

0001

BEFORE THE CALIFORNIA HORSE RACING BOARD
OF THE STATE OF CALIFORNIA
ROBERT H. TOURTELOT, CHAIRMAN

01
01
02
02
03
03
04
04
05
05
06
06
07
07
08
08
09
09
10
10
11
11
12
12
13
13
14
14
15
15
16
16
17
17
18
18
19
19
20
20
21
21
22
22
23
23
24
24
25
25
26
26
27
27
28
28

In the Matter of the:)
Regular Board Meeting of the)
California Horse Racing Board)
_____)

TRANSCRIPT OF PROCEEDINGS
Del Mar, California
Thursday, July 27, 2000

Reported by:
VERONICA VERA,
CSR NO. 11887
Job No. :
CHBC611B

0002

BEFORE THE CALIFORNIA HORSE RACING BOARD
OF THE STATE OF CALIFORNIA

01
01
02

02
03 ROBERT H. TOURTELOT, CHAIRMAN
03
04
04
05
05
06
06

07 In the Matter of the:)
07)
08 Regular Board Meeting of the)
08 California Horse Racing Board)
09 _____)
09
10
10
11
11
12
12
13
13
14
14
15
15

16 TRANSCRIPT OF PROCEEDINGS,

16
17 taken at 2260 Jimmy Durante Boulevard,
17
18 Del Mar, California, commencing at 11:00 a.m.,
18
19 on Thursday, July 27, 2000, heard before
19
20 ROBERT H. TOURTELOT, Chairman, reported
20
21 by VERONICA VERA, CSR No. 11887, a Certified
21
22 Shorthand Reporter in and for the State
22
23 of California.
23
24
24
25
25
26
26
27
27
28
28

0003
01 APPEARANCES:

01
02 Chairman: ROBERT H. TOURTELOT
02
03 Vice Chairman: JOSEPH B. FENLEY
03
04 Board Members: SHERYL L. GRANZELLA

04		MARIE G. MORETTI
05		
05	Executive Director:	ROY C. WOOD, JR.
06		
06	Assistant Executive Director:	ROY MINAMI
07		
07	Peter Southworth	Deputy Attorney General
09		
10		
10		
11		
11		
12		
12		
13		
13		
14		
14		
15		
15		
16		
16		
17		
17		
18		
18		
19		
19		
20		
20		
21		
21		
22		
22		
23		
23		
24		
24		
25		
25		
26		
26		
27		
27		
28		
28		

0004

I N D E X

01		
01		
02	Agenda Item Number	PAGE
02		
03	1 - Approval of the minutes for the regular meeting	6
03	of May 31, 2000	
04		
04	2 - Discussion and action by the Board on the	6
05	Application for License to Conduct a Horse Racing	
05	Meeting of the Bay Meadows Operating Company,	
06	L.L.C., (T) at the Bay Meadows Race Course,	
06	commencing September 1 through November 12, 2000,	
07	inclusive	
07		

08	3 - Discussion and action by the Board on the	11
08	Application for License to Conduct a Horse	
09	Racing Meeting of the Los Angeles County Fair (F)	
09	at the Pomona Fairgrounds, commencing	
10	September 14 through October 1, 2000, inclusive	
10		
11	4 - Discussion and action by the Board on the Quarter	46
11	Horse Race Dates for Year 2001	
12		
12	5 - Discussion and action by the Board on the Harness	26
13	Race Dates for Year 2001	
13		
14	6 - Discussion and action by the Board on the	49
14	approval of the annual distribution of a portion	
15	of the unclaimed refund monies, adjusted for	
15	inflation, to the Jockeys' Guild Health and	
16	Welfare Trust, pursuant to Business and	
16	Professions Code Section 19612.9	
17		
17	7 - Discussion and action by the Board on the	57
18	proposed distribution of charity race day.	
18	Proceeds of the Oak Tree Charitable Foundation in	
19	the amount of \$105,000 to 53 beneficiaries	
19		
20	10 - Report of the Security and Licensing Committee	58
20		
21	11 - General Business: Communications, requests for	64
21	future action of the Board, reports	
22		
22	12 - Old Business: Issues that may be raised for	72
23	Discussion purposes only which have already	
23	been brought before the Board	
24		
24		
25		
25		
26		
26		
27		
27		
28		
28		

0005
01 Del Mar, California, Thursday, July 27, 2000
02 11:00 a.m.
03
04

05 MR. WOOD: Good morning, and welcome to the
06 regular horse racing meeting. This meeting is being
07 conducted on July 27, 2000. It's being conducted at the
08 Del Mar Satellite Wagering Facility in Del Mar,
09 California.

10 Present at today's meeting are Chairman,
11 Robert Tourtelot; Vice Chairman, Joseph Fenley;
12 Commissioner Sheryl Granzella; and Commissioner,
13 Marie Moretti.

14 Before we go forward with the business of
15 today's meeting, I would respectfully ask that if you have
16 testimony to present to the Board, that you please provide
17 your name and your association.

18 With that, I will turn the meeting over to

19 our Chairman, Mr. Robert Tourtelot.
20 MR. TOURTELOT: Good morning, and welcome to the
21 July, 2000 monthly meeting of the California Horse Racing
22 Board.

23 Before we start, I'd like to recognize
24 Ms. Chris Wagaman who is the Deputy Secretary of the
25 Department of Food and Agriculture working for
26 Bill Lyons who was here at the track yesterday. And we
27 thank you very much, Chris, for coming to our meeting here
28 today.

0006
01 The first item on the agenda will be the
02 approval of the minutes from the regular meeting of
03 May 31, 2000.

04 MS. MORETTI: I have a comment. Could I just make
05 it quick?

06 In the minutes, there was a reference that I
07 made last time to commend Jack Liebau and his group, not
08 John Reagan and his group, for the work that he had done
09 to get the Bay Meadows Foundation to increase their
10 allocations to horse racing charities. I just want to
11 make that amendment.

12 MR. TOURTELOT: All right. The motion, then, would
13 be that -- it will be to approve the minutes with the
14 amendment that Commissioner Moretti just mentioned.

15 MR. FENLEY: I second.

16 MR. TOURTELOT: All in favor?

17 BOARD: Aye.

18 (Motion was unanimously carried)

19 MR. TOURTELOT: The next item on the agenda is
20 discussion and action by the Board on the application for
21 license to conduct a horse racing meeting for Bay Meadows
22 Operating Company at Bay Meadows Race Course, commencing
23 September 1 through November 12, 2000.

24 Jackie?

25 MS. WAGNER: Jackie Wagner, CHRB staff.

26 The application before you is from the
27 Bay Meadows Operating Company. They are proposing to run
28 a race meet from September 1st through November 12, 2000

0007
01 for 57 days. This is two more days than 1999. The
02 association proposes to raise a total of 490 races or
03 8.6 races per day. They are requesting the option to
04 increase the number of races if they have sufficient
05 horses.

06 They also meet the 10-percent requirement of
07 the stakes purses paid for Cal-Bred stakes races. They
08 will be racing five days per week, Wednesday through
09 Sunday; four days per week during the weeks of
10 September 1 through September 4 -- that will be racing
11 from Friday through Monday; six days per week, Wednesday
12 through Monday during September 6th through 11th,
13 October 4th through 9th, and November 1 through 6th. They
14 will be racing eight days per day on Wednesday, Thursday,
15 and Friday -- eight or nine races on Sunday, and ten races
16 on Saturday, and nine or ten races on holidays.

17 Their post time will be 1:45 p.m. daily from
18 September 1st through September 13. They're proposing a
19 1:15 p.m. post time September 14 through October 1 and a
20 12:45 post time between October 4th and November 15th.
21 Their Friday night post time will be 7:15 p.m. They have

22 three holidays that they are going to be running -- that's
23 September 4th, Labor Day, with a 12:45 post; California
24 Cup Day on October the 28th, post time will be 12:15; and
25 the Breeders Cup, November 4th, will have an 11:15 post.

26 Their track safety requirements have been
27 fulfilled, and they will be using CHRB rules. The only
28 outstanding items are horsemen's agreement in the name of

0008
01 a second patrol judge, which I'm sure you will receive.

02 Staff would recommend that the Board approve
03 the application condition upon us receiving the missing
04 information.

05 MR. TOURTELOT: All right. I'd like to know why
06 the horsemen's agreement hasn't been signed.

07 MR. LIEBAU: Jack Liebau from Bay Meadows.

08 The horsemen's agreement has been signed.

09 MR. JOHNSON: Don Johnson, TOC.

10 Horsemen's agreement has been signed -- and
11 I've made that information available this morning -- and
12 signed by both parties.

13 MR. TOURTELOT: Gentlemen, thank you. I
14 congratulate both of you for that.

15 MR. HALPERN: Excuse me, Commissioner, Ed Halpern,
16 California Thoroughbred Trainers.

17 There is a separate horsemen's agreement with
18 the trainers that is currently being negotiated, and we
19 believe that the few minor items that we may have some
20 difference on, if any, will be settled very shortly.

21 MR. TOURTELOT: Jackie, where would that be
22 referenced in the application, with the horseman
23 agreement?

24 UNIDENTIFIED SPEAKER: This is a new procedure. It
25 was recognized in the regulation that both organizations,
26 the CTT and the TOC, are authorized and probably required
27 to sign agreements with the race tracks. We have
28 instituted those procedures and have submitted a form

0009
01 agreement to most of the tracks, if not all. And it's
02 just a last-minute matter of tweaking a few items.

03 MR. TOURTELOT: I don't mean to sound ignorant, but
04 it's the first time in my memory that there's been a
05 problem or that I even knew that the trainers were signing
06 an agreement with the association prior to the approval of
07 the application. There's always the TOC and the
08 horsemen's agreement.

09 MR. VAN DE KAMP: Mr. Chairman, that's correct.
10 Your memory is absolutely faultless in that respect.
11 Mr. Halpern came in --

12 MR. TOURTELOT: I love it when Mr. Van De Kamp
13 gives me a compliment.

14 MR. VAN DE KAMP: When Ed came in to run CTT, they
15 noticed that they did not have a formal agreement and that
16 they should. And I respect them for that and for working
17 together with the tracks. And some of the things that
18 have been in our agreements will probably be in theirs in
19 the future.

20 And so this is getting work on, and I
21 congratulate the tracks because they're working through
22 this with both heads, and I think right now it's going to
23 be a satisfactory conclusion.

24 So in the future, I think you will notice

25 that it will be horsemen's, plural, agreements that will
26 be filed. And as I well know, you want those agreements
27 signed before the approval of the license.

28 MR. TOURTELOT: Well, it's not plural possessive

0010

01 now, but it will be in the future?

02 MR. VAN DE KAMP: Yes.

03 MR. TOURTELOT: Jackie?

04 MS. WAGNER: Yes.

05 MR. TOURTELOT: Because if you never mentioned
06 this, I wouldn't have known about it. Now that I do,
07 we'll expect them to be signed before the application
08 is -- thank you.

09 Anything else?

10 Anything else, members of the commission?

11 MR. WOOD: Mr. Chairman, I would respectfully
12 request that for the additional races above the 490 that
13 Mr. Liebau is requesting in his application, that if those
14 races go above the 490, as in the past, that they receive
15 administrative approval from the staff to add more than
16 490 races. And that's been what we've done, and I ask we
17 do that.

18 MR. TOURTELOT: Do you have a problem with that,
19 Jack?

20 MR. LIEBAU: Jack Liebau from Bay Meadows.

21 No, we have absolutely no problem with that.

22 MR. TOURTELOT: Would the chairman entertain the
23 motion to hear the application, subject to the executive
24 director's admonition as being part of the application.

