

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of: )  
 )  
Regular Meeting )  
 )  
\_\_\_\_\_ )

HOLLYWOOD PARK RACE TRACK

3883 CENTURY BOULEVARD

SUNSET ROOM

INGLEWOOD, CALIFORNIA

THURSDAY, APRIL 28, 2011

9:41 A.M.

Reported by:  
Mark J. Goena

APPEARANCES

COMMISSIONERS

Keith Brackpool, Chairperson

David Israel, Vice Chairperson

Richard Rosenberg, Commissioner

Jerry Moss, Commissioner

John C. Harris, Commissioner

Bo Derek, Commissioner

Jesse Choper, Commissioner

STAFF

Kirk E. Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

Dr. Rick Arthur, Equine Medical Director

PRESENTERS

Dr. Sue Stover, University of California, Davis

Diane Grealish, Hollywood Park Racing Association

George Ortuzar, Hollywood Park

Brad Blackwell, Twinpires

Rohit Thukral, Twinpires

Jeremy Clemons, Twinpires

Mike Cody, Twinpires

APPEARANCES (CONT.)

ALSO PRESENT

Michael Wellman

Richard Castro, Local 280

Steve Gressett

David Wilson, CTHA

Jack Owens, TOC

Pablo Suarez, TOC

Alan Balch, CTT

Darrell Vienna

Rod Blonien, Los Alamitos

Scott Stanley, U.C. Davis

Madeline Auerbach, TOC

John Sadler, CTT

John Barr, Jockey Club Safety Committee

Tom Sawyer, San Joaquin County Fair

Larry Swartzlander, California Authority of Racing Affairs

Chris Korby, San Joaquin County Fair

Mace Siegel

Jack Liebau, Hollywood Park

Greg Avioli, Magna Racing

Scott Daruty, MI Developments

Richard Castro, Local 280

INDEX

PAGE

Action Items:

1. Approval of the minutes of the meeting of March 14, 2011. 9
2. Public comment: Communications, reports, requests for future actions of the Board. Note: Persons addressing the Board under this item will be restricted to three (3) minutes for their presentations. 9
3. Public hearing and action by the Board regarding the proposed addition of CHRB Rule 1844.1, Suspension of Authorized Medication, to allow the Board to suspend the authorization for any authorized medication after notification at a properly noticed public hearing. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.) 21
4. Public hearing and action by the Board regarding the proposed amendment of CHRB Rule 1876, Financial Responsibility, to add financial responsibility complaints from equine medical hospitals; services by horse farms that are related to horse racing where the debt exceeds \$1,000.00; horse auction sales; and wage disputes between licensees. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.) 48
5. Public hearing and action by the Board regarding the Proposed amendment of CHRB Rule 1974, Wagering Interest, to 1) provide that a horse is removed from the wagering pool in error shall run as a non-wagering interest for purse only, and the following affected regulations, CHRB Rule 1954.1, Parlay Wagering on Win, Place or Show; 1957, Daily Double; 1959, Special Quinella (Exacta); 1976, Unlimited Sweepstakes; 1976.8, Place Pick (n); 1976.9, Pick (n) Pool; 1977, Pick Three; 1978, Select Four; 1979, Trifecta; and 1979.1, Superfecta, 2) and the proposed amendment of CHRB Rule 1606, Coupling of Horses, to repeal the provision that requires two or more horses to be coupled as a single wagering interest when such horses are owned in whole or in part by the same person or persons, and to provide that the racing association inform the public when two or more horses entered in the same race are owned in whole or in part by the same person or persons, or are trained by the same trainer. (Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.) 50

INDEX

	<u>PAGE</u>
<u>Action Items:</u>	
6. Discussion and action by the Board regarding the Report and recommendations from the Medication and Track Safety Committee.	52
7. Discussion and action by the Board regarding the amendment of CHRB Rule 1658, Vesting of Title to Claimed Horse, to void a claim; 1) if a claimed horse suffers a fatality during the running of the race or before it is returned to be unsaddled; 2) if the claimant requests that claim be voided if the horse is placed on the veterinarian's list as unsound or lame as a result of the running of a race.	55
8. Discussion and action by the Board regarding the proposed amendment of CHRB Rule 1843.3, Penalties for Medication Violations, to 1) change the penalty for violations due to the overage for the permitted non-steroidal anti-inflammatory drug substance (NSAID), phenylbutazone, as defined in Rule 1844(c)(1), and for drug substances in an official test sample, which CHRB categorizes as warranting a Category D penalty; and 2) to change the allowable level of flunixin in an official test sample from 50 nanograms to 20 nanograms per milliliter of blood plasma or serum.	76
9. Discussion and action by the Board regarding the proposed amendment of CHRB Rule 1946.5, Postmortem Examination, to require the preceding six months of veterinary records be submitted within 48 hours after submission of the Necropsy Submission Form.	86
10. Discussion and action by the Board regarding a report and update by the University of California, Davis and the CHRB regarding the joint proposal for a racetrack safety program for equine welfare and injury prevention by the J.D. Wheat Veterinary Orthopedic Research Laboratory and the California Animal Health and Food Safety Laboratory System in concert with the CHRB Postmortem Program.	93
11. Discussion and action by the Board regarding the CHRB's participation in the Racing Commissioners International (RCI) five year plan for the elimination of drugs and medication in horse racing.	109

INDEX

PAGE

Action Items:

- |     |   |     |
|-----|---|-----|
| 12. | Discussion and action by the Board on the Application to Conduct a Horse Racing Meeting of the San Joaquin County Fair (F), at Stockton, commencing June 15, 2011 through June 19, 2011, inclusive.   | 119 |
| 13. | Discussion and action by the Board on the Application to Conduct a Horse Racing Meeting of the Alameda County Fair (F), at Pleasanton, commencing June 22, 2011 through July 10, 2011, inclusive.   | 132 |
| 14. | Discussion and action by the Board on the Application for License to Operate a Minisatellite Wagering Facility by the Monterey County Fair at the Banker's Casino, Salinas, for a period of up to but not exceeding two years.  | 140 |
| 15. | Discussion and action by the Board regarding a presentation by Hollywood Park Racing Association regarding its introduction of the Hollywood Park "New Comers' Initiative Program."   | 142 |
| 16. | Discussion and action by the Board to ratify the action of the Executive Committee and the Executive Director, consenting to the reduced take-out Pick 5 wager requested by Hollywood Park Racing Association, with the agreement of the Thoroughbred Owners of California, pursuant to Business and Professions Code section 19601.01. | 147 |
| 17. | Discussion and action by the Board regarding a report from Churchill Downs Technology Initiatives Company, dba Twinspires.com, concerning its California operation, including its promotion plans for horseracing in California.  | 150 |
| 18. | Discussion and action by the Board regarding the presentation from MI Developments (MID) on the proposed transfer of MID's horse racing assets to a new entity controlled by Frank Stronach.  | 177 |
| 19. | Discussion and action by the Board on the approval of the contract for racetrack soil testing services.   | 196 |

Action Items:

20. Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personal matters, as authorized by section 11126 of the Government Code. 207
- A. The Board may convene a Closed Session to confer with and receive advice from counsel, considering pending litigation described in the attachment to the agenda captioned "Pending Litigation," as authorized by Government Code section 11126(e).
- B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ARCADIA, CALIFORNIA, APRIL 28, 2011

PROCEEDINGS BEGIN AT 9:41 A.M.

(The meeting was called to order at 9:41 A.M.)

EXECUTIVE DIRECTOR BREED: Ladies and gentlemen, this is the regular meeting of the California Horse Racing Board held Thursday, April 28th, 2011, commencing at 9:30 a.m. in the Sunset Room at the Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California.

The audio portion only of the California Horse Racing Board Regular meeting will be available online. I would ask everyone to -- on the Board and those -- those people who are making testimony to please identify yourself for our internet audience, and also for the court reporter.

Today I will dispense with the regular monologue that goes before these meetings having to do with public comments because it's not in my book so I can't read it.

But in order to -- in order to -- for the record, public -- during the public comment period of time you will have three minutes for your comment. That will be timed. At the end of that comment I will notify you. So thank you very much, and I'll turn the meeting over to the Chairman.

Mr. Chairman?

CHAIRMAN BRACKPOOL: Good morning, everybody. Good morning, Commissioners. We have a full agenda today, so let's -- let's get right -- right to it.

1           We begin by thanking Hollywood Park for their  
2 courtesy in allowing us to hold the -- the meeting here at a  
3 convenient location.

4           Item number one, approval of the minutes. Do I have  
5 any comments on the minutes from any other Commissioners? Do I  
6 have a motion to approve?

7           COMMISSIONER ROSENBERG: So moved.

8           CHAIRMAN BRACKPOOL: Commissioner Rosenberg moves.  
9 Do I have a second?

10          COMMISSIONER MOSS: Second.

11          CHAIRMAN BRACKPOOL: Commissioner Moss seconds. All  
12 in favor?

13          ALL COMMISSIONERS: Aye.

14          CHAIRMAN BRACKPOOL: The minutes are approved.

15          Moving right on to item number two, public comment, I  
16 have several public speakers. As I say, there is a three  
17 minute limit. And because of the length of this agenda, as  
18 always we will strictly adhere to that three minute limit.

19          So let me start with the first speaker, Michael  
20 Wellman.

21          MR. WELLMAN: Good morning Chairman Brackpool,  
22 Director Breed, and Commissioners -- Michael Wellman. There are  
23 a number of topics I'd like to address here today, however with  
24 the three minute limit I will just focus on the 18<sup>th</sup> agenda item  
25 regarding the new Frank Stronach entity, which I understand

1 will be responsible for the future operations of XpressBet,  
2 Golden Gate Fields, the dates previously given to Oak Tree,  
3 and, of course, Santa Anita. For me, I can only hope that the  
4 Board recognizes that there needs to be ironclad assurances and  
5 a long term commitment in place for anyone that would be  
6 responsible for this magnitude of racing operations in  
7 California.

8 I expect Mr. Stronach's new group to have the best of  
9 intentions and wishes for success, but we need more than  
10 promises and best wishes. We should not rely on trust me. Up  
11 front I imagine they will show the deep pockets and the  
12 financial wherewithal in place. But what might happen if he,  
13 Mr. Stronach, or the controlling interests in the new entity  
14 decides one day they made a mistake and no longer intend to  
15 operate? What if they decide to pull the plug? What if they  
16 pack up their bags?

17 If you would have told me a year ago, or for that  
18 matter even a month ago, that the Los Angeles Dodgers would be  
19 unable to meet payroll, I wouldn't have believed it. It's hard  
20 to imagine. The difference here is our industry doesn't have a  
21 safety net like Major League Baseball. Who can we look to, to  
22 bail us out? Again, I'm sure the new Stronach Group is in it  
23 for the long term, but stuff happens. Oops.

24 The CHRB is our governing body. I'm asking you to  
25 please not just rubberstamp their request here today for

1 licensing. Under the current such circumstances it looks like  
2 we need them much more than they probably need us, but we need  
3 to be careful. It's not what they say or promise today. We  
4 need to understand what potentially could be a worst-case  
5 scenario, and many times we don't consider that.

6 I'm sure that the Stronach Group will be protected.  
7 I just want to make sure that we have all our I's dotted and  
8 T's crossed protecting our industry. Thank you.

9 CHAIRMAN BRACKPOOL: Thank you. Congratulations on  
10 your win on Saturday.

11 Mr. WELLMAN: Thank you

12 CHAIRMAN BRACKPOOL: Second speaker, Richard Castro.

13 MR. CASTRO: Not here?

14 CHAIRMAN BRACKPOOL: There's one other speaker.

15 MR. CASTRO: He's with me.

16 CHAIRMAN BRACKPOOL: Stand up.

17 MR. CASTRO: Commissioner, Chairman, my name is  
18 Richard Castro, representing Pari-mutuel Employees Guild, Local  
19 280. I would like to request that you put an item on the next  
20 agenda for unfunded liability. I'm referring to -- for the  
21 pension. I'm referring to Oak Tree, Solano County Fair,  
22 Vallejo, San Mateo Fair, but I'm primarily concerned with Oak  
23 Tree.

24 COMMISSIONER HARRIS: Just to interject; is there  
25 some state or federal agency that oversees pension liabilities?

1 Maybe we could get --

2 MR. MILLER: Robert Miller, Counsel of the California  
3 Horse Racing Board. There is a federal agency, the name of  
4 which escapes me at the moment, having to do with -- with  
5 pension overseeing. It's part of the U.S. Department of Labor.  
6 I can look into the matter for the Commissioner.

7 CHAIRMAN BRACKPOOL: UBIC (phonetic), I believe.

8 COMMISSIONER HARRIS: Yeah. Because I think Mr.  
9 Castro's point is valid. But I don't know if we're the agency  
10 that really has to address it.

11 MR. CASTRO: I'm here with Steve Gressett who would  
12 love to address it. That's G-r-e-s-s-e-t-t.

13 MR. GRESSETT: Commissioners, our concern is when --  
14 with Oak Tree is that when you rewarded the dates to Santa  
15 Anita Oak Tree no longer, for all practical purpose exist. And  
16 even though you told Oak Tree that they could reapply on those  
17 dates, our concern is that you're going -- to trigger a pension  
18 withdrawal liability upon Oak Tree. And that is our concern.  
19 All right.

20 So we're here to protect our pensions. We don't feel  
21 it's just our Local. It may be other Locals. And it may be  
22 even the employers' pension plans. And we're -- we're trying  
23 to avoid what might turn into a cascading effect. If -- if Oak  
24 Tree is unable to fund those withdrawal liabilities, okay, then  
25 the other employers within the state, because it's a multi-

1 employer plan, would be obligated to -- to fill -- pick up Oak  
2 Tree's portion.

3 CHAIRMAN BRACKPOOL: This is a public comment period,  
4 so I'm not going to get in a debate with you. But Oak Tree  
5 does still exist. It's in full force. And you need, first of  
6 all, to take this matter up with Oak Tree, and then come back  
7 to the Board.

8 Do we have any other points on this?

9 MR. CASTRO: There's still the issue of the Solano  
10 County Fair, Vallejo.

11 CHAIRMAN BRACKPOOL: Thank you, Richard. Okay.

12 Next speaker I have is David Wilson, President of  
13 CTHA.

14 MR. WILSON: Good morning. Chairman Brackpool,  
15 Honorable Members, thank you for your time this morning. My  
16 name is David Wilson. I'm the president of the CTHA. At this  
17 time if -- I'd like to introduce my fellow board members, Owner  
18 J.F. Ernenwein, Owner John Sadler, Aase Headley, Owner Cory  
19 Wellman and Owner and Former CHRB Chairman Roger Licht.

20 As I said, my name is David Wilson. I grew up on a  
21 farm in Iowa where we raised and boarded quarter horses. My  
22 great-grandfather Ramsey Wilson owned and operated a harness  
23 track that's now a golf course. My grandfather was an  
24 accomplished horseman and my father was a rodeo cowboy who team  
25 roped well into his 70s and still lives on our working ranch in

1 Arizona where we breed, break, train and lay-up thoroughbreds.

2           When I left the farm for college I was happy to be  
3 done with horses. Much more of a car man. I own 16 automobile  
4 dealerships in Southern California and Arizona, employee about  
5 2,000 people. And before the recession our business did about  
6 \$2 billion in annual sales.

7           But after I moved to California in the early 1980s, I  
8 enjoyed going to the races at Santa Anita, Del Mar and  
9 Hollywood Park, and became enthused about thoroughbred  
10 ownership. I was introduced to my current trainer, Vladimir  
11 Cerin in 1994, and subsequently became partners with Mr. Alan  
12 Landsburg in six thoroughbred race horses.

13           Since that time my wife Holly and I have raced mostly  
14 without partners and have won more than 400 races. We have won  
15 multiple Grade 1s, Grade 2s, Grade 3s, in many state races.  
16 We've had multiple runners in the Breeders' Cup. We were the  
17 meets leading owner here at Hollywood Park in 2002. Right now  
18 we currently have four yearlings, 14 --

19           EXECUTIVE DIRECTOR BREED: Mr. Wilson, you've got  
20 about a minute left.

21           MR. WILSON: Certainly. We have 20 horses in  
22 training. In the 18 years that I've been a thoroughbred race  
23 owner here in California I've lost over \$10 million. Something  
24 has to change. Apparently I could have been living Charlie  
25 Sheen's lifestyle and had money left over.

1           People often ask me about the horse race business. I  
2 tell them you have to have a really good job before you get in  
3 the horse race business. Something has to change. And that's  
4 why the CTHA was formed, and that's why I agreed to serve on  
5 their board.

6           What is the CTHA? First and foremost, it is a group  
7 of California thoroughbred owners. What are the CTHA goals?  
8 The primary goal of our organization is to revitalize  
9 thoroughbred racing in California. How do we intend to  
10 accomplish this? The CTHA wants to reunify owners and trainers  
11 into one cohesive organization like every other racing  
12 jurisdiction in North America. Only California suffers from  
13 the legislated bifurcation of interested parties and  
14 stakeholders. I have about one minute left. I appreciate your  
15 indulgence.

16           How do we intend to reunify these groups? By asking  
17 the TOC to hold an open fair election for all its board of  
18 directors without restriction to -- as to number of owner or  
19 owner-trainer members of the board. There are approximately  
20 7,000 to 8,000 licensed owner-members of the TOC. There are  
21 about 500 licensed trainers. About 60 percent of those are  
22 also owners. So about 300 trainers are also owners. With  
23 7,000 or 8,000 licensed owners and only about 300 licensed  
24 owner-trainers, why won't the TOC hold a fair and free  
25 nondiscriminatory election? What do they have to fear?

1 CHAIRMAN BRACKPOOL: We're well over time. Can we --

2 MR. WILSON: Certainly.

3 CHAIRMAN BRACKPOOL: Thank you.

4 MR. WILSON: What they have to fear, apparently, is  
5 the State of California racing. That's what we want to do,  
6 revitalize California racing. Declining attendance, declining  
7 handle, four-days-a-week racing, average fields of five, six or  
8 seven, it's time for something to change in racing.

9 Our position is very clear. We would like to have an  
10 election -- we would like the TOC to have an election, a free,  
11 fair and open nondiscriminatory election where everyone's vote  
12 is counted equally, where there was no preplanned percentage of  
13 directors, they were either owners or trainers, just everyone  
14 counted as an owner.

15 The TOC has refused that elections. Therefore the  
16 CTHA has filed for decertification. I won't go into that as  
17 you know what that is.

18 CHAIRMAN BRACKPOOL: Thank you.

19 MR. WILSON: One -- I have one -- just one more  
20 sentence.

21 What is our position on other thoroughbred racing  
22 industry issues? It would be presumptive and premature for the  
23 CTHA to have any position on industry issues. Our position is  
24 simply this: Either the TOC will hold a timely, fair and  
25 nondiscriminatory election or the CTHA will seek an election to

1 decertify the TOC and replace it with a board that will be  
2 elected to such -- in such a manner without prejudice to type  
3 of licensee and without a preplanned percentage of owners and  
4 owner-trainers. It is our strident and fervent hope that this  
5 new board will then accomplish the revitalization of California  
6 thoroughbred racing and not allow some of the most beautiful  
7 tracks in the world to become golf courses.

8 CHAIRMAN BRACKPOOL: Thank you very much.

9 MR. WILSON: Thank you.

10 CHAIRMAN BRACKPOOL: Thank you. Jack Owens.

11 MR. OWENS: Good morning to all of you, and good  
12 morning to David. I appreciate his passion for the business.

13 My background quickly, I'm a CTBA --

14 EXECUTIVE DIRECTOR BREED: Mr. Owens, identify  
15 yourself please.

16 MR. OWENS: Excuse me. Thank you. I'm Jack Owens,  
17 Chair of the TOC. I am a CTBA member. I'm a breeder of Cal  
18 breds. I've also bought Florida breds, Kentucky breds, and  
19 brought them in. As an owner I'm sort of a blue-collar owner,  
20 primarily home breds and claimers, with the occasional stake's  
21 horse. And I want to emphasize the word occasional.

22 As far as TOC is involved, I chaired it for three  
23 years about ten years ago. I've come back onto the board in  
24 the last few months. Not much has changed in the time period.

25 As this debate unfolds I would just like to make a

1 few very simple points. I'd like to dispel the trainer-owner  
2 disenfranchisement myth. I'd like to put that off to one side  
3 because it's -- it's misleading us.

4 Starting when the CHPBA (phonetic) collapsed in the  
5 early '90s and the current structure went into place, which was  
6 a three-part structure: breeders' organization, trainers'  
7 organization, owners' organization. After years of work we  
8 came to the 2006 version of the Horse Racing Law which was  
9 supported by TOC and other industry components. The 2006 law  
10 gave full voting rights to trainer-owners, plus three seats.  
11 It gave them 20 percent of the board. But I want to emphasize  
12 that it gave them full voting rights. Okay.

13 Unfortunately, and I think regrettably, what probably  
14 led to a lot of the current confusion is the 2006 law sunsetted  
15 in 2009. In 2010 the TOC advanced a bill to fix the problem  
16 and restore full voting rights to trainer-owners in the TOC.  
17 Unfortunately, that bill was blocked by the current group at  
18 the CTT. In any event, trainer-owners have had the vote for  
19 all TOC board seats by law for years.

20 All of the members of the group that you just  
21 mentioned and -- or that were just mentioned to us and the  
22 trainers that have been working with them, to the extent that  
23 they have owner's licenses, they've all received ballots in all  
24 of our recent elections, except I think Mr. Vienna who  
25 apparently doesn't have an owner's license. And not only have

1 they received ballots, but they've voted. Mr. and Mrs. Headley  
2 voted in the 2010 election, for example.

3 Twenty-five to thirty-three percent of the TOC board  
4 seats come up every year, which means that --

5 CHAIRMAN BRACKPOOL: We're running -- we're running  
6 out of time, Jack, so --

7 MR. OWENS: Thank you. In -- in two to three years  
8 or less if they want to vote us out they can vote us out.  
9 They've got -- they've got the absolute right.

10 With regard to holding a special election, if you  
11 think of the history of instability that -- that preceded the  
12 current structure there was a very good reason that the  
13 legislature put the decertification provision in the statute.  
14 It was designed to create some stability. They have a  
15 democratic right to gather the votes and proceed with the  
16 decertification petition if that's their choice, but that is  
17 the appropriate procedure.

18 If we start having special elections for the benefit  
19 of a particular group on demand we basically just vitiated the  
20 system for stability that was set up.

21 CHAIRMAN BRACKPOOL: Thank you.

22 MR. OWENS: Thank you very much.

23 CHAIRMAN BRACKPOOL: Thank you. Before we move on to  
24 item number three I have asked Mike Marten from our staff to  
25 come up and just explain the facts behind an incident that has

1 been reported in the press in the last couple of days.

2 So three minute limit, Mike.

3 MR. MARTEN: Commissioners, Mike Marten with CHRB.

4 In the fifth race at Hollywood Park this last  
5 Saturday the horse, Ninth Infantry, the odds on that house  
6 dropped from 16 to 9. It was reflected on the infield tote  
7 board 16 seconds after the start. The perception was worse  
8 than that because it took another nine seconds for those odds  
9 to change on the simulcast where -- under -- on the running  
10 line of the horses there, and would have taken some additional  
11 number of seconds on -- on TVG. So to -- to many it appeared  
12 that the odds changed very late into the race. They did affect  
13 change on the infield tote 16 seconds after the race.

14 This -- the wager that triggered this change was a  
15 \$5,000 bet made in Nevada three seconds before the start. It  
16 took 19 seconds for that \$5,000 wager to be reflected on the  
17 tote board. It was a legal wager. And as we've done this type  
18 of review dozens of times over the years and they're always  
19 legal wagers, and the industry has taken steps to minimize the  
20 perception problems by having what you call a forced cycle  
21 wager immediately after the start. That's usually ten seconds  
22 after the start. For some reason that was 16 seconds in this  
23 time.

24 But this is the first time -- this is the second time  
25 in the last two years that I've had to address publicly an

1 issue like this, as opposed to four or five years ago it was  
2 almost on a weekly basis. So things have improved, they're not  
3 perfect yet, but everything in this case was done legally.

4 CHAIRMAN BRACKPOOL: Thank you, Mike. Okay. That  
5 concludes the public comment period.

6 We now move on to the regular agenda items. The  
7 first item, number three, public hearing and action by the  
8 Board regarding the proposed addition of CHRB Rule 1844.1,  
9 Suspension of Authorized Medication, to allow the Board to  
10 suspend the authorization for any authorized medication after  
11 notification at a properly noticed public hearing. This  
12 concludes the 45-day public comment period on this item.

13 Jackie?

14 MS. WAGNER: Jackie Wagner, CHRB staff. As the  
15 Chairman stated, the proposed amendment to Rule 1844.1 would  
16 allow the Board to act quickly to suspend authorization for  
17 drug substances such as clenbuterol or other permitted drugs,  
18 substances or medications under specific circumstances and only  
19 after a public hearing.

20 During the 45-day comment period staff received  
21 comments on this proposal. We received two comments in  
22 opposition to the proposal. One was from the manufacturer of  
23 the approved clenbuterol medication, and they stated that they  
24 believed it would be more appropriate for the Board to take  
25 action that would target the illegal compound of clenbuterol at

1 the race track, and not to suspend the legitimate use of that  
2 specific medication.

3 In addition, we received opposition from Dr. Shields  
4 who states that the -- the proposal would allow the Board to --  
5 to suspend the use of any approved therapeutic medication  
6 without the need for justification.

7 Subsequent to the publishing of our Board package we  
8 received opposition letters from CTT and TOC, as well. And  
9 they are stating that the proposed regulation is really too  
10 broadly written and that the Board would have wide -- wide  
11 power to temporarily suspend authorized medication without  
12 requiring justification.

13 This item is before the Board for adoption. And we do  
14 have our equine medical director if you have any questions.

15 CHAIRMAN BRACKPOOL: Dr. Arthur, what would you add  
16 to these comments?

17 DR. ARTHUR: Yeah. Very, very quickly --

18 CHAIRMAN BRACKPOOL: State your name for the record.

19 DR. ARTHUR: This is Dr. Arthur, Equine Medical  
20 Director. When this was presented in February, I had discussed  
21 the origin of this issue, and it was a clenbuterol issue in  
22 quarter horses at Los Alamitos. At that time we had become  
23 aware and we had been investigating, we've been following,  
24 we've been looking for illegal sources of clenbuterol because  
25 of the number of problems we have had at that particular

1 location.

2           This is not specifically -- it hasn't been released  
3 to the public because they are not positives, but we have six  
4 additional clenbuterol violations that we expect to confirm  
5 here in the next week that will be announced since this issue  
6 was brought forth.

7           Clenbuterol is a problem. It is compound --  
8 compounded clenbuterol. We're quite confident we have one case  
9 that -- that will come before the Board for discussion later  
10 today as a compounded form. We have -- our investigators know  
11 what to look for. Dr. Stanley is here and can testify, if  
12 necessary, as to the number of -- of samples we've obtained  
13 through -- through our investigations, through other means,  
14 through informants and horsemen and associations that are  
15 helping us address this issue.

16           If, for example, this rule would have been in place  
17 we could have addressed this issue quite quickly with,  
18 hopefully, the support of Los Alamitos and the horsemen who  
19 were part and parcel of encouraging this to go forward, as has  
20 the AQHA in a number of southwest countries -- or states  
21 dealing with clenbuterol.

22           It is an issue that allows the Board to react very  
23 quickly, which they can't do otherwise. For example, right now  
24 here we are. This was taken to the Board in February.

25           If it passes now, Jackie, it probably wouldn't be in

1 effect for another -- if -- if they approve it today, another  
2 30 days minimum. Right?

3 MS. WAGNER: Minimum. If it's approved today it  
4 would -- the file will be completed and submitted to the Office  
5 of Administrative Law. They will have 30 days to review it.  
6 It would become effective 30 days after filing, so we've got a  
7 minimum of 60 days.

8 CHAIRMAN BRACKPOOL: Commissioner Rosenberg?

9 COMMISSIONER ROSENBERG: Yes. The -- what I have is  
10 that the law would be -- this law would be effective in 30  
11 days. But under the law it says that after a public meeting  
12 has been -- that has been noticed in accordance with Section  
13 11, 11125(a), does that mean that there has to be then a  
14 noticed meeting -- like this has to be held?

15 MS. WAGNER: That's correct. Just to --

16 COMMISSIONER ROSENBERG: So there's not -- so this  
17 comment about it immediately would take a drug off is not  
18 really right. It's just -- you can't temporarily suspend until  
19 you have the public disclosure and the meeting and then those  
20 requirements.

21 MS. WAGNER: That's correct. The proposal would  
22 allow the Board to, upon the recommendation of our equine  
23 medical director or whomever brings it to the Board's  
24 attention, it would allow the Board to agenda the proposal for  
25 the Board's hearing. And if the Board does indeed want to

1 adopt the proposal as presented it would go into effect.

2 DR. ARTHUR: Commissioner Rosenberg, I would like to  
3 point out that -- that this allows the Board to suspend  
4 authorization for a specific track, for a specific race, for a  
5 specific breed. For example, to suspend the authorization of  
6 clenbuterol for quarter horses at Los Alamitos. And I think  
7 that gives the Board a lot of latitude to deal with those  
8 issues.

9 CHAIRMAN BRACKPOOL: But I think the question, Rick,  
10 was far more do we have to notice a public meeting first --

11 DR. ARTHUR: Absolutely.

12 MS. Wagner: Yes.

13 CHAIRMAN BRACKPOOL: -- have the hearing, and then  
14 vote on it. It's not something we do by executive fiat.

15 MS. WAGNER: Absolutely.

16 DR. ARTHUR: No. You actually have the authority  
17 under 1406 to suspend the rule. This actually cleans it up,  
18 gives the public to -- the ability to respond to it.

19 VICE CHAIRMAN ISRAEL: Wait. Wait. I guess the best  
20 way for you to do this, Rick, is delineate the process by which  
21 we would have to implement a change, if this were to pass.  
22 What's -- what are the steps?

23 DR. ARTHUR: Okay. What would happen, for example,  
24 hopefully somebody would identify the problem. I mean, we've  
25 certainly I -- when this was presented we would want the

1 support of the association or the horsemen on this particular  
2 problem. They'd come to the Board, as it to be agendized,  
3 could you please support the -- the proposed suspension of  
4 clenbuterol for use in quarter horses at Los Alamitos. It  
5 would be agendized, noticed to the public. They'd come  
6 forward. You'd hear from the horsemen at Los Alamitos. You'd  
7 hear from Los Alamitos. And then the Board would make the  
8 decision.

9 VICE CHAIRMAN ISRAEL: And then -- and then once we  
10 voted it would still take another month --

11 DR. ARTHUR: The -- the Board at that time --

12 VICE CHAIRMAN ISRAEL: -- before it would take  
13 effect?

14 DR. ARTHUR: -- would say in 30 days this is going to  
15 take effect, in 15 days. Depending on the drug you might --

16 VICE CHAIRMAN ISRAEL: You could do it in -- in 24  
17 hours?

18 DR. ARTHUR: Right, conceivably.

19 CHAIRMAN BRACKPOOL: We would have the authority to  
20 do it.

21 DR. ARTHUR: It would be unwise, but --

22 VICE CHAIRMAN ISRAEL: Okay. Good.

23 CHAIRMAN BRACKPOOL: Commissioner Harris?

24 COMMISSIONER HARRIS: Well, clearly, though, we do  
25 need to make it clear that there will be a hearing. It's not

1 something that's just going to go into effect tomorrow.

2 CHAIRMAN BRACKPOOL: Right.

3 COMMISSIONER HARRIS: If people come to the hearing  
4 and say, no, we don't want to do that, the Board would have to  
5 consider their comments. But I think the concern is it sort of  
6 opens things up to move, you know, fairly quickly. But I think  
7 the counter argument is that it's going to take a hearing to  
8 happen. But the --

9 CHAIRMAN BRACKPOOL: Mr. Moss?

10 COMMISSIONER MOSS: I get the feeling we're doing  
11 this in answer to a problem primarily with quarter horses; is  
12 that correct?

13 DR. ARTHUR: That's right. This problem is with  
14 quarter horses. But if you -- as I spoke at the meeting in  
15 February, we do have potential other problems. I was at a  
16 meeting in Hong Kong where Albuterol can be used in a way we  
17 can't detect with our threshold. We've introduced a new  
18 procaine rule that we think we have all the -- the holes in it  
19 covered. If that ends up being a problem you can bring that  
20 forward. Stenozolol, for example, is not -- is an anabolic  
21 steroid that we accepted from the prohibition. And that would  
22 allow the Board to act on those drugs, as well, yes, anything  
23 that is an authorized medication that the Board went through  
24 the hearing process on.

25 CHAIRMAN BRACKPOOL: Mr. Choper?

1           COMMISSIONER CHOPER:  What is the time that passes  
2 between -- that the notice is given that the hearing is to be  
3 held and that the hearing is held?

