

CALIFORNIA HORSE RACING BOARD
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REGULAR MEETING

of the California Horse Racing Board will be held on Thursday, December 16, 2010, commencing at 9:30 a.m., in the Baldwin Terrace Room at the Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California. The audio portion only of the California Horse Racing Board regular meeting will be available online through a link at the CHRB website (www.chrb.ca.gov) under "Webcasts."

AGENDA

Action Items:

1. Approval of the minutes of November 9, 2010.
2. **Public Comment:** Communications, reports, requests for future actions of the Board. **Note:** Persons addressing the Board under this item will be restricted to three (3) minutes for their presentations.
3. Public hearing and action by the Board regarding the proposed amendment of CHRB Rule 1974, Wagering Interest, to 1) provide that the withdrawal of one horse from a wagering interest that consists of more than one horse constitutes the withdrawal of the coupled entry or field and any horse remaining in the coupled entry or field shall run as a non-wagering interest for the purse only, and 2) to provide that a horse that is removed from the wagering pool in error shall run as a non-wagering interest for purse only, and the following affected regulations: CHRB Rule 1954.1; Parlay Wagering on Win, Place or Show; 1957, Daily Double; 1959, Special Quinella (Exacta); 1976, Unlimited Sweepstakes; 1976.8, Pick (n) Pool; 1977, Pick Three; 1978, Select Four; 1979, Trifecta and 1979.1, Superfecta.
4. Discussion and action by the Board regarding the proposed addition of CHRB Rule 1500.1, Jockey/Driver Subject to Testing, to require random drug testing of jockeys, apprentice jockeys and drivers and the proposed amendment to CHRB Rule 1498, Physical Examination, to require drug screening during the annual jockey/driver physicals.
5. Discussion and action by the Board regarding a report from the California Marketing Committee (CMC) regarding its marketing and promotion plans and the CMC's request to adjust the 0.2% distribution to the CMC, to 0.25% effective January 1, 2011, pursuant to Business and Professions Code section 19605.73(c).

6. Discussion and action by the Board regarding the **statutory interpretation of SB 1072 (Calderon), Chapter 283, Statutes of 2010, as to that portion of the law (Business and Professions Code section 19601.02(a) (b) (c) and (d)) directed at increasing the overnight purses.**
7. Discussion and action by the Board on the **Application for Approval to Conduct Advance Deposit Wagering (ADW) of ODS Technologies, L.P., dba TVG, for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.**
8. Discussion and action by the Board on the **Application for Approval to Conduct Advance Deposit Wagering (ADW) of Churchill Downs Technology Initiatives Company, dba Twinspires.com, for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.**
9. Discussion and action by the Board on the **Application for Approval to Conduct Advance Deposit Wagering (ADW) of Youbet.com, Inc., for a California multi-jurisdictional wagering hub and approval for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.**
10. Discussion and action by the Board on the **Application for License to Conduct Advance Deposit Wagering (ADW) of XpressBet, LLC, dba XpressBet.com, DelMarBets.com and OakTreeBets.com for a California multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.**
11. Discussion and action by the Board regarding a **report from San Luis Rey Downs concerning the subsidy from the Southern California Off-Track Wagering, Inc. (SCOTWINC) stabling and vanning fund.**
12. Discussion and action by the Board regarding a **report and update from the Commerce Club minisatellite wagering facility regarding its future plans for the facility.**
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.
 - 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," as authorized by Government Code section 11126(e).
 - B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).

Additional information regarding this meeting may be obtained from the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, CA 95825; telephone (916) 263-6000; fax (916) 263-6042. This notice is located on the CHRB website at www.chrb.ca.gov. *Information for requesting disability related accommodation for persons with a disability who require aid or services in order to participate in this public meeting, should contact Jacqueline Wagner.

CALIFORNIA HORSE RACING BOARD

Keith Brackpool, Chairman
David Israel, Vice Chairman
Jesse H. Choper, Member
Bo Derek, Member
John C. Harris, Member
Jerry Moss, Member
Richard Rosenberg, Member
Kirk E. Breed, Executive Director

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PENDING LITIGATION
DECEMBER 2010

CASE

- A. Jamgotchian, Jerry v. CHRB, Kirk Breed and Ingrid Fermin
Los Angeles County Superior Court of California, Case No. BS123038

- B. Glen Hill Farm, LLC v. CHRB, et al.
Los Angeles County Superior Court of California, Case No. BS116655
Court of Appeal of the State of California Second Appellate District Division One,
Case No. B221010

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PENDING ADMINISTRATIVE ADJUDICATIONS
DECEMBER 2010

CASE

A. MI Developments, Inc.

B. Accusation and Petition to Revoke Probation:

Trainer Jeff Mullins

OAH Case No. L2007010483

CHRB Case No. 06DM011

PROCEEDINGS of the Regular Meeting of the California Horse Racing Board held at the Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California, on November 9, 2010.

Present: Keith Brackpool, Chairman
David Israel, Vice-Chairman
Jesse H. Choper, Member
Bo Derek, Member
Jerry Moss, Member
Richard Rosenberg, Member
Kirk E. Breed, Executive Director
Robert Miller, Staff Counsel

MINUTES

Chairman Brackpool asked for approval of the minutes of the Regular Meeting of September 23, 2010. Vice-Chairman Israel motioned to approve the minutes. Commissioner Rosenberg seconded the motion, which was unanimously carried. Chairman Brackpool asked for approval of the minutes of September 10, 2010. Commissioner Choper motioned to approve the minutes. Commissioner Derek seconded the motion, which was unanimously carried.

PUBLIC COMMENT

Douglas Kempt of the Pari-Mutuel Employee's Guild Local 280 congratulated Commissioner Moss on the success of his racehorse, Zenyatta. He stated those involved in California's horse racing industry should let the national horse racing media know the mare Zenyatta was horse of the year, and that California horse racing mattered. Ron Caswell, an attorney, spoke about the requirements of the Administrative Procedures Act, and the obligation of the CHRB to adhere to the law. Mr. Caswell also spoke about his dealings with the Thoroughbred Owners of California (TOC). Jerry Jamgotchian, a horse owner, spoke about his legal proceedings against the TOC. Laura Rosier of San Luis Rey Downs (SLRD) spoke about her organization and its value to the

Proceedings of the Regular Meeting of November 9, 2010

industry. She also spoke about SLRD's quest to receive vaning and stabling funds from Southern California Off-Track Wagering, Inc. Madeline Auerbach of TOC congratulated Commissioner Moss on the success of his mare, Zenyatta. She commented that certain individuals within the industry spent a lot of time and effort in conflict, which did not help the sport; it would benefit horse racing if they could figure out a way to work together. Commissioner Choper stated the CHRB expenditure report showed spending was down by approximately \$1 million. He asked how that occurred. Richard Smith, CHRB staff, said the lengthy delay in enacting a State budget prevented the CHRB from paying expenditures for contracts and nonessential items. The expenditures shown on the report were up-to-date for personnel expenses and line items; other expenditures would be reflected at a later date.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE DISTRIBUTION OF RACE DAY CHARITY PROCEEDS OF THE LOS ANGELES TURF CLUB IN THE AMOUNT OF \$158,706, TO 35 BENEFICIARIES.

Frank DeMarco of the Los Angeles Turf Club (LATC) stated 74 percent of the requested race day charity proceeds distribution was to horse racing related charities. The remainder of the requested distribution was to local charities. He commented LATC was indebted to the City of Arcadia, so the racing association gave funds to local charities and non-profit organizations. Chairman Brackpool **motioned** to approve the request by the LATC to distribute race day charity proceeds to 35 beneficiaries. Commissioner Derek **seconded** the motion, which was **unanimously carried**.

Proceedings of the Regular Meeting of November 9, 2010

PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED ADDITION OF CHRB RULE 1581.2, SUSPENDED TRAINER MAY ENTER HORSES, TO ALLOW SUSPENDED TRAINERS TO ENTER A HORSE TO RACE DURING THE TIME OF SUSPENSION PROVIDED THE RACE OCCURS SUBSEQUENT TO THE LAST DAY OF SUSPENSION.

Jacqueline Wagner, CHRB staff, said the proposed addition of Rule 1581.2, Suspended Trainer May Enter Horses, would allow a trainer who is under suspension to enter horses to race, provided the races occurred after the trainer's term of suspension and provided the stewards allowed the entries. During the 45-day public comment period the California Thoroughbred Trainers (CTT) stated it had two concerns regarding the proposal. The first concern was the concept that the surrogate trainer could be cited for a violation in addition to the trainer of record. The CTT proposed that it should be stipulated that if a complaint was brought against the reinstated trainer, no additional complaints would be brought against the surrogate trainer. Ms. Wagner stated there currently was no mechanism for making such a stipulation. In addition, it might affect the reinstated trainer's ability to mount a defense to a complaint. The CTT also objected to language in the proposed rule that would allow the stewards or the Board to deny a suspended trainer the ability to enter a horse. Ms. Wagner said the provision was not a new concept. Under Board Rules 1542, Power to Refuse Entry and Deny Eligibility, and Rule 1580, Control Over Entries and Declarations, the stewards had the ability to deny an entry should they see fit. Carlo Fisco of the CTT stated his organization supported the proposed regulation. He added that current practice was that a single citation was issued in cases of drug overages – though there may have been others in a barn directly responsible. The CTT did not have a problem with the issue as the rule was written. However, the CTT wanted to clarify the point that the discretion written into Rule 1581.2 did not apply to the narrow issue of whether the trainer on race day was suspended or not. The rule would be more focused if it were written to

Proceedings of the Regular Meeting of November 9, 2010

state: "...and unless denied such privileges on separate grounds by the stewards or the Board pursuant to Rule 1580." The CTT could not envision a situation where there would be an instance that would allow the stewards to exercise discretion where the trainer was not on suspension; for entry purposes one is either on suspension or one is not on suspension. Mr. Fisco stated the CTT did not have a problem with the regulation, but it could be more in tune with what actually happened on an everyday basis. Vice-Chairman Israel said another concern was the legality of any waiver the reinstated trainer may sign to waive liability for the surrogate trainer. He asked if that were legal, or if there was a way to reconsider the language of the regulation so a waiver could be obtained. Staff Counsel Robert Miller stated the issue would have to be reviewed and studied. Vice-Chairman Israel said the CTT's concerns should be taken into consideration, and it should be determined if a waiver was possible. Chairman Brackpool stated he was concerned about liability and whether a waiver would be enforceable. The Board did not wish to promulgate a regulation that resulted in its inability to prosecute a violation. However, he said he was still concerned with the inequity that resulted from a trainer's inability to enter horses in races that occurred after his term of suspension. Chairman Brackpool stated the item would be deferred for further consideration at a future Regular Meeting.

Proceedings of the Regular Meeting of November 9, 2010

PUBLIC HEARING AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1876, FINANCIAL RESPONSIBILITY, TO 1) REQUIRE THAT ALL FINANCIAL RESPONSIBILITY COMPLAINTS, EXCEPT THOSE SUBMITTED AS HORSE RACING RELATED WAGE DISPUTES, INCLUDE A CALIFORNIA CIVIL COURT JUDGMENT; 2) PROVIDE THAT FINANCIAL RESPONSIBILITY COMPLAINTS FROM EQUINE MEDICAL HOSPITALS; HORSE FARMS WHERE THE DEBT EXCEEDS \$1,000 AND BOARD AUTHORIZED THOROUGHBRED HORSE AUCTIONS, WILL BE CONSIDERED IF THE DEBTS ARE DIRECTLY RELATED TO THE CALIFORNIA HORSE RACING OPERATIONS OF A PERSON LICENSED BY THE BOARD.

Jacqueline Wagner, CHRB staff, said the proposed amendment to Board Rule 1876, Financial Responsibility, would require that all financial responsibility complaints, except those submitted as horse racing related wage disputes, include a California civil court judgment. In addition, financial complaints from equine medical hospitals, horse farms where the debt exceeded \$1,000 and Board authorized thoroughbred horse auctions, would be considered if the debts were directly related to the California horse racing operations of a person licensed by the Board. The proposed amendment would exempt wage disputes between persons licensed by the Board from the civil court judgment requirement. Ms. Wagner stated that during the 45-day public comment period staff received a number of comments on the proposed regulation. The majority of the comments objected to the requirement that a California civil court judgment must be obtained before the Board would consider a financial responsibility complaint. Ms. Wagner stated that in light of the large number of comments, staff recommended the Board direct staff to modify the proposed amendment, and return with a new proposal for consideration. Karen Klawitter of Southern California Equine Foundation stated her organization objected to the civil court provisions of the proposed regulation. Dan Schiffer, an attorney, said he would support reworking the text of the proposed regulation. He also spoke about alternative methods of handling financial complaints. Commissioner Derek stated she agreed that the regulation might need to be examined in light of the opposition to the civil court judgment provisions.

Proceedings of the Regular Meeting of November 9, 2010

Commissioner Rosenberg asked if one of the issues was the ability of the stewards to handle all of the financial responsibility complaints. Chairman Brackpool said the complaints were absorbing a lot of the stewards' time. That was why the Board needed to more precisely define the procedure for submitting such complaints. Commissioner Choper stated it should not take long to handle a financial complaint if a civil court judgment were obtained. That would mean the issue had been litigated by the proper authorities and was settled. Under those circumstances, the stewards should be able to calendar financial complaints and resolve them quickly. Commissioner Rosenberg stated it might be impractical for most creditors to keep filing small claims every time they had a complaint against a licensee. Vice-Chairman Israel commented if the Board had a mechanism in place to handle financial complaints it was unfair to burden the courts with small cases. Chairman Brackpool stated the item would be deferred until a future Regular Meeting, but he added he would like to see it return fairly quickly.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE APPROVAL OF THE JOCKEY PENSION FUND PLAN AS PRESENTED BY THE JOCKEY'S GUILD, INC. AND THE EXECUTIVE STAFF OF THE BOARD, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 19604.

Robert Miller, CHRB staff counsel, said in conjunction with Barry Broad representing the Jockey's Guild, the CHRB engaged the services of a legal firm to draft a defined contribution plan for California licensed jockeys as required by Business and Professions Code section 19604(i). Mr. Broad stated the plan was open to every jockey licensed by California. The funds directed to the plan under Business and Professions Code section 19604(i) would be divided by the number of starts to arrive at a per-race contribution, and for every start that dollar amount would be deposited into the individual jockey's account. The funds would then be collectively invested. CHRB staff currently had a Request For Proposal (RFP) circulating. Seven firms

Proceedings of the Regular Meeting of November 9, 2010

responded to the RFP, and in December 2010 one would be chosen to invest the funds. Mr. Broad commented the funds would be conservatively invested to produce income into the future. Jockeys would not have access to the funds in their individual accounts until they turned 50, or unless they became permanently disabled. Vice-Chairman Israel asked if there was a remedy for a jockey who was injured and lost a significant number of mounts. Mr. Broad said there was no remedy for such situations. Chairman Brackpool commented that would be a disability action, which was not covered by the jockey pension plan. Mr. Broad added the benefits were earned on a per mount basis, so there was no benefit if the jockey was not racing. In other sports, such as football, a player might be injured but still received retirement benefits because he was an employee. However, jockeys were independent contractors. Commissioner Moss asked if the plan covered all California licensed jockeys regardless of where they rode. Mr. Broad stated the plan covered all jockeys on an equal basis, and regardless of Jockey Guild affiliation. Commissioner Moss asked if there were a limit to administrative expenses on the fund. Mr. Broad stated there were no statutory limits, but the board of trustees would have a strong fiduciary interest in limiting them. Commissioner Moss asked if the trustees could guarantee that at least 95 percent of the plan would go to jockeys. Mr. Broad said the trustees would have to wait to see what the bidders were charging, and whether the cost could be driven down. Chairman Brackpool asked who was on the board of trustees. Mr. Broad said the trustees had yet to be named. Commissioner Rosenberg asked what the costs to get the plan drafted were. Mr. Miller stated the costs were around \$30,000 to \$40,000. The contract was between a law firm and the Jockey's Guild. He added the firm was chosen by the Jockey's Guild and CHRB staff, and it was the same firm that drafted revisions for California boxers under the auspices of the California Athletic Commission. Mr. Broad stated the plan would require an annual audit to

Proceedings of the Regular Meeting of November 9, 2010

be presented to the Board for its approval. Chairman Brackpool commented it would be crucial to have the Board approve the composition of the board of trustees. Chairman Brackpool motioned to approve the jockey pension fund plan pursuant to Business and Professions Code section 19604. Vice-Chairman Israel seconded the motion, which was unanimously carried.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE APPROVAL OF A NEW OFFICIAL VETERINARIAN CONTRACT, AND SAFETY PROJECT MANAGER CONTRACT EXTENSIONS.

Richard Smith, CHRB staff, said State contracting law required the Board to review and approve contracts in excess of \$5,000. The contract for the new official veterinarian would engage Dr. Forest Franklin, who was on the CHRB list of qualified candidates and was available to accept a northern region assignment. The contracts for two safety project managers were for the current contractors who were working on and conducting studies of track surfaces in accordance with an approved project to develop safety standards. Chairman Brackpool asked if the Board was actually approving the extension of the safety project managers for a term of six months, which would result in a cumulative term of 16 months. Mr. Smith said the entire term of the contract was 16 months, including the proposed six month extension. Commissioner Choper asked if the safety project managers would be full time employees. Kirk Breed, CHRB Executive Director, said they were contract employees, so under state law they worked at their discretion. Under the terms of the contract they would work at the direction of the Board, much like the stewards. Commissioner Derek motioned to approve the new official veterinarian contract and safety project manager contract extensions. Commissioner Rosenberg seconded the motion, which was unanimously carried.

Proceedings of the Regular Meeting of November 9, 2010

DISCUSSION AND ACTION BY THE BOARD REGARDING A REQUEST FROM MI DEVELOPMENTS, INC. TO WAIVE THE PROVISIONS OF CHRB RULE 1433(B) APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING, WHICH PROVIDES THAT NO RACING ASSOCIATION THAT OPERATES FOUR WEEKS OR MORE OF CONTINUOUS THOROUGHBRED RACING IN A CALENDAR YEAR SHALL BE LICENSED TO CONDUCT A HORSE RACING MEETING AT A FACILITY THAT HAS NOT INSTALLED A POLYMER SYNTHETIC TYPE RACING SURFACE.

