

APPEARANCES

COMMITTEE MEMBERS

Chuck Winner, Chair

Madeline Auerbach, Vice Chair

Araceli Ruano, Commissioner

Alex Solis, Commissioner

STAFF

Rick Baedeker, Executive Director

Jacqueline Wagner, Assistant Executive Director

John McDonough, Chief Counsel

Robert Brodnick, Staff Counsel

Mike Marten, Associate Analyst

Rick Arthur, Equine Medical Director

ALSO PRESENT

Jack Liebau, Los Alamitos Race Track

Scott Daruty, Golden Gate Fields

Greg Avioli, Thoroughbred Owners of California

Larry Swartzlander, California Authority of Racing Fairs

John Valenzuela, Pari-Mutuel Employees Guild, Local 280

Cliff Goodrich, California Thoroughbred Horsemen's
Foundation

Rick English, Los Alamitos Quarter Horse Racing Association

Alan Balch, California Thoroughbred Trainers

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- the 45-day public comment period. The Board may adopt the proposal as requested.)
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12. Discussion and action regarding the proposed amendment to CHRB Rule 1588, Horse Ineligible to Start in a Race, to provide that a horse that 1) has not started in a race for 12 months or

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more from its previous start or 2) a first time starter, four (4) years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or qualifying race as described by CHRB Rule 1866(e) and (f).

13. 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. 82
- A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending 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

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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

9:36 A.M.

ARCADIA, CALIFORNIA, THURSDAY, OCTOBER 25, 2018

CHAIRMAN WINNER: Good morning. Ladies and gentlemen, this meeting of the California Horse Racing Board will please come to order. Please take your seats. This is the regular noticed meeting of the California Horse Racing Board on Thursday, October 25, 2018 at Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California.

Present at today's meeting are myself, Chuck Winner, Chairman; Madeline Auerbach, Vice Chairman; 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 a public comment period if the matter concerns horse racing in California.

In order to ensure all individuals have an opportunity to speak and the meeting proceeds in a timely fashion, I'll strictly enforce the three-minute time limit rule for each speaker. The three-minute time limit rule will be enforced during discussion of all matters as stated on the agenda, as well as during the public comment period.

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

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

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

21 Before we proceed with the agenda, I want to
22 announce that our good friend and colleague, Jesse Choper,
23 after serving on this Board for 12 years has made the
24 decision to retire from the Board. For obvious, I mean,
25 obvious reasons, it's tougher for him now to travel back and

1 forth north and south and to make the meetings.

2 This Board will miss him. I think racing will
3 miss him. Jesse is one of the finest gentleman, one of the
4 finest human beings I've ever met. I think everyone in this
5 room can agree. And we will miss his wisdom, his
6 thoughtfulness, his stability, and his wit. Jesse has given
7 an awful lot to racing and we've all learned a lot from him,
8 not just as a Board Member and someone interested in racing,
9 but as a human being.

10 So we now are down to five members of the Board.
11 Commissioner Mass is out of the country. And hopefully
12 we'll have some new appointments in the near future.

13 All right. Let's move on to the minutes -- no,
14 I'm -- yeah, the approval of the minutes of the September
15 27th meeting. Is there any discussion, additions or
16 deletions from the minutes? Is there a motion to approve?

17 COMMISSIONER SOLIS: Move.

18 CHAIRMAN WINNER: Commissioner Solis moves.

19 VICE CHAIR AUERBACH: Second.

20 CHAIRMAN WINNER: Vice Chair Auerbach seconds.

21 Commissioner Ruano?

22 COMMISSIONER RUANO: Abstain. I wasn't here.

23 VICE CHAIR AUERBACH: Ah. We can't pass it.

24 THE WITNESS: Ah, then we can't pass it. All

25 right, we'll have to move that to the next meeting because

1 Commissioner Ruano wasn't here at the last meeting. So
2 we'll move the approval of the minutes from the September
3 27th meeting to the November meeting of the Board.

4 The Executive Director's Report.

5 EXECUTIVE DIRECTOR BAEDEKER: Thank you, Mr.
6 Chairman.

7 Just an FYI for the Commissioners and attendees
8 here this morning, we had a good meeting in Sacramento on
9 Monday and Tuesday of all of our investigators. They were
10 joined by licensing technicians, as well as a contingent of
11 safety stewards and stewards, and it was a very productive
12 two days.

13 Our chief focus, at least for the second day, was
14 increasing the presence and awareness of our investigators
15 in the stable areas. And we're focused on having our
16 investigators on a regular basis move through the stable
17 area with the safety steward, simply to let folks know that
18 they're there to help them understand why working with the
19 safety steward, the many nuances involved in training race
20 horses and stabling them. So it was a very good, very good,
21 productive-productive meeting. We have a couple of those a
22 year.

23 Also, for this last month, with the help of Dr.
24 Arthur, I hope to update everybody on the testing that's
25 been done. We conducted 192 out-of-competition test

1 samples. We had 778 paired blood and urine post-race
2 samples, 60 post-race blood only, those are usually for the
3 claimed horses. We've had 44 blood tests for horses coming
4 off the vet's list, 90 hair follicle tests, and then
5 miscellaneous evidence and postmortem testing.

6 I wanted to mention to everybody that -- a
7 reminder that we sent a notice to the stakeholders,
8 primarily the racing associations, alerting them to the fact
9 that beginning with meets that start on December 26th, Staff
10 will no longer recommend to the Board that the lack of an
11 ADW contract be waived in order to have a race meet
12 application approved. So we have some of those in the
13 current race meet applications. It's pretty simple, we
14 think, from a Staff standpoint. The Board can always do
15 whatever it wants.

16 But from a Staff standpoint it is required that an
17 executed contract be part of the race meet application in
18 order to conduct ADW. If any of those contracts is not
19 included, then the Board can take whatever action it deems
20 necessary. But Staff will recommend that wagering not be
21 allowed through that particular ADW without a valid
22 contract.

23 So that's just a reminder.

24 And then finally, the financials for the month,
25 for the month of September, the numbers were very good. The

1 daytime racing benefitted from one additional day, was up
2 nine percent. The nighttime industry at the same number of
3 days was up 7.7 percent. And altogether the industry was up
4 nearly 8.9 percent for the month. For the year the numbers
5 are still good, up daytime, 7.86 percent, nighttime business
6 up 4.33 percent, and total business up 7.5 percent. For
7 daytime racing the exact same number of days through
8 September, 163 last year and this year. Night racing has
9 enjoyed one additional day. So pretty much apples to
10 apples, business remains up.

11 And that is my report, Mr. Chairman.

12 CHAIRMAN WINNER: Thank you.

13 Let's move on to item number four. For the
14 Commissioners, the staff had recommended against hearing the
15 application of item number four because there were
16 outstanding items. But it's my understanding that Staff
17 now -- that we have received the TOC and the CTT agreements
18 and Staff is recommending that we proceed.

19 So item number four is a discussion and action by
20 the Board on the Application for License to Conduct a Horse
21 Racing Meeting of the Los Alamitos Horse Racing Association
22 at Los Angeles Race Course, commencing December 5th, 2018
23 through December 18th, 2018, inclusive.

24 Jack?

25 EXECUTIVE DIRECTOR BAEDEKER: We forgot public

1 comment, though I don't have any cards.

2 CHAIRMAN WINNER: Oh, we have no cards?

3 EXECUTIVE DIRECTOR BAEDEKER: Yeah. You might
4 just mention it.

5 CHAIRMAN WINNER: All right, just before you
6 begin, we have no public comment cards, which is why we
7 moved on from that item. If anybody has a public comment to
8 make, we'll hear it after this item, but you have to bring a
9 card up to Mike Marten.

10 Jack, sorry. Go ahead.

11 MR. LIEBAU: Jack Liebau for Los Alamitos Racing
12 Association.

13 Our application pertains to a two-week meet in
14 which there will be four stakes' races, two of them are
15 Grade 1 races, two of them are Cal-Bred Races. We're quite
16 heavy for stakes' races for only a two-week meet but,
17 historically, that's what it's been. And we hope that we've
18 had some success, I would say, with respect to the -- to the
19 Grade 1 race for colts in that McKenzie is entered in the
20 Breeders' Cup Classic. And other horses in the Breeders'
21 Cup Classic that have raced and won at Los Alamitos are
22 accelerated. And the other one slips my mind, but --

23 CHAIRMAN WINNER: Thank you.

24 Is there any discussion? Questions for Jack?

25 Okay. Is there a motion?

1 MR. LIEBAU: Thanks.

2 COMMISSIONER SOLIS: Move.

3 CHAIRMAN WINNER: Commissioner Solis moves.

4 Commissioner Ruano, you second?

5 COMMISSIONER RUANO: I'll second. Thank you.

6 CHAIRMAN WINNER: Commissioner Ruano, how do you

7 vote?

8 COMMISSIONER RUANO: Yes.

9 CHAIRMAN WINNER: Vice Chair Auerbach?

10 VICE CHAIR AUERBACH: Yes.

11 CHAIRMAN WINNER: Chairman votes yes.

12 Commissioner Solis?

13 COMMISSIONER SOLIS: Yes.

14 CHAIRMAN WINNER: Have a good meet, Jack.

15 MR. LIEBAU: Thank you.

16 CHAIRMAN WINNER: Okay. Moving on to item five,

17 and on item five, I think the Board -- the staff has

18 recommended that we move that to the following meeting, to

19 the November meeting, I think.

20 What are we missing, Jackie, on five?

21 ASSISTANT EXECUTIVE DIRECTOR WAGNER: Jackie

22 Wagner, CHRB Staff.

23 As noted in the analysis, we are missing the

24 contracts for our ADW. We have yet to receive the TOC

25 agreement, the CTT agreement, and the approval from the

1 horsemen for ADW. Those items are still outstanding.

2 CHAIRMAN WINNER: Okay. So we'll move that item
3 to the next meeting.

4 Item number six, discussion and action by the
5 Board on the Application for License to Conduct a Horse
6 Racing Meeting of the Pacific Racing Association at Golden
7 Gate Fields, commencing December 19th, 2018 through June
8 11th, 2019, inclusive. Opening day is December 26th, 2018.

9 This item will be heard, but we will probably not
10 take action on it because there are a number of
11 controversial issues and we may move it to the following
12 meeting.

13 EXECUTIVE DIRECTOR BAEDEKER: And a number of
14 outstanding issues --

15 CHAIRMAN WINNER: And there are a lot of
16 outstanding --

17 EXECUTIVE DIRECTOR BAEDEKER: -- beyond that.

18 CHAIRMAN WINNER: -- documents that have not been
19 turned in, but we want to go ahead and discuss it.

20 Rob?

21 MR. BRODNIK: Thank you, Chairman. Robert
22 Brodnik, California Horse Racing Board.

23 As you said, item number six on the agenda
24 addresses Pacific Racing Association's application for a
25 meet at Golden Gate Fields from December 19th of 2018

1 through June 11th of 2019.

2 Staff has reviewed the application and submitted
3 an analysis which addresses numerous items that are still
4 outstanding. Of the items still outstanding, Pacific Racing
5 Association's application again fails to include any
6 Northern California satellite wagering facilities. This
7 mirrors the past two applications that PRA has submitted.
8 Staff continues to view PRA's proposal to be in violation of
9 the law.

10 Business and Professions Code section 19608
11 requires that an association, which makes more than \$1.5
12 million in average daily handle, make it's audio-visual
13 signal available.

14 Furthermore, Rule 2058(e) states that all wagers
15 made available by a host association shall be made available
16 to all simulcast facilities.

17 PRA proposes in its application to make its signal
18 available to certain simulcast facilities only. And as
19 discussed this prohibited, we believe, by the rules and
20 regulations.

21 Furthermore, as this Board has heard at previous
22 Board meetings, this proposal would be inconsistent with
23 previous industry practice and would likely result in lower
24 handle.

25 Another issue that I wanted to bring to the

1 Board's attention that was not specifically mentioned in the
2 staff analysis --

3 (Colloquy between Chairman Winner and Executive
4 Director Baedeker)

5 CHAIRMAN WINNER: Go ahead, Rob.

6 MR. BRODNIK: -- deal specifically with PRA's out-
7 of-state and out-of-country thoroughbred races that they
8 intend to import. In previous applications, PRA has
9 imported signals from multiple thoroughbred racing
10 associations, both out of state and out of country.
11 However, in this application, PRA is intending to only
12 import one out-of-country signal from the Hong Kong Jockey
13 Club. And they are not intending to import any out-of-state
14 signals.

