



APPEARANCES

COMMITTEE MEMBERS

Chuck Winner, Chair  
Madeline Auerbach, Vice Chair  
Jesse Choper, Commissioner  
Alex Solis, Commissioner  
Araceli Ruano, Commissioner  
Fred Mass, Commissioner

STAFF

Rick Baedeker, Executive Director  
Jacqueline Wagner, Assistant Executive Director  
Robert Miller, Chief Counsel Pro Tem  
Mike Marten, Associate Analyst

ALSO PRESENT

Darrell Haire, Jockeys' Guild  
Tim Ritvo, Stronach Group  
Alan Balch, California Thoroughbred Trainers  
Greg Avioli, California Marketing Committee  
Scott Daruty, Stronach Group  
Larry Swartzlander, NCOTWINC

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3. Public Comment: Communications, reports, requests 6  
for future actions of the Board. Note: Persons  
addressing the Board under this item will be  
restricted to three (3) minutes for their  
presentations.
4. Discussion by the Board regarding a status 17  
report regarding the reopening of San Luis  
Rey Downs.
5. Discussion and action by the Board regarding a 23  
report from the California Marketing  
Committee (CMC) regarding its 2018 marketing  
and promotion plans pursuant to Business and  
Professions Code section 19605.73(B).
6. Public hearing and action by the Board regarding 40  
the proposed amendment to CHRB Rule 1699, Riding  
Rules, to establish a minimum suspension penalty  
for a Jockey riding contrary to the rule.

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(Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.)

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|----|--|----|
| 7. | Discussion and action by the Board regarding the request from Northern California Off Track Wagering, Inc. (NCOTWINC) to modify the distribution of market access fees from advance deposit wagering (ADW) as permitted under Business and Professions Code section 19604(f) (5) (E) for wagering conducted by thoroughbred associations in the northern zone from February 1, 2018 through December 31, 2018. | 57 |
| 8. | Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personnel matters, as authorized by section 11126 of the Government Code.  | 77 |
- A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending

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litigation described in the attachment to this agenda captioned "Pending Litigation," and as authorized by Government Code section 11126(e).

- B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).
- C. The Board may convene a Closed Session for the purposes of considering personnel matters as authorized by Government Code section 11126 (a).

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P R O C E E D I N G S

9:35 A.M.

ARCADIA, CALIFORNIA, THURSDAY, FEBRUARY 22, 2018

CHAIRMAN WINNER: Good morning, Ladies and Gentlemen. 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, February 22nd, 2018 at Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California.

Present at today's meeting are myself, Chuck Winner; Madeline Auerbach, Vice Chairman; Jesse Choper, Commissioner; Fred Mass, Commissioner; Araceli Ruano, Commissioner; and Alex Solis, 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 the public comment period if the matter concerns horse racing in California.

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

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

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

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

15           When all the names have been called I'll ask if  
16 there is anyone else who would like to speak on the matter  
17 before the Board. Also, the Board will ask questions -- may  
18 ask questions of any individuals who speak. If a speaker  
19 repeats himself or herself, I'll ask the speaker if the  
20 speaker has anything new to say. And if there are none,  
21 then the speaker will be asked to let others make comments  
22 to the Board.

23           So before we begin, for those of you who have not  
24 seen it, fortunately, Governor Brown has reappointed Vice  
25 Chair Auerbach and Commissioner Solis, and all of us are

1 delighted. I hope you are, as well. I think it's great for  
2 racing. I appreciate the Governor doing that. I think we  
3 all do. And congratulations to both Madeline and Alex, or  
4 condolences, whatever the case may be.

5 Approval of the minutes. Is there -- are there  
6 any comments, additions, deletions from the minutes? Is  
7 there a motion to approve?

8 COMMISSIONER MASS: Make the motion.

9 CHAIRMAN WINNER: Commissioner Mass moves.

10 COMMISSIONER SOLIS: Second.

11 CHAIRMAN WINNER: Commissioner Solis seconds.

12 Commissioner Ruano?

13 COMMISSIONER RUANO: Yes.

14 CHAIRMAN WINNER: Commissioner Choper?

15 COMMISSIONER CHOPER: Yes.

16 CHAIRMAN WINNER: Vice Chairman?

17 VICE CHAIRMAN AUERBACH: Yes.

18 CHAIRMAN WINNER: Chairman votes yes.

19 Commissioner Solis?

20 COMMISSIONER SOLIS: Yes.

21 CHAIRMAN WINNER: Commissioner Mass?

22 COMMISSIONER MASS: Yes.

23 CHAIRMAN WINNER: The minutes are approved.

24 We go to the Executive Director's Report, Mr.

25 Baedecker.

1 EXECUTIVE DIRECTOR BAEDEKER: Yes. Thank you, Mr.  
2 Chairman.

3 First of all, I would like to welcome back to the  
4 table, Mr. Bob Miller, down at the end. Bob has -- even  
5 though he's retired, we won't let him leave. And John  
6 McDonough is out, having had a knee replacement in the last  
7 couple of weeks. So we're in good hands having Bob back.

8 A couple of other things, housekeeping things. I  
9 mentioned last time that we'd had 46 applications for the  
10 vacant Staff Counsel position. We interviewed 15 of those  
11 candidates, and we were very fortunate to have really  
12 terrific quality in the folks that came in. We brought back  
13 five to interview this week. And I hope that next week or  
14 next month, we can introduce a new Staff Counsel individual  
15 to you. So we feel very good about that.

16 We also feel very good about the fact that Phil  
17 Laird is working for Business Consumer Services and Housing  
18 Agency, which is the Agency that we report to. And he's  
19 always available to our industry if we need -- if we need  
20 his assistance.

21 Some good statistics to share with you. First of  
22 all, I want to talk about the performance of the industry  
23 year to date, which just includes January. We had one less  
24 day of racing, live racing, this year than last, same number  
25 at night. For daytime racing, we showed an increase of 15.3

1 percent. Nighttime racing was just about dead even, down  
2 4/100s of a percent. And everything in, a gain of 13.5  
3 percent for the month. Obviously, it was dry this year  
4 compared to a wet January last year. But there was also a  
5 significant difference in runners per race here at Santa  
6 Anita. Last year the average was 7.3 runners per race.  
7 This year over that same period, it was 8.3 runners per  
8 race. And I think we've heard Santa Anita talk about the  
9 significance and the importance of increasing field size to  
10 improve the business, and that's certainly evident in the  
11 numbers from the first month.

12           Also, I would like to share with you some  
13 statistics that are always rather difficult to talk about  
14 because they deal with fatalities over a period of time. And  
15 we reported in our annual report the statistics for the  
16 previous fiscal year, which concluded at the end of June.  
17 And they don't really, I think, tell a fair story. The  
18 calendar year for 2017 included many changes that were made,  
19 really beginning with the Del Mar meet, and cooperation of  
20 the associations, the horsemen, and our ability to add more  
21 official veterinarians, I think clearly has made a  
22 difference. We need to see those same kind of results  
23 continue.

24           But last year for thoroughbreds and quarter horses  
25 only, and for racing and training only, we had a 25 percent

1 reduction in the number of losses --

2 CHAIRMAN WINNER: That's terrific.

3 EXECUTIVE DIRECTOR BAEDEKER: -- from 152 to 114.

4 So that's a meaningful effort by many people in this room  
5 that I know we all hope continues. And I know we all have  
6 that kindred goal of reducing the number each and every  
7 year. But I think that people need to be thanked that  
8 contributed to the progress.

9 And that's my report, Mr. Chairman.

10 CHAIRMAN WINNER: Thank you very much. It's a  
11 good report.

12 And again, I want to echo Rick's comments with  
13 respect to the number of fatalities. I know that so many of  
14 you worked hard with all of us to try to accomplish that.  
15 And some of the ideas and agreements that were reached and  
16 the ideas that some of you came up with have been extremely  
17 helpful, so thank you to all of you, and to Dr. Arthur for  
18 the good work.

19 Let's move on then to the public comment period. I  
20 only have one card, Darrell Haire. If anybody else will  
21 want to speak besides Darrell, please see Mike Marten and  
22 fill out a card.

23 Darrell?

24 MR. HAIRE: Good morning, Mr. Chairman --

25 CHAIRMAN WINNER: Good morning.

1 MR. HAIRE: -- Members of the Board. Darrell  
2 Haire, Western Regional Manager for the Jockeys' Guild.

3 For many years, use of the riding crop has been  
4 the subject of debate among racing fans, owners, trainers,  
5 jockeys, and other industry stakeholders, and regulatory  
6 authorities. I believe 2008, after the incident with Eight  
7 Belles, we the industry came together to determine what we  
8 could be done -- what could be done to improve the riding  
9 crop, as well as the public perception of the use of the  
10 riding crop.

11 CHAIRMAN WINNER: Yes, sir.

12 MR. HAIRE: At that time, modifications were made  
13 to the popper, as agreed upon by the Jockey Club, ARCI, and  
14 the Jockeys' Guild. And ARCI-010-35(a) was adopted as a  
15 model rule. When the approved riding crops as specified in  
16 the ARCI-010-35(a), which are softer and more humane, are  
17 used, veterinarians say cuts and welts are significantly  
18 reduced.

19 The Jockeys' Guild supports the current ARCI model  
20 rules regarding the riding crop specifications and expects  
21 jockeys to only use the riding crop for safety, correction  
22 and encouragement. Prior to CHRB adopting the rule  
23 requiring the use of the ProCush, Lite Touch and other  
24 riding crops that meet the specifications as outlined in the  
25 model rule, the California Riding Colony was one of the

1 first to voluntarily use the humane riding crops.

2           When the California Riding Colony, as well as the  
3 Guild, was approached to change the rules regarding the use  
4 of the riding crop, we agreed to work with the CHRB to make  
5 improvements on the regulation with the intent of improving  
6 the public perception. However, the rule, as it was agreed  
7 to, has not necessarily been applied as we are led to  
8 believe.

9           While it was understood that suspensions for the  
10 strike count, unless it was truly abusive or caused a welt  
11 or a break in the skin, which we believe should be punished  
12 accordingly, we recognize that the adoption of limited  
13 number of strikes before giving the horse a chance to  
14 respond, such as has been adopted in California, is attempt  
15 to get the jockeys to concentrate more on the correct use of  
16 the riding crop and not to overuse the riding crop out of  
17 habit. However, not all horses respond the same, and the  
18 use of the riding crop needs to be at the discretion of the  
19 jockey.

20           Since the implementation of the new rule, use of  
21 the riding crop has been the main focus of the vast majority  
22 of the fines or suspensions of the jockeys by the CHRB  
23 stewards. Additionally, it is our belief that the stewards  
24 are continually making modifications to their interpretation  
25 to the rule and are inconsistent with the intent of the

1 rule.

2 Most recently an incident with Mike Smith at Santa  
3 Anita on February 16th, 2018 in the 6th race, it is our  
4 opinion that this was an unjust and ludicrous decision given  
5 the circumstances.

6 Therefore, we respectfully request that the CHRB  
7 review the current rule regarding the use of the riding crop  
8 and be willing to listen to the most recent changes of the  
9 ARCI model rule regarding the definitely of the chance to  
10 respond, as well as other areas of concern, including the  
11 number of times the jockey is allowed to use the riding  
12 crop.

13 The new changes -- the new changes as adopted  
14 through Guild's proposal were supported by a number of  
15 organizations in our industry, including the TOC, the AQHA.

