  
7 a horse is put on a vet's list after the race because that  
8 is a very standard procedure, not terribly complicated. Our  
9 veterinarians and stewards are accustomed to this procedure.  
10 And so they have worked on it in the past few weeks, and  
11 this is probably as good -- if there's every going to be a  
12 rule change this is probably about as good as it will get if  
13 the industry is interested in the welfare of the horse and  
14 taking away the incentive, and ultimately the reward of  
15 running a compromised horse.

16           I would ask the Board to put this out for 45-day  
17 comment. And I am available, Commissioner Winner is  
18 available in that 45 days to talk, to adapt, to do whatever  
19 is possible to make this -- you in the industry happy with  
20 this rule change.

21           CHAIR BRACKPOOL: Commissioner Winner?

22           COMMISSIONER WINNER: Yes. Again, my thanks to  
23 Commissioner Derek and to the -- to the various people who  
24 have been working on this. We -- we have spent, as  
25 Commissioner Derek said, a significant amount of time trying

1 to come up with something that, as -- as Commissioner Derek  
2 said, that protects the -- protects the horse, and protects  
3 the people on their backs, and protects the protects the  
4 people who are on the backs of other horses, and those  
5 horses that are in the same race.

6           The objective of the claiming race ought not be to  
7 -- to try to find a buyer for a horse with a hole in it. It  
8 ought to be to find the level at which horses can run and be  
9 competitive. The objective here is to -- is -- is to find a  
10 plan that helps all of us best determine a means in which we  
11 can protect those horses and -- and those riders. A lot of  
12 work has gone into it. We have tried to come up with a plan  
13 that we thought was the best plan for this, but there are a  
14 lot of different ideas that came up, a lot of discussion. A  
15 lot of people put a lot of time into it. But we recognize,  
16 as Commissioner Derek said, this is a really complicated and  
17 controversial issue. We want to do the right thing by the  
18 horses, that's the whole idea, and by the riders.

19           So I would very strongly support Commissioner  
20 Derek's recommendation that this go out for 45-days. As  
21 Commissioner Derek said, we will be available, either or  
22 both of us, at any time. And I know that Rick Arthur will  
23 be available and others to -- to participate in any kind of  
24 a discussion, take any recommendations, and try to -- if  
25 this isn't the best solution we want to find the best

1 solution. We'd like to promote this one because we think  
2 it's the best. But that's what the 45 days are for. So I  
3 would support Commissioner Derek's recommendation --

4 CHAIR BRACKPOOL: Thank you.

5 COMMISSIONER WINNER: -- and move that it be put  
6 out for 45 days.

7 CHAIR BRACKPOOL: Commissioner Rosenberg?

8 COMMISSIONER ROSENBERG: I don't agree with that  
9 concept that you send out a flawed rule for comment. The  
10 whole purpose of the 45 days is -- is when the Board, the  
11 majority of the Board votes in favor of this language. I'm  
12 totally opposed to this language. It's worse than the last  
13 language. We should go back to the old rule, as far as I'm  
14 concerned.

15 Just to give you an example of statistics, Rick  
16 Arthur sent a note to the Board summarizing some statistics  
17 on -- in terms of justifying this new rule in terms of  
18 unsoundness or lameness or the vet's list. And he said 96  
19 horses out of -- out of 4,258 were claimed and placed on the  
20 vet's list as unsound or lame. That -- that is two -- that  
21 is under two percent.

22 My question is: What about all the other horses  
23 that raced that were not claimed? What percentage of horses  
24 come out of a race, a claiming race, that -- that are not  
25 claimed that are also put on the vet's list?

1           So I don't -- I just think it's a terrible rule,  
2 impractical. And to send it out for comment -- I'm not  
3 trying to delay this. I just think that it's -- the  
4 language is bad.

5           COMMISSIONER DEREK: Well, this is the best  
6 language that -- that everyone has come up with. I would be  
7 happy to see it passed in 45 days. This was just giving  
8 another opportunity for comment.

9           COMMISSIONER BENETO: Yeah. I --

10          CHAIR BRACKPOOL: Commissioner Beneto first. I'm  
11 sorry, Chuck.

12          COMMISSIONER WINNER: No, no, no. Go ahead.

13          CHAIR BRACKPOOL: You'll go second.

14          COMMISSIONER BENETO: Of course, I'm new on the  
15 Board. But why -- why are we making this rule in the first  
16 place? It's -- it's giving a guy two shots. If the horse  
17 is sound he claims him. If the horse isn't -- it's coming  
18 up -- if he comes up dinky or he doesn't get -- get the  
19 claiming he gets -- you know, he gives him back to the  
20 owner. That's not the way racing was for years. When you  
21 claimed a horse, when you put that claim in the claim box 15  
22 minutes before a race you own that horse, period.

23                 And going to this rule, I'm against it. Because  
24 you're giving a guy two shots at you.

25          CHAIR BRACKPOOL: Just -- just for your --

1           COMMISSIONER BENETO:  And -- excuse me just a  
2 second.  And we -- I mean, I've had horses dead sound break  
3 down in a race, and for no reason.  You say, well, of  
4 course, they blame the track, they blame this and blame  
5 that, and you know the old story.  But I'm in favor of going  
6 back to the way it was.  You claim a horse you own that  
7 sucker, period.

8           COMMISSIONER DEREK:  Well, that -- that horse is  
9 sometimes been intentionally entered into a race that is  
10 compromised.

11          COMMISSIONER BENETO:  We don't know that.

12          COMMISSIONER DEREK:  We do know that.

13          CHAIR BRACKPOOL:  Well --

14          COMMISSIONER DEREK:  I believe it.

15          CHAIR BRACKPOOL:  Yeah.  I think that's probably a  
16 better way of putting it.

17          COMMISSIONER DEREK:  I believe it.

18          CHAIR BRACKPOOL:  I was just going to give you a  
19 bit of history, Steve, as to why the rule came in, not this  
20 rule, but why we -- why we started doing this originally,  
21 and it was a case where there was a celebration by a trainer  
22 who had a horse claimed and the horse sadly hadn't made it  
23 around and was euthanized on the track.  So that was what  
24 started this whole thing to begin with about what can we do  
25 to continue to promote the integrity of the sport so this is

1 not an incentive for that, just to give you the history.

2 I'm not giving you right or wrong, just --

3 COMMISSIONER BENETO: But you're going to -- but  
4 you're going to have more litigation on this rule because  
5 people are going to -- it's going to be a muddy, muddy deal  
6 all the way around.

7 CHAIR BRACKPOOL: Commissioner Winner.

8 COMMISSIONER WINNER: First of all, let me just  
9 respond to Commissioner Beneto with -- maybe Commissioner  
10 Rosenberg with respect to the issue of a rule that is  
11 flawed. We don't believe it's flawed. We think this -- the  
12 committee believes and the veterinarians who participated in  
13 these discussions believe that this is the best approach and  
14 a good approach. So when we say we're putting it out for 45  
15 days what we're saying is we recommend -- we recognize that  
16 it's complicated, we recognize that it's controversial, but  
17 that doesn't make it flawed. That makes it, in our view,  
18 the right approach. But we recognize other people may -- as  
19 -- as we can see here, other people may have differences of  
20 opinion. So in our view it is the right approach after  
21 examining lots of approaches.

22 The bottom line in my opinion is, well, that what  
23 we're trying to do here is to protect the integrity of the  
24 sport and protect the horses and the riders. And we're  
25 trying to find a way to prevent trainers from putting horses

1 in races that they know are damaged goods, that they know  
2 have holes in them, that they know shouldn't be in the race.

3 But they're trying to find a way to sell those horses so  
4 they put them in claiming races, and if they don't get  
5 claimed they try one more time and put them in another  
6 claiming race. And then whoever buys the horse gets the  
7 damaged goods. But the objective is to take away the  
8 incentive from the trainer, as much as we can, from putting  
9 damaged goods into a race.

10 Now, it's true, Steve, all of us -- or,  
11 Commissioner Beneto, all of us who have been in the game  
12 know what the history is with respect to you put a horse in  
13 and, you know, let the buyer beware. But the let the buyer  
14 beware in my opinion is fine and dandy, unless you happen to  
15 be the jockey on the horse that breaks down, or unless you  
16 happen to be a jockey on another horse that goes down  
17 because the broken horse goes down.

18 So my view is it is in our interest and the  
19 industry's interest to find a way to -- to solve this  
20 problem. We looked at a lot of different options. And I  
21 can go through all the options that Commissioner Derek and  
22 I, the committee, and the various people who participated,  
23 we can go through all the options that we evaluated. We  
24 concluded that this was the best option, again, recognizing  
25 that it is controversial. But we concluded it's the best

1 option.

2           And, Mr. Chairman, unless there's further comment  
3 I would move that we put it out for 45 days.

4           CHAIR BRACKPOOL: Well, I have a speaker as well.  
5 So -- but I do -- we also have some other Commissioner  
6 comments.

7           But start with Commissioner Choper, and then  
8 Commissioner Israel.

9           COMMISSIONER CHOPER: Go ahead.

10          VICE CHAIR ISRAEL: No, you go, Jesse.

11          COMMISSIONER CHOPER: I think we ought to send it  
12 out because my own view is that I am sympathetic to it. I  
13 think it's improved because of its clarity. There were  
14 materials circulated to us that argued that it wasn't all  
15 that clear, that the vet's inspection and conclusion was  
16 very dicey. I think the purpose of sending it out is to get  
17 as many facts as we can in front of us. Now, maybe they'll  
18 never be perfect, but I think we will know more than we know  
19 now. And as someone who is inclined for reasons that I  
20 stated too many times in the past, I favor it but I can be  
21 persuaded that it's no good.

22          CHAIR BRACKPOOL: Commissioner Israel.

23          VICE CHAIR ISRAEL: At heart this -- dealing with  
24 this is a question of morality. And as we all know, it's  
25 very difficult to legislate morality.

1           The question is: Is it immoral to knowingly enter  
2 a lame horse in a race and risk the life of that horse, of  
3 other horses, and of jockeys? That said, this is also a  
4 business. And it's a business that has, if not thrived,  
5 survived for a very long time with a set of rules.

6           I think we might be better served if this were to  
7 go back to committee and have the committee gather more  
8 input from such as the TOC and the CTT, which at the  
9 eleventh hour last night raised some objections.

10           And, Alan, in the future you and Jim can send a  
11 little earlier than dinnertime the day before the meeting.  
12 I'd appreciate it, because it's a little tough to read on an  
13 i-Phone in a restaurant.

14           So I think, you know, there's -- there's an  
15 urgency because we don't want to see any more horses break  
16 down. I think we leave the rule that we have in place, in  
17 place. Go back to the committee for 30 days. And set a  
18 deadline and demand from the industry, from every interested  
19 party, comments that will result in refining this rule so  
20 that we can come back and make the changes once and for all.

21           Because clearly there's a significant difference of opinion  
22 among the members of the Board, and I'd like to get closer  
23 to unanimity knowing that it's probably not completely  
24 possible on how we handle this, because it's such a crucial  
25 part of the game.

1 CHAIR BRACKPOOL: Commissioner Rosenberg?

2 COMMISSIONER ROSENBERG: No.

3 CHAIR BRACKPOOL: I have a speaker on the issue.  
4 And I don't know if you guys wanted a speaker on the issue  
5 or not, but Darrell Haire.

6 MR. HAIRE: Darrell Haire, Western Regional  
7 Manager for the Jockeys' Guild. Good morning, members of  
8 the commission.

9 The Jockeys' Guild is in favor of this rule  
10 change. And we feel as though this will -- it is a safety  
11 issue. Some trainers will run horses that are bad, and they  
12 do abuse it. So for the safety of the riders we -- we  
13 support the rule change.

14 CHAIR BRACKPOOL: Thank you. Commissioner  
15 Rosenberg?

16 COMMISSIONER ROSENBERG: I just wanted to comment  
17 on the overall subject, and then some words that  
18 Commissioner Winner used are really at the heart of it,  
19 damaged goods, trainers who would enter a horse that is --  
20 that is damaged goods. That is a terribly vague term.  
21 There are several ways you can define that. If a horse that  
22 is lame -- which, by the way, if it's obviously lame it's  
23 going to be scratched by the veterinarians before the race.  
24 They're examined twice. Or does it mean that it has a  
25 hidden defect?

1           And to use a horrible example, an x-ray shows a  
2 break and they want to get rid of the horse, they put the  
3 horse in a race but it's not lame. I've had -- I've owned  
4 some horses over the years. I just had a horse break down  
5 at Santa Anita last year in September while -- while  
6 training. It had raced twice at Del Mar. It came up with a  
7 sore ankle for a day or two after -- after a jog and x-rayed  
8 it. It showed nothing. We waited ten days. In the  
9 meantime, we happened to geld the horse, took our time with  
10 it. Went back to Santa Anita and jogged the horse. It was  
11 sound. Everything seemed fine. The first time the horse  
12 worked it broke down.

13           Was he damaged goods? Yeah, he was damaged goods  
14 because he broke down in the same area. But the top  
15 veterinarians couldn't pick it up.

16           So I think this whole area is impossible to  
17 define. I'd like to -- I agree with Commissioner Israel.  
18 If we send it out for 45 days there are no meetings. No one  
19 is going to meet. There's going to be another Board meeting  
20 and public comment. Those no time at the -- those meetings  
21 to really evaluate a new -- a new rule. So I'm in favor of  
22 -- clearly in favor of delaying this.

23           CHAIR BRACKPOOL: Commissioner Beneto.

24           COMMISSIONER BENETO: Can we discuss this in  
25 closed session or --

1 CHAIR BRACKPOOL: No.

2 COMMISSIONER BENETO: No?

3 CHAIR BRACKPOOL: It's not a closed session item.

4 COMMISSIONER DEREK: This has -- this has been  
5 going on --

6 CHAIR BRACKPOOL: Yeah.

7 COMMISSIONER DEREK: -- in the committee level for  
8 a year-and-a-half. The letters have come in from all the  
9 various organizations and representatives of the industries  
10 on the various versions of this rule. We did find the  
11 statistics. We're talking about 30 to 33 horses a year that  
12 would be -- a claim would be void. And I think that that is  
13 a small number for the potential integrity of the sport.

14 CHAIR BRACKPOOL: Commissioner Choper.

15 COMMISSIONER CHOPER: You know, in my view there  
16 are very view trainers who will deliberately send out  
17 someone in bad shape hoping it will be claimed. Okay.

18 The perception is otherwise. I mean, look, have I  
19 taken a poll of everyone who goes to the track? No. But I  
20 do know that that is the perception. When you see a horse  
21 that has a big drop in class the notion is there's something  
22 wrong with that horse. Now, I don't know that you -- you  
23 think it's going to, you know, going to break down, but you  
24 know it's not -- it's in bad shape. Okay.

25 So I've saved -- I've said both of those things,

1 but I'll say the last thing again. I think end of May --  
2 this is a question of a not clearly defined group of  
3 horsemen, but a number of horsemen who claim. They -- the  
4 claim horses and they get horses claimed. I know there are  
5 exceptions. There are exceptions to everything. But it's a  
6 question of allocation of the risks.

7           And, I mean, a statistician would tell you if you  
8 look at the statistics you're going to win some, you're  
9 going to lose some. And in the long run it's, you know,  
10 it's supposed to sort of break even, that sometimes you'll -  
11 - you'll lose a horse that you're happy to use, sometimes  
12 you'll claim a horse that you're happy to use. Well, now it  
13 will be the opposite. And it's the same group of people who  
14 are affected by it.

15           So that -- that's what I'm for. We can't do any -  
16 - I mean, and if we don't send it out for comment, I take  
17 it, it's dead; right?