15 My understanding is that, again, the TOC would
16 like to speak further on this issue, but that importing only
17 one out-of-country signal would dramatically decrease purses
18 and commissions. So I want this to be brought to the
19 Board's attention because it was not noted in the staff
20 analysis.

21 I'm happy to answer any questions but I --

22 EXECUTIVE DIRECTOR BAEDEKER: So in a nutshell --

23 MR. BRODNIK: -- understand --

24 EXECUTIVE DIRECTOR BAEDEKER: -- Rob, I think what
25 we're looking at for patrons at Golden Gate Fields, and if

1 the Board takes action to require satellite facilities be
2 open both there and at Golden Gate Fields, the three signals
3 would be, obvious, the live signal from Golden Gate, the
4 imported signal from Santa Anita, which is part of the Santa
5 Anita application, and then the only signal would be the
6 signal from Hong Kong, so no Florida, no New York or
7 anything else?

8 MR. BRODNIK: Yes.

9 EXECUTIVE DIRECTOR BAEDEKER: Okay.

10 MR. BRODNIK: That's my understanding. They would
11 continue to report out of zone, which would be California
12 signals, such as Santa Anita, like you discussed. The one
13 out-of-country signal that they're requesting to import is
14 Hong Kong Jockey Club. And they have not indicated any out-
15 of-state signals which, as you indicated, would include
16 Churchill, Pimlico, other racetracks such as those.

17 And again, I believe the TOC had some numbers.
18 But it's my understanding that the importation of a reduced
19 number of out-of-state and out-of-country signals would
20 dramatically impact purses because those funds that are
21 wagered on out-of-state and out-of-country signals effects
22 purses, as well as commissions.

23 EXECUTIVE DIRECTOR BAEDEKER: So I do have those
24 figures. I got them independently. At Golden Gate, on-
25 track live racing, the percentage of handle that's bet on

1 imports is 39 percent of the total. At the off-track
2 facilities the percentage bet on imports from those other
3 states is 59 percent of the total. Blended, both on and off
4 track, the betting on the imports, races run outside of
5 California, is 52 percent of the total, so it's the majority
6 of the handle.

7 MR. BRODNIK: Right.

8 CHAIRMAN WINNER: Does anybody have any questions
9 for Rob? And then I'd like to have, I don't know whether
10 Scott is going to speak on this issue or -- okay, Scott will
11 come up and speak. And we also want to hear from Greg
12 Avioli from TOC, and anybody else who wants to speak on the
13 issue.

14 Now does anybody have any questions for Rob?

15 Okay.

16 Thank you, Rob.

17 MR. BRODNIK: Thank you.

18 CHAIRMAN WINNER: Stick around, in case we need
19 you.

20 MR. BRODNIK: Yes.

21 CHAIRMAN WINNER: Scott?

22 MR. DARUTY: Good morning. Scott Daruty on behalf
23 of Golden Gate Fields.

24 There were two issues that I heard brought up.

25 I'll address the simpler one first, which is the lack of OTB

1 agreements in our application. We've kind of gone through
2 this routine the last couple of licenses that Golden Gate
3 Fields has applied for. If the mandate of this Board is
4 that in order for us to have a racing license at Golden Gate
5 Fields, we have to have agreements with the OTB network in
6 Northern California, we will agree to abide by that
7 requirement.

8 As we're all aware, there's pending litigation
9 over that issue. And at some point a court will either say
10 you're right or we're right, and then we'll act accordingly
11 going forward from that point. But until that point, I'm
12 here to commit that we will follow whatever requirement and
13 mandate this Board places upon us.

14 CHAIRMAN WINNER: Thank you.

15 MR. DARUTY: So that, I think, is hopefully a non-
16 issue.

17 The second issue is the import of simulcast races
18 from outside of the state of California into California for
19 wagering by California customers. And I'll address that
20 issue but I think in order to do that, we need some context.
21 So I'm going to go back a little bit and give some
22 background.

23 I realize that some of the applications we've been
24 submitting recently are a little bit unconventional. I heard
25 the term, something to the effect of this isn't the way this

1 has been done historically, and you're right. We are trying
2 to push for change, and sometimes change is uncomfortable.
3 But we are trying to make change for the better. We have a
4 huge investment in Northern California, as do a lot of
5 people in this room. And we're doing what we believe is
6 best to try to make racing sustainable in Northern
7 California.

8 I will say that I have heard the comment that
9 we're trying to do things to hurt the fairs. I've heard
10 that comment from more than one person. And I want to
11 assure you that we don't all go into a room and sit there
12 and say, okay, our goal is to hurt the fairs, how are we
13 going to accomplish that? That's not what we're doing.

14 Our goal is to make racing at Golden Gate Fields
15 sustainable, to grow handle, to grow the industry, to grow
16 purses, to grow the number of locations in Northern
17 California where people can bet on racing, all for the
18 betterment of the sport. And with that goal, we ask, what
19 do we need to get there?

20 And we believe the current OTB network in Northern
21 California is not acceptable. There are certainly locations
22 that do a good job. There are certainly locations that, you
23 know, we as members of the racing industry are proud of and
24 think our customers are well served when they go there, but
25 there are others that we don't feel that way about. And we

1 have struggled with how do we put a system in place that
2 gives everybody the correct incentives to grow, to invest,
3 to give good customer service, to use good, you know,
4 updated technology?

5 And so I want to assure you that we do have a
6 plan. I mean, there have been others of these controversial
7 CHRB meetings where it was sort of asked of us, well, what
8 is your plan? You know, you don't have a plan. Well, we do
9 have a plan. And let me give you some high-level things
10 that our plan would accomplish.

11 Our plan, we believe, ultimately, is going to be
12 better for the betting customer. We think it's going to be
13 better for the betting customer because under our long-term
14 plan, customers who show up at brick-and-mortar facilities
15 in Northern California to place bets, whether that's at
16 Golden Gate Fields, whether that is at an existing -- one of
17 the existing OTB locations or whether it's at a new
18 location, those customers are going to, if they so choose,
19 be able to use their own device to bet when they show up.

20 I don't know how you guys, you know, feel about
21 this, but one of the things I hear from people who are going
22 to the track for the first time is they can't believe that
23 to place a bet they have to get up from the table their
24 sitting at and enjoying or their seat that they're sitting
25 at and enjoying the races and walk all the way through a

1 crowded room to place a bet.

2 So we would put a system in place where people can
3 use their mobile devices, if that's what they choose to do,
4 where we wouldn't be constrained by import limitations on
5 how many races people are going to bet on. They would be
6 able to bet on whatever product they want. So better
7 technology for the consumer, more product for the consumer.

8 We think this is going to be better, actually, for
9 the fair locations who are willing to make investment and
10 are willing to work hard to satisfy their customers.

11 We think the system we would like to put in place
12 is going to be better for the horsemen and the tracks who
13 are running live racing because there's going to be more
14 handle and more revenue for the tracks and more purses. I
15 did hear, Rick, Executive Director Baedeker, the numbers
16 that you quoted about import handle and about what would
17 happen if there was no import handle. I don't quibble with
18 those numbers. Those numbers are correct. There's no way
19 in the world we would come up and say, without any other
20 plan, without anything else in place, we're just going to no
21 import all that racing. That would be suicide for us and we
22 wouldn't do it.

23 So while I agree with the numbers, I would say
24 you're only looking at a part of it. You're looking at what
25 would happen if we didn't import races under the traditional

1 method. You're not looking at what is our plan to replace
2 that, and that's fair because we haven't told you.

3 CHAIRMAN WINNER: Right.

4 MR. DARUTY: The system we believe should be used
5 in Northern California, we think will ultimately be better
6 for employees. We think it will be better for employees
7 because we believe for employees to have sustainability, for
8 employees to have certainty and growth there has to be a
9 strong industry. So the way we're headed right now, there
10 aren't going to be employees at OTBs because there aren't
11 going to be OTBs because there's not going to be racing in
12 California -- or in Northern California, I should say,
13 because we're seeing declines in the OTB network.

14 The plan we would put in place is going to be
15 worse for certain OTBs, for those who haven't invested and
16 are just sort of riding, you know, the same way that they
17 always have done. The plan that we would like to put in
18 place is going to be worse for employees who are only hired
19 because of manning clauses, because of an old contract that
20 says we have to hire X number of employees, whether we need
21 them or not. It's not going to be good for those people.

22 So that's the -- those are the goals. Those are
23 sort of the overall concepts that we have. And, of course,
24 your sitting there thinking, well, what are the details;
25 right? Give me the details, Scott. That's all well and

1 good. You said a bunch of nice stuff. Give me the details.

2 And here's my response: We have a chicken and egg
3 problem. Our problem is that to come to you with a fully
4 vetted, fully thought out, fully implemented business plan
5 doesn't make sense because today, we don't yet know what
6 your position is on this issue. Now, we're sort of reliving
7 what we did a few months ago when we said we weren't going
8 to have contracts with the OTBs. But the problem was, no
9 matter what business plan we could have or would have
10 presented to you at that time, it could have had money
11 falling from the sky, but your position is that it doesn't
12 matter, it's illegal for us to run a race meet without
13 having contracts with the OTBS. Okay, we'll set that issue
14 aside because there's litigation on that issue.

15 But let's come to this issue, what is it that this
16 Board is going to tell us? And we need to know, are you
17 going to tell us that it is illegal for us to run a race
18 meet unless we import out-of-state simulcast signals? And
19 if that's the case, by the way, we vehemently disagree with
20 that, but if that's the case, then we may have an additional
21 issue we have to fight about.

22 On the other hand, if you come to us and you say
23 we're the regulator, we, the CHRB, are the regulator and
24 you're the operator and while it might be legal for you to
25 operate the way you're suggesting, we're not going to allow

1 it because it's not in the best interest of racing. And as
2 the Board, you always have discretion to do what's in the
3 best interest of racing. And if that's what you tell me,
4 then we can start to put some fine-point numbers on our plan
5 and come back with a plan with understanding that if we
6 can't convince you that what we're going to do is in the
7 best interest of racing, then you're not going to let us do
8 it.

9 But as I say, we've got a little bit of a problem.
10 Now, we've made a hire. We've made a hire of a long-time
11 industry executive who has worked both in the ADW and the
12 OTB part of the business to come in and work full-time.
13 We've got our hands full, Tim Ritvo, myself, the rest of the
14 people who are here, we've got our hands full. So we don't
15 have the ability to devote 100 percent of the time to
16 building the business plan that you all want to see, but
17 we've hired somebody to do that.

18 But what I'm here today to ask you about is let's
19 not get distracted yet about what would happen if we didn't
20 import racing. Let's not get distracted by the 52 percent
21 of the handle is import and all that. Let's figure out,
22 what is the rule you're going to impose upon us? And if
23 it's a best-interest-of-racing rule, then we can go away and
24 we can know our job is to come back to you and the rest of
25 the industry, the horsemen, too, by the way, with a business

1 plan that you guys agree with us on.

2 But again, as I said earlier, if you're going to
3 tell me that it is not legal for us to run a race meet
4 unless we import out-of-state races, then I think we've got
5 a whole other battle we've got to have.

6 CHAIRMAN WINNER: Well, let me just interrupt,
7 Scott, to tell you that, at least as of now, that is not our
8 position. The Board's legal advisers have indicated that
9 that is not our position, that you can't run a race meet
10 without imported signals --

11 MR. DARUTY: Well, I --

12 CHAIRMAN WINNER: -- from the standpoint of the
13 law with respect to imported signals.

14 MR. DARUTY: So I appreciate that. And let me --

15 CHAIRMAN WINNER: Now that could change. And,
16 obvious, the Board has discretion to do whatever the Board
17 wants.

18 But as of this moment, that is -- am I correct,
19 Rob, that that is our position?

20 MR. BRODNIK: Yes. I'm not aware of any legal
21 authority that would require Golden Gate to import signals.

22 CHAIRMAN WINNER: Right.

23 MR. DARUTY: So as I said earlier, on the issue of
24 OTB contract, we're willing to sign contracts with OTBs
25 while that other issue continues to play out. We're not,

1 you know, here to shoot ourselves in the foot. As I said
2 earlier, we are willing to commit, if we understand what the
3 rules are. And I know you're not giving ironclad certainty.
4 But if your position ultimately is what you just described
5 it as, then we would certainly commit that we would continue
6 to import out-of-state races while we work to develop the
7 business plan to replace the handle in a more efficient way
8 that will allow us to grow the industry, allow more money
9 for purses, and allow more money for the tracks running
10 live.