16 As such we would request that this item be included on the  
17 next Safety meeting of the CHRB in March.

18 Appreciate it.

19 CHAIRMAN WINNER: Darrell, thank you. Thank you  
20 for your comments. As you know, at the last Stewards  
21 Committee meeting, we invited you and any jockeys who you  
22 chose to bring to come and discuss this very issue. And I  
23 don't believe the jockeys were as strong with respect to the  
24 points that you're making as maybe you would like them to be  
25 at this point.

1 My recommendation would be, and I'll leave it up  
2 to others here, my recommendation would be that we have at  
3 the next Stewards Committee meeting, that the -- that you  
4 again appear and bring whichever jockeys you would prefer to  
5 bring and lets have this discussion again. Because at the  
6 last meeting, it did not appear that there was as much  
7 agreement with your current position. So that would be my  
8 recommendation, is that we review it at the Stewards  
9 Committee meeting, at the next Stewards Committee. I don't  
10 know if we have one scheduled, but we can schedule one.

11 EXECUTIVE DIRECTOR BAEDEKER: What are we talking  
12 about, Darrell? Do you remember?

13 MR. HAIRE: July.

14 EXECUTIVE DIRECTOR BAEDEKER: June or July is when  
15 we usually have it, yeah.

16 VICE CHAIRMAN AUERBACH: Why don't we move it up?

17 CHAIRMAN WINNER: Yeah, let's move it up.

18 VICE CHAIRMAN AUERBACH: Let's move it up.

19 And I have a question for you, Darrell. Can  
20 I -- can you send me, and maybe the rest of the Board  
21 Members, a copy of the language that you're talking about,  
22 so we can be familiar with what you have to say --

23 MR. HAIRE: Yes.

24 VICE CHAIRMAN AUERBACH: -- please?

25 MR. HAIRE: Will do.

1 VICE CHAIRMAN AUERBACH: And I also think, Chuck,  
2 in relation to what you said, I think it's probably  
3 difficult, and I wasn't there and I don't know, but if I'm a  
4 jockey and I have to go in front of the stewards and tell  
5 them I don't like their rulings and don't like what they're  
6 doing, I think I'd be a little quieter than I normally am,  
7 too. So maybe that is a little bit uncomfortable.

8 CHAIRMAN WINNER: You were not at -- was that  
9 George?

10 VICE CHAIRMAN AUERBACH: No, it wasn't me.

11 CHAIRMAN WINNER: It was George?

12 VICE CHAIRMAN AUERBACH: It wasn't me.

13 CHAIRMAN WINNER: Okay.

14 VICE CHAIRMAN AUERBACH: I think maybe some of the  
15 jockeys might be a little reticent --

16 CHAIRMAN WINNER: That was George.

17 VICE CHAIRMAN AUERBACH: -- to really say what  
18 they think.

19 CHAIRMAN WINNER: Yeah. No, there's no question.  
20 I mean, we've had -- you're right. We had meetings where  
21 just George and I met with the jockeys and we heard one set  
22 of positions. And then when we had the Stewards meeting, it  
23 was a lot different.

24 VICE CHAIRMAN AUERBACH: Um-hmm.

25 CHAIRMAN WINNER: So we need to deal with that

1 issue openly. And I know that the problem is that the  
2 jockeys are a little reticent to speak because they think it  
3 will have a negative impact on them if the stewards hear  
4 complaints against the stewards. And they really not  
5 complaints, they're complaints against the rule, but that's  
6 the only way we're going to get it done, so that would be my  
7 recommendation.

8           And also, what was the Mike Smith race? Can you  
9 just tell me that again --

10           MR. HAIRE: It's the sixth race --

11           CHAIRMAN WINNER: -- so I can go look at it?

12           MR. HAIRE: The sixth race on a week ago  
13 Friday -- two weeks ago. It will be two weeks tomorrow, the  
14 sixth race. He was on the lead and he hit the horse four  
15 times with the stick down from the eight pole, just hand  
16 riding.

17           VICE CHAIRMAN AUERBACH: What was --

18           MR. HAIRE: And at the same time he tapped him.

19           VICE CHAIRMAN AUERBACH: -- the date?

20           MR. HAIRE: And he never cocked his stick.

21           CHAIRMAN WINNER: Which one was it?

22           VICE CHAIRMAN AUERBACH: The 16th.

23           MS. WAGNER: February 16th.

24           MR. HAIRE: February 16th.

25           VICE CHAIRMAN AUERBACH: The sixth race.

1 MR. HAIRE: Tomorrow would be two weeks, so --

2 VICE CHAIRMAN AUERBACH: Okay.

3 CHAIRMAN WINNER: Okay. Thank you.

4 MR. HAIRE: Yes, sir.

5 CHAIRMAN WINNER: Any other -- hold on.

6 Any other -- any other thoughts or questions?

7 Alex?

8 COMMISSIONER SOLIS: The only thing, when we had  
9 this Stewards meeting, I guess, we should get some of this  
10 tape, too, to check it out together with the jockeys.

11 CHAIRMAN WINNER: Can you say that again?

12 COMMISSIONER SOLIS: Have some of those -- a tape  
13 of those races they're talking about and let us -- they can  
14 discuss it and be viewing them --

15 CHAIRMAN WINNER: Right.

16 COMMISSIONER SOLIS: -- together.

17 CHAIRMAN WINNER: I agree with that. We can do  
18 that.

19 Any other comments?

20 COMMISSIONER CHOPER: Would it --

21 CHAIRMAN WINNER: Yes, Jesse.

22 COMMISSIONER CHOPER: Excuse me. Would it make  
23 any sense to put a questionnaire out to all of the jockeys  
24 so it would be -- I think it probably takes some real skill  
25 in drafting that, but that they could look at and make

1 simple, I mean simple statements and --

2 VICE CHAIRMAN AUERBACH: Talk in the mike. They  
3 can't hear you.

4 CHAIRMAN WINNER: That's a good idea.

5 COMMISSIONER CHOPER: -- simple statements and  
6 check them off, so if they don't show at the meeting -- I  
7 mean, sometimes you don't -- you don't get a representative  
8 group at any meeting of a large -- what are you -- how many  
9 -- how many jockeys are you talking about who would be  
10 subject to this meeting? Fifty?

11 MR. HAIRE: Commissioner Choper, I can fill the  
12 room.

13 COMMISSIONER CHOPER: Pardon me?

14 MR. HAIRE: I can fill the room with riders.  
15 Things have transpired in the last few months, that they're  
16 all coming to me and because --

17 COMMISSIONER CHOPER: Well, if that's true, then  
18 forget my recommendation.

19 CHAIRMAN WINNER: No, I think, actually, your  
20 recommendation is a very good one because it may be that if  
21 we have a survey where they can write their comments, you  
22 may get a little more candid comments.

23 MR. HAIRE: Um-hmm.

24 COMMISSIONER CHOPER: Yeah. They'd be anonymous.

25 CHAIRMAN WINNER: And they might be -- yeah.

1 VICE CHAIRMAN AUERBACH: Yeah. Especially --

2 CHAIRMAN WINNER: Yeah.

3 VICE CHAIRMAN AUERBACH: -- if it's a blind  
4 survey, yeah.

5 CHAIRMAN WINNER: Yeah.

6 COMMISSIONER CHOPER: Uh-huh.

7 CHAIRMAN WINNER: So I think that's actually a  
8 good idea, so maybe we can work with you, maybe staff can  
9 work with you, Darrell, on coming up with a written survey?

10 MR. HAIRE: That would be great.

11 COMMISSIONER RUANO: Something you could do with  
12 the survey --

13 CHAIRMAN WINNER: And I can help do that, if you'd  
14 like.

15 Pardon me?

16 COMMISSIONER RUANO: You could do it on  
17 SurveyMonkey. You could do it online. I mean, if you've had  
18 people --

19 CHAIRMAN WINNER: You could do it online? Some of  
20 the jockeys may not want to do that. I mean, they may not -  
21 - it may be better to just give them a written one. They  
22 could do it either way.

23 COMMISSIONER CHOPER: I said some of the  
24 Commissioners, too --

25 CHAIRMAN WINNER: Yeah.

1           COMMISSIONER CHOPER:  -- would have a little  
2 difficulty.

3           CHAIRMAN WINNER:  Commissioner Choper would not be  
4 able to do it online, is what he's -- is what he's saying.

5           At any rate, good idea, good suggestion, and  
6 I -- and we'll go ahead and plan on -- Darrell, would that  
7 work for you if we -- okay.  That's what we'll plan on  
8 doing.  We'll try to move the meeting up and we'll do it as  
9 quickly as possible.  In the meantime, we'll get a survey  
10 together and we'll get it out to all the jockeys, and let's  
11 see what they say.

12          MR. HAIRE:  Appreciate that.

13          CHAIRMAN WINNER:  And I think we should do the  
14 same thing with the stewards, actually, do a blind survey  
15 with the stewards, as well.

16          EXECUTIVE DIRECTOR BAEDEKER:  How about the  
17 public?

18          CHAIRMAN WINNER:  Oh, how do you do that?  
19 Everybody?  Send out 3 million or something?

20          Okay, thank you, Darrell.

21          MR. HAIRE:  Yes, sir.  Thank you.

22          CHAIRMAN WINNER:  Okay, moving right along,  
23 discussion by the Board regarding a status report regarding  
24 the reopening of San Luis Rey Downs.

25          Who's speaking on that?  Mr. Ritvo, nice to see

1 you, sir.

2 MR. RITVO: Good morning. Good morning, Chairman,  
3 Commissioners.

4 After the horrific scene at San Luis Rey, we're  
5 kind of happy and are pleased to report that things are  
6 progressing really well. The cleanup has been finished.  
7 We've already put in for the permits. The structures are  
8 being made. The stalls are being readied. And I think by  
9 April 1st, we'll have a really good look of the layout and  
10 what -- everything that's going to be there. We've been  
11 successful in other jurisdictions moving very quick with  
12 this, so I don't see any setbacks at all. In our agreements  
13 with the vendors, they have mandates that they have to be  
14 finished by April 1st.

15 So we think that moving horses in right after the  
16 April 1st date will be possible, and we're excited to see it  
17 back open and moving forward with the training at San Luis  
18 Rey.

19 CHAIRMAN WINNER: Thank you, Tim.

20 Any thoughts? Any questions?

21 VICE CHAIRMAN AUERBACH: I wanted to talk about  
22 some other things related, if we can --

23 CHAIRMAN WINNER: Sure.

24 VICE CHAIRMAN AUERBACH: -- if Tim doesn't?

25 I wanted to make everybody aware, I had a call,

1 and this is -- forgive me. It's going to be a Pollyanna  
2 moment, but I think we need them.

3 Genine Sahadi reported to me that a trainer by the  
4 name of Sam Nichols, who is new, and had his first winner  
5 with -- after being wiped out, he had his first winner. The  
6 horse's name was Ms. Napper Tandy, believe it or not a six-  
7 year-old mare who won, I think, a 16 maiden race, and all  
8 equipment paid for by the GoFundMe account.

9 CHAIRMAN WINNER: That's great.

10 VICE CHAIRMAN AUERBACH: And I think we all need  
11 to hear that because it's relevant. It means that we did  
12 what we did. We identified the problem and the money, but  
13 it's very exciting for this person, as well as exciting for  
14 me because it means that we really did do the right thing.  
15 So I wanted to share that with everybody. I thought --

16 CHAIRMAN WINNER: Thank you.

17 VICE CHAIRMAN AUERBACH: -- it was a great story.

18 CHAIRMAN WINNER: It is a great story. Thank you.

19 MR. RITVO: Yeah. I'd like to add to that. You  
20 know, the -- for such a horrific incident, for everybody in  
21 the whole industry to come together, we'd be remiss not to  
22 thank Del Mar for all the support they gave us immediately,  
23 and all the other people. I mean, it's just incredible, and  
24 we're very thankful for it. And hopefully come April,  
25 everybody will be proud of what we were able to lay back out

1 there and get going again.