25 MR. FENLEY: I'll make a motion that we approve the
26 application, subject to the administrative approval.

27 MR. TOURTELOT: Second?

28 MS. GRANZELLA: I second the motion.

0011

01 MR. TOURTELOT: All in favor?

02 BOARD: Aye.

03 (Motion was unanimously carried)

04 MR. TOURTELOT: Next item on the agenda is the
05 discussion and action by the Board on the application for
06 license to conduct a horse racing meeting of the
07 Los Angeles County Fair at the Pomona Fairgrounds,
08 commencing September 14th through October 1, 2000,
09 inclusive.

10 MS. WAGNER: Jackie Wagner, CHRB staff.

11 The application before you is from the Pomona
12 County Fair. They are proposing to race from September 14
13 through October 1st, 2000 or 18 days, which is the same
14 number of days as they raced in 1999. The fair proposes
15 to race a total of 234 races, which is 17 more races than
16 1999. They will be racing 18 days straight and 13 races
17 per day.

18 Their first post time will be 12:00 daily.

19 Their track safety requirements have been
20 fulfilled.

21 They will be utilizing the CHRB rules for
22 wagering.

23 We have received the horsemen's agreement
24 that was notated as missing in the analysis. It has been
25 received. And we've also been informed that the
26 outstanding off-site statement agreement has indeed been
27 signed. We're just awaiting a copy of that.

28 So staff would recommend that the Board
0012
01 approve the application.
02 MR. TOURTELOT: I don't mean to broadside you with
03 this counsel, but could you perhaps just give us a quick
04 overview of what's going on in the back side at Pomona?
05 MR. LEWIN: In connection with what you've been
06 reading in the paper in the past and so on, I don't --
07 MR. TOURTELOT: You want to state your name for the
08 record?
09 MR. LEWIN: My name is Henry Lewin. I'm the
10 attorney for Fairplex.
11 I think that for those who appeared in
12 Sacramento and heard the testimony from the
13 representatives from Los Angeles County, the testimony was
14 that Fairplex cooperated fully with the investigation and
15 made the necessary changes and improvements and so on.
16 The most important thing is that we do not
17 have housing for the backstretch at Pomona, and people
18 were using tack rooms on their own as housing. And that's
19 been taken care of so that they have housing off the
20 premises, and the tack rooms will remain as tack rooms.
21 MR. TOURTELOT: I understand that there were
22 22-some individuals that had to move out of the tack room.
23 MR. LEWIN: That's correct.
24 MR. TOURTELOT: Is the fair paying for the offtrack
25 housing?
26 MR. LEWIN: Not that I'm aware of, no.
27 MR. TOURTELOT: Commissioners have any questions?
28 Any members of the audience have any questions with
0013
01 respect to the application for the Pomona Fair -- I'm
02 sorry, the Los Angeles County Fair?
03 All right. The chair will entertain a motion
04 to approve the application as submitted.
05 MR. FENLEY: I move that we approve the application
06 as submitted.
07 MR. TOURTELOT: Second?
08 MS. MORETTI: I second it.
09 MR. TOURTELOT: All in favor?
10 BOARD: Aye.
11 (Motion was unanimously carried)
12 MR. TOURTELOT: Thank you.
13 Item Number 4, discussion and action by the
14 Board on the Quarter Horse Race Dates for the year 2001.
15 DR. ALLRED: Ed Allred, Chairman of Los Alamitos
16 Race Course.
17 We're asking rather unexpectedly -- about
18 three or four months ago this would happen -- for a change
19 in the racing schedule for 2001, Los Al. We have come to
20 an impasse in our negotiations with the Harness Horsemen's
21 Association of California. I don't want to bore the Board
22 with the details of the past, too much, but a brief
23 summary is in order.
24 The so-called Zumbrun Agreement was signed
25 several years ago. And for three years the night industry
26 has functioned under the terms of that agreement. It was
27 a rather costly litigation. The Harness Association sued
28 the California Horse Racing Board, Los Alamitos,
0014
01 Christo Bardis, Ray Arnold, and me. And it was settled

02 out of court, ultimately. I think it's not too severe to
03 say it was a disaster for the Harness Association's
04 litigation and it basically lost on all points.

05 But we then shook hands, and we have done
06 very well, and have had to conduct three very successful
07 harness meets at Los Alamitos. I think it's not improper
08 to say that there's been a real renaissance in harness
09 racing during this time by the influx of horses from out
10 of California.

11 To a great reluctance at this unexpected
12 impasse, the new leadership of the Harness Association has
13 taken a different approach, and I want to say that
14 Dave Newmeister and Jack Coffey worked very hard to try to
15 come to an agreement, and the commission and staff of the
16 horse racing board also used their good offices to try to
17 resolve this. But it appears to me now that there's no
18 possible way to do it.

19 There's some good things and some bad things
20 about this. One of the good things are, Number 1, it's
21 really hard to have a really good race track at
22 Los Alamitos. They wouldn't put up with it at Santa
23 Anita, and then running horses -- it's just very hard.
24 That used to be done in the old days, but the standards
25 are too high now, and we can't really have a good harness
26 track or a really good quarter horse track. When we're
27 running quarter horses all year, we'll be able to put down
28 materials and leave them there, and spend the time and

0015
01 money on it that it takes to make it a really safe and
02 good race track. Conversely, we ran harnesses all year
03 with the same thing. So in some ways, the breeds don't
04 melt very well together from that standpoint.

05 In addition, in both industries, there's a
06 difficult problem with the training and stabling. We
07 don't really have for quarter horses a place to call our
08 own; we don't have stabling money. When we don't run
09 during the wintertime, we have to find places. And
10 there's no one place that's large enough.

11 And the one place we use most commonly is in
12 financial distress, and from year to year we never know
13 it's going to be there. And the horse racing board has
14 been kind enough to give us exemptions to be there,
15 because it didn't meet all of the standards. If we were
16 there again next year, we would have to spend quite a bit
17 money to put in safety rail if it was required.

18 So it's very difficult for management, and
19 it's difficult for our trainers to have to pay a large
20 portion of the money. And having year-round racing, as a
21 whole, at Los Alamitos year round, just, I think, in the
22 long run, made our industry thrive.

23 The wintertime racing dates are not utilized
24 very much around the country at all. There is only one
25 other significant track that runs four quarter races a day
26 three days a week, with New Mexico running during that
27 time. We think we would attract horses around the country
28 and continue to have major racing on a year-round basis.

0016
01 We're asking for a diminished racing week of
02 three days per week during the time from January 5th until
03 the 1st of May or so, and we'll run Friday, Saturday, and
04 Sunday under our proposal. We will overlap harness racing

05 two days a week during that time, assuming they run at
06 Cal Expo.

07 It's been very difficult for us, again, to do
08 this; but I just don't choose to do business with people
09 who don't live up to their agreements, and the
10 Zumbrun Agreement will pass out something we don't already
11 have, including a press release that was made by the
12 harness industry at the time, which basically apologized
13 for all of the actions that had been taken by them.

14 Organized labor, I believe, will support our
15 application. I believe they're here today and will do
16 that to provide employment. One other important thing is
17 that our backstretch employees -- traditionally, we have
18 to let a lot of them go every year, trainers have to let
19 them go and then pick them up again as they start training
20 again. And it's been very hard for us to maintain a good,
21 stable backstretch force. A lot of those people tend to
22 get full-time, year-round jobs at thoroughbred racing.

23 Another major advantage is that if a horse
24 becomes sick or unsound during the middle of the racing
25 season in July or August, as an example, there's really
26 not enough time to get that horse back and running more
27 in that year, to bring it back for 15 days or 30 days.
28 You don't do that.

0017

01 If we have year-round racing, the way the
02 thoroughbred industry does, then the horse could be made
03 ready and the racing will be there for the horse
04 eventually without having these rather arbitrary times.

05 We understand the harness industry has a dark
06 time during the fall. They have some of the same problems
07 we have during that time. They have no place, really, to
08 try to train their stock, to try to hold things together.
09 They need a place that will run year round also in
10 Northern California. And we will support them when and if
11 they're able to find a place.

12 That's really all I have to say now. After
13 the harness statements, perhaps I'll have a rebuttal at
14 that time.

15 Mr. Blonien: Mr. Chairman, members --
16 representing the Los Alamitos Race Course.

17 I just wanted to explain a little bit about
18 the racing services in terms of harness racing; these are
19 the quarter horse racing. Harness racing needs a packed
20 surface, a surface that a sulky cart can be pulled easily
21 on. Quarter horse racing needs a hardly worked surface,
22 one that's not been worked, is not packed, is not firm,
23 that easily accommodates a cushion for that horse's hoof
24 hitting the ground at high-impact speeds. And as the
25 doctor indicated, it's very, very difficult to turn the
26 track and have a surface that is satisfactory for both
27 breeds. I just wanted to come up with that clarification.

28 Also, I'd like to point out that pursuant to

0018

01 Business and Professions Code Section 19530, there's no
02 question that you have the ability to change the
03 allocation of racing dates at any time of the completion.

04 Thank you.

05 MS. MORETTI: Could I ask a question? So did I
06 hear you say you do believe that there will be enough
07 horses to run year round if there are no horses available?

08 Mr. Blonien: Yes. We're probably not
09 going to run as many races until the two-year-olds come on
10 board. We'll have the barn nearly full, more than full.
11 I guess we'll have, literally, probably 800 two-year-olds
12 or more in training at that time, and that's going to be a
13 very big plus. We'll have them ready to run as soon as
14 they're legally of age to run.

15 We also expect -- the American Quarter Horse
16 Association is a very big and successful and cooperative
17 organization. They're going to work very hard with us on
18 a national basis to get some immigration, importation of
19 horses from other areas. It will be a struggle because
20 we're not used to it. We used to run in the wintertime up
21 until five years ago, but we haven't done it for a while.
22 So it will be a little different.

23 A year from now, in my opinion, it will be
24 more of a plethora of horses. We're definitely on the
25 improve from year to year. There will be the usual
26 problems that we always have early in the meet, but I
27 think we'll run a very successful meet, on a three-day
28 basis until the 1st of May when we book four days a week.

0019

01 MR. TOURTELOT: Any other questions from
02 Dr. Allred?

03 Does anyone in the audience have any response
04 to Dr. Allred?

05 MR. ADAMS: Good morning, members. My name is
06 Jim Adams I'm counsel representing the L.A./Orange County
07 Building Trades Council.

08 I'm here to speak in support of the
09 application for Los Alamitos to expand its quarter horse
10 racing. On behalf of our affiliates, the Los Angeles/
11 Orange County Building and Construction Trades Council has
12 a mastered turf agreement with Los Alamitos.

13 Recently, we were informed that the track was
14 not holding its annual horse racing meeting, which is
15 usually held the first quarter. Without the expanded year
16 for quarter horse racing schedule to replace harness
17 racing, there will be no more live racing during the
18 months of January, February, and March.

19 If this occurs, many of our workers,
20 employees at Los Alamitos, will be laid off. These
21 workers, many of whom have been employed by the track for
22 many, many years, will suffer greatly. Among those here
23 that are represented today -- we have operating engineers,
24 representatives, laborers, painters. Also, the carpenters
25 are present, and they're all in support of the application
26 for the expansion.

27 I have copies of the letter prepared. With
28 your permission, I'll leave it on the table.

0020

01 Thank you for your time.

02 MR. EARL: Hi, Mr. Chairman. My name is John Earl,
03 assistant to the President of Local 681, the Hotel
04 Employees/Restaurant Employees Union in Orange County and
05 Long Beach. We have over 70 workers at Los Al who could
06 lose their health benefits if they don't get enough hours,
07 which would happen if this application wasn't approved.
08 And we are strongly in favor of the application. I can't
09 begin to tell you the effect that this could have on
10 people, on our workers, most of whom are over 50 years of

11 age. They depend on the added income and on those health
12 benefits.

