

APPEARANCES

BOARD MEMBERS

Gregory Ferraro, Chair

Oscar Gonzales, Vice Chair

Dennis Alfieri, Commissioner

Brenda Washington Davis, Commissioner

Wendy Mithcell, Commissioner

Damascus Castellanos, Commissioner

Thomas Hudnut, Commissioner

STAFF

Scott Chaney, Executive Director

Robert Brodник, Chief Counsel

Jeff Blea, Equine Medical Director

ALSO PRESENT

Josh Rubinstein, Del Mar Thoroughbred Club

Becky Bartling, Sonoma County Fairgrounds

Matt Daly, Sonoma County Fairgrounds

Stacey Lapham, Sonoma County Fair

Larry Swartzlander, CARF, and California State Fair

Moira Kenny, Humboldt County Fair

Justin Oldfield, California Thoroughbred Breeders
Association

Michael Machowsky, Fasig-Tipton

Dino Perez, Pacific Coast Quarter Horse Racing Association

Rick Baedeker, So Cal Off-Track Wagering

APPEARANCES

ALSO PRESENT (cont.)

Scott McFadden, McBears Social Club

Scott Daruty, 1/ST Racing

Bill Nader, Thoroughbred Owners Of California

Ann Grottveit, Kahn, Soares & Conway, LLP

Eric Sindler, Santa Anita Race Track

Drew Cotu, Los Alamitos Race Course

Rick English, Los Alamitos Quarter Horse Racing Association

Christopher Schick, Watch And Wager

Rob Smolich

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15. 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).

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Closed Session:

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

12. Adjournment

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2 P R O C E E D I N G S

3 9:33 A.M.

4 THURSDAY, JUNE 20, 2024

5 CHAIR FERRARO: Ladies and gentlemen, this meeting
6 of the California Horse Racing Board will please come to
7 order. Please take your seats. This is the regular noticed
8 meeting of the California Horse Racing Board on Thursday,
9 June 20th, 2024, at the California Exposition and State Fair
10 Grandstand, Sacramento, California.

11 Present at today's meeting are: myself, Dr.
12 Gregory Ferraro, Chair; also Oscar Gonzales, Vice Chair;
13 Dennis Alfieri, Commissioner; Damascus Castellanos,
14 Commissioner; Brenda Washington Davis, Commissioner; Thomas
15 Hudnut, Commissioner; Wendy Mitchell, Commissioner; and
16 Scott Chaney, Executive Director.

17 Before we go to the business of the meeting, I
18 need to make a few comments.

19 The Board invites public comment on the matters
20 appearing on the meeting agenda. Procedurally, the Board
21 will first hear from those directly involved in the agenda
22 item. I will then invite public comment on agenda items.
23 The Board will not answer questions. This item is for
24 comments from the public, not questions.

25 Unsolicited speakers are limited to two minutes.

1 During all public comments, a tone will sound to indicate
2 the speaker's time is up. The Board may ask questions of
3 individuals who speak, which may extend their two-minute
4 limit.

5 There are public comment sign-in sheets located at
6 the designated table to my right for each agenda item on
7 which the Board invites comments. There is also a sign-in
8 sheet for those wishing to speak during the public comment
9 period for matters not on the Board's agenda if it concerns
10 horse racing in California. Please print your name legibly
11 on all sign-in sheets.

12 When a matter is open for public comment and you
13 come to the podium, introduce yourself by stating your name
14 and organization. This is necessary for the court reporter
15 to have a clear record of all who speak. When your two
16 minutes are up, I'll ask you to return to your seat so that
17 others can be heard.

18 I will insist that all speakers stay strictly on
19 topic for each agenda item. If the speaker strays off
20 topic, I will ask to move on to the next speaker. If a
21 speaker repeats themselves, I will ask if the speaker has
22 any new comments to make. If there are none, the speaker
23 will be asked to let others make comments to the Board.

24 If anyone has comments of a more general nature
25 that are not specific to earlier agenda items, those

1 comments must wait until agenda item number nine, Public
2 Comment. There will be a 30-minute time limit for public
3 comment in order to allow as many individuals to speak as
4 possible within that half hour. I will strictly enforce the
5 two-minute time limit for each unsolicited speaker.

6 And with that, we can move on by starting with
7 approval of the minutes from May 16th, 2024. Do we have a
8 motion on that?

9 COMMISSIONER HUDNUT: I move approval. Hudnut.

10 COMMISSIONER DAVIS: Davis seconds.

11 CHAIR FERRARO: Let's see, who wasn't here?
12 Damascus and Wendy.

13 So Brenda Davis?

14 COMMISSIONER DAVIS: Yes.

15 CHAIR FERRARO: Gonzales?

16 VICE CHAIR GONZALES: Yes.

17 CHAIR FERRARO: Alfieri?

18 COMMISSIONER ALFIERI: Yes.

19 CHAIR FERRARO: Hudnut?

20 COMMISSIONER HUDNUT: Yes.

21 CHAIR FERRARO: And the Chairman votes yes.

22 Item number two, discussion and action by the
23 Board on the Application for License to Conduct a Horse
24 Racing Meeting of the Del Mar Thoroughbred Club at the Del
25 Mar Racetrack, commencing July 10, 2024, through September

1 10, 2024, inclusive.

2 Josh?

3 MR. RUBINSTEIN: Good morning, CHRB Commissioners
4 and staff. Josh Rubenstein with the Del Mar Thoroughbred
5 Club.

6 DMTC's license application for 2024 31-day summer
7 race meet is from July 10th through September 10th. For the
8 first time in our history, we will be opening on a Saturday,
9 July 20th, and that's due to the later closure of the San
10 Diego County Fair on July 7th.

11 Del Mar Summer Meet is the highlight of the
12 state's racing calendar. And while there's always more work
13 to be done, we're extremely proud of our exemplary safety
14 record. Last year we had zero racing fatalities.

15 Our racing product has been among the best in the
16 country, especially over the last two years with our summer
17 meet averaging nine runners per race. We're proud to offer
18 purses averaging \$860,000 a day this summer. Our stakes'
19 schedule is 39 races highlighted by FanDuel Racing Pacific
20 Classic Day on August 31st and that will be five graded
21 stakes races with three Breeders' Cup challenge races, which
22 should be interesting this year as Del Mar hosts the
23 Breeders' Cup on November 1st and 2nd.

24 Once again we're providing industry-leading horse
25 recruitment incentive efforts led by our popular Ship and

1 Win program. This year Ship and Win will be offering out-
2 of-state qualifiers a \$4,000 first starter bonus, and a 40
3 percent purse bonus for all non-stakes races. And it should
4 be noted that the majority of Ship and Win qualifiers are
5 in-state trainers and owners, and the majority of those
6 horses stay in California.

7 We have an aggressive marketing campaign with
8 lifestyle promotions such as craft beer festivals, local
9 arts and food events and college days to drive attendance
10 for non-core racing fans. We're doubling down on social and
11 digital media efforts for a very target approach for all
12 aspects of the race meet.

13 And lastly, we're excited to announce we're
14 continuing our popular Backstretch Meals Program. Last
15 summer, we provided 18,737 free meals to the hard-working
16 men and women of the backstretch. We're expanding the
17 program this year to include meals five days per week. And
18 we'd like to acknowledge and thank the Oak Tree Racing
19 Association and California Thoroughbred Horsemen's
20 Foundation for their generous support of this very
21 meaningful program.

22 And with that, I'm happy to answer any questions
23 you may have.

24 CHAIR FERRARO: Are you going to feed
25 Commissioners too? Will you feed the Commissioners too?

1 MR. RUBINSTEIN: If they're a groom or a hotwalker
2 or an exercise rider, yes.

3 EXECUTIVE DIRECTOR CHANEY: No, less than \$10.

4 COMMISSIONER MITCHELL: Yeah, right.

5 CHAIR FERRARO: Any questions from the Board? No
6 concerts this year either?

7 No concerts this year either?

8 MR. RUBINSTEIN: No concerts this year.

9 CHAIR FERRARO: Do we have public comments? None.
10 Go ahead.

11 EXECUTIVE DIRECTOR CHANEY: Yeah, I kind of did
12 the same thing for the associations last month, so I want to
13 be fair.

14 What are you giving out, average daily purses, and
15 how does it compare to last summer?

16 MR. RUBINSTEIN: So I mentioned the total all-in
17 purse number of \$860,000 a day. Overnights are -- so that
18 includes, obviously, stakes. Overnights are \$480,000 per
19 day, and that is an eight percent reduction from last
20 summer.

21 EXECUTIVE DIRECTOR CHANEY: Got it. Okay. And
22 overpayment, underpayment, what's the purse account like?

23 MR. RUBINSTEIN: So we are a little over \$200,000
24 overpaid. In working with our partners at the TOC, we
25 believe our handle projections should be in line with first

1 generation.

2 EXECUTIVE DIRECTOR CHANEY: Got it. That's all.

3 Thank you.

4 CHAIR FERRARO: The packet's complete?

5 EXECUTIVE DIRECTOR CHANEY: It is.

6 CHAIR FERRARO: Okay. Can we have a motion?

7 COMMISSIONER HUDNUT: I move approval.

8 COMMISSIONER CASTELLANOS: Second.

9 CHAIR FERRARO: Commissioner Davis?

10 COMMISSIONER DAVIS: Yes.

11 CHAIR FERRARO: Commissioner Mitchell?

12 COMMISSIONER MITCHELL: Yes.

13 CHAIR FERRARO: Commissioner Gonzales?

14 VICE CHAIR GONZALES: Yes.

15 CHAIR FERRARO: Commissioner Alfieri?

16 COMMISSIONER ALFIERI: Yes.

17 CHAIR FERRARO: Commissioner Castellanos?

18 COMMISSIONER CASTELLANOS: Yes.

19 CHAIR FERRARO: Commissioner Hudnut?

20 COMMISSIONER HUDNUT: Yes.

21 CHAIR FERRARO: Chairman votes yes.

22 Good luck, Josh.

23 MR. RUBINSTEIN: Thank you.

24 CHAIR FERRARO: Number three, discussion and

25 action by the Board on the Application for License to

1 Conduct a Horse Racing Meeting of the Sonoma County Fair at
2 Santa Rosa, commencing July 31, 2024, and continuing through
3 August 20, 2024, inclusive.

4 Packet complete on this one, too?

5 EXECUTIVE DIRECTOR CHANEY: Yes. Their license
6 packet is complete.

7 I will say we received the CTT agreement and the
8 TOC agreement yesterday. I think it was uploaded into the
9 packet. So if you if you downloaded your Board packet
10 sometime before yesterday, there is a new one on our
11 website.

12 CHAIR FERRARO: Go ahead

13 Thank You Becky Bartling, CEO, Sonoma County
14 Fairgrounds

15 EXECUTIVE DIRECTOR CHANEY: You're welcome to grab
16 another chair --

17 MS. BARTLING: Yeah.

18 EXECUTIVE DIRECTOR CHANEY: -- if you want to and
19 the three of you can sit up front.

20 MR. DALY: I'm all right. I'm good. As long as
21 you can hear me, I'm happy right here.

22 EXECUTIVE DIRECTOR CHANEY: Okay.

23 MR. DALY: So thank you.

24 MS. BARTLING: Do you want to introduce yourself?

25 MR. DALY: Oh, I'm Matt Daly. I'm the COO of the

1 Sonoma County Fair.

2 MS. LAPHAM: Stacey Lapham, Director of Racing for
3 Sonoma County Fair Wine Country Racing.

4 MS. BARTLING: And it's unfortunate that Del Mar
5 went before us, but we will have a fabulous race meet. We
6 were excited last year, our attendance was great, and we
7 have lots of folks that are calling, excited about coming
8 out this year. So although we're not Del Mar, we're Santa
9 Rosa and we're pretty darn good.

10 We have nine days of racing, Friday through
11 Sunday, August 2 through 18. If you remember last year or
12 last fall, you allotted us a third week of racing and we're
13 excited about that. Post times are 1:45 on Friday and
14 Sunday and -- excuse me, Saturday and Sunday and Friday is
15 2:15.

16 Our turf course, we're very proud of our turf
17 course. We're the only racing fair with the turf course and
18 it is in excellent shape. Stacey has worked with our team
19 throughout the year and we expect that our trainers and our
20 owners will find that the course is in great shape. We also
21 have the Duralock safety rail, and all of that is in good
22 shape, too, for safety. Safety is our number one concern.

23 We continue our Dinners in the ark for our
24 horsemen, very popular, and we will be continuing that for
25 the third week as well.

1 We've got some really fun promotions, in addition
2 to our popular daily handicap seminars, which are very, very
3 popular. We have a lot of folks that come out and sit down
4 and learn a little bit about betting and about, you know,
5 how to, you know, actually bet something other than a win,
6 place, and show. We actually have a win, place and show
7 drawing, a t-shirt toss, a second promotion where patrons
8 have the ability to win a prize by submitting their losing
9 ticket into a daily drawing.

10 We have the ever-popular Derby Dog Dash and if you
11 haven't seen that you've got to come watch it. It's pretty
12 entertaining. And if you have a small dog that's under,
13 what is it 18 inches at the Withers, 15, well, whatever,
14 because our two traditional dogs are kind of aging out, so
15 there's a lot of opportunity to win.

16 We have an educational area to teach new racing
17 fans how to wager using the tote machines and then with an
18 incentive \$2.00 voucher. We have promotions with team
19 members that roam the grandstand to assist patrons at the
20 machines. We think that's very important to help folks
21 understand how to bet.

22 And Matt is going to talk a little bit about our
23 marketing.

24 MR. DALY: Yeah, thank you. You know, just our
25 commitment to racing and advertising for it is really

1 important to us. And in addition to our digital program
2 that we normally do, we've added a couple new things this
3 year I think it's important to mention.

4 We're moving into YouTube marketing. YouTube is
5 the second largest search engine in the world right now. We
6 realize that's an important demographic to. So we're
7 actually spending a lot of money on YouTube dropping ads in
8 front of those folks.

9 And Amazon Prime is another one that we're using
10 too. So as you watch Amazon movies on your phone or
11 listening to music, you're going to see Amazon Prime ads for
12 horse racing and the fair. And it's all down to the
13 demographics of the people we want to see these ads.

14 Another area that I'm really proud of is we've
15 created a Spanish-only Facebook page that caters to Spanish
16 folks only. We feel like this is an untapped market, and we
17 want to attract them to the products that we have. We have
18 marketing, digital marketing, that's going out to only the
19 Spanish-setting browser. So if you don't speak English, you
20 set your browser to Spanish, these folks are getting a whole
21 different set of marketing that I think is really important
22 to bring in new customers.

23 So that's just a quick recap of what we're doing
24 to show our commitment to racing.

25 MS. BARTLING: Okay.

1 CHAIR FERRARO: Is that it?

2 MS. BARTLING: That's it.

3 CHAIR FERRARO: Questions from the Board?

4 Public comments? None?

5 Do we have a motion?

6 EXECUTIVE DIRECTOR CHANEY: Can I ask about their
7 purse structure one more time?

8 CHAIR FERRARO: Go ahead.

9 EXECUTIVE DIRECTOR CHANEY: So how much are you
10 giving out each day and how does it compared to last year,
11 and what's the purse account?

12 MS. BARTLING: I am going to let Stacey address
13 that.

14 MS. LAPHAM: So our projections, we went ahead and
15 projected eight percent down on generated purses with the
16 trend that's going on right now, which made us need to cut
17 our purses 15 percent for this year.

18 EXECUTIVE DIRECTOR CHANEY: Is that to make up for
19 an overpayment or --

20 MS. LAPHAM: We definitely have an overpayment
21 riding on the books --

22 EXECUTIVE DIRECTOR CHANEY: Okay.

23 MS. LAPHAM: -- of \$484,000 right now. We're
24 hoping to cut into it and hoping that we were aggressive in
25 our cuts.

1 We are running with the two \$75,000 stakes on the
2 turf like we normally do. And right now, our estimated
3 daily is going to be \$125,000 paid out.

4 EXECUTIVE DIRECTOR CHANEY: \$125,000?

5 MS. LAPHAM: Yeah.

6 EXECUTIVE DIRECTOR CHANEY: Thank you.

7 CHAIR FERRARO: Okay, a motion?

8 COMMISSIONER CASTELLANOS: Castellanos' motion.

9 COMMISSIONER ALFIERI: Second.

10 CHAIR FERRARO: Commissioner Davis?

11 COMMISSIONER DAVIS: Yes.

12 CHAIR FERRARO: Commissioner Mitchell?

13 COMMISSIONER MITCHELL: Yes.

14 CHAIR FERRARO: Commissioner Gonzales.

15 VICE CHAIR GONZALES: Yes.

16 CHAIR FERRARO: Commissioner Alfieri?

17 COMMISSIONER ALFIERI: Yes.

18 CHAIR FERRARO: Mr. Castellanos?

19 COMMISSIONER CASTELLANOS: Yes.

20 CHAIR FERRARO: Commissioner Hudnut?

21 COMMISSIONER HUDNUT: Yes.

22 CHAIR FERRARO: Chairman votes yes.

23 Good luck with your meet.

24 MS. BARTLING: Thank you. Come visit us.

25 COMMISSIONER HUDNUT: Thank you.

1 CHAIR FERRARO: Discussion and action by the Board
2 on the application for license to conduct a horse racing
3 meeting of the Humboldt County Fair at Ferndale, commencing
4 August 21, 2024, and continuing through September 17, 2024,
5 inclusive.

6 EXECUTIVE DIRECTOR CHANEY: We're doing Cal Expo
7 next.

8 CHAIR FERRARO: Pardon me?

9 EXECUTIVE DIRECTOR CHANEY: We're on number four.

10 CHAIR FERRARO: Oh, we're on number four.

11 EXECUTIVE DIRECTOR CHANEY: Yeah, you --

12 CHAIR FERRARO: Excuse me, I skipped --

13 EXECUTIVE DIRECTOR CHANEY: -- you checked it off
14 too quickly.

15 CHAIR FERRARO: I checked it off. All right. Let
16 me backtrack then.

17 Discussion and action by the Board on the
18 Application for License to Conduct a Horse Racing Meeting of
19 the California Exposition and State Fair, Commencing
20 July 10th, 2024, through July 30th, 2024, inclusive.

21 Now we can start.

22 MR. SWARTZLANDER: Good morning, Chairman,
23 Commissioners, Larry Swartzlander, Executive Director of
24 CARF and also the Director of Racing for the California
25 State Fair.

1 Just to outline exactly what -- last year we did
2 lose a week to the heat. This year we'll be moving to a
3 FIVE o'clock post to dampen that concern. I look forward
4 to, at least at the numbers I've looked forward, that the
5 handle should increase significantly. And we're expecting
6 horse population to be much better this year.

7 If anybody's had a chance to see that, we're
8 drawing for Sunday at Pleasanton. Saturday's card that we
9 drew yesterday was one of the strongest cards I've seen in
10 five years. We have almost 900 horses at Pleasanton. And
11 there will be -- also, the population we'll be drawing for
12 here at the California State Fair. The move from Golden
13 Gate Field to Pleasant was excellent. The housing situation
14 has been totally taken care of and I would welcome anybody
15 to come to Pleasant.

16 But back to Cal Expo, we'll again have nine days
17 of racing this year. The purse structure will be totally
18 similar to the Alameda County Fair as far as overnights. We
19 have one stakes race, \$75,000 Governor's Handicap. And as
20 far as the horses we have here, you can see that they're
21 training here this morning, all for auxiliary training, but
22 we only have 75 horses here at Cal Expo. I don't expect
23 many of them to move from Pleasanton. Everybody's moving
24 in, it's their new home, and they're quite satisfied there.
25 And once the Cal Expo meet is over, we'll be closing Cal

1 Expo as a training facility.

2 Just roughly on the marketing side, I've been
3 intimately involved in some of the things that we've done in
4 the grandstand. But just, I'm sure you've all read that,
5 you know, they have \$1 million budget for marketing for Cal
6 Expo, which is quite, quite, quite generous. They're into
7 the broadcast TV, radio advertising, outdoor billboards,
8 digital and social media, awards and recognition and social
9 media.

10 One of the two of the things we do in the
11 grandstand, which really, you know, if you walk in there,
12 there's long lines, we have a Spin to Win. People coming
13 in, when they come into the fair, they get a card that says
14 you'll go to Spin to Win and you can get a free voucher up
15 to \$25.00 or some, you know, token giveaway. And also, we
16 have a Win, Place, and Show Program where it's \$100, \$200,
17 or \$300, and all you do is come in and sign a slip to saying
18 which horse you feel is going to win, place, or show, then
19 we have a drawing after the next to last race.

20 We do the continuous, we used to have \$1.00 beer
21 days, now it's \$3.00. Things have gotten a little more
22 expensive. And we have a Wine Fest and Beer Fest again this
23 year, and everything is looking very positive and that sums
24 up what I have to say.

25 Thank you.

1 CHAIR FERRARO: Just to clarify, what's post time
2 again?

3 MR. SWARTZLANDER: Five o'clock.

4 CHAIR FERRARO: Five o'clock.

5 Any questions from the Board?

6 Public comment?

7 VICE CHAIR GONZALES: Yeah, I have a question, I
8 just got a quick one here.

9 Given the five o'clock post time, and thank you
10 for that Larry, coordinating with Los Al, you guys make sure
11 that you guys aren't bumping into each other?

12 MR. SWARTZLANDER: Yes.

13 VICE CHAIR GONZALES: Okay.

14 MR. SWARTZLANDER: Actually, it's a plus for them
15 because, you know, now a lot of people are entertained that,
16 you know, that we're racing in the north late. And the ones
17 that would normally go home from a Del Mar program or Santa
18 Anita program will stay. I think it's a positive benefit to
19 them. Obviously, they don't get anything from us --

20 VICE CHAIR GONZALES: Yeah.

21 MR. SWARTZLANDER: -- but it's -- and we get
22 nothing from them either, so --

23 VICE CHAIR GONZALES: Okay. Thanks, Larry.

24 EXECUTIVE DIRECTOR CHANEY: I was hoping Tom would
25 be here, because I wanted to thank Cal Expo for their

1 hospitality for these meetings. Obviously, we have a lot of
2 them here, so I just want to -- and I don't think we say it
3 enough, but we really appreciate Cal Expo hosting us.

4 And then kind of the same question: How much are
5 given out in daily purses? And how does it compare to
6 Alameda County Fair, just so the Board can get a sense of
7 like --

8 MR. SWARTZLANDER: It's exactly the same.
9 Overnight it's about \$160,000 to \$180,000 a day. And the
10 purse overpayment, we started the Pleasanton meet with a
11 \$47,000 underpayment. Right now, the first week of
12 Pleasanton, just the Pleasanton meet, regardless of the
13 \$47,000, we're sitting in about \$65,000 underpaid already,
14 first week.

15 EXECUTIVE DIRECTOR CHANEY: Okay. And you plan to
16 pay -- or you kind of plan for some overpayment in
17 Pleasanton and kind of work off of that?

18 MR. SWARTZLANDER: Yeah, excuse me, because
19 Pleasanton, you know, in the history that we've duplicated
20 Golden Gate and that we -- with the population going, most
21 of the horses allowance type go to Pleasanton for sure. We
22 lose a lot of those to Del Mar right after the Pleasanton
23 meet, so we run much -- many more, you know, allowance
24 races, which are the \$28,000 to \$35,000 races.

25 CHAIR FERRARO: Okay. Can we have a motion?

1 COMMISSIONER HUDNUT: So move approval.

2 COMMISSIONER MITCHELL: Second.

3 CHAIR FERRARO: Commissioner Davis?

4 COMMISSIONER DAVIS: Yes.

5 CHAIR FERRARO: Commissioner Mitchell?

6 COMMISSIONER MITCHELL: Yes.

7 CHAIR FERRARO: Commissioner Gonzales?

8 VICE CHAIR GONZALES: Yes.

9 CHAIR FERRARO: Commissioner Alfieri?

10 COMMISSIONER ALFIERI: Yes.

11 CHAIR FERRARO: Commissioner Castellanos?

12 COMMISSIONER CASTELLANOS: Yes.

13 CHAIR FERRARO: Commissioner Hudnut?

14 COMMISSIONER HUDNUT: Yes.

15 CHAIR FERRARO: Chairman votes yes.

16 Good luck, Larry.

17 MR. SWARTZLANDER: Thank you.

18 CHAIR FERRARO: All right, now I'll start again.

19 Discussion and action by the Board on the application for

20 license to conduct a horse racing meeting of the Humboldt

21 County Fair at Ferndale, commencing August 21, 2024, and

22 continuing through September 17, 2024, inclusive.