18           CHAIR BRACKPOOL: No.

19           COMMISSIONER DEREK: No.

20           CHAIR BRACKPOOL: No, no, no, no, no.

21           COMMISSIONER CHOPER: What's going to happen?

22           CHAIR BRACKPOOL: Well, the alternate motion, I  
23 won't say the ultimate, but the alternate motion is that we  
24 refer it back to committee --

25           COMMISSIONER CHOPER: No, no. I see that --

1 CHAIR BRACKPOOL: -- for one more thing. And I --

2 COMMISSIONER CHOPER: Well, I must say that I  
3 think, I mean, the committee has gone over this. You know,  
4 there's -- I don't think -- and you keep sending it back to  
5 committee. And it's like if a horse doesn't run well enough  
6 first you change the trainer, then you change the jockey,  
7 then you change the distance, and finally you get rid of the  
8 horse. So I think we ought to send this one out, get rid of  
9 the horse.

10 VICE CHAIR ISRAEL: Look, in -- in simple English,  
11 we're making this rule for a few miscreants, to prevent them  
12 from doing what they've done. And what they do is they use  
13 masking agents to try to hide the lameness in a horse from  
14 our veterinarians, so the horse is entered. And they're  
15 rolling the dice that the horse is going to make it to the  
16 finish line and get claimed and the claim will be good. And  
17 then, you know, the next time the horse works hard the new  
18 trainer will find out he's got a problem. And -- and  
19 somebody did that. And what happened was the horse broke  
20 down on the track and this became a big deal. And I think  
21 everybody's been around long enough to know what race I'm  
22 talking about.

23 So -- but we have to find a way to legislate that  
24 in a way that doesn't impede all the people who want to  
25 honestly drop horses in class, you know, and acknowledge

1 that, in fact, horses come up lame in the middle of a race  
2 for no reason at all. And, you know, I think we have to  
3 find some happy medium, though I'm -- I'm open-minded and  
4 I'm willing to listen to all the positions.

5 COMMISSIONER ROSENBERG: Where does the TOC stand  
6 on this?

7 CHAIR BRACKPOOL: Let me -- let me just --  
8 Commissioner Winner first, and then I'll go through that.

9 COMMISSIONER WINNER: You can go through that, if  
10 you'd like, and then I'll --

11 CHAIR BRACKPOOL: Okay.

12 COMMISSIONER WINNER: -- comment, if you'd like.

13 CHAIR BRACKPOOL: Well, I don't want to repeat  
14 everything that's been said here. But we started off trying  
15 to take care of, as Commissioner Choper said, the perception  
16 of a specific issue. And there were problems, you know,  
17 perhaps with that language. I don't think the problems are  
18 as bad as -- the perception as the problems of the language,  
19 but they were. We then figured out if we could tighten it  
20 up.

21 By tightening it up like this was, I think, that  
22 this be, you know, genuine fairness in the approach, I think  
23 we're starting to eat into what the claiming game is about,  
24 and that's what concerns me. Because I do agree with  
25 Commissioner Beneto that the basic tenet of this game, the

1 claiming game, is buyer beware.

2           However, having said that I could not support  
3 Commissioner Winner's concerns more which is, you know, the  
4 jocks are a real issue here. And jockey safety has been a  
5 big component of this Board's focus, etcetera.

6           The letter from CTT suggests we go into, you know,  
7 completely different areas of the claiming game, all of  
8 which is very worthy of debate. I don't think it should be  
9 debated through the back end of this rule. I think it  
10 deserves a separate hearing on its own, and I'd like to  
11 figure out how we set that up. I think it's very  
12 interesting that we get into that. But I don't think we  
13 should try and back into a major change through language in  
14 -- in here.

15           Commissioner Israel had suggested some words at a  
16 previous meeting. I forget the verbatim. But something,  
17 you know, that would have clarified it that said, you know,  
18 if a horse is no longer alive by a certain time of the day -  
19 -

20           VICE CHAIR ISRAEL: Midnight.

21           CHAIR BRACKPOOL: -- by midnight or whatever it  
22 was, that would void. That was a fairly, in my view,  
23 surgical way of resolving any conflict over the previous  
24 language of did it leave the track to go to the room, did it  
25 happen in the room that -- you know, and it was there. So I

1 think that those are important.

2 I am troubled by the fact that we've had -- and,  
3 you know, the two Commissioners here have put a lot of time  
4 into this and yet, you know, we don't have any response from  
5 TOC, and we have a last-minute response from CTT. I mean,  
6 you know, this is an important issue. And I think we are  
7 deserving of more, you know, response from horsemen and  
8 everything else here.

9 As far as whether we send it out for 45 days for  
10 comment or whether we send it back for committee, that's  
11 unfortunately more to do with the unbelievably dull nature  
12 of how we make rules in this great State of California. And  
13 I don't think we should be sending something out for -- for  
14 -- a rule, if there's not a good chance that, you know,  
15 people here would be okay with it if it -- if it came back  
16 and -- and did that.

17 Maybe I could suggest, you know, a compromise  
18 here, which is that we send two rules out -- and maybe we  
19 have to do this in October because it's not agendized --

20 MS. WAGNER: Uh-huh.

21 CHAIR BRACKPOOL: -- here, right -- and that we  
22 send one out that really just narrows down the language the  
23 way Commissioner Israel has suggested at the last moment of  
24 how we tighten up the, you know, the fatality issue, and we  
25 send this out. And in the 30 days before we vote to send

1 those out we don't need more committee meetings because the  
2 committee meetings are more than open. But I think we would  
3 like to see a TOC position on this. I think we'd like to  
4 see a CTT position on this. And I'd like to get some  
5 comments from the veterinarians, etcetera.

6 And then maybe we send them both out and in the  
7 meantime the existing rule stays in place, but we send them  
8 -- we send them both out to -- to, you know, to do that.  
9 Because -- and I understand exactly all of the benefits of  
10 this. I'm just concerned about the unintended consequences  
11 of this.

12 Commissioner Beneto first.

13 COMMISSIONER BENETO: If this rule goes into  
14 effect do you think that a guy is not going to run a horse  
15 anyway? Do you believe that a guy is going to say, well, if  
16 I'm losing my claiming race I'm going to have to take him  
17 back, he's going to run that horse anyway. I don't think  
18 that's going to change the -- the atmosphere on the backside  
19 as far if a guy is going to run a horse, if he's sore he's  
20 going to run him, whether he's -- whether this rule is in  
21 effect or not.

22 VICE CHAIR ISRAEL: Well, see, I can answer that  
23 question.

24 COMMISSIONER BENETO: So we've got to think about  
25 that a little bit.

1           VICE CHAIR ISRAEL: Can I answer that question? I  
2 think he'd be reluctant, especially owners who work with the  
3 margins and just -- just trying to make a few bucks, if he  
4 thought by getting the horse back he was going to get stuck  
5 for significant veterinary fees. And he would say, well,  
6 maybe it's better waiting to run the horse or -- or not.  
7 You know, I think it would -- it would cause people to think  
8 twice.

9           COMMISSIONER BENETO: I hope you're right.

10          COMMISSIONER WINNER: Well, maybe you're right.  
11 Or maybe -- or maybe they might try to sell the horse  
12 privately for a lot less money. Or maybe they might retire  
13 the horse. There are a lot of things they might do.

14          But, yes, it's true, I totally agree with you,  
15 Commissioner Beneto, that there are trainers who will take  
16 that risk, who are taking it now, and they may take it even  
17 -- even under this guideline or another guideline.

18          With respect to sending them both out --

19          COMMISSIONER DEREK: We've done that.

20          COMMISSIONER WINNER: -- you know, again, my view  
21 is that we've gone over this and over this and over this.  
22 And we've gone over a lot before I got on the -- on the  
23 commission. We listened to the vets. We listened to the  
24 University of California at Davis who spent a whole lot of  
25 time explaining to us how horses that break down typically

1 have a prior injury in the very place that they break down.

2 We -- we -- as I said, we -- we evaluated so many different  
3 options, and this was the option that we concluded was the  
4 best. That doesn't mean there's not a better option, but we  
5 spent a whole lot of time doing it. I'm not sure that by  
6 spending more time doing it we're going to come up with a  
7 better option.

8 COMMISSIONER BENETO: Well --

9 CHAIR BRACKPOOL: And I'm not -- and I'm not  
10 saying -- just, I want to clarify something Commissioner  
11 Rosenberg said. Just because somebody votes to send out a  
12 rule for comment does not mean the have voted for that rule.

13

14 MS. WAGNER: That's correct.

15 CHAIR BRACKPOOL: Right? That does not mean that.  
16 That's never been the policy of this Board. We're sending  
17 it out for comment. And that applies to any rule that's --  
18 that's in front of us.

19 We've got to move on.

20 COMMISSIONER CHOPER: Yeah.

21 CHAIR BRACKPOOL: Commissioner Choper.

22 COMMISSIONER CHOPER: I'd like to second your  
23 motion, and I want to explain why.

24 CHAIR BRACKPOOL: I don't know if I've made one.

25 COMMISSIONER CHOPER: Well, you said to send both

1 of them.

2 CHAIR BRACKPOOL: Well, I said it was a thought.

3 COMMISSIONER CHOPER: Okay. Well, I'll make that  
4 motion.

5 VICE CHAIR ISRAEL: But we don't have both of  
6 them.

7 CHAIR BRACKPOOL: We don't have both of them.

8 VICE CHAIR ISRAEL: It will have to wait until  
9 October.

10 CHAIR BRACKPOOL: So we'd have to wait for a  
11 committee.

12 COMMISSIONER CHOPER: Oh, we'd have to wait for  
13 the other one?

14 VICE CHAIR ISRAEL: Because the other one isn't --

15 COMMISSIONER CHOPER: All right. Well, then I  
16 think we ought to proceed.

17 CHAIR BRACKPOOL: Hold on one second.

18 COMMISSIONER ROSENBERG: Procedurally --

19 CHAIR BRACKPOOL: Commissioner Rosenberg.

20 COMMISSIONER ROSENBERG: Procedurally what  
21 happened, I believe, this -- this -- this present draft  
22 which is before us, I didn't see it, and I presume the  
23 public didn't see the actual language -- I may be wrong  
24 about this -- until last Thursday when it was sent out in  
25 the package; isn't that correct?

1 CHAIR BRACKPOOL: Right.

2 COMMISSIONER ROSENBERG: So there's not really  
3 much time to get the specific reaction to --

4 CHAIR BRACKPOOL: That's what happens, though,  
5 when you send it out for comment.

6 COMMISSIONER DEREK: Uh-huh.

7 CHAIR BRACKPOOL: That's when you get the reaction  
8 and you start the process; right? I mean --

9 COMMISSIONER ROSENBERG: But then you vote on it.  
10 But then you end up voting yea or nay on a rule that's in  
11 front of you.

12 CHAIR BRACKPOOL: Not necessarily.

13 VICE CHAIR ISRAEL: Just like -- just like what we  
14 did, Richard, with the exchange rule.

15 COMMISSIONER ROSENBERG: Well, we had.

16 VICE CHAIR ISRAEL: Staff gets those comments and  
17 they concern them --

18 CHAIR BRACKPOOL: And we may adapt rules.

19 VICE CHAIR ISRAEL: -- and they may --

20 COMMISSIONER DEREK: Yeah.

21 VICE CHAIR ISRAEL: -- they may attach them and  
22 alter the rule. So --

23 COMMISSIONER ROSENBERG: But the working group  
24 that really did the work is the -- is the committee. The  
25 committee did the work. They did the research. But they

1 thought the input wasn't -- the people who would have input  
2 who were not at the meeting, well, maybe should have been at  
3 the meeting --

4 CHAIR BRACKPOOL: Well, maybe this force them to  
5 give some input now then; right?

6 COMMISSIONER DEREK: Yes. And we did have  
7 representatives --

8 CHAIR BRACKPOOL: Right.

9 COMMISSIONER DEREK: -- at the meeting from all --  
10 from the various --

11 COMMISSIONER WINNER: Yeah. We did have  
12 representation.

13 COMMISSIONER DEREK: We did.

14 COMMISSIONER ROSENBERG: So I was curious why --

15 COMMISSIONER DEREK: And I just wanted to add one  
16 more thing in the various -- because they're -- we can -- we  
17 can put out six versions --

18 COMMISSIONER WINNER: Right.

19 COMMISSIONER DEREK: -- that are ready to go for -  
20 - to consider. But this is the one -- the officials who  
21 have to make these decisions in these cases of voiding the  
22 claims, these are the -- this is the -- the language that  
23 they were comfortable with, and this is the language that  
24 would -- that would alleviate a lot of risk of lawsuits and  
25 litigation.

1 COMMISSIONER WINNER: This came -- I mean,  
2 essentially, the stewards and the vets --

3 COMMISSIONER DEREK: Yeah.

4 COMMISSIONER WINNER: -- who were part of the  
5 process, this is what they wanted.

6 CHAIR BRACKPOOL: Well, let's do this, do we have  
7 a motion to send the rule out for --

8 VICE CHAIR ISRAEL: Yeah. It was made by Jesse  
9 awhile ago.

10 COMMISSIONER CHOPER: Yes.

11 COMMISSIONER DEREK: Thank you.

12 CHAIR BRACKPOOL: Send the rule out for comment.  
13 The motion has been made by Commissioner Choper. This does  
14 not mean everybody's voting for the rule. They're voting to  
15 send it out for comment. I assume I have a second to --

16 COMMISSIONER DEREK: Yes.

17 CHAIR BRACKPOOL: -- Commissioner Choper's left.  
18 All in favor of saving the rule out for comment.  
19 Commissioner Israel?

20 VICE CHAIR ISRAEL: Aye.

21 CHAIR BRACKPOOL: Commissioner Beneto?

22 COMMISSIONER BENETO: Aye.

23 COMMISSIONER WINNER: Aye.

24 CHAIR BRACKPOOL: Mr. Rosenberg?

25 COMMISSIONER ROSENBERG: No.

1 CHAIR BRACKPOOL: Okay. I'll vote for it. So  
2 that's -- that's six-to-one to send the rule out for  
3 comment, but for comment only.

4 VICE CHAIR ISRAEL: Can I -- can I just add one  
5 thing, and this was effective when we -- when we did it in  
6 the Exchange Wagering Committee. I think we ought to send a  
7 deadline for comments. TOC has to engage. CTT has to  
8 engage. Get those comments in at an earlier time so they  
9 can be reviewed by Staff and perhaps included, and anybody,  
10 any other interested parties. The Exchange Wagering we met  
11 on August -- what was it?

12 MR. MILLER: The 30th.

13 VICE CHAIR ISRAEL: No. We demanded the rule but  
14 --

15 COMMISSIONER ROSENBERG: The 22nd or 21st.

16 CHAIR BRACKPOOL: Right.

17 VICE CHAIR ISRAEL: We met -- we met on the 20th  
18 or 21st, whatever the hell it was.

19 CHAIR BRACKPOOL: Right.

20 VICE CHAIR ISRAEL: And we got it. Everybody made  
21 the deadline.

22 MR. MILLER: And we posted them.

23 VICE CHAIR ISRAEL: Yeah, and we posted them  
24 online. So --

25 CHAIR BRACKPOOL: Good idea for this.

1 COMMISSIONER DEREK: Good idea.

2 CHAIR BRACKPOOL: Excellent idea.

3 COMMISSIONER DEREK: Excellent idea.

4 CHAIR BRACKPOOL: So let's come up with a  
5 deadline. Today is the 20th of September. Our next Board -  
6 - well, this wouldn't actually be until the November Board  
7 meeting that we'd hear it again. So let's say by --

8 VICE CHAIR ISRAEL: October --

9 CHAIR BRACKPOOL: -- October the 10th.

10 VICE CHAIR ISRAEL: Yeah. There you go.

11 CHAIR BRACKPOOL: October the 10th, which is a  
12 Wednesday, comments will be on this so that we can then  
13 start to review them from interested parties. Obviously,  
14 legally anybody can comment in the 45-day period. But we're  
15 sending a strong message that in order for, you know,  
16 parties in here we'd like our comments in by the 10th.