11 And when we come with that business plan and we've
12 got it all in place, we will have the knowledge that, as
13 long as you all believe it's in the best interest of racing,
14 there's not a legal requirement that would prohibit us from
15 implementing it.

16 VICE CHAIR AUERBACH: Can I ask a question?

17 CHAIRMAN WINNER: Sure. Please do.

18 VICE CHAIR AUERBACH: Okay. I'm really confused.
19 And your problem is, is that I'm probably one of the more
20 well-educated people in the room in terms of all this, and
21 I'm very confused, okay?

22 Where did you come up with this Hong Kong Club
23 thing?

24 MR. DARUTY: Oh, that's --

25 VICE CHAIR AUERBACH: Is that -- you know, if you

1 guys would stop playing games, then we would be patient and
2 be able to have these discussions that make sense. I mean,
3 that was just like, here, we're just kind of doing that.
4 And you know what? That's disrespectful to us and it's
5 disrespectful to everybody in Northern California. And it
6 doesn't further the agenda that you talked about, a
7 wonderful partnership where the Stronach Group and the rest
8 of the community would come up with a business plan that
9 would serve racing really well.

10 But when you present things like this, that is
11 counterintuitive to what you give to us as this is your --
12 what you put on your license application. I don't get it.

13 Does anybody else get it?

14 CHAIRMAN WINNER: No, but I'd like to hear what
15 Scott has to comment --

16 MR. DARUTY: So two responses.

17 CHAIRMAN WINNER: -- in response to that.

18 MR. DARUTY: First of all, I never said we were
19 going to work with the entire racing community to come up
20 with a plan that's better for everybody. We are going to
21 come up with a plan that we are confident is better for the
22 tracks running live racing and is better for the horsemen.

23 VICE CHAIR AUERBACH: Well, but that would --

24 MR. DARUTY: We --

25 VICE CHAIR AUERBACH: -- in the long run, however

1 you define it, that's better for everybody. So we're saying
2 the same things. I didn't use the right verbiage for you.

3 MR. DARUTY: Okay. So just as you and I
4 miscommunicated a little bit on that issue --

5 VICE CHAIR AUERBACH: Right.

6 MR. DARUTY: -- we obviously miscommunicated on
7 the inclusion of Hong Kong. I don't -- I hope my smiling
8 isn't coming off the wrong way to you.

9 VICE CHAIR AUERBACH: No.

10 MR. DARUTY: I don't mean to make light of your
11 comment. But it's almost -- to me, it's just the biggest
12 misunderstanding that we could have possible had.

13 Hong Kong, the only reason that was listed is
14 because our team at Golden Gate Fields is putting, you know,
15 a new business plan in place to bring, in the middle of the
16 night, by the way, because that's when the Hong Kong
17 races --

18 VICE CHAIR AUERBACH: Yeah.

19 MR. DARUTY: -- run, people from the Chinese
20 community to the racetrack at Golden Gate Fields to wager
21 live money on those races in a marketing effort to bring the
22 Chinese community to the racetrack. That is a signal, for
23 various reasons, that could -- we could not implement that
24 business plan through ADW, just for contractual reasons with
25 Hong Kong. And so we would need to import that the

1 traditional way under the import laws. That's the reason
2 Hong Kong is listed. Any other track that would be bet at
3 Golden Gate Fields would be bet via ADW, so that's why it's
4 not listed as a traditional import wager.

5 So it was not meant to be disrespectful. It was
6 not meant to cause confusion. That's the business reason as
7 to why that was listed and nothing else was.

8 VICE CHAIR AUERBACH: Well --

9 EXECUTIVE DIRECTOR BAEDEKER: Scott, what's the
10 first post for Hong Kong?

11 MR. DARUTY: As I stand here, I don't know
12 exactly. It is in the middle of the night. And again, the
13 business plan -- and our general manager at Golden Gate
14 Fields has done a terrific job going out and putting this in
15 place. And he's somebody, by the way, who used to work
16 closely with the Hong Kong Jockey Club. But the plan is to
17 bring people to the track, again, from the Chinese community
18 in the San Francisco -- in the City of San Francisco.

19 EXECUTIVE DIRECTOR BAEDEKER: Are you sure you
20 would be the host if it's -- is it -- I don't know if it's a
21 nighttime or a daytime signal at that time? Anyhow, that's
22 something that needs to be addressed.

23 CHAIRMAN WINNER: Yeah. I mean --

24 EXECUTIVE DIRECTOR BAEDEKER: But if --

25 CHAIRMAN WINNER: -- that's a big -- that's an

1 important question.

2 EXECUTIVE DIRECTOR BAEDEKER: Are you saying in
3 terms of the broader substance of your race meet
4 application, forget about Hong Kong, that's a sidebar thing?
5 Basically that space would be blank? You're not proposing
6 to import anything other than Santa Anita and your live,
7 going with your live?

8 MR. DARUTY: On the first day of our meet or after
9 we've been able to implement our new plan?

10 CHAIRMAN WINNER: Whatever that is.

11 EXECUTIVE DIRECTOR BAEDEKER: Your new plan,
12 respectfully, you're going to open on December 26th. Your
13 race meet application is before you. You've got marketing
14 plans here that you've submitted with both Santa Anita and
15 Golden Gate. It's a little late in the game, is it not, to
16 talk about respect for the Board to ask them to approve a
17 race meet application that is a systemic change with
18 nothing, no rationale to justify that change, which you
19 promised will come. But it seems to me, we're late in the
20 day.

21 MR. DARUTY: Well, I don't think it's ever too late
22 in the day to show respect to the Board. So again, I'm here
23 to be respectful and to try to answer your questions.

24 The reality is, let's be honest, we have tried to
25 implement change. We have run up against roadblocks, we

1 believe, not necessarily from the Board but from others,
2 every step of the way. Every time we find a roadblock,
3 we're looking for another way around. Because ultimately if
4 racing in Northern California is going to be here in five
5 years, things need to change.

6 So as I said, we need to understand what the
7 Board's position is on this important legal issue. I
8 believe we've gotten a strong indication of what it is, but
9 I don't think we've gotten a final answer as to what it is.
10 And once we know, then we'll be able to put in place, as I
11 said, a detailed business plan. But had we gone out on our
12 other issue, on the last June or July, whenever the -- I
13 forget the meeting when you guys were addressing the OTB
14 contract issue, had we gone out and created an entire
15 detailed business plan and handed it over to you, it
16 wouldn't have mattered because your position is legally you
17 can't allow us to do that.

18 CHAIRMAN WINNER: Yeah.

19 EXECUTIVE DIRECTOR BAEDEKER: Not to be combative,
20 but when you were talking about eliminating the simulcast
21 network in the north, you brought it up to Staff at several
22 sidebar meetings, at least a couple, well in advance of your
23 race meet application, so there was continual discussion
24 about the legality of it. And it was a highly-complex
25 issue, which you know. And so there was plenty of lead time

1 on that issue, versus zero lead time on this one.

2 Now if the Board would like, Legal Staff can put
3 together our opinion as it stands today. We'll need to, if
4 that's -- if we're going to reduce that to a document, we'll
5 need a little bit of time to get that done.

6 What happened to Madeline?

7 CHAIRMAN WINNER: She's out there getting coffee.

8 EXECUTIVE DIRECTOR BAEDEKER: Oh, here she is.

9 Yeah.

10 So we can do that, you know, but it's -- here we
11 stand pretty close to the November 14th meeting, I think
12 that's the date, it's an earlier Board meeting because of
13 Thanksgiving, so we're pretty close to a deadline, but we
14 can certainly do that.

15 CHAIRMAN WINNER: Yeah. I think it would be --
16 the question is, Scott, once you have something in writing,
17 which I guess is what you're asking for with respect to what
18 our position is and what Rick is responding to, there's
19 still the -- then there's the whole issue of negotiating and
20 deciding by the next meeting, because we don't know what
21 your plan is, as you indicated. We have no idea.

22 MR. DARUTY: Okay. I thought I said, but I
23 obviously didn't make it clear, if we are allowed to run a
24 race meet in Northern California without having to import
25 races, which by the way very well may make some of the other

1 litigation issues moot, if we're allowed to do that, then we
2 would come back with a plan that would say we will import
3 racing, along the lines that had traditionally been
4 imported, until such time as we have a system to replace
5 that with.

6 So I don't really think it's that complicated.

7 EXECUTIVE DIRECTOR BAEDEKER: So are you back to
8 the ADW cafe idea?

9 MR. DARUTY: It's the same idea we've been idea
10 we've been talking about for months, yes.

11 EXECUTIVE DIRECTOR BAEDEKER: Yeah, so you're back
12 to it. But in the meantime, you mentioned, you know, bet
13 via their device, which they can do now; right? So that's
14 not new.

15 VICE CHAIR AUERBACH: Did you guys decide to maybe
16 guarantee the purse account, which would be another issue?

17 MR. DARUTY: I guess I'm not -- I guess you're not
18 hearing me.

19 VICE CHAIR AUERBACH: No, I guess not, because --

20 MR. DARUTY: Yeah.

21 VICE CHAIR AUERBACH: -- I still don't understand
22 what we're talking about.

23 CHAIRMAN WINNER: Okay. Go ahead, Scott. Explain
24 what we're talking about please.

25 MR. DARUTY: What -- let me see if I can find

1 different words, because I'm obviously not communicating it
2 well the last time.

3 What I'm trying to say is if we understand what
4 the requirements of this Board are --

5 CHAIRMAN WINNER: Right.

6 MR. DARUTY: -- which is you -- we are not
7 required to import races, but we are required to do what you
8 believe to be in the best interest of racing --

9 CHAIRMAN WINNER: Right.

10 MR. DARUTY: -- that's the requirement, then we
11 will come back and we will tell you, we will import races
12 along the traditional lines until we're able to show you
13 that it is in the best interest of racing to stop doing it
14 as a traditional import and to start doing it as an ADW bet.

15 VICE CHAIR AUERBACH: Scott, didn't you say that?
16 Didn't you?

17 CHAIRMAN WINNER: I did, yes.

18 VICE CHAIR AUERBACH: Didn't you? I thought Chuck
19 said that, basically. That's -- this is circular.

20 CHAIRMAN WINNER: Yeah.

21 VICE CHAIR AUERBACH: I thought Chuck had --

22 CHAIRMAN WINNER: Okay. So --

23 VICE CHAIR AUERBACH: -- said that.

24 CHAIRMAN WINNER: -- here's the issue, your
25 application doesn't say that, this current application.

1 VICE CHAIR AUERBACH: Not close.

2 CHAIRMAN WINNER: Right. So --

3 MR. DARUTY: Well, I think that can be amended if
4 we understand what the requirements are.

5 CHAIRMAN WINNER: Right. So what is it, just so
6 I -- I want to have some other people who want to speak on
7 this, give them their opportunity, as well.

8 What is it that you need? You talked about
9 getting a document, a legal document. Where are you with --
10 what is it that you need from the Board in order to proceed
11 as rapidly as possible --

12 MR. DARUTY: So let me take -- let me take a
13 wild --

14 CHAIRMAN WINNER: -- to move ahead with what you
15 just said, which is that you will continue to import the
16 signal until some other arrangement can be worked out that
17 everyone agrees is in the best interest of racing?

18 MR. DARUTY: So let me take a wild guess. I don't
19 think you're going to approve our application today; is that
20 right?