23 MR. SWARTZLANDER: Again, Larry Swartzlander,

24 Director of Racing, Humboldt County Fair. I'm joined by

25 Moira Kenny, who's the new General Manager of the Humboldt

1 County Fair.

2 The Humboldt County Fair, I know that Commissioner
3 Gonzales has been up there. You all need to come up there.
4 It's truly an event and it's totally unique, it's what I
5 always consider the grassroots of racing, agricultural-
6 based, people have a great time. The stands are packed
7 every day.

8 But going back to the license application, this
9 year there are some changes for Humboldt with the
10 consolidation of Golden Gate racing dates. The summer dates
11 have been consolidated into Santa Rosa, Humboldt, and
12 Fresno. So the Humboldt meet will be three weeks, nine,
13 three, six -- ten days, ten days of racing -- excuse me,
14 eight days of racing. I'm getting Fresno throne in too.

15 Because what we had to do with the -- when we had
16 our TOC agreement, there was a concern that we didn't want
17 to run too much, four weeks at Humboldt, because it took
18 away from the, let's call it the upper class of horses, the
19 conditions that we have that they simply had no place to
20 race at the Humboldt County Fair, and we wanted to limit
21 that and then move right on to Fresno where the allowance
22 conditions would be available for all the continuum of
23 horses we have.

24 So this year we'll be running three weeks, eight
25 days. All three weeks, the first time in my lifetime in

1 Humboldt, is totally un-overlapped. I think this is a
2 financial bonanza for them. You know, the horse population,
3 again, you know, we've changed the whole demographics of the
4 horse population in Northern California. I've never seen
5 the people more united in the North. They understand that
6 fair racing is part of the continuing. Golden State Racing
7 is replacing Golden Gate. And they're here to support both.
8 And part of that is supporting Humboldt County Fair.

9 I know we have an adage that we're labeled as it's
10 Oregon horses, but you're not going to see that this year.
11 You're going to see at least 50 percent, 60 percent of the
12 horses at Humboldt coming from Golden State Racing,
13 Pleasanton.

14 One other change, too, due to the code guidance,
15 that we could only run three weeks at a fair, we have to --
16 excuse me, four weeks, we couldn't run -- licensing, we
17 couldn't have a five-week meet at Pleasanton -- excuse me,
18 Fresno, so we moved one of those weeks from Fresno to
19 Humboldt. So in a license application, you'd see it's four
20 weeks. Three weeks, we actually race at Humboldt. The
21 fourth week, we race at Fresno, but it's called Humboldt at
22 Fresno.

23 Also, the one major change, purses are still the
24 same in Humboldt. Just to give you a gauge, they're about
25 25 percent less than what they are pleasant in at Humboldt.

1 EXECUTIVE DIRECTOR CHANEY: And then how much a
2 day, roughly?

3 MR. SWARTZLANDER: I'd say up there, you're
4 looking at \$80,000 to \$90,000 a day.

5 And one major change that we've looked at is third
6 week when we don't have a fair, that the Humboldt County
7 Marathon will be \$75,000 -- excuse me, \$50,000, where in the
8 past it's been \$25,000. And also, we are riding conditioned
9 allowance races for that weekend, which are the same
10 conditions that you have at Pleasant and the Sacramento
11 Fresno.

12 So this entices horsemen to take the high end of
13 their continuum of horses to Humboldt as well as you know
14 the claimers in the \$5,000 to \$6,000 range, so that that
15 gives them a transition so they're not sitting dead for
16 three weeks. You know, if I had allowance horses in
17 Humboldt that was running, there's concern that there's no
18 place to run them. You just don't have the conditions. But
19 it will be a two-week break but, again, the third week, the
20 conditions will be there. There's a lot of a lot of
21 claimers that we can run during the week the first two weeks
22 of the fair, and then when we go to Fresno everything would
23 be back to status quo when it comes to overnight purses.

24 That's where the marketing is.

25 Moira, I'll turn it over to you now.

1 MS. KENNY: Good morning. Thank you for hearing
2 our license today. I'm Moira Kenny, CEO of the Humboldt
3 County Fair Association, and we are extremely excited about
4 this year's race meet and our annual County Fair.

5 This is our 128th Annual County Fair. With the
6 main two-week events, we will host a variety of fair
7 entertainment, bands, and competitions on the Midway stage.

8 Our fair and race advertising is underway with a
9 focus on an increased social media presence, which we
10 haven't seen as much in the past with the association. The
11 tradition of Ladies Hat Day will continue on the second
12 Saturday and will increase our attendance on average by a
13 minimum of 2,000 attendees. Our third weekend, which we are
14 extremely excited about, we'll host local commercial food
15 vendors, as many as we can pack in, and then we'll have a
16 live band on the midway stage after the races.

17 Thank you for your time.

18 MR. SWARTZLANDER: They also have one of the best
19 barbecue cookoff here.

20 MS. KENNY: Our fish barbecue, fish fry.

21 MR. SWARTZLANDER: Fish fry, also.

22 MS. KENNY: Welcome and thank you. There are
23 three of them.

24 CHAIR FERRARO: Questions from the Board?

25 VICE CHAIR GONZALES: Yeah, I've just got a couple

1 quick ones here, Dr. Ferraro.

2 You know, Larry, regarding the starting date and
3 the parimutuel crews, I know in the past it's you always had
4 to kind of, you know, bring together teams that weren't the
5 same. What can you tell us about who will be up there
6 punching tickets and loading horses?

7 MR. SWARTZLANDER: Well, the starters will be the
8 Union starters.

9 VICE CHAIR GONZALES: That would be a difference,
10 right, from them last because --

11 MR. SWARTZLANDER: Well, that was sort of a
12 transition, Commissioner, from the, you know, the last few
13 years. We tried to get as many Golden Gate starters --

14 VICE CHAIR GONZALES: Yeah.

15 MR. SWARTZLANDER: -- as we could up there, I
16 think. The door was not closed to them, they just simply
17 chose not to come.

18 VICE CHAIR GONZALES: Yeah. And then the clerks,
19 the --

20 MR. SWARTZLANDER: They're all mutuel clerks, too,
21 and local clerks.

22 VICE CHAIR GONZALES: So you're going to have
23 enough?

24 MR. SWARTZLANDER: Yes.

25 VICE CHAIR GONZALES: Okay.

1 You know, one thing is I would just like to
2 propose, Scott, that you and I pull together a call as we
3 get closer just to make sure that, you know, from the
4 stewards to the vets, I mean, this is a different feel, you
5 know, a longer meet, so I just want to make sure that we're
6 providing maximum support and that we make sure that horses
7 and personnel are taken care of.

8 It's an important time to prove yourself, so good
9 luck and make it work.

10 MR. SWARTZLANDER: I appreciate it. Thank you.

11 EXECUTIVE DIRECTOR CHANEY: A few things on that,
12 Mr. Vice Chairman, if I may.

13 We actually, from a CHRB perspective, we kind of
14 like not having the overlap any longer because, you know,
15 we're not spread thin when it comes to racing officials and
16 starters and so on and so forth. It's a cleaner way of
17 doing it --

18 VICE CHAIR GONZALES: Yeah.

19 EXECUTIVE DIRECTOR CHANEY: -- so that's great.

20 The one thing I would mention from a racing safety
21 is that with -- I know oftentimes that horses like to race
22 both weekends when it was two. Just kind of want to caution
23 you folks to be aware that, you know, racing three weekends
24 in a row, if that's the desire, may or may not happen.
25 Obviously --

1 MR. SWARTZLANDER: No, you won't --

2 EXECUTIVE DIRECTOR CHANEY: -- we have three
3 panels now.

4 MR. SWARTZLANDER: -- you won't see that here.

5 EXECUTIVE DIRECTOR CHANEY: -- and the will
6 probably look pretty strictly at those kind of things. So
7 maybe like a first and third weekend or something like that.

8 MR. SWARTZLANDER: Yeah, we work very closely with
9 the stewards on that. You know, I appreciate the safety
10 concerns that, you know, bringing the Oregon horsemen, you
11 know, that they -- let's say they have a different racing
12 mentality than we have and that, you know, they like to
13 race. You know, fair racing, it's just, in the northwest
14 has a different mentality. You know, it's like most of
15 these horses, they only run during the fair and they want to
16 get out there and run every week. So have to tamper that,
17 so --

18 CHAIR FERRARO: Anyone else have any public
19 comment on this? None.

20 Can we have a motion?

21 COMMISSIONER DAVIS: Davis moves.

22 COMMISSIONER ALFIERI: Second.

23 CHAIR FERRARO: Okay. Commissioner Hudnut?

24 COMMISSIONER HUDNUT: Yes.

25 CHAIR FERRARO: Commissioner Castellanos?

1 COMMISSIONER CASTELLANOS: Yes.

2 CHAIR FERRARO: Commissioner Alfieri?

3 COMMISSIONER ALFIERI: Yes.

4 CHAIR FERRARO: Commissioner Gonzales?

5 VICE CHAIR GONZALES: Yes.

6 CHAIR FERRARO: Commissioner Mitchell?

7 COMMISSIONER MITCHELL: Yes.

8 CHAIR FERRARO: Commissioner Davis?

9 COMMISSIONER DAVIS: Yes.

10 CHAIR FERRARO: And the Chairman votes yes.

11 Good luck with your meeting.

12 MR. SWARTZLANDER: Thank you, Commissioners.

13 MS. KENNY: Thank you very much.

14 CHAIR FERRARO: Item number six --

15 COMMISSIONER DAVIS: Good luck with your new job.

16 CHAIR FERRARO: -- discussion and action by the

17 Board of California regarding California Thoroughbred

18 Breeders Association request for authorization of its

19 upcoming horse sale at Alameda County Fairgrounds in

20 Pleasanton, California, pursuant to CHRB Rule 1807,

21 Authorized Horse Sales.

22 Go ahead.

23 MR. OLDFIELD: Good morning, Mr. Chairman,

24 Commissioners. Justin Oldfield, Chairman of the California

25 Thoroughbred Breeders Association, here to request approval

1 for the upcoming Northern California sale.

2 Looking at roughly 115 horses entered as of now,
3 mainly yearlings. We will be using portable stalls in the
4 Amador Pavilion. That pavilion will be fenced to ensure
5 that if a horse does get out of the stall it won't be on the
6 fairgrounds itself or outside the sale area. We've done
7 this in the past and It's worked. Of course, we're doing it
8 a little bit differently this year because we have
9 significant amount of horses coming in to be permanently
10 stabled at Pleasanton, you know, for our race meets moving
11 forward in Northern California.

12 We intend to operate under CHRB requirements as
13 always and would respectfully request your approval.

14 EXECUTIVE DIRECTOR CHANEY: No questions, just
15 when we hold horse sales at regulated facilities, the law
16 requires that the Board approve it.

17 COMMISSIONER HUDNUT: Question.

18 JUDGE SPRAKER: Any questions from the Board?

19 COMMISSIONER HUDNUT: Question: How does that 115
20 number compare with the last couple of years?

21 MR. OLDFIELD: So that number is a little bit down
22 from where we've been in the last couple of years, but is
23 overall, I think, reflective of a good number.

24 One of the things that we are not doing, I think,
25 as big this year as having -- we did have some horses of

1 racing age that were being sold and just based on space we
2 are not doing that. So we are unfortunately trying to
3 balance, obviously, having a good sale with, you know, a
4 good amount of horses who are going to support, you know,
5 our racing efforts in the north. But again, sort of, you
6 know, we also have to manage our space within that pavilion.

7 COMMISSIONER HUDNUT: To what extent has breeding
8 in the north slowed down?

9 MR. OLDFIELD: I guess I'll ask that -- or I'll
10 answer that question anecdotally as not only being the
11 chairman, I'm also a farm owner. I can actually say that the
12 efforts of the Northern California Horsemen, as well as of
13 this Board, have actually stabilized what I would say has
14 been a pretty good breeding year for us.

15 The decisions that were made earlier in the year I
16 think and a strong signal. And I want to be clear, that's
17 not just to benefit the north, but we also saw people see
18 the strength of the decisions that were made also benefit
19 breeding in the south. I see this as being one state, not
20 north versus south.

21 And so I think, you know, we had a good breeding
22 year on our farm. And I know that that was pretty much the
23 case across the entire state.

24 COMMISSIONER HUDNUT: Good news. Thank you.

25 MR. OLDFIELD: Yeah.

1 COMMISSIONER HUDNUT: Thank you.

2 CHAIR FERRARO: Public comment? None.

3 Any other questions from the Board? Motion?

4 VICE CHAIR GONZALES: I'll move. Gonzales.

5 COMMISSIONER CASTELLANOS: Second.

6 CHAIR FERRARO: Commissioner Davis?

7 COMMISSIONER DAVIS: Yes.

8 CHAIR FERRARO: Commissioner Mitchell?

9 COMMISSIONER MITCHELL: Yes.

10 CHAIR FERRARO: Commissioner Gonzales?

11 VICE CHAIR GONZALES: Yes.

12 CHAIR FERRARO: Commissioner Alfieri?

13 COMMISSIONER ALFIERI: Yes.

14 CHAIR FERRARO: Commissioner Castellanos?

15 COMMISSIONER ALFIERI: Yes.

16 CHAIR FERRARO: Commissioner Hudnut?

17 COMMISSIONER HUDNUT: Yes.

18 CHAIR FERRARO: And the Chairman votes yes.

19 MR. OLDFIELD: Thank you very much.

20 CHAIR FERRARO: Good luck with your sale.

21 MR. OLDFIELD: Thank you.

22 CHAIR FERRARO: Okay, discussion and action by the

23 Board regarding Fasig-Tipton's request for authorization of

24 its upcoming horse sale at Fairplex in Pomona, California,

25 pursuant to Rule 1807, Authorized Horse Sales.

1 Michael.

2 MR. MACHOWSKY: Good morning, Commissioner,
3 Chairmen. I'm Michael Machowsky. I'm here representing
4 Fasig-Tipton, requesting approval of our sale at Fairplex on
5 September 24th. Roughly every year, we have about 275
6 yearlings, and we still have entries coming in.

7 CHAIR FERRARO: Scott?

8 EXECUTIVE DIRECTOR CHANEY: Yeah. When do entries
9 close?

10 MR. MACHOWSKY: Entries will close July 5th,
11 technically. You know, there will be a few coming in after
12 that, but they're starting to get them in. But we'll have,
13 you know, a good number of horses in there. And we'll be
14 following the CHRB, you know, regulations for medications,
15 as well as, you know, we will have a veterinary staff on the
16 facilities during the day of the sale.

17 CHAIR FERRARO: Questions from the Board? None?
18 Can I have a motion?

19 COMMISSIONER HUDNUT: So moved.

20 COMMISSIONER CASTELLANOS: Second.

21 CHAIR FERRARO: Commissioner Davis?

22 COMMISSIONER DAVIS: Yes.

23 CHAIR FERRARO: Commissioner Mitchell?

24 COMMISSIONER MITCHELL: Yes.

25 CHAIR FERRARO: Commissioner Gonzales?

1 VICE CHAIR GONZALES: Yes.

2 CHAIR FERRARO: Commissioner Alfieri?

3 COMMISSIONER ALFIERI: Yes.

4 CHAIR FERRARO: Commissioner Castellanos?

5 COMMISSIONER CASTELLANOS: Yes.

6 CHAIR FERRARO: Commissioner Hudnut?

7 COMMISSIONER HUDNUT: Yes.

8 CHAIR FERRARO: And the Chairman votes yes.

9 Good luck with your sale.

10 MR. MACHOWSKY: Thank you very much.

11 CHAIR FERRARO: Discussion and action by the Board

12 regarding the Los Alamitos Equine Sale Company's request for

13 authorization of its upcoming horse sale at Los

14 Alamitos Race Course in Cypress, California, pursuant to

15 CHRB Rule 1807, Authorized Horse Sales.

16 MR. PEREZ: Thank you.

17 CHAIR FERRARO: Good morning.

18 MR. PEREZ: Good morning. Dino Perez with Pacific

19 Coast Quarter Horse Racing Association.

20 This is our 20th year having the sale here at Los

21 Alamitos, the yearling sale. It will be October 5th and

22 6th. Entries close July 1st, so we're a little early right

23 now. We're expecting 200 to 240 yearlings. It's owned by

24 Dr. Allred and Dr. Burns. and we're just seeking your

25 approval for this year sale.

1 CHAIR FERRARO: Questions on the Board?
2 Scott?
3 EXECUTIVE DIRECTOR CHANEY: I have none.
4 CHAIR FERRARO: You have none?
5 How about a motion?
6 COMMISSIONER ALFIERI: So move.
7 COMMISSIONER DAVIS: Davis seconds.
8 CHAIR FERRARO: Commissioner Davis?
9 COMMISSIONER DAVIS: Yes.
10 CHAIR FERRARO: Commissioner Mitchell?
11 COMMISSIONER MITCHELL: Yes.
12 CHAIR FERRARO: Commissioner Gonzales?
13 VICE CHAIR GONZALES: Yes.
14 CHAIR FERRARO: Commissioner Alfieri?
15 COMMISSIONER ALFIERI: Yes.
16 CHAIR FERRARO: Commissioner Castellanos?
17 COMMISSIONER CASTELLANOS: Yes.
18 CHAIR FERRARO: Commissioner Hudnut?
19 COMMISSIONER HUDNUT: Yes.
20 CHAIR FERRARO: The Chairman votes yes.
21 Good luck, gentlemen.
22 MR. PEREZ: Thank you.
23 CHAIR FERRARO: Discussion and action by the Board
24 regarding the law -- oh, no, no, no, no, no.
25 Discussion and action by the Board on the new

1 Application for License to Operate a Minisatellite Wagering
2 Facility at Gaslamp Tavern LLC, San Diego, California, for a
3 period of up to five years.

4 You guys were here last month.

5 EXECUTIVE DIRECTOR CHANEY: Yes.

6 CHAIR FERRARO: And there was a question about
7 your permit for 20 miles.

8 MR. BAEDEKER: Correct, the waiver that was needed
9 from the 42nd Agricultural District to permit the
10 minisatellite in San Diego has been achieved. We have filed
11 that waiver with the Board.

12 CHAIR FERRARO: Questions from the Board?

13 EXECUTIVE DIRECTOR CHANEY: Just one note. The
14 waiver we received yesterday or the day before, it has been
15 uploaded to the Board packet for those who are following
16 along at home. The 22nd Ag is -- obviously, runs the
17 satellite, or at least it's on the 22nd Ag grounds. The
18 waiver could only be granted for one year, which they could
19 do administratively. In order to get the five-year, which
20 is a normal term for a minisatellite license, from what I
21 understand, that requires full Board approval at a public
22 meeting.

23 So my recommendation to the Board would be to
24 grant a one-year license. And that gives Rick and his team
25 a chance to get the five-year waiver, at which time they can

1 come back and get the five-year license.

2 MR. BAEDEKER: Correct. So the CEO of the 22nd
3 has the authority from the broader board to sign a contract
4 for up to one year, so that has been done -- or an
5 agreement, so that has been done. And the full board will
6 meet in, I think it's two or three months. I suppose that's
7 the only way you can do it is to approve it for one year,
8 unless you wanted to prove it on condition of full approval
9 by the full 22nd AG prior to one year.

10 I mean, it's a little it's helpful for the people
11 who are making the investment in Gaslamp to know that, as a
12 matter of fact, they have more of a future than just one
13 year. But, obviously, you're the regulator.

14 EXECUTIVE DIRECTOR CHANEY: I hate to openly
15 disagree with my predecessor in a public meeting. My
16 counsel to the Board would just be grant the one year. I
17 think the benefit, though, of coming back is that you would
18 be granted a five-year license, so it ends up probably
19 being --

20 MR. BAEDEKER: Okay.

21 EXECUTIVE DIRECTOR CHANEY: -- you know, six years
22 total. That's a small consolation.

23 MR. BAEDEKER: Yeah. No, I'm sure it won't be a
24 problem, so --

25 CHAIR FERRARO: Okay. No public comment on this?

1 Any question from the Board? Any other questions?

2 VICE CHAIR GONZALES: Yeah, just a quick point on
3 that.

4 If we could, you know, at a minimum have it
5 reflect in the minutes that we're optimistic, we're hopeful,
6 just so that -- I see your point there, Rick, just given the
7 investors some optimism, I guess, you know? So if we could
8 just say that?

9 MR. BAEDEKER: Yeah. I think if we put ourselves
10 in the position of the investors, who not only are making
11 the business investment here but, you know, they're changing
12 the whole culture of their business.

13 VICE CHAIR GONZALES: Right.

14 MR. BAEDEKER: So it would be comforting for them
15 if they if they knew that the plug would not be pulled
16 somehow after a year.

17 VICE CHAIR GONZALES: Right.

18 MR. BAEDEKER: But we've listened so we
19 understood. We understand the motion.

20 VICE CHAIR GONZALES: Thanks Rick. We'll just say
21 the one year but we're optimistically supportive or
22 whatever, right --

23 MR. BAEDEKER: That's helpful.

24 VICE CHAIR GONZALES: -- just so they know we're
25 on the right path here.

1 MR. BAEDEKER: That's helpful.

2 VICE CHAIR GONZALES: Thanks Rick.

3 CHAIR FERRARO: Yeah, I think you can be confident
4 you'll be okay.

5 Okay, let's have a vote -- or a motion, please.

6 COMMISSIONER HUDNUT: I move approval of one-year
7 license.

8 COMMISSIONER ALFIERI: Second.

9 CHAIR FERRARO: Commissioner Davis?

10 COMMISSIONER DAVIS: Yes.

11 CHAIR FERRARO: Commissioner Mitchell?

12 COMMISSIONER MITCHELL: Yes.

13 CHAIR FERRARO: Commissioner Gonzales?

14 VICE CHAIR GONZALES: Yes.

15 CHAIR FERRARO: Commissioner Alfieri?

16 COMMISSIONER ALFIERI: Yes.

17 CHAIR FERRARO: Commissioner Castellano?

18 COMMISSIONER CASTELLANOS: Yes.

19 CHAIR FERRARO: Commissioner Hudnut?

20 COMMISSIONER HUDNUT: Yes.

21 CHAIR FERRARO: Chairman votes yes.

22 Good luck, Rick.

23 MR. BAEDEKER: Thank you.

24 Discussion and action regarding -- wait a minute.

25 Are we getting ahead of ourselves here?

1 EXECUTIVE DIRECTOR CHANEY: Number ten, Mr.
2 Chairman.

3 CHAIR FERRARO: Number ten, discussion and action
4 by the Board on the new Application for License to Operate
5 a Minisatellite Wagering Facility at McBears Social Club, El
6 Cerrito, California, for a period of up to five years.

7 We can go ahead.

8 MR. BAEDEKER: Yes. Thank you again, Mr.
9 Chairman. And I have with me Mr. Scott McFadden, who is one
10 of the three owners of the facility.

11 And I'm happy to answer any questions that you
12 might have.

13 CHAIR FERRARO: Scott?

14 EXECUTIVE DIRECTOR CHANEY: Sure. Just a note for
15 the Board, the application is complete.

16 Just one note. I think I mentioned this to you,
17 Mr. Chairman, and I actually talked to Rick earlier about
18 it, it's kind of a chicken and an egg problem. Obviously,
19 minisatellites don't like to do capital improvements until
20 they know they're getting a license. At the same time it's
21 awkward to get a license when it's not -- when it doesn't
22 look like a mini-satellite yet and have, you know, sort of
23 the basic infrastructure.

24 Our investigators have gone out there and
25 inspected it once. No problem with the Board granting the

1 five-year license in this case. We just ask that they could
2 have an investigator come out and inspect again before
3 taking wagers.

