MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

In the Matter of:   )
) Regular Meeting   )
______________________________)

SANTA ANITA PARK RACE TRACK
BALDWIN TERRACE ROOM
285 WEST HUNTINGTON DRIVE
ARCADIA, CALIFORNIA

THURSDAY, DECEMBER 16, 2010
9:43 A.M.

Reported by:
Mark J. Goena
APPEARANCES

COMMISSIONERS
Keith Brackpool, Chairman
David Israel, Vice Chairman
Jesse H. Choper
Bo Derek
John C. Harris
Jerry Moss
Richard Rosenberg

STAFF
Kirk E. Breed, Executive Director
Robert Miller, Staff Counsel
Jacqueline Wagner, Regulations/Legislation Manager
Dr. Rick Arthur
Mike Marten

ALSO PRESENT
Sherwood Chillingworth, Oak Tree Racing Association
Robert Hartman, California Marketing Committee
Shannon McDonald
John Bucalo, Barona Casino and Resort
Alan Balch, California Thoroughbred Trainers
Carlos Fisco, California Thoroughbred Trainers
Jack Liebau, Hollywood Park
Jerry Jamgotchian
ALSO PRESENT

Scott Daruty, MI Developments
Brad Blackwell, Twinspire and Youbet
John Hindman, TVG
Melanie Frank, TVG
David Elliott, California State Fair
Alan Horowitz, California Harness Horsemen’s Association
Guy Lamothe, TOC
David Rosenfeld, Attorney, Local 280
Kevin Carey, San Luis Rey Downs
Laura Rosier, San Luis Rey Downs
Leanne Howard, San Luis Rey Down
Tom Varela, SCOTWINC
Ina Hajek, Trainer, San Luis Rey Downs
Sam Scolamieri
Sam Semkin
Rod Blonien, Commerce Club
INDEX

Action Items:

1. Approval of the minutes of the regular meeting of November 9, 2010.

2. Public comment: Communications, reports, requests for future actions of the Board. Note: Persons addressing the Board under this item will be restricted to three (3) minutes for their presentations.

3. Public hearing and action by the Board regarding the proposed amendment of CHRB Rule 1974, Wagering Interest, to 1) provide that the withdrawal of one horse from a wagering interest that consists of more than one horse constitutes the withdrawal of the coupled entry or field and any horse remaining in the coupled entry or field shall run as a non-wagering interest for the purse only, and 2) to provide that a horse that is removed from the wagering pool in error shall run as a non-wagering interest for purse only, and the following affected regulations: CHRB Rule 1954.1, Parlay Wagering on Win, Place or Show; 1957, Daily Double; 1959, Special Quinella (Exacta); 1976, Unlimited Sweepstakes; 1976.8, Pick (n) Pool; 1977, Pick Three; 1978, Select Four; 1979, Trifecta; and 1979.1, Superfecta.

4. Discussion and action by the Board regarding the proposed distribution of CHRB Rule 1500.1, Jockey/Driver Subject to Testing, to require random drug testing of jockeys, apprentice jockeys, and drivers and the proposed amendment of CHRB Rule 1948, Physical Examination, to require drug screen during the annual jockey/driver physicals.

5. Discussion and action by the Board regarding a report from the California Marketing Committee (CMC) regarding its marketing and promotion plans and the CMC’s request to adjust the 0.2% distribution to the CMC, to a 0.25% effective January 1, 2011, pursuant to Business and Professions Code section 1960.73(c).

6. Discussion and action by the Board regarding the statutory interpretation of SB 1072 (Calderon), Chapter 283, Statutes of 2010, as to that portion of the law (Business and Professions Code section 19601,02(a),(b),(c) and (d) directed at increasing overnight purses.
Action Items:

7. Discussion and action by the Board regarding on the Application for Approval to Conduct Advanced Deposit Wagering (ADW) of ODS Technologies, L.P., dba TVG, for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.

8. Discussion and action by the Board regarding on the Application for Approval to Conduct Advanced Deposit Wagering (ADW) of Churchill Downs Technology Initiatives Company, dba Twinspires.com, for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.

9. Discussion and action by the Board regarding on the Application for Approval to Conduct Advanced Deposit Wagering (ADW) of Youbet.com, Inc., for a California multi-jurisdictional wagering hub and approval for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.

10. Discussion and action by the Board regarding on the Application for License to Conduct Advanced Deposit Wagering (ADW) of XpressBet, LLC, dba XpressBet.com, DelMarBets.com and OakTreeBets.com for a California multi-jurisdictional wagering hub, for a period of up to but not exceeding two years.

11. Discussion and action by the Board regarding a report from San Luis Rey Down concerning the subsidy from the Southern California Off-Track Wagering, Inc. (SCOTWINC) stabling and vanning fund.

12. Discussion and action by the Board regarding a report and update from the Commerce Club minisatellite wagering facility regarding its future plans for the facility.
13. Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personal matters, as authorized by section 1126 of the Government Code.

   A. The Board may convene a Closed Session to confer with and receive advice from counsel, considering pending litigation described in the attachment to the agenda captioned "Pending Litigation," as authorized by Government Code section 11126(e).

   B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).
EXECUTIVE DIRECTOR BREED: Ladies and gentlemen, this meeting of the California Horse Racing Board will come to order. Please take your seats. This is a noticed regular meeting of the California Horse Racing Board will be held -- is being held on Thursday, December 16, 2010 commencing at 9:30 A.M. in the Baldwin Terrace Room at the Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California.

Present at today’s meeting are: Keith Brackpool, Chairman; David Israel, Vice Chairman; Jesse Choper, Member; Bo Derek, Member; John Harris, Member; Jerry Moss, Member; and Richard Rosenberg, Member.

Before we go on to the business of the meeting I need to make a few comments. The Board invites comments on matters appearing on the meeting agenda. The Board also invites comments from those present today on matters not appearing on the agenda during a public comment period if the matter concerns horse racing in California.

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

This is a public comment -- there is a public comment sign-in sheet for each agenda matter on which the Board invites comments. Also there is a sign-in sheet for those wishing to speak during the public comment period for matters not on the Board’s agenda if it concerns horse racing in California. Please print your name legibly on the public comment sign in sheet.

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

When all the names have been called the Chairman will ask if there is anyone else who would like to speak on the matter before the Board. Also the Board may ask questions of individuals who speak. If the speaker repeats himself or herself the Chairman will ask if the speaker has any new comments to make. If there are none the speaker will ask to let others have comments to the Board -- make comments to the Board.

As you all know we are providing audio of this meeting over the internet. We need -- we plan to continue this
practice through the next fiscal year. We want to thank the California Marketing Committee for loaning us the microphones and other audio equipment, which greatly reduce the costs of the webcast to us. So therefore I’d ask everyone, please, including the Board, please introduce yourselves so those people listening on the webcast will know who’s talking. Thank you.

Mr. Chairman?

CHAIR BRACKPOOL: Good morning. Good morning. For those of you listening on the webcast you won’t see that somebody just spilt something here so we’re cleaning it up.

VICE CHAIR ISRAEL: It’s under control.

CHAIR BRACKPOOL: It’s -- thank you. Okay.

VICE CHAIR ISRAEL: I’ve been in a restaurant before.

CHAIR BRACKPOOL: I think we’re almost under control.

One moment here. One moment here.

Okay, are you okay good, David?

VICE CHAIR ISRAEL: I’m good.

CHAIR BRACKPOOL: Okay. All right. Good morning, everybody. Welcome. Great to be back this side of town and see the horses back out here this morning.

Before we get started, I would just like to offer on behalf of the -- the Board our sincere congratulations to Commissioner Choper who has been reappointed to the Board for a further term, and we are thrilled to have Jesse reappointed.
So our hearty congratulations. Okay.

The first item, public comment, I miraculously only have one speaker card here which might be a holiday record.

Sherwood Chillingworth.

MR. CHILLINGWORTH: Mr. Chairman, I think that’s due for item three.

CHAIR BRACKPOOL: You’re right. I don’t even have it on there. I was looking at -- treating it as if it was a two. So we have --

MR. CASTRO: Well, I don’t know what number this is. Richard Castro, a pre-notice.

VICE CHAIR ISRAEL: Well, that’s here with that. That could be three.

MR. CASTRO: No. It’s public comment.

CHAIR BRACKPOOL: Public comment.

MR. CASTRO: Public comment.

CHAIR BRACKPOOL: Public comment.

MR CASTRO: My name is -- well, first I’d like to say happy holidays to everybody. My name is Richard Castro, representing Pari-Mutuel Employees Guild Local 280.

I don’t have a lot of information on this but periodically I’m asked about it. It’s in regards to the four second delay. Recently we had a clerk who admits that he punched a ticket in error. He had three seconds from the time the ticket was issued to get it cashed -- from when he tried to
cash it. If we had the four second delay he wouldn’t have
gotten stuck with $1,200. But periodically I’m asked about
examples if it’s happening. We have a recent one that I’m
sharing with you now. That’s all. Thank you.

CHAIR BRACKPOOL: Okay. No other public speakers.

We’ll move right on to -- sorry?

VICE CHAIR ISRAEL: I think we have the minutes.

CHAIR BRACKPOOL: Oh, you’re right, the minutes. I
didn’t even do the minutes. Yeah. That was because David
spilled his coffee.

VICE CHAIR ISRAEL: Yeah. Is that why?

CHAIR BRACKPOOL: I apologize.

VICE CHAIR ISRAEL: So moved.

CHAIR BRACKPOOL: All right, approval of the minutes.

VICE CHAIR ISRAEL: Moved.

CHAIR BRACKPOOL: Moved by Vice Chair Israel. Do I
have a second?

COMMISSIONER DEREK: Second.

CHAIR BRACKPOOL: Second by Commissioner Derek. All
in favor?

ALL MEMBERS: Aye.

CHAIR BRACKPOOL: Approved. Okay. All right. A
tardy start by me. Okay.

Item number three. Jackie?

COMMISSIONER CHOPER: Did we approve the minutes?
VICE CHAIR ISRAEL: We just did.

COMMISSIONER CHOPER: We just did?

VICE CHAIR ISRAEL: Yeah.

(Colloquy Between Board Members)

MS. WAGNER: Jackie Wagner, CHRB staff. The item before you is a public hearing and action by the Board regarding the proposed amendment of CHRB Rule 1974, Wagering Interest, to provide that the withdrawal of one horse from a wagering interest that consists of more than one horse constitutes the withdrawal of the coupled entry or field, and any horse remaining in the entry -- in the coupled entry or field shall run as a non-wagering interest for the purse only, and to provide that a horse that is removed from the wagering pool in error shall run as a non-wagering interest for purse only, and the following affected regulations which are pari-mutuel rules, CHRB Rules 1954.1, 1957, 1959, 1976, 1976.8, 1977, 1978, Rule 1979, and Rule 1979.1.

As stated, the proposed amendment would provide that the withdrawal of a horse from a wagering interest, that constitutes the withdrawal of the coupled entry. And any horses remaining in that entry will run as a non-wagering interest for purse only.

The amendment also provides that if a horse has been properly removed from a wagering pool due to a total isolated error or another unjustified reason, the owner and trainer are
not at fault and the horse shall compete as a non-wagering interest for purse only.

In addition, the amendment would require that the racing association inform the public if a horse runs for purse only by making an announcement over the public address system and by informing off-track wagering outlets. This proposal also impacts the nine previously mentioned pari-mutuel wagering rules due to the manner in which the addressed coupled entries.

This amendment has been noticed for 45 days. During the 45 day public comment period staff received comments in opposition to the proposal from Golden Gate Fields. Golden Gate Fields proposes that rather than amending this particular rule that we eliminate Rule 1606, which is our coupling of horses rule, altogether to allow two or more horses that are owned in whole or in part by the same person or persons to run as an independent wagering interest. They contend that the elimination of coupling would allow the wagering public to wager on the individual horses it believes would perform best. They also say that this particular amendment would confuse the public.

In addition you received a comment from TOC. TOC also expressed similar arguments as Golden Gate Fields. However, they are in support of the section of the proposal that would protect owners’ rights by allowing a horse to run that isn’t scratched in error.
This item has been noticed for 45 days. The Board could adopt it as proposed or it can make changes that it would deem appropriate. It is up for more discussion and adoption.

CHAIR BRACKPOOL: Thank you. I have to say that I spent a lot of time the last few days reading this, thinking about this one. I think that in attempting to solve a small problem we’re potentially causing five more.

COMMISSIONER MOSS: Here-here.

CHAIR BRACKPOOL: And I think I would probably be closer to the TOC’s position on this, that I think that the one part of the rule that should be fixed is the, you know, the scratch and error, for sure. But, you know, I just wonder on the -- on the coupling issue.

I mean, the reasons for coupling originally were, you know, people having horses in races where one horse was going to help the other horse by, you know, running ahead doing whatever. And yet really the only time that ever happens is in a stakes race, and in stakes races we don’t have coupling.

So to me it’s -- we’re going the other way and we should be doing everything we possibly can at the moment to encourage fuller fields since -- so I would struggle to personally vote for -- vote for this. And I’d be more interested in looking at the -- at the uncoupling and decoupling rule and doing that.

But any other commissioners like to speak on this --
on this issue? Commissioner Harris?

COMMISSIONER HARRIS: Yeah. I would really -- I think this rule is not that well -- and -- and it’s -- and we’re much better off just uncoupling, which might be somewhat controversial. But I think what we should do is just set -- you know, basically not approve this rule but instruct staff to do a rule that would just be a clean uncoupling rule.

CHAIR BRACKPOOL: Commissioner Moss?

COMMISSIONER MOSS: Yeah. I think we, in the Parimutuel Committee some years ago we came up with the idea that coupling should be done with anyway, and some members of the Board felt that that was an integrity issue.

And I just think that there should be no more coupling, perhaps, in the program. If you want to let the public know that two horses are being trained by some -- the same trainer or that there are two horses are running from the same owner, I mean, let the public be aware that this is going on. But I think that we need the full fields, and I think this issue is becoming too difficult to manage and we should get rid of this coupling thing.

CHAIR BRACKPOOL: Vice Chair Israel.

VICE CHAIR ISRAEL: Yeah. As it relates to integrity, whether the horses are coupled or not, if an owner and a trainer have two horses entered in a race and they want one horse to be a rabbit for the other, they’re going to do it
whether they’re coupled or not coupled. Because the idea is to get the faster horse, the better horse to win.

So I don’t -- so I don’t understand how the public is abused if we no longer couple horses.

COMMISSIONER MOSS: I agree; couldn’t agree more.

CHAIR BRACKPOOL: Any other Commissioners?

Commissioner Rosenberg?

COMMISSIONER ROSENBERG: Yeah. I agree with -- I agree with what Commissioner Moss has said -- what Moss said, and Commissioner Israel.

CHAIR BRACKPOOL: Commissioner Choper?

COMMISSIONER CHOPER: Yeah. I would just underline the notice factor, no matter what happens. I don’t know exactly how to do it.

In the situation today, if you look at a coupled horse in a -- on -- on a TV you see the 1 and the 1A are there separately. And if one gets scratched it says 1 is scratched or 1A is scratched. If you’re looking at the tote board you don’t see that at all. That’s not a good thing.

CHAIR BRACKPOOL: Well --

COMMISSIONER CHOPER: Similarly, I think the point that that Commissioner Moss made about informing the public -- now, I mean, it’s one thing to say you inform them. Of course they’re informed, it’s right there. You have who the owner is and who the trainer -- but I think we ought to go out of our
CHAIR BRACKPOOL: Right. Yes. I think -- I think -- I think Commissioner Moss’s suggestion was that you have some asterisk or something that --

COMMISSIONER CHOPER: Yeah.

CHAIR BRACKPOOL: -- that --

COMMISSIONER CHOPER: Something like --

CHAIR BRACKPOOL: -- that denotes that. Yeah.

COMMISSIONER CHOPER: Something like that.

CHAIR BRACKPOOL: Yeah.

COMMISSIONER CHOPER: I mean, when you have a 1 and 1A it’s clear.

CHAIR BRACKPOOL: Yeah.

COMMISSIONER CHOPER: But if they’re not coupled they’re going to have separate numbers and will appear at different spots in the program. And so there ought to be some way of making -- making it clear -- clear to -- to someone who’s looking quickly there --

CHAIR BRACKPOOL: But if they’re not --

COMMISSIONER CHOPER: -- if they’re talking about --

CHAIR BRACKPOOL: If they’re not coupled your first point is taken care of, because at that stage if 1A is scratched you recognize--

COMMISSIONER CHOPER: No. No. No. No. They’re not coupled of course.
CHAIR BRACKPOOL: -- that it’s one, not two. Yeah.

COMMISSIONER CHOPER: But I think -- I think if we do uncouple them we’ll -- I don’t -- you know, the quarter horses, I understand, have had this situation for some time. Have they had any problem with the -- no.

CHAIR BRACKPOOL: I wouldn’t ask. No.

COMMISSIONER CHOPER: So -- but -- but I -- I think it would be good to do whatever we can to improve the communication.

VICE CHAIR ISRAEL: Well, and one -- one other thing that helps is -- is now that every race is available live somewhere on either television or the internet it’s apparent from the silks that they have the same owner, you know, if somebody’s paying that close attention. So, I mean, that just -- that ameliorates to some extent to some extent the problem that might have existed in the past --

COMMISSIONER CHOPER: Yeah.

VICE CHAIR ISRAEL: -- when -- before television and the internet.

COMMISSIONER CHOPER: I just think we ought to make it as easy as possible for people to spot it right away. That -- that’s all I’m saying.

CHAIR BRACKPOOL: Commissioner Derek?

COMMISSIONER DEREK: Yes. I agree. I agree. I find that the -- the whole coupling, all those rules, very confusing
and I think this would confuse it more. And I think for the integrity issue I think if we notify the public somehow I think it would be much better.

EXECUTIVE DIRECTOR BREED: Jim.

CHAIR BRACKPOOL: Before we take any action on this, Chillie, you had a speaker card in on this issue.

MR. CHILLINGWORTH: Sherwood Chillingworth, Oak Tree. I have spoken to this matter several times the last couple of years, and I’ve heard no — some people are doing something else. You never hear anything about problems with coupled horses there, one horse is blocking the way of a contestant and is letting his other horse win. I haven’t heard anything about that at all. And, you know, in this world, rumors fly around every day in 15 minutes. Even Jamgotchian hasn’t gone on this -- this issue.

So my suggestion is -- I mean, I’m asking a kind of theoretical question here. If someone were to go to tamper with a horse or do -- give instructions as to what to do to make another horse win the person most able to implement that is the trainer. And I bet -- I don’t think the trainers are doing that. I’m not accusing them at all. But I’m saying they are the first line and they are the easiest ones or the ones you’d have to use to make this thing work. And we don’t couple the trainers.

So it’s absolutely common sense to me if we don’t
couple the trainers, the people most likely to be able to do this, and they’re not coupled, why couple the owners at all? I’m for taking away the whole coupling rules completely.

CHAIR BRACKPOOL: Thank you.

So, Jackie, do we have to take a vote against this rule or --

MS. WAGNER: Yes.

CHAIR BRACKPOOL: Okay.

MS. WAGNER: We would. In order to close this file let’s go ahead and take a vote against this rule.

CHAIR BRACKPOOL: So I want to -- but I want to do three things. I want to take a vote against this rule.

MS. WAGNER: Correct.

CHAIR BRACKPOOL: I’m directing staff to come back at the January meeting with a rule on decoupling.

MS. WAGNER: Oh. Okay.

CHAIR BRACKPOOL: And you’ll need an additional rule to take care of this issue of an inadvertent scratch so they can still run for prize money.

MS. WAGNER: Exactly. Those are the instructions.

CHAIR BRACKPOOL: So you’ll come back with two separate rule changes --

MS. WAGNER: Right.

CHAIR BRACKPOOL: -- I would assume or maybe you can get it all in one, I don’t know, but however you do that.
But for the purpose of this meeting I will make a motion to vote against this --

VICE CHAIR ISRAEL: To accept it we just all vote no.
CHAIR BRACKPOOL: Vote not to accept?
VICE CHAIR ISRAEL: Yeah. Just vote --
CHAIR BRACKPOOL: Yeah.
VICE CHAIR ISRAEL: Yeah.
CHAIR BRACKPOOL: That’s what I was saying, vote against it.
VICE CHAIR ISRAEL: Okay.
CHAIR BRACKPOOL: So making a motion to vote against this rule.

COMMISSIONER ROSENBERG: Mr. Chairman, excuse me.
CHAIR BRACKPOOL: Yes?
COMMISSIONER ROSENBERG: Would you explain why we need the second part of that -- the third part of what you asked for? If there’s going to be no -- if we’re going to vote on no coupling as a concept -- as an amendment to the rules or put in a new rule or whatever or to abolish a rule that’s there why do we need to take --

CHAIR BRACKPOOL: Well, it’s a separate issue, really, separate and apart from coupling. It’s a case where the stewards have inadvertently scratched a horse out of the pari-mutuel.

COMMISSIONER ROSENBERG: On any race, not -- not
coupling only?

CHAIR BRACKPOOL: It has nothing to do with coupling.

COMMISSIONER ROSENBERG: Got it. Got it.

CHAIR BRACKPOOL: And, you know, your horse is in the
gate, you at least should be able to run for the --

COMMISSIONER ROSENBERG: Okay.

CHAIR BRACKPOOL: -- the purse money.

COMMISSIONER HARRIS: I think part of that’s going to
be how we define what that is.

CHAIR BRACKPOOL: Well, how are you defining this
and --

COMMISSIONER HARRIS: And that’s maybe, you know --

CHAIR BRACKPOOL: -- et cetera.

COMMISSIONER HARRIS: -- if it’s more a period of
time, you know --

CHAIR BRACKPOOL: Well, let’s -- let’s have that
conversation. But it’s not to do with the coupling.

VICE CHAIR ISRAEL: It just came up because when --
well, there -- there was a situation where a couple of -- two
horses were coupled, one of them was scratched inadvertently
and then, well, what to do about the other horse and the bet.

MS. WAGNER: Right.

CHAIR BRACKPOOL: Right.

VICE CHAIR ISRAEL: Yeah.

CHAIR BRACKPOOL: So anyway, my -- my motion is to
vote against the -- the rule.

    COMMISSIONER ROSENBERG: Well, do we vote yes or no on that?

    CHAIR BRACKPOOL: We vote yes for my motion because --

    COMMISSIONER ROSENBERG: Okay.

    CHAIR BRACKPOOL: -- I’m voting against the rule.

    MS. WAGNER: Yes.

    CHAIR BRACKPOOL: Right.

    MS. WAGNER: Correct.

    COMMISSIONER ROSENBERG: Okay.

    CHAIR BRACKPOOL: I know. It’s a double negative.

    VICE CHAIR ISRAEL: Yeah.

    CHAIR BRACKPOOL: It’s okay. Do I have a second for the motion?

    COMMISSIONER HARRIS: Second.

    CHAIR BRACKPOOL: Mr. Harris second. All in favor?

    ALL MEMBERS: Aye.

    CHAIR BRACKPOOL: All right. The -- the -- the rule is rejected. Okay.

    VICE CHAIR ISRAEL: Thanks.

    CHAIR BRACKPOOL: Okay. Jackie, number four?

    MS. WAGNER: Item number four, discussion and action by the Board regarding the proposed addition of CHRB Rule 1500.1, Jockey/Driver Subject to Testing, to require random
drug testing of jockeys, apprentice jockeys and drivers, and
the proposed amendment to CHRB 1498, Physical Examination, to
require drug screening during the annual jockey/driver
physicals.

This particular item has been the subject of
discussion a couple of times by the Board. Most recently we
discussed it last January where the Board learned that several
jurisdictions do conduct a drug testing of their jockeys.
Those jurisdictions specifically are in Illinois, Louisiana and
Delaware.

In response to direction, staff has developed this
proposed amendment, Rule 1500.1, that provides a framework
under which California jockeys and apprentice jockeys will be
subject to random drug testing. It lays out a program that is
a combination of the programs that are currently being used in
the other racing jurisdictions, in addition to the rules that
are being used by the ARCI.

In response to the proposal, since it was submitted
to the Jockeys Guild for review, staff has received comments
from the Jockeys Guild and they have some specific questions
and concerns about the proposal as presented. They do support
the concept of -- of random drug testing. But the proposal
before you needs to be tweaked a little bit. So we need to do
some more work on it.

And in light of that staff would ask that the Board
instruct us to continue to work on this text before we go
forward with asking for instructions to notice it for 45 days.

COMMISSIONER HARRIS: Yeah. I have been pushing this
issue for it seems like an eternity. And it always comes up
the Jockeys Guild has some reservation but they want to work on
it.

I think we need to put it out for comment and that’s
the whole purpose of the comment period and -- and -- and
obviously it’s going to get tweaked and we don’t have to
approve it until some future date. I hate to just say, well,
we’re going to take it back and work on it. I can’t see why we
can’t put it out for --

MS. WAGNER: Right. Commissioner, if you would
indulge us just a moment. When we put it out for a 45 day
comment period we really would like to have the draft that we
put out be the best draft. That would be the draft that we do
want to have the Board adopt

If you would indulge us and give us another 30 days
to -- to continue to speak with Barry Broad and the Jockeys
Guild in terms of getting a draft, that when we do put it out
for 45 days will be less subject to opposition, it would give
us a little more time to --

VICE CHAIR ISRAEL: At our -- at our stewards
meeting -- committee meeting on Tuesday it was brought to our
attention that in -- in the interest of fairness we should
probably make testing mandatory on some regular basis, whether it’s annual or whatever, for other on-track personnel who can affect -- affect safety. And -- and that included gate workers, exercise riders, pony boys. So --

MS. WAGNER: Under the random --

VICE CHAIR ISRAEL: Yeah. That -- is that in the interest -- it was -- it’s not only in the interest of fairness, but that was one of the goals.

MS. WAGNER: Okay.

VICE CHAIR ISRAEL: But it’s a -- it’s a question of safety. And exercise riders are just as likely to have an accident if they’re under the influence of some substances as a jockey. And it could be just as deleterious to the health of the horse or the people involved. So as you -- as you look at revising this I would think in the interest of fairness that would be a good thing to do.