4           MS. WAGNER:  Ten days.

5           COMMISSIONER CHOPER:  Ten days.

6           MS. WAGNER:  It would be ten days.  Under --

7           COMMISSIONER CHOPER:  So I think in connection with  
8 one of the other things on the agenda today, the -- there's the  
9 notion, if you put notice that means people have time to file  
10 within that ten days written objections that would come before  
11 everybody concerned with it; right?

12           Second, I take it that if at all possible, before the  
13 Board were to put this on an agenda it would give its reasons  
14 for putting it on the agenda; right?  I'm not just going to put  
15 it on because someone asks for it.  Someone would have to say,  
16 all right, we are going to put this on the agenda.  And  
17 similarly, I would hope that anyone who wants it on the agenda  
18 would also state their reasons.

19           So I -- I guess I -- from the way I see it, when  
20 you're talking about a situation in which normal rules ought  
21 not to be followed, anyone who believes that they ought to be  
22 followed, then we wouldn't do it.  But if they're -- if -- if a  
23 majority of the commission feels that they shouldn't be  
24 followed, I guess for an emergency situation this gives quite a  
25 bit of time compared to lots of others that exist over, if

1 you'll forgive me for saying, a lot more important issues that  
2 we have in public life.

3 VICE CHAIRMAN ISRAEL: Another procedural question.  
4 When our agendas are published and posted are they published  
5 only in English or also in Spanish?

6 MS. WAGNER: Published in English at this time.

7 VICE CHAIRMAN ISRAEL: For instance, in this  
8 instance, I'm talking about the clenbuterol at Los Alamitos,  
9 wouldn't it be wise to somehow get the word out in Spanish for  
10 this to be something we consider?

11 Rick, I'll defer to you on that.

12 DR. ARTHUR: Well, I think so. But the PCQHRA does a  
13 very good job with communicating with their members. It  
14 doesn't help, obviously, at the thoroughbred tracks. But I  
15 believe the PCQHRA spoke in favor of this as it -- when was  
16 proposed.

17 CHAIRMAN BRACKPOOL: I have many speakers on this  
18 issue.

19 Mr. Blonien, you're one of many speakers. I get to  
20 decide the order of them. So if you could take a seat I will  
21 get to you. I know you're desperate to speak, but I have many  
22 in before you.

23 Start the first one, Pablo Suarez TOC

24 MR. SUAREZ: Good morning, Board. This is Pablo  
25 Suarez, TOC.

1           Obviously, as you know, we wrote a letter. We  
2 actually support the CHRB in its efforts to step in and stop  
3 any misuse of clenbuterol with quarter horses or any situation  
4 which would such bear that -- that emergency action.

5           We only ask that the proper guidelines and parameters  
6 are placed upon the proposed rule to address that situation.  
7 In other words, instead of it being so broad, to narrow the  
8 scope of the rule in order to address the issue that -- that's  
9 needed. That's it.

10           CHAIRMAN BRACKPOOL: Thank you. Next speaker, Alan  
11 Balch, CTT.

12           MR. BALCH: Alan Balch, CTT. As with TOC, I think  
13 the Board has our written comments on this which are detailed.  
14 We second what Mr. Suarez said. We believe that the process of  
15 rule changing is very important. We were taught in school that  
16 appropriate process it to wring the emotion out of the argument  
17 and get down to the facts and the science. We think that's  
18 very important.

19           We participated in the last meeting, the last couple  
20 of meetings, about this and all of the comment has been about  
21 one particular incident. Yet when we read the language as  
22 proposed it is totally broad. In our comments that we put in  
23 writing, we made some suggestions about findings, findings of  
24 the emergency, findings of the nature of the emergency,  
25 findings of the science, and so on and so forth, which we think

1 are very important. We do agree that in a true emergency we  
2 think the Board needs to be able to act. We think there are  
3 probably, under the rule that was previously cited, an ability  
4 for you to act right now and not to have had to go through this  
5 entire process.

6           So I'll just stop there and not repeat everything  
7 that you already have in writing.

8           CHAIRMAN BRACKPOOL: Jackie, can I just clarify one  
9 thing? The CTT did not file these comments within the  
10 prescribed 45-day comment period?

11           MS. WAGNER: Yes, they did. We received -- we  
12 received them after the package was prepared.

13           CHAIRMAN BRACKPOOL: So when it says here that only  
14 two comments were received during the 45-day comment period --

15           MS. WAGNER: That's --

16           CHAIRMAN BRACKPOOL: -- that's not correct?

17           MS. WAGNER: No. It -- we received two more  
18 comments, one from the CTT and one from TOC.

19           VICE CHAIRMAN ISRAEL: Why weren't they copied and  
20 then brought to the meeting or something?

21           MS. WAGNER: I have them here.

22           VICE CHAIRMAN ISRAEL: I know, but for each of the  
23 Commissioners.

24           CHAIRMAN BRACKPOOL: That's not --

25           VICE CHAIRMAN ISRAEL: That didn't do us any good.

1 MS. WAGNER: I have them. I just have neglected to  
2 put them on your desk. I will do that for you.

3 CHAIRMAN BRACKPOOL: Can we have them now please?  
4 In the meantime, next speaker, Darrell Vienna.

5 COMMISSIONER CHOPER: You know, while he's coming up,  
6 it may well be wise to put, also, a time limit as to when  
7 comments are prepared and submitted so that instead of having  
8 them, you know, come at the meeting we get them before the  
9 meeting.

10 CHAIRMAN BRACKPOOL: Well, there is -- I don't know  
11 why these weren't --

12 COMMISSIONER CHOPER: Well, I guess it's because  
13 before the comment period expires the materials are ordinarily  
14 distributed.

15 COMMISSIONER ROSENBERG: Administrative rule, Jackie?

16 COMMISSIONER HARRIS: People should also keep in mind  
17 when they make comments, they can send those comments to anyone  
18 they want. I mean, they could send them to each Board member  
19 if they prefer and the Board, because it sometimes takes awhile  
20 for us to get them.

21 CHAIRMAN BRACKPOOL: All right. Next speaker,  
22 Darrell Vienna.

23 MR. VIENNA: Commissioner Brackpool and Board,  
24 authorized medication are therapeutic medications that are  
25 designed and utilized to address disease processes. They were

1 authorized because of their therapeutic use.

2           In the instant case regarding clenbuterol, why do  
3 they want to suspend the use of an authorized medication  
4 because high concentrations of illegal forms of the authorized  
5 medication are being used? If these illicit concentrations are  
6 used they will be detected and the perpetrators will face  
7 potential sanction. The evidence of that is Dr. Arthur's  
8 statement that there is going to be some ongoing releases of  
9 positive findings of clenbuterol.

10           So why would there be the need for a summary and new  
11 process developed when current regulatory framework already has  
12 a remedy for the problem?

13           In a nutshell, we have these current regulations  
14 regarding the authorized use of clenbuterol. Illicit use of  
15 clenbuterol has been detected. Regulatory action is ongoing  
16 and functioning properly. Sanctions may well be forthcoming.  
17 How is the current system failing? Why is there a need for  
18 this new broad regulation to render authorized medications  
19 basically by fiat no longer existent?

20           I'm just concerned that this is an overreaching and  
21 nonproductive or counterproductive use of -- of the regulatory  
22 framework. I think you have all the powers you need. I think  
23 it's working properly. And I see no need for this regulation.

24           CHAIRMAN BRACKPOOL: Our next speaker, Rod Blonien.

25           MR. BLONIEN: Thank you, Mr. Chairman and Members.

1 Rod Blonien on behalf of Los Alamitos and Dr. Allred. We're in  
2 strong support of this regulation. I'm also authorized to  
3 speak on behalf of the Pacific Coast Quarter Horse men and  
4 women. They're in strong support of the bill -- excuse me, of  
5 the bill -- of the regulation.

6 I'd also like to thank Dr. Arthur and Dr. Stanley and  
7 the Medication Committee for their hard work on this issue, and  
8 we believe this is very much needed. And I thank you.

9 CHAIRMAN BRACKPOOL: Okay. Commissioner Rosenberg?

10 COMMISSIONER ROSENBERG: I'm just -- a question for,  
11 I guess --

12 CHAIRMAN BRACKPOOL: Can we get some volume on  
13 Commissioner Rosenberg's microphone or do we have a technical  
14 problem?

15 COMMISSIONER ROSENBERG: Hello? Hello? Now it's  
16 okay.

17 About the process here, what -- what is the  
18 process --

19 VICE CHAIRMAN ISRAEL: Put your -- wait a second. We  
20 can't hear you.

21 COMMISSIONER ROSENBERG: Hello?

22 CHAIRMAN BRACKPOOL: Now it's on.

23 COMMISSIONER ROSENBERG: Can you hear me?

24 CHAIRMAN BRACKPOOL: Okay.

25 COMMISSIONER ROSENBERG: Without this rule, without

1 this new regulation, would you explain the process by which  
2 a -- once you have an authorized medication, which I presume  
3 clenbuterol is, or the -- when there's -- there's an overuse of  
4 clenbuterol it only shows up, I presume, in a race? I'm  
5 answering my own question. But explain exactly how the process  
6 works. Because the -- the comment the last speaker made  
7 sounds -- the last thing he said makes sense to me. If you  
8 already have a process in -- if we have a process that exists,  
9 does it work? And if not, why not?

10 DR. ARTHUR: Dr. Arthur, Equine Medical Director. I  
11 think that's a good point. And before you were going to ask  
12 the question I was going to answer what you were going to ask.

13 Clenbuterol was approved for its use for small airway  
14 disease. And I have -- I'm on the record as saying after 30  
15 years of practice I consider this to be one of the best drugs  
16 introduced for horse health to treat small airway disease.  
17 It's a very useful drug.

18 But that's not what it's being used for. It's being  
19 used for it's adrenergic effects, that is muscle building  
20 effects that mimic anabolic steroids. We did out-of-  
21 competition testing on all the horses in the big race at --  
22 races at Los Alamitos, and every one had clenbuterol.

23 What's happening is that they are using clenbuterol,  
24 illegal, legal forms and illegal forms to use it as a -- for  
25 it's muscle-building effect in quarter horse racing. And it's

1 like our TCO2 levels and some of our other levels, there is a  
2 large window of opportunity to use drugs in an abusive way  
3 within those threshold levels. Clenbuterol is banned in human  
4 sport for that very, very reason.

5           And Dr. Stanley has done a considerable amount of  
6 research and work with Boehringer Ingelheim on this issue and  
7 he may have some comments, as well.

8           DR. STANLEY: Scott Stanley, U.C. Davis. I have  
9 talked to the company that manufactures the vetipulmin syrup.  
10 They are very concerned about the illegal product that's out  
11 there, as well. They'd very much like to work with us to  
12 investigate that further. I believe that there may be another  
13 direction to resolve this problem in detecting the illegal use  
14 of compounded product which is illegal to manufacture or have  
15 in the United States from the vetipulmin product. But  
16 currently we can't distinguish one from the other. And they  
17 are using it for it's repartitioning effect. It's an effect  
18 that the drug has at high doses to increase muscle mass, and  
19 that is not the intended therapeutic application.

20           So this is a very unique situation for clenbuterol in  
21 that at small doses it has a very therapeutic beneficial effect  
22 for small airway disease, and in large doses it has a much  
23 different effect, and that effect is what's being abused right  
24 now.

25           VICE CHAIRMAN ISRAEL: What are the adverse side

1 effects of using clenbuterol?

2 DR. STANLEY: I'm probably not the ideal person to  
3 speak. But I can tell you right now that there are muscle  
4 tremors, there is other respiratory problems, tachycardia. One  
5 of the big concerns about data or about some of the information  
6 is potentially the cardiac side effects that may be related to  
7 that because there are beta receptors on the cardiovascular  
8 system, and it could be related to some of the incidents that  
9 we see, potentially even with some sudden deaths.

10 VICE CHAIRMAN ISRAEL: And so they're similar to the  
11 use of anabolic steroids by human athletes --

12 DR. STANLEY: That's what they're using it --

13 VICE CHAIRMAN ISRAEL: -- the overuse of anabolic  
14 steroids?

15 DR. STANLEY: In the abuse form it is being -- that's  
16 the intended outcome is to get increased muscle mass. The  
17 outcomes or the side effects may be very dramatic.

18 CHAIRMAN BRACKPOOL: Derek?

19 COMMISSIONER DEREK: Yes. I'd just like to say that  
20 I think this is an example of an emergency situation of abuse.  
21 And I'd like to see the Board be able to do something about it.  
22 Some months have already gone by since this has been brought to  
23 our attention. I think that the -- from what I understand the  
24 normal process of -- of prosecuting and suspending trainers for  
25 this abuse can take years. And so I don't think that the

1 normal system in place is a deterrent.

2 COMMISSIONER CHOPER: Well, can I ask this one -- I  
3 don't --

4 CHAIRMAN BRACKPOOL: Mr. Choper.

5 COMMISSIONER CHOPER: Suppose we don't adopt the  
6 rule. What do existing rules give the Board the power to do in  
7 terms of suspension?

8 DR. ARTHUR: What -- what we have to do is find --  
9 obviously, if somebody has a violation those are going to be  
10 prosecuted. And we've already had made this -- had this  
11 discussion. These -- these cases are going to be prosecuted  
12 aggressively.

13 The -- the other issue is we continue and we have  
14 provided our investigators with information as to how to go  
15 through barns, what to look for. Some of this compounded  
16 material is -- has food coloring in it to make it look like the  
17 electrolyte powders. We explain what to look for, for the  
18 investigators. We do that sort of thing trying to find it. We  
19 still continue to do testing and we do -- we've done a  
20 considerable amount of out-of-competition testing specifically  
21 looking for clenbuterol.

22 CHAIRMAN BRACKPOOL: I think we're talking about what  
23 rights does the Board have --

24 COMMISSIONER CHOPER: The Board's --

25 CHAIRMAN BRACKPOOL: -- and what would the Board do.

1 DR. ARTHUR: We have -- we basically have to find it.  
2 And it -- it is a game of hide and seek, and it's very hard to  
3 find.

4 VICE CHAIRMAN ISRAEL: No. No. No. I think what --

5 CHAIRMAN BRACKPOOL: No.

6 VICE CHAIRMAN ISRAEL: -- Jesse's asking you is do we  
7 have a process now by which we can suspend at Los Alamitos --

8

9 CHAIRMAN BRACKPOOL: This drug.

10 VICE CHAIRMAN ISRAEL: -- indefinitely the use of  
11 clenbuterol?

12 DR. ARTHUR: I don't think so. I think that's a  
13 Board -- Board decision. 1406 allows you to suspend the rule  
14 but it's --

15 COMMISSIONER CHOPER: Go ahead. This is what I want  
16 to hear clearly, please.

17 DR. ARTHUR: 1406 allows you to suspend a rule. I  
18 think it's unclear whether you can suspend clenbuterol for  
19 quarter horses at Los Alamitos. That would be a Board counsel  
20 --

21 CHAIRMAN BRACKPOOL: Counsel?

22 COMMISSIONER CHOPER: But why?

23 DR. ARTHUR: -- comments.

24 MR. MILLER: Well, it -- the rule as written says  
25 with or without a hearing the Board may suspend a rule. And if

1 the Board were to act without a hearing it can -- could run  
2 afoul of the Administrative Procedures Act and could be viewed  
3 as an underground regulation, and therefore not enforceable.

4 VICE CHAIRMAN ISRAEL: And could I ask a practical  
5 question?

6 MR. MILLER: So the -- the adoption of this rule, and  
7 I note in subsection B it -- it talks about the -- the  
8 suspension can be limited to a breed, to a track, some  
9 specificity that is built into this rule in subsection B. And  
10 what this provides is a forum to suspend a rule that will not  
11 run afoul of the Administrative Procedures Act and will not  
12 subject the Board to a potential challenge of -- as the  
13 adoption of an underground regulation were the Board to solely  
14 rely on Rule 1406.

15 CHAIRMAN BRACKPOOL: Thank you. Commissioner Israel.

16 VICE CHAIRMAN ISRAEL: As a practical matter, though,  
17 who's going to come forward and challenge us and advocate for  
18 the overuse of clenbuterol? I mean somebody has to come  
19 forward.

20 COMMISSIONER DEREK: Right.

21 VICE CHAIRMAN ISRAEL: You -- you basically have  
22 to -- you have to be in a position where you're admitting guilt  
23 in order to challenge the imposition of that emergency ruling.

24 DR. ARTHUR: No. What -- what that essentially will  
25 do is you will no longer have a threshold. So you would -- you

1 would be pulling -- pushing out the -- how close they can use  
2 clenbuterol at the time of a race, at least two to three weeks.  
3 And it certainly is going to be a lot longer for these high  
4 concentration doses of clenbuterol in this particular issue.

5 CHAIRMAN BRACKPOOL: Okay. But I want to do this, I  
6 want to back off the clenbuterol issue just for a moment.  
7 Because what this is about is a process change, a rule  
8 suggesting a process change; right? The example used is the  
9 current issue with clenbuterol; right?

10 So from what I understand, if we approve as a Board  
11 this rule then we would still have to notice that we were going  
12 to have a hearing to suspend a drug. People would have time to  
13 comment on that rule. They would be allowed to testify at a  
14 hearing. We would have written submissions, pro and against,  
15 in our Board package and at the public hearing, and we would  
16 hear.

17 So to me, all we're doing is clarifying a rule that  
18 gives much greater protection for the things that counsel just  
19 outlined if at that stage we decide to go ahead. We could do  
20 it anyway. What we're doing here is improving the legal  
21 process by which we are then able to -- are then able to do it.

22 VICE CHAIRMAN ISRAEL: My only concern about that is  
23 it's limited to medication. And if we're going to have that  
24 authority granted it should be able to be granted for all  
25 rules. By narrowing it to medication it's -- it's kind of an

1 odd -- I don't understand --

2 COMMISSIONER CHOPER: Yeah.

3 VICE CHAIRMAN ISRAEL: -- why that's the case.

4 COMMISSIONER CHOPER: Because we currently have the  
5 authority under 1604 --

6 MS. WAGNER: 1406.

7 COMMISSIONER DEREK: 14-6.

8 COMMISSIONER CHOPER: -- 1406, despite the fact that  
9 there's some dispute about it.

10 CHAIRMAN BRACKPOOL: Right.

11 COMMISSIONER CHOPER: But you know when there's an  
12 emergency, a true emergency -- first of all, anything that this  
13 commission does can be overturned very readily.

14 VICE CHAIRMAN ISRAEL: Yeah.

15 COMMISSIONER CHOPER: That's number one.

16 Number two is any member can be impeached for  
17 misconduct. These things are going to be done publicly.  
18 Everyone's going to know that it's going on. We have no rule  
19 up until the middle 1970s *[sic]* that gave the president of the  
20 United States the constitutional power to repel a sudden  
21 attack, yet we got along without it. And indeed, that was  
22 stretched very broadly, you know, so that -- so that Lincoln  
23 sent us into war without any declaration simply on his own. So  
24 I mean, it goes on and on and on. And --

25 CHAIRMAN BRACKPOOL: The history lesson is free of

1 charge to the audience.

2           Anyway, Commissioner Harris. Then I've got to bring  
3 this to a conclusion because this is --

4           COMMISSIONER CHOPER: Yeah.

5           CHAIRMAN BRACKPOOL: -- only item number three.

6           COMMISSIONER HARRIS: Because, I mean, part of this  
7 could be a house rule. But I think we need to clarify why Los  
8 Alamitos couldn't just say this is what we're going to do. As  
9 I understand, the reason is they need the cooperation of the  
10 testing the CHRB does through -- through the diagnostic lab and  
11 all this. They can't just do it without some degree of  
12 involvement with us.

13           But I'm a little bothered with that ten-day notice.  
14 And I think that we need to not have something that is too  
15 quickly done. I mean, I don't know if it needs to be ten days.  
16 It could be 15 days --

17           CHAIRMAN BRACKPOOL: Well, the ten day notice --

18           COMMISSIONER HARRIS: -- or 20 days.

19           CHAIRMAN BRACKPOOL: -- that Jackie is referring to  
20 is that is the legal time when we post an agenda on the  
21 website.

22           MS. WAGNER: That's correct.

23           CHAIRMAN BRACKPOOL: So we could have done -- we --  
24 we could have sent out notices to people prior to, but the ten-  
25 day is the first time that anybody would notice it. And we

1 can't change that because that is the law --

2 COMMISSIONER HARRIS: Well, I mean, we can --

3 CHAIRMAN BRACKPOOL: -- that you have a ten-day  
4 public notice.

5 COMMISSIONER HARRIS: It doesn't -- it's at least ten  
6 days.

7 CHAIRMAN BRACKPOOL: We'll say at least ten days but,  
8 I mean, it is ten days. It is ten days.

9 COMMISSIONER HARRIS: But -- but I think if we did  
10 something like this I don't want somebody to come back and say,  
11 oh, we had these great comments but we never knew about it.

12 CHAIRMAN BRACKPOOL: No. Because we have a posted  
13 agenda and we -- and we do that. So we have to start to move  
14 this thing forward.

15 Commissioners Moss.

16 COMMISSIONER MOSS: Is it possible to tailor a bill  
17 that specifically takes care of this urgency, and I gather it  
18 is an emergency, at Los Al? I mean, it --

19 CHAIRMAN BRACKPOOL: Well, I think what counsel is  
20 saying is we may have the right to do it anyway but we don't  
21 have a perfect right to do it. And I think all we're doing  
22 here is clarifying the process within which we make these types  
23 of decisions. So to me this is not about Los Al, this is  
24 strictly about how do we handle an example such as Los Al.

25 Mr. Choper.

1 COMMISSIONER CHOPER: Involving only medication.

2 CHAIRMAN BRACKPOOL: Right, involving only  
3 medication.

4 VICE CHAIRMAN ISRAEL: Only. Yeah.

5 COMMISSIONER CHOPER: And this doesn't repeal 1406,  
6 does it?

7 MS. WAGNER: No, it doesn't.

8 COMMISSIONER CHOPER: So -- so in theory at least or  
9 whatever it is, the Board still has the power to act without  
10 any notice, without any hearing --

11 CHAIRMAN BRACKPOOL: We're actually cleaning it up.

12 COMMISSIONER CHOPER: -- in case of an emergency.

13 CHAIRMAN BRACKPOOL: Right.

14 VICE CHAIRMAN ISRAEL: Well, I -- but -- but we're  
15 not responding in an emergent way if we use this because it's  
16 going to take about 70 days to get anything done.

17 COMMISSIONER CHOPER: Yeah. Exactly.

18 VICE CHAIRMAN ISRAEL: So to me it seems kind of  
19 pointless.

20 DR. ARTHUR: Well, as an example, though,  
21 Commissioner Israel, that when I brought this to the Board's  
22 attention in February, if that would have been -- the  
23 clenbuterol problem at that time, if -- if I would have -- the  
24 Board would have acted on a recommendation on clenbuterol at  
25 that time we would have avoided four clenbuterol positives that

1 are going to include four winners that are --

2 VICE CHAIRMAN ISRAEL: But when --

3 DR. ARTHUR: -- that are disqualified.

4 VICE CHAIRMAN ISRAEL: But --

5 CHAIRMAN BRACKPOOL: It only takes 70 days, David,  
6 from where we are now.

7 VICE CHAIRMAN ISRAEL: But --

8 CHAIRMAN BRACKPOOL: In the future it wouldn't take  
9 70 days.

10 MS. WAGNER: Correct.

11 VICE CHAIRMAN ISRAEL: No. It would take about --  
12 it's ten days notice.

13 COMMISSIONER DEREK: Thirty days.

14 VICE CHAIRMAN ISRAEL: A hearing. Thirty days. And  
15 then 30 days for it to be put into effect.

16 CHAIRMAN BRACKPOOL: No. No. No. No. No. No.  
17 No. That's only for this ruling.

18 VICE CHAIRMAN ISRAEL: All right, so 40 days.

19 CHAIRMAN BRACKPOOL: No. No. It could be as -- as  
20 little as 11 days if -- if it had come up --

21 VICE CHAIRMAN ISRAEL: But -- but the point is, is if  
22 we use the emergency powers we had we could have done it in  
23 February that day.

24 DR. ARTHUR: The --

25 VICE CHAIRMAN ISRAEL: We weren't asked to.

1 DR. ARTHUR: The issue -- the issue is, is just like  
2 Board counsel explained, we prosecute the -- believe me, you  
3 deal with this all the time. The major legal cases we deal  
4 with are on drug positives. And there's any little shred of  
5 issue that they can bring up to delay a case, and that's why  
6 they're all delayed over petty little things. Something like  
7 this defines it, makes it real clear, and everybody knows what  
8 the process is and how the rule -- how the rule has been  
9 modified.

10 CHAIRMAN BRACKPOOL: Okay. Well, we've got to move  
11 this along. So --

12 COMMISSIONER DEREK: Please.

13 CHAIRMAN BRACKPOOL: -- we will -- let's --

14 COMMISSIONER HARRIS: Is that Alan?

15 CHAIRMAN BRACKPOOL: Well, is it something  
16 additional?

17 MR. BALCH: It's just a reinforcement.  
18 Commissioner -- or -- or Mr. Miller made the point that the  
19 rule you already have says with or without a hearing. You all  
20 concentrated on the without a hearing. This already could have  
21 been taken care of if you had just, at the very first notice of  
22 the emergency --

23 CHAIRMAN BRACKPOOL: Well, Counsel --

24 MR. BALCH: -- had a hearing.

25 CHAIRMAN BRACKPOOL: Counsel said he disagrees with

1 that. But there -- there you go. So let's move along.

2 COMMISSIONER ROSENBERG: I would move to adopt the --  
3 the resolution.

4 CHAIRMAN BRACKPOOL: So Commissioner Rosenberg moves  
5 to adopt the motion.

6 COMMISSIONER DEREK: Second.

7 CHAIRMAN BRACKPOOL: Commissioner Derek seconds. All  
8 in favor?

9 COMMISSIONER DEREK: Aye.

10 COMMISSIONER CHOPER: Aye.

11 CHAIRMAN BRACKPOOL: Aye.

12 COMMISSIONER HARRIS: Aye.

13 COMMISSIONER ROSENBERG: Aye.

14 CHAIRMAN BRACKPOOL: Commissioner Choper, Brackpool,  
15 Harris, and Rosenberg.

16 COMMISSIONER MOSS: I vote against. I think it's  
17 just too broad.

18 CHAIRMAN BRACKPOOL: Commissioner Moss against.  
19 Commissioner Israel?

20 VICE CHAIRMAN ISRAEL: I abstain.

21 CHAIRMAN BRACKPOOL: Abstains. So the motion  
22 carries. Thank you.

23 Item number four, public hearing and action by the  
24 Board regarding the proposed amendment of CHRB Rule 1876,  
25 Financial Responsibility, to add financial responsibility

1 complaints from equine medical hospitals; services by horse  
2 farms that are related to horse racing where the debt exceeds  
3 \$1,000; horse auction sales; and wage disputes between  
4 licensees. This concludes the 45-day comment period.

5 MS. WAGNER: Jackie Wagner, CHRB staff. The proposed  
6 amendment to Rule 1876 is just as the Chairman outlined.  
7 The -- the amendment would not longer require that a  
8 complaints -- that a complainant submit a civil judgment along  
9 with the financial complaint, instead they can choose to submit  
10 documentation of services or a civil judgment. In addition, it  
11 allows complaints from equine medical hospitals, horse farms  
12 where the debt is \$1,000 or more, and horse auction sales to be  
13 heard by the stewards.

14 CHAIRMAN BRACKPOOL: And we have no letters --

15 MS. WAGNER: No.

16 CHAIRMAN BRACKPOOL: -- of opposition --

17 MS. WAGNER: No letters of opposition.

18 CHAIRMAN BRACKPOOL: -- on this at all?

19 So do we have any comments from Commissioners? Do I  
20 have somebody in favor?

21 VICE CHAIRMAN ISRAEL: I move it.

22 CHAIRMAN BRACKPOOL: Vice Chair Israel moves.

23 COMMISSIONER DEREK: Second.

24 CHAIRMAN BRACKPOOL: Commissioner Derek seconds. All  
25 in favor?

1 ALL MEMBERS: Aye.

2 CHAIRMAN BRACKPOOL: The motion carries. Okay.

3 Item number five, where I should take the speed  
4 reading course --

5 VICE CHAIRMAN ISRAEL: No. Don't even read it.

6 CHAIRMAN BRACKPOOL: -- public hearing and action by  
7 the regarding the proposed amendment of CHRB Rule 1974,  
8 Wagering Interest.

9 Do I have to read the rest of it, Jackie?

10 MS. WAGNER: I can do that.

11 CHAIRMAN BRACKPOOL: It's noticed.

12 MS. WAGNER: It is noticed.

13 The proposed amendment to Rule 1974, Wagering  
14 Interest, to provide that a horse that is removed from the  
15 wagering pool in error shall run as a non-wagering interest for  
16 purse only. In addition, the following effective regulations,  
17 CHRB Rule 1954.1, pari-mutuel wagering on Win, Place or Show;  
18 1957, the Daily Double; Rule 1959, the Special Quinella; Rule  
19 1976, the Unlimited Sweepstakes; 1976.8, Place Pick (n);  
20 1976.9, Pick (n) Pool; 1977, Pick Three; 1978, Select Four;  
21 1979, Trifecta; and 1979.1; Superfecta.

22 In addition, the proposal before the Board is the  
23 proposed amendment of Rule 1606. This is the Coupling of  
24 Horses rule. And this would repeal the provision that requires  
25 two or more horses to be coupled as a single wagering interest

1 when such horses are owned in whole, or in part, by the same  
2 person or persons, and to provide that the racing association  
3 inform the public when two or more horses are entered in the  
4 same race and they're owned in whole, or in part, by the same  
5 person and are trained by the same trainer.

6 CHAIRMAN BRACKPOOL: Thank you. And during the 45-  
7 day comment period we had various comments that -- that -- that  
8 came through. And we have all of those comments in here.

9 MS. WAGNER: That's correct.

10 CHAIRMAN BRACKPOOL: First speaker I have on this  
11 issue is Madeline Auerbach.

12 MS. AUERBACH: Madeline Auerbach, TOC. We've already  
13 discussed this with you. You know the position of the TOC. We  
14 are completely in favor of this. And I would just as soon sit  
15 down. If anyone has any questions I'll be happy to answer  
16 them.

17 CHAIRMAN BRACKPOOL: Thank you very much, Madeline.

18 MS. AUERBACH: You're welcome.

19 CHAIRMAN BRACKPOOL: Do I have any comments or  
20 questions from the Board on this? Commissioner Choper?

21 COMMISSIONER CHOPER: I just think we ought to  
22 underline the fact that we do everything that's reasonably  
23 possible to -- in respect to the first part of the rule with  
24 the -- with the elimination of the hearing thing, to make it as  
25 clear as we can to the -- to the bettors that this is the

1 situation. All right?

2 COMMISSIONER DEREK: Yes.

3 COMMISSIONER CHOPER: And that's it.

4 CHAIRMAN BRACKPOOL: Okay. Do I have --

5 VICE CHAIRMAN ISRAEL: I'll move it.

6 VICE CHAIRMAN ISRAEL: Commissioner Israel moves.

7 COMMISSIONER MOSS: Second.

8 CHAIRMAN BRACKPOOL: Commissioner Israel --

9 Commissioner Moss seconds. All in favor?

10 ALL COMMISSIONERS: Aye.

11 CHAIRMAN BRACKPOOL: Motion carries unanimously.

12 Item number six, discussion and action by the Board  
13 regarding the report and recommendation from the Medication and  
14 Track Safety Committee.

15 Bo Derek.

16 COMMISSIONER DEREK: Thank you. The CHRB Medication  
17 and Track Safety Committee convened a public meeting April 8th  
18 to discuss a broad range of proposals that all shared the  
19 common theme of protecting horses.

20 If you don't mind, Chairman Brackpool, I'd like to  
21 avoid getting into detail here about what we discussed because  
22 thanks to the hard work of the staff some of these proposals  
23 are already on the agenda for your consideration today.

24 Item seven is a proposed rule to void a claim if a  
25 horse suffers a fatality during or immediately after the race.

1 The goal is to discourage the running of compromised horses.

2           Eight proposed changes and penalties for overages of  
3 two drugs in companion with regulatory amendment to lower the  
4 authorized levels of these drugs at race time. The levels are  
5 being lowered in order to eliminate the possibility of these  
6 medications masking any soundness problems with horses examined  
7 the morning of the race.

8           Proposal number nine is a proposal to transfer  
9 veterinary records of horses undergoing postmortem  
10 examinations. Providing the most recent six months of  
11 veterinary medical history would allow for the correlation of  
12 postmortem data with medical records to look for casual  
13 relationships.

14           I'd like to point out that this committee has made a  
15 real effort to be reasonable, flexible, and listen to the  
16 concerns expressed, not only during the April 8th meeting, but  
17 right up until yesterday when the committee discussed these  
18 items at the TOC board meeting. As a result items seven, eight  
19 and nine in your packet reflect many changes from the original  
20 proposals presented at the April 8th meeting.