4 MR. BAEDEKER: Yeah, so if I might just explain
5 kind of the chronology or the timeline of what happens?

6 After your approval, then there's investments made
7 by two groups. First of all, the owner of the facility has
8 to provide an area for the teller with a secure money room
9 for the teller, has to install all of the televisions that
10 are needed, make changes for the seating throughout the
11 facility. At the same time, NOTWINC or SCOTWINC, depending
12 on the location, has to bring in Roberts Communication
13 Company to get the signal downlinked from the roof down to
14 all the decoders. All of that work has to be networked with
15 televisions and, you know, armed money delivery and so for
16 all of those things have to be done.

17 There's probably there's tens of thousands of
18 dollars between the two that will be spent in order to make
19 it operational. So for a site to go ahead and spend that
20 money hoping that the Board will give them a license is
21 putting the cart before the horse.

22 So I think you're probably aware that any of these
23 that have that you have approved in the past always open
24 about four to six weeks or maybe even two months later
25 because all of that work has to be done once they're

1 actually licensed by the state to move forward with
2 wagering.

3 CHAIR FERRARO: So that's your timeline, four to
4 six weeks?

5 MR. BAEDEKER: Yeah. We'd like to we'd like to
6 get to four. Scott can talk about that.

7 MR. MCFADDEN: We've been preparing our security
8 guys, our construction guys. Everybody's just waiting for
9 us to push the button. I hate to use the term, but they're
10 chomping at the bit to get started. And I've been
11 guaranteed two weeks, which from my experience means they'll
12 be done in three, you know?

13 CHAIR FERRARO: Okay.

14 MR. BAEDEKER: Which would be terrific. With Del
15 Mar coming up and the fair season underway --

16 CHAIR FERRARO: Yeah.

17 MR. BAEDEKER: -- that would be very helpful.

18 CHAIR FERRARO: Any questions from the Board?

19 Do we have a public comment on this? None?

20 Can we have a motion?

21 COMMISSIONER DAVIS: Davis moves.

22 COMMISSIONER HUDNUT: Hudnut seconds.

23 CHAIR FERRARO: Commissioner Hudnut?

24 COMMISSIONER HUDNUT: Yes.

25 CHAIR FERRARO: Commissioner Castellanos?

1 COMMISSIONER CASTELLANOS: Yes.

2 CHAIR FERRARO: Commissioner Alfieri?

3 COMMISSIONER ALFIERI: Yes.

4 CHAIR FERRARO: Commissioner Gonzales?

5 VICE CHAIR GONZALES: Yes.

6 CHAIR FERRARO: Commissioner Mitchell?

7 COMMISSIONER MITCHELL: Yes.

8 CHAIR FERRARO: Commissioner Davis?

9 COMMISSIONER DAVIS: Yes.

10 CHAIR FERRARO: Chairman votes yes.

11 Good luck.

12 MR. BAEDEKER: Thank you.

13 MR. MCFADDEN: Thank you very much.

14 CHAIR FERRARO: Now we can go, discussion

15 regarding Computer Assisted Wagering in California. This is

16 just for information for the Board, so we probably won't be

17 voting on anything. We're just getting informed; is that

18 correct?

19 EXECUTIVE DIRECTOR CHANEY: Absolutely, it's just

20 agendized as discussion.

21 As the audience and the Board members know,

22 Computer Assisted Wagering, also known as CAW, is sort of a

23 hot topic in racing and the press and, sort of, it's talked

24 about a fair amount. In my view, it's also very poorly

25 understood. And the Chairman and Vice Chairman have been

1 interested in putting this on the agenda for several months
2 now, there's just never a good time without unduly
3 lengthening meetings. But, you know, without a meeting next
4 month, we thought this was the best way to do it.

5 I've asked Bill Nader, and sitting in front of
6 you, Scott Daruty, who know a fair amount about -- probably
7 the, you know, the country experts, if you will, in Computer
8 Assisted Wagering. I don't know if ask is the right word,
9 but apparently when the regulator asks you to appear at a
10 meeting, that's more like an order than what Scott tells me.

11 So appreciate your time and them showing up. And
12 I think they plan on sort of giving almost like the ABC's
13 tutorial of what Computer Assisted Wagering is, how it works
14 in California, and then of course the Board can ask
15 questions and have a full discussion.

16 MR. DARUTY: Good morning, Scott Daruty with 1/ST
17 Racing. And one of my roles with the company is to act as
18 president of Elite Turf Club and oversee the day-to-day
19 operations of that business.

20 So as Scott said, I was asked/compelled to come
21 this morning and talk about CAW, so happy to give some
22 background. I've got, you know, probably about 20 minutes
23 or so of sort of background and information. I know Bill
24 has some things to say. I'll try not to go on too long. I
25 know there's a really fun item on the agenda next that

1 everybody wants to get to. But since we're having the
2 discussion, we might as well get into enough detail to
3 really understand.

4 So the first thing I want to do is just put a
5 couple of background facts out there. It's going to help
6 our discussion later.

7 So for purposes of my comments this morning, I'm
8 going to assume every wager has a 20 percent takeout. We
9 all know that's not the case. There's lower takeout on win,
10 there's higher takeout on exotics. But it will make the
11 discussion a lot easier if we kind of talk about a
12 hypothetical wager, which is a blend of them all and has a
13 20 percent takeout.

14 The other thing that's important as background is
15 to make sure we're all operating on a consistent
16 understanding of how host fees work in the simulcast
17 business. And so just a quick word on that.

18 When a wager is taken, let's use Santa Anita as
19 our racetrack example, when somebody's at Santa Anita and
20 walks to a window and bets \$100, as we just said, there's
21 \$20 to take out, so \$80.00 gets paid back to the winning
22 players, but that \$20.00 stays at Santa Anita. It's Santa
23 Anita's revenue. It puts money into the purse account. It
24 pays its expenses. It pays some Board support and other
25 items. But it's Santa Anita's money.

1 And that's really the same if it takes place, if
2 the bet takes place in a SCOTWINC location, for example.
3 There's an additional expense in that Santa Anita pays a
4 location fee to that SCOTWINC location, but basically it's
5 Santa Anita's money. And you have to kind of forget that
6 concept when you start talking about a bet that takes place
7 anywhere else in the world outside the state of California.

8 So let's use an example. You walk into a casino
9 in Las Vegas and you bet \$100 on a Santa Anita race. Again,
10 there's \$0.20 of takeout -- or \$20.00 of takeout in my
11 example, but that money is not Santa Anita's. That money is
12 the casino's money. They collected the bet. The \$20.00 of
13 takeout is theirs. The only way money makes its way back to
14 California is through host fees. A host fee is a
15 contractual arrangement between Santa Anita and all the
16 locations throughout the world as to how much money they're
17 going to pay back for the right to take a bet on our race.

18 And the reason I bring this up, there's kind of
19 two reasons, but, you know, first of all, if you look at a
20 typical host fee paid by a Las Vegas casino or by an OTB in
21 New York, you know, for business and confidentiality
22 reasons, I can't talk about exact numbers, but let's just
23 say it's under five percent. So if you bet \$100 at a casino
24 in Nevada, \$5.00 make its way back to the racetrack in
25 California to share with the horsemen and to pay expenses,

1 et cetera, et cetera. That other \$15.00 belongs to the
2 casino in Nevada or the OTB in New York or wherever the case
3 may be.

4 Sometimes they choose to take that money.
5 Obviously, they have to pay their operating expenses and
6 their employees, et cetera. But sometimes if the player
7 bets enough money, they might give the player rebates. They
8 might give them some cash back. If you're in Las Vegas and
9 you bet enough, you might get free hotel rooms, you might
10 get food and beverage. All that stuff is basically coming
11 out of the casinos \$15 of hold.

12 So with that concept, let's start to talk about
13 CAW.

14 First of all, CAW is an out-of-state location;
15 right? These are players who are located around the world
16 or around the country, and in the case of Elite Turf Club,
17 probably 60 percent of the players are international. So
18 again, Santa Anita and the TOC are going to make their
19 revenue through the host fee that's negotiated between Santa
20 Anita and Elite Turf Club. And I will tell you that's
21 roughly twice what, you know, the Nevada Casino pays or a
22 New York OTB pays.

23 So sometimes you'll hear, well, not enough money
24 makes its way back to the tracks. That's actually factually
25 not accurate. And we can talk about whether more, you know,

1 should be making its way back to the tracks. But
2 economically, a bet from Elite Turf Club is worth about
3 twice as much to Santa Anita as a bet from a Las Vegas
4 casino.

5 So that's one concept I just wanted to get out
6 there to begin with.

7 So what is, you know, CAW? What does it really
8 mean? It's, you know, again, it was mentioned earlier, it
9 stands for Computer Assisted Wagering. It's probably not
10 the most poetic name, but for whatever reason, that's sort
11 of what the industry terms these players.

12 These are people who bet, you know, tens of
13 millions, and in some cases hundreds of millions of dollars
14 a year on horse racing in North America. Now that's not all
15 bet on Santa Anita, it's not all bet on California tracks,
16 but if you look at the market as a whole in North America,
17 these players are, by and large, betting every racetrack in
18 the country. They're betting every day, they're betting
19 every race, and that's how they get to that volume of
20 number.

21 If you hear somebody bet a hundred million
22 dollars, It doesn't mean they show up and put a million
23 dollars on a horse. It doesn't even necessarily mean they
24 have a million dollar bankroll. They might have a bankroll
25 of a \$200,000, \$300,000, \$400,000, but it's a lot of churn

1 constantly, every race, every track, every day. And that's
2 how they get up to those numbers.

3 So the basic premise, I think, of this part of the
4 business, is that these players are driven by the rebates
5 they receive. In other words, a lot of us in this room or a
6 lot of people at the racetrack go and they're doing it for
7 entertainment and our expectation is not to make money over
8 the long term.

9 But these are players who are betting not just in
10 the North American pools, but by and large they're betting
11 around the world in the Hong Kong pools and the French
12 pools, and they're good enough at this that they're able to
13 make a profit over time. Now, they don't make a profit by
14 betting \$100 and cashing for \$105 of tickets. That's not
15 how they make their profit. They make their profit through
16 the rebate.

17 So for example, if I'm betting against the takeout
18 and I'm doing just sort of average, we talked about it,
19 there's a 20 percent takeout, so over time I'm going to win
20 80 percent of my money back. The goal of a CAW player is to
21 be good enough and pick enough winning horses that over
22 time, when they bet, they're going to win 90 percent of
23 their money back.

24 Now, you can't make money if you bet \$100 and win
25 \$90.00, but you can if you're getting a rebate. And let's

1 say maybe they're getting an average across all content in
2 North America, a 13 percent rebate. Well, now all of a
3 sudden the economics start to look pretty good. You bet
4 \$100, you win \$90.00, you get a \$13.00 rebate, you're at 103
5 percent. If you could consistently bet on horse racing and
6 get a three percent return, what is your goal? Your goal is
7 to start churning as much money as you can, as many bets
8 every day, to make three percent. And that's their goal.
9 That's what they try to do.

10 Where does the rebate come from? That's one of
11 the big questions. It's a it's a mathematical formula
12 really. You start -- remember Elite Turf Club is a wagering
13 platform, not unlike TVG, not unlike Twi Spires, not unlike
14 Xpressbet; right? Those are all retail wagering platforms.
15 They have contracts with the racetracks that allow them to
16 process wager on the tracks. They have customers. They put
17 the customers into of the track pools, and they take a piece
18 of the action, for lack of a better term. That's how the
19 retail platform makes its money. The retail players play.
20 The tracks get host fees.

21 Elite Turf Club is the exact same thing, just for
22 a very limited number of players who bet a lot. And I'm
23 specifically talking about Elite because, well, one, I serve
24 as president of Elite, but two, if you look at betting in
25 California, California, virtually all CAW play in the

1 California pools comes through Elite Turf Club.

2 The way you get to your rebate, to get back to the
3 point, let's say you have a 13 percent blended rebate as a
4 player, that's because we have a 20 percent takeout. You
5 have to first make sure the host fees get paid. And as I
6 said, in the case of California, let's say that's 8, you
7 know 8 percent all-in kind of costs, that leaves you 12
8 percent. If you're TVG or TwinSpires or Xpressbet, you
9 might want a very big margin because you've got a lot of
10 expenses. Elite's run pretty leanly, so we can operate on a
11 very, very small margin, pay tote fees, just take a little
12 bit. So let's say that's two percent all-in. Well, you've
13 got 20 percent takeout and 8 percent host fee, 2 percent of
14 cost, that leaves you 10 percent, which is given back to the
15 player.

16 Now you have to recognize, a bet on Santa Anita
17 carries a higher host fee. Santa Anita, Del Mar, NYRA,
18 Keeneland, the premium tracks in the country charge higher
19 host fees, so the rebates are going to be a little bit
20 lower. But when you start looking at the Tier 2 tracks
21 across the country, their host fees are lower, which means
22 you walk through that formula, how you calculate a rebate,
23 and the rebate's going to be bigger. So if you look across
24 all content in North America, a 13 percent rebate wouldn't
25 be atypical for a player who's betting that much money.

1 So that's kind of how the economics work. Again,
2 you have to remember, this is all keyed off of the players
3 being smart enough to pick more winners than their, you
4 know, quote, fair share, because they're playing against an
5 80 percent takeout. The math doesn't work if they just do
6 80. You know, if they win back 80 percent, the math doesn't
7 work, they're going to lose, and they're going to stop
8 playing. And we do have players who come in, they try it
9 for a while, they're not making money, and they go away
10 because they're not doing it for entertainment, they're
11 doing it as a business.

12 But without picking the right horses, without
13 picking the winning horses, ultimately this doesn't work.
14 Sometimes there's this perception out there that there's
15 these, you know, computer players and they have these
16 mathematical programs and it's going to always make money no
17 matter what. They're going to arbitrage or they're going to
18 see that.

19 That's not what it is. They still have to pick
20 winning horses. It's doing the same thing a handicapper
21 does at the track. They're assigning a value to every
22 horse. What is the expectation? What is the likelihood of
23 that horse winning the race? If they think it's a 1-in-10
24 chance the horse wins the race, that horse's odds should be
25 9 to 1. If the horse's odds are 8 to 1, they don't bet it.

1 If they're 10 to 1, there's value there and they bet it.

2 That's basically how it works.

3 The difference is when we're sitting there with a
4 racing form and doing our, you know, calculating and our
5 handicapping, it's just us. These are people who are very
6 sophisticated. They're good at what they do. They
7 oftentimes have teams of, you know, from a few people to a
8 few dozen people to a hundred people, helping them in the
9 background, handicapping, looking for data, watching replays
10 of every race, and that's how they get the edge to be able
11 to pick the winning horses more than the average player.

12 One thing I want to talk about is the ownership of
13 Elite Turf Club. So Elite Turf Club is owned by 1/ST Racing
14 and by NYRA. It's owned by the two biggest racing companies
15 in the country. And sometimes I've heard, well, that
16 doesn't make sense, that's a conflict. How can you own the
17 racetrack and also on the platform where the CAW players bet
18 through? Well, let me address that.

19 Go back to 1933 and parimutuel wagering is
20 legalized in California. Who conducted the wagering? Well,
21 the racetrack puts on the races, brings in the customers and
22 conducts the wagering, because it's parimutuel. What
23 happened when we expanded to simulcasting and all of a
24 sudden you have SCOTWINC locations and NOTWINC locations
25 taking bets. Again that's the racetrack. It's the

1 racetrack conducting the wagering.

2 You expand into online betting 20 years ago. Who
3 are the biggest online operators in horse racing? TVG is an
4 exception. They spend a lot of money and they televise all
5 our races, but other than them, TwinSpires, Xpressbet, NYRA
6 Bets, they're all owned by the racetracks. You look around
7 the world, in Hong Kong, in France, it's always the racing
8 industry that conducts the racing.

9 I don't see why CAW would or should be any
10 different. It's not a conflict for the tracks to conduct
11 this wagering, because this is what we always do. And also,
12 it gives us a window into this part of the business. It
13 gives us a direct relationship with our biggest customers.
14 It allows us an understanding that we wouldn't have if there
15 were middlemen conducting this activity. So it's actually
16 the right thing, in my opinion, for the tracks to own Elite.

17 One last sort of concept, and then I'll turn it
18 over to Bill for his remarks, but sometimes I hear these
19 players -- and maybe they are better at picking more correct
20 horses, more winning horses, and maybe they do have a staff
21 of a bunch of people who help them, but still they're
22 winning and that's not fair. Because over time, they're
23 winning and that means the average person at the racetrack
24 isn't going to win as much money. I hear that criticism a
25 lot. Should we let these players who win all this money

1 play in our pools?

2 And I guess I would explain it this way. Let's
3 say if everybody in this room started a parimutuel pool and
4 there's horse races going on outside and we all are betting
5 against ourselves, over time some of us are going to be
6 better than others of us, and someone is going to win.
7 We're going to sit here in three weeks after doing this and
8 we're going to go, hey Bill, you're winning more than
9 everybody else. That's not fair. You can't play anymore.
10 You leave.

11 Okay, now we have a smaller group of people in
12 this room, but the same thing's going to happen. There's
13 going to be a winner, and then we're going to ask that
14 person to leave. It's parimutuel. There are always going
15 to be winners and losers. And if every time someone turns
16 out to be better than this competition, we ask them to
17 leave, we're going to end up with one person sitting in this
18 room betting by himself, and that doesn't work.

19 So I understand the comment. I understand the
20 general concept that, wait a minute, these people are
21 winning, so should we have them in the pool? But I think
22 that example shows you, we can't just ask them to leave.
23 And I think it's a more nuanced approach we need to take.

24 And to me, what do I mean by that? I mean, we
25 have to, first of all, look at what impact they really have

1 as the winning players. And we then have to say, is that
2 acceptable or not acceptable? We're the custodians of the
3 parimutuel pools. And if we think the impact is too much,
4 how do we mitigate that impact?

5 And so I'll give a little bit of math here, but if
6 we assume for a minute that these players constitute 20
7 percent of our parimutuel pools, and that's not too far off
8 for California and it's, you know, to me, it's sort of a
9 target where I'd like to see, if they're 20 percent of the
10 parimutuel pools and they're winning, they're cashing
11 tickets at 90 percent, what's the impact that 20 percent
12 winning at 90 percent is going to have on the other 80
13 percent of the players? It's a mathematical formula. We
14 can walk through it later, but basically, it's a takeout
15 increase of roughly 2.5 percent on the non-winning portion
16 of the parimutuel pool.

17 So if everybody in this room, in my prior example,
18 was throwing darts to pick their horses, over time we'd all
19 win 80 percent of our money back. But if 20 percent of the
20 people in this room are doing a little bit better than
21 throwing darts and winning at 90 percent, 20 percent is
22 winning at 90 percent, the math tells us that the other
23 people in this room are going to walk away with \$0.775 when
24 they bet instead of \$0.80. So it does -- it is an increase
25 in takeout.

1 But remember, in a parimutuel pool, if we ask
2 these players to leave, it doesn't mean that the retail
3 player, you know, picking a horse with a funny name, or at
4 the track for entertainment and always bets their favorite
5 jockey or always bets the number five, if these CAW players
6 leave the pool, those other players, their takeout's not
7 going to go down. They're still going to lose, they're just
8 going to lose their money to the next level of the best
9 player.

10 So I think the important part is not that we look
11 at it and say there's winning players they need to leave,
12 but instead that we look at it and we say, how do we make
13 sure that these players are operating within parameters that
14 we think are healthy for the parimutuel pools? And again in
15 my example that would be if they're 20 percent of the pool
16 and they're winning at 90 percent, yeah, they have some
17 impact but overall it's a balanced market.

18 And how would we control that? Through the price.
19 So for example, if all of a sudden we found at Santa Anita
20 that the CAW players were 30 percent of the pool, well, we
21 can raise the host fee, which reduces their rebate, and with
22 the reduced rebate, they're going to bet less, and that's
23 going to bring that percentage down.

24 So the host fees are sort of the knobs, the dials
25 we turn to make sure that this business stays within the

1 parameters that we feel is healthy for the pool.

2 So that's my bit.

3 CHAIR FERRARO: Can I ask you a couple questions
4 before we go to Bill?

5 MR. DARUTY: Absolutely.

6 CHAIR FERRARO: The platform that these people are
7 betting on is Elite; right?

8 MR. DARUTY: Correct.

9 CHAIR FERRARO: How many other platforms are
10 there?

11 MR. DARUTY: So let me answer that question in a
12 little bit of a roundabout way. This isn't an easy thing to
13 do, to do what these people do. Elite has, let's put it
14 this way, more than 10 customers and less than 20 customers.
15 There might be, you know, 25 people in the world who can do
16 this and do it successfully.

17 So to answer your question, in the retail world,
18 you know, there's Xpressbet, there's TVG, there's
19 TwinSpires, there's NYRA Bets, and they all have different
20 market share. In the CAW part of the world, Churchill Downs
21 owns its own platform called Velocity. The players through
22 Velocity, by and large, bet only on the Churchill content.
23 There's one other operation called RGS, which really doesn't
24 have -- they have CAW players, but they're not betting on
25 California content. And then, you know, Elite, again, has

1 most all of the customers. If you look at the market
2 overall, it's got 85 or 90 percent market share. If you
3 look just specifically in California, it has essentially 100
4 percent market share.

5 CHAIR FERRARO: Okay. And then it seems to me
6 that the biggest complaints we get about CAW is that,
7 depending on the timing of the bet that comes in from the
8 CAW, it changes the odds for the average better and they're
9 upset about that. Can you comment on that?

10 MR. DARUTY: Yes. There's a couple things going
11 on.

12 First, the nature of the parimutuel pools overall
13 is that as more and more wagering moves out of retail, out
14 of brick-and-mortar environments and into online through our
15 ADW companies, more and more bets are coming in towards the
16 very end. So there are large odds movements towards, you
17 know, right, getting towards post time. We've analyzed
18 that, we look at that. Some of that is caused by CAW
19 players, but also a lot of it is caused by retail players
20 betting through other locations around the world.

21 So is CAW part of the problem? Yes. Is it all of
22 the problem? No. Does it take all the blame? Yeah, I
23 think it does. But that's point number one.

24 Point number two, everybody will always complain
25 when the horse they bet at five to one ends up paying four

1 to one. What we never hear about, and we know happens, and
2 we study it, and we see it, is when that five to one horse
3 they bet on ends up at six to one, they take their money and
4 they smile, but you don't hear.

5 And so we do an analysis periodically of the CAW
6 and the impact it has on the win odds. And the way we do
7 the analysis is we look at a given race and we say, what
8 percentage of the pool on that race of the win pool was CAW
9 play? Typically that'll come in in the win pool between 10
10 and 20 percent. Overall, CAWs are a higher percentage of
11 the pool than that but in the win pool, they're between 10
12 percent and 20 percent. Okay, of that 10 and 20 percent
13 that was CAW, how much of it was on the winning horse? And
14 what we will see is sometimes players will end up on the
15 same horse, and that horse will win. And obviously, in that
16 case, the odds of the horse will pay less.

17 But there are plenty of times where we look at the
18 CAW play on a horse, on the winning horse, and it was zero.
19 In other words, they were on the wrong horse. The CAW
20 players bet, they didn't cash. If the odds moved in that
21 case, they would have moved in favor of the retail player
22 because these guys who were all betting a lot of money and
23 all their sophisticated handicapping all told them this one
24 horse was going to win, and the horse didn't win. And so
25 that's the circumstance where of people in the public bet a

1 five to one horse or a six to one horse and it ended up
2 paying seven or eight.

3 So lastly, I'm sorry, long answer to a short
4 question, but in working with the TOC, remember I said
5 earlier, the way you control how much a CAW is going to bet
6 is by the host fee. If you increase the host fee, the
7 rebate goes down, the waging goes down.

8 I believe it was, do you remember when we did it?

9 MR. NADER: September '22.

10 MR. DARUTY: September of '22, we instituted a
11 policy in California, Del Mar falls in it, as well, where we
12 raised the host fee 3.5 percent on win bets for CAW players.
13 So they're actually paying a much higher host fee, meaning
14 they get a much smaller rebate. That brought the amount
15 that they bet down in the win pool, and it has led to a
16 little bit of stability. It didn't solve the problem 100
17 percent, but it has stabilized the odds, so --

18 CHAIR FERRARO: Great. Thanks. Good answer,
19 thank you.

20 Bill?

21 MR. NADER: Good morning, Chairman.

22 COMMISSIONER MITCHELL: I'm sorry. Hang on a
23 second.

24 So you're saying that when you guys, you decide
25 the host fee, or you mess with the host fee, that then

1 that's more money that goes to the track, but you were
2 really owned by the track. So isn't it like from one pocket
3 to the other?