CHAIR BRACKPOOL: Kirk, did wish to say something?

EXECUTIVE DIRECTOR BREED: Excuse me, Mr. Chairman.

Kirk Breed, Executive Director.

This has been going on for a long period of time and -- as Commissioner Harris remarked. Actually, since I’ve been here, like, two-and-a-half years. There’s several issues here that need to be addressed. And Commissioner Israel brought -- brought up the -- the one main issue here in which was also an item brought up by the Jockey Guild, and that is why are you
picking on us and only us, why -- what about everybody else I think that’s probably -- if anything the most important reason to -- to give us another -- another period of time until the February Board meeting to have this thing right.

What we are trying to do here is to treat the entire enclosure as a workplace, not only for the -- not only for the jockey and exercise rider and the people on top of the horse but everybody else that’s -- that’s associated with the workplace. And if we’re going to -- if the drug policy is going to apply to one but not to apply to the other then I think the workplace is in jeopardy, so -- or the safety program is in jeopardy. So that is our recommendation.

I think the Jockey Guild has been -- has provided a lot of information to us and have -- have been cooperative. So that’s basically the reason why we’d like to put this off.

CHAIR BRACKPOOL: Did -- well, let me --

COMMISSIONER HARRIS: Is there a January meeting?

MS. WAGNER: The January meeting is scheduled for January the 20th. And we -- the February meeting, I don’t recall the date right off hand. But we do have a January 20th meeting scheduled for the Board.

COMMISSIONER HARRIS: I mean, my point is that I think we’d all stipulate that this particular rule needs modification and it needs to be broader as far as who’s included, and I’m not sure it should also, I think, reflect
that alcohol in addition to drugs.

But I just hate to see us sit on this continually. I mean, it’s almost a joke. I mean we were behind Illinois and Louisiana in drug testing and -- and every day we just don’t get it done. It’s like at least start getting it done and then we come back and say, no, we just don’t want to do it, but --

CHAIR BRACKPOOL: Well let’s -- how about this, John, because although January the 20th sounds like a long way away, the Board documents, the agenda, everything else has to go out in advance. We’re giving ourselves almost no business days to be able to get it done.

Let’s -- let’s do this, we’ll -- I will work with staff. If we can get it done by January, I promise you we will. But I will guarantee you it will be on the February --

MS. WAGNER: The February --

CHAIR BRACKPOOL: -- agenda at the latest as a rule that has worked through, that is there and it goes out.

COMMISSIONER HARRIS: I’d like to see it out so everyone -- other parties can work through it. I think too often we kind of pick which parties are going to help on a rule, in this case the Jockeys Guild where maybe they’re the only ones that care about it. But it seems like if it gets broad distribution there might be all kinds of parties that want to work on it.

CHAIR BRACKPOOL: They’re -- they’re not going to be
the only ones that care about it after we’ve expanded it to
include all the people we’re going to expand it to include now.

COMMISSIONER ROSENBERG: Say that again. You don’t
think there’ll be that many people that --

CHAIR BRACKPOOL: No. I think there will be a lot
more people and --

COMMISSIONER ROSENBERG: That’s right. That’s right.
But I think John’s point is well taken, that this has been
going on for a long time. And jockeys are the most visible to
the public, and I don’t see why we don’t separate the two
issues and get the jockey thing done. Because I know there’s
going to be a lot of people objecting to -- to -- all those
people described by Executive Director Breed --

CHAIR BRACKPOOL: All right. So --

COMMISSIONER ROSENBERG: -- you know?

CHAIR BRACKPOOL: So I -- I assure you that I will
stay on top of this with Kirk and his team. And if we can get
it done by the January one we’ll get it done by the January
one. It’s just we have such a short period of -- of time where
everyone is -- is there. But we’ll try and bring it back for
January. We’ll definitely have it back for February.

MS. WAGNER: Thank you.

COMMISSIONER ROSENBERG: And one more question,
Jackie. Why didn’t the Jockeys Guild submit something in
writing that we could have read as to their objections, or did
they?

MS. WAGNER: They submitted an email, but that came kind of at the eleventh hour.

CHAIR BRACKPOOL: Yeah.

MS. WAGNER: I will forward that email to the Commissioners --

COMMISSIONER ROSENBERG: Okay. Great.

MS. WAGNER: -- so you can -- you can see what their objections are.

CHAIR BRACKPOOL: Well, I have seen it. They -- they have been through. But it was an email, as she said, after the Board packs went down.

COMMISSIONER ROSENBERG: Okay.

CHAIR BRACKPOOL: So -- so I am going to just pass on this item. I’m not going to vote against the rule at all. I’m just going to pass on this item.

EXECUTIVE DIRECTOR BREED: Table it.

CHAIR BRACKPOOL: I’m going to table this -- this -- this issue. But, John, we do take the -- the -- the comments seriously.

COMMISSIONER HARRIS: That’s good. It’s just -- I mean, we’d like to get it done some time in our life time. We have not succeeded at that. It’s sort of ridiculous that, I mean, a jockey today could be on all kinds of things and we’re completely unaware of it. Now I’m -- hopefully, I think we’ve
got a good jockey colony. They’re -- the majority of them are not on anything. But I would be afraid of a jockey. You don’t know if you’re -- who you’re riding against or on something or not.

CHAIR BRACKPOOL: Yeah. Well --

COMMISSIONER HARRIS: Random. It’s --

EXECUTIVE DIRECTOR BREED: No. No. We are testing when we have cause to test.

COMMISSIONER HARRIS: Well --

CHAIR BRACKPOOL: Okay.

MS. WAGNER: Uh-huh.

CHAIR BRACKPOOL: We’ll carry on with the debate when we have the issue of whether we’re going to test CHRB Board members or not.

COMMISSIONER DEREK: They’re excluded.

CHAIR BRACKPOOL: Good. Okay. Moving on to Item Number five, Jackie. Well, actually, this is not you. This is me. Discussion and action by the Board regarding a report from the California Marketing Committee regarding its marketing and promotion plans and the CMC’s request to adjust the 0.2 distribution to the CMC, to 0.25 effective the January 1st, 2011, pursuant to Business and Professions Code section 19605.73(c). Good morning.

MR. HARTMAN: Good morning, Chairman Brackpool, members of the Commission. My name is Robert Hartman. I am
representing the California Marketing Committee. I am joined by Shannon McDonald who runs the day to day operations for the CMC.

With the passage of SB 1072, there were some changes made to the California Marketing Committee funding which gave us the opportunity to look at the program holistically. We’ve had a number of committee meetings. We’ve also worked very closely with Commissioners Rosenberg and Derek who have an ad hoc marketing committee. And we presented a budget to the Board that I hope you’ve had time to -- to review. We’re coming to you today proactively, asking you to ask us any questions that you may have. The key parts of the budget I’ll go over for the audience given the they -- that -- that the budget was not included in the materials.

The CMC runs Race Results Line, which had approximately three million calls this year. We also run a Cal Racing website which had approximately two million hits. So those are two important programs statewide for the good of the customer.

We also have a rebate program called the Significant Rewards Program that rebates customers between one and three percent of -- of how much they wager. And we’re coming you -- to -- to you today to ask you to increase the -- the distribution from .2 to .25 to allow us to run a public relations and branding campaign. This is something that came
directly out of our meetings with -- with Commissioners Rosenberg and Derek. And we’re here to answer any questions you may have.

COMMISSIONER ROSENBERG: Is all -- all of the funding is essentially through the satellites handle there. I think that’s one of the flaws of the overall program, that you really need -- what started out was significant but that’s been going down. And is any of the ADW wagers, do they have any -- any funds going into this?

MR. HARTMAN: No.

MS. MCDONALD: No.

COMMISSIONER ROSENBERG: No? Because --

CHAIR BRACKPOOL: That -- that brings up a set of issues when we get to the -- to the --

COMMISSIONER HARRIS: Okay.

ADW.

COMMISSIONER ROSENBERG: The funds have been going down John. I believe three years ago they were up. They were about four -- over $4 million dollars. Now they’re projecting three million.

VICE CHAIR ISRAEL: So where -- where is the money? It’s a -- on a percentage basis this is a -- this is a 25 percentage increase.

COMMISSIONER CHOPER: Yes.

VICE CHAIR ISRAEL: It’s a -- which is --
MR. HARTMAN: Well, there was actually a decrease.

CHAIR BRACKPOOL: There was a decrease.

MR. HARTMAN: That the new legislation declined --
decreased the amount that was distributed from .4 to .2, but
this legislation allowed us the opportunity to increase it to
.25. So in that new legislation starts January 1st. So we’re
coming to you proactively to get that increased so we can
afford this branding program for -- for California.

VICE CHAIR ISRAEL: I mean, well, you know, I believe
that some sort of unified marketing program is a good idea.
But I -- I don’t believe that this one is terribly effective
because it’s just not big enough. It doesn’t reach critical
mass. And to make it big enough would be to take money away
from the individual racing associations marketing programs. So
I’m not sure that any more money is money particularly well
spent. I really am dubious about its efficacy.

You know, it’s an additional $160,000 in overhead
that goes -- I don’t -- you know, I’m not sure where, and I’m
not denigrating anybody personally. But, you know, is that
effective? And then who actually operates the Cal Racing
website? How is it -- how is it -- on a daily basis, who opens
the door and turns it on and makes sure it works?

MS MCDONALD: Well, SelectNet, represented over there
by Brad Smith, is involved. I’m involved. Gail Van Leer
(phonetic) is involved. You know, we have various --
VICE CHAIR ISRAEL: Is -- is it something that the -- the tracks could just -- it’s $88,500 -- the tracks could just --

MS. MCDONALD: Well, part of that --

VICE CHAIR ISRAEL: -- chip in and --

MS. MCDONALD: The -- the bulk of those costs, Commissioner, are for the live streaming and video --

VICE CHAIR ISRAEL: Right.

MS MCDONALD: -- so that, and the Equibase fees. You know, we have to pay --

VICE CHAIR ISRAEL: -- sure --

MS MCDONALD: -- $1,200 a month to Equibase, and we pay a large amount every month to Robert so we can provide free replays and live streaming statewide for our customers. That is the bulk of -- of -- of the yearly costs.

COMMISSIONER HARRIS: I think what we’ve got to keep in mind, too, is who is paying for this is the horsemen and the tracks. I mean, if -- if this didn’t happen the purses and track commissions would be, you know, slightly better. But in my theory this is better to do --

CHAIR BRACKPOOL: Theoretically --

COMMISSIONER ROSENBERG: Well, gentlemen --

CHAIR BRACKPOOL: To Commissioner Rosenberg.

COMMISSIONER ROSENBERG: -- let me clarify a couple things. The -- the .4 that Mr. Hartman was referring to, the
old legislation, it was reduced to .2. It was a 50 percent cut in the overall funds for the whole marketing committee.

What we’re talking about here when Mr. Hartman refers to the .2 versus .25, isn’t it --

MR. HARTMAN: Correct.

COMMISSIONER HARRIS: -- is -- is -- does not change the amount, the total amount that comes out of the handle for this purpose. Am I clear on that?

VICE CHAIR ISRAEL: No.

COMMISSIONER ROSENBERG: The two -- the -- it’s a -- it’s a -- it changes it by -- it changes it by -- 10 over the 12-and-a-half percent, or something like that?

VICE CHAIR ISRAEL: Well --

CHAIR BRACKPOOL: It changes it very slightly.

VICE CHAIR ISRAEL: It changes it from .2 to .25.

CHAIR BRACKPOOL: Yeah.

COMMISSIONER ROSENBERG: But as Commissioner Harris points out, that money would otherwise go into the handle and it’s -- it’s not a significant amount of money. What is the actual amount that you have projected?

MS. MCDONALD: For the .25?

COMMISSIONER ROSENBERG: Yes.

MR. HARTMAN: It’s about $350,000.

COMMISSIONER ROSENBERG: Right. That’s the -- that’s the whole amount for the year --
MS. MCDONALD: Which the bulk of that --

COMMISSIONER ROSENBERG: -- just to pay --

MS. MCDONALD: -- would be to pay the -- the branding and public relations campaign is going to be cornerstoned by a research project that we’re going -- hopefully going to be undertaking. And, you know, in order to fund this project -- I know, I mean, .2 to .25, it -- that’s -- that’s a difference to help fund this statewide program.

MR. HARTMAN: And it’s something that came directly out of our work with -- with Commissioners Rosenberg and Derek. The research company presented to -- to both commissioners and it was something that everybody has seen that we don’t do enough of. We don’t do enough research in this business. And this -- this is going to be research with horsemen and research with customers to understand how to help our brand in the future.

COMMISSIONER ROSENBERG: Actually --

CHAIR BRACKPOOL: Commissioner Choper?

COMMISSIONER CHOPER: I -- I think -- I think we ought to go ahead with this. We had a committee of two members of the board that approved it. It’s not -- and -- and -- a very large amount. On the one hand -- and I -- I would like to approve it.

Beyond that I think the Commissioner Israel makes a good point, and that is maybe this committee could examine
getting other sources of funds, you know, from the -- from
the -- from the associations themselves to have one really
effective coordinated program. And it may well be -- I mean,
you folks know better than we do, what kind of payoff you get
from your -- from your marketing programs.

I tell you, the associations put a lot of money into
those marketing programs.

CHAIR BRACKPOOL: Yeah. I think the --

COMMISSIONER CHOPER: And it may well be that, you
know, you get together and decide that even without putting in
any additional money, you take monies that you’re already using
and devote them to a coordinated plan for California racing
instead of each of the tracks. I think that’s a good -- I -- I
would urge you to explore that --

VICE CHAIR ISRAEL: Right. I mean --

COMMISSIONER CHOPER: -- I mean, seriously.

VICE CHAIR ISRAEL: -- to that end, I mean, what I
would like to see is a seamless marketing program where
you’re -- where you’re selling thoroughbred racing, in your
instance, you know, all year round, and -- and the movement
from Santa Anita to Hollywood to Del Mar back again is -- is
irrelevant and doesn’t change the campaign. But at a million
nine, or even two and change, you have no shot. I mean --
you’re not -- that’s not real money, you know, for a marketing
campaign.
So this has to be, in my mind, has to be completely rethought. And -- and if there’s going to be uniform marketing campaign it -- it’s got to have real money, real impact and real coordination. And this piecemeal kind of thing, you know, 700,000 for -- for player -- or for rebates essentially, you know, 500,000 for public relations and branding isn’t going to go very far. I mean, that’s a few spots here and there.

That’s just not going to --

COMMISSIONER DEREK: No. And -- and -- and, David, the -- that -- that 500,000 is for market research which hasn’t been done --

VICE CHAIR ISRAEL: Yeah. I know. That’s --

COMMISSIONER DEREK: -- for forever. So I do expect that -- that the -- the -- they’ll be coming back to you for some serious money.

CHAIR BRACKPOOL: But I -- I would say -- I would say a couple things on this. I -- I sat through that last meeting that you had and listened to how the 500,000 would be -- would -- would be -- would be spent, and I would say a couple of things.

Firstly, I would wholeheartedly support getting more money to market this sport. But where we get that from, we’ll have to do some thinking. I think the difference is that the tracks spend their money advertising their specific products, and what we’re trying to do here is market and come up with a
brand.

I think what gave me encouragement was that at that particular meeting that I sat through the CMC decided to spend, I think it was $100,000 or just under $100,000 advertising the -- the higher purses for the beginning of the meet. And that, you know, appears to have been money extremely well spent as to, you know, how widely distributed that information has been and different trainers now bringing in horses from out of state, et cetera.

So I don’t think that we should not do something because it’s not enough, because I don’t think the obvious alternative is to -- where the rest is -- is -- is apparent. I think we should start with this market research. And if the research shows us that $3 million would solve the industry’s ills, then we’ll go figure out how we get $3 million.

VICE CHAIR ISRAEL: Thirty million, more like it.

CHAIR BRACKPOOL: Well, maybe it’s 30 million. But, I mean, it would be great to -- to -- to have that data and to -- and to do that.

Before we take -- I’ve got one speaker -- do I have anything else from the Board before the speaker? John Bucalo with his very impressive preprinted speaker card again. I really like -- I really like this touch. This is a very good touch.

MR. BUCALO: Thank you very much. John Bucalo from
Barona Casino off-track betting. The satellites who fund this -- these monies, we never see any promotions. However, I do realize that there are rebates, but I can’t recall one single guest of ours who comes to Barona coming to me and saying, in -- in almost eight years, that they are benefiting from these rebates. And I -- I don’t recall seeing maybe two people using those cards.

So although the satellites are funding these, why can’t we have some of that money for promotions to -- develop more players for horse racing at our facilities? We need it. Things such as hats, shirts, those kind of things that draw people in and make them come more often. Let’s turn some 8 to 12 players a month into maybe 15 times a month, or whatever it might be. If they’re coming four times a month let’s make -- try to get them to come eight times a month. And we need some -- some of those funds that are being funded by -- by our players. And we’re not seeing a -- a single cent of those monies.

CHAIR BRACKPOOL: I’m -- I’m going to ask Robert to respond to you.

MR. BUCALO: Thank you very much.

MR. HARTMAN: As part of the -- the revamp program and --

MR. BUCALO: Can I finish?

CHAIR BRACKPOOL: Oh, I thought you had. I’m sorry.
MR. BUCALO: No. I -- I do want to say also, there are other areas that those -- that you brought up, which is the right thing, other areas that these funds should be coming. ADW’s are making 12 -- 12.5 percent, is what I read. And we -- the satellites only make two percent, and we’re funding these monies. There -- there seems to be some unfairness of -- of that -- of that and why we don’t even see any of the monies. So I think I’ve made my point and I appreciate the time.

CHAIR BRACKPOOL: Thank you, John.

MR. BUCALO: Thank you.

CHAIR BRACKPOOL: Thank you. Robert?

MR. HARTMAN: As part of the -- the revamped budget we have $250,000 that’s dedicated to -- to fair marketing. And while we don’t give any individual fair or -- or Indian casino money to spend on their own, there will be giveaway items and other things that we’re going to be doing on a statewide basis. We want to include John and -- and his entity.

We also invite John and anybody else to attend one of our CMC meetings. We’re -- we’re -- in the future we’re going to post the date of the CMC meetings on the Cal Racing website --

MR. BUCALO: Good.

MR. HARTMAN: Please, we -- we encourage fans to come. We encourage anybody from -- from the -- the Board to come. And, you know, they’re open meetings and we’ll make sure
that his -- his concerns are heard.

VICE CHAIR ISRAEL: Is there a representative of the satellites on -- on the Board?

MS. MCDONALD: Yes.

MR. HARTMAN: Two.

MS. MCDONALD: Two.

VICE CHAIR ISRAEL: Two? Okay. Well, that’s fair.

CHAIR BRACKPOOL: Then, Richard, do you want to make the motion?

COMMISSIONER ROSENBERG: I would move that we accept the request that we -- how would you word this?

CHAIR BRACKPOOL: Increase from a --

COMMISSIONER ROSENBERG: Increase of -- from .2 to .25 percent of the takeout.

CHAIR BRACKPOOL: Okay. Do I have a second from a Commissioner?

COMMISSIONER DEREK: Second.

CHAIR BRACKPOOL: Commissioner Derek seconds. All in favor?

ALL MEMBERS: Aye.

CHAIR BRACKPOOL: The motion carries.

MR. HARTMAN: Thank you.

CHAIR BRACKPOOL: Thank you.

(Colloquy Between Board Members)

CHAIR BRACKPOOL: Okay. Moving on, item number six.
Item number six is a discussion and action by the Board regarding the statutory interpretation of SB 1072 (Calderon), Chapter 283, Statutes of 2010, as to that portion of the law, Business and Professions Code section 19601.02(a) (b) (c) and (d), directed at increasing the overnight purses. Counsel?

MR MILLER: Yes, Chairman Brackpool. Robert Miller, Counsel of the California Horse Racing Board.

Now this matter is placed before you as a declaration of statutory interpretation, that it is the will of the California Horse Racing Board that the increase in overnight purses for exotic wagering be used solely to augment those purses and for no other purpose.

CHAIR BRACKPOOL: Thank you. I know what the issue is. I have -- I have a strange speaker card here where the speaker card has Alan Balch, Carlo Fisco and Martin Smith. Is this any one of the three of you? And --

MR. BALCH: All three.

CHAIR BRACKPOOL: All three are requesting to speak?

MR. BALCH: Yes.

EXECUTIVE DIRECTOR BREED: You only get three minutes.

CHAIR BRACKPOOL: Three minutes.

(Colloquy Between Board Members)

CHAIR BRACKPOOL: Well, I -- let’s see what you have to say before we decide on whether it’s three. If you’re all
going to say the same thing then -- then --

MR. BALCH: No. We -- we -- well, first of all, for
the introductions, I’m Alan Balch, Executive Director of
California Thoroughbred Trainers. But I’m also here in my role
on the Administrative Committee as a fiduciary for the
California Thoroughbred Trainers Backstretch Employees Pension
Plan. And CTT as the plan sponsor is the only voice of
backstretch employees for this Board, including trainers but
many more non-trainers in that plan. And at the table with me
are Martin Smith who is from Sheppard, Mullen, Richter and
Hampton in Los Angeles, which is a long-time counsel to the
pension plan. And Carlo Fisco to my right who is general
counsel for CTT.

I just have a couple of brief remarks. And then we
would hope that perhaps we don’t have to go much further than
that. You’ve all heard me call myself a dinosaur before and
it’s -- it’s times like this when I really look back to the
ancient and more simple times when we balanced our purse
account and all the mutuels every night to the penny before we
left. And you all know that with simulcast and ADW that’s all
changed. And so modern racing law has become inscrutable in
many respects.

And since the -- the sport -- and particularly the
sport is so fragile at this time we’re here to try to suggest a
method of looking at the additions to the handle and the
additions to the law that this -- that SB 1072 provided in the
gentlest way possible but in a way that protects all of its
constituents, and particularly the people on the backstretch.
We’ve gone back and examined our assumptions and the
development of the law. And we think that while there were
some very well intended additions to the language and the
Racing Law that reflects the complex modernity that I referred
to a minute ago, they had serious unintended consequences.

Now we’re -- we’re here, and to your point, Mr.
Chairman, to -- as to the other speakers, we’re here to examine
those consequences in as much detail as possible, particularly
as they relate to the pension plan. But we really think the
best way to address this would be with a smaller committee,
perhaps with Commissioner Choper and Mr. Miller, to receive
written submissions on this, as well as some testimony, if
necessary, and certainly participation and oversight by the
Racing Board. Because we would like to not disturb at all any
of the plans for going forward but make sure that we handle the
unanticipated or unintended consequences that the language has
raised in a simple and agreeable way.

Now I certainly am willing to discuss the problems in
detail, and counsel is here to deal with the legal issues if
you’d like to hear them.

VICE CHAIR ISRAEL: But my --

CHAIR BRACKPOOL: Well, one second. So is -- that’s
-- that’s what -- that’s what your position is. You’re not adding anything new to what you’ve already told us --

MR. BALCH: Well --

CHAIR BRACKPOOL: -- in -- in your letter.

MR. BALCH: Well, the letter that I sent raised many, many questions. And we are certainly here to discuss those questions in as much detail as you would like. We don’t -- we’re not aware of whether -- whether my letter has been distributed to the whole Board or not or is part of the packet or not.

VICE CHAIR ISRAEL: It’s part -- the -- you mean the November 8th memorandum?

MR. BALCH: Yeah.

VICE CHAIR ISRAEL: Yeah. That -- we’ve had that since November 8th.

MR. BALCH: Okay. Great.

VICE CHAIR ISRAEL: My question to you, Alan, is -- it comes from the second paragraph. Thoroughbred Owners of California is not involved with California thoroughbred trainers in any of its discussions, so on and so forth.

You were in the meeting that I was in, in Sacramento, when we all agreed as to how this would be done. So I don’t understand how that means that California Thoroughbred Trainers were not involved. The TOC was represented. The Racing Association was represented.
CHAIR BRACKPOOL: CARF.

VICE CHAIR ISRAEL: CARF was represented. Keith and I represented the Board. The governor’s office was represented. And CTT was represented by you.

MR. BALCH: That’s right.

VICE CHAIR ISRAEL: That to me says involvement. And the implication of this is that you’re blindsided.

MR. BALCH: No. No.

VICE CHAIR ISRAEL: You participated in the meeting.

MR. BALCH: Okay.

VICE CHAIR ISRAEL: Okay.

MR. BALCH: I want to wait until I’m -- I can respond to that.

VICE CHAIR ISRAEL: Go ahead.

MR. BALCH: Yes, I was in that meeting. And that meeting was at the commencement of a long legislative process that ended up with a bill that did not resemble, in many respects, what we were told in that meeting we were going to have.

But to me that is beside the point because the context of the conversation in the Governor’s office and almost all of the conversations that were held after that were, A, whether the increase in takeout would result in increase in overnight purses as opposed to stakes, because that was the number one thing, would the purse fund go to overnight purses
or stakes, and number two, would any -- would any of the
additional takeout go to other sources such as -- one of the
things was capital improvements at CARF or to the racing
associations?

We -- assumption is the mother of all mistakes. We
assumed that when we said purses it would go into the purse
account and I think most everybody there thought the purse
account.

And I think when the bill evolved and actually was
signed by the governor a number of emails started to be
circulated about the so-called ambiguity in the law and the
definition of incremental purses. And when we examined that
and realized that the pension in particular depends on an off-
the-top one percent off the total purse account, then we
focused on the matters in the memo which is how do you define
the incremental amount and will we end up with two purse
accounts? Because it is not easy, in fact we believe it’s
unknowable, as to what the incremental amount truly will be, at
least according to a literal definition of incremental amount
because price elasticity of demand has not been taken into this
equation.

Now we know that there are other definitions of
incremental, of course. But that’s what we think there needs
to be a meeting about to resolve so that we’re all on the same
page now and on a go-forward basis as to the incremental
amounts. Because we are supposed to be the voice of the -- the backstretch workers and we’re sitting here because we are, and it’s an infinitesimally small amount of money by comparison.