13 So please, if there's any way you can vote
14 for this application, please do.

15 Thank you.

16 MR. TOURTELOT: Thank you.

17 MR. SHELL: David Shell, California Harness
18 Horsemen's Association.

19 On the background, I just need to address one
20 thing. I believe you all have a copy of the
21 Zumbrun Agreement. If you do, if you could all look at
22 Paragraph 14.

23 MR. TOURTELOT: I don't believe that we do.

24 MR. SHELL: Okay. The Zumbrun Agreement on
25 Paragraph 14 says that if the agreement was not
26 enforceable in any way, shape, or form whatsoever, unless
27 and until the California Horse Racing Board approved of
28 its provisions and in particular, Paragraph 6. That's

0021
01 almost verbatim. Paragraph 6 gave Los Alamitos the right
02 to take \$10,000 a week out of the horsemen's purse pool
03 for alleged overpayments from previous meets and a small
04 amount for attorney's fees. That was Paragraph 6.

05 Upon reading that, I found out that the horse
06 racing board never approved that, never approved the
07 agreement as required by the agreement, and never approved
08 the payments under Paragraph 6.

09 The second issue that we have with Los Al
10 is -- and I believe anybody in this room will agree --
11 Los Al wants us, the horsemen, not the association racing
12 the meet, the horsemen, to pay what is known or was known
13 as an impact fee. In other words, we would pay
14 Los Alamitos for the privilege of having Los Alamitos take
15 our simulcast signal. No other horsemen's organization in
16 the State of California is asked to pay that kind of a
17 fee.

18 And, in fact, the law provides only for the
19 payment of any fee of that sort between a guest and a host
20 association, or between a host association and the
21 simulcast facility. That's our dispute.

22 MR. TOURTELOT: Mr. Shell, I believe we'll just
23 address the first one. The California Horse Racing Board
24 didn't approve paragraph 6 of the Zumbrun Agreement; is
25 that correct?

26 MR. SHELL: They didn't approve the agreement at
27 all.

28 MR. TOURTELOT: All right. Did it give a time

0022
01 period in which the California Horse Racing Board had to
02 approve that agreement?

03 MR. SHELL: In the third clause, it said if the
04 Board does not approve the agreement, I believe it was by
05 May 31st, 1997, then the agreement would be voidable by
06 either party in the event the Board approved the
07 agreement. There was a voidability clause.

08 MR. TOURTELOT: Doesn't make any sense to me.

09 MR. SHELL: Well, we didn't write it.

10 MR. TOURTELOT: It would be void if the parties
11 approved it -- if the Board approved it?

12 MR. SHELL: No. If the Board did not approve it by
13 May 31st, 1997 -- in other words if there's no approval

14 before May 31, 1997 --

15 MR. TOURTELOT: Did the parties in the agreement
16 operate under the agreement as if it had been approved?

17 MR. SHELL: Did they operate?

18 MR. TOURTELOT: After May 31.

19 MR. SHELL: Yes.

20 MR. TOURTELOT: I'll take it, it's possible that
21 there is a waiver or an estoppel regarding the California
22 Horse Racing Board approval. And if it went to court, and
23 they came to the Board, I believe we could approve it now.

24 MR. SHELL: If I may -- I don't want to --

25 MR. TOURTELOT: Well, if it's not an issue, then
26 let's not deal with it.

27 MR. SHELL: You can't take money out of the
28 horsemen's purse pool for the purposes -- that's the

0023

01 bottom line. They're raiding the purse pool.

02 MR. TOURTELOT: Let's just put the first issue
03 aside because I don't think it has validity.

04 MR. SHELL: What I'd like to go into is since 1974
05 when I first got involved in harness racing, we have
06 always raced in Southern California -- always. We have
07 always had a Southern California venue -- whether it was
08 Los Alamitos and Hollywood Park, which we raced at in 1974
09 through 1983. In 1983, we left Hollywood Park. We raced
10 at Del Mar for a season. We raced at Pomona. We even
11 raced before 1974 at Santa Anita. We have always and
12 continuously raced in Southern California -- always.

13 This will be the first year -- and 2001 will
14 be the first year that we have not raced at Los Alamitos
15 since at least 1974.

16 MR. TOURTELOT: In all of those years since 1974,
17 your group reached an agreement with the owner and
18 operator of the track; is that not correct?

19 MR. SHELL: Correct, we always had one. And
20 sometimes we ran our own --

21 MR. TOURTELOT: You had an agreement, a contract
22 between the owner and the association?

23 MR. SHELL: You mean the horsemen's agreement? I
24 would assume there was a horsemen's agreement.

25 MR. TOURTELOT: No, a lease agreement.

26 MR. SHELL: We didn't always lease the premises.

27 MR. TOURTELOT: Well, in any event, the point I
28 want to make is, this year, for whatever reason -- my dog

0024

01 is not in the fight and I'm not taking a position on it --
02 but you have not been able to reach an agreement with the
03 owner of the track.

04 MR. SHELL: No, that's correct.

05 MR. TOURTELOT: Do you believe, from some legal
06 standpoint, that you have some right, regardless of not
07 being able to reach an agreement, to run harness racing at
08 Los Alamitos?

09 MR. SHELL: No. I wouldn't pause at that. In fact
10 --

11 MR. TOURTELOT: That's where you were going with
12 the history.

13 MR. SHELL: I was going with the history because
14 where we are now is a product of our history of racing in
15 Southern California, which will go into the race dates
16 that they requested as quarter horse dates.

17 We have always raced there, and we have a fan
18 base. For example, when we race at Los Alamitos, our
19 on-track handling is between \$250- and \$300,000 per
20 evening. When we race at Cal Expo, it's between \$80- and
21 \$110,000 per evening. We generate most of our revenues
22 for side stakes and for the horsemen's purse pool from our
23 on-track handling. That's our biggest takeout.

24 So Southern California racing has been -- I
25 don't want to say the backbone, because Cal Expo has been
26 with us since '74 -- but a huge part of our racing
27 industry. If we lose that in 2001, and I believe
28 Dr. Allred has made it clear that he expects that we will

0025
01 lose that, what is going to be the effect on us?

02 And if I could just go through a little
03 history here, in 1996 our industry did \$98 million in
04 total handling. Each year that has increased until in
05 1999 we did \$155 million in total handling. That is on
06 the same number of racing days. It's not like we have
07 added so many racing days that the handle goes up. It's
08 because our product is in a renaissance. We are doing
09 well; we are doing very well.

10 In Los Alamitos for the spring meet in 2000,
11 we did \$82 million, which was up from last year. This
12 meet at Cal Expo, we are doing \$57 million on fewer dates
13 than we raced last year. We have a 25-percent increase in
14 handle daily over last year on fewer dates. In other
15 words, we're moving forward. If the quarter horse is --
16 if you approve the request -- and there's no application
17 before the Board, as far as I know, for actual racing
18 days -- in other words, the application that requires that
19 they tell you what stakes they're going to race, the
20 application that tells you what days they're going to
21 race --

22 MR. TOURTELOT: We were just informed by Henry that
23 we were within our rights to substitute race dates,
24 substitute the harness racing for the quarter horse for
25 the dates that were already approved for harness racing.
26 But nobody tells me that was incorrect.

27 MR. SHELL: I'm sorry?

28 MR. TOURTELOT: You said there has to be a
0026
01 full-blown application for these race dates. Is that what
02 you're saying?

03 MR. SHELL: No. I'm saying at some point, the
04 quarter house dates that are going to be requested -- this
05 is for January through April -- an application for those
06 dates will be filed with the Board. You had an item
07 earlier where the application, I believe, was amended. Do
08 you have a motion to amend your application?

09 MR. WOOD: Mr. Shell, this process that we're here
10 for today is different from an application for a license.
11 This is an allocation of race dates --

12 MR. SHELL: I fully understand that.

13 MR. WOOD: -- not a license application to conduct
14 a meet.

15 MR. SHELL: Exactly. It's just the dates,
16 themselves, and inclusive dates. And what I was going to
17 point out is if you're going to approve the allocation of
18 dates, what I would request is that when the application
19 comes before you, understand: We don't need or want an

20 overlap of race days.

21 So when they come to you, we're going to
22 race Thursday through Sunday. If these dates have to
23 transfer up to Cal Expo, which -- if you ran Los Al's
24 request -- Item Number 5 is the flip side of it, which is
25 to race at Cal Expo -- we will request that we race
26 Thursday through Sunday.

27 We would rather and we prefer to have the
28 quarter horses not race on those dates. They're going to

0027
01 race three days a week; they can race Monday, Tuesday,
02 Wednesday. And we don't have any overlap in progress. We
03 do best and they do best without the overlap.

04 Here's the bottom line. If you approve their
05 dates and allow the overlap, the resurgence that we have
06 experienced -- and I can almost guarantee you, the loss
07 from revenue racing here in Southern California will take
08 our rise and drop it dramatically. You can stop that and
09 satisfy Dr. Allred at the same time by saying there will
10 be no overlap in race dates.

11 As for the dates, inclusive, that's what's
12 going to happen if you grant this application, but not on
13 the dates. And that's a consideration that I am for.

14 MR. TOURTELOT: Mr. Shell, you had an opportunity
15 to reach an agreement. I don't know what the negotiations
16 were or the sticking points were, but you all negotiated
17 at length with Dr. Allred and Los Alamitos, and you had an
18 opportunity to avoid this problem, I guess. Because since
19 1974, someone's reached an agreement, and all of a sudden,
20 now, you're unable to do it for various reasons, I guess.
21 So the argument that you want to breach the agreement that
22 we've reached in Line 6 -- I don't know.

23 But my point is that we have to consider
24 Dr. Allred's request on the face, not necessarily what
25 it's going to do. At least he's entitled for us to look
26 at it on that basis.

27 MR. SHELL: And I have no objection to that. What
28 I'm pointing out is that you're also obligated to allocate

0028
01 dates for all breeds during the entire year. You are also
02 going to today consider an application for harness racing
03 dates at Cal Expo during the exact same period of time, an
04 allocation of dates.

05 MR. FENLEY: I have a question. What is the -- has
06 anybody checked this out -- the loss to the state by
07 having the harness race and the Los Alamitos and quarter
08 horse supplement those days? Has anybody run the -- on
09 that to see how the state comes out on this? And
10 introducing the harness racing to another venue at a lower
11 amount, what is the -- I mean, there's got to be a
12 provision in there. Has anyone done that?

13 John?

14 MR. REAGAN: John Reagan, CHRB staff.

15 Mr. Fenley, at this point, it would appear by
16 adding a number of quarter horse dates that, in total,
17 there might be an increase in the total handle.

18 MR. FENLEY: But overall and for the state's
19 purposes, if harness moves its location, the handle is
20 going to go down; okay?

21 MR. REAGAN: Yes.

22 MR. FENLEY: So I just want to know what is the net

23 in all of this because of the overlap of dates and so on;
24 is there --

25 MR. REAGAN: The projection right now, because of
26 the additional dates at Los Al offsetting the loss of the
27 harness handle, we would probably break even or maybe even
28 have a slight loss. It's unknown, but I don't think there

0029

01 is a material change in the state revenues.

02 MR. TOURTELOT: I'm sorry, Mr. Shell?

03 MR. SHELL: That's fine. That's basically what I
04 wanted to say about it. But I think as we have gone
05 forward, if you're going to allocate dates to us in
06 Cal Expo, I request that you consider in that allocation
07 with Los Al to not have us overlap. We both do better
08 when the other one is not in the air at night.

09 Our first two meets at the first spring
10 summer meet, we did 1 million 7 and 1 million 4. We were
11 unoverlapped with Los Al. The following week, I think we
12 went down to 1 million 2 and 1 million 3 because we
13 overlapped with Los Al. We both lose when we overlap.
14 And everyone wants the same good nights. But
15 traditionally, at least since 1974, we've raced Wednesday,
16 Thursday, Friday, Saturday, and Sunday. Those are our
17 dates that we race.

