

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

HOLLYWOOD PARK CASINO
3883 WEST CENTURY BOULEVARD
INGLEWOOD, CALIFORNIA

FRIDAY, DECEMBER 14, 2007

9:30 A.M.

Reported by:
Troy A. Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson

John C. Harris, Vice-Chairperson

John Amerman

John Andreini

Jesse H. Choper

Jerry Moss

Ingrid J. Fermin, Executive Director

STAFF

Derry L. Knight, Deputy Attorney General

Jacqueline Wagner, Staff Services Manager I

Richard Bon Smith, Assistant Executive Director

Mike Marten

Roberto Zavala

Laura Sandoval

ALSO PRESENT

Ron Charles

Paul Harper

Ralph Scurfield

Dick Feinberg

Billy Koch

Gary Fenton

Karen Klawitter

APPEARANCES CONTINUED

ALSO PRESENT

Jerry Jamgotchian

Marsha Naify

Drew Couto

Madeline Auerbach

Priscilla Clark

Tom Varela

Frank Dimarco

Dan White

Jack Liebau

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX

PAGE

Action Items:

1. Discussion and action by the Board on the Application to Conduct a Horse Racing Meeting of the Sacramento Harness Association (H) at Cal-Expo, commencing December 27, 2007 through July 31, 2008, inclusive. 15
2. Report of the Security and Licensing Committee.
3. Discussion and action by the Board regarding the proposed amendment of CHRB Rules 1481, Occupational Licenses and Fees, Rule 1783, Registration of Stable Names, and Rule 1784 Registration to Disclose all Partners, to permit the licensing of "stable name groups" which would allow multiple entities, each owning multiple horses with different sets of owners under one stable name. 25
4. Public hearing and action by the Board on the adoption of the proposed amendment to CHRB Rule 1467, Paymaster of Purses, to authorize the paymaster to deduct 0.3 percent of the net purse earned by any thoroughbred horse at a thoroughbred race meeting or racing fair for deposit into the California Retirement Management Account (CARMA) to be used to benefit retired thoroughbred racehorses. 53
5. Report and update on the proposed amendment of CHRB Rule 1632, Jockey's Riding Fee, to revise the jockey riding fee structure to comply with AB 649, Statutes of 2007. 80
6. Discussion and action by the Board regarding the request for approval from Southern California Off-Track Wagering, Inc. to increase the current 1.06 percent off-site stabling and vaning fund takeout up to the maximum 1.25 percent pursuant to Business and Professions Code Section 19607.1(f). 82
7. Discussion and action by the Board to approve the Thoroughbred Owners of California and the Jockey Guild agreement that wiled establish the California Jockeys Trust to provide health, safety, and welfare benefits to California licensed jockeys, former California licensed jockeys, and their dependents. 94

INDEX

	PAGE
Action Items:	
8. Report and update from Santa Anita and Cushion Track representatives regarding the drainage issue at Santa Anita racetrack.	4
9. Discussion and action by the Board on the distribution of race day charity proceeds of the Oak Tree Charitable Foundation in the amount of \$66,800 to 25 beneficiaries.	Off
10. Discussion and action by the Board on the distribution of race day charity proceeds of the Pacific Racing Association in the amount of \$142,173 to 12 beneficiaries.	10
11. Staff Report on the following concluded race meets:	101
A. Del Mar Thoroughbred Club at Del Mar from July 18, 2007 through September 5, 2007.	
B. San Mateo County Fair at Bay Meadows from August 8, 2007 through August 19, 2007.	
C. Humboldt County Fair at Ferndale from August 9, 2007 through August 19, 2007.	
D. Los Angeles County Fair at Fairplex from September 7, 2007 through September 24, 2007.	
E. Fresno County Fair at Fresno from October 3, 2007 through October 14, 2007.	
12. Election of Board Chairman and Vice Chairman.	Off
13. Public Comment	106
14. Closed Session	Off

INDEX

PAGE

Action Items:

Adjournment 111

Certificate of Reporter 112

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 EXECUTIVE DIRECTOR FERMIN: Ladies and gentlemen,
3 will the meeting please come to order. This is the regular
4 meeting of the California Horse Racing Board on Friday,
5 December 14th, 2007, at the Hollywood Park Casino, 3883 West
6 Century Boulevard, in Inglewood, California.

7 Present at today's meeting are Chairman Richard
8 Shapiro, Vice Chairman John Harris, Commissioner John
9 Amerman, Commissioner John Andreini, Commissioner Moss. We
10 understand that Commissioner Choper is landing at about
11 9:15, so he should be here just a few moments late. And
12 Commissioner Moretti is, unfortunately, absent today.

13 Before we go on to start the agenda, I would just
14 like to ask everyone to please make sure that you state your
15 name clearly for the record, and you may need to spell it.
16 And thank you for your cooperation.

17 Mr. Chairman.

18 COMMISSION CHAIRMAN SHAPIRO: Thank you. Welcome
19 and good morning.

20 The Board invites comments from the public about
21 items on its agenda, it also invites public comment about
22 items not on the agenda, that are related to horse racing,
23 during the public comment period.

24 Please note that unduly repetitious comments or
25 extended discussion of irrelevancies disrupt the meeting and

1 prevent the Board from accomplishing its business in a
2 reasonable, efficient manner.

3 In order to assure that each individual, who
4 wishes to comment, will have an adequate opportunity to do
5 so, and also to assure that the meeting as a whole will be
6 completed in a timely manner so that individuals wishing to
7 comment on multiple matters will not be required to stay for
8 an unreasonable length of time, I will strictly enforce a
9 three-minute time limit for each person wishing to speak on
10 any agenda item.

11 The shorter three-minute limit is necessary today
12 because of the lengthy agenda, and also because we must end
13 this meeting, hopefully, around noontime.

14 The goal of the rule is to assure that each
15 person's right to make their views known is not disrupted by
16 another person's conduct.

17 In order to expedite the comment process, there
18 are public comment cards. And if I can look for Jackie,
19 would you please tell us where those public comment are? I
20 see Bon getting up.

21 STAFF SERVICES MANAGER WAGNER: They're here.

22 COMMISSION CHAIRMAN SHAPIRO: All right, they're
23 up here, over on the side there, great. Okay.

24 And please print your name legibly, so I don't
25 mangle it.

1 Just prior to the discussion of the item, the
2 comment cards will be brought to me. After initial
3 statements from staff and interested parties, I will ask for
4 public comment. When I call your name, please come to the
5 podium to speak. I will let you know when your time has
6 commenced, when there's one minute left, and when your time
7 is up. When your time is up, you will be expected to return
8 to your seat so that I may call the next person waiting to
9 the podium.

10 When all the names have been called, I will ask if
11 anyone else has a comment on the agenda item, who has not
12 already spoken. At that point, the Board will not take any
13 further comment on an item unless the Board has specific
14 questions it wishes addressed.

15 If the time is up, I will ask the speaker to take
16 his or her seat.

17 If a speaker is repeating himself or herself, I
18 will ask the speaker if he or she has any new comments to
19 make. If not, I will ask the speaker to allow the next
20 speaker to come to the podium, irrespective of the time
21 remaining, unless a Board member indicates that he or she
22 still wishes to hear from that individual.

23 If it appears that a speaker is not speaking to
24 the agenda item or is speaking to another agenda item, I
25 will ask the speaker to return to his or her seat and

1 address his or her comments at the appropriate time, either
2 on that specific item or at public comment.

3 With that, again, I'd like to welcome everybody.
4 And as it seems that we lose our audience as the meeting
5 goes on, I can't imagine it's because you don't all enjoy
6 it, I would like to at least make note that today will be
7 Ingrid Fermin's last meeting of the Board, as Executive
8 Director. And while she asked me not to say anything, I
9 haven't listened to her, yet, so I'm going to say something.

10 And I wanted to at least acknowledge that Ingrid
11 will be leaving the Board on January 7th. And in her three
12 years, I think has done a remarkable job of helping
13 reformat, reconstitute and create a new direction for this
14 California Horse Racing Board and the California industry.

15 I am pleased that you're not leaving the industry,
16 you simply have resigned from your position as Executive
17 Director. And I would like the minutes to reflect that I
18 think we are all very appreciative of the work and the
19 effort that she has put forth during her tenure. So I want
20 to thank you.

21 (Applause.)

22 COMMISSION CHAIRMAN SHAPIRO: I am going to jump
23 around a little bit on the agenda to accommodate some people
24 that have time issues, and so the very first item will be
25 Item Number 8, which is a report and update from Santa Anita

1 and Cushion Track representatives regarding the drainage
2 issue at Santa Anita Racetrack. And I would ask that
3 representatives of Santa Anita and Cushion Track please come
4 to the table that is in front of us, if possible.

5 Good morning.

6 MR. CHARLES: Good morning, Ron Charles, Santa
7 Anita.

8 MR. HARPER: Paul Harper, Cushion Track.

9 COMMISSION CHAIRMAN SHAPIRO: Harper was the last
10 name?

11 MR. HARPER: Paul Harper.

12 COMMISSION CHAIRMAN SHAPIRO: Thank you. As we
13 all know in the room, we have read accounts and some of us
14 have personally seen that following, I guess, the Oak Tree
15 meeting, you discovered you had concerns about the drainage
16 of the track at Santa Anita and I, personally, have seen it,
17 and I appreciate that you are going to great lengths to make
18 sure that it's a safe surface.

19 In the intervening period I had the occasion,
20 while I was in Arizona, to meet your associate, Mr. Bond, at
21 which point, at that time I inquired what was going and he
22 said that it really wasn't my business to ask question,
23 which I disagreed. Because the State of California and the
24 entire thoroughbred industry has a huge concern that this
25 track is in good shape and ready on December 26th.

1 So for that reason, I thought it would be useful
2 to update the Board and the industry on exactly what the
3 circumstances are and, more importantly, what you're doing
4 about it.

5 So perhaps Mr. Charles or you would like to just
6 give us a report?

7 MR. CHARLES: Yeah, I think it might be wise if we
8 direct the initial questions to Mr. Harper.

9 COMMISSION CHAIRMAN SHAPIRO: Okay.

10 MR. CHARLES: He can give you an update of where
11 we started, what we've been doing, and where we are as of
12 this morning, and what we'll be doing in the next few days.

13 COMMISSION CHAIRMAN SHAPIRO: So, Mr. Harper, I
14 was at the track about two, two and a half weeks ago when
15 the problem first kind of was coming to light, and went out
16 there and saw it, and saw that it appeared that water wasn't
17 draining through the track.

18 And I know that the staff at Santa Anita, they
19 were all there and, you know, trying everything and, in
20 fact, inventing machines to try to get through the asphalt
21 and so forth.

22 Unfortunately, I didn't see anybody from Cushion
23 Track.

24 Then, when I went to the racing conference and I
25 saw your associate, he assured me that you were on the

1 premises at Santa Anita but, in fact, you were in Australia.
2 And so I got quite alarmed just wanting to know that -- I
3 appreciate you put in the surface here, at this track, and
4 it appears to be a very good surface, and so I'm concerned
5 that Cushion Track, while they make a good product, we need
6 to know in this industry that you understand the severity
7 and the urgency of getting this product right. And, in
8 fact, we're running out of time.

9 So I'd like to hear exactly what steps you're
10 taking and what assurances you can give us at this time.

11 MR. HARPER: Well, firstly, in the 90 days since
12 it's been installed, I've been here at least 60.

13 COMMISSION CHAIRMAN SHAPIRO: Can you pull the
14 microphone up?

15 MR. HARPER: In the 90 days, since it's been
16 installed, I've been here at least 60, well over 60 days of
17 that time here, at the Santa Anita track. So I think
18 I'm -- you know, I've been away from the track, I've been
19 here most of the time, just looking at the track, and
20 analyzing it, and trying to see if we can just improve it
21 for the -- there was a slight drainage problem from day one.

22 We feel the drainage problem initially wasn't just
23 the surface, it was the tarmac foundation. That was caused
24 by when we installed the surface in extreme heat, and that
25 actually did -- the tarmac actually allowed the surface to

1 stick to it, and that caused a permeable layer -- an
2 impermeable layer, and that really started the problem off.
3 And then we found also, with the heat, it actually caused a
4 mat underneath and, again, that was impermeable. So we've
5 always had a problem from day one trying to get the water
6 through the foundation.

7 So it was very difficult just to fine tune the
8 surface. Because you must remember that we obviously
9 modified this surface from Hollywood to suit the 20 degree
10 extra temperature. We modified the wax slightly, and we
11 modified the grain size of the sand, of the grade range of
12 the sand to give it more stability, so it would work at the
13 Oak Tree meet.

14 And which I feel I was there most of the time at
15 that meet and it went very well. And I don't think anybody
16 in this room could say it didn't do.

17 We got told quite clearly, we didn't want another
18 problem with it running very slow like they had at Del Mar.
19 It come to be -- at times in the mornings not to be so much,
20 but in the afternoon, at half-past two in the afternoon, and
21 that's what we achieved.

22 Unfortunately, by doing that, it may just have
23 compromised the drainage difficulty. But it was only this
24 week. Now, we've actually taken the tarmac off and washed
25 the tarmac and made that actually porous again, and now we

1 can start just working and fine tuning the surface to make
2 sure that come the 26th of December the surface will cope
3 with the rain when it comes. And that's what we've been and
4 that's how I've been here for the last two weeks doing that.

5 That's basically as far as it goes. I'll be going
6 back over there straight after this meeting and working on
7 it, so we can get the training back going next week.

8 COMMISSION CHAIRMAN SHAPIRO: So can you give us
9 assurances that what you're doing, that you have the
10 expertise, and you have the manpower, and you have the
11 materials on site to do whatever magic you need to do to
12 make this track fit and ready for the meet.

13 MR. HARPER: Yeah, Santa Anita and Ron Charles,
14 especially, are working very closely with us, and have been
15 very helpful and they're working very closely, because it's
16 a joint event, so we're trying to make sure that come the
17 26th everything will be fine, like it was at the Oak Tree
18 meeting, and it will cope with the weather, with the rain.
19 There's no problem with the hot weather, it's just coping
20 with the rain. And we feel we're just fine tuning that now
21 to accommodate that.

22 COMMISSION CHAIRMAN SHAPIRO: So as we sit here
23 today, the entire asphalt layer has been washed and it's now
24 porous again, and you feel that it's going to drain and we
25 will not have any interruptions for the Santa Anita --

1 MR. HARPER: Well, we've got rid of the mat
2 underneath, that's all been taken up. So now, when we put
3 it back, we're just doing some more tests on it, we should
4 have a -- you know, within the next few days we should be in
5 a position to say, yes, that's ready for training and ready
6 for the meet on the 26th. So we're very confident of that.

7 COMMISSION CHAIRMAN SHAPIRO: Okay. Mr. Charles,
8 is there anything you want to add to that?

9 MR. CHARLES: No, I think Paul has summarized it.
10 You know, we are still testing because we -- you know, we've
11 had a problem in getting the water to the asphalt. And as
12 we continue to try different combinations of sand, and wax,
13 and rubber, you know, we feel we're getting closer.

14 COMMISSION CHAIRMAN SHAPIRO: If you say you're
15 having a problem getting water to the asphalt, then isn't
16 there a problem in the material? I mean, what I just heard
17 from Mr. Harper was that the problem was that it sounds like
18 the wax and the something gunked it up to where it couldn't
19 get through the asphalt.

20 Now, what you just said is you're having a problem
21 getting the water to the asphalt, which precedes. So what
22 happens if you're not getting the water to the asphalt, then
23 isn't the water all sitting in the material?

24 MR. CHARLES: No.

25 MR. HARPER: Well, initially, we couldn't test the

1 surface because we had the problems underneath. We did all
2 the lab tests and they're all coming back slightly
3 different. But now we've got the tarmac clear, the powder
4 removed, and we can actually just tweak the actual surface,
5 just to allow the water to get away a bit quicker.

6 Because you have to remember that by making the
7 surface for the very hot temperature, the 110 degrees, it
8 obviously compromised slight drainage. So we're just
9 tweaking it, and I'm confident that within the next few days
10 we'll have that in order.

11 COMMISSION CHAIRMAN SHAPIRO: If I were to pour
12 this coffee on the top of the surface, would it disappear
13 into the surface and then go through the asphalt?

14 MR. CHARLES: Yeah, it would just stop on the
15 top -- it would just stop on the top and just filter
16 through, if it was just a cup of coffee, yeah. It would
17 just stop on the top and it would just filter through, like
18 all wax surfaces do.

19 COMMISSION CHAIRMAN SHAPIRO: Okay. So I mean,
20 again, it would then work like the track here at Hollywood
21 Park, and the track at Golden Gate -- I know it's not your
22 track, it's Tapeta, but it would work similarly?

23 MR. HARPER: Well, it will do, yeah. We've got
24 another two days just to fine tune it, yes. But I'm
25 confident by early next week we'll have everything in order.

1 MR. CHARLES: That is the intent.

2 COMMISSIONER AMERMAN: It strikes me that you
3 sound very confident about what's going to happen in the
4 next couple of weeks, and we're delighted about that. What
5 if you're wrong? What is the alternate plan for the opening
6 on December 26th, that we should be thinking about?

