

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

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

MONDAY, DECEMBER 15, 2008

9:07 A.M.

Reported by:
Richard A. Friant

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson

John C. Harris, Vice Chairperson

John Andreini

Jesse H. Choper

Bo Derek

David Israel

Jerry Moss

STAFF

Kirk Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner

Mike Marten

ALSO PRESENT

Rod Blonien

Dino Perez

Ed Halpern

Dr. Rick Arthur, Equine Medical Director

Jack Liebau

Ivan Axelrod

Gregg Scoggins

Brad Blackwell

Dan Perini

John Hindman

APPEARANCES CONTINUED

ALSO PRESENT

Doug Kemp

Drew Couto

John Vasquez

Cliff Goodrich

Jerry Mosley, Deputy Attorney General

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INDEX

	PAGE
Action Items:	
1. Discussion and action by the Board on the Application for License to Conduct a Horse Racing Meeting of the Los Alamitos Quarter Horse Association (Q) at Los Alamitos, commencing January 1, 2009 through December 20, 2009, inclusive.	4
2. Public hearing and action by the Board on the proposed amendment of CHRB Rule 1481, Occupational Licenses and fees; Rule 1468 Term of License; and the proposed addition of Rule 1504.5, Provisional Exercise Rider, to create a Provisional Exercise Rider license classification. (Written comment complete; proposed amendment ready for adoption).	107
3. Public hearing and action by the Board on the proposed amendment of CHRB Rule 1865, Altering of Sex of Horse, to provide for a minimum fine of \$1,000 if the true sex of the horse is not properly identified in the official program, absent mitigating circumstances. (Written comment complete; proposed amendment ready for adoption).	9
4. Public hearing and action by the Board on the proposed addition of CHRB Rule 2066, Application for License to Operate a Minisatellite Wagering Facility, to provide for an additional 15 minisatellite wagering facilities in each California racing zone. (Written comment complete; proposed addition ready for adoptions).	22
5. Public hearing and action by the Board on the proposed amendment of CHRB Rule 2073, Operation of an Advance Deposit Wagering Account for all Entities, to allow ADW account holders access to deposits the same day they are made. (Written comment complete; proposed amendment ready for adoption).	37

INDEX

PAGE

Action Items:

6. Discussion and action by the Board on the Application for Approval to Conduct Advanced Deposit Wagering (ADW) of Churchill Downs Technology Initiatives Company dba Twinspires.com, for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years and/or extension of the current approval. 74
7. Discussion and action by the Board on the Application for Approval to Conduct Advanced Wagering (ADW) of ODS Technologies, L.P., dba TVG, for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years and/or extension of the current approval. 78
8. Discussion and action by the Board on the Application for Approval to Conduct Advanced Deposit Wagering (ADW) of Youbet.com Inc., for a California multi-jurisdictional wagering hub and approval for an out-of-state multi-jurisdictional wagering hub, for a period of up to but not exceeding two years and/or extension of the current approval. 78
9. Discussion and action by the Board on the Application for License to Conduct Advanced Deposit Wagering (ADW) of XpressBet, Inc., for a California multi-jurisdictional wagering hub, for a period of up to but not exceeding two years and/or extension of the current approval. 78
10. Review and discussion by the Board regarding its role or other methods in mediating or arbitrating disputes between various stakeholders of the California horse racing industry including, but not limited to, the dissemination of signals for California races. 97

1 PROCEEDINGS

2 EXECUTIVE DIRECTOR BREED: Ladies and gentlemen,
3 would you all please take your seats and we're getting ready
4 to start here in a minute.

5 Before we get started and since the Chairman is
6 not here, I'd like to take this opportunity to do one thing.
7 Last week a real good friend of a lot of us in Northern
8 California passed away, his name was Charlie Palmer.
9 Charlie was 80 years old when he died suddenly of an
10 aneurism. He'd been racing secretary at just about every
11 fair. I think he was racing secretary continuously at the
12 Fresno Fair for about 30 years, until 2001.

13 He was a guy that listened to every bellyache, and
14 gripe, and alibi from every horseman that runs at the fair
15 and always gave you a fair shake.

16 So anyhow, Charlie, we can't drink whiskey with
17 you anymore, but if you're up there God speed.

18 (Applause.)

19 COMMISSION VICE CHAIRPERSON HARRIS: Charlie was a
20 great guy and was also a successful steward. And a pretty
21 good sire, too.

22 (Laughter.)

23 COMMISSION VICE CHAIRPERSON HARRIS: Oh, I'm
24 saying Charlie Dougherty. It's Charlie Palmer.

25 EXECUTIVE DIRECTOR BREED: Charlie Palmer, yeah.

1 He was a good sire, too.

2 (Laughter.)

3 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, he was.
4 No, Charlie Palmer was a character. He ended up in
5 Ferndale, I think.

6 EXECUTIVE DIRECTOR BREED: Yeah.

7 Okay, ladies and gentlemen, this meeting of the
8 California Horse Racing Board will come to order.

9 Everybody please take your seats.

10 This is the regular noticed meeting of the
11 California Horse Racing Board on Monday, December 15th,
12 2008, in the Baldwin Terrace Room, at the Santa Anita Race
13 Track, 285 West Huntington Drive, Arcadia, California.

14 Present at today's meeting are Chairman Richard
15 Shapiro, Vice Chairman John Harris, Commissioner John
16 Andreini, Commissioner Jesse Choper, Commissioner Jerry
17 Moss, Commissioner Bo Derek, Commissioner David Israel.

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

20 One, the Board invites public comment on the
21 matters appearing on the meeting agenda. The Board also
22 invites comments from those present today on matters not
23 appearing on the agenda, during a public comment period, if
24 the matter concerns horse racing in California.

25 In order to ensure all individuals have an

1 opportunity to speak and that the meeting proceeds in a
2 timely fashion, the Chair will strictly enforce the three-
3 minute time limit rule for each speaker. The three-minute
4 time limit will be enforced during discussion of all matters
5 stated on the agenda, as well as during the public comment
6 period.

7 There is a public comment sign-in sheet for each
8 agenda matter on which the Board invites comments.

9 Also, there is a sign-in sheet for those wishing
10 to speak during the public comment period, for matters not
11 on the Board's agenda, and the matter concerns horse racing
12 in California.

13 These comment cards are at -- they're on the
14 podium right back at the back.

15 Please print your name legibly on the public
16 comment sign-in sheet.

17 When a matter is open for public comment your name
18 will be called. Please come to the podium, introduce
19 yourself by stating your name and organization clearly.

20 This is necessary for the court reporter to have a
21 clear record of all who speak.

22 When your three minutes are up, the Chairman or I
23 will ask you to return to your seat so others can be heard.
24 When all the names have been called, the Chairman will ask
25 if there is anyone else who would like to speak on the

1 matter before the Board.

2 Also, the board may ask questions of individuals
3 who speak.

4 If the speaker repeats himself or herself, the
5 Chairman will ask if the speaker has any new comments to
6 make. If there are none, the speaker will be asked to let
7 others make comments to the Board.

8 I'll turn the meeting over to you, Mr. Chairman.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you. And I
10 apologize for being late. If everybody knows what L.A.
11 traffic is like, you can appreciate what it's like on a
12 rainy day.

13 Okay. I see we don't have any minutes, so we'll
14 start with Item 1. We're going to have to skip around a
15 little bit.

16 Is Leanne here? It's hard for me to see out
17 there. She's in traffic and she will be dealing with Item
18 2. She asked if we'd hold that, so we'll skip around a
19 little bit.

20 The first item is discussion and action by the
21 Board on the Application for License to Conduct a Horse
22 Racing Meeting of the Los Alamitos Quarter Horse Racing
23 Association, at Los Alamitos, commencing January 1, 2009
24 through December 20th, 2009, inclusive.

25 If there are representatives from Los Alamitos

1 here, I don't know if there are any?

2 I see Mr. Blonien. How are you today? I assume
3 you're representing Los Alamitos.

4 Does anybody have any questions with respect
5 to -- it appears that the dates that are being proffered are
6 what we have approved. Everything appears to be in order.

7 Are there any other comments, people that wish to
8 give comment to this issue?

9 COMMISSION VICE CHAIRPERSON HARRIS: I couldn't
10 figure out in the application if purses were going to go up,
11 if they went up in '08 and are going to be flat in '09, or
12 it seemed like it was -- on page 1 it talked about the
13 average daily purse, and it looked like it was less in '08.
14 And so on the other page it looked like it was going up in
15 '09.

16 MR. BLONIEN: Good morning, Mr. Chairman, and
17 Members. Rod Blonien on behalf of Los Alamitos Racecourse.

18 Mr. Harris, I think that when the original
19 application, the first draft was done, they were
20 anticipating increase in purses. But with the experience
21 we've had the last three months, they have actually proposed
22 lesser numbers because our handle is not as strong as it was
23 previously.

24 And I spoke to Dr. Allred this morning and he
25 really is uncertain what the future holds in terms of

1 quarter horse racing and being able to get back up to the
2 level that he was at earlier in the year.

3 So you may be looking -- we may not have made all
4 the changes that we should have.

5 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
6 maybe that was it. But about how much do you think you're
7 going to be increasing purses in '09?

8 MR. BLONIEN: I'm not sure. Maybe somebody from
9 the horsemen's organizations can speak to that.

10 MR. PEREZ: Dino Perez, Pacific Coast Quarter
11 Horse Racing Association.

12 The purses were reduced slightly last month and
13 we're going to continue with that amount. It was very
14 slight.

15 So if you look in the application, the purses that
16 are on their list is what's going to start out for the
17 beginning of the meet.

18 COMMISSION CHAIRPERSON SHAPIRO: And what are you
19 finding, presently, with the impact of the economy and the
20 business, itself, at Los Alamitos today and --

21 MR. PEREZ: I think we're noticing on-track
22 handle's taking substantial hit. I know Los Alamitos is
23 working on getting some new stuff, some new promotions in
24 order to get some more people back out at the track.

25 EXECUTIVE DIRECTOR BREED: Mr. Chairman, it's my

1 understanding, I talked with Mr. Alicia from the Pacific
2 Coast, the other day, and basically the overnights are going
3 to stay the same. It's the stakes schedule that's going to
4 be reduced. So for whatever that is.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 COMMISSION VICE CHAIRPERSON HARRIS: Are you
7 showing growth in your ADW revenues?

8 MR. PEREZ: We have. This is the first year, due
9 to the economy, that we've seen a slight decrease. But over
10 the past few years, yes.

11 MR. BLONIEN: I don't know that what I'm about to
12 say is terribly relevant to the discussion here, but I saw
13 the statistics last week from the State of Nevada for the
14 win by the Nevada casinos for the month of October and it
15 was off almost 25 percent in the entire state. The strip
16 was down about 24 percent. North Lake Tahoe was off 15
17 percent. Reno eight percent. South Lake Tahoe was off more
18 than 25 percent.

19 And I can tell you that some of the tribal casinos
20 are off 25 to 33 percent.

21 And it's the economy. And, you know, we used to
22 say that gambling was immune from the economy because people
23 would go and gamble, hoping they'd win some money so they
24 can pay their bills. But it isn't true this time, it's
25 hurting, I think, all types of gambling and wagering across

1 the board.

2 And I can tell you that the vast majority of the
3 California card clubs have revenues that are decreased, as
4 well.

5 COMMISSION CHAIRPERSON SHAPIRO: Well, it doesn't
6 seem anybody's immune to what's going on in the world today,
7 that's for sure.

8 And I see that the track inspection has not yet
9 been completed?

10 EXECUTIVE DIRECTOR BREED: Mr. Chairman, we're
11 waiting on the housing inspection. The County and City
12 Housing Department have cooperated in an inspection and
13 that's forthcoming. And they are performing that inspection
14 right now.

15 All the rest of the inspections have been
16 completed.

17 COMMISSION CHAIRPERSON SHAPIRO: All right.

18 COMMISSION VICE CHAIRPERSON HARRIS: I couldn't
19 figure out if the horsemen's agreement had been completed?

20 MR. BLONIEN: Yes. The horsemen's agreement was
21 completed a number of weeks ago and filed with the Board two
22 weeks ago.

23 EXECUTIVE DIRECTOR BREED: A week ago.

24 MR. BLONIEN: A week ago.

25 EXECUTIVE DIRECTOR BREED: Yeah.

1 COMMISSION CHAIRPERSON SHAPIRO: I thought it's
2 right here.

3 EXECUTIVE DIRECTOR BREED: Yeah.

4 COMMISSION CHAIRPERSON SHAPIRO: It's in our
5 packet.

6 COMMISSION VICE CHAIRPERSON HARRIS: In the file.

7 COMMISSION CHAIRPERSON SHAPIRO: It's in our
8 papers in our packet.

9 All right, are there any other comments or
10 questions from any Board members?

11 If not, I'll entertain a motion to approve this
12 license.

13 COMMISSIONER MOSS: Motion.

14 COMMISSIONER ANDREINI: Second.

15 COMMISSION CHAIRPERSON SHAPIRO: Second.

16 All in favor?

17 (Ayes.)

18 COMMISSION CHAIRPERSON SHAPIRO: I wish Dr. Allred
19 good luck and good racing.

20 MR. BLONIEN: Thank you very much.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, we'll move
22 on to Item Number 3 at this point, which is the public
23 hearing and action by the Board on the proposed amendment of
24 CHRB Rule 1865, Altering of Sex of Horse, to provide for a
25 minimum fine of \$1,000 if the true sex of the horse is not

1 properly identified in the official program, absent
2 mitigating circumstances.

3 This is an item that I think we've all discussed
4 over, and over, and over. And where it is today is that
5 this has been put out for written comment, we've received
6 it, and this amendment is ready for adoption.

7 So I see we have a couple comment cards, or we
8 have one.

9 Are there any Board members who have any comments,
10 first?

11 COMMISSION VICE CHAIRPERSON HARRIS: Well, when
12 this originally came up I was not so much for fining the
13 trainer as just scratching the horse, because my concern on
14 it wasn't to penalize somebody, but just to not -- to allow
15 the public to better understand that the program was
16 correct.

17 But I think it's important, if someone is fined,
18 that they look at the mitigating circumstances, that if it's
19 a problem in the racing office that the racing office be
20 fined. Or if somebody's going to be fined, it's not
21 necessarily the trainer, just if it was beyond -- it wasn't
22 his violation.

23 But I think the way it's written will do that.

24 COMMISSION CHAIRPERSON SHAPIRO: You know, I'm
25 really divided on this because my concern is that scratching

1 the horse impacts field size. And recently, I saw some
2 statistics with respect to field size, that were generated
3 by CRIMS, and it really is pretty impactful when you see
4 that the number of runners, what the purse generation is.
5 And so I --

6 COMMISSION VICE CHAIRPERSON HARRIS: Well, I don't
7 want to see any horses scratched, either. But, I mean,
8 defrauding the public and providing incorrect information
9 can impact handle, as well.

10 COMMISSION CHAIRPERSON SHAPIRO: No, I understand
11 that. And I know -- are any of the racing secretaries here?
12 Because they clearly have been quite vocal and have had
13 opinions on this.

14 I don't see any of them.

15 All right, Ed Halpern, do you want to comment on
16 this?

17 MR. HALPERN: Ed Halpern, California Thoroughbred
18 Trainers.

19 Commissioners, I know this is one you all felt
20 very strongly about in the last discussions of it. And I
21 just want to take a second to go back to the history of this
22 problem. This idea of reporting first-time geldings is
23 something that nobody every followed up on or cared much
24 about, so that looking at the statistics and saying that we
25 have so many of these happening, in part, was because nobody

1 was aware that it was really a problem and nobody was doing
2 anything about it.

3 That having been the background, now that we're
4 making people aware of it, and as we continue to make people
5 aware of it, I'm certain that the problem will be reduced in
6 magnitude.

7 My plea at this point is pretty much the same as
8 it was before in that this penalty is excessive. It's not
9 in line with the nature or pain created by the event,
10 itself.

11 Interestingly enough, we all learned last time
12 that, actually, we mislead bettors when we tell them about
13 the first-time gelding because the public perception is that
14 that's an advantage. And the statistics show that it's
15 actually a disadvantage in terms of the number of horse that
16 win off first-time gelding status.

17 So we mislead the public by doing it.

18 But, nonetheless, we do do it and that decision's
19 been made.

20 I would just plea for two things. One, that we
21 reduce the penalty to 500, which I think would sufficiently
22 serve the purpose and certainly be more equitable.

23 I know that some of your own stewards have
24 indicated to us that we ought to be on top of this problem
25 because they feel bound to a penalty that they believe is

1 unfair.

2 In the alternative, I would ask that instead of
3 making this a permanent rule, that you give it a six-month
4 trial period so we can see how the problem is corrected and
5 if the problem continues.

6 And then we can adjust the penalty, or you can
7 adjust the penalty at that time based on the need and what
8 you've learned from the stewards about what they're seeing.

9 COMMISSION CHAIRPERSON SHAPIRO: You know, one of
10 the things, and I'm looking at Dr. Arthur right now, we, as
11 we're moving forward to put some of these things on lists,
12 and InCompass, and so forth, is there a way to better track
13 this process so that we could perhaps better manage this and
14 not have to, A, inflict pain, but also protect the public?