17 COMMISSIONER ROSENBERG: As opposed to the  
18 exchange wagering situation which was a little bit  
19 different, are you saying as these comments come in that  
20 Staff could then -- they'd make --

21 CHAIR BRACKPOOL: Circulate them --

22 COMMISSIONER ROSENBERG: -- they'd make a decision  
23 --

24 CHAIR BRACKPOOL: -- so that we're not seeing --  
25 no.

1 COMMISSIONER ROSENBERG: -- or just circulating?

2 CHAIR BRACKPOOL: No, just circulating them --

3 COMMISSIONER ROSENBERG: Okay.

4 CHAIR BRACKPOOL: -- so that we're not -- well,  
5 we're --

6 VICE CHAIR ISRAEL: The way that we posted them  
7 online.

8 CHAIR BRACKPOOL: Exactly. And I think that would  
9 be an excellent thing to do here --

10 COMMISSIONER ROSENBERG: Yeah.

11 CHAIR BRACKPOOL: -- post them online and really  
12 get this debate going. This is an important issue. Okay.

13 Item number six, discussion and action by the  
14 Board regarding the proposed amendment to the California  
15 Horse Racing Board's Defined Contribution Retirement Plan  
16 for California Licensed Jockeys, to update the life  
17 expectancy table included in the plan.

18 Counsel?

19 MR. MILLER: Thank you. Robert Miller, Counsel of  
20 the California Horse Racing Board.

21 This life expectancy table before you was proposed  
22 by the Jockeys' Guild. There was a prior -- currently there  
23 is another life expectancy table in the plan. The Jockeys'  
24 Guild and Staff have felt that it was unrealistic. The life  
25 expectancy table determines the payouts. And so it was

1 important for the Jockeys' Guild to -- to have a realistic  
2 life expectancy, and that is what is before the Board.

3 CHAIR BRACKPOOL: Okay. I have one speaker on the  
4 issue. Darrell Haire from the Jockeys' Guild.

5 MR. HAIRE: Darrell Haire, Western Regional  
6 Manager for the Jockeys' Guild. The retirement plan is  
7 working very well. And as Mr. Miller has said, the table  
8 that initially -- there are a couple of tables. But what  
9 I'm finding is riders that retire, and they get -- start  
10 receiving a distribution at age 50 if they're retired. And  
11 I've had a couple of riders that have started their  
12 distributions. But they're -- just the table is -- is -- is  
13 way too -- the life expectancy for someone say 50 years old,  
14 the -- the -- the distribution would go over 46 years. And  
15 with the new table it would be 34. So they can take a  
16 distribution once a year. If -- if they have less than  
17 5,000 they can take a lump sum.

18 CHAIR BRACKPOOL: Right.

19 MR. HAIRE: But anything over --

20 CHAIR BRACKPOOL: Right.

21 MR. HAIRE: So we'd like to see them spend the  
22 money while they're alive.

23 CHAIR BRACKPOOL: I like that plan. A boost to  
24 the economy.

25 COMMISSIONER CHOPER: I just hope that if you find

1 that you are -- that you understated, after a certain number  
2 of years, three years, five years, eight years, that you've  
3 understated the capacity of what you've got to cover the  
4 earlier and therefore larger payout, that you'll be back to  
5 us before there's a crisis.

6 CHAIR BRACKPOOL: Counselor, you want to respond  
7 to that?

8 MR. HAIRE: Well, that is the obligation of the  
9 trustees.

10 CHAIR BRACKPOOL: Right, the trustees. Exactly.  
11 Exactly. I see no other comments on this. Do I have any  
12 Commissioner comments? May I have a motion to approve the  
13 amendment to the plan? By Commissioner Derek. Seconded by  
14 Commissioner Israel. All in favor?

15 ALL COMMISSIONERS: Aye.

16 CHAIR BRACKPOOL: Motion carries.

17 Item number seven, report from the Pari-Mutuel  
18 Operations Committee, of which I promised to increase the  
19 size of that committee in short order.

20 COMMISSIONER CHOPER: It just decreases the time  
21 that it took. That's it.

22 VICE CHAIR ISRAEL: Yeah, that's the way it is.

23 COMMISSIONER CHOPER: We -- we met yesterday. And  
24 the issue, to oversimplify it, but I think this is the  
25 recommendation, since you'll have it back again, or may not

1 have it back again at all because it may be settled, I can  
2 be brief. This concerns a dispute over funds from the --  
3 from an ADW takeout under very specific circumstances  
4 between harness racing and quarter horse racing. And it's a  
5 dispute between Los Alamitos and now the new Golden Bear  
6 Racing Association. And we -- we spent, I guess over two  
7 hours discussing it yesterday. And I thought, you know,  
8 both sides presented their positions very strongly.

9           It comes down to what the statute intended. I  
10 think, I'm not sure that -- that all the participants agree,  
11 that it was less than crystal clear as to what the statute  
12 provided. And afterwards there was a discussion with a  
13 smaller group of people in which some proposed compromise  
14 was -- was close to agreed to by both parties, but they have  
15 to check it out in other quarters, which they're doing. And  
16 that will not be able to be done before we get a chance to  
17 review it today.

18           And I would just report to say that I'm hoping  
19 that it won't be back. and that the compromise will stick  
20 and we'll be rid of it. If not, then you may be seeing this  
21 issue again.

22           CHAIR BRACKPOOL: Thank you. Can I ask, did you  
23 at the committee address the issue of -- of no show wagering  
24 when there are still five horses?

25           MS. WAGNER: No.

1 COMMISSIONER CHOPER: No.

2 MS. WAGNER: Huh-uh.

3 CHAIR BRACKPOOL: Okay. That's -- that's one that  
4 I really want to make sure we get back on the agenda. You  
5 know, it happened a couple of times again at Cal Expo during  
6 the thoroughbred meet. And the -- the one instance that I  
7 was very troubled by was when there was a five-to-two  
8 favorite in a five horse field and no show wagering. And,  
9 you know, it's one thing when you've got bridge jumpers at  
10 one-to-ten. It's another thing when you -- I can't recall  
11 many races, five horse races where there's a five-to-two  
12 favorite. I mean, it's -- that's as open as you're going to  
13 get. And so to have no show wagering I just think is -- is  
14 something we have to be, you know, very, very firm on.

15 So maybe at the next one, Jesse, we could get a  
16 little --

17 COMMISSIONER CHOPER: Yes.

18 CHAIR BRACKPOOL: -- testimony as to what happened  
19 on that and a couple of the other ones.

20 COMMISSIONER CHOPER: Will do.

21 VICE CHAIR ISRAEL: A horse race --

22 CHAIR BRACKPOOL: Yeah.

23 VICE CHAIR ISRAEL: -- overnight?

24 CHAIR BRACKPOOL: Yeah. A thoroughbred race. So  
25 I really want to tighten up on -- on that. That's -- that's

1 a concern. It's -- well, it's -- we get a lot of requests  
2 on the mules, but that's a different issue when you've got  
3 one-to-five favorites. But five-to-two favorite in a five  
4 horse field I can't --

5 COMMISSIONER CHOPER: It's hard to figure out why  
6 they did it, is what you're saying.

7 CHAIR BRACKPOOL: Right. Right.

8 VICE CHAIR ISRAEL: That's why we have mule races.

9 CHAIR BRACKPOOL: And so if we can look at that it  
10 would be -- would be -- would be good.

11 Item number eight, discussion and action by the  
12 Board regarding the allocation of Northern California race  
13 dates -- and I love this phrase -- and related issues for  
14 2013, related issues that take 40 percent of my time.

15 If we could have the --

16 (Colloquy Between Chair and Vice Chair)

17 CHAIR BRACKPOOL: Names and affiliations for the  
18 record please. Somebody get Korby a chair.

19 VICE CHAIR ISRAEL: Korby can get Korby a chair.

20 CHAIR BRACKPOOL: I don't want to let him get away  
21 with this either.

22 VICE CHAIR ISRAEL: Sit in the middle Chris.

23 MR. TITUS: Stu Titus, Humboldt County Fair.

24 MR. MORGAN: Jim Morgan, Special Counsel, Humboldt  
25 County Fair.

1 MR. KORBY: Chris Korby, California Authority of  
2 Racing Fairs.

3 MR. MORRIS: Joe Morris, Golden Gate Fields.

4 MR. RAFFETTO: Lou Raffetto, TOC.

5 CHAIR BRACKPOOL: Okay.

6 COMMISSIONER CHOPER: And we've got as many people  
7 here --

8 CHAIR BRACKPOOL: When you sat --

9 COMMISSIONER CHOPER: -- as the attendance of some  
10 of the races. Go ahead.

11 CHAIR BRACKPOOL: When you -- when you sat in  
12 front of us a month ago the message was we're getting there,  
13 we have a few issues to resolve; let us go our way and  
14 resolve those. Obviously, I've been privy to far too many  
15 of those conversations as to where we are. But perhaps  
16 either Chris or Lou could just summarize for the Board and  
17 the public where we are before we get to the -- any of the  
18 disputed issues at hand.

19 MR. KORBY: I think we could -- we could -- Chris  
20 Korby, California Authority of Racing Fairs. I think  
21 everyone here would agree that -- that we've -- from the  
22 perspective of Northern California we've agreed on all the  
23 dates for 2013. We are in agreement on everything, with the  
24 possible exception of the -- the specific racing dates  
25 calendar configuration day by day for two weeks in August.

1 It's the period of time during which Humboldt County Fair  
2 would run concurrently with Golden Gate Fields. So that's  
3 the -- that -- that's the issue at hand.

4 CHAIR BRACKPOOL: Would it -- would it not be fair  
5 to summarize that as -- and these dates are different than  
6 last year's dates substantially. It's just that last year  
7 we had some fiscal, you know, arrangement between the  
8 parties that ended up being satisfactory to the parties.  
9 And then what we're really talking about is still trying to  
10 reach a resolution on what, if any, fiscal resolution there  
11 could be this year. We're not really -- we're not -- I  
12 guess what I'm saying is we're not really fighting over the  
13 dates. We're fighting over the -- the monetary value of  
14 those dates. Would that be a fairer way to -- to put this?

15 MR. KORBY: I think, based on -- on the solutions  
16 that have been agreed to in the past, it's a combination of  
17 both.

18 CHAIR BRACKPOOL: Okay. Lou, let's just hear from  
19 the TOC. And then I'll ask some questions.

20 MR. RAFFETTO: Well, the TOC has been -- as you're  
21 all well aware of, we've worked very hard at trying to -- to  
22 do whatever we can for Northern California racing, which is  
23 why we've pushed the event distribution to Golden Gate's  
24 signal. And along those lines our Board has voted to  
25 support Golden Gate to run the additional days because of

1 the loss of revenue, not just to purses, but the loss of  
2 revenue to -- to Golden Gate. And Mr. Morris can speak to  
3 that.

4           You know, in the prior year, you know, we, that is  
5 TOC subsidized Ferndale to the point of \$59,000 from -- from  
6 the arrangement with Del Mar, and an additional \$23,000 from  
7 an assembly bill that was passed back in 2009. The purse  
8 money all goes into -- in our operating fund. So -- and we  
9 were willing to do that last year.

10           You know, we're willing to work with the group to  
11 do whatever we can to bring this to a resolution. But to my  
12 board it's very important to do whatever we can to support  
13 Golden Gate Fields and -- and whatever they need to do to  
14 survive, quite honestly.

15           CHAIR BRACKPOOL: Okay.

16           MR. RAFFETTO: So --

17           CHAIR BRACKPOOL: And let me just now hear from --  
18 from Humboldt.

19           MR. MORGAN: Thank you. For us it's an either/or  
20 proposition.

21           CHAIR BRACKPOOL: Name and affiliation.

22           MR. MORGAN: Jim Morgan, Special Counsel to  
23 Humboldt County Fair.

24           For us it's an either/or. All CARF meets, other  
25 than Humboldt, have their entire meet without overlap. They

1 have access to all the post commissions and they have access  
2 to the revenues that are taken by being able to race with  
3 that overlap.

4 Our meet, being small, is unique. And we were  
5 told and persuaded that the thoroughbred industry as a whole  
6 makes additional revenue when we allow Golden Gate Fields to  
7 overlap with us. Therefore, in 2010 --

8 CHAIR BRACKPOOL: I'd rather not use the phrase  
9 "when we allow," but --

10 MR. MORGAN: I'm sorry.

11 CHAIR BRACKPOOL: -- it's not we allow. But  
12 anyway, carry on.

13 MR. MORGAN: You allow.

14 CHAIR BRACKPOOL: Yeah.

15 MR. MORGAN: You allow. But I think the -- the  
16 word subsidy is a misnomer. No other CARF meet is expected  
17 to survive without having the host commissions and without  
18 being able to race without overlap.

19 Last year there was a brokered compromise which  
20 worked for everyone where Southern California, the TOC, and  
21 Del Mar recognized that their revenues increase when Golden  
22 Gate Fields can race an overlap with Humboldt for our  
23 weekend. And as a result -- and also Golden Gate Fields  
24 recognized that they made more money, so they participated  
25 in providing us either a lump sum in lieu of a percentage of

1 the host fee commissions --

2 COMMISSIONER CHOPER: And the total amount for  
3 that one more time was how much?

4 MR. MORGAN: The total amount for which component?  
5 We received \$105,000 from --

6 COMMISSIONER CHOPER: Give me both.

7 MR. MORGAN: -- the TOC and Del Mar contributions  
8 in lieu of sharing the host fees for --

9 COMMISSIONER CHOPER: No, I -- well, I understand.  
10 No. What was the total amount?

11 CHAIR BRACKPOOL: \$155,000 --

12 MR. MORGAN: \$155,000.

13 COMMISSIONER CHOPER: \$155,000.

14 CHAIR BRACKPOOL: -- from the three parties.

15 COMMISSIONER CHOPER: Okay.

16 MR. MORGAN: From the three. And that -- and that  
17 enables us to have sustaining revenues.

18 I don't agree with the verbiage chosen by Lou that  
19 it's a subsidy. It's a revenue sharing. And it replaces  
20 the revenue that all other horse racing meets and all of the  
21 CARF meets get as a result of being able to race without  
22 overlap. So if we're not able to have one-half of our meet  
23 one week without overlap, as we did and prospered in 2010,  
24 we know we can't survive with having no overlap and no  
25 revenue sharing as was imposed on us in 2011. We think that

1 the permanent solution lies in a brokering of a similar  
2 revenue sharing arrangement based on the enhanced revenues  
3 to the entire industry which results when Golden Gate Fields  
4 is allowed to overlap on our weekends.

5           Having said that, Golden Gate Fields has requested  
6 to go on to Wednesdays and Thursdays. We can not survive if  
7 Golden Gate Fields gets those Wednesday and Thursday dates  
8 because we'll have no horses. Humboldt, unlike any other  
9 meet, has a double overlap from the Stronach Group. We're  
10 overlapped to the north by Portland Meadows that came onto  
11 our dates for the first time this year, and we're overlapped  
12 to the south by Golden Gate Fields. They're both a few  
13 hours away. We used to rely on 50 to 60 horses coming into  
14 the California system through Humboldt from Oregon every  
15 year. This year we got two horses, only two horses because  
16 Portland Meadows overlaps.

17           So we believe the foundation was laid last year in  
18 the agreement that was a win-win for the industry. It  
19 allowed Humboldt to have not a subsidy but sustaining  
20 revenues. And so if we're not able to have a week without  
21 overlap we do need access to sustaining revenues. I believe  
22 we can broker such an agreement again with the assistance of  
23 the Board.

24           COMMISSIONER CHOPER: Have you tried to broker an  
25 agreement?

1 MR. MORGAN: I've sent out written communications  
2 to the principles and I haven't gotten a response. I was  
3 mindful of what Chairman Brackpool requested last month,  
4 that we not debate it for the first time in front of this  
5 Board.