18 And if we go to Cal Expo, we're requesting
19 that we race Thursday, Friday, Saturday, and Sunday, I
20 believe. And if anything else comes up --

21 MR. FENLEY: Let's break this down. What are we
22 talking about here in terms of your request? What's the
23 difference in the total race dates applied for in 182 --
24 in other words, how would your dates impact the 182 days?

25 MR. SHELL: The 182 days is for the --

26 MR. FENLEY: The reallocation dates for 2001.

27 MR. SHELL: I don't follow your question.

28 MR. TOURTELOT: Los Alamitos is going to propose at

0030

01 the beginning on racing quarter horses of mixed breed
02 January 5, 2001 on a three-day-a-week format through
03 April 29, 2001, and continue a four-day-a-week format from
04 May 3rd through December 16th, for a total of 182 race
05 dates.

06 How many race dates, Ed, are we talking about
07 with respect to this application for changing from harness
08 to quarter horse?

09 UNIDENTIFIED SPEAKER: I believe it would be a
10 reduction because we race four or five days a week; we
11 race harnesses in 2000. So we're -- I believe we went the
12 first four weeks at five days in the spring meet, and then
13 we went four days for the remainder on the --

14 MR. TOURTELOT: I think what Mr. Fenley wanted to
15 know, what the number of days would be?

16 MR. FENLEY: What's your specific proposal?

17 MR. SHELL: The specific proposal is that you don't
18 allow the overlap at all. But if you're going to allow
19 it, on that at least --

20 MR. FENLEY: I mean, these are general terms. What
21 are the days? What are we talking about?

22 MR. SHELL: That the traditional harness dates,
23 which would be December 26th through April 7th, it's the
24 first week in April, remain as night harness unoverlapped
25 with quarter horses, that they not race on these nights.

26 If they race unoverlapped from July 31st until
27 October 15th, those unoverlapped dates are the dates when
28 we do the best.

0031

01 When we are down at Los Alamitos, and we are
02 not overlapped with any other night product, we average
03 1 million 3. When we leave there, we drop 33 percent
04 because of various factors, but the overlap is part of it.
05 That's the request, that if you're going to look at the
06 allocation of dates between harness and quarter, the night
07 industry, that you look at what have we done in the past,
08 what has it taken to get the harness industry back on its
09 feet from 1995, if you'll recall, when it was basically
10 not breathing, and let us continue to grow.

11 This is only for one year I'm asking. This
12 is for 2001. After that, all bets are off.

13 MR. WOOD: Commissioner Fenley, I think Mr. Reagan,
14 in answering your question -- I think your question is:
15 What is the differential in the dates that have been
16 allocated prior to today's date when the race meets at
17 night in 2001?

18 MR. FENLEY: The impact of that, that's one
19 question. The second question is: What does Dr. Allred
20 respond to Mr. Shell in terms of his request, directly?

21 MR. REAGAN: The first point, Mr. Fenley, is at
22 Los Alamitos, we would have essentially a 39-day increase
23 in quarter horse dates.

24 MR. FENLEY: Thirty-nine extra days?

25 MR. REAGAN: Yes. And making an assumption that
26 the harness dates simply be moved to Cal Expo and
27 approximately the same number, then, between the two
28 transactions, we have a net increase of 39 days.

0032

01 MR. FENLEY: Okay. And what are the overlap days?

02 MR. REAGAN: Well, if we would go with the
03 procedures as the days they normally run now, they would
04 essentially all overlap. If Mr. Shell has his proposal,
05 then there would be no overlap.

06 DR. ALLRED: Ed Allred, Los Alamitos Chairman.

07 Mr. Shell is wrong on a few things there, I
08 believe. Number one, harness has not run on Sundays for
09 quite some time, except when we run the race at Cal Expo,
10 and they have chosen not to run on Sundays, unless they're
11 planning to for the first time in a long time. This
12 season, we would not be overlapping on Sunday.
13 Mr. Horowitz, perhaps, could comment on that.

14 But to grant days on Monday, Tuesday, and
15 Wednesday to Los Alamitos would be a ticket to disaster.
16 It is true, when there is an overlap there are some good
17 things and some bad things about it because there are only
18 so many dollars out there. So each of us takes a bit of a
19 hit -- probably 15 percent or so on what we would have
20 done by ourselves.

21 The figures that Mr. Shell uses are skewed
22 because, if you'll remember, when a harness or a quarter
23 horse meet is running on its own, it is allowed to bring
24 in 12 simulcast races -- six of which are on behalf of the
25 of the other breed, and those monies go to the other
26 breed. So the daily handle looks a lot higher because six
27 races are bringing in \$150- to \$250,000 a night and are
28 actually brought on behalf of the other breed that they

0033

01 are not running on that particular night. That's the way
02 it works.

03 And if we both run together, we each run six
04 simulcast races from out of state. When we run
05 separately, we bring in 12 -- 6 on behalf of the other
06 breed. So those figures are grossly distorted. We would
07 be safe to say it would be impossible for anyone, quarter
08 or harness, to run Monday, Tuesday, and Wednesday.

09 MR. TOURTELOT: Dr. Allred, one moment.

10 Could you attempt to quantify for the Board
11 what the bottom-line effect would be to your operation of
12 Los Alamitos if the Board accepts Mr. Shell's proposal
13 that there not be an overlap, versus the application that
14 you've made? In other words, what effect would that have
15 on your bottom line?

16 DR. ALLRED: We couldn't run. We could not run on
17 Monday, Tuesday, Wednesday. It would not be viable.

18 MR. TOURTELOT: You would lose a substantial amount
19 of money?

20 DR. ALLRED: This wouldn't work. We wouldn't even
21 try.

22 MR. FENLEY: Do you work together on the simulcast
23 now, the operations during those overlap days where the
24 races are scheduled where there's not a conflict?

25 DR. ALLRED: When one breed is dark, the other
26 breed takes in an additional six simulcast races and
27 basically sends the money to the other -- that is made on
28 that to the other breed. That's the way it works. And

0034

01 it's been working very well for us. That's been in effect
02 since the passing of of SB-27, which we all worked on.

03 In addition to that, both at Sacramento and
04 at Los Alamitos, which is the bad thing for the harness
05 industry, 1.25 percent of the third handle -- Los
06 Alamitos, which is about \$50,000 a week, goes to purses
07 for the night breed. And at Sacramento, of course, it's
08 much smaller than that, and that's a major hit, of which I
09 regret would happen.

10 One other thing I took note on here,
11 Mr. Shell brought up the issue that no other breed --
12 horsemen pay for a so-called impact fee. Let me point out
13 that it's completely different and it was never the
14 intention of Senator Maddy -- I wish he were here with us
15 to say this to anyone now that the law has passed -- that
16 any live racing association would be required, without
17 compensation, to take a signal from another breed on
18 any -- basis without some compensation.

19 When Bay Meadows sends its signal to
20 Santa Anita, and vice versa, Bay Meadows basically
21 receives two percent for the money bet in Southern
22 California.

23 Conversely, when Santa Anita sends its signal
24 to Bay Meadows on the northern simulcast facilities, they
25 only pay Santa Anita two percent of that. So that's the
26 way it works in the thoroughbred industry.

27 We don't have that in the quarter -- in the
28 night industry, because we overlap so much during the

0035

01 year. So we have traditionally negotiated an appropriate
02 fee. We pay to Sacramento, and they pay to us, whatever

03 the difference is.

04 And that's something that should be permitted
05 by law, and it isn't. We think that it is. In fact,
06 that's a legal question we'll have to come up with later.
07 I'm sure Mr. Shell will pursue that. We're comfortable
08 with that. And even if it were illegal, we'd propose that
09 this be made negotiable so that we could write out an
10 agreement on an impact fee. Fine. If we couldn't arrive
11 at an impact fee, then neither one of us would take each
12 other's signal. That's the way it ought to be. And
13 that's where our negotiations are, in an attempt to
14 resolve this.

15 MR. TOURTELOT: Thank you, Doctor.

16 Any other comments from the audience --

17 MS. MORETTI: I have a question for the doctor.
18 Doctor, could you explain -- if you take the signal, if
19 you could compromise and figure out a way to get this
20 signal, I'm not understanding why you couldn't time the
21 races like they do with north-south thoroughbred races so
22 that the overlap wouldn't hurt.

23 Where am I missing something?

24 DR. ALLRED: Well, we do that.

25 MS. MORETTI: Then I don't understand.

26 DR. ALLRED: We don't run our races on top of each
27 other intentionally. We both try to run the races in
28 between. Sometimes we get out of spec, as they do in the

0036
01 other track and something happens. But, no, we try to do
02 that. That's not the point.

03 The point is that Santa Anita has a crowd on
04 Saturday of 20,000. Bay Meadows sends its races down.
05 Bay Meadows gets two percent of that money, essentially.
06 But it's basically that, and vice versa. And what we're
07 saying is that -- and they, Santa Anita would keep all the
08 money sent on the two percent of that amount.

09 It's the other way around. When we are
10 running live with Los Alamitos under the Shell proposal,
11 they pay us two percent and keep the rest of the money
12 with out the crowd. Suppose we do a voucher promotion
13 that day, we send out -- spend \$40- or \$50,000 on a
14 voucher, buy \$5 vouchers for people -- they're spending
15 the money on both breeds, and it's our money, and a lot of
16 it's going to Sacramento, and it's not equitable.

17 We ought to be able to arrive at an arm's
18 length transaction, and if we can't arrive at that, then
19 we just don't take each other's signal. That's the way it
20 works; it's the way it's supposed to work in business.

21 MR. FENLEY: Well, I don't think the State wants to
22 see that happen because that means the State is out of
23 revenue.

24 DR. ALLRED: Not really. The license fee,
25 Mr. Fenley, is .4 percent, .4 percent is the license fee
26 that we pay. It's insignificant. Between -- the
27 difference between the two tracks, there's only \$60-,
28 \$70,000 a night. We're talking about a very small amount

0037
01 of money.

02 MR. TOURTELOT: Do the commissioners have any more
03 questions of Dr. Allred?

04 MR. ELLIOTT: Dave Elliott, director of racing,
05 California State Fair.

06 Without getting too involved in this
07 argument, I just wanted to clarify one thing. It is to
08 the California State Fair's benefit that Capitol Racing or
09 whoever is running the meet at Cal Expo does not have the
10 ability to not accept the Los Alamitos quarter horse
11 signal in Sacramento on the track. It's their signal;
12 it's our revenue as a satellite wagering facility. And
13 those revenues are important to us at Cal Expo.

14 So Capitol Racing or the horsemen that are
15 participating at the Cal Expo meet do not have that
16 option. Those are our dollars, and it's about -- for the
17 quarter horse, it's about \$2,500, \$3,000 a week, which
18 works.

19 And if I may also, right now, under SB-27,
20 Bay Meadows -- and I hope I'm correct, here, but when we
21 send our signal, our live California State Fair horse
22 racing signal to Del Mar, who is the southern host, we do
23 not pay a dime. They don't pay us a dime, nor do we pay
24 Del Mar a dime for the signal coming northward; that's not
25 the way that it works in California right now.

26 However it's handled in the northern -- in
27 the northern market, all dollars stay there, wherever it's
28 handled -- excuse me. In the souther market, it stays in

0038
01 the southern market. There is no reciprocation of
02 commissions and fees back and forth.

03 MR. SHELL: David Shell.

04 The law as it is right now -- it has been
05 since 1994 -- is that the people that pay the money that
06 Dr. Allred is talking about is the racing association,
07 the entity conducting the live race meet, not the
08 horsemen's association. And that's a distinction that I
09 would hope you could understand. Dr. Allred wants the
10 horsemen's association to pay this fee.