7 MR. HARPER: Well, we won't be wrong and I'm very
8 confident --

9 COMMISSIONER AMERMAN: I understand that. I'm
10 posing something a little different, asking what happens if
11 it isn't right on December 26th where, Mr. Charles, will you
12 go?

13 MR. CHARLES: Well, we will race at Santa Anita.
14 I believe we would change the maintenance, and this is
15 strictly a hypothetical --

16 COMMISSIONER AMERMAN: It is, it is.

17 MR. CHARLES: -- that we don't think is going to
18 happen. We would change the maintenance on exactly how we
19 took care of the track. Understand, the only problem we
20 really have is, you know, during periods of rain.

21 COMMISSIONER AMERMAN: But we're going to get a
22 lot of rain, probably.

23 MR. CHARLES: We certainly hope not. But should
24 we -- well, whatever rain we get, if we had to, and it
25 wasn't working properly, we have a back-up plan that isn't

1 ideal, but it would certainly get us through this meet.

2 COMMISSIONER CHOPER: Is that a big tent?

3 MR. CHARLES: No.

4 COMMISSIONER CHOPER: Just kidding.

5 MR. CHARLES: Sure.

6 EXECUTIVE DIRECTOR FERMIN: I have a question,
7 what will be the status of the project, they're saying, for
8 instance, I just heard on the way in, that there's rain
9 Tuesday and Wednesday of next week, what will be the -- how
10 far along will you be, and will we be ready, and if it does
11 hit, and I realize weathermen aren't always correct, but
12 would that be a test and, if so, is there still time to fix?

13 MR. HARPER: Yeah, I mean, it would be a good
14 test. I think it's meant to rain on Tuesday, which will be
15 a good test. Hopefully, we should have everything in place
16 to test it on Tuesday.

17 MR. CHARLES: Yeah, we also -- we are testing with
18 the water trucks, ourselves, so as we try different
19 formulas, we're testing those formulas to see how the
20 drainage is working there.

21 So when -- we're hoping horses will be back on the
22 track on Wednesday. Tuesday, hopefully, we'll be finished.
23 But as of right now, that's where we are.

24 We're leaving right after here, we've got a number
25 of additional plots set up for some additional tests, just

1 to make sure.

2 COMMISSION CHAIRMAN SHAPIRO: And are you working
3 with the horsemen and keeping the trainers involved, and the
4 owners involved, so that they're well aware? I mean, one of
5 the concerns they rightfully, and I'm sure you have as well,
6 is they'll want to know exactly what kind of track they're
7 opening up to every morning and what's been done, so they
8 can prepare accordingly. Are they in the loop on this?

9 MR. CHARLES: They're in the loop as to when they
10 will be able to get back into training. And what type of
11 track they're going to have, I think we're going to know
12 better probably over the weekend, and probably
13 Sunday/Monday. So, certainly, prior to going on the track
14 everyone will be allowed to inspect it, walk on it, and
15 we're not going to put them on something that isn't safe.

16 COMMISSION CHAIRMAN SHAPIRO: Okay. Does anybody
17 else have any other questions?

18 If not, thank you for the update. And if you
19 would keep us posted, and if there's anything we can do,
20 obviously, we all have a great stake in seeing this come out
21 the right way.

22 MR. CHARLES: Thank you.

23 MR. HARPER: Thanks.

24 COMMISSION CHAIRMAN SHAPIRO: Thank you. Okay,
25 the next item on our agenda will be Item Number 1, which is

1 a discussion and action by the Board on the Application to
2 Conduct a Horse Race Meeting of the Sacramento Harness
3 Association at Cal-Expo, commencing December 27th, 2007
4 through July 31st, 2008.

5 STAFF SERVICES MANAGER WAGNER: Good morning,
6 Commissioners.

7 COMMISSION CHAIRMAN SHAPIRO: You look surrounded,
8 Jackie.

9 STAFF SERVICES MANAGER WAGNER: Yes.

10 COMMISSION CHAIRMAN SHAPIRO: All right, go ahead.

11 STAFF SERVICES MANAGER WAGNER: Good morning,
12 Jacqueline Wagner, CHRB staff.

13 We have before you the application from the
14 Sacramento Harness Association. They have filed their
15 application to run from December the 28th through August the
16 2nd, 2008. They are proposing to race 121 nights, with
17 1,674 races. The average daily purse for the meet is
18 estimated to be about \$48,190.

19 They were allocated 124 race dates for 2008. They
20 will be racing Thursday through Sunday. The first live post
21 is 5:35 p.m. Thursday and Sunday, a 5:35 p.m. post, with a
22 Friday and Saturday post time of 6:20.

23 There are a couple of items that are missing from
24 this application, including the audited financials, the fire
25 clearance, and we are still waiting on a description of the

1 first-aid facility at the track.

2 We do have representatives here from the
3 Association, if you have any questions.

4 COMMISSION CHAIRMAN SHAPIRO: Thank you, Jackie.

5 I think that the Board should know that there's
6 been considerable discussion between myself, and Mr.
7 Scurfield, and Mr. Axelrod, and Mr. Feinberg, and others
8 related to this application.

9 To just bring everybody kind of up to speed, when
10 this first was on our agenda and I reviewed the financial
11 statements, it did not appear to me that this was a license
12 that the Board should grant, given the financial condition
13 of this entity.

14 I want to make sure it's very clear that my saying
15 that does not reflect that they have not put on a good show
16 or been a good operator. I think they have been a good
17 operator.

18 The question is simply one of financial security
19 that the Board has to consider, that this is an organization
20 which today, based on updated financials, which are
21 unaudited, which they have provided to us in the last couple
22 of days, would show that they have a net worth of
23 approximately \$180,000, give or take. That number could
24 also be discussed and reviewed given the way it's accounted
25 for. So there are lots of issues in my mind, and perhaps

1 yours, if you've reviewed it, with the financials of this
2 organization.

3 Again, it has nothing to do, though, with their
4 ability to operate a race meet. I think they've done a good
5 job and I think that they are trying their best.

6 But the facts are that the business, as well as
7 the lease that they are encumbered with, with Cal-Expo,
8 requires them to make lease payments of approximately \$2.1
9 million. And, frankly, I'm not sure that that's an
10 affordable figure.

11 Consequently, I've had discussions with Cal-Expo,
12 as they have, and have offered suggestions which might allow
13 them to gain the financial security that's been required by
14 this Board.

15 Previously, the Board required that they would
16 post a \$500,000 instrument, whether it be a bond, a letter
17 of credit, or something as security, and they must provide
18 audited financial statements, which they have not done to
19 date.

20 So with that background, I would invite any of the
21 three of you, if you want to make a statement that conflicts
22 or supports anything I've said, so that as we get into this
23 discussion I want to make sure that you have a right to say
24 anything that you'd like to say.

25 MR. SCURFIELD: I think you've stated it pretty

1 clearly. Ralph Scurfield, Sacramento Harness Association.

2 I think you've put it -- and during this short
3 period of time, we have tried to make an arrangement, and we
4 thought we had it in place, where we would get a rent
5 abatement of \$300,000, and Mr. Allred would sign a letter of
6 credit for \$400,000, and that additional financing would be
7 adequate to satisfy your needs.

8 Since then, I've appeared before Cal-Expo and have
9 an indication from their staff that they would recommend
10 that that occur, but they have not been -- they had a
11 meeting scheduled for this Monday, and they informed us
12 yesterday that they can't get a quorum.

13 COMMISSION CHAIRMAN SHAPIRO: Let me add to what
14 you've said. I spoke with Dr. Allred last evening, and Dr.
15 Allred has very graciously offered to post a \$400,000 letter
16 of credit, in addition to the \$100,000 that you have on --
17 would be committing to it.

18 But it was my understanding, in speaking to him,
19 that was subject to there being a rent concession from Cal-
20 Expo.

21 I then spoke with Mr. Bartosik of Cal-Expo, who
22 said that there was a special racing committee appointed, of
23 two members, one voted in favor, one voted against and,
24 therefore, they had to go to the full Board. And they
25 couldn't have a meeting. While he may personally advocate

1 it, he doesn't have the authority to do it.

2 So that leaves us with a huge timing problem in
3 that your current license is up in January.

4 Now, I also threw out the idea, which was perhaps
5 Cal-Expo would be willing to become the licensee and
6 contract with SHA to be the operator of the meet but, again,
7 I don't think it's our place to decide or get involved in
8 who the operator is, and who the licensee is. But,
9 personally, I have an affinity for harness racing and a
10 history, I don't want to see harness racing go out of
11 business, and I don't think any of you do, either.

12 But, unfortunately, in the current condition, I
13 can't advocate that we license this entity for any duration
14 of time.

15 So it would be my recommendation that, not wanting
16 to see horsemen flee the State and to see it close down, I
17 would recommend that we either extend the existing license
18 for a very short period, or we grant a new license for a
19 very short period, to give both SHA and Cal-Expo time to
20 determine whether or not they can come to terms on some
21 arrangement that would provide the financial security to
22 this Board.

23 Therefore, I, personally, would recommend that we
24 license them to January 15th, or I don't know when our
25 January date is, perhaps through the date of our next, our

1 first meeting in January, and it would expect that a new
2 financial arrangement be brought to us. Otherwise, I just
3 don't think, personally, that this applicant is something
4 that we should be licensing on behalf of the State of
5 California.

6 MR. SCURFIELD: I would concur.

7 MR. FEINBERG: Dick Feinberg, Sacramento Harness.
8 I believe January 17th would be your next meeting date. And
9 we certainly would support the idea of extending the current
10 license until January 15th, or right before that meeting, if
11 the Board -- if that's the Board's pleasure.

12 COMMISSION CHAIRMAN SHAPIRO: Well, I'd have to
13 look to counsel here, who I can't see in the glare, but can
14 we either extend the existing license through, let's call it
15 January 17th, or January 18th, whatever it is, or can we
16 amend this application such that we would only approve it
17 through that period of time, so that they have sufficient
18 time to get the capitalization that's needed?

19 DEPUTY ATTORNEY GENERAL KNIGHT: You can clearly
20 do the latter. I'm just not sure about the -- whether you
21 can -- is there a limit on the total time of the license? I
22 don't believe there is, is there?

23 See, I think the easiest way to do this would be
24 to grant a new license for a short term, because you clearly
25 can do that.

1 COMMISSION CHAIRMAN SHAPIRO: Okay, then why don't
2 we go that route. Unless anybody would have an objection, I
3 would move that we grant a license to Sacramento Harness,
4 with the condition that they resolve the problems with the
5 Fire Marshall, that's a must. They resolve any other issues
6 that may be outstanding in the normal course of business.
7 But that this license will only be granted through, let's
8 look at what January is, January 20th, which is a Sunday.
9 Will only be granted through January 20th. And you must
10 appear back, before this Board at its next meeting, with a
11 financial plan that will allow us the confidence to extend
12 you longer. Okay?

13 MR. SCURFIELD: Yes.

14 COMMISSIONER HARRIS: I think it's really more
15 than just the financial plan, too, it's also some
16 demonstration that there's enough equity in the company to
17 make it a viable company. Because as I read the financial
18 statements, now, they're essentially bankrupt, and they need
19 a pretty massive infusion of capital, either in letters of
20 credit, or equity, or something. But I don't think we're
21 really looking for something that's kind of an earn out,
22 that over a period of time you can make some money to make
23 it work. It's got to have enough money in it, now.

24 And I don't know what the Board's role necessarily
25 should be in the financial viability of our licensees, if

1 we're really responsible or -- I think we've got some degree
2 of responsibility if we license somebody that, you know,
3 could well declare bankruptcy, and there be some ripple
4 effects to all the different vendors, and the horsemen, and
5 all that. So I think we've got some responsibility.

6 But I think we need to probably, at some point,
7 determine as a Board what our hurdle is for licensing
8 people. But this one clearly is below it.

9 COMMISSION CHAIRMAN SHAPIRO: Well, I agree, and I
10 think you've raised two issues. One is I think the Board
11 should have a general discussion on what it requires from
12 licensees. I know that in Hollywood Park's case, we
13 required them to post a bond or a letter of credit when they
14 came in as Hollywood Park Operating Company, whatever the
15 licensee is, because it essentially was a shell, which is
16 the situation we have here.

17 I think, you know, this organization came from a
18 place of goodwill and wanting to keep the harness industry
19 alive, and I very much appreciate that, but we have to see
20 that it's economically viable, I agree with you.

21 COMMISSIONER HARRIS: And I think, too, I think we
22 all want to see a harness meet succeed, and we realize the
23 importance of harness racing, and the heritage and all that,
24 it's just that we've also got to have some assurances.

25 COMMISSION CHAIRMAN SHAPIRO: Well, that's why,

1 frankly, and personally, it would be my recommendation that
2 Cal-Expo become our licensee, and they contract with SHA, or
3 whomever, to run it, because then we certainly know that
4 there's financial backing for it.

5 But, again, we'll let you come back with the best
6 plan that you can.

7 So I'll make the motion that we approve this
8 license through January 20th, with the conditions set forth.

9 Is there a second?

10 COMMISSIONER ANDREINI: Second.

11 COMMISSIONER MOSS: Second.

12 COMMISSION CHAIRMAN SHAPIRO: All in favor?

13 (Ayes.)

14 COMMISSION CHAIRMAN SHAPIRO: Thank you.

15 MR. SCURFIELD: Can I just make a comment, Mr.

16 Shapiro?

17 COMMISSION CHAIRMAN SHAPIRO: Yes.

18 MR. SCURFIELD: Did all the Board members see our
19 latest financial information?

20 COMMISSION CHAIRMAN SHAPIRO: I don't know.

21 MR. SCURFIELD: Because what, you know, originally
22 we submitted and what stuck its head out in this whole thing
23 was the 2006 financials, and at that time there was
24 considerably more debt than there were assets. That is not
25 the case, now, and we hope, and we will confirm that in the

1 audited statement that you will get prior to your
2 reconsideration of this item.

3 COMMISSION CHAIRMAN SHAPIRO: I do believe -- I
4 know that I got them. I think I sent them on to our
5 Executive Director, and I'm assuming that they got passed
6 on.

7 MR. SCURFIELD: I see.

8 COMMISSION CHAIRMAN SHAPIRO: And I want to
9 recognize, you have paid down your debt, you have lowered
10 the over-payment. I recognize those things which are
11 contained in the financials through October 31st of this
12 year.

13 MR. SCURFIELD: Yes, okay.

14 COMMISSION CHAIRMAN SHAPIRO: We appreciate that.

15 MR. SCURFIELD: Thank you.

16 COMMISSION CHAIRMAN SHAPIRO: However, there isn't
17 enough capitalization, and if we really sat down and went
18 through them, you're carrying certain assets at values that
19 could be questionable, you know, lease hold improvements.

20 Come back with a plan.

21 MR. SCURFIELD: All right.

22 COMMISSION CHAIRMAN SHAPIRO: Come back with a
23 capitalization plan that shows it's viable.

24 MR. SCURFIELD: Well, we hope it will be exactly
25 what you suggested.

1 COMMISSION CHAIRMAN SHAPIRO: Thank you.

2 MR. SCURFIELD: Thank you.

3 COMMISSION CHAIRMAN SHAPIRO: Okay, the next item
4 on the agenda is the report of the Security and Licensing
5 Committee. I don't know if -- is that Commissioner
6 Andreini? Okay, Commissioner Andreini, if you'll give us a
7 report, we'd look forward to it.

8 COMMISSIONER ANDREINI: Well, we, as the CHRB,
9 have to help our owners in every category of our sport and
10 that, of course, includes the licensing of stable name
11 groups. At the same time, we have to make sure that we
12 preserve the integrity of racing by making certain that
13 everyone that needs to be licensed is.

14 And beyond that, I'd like to call on Jackie Wagner
15 to come up and elaborate further on the subject. Thank you,
16 Jackie.

17 STAFF SERVICES MANAGER WAGNER: Jacqueline Wagner,
18 CHRB staff.

19 As Commissioner Andreini introduced the subject,
20 the Security and Licensing Committee did meet. We met
21 on -- our last meeting was in October. And we took under
22 discussion a proposal that will essentially amend a number
23 of the Board's licensing rule in order to allow licensing of
24 a new stable name group, or a scheme that will allow new
25 owners to come into the business.

1 The proposal that you have before you and that the
2 Committee discussed and recommended that we move forward
3 with a 45-day comment period, is a proposal that will amend
4 Rule 1783 and Rule 1784 of the Board's rules, and it would
5 create, essentially, a new license classification for stable
6 name groups.

7 We have been asked to consider this from a number
8 of -- well, actually, two prominent stable name groups,
9 Little Red Feather and West Point. A stable name group
10 would allow for multiple entities to run under one stable
11 name. Each entity would be comprised with a unique set of
12 investors and each would own one or more horses.

13 Any Board member -- excuse me, any Board-licensed
14 horse owner, including the horse owners and the registered
15 stable names can invest in a stable name group.

