

MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

ARCADIA CITY HALL
240 WEST HUNTINGTON DRIVE
ARCADIA, CALIFORNIA

THURSDAY, APRIL 19, 2007
9:30 A.M.

Reported by:
Troy A. Ray, CER

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson

John C. Harris, Vice-Chairperson

John Amerman

John Andreini

Marie Moretti

Jerry Moss

STAFF

Ingrid J. Fermin, Executive Director

Jacqueline Wagner, Staff Services Manager I

Derry L. Knight, Deputy Attorney General

Dr. Rick Arthur, Equine Medical Director

Richard Bon Smith, Assistant Executive Director

Mike Martin

ALSO PRESENT

Forrest White

Chris Korby

Drew Couto

Ed Halpern

Rick Pickering

Jerry Jamgotchian

Marsha Naify

Guy Lamothe

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Dimarco

Ron Charles

Roda Marsh

Grace

Chris Gibbs

Sherwood Chillingworth

Ron Blonien

Chris Carpenter

Cliff Goodrich

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PROCEEDINGS

EXECUTIVE DIRECTOR FERMIN: Ladies and gentlemen, will the meeting come to order, please. This is a regular meeting of the California Horse Racing Board on Thursday, April 19th, 2007, at Arcadia City Hall, 240 West Huntington Drive, at Arcadia, California.

Present at today's meeting are Chairman Richard Shapiro, Vice-Chairman John Harris, Commissioner John Amerman, Commissioner John Andreini, Commissioner Marie Moretti, and Commissioner Jerry Moss.

Before we go on with the business meeting, I'd like to ask everyone to please state their name and organization clearly, for the court reporter. Also, as most of you know, we are webcasting this meeting, and so the microphones are set up a little differently. And we're going to ask that anyone who addresses the Board or does any presentations to please go to the podium, that's the only mike that will be functioning properly in order for the report to go out to the webcasting.

So with that I'd like to turn it over to Chairman Shapiro.

COMMISSION CHAIRPERSON SHAPIRO: Thank you and good morning to everybody.

The Board invites comments from the public about items on its agenda. It also invites public comment about

1 items that are not on the agenda, that are related to horse
2 racing, during a open comment period.

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

11 The goal of this rule is to assure that each
12 person's right to make their views known is not disrupted by
13 another person's conduct.

14 In order to expedite the comment process there is
15 a public comment sign-in sheet, which is actually cards, for
16 each agenda item on which a public comment will be taken, as
17 well as a card for comment about anything related to horse
18 racing that is not on the agenda.

19 The cards are located at the podium and also at
20 the back, at another podium.

21 When I call your name, please come to the podium
22 to speak. I will let you know when your time has commenced,
23 when there is one minute left, and when your time is up.
24 When your time is up you will be expected to return to your
25 seat so that I may call the next person waiting to the

1 podium.

2 When all the names have been called, I will ask if
3 anyone else has a comment on the agenda item, who has not
4 already spoken. At that point the Board will not take any
5 further comment on any item, unless the Board has specific
6 questions it wishes addressed.

7 If the time is up, I will ask the speaker to
8 please take his or her seat. If it appears that a speaker
9 is repeating what has previously been stated, I will ask the
10 speaker if he or she has any additional comments to make.
11 If not, I will ask the speaker to allow the next speaker to
12 come to the podium, irrespective of the time remaining,
13 unless a Board member indicates that he or she so wishes to
14 hear from the individual.

15 If it appears the speaker is not speaking to the
16 agenda item or is speaking to another agenda item, I will
17 ask that the speaker please return to his or her seat to
18 address his or her comments at the appropriate time, either
19 on the specific item or at public comment.

20 With that, I will go to our Agenda Item Number 1,
21 which is the approval of the minutes from the regular
22 meeting of March 22nd, 2007.

23 Are there any comments to the minutes? If there
24 are none, then I will ask for a motion to approve.

25 COMMISSIONER AMERMAN: So moved.

1 COMMISSION CHAIRPERSON SHAPIRO: Moved. Is there
2 a second?

3 COMMISSIONER MORETTI: Second.

4 COMMISSION CHAIRPERSON SHAPIRO: Seconded. All
5 those in favor?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: The minutes are
8 approved.

9 The next agenda item is discussion and action by
10 the Board on the application to conduct a horse race meeting
11 at the San Joaquin County Fair, at Stockton, commencing June
12 14th through June 24th, 2007. And there's Jackie Wagner,
13 CHRB staff.

14 STAFF SERVICES MANAGER WAGNER: Good morning,
15 Commissioners. The application before you is from the San
16 Joaquin County Fair. They are proposing to run a race meet
17 from June 14th to the 24th, or nine days, which is one day
18 less than they ran in 2006.

19 The Fair is proposing to run 94 races, which is
20 ten races less than they ran last year.

21 They will be racing Thursday through Sunday the
22 first week, and Wednesday through Sunday the second week.
23 They will be racing ten races per day on Wednesdays through
24 Fridays, and 11 races on Saturdays and Sundays.

25 They're proposing a post time of 12:45 p.m. Their

1 waging program will utilize the CHRB rules for their
2 waging.

3 The analysis indicates a couple of things missing
4 from this application. I am pleased to report this morning
5 that the vanning and stabling, my understanding, they have
6 reached an agreement, from the vanning and stabling has
7 reached an agreement.

8 But we still have the outstanding item of the
9 Horsemen's agreement for the thoroughbreds.

10 Staff has received the Horsemen's agreement for
11 the emerging breeds.

12 Staff would recommend that the Board adopt the
13 application contingent upon us receiving the missing
14 information. And there is a representative from the Fair
15 here.

16 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
17 perhaps Mr. White could come forward because I think that we
18 are going to want to know what the status is of the
19 Horsemen's agreement, and why it's not executed. I think
20 that in the past we have wanted to make sure that all of
21 these agreements are in place before we approve the license
22 application.