11 Another thing, in the law -- and I believe
12 it's 19605.4(B)(1), there is a provision for making an
13 agreement between two associations -- the guest and the
14 host. In this situation, it would be Los Alamitos and
15 Capitol Racing to pay a fee above the two percent if there
16 is an agreement in writing between the parties approved by
17 the California Horse Racing Board. That's the parameters.
18 And if there is a dispute as to the payment of such a fee,
19 the Board will resolve it, and that's how it's done.

20 We are not a racing association and never
21 have been. That's the problem here. Now, the law doesn't
22 provide for us to pay it. The law doesn't give
23 Dr. Allred any right -- and I'll say this -- any right to
24 more than two percent, which is what everybody else in the
25 state gets.

26 MR. TOURTELOT: Mr. Shell, I don't know why we're
27 going down this road because what is before us is
28 approving this application. You indicated you had your

0039
01 negotiations, and apparently you all didn't agree and you
02 can go to court, or whatever, and some higher authority
03 will decide.

04 But that's not before us. What's before us
05 is whether or not to approve this allocation, and you've
06 made the point that it was going to -- the overlap would
07 cost you money, or whatever; and you wanted us to change
08 this where we would only approve Sunday, Monday, Tuesday.

09 That's all that's before us. So you're talking about
10 something that's really interesting but taking everybody's
11 time for no real reason.

12 MR. SHELL: Okay. The two percent was brought up
13 by Dr. Allred; I was just responding. If I could go to
14 the -- what happens if we overlap. I did state our
15 position on the overlap, what happens if we do. If
16 Los Alamitos, without the overlap, we do get the 6/12
17 differential -- in other words, we get 12 races because we
18 are not overlapped. When we do overlap, we're up north;
19 they're down south; we get six races imported.

20 But it's not the significance that Dr. Allred
21 would attribute. What hurts is the betting on the live
22 product. You have quarter horse people down south and
23 harness people in Sacramento, you have got the life of the
24 product going back and forth. That's where we hurt. If
25 they don't race down there, our meet will be imminently
26 successful at Cal Expo.

27 If they do race, we don't know. We have
28 never overlapped this period.

0040
01 MR. TOURTELOT: You know, my theory is there's a
02 gambling dollar, unless somebody goes off on a binge. But
03 again, if they have so much to bet on Sunday, Monday, and
04 Tuesday, they're going to have less money to bet on your
05 races. I don't understand what you're saying. And I'm
06 not sure that the mathematics would come out the way
07 you're trying to, that you would make more money because
08 the people would not be betting on Los Al; is that what
09 you're saying?

10 MR. SHELL: Yes.

11 MR. TOURTELOT: If they'd already been betting on
12 Los Alamitos, their gambling dollar, so to speak, that
13 they have for the week would have already been invaded
14 because they would be betting on Sunday, Monday, and
15 Tuesday at Los Al.

16 MR. SHELL: Also, one thing that Dr. Allred did
17 point out, if we don't overlap at all, then we import and
18 they import 12 races daily. We're not limited to the 6.
19 That's extra revenue generated.

20 MR. TOURTELOT: He's apparently not too interested
21 in that.

22 MR. SHELL: Well, he's not interested in us racing
23 there, and that's really what the allocation is about. I
24 understand what he's not interested in. I'm just trying
25 to explain what we are interested in trying to preserve,
26 something we built up over time.

27 MR. TOURTELOT: I don't want to bore this audience
28 with my point, but the fact is that you're saying you're

0041
01 going to make all this extra money if there's no
02 overlap --

03 MR. SHELL: Correct.

04 MR. TOURTELOT: -- because the people who come to
05 harness racing live will be betting on those races; right?

06 MR. SHELL: And the people that go to Los Alamitos
07 will not be able to bet quarter horse. They'll only be
08 able to bet us. And that's 125 --

09 MR. TOURTELOT: When they go to quarter horse on
10 Sunday, Monday, and Tuesday, they're going to be betting
11 money. They're going to have less money then to bet.

12 MR. SHELL: If I may, Mr. Chairman, every now and
13 then I'm wondering about the simulcast facility at
14 Cal Expo -- not on a regular basis, there are people
15 there; and probably, I'd say, 60 to 70 percent are the
16 same people that show up seven days a week, every day to
17 bet.

18 MR. TOURTELOT: But they don't have an infinite
19 amount of dollars. Your theory would impress me if
20 everybody had an unlimited amount of money to bet. But I
21 do believe there's a gambling dollar, a family has only so
22 much money to get a week, a month, or whatever.

23 MR. SHELL: We can agree to disagree on that --

24 MR. TOURTELOT: That's where your theory falls
25 apart.

26 MR. SHELL: These people show up every day, rain or
27 shine.

28 MR. TOURTELOT: But they only have limited funds.

0042

01 MR. SHELL: Our handle has gone up along with
02 the horse. So the amount of money available to that has
03 gone up significantly over the last five years, whether
04 it's a function of the economy or a function of churning
05 your dollars through. I don't know.

06 MR. TOURTELOT: I think the Board understands your
07 point and appreciates your input. Thank you.

08 Any more questions or statements from the
09 audience?

10 Alan.

11 MR. HOROWITZ: Alan Horwitz, Capitol Racing
12 Association.

13 I think the toughest thing over the last ten
14 years for the night industry has been the task that it has
15 given the racing board, and that is to sort of act like
16 Solomon and try to balance equities that exist for both of
17 the breeds here in California.

18 The schedule in 1999 and what was scheduled
19 for 2000, provides somewhat of a balance. That balance
20 is that in January, February, and March, harness raced
21 unoverlapped. And whether we raced four nights a week or
22 five nights a week, those dates were unoverlapped. There
23 was no quarter horse racing during that particular time.

24 Corresponding to that, during the months of
25 August, September, and part of October, there was no
26 harness racing. And the quarter horse industry enjoyed
27 the benefits of unoverlapped racing dates during those --
28 during that period of of time.

0043

01 Those balances were put into place not only
02 because of consideration of the tracks that were
03 available, but it was also important to try to balance --
04 for the Board to try to balance the equities because
05 overlap is not as productive for either the racing
06 association or the horsemen racing at that track, as
07 opposed to unoverlapped dates.

08 Now, we have the proposal before you for
09 continuous, year-round racing of quarter horses at
10 Los Alamitos. Clearly, we can't tell and you can't tell
11 Dr. Allred what breeds to race at his facility.

12 The question I think is whether or not
13 additional quarter horse dates to the tune of the proposal
14 are given to Los Alamitos in January, February, and

15 March. Maybe in 2001, there's a phase in a phase, and
16 that is if harness is going to be relegated to race in
17 Sacramento during those months, maybe during January and
18 part of February, there is no overlap of the harness meet
19 in Sacramento, the quarter horses start a little later.

20 They can use the facility; they're there in
21 December when they end. They don't have to go out to
22 training facilities. They can just stay on the grounds,
23 get the horses ready, take a break. We all know that some
24 breaks of some duration are useful and productive in terms
25 of getting the horses sound and helping other horses come
26 along.

27 And then maybe your allocation is middle of
28 February to allow the start of the quarter horses. And

0044
01 they would run an overlap from that period of time, the
02 middle of February, through the balance of the year that
03 harness is racing.

04 MR. TOURTELOT: Thank you, Alan.

05 Last but not least, we haven't heard from
06 Lakewood.

07 MR. LOCARDO: Ron Locardo with
08 Parimutuel Employees.

09 Obviously, we're in favor of the racing being
10 conducted, rather than no racing at all being conducted.
11 And if they choose to run the harness somewhere else, that
12 would be more racing for us, also. So we're in favor of
13 the racing to continue at Los Alamitos in those months.

14 Thank you.

15 MR. FENLEY: I just want to add one thing. This is
16 a one-year request, and I don't know how everybody is
17 going to vote, but if it does get approved and the harness
18 racing folks see that this is going to be that
19 devastating, in one year, they could come back and show
20 us, and we can look at it again.

21 MR. TOURTELOT: Any more comments or statements
22 from the audience?

23 MS. MORETTI: I have a real practical question for
24 Dave or for those who come from Sacramento. I live in
25 Sacramento and the weather in January, February, and March
26 is horrible. What does that do to the horses and the
27 horsemen -- and the summer is horrible, too -- but in
28 terms of the rain -- it's horrible all the time, except

0045
01 for the fall and the spring.

02 But what does that -- do you really think
03 that you can have viable harness racing in those
04 particular months?

05 MR. ELLIOTT: I'll just speak for a moment on this,
06 and perhaps Alan would speak to it. They're confident
07 that the existing track crew or the track could handle --
08 I'm sorry, David Elliott.

09 MR. TOURTELOT: Dave, would you give your -- we all
10 know you. The record doesn't. Would you give your name,
11 please? Thank you.

12 MR. ELLIOTT: Alan is confident -- they have a good
13 track crew and they're confident that they could
14 possibly -- yes, of course, the weather is bad in January,
15 February, and March; July and August, but they're
16 confident that, you know, they would call in the
17 professionals or whoever it is that they would have to

18 call into if they were forced to have a race meet at
19 Cal Expo during those winter months, that they could
20 have -- obviously, some winterization would have to be
21 done and paid for by whoever it happens to be, you know,
22 for those winter racing months.

23 So the track is a clay base, and there is --
24 there may or may not be some problems. But I think it's
25 something that they've addressed issues before, you know,
26 with the race track, and they've solved them. I'm of the
27 opinion that it's the promoters, whoever the promoters
28 happen to be or whomever -- they would have to obviously

0046
01 address the track problem and the winterization of some
02 things in the barn area.

03 UNIDENTIFIED SPEAKER: Briefly, if you grant the
04 allocation dates, we don't have a choice but to race
05 there, regardless of what the weather is, if we don't have
06 a choice.

07 But if I just made a real difference between
08 the weather in Sacramento and the weather in Los Angeles
09 during that period, it is how cold it is. It's not the
10 wet weather, it's not the rain. If they get rain, it's
11 torrential. With Los Alamitos, just like we get rain,
12 it's torrential up here; except we go down to 30 degrees,
13 when they go down to 60. And that's the real difference
14 in the two facilities.

15 But regardless of what that is, we have to
16 race there. I mean, if we don't race January through
17 March, California harness is basically gone; that's going
18 to be the end of us.

19 MR. TOURTELOT: Any further questions or statements
20 from the audience?

21 All right. The Chair will entertain a
22 motion, then, to -- with respect to Agenda Item Number 4,
23 the application for allocation of --

24 MR. FENLEY: I'm going to move that we approve the
25 quarter horse race dates for the year 2001.

26 MR. TOURTELOT: Is there a second?

27 MS. GRANZELLA: Second.

28 MR. FENLEY: All right. The dates will be --

0047
01 excuse me -- the quarter horse of mixed breed racing will
02 begin on January 5, 2001 on a three-day-a-week format
03 through April 29, 2001, and then continue on a
04 four-day-a-week format May 3rd through December 16th,
05 2001, for a total of 182 race days. During the schedule,
06 they will be dark on Super Bowl Sunday, January 28th;
07 Thanksgiving Day, Thursday, November 22.

08 MR. TOURTELOT: Thank you, Ms. Moretti, for
09 bringing up that issue.

10 So we have a motion and a second?

11 MS. GRANZELLA: I second the motion.

12 MR. TOURTELOT: We have a second and a motion.

13 All in favor?

14 BOARD: Aye.

15 MR. TOURTELOT: Opposed?

16 (Motion was unanimously carried)

17 MR. TOURTELOT: Next item, discussion and action by
18 the Board on the approval of the annual distribution of a
19 portion of the unclaimed refund monies -- sorry.