16 Under this proposal, it would allow new owners to
17 come into the business.

18 In addition to amending Rule 1783 and 1784, we are
19 also proposing that under this particular scenario we give
20 the stable name groups flexibility in determining who,
21 indeed, would actually secure a CHRB license.

22 In that respect, we have set a benchmark of ten
23 percent, and we are going to be relying on the stable name
24 group to keep the licensing office informed as to, for lack
25 of a better term, the limited and general partners under

1 each horse.

2 So the majority, if you owned ten percent or more
3 of a particular horse under the stable name group, you would
4 be required to secure a CHRB license. If you own less than
5 ten percent of a horse, you will not be required to obtain a
6 CHRB license.

7 Also, that ten percent will apply to the coupling
8 requirements for horses owned under the stable name group.

9 We do have representatives from the stable name
10 group who were the authors, in some respect, of this
11 proposal, as well as the Commissioners on the Committee will
12 be happy to address any questions.

13 At the meeting we did, the Committee did agree to
14 move forward with the 45-day comment period, and we are here
15 to ask the Board to concur with that recommendation.

16 COMMISSION CHAIRMAN SHAPIRO: Thank you, Jackie.
17 Perhaps if Mr. Fenton and Mr. Koch would come forward?

18 COMMISSIONER HARRIS: I think we're all aware that
19 there are some advantages of having multiple ownerships to
20 get more people involved in racing at different levels,
21 because I've noticed, myself, that if someone owns a part of
22 a horse, they become much more of a racing fan than they may
23 have been before.

24 But I think it's just a complicated thing we're
25 doing here and I think that's a good reason to have a

1 comment period. But it would be good to show some examples
2 of how this is actually going to work.

3 COMMISSION CHAIRMAN SHAPIRO: Well, first of all,
4 you finally got here. Okay. Billy has been on this for two
5 years, and you finally are here, okay.

6 And if I understand what the concern is, is that
7 the groups like Little Red Feather, West Point
8 Thoroughbreds, or others, they want to show how successful
9 they are at picking racing horses, and so it's important to
10 them, kind of like as a batting average, or something else,
11 to show your success.

12 And what happens is if it's Little Red Feather and
13 Fenton, or if it's Little Red Feather and Wagner, it's not
14 counted the same. Is that what part of the concern is here?

15 MR. KOCH: I think that's -- Billy Koch, Little
16 Red Feather Racing. I think that's part of the concern,
17 Commissioner Shapiro. I think there's other things in the
18 licensing process.

19 The licensing, the way it normally is right now,
20 if you have a stable name, the assumption is made that all
21 people in that stable name own the same exact percentage of
22 every single horse.

23 The way that our partnership groups work, whether
24 it's myself, or West Point, or anybody, we have different
25 partners in each particular horse, so it's a completely

1 different structure. So we've created this kind of almost
2 upside down, where we now have a stable name group, which
3 could be Little Red Feather Racing, within that stable name
4 group we could have five different horses underneath that,
5 and within each of those five different horses might be five
6 or six different owners.

7 And we just want to take out any transparency with
8 regards to who owns what horse.

9 COMMISSION CHAIRMAN SHAPIRO: So is each horse, in
10 essence, a different corporate entity?

11 MR. KOCH: Yes.

12 COMMISSION CHAIRMAN SHAPIRO: So let's say you
13 have 20 horses.

14 MR. KOCH: Correct.

15 COMMISSION CHAIRMAN SHAPIRO: So could it not be
16 that Little Red Feather number 18, could the ownership not
17 be Little Red Feather 18, could it not be Little Red Feather
18 20?

19 MR. KOCH: It could. And we started to talk about
20 that and that's one of the things we just wanted to avoid in
21 the branding process, going back to what you originally
22 stated, is that Little Red Feather is a brand. And once you
23 start putting things, Little Red Feather 1, Little Red
24 Feather 2, Little Red Feather 3, it goes back to what you
25 discussed is that we don't get credit for purse earnings, we

1 don't get credit for wins because they're all different.

2 When people look at the program, they want to just
3 see -- well, we want them to just see and recognize either
4 Little Red Feather or West Point Thoroughbreds.

5 There are occasions, if you and I bought a horse
6 together, and you bought half the horse, as we have with
7 many of our partners we put your name on the program, it
8 says Little Red Feather and Shapiro. We have no problem
9 with that.

10 The problem is if it's just solely owned by our
11 partnership group, we didn't want to have that et al, or
12 that adding two names randomly, or whoever is the first
13 alphabetically. It's a branding issue, more than anything
14 else.

15 Does that answer your question?

16 COMMISSION CHAIRMAN SHAPIRO: Yeah, it does, but
17 we're going through a lot of hoops just so that -- I mean,
18 if it was Little Red Feather 1 through 50, everyone's going
19 to see the Little Red Feather and they're going to say, wow,
20 this is number 45. So they're going to know that there are
21 45 different horses that they've got or had.

22 And wouldn't there be an easier way to come back a
23 different door, to go to whoever it is who keeps the
24 statistics and say, hey, look, if it's Little Red Feather
25 number 1 and number 40, why can't you just count it as

1 Little Red Feather in the batter's statistics, I don't know?

2 MR. FENTON: Commissioner, Gary Fenton, from
3 Little Red Feather Racing. What we've also done -- and,
4 yes, that's a very important part of it.

5 But what we've done is the way the rules were set
6 up originally, if a horse is owned by a limited liability
7 company, or any type of corporation, only one person from
8 that corporation had to be licensed under your original
9 rules. So they were a little antiquated. You could have
10 four, or five, or six different people.

11 And for coupling rules, you know, Commissioner
12 Shapiro, Commissioner Moss, you could both own a horse and
13 for coupling rules it wouldn't be identified because it
14 would be under a corporation.

15 So what these rules have really done, although
16 they help the branding of the partnership groups, what
17 they've done is taken away the antiquated rules and moderned
18 them, so that you'd know exactly who owns every horse and
19 the percentage so that you can determine what, for coupling
20 reasons, you need to do.

21 MR. KOCH: In the past, and we all know, we're not
22 hiding anything, we've been going about this backwards, as
23 far as we were concerned. You know, someone comes to me and
24 buys a horse, or a piece of one of our horses or a piece of
25 two of our horses, you guys would never know, I don't have

1 to tell you.

2 What we've come, and what we've done in our
3 Committee, and I want to thank Commissioner Choper, and
4 Commissioner Andreini, and Laura, and Jackie for their work,
5 is we think we've devised a system that will take away some
6 of that transparency. I mean, this game is -- we've talked
7 about integrity and full disclosure, that's really what this
8 is about more than the branding issue.

9 We want to make sure that you guys know who owns
10 what horse. We think that's very valuable. We think that's
11 important information and not just for coupling, but for the
12 state of our game.

13 COMMISSION CHAIRMAN SHAPIRO: I think we agree
14 with that. First of all, are these LLCs or are they limited
15 partnerships?

16 MR. KOCH: LLCs.

17 COMMISSION CHAIRMAN SHAPIRO: Okay. Well, the way
18 the rule is written, it's talking about general partners.
19 There aren't general partners in LLCs. There's managing
20 members. And, I mean, just the nomenclature is wrong.

21 STAFF SERVICES MANAGER WAGNER: We talked about
22 that this morning in terms of the terminology. Because,
23 really, we were trying to coin phrases that were going to be
24 particular to the stable name group.

25 And this morning, in our discussion, we were

1 thinking we should probably change from limited and general,
2 because those terms, in the business world, do mean
3 something else.

4 COMMISSION CHAIRMAN SHAPIRO: Right.

5 STAFF SERVICES MANAGER WAGNER: Primarily, we
6 probably should change it to majority or minority, something
7 like that.

8 COMMISSION CHAIRMAN SHAPIRO: Well, okay, they're
9 not partners. You have shareholders.

10 STAFF SERVICES MANAGER WAGNER: Correct.

11 MR. KOCH: Correct.

12 COMMISSION CHAIRMAN SHAPIRO: And so you either
13 have a managing member or just a member, who is a non-
14 managing member.

15 STAFF SERVICES MANAGER WAGNER: That's correct.

16 COMMISSION CHAIRMAN SHAPIRO: Okay.

17 STAFF SERVICES MANAGER WAGNER: And the rules, as
18 the way they are written, are primarily in order to
19 facilitate the proper licensing. We want to require the
20 partnership groups to notify us, give us the list of the
21 individual owners on a particular horse, tell us the
22 percentage of ownership for our licensing purposes.

23 So you're absolutely correct, when we use the term
24 limited and general partners in these rules, that does --

25 MR. KOCH: It doesn't apply to business.

1 STAFF SERVICES MANAGER WAGNER: It brings up a
2 different scheme. So we probably should change that
3 terminology.

4 COMMISSIONER HARRIS: I thought there was also
5 something that if you had less than ten percent of a horse,
6 or if I sold somebody 1/20th or five percent of a horse,
7 they wouldn't have to be licensed at all. They could be
8 licensed, if they wanted to, but if they didn't have to be
9 licensed, that was okay.

10 STAFF SERVICES MANAGER WAGNER: Correct.

11 COMMISSIONER HARRIS: But I'm not sure --

12 COMMISSION CHAIRMAN SHAPIRO: They're still doing
13 that.

14 STAFF SERVICES MANAGER WAGNER: That came as a
15 request from the partnership groups, Little Red Feather.

16 COMMISSIONER HARRIS: But does their ownership
17 have to be disclosed on something? I mean, every time I do
18 it, I've got to tell somebody about it?

19 STAFF SERVICES MANAGER WAGNER: Yes. It's up to
20 the partnership groups --

21 MR. KOCH: It's up to us.

22 STAFF SERVICES MANAGER WAGNER: -- to notify the
23 licensing office. Again, this is purely so we, at the
24 licensing office, can be responsive and take care of the
25 licensing issues.

1 COMMISSIONER HARRIS: Well, what are you going to
2 do about it, because you don't have to get a license if
3 you've got less than ten percent, anyway.

4 STAFF SERVICES MANAGER WAGNER: Not in stable name
5 group. In a stable name group, the stable name group,
6 Little Red Feather, they wanted the flexibility of allowing
7 their shareholders the ability -- those who want to be
8 licensed, to be licensed. Those who do not want to be
9 licensed, do not have to secure a license.

10 COMMISSION CHAIRMAN SHAPIRO: Wait, Jackie,
11 Jackie. If somebody owns eight percent of the horse, what I
12 understand is they're not required to be licensed. They
13 can, but they're not required.

14 Are we saying, notwithstanding whether they're
15 licensed, we want to know that they are a partial owner,
16 whether they have a license or not? Are we requiring them
17 to be disclosed -- is it we're requiring that it's disclosed
18 that at least they own eight percent?

19 STAFF SERVICES MANAGER WAGNER: Yes.

20 MR. KOCH: Yes.

21 COMMISSION CHAIRMAN SHAPIRO: Okay, so from that
22 perspective we, at least, will have full and complete
23 transparency that adds up to a hundred percent of the horse,
24 even though we may not -- if there were eight people that
25 owned eight percent, we may only have three licensees on the

1 horse.

2 STAFF SERVICES MANAGER WAGNER: Correct.

3 MR. KOCH: Precisely.

4 STAFF SERVICES MANAGER WAGNER: Correct.

5 MR. KOCH: And we wanted to make sure you know,
6 and we're willing to provide social security numbers, so you
7 can do background checks, whatever you want to do.

8 COMMISSION CHAIRMAN SHAPIRO: Okay. So in that
9 case --

10 COMMISSIONER ANDREINI: The license isn't required
11 on any owner that's ten percent or less, isn't that what
12 we're looking at?

13 MR. KOCH: Not required.

14 STAFF SERVICES MANAGER WAGNER: Not required.

15 MR. KOCH: But they still can.

16 COMMISSION CHAIRMAN SHAPIRO: Not required, but
17 they may be licensed.

18 MR. KOCH: One of the reasons we wanted to do that
19 is because we do have people who come in for five percent
20 and they say, hey, I'd love to get a license and --

21 COMMISSION CHAIRMAN SHAPIRO: They want the free
22 tickets.

23 MR. KOCH: Exactly. Well, that's part of it.
24 They want to be able to go to the backstretch, they want to
25 do things.

1 COMMISSION CHAIRMAN SHAPIRO: And we want to have
2 people come. I mean, it's fine.

3 COMMISSIONER AMERMAN: What I missed, however, is
4 what happens when you take your best horses, or West Point
5 takes their horses and they go race across the country,
6 obviously --

7 MR. KOCH: We have to get relicensed in each
8 state.

9 COMMISSIONER AMERMAN: Yeah, it strikes me that
10 it's an interesting problem that you're trying to attack,
11 but I think you're attacking at the wrong end. It would
12 seem to me that this whole thing of partnerships should be
13 addressed by the Jockey Club, or someone else -- and I think
14 it is the Jockey Club.

15 MR. KOCH: Commissioner Amerman, respectfully, we
16 had to start somewhere, and I've been licensed in the last -
17 -

18 COMMISSIONER AMERMAN: Well, I understand you've
19 got to start somewhere, and that's great, we're trying to
20 help out as much as we can.

21 I don't think it's going to solve your problem,
22 that's what I'm trying to say.

23 MR. KOCH: You're absolutely right, there needs to
24 be a national license program. It's unbelievable what I go
25 through, I just --

1 COMMISSIONER AMERMAN: And I do believe it's wrong
2 because, obviously, you don't get credit on a national basis
3 for what you've done. And that's your business is trying to
4 reach out to more people and if you're successful, you're
5 going to reach out to them.

6 So I really think you need to -- I don't know what
7 the issues are with the Jockey Club but, obviously,
8 something needs to be done there.

9 COMMISSIONER HARRIS: I think the Jockey Club
10 doesn't get involved with licensing.

11 COMMISSIONER AMERMAN: What's that?

12 COMMISSIONER HARRIS: I think the Jockey Club is
13 not involved in licensing.

14 COMMISSIONER AMERMAN: Well, I'm using the Jockey
15 Club because it comes to mind but --

16 COMMISSIONER HARRIS: There is like a national --

17 COMMISSION CHAIRMAN SHAPIRO: There's a national
18 licensing compact.

19 COMMISSIONER HARRIS: -- a national licensing deal
20 that's out there somewhere.

21 COMMISSION CHAIRMAN SHAPIRO: And that is through
22 RCI. I will tell you that, you know, one of the things that
23 I don't know how you deal with this, those people that have
24 stakes horses, and you have to -- you know, in California
25 we've talked about if somebody's shipping in a stakes horse

1 and they're only going to race here -- let's say they're
2 shipping into race in a race here, Saturday.

3 COMMISSIONER HARRIS: Yeah.

4 COMMISSION CHAIRMAN SHAPIRO: And we put them
5 through the ringer to get a license here. I don't know why
6 we don't give anybody who's coming in for a very short
7 period, we will honor whatever license you had from another
8 state and make it easy on them.

9 COMMISSIONER AMERMAN: That, to me, is absolutely
10 a step in the right direction.

11 COMMISSIONER HARRIS: Yeah, and I think we should
12 do that.

13 COMMISSIONER AMERMAN: No question about it. It's
14 different than what we're talking about.

15 MR. KOCH: But it's part of it, but it's a great
16 idea.

17 COMMISSIONER AMERMAN: But it's absolutely the
18 right thing to do.

19 COMMISSIONER HARRIS: It's a separate issue, but
20 it's something we should address.

21 COMMISSION CHAIRMAN SHAPIRO: And I mean, this is
22 a great thing that's coming forward, the same as I still
23 don't know why we have in law the ability to join the
24 National License Program, whatever that's called, but we
25 don't do it. Now, I've been told we don't do it because we

1 have more rigorous background checks, and fingerprints, and
2 things like that.

3 COMMISSIONER HARRIS: Yeah, especially for owners,
4 I don't think we --

5 COMMISSIONER AMERMAN: What do you mean "we," do
6 you mean California?

7 COMMISSION CHAIRMAN SHAPIRO: Yes.

8 COMMISSIONER AMERMAN: Trust me, it's just as bad
9 anywhere else.

10 COMMISSION CHAIRMAN SHAPIRO: No, no, I'm saying
11 that what we have been told, when asked, that why don't we
12 just -- you know how you see there's that national license
13 that you can honor?

14 COMMISSIONER AMERMAN: Yeah, yeah.

15 COMMISSION CHAIRMAN SHAPIRO: We can do that. But
16 we don't do it because we go further in background checks
17 than they do, has been the answer.

18 STAFF SERVICES MANAGER WAGNER: Commissioner
19 Shapiro, if I may clarify a little bit, we do -- we are a
20 part of that national compact and people can get a national
21 license. What it does not do, though, it does not preclude
22 them from having to secure a CHRB license.