Chairman Brackpool stated the item had been discussed over the past year. He asked MI Developments, Inc. (MID) to give an update regarding its proposal for a new racing surface at the Santa Anita Park Race Track (SA). Scott Daruty of MID stated there was a couple of factors taken into account in converting the SA racing surface back to natural dirt. The first item was that SA did not wish to simply recreate the surface that existed prior to the installation of the current synthetic track. So, SA looked at today's technology and experience and what experts were reporting as a state-of-the-art dirt racing surface. SA undertook a collaborative process with many meetings with horsemen, CHRB staff and with input from experts in the field of soils and race tracks. The idea was to capture as much information as possible prior to making a decision. Mr. Daruty said there were many opinions, so SA tried to take into account all of the different conclusions. In deciding the type of dirt surface to install SA undertook an analysis of the one-layer surface and the two-layer surface. SA also looked at a hybrid surface that took some of the characteristics of both the one-layer and the two-layer surfaces. Ultimately, SA decided on the hybrid construction. The decision was made with input from the California Thoroughbred Trainers (CTT) and the CHRB. A letter of agreement was produced and was signed by the CTT, CHRB, Thoroughbred Owners of California and SA. Following the decision to install a hybrid dirt racing surface, SA moved to determine the kinds of materials it would use. As many as 50 different soil samples were tested. The final selections were plotted at SA in large enough plots for persons to walk on and feel. The samples were watered and tested for

Proceedings of the Regular Meeting of November 9, 2010

their reactions to different temperatures. The final samples were also tested and technical readings were taken to learn how they handled temperature and moisture variations. The final soil was selected with input from the CTT and the CHRB, and while there was no unanimity, there was a strong consensus. Mr. Daruty stated that if the Board were to grant a waiver of Rule 1433(b), Application for License to Conduct a Horse Racing Meeting, SA would almost immediately begin trucking in dirt. The base would be completely redone to ensure it was highly compacted and precisely graded. The key in setting the base was to make sure it was uniform and consistent and at the proper grade. SA was sparing no expense to make sure the base was done properly. Ground penetrating sonar would be used to check the track to ensure it was uniform and consistent, and so problems could be identified before the cushion material was laid down. After the base was laid the cushion material would be introduced. It was a mix of clay and different sands, and of the 50 samples tested, it was identified as the best mixture. The cushion material was being mixed specifically for the SA track. The installation of the dirt track would be completed the first week of December 2010, and the track would be opened for training. To maintain the new surface SA purchased a precision laser guided grader. The grader would be guided using GPS so the track would maintain the grade as it was designed. In addition to the grader, SA purchased new water trucks and harrows. In all, close to \$1 million in new equipment was purchased to maintain the new dirt surface. Alan Balch of CTT stated his organization endorsed the SA application for a waiver to install a natural dirt surface. He said CTT favored a two-layer track, but it agreed to the installation of the hybrid track because it would incorporate the ability to modify the cushion to install a two layer design if experience demonstrated a need for such a surface. Mr. Balch stated CTT was intimately involved with the process, and it trusted that SA would end up with the best racing surface in North America.

Proceedings of the Regular Meeting of November 9, 2010

Commissioner Moss **motioned** to waive the provisions of Rule 1433(b) to allow MID to install a natural dirt racing surface at SA. Commissioner Derek commented that it might be appropriate to arrange for an extra veterinarian to help with pre-race examinations, as there were many thoroughbreds in California that had not raced on a dirt surface. George Haines of SA agreed that as a condition of approval for license his organization would provide an extra veterinarian. Chairman Brackpool stated in the spirit of doing everything to demonstrate that safety was a paramount issue an extra veterinarian would be good. He added at the conclusion of the meeting the Equine Medical Director could report on the advantages of having an extra veterinarian. Vice-Chairman Israel **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD REGARDING A FINDING PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTIONS 19483 AND 19484, THAT MI DEVELOPMENTS, INC. OWNERSHIP OF SANTA ANITA PARK RACE TRACK, GOLDEN GATE FIELDS AND EXPRESSBET BETTER SERVES THE PURPOSES OF BUSINESS AND PROFESSIONS CODE, DIVISION 8, CHAPTER 4 (HORSE RACING LAW).

Chairman Brackpool stated the item was last heard at the September 2010 Regular Meeting. There were seven outstanding conditions that needed to be resolved before a waiver could be granted. The first condition was making sure the CHRB was given stand alone financials for the race tracks rather than consolidated MID financials. That was critical because of the size of MID compared to Santa Anita (SA). It was also unjust to allow consolidated financials where there were tracks that operated as sole-purpose entities. A second condition was a cash bond to be placed in the event that any payments were not made on an obligated basis by any of the MID entities. The purpose of the bond was to give confidence that there was stability under the new ownership, and to ensure the maintenance of any new racing surface. A two-year bond in the amount of \$1.75 million was negotiated. Hopefully, at the end of the two-year period, mutual

Proceedings of the Regular Meeting of November 9, 2010

trust and an understanding of exactly how the track would be maintained would render the issue moot. The third condition was the maintenance of the new racing surface, which included the permanent elevation grades and the regular necessary maintenance provisions such as watering, soil testing and sampling. A comprehensive track maintenance agreement was reached. The fourth condition was that SA remains open as a training facility when there was not a live race meeting at the track. Chairman Brackpool said SA would stay open for training purposes, with compensation from the vanning and stabling fund. The fifth condition stipulated that if MID were to divest itself of any of the three entities, the waiver would be revisited. The sixth condition involved the expansion of the broadcasting of the California horse racing signal. If SA were awarded race dates in addition to the winter meet it would have to demonstrate to the Board's satisfaction that the distribution of the signal was significantly increased, or it would have to offer the signal on a non-exclusive basis. The seventh condition was the settlement of outstanding monies owed to various entities following the MEC bankruptcy. The Southern California Off-Track Wagering, Inc. funds were resolved and distributed, and a 90-day provision regarding the Northern California Off-Track Wagering, Inc. (NCOTWINC) funds was established. If, within 90-days the NCOTWINC issues were not resolved, the item would return to the Board. Chairman Brackpool stated the level of cooperation of all the parties should be recognized. The combination of the conditions, the new racing surface at SA and increases in purse money were cause for optimism. Scott Daruty of MID said his organization appreciated the Board's cooperative effort. MID was happy with the conditions and was looking forward to a successful meeting. Chairman Brackpool motioned to waive the prohibitions set forth in Business and Professions Code sections 19483 and 19484 as to the ownership by MID of Santa

Proceedings of the Regular Meeting of November 9, 2010

Anita Park, Los Angeles Turf Club, Inc., Golden Gate Fields, Pacific Racing Association and XpressBet as the Board found that the purposes of the Horse Racing Law would be better served, thereby subject to the conditions of the waiver stated in the November 7, 2010 letter addressed to Scott Daruty, MID from Kirk E. Breed, Executive Director of the CHRB. Commissioner Choper seconded the motion, which was unanimously carried.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE AMENDMENT TO PACIFIC RACING ASSOCIATION'S APPLICATION FOR AUTHORIZATION TO OPERATE A SIMULCAST WAGERING FACILITY TO UPDATE THE APPLICATION TO REFLECT MI DEVELOPMENTS, INC. AS THE CURRENT PARENT COMPANY OF THE PACIFIC RACING ASSOCIATION.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE AMENDMENT TO LOS ANGELES TURF CLUB'S APPLICATION FOR AUTHORIZATION TO OPERATE A SIMULCAST WAGERING FACILITY TO UPDATE THE APPLICATION TO REFLECT MI DEVELOPMENTS, INC. AS THE CURRENT PARENT COMPANY OF THE LOS ANGELES TURF CLUB.

Jacqueline Wagner, CHRB staff, said the amendment to the Pacific Racing Association (PRA) and the Los Angeles Turf Club's (LATC) applications for authorization to operate simulcast wagering facilities were a formality to recognize the new ownership of MI Developments, Inc. (MID). Ms. Wagner stated PRA and LATC submitted applications, and staff recommended the Board approve the applications as presented. Chairman Brackpool motioned to approve the applications. Vice-Chairman Israel seconded the motion, which was unanimously carried. Commissioner Choper asked if the items noted in the staff analysis were not updated because the time was not right for them to come due. Ms. Wagner said that was correct. Commissioner Choper asked if a new simulcast agreement with Southern California Off-Track Wagering, Inc. was reached. Ms. Wagner said staff had not received the agreement, but there would be follow-up to ensure it was received.

Proceedings of the Regular Meeting of November 9, 2010

DISCUSSION AND ACTION BY THE BOARD REGARDING THE ALLOCATION OF THE NORTHERN AND SOUTHERN CALIFORNIA THOROUGHBRED RACE DATES FOR 2011.

Chairman Brackpool stated he received correspondence that indicated the California Authority of Racing Fairs (CARF) and Golden Gate Fields (GGF) were in agreement on the 2011 Northern California racing calendar. Chris Korby of CARF said that was correct. Robert Hartman of GGF stated there were three issues that were resolved. The first issue was whether Pleasanton would take certain race dates in March and April 2011. After discussion, Pleasanton declined the dates, so they would revert back to GGF. The second issue was the Humboldt County Fair's (HCF) desire to run un-overlapped. The parties determined that HCF would run without overlap on August 17 and 18, 2011 and on August 19 through August 21, 2011, GGF and HCF would run concurrently. The commission would be split on August 19, 2011, which would result in 2.5 days to HCF and 2.5 days to GGF. Mr. Korby commented the San Joaquin County Fair accepted the one week in June as proposed at the September 2010 Regular Board Meeting. Stuart Titus of HCF stated his organization agreed to the 2011 racing dates proposal, which it made in good faith. Although HCF believed the 2011 race dates would not match the 2010 race meeting, it would manage the situation to the best of its ability. Mr. Titus continued with a lengthy analysis of the positive aspects of the HCF 2010 race meeting – which he stated were beneficial for HCF and Northern California racing in general. Chairman Brackpool said the proposed 2011 race dates were a hybrid which was a preferred solution that would give HCF a couple of great race days, and that would provide financial compensation. He stated he would like to see the financial results for GGF and HCF when the 2011 meetings concluded. Chairman Brackpool said the Board supported continued racing at HCF, but it had to be done in a way that was not detrimental to horsemen's purses. He added the Board thanked HCF for its cooperation. Alan

Proceedings of the Regular Meeting of November 9, 2010

Balch of the California Thoroughbred Trainers (CTT) and Guy Lamothe of Thoroughbred Owners of California (TOC) stated their organizations supported the proposed Northern California 2011 race dates calendar. Chairman Brackpool **motioned** to adopt the 2011 racing calendar for Northern California submitted by GGF in conjunction with CARF. Commissioner Rosenberg **seconded** the motion, which was **unanimously carried**. Chairman Brackpool asked to hear from the CTT and TOC regarding the proposed 2011 Southern California thoroughbred race dates. Mr. Balch of the CTT stated his organization submitted a letter requesting additional time for the 2011 fall Southern California racing dates. There were many complicated issues and a lot of data to be evaluated. There was the issue of Oak Tree Racing Association and its impact on the current Hollywood Park meeting, as well as a potential change at Del Mar. Mr. Balch said the CTT requested a decision regarding the 2011 fall Southern California racing dates be deferred. Guy Lamothe of the TOC stated his organization agreed with the CTT and it also requested that a decision be deferred. Commissioner Choper **motioned** to defer the issue of 2011 fall Southern California race dates until the next Regular Meeting. Chairman Brackpool said he did not wish to set over the entire Southern California calendar because the next issue on the agenda was the application for license to operate a race meeting at Santa Anita Park Race Track. He commented there was still discussion to be held on the fall 2011 Southern California racing calendar, but there did not seem to be any concern regarding the initial 2011 Southern California racing calendar. Chairman Brackpool **motioned** to adopt the 2011 Southern California racing calendar submitted by the Los Angeles Turf Club, Hollywood Park Racing Association and the Del Mar Thoroughbred Club through the conclusion of the Del Mar Thoroughbred Club meeting, which would be September 7, 2011. Commissioner Choper **seconded** the motion, which was **unanimously carried**. Mr. Balch stated there was confusion

Proceedings of the Regular Meeting of November 9, 2010

among the horsemen regarding the allocation of dates versus the number of days to be raced by each association. However, that would be part of the license application process. The CTT would like to have a voice in deciding which days would be raced. The CTT understood that the TOC was the official horsemen's organization, but trainers were the closest to the supply of horses and conditions for racing four, five or six-day weeks. Chairman Brackpool commented the Board only approved the broad calendars. Each racing association would return with specific proposals that would be accompanied by a TOC and CTT agreement. Mr. Balch stated the CTT understood how the process worked. He simply wanted to emphasize that the application process would be easier with more CTT involvement. Commissioner Rosenberg asked if the CTT wished to be involved in the purse agreements. Mr. Balch stated that was correct. It was a separate agreement and the CTT would like to be more involved – particularly with the number of race days and other issues where it could bring experience to the table. The industry did not want racing days canceled and schedules changed at the last minute. Chairman Brackpool said the Board understood, but the CTT's comments should be addressed to the associations and the TOC as well.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE LOS ANGELES TURF CLUB (T) AT SANTA ANITA, COMMENCING DECEMBER 26, 2010 THROUGH APRIL 17, 2011, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the Los Angeles Turf Club (LATC) proposed to run at Santa Anita Park Race Track (SA) December 26, 2010 through April 17, 2011, or 76 days, two days less than in 2010. The first post time would be 1:00 p.m. The advance deposit wagering providers would be XpressBet, Youbet, Twin Spires and TVG. Ms. Wagner noted the worker's compensation policy and the vanning and stabling agreement would need to be updated during

Proceedings of the Regular Meeting of November 9, 2010

the course of the race meeting. Staff recommended the Board approve the application conditioned on receipt of the missing items. George Haines of LATC stated that pursuant to recent legislation, the overnight purses at LATC would be increased by as much as 25 percent. Mr. Hanes commented LATC was anxious to return to live racing. He briefly described an increase in interest in the LATC meeting, and stated LATC had a lot of great marketing ideas. Vice-Chairman Israel asked if LATC was considering night racing. Mr. Haines stated LATC was preparing to talk to the city about night racing, but it was not prepared to go to night racing during the 2011 winter meeting. There was a lot of work to do with the city, and it was an extensive project to install lights. Vice-Chairman Israel noted the non-overnight stakes were down over \$541,000 from the 2010 meeting. He asked what caused the difference. Mike Harlow of LATC said his organization reintroduced a few stakes that were eliminated in 2010. So, the numbers went up. However, through negotiations with the Thoroughbred Owners of California (TOC), LATC's non-overnight stakes were very even with the 2010 stakes. Guy Lamothe of the TOC stated his organization was excited about the LATC meeting, the increase in overnight purses and the new racing surface. Chairman Brackpool commented an ongoing issue was increasing purses for stakes races. He stated the issue would take time, but quite a lot had been accomplished over the past months. He asked that the industry turn its focus to a real improvement in the stakes program. The increase in the overnight purses would help California remain competitive, but the industry could not rest on that accomplishment, and it needed to get the stakes program going. Mr. Lamothe stated on a few key races California would be top in the country. The TOC appreciated the creativity in sponsorship, especially through the Preakness 5.5 program and the Black Eyed Susan 2.2 bonus program, which would be supplementing certain stakes races at LATC and Golden Gate Fields. Commissioner Moss asked how the

Proceedings of the Regular Meeting of November 9, 2010

LATC barn rebuilding program was working. Mr. Haines stated the race track project was temporarily overshadowing the barn rebuilding program. LATC was concerned about taking over 100 stalls out of service during the live race meeting, so the project might start in April 2011. Mr. Haines added the design and permitting process was progressing so rebuilding could commence in the spring. Chairman Brackpool motioned to approve the application by LATC for license to conduct a horse racing meeting at SA, conditioned on receipt of the missing items. Vice-Chairman Israel seconded the motion, which was unanimously carried.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE PACIFIC RACING ASSOCIATION (T) AT GOLDEN GATE FIELDS, COMMENCING DECEMBER 26, 2010 THROUGH JUNE 17, 2011, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the Pacific Racing Association (PRA) proposed to run at Golden Gate Fields (GGF) December 26, 2010 through June 12, 2011, or 104 days, one day less than in 2010. The first post time would be 12:45 p.m. The advance deposit wagering providers would be XpressBet, Youbet, Twin Spires and TVG. The PRA would need to update its Berkeley fire clearance, worker's compensation insurance and the vaning and stabling agreement. Ms. Wagner stated staff recommended the Board approve the application contingent on receipt of the missing items. Robert Hartman of GGF expressed his organization's enthusiasm for the proposed meeting. He commented the excitement over the LATC meeting would also affect GGF, as many of its patrons liked to wager on the Southern California product. Mr. Hartman briefly explained GGF's marketing campaign, and he stated GGF was hoping to open a minisatellite wagering facility in Pleasant Hill. He commented GGF had identified two additional sites in San Francisco that it hoped to open in the future. Commissioner Moss asked if there would be a problem with the 20-mile radius rule. Mr. Hartman said there would be no

Proceedings of the Regular Meeting of November 9, 2010

problems as the San Mateo County Fair waived the requirement. Guy Lamothe of the Thoroughbred Owners of California (TOC) stated his organization was in agreement with PRA and endorsed the application. Chairman Brackpool **motioned** to approve the application by PRA for license to operate a horseracing meeting at GGF, conditioned on receipt of the missing items. Vice-Chairman Israel **seconded** the motion, which was **unanimously carried**.

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE CALIFORNIA EXPOSITION AND STATE FAIR HARNESS ASSOCIATION (H) AT CAL-EXPO, COMMENCING DECEMBER 30, 2010 THROUGH JUNE 18, 2011, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the Cal-Expo and State Fair Harness Association (CSFHA) proposed to operate a race meeting at Cal-Expo from December 30, 2010 through June 18, 2011, or 75 days, five more days than in 2010. The first post time would be 5:45 p.m. and the advanced wagering providers would be Youbet, XpressBet, Twin Spires and TVG. Ms. Wagner stated the final stakes schedule was missing and staff recommended the Board approve the application contingent on receipt of the missing item. Dave Elliott of CSFHA said the stakes schedule had not been formalized, but he did not foresee any problems with the item. Commissioner Rosenberg **motioned** to approve the application by CSFHA to operate a race meeting at Cal-Expo. Commissioner Derek **seconded** the motion, which was **unanimously carried**.