15 EQUINE MEDICAL DIRECTOR ARTHUR: Actually, there
16 were a -- Dr. Arthur, Equine Medical Director.

17 The racing offices and InCompass worked carefully
18 together to try to get this information into the system and
19 so it can get out to the public.

20 The problem almost always is horses that are
21 castrated off CHRB enclosures and brought back in to either
22 the same trainer, or a different trainer, who were
23 previously unaware that the horse was a gelding.

24 It's just a somebody-didn't-check type of an
25 issue.

1 I think we've done all we can within the areas of
2 the recordkeeping, because most of -- again, most of them
3 are not castrated within CHRB enclosures, and those we
4 capture very effectively.

5 It's when horses are turned out for one reason and
6 then brought into either the same trainer, or a different
7 trainer, when these problems occur.

8 And we hear the same excuse over and over again.
9 The bottom line is the trainers don't check whether they're
10 entering a gelding or a colt, or they are assuming that the
11 horse was always a gelding.

12 So therein lies the problem. It's not -- for some
13 reason, it hasn't been an easy thing to resolve, even though
14 my impression is, I don't have the numbers, I'm sorry, that
15 it is decreasing in frequency. But we still get the same
16 excuses time and time again, I thought he was always a
17 gelding when he came in.

18 So, you know, I don't know how you resolve it. I
19 agree, a thousand dollars seems pretty onerous for this, and
20 scratching horses is detrimental.

21 But, you know, we just started getting the higher
22 fines and I think they are having some impact. And how much
23 more impact this will have, it's hard to say.

24 COMMISSIONER MOSS: So you don't have like the
25 last six-month figures or things like that?

1 EQUINE MEDICAL DIRECTOR ARTHUR: No. We actually
2 can generate those. I just don't have them with me.

3 COMMISSIONER ISRAEL: Do you know, Rick, if they
4 have such a regulation in other states or are we the first
5 state to consider such a proposal?

6 EQUINE MEDICAL DIRECTOR ARTHUR: I can't answer
7 that question with a hundred percent confidence, but my
8 understanding is we're about the only people who cared about
9 geldings, anyway.

10 These are usually last-minute changes, just like a
11 jock being overweight, or a jock change, or anything else
12 that's announced prior to a horse racing.

13 And I don't even know how effectively that's done
14 elsewhere.

15 Certainly, horses that have come into California,
16 from out of state, that have been running as geldings, were
17 listed as horses previously in the racing form, and from
18 other states and, you know, that hadn't been an issue for
19 them.

20 COMMISSIONER ISRAEL: So we don't know if New
21 York, Kentucky, Florida, Louisiana and --

22 EQUINE MEDICAL DIRECTOR ARTHUR: I can't answer
23 that question. But we can certainly check and find out, if
24 that's the desire of the Board.

25 COMMISSION CHAIRPERSON SHAPIRO: You know, it's

1 interesting to me that during the 45 days we had no public
2 comment and, yet, this has been discussed for so long and,
3 you know, it is a difficult issue and I'm kind of surprised
4 that there was no public comment.

5 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I mean,
6 that's the thing that bothers me. If there's trainers out
7 there that I think that are concerned about it, that we
8 should use this 45-day comment.

9 And I think it's just a matter for a trainer that
10 they've got to be paying attention to what they have. It's
11 just one more thing to do. If they don't -- you know, I'm
12 concerned if they don't even know if they have a gelding or
13 not, if they know that much about the horse in general.

14 MR. HALPERN: Can I just make one comment about
15 the 45-day comment period?

16 I understand that it would make your lives easier
17 if people and we, in particular, sent letters on every
18 issue. But the law does specify that one may either write
19 or appear at the Board hearing to make comment.

20 COMMISSION VICE CHAIRPERSON HARRIS: Well, good,
21 we can do that.

22 MR. HALPERN: Well, given that, I think the
23 Legislature, in its wisdom, decided that one may feel that
24 one is more effective than the other. And the purpose of
25 being able to write is if you can't make it to the Board

1 meeting.

2 COMMISSION CHAIRPERSON SHAPIRO: But the comment
3 wasn't --

4 MR. HALPERN: So I understand that it's more
5 convenient, but it's not necessarily the rule.

6 COMMISSION CHAIRPERSON SHAPIRO: All right. But
7 if there was a true public outcry or concern, I would have
8 expected either more people in the audience, despite the bad
9 weather, or that there would have been some written comment.
10 That was the only thing.

11 And I appreciate you're here, representing your
12 constituency and your people, I do appreciate that.

13 But this is something that is going to have an
14 impact and I think, you know, part of the root of the
15 problem is that we know that jockeys' agents, for the most
16 part, enter horses, or racing offices are calling and
17 getting entries, and they're not -- trainers aren't actually
18 filling out a form and so it slips through the crack.

19 MR. HALPERN: I would just -- I would just ask
20 that you look beyond the public comment. And that I know
21 that the vast majority of my constituents believe that they
22 have no voice in this industry and believe that writing is
23 ineffective, and they're not listened to, anyway. For
24 whatever that's worth, that's the situation.

25 COMMISSION VICE CHAIRPERSON HARRIS: Well, I don't

1 think that we would stipulate to that. I think the trainers
2 have a lot of standing in the industry and are, you know,
3 very vocal in expressing things. They just didn't express
4 on this particular issue.

5 EQUINE MEDICAL DIRECTOR ARTHUR: I think that's
6 absolutely inaccurate, Ed. Because I certainly move around
7 the country, and I will tell you that the trainers in
8 California have more influence over the way horse racing is
9 conducted in this State, than any other state.

10 I'm not saying that's as much as you would like,
11 but I think you, and the CTT, do a very good job of
12 representing horsemen.

13 MR. HALPERN: Well, thank you, I appreciate that.

14 Don't misunderstand me, I say -- I didn't say they
15 don't have a voice. I said, they don't believe they have a
16 voice and, therefore, they don't go to the trouble to
17 participate.

18 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
19 we don't need to debate that. I think they have a voice, we
20 all agree they have a voice, and so forth.

21 So what Ed suggested was that we look to reduce
22 the fine to \$500. My concern there is that that, again,
23 just means we have to put it back out for comment, I'm
24 assuming. Is that correct?

25 MR. HALPERN: Right.

1 COMMISSION CHAIRPERSON SHAPIRO: Counsel?

2 STAFF COUNSEL MILLER: Yes.

3 COMMISSION CHAIRPERSON SHAPIRO: So we would have
4 to basically defer doing anything, put it back out for
5 another comment period, and no action would be taken.

6 COMMISSION VICE CHAIRPERSON HARRIS: It seems like
7 the way the rule is it does refer to mitigating
8 circumstances.

9 You know, I think it's going to take care of
10 itself. I don't think you're going to get very many
11 thousand dollar fines because trainers will be more
12 diligent.

13 COMMISSION CHAIRPERSON SHAPIRO: Well,
14 it's --

15 COMMISSIONER MOSS: You know, all I can say is
16 this has come up in the Pari-Mutuel meetings all the time,
17 and the people that are making the wagers obviously are
18 having to have these changes.

19 Even if it's announced at the race track, as we
20 all know, 80 percent of the money is coming in on the
21 betting services. So they're out of it, you know, and they
22 feel that they were in some way duped, you know.

23 So I mean we've been talking about these fines for
24 years.

25 COMMISSION CHAIRPERSON SHAPIRO: So perhaps,

1 Commissioner Moss, do you want to make a motion then?

2 COMMISSIONER MOSS: Yeah, I make a motion, because
3 we don't have recent information, which is unfortunate, but
4 I remember last year we had about 40 occasions this
5 happened.

6 EQUINE MEDICAL DIRECTOR ARTHUR: It's forty-four.

7 COMMISSIONER MOSS: Forty-four, exactly.

8 So I make a motion we accept the rule as written
9 and --

10 COMMISSION CHAIRPERSON SHAPIRO: Adopt the
11 regulation?

12 COMMISSIONER MOSS: -- adopt the Number 3 as it's
13 written.

14 COMMISSION CHAIRPERSON SHAPIRO: All right, is
15 there a second to that motion?

16 COMMISSIONER ISRAEL: Second.

17 COMMISSION CHAIRPERSON SHAPIRO: Is there
18 additional comment?

19 COMMISSIONER CHOPER: Yeah, I just want to say
20 that, really, this is not an easy issue. On the one hand we
21 would like the public to feel its informed. On the other
22 hand, how do you assure that.

23 So we considered a variety of remedies and we came
24 to this one. So it's falling on -- it's falling on the
25 trainers.

1 They're the ones, you know, with the last chance
2 to do anything about this.

3 I think that, as Commissioner Harris said, there
4 is an excusal provision here for special circumstances, when
5 they acted reasonably under the circumstances.

6 I would be inclined, you know, to re-examine
7 anytime a rule that doesn't seem to be working.

8 If you put that in here, that again starts the
9 comment period over again and we'd be back talking about the
10 same stuff, whenever it is, 45 days from now.

11 We're certainly open if the trainers feel that,
12 real injustices are occurring, and that the exception in the
13 rule doesn't handle it adequately, to reconsider it.

14 I mean, I think -- I think I speak not only for
15 myself, but for everybody here, no one wants to do that. We
16 want to cure a problem.

17 You may be right, but it doesn't make a whit of
18 difference in the rule.

19 I agree with you, I could care less whether the
20 horse has been gelded or not. All right. I have too much
21 else to worry about.

22 But as Commissioner Moss said, people feel this
23 way, and the psychology and the attitude of the bettor is
24 just very important to all of us. I'm sure everyone would
25 agree with that.

1 It has fallen on you, your group, to bear the
2 brunt of this. And I want to say, just at least in the
3 first instances, if there are injustices let us hear about
4 them, we're open to re-examining them.

5 COMMISSION CHAIRPERSON SHAPIRO: All right. If
6 there's no other comments from the Board, I'll call the
7 question.

8 All those in favor?

9 (Ayes.)

10 COMMISSION CHAIRPERSON SHAPIRO: It passes. Thank
11 you.

12 Item Number 4, another matter that we have been
13 dealing with. Public hearing and action by the Board on the
14 proposed addition of CHRB Rule 2066, Application for License
15 to Operate a Minisatellite Wagering Facility, to provide for
16 an additional 15 minisatellite wagering facilities in each
17 California racing zone.

18 The written comment period is complete and this is
19 now ready for adoption.

20 And I note that I think there was some concern at
21 the last time that we heard this, with the ABC, but that ABC
22 has now expressed that there is not a concern, they simply
23 want to be kept informed.

24 MS. WAGNER: That's correct.

25 COMMISSION CHAIRPERSON SHAPIRO: This is a way of

1 our disseminating our product to more locations. Hopefully,
2 a greater dissemination of the product will garner us more
3 business.

4 And so I know that Commissioner Moss has been
5 passionate about this, and I know others have worked hard to
6 do this. The economics are still a challenge to see how
7 these facilities can operate and be profitable, but that's
8 something that we're not going to solve here. That's going
9 to have to be solved in other places and other venues.

10 But notwithstanding, I think it's time that we do
11 adopt this regulation so that we can at least afford
12 ourselves of the opportunity that was provided in AB 241.

13 Does anybody have any comments to this?

14 COMMISSIONER ISRAEL: Yes.

15 COMMISSION CHAIRPERSON SHAPIRO: Please, go ahead.

16 COMMISSIONER ISRAEL: I would like to ask that we
17 either amend it, the motion, or get some assurances -- okay.

18 COMMISSION CHAIRPERSON SHAPIRO: Yeah, please go
19 ahead.

20 COMMISSIONER ISRAEL: We either amend the motion
21 or get some assurances from Hollywood Park, given that it's
22 planning on ceasing operating, that it will not exercise its
23 authority and right to ban any perspective minisatellite
24 wagering facilities within that 20-mile radius of Hollywood
25 Park.

1 COMMISSION CHAIRPERSON SHAPIRO: I don't think
2 that would be --

3 COMMISSION VICE CHAIRPERSON HARRIS: It wouldn't
4 be a satellite. I mean, to do that you would have to be a
5 satellite.

6 You don't have to be, now, a racetrack, I think
7 you just have to be a satellite.

8 COMMISSIONER ISRAEL: No, it says a racetrack.
9 Maybe I misunderstand this but --

10 COMMISSION CHAIRPERSON SHAPIRO: Well, I think the
11 law is pretty specific with respect to what it provides in
12 that regard, with respect to radiuses. And, in fact, I
13 believe --

14 MR. LIEBAU: Chairman Shapiro, could I clarify
15 that for Commissioner Israel?

16 COMMISSION CHAIRPERSON SHAPIRO: You can probably
17 do a better job than I will.

18 MR. LIEBAU: Who always seems to have an interest
19 as to when I'm going to fade away and go down the river, or
20 whatever.

21 There is a specific law with respect to
22 continuation of satellite facilities in the Hollywood Park
23 area.

24 The Hollywood Park has the right to have a
25 satellite there. Believe me, if the industry does not want

1 it, Hollywood Park to operate that satellite, I'm sure that
2 we will --

3 COMMISSIONER ISRAEL: That's the opposite of what
4 I'm saying.

5 MR. LIEBAU: If I could just continue, please?

6 If Hollywood Park declines to have a satellite
7 facility in that area, any other track or the horsemen have
8 the right to come in and do a satellite.

9 And if they do not, then it's up to the Board that
10 can approve any public entity coming in that wants to
11 operate a satellite facility.

12 So there's no question about that.

13 We have said, as has, I think, Dr. Allred, and
14 Santa Anita, that we, as racetracks, will waive the 20-mile
15 thing for minisatellites, and I think that that includes the
16 Commerce Club, and also the fact that -- I can't speak for
17 Dr. Allred, but I have heard that he has no objections to
18 the card club, that's right close to him, opening up as a
19 minisatellite.

20 So I hope that clarifies the situation. There is
21 a specific law that has to do with the future of a satellite
22 facility at Hollywood Park.

23 COMMISSIONER ISRAEL: No, I'm not talking about
24 the future of a satellite facility at Hollywood Park.

25 I'm talking about, as I understand it, this would

1 enable, for instance, a sports bar to apply for a license to
2 operate a minisatellite wagering facility.

3 So should that sports bar be, for instance, and
4 this is not -- this is just a hypothetical example, in
5 Marina Del Rey, which is well within your 20-mile radius,
6 but not within anybody else's, I think it will be in the
7 beset interest of horse racing for you to allow that
8 minisatellite wagering facility in Marina Del Rey, or Santa
9 Monica, or whatever, if it meets all the other obligations
10 they have --

11 MR. LIEBAU: And you don't think that should be
12 imposed on the other tracks?

13 COMMISSIONER ISRAEL: No, because the other tracks
14 haven't expressed an interest in going out of business.

15 I'd like to preserve the ability for people in the
16 west side to continue betting on horse racing.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, if I can
18 just remind everybody, I believe that these will have to be
19 approved by the Board at that time.

20 COMMISSIONER ISRAEL: Yeah, but they have a veto
21 power.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, but again,
23 I think the law was written, and I respect your desire and
24 your interest to see Hollywood Park continue as a racetrack,
25 as I do, and I think as everybody does.

1 On the other hand, what we're doing here today is
2 we are approving, basically, the framework to allow people
3 to operate minisatellite wagering facilities.

4 And I think that our goal here is to get this done
5 so that we can avail ourselves and take advantage of placing
6 minisatellite facilities in places where people may not have
7 wagering opportunity.

8 And again, I appreciate your issue with respect to
9 seeing venues closed, but I really don't think that's the
10 issue here.

11 COMMISSIONER ISRAEL: No, no, no, that's
12 not -- you're completely missing my point.

13 My point is Hollywood Park is, as we know,
14 planning on closing. It is, by virtue of this regulation,
15 empowered to prevent minisatellite wagering facilities
16 within a 20-mile radius of Hollywood park from opening and
17 staying in business in the future.

18 What I want to make sure is that they don't
19 exercise that veto power over the licensing of those
20 minisatellite wagering facilities within their 20-mile
21 radius.

22 In other words I want to expand the number of
23 minisatellite wagering facilities. I want to make sure that
24 we have the ability to license those minisatellite wagering
25 facilities without objection from Hollywood Park, given that

1 Hollywood Park doesn't plan on, long term, being in business
2 as a racetrack.

3 COMMISSION VICE CHAIRPERSON HARRIS: I think the
4 problem is the legislation, though, I don't think we've got
5 the latitude. I mean, if the legislation was wide open,
6 you're right. But it sounds like the legislation's got that
7 in there already if they're -- not only a racetrack, but it
8 says satellite facilities, and indian gaming facilities, and
9 all that.

10 COMMISSIONER CHOPER: I guess, on the legislation,
11 it also permits any other satellite within 20 miles of an
12 opposing satellite to veto it, itself.

13 COMMISSIONER ISRAEL: Yeah.

14 COMMISSION CHAIRPERSON SHAPIRO: And that's his
15 issue.

16 COMMISSIONER ISRAEL: My issue is just that
17 Hollywood Park agree --

18 COMMISSION CHAIRPERSON SHAPIRO: That's your
19 issue.

20 COMMISSIONER ISRAEL: -- somehow, not to oppose
21 the opening of a minisatellite wagering facility within its
22 radius, given that those places might be in places for the
23 next 40 years, and Hollywood Park's not planning on being in
24 business for that.

25 COMMISSIONER CHOPER: I say it would only be one

1 place, because once you get one within 20 miles of Hollywood
2 Park then it's going to have the same veto power.