23 COMMISSION CHAIRMAN SHAPIRO: Well, that's the
24 point.

25 COMMISSIONER HARRIS: That's the idea.

1 COMMISSION CHAIRMAN SHAPIRO: What's the point
2 then?

3 STAFF SERVICES MANAGER WAGNER: So you're
4 absolutely correct --

5 COMMISSION CHAIRMAN SHAPIRO: It doesn't do us any
6 good.

7 COMMISSIONER HARRIS: Why would you want to get
8 one if it doesn't do any good.

9 MR. KOCH: That's what happens in other places, as
10 well.

11 STAFF SERVICES MANAGER WAGNER: And,
12 unfortunately, I understand your frustration and I hear what
13 you're saying, but the law does require participants, who
14 are in horse racing, to go through and get a CHRB license.

15 COMMISSIONER HARRIS: A law? Is that a law or a
16 rule?

17 STAFF SERVICES MANAGER WAGNER: It's the law.

18 MR. KOCH: It's the law.

19 STAFF SERVICES MANAGER WAGNER: It's the law.
20 It's the law.

21 COMMISSIONER HARRIS: Well, we should see if we
22 can modify that law because what happens is people don't do
23 it, and they run in somebody else's name, or they evade it,
24 or they don't come to California or whatever.

25 But it's never -- we've never found, I mean, in my

1 memory, any owner, through all this fingerprinter and all,
2 we still haven't found that Al Capone has owned some horse,
3 anyway. I mean, if somebody has a problem, they're not
4 going to even try to get a license. So I don't think it's
5 saving any --

6 COMMISSION CHAIRMAN SHAPIRO: Can I just ask, and
7 we got to get back to this, and we're on a time deadline.
8 But Derry, is it not possible that there could be in
9 existing law a place where if Joe Owner flies in, he's going
10 to run his horse in the \$400,000 Hollywood Starlet, and that
11 we can't honor his license from Kentucky for one race?

12 DEPUTY ATTORNEY GENERAL KNIGHT: The statute that
13 you have is very explicit. It specifically says that you
14 can join the Interstate Licensing Compact, which you are a
15 member of that, you joined that a couple -- several years
16 ago.

17 COMMISSION CHAIRMAN SHAPIRO: Right.

18 DEPUTY ATTORNEY GENERAL KNIGHT: However, the
19 statute is very clear that you cannot -- that the people
20 performing in California are still required to meet the
21 California licensing requirements, so you cannot defer, to
22 another license, those requirements.

23 COMMISSION CHAIRMAN SHAPIRO: Well, who make those
24 requirements?

25 DEPUTY ATTORNEY GENERAL KNIGHT: Well, it's in the

1 statute, you'd have to amend the statute.

2 COMMISSIONER HARRIS: We need to take a look at
3 that.

4 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, the statute
5 can be amended, but that's the way it reads right now.

6 COMMISSIONER HARRIS: Well, I think that's
7 something we need to take a look at because it's really kind
8 of antiquated and it's not really doing any good.

9 COMMISSION CHAIRMAN SHAPIRO: Well, okay, let's
10 get back to your issue. I mean, it's something that we've
11 got to get the welcome mat out here.

12 COMMISSIONER HARRIS: It's just like a driver's
13 license. You don't have to -- you can have a driver's
14 license in Washington or Oregon, and you don't have to get a
15 whole 'nother one to come to California.

16 MR. KOCH: That's true. It's a great point.

17 COMMISSION CHAIRMAN SHAPIRO: Okay, so in terms of
18 this, does anybody have a problem or opposed to this? I
19 mean, I personally think that anything we can do to help
20 partnerships like this bring people to the sport, I think,
21 you know, what you guys are doing is great. I think West
22 Point and the others, you know, they're bringing new people
23 to the game. So I'm totally in favor of it.

24 But does anybody have any problem with this?

25 COMMISSIONER HARRIS: I think we should put it out

1 for comment. I would be good if we could get some examples
2 of different partnerships, how they would work and all that.

3 MR. KOCH: Okay.

4 COMMISSIONER HARRIS: I mean, what sort of ties
5 into this, too, I think at some point we should revisit our
6 whole coupling requirements on owners, especially where the
7 ownerships are not mirror images, where you've got a
8 partnership on, you know, varying partnerships in the same
9 race. It's different if it's exactly the same owner and
10 trainer, and everything. But if we've got Richard and I got
11 a horse, and you and I have got a horse, why does that horse
12 really have to be coupled.

13 COMMISSION CHAIRMAN SHAPIRO: All right, so what I
14 would recommend is a motion that we put this out for
15 comment, that we move this forward with the changes, though,
16 that we're talking about managing members and members, not
17 general partners and limited partners, so it's correct.

18 STAFF SERVICES MANAGER WAGNER: Yes. Change that
19 terminology.

20 COMMISSION CHAIRMAN SHAPIRO: Is there a second?

21 COMMISSIONER AMERMAN: I'll second that.

22 COMMISSION CHAIRMAN SHAPIRO: It's seconded. All
23 in favor?

24 (Ayes.)

25 COMMISSION CHAIRMAN SHAPIRO: Good luck.

1 MR. KOCH: Thank you very much.

2 STAFF SERVICES MANAGER WAGNER: Commissioner
3 Shapiro, before we leave the table, I do want to acknowledge
4 that I did receive a letter this morning from Karen
5 Klawitter, a CEO and hospital administrator of the Southern
6 California Equine Foundation, and she did express some
7 concerns with the proposal going forward.

8 And as I understand it, her concerns really
9 address the --

10 COMMISSION CHAIRMAN SHAPIRO: Let me stop you. I
11 was remiss. She's here in the audience, I guess.

12 STAFF SERVICES MANAGER WAGNER: Yes, she is.

13 COMMISSION CHAIRMAN SHAPIRO: And I do have a
14 comment card from here, on this issue, and she deserves to
15 be heard. I have two comment cards and I should have done
16 that. Is she here? I'm sorry.

17 If you'll come to the podium up there? And I
18 again apologize that --

19 MS. KLAWITTER: Well, actually, I was --

20 STAFF SERVICES MANAGER WAGNER: But, Karen, I'm
21 going to continue and you let me know if I've addressed it
22 correctly?

23 I believe, though, her concern is one of -- her
24 concern primarily is the billing that would take place for
25 stable name groups, and I do not believe that would change

1 in terms of what is being done now for billing, for
2 veterinary services, for horse owned by stable names. I
3 believe the bill would still go to Little Red Feather.

4 COMMISSION CHAIRMAN SHAPIRO: They'll still go to
5 the general partner, they'll still go the same way, and
6 they've got to figure out who's going to pay them, and if
7 you don't pay them, you don't provide any services to their
8 horses. They don't get any services, they don't win, and
9 then they lose all their partners, and they all go to West
10 Point, and they're out of business.

11 STAFF SERVICES MANAGER WAGNER: Was that your
12 concern, Karen?

13 MS. KLAWITTER: Part of it.

14 COMMISSIONER HARRIS: I still don't understand
15 why -- it seems like it would be better shape if you had a
16 partnership that was the liable party, you could really have
17 broader collections.

18 MS. KLAWITTER: Okay. Should I go ahead and read
19 this because I'm not very good at public speaking.

20 COMMISSION CHAIRMAN SHAPIRO: Say your name --
21 state your name, and then you can read it, if you'd like.

22 MS. KLAWITTER: My name is Karen Klawitter, I am
23 the CEO and Hospital Administrator of the Southern
24 California Equine Foundation. We're a nonprofit
25 organization that benefits the equine athlete. We provide

1 the equine hospitals located at the southern racetracks,
2 offering radiology, lab, surgery, and nuke med.

3 My interpretation of this proposal is that a
4 stable name group would be able to run horses with different
5 owner percentages and different owners. This proposal, as
6 it stands, would be detrimental to numerous organizations
7 that serve the industry, namely those of us billing owners
8 for services provided.

9 If owners are not required to be licensed by the
10 Racing Board, how will the financial responsibility rule be
11 enforced?

12 As an FYI, our policy at SCEF throughout the years
13 has been to bill a maximum of four owners. Invoices with
14 more than four partners are billed to the referring
15 veterinary practice. This does not please the
16 veterinarians, but the SCEF should not have to lose money
17 from cases referred into our facility.

18 In our experience, bills of less than \$100 have a
19 higher chance of not being paid because owners know the
20 stewards will not hear cases under \$100. Even with four
21 owners, we sometimes encounter those with only one to ten
22 percent share which, on a 400 nuke scan bill, or an 800
23 surgery bill puts them well below the \$100 mark.

24 Some veterinary practices have established a five-
25 owner maximum to help curtail this problem billing back to

1 the majority owner.

2 If this proposed amendment goes through, I would
3 request the Board to consider an additional financial
4 responsibility clause to Rule Number 1876.

5 So I came up with possible solutions.

6 COMMISSIONER HARRIS: I think we need to, though -
7 - this is going out for comment, now, and that's really the
8 time to do a lot of this. But, frankly, I don't have a lot
9 of sympathy for some super power to collect bills, anymore
10 than any other vendor has.

11 I mean, it seems like you're well protected. You
12 shouldn't be doing business with people if you don't think
13 they're going to pay you. I mean, there's some -- I mean,
14 there's no compulsion that you've got to do business with
15 any one person. I think any veterinarian or any business
16 person should do some due diligence on who they're doing
17 business with, and I just don't see where you've got a big
18 problem.

19 COMMISSION CHAIRMAN SHAPIRO: Let me just --

20 COMMISSIONER MOSS: Well, aren't you going to bill
21 the entity, you're going to bill Little Red Feather, and
22 Little Red Feather is going to pay the bill and then they'll
23 work it out with who the partners are on that particular
24 horse.

25 COMMISSION CHAIRMAN SHAPIRO: You're going to get

1 paid -- exactly right. You're going to get paid just as you
2 do now. And keep in mind, under existing law, it's not
3 different, really. They don't have to license people that
4 are under ten percent, now.

5 So the truth is you're going to send a bill to
6 Little Red Feather, it's going to be their problem to figure
7 out who pays them for that portion of the bill.

8 I don't -- I think you're seeing something here
9 that's not going to be an issue for you. But, again, it
10 will come up under -- I think if you look at the language
11 carefully, have some discussions with staff, and then during
12 the comment period, if you want to make a comment then, when
13 you understand all the nuances of it, that's really the time
14 to do it.

15 COMMISSIONER CHOPER: I think it's also true that
16 these companies, if you will, are legally responsible to pay
17 the bills for any horse that they have their name associated
18 with, for vet bill or whatever.

19 MS. KLAWITTER: Oh, okay.

20 COMMISSIONER CHOPER: So in many ways you've got a
21 bigger entity, you've got a bigger, easier to find entity,
22 than if you had four or five partners.

23 MS. KLAWITTER: Because currently, when we ask for
24 owner information, they give us their percentages and
25 require us to bill out the percentages.

1 COMMISSIONER AMERMAN: But in this case it's not
2 going to happen.

3 MS. KLAWITTER: Okay.

4 COMMISSIONER HARRIS: Really, the way you're doing
5 it now, though, if you're dealing with a partnership, as I
6 understand collecting money from partnerships, every partner
7 is liable for other partners. If it's a general
8 partnership, if three or four of them, say --

9 COMMISSION CHAIRMAN SHAPIRO: Joint several.

10 COMMISSIONER HARRIS: You're liable. If I've got
11 three partners and they don't pay, even though I only had 25
12 percent of the liability, I'm the deep pocket. So you're in
13 a dream position, anyway, unless they're just all non-
14 collectable.

15 COMMISSION CHAIRMAN SHAPIRO: You want to be
16 partners with him.

17 COMMISSIONER HARRIS: That's why I don't have a
18 lot of partners.

19 MS. KLAWITTER: Well, I'm going to change my
20 billing, I'll tell you that. Thank you.

21 COMMISSION CHAIRMAN SHAPIRO: Okay, thank you.
22 Jerry Jamgotchian?

23 MR. JAMGOTCHIAN: Mr. Chairman, members of the
24 Board. You know, this issue strikes me as being something
25 that has a longer term effect on how the CHRB administrates

1 licensees who aren't even licensed. If, in fact, this
2 entity, whatever the structure is, this entity sells its
3 share to nine people -- excuse me, ten people, that have
4 nine percent, that aren't licensed, and then the controlling
5 person or party, limited partner -- general partner or
6 managing authority doesn't have any money, why wouldn't this
7 lady be in a very bad position to get paid when the managing
8 partner says, well, we don't have any money because the
9 horse broke down, and we have nine partners who aren't
10 licensed. I mean, you can see that she has no chance of
11 getting paid.

12 Now, I'm not saying Billy or the other people are
13 doing this, but I'm not sure that all of these entities are
14 going to be financed at the top end, to guarantee at the
15 bottom end all the money that the non-licensed people owe.

16 Additionally, if nine unlicensed people own a
17 horse, and the master authority in this case owns nine
18 percent, or whatever percent it owns, but it doesn't have
19 any money, the horse gets disqualified for a drug violation,
20 or anything, and a redistribution of the purse occurs, how
21 is that money going to come back when these people aren't
22 licensed and it's already been distributed?

23 So this is kind of another -- and as I'm sitting
24 here today, the first issue we come into is the Santa Anita
25 polytrack, the Santa Anita Racetrack. The second issue we

1 come into is the bankruptcy of Sacramento Harness. The
2 third issue is this licensing thing. There's nothing here
3 positive.

4 COMMISSION CHAIRMAN SHAPIRO: One minute.

5 MR. JAMGOTCHIAN: I understand. So I'd like you
6 to consider the fact that if you allow unlicensed people to
7 own racehorses, number one, there's no background check. I
8 kind of agree with Mr. Harris that background checks are
9 kind of meaningless, anyway.

10 Additionally, I think Mr. Harris was right in that
11 1876, why is the CHRB actually playing the court? If
12 somebody's got an issue with a licensee, they should take it
13 up with the court to get it corrected, and not come to the
14 stewards, who might be prejudicial.

15 So if you want unlicensed people owning
16 racehorses, I think this is a great opportunity for you to
17 expand that problem. Thank you.

18 COMMISSION CHAIRMAN SHAPIRO: Thank you.

19 COMMISSIONER HARRIS: Well, one of the issues is I
20 don't think -- which ties into the vet's concerns, I guess,
21 is I, personally, don't think that the licensing process
22 should be used as a collection agency, where things go to
23 stewards and they tell the guy to pay, and all this. I
24 mean, there are -- racing should be no different than any
25 other business, that if somebody owed somebody some money,

1 they need to take them to small claims court, or get a lien,
2 or whatever, but not use our stewards as their collection
3 vehicle.

4 COMMISSION CHAIRMAN SHAPIRO: Okay, thank you,
5 gentlemen.

6 MR. KOCH: Thank you.

7 MR. FENTON: Thank you.

8 COMMISSION CHAIRMAN SHAPIRO: We'll move on to
9 Item Number 4, which is the public hearing and action by the
10 Board on the adoption of the proposed amendment to CHRB Rule
11 1467, Paymaster of Purses, to authorize the paymaster to
12 deduct 0.3 percent of the net purse earned by any
13 thoroughbred horse at a thoroughbred race meeting or racing
14 fair for deposit into the California Retirement Management
15 Account (CARMA) to be used to benefit retired thoroughbred
16 racehorses.

17 And it looks like we've got a lot of people here
18 for this, which is nice.

19 Okay, Jackie, find yourself a spot, if you want to
20 give us your rundown.

21 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
22 CHRB staff.

23 The proposed amendment to Rule 1467, as indicated,
24 would direct the Paymaster of Purses to deduct 0.3 percent
25 of the net purse earned by any thoroughbred horse at a

1 thoroughbred race meeting, or a fair meeting, which would be
2 deposited into the newly developed California Retirement
3 Management Account, or CARMA, for short.

4 The CARMA fund, which would be established by the
5 Thoroughbred Owners of California, is a charitable trust
6 fund for the benefit of California thoroughbred retirement
7 facilities.

8 The proposed amendment goes on and it defines the
9 terms that are used -- that would be used under this
10 proposal. It defines net purse earned, and it defines a
11 mechanism by which an owner may opt out of the 0.3 percent
12 contribution to CARMA.

13 The rule was noticed for 45 days. During that 45-
14 day comment period, staff received a number of comments
15 pertaining to this proposal.

16 Several comments regarding the proposal commented
17 in opposition to the proposed amendment and they stated that
18 "the proposed amendment represents over-regulation and it is
19 another reason why California racing is so expensive."

20 Persons also commented regarding the opt-out
21 provision, and some of those comments stated that "they
22 would rather have an opt-in provision, so owners would be
23 able to choose to participate instead of having to take
24 action to withdraw from the program."

25 Another comment noted that "trainers and jockeys

1 receive up to 20 percent of the purse earnings and asked if
2 and why they would not be required to participate in the
3 program."

4 Also, yesterday, I did receive a letter from the
5 Paymaster of Golden Gate Fields, and she expressed some
6 concerns with the proposal, as well. While she is in favor
7 the equine requirement project, the way that the project
8 would be implemented is of concern for her, for a number of
9 reasons. She indicates in this letter that "I am strongly
10 against deducting anything directly from owners' accounts.
11 The proposal would set a precedent and it opens the door for
12 similar, future petitions."