Proceedings of the Regular Meeting of November 9, 2010

DISCUSSION AND ACTION BY THE BOARD ON THE APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE LOS ALAMITOS QUARTER HORSE RACING ASSOCIATION (Q) AT LOS ALAMITOS RACE COURSE, COMMENCING JANUARY 1, 2011 THROUGH DECEMBER 18, 2011, INCLUSIVE.

Jacqueline Wagner, CHRB staff, said the Los Alamitos Quarter Horse Racing Association (LAQHRA) proposed to operate a race meeting at Los Alamitos Race Course (LARC) from January 1, 2011 through December 18, 2011, or 151 days, 52 days less than in 2010. The first post time would be 7:00 p.m. and the advance deposit wagering provider would be TVG. The fire clearance and the worker's compensation insurance policy would need to be updated during the course of the race meeting. Ms. Wagner stated staff recommended the Board approve the application contingent on receipt of the missing items. Rick English of LAQHRA said the reduction in racing days was due to the fact that racing would occur only three days a week. The reduction in race days was a result of the horse inventory. Chairman Brackpool commented the application for license was in the process of being amended. He stated his only problem with approving the LAQHRA application for license was that the amended application would come into effect in 2011, and the LAQHRA license was for one year. That would make it difficult to catch up with any of the changes in the application. Robert Miller, CHRB staff counsel, said the Board could approve the application subject to revisiting it at a future date. Mr. English stated LAQHRA would comply with any standards for other racing associations. Chairman Brackpool motioned to approve the application for license by LAQHRA to operate a race meeting at LARC, conditioned on receipt of the missing items, and subject to the Board adopting subsequent uniform conditions that would apply to California horse racing associations. Commissioner Rosenberg seconded the motion, which was unanimously carried.

MEETING ADJOURNED AT 12:26 P.M.

Proceedings of the Regular Meeting of November 9, 2010

A full and complete transcript of the aforesaid proceedings are on file at the office of the California Horse Racing Board, 1010 Hurley Way, Suite 300, Sacramento, California, and therefore made a part hereof.

Chairman

Executive Director

CALIFORNIA HORSE RACING BOARD

DECEMBER 16, 2010
REGULAR BOARD MEETING

There is no board package material for Item 2

STAFF ANALYSIS
PUBLIC HEARING AND ACTION BY THE BOARD REGARDING
THE PROPOSED AMENDMENT TO
CHRB RULE 1974, WAGERING INTEREST,
TO 1) PROVIDE THAT THE WITHDRAWAL OF ONE HORSE FROM
A WAGERING INTEREST THAT CONSISTS OF MORE THAN ONE HORSE
CONSTITUTES THE WITHDRAWAL OF THE COUPLED ENTRY OR FIELD
AND ANY HORSE REMAINING IN THE COUPLED ENTRY OR FIELD SHALL
RUN AS A NON-WAGERING INTEREST FOR THE PURSE ONLY, AND 2) TO
PROVIDE THAT A HORSE THAT IS REMOVED FROM THE WAGERING POOL
IN ERROR SHALL RUN AS A NON-WAGERING INTEREST FOR PURSE ONLY

Regular Board Meeting
December 16, 2010

BACKGROUND

Business and Professions Code section 19420 provides that the Board shall have jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 provides that the Board may prescribe rules, regulations, and conditions under which all horse races with wagering on their results shall be conducted in this State. Board Rule 1606, Coupling of Horses, states that two or more horses shall be coupled as a single wagering interest and as an entry when such horses are owned in whole or in part by the same person or persons. Horses are exempt from coupling when two or more thoroughbred horses are owned by different partnership whose compositions are not mirror images are entered in the same race and there is at least one partner who has ownership interest in each partnership. Quarter horses are not subject to coupling requirements. Board Rule 1974, Wagering Interest, provides that a declaration or withdrawal of one horse from a wagering interest that consists of more than one horse shall have no effect on any wagers made on such wagering interest.

Patrons whose wagers include a coupled entry often complain when the horse they like in the entry is scratched and they are left with the remaining part of the entry for wagering purposes. If such patrons are in a position to cancel their wagers the problem can be avoided, but many wagers involve multiple races that cannot be canceled once the sequence has begun, and many patrons make wagers and become otherwise occupied, only to find out later about the scratch. Such complaints are not new. One solution that has been brought forward in the past is to amend the Board's regulations to provide that the withdrawal of one horse from a wagering interest constitutes the withdrawal of the coupled entry, and any horse that remains in the coupled entry shall run as a non-

wagering interest for purse only. In November 2005, the (then) Pari-Mutuel Operations Committee discussed scratching an entire entry for pari-mutuel purposes if part of the entry was scratched after the wagering pool was opened. The intended outcome of scratching an entire entry for pari-mutuel purposes was the protection of patrons who might get a horse they did not like, as well as the horse owner. Patrons could wager on other horses in the race and the owner was protected because he could still run for purse money. However, others stated the logic of the proposal was flawed. The technology existed to inform patrons about which part of the entry would still run. Advance Deposit Wagering providers could cancel wagers, and patrons could cancel a wager, or even make a wager on the remaining part of the entry. Opponents stated it did not make sense to refund wagers by unnecessarily eliminating a wagering interest. The larger issue was the total pool. Would the industry give up a portion of the pool to satisfy a small number of vocal patrons? In addition, there was the dilemma of scratching an unpopular horse in an entry, with the popular horse being left to run for purse only; wagering patrons would be just as irate.

At the November 2005 Pari-Mutuel Operations Committee meeting, the elimination of coupled entries was discussed as an alternative to the proposal to amend Rule 1974 to run the remaining horse(s) in an entry for purse only. Proponents argued that eliminating entries would increase field size and solve the problem of patrons being stuck with a horse they do not want when the favored horse in an entry was scratched. At its January 2006 Regular Meeting, the Board heard proposals to: 1) repeal Rule 1974 and Rule 1606, which would eliminate coupled entries in California, or 2) amend Rule 1974 to provide that the withdrawal of one horse from a wagering interest that consists of more than one horse constitutes the withdrawal of the coupled entry for wagering purposes only, and the remaining horse shall run for purse only. After discussion, the Board voted to repeal Rule 1974 and Rule 1606. The rationale was that eliminating entries would increase field size. Proponents also argued that owners did not have the same ability to influence a race as did trainers, who were currently exempted from coupling.

The repeal of Rule 1974 and Rule 1606 was never finalized, as the issue was tabled due to conflicting opinions about the ramifications of eliminating coupling of horses. However, in 2007, Rule 1606 was amended to exempt the quarter horse industry from coupling requirements. In 2008 and in 2009, Rule 1606 was amended to further narrow the coupling requirements for thoroughbred horses owned by partnerships.

At the July 2010 Regular Board meeting a proposal to amend Rule 1974 was discussed. The proposed amendment would allow horses remaining in a coupled entry or field to run for purse only if a horse was withdrawn from the wagering interest. The amendment would also allow horses that were withdrawn in error from the wagering pool to run for purse only. The Board heard that the proposed amendment was to provide direction to stewards, as the current rule did not provide objective criteria for when a horse may run for purse only. The amendment was not necessarily the result of many complaints or an increase in horses being withdrawn from coupled entries. During the discussion of the proposed amendment some expressed the view that the rule would lead to confusion and could leave fans thinking they had won a wager when the entire entry had in fact been

withdrawn. Others stated the proposed amendment would protect the wagering public and horse owners. The wagering public would not be "stuck" with horses remaining in an entry if their favorite were withdrawn and owners would still be able to run for the purse after having invested in preparing their horses to race. The Board determined it would direct staff to initiate a 45-day public comment period for the proposed amendment to Rule 1974.

ANALYSIS

The proposed amendment to Board Rule 1974 provides that the withdrawal of one horse from a wagering interest constitutes the withdrawal of the coupled entry, and any horses remaining in the coupled entry shall run as non-wagering interests for purse only. The amendment also provides that if a horse is improperly removed from a wagering pool due to a totalizator error or another unjustified reason, and the owner and trainer are not at fault, the horse shall compete as a non-wagering interest for the purse only. This provision addresses those instances when a horse is not scratched, but is inadvertently removed from the wagering pool by error. The amendment requires the racing association to inform the public if a horse runs for purse only by making an announcement over the public address system and by informing off-track wagering outlets.

The proposed amendment to Rule 1974 will impact the following regulations due to the manner in which they address coupled wagering interests. The regulations are attached for review:

- 1954.1, Parlay Wagering on Win, Place or Show - subsections (g), (h)
- 1957, Daily Double - subsections (h), (i), (j)
- 1959, Special Quinella (Exacta) - subsections (d), (e)
- 1976, Unlimited Sweepstakes - subsections (e), (h)
- 1976.8, Place Pick (n) - subsections (d), (e)
- 1977, Pick Three - subsections (c), (h)
- 1978, Select Four - subsections (e), (m)
- 1979, Trifecta - subsections (c), (g)
- 1979.1, Superfecta - subsections (c), (g)

During the 45-day public comment period Golden Gate Fields wrote in opposition to the proposed amendment to Rule 1974. Golden Gate Fields proposed eliminating Rule 1606 to allow two or more horses that are owned in whole or in part by the same person or persons to run as independent wagering interests. The elimination of coupling would allow the wagering public to wager on the individual horse it believes would perform best. Golden Gate Fields also stated that the proposed amendment would create confusion among horse racing fans, as fans that wagered on a scratched entry may believe they were holding winning tickets, or fans may believe they were holding losing tickets because they did not understand that a non-wagering interest finished ahead of their selections. The Thoroughbred Owners of California (TOC) also provided a comment in general opposition to the proposed amendment. The TOC stated the

proposal would merely trade one arguable problem for another greater problem of losing a wagering interest at a time when the industry is trying to stem the decline of handle. The TOC added it supported subsections 1974(c) because it would protect owners' rights where horses are scratched in error. The TOC proposed that Rule 1606 be suspended or amended to allow more entries to run uncoupled.

RECOMMENDATION

This item is presented for Board discussion and action.

Golden Gate Fields

November 6, 2010

Harold Coburn
Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Dear Mr. Coburn,

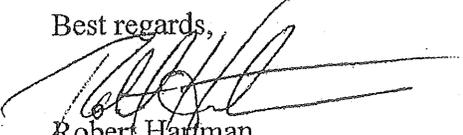
Pacific Racing Association is writing in opposition to the proposed change to Rule 1974 and associated rules which state that "any horses remaining in the coupled entry or field which have not been declared or withdrawn shall start in the race as non-wagering interests for the purse only, and shall be disregarded for pari-mutuel reasons."

We do sympathize with the fact that fans may be left "holding the bag" should the favored half of the entry be scratched, however we believe the best way to resolve this issue is to uncouple all entries. The language in "Rule 1606: Coupling of Entries" can be eliminated or changed to read "Two or more horses shall run as independent wagering interests even when such horses are owned in whole or in part by the same person or persons." As it stands, current CHRB rules allow for the vast majority of entries to be uncoupled. Our proposed change moves the current rule just a small step forward.

The full uncoupling of entries will now allow bettors the complete flexibility to wager on the individual horse they believe will perform the best. In the past, if a fan liked the long shot in a coupled entry, he or she would be forced to accept lower odds due to the presence of the other half of the entry.

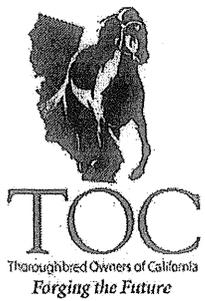
The CHRB's proposed rule could also create confusion among the racing public. Should the other half of the scratched entry win a given race, those fans who bet on the entry may believe they are holding a winning ticket. The reverse also holds true. Fans who didn't wager on the entry might believe they are holding a losing ticket, not understanding that a non-wagering interest finished ahead of their selection. The uncoupling of all entries will resolve this problem along with the others outlined above. Please contact me if you wish to discuss this matter further.

Best regards,



Robert Hartman
General Manager

Pacific Racing Association
1100 Eastshore Highway, Berkeley, California 94710



December 2, 2010

VIA EMAIL

Mr. Harold Coburn
Regulation Analyst
California Horse racing Board
1010 Hurley Way, Suite 300
Sacramento, Ca 95825
HaroldC@chrh.ca.gov

Re: Public Comment on CHRB Rule 1974, Wagering Interest

Dear Mr. Coburn:

This letter is in reference to the proposed amendment of **CHRB Rule 1974, Wagering Interest** currently out for public comment. Thoroughbred Owners of California (TOC) is opposed to the change to CHRB Rule 1974 and associated rule changes which state that, "any horses remaining in the coupled entry or field which have not been declared or withdrawn shall start in the race as non-wagering interests for the purse only, and shall be disregarded for pari-mutuel purposes."

We are familiar with the position that fans wagering on an entry could be disadvantaged should the favored half of the entry be scratched, leaving them with an undervalued "longer shot" horse. However, the proposed new rule would merely trade one arguable problem for another greater problem of losing a wagering interest at a time when the industry is trying to stem the decline of handle; and, it would create new confusion over other wagering scenarios created under the new rule.

However, in order to protect owners' interests, TOC *is supportive* of proposed subsection (c) of Rule 1974, "If a horse is removed from the wagering pool due to a totalizator error, or due to any other error, and the trainer and owner are not at fault, the horse shall start in the race as a non-wagering interest for the purse only, and shall be disregarded for pari-mutuel purposes." Without this language, horsemen are unfairly penalized and bear the cost of training and race day costs without the opportunity of earning purse money.

TOC proposes the best way to resolve the issue of a scratched part of the entry is to change or suspend **CHRB Rule 1606, Coupling of Horses**. With the current environment in California our industry needs to have as many separate wagering interests as possible entered in each race. Rule 1606 couples or creates an entry only when ownership interest of more than one horse entered in the same race is a "mirror image." The frequency in which Rule 1606 is used along with the ease in how it can be circumvented supports a change or suspension to allow horses with like ownership to run uncoupled.

TOC appreciates your consideration and is available should you have any questions.

Sincerely,

Guy D. Lamothe
Executive Vice President

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CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1974. WAGERING INTEREST

Regular Board Meeting
December 16, 2010

1974. Wagering Interest.

(a) A wagering interest may be any one horse in a race, or may be two or more horses coupled as a single wagering interest as an "Entry" or the "Field."

(b) A declaration or withdrawal of one horse from a wagering interest ~~which that~~ consists of more than one horse shall constitute the declaration or withdrawal of the coupled entry or field, have no effect on any wagers made on such wagering interest, and any horses remaining in the coupled entry or field which have not been declared or withdrawn shall start in the race as non-wagering interests for the purse only, and shall be disregarded for pari-mutuel purposes.

(c) If a horse is removed from the wagering pool due to a totalizator error, or due to any other error, and the trainer and owner are not at fault, the horse shall start in the race as a non-wagering interest for the purse only, and shall be disregarded for pari-mutuel purposes.

(d) If a horse is removed from the wagering pool to start in a race as a non-wagering interest for purse only and is disregarded for pari-mutuel purposes, the circumstances shall be announced over the public address system at the time the action is taken and thereafter to adequately inform the public. The racing association shall also inform off-track wagering outlets at the time such action is taken.

Authority: Sections 19420 and 19440,
Business and Professions Code.

Reference: Section 19562,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1954.1. PARLAY WAGERING ON WIN, PLACE OR SHOW

Regular Board Meeting
December 16, 2010

1954.1. Parlay Wagering on Win, Place or Show.

(a) The parlay is not a separate pari-mutuel pool, it is a series of wagers (consisting of legs) combining wagering entries in Win, Place or Show pools. The initial amount wagered constitutes the wager on the first leg, and if successful, the payout from the first leg constitutes the wager on the second leg, etc.

(b) A parlay wager is limited to Win, Place or Show which have a corresponding pool conducted on the race selected. The wager must combine at least two races but not more than six races. The races in a parlay must be in chronological order but do not need to be consecutive races or combine the same type pool.

(c) A parlay wager may only be on one pool and one wagering interest per leg and cannot combine wagers on races on other days.

(d) Payouts included as wagers in subsequent races and the final payout to the parlay wagerer shall be broken to the nearest dime. Parlay breakage shall be reported separately and added to regular breakage at the end of the day for the purpose of taxation and distribution.

(e) Parlay payouts will be included as wagers in subsequent pools by the track operator so the amount of such wagers, including their impact on the wagering odds, will be displayed. Wager totals in such pools shall be displayed in truncated fashion, to the lowest dollar.

(f) Parlay wagers may be cancelled by the ticket holder, in accordance with track policy, only before the start of the first parlay leg in which a parlay selection starts. Parlay wagers not cancelled must be completed or terminated by operation of these rules in order to be entitled to a payout.

(g) If a ~~race, pool or wagering entry~~ interest in a parlay is scratched, which includes an entry being declared a non-starter for wagering purposes, or if a wagering interest is designated to run for purse only in accordance with Rule 1974 of this article, or a race or pool is cancelled, the parlay shall consist of the remaining legs. The parlay terminates if there are no remaining legs.

(h) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if ~~any part of the~~ entire coupled entry or field starts for ~~parimutuel pari-~~ mutuel purposes in accordance with Rule 1974 of this ~~article~~ Article.

Authority: Section 19590,
Business and Professions Code.

Reference: Sections 19594, 19597 and 19598,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1957. DAILY DOUBLE

Regular Board Meeting
December 16, 2010

1957. Daily Double.

(a) The Daily Double is a separate ~~parimutuel~~ pari-mutuel pool established on two (2) races. The pool consists of amounts wagered on the selection of the winning horse of both races. It is not a parlay and has no connection with or relation to other pools conducted by the association or to rules governing the distribution of other pools.

(b) A valid Daily Double ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of Daily Double provisions and rules contained in this Article.

(c) The association shall distribute the net pool to holders of valid tickets that correctly selected the winner of both races. If no ticket selected the winner of both races, the net pool shall be distributed as a place pool among tickets that included the winner of the first race and tickets that included the winner of the second race.