We understand in meetings that took place after the legislation was enacted, this has been discussed to some extent. And that led to this email traffic which got our attention on it. So that’s the answer.

CHAIR BRACKPOOL: Before I comment I will take a very, very deep breath. But I will ask Commissioner Choper to say something.

COMMISSIONER CHOPER: Want me to do it while you’re taking your breath?

CHAIR BRACKPOOL: Yeah.

COMMISSIONER CHOPER: Look, whatever the history was the history was; right? So -- so this is a question of what is the law require us to do; is that correct, too? I mean, is that -- I’m -- is -- that’s it. I mean, we have a statute --

MR. FISCO: That is correct.

COMMISSIONER CHOPER: -- we have a prior statute --

MR. FISCO: Professor Choper, that’s correct. Carlo Fisco, General Counsel, CTT. The agenda item is listed as statutory interpretation of SB 1072.

COMMISSIONER CHOPER: So -- so what is the procedure that you’re -- so -- so it’s got to -- look, if you want to, you can bring it for a judgment to some court and that’s it.
But you -- you want to do something short of that? What do you -- what do you recommend that -- how -- how should we -- how should we proceed and who's going to resolve this question?

MR. FISCO: Profession Choper, the reason why there are three of us here, we were all intending to address a separate component relevant to this issue.

Mr. Smith as the attorney for the pension plan as -- was going to inform the Board of CTT's fiduciary duty to protect any claims against the funding of the pension plan.

The pension plan obviously goes to people who have served this industry and continue to serve this industry on the backstretch.

Mr. Balch is informing the Board of one very important fact that this commotion, and I'll call it that at the moment, deals with an amount of money, that perhaps on reflection it shouldn't garner this much attention. And specifically for every $100,000 in new handle represented by the new takeout bill, the money subjected to this controversy would be $20.00 for the CTT administrative fund and $40.00 for the pension plan, as well as $40.00 to TLC. So that's the kind of money issue we're dealing with.

I am here to inform the Board that a plain reading of the statute, and that is what the agenda item is here for, a plain reading of the statute exposes the fact that the legislature was keenly aware of the deductions and the other
statutes that affected the takeout and intentionally and
purposely exempted the purse account, which is the -- the
phrase they use, purposely exempted the purse account from the
statutory deductions which affect CTT, the pension and the TOC.
Those are the three deductions that we are talking about when
we talk about the purse account.

And my plan was, without the time constraint, to go
over the language of the statute but that could be a tad
involved. And that’s why we are proposing a meeting because
the statutory intent from the plain language of the statute --

COMMISSIONER CHOPER: Of the most recent statute.

MR. BALCH: New.

COMMISSIONER CHOPER: New creation.

VICE CHAIR ISRAEL: 1072.

MR. FISCO: 1072 --

COMMISSIONER CHOPER: Go ahead.

MR. FISCO: -- will make it clear that this was the
intent of the legislature to protect --

CHAIR BRACKPOOL: I’ll get to you in a second.

MR. FISCO: -- to protect those deductions which come
from the purse account which --

COMMISSIONER CHOPER: Was to protect the deductions?

MR. FISCO: -- which are different from the
deductions which come from the top or the general takeout, and
that’s reflected in the language of the bill.
CHAIR BRACKPOOL: Well, I think we have two very separate issues here. And I think the issue that upsets Vice Chair Israel and myself is your contention, Alan, that things changed subsequent to that -- to that meeting in the Governor’s office. That meeting in the Governor’s office said 100 percent of this money is going to purses. The CTT had multiple concerns with another element of the legislation, but every time I spoke to the executive offices of CTT they assured me they were 100 percent supportive of the legislation of a 100 percent going. So for you to sit in front of me now and say that things evolved and changed following that meeting I take offense at.

I’m now going to call on Jack Liebau to speak.

MR. LIEBAU: Jack Liebau from Hollywood Park who perhaps had more to do with drafting the law than he should have had.

I think the -- the primary question that the Board is faced with, which perhaps which Mr. Miller can address, is whether this Board has the ability to interpret the law. And I -- I think without question that a regulatory agency does have the ability to interpret the law.

And also as far as the legislative intent notwithstanding, Mr. Fisco is saying that the legislature didn’t intend to override another section, I think that there is a letter that is referred in the packet from Senator
Calderon that specifically says what the intent was of Senator
Calderon as the author of -- of the bill. And I think that’s
pretty clear cut, that.

And I think that, you know, what -- what has happened
here is that -- I’m not sure whether CTT is -- is just wanting
the -- the money for the pension plan. And I would ask this
question a couple times in various emails as to whether they
are just wanting the money for the -- for the pension plan or
whether it’s the dues that they also want.

This whole -- this subject came up and at that --
when it came up I had suggested that we, under 19601.01, that
everybody just sign and -- and eliminate this ambiguity, and
that’s what we were going to do. And it’s, as far as I know,
it’s CTT that was -- was not willing to do that, assuming that
an ambiguity, in fact, does exist.

And as I said, I think that the -- the initial
question is whether this Board as a regulatory Board in charge
with the responsibility of enforcing the law and interpreting
the law -- has a right to -- to interpret this section to mean
that all the money goes to -- to that? And that’s the issue.

There --

CHAIR BRACKPOOL: Thank you.

MR. LIEBAU: There is no other issue.

CHAIR BRACKPOOL: Thank you.

MR. LIEBAU: And that -- you -- they may argue with
your interpretation of it, which they have the right to do to
go to court, but I think that --

CHAIR BRACKPOOL: Thank you.

MR. LIEBAU: -- we should move on to the
interpretation of --

CHAIR BRACKPOOL: And before I get to the next
speaker, that is the advice that counsel has given us, that we
have the right --

MR. MILLER: Yes.

CHAIR BRACKPOOL: -- to do that.

MR. MILLER: Yes.

CHAIR BRACKPOOL: And just for the audience’s benefit
I’m going to read the very short letter from the author of the
bill. This is a letter dated December the 2nd, 2010, addressed
to me.

“Dear Chairman Brackpool: I was the author of SB 1072
which raised the takeout on exotic wagers. I understand a
question has been raised as to how the incremental funds
generated from this increase in takeout are to be
utilized.

The legislative counsel’s digest of the bill correctly
states that the incremental funds generated for the
increase takeout are to be used to augment overnight
purses.

“I also note that subsection (d) of section 19601.2
clearly states that the incremental funds generated from
the increase in the takeout on exotic wages quote, ‘shall
be used solely to augment and not supplant overnight
purses,’ end quote.

“As the author of SB 1072 I can confirm it was the intent
of the legislation for the incremental funds resulting
from the increase in the takeout to be used entirely in
the augmentation of overnight purses. And that is the
very reason that the word, quote ‘solely’ end quote, was
used to assure that all of the incremental funds were used
to augment overnight purses.

“If you have any further questions please feel free to
contact my office. Sincerely Ronald S. Calderon, Senator
30th District.

MR. FISCO: May I respond to that?

CHAIR BRACKPOOL: It’s a pretty clear letter. We
have one more speaker, Jerry Jamgotchian.

MR. JAMGOTCHIAN: Mr. Chairman, members of the
California Horse Racing Board, I was interested in this item
number six because it talked about statutory interpretation.
And from my perspective the statutory interpretation of this
Board to follow the horse racing laws is certainly within its purview. But with regards to increasing
overnight purses, obviously the increasing takeout is certainly
not in the best interest of the wagering public, certainly not
in the best interest of horse racing, but in the best interest
of the California Horse Racing Board and the TOC.

But with regards to increasing the overnight purses,
there’s certainly a way to increase overnight purses. And I
would request the California Horse Racing Board to seek $1.2
million, which is essentially been raided from the overnight
purse fund by the TOC. I provided you with information --

CHAIR BRACKPOOL: This is not on the -- this --
you’re -- you’re trying to speak on a completely different
issue. This is an issue solely to do with the CTT and -- and
the legislative interpretation of SB 1072.

MR. JAMGOTCHIAN: Well, you are right in that case.
Thank you.

CHAIR BRACKPOOL: Thank you.

MR. FISCO: Mr. Chairman, may I have a rebuttal to
your comment --

CHAIR BRACKPOOL: You may now, yes.

MR. FISCO: Thank you very much. The -- and this
is -- this has been evident, not only in the letter but also
the staff analysis, where there has been a pick and choose of
the language. And I would -- I would guess that Mr. Miller, as
well as Professor Choper, would agree with me that, again, it
is the language of the statute. And what’s happening is this
word “solely,” for example, is being detached from the context
within which it appears in the bill.
So we have Senator Calderon responding to a request, presumably made by the CHRB before this issue at this meeting, and he also does it in his letter where he tries to detach the word “solely” from the phrase in which it is contained which is, as you mentioned, “solely to augment and not supplant overnight purses”. The “solely” is operating on the “supplanting” which is consistent with subdivision (a), that the new takeout is in addition to the 19610 which is the standard takeout. “Solely” does not mean -- no rational reading of that could mean that it is to the exclusion of the purse account deductions. And that occurred in the staff analysis as well as this letter.

You -- you are jumping on the word “solely” where it -- not being used in the manner in which the legislation has set forth.

CHAIR BRACKPOOL: I’m jumping on the agreement that everybody reached.

MR. FISCO: Well, as Professor Choper --

CHAIR BRACKPOOL: And -- and -- and perhaps that’s -- perhaps that naive by me and I have a long memory, so --

MR. FISCO: Well, let me say --

CHAIR BRACKPOOL: -- it won’t be in the future.

MR. FISCO: Let me say, Professor Choper has informed all of us, the history is the history. What ends up being put down on the paper is the information that will be used by
people in deciding what is the statutory interpretation. And really the emotional component to which you seem to be affected by is not part of the statutory interpretation. I’m going by the language --

CHAIR BRACKPOOL: I’m affected by honor and agreement, not by emotion.

MR. FISCO: And certainly, sir, I --

CHAIR BRACKPOOL: So anyway, thank you. Do we have anything else to say?

MR. BALCH: Yes.

CHAIR BRACKPOOL: Okay.

MR. BALCH: I’d like to be heard again. Alan Balch.

There is a practical issue here, too, that has also come to our attention. It’s referred to in my memorandum. And with all due respect, Mr. Chairman, I don’t think this is a matter of honor. I think this is a matter of understanding how this is going to work now and going forward. 19613 is to some extent in contradiction to the Section (c) of SB --

VICE CHAIR ISRAEL: 1072.

MR. BALCH: -- 1072's sections. And if you look at that and start thinking about how these calculations are going to be done, in my opinion, and it’s only my opinion, the reason that our attention was directed to this originally in -- once the bill was enacted was because of Mr. Liebau’s email of Monday, October 25 referring to ambiguity. And we were working
on the budgeting process of how we were going to budget income to the pension and -- and for the organizations on a go forward basis.

And I don’t think it was widely known at the time or by the legislature -- I don’t -- personally my own opinion is they didn’t focus on it because we certainly didn’t focus on it -- as to how you can dedicate money directly or only or solely to overnight purses when 19613 says those very small deductions for the pension and for the TOC and the CTT come right off the top of the purse account.

o in point of fact on a go-forward basis 1072 also refers to an agreement being made as to determining the amount of the incremental funding. I am told that there is -- there is an agreement by agreement of ADW by ADW agreement that’s been made between TOC and L.A. Turf for the current meeting, or perhaps between Monarch and the ADWs as to how that incremental amount is going to be determined.

But what is very hard to understand is apparently now there will be two separate purse accounts. There will be a baseline purse account that has to be defined, and then there will be an incremental purse account above that that is solely for overnight purses, apparently in perpetuity if we take this law at -- on the face, this language at its -- at its face value.

That creates all kinds of problems going forward for
the pension, for the funding of the horsemen’s organizations and, frankly, for the purse account as a whole. How is CRIMs going to calculate this? How are they going to determine what the incremental amount is? When my attention was brought to this, Chairman Brackpool, was when CRIMs pointed out to me in part of this exchange of emails that CRIMs has never determined how much goes to CTT, TOC or the pension. They have strictly calculated one purse account number. And then the derivations from that one purse account were made very simply, on a basis of one, one-and-a-half percent. Going forward we don’t know how that’s going to be done.

COMMISSIONER CHOPER: Can I ask just one — can I ask just one.

CHAIR BRACKPOOL: Yeah.

VICE CHAIR ISRAEL: No. Go ahead.

CHAIR BRACKPOOL: Can I object? Or you want to -- oh, you -- go ahead and ask the question.

COMMISSIONER CHOPER: Well, I just -- let me re-ask my question.

What is the procedure that you are recommending be used to take a closer look and even perhaps resolve this question? And is it planned that the procedure will be the final resolution of the question? Because if we’re -- if what you have in mind is ultimately to test this in the courts it would probably save a lot of time —
MR. BALCH: We don’t want to do that.

COMMISSIONER CHOPER: You don’t want to do that.

MR. BALCH: No.

COMMISSIONER CHOPER: So I -- so if you could -- I’m not asking for a complicated answer, but just the one, two, three, this is what we -- what we propose to do.

MR. FISCO: Carlo Fisco, CTT. We would like the money from the new takeout to go into the purse account, subject to the statutory deductions which exist prior to the takeout which is to the CTT, the pension and the TOC.

COMMISSIONER CHOPER: No. I understand. I’m --

VICE CHAIR ISRAEL: Wait. Carlo, I’m a little confused. Because earlier Alan had asked that we form a committee --

MR. FISCO: Well, I --

VICE CHAIR ISRAEL: -- to study how to implement this. So you now -- you’re now telling us what the result --


VICE CHAIR ISRAEL: -- of that committee’s meeting is going to be.

MR. FISCO: No. No. No. No. No. We -- well, there’s --

VICE CHAIR ISRAEL: Well I understand that --

MR. FISCO: We -- we would --

VICE CHAIR ISRAEL: But what’s the point of having
hearings and having a committee if you already know where --

MR. FISCO: No. No. No. No. We --

VICE CHAIR ISRAEL: -- you want to end up?

MR. FISCO: There -- there are more than one component here dealing with subdivision (c). The first part would be in subdivision (b) to the purse account. We would certainly like to meet with the CHRB to make our detailed presentation on the statutory language. And also (c) requires -- the law requires that there be a formula, and that was the meeting part of it.

But in the end to address Professor Choper without dancing around we would like, in part, the purse account distributions protected --

COMMISSIONER CHOPER: Okay.

MR. FISCO: -- as they are in the law.

CHAIR BRACKPOOL: Let -- let -- let me -- let me see if I can -- if I can clarify. Let’s see if I can clarify. And then I would ask Jack to speak.

There -- there are two very separate issues here. The one issue is coming before us and saying there appears to be some ambiguity in this and we want to make sure we don’t breach any of our fiduciary obligations as administrators, trustees, whatever, of a pension obligation. That was my understanding of what we were doing, and therefore this Board was going to make a legislative interpretation -- an
interpretation of legislation and with the supporting

VICE CHAIR ISRAEL: Right.

CHAIR BRACKPOOL: What I hear you saying is we’d
actually like the money. So those are two very, very different
issues.

MR. FISCO: No. In simple terms, no. Because of
the --

CHAIR BRACKPOOL: No, you don’t want the money or,
no --

MR. FISCO: Your representation is not entirely
accurate.

CHAIR BRACKPOOL: Oh, I thought so.

MR. FISCO: But, okay.

CHAIR BRACKPOOL: So you still do want the money?

MR. BALCH: Let me -- let me take a swing at this.

CHAIR BRACKPOOL: Go ahead.

MR. BALCH: Mr. Chairman, I -- I can see, you know,
we all can see exactly where you’re going. We think -- we
believe that if the committee gets together and examines not
just the language but the facts and the amounts and the
relative amounts, which are very small relative pension to
purses but very large to the people on the backstretch and the
funding of this program given what’s happening to handle, that
the facts of this situation, as well as a reading of -- of all
the law together, 19613, as well as with 19610, that you will
come to a very reasonable conclusion. And we think that our --
the other stakeholders will agree with that --

VICE CHAIR ISRAEL: Alan --

MR. BALCH: -- once they see it all.

VICE CHAIR ISRAEL: Alan, look, I’m not a lawyer, and
I didn’t participate in crafting legislation for that reason,
but this whole thing seems to me being an assault on common
sense.

We had a meeting. At the meeting it was discussed in
great detail. And the conclusion at the end of that meeting is
that these increases would be made absent any statutory
deductions required by law in all the other legislative
results, so then you have the 1960s or whatever, all of -- all
of those other legislative requirements. That was what the
intention was.

Now if you’re saying the bill was written improperly
and did not accomplish that intention, that’s one thing. But
there was never any doubt as to what the intent of this -- of
this legislation was. And that’s -- and that’s also made clear
in Senator Calderon’s letter.

So if you’re saying -- you know, are you now saying
you no longer agree to go along with that intention and you’re
trying to fight this based upon the legislation that was passed
having some ambiguity in it? Is that -- is that where you are?
MR. BALCH: Clearly, we’ve become more educated on this. And we would like to educate more of the Board and the stakeholders as to the implications of these competing sections. Part -- part of this is almost unintelligible. When I sit down with representatives --

VICE CHAIR ISRAEL: But it can be clarified. It --

it

CHAIR BRACKPOOL: You can answer his question, yes or no.

MR. BALCH: No, I can’t.

VICE CHAIR ISRAEL: It can be clarified by rewriting the legislation.

CHAIR BRACKPOOL: Right.

MR. FISCO: Well, sure and maybe --

VICE CHAIR ISRAEL: Okay. And would you accept a rewritten, if we were -- if the -- if the senate were to pass legislation that said -- written very clearly --

MR. FISCO: Uh-huh.

VICE CHAIR ISRAEL: -- that’s two to three percent were to be segregated and not subject to any of the statutory deductions required in -- in other -- in other -- in other pieces of legislation, would you accept that?

MR. FISCO: Yeah. It may -- it might be entirely possible that the -- that the group that we’re talking about putting together could lead to some very simple cleanup
language that would inform everybody as to what exactly --

CHAIR BRACKPOOL: Let me -- Jack Liebau.

MR. LIEBAU: You know, when we talk about educating the stakeholders I think I can speak for the tracks, we -- we really don’t need any education on this subject.

Historically money was divided under the existing law, half to purses and half to tracks. The tracks, in order to better racing and to improve our product said that we will go ahead with this, the tracks were waived their historic right to everything, you know, all go to purses for the good of the industry.

I think that without question TOC, and if I’m wrong they can get up and say I’m wrong, but TOC also did not think that they were getting anything out of this.

There was reference made to -- to an email, and I have to tell you I don’t know exactly what it said, but the genesis of that email was that I -- this question was raised. I thought that the easy way to solve it was for everybody to sign off under the provision of the law that allows all of the stakeholders to change distributions. CTT, when that was presented, was unwilling to do that. CTT has also not really answered the question as to whether they are just wanting the money for the pension plan or whether they want it for the dues.

And again, I come back to the same thing. I think
that the Board is able to interpret this law. And if they do
so and if CTT doesn’t agree with the interpretation there’s all
sorts of legal process that they can undertake. So, I mean, I
don’t really think that we need a committee for other
stakeholders --

CHAIR BRACKPOOL: Thank you.

MR. LIEBAU: -- because I think the stakeholders are
the tracks in CTT.

CHAIR BRACKPOOL: Thank you, Jack. Thank you, Jack.

I --

VICE CHAIR ISRAEL: Go ahead.

CHAIR BRACKPOOL: Commissioner Derek?

COMMISSIONER DEREK: I agree.

CHAIR BRACKPOOL: Okay.

COMMISSIONER DEREK: I agree. If the Board has the
authority to -- to make this happen, I think we should.

COMMISSIONER CHOPER: My -- my own deal is you ought
to submit a statement, a brief, if you will, a brief brief
would be even better than a brief, and to our -- to our
counsel.

CHAIR BRACKPOOL: That’s happened. They just --

COMMISSIONER CHOPER: And -- we have it?

CHAIR BRACKPOOL: Yeah. I mean, that’s really --

COMMISSIONER CHOPER: Well --

COMMISSIONER CHOPER: I don’t -- I -- I don’t consider it --


COMMISSIONER CHOPER: It -- it may be, but it doesn’t --

MR. FISCO: Not on the statutory language.

COMMISSIONER CHOPER: I think you ought to -- I mean, you -- you -- you obviously have some specific statutory points in mind. I think you ought to put them down. I think you ought to submit them to our counsel. And that -- it would appear to me, I mean, you know, you were looking for lawyers. I mean, Commissioner Rosenberg is a lawyer too.

CHAIR BRACKPOOL: Why don’t -- why don’t -- why don’t -- why don’t we --

COMMISSIONER CHOPER: It could be a reformed -- a reformed lawyer.

CHAIR BRACKPOOL: Why don’t we --

VICE CHAIR ISRAEL: No. He’s worse. He’s an agent and a lawyer.

CHAIR BRACKPOOL: Why don’t we do two things? Why don’t we do two things? Why don’t we make the finding that counsel will read a motion for me, I’m sure, make the finding that we believe this was the -- the intent with the supporting documents.

COMMISSIONER CHOPER: The intent of the meeting.
CHAIR BRACKPOOL: The intent of --

VICE CHAIR ISRAEL: The intent of the legislation.

CHAIR BRACKPOOL: The intent of the legislation.

Right. So that that gives you a further line of defense on your fiduciary obligations. And then if you still feel that there’s more, submit the brief and we’ll see what we do, whether we think there’s a further legislative clean up or not.

But the agreement is crystal clear that we all reached on what was to happen with the money. So what we’re talking about is if there was any remaining concerns as to ambiguity of language we’ll look at ways to -- to continue those. So --

MR. FISCO: So let -- let me ask -- you make continuing reference to a meeting in Sacramento of which I personally, for one, was unaware of. And you seem to want to cite to that meeting as evidence now on your finding on this issue here. I -- I would suspect that that’s not in --

CHAIR BRACKPOOL: It’s not one -- it’s not one meeting, sir. It was multiple meetings, multiple conversations with your representatives. I don’t know where you rank in your organization and which meetings you get invited to --

MR. FISCO: Well, let me ask --

CHAIR BRACKPOOL: -- or which ones you’re told of.

Let me finish.

MR. FISCO: Well, I started.
CHAIR BRACKPOOL: I have the microphone. I have the microphone.

Alan Balch was sent to that meeting after a conversation I had with John Sadler who said Alan Balch is the person to go to that meeting. If John Sadler as president of the organization sends Alan Balch, the executive director, and he doesn’t tell you about it, that’s not my issue. So let’s have --

MR. FISCO: Thank you. But can you answer my question? My question was whether or not this was in the packet to which you are now making reference as supporting your interpretation. Do you have anything in your packet now concerning a meeting that -- that Alan Balch --

CHAIR BRACKPOOL: This is not a deposition. Nobody is -- I need to ask this question. Do you remember going to the meeting, Alan?

MR. BALCH: Yes.

CHAIR BRACKPOOL: There you go.

MR. FISCO: Well --

CHAIR BRACKPOOL: So let’s move on. We’ve got lots of things to get through today. So can we have a --

VICE CHAIR ISRAEL: Let me ask him one question.

CHAIR BRACKPOOL: Okay.

VICE CHAIR ISRAEL: I want to ask you one question. And, Alan, you can answer it, or Carlo. Because, look, I don’t
think anyone of us up here wants to undermine the -- the
pension funds. The pension for the backstretch people is
exceedingly important to all of us and they need to be secure
and properly funded. They are, in my point of view, undermined
at all by having this money segregated and used for other
purposes. In fact, I believe in the long run they will benefit
by it because I think there will be a long-term benefit that
accrues to horse racing and increases handle in all respects
across the board. That -- that’s my opinion. I hope it’s true
and if I’m wrong then we’ll revisit the entire thing.

That said, I’m confused about what your exit strategy
is. Are you willing and will you help us eliminate the
ambiguity and come to the result that we intended all along, or
are you going -- are you going to fight against us and insist
that the deductions be made, regardless of what anybody’s
intention was?

MR. BALCH: Okay. Neither Carlo nor I are in a
position to answer that the way you would like. We have a
board of directors. The board has discussed this in great
detail and is very concerned about a procedure to protect the
pension in particular, which is our first priority. So we
welcome Commissioner Choper’s suggestion or offer that however
the Board votes my understanding would be that we can submit
something in writing.

The memorandum, Mr. Chairman, you have from me is
really more questions than anything else about how these things are going to be calculated on a go-forward basis so we can figure this out, because we believe that there are two sections that are pretty much in conflict with each other and they present a lot of practical difficulties. So we—we’ll just have to take it to the next step with our board. We hear you loud and clear.

I certainly remember the meeting. Carlo wasn’t there. I remember it somewhat differently than you do, but not substantially. I think there was a lot of misunderstanding as to the purse account. Personally I think most people sitting in the meeting did not realize that all these other deductions are separate in the law from 613 as to the purse account. Maybe I’m wrong --

COMMISSIONER CHOPER: Well, is it fair to say --
MR. BALCH: -- but that’s what we can figure out.
COMMISSIONER CHOPER: -- none of that was ever mentioned?
MR. BALCH: That’s --
COMMISSIONER CHOPER: I mean --
MR. BALCH: Right.
COMMISSIONER CHOPER: -- that’s the bottom line --
MR. BALCH: I understand.
COMMISSIONER CHOPER: -- is it not?
MR. BALCH: I understand. And that’s --
COMMISSIONER CHOPER: This -- this is not a peculiar situation.

MR. BALCH: Correct. Exactly. And that’s why we just want to work it out in an amicable way --

CHAIR BRACKPOOL: All right. One second.

MR. BALCH: -- if we can.

CHAIR BRACKPOOL: Commissioner Harris.

COMMISSIONER HARRIS: I think we need to look at this in context, that this is a very historic deal that got cut with this 1072, and the intent was the revenue to go to purses. And there’s all sorts of parties in racing that would have liked to have had a piece of the pie.

MR. BALCH: Sure.