6 CHAIR BRACKPOOL: Well, I think it's -- I think  
7 it's fair to say everybody has given me their position. I  
8 think they've been loathe to give each other their  
9 positions. But I don't think everyone's been -- it's not as  
10 if people have been holding back the -- the information. I  
11 think it's going --

12 COMMISSIONER CHOPER: Well, good.

13 CHAIR BRACKPOOL: That part of it I think we -- we  
14 understand.

15 I'm going to let you say something, Joe. Go  
16 ahead.

17 MR. MORRIS: Just to that, we, I mean, we -- first  
18 of all, we, you know, we've been having quite a discussion  
19 in the north on -- on the racing model. Obviously, it's  
20 broken and it needs to be fixed. And we want -- the TOC and  
21 myself with Chris's board had a meeting in June that  
22 everybody in the industry was at and we discussed that.  
23 We've had conference call -- a conference call. Since we  
24 have shared schedules on all of that. So, you know, we're  
25 trying to work through this.

1           The -- my recollection of the brokered deal last  
2 year, and I'm going to quote you on it, Chairman, was I  
3 think this is a good compromise because of the looks of all  
4 of you none of you like this deal. So a good compromise is  
5 when everybody takes a little bit of pain on it. The deal  
6 didn't work well for Golden Gate. We just had the worst  
7 month we've had since I've been up there in a year.

8           Also, on -- on the deal, you know, we all got  
9 together to help Humboldt on a one-year situation. The  
10 state had taken their subsidy away from them for this year,  
11 so we were all going to work together so that they could  
12 come up with other ways to run that fair without the  
13 industry subsidy. I mean, this is -- I went back and looked  
14 just to make sure I was not insane on this. This is the  
15 sixth meeting in the year I've been here that this has come  
16 up before this Board. So there's been a lot of discussion  
17 on it. If you look --

18           COMMISSIONER CHOPER: You said there was a state  
19 subsidy to --

20           MR. MORRIS: Prior to 2012.

21           COMMISSIONER CHOPER: Prior to 2012?

22           MR. MORRIS: -- at around \$180,000.

23           MR. MORGAN: That was for all fairs.

24           VICE CHAIR ISRAEL: All fair, right.

25           MR. MORGAN: It was taken away for all fairs.

1 MR. MORRIS: And so there's --

2 COMMISSIONER CHOPER: And so that state subsidy  
3 was missing last year?

4 MR. MORRIS: Right.

5 COMMISSIONER CHOPER: Is it going to be missing  
6 this year too?

7 VICE CHAIR ISRAEL: This year.

8 MR. MORGAN: Yeah. Yeah.

9 MR. MORRIS: That's why we brokered -- we brokered  
10 the deal. And I'll give you the numbers. I mean, there's a  
11 lot of numbers here. Golden Gate Fields threw, in four days  
12 of Humboldt being the host --

13 CHAIR BRACKPOOL: You know, Joe, I have to tell  
14 you that I've spent the last --

15 MR. MORRIS: You've seen it. We've --

16 CHAIR BRACKPOOL: The idea that you're going to  
17 sit here and give, you know, numbers and it's going to --

18 MR. MORRIS: Well, we have a couple of newcomers  
19 here.

20 CHAIR BRACKPOOL: It's -- it's too difficult.  
21 It's out of context for the commissioners.

22 MR. MORRIS: Okay.

23 CHAIR BRACKPOOL: And I don't want -- I think  
24 that's --

25 VICE CHAIR ISRAEL: Well, look --

1 CHAIR BRACKPOOL: That's not -- that's not the way  
2 --

3 VICE CHAIR ISRAEL: It seems to me that the real -  
4 - the heart of the dispute is between CARF and Humboldt.  
5 CARF represents all the other fairs when they come here for  
6 their racing days and for their approval to run. And -- and  
7 if Humboldt is overruled by the Board it can't -- it can't  
8 generate enough enthusiasm within CARF then that's not the  
9 fault of everybody else in racing. And I don't know why  
10 it's the Board's responsibility to fix that, to be honest  
11 with you.

12 MR. MORRIS: The problem originated when Golden  
13 Gate chose to expand to their meet for the first time into  
14 August onto Humboldt. What Mr. Morris called in his October  
15 -- August 23rd meeting, a nibbling around the edges of the  
16 CARF meet, is really a total overlap of Humboldt. We're not  
17 talking a subsidy here. Every fair relies on its days  
18 without overlap.

19 CHAIR BRACKPOOL: But -- but you said that before.

20 MR. MORRIS: Okay.

21 CHAIR BRACKPOOL: So I want to hear what --

22 MR. MORRIS: Sorry.

23 CHAIR BRACKPOOL: -- what Chris Korby has to say  
24 in response to Commissioner Israel.

25 MR. KORBY: We talk about this. We've -- we've --

1 we've been through a long, painful history with overlapping  
2 racing dates in Northern California.

3 VICE CHAIR ISRAEL: Sure.

4 MR. KORBY: And -- and --

5 VICE CHAIR ISRAEL: But Bay Meadows used to  
6 operate, so --

7 MR. KORBY: Bay Meadows overlapped Humboldt County  
8 Fair for many years.

9 VICE CHAIR ISRAEL: Yeah.

10 COMMISSIONER CHOPER: Yeah.

11 VICE CHAIR ISRAEL: Yeah.

12 COMMISSIONER CHOPER: That's right.

13 MR. KORBY: It's -- it's not new. And prior to  
14 that there were fair meets that overlapped Humboldt County  
15 Fair. There's a long history there.

16 We've worked through the other meets that were  
17 overlapped over the past few years. We've worked through it  
18 with a combination of changes in dates. At times there were  
19 -- there were some brokered arrangements that worked out on  
20 an ad hoc temporary basis. I think what we're finding here  
21 is that this is no longer an ad hoc temporary problem.  
22 We're back in front of you fellows and ladies,  
23 unfortunately, I would say too often. I want to find a  
24 solution to this that works --

25 COMMISSIONER CHOPER: Well, what is the --

1 MR. KORBY: -- on a longer term scale.

2 COMMISSIONER CHOPER: -- root to the solution, is  
3 what I'd like to know.

4 CHAIR BRACKPOOL: Money. What I said last year  
5 was that I was happy to broker that solution for last year,  
6 right, but that Humboldt had to come before the Board and  
7 show that they were on the path to a self-sustaining model.

8 Now, I think there are two arguments here, one for  
9 you, one against you. I think the one for you is that we've  
10 got Golden Gate taking on this calendar two more days in  
11 each week. I think the one against you is that I did say  
12 you had to go and start getting local sponsorships and  
13 showing that people in the community really care. Now, I  
14 see from the submissions that -- I couldn't make out whether  
15 you raised 45,000 or 100,000, by the way it was written,  
16 from the community.

17 MR. MORRIS: 126,100.

18 CHAIR BRACKPOOL: 126,000. So that's a good, you  
19 know, that's a good --

20 MR. MORRIS: We doubled our -- our cash-in-kind  
21 sponsorships.

22 CHAIR BRACKPOOL: And that's -- that's excellent,  
23 and that's a good -- that's a good start. And, you know,  
24 with the Board's consent I'm prepared to -- to try once  
25 again and broker some resolution for this year, with the

1 understanding that it's on a sliding scale from where we  
2 were last year. Because I said this has to go on the road  
3 to being, you know, sustaining. And that means we've got to  
4 eat less every time.

5 Let me go first to Commissioner Beneto.

6 COMMISSIONER BENETO: I've got a question to  
7 Chris. We've been through this before when -- I remember  
8 when I was on the Cal Expo board, we overlapped with Bay  
9 Meadows. And we -- we solved that problem where Bay Meadows  
10 wasn't overlapping with Cal Expo. Wasn't there something  
11 with CARF that -- and the major tracks that we would -- on  
12 the fairs we would not have any overlaps? Wasn't that a  
13 deal we cut years ago? Does anybody got -- remember that?

14 MR. KORBY: Not that black and white, per se.  
15 When -- when --

16 COMMISSIONER BENETO: Because when we would run  
17 those dates at Cal Expo, the dates --

18 CHAIR BRACKPOOL: Right.

19 COMMISSIONER BENETO: -- that Golden Gate is  
20 running now, Golden Gate was not running against us.

21 CHAIR BRACKPOOL: Right.

22 COMMISSIONER BENETO: And --

23 MR. KORBY: I --

24 COMMISSIONER BENETO: And now -- well, my -- well,  
25 let me finish here. Was Humboldt running when Cal Expo was

1 running?

2 MR. KORBY: In prior years?

3 COMMISSIONER BENETO: Yeah.

4 MR. KORBY: No.

5 COMMISSIONER CHOPER: When Bay Meadows is running.

6 COMMISSIONER BENETO: Were they overlapping with  
7 anybody, with Santa Rosa or anybody like that?

8 MR. KORBY: They --

9 COMMISSIONER CHOPER: They were overlapped. They  
10 were overlapped by Bay Meadows.

11 MR. KORBY: Bay Meadows.

12 COMMISSIONER CHOPER: And the deal -- if there was  
13 a deal --

14 VICE CHAIR ISRAEL: It was San Mateo Fair at Bay  
15 Meadows.

16 COMMISSIONER CHOPER: If there was a deal it was  
17 struck for Cal Expo back then, not for Humboldt. I think  
18 that's right. Correct me if I'm wrong.

19 MR. KORBY: I believe --

20 COMMISSIONER BENETO: Well, why are we running  
21 Golden Gate when Ferndale is on, right, when that fair is  
22 on? Can you -- somebody answer that question?

23 VICE CHAIR ISRAEL: Joe?

24 MR. KORBY: I think -- I think the primary reason  
25 is because it's -- it's a continuation of a Bay Area track

1 running in the same calendar slot as Bay Meadows ran for  
2 many years.

3 COMMISSIONER BENETO: Is Humboldt being treated  
4 fairly on the ADW and all that other stuff that -- that the  
5 other tracks are --

6 MR. KORBY: Humboldt -- Humboldt is treated the  
7 same as -- as any other track in terms of the ADW revenues.

8 In fact, Humboldt -- Humboldt, for many years, had a  
9 provision in statute that shared revenue from the old  
10 calendar when Bay Meadows -- or San Mateo Fair running at  
11 Bay Meadows was conducted during the same period that  
12 Humboldt ran. There was an arrangement under which fair  
13 license fees at that time were apportioned so that some of  
14 it went to Humboldt.

15 When those license fees went away there was a  
16 provision and statute put in -- Joe referred to that a few  
17 minutes ago -- that continued the  
18 1.75 percent allocation or distribution to Humboldt County  
19 Fair from another -- from the track that was running  
20 concurrently. There's a portion taken, 50 percent from  
21 purses and 50 percent from commissions, that is paid to  
22 Humboldt. That -- that statute is still in place. That's  
23 never changed.

24 COMMISSIONER BENETO: Well, I understand Golden  
25 Gate paid Humboldt, what, 50,000 or 50-some-thousand.

1 MR. MORRIS: That's correct.

2 COMMISSIONER BENETO: And what do you want now?

3 MR. MORRIS: Well, last year worked. So we'd like  
4 the same revenue sharing in the enhanced revenue that's  
5 created for the entire industry when Golden Gate is  
6 permitted by this Board to run in overlap to Humboldt.  
7 Humboldt otherwise has no access to host commissions and is  
8 not able to run without overlap.

9 COMMISSIONER BENETO: So --

10 MR. MORRIS: There is precedent, in answer to your  
11 issue about the thing, there's precedent that before where  
12 there is legislation where Cal Expo, if it ran an overlap,  
13 or Stockton if it ran an overlap, received a percentage.  
14 We'd get 60 percent or 50 percent of the host commissions.

15 COMMISSIONER BENETO: Right.

16 MR. MORRIS: And that was an equitable arrangement  
17 for those meets to allow them to preserve. There's also a  
18 memorandum of understanding, as I understand it, between  
19 Fresno to allow for that kind of sharing of host  
20 commissions. All we want is an equitable share.

21 COMMISSIONER BENETO: Well --

22 MR. MORRIS: We don't want to be cut off at the  
23 knees.

24 COMMISSIONER BENETO: Well, give me a figure.

25 CHAIR BRACKPOOL: It's -- it's not a one figure.

1 Because the way we brokered it last year is that --

2 COMMISSIONER BENETO: Well, I'm trying to broker a  
3 deal here.

4 CHAIR BRACKPOOL: I understand. I'll hand it over  
5 to you starting this afternoon and you can broker a deal. I  
6 wouldn't have -- have you try and do it in public.

7 COMMISSIONER BENETO: And if --

8 CHAIR BRACKPOOL: Commissioner Choper.

9 COMMISSIONER CHOPER: Look, I understand that the  
10 chairman is willing to once again step in and try to broker  
11 a deal. Past experience shows that he's, you know, the  
12 Henry Kissinger of the California Horse Racing Board.

13 I think that, you know, we may -- we may get a  
14 little more information here for all of us. But I think it  
15 probably is counterproductive to the -- to the -- the  
16 mediation that you're trying to -- whatever it is that  
17 you're trying to work with. I'd like to simply say that we  
18 hope that you can do it again. And I heard a condition laid  
19 down on that which I think in difficult times has just, you  
20 know, got to be a condition. It's got to be some way in  
21 which we don't have this each and every year, or at least  
22 have a formula if we can that avoids this.

23 You know, these are hard times, and they're hard  
24 times for everybody. And I think -- I mean, I -- we had a  
25 come-away last year feeling pretty good about the fact that

1 not -- nobody died. All right. So I think we're going to  
2 try again. And I don't think emotion is appropriate, but --

3 VICE CHAIR ISRAEL: Well --

4 COMMISSIONER CHOPER: -- my sense is to go ahead  
5 and -- and talk to the chairman and let's see what happens  
6 this time too.

7 VICE CHAIR ISRAEL: Well, actually, there's a way  
8 to do the motion. First, we have to acknowledge them.  
9 Okay. Government exists in some ways to redistribute funds  
10 to people who need funds. That's why we have a welfare  
11 system. That's why we have it. So redistribution is not a  
12 dirty word. You're getting welfare. And -- and we have to  
13 acknowledge that that's what it is and deal with it. And it  
14 should be, you know, some form of relative work fair, and  
15 it's a declining amount on an annual basis.

16 That said, I move that we approve the calendar,  
17 but in doing so we leave open the concept of those few  
18 racing dates where we don't define who gets what percentage  
19 of the host fees. And that will be left for negotiations to  
20 be conducted by Chairman Brackpool.

21 CHAIR BRACKPOOL: Well, before we get to that --  
22 thank you for the motion. Before we get to that, Steve, I  
23 wasn't trying to cut you short. The whole point is here  
24 there's interplay between all of the numbers. So it's not a  
25 he wants 50, he's offering 10, let's try and, you know, have

1 that --

2 COMMISSIONER BENETO: Yeah. But if we okay his  
3 dates it's a done deal.

4 CHAIR BRACKPOOL: No, it's not a done deal. We  
5 can -- we can --

6 COMMISSIONER BENETO: You've got to have a  
7 stipulation on that.

8 CHAIR BRACKPOOL: And that was the stipulation  
9 that I think Chairman Israel put in his motion, which is  
10 that we would agree, the dates, but we would -- so that  
11 everyone can start planning for next year, but that through  
12 negotiation with the parties -- and if it's not negotiated  
13 with the parties this Board would rule on it at the next  
14 Board meeting as to who is the official host on those dates.  
15 Because that's the ultimate lever that we have as to how to  
16 -- how -- how to -- how to do that.

17 COMMISSIONER BENETO: That sounds fine.

18 MR. MORGAN: Mr. Chairman, if I might, I just want  
19 to make a pledge. We'll -- I will come back to this Board,  
20 I hope we -- all of us will come back to this Board with a  
21 plan in the not too distant future that -- that solves this.

22 And I think it could involve legislation.

23 COMMISSIONER CHOPER: That's a good note to end  
24 on.

25 MR. MORGAN: And I would -- and I would hope that

1 we all here -- I've already talked to Joe and Lou about  
2 this, I want to talk to Ferndale some more about it -- I  
3 think we can -- we can craft something that -- that prevents  
4 this from -- from recurring every year.