(d) If no ticket included the winner of the first race the net pool shall be distributed equally among tickets that included the winner of the second race; and, if no ticket included the winner of the second race the net pool shall be distributed equally among tickets that included the winner of the first race.

(e) If no ticket included the winner of either race the net pool shall be distributed equally among tickets selecting the second place finishers of both races.

(f) The association shall refund the entire pool if no ticket requires a payout or if the first race is cancelled.

(g) If the second race is cancelled after the first race has been completed, the net pool shall be distributed as a single price pool among tickets selecting the winner of the first race.

(h) Before the first race is run, any money wagered on a horse in either race that is scratched, excused by the Stewards, or prevented from racing or is designated to run for purse only in accordance with Rule 1974 of this article shall be deducted from the pool and refunded.

(i) If, after the first race is completed, any horse is scratched, excused by the Stewards or prevented from racing because of the failure of the stall doors or starting gate to open in the second race, or designated to run in the second race for purse only in accordance with Rule 1974 of this article, ~~after the first race has been completed~~, all tickets including such horse(s) shall be deducted from the pool, and the pool(s), thus formed shall be distributed as a straight pool(s) among tickets combining the winner of the first race with such horse(s).

(j) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if ~~any part of such~~ the entire coupled entry or field starts for ~~parimutuel pari-mutuel~~ purposes in accordance with Rule 1974 of this article.

(k) If a dead heat occurs in either race the net pool is figured as a place pool. Example: Number eight (8) and five (5) dead heat in the first race, and number three (3) wins the second race, the pool would be divided and apportioned to tickets bearing eight (8) and three (3), and five (5) and three (3).

Authority: Sections 19440 and 19590,
Business and Professions Code.

Reference: Section 19590,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1959. SPECIAL QUINELLA (EXACTA)

Regular Board Meeting
December 16, 2010

1959. Special Quinella (Exacta).

(a) The Special Quinella is not a parlay and has no connection with or relation to the win, place and show pools shown on the totalizator board. All tickets on the Special Quinella will be calculated in a separate pari-mutuel pool.

(b) A Special Quinella race shall be given a distinctive name to be selected by the association conducting such race, such as "Perfecta" or "Exacta," subject to the approval of the Board.

(c) All Special Quinella tickets will be for the win and place combination only. Each person purchasing a Special Quinella ticket shall designate the exact order in which the first two horses will finish in a Special Quinella race. For example, if number 3 is selected to finish first and number 6 is selected to finish second, they must come in number 3, first and number 6 second in order to win.

(d) Entries or field horses in a race comprising the Special Quinella shall race as single wagering interests for the purposes of pari-mutuel pool calculations and payouts to the public. ~~If, in the event that any part of the entry or the field is a starter, there shall be no refund to persons wagering on such entry or field.~~ In the event any part of an entry or the field finishes first, the order of finish of all other horses making up such entry or field will be disregarded in determining which horse finished second for the purpose of this rule.

(1) If any horse in a coupled entry or the field is declared or withdrawn from a race comprising the Special Quinella, horses remaining in the coupled entry or field shall be designated to run for purse only in accordance with Rule 1974 of this article, and all tickets including such horses shall be deducted from the Special Quinella pool and money refunded to the purchaser of such tickets.

(e) Should any horse or horses entered in a Special Quinella race be scratched or excused by the Stewards after wagering has commenced or should any horse or horses be prevented from racing because of the failure of the stall doors of the starting gate to open, or if a horse is designated to run for purse only, all tickets including such horse or horses shall be deducted from the Special Quinella Pool and money refunded to the purchasers of tickets on the horse or horses so designated, excused or prevented from racing.

(f) In the event that no ticket is sold on the winning combination of a Special Quinella Pool, the net pool shall be distributed equally among holders of tickets selecting the winning horse to finish first and holders of tickets selecting the second place horse to finish second.

(g) In the event of a dead-heat between two horses for first place, the net pool shall be calculated and distributed as a place pool to holders of the winning combinations.

(h) In the event of a dead-heat between two or more horses for place, all tickets designating the proper first horse to win which are coupled with any of the place horses involved in a dead-heat shall be the winners of the Special Quinella race and payouts calculated according to their respective interest in the net pool.

(i) In the event of a dead-heat for second place, if no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combinations. If no tickets combine the winning

horse with either of the place horses in the dead-heat the Special Quinella Pool shall be calculated and distributed to holders of tickets designating the winning horse or either of the place horses according to their respective interest in the net pool.

(j) In the event of a dead-heat among three or more horses for first place, the net pool shall be calculated and distributed to holders of tickets designating any two of the horses participating in the dead-heat according to their respective interest in the net pool.

(k) In the event that no ticket is sold that would require distribution to any winner as above defined the Special Quinella shall be deemed "No Contest" and all money in the Special Quinella shall be promptly refunded.

Authority: Sections 19440 and 19590,
Business and Professions Code.

Reference: Section 19590,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1976. UNLIMITED SWEEPSTAKES

Regular Board Meeting
December 16, 2010

1976. Unlimited Sweepstakes.

(a) The Unlimited Sweepstakes ~~parimutuel~~ pari-mutuel pool is not a parlay and has no connection with or relation to any other ~~parimutuel~~ pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.

(b) An Unlimited Sweepstakes ~~parimutuel~~ pari-mutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Unlimited Sweepstakes provisions and rules contained in Article 18.

(c) An Unlimited Sweepstakes may be given a distinctive name by the association conducting the meeting, subject to approval of the Board.

(d) The Unlimited Sweepstakes ~~parimutuel~~ pari-mutuel pool consists of amounts contributed for a selection for win only in each of nine races designated by the association with the approval of the Board. Each person purchasing an Unlimited Sweepstakes ticket shall designate the winning horse in each of the nine races comprising the Unlimited Sweepstakes.

(e) Those horses constituting an entry of coupled horses or ~~these horses coupled~~ to constitute the field in a race comprising the Unlimited Sweepstakes shall race as a single wagering interest for the purpose of the Unlimited Sweepstakes ~~parimutuel~~ pari-mutuel pool calculations and payouts to the public. ~~However if any part of either an entry or the field racing as a single wagering interest is a starter in a race the entry or the field selection shall remain as the designated selection to win in that race for the Unlimited Sweepstakes calculation and the selection shall not be deemed a scratch.~~

(f) The Unlimited Sweepstakes ~~parimutuel~~ pari-mutuel pool shall be calculated as follows:

(1) One hundred percent (100%) of the net amount in the ~~parimutuel~~ pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of ~~parimutuel~~ pari-mutuel tickets which correctly designate the official winner in each of the nine races comprising the Unlimited Sweepstakes.

(2) In the event there is no ~~parimutuel~~ pari-mutuel ticket properly issued which correctly designates the official winner in each of the nine races comprising the Unlimited Sweepstakes, twenty-five percent (25%) of the net amount in the ~~parimutuel~~ pari-mutuel pool shall be distributed among the holders of ~~parimutuel~~ pari-mutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes, and the remaining seventy-five percent (75%) of the net amount in the ~~parimutuel~~ pari-mutuel pool shall not be distributed as provided above but shall be retained by the association as distributable amounts and shall be carried over and included in the Unlimited Sweepstakes ~~parimutuel~~ pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed as provided in subsection (f)(1).

(g)(1) Except as provided in subsection (k) and subsection (m), should no distribution be made pursuant to subsections (f)(1), then the distributable pool and all monies accumulated therein shall be carried over until that amount equals or exceeds five million dollars (\$5,000,000) or such lesser amount as the racing association designates to the Board at the time it files its license application with the Board.

(2) Once the pool and all monies accumulated therein equals or exceeds five million dollars, or such lesser amount designated by the racing association pursuant to subsection (g)(1), that amount shall be distributed on the next racing day as provided in subsection (f)(1); but if no holder of ~~parimutuel~~ pari-mutuel tickets correctly designates the official winner in each of the nine races comprising the Unlimited Sweepstakes, then seventy-five percent (75%) of the pool

shall be distributed among the holders of ~~parimutuel~~ pari-mutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes. The remaining twenty-five percent (25%) of the pool shall be distributed to those holders of ~~parimutuel~~ pari-mutuel tickets which correctly designate the next greatest number of official winners.

(h) In the event an Unlimited Sweepstakes ticket ~~designates~~ includes a selection in any one or more of the races comprising the Unlimited Sweepstakes and that ~~selection~~ is scratched, excused or determined by the Stewards to be a nonstarter in the race, or if any horse is designated to run for purse only in a race comprising the Unlimited Sweepstakes, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection, or the designated horse, for all purposes, including pool calculations and payouts.

(i) In the event of a dead heat for win between two or more horses in any Unlimited Sweepstakes race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

(j)(1) In the event that all nine races comprising the Unlimited Sweepstakes are cancelled or declared as no contest, all ~~parimutuel~~ pari-mutuel tickets held on the Unlimited Sweepstakes for that day or night shall be refunded and the Unlimited Sweepstakes shall be cancelled in its entirety for that day or night and any retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.

(2) In the event that fewer than nine, but no more than three, races comprising the Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, the pool for that racing day shall be refunded and the Unlimited Sweepstakes shall be cancelled in its entirety as provided in subsection (j)(1).

(3) In the event that fewer than nine, but no fewer than four, races comprising the Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, one hundred percent (100%) of the net amount in the ~~parimutuel~~ pari-mutuel pool for that day or night, exclusive of any retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2), shall be subject to distribution among holders of ~~parimutuel~~ pari-mutuel tickets which correctly designate the most winners in the completed races of the Unlimited Sweepstakes. The retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.

(k) (1) Should no distribution be made pursuant to subsection (f)(1) on the last day of the association's race meeting, then the distributable pool and all monies accumulated therein shall be distributed on that day. Seventy-five percent (75%) of the pool shall be distributed among holders of ~~parimutuel~~ pari-mutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes. The remaining twenty-five percent (25%) of the pool shall be distributed to those holders of ~~parimutuel~~ pari-mutuel tickets which correctly designate the next greatest number of official winners.

(2) In the event that an association is unable to distribute the retained distributable amount carried over from any prior Unlimited Sweepstakes pool established pursuant to subsection (f)(2) by the end of its race meeting due to cancellation of the final day(s) or night(s) of racing or any other reason, the retained distributable amount shall be carried forward to the next race meeting having an Unlimited Sweepstakes at the same location and of the same breed of horse as the racing association that generated the retained distributable amount. The retained distributable amount shall be included in the Unlimited Sweepstakes pool for the first day or night of racing at the subsequent race meeting.

(l) No ~~parimutuel~~ pari-mutuel ticket for the Unlimited Sweepstakes pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the nine races comprising the Unlimited Sweepstakes, except for such refunds on Unlimited Sweepstakes tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Unlimited Sweepstakes pool or the number or amount of tickets selecting winners of Unlimited Sweepstakes races until such time as the Stewards have determined the last race comprising the Unlimited Sweepstakes each day to be official.

(m) The racing association may, at its election, designate to the Board, at the time it files its license application with the Board, one or more racing days (nights) during its racing meeting on which the retained distributable amount carried over from any prior Unlimited Sweepstakes pool established pursuant to subsection (f)(2), shall be distributed as provided in subsection (g)(2), even though the retained amount is less than the amount specified in or designated by the racing association pursuant to subsection (g)(1).

Authority: Sections 19420, 19440 and 19590,
Business and Professions Code.
Reference: Section 19590,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1976.8. PLACE PICK (N)

Regular Board Meeting
December 16, 2010

1976.8. Place Pick (n).

(a) The Place Pick (n) is a separate pari-mutuel pool established by the association on a designated number of races. The pool consists of amounts wagered on a horse to finish first or second in each of the races. It is not a parlay and has no connection with or relation to other pools conducted by the association, except for the provisions in subsection (e), or to rules governing the distribution of other pools.

(b) A valid Place Pick (n) ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of Place Pick (n) provisions and rules contained in this Article.

(c) A Place Pick (n) may be given a distinctive name by the association conducting the meeting, subject to Board approval.

(d) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if ~~any part of such~~ the entire entry starts for pari-mutuel purposes in accordance with Rule 1974 of this article.

(e) If a ticket in any Place Pick (n) race selects a wagering interest ~~designates a selection~~ that is scratched, excused or determined by the Stewards to be a nonstarter in the race, or a selection that is designated to run for purse only, the association may substitute ~~designate~~ the actual favorite, which is determined by the amounts wagered in the win pool at the time of the start of the race, or may allow patrons the option of selecting an alternate ~~betting~~ wagering

interest. The actual favorite or the alternate ~~betting~~ wagering interest will be substituted for the ~~nonstarting~~ non-starting or the designated selection for all purposes.

(f) Except as provided in subsection (f)(1), in a dead heat for win between two or more horses, only the horses in such dead heat shall be considered winning horses.

(1) In a dead heat for win between two or more coupled horses, all such horses together with the horse(s) which finishes next in order shall be considered winning horses.

(2) Except as provided in subsection (f), a dead heat for second between two or more horses, all such horses together with the horse which finished first shall be considered winning horses.

(g) The association shall distribute the net pool to holders of valid tickets that correctly selected the most first or second place finishers.

(h) All tickets shall be refunded if all races comprising the Place Pick (n) are cancelled or declared as no contest. The entire pool shall be refunded if less than four races are completed and if four or more races are completed the net pool shall be distributed pursuant to subsection (g).

(i) After wagering closes on the first race comprising the Place Pick (n) no ticket shall be sold, exchanged or cancelled. No person shall disclose the number of tickets sold in the Place Pick (n) or the number or amount of tickets that selected winners of Place Pick (n) races until the Stewards declare the last race official.

(j) If the racing surface changes from turf to dirt or dirt to turf in any race of a Place Pick (n), and such change is not announced to the public before the close of wagering on the Place Pick (n) pool, all wagers on such race shall be considered winning wagers for the purposes of the Place Pick (n).

Authority: Sections 19440 and 19590,
Business and Professions Codes.

Reference: Sections 19593 and 19594,
Business and Professions Code.

TITLE 4. DIVISION 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1977. PICK THREE

Regular Board Meeting
December 16, 2010

1977. Pick Three.

(a) The Pick Three is a separate pari-mutuel pool established on three consecutive races. The pool consists of amounts wagered on the winning horse in each of the races. It is not a parlay and has no connection with or relation to other pools conducted by the association, or to rules governing the distribution of other pools.

(b) A valid Pick Three ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of Pick Three provisions and rules contained in this article.

(c) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if ~~any part of such~~ the entire entry starts for pari-mutuel purposes in accordance with Rule 1974 of this article.

(d) The association shall distribute the net pool to holders of valid tickets that correctly selected the winners in all three races.

(e) In a dead heat for win between two or more horses in any of the Pick Three races, all such horses shall be considered winning horses in that race for calculating the pool. The payout shall reflect the proportionate amount of money wagered on each winning combination.

(f) If no ticket selected the winner in all three races, the net pool shall be paid for tickets that selected the winner in any two races; and if no ticket selected two winners the

net pool shall be paid for tickets that selected the winner of any one race. The association shall refund the entire pool if no ticket selected the winner of any one race.

(g) If one of the races is cancelled, the net pool shall be distributed as provided in subsection (f). If more than one race is cancelled the association shall refund the entire pool.

(h) If a wagering interest is scratched (which hereinafter includes being declared a non-starter) from any leg of the Pick Three prior to the running of the first leg, or if a wagering interest is designated to run for purse only in accordance with rule 1974 of this article, all wagers containing such scratched or designated wagering interests shall be refunded.

(i) If a wagering interest is scratched or designated to run for purse only from the second leg after the start of the first leg, a consolation payout shall be computed for those wagers combining the winners of the first and third legs with such scratched or designated horse(s) as follows: The amount represented by wagers on combinations involving horse(s) scratched or designated to run for purse only from the second leg shall be deducted from the gross pool. The resulting pool, net of takeout, shall be distributed as a win pool among tickets combining the winners of the first and third legs with horse(s) designated to run for purse only or scratched from the second leg.

(j) If a wagering interest is designated to run for purse only or scratched from the third leg after the start of the second leg, a consolation payout shall be computed for those wagers combining the winners of the first and second legs with such designated or scratched horse(s) as follows: The amount represented by wagers on combinations involving horse(s) designated to run for purse only or scratched from the third leg shall

be deducted from the gross pool. The resulting pool, net of takeout, shall be distributed as a win pool among tickets combining the winners of the first and second legs with horse(s) designated to run for purse only or scratched from the third leg.

(k) If wagering interests are designated to run for purse only or scratched from both the second and third legs after the start of the first leg, a consolation payout shall be computed for those wagers combining the winner of the first leg with horse(s) designated to run for purse only or scratched from both the second and third legs as follows: The amount wagered on the winner of the first leg combined with all other horse(s) designated or scratched from the second and third legs shall be deducted from the gross pool. The resulting pool, net of takeout, shall be distributed as a win pool among tickets combining the winner of the first leg with horse(s) designated to run for purse only or scratched from both the second and third legs.

(l) After wagering closes on the first race of the Pick Three no ticket shall be sold, exchanged or cancelled. No person shall disclose the number of tickets sold in the Pick Three races or the number or amount of tickets that selected winners of Pick Three races until the stewards declare the last race official. After the second of the three races, the association may display potential distributions dependent upon the outcome of the third race.

Authority: Sections 19440 and 19590,
Business and Professions Code.

Reference: Section 19590,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1978. SELECT FOUR

Regular Board Meeting
December 16, 2010

1978. Select Four.

(a) The Select Four ~~parimutuel~~ pari-mutuel pool is not a parlay and has no connection with or relation to any other ~~parimutuel~~ pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator board, nor to the rules governing the distribution of such other pools.

(b) A valid Select Four ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and the said ticket shall constitute an acceptance of Select Four provisions and rules contained in ~~Article~~ article 18.

(c) A Select Four may be given a distinctive name to be selected by the association conducting such races, such as "PICK 4", subject to the approval of the Board.

(d) The Select Four ~~parimutuel~~ pari-mutuel pool consists of amounts contributed for a selection for win only in each of four races designated by the association with the approval of the Board. Each person purchasing a Select Four ticket shall designate the winning horse in each of the four races comprising the Select Four.