21 CHAIRMAN WINNER: Well, I -- it's --

22 EXECUTIVE DIRECTOR BAEDEKER: It's incomplete.

23 CHAIRMAN WINNER: Yes.

24 MR. DARUTY: Okay.

25 CHAIRMAN WINNER: It's not complete.

1 MR. DARUTY: So what if --

2 CHAIRMAN WINNER: We don't have a --

3 MR. DARUTY: -- so on the basis --

4 CHAIRMAN WINNER: -- TOC agreement. We don't have
5 a CTT agreement.

6 MR. DARUTY: So what is the --

7 CHAIRMAN WINNER: We don't have an internet
8 agreement --

9 MR. DARUTY: What is the -- on this issue --

10 CHAIRMAN WINNER: -- an ADW agreement.

11 MR. DARUTY: -- on this issue, what is the basis
12 on which you're not approving it? Is it because we are --

13 CHAIRMAN WINNER: Because we don't have the
14 documentation. I mean, it's no different than --

15 MR. DARUTY: Okay. Then we're going to continue
16 to go around and around. If you can say that at some point,
17 that it is legal for us to run without importing racing but
18 you find it to be not in the best interest of racing --

19 CHAIRMAN WINNER: Well, I didn't say that.

20 EXECUTIVE DIRECTOR BAEDEKER: Those are your words
21 that you're --

22 CHAIRMAN WINNER: Right.

23 EXECUTIVE DIRECTOR BAEDEKER: -- I think you're --

24 CHAIRMAN WINNER: Yeah. We didn't say that.

25 EXECUTIVE DIRECTOR BAEDEKER: -- putting in the

1 Chairman's mouth. What we've said is our current legal
2 position is that the Board cannot force you to import out-
3 of-state signals, period.

4 CHAIRMAN WINNER: Right.

5 EXECUTIVE DIRECTOR BAEDEKER: There's no -- there
6 was --

7 MR. DARUTY: But you said --

8 EXECUTIVE DIRECTOR BAEDEKER: -- there was no the
9 Board's going to take action because it's in the best
10 interest of racing on this issue. That --

11 MR. DARUTY: Okay. But you said that and I
12 appreciate that.

13 CHAIRMAN WINNER: Right.

14 MR. DARUTY: But you also hedged a little bit,
15 with all due respect, saying that's your position today and
16 you wanted to continue to look at it. And so that was --

17 CHAIRMAN WINNER: That is --

18 EXECUTIVE DIRECTOR BAEDEKER: That's our legal
19 position.

20 CHAIRMAN WINNER: That's correct. That's our --

21 MR. DARUTY: Okay.

22 CHAIRMAN WINNER: -- legal position based on legal
23 advice from Counsel. That is our position today.

24 EXECUTIVE DIRECTOR BAEDEKER: Which we would call
25 preliminary at this point.

1 CHAIRMAN WINNER: Yeah.

2 EXECUTIVE DIRECTOR BAEDEKER: And we'll try to
3 make, you know, we'll try to make it more formal.

4 CHAIRMAN WINNER: We're not trying to play games,
5 Scott. We're trying to help you help us determine the best
6 way forward. And --

7 MR. DARUTY: So we need an answer to that issue.

8 CHAIRMAN WINNER: Pardon me?

9 MR. DARUTY: We need an answer to that issue.

10 CHAIRMAN WINNER: Okay. I understand. And --

11 EXECUTIVE DIRECTOR BAEDEKER: I think we can have
12 that to you by the end of next week.

13 MR. DARUTY: Sure.

14 MR. BRODNIK: I think that --

15 CHAIRMAN WINNER: Go ahead, Rob.

16 MR. BRODNIK: Well, I would hope that, so that
17 Staff can adequately advise the Board and prepare a staff
18 analysis, that you would also share your business plan so
19 that we can understand what it is you're proposing.

20 MR. DARUTY: Well, let's assume that you were to
21 come back and give us the answer that your preliminary is
22 the same, it is now final, then I reiterate, we would amend
23 our application such that we will import, as we have
24 traditionally, out-of-state races until such time as we have
25 a detailed business plan on the manner in which we intend to

1 replace betting.

2 EXECUTIVE DIRECTOR BAEDEKER: Well, why can't you
3 do that without the opinion? Why can't you just go ahead,
4 as you've done in the past? You say the model is broken in
5 satellite world but, you know, you want to replace it with
6 this migration over to ADW through the ADW cafes. So why do
7 you need to -- why did you submit an application that has a
8 blank --

9 MR. DARUTY: Because --

10 EXECUTIVE DIRECTOR BAEDEKER: -- for out-of-state
11 imports?

12 MR. DARUTY: -- with all due respect, because on
13 the other legal issue, we thought there was an understanding
14 that we were all going to work promptly to get that to a
15 judge to make a decision so we'd know what the law is and we
16 could move forward. And from our perspective, it has been
17 every procedural --

18 EXECUTIVE DIRECTOR BAEDEKER: Wait a minute.
19 Didn't you withdraw your petition for a preliminary
20 injunction after we had all sorts of legal work done by the
21 Attorney General on our behalf, everything submitted on a
22 timely basis, and then you withdrew your petition three days
23 before it was scheduled to go to court? Maybe it was four
24 days before. I'll have to check the record.

25 We did everything that we need to --

1 CHAIRMAN WINNER: Well, what's the answer to that,
2 Scott?

3 EXECUTIVE DIRECTOR BAEDEKER: -- to meet you in
4 court --

5 CHAIRMAN WINNER: That's my recollection.

6 EXECUTIVE DIRECTOR BAEDEKER: -- and you bailed.

7 MR. DARUTY: Let's just say we -- there is a
8 difference of opinion on this. I don't want to get into a
9 public discussion of litigation matters.

10 CHAIRMAN WINNER: Okay.

11 MR. DARUTY: My counsel would shoot me for that.

12 EXECUTIVE DIRECTOR BAEDEKER: Well, you brought it
13 up.

14 CHAIRMAN WINNER: Yeah, you --

15 MR. DARUTY: I brought it up in --

16 EXECUTIVE DIRECTOR BAEDEKER: I should sit back.

17 MR. DARUTY: -- direct response to your question.

18 CHAIRMAN WINNER: No, that's all right. Yeah.

19 The point is, Scott, you raised the issue of you
20 thought there would be a timely decision when it seems to
21 me, we've been operating in good faith. I think you've
22 probably been operating in good faith. The bottom line is
23 you withdrew the request for a preliminary injunction. So
24 we have, obviously, a different view of what the delay may
25 be or what the issues may be.

1 But with respect to the meet that we're dealing
2 with now, what we're looking for is, as Executive Director
3 Baedeker said, as Rob has said, if we have -- I mean, if we
4 know what your plan is, we can deal with that specifically.
5 And, in fact, I think you have a pretty good indication of
6 where we are and what our legal advice is with respect to,
7 and both Rick and I have said it, with respect to whether
8 we, as a Board, can require you from a legal standpoint, we
9 can't -- we don't believe we can force you, from a legal
10 standpoint, to import signals.

11 Is that correct, Rob?

12 MR. BRODNIK: That's correct.

13 CHAIRMAN WINNER: Okay. So what we're -- in order
14 to move this thing along -- we've got three weeks until the
15 next meeting. And if we don't approve it at the next
16 meeting, that's a bit of a problem. So what would be your
17 recommendation on how to proceed?

18 MR. DARUTY: I believe that if you have a final
19 formal position on this legal issue, that we'll be able to
20 get this resolved --

21 CHAIRMAN WINNER: Okay.

22 MR. DARUTY: -- prior to the next meeting.

23 CHAIRMAN WINNER: And you want it in writing, or
24 can we just give you a verbal? Just because we're running
25 out of time. And you know, there is a time limit with

1 respect to when the documents are submitted. And if they're
2 not submitted on time, then it's been our policy to not
3 proceed.

4 So, you know, I would like to move as quickly as
5 we can, I think you would, too, to resolve this; is that
6 correct?

7 MR. DARUTY: I'm not having fun, so, yeah. I
8 think we'd like to have it resolved.

9 CHAIRMAN WINNER: Okay. So is it your position
10 that you need a written document, is that your position,
11 with respect to that legal question?

12 MR. DARUTY: I don't think it has to be written.
13 That would be our preference, but if that's going to, I
14 mean --

15 CHAIRMAN WINNER: All right. Can you work with
16 Rob and communicate? Can you communicate, the two of you,
17 or legal counsel, or whoever you want with Rob so that we
18 can move as rapidly as possible, which is in everybody's
19 best interest, I think?

20 MR. DARUTY: We will do that.

21 CHAIRMAN WINNER: Okay. Any --

22 VICE CHAIR AUERBACH: I have --

23 CHAIRMAN WINNER: Go ahead.

24 VICE CHAIR AUERBACH: -- another question.

25 How does this resolve all the other issues that

1 aren't done, the TOC agreement, for one thing?

2 CHAIRMAN WINNER: Well, we're going to have --

3 VICE CHAIR AUERBACH: Everything's set to hinge
4 on --

5 CHAIRMAN WINNER: Mr. Avioli is going to come up
6 and express his position on this. Mr. Liebau has submitted
7 a card. I don't know whether CARF or Larry wants to speak
8 on the issue. But one way or another, we need to get this
9 resolved; right?

10 VICE CHAIR AUERBACH: Yeah. I'd like to see the
11 horses running at Golden Gate. Yes.

12 CHAIRMAN WINNER: Okay. All right, Scott, don't
13 go away, Scott. We may need you again. Thank you.

14 Hold on. Jack? Yeah. Okay. Come on.

15 MR. LIEBAU: Jack Liebau on behalf of Los Alamitos
16 Quarter Horse Racing Association.

17 First, I would like to remind the Board and all,
18 taking all due respect, when you talk about what's in the
19 best interest of racing, it's not what is in the best
20 interest of racing at Golden Gate Fields. It's what is in
21 the best interest of racing overall.

22 CHAIRMAN WINNER: Right.

23 MR. LIEBAU: And that includes the night industry.

24 So I would just like to urge you, and I think that
25 that's the position of the Board --

1 CHAIRMAN WINNER: That is the position of the
2 Board.

3 MR. LIEBAU: -- you have to look at --

4 CHAIRMAN WINNER: I will stipulate that, Jack.

5 MR. LIEBAU: -- as racing overall.

6 CHAIRMAN WINNER: Yes.

7 MR. LIEBAU: As to this dialogue that's been going
8 on that, sitting in the back, I'm probably not paying as
9 much attention as I should. And as Cliff Goodrich pointed
10 out to me a minute ago when I was up here stammering here,
11 I'm on the back nine already, he said.

12 So when you're talking about the legal
13 requirements, I think what you're talking, is there any
14 statutory law --

15 CHAIRMAN WINNER: Yeah.

16 MR. LIEBAU: -- that requires them to do that?
17 That's a separate question from what is in the best interest
18 of racing.

19 CHAIRMAN WINNER: We could not agree more --

20 MR. LIEBAU: Okay.

21 CHAIRMAN WINNER: -- Jack, with what you're
22 saying. I tried to make that point. Maybe I didn't make it
23 very clearly. There --

24 MR. LIEBAU: Well, that --

25 CHAIRMAN WINNER: That's exactly correct, that

1 we're talking about what's in the law with respect to
2 specifically requiring them to import the signal and we
3 don't believe there is a statute that requires that.

4 However, that does not -- that is not determinate
5 with respect to the question of best interest of racing.
6 That's a different criterion that has to be determined.

7 MR. LIEBAU: Another issue is that from the very
8 start of these ADW lounges, Los Alamitos has raised
9 objection to that, largely based upon there is no plan to
10 replace the existing satellite facilities and how these
11 satellite facilities are so important to the Quarter horse
12 associations as far as the distribution of their signal, and
13 also for the harness in Northern California.

14 Los Alamitos filed, as you know, an action for
15 declaratory relief to make it clear that they had to
16 distribute the signal to these satellite facilities. And
17 Los Alamitos has intervened in the lawsuit between the
18 Stronach Group and the Horse Racing Board. And we also
19 submitted, in connection with the request for a preliminary
20 injunction, which wasn't heard because they withdrew their
21 action.

22 I think two things that Scott pointed out is that,
23 one, when they have these roadblocks that they run into with
24 respect to their plan, they try to do something else. And
25 from Los Alamitos' of view, and it might be unfair, but it

1 appears to us the perception is that they are going to
2 starve these satellite facilities to death so they go out of
3 business, which is the same thing that would happen if they
4 could have replaced them with ADW lounges.

