

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

APPEARANCES (CONT.)

ALSO PRESENT

Scott Daruty, MI Developments

Brad Blackwell, Twinpire 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

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- 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).
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PROCEEDINGS BEGIN AT 9:43 A.M.

(The meeting was called to order at 9:43 a.m.)

ARCADIA, CALIFORNIA, THURSDAY DECEMBER 16, 2010

MEETING BEGINS AT 9:43 A.M.

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

1 be enforced during discussion of all matters stated on the
2 agenda, as well as during the public comment period.

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

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

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

24 As you all know we are providing audio of this
25 meeting over the internet. We need -- we plan to continue this

1 practice through the next fiscal year. We want to thank the
2 California Marketing Committee for loaning us the microphones
3 and other audio equipment, which greatly reduce the costs of
4 the webcast to us. So therefore I'd ask everyone, please,
5 including the Board, please introduce yourselves so those
6 people listening on the webcast will know who's talking. Thank
7 you.

8 Mr. Chairman?

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

12 VICE CHAIR ISRAEL: It's under control.

13 CHAIR BRACKPOOL: It's -- thank you. Okay.

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

15 CHAIR BRACKPOOL: I think we're almost under control.

16 One moment here. One moment here.

17 Okay, are you okay good, David?

18 VICE CHAIR ISRAEL: I'm good.

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

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

1 So our hearty congratulations. Okay.

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

5 MR. CHILLINGWORTH: Mr. Chairman, I think that's due
6 for item three.

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

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

12 VICE CHAIR ISRAEL: Well, that's here with that.
13 That could be three.

14 MR. CASTRO: No. It's public comment.

15 CHAIR BRACKPOOL: Public comment.

16 MR. CASTRO: Public comment.

17 CHAIR BRACKPOOL: Public comment.

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

21 I don't have a lot of information on this but
22 periodically I'm asked about it. It's in regards to the four
23 second delay. Recently we had a clerk who admits that he
24 punched a ticket in error. He had three seconds from the time
25 the ticket was issued to get it cashed -- from when he tried to

1 cash it. If we had the four second delay he wouldn't have
2 gotten stuck with \$1,200. But periodically I'm asked about
3 examples if it's happening. We have a recent one that I'm
4 sharing with you now. That's all. Thank you.

5 CHAIR BRACKPOOL: Okay. No other public speakers.
6 We'll move right on to -- sorry?

7 VICE CHAIR ISRAEL: I think we have the minutes.

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

11 VICE CHAIR ISRAEL: Yeah. Is that why?

12 CHAIR BRACKPOOL: I apologize.

13 VICE CHAIR ISRAEL: So moved.

14 CHAIR BRACKPOOL: All right, approval of the minutes.

15 VICE CHAIR ISRAEL: Moved.

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

18 COMMISSIONER DEREK: Second.

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

21 ALL MEMBERS: Aye.

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

24 Item number three. Jackie?

25 COMMISSIONER CHOPER: Did we approve the minutes?

1 VICE CHAIR ISRAEL: We just did.

2 COMMISSIONER CHOPER: We just did?

3 VICE CHAIR ISRAEL: Yeah.

4 (Colloquy Between Board Members)

5 MS. WAGNER: Jackie Wagner, CHRB staff. The item
6 before you is a public hearing and action by the Board
7 regarding the proposed amendment of CHRB Rule 1974, Wagering
8 Interest, to provide that the withdrawal of one horse from a
9 wagering interest that consists of more than one horse
10 constitutes the withdrawal of the coupled entry or field, and
11 any horse remaining in the entry -- in the coupled entry or
12 field shall run as a non-wagering interest for the purse only,
13 and to provide that a horse that is removed from the wagering
14 pool in error shall run as a non-wagering interest for purse
15 only, and the following affected regulations which are pari-
16 mutuel rules, CHRB Rules 1954.1, 1957, 1959, 1976, 1976.8,
17 1977, 1978, Rule 1979, and Rule 1979.1.

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

23 The amendment also provides that if a horse has been
24 properly removed from a wagering pool due to a total isolated
25 error or another unjustified reason, the owner and trainer are

1 not at fault and the horse shall compete as a non-wagering
2 interest for purse only.

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

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

21 In addition you received a comment from TOC. TOC
22 also expressed similar arguments as Golden Gate Fields.
23 However, they are in support of the section of the proposal
24 that would protect owners' rights by allowing a horse to run
25 that isn't scratched in error.

1 This item has been noticed for 45 days. The Board
2 could adopt it as proposed or it can make changes that it would
3 deem appropriate. It is up for more discussion and adoption.

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

8 COMMISSIONER MOSS: Here-here.

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

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

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

25 But any other commissioners like to speak on this --

1 on this issue? Commissioner Harris?

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

8 CHAIR BRACKPOOL: Commissioner Moss?

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

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

21 CHAIR BRACKPOOL: Vice Chair Israel.

22 VICE CHAIR ISRAEL: Yeah. As it relates to
23 integrity, whether the horses are coupled or not, if an owner
24 and a trainer have two horses entered in a race and they want
25 one horse to be a rabbit for the other, they're going to do it

1 whether they're coupled or not coupled. Because the idea is to
2 get the faster horse, the better horse to win.

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

5 COMMISSIONER MOSS: I agree; couldn't agree more.

6 CHAIR BRACKPOOL: Any other Commissioners?
7 Commissioner Rosenberg?

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

11 CHAIR BRACKPOOL: Commissioner Choper?

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

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

20 CHAIR BRACKPOOL: Well --

21 COMMISSIONER CHOPER: Similarly, I think the point
22 that that Commissioner Moss made about informing the public --
23 now, I mean, it's one thing to say you inform them. Of course
24 they're informed, it's right there. You have who the owner is
25 and who the trainer -- but I think we ought to go out of our

1 way to indicate that more prominently.

2 CHAIR BRACKPOOL: Right. Yes. I think -- I think --
3 I think Commissioner Moss's suggestion was that you have some
4 asterisk or something that --

5 COMMISSIONER CHOPER: Yeah.

6 CHAIR BRACKPOOL: -- that --

7 COMMISSIONER CHOPER: Something like --

8 CHAIR BRACKPOOL: -- that denotes that. Yeah.

9 COMMISSIONER CHOPER: Something like that.

10 CHAIR BRACKPOOL: Yeah.

11 COMMISSIONER CHOPER: I mean, when you have a 1 and
12 1A it's clear.

13 CHAIR BRACKPOOL: Yeah.

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

19 CHAIR BRACKPOOL: But if they're not --

20 COMMISSIONER CHOPER: -- if they're talking about --

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

24 COMMISSIONER CHOPER: No. No. No. No. They're not
25 coupled of course.

1 CHAIR BRACKPOOL: -- that it's one, not two. Yeah.

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

6 CHAIR BRACKPOOL: I wouldn't ask. No.

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

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

17 COMMISSIONER CHOPER: Yeah.

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

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

23 CHAIR BRACKPOOL: Commissioner Derek?

24 COMMISSIONER DEREK: Yes. I agree. I agree. I find
25 that the -- the whole coupling, all those rules, very confusing

1 and I think this would confuse it more. And I think for the
2 integrity issue I think if we notify the public somehow I think
3 it would be much better.

4 EXECUTIVE DIRECTOR BREED: Jim.

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

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

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

25 So it's absolutely common sense to me if we don't

1 couple the trainers, the people most likely to be able to do
2 this, and they're not coupled, why couple the owners at all?
3 I'm for taking away the whole coupling rules completely.

4 CHAIR BRACKPOOL: Thank you.

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

7 MS. WAGNER: Yes.

8 CHAIR BRACKPOOL: Okay.

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

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

13 MS. WAGNER: Correct.

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

16 MS. WAGNER: Oh. Okay.

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

20 MS. WAGNER: Exactly. Those are the instructions.

21 CHAIR BRACKPOOL: So you'll come back with two
22 separate rule changes --

23 MS. WAGNER: Right.

24 CHAIR BRACKPOOL: -- I would assume or maybe you can
25 get it all in one, I don't know, but however you do that.

1 But for the purpose of this meeting I will make a
2 motion to vote against this --

3 VICE CHAIR ISRAEL: To accept it we just all vote no.

4 CHAIR BRACKPOOL: Vote not to accept?

5 VICE CHAIR ISRAEL: Yeah. Just vote --

6 CHAIR BRACKPOOL: Yeah.

7 VICE CHAIR ISRAEL: Yeah.

8 CHAIR BRACKPOOL: That's what I was saying, vote
9 against it.

10 VICE CHAIR ISRAEL: Okay.

11 CHAIR BRACKPOOL: So making a motion to vote against
12 this rule.

13 COMMISSIONER ROSENBERG: Mr. Chairman, excuse me.

14 CHAIR BRACKPOOL: Yes?

15 COMMISSIONER ROSENBERG: Would you explain why we
16 need the second part of that -- the third part of what you
17 asked for? If there's going to be no -- if we're going to vote
18 on no coupling as a concept -- as an amendment to the rules or
19 put in a new rule or whatever or to abolish a rule that's there
20 why do we need to take --

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

25 COMMISSIONER ROSENBERG: On any race, not -- not

1 coupling only?

2 CHAIR BRACKPOOL: It has nothing to do with coupling.

3 COMMISSIONER ROSENBERG: Got it. Got it.

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

6 COMMISSIONER ROSENBERG: Okay.

7 CHAIR BRACKPOOL: -- the purse money.

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

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

12 COMMISSIONER HARRIS: And that's maybe, you know --

13 CHAIR BRACKPOOL: -- et cetera.

14 COMMISSIONER HARRIS: -- if it's more a period of
15 time, you know --

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

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

22 MS. WAGNER: Right.

23 CHAIR BRACKPOOL: Right.

24 VICE CHAIR ISRAEL: Yeah.

25 CHAIR BRACKPOOL: So anyway, my -- my motion is to

1 vote against the -- the rule.

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

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

6 COMMISSIONER ROSENBERG: Okay.

7 CHAIR BRACKPOOL: -- I'm voting against the rule.

8 MS. WAGNER: Yes.

9 CHAIR BRACKPOOL: Right.

10 MS. WAGNER: Correct.

11 COMMISSIONER ROSENBERG: Okay.

12 CHAIR BRACKPOOL: I know. It's a double negative.

13 VICE CHAIR ISRAEL: Yeah.

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

16 COMMISSIONER HARRIS: Second.

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

18 ALL MEMBERS: Aye.

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

21 VICE CHAIR ISRAEL: Thanks.

22 CHAIR BRACKPOOL: Okay. Jackie, number four?

23 MS. WAGNER: Item number four, discussion and action
24 by the Board regarding the proposed addition of CHRB Rule
25 1500.1, Jockey/Driver Subject to Testing, to require random

1 drug testing of jockeys, apprentice jockeys and drivers, and
2 the proposed amendment to CHRB 1498, Physical Examination, to
3 require drug screening during the annual jockey/driver
4 physicals.

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

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

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

25 And in light of that staff would ask that the Board

1 instruct us to continue to work on this text before we go
2 forward with asking for instructions to notice it for 45 days.

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

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

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

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

23 VICE CHAIR ISRAEL: At our -- at our stewards
24 meeting -- committee meeting on Tuesday it was brought to our
25 attention that in -- in the interest of fairness we should

1 probably make testing mandatory on some regular basis, whether
2 it's annual or whatever, for other on-track personnel who can
3 affect -- affect safety. And -- and that included gate
4 workers, exercise riders, pony boys. So --

5 MS. WAGNER: Under the random --

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

9 MS. WAGNER: Okay.

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

17 CHAIR BRACKPOOL: Kirk, did wish to say something?

18 EXECUTIVE DIRECTOR BREED: Excuse me, Mr. Chairman.
19 Kirk Breed, Executive Director.

20 This has been going on for a long period of time and
21 -- as Commissioner Harris remarked. Actually, since I've been
22 here, like, two-and-a-half years. There's several issues here
23 that need to be addressed. And Commissioner Israel brought --
24 brought up the -- the one main issue here in which was also an
25 item brought up by the Jockey Guild, and that is why are you

1 picking on us and only us, why -- what about everybody else I
2 think that's probably -- if anything the most important reason
3 to -- to give us another -- another period of time until the
4 February Board meeting to have this thing right.

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

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

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

17 COMMISSIONER HARRIS: Is there a January meeting?

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

22 COMMISSIONER HARRIS: I mean, my point is that I
23 think we'd all stipulate that this particular rule needs
24 modification and it needs to be broader as far as who's
25 included, and I'm not sure it should also, I think, reflect

1 that alcohol in addition to drugs.

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

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

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

15 MS. WAGNER: The February --

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

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

25 CHAIR BRACKPOOL: They're -- they're not going to be

1 the only ones that care about it after we've expanded it to
2 include all the people we're going to expand it to include now.

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

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

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

14 CHAIR BRACKPOOL: All right. So --

15 COMMISSIONER ROSENBERG: -- you know?

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

22 MS. WAGNER: Thank you.

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

1 they?

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

4 CHAIR BRACKPOOL: Yeah.

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

7 COMMISSIONER ROSENBERG: Okay. Great.

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

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

13 COMMISSIONER ROSENBERG: Okay.

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

17 EXECUTIVE DIRECTOR BREED: Table it.

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

21 COMMISSIONER HARRIS: That's good. It's just -- I
22 mean, we'd like to get it done some time in our life time. We
23 have not succeeded at that. It's sort of ridiculous that, I
24 mean, a jockey today could be on all kinds of things and we're
25 completely unaware of it. Now I'm -- hopefully, I think we've

1 got a good jockey colony. They're -- the majority of them are
2 not on anything. But I would be afraid of a jockey. You don't
3 know if you're -- who you're riding against or on something or
4 not.

5 CHAIR BRACKPOOL: Yeah. Well --

6 COMMISSIONER HARRIS: Random. It's --

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

9 COMMISSIONER HARRIS: Well --

10 CHAIR BRACKPOOL: Okay.

11 MS. WAGNER: Uh-huh.

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

15 COMMISSIONER DEREK: They're excluded.

16 CHAIR BRACKPOOL: Good. Okay. Moving on to Item
17 Number five, Jackie. Well, actually, this is not you. This is
18 me. Discussion and action by the Board regarding a report from
19 the California Marketing Committee regarding its marketing and
20 promotion plans and the CMC's request to adjust the 0.2
21 distribution to the CMC, to 0.25 effective the January 1st,
22 2011, pursuant to Business and Professions Code section
23 19605.73(c). Good morning.

24 MR. HARTMAN: Good morning, Chairman Brackpool,
25 members of the Commission. My name is Robert Hartman. I am

1 representing the California Marketing Committee. I am joined
2 by Shannon McDonald who runs the day to day operations for the
3 CMC.

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

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

20 We also have a rebate program called the Significant
21 Rewards Program that rebates customers between one and three
22 percent of -- of how much they wager. And we're coming you --
23 to -- to you today to ask you to increase the -- the
24 distribution from .2 to .25 to allow us to run a public
25 relations and branding campaign. This is something that came

1 directly out of our meetings with -- with Commissioners
2 Rosenberg and Derek. And we're here to answer any questions
3 you may have.

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

10 MR. HARTMAN: No.

11 MS. MCDONALD: No.

12 COMMISSIONER ROSENBERG: No? Because --

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

15 COMMISSIONER HARRIS: Okay.

16 ADW.

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

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

24 COMMISSIONER CHOPER: Yes.

25 VICE CHAIR ISRAEL: It's a -- which is --

1 MR. HARTMAN: Well, there was actually a decrease.

2 CHAIR BRACKPOOL: There was a decrease.

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

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

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

23 MS MCDONALD: Well, SelectNet, represented over there
24 by Brad Smith, is involved. I'm involved. Gail Van Leer
25 (phonetic) is involved. You know, we have various --

1 VICE CHAIR ISRAEL: Is -- is it something that the --
2 the tracks could just -- it's \$88,500 -- the tracks could
3 just --

4 MS. MCDONALD: Well, part of that --

5 VICE CHAIR ISRAEL: -- chip in and --

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

8 VICE CHAIR ISRAEL: Right.

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

11 VICE CHAIR ISRAEL: -- sure --

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

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

21 CHAIR BRACKPOOL: Theoretically --

22 COMMISSIONER ROSENBERG: Well, gentlemen --

23 CHAIR BRACKPOOL: To Commissioner Rosenberg.

24 COMMISSIONER ROSENBERG: -- let me clarify a couple
25 things. The -- the .4 that Mr. Hartman was referring to, the

1 old legislation, it was reduced to .2. It was a 50 percent cut
2 in the overall funds for the whole marketing committee.