(e) Those horses constituting an entry of coupled horses or ~~those horses~~ coupled to constitute the field in a race comprising the Select Four shall race as a single wagering interest for the purpose of the Select Four ~~parimutuel~~ pari-mutuel pool calculations and payouts to the public. ~~However, if any part of either an entry or the field racing as a single interest is a starter~~

~~in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Select Four calculation, and the selection shall not be deemed a scratch.~~

(f) The net amount in the ~~parimutuel~~ pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners in all four races comprising the Select Four.

(g) If no ticket is sold combining the four winners of the Select Four, the net amount in the ~~parimutuel~~ pari-mutuel pool shall be distributed among the holders of tickets which include the winners of any three of the four races comprising the Select Four.

(h) If no ticket is sold combining at least three winners of the Select Four, the net amount in the ~~parimutuel~~ pari-mutuel pool shall be distributed among holders of tickets which include the winner of any two races comprising the Select Four.

(i) If no ticket is sold combining at least two winners of the Select Four, the net amount in the ~~parimutuel~~ pari-mutuel pool shall be distributed among holders of tickets which include the winner of any one race comprising the Select Four.

(j) If no ticket is sold that would require distribution of the Select Four pool to a winner under this rule, the association shall make a complete and full refund of the Select Four pool.

(k) If for any reason one of the races comprising the Select Four is cancelled, the net amount of the ~~parimutuel~~ pari-mutuel pool shall be distributed as provided above in subsections (g), (h), (i) and (j).

(l) If for any reason two or more of the races comprising the Select Four is cancelled, a full and complete refund will be made of the Select Four pool.

(m) In the event a Select Four ticket ~~designates~~ includes a selection in any one or more of the races comprising the Select Four and that selection is scratched, excused or determined by

the Stewards to be a non-starter in the race, or if the Select Four ticket includes a selection that is designated to run for purse only in accordance with Rule 1974 of this article, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the non-starting or designated selection for all purposes, including pool calculations and payouts.

(n) In the event of a dead heat for win between two or more horses in any Select Four race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

(o) No ~~parimutuel~~ pari-mutuel ticket for the Select Four pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the four races comprising the Select Four, except for such refunds on Select Four tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Select Four pool or the number or amount of tickets selecting winners of Select Four races until such time as the Stewards have determined the last race comprising the Select Four to be official. Notwithstanding the above, at the conclusion of the third of the four races comprising the Select Four, an association may with the approval of the Board display potential distribution to ticket holders depending upon the outcome of the fourth race of the Select Four.

Authority: Sections 19420, 19440 and 19590,
Business and Professions Code.

Reference: Section 19594 19590,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1979. TRIFECTA

Regular Board Meeting
December 16, 2010

1979. Trifecta.

(a) The Trifecta is a separate pari-mutuel pool established on a single race. The pool consists of amounts wagered on horses to finish first, second and third in that exact order. It is not a parlay and has no connection with or relation to other pools conducted by the association or to rules governing the distribution of other pools.

(b) A valid Trifecta ticket is evidence of a binding contract between the holder of the ticket and the association and constitutes acceptance of Trifecta provisions and rules contained in this article.

(c) No Trifecta pool shall be established for a race with less than four wagering interests scheduled to start when the Trifecta pool opens for wagering in California. A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if ~~any part of such~~ the entire entry starts for pari-mutuel purposes in accordance with ~~Section~~ Rule 1974 of this article.

(d) After the stewards' official order of finish is posted, the association shall distribute the net pool to holders of valid tickets that correctly selected the first, second and third finishers.

(e) In a dead heat for first or second position, only tickets selecting the correct order of finish for the first three finishers shall be winning tickets; that is, two horses in a dead heat for first shall be first and second, in either position; and two horses in a dead heat for second shall be

second and third, in either position. In a triple dead heat for first, the three horses shall be the winning combination regardless of the order of selection. In a triple dead heat for second, tickets with the correct first selection and two of the three horses shall be winning tickets. In a triple dead heat for third, tickets with the correct first and second selection and one of the three horses shall be winning tickets.

(f) If no ticket correctly selected the first, second and third position, the net pool shall be paid for tickets that selected first and second. If no ticket selected first and second the net pool shall be paid for tickets that selected first. The association shall refund the entire pool if no ticket selected first.

(g) If the stewards scratch a horse or designate a horse to run for purse only in accordance with Rule 1974 of this article before wagering is closed, the association may exchange any ticket that includes the scratched or designated horse. After wagering is closed, tickets selecting a scratched or designated horse, or a horse the stewards declared a nonstarter, shall be eliminated from the pool and the purchase price refunded.

Authority: Sections 19440 and 19590,
Business and Professions Code.

Reference: Section 19590,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 18. PARI-MUTUEL WAGERING
PROPOSED AMENDMENT OF
RULE 1979.1. SUPERFECTA

Regular Board Meeting
December 16, 2010

1979.1. Superfecta.

(a) The Superfecta is a separate pari-mutuel pool established on a single race. The pool consists of amounts wagered on horses to finish first, second, third, and fourth in that exact order. It is not a parlay and has no connection with other pools conducted by the association or to rules governing the distribution of other pools.

(b) A valid Superfecta ticket is evidence of a binding contract between the holder of the ticket and the association and constitutes acceptance of Superfecta provisions and rules contained in this article.

(c) No Superfecta pool shall be established for a race with less than six wagering interests scheduled to start when the Superfecta pool opens for wagering in California. A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if ~~any part of the~~ entire entry starts for pari-mutuel purposes under Rule 1974 of this article ~~division~~.

(d) After the stewards' official order of finish is posted, the association shall distribute the net pool to holders of valid tickets that select the first, second, third, and fourth finishers.

(e) In a dead heat for first, second, or third position, only tickets selecting the correct order of finish for the first four finishers shall be winning tickets; that is, two horses in a dead heat for first shall be first and second, in either position; two horses in a dead heat for second shall be second and third, in either position; and two horses in a dead heat for third shall be third

and fourth, in either position. In a dead heat for fourth, tickets with the correct first, second, and third selection and one of the two horses in the dead heat for fourth shall be winning tickets. In a triple dead heat for first, tickets selecting the three horses in the dead heat, regardless of the order of selection, and the horse finishing fourth shall be winning tickets. In a triple dead heat for second, tickets with the correct first selection and all three horses in the dead heat shall be winning tickets. In a triple dead heat for third, tickets with the correct first and second selection and two of the three horses in the dead heat shall be winning tickets. In a triple dead heat for fourth, tickets with the correct first, second, and third selection and one of the horses in the dead heat shall be winning tickets.

(f) If no ticket selects the first, second, third, and fourth position, the net pool shall be paid for tickets that select first, second, and third. If no ticket selects first, second, and third position, the net pool shall be paid for tickets that select first and second. If no ticket selects first and second, the net pool shall be paid for tickets that select first. The association shall refund the entire pool if no ticket selects first.

(g) If the stewards scratch a horse or designate a horse to run for purse only in accordance with Rule 1974 of this article before wagering is closed, the association may exchange any ticket that includes the scratched or designated horse. After wagering is closed, tickets selecting a scratched or designated horse, or a horse the stewards declared a nonstarter, shall be eliminated from the pool and the purchase price refunded.

Authority: Sections 19440 and 19590,
Business and Professions Code.

Reference: Section 19590,
Business and Professions Code.

STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD REGARDING
THE PROPOSED ADDITION OF
RULE 1500.1. JOCKEY SUBJECT TO TESTING
AND
THE PROPOSED AMENDMENT OF
RULE 1498, PHYSICAL EXAMINATION

Regular Board Meeting
December 16, 2010

BACKGROUND

Business and Professions Code section 19420 provides that the Board has jurisdiction and supervision in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board include, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing. Business and Professions Code section 19460 provides that all licenses granted under this chapter are subject to all rules, regulations, and conditions from time to time prescribed by the Board, and shall contain such conditions as are deemed necessary or desirable by the Board for the purposes of this chapter. 19520 states every person who participates in, or has anything to do with the racing of horses shall be licensed by the Board pursuant to rules and regulations that the Board may adopt.

At its January 2010 Regular Meeting the Board discussed random drug testing of California licensed jockeys. The Board learned that several jurisdictions conduct drug testing; of the racing jurisdictions surveyed, Illinois, Louisiana and Delaware conduct random drug testing of jockeys or other licensees. In New York licensees are subject to testing upon the request of a steward or paddock judge. In addition, the Association of Racing Commissioners International (ARCI) Model Rules provides for drug testing that includes random tests. The item was put over so a draft of a proposed text could be developed. The proposal to add Rule 1500.1 was discussed again at the August 2010 Regular Board Meeting. At that time, Commissioner Harris requested that Rule 1498, Physical Examination, be amended to require a drug test during the annual jockey/driver physicals.

ANALYSIS

The proposed addition of Rule 1500.1, Jockey Subject to Testing, provides a framework under which California jockeys and apprentice jockeys may be subjected to random drug testing. The proposed regulation states that no jockey, apprentice jockey or driver shall have in his or her body, or possess on the grounds of a facility under the jurisdiction of the Board any illegal drug. Nor shall a jockey, apprentice jockey or driver possess or use on the grounds of a facility under the jurisdiction of the Board any controlled substance

or prescription drug, unless the substance is permitted by the stewards under Board Rule 1890, Possession of Contraband. The proposed addition of Rule 1500.1 provides that jockeys, apprentice jockeys and drivers are subject to random drug testing as well as testing for cause and that failure to submit to or to complete a drug test constitutes a refusal to be tested. Jockeys, apprentice jockeys and drivers who refuse a drug test shall automatically be suspended for no more than 30 days, and shall not be allowed to return to the racetrack until a negative test result is achieved. Other states provide for suspending licensees who fail to be tested. Illinois requires an immediate suspension of no more than 30 days while Louisiana's regulations provide for a minimum 90-day suspension for licensees who fail (for the first time) to submit to a test. New York provides for a fine and suspension of license without specifying the amount of the fine, or the duration of the suspension.

The proposed regulation states random drug testing will be conducted on an unannounced basis and before or after the performance of duties. Persons to be tested will be chosen from among jockeys, apprentice jockeys or drivers whose names appear on the official program the day random drug testing is conducted. The regulation requires the stewards to draw at least four names, and if a name is selected more than once during a race meeting, it shall be eliminated and another selection made. Representatives of the Jockey's Guild or California Harness Horsemen's Association may be present and witness the drawing of names. The proposed method of selecting persons to be tested is a synthesis of Illinois and Delaware rules. The minimum number of names to be selected is the equivalent of one jockey or driver from every other race on a eight-race card.

The frequency of random drug testing will depend on the duration of the race meeting. For race meeting of up to five months, random drug testing shall occur at least once during the meeting. If a race meeting lasts six months or more, random drug testing shall occur at least twice during the meet. For the purpose of the regulation, the Northern California Fair circuit shall be considered one race meeting. These minimum requirements mean that most race meetings, including the combined fair race meetings, will have at least one race card with random drug testing. The longer meetings, which are Los Alamitos and the Cal-Expo winter/spring meeting, will have at least two race cards with random drug testing.

The proposed regulation provides for a split sample program, and a method of informing the jockey, apprentice jockey or driver if a confirmed positive finding of an illegal drug, controlled substance or prescription drug is reported; Jockeys, apprentice jockeys and drivers will have the option of requesting the testing of the split sample provided he or she pays for the transporting and testing of the split. The results of the drug test and the split sample test are confidential and will remain confidential unless or until the Board files an official complaint or accusation. While the proposed split sample provisions are modeled on California's equine split sample program outlined in Board Rule 1859.25, Split Sample Testing, many racing jurisdictions provide for a human split sample. Delaware, Illinois and Louisiana provide for split sample testing as does the ARCI Model Rule. In all cases the split results from urine samples.

Finally, the proposed regulation reserves the right to direct a jockey, apprentice jockey or driver to submit to a drug test by methods including, but not limited to, blood, hair follicle or skin. This provides the Board with flexibility in testing methods should it determine it wishes to go beyond urine. In the past, the Board has required testing by such methods as hair, and it has had a contract with a laboratory to draw blood. Delaware allows licensees to opt for a blood test rather than urine, and it allows the racing commission to require "any other test" as directed.

The proposed amendment to Rule 1498 provides that the annual jockey/driver physical examination shall include a drug test to screen for substances as described in Rule 1500.1, subsection (a). This means the test will look for illegal drugs and controlled substances. The proposed amendment to Rule 1498 also states that the drug tests shall be conducted in accordance with the provisions of subsections (c) through (j) of Rule 1500.1. This will ensure that jockeys and drivers have the availability of a split sample, and will be subject to the same notification protocol, as well as the rights and responsibilities provided under Rule 1500.1. Annual jockey/driver physicals currently include drawing blood for a comprehensive blood panel – of the type one normally experiences during routine physical examinations. The race track physician at Golden Gate Fields stated the additional work of drawing blood or taking urine to test for drug use would be considered minimal.

The proposed amendment to Rule 1498 would result in every jockey, apprentice jockey and driver being tested for drug use at least once a year. Current invoices from Quest Diagnostics Laboratories charge approximately \$29.00 per human specimen. As of December 1, 2010, the CHRB licensed 321 jockeys, 38 apprentice jockeys and 80 harness drivers for a total of 439 licensees who would be subject to testing under the proposed regulations. If during the annual jockey driver physicals (which are paid by the racing associations) every licensed jockey/driver were tested, the annual cost would be upwards of \$12,731. The cost of random drug testing would depend on the number of random drug tests conducted throughout the year. It has not yet been determined who will pay for the random tests.

Staff contacted Delaware, Illinois and Louisiana to determine if the states experienced any problems with their random drug testing programs. None of the jurisdictions reported any particular issues with their programs. However, Illinois has ceased its random program due to budget constraints. Louisiana, which has been conducting random drug testing since 1987, did report that it experienced instances of jockeys using sophisticated devices to provide untainted urine, and to deceive those who supervise the collection of test samples.

RECOMMENDATION

This item is presented for Board discussion and action.

Attachments: Drug testing regulations with random testing: Delaware, Illinois, Louisiana, and the ARCI Model Rule.

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CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 4. OCCUPATIONAL LICENSES
PROPOSED ADDITION OF
RULE 1500.1. JOCKEY/DRIVER SUBJECT TO TESTING

Regular Board Meeting
December 16, 2010

1500.1. Jockey/Driver Subject to Testing.

(a) To ensure the safety and integrity of horse racing, no jockey, apprentice jockey or driver, while acting in the course of his or her professional duties, shall have in his or her body, or possess or use on the grounds of any race track any illegal drug. Nor shall a jockey, apprentice jockey or driver have in his or her body, or possess or use on the grounds of any race track any controlled substance or prescription drug, unless the substance or drug was obtained directly, or pursuant to a valid prescription or order, from a licensed physician and the possession of such controlled substance or prescription drug has been permitted by the stewards under Rule 1890(d) of this Division.

(b) Jockeys, apprentice jockeys and drivers are subject to random drug testing, as well as testing based upon reasonable suspicion, as provided in this Division. Failure to submit to or complete a drug test at the time, location, and manner directed by the Board or its representatives shall constitute a refusal to be tested. A jockey, apprentice jockey or driver who fails to submit to or complete a drug test shall be immediately suspended for no more than 30 days and shall not be allowed to participate at any race track or other facility under the jurisdiction of the Board until a negative test result is achieved.

(1) Random drug testing shall be conducted on an unannounced basis before, or after the performance of duties. The names of all jockeys, apprentice jockeys or drivers who appear on the official program the day random testing is conducted shall be placed

in a secured container which shall be in the custody of the stewards. Prior to the first race of the program, the stewards shall draw not more thannames. If a name is selected more than once during a race meeting, it shall be eliminated and another selection made.

(2) Representatives of the Jockey's Guild or the California Harness Horsemen's organization may attend and witness the random selection of names.

(3) For race meetings with duration of up to five months, random drug testing shall occur at least once during the course of the meeting. For the purposes of this regulation, the Northern California fair circuit shall be considered as one race meeting.

(4) For race meetings with duration of six or more months random drug testing shall occur at least twice during the course of the meeting.

(c) Each urine specimen received from a jockey, apprentice jockey or driver shall be divided into two separate parts. One portion designated as the official jockey/driver test sample shall be tested by a Board approved official laboratory. The remaining portion of the specimen shall be known as the jockey/driver split sample and shall be available for testing at a Board approved independent laboratory upon the request of the individual who provided the specimen. The Board makes no guarantees as to the amount of the specimen that will be available for the jockey/driver split sample. All specimens taken by representatives of the Board are under the jurisdiction of and shall remain the property of the Board at all times. The Board shall ensure the security and storage of the specimens.

(d) A confirmed positive finding for an illegal drug, controlled substance or prescription drug shall immediately be reported to the Executive Director or his designee by the Board approved official laboratory. The Board approved official laboratory shall

also transmit a written report of the finding to the Executive Director within five working days after the notification is made.

(e) When the Executive Director or his designee is notified of a finding by the Board approved official laboratory that an official jockey/driver test sample contained an illegal drug, controlled substance or prescription drug, the Executive Director or his designee shall notify a supervising investigator. The supervising investigator shall confidentially notify the jockey, apprentice jockey or driver who shall have 72 hours from the date he or she is notified to request that the jockey/driver split sample of the official jockey/driver test sample that was found to contain an illegal drug, controlled substance or prescription drug be tested by an independent Board approved laboratory.

(f) If the jockey, apprentice jockey or driver wishes to have the jockey/driver split sample tested, he or she shall comply with the following procedures:

(1) The request shall be made on the form CHRB-217 (New 9/10) Request to Release Jockey/Driver Test Evidence, which is hereby incorporated by reference. Form CHRB-217 shall be made available at all CHRB offices, and at the CHRB website.

(2) The jockey, apprentice jockey or driver requesting to have the jockey/driver split sample tested shall be responsible for all charges and costs incurred in transporting and testing the jockey/driver split sample. By signing CHRB-217 the jockey, apprentice jockey or driver certifies he or she has made arrangements for payment to the designated independent Board approved laboratory for laboratory testing services.

(3) Verification of payment for costs incurred in transporting and testing the jockey/driver split sample must be received by the CHRB within five working days from the CHRB receipt of CHRB-217. If such verification of payment is not received, the

jockey/driver split sample will not be released or shipped to the designated independent Board approved laboratory and the jockey, apprentice jockey or driver will have relinquished his/her right to have the split sample tested. If a complaint issues, the only test results that will be considered will be the results from the Board approved official laboratory.