3 COMMISSIONER ISRAEL: Minisatellite wagering
4 facilities have veto power, also?

5 COMMISSIONER CHOPER: It says, "no such
6 minisatellite may be" -- oh, excuse me.

7 COMMISSION VICE CHAIRPERSON HARRIS: Minis can't
8 be --

9 COMMISSIONER CHOPER: No, no, any other satellite
10 facility, I'm sorry. You're right. I'm wrong. I'm wrong.

11 COMMISSIONER ISRAEL: No, I think the sole veto
12 power resides with the racetracks.

13 COMMISSIONER CHOPER: No, no, you're right.

14 COMMISSION VICE CHAIRPERSON HARRIS: I envision
15 that to be not as much of a veto power, as more of a
16 franchise type thing. But I don't know if there's enough
17 money there to pay for that franchise or not.

18 COMMISSIONER ISRAEL: But either way you can
19 prevent it from opening. However you describe it, it's a
20 effectively veto power.

21 COMMISSIONER MOSS: The question is, also, are we
22 in -- if we approve this as written, does this make it
23 easier for us to change, especially about the 20-mile
24 situation, or is it better to try to change that 20-mile
25 situation? I mean, not just for Hollywood Park, as

1 Commission Israel has mentioned, but for everybody, you
2 know.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, the 20-mile
4 limitation is set forth in the law. And the bill, which was
5 AB 241, established, basically, the framework for opening
6 these facilities.

7 COMMISSIONER MOSS: Right.

8 COMMISSION CHAIRPERSON SHAPIRO: I believe that if
9 there was a desire to see that any -- to rewrite the law so
10 that a former racetrack, or a racetrack not operating would
11 not have a veto right, so to speak --

12 COMMISSIONER ISRAEL: Right.

13 COMMISSION CHAIRPERSON SHAPIRO: That, I believe,
14 has to come from the Legislature. I don't believe that can
15 come from us. That's my issue here.

16 I understand what you're saying --

17 COMMISSIONER ISRAEL: Well, I guess I'm asking
18 them to voluntarily agree to do that.

19 COMMISSION CHAIRPERSON SHAPIRO: I don't think
20 he's going to, okay. And I wouldn't want to see that this
21 be held up since I don't -- I just have a sneaking suspicion
22 that he's not going to say oh, okay, so -- we can take
23 another shot, if you want.

24 COMMISSIONER ISRAEL: Well, look, it's a more
25 complicated problem, also, because Hollywood Park is in the

1 area of greatest population density, so there are more
2 perspective customers within 20 miles of Hollywood Park than
3 any of the other racetracks we license, if I'm not mistaken,
4 even this one.

5 So I think we need to consider somehow assuring
6 that wagering on horse racing is available easily to walk-in
7 customers on the west side of Los Angeles, and in the south
8 bay, which, you know, once Hollywood's gone it won't be.
9 You know, that's an issue, and it's going to detrimentally
10 affect handle unless we start looking forward to how we're
11 going to deal with the closure of Hollywood Park on many
12 levels, and this is just one of them.

13 I mean, obviously, Commissioner Moss has discussed
14 previously what do we do about the boarding and training of
15 horses in the absence of Hollywood Park?

16 But today we can't discuss that, we can only
17 discuss this one, which is what do we do about enabling
18 those people who want to wager in a live facility, to wager
19 in a live facility on the west side of Los Angeles.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, I agree,
21 and I think that we have to -- that issue should be looked
22 at, it should be studied, but I simply feel that this is not
23 the right place to do that.

24 And my hesitancy is that I think that we should
25 move forward, given the law that we do have, to try to

1 expand into those areas where we can expand.

2 And in the interim if the industry, and the
3 stakeholders, and the others wish to try and perfect the law
4 such that we can account for circumstances like that, then
5 we can do that.

6 I just wouldn't want to see this held up longer.

7 COMMISSION VICE CHAIRPERSON HARRIS: That's the
8 thing, I think we want to get this done. One of the things
9 to keep in mind, I think this whole model is somewhat
10 flawed. An ADW model would make more sense.

11 I mean, I could walk into any place that had
12 wireless internet, and any place in this area, and right
13 here I could probably do it, and bet over my computer now.

14 COMMISSIONER ISRAEL: Sure.

15 COMMISSION VICE CHAIRPERSON HARRIS: So it's going
16 to end up being wide open, anyway, so all these franchise,
17 20-mile deal, I think are going to be somewhat irrelevant at
18 some point.

19 COMMISSIONER ISRAEL: Every Starbucks is
20 essentially a major -- a minisatellite wagering facility.

21 COMMISSION CHAIRPERSON SHAPIRO: You're right.

22 COMMISSIONER ISRAEL: Because they're all Wi-Fi.

23 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I mean,
24 I think that's the way to go is to convince all the Starbuck
25 folks that they ought to be betting the races.

1 (Laughter.)

2 COMMISSION CHAIRPERSON SHAPIRO: Well, if you've
3 ever noticed, at Coffee Bean they have these monitors, and
4 every Coffee Bean just run every stuff. And the racing
5 should go and get races put up there and have people hanging
6 out and betting, I agree with you.

7 COMMISSIONER ISRAEL: They're running stock quotes
8 all day, which actually the return has been lower than at
9 the racetrack.

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, much
11 lower, yeah.

12 COMMISSION CHAIRPERSON SHAPIRO: Go to Coffee
13 Bean.

14 MR. BLONIEN: Mr. Chairman, may I be heard on this
15 matter?

16 COMMISSION CHAIRPERSON SHAPIRO: Yes.

17 MR. BLONIEN: Mr. Chairman, my name is Rod
18 Blonien.

19 First of all, the 20-mile provision is in the
20 State statute, so the State statute would have to be amended
21 to change that.

22 And the reason the 20-mile is there because,
23 unfortunately, it was in the original satellite law that was
24 passed in 1986, and some of the fairs were very concerned
25 about minisatellites opening up too close in their

1 territory.

2 With respect to Hollywood Park, Hollywood Park has
3 graciously agreed to waive the 20-mile provision as it
4 relates to a number of locations that I've discussed with
5 them. And Mr. Liebau's been quite cooperative, as has Mr.
6 Charles, as has Dr. Allred.

7 And so I think that if we get this adopted today,
8 hopefully by the end of February, we may be able to come
9 forth with some applications and get some facilities opened.
10 Thank you.

11 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.
12 Blonien.

13 Are there any other comments?

14 There being none, I'll make a motion to adopt this
15 regulation, to adopt Rule 2066, so that we can move forward
16 and begin to open minisatellite wagering facilities in the
17 three zones of the State, 15 minisatellite facilities.

18 Is there a second?

19 COMMISSIONER CHOPER: Second.

20 COMMISSION CHAIRPERSON SHAPIRO: It's seconded.

21 Is there any more comment?

22 COMMISSIONER MOSS: I think we should just review
23 it, perhaps almost every 60 days, to see what applications
24 we do get in its current form and --

25 COMMISSION CHAIRPERSON SHAPIRO: We certainly

1 should request that staff give us, and staff should provide
2 an update with respect to the progress of, hopefully, we're
3 getting people that are applying for this.

4 COMMISSIONER MOSS: Exactly.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 COMMISSIONER MOSS: And if we don't, then we can
7 go to --

8 COMMISSION CHAIRPERSON SHAPIRO: But I don't think
9 we want to make that part of the motion.

10 COMMISSIONER MOSS: No.

11 COMMISSION CHAIRPERSON SHAPIRO: All right.

12 COMMISSIONER ISRAEL: To that end, is there a way
13 that we can promote to prospective applicants that this
14 exists and -- you know, card clubs, obviously, are attuned
15 very much to the prospects of increasing gambling handle,
16 but sports bars may not necessarily know about this. How do
17 we get the word out?

18 COMMISSION VICE CHAIRPERSON HARRIS: I think the
19 stakeholders, basically the horsemen and the tracks, should
20 be doing that because it's -- the beauty of this is it's
21 really new money, it's not just cannibalizing something
22 else.

23 COMMISSIONER ISRAEL: Right, that's why --

24 COMMISSION VICE CHAIRPERSON HARRIS: But racing
25 has not been real good at finding new money.

1 MR. MARTEN: Mike Marten, CHRB staff. The word is
2 getting out. This is one of the most popular issues in the
3 media I've seen in a long time. An article in the San
4 Francisco Chronicle, today, the Chairman was interviewed by
5 a Sacramento station at the last meeting. It was in a
6 number of television stations who covered it at the last
7 meeting. They will be covering this. So word's getting out
8 on this.

9 COMMISSIONER ISRAEL: What about ESPN Zone, and
10 things like that?

11 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
12 it's incumbent to the -- our public information officer
13 should put out a release, the industry should work to
14 promote it.

15 I agree with you, every effort should be made by
16 all the stakeholders, it's for the benefit of all the
17 parties.

18 You know, that's not our job to do, but we should
19 certainly put it on our website and do everything we can to
20 promote it and make it know that this is available.

21 So I would like to get the vote on the matter.

22 COMMISSIONER ISRAEL: Okay.

23 COMMISSION CHAIRPERSON SHAPIRO: We can talk about
24 marketing it perhaps another time.

25 All those in favor?

1 (Ayes.)

2 COMMISSION CHAIRPERSON SHAPIRO: Any opposed?

3 It passes.

4 Okay, Item Number 5, I still don't see Leanne so,
5 okay, we'll go to Item Number 5.

6 Public hearing and action by the Board on the
7 proposed amendment of CHRB Rule 2073, Operation of an
8 Advance Deposit Wagering Account for all Entities, to allow
9 ADW account holders access to deposits the same day they are
10 made. (Written comment complete; proposed amendment ready
11 for adoption).

12 Are there any comments on this? This would simply
13 allow people to make their deposits and bet the same day, as
14 I understand it.

15 And I can't imagine anybody has a problem with
16 this.

17 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I can't
18 see any problem. I move we approve.

19 COMMISSION CHAIRPERSON SHAPIRO: It's moved.

20 Is there a second?

21 COMMISSIONER ANDREINI: Second.

22 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

23 (Ayes.)

24 COMMISSION CHAIRPERSON SHAPIRO: It's passed.

25 THE REPORTER: Excuse me, Mr. Chairman, who's the

1 second, please?

2 COMMISSION CHAIRPERSON SHAPIRO: The second was
3 Commissioner Andreini.

4 As I said, I am skipping around a little bit on
5 the agenda, so please bear with.

6 I'd like, now, to go to Item Number 12, which is a
7 discussion and action by the Board regarding all matters
8 concerning the Sacramento harness Association, its financial
9 status and resolution of liabilities.

10 I'd ask any representatives of Sacramento Harness
11 to please come to the table in front.

12 MR. AXELROD: Ivan Axelrod, President of
13 Sacramento Harness Association. Good morning, Chairman
14 Shapiro, Commissioners.

15 COMMISSION CHAIRPERSON SHAPIRO: Good morning, Mr.
16 Axelrod, it's nice to see you.

17 Mr. Axelrod, as you know, this issue has caused a
18 great deal of consternation and difficulty for all parties,
19 and we are clearly concerned with what is going on. We
20 would like to get an update. We appreciate that you've
21 appeared before the Board.

22 Some of us have some concerns. And so I would
23 first like to ask that you provide us with an update, from
24 your perspective, of where things stand with respect to the
25 failure of this organization and the unfulfilled liabilities

1 or obligations. So perhaps you can give us a summary.

2 MR. AXELROD: Thank you, Chairman, I will do that.
3 For, hopefully, the benefit of some of the new Commissioners
4 and for those that have not been involved over this past six
5 months, as we've tried to wind down the business, I just
6 want to spend a few minutes to hopefully bring you all up to
7 date.

8 In early 2008 our organization, the operator of
9 harness racing in Sacramento, determined that revenues had
10 dropped to such a level that we could not continue
11 operating, paying the rent, and meeting our obligations in
12 Sacramento.

13 We moved forward with discussions with Cal-Expo
14 about either restructuring our financial arrangement with
15 them or possibly turning the operation over to them, which
16 subsequently we did on March 2nd, 2008.

17 Immediately thereafter we put together a plan of
18 winding down our business, liquidating our assets and paying
19 off our liabilities.

20 Initially, we dealt with our three biggest
21 creditors at the time, which were the horsemen, as it
22 related to the paymaster account, and our two other direct
23 creditors Cal-Expo, and Christo Bardis, someone who financed
24 a good portion of our business.

25 We initially paid off the horsemen's paymaster

1 account one hundred percent and we made financial
2 arrangements with both Cal-Expo and Chris Bardis to make an
3 initial payment to them, and we signed agreements to that
4 effect.

5 And there would be potential future payments to
6 them as we wound down the business and paid other creditors.

7 We then moved forward to collecting -- and we did
8 all of that with the cash that we had on hand.

9 We then moved forward with collecting outstanding
10 receivables for our business. The bulk of those receivables
11 were from three debtors, one being Scotwinc, the second
12 being Notwinc, and the third being Los Alamitos.

13 We ran into some obstacles at that time in
14 communicating with those organizations, as they are all
15 related, obviously, to the horse racing business, and both
16 Scotwinc and Notwinc communicated to us that they felt there
17 may be other claims to that money that they were holding for
18 us, and until such time as those claims were settled, they
19 would not make a distribution of the monies that were owed
20 to Sacramento Harness.

21 That put a stumbling block in the way of us
22 proceeding with collecting those amounts due us, which were
23 in excess of a million dollars and, therefore, we proceeded
24 both with discussions with the satellite operators, who we
25 determined through conversations and meetings, were the

1 members of Scotwinc and Notwinc who were not allowing those
2 payments to be made to us because they believed that they
3 had preference in those monies, and they should not be
4 commingled with our other assets and be paid as a general
5 creditor.

6 We approached the Horse Racing Board to try and
7 assist us in this endeavor. And at the same time we reached
8 out to the satellite operators, primarily Jack Liebau at the
9 time, to try and work on a resolution so that those funds
10 could be turned over to Sacramento Harness.

11 The main issue clearly was that the satellite
12 operators believed that the money that we, Sacramento
13 Harness, owed to them should be paid a hundred percent and
14 they shouldn't be treated as a general creditor.

15 They believed they had a preference, some type of
16 trust relationship.

17 We did not see that as the issue. We engaged
18 legal counsel, we asked both the CHRB and the satellite
19 operators to provide us any type of legal precedent to
20 substantiate their position.

21 And if we received such information, we would
22 clearly pay a hundred percent of what they were owed before
23 we paid other creditors.

24 None of that documentation, unfortunately, was
25 presented to us and our counsel said, without support we

1 cannot treat the satellites as a preferred creditor.

2 COMMISSION CHAIRPERSON SHAPIRO: All right, so
3 let's stop there for one second, okay. Is some of the
4 money, in fact, location fees that are due to others?

5 MR. AXELROD: Well, the monies owed to the
6 satellites are their percentage of the money that is wagered
7 at their facilities.

8 COMMISSION CHAIRPERSON SHAPIRO: Which are
9 location fees.

10 MR. AXELROD: Yeah.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay. And it's
12 my understanding, and I believe it's been confirmed by our
13 Attorney General, that location fees are, in fact,
14 mandatory -- are to be paid out on a mandatory basis. Okay,
15 they're not -- they, as I understand it, if I understood and
16 I'm certainly willing to be corrected on this, that in the
17 opinion we got from the AG, that those do in fact have a
18 priority over other things.

19 Now, I see counsel is disagreeing with me.

20 STAFF COUNSEL MILLER: Yes, I don't see them as a
21 mandatory distribution. I think that what the Attorney
22 General's letter says, that these monies should be paid from
23 Scotwinc to Sacramento Harness, and I don't believe --

24 COMMISSION CHAIRPERSON SHAPIRO: I'm not saying
25 who they should be paid to. But does the law not say that

1 location fees are mandatory, should be -- does it not
2 say -- they don't say it's discretionary. They're mandatory
3 obligations.

4 STAFF COUNSEL MILLER: They're mandatory in the
5 sense that there is a fixed amount that is to be paid by
6 statute.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay, stop. Has
8 that been paid? Has that been paid?

9 MR. AXELROD: No.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. So let's
11 just stop there. I'm not saying who's getting it. But if
12 it's a mandatory payment, by law, are we not required to
13 insist that that payment be paid?

14 I'm not saying to whom. But are we not required
15 to say that the payment should be made?

16 STAFF COUNSEL MILLER: As in any consent decrees
17 involving - yes, I mean, you can make a statement that the
18 law ought to be followed.

19 COMMISSION CHAIRPERSON SHAPIRO: Fine. Is it not
20 this Board's obligation to insist that the law be followed?

21 STAFF COUNSEL MILLER: Yes.

22 COMMISSION CHAIRPERSON SHAPIRO: Great. So, if
23 that's the case, then as part of this entire morass,
24 shouldn't this Board at least be saying we expect that the
25 law be followed and that mandatory payments be made, and

1 should we not be instructing Sacramento Harness to do so?

2 STAFF COUNSEL MILLER: Yes. And you can instruct
3 Scotwinc to follow the law.

4 COMMISSION CHAIRPERSON SHAPIRO: Fine. Should we
5 not instruct all parties to make mandatory payments pursuant
6 to the law that governs horse racing?