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

5 MR. HARTMAN: Correct.

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

9 VICE CHAIR ISRAEL: No.

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

13 VICE CHAIR ISRAEL: Well --

14 CHAIR BRACKPOOL: It changes it very slightly.

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

16 CHAIR BRACKPOOL: Yeah.

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

21 MS. MCDONALD: For the .25?

22 COMMISSIONER ROSENBERG: Yes.

23 MR. HARTMAN: It's about \$350,000.

24 COMMISSIONER ROSENBERG: Right. That's the -- that's
25 the whole amount for the year --

1 MS. MCDONALD: Which the bulk of that --

2 COMMISSIONER ROSENBERG: -- just to pay --

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

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

17 COMMISSIONER ROSENBERG: Actually --

18 CHAIR BRACKPOOL: Commissioner Choper?

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

24 Beyond that I think the Commissioner Israel makes a
25 good point, and that is maybe this committee could examine

1 getting other sources of funds, you know, from the -- from
2 the -- from the associations themselves to have one really
3 effective coordinated program. And it may well be -- I mean,
4 you folks know better than we do, what kind of payoff you get
5 from your -- from your marketing programs.

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

8 CHAIR BRACKPOOL: Yeah. I think the --

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

15 VICE CHAIR ISRAEL: Right. I mean --

16 COMMISSIONER CHOPER: -- I mean, seriously.

17 VICE CHAIR ISRAEL: -- to that end, I mean, what I
18 would like to see is a seamless marketing program where
19 you're -- where you're selling thoroughbred racing, in your
20 instance, you know, all year round, and -- and the movement
21 from Santa Anita to Hollywood to Del March back again is -- is
22 irrelevant and doesn't change the campaign. But at a million
23 nine, or even two and change, you have no shot. I mean --
24 you're not -- that's not real money, you know, for a marketing
25 campaign.

1 So this has to be, in my mind, has to be completely
2 rethought. And -- and if there's going to be uniform marketing
3 campaign it -- it's got to have real money, real impact and
4 real coordination. And this piecemeal kind of thing, you know,
5 700,000 for -- for player -- or for rebates essentially, you
6 know, 500,000 for public relations and branding isn't going to
7 go very far. I mean, that's a few spots here and there.
8 That's just not going to --

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

12 VICE CHAIR ISRAEL: Yeah. I know. That's --

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

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

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

1 brand.

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

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

16 VICE CHAIR ISRAEL: Thirty million, more like it.

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

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

25 MR. BUCALO: Thank you very much. John Bucalo from

1 Barona Casino off-track betting. The satellites who fund
2 this -- these monies, we never see any promotions. However, I
3 do realize that there are rebates, but I can't recall one
4 single guest of ours who comes to Barona coming to me and
5 saying, in -- in almost eight years, that they are benefiting
6 from these rebates. And I -- I don't recall seeing maybe two
7 people using those cards.

8 So although the satellites are funding these, why
9 can't we have some of that money for promotions to -- develop
10 more players for horse racing at our facilities? We need it.
11 Things such as hats, shirts, those kind of things that draw
12 people in and make them come more often. Let's turn some 8 to
13 12 players a month into maybe 15 times a month, or whatever it
14 might be. If they're coming four times a month let's make --
15 try to get them to come eight times a month. And we need
16 some -- some of those funds that are being funded by -- by our
17 players. And we're not seeing a -- a single cent of those
18 monies.

19 CHAIR BRACKPOOL: I'm -- I'm going to ask Robert to
20 respond to you.

21 MR. BUCALO: Thank you very much.

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

24 MR. BUCALO: Can I finish?

25 CHAIR BRACKPOOL: Oh, I thought you had. I'm sorry.

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

9 CHAIR BRACKPOOL: Thank you, John.

10 MR. BUCALO: Thank you.

11 CHAIR BRACKPOOL: Thank you. Robert?

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

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

22 MR. BUCALO: Good.

23 MR. HARTMAN: Please, we -- we encourage fans to
24 come. We encourage anybody from -- from the -- the Board to
25 come. And, you know, they're open meetings and we'll make sure

1 that his -- his concerns are heard.

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

4 MS. MCDONALD: Yes.

5 MR. HARTMAN: Two.

6 MS. MCDONALD: Two.

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

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

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

12 CHAIR BRACKPOOL: Increase from a --

13 COMMISSIONER ROSENBERG: Increase of -- from .2 to
14 .25 percent of the takeout.

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

17 COMMISSIONER DEREK: Second.

18 CHAIR BRACKPOOL: Commissioner Derek seconds. All in
19 favor?

20 ALL MEMBERS: Aye.

21 CHAIR BRACKPOOL: The motion carries.

22 MR. HARTMAN: Thank you.

23 CHAIR BRACKPOOL: Thank you.

24 (Colloquy Between Board Members)

25 CHAIR BRACKPOOL: Okay. Moving on, item number six.

1 Item number six is a discussion and action by the Board
2 regarding the statutory interpretation of SB 1072 (Calderon),
3 Chapter 283, Statutes of 2010, as to that portion of the law,
4 Business and Professions Code section 19601.02(a) (b) (c) and
5 (d), directed at increasing the overnight purses. Counsel?

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

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

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

17 MR. BALCH: All three.

18 CHAIR BRACKPOOL: All three are requesting to speak?

19 MR. BALCH: Yes.

20 EXECUTIVE DIRECTOR BREED: You only get three
21 minutes.

22 CHAIR BRACKPOOL: Three minutes.

23 (Colloquy Between Board Members)

24 CHAIR BRACKPOOL: Well, I -- let's see what you have
25 to say before we decide on whether it's three. If you're all

1 going to say the same thing then -- then --

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

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

23 And since the -- the sport -- and particularly the
24 sport is so fragile at this time we're here to try to suggest a
25 method of looking at the additions to the handle and the

1 additions to the law that this -- that SB 1072 provided in the
2 gentlest way possible but in a way that protects all of its
3 constituents, and particularly the people on the backstretch.
4 We've gone back and examined our assumptions and the
5 development of the law. And we think that while there were
6 some very well intended additions to the language and the
7 Racing Law that reflects the complex modernity that I referred
8 to a minute ago, they had serious unintended consequences.

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

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

24 VICE CHAIR ISRAEL: But my --

25 CHAIR BRACKPOOL: Well, one second. So is -- that's

1 -- that's what -- that's what your position is. You're not
2 adding anything new to what you've already told us --

3 MR. BALCH: Well --

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

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

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

13 MR. BALCH: Yeah.

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

16 MR. BALCH: Okay. Great.

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

21 You were in the meeting that I was in, in Sacramento,
22 when we all agreed as to how this would be done. So I don't
23 understand how that means that California Thoroughbred Trainers
24 were not involved. The TOC was represented. The Racing
25 Association was represented.

1 CHAIR BRACKPOOL: CARF.

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

5 MR. BALCH: That's right.

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

8 MR. BALCH: No. No.

9 VICE CHAIR ISRAEL: You participated in the meeting.

10 MR. BALCH: Okay.

11 VICE CHAIR ISRAEL: Okay.

12 MR. BALCH: I want to wait until I'm -- I can respond
13 to that.

14 VICE CHAIR ISRAEL: Go ahead.

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

20 But to me that is beside the point because the
21 context of the conversation in the Governor's office and almost
22 all of the conversations that were held after that were, A,
23 whether the increase in takeout would result in increase in
24 overnight purses as opposed to stakes, because that was the
25 number one thing, would the purse fund go to overnight purses

1 or stakes, and number two, would any -- would any of the
2 additional takeout go to other sources such as -- one of the
3 things was capital improvements at CARF or to the racing
4 associations?

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

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

22 Now we know that there are other definitions of
23 incremental, of course. But that's what we think there needs
24 to be a meeting about to resolve so that we're all on the same
25 page now and on a go-forward basis as to the incremental

1 amounts. Because we are supposed to be the voice of the -- the
2 backstretch workers and we're sitting here because we are, and
3 it's an infinitesimally small amount of money by comparison.

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

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

11 COMMISSIONER CHOPER: Want me to do it while you're
12 taking your breath?

13 CHAIR BRACKPOOL: Yeah.

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

18 MR. FISCO: That is correct.

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

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

23 COMMISSIONER CHOPER: So -- so what is the procedure
24 that you're -- so -- so it's got to -- look, if you want to,
25 you can bring it for a judgment to some court and that's it.

1 But you -- you want to do something short of that? What do
2 you -- what do you recommend that -- how -- how should we --
3 how should we proceed and who's going to resolve this question?

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

7 Mr. Smith as the attorney for the pension plan as --
8 was going to inform the Board of CTT's fiduciary duty to
9 protect any claims against the funding of the pension plan.
10 The pension plan obviously goes to people who have served this
11 industry and continue to serve this industry on the
12 backstretch.

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

22 I am here to inform the Board that a plain reading of
23 the statute, and that is what the agenda item is here for, a
24 plain reading of the statute exposes the fact that the
25 legislature was keenly aware of the deductions and the other

1 statutes that affected the takeout and intentionally and
2 purposely exempted the purse account, which is the -- the
3 phrase they use, purposely exempted the purse account from the
4 statutory deductions which affect CTT, the pension and the TOC.
5 Those are the three deductions that we are talking about when
6 we talk about the purse account.

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

11 COMMISSIONER CHOPER: Of the most recent statute.

12 MR. BALCH: New.

13 COMMISSIONER CHOPER: New creation.

14 VICE CHAIR ISRAEL: 1072.

15 MR. FISCO: 1072 --

16 COMMISSIONER CHOPER: Go ahead.

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

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

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

22 COMMISSIONER CHOPER: Was to protect the deductions?

23 MR. FISCO: -- which are different from the
24 deductions which come from the top or the general takeout, and
25 that's reflected in the language of the bill.

1 CHAIR BRACKPOOL: Well, I think we have two very
2 separate issues here. And I think the issue that upsets Vice
3 Chair Israel and myself is your contention, Alan, that things
4 changed subsequent to that -- to that meeting in the Governor's
5 office. That meeting in the Governor's office said 100 percent
6 of this money is going to purses. The CTT had multiple
7 concerns with another element of the legislation, but every
8 time I spoke to the executive offices of CTT they assured me
9 they were 100 percent supportive of the legislation of a 100
10 percent going. So for you to sit in front of me now and say
11 that things evolved and changed following that meeting I take
12 offense at.

13 I'm now going to call on Jack Liebau to speak.

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

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

22 And also as far as the legislative intent
23 notwithstanding, Mr. Fisco is saying that the legislature
24 didn't intend to override another section, I think that there
25 is a letter that is referred in the packet from Senator

1 Calderon that specifically says what the intent was of Senator
2 Calderon as the author of -- of the bill. And I think that's
3 pretty clear cut, that.

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

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

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

22 CHAIR BRACKPOOL: Thank you.

23 MR. LIEBAU: There is no other issue.

24 CHAIR BRACKPOOL: Thank you.

25 MR. LIEBAU: And that -- you -- they may argue with

1 your interpretation of it, which they have the right to do to
2 go to court, but I think that --

3 CHAIR BRACKPOOL: Thank you.

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

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

9 MR. MILLER: Yes.

10 CHAIR BRACKPOOL: -- to do that.

11 MR. MILLER: Yes.

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

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

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

25 "I also note that subsection (d) of section 19601.2

1 clearly states that the incremental funds generated from
2 the increase in the takeout on exotic wages quote, 'shall
3 be used solely to augment and not supplant overnight
4 purses,' end quote.

5 "As the author of SB 1072 I can confirm it was the intent
6 of the legislation for the incremental funds resulting
7 from the increase in the takeout to be used entirely in
8 the augmentation of overnight purses. And that is the
9 very reason that the word, quote 'solely' end quote, was
10 used to assure that all of the incremental funds were used
11 to augment overnight purses.

12 "If you have any further questions please feel free to
13 contact my office. Sincerely Ronald S. Calderon, Senator
14 30th District.

15 MR. FISCO: May I respond to that?

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

18 MR. JAMGOTCHIAN: Mr. Chairman, members of the
19 California Horse Racing Board, I was interested in this item
20 number six because it talked about statutory interpretation.
21 And from my perspective the statutory interpretation of this
22 Board to follow the horse racing laws is certainly with it's --
23 with -- within its purview. But with regards to increasing
24 overnight purses, obviously the increasing takeout is certainly
25 not in the best interest of the wagering public, certainly not

1 in the best interest of horse racing, but in the best interest
2 of the California Horse Racing Board and the TOC.

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

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

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

14 CHAIR BRACKPOOL: Thank you.

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

17 CHAIR BRACKPOOL: You may now, yes.

18 MR. FISCO: Thank you very much. The -- and this
19 is -- this has been evident, not only in the letter but also
20 the staff analysis, where there has been a pick and choose of
21 the language. And I would -- I would guess that Mr. Miller, as
22 well as Professor Choper, would agree with me that, again, it
23 is the language of the statute. And what's happening is this
24 word "solely," for example, is being detached from the context
25 within which it appears in the bill.

1 So we have Senator Calderon responding to a request,
2 presumably made by the CHRB before this issue at this meeting,
3 and he also does it in his letter where he tries to detach the
4 word "solely" from the phrase in which it is contained which
5 is, as you mentioned, "solely to augment and not supplant
6 overnight purses". The "solely" is operating on the
7 "supplanting" which is consistent with subdivision (a), that
8 the new takeout is in addition to the 19610 which is the
9 standard takeout. "Solely" does not mean -- no rational
10 reading of that could mean that it is to the exclusion of the
11 purse account deductions. And that occurred in the staff
12 analysis as well as this letter.

13 You -- you are jumping on the word "solely" where
14 it -- not being used in the manner in which the legislation has
15 set forth.

16 CHAIR BRACKPOOL: I'm jumping on the agreement that
17 everybody reached.

18 MR. FISCO: Well, as Professor Choper --

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

21 MR. FISCO: Well, let me say --

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

23 MR. FISCO: Let me say, Professor Choper has informed
24 all of us, the history is the history. What ends up being put
25 down on the paper is the information that will be used by

1 people in deciding what is the statutory interpretation. And
2 really the emotional component to which you seem to be affected
3 by is not part of the statutory interpretation. I'm going by
4 the language --

5 CHAIR BRACKPOOL: I'm affected by honor and
6 agreement, not by emotion.

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

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

10 MR. BALCH: Yes.

11 CHAIR BRACKPOOL: Okay.

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

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

19 VICE CHAIR ISRAEL: 1072.

20 MR. BALCH: -- 1072's sections. And if you look at
21 that and start thinking about how these calculations are going
22 to be done, in my opinion, and it's only my opinion, the reason
23 that our attention was directed to this originally in -- once
24 the bill was enacted was because of Mr. Liebau's email of
25 Monday, October 25 referring to ambiguity. And we were working

1 on the budgeting process of how we were going to budget income
2 to the pension and -- and for the organizations on a go forward
3 basis.

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

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

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

25 That creates all kinds of problems going forward for

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

12 COMMISSIONER CHOPER: Can I ask just one -- can I ask
13 just one.

14 CHAIR BRACKPOOL: Yeah.

15 VICE CHAIR ISRAEL: No. Go ahead.

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

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

20 What is the procedure that you are recommending be
21 used to take a closer look and even perhaps resolve this
22 question? And is it planned that the procedure will be the
23 final resolution of the question? Because if we're -- if what
24 you have in mind is ultimately to test this in the courts it
25 would probably save a lot of time --

1 MR. BALCH: We don't want to do that.

2 COMMISSIONER CHOPER: You don't want to do that.

3 MR. BALCH: No.

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

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

11 COMMISSIONER CHOPER: No. I understand. I'm --

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

15 MR. FISCO: Well, I --

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

18 MR. FISCO: No. No. No. No. No.

19 VICE CHAIR ISRAEL: -- of that committee's meeting is
20 going to be.

21 MR. FISCO: No. No. No. No. No. We -- well,
22 there's --

23 VICE CHAIR ISRAEL: Well I understand that --

24 MR. FISCO: We -- we would --

25 VICE CHAIR ISRAEL: But what's the point of having

1 hearings and having a committee if you already know where --

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

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

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

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

14 COMMISSIONER CHOPER: Okay.

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

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

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

1 interpretation of legislation and with the supporting
2 documents.