23 MR. WHITE: Well, at that point I'd then like to
24 defer to Drew and Chris, they've been in negotiations. I
25 believe we have a tentative agreement, that there's just a

1 couple details to work out, but I'll let them address that.

2 MR. KORBY: Chris Korby, California Authority of
3 Racing Fairs Executive Director, speaking on behalf of the
4 application from San Joaquin Fair.

5 We are in negotiation with Thoroughbred Owners of
6 California. We have reached what I would call substantive
7 agreement on the contract. There are a few matters that
8 we're still working out, having to do with categories of
9 conditions for racing.

10 COMMISSION CHAIRPERSON SHAPIRO: Is there anything
11 in your mind, and this question could be addressed to either
12 you or TOC, is there anything in the categories that are yet
13 to be resolved that in any way could stop or interfere with
14 an agreement being reached by the time this race meeting
15 occurs?

16 MR. KORBY: No, I don't believe that's the case,
17 not from our perspective.

18 MR. COUTO: Drew Couto, Thoroughbred Owners of
19 California. I'd echo what Chris says, that we don't
20 anticipate that any of the categories will prevent the
21 contract from being signed. The language of the contract,
22 my understanding, it's acceptable to all parties. It's a
23 matter of whittling down some of the categories.

24 And there's a meeting planned. We've had trouble
25 over the last, I guess, week, getting the two committees

1 together and they're hopeful to do that next week and
2 resolve everything.

3 COMMISSIONER MORETTI: When do you anticipate,
4 next week?

5 MR. COUTO: Fingers crossed that we're trying to
6 get ten people's schedules to line up, but we think we'll be
7 able to do it by the end of next week.

8 COMMISSIONER HARRIS: When you get it done, do we
9 have assurance that we can get it mailed to all the
10 Commissioners prior to the next meeting, in case we have any
11 questions on it?

12 MR. COUTO: I think what we'll be able to do is e-
13 mail it to everyone right away, and you can see what it is.
14 But as I said, substantively, the contract there are no
15 issues, it's just down to the category of races, that's it.

16 COMMISSIONER HARRIS: It is a little different
17 situation this year because you're not overlapping and,
18 hopefully, that will result in substantially higher purses
19 because you're running -- according to the projections here,
20 there's higher purses and fewer days, so the purses per race
21 could be pretty good.

22 MR. KORBY: Yeah, we're hoping so.

23 COMMISSION CHAIRPERSON SHAPIRO: Chris, I notice
24 that Forrest is limping on your right and Drew's limping on
25 your left. Did you do something to both of these guys?

1 MR. KORBY: I wish I could take credit for that.

2 Commissioner Harris, just in response to your
3 question, you have our assurance that we will distribute
4 those to each of the Commissioners in short order.

5 COMMISSIONER HARRIS: You know, on your stalls, I
6 see you only have 695 permanent stalls, and you're bringing
7 in some more portable stalls, but I presume that Golden Gate
8 will be closed while you're operating, because they'll be
9 doing their new track, so where will the other horses be?

10 MR. WHITE: That is correct. But we've made an
11 arrangement in the north where Vallejo will be opening, I
12 believe it's June 1st, and will take a large portion of the
13 horses that come out of Golden Gate Fields. The remaining
14 number will go to Bay Meadows and/or Pleasanton.

15 And so we have worked out a schedule. Stockton,
16 for example, if necessary, will stay open for two weeks
17 after its meet to accommodate horses if there's an overflow,
18 and not enough room in the existing facilities. And then
19 we'll stay open until Santa Rosa opens, and then the herd
20 can go there.

21 COMMISSIONER HARRIS: How many stalls are there at
22 Vallejo and Pleasanton?

23 MR. KORBY: About 1,500. About 700 at Pleasanton
24 and 800 at Vallejo, so a total of about 1,500.

25 COMMISSION CHAIRPERSON SHAPIRO: I noticed in your

1 application that you were projecting a nice increase in
2 terms of your purse revenue. Is that because you're going
3 to be un-overlapped?

4 MR. WHITE: That is correct.

5 COMMISSION CHAIRPERSON SHAPIRO: Great. And I
6 remember, remembering back to our conversation last year,
7 this was, I guess, your opportunity to show what you can do,
8 and so I'm assuming you're excited and prepared to do that?

9 MR. WHITE: Yes. Yes. I mean, I think we -- just
10 so you'll know, the Fair this year, we're kind of unique,
11 we're having our Diamond Anniversary, 75 years of horse
12 racing. We started, literally, 30 days after the law was
13 passed in 1933, and so we have a 75th anniversary.

14 We also disbursed some things, just a whole
15 history of our fair, as well as a really good article, and I
16 would encourage you to read the article that's on Comstock
17 Magazine, that I presented. It's a magazine out of
18 Sacramento, so it's not a Stockton magazine.

19 But it talks about the growth of the Central
20 Valley and specifically in Stockton. We're now the home of
21 four major league teams. One is a national team, a soccer
22 team, it plays teams out of Texas, New York. We have a new
23 arena that seats 10,000. So Stockton is really making an
24 imprint in the valley.

25 And so we feel this is our chance, being un-

1 overlapped, to also make a difference in the horse racing
2 world.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. Does
4 anybody else have any other comments or questions?

5 COMMISSIONER AMERMAN: I notice that your budget
6 for promotion is \$100,000. This is your Diamond Jubilee, so
7 I'm sure you've got lots to talk about. But it doesn't
8 compare to what was done this year. Could you give me some
9 feel as to whether that budget is up, down, or sideways.

10 MR. WHITE: It's probably up, and that's the horse
11 racing portion. We have two advertising budgets, we have
12 the fair and then we have the horse racing. That's probably
13 up about 40 to 50 percent. We usually run about 60 to 70
14 thousand. We jumped it to a hundred. Mostly because of the
15 Diamond Jubilee, doing a lot of promotions. Those t-shirts,
16 for example, we're giving away around 1,400 on Derby Day.