COMMISSIONER HARRIS: I mean, it’s pretty amazing that -- that it got through without somebody saying, well, you’ve got to do a carve-out for me or a carve-out for this guy. And that was the beauty of it, that nobody got anything. So if we open it up to various funds everyone’s going to want something, but hopefully they’ll benefit long term.

CHAIR BRACKPOOL: I think we’ve beaten this to -- so, Counsel, can you give me a motion?

MR. MILLER: Yes, Mr. Chairman. Robert Miller, Counsel. The California Horse Racing Boards moves as follows, the California Horse Racing Board hereby declares the statutory interpretation of Business and Professions Code Section
19601.02, subsections -- including subsections (a), (b), (c)
and (d), as enacted by Senate Bill 1072 is as follows, the
increases in takeouts set forth in Senate Bill 1072 be used
solely for increases of overnight purses and for no other
purpose.

CHAIR BRACKPOOL: That’s my motion. Do I have a
second?

VICE CHAIR ISRAEL: Second.

CHAIR BRACKPOOL: Second by Vice Chair Israel. All
in favor?

ALL COMMISSIONERS: Aye.

CHAIR BRACKPOOL: The motion carries. Thank you.
And we look forward to receiving the supplemental brief. Thank
you.

VICE CHAIR ISRAEL: I look forward to you reading and
telling me what it says.

(Colloquy Between Board Members)

CHAIR BRACKPOOL: We have now -- items seven, eight,
nine and ten are collectively the ADW applications for TVG,
Churchill Downs, Youbet and XpressBet. Our questions from the
Board are going to be, I think, similar of all of them, and I
have many, many speaker cards on these issues.

So what I’m going to ask to do is I’d like -- and I’m
not sure whether it’s three representatives or four
representatives, because I understand the Youbet application
is -- falls more in the category of a technicality than a separate application. But I’m going to ask representatives from all of the ADW companies to come up here because I think otherwise whoever goes first will either be at an advantage or a disadvantage, and the same for who goes second, because we have so many speaker cards on these issues.

VICE CHAIR ISRAEL: You may need more chairs there.

CHAIR BRACKPOOL: We may well need some more chairs on the end.

VICE CHAIR ISRAEL: You can all come forward, just --

CHAIR BRACKPOOL: All right. So just for the record, why don’t we have all of the witnesses state their names and affiliations. And then I’ll get to -- I shouldn’t have said it was a record, having no speaker cards earlier. Now I’ve got all these. But let’s go. Scott?

MR. DARUTY: Scott Daruty with MI Developments. I normally don’t appear for XpressBet. Greg -- rather Gene Chabrier, their regulatory affairs director does. However, for medical reason he couldn’t be here today so I’m filling in for him.

CHAIR BRACKPOOL: Okay.

MR. BLACKWELL: Brad Blackwell on behalf of Twinspires and Youbet.

MR. HINDMAN: John Hindman on behalf of TVG. And I’m joined by Melanie Frank, also from TVG.
CHAIR BRACKPOOL: Thank you. Well, I see what’s interesting is in addition to others all of you have filled in speaker cards, as well. So I think what I’m going to do is have the speakers go through their points and then we’ll ask questions. Is that the way to do it? Is that how you’d like to start?

VICE CHAIR ISRAEL: Sure.

CHAIR BRACKPOOL: Let me do it that way. My first speaker — my first speaker, so I have these in order here a moment ago, is — well, I have two from TVG. Is that either one of you —

MR. HINDMAN: Yes.

CHAIR BRACKPOOL: — interchangeable? So John Hindman or Melanie Frank, whichever one of you. Not both.

MS. FRANK: That’s fine.

MR. HINDMAN: Good morning, Mr. Chairman and Members of the Commission. We fill out the cards, obviously, for protocol reasons. We’ve worked for several months with the Board on our application. We believe that we’ve provided all of the agreements, paperwork and other assurances that the Board requires for a license and that our application is complete. And that’s really all we had to say leading off. Thank you.

CHAIR BRACKPOOL: Okay.

MR. HINDMAN: I’d be happy to answer any questions,
CHAIR BRACKPOOL: Okay. I also have speaker cards for every issue from two people. So I’m hoping they only need to speak once with the way I’ve done this. So I have David Rosenfeld, and I have Richard Castro. So let’s have -- I -- I understand. I understand. I understand. But you don’t have one on every one, Jerry. I was just making the point to -- to do that.

So, Richard, why don’t you begin.

MR. CASTRO: My name is Richard Castro, representing Pari-Mutuel Employees Guild. David Rosenfeld asked me to fill out -- our lawyer asked me to fill out a card for him. They’re in another part of Santa Anita. There’s an ongoing arbitration. That’s where, basically, all of the Local 280 group is.

I’m actually on disability, so I’m here as an observer. And I’m going to try to answer your questions as best I can. I am the elected president of Local 280.

CHAIR BRACKPOOL: Thank you, Richard. So maybe if you’d take a seat, when we get to questions we’ll -- we’ll call on you.

MR. CASTRO: Okay.

CHAIR BRACKPOOL: My next speaker is Dave Elliott.

MR. ELLIOTT: Thank you. Dave Elliott, California State Fair. I’ll be brief.
I sent an email. I sent a letter yesterday and I apologize for the lateness of it. Basically, as this Board goes through issues, it’s primarily thoroughbred state, thoroughbred industry, and I understand all of that. I’m not embarrassed to get up here and tell you folks that our margins are really, really small, and that’s -- we’re operating the harness meet at Cal Expo. It’s been very difficult. We, too, have experienced the decrease in handle, purses and commissions.

We have a contract with TVG. And since you’ve combined them I do want to go ahead and say that I’ve been working with Mark Anderson and Jack Jeziorski from XpressBet, Mark Anderson from Twinspires. There will be a contact for those two companies prior to the start of our meet. It’s my fault. I have them in my -- on my desk.

Basically, I’m not specifically opposing -- I wouldn’t be so bold to oppose a license application of TVG. However, I come to this Board and ask this Board if there’s a nudge, perhaps, that you can give to TVG, to ask TVG if they could at least expose our live program on their telecast.

As an example, on Thursday nights we’re usually the latest United States signal up and -- but we get to watch, you know, two race tracks from Australia up until 10:00, 10:15. We never get a smell.

Cal Expo Harness Racing is popular in the state of
California for ADW players that play on all ADW companies. Our handle on Cal Expo Harness Racing in California by California residents exceeds -- exceeds many, many tracks. It exceeds Australia almost two-to-one in California by California residents. Outside of the California tracks and Aqueduct and Churchill we out-handle all the other tracks that TVG brings in to California.

Simply, I’m asking the Board if they would just maybe ask TVG -- I’ve -- I’ve talked to TVG. They’ve been very respectful, very responsive. Mr. Alvarado (phonetic) has been very nice, Mr. Wright has been very nice, Mr. Burns has been very nice, but it’s not accommodating.

VICE CHAIR ISRAEL: Are any of your races ever televised on TVG?

MR. ELLIOTT: Not anymore.

VICE CHAIR ISRAEL: Oh.

MR. ELLIOTT: We never get a smell.

VICE CHAIR ISRAEL: John --

MR. ELLIOTT: Even if there’s zero -- and, you know, there’s two Australia and we get -- we get nothing.

VICE CHAIR ISRAEL: Okay. I can tell you, there’s the first memo right here that they can televise what they want.

MR. ELLIOTT: Absolutely.

VICE CHAIR ISRAEL: So they have no --
MR. ELLIOTT: Without question.

VICE CHAIR ISRAEL: -- actual obligation.

MR. ELLIOTT: Absolutely.

VICE CHAIR ISRAEL: But, John, is there a reason, or Melanie, why you don’t?

MR. HINDMAN: Specifically, in terms of how the network gets scheduled, I’m -- neither of us are personally involved with that. But I’ll answer this, you know, the best that I can.

We -- we have the ability to show Cal Expo’s races. We don’t have an obligation to show them --

MR. ELLIOTT: No.

MR. HINDMAN: -- as you pointed out. I think there was some concern raised that at -- at certain points in times on certain wagers, you know, our players are treated differently than other players that are in the pari-mutuel pool with regard to takeout. And so there -- there was some thinking internally that we -- we didn’t really want to expose our players to that any more than we had to. We carry the product on our platform, it’s available for video streaming, and anybody who would like can wager on it. And -- but to my knowledge that is -- is something that -- that has been talked about internally.

MR. ELLIOTT: Contrary to -- to his argument, I’m not going to go toe-to-toe with an attorney, however, they do take
Woodbine. They do take Woodbine Thoroughbred high takeout. They do take Woodbine Harness Racing high takeout. I -- if that’s the argument there are other higher takeouts out there that they televise and that they do take than -- than ours. Our -- our highest takeout is 24.18, plus the fact that we have a 15 percent takeout on our Pick Fours. So I don’t know -- I’ve never been -- I’ve never been asked, you know, to lower our takeout on a specific wager or something so that they could televise our product.

I’m not asking for a full coverage. I’m asking for a couple races here and there, maybe three on a Thursday night when it’s really late and there’s nothing -- no other U.S. product.

My point is there a California based company. We’re an entity of the state of California. The California Horse Racing Board is obviously appointed by the governor.

CHAIR BRACKPOOL: Okay. Well, just --

MR. ELLIOTT: I just -- I just -- I’m just trying to --

COMMISSIONER CHOPER: Yeah. I -- can I --

MR. ELLIOTT: -- and they’re going to continue to do business.

COMMISSIONER CHOPER: May I interrupt. Would you -- you know, you’ve heard him; right? You’re not in a position to make the decision. My guess is that most everybody sitting up
here hopes that you’ll be able to make some accommodation for
the limited request that he makes. And if you -- would you
undertake that to take -- take that back and report it?

MR. HINDMAN: Yes, I will, Commissioner.

COMMISSIONER CHOPER: And let us know what’s going
on.

MR. HINDMAN: We will do that, Commissioner.

COMMISSIONER ROSENBERG: Could I ask a question of
Mr. Elliott, please?

CHAIR BRACKPOOL: Please, Commissioner.

COMMISSIONER ROSENBERG: Mr. Elliott, when you say
they’ve been respectful in your requests, respectful meaning
they -- they turned you down or they --

MR. ELLIOTT: Yes.

COMMISSIONER ROSENBERG: -- just took it under
submission?

MR. ELLIOTT: They’ve respectfully turned me down.

COMMISSIONER ROSENBERG: What was their reasoning?

MR. ELLIOTT: None.

COMMISSIONER ROSENBERG: No reason?

MR. ELLIOTT: It’s -- it’s basically the same answer.

And I understand the answers that, well, I’m really not
involved with the production aspect of the program, dah, dah,
dah, dah, dah.

VICE CHAIR ISRAEL: That’s what I thought.
MR. ELLIOTT: Okay.

COMMISSIONER ROSENBERG: So you must know why they show Australian races versus California harness races at this --

MR. ELLIOTT: We --

COMMISSIONER ROSENBERG: -- the point you --

MR. ELLIOTT: Me or him?

COMMISSIONER ROSENBERG: No. No. The point you made in your letter or your email, I believe it was --

MR. ELLIOTT: Yes, sir.

COMMISSIONER ROSENBERG: -- would you repeat that point for everyone?

MR. ELLIOTT: Well, on a Thursday night for example --

COMMISSIONER ROSENBERG: Yeah.

MR. ELLIOTT: -- we're the -- we're probably the latest United States signal in the air on Thursday nights. There's two -- they will show, they will televise Australia. They're taking our wagers, but I'm talking about just being televised. They will show two Australia races, you know, tracks, two different tracks with 20 minutes, 25 minutes in between post times, whatever. That's -- that's fine. My point is there's plenty of room and there's plenty of time, you know, to put -- throw Cal Expo Harness Racing. We know we get a bump when we get televised on TVG. We -- we know. And we -- we can
use every single bump we can get.

COMMISSIONER ROSENBERG: I consider this a serious issue. And I think we should get a written response, rather than just asking them to -- asking you to go back to your people and talk to them about it. I think we need a written response as to why they don’t telecast California Harness Racing.

MR. ELLIOTT: And if I can reiterate, ADW California residents wager more on Cal Expo Harness Racing through all the ADW companies than they do -- than they do on Australia. I -- I just -- I just want to reiterate that.

CHAIR BRACKPOOL: Are -- are you ever shown on HRTV?

MR. ELLIOTT: No. The -- HRTV’s program is -- is -- it’s basically done. The live program is done. I mean, I watched -- I watched the story on Swale last night. I much more enjoyed that than watching our own harness races. You know, they do a great job.

CHAIR BRACKPOOL: No. No. That’s very good testimony.

MR. ELLIOTT: They’re programming is --

CHAIR BRACKPOOL: But --

MR. ELLIOTT: Well, I -- but they don’t. They’re -- they’re -- they’re up and live. They’re doing Australian racing.

CHAIR BRACKPOOL: Anyway, thank you.
COMMISSIONER HARRIS: I think there’s some way -- I mean, if you are showing other races, if you -- I think all Sacramento is asking is to get a little piece of the pie.

MR. ELLIOTT: Yeah.

COMMISSIONER HARRIS: And I think it could help their program, which is pretty in desperate straits. And I think if you could show us, you know, financially why you’re hurt by doing that -- or I think it would be a help to -- to TVG.

COMMISSIONER CHOPER: I’m confident you can swing it. I’m serious.

MR. HINDMAN: I -- I understand. And --

COMMISSIONER CHOPER: You know, I mean, they’re not asking for too --

MR. HINDMAN: And I -- and I will take it -- I -- I understand this Board is taking this seriously. And -- and -- and I -- I definitely understand that and will communicate it.

I think -- I think Mr. Elliott misunderstood my concern when I voiced it earlier. When it came to our attention that customers betting on certain bets at -- at Cal Expo through various platforms that weren’t TVG paid no takeout on those wagers. TVG’s customers do pay takeout on those wagers. I think it became an issue about whether we wanted to use our television network to do something that --

CHAIR BRACKPOOL: Dave -- Dave is shaking his head.

VICE CHAIR ISRAEL: He’s shaking his head saying
that’s not the case, John.

MR. ELLIOTT: Not true. Winning --

MR. HINDMAN: Well, I’m happy to resolve that misunderstanding.

COMMISSIONER ROSENBERG: How did you determine that? How did you determine how other customers did that?

MR. HINDMAN: We read it in several promotions and press releases.

COMMISSIONER ROSENBERG: Do you think thoroughbred people don’t do that -- do that, that thoroughbred betters don’t bet on those kind of sites either?

MR. HINDMAN: It wasn’t -- it wasn’t an offshore type of an issue, Commissioner Rosenberg. It was a very highly publicized promotion they were running where they made clear that if you bet at certain outlets the customers weren’t charged takeout on the wagers versus -- and we’re misunderstood I’m happy to have a conversation with Mr. Elliott to find that out. But --

CHAIR BRACKPOOL: Well, let’s -- let’s take care -- I don’t want this becoming the -- I don’t want this becoming the -- let’s take Commissioner Rosenberg’s suggestion. Perhaps you could respond to the letter that was sent to all of us yesterday that I know all of you or your TVG executives, anyway, were copied on. And we’re not mandating you do it, but I’d like to know what your response is. And we are watching.
MR. HINDMAN: Absolutely.

MR. ELLIOTT: Mr. -- Mr. Brackpool, may I just clarify for Mr. Hindman very briefly. Twinspires approached us about a promotion. Everybody pays the takeout. Everybody pays it. The winners of the takeout --

CHAIR BRACKPOOL: Okay.

MR. ELLIOTT: -- we pay out of our pocket.

CHAIR BRACKPOOL: This can be done afterwards, though, Dave.

MR. ELLIOTT: That’s fine.

CHAIR BRACKPOOL: Because you guys are going to work this out. I know you’re going to work it.

MR. ELLIOTT: I sure hope so.

CHAIR BRACKPOOL: I feel very confident.

MR. ELLIOTT: Thank you very much for your time.

CHAIR BRACKPOOL: Thank you. Just a couple more speakers, and then I’m going to get to some questions there.

Jerry Jamgotchian.

MR. JAMGOTCHIAN: Chairman Brackpool, Members of the Board, I assume that none of you have any conflict of interest with TVG; is that correct? Just asking.

With regards to the TVG, item number seven, I think that I’ve made staff aware of a condition that you -- you probably know about. I know a lot of people in the audience know about it, but it has to do with TVG stealing signals and
then shipping that signal to Europe and in Asia, allowing wagers to be taken that never hit the first pools.

You know, I don’t know if the Board wants to accept that kind of conduct as being proper. But now that you have TVG in front of us why don’t you ask them to confirm that they’re not stealing signals and sending it to other areas of the world, and that they’re not paying associations or to TOC or other people for the use of this signal, and further confirm that any of the signals that they are stealing and sending to other areas, that the money that they’re taking handle on is actually hitting the purse pools, so the horsemen and the people can -- can get their -- their correct takeout.

I think those three questions are really important, unless this board would just sanction the illegal conduct, if it’s occurring, of TVG. I’ve been told by people that know. They’ve been paid by TVG, that this is occurring, and I’m hopeful that the Board cares. If it doesn’t care then I just think the -- the state is going to mandate things. And I think they should mandate TVG to be California friendly.

So if they -- if they don’t want to mandate TVG to be California friendly and they want to mandate the theft of the signal, illegal wagering of the money and other violations that we’ll prove up hopefully in the future, then you just grant the application and let them keep stealing. Thank you. Well, then answer them.
CHAIR BRACKPOOL: We’ll get to all of the answers in a second. We’re going through the speaker cards. Alan Horowitz.

MR. HOROWITZ: Alan Horowitz, California Harness Horsemen’s Association. I’d like to echo what Dave Elliott said and to, essentially, let the Board know that we appreciate their concern on this issue with TVG.

We are -- we are the only harness product in California, and yet there is no harness representation on any of their programming. And there is harness from out of state that is brought into California. So they are soliciting, in essence, California betters to bet on out-of-state harness but not being respectful enough to show some equity to the California branch of harness racing.

And I appreciate your -- your concerns and your support to Dave’s comments. Thank you.

CHAIR BRACKPOOL: Thank you very much. And last speaker on the issue before we get to questions, John Bucalo, Barona Casino.

MR. BUCALO: John Bucalo, Barona Casino. There’s a provision in the -- the law, 1964 -- 19602, section (j), that says satellite facilities can offer to their guests any races -- residents of California, can offer it to the residents of California, any races for wagering that an ADW does. And we’re not able to do that. And I -- I’d like to see us start
doing that. You would increase our revenue as -- and I’ve
mentioned this in the past, increase the revenue for the
horsemen and the state, as well. Thank you.

CHAIR BRACKPOOL: Thank you. Before we get to the
questions, Mr. Jamgotchian has made a theatrical speech about
people stealing, et cetera, et cetera. I just would like the
Board to know that counsel for CHRB had inquired of TOC what
particular agreements they had with -- no -- with TVG, Betfair,
et cetera. And all of those contracts and agreements were
delivered to us yesterday via email. All of the exhibits and
answers are here.

I don’t know about you two, but I got them at five
o’clock last night so I have not yet reviewed them. But we
will be reviewing them and we will be responding to both TOC
and TVG. So if anybody is stealing anything we will ascertain
that and find that out. But the answers have been delivered to
us by TOC in the form that we asked, so we will now take a look
at -- we will now take a look at these and we will -- we will
report back.

The issues I want to get to on ADW, the general
sense, I think, is that if you had to have a part in this movie
called horse racing you’d want to be play an ADW company. It’s
the best part in the movie. And I want to hear whether you all
really believe that’s the case or what it is that you think you
could do to improve the industry as a whole with some changes.
Because I look at these applications and they’re identical to the applications from before. Just let us sign up and let us keep taking the money.

So what are you doing differently? What are you doing to improve the game the customer? What are we doing to improve the sport? And why am I wrong that you’d want to play an ADW company in this movie?

MR. BLACKWELL: Brad Blackwell on behalf of Twinspires and Youbet. And I must admit, this is an odd question coming, you know, from a Board, but certainly happy to answer it. And -- and from the perspective of whether I’d want to play an ADW company, well, it could be, you know, an Oscar demanding role in that there certainly a lot of drama associated with ADWs throughout the country.

It’s been known to be, you know, the fastest growing segment of the industry. And certainly from our perspective, Churchill Downs Incorporated, we invested and continue to invest heavily in ADWs starting about three years ago, going through two acquisitions.

And what we have done is we’ve invested a lot in our technology. We’ve introduced new technologies such as Twinspires TV, which we thought was a very innovative product. We have our ADW, Twinspires, based out of Silicon Valley, California. So we are heavily invested in California, as well. And then the reason we located there was because of the
innovation coming out of that area. So we continue to pride ourselves in terms of offering an innovative product.

We have done a lot over the last couple of years to partner with race tracks. I know one particular issue was raised earlier today to where we’re working more with tracks to also draw customers back their race track. So we’ve -- we’ve formed deals with a number of race tracks throughout the country where we’ll have a Twinspires day at the race track to where we’re bringing our online customers to the actual race track in the interest of maintaining the interest in live racing, which as a race track owner we feel that’s very important. ADW only exists because there are live races going on throughout the country.

CHAIR BRACKPOOL: XpressBet?

MR. DARUTY: Yeah. I think as was -- this is Scott Daruty for XpressBet. As was just stated, ADW is a growing part of the business, so it’s a very important part of the business.

I think, though, as far as that being the role you would want in a movie, I’m not sure people completely understand the economics of ADW. I heard a comment earlier in this room made on a different topic that somebody believed an ADW made 12-and-a-half percent when it took a bet.

In California when an XpressBet customer places a bet through XpressBet, and let’s use, you know, the current --
the Hollywood Park meeting, XpressBet is allowed to retain five percent of the wager. And because Hollywood Park is a TVG exclusive television track XpressBet then has to pay two percent to TVG for the -- for the expense, to help them cover the expense of televising it. So XpressBet receives three percent on a wager from a California wager, not significantly more than the two percent that the satellites receive. So I -- I don’t think it’s such a great role in that respect.

And as far as helping -- what are doing to help the industry, trying to expand the -- the distribution of the product, obviously, everybody can’t get to a brick and mortar facility, so the ADW helps fill -- fill in those gaps. We’ll also mention, XpressBet has agreed to pay 100 percent of the takeout increase that was recently passed back to California purses. That’s an effort we’re making to -- to help better the sport. So those are a few things.

MR. HINDMAN: Thank you. I was going to say a lot along the lines of what Scott said a little more succinctly, which is it can be fun but it’s not exactly always profitable. And we work under the very similar economics as -- as our partners here -- or as our competitors here, excuse me, as it relates to California.

But I think a few things, you know, a few things that I think TVG has done very well is it’s provided a great deal of growth. I think if you look at, you know, this year TVG as a
company will return somewhere along the line of $80 million to tracks and horsemen across the country, the majority of which will be returned to tracks and horsemen in the State of California.

Like XpressBet, TVG has also agreed to give 100 percent of the -- the purse increase back to purses where we -- we understood, like you, it was meant to go. And we’re also doing as much -- as Mr. Blackwell represented -- we’re trying to do more and more of setting up events at tracks across the country, and we’ve had several here in California, as well, taking our players, getting them out of their house, taking them to the track for a day.

And -- and then I think, finally, you know, we -- we invest a tremendous amount of money in -- in televising the California races from places like Hollywood Park, Del Mar, Los Alamitos, the Oak Tree meet, Fairplex, and -- and really trying to bring the best that we can out. And -- and some things that we do, and I’ll use Del Mar, for instance, for an example, is we try to line up with their track management before the meet starts and say, okay, for each day of your meet or each weekend of your meet give us the top three reasons why somebody wants to come to Del Mar, and we’ll spend the day talking about those top three reasons in advance so people would hopefully go to Del Mar.

I think we have -- we -- we definitely have the
perspective of we can’t lose if somebody goes to the race
track, because if somebody goes to the race track they’re going
to be more committed to racing overall, and that will help us
and the tracks. So we -- we will try to continue to explore
ways to use, I think, a unique tool and the television network
to help people get back to the tracks.

MR. BLACKWELL: And, Chairman, if I may, just after
hearing both gentlemen speak, I think one of the reasons you
can’t garner much from the application is it’s -- it’s a form
application where we’re answering the same questions each year.
It doesn’t really go into, necessarily, our business models.

And as Mr. Daruty pointed out, you know, the
economics for ADWs in California are not great. You know, it
certainly limits what you’re able to do in this state.

And one other thing that I think, speaking with
various commissions throughout the country, one thing that I
think is certainly missed is that ADWs pay much higher host
fees to all the race tracks throughout the country, which is
the greatest return that a race track receives on the
distribution of its signal outside its own state. And so ADWs,
as Mr. Daruty pointed out, it’s not the best role economically
but it certainly does return a significant amount of money and
more money that other forms of distribution to the race tracks
throughout the country.

CHAIR BRACKPOOL: Commissioner Choper?
COMMISSIONER CHOPER: Yeah. When you mention the applications, as we receive them, or at least as I did, all three of you had a bunch of agreements outstanding. I heard you say, I think, that you got them all taken care of; is that right?

MR. BLACKWELL: Yes, we did.

CHAIR BRACKPOOL: Actually, I’m going to have Jackie go through this.

COMMISSIONER CHOPER: Oh.

CHAIR BRACKPOOL: Because there’s a couple of things missing --

COMMISSIONER CHOPER: Okay.

CHAIR BRACKPOOL: -- on each one that --

COMMISSIONER CHOPER: Okay.

CHAIR BRACKPOOL: -- that --

COMMISSIONER CHOPER: So I’d like to see where we are --

CHAIR BRACKPOOL: Okay.

COMMISSIONER CHOPER: -- on those things.

CHAIR BRACKPOOL: Let me come to that in one second.

Commissioner Harris?

COMMISSIONER HARRIS: One aspect of this as I recall, and I was around when we originally wrote these rules, that there’s this $500,000 bond that each that each ADW company has. And I think that was just arbitrarily picked.
But I’m not clear now how much money you effectively have on deposit from your various account holders. And is that -- are there steps to secure that? I mean, I think the Board is really not a --

CHAIR BRACKPOOL: And is it the appropriate number now?