3 VICE CHAIR ISRAEL: Right.

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

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

9 CHAIR BRACKPOOL: No, you don't want the money or,
10 no --

11 MR. FISCO: Your representation is not entirely
12 accurate.

13 CHAIR BRACKPOOL: Oh, I thought so.

14 MR. FISCO: But, okay.

15 CHAIR BRACKPOOL: So you still do want the money?

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

17 CHAIR BRACKPOOL: Go ahead.

18 MR. BALCH: Mr. Chairman, I -- I can see, you know,
19 we all can see exactly where you're going. We think -- we
20 believe that if the committee gets together and examines not
21 just the language but the facts and the amounts and the
22 relative amounts, which are very small relative pension to
23 purses but very large to the people on the backstretch and the
24 funding of this program given what's happening to handle, that
25 the facts of this situation, as well as a reading of -- of all

1 the law together, 19613, as well as with 19610, that you will
2 come to a very reasonable conclusion. And we think that our --
3 the other stakeholders will agree with that --

4 VICE CHAIR ISRAEL: Alan --

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

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

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

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

22 So if you're saying -- you know, are you now saying
23 you no longer agree to go along with that intention and you're
24 trying to fight this based upon the legislation that was passed
25 having some ambiguity in it? Is that -- is that where you are?

1 MR. BALCH: Clearly, we've become more educated on
2 this. And we would like to educate more of the Board and the
3 stakeholders as to the implications of these competing
4 sections. Part -- part of this is almost unintelligible. When
5 I sit down with representatives --

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

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

10 MR. BALCH: No, I can't.

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

13 CHAIR BRACKPOOL: Right.

14 MR. FISCO: Well, sure and maybe --

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

18 MR. FISCO: Uh-huh.

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

23 MR. FISCO: Yeah. It may -- it might be entirely
24 possible that the -- that the group that we're talking about
25 putting together could lead to some very simple cleanup

1 language that would inform everybody as to what exactly --

2 CHAIR BRACKPOOL: Let me -- Jack Liebau.

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

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

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

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

25 And again, I come back to the same thing. I think

1 that the Board is able to interpret this law. And if they do
2 so and if CTT doesn't agree with the interpretation there's all
3 sorts of legal process that they can undertake. So, I mean, I
4 don't really think that we need a committee for other
5 stakeholders --

6 CHAIR BRACKPOOL: Thank you.

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

9 CHAIR BRACKPOOL: Thank you, Jack. Thank you, Jack.
10 I --

11 VICE CHAIR ISRAEL: Go ahead.

12 CHAIR BRACKPOOL: Commissioner Derek?

13 COMMISSIONER DEREK: I agree.

14 CHAIR BRACKPOOL: Okay.

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

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

21 CHAIR BRACKPOOL: That's happened. They just --

22 COMMISSIONER CHOPER: And -- we have it?

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

24 COMMISSIONER CHOPER: Well --

25 MR. FISCO: No. No. No. No. No. No. No.

1 COMMISSIONER CHOPER: I don't -- I -- I don't
2 consider it --

3 MR. FISCO: No. No. No. No. No.

4 COMMISSIONER CHOPER: It -- it may be, but it
5 doesn't --

6 MR. FISCO: Not on the statutory language.

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

13 CHAIR BRACKPOOL: Why don't -- why don't -- why
14 don't -- why don't we --

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

17 CHAIR BRACKPOOL: Why don't we --

18 VICE CHAIR ISRAEL: No. He's worse. He's an agent
19 and a lawyer.

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

25 COMMISSIONER CHOPER: The intent of the meeting.

1 CHAIR BRACKPOOL: The intent of --

2 VICE CHAIR ISRAEL: The intent of the legislation.

3 CHAIR BRACKPOOL: The intent of the legislation.

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

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

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

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

22 MR. FISCO: Well, let me ask --

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

24 Let me finish.

25 MR. FISCO: Well, I started.

1 CHAIR BRACKPOOL: I have the microphone. I have the
2 microphone.

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

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

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

17 MR. BALCH: Yes.

18 CHAIR BRACKPOOL: There you go.

19 MR. FISCO: Well --

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

22 VICE CHAIR ISRAEL: Let me ask him one question.

23 CHAIR BRACKPOOL: Okay.

24 VICE CHAIR ISRAEL: I want to ask you one question.
25 And, Alan, you can answer it, or Carlo. Because, look, I don't

1 think anyone of us up here wants to undermine the -- the
2 pension funds. The pension for the backstretch people is
3 exceedingly important to all of us and they need to be secure
4 and properly funded. They are, in my point of view, undermined
5 at all by having this money segregated and used for other
6 purposes. In fact, I believe in the long run they will benefit
7 by it because I think there will be a long-term benefit that
8 accrues to horse racing and increases handle in all respects
9 across the board. That -- that's my opinion. I hope it's true
10 and if I'm wrong then we'll revisit the entire thing.

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

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

25 The memorandum, Mr. Chairman, you have from me is

1 really more questions than anything else about how these things
2 are going to be calculated on a go-forward basis so we can
3 figure this out, because we believe that there are two sections
4 that are pretty much in conflict with each other and they
5 present a lot of practical difficulties. So we -- we'll just
6 have to take it to the next step with our board. We hear you
7 loud and clear.

8 I certainly remember the meeting. Carlo wasn't
9 there. I remember it somewhat differently than you do, but not
10 substantially. I think there was a lot of misunderstanding as
11 to the purse account. Personally I think most people sitting
12 in the meeting did not realize that all these other deductions
13 are separate in the law from 613 as to the purse account.

14 Maybe I'm wrong --

15 COMMISSIONER CHOPER: Well, is it fair to say --

16 MR. BALCH: -- but that's what we can figure out.

17 COMMISSIONER CHOPER: -- none of that was ever
18 mentioned?

19 MR. BALCH: That's --

20 COMMISSIONER CHOPER: I mean --

21 MR. BALCH: Right.

22 COMMISSIONER CHOPER: -- that's the bottom line --

23 MR. BALCH: I understand.

24 COMMISSIONER CHOPER: -- is it not?

25 MR. BALCH: I understand. And that's --

1 COMMISSIONER CHOPER: This -- this is not a peculiar
2 situation.

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

5 CHAIR BRACKPOOL: All right. One second.

6 MR. BALCH: -- if we can.

7 CHAIR BRACKPOOL: Commissioner Harris.

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

13 MR. BALCH: Sure.

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

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

22 MR. MILLER: Yes, Mr. Chairman. Robert Miller,
23 Counsel. The California Horse Racing Boards moves as follows,
24 the California Horse Racing Board hereby declares the statutory
25 interpretation of Business and Professions Code Section

1 19601.02, subsections -- including subsections (a), (b), (c)
2 and (d), as enacted by Senate Bill 1072 is as follows, the
3 increases in takeouts set forth in Senate Bill 1072 be used
4 solely for increases of overnight purses and for no other
5 purpose.

6 CHAIR BRACKPOOL: That's my motion. Do I have a
7 second?

8 VICE CHAIR ISRAEL: Second.

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

11 ALL COMMISSIONERS: Aye.

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

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

17 (Colloquy Between Board Members)

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

23 So what I'm going to ask to do is I'd like -- and I'm
24 not sure whether it's three representatives or four
25 representatives, because I understand the Youbet application

1 is -- falls more in the category of a technicality than a
2 separate application. But I'm going to ask representatives
3 from all of the ADW companies to come up here because I think
4 otherwise whoever goes first will either be at an advantage or
5 a disadvantage, and the same for who goes second, because we
6 have so many speaker cards on these issues.

7 VICE CHAIR ISRAEL: You may need more chairs there.

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

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

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

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

21 CHAIR BRACKPOOL: Okay.

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

24 MR. HINDMAN: John Hindman on behalf of TVG. And I'm
25 joined by Melanie Frank, also from TVG.

1 CHAIR BRACKPOOL: Thank you. Well, I see what's
2 interesting is in addition to others all of you have filled in
3 speaker cards, as well. So I think what I'm going to do is
4 have the speakers go through their points and then we'll ask
5 questions. Is that the way to do it? Is that how you'd like
6 to start?

7 VICE CHAIR ISRAEL: Sure.

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

12 MR. HINDMAN: Yes.

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

15 MS. FRANK: That's fine.

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

24 CHAIR BRACKPOOL: Okay.

25 MR. HINDMAN: I'd be happy to answer any questions,

1 as well.

2 CHAIR BRACKPOOL: Okay. I also have speaker cards
3 for every issue from two people. So I'm hoping they only need
4 to speak once with the way I've done this. So I have David
5 Rosenfeld, and I have Richard Castro. So let's have -- I -- I
6 understand. I understand. I understand. But you don't have
7 one on every one, Jerry. I was just making the point to -- to
8 do that.

9 So, Richard, why don't you begin.

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

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

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

22 MR. CASTRO: Okay.

23 CHAIR BRACKPOOL: My next speaker is Dave Elliott.

24 MR. ELLIOTT: Thank you. Dave Elliott, California
25 State Fair. I'll be brief.

1 I sent an email. I sent a letter yesterday and I
2 apologize for the lateness of it. Basically, as this Board
3 goes through issues, it's primarily thoroughbred state,
4 thoroughbred industry, and I understand all of that. I'm not
5 embarrassed to get up here and tell you folks that our margins
6 are really, really small, and that's -- we're operating the
7 harness meet at Cal Expo. It's been very difficult. We, too,
8 have experienced the decrease in handle, purses and
9 commissions.

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

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

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

25 Cal Expo Harness Racing is popular in the state of

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

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

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

15 MR. ELLIOTT: Not anymore.

16 VICE CHAIR ISRAEL: Oh.

17 MR. ELLIOTT: We never get a smell.

18 VICE CHAIR ISRAEL: John --

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

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

24 MR. ELLIOTT: Absolutely.

25 VICE CHAIR ISRAEL: So they have no --

1 MR. ELLIOTT: Without question.

2 VICE CHAIR ISRAEL: -- actual obligation.

3 MR. ELLIOTT: Absolutely.

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

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

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

12 MR. ELLIOTT: No.

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

24 MR. ELLIOTT: Contrary to -- to his argument, I'm not
25 going to go toe-to-toe with an attorney, however, they do take

1 Woodbine. They do take Woodbine Thoroughbred high takeout.
2 They do take Woodbine Harness Racing high takeout. I -- if
3 that's the argument there are other higher takeouts out there
4 that they televise and that they do take than -- than ours.
5 Our -- our highest takeout is 24.18, plus the fact that we have
6 a 15 percent takeout on our Pick Fours. So I don't know --
7 I've never been -- I've never been asked, you know, to lower
8 our takeout on a specific wager or something so that they could
9 televise our product.

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

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

17 CHAIR BRACKPOOL: Okay. Well, just --

18 MR. ELLIOTT: I just -- I just -- I'm just trying
19 to --

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

21 MR. ELLIOTT: -- and they're going to continue to do
22 business.

23 COMMISSIONER CHOPER: May I interrupt. Would you --
24 you know, you've heard him; right? You're not in a position to
25 make the decision. My guess is that most everybody sitting up

1 here hopes that you'll be able to make some accommodation for
2 the limited request that he makes. And if you -- would you
3 undertake that to take -- take that back and report it?

4 MR. HINDMAN: Yes, I will, Commissioner.

5 COMMISSIONER CHOPER: And let us know what's going
6 on.

7 MR. HINDMAN: We will do that, Commissioner.

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

10 CHAIR BRACKPOOL: Please, Commissioner.

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

14 MR. ELLIOTT: Yes.

15 COMMISSIONER ROSENBERG: -- just took it under
16 submission?

17 MR. ELLIOTT: They've respectfully turned me down.

18 COMMISSIONER ROSENBERG: What was their reasoning?

19 MR. ELLIOTT: None.

20 COMMISSIONER ROSENBERG: No reason?

21 MR. ELLIOTT: It's -- it's basically the same answer.
22 And I understand the answers that, well, I'm really not
23 involved with the production aspect of the program, dah, dah,
24 dah, dah, dah.

25 VICE CHAIR ISRAEL: That's what I thought.

1 MR. ELLIOTT: Okay.

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

5 MR. ELLIOTT: We --

6 COMMISSIONER ROSENBERG: -- the point you --

7 MR. ELLIOTT: Me or him?

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

10 MR. ELLIOTT: Yes, sir.

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

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

15 COMMISSIONER ROSENBERG: Yeah.

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

1 use every single bump we can get.

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

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

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

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

18 CHAIR BRACKPOOL: No. No. That's very good
19 testimony.

20 MR. ELLIOTT: They're programming is --

21 CHAIR BRACKPOOL: But --

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

25 CHAIR BRACKPOOL: Anyway, thank you.

1 COMMISSIONER HARRIS: I think there's some way -- I
2 mean, if you are showing other races, if you -- I think all
3 Sacramento is asking is to get a little piece of the pie.

4 MR. ELLIOTT: Yeah.

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

9 COMMISSIONER CHOPER: I'm confident you can swing it.
10 I'm serious.

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

12 COMMISSIONER CHOPER: You know, I mean, they're not
13 asking for too --

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

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

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

25 VICE CHAIR ISRAEL: He's shaking his head saying

1 that's not the case, John.

2 MR. ELLIOTT: Not true. Winning --

3 MR. HINDMAN: Well, I'm happy to resolve that
4 misunderstanding.

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

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

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

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

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

1 MR. HINDMAN: Absolutely.

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

6 CHAIR BRACKPOOL: Okay.

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

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

10 MR. ELLIOTT: That's fine.

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

13 MR. ELLIOTT: I sure hope so.

14 CHAIR BRACKPOOL: I feel very confident.

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

16 CHAIR BRACKPOOL: Thank you. Just a couple more
17 speakers, and then I'm going to get to some questions there.
18 Jerry Jamgotchian.

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

22 With regards to the TVG, item number seven, I think
23 that I've made staff aware of a condition that you -- you
24 probably know about. I know a lot of people in the audience
25 know about it, but it has to do with TVG stealing signals and

1 then shipping that signal to Europe and in Asia, allowing
2 wagers to be taken that never hit the first pools.

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

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

20 So if they -- if they don't want to mandate TVG to be
21 California friendly and they want to mandate the theft of the
22 signal, illegal wagering of the money and other violations that
23 we'll prove up hopefully in the future, then you just grant the
24 application and let them keep stealing. Thank you. Well, then
25 answer them.

1 CHAIR BRACKPOOL: We'll get to all of the answers in
2 a second. We're going through the speaker cards. Alan
3 Horowitz.

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

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

15 And I appreciate your -- your concerns and your
16 support to Dave's comments. Thank you.

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

20 MR. BUCALO: John Bucalo, Barona Casino. There's a
21 provision in the -- the law, 1964 -- 19602, section (j), that
22 says satellite facilities can offer to their guests any
23 races -- residents of California, can offer it to the residents
24 of California, any races for wagering that an ADW does. And
25 we're not able to do that. And I -- I'd like to see us start

1 doing that. You would increase our revenue as -- and I've
2 mentioned this in the past, increase the revenue for the
3 horsemen and the state, as well. Thank you.

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

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

20 The issues I want to get to on ADW, the general
21 sense, I think, is that if you had to have a part in this movie
22 called horse racing you'd want to be play an ADW company. It's
23 the best part in the movie. And I want to hear whether you all
24 really believe that's the case or what it is that you think you
25 could do to improve the industry as a whole with some changes.

1 Because I look at these applications and they're identical to
2 the applications from before. Just let us sign up and let us
3 keep taking the money.

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

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

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

20 And what we have done is we've invested a lot in our
21 technology. We've introduced new technologies such as
22 Twinspires TV, which we thought was a very innovative product.
23 We have our ADW, Twinspires, based out of Silicon Valley,
24 California. So we are heavily invested in California, as well.
25 And then the reason we located there was because of the

1 innovation coming out of that area. So we continue to pride
2 ourselves in terms of offering an innovative product.

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

14 CHAIR BRACKPOOL: XpressBet?

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

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

24 In California when an XpressBet customer places a bet
25 through XpressBet, and let's use, you know, the current --

1 the Hollywood Park meeting, XpressBet is allowed to retain five
2 percent of the wager. And because Hollywood Park is a TVG
3 exclusive television track XpressBet then has to pay two
4 percent to TVG for the -- for the expense, to help them cover
5 the expense of televising it. So XpressBet receives three
6 percent on a wager from a California wager, not significantly
7 more than the two percent that the satellites receive. So I --
8 I don't think it's such a great role in that respect.