17 The City, as well as the Chamber of Commerce, has
18 gotten behind the Diamond Jubilee.

19 And so I think, you know, we're pretty lucky,
20 we're the oldest fair in the State. We were the State Fair
21 at one time, it rotated. And in 1859 we were the State
22 Fair, and then the next year they decided to keep it in
23 Sacramento.

24 And as a result they started the fair in 1860.
25 And so in two years we'll have our 150th anniversary.

1 So we've got some milestones, and I think the
2 City's really supporting it.

3 COMMISSIONER AMERMAN: Well, I'm glad to hear that
4 you've increased your support because advertising does work.

5 MR. WHITE: Yes, it does. And I mean, being not
6 overlapped also gives us the chance to generate more
7 revenue, which then gives us the chance to spend more.

8 COMMISSION CHAIRPERSON SHAPIRO: Not to be nit-
9 picky, but I appreciate the information in the packet as to
10 what you're doing to promote the meeting. It says here that
11 you're giving away the t-shirts on Derby Day, May 6th. It's
12 May 5th. So just making sure you're giving them away on the
13 right day.

14 MR. WHITE: Don't worry, we won't give them out on
15 Sunday. If we run out, then we'll have to, though.

16 COMMISSION CHAIRPERSON SHAPIRO: That's fine.

17 MR. WHITE: And for the record, my name's Forrest
18 White, CEO, San Joaquin Fair.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, Forrest,
20 thank you.

21 COMMISSIONER HARRIS: When does the Belmont run
22 this year, or do you get the Belmont?

23 MR. WHITE: No, the Belmont runs on Sunday, we
24 open on Thursday.

25 COMMISSIONER HARRIS: Okay.

1 MR. HALPERN: Ed Halpern, California Thoroughbred
2 Trainers. I just wanted to point out that the law requires
3 both CTT and TOC contracts. That's often just passed over
4 at these meetings because we never have a serious issue.
5 But we have presented the contracts to the fairs and I'm
6 sure there will be no problem with our contract, either.

7 COMMISSION CHAIRPERSON SHAPIRO: You know, that's
8 a very good point, and I would ask staff that we -- you're
9 absolutely right, we always say Horsemen's agreement, and we
10 jump right to thinking of the agreement with the owners.

11 I think that what we should do is make sure that
12 we refer to it both, you know, do you have your Horsemen's
13 Owners agreement and also the Trainers, I think that's a
14 good point.

15 COMMISSIONER HARRIS: Yeah, I think it's really
16 just one agreement, but both parties have parts of it that
17 they're responsible for.

18 COMMISSION CHAIRPERSON SHAPIRO: Is it the same
19 agreement or is it a separate agreement?

20 MR. HALPERN: No, actually, we have two separate
21 agreements. Ours relates to safety and other backstretch,
22 and actual track issues. There is some confusion about the
23 one or the two, but there is actually two. It's done in two
24 agreements.

25 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,

1 from now on we'll do that.

2 Lastly, and this is probably a CARF question, but
3 I would like to know about your simulcast agreements. Who
4 are your providers, are they all in place, is there anything
5 in any of those agreements that could come up, that would
6 inhibit your ability to have your races shown as represented
7 in your license application?

8 MR. KORBY: To my knowledge, no. Not every
9 agreement is executed, but I know of no outstanding issues
10 that would prevent them from being executed. And I'm
11 including in that the ADW agreements. We have had --

12 COMMISSION CHAIRPERSON SHAPIRO: That's what I'm
13 referring to, actually.

14 MR. KORBY: Okay, we have had -- since the
15 inception of ADW, we've had agreements with each of the
16 three licensed providers in California, and we'll continue
17 to do that this year.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay, and there
19 are no issues whatsoever, that you're aware of, in any way?
20 And the same, I'd like to hear if the Horsemen have -- the
21 owners, if they have any issue with any of the agreements,
22 that could possibly interrupt this race meeting in any way?

23 Have you thought about a seat closer so you don't
24 have to walk so much?

25 MR. COUTO: Yes. At this time --

1 COMMISSION CHAIRPERSON SHAPIRO: Drew Couto.

2 MR. COUTO: Sorry. Thank you. Drew Couto,
3 Thoroughbred Owners of California.

4 At this time, as we just received the list this
5 week, there's nothing on there that we anticipate being a
6 problem. So we'll work with Kay to finalize the rates and
7 we expect we should be able to do that shortly.

8 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
9 consistent with what Commissioner Harris said, I think we'd
10 like to see, as soon as possible, that those agreements are
11 executed and we don't have -- we don't want anything coming
12 down to the 11th hour.

13 COMMISSIONER HARRIS: Do you have -- like some of
14 the tracks have either XpressBet or TVG have an exclusive
15 and they subcontract that out to YouBet, is that the
16 situation at CARF, or do you have distinct agreements with
17 each party?

18 MR. KORBY: We have standing agreements with all
19 three. However, there are legal issues between TVG, or have
20 been legal issues between TVG and YouBet, in which we have
21 not been involved. Our agreement is with each of those two
22 companies.

23 MR. COUTO: Again, Drew Couto, Thoroughbred Owners
24 of California. Since the fairs are a non-exclusive race
25 meet, or a series of non-exclusive race meets, there are

1 contracts between CARF and each of the ADW companies
2 independently.

3 And as Chris is alluding to, there are sublicense
4 agreements between, I think, TVG and YouBet, that even
5 though CARF is a separate, non-exclusive, there are still
6 some obligations between those companies, which neither CARF
7 nor TOC have any say over.