2 CHAIRMAN WINNER: I'm looking forward to going  
3 there and seeing it, having been there early the morning  
4 after the fire. And thank you for getting it done so  
5 quickly. I think it's very important to the industry. And,  
6 obviously, again, we thank everyone who was involved and  
7 participated, and Del Mar, and all of the people who  
8 provided goods and services and contributions to the effort.

9 VICE CHAIRMAN AUERBACH: I'd like to ask Alan  
10 Balch a question about this stuff.

11 CHAIRMAN WINNER: Yeah.

12 VICE CHAIRMAN AUERBACH: Alan?

13 CHAIRMAN WINNER: Alan?

14 Thanks, Tim.

15 VICE CHAIRMAN AUERBACH: Thanks, Tim.

16 Alan, I'm wondering if you could please update us?  
17 Because this is the only time San Luis Rey appears on here  
18 and I want to make sure we get this in. I want to find out  
19 about the money, the micro pulley (phonetic), whoever else  
20 was involved with the (indiscernible), the money that was  
21 going through the TCA, if you could update on what's  
22 happening with that?

23 MR. BALCH: Alan Balch, California Thoroughbred  
24 Trainers.

25 Well, first of all, just to accentuate the last

1 discussion, the total amount that went to Western Saddlery  
2 for the benefit of all of the 18 trainers whose businesses  
3 were destroyed there was about \$36,000, and that's thanks to  
4 the generosity of Jenny Craig, Genine Sahadi, the Grayson  
5 Foundation, and the GoFundMe account. All contributed to  
6 that \$36,000 that resulted in 18 trainers, \$2,000 a piece  
7 with an account at Western Saddlery where Mr. Nichols was.  
8 So that's that part of the story.

9           Now in addition, Thoroughbred Charities of America  
10 has been in close touch with CTT, CTHF, and Del Mar, the  
11 Stronach Group. And what we're working on is a really major  
12 investment in backstretch improvement for the benefit of the  
13 backstretch community. This could be an extremely  
14 significant addition to the backstretch in Southern  
15 California, both Santa Anita and Del Mar. We're evaluating  
16 all kinds of ideas, a learning center, additional  
17 recreational opportunities, and so forth. We don't have a  
18 formal plan yet, but we have had a couple of brainstorming  
19 sessions. And TCA is very interested in moving forward with  
20 this as soon as possible, and of course, so are we because  
21 this is an opportunity that we need to capitalize on.

22           VICE CHAIRMAN AUERBACH: Thank you. I would like  
23 you, if you would, please, to be the point person and report  
24 to us periodically because we all want to make sure that  
25 money gets used for the benefit of what it was intended.

1 And being involved in charities as much as I am, I know  
2 sometimes things fall through the cracks, so I'd really  
3 appreciate it if you would help us do that.

4 MR. BALCH: I can assure you, we will all work  
5 together on it and report back. And if I'm the point  
6 person, I'm happy to take that responsibility.

7 VICE CHAIRMAN AUERBACH: Please.

8 MR. BALCH: Okay.

9 VICE CHAIRMAN AUERBACH: Thank you.

10 MR. BALCH: Thank you.

11 CHAIRMAN WINNER: Thanks, Alan.

12 COMMISSIONER RUANO: Quick question.

13 CHAIRMAN WINNER: Yes, please, Araceli.

14 COMMISSIONER RUANO: Is the idea -- and maybe,  
15 perhaps, you haven't decided yet. Is the idea to create a  
16 separate 501(c)(3) to do that?

17 MR. BALCH: I don't think we would have to do  
18 that, no.

19 COMMISSIONER RUANO: Okay.

20 MR. BALCH: I think we have, through the statutes.  
21 CTHF, of course, is backstretch welfare. We have several  
22 entities that we could do that with. CTT's responsibility  
23 under the statute is also backstretch programs.

24 COMMISSIONER RUANO: Got it.

25 MR. BALCH: So I think in cooperation with the

1 racing associations, which is extremely important, it's  
2 their property, and so far we've had really great  
3 communication and brainstorming.

4 COMMISSIONER RUANO: Right.

5 MR. BALCH: The problem, of course, is to get  
6 something that is practical --

7 COMMISSIONER RUANO: Um-hmm.

8 MR. BALCH: -- and that works and has longevity,  
9 has --

10 COMMISSIONER RUANO: Yeah.

11 MR. BALCH: -- staying power, rather than just do  
12 something immediate --

13 COMMISSIONER RUANO: Um-hmm.

14 MR. BALCH: -- in a reaction sense, rather than  
15 something that's a real investment that will have staying  
16 power and that we can support for the foreseeable future.

17 COMMISSIONER RUANO: Great. Thanks.

18 CHAIRMAN WINNER: Anything else?

19 Thank you, Alan.

20 Item number five, discussion and action by the  
21 Board regarding a report from the California Marketing  
22 Committee regarding its 2018 marketing and promotion plans  
23 pursuant to Business and Professions Code section  
24 19605.76(B).

25 As you recall, we had this discussion at the last

1 meeting. There were several questions raised and it was  
2 agreed that we would put it back on the agenda so that some  
3 of these issues could be discussed.

4 Is Greg here? Who's here from -- hi, Greg.

5 MR. AVIOLI: Mr. Chairman.

6 CHAIRMAN WINNER: How are you feeling?

7 MR. AVIOLI: Good, thank you.

8 CHAIRMAN WINNER: Good.

9 MR. AVIOLI: Greg Avioli from the Thoroughbred  
10 Owners of California, but here today as the Chairman of the  
11 CMC.

12 CHAIRMAN WINNER: You're on.

13 MR. AVIOLI: Well, I submitted, at the request of  
14 the Board that last meeting, a written response to all the  
15 questions. Would you like me to go through them?

16 CHAIRMAN WINNER: Yeah.

17 MR. AVIOLI: Okay.

18 CHAIRMAN WINNER: Please.

19 MR. AVIOLI: The first request was a sense of why  
20 -- well, can you explain the 18 percent decrease and the  
21 total allocation for the Significant Player Program?

22 And the answer is there are actually two  
23 Significant Player Programs. There's the standard one which  
24 is one percent rebate to anyone who signs up for the program  
25 anywhere they bet in the state, so long as they bet with

1 their card. There's a secondary program, which we call the  
2 High Volume Program, for players who actually come to the  
3 racetrack. This program is designed by Santa Anita and Del  
4 Mar. And based on them betting significant amounts at the  
5 racetrack, they get a rebate.

6 In 2018, the budget is the same for the one  
7 percent program; they're around \$165,000. The decrease that  
8 you noted was the decrease in the High Volumes Programs. So  
9 the High Volume Program, the results of 2017 came way down  
10 for a variety of reasons, and maybe the racetracks can  
11 comment on that. But as a result  
12 of -- based on 2017 actuals, we took \$127,000 that had been  
13 allocated to this program and we moved over to the Ship and  
14 Win, so that's what happened with that first 18 percent.

15 And I'll take number two, they're together. So  
16 the next one is what is the breakdown of product and handle  
17 enhancement?

18 Keep in mind that when this 2017 budget was in  
19 place, there was a different Executive Director. The TOC  
20 wasn't involved in creating that budget, so I can't answer  
21 all those questions. But I can tell you the budget right  
22 now, that \$845,000 includes allocations for the High Volume  
23 Reward, right, the on-track High Volume Reward, and for Ship  
24 and Win, so that breaks down to \$389,000 for the coming year  
25 for the High Volume Reward Program, and \$455,000 for horse

1 recruitment.

2 Does that make sense?

3 CHAIRMAN WINNER: Yes.

4 MR. AVIOLI: Okay. The other items, I think we  
5 can move through pretty quick.

6 Satellite marketing, a lot of these terms, I can  
7 see how they're confusing. Satellite marketing is actually  
8 a Santa Anita calendar that is given away in the north at  
9 the -- north and south at the off-track wagering facilities,  
10 so that's what that \$30,000 is for. That hasn't changed  
11 from year to year.

12 A couple -- four and five, where you're asking  
13 about what increased and decreased, the reality is that last  
14 year in February, after the original budget was passed, the  
15 CMC Board came back and increased the budget in a couple  
16 areas, including CalRacing.com. And so that increase, you  
17 said increase of \$150,000 of last year, it's actually 150  
18 percent. That's the same amount we spent last year, so no  
19 change there. And that \$25,000 is basically what we do to  
20 run the Cal Racing website.

21 The Cal Racing Cares allocation, I'll back up for  
22 those who might not know what this is. We came up last  
23 year. A number of people had great ideas. We kind of  
24 merged them into what's the best opportunity for us to tell  
25 the good part of our story. As opposed to being defensive

1 and answering questions about what's wrong with racing, how  
2 about we come up with something to affirmatively say what we  
3 like about racing? And that led into a digital program and a  
4 website called CalRacingCares.com.

5           We allocated and spent roughly \$200,000 from the  
6 budget last year. We hired a firm out of Boston called  
7 Conover Tuttle Pace that has a lot of experience in the  
8 racing industry, long-time agency of the Breeders' Cup,  
9 among other horse-racing clients. And I think we believe  
10 they've done a very good job. They created the site. They  
11 put the original videos on the site. And they also did some  
12 media buy, digital media buy for us.

13           This year, when that program came back up for  
14 renewal for 2018, one of the members of CMC, an important  
15 member, the biggest contributor, the Stronach Group said,  
16 you know, we have a company right here at Santa Anita led by  
17 Phil Kubel at XBTv that can do all this work and can do it  
18 for less. And rather than having to create a number of new  
19 videos to keep the site fresh, we have thousands of hours of  
20 videos already from our time with HRTV. And we have all the  
21 -- they're also very savvy, from my meetings with them, on  
22 social media.

23           So the Board decided to retain XBTv to run this  
24 program for this year. And that, along with the fact that  
25 their costs are slightly less than CTP, and that last year

1 had \$50,000 of startup fees, that explains why you have  
2 \$150,000 budget here, versus \$200,000 last year.

3 CHAIRMAN WINNER: Are there any questions or  
4 comments?

5 VICE CHAIRMAN AUERBACH: I had one comment. I was  
6 a little surprised that you replaced Chip Tuttle's group.  
7 They did a great job, and their reward was to get moved  
8 over. I mean, I was really surprised. I mean, I'm sure you  
9 have -- you know, I'm just commenting on what I saw. I  
10 thought what the other group did was exceptional. I'm not  
11 saying that XBTV can't do the same thing.

12 MR. AVIOLI: Right.

13 VICE CHAIRMAN AUERBACH: I was just surprised.

14 MR. AVIOLI: You know, my initial reaction was the  
15 same as yours. But after I actually went, and I'd urge you,  
16 as well, took the time to see what they bring, they actually  
17 have more resources specific to what we need. And they are  
18 in California, where CTP is in Boston.

19 So I can see how people can disagree. Many people  
20 know Chip Tuttle and I have worked together, going back 20  
21 years. It wasn't an easy call to make, but that's what the  
22 CMC Board voted.