5 And, of course, he also said that if you approve
6 this, it might make the other issues, I think his words
7 were, moot. And what that means is that the satellites will
8 be out of business. There's just no way that I can
9 understand that these satellites can exist with not being
10 able to bet on races imported from out of state. I mean,
11 Rick set forth the numbers and they're just overwhelming, I
12 think, as far as the dependence on the satellites from
13 revenue from out-of-state signals.

14 CHAIRMAN WINNER: Jack, let me just -- maybe I
15 misunderstood, and that's --

16 MR. LIEBAU: Right.

17 CHAIRMAN WINNER: -- certainly possible.

18 MR. LIEBAU: You aren't on the back nine like I
19 am, so --

20 CHAIRMAN WINNER: Oh, yes, I am. My understanding
21 from what Scott said was that if we -- that they would be
22 willing to move forward with, in essence, a status quo until
23 this issue was resolved.

24 Is that -- Scott, tell me if I'm -- if I'm not
25 understanding that correctly.

1 MR. DARUTY: Correct.

2 CHAIRMAN WINNER: Okay. So --

3 MR. LIEBAU: So, I mean --

4 CHAIRMAN WINNER: -- the short term, the short
5 term --

6 MR. LIEBAU: -- is the --

7 CHAIRMAN WINNER: -- from a short-term standpoint,
8 until they come up with a plan that is approved, we would
9 move -- they would be moving ahead as in the current manner.

10 MR. LIEBAU: Thank you. My two points was I just
11 wanted to clarify that the best interest of racing included
12 everybody --

13 CHAIRMAN WINNER: Yes.

14 MR. LIEBAU: -- both the harness --

15 CHAIRMAN WINNER: Absolutely.

16 MR. LIEBAU: -- Quarters and thoroughbreds. And
17 with that said --

18 CHAIRMAN WINNER: Jack, believe me --

19 MR. LIEBAU: -- thank you very much.

20 CHAIRMAN WINNER: -- this Board is very conscious
21 of that.

22 MR. LIEBAU: Thank you.

23 CHAIRMAN WINNER: And we agree entirely.

24 Okay, Mr. Avioli, I don't have a card. Are you
25 going to want to speak on this issue?

1 MR. AVIOLI: Yes. I thought you called me and so
2 I didn't have to do it.

3 CHAIRMAN WINNER: I've just called you.

4 EXECUTIVE DIRECTOR BAEDEKER: And you can do
5 afterwards.

6 MR. AVIOLI: Good morning. Greg Avioli, TOC.
7 It's an interesting conversation. And we also look forward
8 to seeing the plan.

9 There is no horsemen's agreement for the upcoming
10 meet. And as I've conveyed to Scott and Mr. Ritvo, from our
11 perspective, this is very similar to last summer. As you
12 recall, last summer we had conversations about wanting to
13 run the fall meet without the network, without the entire
14 NCOTWINC network. And at the time, our calculation was that
15 was going to be a major portion of the purses that were
16 generated from that network. And absent another plan that
17 showed how those purses would be paid, it was practically
18 impossible for us to approve a purse agreement, a horsemen's
19 agreement, if there's no way to pay the majority of the
20 purses.

21 Commissioner Baedeker [sic] cited some numbers
22 that are consistent with mine. But to put a finer point on
23 it, the total purses that were generated last year at the
24 winter-spring meet were approximately \$14.5 million. The
25 amount of purses that were generated from wagering on out-

1 of-state imports, both at Golden Gate and at the satellites,
2 was \$3.07 million, which is remarkably exactly 20 percent of
3 the total purses.

4 But you also have to factor in, there would
5 clearly be some impact for the patrons in general who would
6 have otherwise gone to the satellites or to Golden Gate to
7 bet Golden Gate. If there's no simulcast import, obviously,
8 some people are going to choose not to do that, as well. So
9 the amount that was wagered at Golden Gate and at the
10 satellites on Golden Gate races was \$2.1 million.

11 So if you add it all up, \$5.2 million of the purse
12 generation from this meet came from wagering at Golden Gate
13 and at the satellites, so that's 35 percent of the total
14 purses. For us to have a horsemen's agreement, we would
15 have to see a plan that we were confident in would provide
16 some assurances that we would have the same 35 percent or
17 \$5.2 million of purse generation, as we had under the
18 current system.

19 VICE CHAIR AUERBACH: And, Greg, I have a question
20 please --

21 MR. AVIOLI: Yes, ma'am.

22 VICE CHAIR AUERBACH: -- for you specifically.
23 Was that the only issue that stopped you from signing the
24 agreement? Well, the reason -- I'm asking this for a
25 very --

1 MR. AVIOLI: Yeah.

2 VICE CHAIR AUERBACH: -- for a reason. What I'm
3 trying to get to is are we all at the point where we know
4 that you would have signed the agreement, that any other
5 things that are outstanding with Golden Gate are centered
6 around the same issue, that when Scott said that if he could
7 get that agreement from the Board, whether verbally or in
8 writing, that we have told him that, no, they don't have to
9 have -- you know, it's not part -- it's not a legal
10 requirement to submit those signals.

11 So are we just saying then that we're all talking
12 about one issue? That's what I want to make sure.

13 MR. AVIOLI: That is correct.

14 VICE CHAIR AUERBACH: Okay.

15 MR. AVIOLI: It's one issue.

16 VICE CHAIR AUERBACH: Because with everything that
17 they haven't been able to sign, I want to make sure it's
18 just one issue and that everything with Greg's agreement
19 with -- excuse me --

20 MR. AVIOLI: Nick's.

21 VICE CHAIR AUERBACH: -- yeah, I'm all right, with
22 the agreement of Santa Anita that, yeah, they will go
23 ahead -- not Santa Anita -- boy, I didn't say that right at
24 all --

25 MR. AVIOLI: I know what you mean.

1 VICE CHAIR AUERBACH: -- well, I'm glad you do,
2 but everybody else is going what the hell is she talking
3 about, that Golden Gate will go ahead and proceed per status
4 quo, that all the other agreements will be signed, that
5 there aren't other issues that we're not aware of out there?

6 MR. AVIOLI: We have negotiated the agreement.
7 They've negotiated in good faith. It's all done. This is
8 the only issue.

9 VICE CHAIR AUERBACH: Okay. And I don't know who
10 else hasn't signed on, if the CTT has or not. I have no
11 idea if we've -- have we gotten that one, Jackie?

12 ASSISTANT EXECUTIVE DIRECTOR WAGNER: No. No CTT
13 agreement.

14 CHAIRMAN WINNER: And we don't have either the TOC
15 or the CTT.

16 VICE CHAIR AUERBACH: Well, I'm just -- I just
17 want to make --

18 CHAIRMAN WINNER: And we don't have ADW, some ADW
19 either.

20 VICE CHAIR AUERBACH: I just want to make sure
21 that if we get that one issue done and then we get to the
22 meeting and find out, well, TOC still didn't sign off
23 because of something else, then let's figure that our now --

24 CHAIRMAN WINNER: Well --

25 VICE CHAIR AUERBACH: -- before we get that --

1 CHAIRMAN WINNER: -- agreed.

2 VICE CHAIR AUERBACH: -- further down the road.

3 CHAIRMAN WINNER: I think this is, if not the
4 exclusive issue, certainly the primary issue.

5 MR. AVIOLI: As I've said, the contract, it's been
6 fully negotiated. It's ready to go --

7 VICE CHAIR AUERBACH: Okay.

8 MR. AVIOLI: -- but for this.

9 VICE CHAIR AUERBACH: Thank you.

10 MR. AVIOLI: Okay.

11 CHAIRMAN WINNER: Okay.

12 MR. AVIOLI: Anything else?

13 CHAIRMAN WINNER: Thank you, Greg.

14 Any questions? Any other comments?

15 MR. DARUTY: Can I just add --

16 CHAIRMAN WINNER: Yes, please. Come on.

17 MR. DARUTY: Scott Daruty on behalf of Golden Gate
18 Fields.

19 I neglected to mention earlier, because the ADW
20 agreements have been talked about a couple different times
21 and I know those have been longstanding problems, I was in
22 Louisville on Tuesday with a very lengthy meeting with
23 several members of the Churchill executive team. And I am
24 very confident that we will have an ADW agreement --

25 CHAIRMAN WINNER: Oh, that's good.

1 MR. DARUTY: -- with Churchill in the very near
2 future. And as you know, that was the only one that had
3 been outstanding. All the other ones had typically been
4 done, so --

5 CHAIRMAN WINNER: Right. Thank you. Thank you
6 for telling us.

7 EXECUTIVE DIRECTOR BAEDEKER: Scott, how about
8 BetAmerica, is that part of that discussion?

9 MR. DARUTY: Yeah. Churchill, we were talking
10 about both the TwinSpires and BetAmerica, since Churchill
11 Downs owns both of those platforms.

12 CHAIRMAN WINNER: Right. Thank you.

13 Mr. Swartzlander?

14 MR. SWARTZLANDER: Larry Swartzlander, Executive
15 Director of CARF. There's probably numerous things that I
16 could expand on, but I'll just focus on what Scott has
17 presented.

18 CARF was officially notified last week that
19 Monarch would no longer negotiate any simulcast signals for
20 the fairs, which we take as just another step in eliminating
21 the fairs.

22 Secondly, I can't see us separating importing
23 signals from agreements with the satellites. If the
24 Stronach Group's position is that they will not provide out-
25 of-state signals to the satellites, CARF will not enter into

1 agreement with the Stronach Group for their meet, simple as
2 that. And it is a legal issue.

3 CHAIRMAN WINNER: Any questions for Larry?

4 It's a legal issue from your perspective; correct?

5 MR. SWARTZLANDER: Correct.

6 CHAIRMAN WINNER: Okay. Just to make that clear.

7 Okay. Thank you, Larry.

8 John Valenzuela?

9 MR. VALENZUELA: Hello. My name -- good morning,
10 Chairman, Executive Director and Commissioners, and the
11 gallery. My name is John Valenzuela, President of PMEG
12 Local 280.

13 I just want to remind this Board that racing
14 became legal in the state of California in 1933. In 1934,
15 Santa Anita was opened. And from there on, you know, we've
16 had all these other racetracks that opened up.

17 In 2001, satellites were allowed to come in. And
18 it was all about, hey -- oh, no, excuse me, it was in 1985,
19 excuse me, satellites were allowed to come into the state of
20 California to help racing. It was about helping the whole
21 community.

22 With that being said, you know, legislation was
23 brought in, SB 14, that there was statutes, that there
24 needed to be a contract with labor to open up satellites,
25 and that satellites have created a lot of jobs, and for the

1 good of the industry, created a lot of handle and purses.
2 Yet it did destroy the attendance on track, so we've been
3 declining as far as attendance.

4 Well, what really brings to mind on this issue
5 about eliminating the satellites for a whole new structure,
6 let's just say ADWs, and respectfully to the players
7 involved, we're not opposed to adding something to the
8 existing system. But to eliminate what we have already in
9 place, we're talking about millions and millions of dollars
10 that private entities, people that are involved in
11 satellites, minisatellites, all these people have put their
12 money up here to help racing, to have -- to create handle
13 and purses for the greater good of this industry.

14 Now, Local 280 is a big part of this community.
15 We have been able to create handle ever since 1934 to day,
16 present. To me, this issue about changing the satellite
17 system is a big attack on labor. Now the 70 -- I'm told
18 that 70 percent of the costs to some of these satellites is
19 labor, but labor has been through and through to help this
20 industry. We've always worked in the best interest of this
21 industry. As of today, we had negotiations and the biggest
22 problem was manning.

23 We believe that the satellite system in the north
24 is very important. It not only supports our labor on the
25 satellites, it supports labor for state employees. And we

1 support the NCOTWINC system. We support to oppose any
2 change that might be brought forth by the Stronach Group.

3 You know, the reason, you come to California and
4 we have statute. There's laws -- or the statutes basically
5 spells it out. And that's the cost of doing business in
6 California. I mean, you're trying to restructure the whole
7 state of California? This is ridiculous. And now, the way
8 I see it, you know, they're trying to use their position
9 because they own -- they basically have two-thirds of the
10 racing dates throughout the year. They have the hardware
11 and the software. Basically, they have a monopoly in the
12 state of California, or close to it. And to me, they're
13 just the big bully trying to push their way through the
14 state of California.