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

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

23 But I think a few things, you know, a few things that
24 I think TVG has done very well is it's provided a great deal of
25 growth. I think if you look at, you know, this year TVG as a

1 company will return somewhere along the line of \$80 million to
2 tracks and horsemen across the country, the majority of which
3 will be returned to tracks and horsemen in the State of
4 California.

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

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

25 I think we have -- we -- we definitely have the

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

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

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

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

25 CHAIR BRACKPOOL: Commissioner Choper?

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

6 MR. BLACKWELL: Yes, we did.

7 CHAIR BRACKPOOL: Actually, I'm going to have Jackie
8 go through this.

9 COMMISSIONER CHOPER: Oh.

10 CHAIR BRACKPOOL: Because there's a couple of things
11 missing --

12 COMMISSIONER CHOPER: Okay.

13 CHAIR BRACKPOOL: -- on each one that --

14 COMMISSIONER CHOPER: Okay.

15 CHAIR BRACKPOOL: -- that --

16 COMMISSIONER CHOPER: So I'd like to see where we
17 are --

18 CHAIR BRACKPOOL: Okay.

19 COMMISSIONER CHOPER: -- on those things.

20 CHAIR BRACKPOOL: Let me come to that in one second.
21 Commissioner Harris?

22 COMMISSIONER HARRIS: One aspect of this as I recall,
23 and I was around when we originally wrote these rules, that
24 there's this \$500,000 bond that each that each ADW company has.
25 And I think that was just arbitrarily picked.

1 But I'm not clear now how much money you effectively
2 have on deposit from your various account holders. And is
3 that -- are there steps to secure that? I mean, I think the
4 Board is really not a --

5 CHAIR BRACKPOOL: And is it the appropriate number
6 now?

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

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

13 EXECUTIVE DIRECTOR BREED: Yeah, bonds.

14 CHAIR BRACKPOOL: Okay.

15 EXECUTIVE DIRECTOR BREED: Three.

16 CHAIR BRACKPOOL: There are three bonds. So they are
17 -- they're bonds.

18 COMMISSIONER HARRIS: But -- but --

19 CHAIR BRACKPOOL: And they presumably have default
20 provisions where they're callable?

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

22 CHAIR BRACKPOOL: Jackie Wagner, CHRB staff.

23 MS. WAGNER: Jackie Wagner, CHRB staff. All the
24 current ADW providers at the table do have current bonds on
25 file with different expiration dates for their -- for their

1 individual bonds. As the applications are coming forth for
2 renewal staff did make the recommendation that going forward,
3 say for instance I believe TVG's bond expires October 11th.
4 They're applying for a one-year renewal, and we would recommend
5 that their bond be extended to cover the entire term that they
6 are applying.

7 COMMISSIONER HARRIS: I'd like to see some relevancy
8 of the bond amount --

9 CHAIR BRACKPOOL: To the amount --

10 COMMISSIONER HARRIS: -- to the amount --

11 CHAIR BRACKPOOL: -- that's being handled.

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

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

23 COMMISSIONER HARRIS: Yeah. I hate to seem them pay
24 too much for bonds, but we need to have some security level
25 there that that's the right amount.

1 MR. HINDMAN: And may I just -- on behalf of TVG, I
2 thin that they can -- that everybody can speak for themselves,
3 I think we all segregate the funds. But I -- TVG in the last
4 year has taken the step of buying a bond that is for the entire
5 amount that we have on deposit nationally. So every dollar
6 that a customer has in a TVG account is fully insured,
7 essentially. And -- and that is --

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

10 MS. WAGNER: No, we don't.

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

13 CHAIR BRACKPOOL: Well, that's possibly something to
14 look at.

15 MR. HINDMAN: Yes.

16 VICE CHAIR ISRAEL: Right. Right. I --

17 CHAIR BRACKPOOL: Commissioner Israel?

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

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

24 MR. BLACKWELL: Well, that issue is being --
25 continued to being discussed. And, you know, from what I

1 understand we -- we're not aware of what -- what necessarily
2 the intent was but what -- how that is typically operated
3 historically. And, certainly, we view this as a situation
4 where both of those entities got something in return for their
5 position on that issue.

6 VICE CHAIR ISRAEL: And which is what?

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

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

14 EXECUTIVE DIRECTOR BREED: By anybody.

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

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

20 VICE CHAIR ISRAEL: Well, then again --

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

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

23 CHAIR BRACKPOOL: It's a regulation that --

24 VICE CHAIR ISRAEL: Yeah.

25 CHAIR BRACKPOOL: -- we have the right to introduce,

1 if we get to it, by May 2012.

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

3 CHAIR BRACKPOOL: Right.

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

6 CHAIR BRACKPOOL: Oh, it --

7 MR. BLACKWELL: -- if the --

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

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

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

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

19 VICE CHAIR ISRAEL: Okay. Well --

20 CHAIR BRACKPOOL: Why?

21 VICE CHAIR ISRAEL: As long as we're speaking about
22 California.

23 MR. BLACKWELL: Sure.

24 VICE CHAIR ISRAEL: You just absorbed Youbet, which
25 was a California company; is that right?

1 MR. BLACKWELL: Right. We acquired Youbet. Yes.

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

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

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

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

12 VICE CHAIR ISRAEL: How many?

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

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

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

22 VICE CHAIR ISRAEL: Well, wait. So they -- wait.
23 Wait. Wait.

24 CHAIR BRACKPOOL: So Woodland -- Woodland Hills --

25 MR. BLACKWELL: -- our presence in California.

1 VICE CHAIR ISRAEL: So did they lose their jobs or
2 did they get relocated to another office in California?

3 MR. BLACKWELL: Well, both occurred.

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

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

7 VICE CHAIR ISRAEL: Approximately a dozen?

8 Approximately 12 dozen? I mean, you know?

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

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

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

22 CHAIR BRACKPOOL: It's not going to --

23 MR. BLACKWELL: And it's something -- and it's an
24 issue that we are --

25 CHAIR BRACKPOOL: The takeout is going to purse

1 money?

2 MR. BLACKWELL: It's --

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

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

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

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

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

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

24 VICE CHAIR ISRAEL: Well --

25 CHAIR BRACKPOOL: But if this Board gave you approval

1 to just carry on then why would those discussions be ongoing?

2 Surely those discussions would end?

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

7 CHAIR BRACKPOOL: We -- and then --

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

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

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

15 COMMISSIONER CHOPER: Well, I don't understand
16 your -- you know, I --

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

19 COMMISSIONER CHOPER: I don't fully understand all
20 the business plans, nor do I fully understand the position you
21 took about the connection with California. But I just -- I
22 just don't think it's fair for you not to do -- what the entire
23 intention of this was, was to -- it may be overly dramatic --
24 but to save California racing, an activity in which you have a
25 vital interest.

1 So I would just urge you to get whoever -- whoever is
2 in charge of those discussions to -- let's -- let's get them
3 over with and get onboard. Because I guess myself, I don't
4 think it would be right for us to grant any renewal of the
5 license, so long as --

6 (Clapping from the audience.)

7 CHAIR BRACKPOOL: Thank you.

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

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

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

22 CHAIR BRACKPOOL: Commonly known as the hub?

23 MS. WAGNER: Yes. We've got those, as well. And
24 we've received a contract agreement with labor. That was
25 received from TVG. Our staff's initial concern was the surety

1 bond. The surety bond that we have on file is scheduled to
2 expire October the 11th, I believe, 2011. As I mentioned
3 before, TVG is applying for a license that will run from
4 January 1st through the end of 2011. And we would recommend
5 that they give us a bond to cover that entire term.

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

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

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

15 CHAIR BRACKPOOL: I was -- I was imagining that's
16 going to be the same --

17 COMMISSIONER CHOPER: Okay.

18 CHAIR BRACKPOOL: -- for everyone is.

19 COMMISSIONER CHOPER: Go ahead. Go ahead.

20 CHAIR BRACKPOOL: And so let's just get everyone --

21 COMMISSIONER CHOPER: Go ahead. Okay.

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

23 COMMISSIONER CHOPER: Fair -- fair enough.

24 CHAIR BRACKPOOL: -- then we can just -- then we can
25 just see.

1 COMMISSIONER CHOPER: Fair enough.

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

5 MS. WAGNER: Right. I don't have them.

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

10 VICE CHAIR ISRAEL: Fifteen.

11 CHAIR BRACKPOOL: And no one is having a discussion?

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

15 CHAIR BRACKPOOL: Right.

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

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

24 MS. WAGNER: Right.

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

1 that agreement.

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

5 MR. LAMOTHE: They've --

6 CHAIR BRACKPOOL: -- on those?

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

9 CHAIR BRACKPOOL: Right. Right.

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

16 CHAIR BRACKPOOL: Okay. So let's go through --

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

18 CHAIR BRACKPOOL: -- Churchill now.

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

25 What we're most concerned with is, of course, the

1 race meeting that is scheduled to begin in December 26th, 2010.

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

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

6 CHAIR BRACKPOOL: Yeah.

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

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

11 MS. WAGNER: Yes. Yes.

12 CHAIR BRACKPOOL: Yeah.

13 MS. WAGNER: Yes.

14 CHAIR BRACKPOOL: Exactly.

15 MS. WAGNER: TVG has that.

16 CHAIR BRACKPOOL: Exactly.

17 COMMISSIONER CHOPER: TVB, only the horsemen?

18 CHAIR BRACKPOOL: Only the horsemen.

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

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

23 CHAIR BRACKPOOL: No racing associations.

24 MS. WAGNER: No.

25 CHAIR BRACKPOOL: Right.

1 COMMISSIONER CHOPER: Those are the three?

2 CHAIR BRACKPOOL: Right.

3 MS. WAGNER: Correct.

4 COMMISSIONER CHOPER: Period?

5 CHAIR BRACKPOOL: So --

6 MS. WAGNER: Correct.

7 COMMISSIONER CHOPER: Okay.

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

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

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

22 CHAIR BRACKPOOL: Okay.

23 MR. CASTRO: -- from the table unhappy.

24 CHAIR BRACKPOOL: All right. Without --

25 MR. CASTRO: But in the case --

1 CHAIR BRACKPOOL: But without the editorial part --

2 MR. CASTRO: Okay. Churchill has --

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

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

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

11 MS. WAGNER: Correct.

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

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

20 We have always been willing to work with the unions.
21 We negotiated with them for I think a good year if not a year-
22 and-a-half when this requirement was first introduced in
23 California. So we have always certainly been willing to sit
24 down and talk through these issues, finally reach an agreement
25 before which has expired. And again, we did not receive

1 notice. And so we're willing to work with the union once
2 again, but we don't feel based on the way the statute reads
3 that this is an issue that should hold up the application.

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

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

10 CHAIR BRACKPOOL: You don't currently have an
11 agreement with them?

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

14 MS. WAGNER: Correct.

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

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

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

25 MR. BLACKWELL: That is absolutely not my contention.

1 CHAIR BRACKPOOL: Okay. Well, what is the
2 contention?

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

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

17 VICE CHAIR ISRAEL: As a practical matter --

18 MR. BLACKWELL: But --

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

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

24 COMMISSIONER CHOPER: Richard, can you respond to
25 that?

1 MR. CASTRO: Yeah. Well, the part that I'm looking
2 at is 19608.4 that talks about one of the requirements for an
3 ADW to be operating in California is to have a written
4 agreement with a bonafide labor organization.

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

13 CHAIR BRACKPOOL: Richard -- Richard -- Richard, I
14 think what Commissioner Choper was asking is do you have a
15 rebuttal to the applicant's position that you were required by
16 statute to give hi8m notice?

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

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

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

25 CHAIR BRACKPOOL: Thank you.

1 MR. CASTRO: -- from Twinpires.

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

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

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

13 MR. DARUTY: May I respond?

14 CHAIR BRACKPOOL: Please.

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

21 We do -- XpressBet does have a signed hub agreement
22 that was presented to the horsemen. I talked personally with
23 the horsemen prior to giving it to them. And my understanding
24 was that they did not have a problem with it. We have not been
25 notified of a problem. So I'm assuming the horsemen -- the hub

1 agreement and the horsemen's issue are both resolved.

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

10 CHAIR BRACKPOOL: Signing both of those?

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

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

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

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

20 MR. DARUTY: On the labor agreement --

21 CHAIR BRACKPOOL: I mean, did you receive it?

22 MR. DARUTY: On the labor agreement I don't -- I
23 don't think we actually received a notice. But I -- I -- you
24 know, I guess that's, you know, maybe here nor there, depending
25 on your perspective.

1 What we did is in the fall, I think in about
2 September, we presented an agreement to labor. The statute is
3 very clear. This is not, you know, necessarily what you think
4 of as a labor negotiation where you -- you have monetary issues
5 or other issues. This labor agreement is very specifically
6 called out in the statute and it needs to address certain key
7 factors. The statute says that neither party can require items
8 outside of those listed factors.

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

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

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

23 VICE CHAIR ISRAEL: So the -- so the devil on your
24 right shoulder and the angel on your left shoulder have reached
25 an agreement?

1 CHAIR BRACKPOOL: Right.

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

3 VICE CHAIR ISRAEL: Okay.

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

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

17 COMMISSIONER CHOPER: Did you hear from the --

18 CHAIR BRACKPOOL: When these --

19 COMMISSIONER CHOPER: -- horsemen on the --

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

23 MS. WAGNER: Yes.

24 CHAIRMAN BRACKPOOL: Or --

25 MS. WAGNER: A year ago.

1 CHAIRMAN BRACKPOOL: A year ago. That's right.
2 Yeah. Were there any labor agreements outstanding at the time?
3 MS. WAGNER: You know, I can't say for certain when
4 the Board approved the applications. I believe that -- that
5 there may have been some outstanding at the time because I
6 believe that those approvals were all contingent upon receiving
7 outstanding documents.
8 CHAIRMAN BRACKPOOL: But if --
9 MS. WAGNER: But --
10 CHAIRMAN BRACKPOOL: -- they're contingent upon
11 approving them, were they then delivered --
12 MS. WAGNER: Yes. Subsequent --
13 CHAIRMAN BRACKPOOL: -- by --
14 MS. WAGNER: Subsequent to that we did receive the
15 labor agreements from Labor for ADW providers. Those are on
16 file.
17 CHAIRMAN BRACKPOOL: All right. Richard?
18 MR. CASTRO: Richard Castro representing Local 280.
19 I might be lax on this. I don't recall getting an agreement
20 from XpressBet. This morning I was in my office at five
21 o'clock and I went through the ADW file and I couldn't find a
22 document like what Scott is talking about.
23 But what I can tell you that -- but Scott did not
24 say, that I did conversations with Gene Chabrier. And a couple
25 months ago I was back in Washington D.C. and we actually met at

1 an airport and discussed issues relating to an XpressBet
2 agreement. And it boiled down to -- and you will recall these
3 discussions because I've consistently protested DelMar.com and
4 OakTree.com and XpressBet are the people that are doing it.
5 And you have it on your agenda today which, again, we are here
6 to oppose it. We don't -- we don't have an agreement covering
7 that subject. This is item number ten.

8 MS. WAGNER: He's referencing XpressBet is -- the
9 application is XpressBet doing business --

10 CHAIRMAN BRACKPOOL: Oh. It's DelMarBets. Okay.

11 MS. WAGNER: -- as dba DelMar.

12 VICE CHAIR ISRAEL: The white labels. That's all.

13 CHAIR BRACKPOOL: Yeah.

14 EXECUTIVE DIRECTOR BREED: The white label.

15 MR. CASTRO: But just -- that's my recollection.

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

22 MR. BLACKWELL: And as I explained before -- Brad
23 Blackwell on behalf of TwinSpires -- the statute is clear the
24 way it reads. And as I also mentioned, I don't think that's a
25 reason to hold up a license, based on the way the statute

1 reads. And as I mentioned, we have no problem with signing an
2 agreement. We signed a agreement before. And as Mr. Daruty
3 suggested to the Board, the statute is very clear as to what is
4 in that agreement.

5 CHAIR BRACKPOOL: You know --

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

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

20 CHAIRMAN BRACKPOOL: Right. But your --

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

23 CHAIRMAN BRACKPOOL: But your your argument is that
24 statutes is statutes and you should comply with statutes, which
25 is when I get to the increased take out I scratch my head,

1 because that's the statute you don't want to comply with.