23 VICE CHAIRMAN AUERBACH: Well, I guess we'll see  
24 after this year --

25 CHAIRMAN WINNER: You know, I --

1 VICE CHAIRMAN AUERBACH: -- once it gets out  
2 there.

3 MR. AVIOLI: Yes, ma'am.

4 CHAIRMAN WINNER: I second Vice Chair Auerbach's  
5 position on that. I think, first of all, I think Chip did a  
6 terrific job. I think the fact that, you know, NBC, I think  
7 it was NBC, picked it up for the Breeders' Cup --

8 MR. AVIOLI: Right.

9 CHAIRMAN WINNER: -- and the fact that we got a  
10 tremendous amount of attention with the work that was done,  
11 and, frankly, I think it was really superior work, it was  
12 surprising to me and is surprising to me that we would make  
13 a change. I'm not -- yes, I agree with Madeline that, you  
14 know, the way we thank him is to fire him, but that, to me,  
15 is important just from the right thing to do. But I also  
16 question whether it was the right decision, given the  
17 importance of what it is, the reasons that we went through  
18 it. And with all due respect to the Stronach Group, you  
19 know, they have enough of California's business.

20 I'm assuming the Stronach Group is doing it for  
21 free, or with no profit?

22 MR. AVIOLI: Their -- I'm happy to share their  
23 proposal with you, if you'd like to see it. I can --

24 CHAIRMAN WINNER: I would like to see it.

25 MR. AVIOLI: Yes, sir. I will tell you that due

1 to the past relationships, and I think the way this was  
2 handled, which as professional, to the extent we decide  
3 collectively that XBTV is not doing the job we want, CTP is  
4 happy to jump back in at any time, so --

5 (GPS navigation voice engages.)

6 CHAIRMAN WINNER: Okay, we're all leaving --

7 MR. AVIOLI: I'm sorry. I have to go now.

8 CHAIRMAN WINNER: -- and taking I-710.

9 MR. AVIOLI: I just want to congratulate the  
10 Commissioners on the renewal of your terms. It's good to  
11 see you both back.

12 VICE CHAIRMAN AUERBACH: Thank you.

13 CHAIRMAN WINNER: Hold on just a second and we'll  
14 see if anybody else here -- I think Araceli -- Commissioner  
15 Ruano.

16 COMMISSIONER RUANO: Yes. If you could talk a  
17 little bit more about the website? You mentioned an overall  
18 upgrade. It would be great to understand the pros and cons  
19 of the current website and what specifically you want to do,  
20 and also talk a little bit about the social media that  
21 Commissioner Mass brought up at the last meeting.

22 MR. AVIOLI: So to be clear, two websites; right?

23 COMMISSIONER RUANO: Um-hmm.

24 MR. AVIOLI: The first website is the traditional  
25 website for Cal Racing, where people go primarily to watch

1 races.

2 COMMISSIONER RUANO: Um-hmm.

3 MR. AVIOLI: That is -- you're not going to see a  
4 massive upgrade on that site. But basically, if you look at  
5 it, it looks tired. It could use new graphics. It could  
6 probably use a restructuring to make it feel more 2018 than  
7 2012.

8 COMMISSIONER RUANO: Um-hmm.

9 MR. AVIOLI: Right? So that's not going to be  
10 earthshattering. But again, almost all the traffic there is  
11 just to go watch races, so you have to know what your  
12 viewers want.

13 The website for the more interesting to me is the  
14 Cal Racing Cares website which is, to succeed, is going to  
15 have be constantly refreshed with new content. And it's  
16 also going to have to have a social media campaign that will  
17 attract people to it; right? And it's not exactly the type  
18 of site off the top of your mind you're going to go to, so  
19 what is your marketing, what are your -- what are your  
20 search campaigns, keyword search campaigns, so that you can  
21 get people there?

22 And keep in mind, this site is designed to both be  
23 a proactive approach about what we like about racing, and if  
24 and when we have a catastrophic injury, we want people who  
25 are searching what does racing do, racing is cool, racing is

1 horrible, what do they do about this, we want them to find  
2 the site, as well. So that's really the focus on the  
3 digital marketing and the social media.

4 COMMISSIONER RUANO: And will that be done  
5 internally or a consultant or --

6 MR. AVIOLI: That is part of the brief for XBTV.

7 COMMISSIONER RUANO: Okay.

8 MR. AVIOLI: Yeah. And I think it would -- given  
9 the interest and the importance of this, I would suggest  
10 that maybe at the next meeting or two meetings, we ask the  
11 head of XBTV, Phil Kubel, to come up and actually lay out  
12 the specifics of that plan, because it's getting a little  
13 bit above my pay grade. But in talking to him, I felt very  
14 confident that not only was he good with social media, that  
15 he was particularly good with it.

16 COMMISSIONER RUANO: Okay.

17 COMMISSIONER MASS: Mr. Chairman? Oh, I'm sorry.

18 CHAIRMAN WINNER: Yes?

19 COMMISSIONER MASS: Greg, just a couple questions.  
20 When you get the chairman -- the Stronach proposal, do you  
21 also have regular traffic reports, what's going on with the  
22 websites that they deliver to you now? What are the page  
23 views? What are the click rate? How many people are  
24 watching the video? Who's watching the whole thing, who's  
25 not?

1 MR. AVIOLI: Yeah.

2 COMMISSIONER MASS: If you could share that, I'd  
3 be curious.

4 MR. AVIOLI: Sure. For both?

5 COMMISSIONER MASS: That would be great.

6 MR. AVIOLI: For both sites?

7 COMMISSIONER MASS: Yeah, exactly.

8 MR. AVIOLI: Sure.

9 CHAIRMAN WINNER: I agree with you.

10 COMMISSIONER MASS: And also, are there any plans  
11 to, when it's redone, to create a mobile platform so you can  
12 access both those easily from your phone?

13 MR. AVIOLI: You know, I would, on the -- on the  
14 Cal Racing site, if you don't mind, I want to defer to Scott  
15 Daruty because he has had the most direct connection with  
16 Roberts Communications, which provides the content for that  
17 site about the ability to do a mobile platform.

18 Would you like to speak?

19 MR. DARUTY: Yeah. Sure.

20 MR. AVIOLI: Okay. And then I will take the  
21 comment on the mobile platform to Phil at XBTV, as we're  
22 developing it. And I would assume it's part of the plan. If  
23 it's not --

24 COMMISSIONER MASS: I hope so.

25 MR. AVIOLI: -- it certainly needs to be, yeah.

1 COMMISSIONER MASS: I mean, New York has a great  
2 example. For example, you know --

3 MR. AVIOLI: Sure. Well, that's Tony Allevato --

4 COMMISSIONER MASS: Right.

5 MR. AVIOLI: -- from TVG came --

6 COMMISSIONER MASS: Yeah.

7 MR. AVIOLI: -- and built a real world-class  
8 system. Yeah.

9 Scott, do you want to comment?

10 CHAIRMAN WINNER: Let me see if there are any  
11 other questions for you, Greg.

12 Anybody else? Thank you.

13 Scott?

14 MR. DARUTY: Scott Daruty of the Stronach Group,  
15 and one of my roles is to have oversight of the XBTV group.

16  
17 To address your specific question first,  
18 Commissioner Mass, yeah, it is possible to move that to a  
19 mobile platform. And I just want to make sure, though, I  
20 totally understand the question. You're talking  
21 specifically about the Cal Racing Cares part or you're  
22 talking about the video, race video on the CMC website?

23 COMMISSIONER MASS: Well, I mean, I think  
24 both -- I'd be curious about both of them. It would seem to  
25 me that the best thing for racing for sure would be the Cal

1 Racing, so that people can watch videos from their phone if  
2 they're betting on their phone.

3 MR. DARUTY: Right. Okay. So to that question,  
4 when we moved about a year ago from the old free model of  
5 every race in California could be viewed for free on Cal  
6 Racing website, that was a standard definitely of video  
7 product, and it was also a non-mobile video product. When  
8 we moved a year ago to the -- to the paid model, for \$5.00 a  
9 month, that's high-definitely video streaming of every race  
10 in California, both laptop and -- computer and mobile, as  
11 well as Roku enabled, so if you want, you want sit at home  
12 on your TV and watch it through your Roku. So it's every  
13 video platform.

14 COMMISSIONER MASS: But it's accessible through an  
15 app or do you have to go on your search engine and find the  
16 website, or is there an app that directs you to it?

17 CHAIRMAN WINNER: Fred, speak into the microphone.

18 COMMISSIONER MASS: Oh, I'm sorry.

19 CHAIRMAN WINNER: Thank you.

20 COMMISSIONER MASS: Is there an app that directs  
21 you to it or is it through your search engine on your phone?

22 MR. DARUTY: I believe it's app-based, yes.

23 COMMISSIONER MASS: Okay. Because I've tried --  
24 I've searched the apps. That's why -- I didn't find it.  
25 That's why I'm asking the question.

1 MR. DARUTY: Okay. And are you a subscriber to  
2 the service or you've looked --

3 COMMISSIONER MASS: Not yet, but I will when  
4 you --

5 MR. DARUTY: Okay. So I think the --

6 COMMISSIONER MASS: -- when I can put it on my  
7 phone.

8 MR. DARUTY: Yeah. I think the way it -- I think  
9 the way it works is you go through Cal Racing.

10 COMMISSIONER MASS: Right.

11 MR. DARUTY: It will show you how to sign up for  
12 \$5.00 a month, then you get the access.

13 So as far as the other comments on the Cal Racing  
14 Cares plan and the transfer of some of this work to XBTV,  
15 you know, obviously we listened to the comments of  
16 Commissioner Auerbach and Chairman Winner and have all the  
17 respect in the world for both of you. My purpose of coming  
18 up here was just to help shed a little bit of light from the  
19 Stronach Group's perspective as to why we lobbied for the  
20 change. And, yes, we do have a large investment in  
21 California racing. We are the largest funder of CMC, in  
22 terms of the amount of dollars put in. And we want to make  
23 sure those dollars are used as efficiently as possible.

24 I will point out a couple of things in terms of  
25 that efficiency.

1           Last year, the agency was paid \$200,000. This  
2 year -- I wasn't prepared to answer this question, so I  
3 don't have the exact number -- I think it's either \$110,000  
4 or \$115,000, which is what XBTv is going to be paid.  
5 There's also some money being paid this year to the prior  
6 agency as a transition fee to thank them for their past work  
7 and to get their assistance in transitioning the platform  
8 over to XBTv.

9           The other thing I would like to point is not only  
10 is it significantly less, but we do believe the fact that  
11 we're located here in California, and more specifically at  
12 Santa Anita Park, gives us the ability to create more video  
13 content. We have camera people and talent here every single  
14 day. Even if it's not a race day and there's just training  
15 going on, we have people here. We're creating dozens of on-  
16 demand videos a week. We can easily add to that a couple of  
17 Cal Racing Cares-related videos. So -- and we have access  
18 to the people here, the owners, the trainers, the jockeys,  
19 to be able to get interviews on these sorts of issues.

20           So we ultimately believe that we're going to  
21 deliver a better product at a lower price, and that's why we  
22 lobbied for the change.

23           CHAIRMAN WINNER: Thank you, Scott. I appreciate  
24 that. And to me, as somebody who's been in that business  
25 for 250 years, production value is critical. And I think --

1 and I'm not suggesting that the production value won't be as  
2 good or better because I don't know until I see it. But  
3 sometimes it's worth paying a little extra to get production  
4 value because that production value is going to get you a  
5 lot more viewership. And as we saw, the production value  
6 was helpful in getting national attention and national  
7 pickup of the work that was done in the past. And one hopes  
8 it will be as good, if not better, than before.

9 Cost is an issue. And, of course, we all know how  
10 you can deal with cost. And when you're doing production of  
11 these kinds of things, they can be -- the cost can be  
12 changed based on all kinds of factors. So I'm not sure that  
13 saving a few dollars is the answer, because I think it could  
14 be done, saving a few dollars, and done better than it was.