8 So as far as our relationship with those
9 companies, I don't anticipate any problems. You might need
10 to talk to the ADW companies as to the relationships between
11 them.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay. We have a
13 motion and a second. If there isn't anymore comment, I
14 would entertain a vote.

15 All those in favor of approval of this
16 application?

17 (Aye.)

18 COMMISSION CHAIRPERSON SHAPIRO: Any opposed?
19 There isn't any.

20 Congratulations, good racing.

21 And we will now move to Item Number 3 on the
22 agenda. Item 3 is discussion and action by the Board on the
23 application to conduct a horse racing meeting at the Alameda
24 County Fair, at Pleasanton, commencing through June 27th
25 through July 8th, 2007.

1 Jackie Wagner.

2 STAFF SERVICES MANAGER WAGNER: The Alameda County
3 Fair has filed their application to run the race meeting
4 from June 27th through July the 8th. This is 11 days and
5 it's the same number of days that they raced in 2006.

6 The Fair is proposing to race a total 122 races,
7 and this is the same number of races that they ran in 2006.

8 They will be racing Wednesday through Monday the
9 first week, and Wednesday through Sunday the second week.
10 On Wednesday, June 22nd, Thursday and Friday, they will be
11 racing ten races per day, and 12 races per day on Monday,
12 Wednesday, July the 4th, and Saturday and Sunday.

13 They will not be racing on Tuesday, July the 3rd.

14 This application, also the analysis notes that we
15 do have outstanding items, as with the previous application,
16 the vanning and stabling agreement from CARF has been agreed
17 upon. And the Horseman's agreement, the status is the same
18 as the previous application. The TOC Thoroughbred agreement
19 is outstanding. The emerging breeds agreements have been
20 received.

21 Staff would recommend that the Board adopt the
22 application contingent upon us receiving the additional
23 information and we do have a representative from the Fair
24 available.

25 COMMISSIONER HARRIS: Just to clarify, the

1 outstanding agreements include the CTT agreement is
2 outstanding, also.

3 STAFF SERVICES MANAGER WAGNER: Yes. I'm going to
4 try to say that from now on. The CTT agreement I have not
5 received. And I do want to echo what Ed said, in the past
6 CTT has been very responsive in submitting those agreements
7 to us.

8 COMMISSIONER HARRIS: Because I've never seen one.
9 Why don't they ever send them to the Board?

10 STAFF SERVICES MANAGER WAGNER: Well, the Board is
11 the depository for those, so we have those on file. I will
12 certainly include sending a copy of the CTT agreement, as
13 well as the Horseman's agreement to you.

14 COMMISSIONER HARRIS: Yeah, that would be good.

15 COMMISSION CHAIRPERSON SHAPIRO: Again, if Mr.
16 Pickering is here and would come forward, I think we'd
17 basically like to hear the assurances to some of the same
18 issues that were just posed to the San Joaquin County Fair
19 with respect to your ADW agreements and, also, if there's
20 any chance of any problem that could arise to interrupt the
21 race meeting with respect to the TOC and CTT agreements, or
22 any other agreements for that matter.

23 Mr. Pickering?

24 MR. PICKERING: Yes, Rick Pickering, CEO, Alameda
25 County Fairgrounds and race meet. To the best of my

1 knowledge there's no outstanding issues that won't be
2 resolved between -- actually, they'll all be resolved before
3 Stockton starts running. They may even be resolved by the
4 end of the day. That's both with CTT, as well as TOC.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 MR. PICKERING: As far as the ADW companies,
7 again, through CARF we have agreements with each of the
8 companies. We're not an exclusive facility, so they're all
9 welcome to come and do business in Pleasanton.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, excellent.
11 And I'm going to assume that "Gimpy," from TOC, is going to
12 agree --

13 MR. PICKERING: I did offer him a front row chair,
14 but he said the heat was a little hot up here.

15 MR. COUTO: Again, Drew Couto, Thoroughbred Owners
16 of California. One suggestion I might have for the Board to
17 consider is that we recognize that there always seems to be
18 a delay on the TOC contract and it is, without exception,
19 due to the fact that we do not receive the purse schedules
20 until very shortly before the applications are to be
21 submitted to the Horse Racing Board.

22 To assist everyone, the Board may consider making
23 a rule or regulation requiring that the purse schedules be
24 submitted to the Horseman's organization 60 days before the
25 application is due, and that way it will give the parties

1 sufficient time to review, sit down, negotiate, have the
2 contracts finalized.

3 Right now we have it occurring -- I will commend
4 the Del Mar Thoroughbred Club, they give it to us about six
5 months in advance, all their schedules, to we get it as few
6 as 20 days or 15 days before the application's in, and
7 anywhere in between.

8 And so it would make it, since we have a committee
9 that has to review this, determine if it's consistent with
10 prior years, or with projections, or revenues for the
11 upcoming meet, it would certainly expedite the process if
12 the Board would help maybe require that, that it be
13 submitted to us 60 days before the application is submitted.

14 COMMISSION CHAIRPERSON SHAPIRO: I'm certainly in
15 favor of it and I think it would help us, because we want to
16 see these issues resolved and we don't want to have to deal
17 with them, and I think it helps the industry. I'm assuming
18 it would help with promoting the meet and everybody knows
19 what's going on.

20 I just don't know if anybody would have any
21 objection to that, but we can find out by initiating a rule-
22 making process.

23 COMMISSIONER HARRIS: Well, it seems like
24 everybody would be interested in doing it. I mean, it seems
25 like it's just a matter of a good faith negotiations between

1 the parties. I hate to create a rule to do it.

2 COMMISSION CHAIRPERSON SHAPIRO: It just doesn't
3 happen, though.

4 COMMISSIONER HARRIS: Well, these guys are getting
5 smarter every year.

6 COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

7 COMMISSIONER HARRIS: They're smart enough to do
8 it.

9 MR. COUTO: Yeah, I don't doubt the intellect of
10 anyone, the problem is that for various reasons different
11 racing offices feel that they need to see the last look of
12 the current meet before they issue theirs.