4 MR. DARUTY: Well, I understand the question, but
5 we have to go back to how a rebate is calculated. So if
6 Elite -- and the players don't have their individual
7 relationships with the track. The players have a
8 relationship with Elite, and Elite has the relationship with
9 the track. So if we're paying, Elite is paying 8 percent,
10 and let's say we're going to just hold a 2 percent margin to
11 pay expenses and profit and whatever, on a 20 percent take
12 out it's 20 percent minus the 8 percent host fee minus the 2
13 percent, so there's 10 left over, so we'll give the customer
14 a 10 percent rebate.

15 If we work with the TOC and say, hey, let's raise
16 the host fee 3.5 percent on win to try to bring the amount
17 of win wagering down, now the calculation is there's still a
18 20 percent takeout, now Elite has to pay a 11.5 percent host
19 fee. It still holds the same 2 percent, so it doesn't cost
20 Elite any money more or less. Now you're at, I've lost my
21 way, it was 11.5 plus 2 is 13.5, so the player's going to
22 now get a 6.5 percent host fee -- rebate. The player's
23 going to get a 6.5 percent rebate instead of a 10 percent
24 rebate. The track's going to collect more, but the wagering
25 volume is going to go down.

1 Did we really collect more dollars or not?
2 Probably not, because the wagering is going to go down.
3 You're going to collect a higher percentage on a lower
4 volume of wagering, so it doesn't necessarily create more
5 money for the track. But what it does do is it brings the
6 wagering volume down.

7 So I don't know, does that answer your question?
8 Does that make sense?

9 COMMISSIONER MITCHELL: A little bit. And you are
10 for-profit entity that just is owned by 1/ST Racing?

11 MR. DARUTY: Well, Elite is owned by 1/ST and
12 NYRA. Are we for profit? Yes. Is our profit very small
13 compared to what gets pushed to the racetracks in the terms
14 of host fee? Yeah. I mean, Elite's going to make, you
15 know, a percent or a fraction of a percent on every dollar
16 bet, whereas we just talked about on a win bet in
17 California, Santa Anita, to share with the horsemen, is
18 going to make roughly 10 percent or 11 percent.

19 COMMISSIONER MITCHELL: Yeah, but they have
20 overhead. You have very little.

21 MR. DARUTY: Well, I think that's not accurate.
22 There's quite a bit of overhead running racetracks and
23 running a business.

24 COMMISSIONER MITCHELL: Running racetracks?

25 MR. DARUTY: Yeah.

1 COMMISSIONER MITCHELL: But I'm saying for the
2 betting platform.

3 MR. DARUTY: So are you asking about Elite's cost
4 structure?

5 COMMISSIONER MITCHELL: Yeah.

6 MR. DARUTY: Okay, so let's get into that.

7 We have a staff of employees who service these
8 customers, basically available 24 hours to address issues.
9 There's technology. There's the tote that has to be paid.
10 Everybody always thinks, oh, you have a tote company and
11 it's already there, so whether you bet more or bet less it
12 doesn't matter, your costs are the same, but that's not the
13 case. There's additional cost for incremental turnover.
14 There's servicing of these customers. So, yeah, there's
15 cost.

16 VICE CHAIR GONZALES: Mr. Chairman?

17 COMMISSIONER MITCHELL: But you're making --
18 you're a for-profit entity that is making money.

19 MR. DARUTY: Is that a bad thing?

20 COMMISSIONER MITCHELL: Not at all. I'm just --

21 MR. DARUTY: Okay.

22 COMMISSIONER MITCHELL: -- I'm just trying to
23 Get -- I mean, you hear the purses are overpaid, you know,
24 \$6 million, et cetera, et cetera. So making money in this
25 industry isn't necessarily a done deal by anybody. There's

1 nothing wrong with it, but it's a legitimate question in
2 horse racing. Like, I mean, do all horsemen make money?
3 No. Do all, you know, everyone who's doing this job make
4 money?

5 CHAIR FERRARO: So your adjustment of the host
6 fees is basically trying to make it fair for the
7 commercial -- or for the regular better; right? Is that my
8 understanding?

9 MR. DARUTY: The adjustment of the host fees was
10 to try to keep the wagering volume of these players and the
11 wagering success of these players within parameters that
12 we've determined on balance are healthy. Now, we could have
13 that debate. You could tell me it shouldn't be 20 percent,
14 it should be 10 percent or whatever, and we can have that
15 debate. There's no right or wrong answer to that. But
16 yeah, by adjusting the host fee, we're trying to keep this
17 part of the business within these sort of guide rails.

18 And adjusting the host fee, I guess my point is
19 increasing host fee doesn't always mean more dollars in the
20 purse account.

21 COMMISSIONER MITCHELL: I get that.

22 MR. DARUTY: So that's the balance we're always
23 trying to strike.

24 COMMISSIONER MITCHELL: Right. And you said we
25 can have a discussion about 10 percent versus 20 percent.

1 Really, we can't. We have no involvement in that as the
2 CHRB.

3 MR. DARUTY: Well, yes, you couldn't dictate that.

4 COMMISSIONER MITCHELL: Right.

5 MR. DARUTY: But, you know, we would certainly be
6 interested in your views on that. Ultimately --

7 COMMISSIONER MITCHELL: You felt compelled to come
8 here, but I mean, we're the -- I don't -- I guess I --

9 MR. DARUTY: I'm sorry I made a joke earlier about
10 being compelled.

11 COMMISSIONER MITCHELL: Yeah. We're not funny
12 here. No, I mean, just, you know, like I understand, I
13 don't have a problem with the profit, I don't have a problem
14 with any of it. I'm just -- this is very informative and
15 extremely helpful in understanding all of this. And it
16 should be a regular part of our conversations going forward
17 is that, you know, these should be, you know, regular. And
18 I really appreciate that the Chair and Vice Chair and our
19 Executive Director, you know, compelled you to attend and
20 make -- again, give us this explanation because it's been
21 very informative and I really appreciate it, so thank you.

22 MR. DARUTY: You're welcome.

23 VICE CHAIR GONZALES: Mr. Chairman, I've got a
24 question.

25 Thank you for being here, first of all, very

1 important discussion. And I can't wait to hear how the TOC
2 make sure that there are safeguards.

3 I think about the horsemen. The next agenda item
4 is really talking about, you know, exploring ways to fund
5 important aspects of horse racing, including the Board. So
6 we're now looking at just about every dollar that goes in in
7 and out. And so I think about the rebates and the impact
8 that that has on purses, so that's number one.

9 Number two is, Mr. Fravel sat here a couple
10 meetings ago and really just said we could look at the
11 books. Does that offer hold true to your operation, like if
12 we really wanted to take a look at, you know, what you guys
13 are pulling in profit-wise, you know, certain negotiations,
14 the impact on purse accounts, et cetera? Because I think we
15 have to -- we're going to be looking at everything across
16 the board. I mean, you guys are a pretty important player.

17 And, you know, I should have probably started off
18 by saying that we are pro \$2.00 better, and we're pro CAW
19 big better. Let's just make that very clear, because it
20 typically will be us against other states.

21 So, you know, transparency and impact on the purse
22 accounts is what I'd like for you to just elaborate on.

23 MR. DARUTY: Yeah, good points, and I guess I
24 would answer this way. We work closely with the TOC, so
25 they're aware of what goes on, they approve every deal.

1 Are we willing to, you know, open our books for
2 the CHRB? There's a caveat here, which is our players are
3 private individuals, and their wagers are their own private
4 information, so we wouldn't be comfortable sharing
5 individual player data --

6 VICE CHAIR GONZALES: Okay.

7 MR. DARUTY: -- with you because I just -- that's
8 not really --

9 VICE CHAIR GONZALES: Yeah --

10 MR. DARUTY: -- part of the -- yeah.

11 VICE CHAIR GONZALES: By the way, I totally agree
12 on the confidentiality there, but there's all, you know,
13 there's numbers.

14 MR. DARUTY: As far as --

15 VICE CHAIR GONZALES: So if we could see --

16 MR. DARUTY: Yeah. So as far as the entity
17 itself, again, what is Elite? Elite is no different than
18 TVG or TwinSpires or Xpressbet.

19 So would, you know, again, under the regulatory
20 authority of this agency, would we be open with you on that?

21 Yes, we would be. Would I then wonder whether the same,
22 you know, diligence would take place of TVG and TwinSpires
23 and Xpressbet? I guess it would be a fair question to
24 Say --

25 VICE CHAIR GONZALES: Right.

1 MR. DARUTY: -- if you're going to look at us, are
2 you going to look at them? But let me preface that by
3 saying, yes, we will cooperate in any way you want because
4 there's no there's no secrets her. We're not hiding
5 anything.

6 And again, I stress the fact that Elite Turf Club
7 existed before 1/ST owned it. It was started by, you know,
8 a couple of businessmen and they created this business. And
9 Elite and NYRA -- or sorry 1/ST and NYRA stepped up and
10 basically wrote the check that was necessary to buy this
11 business because we thought it important that we have a
12 direct relationship with the biggest customers in the
13 industry and that we have the visibility. If we didn't own
14 Elite, I wouldn't be sitting here explaining these things to
15 you because we wouldn't know about them.

16 And so we bought Elite and we operate Elite as
17 part of the industry, as an extension of our racetracks.
18 And in that spirit, again, yes, of course we'd cooperate
19 with the CHRB however you would like.

20 VICE CHAIR GONZALES: Okay. Thank you for that.
21 And then, well, we can and Bill can get into the
22 partnership. Because, TOC, you're the only thing that
23 stands between this profit-making operation and the
24 horsemen, really. I mean, this is like -- and CTT back
25 there. I know CTBA folks are here. I know Jockeys' Guild

1 people, et cetera.

2 I mean, this is an important revenue stream here
3 that I hope TOC is looking at this to the best their ability
4 and making sure that horsemen get their fair share because
5 they are, in my opinion, the product. They are the ones
6 that are putting on the show. I really respect racetrack
7 management. I respect all the technology. But the blocking
8 and tackling on the day-to-day basis goes toward the
9 horsemen.

10 So you know I just wanted to say, Bill, as you do
11 your wind up here that that's what I'm going to be focusing
12 on, is are you guys doing your job to take care of the
13 horsemen and the force women as it relates to this platform?

14 EXECUTIVE DIRECTOR CHANEY: And if I can jump in,
15 I think that's the perfect segue, Mr. Vice Chairman, to kind
16 of the TOC's role; right? So when you say 20 percent stays
17 with the track, that doesn't mean 20 percent goes in Aidan
18 Butler's pocket; right? It means after all the
19 distributions and you pay for Board support and so on, you
20 divide that money in half; right?

21 MR. NADER: Correct.

22 EXECUTIVE DIRECTOR CHANEY: So that half does go
23 in Aiden Butler's pocket, just to make a joke, but the other
24 half goes to purses and that's what you care about.

25 Is that a fair statement Bill?

1 MR. NADER: Yeah.

2 EXECUTIVE DIRECTOR CHANEY: Okay.

3 MR. NADER: Well, first, good morning, Chairman
4 and members. And I'm happy that we're having this
5 discussion because I think it's really important. And when
6 Executive Director Chaney called I you know, he had me at
7 hello. I thought this is a good forum to do it, probably
8 overdue.

9 So, Chairman, your point about odds changes being
10 late, I mean, I can go back to when I worked at NYRA in New
11 York, and I would guess it had to be either 2003 or 2004,
12 and I made the decision then, you mentioned RGS, which at
13 that point was one of the -- was probably the biggest CAW,
14 we made the decision then, it was 20 years ago, that we
15 would cut off their wagering at One Minute to Post on win-
16 place-show and exacta betting, because back then their focus
17 was on the single-race pools. And the complaints back then
18 that I was receiving were not just on the win odds but also
19 on the exact probable pays.

20 So I only cite that because 20 years later it
21 still does irritate some customers. But to be fair to CAW,
22 I think some of it has to do with the lag time in the tote.
23 The bets all close before the gates open, but the processing
24 time to tabulate that last cycle of bets, and even in terms
25 of the dissemination when it goes to TVG, the lag time to

1 get it up to TVG.

2 So it's something that the industry has to
3 continue to work on, on the level of technology the tote and
4 transmission to try to fix that. And I think there has been
5 a lot of progress, but probably still some work to be done
6 across all the totes, not just one tote, but all the totes,
7 because everyone's coming in to one pool. It's a commingled
8 pool that's parimutuel bedding, so it's all coming in from
9 all across the country.

10 And that final cycle sometimes is -- well, not
11 sometimes, it is the reason why sometimes there is a bit of
12 a delay in coming to the final odds and you might see a
13 slight change while the race is being run, but that
14 problem's been around for a long, long time. And again, I
15 think there has been progress, but it's not complete.

16 Now, some of the things I'm going to say will
17 probably be repetitive to what Scott said, but I'll be
18 quick. And just the things that I do repeat, I think it's
19 because they bear repeating.

20 One thing is when CAW first came on the scene a
21 couple of decades ago, there were those who questioned, is
22 it something that passes legal muster? Is it really
23 something that's legitimate? And I think we've moved past
24 that.

25 Each CAW participant, team, or syndicate, or

1 whatever player, is subject to a TRA background check before
2 they are authorized to be able to bet. And they're assigned
3 their own customer code and their bets are tracked. So I
4 think there is integrity in the process and people who have
5 moved past whether they deserve a chance, and certainly that
6 discussion doesn't take place anymore. I think everyone
7 accepts that they're part of the wagering landscape.

8 I would cite, again, for background, four key
9 factors that I would say determine the amount of CAW handle
10 in total and for each individual participant. One is
11 pricing, that Scott talked about.

12 The other one is liquidity in the betting pools;
13 right? They need liquidity, and that will help determine
14 how much they can invest, because they don't want to be
15 betting against each other or betting against themselves.
16 So liquidity in the pools is a big factor.

17 And the other thing is access. They have to have
18 access to the pools and the ability to get their bets in.
19 In some cases, there are some racing associations that might
20 say you can't bet into the late Pick 5 or the Pick 6. So
21 when I say access, it's not just access to bet on our
22 content, but even by bet type.

23 The other thing is the appeal of the content, you
24 know, how good is the quality of racing? Is it competitive?
25 That would be a factor as well.

1 And access, I would say is, I want to come back to
2 that, is simply the contractual agreement to bet into the
3 pools and the mechanics of how that works. But they would
4 look at and make their own assessment in terms of appeal,
5 meaning competitiveness and quality, and liquidity is very
6 clear. They'll see that race in, race out, how deep the
7 pools are, and that will factor into the size of their bets.

8 Now, I would say pricing and liquidity are going
9 to work together. Looking first at pricing, I think the CAW
10 segment has done a good job over the years negotiating fee
11 structures with the tracks that benefit their business. And
12 this has resulted, over the last 15 years or so, of an
13 increase in their market share across the country and across
14 the world.

15 Now, as Scott said, the higher the cost, the lower
16 their handle. The lower the cost, the higher their handle.
17 And I'll come to it later, because I think it is a key point
18 that, from our perspective, we want to see the relationship
19 of CAW across all segments. You know, and all segments, I
20 would define as CAW, then below that there's high volume,
21 then there's the core customers, and then there's the retail
22 market. So we look at it wholistically in that complete
23 context to really understand what the equilibrium should
24 look like.

25 Now, the price is subject to negotiation. Scott

1 talked about host fee. But in California, I want to dig a
2 little deeper in that, host fee, for us, and for the player
3 that is negotiating the deals, they're not concerned with
4 the inner specifics of California, they're just looking at
5 what the total fee is. But for us in the room, you have the
6 host fee, you have the Workers' Comp fee, and you have the
7 purse fee. So the purse fee is SB 1072, which goes back 15
8 years ago. Workers' Comp is a half a percent on all exotic
9 handle. So that's all combined together.

10 And so for CAW, let's call that the total fee, but
11 for this group, to understand what's in there, half a point
12 is going to be Workers' Comp on all exotic bets, and they
13 bet a lot on the exotics, that's the vast majority of their
14 betting. What's not exotic would be single-race bet types,
15 win, place, show, exacta. Everything else is going to be in
16 the exotic category, and that's going to be half a percent
17 additional specific to California. And the purse fee is
18 something else, and that amount, whatever the purse fee is,
19 to Vice Chairman's point, goes 100 percent to purses,
20 whereas in the host fee, we'll share basically 50-50 with
21 the track commissions.

22 Now, the rebate, which has been talked about, I
23 just want to go through that one more time. Scott uses the
24 blended take-out rate of 20 percent, which I think is the
25 right number, close enough. In Southern California, though,

1 just to show you the range, it's 15.43 on win, place, show,
2 and it's 23.68 on the exotics, so the difference is 8
3 percent; right? There's a big range there. It blends the
4 20.

5 And the betting of CAW through the years has moved
6 more to the higher takeouts because they're looking for
7 liquidity in those pools, and then their rebate on those
8 particular pools would be bigger; right? 23.68 less the fee
9 gives them a little bit more margin to work with.

10 Scott may say, well, that's irrelevant, it doesn't
11 matter, but that's where, the main point I'm making is
12 that's where the percentage of their wagering is heavily
13 skewed to the exotic bet types.

14 Now, over the past year, I'd say the TOC has taken
15 a real hard look at CAW. And we've had long discussions
16 with the track partners and we've agreed to make pricing
17 adjustments or adjustments that will be implemented at the
18 start of the summer meet at Del Mar. So, you know,
19 sometimes the discussions, you know, we'll really roll up
20 our sleeves and really go at it. But I think we've got a
21 good outcome here, and for the Del Mar summer meet, I think
22 we'll see some of those adjustments.

23 And hopefully the other segments step up and bet
24 more, meaning retail, core, and some of our high-volume
25 customers, because they find those pools now more

1 attractive. We'll see. We'll find out, but we hope it does
2 have a positive impact across all segments.

3 When we look at takeout, we look at effective
4 takeout and its impact across all the customer segments.
5 And I think that's something you were hitting on. We're
6 looking at, if there's a blended takeout of, as Scott said,
7 20 percent, and that mix ranges between 15.43 and 23.68,
8 we've got to be reminded that the parimutuel wagering and
9 co-mingled pools, it's interchangeable. It's simply
10 combining all the bets into one pool. We have, you know, a
11 uniformed way to determine the payouts and the distribution
12 of the money from those pools based on the relative odds and
13 the takeout rates; right?

14 So again, if the takeout rate is 15.43 in the win
15 pool, it's 84.57 back to the bettors. If I have a losing
16 bet, well, it doesn't matter, I've lost, so I'm done. But
17 if I have a winning bet, okay, but over the course, then the
18 takeout is also less important to me because I've won money,
19 so my ROI is positive. But as you go through the whole day
20 or a month or a year, and Scott mentions CAW at about a 90
21 percent return and what that means on the other segments,
22 again, we've always had in horse racing at every stage more
23 skilled players than others. I take that point.

24 This has taken it to another level because the
25 market share of CAW, let's say it's more like 25 percent in

1 California or something about 25 percent, and they're
2 winning at a rate of, say, 90 to 92 percent, it is going to
3 impact the other segments, there's no doubt about that. So
4 what we're trying to do is make sure that the core customers
5 and the retail market is not feeling too much of a pinch,
6 because if they are, and their money drives up too quickly,
7 or their experience is not up to their expectation, then we
8 do run the risk that they'll go away. And that's not good
9 for anyone, including CAW, because CAW needs a robust retail
10 market to deliver them a sustainable business model.

11 So even talking to CAW, they would agree that that
12 balance has to be protected and preserved, otherwise
13 everyone is going to be worse off, including them in the
14 long run.

15 And that's why pricing is so important, and that's
16 why we have, over the last year, made this a real priority
17 in terms of determining what is right for market share,
18 what's right for the impact on the other segments. It's
19 very complex to really look at it, and people will have
20 different interpretations. But ours is pretty clear, and
21 we've made our voice pretty loud in the process, and I think
22 that we are making progress. And it is a partnership,
23 working with the tracks. But we also have to remember our
24 role and our duty to protect not just CAW, but all the
25 segments at every level to make sure that, again, we have

1 that equilibrium right.

2 Well, in closing, before, you know, we open it up
3 to any questions you might have for me, I just want to
4 ensure the Board that we've made it a priority and we'll
5 continue to fight.

6 Now, when we talk, the last thing I would say,
7 when we talk about host fees, it is a 50-50 split, basically
8 between track commissions and purses.

9 To Commissioner Mitchell's point about the purse
10 account and also the vice Chairman, we totally get it. And
11 we're fighting very hard for our horsemen and horsewomen and
12 our purse structure to make sure that we're being treated
13 fairly in the whole process. And we have to look at it from
14 our lens, as well as their lens, and really come together
15 and find common ground that we're doing the right thing.

16 I think our pricing in California, just to give
17 you some comfort, is about the highest in the country.
18 We're right up there. But it's also relative to takeout
19 rates. If your takeout rate is 23.68 on exotics, and it's
20 22 in Kentucky, then there's a 1.68 extra there.

21 So, we have to look at it from, you know,
22 basically every piece of the puzzle, pull it together, and
23 make it as fair and equitable, and make sure that that
24 return to purses and for our owners and for the state of
25 California is something that we believe is truly equitable.

1 CHAIR FERRARO: Thank you, Bill.

2 Any questions from the Board?

3 VICE CHAIR GONZALES: Yeah, just thank you very
4 much for that, Bill. Very, very helpful and insightful
5 information.

6 I want to make sure that, one, we're very lucky to
7 have you, Bill. I've said that a few other times.
8 California we're very lucky to have you at the helm. I want
9 to make sure that you know that this Board here would be
10 fully supportive of you as a leader to negotiate the best
11 deal possible for the horsemen.

12 You know, it just kind of occurred to me and, you
13 know, probably, you know, with 1/ST Racing, you guys you
14 have a lot of different platforms, you've got the racetrack,
15 but you guys now have MyRacehorse. You guys actually, you
16 guys own horses. So there's a good chance that some
17 MyRacehorse owners would be on your board or be TOC members;
18 right, Bill?

19 MR. NADER: Well, I don't think we have
20 MyRacehorse owners on the board, but we have, you know, we
21 have little red feather --

22 VICE CHAIR GONZALES: The micro force.

23 MR. NADER: -- like Gary Fenton --

24 VICE CHAIR GONZALES: Right.

25 MR. NADER: -- the Chair.

1 VICE CHAIR GONZALES: Right. Right.

2 MR. NADER: (Indiscernible.)

3 VICE CHAIR GONZALES: I just want to make sure
4 that you know that you have a job to do for the horsemen,
5 and that hopefully there's no other kind of influences in
6 and around the TOC that would compromise any kind of
7 negotiation. So I just want to make sure --

8 MR. NADER: The TOC Board is fully behind us. I
9 mean, we have their complete support, and we're completely
10 aligned.

11 VICE CHAIR GONZALES: Okay.

12 MR. NADER: I mean, we're on the same page.

13 VICE CHAIR GONZALES: Okay, Bill, that's fine.
14 What I caught, what you said earlier, you guys are taking a
15 hard look this past year. But in years prior, there was no
16 hard look being taken. I mean, that's just, that's what you
17 said.

18 MR. NADER: Well, when I came in --

19 VICE CHAIR GONZALES: So I'm glad that --

20 MR. NADER: -- when I came in --

21 VICE CHAIR GONZALES: -- I'm just glad that --

22 MR. NADER: No.

23 VICE CHAIR GONZALES: -- what I'm glad is that you
24 guys are taking a hard look now.

25 MR. NADER: Now, when I when I came in --

1 VICE CHAIR GONZALES: And it is now, that it's not
2 happened before, that's all I'm saying.

3 MR. NADER: Yeah. When I came in and took the
4 job --

5 VICE CHAIR GONZALES: That's right.

6 MR. NADER: -- we agreed, even going through the
7 interview process, we agreed that this was going to be a
8 priority when I stepped in. So, and then and to be fair,
9 similar to probably a lot of people in the room, it's a
10 very -- the complexities of this is, even for our board
11 members --

12 VICE CHAIR GONZALES: Yeah.

13 MR. NADER: -- they're being informed maybe for
14 the first time. So it's not something that -- as much as
15 they've been in the sport for a long time and they're
16 heavily invested, sometimes this is hard to really
17 understand.