21           We also discussed a separate proposal to provide a  
22 veterinary medical history to the new owners of claimed horses  
23 which would help them deal with any ongoing medical issues.

24           We also discussed a plan to step up inspections of  
25 smoke detectors in the stable area and provide increased

1 penalties when they are intentionally disabled. These are not  
2 on your agenda today, but we will continue to work on them.

3 Executive Director Breed presented a very, I think  
4 important project called the Race Injury Prevention Program, a  
5 proposed \$1 million plus undertaking in conjunction with the  
6 University of California at Davis to clearly identify the  
7 reasons for the unacceptable numbers of fatalities and injuries  
8 among race horses, which we will be discussing as part of item  
9 ten.

10 Personally, I wish there was a better spirit of  
11 cooperation and common interest regarding issues intended to  
12 protect race horses. I found there to be a lot of anger and  
13 suspicion and contention, which represents -- which presents a  
14 very bad face to the public and the racing fan.

15 CHAIRMAN BRACKPOOL: Thank you. That was an  
16 excellent report.

17 Commissioner Harris, would you add anything to that?

18 COMMISSIONER HARRIS: I was also on that committee.  
19 I think it's important for people to realize that what we're  
20 trying to do is look out for the welfare of the horse.  
21 That's -- the horseman's job is to make sure the horses are  
22 well taken care of, and it ties into just common sense, but  
23 also just the fan perception, that they want to bet on horses  
24 that are well cared for.

25 I think these are all pretty reasonable. We're going

1 to put them out for comment, and there -- there could be  
2 modifications made. This not necessarily the final deal.  
3 Maybe somebody will come up with a slightly better way to do  
4 it. But I think what we want to urge everyone to do is -- is  
5 discuss it and -- and really come in with something. Don't  
6 come in at the eleventh hour, oh, yeah, we don't like this  
7 or -- you've got -- like starting today you've got 45 days,  
8 which should be ample time, even for slow learners. So let's  
9 see what we can do.

10 CHAIRMAN BRACKPOOL: Thank you. Thank you for that  
11 report.

12 And we move on to the meat of that report --

13 COMMISSIONER HARRIS: Do -- do we -- yeah.

14 CHAIRMAN BRACKPOOL: -- as we go to the following  
15 four items.

16 Item number seven, discussion and action by the Board  
17 regarding the proposed amendment of CHRB Rule 1658, Vesting of  
18 Title to Claimed Horses -- to Claimed Horse, to void a claim  
19 if, one, a claimed horse suffers a fatality during the running  
20 of the race or before it is returned to be unsaddled; two, if  
21 the claimant request the claim be voided if the horse is placed  
22 on the veterinarian's list as unsound or lame as a result of  
23 the running of the race.

24 I have many speakers on this issue. Before I do I  
25 could perhaps ask Commissioner Derek who chaired this committee

1 just to give a couple of comments on this proposal.

2           COMMISSIONER DEREK: Yes. Contrary to what some of  
3 you believe, I didn't just come up with this. Dr. Arthur just  
4 didn't grab this one out of the air. A lot of trainers have  
5 come to me saying that this is going on, that some trainers  
6 with an unsound horse are purposely entering them, dropping  
7 levels in claiming races, hoping to get rid of -- have the  
8 horse claimed and get it off their hands. And this is putting  
9 the safety and the lives of these horses at risk.

10           We brought this up over a year ago. I know it's been  
11 around before I was even on the Board, this concept. I think  
12 it's very important and I think we've had some recent fatal  
13 breakdowns that might have been avoided by this -- by the  
14 passing of this rule.

15           CHAIRMAN BRACKPOOL: Commissioner Rosenberg?

16           COMMISSIONER ROSENBERG: I have a question on the  
17 lower part attached to the --

18           VICE CHAIRMAN ISRAEL: Microphone.

19           COMMISSIONER ROSENBERG: I have a question about an  
20 attachment to this, the documents here called the Equibase  
21 Summary. I don't know who attached that to it.

22           Dr. Arthur, was that you? It shows the horse is  
23 claimed but marked as did not finish nationally versus --

24           DR. ARTHUR: Yes.

25           COMMISSIONER ROSENBERG: -- California. Well, for

1 example, in California there were -- in 2008 there were five  
2 horses claimed but did not finish, and in 2009-10.

3 My question is this: This doesn't mean much in -- in  
4 trying to analyze what that means unless you know how many  
5 horses were -- were -- did finish; so what's the percentage of  
6 the total number of horses that raced that were claimed and  
7 finished, the total, the breakdowns -- or the did not finishes  
8 versus the total number? Because otherwise it makes no sense.  
9 It could be 5,000 claims --

10 COMMISSIONER DEREK: I think that even if it's one --

11 COMMISSIONER ROSENBERG: -- horses that --

12 COMMISSIONER DEREK: -- I think it's --

13 COMMISSIONER HARRIS: It's a small part of the total  
14 number, which is good.

15 COMMISSIONER ROSENBERG: Yeah. It's a small part.

16 COMMISSIONER HARRIS: But -- but it's still  
17 significant, ten horses that basically broke down in the race.

18 COMMISSIONER ROSENBERG: That doesn't mean they're  
19 all done because somebody raced them and knew they were unsound  
20 enough to break down.

21 COMMISSIONER HARRIS: Well, maybe not. But -- but --

22 COMMISSIONER ROSENBERG: Allowance races --

23 COMMISSIONER HARRIS: -- this is a deterrence --

24 COMMISSIONER ROSENBERG: -- horses break down and,  
25 you know, the people don't --

1           COMMISSIONER HARRIS: No. This is just -- I mean,  
2 this is not really a silver bullet to solve all the problems.  
3 It's just a deterrent to -- to keep, you know, people thinking  
4 that an exit strategy shouldn't be to drop a horse. I mean,  
5 there's --

6           CHAIRMAN BRACKPOOL: I agree. Commissioner Choper,  
7 did you wish to say something?

8           COMMISSIONER HARRIS: One thing I think we might  
9 consider, though, is we've got this language in here about if  
10 the horse goes on the vet's list the guy -- the claimant can  
11 void the claim, I think that might get cumbersome. And -- and  
12 we're trying to get something pretty clean here. I would be  
13 comfortable if we just -- if the horse, you know, failed -- you  
14 know, was a fatality in the race or shortly thereafter --

15          CHAIRMAN BRACKPOOL: Well, let's -- let's -- let's --

16          VICE CHAIRMAN ISRAEL: I agree with you, John.

17          CHAIRMAN BRACKPOOL: Okay. But let's put this out --

18          COMMISSIONER DEREK: But we can do that in 45-day  
19 comment.

20          COMMISSIONER HARRIS: Yeah.

21          CHAIRMAN BRACKPOOL: But let's -- let's put this --  
22 let's wait for our comments in a moment because we have several  
23 speakers on this.

24                 So Pablo Suarez --

25          COMMISSIONER MOSS: Can I just ask one -- one --

1 CHAIRMAN BRACKPOOL: Oh, sorry.

2 COMMISSIONER MOSS: -- one other question?

3 CHAIRMAN BRACKPOOL: Commissioner Moss.

4 COMMISSIONER MOSS: Yeah. Is this rule or anything  
5 close to it seeing the light of day anyplace else in the  
6 country?

7 DR. ARTHUR: The only place that has a similar  
8 provision is New York, which voids claims for horses that have  
9 drug positives. There's nothing that I can find that voids  
10 claims for injuries or fatalities. But there are -- there is a  
11 provision where, in New York, that they do void claims for drug  
12 positive, which was on the original proposal but, due to the  
13 comments from everyone, was taken off.

14 VICE CHAIRMAN ISRAEL: But, Dr. Arthur, why was that  
15 taken off?

16 DR. ARTHUR: Simply because there wasn't any support  
17 for it at the Medication Committee level, and it works,  
18 according to the people in -- the stewards that I spoke to, Ted  
19 Hill in New York, they've used it for years. They seldom have  
20 to use it. There's not a lot of consequences. And they're  
21 just trying to get this to a simplified form where we hopefully  
22 could get some buy-in by the -- everybody.

23 VICE CHAIRMAN ISRAEL: Because to me --

24 COMMISSIONER HARRIS: I think we like --

25 VICE CHAIRMAN ISRAEL: Wait, John. I --

1 COMMISSIONER HARRIS: Yeah.

2 VICE CHAIRMAN ISRAEL: To me, number two is more  
3 problematic. It's going to become a vetathon. I mean, it's a  
4 full employment act for attorneys. And it's --

5 CHAIRMAN BRACKPOOL: Well, let's wait until comments.  
6 If I --

7 COMMISSIONER HARRIS: I think the -- the problem was  
8 with -- with the medication voiding a claim, that there was  
9 such a delay by the time we did the testing and -- and all this  
10 that the horse might really be in someone's custody for a month  
11 before he ever got it sorted out. And that -- that was --  
12 really the problem got more amplified.

13 COMMISSIONER DEREK: This was an effort to move it  
14 along. There was a lot of opposition to that portion.

15 CHAIRMAN BRACKPOOL: Look, I have several speakers,  
16 so let me start.

17 Pablo Suarez, TOC.

18 MR. SUAREZ: Good morning again. Pablo Suarez, TOC.

19 It sounds like just from your own discussion you're  
20 kind of getting to the same, you know, conclusions that we  
21 were. It's a very gray area instituting a lot of, you know,  
22 rules upon -- on the claiming game.

23 I do like the fact that you are narrowing the scope  
24 down to one and taking it -- first of all, our primary position  
25 is at TOC in taking the position of the horse, we do not feel

1 that putting these restrictions in the -- in the claiming rule  
2 will disincentivize anybody from running their horse in -- in a  
3 low claiming race. I mean, if that was the case just don't  
4 write the races and then they won't be able to run there. So  
5 we don't think that that would have any bearing as to where  
6 they would run.

7           Simplifying the rule, as I stated earlier, would be  
8 helpful.

9           CHAIRMAN BRACKPOOL: Does somebody have a cell phone  
10 ringing and not answering it?

11           COMMISSIONER DEREK: It's Chillie.

12           CHAIRMAN BRACKPOOL: Oh.

13           MR. SUAREZ: Or Chillie.

14           CHAIRMAN BRACKPOOL: Vibrate.

15           MR. SUAREZ: But we would be, you know, again, in  
16 discussion with the Board yesterday at our meeting, we would  
17 be, you know, probably very well consider something that would  
18 be if the horse didn't finish or it broke down, thus  
19 eliminating the claiming insurance, you know, costs that the  
20 owners would have to carry, that would be a beneficial thing  
21 for us. So --

22           CHAIRMAN BRACKPOOL: Thank you, Pablo.

23           Second speaker, John Sadler.

24           MR. SADLER: John Sadler, President, CTT.

25           We -- we think at the CTT this clearly needs --

1 should be put off, be worked on. There's a lot of problems  
2 with this -- changing this kind of rule.

3           And let me -- let me say first that, you know, I  
4 really resent the -- the tone in here that trainers are trying  
5 to drop horses and get horses hurt and get them off their  
6 hands. A lot of you up there have horses. You know what good  
7 horsemen we have in the State of California. And I think to  
8 stereotype horse trainers as -- as -- as butchers is -- is very  
9 unfair.

10           So we think that this needs to be worked on. It's --  
11 it's a lawyer's dream. You know, if there's -- when do you get  
12 to turn them back? What happens if the jockey jumps off him  
13 after the wire and says they're unsound and the state vet says  
14 their sound? There's so many -- so many things to be looked at  
15 in this. We think there will be a lot of litigation involved  
16 with this and we don't think it's a good idea at this time. I  
17 think you should put it off and let's work on it and see if we  
18 can come up with something that -- that suits everybody.

19           I mean, you know, horses are going to get hurt.  
20 There was two horses, broke their legs off in Dubai this year  
21 on synthetic tracks on no medication. So it's a tragic, tragic  
22 thing. But --

23           VICE CHAIRMAN ISRAEL: John -- John, can I ask you --

24           MR. SADLER: -- no question.

25           VICE CHAIRMAN ISRAEL: -- could -- would CTT support

1 the rule change if it just included the first phase of it,  
2 which is a fatality voiding a claim?

3 MR. SADLER: Well, we want to look at, you know, what  
4 if -- if there's a fatality and of no fault of your horse?  
5 Somebody falls down in front of you.

6 VICE CHAIRMAN ISRAEL: Well --

7 COMMISSIONER DEREK: The same thing.

8 VICE CHAIRMAN ISRAEL: -- a fatality is a fatality.  
9 I mean, you know?

10 MR. SADLER: Well, we'd -- we'd like more time to --

11 VICE CHAIRMAN ISRAEL: At some point you have to make  
12 the rule.

13 MR. SADLER: We'd like more time to look at this  
14 issue and try to -- it clearly needs to be ironed out, worked  
15 out.

16 COMMISSIONER DEREK: This has been --

17 VICE CHAIRMAN ISRAEL: That's what the point --

18 COMMISSIONER DEREK: -- two years.

19 VICE CHAIRMAN ISRAEL: That's what the point of the  
20 45-day --

21 COMMISSIONER CHOPER: Exactly.

22 VICE CHAIRMAN ISRAEL: -- comment period is, though,  
23 John.

24 MR. SADLER: Well, I mean, that's -- but I'm just  
25 telling you, we don't think this is -- is -- is good

1 legislation at this time.

2 CHAIRMAN BRACKPOOL: Thank you.

3 COMMISSIONER DEREK: It's been around for two years.

4 CHAIRMAN BRACKPOOL: Next -- do you have a question  
5 of John, or next speaker?

6 COMMISSIONER CHOPER: Well, no.

7 CHAIRMAN BRACKPOOL: Okay. I've got to get through  
8 the speakers, and then we'll have Commissioner comments.

9 Alan Balch, CTT. This is a different comment; right?  
10 I'm serious, Alan. I'm not --

11 MR. BALCH: Okay. I'll -- I'll sit down.

12 CHAIRMAN BRACKPOOL: Thank you. Michael Wellman.  
13 Michael Wellman. No, I understand.

14 VICE CHAIRMAN ISRAEL: The HTA, or whatever the Hell  
15 it's called.

16 MR. WELLMAN: No, not -- not really. Hopefully, you  
17 know, I think this is very broad.

18 EXECUTIVE DIRECTOR BREED: Introduce yourself, Mr.  
19 Wellman.

20 MR. WELLMAN: I'm sorry.

21 EXECUTIVE DIRECTOR BREED: Identify.

22 MR. WELLMAN: Michael Wellman.

23 EXECUTIVE DIRECTOR BREED: Thank you.

24 MR. WELLMAN: I've heard a lot. I'm surprised with  
25 both the CTT and the TOC both saying that this is too vague to

1 endorse or even getting much further.

2 I want to compliment Commissioner Derek for wanting  
3 the best for the horse, but there's so many vague issues here.  
4 And just the mention a few -- and, you know, if you want to sit  
5 down and spend more time with me, I could tell you more -- what  
6 if the horse wins by five and the -- the trainer tells the  
7 jock, hey, just tell him he's unsound? You know, what if he  
8 isn't -- is unsound?

9 I think that there is -- there are a number of  
10 procedures that are already in place that want to verify that a  
11 horse that's racing is able to race.

12 Now Commissioner Choper, you spoke of protecting the  
13 public. And I'm a horseman, but I also put money on -- on  
14 horses, as well. Are you willing to also give back the money  
15 that was bet on a horse that's pulled up and did not finish?

16 If this thing is going to be taken into consideration  
17 I think you have to take a look at the entire spectrum that's  
18 involved. I'm all in favor of protecting the horse, but you  
19 have to protect the public, as well.

20 So would it be fair to say that a guy that spent  
21 \$25,000 or \$35,000 claiming a horse gets his money back, but  
22 the guy that bet \$1,000 to win on the horse because the  
23 veterinarians pre-race evaluation was positive?

24 There are so many elements to this that just make it  
25 not right. You've got to consider the procedures that are

1 already in place. And if you have to get better veterinarians  
2 out there to vet the horses properly you could send --  
3 everybody knows it -- you could send the most sound, perfect  
4 horse out with all the best intentions in the world and, God  
5 forbid, they have problems also.

6           So again, like John Sadler said, I think you have to  
7 have confidence in the trainers that are representing you.  
8 They're licensed. They should be doing the best for both their  
9 owners, the horse, and the public. And it's just way too broad  
10 and vague.

11           CHAIRMAN BRACKPOOL: Commissioner comments.  
12 Commissioner Choper first.

13           COMMISSIONER CHOPER: I think a couple of things  
14 ought to be made clear. No -- no one -- no one is stereotyping  
15 trainers at all and saying that, you know, the trainer -- that  
16 most trainers do this. It's perfectly clear that we would be  
17 affecting a very small percentage, even if you have both the  
18 fatalities and the injuries.

19           You know, the fact is that we have a law against --  
20 against murder. It doesn't mean that we feel that most people  
21 are committing murder. But -- but the fact that there may be  
22 some who will be deterred from engaging in misconduct is the  
23 reason most rules are passed.

24           Second, I guess I don't clearly understand why the --  
25 the TOC or the other -- the competing horsemen's

1 organizations -- this is going -- simply shifting the loss  
2 between two owners. I mean, that's all that this does. It --  
3 it doesn't all -- it doesn't all of a sudden say, well, the  
4 owners are out of luck. And if the horse breaks down, the  
5 horse breaks down. Someone's got to pay today.

6           This does shift it and it shifts -- shifts the --  
7 shifts the loss, the imposition of the loss in order to, you  
8 know, give -- give a public impression, which Commissioner  
9 Derek mentioned in his whole thing, that -- that people --  
10 people believe, well, they're dropping them down because  
11 they're injured in some way. You know, the expression is  
12 frequent and I've heard it, well, the horse, maybe he's got  
13 this race left and -- and maybe he doesn't.

14           The fact is that this is a small number of -- that --  
15 that we're dealing with. I don't -- I don't quite -- and --  
16 and the notion that there are so many elements of this, well, I  
17 mean, of course there are elements, but it doesn't mean we  
18 shouldn't try to remedy some of them first out.

19           So I tend to favor this when we're -- and when it  
20 does go out for comment all things can be made, and it can be  
21 split as it is. It's two provisions of the -- of the -- of the  
22 proposed regulation. You can vote in favor of one and against  
23 the other.

24           CHAIRMAN BRACKPOOL: I -- I think I -- do I have  
25 other Commissioners to --

1 COMMISSIONER ROSENBERG: I just want to respond --

2 CHAIRMAN BRACKPOOL: -- say something?

3 COMMISSIONER ROSENBERG: -- to what Commissioner  
4 Choper said on the -- what bothers me about both ends of this  
5 rule is that the -- the motivation is -- you know, it may be,  
6 as Commissioner Derek said, to benefit the horse. I don't  
7 think there's any impact on that. It's really the public  
8 perception. And it happens so rarely I just think that to mess  
9 with a claiming business that's been going on forever and goes  
10 on the rest of the country, by the way, is -- is wrong here.

11 CHAIRMAN BRACKPOOL: Commissioner Harris.

12 COMMISSIONER HARRIS: Well, I think it is -- it's a  
13 very baby step towards better health and welfare. And it is  
14 going to be a very atypical situation where -- where anyone who  
15 purposely runs a horse thinking it's going to break down but he  
16 thinks that somebody will lose it. I meant -- but I think any  
17 of us have to believe that can happen and does happen, and  
18 very -- it might be 1 out of, you know, 10,000 times or  
19 whatever. But if we can do something to -- to save a few  
20 horses along the way we -- we should. And it's just -- it's  
21 sort of a zero sum game because nobody -- the claims is just  
22 voided at some -- there's no real damage to the -- to the owner  
23 community in general.

24 And I don't think we're pointing a finger at anybody.  
25 It just seems like a very common sense type of thing. And

1 people have to realize, too, that this goes out for comment.  
2 And what we do is we make rules. Now because John Sadler is  
3 talking about legislation, now it could happen through  
4 legislation. But I don't think you really want a lot of  
5 legislation. I think you could get this added onto some animal  
6 welfare bill and -- and pass it pretty easily. But I think  
7 it's better we keep it at the Board level and -- and -- and be  
8 able to regulate it here.

9 CHAIRMAN BRACKPOOL: Okay. Just before I say  
10 something, I see Dr. Arthur wishes to say something.

11 DR. ARTHUR: Yeah. Mr. Chairman, I would like to  
12 point out, there were two horses that -- at Santa Anita in  
13 March that were taking double drops off of good races that were  
14 favorites that were claimed that never reached the finish line.  
15 This certainly does happen and it is an issue, and it's not  
16 just a owner-trainer issue, it's a horse and jockey issue.  
17 When you get the stewards minutes and you know when those  
18 horses break down that that's a high-risk issue.

19 The whole purpose -- this came about from the first  
20 Jockey Club Welfare and Safety Summit almost five, six years  
21 ago. It was one of the recommendations to try to take the  
22 incentive out of racing bad horses. I would like to point out,  
23 besides the two here we all dealt with the Bernadette issue at  
24 Los Alamitos. It appeared to be someone trying to unload a bad  
25 horse. Whether it was or not, that's open for debate. But it

1 certainly was a perception of the public, and that's something  
2 I do think we have to -- to convince the public we care about  
3 these horses.

4           In terms of the vet's list, I think there are ways to  
5 modify this that might satisfy everyone. But I will tell you,  
6 at the medication meeting the CTT offered to give us their  
7 version of this regulation. We waited for the week that they  
8 told us they would provide this and we never saw anything. I  
9 urge you to vote for this, put it out for notice. You'll get  
10 to approve it later on. But this is a way to force people to  
11 come to some resolution of this and the Board can either vote  
12 it up or down.

13           CHAIRMAN BRACKPOOL: Thank you.

14           DR. ARTHUR: Thank you.

15           CHAIRMAN BRACKPOOL: Before -- just before I say  
16 something and move on, I see John. Did you wish to add  
17 something?

18           MR. SADLER: Well, yeah.

19           CHAIRMAN BRACKPOOL: Name for the -- the court --

20           MR. SADLER: John Sadler, CTT. Rick mentioned the  
21 two incidents at Santa Anita this year. But somebody has to  
22 mention the three previous years when there was no incidents.  
23 So, you know, there's -- there's -- it's just not a big thing.  
24 It's not a big problem in -- in our eyes. Alan has something,  
25 also.

1 MR. BALCH: When I approached the microphone  
2 before -- Alan Balch, CTT -- I wanted to make the point that  
3 Mr. Arthur -- Dr. Arthur just made, with my apologies, that we  
4 did not provide an alternative because we did not realize that  
5 this was going to be on this agenda when we left the meeting  
6 back then. So I do apologize that we did not get our  
7 alternatives in. But I do think it's worth stating for the  
8 record that we do have some alternatives that would address  
9 this.

10 CHAIRMAN BRACKPOOL: Well, then you'll be able --

11 COMMISSIONER ROSENBERG: You still have time.

12 CHAIRMAN BRACKPOOL: You'll be able to --

13 COMMISSIONER DEREK: Yeah.

14 CHAIRMAN BRACKPOOL: -- do those in the 45 days.

15 Thank you.

16 MR. BALCH: Yes, sir, except for the fact that as  
17 this morning's first item indicated, when we do get our  
18 comments in within the 45-day period they are not always read  
19 or considered. Thank you.

20 MS. WAGNER: That --

21 CHAIRMAN BRACKPOOL: Well, we did actually --

22 COMMISSIONER HARRIS: That's debatable.

23 CHAIRMAN BRACKPOOL: -- get a copy distributed to  
24 everybody. It was later than I think we would have liked, but  
25 everybody got to read your letter of April 21st.

1 I would also suggest to the CTT that when you send in  
2 your comments, sending them by mail on the -- on one of the  
3 last days is not necessarily the way to do it. Thank you,  
4 Alan.

5 Anyway --

6 MR. BALCH: That is an --

7 CHAIRMAN BRACKPOOL: -- my --

8 MR. BALCH: -- incorrect statement. They were sent  
9 by mail but they were sent electronically prior to that.

10 CHAIRMAN BRACKPOOL: Thank you. I was not --

11 MS. WAGNER: Jackie Wagner, CHRB staff. We did not  
12 receive that letter until after this package was prepared. The  
13 package went out to the Board Tuesday of -- of the following  
14 week. I don't know -- I don't have a calendar in front of me.  
15 But I want to --

16 CHAIRMAN BRACKPOOL: Well -- well, this is --

17 MS. WAGNER: I want to put it on the record.

18 CHAIRMAN BRACKPOOL: -- this is a debate that we --

19 COMMISSIONER HARRIS: But -- but --

20 CHAIRMAN BRACKPOOL: -- will have afterwards. But --

21 COMMISSIONER HARRIS: Could we put this out, though,  
22 just to --

23 CHAIRMAN BRACKPOOL: John, let me --

24 COMMISSIONER HARRIS: Yeah.

25 CHAIRMAN BRACKPOOL: -- let me just --

1 COMMISSIONER HARRIS: Yeah.

2 CHAIRMAN BRACKPOOL: -- say a couple of things if  
3 I -- if -- if I may, because we're getting a lot of emotion  
4 here about a rule that we're talking about putting out for  
5 comment where everyone is going to have the chance to comment,  
6 and we're going to have another one of these hearings. All  
7 right.

8 I think what people perhaps are missing here is  
9 exactly the point that Commissioner Rosenberg made, that I  
10 think, you know, we're in a business where perception begets  
11 reality here. And to me, I don't personally like the second  
12 part of this rule. I do think it's potential quagmire for --  
13 for lawyers and --

14 COMMISSIONER HARRIS: Take B out.

15 CHAIRMAN BRACKPOOL: -- unsoundness and --

16 COMMISSIONER HARRIS: But take B out.

17 CHAIRMAN BRACKPOOL: -- and everything else. And I  
18 would -- I would personally be prepared to -- to vote to put  
19 this rule out if it was just item number one so it would read,  
20 if a claimed horse suffers a fatality during the running of the  
21 race or before it is returned to be unsaddled --

22 COMMISSIONER HARRIS: Which --

23 CHAIRMAN BRACKPOOL: -- so that there is --

24 COMMISSIONER CHOPER: Unload it the next time.

25 COMMISSIONER HARRIS: You'd just take out B,

1 subsection B?

2 CHAIRMAN BRACKPOOL: I would just take out -- yes, of  
3 the rule -- of the rule itself.

4 COMMISSIONER HARRIS: This is -- what we're going to  
5 put out is this. I think we can just take out B, it would  
6 cover it. And maybe people could comment if they want to add B  
7 back in somehow.

8 CHAIRMAN BRACKPOOL: C.

9 COMMISSIONER DEREK: Why don't --

10 CHAIRMAN BRACKPOOL: You would just take out C.

11 MS. WAGNER: C.

12 CHAIRMAN BRACKPOOL: You would just take out C.

13 COMMISSIONER HARRIS: Yeah, you'd take out C. Right.

14 CHAIRMAN BRACKPOOL: And we would leave in B.

15 COMMISSIONER HARRIS: Leave in B, yeah.

16 CHAIRMAN BRACKPOOL: And so I would --

17 COMMISSIONER CHOPER: I'll second -- I'll second your  
18 motion.

19 CHAIRMAN BRACKPOOL: Thank you. So I make the  
20 motion. Commissioner Choper seconds the motion.

21 Before we take a vote, Jackie is eagerly trying to  
22 tell me something.

23 MS. WAGNER: I just want to make sure I've got it  
24 correct. We are going to leave B in.

25 COMMISSIONER HARRIS: Leave B.

1 CHAIRMAN BRACKPOOL: Leave B.

2 COMMISSIONER HARRIS: Yes.

3 MS. WAGNER: And you're going to --

4 CHAIRMAN BRACKPOOL: And remove C.

5 MS. WAGNER: And remove C. And that will be the --

6 the language that will be sent out for 45 days?

7 CHAIRMAN BRACKPOOL: Exactly.

8 MS. WAGNER: Okay.

9 CHAIRMAN BRACKPOOL: So that would be my proposal.

10 Commissioner Choper seconds my motion.

11 All in favor?

12 COMMISSIONER DEREK: Aye.

13 COMMISSIONER CHOPER: Aye.

14 VICE CHAIRMAN ISRAEL: Aye.

15 CHAIRMAN BRACKPOOL: Aye.

16 COMMISSIONER HARRIS: Aye.

17 MR. MILLER: Point of clarification. Robert Miller,

18 Counsel with the California Horse Racing Board.

19 So subsection D then would be relabeled C; is that

20 it?

21 MS. WAGNER: That's correct.

22 COMMISSIONER HARRIS: But that's not a change.

23 MS. WAGNER: We will make that change.

24 VICE CHAIRMAN ISRAEL: No. No. He just has -- he's

25 just doing the housekeeping.

1 MR. MILLER: It's a typographical.

2 MR. MILLER: It's just the housekeeping.

3 CHAIRMAN BRACKPOOL: That one becomes --

4 COMMISSIONER HARRIS: It's -- that's not new, though.

5 CHAIRMAN BRACKPOOL: The only thing we're taking out  
6 is what is currently C.

7 So do I have -- so let's have a vote again. I  
8 proposed the motion. Commissioner Choper seconded it.  
9 Commissioner Derek in favor. Commissioner Israel in favor.  
10 Commissioner Harris in favor. And I'm asking the question of  
11 Commissioners Moss and Rosenberg.

12 COMMISSIONER ROSENBERG: In favor of --

13 CHAIRMAN BRACKPOOL: Commissioner Rosenberg in favor.

14 COMMISSIONER ROSENBERG: -- at this time.

15 COMMISSIONER MOSS: I'm going to abstain.

16 CHAIRMAN BRACKPOOL: And Commissioner Moss abstains.

17 The -- the motion will -- the modified rule will be sent out  
18 for -- for a vote.

19 Item number eight, discussion and action by the Board  
20 regarding the proposed amendment of CHRB Rule 1843.3, Penalties  
21 for Medication Violations, number one, to change the penalty --  
22 well, I'm going to let you read this, Jackie. Just read this.

23 Do we -- do we -- do you really need to read all of  
24 this into the record?

25 MS. WAGNER: I'm sorry. I'll take care of it. Don't

1 worry about it.

2 CHAIRMAN BRACKPOOL: Well, I know you'll take care of  
3 it. But it's just -- it's the audience. It's such a long  
4 thing. I mean, can we not just refer to item number eight?

5 COMMISSIONER HARRIS: Yeah. Just --

6 MS. WAGNER: For this -- for this -- well, we can --  
7 we can refer to item number eight. That's fine.

8 CHAIRMAN BRACKPOOL: Right. Refer to item number  
9 eight which is a proposed amendment of CHRB Rule 1843.3,  
10 Penalties for Medication Violations.

11 Would you please explain what we're proposing here,  
12 Dr. Arthur?

13 DR. ARTHUR: Yes. There -- there is a proposal out  
14 to modify and reduce the permitted level of two nonsteroidal  
15 anti-inflammatories, flunixin from 50 to 20 nanogram, which is  
16 the RCI recommendation, and phenylbutazone from 5 micrograms to  
17 2 micrograms. This modifies the CHRB penalty structure for  
18 that lowering of those levels, taking into consideration that  
19 it is a new program. And we've actually established rather  
20 liberal, lenient penalty guidelines.

21 It is somewhat similar to what the RMTC approved last  
22 week that will go before the RCI board process later on. That  
23 takes about a year to get adopted. But what it does -- and  
24 I -- you know, for the sake of time, you can get into the  
25 argument about phenylbutazone if you want. But that will come

1 up next time, whenever that proposal comes forward. This is  
2 simply the penalties if that board approves that.

3 At the time that that was approved the CTT objected  
4 that we didn't have these in place. And certainly we could  
5 have operated under the rules, current rules. But this  
6 actually puts a rather lenient and I think generous penalty  
7 guidelines in place for any potential violations.

8 CHAIRMAN BRACKPOOL: Again, this would be to -- to  
9 send this out for a 45-day vote?

10 DR. ARTHUR: A 45-day vote and --

11 CHAIRMAN BRACKPOOL: Well, a 45-day comment period --

12 DR. ARTHUR: Comment and --

13 CHAIRMAN BRACKPOOL: -- before the vote.

14 DR. ARTHUR: That's --

15 CHAIRMAN BRACKPOOL: I apologize.

16 DR. ARTHUR: That's right. And -- and this becomes  
17 irrelevant if the Board does not approve the change in the  
18 reduction of the nonsteroidal anti-inflammatories that have  
19 been -- that are out for comment today.

20 CHAIRMAN BRACKPOOL: Right. Commissioner Derek,  
21 would you add anything to that before I open it up to public  
22 comments?

23 COMMISSIONER DEREK: I just -- this is an example of  
24 the -- the Board and the equine medical director working with  
25 the industry. I believe these are even more lenient than the

1 the RCI recommendations.