13 And while we don't necessarily agree with that,
14 that's the reality of the situation. And sometimes the only
15 way to overcome that is by requiring some regulation that
16 mandates what the period of time should be. Unfortunately,
17 I think that's where we are.

18 COMMISSION CHAIRPERSON SHAPIRO: Kind of like toe
19 grabs.

20 COMMISSIONER HARRIS: It's good to have that
21 toolbox out there.

22 COMMISSIONER MORETTI: Rick, what's your initial
23 reaction to that, is that a doable time period for you?

24 MR. PICKERING: Well, I think it's certainly
25 doable for everyone to cooperate in a timely manner. But as

1 Drew just pointed out, he didn't use these terms. But under
2 State law, Pleasanton is required to put up a purse
3 schedule, which is roughly a hundred percent of what Bay
4 Meadows and Golden Gate are offering in advance of us. And
5 when their schedules are changing, or they're running short
6 fields and they're dropping races, then we have to look at
7 what's going on in Northern California.

8 And if we could, if we were smart enough to figure
9 it out 60 days in advance of Stockton or Pleasanton, that
10 would be great. But at the same time, the CARF agreement
11 with TOC covers Fresno, and so Fresno's looking at what's
12 going on in the industry at the same time. It covers all
13 the fairs, so it's not just Stockton and Pleasanton, it just
14 happens that our licenses come up early in the process,
15 before everyone has a fantastic picture of what's going on
16 at Golden Gate and Bay Meadows.

17 So it is our intent to get the information to TOC,
18 we have been having meetings. In fact, I thought this year
19 was probably the most cooperative year between TOC and the
20 fairs, and Magna, and Bay Meadows that I've been involved
21 in, in my eight years in racing.

22 COMMISSIONER HARRIS: It seems like it could be
23 worked out. It might be fine tuning would have to occur on
24 the numbers.

25 But as I see the books, the books don't change

1 very much. I'll guarantee, if you go back ten years, all
2 those books are 90 percent the same.

3 MR. PICKERING: Drew tells me he's going to say
4 that it's not the fair's fault.

5 COMMISSIONER MORETTI: Well, it's not, because I
6 mean this is not -- you happen to be up here for your
7 application right now, but this happens association, after
8 association, after association.

9 MR. PICKERING: Yes. Right.

10 MR. COUTO: You said it well. I have nothing more
11 to say. No, I don't want the inference to be that it's the
12 fairs who are a problem here, and I understand Rick's
13 comments. But what the fairs are trying to do is create a
14 uniform purse schedule for all of their meets.

15 It's really all of the racing offices and all of
16 the racing partners here. I don't want it to appear it's
17 simply the fairs that are the problem.

18 MR. KORBY: Not to belabor this issue but --

19 COMMISSION CHAIRPERSON SHAPIRO: Chris Korby.

20 MR. KORBY: Chris Korby, California Authority of
21 Racing Fairs. I would just point out that the issues still
22 being negotiated with TOC and CARF, at this point, are not
23 purses. It's the categories of conditions in the purse
24 structure. I think we're fine on the purse, the values of
25 the races.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

2 Mr. Pickering?

3 MR. PICKERING: Yes, sir.

4 COMMISSION CHAIRPERSON SHAPIRO: I have to tell
5 you I thought your license application was terrific, and you
6 do a great job up there, and I was extremely impressed with
7 the completeness of this application. And, you know, we
8 were up there I guess it was a year or so ago, and you do a
9 great job, and I just want to tell you I was very impressed
10 with the application.

11 I don't have any other comments. Does anybody
12 else wish to make a comment?

13 COMMISSIONER AMERMAN: I thought your discussion
14 of your marketing activities was very complete, but it
15 didn't have any funds applied to the things you were doing.
16 And I was wondering what the marketing budget is this year
17 versus last year.

18 MR. PICKERING: Well, it's our 95th anniversary as
19 a fair, so certainly our marketing budget for the entire
20 fair is larger than it's been in the past, and much of it
21 depends upon the corporate sponsors that we bring to the
22 table because we use much of their money for marketing and
23 advertising, because they want to see their name in lights,
24 as well.

25 So if we can finalize our deal with Toyota, that

1 could add another hundred thousand into our marketing
2 budget. But in essence --

3 COMMISSIONER AMERMAN: Well, they're big hitters,
4 they should be supporting it.

5 MR. PICKERING: Pardon me?

6 COMMISSIONER AMERMAN: I say they're big hitters,
7 they should support it well.

8 MR. PICKERING: We would like to see a hundred
9 thousand dollars from them this year.

10 COMMISSIONER AMERMAN: Can you quantify about what
11 you spend?

12 MR. PICKERING: About a million nine is what we
13 spend to advertise the fair and the race meet combined.

14 COMMISSIONER AMERMAN: Okay.

15 COMMISSIONER HARRIS: On that, actually, I agree
16 that Pleasanton's a great fair and I've really enjoyed going
17 there for years, and there's a lot of new things you've
18 done. But on the stalls, I was just trying to figure out,
19 it looks like there's different numbers of stalls at
20 different applications. Because you're showing like 700
21 stalls at Bay Meadows. I thought they had more stalls than
22 that. And then you're showing 684 stalls at Pleasanton, you
23 know, excluding portables.

24 But on the Vallejo application --

25 COMMISSION CHAIRPERSON SHAPIRO: Stockton.

1 MR. PICKERING: We all should have the same
2 number, and I agree.

3 COMMISSIONER HARRIS: Yeah, yeah.

4 MR. PICKERING: I would say my numbers are
5 accurate on Pleasanton, and Vallejo's probably accurate when
6 Vallejo comes through, but we should have all the same
7 numbers.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, perhaps,
9 maybe we could do a stall survey, because they do alter a
10 little bit when you look at them, and maybe CARF could
11 undertake just getting accurate counts and updating them.