13 In addition, she does not think that the owners
14 should bear all the cost of this project. "All parties in
15 racing, including breeders, owners, trainers, management,
16 CTBA, COT, CTT, et cetera should be obligated to support the
17 equine retirement fund."

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

20 COMMISSION CHAIRMAN SHAPIRO: Thank you, Jackie.
21 This is an item which I believe at Del Mar was originally
22 discussed in front of the Board. I, personally, think it's
23 a wonderful idea and cause and something that we have an
24 obligation to do.

25 I think it should also be noted, and I didn't hear

1 Jackie say it, that enclosed in our material there was a
2 petition from over, I think it's 120, 140 horse owners. Oh,
3 she did say it. I didn't hear it, I'm sorry.

4 So I guess the first thing is I also note that
5 Commissioner Harris, you had a comment, and so perhaps you
6 want to state your views on this as well.

7 COMMISSIONER HARRIS: Well, first of all, I'm not
8 at all opposed to funding horse retirement or horse out-
9 placement, and well recognize the need. And I, personally,
10 probably spend four or five percent of my purse earnings on
11 this, on my own farm.

12 But I think the assessment method should be an
13 opt-in, be a voluntary method, rather than opt-out.
14 Especially where it's set up now that you'd have to -- a
15 Paymaster would have to be notified to opt-out, and you have
16 all these different partnerships. I think it should be opt-
17 in. And I think if it's not opt-in, it may well be that
18 this is challenged in court and we could end up, you know,
19 litigating it.

20 But also the levels, I think, the 0.3 percent is
21 such a token level that it should be somewhat of a cafeteria
22 plan, and maybe that could be the least you could put in,
23 but you could in more, that you could put in three percent,
24 or five percent, or whatever you wanted, but you opt-in and
25 you've got a check off program on what it is that you wanted

1 to put in.

2 I'd agree with the other comments, too, that it
3 should be more than just the owner. I mean, if it's purse
4 earnings, it should be the trainers' part and the jockeys'
5 part, and really, also, extended to other parts of the
6 industry, unless someone has their own program that they
7 feel they want to do on their own.

8 I remember when this first come up, I think -- I
9 mean, the industry maybe doesn't really want the answer to
10 the question because they're afraid what the answer may be,
11 but I think we need a comprehensive plan, which TOC was
12 going to undertake a plan to really see the total scope of
13 how many horses do we have that do need some outplacement,
14 or retirement, or basically are surplus to the needs that
15 are immediate. And that has never happened.

16 And I think we need to really get our arms around
17 how big of a problem we have here before we just arbitrarily
18 go out and come up with a plan to basically collect money,
19 which probably is not going to be enough, anyway.

20 I mean, I appreciate the capabilities of some of
21 the different horse retirement facilities around, but as I
22 understand it this program, when you collect the money and
23 there would be this CARMA fund that would allocate it out.
24 But if it is going to be -- especially if it's going to be a
25 mandated program, which I hope it wouldn't be, there clearly

1 needs to be more reporting requirements and audit
2 requirements that the CHRB would look at, rather than just
3 have a report submitted of here's where I spent the money.

4 And I think, also, that the whole subject needs a
5 lot more venting out in the industry. Where when we do it,
6 there's really support of it and everyone really understands
7 it. Where I don't know if it's really been publicized
8 enough as far as this particular method. I think we need to
9 take another look at it.

10 COMMISSION CHAIRMAN SHAPIRO: All right. What I
11 would suggest is, unless any other Commissioner has an
12 opinion, wants to make an opening statement, is I think we
13 ought to hear from TOC. And I appreciate that Ms. Clark is
14 here, from Tranquility Farms, which everybody knows and
15 appreciates.

16 So perhaps you can address some of the comments
17 that Mr. Harris made.

18 And why don't we hear your presentation, so we can
19 better react to it.

20 COMMISSIONER AMERMAN: Thank you.

21 MS. NAIFY: Marsha Naify, Chair of the Board, of
22 the Thoroughbred Owners of California.

23 Our Executive Director, Guy Lamothe, is passing
24 out a handout to you right now on some of the statistics and
25 figures that we've gathered here, in California.

1 MR. COUTO: The first page is --

2 COMMISSION CHAIRMAN SHAPIRO: Drew --

3 MR. COUTO: Sorry, Drew Couto, Thoroughbred Owners
4 of California.

5 The first page is a very brief memo prepared by
6 Wilson Shirley, and what we asked him to do is identify, for
7 the years 2003, '04, and '05, the number of horses
8 making -- the number of thoroughbreds making their last
9 start in California, based on records provided by TJCIS.

10 And you can see we've given you that information
11 for the three years.

12 COMMISSION CHAIRMAN SHAPIRO: Can you tell me what
13 TJCIS is?

14 MR. COUTO: That's the Jockey Club Information
15 Service.

16 COMMISSION CHAIRMAN SHAPIRO: Okay.

17 MR. COUTO: It's basically the non-track side of
18 Equibase, anybody other than a track has to go through
19 TJCIS.

20 And the long and short of this is that basically
21 you're looking at, on an annual basis, just slightly over
22 2,000 horses making their -- 2,000 thoroughbreds making
23 their last start in the State of California, in a given
24 year. So that's the scope of the retiring horses or the
25 horses going on to other careers on an annual basis here, in

1 California.

2 We're not talking about dealing with all 2,000 of
3 them because, as we know, many of them go on to productive
4 careers in the performance horse industry, or as pets, et
5 cetera. So we're really talking about the unwanted or
6 unsuitable for second career horses, which is a different
7 number.

8 What we do know about that is that there are
9 almost 300 of them at retirement facilities in the State of
10 California, and I would leave it to Priscilla, and others,
11 to tell you how many horses they have to turn away each
12 year. But we're taking right now about 300 -- roughly, 300
13 horses at the various facilities.

14 COMMISSIONER CHOPER: When you say they ran their
15 last race in California?

16 MR. COUTO: That's correct.

17 COMMISSIONER CHOPER: But that doesn't qualify
18 them for your plan, does it?

19 MR. COUTO: No, the plan --

20 COMMISSIONER CHOPER: So I guess -- I'm sorry, I
21 guess I don't understand the relationship between the plan
22 and these statistics.

23 MR. COUTO: These statistics were in response to
24 some questions raised by Mr. Harris, what is the scope, what
25 are we talking about in terms of the scope of the total

1 number of horses that cease racing in any given year, and go
2 out an become part of the retired population.

3 COMMISSIONER CHOPER: But you don't know how many
4 of the 300, even, would qualify under the plan to be
5 subsidized by this fund that you're establishing? Am I
6 right or wrong, maybe I'm wrong?

7 MR. COUTO: Yeah, what we're trying to do is not
8 necessarily identify each horse that qualifies, but we're
9 trying to identify facilities that will maintain retired
10 horses that qualify, based on the criteria we set.

11 And if you're looking at 300 right now, that are
12 out there, we think probably most of those and more would
13 qualify for having raced in California for a period of time
14 and qualify as a horse.

15 COMMISSION CHAIRMAN SHAPIRO: So is this, in fact,
16 just demonstrating that there is a plethora of horses and,
17 therefore, there is a need based on the numbers? Is that
18 really what -- I mean, since you're not identifying the
19 horses, I think what, if I understand these statistics, it's
20 saying we have a big need and this is our guesstimate of how
21 big a world of horses could be?

22 MR. COUTO: The question that had been posed, as
23 we understood it before, was what is the universes of horses
24 retiring in a given year in the State of California.

25 And so we tried, as we did, and I think we did it

1 very well, I think it's better than speculation, but a
2 pretty good estimate of the number of horses making their
3 last start, don't appear to race anywhere else in the U.S.
4 after the year in which their shown, and their last start
5 was here, we know there's roughly 2,000.

6 As we said, you know, right now there's no one
7 funding and tracking what happens to these horses. We're
8 talking about creating an entity that will, hopefully, give
9 us a better sense of that. So asking what the numbers are,
10 without anybody doing that, is a very difficult task. But
11 we know that at least 2,000 retire every year, and that
12 there are almost 300 being cared for in facilities in the
13 State of California.

14 COMMISSIONER ANDREINI: A portion of those could
15 be retired as brood mares, if I'm not mistaken.

16 MR. COUTO: That's our point, correct.

17 COMMISSIONER ANDREINI: Yes.

18 MR. COUTO: We know that the number needing care
19 is at least 300. And as I said, you can talk to the
20 facilities about the number of horses they turn away. So
21 the number is somewhere between 300 and 2,000.

22 COMMISSIONER ANDREINI: I see.

23 COMMISSIONER HARRIS: Yeah, I notice this report
24 was done July 19th, 2007. I wish we had gotten it earlier.

25 COMMISSION CHAIRMAN SHAPIRO: Yeah, why didn't we

1 get it?

2 COMMISSIONER HARRIS: Because this is something we
3 need to do. On the numbers themselves, though, it seems
4 like these numbers assume like a one year, but every year
5 there's another group of horses, so you really --

6 MR. COUTO: No, these numbers don't -- if you look
7 at the end of 2003, at the end of the first page, look at
8 the column on the bottom, you'll see that year roughly --
9 well, 2,069, to be precise, retired in the State of
10 California. In 2004, the number was 2,248. In 2005, the
11 number was 2,210.

12 COMMISSIONER HARRIS: No, I see that. But as far
13 as the cost numbers, once a horse retires it's not just a
14 one-year deal, it might be a 10- or 15-year deal.

15 MR. COUTO: Well, then you go to page 2 and what
16 you see is the estimate of the cost, the annual cost per
17 horse of almost \$5,700, right there, total average at the
18 top.

19 So, you know, in any given year we know we're
20 seeing 2,000 and those horses are going to be around --
21 again, there are brood mares, or what component of that we
22 don't know, but those horses are going to need care not just
23 in one year, but on an ongoing basis.

24 COMMISSION CHAIRMAN SHAPIRO: So all this tells me
25 is clearly there is a need. Isn't that the bottom line?

1 MR. COUTO: Yeah, I think it corroborates the
2 assertions we've been making about the need to do something
3 about it, and it gives you the first look about what the
4 scope of this issue is.

5 COMMISSION CHAIRMAN SHAPIRO: Okay.

6 MR. COUTO: It's not intended to be a definitive
7 answer, it's just giving you an idea of what the scope is.

8 COMMISSIONER AMERMAN: Well, it's very clear that
9 there is a need for retirement farms. And, certainly, they
10 are in place at the current time, and they're certainly
11 being funded in some way, whether it be golf events, or
12 people giving money to the farms, or whatever it may be.

13 I believe what you're trying to do is trying to
14 add on top of that.

15 The question in my mind is whether we really are -
16 - have a plan in place that will generate enough funds to
17 make a difference, as we look to the future.

18 And if I looked down to the bottom line, you've
19 got to have a participation rate, let's say, of 50 percent.
20 And, certainly, that seems like an aggressive number. I
21 have no clue, you maybe have done some research to find out
22 whether that's right or wrong. But it turns up \$200,000.
23 Which, against the budgets that you have here, wherever they
24 were, annual expenses, it's not very much.

25 Therefore, my question is --

1 COMMISSION CHAIRMAN SHAPIRO: It's ten percent.

2 COMMISSIONER HARRIS: It's even worse than that,
3 though, because that annual budget needs to be multiplied by
4 ten.

5 COMMISSION CHAIRMAN SHAPIRO: There's compounding.

6 COMMISSIONER HARRIS: Well, but you've got the --
7 well, just the retired horses in one year, they've got 2.8
8 million. But if you assume you've had retired horses every
9 year --

10 COMMISSION CHAIRMAN SHAPIRO: Right, it's
11 compounding, it's 2.8 for every --

12 COMMISSIONER HARRIS: Yeah, so maybe it's going to
13 be like 28 million a year.

14 COMMISSION CHAIRMAN SHAPIRO: I mean, it's a huge
15 issue and you're only showing revenue generation that is
16 from 232,000 to 465,000.

17 COMMISSIONER AMERMAN: Well, that's my point,
18 exactly. What I'd be interested in hearing from the TOC is
19 what your plans are to build this from what you have here,
20 which is a starting point, but it probably is inadequate to
21 make any kind of a material change in what's going on at the
22 present time. So what are we going to do different in the
23 future, that will make the amount of funds generated larger?

24 MS. AUERBACH: Good morning, I'm Madeline
25 Auerbach, TOC Director. And I have no found anything that I

1 can disagree with anybody about so far. You all recognize
2 that the need is massive, and I don't think there's any
3 dispute.

4 And the only reason we put together these numbers
5 was at the request of the Board to prove that we had a need,
6 and I think we've done that.

7 I think that we've had a lot of different
8 conversations, with a lot of different people, and I will
9 get to your issue. I want to address the concern of the
10 Paymasters, who were concerned about implementing this
11 program.

12 COMMISSION CHAIRMAN SHAPIRO: Wait a minute,
13 Madeline, that's a technical issue. Okay. Let's talk about
14 the more fundamental issue that I think Commissioner --

15 MS. AUERBACH: Okay.

16 COMMISSIONER HARRIS: Yeah, I don't think the
17 Board ever questioned the need, either, it's just how big is
18 it?

19 MS. AUERBACH: No, but you did.

20 COMMISSION CHAIRMAN SHAPIRO: No, we did.

21 MS. AUERBACH: With all due respect, you did ask
22 us for numbers.

23 COMMISSIONER AMERMAN: And you've done a good job.

24 COMMISSIONER HARRIS: Yeah, but it wasn't so much
25 the need, it was how -- what the total numbers really look

1 like.

2 COMMISSION CHAIRMAN SHAPIRO: But we're now
3 saying, okay, you did a good job, we recognize that.

4 MS. AUERBACH: Okay.

5 COMMISSION CHAIRMAN SHAPIRO: And I realize the
6 Paymasters have some technical concerns, we can deal with
7 that.

8 MS. AUERBACH: Okay, good.

9 COMMISSION CHAIRMAN SHAPIRO: But let's address
10 what Commissioner Amerman says, which is you show --

11 MS. AUERBACH: This is a small amount, what are we
12 going to do?

13 COMMISSION CHAIRMAN SHAPIRO: How are you going to
14 grow this, how are we going to deal with this? Do horses
15 move on to second careers, so it's not a full
16 compounding -- how are we going to take it from this small
17 infancy to something else, what's the plan.

18 MS. AUERBACH: Okay, we're addressing a lot of
19 issues. Right now, what we do is piecemeal in terms of what
20 happens to these horses.

21 Our focus on CARMA is multi-faceted. We are going
22 to be holding events, kickoff events, like we did at Del Mar
23 for Noah Garcia, Lavaman's Groom, to raise money. We are
24 going to be very aggressive and very active in raising money
25 for retired racehorses.

1 We are going to make everything that TOC produces,
2 in terms of education, about horse ownership, responsible
3 horse owners. What's involved in owning horses, that we are
4 to be responsible for them all the time while they are our
5 horses. We are going to educate people that horse ownership
6 is not just about winning races, that there is more
7 involved, that we have a responsibility to these animals.

8 We are going to go to every segment of our
9 community. We are going to go to the races, the racetracks,
10 and tell them we want them to cooperate in holding events
11 that will fund CARMA.

12 We are going to go to the Daily Racing Forum and
13 say, you make your money off these racehorses, we want your
14 active participation in raising funds.

15 We are going to go to the transportation industry,
16 the feed industry, we are going to go to every segment of
17 the racing community, jockeys, agents, and we are going to
18 put a lot of pressure on these folks to join us in this
19 endeavor.

20 We recognize that the endeavor is huge. We
21 recognize that this is a drop in the ocean. We also
22 recognize our responsibility.

23 If the owners don't take on this task, who will?
24 And this may not be satisfactory in terms of concrete, this,
25 that and the other, we're starting with the base and we're

1 looking to grow it. And we are not looking for the owners
2 to bear this responsibility.

3 As owners, ourselves, we know that the owners
4 can't. But we know that every segment of the industry needs
5 to participate.

6 COMMISSION CHAIRMAN SHAPIRO: You mean the owners,
7 alone.

8 MS. AUERBACH: Exactly. I'm sorry. Thank you.

9 COMMISSION CHAIRMAN SHAPIRO: The owners will, in
10 conjunction with others.

11 MS. AUERBACH: Right. But if we don't start this
12 Commissioner Harris -- Shapiro, then we have been really
13 derelict in our duties.

14 COMMISSION CHAIRMAN SHAPIRO: Okay.

15 COMMISSIONER HARRIS: Well, I think we do have to
16 keep in mind that a lot of owners are doing this now, owners
17 and breeders, it's just a question of where our governmental
18 program fits in. I mean, there are -- I mean, just every
19 owner and breeder I know has probably got some horses on
20 their farm that is in this category.

21 MS. AUERBACH: Commissioner Harris, I hate to
22 interrupt you, but you would be surprised. I mean, I did
23 some private surveys, and I will not name names. You would
24 be shocked at some of the farms in California who do not
25 have any of these charity cases. Okay. So I'm not here to

1 name names, I'm not here to point fingers. I know what I do
2 with my horses, I know what Marsha does with hers. And I'm
3 not here to point fingers at anybody, but I am here to get
4 us to attempt to take care of this problem. I don't think
5 we should shut our eyes to it.