COMMISSIONER HARRIS: Well, it’s -- is that the right number for a bond or are those funds segregated or, you know, is this -- is this sort of like a banking regulation but there’s no one really watching it?

CHAIR BRACKPOOL: Well, let’s -- first of all, Kirk, what is the status? Are they bonds?

EXECUTIVE DIRECTOR BREED: Yeah, bonds.

CHAIR BRACKPOOL: Okay.

EXECUTIVE DIRECTOR BREED: Three.

CHAIR BRACKPOOL: There are three bonds. So they are -- they’re bonds.

COMMISSIONER HARRIS: But -- but --

CHAIR BRACKPOOL: And they presumably have default provisions where they’re callable?

MS. WAGNER: Yes. Yes. All of the ADW --

CHAIR BRACKPOOL: Jackie Wagner, CHRB staff.

MS. WAGNER: Jackie Wagner, CHRB staff. All the current ADW providers at the table do have current bonds on file with different expiration dates for their -- for their
individual bonds. As the applications are coming forth for renewal staff did make the recommendation that going forward, say for instance I believe TVG’s bond expires October 11th. They’re applying for a one-year renewal, and we would recommend that their bond be extended to cover the entire term that they are applying.

COMMISSIONER HARRIS: I’d like to see some relevancy of the bond amount --

CHAIR BRACKPOOL: To the amount --

COMMISSIONER HARRIS: -- to the amount --

CHAIR BRACKPOOL: -- that’s being handled.

COMMISSIONER HARRIS: -- on deposit. Because it -- I’d assume that you have considerably more than $500,000 on deposit from your account holders.

MS. WAGNER: If I may, Commissioner. That is something that staff is going to be taking a look at as we go forward in 2011. We’re going to be in the process of amending every application that comes before this Board, including the ADW applications, which will allow us to increase that bond to an amount that the Board deems sufficient, because clearly that’s -- the times have changed from the time we first did that.

COMMISSIONER HARRIS: Yeah. I hate to seem them pay too much for bonds, but we need to have some security level there that that’s the right amount.
MR. HINDMAN: And may I just -- on behalf of TVG, I thin that they can -- that everybody can speak for themselves, I think we all segregate the funds. But I -- TVG in the last year has taken the step of buying a bond that is for the entire amount that we have on deposit nationally. So every dollar that a customer has in a TVG account is fully insured, essentially. And -- and that is --

CHAIR BRACKPOOL: Well, but who has access to that? We don’t.

MS. WAGNER: No, we don’t.

MR. HINDMAN: And -- but we’d be happy to name the CHRB has an additional --

CHAIR BRACKPOOL: Well, that’s possibly something to look at.

MR. HINDMAN: Yes.

VICE CHAIR ISRAEL: Right. Right. I --

CHAIR BRACKPOOL: Commissioner Israel?

VICE CHAIR ISRAEL: Yeah. I’d like to explore two things. First is with Churchill, Brad.

Each of the other two entities said unequivocally that they were going to return 100 percent of the increase provided by SB 1072 back to California racing in purses. What is Churchill’s position?

MR. BLACKWELL: Well, that issue is being --

continued to being discussed. And, you know, from what I
understand we -- we’re not aware of what -- what necessarily
the intent was but what -- how that is typically operated
historically. And, certainly, we view this as a situation
where both of those entities got something in return for their
position on that issue.

VICE CHAIR ISRAEL: And which is what?

MR. BLACKWELL: Well, as I recall that was a part of
the exchange wagering bill that was passed, that those two
were -- those -- that the increase in takeout was the same
issue.

VICE CHAIR ISRAEL: The bill -- the bill provided
that exchange wagering could be implemented by dates -- or
no -- not before a specific date --

EXECUTIVE DIRECTOR BREED: By anybody.

VICE CHAIR ISRAEL: -- by anyone. It was not limited
to Betfair or XpressBet.

MR. BLACKWELL: Nor -- nor did I take that -- nor did
I take that position. I was merely pointing out the fact
that --

VICE CHAIR ISRAEL: Well, then again --

MR. BLACKWELL: -- there was support for that bill.

VICE CHAIR ISRAEL: -- everybody got the same thing.

CHAIR BRACKPOOL: It’s a regulation that --

VICE CHAIR ISRAEL: Yeah.

CHAIR BRACKPOOL: -- we have the right to introduce,
if we get to it, by May 2012.

VICE CHAIR ISRAEL: Not -- not before May 2012.

CHAIR BRACKPOOL: Right.

MR. BLACKWELL: And I’m not familiar that the statute addressed how the takeout would be split or --

CHAIR BRACKPOOL: Oh, it --

MR. BLACKWELL: -- if the --

CHAIR BRACKPOOL: -- it was. I just read it. Would you like me to read that letter again or --

MR. BLACKWELL: You’re happy to read it. Those discussions, I’m -- I’m not intimately involved with those discussions.

CHAIR BRACKPOOL: And what did -- what did XpressBet get out of it?

MR. BLACKWELL: Well, XpressBet is a subsidiary of a company or an affiliate of a company that owns race tracks in California, so they’re in a much different position than Churchill and Twinspires are on that issue.

VICE CHAIR ISRAEL: Okay. Well --

CHAIR BRACKPOOL: Why?

VICE CHAIR ISRAEL: As long as we’re speaking about California.

MR. BLACKWELL: Sure.

VICE CHAIR ISRAEL: You just absorbed Youbet, which was a California company; is that right?
MR. BLACKWELL: Right. We acquired Youbet. Yes.

VICE CHAIR ISRAEL: And one of the reasons that the merger works for you on an economic basis is that you have economies of scale which included laying off quite a number of people; is that correct?

MR. BLACKWELL: That is typically what happens in acquisitions. Yes.

VICE CHAIR ISRAEL: And those employees who lost their jobs were primarily based in California?

MR. BLACKWELL: A good number of those employees were based in California. Yes.

VICE CHAIR ISRAEL: How many?

MR. BLACKWELL: I don’t know those numbers off the top of my head.

VICE CHAIR ISRAEL: And where was that office that they worked at?

MR. BLACKWELL: It was in California. And as I mentioned earlier today, we also have an office that is in California. And any employees who were no longer in the Woodland Hills office would have relocated to that California office. So we have maintained --


CHAIR BRACKPOOL: So Woodland -- Woodland Hills --

MR. BLACKWELL: -- our presence in California.
VICE CHAIR ISRAEL: So did they lose their jobs or did they get relocated to another office in California?

MR. BLACKWELL: Well, both occurred.

VICE CHAIR ISRAEL: How many people did you lay off?

MR. BLACKWELL: I -- I honestly don’t know that number off the top of my head right now.

VICE CHAIR ISRAEL: Approximately a dozen?

Approximately 12 dozen? I mean, you know?

MR. BLACKWELL: I’m -- I’m sure I can get you that number. So I don’t -- I don’t want to speculate on record when I don’t know the number.

VICE CHAIR ISRAEL: Okay. So you’re not a California company so you don’t want to pay the full 100 percent of the increase because you don’t accrue the benefits that -- that go to a California racing entity, but you want to cut jobs in California and we’re supposed to look kindly upon that?

MR. BLACKWELL: Well, I think there’s -- there’s two separate issues. And we do have a California presence. We do have a California office. But in terms of the takeout, that is not going to an entity that we own and operate in California. That’s a separate issue.

CHAIR BRACKPOOL: It’s not going to --

MR. BLACKWELL: And it’s something -- and it’s an issue that we are --

CHAIR BRACKPOOL: The takeout is going to purse
money?

MR. BLACKWELL: It’s --

CHAIR BRACKPOOL: The takeout is not going to race tracks? That was the whole concession that race tracks made in SB 1072.

MR. BLACKWELL: So -- so that takeout -- and again, I’m not the point person on this issue.

VICE CHAIR ISRAEL: The -- the takeout goes to put on the show that you sell and benefit from. That’s -- so that’s where that takeout increase goes.

MR. BLACKWELL: And as I mentioned, I’m not --

VICE CHAIR ISRAEL: It’s to put horses on that race track and to pay the people who care for those horses, ride those horses, risk their lives riding those horses and train those horses, that’s where that money goes.

MR. BLACKWELL: And as a race track owner we understand those economics. And again, I’m not the point person on this particular issue. I’m here to represent the application. I’m more than happy to answer questions that I can answer. The questions I can not answer, I’m more than happy to follow up with questions. And as I mentioned, those discussions are -- are ongoing right now. And so that’s our stance on it.

VICE CHAIR ISRAEL: Well --

CHAIR BRACKPOOL: But if this Board gave you approval
to just carry on then why would those discussions be ongoing?
Surely those discussions would end?

MR. BLACKWELL: Well, those discussions are also tied
to taking signals. So we would not be able to take the signals
that are a part of that discussion without that issue being
resolved.

CHAIR BRACKPOOL: We -- and then --

COMMISSIONER CHOPER: That’s why I think you ought to
resolve it pretty soon, don’t you think?

MR. BLACKWELL: And we certainly have been working on
that issue. And -- and this has been a unique year in that,
you know, these negotiations have worked differently than they
have in the past.

CHAIR BRACKPOOL: Let me -- let me ask --

COMMISSIONER CHOPER: Well, I don’t understand
your -- you know, I --

MR. BLACKWELL: They’re certainly new issues that
have not been involved in the past.

COMMISSIONER CHOPER: I don’t fully understand all
the business plans, nor do I fully understand the position you
took about the connection with California. But I just -- I
just don’t think it’s fair for you not to do -- what the entire
intention of this was, was to -- it may be overly dramatic --
but to save California racing, an activity in which you have a
vital interest.
So I would just urge you to get whoever -- whoever is in charge of those discussions to -- let’s -- let’s get them over with and get onboard. Because I guess myself, I don’t think it would be right for us to grant any renewal of the license, so long as --

(Clapping from the audience.)

CHAIR BRACKPOOL: Thank you.

COMMISSIONER CHOPER: -- so long as that is outstanding. I mean, I’m -- I’m speaking only for myself. And, you know, I will listen to more. But --

CHAIR BRACKPOOL: Well, this is an opportune time perhaps for staff to tell us which agreements are missing from which of the applicants, and then we can perhaps see where that falls into this.

MS. WAGNER: Jackie Wagner, CHRB staff. I’m pleased to report that TVG, they have -- their analysis indicates outstanding items for all of the entities. TVG, since the analysis was prepared, I’m pleased to report that we have received the contracts for all of the California tracks, including the contracts for the meets that are going to be commencing December 26th, 2010. So those --

CHAIR BRACKPOOL: Commonly known as the hub?

MS. WAGNER: Yes. We’ve got those, as well. And we’ve received a contract agreement with labor. That was received from TVG. Our staff’s initial concern was the surety
bond. The surety bond that we have on file is scheduled to expire October the 11th, I believe, 2011. As I mentioned before, TVG is applying for a license that will run from January 1st through the end of 2011. And we would recommend that they give us a bond to cover that entire term.

The thing that is missing from this application is the agreement from the horsemen signing off on -- on the -- on the application, and that’s TVG.

COMMISSIONER CHOPER: Could we stop for a moment there or do you want to just go through the whole report, Keith? Either way.

I was just -- I was just wondering, why haven’t they finished? Do you want to give us a word about the horsemen so maybe we can dispose of this?

CHAIR BRACKPOOL: I was -- I was imagining that’s going to be the same --

COMMISSIONER CHOPER: Okay.

CHAIR BRACKPOOL: -- for everyone is.

COMMISSIONER CHOPER: Go ahead. Go ahead.

CHAIR BRACKPOOL: And so let’s just get everyone --

COMMISSIONER CHOPER: Go ahead. Okay.

CHAIR BRACKPOOL: -- and then we can just --

COMMISSIONER CHOPER: Fair -- fair enough.

CHAIR BRACKPOOL: -- then we can just -- then we can just see.
COMMISSIONER CHOPER: Fair enough.

MR. LAMOTHE: Guy -- Guy Lamothe, Thoroughbred Owners of California. You’re referring to agreements. We haven’t seen any agreements this -- this far.

MS. WAGNER: Right. I don’t have them.

CHAIR BRACKPOOL: I don’t -- I don’t understand what this means, haven’t seen any agreements. I mean, we are X number of days before all these applications expire, when their current licenses expire.

VICE CHAIR ISRAEL: Fifteen.

CHAIR BRACKPOOL: And no one is having a discussion?

MR. LAMOTHE: Well, we have -- on one hand we have Monarch negotiating the agreements on behalf of the California race tracks.

CHAIR BRACKPOOL: Right.

MR. LAMOTHE: Okay. So they’re in the midst of those discussions and negotiations. At which point, when they have those negotiated they come to us for approval and consent to those rates. We’re not at that stage yet.

As far as the hub agreement on the ADWs, the statute says that they have a right to sign those with a race track or the horsemen’s agreement, a race track having over five weeks racing.

MS. WAGNER: Right.

MR. LAMOTHE: We are not aware or nor have we seen
that agreement.

CHAIR BRACKPOOL: And in the past you haven’t signed those, so in the past they’ve just gone directly to the race tracks, right --

MR. LAMOTHE: They’ve --

CHAIR BRACKPOOL: -- on those?

MR. LAMOTHE: They have not contracted with us on the hub agreements, although they are to provide those to us.

CHAIR BRACKPOOL: Right. Right.

MS. WAGNER: Correct. And that’s -- when I say that we have not received an agreement from the horsemen, the law requires that any agreements that we do receive between the parties, i.e. the ADW provider and the associations, have to be signed off by the horsemen. And that’s what -- what we’re missing.

CHAIR BRACKPOOL: Okay. So let’s go through --

MS. WAGNER: And we’re missing mostly all of them.

CHAIR BRACKPOOL: -- Churchill now.

MS. WAGNER: Churchill. For Twinspires we have not received any contracts for 2011, the horsemen’s agreement. I don’t have a hub agreement for the year. I don’t have a labor agreement. And the last time that we checked they have two folks that need to be licensed by CHRB. So their application is outstanding, missing the documents going forth for 2011.

What we’re most concerned with is, of course, the
race meeting that is scheduled to begin in December 26th, 2010.

CHAIR BRACKPOOL: Well, let’s -- and the -- the big
difference there appears to be there’s no labor agreement.

MS. WAGNER: Correct. There’s no labor. And I don’t
have an agreement saying that they have agreements with --

CHAIR BRACKPOOL: Yeah.

MS. WAGNER: -- the racing associations scheduled to
start December.

CHAIR BRACKPOOL: Right. Right. But you’re saying
TVG did have all of the racing associations?

MS. WAGNER: Yes. Yes.

CHAIR BRACKPOOL: Yeah.

MS. WAGNER: Yes.

CHAIR BRACKPOOL: Exactly.

MS. WAGNER: TVG has that.

CHAIR BRACKPOOL: Exactly.

COMMISSIONER CHOPER: TVB, only the horsemen?

CHAIR BRACKPOOL: Only the horsemen.

MS. WAGNER: Only the horsemen is missing from TVG.

COMMISSIONER CHOPER: Would you -- and Churchill, no
labor agreement, no horsemen agreement, nor no racing
associations?

CHAIR BRACKPOOL: No racing associations.

MS. WAGNER: No.

CHAIR BRACKPOOL: Right.
COMMISSIONER CHOPER: Those are the three?

CHAIR BRACKPOOL: Right.

MS. WAGNER: Correct.

COMMISSIONER CHOPER: Period?

CHAIR BRACKPOOL: So --

MS. WAGNER: Correct.

COMMISSIONER CHOPER: Okay.

CHAIR BRACKPOOL: -- I just want to hear from Richard Castro as to what your view is as to why there’s no labor agreement.

MR. CASTRO: This actually would apply to all the ADW companies. We recently had union elections. And I believe I sent an email to the Commissioners. And one of the Commissioners responded to me, thanking me for giving me the update. I didn’t think it was fair that I sign agreements not knowing whether I was going to get elected or not.

Our elections are now complete. We do have an agreement with TVG. I might add that all the employers that we have are tough to bargain with. But in the case of TVG it seems like we can always come to some kind of a compromise. We both walk away --

CHAIR BRACKPOOL: Okay.

MR. CASTRO: -- from the table unhappy.

CHAIR BRACKPOOL: All right. Without --

MR. CASTRO: But in the case --
CHAIR BRACKPOOL: But without the editorial part --

MR. CASTRO: Okay. Churchill has --

CHAIR BRACKPOOL: -- what is the standing issue with Churchill and what’s the outstanding issue with XpressBet?

MR. CASTRO: We’ve had no discussions with -- with Churchill. I have not talked to them. I -- I’m not aware of them talking to anybody in our group.

CHAIR BRACKPOOL: Okay. I’m just -- maybe I’m confused. But we -- we are requiring a labor agreement to something that takes place in 15 days time.

MS. WAGNER: Correct.

CHAIR BRACKPOOL: So are you relying on the existing agreement just rolling forward?

MR. BLACKWELL: Actually, the statute requires the union to provide written notice, I think it’s 90 days before a license is issued that they actually want the agreement. So we have not received that notice, nor have we received any communication from the union. So I don’t think this is an issue that should hold up an application for next year.

We have always been willing to work with the unions. We negotiated with them for I think a good year if not a year-and-a-half when this requirement was first introduced in California. So we have always certainly been willing to sit down and talk through these issues, finally reach an agreement before which has expired. And again, we did not receive
notice. And so we’re willing to work with the union once again, but we don’t feel based on the way the statute reads that this is an issue that should hold up the application.

CHAIR BRACKPOOL: Your interpretation is it’s in full force because they haven’t rejected it?

MR. BLACKWELL: No. Our interpretation is, is that the statute requires the union to provide a licensee written notice that they actually want an agreement for before an issue -- a license is issued.

CHAIR BRACKPOOL: You don’t currently have an agreement with them?

MR. BLACKWELL: The agreement expires at the end of this year.

MS. WAGNER: Correct.

VICE CHAIR ISRAEL: And -- and -- and you didn’t take it -- it’s not important enough for you to take your initiative to call them and say, hey, we need an agreement?

MR. BLACKWELL: The statute issues rights, and it also issues obligations. It was their obligation to take this step. So --

CHAIR BRACKPOOL: And your contention is that you no longer need to pay people to work for you because they didn’t send you a letter saying would you please pay us in the future or in the -- in the new year?

MR. BLACKWELL: That is absolutely not my contention.
CHAIR BRACKPOOL: Okay. Well, what is the contention?

MR. BLACKWELL: The contention is, as I will repeat, that the -- the statute, which was written in past, explains the process and requirements for getting a union agreement in place for an ADW licensee. If the union does not provide written notice then the agreement does not have to be in place. And so while we have an agreement in place that runs through the end of the year, you know, in previous years when this was introduced the union came on -- on the issue that they wanted to -- a written notice if they wanted to have the agreement in place.

And so, again, as I mentioned, we’re not unwilling to sit down and talk with the unions. I’ve spent, you know, a good amount of time in the previous years, you know, reaching agreement with them.

VICE CHAIR ISRAEL: As a practical matter --

MR. BLACKWELL: But --

VICE CHAIR ISRAEL: -- you didn’t feel any sense of urgency to get this done when you have a license agreement with us that expires that expires on December 31st?

MR. BLACKWELL: We -- we followed and relied upon the statute that was before us.

COMMISSIONER CHOPER: Richard, can you respond to that?
MR. CASTRO: Yeah. Well, the part that I’m looking at is 19608.4 that talks about one of the requirements for an ADW to be operating in California is to have a written agreement with a bonafide labor organization.

This company was in the process of buying another company. We didn’t know how it was going to end up. But now that I’ve heard that he’s got jobs here in California you can bet when we sit at the bargaining table I’m going to demand that we get some of those phone jobs. And if we don’t there will be a labor dispute. I don’t see how I can make it any clearer. Our argument has always been that you -- you did wrong in the past --

CHAIR BRACKPOOL: Richard -- Richard -- Richard, I think what Commissioner Choper was asking is do you have a rebuttal to the applicant’s position that you were required by statute to give him notice?

MR. CASTRO: Well, I -- I wasn’t relying on that part. I was relying on the other part that I just addressed to you.

CHAIR BRACKPOOL: I -- I understand. But the answer --

MR. CASTRO: I did not -- I did not send a letter asking any of the companies. However, I did hear from -- from XpressBet. I did hear from TVG. I heard nothing --

CHAIR BRACKPOOL: Thank you.
MR. CASTRO: -- from Twinspires.

CHAIR BRACKPOOL: Thank you. Thank you. Before we finish up with any of these, so now give me what XpressBet has or doesn’t have.

MS. WAGNER: XpressBet. XpressBet. The outstanding items for XpressBet are almost identical to the outstanding items for Twinspires. We have not received the contracts, the horsemen’s agreement, the labor agreement. And we are -- are recommending that the surety bond that’s on file be extended to coincide with the term that’s requested for renewal. So we have not received any documents, again going forward to 2011.

CHAIR BRACKPOOL: And thank you. Scott, your --

MR. DARUTY: May I respond?

CHAIR BRACKPOOL: Please.

MR. DARUTY: And I’ll take those one at a time. As far as the horsemen’s agreement, it is my understanding that there’s not an affirmative obligation to have an agreement. It’s that we provide notice to the horsemen of the hub agreement that we’ve reached. And then they have an opportunity to object if they see fit to object.

We do -- XpressBet does have a signed hub agreement that was presented to the horsemen. I talked personally with the horsemen prior to giving it to them. And my understanding was that they did not have a problem with it. We have not been notified of a problem. So I’m assuming the horsemen -- the hub
agreement and the horsemen’s issue are both resolved.

As far as the contracts with the race tracks, as I said earlier, I don’t usually appear for XpressBet. What I usually do is -- is help the race tracks sell the content through the Monarch entity. Because I’ve been negotiating those Monarch tracks and because I knew that XpressBet and Santa Anita are in the same family I’m not worried about getting that agreement. I prioritize that one much lower than getting other agreements done.

CHAIR BRACKPOOL: Signing both of those?

MR. DARUTY: We’ll be signing both of them. I --

VICE CHAIR ISRAEL: Well, Golden Gate, as well, obviously.

MR. DARUTY: Yeah. Golden Gate, as well. I was working -- in fact, just within the last, you know, 48 hours or so we got the TVG agreements all signed up. So I can assure you that those will be provided.

CHAIR BRACKPOOL: So where are you on the labor agreement? Did you provide the 90 day statutory notice?

MR. DARUTY: On the labor agreement --

CHAIR BRACKPOOL: I mean, did you receive it?

MR. DARUTY: On the labor agreement I don’t -- I don’t think we actually received a notice. But I -- I -- you know, I guess that’s, you know, maybe here nor there, depending on your perspective.
What we did is in the fall, I think in about September, we presented an agreement to labor. The statute is very clear. This is not, you know, necessarily what you think of as a labor negotiation where you -- you have monetary issues or other issues. This labor agreement is very specifically called out in the statute and it needs to address certain key factors. The statute says that neither party can require items outside of those listed factors.

In September we did present a proposed contract to labor that covered all of those issues. At the time we were notified that there was sort of a standstill while they were going through their elections, so we respected that. Honestly, if -- if I got the email I missed it because this is the first I heard that now those elections have been resolved. So now that we know that they’re resolved we can pick up those discussions again.

MS. WAGNER: Scott, if I may, do you anticipate the agreements between the associations being completed before December 26th? That’s my -- that’s my concern because we’ve got those race meetings coming.

MR. DARUTY: Yes. I could get them to you within the next 24 hours.

VICE CHAIR ISRAEL: So the -- so the devil on your right shoulder and the angel on your left shoulder have reached an agreement?
CHAIR BRACKPOOL: Right.

MR. DARUTY: Yes, right, as we speak.

VICE CHAIR ISRAEL: Okay.

CHAIR BRACKPOOL: But it’s the -- but -- but the labor agreement, do you believe you’ll have the labor agreement in place by January the 1st?

MR. DARUTY: Well, historically, and I know Richard will have his own views and will express them. My -- in my opinion historically labor has asked for items in that agreement that are outside the scope of what’s required by the statute. We’re perfectly willing to discuss items outside the statute. I’m not saying we’d limit our discussion only to the things that we have to agree to. Unfortunately, we haven’t typically been able to reach agreement on some of those other items. So we stand here willing to sign a contract immediately that covers every issue that’s required by the statute.

COMMISSIONER CHOPER: Did you hear from the --

CHAIR BRACKPOOL: When these --

COMMISSIONER CHOPER: -- horsemen on the --

CHAIR BRACKPOOL: I will. When these agreements were approved, I assume two years ago was the last one; right, Jackie?

MS. WAGNER: Yes.

CHAIRMAN BRACKPOOL: Or --

MS. WAGNER: A year ago.
CHAIRMAN BRACKPOOL: A year ago. That’s right.
Yeah. Were there any labor agreements outstanding at the time?
MS. WAGNER: You know, I can’t say for certain when the Board approved the applications. I believe that -- that there may have been some outstanding at the time because I believe that those approvals were all contingent upon receiving outstanding documents.
CHAIRMAN BRACKPOOL: But if --
MS. WAGNER: But --
CHAIRMAN BRACKPOOL: -- they’re contingent upon approving them, were they then delivered --
MS. WAGNER: Yes. Subsequent --
CHAIRMAN BRACKPOOL: -- by --
MS. WAGNER: Subsequent to that we did receive the labor agreements from Labor for ADW providers. Those are on file.
CHAIRMAN BRACKPOOL: All right. Richard?
MR. CASTRO: Richard Castro representing Local 280. I might be lax on this. I don’t recall getting an agreement from XpressBet. This morning I was in my office at five o’clock and I went through the ADW file and I couldn’t find a document like what Scott is talking about.
But what I can tell you that -- but Scott did not say, that I did conversations with Gene Chabrier. And a couple months ago I was back in Washington D.C. and we actually met at
an airport and discussed issues relating to an XpressBet agreement. And it boiled down to -- and you will recall these discussions because I’ve consistently protested DelMar.com and OakTree.com and XpressBet are the people that are doing it. And you have it on your agenda today which, again, we are here to oppose it. We don’t -- we don’t have an agreement covering that subject. This is item number ten.