12 COMMISSIONER HARRIS: Yeah, and we may see how
13 many because a lot of the time stalls become tack rooms, or
14 storage rooms, or whatever. Because if the stalls are going
15 to get ultimately tight in the north, we need to have a good
16 handle on how many really useable stalls we have at each
17 track.

18 MR. PICKERING: And we're encouraging all the
19 horsemen that are coming from Golden Gate Fields to train
20 and stable in Pleasanton from June to August and to run at
21 the fairs. So we hope our meet's much more successful, and
22 we hope we don't have 107 degree weather this summer.

23 MR. KORBY: Chris Korby, again. We'll get you
24 that stall information.

25 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

1 All right, does anybody have any questions about this
2 application? If not, I'll entertain a motion.

3 COMMISSIONER AMERMAN: So moved.

4 COMMISSION CHAIRPERSON SHAPIRO: It's moved.

5 Second?

6 COMMISSIONER MORETTI: Second.

7 COMMISSION CHAIRPERSON SHAPIRO: Seconded. All in
8 favor?

9 (Ayes.)

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Item
11 Number 4, public hearing by the Board on the adoption of the
12 proposed addition of CHRB Rule 1843.3, penalties for
13 medication violations, and the proposed amendment to CHRB
14 Rule 1843.2, classification of drug substances.

15 Jackie.

16 STAFF SERVICES MANAGER WAGNER: The proposal
17 before you is the proposed amendment to CHRB Rules 1842 and
18 1843.

19 The proposed amendment to 1843 will establish
20 penalties for medication violations. And this proposal
21 incorporates the recommendations of the RMTTC, the Board's
22 Equine Medical Director, the Thoroughbred Owners of
23 California, and the industry at large.

24 In developing the proposal several meetings were
25 held during the development process, all of the parties were

1 polled and we took information from all of the entities.

2 At the January 7th Board meeting staff was
3 instructed to initiate the 45-day comment period on the
4 proposal. We did that. And during the 45-day comment
5 period TOC submitted comments regarding the proposal to Rule
6 1843.3.

7 The TOC is recommending removing all of the
8 monetary fines for owners, as it felt now that the loss of
9 purse and disqualification of the horse, among other
10 penalties, would serve the purpose of causing owners to
11 monitor their stables more closely and communicating with
12 their trainers.

13 If the Board chooses to incorporate the changes to
14 the proposed text, an additional 45-day comment period will
15 be required.

16 And this item is presented to the Board for
17 discussion and action. And, of course, we do have our
18 Board's Equine Medical Director here to answer any
19 questions.

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I'm
21 going to ask him to come forward and speak to this. Because
22 one of the things I think everybody, just to refresh
23 everybody's memory, is we have been discussing these rules
24 for well over a year and a half, perhaps two years, at this
25 Board. And I believe that we have gone through line by

1 line, word by word the proposed rules that are in front of
2 us. And I think that it's important to understand and note
3 that these proposed rules provide for both aggravating and
4 mitigating circumstances.

5 And while some of the penalties could appear to be
6 harsh on the surface, they do provide the flexibility for
7 mitigating and aggravating circumstances.

8 So, Rick, I would --

9 COMMISSIONER HARRIS: You might also mention that
10 the RMTC, which is actually the Racing, Medication, and Test
11 Consortium, has met over a period of years and this is
12 something that's been really vetted out.

13 COMMISSION CHAIRPERSON SHAPIRO: For years.
14 Right, and that's what I was going to ask Dr. Arthur, if he
15 could just give us a little bit of history, since you are on
16 the RMTC. I know that we are trying, in California, to make
17 sure that we have the best medication rules and penalties
18 possible, and I'd like it if you could address your role at
19 the RMTC, and bringing these forward to the point that we
20 are possibly going to adopt these rules.

21 EQUINE MEDICAL DIRECTOR ARTHUR: Thank you, Mr.
22 Chairman. I'm Dr. Rick Arthur, Equine Medical Director.

23 These rules have been put together over a five-
24 year period. TOC is a member of the RMTC and has been
25 involved in it. Other organizations, owner organizations

1 include the TOBA, the KTA, HBPA, the THA, all of them have
2 recognized that it is a global problem in terms of drug
3 positives.

4 And the purpose of the owner penalties are really
5 to get everybody involved in coming to a solution.

6 So it has been long in the works, it has been well
7 considered, it is a national policy that is trying to be
8 implemented in state after state, so that people understand
9 what their penalties will be for certain violations.

10 What they've tried to do is take the RCI drug
11 classifications, which are a physiological and
12 pharmacological classification that relates a drug's
13 potential to affect the outcome of a race, and add a penalty
14 category to it which puts some practicality to how positives
15 occur.

16 For example, two Class 1 drugs, morphine and
17 cocaine, are actually Category B penalties because of the
18 potential for environmental contamination.

19 The Class A penalties almost entirely are drugs
20 that have no business being around horses at all.

21 So that's how this has developed. The penalties
22 are rather draconian. They are much more severe penalties
23 that are typically meted out.

24 But as we discussed at the steward's short course,
25 just a few weeks ago, that this actually requires that the

1 hearing officers take into account mitigating and
2 aggravating circumstances. All mitigating circumstances can
3 be an aggravating circumstance, depending on how it is
4 implemented.

5 But to specifically address the TOC's issues, I'd
6 like to point out if the TOC actually recommended we
7 increase those fines just a short while ago, and in terms of
8 mitigation we specifically added Item 6, B.6, which allows
9 an owner to present evidence that they have actually taken
10 an active interest in drug positives in their horses prior
11 to this.

