

CALIFORNIA HORSE RACING BOARD
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REGULAR MEETING

of the **California Horse Racing Board (CHRB)** will be held **Thursday, January 26, 2017**, 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 December 15, 2016.**
2. **Introduction of CHRB Commissioner.**
3. **Election of 1st and 2nd Vice-Chairman.**
4. **Executive Director's Report.**
5. **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.
6. Discussion and action by the Board regarding the **distribution of race day charity proceeds of the Los Angeles Turf Club II in the amount of \$30,682, to ten beneficiaries.**
7. Discussion by the Board regarding an update from the **California Marketing Committee (CMC) concerning changes to live streaming of races on the CalRacing.com website.**
8. Discussion by the Board regarding a presentation by **Plusmic Corporation USA of the digital photo finish process.**
9. Discussion and action by the Board regarding the **staff report on proposed audits of California licensed Advance Deposit Wagering (ADW) providers pursuant to Business and Professions Code section 19604(d)(2)(D) and subsection (g) of 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; and the submission of additional information, to include profit and loss statements, from ADW Applicants, as authorized pursuant to subsection (f) of CHRB's Rules 2071 and 2072.**

10. Discussion and action by the Board on the **Application for Approval to Conduct Advance Deposit Wagering (ADW) of NewCo Ventures North America, LLC, dba NYRAbets.com, for an out-of-state multi-jurisdictional wagering hub**, for a period of up to two years.
11. Discussion and action by the Board on the **Application for Approval to Conduct Advance Deposit Wagering (ADW) of Lien Games Racing, LLC, for an out-of-state multi-jurisdictional wagering hub**, for a period of up to two years.
12. 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 two years.
13. Discussion and action by the Board on the **Application for Approval to Conduct Advance Deposit Wagering (ADW) of Watch and Wager.Com, LLC, for an out-of-state multi-jurisdictional wagering hub**, for a period of up to two years.
14. Discussion and action by the Board on the **Application for License to Conduct Advance Deposit Wagering (ADW) of XpressBet, LLC, for a California multi-jurisdictional wagering hub**, for a period of up to two years.
15. 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 two years.
16. Report from the **Medication, Safety and Welfare Committee**.
17. Discussion and action by the Board regarding the **proposed amendment to CHRB Rule 1588, Horse Ineligible to Start in a Race**, to provide that a horse that has not raced for a specified number of consecutive days at a recognized race meeting is ineligible to enter a race until such horse has satisfactorily completed enhanced testing or evaluation and has been declared eligible to start by the Official Veterinarian.
18. Discussion and action by the Board regarding the proposed amendments to **CHRB Rules 1689, Safety Helmets Required; and Rule 1689.1, Safety Vest Required**, to require drivers' riding in a jog cart to wear a safety helmet and safety vest.
19. Discussion and action by the Board regarding the **proposed amendments to CHRB Rules 1858, Test Sample Required; 1859, Taking, Testing and Reporting of Samples; 1859.25, Split Sample Testing; 1867, Prohibited Veterinary Practices; and the proposed addition of CHRB Rules 1859.1, Out-of-Competition Testing Procedures and Requirements; and 1868, Prohibited Drug Substance in Out-of-Competition Testing**, to incorporate the Association of Racing Commissioners International (ARCI) model rule for out-of-competition testing into the CHRB's rules and regulations.

20. **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," and as authorized by Government Code section 11126(e).

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

C. The Board may convene a Closed Session for the purposes of considering personnel matters as authorized by Government Code section 11126 (a).

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

Chuck Winner, Chairman
Madeline Auerbach, Member
Steve Beneto, Member
Jesse H. Choper, Member
George Krikorian, Member
Araceli Ruano, Member
Alex Solis, Member
Rick Baedeker, Executive Director
Jacqueline Wagner, Assistant Executive Director

PROCEEDINGS of the Regular Meeting of the **California Horse Racing Board** held at the **Los Alamitos Race Course**, 4961 Katella Ave, Los Alamitos, California, on **December 15, 2016**.

Present: Chuck Winner, Chairman
 Madeline Auerbach, Member
 George Krikorian, Member
 Alex Solis, Member
 Rick Baedeker, Executive Director
 Robert Miller, General Counsel

APPROVAL OF THE MINUTES OF NOVEMBER 17, 2016

Chairman Winner asked for approval of the minutes of the Regular Meeting of November 17, 2016. Commissioner Krikorian **motioned** to approve the minutes. Commissioner Solis **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Auerbach, Winner, Krikorian, Solis. Nay: None. Motion carried.

EXECUTIVE DIRECTOR'S REPORT.

Executive Director Rick Baedeker reported that the Los Angeles Turf Club held an early Christmas party luncheon for the backstretch employees, with the help of other organizations, such as the Thoroughbred Owners of California, California Thoroughbred Horsemen's Foundation, Inc., the Gregson Foundation, and many others from the horse racing industry. Toys were handed out to children, and large items such as televisions and bikes were raffled off. He said Luis Jauregui characterized the Christmas party as a way for the racing industry to thank the backside community for its hard work. Executive Director Baedeker reported that year-to-date daytime handle increased by 1.2 percent and nighttime handle increased nearly 1.0 percent, with an overall gain of 1.1 percent over the same time in 2015. He said November 2016 handle included two days of the Breeders' Cup races, which resulted in a 61 percent increase in handle

for the month. Executive Director Baedeker reported Art Sherman was honored with the Big Sport of Turfdom Award from the Turf Publicists of America. He stated Dennis Nevin was honored with the Pete Pederson Outstanding Steward Award from the Racing Officials Accreditation Program. Mr. Nevin graduated from San Jose State University with a degree in philosophy and psychology, and received an appointment in 1974 as a steward for horse racing in California. He said fellow steward, John Herbuveaux, considered Mr. Nevin tenacious and regarded racing rules as sacred. Mr. Nevin would defend his post with any available resource. He had a love for animals which taught him to make horse welfare his first concern. He had a sense of generosity known throughout California, which made him widely respected by the horse racing industry. Executive Director Baedeker said he wanted to re-present the Pete Pederson Outstanding Steward Award to Mr. Nevin before the Board and congratulated Mr. Nevin. Executive Director Baedeker stated CHRB Chief Counsel Robert Browning Miller was retiring. He said Mr. Miller served in the U.S. Marine Corps, attended the University of the Pacific, McGeorge School of Law, and was an Assistant U.S. Attorney following graduation. He served in the U.S. Attorney's office for six and a half years before joining Kronick, Moskovitz, Tiedemann and Girard law firm where he practiced civil litigation for 12 years. He left the firm to join a small litigation firm and then worked for the California Attorney General's office. Mr. Miller met Kirk Breed while working for the California Attorney General's office, and once the Chief Counsel position was created, Mr. Miller began working at CHRB. Governor Brown sent a letter to honor and congratulate Mr. Miller on his retirement following 17 years of dedicated service to the State of California. Executive Director Baedeker said congratulations and thank you, Mr. Miller, for your service. Chairman Winner stated everyone present knew how

important Mr. Miller was to California horse racing, especially to CHRB. He said Mr. Miller was truly a special person and he would be missed.

PUBLIC COMMENT

Chairman Winner stated the Board wanted to have a moment of silence for jockey Garret Gomez. Commissioner Solis stated Mr. Gomez was a great rider and friend. Dorothy Burt, Arabian Racing Association of California, asked the Board to consider holding more than two Board meetings in Northern California. The 2017 Regular Board Meeting schedule was the same as 2016, with only two meetings in Northern California. It was difficult for people from Northern California to travel to Southern California to make a presentation or attend a meeting when ten meetings out of the year were held in Southern California.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE STATUS OF ITEMS NOTED AS OUTSTANDING ON THE FOLLOWING APPLICATIONS FOR LICENSE TO CONDUCT A HORSE RACING MEETING OF THE FOLLOWING RACING ASSOCIATIONS THAT WERE CONDITIONALLY APPROVED AT THE NOVEMBER 17, 2016 REGULAR MEETING OF THE BOARD: LOS ALAMITOS HORSE RACING ASSOCIATION (T) AT LOS ALAMITOS RACE COURSE, COMMENCING DECEMBER 7, 2016 THROUGH DECEMBER 20, 2016, INCLUSIVE; LOS ANGELES TURF CLUB, (T) AT SANTA ANITA PARK RACE TRACK, COMMENCING DECEMBER 21, 2016 THROUGH JULY 4, 2017. (NOTE: OPENING DAY IS DECEMBER 26, 2016.) AND THE PACIFIC RACING ASSOCIATION (T) AT GOLDEN GATE FIELDS, COMMENCING DECEMBER 21, 2016 THROUGH JUNE 20, 2017. (NOTE: OPENING DAY IS DECEMBER 26, 2016.)

Executive Director Rick Baedeker stated at the November 2016 Regular Board Meeting the Los Alamitos Racing Association (LARA), Pacific Racing Association (PRA) and Los Angeles Turf Club (LATC) were granted licenses to operate horse racing meetings conditioned upon receipt of all outstanding items. LARA had met the application requirements and was granted a license to

conduct a horse race meeting commencing December 7, 2016. Scott Daruty, LATC, said LATC submitted the race meet agreement between LATC and the Thoroughbred Owners of California (TOC). He said LATC worked diligently to work out an agreement with the California Thoroughbred Trainers (CTT), however the agreement was incomplete. Prior to the November 2016 Regular Meeting, the CTT informed LATC the agreement would not be signed until concerns about stabling were resolved. Since the November 2016 Regular Meeting, the CTT raised other concerns it wanted resolved prior to an agreement with LATC. Mr. Daruty said the CTT agreement was not mandated by statute; the Board mandated the CTT agreement, and LATC did its best to comply. Mr. Daruty stated LATC's remaining outstanding items were all related to advance deposit wagering (ADW). He said LATC was caught in the middle of disagreements between the ADW providers and TOC because LATC was the first race meeting scheduled in 2017. He stated the Board's Pari-Mutuel and Wagering Committee held a meeting December 14, 2016 to discuss various concerns regarding ADW. After the Committee meeting, LATC concluded the ADW contracts with LATC should be limited due to the increased complexity involved for each additional contract with an ADW provider. Mr. Daruty stated LATC had a contract prepared with ODS Technologies, L.P., dba TVG (TVG) which was approved by TOC. He stated TVG televised more California racing than any other racing jurisdiction. He said LATC and Xpressbet, LLC signed an agreement which TOC approved. LATC considered NewCo Ventures North America, LLC, dba Nyrabets.Com (NYRA) and Churchill Downs Technology Initiatives Company, dba Twinspires.Com (Twinspires) critical partners in the national marketplace. LATC had hub agreements with both NYRA and Twinspires. Tony Allevato, NYRA, stated NYRA spoke with TOC in the past regarding online wagers placed at a track (geolocation). A TOC geolocation proposal was received within the

past week. He said NYRA considered the geolocation proposal a matter between itself and TOC; not the Board. He stated NYRA did not have any major concerns regarding the TOC geolocation proposal. NYRA planned to finalize the proposal prior to the LATC race meeting. Executive Director Baedeker stated the simulcast agreement, which expired December 25, 2016, was referenced as an outstanding item. Mr. Daruty said the Monarch documents had either a new agreement in place, or the previous contract had a provision where if a new contract was not executed, should LATC and CHRB consent, the contract continued for each entity. Executive Director Baedeker stated the Board wanted to know which locations had a new simulcast contract with LATC. Mr. Daruty stated all the brick-and-mortar locations had new agreements. Executive Director Baedeker said the Board sought clarification that all sites included in the LATC application to conduct a horse race meeting had entered into a simulcast agreement. Chairman Winner asked Mr. Daruty for confirmation that LATC would not contract with Watch and Wager.com, LLC (WAW) or Lien Games Racing, LLC (BetAmerica) for ADW. Mr. Daruty said LATC did not intend to contract with WAW or BetAmerica. Chairman Winner stated the two were the smaller ADW providers. Mr. Daruty stated there were other opportunities available. He said a document was provided at the Pari-Mutuel and Wagering Committee meeting which displayed a breakdown in handle and showed some ADW providers gave zero percent contribution to handle. He said LATC did not think it was worth all the work to add geolocation agreements without a material contribution to handle. Chairman Winner asked if Mr. Daruty understood the geolocation agreement was not required by the Board; it was between LATC and TOC. Mr. Daruty confirmed the geolocation agreement was not required by the Board. Commissioner Krikorian stated the Board should not have heard the LATC request to conduct a horse race meeting because the application was incomplete. Executive Director

Baedeker stated the application was conditionally approved by the Board at its November 17, 2016 Regular Meeting. He said Mr. Daruty was explaining what items were completed and what still needed to be submitted to the Board. Mr. Daruty stated the CTT agreement was the only item that was outstanding. Commissioner Krikorian said there were always negotiations between the different parties involved in horse racing. He asked how the Board was supposed to get all the information needed to make the correct assessment before approving applications. Mr. Daruty stated the Board mandated contracts between parties; however the mandates often caused one party to have leverage over the other. He said in this case, the other party was CTT. Commissioner Krikorian said he wanted to know CTT's perspective regarding its contract negotiations with LATC. Alan Balch, CTT, stated CTT was not asking for anything frivolous in the agreement; CTT and LATC were close to agreeing on most items. He said an unanticipated issue arose in the past week, which was expected to be resolved shortly. Mr. Balch said he agreed with Mr. Daruty's comments regarding leverage; however, the trainers did not have leverage over LATC. Commissioner Krikorian asked what issues were holding up the agreement between LATC and CTT. Mr. Balch said the reason for the last-minute issue was that LATC provided insufficient notice when it stopped all training in December 2016. Mr. Balch stated the CTT suggested a 10-day verbal notice requirement. LATC was willing to give a seven-day notice, which CTT considered acceptable. Mr. Balch said the overall stabling plan was an issue because fewer stalls were going to be available January 1, 2017 than originally anticipated. Chairman Winner asked if Mr. Balch was suggesting LATC should not be granted a license to conduct its horse racing meet commencing December 26, 2016. Mr. Balch said that was not CTT's position. Chairman Winner stated LATC and CTT should be able to work out an agreement. Mr. Balch stated he understood the TOC agreement had higher priority for LATC

than the agreement with CTT, and since it was now complete, LATC and CTT could finish working out an agreement. He said Mr. Daruty had mentioned some inconsistencies between the LATC agreements with TOC and CTT. When the same item was in both agreements, there had to be consistency. Commissioner Krikorian stated the Board understood the CTT's concerns; however, the Board did not understand why they were not resolved prior to the Board meeting. Mr. Daruty stated LATC could sign an agreement with CTT with a provision stating the parties would continue working out the remaining issues. Commissioner Auerbach stated Mr. Daruty had said LATC and CTT had an agreement prior to the November 2016 Regular Meeting, except CTT's stance changed when Santa Anita Park closed for a day with little notice. Although there were time limits for the negotiations, the closure demonstrated how complex and dynamic negotiating was. She stated CTT had a legitimate concern with the racetrack closing without much notice, and she was pleased CTT addressed LATC with its concerns. Mr. Balch said that when Mr. Daruty reported to the Board the LATC agreement with CTT was complete, LATC had provided CTT with an agreement, which it essentially told CTT to sign. CTT had several concerns with the proposed agreement, the most critical regarding stabling, and had not signed the agreement. Commissioner Krikorian asked Mr. Daruty if he felt there was a stabling issue in Southern California. Mr. Daruty said stabling was one of the industry's most important issues. He said there was an agreement to cover stabling for three years in Southern California, however, the horse racing industry had a dynamic environment, and issues arose even with agreements in place. Mr. Daruty stated LATC and CTT worked together in good faith and made tremendous strides in resolving their issues. Unfortunately, LATC could not present the Board with a signed race meet agreement. Commissioner Krikorian stated he was under the impression that the stabling problems were resolved in Southern California. Mr. Daruty said stabling for

Southern California was resolved through a three year agreement signed by LATC, Del Mar Thoroughbred Club (DMTC), LARA and TOC. However, in a dynamic environment, things changed. CTT wanted to raise issues regarding what would happen in the summer of 2017, which was a valid discussion, however any changes CTT wanted required amending the existing stabling agreement. Mr. Balch stated CTT was required by statute to negotiate issues related to the backstretch. Stabling was part of the backstretch. The law also defined TOC as the party that negotiated stabling and vanning. Trainers had to care for their horses daily. He said planning ahead for stabling was paramount to keep the horses safe. Chairman Winner said he wanted to discuss the PRA application to conduct a horse race meeting at Golden Gate Fields (GGF). Mr. Balch stated in 2017 the GGF horse population was expected to increase about 30 percent. The CTT believed GGF should have two additional track renovations due to the increased traffic. Mr. Daruty, PRA, said Mr. Balch's explanation displayed how close PRA and CTT were to an agreement; the overriding concern was how stabling would work in 2017. Mr. Daruty said ADW agreements were outstanding for the same reasons as the ADW agreements were outstanding for the LATC application. PRA did not have a signed agreement with TOC because the two parties negotiated the agreement between LATC and TOC first. The LATC and TOC agreement would be the basis for the PRA and TOC agreement. He said the PRA and TOC agreement was not delayed due to any dispute; only finalizing paperwork remained to complete the agreement. Chairman Winner asked if PRA would only contract with the same four ADW providers as LATC. Mr. Daruty said that PRA planned to contract with TVG, Xpressbet, NYRA and Twinspires. Robert Miller, CHRB Board Counsel, asked if PRA provided the required Westmed Ambulance certification. Mr. Daruty stated the Westmed Ambulance certificate had been provided. John Ford, BetAmerica, stated BetAmerica received a proposed draft for a hub

agreement December 12, 2016. On December 13, 2016, BetAmerica received a draft geolocation proposal from TOC, which would result in a loss for BetAmerica from ADW wagers placed at racetracks. He said the proposal was anticompetitive. Mr. Ford stated BetAmerica was the only ADW provider with growth in California in 2016 and was the fastest growing ADW provider nationwide. Reducing the number of ADW providers licensed in California, especially the fastest growing licensed ADW provider, was not in the best interest of California horse racing. BetAmerica contributed \$3 million to the California racing industry by the wagers generated from California residents. Commissioner Auerbach said ADW providers asked the Board to make uninformed decisions. She said without any supporting documents the Board was told BetAmerica would go negative if it had to agree to the same geolocation agreement with TOC as TVG. She said the Board did not want any ADW provider to fail. Mr. Ford said BetAmerica suggested the racetrack associations could resolve the geolocation issue by blocking Wi-Fi connections to BetAmerica. He stated if BetAmerica accepted the TOC geolocation proposal, the hub fee would be reduced from 5 percent to 4.5 percent, and 3 percent would be deducted for on-track wagers, which made the hub fee 1.5 percent. On all wagers accepted on Stronach content and TVG content, BetAmerica paid 2 percent to contribute to TVG broadcast, which put BetAmerica at a .5 percent loss, without accounting other expenses. Therefore, accepting an ADW wager at a racetrack under the proposal for geolocation would create a loss for BetAmerica. Greg Avioli, TOC, said the same terms were submitted to all ADW providers. LATC did not have to enter into a hub agreement with BetAmerica. Initially, BetAmerica had a hub agreement with the California Authority of Racing Fairs (CARF) and there was nothing in the Business and Professions Code to prohibit BetAmerica from getting another hub agreement with CARF. Therefore, LATC was not being anticompetitive. Mr. Avioli stated geolocation

was a complex issue where customers at racetracks wagered online daily. TOC tried to address the issue with ADW providers over the past three years to no avail. TOC exercised its right through California law to reject any ADW agreement with a fair or association, unless the ADW providers agreed to the TOC geolocation proposal. He stated TVG and Xpressbet negotiated and signed the TOC geolocation proposal. Mr. Ford stated he would agree to a geolocation agreement where BetAmerica did not make a profit from on-track wagers as long as BetAmerica did not lose any money. He said consent was required from TOC for the ADW provider; however the consent should not be used in a discriminatory manner. Commissioner Auerbach stated the issue with online wagering while at racetracks was a concern the Board has discussed for the past few years. The ADW providers had not come up with an acceptable plan to address the issue, and TOC was not able to get any negotiating ability until the Board recently began the process to resolve the issue through regulation. Commissioner Auerbach stated it was inaccurate for Mr. Ford to imply the Board was putting BetAmerica out of business when BetAmerica had opportunities to make changes as issues arose but chose not to. Mr. Ford stated the TOC negotiated with TVG and gave the agreement to the remaining ADW providers only a few days ago. BetAmerica was not given the chance to negotiate and its only request was to ensure it would not lose money when accepting a wager at a racetrack. Executive Director Baedeker said the CHRB was in the process of working on geolocation regulation and in the mean-time the private entities decided to negotiate terms for the upcoming year. He said the geolocation proposal was a private business matter pursuant to the language in the Business and Professions Code. Mr. Ford said the TOC proposal was meant to continue through 2018, regardless of the Board's progress with the regulation. Ensuring ADW providers did not suffer a loss when taking a wager at a racetrack was not unreasonable. Executive Director Baedeker stated BetAmerica

had to make that request to TOC. The Board did not have authority over hub agreement terms. Mr. Ford said the Board acted in the best interest of California horse racing, and it was not in the industry's best interest to allow a party to use an agreement as leverage that would damage another California-licensed entity. Chairman Winner stated the Board dictating terms of an agreement between private parties was also not in the best interest of California horse racing. LATC, PRA and TOC completed agreements with two ADW providers without Board interference. The Board had not taken a position on the geolocation proposal; it was agreed to by the parties involved. Mr. Ford, BetAmerica, said the Board was able to require the racing associations to treat ADW providers fairly as a condition for licensure. Commissioner Krikorian stated the legislature did not intend to support noncompetitive practices. He said the TOC geolocation proposal was a noncompetitive approach, and an alternative solution was needed. Chairman Winner stated the issue before the Board was how to handle the PRA and LATC request for license to conduct horse race meetings. The Board could either grant the licenses, or stipulate certain conditions. Commissioner Krikorian said he wanted more information as to how the ADW geolocation situation was tied to the license. Mr. Daruty said the ADW geolocation issue was an example of how LATC and PRA were caught in the middle with their applications. He said the application for license to conduct a race meet was hostage to the negotiations between the ADW providers and TOC. Commissioner Krikorian stated each entity should have the right to compete fairly. If an agreement did not make economic sense, it should be addressed by the Board. He said this was not the time to address the issue, as the agenda item was concerning requests to conduct horse race meetings. Mr. Daruty said the ADW providers could contract with any number of other parties in California. Mr. Ford stated BetAmerica should have a right to be competitive as it was a licensed ADW provider in California. He said

the hub agreement was received two days prior, and the geolocation proposal received just one day prior to the Board meeting. After the Pari-Mutuel and Wagering Committee meeting in December 2016, LATC no longer offered BetAmerica the hub agreement. Mr. Ford said BetAmerica requested 30 days to address both the TOC geolocation proposal and the LATC hub agreement with BetAmerica. Executive Director Baedeker said in November 2016 the Board granted PRA and LATC conditional approvals for their race meet applications. The applicants were to provide all outstanding items to the Board within 30 days. If the outstanding items were not provided, the Board would consider its option to sanction. In the meantime, if the Board determined the parties were negotiating in good faith, the licenses could be granted subject to submission of the final outstanding documents, or the Board could impose another deadline to submit outstanding documents. Executive Director Baedeker said in the past, the Board has granted a license to conduct a horse race meeting without an agreement if it recognized the parties, such as LATC and TOC, were at an impasse over an agreement. Chairman Winner said the TOC agreement was provided; the CTT agreement was outstanding. He said sanctioning a racing association for not providing an agreement with CTT would be difficult since it was not required by statute. Executive Director Baedeker asked if there were any other outstanding items that were required by statute. Mr. Miller said the staff analysis for LATC listed the horsemen's approval of ADW as outstanding. Mr. Avioli stated TVG and Xpressbet had horsemen's approvals. Mr. Miller asked if they included an agreement for geolocation. Mr. Avioli said the approvals were for ADW. Mr. Miller stated if the Board wanted to issue the license without the CTT agreement, the Board could do so. Mr. Avioli said TOC linked their approvals of ADW with the ADW agreements setting rates for two years and acceptance of its geolocation proposal. Mr. Miller said the TOC had a right to link the hub agreement, horsemen's approval and the

geolocation proposal. Commissioner Krikorian asked Mr. Avioli if TOC made the same proposal to all the ADW providers. Mr. Avioli said any ADW provider with a hub agreement would be given the same TOC proposal. Commissioner Auerbach asked Mr. Avioli if BetAmerica negotiated with CARF. Mr. Avioli said BetAmerica could get a hub agreement with CARF, and TOC could not object. He said TOC, CARF and DMTC had the right to grant a hub agreement with an ADW provider in addition to LATC and PRA. Brad Blackwell, Twinpires, said the majority of the TOC negotiations regarding geolocation were with TVG, a competitor. Twinpires was not privy to the discussions. He said Twinpires expressed concerns and gave insight when geolocation discussions were made public through the regulatory process. He said Twinpires received the TOC geolocation proposal December 14, 2016 and was told content would be cut off if Twinpires did not sign the proposal. Twinpires was willing to have discussions and work within the regulatory process. Twinpires was concerned, as the proposal that included changes to the racing industry was submitted shortly before a public meeting. Commissioner Auerbach stated the geolocation issue was not new, so TOC's proposal was not as last minute as Mr. Blackwell portrayed. She said the Board heard from the ADW providers, but had not witnessed any action from them to resolve the geolocation issue. She said the Board had not seen any documentation proving ADW providers were losing money in California. She said TOC was the only organization with the ability to initiate changes to the way online wagers were made by customers at racetracks. She said the process to amend a regulation was time-consuming and tedious work, and ADW providers should not be surprised by geolocation because it had been discussed publicly. Mr. Blackwell said the agreement presented to Twinpires was a surprise because it was negotiated and agreed upon by other parties. The terms were dictated to Twinpires under threat of cutting off content. Twinpires was not part of the

ongoing discussions between TVG, LATC and TOC. He said Twinspires attended the recent public meetings when it learned agenda items pertaining to changes to ADW through the regulatory process. Executive Director Baedeker said the Board expressed an interest in, but was not responsible for, the geolocation issue. However, the matter was part of the negotiations between the ADW providers and TOC. He said staff was preparing a regulation for public comment, and at that time everyone would have an opportunity to comment. He said the proposed amendment would be discussed as an agenda item at a Regular Board meeting. Anyone could comment at that meeting and during the 45-day comment period. Executive Director Baedeker said the geolocation issue was beyond the scope of the agenda item before the Board. Commissioner Auerbach **motioned** to approve the Los Angeles Turf Club application to conduct a horse race meeting commencing December 21, 2016 through July 4, 2017. Chairman Winner **seconded** the motion, which was which was **unanimously carried**. Roll Call Vote: Auerbach, Winner, Krikorian, Solis. Nay: None. Motion carried. Commissioner Auerbach **motioned** to approve the Pacific Racing Association application to conduct a horse race meeting commencing December 21, 2016 through June 20, 2017. Chairman Winner **seconded** the motion, which was which was **unanimously carried**. Roll Call Vote: Auerbach, Winner, Krikorian, Solis. Nay: None. Motion carried.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE THIRD WEEK OF SONOMA COUNTY FAIR'S AUGUST 2, 2017 THROUGH AUGUST 22, 2017 ALLOCATED RACE DATES AND WHETHER THE SONOMA COUNTY FAIR WILL CONDUCT RACING DURING THE THIRD WEEK.