2 DR. ARTHUR: The RMTTC recommendations.

3 COMMISSIONER DEREK: RMTTC. I'm sorry.

4 DR. ARTHUR: Then it goes to the RCI. But, yes, they  
5 are.

6 CHAIRMAN BRACKPOOL: I'd like to -- do have something  
7 to say, Commissioner Moss?

8 COMMISSIONER MOSS: Again, I ask if -- if any other  
9 jurisdiction throughout the country has -- has these  
10 regulations.

11 DR. ARTHUR: The -- in terms -- in terms of the  
12 phenylbutazone, which is not what we're talking about, yes,  
13 there are -- about a third of the states already have two  
14 micrograms rules. It has become -- as of December it was an  
15 RCI model rule. And these penalty guidelines are very similar  
16 to what the RCI will be looking at. That goes through their  
17 process. That's your organization. It takes awhile because  
18 you have to get 38 states together. But the penalty guidelines  
19 will be quite -- are very similar to what we're proposing here.  
20 Ours are just a little bit more lenient.

21 Most of our trainers, frankly, are -- are very  
22 cooperative and -- and abide by the rules. Even without any  
23 changes under the 5 microgram rule, 85 percent of our trainers  
24 would be, you know, in compliance.

25 CHAIRMAN BRACKPOOL: I have several speakers, again

1 on this issue. The first speaker is John Barr, Jockey Club  
2 Safety Committee.

3 MR. BARR: My name is John Barr. Good morning. I'm  
4 here today on behalf of the Jockey Club Safety Committee of  
5 which I am a member. I want to talk only to the reduction to  
6 the flunixin and to the furosemide -- not furosemide -- bute.  
7 The penalties is not my game. It's not the game of the -- of  
8 the safety committees those are -- that's up to you to deal  
9 with.

10 CHAIRMAN BRACKPOOL: That's unfortunately the only  
11 agenda item really, so --

12 MR. BARR: All right. So --

13 CHAIRMAN BRACKPOOL: -- try and make your points  
14 towards that --

15 MR. BARR: All right. So we're only going to be  
16 talking about --

17 CHAIRMAN BRACKPOOL: -- if you can, please.

18 MR. BARR: You're only going to be speaking to  
19 medications today?

20 CHAIRMAN BRACKPOOL: Only speaking to the --

21 MR. BARR: I mean, to --

22 CHAIRMAN BRACKPOOL: -- to the penalty guidelines --

23 MR. BARR: -- penalty guidelines?

24 CHAIRMAN BRACKPOOL: -- that will come into place if  
25 and when we vote for the reduction.

1           MR. BARR: Okay. Well, then briefly, all I can say  
2 is that a couple of years ago regulatory veterinarians came to  
3 the Jockey Club and asking their Safety Committee to consider  
4 the fact that there -- there was too much bute in the system of  
5 these horses, that they were all concerned about their ability  
6 to give a fair examination on race examination day. And  
7 they -- we interviewed from there a number of veterinarians,  
8 not only examining veterinarians but guys that just work in the  
9 backstretch. They all expressed the same concerns. This is a  
10 slam dunk, really. It should be very simple for you. It's --  
11 there are therapeutic values to this drug, but to --

12           CHAIRMAN BRACKPOOL: As I said, John, I would  
13 delighted if you would come back and testify --

14           MR. BARR: All right.

15           CHAIRMAN BRACKPOOL: -- when we have that issue in  
16 front of us. It would be unfair on everybody else --

17           MR. BARR: Okay. I'm sorry.

18           CHAIRMAN BRACKPOOL: -- if we allowed you to testify.

19           MR. BARR: I misread your agenda item. Thank you.

20           CHAIRMAN BRACKPOOL: And I apologize on that.

21           Next speaker, Alan Balch, CTT.

22           MR. BALCH: Alan Balch, CTT. We would like -- for  
23 CTT, we would like to make the comment that we think the -- the  
24 guidelines do seem reasonable, but they're based on threshold  
25 levels. And we want you to understand that the threshold

1 levels would likely result in increased positives.

2 We have welcomed the opportunity to engage with the  
3 committee on this. And we think that it's very important that  
4 the next step of this somehow be melded so that the guidelines  
5 could be -- or the penalty guidelines could be talked about at  
6 the same time as the level issue that Mr. Barr just raised,  
7 because we do think there are some differences as to whether  
8 bute really is a 24-hour medication, as specified in CHRB  
9 regulations now, or would become a 30- or 36-hour. Thank you.

10 CHAIRMAN BRACKPOOL: Thank you. Next speaker, Pablo  
11 Suarez.

12 MR. SUAREZ: Hello. Pablo Suarez, Thoroughbred  
13 Owners of California.

14 In addressing only the penalty guidelines regarding  
15 this rule, we approve and accept them if the proposed rule were  
16 to pass.

17 Addressing what Bo Derek had said, we definitely have  
18 to give credit here to Dr. Arthur -- he takes so much flack --  
19 but for sticking to his word when creating these penalty  
20 guidelines. And -- and as an example, as -- as Bo had stated,  
21 is when all parties work together and stick to their words we  
22 can get things done. So I credit all of us for doing that.

23 The only suggestion that the TOC would make if -- if  
24 appropriate and if we can get this done would be to make it a  
25 number of starts per trainer versus a 12-month period. So make

1 it an either or based on some of these trainers who have  
2 significant number of starts more than -- than other trainers.

3 CHAIRMAN BRACKPOOL: Again, that would be something,  
4 Pablo, that you would be able to comment on during the -- the  
5 rule period if the -- if the Board here votes to -- to put that  
6 out.

7 MR. SUAREZ: Thank you.

8 CHAIRMAN BRACKPOOL: Thank you. And those are the  
9 speakers I have.

10 Do I have any other comments from Commissioners on  
11 this?

12 VICE CHAIRMAN ISRAEL: Yeah. I have --

13 CHAIRMAN BRACKPOOL: Commissioner Israel.

14 VICE CHAIRMAN ISRAEL: -- a comment that's a broader  
15 comment that -- that pertains to this, and it's about  
16 accountability for veterinarians. I believe all veterinary  
17 records should be available to the public and to everybody in  
18 the business, obviously. I believe there needs to be full and  
19 total transparency. And I don't even think it would be a  
20 terrible idea over an extended period of time to socialize  
21 backstretch medicine so that everybody's horses were treated in  
22 the same way. I think we need to take a step towards that.

23 Right now the trainer, the owner, the jockey,  
24 everybody knows their name, everybody knows that they were  
25 involved somehow when something happens to a horse, but nobody

1 knows the name of the vet. And the vet may be the one who made  
2 the mistake, who administered the large dose, who overlooked  
3 something.

4           So I think we need to completely reconsider how we  
5 treat veterinarians in terms of being a member of the -- a  
6 member of the group of horsemen. They need to be held just as  
7 accountable as everybody else. And I think Dr. Arthur,  
8 actually, has brought forward to us how this is done in Hong  
9 Kong and it seems to be effective and helpful for everybody  
10 from the horse player to the owner to the trainer, even to the  
11 jockey because the jockey is getting on that horse and risking  
12 his life or her life.

13           So I think as we reconsider all these things that's  
14 an important part of this reconsideration as we go forward.

15           CHAIRMAN BRACKPOOL: Thank you. Dr. Arthur, did you  
16 wish to respond to that?

17           DR. ARTHUR: Yeah. I would just like to respond  
18 is -- is I realize there's a perception that the veterinarians  
19 get a walk on this. And I would like to point out that Dr.  
20 Geeyan (phonetic) was suspended for 30 days and a \$4,000 fine  
21 for making mistakes. And Dr. Coleman was just fined \$1,000 for  
22 making a mistake on high bute.

23           So -- and the trainers in all those cases were, I  
24 don't -- I don't think in terms of exonerated, but the cases  
25 were dismissed against them. They're hard to develop those --

1 those cases.

2 VICE CHAIRMAN ISRAEL: I understand. But we need --  
3 we need to start the process to make all veterinary records  
4 transparent.

5 COMMISSIONER HARRIS: Different item.

6 VICE CHAIRMAN ISRAEL: They're -- they're -- and  
7 it's -- it's part of -- of -- of a larger issue. Those need to  
8 be made transparent, and that's all part and parcel of doing  
9 these rules. We need to understand how these horses are being  
10 treated. That's the only fair way to go about this. And --  
11 and the patient-doctor privilege just does not apply here  
12 because the patient is the horse and it has no sense of  
13 privacy.

14 COMMISSIONER HARRIS: We've got that coming up in  
15 some other items.

16 CHAIRMAN BRACKPOOL: We've got that coming up in the  
17 next item. We can get more into that. But anyway --

18 COMMISSIONER HARRIS: I like your speech, though.

19 CHAIRMAN BRACKPOOL: -- if I --

20 COMMISSIONER DEREK: But thank you. I agree with  
21 you, David, and I look forward to working on this with you.

22 CHAIRMAN BRACKPOOL: Before I -- are there any other  
23 Commissioner comments? Then do I have a motion to --

24 COMMISSIONER CHOPER: Yes.

25 CHAIRMAN BRACKPOOL: Commissioner Derek makes a

1 motion to send item number eight out for a 45-day comment.

2 Seconded eagerly by Commissioner Choper.

3 All in favor?

4 ALL COMMISSIONERS: Aye.

5 CHAIRMAN BRACKPOOL: Motion carries unanimously and  
6 it will be sent out.

7 Item number nine, discussion and action by the Board  
8 regarding the proposed amendment of CHRB Rule 1846.5,  
9 Postmortem Examination, to require the preceding six months of  
10 veterinary records be submitted within 48 hours after  
11 submission of a necropsy submission form.

12 And so, Dr. Arthur, would you or Commissioner Derek  
13 like to give us a little background on this?

14 COMMISSIONER DEREK: Dr. Arthur, please.

15 DR. ARTHUR: Yes. This is -- this is a way to try to  
16 simplify getting better medical -- previous medical histories  
17 to utilize with the necropsy program. We have used the  
18 subpoena process for this, which is a rather confrontational  
19 process. This is a way to try to make it similar, the --  
20 similar to how we have the confidential veterinary reports  
21 filed by the veterinarians so that we can correlate the  
22 previous medical history with the -- the pathological findings.

23 You know, the horses breaking down, as we've heard  
24 everybody say, it's multi-factorial. And I think we have -- we  
25 have an excellent necropsy program. It's state-of-the-art.

1 It's the best in the world. And I think we need to -- to  
2 utilize our core competencies and take this information and try  
3 to correlate with the type of problems we see so we can better  
4 educate our horsemen as to what kind of problems they need to  
5 look for. And I know Dr. Stover will be up here a little bit  
6 later, but she's been very innovative in -- in looking at these  
7 pathology reports and trying to help the veterinarians diagnose  
8 these problems before the horses break down on the race track,  
9 and that's her ultimate goal.

10           You know, I know that there's a little bit of  
11 unhappiness with, you know, revealing this sort of information.  
12 This regulatory commission does have a right to do that. We do  
13 subpoena it now. And I would encourage this go out for comment  
14 and we can clean it up and see if we can get everybody happy.  
15 It's not a confrontational thing. It's -- it's a way to try  
16 to -- to get better information, to utilize a program that's  
17 already in place. Thank you.

18           CHAIRMAN BRACKPOOL: Thank you. Commissioner Derek?

19           COMMISSIONER DEREK: Yes. I think this is -- is very  
20 important. We've had the necropsy program for 20 years now and  
21 have learned so much. And it seems that for 20 years it's been  
22 half blind. I think that these records will help a lot.

23           CHAIRMAN BRACKPOOL: Commissioner Moss?

24           COMMISSIONER MOSS: I was just going to ask, has ever  
25 a necropsy report ever convicted anybody, so to speak?

1 DR. ARTHUR: No. It -- it certainly they've been used  
2 in investigations. But I am -- I can only speak during my term  
3 as equine medical director. I don't know if originally when  
4 Phoebe Cooke and Rosemary Ferraro proposed this there was some  
5 idea that they would find dastardly deeds being done, and that  
6 hasn't really been the case. It -- they haven't been forensic  
7 necropsies, so we certainly look for those things. But what  
8 we're really trying to do is improve the healthcare of the  
9 horse.

10 COMMISSIONER HARRIS: I think we always assume that -  
11 - that there was good transparency going backwards on the  
12 horse's health history. And then I discovered -- several of us  
13 discovered that it's not. It really wasn't. I mean, we just  
14 don't -- you can't really -- I mean, you can do it -- Davis  
15 does an excellent job doing the necropsies now. But they can  
16 do an even better job if they've got more of a health history  
17 on a horse if there be correlations.

18 It's not -- the purpose of this isn't to point the  
19 finger at somebody. It's just we would want this if this was  
20 our grandmother. I'd like us to go back and see what --  
21 what -- what her health history was, it would advance medicine.

22 COMMISSIONER ROSENBERG: Just a -- I have a --

23 CHAIRMAN BRACKPOOL: An interesting analogy. If --  
24 if may, Commissioner Rosenberg who hopefully has a more  
25 appropriate one.

1           COMMISSIONER ROSENBERG: I have a question, a  
2 technical question on the language, the amendment, paragraph  
3 two. To me it's supposed to be confidential, but not  
4 confidential from the people at U.C. Davis doing research. And  
5 the way this is worded is it clear to everyone that it allows  
6 that?

7           Because it seems to limit it too much to - C is  
8 "before the stewards or the Board," and then a comma, "in  
9 exercise of the Board's jurisdiction" -- I'm not sure what that  
10 means -- "on the analysis of injuries and illnesses as approved  
11 by the executive director and the equine medical director."

12           So why do we even -- why don't we just  
13 specifically -- that language that says "in exercise of the  
14 Board's jurisdiction" seems to mix up the -- to me it does  
15 anyway.

16           DR. ARTHUR: The --

17           COMMISSIONER ROSENBERG: Maybe it's just me.

18           DR. ARTHUR: The -- the language, the first part of  
19 that language that you object to is taken directly from the  
20 veterinary confidential language. The -- the bottom line is  
21 you don't want somebody being able to -- to file a PRA and  
22 getting -- get the medical history that you've asked an owner  
23 to -- to provide. Well, that -- that's how it -- that's how it  
24 is. Because basically you don't -- you don't -- you don't get  
25 true histories if everybody thinks the whole public is going to

1 have access to it.

2 VICE CHAIRMAN ISRAEL: Well, they don't want to go to  
3 jail.

4 DR. ARTHUR: But that language is taken -- that  
5 language is taken directly out of the 1842 language. And in  
6 the other half it says "in exercise of the Board's jurisdiction  
7 and/or in analysis of injuries," and that's where U.C. Davis  
8 would come in. And I will say that in the 20-year history of  
9 that program there has never been an owner, trainer, or horse,  
10 to my knowledge, ever mentioned in any research --

11 COMMISSIONER ROSENBERG: Okay.

12 DR. ARTHUR: -- project thereof.

13 COMMISSIONER ROSENBERG: Fine.

14 CHAIRMAN BRACKPOOL: Thank you. I have one speaker  
15 on this issue, Pablo Suarez. Now batting, Madeline Auerbach.

16 MS. AUERBACH: Madeline Auerbach, TOC.

17 We're very much in favor of having a program of this  
18 sort. We have one small issue, and we have asked and we have  
19 discussed it with -- with the committee that put this together.  
20 And our issue is we would like to see a program where the  
21 horses are not named, where they're assigned numbers, where  
22 basically it's a blind study. We are concerned about the  
23 liability issue.

24 Technically, as owners we pay for all of these  
25 veterinary services. And it's true that the horse doesn't have

1 the records, we do. We own them, we pay for them, and we're  
2 more than willing to have them utilized for the advancement and  
3 protection of the horses health. But what we're not willing to  
4 do is have them subject to a lot of people looking them over.

5 We would like to see it done as something akin to a  
6 blind study where you assign a number, not a name, and utilize  
7 all this information but do not have any opportunity for the  
8 public to say, oh, that was such and such a horse and I know  
9 that and, gee, maybe there's going to be a lawsuit. And that's  
10 our concern with this issue, not with the intent, but how we  
11 get this done. We're just looking to protect the owners.

12 Anybody have --

13 CHAIRMAN BRACKPOOL: What is the -- thank you,  
14 Madeline.

15 What is the response to that, Dr. Arthur?

16 DR. ARTHUR: The response to that is it actually  
17 becomes very difficult to do. Because if you look -- and Dr.  
18 Stover is here and she may be able to answer this when she  
19 comes up here in a minute. But -- but, you know, certainly  
20 there are ways to look at that. And again, as I would  
21 indicate, as I indicated before, I'm unaware of any instance  
22 where specific horses names, owners or horses, trainers have  
23 been identified with -- with any research done at U.C. Davis.

24 Having said that, there -- if you look at Dr.  
25 Stover's research there has been a correlation between the

1 horse and certain information in Equibase how that horse is  
2 trained, how he's raced, his times -- time off. So you have to  
3 have the horses name to obtain that epidemiological  
4 information.

5           Having said that, you know, there may be ways to  
6 allay the fears of the -- of the owners. I certainly, I  
7 know -- I'm sure Dr. Stover and the pathology -- or the  
8 pathologists would be willing to discuss ways to get that done.

9           COMMISSIONER HARRIS: I just hate to see us imply  
10 that there has to be a lot of confidentiality. I think  
11 transparency is important, and I don't think we want to go out  
12 of our way to, you know, expose some incident or person or  
13 horse. But -- but we're trying to just advance the whole  
14 industry here and the whole science of -- of pathology, and we  
15 -- we can't get hung up on, you know, somebody had a horse ten  
16 years ago  
17 that -- that came out was that was his name. I just can't see  
18 where anyone is going to get damaged. You know, people can sue  
19 people every day for something, but -- but I don't think this  
20 is going to -- to aid the process.

21           DR. ARTHUR: Excuse me. There's been over -- over  
22 5,500 necropsies, a sobering number in the 20 years of this  
23 program. And I'm -- I'm really unaware of anyone who was sued  
24 because of, you know, this -- this information.

25           CHAIRMAN BRACKPOOL: If I have no further comments

1 from Commissioners, then do I have a motion to put this item  
2 number nine, proposed amendment of CHRB Rule 1846.5, Postmortem  
3 Examination, out for the 45-day comment?

4 COMMISSIONER HARRIS: I'll move.

5 CHAIRMAN BRACKPOOL: Moved by Commissioner Derek.  
6 Seconded very closely in a photo finish by --

7 COMMISSIONER HARRIS: Too slow.

8 CHAIRMAN BRACKPOOL: -- Commissioner Harris.

9 All in favor?

10 ALL COMMISSIONERS: Aye.

11 CHAIRMAN BRACKPOOL: The motion -- the motion  
12 carries.

13 Item number ten, discussion and action by the Board  
14 regarding a report and update by the University of California,  
15 Davis and the CHRB regarding the joint proposal for a race  
16 track -- race track safety program for equine welfare and  
17 injury prevention by the J.D. Wheat Veterinary Orthopedic  
18 Research Laboratory and the California Animal Health and Food  
19 Safety Laboratory System in concert with the CHRB postmortem  
20 program.

21 And to present this issue we have Executive Director  
22 Kirk Breed and, I believe, Dr. Stover.

23 EXECUTIVE DIRECTOR BREED: Thank you, Mr. Chairman  
24 and Commissioners. Kirk Breed with the California Horse Racing  
25 Board. The -- and I also have here Dr. Stover who -- Dr. Sue

1 Stover with the University of California at Davis who will be  
2 heading up this project.

3 In summary, for the last 20-some years we've had on  
4 the books, the law books, the -- a requirement that the  
5 California Horse Racing Board investigate and report on all  
6 fatalities on the race track. In concert with that the --  
7 the -- the law requires the Board to determine the cause of the  
8 injury that led to that fatality.

9 We have done part of that. We have reported that  
10 there was a fatality, but we have not thoroughly investigated  
11 these fatalities. The purpose of this -- of this -- of this  
12 program that we are proposing today, and we're asking the Board  
13 to vote on, is -- is for the University of California at Davis  
14 to do extensive research and extensive data and extensive  
15 analysis on all of these fatalities. We have done some, but  
16 it's been on more of a volunteer basis by U.C. Davis. What we  
17 want to do, what this program does is put all of these under an  
18 extensive analysis.

19 In addition, the University of California at Davis  
20 will develop means of preventing these fatalities and  
21 preventing these injuries, a program of maximizing all of the  
22 information as to detection of injuries and potential injuries.

23 So with that, Mr. Chairman, I'd like to turn it over  
24 to Dr. Stover to answer any of the questions the Board may  
25 have.

1 I might add just one more thing. We have -- the  
2 California Horse Racing Board, the staff, we have gone through  
3 a budget process this year. And I put in your packet a -- the  
4 savings that we have come up with and evaluated in order to be  
5 able to do this program within our budget, without having to go  
6 for additional funds.

7 CHAIRMAN BRACKPOOL: Very important. Dr. Stover?

8 DR. STOVER: Well, I'm happy to --

9 CHAIRMAN BRACKPOOL: Please state your name and  
10 affiliation for the reporter.

11 DR. STOVER: Sorry. Sue Stover, University of  
12 California at Davis.

13 This program is meant to take the postmortem  
14 program -- the next step is to enhance it so that it -- in  
15 addition to, as an example, identifying that a horse died  
16 because it had a fracture of a specific bone, is to take that  
17 further and say this is what we know about that. We want to  
18 bring that information and educate all people involved with  
19 management of the horse so that injuries can actually be  
20 prevented. For example, this fracture resulted because there  
21 was a preexisting injury. This is how -- this is what we know  
22 about how you can detect that injury in horses and have horses  
23 appropriately rehabilitated. It intends to be research on  
24 those injuries which we still need to know more about.

25 But a main component is education that we can work

1 constructively with the race horse injury prevention, both for  
2 equine welfare, jockey safety, as well as reducing the huge  
3 attrition of race horses in the industry so improving the  
4 economic viability of the industry.

5 CHAIRMAN BRACKPOOL: Thank you. Do I have any  
6 comments from Commissioners? Commissioner Moss.

7 COMMISSIONER MOSS: Is this study just regarding  
8 horses injuries; is that what it is? Because it says something  
9 about race track safety. So what does that relate to?

10 DR. STOVER: It actually involves three components.  
11 One, injuries, musculoskeletal injuries associated with the  
12 postmortem program, looking at how race track surface and --  
13 and exercise factors affect risk for injury, and also  
14 epidemiologic studies looking at factors associated with race  
15 track and race horse management with -- with their affect on  
16 injury.

17 CHAIRMAN BRACKPOOL: Did that answer the question?

18 COMMISSIONER MOSS: Well, I just wonder if we're  
19 going to get into a synthetic track versus dirt, because I just  
20 don't know how productive that is myself, you know? But that's  
21 what I was curious about.

22 CHAIRMAN BRACKPOOL: Kirk, what would your response  
23 be to that?

24 EXECUTIVE DIRECTOR BREED: My response to that,  
25 Commissioner -- Kirk Breed with the California Horse Racing

1 Board -- I don't believe that -- that is -- would -- would be a  
2 result of this study at all.

3 COMMISSIONER MOSS: Okay.

4 EXECUTIVE DIRECTOR BREED: No, sir.

5 COMMISSIONER ROSENBERG: I have a question for the  
6 doctor. Could you explain how, if you have -- if you -- if you  
7 take a scan of a horse, it's not normally done preventively to  
8 just scan every horse. Let's say it's -- it's a sonic -- what  
9 do you call it, the ultrasound scan as a preventive measure.  
10 Presently I don't believe people go around ultrasounding their  
11 horses if they seem to be sound; is that correct, in practice?

12 DR. STOVER: Well, I think the -- amongst the aims of  
13 the program are to identify diagnostic tests that you can use  
14 when a horse is showing reduced performance or signs that lean  
15 towards specific injuries. So while it's not practical to  
16 ultrasound scan and bone scan and radiograph the entire horse  
17 for all horses, there are instances in which certain diagnostic  
18 procedures are indicated and useful in identifying specific  
19 injuries and preventing catastrophic injuries.

20 COMMISSIONER ROSENBERG: But do you think that --  
21 that trainers or veterinarians don't presently use that  
22 technique when a horse is showing symptoms of something being  
23 wrong in terms of lameness? I mean, don't they generally try  
24 to find out what the cause of it is?

25 DR. STOVER: I think veterinarians and trainers and

1 owners are all using the tools that they're aware of,  
2 diagnostic tools that they're aware of and injuries that  
3 they're aware of as best they can. But with the information  
4 that we've generated through the postmortem program in concert  
5 with all parts of the racing industry we have new information  
6 that can be used for injury prevention that we would like to  
7 disseminate and -- and actually implement so that we make a  
8 difference for equine welfare and the industry, as well.

9 COMMISSIONER ROSENBERG: I'm just curious --

10 CHAIRMAN BRACKPOOL: Commissioner.

11 COMMISSIONER ROSENBERG: -- if -- if in fact that --  
12 I mean, it's certainly -- it's certainly a worthy project. I  
13 was just curious how you implement what you just described,  
14 namely if you already have some information how do you -- how  
15 have you circulated that in the past to owners, trainers and  
16 veterinarians?

17 DR. STOVER: For example, probably one of the  
18 earliest changes that was made was the installation of  
19 (inaudible) at Santa Anita Race Track with the recognition that  
20 through the postmortem program that a large number of the bone  
21 fractures were associated with preexisting stress remodeling  
22 and stress fractures. And that in itself has made a huge  
23 difference in the ability to identify lesions on some of these  
24 horses.

25 In the past year we recognize that fractures of the

1 sesamoid bones in the fetlock are associated with a preexisting  
2 lesion that is not currently detectable with current  
3 radiographic techniques. So we currently have two -- two  
4 research projects underway to develop different radiographic  
5 views to see if we can pick that up and then transfer that  
6 information to the race track veterinarian practitioners with  
7 the hopes that horses at risk for fetlock breakdown will be  
8 identified and appropriately treated so that we prevent those  
9 breakdowns.

10 DR. ARTHUR: Commissioner Rosenberg, as an example, I  
11 distributed to my email list of veterinarian practitioners one  
12 of the articles on the preexisting stress fractures in  
13 sesamoids to all the veterinarian practitioners. That is  
14 probably about 40 percent of our fatal racing injuries, maybe  
15 50 percent are associated with actual sesamoid fractures.

16 At the American Association of Equine Practitioners  
17 how many -- I think there were about a half-a-dozen  
18 presentations related to the necropsy program and -- and how --  
19 what sort of injuries. Dr. Stover has done an excellent  
20 presentation on scapula fractures, and that really had  
21 previously been hard to diagnose anti-mortem. So -- and with  
22 he nuclear scintigraphy, there's been over 9,500 nuclear  
23 scintigraphies since that was established, and that was the  
24 result of the necropsy program.

25 Disseminating the information is very difficult.

1 That's why we've talked about having continuing education  
2 programs and trying to take this to the next level. So you  
3 know, disseminating information is hard to do, as -- as we know  
4 here in terms of people even knowing what's on our agendas.

5 COMMISSIONER ROSENBERG: I want to clarify that --  
6 one thing. The nuclear scan usually takes place when there's  
7 already a symptom to indicate to the trainer, the veterinarian  
8 that's there something wrong. They're -- to my knowledge most  
9 people don't do preventive nuclear scanning. It's like human  
10 beings these days doing full body scans; am I correct?

11 DR. ARTHUR: Basically you're right. In rare  
12 exceptions otherwise. But, basically, yes, you have to have  
13 some sort of an indication.

14 I would like to point out one thing. We -- we spent  
15 a lot of time talking about --

16 CHAIRMAN BRACKPOOL: Just before you do, Commissioner  
17 Moss had a response to that.

18 COMMISSIONER MOSS: What is the cost of the nuclear  
19 scan? Just of the top of your head.

20 DR. ARTHUR: It depends on whether you're going to do  
21 a whole body or a partial body.

22 COMMISSIONER MOSS: Yeah.

23 DR. ARTHUR: It's about -- let's say the front end is  
24 about \$500, \$600. Whole body is a little over \$1,000. It's  
25 actually a fraction of what it is if you go to facilities

1 elsewhere around the world.

2           But I would like to add one thing. We've spent a lot  
3 of time talking about fatalities. But the fact of the matter  
4 is fatalities are just the tip of the iceberg. And for  
5 every -- every horse that -- that is a fatality there's  
6 probably 15, 20 horses that go to the farm and are lost from  
7 horse racing that are not fatalities. That is an enormous cost  
8 on the industry. I've -- before I took this job I did some  
9 calculations. And you can show that we are losing anywhere  
10 between \$4 million to \$8 million, at least when we had bigger  
11 populations, \$4 million to \$8 million worth of horses a month.  
12 It's an enormous cost on owners. And any way we can -- we can  
13 keep our horses around longer benefits us in field size and --  
14 and the whole process.

15           CHAIRMAN BRACKPOOL: Well, let me just say that  
16 I'm -- I'm in favor of the study. My -- my -- my issue  
17 relates, actually, to a far more boring detail which is the  
18 reporting that we will get back. I mean, this is a lot of  
19 money. We've, I think, you know, moved some allocations around  
20 within the budget so that we can do it. But we're employing a  
21 lot of full-time, you know, graduate students here to do this  
22 study, and it's not as if it's going to be complete at the end  
23 of this. So this is actually an ongoing process.

24           If this is an ongoing process what report can we as a  
25 Board be getting on a regular basis that continues to

1 demonstrate to us the continued validity and necessity of this  
2 study? Because I don't want to be sitting up here voting for a  
3 study that builds a car, and then we need a steering wheel, and  
4 then we need a gear box, and then we need -- I mean, it -- so I  
5 don't want to get into that.

6           So what is the reporting so that we can continually  
7 analyze the benefits of this, and how much of a commitment are  
8 we making? I mean, it's -- it's a one-year commitment of  
9 \$950,000. But does that only get us 20 percent into the study?  
10 I mean, that -- those are some of the questions that I would  
11 have.

12           EXECUTIVE DIRECTOR BREED: When -- that is a good  
13 question, Mr. Chairman. And -- and I want to make it very  
14 clear, this is not -- just like our drug -- our drug testing  
15 program. This is not a one year deal or a one shot deal. This  
16 is -- this is an ongoing program that we are recommending that  
17 becomes an integral part of the California Horse Racing Board's  
18 effort to investigate and to -- and to prevent these injuries.  
19 Now we have to -- we are going to investigate each one of these  
20 fatalities. And then we are writing you a report on every  
21 single fatality. That report will go to the Board for your  
22 review to -- to tell you -- to determine what the actual cause  
23 and the reason for that cause of that injury.

24           That is -- that is the goal of this program. So  
25 by -- and -- and we have a turnaround time on each one of

1 these -- on each one of these reports -- or each one of these  
2 investigations of -- what did we decide, 25 days? Was that  
3 the --

4 DR. STOVER: An average of 20 days.

5 CHAIRMAN BRACKPOOL: Yeah. Well, look, you know,  
6 each and every one, that's -- that's very nice. But I don't  
7 know how realistic it is that each and every member of this  
8 Board is going to read each and every fatality report as if we  
9 are experts.

10 What I'd be more interested in would be setting up a  
11 process. I don't know whether it's, you know, quarterly to the  
12 Medication and Safety Committee and maybe semiannually to the  
13 Board where we actually have a presentation on what has been  
14 done, you know, to date, what else can be done, where we can  
15 tweak the program where it's necessary, and are we really  
16 learning something from this.

17 VICE CHAIRMAN ISRAEL: And I'd like to add one more  
18 point to that. If this is productive it will benefit the  
19 entire horse racing industry, not just California. Is there a  
20 way for us to approach other state racing boards, other  
21 veterinary schools that have an interest in equine medicine and  
22 have them contribute in some way to this study? Because  
23 they're going to realize the benefits at no cost otherwise. Or  
24 is there a way to sell these results? Is there a way to  
25 monetize some of the result of the work?

1 DR. ARTHUR: Let me just ask -- answer part of your  
2 question by saying I don't -- I don't know how you'd monetize  
3 it, I really don't. But in terms of getting additional  
4 support, most of the research that Dr. Stover has done has come  
5 from extramural funding, from Racing Jockey Club, the USDA,  
6 other parties, just to do the research, basically, on the raw  
7 product that the Horse Racing Board has provided.

8 So, yes, there are opportunities. But I don't know  
9 how you go out and ask for -- for more money to support this  
10 program. But you're absolutely right. Just like the necropsy  
11 program today has benefitted the entire racing community around  
12 the world, this program will also. But how we get outside  
13 states --

14 VICE CHAIRMAN ISRAEL: I think we --

15 DR. ARTHUR: -- to help our problem --

16 VICE CHAIRMAN ISRAEL: -- we have to find a way --

17 DR. ARTHUR: -- it gets difficult.

18 VICE CHAIRMAN ISRAEL: -- to do outreach to other  
19 states' racing boards, to go to Kentucky, to go to Florida, to  
20 go to Louisiana, to go to New York, Illinois, Maryland and  
21 outreach to the veterinary schools at the University of  
22 Kentucky and Cornell, which is New York, and -- and the State  
23 Veterinary School of New York, and -- and the University of  
24 Florida and Florida State and -- and see if -- if they're  
25 willing to become partners at some level. Look, if we -- if

1 we -- if you can raise \$250,000 that will go a long way to  
2 deferring some of this expense.