12 But the RMTC has been working on this for a long
13 time.

14 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur, I
15 would ask that why don't we allow TOC to voice what their
16 issue is, and then if you would come back and address how
17 that's been addressed, or your view of it, I think we ought
18 to hear what the issue is from them, first, if that's okay
19 with you.

20 EQUINE MEDICAL DIRECTOR ARTHUR: That's fine. The
21 TOC has been involved in this from the very beginning at the
22 RMTC.

23 COMMISSION CHAIRPERSON SHAPIRO: I appreciate
24 that. And I think I am aware of that and I believe the
25 others are aware of that.

1 Do any other Commissioners want to have anything
2 they want to say before we at least have a comment from the
3 public, and then we can come back and address it further.

4 If not, then I'll call on public speakers.

5 Jerry Jamgotchian.

6 MR. JAMGOTCHIAN: Mr. Chairman, members of the
7 CHRB, as an owner of 147 race horses, now, as an owner it
8 seems pretty ridiculous that an owner could face penalties
9 for something that a trainer did.

10 But the issue I really want to bring up is that as
11 Dr. Arthur who, obviously, we know, has a stored history
12 with regards to rule violations, talks about draconian
13 measures with regards to penalties.

14 Well, I read the information provided through the
15 CHRB and I note that in a news release April 12th, there's a
16 Class 3 violation for a trainer by the name of Karen
17 Haverty. Well, that stipulated agreement stayed a \$3,000
18 fine. I don't think that's draconian. In fact, this
19 trainer probably is really happy that everything was stayed,
20 she didn't get penalized at all.

21 The person that got penalized was the owner.
22 Here's the example, there's a trainer in August 21st, 2005
23 that got a positive. The owner was notified of the positive
24 on September 2nd. Well, recently, there was a settlement
25 agreement and order or probation issued by the AG's office,

1 signed by Ms. Thurman, and other people, Mr. Mosely, Mr.
2 Schwartz, whereas this trainer admitted his guilt under
3 Title 4 Sections 1843 and 1887. He was fined \$1,500 and put
4 on probation.

5 Guess what, guess what was done to this trainer?
6 The probation was stayed and the fine was stayed. Do you
7 consider that, Mr. Shapiro, draconian, when a trainer can
8 violate the rules, admit that he violates the rules, and
9 gets no penalty, essentially, everything gets stayed? The
10 other issue is, now, the owner of this horse, and I'll give
11 you the name of the horse so it's easy for you to
12 understand, the horse's name is Blessed I do Your Name, I
13 believe, it's owned by Tommy Town. Well, the Tommy Town
14 owner, now, is being asked to return the purse money that he
15 got. So, now, his trainer admits his guilt for violating
16 the law, gets scot free, doesn't have a penalty, doesn't
17 have probation, but now the owner has got to pay the \$39,000
18 or so back.

19 Let me ask you a question, if you were the owner
20 of that horse, Mr. Shapiro, and your trainer said, hey, I
21 violated the laws, I don't have to deal with this anymore,
22 I'm scot free, I got probation, but the owner has to pay the
23 \$39,000, plus or minus, don't you have a good case against
24 the trainer, because hasn't that trainer already admitted he
25 violated the rules?

1 So don't have Dr. Arthur come up here and say that
2 this is draconian because this is ridiculous. She's up
3 there providing stays to the trainers. The trainers, I
4 guess, aren't smart enough to realize that they're walking
5 themselves into a lawsuit by the owners, when the owners are
6 going to have to pay back their purse.

7 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
8 you've got one minute. One minute.

9 MR. JAMGOTCHIAN: Sure. I know you don't want to
10 hear this, Mr. Shapiro.

11 So the issue here, I think, is that there's no
12 draconian measures at all. These measures are punitive
13 towards the owners. Obviously, Mr. Shapiro and members of
14 this Board, some of you are owners. Some of you don't
15 realize field size is diminishing. Some of you want to
16 reduce racing dates in California. Some of you even want to
17 close race tracks. This is something that's going to move
18 owners out of this State. If it's concerning to you, great.

19 But for Ms. Fermin to allow trainers a free pass
20 for violating the rules, all of you should look at that.
21 And I cite to you this settlement agreement in Case
22 05DM0085, settlement agreement dated January 31st, 2007.
23 Find out about that. Thank you.

24 COMMISSION CHAIRPERSON SHAPIRO: Marsha Naify.

25 COMMISSIONER HARRIS: You know, I might comment on

1 some of the things that Jammer stated, where some were
2 factually correct, some were not. But the whole concept of
3 owner sanctions is -- the whole concept of owners losing
4 their purse is that race result was impacted by the
5 medication that that horse had.

6 Now, it may well be that there's mitigation as far
7 as what happened, it was contamination or something, but the
8 concept is that the result could have been impacted. And if
9 the result was impacted, that's the logic for taking away
10 the purse. It doesn't necessarily mean that someone was
11 guilty of doing something wrong, but if the result was
12 impacted, you pretty well have to take away the purse.

13 COMMISSION CHAIRPERSON SHAPIRO: Is that it?

14 COMMISSIONER HARRIS: That's it.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

16 Marshy Naify.

17 MS. NAIFY: Marsha Naify, TOC Board. I want to
18 further delineate for you the TOC's position on the adoption
19 of Rule 1843.3. As many of you know, I serve as the TOC's
20 Medication and Integrity Chair.

21 On April 9th, our President sent the TOC's formal
22 reply to the suggested changes to Rule 1843.3, after our
23 Board reached a consensus on what changes needed to be made.

24 The Board of Directors of the TOC has a
25 responsibility to protect the interest of horse owners in

1 this State, and to serve and protect the industry as a
2 whole. The current TOC Board has made medication and drug
3 testing one of its top priorities.

4 Initially, when the rule changes were brought
5 before the Board, back in December, most of the members had
6 no objections to them.