Chairman Winner stated when Sonoma County Fair (Sonoma) was allocated its 2017 race dates, it had yet to decide if it would conduct racing during its third week. If Sonoma did not conduct a

third week of racing that week would go to Humboldt. However, Sonoma recently informed the Board it would run the third week. He said there was no action to take besides affirming the granting of the third week to Sonoma. Becky Bartling, Sonoma County Fair and Exposition, Inc., stated Sonoma moved its fair dates so it could run the first two weeks of August. Sonoma wanted to help the racing industry and believed it was important to have attendance at the fair. After a long discussion the Board agreed to move Sonoma's fair dates so it would coincide with its race dates with two weeks of racing during its fair, and an additional week of racing. Larry Swartzlander, California Authority of Racing Fairs (CARF), said at one point CARF specifically asked Ms. Bartling if Sonoma was interested in not racing the third week. At one point at a CARF meeting, Ms. Bartling said Sonoma did not want to race the third week. CARF offered to race Humboldt that third week. Humboldt would be overlapped with Golden Gate Fields for two weeks which would impact Humboldt financially. He stated CARF still had the proposal on the table and would be willing to run the third week. Chairman Winner said if Sonoma wanted to run the third week, it had the dates, so there was no other action to take other than to affirm the race dates granted at the November 2016 Regular Board meeting. Commissioner Krikorian **motioned** to affirm Sonoma's August 2, 2017 through August 22, 2017 allocated race dates. Commissioner Solis **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Auerbach, Winner, Solis. Nay: None. Motion carried.

DISCUSSION BY THE BOARD REGARDING THE SUBMISSION TO THE BOARD OF THE SOUTHERN CALIFORNIA VANNING AND STABLING AGREEMENT, TO INCLUDE PROPOSED FINANCIAL AND OPERATIONAL PLANS FOR THE UPCOMING CALENDAR YEAR, AS REQUIRED PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 19607.1.

Executive Director Rick Baedeker stated Board members received a spreadsheet from the Southern California Vanning and Stabling Committee (SCVSC) with a financial breakdown of expenditures for 2017. Greg Avioli, SCVSC, said Los Angeles Turf Club, Los Alamitos Racing Association, Del Mar Thoroughbred Club and the Thoroughbred Owners of California signed a vanning and stabling agreement in the summer of 2016 linked to race dates that covered a three-year period. He said Los Alamitos Race Course (LARC) was adding 150 stalls by mid-January 2017. Galway Downs was scheduled to remain open through the end of January 2017. After January 31, 2017, Galway Downs would no longer be used as an off-site stabling location. Chairman Winner asked if the cost for January 2017 would be the same for Galway Downs as it was per month in 2016. Mr. Avioli said Galway Downs would receive the same monthly compensation for January 2017 as it received per month in 2016. He said the stabling rate for LARC would increase due to the additional stalls, which gave LARC a total of 850 stalls. He said Santa Anita Park had the same stabling rate for 2017 as it had in 2016. Chairman Winner asked if the three-year agreement for vanning and stabling was tied to the three-year race dates agreement for Southern California. Mr. Avioli said Chairman Winner's assessment was correct. He said Commissioner Krikorian ensured the Board retained the right to make changes to the race dates schedule, and if the Board altered the race dates from 2017 to 2018, any of the four parties involved in the vanning and stabling agreement could opt out of the agreement. He said the vanning and stabling agreement had a one-year bound term, which meant any party could

withdraw at the end of 2017. Commissioner Auerbach said she wanted to thank Commissioner Krikorian for making sure the terms were included in the race dates approval motion.

DISCUSSION BY THE BOARD REGARDING THE SUBMISSION TO THE BOARD OF THE NORTHERN CALIFORNIA VANNING AND STABLING AGREEMENT, TO INCLUDE PROPOSED FINANCIAL AND OPERATIONAL PLANS FOR THE UPCOMING CALENDAR YEAR, AS REQUIRED PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 19607.3.

Scott Daruty, Golden Gate Fields (GGF), stated the operational plan approved by the Northern California Stabling and Vanning Committee (NCSVC), included extending stabling at Pleasanton through January 15, 2017. The prior plan was for GGF not to utilize Pleasanton as an auxiliary facility during its 2017 meet; however, GGF agreed to extend the period of time so people would not have to move during the holidays. GGF would fund the operation of Pleasanton as a stabling facility through January 15, 2017. After that date, Pleasanton would no longer be used as an auxiliary facility for GGF. Pleasanton would open as an auxiliary facility beginning May 1, 2017 through June 17 or 18, 2017, and would remain open through its race meet, and then would close for the remainder of the year. GGF would remain open for stabling for the year. The Committee passed the plan with a two-to-one vote with one abstention – Thoroughbred Owners of California (TOC) and GGF voted in favor, California Authority of Racing Fairs (CARF) voted against, and Sonoma abstained. Executive Director Rick Baedeker said the agenda item was a result of the passage of new legislation governing vanning and stabling in the North and the South with the language in the law stating “The organization administering off-site stabling and vanning program shall submit its proposed financial and operational plans for the upcoming calendar year to the Board for review no later than November 1 of the preceding year.” He stated because the legislation was signed right before the

November 1 deadline and due to other outstanding issues that existed, it was impossible for the North to submit its plans. The North has since submitted its plans, which were currently before the Board for review. Chairman Winner asked if the law gave the Board broader responsibility. Philip Laird, CHRB Staff Counsel, said "yes." Under the law, the Board had a continuing right to adjudicate disputes regarding vanning and stabling. Larry Swartzlander, CARF, stated CARF voted against the NCSVC plan for several reasons. He said three years ago there was a Northern vanning and stabling deficit of over a million dollars. Stakeholders came together and decided to reduce their rates which resulted in eliminating the deficit. With no deficit going into 2016, the plan was to run until October 13 and then close Pleasanton. However, that did not happen. CARF signed with GGF to extend the 2016 stabling agreement through the end of December 2016, which was extended through January 15, 2017. The vanning and stabling fund currently had a \$900,000 deficit. The NCSVC plan included closing Pleasanton January 15, 2017, reopening May 1, 2017, and closing again on June 20, 2017. He stated it would leave no auxiliary stabling for the fairs on fair racetracks. This was a major concern for out-of-state horses that would usually base at Pleasanton because they had no intent to run at GGF. He stated the NCSVC plan was a concern for emerging breeds; 90 percent of the horses that would run at the fairs were dirt horses, and GGF was tapeta. Emerging breeds could not train during the plan. The NCSVC plan would require CARF and Santa Rosa to raise its rates to 2 percent, while GGF would only raise its rates to 2 percent for May and June. The deficit agreement was a seventy-thirty commitment: thirty percent paid by CARF and Santa Rosa and seventy percent paid by GGF. This would result in an additional financial burden on the fairs and Santa Rosa of \$389,000 in purses and \$389,000 of commissions. GGF would pay its portion of the deficit and then opt out of the vanning program by mid-April. GGF would opt back in October or

November until the deficit was paid out and then opt out, while CARF could not opt in or out of the program and would pay 2 percent. However, CARF's plan would raise the takeout to two percent for everyone and open Pleasanton in April 2017 through the end of October 2017 to accommodate: out-of-state horsemen, emerging breeds, and the fair race meeting in Fresno. The deficit would be paid by the vanning and stabling fund. CARF's plan also included GGF closing from four to six weeks which would result in a 1.4 million surplus. Mr. Daruty said Mr. Swartzlander's plan was correct in terms of numbers; keeping both facilities open during the summer would result in a surplus at the end of the year, however, the vast majority of the money would be contributed by GGF. CARF was asking GGF to pay for its stabling. Under the new statute, GGF would pay for stabling at its facility. GGF was more than willing to make its facility available to CARF at a discount day rate of \$13,000. Joe Morris, Stronach Group, stated GGF had enough stalls without using Pleasanton. GGF could no longer afford to keep Pleasanton open when space was available at GGF. Chairman Winner asked about Arabians and other breeds that could not race at GGF; could they train at GGF? Mr. Morris said if there was enough room it would be something GGF would consider. Commissioner Solis said his issue with closing Pleasanton was that the GGF backside would be crowded with the two year olds coming in. There were safety issues, and families would have to move out of Pleasanton to GGF. Mr. Morris said there would not be a higher number of horses on the GGF backstretch. Maureen Morley, horse owner, stated the Board's action on the agenda item would define the future of horse racing in Northern California. She said the proposed financial and operational plans for stabling in 2017 were submitted to the Board with no time to allow for adequate review. She stated in the absence of timely action, the Board could consider a motion to increase the vanning and stabling rate to 2 percent, as previously recommended by TOC and California

Thoroughbred Trainers (CTT). The increase would address the deficit and continue funding Pleasanton as a stabling and vanning facility until the 2017 plan had been properly reviewed. She said until opt out procedures were established as required by law, no association should be allowed to opt out. Once procedures were established, opting out should be restricted to when there was a deficit created by all parties. Mei Davis, worker for Arabian and quarter horses, said Pleasanton shutting down and opening May 1 was not fair because Arabians needed at least two and half months of training. Pleasanton should open on April 1. Dorothy Burt, representing Arabian racing, said the May 1, 2017 opening of Pleasanton was unreasonable. Racehorses needed more than 45 days of training to be competitive and Arabians would be primarily impacted. While thoroughbred horses had many choices in Northern California, Arabians did not. She stated she owned part of an Arabian horse, and wanted it to race at Santa Anita in the \$100,000 Arabian race. However, her horse would not be able to prepare in California, it would have to go to Texas. She stated she owned another horse, a two year old, whose training would come to a halt because Pleasanton was closing and GGF would not allow horses in training. She said she hoped the Board would encourage Pleasanton to open a month earlier than was projected. Terri Eaton, trainer, owner, and breeder of Arabians and Thoroughbreds, stated she was asking for the opening of Pleasanton to be moved up to March or April. Horses needed more than 45 days to prepare to be ready to run. The proposed plan would be expensive for trainers because they would have to uproot their barns every three weeks. She said she had been at GGF. She said she thought it was run down and she did not wish to subject her horses to that type of environment. She stated it would be wise for GGF to close for six weeks during the summer to save money, and clean up its facility. Chairman Winner asked what GGF's plans were for rehabilitating its backstretch; would there be a break for that purpose? Mr. Daruty said

the prior proposal included GGF closing for 4 to 6 weeks to do extermination work; however, the approved plan did not include GGF closing. Michael Brown, Pleasanton Arabian Racing Club, stated the vanning and stabling plan that had been proposed for Northern California was not in the best interest of horse racing because Northern California did not have the same facilities that were available in Southern California. He said the legislature wanted racing of all breeds, not just thoroughbred racing. There were not enough thoroughbred race horses to make it a viable business. Emerging breeds needed to be treated as kindly as the thoroughbreds to act in the best interest of horse racing. He said he had not heard a commitment by GGF to support emerging breeds. He stated Pleasanton should be kept open, the rate should be raised to two percent, and the industry should take the time to carefully review the plan. Chairman Winner stated he wanted to remind everyone the issue before the Board was for discussion only and no action would be taken unless the Board decided to place it on the agenda for a later meeting. Jerome Hoban, Alameda County Fair representing Oak Tree and CARF, said with nine months of racing at GGF, and three months of racing with CARF fairs, GGF had an extreme amount of leverage over the vanning and stabling fund. He stated he disagreed with the statement that the deficit was created during the summer when fairs were racing. While the deficit was created at that time, it was a result of the decision to keep GGF open at \$16,900 a day. With nine months of racing at GGF, half of the vanning and stabling funds would go to GGF rather than being used for the entire industry. He also disagreed that the majority of the money was earned by GGF. The majority of satellite wagering facilities or off-track wagering occurred at fairs, so the money that would go into the vanning and stabling fund came from satellite wagering facilities supported by CARF racing fairs. He stated he believed the proposal before the Board was detrimental to fairs and he respectfully requested that the Board place an action item on the

agenda in January 2017. Chairman Winner said the decision was made by the State Legislature to give stabling and vanning the authority to decide its financial and operational plans. The Board had a right to review the proposal and in the best interest of horse racing adjudicate if the Board felt it necessary.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE REQUEST FOR APPROVAL OF THE CONTINUATION OF THE 0.50% DISTRIBUTION TO THE SOUTHERN CALIFORNIA STABLING AND VANNING FUND FROM ADVANCE DEPOSIT WAGERING (ADW) HOSTED BY THOROUGHBRED RACING ASSOCIATIONS AND RACING FAIRS CONDUCTING RACING IN THE CENTRAL AND SOUTHERN ZONES FOR THE PERIOD COMMENCING DECEMBER 26, 2016 THROUGH DECEMBER 31, 2017 AS PERMITTED UNDER BUSINESS AND PROFESSIONS CODE SECTION 19604(F) (5) (E).

Chairman Winner asked if there were any comments on the request for approval of the continuation of the .50 percent distribution to the Southern California Stabling and Vanning Fund from advance deposit wagering hosted by thoroughbred racing associations and racing fairs conducting racing in the central and southern zones December 26, 2016 through December 31, 2017. Commissioner Solis **motioned** to approve the request to continue the .50 percent distribution to the Southern California Stabling and Vanning Fund from advance deposit wagering hosted by thoroughbred racing associations and racing fairs. Commissioner Auerbach **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Solis, Krikorian, Winner, Auerbach. Nay: None. Motion Carried.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE REQUEST FROM NORTHERN CALIFORNIA OFF TRACK WAGERING INC. (NCOTWINC) TO CONTINUE THE MODIFICATION OF THE DISTRIBUTION OF MARKET ACCESS FEES FROM ADVANCE DEPOSIT WAGERING (ADW) AT A RATE OF 2.9% AS PERMITTED UNDER BUSINESS AND PROFESSIONS CODE SECTION 19604(F)(5)(E) FOR WAGERING CONDUCTED BY THOROUGHBRED ASSOCIATIONS IN THE NORTHERN ZONE DURING CALENDAR YEAR 2017.

Commissioner Krikorian **motioned** to approve the request from Northern California Off Track Wagering, Inc (NCOTWINC) to continue the modification of the distribution of market access fees from Advance Deposit Wagering at a rate of 2.9 percent for wagering conducted by thoroughbred associations in the northern zone during calendar year 2017. Commissioner Solis **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Auerbach, Winner, Krikorian, Solis. Nay: None. Motion carried.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE REQUEST FROM SOUTHERN CALIFORNIA OFF TRACK WAGERING INC. (SCOTWINC) TO CONTINUE THE MODIFICATION OF THE DISTRIBUTION OF MARKET ACCESS FEES FROM ADVANCE DEPOSIT WAGERING (ADW) AT A RATE OF 2.9% AS PERMITTED UNDER BUSINESS AND PROFESSIONS CODE SECTION 19604(F)(5)(E) FOR WAGERING CONDUCTED BY THOROUGHBRED ASSOCIATIONS IN THE SOUTHERN ZONE DURING CALENDAR YEAR 2017.

Chairman Winner asked if there were any comments regarding the request from Southern California Off Track Wagering, Inc to continue the modification of the distribution of market access fees from advance deposit wagering at a rate of 2.9 percent. Commissioner Krikorian **motioned** to approve the Southern California Off Track Wagering, Inc request to continue the modification of market access fees from advance deposit wagering at a rate of 2.9 percent. Commissioner Solis **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Auerbach, Winner, Krikorian, Solis. Nay: None. Motion carried.

REPORT FROM THE MEDICATION, SAFETY AND WELFARE COMMITTEE.

Commissioner Auerbach stated the Medication, Safety and Welfare Committee meeting met on December 14, 2016. The Committee discussed the proposed amendment to Rule 1685, Equipment Requirement. The amendment would create consistency between Board rules by replacing the word “whip” with “riding crop” and would require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. The second item discussed was the proposed amendment to Rule 1688, Use of Riding Crop, which would apply the existing provisions regarding the use of riding crops during a race to their use during training. Commissioner Solis stated the proposed amendments would cause some initial problems for exercise riders, but he believed they would eventually adapt and comply. Alan Balch, California Thoroughbred Trainers (CTT) said he anticipated a problem with enforcing the three-strike provision in training, and suggested more time to work out the details. Executive Director Rick Baedeker stated the proposals contained simple, straightforward language and should be put out for the 45-day comment period. Commissioner Auerbach said she agreed with Executive Director Baedeker; the Board wanted to see the same regulations during training hours that were currently in place for races. During races only three strikes were permitted, and the Board wanted to see the same restriction when a horse trained. The Board did not want to see excessive use of the riding crop at any time at the track. The third item discussed was the proposed addition of Rule 1868, Authorized Medication During Workouts, which would apply the same medication threshold limits for timed workouts as are currently enforced in racing. Executive Director Baedeker said Rule 1868 would be an extension of the out-of-competition testing program, and testing would be conducted randomly on horses that trained in the morning. Mr. Balch stated trainers would most likely have questions as the process moved

forward. Commissioner Auerbach stated the Committee approved the three rule proposals and recommended to the Board that they be noticed for a 45-day public comment period. Mr. Balch said he was concerned about the proposals going out for the 45-day public comment period. He respectfully suggested that when new or old ideas came forward for discussion it would be helpful if CTT could talk with staff prior to the language being presented to the Committee. That would allow resolution of industry concerns regarding language and other issues prior to the notice period.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1685, EQUIPMENT REQUIREMENT, TO CHANGE “WHIP” TO “RIDING CROP;” AND TO REQUIRE THAT RIDING CROPS USED DURING TRAINING MEET THE SAME REGULATORY STANDARDS AS RIDING CROPS USED DURING THE RUNNING OF A RACE.

Chairman Winner asked if there were any comments regarding the proposed amendment to CHRB Rule 1685, Equipment Requirement, to change “whip” to “riding crop” and to require that riding crops used during training meet the same regulatory standards as riding crops used during a race. Commissioner Auerbach **motioned** to direct staff to initiate a 45-day public comment period regarding the proposed amendment to Rule 1685. Commissioner Solis **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Solis, Krikorian, Winner, Auerbach. Nay: None. Motion Carried.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1688, USE OF RIDING CROP, TO APPLY ITS PROVISIONS TO TRAINING IN ADDITION TO RACING.

Chairman Winner asked if there were any comments regarding the proposed amendment to CHRB Rule 1688, Use of Riding Crop, to apply its provisions to training in addition to racing.

Commissioner Auerbach **motioned** to direct staff to initiate a 45-day public comment period regarding the proposed amendment to Rule 1688. Commissioner Solis **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Solis, Krikorian, Winner, Auerbach. Nay: None. Motion carried.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE PROPOSED ADDITION OF CHRB RULE 1868, AUTHORIZED MEDICATION DURING WORKOUTS, TO ESTABLISH THRESHOLD LIMITS FOR THE PRESENCE OF CERTAIN DRUG SUBSTANCES AND MEDICATIONS IN OFFICIAL TEST SAMPLES TAKEN FROM HORSES AFTER THEY COMPLETE A TIMED WORKOUT.

Chairman Winner asked if there was any discussion on the proposed addition of CHRB Rule 1868, Authorized Medication During Workouts, to establish threshold limits for the presence of certain drug substances and medications in official test samples taken from horses after they completed a timed workout. Commissioner Solis **motioned** to direct staff to initiate a 45-day public comment period regarding the proposed addition of Rule 1868. Commissioner Auerbach **seconded** the motion, which was **unanimously carried**. Roll Call Vote: Aye: Auerbach, Winner, Krikorian, Solis. Nay: None. Motion Carried.

REPORT FROM THE PARI-MUTUEL AND WAGERING COMMITTEE.

Commissioner Krikorian stated the Pari-Mutuel and Wagering Committee meeting met on December 14, 2016. The first issue discussed was auditing. Mark Thurman, CHRIMS, summarized the auditing procedures for advance deposit wagering (ADW). CHRIMS downloaded data from the totalizator system and the ADW providers and reconciled the two. CHRIMS would then apply all of the variables, such as breed, time of day, contractual agreements in calculating the distributions. Mr. Thurman described ADW as the most complex

of all distributions. The standard amount CHRIMS charged ADW providers for reconciliation was \$3,000 a month. However, not all of the ADW providers were paying that amount, and he preferred to have a direct contract with the ADW providers. He stated CHRIMS had a \$1.5 million budget deficit for the work done in California. CHRIMS performed work outside of California that created a profit which helped cover the shortfall in its budget. Robert Miller, CHRB Board Counsel, said the Board had the authority to mandate, as a condition of licensure, that ADW providers contract with CHRIMS or any other company designated by the CHRB requiring equal pay for equal work. Scott Daruty, Monarch, stated California had the best ADW model in the country because it provided the most revenue to California stakeholders, and the Board needed to be careful when making decisions affecting ADW finances. Brad Blackwell, Twinspires, said that operating an ADW in California was getting to the point where it was no longer profitable. Greg Avioli, Thoroughbred Owners of California (TOC), stated TOC did not necessarily believe that ADW providers were not operating profitably in California and if an ADW provider could not reach an agreement with California interests then the ADWs should not be doing business in California. Francisco Gonzalez, Chief Auditor for CHRB, said there was a need for ADW providers to provide financial data on a timely basis for the CHRB to audit. The Board needed further information on the amount of interest being generated on accounts to ensure that money was being distributed in compliance with the law. Chairman Winner said there were uncollected balances and inactive ADW accounts, and asked if the Board had the authority to dictate how those balances were distributed. Philip Laird, CHRB Staff Counsel, stated that issue was not addressed in the law or regulations. Executive Director Rick Baedeker said CHRB staff would draft language for consideration by the Board that would address all of the issues in a fair way. Commissioner Krikorian stated there was a discussion and action on a

proposal for all licensed California ADW providers to contribute more to the racing industry in California. Executive Director Baedeker said racetracks were required by statute to distribute a small percentage of total handle to charitable causes, and asked whether it would be appropriate for ADW providers to do the same. John Valenzuela, Local 280, stated ADW companies needed to provide jobs for California workers, and asked the ADW companies to provide eight new full-time jobs for Local 280 clerks. Chairman Winner said the law did not require ADW's to provide such jobs; therefore, the CHRB could not require ADW's to provide jobs as a condition of licensure. Chairman Winner stated the ADW providers were paid five percent of the handle and asked how the ADW providers would help California racing with that money. Eric Sindler, Xpressbet, said the Stronach Group contributed to the jockey retirement plan, backstretch pensions, and other causes. Brad Blackwell, Twinpires, stated Twinpires made numerous additional contributions to California, such as sending signals into California below market value, and investing millions of dollars into advertising, and California received a significant share of the takeout on wagers made by Californians on races outside of California. Ben Kenny, Watch and Wager, said Watch and Wager was a big supporter of the aftercare of standardbreds. John Ford, BetAmerica, stated BetAmerica provided jobs to California workers. Chairman Winner said the ADW providers were asked to tell the Board what additional voluntary steps they would take to benefit California, and no one had done that. Mr. Ford, BetAmerica, stated BetAmerica would be willing to give to charities. Mr. Avioli, TOC, said it did not seem like the ADW providers were willing to voluntarily give more so it would be up to TOC to negotiate such matters in its contracts with the individual ADW providers, specifically geolocation in order for California stakeholders to receive their fair share of ADW wagers made by patrons located at host tracks. He stated TOC made such an agreement with Xpressbet and TVG.