15 But it also can -- it can deteriorate the quality. So  
16 let's see what happens.

17 And again, I appreciate very much what you  
18 said --

19 MR. DARUTY: Thank you.

20 CHAIRMAN WINNER: -- about the location, and  
21 clearly, that's a big issue. Having the talent here and the  
22 technical capability to do it here is big -- can be a big  
23 issue, but it's really a question of production value.

24 MR. DARUTY: Thank you.

25 CHAIRMAN WINNER: Thank you.

1           VICE CHAIRMAN AUERBACH:  Scott, I think that -- I  
2 don't think either Chuck -- and I probably shouldn't speak  
3 for him -- or myself are concerned about the quality that  
4 XBTV does, because I think their work is really exceptional.  
5     There's a lot of things that they do really, really well.  
6 It just, you know, was one of those things, like if-it-  
7 ain't-broke-don't-fix-it type of attitude that I was looking  
8 at.

9           MR. DARUTY:  Understood.

10          CHAIRMAN WINNER:  Okay.  Thank you.

11          Let's -- any other questions?  Comments?  Let's  
12 move along.

13          Item number six, public hearing and action by the  
14 Board regarding the proposed amendment to CHRB 1699, Riding  
15 Rules, to establish a minimum suspension penalty for the  
16 jockey riding contrary to the rule.  This concludes the 45-  
17 day public comment period.  The Board may adopt the proposal  
18 as presented.

19          Do you want to speak on this?  Who's speaking on  
20 this, Rick?

21          EXECUTIVE DIRECTOR BAEDEKER:  Yeah.  I can.  I  
22 can.

23          CHAIRMAN WINNER:  And I know Darrell wants to  
24 speak again on this.

25          EXECUTIVE DIRECTOR BAEDEKER:  I can speak on this.

1 I think the easiest way to explain this is to  
2 simply look at the proposed new language, which,  
3 Commissioners, is in your book --

4 CHAIRMAN WINNER: Right.

5 EXECUTIVE DIRECTOR BAEDEKER: -- on page 6-2.  
6 It's the subparagraph F. And the new language says,  
7 "When suspending a jockey for riding contrary to this  
8 rule the Steward shall issue a minimum suspension of  
9 two riding days and shall issue a suspension greater  
10 than the minimum for subsequent violations within 60  
11 days."

12 There has been no minimum on the books until this  
13 proposal.

14 CHAIRMAN WINNER: But it's true, is it not, that  
15 in practice, it's been three days generally; is that  
16 correct?

17 EXECUTIVE DIRECTOR BAEDEKER: Yeah. There have  
18 been some exceptions to the rule, but generally it's been  
19 three days. And it, over the years, it has mirrored the  
20 number of race days per week. Back in the good old days a  
21 minimum suspension was five days, sometimes seven days for a  
22 serious violation. Obviously, as the race days have  
23 diminished, so have the number of penalty days.

24 CHAIRMAN WINNER: This is a rule that actually  
25 came out of the stewards' meeting where there was some

1 question about uniformity and the three days being difficult  
2 because when there's another violation, then there has to be  
3 an increase. So the idea was to reduce the number of days  
4 to start with.

5 Darrell, do you want to speak on this?

6 MR. HAIRE: Thank you, Mr. Chairman. And I think  
7 Executive Director Baedeker hit it on the head with a lot of  
8 discussion and the Guild's proposal to amend this rule for  
9 the simple fact that with the reduced days, there's less  
10 opportunities. And we know we have some of the greatest  
11 riders in the world here, right in California. But it  
12 really affects a rider. And a rider that doesn't ride as  
13 many races, when they do get days, for minor riding  
14 infractions, it really hurts their business.

15 So simply stated, that three days now that they're  
16 getting for minor riding infractions would be reduced to two  
17 days. Now if a rider does something really careless, it's  
18 at the steward's discretion, always, that it could be more,  
19 five, seven, whatever it is, whatever the --

20 CHAIRMAN WINNER: This is a minimum.

21 MR. HAIRE: -- penalty fits the crime. This is a  
22 minimum --

23 CHAIRMAN WINNER: Right.

24 MR. HAIRE: -- of two days. And my hope is that  
25 the stewards from north and south follow this, that they're

1 consistent and fair. That's what I'm -- my hope is.

2 EXECUTIVE DIRECTOR BAEDEKER: But I think the  
3 Chairman is making a key point here that everybody should  
4 understand. This says that the minimum shall be two days.  
5 It doesn't mean that there will a change in the way stewards  
6 are currently allotting suspensions. They can continue to  
7 give three days or four or two, whatever they want to do,  
8 it's up to them. So there shouldn't be an understanding  
9 that automatically, you know, beginning with the day that  
10 this rule becomes effective that every suspension, call it  
11 every customary suspension, normal suspension will be two  
12 days. That's not what this rule says. It just says there  
13 shall be a minimum of two.

14 CHAIRMAN WINNER: Right.

15 MR. HAIRE: Yes, sir. I understand. But again,  
16 my hope is that the stewards consider what was three days  
17 would be two now.

18 CHAIRMAN WINNER: Yes. And, frankly, I think it's  
19 really important to understand what the Executive Director  
20 just said.

21 I also think it's important to understand the  
22 intent of what the Commission was thinking, and that was  
23 precisely what you're saying, which is that they -- that the  
24 stewards not start with the idea that it's three days, as  
25 they do now, but rather with the idea that it's two days

1 when the infraction is not something that merits a stricter  
2 or a longer penalty.

3           So the way I view it is when it says minimum of  
4 two days, that means for an infraction which is not  
5 egregious in any way, that it should be two days, and that  
6 that's the way they ought to look at it. But it is at their  
7 discretion and that's what this says. It's a minimum, and  
8 therefore it remains at their discretion. We just would  
9 like to -- it not just effects -- in my view, it doesn't  
10 just effect, you know, the jockeys that we have in Southern  
11 California who, you know, who are the world-class jockeys  
12 who are, in some cases, making fairly substantial amounts of  
13 money. When they lose three days, that's a significant loss  
14 in terms of their income.

15           But it also effects the little guys. The guys who  
16 ride periodically at the fairs or at Los Al, or something  
17 like that, and make far less money and they're struggling to  
18 just get along. And when they get a three-day suspension  
19 and then a six-day suspension, or whatever it is, that is  
20 really, really significant for them in terms of their  
21 ability to feed their families.

22           So I think we have to think of it from the  
23 standpoint of all of the riders, not just the ones at the  
24 top of the class.

25           VICE CHAIRMAN AUERBACH: You know, the other thing

1 -- the other thing, too, is that when we -- when we talked  
2 about this last time, we -- most of us were under the  
3 impression that it was an automatic three days because it  
4 had been given out like --

5 CHAIRMAN WINNER: Right. So --

6 VICE CHAIRMAN AUERBACH: -- candy on Halloween. It  
7 was never less than three days. And I think it was  
8 educational for us to find out that it was not in the rules  
9 and that we could have been handing out far lesser  
10 infractions one day, but it just wasn't done. I think that  
11 was very elucidating.

12 And the other thing that I wanted to mention again  
13 is that it's not just about the jockeys, it's also about the  
14 trainers and the owners. When you suspend a jockey who has  
15 been working with a specific, for a specific owner, getting  
16 a horse ready for a race that may or may not be there, I  
17 don't know why, but there seems to be a confluence of when  
18 that particular jockey is scheduled to ride a particular  
19 horse in a particular race that you've been working for a  
20 long time is suspended, you're not just affecting that  
21 jockey. You're also affecting the owners and the trainers  
22 and affecting their ability to get money, too, to make some  
23 money to stay in business.

24 So it is something that I think the stewards  
25 probably -- they know, but they probably need to be

1 reminded, we're not just suspending a jockey, this has a  
2 domino effect that we don't always think about.

3 So I would encourage the stewards to look at this  
4 two-day minimum and to not automatically go to the three  
5 days, to see if it's a little bit less of an offense. Just  
6 my thoughts.

7 CHAIRMAN WINNER: Yes, Commissioner Choper?

8 COMMISSIONER CHOPER: You know, it's very  
9 difficult trying to express ideas as complicated as this and  
10 as detailed, and with exceptions and so forth. It's very  
11 difficult to put into a rule. But I just wish we could get  
12 some -- and maybe, Rick this would apply to you, a very  
13 brief summary of the ideas as to what is the difference  
14 between -- what is the difference and significance of two  
15 days versus three days? And I think I don't disagree with  
16 anything that was said. What I'm concerned about is that  
17 talking about it and -- is not going to make an imprint on  
18 it.

19 So if someone could draft another sentence or two  
20 into the rules, I think that might be a good idea.

21 CHAIRMAN WINNER: Rick?

22 VICE CHAIRMAN AUERBACH: I think if you're going  
23 to do that, you might want to go down to one day, if you're  
24 going to rework it.

25 EXECUTIVE DIRECTOR BAEDEKER: Well, again --

1 CHAIRMAN WINNER: Well --

2 EXECUTIVE DIRECTOR BAEDEKER: -- it's a minimum. I  
3 mean, you could -- you could make it one day if you wanted.

4 I think, first of all, I probably shouldn't express my  
5 opinion. I should just talk about the process.

6 I think that the reason the Board is considering  
7 this is because of the change that was made to the riding  
8 rule, I don't know, two years ago or so, that called for an  
9 increased suspension if there was a second violation within  
10 60 days.

11 CHAIRMAN WINNER: Right. That's what caused it.

12 EXECUTIVE DIRECTOR BAEDEKER: And so as a result,  
13 you know, those second violations have gotten a lot of  
14 attention, a lot of complaining from the jocks, which is  
15 understandable. Why would any jockey ever want to be  
16 suspended? This is, however, a rule that governs careless  
17 riding. And the goal of the Board, and certainly staff, has  
18 been to do a better job of protecting the integrity of the  
19 race for the public, keeping horses straight. And also as  
20 Commissioner Solis has pointed out, when you have bumper  
21 cars, you can end up with horses being returned to the barn  
22 injured.

23 So that was the reasoning behind the Board's  
24 approval of the rule, which called for, if there's repeated  
25 offenses, careless riding, not accidental but careless

1 riding, that was the reason for that second stipulation,  
2 that if there's a second violation within 60 days the  
3 penalty would be greater. But because the policy has been  
4 three days, usually then the second violation has ended up  
5 in a four- or a five-day suspension. So that really has  
6 cause a lot of consternation among the jocks, as, of course,  
7 you would expect.

8 I'm not sure what language could be added to this.  
9 If we do add any significant language to this, we would  
10 probably have to start over --

11 CHAIRMAN WINNER: Start all over again.

12 EXECUTIVE DIRECTOR BAEDEKER: -- and then take it  
13 out for another 45 days, which --

14 CHAIRMAN WINNER: Yeah.

15 EXECUTIVE DIRECTOR BAEDEKER: -- the pleasure of  
16 the Board, we can certainly do that.

17 CHAIRMAN WINNER: Let me just respond to that.

18 And, Commissioner Choper, this actually had a lot  
19 of -- we went through a lot of discussion on this at the  
20 Stewards Committee meeting. At that time, Vice Chair  
21 Krikorian and I spent a good deal of time with jockeys, and  
22 in some cases the stewards, discussing it. And the language  
23 -- the two days was sort of the agreed-upon number with  
24 staff and stewards and the jockeys who appeared.