(g) Upon approval by the Executive Director or the Executive Director's designated representative of a valid request on CHRB-217, CHRB-217A (New 9/10), Authorization to Release Jockey/Driver Split Sample Urine Evidence, which is hereby incorporated by reference, shall be completed and the Board shall ensure that the jockey/driver split sample is sent to the designated independent Board approved laboratory for testing.

(1) If the findings by the independent Board approved laboratory fail to confirm the findings of an illegal drug, controlled substance or prescription drug as reported by the Board approved official laboratory, it shall be presumed that an illegal drug, controlled substance or prescription drug was not present in the official jockey/driver test sample.

(2) If the findings by the independent Board approved laboratory confirm the findings of an illegal drug, controlled substance or prescription drug as reported by the Board approved official laboratory, the Executive Director shall report these findings to the Board within 24 hours after receiving confirmation of an illegal drug, controlled substance or prescription drug in the jockey/driver split sample.

(h) A jockey, apprentice jockey or driver who fails to request the testing of the jockey/driver split sample in accordance with the procedures specified in this rule shall be deemed to have waived his or her right to have the split sample tested.

(i) Results of the official jockey/driver test sample and the jockey/driver split sample shall be, and shall remain, confidential and shall be provided only to the Executive Director or the Executive Director's designee, the Board, and to the jockey, apprentice jockey or driver, unless or until the Board files an official complaint or accusation.

(j) The Board retains the right to direct a jockey, an apprentice jockey or a driver to submit to a drug test by methods including, but not limited to, blood, hair follicle or skin.

Authority: Sections 19420, 19440 and 19520,
Business and Professions Code.

Reference: Sections 19440, 19520 and 19521,
Business and Professions Code.

STATE OF CALIFORNIA
REQUEST TO RELEASE JOCKEY TEST
EVIDENCE

CHRB- 217 (Rev. 8/10)

CALIFORNIA HORSE RACING BOARD

CONFIDENTIAL

To: CALIFORNIA HORSE RACING BOARD
Attn: JOCKEY TEST SAMPLE PROGRAM
1010 Hurley Way, Suite 300
Sacramento, CA 95825

I am requesting the California Horse Racing Board (CHRB) to release to a Board approved laboratory the

Jockey test sample identified as # _____ which has been detected to contain _____

I fully understand that I am responsible for all costs incurred by the transporting and testing of the jockey test sample identified as # _____ to the laboratory I have chosen:

Laboratory Name and Address

I have enclosed payment of \$ _____ to cover costs of materials, packing, shipping and handling.

I have selected and will make payment to the designated laboratory named above, to test the jockey test sample.

I understand that verification of payment for all shipping and laboratory fees must be received by the CHRB within five (5) working days from the date of this form. If such verification of payment is not received, I understand that the jockey test sample will not be released or shipped to the above laboratory and a hearing will be held based on the original confirmation report from the Board approved official laboratory.

Jockey/Apprentice Jockey Signature

Date

() _____
Telephone No.

Original: Laboratory
Duplicate: California Horse Racing Board

STATE OF CALIFORNIA
AUTHORIZATION TO RELEASE JOCKEY
SPLIT SAMPLE URINE EVIDENCE
CHRB-217A (New 9/10)

CALIFORNIA HORSE RACING BOARD

AUTHORIZATION TO RELEASE JOCKEY SPLIT SAMPLE URINE EVIDENCE

To: Custodial Officer of the California Horse Racing Board

Upon the petition and request of: _____

You are authorized to retrieve from secure storage the jockey split sample identified as # _____ and thereafter to send such sample to:

Laboratory Name and Address

Date

California Horse Racing Board

ACKNOWLEDGMENT OF CUSTODIAL OFFICER

This is to confirm that on _____ I retrieved from secure storage the Jockey split sample identified as _____ and sent such sample to:

Laboratory Name

Laboratory Address

at _____ by _____
Time

Carrier

Date

Custodial Officer

The Custodial Officer must retain the Request to Release Jockey Test Evidence, CHRB-217, for the evidence log and forward the original document with the return receipt for shipment to the designated laboratory.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 4. OCCUPATIONAL LICENSES
PROPOSED AMENDMENT OF
RULE 1498. PHYSICAL EXAMINATION

Regular Board Meeting
December 16, 2010

1498. Physical Examination.

(a) All jockeys, apprentice jockeys, and drivers must pass a physical examination at least once a year before the commencement of the first race meeting of the year in which such jockey, apprentice jockey or driver intends to participate, or at such other time as the Board may direct. Such examination will be given by a doctor designated or approved by the Board, and the examination shall include a visual acuity examination, ~~and a hearing examination,~~ and a drug test to screen for such substances as described in subsection (a) of Rule 1500.1 of this article.

(1) For the purposes of this regulation, any jockey, apprentice jockey or driver drug test shall be conducted in accordance with the provisions subsections (c) through (j) of Rule 1500.1 of this article.

(b) The Board or the stewards may require that any jockey, apprentice jockey or driver be re-examined at any time, and the Board or the stewards may refuse to allow any jockey, apprentice jockey or driver to ride or drive until he has successfully passed such examination.

Delaware

Title 3 Agriculture

1001 Thoroughbred Racing Commission

21.0 Substance Abuse or Addiction

21.1 Statement of Purpose

21.1.1 The rules in this part establish and describe requirements, criteria, standards and procedures designed to monitor, test for and ultimately control the use of alcohol and drugs by persons within the jurisdiction of the Delaware Thoroughbred Racing Commission. The purpose of these rules is to eliminate substance abuse and thereby enhance the safety, integrity and decorum of horse racing in the State of Delaware. The Commission shall promulgate administrative regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate. The Commission is also authorized to promulgate administrative regulations for the legal drug testing of licensees. The Commission is authorized to contract for the maintenance and operation of a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests for enforcement of the Commission's drug testing rules. The licensed persons or associations conducting thoroughbred racing shall reimburse the Commission for all costs of the drug testing programs established pursuant to this section. Increases in costs of the aforementioned testing program shall be reasonable and related to the expansion in the number of days of racing and the number of races held, the need to maintain competitive salaries, and inflation. The Commission may not unreasonably expand the drug testing program beyond the scope of the program in effect as of June 30, 1998. Any decision by the Commission to expand the scope of the drug testing program that occurs after an administrative hearing, at which the persons or associations licensed under 3 Del.C. §10121 consent to such expansion, shall not be deemed an unreasonable expansion for purposes of this section. The Commission, in addition to the penalties contained in 3 Del.C. §10125, may impose penalties on licensees who violate the drug testing regulations including the imposition of fines or assessments for drug testing costs.

21.2 Scope

21.2.1 These rules shall be deemed to apply to every licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission. Exception -- Owners who are licensees of the Commission are not subject to this part unless they are otherwise eligible as a result of holding another type of license.

21.3 Violations

21.3.1 It shall be a violation of the rules of racing, subjecting the offender to discipline by the Commission or its designee:

21.3.1.1 To possess, without a valid prescription, any controlled substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;

21.3.1.2 Any individual possessing or under the influence of a prescription medication shall produce for inspection a valid prescription for the medication within twenty-four (24) hours upon demand by the Commission or its designee. The failure to produce the prescription at this time constitutes a separate violation.

21.3.1.3 To be intoxicated or under the influence of alcohol or a controlled substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;

21.3.1.4 To engage in the illegal sale or distribution of alcohol or a controlled substance;

21.3.1.5 To possess any equipment, products or materials of any kind which are used or intended for the use of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, possessing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;

21.3.1.6 To refuse to submit to urine or drug testing, when notified that such testing is based upon a random drug testing procedure, or is based upon reasonable suspicion that the person to be tested is using drugs or alcohol, or is based upon actions which demonstrate that the individual is impaired.

21.4 Testing Procedures - General



21.4.1 At its discretion, the Commission or its designee may conduct random or episodic drug and/or alcohol testing, as well as testing based upon reasonable suspicion in order to ensure the safety, integrity and decorum of Delaware thoroughbred racing.

21.4.2 Any licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission, except as noted in Rule 21.2, may be subjected to a urine test, blood test or any other test approved by the Commission in a manner prescribed by the Delaware Thoroughbred Racing Commission. The failure to submit to such a test when requested to do so by the Commission or their designee shall subject the offender to discipline as provided in Rule 21.8.

21.4.3 No prior notice need be given as to the onset or cessation of random testing.

21.4.4 Testing based on reasonable suspicion will be conducted just before, during, or just after performance of duties when a supervisor or company official observes behavior or appearance that is characteristic of drug or alcohol misuse and/or has reasonable suspicion to believe the individual has violated the Commission's prohibitions on drug or alcohol use.



21.4.5 Random testing will be conducted on a random, unannounced basis just before, during or just after performance of duties. Names of individuals to be tested will be selected randomly. If a name is selected more than once in the same month, it will be eliminated and another selection will be made. If a name is selected and the individual cannot be tested within the month, the Commission may test the individual at another time. Once notified of a random test, an employee must proceed immediately to the test site.

21.4.6 Return-to-duty testing will be conducted when an individual has violated the Commission's prohibitions on drug or alcohol use and returns to duty.

21.4.7 Follow-up testing will be conducted after there has been a determination that an employee is in need of assistance in resolving problems associated with drug or alcohol misuse. Tests will be unannounced and conducted just before, during or just after the performance of duties. Follow-up testing may be extended for up to sixty (60) months following return to duty.

21.5 Testing Procedures - Urine and Blood Testing

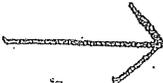
21.5.1 Any licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission, except as noted in Rule 21.2, who has been requested to submit to a test for the

presence of drugs or alcohol shall provide the requested sample without unreasonable delay to the designee of the Commission. The sample so taken shall be immediately sealed and tagged for identification. The sealing and tagging of the sample shall be witnessed by the individual tested. It shall be the obligation of the individual tested to cooperate fully with the representative of the Commission obtaining and securing a sample.

- 21.5.2 If a field screening test indicates the presence of alcohol or a controlled substance, the test results shall be confirmed by a laboratory acceptable to the Commission. When sample quantity permits, each test sample shall be divided into portions so that one portion may be used to confirm the field screening test and another portion may be used by the individual tested to obtain an independent analysis of the sample.
- 21.5.3 A portion of the test sample will be provided to a laboratory or testing facility, designated by the individual tested, when quantity permits, only upon written request. To protect the security of the chain of custody, the laboratory performing the initial test under Rule 21.5.2 will arrange for transportation of any remaining sample to the facility so designated by the individual for testing. All cost for the transportation and testing of the sample portion so provided shall be the financial responsibility of the requesting person. Payment for the costs of the transportation and testing of this portion of the sample shall be due from the individual tested within fifteen (15) days of the receipt of written notice of the costs.
- 21.5.4 Any individual may choose to submit to a blood test at a laboratory acceptable to the Commission instead of submitting to a urine test. An individual so choosing must announce the intention to forego the urine test and to obtain a blood test without delay, and proceed to the laboratory for the testing procedure.
- 21.5.5 If a field screening test has been performed, and the individual conducting the field test has reason to believe that the test results are inaccurate, the individual tested may be directed to submit to a blood test at a laboratory acceptable to the Commission.
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ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

Section 508.50 Licensee Subject to Testing

- a) No licensee shall have present in his or her body, or possess or use on the grounds of any race track any controlled substance or any prescription drug unless the substance was obtained directly, or pursuant to a valid prescription or order, from a licensed physician, while acting in the course of his or her professional practice.
- b) Each licensee at a race track or other facility under the jurisdiction of the Board may be subject to a drug ~~test at any time~~ while within the enclosure of any race track or other facility at the direction of the Stewards or Executive Director or designee if there is individualized suspicion that a licensee is possessing or using any controlled substance or any drug in violation of any federal or State law.  This provision notwithstanding, specific categories of occupation licenses are ~~subject to random drug testing~~  pursuant to Section 508.80. Failure to submit to or complete a drug test at the time, location, and manner directed by Board personnel shall constitute a refusal to be tested. Any licensee who fails to submit to or complete a drug test shall be immediately suspended for no more than 30 days and shall not be allowed to participate at any race track under the jurisdiction of the Board until a negative test result is achieved. A licensee's refusal to test shall subject the licensee to the penalties in Section 508.60.
- c) Each specimen received from a licensee shall be divided into two separate parts. One portion designated as the referee sample, shall be available for testing upon the request of the individual who provided the specimen. The referee sample may also be tested by the laboratory with the consent of the individual who provided the specimen. The other portion of the sample shall be known as the laboratory sample and shall be tested by the laboratory. The cost of testing the referee portion shall be borne by the person requesting the additional test.
- d) After the specimen has been taken from a licensee and analyzed by an accredited laboratory approved by the Board, the laboratory shall make a ~~positive test finding~~. The Board shall consider both the initial test level and confirmatory test level for controlled substances or prescription drugs, pursuant to the Mandatory Guidelines for Federal Workplace Drug Testing (Substance Abuse and Mental Health Services Administration available at <http://www.workplace.samhsa.gov>) when determining a positive for a controlled substance that is included in the federal guidelines.

ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

- e) A confirmed positive for an illegal drug, controlled substance or prescription drug result shall be reported, in writing, to the Stewards. On receiving written notice from the laboratory that a sample has been found positive for an illegal drug, controlled substance or prescription drug, the Stewards shall notify the individual of the test results.
- f) Upon receipt of a notice of positive test finding, the stewards shall conduct an inquiry at which the individual with notice of a positive test finding shall have the opportunity to be heard. Further, any individual with notice of a positive test finding may challenge his or her particular test or test result by having a portion of the sample tested at the laboratory of his or her choice. Any individual contesting the tests or test results may request a hearing before the Board as set forth in 11 Ill. Adm. Code 204.
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ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

~~Section 508.30 Random Testing~~



- a) State racing boards and commissions in several states have promulgated regulations that subject racing participants to both breathalyzer and urinalysis tests by randomly selecting participants for such tests. The validity of this type of regulation was recently upheld in *Shoemaker v. Handel*, 3rd Cir. 1986) 795 F.2d 1136, affirming 619 F.Supp. 1089 (D.N.J. 1985).
- b) The Board finds, based on its experience and expertise in the regulation of racing, that random testing for alcohol and controlled substances will maximize the value of tests as a deterrent and will tend to reduce the adversarial nature of the test by treating all Jockeys, Drivers, Starters, Assistant Starters, and Outriders equally.
- c) As a supplement to the substance abuse testing program based upon individualized suspicion (as set forth in Sections 508.30 and 508.50 above), the Board hereby authorizes the limited use by the Stewards of both breathalyzer and urinalysis tests for Jockeys, Drivers, Starters, Assistant Starters, and Outriders who are selected by random. The names of all Jockeys, Drivers, Starters, Assistant Starters, and Outriders who appear on the official program as participants for a given race program for which testing is to be conducted shall be placed in a locked container which shall be secured by the stewards. The stewards for each racing program shall draw from the container the names of not more than five individuals for alcohol and drug testing. The name drawing shall be proximate to race time and a representative of the Jockey's Guild, the Illinois Horsemen's Benevolent and Protective Association, and the Illinois Harness Horsemen's Association shall be invited to attend the drawings and witness the random selections.
- d) The Jockeys, Drivers, Starter, Assistant Starters, and Outriders whose names are drawn at random must provide a urine sample to the stewards or their designer before the last race for that racing program. Any person selected at random who refuses to provide the sample or submit to a breathalyzer test shall be suspended.
- e) No Jockey, Driver, Starter, Assistant Starter, or Outrider shall be required to provide a urine sample on a random selection basis more than three times at a

ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

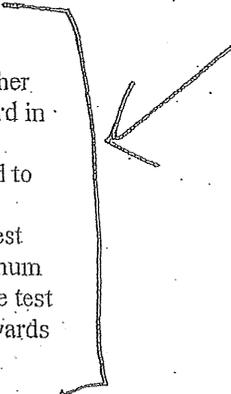
race meet. If the participant's name is drawn in excess of three times, the stewards shall disregard the selection, return the name to the container, and draw another name.

Louisiana Rule 1791

§1791, Testing for Dangerous Substance Abuse

A. No person licensed by the commission shall use any controlled dangerous substance as defined in the "Louisiana Controlled Dangerous Substance Act," R.S. 40:961, et seq., or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or ordered from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the person licensed by the commission to give notice to the state steward that he is using a controlled dangerous substance or prescription legend drug pursuant to a valid prescription or order from a licensed physician. This notice shall be in the form of an affidavit provided by the commission and completed by the licensed practitioner. Failure to provide the state steward with the appropriate affidavit prior to the collection of a urine sample shall result in a positive violation and shall be administered pursuant to Subsection D. Failure of a licensed person to provide this affidavit from his doctor or physician within 10 days of being notified by the stewards of a finding for a prescription drug shall be treated as a positive and having the person subject to a penalty as contained herein.

B. Every person licensed by the commission at any licensed racetrack may be subjected to a urine test, or other noninvasive fluid test at the discretion of the state steward in a manner prescribed by the commission. Any licensed person who fails to submit to a urine test when requested to do so by the state steward shall be liable to the penalties provided herein. Failure or refusal to submit to a urine test when ordered by the state steward shall result in a minimum 90-day suspension. Failure or refusal to submit to a urine test for a second time shall result in a suspension by the stewards to the full extent of their power and referral to the commission:



C. Any person licensed by the commission who is requested to submit to a urine test shall provide the urine sample to a chemical inspector of the commission. When requested to provide a sample, that person shall submit the sample before leaving the race track. Failure to do so shall be considered a refusal. The sample so taken shall be immediately sealed and tagged on the form provided by the commission and the evidence of such sealing shall be indicated by the signature of the tested person. The portion of the form which is provided to the laboratory for analysis shall not identify the individual by name. In obtaining any sample, it shall be the obligation of the licensed person to cooperate fully with the chemical inspector who may be required to witness the securing of such sample. Anyone who tampers with a urine sample shall be fined and/or suspended as provided for by R.S. 4:141 et seq. and/or the

Rules of Racing.

D. A positive controlled dangerous substance or prescription drug result shall be reported in writing to the commission or its designee. On receiving written notice from the official chemist that a specimen has been found positive for a controlled dangerous substance or prescription legend drug, the commission or its designee shall proceed as follows.