7 STAFF COUNSEL MILLER: Correct, yes.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay. So bear
9 with.

10 COMMISSIONER ISRAEL: What's our recourse if the
11 instructions aren't followed?

12 STAFF COUNSEL MILLER: They're licensees and you
13 can discipline the license. Even though Sacramento Harness
14 no longer operates, they're still within the three-year
15 period in which you have jurisdiction over their license, so
16 you can impose discipline upon them.

17 COMMISSION CHAIRPERSON SHAPIRO: And I would like
18 to add to that. While Sacramento Harness, I believe, is a
19 single-asset entity, and probably an LLC of some sort, or
20 something like that, there are still directors and officers
21 that, frankly, I don't understand why, or how, and I'm not
22 pleased that other than Mr. Axelrod, who I appreciate
23 coming, have simply walked away and left everybody holding
24 the bag here. This is upsetting.

25 So the first thing I think this Board should do is

1 take action, which I have felt from day one.

2 I admit that I am a bit annoyed that when we
3 approved the continuation of this license there was to be a
4 bond posted, that was not posted, or a letter of credit,
5 some financial instrument.

6 And so here we are, and we have money being tied
7 up, and I also find it disconcerting that there are some
8 priority distributions, apparently, that are being made to
9 some interested parties over others. And I don't understand
10 that.

11 So I would like to ask that this Board require and
12 dictate -- or mandate -- I'm good at that word, aren't I?
13 Mandate that this licensee, Sacramento Harness, and
14 Scotwinc, and Notwinc, and every other party adhere to the
15 law and distribute the money as mandated by the law.

16 COMMISSIONER CHOPER: To whom?

17 COMMISSION CHAIRPERSON SHAPIRO: I'm not saying to
18 who. Okay, they need to follow the law.

19 I'm not here to tell them, I don't want to see our
20 Board get embroiled in a lawsuit by saying give it to Joe.

21 But what I do want to do is say the law says you
22 need to do it, so do it.

23 COMMISSIONER ISRAEL: But might everybody's
24 interest not be better served by a bankruptcy proceeding?

25 COMMISSION CHAIRPERSON SHAPIRO: Commissioner

1 Israel, you may be right. But to be honest with you, this
2 has dragged on since now March, I think it is, and we still
3 have this --

4 COMMISSION VICE CHAIRPERSON HARRIS: Well, I
5 don't --

6 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

7 COMMISSION VICE CHAIRPERSON HARRIS: I don't
8 understand why the creditors don't force a bankruptcy
9 somehow. I mean, it's like the CHRB is almost being asked
10 to be a bankruptcy judge, where that's what should really
11 happen.

12 COMMISSIONER CHOPER: Can I say something?

13 COMMISSION CHAIRPERSON SHAPIRO: Please, anybody
14 can say anything.

15 Who's pinging?

16 COMMISSIONER CHOPER: We originally got into this
17 because Mr. Liebau argued, I thought pretty persuasively,
18 actually, but once again I was wrong, under the Attorney
19 General's opinion, I think, that there was a lien of some
20 sort, that these were held in trust, these funds were held
21 in trust for the locations.

22 But we have this -- so what we did I think was the
23 sensible thing, which was to ask the Attorney General's
24 Office to give an opinion on this, which we've got.

25 Have you seen the opinion?

1 MR. AXELROD: Yes, I have.

2 COMMISSIONER CHOPER: Okay. So as I understand
3 the opinion, it's certainly true that that money can't be
4 kept by the satellite facilities, they got to pay it over.
5 And I think they got to pay it over to the person that they
6 owe it, and that would probably be the Sacramento Harness
7 Association.

8 COMMISSION CHAIRPERSON SHAPIRO: No, no, I think
9 you have it backwards.

10 Sacramento Harness, okay, the monies being held,
11 as I understand it, by Scotwic and Notwinc are -- and you
12 may be able to correct me here, Mr. Liebau.

13 But this money, Sacramento Harness has the ability
14 and the obligation to mandate that this is their money, they
15 need it to be distributed. Okay?

16 COMMISSIONER CHOPER: That's what I say.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, maybe I
18 didn't understand you.

19 COMMISSIONER CHOPER: Well, I said that they be
20 paid over, initially, to Sacramento Harness Association.

21 Okay, now, it also says, though, I think and you
22 can tell me if I'm wrong, but despite the fact that I was
23 sympathetic to what you said the last time around, Derry
24 Knight says, quite clearly here, that there's no priority
25 for anybody in these -- in a bankruptcy proceeding.

1 MR. LIEBAU: Well, Commissioner Choper, if I could
2 just speak to this opinion, and to what I think the
3 confusion is. I think that if the transcripts were ever
4 reviewed, you would find that I never asked for an order
5 that the Scotwinc or Notwinc be directed to pay these funds
6 to the various satellites for which they're owed.

7 What I wanted the Board to do was to make a
8 finding that the location fees were mandatory payments. And
9 that is exactly what is done in the last paragraph of the
10 Attorney General's opinion, which there the Attorney General
11 is speaking to the California law and not to the bankruptcy
12 code, or Federal law.

13 And so I think we have to give extreme importance
14 to his opinion in the last paragraph, that these location
15 fees are mandatory payments.

16 COMMISSIONER CHOPER: So what would you -- what do
17 you think should be done. This is very confusing. I mean,
18 I can understand paying it over to SHA.

19 MR. LIEBAU: No, no, just a minute.

20 COMMISSIONER CHOPER: Go ahead.

21 MR. LIEBAU: That they are mandatory payments.
22 That's the finding that I would like the Board to make, that
23 is in conformity with the opinion, the last paragraph of the
24 opinion.

25 Then I would like the Board to order the

1 Sacramento Harness, and Mr. Axelrod, to pay these payments
2 to the satellites.

3 And he can either -- we can either have the
4 Notwinc and Scotwinc, you know, distribute the money to
5 Sacramento Harness and for them to do it, or Mr. Axelrod, on
6 behalf of Sacramento Harness, can direct Scotwinc and
7 Notwinc to pay these amounts to the authority.

8 And this is all being done under the law. I mean,
9 the responsibility is, as you know, the administration and
10 enforcement of horse racing law, that's what the Horse
11 Racing Board is supposed to do, and all I'm doing is asking
12 you to do that.

13 COMMISSIONER CHOPER: If they were to pay it, if
14 the money goes to Sacramento Harness Association, right?

15 MR. LIEBAU: Right.

16 COMMISSIONER CHOPER: And you would say that they
17 should pay it over --

18 MR. LIEBAU: That you would order them to do that.

19 COMMISSIONER CHOPER: Oh, yeah. Well, I wouldn't
20 want to do that.

21 MR. LIEBAU: Why not?

22 COMMISSIONER CHOPER: In this opinion.

23 MR. LIEBAU: No, but this opinion --

24 COMMISSIONER CHOPER: This opinion doesn't -- that
25 would give --

1 MR. LIEBAU: All you're ordering them to do is
2 comply with the law.

3 COMMISSION VICE CHAIRPERSON HARRIS: To pay
4 Sacramento Harness.

5 MR. LIEBAU: Sacramento Harness.

6 COMMISSIONER CHOPER: No, no, no, we're beyond
7 Sacramento Harness.

8 COMMISSION CHAIRPERSON SHAPIRO: No, no, no, the
9 money's not there.

10 COMMISSIONER CHOPER: I don't have any problem
11 with giving it to Sacramento Harness, they're just holding
12 it now. They're certainly not going to run away with it, if
13 they don't want to get into a lot of trouble.

14 MR. LIEBAU: And you would -- but we would want
15 you to order them to pay it.

16 COMMISSIONER CHOPER: Pay it to whom?

17 MR. LIEBAU: To pay the -- for Sacramento Harness
18 to pay the amounts that are owed as location fees, which are
19 mandatory obligations.

20 And, you know, I know, Mr. Choper, somebody might
21 ask you, well, what happens if they don't? And I'd have to
22 say that at the April meeting I thought your comment was
23 well taken, and you said, "well, we jump off that bridge
24 when we come to it."

25 COMMISSIONER CHOPER: Yeah. You know, I guess I

1 thought that if they are mandatory it would follow, but it
2 doesn't, that it would follow that they be paid over to you
3 just as you said, okay.

4 But let me, this doesn't take long, you referred
5 to the last -- there's several paragraphs you could look at,
6 but at the very --

7 COMMISSION CHAIRPERSON SHAPIRO: I think he's
8 looking at a different paragraph than you are.

9 COMMISSIONER CHOPER: No, I am looking, now, at
10 the last paragraph at the opinion. The conclusion, right,
11 is what you're talking about?

12 MR. LIEBAU: Right, the last paragraph.

13 COMMISSIONER CHOPER: Similarly, the fact that
14 this could -- he says they're mandatory, earlier.

15 MR. LIEBAU: Right.

16 COMMISSIONER CHOPER: Now, this is what I think
17 presents a problem for you, to put it mildly, but tell me if
18 I'm wrong.

19 "Similarly, the fact that the distributions...are
20 mandatory and not discretionary, does not elevate to
21 priority status the creditors claiming a right to payments
22 pursuant to these statutes."

23 That's you, I read it as.

24 "Because their claims, the locations' claims to
25 these statutory obligations are not afforded any priority or

1 secured status in the event of a bankruptcy filing."

2 Now, you may say, well, there's been no bankruptcy
3 filing.

4 MR. LIEBAU: There has been no bankruptcy filing.

5 COMMISSIONER CHOPER: Yes.

6 MR. LIEBAU: And, you know, all I'm asking for
7 is --

8 COMMISSIONER CHOPER: But this will consume the
9 whole, as I understand it, the entire net assets.

10 MR. LIEBAU: No, it's not. The location fees do
11 not.

12 COMMISSIONER CHOPER: Okay, I take it back.
13 How much are the location fees?

14 MR. LIEBAU: Pardon me?

15 COMMISSIONER CHOPER: Are the location fees
16 everything held by Scotwinc?

17 MR. LIEBAU: No.

18 COMMISSIONER CHOPER: I'm sorry. Now, that's
19 where I'm confused a little bit, and maybe others are, too.

20 How much are the location fees, roughly, if
21 the --

22 MR. LIEBAU: It was in your packet.

23 COMMISSIONER CHOPER: They have --
24 these -- Scotwinc and Notwinc and --

25 COMMISSIONER ISRAEL: It's \$670,000. It's the

1 first line in liabilities.

2 COMMISSIONER CHOPER: Are the location fees?

3 COMMISSIONER ISRAEL: Isn't it the satellite two
4 percent of handle?

5 MR. LIEBAU: Yes.

6 COMMISSIONER CHOPER: So that would be half of the
7 \$1.17 million that they've got.

8 COMMISSIONER ISRAEL: Right.

9 COMMISSIONER CHOPER: Okay. And the other
10 creditors are owed, I get here -- where is it?

11 COMMISSIONER ISRAEL: The other creditors are owed
12 \$2.7 million.

13 COMMISSIONER CHOPER: No, not --

14 COMMISSIONER ISRAEL: Yeah.

15 COMMISSIONER CHOPER: Oh, yeah, it's 2.7 -- \$2.7
16 million.

17 COMMISSIONER ISRAEL: Approximately.

18 COMMISSIONER CHOPER: And there's going to be
19 left, after this, about 650,000, or a little less I guess
20 from that, I haven't done the subtraction, if they pay it
21 over to you, first. There's going to be a bankruptcy and
22 the money's going to be recalled.

23 MR. LIEBAU: Let it be recalled.

24 COMMISSIONER CHOPER: And I guess I --

25 MR. LIEBAU: Commissioner Choper, this is a

1 slippery slope that you and the board are on.

2 COMMISSIONER CHOPER: Well, I think that's
3 what I'm kind persuaded it is.

4 MR. LIEBAU: And if you are not going to enforce
5 the law with respect to these distributions, you are making
6 everyone who wagers in California a general creditor. And
7 you are undermining the integrity of the pools here in
8 California, and this is a very serious thing.

9 And I think that if that's the case the -- I will
10 tell you this, that I doubt that Hollywood Park will be able
11 to post enough of a bond, much less any other track that's
12 now operating in California, if these payments aren't
13 mandatory, and the Attorney General has held them to be
14 mandatory, and the Board has an obligation to enforce the
15 law.

16 Order these people to make the payments and, if
17 they don't I don't know what happens, but at least you've
18 carried out your statutory duty.

19 COMMISSION CHAIRPERSON SHAPIRO: And that's my
20 concern.

21 COMMISSIONER CHOPER: Can I read the last two
22 sentences?

23 COMMISSION CHAIRPERSON SHAPIRO: Huh?

24 COMMISSIONER CHOPER: Let me read the last two
25 sentences and then I'll say one thing and I'll shut up.

1 "Because their claims," that's your claims, "to
2 these statutory obligations are not" -- these are the
3 mandatory claims, which they are -- "are not afforded any
4 priority security status in the event of a bankruptcy
5 filing, the entities claiming entitlement to such payments
6 will enjoy no such priority status."

7 That says in the event of a bankruptcy file.

8 "The residual funds at issue are not distribution
9 per these statutes but, rather, the funds are a refund owing
10 to SHA for an overpayment for Scotwinc services performed
11 for the satellite."

12 Now, I guess I would want another opinion. That
13 in light of what certainly would appear to be a bankruptcy
14 taking place, right, whether we ought to, given everything
15 that's been said, whether our legal obligation, that's what
16 you're talking about under this, and we've got another one
17 of these lawyers here, now, shaking his head.

18 MR. LIEBAU: We're going to gang you. Neither one
19 of us is authorized to practice law so --

20 COMMISSIONER CHOPER: And neither am I. I'm not,
21 either, so we're all in the same boat. Except you have an
22 interest and I don't, except for being charged later on with
23 a breach of our statutory obligations to do something that,
24 if not directly contrary to the AG's opinion, comes pretty
25 damn close.

1 COMMISSION CHAIRPERSON SHAPIRO: Well, but that's
2 my concern, okay. I believe that this Board has an
3 obligation, okay, and our obligation is that it's our
4 responsibility to enforce all laws, rules, and regulations
5 affecting horse racing and pari-mutuel wagering.

6 From my perspective, it would appear that the
7 right course for our Board is not to dictate to them whom,
8 but to say this is a mandatory obligation, you must -- you
9 must now --

10 COMMISSIONER CHOPER: Who? SHA.

11 MR. LIEBAU: Everybody.

12 COMMISSION CHAIRPERSON SHAPIRO: To everybody.

13 COMMISSIONER CHOPER: No, no.

14 COMMISSION CHAIRPERSON SHAPIRO: You must make
15 these mandatory payments. If our Board is saying that,
16 rather than letting this go on, if it ends up in bankruptcy,
17 if they don't pay, it's out of our hands. But we've done
18 what we're obligated to do and that's to enforce the law.

19 COMMISSIONER ISRAEL: I agree.

20 COMMISSIONER MOSS: I agree with you, Mr.
21 Chairman, and I think we should take a vote.

22 COMMISSIONER ISRAEL: Yeah, I agree. A man bites
23 dog, news, I completely agree with Jack Liebau.

24 COMMISSIONER MOSS: But I mean everybody should
25 make the payments they're supposed to make.

1 COMMISSIONER ISRAEL: There you go. See, I knew
2 I'd get your attention.

3 MR. AXELROD: Mr. Chairman, may I make one
4 comment?

5 And, you know, our legal counsel is not here, he
6 had a conflicting appointment.

7 But one of the things we were trying to do, which
8 maybe is nine months later is the wrong thing, was to, what
9 we believed, was maximize the payments to creditors by not
10 putting the company into a bankruptcy.

11 COMMISSION CHAIRPERSON SHAPIRO: Mr. Axelrod, I
12 know that, I know that you --

13 MR. AXELROD: And we're happy to do that.

14 COMMISSION CHAIRPERSON SHAPIRO: I know that. I
15 know that your goal has been not to see money wasted in
16 legal fees and bankruptcy proceedings. I understand that,
17 okay.

18 My concern is not for that. But my concern is
19 that this Board is upholding the law that it's charged to
20 uphold. And I believe that we should require that all
21 mandatory payments be made. I'm not saying to whom, but
22 that they should be made. And that's what I would like to
23 see this Board do.

24 COMMISSIONER ISRAEL: Does Scotwinc exist as sort
25 of a trust?

1 COMMISSION CHAIRPERSON SHAPIRO: It's a
2 corporation that's owned by all of the stakeholders in the
3 industry.

4 COMMISSIONER ISRAEL: But can we order it to
5 disburse money as we see fit? So, in other words, instead
6 of taking the money owed, the \$670,000, and ordering it
7 being paid to SHA for further disbursement to the creditors
8 in that group, can we order Scotwinc to cut the checks
9 directly to the creditors in that group, in the amounts that
10 they're owed?

11 COMMISSION CHAIRPERSON SHAPIRO: No. I think all
12 we're doing is saying the law says these are mandatory --
13 the location fees are mandatory payments.

14 MR. LIEBAU: That's all I'm asking for.

15 COMMISSIONER CHOPER: He says, "the residual funds
16 at issue are a refund owing to SHA."

17 MR. LIEBAU: We don't have any problem with that.

18 COMMISSIONER CHOPER: Okay. So that's all you
19 want is the money to go back to SHA?

20 COMMISSIONER ISRAEL: You're happy with the money
21 going back to them?

22 MR. LIEBAU: All I want you to do is to order SHA
23 to make the mandatory payments and, you know, as far as
24 Hollywood's concerned, we will give up our claim against the
25 money that's held by Scotwinc and Notwinc. And if SHA

1 doesn't follow your order, we'll have to worry about that at
2 that point in time.