25 It was the same meeting, I think, Darrell, was it

1 not, where we discussed the other issue --

2 MR. HAIRE: It was.

3 CHAIRMAN WINNER: -- the strike issue?

4 So I think to start all over again, personally, I  
5 think that might not be very helpful. I think the idea of  
6 getting -- it's gone out for 45 days already.

7 I don't know if there was any written response,  
8 Jackie?

9 MS. WAGNER: Jackie Wagner, CHRB Staff.

10 No written comments.

11 CHAIRMAN WINNER: And I know we have two more  
12 folks who want to speak. Both Alan and Tim want to speak on  
13 this. But personally, I'd like to see it -- I'd  
14 like -- personally, I'd like to see this passed as is, since  
15 it's gone out of the 45 days, and see how it works. And then  
16 we can always come back and review it again when we have  
17 that Stewards Committee meeting that we're going to be  
18 having, hopefully sooner than June.

19 COMMISSIONER CHOPER: That sounds -- that's fine.

20 CHAIRMAN WINNER: Thank you. Thank you.

21 MR. HAIRE: Thank you.

22 CHAIRMAN WINNER: Okay. Thank you.

23 Tim?

24 MR. RITVO: Tim Ritvo, Stronach Group.

25 On this subject, I wanted to talk to something

1 that affects our business, Santa Anita's business, is that  
2 when the jocks are suspended at Del Mar and appeal until the  
3 end of the meet, they're not allowed to serve their days,  
4 supposedly, at Los Alamitos, as you may consider it a B  
5 meet. Well, it really punishes us on our opening week not  
6 to have the jocks available to ride.

7           So I think as you revisit this, we would  
8 definitely like to be -- or have some input in it, because  
9 it definitely affects our business. And I think if you  
10 consider Los Alamitos a racing meet, an official racing  
11 meet, I'm not sure why the jocks would not be allowed to  
12 serve their days at that time and punish us on a  
13 championship meet that begins with the disadvantage of  
14 having some of the top riders available, and trainers and  
15 owners not willing to run their horses at that time, waiting  
16 for the right riders.

17           CHAIRMAN WINNER: Tim, I understand that, and  
18 that's a different issue than the number of days --

19           MR. RITVO: Sure.

20           CHAIRMAN WINNER: -- than the minimum number of  
21 days. That is an issue. Frankly, the reason, I believe, is  
22 that a lot of the jocks who either don't ride at Los Al or  
23 would prefer to give up days at Los Al will appeal to the  
24 point of putting it off until their days come at the Los Al  
25 meeting, and that's why the decision was made to make it a

1 light meet.

2 Now, so I understand your position, it does hurt  
3 Santa Anita, and it is something that we should evaluate,  
4 but I'm not sure it comes under this particular amendment.

5 MR. RITVO: Okay. We'll submit in writing  
6 our --

7 CHAIRMAN WINNER: Yeah.

8 MR. RITVO: -- thoughts on that point.

9 CHAIRMAN WINNER: I would appreciate that. I  
10 think, again, it's a valid point.

11 MR. RITVO: It's a huge disadvantage that's  
12 been --

13 CHAIRMAN WINNER: It's arguable either way, I have  
14 to say, because if we -- if what happens is they end up  
15 getting days at Del Mar and then they take those days at Los  
16 Al where they weren't going to ride anyway, or were going to  
17 ride a lot less, that defeats the whole purpose --

18 MR. RITVO: Right.

19 CHAIRMAN WINNER: -- of the days.

20 MR. RITVO: Okay.

21 CHAIRMAN WINNER: Alan?

22 MR. BALCH: Alan Balch, California Thoroughbred  
23 Trainers.

24 First of all, we do appreciate the ability to  
25 speak on this now. We believe we were remiss in not putting

1 something in writing before now. But our board just had a  
2 meeting and concentrated on this and we think that the  
3 discussions you've just heard is pretty instructive. And  
4 with all due respect to you, Chairman Winner, we do think  
5 this should be potentially be deserving of some more  
6 discussion before this goes forward. I think if you just  
7 think of all the things you've just heard that do relate  
8 directly to this, there are some real issues here.

9           The trainers, so far as I know, were not involved  
10 in the Stewards Committee meeting on this. And our board  
11 just wants to bring a few issues forward for your  
12 consideration.

13           First of all, what is the urgency of this?

14           This is a major change, because up until now, even  
15 given the most recent change to this rule, the stewards did  
16 have complete discretion, and we think that's very  
17 important. We think there are some unintended consequences  
18 as a potential here in this rule because, as a matter of  
19 practicality, what will happen is that the suspensions will,  
20 generally speaking, because two days instead of three.

21           Let's step back for a minute and ask why this rule  
22 is here to begin with?

23           It's to deter rough riding. It's to deter  
24 dangerous riding. It's to deter unfair riding. And  
25 the -- we know that some of the stewards do object to having

1 so much discretion, but we believe they should have that  
2 discretion because there are instances of rough riding. We  
3 don't think there's been any demonstration that there really  
4 has been inconsistency in the application of the so-called  
5 minimum at three days.

6           The staff analysis indicates the issue of  
7 uniformity would be addressed by this. Well, just from what  
8 -- the testimony today, you've heard that exactly the  
9 opposite is being encouraged, that, gee, the stewards still  
10 have discretion to give more. They had discretion to give  
11 more. Well, then there's going to be the renewed complaint  
12 that it's not being applied uniformly.

13           The rider's infractions, the number of things that  
14 can be done, is largely a matter of judgment. And that's  
15 what we have stewards for, to say this behavior was more  
16 injurious than that behavior, so this means three days and  
17 this means five days. And the stewards, of course how they  
18 apply it is a matter of discretion.

19           So we would like you to take another look at this  
20 and get this right, whether it's to add additional language  
21 or to reconsider whether you really want to establish this  
22 minimum.

23           CHAIRMAN WINNER: Questions for Alan?

24           Where were you when we heard this the first time,  
25 Alan?

1 MR. BALCH: Well --

2 CHAIRMAN WINNER: I mean --

3 MR. BALCH: -- I was --

4 CHAIRMAN WINNER: -- we went through this.

5 MR. BALCH: Right.

6 CHAIRMAN WINNER: We went through it at the  
7 Stewards Committee. We went through it at the meeting. We  
8 had a discussion. We had 45 days. Nobody submitted  
9 anything in writing. And now at the very last second, after  
10 all this time that was spent on this, now you're coming up  
11 and saying, well, this is not a good idea.

12 MR. BALCH: Well, I think I started by apologizing  
13 --

14 CHAIRMAN WINNER: Thank you.

15 MR. BALCH: -- for being remiss in not coming  
16 forward. But again, we concentrated on this at our last  
17 board meeting. There have been a couple of instances of  
18 things that -- in the riding in the last few months that  
19 particularly effected some members of our board. They then  
20 concentrated on this. I was in the gallery for the last  
21 meeting. I think some of the stewards did stand up and  
22 object to this, I can't remember exactly who, but I'm not  
23 sure that the stewards really like this.

24 CHAIRMAN WINNER: Did all of your trainers on  
25 this? Because I've heard an awful lot of trainers complain

1 when jockeys are given three days for something they don't  
2 think is necessarily legitimate because it's also the  
3 judgment of the stewards that we're dealing with here, not  
4 just the judgment of the jockeys. And I've heard an awful  
5 lot of trainers complain, as I'm sure you have, that now the  
6 jockey who they wanted to ride a certain horse has been  
7 given days and that horse is being penalized, and the owner  
8 is being penalized, and the trainer is being penalized.

9           So where -- what happened to those trainers who  
10 have been complaining about that for so long?

11           MR. BALCH: Well, those trainers are not on the  
12 Board of the CTT. Maybe they need to run.

13           But, obviously, we represent a constituency, as  
14 you do, where the opinions are all over the block --

15           CHAIRMAN WINNER: Right.

16           MR. BALCH: -- which is why we have to look to the  
17 regulator to be as objective as possible.

18           And I do renew my apology for not having --

19           CHAIRMAN WINNER: Thank you.

20           MR. BALCH: -- raised these issues beforehand.

21 But I do think this discussion we've had today is indicative  
22 of things, upon reflection, people think about all these  
23 things.

24           CHAIRMAN WINNER: But, Alan, isn't it possible  
25 that we could pass this rule, as it was already passed once,

1 and then we could it back on -- new language back on the  
2 agenda that might deal with some of the issues that have  
3 been discussed today?

4 MR. BALCH: Of course. Sure.

5 COMMISSIONER CHOPER: I would like to move what  
6 you just said, that is we vote on the proposed rule today,  
7 with the understanding that it is going to be subject to  
8 further consideration.

9 CHAIRMAN WINNER: That's a motion. Is there a  
10 second?

11 COMMISSIONER SOLIS: I'll second.

12 CHAIRMAN WINNER: Commissioner Solis seconds. Any  
13 discussion?

14 Commissioner Mass?

15 COMMISSIONER MASS: Yes.

16 CHAIRMAN WINNER: Commissioner Solis?

17 COMMISSIONER SOLIS: Yes.

18 CHAIRMAN WINNER: Chairman votes yes.

19 Vice Chair?

20 VICE CHAIRMAN AUERBACH: Yes.

21 CHAIRMAN WINNER: Commissioner Choper?

22 COMMISSIONER CHOPER: Yes.

23 CHAIRMAN WINNER: Commissioner Ruano?

24 COMMISSIONER RUANO: Yes.

25 CHAIRMAN WINNER: Yes. Okay. It carries

1 unanimously. Thank you very much.

2 We'll move on then to item number seven,  
3 discussion and action from the Board regarding the request  
4 from Northern California Off Track Wagering, Inc., NCOTWINC,  
5 modify the distribution of market access fees from advance  
6 deposit wagering, ADW, as permitted under Business and  
7 Professions Code section (f) (5) (E) for wagering conducted by  
8 thoroughbred associations in the northern zone from February  
9 1, 2019 through December 31st, 2018.

10 VICE CHAIRMAN AUERBACH: Easy for you to say.

11 CHAIRMAN WINNER: Right. Sorry about that.

12 Who would like to -- who's speaking on this, Rick?

13 EXECUTIVE DIRECTOR BAEDEKER: Pardon me?

14 CHAIRMAN WINNER: Who is speaking on this?

15 VICE CHAIRMAN AUERBACH: The NCOTWINC issue.

16 CHAIRMAN WINNER: The NCOTWINC issue.

17 MS. PURDY: Representatives of NCOTWINC should  
18 come forward and talk about the status.

19 CHAIRMAN WINNER: Mr. Avioli? Mr. Swartzlander?

20 EXECUTIVE DIRECTOR BAEDEKER: So, Commissioners,  
21 you probably remember, at the last meeting the Board  
22 approved a motion to allow the parties to agree to take up  
23 to 3.5 percent from ADW and allocate it for the additional  
24 expenses incurred by NCOTWINC. And the Board asked that  
25 Staff notify -- or that NCOTWINC notify Staff of what the

1 final negotiated percentage would be. That's where this  
2 Board left it last month.

3 We've received no notification of any agreed-upon  
4 percentage.

5 MR. AVIOLI: All right, well, I'm going to first  
6 defer to the Chairman of NCOTWINC, and I'll fill in what  
7 you'd like me to.

8 Larry?

9 MR. SWARTZLANDER: Larry Swartzlander, CARF.

10 At this point, with the current host agreement,  
11 we've had several discussions with the Stronach Group in the  
12 last couple days as to NCOTWINC itself.

13 (Court reporter moves microphone.)