3 CHAIRMAN BRACKPOOL: Well, but so -- but answer my  
4 question if you can as to, first of all, I assume that  
5 everybody will be okay with quarterly reporting to the  
6 Medication and Safety Committee and semiannual report to the  
7 Board so that not only we but the public can hear of the  
8 process, is that -- I don't want to put words in your mouth but  
9 is that acceptable?

10 DR. STOVER: Absolutely

11 CHAIRMAN BRACKPOOL: Okay.

12 DR. STOVER: I mean, the --

13 CHAIRMAN BRACKPOOL: So absolutely is an even  
14 stronger word than I would have put out, so I like that. So --

15 EXECUTIVE DIRECTOR BREED: And may I just add one  
16 point here? The law does require the Board to present an  
17 annual report which contains this information about fatalities  
18 on race track.

19 CHAIRMAN BRACKPOOL: But let me just finish my  
20 question. So if we approve this today and we approve this  
21 dollar amount we are committing to it for one year, but we  
22 would -- presumably when we hear these reports in 6 and 12  
23 months time we would then be able to make an informed decision  
24 as to whether it was something we wish to continue to fund at  
25 the same level, at a different level, or potentially at no

1 level? We -- we would have that alternative? This is not a  
2 multi-year commitment we're making today?

3 EXECUTIVE DIRECTOR BREED: That's correct.

4 CHAIRMAN BRACKPOOL: It's a one-year commitment;  
5 correct?

6 EXECUTIVE DIRECTOR BREED: That is correct.

7 COMMISSIONER HARRIS: But we're -- we're implying  
8 that we'll reassess it but --

9 CHAIRMAN BRACKPOOL: Well, I --

10 COMMISSIONER HARRIS: -- but we're not obligated.

11 But --

12 CHAIRMAN BRACKPOOL: Correct.

13 COMMISSIONER HARRIS: But one thing is good to keep  
14 in mind, that this -- all this money is really industry money.  
15 And basically the industry funds CHRB.

16 CHAIRMAN BRACKPOOL: I understand. But we're  
17 stewards of that --

18 COMMISSIONER HARRIS: And -- but, well --

19 CHAIRMAN BRACKPOOL: -- of that money.

20 COMMISSIONER HARRIS: I was concerned that -- that  
21 with the budget crisis in California that no one thinks we're  
22 using general fund money or something for this.

23 CHAIRMAN BRACKPOOL: No. It is industry money.

24 COMMISSIONER HARRIS: This is clearly all industry  
25 money.

1                   CHAIRMAN BRACKPOOL: Commissioner Choper.

2                   COMMISSIONER CHOPER: I would just underline what  
3 Commissioner Israel said. I would urge you just to -- to do  
4 more than having it said, whether it be our office or under  
5 your auspices that we don't invent the wheel by ourselves, that  
6 we don't reinvent a wheel that may be existing someplace else,  
7 and that the beneficiaries ought to at least be asked to  
8 consider -- I don't quite know what the -- what the verb is,  
9 right -- the cost of this thing. Because I -- it is a very  
10 substantial amount, you know, almost ten percent of the total  
11 budget of the -- of the Board. And I don't see any reason why  
12 we shouldn't make some effort to go out -- it might even  
13 improve your data if you were able to get some other -- some  
14 other jurisdictions involved.

15                   CHAIRMAN BRACKPOOL: Commissioner Rosenberg, did you  
16 have something to add?

17                   COMMISSIONER ROSENBERG: Yes. Is -- is EIPH  
18 pulmonary hemorrhaging any part of this study? Is it -- is it  
19 limited to certain subjects dealing with the -- the death of a  
20 horse?

21                   DR. STOVER: This -- this study focuses on  
22 musculoskeletal injuries. And EIPH would be a pulmonary  
23 injury.

24                   COMMISSIONER ROSENBERG: The reason I ask the  
25 question, and it's attached to the next agenda item is -- is a

1 letter from the National Horsemen's Benevolent Protective  
2 Association. And in that they quote a study in South Africa  
3 that was done that says that 60 percent of sudden -- sudden  
4 deaths during racing have been attributed to pulmonary  
5 hemorrhaging, 60 percent. I don't know if that's accurate or  
6 is that just --

7 DR. ARTHUR: Actually, I just reviewed that just the  
8 other day. It's -- it's probably accurate and not far off from  
9 what we see of our sudden deaths. But sudden deaths are really  
10 a small part of the fatalities you see. In fact, out of the,  
11 oh, I'd have to add them up, all of the horses at Santa Anita  
12 and during the Santa Anita meet there was one sudden death  
13 during that period, and that was training. So -- and that  
14 wasn't EIPH, by the way.

15 So, yes, the -- the -- the necropsy program,  
16 besides -- Dr. Stover is head -- director of the J.D. Wheat  
17 Orthopedic Research Laboratory. The necropsy program has done  
18 respiratory research, viral research, and certainly could look  
19 at EIPH if they get the extramural funding that we're talking  
20 about.

21 But part of this program is also an enhancement of  
22 the necropsy program as part and parcel of this. So we could  
23 be looking at those sorts of issues, as well.

24 VICE CHAIRMAN ISRAEL: Look, maybe as a goodwill  
25 gesture you can go to the ADW companies which benefit mightily

1 from California horse racing and horse racing in general and  
2 ask them as -- as a goodwill gesture to make some sort of  
3 contribution to this study.

4 CHAIRMAN BRACKPOOL: Well, maybe you can propose that  
5 when we relicense the ADW companies in -- in December as -- as  
6 part of that.

7 So with that and with all of those various assurances  
8 that were -- that were given to us during that presentation I  
9 would make a motion to approve this -- this research study but,  
10 as I say, with all of the conditions that we -- that we  
11 outlined, they are noted, quarterly reports to the Medication  
12 Committee, semiannual to the Board, and we reserve our right to  
13 increase or decrease our financial participation at the end of  
14 the year.

15 Can I have a second to that motion?

16 COMMISSIONER ROSENBERG: Second.

17 CHAIRMAN BRACKPOOL: Seconded by Commissioner  
18 Rosenberg. All in favor?

19 ALL COMMISSIONERS: Aye.

20 CHAIRMAN BRACKPOOL: Motion carries unanimously.  
21 Thank you.

22 You can't leave now, Ms. Derek.

23 COMMISSIONER DEREK: (Inaudible, away from mic.)

24 CHAIRMAN BRACKPOOL: Item number 11, discussion and  
25 action by the Board regarding the CHRB's participation in the

1 Racing Commissioner International five-year plan for the  
2 elimination of drugs and medication in horse racing.

3           And I think the brief -- brief summary here, it was  
4 April 20th the RMTC announced it will convene a summit, it will  
5 occur within 90 days, to bring together a broad range of -- of  
6 international industry views on race-day medication so that all  
7 stakeholders would be included in the dialogue. The NTRA has  
8 issued releases suggesting that industry groups such as the  
9 Jockey Club, the Thoroughbred Owners, the Breeders' Association  
10 and the Breeders' Cup had all endorsed the RCI proposal, but a  
11 lot of work still to be done to -- to manage the details.

12           Dr. Arthur, what would you add to my brief summary?

13           DR. ARTHUR: I really don't have much to add.  
14 Obviously, the comments by the outgoing and incoming chairman  
15 of the RCI has sort of thrown a bomb into horse racing. But  
16 the RMTC, AAEP and NTRA are putting together a summit to  
17 discuss, compare international and -- and U.S. regulations  
18 where internationally phenylbutazone -- or, excuse me,  
19 furosemide is not permitted. And having been in Hong Kong,  
20 Singapore, Japan, England, France, those -- Dubai, those horses  
21 are very healthy and perform very well. But certainly our  
22 horses here, there's -- the South African study is a good  
23 example of the fact that furosemide does lower EIPH. And I  
24 think trying to put that in perspective is -- is a big  
25 challenge for the racing industry.

1           And a lot of this, as I think most people know, have  
2 come from an investigation that's going to be starting from  
3 Congress, probably in the next six weeks.

4           CHAIRMAN BRACKPOOL: Thank you. I think that this  
5 is -- this is a hot topic. And I just wanted to make sure  
6 that, at the very least, we agendize the issue to -- to  
7 demonstrate that California will watch very closely and  
8 hopefully participate as a stakeholder in these ongoing  
9 discussions.

10           Before I open this up to public comment, Commissioner  
11 Derek, would you add anything to that?

12           COMMISSIONER DEREK: No.

13           CHAIRMAN BRACKPOOL: So I have some speakers on the  
14 issue. Let me start with John Barr, the Jockey Club Safety  
15 Committee.

16           MR. BARR: Yes. I am John Barr. And I'm here  
17 representing the Jockey Club Safety Committee today. This is  
18 going to be a hot topic, as you've already realized, I'm sure.  
19 But you can tell by the number of people that have jumped  
20 onboard -- excuse me -- that it's an idea whose time has come.  
21 We are out of step with the rest of the world, literally, in  
22 terms of race-day medication. I don't know how the RCI came up  
23 with five years. Certainly it's not going to be resolved in a  
24 year.

25           But somewhere in between if we can collectively, as

1 the RMTC is trying to promote, get everybody together and get  
2 some constructive dialogue and recognize that public perception  
3 is a very vital part of this whole program, to be able to stand  
4 up and be -- not be looked at askance by the rest of the world  
5 or by the betters, the people who support us who look at us  
6 and, well, are they rigged or fixed or drugged or are they not.  
7 We do have to consider the welfare of the horse, at the very  
8 least. I don't believe that a zero tolerance, which was  
9 implied in the RCI, is the ultimate answer. And I think the  
10 Jockey Club's response to this has reflected that.

11 I think that at this point in time I believe that  
12 your Board should consider that they -- that they are in  
13 support of pursuing this goal. It's an admirable goal. But  
14 there's a lot of stuff that has to be done and a lot of time to  
15 take place. And I urge you to consider voting in that manner.  
16 Thank you.

17 VICE CHAIRMAN ISRAEL: Mr. Barr, I'm -- I'm, for one,  
18 happy to hear you say that you don't believe zero tolerance is  
19 the answer. Because what astonishes me every time something  
20 like this comes up is the absence of nuance and the rejection  
21 of science. I mean, there is a place for science and there is  
22 a place for good sound medical practice. And -- and banning  
23 everything, just going with the mindset that everything is bad,  
24 isn't going to accomplish anything. And -- and -- and this --  
25 this all or nothing approach to virtually everything that's

1 been done on these issues is kind of confounding to me.

2           It happened when a previous board mandated the  
3 artificial surfaces. Instead of moving slowly, using one  
4 track, seeing what the results were, it was an all or nothing  
5 approach and -- and -- and it didn't work entirely. And it's  
6 probably set us back some in -- in -- in the research of -- of  
7 racing surfaces.

8           So a nuance approach, I'm grateful for -- for your  
9 suggestion that that's what be done, as opposed to the blanket  
10 approach that was suggested by RCI.

11           CHAIRMAN BRACKPOOL: Thank you --

12           MR. BARR: Thank you.

13           CHAIRMAN BRACKPOOL: -- Mr. Barr.

14           Next speaker on this issue, John Sadler.

15           MR. SADLER: John Sadler, President, CTT. Thank you,  
16 Commissioner Israel. I thought those were great comments.

17           A couple of things that prior to participating in  
18 this venture, we'd like you to consider what medications are  
19 therapeutic, how these medications prevent or remedy medical  
20 problems. Do the medications have untoward effects of pain  
21 killing effects? We'd like to know about that. Are the  
22 medications beneficial to horses under racing conditions? So  
23 just some questions before you get involved in this.

24           I get the RCI newsletter like you guys do. And we  
25 hear from Dr. Arthur, Dubai. You know how many days a year

1 they race in Dubai? Twenty.

2 Hong Kong; does anybody up there know how many days  
3 they race annually in Hong Kong? Eighty-three.

4 So, you know, just -- just when you kind of try to  
5 ask the questions that we -- we're dealing with here in  
6 California when it comes to medication. So those are some  
7 things we want you to think about. Twenty days in Dubai.  
8 Eighty-three days in -- in -- in Europe. But if you want to go  
9 on with this just let me in the room when you tell Santa Anita  
10 they're going to race 20 days this winter. Thank you.

11 CHAIRMAN BRACKPOOL: Next person, Alan Balch.

12 MR. BALCH: Alan Balch, CTT. Again, I think  
13 Commissioner Israel used the right word, nuance. And there  
14 needs to be nuance, too, in the definition of -- of medication.  
15 Because we talk about drugs and medication and eliminating all  
16 drugs and medication. So far as I know there's only one race-  
17 day medication, and that's furosemide. And therapeutic  
18 medication, really California has been a leader in therapeutic  
19 medication development over the years, not just in racing but  
20 in all equestrian sport.

21 So we need to address the nuance, as well, between  
22 drugs which are potentially used for elicited purposes and  
23 therapeutic medication, and maybe readdress the -- the very  
24 definition of therapeutic medication. Thank you.

25 CHAIRMAN BRACKPOOL: Thank you. There are no other

1 public speakers on this issue.

2 First, Commissioner -- Commissioner Harris.

3 MR. SUAREZ: Excuse me, Commissioner Brackpool. I  
4 thought my name was in to speak.

5 CHAIRMAN BRACKPOOL: I do not have a speaker card for  
6 you on this one. But, Pablo, I will grant you a frequent  
7 speaker's slot.

8 MR. SUAREZ: Thank you very much. Pablo Suarez.

9 CHAIRMAN BRACKPOOL: Speak six times you get the  
10 seventh free.

11 MR. SUAREZ: I'll have you punch my card later.  
12 Thank you. Pablo Suarez, Thoroughbred Owners of California.

13 Referencing what doctor -- what Alan Balch just said,  
14 there are actually two race-day medications allowed in  
15 California, Lasix and estrogen.

16 Again, back to the -- to the race-day medication,  
17 we're really talking with -- only about Lasix here. The  
18 scientific studies have shows that Lasix is extremely  
19 beneficial to the treatment of EIPH, exercise induced pulmonary  
20 hemorrhaging. And the same study, the South African Furosemide  
21 Efficacy Study shows that over 80 percent of horses do bleed or  
22 will bleed.

23 Our position with the TOC is that the elimination of  
24 Lasix is not in the best interest or welfare of the horse. And  
25 that -- and that's why we -- thank you.

1           CHAIRMAN BRACKPOOL: Thank you very much.

2           Commissioner Harris.

3           COMMISSIONER HARRIS: I think it is important that  
4 what we're looking at here is the welfare of the horse. And I  
5 think really what we want is sound science. What science do we  
6 have to show what best takes care of the horse? I know that  
7 South African study does come up a lot. I'm going to read  
8 that. But that did show even with Lasix there -- I think about  
9 half of the horses bleed.

10          DR. ARTHUR: Over 55 percent.

11          COMMISSIONER HARRIS: Over 55 percent bleed. So it's  
12 not a silver bullet we're looking at here. And you know, maybe  
13 it's the best we have and we should keep it. But -- but I just  
14 think there may well be some downside as far as the dehydration  
15 of the horse, but maybe not. Maybe let's get -- let's get the  
16 science and see.

17                 But the other aspect is the public perception, which  
18 I think is hard to measure in a scientific study. But I think  
19 we need to look at how do we -- how do we get consumer  
20 sentiment studies of, you know, is the race-day medication  
21 issue perceived as something that's hurting our -- our fan base  
22 or not.

23                 So I think the -- the whole purpose here is not to  
24 rush to judgment but to get people thinking about these things  
25 and looking at what questions we want to ask and how do we get

1 there. But it's not -- it's like taking a trip. Let's not  
2 just say we don't want to go on a trip. Let's just figure out  
3 how we get there and where we want to go and is it really worth  
4 the money.

5 CHAIRMAN BRACKPOOL: Commissioner Derek.

6 COMMISSIONER DEREK: Yeah. I'd just like to say that  
7 I do think we should look at the -- the idea of therapeutic  
8 drugs. Something that may start out 20, 30 years ago with good  
9 science being therapeutic maybe now we're learning isn't. And  
10 I think this -- supporting this study is very important.

11 CHAIRMAN BRACKPOOL: Dr. Arthur.

12 DR. ARTHUR: Yeah. I have visited race tracks around  
13 the world. And I will tell you that the -- those jurisdictions  
14 that have no medication have every bit as good a veterinary  
15 care as any American jurisdiction. And there is, as  
16 Commissioner Israel pointed out, there is no such thing as zero  
17 tolerance. I think the -- I sit on the IFHA Prohibited  
18 Substances Committee, an international group that looks at  
19 this. And the Europeans in internationals have come a long way  
20 towards recognizing that.

21 The major difference, really, is only in terms of --  
22 the nonsteroidal anti-inflammatories and the furosemide. But  
23 you know, yes, John's right, they only race 82 days a year.  
24 They handle about over \$100 million a day. But they do it with  
25 1,200 horses, and they do race 11 -- or 10-and-a-half months

1 out of the year. So they do race two days a week, but they --  
2 they do it with a small number of horses with big fields. And  
3 they stick around a long time, and they get a lot of starts per  
4 horse.

5           So you know, I think we do have to -- you know,  
6 I'm -- I have been a big advocate of furosemide. I was a  
7 coauthor on the paper that coined -- coined the term "exercise  
8 induced pulmonary hemorrhage" 30 years ago. It is a problem,  
9 but people are able to handle this internationally very well  
10 and quite successfully. And I think all of us need to keep an  
11 open mind. And hopefully that's what will come out of the  
12 RMTTC, AAEP and NTRA summit. Thank you.

13           CHAIRMAN BRACKPOOL: Well, I just want to make it  
14 clear that there's not a proposal in front of this Board today  
15 to endorse zero tolerance, to endorse a time period, to endorse  
16 anything else. What -- what is in front of us today is that we  
17 in California participate along with all of the other  
18 stakeholders in what I think is a fascinating and crucially  
19 important debate, and that we are an active participant in  
20 that. Because I think California must remain, as many of you  
21 have pointed out, one of the -- one of the leaders in this  
22 field.

23           So, for me, that's really the -- the issue. And it's  
24 a general statement of support to participate in the process  
25 that I think we're looking for here at the -- at the Board. I

1 don't think there -- there is necessarily an action item. But  
2 as a specific support motion I think I would be asking the --  
3 the Board to support our staff and our various committee  
4 members and Board members participating as a stakeholder in  
5 these all important discussions.

6           Everybody is -- is in agreement?

7           COMMISSIONER ROSENBERG: Discussion, Mr. Chair?

8           CHAIRMAN BRACKPOOL: Discussion. And -- and  
9 that's -- and that's where we are. So I think that is our  
10 unanimous position, that we are supportive of joining in these  
11 discussions on this all-important issue.

12           Item number 12, discussion and action by the Board on  
13 the application to conduct a horse racing meeting of the San  
14 Joaquin County Fair at Stockton, commencing June 15th, 2011  
15 through June 19th, 2011, inclusive.

16           Who do we have from Stockton? If you would please  
17 state your names and affiliations for the record and the public  
18 listening.

19           MR. SAWYER: Tom Sawyer, Director at the San Joaquin  
20 County Fair.

21           CHAIRMAN BRACKPOOL: Thank you.

22           MR. SWARTZLANDER: Larry Swartzlander. I'm the Chief  
23 Operating Officer for the California Authority of Racing  
24 Affairs, and dual-head as the Director of Racing at San  
25 Joaquin.

1 MR. Korby: Christopher Korby. California Authority  
2 of Racing Fairs.

3 CHAIRMAN BRACKPOOL: Thank you. Good to see you, Mr.  
4 Korby.

5 MR. KORBY: It's a pleasure to be back.

6 CHAIRMAN BRACKPOOL: Okay. So what do we have here,  
7 Jackie? A brief summary. It's been a long, long day.

8 MS. WAGNER: Jackie Wagner, CHRB staff. The San  
9 Joaquin County Fair has filed their application to race at  
10 Stockton June 16th through the 19th, this is 4 days. It's one  
11 day less than they raced in 2010. They will be racing on  
12 Thursday, Friday, Saturday, and Sunday, six races per day on  
13 Thursday, nine races on Friday, and ten races per day on  
14 Saturday and Sunday. They will be running concurrently with  
15 the Hollywood Park's four-day race week. First post time is  
16 1:15. Their advance deposit wagering providers are XpressBet,  
17 TVG and Twinspires. There is one change on the application  
18 that's in your packet.

19 They're replacing judge has -- is being replaced.  
20 Your packet shows Deedee Robinson (phonetic) she is replacing  
21 Greg Furrent (phonetic). The analysis indicates that the  
22 horsemen's agreement and the CTT agreement is outstanding. I'm  
23 pleased to report I do have those agreements. They were handed  
24 to me this morning. The fire clearance is still outstanding.  
25 I understand that it has been scheduled and will be completed

1 prior to commencement.

2 CHAIRMAN BRACKPOOL: Let me -- let me ask you a  
3 question, because it comes up every time we have a fair; right?  
4 Why do we get the horsemen's agreement and the CTT agreement,  
5 right, in well after we've had a packet to review here.

6 COMMISSIONER CHOPER: Can I add something to your  
7 question?

8 CHAIRMAN BRACKPOOL: Commissioner Choper.

9 COMMISSIONER CHOPER: What would happen if we  
10 required all these criteria to be satisfied before we put it on  
11 the agenda? Now you've been a long time around. What would  
12 happen if we did that?

13 MS. WAGNER: We have tried that.

14 COMMISSIONER CHOPER: We have, huh?

15 MS. WAGNER: We have in -- in prior boards. It's --  
16 for whatever reason it seems to be the sticking point with the  
17 completed applications. And the -- the associations and the  
18 organizations would have to address that -- that question. But  
19 certainly this Board --

20 CHAIRMAN BRACKPOOL: Well, what would happen --

21 MS. WAGNER: -- has the authority to.

22 CHAIRMAN BRACKPOOL: -- would be we wouldn't be able  
23 to approve --

24 MS. WAGNER: You wouldn't hear it.

25 CHAIRMAN BRACKPOOL: -- the issue.

1 MS. WAGNER: Absolutely.

2 CHAIRMAN BRACKPOOL: And they would be at risk as to  
3 whether there was going to be a meet or not.

4 MS. WAGNER: That's exactly right.

5 CHAIRMAN BRACKPOOL: Right.

6 MS. WAGNER: The timeframe between the -- the  
7 starting date --

8 COMMISSIONER CHOPER: Yes.

9 MS. WAGNER: -- and the time that we normally hear  
10 the meet would be closed.

11 CHAIRMAN BRACKPOOL: Well, I understand. But  
12 that's -- that doesn't take away from the fact that they should  
13 have been done earlier.

14 MS. WAGNER: Absolutely.

15 CHAIRMAN BRACKPOOL: So, Chris, can I ask you  
16 generally why this is a continual problem?

17 MR. KORBY: One of the issues is that we have --

18 CHAIRMAN BRACKPOOL: Speak closer into the microphone  
19 for the audience, please.

20 MR. KORBY: One of the issues is that we have a  
21 matrix of agreements that have to go into place here. We have  
22 five horsemen's agreements with six different fairs. We --  
23 we --

24 CHAIRMAN BRACKPOOL: They -- they have one.

25 MR. KORBY: And -- and now that we have an agreement

1 the agreement is in place for all subsequent fairs.

2 VICE CHAIRMAN ISRAEL: Okay. Right. But here's why  
3 that that argument doesn't wash. You've known since the last  
4 day you ran last year you were going to run. So you had all  
5 year to do this deal. What in hell takes so long? It's fairly  
6 straightforward.

7 COMMISSIONER ROSENBERG: It isn't just the fairs, by  
8 the way. It's other licensees of --

9 CHAIRMAN BRACKPOOL: There are other licensees --

10 COMMISSIONER ROSENBERG: Yeah.

11 CHAIRMAN BRACKPOOL: -- as well. And I tell you, it  
12 gives the impression that this Board is rubber-stamping the  
13 agreements, and I don't think this is a rubber-stamp Board, as  
14 you can -- as you can tell. And it's -- you know, we're  
15 sitting here with vast amounts of information that, frankly,  
16 you know, may or may not be of interest to people. And yet the  
17 thing that's really of interest to us is have the horsemen  
18 and -- and the CTT signed offed on it? And if they haven't,  
19 what are the issues?

20 So now you have the agreement sitting in front of you  
21 with, again, with no time for the Board to review any of these.  
22 And yet you're asking for absolute approval on the fair  
23 application.

24 MR. KORBY: The horsemen have agreed.

25 CHAIRMAN BRACKPOOL: I -- that's what you're now

1 telling us. But I haven't had a chance to independently look  
2 at that because of the time it took to -- to -- to get them  
3 here. So --

4 MR. KORBY: I apologize to the Board. I wish we  
5 could have had them done earlier. And we will commit to  
6 getting them done further in advance --

7 CHAIRMAN BRACKPOOL: Well, will you commit --

8 MR. KORBY: -- for all future contracts.

9 CHAIRMAN BRACKPOOL: -- that from now on we won't  
10 have any fair applications, and we're going to hold the same  
11 for any other applications, that we're not going to hear them  
12 if they don't have the requisite agreements. If it's something  
13 like a fire clearance I can understand, because I understand  
14 how that can be done very close to the moment and you're not  
15 completely in control. There is no reason that within our  
16 industry that we can't get these things done. We all know  
17 where the fairs are running. We approved this calendar in --  
18 when did we approve this calendar? It was late last years,  
19 wasn't it? So this calendar has been known well in advance,  
20 November of --

21 MR. KORBY: And I -- and -- and --

22 CHAIRMAN BRACKPOOL: -- 2010.

23 MR. KORBY: And I would -- I would ask the Board  
24 again to -- to consider the fact that when the first fair  
25 contract is in place with all the horsemen's groups it applies

1 to all the subsequent fairs. So it's - it's -- this happens --

2 CHAIRMAN BRACKPOOL: I can't hear you.

3 MR. KORBY: This --

4 CHAIRMAN BRACKPOOL: You have to speak into the  
5 microphone.

6 MR. KORBY: This happens once with the first fair.

7 The same agreement pertains to future fairs. So as the

8 fairs --

9 CHAIRMAN BRACKPOOL: I understand. But we didn't get  
10 the chance to -- to review it. So do you think that we should  
11 review it and put this over for a month?

12 MR. KORBY: We're requesting that you approve the --  
13 the application.

14 CHAIRMAN BRACKPOOL: Right. I understand. But you  
15 don't think we should be getting the information. I mean,  
16 that's -- that's what I just find very strange here.

17 COMMISSIONER HARRIS: I'm not sure which side was  
18 the -- the delay on the information, the CARF or -- or the  
19 horsemen.

20 MR. KORBY: What -- what -- how far in advance would  
21 the Board like to have this information? That --

22 CHAIRMAN BRACKPOOL: We'd like to have it when the  
23 application is submitted so that it's in our package.

24 MR. KORBY: So, that's two weeks prior?

25 CHAIRMAN BRACKPOOL: Ten days prior.

1 MR. KORBY: Ten days prior.

2 CHAIRMAN BRACKPOOL: So tell me, is there anything  
3 different in this horsemen's agreement than was there last --  
4 last year? Are there any material changes?

5 MR. KORBY: Material? I would say no. The -- the  
6 purse structure changes year to year. That's the complicated  
7 thing to negotiate. As I say, there's a matrix of agreements  
8 between five horsemen's groups and six fairs. So we have to  
9 work through a lot of detail with respect --

10 CHAIRMAN BRACKPOOL: You say five --

11 MR. KORBY: -- to --

12 CHAIRMAN BRACKPOOL: -- horsemen's groups.

13 MR. KORBY: Yes.

14 COMMISSIONER HARRIS: Well --

15 CHAIRMAN BRACKPOOL: Each of the five is in agreement  
16 with the TOC.

17 MR. KORBY: TOC, Arabians, mules --

18 CHAIRMAN BRACKPOOL: Right.

19 MR. KORBY: -- quarter horses, CTT.

20 CHAIRMAN BRACKPOOL: Four and the CTT. So we -- do  
21 you now have the CTT agreement --

22 MR. KORBY: We do.

23 CHAIRMAN BRACKPOOL: -- signed? And you're saying  
24 these are signed for all the fairs now?

25 MR. KORBY: That's correct.

1 VICE CHAIRMAN ISRAEL: What about the mules and the  
2 Arabians and the --

3 MR. KORBY: The Board has had those for some time.

4 COMMISSIONER CHOPER: So if we moved it back --

5 MR. KORBY: It was -- you know, the -- the --

6 COMMISSIONER CHOPER: If we moved it back ten days,  
7 the whole schedule, you don't really mean that -- that couldn't  
8 be done. It could be done, don't you think?

9 VICE CHAIRMAN ISRAEL: Yeah. It would be done on day  
10 34.

11 COMMISSIONER CHOPER: And you're not the only --  
12 believe me, we're not picking on you.

13 MR. KORBY: Well --

14 COMMISSIONER CHOPER: You just happen to be up here  
15 now.

16 MR. KORBY: We -- we will --

17 COMMISSIONER CHOPER: It is --

18 MR. KORBY: We will commit --

19 COMMISSIONER CHOPER: -- every --

20 MR. KORBY: We will commit --

21 COMMISSIONER CHOPER: -- every one --

22 MR. KORBY: -- to making every effort.

23 COMMISSIONER CHOPER: -- virtually. It's with the  
24 ADWs. It's with the people who want to --

25 CHAIRMAN BRACKPOOL: Well, but I just think this

1 is -- this is -- this is --

2 COMMISSIONER CHOPER: It's --

3 CHAIRMAN BRACKPOOL: -- this is the last warning on  
4 this.

5 COMMISSIONER CHOPER: I think --

6 CHAIRMAN BRACKPOOL: So I just don't think --

7 COMMISSIONER CHOPER: Well, I'd like --

8 CHAIRMAN BRACKPOOL: -- we're going to approve this.

9 VICE CHAIRMAN ISRAEL: And it's not just your fault.

10 It's you -- your -- the other side of everyone of those  
11 agreements is -- shares equal blame. It's a two-way street.

12 MR. KORBY: And we're negotiating on this.

13 VICE CHAIRMAN ISRAEL: But all this --

14 MR. KORBY: There were five entities.

15 VICE CHAIRMAN ISRAEL: But all this eleventh hour  
16 stuff that goes on in all these agreements is ridiculous.

17 Somebody should do -- at least do it in the tenth hour.

18 COMMISSIONER HARRIS: There should be some deadline  
19 that if you don't achieve that deadline is has to go to  
20 arbitration or mediation or something.

21 CHAIRMAN BRACKPOOL: Well, I just think right now if  
22 you don't -- approve that it's not going to be heard by this  
23 Board, and we're going to put it over to -- to -- to the next  
24 month. All right. Anyway, that's a general comment of  
25 everything.

1           Sir, tell me a little about the fair. What's going  
2 to be different this year?

3           MR. SAWYER: Well, we've --

4           EXECUTIVE DIRECTOR BREED: Your name, please.

5           MR. SAWYER: I'm sorry. Tom Sawyer, Director for the  
6 San Joaquin County Fair.

7           We've -- we've been moved around. Well, first of  
8 all, let me -- let me just say this, I -- I just joined the  
9 fair board in January. There's five new board members out of  
10 nine, the Governor appointed last December. We've made --  
11 we're making some -- some huge efforts to get the public in,  
12 get the public educated regarding horse racing. We have a free  
13 gate this year for the five days of the fair. We're hoping to  
14 have a tremendous amount of public on the grounds. We're going  
15 to do some education. We're putting in a new winner's circle.  
16 We've planted 1,200 trees around the track. We're sprucing the  
17 place up as best we can with -- with what we've got.

18           We've gone into an agreement with five radio  
19 stations, one company, five radio stations regarding the free  
20 gate. And they're going to be pushing it really hard because  
21 we're giving them credit for the free gate. Where are we going  
22 to get our money? From the concessions, from the horse racing,  
23 and that's what we're banking on.

24           CHAIRMAN BRACKPOOL: Thank you.

25           VICE CHAIRMAN ISRAEL: I think it's --

1 CHAIRMAN BRACKPOOL: Commissioner Harris.

2 COMMISSIONER HARRIS: I'm really glad to see Stockton  
3 step up to the plate and appreciate you're just running a four-  
4 day meet, which is probably not the ultimate number of days.  
5 But I think it's realistic to really reinvent yourself. And  
6 that free gate I think is a, you know, wonderful idea that will  
7 pull people in. Because you've got a wonderful history and  
8 heritage. And -- and we -- I'd really like to see fair racing  
9 survive. And that Stockton area is a vibrant area. And I'm  
10 just glad to see that you're sticking with it.

11 MR. SAWYER: Well, we're working very closely with  
12 CARF, with Chris and Larry. They're giving us a lot of good  
13 advice. We're -- instead of having a monthly meeting we're  
14 having -- meeting every two weeks, the -- the board is, since  
15 January because we've got a lot of work to do and very little  
16 time to do it. And we would appreciate your support on this  
17 license. Thank you.