18 VICE CHAIR GONZALES: Okay.

19 CHAIR FERRARO: Commissioner Hudnut?

20 COMMISSIONER HUDNUT: I first would like to thank
21 the gentlemen for an extraordinarily lucid presentation.
22 It's really been very, very helpful.

23 CHAIR FERRARO: Yeah.

24 COMMISSIONER HUDNUT: We've been able to learn a
25 lot.

1 As I understand it, when the host fee is raised,
2 betting on win, place, show goes down, which means that the
3 odds are somewhat truer for the average horse player.

4 My question has to do with the spread of CAW
5 wagers that are not going to WPS or the exactas, that are
6 not going to single-race bets but are going to what Bill
7 lumped together as the exotics. But which are the exotics
8 that are attracting the big play? Is it the Pick 4s, Pick
9 5s, Pick 3s, Pick 6s, trifectas? Where is the smart money
10 going, Scott?

11 MR. DARUTY: It's going to all of those, really,
12 truly, truly.

13 COMMISSIONER HUDNUT: Relatively equally?

14 MR. DARUTY: Well, there are different players. I
15 wouldn't say that every player bets the same as every other
16 player.

17 COMMISSIONER HUDNUT: Right.

18 MR. DARUTY: They have very different skills.
19 They have very different strengths. And so some may focus
20 more on, you know, Pick 4s, 5s, and 6s. Some may focus more
21 on vertical bets within a race, superfectas, for example.

22 COMMISSIONER HUDNUT: Um-hmm.

23 MR. DARUTY: So as I sit here, I apologize, I
24 don't have all the numbers in front of me, so I can't tell
25 you exactly what percentage goes in each pool, but I can

1 tell you that all pools are bet very extensively by the CAW
2 players.

3 MR. NADER: One thing I'd add, Commissioner,
4 remember the Pick 5 is only offered twice a day, and the
5 Pick 6 is once a day; right? They don't have the frequency
6 of some of the other bet types, like win, place, show,
7 exacta, even daily double. The double is going to be there,
8 rolling doubles, rolling Pick 3s. But, yeah, they're
9 focused, they're zeroed in on those pick end pools.

10 CHAIR FERRARO: Gentlemen, thank you very much.
11 It's been great --

12 EXECUTIVE DIRECTOR CHANEY: Can I ask a few
13 questions? I'm sorry.

14 CHAIR FERRARO: Yeah, we need to move on, but go
15 ahead.

16 EXECUTIVE DIRECTOR CHANEY: We can do it at
17 another meeting.

18 VICE CHAIR GONZALES: No, no, no, you need to ask,
19 Scott. Are you kidding me?

20 EXECUTIVE DIRECTOR CHANEY: Okay, I'll pick out
21 the most important ones.

22 COMMISSIONER MITCHELL: Yes.

23 What's an ideal percentage of CAW wagering? And I
24 know it varies from pool to pool, so maybe you can talk
25 about blended total. And then, should the market control

1 that or should regulators have a role in controlling that
2 number? Because obviously we're not -- occasionally you
3 hear CAW should go away. That's not a thing; right? CAW is
4 here to stay and they're actually healthy and it promotes
5 pools and increases purses, but there is a level at which it
6 becomes, the whole thing falls apart; right?

7 MR. DARUTY: So let me take a shot and then Bill
8 can answer.

9 Again, I don't know that there is any perfect
10 answer to what percentage of the pool they should be. I've
11 spent a lot of time studying this and operating in the
12 space, and to me it's around the 20 percent mark. I can
13 tell you that if we want to look at other markets around the
14 world, in France, where the PMU has a market size that's
15 about the same as the U.S., they have established that this
16 play will not exceed 11 percent of their pool. And they
17 basically put caps on how much these players can bet. And
18 having seen how that market has reacted, I think it's too
19 much.

20 You don't want to create an incentive, I mean,
21 unless we get to the point where we say we're going to turn
22 away people at the window at Santa Anita, which I don't
23 think that'll ever be the case. But unless you say that,
24 you've got to realize these people are very serious about
25 getting their money down. And, if we were to say, okay,

1 through Elite, you're only allowed to bet to 11 percent,
2 they're going to show up at the track, or they will have,
3 you know, somebody on their behalf show up at the track and
4 bet through the windows. Now, that might be a good thing,
5 that might be a bad thing, and again, that's something we
6 can debate and talk about.

7 But, is it going to limit the impact on the retail
8 player? if you're doing it to try to limit the impact on
9 the retail player, I don't think that will be successful
10 because they will still get into the pool, and maybe they'll
11 get lower rebates, but they'll still get in.

12 EXECUTIVE DIRECTOR CHANEY: Okay. Is your number
13 around 20 percent too, Bill?

14 MR. NADER: Yeah, I think that's fair.

15 EXECUTIVE DIRECTOR CHANEY: Okay.

16 MR. NADER: You know, I think it's higher than 20
17 now, but I do think that's probably right.

18 I'll give you an example. July 9th, 2023, last
19 day at Pleasanton, 10 races, 79 runners, I got this in my
20 head, so they had good field sizes. Their host fee would be
21 lower than Southern California because it's CARF. Their
22 takeout is higher, as we know, because it's CARF takeout.
23 So for the CAW player, it's the perfect storm; right?

24 There's a mandatory payout in the Pick 6, so they
25 bet. The total pool in the Pick 6 that day was like

1 \$443,000, so a lot of money in the Pick 6. Good field
2 sizes, so competitive racing. The quality was up because
3 they had two pretty good stakes on the day, plus the good
4 fields. Again, the higher takeout, the lower host fee.

5 So I don't even want to guess what percentage of
6 the pool there were on that particular day, but I would
7 guess it had to be probably at least 35 percent.

8 EXECUTIVE DIRECTOR CHANEY: And then just lastly,
9 sorry, Mr. Chairman, in addition to host fees, messing with
10 host fees, as Commissioner Mitchell said, there are other
11 ways of kind of like controlling amounts. Like I've heard,
12 like not precluding CAWs from certain types of wagers, maybe
13 even like a win, you know, a win wager, so you kind of
14 control late odds drops sometimes. I've also heard about
15 changing like the rebate number as you get closer to post to
16 kind of combat that, so all the money doesn't rush in at the
17 end.

18 Do you think those types of things happen, and are
19 there others that can also kind of control the amount?

20 MR. DARUTY: So let me give you two specific
21 examples. NYRA has adopted a policy that, basically, these
22 players cannot bet closer to post than two minutes in the
23 win pool.

24 COMMISSIONER HUDNUT: Win pool?

25 MR. DARUTY: In the win pool. All the other pools

1 remain available up to the last moment.

2 I don't know how successful that is. Because when
3 you think about it logically, what is the easiest bet to get
4 down? The win bet. Through an online account, a regular
5 retail, whether it's Twin Spires or TVG or Xpressbet or
6 whoever, you can open an account and you can get your bet
7 down after that two minutes if you're a CAW player.

8 It kind of comes to what is a CAW player? So in
9 other In other words, if I'm betting through Elite and I'm
10 using a data feed to feed into my, you know, program and to
11 help generate the bets, and then I send it back out to the
12 tote and I'm betting over certain speeds so I'm defined as
13 CAW, if I show up at the racetrack and bet through the
14 window, are we going to turn that person away and say, no,
15 you're a CAW when you bet the other way so we're not going
16 to let you bet the regular way?

17 And I think the answer to that is no. I've sort
18 of had that debate with people and discussed it with people,
19 and it doesn't seem to make sense. So if you put a
20 restriction that just sends them in a different door, but
21 they're still getting in the building, what difference has
22 it really made?

23 So my belief is that the NYRA approach to say you
24 can only bet if you bet before two minutes isn't a
25 successful approach to solve the problem. It may solve the

1 perception, because you can go to the public and go, hey, we
2 don't have CAW in our pools after two minutes. But if the
3 same people are getting their bets down some other way, did
4 you really solved the problem? No.

5 What we did in working with the TOC, they were
6 very involved, as was Delmar and as was others in the
7 California industry, in California, we adopted a policy that
8 said, you can bet whenever you want to bet in the win pool.
9 If you bet early, we'll actually reduce our price a little
10 bit, which means you get a little bit bigger rebate, so
11 you're incented to go early. If you wait late, we're
12 increasing our price, which means your rebate is reduced.

13 So we've tried to deal with it economically to
14 give the economic incentive to get in earlier. And to be
15 honest, that hasn't been 100 percent successful either,
16 which tells me we need to keep working to find the best
17 solution.

18 EXECUTIVE DIRECTOR CHANEY: Thank you.

19 CHAIR FERRARO: Okay, gentlemen, thanks a lot.

20 MR. DARUTY: Thank you.

21 CHAIR FERRARO: We need to move on.

22 VICE CHAIR GONZALES: Thank you.

23 CHAIR FERRARO: We really appreciate this.

24 COMMISSIONER DAVIS: Thank you.

25 VICE CHAIR GONZALES: Mr. Chairman, I want to make

1 a recommendation. but thank you, guys. Thank you, guys.

2 Because there's a lot of questions, it sounded
3 like even our own Executive Director had some, could we
4 compile these questions, maybe over a one-week period, and
5 then get them back to Bill and Scott for answering just so
6 we further our knowledge base?

7 CHAIR FERRARO: That would be fine. I don't
8 see --

9 EXECUTIVE DIRECTOR CHANEY: Scott, I mean, if
10 anyone in the public or anybody wants to see them, maybe you
11 send it to Mike Marten or --

12 EXECUTIVE DIRECTOR CHANEY: Or public inquiries
13 box. Yeah, we have that on our website.

14 VICE CHAIR GONZALES: Okay, yeah, we'll compile
15 it, lots of questions, we'll get, you know, a better
16 understanding of this. But we definitely need, you know,
17 people who track and follow this and, you know, I guess are
18 more so experts on this to help us understand.

19 CHAIR FERRARO: Okay, the next item is going to
20 take quite a bit of time, I'm sure, so let's take a ten-
21 minute break now and we'll get back. So we'll start back up
22 at 11:30 sharp.

23 (Off the record at 11:22 a.m.)

24 (On the record at 11:33 a.m.)

25 CHAIR FERRARO: All right, this is number 12 --

1 11 -- no, 12, discussion and action by the Board on the
2 approval of the fiscal year 2024-2025 formula and agreement
3 providing funding for the CHRB Board support.

4 We could go, obviously with a subject like this,
5 we could go on debating this for hours. But just in the
6 interest of keeping things under control, I'm going to make
7 a few comments of my own to begin with. They may or may not
8 reflect the opinions of the rest of the Board, but I think
9 they'll give us kind of an indication of where the Chairman,
10 at least, wants to go with this.

11 We realize there's differing opinions on
12 everything, especially when you get several lawyers in the
13 same room, as to what the truth of a statement is. But I
14 think it's safe to say that you could probably assume that
15 given the debate over what constitutes direct costs, that
16 this Board is probably going to go along with the state's
17 attorney's interpretation of that, which means it's going to
18 include laboratory fees. That's number one. So if we're
19 going to debate, we could start out with that premise, that
20 that's a definition of direct costs.

21 Secondly, as a state agency, we don't have much
22 choice here. We have to enforce the state regulations and
23 rules and laws as they exist. So the current law that
24 exists says that each track must pay its own direct costs.
25 So I think, again, you could assume that that's where we're

1 going to start in terms of the opinion of the Board because
2 we can't -- we don't have the ability to negotiate
3 compromises. That comes from you guys, and I understand
4 that you've met eight or ten times and are no closer to a
5 compromise than when you started. So like it or not, the
6 Board is facing a situation where it has to uphold state's
7 regulations and that regulation requires direct payments be
8 made, direct costs be paid by each individual track.

9 And finally, it seems to me that the only thing we
10 really have to debate is the indirect costs and how they're
11 going to be allocated. And that can go one of two ways. It
12 can go by a basis of handle, which may favor the smaller
13 tracks a little bit, or it can go on a basis of racing days,
14 which may be more preferable to someone else.

15 So given those statements, I think we'll start the
16 discussion by asking the Board members if they have comments
17 of their own.

18 EXECUTIVE DIRECTOR CHANEY: I'm happy to kind of
19 get started --

20 CHAIR FERRARO: Go ahead, Scott.

21 EXECUTIVE DIRECTOR CHANEY: -- to set the context,
22 Mr. Chairman.

23 Obviously, this is our third meeting talking about
24 this subject, and it has to be decided today. Obviously,
25 the new fiscal year starts July 1st, and not having a

1 funding formula in place is not an option.

2 In years past, the stakeholders would get
3 together, come up with a funding formula. I mean,
4 obviously, they followed the same one up until 2021, and
5 then added in an ADW component when pandemic hit and the
6 license fee structure didn't make any sense and was yielding
7 zero money. And they always brought that. And then once
8 the funding formula was put in place -- and to be fair it's
9 a prediction; right? It's based on handle and predicted
10 handle, and that's sometimes accurate sometimes not, and it
11 sometimes requires a true-up at the end of the year. Having
12 said that, they usually have the contract and we just
13 approve it.

14 In this case, there's no contract and there's no,
15 as predicted last month, there's no agreement. It seems
16 like they've been kind of floating in and out of getting
17 close to agreement and then not.

18 And so they've had lots of discussions. I sat in
19 on one of their discussions about three weeks ago, and then
20 I joined the Budget Committee, Commissioners Mitchell and
21 Davis, in an informal meeting with the stakeholders the
22 following week. So that was about two weeks ago. So they
23 have a pretty good flavor of kind of how the discussions are
24 going.

25 There's been a lot of suggestions and documents

1 that have come in in the last two or three days. And
2 usually this Board, you know, requires that they, you know,
3 get them in by the deadline. In this case, you know, they
4 were really negotiating up until the very last second, maybe
5 even during the break today, who knows, didn't reach a
6 compromise. And so, you know, I don't want to beat anybody
7 up for putting in last minute documents because I think they
8 were still hopeful they would reach an agreement.

9 They haven't. The last one I sent -- and all of
10 those documents have been uploaded to the Board packet this
11 morning, a few over the last few days, and then obviously
12 this morning with the last one being the kind of a
13 spreadsheet that gives the Commissioners some of the some of
14 the suggestions by stakeholders, and even one or two that I
15 know that they were considering but none of the stakeholders
16 actually suggested that I had added to the spreadsheet
17 because they made a lot of sense and represent some common
18 ground or at least a middle ground because there are, I
19 mean, you know, on the one hand, you have an advocate for
20 keeping the formula exactly the same as we've always done it
21 to probably like the other end would be like this race-day
22 approach. So I would look at those two extremes and then
23 there's a bunch of plans in between.

24 CHAIR FERRARO: So maybe we start with the two
25 Budget Committee members. Would you guys like to make some

1 comments?

2 COMMISSIONER MITCHELL: Only to say that it
3 started off with, we can all come to an agreement if you
4 just agree with us. So I, yeah, I didn't come away with a
5 lot of hope after that conversation. And this is -- so I
6 don't -- you know, that was literally like the kind of the
7 attitude and everyone just went in their corners and did
8 their, you know, same thing that they've been doing.

9 So I don't have any wisdom from that call, except
10 I'll never get that hour and a half of my life back.

11 COMMISSIONER DAVIS: Commissioner Davis?

12 COMMISSIONER DAVIS: Ditto.

13 EXECUTIVE DIRECTOR CHANEY: And I -- sorry. And I
14 think as you properly pointed out, Mr. Chairman, the chasm
15 is kind of this concept of direct cost, which don't doesn't
16 appear in the law. What does appear in the law is a
17 requirement that, at a minimum, tracks cover stewards,
18 veterinarians, and testing.

19 As you can probably read in the Board packet, that
20 is not universally -- the universal belief among the
21 attorneys is that the law may or may not say that.
22 Obviously, every stakeholder has their attorney and I know
23 this is going to sound crazy but each attorney's
24 interpretation of the law mirrors what would be best for
25 their client, not surprisingly.

1 So I think it's fair to point out that there are
2 different interpretations. I don't want to pretend like
3 they are not. CHRB has own interpretation, which I would
4 submit should be controlling in this case, and that is that
5 each is required to pay at a minimum those direct costs.
6 And the real question is what do you do with indirect costs?
7 It turns out just saying handle doesn't completely describe.
8 There's lots of ways interpreting handle.

9 And so, yes, at the end of the day it's going to
10 be up to the Board.

11 CHAIR FERRARO: Commissioner Hudnut, go ahead.

12 COMMISSIONER HUDNUT: I would not want to think
13 that anything we decide today is forever and all time
14 because I believe racing in this state is in a great state
15 of flux and I don't have a crystal ball none of us does to
16 see where we're going to be a year or two from now. So I
17 believe whatever we do is going to be temporizing.

18 CHAIR FERRARO: Commissioner Castellanos?

19 COMMISSIONER CASTELLANOS: It is disappointing
20 that the tracks could not come to some type of conclusion to
21 bring to us. But if you guys are at the mercy of what's
22 going on in the verbiage, then that's what you choose to do.

23 CHAIR FERRARO: Commissioner Alfieri?

24 COMMISSIONER ALFIERI: I really have no comment.
25 I mean, it's --

1 CHAIR FERRARO: Oscar?

2 VICE CHAIR GONZALES: Yeah, Mr. Chairman, thank
3 you.

4 The only thing that comes to mind is, well, one, I
5 appreciate everybody weighing in the way that you have,
6 letters are helpful, is really understanding the fragile
7 footing some of the smaller operations are under, whether
8 it's Los Al, whether it's CARF, or whether it's harness.
9 And a lot of this has come about, I believe, because of the
10 closure of Golden Gate Field. So we're still talking barely
11 a year into this, and we're just really going to start to
12 thrust some things.

13 I mean, it's great to hear that people are willing
14 to step up, but it's not and it probably shouldn't be a
15 light switch, where it happens drastically. I think any
16 kind of a phase in gradual with a lot of gratitude towards
17 the bigger tracks that have carried a bigger part of the
18 burden, but knowing, you know, they may have to do it just a
19 little bit longer until we give the other operations more
20 time to adjust.

21 Those are just my initial thoughts after reading
22 all the information.

23 CHAIR FERRARO: Okay, well, we want to hear from
24 some people that are affected by these arguments.

25 Larry, do you want to start?

1 MR. SWARTZLANDER: Still morning. Good morning,
2 Chairman, Commissioners. Larry Swartzlander, Executive
3 Director of CARF, and legal counsel, Ann Grottveit. I think
4 I got that right.

5 I prepared a little sermon here, but after
6 listening to Commissioners' discussions, I think you're
7 going to be hearing enough whining and gnawing as we go
8 through this course, so I'll be very brief.

9 This is CARF's position. You know, I'm in a
10 position of changing racing in Northern California. We've
11 got a brand new meet, restructuring the fairs. I've been
12 working on the finances, and I've shared that with some of
13 the Commissioners, a year out. This is all in place. This
14 is what we expect our profits to be. This is what we expect
15 the purses to be. That all was laid out in good form and we
16 felt confident.

17 And now we're approached with a situation where
18 there could be a major expense, an expense to the tune of
19 Golden State Racing up to \$1.2 million as an additional
20 expense. I'm not saying that we can't deal with it, but the
21 timing, 90 days out from a new fiscal year, it just puts the
22 burden that we haven't had time to really evaluate it.

23 I'm not going to sit here and argue whether it's
24 against the law or not a law or what a direct cost or
25 indirect cost is, it's just, simply, it's good, prudent

1 business sense. Give us time to sit back as stakeholders,
2 reconcile the situation, and come up with what no confusion
3 is, what all the definitions are, what the legal
4 interpretations are.

5 And also, we're in, you know, I'll call it the
6 cloud here because in fair racing, if you go back 75 years,
7 fair racing was established, and capital racing, now it's
8 capital racing, but private racing sector was, you know,
9 allowed to run in California. But you know, independent
10 racing was there to support, in some sense, the fairs
11 because we were not on the same level as the majors of, you
12 know, Del Mar, Santa Anita, and their handle is much higher,
13 purses are much higher. It's now we're getting to a point
14 where now we want to level the playing field and it's a 50-
15 50 split between the north and south.

16 So I'm just speaking to you as a businessman, a
17 lover of the sport, CARF is in -- we're in a great
18 situation where I'm seeing the north has come together
19 stronger than I've ever seen them, and we want to work
20 together with the South and get this reconciled.

21 You know, at this point, I'll turn it over to Ann.
22 And, you know, we've done some analysis of the codes that
23 are in place, how they've been changed, and just to give us
24 an understanding of what they are, how they apply to the
25 formula.

1 And the other point is that we've had this formula
2 for -- in place, and as Scott pointed out, it was changed
3 during the pandemic. We had to go to ADW because we didn't
4 generate enough funds in brick and mortar, you know, to pay
5 for the budget. But the situation is now that we want to
6 change it now. Give me some time. Let's get it done.
7 Let's get it done right.

8 Ann?

9 MS. GROTTVEIT: Thank you, and I appreciate the
10 opportunity to talk about this. I am the one who wrote that
11 very lengthy ten-page opinion that you received. And thank
12 you very much to Mr. Chaney for sharing the legal opinion of
13 the Board with me about a week or so ago.

14 CHAIR FERRARO: Could you please state your name
15 for those guys over there?

16 MS. GROTTVEIT: I apologize. Ann Grottveit,
17 G-R-O-T-T-V-E-I-T. I am Kahn, Soares & Conway. We have
18 been general counsel for the Authority of Racing Fairs for
19 probably at least two decades.

20 I listened to the last meeting on this subject in
21 May with great interest and a bit of confusion. So after
22 the discussion, I went back to the Board packet and looked
23 at the staff analysis and the statutes that were cited. And
24 I was a bit confused and probably shared the anxiety that I
25 think you all would share as Board members when you're being

1 told that a funding analysis that you have approved for many
2 years is based on some sort of illegal methodology.

3 So I went back and looked at those code
4 provisions. And as Mr. Chaney is well aware, me and several
5 other attorneys just didn't agree with that analysis or the
6 plain reading of section 19616.51. After that, Mr. Chaney
7 did share the state's attorney's analysis with me and I went
8 back and took a deeper dive into the legislative analysis.

9 From a plain language approach, I would disagree
10 with Chairman Ferraro that you are obligated to allocate the
11 lab testing as a direct cost. I do agree with what Mr.
12 Chaney just said, these statutes do not discuss direct or
13 indirect costs at all.

14 To the extent that section 19518 had made an
15 allocation of actual costs of racing meat and racing for the
16 racing associations and the fairs, it is our position that
17 when 19616.51 was rewritten in 2009 in that special
18 legislative session, that that language, the plain language,
19 starts off as, "Notwithstanding any other law."

20 And respectfully I'd submit that the state's
21 attorney opinion ignores that language. That language is
22 very important from a statutory analysis. It specifically
23 means in spite of, despite any other law. It does not
24 matter that section 19518 and 19612.8 are not recited in the
25 list of Code provisions that follow because those Code

1 provisions specifically relate to license fee provisions.
2 That is not what 19518 was. 19518 was to address stewards
3 fees and the ability of the Board to contract with those
4 stewards. So looking at what 19616.51 was supposed to do,
5 it was to address the license fees to fund all costs of the
6 Board.

7 So it is our position, and I wanted to make it
8 painfully clear to the Board, that in making your decision
9 today, the way that the funding has been done since 2009
10 going forward was not illegal or outside of compliance with
11 the law. In fact, you have been in compliance with that
12 code provision, and whatever you decide today, including
13 staying the course and maintaining the status quo, would be
14 in compliance with the law. So that is the purpose of our
15 opinion on that.

16 To turn to what Chairman Ferraro was discussing
17 with respect to the indirect cost, I would submit to you
18 that what you need to consider in considering that indirect
19 funding cost is what you should be considering for all of
20 the costs. And that is, what is the CHRB required to do
21 from statutory and constitutional provisions? And what
22 you're inclined to do is you have to look at the history of
23 all these code provisions. And what the legislature was
24 clearly concerned with was funding for the fairs, the
25 protection of the public, as well as maintaining and

1 expanding all horse racing in California, not simply
2 thoroughbred racing in California.