5 CHAIR BRACKPOOL: And I want to make one -- one  
6 point here, that this is the California Horse Racing Board  
7 meeting, not the Oregon Horse Race Board meeting.

8 MR. MORGAN: Yes.

9 CHAIR BRACKPOOL: So there's very little we can do  
10 about encroachment you have from the north. That's just one  
11 of the unfortunate geographical problems that you have, and  
12 there's nothing we can do about that.

13 What we can do is -- is try and bring a sense of  
14 equity and a sense of, you know, this continuing path to  
15 sustainability. And that's what I would like to do.

16 So what I would like to do is get the dates agreed  
17 with the caveat that Commissioner Israel suggested that --  
18 that you will all -- you can use my office, my time. We --  
19 we will try between us to come up with a compromise that's  
20 acceptable to everybody. But if it's not at the next  
21 meeting this Board is going to make a ruling on host dates,  
22 which would have that affect then.

23 MR. MORGAN: Chairman, just -- just one caveat.  
24 Can the Board refrain from ruling on the Wednesday-Thursday  
25 dates? Because we believe that's crucial to our being able

1 to have sufficient horse population to even run a meet. And  
2 I don't mind approving the dates or -- or this time frame.  
3 But can we still leave open the question on who runs on  
4 Wednesdays and Thursdays? We think that's critical to our  
5 survival.

6 CHAIR BRACKPOOL: You know, I don't mind that  
7 being a part of the mix if we're -- we're waiting 30 days to  
8 have this conversation and do that. I will say, I read that  
9 argument. I find it hard to believe that, you know, a horse  
10 would go to Humboldt on a Wednesday as opposed to wait for a  
11 Friday at -- at Golden Gate. So I'm not sure that I  
12 subscribe to that. But I haven't spent enough time on the  
13 issue. I don't want to take everybody's time with it now.  
14 So I think we can leave the Wednesday-Thursday as part of  
15 our conversation over the next 30 days.

16 Commissioner Beneto.

17 COMMISSIONER BENETO: How far is it from Golden  
18 Gate to Humboldt?

19 MR. MORGAN: About five hours.

20 COMMISSIONER BENETO: I don't think they're going  
21 to shuttle horses up there in five hours to run Thursday --  
22 Thursday and Friday or Wednesday and Thursday.

23 MR. MORGAN: Where we've gotten our horses is we  
24 follow Santa Rosa. And the horses migrate to Santa Rosa.  
25 We fear that if -- if Golden Gate is able to run on a

1 Wednesday-Thursday they'll turn around and go to Golden  
2 Gate, rather than come up to our meet.

3 COMMISSIONER BENETO: So they're stabled at Santa  
4 Rosa --

5 MR. MORGAN: Yes.

6 COMMISSIONER BENETO: -- during your meet?

7 MR. MORGAN: Oh, right immediately prior to our  
8 meet.

9 COMMISSIONER BENETO: I know.

10 MR. MORGAN: So just shorter migration.

11 COMMISSIONER BENETO: Well, when the meet is going  
12 are they still stabled there?

13 MR. MORGAN: I'm sorry?

14 CHAIR BRACKPOOL: No. The stable --

15 COMMISSIONER BENETO: When your meet starts does -  
16 -

17 CHAIR BRACKPOOL: No.

18 COMMISSIONER BENETO: -- does Sonoma --

19 CHAIR BRACKPOOL: No.

20 COMMISSIONER BENETO: -- have horses there to go  
21 to -- well, so they --

22 CHAIR BRACKPOOL: No. They shut down. They  
23 shuttle from Golden Gate.

24 MR. MORGAN: We do have some ship-up from Golden  
25 Gate.

1 CHAIR BRACKPOOL: Yeah.

2 COMMISSIONER BENETO: Yeah. But not -- not from -

3 -

4 MR. MORGAN: We do have ship-up from Los Alamitos.

5 VICE CHAIR ISRAEL: And why is it you fear that  
6 they'll go to Golden Gate instead of coming to Humboldt?

7 MR. MORGAN: Because economics is if they can run  
8 at Golden Gate and they're going to have ship down there  
9 anyway they might as well just pay the lesser van fee to go  
10 down there. We've talked to trainers. And with the -- with  
11 the gap --

12 VICE CHAIR ISRAEL: Vanning is free.

13 MR. MORGAN: Not -- not from --

14 VICE CHAIR ISRAEL: Isn't it?

15 MR. MORGAN: No, I don't believe it's free back  
16 down to Golden Gate.

17 VICE CHAIR ISRAEL: Chris, the Stable and Vanning  
18 Fund doesn't pay to van them?

19 MR. KORBY: No.

20 VICE CHAIR ISRAEL: No?

21 MR. KORBY: Most of --

22 MR. MORGAN: So it's an economic --

23 MR. KORBY: Most of the horses that go to Humboldt  
24 County Fair go and stay for the two weeks.

25 CHAIR BRACKPOOL: Well, there's -- there's

1 something in there to be discussed anyway as part of our  
2 discussion so -- so that we don't take everybody's --

3 VICE CHAIR ISRAEL: But isn't the real reason --

4 CHAIR BRACKPOOL: -- time.

5 VICE CHAIR ISRAEL: -- the purses are bigger at  
6 Golden Gate?

7 MR. MORGAN: That's -- that's one reason. The  
8 competition is a little stiffer too.

9 VICE CHAIR ISRAEL: Well, I mean --

10 MR. MORGAN: I mean --

11 VICE CHAIR ISRAEL: -- but still --

12 COMMISSIONER ROSENBERG: More racing days.

13 VICE CHAIR ISRAEL: -- I mean, why -- why should  
14 the horsemen take a pay cut.

15 CHAIR BRACKPOOL: Yeah.

16 COMMISSIONER ROSENBERG: More racing days.

17 MR. MORGAN: These horses --

18 CHAIR BRACKPOOL: Exactly. The competition is  
19 really the answer. So --

20 COMMISSIONER CHOPER: That's where you win the  
21 money.

22 CHAIR BRACKPOOL: -- the -- the resolution is as  
23 read into the record by Commissioner Israel, which is we'll  
24 approve the calendar with two conditions to the northern  
25 calendar, two conditions. One is that you are all going to

1 try and come back to us with a consensual compromise, and if  
2 you don't this Board is going to rule on two things; it's  
3 going to rule on the Wednesdays and Thursdays, and it's  
4 going to rule on, you know, the host issues so that we work  
5 it out financially.

6 So I implore you all to carry on your work, as  
7 soon as this agenda item is over would be good, and take it  
8 from there.

9 Do I have a second for that motion?

10 COMMISSIONER BENETO: Second.

11 CHAIR BRACKPOOL: Seconded by Commissioner Beneto.

12 All in favor?

13 ALL COMMISSIONERS: Aye.

14 CHAIR BRACKPOOL: Motion carries.

15 MR. KORBY: Thank you.

16 COMMISSIONER CHOPER: You just don't -- you don't  
17 have an accent.

18 COMMISSIONER WINNER: Yeah. Chair --

19 COMMISSIONER CHOPER: Oh, yes, you do have an  
20 accent.

21 COMMISSIONER WINNER: Chairman Kissinger.

22 CHAIR BRACKPOOL: Different accent.

23 VICE CHAIR ISRAEL: He does have an accent.

24 COMMISSIONER CHOPER: It's not a German accent.

25 COMMISSIONER WINNER: His accent is a little

1 different, it seems.

2 VICE CHAIR ISRAEL: He can't speak Yiddish. Well,  
3 he can say schmuck.

4 CHAIR BRACKPOOL: And a few other choice ones, as  
5 well. All right.

6 Item number ten --

7 VICE CHAIR ISRAEL: It's Hollywood Park.

8 CHAIR BRACKPOOL: Sorry. Item number nine -- I  
9 apologize, Eual, Jack, went straight to ten.

10 VICE CHAIR ISRAEL: You guys are up.

11 CHAIR BRACKPOOL: You're up.

12 Discussion and action by the Board on the  
13 application to conduct a horse race meeting of the Hollywood  
14 Park Fall Racing Association at Betfair Hollywood Park Race  
15 Track, commencing November 12th -- November 5th, 2012  
16 through -- through December 24th, 2012, inclusive.

17 And for Commissioners, just so that you are aware,  
18 the -- the missing item has now been delivered to Staff, so  
19 we have all of the documents.

20 Names and affiliations for the record please.

21 MR. WYATT: Eual Wyatt, Hollywood Park.

22 MS. THURMAN: Bernie Thurman, Hollywood Park.

23 MS. GREALISH: Dyan Grealish, Betfair Hollywood  
24 Park.

25 MR. KENNELLY: Stephen Kennelly, TVG-Betfair.

1           VICE CHAIR ISRAEL: You can tell who the marketing  
2 person is. They sent out the memo, everybody call it  
3 Betfair Hollywood Park from now on.

4           CHAIR BRACKPOOL: Please, go ahead.

5           MS. GREALISH: Oh, great. Well, I'll grab a  
6 microphone here. We're very excited about the upcoming  
7 meet. We are endeavoring to combine our efforts with TVG-  
8 Betfair. And we have come up with quite a few initiatives  
9 with an emphasis on development of the Latino market. This  
10 is based on how our skew is. We've taken a deep dive into  
11 our data. We've more or less cracked open the black box and  
12 had both our database administrator and Stephen Kennelly's  
13 team work at a segmentation profile and a segmentation plan  
14 for our current customers.

15                   And as it turns out, which we did detail in the  
16 plan, we skew approximately 40 percent to the Latino  
17 marketplace. So we've come up with some ideas to try to  
18 grow that penetration that we already have in existence and  
19 to try to drive more wagering from that particular sector  
20 starting with Fiesta Fridays, which is going to be a very  
21 Hispanic-type theme day where we will offer special Mexican  
22 restaurant menus, menu items, and specials on drinks and  
23 beverages as well.

24                   We recently took on a new sponsor, Krome. And  
25 they have both tequila and vodka as their alcohol products.

1 And we're going to be working with them as a sponsor in  
2 this area. They have Tributo Tequila. And we're going to  
3 be working closely with them on these initiatives as well.

4 Stephen has put together quite a few really  
5 exciting promotions that we're going to be initiating. And  
6 maybe he would like to speak a little bit about those -- the  
7 on-track promotions that we're -- we have developed.

8 MR. KENNELLY: Stephen Kennelly, TVG-Betfair. As  
9 Dyan said, we wanted to focus on developing the beat. And  
10 one -- two of the big items that TVG-Betfair wanted to look  
11 at was improving the handle, and secondly, focusing on  
12 creating the better atmosphere at the track and rewarding  
13 our customers for going to the track and wanting to actually  
14 go to Hollywood Park.

15 One of the initiatives, as Dyan said, was -- was  
16 the Hispanic market. But we focus on towards the handle, as  
17 well, is we're making Saturdays Pick 6 Saturdays. So we  
18 wanted to focus, using all of the channels that we have from  
19 TV, making a Pick 6 preview on the say, putting all of the  
20 attention on the simulcast and the -- and what's going on  
21 air towards the Pick 6, coming up to the Pick 6, building up  
22 the handle. But also reward out customers, both on the  
23 track and at home with TVG, through special promotions  
24 online. It will be rewards -- rewards promotions on the  
25 track. We were looking at doing happy hours. But also a

1 joint initiative towards a single ticket winning a car. One  
2 of the TVG or Betfair -- or sorry, TVG-Betfair and Betfair  
3 Hollywood Park winners, it's a single ticket winner, they --  
4 they go home with a Toyota Prius as well.

5 MS. GREALISH: If I could just add, we do have --  
6 it's call Pick 6 Saturday. And so there will be a lot of  
7 television coverage from TVG. They're going to do both an  
8 early Pick 6 show and a late night show so that we're  
9 pumping that bet on the Saturdays. And if the pool hits  
10 200,000 we're going to have Vic announce on the PA how the  
11 pool is coming and going. And if the pool hits 200,000 then  
12 we open up happy hour. And at Whittingham's Pub we'll do  
13 the \$1.00 beers and sodas and hot dogs for an hour. And so  
14 we're going to try to really pump that bet as much as we  
15 possibly can.

16 Other initiatives, you know, we're really very  
17 much focused on creating customer value at this meet. And  
18 one exciting addition is going to be free PPs. So we're  
19 really looking forward to that. We think that that's going  
20 to be something that people will gravitate to and really  
21 appreciate.

22 We're adding as many amenities as we can on track  
23 to drive --

24 CHAIR BRACKPOOL: Can I just ask one question  
25 before I forget?

1 MS. GREALISH: Sure.

2 CHAIR BRACKPOOL: What do you have to do to get  
3 free PPs? Do you -- do you pay like an overriding payment  
4 to get them and that allows you to give them to other people  
5 or -- because I've always thought that it's something in the  
6 industry we should be doing more of, and yet you've got, you  
7 know, competition from the owners of that data.

8 MS. GREALISH: Do you want to sit down here?

9 MR. LIEBAU: I'm afraid that knows that.

10 COMMISSIONER WINNER: State your name.

11 CHAIR BRACKPOOL: Name and affiliation, Jack.

12 MR. LIEBAU: Jack Liabau from Betfair Hollywood  
13 Park. The three PPs will be on Saturday. They will be in  
14 the racing program. And we pay a premium to Equibase --

15 CHAIR BRACKPOOL: Equibase for it.

16 MR. LIEBAU: -- for that. And we have an  
17 arrangement that they will -- it's only going to be on the  
18 on-track program. And as Dyan pointed out, we're trying to  
19 do everything we can to have -- to have it out there, that  
20 maybe there's more value going to the track. You might get  
21 some of the people in the back who are -- have OTBs or --

22 CHAIR BRACKPOOL: Right.

23 MR. LIEBAU: But that -- that's our emphasis --

24 CHAIR BRACKPOOL: Okay.

25 MR. LIEBAU: -- is trying to get --

1 CHAIR BRACKPOOL: But you -- you pay a premium to  
2 Equibase --

3 MR. LIEBAU: We -- we pay --

4 CHAIR BRACKPOOL: -- for that?

5 MR. LIEBAU: We pay --

6 CHAIR BRACKPOOL: Right.

7 MR. LIEBAU: -- a premium for that.

8 CHAIR BRACKPOOL: Right. Okay. That's right.

9 That's right. Carry on then.

10 MS. GREALISH: Okay. And as Stephen talked about,  
11 this -- we have a Prius. And it is kind of a longshot  
12 because it's one winning ticket.