MS. WAGNER: He’s referencing XpressBet is -- the application is XpressBet doing business --

CHAIRMAN BRACKPOOL: Oh. It’s DelMarBets. Okay.

MS. WAGNER: -- as dba DelMar.

VICE CHAIR ISRAEL: The white labels. That’s all.

CHAIR BRACKPOOL: Yeah.

EXECUTIVE DIRECTOR BREED: The white label.

MR. CASTRO: But just -- that’s my recollection.

MR. BLACKWELL: Thank you. Thank you. I have to say that I think the most troubling thing I’ve heard is the notion from -- to inspire us that because the union didn’t send them a notice that’s required by statute that they think that exempts them from having to have a labor agreement. I -- I’m really troubled by that.

MR. BLACKWELL: And as I explained before -- Brad Blackwell on behalf of Twinspires -- the statute is clear the way it reads. And as I also mentioned, I don’t think that’s a reason to hold up a license, based on the way the statute
reads. And as I mentioned, we have no problem with signing an agreement. We signed an agreement before. And as Mr. Daruty suggested to the Board, the statute is very clear as to what is in that agreement.

CHAIR BRACKPOOL: You know --

MR. BLACKWELL: And -- and -- and what happened the last time we went through negotiations, as Mr. Daruty also referenced, was there was a lot of external issues that were brought into that agreement which kept an agreement from being signed. And it’s well documented that when this requirement was introduced that XpressBet, Youbet and Twinspires did not have an agreement when the license were issued. And it took probably six or seven months before an agreement was actually reached. And finally what was reached was what was actually reflected in the Statute as being required.

So we have no problem signing that agreement. We would do that today. We would do that tomorrow. But I just don’t think, based on the way statute reads, that this is an issue --

CHAIRMAN BRACKPOOL: Right. But your --

MR. BLACKWELL: -- that the Board should take into consideration for not granting a license.

CHAIRMAN BRACKPOOL: But your argument is that statutes is statutes and you should comply with statutes, which is when I get to the increased take out I scratch my head,
because that’s the statute you don’t want to comply with.

MR. BLACKWELL: I don’t think -- and again, I’m not the person on the takeout, but I’m not aware of takeout being an issue for my ADW application. We had a hub agreement in place and from what I --

CHAIRMAN BRACKPOOL: Well, it’s a big issue in California in the sense that you’re saying you don’t want to pay it back even though it’s in the statute. And yet on the other hand you’re trying to argue statutory release on your labor position. So it seems to me you’re trying to have one argument one way, one argument the other way.

MR. BLACKWELL: And -- and we’re here today to discuss our application that is based on the ADW statute.

CHAIR BRACKPOOL: Well, I --

MR. BLACKWELL: And again, I don’t think takeout is an issue that’s addressed in that ADW Statue.

VICE CHAIR ISRAEL: More specifically --

MR. BLACKWELL: -- that’s an issue --

VICE CHAIR ISRAEL: Hold it. Hold it. More specifically to the Chairman’s points you -- you said you had a hub agreement in place. You don’t have a hub agreement in place beginning January 1st 2011, do you?

MR. BLACKWELL: I don’t think I said we have a hub agreement in place.

VICE CHAIR ISRAEL: Yeah. You just said that.
CHAIR BRACKPOOL: Yeah.

VICE CHAIR ISRAEL: I’m paying attention to what you are saying apparently more than you are paying attention to what you’re saying.

MR. BLACKWELL: What -- what I was -- what I was planning to say, before I was interrupted, was that I don’t think that the hub rate is an issue in the negotiations. I think that there other issues that are at stake and being discussed. The actual hub rate, to my knowledge and maybe Mr. Daruty can speak to this, is not the issue.

VICE CHAIR ISRAEL: Are you going to return one hundred percent of 1072's increased takeout to California?

MR. BLACKWELL: I cannot speak to that issue. I am not involved with that issue.

VICE CHAIR ISRAEL: That’s what we’re talking about here, pal.

MR. BLACKWELL: I am not involved with that issue.

VICE CHAIR ISRAEL: Who is?

MR. BLACKWELL: Well, I can have them follow up, but I am not personally involved. That’s being handled by, I expect, our CFO and COO at CDI.

VICE CHAIR ISRAEL: And what’s your job?

MR. BLACKWELL: I am a Vice President of Twinspires --

VICE CHAIR ISRAEL: So --
MR. BLACKWELL: -- on the ADW side.

VICE CHAIR ISRAEL: -- they sent you here to answer questions on your application and you can’t answer the questions on your application?

MR. BLACKWELL: I can answer questions on our application, and the question would be do we have this agreement in place? No. I can --

VICE CHAIR ISRAEL: Well, okay.

MR. BLACKWELL: -- speak --

VICE CHAIR ISRAEL: You said you did, by the way.

MR. BLACKWELL: I think I have corrected any misconception on the record, sir.

VICE CHAIR ISRAEL: Okay. I don’t know how we can approve your application if we don’t have a hub agreement.

CHAIR BRACKPOOL: Keith?

VICE CHAIR ISRAEL: Simple as that.

CHAIR BRACKPOOL: Please.

EXECUTIVE DIRECTOR BREED: Maybe we can get the horsemen thing out of here where we --

CHAIRMAN BRACKPOOL: Yeah. Guy, could you step forward and answer Commissioner Choper’s question please?

COMMISSIONER CHOPER: It’s been said that there’s no real issue with the horsemen’s agreement. I forget exactly who said what it was, but they submitted this to you and was it you, Mr. Daruty? Would you repeat that?
MR. DARUTY: XpressBet has a signed hub agreement with Santa Anita and with Golden Gate. That document was submitted to the TOC. And to my understanding that they have approved that by not objecting to it.

COMMISSIONER CHOPPER: Is that -- is that right?

MR. LAMOTHE: Guy Lamothe, Thoroughbred Owners of California. Yes. We had discussions in advance. They presented a proposed agreement and we are fine with it. I think Mr. Blackwell and the other issue clarifying --

COMMISSIONER CHOPPER: Excuse me. So that’s true with TVG too then?

MR. LAMOTHE: No, that’s not correct. I believe I stated before that we have not seen any hub agreement. And then I was going to stand up earlier to ask for clarification on Mr. Blackwell’s statements, but I believe he is on record saying there is no hub agreement, if that’s correct. Is that correct?

MR. BLACKWELL: Yes. I think that the --

MR. LAMOTHE: Thank you.

MR. BLACKWELL: -- the concept of a hub agreement seems to evolve each year. There was one specific document that I recall submitting the first time we were licensed that was entered into with the horsemen. The second year I think we entered into an agreement with Santa Anita and Golden Gate. And then each simulcast agreement that I have seen from a
California track also discusses what the hub rate will be.

And so what we have submitted to the CHRB as a part of our application is the current simulcast agreements that we had entered into for this year which has a provision which addresses the hub rate. So I think that you can clearly take the stance that that agreement is signed and addresses as a hub rate. So there is an agreement in place that addresses hub rates for certain tracks.

VICE CHAIR ISRAEL: Scott, can you answer that?

MR. DARUTY: Yeah. I’d like to --

VICE CHAIR ISRAEL: Since you’re negotiating for the other side.

MR. DARUTY: -- clarify one item. When you’re talking about a hub agreement and -- and a hub rate is -- is a rate that’s set forth in the agreement, there’s two issues. There’s the hub rate an ADW gets when it takes a bet on a California race track, and that is a matter of contract between the race track and the ADW.

So as Mr. Blackwell said, when -- when Twinspires takes a bet on Santa Anita there’s going to be a specific hub rate that Twinspires is entitled to keep, and that will be set forth in the agreement between Santa Anita and Twinspires saying you can take the Santa Anita signal and here’s the hub rate you get.

COMMISSIONER CHOPER: Do you have that agreement?
MR. DARUTY: That agreement is in place with TVG. That agreement will be in place within 24 hours with XpressBet. That agreement is still being negotiated with Twinspires. The -- the hang up right now being the portion of the takeout increase that they are willing to pay.

COMMISSIONER CHOPER: Okay.

MR. DARUTY: And those discussions are ongoing. I spoke with Twinspires as recently as yesterday.

COMMISSIONER CHOPER: And your -- and my understanding is, I hope I’m right, that once the racing association agreement is reached, the hub agreement, right, then the horsemen agreement pretty much follows because they are notified and that’s the end of it?

MR. DARUTY: No. I’m sorry. There’s one more step.

COMMISSIONER CHOPER: One more step?

MR. DARUTY: What I -- what I laid out was the hub rate --

COMMISSIONER CHOPER: It’s only the -- you know, I must say I’m just amazed, absolutely amazed that we can be sitting here on the 15th of December --

COMMISSIONER DEREK: Yes.

COMMISSIONER CHOPER: -- in this situation.

COMMISSIONER DEREK: That’s my concern.

COMMISSIONER CHOPER: I mean, this is not a second and third grade playground. I -- well, I’ll stop.
MR. DARUTY: Let me -- let me address the -- the other issue on the hub agreement. There is also the issue of what does an ADW get as it’s hub rate when it takes a bet on an out of state signal. So this example, Narrows running, Twinspires wants to take a bet on the Narrow race from California, that’s a different animal. There is a separate hub agreement that says Twinspires, and they could sign it with Santa Anita or they could sign it with Hollywood or they could sign it with any race track in California. Twinspires is entitled to retain a hub rate of X on every bet it takes from an out of state entity. That item that requires the approval of the TOC. And the -- the approval is -- is a deed approval. That agreement, once it’s signed, is presented to the TOC under statute and they have five days to object. If they don’t object within five days it’s deemed approved.

The proposal, just so that we all understand, the proposal that Monarch, on behalf of all the California race tracks has made to Twinspires, is the exact same proposal it made to TVG and the exact same proposal to XpressBet which is you can have all the California races, you can retain a hub agreement of X when you take a bet on a California race. You will also be free to import into the State of California all out-of-state signals, and you’ll get a hub rate of X. And just so you know, the hub rate has been presented to all three as identical. And again, my understanding is the only hold up
with Twinspires right now is the -- is the takeout piece. And because that piece isn’t resolved, nothing is signed --

VICE CHAIR ISRAEL: The 1072 takeout?

MR. DARUTY: The 1072 takeout piece. And because that’s not resolved nothing is signed, which leads to these various agreements. It sounds like a lot of agreements but it’s all tied up in the same negotiation.

COMMISSIONER HARRIS: Is the Monarch entity, which is a kind of a coalition of all the bargaining units of the tracks, are they exempt from -- it seems like they would run against some of these anti-trust and anti-(inaudible) statutes. Has that been a problem for them?

MR. DARUTY: No. We’ve -- we’ve had extensive analysis done on that. We’ve -- are very careful that we operate within those roles and we’re comfortable with what we are doing.

CHAIR BRACKPOOL: Mr. Hindman.

MR. HINDMAN: On behalf of TVG, to clarify a couple of things related to these issues, and I think Scott’s description of the agreements are -- are accurate as were Brad’s in terms of what’s required. We did sign an agreement with Monarch that has all the hubs -- there’s two different types of hub fees which we will get to; one on the in-state betting and one on the out-of-state tracks. That -- that agreements sets forth all the hub fee for all the betting on
in-state tracks throughout 2011.

We have another agreement that -- with another racing association that sets out the out-of-state fees, as well, that happen to be the same. And that -- that agreement was -- was -- was given to the TOC a long time ago because it’s a multi-year agreement. But we’d be happy to go back and ensure that they’re -- that they -- they’re aware of if and point out --

COMMISSIONER CHOPER: And you’re sending those over to the horsemen while your --

MR. HINDMAN: Well the -- the --

COMMISSIONER CHOPER: I don’t understand that. Explain that to me.

MR. HINDMAN: Well, thank you, Commissioner Choper.

The -- as Scott accurately reflected, the -- the Monarch agreement was completed in the last 48 hours for TVG. And that agreement does contain center clauses that Monarch proffers that, you know, that there will be no assurances that -- that the horsemen’s agreement is required, there will be no assurances that it will be received. And -- and what the end to that is -- end to that is not related to the operation of our ADW company overall, but our ability to take Santa Anita on December 26th.

COMMISSIONER CHOPER: But let’s -- let’s --

MR. HINDMAN: And we understand that.
CHAIRMAN BRACKPOOL: Let’s try and simplify at least where we are, because to me it seems we have a couple of issues here. I’m not sure that this Board from hearing all this is necessarily going to vote for a two year extension of these things. But whatever date the Board does vote to -- to me it’s just common sense that the bonds should be coterminous with those. So that will I’m sure be something that the Board requires.

We then have the labor piece which I’m not going to let go. I want to talk about that. And we’ve got the business of complying with the statutes on the takeout.

You know, I would certainly like to see as many ADW providers out there for the marketplace as possible. And I would like to be able to leave time for rational people to carry on rational negotiations on that and comply with the statute. But it seems to me that if someone doesn’t comply and doesn’t agree to pay the increased takeout back, then whichever entity that was, in this case Twinspires, they would not be able to reach an agreement with that racing association. Is that correct?

MR. DARUTY: That’s correct. The -- the takeout piece is a material part of the agreement. So if we don’t have --

CHAIRMAN BRACKPOOL: Right.

MR. DARUTY: -- have agreement on that there’s no --
CHAIRMAN BRACKPOOL: Right. Right. So what I’m saying is in trying to work through what level of conditionality our approval would be -- and if we sat here today and said, you know, all three of your applications are rejected because they’re incomplete I think you’d suddenly be in Commissioner Choper’s view which is, hey, this isn’t a second or third grade playground. We’re dealing with some serious business here; right?

So, you know, I’m sure you’ll rapidly get it -- get it together. We don’t have another meeting before January the 20th.

EXECUTIVE DIRECTOR BREED: The 20th.

CHAIR BRACKPOOL: So I’m trying to see if there’s a conditional approval that then is subject to getting all of these agreements in, which agreements can come in. But on the other hand, I would struggle to vote for something where somebody didn’t want to comply with -- with what was agreed in the law here.

So I guess to give people time to do that they would need to have -- if they didn’t come to an agreement then they wouldn’t be able to have an agreement with the racing association; correct? So we’ll leave the labor piece to one side because I want to talk to the labor people one more time now.

But in terms of any approvals we were to give here,
they would all be subject to receiving those -- depositing with us those agreements.

    MS. WAGNER: Correct. That’s correct.

    CHAIRMAN BRACKPOOL: All right. Which they have to do before December the 26th.

    MS. WAGNER: Yes.

    CHAIRMAN BRACKPOOL: Exactly. So we can -- does that make some sense there that that’s the --

    VICE CHAIR ISRAEL: Well January 1st, really, not December.

    CHAIRMAN BRACKPOOL: No. Because they have to have the racing association meeting in for their current license. They can’t actually take an ADW bet on Santa Anita unless there’s a racing association meeting.

    MS. WAGNER: Well -- well, technically, if I can -- I can clarify, technically their license -- their current license runs through December 31st, 2010. Our new racing year starts December the 26th going forward. So --

    CHAIRMAN BRACKPOOL: So they can actually take bets --

    VICE CHAIR ISRAEL: They can take bets for the four days.

    CHAIR BRACKPOOL: -- for four days --

    MS. WAGNER: That’s correct.

    CHAIR BRACKPOOL: -- and then they would be out.
MS. WAGNER: That’s correct.

COMMISSIONER ROSENBERG: Mr. Chairman?

CHAIRMAN BRACKPOOL: Yes, Commissioner Rosenberg?

COMMISSIONER ROSENBERG: A technical question, but how does this -- how would an ADW have the right to refuse to go along with SB 1072? How does that differ from the --

CHAIRMAN BRACKPOOL: No. They don’t have the right. They would just -- they would say we don’t want to take the signal --

MS. WAGNER: Correct.

CHAIR BRACKPOOL: -- at that price.

COMMISSIONER ROSENBERG: Oh they would?

CHAIRMAN BRACKPOOL: Yeah. That’s the issue. It’s, take the signal and pay the price or don’t take the signal. I mean, that’s --

VICE CHAIR ISRAEL: And, Richard, it would become part of --

CHAIR BRACKPOOL: A bigger negotiation.

VICE CHAIR ISRAEL: -- of a larger negotiation involving whether signals owned by their racing associations can be brought into the -- their -- into their competitors systems. So it involves Calder and Churchill and Fairgrounds and Arlington.

EXECUTIVE DIRECTOR BREED: Uh-huh.

VICE CHAIR ISRAEL: Right?
CHAIR BRACKPOOL: That’s the process?
EXECUTIVE DIRECTOR BREED: Yeah.
VICE CHAIR ISRAEL: There’s a lot of moving parts.
(Colloquy between Board Members)
CHAIRMAN BRACKPOOL: So let’s for a moment talk about labor. So he’s pointed out the statute to me. So I just want to see whether -- I’m reading it for the first time,

“The Board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bonafide labor organization no later than 90 days prior to licensing, has entered into a contractual agreement.”

Right? So you’re saying that because they didn’t this exempts you from that statute, from that obligation?
MR. DARUTY: That is exactly what I am saying.
CHAIRMAN BRACKPOOL: Can I have labor counsel respond to that please? Well, you filled out a card, sir, and now you’re here.
MR. CASTRO: Richard Castro.
CHAIRMAN BRACKPOOL: Please. Well, I’d rather --
Richard, I’d rather --
MR. CASTRO: I’d rather he speak, too.
CHAIR BRACKPOOL: I’d rather hear from your lawyer.
MR. CASTRO: I’d rather hear from him too.
MR. ROSENFELD: Well, I’m -- I came in the middle of
this because I was in the middle of doing arbitration
downstairs.

VICE CHAIR ISRAEL: Excuse me. Your name -- name for the
record.

CHAIR BRACKPOOL: Name for the record, please.

MR. ROSENFIELD: It’s David Rosenfeld, and I’m the
attorney for Local 280. And I’ve been familiar with all these
ADW agreements because I have drafted them all and seen them
all, but I wasn’t quite clear his position, why he’s not
obligated to be signatory to one now.

CHAIRMAN BRACKPOOL: His position is that the
statute, and I’m reading it for the first time, says that -- I
could read you the whole -- the whole paragraph, but it’s --
it’s on page 78. But he -- he’s basically saying that you are
obligated to send them a letter 90 days prior to their
application date, and as you didn’t they have no need to enter
into a labor agreement with you.

MR. ROSENFIELD: Our position has always been, and
every time I have addressed this Board, that they have to have
an agreement in place before they can be licensed because
that’s what the statute says. There’s nothing in this Statute
that says we got to give them 180 days notice or two years
notice or one day notice. Their obligation is to have a
complete license application and their obligation is to have a
signed agreement before the license can be approved.
CHAIRMAN BRACKPOOL: Frankly, I think this is an incredibly sad conversation --

COMMISSIONER CHOPER: Yes, it is.

CHAIR BRACKPOOL: -- that there’s an entity who’s thinking that --

COMMISSIONER CHOPER: Let’s get it done.

CHAIR BRACKPOOL: -- they can -- they can get out of this. But he is -- he is saying the following, “The Board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bonafide labor organization no later 90 days prior to licensing, has entered into it contractually. So he’s saying because you didn’t give them the letter they don’t have to enter into a labor agreement with you.

MR. ROSENFELD: I think it’s been clear from the beginning. We’ve always requested with all the ADW providers have this agreement. And the -- you know, we’re here today. We’ll finish the process today, we can do it.

COMMISSIONER CHOPER: You’re -- you’re ready to do it; right?

MR. ROSENFELD: We’re ready to do it.

COMMISSIONER CHOPER: Mr. Blackwell, can you get in touch with your people in Kentucky or wherever they are? Let’s get this damn thing done.

MR. ROSENFELD: I’ve emailed with Mr. Blackwell in
the past.

COMMISSIONER CHOPER: I’m sorry. I just -- I don’t get it.

MR. BLACKWELL: The issue is that --

COMMISSIONER CHOPER: I may sound a little frustrated and I apologize for that.

MR. BLACKWELL: Oh, I’m extremely frustrated. Because the issue is, as I mentioned numerous times on record, our intention is not to escape this requirement. Our intention is we did want this issue to be used against us getting a license. That -- that was -- the issue in the past was that the statute’s very clear as to what should be in the agreement. It -- it could be no clearer. And I think our first version of this was just to take the exact language and put it into an agreement and sign.

The problem was there were other issues introduced, well, we want this, we want this, we want this. And -- and there is not the requirement to have these other issues in there. So again, we don’t have a problem signing the agreement that we’ve signed in the past, but we did not want this issue to hold up our license.

CHAIR BRACKPOOL: Okay. Commissioner Derek?

COMMISSIONER DEREK: Yeah. I’ve -- I’m --

COMMISSIONER CHOPER: Dave, have you heard that?

MR. ROSENFELD: I heard that.
COMMISSIONER CHOPER: Yeah.

MR. ROSENFELD: I think -- I think he’s right that there’s an underlying issue here that they’re not prepared to include in this ADW agreement, some phone jobs that we think should be here. That’s what the dispute is about.

CHAIRMAN BRACKPOOL: Okay. Commissioner Derek.

COMMISSIONER DEREK: I think that from the time I’ve been on the Board we’ve been complaining this, that we’re asked to approve these applications with so many contingencies and agreements that haven’t been worked out. It’s -- it takes a lot of our time continuing, not just counting today, and I don’t think we should approve them. I think we should, if necessary, have another meeting by phone when everything is in place.

COMMISSIONER CHOPER: I’m sympathetic to that, I must say that.

VICE CHAIR ISRAEL: Yeah

COMMISSIONER CHOPER: And I don’t -- maybe there’s an alternative, but --

CHAIRMAN BRACKPOOL: Well, the other alternative --

COMMISSIONER CHOPER: -- but we just say ditto to everything that --

CHAIRMAN BRACKPOOL: I would say ditto completely. I am just struggling with logistics of -- of how --

COMMISSIONER DEREK: Uh-huh.
CHAIRMAN BRACKPOOL: -- of how to do that, et cetera. I mean, one other way to -- to do that would be to say that the -- the -- the license is only granted through the January Board meeting, January the 20th, and we have everything back and everything in place at the January Board meeting and decide where we go from there.

VICE CHAIR ISRAEL: Well, what about the second part --

COMMISSIONER DEREK: Yeah.

VICE CHAIR ISRAEL: -- which is the hub agreement?

COMMISSIONER DEREK: There’s still so much.

VICE CHAIR ISRAEL: To me -- to me it’s a larger issue.

CHAIR BRACKPOOL: Because at this stage if they don’t have an agreement with Santa Anita, they can’t take bets on Santa Anita. And they’re not going to have an agreement with Santa Anita unless they agree to pay the money that’s in the statute.

VICE CHAIR ISRAEL: Right. I mean, we as a Board, and I don’t want to speak for everybody else, I’ll speak for myself, but I think other people indicated their sentiment, the law is the law; a hundred cents of every dollar comes back.

(Colloquy between The Chair and Staff)

CHAIRMAN BRACKPOOL: So that’s -- that’s actually -- Jackie has got a good idea which is that what we do is we
extend the existing licensing, licenses by 30 days, which takes them to January the 30th, which means that they have to be resolved at the January 20th Board meeting, otherwise people wouldn’t be able to operate. And whether it’s in the book or not, I think you can read this Board’s view of what it would have to have in order to be granting applicants a license going forward.

VICE CHAIR ISRAEL: I don’t think you can do that without violating 1072, because then the additional --


VICE CHAIR ISRAEL: -- takeout --

CHAIRMAN BRACKPOOL: No. No. They -- they won’t --

unless they -- this is just for ADW license. The issue with 1072 is whether they have an agreement with -- with the race track that’s running at the time. So they could not have agreements with Golden Gate and with Santa Anita unless they’d reached -- they couldn’t have agreement --

VICE CHAIR ISRAEL: Unless they’ve reached agreement.

CHAIR BRACKPOOL: But they would have to have reached agreement.

VICE CHAIR ISRAEL: Because they have existing agreements, so --

MR. DARUTY: If I -- if I understand correctly, though, every ADW would have it’s license extended and it could take bets from California residents on, for example, NYRA
races. But unless there is an agreement is place with Santa Anita they would not be able to take bets on Santa Anita races.

CHAIR BRACKPOOL: Correct.

VICE CHAIR ISRAEL: Right.

CHAIR BRACKPOOL: Correct.

VICE CHAIR ISRAEL: But I want make sure that that’s --

CHAIR BRACKPOOL: Correct.

VICE CHAIR ISRAEL: -- specified in the agreement --

CHAIR BRACKPOOL: Correct. Correct.

VICE CHAIR ISRAEL: -- whatever we decide.

CHAIRMAN BRACKPOOL: And this gives -- gives XpressBet time to get the labor agreement done, and it gives Twinspires time to get the license agreement.

MR. BLACKWELL: And if I may, Mr. Chairman, what is the Board’s position on the -- on the labor issue?

CHAIRMAN BRACKPOOL: I think this Board’s position is that you should have one. And if you are going to --

MR. BLACKWELL: So --

CHAIRMAN BRACKPOOL: Hold on. Let me finish. If you are going to say that we didn’t get the 90 day notice, right, then my guess is that this afternoon they’ll send you the 90 day notice and when you come back here in January if your position is still I’m only 30 days in, I’m going to give you a 60 day extension maximum.
So if you want to play that game, we’ll play that game back.

MR. BLACKWELL: I don’t -- I don’t think --

CHAIR BRACKPOOL: That’s what it is, it’s a game.

COMMISSIONER CHOPER: I don’t think it’s a game. I think the statute’s very clear they way it reads and I’m --

COMMISSIONER CHOPER: I understand. I may be -- I may be wrong --

MR. BLACKWELL: -- a little concerned with the position of the Board on this issue.

COMMISSIONER CHOPER: -- but I understood Mr. Rosenfeld to say that he understands your point, which is that a labor agreement can comprehend more than what the statute requires, but that he understands there’s certain things required by statute and certain things that are beyond the statute; right? Is that right?

MR. ROSENFELD: Yes, Professor.

COMMISSIONER CHOPER: Yeah. And -- and he’s learned well, see.