3 COMMISSIONER CHOPER: Would you repeat what you
4 said, again?

5 MR. LIEBAU: All we're asking, and this is where
6 the confusion is, and we get into talking about bankruptcy,
7 and everything else, we don't have any -- forget about
8 bankruptcy. All we want, all Hollywood Park wants, and I
9 think I can speak for the fairs, is for this Board to do two
10 things.

11 One, to affirm that the Attorney General's opinion
12 is correct that the distributions under those cited sections
13 are mandatory. Easy. That's what you're supposed to do,
14 anyhow.

15 COMMISSIONER CHOPER: Exactly.

16 MR. LIEBAU: Secondly --

17 COMMISSIONER CHOPER: We're not affirming, we're
18 abiding by.

19 MR. LIEBAU: Right. Secondly, you order SHA to
20 pay the mandatory payments. In other words, to follow the
21 law.

22 COMMISSIONER CHOPER: Right.

23 MR. LIEBAU: That's all we're asking for.

24 COMMISSION CHAIRPERSON SHAPIRO: And that's all
25 I'm asking for. I'm in agreement with that.

1 COMMISSIONER CHOPER: Where do the mandatory
2 payments go to SHA?

3 MR. LIEBAU: Well, I guess we're going to have to
4 trust SHA and pay the money over to SHA and, hopefully,
5 we're going to follow your order and pay the --

6 COMMISSION CHAIRPERSON SHAPIRO: But we're not
7 involved in that. We're not involved in that.

8 COMMISSIONER ISRAEL: Well, that's why --

9 COMMISSIONER CHOPER: No, he's just saying follow
10 our order and --

11 COMMISSIONER ISRAEL: But that's why I suggested
12 that there might be a -- or asked if there was a mechanism
13 for us to directly -- to order the money directly paid from
14 that account, that Scotwinc account, to Hollywood Park, Del
15 Mar, whoever the others are.

16 COMMISSION CHAIRPERSON SHAPIRO: No. The priority
17 payments that we don't want to get into.

18 MR. LIEBAU: That's how we get bogged down.

19 COMMISSIONER ISRAEL: What? We don't want to do
20 that?

21 COMMISSION CHAIRPERSON SHAPIRO: No, no, we don't
22 want to do that.

23 COMMISSIONER ISRAEL: Okay. Yeah, okay. I was
24 just asking the question.

25 COMMISSION CHAIRPERSON SHAPIRO: We simply want to

1 do those two simple steps and then we've done our --

2 COMMISSIONER CHOPER: What's the two of them, the
3 first is to pay it over to SHA.

4 MR. LIEBAU: No, no, no.

5 COMMISSION CHAIRPERSON SHAPIRO: No. The first is
6 to affirm -- is to accept the Attorney General's --

7 COMMISSIONER CHOPER: Right.

8 COMMISSION CHAIRPERSON SHAPIRO: -- okay, opinion.
9 And the second is to order that the money be paid to SHA
10 pursuant to that opinion.

11 COMMISSIONER ISRAEL: And then SHA needs to pay
12 the --

13 MR. LIEBAU: And SHA be ordered to pay the
14 mandatory payments.

15 COMMISSIONER CHOPER: Yes, that's fine.

16 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry, SHA to
17 be ordered to make the mandatory payments, but we're not
18 saying to who.

19 COMMISSIONER ISRAEL: Right.

20 COMMISSIONER CHOPER: Can I ask you a question?

21 MR. LIEBAU: Well, you've said that the location
22 fees are mandatory.

23 COMMISSION CHAIRPERSON SHAPIRO: I understand
24 that.

25 COMMISSIONER CHOPER: Where does it say that here?

1 Where does it say, in this opinion, and I'm serious about
2 this, where does it say that we should tell SHA anything
3 about what it should do with these monies?

4 MR. LIEBAU: It doesn't but --

5 COMMISSIONER CHOPER: Does it imply the contrary?
6 you're saying no, but I think it does.

7 MR. LIEBAU: I don't really care what the Attorney
8 General said, frankly.

9 COMMISSIONER CHOPER: Ah.

10 MR. LIEBAU: But wait a minute. But I think that
11 the law is what we should be concerned about and under the
12 law they are supposed to make these payments and they're
13 mandatory.

14 COMMISSIONER CHOPER: Here's the major
15 disagreement between us. I don't think that we are to
16 interpret the law with out -- if there's any dispute about
17 it, without the advice of the Attorney General's Office,
18 that's why we got a lawyer.

19 MR. LIEBAU: They have said -- they have said that
20 those are mandatory payments.

21 COMMISSIONER CHOPER: But they also strongly
22 suggest that they should be paid over only to SHA.

23 MR. LIEBAU: We're doing that, Commissioner
24 Choper.

25 COMMISSIONER CHOPER: If that's all you want, I'm

1 for it.

2 COMMISSIONER ANDREINI: Put it to a vote, Mr.
3 Chairman.

4 COMMISSION CHAIRPERSON SHAPIRO: So let's have a
5 motion, okay. I'm going to need some help in making it.

6 COMMISSIONER ISRAEL: First, I move that SHA be
7 required to make its mandatory payments and, secondly, that
8 the money be released to SHA, by Scotwinc, in order to
9 facilitate those payments to be made. Is that right?

10 MR. LIEBAU: And Notwinc.

11 COMMISSIONER ISRAEL: And Notwinc, okay.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay, is there a
13 second?

14 COMMISSIONER MOSS: I second.

15 COMMISSION CHAIRPERSON SHAPIRO: Second.

16 All those in favor?

17 (Ayes.)

18 COMMISSION CHAIRPERSON SHAPIRO: Okay.

19 MR. LIEBAU: Thank you.

20 COMMISSIONER CHOPER: I'm opposed.

21 COMMISSION CHAIRPERSON SHAPIRO: And one opposed.
22 Thank you.

23 Now, back to you, Mr. Axelrod.

24 MR. AXELROD: Back.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, that part's

1 done.

2 EXECUTIVE DIRECTOR BREED: There's some more money
3 in Los Alamitos.

4 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

5 EXECUTIVE DIRECTOR BREED: Los Alamitos, there's
6 another pot of money.

7 STAFF COUNSEL MILLER: That wasn't part of the
8 motion.

9 EXECUTIVE DIRECTOR BREED: That's not part of the
10 motion.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
12 we'll have to hear what that is.

13 COMMISSION VICE CHAIRPERSON HARRIS: The opinion
14 was just on the Scotwinc thing.

15 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

16 COMMISSIONER ISRAEL: Scotwinc and Notwinc.

17 EXECUTIVE DIRECTOR BREED: Yeah.

18 COMMISSION CHAIRPERSON SHAPIRO: Right.

19 All right, we're going to take a two-minute break.
20 We're having trouble with the microphones, so we'll take a
21 two-minute break.

22 (Off the record at 11:25 a.m.)

23 (On the record at 11:35 a.m.)

24 COMMISSION CHAIRPERSON SHAPIRO: Can everybody
25 hear?

1 Can we bring -- can all the Commissioners please
2 come back and can we get the meeting back on track?

3 COMMISSIONER MOSS: They're not paying any
4 attention to you, Richard.

5 COMMISSION CHAIRPERSON SHAPIRO: I know, they're
6 not. But then I just had an urgent phone call, so maybe it
7 will work.

8 (Off the record at 11:38 a.m.)

9 (On the record at 11:39 a.m.)

10 COMMISSION CHAIRPERSON SHAPIRO: Commissioner
11 Harris?

12 COMMISSION VICE CHAIRPERSON HARRIS: Here.

13 COMMISSION CHAIRPERSON SHAPIRO: All right, so our
14 good friend, Mr. Axelrod, is still here. And let me just
15 see, Mr. Axelrod, we appreciate that you're taking steps to
16 try and make everybody whole.

17 But quite honestly, it appears that things, you
18 know, don't seem to be going in a manner that's going to
19 resolve this any time soon.

20 Okay, and what I don't know either is are any of
21 the directors or officers of SHA going to make up any of the
22 shortfall?

23 MR. AXELROD: Not that I'm aware of, no.

24 COMMISSION VICE CHAIRPERSON HARRIS: That would be
25 a no.

1 COMMISSION CHAIRPERSON SHAPIRO: And they don't
2 feel they have any obligation to do so?

3 MR. AXELROD: I would say yes to that, correct.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.

5 Mr. English, did you have a comment that you --
6 you're okay, now?

7 All right. Well, needless to say, it's an
8 unfortunate circumstance. I think we'd like to see this get
9 resolved as soon as possible. I know you do, too, okay.

10 MR. AXELROD: Yes.

11 COMMISSION CHAIRPERSON SHAPIRO: And our friends
12 up in Sacramento, the horsemen, of which you came out of
13 this, and you're a part of one, and I do recognize that
14 you're a horseman at heart, not a racetrack operator. And
15 so we just want to see that, you know, they're all taken
16 care of as best as possible.

17 MR. AXELROD: Yes, and we will do that. And this
18 will help us now and, certainly, I will have a discussion
19 with our counsel this afternoon. But we will keep in touch
20 with the Board on a very regular basis to see if we can move
21 this along and keep this entity out of bankruptcy.

22 And if it's determined that that really,
23 ultimately, is the best interest to resolve it for everybody
24 fairly, then we may take that action.

25 But we will do our best to move this as quickly as

1 we can.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
3 Are there any other questions or comments from anybody on
4 the Board?

5 If not, thank you very much.

6 MR. AXELROD: You're welcome.

7 EXECUTIVE DIRECTOR BREED: Did you make a motion?

8 COMMISSION CHAIRPERSON SHAPIRO: Yeah, we did.

9 COMMISSION VICE CHAIRPERSON HARRIS: We voted.

10 COMMISSION CHAIRPERSON SHAPIRO: We voted. We
11 voted and we had one dissent.

12 COMMISSIONER ISRAEL: We voted, yeah, six to one.

13 COMMISSION CHAIRPERSON SHAPIRO: Before going
14 further and through the rest of the agenda, I would like to
15 make a personal statement that I had planned to make at the
16 beginning of the meeting, but because the meeting got off to
17 a late start I wanted to at least try to get through some of
18 the meeting.

19 So if you'll bear with me. I have now, proudly,
20 been a member of this Board for over four years. At my very
21 first meeting I stated that the racing industry was an
22 industry that provided me, in my youth, great memories and
23 joy, and that passion has never left me.

24 To this day I still feel the same way.

25 But I said then that I was saddened to see the

1 transformation that has occurred over the years, including
2 the decline of on-track attendance.

3 The sport has given way to the demands required by
4 generating wagering revenues to support its existence.

5 What I didn't really know four years ago, that I
6 know today, is how disadvantaged we in California are due to
7 our inability to secure additional sources of revenue
8 streams to support the sport we all love.

9 Our backs are up against the wall to find means
10 and methods to rebuild a viable, nationally competitive
11 environment in California.

12 Over the last four years I believe this Board has
13 been progressive and worked hard in a variety of aspects to
14 improve the state of racing in California.

15 Some of our good intentions have in fact proved
16 beneficial and in spite of our best efforts, some have not
17 panned out as well as we would have wished.

18 But none of our efforts were done without the sole
19 desire of supporting the industry, the game, and trying to
20 improve the state of racing in California.

21 The most noteworthy of our actions clearly has
22 been the conversion of engineered tracks at our major
23 venues. I admit, the results have been mixed. But I feel
24 that they still show promise and with more science, time,
25 and technology, I remain hopeful that it will lead to safer

1 racing surfaces that will protect the tens of millions of
2 dollars invested in horses each year by horse owners and
3 breeders.

4 We have to continually be mindful that the horses
5 and riders must be protected at all costs.

6 Four years ago California was thought to have
7 unlevel playing fields for bettors and that our efforts were
8 not transparent.

9 Today I believe most people believe we are
10 transparent, fair, and have the best testing, nationally
11 known, to protect the integrity of the game.

12 We have adopted strict, but fair, rules and
13 penalties to ensure this level playing field. We test more
14 horses, we have eliminating milkshaking, we've abolished the
15 use of anabolic steroids, and we continue to push all
16 stakeholders to look at the common goal, not their own self-
17 interest.

18 But the truth is the economics of the game and the
19 fundamentals of how we do business in this new age of
20 internet and off-track wagering has demanded that we reform
21 our business model to remain competitive.

22 The Racing Board cannot be the solution to
23 reforming the structure of this industry. We cannot enforce
24 laws, create -- we can enforce laws, create rules, and
25 regulate the business. But we are powerless to rewrite the

1 business model.

2 As we have seen one major racetrack lost to a
3 different, more profitable use, and another threatened to
4 suffer the same fate, it is time to re-invent how racing in
5 California can exist looking forward.

6 The old models will not endure. We need to all
7 realize the old way of doing business has to change.

8 I've been honored and gratified that the Governor
9 appointed me to this position and has re-appointed me and
10 encouraged me to continue for another four years. But the
11 time has come for me to leave the Board.

12 Let me very clear, this decision is mine and mine,
13 alone. No one has asked me to do this. To the contrary, I
14 have been asked to stay.

15 But this is a personal decision I have pondered
16 for many months and I have decided it's time for me to move
17 on.

18 This doesn't mean I want to wave goodbye to
19 racing. To the contrary, I still want to dedicate myself to
20 improving the industry, the public perception of this
21 industry, the vibrancy of the game, the economics, and to
22 rebuild it.

23 We need to show the public we are a caring,
24 honest, hard-working industry, with a game that can provide
25 entertainment and enjoyment as part of our national pastime.

1 We need to restructure the economics so that the
2 owners, trainers, breeders, racetrack operators, and owners
3 can economically benefit from the industry.

4 These are difficult challenges. But let's face
5 it, we have no choice but to find the solutions for the tens
6 of thousands of people employed in this business, and the
7 millions of fans that want to partake in what the industry
8 has to offer.

9 Four years ago I didn't know many people in this
10 industry. But I have met many wonderful, dedicated, hard-
11 working people, many of whom I consider friends today.

12 I hope that as we all move forward we will
13 continue our common goals and, most importantly, those
14 friendships.

15 Accordingly, following today's meeting, I will be
16 submitting my letter of resignation to the Governor's
17 Office, effective tomorrow, December 16th.

18 I appreciate your indulging me and letting me read
19 that now.

20 I didn't want to do it at the end of the meeting.
21 I had wanted to do it at the beginning of the meeting but
22 things didn't -- everybody wasn't here and I felt I owed it
23 at least to make that statement in that regard.

24 So with that, we can all move on.

25 COMMISSION VICE CHAIRPERSON HARRIS: I'd just like

1 to say that I'm sad to hear that. And Richard has been a
2 real inspiration to the Board, really, the best Board
3 Chairman that I can recall, and he's worked tirelessly for
4 the benefit of the game, and just devoted just endless hours
5 to making this a better sport. And I really hate to see him
6 go.

7 But I hope that he's going to stay involved in the
8 sport, the business that we all love, and will be there for
9 us down the road.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, I hope to.
11 Thank you, John.

12 COMMISSIONER CHOPER: I'd just like to -- I would
13 just like to add a word, myself, and this came as a complete
14 surprise to me. And while I have not served under any other
15 Chairs of this Board, I can't make the statement that John
16 made.

17 But I just think that your dedication, effort and
18 accomplishments have been absolutely extraordinary for
19 someone who serves on a Board of this sort.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you.

21 COMMISSIONER CHOPER: And I hadn't thought at all
22 what I wanted to say, you know, try to persuade -- you know,
23 this is obviously a decision that you've made and persuasion
24 is not likely to succeed in any significant fashion.

25 But if the support of the people that you have

1 guided through this is of any value to you, in reconsidering
2 this, I would just like to say so.

3 And if not, I echo John's sentiments by saying I
4 just hope that you will stay involved to any extent that you
5 can, because your efforts have really been superb. Thank
6 you very much.

7 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you,
8 Jesse, I appreciate that.

9 COMMISSIONER ISRAEL: And I'd like to echo
10 Commissioner Choper's remarks. I've only been here a few
11 months, but I've appreciated your leadership and your
12 mentoring, and your diligence, and your hard work. I mean,
13 to the amount of hours that you've put into this and the
14 amount of your heart and soul that you've poured into this
15 has been evident to me in just these last six months.

16 And it's remarkable. And I'm as surprised as
17 Commissioner Choper and saddened.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, I didn't
19 share it with any of you.

20 COMMISSIONER MOSS: But thank you. Thank you so
21 much.

22 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

23 (Applause.)

24 COMMISSION CHAIRPERSON SHAPIRO: It is a personal
25 decision. It's something that I have really pondered for a

1 long time. I love this industry. I want to see it succeed.

2 I do want to remain involved, hopefully, in some fashion.

3 We can't afford to let this industry suffer the
4 way it is. And I'm not -- I don't believe the solutions can
5 come from the Racing Board. The Racing Board should be a
6 tool to help it.