13 CHAIR BRACKPOOL: It's not Jack's Prius, is it?

14 MS. GREALISH: No. I'm driving that right now, so  
15 I'm going to keep driving it. But it is kind of, as I said,  
16 a longshot. But it's a fun thing because we view the Pick 6  
17 as kind of a sexy bet. And anybody who has ever hit the  
18 Pick 6 knows what it feels like. And it is obviously, you  
19 know, a difficult thing to do. However, it's kind of the  
20 dream bet. And so we put the car out there as building the  
21 dream --

22 CHAIR BRACKPOOL: Right.

23 MS. GREALISH: -- and think that, you know, that  
24 will hopefully increase the wagering.

25 CHAIR BRACKPOOL: Okay.

1 MS. GREALISH: So --

2 CHAIR BRACKPOOL: Do I have any questions on  
3 marketing? I have to say --

4 VICE CHAIR ISRAEL: Yeah.

5 CHAIR BRACKPOOL: -- I thought it was a very good  
6 plan. But let's --

7 VICE CHAIR ISRAEL: I just have -- I have just one  
8 question.

9 MS. GREALISH: Yes.

10 VICE CHAIR ISRAEL: On the weekends --

11 MS. GREALISH: Uh-huh.

12 VICE CHAIR ISRAEL: -- in the past all the race  
13 tracks are open with ball -- football games up.

14 MS. GREALISH: Uh-huh.

15 VICE CHAIR ISRAEL: If you're going to use this  
16 Latino focus are you making an effort to get soccer games  
17 and -- and put those throughout -- on TVs throughout the --  
18 you know, if Chivas Guadalajara is playing or, I mean --

19 MR. LIEBAU: We are, yes.

20 VICE CHAIR ISRAEL: And I'm talking about the  
21 European and the --

22 MS. GREALISH: Right.

23 VICE CHAIR ISRAEL: -- and the Latin American  
24 games.

25 MS. GREALISH: Right.

1 VICE CHAIR ISRAEL: So -- the rating are  
2 phenomenal.

3 MS. GREALISH: Yeah.

4 CHAIR BRACKPOOL: Yeah. Europeans are over by the  
5 time they open, but --

6 VICE CHAIR ISRAEL: Well, yeah. But the -- but  
7 the Mexican league is --

8 CHAIR BRACKPOOL: Exactly.

9 VICE CHAIR ISRAEL: -- is also.

10 CHAIR BRACKPOOL: Commissioner Winner.

11 COMMISSIONER WINNER: Mr. Chairman, a couple of --  
12 a couple of points. Number one, let me point out that Dyan  
13 and I had -- had an opportunity to have a conversation about  
14 this. And I was very, very pleased with, first of all, with  
15 the plan as -- as written, and also the discussion that we  
16 had. There were two or three issues that I raised in our  
17 call. And I wondered if you had had a chance to -- to think  
18 about those. I think one was any -- any evidence or  
19 research that we might have that indicates that -- how the  
20 Latino community -- what they're wagering practices are and  
21 the history of that --

22 MS. GREALISH: Uh-huh.

23 COMMISSIONER WINNER: -- to see whether we're  
24 concentrating -- whether you're concentrating on the right  
25 market. I'm not suggesting your not at all. I just

1 wondered whether you had any -- any numbers that show that -  
2 - that by -- by, in essence, promoting to that community  
3 that that community -- that that's going to -- that that's  
4 going to result in increased handle.

5 MS. GREALISH: We did draw the numbers from the  
6 database. We used a vendor called Ethnic Technologies.

7 COMMISSIONER WINNER: Uh-huh.

8 MS. GREALISH: And they were able to give us quite  
9 a bit of data. And then, in addition, our database  
10 administrator went in and tracked wagers from the past five  
11 to six years. So what we came up with is we have some work  
12 to do, definitely.

13 As it stands we have almost 38,000 Hispanic  
14 scanning -- or card members, Gold Club card members. Of  
15 that number, 1,800 are tracking wagers. So we really  
16 definitely have to incentivize them to track the wagers.  
17 And I've been talking with Stephen and his team, and we have  
18 some ideas that we're perculating right now.

19 One of the things we have noticed as far as sign-  
20 ups with this particular segment is when we hope a drawing  
21 of any type, a TV giveaway, whatever it might be, that they  
22 do -- we see a lift in our sign-ups of the Gold Card  
23 members.

24 COMMISSIONER WINNER: Uh-huh.

25 MS. GREALISH: So we're planning for the Fiesta

1 Fridays to offer a drawing for a voucher. We feel that  
2 that's also a good way to engage them in the wagering  
3 process. We are also going to be hosting Spanish-speaking  
4 handicapping seminars and making sure we get the message out  
5 in a much more effective way than we have previously.

6 COMMISSIONER WINNER: Thank you.

7 MS. GREALISH: So just quick look-see at the data.  
8 And I wanted to let you know that we -- we did also put  
9 together our back research that -- we have a couple of these  
10 for the Board, so if you'd like to look at it at your  
11 leisure. And if you have any comments or questions you're,  
12 you know, more than welcome to touch base. But this details  
13 the research that we derived the --

14 COMMISSIONER WINNER: Thank you.

15 MS. GREALISH: -- this from.

16 COMMISSIONER CHOPER: I think we all got two of  
17 them.

18 MS. GREALISH: Well, yeah, you all got two of the  
19 excellent plan. But this is the background research. So  
20 more reading, more spent time reading.

21 COMMISSIONER WINNER: Yeah. Just a couple of  
22 other points that we talked about. One was we discussed  
23 what appeared to be in your plan, what at least appeared to  
24 me to be sort of an overemphasis, possibly, on print  
25 advertising.

1 MS. GREALISH: Uh-huh.

2 COMMISSIONER WINNER: And, again, I'm not  
3 suggesting that -- that you've got to follow my guidance on  
4 that. I just wondered if you had thought about that any --  
5 any more since our conversation?

6 MS. GREALISH: Absolutely. I did go back to our  
7 media vendor who had recommend the print buy, and we --  
8 she's done quite a bit of research in this area. And I'll  
9 just pull my notes here because she came back to let me know  
10 that if we were a different track, say for example Santa  
11 Anita, then our population would be more representative of  
12 the general population.

13 But because of the skew to the Hispanic market and  
14 what she came up with in terms of the -- what's known in the  
15 research here is that apparently at this point in time there  
16 is an emphasis by the 45-plus-old male to actually read a  
17 paid newspaper, which we know that's declining because there  
18 aren't that many that are really paying for newspapers  
19 anymore with the free handouts that are out there. And also  
20 20 percent -- so that -- that number is actually 1-in-5. So  
21 20 percent in the L.A. area actually pay to read a daily  
22 newspaper.

23 Then in addition to that she did a study when she  
24 was at AEGON Insurance on the Hispanic marketplace. And her  
25 study indicated that 70 percent of this particular market

1 believes that print ads are more trustworthy than radio or  
2 newspaper advertisements. So it seems as if there is  
3 definitely some evidence that this could be affective.

4 COMMISSIONER WINNER: Okay. I wont -- I wont --  
5 obviously, I accept that. My research, our research is  
6 different.

7 MS. GREALISH: Uh-huh.

8 COMMISSIONER WINNER: But we'll go by your  
9 research.

10 MS. GREALISH: Well --

11 COMMISSIONER WINNER: I'm not sure I agree with  
12 that, but --

13 MS. GREALISH: Yeah.

14 COMMISSIONER WINNER: -- that's okay.

15 MS. GREALISH: There's always a slight bias, and  
16 especially, you know --

17 COMMISSIONER WINNER: Right.

18 MS. GREALISH: -- but if you're a print person --

19 COMMISSIONER WINNER: And then the only --

20 MS. GREALISH: -- you're going to --

21 COMMISSIONER WINNER: And then --

22 MS. GREALISH: -- recommend print.

23 COMMISSIONER WINNER: Then I think there were two  
24 other quick points. One was the concerts. I don't think  
25 you talked about here --

1 MS. GREALISH: Uh-huh.

2 COMMISSIONER WINNER: -- the fact that you're  
3 reducing the number of concerts or something to that effect.  
4 And I assume you're -- whatever you are having you're going  
5 to appeal to the Latino community, or is that correct or  
6 not?

7 MS. GREALISH: We do have, you know, a reasonable  
8 budget for Latino community development. And we're still in  
9 -- you know, I mean, this is the -- the bones of the plan.

10 COMMISSIONER WINNER: Right.

11 MS. GREALISH: But we're still actually working on  
12 some of the different ideas that we have. And we definitely  
13 -- as a matter of fact, on the car ride over here Eual and I  
14 discussed a vendor that he knows that's done some Latino  
15 entertainment for us in the past, and we were going to  
16 contact him and -- and discuss options there.

17 COMMISSIONER WINNER: Okay. And the last point,  
18 Dyan, as -- as I recall during our discussion, and I'm --  
19 I'm still interested in this, is whether you've had a chance  
20 -- I know you had to talked to Bejarano about helping the  
21 process --

22 MS. GREALISH: Uh-huh.

23 COMMISSIONER WINNER: -- but there are a lot of  
24 other -- especially Mexican and Central American jocks. And  
25 at least have you considered talking to any of them about

1 helping you promote to that community?

2 MS. GREALISH: I mean, yes, we most definitely  
3 have. And we have a few names in mind. But it probably  
4 would be premature on my part to --

5 COMMISSIONER WINNER: Okay.

6 MS. GREALISH: -- mention them.

7 COMMISSIONER WINNER: But -- but you are --

8 MS. GREALISH: But we are working on that.

9 COMMISSIONER WINNER: Okay.

10 MS. GREALISH: Absolutely.

11 COMMISSIONER WINNER: I thank you very much, and I  
12 thank you for the plan. And I think you guys did a really  
13 terrific job.

14 MS. GREALISH: Thank you.

15 CHAIR BRACKPOOL: Yeah.

16 MR. LIEBAU: One of our problems is that we can't  
17 afford Mr. Winner's research.

18 CHAIR BRACKPOOL: Well, there you go. Do I have  
19 other Commissioner --

20 COMMISSIONER WINNER: Oh, yes, you can.

21 CHAIR BRACKPOOL: -- other Commissioner comments?

22 COMMISSIONER WINNER: I'll give it to you.

23 CHAIR BRACKPOOL: Steve? Richard?

24 COMMISSIONER ROSENBERG: No.

25 CHAIR BRACKPOOL: Well, then, okay. I -- mine was

1 just a factual question. I don't have the memory. When it  
2 said the average daily purse, the actual average daily purse  
3 for the Fall '11 meet was 392, do we have an under or over  
4 on the full meet last year, or it was just as presented?

5 MS. THURMAN: We had a slight underpayment.

6 CHAIR BRACKPOOL: Slight under, right.

7 MS. THURMAN: Right. Which is being carried  
8 forward to this meet.

9 CHAIR BRACKPOOL: Exactly. So the -- so the  
10 actual for '11 was actual the estimated for, and then  
11 there's -- there's a slight underpayment that's coming?

12 MS. THURMAN: The actual was what was actually  
13 paid to people.

14 CHAIR BRACKPOOL: Right. Right. But during the  
15 meet, not --

16 MS. THURMAN: Correct.

17 CHAIR BRACKPOOL: It didn't include the  
18 underpayment. MS. THURMAN: Right.

19 CHAIR BRACKPOOL: The underpayment is being  
20 carried forward. And what was the magnitude of the  
21 underpayment in the end?

22 MS. THURMAN: A hundred and thirty-three.

23 CHAIR BRACKPOOL: Right. Okay. Okay. So that  
24 answered that question. I just couldn't recall the  
25 specifics, but thank you. Okay. Well, thank you for the

1 marketing plan.

2 MR. WYATT: Could I --

3 CHAIR BRACKPOOL: I thought it was -- sorry, Equal.

4 MR. WYATT: A point of clarification on item 15,  
5 emergency services.

6 CHAIR BRACKPOOL: Yeah.

7 MR. WYATT: When we submitted our application what  
8 we said -- it did not include ambulance having two life  
9 support ALS paramedic staff on both for us and for Santa  
10 Anita. We were asked the question, does our ambulance have  
11 two paramedics or a paramedic and an ET? And my response  
12 was that in Los Angeles County to be considered an advanced  
13 life support unit you have to have two paramedics. And  
14 somehow, probably my unclear communication, it got twisted  
15 around to saying you could read this as we have two life  
16 support units. We don't. We have one, and Santa Anita has  
17 one. So it's -- it's my fault, I'm sure.

18 MR. LIEBAU: And they're manned by two paramedics.

19 CHAIR BRACKPOOL: I don't think it was our  
20 understanding at this level.

21 MR. WYATT: And there are --

22 COMMISSIONER DEREK: I didn't read it that way.

23 CHAIR BRACKPOOL: But thank you for the  
24 clarification.

25 COMMISSIONER DEREK: But thank you.

1 CHAIR BRACKPOOL: I think it was there.

2 I'd be happy to make a motion to approve the meet.

3 Do I have a second?

4 VICE CHAIR ISRAEL: Second.

5 CHAIR BRACKPOOL: Commissioner Israel seconded.

6 All in favor?

7 ALL COMMISSIONERS: Aye.

8 CHAIR BRACKPOOL: Have a good meet. Thank you.

9 MR. LIEBAU: Thank you.

10 CHAIR BRACKPOOL: Item number ten, public hearing  
11 and action by the Board regarding a series of exchange  
12 wagering rules.

13 I think this is a fairly simple agenda item,  
14 although I have a bunch of speaker cards. I -- the -- the  
15 agenda item before us is that following the committee  
16 meeting that was chaired by Vice Chair Israel and joined by  
17 committee member David Israel --

18 VICE CHAIR ISRAEL: Richard.

19 CHAIR BRACKPOOL: -- Richard Rosenberg, the -- the  
20 suggestion was that if people had specific rule changes they  
21 should submit them by August the 31st. Staff -- Staff has  
22 incorporated some of those suggested rule changes. We now  
23 have a new set of rules. Those rules are here. Those rule  
24 changes are, we believe, minor. Therefore they qualify for  
25 only a 15-day comment period. And so after we take public

1 comment on the issue the issue in front of the Board will be  
2 are we prepared to send these out for 15 days of comment,  
3 which would mean the intention would be to actually vote on  
4 the implementation of the rules at the October Board  
5 meeting.

6 VICE CHAIR ISRAEL: There's only one exception --

7 CHAIR BRACKPOOL: That, there is.

8 VICE CHAIR ISRAEL: -- which is one rule  
9 outstanding that --

10 CHAIR BRACKPOOL: We have two possible --

11 VICE CHAIR ISRAEL: Two possible alternatives that  
12 Richard and I didn't come to a consensus on. On the rest of  
13 the rules we are in agreement that the rules should --  
14 should be --

15 CHAIR BRACKPOOL: Right.

16 VICE CHAIR ISRAEL: -- implemented.

17 CHAIR BRACKPOOL: And why, David, don't we just go  
18 through that rule right now before I have the speaker cards  
19 --

20 VICE CHAIR ISRAEL: Okay.

21 CHAIR BRACKPOOL: -- read out.

22 VICE CHAIR ISRAEL: It's Rule 2092.5. The staff  
23 has laid out both of the alternatives. I think on --

24 CHAIR BRACKPOOL: Just go with the page number,  
25 Jackie.

1 VICE CHAIR ISRAEL: What page is that, Jackie?

2 MS. WAGNER: 10-42.

3 CHAIR BRACKPOOL: 10-42.

4 COMMISSIONER ROSENBERG: 10-44.

5 VICE CHAIR ISRAEL: 10-42?

6 MS. WAGNER: 10-44.

7 COMMISSIONER ROSENBERG: 10-44.

8 MS. WAGNER: 10-22 is Version A.

9 COMMISSIONER ROSENBERG: Oh, yeah.

10 VICE CHAIR ISRAEL: Yeah.

11 COMMISSIONER ROSENBERG: Yeah, A.

12 CHAIR BRACKPOOL: Right. There's Version A and  
13 Version B.

14 VICE CHAIR ISRAEL: Okay. And it's a very --

15 CHAIR BRACKPOOL: Just give a summary.

16 VICE CHAIR ISRAEL: It's, in summary, it's a  
17 prohibition on who can lay a horse to lose. One rule,  
18 Version A stipulates a number of people who can not lay a  
19 horse, and it's all in the rule. I'll just -- those  
20 individuals are the trainer, assistant trainer, substitute  
21 trainer who trains a horse, the authorized agent who  
22 represents the owner of the horse, the jockey or driver who  
23 rides or drives the horse, the jockey agent who represents  
24 the jockey who rides the horse, the valet or valette who  
25 attends to the jockey, any stable employee of the trainer

1 who trains the horse, the veterinarian or any assistants to  
2 the veterinarian providing services to the trainer who  
3 trains a horse. And then there are some other stipulations  
4 on that. That is the rule preferred by Richard.

5 The rule that I prefer is that no one, no member  
6 of the Board, any person who holds a valid CHRB occupational  
7 license, any employee or contract employee of the Board  
8 should be able to lay a horse. In other words, anybody with  
9 a CHRB license is prohibited --

10 CHAIR BRACKPOOL: Okay.

11 VICE CHAIR ISRAEL: -- from laying a horse, only  
12 that bet.

13 CHAIR BRACKPOOL: Okay. So that's -- when we come  
14 to it we'll debate it more. But that's the way it is.

15 VICE CHAIR ISRAEL: Okay.

16 CHAIR BRACKPOOL: As we give the background of  
17 that --

18 COMMISSIONER BENETO: But --

19 CHAIR BRACKPOOL: Yes?

20 COMMISSIONER BENETO: -- on that rule --

21 CHAIR BRACKPOOL: You need to speak into the  
22 microphone, Steve, so that people can hear you.

23 COMMISSIONER BENETO: I thought I was talking loud  
24 enough. On that rule, what if you give the money to your  
25 wife to go bet?