DISCUSSION AND ACTION BY THE BOARD REGARDING THE PRESENTATION FROM THE CALIFORNIA LICENSED ADVANCE DEPOSIT WAGERING (ADW) PROVIDERS (NEWCO VENTURES NORTH AMERICA, LLC, DBA NYRABETS.COM; LIEN GAMES RACING, LLC; CHURCHILL DOWNS TECHNOLOGY INITIATIVES COMPANY, DBA TWINSPIRES.COM; WATCH AND WAGER.COM, LLC; XPRESSBET, LLC, AND ODS TECHNOLOGIES, L.P., DBA TVG,) REGARDING PROPOSALS FOR ADW COMPANIES TO CONTRIBUTE TO THE RACING INDUSTRY IN CALIFORNIA.

John Valenzuela, Pari-Mutuel Employees Guild - Local 280 (Local 280), stated he presented the Board members with a letter from Local 280. Chairman Winner said he would allow Mr. Valenzuela to speak, although his letter's content was not related to the agenda item. Mr. Valenzuela stated providing jobs to Californians would create taxpayers and consumers, which would benefit California and its racing industry. He said Local 280 had tried for 15 years to get California's Advance Deposit Wagering (ADW) providers to provide jobs in California for its union. Local 280 had not been allotted any jobs from the ADW providers. Chairman Winner stated Board members were sympathetic with Local 280's concern; however the law did not state any requirement or give the Board the power to intervene between Local 280 and the ADW providers. Mr. Valenzuela said Local 280 submitted a letter to the ADW providers with a proposal for jobs. The ADW providers had not responded. Chairman Winner stated Local 280 had to go to the legislature to amend the law. Tony Allevato, NewCo Ventures North America, LLC, dba Nyrabets.Com (NYRA), stated NYRA made seven figures worth of charitable donations to the racing industry. He said it was important to donate in the market where NYRA worked. NYRA would voluntarily make donations to the racetrack charities in California. In addition, NYRA would promote charities on its simulcast and television shows. Chairman Winner stated he appreciated NYRA's commitment to charity. He said Mr. Ford from Lien Games Racing, LLC (BetAmerica) had also indicated BetAmerica would make additional charitable contributions in California. John Ford, BetAmerica, stated he wanted to reaffirm the

idea he presented at the Pari-Mutuel and Wagering Committee meeting regarding designating charity days for ADW providers. He said BetAmerica planned to hold charity days in 2017 for the Winners Foundation.

MEETING ADJOURNED AT 1:33 P.M.

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

JANUARY 26, 2017

REGULAR BOARD MEETING

There is no board package material for item #2

CALIFORNIA HORSE RACING BOARD

JANUARY 26, 2017

REGULAR BOARD MEETING

There is no board package material for item #3

CALIFORNIA HORSE RACING BOARD

JANUARY 26, 2017

REGULAR BOARD MEETING

There is no board package material for item #4

CALIFORNIA HORSE RACING BOARD

JANUARY 26, 2017

REGULAR BOARD MEETING

There is no board package material for item #5

STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD REGARDING THE
DISTRIBUTION OF RACE DAY CHARITY PROCEEDS OF
THE LOS ANGELES TURF CLUB II IN THE
AMOUNT OF \$30,682.53 TO 10 BENEFICIARIES

Regular Board Meeting
January 26, 2017

ISSUE

Los Angeles Turf Club II (LATC II) is requesting approval to distribute race day charity proceeds generated at its 2016 autumn meet from September 30, 2016 through November 06, 2016. From the net race day charity proceeds LATC II is proposing a total distribution of \$30,682.53. The charitable organizations selected and amount to be distributed are listed on the attachment. Staff notes that 100 percent of the proceeds will be given to 10 horse racing related organizations.

BACKGROUND

Business and Professions Code section 19550 states the Board shall require each licensed racing association that conducts 14 or less weeks of racing to designate three racing days, and each licensed racing association that conducts more than 14 weeks of racing to designate five racing days during any one meeting, to be conducted as charity days by the licensee for the purpose of distribution of the net proceeds there from to beneficiaries through the distribution agent. No racing association shall be required to pay to a distributing agent for the purpose of distribution to beneficiaries more than an amount equal to two-tenths of one percent of the association's total on-track handle on live races conducted by the association at the meeting. Business and Professions Code section 19555 requires that proceeds are to be distributed to beneficiaries within 12 calendar months after the last day of the meet during which charity days were conducted. Business and Professions Code section 19556 provides that the distributing agent shall make the distribution to beneficiaries qualified under this article. At least 30 percent of the distribution shall be made to charities associated with the horse racing industry. An additional five percent shall be paid to a welfare fund and another five percent shall be paid to a nonprofit corporation, the primary purpose of which is to assist horsemen and backstretch personnel who are being affected adversely as a result of alcohol or substance abuse. In addition to the above distributions, a separate 20 percent shall be made to a nonprofit corporation or trust, the directors or trustees of which shall serve without compensation except for reimbursement for reasonable expenses, and which has as its sole purpose the accumulation of endowment funds, the income on which shall be distributed to qualified disabled jockeys.

RECOMMENDATION

This item is presented for Board discussion and action. Staff recommends the Board approve the charity race day distribution as presented.

CHRB ANALYSIS
Los Angeles Turf Club II, Inc. 2016 Autumn Charity Day Proceeds

#	Nonprofit Organization	Amount	Proposed Disbursement Percentage	Percentage Required By Horse Racing Law (from the 2/10 of 1%)	Notes
1	California Thoroughbred Foundation	1,200.00	4%		a
2	California Thoroughbred Horsemen's Foundation	3,000.00	10%	minimum of 5%	b
3	CARMA	2,682.53	9%		a
4	Edwin J. Gregson Foundation	5,500.00	18%		a
5	Holy Angels Church (Backside Permanent Deacon)	1,200.00	4%		a
6	Racetrack Chaplaincy of American (Southern Ca Council)	1,200.00	4%		a
7	Southern California Equine Foundation, Inc.	1,200.00	4%		a
8	United Pegasus Foundation	1,200.00	4%		a
9	Winners Foundation	5,500.00	18%	minimum of 5%	c
10	Permanently Disabled Jockeys' Fund	8,000.00	26%	minimum of 20%	d
	Total Horse Related Charities	\$ 30,682.53	100%	minimum of 50%	a
	Notes:				
	a	30% to charities associated with the horse racing industry (B&P 19556 (b))			
	b	5% to welfare fund for backstretch personnel (B&P 19641 (b))			
	c	5% to nonprofit organization to assist horsemen and backstretch personnel affected by alcohol and substance abuse(B&P 19556 (b))			
	d	20% to nonprofit organization that benefits qualified disabled jockeys (B&P 19556 (c)(1))			
	e	overall a minimum of 50% of the charity distribution should go to horse racing industry related nonprofit organizations.			

Background information for each organization is attached.



December 14, 2016

Frank De Marco, Jr., Esq.
Vice President, Regulatory Affairs and
Secretary

California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, California 95825

Re: Los Angeles Turf Club II, Inc.'s Charity Days

Ladies/Gentlemen:

Los Angeles Turf Club II, Inc., doing business as "Santa Anita Park," has determined the beneficiaries of proceeds from "Charity Days" races conducted at Santa Anita Park during its 2016 Autumn Meet from September 30 through November 6, 2016. The net proceeds from the "Charity Days" totaled \$30,682.53.

Attached hereto is a list of the organizations selected to be the beneficiaries of the Charity Days proceeds, the amount to be distributed to each and a brief statement about each recipient. Note that 100% of the distributions are for horse related charities.

Also enclosed is the official CHRIMS report of handle for the said race meet upon which this distribution is based.

Please calendar this matter for discussion and action by the California Horse Racing Board. Distributions will be made upon approval of the proposed amounts by the Board.

Should you have any questions regarding the distributions or the matters set forth herein, do not hesitate to contact the undersigned. Kindly do not supplement this filing with any further documents without giving us prior notice.

Very truly yours,

Frank De Marco, Jr.

FDM:mr

Enclosures

cc: Chairman Chuck Winner

Los Angeles Turf Club, Inc.

285 W. Huntington Drive, P.O. Box 60014, Arcadia, CA 91066-6014 (626) 574-7223 Fax (626) 446-9565

Los Angeles Turf Club II, Inc.
 Distribution of Charity Days Proceeds
 2016 Autumn Meet (September 30, 2016-November 6, 2016)

I. <u>Horse Related Charities – BP 19556(b) (20% minimum)</u>	<u>Amounts</u>	<u>Subtotals</u>
California Thoroughbred Foundation	1,200.00	
CARMA	2,682.53	
Edwin Gregson Foundation	5,500.00	
Holy Angels Church (Backside Permanent Deacon)	1,200.00	
Racetrack Chaplaincy of America (Southern California Council)	1,200.00	
Southern California Equine Foundation, Inc.	1,200.00	
United Pegasus Foundation	1,200.00	\$14,182.53
II. <u>Welfare Fund for Backside Personnel – BP 19641(b) (5% minimum)</u>		
California Thoroughbred Horsemen's Foundation	3,000.00	3,000.00
III. <u>Fund for Substance or Alcohol Abuse – BP 19556(b) (5% minimum)</u>		
Winners Foundation	5,500.00	5,500.00
IV. <u>Disabled Jockeys Fund – BP 19556(c) (20% minimum)</u>		
Permanently Disabled Jockeys' Fund	8,000.00	8,000.00
Total		<u>\$30,682.53</u>

LOS ANGELES TURF CLUB II, INC.
ADDEMDUM TO REQUEST FOR AUTHORITY TO DISTRIBUTE
2016 CHARITY DAYS PROCEEDS

California Thoroughbred Foundation – CTF is a 503(c)(3) nonprofit organization that provides multiple benefits to individuals involved in the Thoroughbred industry. These include scholarship programs for veterinary medicine students at UC, Davis and maintenance of the Carleton F. Burke Memorial Library.

California Thoroughbred Horsemen's Foundation – CTHF is a 501(c)(3) nonprofit foundation that provides assistance to the low income backstretch community occupied with the care of Thoroughbred race horses at California's major race tracks and fair circuits and CHRB recognized off-track training centers. The organization maintains three clinics throughout the state which see over 10,000 people each year, including numerous children who are prepared medically to return to school each year.

CARMA – The California Retirement Management Account is organized to raise money for retired California race horses. Their mission statement provides that they assist Thoroughbred retirement facilities that care for and retrain horses whose careers have ended after competing in California Thoroughbred races. Their services include tracking of retired California race horses and in working to find homes for retired equines. CARMA also manages a grant request process and distributes funds to qualified retirement facilities caring for such horses. CARMA is dedicated to the goal of providing funding for the rehabilitation, retraining and/or retirement of Thoroughbred horses that have raced in California.

Edwin Gregson Foundation – A nonprofit charitable foundation organized for the purpose of improving the lives of backstretch workers and their immediate family members at California race tracks. The organization provides backstretch workers with many educational programs, including "English as a second language," bible studies and provides numerous programs, including computer training programs at its recreation facility, computer games and various magazines in English and Spanish. It organizes family outings for the workers and their children, including trips to Magic Mountain in Valencia, California, Raging Waters, Galaxy soccer games, Dodger baseball games and excursions to the Long Beach Aquarium. The organization also maintains a recreational hall at Santa Anita Park for the benefit of the backside workers and their children.

Holy Angels Church (Backside Permanent Deacon) – Holy Angels Church is a Catholic Church across the street from Santa Anita Park. A deacon from the church performs a weekly Mass in the recreation room at the track on Monday nights for the workers on the backside. He walks down the shed rows daily in the morning and assists the workers in an endless variety of ways. Examples of the assistance provided include counseling, organizing religious and recreational activities, the collection and distribution of clothing, help with Medicare, Medi-Cal and immigration forms, officiating at holiday gatherings at Santa Anita, etc.

Racetrack Chaplaincy of America (Southern California Council) – The stated mission of the organization is "The overall mission of RTCA, through its councils and chaplains, is to make disciples for Jesus Christ through teaching, preaching, and ministering to the spiritual, emotional, physical, social, and educational needs of those persons involved in all aspects of the horse racing industry."

Southern California Equine Foundation, Inc. – SCEF is a nonprofit charitable organization providing hospital and equine ambulance services on the Southern California Thoroughbred racing circuit. Commonly known as the Equine Hospital, SCEF has a long history of service to the racing industry and the equine athlete. This is an organization “dedicated to the care of the injured horse.”

United Pegasus Foundation – This is a 501(c)(3) charitable organization that aids the rescue of superannuated Thoroughbreds and provides care for such animals at its farm in Tehachapi, California. On occasion the organization purchases older horses at auction and acquires other Thoroughbreds at the request of owners and trainers. The retired Thoroughbreds are maintained in pleasant quarters and peaceful surroundings to live out the balance of their lives. This organization depends entirely upon donations for the purchase of food and other amenities required to maintain the Thoroughbreds.

Winners Foundation – The Winners Foundation provides confidential assistance on a one-to-one basis to employees and family members of California race tracks who are seeking help for alcohol, gambling and drug addiction. Each situation is geared to best support an individual’s desire to change his or her life for the better. The Foundation has developed a large referral base and maintains close relationships with community based services such as anonymous 12 step groups, city and county assistance agencies, detox centers, halfway houses and out-patient and in-patient hospital treatment programs. This service is provided to any employee or family member of anyone involved in the California Thoroughbred horse racing community, free of charge. This includes backstretch workers, as well as all employees of Del Mar, Fairplex, Golden Gate Fields, Hollywood Park, Oak Tree, Santa Anita and the California Association of Racing Fairs.

Permanently Disabled Jockeys’ Fund – This is a statutorily mandated distribution per Business and Professions Code Section 19556 (c). It provides support to disabled jockeys, as its name implies.

CALIFORNIA HORSE RACING BOARD

JANUARY 26, 2017

REGULAR BOARD MEETING

There is no board package material for item #7

STAFF ANALYSIS
DISCUSSION BY THE BOARD REGARDING A PRESENTATION BY
PLUSMIC CORPORATION USA
OF THE DIGITAL PHOTO FINISH PROCESS

Regular Board Meeting
January 26, 2017

ISSUE

The photo finish at racetracks is critical to the integrity of horse racing, and yet many people do not fully understand the process for photographing the horses and determining the outcome of each race. Therefore, the CHRB has invited representatives of Plusmic Corporation to make a presentation to the Board, with an emphasis on the photo strip and what it represents.

BACKGROUND

Board Rule 1441, Photographic Device, provides that all associations shall install and maintain in good service a photographic device for photographing the finishes of all races to assist the placing judges and the stewards in determining the finishing positions of the horses. A photograph of each finish shall be promptly posted for public view in at least one conspicuous place in the public inclosure.

ANALYSIS

Plusmic (Yamaguchi Cinema) began in 1925 as a motion picture production company and is still a motion picture production company with commercial clients worldwide (Plusmic CFP). After the Second World War it began providing photo patrol, timing and photo finish services to clients in the Far East. Currently it provides services in Japan, China, Philippines, Korea, Australia, South Africa, South America and USA (California only).

There have been dozens if not hundreds of companies that have provided photo finish photography to horse racing over the years. Photo Chart, Omega, and Plusmic are the ones that have made the most major advances, though the Finish Lynx company has developed meet management software for use in track and field which has made them a leader in that area.

While the first strip camera was developed in 1937 by Paramount Pictures for the inaugural meeting of Del Mar Thoroughbred Club and racetracks everywhere began to adopt the technology, the later generation digital photo finish camera and process were developed by Plusmic in 1988, and it was Plusmic that later made other advancements in the areas of high definition (HD) and the extremely high image quality digital camera (CDV-X), which is used today at California racetracks.

Plusmic has been providing photo finish services for Northern California racetracks, including fairs, since 1994 and for all California racetracks since 1999. Each racetrack contracts individually with Plusmic, typically for three or more years.

Understanding the difference between traditional film photography and the strip (or slit) technology used in the photo finish process is critical. A single frame of traditional film shows a landscape of horses running at a given point in the race. It is a complete picture at a single moment in time. But if one looks at a single frame of slit photography, nothing can be distinguished because all one sees is a narrow row of pixels at the finish line. It is only when the slit frames are laid down on a strip, one after another after another in precise sequence as every part of every horse crosses the finish line, that one gets a clear picture comparable to the film frame.

RECOMMENDATION

This item is presented for Board discussion.

Item 9

DISCUSSION AND ACTION BY THE BOARD REGARDING THE STAFF REPORT ON PROPOSED AUDITS OF CALIFORNIA LICENSED ADVANCE DEPOSIT WAGERING (ADW) PROVIDERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 19604(d)(2)(D) AND SUBSECTION (G) OF CHRB RULE 2071, LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING BY A CALIFORNIA APPLICANT AND 2072, LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING BY AN OUT-OF-STATE APPLICANT; AND THE SUBMISSION OF ADDITIONAL INFORMATION, TO INCLUDE PROFIT LOSS STATEMENT, FROM ADW APPLICANTS, AS AUTHORIZED PURSUANT TO SUBSECTION (F) OF CHRB'S RULES 2071 AND 2072.

Regular Board Meeting
January 26, 2017

ISSUE

At its December 15, 2016 Regular Meeting, the Board requested that staff look at possible audits that could be conducted on California licensed or approved Advance Deposit Wagering (ADW) providers as authorized under the Business and Professions Code and the Board's rules and regulations.

1. Audit on the reasonableness of the applicant provider's procedures and methodology used to allocate revenue and expenses on handle generated from the ADW system operations in California. ADW providers are required to submit audited financial statements when applying for licensure. However, when complying with the financial statement requirement, the providers submit consolidated financial statements of parent companies which combine the financial data of the parent company and that of its subsidiaries into one report. Consequently it is not apparent from the consolidated financial statements whether the provider's ADW system operations in California are viable. Subsection (f) Board Rule 2071, License to Conduct Advance Deposit Wagering by a California Applicant, and Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, state: *The Board may conduct investigations, inspections or request additional information from the Applicant as it deems appropriate in determining whether to approve the license.* This means the Board may require ADW providers to submit a profit and loss statement of its ADW system operations in California annually in US currency. Upon receipt of a profit and loss statement, an audit maybe performed on the reasonableness of the applicant provider's procedures and methodology used to allocate revenue and expenses on handle generated from the ADW system operations in California.
2. Audit of interest bearing accounts. Rule 2082, Interest Bearing Accounts, requires ADW providers to remit annually the first \$250,000 in interest earned on California residents' accounts to the horsemen's welfare fund and backstretch pension plan. Annual audits would ensure the transfers are occurring, as required.
3. Audit of ADW procedures for suspended or closed accounts. Subsection (a) of Rule 2073, Operations of an Advance Deposit Wagering Account for all Entities, states the ADW provider may close accounts that do not have activity for at least six months. The provider shall return any funds to the account holder within five business days. An audit of the

ADW provider's procedures helps to determine compliance with the Board's rules and will clarify what happens with funds in an inactive account during the six months of inactivity.

4. Audit of the account holder address of record. Rule 2073, Operation of an Advance Deposit Wagering Account for all Entities, subsection (j), requires applicants to provide an address on the ADW application to establish an ADW account. Auditing the procedures used by ADW providers to capture and facility address changes of account holders, will help to ensure California stakeholders benefit from all wagers placed by California residents.
5. Business and Professions Code section 19604 (d)(2)(D) requires that the ADW providers furnish an independent "agree-upon procedures" audit for each California racing meeting within 60 days of the conclusion of the race meeting. Currently CHRIMS performs this audit. Staff recommends that CHRIMS sends an attestation letter outlining the "agreed-upon procedures" and the results of the audit at the end of each race meeting.

BACKGROUND

Business and Profession Code section 19604(d)(2)(D) states, "The ADW provider shall allow the Board access to its premises to visit, investigate, audit, and place expert accountants and other persons it deems necessary for the purpose of ensuring that its rules and regulations concerning credit authorization, account access, and other security provisions are strictly complied with. To ensure that the amounts retained from the parimutuel handle are distributed under law, rules, or agreements, any ADW provider that accepts wagering instructions concerning races conducted in California or accepts wagering instructions originating in California shall provide an independent "agreed-upon procedures" audit for each California racing meeting, within 60 days of the conclusion of the race meeting. The auditing firm to be used and the content and scope of the audit, including host fee obligations, shall be set forth in the applicable agreement. The ADW provider shall provide the Board, horsemen's organizations, and the host racing association with an annual parimutuel audit of the financial transactions of the ADW provider with respect to wagers authorized pursuant to this section, prepared in accordance with generally accepted auditing standards and the requirements of the Board. Any and all reasonable costs associated with those audits shall be borne by the ADW provider."

Board Rule, License to Conduct Advance Deposit Wagering by a California Applicant, Subsection 2071 (f): The Board may conduct investigations, inspections or request additional information from the Applicant as it deems appropriate in determining whether to approve the license.

Board Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, Subsection 2072 (f): The Board may conduct investigations, inspections or request additional information from the out-of-state Applicant as it deems appropriate in determining whether to approve the Application.

Board Rule 2073, Operation of an Advance Deposit Wagering Account for all Entities, subsection (a): The entity may suspend or close an Account. Any Account with no activity for at least six months may be closed. When an Account is closed the entity shall return any funds within five business days to the Account Holder at the address of record.

Subsection 2073 (j): The address provided on the application to establish an Account is deemed the address of record for mailing checks, statements of Account, Account withdrawals, notices, or other correspondence. It is the responsibility of the Account Holder to notify the entity of any address change.

Board Rule 2082, Interest Bearing Accounts: The first \$250,000 in interest earned on California resident's Accounts shall be transferred annually, split between the corresponding horsemen's welfare fund and the backstretch pension plan for the benefit of backstretch employees. Interest in excess of \$250,000 shall be transferred annually, split between the corresponding horsemen's organizations for purses as designated in Business and Professions Code section 19613.

RECOMMENDATION

This item is presented to the Board for discussion.

Attached for reference:

Exhibit I "Overview of ADW Handle, Distributions, and ADW Provider's Fees" and
Exhibit II "Glossary of Fund Description and Distribution for California ADW Handle."

EXHIBIT I

Overview of ADW Handle, Distributions, and ADW Provider's Fees

Table 1. ADW Company Percent of Handle shows for comparison purposes the market share of each ADW provider in relation to each other. TVG is the primary ADW provider followed by Twin Spires. Twinspires generates handle one half the size of TVG. XpressBet generates handle one half the size of Twin Spires.

Table 1. ADW Company Percent of Handle

ADW Company	Total Handle	Percent of Total
Game Play Network ADW	23	0%
Game Play Network ODZ	56,976	0%
Lien Games LLC	23,250,081	3%
NYRAbets	1,181,488	0%
TVG	452,890,226	53%
Twin Spires	220,447,731	26%
Watch and Wager	3,188,010	0%
Xpressbet	129,907,787	15%
Xpressbet - PMG	28,447,919	3%
Total	859,370,241.00	100%

Total handle numbers obtained from CHRIMS reports.

ADW providers generate handle from wagers placed by California residents on races conducted in California and on races conducted out-of-state. ADW handle is also generated from wagers placed by out-of-state patrons on races conducted in California.