15 So I raise my objections to anything that -- for
16 change. For the good of -- in defense of all labor, I
17 believe that this will be a big issue. It will be a fight
18 to support to make sure that NCOTWINC survives, and the
19 system, because there's a lot of people that are involved,
20 and for the good of this industry, for the good of the
21 racing community.

22 CHAIRMAN WINNER: Thank you, John.

23 Is there any -- are there any questions for John,
24 or comments?

25 Thank you.

1 Cliff Goodrich. Hi Cliff.

2 MR. GOODRICH: How you doing? Cliff Goodrich
3 representing California Thoroughbred Horsemen's Foundation.
4 We service the backstretch workers for their medical and
5 dental needs, as you know. I've got to be careful with what
6 I say because, like Jack, on the golf course of life, I'm
7 probably walking up 16, so I'll choose my words carefully.

8 One, all of these type discussions certainly would
9 also impact us in dollars, not to the degree it effects
10 tracks and horsemen, but as a percentage of our budget.
11 They're important discussions, either positively or
12 negatively. Obviously, we like ideas that are positive.

13 We have absolutely no position on this issue. We
14 cannot afford to alienate tracks, horsemen or fairs. About
15 80 percent of our budget comes from those. However, I will
16 say from a personal perspective that I doubt if there's
17 anybody in this room that is saying, what's the problem,
18 let's just keep doing what we're doing. The industry is in
19 trouble.

20 You don't shrink to greatness. I personally am an
21 advocate of stimulating discussion on wild, what some people
22 may think are wild ideas. And I don't refer to what Scott
23 is presenting. We don't even know what his game plan is.
24 But if this industry is going to survive and thrive, I am
25 absolutely convinced it's going to come from ideas outside

1 the box. And if discussions like this led to a twist or a
2 detail someone hasn't thought of, I think it can only help.

3 So I am an advocate of not just continuing to do
4 what we do, welcoming new ideas, however crazy they might
5 be, because something good may come from those. And so I
6 just wanted to state that as an observation after attending
7 Board meetings and being in this industry for almost 60
8 years.

9 Thank you.

10 CHAIRMAN WINNER: Thank you, Cliff.

11 All right, is there anybody else who wants to
12 speak on this issue? All right. We're not -- obviously,
13 we're not voting on it. We're move it to the meeting, the
14 November meeting.

15 And we'll proceed, Scott and Rob, as discussed.

16 EXECUTIVE DIRECTOR BAEDEKER: Does that need a
17 motion, Rob?

18 MR. BRODNIK: No.

19 EXECUTIVE DIRECTOR BAEDEKER: It doesn't, does it?

20 MR. BRODNIK: If the Chairman wishes to just move
21 the discussion and action --

22 CHAIRMAN WINNER: Yeah.

23 MR. BRODNIK: -- to the next Board meeting --

24 EXECUTIVE DIRECTOR BAEDEKER: Yeah.

25 MR. BRODNIK: -- there's no formal vote, and the

1 discussion will continue at the next Board meeting.

2 EXECUTIVE DIRECTOR BAEDEKER: By the way, Mr.
3 Chairman, if you want a piece of good news --

4 CHAIRMAN WINNER: I always want --

5 EXECUTIVE DIRECTOR BAEDEKER: -- some positive
6 comments --

7 CHAIRMAN WINNER: I always want good news.

8 EXECUTIVE DIRECTOR BAEDEKER: -- I forgot to give
9 the end-of-meet reports for Golden Gate and L.A. County
10 Fair. Golden Gate had additional days of racing, 24 this
11 year versus 16 last year, so it's tough to analyze how they
12 did, except when you look at the average daily handle and it
13 was up dramatically. It was up 17.87 percent, so that was a
14 terrific, terrific meet. Their field size was up slightly
15 from 6.8 to 7. And then for the L.A. County Fair, they had
16 the same number of days and they were up just under six
17 percent.

18 CHAIRMAN WINNER: Good.

19 EXECUTIVE DIRECTOR BAEDEKER: So --

20 CHAIRMAN WINNER: Excellent.

21 EXECUTIVE DIRECTOR BAEDEKER: -- yeah.

22 CHAIRMAN WINNER: All right. Thank you.

23 On seven, we are going ahead? We are?

24 EXECUTIVE DIRECTOR BAEDEKER: We are.

25 CHAIRMAN WINNER: Okay. Item number seven,

1 discussion and action by the Board on the Application for
2 License to Conduct a Horse Racing Meeting of the Los
3 Alamitos Quarter Horse Racing Association at Los Alamitos
4 Race Course, commencing December 26, 2018 through December
5 17, 2019, inclusive.

6 MR. ENGLISH: Good morning, Mr. Chairman and
7 Commissioners. Rick English, representing Los Angeles
8 Quarter Horse Racing Association.

9 You have before you our 2019 application. It's
10 for one more day of racing than we had during the current
11 year. And I would that during the course of our 2019 meet,
12 we project spending 15 -- generating over \$15.5 million in
13 purses and other benefits to the horsemen in our industry.

14 I'm happy to answer any questions you might have
15 about our application and ask for your approval.

16 EXECUTIVE DIRECTOR BAEDEKER: Commissioners,
17 you're looking at the list of items that are still needed.
18 All of them have been received, with the exception of number
19 four, the ADW contract with TVG. We understand from Rick
20 that, as a matter of fact, there's no systemic issue there,
21 no big --

22 MR. ENGLISH: That's correct.

23 EXECUTIVE DIRECTOR BAEDEKER: -- problem. It's
24 due. And then the Worker's Compensation renewal can't be
25 provided until July, or that's when it expires.

1 MR. ENGLISH: Correct.

2 CHAIRMAN WINNER: All right, is there a motion?

3 COMMISSIONER RUANO: So moved.

4 CHAIRMAN WINNER: Vice Chair Auerbach moves.

5 Commissioner Ruano?

6 VICE CHAIR AUERBACH: She seconds.

7 CHAIRMAN WINNER: Commissioner Solis?

8 COMMISSIONER SOLIS: Yes.

9 CHAIRMAN WINNER: The Chairman votes yes.

10 Vice Chair? Vice Chair?

11 VICE CHAIR AUERBACH: Auerbach. Yes. Sorry.

12 CHAIRMAN WINNER: I know your name.

13 VICE CHAIR AUERBACH: I don't. You're one up on

14 me.

15 CHAIRMAN WINNER: Commissioner Ruano?

16 Commissioner Ruano?

17 COMMISSIONER RUANO: Yes.

18 CHAIRMAN WINNER: Okay. The motion carries

19 unanimously. Have a great meet.

20 MR. ENGLISH: Thank you very much.

21 CHAIRMAN WINNER: Thank you, Rick.

22 MR. ENGLISH: And I'd also like to note Mr.

23 Baedeker's point earlier about who would be the host of Hong

24 Kong Jockey Club signal at night. Historically, it's always

25 been the night industry that has the legal authority to

1 import those races.

2 Thank you very much.

3 VICE CHAIR AUERBACH: You know how night -- not
4 K-N-I-G-H-T, but how is night defined --

5 MR. ENGLISH: After --

6 VICE CHAIR AUERBACH: -- timeframe-wise?

7 MR. ENGLISH: After 6:00 p.m.

8 VICE CHAIR AUERBACH: Pardon?

9 MR. ENGLISH: I believe it is after 6:00 p.m.

10 VICE CHAIR AUERBACH: Got it.

11 MR. ENGLISH: I could be wrong about the hour. I
12 think it's 6:00 p.m.

13 VICE CHAIR AUERBACH: Yeah. All right.

14 MR. ENGLISH: Thank you.

15 CHAIRMAN WINNER: Report from the Medication,
16 Safety and Welfare Committee.

17 VICE CHAIR AUERBACH: Okay. Yesterday --

18 CHAIRMAN WINNER: By the way, excuse me,

19 Madeline --

20 VICE CHAIR AUERBACH: Yes?

21 CHAIRMAN WINNER: I skipped over item number --

22 VICE CHAIR AUERBACH: Oh.

23 CHAIRMAN WINNER: -- eight on the agenda because
24 we -- because Madeline would have to recuse herself and we
25 would not have a quorum to vote on it.

1 VICE CHAIR AUERBACH: Yeah. And I --

2 CHAIRMAN WINNER: So we've moving on to nine.

3 VICE CHAIR AUERBACH: Okay. I didn't know if
4 you'd want to discuss it and I have the ladies here, so I'll
5 let them go.

6 CHAIRMAN WINNER: Yeah.

7 VICE CHAIR AUERBACH: Thank you, Lucinda and
8 Natalie. They were here to answer questions, but we'll try
9 next time.

10 Yesterday, Alex and I convened the Medication,
11 Safety and Welfare Committee meeting. It was a brief agenda
12 compared with some of our recent meetings but included some
13 items pertinent to the safety of horses and riders.

14 First, we heard from Dr. Arthur on the number of
15 medication violations for the last fiscal year. There were
16 six Class 1, 2, 3 violations for the entire year, five from
17 post-race samples, one from a TC02. This is from more than
18 42,000 samples. There were 104 violations involving lesser
19 categories and penalties. These involved 78 different
20 trainers and 102 different horses. Dr. Arthur pointed out
21 an unusually high number of corticosteroid violations, 31,
22 most of them at Los Alamitos, and bute and flunixin
23 violations, 17. Again, these were all Class 4 and 5
24 violations. The six that were Class 1, 2 and 3 violations
25 were two fewer than we experienced the previous year and far

1 fewer than the 19 from two years ago. So that's a little
2 bit of good news, that we would like to see that number drop
3 to zero.

4 Next, we received a report on the Postmortem
5 Program for Fiscal Year 2016-17 from Dr. Uzal. They
6 examined 207 horses, most of them thoroughbreds. The vast
7 majority of those catastrophic injuries were associated with
8 racing or training. This was consistent with the previous
9 years when most fatalities were exercise related.

10 At least 90 percent had preexisting conditions.
11 This is not completely new information. Each year the
12 evidence mounts that horses suffering catastrophic injuries
13 had preexisting conditions that were not necessarily
14 identified beforehand. Even though we report these findings
15 at conferences and scientific conferences and in direct
16 communications with owners, trainers and veterinarians, Dr.
17 Arthur said some of the preexisting conditions are not
18 detectable, but some could be using the best available
19 technology.

20 Rick Baedeker noted that the number of equine
21 fatalities in California continues to decrease each year,
22 largely due to increased awareness of factors that can be --
23 that can contribute to injuries and the cooperation of
24 almost everyone involved in California racing.

25 I expressed my own appreciation for the increased

1 availability of injury detection equipment that has helped
2 us reduce the number of catastrophic injuries on our horses.

3 Dr. Uzal reported that the program examined the
4 lowest number of fatalities since its inception, and despite
5 the fact that we've had more starts than the previous two
6 years.

7 So we have seen an absolutely seachange in the
8 number of fatalities. We're on the right track. And I'm
9 sorry that a lot of people have left the room. I understand
10 and agree with them, I'd like to leave the room, too, but
11 it's important news that we are having less and less
12 fatalities, that we have equipment now that can really find
13 some of these mystery ailments, and we are getting that
14 equipment into good use.

15 Next, we discussed a proposed regulatory amendment
16 to require certain horses to perform satisfactorily in a
17 workout before they can start. This applies to horses that
18 have not raced for a year and to four-year-old's making
19 their first start. Standardbreds and Quarter horses could
20 meet this condition by performing satisfactorily in
21 qualifying races.

22 The ARCI recommends adoption of this rule. And
23 Rick Baedeker again pointed out that this rule and support
24 for it by the trainers indicate and illustrate their
25 increased awareness of potential problems that has reduced

1 fatalities.

2 The proposal will be brought to the full Board
3 next month, along with a discussion of what actually we
4 mean. There's a word or two there that needs to be
5 clarified.

6 I think this is really good news and I want
7 everybody to be aware of it. We are -- and I hate -- I
8 don't want to jinx anything, but we are really down in
9 fatalities. And much of it has to do with our increased
10 effort by the veterinary community and the training
11 community in cooperation together to -- not to cover up
12 problems, but to find out the root cause of them.