1 CHAIR BRACKPOOL: If you are the principal owner  
2 of the --

3 VICE CHAIR ISRAEL: The Board shall -- any of the  
4 persons named in subsections (a)(1) through (a)(3) of this  
5 regulation instruct another person to lay a horse to lose on  
6 their behalf or receive a whole or any part of the proceeds  
7 of such a lay.

8 COMMISSIONER ROSENBERG: It's covered under both  
9 rules --

10 CHAIR BRACKPOOL: Right, both.

11 COMMISSIONER ROSENBERG: -- A and B.

12 VICE CHAIR ISRAEL: Both rules.

13 CHAIR BRACKPOOL: So it's the same.

14 COMMISSIONER BENETO: In other words, you can't  
15 give it to nobody, period.

16 CHAIR BRACKPOOL: Right.

17 VICE CHAIR ISRAEL: Period.

18 CHAIR BRACKPOOL: Exactly. Not if you're going to  
19 share in the gain. All right. Speakers.

20 VICE CHAIR ISRAEL: Tighten the loopholes like a  
21 noose.

22 CHAIR BRACKPOOL: Let's start off with Carlo  
23 Fisco, CTT.

24 MR. FISCO: Thank you, Mr. Chairman and  
25 Commissioners. A brief comment on behalf of California

1 Thoroughbred Trainers. Carlos Fisco, CTT.

2 In remarks I made at the committee meeting two  
3 Commissioners Israel, Rosenberg, Ms. Wagner, Mr. Colburn and  
4 Mr. Miller, the CTT wants to thank the Board again for the  
5 chart format that was instituted in order to push this issue  
6 along. I thought it was the most fruitful way to harness  
7 and corral all the comments and address them specifically.

8 Having said that, however, CTT will be forming  
9 some further comments for the 15-day comment period. There  
10 are some ongoing concerns with the rules as they stand now.

11 I can say, however, that because of the process the number  
12 has been greatly reduced. And --

13 CHAIR BRACKPOOL: Thank you.

14 MR. FISCO: -- the issues -- the issues have been  
15 minimized.

16 However, CTT does want to state that we do have a  
17 serious concern with 2092.6, which is the rule concerning  
18 suspension of an occupational license. And at the time we  
19 do submit our comments we would ask that the CHRB in  
20 response try to make as detailed a response as possible.  
21 Because it is in our opinion, as the rule stands now it will  
22 not pass muster with the OAL. And -- and that is a very  
23 serious area of concern for the CTT.

24 CHAIR BRACKPOOL: Thank you.

25 MR. FISCO: Thank you.

1 CHAIR BRACKPOOL: Thank you. Next speaker,  
2 Richard Specter. Name and affiliation for the record and  
3 representation.

4 MR. SPECTER: Richard Specter, Corbett, Steelman  
5 and Specter, appearing on behalf of the Los Angeles Turf  
6 Club and the Pacific Racing Association.

7 I previously addressed you with our concerns with  
8 the act in general. But today I want to very briefly  
9 address an item that the staff rejected that we had  
10 submitted dealing with on-track wagering, and more  
11 specifically eligibility to place a wager at the track.

12 As presently proposed by the rules a better from  
13 any of the 50 states in this country or the District of  
14 Columbia can place a wager on a win, place, show bet, Pick  
15 6, exacta, anything they want. However, if they want to  
16 place an exchange wager at the race track they can only do  
17 so if they are from the State of California or the State of  
18 New Jersey.

19 Now, the Board can only pass rules and regulations  
20 which are neither arbitrary nor discriminatory. And this  
21 distinction is simply illogical. There's no reason why  
22 you're permitting people to make traditional pari-mutuel  
23 wagers, even though their state doesn't allow it, but you're  
24 not letting them place an exchange wager because their  
25 state doesn't allow it. And legally this must be pari-

1 mutuel wagering. It's the only way this will ever pass  
2 legal muster.

3           So before you put the rules and regulations out  
4 for comment we would like you to reconsider that aspect, and  
5 specifically we had changes to 2086(i) and to 2089.5(a) that  
6 addressed this flaw.

7           I'm not going to address Constitutional Law,  
8 Professor, because that's your area, but this may also  
9 impact the privileges and immunities clause.

10           But we wanted to put that on the record at this  
11 point.

12           CHAIR BRACKPOOL: Thank you very much.

13           MR. SPECTER: Thank you.

14           CHAIR BRACKPOOL: Thank you. Next speaker,  
15 Darrell Haire.

16           MR. HAIRE: Darrell Haire, Western Regional  
17 Manager for the Jockeys' Guild.

18           The Guild would like to thank the Commission and  
19 the Commission Staff for their help in restating the  
20 proposed exchange wagering disciplinary Rule 2092.6 as the  
21 Guild requested. We believe this will help protect all  
22 licensed personnel from inappropriate discipline.

23           Also, the Guild understands the needs for  
24 backstretch personnel and urges the Commission to carefully  
25 consider the request by the California Thoroughbred

1 Horsemen's Foundation for an addition to Rule 2092. We due  
2 note that the contributions to the California Jockeys'  
3 Welfare Fund called for by code section 19604.5 will help  
4 all jockeys maintain decent health insurance and is not  
5 limited to disabled jockeys. Thank you.

6 CHAIR BRACKPOOL: Thank you. Next speaker, Kevin  
7 Bolling, California Thoroughbred Horsemen's Foundation.

8 MR. BOLLING: Kevin Bolling, California  
9 Thoroughbred Horsemen's Foundation. We were just  
10 disappointed that the staff recommendation is not to include  
11 the language for funding for the health and welfare of the  
12 backstretch workers and their families, as it is in the  
13 other betting platforms. We will work with the industry  
14 race tracks and the owners and trainers organization to do  
15 the best that we can as the negotiations of those fees take  
16 place.

17 CHAIR BRACKPOOL: Thank you. I'm going to come to  
18 all the comments in a minute.

19 John Hindman, Betfair-TVG.

20 MR. HINDMAN: Good morning, Commissioners. John  
21 Hindman, General Counsel for TVG and Betfair. A couple of  
22 comments.

23 First of all, echoing Mr. Fisco's -- Carlo's  
24 comments for the CTT, we appreciate the Board's process here  
25 and believe that the way that Vice Chair Israel and

1 Commissioner Rosenberg set up the process with all the  
2 transparency that was involved was very positive. I'll  
3 limit my comments to two things.

4           First, on the prohibitions to -- to place lay  
5 wagers, we strongly support Version A. Sixty percent of  
6 people on Betfair who wager in any given month that place  
7 back wagers also play -- place lay wagers. And that's  
8 because it's the unique attribute of the exchange, that you  
9 can, A, trade, which is how new customers get involved in  
10 it, and B, you can manage your risk. So those are two  
11 things that are completely unique to an exchange.

12           The rules in Version A clearly prohibit anybody  
13 who would have any chance to influence a horse in a race  
14 from placing a lay wager are very specific, and also  
15 incorporate the -- the existing Rules 1969 and 1970 that all  
16 licensees are already required to follow in the State of  
17 California.

18           My last comment would be as to the gentleman  
19 talking about the on-track wagers. The statute requires --  
20 19604.5 requires that exchange wagering be done through an  
21 account, and it actually is based on residency. So the  
22 rules as they exist and are written here track exactly what  
23 the statute is.

24           Those are all my remarks. Thank you very much.

25           CHAIR BRACKPOOL: Thank you. Before we go to

1 Commissioners comments, I just want to get Staff's response  
2 to the two specifics that were raised, firstly, the counsel  
3 for LATC, which counsel for Betfair just gave his response  
4 to. But am I to understand that the reason that we imposed  
5 the regulation is because the statute says you can only bet  
6 on this if you are a resident --

7 MS. WAGNER: That's correct.

8 CHAIR BRACKPOOL: -- of California, and New Jersey  
9 has its own rule, and that you're not going up to a window  
10 and making a cash bet without identification anyway; right?

11 MS. WAGNER: That is correct.

12 CHAIR BRACKPOOL: So it is --

13 MS. WAGNER: In proposing the rule we followed  
14 with the statute.

15 CHAIR BRACKPOOL: Okay. So it's a statute  
16 following there.

17 VICE CHAIR ISRAEL: There was no choice.

18 CHAIR BRACKPOOL: There was no choice.

19 And what is the answer to the CTHF comment about  
20 no funding for backstretch?

21 VICE CHAIR ISRAEL: We -- we didn't address any of  
22 those financial issues, preferring to leave them for, A,  
23 negotiation among the parties --

24 CHAIR BRACKPOOL: Right.

25 VICE CHAIR ISRAEL: -- and, B, whatever the

1 statutes require.

2 CHAIR BRACKPOOL: Right. And I --

3 COMMISSIONER ROSENBERG: Well, the statute -- the  
4 key is the statute that generally provides for the  
5 allocation of those resources.

6 CHAIR BRACKPOOL: Exactly.

7 COMMISSIONER ROSENBERG: Yeah.

8 CHAIR BRACKPOOL: So I think the message that we  
9 would give on that is that these are the rules to set things  
10 up, but it's going to be each license application that is  
11 going to dictate how that funding is actually distributed.

12 MS. WAGNER: That's correct.

13 CHAIR BRACKPOOL: And I'm sure that in order to  
14 get support for every license application people are going  
15 to take into account how they should be properly supporting,  
16 etcetera. So I don't think it's necessarily a rule, but I  
17 think it is something we're going to look at each and every  
18 license application that plainly comes in front of us.

19 Well, let me start with the two committee members  
20 to make their comments, and then the commissioners, if I  
21 may.

22 So Commissioner Israel.

23 VICE CHAIR ISRAEL: Well, I believe that the rules  
24 that we agreed upon, 99 percent of them are effective and  
25 the right way to proceed. And I'm not necessarily saying

1 that when the time comes I'll vote for any -- anybody who  
2 wants to engage in exchange wagering, we'll -- I'll take it  
3 on a case-by-case basis. But we need and we were required  
4 to promulgate an effective set of rules, and I think that's  
5 what we've done.

6           That -- that said, I prefer Version B where nobody  
7 with a CHRB license of any kind and involved in the game can  
8 lay wager. Because I just think it is absolutely wrong for  
9 somebody involved in the game to be betting against a  
10 specific horse. Obviously, when you bet on a horse you're  
11 betting in some way for all the other horses to fail, but  
12 you are not specifically singling out a horse to lose. And  
13 I think it sends the wrong message. It will raise questions  
14 about what kind of inside information were used. And it's  
15 just not necessary. We're dealing with a very small  
16 universe of people. And if that's the one right they have  
17 to give up in order to hold their license, whether they're  
18 owners, grooms, trainers, jockeys, hot walkers, or  
19 concessions workers at the race track, it -- it's fine.  
20 It's a small price to pay for the integrity of the game.

21           And I think this is an issue. Exchange wagering  
22 is difficult enough as it relates to the integrity of the  
23 game because it's so easy to make money on a horse finishing  
24 second, which means losing, that I think we have to lift  
25 whatever cloud of suspicion there might be an account for

1 all those clouds of suspicion that might exist.

2 CHAIR BRACKPOOL: Commissioner Rosenberg.

3 COMMISSIONER ROSENBERG: Just to clarify. You  
4 know, the -- the job that the Board was given was to  
5 promulgate rules. The legislature has already passed  
6 exchange wagering. It's -- it was subject to the Board  
7 coming up with rules.

8 With respect to this specific provision on Version  
9 A and Version B, from what I know about exchange wagering,  
10 I've done some research on this, this -- the whole basis of  
11 exchange wagering, it involves laying. And to prevent  
12 owners and trainers and the wives of owners and trainers --  
13 now if you read the definition of an occupational license  
14 it's not just owners, trainers and grooms, it's secretaries  
15 who work at any race track anywhere in the state, relatives  
16 of -- it's very broad. So I think that we should  
17 acknowledge that if you go to the race track here in  
18 California and you see trainers -- trainers bet -- and I  
19 don't know what percentage of our handle is based upon  
20 trainers, owners, friends of owners -- I think it would  
21 destroy the whole purpose of exchange wagering.

22 Secondly, Commissioner Israel legitimately is  
23 worried about public perception. And he and I have had this  
24 difference of opinion. And his major point is that  
25 information. He's worried because information could be

1 given to an owner -- not -- again, remember, the owner of  
2 the horse is prohibited from betting. The trainer is  
3 prohibited, the assistant trainer, the veterinarian on the  
4 horse, all that stuff. But here he's saying that other  
5 people in the -- in the industry, because they're licensed  
6 in some capacity, should not be able to bet against a horse,  
7 which I think is absurd.

8           You know, our whole industry, this whole betting  
9 thing is based upon information. You walk into the track  
10 and you -- they sell these sheets from -- that give you  
11 information. Where do those people get the information?  
12 They don't just dream it up. They watch workouts. They  
13 talk to people around the backside.

14           So in my opinion this would cut the -- the heart  
15 out of the whole idea of having exchange wagering, to go  
16 with Version B.

17           VICE CHAIR ISRAEL: I don't want to start a big  
18 back and forth here.

19           COMMISSIONER ROSENBERG: No.

20           VICE CHAIR ISRAEL: But -- but the answer to that  
21 question, look, most of our trainers are public trainers.  
22 They're not -- they're not stable trainers, and they have  
23 multiple owners. And it's very easy for them to gratify and  
24 satisfy one owner by telling them what they know about this  
25 horse that this owner has no involvement with whatsoever,

1 and then he can make a lay wager. That shouldn't happen.  
2 And the only way to prevent that from happening is to  
3 exclude everybody in the business from being able to lay a  
4 horse to lose.

5           It's -- it's -- it's one thing when you get the  
6 information under these ordinary circumstances where you're  
7 betting on all the bets that we currently have, you have to  
8 pick horses to win. This is completely different. And  
9 while it's valid to exclude a very small percentage of the  
10 potential betters, there's nothing wrong with that. And, in  
11 fact, many of our trainers will do a bet. They'll bet  
12 vertical wagers. And I'm sure they -- they break the rules  
13 by using multiple horses in their Pick 6, including the  
14 races in which their entered, when the law requires them  
15 only to bet the horse they -- they own --

16           CHAIR BRACKPOOL: Let's move on.

17           VICE CHAIR ISRAEL: -- and train. So --

18           COMMISSIONER ROSENBERG: So what was --

19           CHAIR BRACKPOOL: Everybody wants to talk, so I'm  
20 going to get to everybody. Hold on one second. So let me  
21 start with Commissioner Beneto.

22           COMMISSIONER BENETO: Commissioner Israel, I guess  
23 you watch the races on TV on TVG when you're not at the  
24 track?

25           VICE CHAIR ISRAEL: On occasion, yeah.

1 COMMISSIONER BENETO: Yeah.

2 VICE CHAIR ISRAEL: Every day.

3 COMMISSIONER BENETO: And they're -- they're  
4 constantly talking about the horse and this and that and, I  
5 mean, they're doing handicapping for the better, which is  
6 great. How are they going to handle this deal? Are they  
7 going to bet? Are they going to -- on exchange wagering,  
8 are they going to tell the public that there's no way this  
9 horse could win today, so I would bet him to -- to lose?

10 VICE CHAIR ISRAEL: Well, I can't -- what I know  
11 for sure is Todd Schrupp is going to promote the hell out of  
12 it because that's what he does. I don't know how he's going  
13 to handle it. But I think that's a question better directed  
14 at our friends from TVG.