Table 2. Distribution of Takeout for Wagering Facilitated by Licensed CA ADW Providers shows the distribution of wagers generated by California residents on races conducted in and out-of-state and wagers placed by patrons out-of-state on races conducted in California. CHRIMS reports show that **for calendar year 2016** California residents wagered \$582,274,301 on races conducted in and out-of-state and out-of-state patrons wagered \$277,094,515 on races conducted in California. The total ADW handle for calendar year 2016 was \$859,368,821.

Of the total handle generated by ADW providers \$683,295,676 was payable to the public and \$176,073,145 was retained as takeout.

Table 2. Distribution of Takeout for Wagering Facilitated by Licensed CA ADW Providers

Distribution	California Bets		Bets Placed Outside CA		All ADW bets placed in CA plus ADW bets placed outside CA on CA races	
	\$	% of Handle	\$	% of Handle	\$	% of Handle
CHRB Support	-	-	959,254	0.35%	959,254	0
Equine Research Lab	629,700	0.11%			629,700	0.07%
DIR	171,738	0.03%			171,738	0.02%
Backstretch Fund	944,549	0.16%			944,549	0.11%
Location Fees	10,050,332	1.73%			10,050,332	1.17%
AB 480 Reserve	1,398,725	0.24%			1,398,725	0.16%
Workers Comp Fund	770,843	0.13%	909,090	0.33%	1,679,933	0.20%
Retirement Fund	1,717,710	0.30%			1,717,710	0.20%
Breeders	2,423,160	0.42%	565,518	0.20%	2,988,677	0.35%
Purses	23,692,429	4.07%	13,237,142	4.78%	36,929,570	4.30%
Track Commissions	20,365,210	3.50%	10,486,636	3.78%	30,851,846	3.59%
Expense Funds*	13,111,618	2.25%			13,111,618	1.53%
Stabling & Vanning Fund*	1,900,079	0.33%			1,900,079	0.22%
Total to CA stakeholders	77,176,093	13.25%	26,157,639	9.44%	103,333,731	12.02%
Commingled Guests	-		30,967,245	11.18%	30,967,245	3.60%
Hub Fees	29,369,505	5.04%			29,369,505	3.42%
Import Host Fee	12,402,665	2.13%			12,402,665	1.44%
Total to ADW providers & Out of State Entities	41,772,169	7.17%	30,967,245	11.18%	72,739,414	8.46%
Retained from Public	118,948,262	20.43%	57,124,884	20.62%	176,073,145	20.49%
Payable To Public	463,326,045	79.57%	219,969,631	79.38%	683,295,676	79.51%
Total Handle	582,274,307	100.00%	277,094,515	100.00%	859,368,821	100.00%

*Per Agreement. These special distributions reduced the amounts distributed to purses and track commissions. The portion of expense fund not needed to cover actual simulcast expenses is split 50/50 between purses and track commissions AB 480 Reserve Fund is split at year end between purses and track commission. Report generated by CHRIMS.

EXHIBIT II**Glossary****Fund Description and Distribution for California ADW Handle****CHRB Support** (Business and Professions Code section 19616.51 (a) (2))

This distribution follows the same general law related to the **exporting of the signal** similar to brick and mortar locations signal export. This is the funding for the California Horse Racing Board (CHRB) in lieu of license fees. The annual formula is devised by the CHRB in consultation with industry to provide the CHRB support.

Equine Research Lab (Business and Professions Code section 19604 (f) (1))

An amount equal to 0.11 percent of the amount handled on ADW wagers originating in California for each racing meeting shall be distributed to the Center for Equine Health to establish the Kenneth L. Maddy for the benefit of the School of Veterinary Medicine at UC Davis Laboratory.

DIR/Problem Gambling (Business and Professions Code section 19604. (f) (2))

An amount equal to 0.03 percent of the amount handled on ADW wagers originating in California shall be distributed to the Department of Industrial Relations (DIR) to cover costs associated with its audits on California trainers' payroll. However if the amount generated exceeds the costs incurred by DIR the reduction shall be forwarded to an organization designated by the racing association to augment a compulsive gambling prevention program.

Backstretch Fund (Business and Professions Code section 19604. (f) (3) (A) and (B))

An amount equal to 0.165 percent of the amount handled on ADW wagers that originate in California. One-half of the amounts shall be distributed to supplement, not supplant, the trainer-administered pension plans for backstretch personnel. The other one-half shall be distributed to supplement, not supplant, the welfare fund established for horsemen and backstretch personnel.

Location Fees (Business and Professions Code section 19604 (f) (4))

With respect to wagers on each breed of racing that originate in California, an amount equal to 2 percent of the first two hundred fifty million dollars (\$250,000,000) of handle from all advance deposit wagers originating from within California annually, an amount equal to 1.5 percent of the next two hundred fifty million dollars (\$250,000,000) of handle from all advance deposit wagers originating from within California annually, an amount equal to 1 percent of the next two hundred fifty million dollars (\$250,000,000) of handle from all advance deposit wagers originating from within California annually, and an amount equal to 0.50 percent of handle from all advance deposit wagers originating from within California in excess of seven hundred fifty million dollars (\$750,000,000) annually, shall be distributed as satellite wagering commissions.

AB 480 (Business and Professions Code section 19604)

In the event of a reduction in satellite wagering facility commissions, the benefit would then be distributed equally as purses and commissions to all associations and racing fairs that generate advance deposit wagers, in proportion to the handle generated.

Workers' Compensation Fund (Business and Professions Code section 19605.75, 19605.76, 19605.77)

A distribution of 0.5 percent of the amount handled in exotic pari-mutuel pools for thoroughbred and quarter horse races conducted in California is utilized to defray the cost of workers' compensation for trainers and owners. The distribution for harness horse meets is 1.0% of the amount handled in conventional pari-mutuel pools.

Retirement Fund (Business and Professions Code section 19604 (i) (1) and (2)), 19604 (j)

(i) Amounts distributed under this section shall be proportionally reduced by an amount equal to 0.00295 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting, except for harness racing meetings, provided that the amount of this reduction shall not exceed two million dollars (\$2,000,000). The method used to calculate the reduction in proportionate share shall be approved by the board. The amount deducted shall be distributed as follows:

(1) Fifty percent of the money to the board to establish and to administer jointly with the organization certified as the majority representative of California-licensed jockeys pursuant to Section 19612.9, a defined contribution retirement plan for California-licensed jockeys who retired from racing on or after January 1, 2009.

(2) The remaining 50 percent of the money shall be distributed as follows:

(A) Seventy percent shall be distributed to supplement the trainer-administered pension plans for backstretch personnel established pursuant to Section 19613. Moneys distributed pursuant to this subparagraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19613 or any other provision of law.

(B) Thirty percent shall be distributed to the welfare fund established for the benefit of horsemen and backstretch personnel pursuant to subdivision (b) of Section 19641. Moneys distributed pursuant to this subparagraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19641 or any other provision of law.

(j) Amounts distributed under this section shall be proportionally reduced by an amount equal to 0.00295 multiplied by the amount handled on advance deposit wagers originating in California for each harness racing meeting, provided that the amount of this reduction shall not exceed five hundred thousand dollars (\$500,000). The method used to calculate the reduction in proportionate share shall be approved by the board. The amount deducted shall be distributed as follows:

(1) First to the welfare fund established for the benefit of horsemen and backstretch personnel, pursuant to subdivision (b) of Section 19641, and administered by the organization representing the horsemen participating in the race meeting, in the amount requested by the welfare fund. Moneys distributed pursuant to this paragraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19641 or any other provision of law.

(2) The amount remaining, if any, shall be utilized for the benefit of the horsemen as specified in a written agreement between the racing association that conducts the live harness race meeting and the organization representing the horsemen participating in the race meeting.

Breeders (Business and Professions Code section 19604 (f) (5) (A))

In general, from the amounts remaining after contractual and statutory distributions, breeders receive the same relative proportion as was generated during the prior year.

Purses (Business and Professions Code section 19604 (f) (5) (A))

In general, from the amounts remaining after contractual and statutory distributions, purses receive the same relative proportion as was generated during the prior year.

Tracks Commissions (Business and Professions Code section 19604 (f) (5) (A))

In general, from the amounts remaining after contractual and statutory distributions, tracks receive the same relative proportion as was generated during the prior year.

Expense Fund (Business and Professions Code section 19604 (f) (5) (E))

A contractual modification, approved by the Board, of the distribution of net market access fees which would otherwise have been distributed to track commissions and purse commissions, applicable to meets hosted by thoroughbred associations. The funds generated are distributed to NCOTWINC and SCOTWINC to cover expenses incurred in operating the off-track wagering network. Amounts not expended to operate the network equally shared between purses and tracks.

Stabling and Vanning Fund (Business and Professions Code section 19604 (f) (5) (E))

A contractual modification, approved by the Board, of the distribution of net market access fees which would otherwise have been distributed to track commissions and purse commissions, applicable to meets hosted by Southern California thoroughbred associations and Racing Fairs which augments the amounts distributed to the Southern California Vanning and Stabling Fund from brick and mortar wagering.

Commingle Guess

It represents the amount that is kept by out of states outlets wagering on California races, when California exports its racing signal.

Hub Fee (Business and Professions Code section 19604 (a) (5))

It is the portion of contractual compensation, excluding host fee payments, retained by ADW providers licensed to conduct business in California from wagers placed in California.

Import Host Fee (Business and Professions Code section 19604 (a) (B))

Contractual amount, generally limited to 3.5% of handle, retained by ADW Providers to pay tracks located outside of the state for accepting California wagers into their respective pools.

Retained From Public

Represents the amount kept from the public to benefit the different sectors of the horse racing industry, also known as the takeout.

Payable To Public

Represents the prizes paid as winning tickets.

Total Handle

Amount wagered in the pari-mutuel pool.

STAFF ANALYSIS

January 26, 2017

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING OF NEWCO VENTURES NORTH AMERICA, LLC D/B/A NYRABETS.COM FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At the November 17, 2016 Regular Board meeting, the Board extended the existing Advance Deposit Wagering (ADW) license through January 31, 2017, to allow ADW providers additional time to resolve any outstanding issues prior to the January 26, 2017 Regular Board meeting. CHRB staff contacted a NYRabets representative on December 15, 2016 and requested the submission of the outstanding items by January 6, 2017. NYRabets submitted the Horsemen's Agreement [TOC and PCQHRA] January 6, 2017. The Labor Agreement with Local 280 remains outstanding.

NewCo Ventures North America, LLC d/b/a NYRabets.com (NYRabets) filed its application as an out-of-state multi-jurisdictional wagering hub to provide Advance Deposit Wagering. NYRabets was approved as an ADW provider at the October 20, 2016 Regular Board meeting, and was licensed through December 31, 2016 as an out-of-state multi-jurisdictional wagering hub.

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 advance deposit wagering. NYRabets, as a current ADW provider, has a \$500,000 Indemnity Bond on file that became effective June 10, 2016 and is continuous until cancelled.

This application provides for:

Dates of operation will be 365 days a year, 24 hours a day. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, allows 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 . . ."

- (i) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.
- (ii) The agreement establishes the method by which the ADW provider will agree to recognize and bargain in good faith with a labor organization that has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California ADW license is required.

(iii) The agreement requires the ADW provider to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California ADW license is required whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(iv) The agreement applies to those classifications of employees who accept or process wagers for which a California ADW license is required whether the facility is located within or outside of California.

19604 (d)(1)(C)

(i) The agreement required by subparagraph (B) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of subparagraph (B).

(ii) The requirement in subparagraph (B) shall not apply to an ADW provider that has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an ADW license is required whether the facility is located within or outside of California.”

NYRA Bets has provided the Board with a copy of the following agreements in compliance with Business and Professions Code section 19604:

- Hub agreement between NYRABets and Watch and Wager Harness Racing (Association) dated as of July 6, 2016 ending July 5, 2018.
- Hub agreement between NYRABets and Los Angeles Turf Club dated as of July 21, 2016 ending December 31, 2017.
- Agreement between Thoroughbred Owners of California and Los Angeles Turf Club (LATC) on the use of the race signal; providing LATC shall be permitted to transmit race signal to NYRABets during the 2016-2017 LATC race meeting, December 26, 2016 through July 4, 2017.
- Agreement between Thoroughbred Owners of California and Pacific Racing Association (PRA) on the use of the race signal; providing PRA shall be permitted to transmit race signal to NYRABets during the 2016-2017 PRA race meeting, December 26, 2016 through June 20, 2017.
- Approval from the California Harness Horsemen’s Association of the out-of-state simulcasting of the nightly California harness races at Cal Expo to Board approved in-state and out-of-state simulcast venues beginning October 22, 2016 through the final day of racing in May 2017.
- Approval from the Pacific Coast Quarter Horse Racing Association for Los Alamitos Race Course to export the satellite signal for the 2017 LAQHRA Quarter Horse race meeting to (Out of State Satellite Location) - NYRABets, NY through conclusion of the 2017 LAQHRA meet December 17, 2017.
- Agreement between NYRA and Monarch Content Management, LLC beginning July 1, 2016 through June 30, 2018.
- Simulcast Wagering Agreement between Watch and Wager and NYRABets effective October 22, 2016 through May 31, 2018.

NYRAbets is listed as an ADW provider on the December 21, 2016 through July 4, 2017 Los Angeles Turf Club; the December 21, 2016 through June 20, 2017 Pacific Racing Association; and the December 26, 2016 through May 21, 2017 Watch and Wager race meeting application.

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

1. Labor Agreement with Local 280.

The following information will need **updating** during the proposed licensing period:

1. California Harness Horsemen's Association Agreement [CHHA expires May 2017].

RECOMMENDATION:

If the application is considered for approval, staff recommends approval of a two year license contingent upon the submission of outstanding items.

Application is made to the CHRB for approval to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct Advance Deposit Wagering and must be accompanied by a bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

A. Name, mailing address, telephone and fax numbers:

NewCo Ventures North America, LLC d/b/a NYRAbets.com
110-00 Rockaway Boulevard
Jamaica, New York 11420
Tel: (718) 659-2237
Fax: (718) 659-3574

B. Name, title, license number and racing jurisdiction where licensed for all management personnel:

Name	Title	Racing Jurisdiction	License #
Tony Allevato	President	Oregon	2815728721
		New York	1491757

C. Name, title and mailing address of the California agent for receipt of service of process:

National Registered Agents, Inc.
Registered Agent
2875 Michelle Drive, Suite 100
Irvine, California 92606-1024

D. Attach the contract with the California racing association or fair and the required horsemen's approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.

[SEE EXHIBIT 1]

Application received: 7/8/16 Reviewed: <i>MDW</i>	CHRB CERTIFICATION	Hearing date: 1/26/17 Approval date:
------------------------------------------------------	--------------------	-----------------------------------------

2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted: **365 days per year**
- B. Hours Advance Deposit Wagering will be conducted: **24 hours (subject to available content)**

3. BUSINESS STRUCTURE

- A. Corporation (complete subsection B)
- LLC (complete subsection C)
- Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

1. Registered name of the corporation:
2. State where incorporated:
3. Registry or file number for the corporation:
4. Name of all officers and directors, titles, and number of shares of the corporation held by each:
5. Names (true names) of all persons, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
10. Attach the most recent annual financial statement for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

C. LLC

1. Registered name of the LLC: **NewCo Ventures North America, LLC**
2. State where articles of organization are filed: **Delaware**
3. Registry or file number for the LLC: **5972318**
4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:

Tony Allevato, President – ownership interest n/a (0%)

5. Names (true names) of all members, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:

[SEE EXHIBIT 2]

6. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:

[SEE EXHIBIT 2]

8. Attach the most recent annual financial statement for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.

[SEE EXHIBIT 3]

9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

[SEE EXHIBIT 4]

D. OTHER

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

4. ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2074.

A. List the procedures to establish an Account:

ESTABLISHING AN ACCOUNT

To establish an account with NewCo Ventures North America, LLC or on behalf of its affiliates or wagering partners the applicant (player) must:

- Be a natural person who is at least eighteen (18) years of age unless otherwise required by the sending jurisdiction.
- Must reside in a jurisdiction where pari-mutuel wagering is lawful and where it is lawful to wager on the same type of live racing as currently allowed under Oregon law.
- Information is verified through legal means to include electronic verification of the identity, age and residence of the account holder applicant prior to accounts being activated (via the use of software provided by Lexis Nexus and/or TransUnion software solutions).
- Each applicant must provide:
 1. Full legal name
 2. Date of birth, with proper identification or certification demonstrating that the applicant is at least 18 years old
 3. Principal residence address (no P.O. Box)
 4. Telephone number
 5. Social Security number
 6. Any additional information as required by NewCo Ventures North America, LLC, its affiliates or their wagering partners to verify the identity of the applicant

[SEE ALSO EXHIBIT 5, p. 1]

B. If an application form is used to establish an Account attach a copy of the form.

[SEE EXHIBIT 6]

C. Name and address of the third party you will use to verify identity, residence and age verification:

LexisNexis
230 Park Avenue
Viaduct #7
New York, NY 10017
www.lexisnexis.com

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.

A. Submit a copy of your plan for operation.

[SEE EXHIBIT 5]

B. List the type of deposits you will accept:

Funding Method	Online	In-Person / Point-of-Sale	Phone	By Mail
ACH	X			
Wire Transfer	X		X	
Credit Card	X		X	
Personal Check		X		X
Cashier's Check		X		X
Money Order				X
Cash		X		
PayNearMe		X		
MoneyGram		X		

C. Identify any fees or transaction-related charges and the amount that will be assessed:

Transaction Fees: NewCo Ventures North America, LLC will pass banking fees levied by the payment processors onto the end user. NewCo Ventures North America, LLC will not add additional fees above and beyond those transaction fees levied by the contracted third party payment processors.

6. SECURITY ACCESS

A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:

1. Description of the technology to ensure identity, residence, and age verification when an Account is established:

Lexis Nexis is used by ADW for identity verification purposes. Specifically, ADW utilizes Lexis Nexis' Business InstantID Solution to verify the identity of the customer submitting an application with ADW to open a new account. Various services within their Business InstantID solution verifies the Name, Address, Date of Birth, and SSN of the applicant across multiple databases using a proprietary search and comparison process as well as ensures the applicant is not deceased nor is part of any federal and/or state lists (such as OFAC).

[SEE ALSO EXHIBIT 5, p. 1 ¶2 & p. 8 ¶7]

2. Description of the technology to ensure confidentiality of the Means of Personal Identification:

Security/Confidentiality of Accounts

NewCo Ventures N.A., its employees, and agents will not divulge any account information without the express written permission of the account holder, except to the Commission, by Commission order, or as may otherwise be prescribed by law.

All account numbers, PINs, passwords, passcodes, wagers, deposits, withdrawals, credits, debits and personal information relating to account holders are kept confidential. NewCo Ventures N.A. utilizes a combination of security precautions to ensure that the confidentiality of such information is maintained. Physical security considerations include housing the computers in a facility with limited and secure access, Software consideration includes utilizing strong administrative passwords for person having access to the databases where NewCo Ventures N.A. maintains such confidential information. The number of persons with such administrative passwords is restricted, and such passwords are frequently changed. All secured databases log the events to ensure a record of the time and identification of the person modifying the database.

[SEE ALSO EXHIBIT 5, p. 8]

3. Methods and locations available for Account Holders to withdraw funds from their Account:

Withdrawal Requests

Verbal requests over the telephone for withdrawals will not be honored or processed. Withdrawals must be made in writing, either via a signed withdrawal slip, a signed letter, or via specific path post account login. Written requests signed, scanned, and emailed to the Company will be accepted and processed. Withdrawals can be for all or any portion of the account holder's withdrawable balance.

NewCo Ventures N.A. will process any properly completed and executed request for account withdrawal within five (5) business days after receiving the withdraw request.

Electronic Withdrawal Requests

NewCo Ventures N.A. will process any properly completed and executed request for account withdrawal, and send a check, EFT (when applicable) or wire to the account holder within five (5) business days after receiving the withdraw request.

Fund transfers (e.g., internet and mobile) may be made via Electronic means in accordance with NewCo Ventures N.A. requirements set forth herein and/or as otherwise approved by the Commission.

With regard to electronic withdrawals:

1. A successfully processed Deposit must occur prior to allowing an Electronic Withdrawal.

2. An account holder will not be permitted to withdraw Instant Deposits until successful settlement of such Instant Deposit from the Company's ACH Processor. Until that time, the Instant Deposit will be marked as non-withdrawable. (Noteworthy: Instant Deposits are allowed to be wagered but not withdrawn until settlement of that Instant Deposit amount occurs).
3. Withdrawals can be for all or any portion of the account holder's withdrawable balance.

Withdrawal Request by Mail

NewCo Ventures N.A. will process all requests for withdrawals made via mail within five (5) business days of receiving the request. If the request is incomplete or required information is missing, NewCo Ventures N.A. will advise the account holder that information is missing. Withdrawals can be for all or any portion of the account holder's withdrawable balance. If the account does not contain sufficient funds to cover the requested withdrawal, the Company will release the remaining funds and notify the Account Holder accordingly.

[SEE ALSO EXHIBIT 5, pp. 3-4]

4. If the Advance Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation:

USOT

6130 NE 78th Court, Ste. C4

Portland, OR. 97218

Tel: (503)253-0234

Hours of operation will coincide with Customer Service & Technical Support hours

XAND

11 Skyline Dr.

Hawthorne, NY 10532

Tel: (914)592-8282

Open 24 hours

7. PARI-MUTUEL

- A. Name, address and telephone number of the pari-mutuel audit firm:

KPMG LLP

Frank Albarella

1305 Walt Whitman Road

Melville, NY 11747

Tel: (631) 425-6510

- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract:

Totalizator System

AmTote's "tote" hub system (a/k/a the Spectrum System) is regarded in the pari-mutuel industry as the most advanced and reliable Totalizator hub system available. It is noted that AmTote has been licensed and approved by the Oregon Racing Commission.

Systems, System Capacity & Redundancy

The master totalizator system for NewCo Ventures North America wagering sources reside at one of the two AmTote Hubs in Oregon and Maryland (Maryland being the backup). A third system, architected by GBET, resides at TierPoint Data Center and is responsible for processing NewCo Ventures North America account transactions. This third system (with a fully redundant backup system) is fully encrypted and secured with access granted to authorize personnel only. All sensitive equipment is secured in locked cabinets.

Connectivity, between totalisator systems and GBET systems for the purpose of transmission of wagering data of simulcast pools is conducted via secure point to point networks with VPN backups. Wagering communications are transferred over private communications networks with proper security controls in place. Each connection for the transfer of pools to different ITSP hubs is dedicated point to point. NewCo Ventures North America's totalizator contractor, TierPoint, GBET, and dedicated NewCo Ventures North America personnel monitor the networks and links continuously throughout each business day. In the event of a network problem, applicable parties will rectify the problem by following carefully scripted escalation procedures. NewCo Ventures North America's data center provider TierPoint features secured access with Closed Circuit video surveillance, fire protection, redundant UPS-protected power system and a diesel generator.

[SEE ALSO EXHIBIT 5, p. 7]

AmTote International Inc.
11200 Pepper Road
Hunt Valley, MD 21031
(410) 771-8700
Contract expires: September 2, 2018

- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted:

[SEE EXHIBIT 7]

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 18.

8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you will contract with to facilitate Advance Deposit Wagering that are not provided in other sections of this application:

Person / Business	Address
Axcis / Trackmaster	2083 Old Middlefield Way Suite 206 Mountain View, CA 94043
Equibase	821 Corporate Drive Lexington, KY 40503
Evergreen / Tierpoint	11 Skyline Drive Hawthorne, NY 10532
Global Betting Exchange	4th Floor, IFSC House Customs House Quay Dublin 1 IRELAND
Global Cash Access (Everi)	7250 S Tenaya Way Suite 100 Las Vegas, NV 89113
GoToBilling	216 East Bearss Ave Suite 368 Tampa, FL 33613
KnuPro	40 Vogell Road Richmond Hill, Ontario CANADA
Money Gram	2828 N. Harwood Street Dallas, TX 75201
The New York Racing Association, Inc.	110-00 Rockaway Blvd. S. Ozone Park, NY11420
Pay Near Me	292 Gibraltar Drive Suite 104 Sunnyvale, CA 94089
MCSO Software, Inc. (Plivo)	340 Pine Street Suite 503 San Francisco, CA 94104
Roberts Communications	4175 Comeron Street Suite 10 Las Vegas, NV 89103
Solid Cloud	10635 East Topaz Drive Scottsdale, AZ 85258
The Jockey Club Technology Services, Inc.	821 Corporate Drive Lexington, KY 40503
Vantiv	8500 Governors Hill Drive Symmes Township, OH 45249

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B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed:

- 1. Global Cash Access
- 2. The New York Racing Association, Inc.
- 3. Roberts Communications

9. ADVERTISING

Name and address of the advertising agency you will use:

Ed Lewi Associates
 6 Chelsea Place
 Clifton Park, NY 12065

Harmelin Media
 525 Righters Ferry Road
 Bala Cynwyd, PA 19004

NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3) advertisements shall not be deceptive to the public.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this Application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this Application.