13 Next, we discussed a proposed regulatory amendment
14 to prohibit the presence of clenbuterol in test samples.
15 Commissioner Solis questioned whether it is advisable to so
16 limit a medication that can be very beneficial to the health
17 of certain horses, particularly those with respiratory
18 conditions. Dr. Arthur explained that the amendment does
19 not prohibit the use of clenbuterol, it only requires that
20 it not be administered so close to a race that it can be
21 detected in a test sample. He said the clearance period is
22 likely to be around three weeks.

23 Alan Balch said trainers support this proposal as
24 long as clenbuterol can still be used properly to protect
25 the health of the horses. Responding to a question from the

1 TOC, Rick Baedeker explained that this change will not go
2 into effect until December 26.

3 Now I think we've -- have we --

4 CHAIRMAN WINNER: Yeah.

5 VICE CHAIR AUERBACH: -- adjusted that.

6 CHAIRMAN WINNER: We changed that.

7 VICE CHAIR AUERBACH: So --

8 EXECUTIVE DIRECTOR BAEDEKER: Yeah. We kind of
9 came up with that date on the fly in a brief conversation
10 before the Committee meeting yesterday. And since then
11 there's been -- we've received input suggesting that maybe
12 that's too long a period to wait. So we can deal with that
13 when we come up with the agenda item here in a little bit.

14 CHAIRMAN WINNER: Yeah. Yeah.

15 VICE CHAIR AUERBACH: Okay.

16 CHAIRMAN WINNER: Yeah.

17 VICE CHAIR AUERBACH: So when it comes through --
18 let me just finish the notes then --

19 CHAIRMAN WINNER: Yeah. Yeah. Please.

20 VICE CHAIR AUERBACH: -- and know that that's not
21 where we are. Okay.

22 Finally, Dr. Arthur reported on a presentation of
23 diagnostic imaging techniques, such as PET scans and MRIs.
24 And the Southern California Equine Foundation recently
25 sponsored presentations on MRI and Positron emission

1 tomography, the PET scan. These are some of the techniques
2 I referred to in our discussion of postmortem reports that
3 have helped reduce the catastrophic injuries.

4 Dr. Arthur gave a slide presentation that
5 demonstrated the advantage of PET scans in detecting certain
6 preexisting conditions. MRI may be more useful in others.
7 His point was that those injuries are detected by these
8 methods and can be given the proper treatment and sufficient
9 time to repair themselves and those horses, when they
10 receive this kind of help, can avoid catastrophic injuries.

11 There was one slide that actually showed that
12 horses, and you'll have to correct me if I'm wrong, that
13 horses that had had this kind of diagnostic work did not
14 suffer any fatalities as compared to horses that had not had
15 that work that did suffer fatalities. So there's a lot of
16 promise there.

17 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, that's
18 correct. And the example --

19 CHAIRMAN WINNER: You want to identify yourself?

20 EQUINE MEDICAL DIRECTOR ARTHUR: Dr. Arthur,
21 Equine Medical Director.

22 And that was related specifically to the use of
23 nuclear scintigraphy to diagnose humeral stress fractures.

24 CHAIRMAN WINNER: Okay?

25 VICE CHAIR AUERBACH: Yes. Thank you.

1 CHAIRMAN WINNER: Thank you very much. Thank you.
2 Thank you, Alex.

3 Okay, discussion and action by the Board, this is
4 item number ten, regarding the proposal to suspend the
5 authorized administration of clenbuterol for all horses
6 participating in a horse race for 12 months, pursuant to
7 CHRB Rule 1844.1, Suspension of Authorized Medication.

8 Who's speaking on this?

9 MR. BRODNIK: I can give a brief introduction,
10 then Doc Arthur could probably talk a little bit more.

11 CHAIRMAN WINNER: Okay.

12 MR. BRODNIK: Robert Brodник, California Horse
13 Racing Board.

14 Yes, this item deals with the proposal to suspend
15 the administration of clenbuterol for 12 months under the
16 Board's authority under 1844.1. The decision to bring this
17 before the Board was due to a rise in the presence of
18 clenbuterol in out-of-competition test samples, which after
19 analysis do not appear to be consistent with valid
20 therapeutic administration but more of a training regimen,
21 and so that it why this item is before you.

22 CHAIRMAN WINNER: Dr. Arthur?

23 EQUINE MEDICAL DIRECTOR ARTHUR: Yes. Just to
24 confirm, when we first implemented the National Uniform
25 Medication Policy, we had had this particular rule in place

1 at the time. And the Quarter horse industry, within a few
2 months, notified us that this wasn't working in their
3 environment. But in thoroughbred racing, for the first
4 year, we really didn't see clenbuterol in out-of-competition
5 testing. And what's happened over the last 18 months, and
6 particularly over the last 6 to 8 months, we're seeing more
7 and more clenbuterol use, and it's not random, it's some
8 trainers use it more than others. And that's been confirmed
9 by monitoring the report of prescriptions in the -- by the
10 official veterinarians.

11 That indicates that it's not being used for
12 respiratory conditions in one barn or another. The same
13 veterinarian will prescribe the drug to a large number of
14 horses in one barn and have no prescriptions in the other.
15 So it seems to be more of a trainer-driven prescription than
16 a veterinary-driven prescription.

17 CHAIRMAN WINNER: Is there any discussion on this
18 item?

19 VICE CHAIR AUERBACH: No.

20 CHAIRMAN WINNER: Mr. Avioli?

21 MR. AVIOLI: Greg Avioli, TOC.

22 I was hoping Dr. Arthur could elaborate on how
23 this proposal change would mirror or change from the RCI
24 Model Rules on this subject? Because I know that we're
25 trying to take that, for the most part, as a standard where

1 we can. Is this consistent with it or does it deviate from
2 it?

3 EQUINE MEDICAL DIRECTOR ARTHUR: This deviates
4 with it because it is more restrictive than the National
5 Uniform Medication Policy. But I will say that from
6 discussions with colleagues in similar regulatory positions
7 as mine around the country, we are not the only jurisdiction
8 to deal with this issue. We just have better data because
9 of our extensive out-of-competition testing program.

10 EXECUTIVE DIRECTOR BAEDEKER: I would add to that,
11 Greg, that often times a regulatory body follows the work
12 done by the RCI. Since I've been on the RCI the last five
13 years, sometimes it's flipped. When individual regulatory
14 bodies are taking action --

15 MR. AVIOLI: Right.

16 EXECUTIVE DIRECTOR BAEDEKER: -- then it's brought
17 to RCI saying we should make this a model rule.

18 MR. AVIOLI: So I'm not here to object to this,
19 which I kind of feel it's sort of a fait accompli, but in
20 the interest of full disclosure, I sense sort of a little
21 bit of outrage and umbrage on the part of the Board from the
22 Stronach Group at the last minute coming up with something
23 that people hadn't had a chance to vet. We did have a
24 chance yesterday to attend the meeting where this was
25 brought up.

1 I just think that the process on this, I think as
2 Counsel just said, the basis was something that the data
3 appeared to show it was inconsistent with. We're going to,
4 at this point, we're going to take everybody at their word
5 on that. But we just don't feel in this particular case we
6 had the opportunity to fully vet and fully understand what
7 was happening, as we just learned about this week.

8 But with that, I'd sit down. Thank you.

9 VICE CHAIR AUERBACH: I'm wondering --

10 EXECUTIVE DIRECTOR BAEDEKER: That's why we have
11 Committee meetings.

12 VICE CHAIR AUERBACH: Yeah, that's why. And I'm
13 also wondering why the trainers were so aware of it and you
14 guys weren't? I can't --

15 EXECUTIVE DIRECTOR BAEDEKER: We --

16 VICE CHAIR AUERBACH: -- explain that.

17 EXECUTIVE DIRECTOR BAEDEKER: Commissioner --

18 MR. AVIOLI: I can't either.

19 EXECUTIVE DIRECTOR BAEDEKER: -- we contacted the
20 CTT. Alan has --

21 VICE CHAIR AUERBACH: They --

22 EXECUTIVE DIRECTOR BAEDEKER: -- asked in the
23 past.

24 VICE CHAIR AUERBACH: Is he here?

25 EXECUTIVE DIRECTOR BAEDEKER: Yeah. He's back in

1 the corner.

2 CHAIRMAN WINNER: Yeah, he's here.

3 EXECUTIVE DIRECTOR BAEDEKER: And we looked at
4 this as a trainer-veterinary issue.

5 MR. AVIOLI: Right.

6 EXECUTIVE DIRECTOR BAEDEKER: So we wanted to talk
7 to them. We wanted to talk about the results of the
8 findings, not only in out-of-competition testing, but in
9 analysis of post-race testing over a long period of time.

10 So I suppose we should have called a lot of
11 people, but we figured that they were the key players.

12 MR. AVIOLI: As I said, in this instance, it
13 sounds like there is a serious issue the Board's trying to
14 address. And we'll defer to you because you have the
15 information. And --

16 CHAIRMAN WINNER: Thank you.

17 MR. AVIOLI: -- I've made my point. Thank you.

18 CHAIRMAN WINNER: Thank you.

19 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah. I will
20 say, I did have a conversation with Bob Baffert who is
21 supportive of this. And I believe he is on the TOC Board,
22 so I don't know where the communication fault is. And I did
23 have a conversation with Liz Morey about this, as well,
24 recently.

25 CHAIRMAN WINNER: Alan?

1 MR. BALCH: I'm doing my yellow card.

2 CHAIRMAN WINNER: Thank you.

3 MR. BALCH: Alan Balch, CTT.

4 Just to add to it, when this was agendized for the
5 Medication Committee, however many days ago it was, we held
6 an open general meeting of horsemen, trainers, throughout
7 California. We arranged for an internet webcast that anyone
8 could listen in on and speaker, you know, call-in and so
9 forth and discussed this amongst a number of other issues.
10 And our board fully discussed it ahead of the Medication
11 meeting yesterday.

12 So I just wanted to put that on the record that
13 our constituents, we think, are very well informed and
14 supportive of this.

15 CHAIRMAN WINNER: Thank you.

16 MR. BALCH: Thank you.

17 VICE CHAIR AUERBACH: You know, I would just like
18 to bring up something that I found amazing because Alex
19 Solis and I have been doing this for a while now. This was
20 the first time that I can remember that I didn't have to
21 push anybody to have a meeting, that I didn't have to ask
22 them to get together and talk about it. The community did
23 it themselves.

24 I wasn't even aware that they had had a meeting
25 until Mr. Baffert came and told me that they'd had this

1 meeting. And to put in his two cents, was nobody needs the
2 clenbuterol unless they need it, and it doesn't belong in
3 the horses when they're running.

4 And the other -- and there were several other
5 trainers who had also mentioned to me, they were glad to see
6 this. Because nobody wants anybody to have either a
7 perceived a real advantage because of the anabolic,
8 potential anabolic steroid effect of clenbuterol.

9 So I wanted to complement the community on getting
10 this done without any push from us. And it seems to be
11 very, very widely accepted. So I think Greg, even though
12 he's leaving, will be happy to know that.

13 CHAIRMAN WINNER: Is there a motion? Vice Chair
14 Auerbach?

15 Oh, I'm sorry. Go ahead, Rick.

16 EQUINE MEDICAL DIRECTOR ARTHUR: I do think we
17 have to set a time certain to start. And my recommendation
18 would be --

19 VICE CHAIR AUERBACH: Oh, to start it? Oh, yeah.

20 EQUINE MEDICAL DIRECTOR ARTHUR: -- three weeks
21 from now, which would be --

22 CHAIRMAN WINNER: That's the 21 days that it
23 takes.

24 EQUINE MEDICAL DIRECTOR ARTHUR: -- November 15th.
25 The bulk of horses will test clear if they're on -- if

1 they're taken off clenbuterol today. And anybody that has
2 any concern, we can do pre-entry testing at no cost. And we
3 will make those arrangements and communicate that through
4 the CTT and --

5 CHAIRMAN WINNER: So in other words --

6 EQUINE MEDICAL DIRECTOR ARTHUR: -- through Del
7 Mar.

8 CHAIRMAN WINNER: -- if a trainer thinks they may
9 have a problem with clearing, you would pre-test prior --

10 EQUINE MEDICAL DIRECTOR ARTHUR: We would

11 CHAIRMAN WINNER: -- prior to the race?

12 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, that's
13 correct.