18 CHAIRMAN BRACKPOOL: Thank you.

19 MR. KORBY: Mr. Chairman, if I might?

20 CHAIRMAN BRACKPOOL: Please, Mr. Korby.

21 MR. KORBY: I'd just like -- I'd like to give the  
22 Board an early advisory that one of the things that the fair  
23 will be asking for when the racing calendar for next year is  
24 deliberated, is that they'd like to move their dates into a  
25 later fall time slot. We've had discussions about this with

1 the other stakeholders in Northern California and there's good  
2 support for it. And the fair is committed to -- to  
3 reconnecting to its agricultural roots and feels that it can do  
4 that more effectively with a late September time slot. So we -  
5 we fully support that and will be coming to the Board to ask  
6 for that when the dates are considered for 2012.

7 CHAIRMAN BRACKPOOL: One of the things I can assure  
8 you we're not doing today is getting into 2013 -- 2012 dates.  
9 But thank you for the --

10 MR. KORBY: I say that as an indicator --

11 CHAIRMAN BRACKPOOL: Thank you for the heads-up.

12 MR. KORBY: -- of the commitment that the fair --

13 CHAIRMAN BRACKPOOL: Of the commitment --

14 MR. KORBY: -- is making.

15 CHAIRMAN BRACKPOOL: -- they're making. No. I  
16 appreciate the spirit in which it's -- which it's given.

17 Well, if Jackie is assuring the Board that the --  
18 that the agreements are there and the CTT agreement is there,  
19 then I would be prepared to make a motion to go --

20 COMMISSIONER CHOPER: The fire clearance in too?

21 MS. WAGNER: The motion should be conditioned on  
22 the --

23 CHAIRMAN BRACKPOOL: On the fire clearance.

24 MS. WAGNER: -- the fire clearance.

25 VICE CHAIRMAN ISRAEL: That I understand.

1           CHAIRMAN BRACKPOOL: That I understand because  
2 it's -- it's much tougher, and they like to do it as close to  
3 the date as -- as possible. I've lived through that myself. I  
4 understand how that works.

5           But -- please.

6           MR. KORBY: It was actually -- the fire clearance was  
7 completed on -- on the 20th. We just haven't had the paperwork  
8 from the fire department.

9           CHAIRMAN BRACKPOOL: Okay. So with that I would -- I  
10 would move approval, noting, Jackie, that these are the last  
11 set of approvals we're making without all of the -- all of the  
12 agreements in. And that, as I say, doesn't just relate to  
13 fairs. It relates to everybody.

14          COMMISSIONER CHOPER: Second.

15          CHAIRMAN BRACKPOOL: Seconded by Commissioner Choper.  
16 All in favor?

17          ALL COMMISSIONERS: Aye.

18          CHAIRMAN BRACKPOOL: The motion carries. Have a good  
19 fair.

20          MR. SAWYER: Thank you.

21          MR. KORBY: Thank you very much.

22          CHAIRMAN BRACKPOOL: Item number 13, discussion and  
23 action by the Board on the application to conduct a horse  
24 racing meeting of the Alameda County Fair at Pleasanton,  
25 commencing June 22nd, 2011 through July 10th, 2011, inclusive.

1           Would you step forward and state your names for  
2 the -- the record.

3           MR. PICKERING: Yes. Rick Pickering, CEO of the  
4 Alameda County Agricultural Fair Association, located in  
5 Pleasanton, California.

6           Honorable Chairman, distinguished Commissioners and  
7 Staff, thank you for letting us have this opportunity to come  
8 before you. If there's any questions we'd be happy to answer  
9 them.

10          VICE CHAIRMAN ISRAEL: How's the golf course? I  
11 haven't heard about that in about a year.

12          MR. PICKERING: Isn't that a good thing?

13          VICE CHAIRMAN ISRAEL: Yeah.

14          CHAIRMAN BRACKPOOL: Mr. Blonien, did you have  
15 something to add?

16          MR. BLONIEN: I have nothing to add, just --

17          CHAIRMAN BRACKPOOL: Okay. So I am assuming, again,  
18 on this one that although it says we still need the horsemen's  
19 agreement, the CTT, those are now in as part of this?

20          MS. WAGNER: Correct.

21          CHAIRMAN BRACKPOOL: The fire clearance --

22          MS. WAGNER: Still outstanding.

23          CHAIRMAN BRACKPOOL: -- is still outstanding. So  
24 that will be a condition of -- of approval.

25          Is there anything different about this year's fair

1 that we need to -- to note?

2 MR. PICKERING: It's exciting. It's our 99th  
3 Anniversary as a fair, having started back in 1912. So we're  
4 actually dedicating an historical monument on opening weekend  
5 of the fair, inviting all the press and public out.

6 The other thing is last year during the fair we had  
7 Huell Howser, who does the *California Gold* series, come out and  
8 do a full production which will be launched this year on, I  
9 believe May 9th -- or excuse me, May 19th. So all the PBS  
10 channels in the State of California will be seeing last year's  
11 horse racing product at the Alameda County Fair. So we're very  
12 happy with that project, as well.

13 Again, more anniversaries. We're doing an entire  
14 year celebration for our 100th, and we're launching that at  
15 this year's fair.

16 CHAIRMAN BRACKPOOL: Do we as a Board get to give you  
17 suggestions as to who the historical monument should be?

18 MR. PICKERING: Actually, it's a County of Alameda  
19 historical monument on the history of the County of Alameda and  
20 horse racing. But if you have someone you'd like us to  
21 consider, we certainly would.

22 CHAIRMAN BRACKPOOL: Well, I think Mr. Harris is busy  
23 that weekend. But -- so --

24 COMMISSIONER ROSENBERG: I have a question.

25 CHAIRMAN BRACKPOOL: Commissioner Rosenberg.

1           COMMISSIONER ROSENBERG: Yeah. Is your satellite  
2 wagering facility on the premises?

3           CHAIRMAN BRACKPOOL: Yes, sir, it is.

4           COMMISSIONER ROSENBERG: Do you have any interest  
5 in -- in a minisatellite within your area presently?

6           MR. PICKERING: Actually, we do. And we already have  
7 prior -- pre-agreements in place with Golden Gate Fields, how  
8 we would address dividing up the County of Alameda if -- if  
9 they or we --

10          COMMISSIONER ROSENBERG: Which one is the -- the one  
11 that you operate jointly with Golden Gate?

12          MR. PICKERING: Well, Mr. Hartman is here. But the  
13 legislation basically would allow Golden Gate Fields to operate  
14 from the Oakland Coliseum north without our consent, and it  
15 would allow us to operate from the Oakland Coliseum, South  
16 Alameda County, without their consent.

17          COMMISSIONER ROSENBERG: And you --

18          MR. PICKERING: But there still would be an  
19 opportunity if both groups wanted to get together and make  
20 something happen.

21          COMMISSIONER ROSENBERG: But is there anything -- is  
22 there -- are you planning to open one?

23          MR. PICKERING: We do not have a plan on the boards  
24 right now. We're --

25          COMMISSIONER ROSENBERG: Why is that?

1 MR. PICKERING: We're focused keeping the doors open  
2 year around at our facility.

3 COMMISSIONER HARRIS: They have a very nice facility  
4 there at Pleasanton. As I understand, you're going to keep  
5 that open during your -- your race meet?

6 MR. PICKERING: The -- the State of California about  
7 six years ago found the Pleasanton satellite to be the most  
8 efficiently operated satellite in the entire network. But  
9 we're -- if somebody wants to approach us, we're certainly open  
10 for partnerships.

11 CHAIRMAN BRACKPOOL: But your plan is to keep it open  
12 the way the Fairplex has theirs open during the fair?

13 MR. PICKERING: Oh, absolutely. Ours is on the  
14 perimeter of the property. There are customers that prefer to  
15 go to that satellite, creatures of habit.

16 COMMISSIONER CHOPER: What is the mileage from the  
17 Coliseum to the track? Isn't it 20 miles?

18 MR. PICKERING: From the -- from the -- from our  
19 track to the Oakland Airport is 23 miles. So it would be  
20 pretty close to the 20 miles. It's a piece of legislation that  
21 was -- ran about six years ago that allowed this arrangement.

22 VICE CHAIRMAN ISRAEL: That means if somebody wants  
23 to open a satellite facility in Oracle Arena or the stadium --

24 MR. PICKERING: Well, that would be interesting since  
25 it's -- it's currently under the jurisdiction of the City of

1 Oakland and the County of Alameda, and the County of Alameda  
2 actually owns our property.

3 CHAIRMAN BRACKPOOL: Interesting is a good word for  
4 it.

5 Commissioner Choper.

6 COMMISSIONER CHOPER: I'd just like to note that I  
7 really think it's important, maybe not possible, to try to  
8 determine just what the impact of these -- of these satellite  
9 facilities is. Is it taking -- how much does the satellite  
10 take away from the track in dollars and cents? Okay. I mean,  
11 you are to host a track for -- you know what I mean.

12 It's just very important because we learn, I mean,  
13 about -- about other satellites, you know, that are doing real  
14 well. And they don't seem to be affecting. They don't seem to  
15 be. I'd like to know whether they are or not. Who's betting  
16 there? Would they be betting otherwise? I -- I -- because I  
17 think otherwise we, you know, we've got to do things to expand  
18 the audience here, which we all know. And we're -- we're not  
19 operating with full information, as full, I think, as we could  
20 get.

21 COMMISSIONER ROSENBERG: Well, that is my favorite  
22 subject. So that's true. And we also have -- SCOTWINC is in  
23 charge of this area, and there's no head of SCOTWINC for the  
24 last two years.

25 COMMISSIONER HARRIS: NOTWINC, isn't it?

1           COMMISSIONER ROSENBERG:  So no one is out there  
2 hustling, except for a technology company hustling people to --  
3 a restaurant operator or -- or a bar operator to open these  
4 things.

5           And I just attended the, for the first time, the OC  
6 Tavern in San Clemente.  At 1:30 on a Wednesday afternoon when  
7 there was no local racing and I couldn't believe it, there were  
8 16 people actually in there with 7 screens and betting, and the  
9 average age of the customer, contrary to -- to prior comments,  
10 the average age of the customer, of the average age there were  
11 eight, I counted, eight or nine people of the 15 were under the  
12 age of 40.  They were in there -- they were -- they were  
13 stopping in after their lunch to bet.  And they -- there's no  
14 way they would have driven to the Del Mar satellite to bet or  
15 anywhere else.  So this is some area we really have to explore.

16           MR. BLONIEN:  Commissioner Rosenberg, on that point,  
17 there is some good news.  And that is that SCOTWINC has  
18 retained Rick Vadeker (phonetic) who was previously here at  
19 Hollywood Park and has a very -- and worked with the Breeders'  
20 Cup and has a very, very extensive background in horse racing.  
21 And he has been hired specifically to scout for sites for  
22 minisatellites.  And he and I have had a conversation and we're  
23 going to try to work together to look for locations and  
24 streamline --

25           CHAIRMAN BRACKPOOL:  And hopefully --

1 COMMISSIONER CHOPER: Yes. And --

2 CHAIRMAN BRACKPOOL: -- he can have a continuing  
3 conversation with all of those that have not been in favor of  
4 the expansion, as well, and --

5 COMMISSIONER CHOPER: And can I --

6 CHAIRMAN BRACKPOOL: -- continue that --

7 COMMISSIONER CHOPER: Can I add -- oh, I'm sorry.

8 CHAIRMAN BRACKPOOL: Oh, please.

9 COMMISSIONER CHOPER: You represent a number of these  
10 satellite operations. You are a good person --

11 MR. BLONIEN: Well, thank you.

12 COMMISSIONER CHOPER: -- to head up the construction  
13 of an intelligent study that you and other people think would  
14 make some sense in telling us just how effective these  
15 satellites are net.

16 MR. BLONIEN: Well, I thank you for the accolade.

17 VICE CHAIRMAN ISRAEL: But -- but --

18 CHAIRMAN BRACKPOOL: No. He did not say you're a  
19 good person. He said you were a good person to --

20 VICE CHAIRMAN ISRAEL: But --

21 CHAIRMAN BRACKPOOL: -- and then he carried on.

22 VICE CHAIRMAN ISRAEL: But the truth is you're  
23 actually not a good person to do that, even though you are a  
24 good person --

25 MR. BLONIEN: Oh.

1 VICE CHAIRMAN ISRAEL: -- because you get paid by  
2 those guys to say that they're wonderful for the business.

3 CHAIRMAN BRACKPOOL: Exactly.

4 VICE CHAIRMAN ISRAEL: So --

5 CHAIRMAN BRACKPOOL: I just wanted to clarify that.  
6 So do I have a motion that Mr. Blonien is a good or not a good  
7 person?

8 Anyway, moving on --

9 COMMISSIONER CHOPER: So moved.

10 COMMISSIONER HARRIS: I'll move --

11 CHAIRMAN BRACKPOOL: So on this particular issue  
12 Commissioner Harris moves approval.

13 COMMISSIONER ROSENBERG: Second.

14 CHAIRMAN BRACKPOOL: Commissioner Rosenberg seconded.  
15 All in favor?

16 ALL COMMISSIONERS: Aye.

17 CHAIRMAN BRACKPOOL: Have a good fair.

18 MR. PICKERING: Thank you very much.

19 CHAIRMAN BRACKPOOL: Item number 14 is withdrawn.  
20 Item number --

21 COMMISSIONER ROSENBERG: May I ask -- can I ask why  
22 it's withdrawn? Because why?

23 CHAIRMAN BRACKPOOL: The documents are not complete.

24 COMMISSIONER ROSENBERG: But --

25 CHAIRMAN BRACKPOOL: It will be coming back to us --

1 MS. WAGNER: It will --

2 CHAIRMAN BRACKPOOL: -- hopefully next month.

3 MS. WAGNER: It will come back.

4 COMMISSIONER ROSENBERG: I would hope the staff would  
5 somehow simplify the process. I was reading through the  
6 application. Why does every other agricultural district in the  
7 state have to sign off on --

8 CHAIRMAN BRACKPOOL: It's the law.

9 COMMISSIONER ROSENBERG: Is it a law or is it our --

10 VICE CHAIRMAN ISRAEL: It is a law.

11 MS. WAGNER: It is. It is the -- the way the -- the  
12 law was constructed. And it's the way the rule was put  
13 together when we did it several years ago.

14 COMMISSIONER ROSENBERG: All right.

15 MS. WAGNER: Clearly if -- we can work on that in  
16 terms of changing the application process or look at -- look at  
17 changing the application process as we move forward.

18 COMMISSIONER HARRIS: Because this is --

19 MS. WAGNER: But that's what we have.

20 COMMISSIONER HARRIS: I mean, it is ridiculous to  
21 have 120 page --

22 CHAIRMAN BRACKPOOL: Right.

23 COMMISSIONER HARRIS: -- application for some guy  
24 to --

25 CHAIRMAN BRACKPOOL: It's crazy.

1           COMMISSIONER HARRIS:  -- put wagering in his bar in  
2 Salinas where I could go in there with my iPad and --

3           CHAIRMAN BRACKPOOL:  And bet.

4           COMMISSIONER HARRIS:  -- do it now.

5           CHAIRMAN BRACKPOOL:  Exactly.

6           VICE CHAIRMAN ISRAEL:  Yeah.  It's crazy.

7           CHAIRMAN BRACKPOOL:  Exactly.

8           MR. KORBY:  Chris Korby.  We would love to work with  
9 the Board on simplifying this application process.

10          CHAIRMAN BRACKPOOL:  Okay.  Well, we'd like to work  
11 with you on allowing more of these to be opened.  So we have a  
12 great commonality of interest, it seems.

13          COMMISSIONER ROSENBERG:  Yes.

14          CHAIRMAN BRACKPOOL:  Okay.  Item number 15,  
15 discussion and action by the Board regarding a presentation by  
16 Hollywood Park Racing Association regarding its introduction of  
17 the Hollywood Park Newcomers' Initiative Program.

18                 This item is in follow-up to the approval we gave of  
19 Hollywood Park's license where I am particularly and I think  
20 other Commissioners had a concern that we were perhaps not  
21 doing enough to move the audience coming in for the concerts  
22 into handle.  And part of the reason for that was I think that  
23 ours is an overwhelming sport when you walk in, in trying to  
24 figure out what to do, where to go, how to do.  So this was in  
25 response to -- to that.

1           So please state your names for the record and give us  
2 the presentation.

3           MS. GREALISH: Diane Grealish, Hollywood Park Racing  
4 Association. One more time? Diane Grealish, Hollywood Park  
5 Racing Association.

6           MR. ORTUZAR: George Ortuzar, Hollywood Park,  
7 Marketing Department.

8           MS. GREALISH: So. We had provided the Board with  
9 some information regarding this initiative, and we have been  
10 able to accomplish almost every aspect of it. We trained our  
11 customer service representatives to be sure that they were  
12 equipped to assist newcomers with placing bets. We created a  
13 winners -- a beginners' guide that will help people to -- it's  
14 a very quick look at how to wager, what some of the terminology  
15 is, how to read a program page, which we think is vitally  
16 important and would hopefully be of great assistance to people  
17 who are coming to us for the very first time or are here very  
18 infrequently.

19           We also created, in our materials we had said two  
20 special teller windows, but we created four. And we have  
21 permanent signage coming into place so that we have locations  
22 that are convenient throughout the plant, and that will  
23 hopefully help people to feel a little bit less intimidated in  
24 terms of stepping up to the windows.

25           In addition to that, and George is displaying one

1 proudly, we have a button that all of our employees where  
2 saying: "Ask me how to bet," so that if somebody is wandering  
3 around and somewhat confused that they would feel that they  
4 could go to one of our employees and -- and get a quick  
5 direction as to how to do this.

6           And then we also have created a game that George is  
7 going to talk with you a little bit about. It's called  
8 Hollywood Park Jeopardy. And the inaugural contest was this  
9 past Friday night, and he'd like to tell you a little bit about  
10 how that went.

11           CHAIRMAN BRACKPOOL: Thank you.

12           MR. ORTUZAR: George Ortuzar, Hollywood Park,  
13 Marketing. So we certainly make an effort bringing new people  
14 into this sport. And like if you have that flyer, we gave a  
15 flyer out to like the local hotels. We give it to concerts,  
16 like the Prince concert that just finished, to colleges. And  
17 once we've gotten these new people in here who we feel are  
18 really here for the concerts more than anything, we noticed  
19 that a lot of them were hanging out next to the stage instead  
20 of really enjoying our sport.

21           So the president came up with an idea to have like a  
22 Hollywood Park Jeopardy, sort of like Jeopardy. So the people  
23 who are just hanging out at the stage, I would pick like three  
24 contestants. We brought them on stage and ask them really  
25 basic questions like -- you know, that they'd have to give us

1 the answer in the form of a question, like Jeopardy kind of  
2 thing.

3           So it was like in this type of wager your horse needs  
4 to come in first or second for you to win? And then we're  
5 expecting them to say what is a place bet. And so it went  
6 really well. The three people that we had were really knew at  
7 it, and -- and a lot of them didn't know the answers. After  
8 awhile we had like the public yelling out, "Trifecta, what is a  
9 trifecta."

10           So -- so as each question was -- was asked we'd  
11 explain to them. So you know, kind of trying to make it fun so  
12 they could see that, you know, wagering is fun. So we would  
13 explain the bet afterwards, yes, you know, a place bet, if your  
14 horse comes in first or second you win. You know, so we're  
15 trying to make it entertaining.

16           And then we're giving out prizes, as well. And we're  
17 going to give out, I think three packages where they come back  
18 on the final Friday with ten guests into the Turf Club and have  
19 dinner and so forth. So -- so we're kind of letting them know  
20 the basics, kind of like what's in the beginner's guide of the  
21 betting, and trying to get them to see that this is a fun sport  
22 to wager in, as well as the -- as the concert.

23           VICE CHAIRMAN ISRAEL: Look, can -- can I make one  
24 suggestion?

25           MR. ORTUZAR: Yes.

1           VICE CHAIRMAN ISRAEL:  If an issue is who's going to  
2 be closest to the stage, give out wrist bands.  That's what  
3 they do at rock concerts.  Give out wristbands for people who  
4 come early and bet that get them closer to the stage and  
5 partition the area closest to the stage so there's an incentive  
6 to show up.  They have an incentive to go to the windows.  They  
7 have an incentive to spend money for three hours before they  
8 hear the concert, because then they get in the mosh pit or  
9 whatever the hell you want to call it.

10           And, you know, and that -- that's how it works at --  
11 at rock concerts.  Springsteen never puts seats on the floor.  
12 Everybody stands.  And it's -- you get wrist bands that are  
13 color coded that determine where you get to stand in that -- in  
14 that open floor area.  So try something like that.

15           MS. GREALISH:  We'll definitely do that.  And then in  
16 addition to the -- the items that I had provided in advance of  
17 our recap here, we bounce back from Friday night to the next  
18 Friday night, which we think is a huge incentive.  That way  
19 people who have come, if they're interested in the next week  
20 they're in free.  And we feel that that's a great way to retain  
21 and -- and get them here.

22           I did also hand out a little overview of our database  
23 marketing and wanted to just make note of the -- the most  
24 important detail in here to us is that we recently -- since  
25 April 1st we have added nine-and-a-half percent to our

1 database. And so we're very encouraged by this. It is  
2 anecdotally skewing quite a bit younger. Much of the data is  
3 coming in from the '90s, the college-aged kids. I did just  
4 receive that report late last night. So as a follow-up to you  
5 I will show you exactly where we're skewing demographically  
6 since April 1st. But we're just tremendously encouraged by  
7 this huge sign up in the first few weeks here.

8 CHAIRMAN BRACKPOOL: I think that's -- I think that's  
9 great. Look it's not our job to sit here and -- and do  
10 anything apart from just try and promote this on this agenda  
11 item. So I think whatever you can do, watch how this goes,  
12 adapt to it, but I'd love to see the handle start to reflect  
13 the increased, you know, audience.

14 MS. GREALISH: Oh, yes, we all would. And we'll very  
15 much keep you informed as to the progress.

16 CHAIRMAN BRACKPOOL: Thank you. Do I have any other  
17 comments from any other Commissioners? Thank you very much  
18 indeed.

19 VICE CHAIRMAN ISRAEL: Thanks.

20 CHAIRMAN BRACKPOOL: Thank you.

21 MR. ORTUZAR: Thank you very much.

22 CHAIRMAN BRACKPOOL: Item number 16, discussion and  
23 action by the Board to ratify the action of the Executive  
24 Committee and the Executive Director consenting to the reduced  
25 take-out Pick 5 wager requested by Hollywood Park Racing

1 Association with the agreement of the Thoroughbred Owners of  
2 California, pursuant to Business and Professions Code 19601.01.

3 I have -- this is something we've already approved,  
4 so this is a consent item. I have one speaker on the issue,  
5 Michael Wellman.

6 MR. WELLMAN: Michael Wellman. In regards to this  
7 new bet, which I think is a great step forward with the reduced  
8 take-out, Commissioner Choper earlier had talked about  
9 information. And, really, that's what it's all about.

10 With the Santa Anita meet that just finished I think  
11 everybody's aware there were somewhere in the decline of about  
12 \$120 million, which somewhere in the neighborhood of \$80  
13 million was in the exotic wagers, which represented the  
14 additional take-out issue.

15 At some point the Board needs to rethink, I believe,  
16 that issue. And developing new bets is a great start. But,  
17 obviously, Hollywood Park's intention here is to try to attract  
18 new players, old players, and so on with something having to do  
19 with reduced take-out. And when you talk about \$80 million, I  
20 can't tell you what it means in terms of purses long-term, and  
21 certainly not only the purses and the horsemen, but also the  
22 additional groups, the underpinnings of the sport that also  
23 require additional handle to be able to maintain themselves.

24 So I hope somewhere there will be information to  
25 determine why we had such a terrible handle at Santa Anita and

1 how much of that was the product or racing conditions,  
2 etcetera, etcetera, and how much was the resentment, the  
3 boycott, all the other things that are considered, and maybe  
4 rethink what we have done.

5 CHAIRMAN BRACKPOOL: Thank you. Do I have any other  
6 comments from any other Commissioners?

7 COMMISSIONER HARRIS: One thing I think is  
8 misunderstood too often is that people think the CHRB sets  
9 these take-out rates. These take-out rates are -- are really  
10 requested by the track and the horsemen. And they agree on --  
11 on it and then come to us and we approve it. We don't just  
12 arbitrarily go in and do it.

13 I mean, I personally like -- think this is a great  
14 idea that Hollywood and the horsemen have gotten together on,  
15 even though it's -- you know, as a percentage it's going to  
16 cost a little bit of money, but I think it's a great promotion.  
17 I know it brings new people in and it's something to look at.  
18 But -- but I get tired of reading some of this stuff, and HANNA  
19 (phonetic) and some of this that insinuates the CHRB was  
20 somehow against the idea of take-outs. It's misconstrued.

21 VICE CHAIRMAN ISRAEL: I'd like to thank you for  
22 making that point, John. I mean, I'd -- I'd like to say  
23 that -- that the law allows take-out to be anywhere from 10 to  
24 25 percent. And I don't think it -- it's my business when I  
25 vote to tell a race track how much to charge, or the horsemen's

1 association. They get to set their prices. And as long as the  
2 comport with the law I'll approve the requests that they make,  
3 which is what happened in this instance when they came forward  
4 to us on -- on a somewhat emergency basis and -- and Chairman  
5 Brackpool and I had to approve this bet for the beginning of  
6 the Hollywood season.

7           And I think that's -- that's -- I'm speaking only for  
8 myself, but I think that that's the feeling of this Board.  
9 And -- and accusing us of setting the prices is absurd. We  
10 don't. This is a free market and -- and it's -- it's -- it  
11 comports -- it's a free market within the constraints of the  
12 law as it's written and voted on by the legislature and signed  
13 by the governor. And all we do is enforce that law.

14           CHAIRMAN BRACKPOOL: Thank you. So I would make a  
15 motion to approve this rule. I have a second --

16           VICE CHAIRMAN ISRAEL: I'll second.

17           CHAIRMAN BRACKPOOL: -- by Vice Chair Israel. All in  
18 favor?

19           ALL COMMISSIONERS: Aye.

20           CHAIRMAN BRACKPOOL: Motion carries.

21           Item number 17, discussion and action by the Board  
22 regarding a report from Churchill Downs Technology Initiatives  
23 Company, doing business as Twinpires, concerning its  
24 California operations, including its promotion plans for  
25 horseracing in California.

1           This is an item requested by Vice Chair Israel at the  
2 last meeting. If you'd step forward and perhaps state your  
3 names for the record, please.

4           MR. BLACKWELL: Good morning, Chairman Brackpool and  
5 Commissioners. Brad Blackwell on behalf of Twinpires. And --  
6 and pursuant to that request I have with me today Rohit  
7 Thukral, the President of Twinpires, coming down from Mountain  
8 View, Jeremy Clemons, Vice President of Marketing, also in  
9 Mountain View, and Mike Cody, Vice President of Finance for  
10 Twinpires, also located in Mountain View.

11           CHAIRMAN BRACKPOOL: I see we have a presentation.  
12 We've run well over time with everything. How long is our  
13 presentation today?

14           MR. THUKRAL: We'll make it as brief as you would  
15 like.

16           CHAIRMAN BRACKPOOL: Well, we'll -- we'll move  
17 through it --

18           VICE CHAIRMAN ISRAEL: That's great. Thanks.

19           CHAIRMAN BRACKPOOL: -- and we'll see. But thank  
20 you. So --

21           MR. THUKRAL: When ever you're ready.

22           CHAIRMAN BRACKPOOL: No, I'm ready. Please go ahead.

23           MR. THUKRAL: Thank you --

24           CHAIRMAN BRACKPOOL: Please just state your name --

25           MR. THUKRAL: -- Chairman Brackpool.

1 CHAIRMAN BRACKPOOL: -- for the record and for the --

2 MR. THUKRAL: My name is Rohit Thukral, President of  
3 Twinspires.com. I want to run through these slides really  
4 quickly. My -- this is a great opportunity that we have been  
5 presented to introduce ourselves. My colleagues here, Jeremy  
6 and Mike, who are with me are based in Mountain View,  
7 California where Twinspires.com is headquartered. A quick  
8 rundown of the -- the timeline.

9 The company was formed in --

10 COMMISSIONER ROSENBERG: I can't hear.

11 MR. THUKRAL: The company was formed in 2007 in  
12 Mountain View. And we launched Twinspires.com in May of that  
13 year, right before the Kentucky Derby. Since then we have  
14 grown the business through a couple of acquisitions. First, in  
15 2007 the acquisition of Americatab (phonetic) and Brisnet,  
16 which is a handicapping data service. And subsequently that  
17 year, in 2007, we were granted a license to operate an ADW  
18 platform here in California. And late last year we acquired  
19 and subsequently merged YouBet.com customers into the  
20 Twinspires platform, as well.

21 COMMISSIONER CHOPER: You're a wholly owned  
22 subsidiary, I take it, of Twinspires?

23 MR. THUKRAL: We area wholly owned subsidiary of  
24 Churchill Downs --

25 COMMISSIONER CHOPER: Churchill Downs.

1 MR. THUKRAL: -- Incorporated.

2 COMMISSIONER CHOPER: All right.

3 MR. THUKRAL: And today --

4 COMMISSIONER CHOPER: Can I ask another question?

5 Where -- to where do you -- maybe if you're going to -- if  
6 you're going to say this stop me. Where do your operations  
7 extend beyond California?

8 MR. THUKRAL: So we operate in a number of states  
9 under a multi-jurisdictional hub license that is granted by the  
10 State of Oregon. In addition, we hold licenses in states like  
11 California, Illinois, and a few others.

12 VICE CHAIRMAN ISRAEL: And Kentucky, I assume.

13 MR. THUKRAL: I'm sorry?

14 VICE CHAIRMAN ISRAEL: And Kentucky?

15 MR. BLACKWELL: Right. Well, we have Bris. The  
16 company that's mentioned in the presentation is actually  
17 located in Lexington, Kentucky. So there were existing  
18 operations that Bris was associated with both account wagering,  
19 and also more recognized as a handicapping information  
20 business. So there is a -- an office in Lexington, Kentucky  
21 that we inherited.

22 VICE CHAIRMAN ISRAEL: Where I come from that's  
23 pronounced Bris, and it's kind of apropos for horsemen.

24 CHAIRMAN BRACKPOOL: Okay. Let's move it along.

25 MR. THUKRAL: All right. Next slide, please, Mike.

1 Where are we? We're in Mountain View, California, up in the  
2 Bay Area where I think some of the Commissioners are based.  
3 We're just a few miles from Google's headquarters. And really  
4 enjoy being in the part of Silicon Valley where a lot of  
5 internet-based innovation has taken place. And that's why  
6 we've put our offices there, to be able to draw upon the skills  
7 and the experience that are available in Silicon Valley to  
8 build an internet business for the company.

9           Next slide is just a couple of photographs of our  
10 building, really not that relevant.

11           CHAIRMAN BRACKPOOL: Go to the next slide, and the  
12 next one.

13           MR. THUKRAL: Okay.

14           CHAIRMAN BRACKPOOL: There you go.

15           MR. THUKRAL: Okay. Thank you. Slide number six.

16 So contributions to California racing, that was one of the  
17 requested items for this item on the agenda. Last year  
18 through -- California stakeholders received \$21.4 million from  
19 wagers placed through Twinspires and YouBet, the combined  
20 business. And these data are taken from CRIMS. California  
21 tracks received \$7.5 million; \$7.4 million were contributed to  
22 purses; \$700,000 to the breeders; and a collective \$5.8 million  
23 to a number of other stakeholders in the state.

24           Today, Twinspires.com markets racing, California  
25 racing across the country. And last year we generated \$99.2

1 million in handle out-of-state, which accounts for 55 percent  
2 of all ADW handle in the state. So that's a pretty substantial  
3 contribution to California racing.

4           Moving on, I have a couple of examples of the  
5 technological innovations that we have brought to the market,  
6 leading, first of all, with Twinspires TV, which is a new, rich  
7 internet application. It's a patent-pending application that  
8 brings together live racing with handicapping and the ability  
9 to place a bet without having to leave that -- that racing  
10 centric internet video experience.

11           Next slide. The innovations continue on to mobile  
12 wagering. We provide the ability to watch the races anywhere  
13 on your -- on your mobile phones, iPhones, iPads, Android  
14 devices of all kinds and, of course, other traditional smart  
15 phone interfaces.

16           CHAIRMAN BRACKPOOL: Let me ask you one question on  
17 that for the moment. I've looked at it on the iPad and it's --  
18 it's pretty good on the iPad. But the iPad is realistically  
19 much closer to a computer, just in terms of its screen, it's  
20 ease to use, etcetera, etcetera.