20 Discussion and action by the Board on the

21 harness race dates for the year 2001.

22 MR. REAGAN: Commissioners, this is the flip side
23 of the coin that we just discussed. If the harness dates
24 are no longer at Los Al, the request is to move them to
25 Cal Expo.

26 MS. MORETTI: I would make a motion to approve
27 that.

28 MR. TOURTELOT: Second?

0048

01 MR. FENLEY: Second.

02 MR. TOURTELOT: Any discussion?

03 All in favor?

04 BOARD: Aye.

05 MR. TOURTELOT: All opposed?

06 (Motion was unanimously carried)

07 MR. TOURTELOT: Item Number 5 has been approved;
08 and just for the record, those would be the same dates,
09 then, as they overlapped at Los Alamitos; correct?

10 MR. FENLEY: Is that correct, John?

11 MR. REAGAN: Pardon?

12 MR. FENLEY: Same dates?

13 MR. REAGAN: Yes.

14 MR. TOURTELOT: No. I want the record to be that
15 it would be the same dates, John, that were approved for
16 Los Alamitos to run.

17 MR. FENLEY: Well, they're different dates?

18 MR. REAGAN: The quarter horse dates were taken
19 care of in the prior item, the actual 39 dates,
20 January 5th, is the continuation.

21 The dates that were previously approved or
22 allocated to Los Alamitos began December 22nd and went
23 through April 1st. Those are the dates I think we would
24 then reallocate to Cal Expo.

25 MR. FENLEY: Let it include the dates we're
26 discussing here, which are from December 22, 2000 to
27 April 1, 2001 that we previously have allocated to
28 Los Alamitos and there will now be --

0049

01 MR. TOURTELOT: All right. That motion has been
02 approved.

03 Item Number 6, discussion and action by the
04 Board on the approval of the annual distribution of
05 unclaimed refund monies, adjusted for inflation, to the
06 Jockeys' Guild Health and Welfare Trust, pursuant to
07 Business and Professions Code Section 19612.9.

08 MR. REAGAN: Commissioners, this is our annual
09 distribution to the Jockeys' Guild Health and Welfare
10 Trust. It comes from unclaimed refunds.

11 This year, after researching the matter and
12 discussing it with the Jockeys' Guild, it appears that a
13 12.5 percent inflation factor would be reasonable. We all
14 know about the health cost increases and other factors.
15 That would then bring this report distribution this year
16 to \$590,000 plus monies which go to the Jockeys' Health
17 and Welfare, and that would be appropriated throughout the
18 non-harness racing association. And the fairs, they all
19 pay that out of their portion of their refunds, and that
20 will be forwarded to the trust.

21 MR. FENLEY: Can you break down that 12.5 percent
22 as an inflation factor?

23 MR. REAGAN: Well, essentially what we found this

24 year was that within the state of California, your
25 standard, HMO-type of health plans that are given to the
26 State of California workers and other people in that
27 program came in around 10 percent. Some of them were much
28 higher. Some of the PPO programs, 18 percent; some of the

0050

01 programs of Medicare and Medicaid, which I don't have as
02 applicable here. So they were in the 20 percent.

03 But we were looking approximately in the
04 10-percent area. The Jockeys' Guild came in with their
05 request -- I think the letter is included in the package.
06 I think they were talking about 15 percent. We were
07 somewhat reluctant to go to that number; but in discussing
08 it with them, and some of the their specific insurance
09 increase, and some of the specific programs they have, we
10 kind of settled on 12.5 as a compromise. And it's not too
11 high; it's not too low. It's just about right, we hope.

12 So that's pretty much how we came up with the
13 12.5. I can't really point to anything specific, but more
14 of a compromise between 10 and 15.

15 MR. FENLEY: Thank you.

16 MR. TOURTELOT: Any other questions from the Board?

17 The Board will recommend to accept the 12.5.

18 MR. HALPERN: Mr. Tourtelot, may I make a comment
19 On that -- Ed Halpern, California Thoroughbred Trainers.

20 If you'll indulge me for a moment, I'd just
21 like to make a plea at this point for something that came
22 up at the committee meeting earlier, and that's an earlier
23 distribution of these agendas.

24 We received these agendas two or three days
25 before the meeting. You know, that's really insufficient
26 time to prepare for issues such as this. It does strike
27 me as I look at this at first blush, the inequities of the
28 system that's been created.

0051

01 We have, it appears, about \$600,000 going to
02 a very small colony of jockeys -- I'm told something like
03 88 -- participate in this insurance program, many of whom
04 may well be able to afford this kind of care on their own
05 or this kind of insurance.

06 Whereas, we have approximately \$1,800,000
07 amount, approximately three times this, going to the CTHF,
08 which serves between 3- and 4,000 workers and their
09 families, most of whom, if not all, have much greater
10 needs than where this money is going.

11 And I think we need to seriously address, at
12 this time, the falling revenue for the CTHF sources of
13 funds. I don't want to take funds away from those who are
14 truly needy, but I think they're the kinds of items we
15 ought to be looking at, and certainly making sure that we
16 all get notice much earlier of these kinds of items. It
17 would be a big help in preparing to inform you of our
18 concerns.

19 MR. TOURTELOT: Thank you.

20 Let me comment on that. I believe the law is
21 that these items have to be noticed 10 days in advance; is
22 that correct?

23 MR. WOOD: That's correct, noticed.

24 MR. TOURTELOT: Knowing the law is 10 days' notice,
25 you either get it by fax or personal delivery to the other
26 party.

27 And I'm questioning whether the California
28 Horse Racing Board is in compliance of the 10-day notice,
0052
01 really, because putting it in the mail and hoping that it
02 goes from Sacramento to Del Mar, or wherever, within that
03 time -- you have to be sure that the people that are
04 interested have 10 days' notice. Ten days' notice would
05 mean the day they get the notice, as they see it.

06 I want to know from the staff what we're
07 going to do about that because it's unacceptable that
08 people get up and say, "I just got the notice three or
09 four days before the meeting." That's not proper notice,
10 and it's not acceptable.

11 MR. MINAMI: Roy Minami, Horse Racing Board staff.

12 The staff, for years has been advised by the
13 A.G.'s office that if notice was sent out at least 10 days
14 prior to the meeting, it's sufficient. If the Chairman
15 wishes the staff to mail out the notices ahead of time,
16 providing more than 10 days' notice, the staff can do
17 that.

18 MR. WOOD: The point --

19 MR. TOURTELOT: That's what we're talking about.
20 Mr. Fenley made a point that I thought was obvious. It's
21 not the meeting date, or the agenda, or item --

22 MR. MINAMI: That's what I was referring to, the
23 notice of the meeting, which includes the agenda.

24 MR. TOURTELOT: We're talking about the amendments
25 in the agenda. That's what they care about --

26 MR. FENLEY: And they're not getting that. They're
27 not getting the package.

28 MR. TOURTELOT: The attorney general's office
0053
01 advised us --

02 MR. MINAMI: The package is sent out 7 days prior
03 to the meeting because --

04 MR. FENLEY: Which arrives three days, four days
05 before the meeting. I don't have the Code in front of
06 me --

07 MR. WOOD: There's a notice of a meeting which goes
08 out 10 days --

09 MR. TOURTELOT: Then the notice of the meeting is
10 required to have the business items --

11 MR. MINAMI: We could do that earlier as long as
12 the staff is able to accumulate the information and the
13 material for the package within that period of time.

14 MR. WOOD: And if staff can do that -- I'm not
15 trying to get into a discussion with Mr. Halpern or anyone
16 else who gets this notice of the meeting. But they see
17 these items on the agenda, and they have some concerns
18 about what that means -- I mean, if they've requested they
19 be contacted -- if they just have that notice of meeting
20 for quite a few days before. This being today, and we so
21 surely like to have someone's comments about what those --

22 MR. TOURTELOT: I think we're getting off the issue
23 about what it was. He said that he wasn't getting the
24 notice of the agenda and enough days. Whether he calls
25 you about an item or not, that's not relevant. And it's
26 his thought about the money going to his group instead of
27 the
28 Jockeys' Guild -- something we could talk about in the

0054

01 future. We're not going to decide today on that.

02 UNIDENTIFIED SPEAKER: Let me clarify that that's
03 not my group. I'm with CTHF.

04 MR. TOURTELOT: We are not going to deal with that
05 today, and thank you for your comment.

06 The point is that you and Mr. Van De Kamp
07 both made a very good point, and that is a problem of
08 getting out to the public the agenda. We're not trying to
09 hide anything. So I think the board can instruct the
10 staff to do everything they can do get this out, what,
11 10 days ahead of time.

12 MR. WOOD: We certainly can do that. There's never
13 been a problem in the past, but we certainly can get that
14 out.

15 MR. TOURTELOT: Well, Mr. Van De Kamp mentioned
16 that he just got that. I heard he was in Ireland. It's
17 amazing he didn't get --

18 MR. WOOD: Because I mentioned I got his --

19 MR. VAN DE KAMP: We got it Monday.

20 MR. MINAMI: Mr. Chairman, I just want to point out
21 that the staff will do everything we can to accomodate
22 your direction. But at the same time, you know, from one
23 board meeting to the next, the staff usually has anywhere
24 from four to five weeks in between.

25 And with the 10-day requirement, you know, it
26 usually leaves about two weeks in order to prepare the
27 package and the notice in order to send out for full
28 distribution. And so there are often times where the

0055
01 staff is not able to accumulate all the material necessary
02 for the packages within the allotted time.

03 MR. TOURTELOT: All right. I understand that.

04 MR. WOOD: We'll extend the time on that --

05 MR. TOURTELOT: Let's put it this way, let's find
06 out what the law is, and if the notice is 7 days, 10 days,
07 that means they have it in their hands and then comply
08 with the law. I'm not asking the staff to do anything
09 beyond that. My understanding is that we haven't been
10 complying with the law based on the comments.

11 MR. MINAMI: I'm sorry, Mr. Chairman, but I beg to
12 differ. I believe that we do.

13 MR. TOURTELOT: It's not your fault. You don't
14 have any control once you stick it in the mail. But
15 because it says that you have to give so-many days'
16 notice, whatever it is, it's our obligation to make sure
17 that we put it in the mail box at the right time, give it
18 sufficient time to get to them.

19 MR. VAN DE KAMP: Mr. Chairman, John Van De Kamp.

20 I think you identified the problem. The
21 notice has been going out, but you can't really respond,
22 you know, to just the two pages that comes out in the
23 notice, the agenda for the meeting. You really need the
24 package because you've got specific language, and that's
25 what we really need to respond to this.

26 So anything you can do to get the package out
27 earlier, it would be much appreciated.

28 MR. TOURTELOT: I don't think we have an obligation

0056
01 to get the package out --

02 MR. VAN DE KAMP: But that's the thing that we
03 really need if we're going to write intelligent responses.

04 MR. WOOD: We can address the issue in trying to
05 find a way to get you the material a lot faster.

06 MR. TOURTELOT: I'm not criticizing the staff.
07 What I'm saying is once you put it in the mail, Roy, you
08 have to make sure that you have enough lead time that it
09 gets there.

10 As far as the packet, we're going to do the
11 best we can --

12 MR. VAN DE KAMP: Mr. Chairman, John Van De Kamp.

13 I wanted to speak to the issue that's in
14 front of us, here. We worked with the Jockeys' Guild a
15 number of years ago to get the law passed that provides
16 for this assistance to the health and welfare program for
17 the jockeys. And we worked with Mr. Reagan and with
18 Mr. Kennedy of the Jockeys' Guild to make the proposal
19 that is before you today.