3 All of those considerations are before you. And
4 what I have not seen at the last meeting or the previous
5 meetings, I've seen no analysis of what the impact to all of
6 these associations and fairs are going to be if you
7 drastically change the funding formula today.

8 I think that is incumbent upon you as a Board to
9 be reviewing all of those things before you change that
10 funding formula, not simply a spreadsheet that has numbers
11 on it with no receipts, meaning that what are those numbers
12 really addressing? What are the actual costs? What are the
13 lab testing fees? Which, quite frankly, we haven't been
14 able to get to in the last 60 days.

15 Finally, I understand your fiscal year begins July
16 1, but for all of these associations, particularly for CARF,
17 we're in the middle of the Alameda race meet right now. The
18 budget for those meets were decided long ago. And while I
19 understand you have to approve your fiscal funding, the
20 timeframe for addressing that should have, quite frankly,
21 have been last year, perhaps when Golden Gate announced that
22 they were closing.

23 So I would refer back to a really good question
24 that Commissioner Hudnut made earlier when you were deciding
25 item six when the Thoroughbred Breeders were up here. The

1 question was put to how are the -- how is breeding going
2 this year? How are things going? And the response was the
3 actions of this Board have stabilized the industry.

4 And I would implore upon you that you can still do
5 that today. If you stay the course, and then over the
6 course of the next year, start really digging into how you
7 were funded -- I understand you're under enormous pressure
8 when you have two of the largest racing associations saying,
9 we don't think this is fair, and we feel that we need to
10 have this reallocated. That deserves an enormous amount of
11 time and attention. And I would ask that you give all of
12 the parties, particularly in a transitional year like we are
13 facing now, that opportunity.

14 And I just wanted to give that opinion to you so
15 you would understand you are well within your authority and
16 well within compliance of the law in doing so.

17 CHAIR FERRARO: Thank you very much.

18 Rob, do you want to clarify the state's position
19 on this?

20 If you'd go back and sit down, please.

21 MS. GROTTVEIT: Thank you.

22 MR. BRODNIK: Thank you, Chairman. Good morning.

23 Robert Brodnick, California Horse Racing Board. Just
24 wanted to -- sure, I can. I'm happy to clarify the position
25 of our analysis, and also respond briefly to the comments by

1 counsel.

2 First, with regard to the language, the language
3 is clear. It provides that notwithstanding any, section
4 19612 states literally, plainly,

5 "Notwithstanding any other provision of law, any
6 association conducting a race meet shall pay not less
7 than the actual amount necessary to cover the cost for
8 the compensation, including any fringe benefits to the
9 stewards, the official veterinarians, and to cover the
10 cost for the race meeting as provided by the Board
11 under 19518."

12 That section specifically lists laboratory
13 testing. So with regard to this argument that the plain
14 language doesn't include lab testing, factually that's
15 inconsistent. 19518(a)(3) states laboratory testing is
16 included.

17 With regard to the argument that the language
18 found in 19616, the provision beginning with
19 "Notwithstanding," somehow abrogates or repeals 19518 and
20 19618.2. The authority provided by CARF, U.S. v. Novak,
21 speaks to that. And interestingly, the entire analysis, I
22 don't really believe is included, and I think it's important
23 just to read from it.

24 When talking about notwithstanding the court in
25 that case said that,

1 "In examining specific statutes we have not, however,
2 always accorded universal effect to the notwithstanding
3 language standing alone. We have repeatedly held that
4 the phrase 'notwithstanding any other law' is not
5 always construed literally. Instead we have determined
6 the reach of each notwithstanding clause by taking into
7 account the whole of the statutory context in which it
8 appears."

9 So again this argument, that notwithstanding
10 somehow repeals 19518 and 19612, I don't think is accurate.

11 Again, looking at the canons of statutory construction, the
12 law is quite clear that you should take all statutes
13 together and try to read them in harmony. And I think when
14 looking at the three statutes you can do that here. 19618.2
15 and 19518 talk about the direct costs, the stewards, the
16 official vet, the laboratory testing. 19616 discusses the
17 fee, that's a different word, a fee versus a cost. That's
18 reflected in the memorandum that CARF has put forward.

19 And so I think those interesting uses of different
20 verbiage are also important and relevant to this discussion.
21 And I think when you read all three of those statutes in
22 harmony, you can do so. And so if you're able to do so,
23 then you shouldn't be disregarding 19518 and 19618.2.

24 So just distilled down, I think, and they can
25 correct me if they think I'm wrong, but their argument is

1 really that this Board should disregard 19518 and 19612.8
2 because 19616.51 repealed those sections with the funding
3 mechanism. And they come to that conclusion by looking at
4 legislative history.

5 But when I look at the legislative history cited
6 in their paper, really it begins with a 1988 analysis that
7 says that the Board taking money from the associations to
8 fund the stewards compensation and putting it into a
9 separate trust account was changed and then was expected to
10 be put in the fair and exposition fund, so it was a change
11 in checking accounts. It didn't change that the Board was
12 still requiring those monies from the associations.

13 Other than that change in the legislative history,
14 and it's reflected in their memo, 19518 and 19612.8 weren't
15 repealed. They are still in statute.

16 And so for those reasons, again, I think that the
17 obligation, or at least in looking at this, a court would
18 likely look to try to read all of these sections in harmony
19 and would not -- would try to construe the intent of the
20 legislature in thinking that when 19616.51 was enacted,
21 obviously 19518 and 19612.8 were still on the books and they
22 weren't repealed. Why did the legislature not repeal them
23 when they did this whole statutory licensing fee change?
24 Well, the intent, I mean, I think one of the arguments would
25 be that the intention of the legislature was to keep those

1 statutes.

2 And so, for those reasons and many others, my
3 opinion has not changed based on the memorandum submitted by
4 CARF and their counsel. I appreciated the arguments. You
5 know, I appreciate that this has been something that, you
6 know, Mr. Neumeister and I have had conversations about.

7 But I think, again, when looking at the canons of
8 statutory construction, one of the things that the courts
9 have said repeatedly is we look to the plain language of the
10 statute. Well, the plain language of the statute includes
11 laboratory testing, stewards, and vets, and indicates that
12 it's an obligation of the racing associations.

13 And so for those reasons, I think that my opinion
14 stays the same.

15 CHAIR FERRARO: Questions from the Board?

16 Thanks, Rob.

17 Can we hear from Mr. Rubenstein and Mr. Sindler?
18 Could you? Since you guys used to be the piggy bank, we'd
19 like to know why you can't do it anymore.

20 MR. RUBINSTEIN: Josh Rubenstein, Del Mar
21 Thoroughbred Club. Based on the previous comments, I'll be
22 very brief.

23 Our proposal is very simple and complies with the
24 Board's legal memo that says each racing association is
25 responsible for their direct costs. Our recommendation for

1 the indirect costs is they are paid as a percentage of
2 handle. And it should be noted that a percentage of handle
3 is how the industry funds pretty much all collective
4 expenses, such as stabling and banning and Workers'
5 Compensation.

6 As Chairman Ferraro pointed out, another way to
7 look at the indirect costs would be by race day, because the
8 cost to regulate a race day is consistent through all tracks
9 and all breeds. However, we acknowledge that that formula
10 would be a significant increase for some associations. So
11 in the interest of compromise, both Del Mar and Santa Anita
12 are advocating for, again, a proposal where the indirect
13 costs are paid as a percentage of handle.

14 And one last point, and then I'll turn things over
15 to Eric, between Del Mar and Santa Anita we represent about
16 35 percent of the race days in the state across all breeds
17 and tracks. And, however, our proposal would result in Del
18 Mar and Santa Anita paying over 66 percent of these indirect
19 costs in addition to the direct costs from our race meets.

20 So with that, I'll turn it over to Eric.

21 MR. SINDLER: Sorry, Eric Sindler on behalf of
22 Santa Anita.

23 Not a lot to add, just to kind of reemphasize that
24 with what we're calling indirect costs, and I recognize that
25 term might not be in legislation, but it's the costs that

1 remain after your storage, your vets, and your testing,
2 right, it's what is a reasonable way to allocate those
3 costs?

4 And as Josh said, we believe you should pay for
5 what you use. We don't think paying for what you use is a
6 radical notion. Every business pays for what they use. And
7 what you use in regulatory costs, right, the shared cost of
8 the overhead, let's call it, is racing days. The more you
9 race, the more you use. But Josh said that might be a
10 bridge too far.

11 So we're willing to pay twice of what we use. But
12 we don't think it's reasonable to make us pay more than
13 twice of what we use; right? Some of the proposals have us
14 paying upwards of 95 percent of all these overhead costs.
15 We just believe that is excessive and not sure what the
16 justification could be to require a certain segment of the
17 industry to essentially fund everybody.

18 CHAIR FERRARO: So let me understand clearly what
19 you're saying, that you're willing to fund 60 percent of the
20 indirect costs? Is that what you're saying?

21 MR. SINDLER: It's actually 66 percent. So we
22 would be, under our proposal, we would be, of course,
23 funding all of our direct costs as the CHRB, you know, memo
24 directs. And then the indirect costs, Del Mar and Santa
25 Anita would be funding approximately 66 percent.

1 MR. RUBINSTEIN: Right. And to be clear, what our
2 proposal is, is everyone pays their, what we're calling,
3 direct costs.

4 CHAIR FERRARO: Direct costs.

5 MR. RUBINSTEIN: And then the balance is based on
6 a percentage of total handle in the state.

7 CHAIR FERRARO: Yeah.

8 MR. RUBINSTEIN: So if Del Mar is --

9 CHAIR FERRARO: Yeah.

10 MR. RUBINSTEIN: -- 23 percent of total handle,
11 they'd pay 23 percent --

12 CHAIR FERRARO: Yeah.

13 MR. RUBINSTEIN: -- of overhead cost. If Santa
14 Anita is 40 percent --

15 CHAIR FERRARO: Yeah.

16 MR. RUBINSTEIN: -- they pay 40 percent, et
17 cetera, et cetera.

18 CHAIR FERRARO: Questions from the Board?

19 COMMISSIONER HUDNUT: No. Thank you.

20 EXECUTIVE DIRECTOR CHANEY: Just for those folks
21 following at home, what they're advocating for is the green
22 column. That's Del Mar, Santa, Anita. You alluded to what
23 is the gray column, and that would be the TOC approach, I
24 would say the race day kind of thing.

25 COMMISSIONER ALFIERI: Mr. Chairman, it's a very

1 fair proposal. I commend you guys for, you know, sitting
2 down, figuring it out. You're still giving a lot, but you
3 have more to give, so you're being very fair. I'm saying
4 you have more to give versus, I don't want to say, the south
5 and the north, but it's very fair. So I think you've met
6 your obligation.

7 I'm, you know, a little disappointed, again, when
8 I listen to Larry, and I don't want to beat you up, Larry,
9 but I will say that we've known about this a while. We knew
10 about this when you announced closing Golden Gate Fields.
11 Then you all -- we convinced you all to stay another six
12 months on top of it and keep it open. Some would forget
13 that you were going to close the fall before.

14 And so, you know, this is nothing new. And you
15 guys have had many, many meetings on this. And we come down
16 to this, it just, it gripes me. And I think you guys are
17 being very fair, and that's all I'll say.

18 CHAIR FERRARO: Thank you. Thank you, gentlemen.

19 Is there anybody here from Los Al? Could we hear
20 Los Al's position on this?

21 MR. COTU: Good afternoon, Chairman, distinguished
22 members of the Commission, I'm Drew Cotu on behalf of Los
23 Alamitos.

24 MR. ENGLISH: And I'm Rick English.

25 MR. COTU: I want to --

1 COMMISSIONER MITCHELL: Who are representing?

2 MR. ENGLISH: Pardon me?

3 COMMISSIONER MITCHELL: Who are representing?

4 MR. ENGLISH: Oh, I'm representing Lou Alamitos.

5 MR. COTU: What's your position?

6 MR. ENGLISH: Sorry.

7 MR. COTU: Two --

8 EXECUTIVE DIRECTOR CHANEY: Rick, you're CFO;

9 right?

10 MR. ENGLISH: No, I'm -- yes, I am the CFO.

11 EXECUTIVE DIRECTOR CHANEY: Yes.

12 MR. ENGLISH: Yes.

13 EXECUTIVE DIRECTOR CHANEY: Right.

14 MR. COTU: Thank you. Let me make two points
15 about the legal issues and say from an overview standpoint.

16 Los Al's looked at this as sort of there's a legal
17 side and there's a pragmatic and practical side and that's
18 the way we've tried to approach it.

19 And I think there's a bit of deja vu with Ann up
20 here. It reminds me in 2016, there was an issue in front of
21 the horse racing Board about whether or not a racing
22 association could on its own see sending signals to the
23 satellites, and it took a position on that. And we, being
24 Los Alamitos and CARF, took a different position from the
25 Board's advice and ended up persuading the Board that our

1 position was actually the correct position under the law.

2 We all became defendants in a lawsuit, co-
3 defendants in a lawsuit. And with Ann's help, my own help,
4 and the help of the outside DAG, which had a different view
5 initially than the Board, we ended up prevailing on behalf
6 of the CHRB with regard to what the law actually stood for.

7 So it's a bit of déjà vu. It kind of reminds me
8 of this situation.

9 So as I think Chairman Ferraro actually accurately
10 described, lawyers often don't necessarily align on their
11 views, and that's not a surprise to anybody. But we're also
12 easy targets to make jokes about, and sometimes well-
13 deserving. But in this particular case, we do have -- and
14 you might call it self-serving because we have clients, but
15 any time we have differing views, you might say it was self-
16 serving. We had differing views in 2016. But in this
17 particular instance, we have a differing view.

18 And one of the reasons why we have the pragmatic
19 issue here is because we have a different view and we
20 thought we needed time as an industry to go back and get a
21 ledge counsel opinion because you have one view, you have
22 other view. You actually have two views, not every client
23 having a different view, you have two viewpoints. And one
24 of your options is to go get a legislative counsel opinion
25 to give yourself some guidance about what the statute

1 actually means.

2 And just one point I'm going to raise from a legal
3 standpoint, because I don't think it's good to argue in
4 front of you folks what the law actually is, but one legal
5 point to make in rebuttal to what Rob just said -- and I
6 respect Rob. We've known each other a long time. I respect
7 his views a lot.

8 But a basic canon of statutory interpretation is
9 that when two provisions are in conflict, and he points out
10 that the two sections both use the term "Notwithstanding any
11 other provisional law," the most recent provision that uses
12 that term supersedes the older provision, because it's the
13 most recent statement of legislative intent.

14 And it's saying, at the time we pass this law,
15 which is -- and I'm in reference to 19616.51, it is the law
16 passed in 2009, it is the most recent section of law, and
17 that is the one that we have raised the issue about because
18 that is the most recent expression of the California
19 legislature's intent, and it says, "Notwithstanding any
20 other provision of law," meaning the two referenced by Rob
21 were specifically to be included in that first provision.
22 And that is a basic canon of statutory intent.

23 So that's why we sort of said, we're not going to
24 come today and be able to convince you that Rob is incorrect
25 or we're correct, but what we need and what Doc Allred was

1 asking for saying, look, the consequence of the decision you
2 make today is beyond description. In the middle of budgeted
3 years for these entities, we're talking about doubling and
4 in some instances tripling expenditures that may make racing
5 not viable.

6 And one of the big differences I think between the
7 approach taken by Los Al up to this point and some of our
8 other racing associations is Los Al has not stood before you
9 and said we're losing millions a year as an operating venue.
10 But I think you probably recognize that this has not been a
11 profitable endeavor for anybody in racing, and Los Al is s
12 no different.

13 And the burden on them financially is at least
14 equal to the others that you've seen up here. But they're
15 willing to say in front of you over and over again, they're
16 willing to proclaim their losses to hopefully convince you
17 that they should get some benefit that no one else has
18 gotten.

19 So let me talk for just a couple moments about the
20 pragmatic issue. Los Al sees the legal issue. We'd like
21 time to get legislative counsel's opinion on this, get you
22 guidance to get that resolved.

23 So what do you do if you have a phased-in or
24 incremental approach to get us to that point? Give us some
25 time to do that.

1 We tried to negotiate, everybody's tried to
2 negotiate, whether you think it's in good faith or not, we
3 certainly believe it's in good faith. Los Al took the
4 position that you have to understand why, and Ann made the
5 point, that I don't think your predecessor Boards were
6 engaging in legal activity or somehow misinformed about how
7 these costs were to be allocated. But they recognized that
8 license fees for night industry and day industry were
9 considerably different. And why was that? Was that just,
10 that's the way it was, or was there a logic behind that?

11 And there was a logic behind that. And the logic
12 behind that was the cost and the profitability, the inherent
13 competitive difficulties for running at night. And
14 remember, these industries were relegated. They received
15 substantial reductions in the license fees to make up for
16 those competitive differences. And they have established
17 themselves at night and run at night based on when license
18 fees were different and they paid what they paid. They paid
19 with guidance from those who passed the law based on the
20 license fee distributions.

21 That's how those were allocated. It wasn't unfair
22 then to do that, to have the thoroughbred associations or
23 the other associations, the daytime associations who had the
24 higher license fees, it wasn't deemed unfair to them to have
25 them carry that load. That's the way the license fee was

1 set up. The law just reduced the amount of the license fee
2 from what was then a required \$40 million down to a
3 different number. And that was done in an informed,
4 measured way.

5 So now we've done that. That's been the formula,
6 more or less, done for the last ten years. And all of a
7 sudden, this year, there's a push on you to change that
8 because it's somehow become unfair and illegal.

9 And to make that assumption, it's fair and
10 illegal, you have to agree that somehow your predecessors
11 acted illegally, or they were just completely misinformed.
12 And I don't think that's a fair assumption, knowing many of
13 your predecessors. They were neither acting illegally, nor
14 were they misinformed. They're acting just like you folks,
15 trying to do what was in the best interest of racing.

16 So here we are being asked to completely blow up
17 the formula in what to Los Al and to Watch and Wager in the
18 fairs is really, from our perspective, a 90-day window in
19 which they've never been asked to tell the Board, what's the
20 impact on us? What's the impact on the rest of your year
21 and what's the likelihood you remain viable for any period
22 of time?

23 And we would hope that that would be one of the
24 core inquiries this Board would make before it makes a
25 decision like this. And in years past, we pointed out, Doc

1 pointed out, in years past when these sort of very
2 significant decisions had to be made, the Boards required
3 advance notice, sometimes up to three years, so that all the
4 intricacies, all the issues that come up when these things
5 happen were given due consideration and time to work through
6 and maybe come up with creative solutions. And your
7 frustration's palpable to everybody out here, and it's the
8 same that everyone else has as well.

9 So with that all in mind, Los Al wanted to come up
10 with a phased-in approach, say, look, year one won't be
11 perfect, nobody's going to be happy. Year two, it could be
12 something else, hopefully we have guidance from ledge
13 counsel as to what's supposed to be, and everybody can begin
14 to budget properly. Year three is probably where we're
15 going to end up with whatever the new funding mechanism is,
16 and who's ever going to stay in is going to stay in, but you
17 have to do it. We felt it was more prudent to do it over an
18 incremental period.

19 So let me just kind of close and show you what Los
20 Al's approach was, and you talk about fundamentally fair, we
21 certainly think this was fundamentally fair.

22 We started from the position that the prior
23 method, again, based on the license fee, recognizing the
24 inherent competitive disadvantages of running at night was
25 the way the law was intended, we believe that. So we said,

1 look, we believe that's not illegal, we believe that's fair,
2 but if we're not going to persuade you that's the legal,
3 we're willing to compromise with the rest of you this year.

4 So we sent, yesterday, some materials, and there
5 were two PDF pages, and the first page showed sort of a
6 summary. We gave you, our starting point being, if we use
7 the same formula previously, what would be the number? And
8 the number, I'll just talk about Los Al for a minute, the
9 number for Los Al would be on the order of \$650,000 of
10 contribution. And we said, okay, that's not going to get
11 agreement. We have a practical problem. We have a legal,
12 What's the practical? That's not going to do it.

13 So we then said, okay, we'd step up in a
14 meaningful way. Our first hit, our first suggestion was
15 then the lavender column, which raised Los Al's contribution
16 mid-year, mid-budget from \$650,000 to \$1.1 million. So that
17 is a roughly 70-some percent increase in the payment this
18 year without any warning, with roughly three months warning.
19 That's Los Al's position, they had three months to adjust.
20 They'll go to \$1.1 million. We thought that was a fair
21 offer. And I would characterize the response as crickets.

22 So went back to the drawing Board.

23 MR. ENGLISH: If I could interject for just a
24 moment, Drew? Sorry.

25 The initial proposal was based on the idea of each

1 association would pay their state stewards and vets, and all
2 the other costs would be allocated based on SB 16, as we've
3 done in the past. So it was closely following what had been
4 done in prior years.

5 Sorry.

6 MR. COTU: Okay. So when that received sort of a
7 cold welcome, you know, rule number one in negotiating is
8 never negotiate against yourself. Well, we broke rule
9 number one. We went back and said, okay, well, that didn't
10 receive a response. What next could we suggest?

11 And so Los Al went back and said, okay, we would
12 pay SVT, what became SVT, stewards, vets, and testing, with
13 the notion that testing, as defined in the law, is supposed
14 to be a defined cost, but it's not a defined cost for these
15 calculations. It's an estimated cost on backing out a
16 series of numbers from the UC Davis contract and said, this
17 is what testing is. And there's no way to audit that.
18 There's no way to validate that. And we said, we have an
19 issue with it, but for the purpose of having a compromise,
20 Los Al would pay the SVT, and so would Watch and Wager, and
21 we presented that as the model. And again, shorthand,
22 crickets.

23 So with two proposals already made, or three
24 proposals already made, Los Al went back. You know, and
25 that just, if I -- that number raised the proposal from \$1.1

1 million to \$1.23 million from just Los Al, and recognizing
2 it's starting from \$660,000 if we use the former way we've
3 been doing it. That's more than doubling its contribution
4 mid-year with very little. We thought that was more than
5 fair. But it didn't get anywhere.

6 So Rick went back, came up with the new formula
7 and described what the blue column on that was.

8 EXECUTIVE DIRECTOR CHANEY: That's dark blue;
9 right?

10 MR. COTU: The dark blue column on top.

11 MR. ENGLISH: That was aimed at meeting some of
12 the goals that Josh and Eric had described covering the SVT.
13 And what I did is modify a prior proposal they had, the
14 initial blue column, where they showed 60 percent of pre-SB
15 16 plus same ratio for all ADWs. I changed that from 60
16 percent to 75 percent of pre-SB 16 plus the same rate for
17 all ADW. It was aimed to strictly cover the SVT for our
18 association and come closer to meeting their requirements.

19 MR. COTU: And that produced a number of \$1.286
20 million for Los Al. In each of those offers, the numbers
21 for Del Mar and Santa Anita went down to us significantly.
22 They went down between 7 and 11 percent. So there was
23 immediate benefit to the two largest racing associates,
24 immediate benefit to them. There is a more than doubling of
25 cost to Losal and almost a tripling or more than tripling of

1 cost to the harness.

2 And so, you know, from Dr. Allred's perspective,
3 he is asking that the night breeds, that the Board recognize
4 why the night breeds have always paid what they've had,
5 relegated to night lesser license fees, believe that was
6 done, it always was done, it was done initially and always
7 perceived to be consistent with the law, the fair approach.

8 And the only reason we're here is because the
9 closing of Golden Gate has changed the funding. And that
10 was a decision made not by LaSalle, not by CARF, not by
11 Watch and Wager, and yet in all the proposals that have been
12 put forward by Los Al, CARF, and Watch and wager, they are
13 the entities paying more under these proposals, while the
14 other thoroughbred entities, in particular Santa Anita, is
15 getting an immediate benefit in terms of paying less costs.

16 And we would just, we would ask the Board to step
17 back, do this in an incremental fashion. Make certain
18 whatever decision you make today next year or the third is
19 done incrementally and that it's done with the notion that
20 that we're going to make the right decision in a measured
21 fashion, in a learned fashion that protects these industries
22 for as long as they can, or they can decide that financially
23 they're no longer viable based on this. But this would
24 be -- they wouldn't have that luxury if we're forced to pay
25 the costs in the way being asked to pay the costs by the

1 thorough industries right now.