6 COMMISSIONER HARRIS: No, but that was one of my
7 concerns, though, is that we do have to recognize that there
8 are a great many people who do do it. And my concern would
9 be that we have a governmental program that made it where
10 there's I don't want to pay twice. I'm doing it myself and
11 I'm also paying for this program.

12 MS. AUERBACH: Commissioner Harris, this isn't
13 mandated, this is --

14 COMMISSION CHAIRMAN SHAPIRO: But that's why you
15 have -- wait a minute, wait a minute. That's why it's an
16 opt-out program, so that you don't have to do it twice. And
17 I think what's also important to realize, that I appreciate
18 your view, you do have a farm. I know, and I've said this
19 before, I don't have a farm. And I did have a horse. She
20 was slow, okay. I didn't know what to do with her, and I
21 didn't want her going to where she was going to be
22 slaughtered, so what I ended up doing was I paid to put her
23 on your farm. And I'm hoping that she found a second
24 career, okay.

25 And I think that there are a large host of owners,

1 who are similar to me, that simply didn't know where to go,
2 where to turn, and I'm hoping that this program can provide
3 that education so that there will be other people that say,
4 you know, this horse gave me some enjoyment but, you know, I
5 hated the damn nag, but I'd rather see it go out and find a
6 better career. And so, you know, I appreciate that.

7 I would like to hear from Ms. Clark, if you would
8 tell us -- you certainly run a wonderful farm and I think
9 that you could probably tell us what the plight of
10 Tranquility is, as it's probably similar to other farms.

11 MS. CLARK: Thank you very much, Commissioner
12 Shapiro.

13 First of all, I'd like to address one issue
14 concerning ownership, and ownership loyalty, the type of
15 loyalty that a horse would engender in his owner or owners
16 that would motivate those people to, you know, find green
17 pastures, or pay for an expensive rehabilitation.

18 And I do agree that horses that have breeding
19 value, and some horses that have, you know, really given
20 tremendous performances and have a lot of respect in the
21 industry generate that type of owner loyalty.

22 However, when we look at the race card every day,
23 we do not find it full of horses that inspire such emotions
24 in their owners. We find maidens, we find claimers. You
25 know, nine out of ten races on the card are filled with

1 horses that probably do not generate that type of devotion
2 in their owner, to where they would be willing to make the
3 type of investment in their future beyond their utility as a
4 racehorse.

5 So this is really, the CARMA program is designed
6 to serve the working class horse, the bread and butter
7 horse, the ones who really pull the weight in the industry
8 and get the people to go to the windows race, after race,
9 after race. It's not necessarily to serve the super stars
10 and the breeding stock.

11 As our farm has been funded, we've been there for
12 ten years. We've cared for a constant population of a
13 hundred horses. We have a turnover rate of between 40 and
14 50 percent a year, that's pretty high. When our horses come
15 out of rehab, we are fortunate that we've got a good
16 reputation in this State, and we often, readily, find them a
17 home.

18 It's been funded almost entirely, or entirely, on
19 private philanthropy and our own efforts as fundraisers. So
20 could we do more, could we serve the industry better, could
21 we be more capable? Absolutely.

22 We have created a facility that has the ability
23 and the infrastructure to really address a much greater
24 share of the problem than we have been able to address by
25 our funding constraints. So that's something for you to

1 consider.

2 We may not be at, you know, optimum generation of
3 funds, but if it allows us to say, you know, raise the
4 amount of horses that we're taking in by 20, 30 percent,
5 it's going to very positively impact the problem.

6 COMMISSION CHAIRMAN SHAPIRO: All right, thank
7 you.

8 COMMISSIONER AMERMAN: I was very impressed with
9 what was said about what you're going to do in the future.
10 My concern, and maybe I've expressed it in the past, but my
11 concern is that this might evolve into a program like the
12 one that was started in New York. And I've talked to people
13 at the NYRA about how their program went there, and I was
14 told that in the first year it generated \$36,000. And
15 divided up a number of thoroughbred farms, and that doesn't
16 go very far.

17 What I'm seeking, and I'm all for what you're
18 talking about, but I want you to reach high to find the
19 answer that will truly make some funds that will make a
20 difference in California thoroughbred farms.

21 And it would seem to me that what was said by
22 Madeline, I think, is what a marketing plan could be as to
23 where you're going. Because right now all I see is some
24 numbers. Thank you very much for doing them, they're very
25 good. But I think you can raise an awful lot of questions

1 of whether these are real numbers, 50 percent participation,
2 they laughed at me in New York. When I asked what kind of
3 participation, they just said everybody just got out of the
4 thing, everybody just says, no, I don't want to do it.

5 MR. COUTO: Well, actually, New York, I thought,
6 was an opt-in --

7 COMMISSIONER AMERMAN: No, I know it was. I
8 understand.

9 MR. COUTO: -- not an opt-out program.

10 COMMISSIONER AMERMAN: But it's going to be --
11 ours is going to be low, too, let's face it.

12 MR. COUTO: We don't share that sense of pessimism
13 in the sense that when we had our annual meetings --

14 COMMISSIONER AMERMAN: You never seen a pessimism
15 by me, that's for sure.

16 MR. COUTO: No, that's true. When we had our
17 annual meeting and we petitioned those who attended the
18 annual meeting, we had over 90 percent of the attendees sign
19 the petition in favor of it. And that's why you have 140
20 some signatures there.

21 We feel fairly good, and I'll let Marsha address
22 this, but we feel fairly good that there's going to be a
23 high number of people, based on the feedback we've had, with
24 few exceptions, who will support the program and not look to
25 opt out. And that is the big difference between the

1 Ferdinand program, in New York --

2 COMMISSIONER AMERMAN: Right.

3 MR. COUTO: -- which received a ton of publicity
4 and raised less than \$36,000, and a program like this, where
5 we know what the sentiments of most owners are.

6 At 0.3 of one percent, it's basically an invisible
7 number to them, and it will be a charitable deduction based
8 on the entity created, and it's a good thing, it's a good
9 cause. It's not something that people are likely to opt out
10 of, despite what some may say.

11 COMMISSIONER AMERMAN: Well, my feeling is that we
12 should give them a chance. It's the right thing to do, and
13 we put the burden on CARMA, and if you can do it, God bless
14 you, and we'll be better off for it. And it strikes me that
15 this is a thing that makes sense for the thoroughbred
16 industry in California.

17 COMMISSION CHAIRMAN SHAPIRO: I totally agree with
18 that. I think that we've got nothing to lose here, and a
19 lot to gain, and a lot to grow from, and we really owe it to
20 the horse, as we're all sitting here.

21 And so I'd be in favor of it. I'd like to
22 entertain a motion to approve it and --

23 COMMISSIONER HARRIS: But it seems to me, though,
24 that I mean, conceptually, I don't have a big -- I like the
25 idea, but both the opt-in issue, and should it be more than

1 just 0.3 percent needs to be changed, I think. Plus, should
2 it also include jockeys and trainers?

3 COMMISSION CHAIRMAN SHAPIRO: Well, I'd like to
4 see that we start here and we grow from here.

5 COMMISSIONER AMERMAN: Yes.

6 COMMISSION CHAIRMAN SHAPIRO: I mean, you know, if
7 you said to me it was 0.6, I'd be in favor of it. But I
8 don't win any money, ever, so that's easy, I guess, to do.

9 But, no, seriously, I'm in favor of it and I think
10 it should include the jockeys and the trainers, and
11 everywhere.

12 COMMISSIONER HARRIS: Well, why don't we get it
13 fixed to where it's what we want to do?

14 COMMISSION CHAIRMAN SHAPIRO: Because I'm afraid
15 we'll never get started. I mean, my concern is that if we
16 don't get it started, we're never going to get off the
17 ground. And I think we're heading into a new year. Let's
18 start the new year with this, let's try it, let's grow it,
19 and let's go for it. There's nothing, there's no down side
20 to this, in my view.

21 COMMISSIONER CHOPER: But what we have is a
22 proposal here from the owners, to tax the owners.

23 COMMISSION CHAIRMAN SHAPIRO: Correct.

24 COMMISSIONER CHOPER: And I take it we could get a
25 similar proposal from the jockeys.

1 MS. NAIFY: Certainly.

2 COMMISSIONER CHOPER: And the trainers
3 association. I mean, that's what you're hoping it will do,
4 I understand.

5 MS. NAIFY: Yeah, we plan to work with the
6 jockeys, we plan to work with the CTT.

7 COMMISSION CHAIRMAN SHAPIRO: I know that Ed
8 Halpern's here and he's dying to get behind this.

9 COMMISSIONER CHOPER: So at least that's the logic
10 of the limited start.

11 MS. NAIFY: We plan to work with every segment of
12 the industry, trainers, jockeys, sales companies, ADW
13 companies.

14 COMMISSIONER CHOPER: Tracks.

15 MS. NAIFY: So the tracks. We're creating a
16 501(c)(3), specifically for CARMA, so we can go after money
17 from the Charity Racing Days. I notice you have an agenda
18 item here on money for that. So we have a good plan.

19 COMMISSION CHAIRMAN SHAPIRO: And I have a hunch
20 you ladies will get it done.

21 COMMISSIONER MOSS: Can I make a motion?

22 COMMISSION CHAIRMAN SHAPIRO: Yes, sir.

23 COMMISSIONER MOSS: That we accept this plan with
24 the opt-out provision and go forward from there.

25 COMMISSIONER AMERMAN: I second that.

1 COMMISSION CHAIRMAN SHAPIRO: Okay, before I call
2 the question, I will ask for the -- there's a comment card
3 from Mr. Jamgotchian.

4 Mr Jamgotchian, you have three minutes.

5 MR. JAMGOTCHIAN: Yes, thank you, Mr. Shapiro.
6 Obviously, everybody's in favor of some kind of a retirement
7 program for racehorses. I understand Mr. Harris's concerns,
8 because I do, too. I maintain my horses after they're
9 injured and I try to find a home for them.

10 But, you know, the issue here and the biggest
11 problem that I see is if you're going to have a successful
12 program, it can't be an opt-out program. It's going to have
13 to be something that everybody adopts.

14 I think the easiest thing to do, as I think in
15 Arizona they do it, I participate in that program in
16 Arizona, if you race a horse, it's X dollars a start. If
17 you're a jockey, it's X dollars a start. If you're an ADW
18 company, based upon the number of races. If you're a
19 licensee or a racetrack, it's the number of races.

20 This Board's got to take the leadership to make it
21 a program that nobody can opt out. If you -- just doing the
22 numbers, it looks like you need about a million two a year,
23 which isn't a lot of money to take care of 2,000
24 thoroughbreds. You're not going to have 2,000, it's going
25 to be less than that. So you're only talking about maybe

1 half, so that's going to be \$600,000.

2 A rough calculation is a dollar a start, that's
3 about \$100,000 a year. But the owners, I'm sure, would be
4 happy to pay a dollar.

5 If you allow people, like Mr. Harris, and other
6 people to opt out of the program, then this program is not
7 going to work.

8 So, you know, I share a lot of pessimism with
9 regards to this. There's millions of dollars that the CHRB
10 spends on testing, with Dr. Arthur. Well, I think that
11 there ought to be some considerations given there.

12 It's not a lot of money. If it's an opt-out
13 program, it won't work. Thank you.

14 COMMISSION CHAIRMAN SHAPIRO: Thank you.

15 Okay, there's a motion on the table. If there are
16 no other comments, I'll call for the question.

17 All those in favor?

18 (Ayes.)

19 COMMISSION CHAIRMAN SHAPIRO: Opposed?

20 (Nays.)

21 COMMISSION CHAIRMAN SHAPIRO: Two? Are you nay?
22 Okay, let me make sure I have it right. There are four of
23 us in favor, there are two of us against. Commissioners
24 Andreini and Harris voted against.

25 Okay, the motion passes, thank you very much.

1 MS. NAIFY: Thank you.

2 COMMISSION CHAIRMAN SHAPIRO: Okay. Item Number
3 5, report and update on the proposed amendment to CHRB Rule
4 1632, Jockey's Riding Fee, to revise jockey riding fee
5 structure to comply with AB649, Statutes of 2007.

6 As you'll recall, this is brought over from our
7 last Board meeting. Because we needed to enact this
8 quickly, it's my understand that the proper procedure, we
9 thought, was to do it on an emergency basis. It is not to
10 do it on an emergency basis. There is something called a
11 Fund 100, whatever it is.

12 STAFF SERVICES MANAGER WAGNER: Section 100.

13 COMMISSION CHAIRMAN SHAPIRO: Thank you. Section
14 100 filing, which would enable us to adopt the new riding
15 scale of fees, which were adopted by the Legislature, and
16 this would allow us to do this in the most timely manner.
17 Is that correct, Jackie?

18 STAFF SERVICES MANAGER WAGNER: That is correct.

19 COMMISSION CHAIRMAN SHAPIRO: All right.

20 STAFF SERVICES MANAGER WAGNER: And I'm pleased to
21 report that that Section 100 has been filed with the Office
22 of Administrative Law. It was filed on December 5th.
23 Everything goes according to plan, and then we have no
24 problems, it should be effective on January the 20th.

25 COMMISSION CHAIRMAN SHAPIRO: Terrific. So what

1 this is doing is it brings the Board's rules into
2 conformance with newly enacted law or statute and,
3 therefore, I would recommend that we approve this item.

4 COMMISSIONER HARRIS: It seems like that the
5 Legislature would trump the Board, anyway. I mean, if it's
6 a law that's supposed to go into effect on January 1, that's
7 the law. We can't say, no, we've got to do it on January
8 20th, instead, can we?

9 COMMISSION CHAIRMAN SHAPIRO: No, but we had to
10 modify our rules to be in conformance with the law, is my
11 understanding of the bureaucracy.

12 COMMISSIONER HARRIS: Yeah. But the law, I mean,
13 if a law is passed, it's sort of moot what we did.

14 COMMISSION CHAIRMAN SHAPIRO: Right. But we're
15 just making things right, okay.

16 COMMISSIONER HARRIS: Well, let's --

17 COMMISSION CHAIRMAN SHAPIRO: We're following the
18 rules.

19 DEPUTY ATTORNEY GENERAL KNIGHT: Well, actually,
20 the statute requires you to amend your rule, that's what the
21 statute actually says.

22 COMMISSIONER HARRIS: But the statute says that
23 you've got --

24 DEPUTY ATTORNEY GENERAL KNIGHT: That's true.
25 That's true.

1 COMMISSIONER HARRIS: I mean, it's part of the
2 date that you had to -- you didn't really have the
3 flexibility.

4 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, it wasn't
5 thought through very well at the legislative level, because
6 it created this problem for you.

7 COMMISSION CHAIRMAN SHAPIRO: That isn't the first
8 time that ever happened. I didn't say that.

9 Okay, so is there a motion to accept this to
10 approve?

11 COMMISSIONER AMERMAN: So moved.

12 COMMISSION CHAIRMAN SHAPIRO: So moved. Second?

13 COMMISSIONER MOSS: Second.

14 COMMISSION CHAIRMAN SHAPIRO: All in favor?

15 (Ayes.)

16 COMMISSION CHAIRMAN SHAPIRO: All right, it's
17 passed.

18 Okay, Item Number 6, discussion and action by the
19 Board regarding the request for approval from Southern
20 California Off-Track Wagering, Inc. to increase the current
21 1.06 percent off-site stable an vanning fund takeout up to
22 the maximum of 1.25 percent pursuant to Business and
23 Professions Code Section 19607.1(f).

24 I see that our soon-to-be-former, friendly, CHRB
25 auditor, who's getting a promotion at a different agency, I

1 guess, and abandoning us so quickly, Roberto, is sitting
2 there.

3 COMMISSIONER AMERMAN: Just because he's got a
4 nice smile, I guess.

5 COMMISSION CHAIRMAN SHAPIRO: I know. I mean, he
6 left us for more money, I don't get it.

7 COMMISSIONER HARRIS: Yeah, he won the lottery.

8 COMMISSIONER AMERMAN: That's what the U.S.
9 economy's all about, you know.

10 COMMISSION CHAIRMAN SHAPIRO: We didn't even get a
11 chance to really like, you know -- go ahead, Roberto.

12 MR. ZAVALA: Roberto Zavala, CHRB.

13 Before you, you have a proposal or a request to
14 increase the current rate of stabling and vanning from 1.06
15 to 1.25. There is an attachment that outlines revenue and
16 expenses from SCOTWINC, that's the Southern California Off-
17 Track Wagering, Incorporated. We have verified these
18 numbers against financial statements that were submitted by
19 SCOTWINC and, again --

20 COMMISSIONER HARRIS: These are like revenue and
21 expenses. But did we also get a balance sheet to show what
22 their actual financial situation is? Because I understood
23 they have some reserves.