14 COURT REPORTER: Just a little farther way.

15 MR. SWARTZLANDER: Okay. Farther away?

16 COURT REPORTER: Thank you.

17 MR. SWARTZLANDER: And the main concern was, first  
18 of all, to financially fund NCOTWINC operations through the  
19 Golden Gate meet, and through the fairs this summer. With  
20 the current host agreement, the language within the host  
21 agreement states specifically that any shortfalls can be  
22 covered by simply raising the takeout from 2.5 to whatever  
23 to make it whole without any ADW supplemental. That's the  
24 point where we're at.

25 The discussions on the table at this point are

1 it's where we go with the NCOTWINC organization through the  
2 Calendar Year 2018.

3 VICE CHAIRMAN AUERBACH: I don't understand what  
4 you just said. Maybe you could elucidate. You can take  
5 whatever you need to make you whole? What if you need the  
6 whole --

7 MR. AVIOLI: (Off mike.) (Indiscernible.)

8 VICE CHAIRMAN AUERBACH: Oh, please. Sorry.

9 MR. AVIOLI: Greg Avioli from the TOC.

10 There are a couple different agreements that you  
11 have with NCOTWINC. Okay. One of those agreements is a  
12 shareholder agreement. Okay. And there's a separate  
13 agreement which is a host site agreement. I believe Larry  
14 misspoke. The shareholder agreement basically says that you  
15 have, whoever's running live, who is the host site, in this  
16 case which is Golden Gate, if there is a shortfall or the  
17 expenses are higher than the revenues, then the NCOTWINC  
18 director can notify the host track and say you must put in  
19 the revenue sufficient to make up this shortfall.

20 So that provision, which no one actually focused  
21 on until we studied these agreements closely, allows for the  
22 full funding of any debt for Golden Gate. And so -- and  
23 then the track, in turn, has the right under the same  
24 agreement to get half of that back from the horsemen.

25 VICE CHAIRMAN AUERBACH: Without any limit?

1 MR. AVIOLI: Without any limit. That's just how  
2 it was written. It basically said that the shortfall will  
3 be borne by the track.

4 VICE CHAIRMAN AUERBACH: Um-hmm.

5 MR. AVIOLI: And the track can basically get 50  
6 percent from the horsemen, which means that in the previous  
7 years when we did all sign these ADW voluntary withdrawal  
8 agreements from ADW to fund NCOTWINC, it wasn't necessary.

9 Interestingly, there's not a similar provision in  
10 SCOTWINC, so SCOTWINC does need such an agreement. But I  
11 think that --

12 VICE CHAIRMAN AUERBACH: Because it sounds, on the  
13 face of it, it sounds insane.

14 MR. AVIOLI: Well, I wasn't around when they wrote  
15 it all up.

16 VICE CHAIRMAN AUERBACH: Well, I wasn't either.

17 MR. AVIOLI: I can tell you -- yeah.

18 VICE CHAIRMAN AUERBACH: That's why I'm -- and I  
19 never understood that. And I've heard us, we have year  
20 after year after passed, you know --

21 MR. AVIOLI: Right.

22 VICE CHAIRMAN AUERBACH: -- can we go to two-and-  
23 a-half, or whatever the percentage was.

24 MR. AVIOLI: Right. Right.

25 VICE CHAIRMAN AUERBACH: And I always thought that

1 that was the limit. Once again --

2 MR. AVIOLI: No. Okay. So let me -- let me --

3 VICE CHAIRMAN AUERBACH: -- I'm assuming the wrong  
4 thing.

5 MR. AVIOLI: Yeah. This is a very, very  
6 complicated statute, and I'm not just saying that. But  
7 basically what the law provides is in the north, where  
8 there's a network that's now got a dozen, a little less than  
9 a dozen satellites, okay, and what the law provides is when  
10 there's shortfall in the -- or let's back up.

11 The allowable amount to pay the expenses for  
12 operating those facilities, for some reason I cannot fathom,  
13 was capped in the statute at 2.5 percent.

14 VICE CHAIRMAN AUERBACH: And that's the number I  
15 have in my head.

16 MR. AVIOLI: And that cannot change. Again,  
17 interestingly enough, that number, when the fairs are  
18 running, is capped at six percent, but for all non-fair  
19 dates, it's two-and-a-half percent. And what that has done  
20 for the first few decades, that apparently was sufficient.  
21 There was -- you had Bay Meadows, you had more wagering, you  
22 had a lot going on.

23 Recently, that's not been close to sufficient. So  
24 that two-and-a-half percent does not cover the cost. The  
25 cost -- it covers about half the cost; right?

1 VICE CHAIRMAN AUERBACH: Um-hmm.

2 MR. AVIOLI: So the overage for the last two  
3 months, it's going to be the same for March, is about  
4 \$300,000 a month that is needed; right? The two-and-a-half  
5 percent comes up \$300,000 a month short; right?

6 CHAIRMAN WINNER: To fund this?

7 MR. AVIOLI: To fund. Now if there were not a  
8 cap, if there weren't the 2.5 percent cap, there would be  
9 money there to fund it. It's a just a statutory cap that  
10 says you can't fund more of it this way.

11 CHAIRMAN WINNER: Is there some reason, Greg, that  
12 you know of why it was six percent for the fairs and two-  
13 and-a-half percent --

14 MR. AVIOLI: Just trying thinking logically, it's  
15 probably because they assume the fairs will have less  
16 handle.

17 CHAIRMAN WINNER: Yeah.

18 MR. AVIOLI: They probably did a mathematical  
19 calculation.

20 CHAIRMAN WINNER: So it was a -- yeah. Right.

21 VICE CHAIRMAN AUERBACH: How about political  
22 clout?

23 MR. AVIOLI: I don't think so. I don't think it's  
24 any great advantage or not a great -- it's just -- it's an  
25 odd structure. In the south, it's the same structure. So

1 SCOTWINC now for, again, as long as I've been around has to  
2 sign the deal every year to get money from ADW to fund the  
3 expenses because by statute, you can only pay the two-and-a-  
4 half percent from the -- taken from the satellite wagering,  
5 excuse me, to cover their own costs.

6 So I agree with Larry, though, that we have  
7 resolved the short-term funding issue. There is the money.

8 There's going to be a NCOTWINC board meeting in the next  
9 week where the NCOTWINC director will be directed to send  
10 the bill to Golden Gate. In conversations with Golden Gate,  
11 they have made clear that they expect to pay that bill, and  
12 then come back to the horsemen and bill us half. So I  
13 believe that wolf is no longer at the door.

14 VICE CHAIRMAN AUERBACH: Can I --

15 EXECUTIVE DIRECTOR BAEDEKER: And I have one  
16 explanation --

17 VICE CHAIRMAN AUERBACH: Go ahead.

18 EXECUTIVE DIRECTOR BAEDEKER: -- or an additional  
19 explanation.

20 There is generally a misunderstanding about this  
21 two-and-a-half percent expense allocation, that when that  
22 expense amount is exceeded, that that side is then losing  
23 money. That's not true. The balance drops to purses and  
24 commissions. Regardless of the incremental expense costs,  
25 there's still the balance that drops to purses and

1 commissions.

2           So to say that a site has exceeded its two-and-a-  
3 half percent doesn't mean it's losing money, it just means  
4 that the two-and-a-half percent was a bad number that  
5 somebody picked out of the --

6           VICE CHAIRMAN AUERBACH: Thin air.

7           EXECUTIVE DIRECTOR BAEDEKER: -- atmosphere --

8           VICE CHAIRMAN AUERBACH: Right.

9           EXECUTIVE DIRECTOR BAEDEKER: -- to allocate for  
10 expenses.

11          MR. AVIOLI: Correct.

12          EXECUTIVE DIRECTOR BAEDEKER: I can give you an  
13 example of one in the minisatellite world that I've had an  
14 argument with a certain mutuel manager about year after  
15 year, and it's the worst performing minisatellite that's in  
16 Santa Maria. It's tiny. And as a matter of fact, the  
17 expense at that minisatellite far exceeds the two-and-a-half  
18 percent, and it doesn't compare to the other satellites in  
19 what it generates every year, but it still generates  
20 \$120,000 net, free and clear, that drops half to purses and  
21 half to commissions. So there was an argument to close it.

22          Well, why would you throw back that \$120,000 that's net  
23 profit to purses and commissions just because there's  
24 arbitrary line of two-and-a-half percent that's in the  
25 statute?

1 Does that make sense?

2 VICE CHAIRMAN AUERBACH: Yes.

3 EXECUTIVE DIRECTOR BAEDEKER: Yeah.

4 VICE CHAIRMAN AUERBACH: Yeah. But it brings up a  
5 point that I think we all need to think about, and that is  
6 that the legislation that was passed, however many years ago  
7 it was passed, is a very broken model to what racing is  
8 today. And I wonder if there is any stomach for a push to  
9 revamp all the structure? I mean, you know, I don't think  
10 it should come from the Board, but it doesn't seem to work  
11 in today's world.

12 So I look to like -- I would think I would look to  
13 the TOC to spearhead regulations that more mirror what the  
14 business is today, not what it was in 19 -- whenever this  
15 was -- I don't know. What is the current state of our  
16 legislative control?

17 EXECUTIVE DIRECTOR BAEDEKER: I mean, this law  
18 would have been passed in the mid-1980s, I think.

19 MR. AVIOLI: Yeah.

20 EXECUTIVE DIRECTOR BAEDEKER: And so it hasn't  
21 changed.

22 MR. AVIOLI: I mean, we -- Greg Avioli again.

23 The -- what I call what you just said would be an  
24 omnibus racing modernization act.

25 VICE CHAIRMAN AUERBACH: Right.

1 MR. AVIOLI: And --

2 VICE CHAIRMAN AUERBACH: And making everybody a  
3 party to it and having --

4 MR. AVIOLI: And it's -- everyone for the last,  
5 gosh, for the last ten years, people have known it's needed.

6 For people with familiarity with the legislative process  
7 have said it will never happen because anyone can block it,  
8 and if you don't get everybody onboard, and blah, blah,  
9 blah.

10 I still think now is probably the time.

11 VICE CHAIRMAN AUERBACH: Yeah.

12 MR. AVIOLI: It will probably be -- you know,  
13 we're going to have a new administration in Sacramento at  
14 the end of the year. It's not -- I don't think this is  
15 something that can get done in a month. And I also don't  
16 think it should be limited to NCOTWINC and SCOTWINC.

17 VICE CHAIRMAN AUERBACH: No, no, no. I'm talking  
18 about --

19 MR. AVIOLI: Right?

20 VICE CHAIRMAN AUERBACH: -- the whole structure.

21 MR. AVIOLI: Right.

22 VICE CHAIRMAN AUERBACH: And if not now, when? I  
23 mean --

24 MR. AVIOLI: Right.

25 VICE CHAIRMAN AUERBACH: -- we're struggling as it

1 is, and when we're trying to abide by rules that were  
2 written to monitor and control a completely different  
3 atmosphere from what we have now. So --

4 MR. AVIOLI: Yeah.

5 VICE CHAIRMAN AUERBACH: -- I'm wondering what the  
6 movers and shakers and the -- and I always point to the TOC  
7 because I think that's part of their job, to lead the way to  
8 find formulas that work in today's world. And I think, I'm  
9 hoping, somebody's going to try.

10 MR. AVIOLI: It is -- I agree with you.

11 VICE CHAIRMAN AUERBACH: Thank you.

12 COMMISSIONER CHOPER: I'm certainly know very much  
13 about the legislative process in Sacramento. But what my  
14 experience here has been, that if you get all of the parties  
15 together --

16 VICE CHAIRMAN AUERBACH: Jesse, go to the  
17 microphone.

18 COMMISSIONER CHOPER: Yeah. If you get all the  
19 parties together, and there aren't four or five you here, I  
20 don't think more than that, and come up with an agreement,  
21 and you spend a little time in Sacramento, you can get it  
22 done. You get the fairs in, they have a lot of push there.  
23 And the others are, too.