15 COMMISSIONER BENETO: Or HRTV.

16 VICE CHAIR ISRAEL: Well --

17 CHAIR BRACKPOOL: Well, but --

18 VICE CHAIR ISRAEL: -- but TVG owns --

19 CHAIR BRACKPOOL: But --

20 VICE CHAIR ISRAEL: -- this particular platform.

21 CHAIR BRACKPOOL: But -- but in terms of how that  
22 relates to the -- to the rules, I mean, I think that when we  
23 have a license application in front of us, I think that's  
24 perhaps, you know, a question to ask the -- the applicant.  
25 But in terms of -- of the rules, we don't have a rule that

1 says a TV company can or cannot say anything about what they  
2 think about a horse.

3 COMMISSIONER BENETO: Because they do a pretty  
4 good job, is what I think, for the betting public, you know,  
5 giving full histories. And they've got that trainer --

6 VICE CHAIR ISRAEL: Ron Ellis.

7 COMMISSIONER BENETO: -- Ron.

8 CHAIR BRACKPOOL: Yeah.

9 COMMISSIONER BENETO: Yeah. He does a great job.

10 CHAIR BRACKPOOL: Well, look, when we get a  
11 license application in front of us I think that would be --  
12 that would be a good one.

13 Commissioner Winner.

14 COMMISSIONER WINNER: I have a couple of comments,  
15 but I have a question first, and that is 2087.5, the  
16 antepost market.

17 CHAIR BRACKPOOL: What -- what page number on the  
18 top right is it?

19 COMMISSIONER WINNER: I'm sorry. It's 10-22.

20 CHAIR BRACKPOOL: Yeah.

21 COMMISSIONER WINNER: The way this is written I  
22 just want to make sure, with antepost wagering and an  
23 exchange wager there's a lay bet and there's a take bet.

24 CHAIR BRACKPOOL: Uh-huh.

25 COMMISSIONER WINNER: I'm not sure this clarifies

1 when it says that the selected horse will finish the race.  
2 It almost appears as though you're betting it the way you  
3 would bet with -- with a current pari-mutuel wager without  
4 making it clear that you can also wager the horse to lose  
5 first, second or third.

6 I'm asking the committee to -- to just -- am I  
7 reading that wrong? If I am, I understand.

8 VICE CHAIR ISRAEL: As I understood it this is --  
9 this is like a Derby Winter Book bet.

10 COMMISSIONER ROSENBERG: Yeah.

11 COMMISSIONER WINNER: Yeah.

12 MS. WAGNER: Uh-huh.

13 VICE CHAIR ISRAEL: And -- and I didn't know, are  
14 you accepting lay wagers on Derby Winter Book bets?

15 COMMISSIONER WINNER: That's my question. Do  
16 they?

17 VICE CHAIR ISRAEL: I don't know.

18 COMMISSIONER WINNER: And if they do it should --  
19 it should --

20 VICE CHAIR ISRAEL: That's a good question --

21 COMMISSIONER WINNER: -- clarify that.

22 VICE CHAIR ISRAEL: -- one Richard and I neglected  
23 to ask.

24 COMMISSIONER ROSENBERG: Yes. Right.

25 MR. HINDMAN: So, yes, if you look at that rule --

1 MR. MILLER: John --

2 CHAIR BRACKPOOL: Name.

3 MR. HINDMAN: Sorry. John Hindman, General  
4 Counsel for TVG-Betfair U.S. If you look at that rule it  
5 uses the term "exchange wagering" which includes both  
6 betting, backing and laying in the definition. So it would  
7 allow both. And, in fact, an antepost wager works just the  
8 same as a day-of-race wager, except for the two factors that  
9 get involved as to whether or not you have a successful  
10 wager is one is whether the horse runs in the race, and two  
11 is will the horse win, place or show. So it's -- it's like  
12 a Derby Future wager with respect to that. It's done far in  
13 advance.

14 And as far as the -- the definition that's in  
15 there, exchange wagering incorporates the definition of both  
16 sides of a wager.

17 CHAIR BRACKPOOL: Does that answer the question,  
18 Chuck?

19 COMMISSIONER WINNER: I think so. You might want  
20 -- there may be clarification needed in that.

21 VICE CHAIR ISRAEL: We may need a number three.

22 COMMISSIONER WINNER: Yeah, a number three.

23 COMMISSIONER ROSENBERG: Well, it says exchange  
24 wagers that the Board thinks --

25 VICE CHAIR ISRAEL: That says that you can win by

1 losing.

2 COMMISSIONER WINNER: Yeah.

3 COMMISSIONER ROSENBERG: Well, instead fix the  
4 wording. What John said, exchange the words "exchange  
5 wagers as defined in" the first --

6 COMMISSIONER WINNER: Right. Yeah.

7 COMMISSIONER ROSENBERG: -- section of the  
8 statute.

9 COMMISSIONER WINNER: Right.

10 VICE CHAIR ISRAEL: Well, that's true.

11 COMMISSIONER WINNER: Yeah. Yeah.

12 CHAIR BRACKPOOL: I think it works itself --

13 COMMISSIONER WINNER: That's a good point.

14 CHAIR BRACKPOOL: -- through legally.

15 COMMISSIONER WINNER: Okay. That's --

16 CHAIR BRACKPOOL: I think it --

17 COMMISSIONER WINNER: That's fine.

18 CHAIR BRACKPOOL: I think it works itself through  
19 legally.

20 COMMISSIONER WINNER: Okay. Beyond that, I have a  
21 lot of questions and -- and issues personally about a lot of  
22 these things. But I very much respect the fact that the  
23 committee has spent an enormous amount of time and effort on  
24 this. And therefore I would yield to the -- to the work  
25 that they have done. And I appreciate very much the work

1 that they have done.

2           With respect to the A and B, I personally support  
3 Commissioner Israel's position on this. And the reason is  
4 that I look at exchange wagering as -- in two ways. One is  
5 that we need help in the industry and exchange wagering, at  
6 the end of the day, is a means of giving us help and getting  
7 more people involved in -- in a sort of a creative way. And  
8 I'm -- I'm hopeful at the end of the day we have exchange  
9 wagering.

10           On the other side of that I'm very concerned about  
11 the integrity of the sport and the perception of the  
12 integrity of the sport. And I think exchange wagering opens  
13 up a huge can of worms. And I've said before and I'll say  
14 it again that I think we have to be so careful, so diligent  
15 that we have to -- if anything bends the other way in terms  
16 of -- in terms of opening it up -- just this week I think  
17 there was a situation in Australia, and I think it was a  
18 Betfair situation where a jockey, a well known and one of  
19 the leading jockeys in Australia was suspended for one year.  
20 The owners pleaded guilty for fixing a bet.

21           This goes on. It goes on. And you talk to the  
22 trainers in Europe, talk to the trainers in Australia, this  
23 happens. This is -- there is a problem with exchange  
24 wagering in terms of the integrity of the sport, in terms of  
25 the integrity of the race, of the betting public, and I'm

1 very concerned about it. And I recognize that that's a  
2 risk, I suppose we have to take if we're going to have  
3 exchange wagering. But I would support the notion of going  
4 to whatever extreme we have to go to, to protect as much as  
5 we can at least the perception of the integrity.

6 CHAIR BRACKPOOL: Commissioner Derek?  
7 Commissioner Choper?

8 MS. DIDLO: I think I prefer the Version A at the  
9 time. I understand everything that's been said. The fact  
10 is that you can have all the rules in the world. If someone  
11 wants to cheat they're going to cheat. So if I am a horse  
12 owner who is going to run and I want to bet that he's going  
13 to lose I don't have to make the bet myself. I don't have  
14 to tell anyone on the race track who holds a license to do  
15 it. It's easy enough. I mean, my experience at least as  
16 the owners and the trainers, at least, maybe not the  
17 jockeys, are out, you know, they're out with the public.  
18 And they can tell somebody else to make the bet for them.

19 VICE CHAIR ISRAEL: They can't --

20 COMMISSIONER CHOPER: Now, I know they can't.

21 VICE CHAIR ISRAEL: -- or they won't.

22 MR. BUCALO: But that's the whole point. That's  
23 the whole point, they can't -- they cannot now.

24 CHAIR BRACKPOOL: Right.

25 COMMISSIONER CHOPER: So to -- to preclude this

1 long -- anyone who has a license, I don't know what that  
2 does to the market, to tell you the truth. If someone says,  
3 no, it's a pittance, they're not going to engage in very  
4 much exchange wagering, they're not the kind of people who  
5 do business anyway. Then I totally agree that in the name  
6 of perception, even though perception can be very wrong some  
7 of the time, I go along with it. But if it is true that  
8 these are people who are going to be a big market for this,  
9 then I would say that the list of people is comprehensive  
10 enough.

11 CHAIR BRACKPOOL: Well, let me --

12 COMMISSIONER ROSENBERG: Just --

13 CHAIR BRACKPOOL: Is it something specific to  
14 this?

15 COMMISSIONER ROSENBERG: On that specific point.

16 CHAIR BRACKPOOL: Yeah.

17 COMMISSIONER ROSENBERG: The -- the point is that  
18 there's an existing law that says that no owner -- this is  
19 not related to exchange wagering. This is present betting  
20 and parimutuel betting. There's an existing law that says,  
21 "No owner or authorized agent or trainer having a  
22 horse entered in a race shall wager on or include in any  
23 wager any other horse competing in such race to finish  
24 first, regardless of whether such wager is exotic or  
25 conventional."

1           So Commissioner Choper's point is correct. You  
2 know, you can't -- it's impossible. If someone wants to  
3 cheat they're going to cheat.

4           CHAIR BRACKPOOL: Right. Well, let me -- let me  
5 start by expressing genuine and sincere appreciation to  
6 David and Richard for the work they've done on this  
7 committee. This -- this was a thankless task to sit and go  
8 through all of this. I also am quick to give Staff a rap on  
9 the knuckles when they don't present us with something we've  
10 asked for. Staff did an excellent job on this as well.  
11 This was tergent stuff to get through. This is new ground  
12 and we -- we got through it.

13           Our job is to promulgate a set of rules at this  
14 stage. That doesn't mean, Commissioner Winner, that we  
15 don't get to ask every tough question there is when we get a  
16 license application in front of us. And those are going to  
17 be entertaining meetings, for sure, going to some of the  
18 points that Commissioner Beneto correctly raises, as well,  
19 about, you know, what information is going to be put out  
20 there, how is this. And I think that next round is going to  
21 be interesting.

22           With respect to Version A and Version B, I guess I  
23 would just give David back the comment he gave earlier which  
24 is I don't think you can legislate morality. And I think if  
25 someone believes they're going to do something that -- that

1 is illegal they're going to find a way to do something  
2 illegal.

3 I actually take the perception question very  
4 seriously. But I turn it on its head slightly. I think one  
5 of the most positive aspects, hopefully, hopefully positive  
6 aspects of exchange wagering is that because everything is  
7 now done electronically that there is a real trail. And I  
8 think we need to promote that real trail, which is why I'm  
9 an advocate of Version A that says let everybody bet, but I  
10 want to get to see who's betting and see what the action  
11 was. Whereas if you go with Version B, I think you're  
12 encouraging people to go into a back alley, make a  
13 transaction, etcetera, and hide it. I'd much rather see  
14 what's going on. And I think one of the most progressive  
15 hoped for changes in our sport is going to be the data that  
16 we all get to see here, you know, over a period of time.

17 And it's for that reason that I would vote for  
18 Version A, not that the -- the beliefs that David has, you  
19 know, in Version B I think are wrong. It's just I actually  
20 believe the electronic trail of an open trail is more  
21 valuable than -- than having someone do it. Because if  
22 they're going to do it they're going to, you know, they're  
23 going to find a way to do it, as Commissioner Choper says.  
24 So for that reason I think I'm -- I am a vote for A.  
25 Although Commissioner Winner just leaned into his microphone

1 to deliver --

2 COMMISSIONER WINNER: Well, I just --

3 CHAIR BRACKPOOL: -- a rebuttal.

4 COMMISSIONER WINNER: No, I'm not going to rebut.

5 Well, maybe I will.

6 CHAIR BRACKPOOL: I could tell.

7 COMMISSIONER WINNER: I understand your thinking  
8 and -- and appreciate it very much. But my problem is that  
9 the electronic trail is -- is an after-the-fact. What I'm  
10 worried about is not that we catch the guys who cheat, it's  
11 that we try to prevent them from cheating. We have tons of  
12 laws on the books in every arena which are for the purpose  
13 of being a deterrent. And the -- the idea here is, sure,  
14 there are going to be people who cheat. But the more laws  
15 you have to prevent them from cheating, the more laws you  
16 have to prevent people from going to a bank and robbing it -  
17 -

18 CHAIR BRACKPOOL: Right.

19 COMMISSIONER WINNER: -- the better chance you  
20 have of deterrent.

21 So the -- the purpose, I think, of what  
22 Commissioner Israel had in mind was not to catch people  
23 after the fact, which is what I'm concerned about the  
24 perception issue, but rather to prevent it in the first  
25 instance.

1           Now I recognize that -- that, you know, there's a  
2 lot of difference of opinion on this, and I appreciate that.  
3       My own view is I'm in favor of -- of looking towards as  
4 much preventative medicine as we can possible have.

5           CHAIR BRACKPOOL: It's -- it's a fair point. I'm  
6 not -- I'm not persuaded that -- that necessarily it's --  
7 it's accomplishing that.

8           COMMISSIONER WINNER: Yeah.

9           CHAIR BRACKPOOL: I guess that's -- that's my  
10 issue, whereas I think letting people bet and following the  
11 rules that are existing rules and are there.

12           So I guess probably the motion to -- yeah, well, I  
13 guess the motion to -- to make is to, first of all, a motion  
14 we should make to send out all the rules for 15 days. And  
15 then I'm going to make a subsequent motion as to whether  
16 it's Version A or Version B --

17           COMMISSIONER ROSENBERG: Right.

18           CHAIR BRACKPOOL: -- that gets sent out. I could  
19 do it in one motion.

20           VICE CHAIR ISRAEL: Probably do the other one.  
21 No, please. Do the other one. Let's decide which version.

22           CHAIR BRACKPOOL: Okay. All right. We'll do it  
23 that way.

24           COMMISSIONER CHOPER: Can we not put both versions  
25 out?

1 MS. WAGNER: No.

2 CHAIR BRACKPOOL: You can't send both versions  
3 out.

4 MS. WAGNER: No.

5 VICE CHAIR ISRAEL: No.

6 CHAIR BRACKPOOL: There's a legal reason --

7 COMMISSIONER ROSENBERG: No, no, no.

8 CHAIR BRACKPOOL: -- as to why you can't send both  
9 versions out. And this is vote of the Board anyway.

10 So do I have a motion to vote for Version A?  
11 Motion by Commissioner Rosenberg. Seconded by Commissioner  
12 Beneto. All in favor of motion A? Aye. Aye. Aye. Aye.  
13 Aye. So motion A will carry to go out.

14 And now can I have a motion to send all of the  
15 rules out for 15-day comment? Motion by Commissioner  
16 Choper. Second by Commissioner Rosenberg. All in favor?

17 ALL COMMISSIONERS: Aye.

18 CHAIR BRACKPOOL: The motions go out -- the rules  
19 go out for 15 days. And we -- we look forward to those  
20 responses.

21 That brings us to the conclusion of the open part  
22 of the meeting, although I have been handed a note to say  
23 that our host today, Jim Henwood, is celebrating his  
24 birthday. So many congratulations, Jim, for your birthday.

25 Thank you. This --

1           VICE CHAIR ISRAEL: Thank you for your  
2 hospitality.

3           CHAIR BRACKPOOL: This convenes the -- this  
4 concludes the open session of this meeting. We'll now  
5 convene into a closed session.

6           (The Commission meeting adjourned at 11:41 a.m.)

7                               --oOo--

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## CERTIFICATE OF REPORTER

I, MARTHA L. NELSON, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Horse Racing Board Meeting; that it was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said conference, or in any way interested in the outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of September, 2012.

/s/ Martha L. Nelson  
MARTHA L. NELSON

## CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Martha L. Nelson  
MARTHA L. NELSON, CERT\*\*367

September 25, 2012