1. The licensed person shall, as quickly as possible, be notified in writing and a hearing scheduled with the stewards.
 - a. If a person having tested positive for a dangerous substance or prescription drug so desires, he/she may request within five days to the stewards to have the split or referee sample tested by a commission-designated alternate laboratory as provided herein. At the time of the request, the licensed person must deposit with the stewards an amount equivalent to the fee charged by the referee laboratory chosen to cover expenses to be incurred in testing the split sample. Failure of a licensed person to make a request within five days constitutes a waiver of any and all rights to have the split sample tested.
 - b. Split samples shall be stored in a locked freezer pending the laboratory results of the original samples. If an original sample's result is negative, the split sample may be disposed of. However, if the result is positive, the split sample shall be retained in the locked freezer until needed or until final disposition of the case.
 - c. A licensed person's timely request for the testing of the split sample may then select any one of the commission-designated alternate laboratories to perform the testing.
2. For a licensed person's first violation, he shall be suspended 30 days and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement shall be contingent upon evaluation by a commission approved board certified drug evaluator or counselor, and after providing a negative urine report.
3. For a licensed person's second violation, he shall be suspended six months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement may be allowed upon proof of enrollment, and continued attendance in a commission approved drug rehabilitation program.
4. For a licensed person's third violation, he shall be suspended for 15 years and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana.
5. The stewards and/or commission approved board certified drug evaluator or counselor may require urine/hair analyses or other noninvasive body fluid tests at any time during rehabilitation for reasonable cause.
6. Unexcused absences from a drug rehabilitation

program shall result in the participant being suspended for seven days from racing.

7. Excused absences from a drug rehabilitation program must be approved prior to the participant's absence by the commission approved drug evaluator or individual counselor.

8. Amphetamines and other central nervous system stimulants are not permitted except in cases of exogenous obesity. In those cases, the participant must give proof that multiple dietary attempts to control exogenous obesity have failed and that he is participating in a medically supervised dietary program which includes the short term (two to three weeks) usage of amphetamines.

E. Any information received in the process of obtaining a urine sample, including but not limited to, medical information, the results of any urine test, and any reports filed as a result of attending a drug rehabilitation program, shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a drug rehabilitation program shall be limited to the commissioners of the Louisiana State Racing Commission, the commission and/or its designee, counsel to the commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the commission or its designee.

F. Information received and reports prepared pursuant to this rule shall be stored in a locked secure area in the office of the commission for a period of one year, after which time, they shall be destroyed. However, the commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:289 (May 1987), amended by Department of Economic Development, Racing Commission, LR 15:620 (August 1989), LR 16:394 (May 1990), LR 17:172 (February 1991), LR 17:648 (July 1991).

ARCI MODEL RULES

CHAPTER 8: FLAT RACING LICENSING AND DUTIES OF LICENSEES

ARCI-008-010-GENERAL PROVISIONS

H. Substance Abuse/Addiction

- (1) All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.
- (2) It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:
 - (a) Is engaged in the illegal sale or distribution of alcohol or a controlled substance;
 - (b) Possesses, without a valid prescription, a controlled substance;
 - (c) Is intoxicated or under the influence of alcohol or a controlled substance;
 - (d) Is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the Commission;
 - (e) Has in his/her possession within the enclosure any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;
 - (f) Refuses to submit to urine or drug testing, when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is using drugs or alcohol or is based on the licensee's acting as if in an impaired condition; or
 - (g) Presently has drugs (controlled substances) or alcohol in his or her body. With regard to alcohol, the results of a breathalyzer test showing a reading of more than .05 percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph.
- (3) At its discretion, the Commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the racetrack.
- (4) When conducted, random drug testing shall apply, equally, to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.

- (5) No notice need be given as to onset or cessation of random testing.
- (6) For licensees who are tested under the provisions in this chapter, and whose testing shows the presence of drugs (controlled substances) or alcohol, any field screening test results shall be confirmed by a laboratory acceptable to the Commission which shall include Gas Chromatography/ Mass Spectrometry (GC/MS) procedures.
- (7) When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized by the licensee to obtain an independent analysis of the urine sample.
- (8) The Commission shall provide for a secure chain of custody for the sample to be made available to the licensee.
- (9) All costs for the transportation and testing for the sample portion made available for the licensee shall be the financial responsibility of the requesting person.
- (10) Payment shall be due from the requesting person within 30 days of receipt of notice of the costs.
- (11) A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license.
- (12) If there has been a violation, under number 2 above, the following procedures will be followed:
- (13) The Commission may, at its discretion, order the licensee to obtain a professional assessment to determine whether there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other drugs or the Commission may act on the information at hand.
- (14) Actions in the case of first violators may include revocation of the license, suspension of the license for up to six months, placing the violator on probation for up to 90 days or ordering formal assessment and treatment.
- (15) Treatment or assessment, if ordered, must meet the conditions given in numbers 16-18 below.
- (16) The license of the person may be revoked or suspended for a period of up to one year or a professional assessment of the person may be ordered by the Commission.
- (17) If a professional assessment indicates presence of a problem of alcohol or other drug abuse that is not treatable within the reasonably foreseeable future (360 days) the license may be suspended for a period of up to one year.
- (18) If a professional assessment indicates presence of a treatable problem of alcohol or other drug abuse or dependence, the Commission may order the licensee to undergo treatment as a condition of continuing licensure. Such treatment will be through a program or by a practitioner, acceptable to the licensee and the Commission. Required features of any program or practitioner acceptable to the Commission will be:
 - (a) Accreditation or licensure by an appropriate government agency, if required by state statute;
 - (b) A minimum of one year follow-up of formal treatment; and
 - (c) A formal contract indicating the elements of the treatment and follow up program that will be completed by the licensee and, upon completion, certified to the Commission

as completed. To effect the contract, the licensee will authorize release of information by the treating agency, hospital or individual.

- (19) For third-time violators, the violator's license may be revoked and the violator may be deemed ineligible for licensure for up to five years.
- (20) Although relapse (failure to maintain abstinence) is not inevitable, it is common for relapse to occur in recovery from alcoholism or other substance dependence. Therefore, a licensee who is engaged in a formal program of recovery, and is compliant with all provisions other than abstinence, will not be regarded automatically as having committed a new violation.
- (21) When a licensee is determined to have failed in maintaining abstinence, the licensee shall furnish to the Commission an assessment by the treating agency, hospital or individual practitioner indicating whether the licensee was compliant with the agreed upon program of recovery, and an opinion as to whether a "new violation" occurred.
- (22) The Commission will determine whether a new violation has occurred in each instance. If a new violation has occurred, the Commission will proceed under numbers 13-15 above or numbers 16-18 above. Otherwise, the licensee shall continue in the agreed upon program of recovery.

STAFF ANALYSIS
DISCUSSION AND ACTION BY BOARD REGARDING A REPORT FROM THE
CALIFORNIA MARKETING COMMITTEE (CMC) REGARDING ITS MARKETING
AND PROMOTION PLANS AND THE CMC'S REQUEST TO
ADJUST THE 0.2% DISTRIBUTION TO THE CMC, TO 0.25% EFFECTIVE
JANUARY 1, 2011, PURSUANT TO
BUSINESS AND PROFESSIONS CODE SECTION 19605.73(C)

Regular Board Meeting
December 16, 2010

BACKGROUND

Business and Professions Code section 19605.73 states that racing associations, fairs, and the organization responsible for contracting with racing associations and fairs with respect to the conduct of racing meetings, may form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing, and to obtain, provide, or defray the cost of workers' compensation coverage for stable employees and jockeys of thoroughbred trainers. The California Marketing Committee (CMC) is the private organization formed pursuant to the statute.

Business and Professions Code section 19605.73(b) requires the CMC to annually submit to the Board a statewide marketing and promotion plan and a thoroughbred trainers' workers' compensation defrayal plan for thoroughbred and fair horse racing that encompasses all geographical zones in the state, and which includes the manner in which funds were expended in the implementation of the plan for the previous calendar year.

Existing law requires that 0.4 percent of the total amount handled by each satellite wagering facility be distributed to the marketing organization for the promotion of thoroughbred and fair horse racing and to defray the costs of workers' compensation insurance. No more than one-sixth of the total amount available each year shall be used to defray the cost of workers' compensation insurance. Moneys not expended in the year collected may be expended the following year, and when the expenditures from a particular year are greater than the revenues collected into the fund, expenditures for the following year shall be reduced by the excess amount. Business and Professions Code section 19605.73 (d) currently states this section shall remain in effect until January 1, 2011 unless a later enacted statute is implemented.

Senate Bill (SB) 1072 (Calderon), Chapter 283, Statutes of 2010, extended the operation of the CMC until January 1, 2014. SB 1072 also changed the amount to be distributed to the CMC from an amount equal to 0.4 percent of the total amount handled at each satellite wagering facility, to 0.2 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only. Under SB 1072, the amount distributed to the CMC may be adjusted by the Board, but it may not exceed 0.25 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair

meetings. The legislation also deleted the provision that allowed CMC funds to be used to defray the cost of workers' compensation coverage for stable employees and jockeys of thoroughbred trainers.

In March 2010 the Board heard a report by the CMC on its budget for 2010 and 2011 and its marketing and promotion plans. At that time, a CMC representative reported there was no budget for 2011 because of the existing sunset clause. The 2010 CMC budget, which was finalized in January 2010, projected a year end deficit of \$199,952.

Subsequent to the passage of SB 1072, and prior to its implementation on January 1, 2011, the CMC has requested that the Board consider increasing the amount distributed to the CMC from 0.2 percent to 0.25 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meeting.

RECOMMENDATION

Staff recommends the Board hear from the CMC representative and other interested parties.

STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD
REGARDING THE STATUTORY INTERPRETATION OF
SB 1072 (CALDERON), CHAPTER 283, STATUTES OF 2010
AS TO THAT PORTION OF THE LAW
(BUSINESS AND PROFESSIONS CODE SECTION 19601.02 (A)(B)(C) AND (D))
DIRECTED AT INCREASING THE OVERNIGHT PURSES

Regular Board Meeting
December 16, 2010

BACKGROUND

Senate Bill (SB) 1072 (Calderon), Chapter 283, Statutes of 2010, added section 19601.02 to the California Business and Professions Code. Section 19601.02 requires every thoroughbred racing association or racing fair that conducts a live race meeting to deduct an additional 2 percent of the total amount handled on exotic wagers requiring the selection of two wagering interests, and 3 percent on exotic wagers requiring the selection of three or more wagering interests. The funds collected pursuant to the statute shall be distributed to the purse account of the meet conducting racing in the zone in which the wager was placed where they *shall be utilized solely to augment and not supplant overnight purses*. Subsection 19601.2(c) provides that the method utilized to determine the incremental amount received as a result of the takeout increase for distribution as overnight purses shall be established by agreement between the various affected thoroughbred racing associations and fairs and the applicable horsemen's organization. If the parties are unable to reach an agreement, the Board shall determine the appropriate method after a hearing on the matter. Prior to the enactment of SB 1072, the Board understood that all industry stakeholders were in agreement that increases in handle resulting from SB 1072 would be used solely to supplement overnight purses. However, the California Thoroughbred Trainers (CTT) has notified the Board that it believes the increased funds collected as a result of SB 1072 would impact distributions to CTT specified under Business and Professions Code section 19613 – in particular, distributions to the CTT administered backstretch employees' pension plan. The CTT believes the statutory language is clear, and has not been altered by SB 1072, and it has stated that as the insured fiduciary of the pension plan it must meet its obligations with regard to any potential claim, as well as its ethical obligations to the plan's constituents. The CTT has also stated that it "...has not participated in any discussions prior to or since the enactment of SB 1072 in which its relinquishing of its share of purse funds for the pension plan or otherwise from the total purse pool was even suggested." Finally, the CTT stated it must be involved in discussions regarding the incremental amount generated from the increased takeout because (it believes) there is no simple method of determining the amount and that a formal agreement prior to January 1, 2011 will be required.

SB 1072 directs increased takeout from exotic wagers directly to overnight purses. The resulting increase in overnight purses provides an economic benefit for the industry and will enable California to increase its competitiveness by establishing purses more consistent with those in other major racing states that benefit from the operation of slot machines and video lottery terminals, which are prohibited at California racetracks. In enacting SB 1072, the Legislature

made certain legislative findings. Section 1. (c) of SB 1072 states: *“It is also the intent of the Legislature to make it more advantageous for horses to compete in California racing by increasing the amount of funds available for purses. The increased purses will result in a higher caliber of racing with larger and more competitive fields, which, in turn, will improve the attractiveness of California’s racing product and generate additional funds for reinvestment in the industry.”* This Legislative finding is reiterated by State Senator Ronald Calderon, who in a letter to CHRB Chairman Keith Brackpool stated the funds generated from the increase in the take out on exotic wagers shall be utilized solely to augment and not supplant overnight purses. Senator Calderon wrote that the very reason the word “solely” was used was to assure that all of the incremental funds were used to augment overnight purses; the legislation was intended to direct incremental funds resulting from the increase in the takeout entirely for the augmentation of overnight purses. If the Legislature intended to have the increased purses used for Business and Professions Code section 19613, it would have so stated. The CHRB agrees with the legislative finding of SB 1072, and with the author of the legislation, Senator Calderon. The Board’s legislative interpretation of the provisions of SB 1072, with regards to the addition of Business and Professions Code section 19601.2, is that the incremental funds generated from the increase in the takeout on exotic wagers are to be utilized solely to augment overnight purses.

STAFF ANALYSIS
December 16, 2010

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF ODS TECHNOLOGIES, L.P., DBA TVG NETWORK ADVANCE DEPOSIT WAGERING (ADW) FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO BUT NOT EXCEEDING TWO YEARS.

TVG filed its application as an out-of-state multi-jurisdictional wagering hub to provide advance deposit wagering (ADW). It is currently licensed through December 31, 2010 as an out-of-state multi-jurisdictional wagering hub. TVG Network was acquired by Betfair Group Limited in January 2009.

A bond or other form of financial security in the amount of \$500,000 is required to be submitted with an application for license to conduct ADW. TVG, as a current ADW provider, has a \$500,000 bond on file that will expire October 12, 2011. The bond will expire prior to the term of the proposed license renewal. Staff recommends that the Board require TVG to extend its bond to coincide with the term of the license renewal, thus assuring a financial guarantee through the duration of the ADW license.

This application provides for:

- Operation 365 days a year; up to twenty-four hours a day. TVG has applied for a two-year license beginning January 1, 2011 through December 31, 2012. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, provides for a two-year license term.
- Business and Profession Code section 19604 includes specific provisions that must be met before an ADW provider can accept wagers. These include:

19604 (b) (1) and (2)

No ADW provider may accept wagers on races conducted in California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.
3. The agreement referenced in subparagraph (2) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to

the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the Interstate Horseracing Act shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

No ADW provider may accept wagers on **races conducted outside of California** from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

19604 (a) (7)

““Hub agreement” as a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen's organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California.”

19604 (d) (1) (B)

“The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization . . .”

Documents received in compliance with Business and Professions code section 19604:

TVG’s Associate General Counsel, Melanie Sims Frank provided the following statement clarifying the TVG documents. *“The documents are presented as both hub and license agreements. The agreements that we provided to the Board encapsulate all elements of TVG’s relationships with those racing associations. Specifically, Article II provides the written agreement of the racing association for TVG to accept wagers on its races pursuant to B&P Code Section 19604 (b) (1) (B). The agreements are normally approved by the horsemen’s organization on a meet-by-meet basis. The purpose of a “Hub Agreement” in B&P Code Section 19604 is to set forth the agreed upon contractual compensation retained by TVG for wagers by California residents on races conducted outside of California. The contractual compensation for such wagers is set forth in Section 3.1 of the License Agreements that TVG provided to the Board. We provided License Agreements for each breed as required under the law.”*

TVG has provided the Board with a copy of three agreements:

- License Agreement by and Between ODS Technologies, L.P. d/b/a TVG Network and Hollywood Park Racing Association dated as of November 6, 2007. The agreement has been extended through December 31, 2010.
- License Agreement by and Between ODS Technologies, L.P. d/b/a TVG Network and Los Alamitos Quarter Horse Racing Association, Los Alamitos Harness Racing Association, dated as of December 12, 2007. The agreement has been extended through December 31, 2018.
- License Agreement by and Between ODS Technologies, L.P. d/b/a TVG Network and California State Fair (Sacramento) d/b/a Cal Expo, dated as of March 2008. The agreement has been extended through December 31, 2012.

Historically, the horsemen and track agreement(s) have not been negotiated between the associations, fairs and ADW providers until the beginning of each race meet. The timing of the negotiations is a contributing factor to the delay in obtaining the agreements for submission with the ADW applications. Therefore, to ensure compliance the Board has required that the agreements be provided with the submission of the association/fair "Application for License to Conduct a Horse Racing Meeting".

At its November 22, 2010, regular meeting the Board approved the applications for race meetings scheduled to begin in December 2010, conditioned upon the receipt of outstanding documents. TVG was listed as an ADW provider on the California Exposition and State Fair Harness Association; Pacific Racing Association and Los Angeles Turf Club race meet applications. The associations provided at the time of the November regular meeting that they were in negotiations with the ADW provider. The agreement with California Exposition and State Fair has been provided; however, to date, PRA and LATC, which are scheduled to commence racing in December 2010, and TVG, have not provided documents that demonstrate they have reached an agreement.

TVG has supplied the Board with a copy of its agreement with Pari-mutuel Employees Guild Local 280 (labor organization) dated November 28, 2009. The agreement is effective until December 31, 2010. TVG has also submitted an amendment to this agreement dated December 2, 2010 which extends the effective date of the agreement through December 31, 2011. As submitted the addendum is currently pending approval from the Local 280. It should be noted the addendum covers a one-year time period. TVG has made application for a two-year license.

A representative of TVG is prepared to address the Board regarding the status of the outstanding documents.

The following **items are outstanding** and will need to be submitted and/or resolved before ADW wagers can be accepted:

1. Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows TVG to accept wagers on LATC and PRA race meetings scheduled to commence December 26, 2011.
2. Horsemen's Agreement
3. Contract Agreement with Labor Organization
4. A surety bond that coincides with the term of the license renewal.