Tony Allevato

 Print Name



 Signature

President

 Print Title

July 5, 2016

 Date

STAFF ANALYSIS
January 26, 2017

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING OF LIEN GAMES RACING LLC, FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At the November 17, 2016 Regular Board meeting, the Board extended the existing Advance Deposit Wagering (ADW) license through January 31, 2017, to allow ADW providers additional time to resolve any outstanding issues prior to the January 26, 2017 Regular Board meeting. CHRB staff contacted a Lien Games representative on December 15, 2016 and requested the submission of the outstanding items by January 6, 2017. Lien Games submitted a hub agreement between Lien Games and California Authority of Racing Fairs on January 6, 2017. The 2017 contract and/or agreements required to accept wagers on races conducted in California from a resident of California, Horsemen's Approval, and the Labor Agreement with Local 280 remain outstanding.

Lien Games Racing, LLC (Lien Games) filed its application as an out-of-state multi-jurisdictional wagering hub to provide Advance Deposit Wagering. It is currently licensed through January 31, 2017 as an out-of-state multi-jurisdictional wagering hub. Lien Games has not provided documentation to allow it to accept wagers on races conducted in California from a resident of California for thoroughbred racing.

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 advance deposit wagering. Lien Games Racing, LLC, as a current ADW provider, has a \$500,000 bond continuation certificate on file that will expire January 1, 2018.

This application provides for:

Dates of operation will be 365 days a year, 24 hours a day. Customer service hours 9:00 a.m. to 1:00 a.m., Eastern, every day of the year with the exception of Christmas Day. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, allows 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 . . .”

(i) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.

(ii) The agreement establishes the method by which the ADW provider will agree to recognize and bargain in good faith with a labor organization that has demonstrated majority status by submitting

authorization cards signed by those employees who accept or process any form of wagering for which a California ADW license is required.

(iii) The agreement requires the ADW provider to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California ADW license is required whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(iv) The agreement applies to those classifications of employees who accept or process wagers for which a California ADW license is required whether the facility is located within or outside of California.

19604 (d)(1)(C)

(i) The agreement required by subparagraph (B) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of subparagraph (B).

(ii) The requirement in subparagraph (B) shall not apply to an ADW provider that has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an ADW license is required whether the facility is located within or outside of California.”

Labor Correspondence

On February 10, 2016 the Pari-mutuel Employees Guild Local 280 (Local 280) submitted a letter to the California ADW providers: Watch and Wager.com, LLC, Game Play Network, Inc. Twinspires, Bet America, ODS Technologies, L.P. d.b.a. TVG and Xpressbet. The letter provides “notice that Local 280 does hereby demand that your company enter into ‘a contractual agreement’ with Local 280 as required by California Business and Professions Code section 19604(d)(1)(B). The Local 280 letter includes that it will object to the approval of an ADW application unless an agreement has been reached between Local 280 and the ADW provider(s). Additionally, the letter provides “Local 280 believes that it is entitled to jobs under the terms of this statute and that those jobs have not been provided by ADW providers”.

On March 16, 2016 Local 280 submitted a letter to the Board that included a copy of the February 10, 2016 letter it had submitted to the California ADW providers. The March 2016 letter asked the Board to enforce California Business and Professions Code section 19604(d)(1)(B) and requested that no licenses be granted to ADW providers until the statute compliance is met.

On November 2, 2016 Lien Games submitted a partially executed addendum to the Local 280/Lien Games labor agreement. The agreement was signed by Lien Games, but not yet signed by Local 280.

Lien Games has provided the Board with a copy of the following agreements in compliance with Business and Professions Code section 19604:

- Simulcast Wagering Agreement between Watch and Wager and Lien Games Racing effective October 22, 2016 through May 31, 2018.

- Hub agreement between Lien Games Racing and California Harness Horsemen's Association dated as of February 9, 2016 through December 31, 2017.
- Hub agreement between Lien Games Racing and California Authority of Racing Fairs effective January 1, 2017 through December 31, 2017.

Monarch Content Management, LLC (MCM), was the negotiating party for the 2016 simulcast wagering agreements between Lien Games Racing, the California thoroughbred racing associations, California Authority of Racing Fairs, Los Angeles County Fair at Los Alamitos, and the Sonoma County Fair. MCM is currently in negotiations for 2017 ADW contracts; however, the negotiations have not yet determined which associations or ADW providers MCM will be representing. To date the 2017 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.

There are 13 racing venues approved for racing by the California Horse Racing Board: four thoroughbred racing associations, one quarter horse racing association, one harness facility racing and seven fairs. Lien Games has provided documentation allowing it to accept wagering for only eight of the thirteen.

Lien Games Racing is listed as an ADW provider on the December 21, 2016 through July 4, 2017 Los Angeles Turf Club; and the December 21, 2016 through June 20, 2017 Pacific Racing Association race meeting application.

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

1. Labor Agreement with Local 280.

Outstanding items required before wagers can be accepted on **races conducted in California** from a resident of California:

1. 2017 contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows Lien Games to accept wagers on the remaining five racing venues.
2. Horsemen approval of ADW agreement.

The following information will need **updating** during the proposed licensing period:

1. Agreement with AmTote International (expires December 31, 2017)

RECOMMENDATION:

If the application is considered for approval, staff recommends approval of a two year license contingent upon the submission of outstanding items.

STATE OF CALIFORNIA
 CALIFORNIA HORSE RACING BOARD (CHRB)
 APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING
 CHRB-133 (New 9/01)

Application is made to the CHRB for approval to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct Advance Deposit Wagering and must be accompanied by a bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

- A. Name, mailing address, telephone and fax numbers:

Corporate Offices:

Lien Games Racing LLC
 404 4th Avenue North, Suite 200
 Fargo, North Dakota 58102
 (P.O. Box 1029, Fargo, ND 58107-1029)
 218-422-9004 Voice, 866-500-5764 Fax

Operations and Customer Service Center:

Lien Games Racing LLC
 808 3rd Avenue South
 Suite 420
 Fargo, North Dakota 58103
 701-232-9995 Voice, 800-860-7067 Fax

- B. Name, title, license number and racing jurisdiction where licensed for all management personnel:

Lien Games Racing LLC, North Dakota Service Provider License No. 2016-012
 Kevin Hall, President, 2016 North Dakota License
 North Dakota Racing Commission
 Gunner LaCour, Director of Racing
 500 North 9th Street
 Bismarck, North Dakota 58501
 (701) 328-4290

- C. Name, title and mailing address of the California agent for receipt of service of process:

Adam Humphrey, Senior Accountant
 BAM Software and Services LLC
 115 Sansome Street, Suite 1050
 San Francisco, California 94104

CHRB CERTIFICATION

Application received: 9/1/16
 Reviewed: *MSB*

Hearing date: 1/26/17
 Approval date:

- D. Attach the contract with the California racing association or fair and the required horsemen's approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.

See Tab 3 for Hub Agreements and status.
 See Tab 4 for Simulcast Agreements with California tracks.

2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted:

Advance Deposit Wagering is currently being conducted in California, in accordance with previous approvals received from the California Horse Racing Board. .

- B. Hours Advance Deposit Wagering will be conducted:

Wagering will be offered every day of the year. Customer Service hours are 9:00 am to 1:00 am, Eastern, every day of the year with the exception of Christmas Day.

3. BUSINESS STRUCTURE

- A. Corporation (complete subsection B)
- LLC (complete subsection C)
- Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

1. Registered name of the corporation:
2. State where incorporated:
3. Registry or file number for the corporation:
4. Name of all officers and directors, titles, and number of shares of the corporation held by each:
5. Names (true names) of all persons, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading? Yes No

CHRB-133 (New 9/01)

If yes, on what exchange and how is the stock listed:

8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
10. Attach the most recent annual financial statement for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

C. LLC

1. Registered name of the LLC:

Lien Games Racing LLC

2. State where articles of organization are filed:

North Dakota

3. Registry or file number for the LLC:

North Dakota ID: 21381200

4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:

Kevin Hall, President (owns .01% of Lien Games Racing LLC and 100% of K2 Investments, which owns 99.99% of Lien Games Racing LLC)
Kathy Mawicke, Secretary/Treasurer (no ownership interest)

5. Names (true names) of all members, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:

K2 Investments LLC – owns 99.99% of Lien games Racing LLC

6. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:

7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity: N/A

K2 Investments LLC owns 99.99% of Lien Games Racing LLC. Kevin Hall owns 100% of K2 Investments LLC

CHRB-133 (New 9/01)

8. Attach the most recent annual financial statement for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.

Lien Games Racing LLC Financials and copies of reports to North Dakota Racing Commission, Attached at Tab 5

9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

California Business Plan and 2017 California Budget, Attached at Tab 6

D. OTHER

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

4. **ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS** – must comply with Rule 2074.

A. List the procedures to establish an Account:

All accounts are initiated online before any wagering is conducted. Accounts for California residents will only be established in the name of a natural person and will be non-transferable. Individuals will be required to self-certify that they are not prohibited from wagering under Rule 1980. Information required to establish an Account will include: (1) account holder's full legal name, (2) principal residence address, (3) telephone number, (4) Social Security number or last 4 digits of Social Security number, (5) identification or certification to prove the account holder is at least 18 years of age, and (6) whether the account holder wants to use a credit card to make deposits to their account. Lien Games Racing LLC will employ electronic verification with respect to each account holder's name, principal residence address, date of birth and Social Security number at the time account is established, using Veratad Technologies LLC. An account will not be activated if the information supplied is untrue or incomplete. When established, Lien Games Racing LLC will designate an account number for each account. The number will not be changed unless the account holder is informed prior to any change. The account holder will select or be assigned a unique user name or number to use to access their account, along with a password. Lien Games Racing LLC will inform the account holder of the assigned account number and provide a copy of its Advance Deposit Wagering procedures, terms and conditions as well as information that pertains to the operation of the Account. Lien Games Racing LLC will comply with Internal Revenue Service (IRS) requirements for reporting and withholding proceeds from Advance Deposit Wagers by account holders and shall provide to account holders who are subject to IRS reporting or withholding, a Form W2-G summarizing the information for tax purposes. Upon written request, Lien Games Racing LLC will provide account holders with summarized tax information on Advance Deposit Wagering activities.

- B. If an application form is used to establish an Account attach a copy of the form.

CHRB-133 (New 9/01)

Online Application Form, Attached at Tab 7.

- C. Name and address of the third party you will use to verify identity, residence and age verification:

Veratad Technologies LLC's Age and Identity Solution, located at 500 Frank W. Burr Boulevard, Teaneck, New Jersey 07666 is used to verify identity, residence and age.

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.

- A. Submit a copy of your plan for operation.

Plan of Operation of Advance Deposit Wagering Accounts, Attached at Tab 8.

- B. List the type of deposits you will accept:

Credit Cards: Visa, Mastercard.

Electronic Checks: Customers can have deposits debited from their checking account and credited to their wagering account (ACH).

InComm Vanilla Gift Cards and PayNearMe Network: Customers can deliver cash to a variety of retailers throughout California, including CVS and 7Eleven, where they can pay cash and a convenience fee, for which they will receive a unique code, which funds are then credited to their wagering account.

Wire transfers

Paper Checks and Money Orders

- C. Identify any fees or transaction-related charges and the amount that will be assessed:

There are no fees for basic video streaming. There are no fees or charges imposed by Lien Games Racing LLC in connection with submitting wagers, or in making paper check, electronic check, wire, or PayNearMe or InComm Vanilla Reload deposits. There is a 3.98% fee when making a deposit using a credit card.

6. SECURITY ACCESS

- A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:

Security Access Policy and Safeguards, Attached at Tab 9.

1. Description of the technology to ensure identity, residence, and age verification when an Account is established:
2. Description of the technology to ensure confidentiality of the Means of Personal Identification:
3. Methods and locations available for Account Holders to withdraw funds from their Account:
4. If the Advance Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation:

CHRB-133 (New 9/01)

7. PARI-MUTUEL

- A. Name, address and telephone number of the pari-mutuel audit firm: CHRIMS, Inc., 7950 Dublin Boulevard, Suite 216, Dublin, California, 94568, 925-307-7020.
- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract:

Totalizator services and equipment supplied by Amtote International, 11200 Pepper Road, Hunt Valley, MD 21031, (904) 278-9077, under contract expiring on December 31, 2017.

- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted:

Advance Deposit Wagering will be accepted on racing at racing associations located in the United States, Canada, UAE, Australia, France, Ireland, Sweden and the United Kingdom. Racetracks upon which wagers are currently being accepted are attached at Tab 10. In addition, the Applicant is seeking simulcast agreements with additional domestic and international venues upon which to offer wagering to customers.

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 18.

8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you will contract with to facilitate Advance Deposit Wagering that are not provided in other sections of this application:

Tote Company: Amtote International

Thoroughbred Data: Equibase Company LLC

Harness Data: Trackmaster (AXCIS Information Network, Inc.)

Greyhound Data: TrackData Systems Corporation

Technology, Marketing and Consulting: BAM Software and Services, LLC

Communications and Video Streaming: Roberts Communications

Geo-Location Source: NeuStar Inc. (formerly known as Quova)

Identity Verification: Veratad Technologies, LLC

ACH Processing: ACH Direct, Inc. and First Data Telecheck.

Credit Card Processing: CardFlex, Vantiv

Cash deposits at land-based retailers: InComm Vanilla Gift Cards, PayNearMe Network

- B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed:

9. ADVERTISING

Name and address of the marketing firm you will use:

BAM Software and Services, LLC

115 Sansome Street, Suite 1050

San Francisco, CA 94104

CHRB-133 (New 9/01)

NOTICE—Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3) advertisements shall not be deceptive to the public.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this Application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this Application.

KEVIN J HALL

Print Name

PRESIDENT

Print Title

KJH

Signature

8/31/10

Date

Item 12

STAFF ANALYSIS
January 26, 2017

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING OF CHURCHILL DOWNS TECHNOLOGY INITIATIVES COMPANY DBA TWINSPIRES, FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At the November 17, 2016 Regular Board meeting, the Board extended the existing Advance Deposit Wagering (ADW) license through January 31, 2017, to allow ADW providers additional time to resolve any outstanding issues prior to the January 26, 2017 Regular Board meeting. CHRB staff contacted a Twinspires representative on December 15, 2016 and requested the submission of the outstanding items by January 6, 2017. Twinspires submitted a geolocation agreement and Horsemen's Approval of ADW agreement on January 6, 2017. The 2017 contract and/or agreements required to accept wagers on races conducted in California from a resident of California and the Labor Agreement with Local 280 remain outstanding.

Twinspires filed its application as an out-of-state multi-jurisdictional wagering hub to provide Advance Deposit Wagering. It is currently licensed through January 31, 2017 as an out-of-state multi-jurisdictional wagering hub.

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 advance deposit wagering. Twinspires, as a current ADW provider, has a \$500,000 bond continuation certificate on file that will expire August 1, 2017.

This application provides for:

Dates of operation will be 365 days a year, 24 hours a day. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, allows 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 . . ."

- (i) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.
- (ii) The agreement establishes the method by which the ADW provider will agree to recognize and bargain in good faith with a labor organization that has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California ADW license is required.

(iii) The agreement requires the ADW provider to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California ADW license is required whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(iv) The agreement applies to those classifications of employees who accept or process wagers for which a California ADW license is required whether the facility is located within or outside of California.

19604 (d)(1)(C)

(i) The agreement required by subparagraph (B) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of subparagraph (B).

(ii) The requirement in subparagraph (B) shall not apply to an ADW provider that has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an ADW license is required whether the facility is located within or outside of California.”

Labor Correspondence

On February 10, 2016 the Pari-mutuel Employees Guild Local 280 (Local 280) submitted a letter to the California ADW providers: Watch and Wager.com, LLC, Game Play Network, Inc. Twinpires, Bet America, ODS Technologies, L.P. d.b.a. TVG and Xpressbet. The letter provides “notice that Local 280 does hereby demand that your company enter into ‘a contractual agreement’ with Local 280 as required by California Business and Professions Code section 19604(d)(1)(B). The Local 280 letter includes that it will object to the approval of an ADW application unless an agreement has been reached between Local 280 and the ADW provider(s). Additionally, the letter provides “Local 280 believes that it is entitled to jobs under the terms of this statute and that those jobs have not been provided by ADW providers”.

On March 16, 2016 Local 280 submitted a letter to the Board that included a copy of the February 10, 2016 letter it had submitted to the California ADW providers. The March 2016 letter asked the Board to enforce California Business and Professions Code section 19604(d)(1)(B) and requested that no licenses be granted to ADW providers until the statute compliance is met.

On October 4, 2016 Twinpires sent an email to CHRB staff which indicated Twinpires reached out to Local 280 several times to discuss entering into a new labor agreement. Twinpires stated Local 280 indicated it did not want to enter into a new agreement with Twinpires. However, Twinpires subsequently received a letter dated February 9, 2016 from Local 280 indicating Local 280 did want to enter into a new agreement with Twinpires. Twinpires stated the letter dated February 9, 2016 was after the 90-day notice period. Twinpires reached out to Local 280 to provide them with an opportunity to provide Twinpires with proper notice but received no response.

On October 10, 2016 Local 280 submitted a third letter to the California ADW providers and the Board proposing a meeting between Local 280 and representatives of all the ADW companies to discuss thoughts “that could possibly assist the industry and benefit Local 280 members.”

TwinSpires has provided the Board with a copy of the following agreements in compliance with Business and Professions Code section 19604:

- Hub agreement between TwinSpires and Los Angeles Turf Club dated as of January 1, 2016 through December 31, 2017.
- Agreement between Thoroughbred Owners of California and Los Angeles Turf Club (LATC) on the use of the race signal; providing LATC shall be permitted to transmit race signal to TwinSpires during the 2016-2017 LATC race meeting, December 26, 2016 through July 4, 2017.
- Agreement between Thoroughbred Owners of California and Pacific Racing Association (PRA) on the use of the race signal; providing PRA shall be permitted to transmit race signal to TwinSpires during the 2016-2017 PRA race meeting, December 26, 2016 through June 20, 2017.

The hub agreement provided by TwinSpires has not been signed by the horsemen's organization. Pursuant to Business and Professions Code section 19604(b)(2)(D), if only the ADW provider and racing association(s) are signatories to the hub agreement, then the signatories to the hub agreement shall, within five days of execution of the hub agreement provide a copy of the hub agreement to the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted. When CHRB staff requested verification that the horsemen's organization had been notified, TwinSpires provided that it had shared a copy of the hub agreement with the horsemen's organization [TOC]. TwinSpires additionally noted that in a letter dated December 1, 2015, the TOC requested arbitration of the hub agreement executed between Los Angeles Turf Club and TwinSpires. TwinSpires provides that it agreed to arbitrate however TOC then failed to set up arbitration within the statutory time period and requested a continuance. TwinSpires shared it did not agree to a continuance and has not had any additional communication with TOC. TwinSpires notes it "believes we have satisfied this (hub) requirement."

Monarch Content Management, LLC (MCM), was the negotiating party for the 2016 simulcast wagering agreements between TwinSpires, the California thoroughbred racing associations, California Authority of Racing Fairs, Los Angeles County Fair at Los Alamitos, and the Sonoma County Fair. MCM is currently in negotiations for 2017 ADW contracts; however, the negotiations have not yet determined which associations or ADW providers MCM will be representing. To date the 2017 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.

TwinSpires is listed as an ADW provider on the December 21, 2016 through July 4, 2017 Los Angeles Turf Club; and the December 21, 2016 through June 20, 2017 Pacific Racing Association race meeting application.

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

1. Labor Agreement with Local 280

Outstanding items required before wagers can be accepted on **races conducted in California** from a resident of California:

1. 2017 contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows Twinpires to accept wagers.

The following information will need **updating** during the proposed licensing period:

1. Bond (expires August 1, 2017)
2. Agreement with United Tote (expires December 31, 2017)

RECOMMENDATION:

If the application is considered for approval, staff recommends approval of a two year license contingent upon the submission of outstanding items.

STATE OF CALIFORNIA
 CALIFORNIA HORSE RACING BOARD (CHRB)
 APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING
 CHRB-133 (New 9/01)

Application is made to the CHRB for approval to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct Advance Deposit Wagering and must be accompanied by a bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000. See Tab 8

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

- A. Name, mailing address, telephone and fax numbers:
 Churchill Downs Technology Initiatives Company (dba TwinSpires), 800 W. El Camino Real, Mountain View, CA 94040. Phone (650) 429-2900 Fax: (650) 967-3201 until 12/31/2016. Effective 1/1/2017 600 N. Hurstbourne Parkway, Louisville, KY 40222; Phone:(502) 636-4400, Fax: (502) 394-1170
- B. Name, title, license number and racing jurisdiction where licensed for all management personnel:
 Ted Gay, President, California License (317961)
 Justin Hurt, Senior Director of Finance for Churchill Downs Incorporated, Kentucky License (1941342)
 Carter Vance, Secretary; Vice President, Associate General Counsel for Churchill Downs Incorporated, New York License (1488982- Thoroughbred, 1488983-Harness)
- C. Name, title and mailing address of the California agent for receipt of service of process:
 C T Corporation System
 818 West Seventh Street - Suite 930
 Los Angeles, California 90017
- D. Attach the contract with the California racing association or fair and the required horsemen's approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.
 Attached at Tab 2

2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted:
 Every day of the year
- B. Hours Advance Deposit Wagering will be conducted:
 24 hours a day

Application received: 8/30/16	CHRB CERTIFICATION	Hearing date: 1/26/17
Reviewed: [Signature]		Approval date:

3. BUSINESS STRUCTURE

- A. Corporation (complete subsection B)
 LLC (complete subsection C)
 Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

1. Registered name of the corporation: **Churchill Downs Technology Initiatives Company**
2. State where incorporated: **Delaware**
3. Registry or file number for the corporation: **4284783**
4. Name of all officers and directors, titles, and number of shares of the corporation held by each:
James E. (Ted) Gay, President
Carter H. Vance, Secretary [NEW]
Marcia A. Dall, Treasurer [NEW]

William Carstanjen, Director
William Mudd, Director
Marcia Dall, Director [NEW]

No officer or director directly holds any shares of Applicant as Applicant is wholly-owned by its ultimate parent company, Churchill Downs Incorporated
5. Names (true names) of all persons, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each: **N/A as Applicant is the wholly owned subsidiary of a corporate entity**
6. Number of outstanding shares in the corporation: **100**
7. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
Applicant is wholly-owned by Churchill Downs Incorporated (traded as CHDN on Nasdaq)
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation: **Carter H. Vance**
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
Churchill Downs Incorporated holds 100% of the shares of the Applicant
10. Attach the most recent annual financial statement for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the

corresponding state where you registered your corporation.

Attached at Tab 3 is the most recent Annual Report on Form 10-K for Churchill Downs Incorporated

11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

Attached at Tab 4

C. LLC

1. Registered name of the LLC:
2. State where articles of organization are filed:
3. Registry or file number for the LLC:
4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:
5. Names (true names) of all members, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:
6. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
8. Attach the most recent annual financial statement for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

D. OTHER

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

4. **ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS** – must comply with Rule 2074.

- A. List the procedures to establish an Account:

See Section 2.1 on page 1 of the Plan of Operations attached at Tab 6 which complies with Rule 2074

- B. If an application form is used to establish an Account attach a copy of the form. Attached at Tab 5 is the form of applications available online at www.twinspires.com.
- C. Name and address of the third party you will use to verify identity, residence and age verification:
Equifax Secure, Inc., 1550 Peachtree St., NW, Atlanta, GA 30309

IDology, 280 Interstate North Circle SE, Suite 160, Atlanta, GA 30339

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.

- A. Submit a copy of your plan for operation. Attached at Tab 6
- B. List the type of deposits you will accept: ACH, PayPal, credit card, debit card, Green Dot, MoneyGram, online bill pay, bank wire transfer, cash at specified locations, check and money order by mail.
- C. Identify any fees or transaction-related charges and the amount that will be assessed: \$5 per credit/debit card transactions to offset charges. \$25 fee for returned transaction items.