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

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

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

14 CHAIR BRACKPOOL: Well, I --

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

17 VICE CHAIR ISRAEL: More specifically --

18 MR. BLACKWELL: -- that's an issue --

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

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

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

1 CHAIR BRACKPOOL: Yeah.

2 VICE CHAIR ISRAEL: I'm paying attention to what you
3 are saying apparently more than you are paying attention to
4 what you're saying.

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

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

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

15 VICE CHAIR ISRAEL: That's what we're talking about
16 here, pal.

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

18 VICE CHAIR ISRAEL: Who is?

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

22 VICE CHAIR ISRAEL: And what's your job?

23 MR. BLACKWELL: I am a Vice President of
24 Twinpires --

25 VICE CHAIR ISRAEL: So --

1 MR. BLACKWELL: -- on the ADW side.

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

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

8 VICE CHAIR ISRAEL: Well, okay.

9 MR. BLACKWELL: -- speak --

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

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

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

15 CHAIR BRACKPOOL: Keith?

16 VICE CHAIR ISRAEL: Simple as that.

17 CHAIR BRACKPOOL: Please.

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

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

22 COMMISSIONER CHOPER: It's been said that there's no
23 real issue with the horsemen's agreement. I forget exactly who
24 said what it was, but they submitted this to you and was it
25 you, Mr. Daruty? Would you repeat that?

1 MR. DARUTY: XpressBet has a signed hub agreement
2 with Santa Anita and with Golden Gate. That document was
3 submitted to the TOC. And to my understanding that they have
4 approved that by not objecting to it.

5 COMMISSIONER CHOPER: Is that -- is that right?

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

10 COMMISSIONER CHOPER: Excuse me. So that's true with
11 TVG too then?

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

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

19 MR. LAMOTHE: Thank you.

20 MR. BLACKWELL: -- the concept of a hub agreement
21 seems to evolve each year. There was one specific document
22 that I recall submitting the first time we were licensed that
23 was entered into with the horsemen. The second year I think we
24 entered into an agreement with Santa Anita and Golden Gate.
25 And then each simulcast agreement that I have seen from a

1 California track also discusses what the hub rate will be.

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

9 VICE CHAIR ISRAEL: Scott, can you answer that?

10 MR. DARUTY: Yeah. I'd like to --

11 VICE CHAIR ISRAEL: Since you're negotiating for the
12 other side.

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

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

25 COMMISSIONER CHOPER: Do you have that agreement?

1 MR. DARUTY: That agreement is in place with TVG.
2 That agreement will be in place within 24 hours with XpressBet.
3 That agreement is still being negotiated with Twinspires.
4 The -- the hang up right now being the portion of the takeout
5 increase that they are willing to pay.

6 COMMISSIONER CHOPER: Okay.

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

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

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

15 COMMISSIONER CHOPER: One more step?

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

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

21 COMMISSIONER DEREK: Yes.

22 COMMISSIONER CHOPER: -- in this situation.

23 COMMISSIONER DEREK: That's my concern.

24 COMMISSIONER CHOPER: I mean, this is not a second
25 and third grade playground. I -- well, I'll stop.

1 MR. DARUTY: Let me -- let me address the -- the
2 other issue on the hub agreement. There is also the issue of
3 what does an ADW get as it's hub rate when it takes a bet on an
4 out of state signal. So this example, Narrows running,
5 Twinspires wants to take a bet on the Narrow race from
6 California, that's a different animal. There is a separate hub
7 agreement that says Twinspires, and they could sign it with
8 Santa Anita or they could sign it with Hollywood or they could
9 sign it with any race track in California. Twinspires is
10 entitled to retain a hub rate of X on every bet it takes from
11 an out of state entity. That item that requires the approval
12 of the TOC. And the -- the approval is -- is a deed approval.
13 That agreement, once it's signed, is presented to the TOC under
14 statute and they have five days to object. If they don't
15 object within five days it's deemed approved.

16 The proposal, just so that we all understand, the
17 proposal that Monarch, on behalf of all the California race
18 tracks has made to Twinspires, is the exact same proposal it
19 made to TVG and the exact same proposal to XpressBet which is
20 you can have all the California races, you can retain a hub
21 agreement of X when you take a bet on a California race. You
22 will also be free to import into the State of California all
23 out-of-state signals, and you'll get a hub rate of X. And just
24 so you know, the hub rate has been presented to all three as
25 identical. And again, my understanding is the only hold up

1 with Twinpires right now is the -- is the takeout piece. And
2 because that piece isn't resolved, nothing is signed --

3 VICE CHAIR ISRAEL: The 1072 takeout?

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

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

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

17 CHAIR BRACKPOOL: Mr. Hindman.

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

1 in-state tracks throughout 2011.

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

9 COMMISSIONER CHOPER: And you're sending those over
10 to the horsemen while your --

11 MR. HINDMAN: Well the -- the --

12 COMMISSIONER CHOPER: I don't understand that.
13 Explain that to me.

14 MR. HINDMAN: Well, thank you, Commissioner Choper.
15 The -- as Scott accurately reflected, the -- the Monarch
16 agreement was completed in the last 48 hours for TVG. And that
17 agreement does contain center clauses that Monarch proffers
18 that, you know, that there will be no assurances that -- that
19 the horsemen's agreement is required, there will be no
20 assurances that it will be received. And -- and what the end
21 to that is -- end to that is not related to the operation of
22 our ADW company overall, but our ability to take Santa Anita on
23 December 26th.

24 COMMISSIONER CHOPER: But let's -- let's --

25 MR. HINDMAN: And we understand that.

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

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

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

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

24 CHAIRMAN BRACKPOOL: Right.

25 MR. DARUTY: -- have agreement on that there's no --

1 CHAIRMAN BRACKPOOL: Right. Right. So what I'm
2 saying is in trying to work through what level of
3 conditionality our approval would be -- and if we sat here
4 today and said, you know, all three of your applications are
5 rejected because they're incomplete I think you'd suddenly be
6 in Commissioner Choper's view which is, hey, this isn't a
7 second or third grade playground. We're dealing with some
8 serious business here; right?

9 So, you know, I'm sure you'll rapidly get it -- get
10 it together. We don't have another meeting before January the
11 20th.

12 EXECUTIVE DIRECTOR BREED: The 20th.

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

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

25 But in terms of any approvals we were to give here,

1 they would all be subject to receiving those -- depositing with
2 us those agreements.

3 MS. WAGNER: Correct. That's correct.

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

6 MS. WAGNER: Yes.

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

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

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

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

19 CHAIRMAN BRACKPOOL: So they can actually take
20 bets --

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

23 CHAIR BRACKPOOL: -- for four days --

24 MS. WAGNER: That's correct.

25 CHAIR BRACKPOOL: -- and then they would be out.

1 MS. WAGNER: That's correct.

2 COMMISSIONER ROSENBERG: Mr. Chairman?

3 CHAIRMAN BRACKPOOL: Yes, Commissioner Rosenberg?

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

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

10 MS. WAGNER: Correct.

11 CHAIR BRACKPOOL: -- at that price.

12 COMMISSIONER ROSENBERG: Oh they would?

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

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

18 CHAIR BRACKPOOL: A bigger negotiation.

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

24 EXECUTIVE DIRECTOR BREED: Uh-huh.

25 VICE CHAIR ISRAEL: Right?

1 CHAIR BRACKPOOL: That's the process?

2 EXECUTIVE DIRECTOR BREED: Yeah.

3 VICE CHAIR ISRAEL: There's a lot of moving parts.

4 (Colloquy between Board Members)

5 CHAIRMAN BRACKPOOL: So let's for a moment talk about
6 labor. So he's pointed out the statute to me. So I just want
7 to see whether -- I'm reading it for the first time,

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

13 Right? So you're saying that because they didn't
14 this exempts you from that statute, from that obligation?

15 MR. DARUTY: That is exactly what I am saying.

16 CHAIRMAN BRACKPOOL: Can I have labor counsel respond
17 to that please? Well, you filled out a card, sir, and now
18 you're here.

19 MR. CASTRO: Richard Castro.

20 CHAIRMAN BRACKPOOL: Please. Well, I'd rather --
21 Richard, I'd rather --

22 MR. CASTRO: I'd rather he speak, too.

23 CHAIR BRACKPOOL: I'd rather hear from your lawyer.

24 MR. CASTRO: I'd rather hear from him too.

25 MR. ROSENFELD: Well, I'm -- I came in the middle of

1 this because I was in the middle of doing arbitration
2 downstairs.

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

5 CHAIR BRACKPOOL: Name for the record, please.

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

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

18 MR. ROSENFELD: Our position has always been, and
19 every time I have addressed this Board, that they have to have
20 an agreement in place before they can be licensed because
21 that's what the statute says. There's nothing in this Statute
22 that says we got to give them 180 days notice or two years
23 notice or one day notice. Their obligation is to have a
24 complete license application and their obligation is to have a
25 signed agreement before the license can be approved.

1 CHAIRMAN BRACKPOOL: Frankly, I think this is an
2 incredibly sad conversation --

3 COMMISSIONER CHOPER: Yes, it is.

4 CHAIR BRACKPOOL: -- that there's an entity who's
5 thinking that --

6 COMMISSIONER CHOPER: Let's get it done.

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

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

19 COMMISSIONER CHOPER: You're -- you're ready to do
20 it; right?

21 MR. ROSENFELD: We're ready to do it.

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

25 MR. ROSENFELD: I've emailed with Mr. Blackwell in

1 the past.

2 COMMISSIONER CHOPER: I'm sorry. I just -- I don't
3 get it.

4 MR. BLACKWELL: The issue is that --

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

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

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

22 CHAIR BRACKPOOL: Okay. Commissioner Derek?

23 COMMISSIONER DEREK: Yeah. I've -- I'm --

24 COMMISSIONER CHOPER: Dave, have you heard that?

25 MR. ROSENFELD: I heard that.

1 COMMISSIONER CHOPER: Yeah.

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

6 CHAIRMAN BRACKPOOL: Okay. Commissioner Derek.

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

15 COMMISSIONER CHOPER: I'm sympathetic to that, I must
16 say that.

17 VICE CHAIR ISRAEL: Yeah

18 COMMISSIONER CHOPER: And I don't -- maybe there's an
19 alternative, but --

20 CHAIRMAN BRACKPOOL: Well, the other alternative --

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

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

25 COMMISSIONER DEREK: Uh-huh.

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

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

9 COMMISSIONER DEREK: Yeah.

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

11 COMMISSIONER DEREK: There's still so much.

12 VICE CHAIR ISRAEL: To me -- to me it's a larger
13 issue.

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

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

23 (Colloquy between The Chair and Staff)

24 CHAIRMAN BRACKPOOL: So that's -- that's actually --
25 Jackie has got a good idea which is that what we do is we

1 extend the existing licensing, licenses by 30 days, which takes
2 them to January the 30th, which means that they have to be
3 resolved at the January 20th Board meeting, otherwise people
4 wouldn't be able to operate. And whether it's in the book or
5 not, I think you can read this Board's view of what it would
6 have to have in order to be granting applicants a license going
7 forward.

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

10 CHAIRMAN BRACKPOOL: No. No. No. No. No.

11 VICE CHAIR ISRAEL: -- takeout --

12 CHAIRMAN BRACKPOOL: No. No. They -- they won't --
13 unless they -- this is just for ADW license. The issue with
14 1072 is whether they have an agreement with -- with the race
15 track that's running at the time. So they could not have
16 agreements with Golden Gate and with Santa Anita unless they'd
17 reached -- they couldn't have agreement --

18 VICE CHAIR ISRAEL: Unless they've reached agreement.

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

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

23 MR. DARUTY: If I -- if I understand correctly,
24 though, every ADW would have it's license extended and it could
25 take bets from California residents on, for example, NYRA

1 races. But unless there is an agreement in place with Santa
2 Anita they would not be able to take bets on Santa Anita races.

3 CHAIR BRACKPOOL: Correct.

4 VICE CHAIR ISRAEL: Right.

5 CHAIR BRACKPOOL: Correct.

6 VICE CHAIR ISRAEL: But I want to make sure that
7 that's --

8 CHAIR BRACKPOOL: Correct.

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

10 CHAIR BRACKPOOL: Correct. Correct.

11 VICE CHAIR ISRAEL: -- whatever we decide.

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

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

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

19 MR. BLACKWELL: So --

20 CHAIRMAN BRACKPOOL: Hold on. Let me finish. If you
21 are going to say that we didn't get the 90 day notice, right,
22 then my guess is that this afternoon they'll send you the 90
23 day notice and when you come back here in January if your
24 position is still I'm only 30 days in, I'm going to give you a
25 60 day extension maximum.

1 So if you want to play that game, we'll play that
2 game back.

3 MR. BLACKWELL: I don't -- I don't think --

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

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

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

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

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

17 MR. ROSENFELD: Yes, Professor.

18 COMMISSIONER CHOPER: Yeah. And -- and he's learned
19 well, see.

20 VICE CHAIR ISRAEL: Did he get an A?

21 COMMISSIONER CHOPER: I don't remember.

22 MR. ROSENFELD: He passed.

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

24 CHAIRMAN BRACKPOOL: Well, you're -- you're
25 struggling with the issue. You're saying -- you're -- you're

1 saying that the statute is very clear, they didn't send you the
2 notice. I'm suggesting to them that they should send you the
3 notice; right? So, you know, if -- if what you're going to
4 rely on is the 90 day notice then we'll just work out that the
5 application is there at the end of the 90 days to be discussed
6 and make sure that there's a labor agreement.

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

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

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

21 MR. ROSENFELD: It's continuing.

22 VICE CHAIR ISRAEL: It's --

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

25 VICE CHAIR ISRAEL: And there is -- that's -- are you

1 listening to this?

2 COMMISSIONER CHOPER: Yeah.

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

7 CHAIR BRACKPOOL: No. They're saying they never
8 noticed.

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

12 CHAIR BRACKPOOL: They missed that.

13 VICE CHAIR ISRAEL: Okay.

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

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

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

22 Until 12:38 p.m.)

23 EXECUTIVE DIRECTOR BREED: Let the record show we're
24 starting up the meeting again at -- let's see -- 12:40, and
25 we're still on Item Ten, I think.

1 CHAIR BRACKPOOL: Okay. Reconvening this meeting.

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

7 What I would like to propose would be that we -- and
8 I'll let Counsel word the motion for me, not to eat his
9 doughnut -- I would like to propose that we -- and I want you
10 to do this properly. I'm just going to ad hoc this. But that
11 we extend the existing licenses by 30 days to January the 30th,
12 2011, but that the licenses starting on the extension period,
13 January the 1st, are conditioned upon each applicant having a
14 valid hub agreement in place so that these issues of takeout,
15 et cetera, have to be resolved one way or the other.

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

23 I don't think that we should be treated as a rubber
24 stamp where you make an application but you have absolutely
25 none of the exhibits and none of the -- the associated

1 documents ready, and you just say we'll have them at some
2 state -- some time in the -- in the future. If you do have
3 them I think this Board will look favorably. But -- but
4 this -- this is there.

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

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

12 EXECUTIVE DIRECTOR BREED: Ten.

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

15 EXECUTIVE DIRECTOR BREED: Is -- is --

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

19 MR. BLACKWELL: Right. We -- we submitted those
20 applications in an abundance of caution. Because in the
21 interest of maintaining a license for both entities, as we were
22 going through a migration we wanted -- did not want to be in a
23 position where we didn't have a license in place. And so, you
24 know, we're pretty much through the migration. But again, in
25 an abundance of caution, you know, we would prefer to have

1 those licenses issued, which we can always surrender, just to
2 make sure that we have all of our bases covered and not be
3 operating in a non-licensed environment.