21           How easy is it to make a bet on -- or watch a race on  
22 any of the mobile phones? Is it --

23           VICE CHAIRMAN ISRAEL: The smart phones.

24           CHAIRMAN BRACKPOOL: The smart phones. I mean, is it  
25 much harder than it is on the iPad or the computer? I mean, do

1 you feel that your technology is -- is equal? Do you feel  
2 you've got some work still to do there?

3 MR. THUKRAL: The -- the older phones that are shown  
4 here, like the Blackberry Curve and the Motorola Razor are  
5 effectively out of the market now. The newer phones that  
6 everybody is buying are the smart phones that have a full  
7 screen, like an iPhone --

8 CHAIRMAN BRACKPOOL: Right.

9 MR. THUKRAL: -- or a Google Android phone --

10 CHAIRMAN BRACKPOOL: Right.

11 MR. THUKRAL: -- that I have in my pocket, these are  
12 full-blown computers. They just happen to have a small screen.

13 CHAIRMAN BRACKPOOL: They -- they -- they are full-  
14 blown computers with a smaller screen. They also, depending on  
15 where you are, the internet can take a week to connect to. So  
16 I mean, they're not as easy.

17 My -- my point is do you believe they are already at  
18 their optimum stage, or do you still think there's a lot of  
19 work to do? Because I think that mobile technology is going to  
20 be a huge part of our growth once we can really start selling  
21 it to people.

22 MR. THUKRAL: You're absolutely right. There are  
23 inconveniences with the smaller screen relative to the large  
24 screen of an iPad or some of the more -- the larger screens  
25 provided by the Android Tablets that are coming --

1 CHAIRMAN BRACKPOOL: Right.

2 MR. THUKRAL: -- to the market. And I would imagine  
3 that people would -- would appreciate the convenience of having  
4 a phone in their pocket and being able to place a bet and to  
5 watch a race --

6 CHAIRMAN BRACKPOOL: No. I --

7 MR. THUKRAL: -- wherever they are.

8 CHAIRMAN BRACKPOOL: I understand that. My point was  
9 do you believe that you're technology is where it needs to be  
10 on that, or do you think there's room for improvement on the  
11 smart phone?

12 MR. THUKRAL: Thank you. I understand the question  
13 now. I think there's a lot of room for innovation. I think  
14 there's a lot of room for improving the user experience, and to  
15 connect to the faster networks like the 4G networks that are  
16 coming out on the mobile phones very, very shortly.

17 CHAIRMAN BRACKPOOL: And I see 3G work to begin with,  
18 but --

19 MR. THUKRAL: Yeah. And the 4G networks are ten  
20 times faster. So I think that there's a lot of innovation  
21 to -- to be -- to be brought to the market, riding the curve  
22 that the mobile technology is providing us, and to bring horse  
23 racing and the ability to handicap and place a bet wherever you  
24 are.

25 Moving on quickly, just a quick --

1           CHAIRMAN BRACKPOOL: Just -- just one more on that,  
2 for the moment. Do you think that your site -- what does it  
3 take for you to get your site to where people are actually  
4 watching the sport in HD?

5           MR. THUKRAL: We have been providing coverage of HD  
6 signals from certain race tracks around the country that --  
7 that transmit their video in HD.

8           CHAIRMAN BRACKPOOL: Which ones are those?

9           MR. THUKRAL: We've had Keeneland, Churchill Downs,  
10 fairgrounds, Calder Race Course, I believe Del Mar, some of the  
11 tracks --

12          CHAIRMAN BRACKPOOL: But nobody in California, the  
13 leading technology state in the country, we don't have any HD  
14 here; right?

15          MR. THUKRAL: I believe Del Mar does.

16          CHAIRMAN BRACKPOOL: We'll get to that on the next  
17 agenda item. Okay. Yeah.

18          MR. THUKRAL: Okay. Continuing on, this next chart  
19 is actually very, very detailed. But the point of it is that  
20 we are providing to the Twinspires.com users free interactive  
21 handicapping data. So when you're looking at the program and  
22 looking to -- to determine which horse to bet on, all of the  
23 stats on the horse, the sire, the dam, the jockey, the  
24 trainer, jockey-trainer combination stats, they're all provided  
25 to the handicapper free of charge. And that's another

1 innovation that we have brought to the market.

2 At this point I'd like to --

3 VICE CHAIRMAN ISRAEL: So these are -- this -- this  
4 is more than you get just in a program at a race track --

5 MR. THUKRAL: That's correct.

6 VICE CHAIRMAN ISRAEL: -- really?

7 MR. THUKRAL: Yeah. This is a complete database of  
8 every start.

9 VICE CHAIRMAN ISRAEL: Past performance?

10 MR. THUKRAL: The complete past performance provided  
11 interactively and free of charge to every use of the interface.

12 And at this point I'd like turn it over to --

13 COMMISSIONER ROSENBERG: Excuse me. Can I ask you a  
14 question?

15 MR. THUKRAL: You have a question?

16 COMMISSIONER ROSENBERG: Can I ask you a question?  
17 Yes. How do you promote that to the public, to the betting  
18 public, the fact that you have that available? Do you  
19 advertise, and where do you advertise?

20 MR. THUKRAL: We -- we advertise in all of the racing  
21 industry vertical publications, both on the internet and on --  
22 in -- in the newspaper publications such as the *Racing Form*.  
23 We market it through direct marketing through email campaigns  
24 to the people who are in our database, and to -- to other --  
25 and on the simulcast signals in -- with certain race tracks.

1 I would like to turn it over to my colleague Jeremy  
2 Clemons who runs marketing for us, and he's going to walk us  
3 through some of the innovations that we have brought to the  
4 market for marketing California racing through Twinspires.

5 VICE CHAIRMAN ISRAEL: If you don't mind, before you  
6 do that I have one question. On an earlier page you showed us  
7 that your contribution to California racing was a total of  
8 \$21.5 million, give or take. How much did Twinspires receive?

9 MR. THUKRAL: I'm sorry. What was the question  
10 again?

11 VICE CHAIRMAN ISRAEL: How much did Twinspires make  
12 gross? Because this is a gross number, 21.

13 MR. THUKRAL: The -- the numbers at the bottom of  
14 that slide, it shows that we handle approximately \$800 million  
15 across the United States. But I don't have --

16 VICE CHAIRMAN ISRAEL: You contributed \$21.4 million  
17 to California.

18 MR. THUKRAL: Okay. You are --

19 VICE CHAIRMAN ISRAEL: How much -- how much did you  
20 make for California?

21 MR. CODY: If I can jump in here for a second. I'm  
22 Mike Cody, the Vice President of Finance. I may be able to  
23 help answer that question.

24 VICE CHAIRMAN ISRAEL: Okay.

25 MR. CODY: We receive, as -- as you know, what were

1 reported by the hub agreements that -- that exist that are in  
2 place with the thoroughbred, the harness and the quarter horse  
3 groups. So of those wagers we would receive our appropriate  
4 percentage.

5 VICE CHAIRMAN ISRAEL: I understand that.

6 MR. CODY: And --

7 VICE CHAIRMAN ISRAEL: And how much was it?

8 MR. CODY: According to CRIMS -- I have the number,  
9 I'm just concerned with the status of a public company, if I  
10 can say that.

11 VICE CHAIRMAN ISRAEL: Well, you're very happy to  
12 tell us how much you gave. I want to know how much you took.

13 MR. CODY: According to CRIMS that was \$5 million.

14 VICE CHAIRMAN ISRAEL: So you -- you -- the tracks,  
15 purses, breeders, others got \$21.4 million, and Twinspires got  
16 \$5 million?

17 MR. CODY: According to CRIMS, correct.

18 VICE CHAIRMAN ISRAEL: What about according to you?

19 MR. CODY: I don't have specific numbers like that.

20 MR. BLACKWELL: And, Commissioner Israel, I also want  
21 to clarify, is this number was for handle outside of  
22 California, as well.

23 MR. CODY: It was a combination of both.

24 VICE CHAIRMAN ISRAEL: Well, I understand. That's  
25 why I'm asking, not what the appropriate percentages were

1 because every -- damn near every bet is different. So there's  
2 got to be a blended number that tells me how much money you  
3 made from -- from your --

4 COMMISSIONER HARRIS: Gross.

5 VICE CHAIRMAN ISRAEL: -- from -- from California.

6 COMMISSIONER HARRIS: These are gross, though.

7 CHAIRMAN BRACKPOOL: Gross.

8 COMMISSIONER HARRIS: This isn't net.

9 VICE CHAIRMAN ISRAEL: Gross. Yeah, gross. Not net,  
10 gross.

11 COMMISSIONER ROSENBERG: Whatever it is it's a  
12 number.

13 MR. CODY: Are you looking for a percentage or a  
14 number?

15 VICE CHAIRMAN ISRAEL: Huh?

16 MR. CODY: A percentage or --

17 VICE CHAIRMAN ISRAEL: No, a number. How many  
18 dollars?

19 MR. CODY: That was -- well, again, according to  
20 CRIMS it's \$5 million.

21 VICE CHAIRMAN ISRAEL: Flat out \$5 million?

22 MR. CODY: Right.

23 VICE CHAIRMAN ISRAEL: Okay. Thanks. Okay. Go  
24 ahead. That's all I wanted to know.

25 MR. CLEMONS: Okay. Thanks. Jeremy Clemons, Vice

1 President of Marketing at Twinspires.com.

2 In addition to a lot of the product innovations that  
3 we've made, we also try to break down a lot of the barriers for  
4 horse players to play racing on a daily basis. We all know  
5 players can be price sensitive. And one of the things that  
6 we've done through the -- the acquisition of Brisnet.com is  
7 we've given away over 660,000 free Brisnet ultimate past  
8 performances since 2008 on California racing and to California  
9 customers combined. So they're not having to come in and pay  
10 \$5.00 or \$6.00 for a *Racing Form*. It's, you know, helping them  
11 get to the races more quickly.

12 We've given away over 220 terabytes of data for free  
13 streaming video and race replays. That doesn't come without a  
14 cost. If anyone wants to know what a terabyte is it's -- it's  
15 quite a lot. I'm sure Rohit could explain more.

16 CHAIRMAN BRACKPOOL: But where it says here that  
17 YouBet had not previously awarded points to players in  
18 California, I was under the impression, and maybe I was wrong,  
19 that it wasn't legal in California to offer the player points.

20 MR. CLEMONS: Player rewards programs are offered by  
21 the --

22 CHAIRMAN BRACKPOOL: Player rewards programs.

23 MR. CLEMONS: -- by the ADWs --

24 CHAIRMAN BRACKPOOL: Right.

25 MR. CLEMONS: -- including --

1 CHAIRMAN BRACKPOOL: So how you have been --

2 MR. CLEMONS: -- Twinpires and TVG.

3 CHAIRMAN BRACKPOOL: -- able to do it -- how have you  
4 been able to do it if they weren't able to do it legally?

5 MR. CLEMONS: It wasn't a decision about legality.  
6 It was a decision about cost.

7 CHAIRMAN BRACKPOOL: It was just cost?

8 MR. CLEMONS: That's correct.

9 CHAIRMAN BRACKPOOL: It was not a legality? Because  
10 I know some of the states have restrictions that you can't  
11 incentivize people to gamble and etcetera. But it was not --

12 MR. CLEMONS: Right. It was part of a financial  
13 decision.

14 CHAIRMAN BRACKPOOL: It was just a financial  
15 decision?

16 MR. CLEMONS: Correct. And this -- this point was  
17 made, just the fact that we wanted to make sure California  
18 players were treated as -- as good as possible.

19 CHAIRMAN BRACKPOOL: Right. Okay.

20 MR. CLEMONS: And we wanted them to be treated --

21 CHAIRMAN BRACKPOOL: Let's -- let's move on to the  
22 next one. Thank you.

23 MR. CLEMONS: Okay. Thanks.

24 CHAIRMAN BRACKPOOL: Okay.

25 MR. CLEMONS: A few of the things we also do is work

1 with tracks with retail promotions. You may have heard earlier  
2 from -- from Cal Expo about the success of this promotion where  
3 we've offered a zero percent take-out Pick 4 on their --

4 CHAIRMAN BRACKPOOL: Up to \$500?

5 MR. CLEMONS: Up to \$500 on --

6 CHAIRMAN BRACKPOOL: I don't see that in here.

7 MR. CLEMONS: Right.

8 CHAIRMAN BRACKPOOL: Oh

9 MR. CLEMONS: So the bonus awards are 17-and-a-half  
10 bonus up to \$500. I was going to get -- I was going to mention  
11 that. Up to 17-and-a-half percent on the -- the total dollars  
12 that they would have won on the wager. And you can actually  
13 take advantage of this at -- at Cal Expo, if you like, or  
14 through Twinspires.com. The results have been successful. On  
15 track the Pick 4 handle is up nine percent. The total Pick 4  
16 handle was up 37 percent. And it went nuts on our site with  
17 281 percent increase for the Pick 4.

18 We also have single day promotions. I'll pull down  
19 an example here of how we marketed the Pick 3s on Sunshine  
20 Million Days.

21 CHAIRMAN BRACKPOOL: Are you showing the Cal Expo  
22 live?

23 MR. CLEMONS: Yes. We have it on Twinspires TV and  
24 any of our live video, you know, players that we make available  
25 to our players. This promotion for Sunshine Millions Days

1 netted a 216 percent increase on the -- the players who  
2 participated in the promotion through the Pick 3s. We've also  
3 partnered with Del Mar on a series of promotions. Here we  
4 offered a prize pool of ten million points for anybody to share  
5 if they hit the late Pick 4 at Del Mar. Again, just an extra  
6 incentive to play Del Mar racing through Twinpires.

7 CHAIRMAN BRACKPOOL: What do you get for ten million  
8 points?

9 MR. CLEMONS: What do you get for ten million points?  
10 You can get a lot of different things. But it's roughly a  
11 little over \$10,000 in value. Another --

12 CHAIRMAN BRACKPOOL: So you get a \$10,000 value if  
13 you hit the late Pick 4?

14 MR. CLEMONS: You earned a share in that prize pool.  
15 So it really depended upon the number of players who hit the  
16 Pick 4 at Del Mar. They would share in that entire prize pool.

17 CHAIRMAN BRACKPOOL: They don't each get ten million  
18 points?

19 MR. CLEMONS: Not each, no. you'd have to -- if you  
20 were the only player you would have -- you would have received  
21 that. So a lot of value coming back to the players in the form  
22 of points.

23 One of the things that we also do with race tracks  
24 across the country is we try to draw players back to the track,  
25 and this is an example of what we did with Del Mar. We invited

1 everyone in sort of a two hour radius of Del Mar. We have 400  
2 players and guests show up, quite a few from outside of San  
3 Diego County, Los Angeles County, you know, Orange County. We  
4 had quite a few people traveling a good deal to come to our day  
5 at the races. And what we wanted to do was to showcase an  
6 over-the-top experience to the players so that, you know, they  
7 would get a little bit more engaged in live racing and getting  
8 more engaged in ADW as part of that. They were offered free  
9 premium seatings and free food, free drinks, and a number of  
10 different items including a chance to win tickets to the  
11 Kentucky Derby.

12 CHAIRMAN BRACKPOOL: I like that message. So you're  
13 saying that -- that the -- that encouraging people to go to the  
14 races is something that an ADW provider sees as -- as a  
15 positive?

16 MR. CLEMONS: Absolutely. We've done over 20 of  
17 these events at different race tracks throughout the country.  
18 We'd like to do an event like this at any race track in  
19 California that would like to have us, in addition to the other  
20 retail promotions. We think it's a great thing because the  
21 live racing experience is second to none. And if you can bring  
22 people out and show them a great live racing experience they're  
23 much more likely to be more engaged when they go home and  
24 decide that, well, maybe they can't make it to the races for  
25 the day but they could play via mobile or via the computer.

1           VICE CHAIRMAN ISRAEL: Okay. So as long as you're  
2 sitting here, let me ask you a question. How much are you  
3 corporately willing to contribute to Dr. Arthur's study --

4           COMMISSIONER DEREK: Yes.

5           VICE CHAIRMAN ISRAEL: -- on the race tracks? I'm  
6 not kidding.

7           COMMISSIONER CHOPER: No one can answer that  
8 question.

9           VICE CHAIRMAN ISRAEL: Come on. You want to --

10          MR. BLACKWELL: Is this question out to all ADWs? Is  
11 this specific to us? If so --

12          VICE CHAIRMAN ISRAEL: If they were sitting here I'd  
13 ask them. Jeremy, you can actually set the benchmark --

14          COMMISSIONER DEREK: Yes.

15          VICE CHAIRMAN ISRAEL: -- and then they can match it.

16          MR. BLACKWELL: But --

17          VICE CHAIRMAN ISRAEL: Come on. Show a little  
18 courage.

19          MR. BLACKWELL: Well, I think it's something, you  
20 know, we would take under consideration. And you know, it's --  
21 it's not really fair to be put on the spot here. But, you  
22 know, it's certainly --

23          VICE CHAIRMAN ISRAEL: Well, I don't care if it's  
24 fair. That's not really what I'm interested in.

25          MR. BLACKWELL: Well, I know that's what you're

1 interested in. But I'm just saying, you know, it's something  
2 that, you know, we're up here to, you know, provide a  
3 presentation.

4 CHAIRMAN BRACKPOOL: I think you've heard the --

5 MR. CLEMONS: So --

6 CHAIRMAN BRACKPOOL: I think you've heard the  
7 message. I think it's --

8 MR. CLEMONS: So -- right.

9 CHAIRMAN BRACKPOOL: -- well worth taking under  
10 consideration --

11 MR. CLEMONS: Right. I think it's --

12 CHAIRMAN BRACKPOOL: -- right?

13 MR. CLEMONS: -- you know, we're certainly, you know,  
14 open to ideas --

15 COMMISSIONER CHOPER: Can I ask you a question?

16 MR. CLEMONS: -- in terms of, you know, what our  
17 contribution is.

18 COMMISSIONER CHOPER: I'm sorry. The 400 players,  
19 they're -- these are rewards to the 400 players?

20 MR. CLEMONS: They -- they just --

21 COMMISSIONER CHOPER: I guess what I'm -- what I'm --  
22 look --

23 MR. CLEMONS: They -- they didn't have to pay a  
24 thing --

25 COMMISSIONER CHOPER: -- what I'm asking is --

1 MR. CLEMONS: -- to come.

2 COMMISSIONER CHOPER: -- if they're already fairly  
3 big time players, I mean, I think it's nice. But you're -- it  
4 just strikes me intuitively that you're -- you're -- you're  
5 bringing out the wrong people. Now maybe they're the only  
6 people that are available to you. And I still think it's, you  
7 know, it's -- it's -- it's a fine thing.

8 But if you could focus on someone who's not already a  
9 big player who has the potential to be a big player then you've  
10 really cracked the nut of -- of -- of some of this stuff.

11 MR. CLEMONS: Yeah. Just -- just for clarification  
12 sake, the -- the event at Del Mar was open to all of our  
13 players within the radius.

14 COMMISSIONER CHOPER: All your players?

15 MR. CLEMONS: Correct. Didn't -- didn't have any  
16 type of wagering minimums.

17 COMMISSIONER CHOPER: And --

18 MR. CLEMONS: And it was completely free for them.

19 COMMISSIONER CHOPER: And you -- and you -- you got  
20 about 400 responses? Did you take any -- I mean, I guess you  
21 had a limit; right?

22 MR. BLACKWELL: We actually mailed everyone within  
23 the two hour -- two hour radius drive of -- of the track.

24 COMMISSIONER CHOPER: And this is what you got back?

25 MR. BLACKWELL: Correct. Correct.

1 COMMISSIONER CHOPER: Well, I think that's terrific.

2 MR. BLACKWELL: And, Commissioner Choper, you know,  
3 one of the things is, you know, the ADW, obviously the  
4 technology aspect of it is more appealing to the younger  
5 customer. And so, you know, to Jeremy's point, you know, this  
6 offer is made to all of those customers to take -- who --  
7 players who may, you know, really be a technology type of  
8 person and bringing them back. And so it's kind of sharing  
9 that customer database to again strengthen that.

10 COMMISSIONER CHOPER: If they bring a guest can you  
11 try to assure that the guest is not already a player? I'm  
12 serious.

13 CHAIRMAN BRACKPOOL: It may -- it may cause some  
14 marital strife but --

15 COMMISSIONER CHOPER: No. No. No. No. I'm --

16 CHAIRMAN BRACKPOOL: -- we'll --

17 COMMISSIONER CHOPER: I'm serious about that.

18 MR. CLEMONS: We encouraged people to bring guests.  
19 And they had up to three guests they could bring with.

20 CHAIRMAN BRACKPOOL: Right. Commissioner Harris.

21 COMMISSIONER HARRIS: With the proliferation of the  
22 internet I think people are watching more of what we would  
23 consider to be TV is now on the internet. And that's what  
24 you're doing, I guess, with your show. You don't really have a  
25 TV show per se, but you have an internet TV show which

1 includes -- I guess every track in California you've got videos  
2 of the races.

3 MR. BLACKWELL: Right.

4 COMMISSIONER HARRIS: But as I recall there was some  
5 scheme originally that the TV coverage, like TVG, got some kind  
6 of a fee for doing the TV coverage because that may help the  
7 ADWs. Even though I'm watching TVG I might be betting  
8 Twinspires. But did that get all worked out that -- that  
9 there's some fee going back and forth?

10 CHAIRMAN BRACKPOOL: There's still a host fee that  
11 gets -- TV fee that gets paid, two percent; right?

12 MR. THUKRAL: That's correct. So for certain tracks  
13 that are shown on TVG Network, the ADWs are required to  
14 contribute a percentage of handle for all the handle that goes  
15 on those tracks. And that continues to be the current  
16 practice.

17 CHAIRMAN BRACKPOOL: And HRTV charges likewise to the  
18 other --

19 MR. THUKRAL: That is correct.

20 COMMISSIONER HARRIS: Yeah. Because it's -- it's  
21 kind of a philosophical question. Because now the viewing  
22 habits have changed somewhat, although I think there's still  
23 value in the actual TV. But it would be interesting to see how  
24 many people really end up watching a race on a traditional TV  
25 channel versus more of an internet.

1           CHAIRMAN BRACKPOOL:  It's -- it's an evolving  
2 statistic, I'm sure.

3           MR. THUKRAL:  It is very evolving.  And if you -- if  
4 you take a look at the viewing habits, TV viewing habits of  
5 younger people, they tend to be mostly on the internet these  
6 days and less and less on over-the-air television.

7           What we've seen is the convenience of Twinpires TV  
8 where you can watch any race track, any race, without any  
9 cutouts for -- for commercials, breaks, and so on.  It really  
10 puts the player in control.  So the player can decide what they  
11 want to watch at what point in time and watch all the races  
12 from every track that they're interested in.

13          MR. CLEMONS:  Also provide on demand content.  So if  
14 players wanted to see a handicapping show, if they wanted to  
15 see a preview, they can do that, as well, on their own time and  
16 control it when they want.

17          MR. BLACKWELL:  And one other thing about Twinpires  
18 TV, it allows you to pick which races you're -- you're viewing,  
19 as opposed to what's being covered by, you know, HRTV or TVG.  
20 You -- you have the main screen with other races going on the  
21 bottom and you can switch as to which races you're interested  
22 in, as opposed to just what's running on those channels.

23          COMMISSIONER HARRIS:  Do you have a pretty good feel  
24 for the demographics of -- of your clientele?  I guess you do  
25 because they've all got to register.  And can you see that

1 that -- I mean, are we getting a younger clientele as the years  
2 go on or is it just the same group staying around?

3 MR. CLEMONS: The average age of our consumer has  
4 declined each year since we're been in business in 2007.

5 CHAIRMAN BRACKPOOL: Which you would expect if -- if  
6 people are attracted to technology.

7 MR. BLACKWELL: That's correct.

8 MR. CLEMONS: Absolutely.

9 CHAIRMAN BRACKPOOL: Before you go I have one public  
10 speaker on this issue and a couple of comments I will make.

11 Mace Siegel, you are the public speaker on this  
12 issue. We need to get you to a microphone, though. State your  
13 name for the record, Mace.

14 MR. SIEGEL: My name is Mace Siegel. I'm a horse  
15 owner. I also spent 15 years on TOC. And I would like to talk  
16 about Churchill Downs in representing what has been hell for  
17 the last 15 years with Churchill Downs. They always want more.  
18 They're greedy. They provide no service. They've chased  
19 horsemen out all over the country. From the time they brought  
20 Hollywood Park to California I wish I could say one thing  
21 that's good about them, but I can't find it. They always tell  
22 me that we have to look out for our stockholders. What that  
23 means is I can't find any other reason, but I'm going to pick  
24 your pocket anyway.

25 They have been consistent. The fight still goes on.

1 Right now we are paying them more to get their signal, and it  
2 isn't enough for them. When -- when we raised the take-out to  
3 allow purses they wouldn't even agree to that. They are  
4 consistent. They are the disgrace of the industry. They are  
5 preventing the California, Kentucky, New York syndicates from  
6 getting together. To send them in is -- is -- is an insult, in  
7 my opinion. Because if we're talking about Churchill Downs,  
8 don't send in a boy to do a man's job and attempt to confuse  
9 you by saying that it's Twinpires. It's all owned by  
10 Churchill. And from coast to coast it -- they are not  
11 cooperating with anybody else in the industry.

12 CHAIRMAN BRACKPOOL: Well, Mace, I will tell you that  
13 this agenda item was placed on the agenda so that we could  
14 understand what Twinpires as -- as an ADW provider  
15 specifically was doing in, with and for California.

16 MR. SIEGEL: Well --

17 CHAIRMAN BRACKPOOL: So I take the comments. We do  
18 not have an action item in front of us. But I take the --

19 MR. SIEGEL: Well, if we don't have an action item  
20 it's time that we got this out in the open.

21 CHAIRMAN BRACKPOOL: We will have an action item for  
22 each of the ADW companies coming up in December when everybody  
23 is re-licensed. And at that stage that would, I think, be the  
24 proper and appropriate time for everyone to come and voice  
25 their concerns on which of the companies should be licensed,

1 what we think they've done, etcetera. This was asked as a  
2 presentation so that we could understand what is happening with  
3 Transpires as an entity.

4 MR. SIEGEL: And the answer is we're getting screwed.

5 CHAIRMAN BRACKPOOL: Thank you.

6 COMMISSIONER HARRIS: I don't think we've heard that  
7 about Twinpires. I mean, Twinpires, I don't think we can  
8 blame them for, you know, the alleged actions of Churchill. I  
9 mean, I think Twinpires is here just to explain what they're  
10 doing.

11 CHAIRMAN BRACKPOOL: Right. Anyways --

12 MR. SIEGEL: And they are doing us.

13 CHAIRMAN BRACKPOOL: Thank you, Mace. Thank you.

14 MR. LIEBAU: Mr. Chairman?

15 CHAIRMAN BRACKPOOL: All right. With that note, I  
16 don't --

17 MR. LIEBAU: Mr. Chairman?

18 CHAIRMAN BRACKPOOL: Sorry. Do I have a speaker  
19 card?

20 MR. LIEBAU: No. But I just would like one thing.  
21 My name is Jack Liebau. I'm from Hollywood Park. I noted that  
22 the Twinpires people offered to put the same promotion on at  
23 other tracks that they put on at Del Mar. And I would just  
24 like to go on record as saying that Hollywood Park would be  
25 very happy to join with Twinpires in making one here at our --

1 CHAIRMAN BRACKPOOL: Thank you. Thank you. Thank  
2 you.

3 MR. LIEBAU: -- current meet. Thank you.

4 CHAIRMAN BRACKPOOL: Thank you. I like the speaker  
5 cards because it allows everybody to have the same opportunity  
6 to speak. Okay.

7 So I think that this was a helpful explanation of  
8 where we are. I would advise you strongly to keep this Board  
9 in touch with what is going on. And as we go towards the --  
10 the re-licensing you know that we are going to have some very  
11 significant discussions about how we rework the whole ADW model  
12 in California, of which we've said labor would be a participant  
13 in those discussions. There are various other groups that --  
14 that -- that we want involved. I thank you for -- for that.

15 And we move on to item number 18.

16 VICE CHAIRMAN ISRAEL: Don't forget, Dr. Arthur  
17 accepts contributions.

18 CHAIRMAN BRACKPOOL: Item number 18, discussion and  
19 action by the Board regarding the presentation from MI  
20 Developments on the proposed transfer of MID's horse racing  
21 assets to a new entity controlled by Mr. Stronach. And if you  
22 would step forward, please, and state your names and  
23 affiliations for -- for the record.

24 MR. AVIOLI: Good afternoon. My name is Greg Avioli.  
25 And I'm the new president and CEO or the to-be created new

1 Magna Racing entity.

2 MR. DARUTY: Scott Daruty with MI Developments, and  
3 soon with the to-be created Magna Racing entity.

4 CHAIRMAN BRACKPOOL: Well, many congratulations on  
5 your new appointment. The issue, I think, in -- in -- in front  
6 of us and the reason why I wanted you to come and make a  
7 presentation is one both of the significance of the assets that  
8 are controlled by your organization currently and your to-be  
9 organization in California, as well as the rather exhaustive  
10 process we went through just a few months ago to allow MID to  
11 control all of the assets and have the necessary waiver that  
12 permitted the ownership of all of those entities.

13 Certain of the assurances that were given in --  
14 through that process were obviously based on the financial  
15 strength of MID as an entity. And given the -- the rather  
16 regular history by which these assets have been transferred I  
17 think there's obviously, as you've head, various agenda items  
18 today, people commenting on concerns they have.

19 So I think we all understand what the assets are  
20 of -- of analyzing whether they were all okay beyond just one.

21 I think perhaps, Greg, if you could talk a little  
22 just about the process that -- that is supposed to happen now  
23 to transfer them. And then the assurances that you think would  
24 be necessary for us to look at granting a separate waiver, and  
25 perhaps some of the plans. And then we're going to have to

1 agendize a hearing on the -- on the waiver issue probably at  
2 the next month anyway. So that -- that was the general outline  
3 of what I wanted you to --

4 MR. AVIOLI: Thank you, Mr. Chairman. I've -- I've  
5 had the privilege of getting to know many of -- of the  
6 Commissioners over the last decade. And I appreciate you all  
7 giving me the opportunity to talk to you today.

8 I'll tell you, I'll start with the specifics of what  
9 I can tell you. And then I'll -- and then I'll explain  
10 what's -- what's supposed to happen. I can't -- being that  
11 these are third-party transactions that aren't done yet I can't  
12 give you any guarantee exactly how they're going to turn out or  
13 when, but they're pretty comfortable.

14 Essentially what's -- what's going on with MID is the  
15 racing assets are going to be transferred to Frank Stronach's  
16 Family Trust in exchange for him ceding certain control rights  
17 he now has at MID. The exact nature of the entities that  
18 they'll be transferred to are still being worked out by lots of  
19 different lawyers. But essentially, I think for purposes  
20 today, they are going to be controlled by Frank Stronach and  
21 his daughter Belinda 100 percent.

22 When you get into the structural --

23 CHAIRMAN BRACKPOOL: In a to-be-formed entity?

24 MR. AVIOLI: Yeah, in a to-be-formed -- well, it's --  
25 it's funny. Scott can -- Scott can go through -- it's not

1 really funny. Scott can go through the details. But the  
2 corporate structure, if you look at all the various boxes of  
3 where these are currently owned, they're going to be owned  
4 pretty much by the same boxes until you get to the top. So  
5 there is -- there is an entity called MID US Holdings right now  
6 that is currently the parent company of all these assets, the  
7 racing assets in North America. That entity is going to  
8 continue to be the parent company of all these assets. You're  
9 just going to have a different owner on top of that, if that  
10 makes sense.

11 COMMISSIONER CHOPER: Who is the owner? Mr.  
12 Stronach?

13 MR. AVIOLI: The owners are ultimately going to be  
14 Mr. Stronach and his daughter Belinda. And we can -- we can  
15 get -- we -- we -- I think we've provided you a chart of all  
16 that. And as these entities get formed and exactly specified  
17 in the next two months we'll obviously keep the Board informed.

18 The transaction has approved -- has been approved by  
19 both the shareholders of MID, as well as the -- the --  
20 basically the -- the court that would oversee it. So all that  
21 remains, and it's not -- it's not insubstantial, but all that  
22 remains now is the actual business deal being completed between  
23 MID and what I'm going to call the Stronach Family Trust. That  
24 is targeted to be closed on June 30th.

25 COMMISSIONER CHOPER: Did you say insubstantial or

1 substantial?

2 MR. AVIOLI: I'm sorry. What did I say? What was  
3 the question?

4 CHAIRMAN BRACKPOOL: You said it's not unsubstantial.

5 MR. AVIOLI: No, they're not insubstantial. These  
6 are a lot of issues. You're talking about -- about companies  
7 that have hundreds of millions of dollars of revenue in  
8 dividing them up. I believe it will get done. But if -- if --  
9 if this -- if this was delayed by some period of weeks or  
10 months it wouldn't shock me. But I expect that it will get  
11 done on June 30th.