6. SECURITY ACCESS

- A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:
 1. Description of the technology to ensure identity, residence, and age verification when an Account is established: Applicant uses Equifax and IDology, independent third parties, to provide comprehensive verification of the account information provided by customers. For a more detailed description of verification see Section 2.1.1.1 of the Plan of Operations attached at Tab 6.
 2. Description of the technology to ensure confidentiality of the Means of Personal Identification: See Section 2.1.5 on page 5 of the Plan of Operations attached at Tab 6.
 3. Methods and locations available for Account Holders to withdraw funds from their Account: Requests for withdrawals may be made online or by phone. Checks are mailed to the address on file within five business days.
 4. If the Advance Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation: 801 Corporate Drive, Lexington, KY (phone: (877) 774-7371) with hours of operation of 9:00 am to 1:00 am EST.

7. PARI-MUTUEL

- A. Name, address and telephone number of the pari-mutuel audit firm: PricewaterhouseCoopers LLP, 500 W. Main St., Suite 1800, Louisville, KY 40202; (502) 589-6100
- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract: Totalizator services will be provided by United Tote. The contract expires in 2017.

- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted; See the tracks listed at Tab 7 which are subject to annual simulcast agreements.

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 18.

8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you will contract with to facilitate Advance Deposit Wagering that are not provided in other sections of this application:
 Global Cash Access, 3525 E. Post Rd., Suite 120, Las Vegas, NV 89120
 Green Dot Corporation, 605 E. Huntington Dr., Suite 205, Monrovia, CA 91016
 Roberts Communications Network, Inc., 4175 Cameron St., Suite B-10, Las Vegas, NV 89103
 NeuLion, Inc., 1600 Old Country Road, Suite 101, Plainview, New York 11803
 PayNearMe, Inc., 100 View Street, #203, Mountain View, California 94041
 PayPal, Inc., eBay Park North, 2211 North First Street, San Jose, California 95131
- B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed: N/A

9. ADVERTISING

Name and address of the advertising agency you will use: None.

NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3) advertisements shall not be deceptive to the public.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this Application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this Application.

Carter Vance
 Print Name
Secretary
 Print Title

[Signature]
 Signature
8/29/16
 Date

Item 13

STAFF ANALYSIS

January 26, 2017

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING OF WATCH AND WAGER.COM LLC, FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At its November 17, 2016 Regular Board meeting, the Board extended the existing Advance Deposit Wagering (ADW) licenses through January 31, 2017, to allow ADW providers additional time to resolve any outstanding issues prior to the January 26, 2017 Regular Board meeting. CHRB staff contacted a Watch and Wager.com, LLC representative on December 15, 2016 and requested the submission of the outstanding application items by January 6, 2017. Watch and Wager.com, LLC submitted a hub agreement with the Thoroughbred Owners of California (TOC) on January 3, 2017, including written verification that notice of the host and hub fees had been provided to all racing associations and fairs conducting live racing of the same breed covered by the hub agreement. The 2017 Contract and/or agreements required to accept wagers on races conducted in California from a resident of California and the Labor Agreement with Local 280 remain outstanding.

Watch and Wager.com, LLC filed its application as an out-of-state multi-jurisdictional wagering hub to provide ADW. It is currently licensed through January 31, 2017 as an out-of-state multi-jurisdictional wagering hub. Watch and Wager.com, LLC has not provided documentation to allow it to accept wagers on races conducted in California from a resident of California for thoroughbred racing.

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 advance deposit wagering. Watch and Wager.com, LLC, as a current ADW provider, has a \$500,000 bond on file that will expire July 18, 2017.

This application provides for:

Dates of operation will be 365 days a year, 24 hours a day, with exception of Christmas day. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, allows 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 that provides all of the following:

- (i) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.

(ii) The agreement establishes the method by which the ADW provider will agree to recognize and bargain in good faith with a labor organization that has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California ADW license is required.

(iii) The agreement requires the ADW provider to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California ADW license is required whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(iv) The agreement applies to those classifications of employees who accept or process wagers for which a California ADW license is required whether the facility is located within or outside of California.

19604 (d)(1)(C)

(i) The agreement required by subparagraph (B) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of subparagraph (B).

(ii) The requirement in subparagraph (B) shall not apply to an ADW provider that has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an ADW license is required whether the facility is located within or outside of California.”

Labor Correspondence

On February 10, 2016 the Pari-mutuel Employees Guild Local 280 (Local 280) submitted a letter to the California ADW providers: Watch and Wager.com, LLC, Game Play Network, Inc. Twinpires, Bet America, ODS Technologies, L.P. d.b.a. TVG and Xpressbet, LLC. The letter provides “notice that Local 280 does hereby demand that your company enter into ‘a contractual agreement’ with Local 280 as required by California Business and Professions Code section 19604(d)(1)(B). The Local 280 letter includes that it will object to the approval of an ADW application unless an agreement has been reached between Local 280 and the ADW provider(s). Additionally, the letter provides “Local 280 believes that it is entitled to jobs under the terms of this statute and that those jobs have not been provided by ADW providers”.

On March 16, 2016 Local 280 submitted a letter to the Board that included a copy of the February 10, 2016 letter it had submitted to the California ADW providers. The March 2016 letter asked the Board to enforce California Business and Professions Code section 19604(d)(1)(B) and requested that no licenses be granted to ADW providers until the statute compliance is met.

On October 10, 2016 Local 280 submitted a third letter to the California ADW providers and the Board proposing a meeting between Local 280 and representatives of all the ADW companies to discuss thoughts “that could possibly assist the industry and benefit Local 280 members”.

Watch and Wager.com, LLC has provided the Board with a copy of the following agreements in compliance with Business and Professions Code section 19604:

- Hub agreement between Watch and Wager.com LLC (ADW Provider) and Watch and Wager.com LLC (Harness Racing Association) dated as of August 29, 2016 ending December 31, 2018.
- California Harness Horsemen's Association Approval of ADW.
- Hub agreement between Watch and Wager.com LLC and TOC dated as of December 23, 2016 ending December 24, 2017.
- Verification that notice of host and hub fees had been provided to all racing associations conducting live racing of the same breed covered by the TOC hub agreement.

Monarch Content Management, LLC (MCM), was the negotiating party for the 2016 simulcast wagering agreements between TVG the California thoroughbred racing associations, California Authority of Racing Fairs, Los Angeles County Fair at Los Alamitos, and the Sonoma County Fair. MCM is currently in negotiations for 2017 ADW contracts; however, the negotiations have not yet determined which associations or ADW providers MCM will be representing. To date the 2017 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.

There are 13 racing venues approved for racing by the California Horse Racing Board: four thoroughbred racing associations, one quarter horse racing association, one harness facility racing and seven fairs. Watch and Wager.com, LLC has provided documentation allowing it to accept wagering for harness racing only.

Watch and Wager.com, LLC is listed as an ADW provider on the December 26, 2016 through May 21, 2017 Watch and Wager.com, LLC race meeting application.

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

1. Labor Agreement with Local 280.

In addition, outstanding items required before wagers can be accepted on **races conducted in California** from a resident of California:

1. 2017 Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows Watch and Wager.com, LLC to accept wagers on the remaining six racing venues.
2. Horsemen approval of ADW agreement.

The following information will need **updating** during the proposed licensing period:

1. Agreement with AmTote International (expires June 30, 2017).
2. Bond (expires July 18, 2017).

RECOMMENDATION:

If the application is considered for approval, staff recommends approval of a two year license contingent upon the submission of outstanding items.

Application is made to the CHRB for approval to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct Advance Deposit Wagering and must be accompanied by a bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

A. Name, mailing address, telephone and fax numbers:

Edward Comins
President
WatchandWager.com LLC
700 Larkspur Landing Circle, Suite 199
Larkspur, CA 94939

B. Name, title, license number and racing jurisdiction where licensed for all management personnel:

Edward Comins
President
WatchandWager.com LLC

WatchandWager.com is licensed by the California Horse Racing Board

WatchandWager.com is licensed by the Washington Racing Commission

WatchandWager.com is licensed by the North Dakota Racing Commission

C. Name, title and mailing address of the California agent for receipt of service of process:

Edward Comins
President
WatchandWager.com LLC
700 Larkspur Landing Circle, Suite 199
Larkspur, CA 94939

D. Attach the contract with the California racing association or fair and the required horsemen's approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.

CHRB CERTIFICATION

Application received: 9/2/16
Reviewed: LH

Hearing date: 1/26/17
Approval date:

Appendix 2- Hub Contracts and Horsemen Agreements

2. DATES OF OPERATION

A. Dates Advance Deposit Wagering will be conducted:

Advance Deposit Wagering will be conducted every day except Christmas Day.

B. Hours Advance Deposit Wagering will be conducted:

Advance Deposit Wagering will be conducted on a 24/7 day a week basis except Christmas Day.

3. BUSINESS STRUCTURE

- A. Corporation (complete subsection B)
 LLC (complete subsection C)
 Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

1. Registered name of the corporation:
2. State where incorporated:
3. Registry or file number for the corporation:
4. Name of all officers and directors, titles, and number of shares of the corporation held by each:
5. Names (true names) of all persons, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:

10. Attach the most recent annual financial statement for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

C. LLC

1. Registered name of the LLC:

WatchandWager.com LLC

See Attached Corporate Documents: Appendix 3

2. State where articles of organization are filed:

**Articles- Nevada, Certificate No: C20100804-2888
 North Dakota Certificate of Authority ID#: 2,855,000
 California Certificate of Registration, May 19th 2012**

3. Registry or file number for the LLC:

**Articles- Nevada, Certificate No: C20100804-2888
 North Dakota Certificate of Authority ID#: 2,855,000
 California Certificate of Registration, May 19th 2012**

4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:

WatchandWager.com Ltd. (UK Company) is the 100% owner of WatchandWager.com LLC

Directors of WatchandWager.com Ltd:

Edward Comins-President

Denham Eke-Chairman

5. Names (true names) of all members, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:

WatchandWager.com Ltd owns 100% of WatchandWager.com LLC. It is a corporate ownership. As a result, no individuals own shares in either WatchandWager.com Ltd or WatchandWager.com LLC.

6. Are the shares listed for public trading? Yes No

Neither WatchandWager.com Ltd nor WatchandWager.com LLC is listed for public trading.

If yes, on what exchange and how is the stock listed:

Note: the parent company and ultimate beneficiary owner is Webis Holdings PLC, a listed company of the London Stock Exchange (AIM).

Further details on Webis Holdings is available at www.webisholdingsplc.com

7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:

The parent company and ultimate beneficiary owner is Webis Holdings PLC, a listed company of the London Stock Exchange (AIM).

8. Attach the most recent annual financial statement for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.

Appendix 5 – Financial Statements

Attached:

WatchandWager.com LLC Financials '15
Webis Holdings PLC Annual Report '15

9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

Appendix 6- Business Plan

Appendix 7- Marketing Plan

D. OTHER

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

4. **ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS** – must comply with Rule 2074.

- A. List the procedures to establish an Account:

Applicant must provide the following information to WatchandWager.com in order to create a new account:

Personal Information including:

First name

Last name

Email address

Country

State/Province

Date of birth

Home phone number

Security question and answer

Home address

City/Town

Zip Code

Login Information

Social Security Number

Bank Account Details

- B. If an application form is used to establish an Account attach a copy of the form.

Appendix 8- Registration Form

- C. Name and address of the third party you will use to verify identity, residence and age verification:

ID3 Global Verification
Veratad Technologies, LLC
500 Frank W. Burr Blvd
Teaneck, NJ 07666

Equifax Information Services
1550 Peachtree NW
Atlanta, GA 30348

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.

- A. Submit a copy of your plan for operation.

Appendix 9- Plan of Operation

- B. List the type of deposits you will accept:

Credit Card
Debit Card
Bank Wire
ACH

**Check
Payment Wallets**

Identify any fees or transaction-related charges and the amount that will be assessed:

All processing fees are covered by the Advanced Deposit Wagering company, that is, WatchandWager.com

6. SECURITY ACCESS

A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:

1. Description of the technology to ensure identity, residence, and age verification when an Account is established:

Appendix 10- Security Procedures

2. Description of the technology to ensure confidentiality of the Means of Personal Identification:

Appendix 10- Security Procedures

3. Methods and locations available for Account Holders to withdraw funds from their Account:

**ACH withdrawals
Check withdrawals**

Account holders request these withdrawals online. These are then preceded by customer services, by either ACH payment or Check withdrawals to the account holder.

4. If the Advance Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation:

**Amtote International
Maryland Mid-Atlantic Hub
1200 Pepper Rd
Hunt Valley, MD 21031**

Phone (410) 785-5134

7. PARI-MUTUEL

A. Name, address and telephone number of the pari-mutuel audit firm:

**UK Auditors:
KMPG, London, UK**

US Auditors:
KMPG
55 Second St
San Francisco, CA 94105
Phone (415) 951-0100

US Settlements:
CHRIMS
7950 Dublin Blvd, Suite 216
Dublin, CA 94568
Phone (925) 307-7020

- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract:

Amtote Spectrum Hub Hunt Valley, MD. Amtote International.
Contract expires on 6/30/17 (with automatic annual renewal)

- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted:

Appendix -11 Track List

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 18.

8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you will contract with to facilitate Advance Deposit Wagering that are not provided in other sections of this application:

Settlements: CHRIMS, 7950 Dublin Blvd, Suite 216, Dublin, CA 94568
Data: Equibase 821 Corporate Dr, Lexington, KY 40503
Streaming: Roberts Communication Network, LLC 4175 Cameron St, Suite B-10
Las Vegas, NV 89103
Software: i-neda Ltd The Hub, IQ Farnborough, Hampshire GU14 7JP, UK

- B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed:

None

9. ADVERTISING

Name and address of the advertising agency you will use:

WatchandWager.com LLC
700 Larkspur Landing Circle, Suite 199
Larkspur, CA 94939

Appendix 7 -Marketing Plan

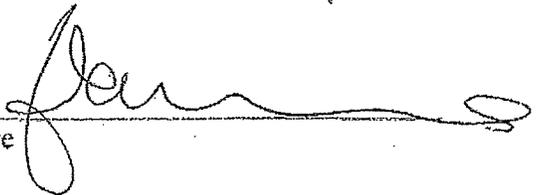
NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3), advertisements shall not be deceptive to the public.

Appendix 12- Labor Agreement

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this Application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this Application.

EDWARD COWINS
Print Name


Signature

PRESIDENT
Print Title

18th September, 2016.
Date

Item 14

STAFF ANALYSIS
January 26, 2017

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING OF XPRESSBET, LLC, FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At its November 17, 2016 Regular Board meeting, the Board extended the existing Advance Deposit Wagering (ADW) licenses through January 31, 2017, to allow ADW providers additional time to resolve any outstanding issues prior to the January 26, 2017 Regular Board meeting. CHRB staff contacted an Xpressbet, LLC representative on December 15, 2016 and requested a submission of the outstanding application items by January 6, 2017. Xpressbet, LLC submitted a Horsemen Approval of ADW agreement January 10, 2017. The 2017 Contract and/or agreements required to accept wagers on races conducted in California from a resident of California and the Labor Agreement with Local 280 remain outstanding.

Xpressbet, LLC filed its application as an out-of-state multi-jurisdictional wagering hub to provide ADW. It is currently licensed through January 31, 2017 as an out-of-state multi-jurisdictional wagering hub.

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 advance deposit wagering. Xpressbet, LLC, as a current ADW provider, has a \$500,000 bond on file that is continuous until cancelled.

This application provides for:

Dates of operation will be while races are run, up to twenty-four hours per day. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, allows 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 that provides all of the following:

- (i) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.
- (ii) The agreement establishes the method by which the ADW provider will agree to recognize and bargain in good faith with a labor organization that has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California ADW license is required.

(iii) The agreement requires the ADW provider to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California ADW license is required whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(iv) The agreement applies to those classifications of employees who accept or process wagers for which a California ADW license is required whether the facility is located within or outside of California.

19604 (d)(1)(C)

(i) The agreement required by subparagraph (B) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of subparagraph (B).

(ii) The requirement in subparagraph (B) shall not apply to an ADW provider that has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an ADW license is required whether the facility is located within or outside of California.”

Labor Correspondence

On February 10, 2016 the Pari-mutuel Employees Guild Local 280 (Local 280) submitted a letter to the California ADW providers: Watch and Wager.com, LLC, Game Play Network, Inc. Twinpires, Bet America, ODS Technologies, L.P. d.b.a. TVG and Xpressbet, LLC. The letter provides “notice that Local 280 does hereby demand that your company enter into ‘a contractual agreement’ with Local 280 as required by California Business and Professions Code section 19604(d)(1)(B). The Local 280 letter includes that it will object to the approval of an ADW application unless an agreement has been reached between Local 280 and the ADW provider(s). Additionally, the letter provides “Local 280 believes that it is entitled to jobs under the terms of this statute and that those jobs have not been provided by ADW providers”.

Xpressbet, LLC submitted a statement dated August 18, 2016 that provided it was unable to come to terms with Local 280 on numerous occasions over the past year.

On March 16, 2016 Local 280 submitted a letter to the Board that included a copy of the February 10, 2016 letter it had submitted to the California ADW providers. The March 2016 letter asked the Board to enforce California Business and Professions Code section 19604(d)(1)(B) and requested that no licenses be granted to ADW providers until the statute compliance is met.

On October 10, 2016 Local 280 submitted a third letter to the California ADW providers and the Board proposing a meeting between Local 280 and representatives of all the ADW companies to discuss thoughts “that could possibly assist the industry and benefit Local 280 members”.

Xpressbet, LLC has provided the Board with a copy of the following agreements in compliance with Business and Professions Code section 19604:

- Hub agreement between Xpressbet, LLC and Los Angeles Turf Club dated as of November 24, 2015 ending December 31, 2017.

- Horsemen Approval of ADW

Monarch Content Management, LLC (MCM), was the negotiating party for the 2016 simulcast wagering agreements between TVG, the California thoroughbred racing associations, California Authority of Racing Fairs, Los Angeles County Fair at Los Alamitos, and the Sonoma County Fair. MCM is currently in negotiations for 2017 ADW contracts; however, the negotiations have not yet determined which associations or ADW providers MCM will be representing. To date the 2017 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.

Xpressbet, LLC is listed as an ADW provider on the December 21, 2016 through July 4, 2017 Los Angeles Turf Club (LATC); the December 26, 2016 through May 21, 2017 Watch and Wager.com, LLC and the December 21, 2016 through June 20, 2017 Pacific Racing Association (PRA) race meeting application.

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

1. 2017 Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows Xpressbet, LLC to accept wagers.
2. Labor Agreement with Local 280.

The following information will need **updating** during the proposed licensing period:

1. Agreement with AmTote International (expires October 31, 2017).
2. California Harness Horsemen's Association Approval of ADW (expires May 2017).
3. Thoroughbred Owners of California Approval of ADW (expires July 4, 2017).

RECOMMENDATION:

If the application is considered for approval, staff recommends approval of a two year license contingent upon the submission of outstanding items.

STATE OF CALIFORNIA
 CALIFORNIA HORSE RACING BOARD (CHRB)
 APPLICATION FOR LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING
 CHRB-133 (New 9/01)

Application is made to the CHRB for a license to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and comply with the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct advance deposit wagering and must be accompanied by a bond or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

A. Name, mailing address, telephone and fax numbers:

Xpressbet, LLC
 C/O Gene Chabrier
 200 Racetrack Road, Bldg # 26
 Washington, PA 15301
 Telephone: (724) 229-6223
 Facsimile: (724) 229-6239

B. Name, title, license number and racing jurisdiction where licensed for all management personnel:

Please note that under Oregon law, the following individuals are not required to hold a license issued by the Oregon Racing Commission, but each individual does hold a license issued by the CHRB.

<u>Name</u>	<u>Title</u>	<u>CHRB License No.</u>
Ronald W. Luniewski	President	275875
Dan Newman	Vice President	305020
Jane Lynn	Secretary	302888
Michael M. Rogers	Vice President	306749

C. Name, title and mailing address of the California agent for receipt of service of process:

CT Corporation System
 818 West Seventh Street
 Los Angeles, CA 90017

CHRB CERTIFICATION

Application received: 8/19/14
 Reviewed: LH

Hearing date: 1/26/17
 Approval date:

- D. Attach the contract with the California racing association or fair and the required horsemen’s approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.

Below is a list of the Race Track licensees with which Xpressbet either has contracted or is in the process of contracting for the purpose of offering such licensees’ content through Xpressbet’s advance deposit wagering service. Please find attached as Exhibit 1 under TAB #2 a copy of various Race Track licensee agreement, along with a copy of Xpressbet’s agreement with the Thoroughbred Owners of California.

<u>Race Track</u>	<u>Licensee</u>
Santa Anita Park	Los Angeles Turf Club, Incorporated
Golden Gate Fields	Pacific Racing Association
California Expo	Sacramento Harness Association
Sacramento	California State Fair
Stockton	San Joaquin Fair
Fresno	Fresno County Fair
Pleasanton	Alameda County Fair
Vallejo	Solano County Fair
Santa Rosa	Sonoma County Fair
Del Mar	Del Mar Thoroughbred Club
Fairplex Park	Los Angeles County Fair Association
Humboldt	Humboldt County Fair
Los Alamitos Race Course	Los Alamitos
Pleasanton	Oak Tree Racing Association

2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted:
Xpressbet, LLC will conduct advance deposit wagering January 1, 2017 up to and including December 31, 2018.
- B. Hours Advance Deposit Wagering will be conducted:
While races are run, up to twenty-four (24) hours per day.

3. BUSINESS STRUCTURE

- A. Corporation (complete subsection B)
- LLC (complete subsection C)
- Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

- 1. Registered name of the corporation:
- 2. State where incorporated:

3. Registry or file number for the corporation:
4. Name of all officers and directors, titles, and number of shares of the corporation held by each;
5. Names (true names) of all entities and persons, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
10. Attach the most recent annual audited financial statements for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the California Corporations Commission.
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the license.

C. LLC

1. Registered name of the LLC:
Xpressbet, LLC
2. State where articles of organization are filed:
Delaware
3. Registry or file number for the LLC:
3373240
4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:

<u>Name</u>	<u>Title</u>	<u>Number of Shares Owned</u>
Ronald W. Luniewski	President	None
Dan Newman	Vice President	None
Jane Lynn	Executive Vice President	None
Michael M. Rogers	Vice President	None

5. Names (true names) of all members, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:

TSG Developments Investments Inc., (The Stronach Group) a Delaware Corporation, holds 100% of the membership interests in the LLC and owns 100 shares.

6. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:

7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:

TSG Developments Investments Inc., a Delaware Corporation that is ultimately controlled by the Stronach Trust, based in Ontario Canada. There are several holding companies between Xpressbet, LLC the Stronach Trust established for tax purposes.

8. Attach the most recent annual audited financial statements for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the California Corporations Commission.

Enclosed is a copy of the Xpressbet, LLC Audited Financial Statement as of and for the Year Ended December 31, 2015, and an Independent Auditor's Report.

9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the license.

Xpressbet's business plan for 2016-2020 is being provided under separate confidential cover and it is requested that such business plan remain confidential at all times to the CHRFB.

D. **OTHER - Not Applicable**

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the license.
4. ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2075

A. List the procedures to establish an Account:

Included in the attached Exhibit 2 Under TAB #3, Plan of Operation, is the Applicant's Account Opening Procedures. (Pages 3 & 4)

- B. If an application form is used to establish an Account, attach a copy of the form.
Attached as Exhibit 3 Under TAB #4 is a copy of the application form, similar forms are used for on-site or in-person applications.

- C. Name and address of the third party you will use to confirm identity, residence and age verification:

In respect of wagers placed through the Applicant's internet and telephone account wagering products, the Applicant will make use of the services of TransUnion, LLC to provide identity, residence and age verification services. The address of TransUnion, LLC is set forth below:

TransUnion, LLC
555 W. Adams Street
Chicago, IL 60661

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.

- A. Submit a copy of your plan for operation.

Please see attached as Exhibit 2 Under TAB #3 is Applicant's *Plan of Operation*.

- B. List the type of deposits you will accept:

In respect of internet and telephone account wagering, the Applicant will accept the following types of deposits: cash deposits made directly, personal checks, cashier's checks, money orders made directly or mailed, debits to an Account Holder's credit card or debit card, PayPal PayNearMe, bank wire and other electronic transfers from a monetary account controlled by Account Holder.

- C. Identify any fees or transaction-related charges and the amount that will be assessed:

For purposes of internet and telephone account wagering, customers will not be charged a monthly membership or wagering fee or a per-call or wager transaction fee. However, customers may be charged a value added transaction fee of \$0.25 per telephone call when dealing with a live teller. Processing fees may be charged in respect of deposits made pursuant to Item 5B above.