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

6 MR. BLACKWELL: Yes. The merger's been complete
7 for --

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

10 MR. BLACKWELL: Yes, it is.

11 VICE CHAIR ISRAEL: It still is?

12 MR. BLACKWELL: It still is.

13 CHAIR BRACKPOOL: But it's a 100 percent owned
14 subsidiary of Churchill Downs?

15 MR. BLACKWELL: Of CDI.

16 CHAIR BRACKPOOL: Right.

17 MR. BLACKWELL: Yes.

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

21 MR. BLACKWELL: I'm sorry?

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

24 MR. BLACKWELL: Yes. Yes. It could be. There's two
25 separate platforms that we own, so --

1 CHAIR BRACKPOOL: Oh. Okay.

2 MR. BLACKWELL: -- it's not a white label. Youbet
3 was never a white label.

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

9 MR. BLACKWELL: Exactly. Exactly.

10 CHAIR BRACKPOOL: Yeah.

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

14 CHAIR BRACKPOOL: And -- and do that.

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

18 MR. LAMOTHE: Thank you. Withdrawn.

19 CHAIR BRACKPOOL: Thank you.

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

24 CHAIR BRACKPOOL: Correct.

25 MR. BLACKWELL: But then I thought you mentioned that

1 the hub agreement had to be in place by January --

2 CHAIR BRACKPOOL: Correct.

3 MR. BLACKWELL: -- January 1.

4 CHAIR BRACKPOOL: Correct.

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

7 CHAIR BRACKPOOL: It's conditioned.

8 MR. BLACKWELL: -- if --

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

12 MR. BLACKWELL: By January 1?

13 CHAIR BRACKPOOL: -- by January 1 of 2011.

14 MR. BLACKWELL: For a one-month license?

15 CHAIR BRACKPOOL: Correct.

16 MR. BLACKWELL: Okay.

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

20 VICE CHAIR ISRAEL: But that --

21 COMMISSIONER CHOPER: I -- go through that one more
22 time. I'm -- now -- now I'm confused. I understood -- I
23 understood him to say we can extend the license until January
24 31 --

25 CHAIR BRACKPOOL: January 30th.

1 COMMISSIONER CHOPER: -- but -- but that doesn't --
2 or whatever it was.

3 VICE CHAIR ISRAEL: But --

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

6 CHAIR BRACKPOOL: Unless you've got --

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

9 CHAIR BRACKPOOL: -- a hub agreement --

10 COMMISSIONER CHOPER: -- a hub agreement.

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

12 COMMISSIONER CHOPER: And that's when you're --

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

16 CHAIR BRACKPOOL: Now I'm not sure.

17 COMMISSIONER CHOPER: Sorry. I --

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

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

21 VICE CHAIR ISRAEL: Please. Both.

22 MR. DARUTY: Scott -- Scott Daruty here. I think it
23 might depend on what it is the Board intends to do. The -- the
24 hub agreement is necessary for the import of signals into the
25 State of California. The simulcast agreement is necessary to

1 take bets on Santa Anita and Golden Gate.

2 VICE CHAIR ISRAEL: Okay.

3 CHAIR BRACKPOOL: It's both.

4 VICE CHAIR ISRAEL: It's both.

5 CHAIR BRACKPOOL: It's both simulcast and hub.

6 COMMISSIONER CHOPER: The position that's based on is
7 that there is a California statute that requires that all these
8 monies be used, as we've been told in another context today,
9 solely for purse enhancement. And the position has been that
10 under those circumstances unless Santa Anita wants, I guess, to
11 make up the difference themselves they're going to insist that
12 that money be put in for purses. And anyone who doesn't do it
13 can't take the signal.

14 Now you still have a license if you -- but, you know,
15 you have a license but you've got to use it in -- in a way --

16 CHAIR BRACKPOOL: Okay.

17 COMMISSIONER CHOPER: -- that's consistent --

18 CHAIR BRACKPOOL: So --

19 COMMISSIONER CHOPER: -- with the other rules. You
20 can do it but you'll -- you'll do it, I guess you can say,
21 conditioned on your agreements to take the signal --

22 CHAIR BRACKPOOL: No.

23 COMMISSIONER CHOPER: -- from the relevant race
24 track.

25 MR. BLACKWELL: So for clarification, if Twinspires

1 does not have a simulcast agreement in place on January the 1st
2 then they can not take ADW wagers from California residents on
3 any product?

4 VICE CHAIR ISRAEL: Yes.

5 CHAIR BRACKPOOL: Correct.

6 COMMISSIONER CHOPER: That's the understanding.

7 CHAIR BRACKPOOL: Correct.

8 COMMISSIONER DEREK: Yes.

9 CHAIR BRACKPOOL: Correct.

10 COMMISSIONER CHOPER: And -- and as I -- and I think
11 about four or five people, if not more than that, have said the
12 notion is that each of the ADW companies ought to honor the
13 agreements that have been made, which is that they in turn act
14 consistently with whatever the -- the number of that statute
15 was in California, taking two and three percent more --

16 VICE CHAIR ISRAEL: 1072.

17 COMMISSIONER CHOPER: -- to 1072, for the purpose
18 of -- for -- for the purpose of the industry.

19 CHAIR BRACKPOOL: And I just want to reiterate
20 something that Commissioner Harris said earlier on because it's
21 absolutely correct. There's a great deal of debate and it's
22 fair to have the debate about whether this is going to
23 ultimately be helpful to horse racing or not, having the higher
24 purses through the, in our view, fairer takeout compared to the
25 other major racing states. I understand there are people on

1 the other side of the issue; it may work, it may not.

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

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

16 COMMISSIONER HARRIS: You know, on this overall ADW
17 question I think there's a lot of misunderstanding of the way
18 it works. I don't think any of us completely understand. It
19 would be helpful if we could get on sort of a glossary of
20 terms, just what's the difference between a hub fee and all
21 this and that, but also some pie charts or something looking
22 at -- I realize there's all different types of wagers, in state
23 and out of state. But I think it would be helpful if we were
24 better educated.

25 Because I think there's -- I think, frankly,

1 sometimes the ADW companies get somewhat of a bum rap that
2 they're getting too much, that the middleman is getting too
3 much, and it's -- it's really not that simple. But I think all
4 of us need to understand the way -- the way it works.

5 CHAIR BRACKPOOL: Let's pull together what we can for
6 the meeting next time. I think that's a very good suggestion.
7 So --

8 MR. MILLER: Very well, Your Honor. Robert Miller,
9 Counsel of the California Horse Racing Board.

10 The Board makes the following motion: The advance
11 deposit wagering licenses of ODS Technologies, L.P., doing
12 business as TVG, Churchill Downs Technology Initiatives
13 Company, doing business as Twinspires.com, Youbet.com Inc., and
14 XpressBet LLC, doing business as XpressBet.com, DelMarBets.com,
15 and OakTreeBets.com are extended to and including January 30th,
16 2011 on condition that simulcast and hub agreements are signed
17 and in effect as of January 1, 2011 which reflect enactment of
18 Business and Professions Code 19601.02, including subsections
19 (a), (b), (c) and (d).

20 CHAIR BRACKPOOL: Okay. I'm happy to make that
21 motion. Do I have a second?

22 VICE CHAIR ISRAEL: Second.

23 CHAIR BRACKPOOL: Commissioner Israel second. All in
24 favor?

25 ALL COMMISSIONERS: Aye.

1 CHAIR BRACKPOOL: Motion carries. Thank you.

2 MR. BLACKWELL: Thank you.

3 CHAIR BRACKPOOL: Item Number 11, discussion and
4 action by the Board regarding a report from the San Luis Rey
5 Downs concerning the subsidy from the Southern California Off-
6 Track Wagering, SCOTWINC, stabling and vanning fund. I have
7 this lovely book here. Please come forward.

8 Now do we have -- who do we have? Is there someone
9 from SCOTWINC, as well, in the room?

10 CHAIR BRACKPOOL: Tom is back there.

11 Tom, if you would come forth. And, Guy, are you
12 involved in this? You probably are.

13 MR. DARUTY: I was recruited.

14 CHAIR BRACKPOOL: I think you are.

15 MR. CAREY: Could the three that are representing San
16 Luis Rey Downs all be together and --

17 CHAIR BRACKPOOL: Please.

18 MR. CAREY: -- let Guy and Tom sit together? Could
19 you just -- could you just shift one over?

20 CHAIR BRACKPOOL: Okay. Would you move this along?
21 Would you please state your names and affiliations for the
22 record starting far left and we'll work our way along.

23 MR. CAREY: Good morning, Mr. Chairman, Members of
24 the Board. My name is Kevin Cary, Rancho Ballena. I'm
25 appearing as a representative today of San Luis Rey Downs.

1 MS. ROSIER: Laura Rosier, San Luis Rey Downs.

2 MS. HOWARD: Leanne Howard, San Luis Rey Downs.

3 MR. LAMOTHE: Guy Lamothe, TOC, on behalf of the
4 Stabling and Vanning Committee.

5 MR. VARELA: I'm Tom Varela, SCOTWINC.

6 CHAIR BRACKPOOL: Thank you. Okay. Why don't you
7 lead off with your presentation?

8 MR. CAREY: Thank you very much. In the expediency
9 of time I will not restate what we've submitted to the Board in
10 our packet. And much of what you're going to hear today I
11 think you've heard before, as expressed by Ms. Laura Rosier.
12 And I think this all boils down to a couple of issues that I'll
13 get into in a moment.

14 But I do want to reiterate the fact that for many,
15 many years now San Luis Rey Downs has produced prolific horses
16 that have made an impact on the sport. And we have been
17 producing horses that significantly contribute to the satellite
18 wagering fund. And it seems over the many years that we've
19 been involved in this issue, going back to 1989, San Luis Rey
20 has been more or less treated as the poor stepchild of the
21 racing industry in Southern California. We had to fight for a
22 portion of the stabling fund in 1989. We had to again, after
23 being excluded, we to again fight for the stabling fund in
24 2001. At the most recent SCOTWINC board meeting in August of
25 2009, well, we were summarily excluded from consideration for

1 any funds whatsoever.

2 And it -- it is a situation where we are resolute in
3 our belief that despite the objections that you will hear that
4 we are indeed covered by the law, in 1989 this same issue under
5 very similar circumstances was presented to the Board. The
6 Board intervened on our behalf with review by, I understand, I
7 was not there at the time, review by the state attorney general
8 which rubber stamped the Board's intervention requiring or
9 compelling SCOTWINC to provide a subsidy to San Luis Rey Downs
10 as part of the stabling fund.

11 The same thing happened in 2001 where the Board
12 exercised its discretion and intervened on behalf of San Luis
13 Rey Downs and determined that we were indeed entitled to an
14 allocation of the stabling fund. And we were receiving the
15 fund, I believe, continuously from that time in 2001 to
16 sometime in mid to third quarter of -- of 2008. But Ms. Laura
17 Rosier is more specific on the inclusive dates of when we were
18 receiving the subsidy.

19 And I -- and I think if you haven't already you will
20 hear arguments that were not covered by the law. I don't think
21 there's been any change significantly or materially in
22 condition between the times that the Board intervened on our
23 behalf in 1989 and 2001 than we are today. In 1989 -- and one
24 of the arguments, by the way, is that we're not a racing
25 association and therefore not entitled under the statutes to

1 any portion of the stabling fund, and we're not entitled to
2 consideration. Well -- and -- and for the reason that we're
3 not quote "associated or operated by a racing association."

4 Well, that wasn't the case in 1989 when we were owned
5 by the Vesless (phonetic) Family. And it certainly wasn't the
6 case in 2001 when we were owned and operated by MEC. And
7 without splitting hairs, even though there was commonality of
8 interest with respect to Santa Anita and San Luis Rey being
9 operated and owned by MEC, MEC was never a racing association.
10 So I don't think the argument that we're not either associated
11 with a racing association or one indeed really can hold
12 scrutiny of review.

13 CHAIR BRACKPOOL: Are -- are we almost done?

14 MR. CAREY: Very quickly. And let me just frame the
15 two issues.

16 The issue is should San Luis Rey Downs be considered
17 as a viable recipient of a subsidy? And if this Board
18 concludes, no, because we aren't covered by the law, as some
19 suggest, then I think you have to look at the fairness in
20 competing with the other entities or facilities that are
21 receiving a subsidy.

22 It's our view and position that the recipients of the
23 subsidy currently are receiving more than the limitations
24 imposed by statute, that the subsidy, the stabling fund, was
25 never intended to be a cure all for a negative cash flow. It

1 was specifically intended from the origination of this -- of
2 these statutes to pay for or reimburse for direct incremental
3 costs of off-site stabling.

4 And I think if the Board looks at that issue it may
5 well be that the stabling funds that have been distributed to
6 our competitors provide our competitors with an unfair
7 advantage, which makes it very difficult for us in San Diego
8 County to compete.

9 CHAIR BRACKPOOL: Okay. Let's hear from the TOC
10 Stabling and Vanning Fund. And did the other witnesses have --
11 you're generally here to answer questions or --

12 MS. HOWARD: We are.

13 MS. ROSIER: Can I reserve my time for after they
14 speak?

15 CHAIR BRACKPOOL: Yeah.

16 MS. ROSIER: Thank you.

17 MR. LAMOTHE: Thank you. Guy Lamothe for the
18 Stabling and Vanning Committee. There are several issues that
19 are being brought up right here.

20 Let me qualify my statements first by saying I'm not
21 an attorney. But I believe the gentleman is referring to
22 Section 19607 in which reimbursement is to off-site stabling to
23 a racing association. That's what it does say. I believe it's
24 up to the Board to interpret that and -- and to enforce the law
25 accordingly. So I don't know if I can comment on that any

1 further.

2 As far as the fairness issue, well, how we've
3 addressed it on the Stabling and Vanning Committee is from the
4 business perspective there are several factors that have been
5 looked at over the years and not just, you know, at our last
6 meeting. Those include horse population, fund generation for
7 this fund, and the incremental costs among several of --
8 several of the factors.

9 We have included representatives of San Luis Rey
10 Downs at our meetings to discuss these issues. They should be
11 aware of them and aware of the significant decline in -- not
12 only in the fund generation, but also in the horse population.

13 Currently the fund has liabilities of a few million
14 dollars the racing associations have gladly taken a note on
15 until the fund can get turned around. The committee back in
16 2009 through an arduous process that began well before 2009
17 to -- in light of the decline of the inventory and the fund
18 they terminated the subsidy to both San Luis Rey Downs and
19 Fairplex. And I believe that ended at the end of --

20 EXECUTIVE DIRECTOR BREED: Excuse me, Guy.

21 MR. LAMOTHE: Yes?

22 EXECUTIVE DIRECTOR BREED: Did -- has SCOTWINC or the
23 vanning -- or the stabling and vanning fund, have you all been
24 paying vanning for San Luis Rey Downs horses over the years or
25 just stabling or nothing?

1 MR. LAMOTHE: We were -- the fund was paying both
2 stabling and vanning through, I believe October 21st, 2009.
3 And then -- and then there was a subsequent request by the
4 representatives of San Luis Rey to continue -- at least
5 continue the vanning. And the committee said, you know, if
6 they did that as --

7 EXECUTIVE DIRECTOR BREED: But you continued --

8 MR. LAMOTHE: They provided that.

9 EXECUTIVE DIRECTOR BREED: -- to pay vanning?

10 MR. LAMOTHE: The vanning.

11 EXECUTIVE DIRECTOR BREED: Oh.

12 MR. LAMOTHE: Is that correct?

13 MR. CAREY: Yes.

14 VICE CHAIR ISRAEL: Can we ask questions?

15 CHAIR BRACKPOOL: Yes.

16 VICE CHAIR ISRAEL: I just -- I wanted some
17 clarification on just fundamental facts here.

18 San Luis Rey Downs is owned by MID; is that correct?

19 MS. ROSIER: MI Developments.

20 VICE CHAIR ISRAEL: Right. Okay. And you have a
21 lease with them that started when?

22 MR. CAREY: March 17th of this year.

23 VICE CHAIR ISRAEL: 2010?

24 MR. CAREY: Yes.

25 VICE CHAIR ISRAEL: And who operated it before that

1 date?

2 MS. ROSIER: I think --

3 MR. CAREY: Before that day it was -- I'm sorry. Go
4 ahead.

5 MS. ROSIER: We were doing business as San Luis Rey
6 Downs Thoroughbred Training Center.

7 CHAIR BRACKPOOL: Please speak into the microphone
8 because we have the audio.

9 MS. ROSIER: We did business as San Luis Rey Downs
10 Thoroughbred Training Center.

11 VICE CHAIR ISRAEL: Uh-huh.

12 MS. ROSIER: And our -- the owner of San Luis Rey
13 Downs Thoroughbred Training Center is Magna Entertainment
14 Corporation.

15 VICE CHAIR ISRAEL: And so they were --

16 MS. ROSIER: Is that correct?

17 MS. HOWARD: No.

18 MS. ROSIER: Oh.

19 MS. HOWARD: Actually, what happened -- Leanne
20 Howard.

21 MR. MILLER: Please state your name for the record
22 please.

23 MS. HOWARD: Leanne Howard, San Luis Rey Downs.
24 Magna Entertainment Center (sic) in June of 19 -- or 2007 sold
25 San Luis Rey Downs to -- I assume you're calling this parent

1 company -- MID.