14 CHAIRMAN WINNER: Okay.

15 EXECUTIVE DIRECTOR BAEDEKER: How long does it
16 take to get one of those tests completed?

17 EQUINE MEDICAL DIRECTOR ARTHUR: Logistically, it
18 would take, if we got the test in on Monday morning, we
19 would be able to tell them before racing on Thursday. And
20 I'm talking about at Del Mar, which would be the first time.
21 And we'll work with the logistics of that.

22 EXECUTIVE DIRECTOR BAEDEKER: So you're correct,
23 Mr. Chairman. If the Board adopted a three-week timeframe
24 to implement this, it would be November 15th which I think
25 is a good day. That's a Thursday, so that would be the

1 first day of racing of that week.

2 EQUINE MEDICAL DIRECTOR ARTHUR: Yes.

3 MR. BRODNIK: And just to be clear, this authority
4 runs for one year, so it would be through October 24th of
5 2019.

6 VICE CHAIR AUERBACH: Is this the emergency one or
7 this is the real one?

8 MR. BRODNIK: Right. This is the Board has the
9 authority to suspend the authorized administration. So
10 under your authority you can suspend any medication for one
11 year, and that's what you're doing here, for a post-race
12 test sample.

13 VICE CHAIR AUERBACH: Okay.

14 MR. BRODNIK: There is a complementary rule change
15 that we're also proposing in the next agenda item that we
16 would have to move through the rulemaking process that could
17 take several months.

18 VICE CHAIR AUERBACH: Do we have to put the
19 language in the rule about --

20 CHAIRMAN WINNER: The time?

21 VICE CHAIR AUERBACH: -- the things that we've
22 agreed to here, that we will be happy to test any of the --
23 does this have to go in there?

24 MR. BRODNIK: No. So the Board is just making a
25 motion to suspend clenbuterol under its authority under

1 1844.1. And then I will draft a letter that will be signed
2 by the Executive Director. And in that letter we will
3 discuss the timelines of which this will take effect and
4 when it will run through, as well as what Dr. Arthur said
5 about the willingness to test. And we will post that and
6 submit that to all --

7 VICE CHAIR AUERBACH: Yeah. Because I'm concerned
8 about making sure the community knows that we're not being
9 Draconian, that they will have the opportunity to have, if
10 they think there might be a problem, to have their horses
11 tested at no cost.

12 MR. BRODNIK: Yeah. So the notice that we will
13 send out through the letter from the Executive Director will
14 have this information in there.

15 VICE CHAIR AUERBACH: Thank you.

16 EXECUTIVE DIRECTOR BAEDEKER: And we'll get it out
17 overnight in all the usual places, as well --

18 VICE CHAIR AUERBACH: Okay.

19 EXECUTIVE DIRECTOR BAEDEKER: -- immediately.

20 VICE CHAIR AUERBACH: Thank you.

21 CHAIRMAN WINNER: Thank you.

22 VICE CHAIR AUERBACH: So moved.

23 CHAIRMAN WINNER: Okay. Vice Chair Auerbach
24 moves.

25 COMMISSIONER SOLIS: Second.

1 CHAIRMAN WINNER: Commissioner Solis seconds.
2 Commissioner Solis, how do you vote?
3 COMMISSIONER SOLIS: Yes.
4 CHAIRMAN WINNER: The Chairman votes yes.
5 Vice Chair Auerbach?
6 VICE CHAIR AUERBACH: Yes.
7 CHAIRMAN WINNER: And --
8 COMMISSIONER RUANO: Yes.
9 CHAIRMAN WINNER: -- Commissioner Ruano votes yes.
10 So item number ten is passed.
11 Discussion and action by the -- we're on 11 --
12 discussion and action by the Board regarding the proposed
13 amendment to CHRB Rule 1844, Authorized Medication, and
14 proposed amendment to CHRB Rule 1866.1, Presence of
15 Clenbuterol in Quarter Horses, to prohibit the presence of
16 clenbuterol in a horse test sample, and to change the title
17 of CHRB Rule 1866.1 to Presence of Clenbuterol in Horses.
18 Do you want to explain that --
19 MR. BRODNIK: Sure.
20 CHAIRMAN WINNER: -- change?
21 MR. BRODNIK: Yes. Robert Brodник, California
22 Horse Racing Board.
23 So this proposed amendments now to the rule would
24 essentially be our actions moving forward. So under the
25 first proposed amendment to 1844, specifically (e)(6), that

1 would deauthorize any detectable level of clenbuterol in an
2 official test sample. So a post-race test sample could not
3 have any detectible level of clenbuterol. Currently, I
4 believe it's 140 picograms that's allowed, so this would
5 remove that authorized level and make it zero.

6 Also, we're proposing to amend Rule 1866.1 which,
7 as you know, currently addresses how we deal with Quarter
8 horses that are administered clenbuterol. So this would
9 take that same framework and apply it to all horses.

10 CHAIRMAN WINNER: Right.

11 MR. BRODNIK: So in essence, this would require
12 all horses that are prescribed clenbuterol to be placed on
13 the vet's list. And they would be required to work off the
14 vet's list with an official sample showing no clenbuterol in
15 their blood or urine. And it would also require reporting
16 requirements for the trainers that would mandate that they
17 inform us whenever a horse is prescribed clenbuterol.

18 EQUINE MEDICAL DIRECTOR ARTHUR: To clarify, this,
19 what we are doing here, is taking the Quarter horse rule and
20 adopting it to all horses. Hopefully that includes mules,
21 but I haven't had a problem with clenbuterol in mules so
22 far. But this rule -- regulation is already being applied
23 to Quarter horses and appears to be working well.

24 CHAIRMAN WINNER: Any discussion?

25 EXECUTIVE DIRECTOR BAEDEKER: You might want to

1 mention that.

2 CHAIRMAN WINNER: Yeah. This motion would be to
3 send it out for a 45-day public hearing --

4 MR. BRODNIK: Yes.

5 CHAIRMAN WINNER: -- correct?

6 MR. BRODNIK: Correct.

7 CHAIRMAN WINNER: All right. Is there a motion?

8 COMMISSIONER RUANO: So moved.

9 CHAIRMAN WINNER: Commissioner Ruano moves.

10 VICE CHAIR AUERBACH: Second.

11 CHAIRMAN WINNER: And Vice Chair Auerbach seconds.
12 Commissioner Solis?

13 COMMISSIONER SOLIS: Yes.

14 CHAIRMAN WINNER: The Chairman votes yes.

15 Vice Chair Auerbach?

16 VICE CHAIR AUERBACH: Yes.

17 CHAIRMAN WINNER: And Commissioner --

18 COMMISSIONER RUANO: Yes.

19 CHAIRMAN WINNER: -- Ruano? Yes. Okay. The
20 measure passes unanimously.

21 Moving onto item number 12, discussion and action
22 by the Board regarding the proposed amendment to CHRB Rule
23 1588, Horse Ineligible to Start in a Race, to provide that a
24 horse that, one, has not started in a race for 12 months or
25 more from its previous start or, two, a first-time starter

1 four years of age of older is ineligible to start in a race
2 until such horse has performed satisfactorily in a workout
3 or qualifying race as described in CHRB Rule 1866(e) and
4 (f).

5 Rob?

6 MR. BRODNIK: Yes. So this is the rule that we
7 discussed yesterday at the Medication meeting. And during
8 that discussion there was some question as to what exactly a
9 qualifying race should be defined as. After that meeting, I
10 went and pulled the definitions from the ARCI. And I believe
11 that it was the Vice Chair Auerbach's recommendation to get
12 that definition for qualifying race worked out and then put
13 this on the next Board meeting in November so that everyone
14 can see the language as amended.

15 EXECUTIVE DIRECTOR BAEDEKER: I think it was -- I
16 thought it would be a better way to do it would be to go
17 ahead and, if the Board so chose, to move this.

18 MR. BRODNIK: Oh.

19 EXECUTIVE DIRECTOR BAEDEKER: And then simply go
20 back to one of our first rules that has the whole list of
21 definitions and what different things are and add a
22 definition for a qualifying race. A qualifying race is
23 specific to Standardbred racing, so we can put that
24 distinction in a definition. And I think that a better way
25 to do it in case, by some chance, there's another reference

1 to qualifying someplace. And so that would be covered by
2 the initial definition that would apply to everything that
3 follows. Am I right there?

4 MR. BRODNIK: Okay. So that would then be a
5 separate rule.

6 EXECUTIVE DIRECTOR BAEDEKER: So we could do
7 the -- we could go ahead and move this and then you could
8 come back next month.

9 VICE CHAIR AUERBACH: The only possible problem I
10 see with that, Rick, is what if there are other allusions to
11 qualified races that have nothing to do with this?

12 COMMISSIONER RUANO: No, let's wait. It needs to
13 come back.

14 VICE CHAIR AUERBACH: You know what I mean?

15 COMMISSIONER RUANO: Yeah.

16 VICE CHAIR AUERBACH: Are there other places? And
17 I haven't read the rules that carefully or I don't -- I
18 wouldn't remember. There might be other places where there
19 are qualified races for, you know, certain conditions. That
20 would be my concern with doing it that way.

21 EXECUTIVE DIRECTOR BAEDEKER: Is it a fair
22 statement, Doc, that as far as this is concerned, what we're
23 talking about is a Standardbred qualifying race?

24 EQUINE MEDICAL DIRECTOR ARTHUR: Yes. That has
25 always been the interpretation as they don't have workouts

1 in Standardbreds, they have qualifying races.

2 EXECUTIVE DIRECTOR BAEDEKER: So --

3 EQUINE MEDICAL DIRECTOR ARTHUR: And that's how
4 those horses are worked off the list. And that's what the
5 intention is for this.

6 I will say that you can simply solve this by
7 eliminating qualifying race because, for the most part,
8 we've had one Standardbred break down in the last four
9 years. And I really haven't followed them closely enough to
10 know whether we ever get horses back off a year or whether
11 we have four-year-old maidens. So --

12 EXECUTIVE DIRECTOR BAEDEKER: Another way is --

13 EQUINE MEDICAL DIRECTOR ARTHUR: -- it's a pretty
14 minor issue.

15 EXECUTIVE DIRECTOR BAEDEKER: Yeah. But another
16 way, if you look at 12-6, page 12-6, which is the proposed
17 language, I think we can simply insert the word
18 Standardbred, so it says until the horse has performed
19 satisfactorily in a workout or Standardbred qualifying race.

20 EQUINE MEDICAL DIRECTOR ARTHUR: That would work.

21 VICE CHAIR AUERBACH: That would take care of it.

22 CHAIRMAN WINNER: Yeah.

23 MR. BRODNIK: Yeah.

24 CHAIRMAN WINNER: Okay.

25 EXECUTIVE DIRECTOR BAEDEKER: I like that change.

1 VICE CHAIR AUERBACH: I like that than the other
2 one.

3 CHAIRMAN WINNER: I do too. So can we make a
4 motion with that amendment?

5 ASSISTANT EXECUTIVE DIRECTOR WAGNER: Yes.

6 CHAIRMAN WINNER: And it's going out for 45 days
7 anyway; correct?

8 ASSISTANT EXECUTIVE DIRECTOR WAGNER: Right.

9 MR. BRODNIK: Correct.

10 CHAIRMAN WINNER: All right. Is there a motion?

11 COMMISSIONER SOLIS: Move.

12 CHAIRMAN WINNER: Commissioner Solis moves
13 adoption with the amending of adding the word Standardbred,
14 as suggested by Executive Director Baedeker.

15 Do you second?

16 VICE CHAIR AUERBACH: Yes.

17 CHAIRMAN WINNER: Vice Chair Auerbach seconds.
18 Commissioner Ruano?

19 COMMISSIONER RUANO: Yes.

20 CHAIRMAN WINNER: Vice Chair Auerbach?

21 VICE CHAIR AUERBACH: Yes.

22 CHAIRMAN WINNER: The Chairman votes yes.

23 COMMISSIONER SOLIS: Yes.

24 CHAIRMAN WINNER: Commissioner Solis votes yes.

25 It passes unanimously.

1 Is there a motion to adjourn?

2 VICE CHAIR AUERBACH: Yes.

3 CHAIRMAN WINNER: Thank you. Thanks all for
4 coming. Thank you.

5 (The meeting of the California Horse Racing Board
6 adjourned at 11:12 a.m.)

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