To the extent credit cards are used/permitted in connection with internet and telephone account wagering, processing fees for credit card cash advances will be no greater than 6%. High value customers may not be subject to credit card cash advance processing fees.

A wire transfer of less than \$250.00 is subject to a \$5 processing fee. A wire transfer of greater than \$250.00 is not subject to any charge.

Customers requesting special delivery (e.g. courier) may be charged the cost of those services.

As the distribution platforms evolve and future enhancements deliver increased functionality to customers, monthly fees or surcharges may be implemented for added value services.

6. SECURITY ACCESS

- A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c)
 (2). Policy must include the following:

Please refer to Exhibit 4 Under TAB #5 for Items 1 – 4.

1. Description of the technology to ensure identity, residence, and age verification when an Account is established. **Page 1**
2. Description of the technology to ensure confidentiality of the Means of Personal Identification. **Page 1**
3. Methods and locations available for Account Holders to withdraw funds from their Account. **Page 3**
4. If the Account Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation. **Page 3**

7. PARI-MUTUEL

- A. Name, address and telephone number of the pari-mutuel audit firm:

Bowen & McBeth
10722 Arrow Route, Suite 110
Rancho Cucamonga, California 91730
Telephone: 909-944-6465
Facsimile: 909-980-4788

- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract:

- (i) Types of pari-mutuel or totalizator equipment to be used.
Totalizator equipment and services will be provided to Applicant by AmTote International, Inc. In addition to standard totalizator equipment and services, Applicant will be utilizing (a) IVR – “interactive voice response technology” (an automated touch-tone betting system), provided by AmTote International, Inc. (b) on-line computer wagering technology (c) IVR – natural language voice recognition system provided by AmTote International, Inc. and Applicant is currently operating under an agreement with AmTote International, Inc. which expires on October 31, 2017. Xpressbet fully expects to renew a long term agreement with AmTote. The CHRFB will be notified upon execution.
- (ii) Simulcast Organization
Roberts Communications Network, Inc., and AmTote International, Inc.
- (iii) Name of entity supplying equipment, and expiration date of the service contract.
Equipment to be supplied by:
AmTote International, Inc.
11200 Pepper Road
Hunt Valley, MD 21031-1324

- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted:

Attached as Exhibit 5 Under TAB #6 is the list of racing venues on which the Applicant currently intends to accept Advance Deposit Wagering. The applicant will update the website as racing venues are confirmed or added.

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 21.

8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you contracted with to facilitate Advance Deposit Wagering:

**AmTote International, Inc.
11200 Pepper Road
Hunt Valley, MD 21031-1324**

- B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed:

N/A

9. ADVERTISING

Name and address of the advertising agency you will use:

**Crush & Lovely
150 Spring St
Floor 3
New York, NY 10012
646-863-4688**

**Agency 360
C/O Hawthorne Race Course
3501 S. Laramie Street
Stickney/Cicero, IL 60804**

NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3), advertisements shall not be deceptive to the public.

See Exhibit 6 Under TAB #7, Example of current print advertisement.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this application, that all of the foregoing statements in this application are true and correct, and that I am authorized to attest to this application.

Ron Luniewski
Print Name:


Signature:

President
Print Title:

August 18, 2016
Date:

Item 15

STAFF ANALYSIS
January 26, 2017

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING OF
ODS TECHNOLOGIES, L.P., DBA TVG, FOR AN OUT-OF-STATE MULTI-
JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At its November 17, 2016 Regular Board meeting, the Board extended the existing Advance Deposit Wagering (ADW) licenses through January 31, 2017, to allow ADW providers additional time to resolve any outstanding issues prior to the January 26, 2017 Regular Board meeting. CHRB staff contacted a TVG representative on December 15, 2016 and requested a submission of the outstanding application items by January 6, 2017. TVG submitted a Horsemen Approval of ADW agreement January 10, 2017. The 2017 Contract and/or agreements required to accept wagers on races conducted in California from a resident of California and the Labor Agreement with Local 280 remain outstanding.

TVG filed its application as an out-of-state multi-jurisdictional wagering hub to provide ADW. It is currently licensed through January 31, 2017 as an out-of-state multi-jurisdictional wagering hub.

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 advance deposit wagering. TVG, as a current ADW provider, has a \$500,000 bond on file that will expire December 31, 2017.

This application provides for:

Dates of operation will be 365 days a year, 24 hours a day. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, allows 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 that provides all of the following:

- (i) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.
- (ii) The agreement establishes the method by which the ADW provider will agree to recognize and bargain in good faith with a labor organization that has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California ADW license is required.

(iii) The agreement requires the ADW provider to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California ADW license is required whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(iv) The agreement applies to those classifications of employees who accept or process wagers for which a California ADW license is required whether the facility is located within or outside of California.

19604 (d)(1)(C)

(i) The agreement required by subparagraph (B) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of subparagraph (B).

(ii) The requirement in subparagraph (B) shall not apply to an ADW provider that has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an ADW license is required whether the facility is located within or outside of California.”

Labor Correspondence

On February 10, 2016 the Pari-mutuel Employees Guild Local 280 (Local 280) submitted a letter to the California ADW providers: Watch and Wager.com, LLC, Game Play Network, Inc. Twinpires, Bet America, ODS Technologies, L.P. d.b.a. TVG and Xpressbet, LLC. The letter provides “notice that Local 280 does hereby demand that your company enter into ‘a contractual agreement’ with Local 280 as required by California Business and Professions Code section 19604(d)(1)(B). The Local 280 letter includes that it will object to the approval of an ADW application unless an agreement has been reached between Local 280 and the ADW provider(s). Additionally, the letter provides “Local 280 believes that it is entitled to jobs under the terms of this statute and that those jobs have not been provided by ADW providers”.

On March 16, 2016 Local 280 submitted a letter to the Board that included a copy of the February 10, 2016 letter it had submitted to the California ADW providers. The March 2016 letter asked the Board to enforce California Business and Professions Code section 19604(d)(1)(B) and requested that no licenses be granted to ADW providers until the statute compliance is met.

On October 10, 2016 Local 280 submitted a third letter to the California ADW providers and the Board proposing a meeting between Local 280 and representatives of all the ADW companies to discuss thoughts “that could possibly assist the industry and benefit Local 280 members”.

On October 27, 2016 TVG submitted a partially executed addendum to the Local 280/TVG labor agreement. The agreement was signed by TVG, but not yet signed by Local 280.

TVG has provided the Board with a copy of the following agreements in compliance with Business and Professions Code section 19604:

- 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, 2008 agreement ending December 31, 2018.
- License Agreement by and Between ODS Technologies, L.P. and the California Authority of Racing Fairs, dated as of August 18, 2016 agreement ending August 18, 2017.
- License Agreement by and Between ODS Technologies, L.P. d/b/a/ TVG Network and Watch and Wager.com, LLC, dated as of October 19, 2016 ending October 19, 2018.
- Horsemen Approval of ADW

Monarch Content Management, LLC (MCM), was the negotiating party for the 2016 simulcast wagering agreements between TVG the California thoroughbred racing associations, California Authority of Racing Fairs, Los Angeles County Fair at Los Alamitos, and the Sonoma County Fair. MCM is currently in negotiations for 2017 ADW contracts; however, the negotiations have not yet determined which associations or ADW providers MCM will be representing. To date the 2017 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.

There are 13 racing venues approved for racing by the California Horse Racing Board: four thoroughbred racing associations, one quarter horse racing association, one harness facility racing and seven fairs. TVG has provided documentation allowing it to accept wagering for only seven of the thirteen.

TVG is listed as an ADW provider on the December 30, 2016 through December 17, 2017 Los Alamitos Quarter Horse Racing Association (Los Alamitos); the December 26, 2016 through May 21, 2017 Watch and Wager.com, LLC; the December 21, 2016 through June 20, 2017 Pacific Racing Association (PRA) and the December 21, 2016 through July 4, 2017 Los Angeles Turf Club (LATC) race meeting application.

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

1. 2017 Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows TVG to accept wagers on the remaining six racing venues.
2. Labor agreement with Local 280.

The following information will need **updating** during the proposed licensing period:

1. Bond (expires December 31, 2017).
2. California Harness Horsemen's Association Approval of ADW (expires May 2017).
3. Thoroughbred Owners of California Approval of ADW (expires July 4, 2017).

RECOMMENDATION:

If the application is considered for approval, staff recommends approval of a two year license contingent upon the submission of outstanding items.

Application is made to the CHRB for approval to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct Advance Deposit Wagering and must be accompanied by a bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

A. Name, mailing address, telephone and fax numbers:

ODS Technologies, L.P. d/b/a TVG Network
19545 N.W. Von Neumann Drive, Suite 210
Beaverton, OR 97006
Tel: (503) 748-3800 Fax: (503) 748-3838

B. Name, title, license number and racing jurisdiction where licensed for all management personnel:

BJ Cosson, Sr. Vice President, Operations & Customer Relations, Oregon License # 20730
Larry Trickel, Manager, Wager Operations, Oregon License # 20410
Trent Striplin, Director of Customer Finance, Oregon License # 28073
Grace Kenworthy, Manager, Customer Relations, Oregon License # 14605

C. Name, title and mailing address of the California agent for receipt of service of process:

John Hindman
SVP & General Counsel
ODS Technologies, L.P. d/b/a TVG Network
6701 Center Drive West, Suite 800
Los Angeles, CA 90045

D. Attach the contract with the California racing association or fair and the required horsemen's approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.

Behind **TABB** please find the following documents: 1) an abstract of valid and binding contracts with the following licensed California racing associations: Los Alamitos, and Santa Anita Park 2) copies of the current License Agreements and amendments between i) Los Alamitos; ii) Santa Anita Park.

CHRB CERTIFICATION

Application received: 9/2/14
Reviewed: LH

Hearing date: 1/26/17
Approval date:

CHRB-133 (New 9/01)

2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted: 365 days/year
- B. Hours Advance Deposit Wagering will be conducted: 24 hours/day

3. BUSINESS STRUCTURE

- A. Corporation (complete subsection B)
- LLC (complete subsection C)
- Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

1. Registered name of the corporation:
2. State where incorporated:
3. Registry or file number for the corporation:
4. Name of all officers and directors, titles, and number of shares of the corporation held by each:
5. Names (true names) of all persons, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
10. Attach the most recent annual financial statement for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

CHRB-133 (New 9/01)

C. LLC

1. Registered name of the LLC:
2. State where articles of organization are filed:
3. Registry or file number for the LLC:
4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:
5. Names (true names) of all members, **other than the officers and directors listed above**, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:
6. Are the shares listed for public trading? Yes No
If yes, on what exchange and how is the stock listed:
7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
8. Attach the most recent annual financial statement for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

D. OTHER

1. Name(s) of partners/sole proprietor:

General Partner:
ODS Holding LLC
6701 Center Drive West, Suite 800
Los Angeles, CA 90045

Limited Partner:
TSE US LLC
6701 Center Drive West, Suite 800
Los Angeles, CA 90045
2. If a partnership, attach partnership agreement.

Behind **TAB C**, please find a copy of the Limited Partnership Agreement and amendments for ODS Technologies, L.P.

Pursuant to California Horse Racing Board Rule 1497 and the California Public Records Act, and under TAB C, personal financial data used to establish TVG's qualifications for licensure/approval is not subject to public disclosure.

3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

The TVG Advance Deposit Wagering Business Plan for the projected term of approval is attached hereto behind **TAB D**.

4. **ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS** – must comply with Rule 2074.

A. List the procedures to establish an Account:

1. Customers must be at least 21 years of age to establish an advance deposit wagering account.
2. Customers can establish an account by telephone by calling 1-888-PLAY TVG, on the Internet at www.tvg.com, by mail, or in person at a TVG retail outlet or racetrack partner by providing the following information:
 - Name
 - Social Security Number
 - Date of Birth
 - Principal Residence Address Including Postal ZIP Code
 - Telephone Number
3. Each application submitted to TVG is subject to electronic verification by a nationally recognized third party information services provider with respect to name, principal residence address including postal zip code, date of birth and Social Security Number. If there is a discrepancy between the application information submitted to TVG and the information provided by the electronic verification described above, or if no information on the applicant is available from such electronic verification, the applicant will be required to provide identification issued by a recognized government agency (driver's license or government ID) showing his or her date of birth and residence address to complete the application process.
4. Provided that the account applicant's information has been positively identified, each applicant is assigned his or her TVG Personal Wagering Account Number and is asked to establish a Personal Identification Number consisting of four (4) numeric characters.

B. If an application form is used to establish an Account attach a copy of the form.

A copy of the application form available on www.tvg.com is provided behind **TAB E** to this document.

C. Name and address of the third party you will use to verify identity, residence and age verification:

Equifax Credit Information Services
P.O. Box 4472
Atlanta, GA 30302

CHRB-133 (New 9/01)

5. **OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS** – must comply with Rule 2073.

A. Submit a copy of your plan for operation.

The Plan of Operation is attached hereto behind **TAB F**.

B. List the type of deposits you will accept:

Deposits will be accepted in the form of:

1. Check, money order or negotiable order of withdrawal;
2. Cash (at designated financial/retail outlets);
3. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder, which may be given by telephone or other secure electronic means;
4. Transfer by means of an electronic funds or ACH (Automated Clearing House) transfer from a monetary account controlled by an account holder to his/her account, said account holder may be liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account;
5. Stored value cards; and
6. Wire transfers.

C. Identify any fees or transaction-related charges and the amount that will be assessed:

TVG account holders have a monthly subscription fee of \$19.95.

6. **SECURITY ACCESS**

A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:

1. Description of the technology to ensure identity, residence, and age verification when an Account is established:

Please refer to Section 4.3.1 of the Plan of Operation attached hereto behind **TAB F**.

2. Description of the technology to ensure confidentiality of the Means of Personal Identification:

Please refer to Section 4.5.6 of the Plan of Operation attached hereto behind **TAB F**.

3. Methods and locations available for Account Holders to withdraw funds from their Account:

Please refer to Section 4.3.5 of the Plan of Operation attached hereto behind **TAB F**.

CHRB-133 (New 9/01)

4. If the Advance Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation:

Please refer to Section 4.5.6 of the Plan of Operation attached hereto behind **TAB F**.

7. PARI-MUTUEL

- A. Name, address and telephone number of the pari-mutuel audit firm:

Oregon Racing Commission
Suite 310
800 N.E. Oregon Street, #11
Portland, OR 97232
(503) 731-4052

- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract:

Totalizator services are provided by contract with Amtote International Inc.. The contract expires December 31, 2022. Please refer to Section 2.4.2 of the Plan of Operation behind **TAB F** for more details.

- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted:

SEE TAB G

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 18.

8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you will contract with to facilitate Advance Deposit Wagering that are not provided in other sections of this application:

Amtote International Inc.
11200 Pepper Road
Hunt Valley, MD 21031

(410) 771-8700

Equibase Company LLC
821 Corporate Drive
Lexington KY 40503-2794
(859) 296-3079

Trackmaster, an Equibase Company
851 Fremont Ave. #109
Los Altos, CA 94024
(650) 947-9020

CHRB-133 (New 9/01)

B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed:

9. ADVERTISING

Name and address of the advertising agency you will use:

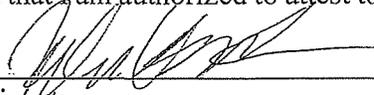
Piston
1111 6th Ave, 6th Floor
San Diego, California 92101
(T) 619.308.5266 (F) 619.238.8923

NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3) advertisements shall not be deceptive to the public.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this Application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this Application.

John Hindman
Print Name


Signature

SVP & General Counsel
Print Title

8-29-2006
Date

CALIFORNIA HORSE RACING BOARD

JANUARY 26, 2017

REGULAR BOARD MEETING

There is no board package material for item #16

STAFF ANALYSIS

DISCUSSION AND ACTION REGARDING THE PROPOSED AMENDMENT TO CHRB RULE 1588, HORSE INELIGIBLE TO START IN A RACE, TO SPECIFY THAT A HORSE THAT HAS NOT RACED FOR A SPECIFIED NUMBER OF CONSECUTIVE DAYS AT A RECOGNIZED RACE MEETING IS INELIGIBLE TO ENTER A RACE UNTIL SUCH HORSE HAS SATISFACTORILY COMPLETED ENHANCED TESTING OR EVALUATION AND HAS BEEN DECLARED ELIGIBLE TO START BY THE OFFICIAL VETERINARIAN.

Regular Board Meeting
January 26, 2017

ISSUE

CHRB staff has recently discovered that nearly a fifth of all horses that suffer racing fatalities at California racetracks break down in one of their first three races after coming off of an extended layoff. The proposed amendment to Rule 1588, Horse Ineligible to Start in a Race, is intended to help prevent such fatalities from occurring by requiring horses that come off of a layoff of a 120-days or more to undergo a special examination by either the Official Veterinarian or the Racing Veterinarian to verify that the horse is physically sound and able to safely and lawfully compete in a race.

BACKGROUND

Business and Professions Code section 19440 provides that 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 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 states the Board may prescribe rules, regulations and conditions under which all horse races with wagering on their results shall be conducted in California.

ANALYSIS

This year, CHRB staff discovered that of the fatalities that occurred between 2013 and 2016, approximately 20% were suffered by horses that were racing after being laid up for 120 days or more. This statistic can be attributed to a variety of factors; however, many of these horses were shown to have had pre-existing conditions, veterinary treatments, or other injuries or illnesses necessitating the time off. Regardless the cause, it has become clear that horses which require a 120-day or greater break from racing should undergo an enhanced examination to verify that the horse is both raceably sound and in fit physical condition to exert its best effort before it is allowed to enter a race in California.

Accordingly, the proposed amendment to Rule 1588, Horse Ineligible to Start in a Race, would make a horse that has not raced at a recognized race meeting in 120 or more consecutive days ineligible to start until it has undergone an examination by the Official Veterinarian or the Racing Veterinarian prior to being entered into a race. Furthermore, the proposed amendment would give the Official Veterinarian the ability to have a horse returning from an extended layoff

to perform satisfactorily in a workout or qualifying race to demonstrate its physical fitness and then be tested in blood and/or urine.

RECOMMENDATION

This item is presented to the Board for discussion and action.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 6. ENTRIES AND DECLARATIONS
PROPOSED AMENDMENT OF
RULE 1588. HORSE INELIGIBLE TO START IN A RACE.

1588. Horse Ineligible to Start in a Race.

In addition to any other valid ground or reason, a horse is ineligible to start in any race:

(a) if such horse is not registered by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, the Arabian Horse Registry of America if an Arabian horse, or the American Paint Horse Association if a paint horse;

(b) if the parentage verification to both the sire and the dam of all horses foaled in 1992 and thereafter has not been certified by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, the Arabian Horse Registry of America if an Arabian horse, or the American Paint Horse Association if a paint horse;

(c) if, unless the stewards permit otherwise, the certificate of foal registration, eligibility papers, or other registration issued by the official registry for such horse is not on file with the racing secretary at the time of entry;

(d) if such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry;

(e) if the certificate of foal registration, eligibility papers or other registration issued by the official registry has been altered, erased, or forged;

(f) if the identification markings of the horse do not agree with the identification markings as set forth in the registration of such horse;

- (g) unless he is eligible to enter said race and is duly entered for such race;
- (h) when such horse is owned in whole or in part by an unlicensed person or is in the care of an unlicensed trainer;
- (i) when such horse is on the Steward's List, the Starter's List or the Veterinarian's List;
- (j) when, except with prior approval of the stewards for good cause, such horse is on the Veterinarian's List in another racing jurisdiction. Good cause includes:
- (1) unforeseen administrative issues in removing the horse from the Veterinarian's List of another racing jurisdiction;
 - (2) the location of the horse prevents it from being evaluated by the official veterinarian of another racing jurisdiction and cleared from that jurisdiction's Veterinarian's List, and the horse is approved to race by a California official veterinarian; or
 - (3) any other unforeseen event or reason that would prevent a horse that would otherwise not be on a Veterinarian's List from being cleared from the Veterinarian's List of another racing jurisdiction.
- (k) when, except with prior approval of the stewards, such horse has not been on the grounds of the association or its approved auxiliary stable area for at least 24 hours prior to the time the race is to be run.
- (l) if such horse has not raced at any recognized race meeting in 120 or more consecutive days and has not raced in California since the conclusion of that absence, unless such horse has been examined prior to entry by the Official Veterinarian or the Racing Veterinarian and declared raceably sound and in fit physical condition to exert its best effort in a race. The Official Veterinarian may require such horse to perform satisfactorily in a workout or qualifying race to demonstrate its physical fitness, and if so a blood and/or urine post-work test sample shall be taken from the horse and the provisions of this article shall apply to such official workout in the same manner as to a scheduled race.

(1) For the purpose of this regulation, "workout" means an exercise session near full speed, or close to full speed.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440 and 19562, Business and Professions Code.

Item 18

STAFF ANALYSIS
DISCUSSION AND ACTION BY THE BOARD REGARDING THE PROPOSED
AMENDMENTS TO CHRB RULE 1689, SAFETY HELMETS REQUIRED; AND RULE
1689.1, SAFETY VEST REQUIRED, TO REQUIRE DRIVERS RIDING IN A JOG CART TO
WEAR A SAFETY HELMET AND SAFETY VEST.

Regular Board Meeting
January 26, 2017

ISSUE

CHRB Rule 1689, Safety Helmets Required, and Rule 1689.1, Safety Vest Required, both indicate that drivers shall wear a helmet and vest when mounted in or riding on a sulky; however, the rule does not include the same requirements when a driver is in a jog cart. Accordingly, the proposed amendments to Rules 1689 and 1689.1 are intended to close this loophole so that drivers are required to wear a safety vest and helmet at all times when mounted on or riding in a sulky or jog cart.

BACKGROUND

Business and Professions Code section 19440 provides that 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 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 19481 states that the Board shall establish safety standards governing the equipment for horse and rider, amongst other responsibilities.

ANALYSIS

It was recently brought to the attention of CHRB staff that there is a loophole in current regulations which allows drivers to ride in jog carts without wearing safety vests and helmets. A "jog cart" is distinctive from a "sulky" both in construction and use. Jog carts are used solely for training purposes and are never used for racing. Because CHRB Rule 1420(y), Definitions, defines "sulky" as a "racing vehicle," a jog cart could not be considered a sulky under our current regulations.

Accordingly, staff is proposing that Rule 1689, Safety Helmets Required, and Rule 1689.1, Safety Vest Required, be amended to require use of helmets and vests when a person is mounted in or riding on a "sulky or jog cart." This would ensure that all persons riding behind a horse in a jog cart abide by the same safety standards established for drivers in sulkies.

RECOMMENDATION

This item is presented to the Board for discussion and action.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 8. RUNNING THE RACE
PROPOSED AMENDMENT OF
RULE 1689.1. SAFETY VEST REQUIRED

1689.1. Safety Vest Required.

(a) No jockey or apprentice jockey shall ride in a race unless wearing a safety vest, nor shall a jockey, apprentice jockey, or exercise rider, train or exercise any horse on the grounds of a racing association, racing fair, or authorized training facility unless wearing a safety vest.

(1) Any person licensed by the Board mounted on a horse on a track of a racing association, racing fair, or authorized training facility shall wear a safety vest.

(b) No driver shall be mounted in or riding on a sulky or jog cart, nor shall an assistant starter handle any horse on the grounds of a racing association, racing fair, or authorized training facility unless wearing a safety vest.

(c) Safety vests required to be worn in accordance with this regulation shall:

(1) Provide a minimum of shock absorbing protection to the upper body, as evidenced by a label indicating that the safety vest meets one of the following standards:

(A) "Level 1" under the British Equestrian Trade Association (BETA) 2009 Standard for Horse Riders' Body and Shoulder Protectors, or

(B) American Society for Testing Materials (ASTM) standard F2681-08, or

(C) Shoe and Allied Trades Research Association (SATRA) (1999) Jockey Vest Standard, Document M6 Issue 3, Australian Racing Board (ARB) 3.

(2) Cover the entire torso from the collarbone to a line level with the hip bone allowing a vee opening in the front neckline;

(3) Weigh no more than 2 pounds.

(4) No vest shall be altered from its original manufactured design. This includes, but is not limited to:

(A) Cutting the vest to customize fit.

(B) Removal of manufacturer's labels.

(C) Removal of protective padding.

(d) The weight of a safety vest shall not be included in the weight of a jockey or apprentice jockey when weighing out or weighing in or when adding weight to make up a weight assignment.

NOTE: Authority cited: Sections 19420, 19481 and 19562, Business and Professions Code.

Reference: Section 19481, Business and Professions Code.