24 MR. ZAVALA: Without getting into the specific
25 numbers, we did verify that those numbers were coming out of

1 their financial statements, their balance sheets. We didn't
2 do an in-depth analysis, but I believe that SCOTWINC
3 representatives can speak to that specific question,
4 Commissioner Harris.

5 As far as what it's proposing is that the current
6 1.06 is going to result in a deficit in the coming year. So
7 we'd like you to hear from the representatives and they can
8 answer any further questions on these numbers for you.

9 MR. COUTO: Again, Drew Couto, Thoroughbred Owners
10 of California.

11 I think what we had actually requested the CHRB to
12 do was to approve an increase to 1.25 subject to the
13 unanimous consent of the SCOTWINC Board. At 1.06, we
14 project a loss of over 1.3 million -- not a loss, but we'll
15 have a deficit of over 1.3 million next year in terms of the
16 stabling and vanning monies.

17 We have a surplus currently. After we pay prior
18 obligations, we'll have a surplus of about 700,000. But
19 again, at the end of next year, we'll have a deficit of
20 almost 1.4.

21 Currently, there's some debate about whether we'll
22 cover everything with the money we get back from AIG in
23 terms of refund. I think if we get the full refund back, we
24 will be able to do that. And I suspect we will get the
25 refund, hopefully all of it back.

1 But again, what we were looking for was some
2 flexibility from the Board that allowed the SCOTWINC Board,
3 if unanimous, to go ahead and adjust the percentage.

4 COMMISSION CHAIRMAN SHAPIRO: Well, it kind of
5 dawns on me. First of all, I don't understand the numbers
6 that are in our package, which you didn't generate, so
7 I -- I don't think you did. I appreciate that.

8 I mean, it basically doesn't make a lot of sense
9 to me that the numbers add up to the same expenses and yet -
10 - the numbers don't make sense.

11 But right now, there's an awful lot of uncertainty
12 as to whether, in fact, you need to raise it from 1.06 to
13 1.25.

14 MR. COUTO: Correct.

15 COMMISSION CHAIRMAN SHAPIRO: Okay, and you don't
16 know --

17 MR. COUTO: It depends on the refund.

18 COMMISSION CHAIRMAN SHAPIRO: And isn't that
19 refund supposed to be coming back in the very near future?

20 MR. COUTO: Hopefully, by March all of it should
21 come back, March or later.

22 COMMISSIONER HARRIS: Just to refresh everyone,
23 the refund was because SCOTWINC funded some insurance costs,
24 some worker's compensation insurance costs that really
25 weren't --

1 MR. COUTO: A number of sources funded that. What
2 happens is under the industry-run program, to the extent
3 that premiums exceed administrative and claims costs, there
4 is a refund back to the industry who fronts the premium
5 money. So we're waiting for the refund on prior years, on
6 basically where all the claims have closed and we know that
7 the premium exceeded the cost. So we project that at some
8 place around \$5 million we're hoping is what comes back to
9 us.

10 To walk through the numbers, right now we're
11 sitting on a \$1.8 million refund from AIG, for a prior year.

12 COMMISSIONER HARRIS: Which is the we, the
13 SCOTWINC or --

14 MR. COUTO: The industry, basically, the CTBL and
15 the industry, it's coming back. And it's probably held by
16 SCOTWINC, since they hold all the funds.

17 COMMISSION CHAIRMAN SHAPIRO: Well, how much of
18 the 1.8's going to go to this fund.

19 MR. COUTO: Well, let me go through this. There's
20 1.8 held, of which we have obligations that will reduce --
21 we have about a million one in obligations from prior years
22 that we have to pay off to Pomona, to Santa Anita, and some
23 carryover.

24 At the end of the day we're going to have a
25 balance, at the end of the year, of roughly 754,000. If you

1 go then look at 2008, what we project the expenses to be
2 against the 1.06 percent, we're going to end up with a
3 deficit of 1.3 plus million dollars, of which we should get
4 back the refund, and then that refund is obligated.

5 And at the end of the day, if all goes according
6 to plan, we might end up, after paying all of the prior
7 obligations, even with the \$5 million refund, if things go
8 right, we'll have a 1.2 -- I'm sorry, \$5 million refund.
9 What did I say?

10 COMMISSION CHAIRMAN SHAPIRO: You said \$5 million
11 refund.

12 MR. COUTO: Yeah.

13 COMMISSION CHAIRMAN SHAPIRO: You're not getting
14 the \$5 million refund. You said 1.8.

15 MR. COUTO: No.

16 MR. VARELA: I'm Tom Varela, of SCOTWINC. We get
17 a percentage of that refund, so \$5 million will come back to
18 the industry. SCOTWINC Stabling and Vanning will get
19 approximately 2.4 million, and the rest will go to NOTWINC,
20 CNC, and also purses will get reimbursed.

21 COMMISSION CHAIRMAN SHAPIRO: Okay. You know
22 what, it's all kind of confusing.

23 MR. COUTO: Yes, it is.

24 COMMISSION CHAIRMAN SHAPIRO: And I think that,
25 personally, I'd rather see it all laid out so we can kind of

1 follow the money trail a little bit better here, and know
2 what we're doing, and have it done on a timely basis.

3 I don't think we want to not provide the funds,
4 but on the other hand, I mean, I'm kind of curious to know
5 how these numbers even come about. I don't know anything
6 about how these stabling expenses are determined, or how
7 it's divvied up, or any of it works.

8 COMMISSIONER HARRIS: Well, it's really their
9 money, though, and it's --

10 COMMISSION CHAIRMAN SHAPIRO: Then why are we even
11 being asked?

12 COMMISSIONER HARRIS: Well, because we have to
13 officially approve it. But I mean, I think what the key is
14 that if all of them agree, which we we're talking if it's
15 true, if that's in evidence or not.

16 MR. COUTO: And we're not sure everyone agrees at
17 this point. I know that Mr. Liebau has concerns about
18 whether we'll cover or not cover. And, again, what we were
19 trying to do was create some ability to maneuver at the
20 SCOTWINC level to cover these, if need be, provided all of
21 the parties agreed. It would take everybody to agree.

22 COMMISSIONER HARRIS: Because one aspect that I'm
23 not clear on, is SCOTWINC -- is the theory that you will be
24 involved in the insurance aspect of this? Because I thought
25 the insurance thing was just a very kind of a stop-gap thing

1 to put up, or is that going to be an ongoing issue, or is
2 that going to evolve out?

3 MR. COUTO: Well, our view is eventually, after
4 paying off some of the letters of credit, and all the prior,
5 we're going to have a sufficient surplus that it doesn't
6 require participation of the various entities. And we're
7 getting closer to that, we're not there, yet.

8 COMMISSION CHAIRMAN SHAPIRO: Well, would it be
9 harmful to ask you, if we didn't take any action today, so
10 that we could get a better understanding of what -- where
11 the money is going, who needs to be paid off, and what the
12 possible ramifications would be after the refund so that we
13 can see? I just hate to say take it to the max and good
14 luck. I mean, the Legislature allocated this money and that
15 we --

16 COMMISSIONER HARRIS: Well, it's not really the
17 Legislature that allocated it.

18 COMMISSION CHAIRMAN SHAPIRO: I thought it was.

19 COMMISSIONER HARRIS: No. It has nothing to do
20 with the Legislature. It was a law that went in, it's sort
21 of a tax out of the --

22 COMMISSION CHAIRMAN SHAPIRO: Yeah, the
23 Legislature did that.

24 COMMISSIONER HARRIS: Well, but it really -- if it
25 didn't go to this, it would go to purses and the Commission.

1 That's the reason it -- if this, say, was nothing, there
2 would be half of it would go to purses and half would go to
3 the Commission.

4 MR. COUTO: Well, again, the reason we were asking
5 for the flexibility was that if you decide in March, say,
6 that you need to adjust the percentage, for whatever reason,
7 then those meets that occurred prior to the time at which
8 you adjust the percentage will have operated at a different
9 level than those occurring afterwards.

10 COMMISSION CHAIRMAN SHAPIRO: Can't it be done
11 retroactively, back to the first of the year?

12 MR. COUTO: Well, then you have to assess the
13 purse account and the Commission account retroactively, and
14 the purses have already been paid.

15 COMMISSION CHAIRMAN SHAPIRO: It's more
16 complicated.

17 MR. COUTO: It's more complicated. You know, I'd
18 love to say that we could wait until March to make the
19 decision --

20 COMMISSION CHAIRMAN SHAPIRO: No, I'm just
21 thinking January, until you can come back and maybe lay it
22 out to where -- I just don't understand it. Maybe others
23 do.

24 MR. COUTO: Sure.

25 COMMISSIONER MOSS: I think you need a blackboard,

1 you know, to do this whole thing, to tell you the truth.
2 It's a little bit more difficult to define this as it
3 stands, and to vote on it, certainly.

4 COMMISSIONER CHOPER: Is there any reason to
5 believe that this will end the problem?

6 COMMISSION CHAIRMAN SHAPIRO: I don't think
7 there's a problem.

8 MR. COUTO: All we're saying is we're --

9 COMMISSIONER CHOPER: It seems to me you're saying
10 you get diminishing income because of the diminished amount
11 being done at the off-track facilities.

12 MR. COUTO: Correct.

13 COMMISSIONER CHOPER: Which, in turn, is due to
14 the competition, in significant part, of the deposit
15 wagering. All right. So is this just a stop-gap measure
16 or -- Mr. Liebau's got all the answers there, so I'm going
17 to wait.

18 MR. LIEBAU: I don't have all the -- Jack Liebau,
19 from Hollywood Park. I don't have all the answers, but I
20 think if you would ask Mr. Varela just one question, I think
21 that if the refunds come through as expected that at the end
22 of the year there's a \$1.8 million surplus.

23 I would also note, I appreciate that Mr. Couto,
24 you know, doesn't want Santa Anita to have an advantage over
25 me, because at Hollywood Park, because I might be operating

1 at a higher number. I don't think that that will happen.

2 And I think if you ask the Attorney General, it's
3 the California Horse Racing Board that is given the
4 authority to set this percentage, and I don't think you can
5 delegate it to SCOTWINC, and I think that's sort of the end
6 of the discussion on that.

7 So I don't think that there's a great deal of harm
8 by postponing it until you have the right numbers.

9 I would note that the staff report, in your book,
10 does say that the 1.25 percent is to be effective as of
11 December 31st, so I think there's a problem there. The
12 numbers in your staff report clearly do not take into
13 consideration the refund, and even some money that has
14 already been received.

15 So I would suggest that this either be put over to
16 the January meeting, or that no action be taken. Thank you.

17 COMMISSIONER HARRIS: Yeah, I wasn't suggesting
18 that we delegate it to SCOTWINC, per se, I was -- the issue
19 would be if SCOTWINC had unanimous approval of what we're
20 doing here or not.

21 MR. LIEBAU: Well, then I think that SCOTWINC
22 would be setting the percentage.

23 COMMISSIONER HARRIS: Well, but --

24 MR. LIEBAU: I mean, there's a big variance
25 between 1.06 and 1.25, and every time you raise that

1 percentage, you are lowering commissions and purses.

2 COMMISSIONER HARRIS: No, obviously, we don't want
3 to take a bigger percentage than they really need to, I'm
4 just not clear what we need to.

5 MR. LIEBAU: Well, I think if you ask Mr. Varela,
6 or Mr. Varela can respond is that if we get the refund,
7 which everybody anticipates that we are going to get, that
8 there is a \$1.8 million surplus as of December 31, 2008; is
9 that correct?

10 MR. VARELA: That's true.

11 MR. LIEBAU: That's correct.

12 COMMISSIONER CHOPER: So how long do you estimate
13 that's going to last?

14 MR. LIEBAU: Well, it could last through, at
15 least, through 2009, I would suspect.

16 COMMISSIONER CHOPER: I'm sorry, I think that's
17 important to know, because no sense going through all this
18 and coming back, and putting it off, and six months later
19 we're back where we're started.

20 MR. LIEBAU: Well, there's no use lowering purses
21 and commissions in 2008 that should be a pay as you go.

22 COMMISSION CHAIRMAN SHAPIRO: Yeah, I would
23 recommend that we defer this item to next month's meeting,
24 to where perhaps we can get a full understanding of exactly
25 what monies are going where, whether they're -- if there's a

1 surplus, what happens. I mean, a refund. If there's not a
2 refund, what happens. And so that maybe we can understand
3 this a little bit better. Is that acceptable to everybody?

4 COMMISSIONER AMERMAN: Sounds like good business
5 to me.

6 COMMISSION CHAIRMAN SHAPIRO: If that's all right
7 with you, we're going to defer this. Thank you.

8 MR. COUTO: Okay.

9 COMMISSION CHAIRMAN SHAPIRO: Item Number 7. Mr.
10 Couto, don't go away.

11 Discussion and action by the Board to approve the
12 Thoroughbred Owners of California and the Jockey Guild
13 agreement that would establish the California Jockeys Trust
14 to provide health, safety, and welfare benefits to
15 California licensed jockeys, former California licensed
16 jockeys and their dependents.

17 Again, this is an item that you will recall we
18 brought forth at the last Board meeting. There is an
19 insurance -- there's insurance with Great West that will
20 provide health and welfare insurance plans to our California
21 riders. The criteria for the riders are that they must ride
22 at least 100 races in California to qualify, during the
23 calendar year.

24 As the Board will recall, I think it was
25 Commissioner Amerman that wanted to see, and perhaps

1 Commissioner Choper, wanted to see that agreement. I think
2 there's some -- there's been an agreement that was included
3 with our package, although I believe that the agreement, the
4 actual form may be a little bit different. I think the
5 substance is somewhat the same. And I would look to Bon
6 Smith, who's worked very hard on this, and Drew Couto, to
7 bring us up to date on where this is.

8 I think it's imperative that we realize we need to
9 get this in place so there is not a lapse of coverage for
10 our California riders. And so please keep that in mind.

11 Bon?

12 ASSISTANT EXECUTIVE DIRECTOR SMITH: Sure.
13 Commissioners, Bon Smith, the CHRB staff.

14 Just as an update, the CHRB has funded the
15 existing jockey health insurance through December. We
16 understand there will be some tail claims that will attach
17 to the old insurance process, and we're certainly in a
18 position to fund those.

19 We also understand that the new insurance, through
20 Great West, will require an up-front payment, and we're
21 anticipating receiving an invoice for that. That once we
22 have a approved agreement and a corporate document approved,
23 that we'll be able to provide funding for it.

24 COMMISSION CHAIRMAN SHAPIRO: And that up-front
25 payment, I think, is \$35,000, roughly, that we have to make.

1 ASSISTANT EXECUTIVE DIRECTOR SMITH: Right. I
2 understand, and Drew can certainly lend more light to that
3 there's been --

4 COMMISSION CHAIRMAN SHAPIRO: It needs to be made
5 by the 15th, is it?

6 MR. COUTO: My understanding, from the Guild, is
7 by the 15th.

8 COMMISSION CHAIRMAN SHAPIRO: Okay. And so that's
9 in the works, okay.

10 COMMISSIONER AMERMAN: The 15th of?

11 ASSISTANT EXECUTIVE DIRECTOR SMITH: This month.

12 MR. COUTO: December.

13 COMMISSION CHAIRMAN SHAPIRO: We need to do it by
14 tomorrow.

15 MR. COUTO: Basically, by Monday.

16 COMMISSIONER AMERMAN: Okay.

17 COMMISSION CHAIRMAN SHAPIRO: Right. And so that
18 we do not have a lapse of coverage.

19 ASSISTANT EXECUTIVE DIRECTOR SMITH: I believe
20 there's been sign-up days for the jockeys in both Northern
21 and Southern California, already.

22 COMMISSION CHAIRMAN SHAPIRO: Correct.

23 ASSISTANT EXECUTIVE DIRECTOR SMITH: Whether or
24 not that is continuing, I'm not certain. But, again, Drew
25 would shine more light on that.

1 And the agreement reached speaks to the formation
2 of a nonprofit corporation as the primary difference between
3 what you've seen and heard before, rather than a trust.
4 And, again, I would defer to Drew and the negotiation
5 between the Jockey's Guild and --

6 COMMISSION CHAIRMAN SHAPIRO: Drew, why don't you
7 give us just a little bit of a summary. I know that Barry
8 Broad, he and I e-mailed at 4:00 in the morning, this
9 morning. He told me that he had given you his proxy, and I
10 said there's a first. Go ahead.

11 MR. COUTO: Good, then we're going to talk about
12 labor issues, first.

13 No. Drew Couto, Thoroughbred Owners of
14 California.

15 The difference between the document that you have
16 in your materials and the document that has been finalized
17 between the Guild and TOC is that any reference to a trust
18 has been changed to a reference to the corporation. That
19 was a decision that the Guild made last week, after trying
20 to get the trust up and started, found it a bit complex and
21 they opted to go with what was, I think, the initial
22 recommendation, the formation of a 501(c)(6).

23 In the same fashion we have the CTBL set up, the
24 California Thoroughbred Business League, which oversees the
25 funding for the worker's comp. We set up basically a

1 parallel entity, called the California Jockey's Welfare
2 Corporation, and that will be the entity to which the funds
3 flow, initially, and that entity will make distributions to
4 the appropriate insurers in exactly the same fashion we do
5 on the worker's comp side.