7 And so, you know, I hope down the road there's a
8 place for me to help the industry continue.

9 And I've enjoyed working with all of you, and
10 everybody out there as well.

11 COMMISSIONER MOSS: Thank you, Richard.

12 COMMISSIONER ISRAEL: Lest anyone think we violate
13 the Brown Act, our shock should be evidence that we don't.

14 COMMISSION CHAIRPERSON SHAPIRO: I didn't share it
15 with any of you. There's nobody -- nobody knew this was
16 coming. I didn't, you know -- and I'm sorry to hit you all
17 cold with it, but it's something that I've been dealing with
18 and figured, well, just do it. So thank you.

19 All right, we can go on, now, to Item Number 6,
20 which is the first of the ADW licenses.

21 The first one is the discussion and action by the
22 Board on the Application for Approval to Conduct Advanced
23 Deposit Wagering of Churchill Downs Technology Initiatives
24 Company dba Twinpires, for an out-of-state multi-
25 jurisdictional wager hub, for a period of up to but not

1 exceeding two years and/or extension of the current
2 approval.

3 I believe the Board has received a massive amount
4 of materials from each of the ADW providers. You all recall
5 the boxes that we got. And thanks to Youbet, I think, for
6 having the heaviest and biggest box of all, of material.

7 We have a representative, Mr. Blackwell.

8 MR. BLACKWELL: Yes.

9 COMMISSION VICE CHAIRPERSON HARRIS: Could we take
10 a look, before we get into these, I think they're fairly
11 similar, on the concept for all of them, so no one
12 organization is necessarily the focus, of making the one-
13 year licenses versus two-year licenses, the pros and cons of
14 that?

15 COMMISSION CHAIRPERSON SHAPIRO: I think that the
16 only -- well, there's a couple things. From their
17 perspective, I assume that they're making commitments and
18 they have financial issues to have a longer-term license,
19 it's going to certainly give them more -- a better framework
20 to deal with, they're making commitments.

21 From our perspective, I think that if the term is
22 shorter and there are some revisions or changes in the
23 license that the Board may want to make, it is at that time
24 that you can make those changes.

25 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I guess

1 if the form of the license changes, for whatever reason, if
2 we decide to change it, that would be retroactive, whoever's
3 licensed. It wouldn't be that if you have a license that
4 was under certain conditions that --

5 COMMISSION CHAIRPERSON SHAPIRO: Well, when we get
6 to the TVG application we're going to have to do that
7 because, and it applies to any of them, to the extent that
8 there's a change of control of the company, that license
9 will have to be reconsidered.

10 Because what we are doing is we are licensing the
11 entity in its current corporate structure, and shareholders,
12 and so forth.

13 So I would expect that, and this is not something
14 that TVG doesn't know, that if there is a change of control
15 in the company there's going to need to be a relicensing
16 process.

17 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, just
18 like a track.

19 One other aspect, which is not really focused on
20 any particular entity, but I'm concerned, when this
21 originally, these rules were implemented, we had just passed
22 ADW and we didn't really focus that much on the ins and
23 outs.

24 But one of the things, as the ADW sector has
25 grown, I'm not clear if we have very good controls, or

1 anyone has very good controls on the oversight of the funds
2 that are held by the different ADW companies. I mean, there
3 must be like millions of dollars out there. And is there
4 any audits or -- I don't want to pick on any one applicant,
5 but could the applicants explain what they have that would
6 assure somebody, that leaves money on deposit with them,
7 that that money is very safe.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
9 that's a great question. And I think that perhaps maybe
10 there's a way of actually dealing with all of these
11 licenses, they're all -- basically, we're doing the same
12 things.

13 And perhaps what you may want to do, is maybe we
14 could have a representative of each of the four companies
15 come to the table now, and because there are some common
16 questions that do need to be addressed.

17 One of which is that there is -- before a license
18 can be issued there's to be a card check agreement, I
19 believe, in place with the applicable union, and so that
20 question needs to be asked and answered by each of the
21 applicants.

22 And I think that the question you raised is what's
23 the security of the funds that are on deposit with these
24 companies and what precautions are taken, and perhaps
25 there's some others.

1 So would the Board like to, in essence, perhaps
2 have representatives from all four and we can ask them those
3 questions at the same time?

4 COMMISSIONER ISRAEL: Sure.

5 COMMISSION CHAIRPERSON SHAPIRO: So why don't we
6 do that. Good idea.

7 And if you would, by -- I'm going to then just
8 amend the item that we're hearing to include Item Number 6,
9 which is the Twinspires application, Item Number 7, which is
10 ODS Technologies, or TVG, Item Number 8, which is
11 Youbet.com, and Number 9, which is XpressBet.

12 So why don't we try to hear all of them at the
13 same time, and if we have questions for any of them in
14 particular, we can deal with it in that way.

15 So what about, first of all, can you give us where
16 you stand with respect to the card check agreement, which I
17 understand, pursuant to the extension of the ADW law is a
18 requirement. Where you stand, do you have an agreement on
19 that issue?

20 And then perhaps another question would be
21 Commissioner Harris's question with respect to what is the
22 security of the funds, and so forth that are with you.

23 And so we'll go left to right, or right to left,
24 you guys take it.

25 MR. SCOGGINS: Gregg Scoggins, on behalf of

1 XpressBet. I guess, since I have been informally appointed
2 the point man as it relates to the card check agreement, I
3 can speak to that.

4 I hate to sound like a broken record on this
5 subject because we have been trying to address it for the
6 entire year, and have yet to have a formal agreement in
7 place.

8 It is my understanding, however, that we are down
9 to what I believe to be, and truly believe to be, the last
10 issue, and that has to do with the term of the agreement.

11 We had originally proposed something that would be
12 much more extensive in terms of its term, so as to put this
13 issue finally behind us once we had reached agreement on
14 every other term.

15 Currently, the proposal, as I recall having read
16 it, was to expire at the end of this year, which we all know
17 is fast approaching.

18 We have asked for something longer, and it is my
19 understanding there will be some discussions later today to
20 try and resolve that formally.

21 And my hope is, as it has been throughout this
22 year, that we will reach a conclusion on that, because we
23 understand the importance and certainly agree that this is
24 something that needs to be taken care of.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay. I want to

1 hear where each of you stand on that issue and then we can
2 deal with that particular question.

3 MR. SCOGGINS: Right, take these one issue at a
4 time?

5 COMMISSION CHAIRPERSON SHAPIRO: Yeah, yeah,
6 please.

7 COMMISSION VICE CHAIRPERSON HARRIS: Is it clear,
8 too, I'm not clear if the card check issue ever got resolved
9 as far as what state that was relevant in?

10 MR. SCOGGINS: Well, from our perspective, what we
11 have agreed is that it applies to tellers that work for, in
12 our case, XpressBet, regardless of where they are located.
13 And we have agreed, for purposes of trying to resolve the
14 issue on this subject, of --

15 COMMISSIONER ISRAEL: Microphone.

16 MR. SCOGGINS: Sorry?

17 COMMISSIONER ISRAEL: Microphone.

18 MR. SCOGGINS: Okay, sorry. We -- it applies to
19 tellers regardless of where they're located. And we have
20 agreed, for purposes of the resolution of other issues, to
21 allow that also to extend to customer service reps.

22 And our customer service reps are located in
23 Pennsylvania, and we have agreed that it applies to them, as
24 well.

25 MR. BLACKWELL: Brad Blackwell, on behalf of

1 Twinspires.

2 First off, Chairman Shapiro, I'd like to say I was
3 disappointed to hear your announcement today, and it has
4 been a pleasure working with you. And I just want to say
5 that your passion for this industry, as everyone else has
6 pointed out, is very clear dealing with you. So I just
7 wanted to make a point to say that.

8 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

9 MR. BLACKWELL: We are on the exact same boat as
10 XpressBet with regards to the card check agreement. It's
11 our understanding that we are very close and hope to have
12 this thing finalized before the end of the year. I think
13 we're pretty much there, it's just some very benign issues
14 that are lingering right now.

15 MR. PERINI: This is Dan Perini, with Youbet.com.
16 We are in the same boat as Twinspires and XpressBet with
17 respect to the card check agreement, and hope to have that
18 wrapped up very shortly.

19 MR. HINDMAN: Good morning, Commissioners. John
20 Hindman, with TVG. We have a card check with Local 280,
21 that we've had since before our license was heard last year.

22 COMMISSION CHAIRPERSON SHAPIRO: So my concern is
23 that you've been close to the alter before. We've all been
24 part of some negotiations and some discussions.

25 Is this one, we're actually going to see a

1 marriage here? I mean, I've not been part of the
2 discussions lately. And I do appreciate that both you and
3 labor have worked hard to get to where this agreement is in
4 place.

5 But is there anything on the horizon that appears
6 to be a huge impediment from this finally happening?

7 And, you know, I see Doug Kemp just got up in the
8 back.

9 Doug, perhaps you could tell us, from your
10 perspective --

11 MR. KEMP: Okay.

12 COMMISSION CHAIRPERSON SHAPIRO: -- where Local
13 280 is on this issue.

14 MR. KEMP: Thank you, Commissioners and ADW people
15 who are in front of me here. And I just want to, if I have
16 to delay our response just for a moment to say thank you to
17 Mr. Shapiro, and everything that he has done over the years
18 that I've been involved in this labor organization. That I
19 can't -- I can't think of, you know, any words to express my
20 appreciation.

21 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

22 MR. KEMP: And we will miss you a great deal.

23 As far as the issue, the gentlemen have stated
24 everything accurately as far as I know it to be, and we're
25 here today to not object, publicly, to the re-licensing of

1 these companies. And I do believe that the marriage is
2 imminent, but there's just little, technical things that I
3 think we're going to be able to work out.

4 But I believe we're close enough to the point
5 where I can make the statement that we won't object to the
6 re-licensing of these four organizations going forward.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
8 that's good news, and that's refreshing. And there are
9 three smiles on this side of their heads.

10 MR. KEMP: Only three, sir?

11 COMMISSION CHAIRPERSON SHAPIRO: Well, he already
12 had an agreement, so he's smiling.

13 MR. KEMP: And if I must go on record, I would say
14 that TVG has extended their interpretation of the new
15 legislation to the extent that we believe that it was
16 intended to be, and we do appreciate that to no end.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, now there's
18 four. Okay.

19 MR. KEMP: Okay.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

21 So now what about Commissioner Harris's question
22 with respect to there are hundreds of millions of dollars
23 that are wagered, and I'm assuming you have some pretty big
24 accounts, where money's moving.

25 What are the security controls in place to make

1 sure that the people that are wagering through your systems
2 are secure?

3 Mr. Scoggins?

4 MR. SCOGGINS: Okay. Under XpressBet's Oregon
5 license, which is the basis under which we handle all of our
6 multi-state account wagering activities, we are obligated to
7 maintain a segregated account in which all of the account
8 holders' funds are held.

9 And we are restricted from being able to access
10 those funds for operational purposes.

11 And so we have been obligated, in lieu of having
12 to put forth a bond, we've been obligated and we have
13 created a segregated account for account holder funds.

14 We also have an obligation, in any of those states
15 where we are licensed, to either place, you know, either a
16 letter of credit or a bond, like we have in California, and
17 also subject ourselves to any auditing requirements that a
18 racing commission might choose to exercise at any time.

19 COMMISSION CHAIRPERSON SHAPIRO: And do any racing
20 commissions require you to submit audits?

21 MR. SCOGGINS: Well, we end up -- because
22 XpressBet is, you know, a part of MEC, and MEC files its
23 financial records and it's audited financials on a
24 consolidated basis.

25 And so every year when -- Virginia comes in mind,

1 because we'll be out there on Wednesday, talking about our
2 state license in Virginia, we file our annual report, and
3 then also our unaudited Q-3 report every year, together,
4 with our license.

5 But we do not have a separate audit requirement of
6 XpressBet, as opposed to the consolidated financials that we
7 provide on behalf of MEC.

8 MR. BLACKWELL: Brad Blackwell, on behalf of
9 Twinspires. Twinspires complies with the same regulations
10 in Oregon and any other state where we're licensed.

11 MR. PERINI: Youbet.com complies with the same
12 regulations, as well. You can also see, in our materials,
13 we've submitted a copy of our annual report. Youbet.com is
14 a publicly traded company. You'll also find in our
15 materials the actual copy of the custodial account where we
16 keep our segregated funds.

17 MR. HINDMAN: TVG is also licensed and regulated
18 in the same way as the other three entities, and are subject
19 to the same restrictions of the segregated account.

20 And, as well, we're a part of a public company and
21 our financials are audited on an annual basis as a part of
22 MacroVision.

23 Two additional things that I would add, that I
24 think all of us are subject to, is in Oregon, on an ongoing
25 basis, there is a state employee who audits the daily

1 activity of our businesses on-site.

2 And, finally, also as publicly traded companies,
3 we're also subject to Sarbanes-Oxley requirements, so that
4 our businesses are also audited that way, quite in detail
5 for internal controls, to ensure that everything is secure.

6 COMMISSION CHAIRPERSON SHAPIRO: And Mr. Hindman,
7 again, I don't mean to put TVG on the spot, but again, it's
8 general knowledge the TVG is going to be sold, and you do
9 understand that with the change of control, and the sale,
10 most likely will require that you come back to get re-
11 licensed, you're aware of that?

12 MR. HINDMAN: That's correct and we have no
13 objection.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, great.
15 Just wanted to make sure that would be well clear.

16 MR. HINDMAN: Yeah.

17 COMMISSION CHAIRPERSON SHAPIRO: Also, now that we
18 don't have an ADW dispute, if you're granted a two-year
19 license are you willing to all agree there will be no more
20 disputes?

21 (Laughter.)

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, never mind.
23 Please?

24 COMMISSIONER CHOPER: This may be as good a time
25 as any to say something that I've thought about, given the

1 fact that we are now licensing all four companies.

2 And that is that I would hope that we would give
3 early consideration to putting into place, and I don't have
4 the details of it by any means, but some sort of procedure,
5 some sort of plan to avoid the kind of crisis that we had
6 this year.

7 I think I'm right when I say that most of these
8 agreements that you have with the tracks are one year. So I
9 don't think it's too early to start thinking about that
10 again, and for us, perhaps, to play a more active role early
11 on to avoid this, if we believe that would do any good.

12 I think anything I say would just add to it.

13 But I would be -- and I apologize for asking you
14 this, now, but if any of you now, or soon, and if the Chair
15 can arrange to determine when the soon expires, but I wonder
16 if you have any suggestions, or if we -- maybe we'll put
17 this as an item on our agenda for a --

18 COMMISSION CHAIRPERSON SHAPIRO: Commissioner
19 Choper?

20 COMMISSIONER CHOPER: Go ahead, I'm done.

21 COMMISSION CHAIRPERSON SHAPIRO: If you just look
22 at Item Number 10, I believe that Item 10 is, in fact --

23 COMMISSIONER CHOPER: Includes this?

24 COMMISSION CHAIRPERSON SHAPIRO: Item 10 is, in
25 fact, to try and have that discussion to some degree.

1 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

2 COMMISSIONER CHOPER: It's a broader one.

3 COMMISSION CHAIRPERSON SHAPIRO: It's a broader
4 one, but it certainly includes our good friends here with
5 the ADW companies, and their views, and their thoughts.
6 They're all looking at it because they had no idea it was
7 there.

8 COMMISSIONER CHOPER: Yeah. Well, I hope you'll
9 stay around for Item 10, too, if that's -- whatever the
10 appropriate time is. And let's avoid what happened this
11 year.

12 COMMISSION CHAIRPERSON SHAPIRO: I couldn't agree
13 more with me.

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I was
15 the one that suggested Item 10, because I don't -- it may be
16 tough for the Board to absolutely resolve it, but I was
17 frustrated that we didn't really have a mechanism to even
18 get people together or try to resolve it.

19 COMMISSION CHAIRPERSON SHAPIRO: So let's, if we
20 can, just stick with the licenses.

21 Are there any other questions with respect to the
22 licenses?

23 COMMISSIONER ISRAEL: Well, to Commissioner
24 Choper's point, is there any -- might it not be a good idea
25 to consider Commissioner Harris's suggestion that the

1 licenses be for one year so they're in sync with the current
2 agreements between the ADW companies and all the other
3 parties involved?

4 COMMISSION CHAIRPERSON SHAPIRO: I certainly have
5 no objection to that.

6 COMMISSIONER ISRAEL: Would we be within our right
7 to just grant the one-year license, given the --

8 COMMISSION CHAIRPERSON SHAPIRO: Yeah, we would.
9 The agenda item is written up to two years.

10 COMMISSIONER ISRAEL: Up to, okay.

11 COMMISSIONER CHOPER: What does that -- what does
12 mean?

13 COMMISSION CHAIRPERSON SHAPIRO: What that means
14 is that the --

15 COMMISSIONER CHOPER: Does it mean less, that we
16 can stop in less than two years?

17 COMMISSION CHAIRPERSON SHAPIRO: Yes. A maximum
18 of two years. Well, the way it's written is that we would
19 issue a license for two years -- up to, meaning we can do 12
20 months, 13 months, and so forth.

21 COMMISSIONER CHOPER: So I think, actually, we've
22 got the mechanism. It doesn't make any difference, I mean,
23 whether we do it for one or up to two.

24 But if what we're concerned about is keeping the
25 feet to the fire, I think we have -- I think it's

1 understood, now, for the record, that we do have that
2 ability to stop it within the year.

3 COMMISSIONER ISRAEL: Well, I think we can just do
4 the one year --

5 COMMISSION CHAIRPERSON SHAPIRO: Make a motion.

6 COMMISSIONER ISRAEL: I move that we renew -- do
7 we have to do each one of them separately or can we do them
8 as collective?