VICE CHAIR ISRAEL: Did he get an A?

COMMISSIONER CHOPER: I don’t remember.

MR. ROSENFELD: He passed.

COMMISSIONER CHOPER: You got an A or not? No?

CHAIRMAN BRACKPOOL: Well, you’re -- you’re struggling with the issue. You’re saying -- you’re -- you’re
saying that the statute is very clear, they didn’t send you the
notice. I’m suggesting to them that they should send you the
notice; right? So, you know, if -- if what you’re going to
rely on is the 90 day notice then we’ll just work out that the
application is there at the end of the 90 days to be discussed
and make sure that there’s a labor agreement.

VICE CHAIR ISRAEL: When you -- when you send a
notice to them that you’d like a new labor agreement, does your
notice say we’d like a new labor agreement starting on such and
such a date, or is it more of an open-ended notice that we’d
like to negotiate a new -- a new -- a new agreement? How is it
worded? In other words, can the one that you sent in 2009 be
considered notice sent more than 90 days before this agreement
expired? Or 2008?

MR. ROSENFELD: I think the easy answer is that we
want an agreement. This a notice to the extent that we haven’t
provided. But it’s been clear from the beginning we’ve always
wanted an agreement but --

VICE CHAIR ISRAEL: But it -- can it be construced
that if you provided one in 2008 --

MR. ROSENFELD: It’s continuing.

VICE CHAIR ISRAEL: It’s --

MR. ROSENFELD: That’s -- that’s the legal term that
we learned in law school.

VICE CHAIR ISRAEL: And there is -- that’s -- are you
listening to this?

COMMISSIONER CHOPER: Yeah.

VICE CHAIR ISRAEL: This is -- you’re the lawyer here. I need -- we need some -- they provided written -- you provided written notice in 2008, Richard? You provided some notice? How did you notice them?

CHAIR BRACKPOOL: No. They’re saying they never noticed.

MR. ROSENFELD: Because we’ve -- we’ve had prior agreements and they’ve known from the beginning we’ve wanted agreements. I’m sort of puzzled.

CHAIR BRACKPOOL: They missed that.

VICE CHAIR ISRAEL: Okay.

CHAIR BRACKPOOL: They missed that. They missed that thing.

Commissioner Choper believes that if we take a ten minute break at this stage that there are enough sensible people in this room that when we come back there’s going to be an even more sensible motion that I get to make. So we’re going to adjourn for ten minutes.

(The Board Recessed from 12:27 p.m.,

Until 12:38 p.m.)

EXECUTIVE DIRECTOR BREED: Let the record show we’re starting up the meeting again at -- let’s see -- 12:40, and we’re still on Item Ten, I think.
CHAIR BRACKPOOL: Okay. Reconvening this meeting.

So following up on Commissioner Choper’s suggestion, before I make some suggestions as to how we move forward did any of the respondents have anything new to — to add to their positions or any modifications to their positions in the ten minutes we had a break? No? Okay.

What I would like to propose would be that we -- and I’ll let Counsel word the motion for me, not to eat his doughnut -- I would like to propose that we -- and I want you to do this properly. I’m just going to ad hoc this. But that we extend the existing licenses by 30 days to January the 30th, 2011, but that the licenses starting on the extension period, January the 1st, are conditioned upon each applicant having a valid hub agreement in place so that these issues of takeout, et cetera, have to be resolved one way or the other.

When we come back in January I want to see every agreement in place. And if they’re not in place an explanation as to why they’re not, what the outstanding issues are, and what the timeframe is going to be. And I think it’s that set of explanations and the -- the -- the level of completion in the package that my sense is what will allow this Board to vote for a longer extension or not.

I don’t think that we should be treated as a rubber stamp where you make an application but you have absolutely none of the exhibits and none of the -- the associated
documents ready, and you just say we’ll have them at some state -- some time in the -- in the future. If you do have them I think this Board will look favorably. But -- but this -- this is there.

And if -- if you -- if you want to hold Twinspires to the 90 days then I trust that as of today you’ll get sent that -- that notice. And if you say, well, we’ve only had 30 of the 90 days then I think we’ll know how to handle it from -- from this end. So I think everybody should -- should be there.

So I would make a motion that on items -- agenda items, without reading them, seven, eight, nine --

EXECUTIVE DIRECTOR BREED:  Ten.

CHAIR BRACKPOOL:  -- and ten -- I’m assuming you still need nine, the Youbet one --

EXECUTIVE DIRECTOR BREED:  Is -- is --

CHAIR BRACKPOOL:  -- is that correct? Can you just explain to me why you need the Youbet application separate and apart from Twinspires?

MR. BLACKWELL:  Right. We -- we submitted those applications in an abundance of caution. Because in the interest of maintaining a license for both entities, as we were going through a migration we wanted -- did not want to be in a position where we didn’t have a license in place. And so, you know, we’re pretty much through the migration. But again, in an abundance of caution, you know, we would prefer to have
those licenses issued, which we can always surrender, just to
make sure that we have all of our bases covered and not be
operating in a non-licensed environment.

VICE CHAIR ISRAEL: Yeah. I -- I’m -- how do you --
is the merger complete?

MR. BLACKWELL: Yes. The merger’s been complete
for --

VICE CHAIR ISRAEL: Is Youbet a separate corporate
entity any longer?

MR. BLACKWELL: Yes, it is.

VICE CHAIR ISRAEL: It still is?

MR. BLACKWELL: It still is.

CHAIR BRACKPOOL: But it’s a 100 percent owned
subsidiary of Churchill Downs?

MR. BLACKWELL: Of CDI.

CHAIR BRACKPOOL: Right.

MR. BLACKWELL: Yes.

VICE CHAIR ISRAEL: So it -- it wouldn’t be
effectively any different from white labels such as DelMarBets
or OakTreeBbets.com?

MR. BLACKWELL: I’m sorry?

VICE CHAIR ISRAEL: Would it be effectively any
different from the white labels, DelMarBets and OakTreeBets?

MR. BLACKWELL: Yes. Yes. It could be. There’s two
separate platforms that we own, so --
CHAIR BRACKPOOL: Oh. Okay.

MR. BLACKWELL: -- it’s not a white label. Youbet was never a white label.

CHAIR BRACKPOOL: We’ll give Youbet the -- the 30 day extension on the same conditional terms, that it has to have the hub agreement. Whether or not you really want to go through that whole application you may want to think about because --

MR. BLACKWELL: Exactly. Exactly.

CHAIR BRACKPOOL: Yeah.

MR. BLACKWELL: But in -- just in an abundance of caution we just thought it was in the best interest to make sure we handled it that way.

CHAIR BRACKPOOL: And -- and do that.

Just before I make the -- the -- the motion and ask if anyone has -- Guy, I have a speaker card that you just gave me. Do you really need to speak again?

MR. LAMOTHE: Thank you. Withdrawn.

CHAIR BRACKPOOL: Thank you.

MR. BLACKWELL: And, Chairman Brackpool, I’m sorry, but I was a little confused about what you said before, because I thought you had mentioned extending all licenses through the end of January; is that correct?

CHAIR BRACKPOOL: Correct.

MR. BLACKWELL: But then I thought you mentioned that
the hub agreement had to be in place by January --

CHAIR BRACKPOOL: Correct.

MR. BLACKWELL: -- January 1.

CHAIR BRACKPOOL: Correct.

MR. BLACKWELL: So I -- I’m confused as how the license could be extended through the end of January --

CHAIR BRACKPOOL: It’s conditioned.

MR. BLACKWELL: -- if --

CHAIR BRACKPOOL: It’s a conditional license extension, and the condition is that there is a hub agreement in place --

MR. BLACKWELL: By January 1?

CHAIR BRACKPOOL: -- by January 1 of 2011.

MR. BLACKWELL: For a one-month license?

CHAIR BRACKPOOL: Correct.

MR. BLACKWELL: Okay.

CHAIR BRACKPOOL: Correct. You can have it in for a longer period of time, subject to your license being extended for a further period of time.

VICE CHAIR ISRAEL: But that --

COMMISSIONER CHOPER: I -- go through that one more time. I’m -- now -- now I’m confused. I understood -- I understood him to say we can extend the license until January 31 --

CHAIR BRACKPOOL: January 30th.
COMMISSIONER CHOPER: -- but -- but that doesn’t -- or whatever it was.

VICE CHAIR ISRAEL: But --

COMMISSIONER CHOPER: But you -- but you can not -- you -- you can not take the signal --

CHAIR BRACKPOOL: Unless you’ve got --

COMMISSIONER CHOPER: -- unless you have an agreement --

CHAIR BRACKPOOL: -- a hub agreement --

COMMISSIONER CHOPER: -- a hub agreement.

CHAIR BRACKPOOL: -- in place by January the 1st.

COMMISSIONER CHOPER: And that’s when you’re --

MR. BLACKWELL: Okay. I think it’s actually a simulcast agreement in place by January the 1st. Because the -- the hub agreement address is something separate.

CHAIR BRACKPOOL: Now I’m not sure.

COMMISSIONER CHOPER: Sorry. I --

CHAIR BRACKPOOL: I’m not sure. You know, the thing is that --

MR. DARUTY: Hey, if I might, I think --

VICE CHAIR ISRAEL: Please. Both.

MR. DARUTY: Scott -- Scott Daruty here. I think it might depend on what it is the Board intends to do. The -- the hub agreement is necessary for the import of signals into the State of California. The simulcast agreement is necessary to
take bets on Santa Anita and Golden Gate.

VICE CHAIR ISRAEL: Okay.
CHAIR BRACKPOOL: It’s both.
VICE CHAIR ISRAEL: It’s both.
CHAIR BRACKPOOL: It’s both simulcast and hub.
COMMISSIONER CHOPER: The position that’s based on is that there is a California statute that requires that all these monies be used, as we’ve been told in another context today, solely for purse enhancement. And the position has been that under those circumstances unless Santa Anita wants, I guess, to make up the difference themselves they’re going to insist that that money be put in for purses. And anyone who doesn’t do it can’t take the signal.

Now you still have a license if you -- but, you know, you have a license but you’ve got to use it in -- in a way --
CHAIR BRACKPOOL: Okay.
COMMISSIONER CHOPER: -- that’s consistent --
CHAIR BRACKPOOL: So --
COMMISSIONER CHOPER: -- with the other rules. You can do it but you’ll -- you’ll do it, I guess you can say, conditioned on your agreements to take the signal --
CHAIR BRACKPOOL: No.
COMMISSIONER CHOPER: -- from the relevant race track.
MR. BLACKWELL: So for clarification, if Twinspires
does not have a simulcast agreement in place on January the 1st then they can not take ADW wagers from California residents on any product?

VICE CHAIR ISRAEL: Yes.
CHAIR BRACKPOOL: Correct.
COMMISSIONER CHOPER: That’s the understanding.
CHAIR BRACKPOOL: Correct.
COMMISSIONER DEREK: Yes.
CHAIR BRACKPOOL: Correct.
COMMISSIONER CHOPER: And -- and as I -- and I think about four or five people, if not more than that, have said the notion is that each of the ADW companies ought to honor the agreements that have been made, which is that they in turn act consistently with whatever the -- the number of that statute was in California, taking two and three percent more --

VICE CHAIR ISRAEL: 1072.
COMMISSIONER CHOPER: -- to 1072, for the purpose of -- for -- for the purpose of the industry.
CHAIR BRACKPOOL: And I just want to reiterate something that Commissioner Harris said earlier on because it’s absolutely correct. There’s a great deal of debate and it’s fair to have the debate about whether this is going to ultimately be helpful to horse racing or not, having the higher purses through the, in our view, fairer takeout compared to the other major racing states. I understand there are people on
the other side of the issue; it may work, it may not.

We have to do something in California here. And part of our mission is to promote horse racing, and we have to do something. This promotes the possibility and the probability of fuller fields. If we have fuller fields and we have better product that is absolutely to the benefit of every ADW company looking at it.

Commissioner Harris was correct in saying that. I remember in these conversations I had the breeding industry call, the trainers, the -- this person, this person, this person at the start. And we said it will never work if we do that. So we all got together and said the only way this is going to work is we’re all going to hold hands and jump together. So you don’t get to jump separately. That’s really the point here.

COMMISSIONER HARRIS: You know, on this overall ADW question I think there’s a lot of misunderstanding of the way it works. I don’t think any of us completely understand. It would be helpful if we could get on sort of a glossary of terms, just what’s the difference between a hub fee and all this and that, but also some pie charts or something looking at -- I realize there’s all different types of wagers, in state and out of state. But I think it would be helpful if we were better educated.

Because I think there’s -- I think, frankly,
sometimes the ADW companies get somewhat of a bum rap that
they’re getting too much, that the middleman is getting too
much, and it’s -- it’s really not that simple. But I think all
of us need to understand the way -- the way it works.

CHAIR BRACKPOOL: Let’s pull together what we can for
the meeting next time. I think that’s a very good suggestion.
So --

MR. MILLER: Very well, Your Honor. Robert Miller,
Counsel of the California Horse Racing Board.

The Board makes the following motion: The advance
deposit wagering licenses of ODS Technologies, L.P., doing
business as TVG, Churchill Downs Technology Initiatives
Company, doing business as Twinspires.com, Youbet.com Inc., and
XpressBet LLC, doing business as XpressBet.com, DelMarBets.com,
and OakTreeBets.com are extended to and including January 30th,
2011 on condition that simulcast and hub agreements are signed
and in effect as of January 1, 2011 which reflect enactment of
Business and Professions Code 19601.02, including subsections
(a), (b), (c) and (d).

CHAIR BRACKPOOL: Okay. I’m happy to make that
motion. Do I have a second?

VICE CHAIR ISRAEL: Second.

CHAIR BRACKPOOL: Commissioner Israel second. All in
favor?

ALL COMMISSIONERS: Aye.
CHAIR BRACKPOOL: Motion carries. Thank you.

MR. BLACKWELL: Thank you.

CHAIR BRACKPOOL: Item Number 11, discussion and action by the Board regarding a report from the San Luis Rey Downs concerning the subsidy from the Southern California Off-Track Wagering, SCOTWINC, stabling and vanning fund. I have this lovely book here. Please come forward.

Now do we have -- who do we have? Is there someone from SCOTWINC, as well, in the room?

CHAIR BRACKPOOL: Tom is back there.

Tom, if you would come forth. And, Guy, are you involved in this? You probably are.

MR. DARUTY: I was recruited.

CHAIR BRACKPOOL: I think you are.

MR. CAREY: Could the three that are representing San Luis Rey Downs all be together and --

CHAIR BRACKPOOL: Please.

MR. CAREY: -- let Guy and Tom sit together? Could you just -- could you just shift one over?

CHAIR BRACKPOOL: Okay. Would you move this along? Would you please state your names and affiliations for the record starting far left and we’ll work our way along.

MR. CAREY: Good morning, Mr. Chairman, Members of the Board. My name is Kevin Cary, Rancho Ballena. I’m appearing as a representative today of San Luis Rey Downs.
MS. ROSIER: Laura Rosier, San Luis Rey Downs.

MS. HOWARD: Leanne Howard, San Luis Rey Downs.

MR. LAMOTHE: Guy Lamothe, TOC, on behalf of the Stabling and Vanning Committee.

MR. VARELA: I’m Tom Varela, SCOTWINC.

CHAIR BRACKPOOL: Thank you. Okay. Why don’t you lead off with your presentation?

MR. CAREY: Thank you very much. In the expediency of time I will not restate what we’ve submitted to the Board in our packet. And much of what you’re going to hear today I think you’ve heard before, as expressed by Ms. Laura Rosier. And I think this all boils down to a couple of issues that I’ll get into in a moment.

But I do want to reiterate the fact that for many, many years now San Luis Rey Downs has produced prolific horses that have made an impact on the sport. And we have been producing horses that significantly contribute to the satellite wagering fund. And it seems over the many years that we’ve been involved in this issue, going back to 1989, San Luis Rey has been more or less treated as the poor stepchild of the racing industry in Southern California. We had to fight for a portion of the stabling fund in 1989. We had to again, after being excluded, we to again fight for the stabling fund in 2001. At the most recent SCOTWINC board meeting in August of 2009, well, we were summarily excluded from consideration for
any funds whatsoever.

And it -- it is a situation where we are resolute in our belief that despite the objections that you will hear that we are indeed covered by the law, in 1989 this same issue under very similar circumstances was presented to the Board. The Board intervened on our behalf with review by, I understand, I was not there at the time, review by the state attorney general which rubber stamped the Board’s intervention requiring or compelling SCOTWINC to provide a subsidy to San Luis Rey Downs as part of the stabling fund.

The same thing happened in 2001 where the Board exercised its discretion and intervened on behalf of San Luis Rey Downs and determined that we were indeed entitled to an allocation of the stabling fund. And we were receiving the fund, I believe, continuously from that time in 2001 to sometime in mid to third quarter of -- of 2008. But Ms. Laura Rosier is more specific on the inclusive dates of when we were receiving the subsidy.

And I -- and I think if you haven’t already you will hear arguments that were not covered by the law. I don’t think there’s been any change significantly or materially in condition between the times that the Board intervened on our behalf in 1989 and 2001 than we are today. In 1989 -- and one of the arguments, by the way, is that we’re not a racing association and therefore not entitled under the statutes to
any portion of the stabilng fund, and we’re not entitled to
consideration. Well -- and -- and for the reason that we’re
not quote “associated or operated by a racing association.”

Well, that wasn’t the case in 1989 when we were owned
by the Vesless (phonetic) Family. And it certainly wasn’t the
case in 2001 when we were owned and operated by MEC. And
without splitting hairs, even though there was commonality of
interest with respect to Santa Anita and San Luis Rey being
operated and owned by MEC, MEC was never a racing association.
So I don’t think the argument that we’re not either associated
with a racing association or one indeed really can hold
scrutiny of review.

CHAIR BRACKPOOL: Are -- are we almost done?

MR. CAREY: Very quickly. And let me just frame the
two issues.

The issue is should San Luis Rey Downs be considered
as a viable recipient of a subsidy? And if this Board
concludes, no, because we aren’t covered by the law, as some
suggest, then I think you have to look at the fairness in
competing with the other entities or facilities that are
receiving a subsidy.

It’s our view and position that the recipients of the
subsidy currently are receiving more than the limitations
imposed by statute, that the subsidy, the stabilng fund, was
never intended to be a cure all for a negative cash flow. It
was specifically intended from the origination of this -- of these statutes to pay for or reimburse for direct incremental costs of off-site stabling.

And I think if the Board looks at that issue it may well be that the stabling funds that have been distributed to our competitors provide our competitors with an unfair advantage, which makes it very difficult for us in San Diego County to compete.

CHAIR BRACKPOOL: Okay. Let’s hear from the TOC Stabling and Vanning Fund. And did the other witnesses have -- you’re generally here to answer questions or --

MS. HOWARD: We are.

MS. ROSIER: Can I reserve my time for after they speak?

CHAIR BRACKPOOL: Yeah.

MS. ROSIER: Thank you.

MR. LAMOTHE: Thank you. Guy Lamothe for the Stabling and Vanning Committee. There are several issues that are being brought up right here.

Let me qualify my statements first by saying I’m not an attorney. But I believe the gentleman is referring to Section 19607 in which reimbursement is to off-site stabling to a racing association. That’s what it does say. I believe it’s up to the Board to interpret that and -- and to enforce the law accordingly. So I don’t know if I can comment on that any
As far as the fairness issue, well, how we’ve addressed it on the Stabling and Vanning Committee is from the business perspective there are several factors that have been looked at over the years and not just, you know, at our last meeting. Those include horse population, fund generation for this fund, and the incremental costs among several of -- several of the factors.

We have included representatives of San Luis Rey Downs at our meetings to discuss these issues. They should be aware of them and aware of the significant decline in -- not only in the fund generation, but also in the horse population. Currently the fund has liabilities of a few million dollars the racing associations have gladly taken a note on until the fund can get turned around. The committee back in 2009 through an arduous process that began well before 2009 to -- in light of the decline of the inventory and the fund they terminated the subsidy to both San Luis Rey Downs and Fairplex. And I believe that ended at the end of --

EXECUTIVE DIRECTOR BREED: Excuse me, Guy.

MR. LAMOTHE: Yes?

EXECUTIVE DIRECTOR BREED: Did -- has SCOTWINC or the vanning -- or the stabling and vanning fund, have you all been paying vanning for San Luis Rey Downs horses over the years or just stabling or nothing?
MR. LAMOTHE: We were -- the fund was paying both stabling and vanning through, I believe October 21st, 2009. And then -- and then there was a subsequent request by the representatives of San Luis Rey to continue -- at least continue the vanning. And the committee said, you know, if they did that as --

EXECUTIVE DIRECTOR BREED: But you continued --

MR. LAMOTHE: They provided that.

EXECUTIVE DIRECTOR BREED: -- to pay vanning?

MR. LAMOTHE: The vanning.

EXECUTIVE DIRECTOR BREED: Oh.

MR. LAMOTHE: Is that correct?

MR. CAREY: Yes.

VICE CHAIR ISRAEL: Can we ask questions?

CHAIR BRACKPOOL: Yes.

VICE CHAIR ISRAEL: I just -- I wanted some clarification on just fundamental facts here.

San Luis Rey Downs is owned by MID; is that correct?

MS. ROSIER: MI Developments.

VICE CHAIR ISRAEL: Right. Okay. And you have a lease with them that started when?

MR. CAREY: March 17th of this year.

VICE CHAIR ISRAEL: 2010?

MR. CAREY: Yes.

VICE CHAIR ISRAEL: And who operated it before that
date?

MS. ROSIER: I think --

MR. CAREY: Before that day it was -- I’m sorry. Go ahead.

MS. ROSIER: We were doing business as San Luis Rey Downs Thoroughbred Training Center.

CHAIR BRACKPOOL: Please speak into the microphone because we have the audio.

MS. ROSIER: We did business as San Luis Rey Downs Thoroughbred Training Center.

VICE CHAIR ISRAEL: Uh-huh.

MS. ROSIER: And our -- the owner of San Luis Rey Downs Thoroughbred Training Center is Magna Entertainment Corporation.

VICE CHAIR ISRAEL: And so they were --

MS. ROSIER: Is that correct?

MS. HOWARD: No.

MS. ROSIER: Oh.

MS. HOWARD: Actually, what happened -- Leanne Howard.

MR. MILLER: Please state your name for the record please.

MS. HOWARD: Leanne Howard, San Luis Rey Downs. Magna Entertainment Center (sic) in June of 19 -- or 2007 sold San Luis Rey Downs to -- I assume you’re calling this parent
company -- MID.

VICE CHAIR ISRAEL: Right.

MS. HOWARD: And MEC leased us back -- huh?

VICE CHAIR ISRAEL: Okay. That -- that -- all right.

MS. HOWARD: If you want some facts I can --

VICE CHAIR ISRAEL: I got it. Here -- here's --

here's the -- so when you entered into the lease on -- it says
here March 16th, but March --

MS. ROSIER: March.

VICE CHAIR ISRAEL: -- 17th, 2010, by then you knew

that no funds were being paid by the vanning and stabling fund.

Why did you enter into the lease? It was like you rolled the
dice, basically.

MS. HOWARD: We charge rent. We charge rent. We're

the only track that charges rent. Everyone gets to stable at
these other places for free.

CHAIR BRACKPOOL: His -- his -- his --

VICE CHAIR ISRAEL: But --

CHAIR BRACKPOOL: The -- the --

MS. HOWARD: I -- I think that --

VICE CHAIR ISRAEL: My -- my point is that there's a
caveat emptor aspect to this and --

MS. ROSIER: I -- I think probably because we're not

as logical as some of the men in the room we have a group of

horsemen and people that we live, work side by side with day in
and day out, and we tried to come up with a plan with our
horsemen of how we could stay alive until California got back
on its feet.

CHAIR BRACKPOOL: And what you’re now saying is that
that plan --

MS. ROSIER: That they are now --

CHAIR BRACKPOOL: -- wasn’t --

MS. ROSIER: -- on their feet.

CHAIR BRACKPOOL: The plan was not --

MS. ROSIER: SCOTWINC is --

CHAIR BRACKPOOL: The plan was not sufficient to
be -- you couldn’t be self-sufficient. And now you’re saying
we need help?

MS. ROSIER: Yes.

COMMISSIONER ROSENBERG: All right. Well, let me --
let me --

MS. ROSIER: Yes.

COMMISSIONER ROSENBERG: I think to sum up their
characterization --

CHAIR BRACKPOOL: Okay.

COMMISSIONER ROSENBERG: -- these people stepped in
to save a situation.

MS. ROSIER: Yes.

COMMISSIONER ROSENBERG: They have people who live
and work there for years, trainers, there are owners down there
who have horses there, and they stepped -- and -- and a lot of
workers, stable help, and they stepped in to save the place
from closing down.

VICE CHAIR ISRAEL: Well, I understand. But where
was the -- where did you expect the money was going to come
from?

MR. CAREY: Well, if I may, Kevin Carey for San Luis
Rey. Personally, I’ve been stabling at the Downs continuously
just about since 1990. And I’m a local breeder in San Diego
County. San Luis Rey is a perfect facility for access to the
horsemen in San Diego County. And as the gentleman said --

VICE CHAIR ISRAEL: Look, I’ll stipulate all that.

And I’m -- and I’m not --

MR. CAREY: Well, what we did --

VICE CHAIR ISRAEL: Wait. Hold on. I’m not
questioning anybody’s dedication, devotion or good intentions.
But all we can do is -- is, you know, is judge that this is a
business matter. And it seems like you entered into a rental
agreement without really -- I don’t know why they actually
rented it to you if they didn’t know how you were going to pay
the rent. But, you know, you enter into a rental agreement and
then sort of, well, we’ll figure out how to pay for it later.

MS. ROSIER: Well, we knew that SCOTWINC was going to
correct itself. We saw that there was paperwork, that their
plan for 2010 was to be in the black by 182,000 by the end of
the year.

CHAIR BRACKPOOL: You never heard my views on their budget then.

MS. ROSIER: No.