2 VICE CHAIR ISRAEL: Right.

3 MS. HOWARD: And MEC leased us back -- huh?

4 VICE CHAIR ISRAEL: Okay. That -- that -- all right.

5 MS. HOWARD: If you want some facts I can --

6 VICE CHAIR ISRAEL: I got it. Here -- here's --

7 here's the -- so when you entered into the lease on -- it says

8 here March 16th, but March --

9 MS. ROSIER: March.

10 VICE CHAIR ISRAEL: -- 17th, 2010, by then you knew
11 that no funds were being paid by the vanning and stabling fund.
12 Why did you enter into the lease? It was like you rolled the
13 dice, basically.

14 MS. HOWARD: We charge rent. We charge rent. We're
15 the only track that charges rent. Everyone gets to stable at
16 these other places for free.

17 CHAIR BRACKPOOL: His -- his -- his --

18 VICE CHAIR ISRAEL: But --

19 CHAIR BRACKPOOL: The -- the --

20 MS. HOWARD: I -- I think that --

21 VICE CHAIR ISRAEL: My -- my point is that there's a
22 caveat emptor aspect to this and --

23 MS. ROSIER: I -- I think probably because we're not
24 as logical as some of the men in the room we have a group of
25 horsemen and people that we live, work side by side with day in

1 and day out, and we tried to come up with a plan with our
2 horsemen of how we could stay alive until California got back
3 on its feet.

4 CHAIR BRACKPOOL: And what you're now saying is that
5 that plan --

6 MS. ROSIER: That they are now --

7 CHAIR BRACKPOOL: -- wasn't --

8 MS. ROSIER: -- on their feet.

9 CHAIR BRACKPOOL: The plan was not --

10 MS. ROSIER: SCOTWINC is --

11 CHAIR BRACKPOOL: The plan was not sufficient to
12 be -- you couldn't be self-sufficient. And now you're saying
13 we need help?

14 MS. ROSIER: Yes.

15 COMMISSIONER ROSENBERG: All right. Well, let me --
16 let me --

17 MS. ROSIER: Yes.

18 COMMISSIONER ROSENBERG: I think to sum up their
19 characterization --

20 CHAIR BRACKPOOL: Okay.

21 COMMISSIONER ROSENBERG: -- these people stepped in
22 to save a situation.

23 MS. ROSIER: Yes.

24 COMMISSIONER ROSENBERG: They have people who live
25 and work there for years, trainers, there are owners down there

1 who have horses there, and they stepped -- and -- and a lot of
2 workers, stable help, and they stepped in to save the place
3 from closing down.

4 VICE CHAIR ISRAEL: Well, I understand. But where
5 was the -- where did you expect the money was going to come
6 from?

7 MR. CAREY: Well, if I may, Kevin Carey for San Luis
8 Rey. Personally, I've been stabling at the Downs continuously
9 just about since 1990. And I'm a local breeder in San Diego
10 County. San Luis Rey is a perfect facility for access to the
11 horsemen in San Diego County. And as the gentleman said --

12 VICE CHAIR ISRAEL: Look, I'll stipulate all that.
13 And I'm -- and I'm not --

14 MR. CAREY: Well, what we did --

15 VICE CHAIR ISRAEL: Wait. Hold on. I'm not
16 questioning anybody's dedication, devotion or good intentions.
17 But all we can do is -- is, you know, is judge that this is a
18 business matter. And it seems like you entered into a rental
19 agreement without really -- I don't know why they actually
20 rented it to you if they didn't know how you were going to pay
21 the rent. But, you know, you enter into a rental agreement and
22 then sort of, well, we'll figure out how to pay for it later.

23 MS. ROSIER: Well, we knew that SCOTWINC was going to
24 correct itself. We saw that there was paperwork, that their
25 plan for 2010 was to be in the black by 182,000 by the end of

1 the year.

2 CHAIR BRACKPOOL: You never heard my views on their
3 budget then.

4 MS. ROSIER: No.

5 CHAIR BRACKPOOL: No.

6 VICE CHAIR ISRAEL: But --

7 MS. ROSIER: But --

8 VICE CHAIR ISRAEL: -- even if that's the case one of
9 the ways in which they corrected themselves was by --

10 MS. ROSIER: By cutting us off.

11 VICE CHAIR ISRAEL: -- not expending money. Yeah.

12 Right.

13 MS. ROSIER: And I understand that. And -- and --
14 and they're missing -- mixing apples with oranges and blurring
15 the line here.

16 When they took funding away from San Luis Rey Downs
17 it was not because of an ambiguous law. And he isn't -- like
18 he said, maybe he didn't look deep enough into this, but that
19 we are covered by the law and we have been and precedence has
20 been set for the last, what, 20-something years? So that's not
21 why they cut us off.

22 CHAIR BRACKPOOL: Okay.

23 MS. ROSIER: And -- and don't let them use that as an
24 excuse for keeping us from being funded. And in the meantime,
25 since March 16th --

1 VICE CHAIR ISRAEL: I think the Compensation
2 Government Claims Board denied your claim, too.

3 MS. ROSIER: That just means that we can now go to
4 court and litigate.

5 But as of March 16th we've continued to contribute to
6 the fund and do our part, knowing that SCOTWINC would correct
7 itself and that the right thing would then be done. When the
8 opportunity --

9 VICE CHAIR ISRAEL: How did you know this? That's
10 what I'm confused about.

11 MS. ROSIER: Because I believe. I believe in
12 California. I believe in the industry. I was watching the
13 paperwork showing that they would correct themselves when they,
14 you know, cut off the extra spending that was being done.

15 And when in August they were deciding to fund
16 Fairplex and San Luis Rey Downs to cover the extra horses that
17 wouldn't be able to stable at Santa Anita the word was that we
18 were going to get equally subsidized, and that was going to be
19 very helpful with us.

20 VICE CHAIR ISRAEL: Word from -- wait. What?

21 MS. ROSIER: Word from the --

22 VICE CHAIR ISRAEL: Whom?

23 MS. ROSIER: -- the industry --

24 VICE CHAIR ISRAEL: Well, what --

25 MS. ROSIER: -- leaks out.

1 VICE CHAIR ISRAEL: Word comes from an individual who
2 speaks.

3 MS. ROSIER: I -- and I guess it's neither here nor
4 there. The point is Fairplex as subsidized. They were not
5 only fully subsidized and we were given nothing, but they were
6 subsidized during the racing meet, which is against the law.
7 That is against the law.

8 COMMISSIONER ROSENBERG: Item 11 that was enclosed in
9 the package answers a lot of your questions, Commissioner
10 Israel.

11 VICE CHAIR ISRAEL: Yeah. I know, but I wanted this
12 on the record.

13 COMMISSIONER ROSENBERG: Okay.

14 CHAIR BRACKPOOL: The -- the -- Guy, your testimony
15 was long and longwinded.

16 MR. LAMOTHE: Right.

17 CHAIR BRACKPOOL: In summary, what is TOC's position
18 on this? And -- well, let me hear your position first and then
19 I'll ask the second question.

20 MR. LAMOTHE: The -- the Stabling and Vanning
21 Committee position is that economic decisions were made in
22 light of the horse population to reduce funding that was
23 subsidizing a bunch of empty stalls at these off-site
24 facilities. Fairplex and San Luis Rey Downs were cut off.
25 Okay. That's why we're riding this ship.

1 CHAIR BRACKPOOL: And if -- and if it went away you
2 don't think it would be detrimental to Southern California
3 Horse Racing?

4 MR. LAMOTHE: That is a larger issue. It's a
5 fabulous facility. There's no -- I will stipulate that. Okay.
6 But do we -- we can't spend -- continue to spend money that
7 isn't there and the horse population isn't there. It's as
8 simple as that. The Fairplex situation was a one-time event
9 due to the -- the track surface issue, and they were running
10 their meet anyway. And it made sense to continue the off-site
11 stabling at that facility rather than constant movement, and
12 that was determined unanimously by the committee. And also
13 present there were the trainers who had some input in the
14 process.

15 CHAIR BRACKPOOL: Commissioner Harris, you've had a
16 lot of history on this -- on this issue. Do you want to give
17 us some counsel?

18 COMMISSIONER HARRIS: Well, it is a tough issue, Guy.
19 Everybody wants to see San Luis remain open. But I -- I'm
20 just -- I don't know if it's economically viable. And I really
21 think the overall off-site stabling deal may be out of date now
22 anyway. I think it may have to go to each -- each track has
23 their own stable area and that will be adequate for the amount
24 of inventory we have.

25 COMMISSIONER ROSENBERG: What happens when Hollywood

1 closes, though, Commissioner Harris?

2 COMMISSIONER HARRIS: Well, that -- that's the issue.
3 You wouldn't even stay -- you wouldn't -- I mean, either if
4 Hollywood is open you either stable here or -- or at Hollywood.
5 And then it just depends on how much of that horse inventory
6 we've got. I mean, originally when a lot of these came about
7 there was a lot more horses in training in California than
8 there are right now. But -- and the other factor, the farms
9 which compete somewhat with San Luis Rey or Fairplex or
10 wherever, getting horses ready --

11 MS. ROSIER: Everyone.

12 COMMISSIONER HARRIS: What?

13 MS. ROSIER: We're competing with everyone. Because
14 the racing secretaries themselves stated that 800 to 1,000 of
15 the horses at Hollywood and Santa Anita are not actively
16 training to race for that particular meet.

17 COMMISSIONER HARRIS: Yeah. Well, that's part of the
18 problem. We've --

19 MS. ROSIER: That's -- that's the problem, because we
20 have horses that are running. You see it in the form, we're
21 running. We're running races. We're doing the job. And our
22 horses aren't subsidized. But you have these horses that
23 should be on farms and helping -- some of you have farms --
24 should be on the farms, and instead they're taking the money
25 that should go to our horsemen. There isn't a money problem.

1 There's a problem with the way that this is being divided up.

2 VICE CHAIR ISRAEL: No. I -- look, I agree with you
3 that horses that are laid up probably should be turned out
4 for --

5 MS. ROSIER: They should be.

6 VICE CHAIR ISRAEL: -- for a period of time.

7 MS. ROSIER: Yeah.

8 VICE CHAIR ISRAEL: But there is a money problem.

9 MS. ROSIER: But -- but --

10 VICE CHAIR ISRAEL: Racing is --

11 MS. ROSIER: Oh, I understand that.

12 VICE CHAIR ISRAEL: -- in dire financial straits.

13 MS. ROSIER: And nobody knows that --

14 VICE CHAIR ISRAEL: Okay.

15 MS. ROSIER: -- more than us because we're running
16 the place on a shoestring. We've cut the staff I half. We've
17 come up with ways to save money that we'll share with any race
18 track. We'll be glad to show you our secrets.

19 But the problem isn't the money. There's empty
20 stalls at the race tracks too. Why are we paying full subsidy
21 to empty stalls and to horses that aren't supposed to be there
22 and we're not subsidizing horses that are bringing in the
23 money.

24 CHAIR BRACKPOOL: Okay.

25 MS. ROSIER: It's not fair.

1 CHAIR BRACKPOOL: Let's --

2 MS. ROSIER: It's not equitable.

3 CHAIR BRACKPOOL: Let's --

4 MS. ROSIER: It's not right.

5 CHAIR BRACKPOOL: Let's -- we have some speakers.

6 Commissioner Rosenberg, do you have something to say
7 before I go to the speakers?

8 COMMISSIONER ROSENBERG: I just wanted to -- a
9 comment, that in addition to not being compensated they're also
10 paying money when these -- and there are a lot of horses that
11 race.

12 What are the number of horses that started in 2009
13 from San Luis Rey Downs?

14 MS. ROSIER: Well, our data in here is from 2008
15 because it's data that we've produced and that SCOTWINC and TOC
16 agreed with. And that's what's difficult for us to understand,
17 how TOC --

18 CHAIR BRACKPOOL: Okay. But -- but while you look
19 for that information -- or it's not really -- because it's from
20 2008 it's even that important.

21 MS. ROSIER: We ran twice --

22 CHAIR BRACKPOOL: Look, I --

23 MS. ROSIER: -- as many horses per --

24 CHAIR BRACKPOOL: I --

25 MS. ROSIER: -- per start --

1 CHAIR BRACKPOOL: I have --

2 MS. ROSIER: -- there than --

3 CHAIR BRACKPOOL: I have to say that I think one of
4 the points you've made that I think is a really good -- a
5 really good point is that, you know, if a horse is actually
6 racing and contributing -- so I don't know. Maybe there's
7 something where there's a credit that goes for every horse that
8 actually races or something. I mean, that to me has -- has --

9 MS. ROSIER: That's something that we were --

10 CHAIR BRACKPOOL: -- has a degree --

11 MS. ROSIER: -- awarded in the past.

12 CHAIR BRACKPOOL: -- of logic to it.

13 COMMISSIONER HARRIS: I think there might be some
14 system, just kind of a --

15 CHAIR BRACKPOOL: I mean, we need to be doing
16 everything we can to encourage horses to race. And so --

17 COMMISSIONER ROSENBERG: And she's -- and she's
18 correct when she said it's a redistribution. We're not asking
19 for money to come --

20 CHAIR BRACKPOOL: Yeah.

21 COMMISSIONER ROSENBERG: It would be a distribution
22 of the money that's going out right now.

23 CHAIR BRACKPOOL: Yeah. I don't know how many
24 horses, you know, knowing what the difference is between
25 keeping the horse here as opposed to sending it to the farm, I

1 don't know how many horses are in training that really
2 shouldn't be in training. Because it is expensive to keep them
3 there.

4 MS. ROSIER: I have the data. I have it.

5 COMMISSIONER ROSENBERG: Yeah. But --

6 CHAIR BRACKPOOL: Well, but -- but --

7 COMMISSIONER ROSENBERG: But it's hard to quantify.

8 CHAIR BRACKPOOL: It's hard to quantify. But I --

9 MS. ROSIER: But the racing secretary said --

10 CHAIR BRACKPOOL: I'm certainly -- I'm certainly
11 sympathetic to the notion that there should be, you know, there
12 should be some -- some benefit to the fact that you're getting
13 horses --

14 MS. ROSIER: Thank you.

15 CHAIR BRACKPOOL: -- into races.

16 MS. ROSIER: Yeah.

17 CHAIR BRACKPOOL: And that could be noticed. And I
18 think just -- just sort of blindly saying any horse that's down
19 there doesn't count and every horse that's up here -- that does
20 seem to be somewhat inequitable.

21 COMMISSIONER HARRIS: Yeah. The original concepts in
22 California is that the -- the tracks pay for the stabling, I
23 mean, on-track, and that was all there was. And, I mean, in
24 the old days people, you know, if Hollywood was closed then
25 you'd go to Santa Anita and you'd back and forth. But now

1 we've gotten into this mode that things are year-round.

2 CHAIR BRACKPOOL: Yeah.

3 COMMISSIONER HARRIS: But maybe we can't afford it
4 anymore. So like you got to sell the vacation home. We got
5 to --

6 CHAIR BRACKPOOL: I'm just saying, I mean --

7 COMMISSIONER HARRIS: -- consolidate.

8 CHAIR BRACKPOOL: -- I think there's something there.

9 But let's -- we've got some speakers. Let's give the
10 speakers a chance. And I apologize if I don't get the names
11 completely correct. Ina Hajek. Did I get it close?

12 MS. HAJEK: Close enough.

13 CHAIR BRACKPOOL: Okay.

14 MS. HAJEK: I'm a trainer at San Luis Rey Downs.

15 VICE CHAIR ISRAEL: Move the microphone down lower.

16 MS. HAJEK: Okay.

17 VICE CHAIR ISRAEL: Or up to where your mouth is.

18 MS. HAJEK: The fact is Hollywood, which intends to
19 close, has told us it intends to close, right now is getting
20 \$18,000 a day to stay open. That amount has not been audited.
21 They will not let us know where -- where that amount comes
22 from.

23 Out of that we could get \$2,000 a day and stay open.
24 But that amount for that fund has gone up incrementally and no
25 one audits it and we can't -- we've asked for an audit. They

1 won't give us an audit. They won't -- they won't tell us
2 where -- how they've decided to -- to make those payments to
3 the track. There is more than enough money there to help us
4 stay open.

5 I have brought about six new owners into the business
6 who have spent a half a million dollars on horses. I got to
7 Kentucky trying to promote racing in California. We're paying
8 a stall rate to try and maintain this facility, which is a top
9 rate facility. It's good for horse racing. It's good for
10 owners. It's good for horses.