24 So if -- I confess, I do not follow this  
25 discussion as clearly as I would like to. But intuitively,

1 it seems to me, that your task, and it doesn't seem like an  
2 impossible one -- I'm listening --

3 MR. AVIOLI: I'm looking right at you.

4 COMMISSIONER CHOPER: -- to what you have to  
5 say -- is to get it together and go and get a bill drafted  
6 and get it through the legislature.

7 MR. AVIOLI: Yes.

8 COMMISSIONER CHOPER: I mean, and I don't think  
9 the last is that hard if you accomplish the first two.

10 VICE CHAIRMAN AUERBACH: No the problem -- yeah.  
11 The first one is getting everybody together.

12 COMMISSIONER CHOPER: Yeah. Well, that -- yes.

13 VICE CHAIRMAN AUERBACH: But I think it's  
14 time --

15 COMMISSIONER CHOPER: Always.

16 VICE CHAIRMAN AUERBACH: -- to talk about it.

17 CHAIRMAN WINNER: Is there somebody, Scott or Tim,  
18 do you want to -- can you just come up and speak on this?  
19 But we want to go fast because you guys have kept the air  
20 conditioning on in this room and everybody in here is  
21 freezing.

22 MR. DARUTY: Scott Daruty of the Stronach Group,  
23 speaking on behalf of Golden Gate Fields.

24 And we couldn't agree more with Commissioner  
25 Auerbach's comments, that we're working under an arcane

1 statute that doesn't work in today's world.

2           While we do think an omnibus bill to restructure  
3 some of these old provisions of horse racing, while we think  
4 that's a good idea, and we'll certainly work with everybody  
5 to help achieve that, we think that is going to be a long,  
6 challenging process, given all the competing interests.

7           We have studied and are very seriously  
8 considering, at Golden Gate Fields, terminating our host  
9 agreement with NCOTWINC, which would essentially mean that  
10 Golden Gate Fields would no longer use NCOTWINC to conduct  
11 the simulcast services.

12           So part of the problem is we have this old  
13 structure set up by statute that dictates how NCOTWINC has  
14 to operate. And one solution is to change that statute so  
15 that it can operate differently. Another is for Golden Gate  
16 to say we're still a member of NCOTWINC, we're still a  
17 shareholder of NCOTWINC, but as a racetrack, we're not going  
18 to contract with NCOTWINC anymore to provide our simulcast  
19 services. We'll work with the TOC and go directly to the  
20 satellite facilities and cut new deals, which we believe is  
21 permissible to cut those deals outside the NCOTWINC  
22 structure. If you look at the statute, NCOTWINC is a  
23 permissive entity. It says the racing industry may get  
24 together and form this entity. It doesn't say we have to  
25 get together.

1 COMMISSIONER CHOPER: As a dominant matter, who do  
2 you think is going to be with you and against you on that?

3 MR. DARUTY: I don't know. That's a good  
4 question.

5 COMMISSIONER CHOPER: Well --

6 MR. DARUTY: We haven't gotten to the point yet of  
7 --

8 COMMISSIONER CHOPER: If you don't know --

9 MR. DARUTY: -- of determining all the details.

10 COMMISSIONER CHOPER: -- then we don't know. And  
11 that's why I think --

12 VICE CHAIRMAN AUERBACH: Well, this is --

13 COMMISSIONER CHOPER: -- you folks have got  
14 together -- or get together and try to agree on something.  
15 That seems to me to be the key.

16 VICE CHAIRMAN AUERBACH: Well, I think --

17 CHAIRMAN WINNER: Here's what I'd like to do --

18 VICE CHAIRMAN AUERBACH: -- they're trying to  
19 dismantle it, it sounds like.

20 MR. DARUTY: Well, not dismantle it. But I think  
21 we can --

22 VICE CHAIRMAN AUERBACH: Well, I'm not --

23 MR. DARUTY: -- I --

24 VICE CHAIRMAN AUERBACH: -- saying it in a  
25 negative way. I'm saying you're trying to figure out ways

1 to restructure.

2 MR. DARUTY: Yes. And I think we -- I think we  
3 have the ability to do it by agreement, without necessarily  
4 having to go to the legislature on this particular issue --

5 COMMISSIONER CHOPER: Correct.

6 MR. DARUTY: -- and restructure NCOTWINC, because  
7 we can just do it outside of NCOTWINC based on an agreement  
8 of all the parties.

9 COMMISSIONER CHOPER: Good. I would say go to it.

10 CHAIRMAN WINNER: But what you're suggesting, as I  
11 understand it, Scott, is that, in terms of an omnibus  
12 agreement on all issues, other than those that you can work  
13 out without legislation, that you think that's a good idea.  
14 You think it's going to take -- it will take time because  
15 of competing interests, et cetera, but it's worth beginning  
16 the process; is that --

17 MR. DARUTY: We absolutely agree.

18 CHAIRMAN WINNER: -- what you're saying?

19 MR. DARUTY: An omnibus bill to revise horse  
20 racing law that all the industry participates in is a great  
21 idea. That will take a long time.

22 In the meantime, we think we can fix the NCOTWINC  
23 issue, the Northern California satellite issue without  
24 legislation.

25 CHAIRMAN WINNER: Okay. Now, let me ask this

1 question. It seems, first of all, as I understand it, even  
2 though the agenda item calls for action on this item, we  
3 don't have to take action; correct?

4 EXECUTIVE DIRECTOR BAEDEKER: According to Mr.  
5 Miller, that's correct.

6 MR. MILLER: Robert Miller, CHRB Counsel.

7 No, you don't take any action on this item.  
8 Actually, you preapproved the agreement at your -- at your  
9 January meeting, I believe.

10 CHAIRMAN WINNER: Right.

11 MR. MILLER: And this is just to hear about the  
12 agreement. And if there's no agreement, then there's --

13 CHAIRMAN WINNER: No action.

14 MR. MILLER: -- there's nothing that the Board can  
15 do.

16 CHAIRMAN WINNER: What I would suggest is that we  
17 refer this whole NCOTWINC thing from the standpoint of the  
18 Board. You do what you're going to be doing amongst  
19 yourselves, but from the Board's standpoint, I think we  
20 should refer it to the Legislation, Legal and Regulatory  
21 Committee, which is Chaired by Commissioner Choper. I know  
22 you're going to be doing some traveling, but maybe you can  
23 work it in, working with -- I think Commissioner Mass is on  
24 this Committee, working with Commissioner Mass at a time  
25 that's convenient for everybody, and then we can follow

1 through with whatever needs to be followed through. And, of  
2 course, they'll work out internally their agreements and  
3 bring that to the Committee.

4 Is that satisfactory?

5 COMMISSIONER CHOPER: Yes.

6 CHAIRMAN WINNER: Okay.

7 COMMISSIONER CHOPER: I mean, I'm happy to do it,  
8 so long as I can --

9 CHAIRMAN WINNER: Sure.

10 COMMISSIONER CHOPER: -- get the right time.

11 COMMISSIONER MASS: Just, Scott, have you or Larry  
12 or anyone done an analysis to see what the impact will be on  
13 NCOTWINC if you do withdraw, given that we're already  
14 running a deficit today on the administrative costs? Has  
15 anyone looked at the impact to that?

16 MR. DARUTY: Well, I don't -- this is Scott  
17 Daruty, for the record.

18 I don't believe NCOTWINC as an entity, is  
19 sustainable without Golden Gate's participation.

20 COMMISSIONER MASS: That's what I'm afraid of.

21 MR. DARUTY: But let me also say, I don't think  
22 NCOTWINC is sustainable with Golden Gate's participation. In  
23 other words, we have an entity with declining revenues and  
24 increasing costs. And it's not a question of when it  
25 becomes infeasible to continue. It's not a question of if

1 it becomes infeasible to continue operating, it's just a  
2 question of when.

3 CHAIRMAN WINNER: And what the replacement  
4 structure or --

5 COMMISSIONER MASS: Right.

6 CHAIRMAN WINNER: -- direction would be.

7 MR. AVIOLI: If I could just, Scott, for the  
8 record, clarify where things stand right now?

9 Since Cal Rainey left, Golden Gate has not  
10 had -- or Pacific Racing has not had a director on NCOTWINC.

11 So the only directors on the NCOTWINC board are Larry from  
12 CARF and Elizabeth Morey from the TOC. As far as I  
13 understand it, they do not plan on appointing a director  
14 going forward. So we're going to be in a situation where  
15 the NCOTWINC board is going to be taking action as a two-  
16 person entity, versus a three-person entity, going forward.

17 And then just a second to sort of set the stage  
18 for the Committee, we've studied this a lot, Scott and I.  
19 He's been very collegial. He's been -- he's not hiding any  
20 of their plans. And it looks pretty clear to me that  
21 there's nothing anyone can do to stop Pacific Racing from  
22 withdrawing from this agreement. The agreement has a  
23 withdrawal provision. You have to give notice, and they can  
24 do that.

25 I think the question we all have to focus on is,

1 then what; right? And their -- Scott said their  
2 interpretation is we could all do it together by agreement,  
3 and I think there are other interpretations, and that's what  
4 this is going to come down to. There's no question, they  
5 can -- it can be blown up. The question is, can you --

6 CHAIRMAN WINNER: I think we all agree on that.

7 MR. AVIOLI: Yeah.

8 CHAIRMAN WINNER: I think they have that option.

9 MR. AVIOLI: Yeah.

10 CHAIRMAN WINNER: So it really, as you said, it's  
11 a question of then what?

12 MR. AVIOLI: Right.

13 CHAIRMAN WINNER: And so I'm referring that from  
14 our standpoint --

15 MR. AVIOLI: Right.

16 CHAIRMAN WINNER: -- to the Committee, and you  
17 people can continue to work amongst yourselves.

18 MR. AVIOLI: That's right.

19 EXECUTIVE DIRECTOR BAEDEKER: If I can add, Mister  
20 --

21 COMMISSIONER CHOPER: They can also put in the  
22 agreement some provision for compulsory arbitration of any  
23 remaining differences.

24 MR. AVIOLI: Yeah, always. Always can put that  
25 in.

1 EXECUTIVE DIRECTOR BAEDEKER: Mr. Chairman, we  
2 have looked at this from a legal standpoint, Mr. Miller, Mr.  
3 Laird, Mr. McDonough. And you do have the ability when an  
4 association comes before you with its race meet application  
5 to require proof that the receiving satellite has an  
6 agreement with NCOTWINC, as required by law.

7 So you will play a very significant role in this  
8 process going forward. And so this is something that we can  
9 work through, per the Chairman's direction, at the Committee  
10 level and get a lot of the heavy lifting done before it  
11 comes back before you, I presume when Golden Gate would come  
12 to the Board with its application for its August meet,  
13 probably. And that would happen probably, at the earliest,  
14 May, more likely in June.

15 CHAIRMAN WINNER: Okay. Any other questions?

16 Thank you, gentlemen.

17 MR. AVIOLI: Thank you.

18 CHAIRMAN WINNER: Is there a motion to adjourn?

19 COMMISSIONER MASS: So moved.

20 CHAIRMAN WINNER: Second?

21 VICE CHAIRMAN AUERBACH: Yeah.

22 CHAIRMAN WINNER: The meeting is adjourned. Thank  
23 you all very much.

24 (The meeting of the California Horse Racing Board adjourned  
25 into Closed Session at 11:05 a.m.)