12 But just to give you an idea of what I'm talking  
13 about, Commissioner, they have to -- they have to divide up not  
14 just these racing assets but all the employees who have been  
15 working at this company for -- for over a decade. And it's --  
16 it's lots of complicated sub-issues that lawyers are working  
17 night and day on. But again, I'm -- they're -- we're -- we're  
18 shooting for June 30th and I think we'll get there. That's the  
19 easy part; right?

20 The -- the question, your -- your broader question  
21 of, you know, what guarantees you might look for as part of  
22 the --

23 CHAIRMAN BRACKPOOL: Before we even --

24 MR. AVIOLI: Yeah.

25 CHAIRMAN BRACKPOOL: -- get to that --

1 MR. AVIOLI: Yeah.

2 CHAIRMAN BRACKPOOL: -- in reading the documents that  
3 have been submitted to us and -- and reading the public  
4 documents that are available, what seems to be unclear to me is  
5 what level of debt is being transferred with the assets.  
6 Sometimes I read that there is no debt. And sometimes I read,  
7 only the associated debt. So I'm just -- I'm unsure.

8 Are these assets being delivered with absolutely no  
9 liabilities attached to them?

10 MR. AVIOLI: My understanding is that all of the  
11 traditionally debt on the companies are remaining with MID, and  
12 they're being delivered without debt. Well, I can't go so far  
13 as to say they're being delivered without any liabilities as,  
14 again, it's a very complicated transaction. But to the extent  
15 as we think of debt, bank borrowings, my understanding is that  
16 debt is remaining.

17 CHAIRMAN BRACKPOOL: Mortgage debt --

18 MR. AVIOLI: Mortgage debt.

19 CHAIRMAN BRACKPOOL: -- there's none of that, there's  
20 none of that?

21 MR. AVIOLI: Those are being --

22 VICE CHAIRMAN ISRAEL: There would be no monthly  
23 services -- service?

24 MR. AVIOLI: Scott, do you want to --

25 MR. DARUTY: That -- that is correct. There's --

1 there's no debt in the traditional sense of the word debt.

2 There are liabilities associated with the ongoing --

3 CHAIRMAN BRACKPOOL: Right.

4 MR. DARUTY: -- operations of each asset, and those  
5 are going to be maintained by that avenue.

6 MR. AVIOLI: But -- but bank mortgages --

7 CHAIRMAN BRACKPOOL: But approximately --

8 MR. AVIOLI: -- mortgages, no.

9 CHAIRMAN BRACKPOOL: -- you've got asset -- you've  
10 got an asset value of -- book value of \$600 million, \$700  
11 million being transferred with no associated debt?

12 MR. DARUTY: Correct.

13 MR. AVIOLI: Correct.

14 COMMISSIONER CHOPER: And I take it the audited  
15 statements of the holding company will be available at least  
16 in -- in respect to license applications?

17 CHAIRMAN BRACKPOOL: They have to be under a new  
18 license.

19 MR. DARUTY: This Board imposed certain conditions as  
20 part of the waiver as to audited financials, and those will be  
21 honored in the future just as -- you know, without regard to  
22 this transaction, they'll still be honored.

23 MR. AVIOLI: This -- I mean, I can say with -- with  
24 all confidence, this is going to be a very strong financial  
25 entity, and in many ways stronger than the entity that

1 previously held the assets because of such things, as you  
2 pointed out, that it's going to be essentially debt free.

3 CHAIRMAN BRACKPOOL: Commissioner Rosenberg.

4 COMMISSIONER ROSENBERG: But if there are so many  
5 subsidiaries, which you described, how many did you say there  
6 were?

7 MR. AVIOLI: Oh, I think if you took a look at all of  
8 the corporate charts for all of the racing entities you are  
9 into the multiple dozens.

10 COMMISSIONER ROSENBERG: Dozens. So, for example,  
11 Santa Anita will be --

12 MR. AVIOLI: Santa Anita is --

13 MR. DARUTY: Well, Santa Anita, for example --

14 COMMISSIONER ROSENBERG: Just give an example.

15 MR. AVIOLI: Yeah.

16 MR. DARUTY: -- is -- is two separate legal entities.  
17 Golden Gate Fields is two separate legal entities, one that  
18 owns the land, one that holds the license and conducts the  
19 business. When you get to the Maryland Jockey Club, for  
20 convoluted reasons there's probably eight or ten different  
21 entities.

22 CHAIRMAN BRACKPOOL: But none of those change.

23 MR. AVIOLI: Yeah.

24 CHAIRMAN BRACKPOOL: All of those remain. The only  
25 thing that changes is at the very top instead of MI

1 Developments owning the last box, the new to-be-formed entity  
2 owns the last box.

3 VICE CHAIRMAN ISRAEL: Wait. Wait. But wait. Isn't  
4 there --

5 COMMISSIONER ROSENBERG: I just don't -- I just don't  
6 think we've really gotten -- every gotten into the details --

7 VICE CHAIRMAN ISRAEL: Well, wait.

8 COMMISSIONER ROSENBERG: -- of the individual --

9 CHAIRMAN BRACKPOOL: We did have the chart.

10 COMMISSIONER ROSENBERG: -- the various financials.

11 No.

12 CHAIRMAN BRACKPOOL: Oh.

13 COMMISSIONER ROSENBERG: The financials though, and  
14 that's a big issue.

15 VICE CHAIRMAN ISRAEL: No. Here -- yeah. The -- the  
16 two issues are if there eventually is a debt burden produced by  
17 say Gulf Stream will it have an adverse affect, potentially, on  
18 business operations of Golden Gate and Santa Anita because  
19 they're a combined entity? And then a second, I thought that  
20 the real estate development rights were reserved by the public  
21 company and were not transferred?

22 MR. AVIOLI: That's -- that's not correct. The --  
23 they're -- well, it's correct and it's not correct. The real  
24 estate development right for the non-racing real estate, the  
25 racing that forms the --

1 VICE CHAIRMAN ISRAEL: The parking lot.

2 MR. AVIOLI: -- well, the racing that forms the  
3 fundamental business of MID, underlying the factories around  
4 the world, that stays. The real estate rights associated with  
5 the racing entities --

6 VICE CHAIRMAN ISRAEL: The development rights, for  
7 instance, the parking lot to Santa Anita, if -- if --

8 MR. AVIOLI: They go -- they go with the Stronach --

9 VICE CHAIRMAN ISRAEL: They go?

10 MR. AVIOLI: -- Family Trust.

11 VICE CHAIRMAN ISRAEL: So -- so the -- the -- the  
12 possibility of developing another shopping mall does exist  
13 then?

14 MR. AVIOLI: Full -- the full ownership rights  
15 associated with the racing assets are being transferred to the  
16 Stronach Trust.

17 VICE CHAIRMAN ISRAEL: Okay. Now just before I cede  
18 the floor, just in the interest of fairness, even though I  
19 abhor fairness, because our friends --

20 MR. AVIOLI: Nobody -- nobody abhors fairness.

21 VICE CHAIRMAN ISRAEL: -- Macy's friends from  
22 Twinpires are still here --

23 MR. AVIOLI: Right.

24 VICE CHAIRMAN ISRAEL: -- would you like to volunteer  
25 to make a contribution to make a contribution to Dr. Arthur's

1 program?

2 CHAIRMAN BRACKPOOL: Well, let's move on. Let's move  
3 on. Let's move on. He -- he -- he made -- he made be asked.  
4 Anyway --

5 COMMISSIONER CHOPER: Equal opportunity offender.

6 MR. AVIOLI: I will -- I will tell you, at the end of  
7 the day we will do the right thing on that issue.

8 VICE CHAIRMAN ISRAEL: Okay.

9 CHAIRMAN BRACKPOOL: Right. Commissioner Harris.

10 COMMISSIONER HARRIS: Obviously, there's going to be  
11 all kinds of entities that you have. I think the only thing  
12 that really the Board, at least me, would be worried about  
13 would just be some assurance there's a continuing guarantee  
14 from the top that -- that we don't end up licensing some entity  
15 that encounters problems that -- that --

16 CHAIRMAN BRACKPOOL: Well, that's -- we would have to  
17 handle that, John, through a revised waiver, which is what will  
18 be in front of us at the -- at the forthcoming meeting.

19 COMMISSIONER HARRIS: I think that's their intent  
20 really. I think that's --

21 MR. AVIOLI: I'm not sure I understood the question.  
22 I just want to understand the concern.

23 COMMISSIONER HARRIS: That -- that you -- you  
24 couldn't have -- say Golden Gate Fields gets a license and it's  
25 -- it's a subsidiary but it's a standalone corporation, and it

1 encounters financial difficulties, which hopefully it wouldn't,  
2 but it did and -- and there is no really resource that they  
3 can -- we can rely on other than that entity that -- might be  
4 bankrupt.

5 MR. AVIOLI: I see what you're saying. You're --  
6 you're saying is there going to be sufficient capital to  
7 support the operations of the assets --

8 COMMISSIONER HARRIS: Yeah.

9 MR. AVIOLI: -- under the new structure?

10 COMMISSIONER HARRIS: And that there be somewhat of a  
11 continuing guarantee from the parent company.

12 MR. AVIOLI: Well, I guess it would all come down to  
13 whatever the proposed guarantee is and -- and what's comparable  
14 with other entities that you regulate. And again I just go  
15 back to I'm -- I -- we will, of course, provide any of the  
16 financial information that -- that is -- that is deemed  
17 required. I'm fairly confident when you end up seeing the  
18 balance sheet of this entity it will be as strong or stronger  
19 than any of the entities you've seen in a long time.

20 CHAIRMAN BRACKPOOL: I just want to confirm one  
21 thing. I had asked Counsel specifically that for him to  
22 confirm that we did need -- we would require a new waiver for  
23 the new entity. Counsel confirmed to me that was the case.  
24 You agree with that position, as well? I'm asking that only  
25 because you obviously know how you intending to structure the

1 transaction. So I wonder whether you're believing your don't  
2 need one, because I need to have that conversation.

3 MR. DARUTY: We -- we are certainly willing to comply  
4 with whatever this Board believes is appropriate. I think  
5 ultimately the same person is in control of these assets, both  
6 before and after the transaction. So I think we --

7 CHAIRMAN BRACKPOOL: Well, I don't think that's the  
8 case at all. I mean, part of your pitch last time was that MI  
9 Developments had a multi-billion dollar balance sheet; right?

10 MR. AVIOLI: It's the same person.

11 CHAIRMAN BRACKPOOL: Well --

12 MR. AVIOLI: It's a different financial structure.

13 CHAIRMAN BRACKPOOL: Well, no. No. No. No. No.

14 Because --

15 VICE CHAIRMAN ISRAEL: Yeah. It's a public company.

16 CHAIRMAN BRACKPOOL: Because it was a public company  
17 that owned them, he owned a minority percentage of that  
18 company. He may, in fact, be richer than that company, but  
19 it's not the same company.

20 MR. DARUTY: I -- again, we will comply with whatever  
21 this Board wants. I think whether there's technically a change  
22 of control here or not is open to debate, but we're not going  
23 to enter in that debate. We'll do what --

24 CHAIRMAN BRACKPOOL: Well, you're going to consent  
25 there is no debate to that, so that's -- that's good.

1 MR. AVIOLI: No. I think it's -- it's really not our  
2 job for -- to -- to tell you whether you need the waiver or  
3 not. I mean, we're happy to review the law and -- and discuss  
4 it.

5 CHAIRMAN BRACKPOOL: Well, we believe --

6 MR. AVIOLI: I have -- I personally haven't looked at  
7 it.

8 CHAIRMAN BRACKPOOL: Right. We believe we need -- we  
9 believe we need the waiver, and that is the advice of Counsel;  
10 correct?

11 MR. MILLER: Yeah. Robert Miller, Counsel of  
12 California Horse Racing Board.

13 That is correct. The waiver was granted to MID  
14 Developments, Inc. And --

15 VICE CHAIRMAN ISRAEL: MI Developments.

16 MR. MILLER: MID Developments, Inc. is going to no  
17 longer own these assets. The -- the -- the -- the question of  
18 control of MID is a separate issue and was not before the  
19 Board. The Board did not grant a waiver to the controlling  
20 interest of MID, rather it granted the waiver to MID.

21 CHAIRMAN BRACKPOOL: And then what I believe Mr.  
22 Daruty is saying is that they're going to try and cover that  
23 because MI Developments will actually be sold now to the new  
24 entity; right? But in -- but in my view, when you look through  
25 and you look at the reasons that we believe we need the waiver,

1 I believe those -- those reasons still exist.

2 MR. DARUTY: We will not dispute that.

3 CHAIRMAN BRACKPOOL: Okay. Thank you. One of the --  
4 one of the continuing issues that this Board has had over the  
5 years with the -- the -- the Stronach controlled entities in  
6 their various forms, I was a late participant to the part where  
7 they weren't necessarily the same -- so sometimes they're the  
8 same and sometimes they're not the same -- has been that of  
9 ultimate authority out of decision making. And we went through  
10 a very, very rough period of time at the beginning of 2010 with  
11 actually trying to find somebody who had the authority to do  
12 that.

13 I am assuming from everything I've read and  
14 everything you've told me, Greg, that you will be that  
15 executive with that authority, and that when you sit in front  
16 of us you're going to be empowered to make those commitments  
17 and agree with those requests.

18 MR. AVIOLI: I think conceptually -- and I don't want  
19 to sit here and tell you today that I've been granted blanket  
20 authority to take any and all actions regarding the assets and  
21 then I will just inform Frank and Belinda Stronach. I mean, as  
22 with any executive, they're essentially the board of directors.  
23 But I hope -- I hope that when I make a strong recommendation  
24 it will be heeded.

25 Before we leave that last -- before the last point,

1    though, where Scott said he -- I just want to make one question  
2    available to you all on the whole waiver issues.

3    Unfortunately, your counsel is gone.  But -- oh, there he is.  
4    He's back again.

5                Just so I understand, the waiver was granted to MI  
6    Developments US Holding, Inc.  That's right, that's the same  
7    entity, the exact same entity that's going to own the track and  
8    so on.  I just want to -- we can clarify that after the fact.

9                MR. MILLER:  The wording of the waiver was not to MID  
10   US Holdings.

11               MR. AVIOLI:  Do you know the entity that it was in,  
12   just so I can run this down and see?

13               MR. MILLER:  I'm just talking about the language of  
14   the waiver was --

15               MR. AVIOLI:  Oh, it doesn't mention the entity.

16               MR. MILLER:  -- was -- was MID Developments.

17               CHAIRMAN BRACKPOOL:  And that's because when you --  
18   when you go to the statute that controls this, the -- the --  
19   the reason the Board has to issue a waiver for this is it has  
20   to find it's in the best interest of racing for one entity to  
21   be controlling --

22               MR. AVIOLI:  Sure.

23               CHAIRMAN BRACKPOOL:  -- over that.

24               MR. AVIOLI:  Right.  And -- and the only point I'll  
25   make is within the US the -- the actual entities are not

1 changing. So I don't know if that's relevant or not. If it is  
2 I thought I'd pass that along.

3 So anyway, as to your next question, one of the  
4 reasons that I was -- that I was brought in, one of the reasons  
5 I was excited about joining is that -- is that Frank Stronach  
6 wants to try a new approach. Now you've heard this before.  
7 But in this case I think there are some -- there are some  
8 different factors than in the past.

9 And I think the biggest factor in the past is, A,  
10 Frank is going to own these directly now for the first time.  
11 His -- his -- he would not be in this business, Commissioner  
12 Moss, if he didn't love this sport as much or more than any --  
13 any other person in North America. I mean, he is doing this at  
14 this time because he wants racing to succeed. If you asked  
15 first and foremost, which I did ask him, "Frank, why do you  
16 want me? What is your goal for new assets," he wants racing in  
17 North America to succeed. So he might -- he might want to get  
18 there a different route than a lot of people in this room. But  
19 I don't think anyone who has spent any time with him can  
20 question that conviction on his part. And I want racing to  
21 succeed, so our interests are aligned.

22 VICE CHAIRMAN ISRAEL: Can I ask you, where is your  
23 headquarters?

24 MR. AVIOLI: That hasn't been decided yet right now.  
25 I think we're looking at a number of sites. As of now it's in

1 Toronto. We're looking at potentially locating what we'll call  
2 the corporate office in either -- the logical choices would  
3 either be in California or Florida. But for the most part,  
4 given that our executives are all around the country, you know,  
5 we're -- I don't want to say we're a virtual company, but  
6 we're -- with assets in Pittsburgh, Baltimore, Miami, San  
7 Francisco, we're everywhere.

8 VICE CHAIRMAN ISRAEL: A lot of companies are -- are  
9 generally -- well, their --

10 MR. AVIOLI: Right.

11 VICE CHAIRMAN ISRAEL: -- headquarters are in  
12 Fairfield, Connecticut.

13 MR. AVIOLI: Well, we're going to continue to use --  
14 I don't want to mislead you. If -- if we named a US  
15 headquarters that doesn't mean a lot of the operations still  
16 won't be in Toronto. I mean, they -- they will be.

17 CHAIRMAN BRACKPOOL: Commissioner Moss, I thought you  
18 leaned forward to say something.

19 Do I have any other questions or comments from the  
20 rest?

21 Well, I think what we probably need to do is, you  
22 know, give staff some direction, as well, but we need to work  
23 through different issues. We need to take -- go back and take  
24 a look at the waiver and say, you know, why were any of the  
25 various conditions imposed on that waiver, what are the status

1 of those conditions, and then where do we go from there. So  
2 let's -- we will think about how we handle that, as to whether  
3 we bring you back on either the May or the June meeting will  
4 really depend on how quickly we make our way through those and  
5 do that.

6 I will take a look at the -- at the waiver over the  
7 next few days. We will have staff ask some questions. And  
8 then we will follow up with you, and then we will see where we  
9 think we really are as to whether we're ready for that.

10 MR. AVIOLI: Thank you for the opportunity to come to  
11 you.

12 CHAIRMAN BRACKPOOL: Before you leave --

13 MR. AVIOLI: Yes, sir.

14 CHAIRMAN BRACKPOOL: -- I have one speaker. I can  
15 guess what the issue is going to be.

16 But, Mr. Castro from Local 280.

17 MR. CASTRO: My name is Richard Castro, representing  
18 Local 280. I also am concerned that this is a new company.  
19 And being that it is a new company we would appreciate a  
20 written guarantee, not only for our Local but for everybody  
21 here in California, that you pick up all the pension  
22 responsibilities. That just makes sense to me. If you're  
23 transferring everything you should probably even pick up what  
24 was owed at Oak Tree for the unfunded liabilities there.

25 MR. AVIOLI: This is -- I'm happy to hear what he has

1 to say outside of the meeting. I don't really understand the  
2 full request.

3 CHAIRMAN BRACKPOOL: Well, I think it's worth a  
4 continued conversation. My understanding of the law is just  
5 because the ownership of -- of a California entity changes  
6 place it doesn't relieve that California entity of any  
7 obligations that it had agreed to assume under pension  
8 liabilities, let alone any other liabilities.

9 So, Richard, I would be very surprised if there is an  
10 issue. But I would take Mr. Avioli and Mr. Daruty up on their  
11 offer and have a conversation with them following this meeting.

12 MR. AVIOLI: One other thing, Mr. Chairman, I did --  
13 I did mean to tell you that we are submitting what we think is  
14 a very aggressive proposal in the next two weeks to the  
15 Breeders' Cup to host the 2012 Breeders' Cup at Santa Anita.  
16 And we'd appreciate your personal support and those of the  
17 members of the Board in putting that together.

18 CHAIRMAN BRACKPOOL: Thank you. We look forward to  
19 an update on that. Very good. Thank you very much.

20 The last item of the day, the last public item before  
21 we go into our closed session, discussion and action by the  
22 Board on the approval of the contract for race track soil  
23 testing surfaces. Executive Director Breed will brief us.

24 EXECUTIVE DIRECTOR BREED: Mr. Chairman,  
25 Commissioners, request you approve the encumbering of \$250,000

1 in this fiscal year's funds that we have saved over the course  
2 of the year to be encumbered over a two-and-a-half year period  
3 of time for purposes of contracting with the Racing Surface  
4 Testing Laboratory which is in Orono, Maine. That laboratory  
5 is managed by Dr. Mick Peterson. The same laboratory is the  
6 most sophisticated laboratory we have in the -- in -- in the  
7 United States, North America, and it conducts testing for all  
8 jurisdictions.

9           What -- this testing is the final phase of our Race  
10 Track Safety Standards Program which, hopefully, by -- will  
11 be -- and works in concert with all the other activities that  
12 we conduct in that -- in that program. So I request your  
13 approval.

14           CHAIRMAN BRACKPOOL: Let me ask one question. When  
15 we had the rather infamous meeting at Del Mar to talk about the  
16 track safety issues at Santa Anita, Dr. Peterson as brought  
17 forth as the leading independent expert. Dr. Peterson was then  
18 retained by various entities including, it appears, not only us  
19 but Santa Anita, CTT, etcetera. And yet now there's obviously  
20 debate over surfaces and debate about where we go.

21           Are we all in danger here of a little too many eggs  
22 in one basket? I mean, everybody is hiring the same person.  
23 Here we are hiring somebody again for the same surface. And  
24 obviously at this stage CTT now don't view him necessarily the  
25 way they viewed him.

1           So I'm just -- I'm just concerned that we appear to  
2 have such a limited group of people in our sport, and can we  
3 not expand that somewhat?

4           COMMISSIONER ROSENBERG: Is RST a nonprofit, Mr.  
5 Breed?

6           EXECUTIVE DIRECTOR BREED: Yes, it is.

7           CHAIRMAN BRACKPOOL: What?

8           EXECUTIVE DIRECTOR BREED: RSTL is nonprofit.

9           COMMISSIONER ROSENBERG: RSTL is a nonprofit -- I  
10 asked if it was a nonprofit organization.

11          EXECUTIVE DIRECTOR BREED: Yes, it is.

12          CHAIRMAN BRACKPOOL: Right. It is.

13          EXECUTIVE DIRECTOR BREED: It is. And those -- he  
14 is -- he, in essence, is the founder of that laboratory. But  
15 that laboratory conducts itself independently of -- of his  
16 other activities as a consultant. But he does utilize the --  
17 the laboratory and the data received from that laboratory in  
18 order to establish the criteria in which he consults.

19          VICE CHAIRMAN ISRAEL: Is there no other individual  
20 or entity to approach? I mean, the guy has what seems to be  
21 now a monopoly, and he also seems to be manifestly conflicted.

22          EXECUTIVE DIRECTOR BREED: Well, there's --

23          VICE CHAIRMAN ISRAEL: He's taking money from every  
24 side of the -- of the equation.

25          EXECUTIVE DIRECTOR BREED: You're asking a question

1 and making a statement. In the -- in the sense of the -- the  
2 question, is there another laboratory that can do this --  
3 perform these same tests, and the answer to that is, no, not on  
4 race -- race track surfaces.

5 VICE CHAIRMAN ISRAEL: University of Kentucky,  
6 University of Louisville, Cal Poly, nobody has anybody equipped  
7 to do this?

8 CHAIRMAN BRACKPOOL: Dr. Arthur?

9 DR. ARTHUR: Yes. And not to get Commissioner Israel  
10 too upset but just as a disclosure, I am a -- I sit on the  
11 board of the Horse Racing Testing Laboratory, a nonprofit  
12 organization that Oak Tree, Keeneland, Churchill Downs, other  
13 entities have contributed to. And -- and the reason it was  
14 established was to try to establish a validated consistent  
15 system of testing laboratories that doesn't get into the  
16 analysis of that, just so everybody does testing in the same  
17 way which, frankly, is part and parcel of the problem as I  
18 understand it that happened at Santa Anita. They were using a  
19 non-validated soil measuring technique. So in that sense it is  
20 the only laboratory. It was developed by the industry  
21 specifically to provide this, which sometimes is a little bit  
22 different.

23 Dr. Peterson who is a professor at the University of  
24 Maine also has a business that -- that is associated with this.  
25 But the laboratory was set up to establish --

1 VICE CHAIRMAN ISRAEL: I don't --

2 DR. ARTHUR: -- consistent standards.

3 VICE CHAIRMAN ISRAEL: I don't begrudge Dr. Peterson  
4 or -- or even question him in any way. It would just be good  
5 to get a different opinion from an independent source.

6 DR. ARTHUR: Therein lies the problem is -- is no one  
7 has developed a consistent way to measure race tracks, and  
8 that's what the purpose of this laboratory was. You could  
9 conceivably -- once the system is validated, and I know Dr.  
10 Stover has -- has looked at this with soil scientists at Davis,  
11 once you have a validated method of doing a test, like a drug  
12 test, then everybody can use the same system. Because the  
13 principle of a laboratory is those are published. They are out  
14 there. So -- so people can actually develop the test if they  
15 have the equipment and the interest and the expertise.

16 VICE CHAIRMAN ISRAEL: So -- but you're -- by  
17 implication, can Dr. Stover and the soil professors at UC Davis  
18 do this -- not do this?

19 EXECUTIVE DIRECTOR BREED: Let me answer that  
20 question, Commissioner. I think we are working towards that  
21 point in time, and not only with -- with the soils laboratory  
22 at -- at UC Davis, but also with the plant and soil laboratory  
23 department with food and agriculture. We are working towards  
24 that -- that -- that point in time when we can do these tests  
25 in California. Right now we can not do the test. And -- and

1 we have -- it requires the -- the purchase of a series of  
2 equipment that's very expensive, training people to do this  
3 test, and hopefully we can get there. I agree with you 100  
4 percent.

5 VICE CHAIRMAN ISRAEL: Let me ask you a question.  
6 Would this money be better spent in pursuit of that goal,  
7 rather than --

8 EXECUTIVE DIRECTOR BREED: Well, then who does the  
9 test? The point is this is -- the encumbering of this money is  
10 going to be paid on a per test basis. So --

11 VICE CHAIRMAN ISRAEL: How much does the equipment  
12 cost?

13 DR. ARTHUR: Some -- some of the equipment is quite  
14 expensive. I don't like to try. I don't -- I don't -- really  
15 don't have it. I'd have to have the P and L.

16 But -- but, you know, part of the -- and I just want  
17 to make one correction. You -- you jokingly have said that --  
18 that -- my program. This is ED -- Commissioner -- or Executive  
19 Director --

20 VICE CHAIRMAN ISRAEL: Just trying to get you a few  
21 bucks.

22 DR. ARTHUR: -- Executive Director Breed's program.  
23 I have to give him credit. He's done all the work on it and  
24 he's organized it. I've certainly given him advice when he's  
25 asked for it, but he has put this together. And part of that

1 program, as I understand it, and the Executive Director can  
2 comment on that, is soil engineer is part of that program.  
3 Ideally we'd obviously like to have all that testing done in  
4 California --

5 VICE CHAIRMAN ISRAEL: Yeah.

6 DR. ARTHUR: -- at least I would like to see that.

7 VICE CHAIRMAN ISRAEL: Oh, I don't know.

8 COMMISSIONER MOSS: Well, it would affect every track  
9 that -- in California.

10 EXECUTIVE DIRECTOR BREED: Yes, it would.

11 COMMISSIONER ROSENBERG: Is any other state  
12 contributing towards this?

13 DR. ARTHUR: In terms of the laboratory, they're not  
14 going to contribute towards testing California soil. But  
15 Keeneland, Churchill Downs, Oak Tree, Jockey Club, and some  
16 other entities have all contributed to helping establish the  
17 laboratory that developed the standardized tests.

18 COMMISSIONER ROSENBERG: But the --

19 DR. ARTHUR: And the tests are available if other  
20 commercial --

21 CHAIRMAN BRACKPOOL: But -- but what we're being --

22 DR. ARTHUR: -- laboratories want to use it.

23 CHAIRMAN BRACKPOOL: -- asked to do at this stage is  
24 fund a three-year program --

25 EXECUTIVE DIRECTOR BREED: Two-and-a-half. Yeah.

1           CHAIRMAN BRACKPOOL: Two-and-a-half year program. So  
2 the CHRB is doing this using the funds from all of the  
3 California tracks --

4           EXECUTIVE DIRECTOR BREED: Correct.

5           CHAIRMAN BRACKPOOL: -- and associations to be  
6 able -- be able to do it.

7           Is this something that -- that we need to make a two-  
8 and-a-half year commitment to stage? Why such a long  
9 commitment?

10          EXECUTIVE DIRECTOR BREED: Because we have -- we have  
11 basically \$250,000 left over in this year's budget that we have  
12 not used. And rather than lose that money we want to encumber  
13 that money over a two-and-a-half year period on a per test  
14 basis.

15          CHAIRMAN BRACKPOOL: But it's way too early in the  
16 year for us to know whether we have it left over or not.

17          EXECUTIVE DIRECTOR BREED: No, it's not. Well, the  
18 fiscal year ends July 1.

19          CHAIRMAN BRACKPOOL: No. The end of June.

20          EXECUTIVE DIRECTOR BREED: July 1. So we have -- in  
21 your budget proposal there we show you how much money we -- we  
22 expect having left over. And we would like to use those funds  
23 to --

24          CHAIRMAN BRACKPOOL: Well --

25          VICE CHAIRMAN ISRAEL: Wait. But -- but it might --

1 instead of committing to this study for two-and-a-half years,  
2 might it not be a better idea to find out how much that  
3 equipment costs and spend the money on that and then develop  
4 our own protocol? I mean, let's think five years out here.  
5 Are we better off being independent five years from now, when I  
6 suspect almost none of us will still be left on the Board, and  
7 leading something behind that will carry forward for decades?

8 EXECUTIVE DIRECTOR BREED: Well, these -- this --  
9 this money is encumbered on the basis of a per -- on -- on a  
10 per -- per test basis. In other words, we pay so much per  
11 test. The tests need to be done right now. We -- we don't  
12 need to -- I mean, it's -- we need to do the tests right now so  
13 that we can set these standards and reinforce these standards  
14 and know what we've got in terms of the existing race tracks in  
15 California.

16 CHAIRMAN BRACKPOOL: So the tests would be -- I'm  
17 just trying to understand the timing. So the tests would be  
18 performed now?

19 EXECUTIVE DIRECTOR BREED: Yes.

20 CHAIRMAN BRACKPOOL: So what takes the two-and-a-half  
21 years?

22 EXECUTIVE DIRECTOR BREED: We continue to test.  
23 These tracks --

24 VICE CHAIRMAN ISRAEL: With money from this year's  
25 budget?

1 EXECUTIVE DIRECTOR BREED: Yes.

2 VICE CHAIRMAN ISRAEL: Well, why don't we spend it on  
3 the equipment?

4 Rick, ten years from now if you have the same job are  
5 you better off being independent here and having a second set  
6 of statistics that are analyzed independently of -- of the  
7 analysis provided by that other existing laboratory?

8 DR. ARTHUR: Absolutely. And I think that's the  
9 ultimate goal. But the thing is you have to -- you have to  
10 develop that expertise in-house. And part of this -- this  
11 proposal that Kirk's put together that we talked about earlier  
12 and that were approved will be developing those tests, and  
13 possibly other tests that would be more appropriate depending  
14 on how that all goes.

15 So -- but you're absolutely right. But -- and there  
16 have been discussions. I believe you -- you have had  
17 discussions with soil engineers, part and parcel of the  
18 program.

19 So -- but some of the tests have to be -- you're not  
20 going to be able to take that expertise and do it next week at  
21 Davis. And you may end up, I would imagine, being through with  
22 this contract before two-and-a-half years is over and you might  
23 have some money left over. And you --

24 VICE CHAIRMAN ISRAEL: Right.

25 DR. ARTHUR: -- you could move it to Davis if, for

1 example -- or someplace in the state if somebody else developed  
2 a test. That's a budgeting issue and -- and I'm not involved  
3 in that.

4 VICE CHAIRMAN ISRAEL: A training issue and a -- I  
5 mean, somebody's got to get Davis or Cal Poly, SLO to focus on  
6 that.

7 CHAIRMAN BRACKPOOL: Well, let's do this to move this  
8 along, I would vote that we approve this today. But what I  
9 would vote or what I -- what I would ask is that we continue to  
10 work towards programs where we're not just sending all of this  
11 money out to academia without getting, you know, any rights to  
12 it ourselves. Because these are not cheap grants we're giving  
13 out to all many of these -- all of these entities.

14 COMMISSIONER HARRIS: Well, we need to make sure that  
15 we -- that all the transparency of what he does, that we can  
16 have access to it --

17 CHAIRMAN BRACKPOOL: Exactly.

18 COMMISSIONER HARRIS: -- and not come back and say,  
19 well, this is a proprietary deal or something like that.

20 CHAIRMAN BRACKPOOL: Exactly. But I -- I would make  
21 a motion to approve that.

22 COMMISSIONER ROSENBERG: Second.

23 CHAIRMAN BRACKPOOL: Commissioner Rosenberg seconds.

24 All in favor?

25 ALL COMMISSIONERS: Aye.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

TRANSCRIBER'S CERTIFICATE

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 8th day of May, 2011.

          /s/ Martha L. Nelson