9 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
10 that for the -- I think that we can just list their names
11 and we'll know that -- we'll write it that way.

12 COMMISSIONER ISRAEL: I move that the Board renew
13 the licenses for Twinpires, XpressBet, TVG, which actually
14 is -- what's the name of that?

15 COMMISSION CHAIRPERSON SHAPIRO: ODS Technologies.

16 COMMISSIONER ISRAEL: ODS Technologies. And
17 Youbet.com for one year, January 1st, 2009 to December 31st,
18 2009.

19 COMMISSION CHAIRPERSON SHAPIRO: All right.
20 Second?

21 COMMISSIONER MOSS: Second.

22 COMMISSION CHAIRPERSON SHAPIRO: Second. Is there
23 any more discussion on this?

24 STAFF COUNSEL MILLER: Mr. Chairman, shouldn't we
25 hear from the horsemen? It seems as if each one of the

1 applicants does not have a horsemen's agreement.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
3 it's predicated that the -- I don't know if the horsemen
4 have anything to add to this.

5 We're issuing a license, but doesn't part of their
6 being able to operate require them to have a horsemen's
7 agreement.

8 STAFF COUNSEL MILLER: Yes.

9 COMMISSION CHAIRPERSON SHAPIRO: As a condition.

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I
11 thought we had something to do -- that when this originally
12 came up that you cannot have an ADW license in California
13 unless you currently have an agreement with some racing
14 group.

15 COMMISSION CHAIRPERSON SHAPIRO: Some horsemen's
16 group.

17 COMMISSION VICE CHAIRPERSON HARRIS: Some
18 horsemen's group. You couldn't just be here and not have
19 any nexus to California.

20 COMMISSION CHAIRPERSON SHAPIRO: All right, so why
21 don't we ask each of them, do you have an agreement with a
22 horsemen's organization?

23 MR. SCOGGINS: No, we do not.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay, XpressBet
25 does not.

1 MR. BLACKWELL: With a horsemen's organization or
2 with any --

3 COMMISSION VICE CHAIRPERSON HARRIS: I think you
4 really have it with the track, except the horsemen's
5 organization might have some veto power over that.

6 MR. BLACKWELL: Right.

7 COMMISSION VICE CHAIRPERSON HARRIS: But, first,
8 you have to get it with the track, I think.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, and again,
10 they can't actually operate without their being a horsemen's
11 agreement. And I think that -- I'm not clear on this.

12 COMMISSIONER ISRAEL: Well, Drew just walked in.
13 Drew just walked in.

14 COMMISSION CHAIRPERSON SHAPIRO: Drew? Where's
15 Mr. Couto? Drew.

16 The question was raised, do the horsemen have any
17 objection to these licenses being granted in the absence of
18 their being a horsemen's agreement?

19 MR. COUTO: Drew Couto, Thoroughbred Owners of
20 California.

21 I believe for the purpose of licensing they do not
22 need a horsemen's agreement, which is kind of odd.

23 But for the purpose of facilitating wagers on
24 California product, they would need an agreement.

25 It's a question of whether they can import. They

1 probably can import and handle wagers.

2 But for the licensing, as I understand it, there
3 is no need for an agreement with the horsemen's association.

4 COMMISSION CHAIRPERSON SHAPIRO: And that was my
5 understanding, too.

6 COMMISSIONER ISRAEL: Well, it's clearly the case
7 because that's what occurred with Hollywood Park this year,
8 that's what we just went through. Right?

9 COMMISSION CHAIRPERSON SHAPIRO: So why don't we,
10 and perhaps you'll amend your motion to include any and all
11 other conditions required by law.

12 COMMISSIONER ISRAEL: So amended.

13 COMMISSION CHAIRPERSON SHAPIRO: Great. Okay,
14 therefore, if there's no objection from anybody, I'll call
15 the question.

16 COMMISSION VICE CHAIRPERSON HARRIS: Could -- back
17 to just our hypothetical, if we decided it was in the best
18 interest of racing to have some mandatory arbitration
19 provision when disputes arise, and that was going to be a
20 condition of licensing, could that be applied retroactively,
21 or are we going to have to make that a part of our license
22 application?

23 STAFF COUNSEL MILLER: You're going to have to
24 make that part of your license application. You can't grant
25 a license and then go back and change the terms of that

1 license.

2 COMMISSION VICE CHAIRPERSON HARRIS: Right.

3 STAFF COUNSEL MILLER: But you can --

4 COMMISSIONER ISRAEL: I thought, when we were
5 considering getting involved in the dispute at Hollywood
6 Park, we were told that we have the right to require binding
7 arbitration. That wasn't the case?

8 COMMISSION CHAIRPERSON SHAPIRO: No, we don't. We
9 don't.

10 COMMISSIONER ISRAEL: We don't?

11 COMMISSIONER CHOPER: Do we have an AG's opinion
12 on that? Because as I, for the first time, read this
13 material here, it seemed to me that there was quite a bit of
14 flexibility in what we might be able to do in respect to
15 mediation and arbitration.

16 COMMISSION CHAIRPERSON SHAPIRO: I have always
17 been under the belief that the Board did not have the right
18 to interfere in contractual agreements between private
19 parties, and that the issue wasn't one of licensure, but the
20 dispute was one with respect to a contract between the
21 parties and the terms of that contract, where we don't have
22 standing.

23 All we can do is either license them, put
24 conditions on that license as to what it requires -- what
25 conditions there are.

1 Now, if we were to say that if there's a dispute
2 you must go to binding arbitration, or you must have a
3 mandatory settlement conference, I don't know whether or not
4 the Board has the latitude to do that or not. That's a
5 legal question that somebody would have to advise us.

6 STAFF COUNSEL MILLER: That would take some
7 research. I'm not prepared to answer that.

8 COMMISSION CHAIRPERSON SHAPIRO: Right.

9 STAFF COUNSEL MILLER: But at first blush I'd say
10 no.

11 These people are here today to get a license to
12 operate a business. And they have predicated their
13 application on the existing state of the law, and the
14 application as they knew it when they applied.

15 And to apply a condition at this juncture, of
16 which the applicants were not aware of previously, I don't
17 believe that the Board can do that, or I mean, they have the
18 right then to withdraw.

19 COMMISSIONER CHOPER: Oh, yeah, they'd have to
20 agree to it.

21 STAFF COUNSEL MILLER: Yeah.

22 COMMISSIONER CHOPER: Well, if they agree to it,
23 that's not enough.

24 STAFF COUNSEL MILLER: But the Board does have the
25 power to adjudicate controversies.

1 COMMISSIONER CHOPER: There you go, that's what it
2 says.

3 STAFF COUNSEL MILLER: And that appears, without
4 further legal research on the subject, that it gives some
5 latitude to the Board as to what they want to do.

6 COMMISSION CHAIRPERSON SHAPIRO: May I suggest, it
7 would appear that the parties have come to what will be a
8 one-year agreement between the horsemen, and the tracks, and
9 the ADW providers, from what I can tell of what's
10 transpired.

11 And if the Board chooses to look at these issues,
12 I wouldn't want to see that the ADW licenses were not
13 approved today because they become effective January 1st,
14 and I don't think we want to hold them over in any way.

15 And I also believe, since it appears that all
16 parties are in agreement, and there isn't anything that's
17 going to happen within the next year, I would go along with
18 Commissioner Israel's suggestion that they be licensed for
19 one year, and during that period you look at determining
20 whether or not the dispute resolution mechanisms can be part
21 of the licensing process, and get counsel on that.

22 So my recommendation is that I would suggest we
23 move forward and approve these licenses, as the motion was
24 made and amended by Commissioner Israel.

25 COMMISSIONER ISRAEL: Thank you.

1 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
2 that's fair. But I think we do have a year to be thinking
3 about any ways we want to fine tune it.

4 COMMISSION CHAIRPERSON SHAPIRO: Therefore, I'm
5 going to call the question, if there's no objection.

6 All in favor?

7 (Ayes.)

8 COMMISSION CHAIRPERSON SHAPIRO: Nobody opposed.
9 Good luck and good wagering.

10 MR. BLACKWELL: Thank you.

11 MR. SCOGGINS: Thank you.

12 MR. PERINI: Thank you.

13 MR. HINDMAN: Thank you.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 COMMISSIONER ISRAEL: And now we have a candidate
16 to be the arbitrator.

17 COMMISSION CHAIRPERSON SHAPIRO: Oh, there you go.

18 COMMISSIONER CHOPER: You.

19 COMMISSION CHAIRPERSON SHAPIRO: They don't like
20 me.

21 Okay. Item Number 10 is, since we're -- let's go
22 to 10, now, and I think we just spoke about that in a vague
23 way, in a roundabout way, which is what do we do in
24 situations where there are disputes?

25 One of the things that's been terribly difficult

1 is that we appear to have too many times where there's
2 disputes, or disruptions caused for a variety of business
3 reasons. And is there in fact a way to create some dispute
4 resolution mechanisms, some arbitration?

5 The Board really is the party, as I understand the
6 law, that is set forth to hear disputes of the industry.
7 But, unfortunately, there isn't enough discussion that goes
8 on between the parties before it gets to us.

9 I believe there are some issues right now where
10 there are maybe a difference of agreement between the
11 parties, and they don't meet, and then it comes to the
12 Board, and that's what our purpose is.

13 But Commissioner Harris, you put this on here, I
14 respect what you'd like to see happen. We'd all like to see
15 that the parties resolve it, themselves. How we do that, I
16 don't know. So I'll let you --

17 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I just
18 put it on to get some discussion started, we're not going to
19 resolve it today.

20 But it seems to me that too often we have a
21 dispute within the industry and nobody is really trying to
22 resolve it, other than just bringing it to the Board, and we
23 have a big debate at the Board on the pros and cons of it.

24 And I think there's got to be a more refined way
25 to resolve some of these. And I think it's just something

1 we need to take a look at.

2 COMMISSIONER CHOPER: Can I suggest that we ask,
3 as soon as possible, that we do get an answer to the
4 question of what is our statutory authority to carry out
5 what Number 10 pretty clearly says.

6 And maybe we can --

7 COMMISSION CHAIRPERSON SHAPIRO: I suggest that
8 you turn and look at counsel, Mr. Miller, and you ask him to
9 do that.

10 COMMISSIONER CHOPER: Okay. And I would say it
11 may be that we can do this in respect to some disputes and
12 not others. Right?

13 But if just look at this quickly, you know, it's
14 open-ended, and it would seem that we -- that the Board has
15 the authority to do anything. It says "adjudication of
16 controversy arising from regulations dealing with horse
17 racing, and pari-mutuel wagering."

18 And then at the end it says "all powers of the
19 Board not specifically defined are reserved to the Board."
20 And there's very little discussion of anything beyond that.

21 So it would seem to me, you know, unless there may
22 be something else, some place.

23 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
24 the problem in the dispute that occurred on the ADW was that
25 the Interstate Horse Racing Act was what was being used, and

1 I'm not sure if that would trump all this or not.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, that's
3 Federal law, and I believe it would supersede the situation
4 there.

5 STAFF COUNSEL MILLER: That was the opinion of the
6 District Court in Ohio, about preemption with regards to the
7 Interstate Horse Racing Act.

8 However, there's a decision out of the circuit
9 court in Florida that talks about the state's ability to
10 regulate even in light of the Interstate Horse Racing Act.

11 So it's a question that really requires a lot of
12 research.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, perhaps you
14 can do that research and advise the Board accordingly.

15 All right.

16 MR. LIEBAU: Chairman Shapiro, could I just
17 respond to Mr. Choper, again?

18 COMMISSION CHAIRPERSON SHAPIRO: Again? If you
19 come to the microphone, because you can't do it from there.

20 COMMISSIONER CHOPER: You know the rules better
21 than I do, that puts me at a disadvantageous.

22 MR. LIEBAU: No, no, no. The law doesn't say that
23 you have the authority to do that, it says you have the
24 responsibility to do it.

25 COMMISSION CHAIRPERSON SHAPIRO: And you said you

1 didn't --

2 COMMISSIONER CHOPER: Responsibility.

3 MR. LIEBAU: There's a difference.

4 COMMISSIONER CHOPER: Where does it say that in
5 the rules, that there's a difference between a
6 responsibility and authority, especially when it says "all
7 powers not specifically defined."

8 MR. LIEBAU: No, it says "the responsibilities of
9 the Board shall include but not be limited to all the
10 following."

11 COMMISSIONER CHOPER: But why is that different
12 than an authority to do it?

13 MR. LIEBAU: Well, authority is discretionary.

14 COMMISSIONER CHOPER: Does it say so any place in
15 there?

16 MR. LIEBAU: And responsibility is discretionary?

17 COMMISSIONER CHOPER: That's what I want to know.

18 MR. LIEBAU: No, I don't know, Mr. Miller can
19 answer that.

20 COMMISSIONER CHOPER: That's what he's going to
21 take care of for us.

22 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, my main
23 concern on the ADW dispute we all had was that I think there
24 was a legitimate difference of opinion there as far as what
25 some of the facets of the agreement should be.

1 But a lot of time was lost and a lot of money was
2 lost to various stakeholders that had no ability to resolve
3 it, basically, themselves. There was a lot of somewhat
4 innocent bystanders which, you know, is inevitable in any
5 type of a strike.

6 But it was frustrating for the Board to not be
7 able to do anything at all that we could have hastened the
8 settlement.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
10 everybody is frustrated with this. And I think that Counsel
11 Miller will do some good research and, hopefully, we can
12 find easier and better ways to avoid these issues.

13 Okay, I'm going to move on, now, to Item Number
14 12 -- I'm sorry, Item Number 13, our golf ball issue.

15 This issue has to do with, as some of us know,
16 there's a potential concern with respect to golf balls
17 entering the racetrack during training hours, or racing
18 hours, I guess for that matter, that could cause a hazard
19 for horsemen that are using the track at the Alameda County
20 Fair.

21 We've received a request from representatives of
22 the Alameda County Fair to defer this item, so that they can
23 research some records and understand, and see what the
24 Board's positions in the past have been.

25 And they've made a public records request towards

1 that end.

2 From the horsemen's perspective, if Mr. Halpern
3 will listen, he'll hear me articulate it, their concern is
4 that this is an immediate potential problem, where one
5 errant golf ball could be, you know, very harmful and create
6 harm to any individual.

7 And so they want us to -- they would like to see
8 some immediate movement on this.

9 Personally, I believe we should give the Alameda
10 County Fair time to do the research, to understand. I
11 understand they have a lease obligation or a contractual
12 arrangement with the golf course operator.

13 They need to have the time to research what the
14 Board has done with respect to that in the past.

15 But I also think that we need to make sure that
16 the Alameda County Fair understands the urgency and concern
17 of the horsemen, that one golf ball could be too many, and
18 so there is a time of urgency.

19 So it would be my recommendation that the Board
20 not hear this matter today, but that the parties agree to
21 meet within a ten-day period from now, as we're trying to
22 find dispute resolution methods, that they sit face-to-face,
23 that they work through what all these options are. And if
24 it's not resolved, then bring it back to the Board at its
25 next regularly scheduled meeting.

1 Mr. Blonien.

2 MR. BLONIEN: Thank you, Mr. Chairman and Members.
3 Rod Blonien, on behalf of the Alameda County Fair.

4 We caucused this morning, and when I say "we",
5 myself, Mr. Couto, Mr. Halpern, and I had Mr. Pickering, the
6 Manager of the Alameda County Fair, on the telephone, and a
7 meeting has been agreed to for December 30th, and for the
8 people to meet in Mr. Pickering's office, go to the track.
9 Mr. Halpern has been very kind and put together a list of
10 potential changes that he thinks would make things safer,
11 and they're going to go through all of those items.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, that sounds
13 great.

14 And then perhaps you'll just report back to the
15 Board either in writing or at the earliest, and if not, then
16 at the next regularly scheduled meeting it can be agendaed
17 and we'll get a report that it's been resolved.

18 MR. BLONIEN: Thank you.

19 COMMISSION VICE CHAIRPERSON HARRIS: You know, I'm
20 bothered, though, that this original incident happened on
21 October 26th, which was at least about six weeks ago, and
22 there's been ample time for Alameda County Fair to
23 investigate their situation there.

24 It just seems to me that we have a rule that you
25 can't have golfing going on inside a training facility.

1 And I think the horsemen are being pretty
2 reasonable saying that they'd like the golfing not to start
3 until nine o'clock, and the golf course wants to start at
4 eight o'clock, which is, this time of year in particular, I
5 don't see where it's that big of a problem. I think we need
6 to enforce our rule.

7 COMMISSION CHAIRPERSON SHAPIRO: I think that the
8 Alameda County Fair, and I think that's what perhaps Mr.
9 Blonien wants to look at, has an exemption to that rule.

10 COMMISSION VICE CHAIRPERSON HARRIS: Well, only
11 for certain holes or something.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, look, the
13 parties -- the parties are meeting. I agree it should have
14 been dealt with swifter. They're dealing with it now,
15 swiftly. So, hopefully, it will get resolved in the next
16 bit.

17 And since the horsemen, the representatives of the
18 Alameda County Fair, and the owners are all satisfied, I
19 suggest we let them do their magic and the Board will then
20 not have to get involved and embroiled in a dispute once
21 again.