2 CHAIR FERRARO: Just to clarify, are you
3 representing Watch and Wager as well?

4 MR. COTU: No, I'm representing Los Al, but I'm
5 trying to describe to you the process.

6 CHAIR FERRARO: Okay. That's all.

7 MR. COTU: (Indiscernible.)

8 CHAIR FERRARO: I just wanted to clarify. Okay.
9 Thank you very much.

10 I would like to hear from Watch and Wager.

11 EXECUTIVE DIRECTOR CHANEY: I think Commissioner
12 Mitchell wanted to say something.

13 COMMISSIONER MITCHELL: Yeah, I was just going to
14 say --

15 CHAIR FERRARO: Oh, excuse me.

16 COMMISSIONER MITCHELL: -- I mean, I think you
17 made very good points. And I would like a response from
18 Josh and Eric, maybe, of why those options weren't
19 acceptable, just because --

20 CHAIR FERRARO: That's fine.

21 COMMISSIONER MITCHELL: -- (indiscernible) --

22 CHAIR FERRARO: Yeah.

23 COMMISSIONER MITCHELL: -- so we can kind of have
24 one conversation.

25 MR. SINDLER: So your question is why they weren't

1 acceptable?

2 COMMISSIONER MITCHELL: Yeah.

3 MR. SINDLER: So, first of all, these were not
4 brought up, unfortunately, during our eight-plus meetings
5 that we had. These were brought up over the last couple of
6 days.

7 COMMISSIONER MITCHELL: Decisions only get made
8 when they're forced, so that is what it is.

9 MR. SINDLER: And we did respond. We responded
10 to, I guess, what would be their last proposal in terms of
11 if it got closer to a handle-based model, it's something
12 that we would consider, and that was rejected.

13 COMMISSIONER MITCHELL: So you said no to their
14 proposal because you want your proposal? Because I think
15 that their argument, I mean, I understand what's happening
16 here, but I think that their argument of like incremental
17 change is legitimate, because, you know, Golden Gate
18 happened. We're all trying to pivot from that.

19 And I understand, and I agree with our counsel's
20 opinion that, you know, we're -- you're legally able to
21 force this. However, doing that is going to, you know, put
22 the whole industry on its head. And I realize, you know,
23 some may want to be punitive, given that they didn't get
24 what they wanted at our last hearing with regard to, you
25 know, not having a northern race. But we have to come

1 together here, and so you're not going to get everything.
2 Like, we're trying to get closer to a compromise to making
3 this work so that we, you know, don't end up cratering the
4 whole industry.

5 Because it seems to me like, A, we're having this
6 conversation about what the legality is, which is something
7 to be decided by a court, not something to be decided by
8 this Commission. But we're rearranging deck chairs on the
9 Titanic, and no one is acknowledging, like, we need to
10 actually come together and have a conversation in order for
11 the industry to survive in California.

12 So I understand everyone wants to be, you know,
13 punitive and, you know, get their pound of flesh and that
14 you guys have been overpaying and they haven't paid as much,
15 but we can't completely turn over the apple cart right now
16 and, you know, at this meeting and have, you know, CHRB go
17 away or, you know, this whole industry. It's just, it's not
18 going to work.

19 So I'm just looking for a little more flexibility
20 on your side because I feel like they've come a long way.

21 MR. SINDLER: So I think it would be helpful,
22 though, for context for everybody to understand what their
23 proposal represents.

24 So their proposal represents that Del Mar and
25 Santa Anita pay for 88 percent of the indirect cost,

1 indirect regulatory costs -- excuse me, 94 percent, so 94
2 percent of the indirect. And the indirect cost is the major
3 piece here. So the CHRB budget is, I believe, \$18.23
4 million. Five and a half, approximately, are the direct
5 costs. So the bulk are these indirect costs. So just so
6 everybody's clear, what they're proposing is Del Mar and
7 Santa Anita pay for over 90 percent of those costs.

8 COMMISSIONER MITCHELL: But this is what's been
9 happening in the past, is that you've been paying those
10 indirect costs. And now you don't want to do that anymore
11 because Golden Gate's closed and all of the numbers are
12 smaller. Am I incorrect in that?

13 MR. SINDLER: So collectively, prior to this
14 year ---

15 COMMISSIONER MITCHELL: Yeah.

16 MR. SINDLER: -- yes, the industry has agreed to a
17 funding calculation.

18 COMMISSIONER MITCHELL: Right. So that is what
19 we've been doing for -- you know, in the past. And now you
20 want to change it and I think that you have a legal basis to
21 do that. But I don't think that you can do it overnight
22 with this severe, because what are these guys going to do?
23 Everyone's --

24 MR. SINDLER: So we completely agree with you.
25 That's why our proposal is offering to pay 66 percent of

1 these indirect costs instead of what, you know, they're
2 proposing, you know, over 90 percent.

3 COMMISSIONER MITCHELL: Well, I don't understand
4 the difference between their saying 75 percent and your 95
5 percent. I mean, math is not my strong suit, but --

6 MR. SINDLER: Well, I think when they say 75
7 percent, it's pre-SB 16. But just what the numbers
8 represent, right, so our proposal, the numbers represent Del
9 Mar and Santa Anita paying 66 percent of these indirect
10 costs, and their proposal is 94 percent.

11 MR. ENGLISH: Right, so everyone pays.

12 VICE CHAIR GONZALES: That 94 percent, that would
13 just be for the one year. They're saying that they realize
14 they got to deal with that, but I don't think that's a
15 definite. That's an indefinite, right. In other words,
16 they're just asking for a little bit of a break.

17 Los Al, correct me if I'm wrong, that's correct?
18 You guys, at some point after year one, as I heard you and
19 your colleagues say, you would make the adjustment?

20 MR. ENGLISH: We expect this to be a transitional
21 period. That's correct. And again, our proposal is not
22 based on percentage of the indirect costs or anything like
23 that. It's based on following -- taking on the added
24 responsibility of the stewards and vets and allocating all
25 the other costs on the same methods we always have, based on

1 pre-SB 16 license fees.

2 VICE CHAIR GONZALES: Got it.

3 MR. SINDLER: And just --

4 EXECUTIVE DIRECTOR CHANEY: Can I just jump in for
5 a second? Maybe I can kind of like focus the conversation
6 some.

7 If everybody looks at the Excel spreadsheet, it's
8 actually kind of arranged based, like, you know, the pretty
9 colors of a spectrum, except for that pink one at the end,
10 that should actually be between white and dark blue, and
11 that would be like kind of the spectrum with white being
12 sort of the most small track night racing sympathetic to the
13 gray, which was the TOC's model, which is a race day. And I
14 think if we are reinventing the system from scratch, that's
15 clearly the most equitable. But it would also completely
16 blow up everybody's funding model.

17 And so kind of the middle ground, if that's what
18 the Board is looking for, would be the two, the light blue
19 and the peach. Ironically, nobody suggested that one.
20 Bernie and I inserted those because I asked her to.

21 The one problem I got to point out with the dark
22 blue model -- and I got to give Los Al lots of credit. They
23 have been going back and forth in trying to find middle
24 ground, whereas a lot of the other entities were just kind
25 of like heels dug in.

1 The one problem with the dark blue piece is the
2 red number you see there, the 354, because the Watch and
3 Wager would not be covering its direct cost. So in staff's
4 opinion, that would, you know, not comport with the law.

5 The very first funding model that would both
6 comport with our understanding of the law and be the most
7 forgiving to the entire, you know, to the smaller tracks
8 would be the light blue one. That would be like, in some
9 ways, I mean, I don't want to throw Bernie under the bus,
10 that's probably her favorite one, I like the peach one a
11 little bit more because I think it's purely handle-based.

12 And I think at some point, we need to get away
13 from these pre-SB-16 license fees. Because while Drew might
14 have pointed out correctly that the learned legislature made
15 them for a reason, they were also a result of lobbying
16 efforts and some tracks getting more than others at the
17 time. So at some point those pre-2009 license fees should
18 be considered obsolete and we should be proving toward a
19 handle-based approach. But I recognize that we don't want
20 to run, you know, tracks out.

21 So in terms of the ones that are sitting here in
22 front of you, if you're looking for what the CHRB sees as
23 comporting with the law, and like giving as much of a break
24 under those circumstances to the smaller tracks at night,
25 the light blue one would be that.

1 CHAIR FERRARO: Mike, the bottom line is we have
2 to meet the budget of the CHRB and pay our bills; right?
3 Does that --

4 EXECUTIVE DIRECTOR CHANEY: It does.

5 CHAIR FERRARO: -- generate enough income?

6 EXECUTIVE DIRECTOR CHANEY: They all do; right?
7 So at the bottom line, they all add up to \$18,223,000.

8 CHAIR FERRARO: Okay. Okay.

9 EXECUTIVE DIRECTOR CHANEY: And it's a zero-sum
10 game; right? Whatever the numbers are, it's like if one
11 person pays less --

12 COMMISSIONER MITCHELL: Yeah.

13 EXECUTIVE DIRECTOR CHANEY: -- somebody else is
14 going to have to pay more.

15 COMMISSIONER MITCHELL: I'm happy to contribute my
16 \$100 to the cause.

17 EXECUTIVE DIRECTOR CHANEY: We only need \$18
18 million --

19 COMMISSIONER MITCHELL: I'm willing to give up 100
20 percent of my pay to resolve this.

21 CHAIR FERRARO: Okay. All right.

22 Eric and Josh --

23 EXECUTIVE DIRECTOR CHANEY: Listen, just one --

24 CHAIR FERRARO: -- thanks.

25 EXECUTIVE DIRECTOR CHANEY: Okay.

1 CHAIR FERRARO: You can go and sit down, Drew and
2 Los Al.

3 I'd like to hear from Watch and Wager, please.

4 MR. SHUTES: Good afternoon, Chairman Ferraro,
5 members of the Commission. Christopher Schick, Watch and
6 Wager, Standardbred Racing.

7 I'd like to speak today on behalf of our 48
8 employees, a number of them are in the audience here today,
9 and also our contractors and our horsemen and just tell you
10 that we've been in every one of those meetings. We've never
11 dug in our heels. The only place we dug in our heels, where
12 we were being asked to agree to something that would
13 essentially be so devastating to us that you could never
14 agree to it. We would have to take it in front of you and
15 have you agree to devastate us. And that's seemingly where
16 we are right now.

17 To go to Commissioner Mitchell's very points, our
18 whole industry is in danger on a few of these proposals that
19 are out there. We have agreed. We're totally in line with
20 Los Alamitos on this. We've been consulting with them.
21 We've even talked with Larry about it. Larry's position was
22 no change. He's come along into the Los Alamitos position.
23 That's not a good position from him. He's paying a lot more
24 money. Even under the Los Alamitos position, we're paying
25 almost three times the money that we're paying right now.

1 But it's not an amount that is going to put the industry in
2 danger of long-term destruction.

3 The other models, the nuclear option, does do
4 that. There's almost no way that we're going to be able to
5 recover from something like that. We're going to have to,
6 you know, and as I said last month, we're going to have to
7 cut dates, okay, to make this work. And that's going to
8 reduce the direct cost, and it's going to affect the CHRB
9 staff, it's going to affect everybody. Can the industry
10 even survive under what -- how many days you would have to
11 cut?

12 So those are the questions that we have. And I
13 realize you have a hard decision but the decision is --
14 unfortunately it comes down to, it's like a north-south
15 decision with Los Alamos at night and involved in this.
16 The north is going to be totally pulverized by it if you
17 accept the nuclear option. If you work to a model in
18 between, we don't know what that's going to be, but
19 obviously, that's way better for us.

20 So we would certainly favor a model that Executive
21 Director Chaney was talking about. But we definitely have
22 worked with Los Al. We don't think we've been unreasonable
23 on this. If somebody's making a proposal and basically the
24 proposal says you're going to be out of business, how are
25 you going to agree to that proposal? You can't agree to

1 that proposal. It's just, it's not -- you can't do it, with
2 all the people's lives, their livelihood, their way of life,
3 people that live here six months a year and this is their
4 home, where their kids go to school. You're talking about
5 something that's just, you know, it's a real human -- it's
6 money. We're talking about money but there's a real human
7 cost behind that.

8 And I just want to say in closing that I honestly
9 believe from the bottom of my heart that it's in the best
10 interest of California horse racing for this Los Alamitos
11 model to be voted on and accepted right now as a one-year
12 model. And I also believe it's in the best interest of the
13 state of California.

14 Thank you.

15 CHAIR FERRARO: Make it quick, please.

16 MR. COTU: I just wanted to point out, Scott said
17 that this is a zero-sum game, you know, whatever model.
18 It's not true. Were Watch and Wager to have to cut days,
19 the numbers change. All these numbers are dynamic, they
20 change, meaning, if they had to cut days in order to get to
21 a number that they could afford, all the other parties,
22 Losal included, CARF included, have to make up the
23 difference of whatever Watch and Wager can't afford to pay.

24 EXECUTIVE DIRECTOR CHANEY: Correct. I mean, it's
25 a zero-sum game. Sorry to interrupt, but don't

1 mischaracterize what I said. At the end of the day, it has
2 to equal 18.2. So agreed, if one person pays less, then
3 everybody else has to pay more, so don't mischaracterize
4 what I said. Thanks.

5 MR. COTU: Okay. So the way I understood what you
6 were saying, Scott, is that these numbers are what everybody
7 would pay. These numbers would change, is what I'm saying.
8 That bottom number stays the same but the numbers in the
9 spreadsheets all change. So if one can't pay, everybody
10 else is going to pay and it's going to go up significantly.
11 That was the point I was trying to make.

12 And also, the handle-based model that you like is
13 not the same, obviously, as the license fee model, which you
14 said there was lobbyists going in. The handle fee model was
15 a continuation of the existing law. It didn't require
16 lobbyists to come in and say, do what you've been doing for
17 the past 60 years. They just continued what they were doing
18 for the past 60 years.

19 EXECUTIVE DIRECTOR CHANEY: Right. I mean, just
20 for clarification of the Board, I mean, I think my lobbying
21 reference was to license fees pre-2009.

22 But just so the Board completely understands, like
23 dark blue and light blue are kind of similar, it's like a
24 blend. So when it says 75 percent of the indirect costs
25 are, you know, SB-16 license fees, you know, what Mr. Cotu

1 just mentioned, it just would be based on that. And then it
2 would be, for the rest of the indirect costs, the other 25
3 percent would be the same percentages applied to ADW.

4 The difference then in light blue would be 60
5 percent. So it's still using pre-SB16 license fees. And
6 then the difference is that the other 40 percent would be
7 covered by a percentage of ADW. That would be the same, you
8 know, rather than mirroring the pre-SB-16 license fees.

9 The idea with the blue column is that it gets like
10 the smallest, if you will, the watch and wager up to
11 \$557,000, which is exactly what the prediction of their
12 direct costs are.

13 Now, Mr. Cotu is absolutely correct. These are
14 based on handle predictions, and they change and, you know,
15 the formula didn't exactly predict this year's budget. So,
16 you know, we sent out some shortfall letters, some true-up
17 letters, what, a month ago or so. So he's absolutely
18 correct in the sense that these are predictions and handle
19 might be different and so on and so forth.

20 But in this model, these numbers aren't random;
21 right? They were picked out because it brings like the
22 smallest to its very minimum direct cost. And literally, in
23 the light blue model, watching a wager would be paying no
24 indirect cost. The other is, you know, obviously the
25 smaller you are, you would be a smaller percentage. But

1 that's why like those numbers like bring it into our view
2 compliant with the law, whereas the ones with the red don't
3 cover direct costs.

4 And I just want to say, like for -- in considering
5 whether you cancel racing in order to save money, I would
6 just caution the industry. Obviously we don't want to
7 incentivize canceling racing and save money, that's not a
8 great idea. I think it's a little short-sighted simply
9 because, you know, while testing probably changes to some
10 extent if you cancel races, OV and steward's numbers don't
11 change that much. They still work those days. They have a
12 minimum number of work days.

13 And then what Mr. Cotu said is correct. The
14 problem is if you cancel race days in order to pay less,
15 that money is then spread out over everybody else, including
16 yourself; right? I mean, it's not like it becomes an
17 indirect costs, and then it's spread out amongst all the
18 folks. So it's not like, oh, we're going to save one day of
19 racing, it's 100 percent savings. It's going to be closer
20 to 50 percent.

21 So I just want to caution associations that, you
22 know, running less race days is not going to save as much
23 Board support money as you might think.

24 CHAIR FERRARO: Well, no, but if our numbers are
25 based on the handle as they are now, that doesn't apply;

1 correct?

2 EXECUTIVE DIRECTOR CHANEY: Yeah. I mean, the
3 nice thing, I think the elegant thing about the -- well, to
4 be fair, the dark blue model, which I don't think comports
5 with what our vision of the law is, but even the light blue
6 and the pink, it's not based on reaching some sort of like
7 prediction of what direct costs are. The nice thing, it
8 covers what we think direct costs are, but it doesn't start
9 there, so it's just a percentage of wagering.

10 Whereas, like, if you move further to the green
11 and gray models, it starts with SVT, so you have to cover
12 that, and then the rest is treated differently.

13 The three model, the three in the middle, blue,
14 light blue, and peach, all don't start with SVT. It's just
15 a formula that happens to cover SVT, except for Watch and
16 Wager in the dark model.

17 Have I totally lost everybody? I've learned way
18 more than I want to about this sort of thing.

19 CHAIR FERRARO: Okay. All right.

20 Rita, do we have any public comment on this? Who
21 is it?

22 (Off mic colloquy)

23 CHAIR FERRARO: Can we hear from both of you
24 gentlemen, please? One at a time. Yeah, that's fine. Go
25 ahead.

1 MR. OLDFIELD: Before I make my comments and my
2 time starts, I just want to say that I'm not speaking here
3 on behalf of CTBA as I was earlier, and I'm actually just
4 speaking to you today as a horseman that's interested in the
5 topic, nor certainly as my role in what I've worked on with
6 Northern California, but I'm going to go ahead and use the
7 word notwithstanding. My prior life, I was a lobbyist for
8 15 years, and so I understand the meaning of that word very
9 well.

10 But I do want to say, notwithstanding CHRB's
11 responsibility to follow the law, certainly CHRB has an
12 obligation to enact good policy. And I just want to go back
13 on a comment that was made previously.

14 You know, I think without passing judgment on any
15 one of these proposals that's in front of you today, at the
16 very least, CHRB should adopt a comprehensive economic
17 analysis to demonstrate the overall economic impact of each
18 one of these proposals to racing associations throughout the
19 state.

20 COMMISSIONER MITCHELL: We can't afford to do
21 that.

22 MR. OLDFIELD: Okay. You know, I can --

23 CHAIR FERRARO: You realize, we have to leave
24 today with a decision. We have no choice.

25 MR. OLDFIELD: I'm not sure I would agree, sir,

1 that you have to leave with a decision that is a significant
2 change as to the current status quo.

3 But I would say, you know, I've been party to a
4 lot of major decisions in the state of California, both in
5 the legislature and the state's regulatory agencies, and I
6 can tell you that certainly within the state's regulatory
7 agencies, a significant economic change to any regulated
8 entity does not come without a significant economic analysis
9 that overlooks or that looks at the total comprehensive cost
10 of a change from a regulation or whatnot. That's pretty
11 standard when you look at things like CEQA and other
12 requirements, you know, and I think that's just good policy.

13 And so I've not seen one and I really would like
14 to see one as what these costs look like to each one of the
15 racing associations, you know? And that could be positive
16 for those that have been up here previously or negative for
17 or the others in the north.

18 And then the last thing I'll say is -- second to
19 last thing, excuse me, you know, some of these license
20 agreements that CHRB has already approved, you know, have
21 included data, specifically economic data that's been based
22 on the current formula, and so I would ask that you consider
23 that as well. I think it's even more of an argument to say
24 that we need to look at an economic analysis of what this is
25 going to do, given the fact you've already made decisions

1 based on the current formula.

2 And then last thing I'll say, and this is with
3 absolute respect to the comment that was made about the
4 closing of Golden Gate Fields, I just want to say that, you
5 know, at least in my recollection, the discussion about a
6 change, a significant change in the regulatory formula
7 wasn't part of the announcement that was made last June.
8 That's been a relatively recent issue in the last couple of
9 months, certainly following the decision that was made
10 earlier this spring. And, you know, from a horseman's
11 perspective, you know, I didn't see that being part of the
12 discussion last June. That's a relatively new issue. So
13 just for some context there.

14 Thank you very much.

15 CHAIR FERRARO: Thank you.

16 MR. SMOLICH: Pay for what you use. You know,
17 that's a rich guy's statement. Sorry about that. I'm Rob
18 Smolich, a horse owner here in Northern California. And I'm
19 not a big fan of that statement, pay for what you use.
20 That's pretty much a rich guy's statement, that, you know, I
21 don't use public education, I don't have to pay for it.

22 We just heard earlier, we have these people that
23 are 1/ST Racing, that own Elite. They own 1/ST Racing, all
24 the betting there. They have a lot of income coming in.
25 And what's the total amount that we're talking about here

1 that CARF and Watch and Wager and Los Alamitos are going to
2 add? Is that going to balance their budget in Southern
3 California?

4 We're trying to figure out a cost formula here.
5 And a few years ago the state of California was given a
6 whole bunch of money for the ADW. And what was the formula
7 there? Southern California got almost all the money. So
8 shouldn't that formula, all this money they're making from
9 Elite, 1/ST Racing, be factored into the overall budget that
10 they have and how much income they make off that and how
11 much maybe they should pay to the overall cost?

12 Thank you.

13 CHAIR FERRARO: Thank you very much.

14 Go ahead, Bill.

15 MR. NADER: Thank you, Chairman. Look, we went
16 through all the meetings. We didn't bring a lawyer to all
17 of those sessions.

18 But the one thing I do want to say is with respect
19 to the legal interpretation, from our view, when it comes to
20 the direct cost as they're specified, if you're allocated
21 and licensed to run race meetings in the state of
22 California, our view is that CHRB Board support is a
23 regulation, it's integrity, it's safety, it's the cost of
24 doing business to be responsible for your stewards, your
25 vets, and your lab testing, because it has to do with the

1 direct responsibility of the distribution of purse money to
2 owners, breeders, trainers, jockeys, and with respect to the
3 betting public, that they're getting a fair shake betting on
4 the races which provides income to fund the tracks and fund
5 the purses.

6 So putting aside legal interpretation, it just
7 seems to me like it's just a cost, a core cost of doing
8 business. And I think that's something, when we talked
9 about it on a TOC board call, that everyone on our side is
10 in agreement to, you know?

11 Some of the things, some of the other things that
12 -- with CHRB Board support, such as licensing personnel at
13 your track, investigators at your track, research, the cost
14 of the equine medical director, all of those things in the
15 meetings that we held, it was understood that all parties
16 agreed including Santa Anita and Del Mar to move those into
17 the other bucket which is the \$12.6 million remaining to
18 fill that budget.

19 Now when we talk about the tracks the TOC contends
20 that we're \$8 million of the \$18.2 million in funding
21 because everything that has to do with the thoroughbred
22 track, whether it's CARF, Sonoma, Los Al, Thoroughbred Day,
23 Santa Anita and Del Mar, we're paying half of that. So the
24 purse account, the thoroughbred purse account is putting up
25 \$8 million of the \$18.2 million. And when we talked about

1 it on a board call, we came to the conclusion that the
2 cleanest solution would be to do it by race cards, but that
3 would require a wholesale change, and it would be disruptive
4 and too much too soon, and we knew that.

5 But we just wanted to make the point that if we --
6 if it was a clean slate and we could do this thing over, it
7 would be by race cards. You allocate to run those days.
8 You're licensed to run those days. You understand the cost
9 of the CHRB as part of the operating model and you put it
10 in. Now we know that that can't happen now but we just
11 plant that in for future consideration that would be the
12 cleanest long-term solution.

13 For now, what we're saying is that what Chairman
14 said at the beginning, everyone's responsible for their
15 direct cost of stewards, vets, and lab testing, to me, not
16 because it's legally required, but because you need to own
17 up to that. I mean, how do you do that? How do you take
18 bets and run races without acknowledging those costs?