11 The amount of trainers that -- that live there that
12 have staff, riders, workers, they live there, they have homes
13 there, their children go to school there, we can not just close
14 San Luis Rey and move us. We would be out of not only a job
15 but a livelihood.

16 CHAIR BRACKPOOL: Yeah.

17 MS. HAJEK: If there was no -- if there wasn't that
18 much money going to Hollywood I can understand there was the
19 money. But there -- that is a significant amount of money that
20 has to be able to be divided up better than it is.

21 CHAIR BRACKPOOL: Thank you. Thank you very much.
22 Sam Scolamieri?

23 MR. SCOLAMIERI: That's my remark.

24 CHAIR BRACKPOOL: That's your remark, the same? You
25 echo that. Thank you very much. Jerry Jamgotchian?

1 MR. JAMGOTCHIAN: Chairman Brackpool and Members of
2 the CHRB, you know, I'm a little confused. As an owner who no
3 longer races in California, I thought the takeout increase was
4 to bring horses to the state, and the goal was to keep horses
5 here. Well, in this particular case, and I think this lady
6 just brought it up, if and when Hollywood Park closes you're
7 going to be down 2,000 stalls. I believe in just looking
8 quickly at the package, San Luis Rey Downs has 2,000 stalls or
9 approximately. I don't know how -- how many horses they have.

10 VICE CHAIR ISRAEL: Five hundred, Jerry.

11 MR. JAMGOTCHIAN: I'm sorry?

12 VICE CHAIR ISRAEL: Five hundred stalls.

13 MR. JAMGOTCHIAN: Five hundred stalls. Okay. I was
14 wrong.

15 MS. ROSIER: We did put up more.

16 MR. JAMGOTCHIAN: Okay. Well, they have -- they have
17 stalls.

18 It's interesting to me that the TOC is attempting to
19 eliminate horses from racing in the state by attempting to
20 close this facility. You would think that they'd be trying to
21 make a deal to keep the horses here and keep the stall space
22 available, especially when they need stall space when Hollywood
23 Park closes. I don't know. It seems like an insignificant
24 subsidy when Hollywood Park is getting \$18,000 a day.

25 But maybe the -- the thought process here should be

1 to redo the system and base it on starters and not stalls.
2 Because if you guys are actually intent on bringing owners back
3 to California it's going to -- you're going to have to have a
4 space for our horses. So if you don't have stall space,
5 obviously the horses aren't going to come back.

6 So I think the bigger issue here, from my
7 perspective, is if the TOC is not supporting the owners
8 bringing horses to the state and wants to close a major
9 stabling facility in San Diego County which -- which fuels the
10 horses population at Del Mar, it seems to me that that's going
11 to be contrary to the Del Mar meet.

12 But once again, I'm wondering how the TOC is against
13 this. In fact, when Guy wants to enforce the law against this
14 entity maybe Guy ought to consider enforcing the law and return
15 the \$1,167,000 --

16 CHAIR BRACKPOOL: Okay. Thank you.

17 MR. JAMGOTCHIAN: -- back.

18 CHAIR BRACKPOOL: Thank you.

19 MR. JAMGOTCHIAN: Thank you.

20 CHAIR BRACKPOOL: You were on point up until then.

21 Thank you.

22 MS. ROSIER: Can I mention something else?

23 CHAIR BRACKPOOL: Quickly.

24 MS. ROSIER: Okay. TOC in their contract with
25 Hollywood Park states, "Stalls will not be made available to

1 horses that are not in condition to train and run at that
2 meet."

3 This isn't being done if we have 800 to 1,000 horses.

4 Also, our trainers received, after getting their
5 applications to Santa Anita, letters of approval to stable at
6 San Luis Rey Downs. Their horses must be approved according to
7 eligibility rules for Santa Anita. This is for us to stable at
8 San Luis Rey Downs, mind you. And to cut it short they ask
9 that all horsemen are encouraged to actively support the entry
10 box.

11 CHAIR BRACKPOOL: Thank you. Commissioner Choper?

12 COMMISSIONER CHOPER: Guy, have -- has this -- the
13 fund given any consideration to using a different criterion for
14 determining the allocation? That is to say it's been suggested
15 by several people that it's one thing to have, you know, have a
16 horse hanging around with a place to stay for nothing, and it's
17 another thing to use the space for horses that actually race.

18 So if -- I don't mean to delay the whole thing again,
19 but it does -- there is -- there is a ring of fairness to all
20 of this; right?

21 MR. LAMOTHE: That -- that's a --

22 COMMISSIONER CHOPER: You would admit that?

23 MR. LAMOTHE: That's a terrific question. And I
24 think the TOC has been on record nothing that the -- the
25 current model of subsidizing the way it is and not getting the

1 results that you want to start horses, you need to re-look at
2 that, and we've been chiming that for some time now, and we're
3 completely open. These things don't happen overnight. But if
4 we want to revise the model we'll sit down and base it on --
5 and look at basing it on starts. If -- if we're paying people
6 to hold horses that are not starting we're doing everybody a
7 disservice.

8 CHAIR BRACKPOOL: Exactly.

9 MR. LAMOTHE: And it's not a good --

10 CHAIR BRACKPOOL: Yeah.

11 MR. LAMOTHE: -- efficient use of money.

12 COMMISSIONER CHOPER: So I don't know -- I'm sorry.

13 MR. LAMOTHE: Please. I'm --

14 COMMISSIONER CHOPER: So I don't know whether we -- I
15 mean, we -- we've been given a legal opinion that says that,
16 you know, we don't have the authority, you said and over 20
17 years ago it was exercised and so forth. But maybe there are
18 some stats, right, as to how many horses from San Luis Rey
19 Downs have started, right, in -- in -- in California. We all
20 know, we look in a racing form and that's where they've been
21 working out and so forth and so on.

22 So maybe, at least as a temporary measure, the -- the
23 stabling and vanning fund could get some stats together and
24 advance them some and -- while you're looking into establishing
25 a new set of criteria for the award of the funds. Does that

1 make any sense to you?

2 MR. LAMOTHE: It makes all the sense in the world.
3 And I -- I would just note that it's not just a TOC thing.
4 This is an industry thing. And everybody needs to be involved
5 and recognize what's going on here. There are constituencies
6 out there that have a stake on -- as opposed to putting horses
7 out on the farm --

8 CHAIR BRACKPOOL: No. I --

9 MR. LAMOTHE: -- it's just more convenient --

10 CHAIR BRACKPOOL: I understand.

11 MR. LAMOTHE: -- to have them here.

12 CHAIR BRACKPOOL: Commissioner Rosenberg?

13 COMMISSIONER ROSENBERG: I'm not sure what kind of
14 action we can take today. And I'm -- I'm just curious when
15 does -- how often the SCOTWINC board meets and who -- who --
16 who makes up the SCOTWINC board?

17 MR. VARELA: The Stabling and Vanning Committee is
18 made up of the racing associations and the horsemen, TOC. TOC
19 acts as a chair in that. And we meet periodically.

20 COMMISSIONER ROSENBERG: So who -- how many members?

21 MR. VARELA: All the racing associations, Oak Tree,
22 Santa Anita, Hollywood.

23 CHAIR BRACKPOOL: Well, you don't need to describe
24 them.

25 COMMISSIONER ROSENBERG: When is the next meeting?

1 When is the next meeting?

2 MR. VARELA: We don't have one schedule.

3 COMMISSIONER ROSENBERG: Well, I suggest you have a
4 meeting and solve this problem, because it's unfair. To me
5 it's totally unfair to have people racing horses --

6 MS. ROSIER: Thank you.

7 COMMISSIONER ROSENBERG: -- racing horses up here,
8 paying into the -- into the fund and getting nothing out of it.

9 CHAIR BRACKPOOL: Well, it's an inequity for sure.

10 COMMISSIONER ROSENBERG: It's an inequity.

11 CHAIR BRACKPOOL: Well, let's try to think about --
12 go to Commissioner Rosenberg's point for the moment about what
13 we can actually do today that's realistic. Right.

14 I thought that Commissioner Choper's point was -- was
15 a very good one. So what I would like to see at a minimum,
16 maybe more, but at a minimum, at the January meeting I would
17 like you to -- we're going to put this item back on the agenda,
18 the January meeting. I would like you to come back with the
19 basic statistics of how many horses started from San Luis and
20 how many races and, you know, what that was pro rata compared
21 to those at Hollywood, those at Santa Anita, et cetera.

22 And hopefully you come to us at that meeting with a
23 suggestion that says this is the short-term fix for this for a
24 couple of months, and here's the group we've put together to
25 try and work this out. If not I guess the Board may or may not

1 take a different approach. But I'm trying to be helpful in how
2 we move forward here, because to me basing, it on starts has a
3 compelling logic. And I'm not hearing, apart from their other
4 vested interests which I don't really about, I'm not hearing
5 compelling logic on the other side.

6 MR. CAREY: And if I may -- Kevin Carey -- may we
7 also request that SCOTWINC provide the model they use. Now
8 it's supposed to be a 1986 model. There's a 95 percent
9 criteria based upon allocable stalls that were required to be
10 offsite in 1996. And Mr. Harris is correct.

11 MS. ROSIER: 1986.

12 MR. CAREY: 1986. The need for off-site stabling was
13 much greater then than it is now. And maybe Hollywood can
14 maintain enough stalls to accommodate the entire meet. But we
15 don't know what the model is that SCOTWINC is using. And that
16 would certainly be helpful in our analysis if that were
17 requested, as well.

18 CHAIR BRACKPOOL: All right. And the only thing I
19 would encourage is to save the audience time, to a lesser
20 extent the Board's time, I don't want you all hearing each
21 other's position for the first time at the January 20th
22 meeting. Can you please meet prior to and see what you can do.
23 We should not be --

24 MS. ROSIER: No.

25 CHAIR BRACKPOOL: -- the first court that --

1 MS. ROSIER: We asked to meet.

2 CHAIR BRACKPOOL: -- that you --

3 MS. ROSIER: We asked to meet --

4 MS. HOWARD: That's right.

5 MS. ROSIER: -- with them back in, I believe the end
6 of October, beginning of November.

7 CHAIR BRACKPOOL: All right. Well, they're going to
8 meet with you now.

9 MS. ROSIER: I have a question about the data that
10 you need. Are you asking SCOTWINC to provide you with data,
11 and is it for like 2009?

12 CHAIR BRACKPOOL: Well, you should do 2008, 2009. It
13 would be a useful --

14 MS. ROSIER: 2008 is --

15 CHAIR BRACKPOOL: -- comparison.

16 MS. ROSIER: -- completed.

17 CHAIR BRACKPOOL: Okay.

18 MS. ROSIER: But I don't --

19 CHAIR BRACKPOOL: Well, you'll work it out.

20 COMMISSIONER CHOPER: I would say even before the
21 January meeting if you could get -- if you could get the data
22 over to the vaning committee and the vaning committee could
23 sit down -- Stabling and Vanning Committee could sit down, and
24 maybe -- maybe you'll come back with a recommendation.

25 I would say the data should involve horses starting

1 from any time that you haven't been paid. That's a simple -- I
2 guess. Maybe I'm --

3 MS. ROSIER: Yeah. I --

4 COMMISSIONER CHOPER: Maybe I'm missing something.

5 MS. ROSIER: The reason why I was asking for 2009
6 data, and if TOC is going to put it together, is because we did
7 it and it cost us --

8 CHAIR BRACKPOOL: All right.

9 COMMISSIONER CHOPER: Well, check with TOC.

10 CHAIR BRACKPOOL: I think you've got the direction of
11 the Board. Thank you very much.

12 MR. CAREY: Thank you for your time.

13 CHAIR BRACKPOOL: Thank you.

14 MR. SEMKIN: Can I make one point?

15 CHAIR BRACKPOOL: Well, I don't have a speaker card
16 for you. So we -- we --

17 VICE CHAIR ISRAEL: Just get one next time.

18 MR. SEMKIN: It only takes a second.

19 CHAIR BRACKPOOL: Well, this is not how we do the
20 meetings, because if we do this in meetings they go on for
21 seven hours. If you'd state your name and address the record,
22 and next time a speaker card.

23 MR. SEMKIN: Sam Semkin, Trainer, San Luis Rey Downs,
24 also President of the San Luis Rey Downs Horsemen's
25 Organization.

1 I run quite a few horses out of San Luis Rey Downs.
2 But my main business is basically a feeder trainer for trainers
3 here at Hollywood Park. And the majority of the horses that I
4 send up, within 30 days they start and contribute to the
5 program.

6 CHAIR BRACKPOOL: But, sir, well, that's something
7 you should make your argument about because --

8 MR. SEMKIN: All right. Well, I'm just trying to
9 point out --

10 CHAIR BRACKPOOL: -- there's a lot of ways for that.

11 MR. SEMKIN: -- it shouldn't just be the starters.

12 CHAIR BRACKPOOL: I wasn't telling you how to do --

13 COMMISSIONER HARRIS: Well, that is -- that is --
14 that is a good point, it's more than just starters, it's sort
15 of the whole feeder.

16 CHAIR BRACKPOOL: I agree.

17 MR. SEMKIN: Thank you. Well, one last point.
18 Hollywood Park has been audited, those numbers.

19 CHAIR BRACKPOOL: Okay. Good. Thank you. All
20 right, that item is over

21 Moving on, thank you, the last item, number 12,
22 discussion and action by the Board regarding a report and
23 update from the Commerce Club Mini-Satellite Wagering Facility
24 regarding its future plans for the facility.

25 MR. BLONIEN: Good morning, Mr. Chairman and Members,

1 Rod Blonien representing the Commerce Casino.

2 As I think you all know, about a year-and-a-half ago
3 Commerce started the very first mini-satellite facility in
4 California. We started in one room. It's maybe about half the
5 size of this --

6 CHAIR BRACKPOOL: May I have quiet in the room
7 please. Somebody is still presenting.

8 MR. BLONIEN: -- about half the size of this room.
9 We outgrew that room. We added a second room. We are now
10 outgrowing the second room. And the Commerce Club is using the
11 second room off and on for a comedy club and other events.

12 And what we have proposed to the industry is taking
13 an adjacent building, remodeling, rehabbing the building and
14 creating approximately 10,000 square feet that would become a
15 mini-satellite. And we have taken stakeholders in the industry
16 to look at the building. We've had some artist's renderings of
17 what the building will look like after it's finished. The
18 Commerce Club is willing to spend over \$1 million to rehab this
19 area.

20 The building faces I-5. We're going to increase
21 the depth of the front of the building so we can put huge
22 signage on informing people that satellite wagering is
23 available there.

24 We'll come forward in January and seek to have our
25 license extended. We only get a license for two years. And

1 we'll seek to get our license extended. And at that point if
2 the -- if the Board is in agreement we will begin the rehab and
3 the construction that's necessary to make that facility
4 available. We'll have food service and a bar at the facility
5 and, in addition, a smoking patio. And I just wanted you to be
6 aware of that.

7 CHAIR BRACKPOOL: That will be in front of us in --
8 in January?

9 MR. BLONIEN: Yes, sir.

10 COMMISSIONER CHOPER: Can you market this idea a
11 little bit? I'm serious. I mean, we -- here we have -- this
12 is great. You know, we have so few success stories.

13 MR. BLONIEN: Yeah. Our -- the biggest day we
14 handled 165,000. And Tom Varela, correct me if I'm wrong, but
15 I think they're averaging over 80,000 a day. And, you know,
16 when there's a big carry over we have more people. And Pacific
17 Classic, for example, we're very busy, and -- and the big days
18 in racing we just can not begin to accommodate the people that
19 want to come.

20 CHAIR BRACKPOOL: Commissioner Moss, did you have
21 anything?

22 COMMISSIONER MOSS: No. I'm just happy to hear the
23 news. That's all. Thank you.

24 CHAIR BRACKPOOL: I always like to end --

25 COMMISSIONER MOSS: I always like to hear that. I'd

1 like to hear more of it, that's all.

2 CHAIR BRACKPOOL: We like to end on an up item.

3 COMMISSIONER MOSS: Yeah.

4 CHAIR BRACKPOOL: With that we're going to adjourn
5 the public part of the meeting and go into a closed session and
6 come back and adjourn completely.

7 (Thereupon the California Horse Racing Board
8 Regular Meeting went into a Closed Session
9 at 1:29 p.m., then was adjourned.)

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TRANSCRIBER'S CERTIFICATE

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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