20 We think it's entirely consistent with
21 present law. We support it. It is a compromise. The
22 Jockeys' Guild says they're paying an increase of
23 15 percent. Locally here, we found, as Mr. Reagan
24 indicated, someplace around 10. But in some instances,
25 higher. So we split the difference.

26 The only thing I would add to this is that
27 this fund may run out and we may hit a cap in a few years
28 where you cannot make any more increases that, by the way,

0057
01 are provided by state law. The law that sets this up just
02 does say that increases are available on an annual basis,
03 depending on the increased cost of health care to the
04 Jockeys' Guild.

05 MR. TOURTELOT: Thank you.

06 The Chair will entertain a motion to approve
07 that annual distribution of a portion of unclaimed refund
08 monies, adjusted for inflation, to the Jockeys' Guild
09 Health and Welfare Trust, pursuant to Business Code
10 Section 19612.9.

11 MS. MORETTI: So moved.

12 MR. TOURTELOT: Second?

13 MR. FENLEY: Second.

14 MR. TOURTELOT: All in favor?

15 BOARD: Aye.

16 MR. TOURTELOT: Motion is carried.

17 (Motion was unanimously carried)

18 MR. TOURTELOT: Item Number 7, discussion and
19 action by the Board on the proposed distribution of
20 charity race day proceeds of the Oak Tree Charitable
21 Foundation in the amount of \$105,000 to 53 beneficiaries.

22 MR. REAGAN: Commissioners, this request is in
23 order. Forty-one percent is given to race-related
24 charities. We recommend approval.

25 MR. TOURTELOT: We commend Oak Tree for going
26 substantially beyond the required 25 percent, as
27 Bay Meadows did last time. Bay Meadows was almost
28 100 percent.

0058
01 I'll just remind all of the associations that
02 25 percent is just minimum and there's no embarrassment
03 with 41 percent.

04 Any questions from the Board?

05 The Chair will entertain a motion to approve
06 the distribution of charity race day proceeds of the

07 Oak Tree Charitable Foundation.
08 MS. GRANZELLA: I'll make the motion. Mr. Fenley: Second
09 MR. TOURTELOT: All in favor?
10 BOARD: Aye.
11 (Motion was unanimously carried)
12 (Reporter was instructed that Agenda Items 8
13 and 9 were not to be taken down)
14 MR. TOURTELOT: That concludes all the items on
15 the agenda.

16 We now have the report of the Security and
17 Licensing Committee.

18 And I invite Chairman Fenley.

19 MR. FENLEY: Thank you, Mr. Chair.

20 I asked the other committee members to remind
21 me if I missed anything because we talked about a lot of
22 things, and I'll recollect the best I can.

23 Numer 1, the discussion and action on the
24 proposed amendment of CHRB Rule 1858, Test Sample
25 Required -- did we table this or did we -- we were going
26 to agendize this next week and come up with some minimums.
27 It doesn't look as if we're going to not have a threshold
28 on the floor, here. We're going to have the minimum

0059
01 sample, we tested taking on the claimed --

02 Item Number 2, this is the application for
03 license to conduct a horse racing meeting. We had -- we
04 suggested that CHRB staff inform the federations in their
05 various locations what would be the entity that would be
06 used for them to use the section of the back side. And I
07 believe we advanced that for further discussion on our
08 next meeting -- we noticed it and -- during that 45 days
09 of notice then --

10 MR. WOOD: You recommended it to the Board.

11 MR. FENLEY: Item Number 3, we approved the --

12 MR. TOURTELOT: We will create a notice of it.

13 MR. FENLEY: We will create a notice.

14 Item Number 3, we approved the safety vest
15 required rule to require an exercise rider, pony rider, or
16 outrider to wear a safety vest when training, exercising,
17 or ponying a horse.

18 MR. WOOD: We noticed that one.

19 MR. FENLEY: We noticed that one, too.

20 MR. TOURTELOT: No, you didn't notice it.

21 MR. FENLEY: We approved it.

22 MR. TOURTELOT: You recommended it to the Board.

23 The board noted that we got no objections. We'll do that.

24 MR. FENLEY: Item Number 4, we took that off for
25 approval at this meeting, and we noticed it, but we are --
26 we, the committee, did recommend the \$5 being increased to
27 \$10, and that during this 45-day period we'd discuss it
28 with various entities and we -- action will be taken and

0060
01 recommendations taken during this 45-day period.

02 MR. TOURTELOT: The board accepts that, and that
03 notice period will be noted for 45 days from when we have
04 the notice go out, and it's no longer \$5 that's being
05 considered; it's now \$10. And the notices will go out
06 within 45 days of comment.

07 MR. FENLEY: Item Number 5, I don't believe this
08 one in particular was -- we asked for more information
09 within 45 days; right?

10 MR. TOURTELOT: Well, you instructed the
11 Attorney General to do a letter, at Mr. Van De Kamp's
12 suggestion, but the figure -- it has to come back to the
13 board.

14 MR. FENLEY: Well, we'll take it back to you.

15 MR. TOURTELOT: So I agree. I don't necessarily
16 agree with the Attorney General and Mr. Van De Kamp that
17 it violates the Interstate Commerce Clause for reasons I
18 don't want to go into, but I have my own thoughts on
19 that.

20 But I think eventually I recommend that we
21 instruct the Attorney General to review this proposed
22 change from 30 to 60 and then to advise the Board in a
23 letter as to what they believe the law is with respect to
24 the Interstate Commerce Clause.

25 MR. SOUTHWORTH: Would that go to the Board or
26 would that go to the staff?

27 MR. TOURTELOT: Go through the Board.

28 MR. SOUTHWORTH: Okay.

0061

01 MR. TOURTELOT: Are you going to be doing it, or
02 someone else?

03 MR. SOUTHWORTH: I would assume Mr. Blake would be.

04 MR. TOURTELOT: Could you ask Mr. Blake to call me
05 so that the issues could be explored some?

06 MR. FENLEY: What's the time frame on this point;
07 is it for the next meeting?

08 MR. TOURTELOT: Yeah.

09 MR. FENLEY: For the next agenda.

10 MR. TOURTELOT: All right.

11 MR. FENLEY: Okay. Are we through with Number 5?

12 We'll go to Number 6. We approved that.

13 Item Number 7. Mr. Chairman, we had a
14 discussion of security planning and training for the back
15 side of California race tracks.

16 Marie, do you want to comment on that,
17 please.

18 MS. MORETTI: What we've asked for, Mr. Chairman,
19 is a further meeting to supplement our initial discussion
20 where we would invite members of the industry to comment
21 on security and complimentary actions that we might have
22 to enhance security.

23 MR. FENLEY: And then we'll wait for staff to -- to
24 get some discretion on that.

25 MR. TOURTELOT: My idea on that is that whoever the
26 agency is, the point was made earlier that you could
27 designate some agency -- that if the Board is advised at
28 the time an application is up for approval, that if an

0062

01 association is in violation of various laws, that that
02 application won't be approved. That's where we will use
03 our authority to make sure that the associations comply
04 with the state and federal agencies; is that correct?

05 MS. MORETTI: Well, actually, sir, this item that
06 we were talking about is security issues at the track.

07 MR. TOURTELOT: From the security issues you went
08 to the jurisdiction of the Board to go in and make
09 inspections, that's what I was talking about for health
10 and safety and the --

11 MR. WOOD: That was under -- that was under the --
12 Agenda Item Number 2, for the Security and Licensing

13 Committee, when it was talking about the application for
14 license under Rule 1433.

15 MR. TOURTELOT: Okay. My comments have nothing to
16 do with the security at all. It had to do with the
17 jurisdiction. I apologize.

18 MR. FENLEY: And then Item Number 8, we just wanted
19 to make a statement or a comment on the sponsorship where
20 we saw the potential for new revenue, and that we were
21 supportive of that rule change and will be discussed at
22 the upcoming meeting.

23 John, where is that meeting? Is it open to
24 all --

25 MR. VAN DE KAMP: We were in the board room at the
26 Del Mar administrative offices. We have invited a large
27 number of people from the horse racing board, NTRA is
28 sending people. So I think we'd better keep it --

0063
01 obviously, the Board is free to send, you know, as many as
02 you want.

03 But it's at 10:30, and I don't think they
04 could really get much more, any more than 25 people in
05 that room. So it's not a public meeting.

06 MR. FENLEY: All right. So we just -- to sum that
07 up, we just wanted to say that we do support that, and we
08 may come to that meeting because it's not revenue coming
09 from another source, and we're behind it 100 percent.

10 MR. TOURTELOT: I just wanted to add to that. I
11 received a letter from Mr. Van De Kamp a couple of months
12 ago, I guess, that breached this subject of the industry
13 and everybody getting together and talking about
14 sponsorship.

15 And I wrote back to him that I was thrilled
16 that the TOC was putting this on the front burner because
17 the last time I heard anybody talk about it was 1997, and
18 I don't know why it stayed on the back burner for three
19 years. But I applaud the TOC for moving it forward from
20 the back burner, for whatever reason. And I want to say,
21 coming from the Chairman, that I encourage all the
22 participants, the jockeys, the tracks, and the owners to
23 work together.

24 If they come up with a consolidated plan,
25 that the board is going to approve it without delay
26 because it's really your call, even though we have the
27 final approval for sponsorship. If the three entities
28 that are involved -- the three people: the owners, and

0064
01 the jockeys, and the tracks -- are all in agreement, this
02 Board is not going to be an impediment to that agreement
03 being ratified. But it's really all up to you.

04 And John, I'm glad you're going forward with
05 it.

06 MR. VAN DE KAMP: Thank you, Mr. Chairman.
07 I appreciate the support from the Board, from you, and
08 Commissioner Fenley.

09 The reason, really, it got into a black hole
10 was that in 1998 we had a second meeting, and the wisdom
11 at that time was that we should try to develop some
12 national standards. And the NTRA people came to the
13 meeting, and they agreed to set up a task force.

14 Essentially, nothing happened, and that's
15 when I figured we'd better start doing something here in

16 California. And now they decided that they wanted to come
17 to this meeting. So California, I hope, will lead the way
18 here.

19 MR. TOURTELOT: I hope so. Is that it from your
20 report?

21 MR. FENLEY: That's my report.

22 MR. TOURTELOT: Thank you. Any general business,
23 communications, requests for future action of the Board or
24 reports?

25 Being none, we move on -- yes, ma'am?

26 MS. MITCHEL: My name is Mary Ellen Mitchel, and
27 prior to April of this year, I've been employed for
28 12 years as executive director of California Thoroughbred

0065
01 Horsemen's Foundation, as well as Chief Financial Officer
02 of California Thoroughbred Trainers, the trainers
03 organization.

04 Today, I'm here for the Southern California
05 staff of the CTHF and former staff, as well as the
06 backstretch community.

07 As some of you are aware, the California
08 Thoroughbred Horsemen's Foundation is a nonprofit
09 charitable organization established through California
10 Horse Racing Law Section 11641. It's governed by
11 California Horse Racing Rules and Regulations 2048 through
12 2050. It is the one and only health care and welfare fund
13 established for the benefit of backstretch employees at
14 thoroughbred race tracks, fairs, training facilities
15 throughout California.

16 The organization is extremely important to
17 the backstretch workers and their families. I've come
18 here in order for the record to make the commissioners
19 aware of a serious problem with the current management of
20 the CTHF. The executive staff of the horse racing board
21 has been aware of the problem for six months, now;
22 however, no significant steps have been taken towards
23 resolution yet.

24 This staff doesn't seem to realize the
25 importance on the issue nor the power that only the horse
26 racing board has to solve this problem. In any event,
27 they can answer any questions that you might have after I
28 hand you my information.

0066
01 So I feel at this time the commissioners have
02 become aware of the problem, that you can demand that
03 action be taken to ensure that the CTHF and the
04 backstretch community does not suffer any further damage.