STAFF ANALYSIS

DISCUSSION AND ACTION BY THE BOARD REGARDING THE PROPOSED AMENDMENTS TO CHRB RULES 1858, TEST SAMPLE REQUIRED; 1859, TAKING, TESTING AND REPORTING OF TEST SAMPLES; 1859.25, SPLIT SAMPLE TESTING; 1867, PROHIBITED VETERINARY PRACTICES; AND THE PROPOSED ADDITION OF CHRB RULES 1859.1, OUT-OF-COMPETITION TESTING PROCEDURES AND REQUIREMENTS; AND 1868, PROHIBITED DRUG SUBSTANCE IN OUT-OF-COMPETITION TESTING, TO INCORPORATE THE ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL (ARCI) MODEL RULE FOR OUT-OF-COMPETITION TESTING INTO THE CHRB'S RULES AND REGULATIONS.

Regular Board Meeting
January 26, 2017

ISSUE

In December 2016 the Association of Racing Commissioners International (ARCI) adopted a robust Model Rule that establishes a uniform set of procedures and guidelines for out-of-competition testing. Additionally, the Model Rule introduced a broad set of prohibitions and restrictions regarding the use of certain medications, drugs, and other substances for horses that are engaged in racing but currently out-of-competition.

The proposed rule amendments and additions are intended to incorporate the substance of these Model Rules into the California Horse Racing Board's (CHRB or Board) existing regulatory scheme, and otherwise enhance the Board's current out-of-competition testing efforts.

BACKGROUND

Business and Professions Code section 19440 provides that 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 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 19580 requires the Board to adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in California.

Although the CHRB has been conducting out-of-competition testing for years now, there has been little occasion to use the results of those tests for anything beyond information and research purposes. Upon discovering the presence of certain substances in an out-of-competition test, staff has only conducted follow-up investigations in those instances where it appeared the administration of a certain medication had not been properly reported. To date, however, the only drugs and medications that would trigger a complaint if found in an out-of-competition test sample, are those listed currently in CHRB Rule 1867, Prohibited Veterinary Practices (e.g. zilpaterol, ractopamine, snake venom, etc.).

ANALYSIS

The out-of-competition testing Model Rules adopted by the ARCI have been in development for several years by the Racing Medication and Testing Consortium (RMTC), and are based on the knowledge, expertise, and input of horse racing stakeholders throughout the country. In short, they accomplish two things: 1) a transparent and uniform process to be followed by racing commissions when collecting out-of-competition samples, and 2) an enhanced list of prohibited and/or restricted medications and drug substances for horses that are engaged in horse racing but not currently entered in any particular race (i.e. horses that are "out-of-competition").

The proposed regulatory amendments and additions implement the substance of these Model Rules, and create a more effective mechanism for the CHRB to monitor and control the use of medications, drugs, and other substances in horses that will race in this State. This not only will enhance the safety and welfare of the horse, but will also ensure greater integrity in California racing.

The proposed amendment to Rule 1858, Test Sample Required, clarifies the Board's authority to collect official blood, urine, and other biological test samples, as well as describes specifically which horses are eligible for out-of-competition testing. Additionally, the proposed amendment makes it a condition of a trainer and owner's license that the Board be given consent to collect out-of-competition test samples at any location where an eligible horse is present.

The proposed amendment to Rule 1859, Taking, Testing and Reporting of Samples, makes minor technical changes to existing language to ensure out-of-competition testing does not conflict with existing official test sample collection processes.

The proposed addition of Rule 1859.1, Out-of-Competition Testing Procedures and Requirements, describes in detail the procedures by which the Board will collect out-of-competition test samples, as well as penalties for non-compliance. In practice, out-of-competition testing conducted pursuant to this regulation will be substantially similar to how it is currently done in California.

The proposed amendment to Rule 1859.25, Split Sample Testing, extends the same split sample process and rights currently in place for post-race testing to licensees who have a horse in their custody test positive for a prohibited substance in an out-of-competition sample.

The proposed amendment to Rule 1867, Prohibited Veterinary Practices, adds a number of medications and drug substances to the current prohibited list, and extends its application to substances detected in out-of-competition test samples.

The proposed addition of Rule 1869, Prohibited Drug Substances in Out-of-Competition Testing, lists all medications, drugs, and other substances that are prohibited from being present in an out-of-competition test sample. Additionally, the proposed rule includes exceptions for certain therapeutic medications in cases where specific procedural and reporting requirements are followed. Finally the proposed rule describes the liability and rights of trainers, owners, and other licensees who have the care and custody of a horse that tests positive for a prohibited substance in an out-of-competition test sample.

RECOMMENDATION

This item is presented to the Board for discussion and action.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
PROPOSED AMENDMENT OF
RULE 1858. TEST SAMPLE REQUIRED.

1858. Test Sample Required.

(a) Blood and urine test samples shall be taken daily from the winner of every race, from horses finishing second and third in any stakes race with a gross purse of \$75,000 or more, and from not less than six other horses designated for testing by the Equine Medical Director, the stewards or the official veterinarian.

(b) The Board may at any time on any date take official blood, urine or other biological samples, in accordance with Rules 1859 and 1859.1, from a horse to enhance the ability of the Board to enforce its medication and anti-doping rules.

(bc) Every horse within the inclosure, every horse registered to race at an inclosure, every horse under the care or control of a licensed trainer, or owned by a licensed owner, or nominated, pre-entered or entered in any race that will be held within a licensed inclosure is subject to pre-race, post-race, and out-of-competition testing by the Board, and nNo owner, trainer or other person having the care of a horse shall refuse to submit it for testing when directed by the Equine Medical Director, the Executive Director, the stewards or the official veterinarian.

(1) For the purposes of this regulation, a horse is "registered to race at an inclosure" when the horse's registration papers are on file with a racing association under the jurisdiction of the Board, and/or the horse has raced at a licensed inclosure within the previous 12 months.

(2) A horse is "out-of-competition" when it is not entered in a race as defined in this Article. This regulation does not permit out-of-competition testing outside of a licensed inclosure on weanlings, yearlings, or any horse proven to be no longer engaged in horse racing unless such

horse is entered in a horse sale authorized by the Board pursuant to Rule 1807.

(3) Persons who apply for and are granted a trainer or owner license shall be deemed to have given their consent, as a condition of licensure, for the Board and its representatives to access any location, whether inside or outside of a licensed inclosure, where a horse eligible for testing may be found for the purpose of collecting official out-of-competition test samples. Such consent, however, does not permit the Board or its representatives to search the surrounding premises when collecting a test sample from a horse not within a licensed inclosure. Licensees shall take any steps necessary to authorize access by Board representatives to any location where a horse eligible for testing is present, and no person shall knowingly interfere with or obstruct the collection of an official test sample.

NOTE: Authority cited: Sections 19440, 19562 and 19580, Business and Professions Code.

Reference: Section 19580(b), Business and Professions Code; and Sections 337f, 337g and 337h, Penal Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
PROPOSED AMENDMENT OF
RULE 1859. TAKING, TESTING AND REPORTING OF SAMPLES.

1859. Taking, Testing and Reporting of Samples.

(a) Urine, blood or other biological official test samples shall be taken under the direction of the official veterinarian, the Equine Medical Director or a person designated by the official veterinarian. All samples shall be taken in a detention area approved by the Board, unless it is an official out-of-competition test sample taken in accordance with Rule 1859.1, or the official veterinarian or the Equine Medical Director approves otherwise. The taking of any test sample shall be witnessed, confirmed or acknowledged by the owner or trainer of the horse being tested or his or her agent or employee, and may be witnessed by the owner, trainer or other person designated by them. All official test samples shall be sent to the official laboratory approved and designated by the Board, in such manner as the Board may direct. All required samples shall be in the custody of the official veterinarian, his or her assistants or other persons approved by the official veterinarian, from the time they are taken until they are delivered to the custody of the official laboratory.

(b) The Executive Director and the Equine Medical Director shall immediately be notified by the official laboratory of each finding that an official test sample contains a prohibited drug substance, as defined in this article. The official laboratory shall further provide all information and data on which the finding is based to the Equine Medical Director, and shall transmit its official report of the finding to the Executive Director within five working days after the initial notification is made.

(c) The Board has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis.

(d) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no drug substance prohibited by this article has been administered, in violation of these rules, to the horse earning such purse money.

NOTE: Authority cited: Sections 19420, 19440, 19562 and 19577, Business and Professions Code. Reference: Sections 19401, 19440 and 19577, Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
PROPOSED ADDITION OF
RULE 1859.1. OUT-OF-COMPETITION TESTING PROCEDURES AND REQUIREMENTS.

1859.1. Out-of-Competition Testing Procedures and Requirements

(a) Official out-of-competition test samples shall be collected under the supervision and direction of the official veterinarian, the Equine Medical Director, or a person designated by the official veterinarian or Equine Medical Director. All blood samples shall be collected by a veterinarian licensed by the Board, or by a veterinary technician licensed by the Board who is acting under the supervision of the official veterinarian or Equine Medical Director.

(b) Upon request of the Equine Medical Director, the Executive Director, the stewards or the official veterinarian, the trainer, owner, or their specified designee shall disclose the location of their horses eligible for out-of-competition testing as described in Rule 1858.

(c) The Board need not provide advance notice to the trainer or owner before arriving at any location, whether or not the location is within a licensed inclosure, to collect official out-of-competition test samples. However, if the trainer, owner, or their specified designee requests that the sample be collected in an alternative location, the Board may, in its sole discretion, collect the sample at an alternative time and location designated by the Board.

(d) The trainer, owner, or their specified designee shall cooperate with the person who collects official out-of-competition test samples on behalf of the Board, which shall include without limitation:

(1) Assisting in the immediate location and identification of the horse;

(2) Making the horse available as soon as practical upon arrival of the person who is responsible for collecting the samples;

(3) Providing a stall or other safe location to collect the samples;
(4) Assisting the person who is collecting samples in controlling the horse; and
(5) Witnessing the taking of samples, including sealing of sample collection containers.
(e) The management and employees of a licensed racetrack or training facility where a horse is located shall cooperate fully with any person collecting official out-of-competition test samples on behalf of the Board. The person who collects samples for the Board may require that the collection be done at a specified location on such premises.

(f) The Board may arrange to have test samples collected from a horse that is physically located outside of California, but otherwise subject to out-of-competition testing pursuant to Rule 1858. Such test samples may be collected by the racing commission or racing authority that regulates the jurisdiction in which the horse is physically located, or by any other person that the Board designates. Such racing commission or other designated person shall follow the collection procedures described in this regulation in order for the sample to be designated an official out-of-competition test sample.

(1) The test results of an official out-of-competition test sample collected outside of California may be made available, at the discretion of the Board, to each racing commission that participates in the process of collecting the sample.

(2) The Board, if requested and in its sole discretion, may permit the trainer, owner or their designee to transport their horse into California for out-of-competition testing at a time and place designated by the Board instead of having the horse tested outside of California.

(g) The person who collects official out-of-competition test samples for the Board shall, at the time of sample collection, provide their CHRB identification and disclose to the owner and/or trainer of the horse that the purpose of the sampling is for out-of-competition testing.

(h) If the trainer or any other person having care and custody of a horse selected for out-of-competition testing refuses or declines to make the horse available for test sample collection, the Board shall attempt to notify the owner and give them the opportunity to make the horse available for immediate testing.

(i) All available records demonstrating the chain of custody for an official out-of-competition test sample shall be made available to the trainer, owner, or their designee, at their request, when a complaint results from an out-of-competition test.

(j) Any licensee who willfully fails to make a horse available for out-of-competition testing, or commits other willfully deceptive acts in connection with out-of-competition testing, or causes interference or obstruction to the sampling process, shall receive a minimum penalty of a one-year license suspension.

(k) A horse that is not made available for out-of-competition testing when requested by the Board in accordance with this regulation shall be placed on the Steward's List for a minimum of 180 days. If the trainer, owner, or their designee refuses to submit their horse for out-of-competition testing based on their assertion that the horse is no longer engaged in horse racing activities, the horse shall be placed on the Steward's List for a minimum of 180 days.

NOTE: Authority cited: Sections 19420, 19440, 19562, and 19580, Business and Professions Code. Reference: Sections 19401, 19440, 19580, and 19583, Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
PROPOSED AMENDMENT OF
RULE 1859.25. SPLIT SAMPLE TESTING.

1859.25. Split Sample Testing.

(a) In addition to the blood, ~~and urine, and other biological~~ official test samples transmitted to the official laboratory for testing as provided in Rules 1859 and 1859.1 of this Article, the Board shall maintain a portion of the official test sample for each horse tested if sufficient sample is available after the official test samples are taken. That portion shall be designated the split sample. The Board makes no guarantee as to the amount of sample which will be available for the split sample. All samples 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 split sample.

(b) When the Executive Director or the Executive Director's designee is notified of a finding by the official laboratory that a test sample from a horse ~~participating in any race~~ contained a prohibited drug substance as defined in this Article, the Executive Director, after consulting with the Equine Medical Director or the Equine Medical Director's designee as to the presence of the prohibited drug substance shall notify a Supervising Investigator. The owner and the trainer shall be confidentially notified of the finding by a Supervising Investigator or his/her designee and the owner and trainer shall each have 72 hours from the date he or she is notified to request that the split sample of the official test sample that was found to contain the prohibited drug substance(s) be tested by an independent Board-approved laboratory.

(c) If the owner or trainer wishes to have the split sample tested, he or she shall comply with the following procedures:

(1) The request shall be made on CHRB-56, (Rev. 5/97), Request to Release Evidence, which is hereby incorporated by reference. CHRB-56 shall be made available at all CHRB offices.

(2) The owner or trainer requesting to have the split sample tested shall be responsible for all charges and costs incurred in transporting and testing the split sample. By signing CHRB-56, the owner or trainer certifies he or she has made arrangements for payment to the designated Board-approved laboratory for laboratory testing services.

(3) Verification of payment for costs incurred in transporting and testing the split sample must be received by the CHRB within five (5) working days from the CHRB receipt of CHRB-56. If such verification of payment is not received, the split sample will not be released or shipped to the Board-approved laboratory designated by the owner or trainer to test the split sample and the owner and trainer 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's official laboratory.

(d) Upon approval by the Executive Director or the Executive Director's designated representative of a valid request on CHRB-56, CHRB-29 (Rev. 5/97), Authorization to Release Split Sample Urine Evidence, or CHRB-29A (Rev. 5/97), Authorization to Release Split Sample Blood Evidence, which are hereby incorporated by reference, shall be completed and the Board shall ensure that the split sample is sent to the designated laboratory for testing.

(1) If the findings by the independent Board-approved laboratory fail to confirm the findings of the prohibited drug substance as reported by the official laboratory, it shall be presumed that the prohibited drug substance was not present in the official sample.

(2) If the findings by the independent Board-approved laboratory confirm the findings of

the prohibited drug substance as reported by the official laboratory, the Executive Director shall report these findings to the Board within 24 hours after receiving confirmation of the prohibited drug substance in the split sample.

(e) If the owner or trainer fails to request the testing of the split sample in accordance with the procedures specified in this rule, they shall be deemed to have waived their rights to have the split sample tested.

(f) Results of the official test sample and the 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, the Equine Medical Director or the Equine Medical Director's designee, and to the owner and trainer, unless or until the Board files an official complaint or accusation.

NOTE: Authority cited: Sections 19420, 19440 and 19577, Business and Professions Code.
Reference: Sections 19420, 19440 and 19577, Business and Professions Code; and Section 603, Evidence Code.

CALIFORNIA HORSE RACING BOARD
 TITLE 4. CALIFORNIA CODE OF REGULATIONS
 ARTICLE 15. VETERINARY PRACTICES
 PROPOSED AMENDMENT OF
 RULE 1867. PROHIBITED VETERINARY PRACTICES.

1867. Prohibited Veterinary Practices.

For purposes of this division, prohibited veterinary practices means:

(a) The possession and/or use on the premises of a facility under the jurisdiction of the Board of any drug, substance, doping agent, or medication specified below for which a recognized analytical method has not been developed to detect and confirm its administration; or the use of which may endanger the health and welfare of the horse, or the safety of the rider or driver, or alter equine performance.

(1) Erythropoietin (EPO) and analogs;

(2) Darbepoietin and analogs;

(3) Venoms or derivatives thereof~~Snake venom~~;

(4) ~~Snail venom~~;

(45) Growth hormone and analogs, except platelet rich plasma and autologous conditioned plasma are permitted provided such treatment is pursuant to a valid veterinary prescription made in accordance with all rules and regulations in this division, and the treatment is reported to the Official Veterinarian on form CHRB-60 (Rev. 7/15) (Trainer Medication Report), regardless of whether or not the horse is treated within or outside of a licensed inclosure;

(56) Ractopamine and ractopamine metabolites or analogs;

(67) Zilpaterol and zilpaterol metabolites or analogs;

(7) Aminoimidazole carboxamide ribonucleotide (AICAR);

(8) Hemopure;

(9) Myo-Inositol Trispyrophosphate (ITPP);

(10) Oxyglobin;

(11) Thymosin beta;

(b) The possession and/or use on the premises of a facility under the jurisdiction of the Board of any drug, substance or medication that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.

(c) The presence of any drug, substance or medication described in subsections (a)(1) through (a)(513), and subsection (b) of this regulation in any test sample obtained consistent with Rules 1858, 1859, 1859.1, and 1859.25 of this article, and the provisions of this article, shall apply to such sample in the same manner as if the horse were entered to race (See Title 4, California Code of Regulations, section 1843.3). The Board may grant an exception to this subsection if the person or persons seeking the exemption submits written documentation that demonstrates an FDA exemption has been obtained pursuant to Guide 1240.3025 of the FDA Center for Veterinary Medicine (CVM) Program Policy and Procedures Manual, which is hereby incorporated by reference. Guide 1240.3025 of the FDA CVM Program Policy and Procedures Manual may be obtained at the California Horse Racing Board's headquarters office.

NOTE: Authority cited: Sections 19440, 19562, 19580, and 19582, Business and Professions Code. Reference: Sections 19580, 19581, and 19582, Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
PROPOSED ADDITION OF
RULE 1869. PROHIBITED DRUG SUBSTANCES IN OUT-OF-COMPETITION TESTING.

1869. Prohibited Drug Substances in Out-of-Competition Testing

(a) In addition to those drugs, substances, doping agents, and medications described in Rule 1867(a), the following substances are prohibited from being present in any official out-of-competition test sample collected in accordance with Rules 1859, 1859.1, and 1859.25:

(1) Anabolic androgenic steroids and their metabolites and isomers, except naturally occurring endogenous anabolic steroids as authorized in Rule 1844;

(A) Notwithstanding the foregoing, anabolic androgenic steroids may be used in a horse that is out-of-competition, provided that:

(i) The anabolic agent has been approved by the United States Food and Drug Administration (FDA) for use in the United States;

(ii) The administration is pursuant to a valid veterinary prescription, and both the administration and prescription are carried out in accordance with all rules and regulations in this division;

(iii) The administration is reported to an Official Veterinarian on form CHRB-60 (Rev. 7/15 (Trainer Medication Report), regardless of whether or not the horse is treated within or outside of a licensed inclosure;

(iv) The horse remains on the Veterinarian's List for a minimum of six months following the administration of the anabolic androgenic steroids, and shall be removed from the list only after the horse demonstrates, to the satisfaction of the official veterinarian or the racing veterinarian, that it is raceably sound and in fit physical condition to exert its best effort in a race

by performing satisfactorily in a workout or qualifying race. Additionally, a blood, urine and/or other biological test sample taken after such workout or qualifying race shall be free of all prohibited substances described in Rule 1843 before the horse can be removed from the Veterinarian's List.

(2) The following anabolic agents: selective androgen receptor modulators, tibolone, and zeranol;

(3) Erythropoietin-Receptor agonists;

(4) Hypoxia-inducible factor stabilizers, except out-of-competition blood samples may contain cobalt in an amount that does not exceed 50 nanograms per milliliter;

(5) Chorionic G onadotropin and Luteinizing Hormone and their releasing factors;

(6) Corticotrophins and their releasing factors;

(A) Notwithstanding the foregoing, adrenocorticotrophic hormone (ACTH) may be used in a horse that is out-of-competition, provided that:

(i) The substance has been approved by the FDA for use in the United States;

(ii) The administration is pursuant to a valid veterinary prescription, and both the administration and prescription are carried out in accordance with all rules and regulations in this division;

(iii) The administration is reported to an Official Veterinarian on form CHRB-60 (Rev. 7/15 (Trainer Medication Report), regardless of whether or not the horse is treated within or outside of a licensed inclosure.

(7) Beta-2 agonists, including all optical isomers;

(A) Notwithstanding the foregoing, clenbuterol and albuterol may be used in a horse that

is out-of-competition, provided that the administration is pursuant to a valid veterinary prescription, and both the administration and prescription are carried out in accordance with all rules and regulations in this division.

(8) The following aromatase inhibitors: aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone;

(9) The following selective estrogen receptor modulators: raloxifene, tamoxifen, toremifene;

(10) The following anti-estrogenic substances: clomiphene, cyclofenil, fulvestrant;

(11) The following agents modifying myostatin function(s): myostatin inhibitors;

(12) The following metabolic modulators: activators of the AMP-activated protein kinase, Peroxisome Proliferator Activated Receptor δ (PPAR δ) agonists, insulins, trimetazidine, Thyroxine, and thyroid modulators/hormones containing T4 (tetraiodothyronine/thyroxine), T3 (triiodothyronine), or combinations thereof.

(A) Notwithstanding the foregoing, Thyroxine (T4) shall not be considered a prohibited substance provided that such treatment is made pursuant to a valid veterinary prescription, and both the administration and prescription are carried out in accordance with all rules and regulations in this division.

(B) Additionally, notwithstanding the foregoing, altrenogest shall not be considered a prohibited substance in fillies and mares, provided that such treatment is made pursuant to a valid veterinary prescription, and both the administration and prescription are carried out in accordance with all rules and regulations in this division.

(13) The following diuretics and masking agents: desmopressin, furosemide , plasma

expanders, probenecid, torsemide, acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, etacrynic acid, indapamide, metolazone, spironolactone, thiazides, triamterene, trichlormethiazide, vasopressin receptor antagonists, and vaptans.

(A) Notwithstanding the foregoing, furosemide and trichlormethiazide may be used in a horse that is out-of-competition, provided that the administration is pursuant to a valid veterinary prescription, and both the administration and prescription are carried out in accordance with all rules and regulations in this division.

(B) Additionally, notwithstanding the foregoing, the above diuretics may be administered in an emergency situation in order to safeguard the health of the horse, provided that such treatment is:

(i) Made pursuant to a valid veterinary prescription, and both the administration and prescription are carried out in accordance with all rules and regulations in this division, and

(ii) The administration is reported to the Official Veterinarian on either form CHRB-60 (Rev. 7/15) (Trainer Medication Report) by the trainer, or on form CHRB-24 (Rev. 7/15) (Veterinarian Report) by the treating veterinarian within twenty-four (24) hours.

(b) Therapeutic substances that are not otherwise prohibited pursuant to this regulation are permitted for use when a horse is out-of-competition, provided such substances have been approved by the FDA for use in the United States, and are prescribed and administered in accordance with all applicable federal and state laws and regulations, including all CHRB rules and regulations.

(c) A finding by the official laboratory that an official out-of-competition test sample taken from a horse contains a drug substance or its metabolites or analogues which is prohibited under this regulation shall be prima facie evidence that the trainer and/or any other licensee

responsible for the care of the horse has/have been negligent in the care of the horse and is prima facie evidence that the drug substance has been administered to the horse. In such an event, the trainer, owner, foreman in charge of the horse, groom, and/or any other person shown to have had the care or attendance of the horse may be fined, and/or have his/her license suspended or revoked.

(1) The trainer is the absolute insurer of and responsible for the condition of the horses under his/her care while such horses are physically located within a licensed inclosure, regardless of the acts of third parties, except as otherwise provided in this article.

(2) The owner of a horse that is not physically located within a licensed inclosure and is not under the care and custody of another person licensed by the Board shall be the absolute insurer of and responsible for the condition of the horse, regardless of the acts of third parties.

(3) The defenses described in Rule 1888 shall be available to any person charged with a violation of this regulation.

(c) The Board, the board of stewards, the hearing officer, or the administrative law judge shall assess a penalty for violation of this section based upon the classifications and penalties set forth in Rules 1843.2 and 1843.3.

(d) A race day prohibition or restriction of a substance under this Article is not applicable to an out-of-competition test unless otherwise stated.

NOTE: Authority cited: Sections 19420, 19440, 19562, and 19580, Business and Professions Code. Reference: Sections 19440, 19580 and 19583, Business and Professions Code.