RECOMMENDATION:

Staff recommends the Board not approve the application until the outstanding documents are submitted.

If the application is considered for approval, staff recommends a contingent approval upon the submission of outstanding items and recommends the applicant be required to appear again before the Board to address the status of the outstanding documents and to remove the contingency status from the Board's approval.

STAFF ANALYSIS
December 16, 2010

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF CHURCHILL DOWNS TECHNOLOGY INITIATIVES COMPANY DBA TWINSPIRES FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO BUT NOT EXCEEDING TWO YEARS.

Twinspires filed its application as an out-of-state multi-jurisdictional wagering hub. It is currently licensed through December 31, 2010 as an out-of-state multi-jurisdictional wagering hub. Churchill Downs Technology Initiatives Company acquired Youbet, a current ADW licensed provider, in June 2010.

A bond or other form of financial security in the amount of \$500,000 must be submitted with an application for license to conduct ADW. Twinspires, as a current ADW provider, has a \$500,000 bond on file that is continuous until cancelled.

This application provides for:

- Operation normally 24 hours a day, 7 days a week, except December 25. Youbet has applied for a one-year license. CHRB Rule 2071 and 2072 allows for a two-year license term.

19604 (b)(1) and (2)

No ADW provider may accept wagers on **races conducted in California** from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.
3. The agreement referenced in subparagraph (2) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the Interstate Horseracing Act shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

No ADW provider may accept wagers on **races conducted outside of California** from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on

the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

19604 (a)(7)

“Hub agreement” as a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen's organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California.”

19604 (d)(1) (B)

“The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization . . .”

The pertinent 2011 contracts and/or agreements required pursuant to Business and Professions Code section 19604 that allow an ADW provider to accept wagers on races conducted in and outside of California for the applied license term have not been received.

Historically, the horsemen and track agreement(s) have not been negotiated between the associations, fairs and ADW providers until the beginning of each race meet. The timing of the negotiations is a contributing factor to the delay in obtaining the agreements for submission with the ADW applications. Therefore, to ensure compliance the Board has required that the agreements be provided with the submission of the association/fair “Application for License to Conduct a Horse Racing Meeting”.

At its November 22, 2010, regular meeting the Board approved the applications for race meetings scheduled to begin in December 2010, conditioned upon the receipt of outstanding documents. Twinpires was listed as an ADW provider on the California Exposition and State Fair Harness Association; Pacific Racing Association and Los Angeles Turf Club race meet applications. The associations provided at the time of the November regular meeting that they were in negotiations with the ADW provider. To date, no documents have been provided to the Board by the associations or the ADW provider to substantiate an agreement with the racing associations scheduled to commence racing December 2010.

The following items are **outstanding** and will need to be submitted and/or resolved before ADW wagers can be accepted:

1. Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows Twinpires to accept wagers.
2. Horsemen’s Agreement
3. Hub Agreement
4. Labor Agreement
5. CHRB License Renewal: Rohit Thukral, Mike Cody

RECOMMENDATION:

Staff recommends the Board not approve the application until the outstanding documents are submitted.

If the application is considered for approval, staff recommends a contingent approval upon the submission of outstanding items and recommends the applicant be required to appear again before the Board to address the status of the outstanding documents and to remove the contingency status from the Board's approval.

STAFF ANALYSIS
December 16, 2010

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF YOUBET.COM, INC., FOR A CALIFORNIA MULTI-JURISDICTIONAL WAGERING HUB AND APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF YOUBET.COM, INC., FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB FOR A PERIOD OF UP TO BUT NOT EXCEEDING TWO YEARS.

Youbet.com, Inc. (Youbet) filed its application as a California multi-jurisdiction wagering hub and an out-of-state multi-jurisdictional wagering hub to provide advance deposit wagering (ADW). It is currently licensed through December 31, 2010, as a California multi-jurisdiction wager hub and an out-of-state multi-jurisdictional wagering hub. Youbet was acquired by Churchill Downs Technology Initiatives Company in June of 2010. Churchill Downs Incorporated also owns TwinSpires a current ADW licensed provider with the California Horse Racing Board.

A bond or other form of financial security in the amount of \$500,000 must be submitted with an application for license to conduct ADW. Youbet, as a current ADW provider, has a \$500,000 bond on file that is continuous until cancelled.

This application provides for:

- Operation normally 14.5 hours a day, 7 days a week. Hours are 5:00 am – 9:30 pm (Pacific Standard Time). Youbet has applied for a one-year license. CHRB Rule 2071 and 2072 allows for a two-year license term.

19604 (b)(1) and (2)

No ADW provider may accept wagers on races conducted in California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.
3. The agreement referenced in subparagraph (2) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the Interstate Horseracing Act shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

No ADW provider may accept wagers on races conducted outside of California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

19604 (a)(7)

“Hub agreement” as a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen's organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California.”

19604 (d)(1) (B)

“The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization . . .”

The pertinent 2011 contracts and/or agreements required pursuant to Business and Professions Code section 19604 that allow an ADW provider to accept wagers on races conducted in and outside of California for the applied license term have not been received.

Historically, the horsemen and track agreement(s) have not been negotiated between the associations, fairs and ADW providers until the beginning of each race meet. The timing of the negotiations is a contributing factor to the delay in obtaining the agreements for submission with the ADW applications. Therefore, to ensure compliance the Board has required that the agreements be provided with the submission of the association/fair “Application for License to Conduct a Horse Racing Meeting”.

At its November 22, 2010, regular meeting the Board approved the applications for race meetings scheduled to begin in December 2010, conditioned upon the receipt of outstanding documents. Youbet was listed as an ADW provider on the California Exposition and State Fair Harness Association; Pacific Racing Association and Los Angeles Turf Club race meet applications. The associations provided at the time of the November regular meeting that they were in negotiations with the ADW provider. To date, no documents have been provided to the Board by the associations or the ADW provider to substantiate an agreement with the racing associations scheduled to commence racing December 2010.

The following items are outstanding and will need to be submitted and/or resolved before ADW wagers can be accepted:

1. Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows Youbet to accept wagers.
2. Horsemen's Agreement
3. Hub Agreement
4. Labor Agreement
5. CHRB License Renewal: Rohit Thukral, Mike Cody

RECOMMENDATION:

Staff recommends the Board not approve the application until the outstanding documents are submitted.

If the application is considered for approval, staff recommends a contingent approval upon the submission of outstanding items and recommends the applicant be required to appear again before the Board to address the status of the outstanding documents and to remove the contingency status from the Board's approval.

STAFF ANALYSIS

December 16, 2010

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF XPRESSBET.COM, DELMARBETS.COM AND OAKTREEBETS.COM FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO BUT NOT EXCEEDING TWO YEARS.

XpressBet, LLC (XpressBet) filed its application as an out-of-state multi-jurisdictional wagering hub to provide advance deposit wagering (ADW). It is currently licensed through December 31, 2010 as an out-of-state multi-jurisdictional wagering hub. XpressBet is a wholly owned subsidiary of MI Developments Investments, Inc. (MID). In April 2010 a Delaware bankruptcy judge approved a plan that allowed Magna Entertainment Corp. (MEC) to transfer the vast majority of its racing assets to its parent company and largest creditor, MID. MID also owns Los Angeles Turf Club at Santa Anita Park Race Track (LATC) and Pacific Racing Association at Golden Gate Fields (PRA). At its November 2010 regular meeting the Board determined that the purposes of the California Horse Racing Law would be better served by permitting MID to own and operate LATC, PRA and XpressBet under common ownership and waived the prohibition set forth in Business and Professions Code sections 19483 and 19484.

A bond or other form of financial security in the amount of \$500,000 is required to be submitted with an application for license to conduct ADW. XpressBet, as a current ADW provider, has a \$500,000 bond on file that will expire August 10, 2011. The bond will expire prior to the term of the proposed license renewal. Staff recommends that the Board require XpressBet to extend its bond to coincide with the term of the license renewal, to assure a financial guarantee through the duration of the ADW license.

This application provides for:

- Operating during all times races are running up to twenty-four hours a day. XpressBet has applied for a one-year license beginning January 1, 2011 through December 31, 2011. CHRB Rules 2071, License to Conduct Advance Deposit Wagering by a California Applicant, and 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, provide for a two-year license term.
- Business and Profession Code section 19604 includes specific provisions that must be met before an ADW provider can accept wagers. These include:

19604 (b) (1) and (2)

No ADW provider may accept wagers on races conducted in California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.

- 2. A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.
- 3. The agreement referenced in subparagraph (2) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the Interstate Horseracing Act shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

No ADW provider may accept wagers on **races conducted outside of California** from a resident of California unless all of the following conditions are met:

- 1. The ADW provider must be licensed by the Board.
- 2. There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

19604 (a) (7)

““Hub agreement” as a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen's organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California.”

19604 (d) (1) (B)

“The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization . . .”

The XpressBet Hub Agreement has been received; however 2011 contracts and/or agreements required pursuant to Business and Professions Code section 19604 that allow ADW providers to accept wagers on races conducted in and outside of California for the applied license term have not been received.

Historically, the horsemen and track agreement(s) have not been negotiated between the associations, fairs and ADW providers until the beginning of each race meet. The timing of the negotiations is a contributing factor to the delay in obtaining the agreements for submission with the ADW applications. Therefore, to ensure compliance the Board has required that the agreements be provided with the submission of the association/fair "Application for License to Conduct a Horse Racing Meeting".

At its November 22, 2010, regular meeting the Board approved the applications for race meetings scheduled to begin in December 2010, conditioned upon the receipt of outstanding documents. XpressBet was listed as an ADW provider on the California Exposition and State Fair Harness Association; Pacific Racing Association and Los Angeles Turf Club race meet applications. The associations stated at the time of the November regular meeting that they were in negotiations with the ADW provider. To date, no documents have been provided to the Board by the associations or the ADW provider to substantiate an agreement with the racing associations scheduled to commence racing December 2010.

A representative of XpressBet is prepared to address the Board regarding the status of the outstanding documents.

The following **items are outstanding** and will need to be submitted and/or resolved before ADW wagers can be accepted:

1. Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allow XpressBet to accept wagers.
2. Horsemen's Agreement
3. Labor Agreement
4. A surety bond that coincides with the term of the license renewal.

RECOMMENDATION:

Staff recommends the Board not approve the application until the outstanding documents are submitted.

If the application is considered for approval, staff recommends a contingent approval upon the submission of outstanding items and recommends the applicant be required to appear again before the Board to address the status of the outstanding documents and to remove the contingency status from the Board's approval.

STAFF ANALYSIS
DISCUSSION BY THE BOARD REGARDING
A REPORT FROM SAN LUIS REY DOWNS
CONCERNING THE SUBSIDY FROM
SOUTHERN CALIFORNIA OFF-TRACK WAGERING, INC. (SCOTWINC)
STABLING AND VANNING FUND

Regular Board Meeting
December 16, 2010

BACKGROUND

Business and Professions Code section 19607 provides that when satellite wagering is conducted on thoroughbred races at associations or fairs in the central or southern zone, an amount not to exceed 1.25 percent of the total amount handled by all of those satellite wagering facilities shall be deducted from the funds otherwise allocated for distribution as commissions, purses and owners' premiums and instead distributed to an organization formed and operated by thoroughbred racing associations, fairs conducting thoroughbred racing, and the organization representing thoroughbred horsemen, with each party having meaningful representation on the board of the organization, to administer, pursuant to supervision of the board, a fund to provide reimbursement for offsite stabling at Board-approved auxiliary training facilities for additional stalls beyond the number of useable stalls the association or fair is required to make available, and for the vanning of starters from those additional stalls on racing days for thoroughbred horses. Business and Professions Code section 19607.1(d) states that upon the request of any party within the organization, the Board shall adjudicate any dispute regarding costs or other matters relating to the furnishing of offsite stabling or vanning. The Board may, if necessary, appoint an independent auditor to assist in the resolution of disputes.

At the July 22, 2010 Regular Board Meeting a representative of San Luis Rey Downs (SLRD) spoke about her organization's concerns with the distribution of the Southern California Off-Track Wagering, Inc. (SCOTWINC) vanning and stabling funds. SLRD horsemen were not receiving vanning and stabling subsidies, while horsemen at Santa Anita (SA) and Hollywood Park (HP) were receiving funds. Prior to the Del Mar meeting it was reported that a total of 2,877 horses were stabled at SA and HP; however, racing secretaries reported the active inventory (which SLRD assumed included horses stabled at its facility) was between 1,800 and 2,000 horses. That meant between 877 and 1,077 horses were being subsidized at SA and HP while horsemen at SLRD – who continued to contribute to the vanning and stabling fund – shouldered the entire cost of stabling their inventory.

In August 2010, SLRD sent a letter to the CHRFB about the SCOTWINC vanning and stabling fund. The SLRD letter reiterated the comments that were made at the July 22, 2010 Regular Board Meeting and it requested that the CHRFB respond in accordance with Business and Professions Code section 19607.1, which provides that upon the request of any party within SCOTWINC, the Board shall adjudicate any dispute regarding the furnishing of offsite stabling or vanning. The CHRFB responded in writing to the SLRD and informed it that under Business and Professions Code section 19607.1 any request for adjudication by the Board must come from

a party within SCOTWINC, and absent such a request the Board had no authority. The horsemen at SLRD are represented by Thoroughbred Owners of California (TOC); therefore, a request for arbitration on their behalf would have to come from the TOC.

At the September 23, 2010 Regular Board Meeting an SLRD representative again raised the issue of SCOTWINC vanning and stabling funds. The representative stated SLRD horsemen received subsidies from 1989 through January 2010 when subsidies were cut off at Pomona and SLRD. When SCOTWINC reconsidered subsidies, only Pomona was chosen to receive funds. SLRD contended the issue was equality, as SLRD horsemen ran horses and participated in the fund, yet only certain horsemen were receiving benefits. In addition, the SLRD contended that between 1988 and 2001 the Board intervened twice on its behalf. Commissioner Moss responded that in 2001 the Board may have indicated its preferences regarding vanning and stabling, but it did not intervene with SCOTWINC. Staff Counsel Robert Miller agreed the CHRB had no authority over distribution of the vanning and stabling funds. SLRD was informed the issue would be placed for discussion on a future Regular Board Meeting agenda.

On October 14, 2010 SLRD filed a California Victim Compensation and Government Claims Board (VCGCB) action against the CHRB and SCOTWINC. The claim asked for \$1,700,000 as the annual amount necessary to provide reimbursement for offsite stabling for horses at SLRD. According to the SLRD claim, the SCOTWINC board "...voted abitrarily [sic] and capriciously to exclude SLRD TTC from receiving \$1.7 million in subsidy funds intended to provide reimbursement for offsite stabling of thoroughbred horses at CHRB-approved auxiliary training facilities." In its claim the SLRD asserted the CHRB "supervises" SCOTWINC, a "...quasi-state agency..." On November 18, 2010, the VCGCB held a hearing regarding the SLRD claim, and on November 24, 2010, the VCGCB rejected the claim. Under Government Code section 945.6, the SLRD has six months from the date of the VCGCB rejection notice to file a court action on its claim.

At the November 9, 2010 Regular Board Meeting a SLRD representative spoke about the SCOTWINC vanning and stabling fund. The SLRD representative reiterated that SLRD did not intend to close and that the SLRD horsemen deserved to receive benefits because they were active contributors to the vanning and stabling fund. The SLRD requested that the Board direct SCOTWINC to retroactively distribute to SLRD the sum of \$4,600 per day for the period of March 16, 2010 through October 31, 2010. The funds would be used to reimburse SLRD horsemen for stall costs and to cover SLRD incremental stall costs.

RECOMMENDATION

This item is presented for Board discussion and action.

STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD REGARDING
A REPORT AND UPDATE FROM THE
COMMERCE CLUB MINISATELLITE WAGERING FACILITY
REGARDING ITS FUTURE PLANS FOR THE FACILITY

Regular Board Meeting
December 16, 2010

BACKGROUND

Assembly Bill (AB) 241 (Price), Chapter 594, Statutes of 2007, added sections 19410.7, 19605.25 and 19605.54 to the Business and Professions Code to provide that the Board may authorize up to 15 minisatellite wagering sites in each of the three zones (total 45) under certain conditions. Board Rule 2066, Application for License to Operate a Minisatellite Wagering Facility, sets forth the application process and provides the criteria for persons or entities who wish to operate a Minisatellite Wagering Facility.

At its April 24, 2009, Regular Meeting the Board approved an application for license to operate a minisatellite wagering facility of the California Commerce Club, Inc. d/b/a Commerce Casino. The Commerce Casino would offer minisatellite wagering at the Commerce Casino in Commerce, California, for a period of up to two years. Operations would begin upon approval of the application. The Commerce Casino is in the southern zone, and at the time of application it requested a six-month exclusive right among card clubs in Los Angeles County to operate a minisatellite facility. The Commerce Casino opened with five convertible teller/self service machines, four dedicated self-service machines, and a seating capacity of 35, with nine tables and 14 television monitors. The Board approved the California Commerce Club application for license to operate a minisatellite wagering facility with a six-month exclusive right, and the option to extend its license for an additional 18 months.

At the July 2009 Regular Board Meeting Rod Blonien, representing the California Commerce Club, stated the minisatellite wagering facility at Commerce Casino opened the week of July 13, 2009, without advertising or promotions. He said the facility did \$10,000 on Hollywood Park racing its first night, and within three days did \$37,000. On the opening day of the Del Mar meeting, Mr. Blonien reported the Commerce Casino minisatellite did \$42,000.

At the October 15, 2009 Regular Board Meeting Rod Blonien, representing the California Commerce Club, stated the minisatellite wagering facility opened a second room with self service machines, while the original room had four windows with two pari-mutuel clerks during the daytime. The Commerce Club minisatellite was averaging between \$80,000 and \$60,000 a day, which represented the generation of one million dollars in purse money. Mr. Blonien added the nearest full-scale satellite facility was located 17-miles away at Los Alamitos (within the 20-mile limit) but no diminution of handle was reported from that facility.

The Commerce Club minisatellite facility has been open approximately 17 months and wishes to make a presentation to the Board regarding its progress and expansion.

RECOMMENDATION

Staff recommends the Board hear from the Commerce Club representative.