22 COMMISSION VICE CHAIRPERSON HARRIS: No, but I
23 think the Board -- it needs to be clear to all parties,
24 though, the Board wants to enforce its rule in this area. I
25 don't know how they actually do it. But it just -- it seems

1 to me that why even have any rules if we're going to say,
2 well, if there's any problem with a rule, you guys take a
3 couple months and figure out something and come back to us.
4 I mean, a rule should be a rule, I think.

5 MR. BLONIEN: Well, just I don't -- again, I don't
6 want to be-long this. But in 1995 the Alameda County Fair
7 was granted a permanent exemption by the Board for the
8 golfing activity. Prior to every race meet the track is
9 inspected by stewards and determined to be safe.

10 And it's something that we hope to resolve and
11 make some changes, and allow the golfing to continue, and
12 allow horses to train safely. Thank you.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay. We are
14 going to defer -- is Leanne Howard in the room?

15 We will defer that item to the next meeting. Item
16 Number 2, I believe it was.

17 COMMISSION VICE CHAIRPERSON HARRIS: We could go
18 ahead with it, because it -- unless it's too controversial.

19 COMMISSION CHAIRPERSON SHAPIRO: She wanted
20 to -- well, I don't know if it's controversial. She wanted
21 to address it.

22 COMMISSION VICE CHAIRPERSON HARRIS: But she was
23 for it.

24 COMMISSIONER ISRAEL: She's addressed it, in favor
25 of it, previously.

1 COMMISSION VICE CHAIRPERSON HARRIS: Unless she's
2 against it --

3 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
4 look, fine -- no, she's in favor of it.

5 COMMISSIONER ISRAEL: Right.

6 COMMISSION CHAIRPERSON SHAPIRO: So I'll tell you
7 what, we'll try to hear it, fine.

8 Item Number 2, public hearing and action by the
9 Board on the proposed amendment of CHRB Rule 1481,
10 Occupational Licenses and Fees; Rule 1468 Term of License;
11 and the proposed addition of Rule 1504.5, Provisional
12 Exercise Rider, to create a Provisional Exercise Rider
13 license classification. The written comment period is
14 complete, the proposed amendment is ready for adoption.

15 I think we all understand and recognize that this
16 is a way of creating a mentoring training program for those
17 people that are new to being riders at racetracks.

18 I certainly think it's a good idea. I'm sorry to
19 deny Leanne her opportunity to get kudos if we pass this,
20 but we'll do that anyway.

21 Are there any comments about this?

22 If there are none, we can simply make a motion and
23 approve this.

24 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I'll
25 move we approve. No comments were received, and it just

1 seems like something that we need to get new people into
2 racing and into some of these jobs.

3 And this probably is somewhat happening, anyway,
4 but this formalizes the process. I think it's a good idea,
5 I'll move it.

6 COMMISSIONER ISRAEL: Second.

7 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

8 (Ayes.)

9 COMMISSION CHAIRPERSON SHAPIRO: Well, Leanne,
10 congratulations, I'm sorry your car broke down.

11 Okay, she e-mailed me earlier this morning.

12 Okay, that brings us down to Item Number 11, which
13 is discussion by the Board and advice from counsel regarding
14 the authority of the California Horse Racing Board to deny
15 applications for licensure, and to suspend/revoke existing
16 occupational licenses.

17 And I'm going to turn that over to Mr. Harris, who
18 I believe placed that on the agenda.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
20 it's good for this Board to look at different things that we
21 do. Because anything we talk about needs to be in public
22 session, we can't just all sit around over coffee,
23 someplace, and talk about different ideas, we've got to do
24 it here.

25 And one of the things I was looking at, which goes

1 both ways as far as who we have to license and who we cannot
2 license, and I think this just outlines what some of that
3 is.

4 One of the issues would be if somebody came to
5 mind, who I don't really know, but involved in a case, is
6 Gary Tanaka, who was accused of -- actually, I guess,
7 convicted, it's under appeal, of a felony involving some
8 investment fraud, I think.

9 STAFF COUNSEL MILLER: Excuse me to interrupt, I
10 really don't think you ought to mention specific cases.

11 COMMISSION VICE CHAIRPERSON HARRIS: Well, okay.
12 Well, somebody. I'm saying, I don't understand the felon
13 deal. Is a felon a bar to license, regardless of the crime,
14 or does it have to be a crime that has some nexus to racing
15 or moral behavior, or something like that?

16 STAFF COUNSEL MILLER: The law, as now stated,
17 there is a provision of the Business and Professions Code
18 that provides that there must be a substantial relationship
19 between the criminal conviction and the occupational license
20 that is held.

21 Presently, the California Horse Racing Board
22 issues 23 different licenses and one registration.

23 In order to revoke a license, the revocation
24 proceeding must be pursuant to the Administrative Procedures
25 Act, which calls for a formal pleading, an accusation.

1 There has to be certain notices given to the
2 license holder. The license holder must then file a notice
3 of defense, and it must go before an Administrative Law
4 Judge for adjudication. And the applicant is entitled -- or
5 strike that.

6 The license holder, who the Board is moving to
7 revoke -- and, actually, the Executive Director is the
8 complainant. Currently a male, so I'll use the word "he"
9 but it is the Executive Director who signs the accusation,
10 and then awaits the -- it goes to the Attorney General's
11 Office.

12 I want to introduce in the audience, ask him to
13 stand, Jerry Mosley, Deputy Attorney General, with the Los
14 Angeles office of the California Attorney General's Office,
15 who is the liaison counsel for the California Horse Racing
16 Board within the Department of Justice.

17 Welcome and thank you for coming.

18 MR. MOSLEY: Thank you, Bob.

19 STAFF COUNSEL MILLER: And then a hearing is held,
20 the Attorney General's Office serves the accusation. A
21 hearing is -- a notice of defense is received. If not, then
22 a default decision can be issued.

23 But if a notice of defense is received, then a
24 hearing is held.

25 The license holder is entitled to all documents

1 which the complainant is relying on to revoke the license,
2 and then the matter is adjudicated before -- it's an
3 evidentiary hearing before an Administrative Law Judge.

4 Importantly, in administrative proceedings,
5 hearsay statements, administrative hearsay can be admitted.
6 However, it cannot be used for a finding, a factual finding.

7 And the Administrative Law Judge does not rule on
8 questions of law. They act in the capacity of the Board to
9 hear evidence and make findings of fact.

10 And then the matter comes before the Board to be
11 considered.

12 And that's to revoke a license.

13 And if the Commissioners will look at the
14 materials for this Item 11, on the second page of the
15 materials, the Board Rule of 1489 sets down the grounds upon
16 which a license can be denied, or revoked.

17 And the statutory rules are here in the materials
18 provided to the Board.

19 With regards to an applicant, that is handled
20 somewhat differently. The applicant is issued a letter of
21 denial by the agency and then the matter is referred to the
22 Attorney General's Office for the preparation of a statement
23 of issues.

24 And there's no requirement that a notice of
25 defense be filed. But the statement -- because the letter

1 of denial is really a statement, is a request for a hearing.

2 So and then the matter goes forward again to an
3 Administrative Law Judge for findings of fact as to whether
4 or not the applicant is deemed fit to hold an occupational
5 license issued by the California Horse Racing Board.

6 I noted at the beginning there's one registration
7 that the Board issues, and that's for an authorized agent.

8 However, the authorized agent must -- for that to
9 be a valid document or a valid registration, he must hold
10 another license issued by the California Horse Racing Board.

11 So that is, in a nutshell, the procedures. And
12 if -- there is a whole licensing manual, there are
13 qualifications set out that must be met for all the
14 occupational licenses issued by the Board.

15 But the Board can't pick and choose who it wants
16 to license. There has to be a basis for refusal of a
17 license, and it has to go to the qualifications.

18 The courts have long recognized that persons don't
19 have a vested right to ply any occupation they wish. People
20 can't just put out an advertisement and call themselves a
21 medical doctor.

22 But there are certain requirements, qualifications
23 that is set down by the Board, through its licensing manual,
24 that have to be met. And then a card is filled out, and
25 there's a check for whether or not the person has ever been

1 convicted of a crime. And if that box is checked, the
2 investigators are brought in to perform a background check.

3 And all individuals licensed by the Board are
4 fingerprinted. And if there is a criminal conviction
5 checked on the card, then the fingerprints are run through
6 the California Department of Justice databank, and the
7 Federal Bureau of Investigation, the National Crime and
8 Information Center in Washington, D.C.

9 And if they have a criminal conviction, then the
10 Board has to make a decision as to whether or not they want
11 that individual licensed.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
13 what we may want to look at is perhaps the Board should
14 reevaluate what criteria it could establish. Because there
15 are times where, you know, maybe there is somebody of
16 suspicious question, or that may not be deemed of the high -
17 - I don't know how to say this. I'm trying not to use names
18 and not to make inferences.

19 COMMISSION VICE CHAIRPERSON HARRIS: I'll give you
20 an example.

21 COMMISSION CHAIRPERSON SHAPIRO: I'm not trying to
22 give an example.

23 But, you know, let's say that person A is not
24 allowed to race in state B, and because person A had an
25 offense in state B. So he's ruled off there.

1 But now can he -- he can just come to good 'ole
2 California, because we don't have anything on our books, so
3 to speak, and he gets licensed here.

4 Where it may be that while he didn't commit any
5 offense here worthy of barring him or not licensing him,
6 maybe the industry feels that to protect its level of
7 integrity it wouldn't want to.

8 I think that's the question that should be
9 pursued.

10 And I appreciate all the rules, and due process,
11 and so forth. And I understand that private parties may
12 have a different ability to simply exclude somebody because
13 it's their private premises, but they don't want to get
14 sued.

15 So the question is, is there criteria that the
16 Board could develop, where it says to race in the state it
17 has the right to review records, and actions of other racing
18 venues, and deem somebody unfit for those reasons?

19 I think that's where the Board should go.

20 STAFF COUNSEL MILLER: Well, I'll just make this
21 one comment, as I said previously, I used to be an Assistant
22 United States Attorney in Fresno, and I enjoyed it,
23 but -- and the Federal Bureau of Investigation agents used
24 to come in my office and they would harangue about some
25 individual, and I would have to tell them, as have other

1 Assistant U.S. Attorneys throughout the nation, that there's
2 no law against being a no-good-SOB.

3 But you have to look at actions. And actions in
4 other states are important and must be reviewed by this
5 Board.

6 COMMISSION CHAIRPERSON SHAPIRO: Well, we
7 have -- keep in mind, our penalties -- there's reciprocity
8 in terms of penalties and other actions.

9 All I would say, and I don't think we need to keep
10 going on and on about this, I think that what we -- I would
11 hope the Board would be asking is can we look at those
12 issues being taken into consideration before somebody is
13 licensed in this State, when they are not given a license in
14 another state, because it is for the general welfare, and
15 benefit, and protection, and integrity of the sport.

16 STAFF COUNSEL MILLER: I agree with that.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 COMMISSION VICE CHAIRPERSON HARRIS: It's not that
19 you can't deny a license, it's just that the person can
20 appeal that denial and may well prevail.

21 But I would just -- I don't really have a dog in
22 the fight, as far as letting people in or out, or whatever,
23 I mean, I don't have a prejudice one way or the other, I
24 just didn't understand how it works.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, okay.

1 COMMISSIONER CHOPER: You've got a couple of rules
2 here that apply to that situation, I think.

3 COMMISSION CHAIRPERSON SHAPIRO: So why don't you
4 perhaps verse the Board on that and we'll move forward.

5 STAFF COUNSEL MILLER: I'd be happy to.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
7 much.

8 Okay, we are down to Public Comment. I have one
9 comment card from John Vasquez, from the Board of
10 Supervisors, District 4, Solano County.

11 MR. VASQUEZ: Where would you want me, Chairman,
12 here or --

13 COMMISSION CHAIRPERSON SHAPIRO: You can come
14 here.

15 MR. VASQUEZ: Thank you.

16 COMMISSION CHAIRPERSON SHAPIRO: Mr. Vasquez, how
17 can we help you?

18 MR. VASQUEZ: Well, first of all, good afternoon.
19 Thank you, Chairman Shapiro and Commissioners for allowing
20 me the opportunity to speak today.

21 Again, my name is John Vasquez, I'm a member of
22 the Solano County Board of Supervisors.

23 And I want to thank the Chairman for acknowledging
24 me at your last Board meeting, in Davis.

25 I'm here today, like many others, coming to speak

1 about common interests and special interests. And let me
2 talk about the special interests in which I want to speak
3 about today, and that's the interests of Solano County and
4 its fair.

5 My concern is the potential loss of horse racing
6 at Solano.

7 You and your Board are probably asking why is he
8 here now?

9 Well, I operated under the principle of
10 assumption. I assumed we were always going to have a fair.
11 There was always going to be ferris wheels, there would
12 always be vendors, there would always be rides, there would
13 be entertainment, and there would be horse racing.

14 It wasn't until October that I read a news article
15 stating that there was a potential loss of horse racing at
16 Solano County, that I began to raise concerns about it.

17 I asked that a presentation be given to the Board
18 of Supervisors, from the Fair Manager. It followed your
19 meeting, in which I was able to read some of the transcripts
20 and found out a little bit about what was potentially going
21 on.

22 I can tell you that I was not pleased and somewhat
23 displeased in the presentation that was given to the
24 Board.

25 So on December 9th I asked the Board to conduct a

1 hearing. On January 13th we are going to conduct a hearing
2 as to figure out how the potential loss of horse racing in
3 Solano County may have started to occur.

4 I'm here to ask you, today, is that we be able to
5 call on your staff, so that our board has a better
6 understanding about horse racing and the potential loss of
7 Solano County.

8 COMMISSION CHAIRPERSON SHAPIRO: Mr. Vasquez, you
9 may not only call on staff, but I would encourage you to do
10 more research as to what's going on in the horse racing
11 industry.

12 Because if there's one thing clear, and while
13 you've always believed there would be ferris wheels and all
14 those things, we always hoped there would be fans in the
15 stands, and we would not be in the position that we're in to
16 protect horse racing statewide.

17 And I appreciate your concern is for Solano
18 County, and that's worthy, and noble, and genuine, and a
19 good thing. But we're looking at the industry as a whole.
20 And this industry, with all of its moving parts and
21 components, has to figure out a way to make it viable so it
22 doesn't fall apart throughout the State of California.

23 And while the fairs are very important, they are
24 an integral, important piece of the puzzle, there are
25 economic considerations, where we have people that are

1 buying horses, and investing in the business on an ongoing
2 basis, and they need to find a way to get a return on their
3 investment, that affords them the opportunity to do that,
4 and we have commercial racetracks and other racing entities.

5 So it's a very complicated puzzle. Please call on
6 the staff. Please call on everybody. Educate yourself.
7 Because the truth is it will be a benefit to not only you,
8 but to us, if you understand that.

9 MR. VASQUEZ: Thank you very much. I certainly
10 will be doing that.

11 COMMISSION CHAIRPERSON SHAPIRO: Thank you.
12 Great.

13 One more comment card. Cliff Goodrich.

14 MR. GOODRICH: Cliff Goodrich. As most of you
15 know, I work as a consultant for Fairplex, and I know Jim
16 and I have whispered back and forth to each other, and on a
17 personal basis. And I'm not appointed up here as a
18 spokesman for the industry, but what I'm going to say I know
19 represents most of the people in the industry that deal with
20 this Board.

21 And, Mr. Chairman, your resignation is a great
22 loss, it's unfortunate. I understand it's a personal
23 situation and you make the decisions you have to make.

24 As a number of Commissioners have said, after
25 being around a Board for all the years I have been, players

1 change, I don't think there's a Chairperson that has put in
2 nearly the amount of personal time you have.

3 I don't think there's Board members that have
4 spent the time mentally, if not physically, or traveling,
5 trying to help this industry.

6 And I think the Chairman, in his little talk,
7 talked about the fact that the Board cannot be the ones to
8 change the economic model of this industry.

9 He didn't say the tag line. The tag line is it's
10 the industry, itself, that must change it. I can tell you,
11 we are hard at work.

12 There are tremendous challenges. We're not on a
13 level playing field, the conflicts are external and
14 internal. We're trying.

15 But I think everybody in this room knows if this
16 industry can't act with courage, and decisiveness, and take
17 some prudent risks this industry, as we know it, is not
18 going to be around.

19 Selfishly, thank goodness my professional career
20 doesn't depend on the future of this industry. But if I
21 were in the prime of my career, as some of the colleagues
22 behind me are, I'd be scared to death.

23 And I think all of us recognize that this Board,
24 and especially the Chairman, are doing everything they can
25 to help us. And now the ball's in our court and we must do

1 something to help ourselves and, hopefully, that day will
2 come soon.

3 Thank you. Thank you, Mr. Chairman.

4 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank
5 you very much, appreciate it.

6 Okay, if there is no other business before the
7 Board, we can adjourn the meeting.

8 COMMISSIONER ISRAEL: I'd like to offer a motion
9 to adjourn in honor of the service of Richard Shapiro.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, motion is
11 approved, passed. Thank you very much.

12 (Applause.)

13 (Thereupon the California Horse Racing
14 Board Regular Meeting was adjourned at
15 12:50 p.m.)

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CERTIFICATE OF REPORTER

I, RICHARD A FRIANT, 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 17th day of December, 2008.

Richard A. Friant

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