05 I'm going to provide you with some
06 information which has come and gone in session, a document
07 and a letter written by the entire staff of the CTHF
08 asking for help.

09 I would ask that once you review this
10 information you involve yourselves in an immediate full
11 investigation with the goal of a timely resolution and
12 possible future board meeting agenda item.

13 MR. TOURTELOT: Let me ask you a question before
14 you do that. I believe we're conducting, as we're
15 required to do, a fairly exhaustive audit of the finances;
16 you're aware of that? And we intend to do that on a
17 regular basis.

18 I'm interested in your words "further

19 damage." Maybe I missed something in your presentation.
20 What do you mean?

21 MS. MITCHEL: A lot of it is in this document, but
22 just mainly the whole -- the way the place is run, the way
23 the organization is, the staffing, the situation at the
24 clinic here in Southern California, the way reimbursements
25 are done without any kind of supervision or tracking, any
26 kind of a receipt or proof that expenses have been
27 incurred, which I think -- I mean, Mr. Wood, and
28 Mr. Minami, and Mr. Reagan have been in there and have

0067
01 been looking into it, and certainly that's helpful.

02 But it's been very, very slow and a long
03 process. And in the meantime, a lot of people have been
04 hurt. Anyone who spoke out at all over the last six
05 months is now gone from there. The medical director was
06 fired yesterday. He was there for over 15 years.

07 There are some problems, and my concern is
08 for the CTHF, for the backstretch community. With all the
09 bad publicity that's been going lately, this is not
10 something that you guys certainly need, for it to be in
11 the papers or anything. And I just want to make sure you
12 are all aware of the problems, aware that Mr. Wood is
13 doing this investigation, and follow up with him and make
14 sure --

15 MR. TOURTELOT: Well, I appreciate that, and I look
16 forward to reading the report. I can tell you our main
17 concern is about the money --

18 MS. MITCHEL: Right.

19 MR. TOURTELOT: -- the fiduciary duty that the
20 people in charge of these funds have, which are public
21 funds. So that's our Number One concern, is that there
22 hasn't been any improprieties vis-a-vis the management or
23 the disbursing of the moneys. And our audit should give
24 us a picture on that.

25 I'm not saying one way or the other because I
26 haven't seen anything yet. But I assure you, if there are
27 any improprieties, this Board will move very quickly to
28 deal with that.

0068
01 MS. MITCHEL: I believe that you would.

02 MR. TOURTELOT: I'd love to read the report. We
03 have to wait until the conclusion of the audit.

04 MS. MITCHEL: Like I said, my main issue today is
05 to make sure that the commissioners, themselves are aware
06 of what is going on.

07 MR. TOURTELOT: Thank you very much.

08 Any other general business?

09 MR. BUCK: Good morning. My name is Allan Buck; my
10 company is Spare Horse, Limited.

11 I come back before the Board, again, at the
12 advice of counsel that I have obtained. I saw a copy of
13 the California Horse Racing Board's quarterly in which
14 Ms. Moretti has stated,

15 "Governor Davis has made it
16 clear to me that maintaining the
17 integrity of the horse racing
18 industry is his chief concern. It is
19 my intention to do everything I can to
20 ensure his concerns are met."

21 If you look up the word "integrity," the

22 May 2nd meeting was not done with integrity. I came
23 before the Board on an appeals process that I was denied
24 and was told I could not do.

25 Rule 1530 says:

26 "Should any case occur which may
27 not be covered by the rules and
28 regulations of the Board or by other

0069

01 accepted rules that should be
02 determined by the stewards in
03 conformity with justice and interest
04 of racing."

05 That was ignored by the stewards and the
06 Board members.

07 Rule 1536 states:

08 "The steward shall maintain
09 minutes and records of all proceedings
10 before the stewards which shall
11 contain the records of votes," et
12 cetera, et cetera.

13 That was not done at my meeting before the
14 stewards.

15 Rule 1537 says:

16 "A verbatim record shall be made
17 of all hearings before the stewards in
18 any matter other than those relating
19 solely to riding infractions."

20 That was not done.

21 The Appeal Rule, 1761 says:

22 "From every decision of the
23 steward, except the decision
24 concerning the disqualification of a
25 horse due to a foul or riding
26 infraction, an appeal may be made to
27 the board. Appeals shall be made in
28 writing giving the reason for the

0070

01 appeal and shall be signed by the
02 appellate."

03 I did that.

04 Rule 1685, governing equipment, it says that:

05 "No bridle shall weigh more than two pounds." And the
06 rest of the paragraph defines what a whip shall look
07 like.

08 Rule 1690 on equipment, it says:

09 "Forbidden equipment. No spurs,
10 steel or steels, switches, war
11 bridles, or any other appliances other
12 than approved racing equipment shall
13 be used on any horse, except with the
14 expressed permission of the steward,
15 whom shall report any such permitted
16 use to the Board with reasons
17 thereof."

18 In 1994, I was given verbal approval by
19 Pete Peterson. It is not my fault that he did not follow
20 through with his requirement.

21 And also, by the way, there's no definition
22 of approved racing equipment. Rule 1725:

23 "All equipment hobbles,
24 headstalls, whips and other tack

25 equipment used in any race is subject
26 to the approval of the steward, who
27 may refuse such equipment or as may
28 deemed proper."

0071

01 And that means three people can deem what is
02 proper on a horse without any knowledge.

03 MR. TOURTELOT: How much longer are you --

04 MR. BUCK: And then the jurisdiction -- because you
05 people brought up jurisdiction with San Luis Rey Downs.

06 Pursuant to Section 19481 of the Business and
07 Professions Code, "all horse racing associations, fairs,
08 and training facilities used for time and reports must
09 comply with the provisions of this article."

10 I'm doing this because of one thing. I'm
11 going to take legal action if this Board does not wish to
12 cooperate. You said I had hearsay. I had evidence. And
13 you refused to accept it. So I am here to try to get the
14 Board to cooperate.

15 Otherwise, I go forward with legal action,
16 which is, I don't think, what you people would like.

17 MR. TOURTELOT: Thank you, Mr. Buck.

18 You've made that presentation twice now, and
19 for a third time threatened us with legal action. So
20 probably an attorney will advise you on what your rights
21 are.

22 MR. FORGNONE: Good morning, Chairman Tourtelot,
23 Commissioners. My name is Robert Forgnone,
24 F-o-r-g-n-o-n-e. I'm here on behalf of the California
25 Thoroughbred Horsemen's Foundation.

26 I trust you'll share with me whatever
27 information was recently submitted by Ms. Mitchel. All I
28 will say to you is that the foundation has been working

0072

01 with your staff, has been completely cooperative in giving
02 your staff the run of the organization.

03 The staff has been conducting a comprehensive
04 investigation of the CTHF's activities, as it should, as
05 was its responsibility. And we're certain that the report
06 will demonstrate that there as been no unlawful or
07 impropriety or capricious action on behalf of the
08 foundation.

09 Other than that, I'm not aware, personally,
10 of any damage that has been done to the organization. And
11 if I were, I'm sure I would promptly advise the Board --
12 the board regulating the CTHF, as well as the horse racing
13 board, and action will be taken.

14 That's all I have to say on the subject; but
15 again, it's been a long time since I've been here.

16 MR. TOURTELOT: Thank you. And as far as getting a
17 copy of that, I certainly have no objection to that at
18 all. I have to read mine, but I can copy it at the office
19 and send it to you.

20 MR. FORGNONE: Or perhaps Mr. Wood can send me a
21 copy or fax me a copy.

22 MR. TOURTELOT: Mr. Wood will take care of that.

23 Thank you very much.

24 All right. Any further old business?

25 MR. FENLEY: I have one old business.

26 About a year ago, we had a meeting in here
27 concerning medication of horse sales. And we had a

28 quasi-committee formed with Mike Martin, to get the ball
0073 rolling.

01 rolling.
02 And we went out to try to seek a consensus in
03 setting up a new rules for medications requirements --
04 took that information and he had no support -- he took us
05 to floor for -- he had an interest, but no support, and he
06 said it was to put together new rules regarding medication
07 of horse sales.

08 I asked him to be here today, but he was tied
09 up. But he said this was getting a lot of momentum, and a
10 lot of interest, and something may come of this.

11 And so if it is something that we could
12 discuss at our next month's meeting or have a
13 medication -- if there's other items, I'll find that out
14 in a few days, certainly before the noticed time.

15 But I was pleased to hear that, and there is
16 a U.S. consensus that something needs to be done to get
17 the buyers of those horses a little bit more information
18 on what they're getting now before the hammer comes down.

19 MR. TOURTELOT: All right. Thank you.

20 Any further old business?

21 MR. BAZE: Good afternoon, my name is Zane Baze.
22 I'm speaking on behalf of the assistant starters for
23 Southern California and Northern, as well.

24 I'm basically coming up here just to fill you
25 in. We weren't aware that the union had come to you for
26 help or advice about anything. You had asked Mr. Hall to
27 come back and talk to you about anything that they tried
28 to resolve with us.

0074
01 As of March, we have yet to hear from our
02 union. Mr. Hall expressed the fact that -- wasn't
03 cooperating by not accepting their applicants for work.
04 Our stance is that he's not trying to resolve the problem.
05 All he's trying to do is replace us; that's not resolving
06 anything with us.

07 Like I said, as of March, we still haven't
08 heard from them. We've filed -- I sent a letter to
09 Ms. Moretti, I believe, stating our dissatisfaction with
10 the union.

11 MR. TOURTELOT: I think I also got a copy of that.
12 I read it.

13 MR. BAZE: Any other questions? We just want to be
14 able to address what you guys have for us. We wanted to
15 be able to respond to those and just that this
16 organization with the union -- they've had on many
17 occasions, since the problem arose, we've had an automatic
18 dues deduction to make sure that we were current. In such
19 time, we've had several people still receive bills that
20 they're not paying dues.

21 It's just -- the organization of the union is
22 ridiculous. They've been very neglectful in our care, and
23 that's apparent -- we filed a petition in February,
24 possibly to be removed from the union; and since then, we
25 haven't had any response or communication with our union.

26 They refuse to help us in any way.

27 MR. TOURTELOT: From reading your letter -- I'm not
28 here to give you advice, but you folks ought to be looking
0075
01 for another union to represent you.

02 MR. BAZE: Well, that's what we're trying to do.
03 We've talked about that, and we've talked to our union.
04 Basically it's up to our union to say "yes, you may go."
05 To our knowledge, all they have to do is let us go.

06 MR. TOURTELOT: Then you have to find another
07 union.

08 MR. BAZE: But now that we've upset them --

09 MR. TOURTELOT: It sounds like not a good marriage.

10 MR. BAZE: Not at all. They represent the
11 janitors, which do a great job, but they have no knowledge
12 of the race-track end of it, the racing on the industry
13 side, and they can't represent us to their best ability.
14 Our best interest, of which they talk about, is to be
15 represented by a different union.

16 MR. TOURTELOT: I read your letter and you filled
17 me in on what was going on, but we don't have any
18 jurisdiction that involves union affairs. But
19 certainly --

20 MR. BAZE: We weren't aware that they had come to
21 you. So we just wanted you to hear a little of our side,
22 as well.

23 MR. TOURTELOT: I appreciate that.

24 MR. BAZE: If there's anything else, please contact
25 us.

26 MR. TOURTELOT: I wish you good luck, and move
27 forward to try and --

28 MR. BAZE: Thank you.

0076

01 MR. TOURTELOT: Any other old business?

02 All right. The board is going to go into
03 executive session. We will reconvene but not take any
04 further business.

05 (Whereupon the Board conducted its executive
06 session off the record)

07 MR. TOURTELOT: The meeting is officially closed.

08 (Meeting adjourned at 1:20 p.m.)
09
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28