CHAIR BRACKPOOL: No.

VICE CHAIR ISRAEL: But --

MS. ROSIER: But --

VICE CHAIR ISRAEL: -- even if that’s the case one of the ways in which they corrected themselves was by --

MS. ROSIER: By cutting us off.

VICE CHAIR ISRAEL: -- not expending money. Yeah.

Right.

MS. ROSIER: And I understand that. And -- and -- and they’re missing -- mixing apples with oranges and blurring the line here.

When they took funding away from San Luis Rey Downs it was not because of an ambiguous law. And he isn’t -- like he said, maybe he didn’t look deep enough into this, but that we are covered by the law and we have been and precedence has been set for the last, what, 20-something years? So that’s not why they cut us off.

CHAIR BRACKPOOL: Okay.

MS. ROSIER: And -- and don’t let them use that as an excuse for keeping us from being funded. And in the meantime, since March 16th --
VICE CHAIR ISRAEL: I think the Compensation Government Claims Board denied your claim, too.

MS. ROSIER: That just means that we can now go to court and litigate.

But as of March 16th we’ve continued to contribute to the fund and do our part, knowing that SCOTWINC would correct itself and that the right thing would then be done. When the opportunity --

VICE CHAIR ISRAEL: How did you know this? That’s what I’m confused about.

MS. ROSIER: Because I believe. I believe in California. I believe in the industry. I was watching the paperwork showing that they would correct themselves when they, you know, cut off the extra spending that was being done.

And when in August they were deciding to fund Fairplex and San Luis Rey Downs to cover the extra horses that wouldn’t be able to stable at Santa Anita the word was that we were going to get equally subsidized, and that was going to be very helpful with us.

VICE CHAIR ISRAEL: Word from -- wait. What?

MS. ROSIER: Word from the --

VICE CHAIR ISRAEL: Whom?

MS. ROSIER: -- the industry --

VICE CHAIR ISRAEL: Well, what --

MS. ROSIER: -- leaks out.
VICE CHAIR ISRAEL: Word comes from an individual who speaks.

MS. ROSIER: I -- and I guess it’s neither here nor there. The point is Fairplex as subsidized. They were not only fully subsidized and we were given nothing, but they were subsidized during the racing meet, which is against the law. That is against the law.

COMMISSIONER ROSENBERG: Item 11 that was enclosed in the package answers a lot of your questions, Commissioner Israel.

VICE CHAIR ISRAEL: Yeah. I know, but I wanted this on the record.

COMMISSIONER ROSENBERG: Okay.

CHAIR BRACKPOOL: The -- the -- Guy, your testimony was long and longwinded.

MR. LAMOTHE: Right.

CHAIR BRACKPOOL: In summary, what is TOC’s position on this? And -- well, let me hear your position first and then I’ll ask the second question.

MR. LAMOTHE: The -- the Stabling and Vanning Committee position is that economic decisions were made in light of the horse population to reduce funding that was subsidizing a bunch of empty stalls at these off-site facilities. Fairplex and San Luis Rey Downs were cut off. Okay. That’s why we’re riding this ship.
CHAIR BRACKPOOL: And if -- and if it went away you
don’t think it would be detrimental to Southern California
Horse Racing?

MR. LAMOTHE: That is a larger issue. It’s a
fabulous facility. There’s no -- I will stipulate that. Okay.
But do we -- we can’t spend -- continue to spend money that
isn’t there and the horse population isn’t there. It’s as
simple as that. The Fairplex situation was a one-time event
due to the -- the track surface issue, and they were running
their meet anyway. And it made sense to continue the off-site
stabling at that facility rather than constant movement, and
that was determined unanimously by the committee. And also
present there were the trainers who had some input in the
process.

CHAIR BRACKPOOL: Commissioner Harris, you’ve had a
lot of history on this -- on this issue. Do you want to give
us some counsel?

COMMISSIONER HARRIS: Well, it is a tough issue, Guy.
Everybody wants to see San Luis remain open. But I -- I’m
just -- I don’t know if it’s economically viable. And I really
think the overall off-site stabling deal may be out of date now
anyway. I think it may have to go to each -- each track has
their own stable area and that will be adequate for the amount
of inventory we have.

COMMISSIONER ROSENBERG: What happens when Hollywood
closes, though, Commissioner Harris?

COMMISSIONER HARRIS: Well, that -- that’s the issue. You wouldn’t even stay -- you wouldn’t -- I mean, either if Hollywood is open you either stable here or -- or at Hollywood. And then it just depends on how much of that horse inventory we’ve got. I mean, originally when a lot of these came about there was a lot more horses in training in California than there are right now. But -- and the other factor, the farms which compete somewhat with San Luis Rey or Fairplex or wherever, getting horses ready --

MS. ROSIER: Everyone.

COMMISSIONER HARRIS: What?

MS. ROSIER: We’re competing with everyone. Because the racing secretaries themselves stated that 800 to 1,000 of the horses at Hollywood and Santa Anita are not actively training to race for that particular meet.

COMMISSIONER HARRIS: Yeah. Well, that’s part of the problem. We’ve --

MS. ROSIER: That’s -- that’s the problem, because we have horses that are running. You see it in the form, we’re running. We’re running races. We’re doing the job. And our horses aren’t subsidized. But you have these horses that should be on farms and helping -- some of you have farms -- should be on the farms, and instead they’re taking the money that should go to our horsemen. There isn’t a money problem.
There’s a problem with the way that this is being divided up.

VICE CHAIR ISRAEL: No. I -- look, I agree with you that horses that are laid up probably should be turned out for --

MS. ROSIER: They should be.

VICE CHAIR ISRAEL: -- for a period of time.

MS. ROSIER: Yeah.

VICE CHAIR ISRAEL: But there is a money problem.

MS. ROSIER: But -- but --

VICE CHAIR ISRAEL: Racing is --

MS. ROSIER: Oh, I understand that.

VICE CHAIR ISRAEL: -- in dire financial straits.

MS. ROSIER: And nobody knows that --

VICE CHAIR ISRAEL: Okay.

MS. ROSIER: -- more than us because we’re running the place on a shoestring. We’ve cut the staff I half. We’ve come up with ways to save money that we’ll share with any race track. We’ll be glad to show you our secrets.

But the problem isn’t the money. There’s empty stalls at the race tracks too. Why are we paying full subsidy to empty stalls and to horses that aren’t supposed to be there and we’re not subsidizing horses that are bringing in the money.

CHAIR BRACKPOOL: Okay.

MS. ROSIER: It’s not fair.
CHAIR BRACKPOOL: Let’s --

MS. ROSIER: It’s not equitable.

CHAIR BRACKPOOL: Let’s --

MS. ROSIER: It’s not right.

CHAIR BRACKPOOL: Let’s -- we have some speakers.

Commissioner Rosenberg, do you have something to say before I go to the speakers?

COMMISSIONER ROSENBERG: I just wanted to -- a comment, that in addition to not being compensated they’re also paying money when these -- and there are a lot of horses that race.

What are the number of horses that started in 2009 from San Luis Rey Downs?

MS. ROSIER: Well, our data in here is from 2008 because it’s data that we’ve produced and that SCOTWINC and TOC agreed with. And that’s what’s difficult for us to understand, how TOC --

CHAIR BRACKPOOL: Okay. But -- but while you look for that information -- or it’s not really -- because it’s from 2008 it’s even that important.

MS. ROSIER: We ran twice --

CHAIR BRACKPOOL: Look, I --

MS. ROSIER: -- as many horses per --

CHAIR BRACKPOOL: I --

MS. ROSIER: -- per start --
CHAIR BRACKPOOL: I have --

MS. ROSIER: -- there than --

CHAIR BRACKPOOL: I have to say that I think one of the points you’ve made that I think is a really good -- a really good point is that, you know, if a horse is actually racing and contributing -- so I don’t know. Maybe there’s something where there’s a credit that goes for every horse that actually races or something. I mean, that to me has -- has --

MS. ROSIER: That’s something that we were --

CHAIR BRACKPOOL: -- has a degree --

MS. ROSIER: -- awarded in the past.

CHAIR BRACKPOOL: -- of logic to it.

COMMISSIONER HARRIS: I think there might be some system, just kind of a --

CHAIR BRACKPOOL: I mean, we need to be doing everything we can to encourage horses to race. And so --

COMMISSIONER ROSENBERG: And she’s -- and she’s correct when she said it’s a redistribution. We’re not asking for money to come --

CHAIR BRACKPOOL: Yeah.

COMMISSIONER ROSENBERG: It would be a distribution of the money that’s going out right now.

CHAIR BRACKPOOL: Yeah. I don’t know how many horses, you know, knowing what the difference is between keeping the horse here as opposed to sending it to the farm, I
don’t know how many horses are in training that really
shouldn’t be in training. Because it is expensive to keep them
there.

MS. ROSIER: I have the data. I have it.

COMMISSIONER ROSENBERG: Yeah. But --

CHAIR BRACKPOOL: Well, but -- but --

COMMISSIONER ROSENBERG: But it’s hard to quantify.

CHAIR BRACKPOOL: It’s hard to quantify. But I --

MS. ROSIER: But the racing secretary said --

CHAIR BRACKPOOL: I’m certainly -- I’m certainly
sympathetic to the notion that there should be, you know, there
should be some -- some benefit to the fact that you’re getting
horses --

MS. ROSIER: Thank you.

CHAIR BRACKPOOL: -- into races.

MS. ROSIER: Yeah.

CHAIR BRACKPOOL: And that could be noticed. And I
think just -- just sort of blindly saying any horse that’s down
there doesn’t count and every horse that’s up here -- that does
seem to be somewhat inequitable.

COMMISSIONER HARRIS: Yeah. The original concepts in
California is that the -- the tracks pay for the stabling, I
mean, on-track, and that was all there was. And, I mean, in
the old days people, you know, if Hollywood was closed then
you’d go to Santa Anita and you’d back and forth. But now
we’ve gotten into this mode that things are year-round.

    CHAIR BRACKPOOL: Yeah.

    COMMISSIONER HARRIS: But maybe we can’t afford it anymore. So like you got to sell the vacation home. We got to --

    CHAIR BRACKPOOL: I’m just saying, I mean --

    COMMISSIONER HARRIS: -- consolidate.

    CHAIR BRACKPOOL: -- I think there’s something there. But let’s -- we’ve got some speakers. Let’s give the speakers a chance. And I apologize if I don’t get the names completely correct. Ina Hajek. Did I get it close?

    MS. HAJEK: Close enough.

    CHAIR BRACKPOOL: Okay.

    MS. HAJEK: I’m a trainer at San Luis Rey Downs.

    VICE CHAIR ISRAEL: Move the microphone down lower.

    MS. HAJEK: Okay.

    VICE CHAIR ISRAEL: Or up to where your mouth is.

    MS. HAJEK: The fact is Hollywood, which intends to close, has told us it intends to close, right now is getting $18,000 a day to stay open. That amount has not been audited. They will not let us know where -- where that amount comes from.

    Out of that we could get $2,000 a day and stay open. But that amount for that fund has gone up incrementally and no one audits it and we can’t -- we’ve asked for an audit. They
won’t give us an audit. They won’t -- they won’t tell us
where -- how they’ve decided to -- to make those payments to
the track. There is more than enough money there to help us
stay open.

I have brought about six new owners into the business
who have spent a half a million dollars on horses. I got to
Kentucky trying to promote racing in California. We’re paying
a stall rate to try and maintain this facility, which is a top
rate facility. It’s good for horse racing. It’s good for
owners. It’s good for horses.

The amount of trainers that -- that live there that
have staff, riders, workers, they live there, they have homes
there, their children go to school there, we can not just close
San Luis Rey and move us. We would be out of not only a job
but a livelihood.

CHAIR BRACKPOOL: Yeah.

MS. HAJEK: If there was no -- if there wasn’t that
much money going to Hollywood I can understand there was the
money. But there -- that is a significant amount of money that
has to be able to be divided up better than it is.

CHAIR BRACKPOOL: Thank you. Thank you very much.

Sam Scolamieri?

MR. SCOLAMIERI: That’s my remark.

CHAIR BRACKPOOL: That’s your remark, the same? You
echo that. Thank you very much. Jerry Jamgotchian?
MR. JAMGOTCHIAN: Chairman Brackpool and Members of the CHRB, you know, I’m a little confused. As an owner who no longer races in California, I thought the takeout increase was to bring horses to the state, and the goal was to keep horses here. Well, in this particular case, and I think this lady just brought it up, if and when Hollywood Park closes you’re going to be down 2,000 stalls. I believe in just looking quickly at the package, San Luis Rey Downs has 2,000 stalls or approximately. I don’t know how -- how many horses they have.

VICE CHAIR ISRAEL: Five hundred, Jerry.

MR. JAMGOTCHIAN: I’m sorry?

VICE CHAIR ISRAEL: Five hundred stalls.

MR. JAMGOTCHIAN: Five hundred stalls. Okay. I was wrong.

MS. ROSIER: We did put up more.

MR. JAMGOTCHIAN: Okay. Well, they have -- they have stalls.

It’s interesting to me that the TOC is attempting to eliminate horses from racing in the state by attempting to close this facility. You would think that they’d be trying to make a deal to keep the horses here and keep the stall space available, especially when they need stall space when Hollywood Park closes. I don’t know. It seems like an insignificant subsidy when Hollywood Park is getting $18,000 a day.

But maybe the -- the thought process here should be
to redo the system and base it on starters and not stalls. Because if you guys are actually intent on bringing owners back to California it’s going to -- you’re going to have to have a space for our horses. So if you don’t have stall space, obviously the horses aren’t going to come back.

So I think the bigger issue here, from my perspective, is if the TOC is not supporting the owners bringing horses to the state and wants to close a major stabling facility in San Diego County which -- which fuels the horses population at Del Mar, it seems to me that that’s going to be contrary to the Del Mar meet.

But once again, I’m wondering how the TOC is against this. In fact, when Guy wants to enforce the law against this entity maybe Guy ought to consider enforcing the law and return the $1,167,000 --

CHAIR BRACKPOOL: Okay. Thank you.
MR. JAMGOTCHIAN: -- back.
CHAIR BRACKPOOL: Thank you.
MR. JAMGOTCHIAN: Thank you.
CHAIR BRACKPOOL: You were on point up until then.

Thank you.

MS. ROSIER: Can I mention something else?
CHAIR BRACKPOOL: Quickly.
MS. ROSIER: Okay. TOC in their contract with Hollywood Park states, “Stalls will not be made available to
horses that are not in condition to train and run at that meet.”

This isn’t being done if we have 800 to 1,000 horses. Also, our trainers received, after getting their applications to Santa Anita, letters of approval to stable at San Luis Rey Downs. Their horses must be approved according to eligibility rules for Santa Anita. This is for us to stable at San Luis Rey Downs, mind you. And to cut it short they ask that all horsemen are encouraged to actively support the entry box.

CHAIR BRACKPOOL: Thank you. Commissioner Choper?

COMMISSIONER CHOPER: Guy, have -- has this -- the fund given any consideration to using a different criterion for determining the allocation? That is to say it’s been suggested by several people that it’s one thing to have, you know, have a horse hanging around with a place to stay for nothing, and it’s another thing to use the space for horses that actually race.

So if -- I don’t mean to delay the whole thing again, but it does -- there is -- there is a ring of fairness to all of this; right?

MR. LAMOTHE: That -- that’s a --

COMMISSIONER CHOPER: You would admit that?

MR. LAMOTHE: That’s a terrific question. And I think the TOC has been on record nothing that the -- the current model of subsidizing the way it is and not getting the
results that you want to start horses, you need to re-look at that, and we’ve been chiming that for some time now, and we’re completely open. These things don’t happen overnight. But if we want to revise the model we’ll sit down and base it on -- and look at basing it on starts. If -- if we’re paying people to hold horses that are not starting we’re doing everybody a disservice.

CHAIR BRACKPOOL: Exactly.

MR. LAMOTHE: And it’s not a good --

CHAIR BRACKPOOL: Yeah.

MR. LAMOTHE: -- efficient use of money.

COMMISSIONER CHOPER: So I don’t know -- I’m sorry.

MR. LAMOTHE: Please. I’m --

COMMISSIONER CHOPER: So I don’t know whether we -- I mean, we -- we’ve been given a legal opinion that says that, you know, we don’t have the authority, you said and over 20 years ago it was exercised and so forth. But maybe there are some stats, right, as to how many horses from San Luis Rey Downs have started, right, in -- in -- in California. We all know, we look in a racing form and that’s where they’ve been working out and so forth and so on.

So maybe, at least as a temporary measure, the -- the stabling and vanning fund could get some stats together and advance them some and -- while you’re looking into establishing a new set of criteria for the award of the funds. Does that
make any sense to you?

MR. LAMOTHE: It makes all the sense in the world. And I -- I would just note that it’s not just a TOC thing. This is an industry thing. And everybody needs to be involved and recognize what’s going on here. There are constituencies out there that have a stake on -- as opposed to putting horses out on the farm --

CHAIR BRACKPOOL: No. I --

MR. LAMOTHE: -- it’s just more convenient --

CHAIR BRACKPOOL: I understand.

MR. LAMOTHE: -- to have them here.

CHAIR BRACKPOOL: Commissioner Rosenberg?

COMMISSIONER ROSENBERG: I’m not sure what kind of action we can take today. And I’m -- I’m just curious when does -- how often the SCOTWINC board meets and who -- who -- who makes up the SCOTWINC board?

MR. VARELA: The Stabling and Vanning Committee is made up of the racing associations and the horsemen, TOC. TOC acts as a chair in that. And we meet periodically.

COMMISSIONER ROSENBERG: So who -- how many members?

MR. VARELA: All the racing associations, Oak Tree, Santa Anita, Hollywood.

CHAIR BRACKPOOL: Well, you don’t need to describe them.

COMMISSIONER ROSENBERG: When is the next meeting?
When is the next meeting?

MR. VARELA: We don’t have one schedule.

COMMISSIONER ROSENBERG: Well, I suggest you have a meeting and solve this problem, because it’s unfair. To me it’s totally unfair to have people racing horses --

MS. ROSIER: Thank you.

COMMISSIONER ROSENBERG: -- racing horses up here, paying into the -- into the fund and getting nothing out of it.

CHAIR BRACKPOOL: Well, it’s an inequity for sure.

COMMISSIONER ROSENBERG: It’s an inequity.

CHAIR BRACKPOOL: Well, let’s try to think about --

go to Commissioner Rosenberg’s point for the moment about what we can actually do today that’s realistic. Right.

I thought that Commissioner Choper’s point was -- was a very good one. So what I would like to see at a minimum, maybe more, but at a minimum, at the January meeting I would like you to -- we’re going to put this item back on the agenda, the January meeting. I would like you to come back with the basic statistics of how many horses started from San Luis and how many races and, you know, what that was pro rata compared to those at Hollywood, those at Santa Anita, et cetera.

And hopefully you come to us at that meeting with a suggestion that says this is the short-term fix for this for a couple of months, and here’s the group we’ve put together to try and work this out. If not I guess the Board may or may not
take a different approach. But I’m trying to be helpful in how we move forward here, because to me basing, it on starts has a compelling logic. And I’m not hearing, apart from their other vested interests which I don’t really about, I’m not hearing compelling logic on the other side.

MR. CAREY: And if I may -- Kevin Carey -- may we also request that SCOTWINC provide the model they use. Now it’s supposed to be a 1986 model. There’s a 95 percent criteria based upon allocable stalls that were required to be offsite in 1996. And Mr. Harris is correct.


MR. CAREY: 1986. The need for off-site stabling was much greater then than it is now. And maybe Hollywood can maintain enough stalls to accommodate the entire meet. But we don’t know what the model is that SCOTWINC is using. And that would certainly be helpful in our analysis if that were requested, as well.

CHAIR BRACKPOOL: All right. And the only thing I would encourage is to save the audience time, to a lesser extent the Board’s time, I don’t want you all hearing each other’s position for the first time at the January 20th meeting. Can you please meet prior to and see what you can do. We should not be --

MS. ROSIER: No.

CHAIR BRACKPOOL: -- the first court that --
MS. ROSIER: We asked to meet.

CHAIR BRACKPOOL: -- that you --

MS. ROSIER: We asked to meet --

MS. HOWARD: That’s right.

MS. ROSIER: -- with them back in, I believe the end of October, beginning of November.

CHAIR BRACKPOOL: All right. Well, they’re going to meet with you now.

MS. ROSIER: I have a question about the data that you need. Are you asking SCOTWINC to provide you with data, and is it for like 2009?

CHAIR BRACKPOOL: Well, you should do 2008, 2009. It would be a useful --

MS. ROSIER: 2008 is --

CHAIR BRACKPOOL: -- comparison.

MS. ROSIER: -- completed.

CHAIR BRACKPOOL: Okay.

MS. ROSIER: But I don’t --

CHAIR BRACKPOOL: Well, you’ll work it out.

COMMISSIONER CHOPER: I would say even before the January meeting if you could get -- if you could get the data over to the vanning committee and the vanning committee could sit down -- Stabling and Vanning Committee could sit down, and maybe -- maybe you’ll come back with a recommendation.

I would say the data should involve horses starting
from any time that you haven’t been paid. That’s a simple -- I
guess. Maybe I’m --

MS. ROSIER: Yeah. I --

COMMISSIONER CHOPER: Maybe I’m missing something.

MS. ROSIER: The reason why I was asking for 2009
data, and if TOC is going to put it together, is because we did
it and it cost us --

CHAIR BRACKPOOL: All right.

COMMISSIONER CHOPER: Well, check with TOC.

CHAIR BRACKPOOL: I think you’ve got the direction of
the Board. Thank you very much.

MR. CAREY: Thank you for your time.

CHAIR BRACKPOOL: Thank you.

MR. SEMKIN: Can I make one point?

CHAIR BRACKPOOL: Well, I don’t have a speaker card
for you. So we -- we --

VICE CHAIR ISRAEL: Just get one next time.

MR. SEMKIN: It only takes a second.

CHAIR BRACKPOOL: Well, this is not how we do the
meetings, because if we do this in meetings they go on for
seven hours. If you’d state your name and address the record,
and next time a speaker card.

MR. SEMKIN: Sam Semkin, Trainer, San Luis Rey Downs,
also President of the San Luis Rey Downs Horsemen’s
Organization.
I run quite a few horses out of San Luis Rey Downs. But my main business is basically a feeder trainer for trainers here at Hollywood Park. And the majority of the horses that I send up, within 30 days they start and contribute to the program.

CHAIR BRACKPOOL: But, sir, well, that’s something you should make your argument about because --

MR. SEMKIN: All right. Well, I’m just trying to point out --

CHAIR BRACKPOOL: -- there’s a lot of ways for that.

MR. SEMKIN: -- it shouldn’t just be the starters.

CHAIR BRACKPOOL: I wasn’t telling you how to do --

COMMISSIONER HARRIS: Well, that is -- that is -- that is a good point, it’s more than just starters, it’s sort of the whole feeder.

CHAIR BRACKPOOL: I agree.

MR. SEMKIN: Thank you. Well, one last point. Hollywood Park has been audited, those numbers.

CHAIR BRACKPOOL: Okay. Good. Thank you. All right, that item is over

Moving on, thank you, the last item, number 12, discussion and action by the Board regarding a report and update from the Commerce Club Mini-Satellite Wagering Facility regarding its future plans for the facility.

MR. BLONIEN: Good morning, Mr. Chairman and Members,
Rod Blonien representing the Commerce Casino.

As I think you all know, about a year-and-a-half ago Commerce started the very first mini-satellite facility in California. We started in one room. It’s maybe about half the size of this --

CHAIR BRACKPOOL: May I have quiet in the room please. Somebody is still presenting.

MR. BLONIEN: -- about half the size of this room.

We outgrew that room. We added a second room. We are now outgrowing the second room. And the Commerce Club is using the second room off and on for a comedy club and other events.

And what we have proposed to the industry is taking an adjacent building, remodeling, rehabbing the building and creating approximately 10,000 square feet that would become a mini-satellite. And we have taken stakeholders in the industry to look at the building. We’ve had some artist’s renderings of what the building will look like after it’s finished. The Commerce Club is willing to spend over $1 million to rehab this area.

The building faces I-5. We’re going to increase the depth of the front of the building so we can put huge signage on informing people that satellite wagering is available there.

We’ll come forward in January and seek to have our license extended. We only get a license for two years. And
we’ll seek to get our license extended. And at that point if
the -- if the Board is in agreement we will begin the rehab and
the construction that’s necessary to make that facility
available. We’ll have food service and a bar at the facility
and, in addition, a smoking patio. And I just wanted you to be
aware of that.

CHAIR BRACKPOOL: That will be in front of us in --
in January?

MR. BLONIEN: Yes, sir.

COMMISSIONER CHOPPER: Can you market this idea a
little bit? I’m serious. I mean, we -- here we have -- this
is great. You know, we have so few success stories.

MR. BLONIEN: Yeah. Our -- the biggest day we
handled 165,000. And Tom Varela, correct me if I’m wrong, but
I think they’re averaging over 80,000 a day. And, you know,
when there’s a big carry over we have more people. And Pacific
Classic, for example, we’re very busy, and -- and the big days
in racing we just can not begin to accommodate the people that
want to come.

CHAIR BRACKPOOL: Commissioner Moss, did you have
anything?

COMMISSIONER MOSS: No. I’m just happy to hear the
news. That’s all. Thank you.

CHAIR BRACKPOOL: I always like to end --

COMMISSIONER MOSS: I always like to hear that. I’d
like to hear more of it, that’s all.

    CHAIR BRACKPOOL: We like to end on an up item.

    COMMISSIONER MOSS: Yeah.

    CHAIR BRACKPOOL: With that we’re going to adjourn
the public part of the meeting and go into a closed session and
come back and adjourn completely.

    (Thereupon the California Horse Racing Board
Regular Meeting went into a Closed Session
at 1:29 p.m., then was adjourned.)

    -o0o-
I, Martha L. Nelson, attest that the foregoing proceedings were transcribed to the best of my ability.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 24th day of December, 2010.

/s/ Martha L. Nelson