19 Secondly, we would say that for the, what's called
20 the remaining balance of the \$12.6 million, in our letter,
21 we said handle-based. I would say after listening to
22 everything today, handle-based, or it could be on the same
23 formula that has been in play for the last 15 years, one or
24 the other. Handle-based, but it should be simple. Handle-
25 based would be straightforward, as was presented today, or

1 if a second option is required, then do it the same way the
2 costs have been allocated over the past 15 years, knowing
3 that we've carved out a direct cost and moved them into a
4 bucket where it's separated from the total budget.

5 CHAIR FERRARO: Thank you, Bill.

6 Well, given the fact that this Board has to make a
7 decision today and given the fact that we have an
8 outstanding law that we need to comply with, obviously where
9 we'd like to be is that everybody pays their own direct
10 costs and the indirect costs are divided up proportionally.

11 Realizing that creates severe burden on some of
12 the racing associations, I think we're looking for a
13 compromise, are we not? So is not the blue column, light
14 blue column on this form, a suggestion of a Los Al, a
15 compromise we could use for this year with the intent that
16 we're going to move to the full state requirements in the
17 following year? Is that something that this Board could
18 consider or how do you feel about that?

19 COMMISSIONER DAVIS: Well, you're talking about
20 the dark blue or the light blue?

21 COMMISSIONER ALFIERI: The light blue.

22 CHAIR FERRARO: The light blue.

23 COMMISSIONER DAVIS: Oh, okay, good. All right.
24 Yeah.

25 CHAIR FERRARO: Hudnut?

1 COMMISSIONER HUDNUT: Yes.

2 CHAIR FERRARO: What do you --

3 COMMISSIONER HUDNUT: Yes, Mr. Chairman, I don't
4 see why we couldn't consider that.

5 CHAIR FERRARO: Damascus?

6 CHAIR FERRARO: You know, I would -- gee, there's
7 a lot of things I'd like to say, but I promised God I'd be
8 nice.

9 I don't see why we couldn't look at that. I mean,
10 this comes about for a lot of reasons that have transpired
11 recently, and it's just, you know, some people that are
12 upset that don't want to play ball and that's what they're
13 doing, but it is what it is. But, yeah, that's my thought.

14 CHAIR FERRARO: Alfieri?

15 COMMISSIONER ALFIERI: Well, my first choice is
16 the handle-based model. I think that's the cleanest,
17 easiest, we've heard that. We just heard it again from Bill
18 Nader. You know, I think it would be a compromise to choose
19 the CHRB staff, the light blue model.

20 VICE CHAIR GONZALES: Dr. Ferraro, the first
21 question I have is, there's no disputing what direct costs
22 are; right? That's pretty clear, Scott? Would you say it's
23 pretty black and white, or is there some --

24 EXECUTIVE DIRECTOR CHANEY: No, I don't think
25 that's fair to say. Like I want to acknowledge what one of

1 the speakers said. The stewards and OVs are paid by day,
2 and those are pretty much --

3 VICE CHAIR GONZALES: Yeah.

4 EXECUTIVE DIRECTOR CHANEY: -- straightforward.

5 Testing is a little squishier, right, because we, as
6 everybody knows here, we pay Davis, you know, \$5 million to
7 \$6 million a year just for everything, for a certain amount
8 of tests. We don't have like a per-test model with them.
9 It's just not how it works.

10 So how they handled that as a group was they took
11 out the research part, right, because that's not about
12 testing, took out EMD salary because that's not testing, and
13 then just you know took that whatever total was left over
14 and divided by the total number of tests we do. And that
15 is, you know, a rough estimation of a per-test cost.

16 So, yeah, so I mean it's very close. I don't want
17 to mislead this Board and say it's exact. That number is
18 not knowable.

19 VICE CHAIR GONZALES: Got it. Because if we're
20 going to be asking all operations to cover direct costs, we
21 got to be very clear about what that means, I think.

22 So that's kind of the first part of what you're
23 suggesting, Dr. Ferraro.

24 The second part, if I could just understand, what
25 we're saying is we would keep it status quo for this year.

1 CHAIR FERRARO: Well, not quite. The light blue
2 is not --

3 VICE CHAIR GONZALES: Oh, it would be, that's
4 right.

5 CHAIR FERRARO: It would be a small change.

6 VICE CHAIR GONZALES: There would be a small
7 change in the indirect.

8 CHAIR FERRARO: Yeah.

9 VICE CHAIR GONZALES: Where I would have a little
10 bit concern here is just that next year going from kind of,
11 you know, going from where we're allowing some flexibility
12 to just going to the hard, I guess it's just a little bit
13 too dramatic.

14 CHAIR FERRARO: Well, we could say we don't have
15 to make any promises for next year. We'll see what it is
16 when it comes.

17 VICE CHAIR GONZALES: If so, if we had to.

18 CHAIR FERRARO: Yeah.

19 EXECUTIVE DIRECTOR CHANEY: Yeah, if I may, I
20 might be a little bit helpful.

21 I just want to make sure that everybody knows,
22 even the light blue column is not a small change for the
23 night racing and Quarter Horses; right? That's still a
24 major change. Just paying your direct costs is a, you know,
25 a major imposition. You know, not so much for the

1 thoroughbreds.

2 And I kind of agree with you, Mr. Vice Chairman,
3 if you care about my opinion. I think the landscape is
4 changing so quickly that, like making some commitment
5 about --

6 CHAIR FERRARO: Next year.

7 EXECUTIVE DIRECTOR CHANEY: -- next fiscal year is
8 nearly impossible.

9 VICE CHAIR GONZALES: Right. Right. Agreed.

10 So the other point I just want to make is this.
11 Scott, I know you are working hard, very hard, to take a
12 look at the CHRB budget. You're looking at how to save,
13 save, save; right? That has been part of what you've been
14 doing right along. And because there's the HISA rules, you
15 know, trying to eliminate any current CHRB jobs, I'm not
16 saying -- let's evaluate any CHRB jobs, there may be some
17 redundancy.

18 So you're going to continue to really look at how
19 you can bring the overall CHRB budget down; right? That's a
20 priority.

21 EXECUTIVE DIRECTOR CHANEY: Yeah, I mean,
22 absolutely. We have some costs we don't have control over,
23 right, the state pro rata. And like the state, having state
24 employees is costly; right?

25 VICE CHAIR GONZALES: Yeah.

1 EXECUTIVE DIRECTOR CHANEY: Like, those aren't
2 controllable.

3 And I will say, to the industry, there's been,
4 since Cynthia and I both started, there have been no budget
5 change proposals. The only increases have been
6 uncontrollable. Now to make it go down, I think going down
7 is possible in the near future. I think there's going to be
8 some contraction with employees simply because HISA, you
9 know --

10 VICE CHAIR GONZALES: Yeah.

11 EXECUTIVE DIRECTOR CHANEY: -- repeats it. I
12 think we do a better job in terms of being leaner and trying
13 to squeeze every dollar out. And then to be fair, with like
14 contraction of race days, you just need less personnel.

15 So I don't think it's unrealistic to think we
16 could try to at the very least keep it the same, if not
17 decrease it. I don't know that it will be next year but
18 we're --

19 VICE CHAIR GONZALES: It would be phased. But
20 that's kind of like you would be asking for the same kind of
21 phase-in that everybody else would be, right, to get to --

22 EXECUTIVE DIRECTOR CHANEY: Sure.

23 VICE CHAIR GONZALES: -- what you believe --

24 EXECUTIVE DIRECTOR CHANEY: Yeah.

25 VICE CHAIR GONZALES: -- I mean, if it's a 15

1 percent or 10 percent reduction. Like the office space, for
2 example, we're just right across the street from us.

3 EXECUTIVE DIRECTOR CHANEY: Yeah.

4 VICE CHAIR GONZALES: Gigger footprint than we
5 really need, you know, and probably could have get into
6 something smaller with remote work and other things.

7 So I just --

8 EXECUTIVE DIRECTOR CHANEY: Yeah. And just one
9 other thing. I'm gutted for the industry because as
10 everybody knows in the state of California is we're facing a
11 massive budget deficit and we're going to be required to
12 actually, you know, cut part of our budget this year.
13 Sadly, that's not going to go back to the industry; right?
14 That goes to state government to, you know, to alleviate
15 that burden.

16 So I apologize. It's just not something I have
17 any say over.

18 VICE CHAIR GONZALES: Okay.

19 CHAIR FERRARO: Wendy?

20 COMMISSIONER MITCHELL: I would just echo what
21 Damascus said, is, you know, this is a situation where
22 people didn't like the decisions that were made, we didn't
23 go along with what everyone wanted us to do, you know,
24 previous meetings, and, you know, I think this is, to be
25 honest, it's punitive. And so that's disappointing because,

1 again, like we're up here as Commissioners trying to make
2 this industry work and continue in California, and it
3 doesn't seem like the industry sees, I don't know, kind of
4 the grave situation that we're in here. And, you know, they
5 want to punish, you know, each other, and it will ultimately
6 not end well for racing in California. And so it's very
7 frustrating that we're in this position.

8 Again, I'm not, you know, going to opine on the
9 legal, you know, discussion because I don't think that
10 that's -- you know, we have our staff and that's our
11 responsibility to accept that. But it's really frustrating
12 because it is a wholesale change in a short period of time
13 when the industry's on the decline.

14 And so if the light blue is where we go because
15 it's, you know, what we -- the best compromise that we can
16 come up with, then I guess I'll sign off on that. I think
17 it's last meeting, so who really cares what I think, but it
18 is just disappointing to say the least that we're in this
19 situation because I don't -- I think, the timing is suspect.

20 CHAIR FERRARO: Brenda?

21 COMMISSIONER DAVIS: First I want to thank Scott
22 for putting together this spreadsheet.

23 EXECUTIVE DIRECTOR CHANEY: Oh, don't thank me.
24 Thank Bernie Thurman. She is amazing.

25 COMMISSIONER DAVIS: Thank you, Bernie.

1 EXECUTIVE DIRECTOR CHANEY: The industry would be
2 lost without her. I just asked her to do it. So I want to
3 give credit where it's completely due.

4 COMMISSIONER DAVIS: But I really appreciate this
5 because we can hear a lot about legal arguments and what
6 notwithstanding means and all this other stuff, and what it
7 comes down to is the numbers.

8 COMMISSIONER MITCHELL: Right.

9 COMMISSIONER DAVIS: And can people sustain these
10 numbers? And are we doing something that allows the entire
11 industry to go forward, at least for the next year? And
12 that's really what our decision comes down to.

13 And I don't have any trouble at all supporting the
14 light blue, which also was by Bernie.

15 CHAIR FERRARO: Okay.

16 COMMISSIONER DAVIS: So, you know, it gives us
17 some leeway.

18 CHAIR FERRARO: So I'm going to make a motion
19 that's based on the light blue. But I'm going to have my
20 good friend here, Mr. Chaney, put it in the words for me.

21 EXECUTIVE DIRECTOR CHANEY: I suggested it because
22 I asked our lawyers to suggest it because we're trying to
23 inoculate ourselves from potential lawsuits.

24 So what we would suggest is something like,
25 consistent with the statutory requirements set forth in

1 California B&P Code Sections 19518 and 19612.88, each
2 association is obligated to pay for the direct costs
3 associated with running their race meet to include the cost
4 of stewards, official veterinarians, and laboratory testing.

5 Additionally, pursuant to California Business and
6 Professions Code 19616.51, the Board opts for, let's call it
7 the light blue model, which is 60 percent SB 16 plus same
8 ADW .03 for all. Fortunately, it's in the Board packet so
9 everybody knows what it is.

10 This motion is made as it complies with existing
11 law and the Board's authority under section 19440.
12 Additionally, the Board adopts the formula as it finds that
13 doing so is in the public's best interest and subserves the
14 purposes of the course racing law.

15 CHAIR FERRARO: Mr. Hudnut, do you want to second
16 that?

17 COMMISSIONER HUDNUT: I will second that.

18 CHAIR FERRARO: Okay.

19 Commissioner Davis?

20 COMMISSIONER DAVIS: Yes.

21 CHAIR FERRARO: Commissioner Mitchell?

22 COMMISSIONER MITCHELL: Yes.

23 CHAIR FERRARO: Commissioner Gonzales?

24 VICE CHAIR GONZALES: You know, I'm going to be a
25 no on this one here.

1 CHAIR FERRARO: Okay.

2 Mr. Alfieri?

3 COMMISSIONER ALFIERI: Yes.

4 CHAIR FERRARO: Commissioner Castellanos?

5 COMMISSIONER CASTELLANOS: Yes.

6 CHAIR FERRARO: Commissioner Hudnut?

7 COMMISSIONER HUDNUT: Yes.

8 CHAIR FERRARO: Chairman votes yes. Thank you.

9 It is what it is. Let's try to persevere.

10 All right, we got a couple more things and then we
11 can get out of here. Staff report.

12 Mr. Chaney, Executive --

13 EXECUTIVE DIRECTOR CHANEY: Sure. Sure. Thank
14 you, Mr. Chairman, and good afternoon, Commissioners.

15 I will begin with the handle report. For the
16 month of May, day racing Handle was even, night racing was
17 up seven percent and total handle was actually up one
18 percent as compared to May 2023. Year to date, day racing
19 is down six percent, night racing is down four percent and
20 total handle is down six percent as compared to the first
21 five months of 2023.

22 Nearly six months into the calendar, I'm compelled
23 to point out to the Board that fatalities are on the rise as
24 compared to last year, which are also greater than 2022.

25 While compared to 2019, the five-year picture is still good,

1 the more recent numbers are slightly concerning. Racing and
2 training musculoskeletal-related fatalities, which are the
3 best parameter of regulatory effectiveness, are up from 16
4 last year to 22 this year through this morning. Non-
5 musculoskeletal fatalities are even, meaning overall there
6 are six more at this point this year than there were last.

7 This is a reminder that all stakeholders,
8 including the Board, must redouble their efforts and protect
9 equine athletes, and that our work as a Board is never done.

10 To that end, and specifically for stakeholders,
11 two new rules will go into effect on July 1st.

12 First, CHRB Rule 1866.3 requires that an attending
13 veterinarian perform diagnostic imaging within seven days of
14 injecting a corticosteroid into a high-motion joint, knees
15 and fetlocks. The CHRB views restrictions on IA injections,
16 particularly those involving corticosteroids and or high-
17 motion joints as critical to the promotion of animal
18 welfare.

19 Second, the CHRB Rule 1846.5 creates a regulatory
20 requirement for owners and trainers to report equine
21 fatalities within 72 hours of a horse leaving a CHRB-
22 regulated facility. Such monitoring and reporting has been
23 a practice of ours for some time but in less than two weeks
24 it becomes a requirement.

25 I would be remiss in not recognizing the permanent

1 closure of Golden Gate Fields a little less than two weeks
2 ago. Horses first ran at Golden Gate in 1941. And many
3 owners, trainers, jockeys, racing officials, other
4 stakeholders and horses both launched their careers at the
5 Albany track and raced at the storied facility. We have
6 appreciated Golden Gate Field's commitment to safety and
7 will miss its presence on the California horse racing
8 landscape.

9 I'd like to relay an administrative reminder,
10 there will be no Board meeting in the month of July. The
11 next Board meeting will be August 15th in Del Mar. At that
12 meeting, race dates for racing year 2025 will be agendized.
13 The Race Dates Committee has elected to forego a committee
14 meeting and instead have the full Board take up the matter
15 directly.

16 Lastly, I would like to congratulate Commissioner
17 Mitchell on her appointment to the California Medical Board.
18 She is certainly willing to take on some of the tougher
19 assignments in California state government. And the
20 California horse racing Board is fortunate that she has
21 served over the last five years. Both the Board and
22 stakeholders have learned to appreciate her direct analysis,
23 her insight and perspective. And I personally have valued
24 her counsel, good humor, and friendship.

25 Thank you, Wendy.

1 (Applause)

2 EXECUTIVE DIRECTOR CHANEY: And that, Mr.
3 Chairman, is my report.

4 VICE CHAIR GONZALES: You know, Scott, if I could
5 just add, while Dr. Blea is making his way here?

6 Wendy, I just want to say thank you for your
7 leadership. And I think the perspective that you have
8 brought, your line of questioning, your fairness, being very
9 reform-minded during a very, very difficult period for the
10 industry, but you delivered on all the things that you set
11 out to do. And I just want to say thank you and it was an
12 honor to serve alongside you.

13 COMMISSIONER ALFIERI: Mr. Chairman, I also would
14 like to thank Commissioner Mitchell.

15 Thank you so much for all you've done with sage
16 advice, consultation, and great perspective and analysis on
17 where we are here today.

18 I also want to mention Golden Gate Fields. I want
19 to thank David Duggan, who has been there since -- at the
20 helm since 2017, done a yeoman's job, but really cares for
21 everyone on that racetrack, the backstretch, all of the
22 staff, all of the people. He did a phenomenal job. I want
23 to send out a thank you to him.

24 And it was a sad day watching the closing day. We
25 got to see Vice Chairman Gonzales there representing us in

1 the winner's circle and being there all day supporting those
2 people, especially the backstretch people, a lot of them
3 that don't know where they're going. You know, some have
4 jobs and some don't.

5 And so I just thank you. I won't belabor it, but
6 thanks again.

7 CHAIR FERRARO: Thank you, Wendy, for keeping the
8 Chairman honest.

9 COMMISSIONER MITCHELL: Well, I just wanted to say
10 before -- sorry, Dr. Blea -- thank you for all the kind
11 words and for being honored to serve on this Board. I thank
12 the governor for the appointment and for, you know,
13 entrusting me to do many of the reforms.

14 I think, since Oscar and I were appointed together
15 and the reforms that we've done have changed the dynamics
16 from the perspective of, you know, understanding what a
17 regulatory body does, and I think that that has been really
18 helpful to the industry. I think that we've done a lot to
19 reduce horse deaths and really make the tough decisions when
20 necessary and supporting the tracks in order to protect
21 horse welfare and the industry in California.

22 And I'd have to say like one of the greatest, I
23 think, achievements of my time on this Board is hiring Scott
24 Chaney and Cynthia because, you know, when I came on and
25 realized we were going to have to hire an executive

1 director, I was like, who the hell would want this job? And
2 I have been incredibly honored to serve by him and he has
3 done an excellent job serving with integrity in a very
4 difficult position, and with Cynthia by his side, I mean,
5 they've done they've done a tremendous job. And really,
6 being a state employee in something like this is a thankless
7 job. You don't make a lot of money, you work your butt off,
8 and you've really done amazing work.

9 EXECUTIVE DIRECTOR CHANEY: Thank you.

10 COMMISSIONER MITCHELL: So thank you for taking
11 this job and for doing that.

12 And to my fellow Commissioners, like I've loved
13 working with all of you. I know I'm a pain in the ass
14 sometimes but I really enjoyed it. And this is not goodbye
15 it's just until we see each other again.

16 So thank you very much for your time.

17 CHAIR FERRARO: All right, I second all that.

18 (Applause)

19 CHAIR FERRARO: Dr. Blea?

20 DR. BLEA: Well, good afternoon, Chairman Ferraro,
21 Vice Chairman Gonzales, Commissioners, specifically Ms.
22 Mitchell, and Executive Director Scott Chaney. As he has
23 once again stolen my thunder, this will be a sequel to some
24 of what Scott Chaney provided.

25 We have two new amendments -- or we have two

1 amendments to two new rules that are going into effect July
2 1st, 2024. And I'm going to reiterate, I'm going to state
3 them again because I think they're quite important not only
4 for their impact but for their effect.

5 So CHRB Rule 1866.3, Interarticular Injections
6 Restricted, has been amended and will go into effect on July
7 1st, 2024.

8 In summary, any interarticular administration of a
9 corticosteroid, I'll repeat that, any interarticular
10 administration of a corticosteroid into a fetlock or carpus
11 will require diagnostic imaging within seven days preceding
12 treatment. Diagnostic imaging can be defined by
13 radiographs, nuclear scintigraphy, PET scan, MRI, or
14 ultrasound. CT can also be included when it becomes
15 available. The diagnostic imaging procedures shall be
16 documented in EquiTAPS by the attending veterinarians
17 fulfilling both HISA and CHRB regulations.

18 The standdown time to breeze or race for all
19 covered thoroughbreds receiving an intra-articular their
20 treatment will follow HISA regulations. Those regulations
21 are set to change pertaining to an intra-articular steroid
22 injection in a Fetlock on July the 8th. Currently, they are
23 7 days to breeze, 14 days to race.

24 On July 8th, those regulations with an intra-
25 articular corticosteroid into a fetlock will have a

1 standdown time of 30 days to race and 14 days to breeze.

2 So basically, HISA is going back to what the
3 original California rule was a couple weeks ago.

4 And In saying that I would like to express my
5 sincere appreciation to HISA, the leadership of HISA.
6 Several of us have communicated with them quite a bit to
7 explain the significance of where our 30-day rule was versus
8 their 14-day rule. And I want to express my sincere
9 appreciation for their leadership, for listening, and for
10 amending their safety regs, which, again, will go into
11 effect July 8th.

12 It's going to be a bit confusing for horsemen.
13 I've been talking to them on a daily basis. HISA is
14 supposed to put out some educational materials for the
15 horsemen for the new safety rules going into effect July
16 8th. If not, rest assured, I will provide that to our local
17 horsemen.

18 The second rule that will go into effect on July
19 1st is CHRB 1846.5, as Scott mentioned previously, the Post-
20 Examination and Post-Examination Review. Basically, this
21 requires a CHRB post-mortem exam for every horse that dies
22 or is euthanized within 72 hours of leaving the jurisdiction
23 of a CHRB enclosure. We've actually been informally
24 practicing this for several years now, it just now is
25 codified and becomes part of the rule.

1 Moving on to fatalities, in May there was one
2 musculoskeletal fatality in racing and one musculoskeletal
3 fatality in training. Four other fatalities included two
4 gastrointestinal incidents, a colic and a colitis, one
5 abscess affecting the spinal cord of a horse, and one
6 accident involving a pony horse who was let loose.

7 Pertaining to the Maddy Lab, regarding all CHRB
8 testing at the Maddy Lab in May of 2024, the Maddy Lab
9 analyzed 276 primary blood and urine post-array samples,
10 including three official work bloods. Additionally, 146
11 out-of-competition samples were analyzed. In all samples
12 tested in May, there was one class four violation of
13 phenylbutazone, or bute.

14 Further to testing at the Maddy Lab, Dr. Moeller
15 and his team recently published non-targeted detection of
16 synthetic oligonucleotides in equine serum using liquid
17 chromatography high-resolution mass spectrometry. And they
18 published that in the International Journal of Molecular
19 Sciences.

20 An LCHMS method was developed and validated that
21 can successfully detect oligonucleotides, which essentially
22 are short-stranded DNA or RNA, in equine serum, thus aiding
23 in the detection of the potential use of pharmaceutical
24 agents capable of editing the genome or modifying expression
25 of gene products, in short, gene doping. So they validated

1 a method in the approach to gene doping or attempts to gene
2 dope in horse racing.

3 This research was partially funded by the
4 California Horse Racing Board so I thought you should know
5 that.

6 This concludes my report and I'm happy to answer
7 any questions you may have.

8 CHAIR FERRARO: Questions from the Board?

9 CHAIR FERRARO: Thank you Dr. Blea.

10 Do we have a motion to adjourn?

11 EXECUTIVE DIRECTOR CHANEY: We have any public
12 comment?

13 CHAIR FERRARO: No.

14 EXECUTIVE DIRECTOR CHANEY: Okay, you're good.

15 CHAIR FERRARO: Motion.

16 COMMISSIONER DAVIS: Second. Davis.

17 CHAIR FERRARO: Commissioner Davis?

18 COMMISSIONER DAVIS: Yes.

19 CHAIR FERRARO: Commissioner Mitchell?

20 COMMISSIONER MITCHELL: Yes.

21 CHAIR FERRARO: Commissioner Gonzales?

22 VICE CHAIR GONZALES: Yes.

23 CHAIR FERRARO: Commissioner Castellanos?

24 COMMISSIONER CASTELLANOS: Yes.

25 CHAIR FERRARO: And the Chairman votes yes. The

1 meeting is adjourned. Thank you for participating.

2 (The regular meeting of the California Horse Racing Board
3 adjourned at 1:19 p.m.)
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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of July, 2024.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

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



MARTHA L. NELSON, CERT**367

July 8, 2024