6 The entity will be managed by a board of
7 directors, who will consist of two representatives from the
8 Guild, two representatives from TOC, and a representative
9 appointed by the Horse Racing Board, as oversight.

10 And we will, of course, as the documents and the
11 statutes require, provide both a semi-annual and an annual
12 audit to the Horse Racing Board of how the monies are used.

13 Both TOC and the Guild are in complete agreement
14 with this. We think it protects California riders in terms
15 of setting up a more stringent standard on who can qualify
16 for the program, as well as recognize those riders that
17 have, for ten years, ridden in California, at least a
18 hundred mounts a year. They're in the program, even if they
19 ride slightly less than a hundred this year.

20 So it's a good mechanism, it's proven in terms of
21 the worker's comp. And we ask the Board to consider
22 approving this agreement, which both parties agree to.

23 COMMISSION CHAIRMAN SHAPIRO: Again, I said at the
24 last meeting, I think the entire industry owes, really, a
25 debt of gratitude to TOC, to Bon, to the Guild. I mean,

1 everybody has worked so hard on this, and including Ron
2 Warren, who really found this insurance company.

3 So this is really, you know, a great achievement
4 and I'm very appreciative of it.

5 COMMISSIONER HARRIS: This is a good benefit to
6 California jockeys, which nationally, jockeys don't really
7 enjoy. And this in addition to our worker's comp program
8 here for injuries. We've got to keep in mind that
9 California is unique in having a worker's comp program for
10 jockeys. So it basically does show that California is the
11 best place for a jockey to ride.

12 COMMISSION CHAIRMAN SHAPIRO: I would move that we
13 adopt this plan. Is there a second?

14 COMMISSIONER AMERMAN: Second.

15 COMMISSION CHAIRMAN SHAPIRO: All in favor?

16 (Ayes.)

17 COMMISSION CHAIRMAN SHAPIRO: Congratulations.

18 Thank you, great work.

19 MR. COUTO: Thank you, Board.

20 COMMISSION CHAIRMAN SHAPIRO: I hope you get lots
21 of thank you letters from every jockey.

22 ASSISTANT EXECUTIVE DIRECTOR SMITH: Chairman
23 Shapiro, if I could add just a postscript comment, the
24 funding that we provide comes from uncashed refunds. That's
25 a fund that is paid to the CHRB by associations each year,

1 after a May 15th cutoff, when all uncashed refund tickets
2 must be submitted for payment. Subsequent to that, the
3 amount escheats to the State.

4 As of December 13, we still had amounts due from
5 Del Mar, Los Angeles Turf Club, Oak Tree, Pacific Racing,
6 Los Alamitos, and Sac Harness.

7 COMMISSION CHAIRMAN SHAPIRO: Well, let's charge
8 them -- wait a minute, Sac Harness?

9 ASSISTANT EXECUTIVE DIRECTOR SMITH: Yes.

10 COMMISSION CHAIRMAN SHAPIRO: They contribute to
11 it? That doesn't make much sense, does it?

12 ASSISTANT EXECUTIVE DIRECTOR SMITH: Excuse me,
13 they had uncashed refunds, but they are not part of this
14 contribution.

15 COMMISSION CHAIRMAN SHAPIRO: Okay. Well, let's
16 send them a pay-now notice. Okay, thank you.

17 Item Number 9 is off the agenda.

18 Item Number -- we covered Item Number 8.

19 Item Number 10. Distribution of race day charity
20 proceeds of the Pacific Racing Association in the amount of
21 \$142,000 some odd dollars to 12 beneficiaries.

22 There's Roberto.

23 MR. ZAVALA: Roberto Zavala, CHRB staff.

24 Before you is a request for a charity distribution
25 from the Pacific Racing Association, doing business as

1 Golden Gate Fields. They are requesting the net proceeds of
2 \$142,173 to be distributed.

3 Staff notes that 90 percent of the proceeds will
4 be given to horse racing related organizations.

5 And staff recommends approval on this.

6 COMMISSIONER HARRIS: I move we approve.

7 COMMISSIONER AMERMAN: Second.

8 COMMISSION CHAIRMAN SHAPIRO: You guys didn't get
9 a chance to say a damn thing, huh. Okay, but how about next
10 year giving some money to CARMA, okay?

11 MR. DIMARCO: I've been thinking that, as we sat
12 there listening to that dialogue.

13 COMMISSION CHAIRMAN SHAPIRO: Very good. And I
14 guess Madeline and Marsha are gone, they didn't hear that.
15 Oh, okay, there you are. Okay.

16 Okay, all in favor?

17 (Ayes.)

18 COMMISSION CHAIRMAN SHAPIRO: Thank you.

19 Staff report. Roberto, tell us how we did at Del
20 Mar, San Mateo County Fair, Humboldt, Los Angeles County
21 Fair, Fresno County Fair. And if any of those
22 representatives are here and wish to speak to their
23 meetings, they should step forward.

24 MR. ZAVALA: Roberto Zavala, CHRB staff.

25 Very quickly, what you have in front of you is the

1 summary of the, like Commissioner Shapiro just mentioned,
2 Del Mar, which ran from July 18th through September 5th,
3 2007. They had an increase of average daily handle of 8.5
4 percent. They had a total handle of \$555 million, which
5 was, like I said, approximately 8.5 percent increase from
6 the average daily handle.

7 Just a note, every racing association here had an
8 increase in ADW average for their meets. They ranged from
9 anywhere from 41.6 percent all the way to -- all the way
10 down to approximately 9.10 percent. So I think everybody
11 has done very well on the ADW side.

12 There was a highlight here, the Humboldt Fair, or
13 the Humboldt County Fair, they have been seeing an increase
14 over the last five years, as they wanted to note for you,
15 the average handle has increased steadily. They had a
16 decline last year, but they had a pretty good chunk this
17 year of increase.

18 COMMISSION CHAIRMAN SHAPIRO: Well, that's because
19 Commissioner Harris and I went there. We bet big that day.

20 COMMISSIONER HARRIS: Yeah.

21 MR. ZAVALA: Well, I just wanted to make sure I
22 noted that to you, because I think that's pretty good as far
23 as a small fair like Humboldt County.

24 One note I wanted to make mention to you as well,
25 too, was that the San Mateo County Fair ran one -- was it

1 one day less?

2 COMMISSIONER AMERMAN: One day less.

3 MR. ZAVALA: One day less, so their handle is
4 probably going to be skewed for that one day, because they
5 did go down on the average for that, as well.

6 I'm not sure if there's any representatives of the
7 associations that would like to speak directly?

8 COMMISSIONER HARRIS: Fresno did have a few
9 comments, I think, on their numbers.

10 MR. ZAVALA: Fresno had an increase in ADW. They
11 had a slight decrease on average daily handle. And I
12 understand that they do have an overlapped year, this past
13 year.

14 COMMISSIONER HARRIS: Yeah, I think that -- well,
15 Dan White is here from --

16 COMMISSION CHAIRMAN SHAPIRO: Yeah, he's sitting
17 next to you. Dan, why don't you give us a little Fresno
18 flavor?

19 MR. WHITE: Dan White, Big Fresno Fair, Director
20 of Racing.

21 Fresno's challenge this year was some weather. We
22 experienced a day and a half of some unseasonable weather,
23 it dropped down in the low fifties. It did provide some
24 positive things, our track was able to withstand the rain.
25 The track was rated fast and firm both days. We did still

1 average 7.7 horses a race.

2 Our attendance did reflect a three percent
3 decrease, which roughly boils down to about 2,900 people in
4 an increase, so we still ran over 85,000 people within our
5 11-day fair. So in all said, with the challenges we had, we
6 were pleased with what we were able to do.

7 We look forward to splitting the host fees next
8 year and moving forward with capital improvements. We've
9 continued to make a lot of improvements to our fair, to our
10 paddock, trees. We're going to start working on our
11 backside this year and, once again, try to continue to put
12 out a quality of product, a safe track.

13 Again, the five years of track maintenance, with
14 the help of CARF, we did experience a day and a half of rain
15 and our track was rated fast and firm on both days.

16 We had only one horse go down during our 11 days,
17 and so there was a lot of positive things that came from
18 that.

19 COMMISSION CHAIRMAN SHAPIRO: Okay, thank you.

20 Roberto, would it be possible for -- and as we get
21 these reports, to actually put another column alongside the
22 statistics, which said, you know, that showed that the
23 average daily handle is up 8.5 percent, but at least tell us
24 what the average daily handle for the meet is in dollars.
25 So you can just put 2007. So that, you know, if Dan's

1 saying that his meet was off three percent, but that really
2 only represents 3,000 people. Or, I mean, we can have a
3 flavor. Because one of the things about Fresno is they
4 actually get a really good attendance.

5 COMMISSIONER HARRIS: Fresno got a bad break
6 because the biggest day they have, or one of the biggest
7 days is that last Friday and that was the day it got cold,
8 and they probably would have had another four or five
9 thousand people there, which would have put them up.

10 MR. WHITE: Yeah, it was a Friday which is,
11 traditionally, our biggest days of the year. We also had a
12 challenge of our program not being received in the south,
13 there was some confusion with that, and so that would also
14 reflect it.

15 Also, on the reports that the CHRB has given, that
16 reflects our total handle, what is left out in the total
17 handle, because my report reflects that we handled a total
18 of \$10,403,000. I think this is a discrepancy of about
19 \$800,000. And what is left out of this is southern money is
20 not included in your total report. Granted, because we do
21 not receive a percent of that money, but I feel that that's
22 a tool to measure how the people are perceiving Fresno,
23 betting it. And, hopefully, we can see it in future reports
24 so that -- you know, I feel that any money wagered on Fresno
25 should be shown to the Board and they should have access to

1 it.

2 And it shows the quality of the product that we're
3 putting out. And so, I mean, it's a discrepancy of about
4 \$800,000. So I mean, our total handle of all sources
5 betting on Fresno was \$10,403,000 as compared to the
6 \$9,251,000, I believe, that's on your report.

7 COMMISSION CHAIRMAN SHAPIRO: Okay. And thank you
8 very much. I also would like to acknowledge the reports
9 that were included in our materials from our investigators
10 or our staff.

11 Okay, thank you.

12 Moving ahead, Item Number 12 is off the agenda.

13 We are now at Item Number 13, public comment. Is
14 there any public comment? I have one card from Jerry
15 Jamgotchian.

16 MR. JAMGOTCHIAN: Chairman Shapiro, members of the
17 Commission. My first --

18 COMMISSION CHAIRMAN SHAPIRO: Mr. Jamgotchian, you
19 have three minutes.

20 MR. JAMGOTCHIAN: Yeah, I understand. You're not
21 going to cut me off this time, are you? Okay, thanks.

22 With regards to the first issue, is CHRB seeking
23 applications for the Executive Director. I'd like to
24 understand why the CHRB is going to allegedly pay the new
25 Executive Director \$118,000, when Mr. Arthur over here is

1 getting in excess of \$350,000?

2 It seems like a pretty bad precedent to me that
3 unless the Board wants an incompetent puppet, that they're
4 not going to get anybody any good. So I would like this
5 Board to consider increasing the salary of the Executive
6 Director at least to what Dr. Arthur's making.

7 Because if you want to get somebody that's a
8 strong leader, a top level administrator --

9 COMMISSIONER CHOPER: Excuse me, isn't this a
10 matter of statutory -- State regulation?

11 COMMISSION CHAIRMAN SHAPIRO: Yes, it is.

12 COMMISSIONER CHOPER: This is not the Board's
13 option.

14 COMMISSION CHAIRMAN SHAPIRO: The salary that
15 we're --

16 COMMISSIONER HARRIS: And Dr. Arthur does not work
17 for us, he works for the University of California.

18 MR. JAMGOTCHIAN: That's correct. But the
19 mechanism that this Board, through Mr. Shapiro, created was
20 to get Dr. Arthur \$345,000, and Dr. Arthur is funded by Oak
21 Tree Racing Association, Del Mar Racing Association, Dolly
22 Green. So, obviously, there's certainly a method that if
23 the CHRB wanted somebody that's competent, they could do it.

24 Now, if you don't want somebody that's competent,
25 if you want somebody that's a puppet, I think \$118,000 will

1 get that to you -- get that for you, I should say.

2 Additionally, I'm not going to bash Ms. Fermin.
3 Obviously, the proof is in the pudding in that she hasn't
4 done a good job, but let's just leave it at that.

5 Additionally, there's a very interesting article
6 in the Courier Journal with regards to a new racing regime.
7 If you haven't seen it, I think it's something that's very
8 important, and it talks about what the staff of the KHRA is
9 doing, and they're looking at a top of the line staff, with
10 adequate investigation personnel, and not getting into
11 promotional horse racing. Because they believe that if it's
12 not working properly, it shouldn't be promoted.

13 So if it's of interest, obviously, I think that
14 you ought to read this commentary by Janine Reece.

15 I read, recently, that Fairplex is proposing an
16 expansion and, of course, they want to finance their
17 expansion, because they can't get funds from conventional
18 sources, on the back of the bettor and the back of the
19 industry through a portion of the take-out.

20 I think this Board, if it's going to look at the
21 expansion of facilities, ought to do it without the bettor
22 paying for it. There must be a mechanism that this State
23 has to make horse racing economically profitable for the
24 associations, as well as the bettor.

25 The more you put on the bettor, the less the

1 bettor's going to bet. And I think this Board needs to
2 consider that the reductions in the pool are chilling the
3 ability of people in California to compete -- the
4 associations in California to compete.

5 So, you know, I wish Ms. Fermin the best in what
6 she does. And, hopefully, Ingrid, the Gambler wins
7 tomorrow, and Wicked and Whacky Ingrid wins on Sunday.
8 Thank you.

9 EXECUTIVE DIRECTOR FERMIN: I would just like to
10 make one comment that, you know, through the last two and a
11 half years, or whatever, you have constantly indicated that
12 you're an accomplished businessman, and that you have, I
13 don't know, 150, 250, 300 horses, whatever it is, and yet
14 had absolutely no faith in California racing, we've done
15 almost everything wrong, and yet you continue to race here.

16 So I'm just wondering if that isn't a business
17 decision. But thank you. We had your comments, so thank
18 you.

19 COMMISSION CHAIRMAN SHAPIRO: I would like to, in
20 closing the meeting, I would like to just make a couple of
21 notes. First of all, I think Dr. Arthur would be thrilled
22 if he was earning the \$345,000 that he's claimed to be
23 earning. Unfortunately, I'm sorry, Dr. Arthur, that
24 we -- that your salary isn't that high.

25 And secondly, that the amount of salary that is

1 available for the position of Executive Director is, in
2 fact, set by government standards and is limited to the
3 amount that is published.

4 With that, I have no other comments.

5 COMMISSIONER AMERMAN: I have one thought.

6 COMMISSION CHAIRMAN SHAPIRO: Yes, sir.

7 COMMISSIONER AMERMAN: As I was preparing for this
8 meeting, I went back and looked at a number of agenda items
9 that we've had over the past month, and there are certain
10 ones that we haven't really come to any conclusion about,
11 that have kind of dropped, I call it, into the black hole,
12 just disappeared.

13 So the staff, I think, could help us by picking up
14 the agenda items that haven't been completed, and kind of
15 bugging us to get a resolution on them.

16 The one that came to mind, as I was looking
17 through, is the heel nerving. We had a lot of discussions
18 about it and I have no clue where it is at the present time.
19 I would love to get it on the table, have a vote, and get it
20 all behind us one way or the other. And there's others,
21 besides that.

22 COMMISSION CHAIRMAN SHAPIRO: Yes, I agree with
23 that, Commissioner Amerman, I think that it's imperative
24 that we do go back and look. I know that there was some
25 discussion about a potential assessment to racing

1 associations for a shortfall to things, FF&E, that we need
2 to resolve. And so I think that staff should go back and
3 look at those items that, perhaps, are unresolved. And
4 let's do that in January.

5 This is our last meeting for 2007. I would like
6 to thank all of the Commissioners, new and old, and --

7 (Laughter.)

8 COMMISSION CHAIRMAN SHAPIRO: Well, I didn't mean
9 it that way. Ah, you're old, you're old.

10 COMMISSIONER CHOPER: Seniority.

11 COMMISSION CHAIRMAN SHAPIRO: Seniority, thank
12 you. I really appreciate all the support and hard work that
13 all of you do. It is a lot of work actually sitting up
14 here, and preparing for these meetings. And I know that we
15 are all committed to the California horse racing business.

16 I think our staff is very committed. We've made a
17 lot of accomplishments, I think this year, and I hope that
18 we will all continue to do so in 2008. And I wish everybody
19 a happy and healthy holiday season. Thank you very much.

20 (Thereupon the California Horse Racing
21 Board Regular Meeting was adjourned at
22 11:45 a.m.)

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California Horse Racing Board; that thereafter the recording was transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of December, 2007.

Troy A. Ray

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