7 The TOC Medication Committee worked diligently to
8 study the rule changes and make recommendations to the CHRB
9 at its meetings. Most of our recommendations were adopted.

10 By the time of the TOC's February Board meeting,
11 there was a definite shift among most of the directors on
12 the subject of monetary fines for horse owners.

13 Our 15-member Board represents a cross-section of
14 the industry. We have owners that have made huge financial
15 investments in racing, and we have other owners who may only
16 own three or four horses.

17 We also have owners on our Board who breed horses,
18 some with very small operations and some with much larger
19 ones.

20 Our Board strives to make its decisions that are
21 truly representative of all California owners.

22 There is a keen awareness that today, in
23 California, we have fewer owners and that figure has been
24 declining for several years. The expense of owning race
25 horses, measured against purses, has made it difficult for

1 many owners to stay in the game.

2 While the TOC is actively involved in solving many
3 of our industry issues on this front, the Board strongly
4 feels that enacting regulations, with stiff fines for
5 owners, while other states have no fines, could be
6 detrimental to attracting new owners, as well as retaining
7 the State's current owners.

8 Between January and February many directors
9 conversed with other California owners about the rule
10 changes. As the rule changes became public, many owners
11 contacted the TOC on their own, via e-mail, or contacted
12 directors, personally, to voice their concern.

13 I spoke to several owners myself, including those
14 with horse barns here in the State, who voiced their overall
15 concern that fines for owners would be detrimental to the
16 sport.

17 At the February Board meeting of the TOC the
18 directors put my committee to task and asked that we conduct
19 a survey of other racing jurisdictions to see what states
20 had adopted the RMTC guidelines, and which stakes
21 specifically had fines for owners in their penalty
22 guidelines.

23 If we were the only State to have those fines,
24 then clearly that would hurt horse ownership in the State of
25 California.

1 If California were to adopt these rules as
2 currently written, we would be at a clear disadvantage.

3 With the feedback we have had from California
4 owners across the State, plus the lack of monetary fines for
5 owners in other states, we feel California would be at a
6 clear disadvantage in retaining and attracting owners, and
7 that monetary fines for owners would be detrimental to the
8 sport of horse racing in California.

9 With ownership shrinking and field size shrinking,
10 California needs to wait until other states have adopted
11 monetary fines for owners.

12 It is our job, at the TOC, to help owners
13 understand their role when it comes to owning race horses.
14 One of our goals at the TOC is to have owners more involved
15 and aware of what goes on in the day-to-day training of
16 their horses.

17 Many on our Board felt that in most cases owners
18 were not aware of the day-to-day activities with their
19 horses, that role is entrusted to the trainer, and to take
20 the owner to task would not be fair.

21 Taking into account all of these factors, we
22 request the CHRB modify Rule 1843.3, eliminating all
23 monetary fines for owners.

24 And if we can answer any questions on this issue,
25 we'd be happy to.

1 COMMISSION CHAIRPERSON SHAPIRO: Ms. Naify, I
2 appreciate your concerns and the issues that you raise. We
3 certainly want to see that we have -- we retain and, in
4 fact, bring as many owners to the State of California, and
5 there's no doubt that the economics are challenging. I
6 certainly agree with all those things.

7 But what I fail to understand is we have discussed
8 this and you, yourself, came to our meetings and supported
9 the notion of there being fines for owners, and in our
10 discussions.

11 I've heard on multiple occasions, from
12 representatives of TOC, that the owners have to take
13 responsibility for understanding their investment and also
14 knowing what their trainers are doing. It has to also come
15 from the owners.

16 And if you look at these rules and specifically
17 you look at the list of mitigating circumstances that are
18 outlined here, and number six clearly says, "the steps taken
19 by an owner to safeguard against subsequent violations,
20 including, but not limited to, the transfer of horses to an
21 unaffiliated trainer," that is a mitigating circumstance.

22 Additionally, I don't see that there's a fine to
23 any owner for a first or second offense. So when you look
24 at it and what you see here is that we're talking about a
25 repeated offense, where an owner would be subject to a fine.

1 And how can we hold every other licensee responsible? We
2 hold the trainer responsible, we're going to hold the vet
3 responsible. We all have to take responsibility and we all
4 want a level playing field.

5 So I don't quite understand. I appreciate the
6 concerns. I know that in reading your letter that it would
7 put us apart from other states. Well, we are apart from
8 other states, we're doing things better than other states.
9 We're doing more comprehensive testing. We're testing 800
10 compounds per test in our -- we are doing things. And I
11 think we want a higher standard out here.

12 And I would hope that our owners would also
13 recognize that we're going to be able to say that we have
14 the most level playing field and the most -- you know, the
15 highest integrity in our racing.

16 And your position seems to cut the other way, as
17 far as I see it.

18 COMMISSIONER HARRIS: Marie's got a comment.

19 COMMISSIONER MORETTI: Well, I have some of the
20 same concerns that the Chairman has. But I also -- first of
21 all, thank you for sending us the chart with all of the
22 different states.

23 But is my recollection correct that Kentucky does
24 levy fines on --

25 MS. NAIFY: It's basically an and/or situation

1 with Kentucky, I believe. And Guy can possibly fill in on
2 this. But it's my understanding that when he contacted the
3 State of Kentucky and did research on that, that I don't
4 believe there were any fines that were actually levied
5 against horse owners.

6 COMMISSIONER HARRIS: One other question --

7 COMMISSIONER MORETTI: So it was a choice -- I'm
8 sorry.

9 COMMISSIONER HARRIS: Go ahead.

10 MS. NAIFY: Yeah, it was a choice.

11 COMMISSIONER MORETTI: So it's a choice for them?

12 MS. NAIFY: Yes.

13 COMMISSIONER MORETTI: And, again, one of the
14 things that I, too, thought of, as the Chairman said it,
15 this is not for the first or the second offense.

16 From my perspective, I've wanted to see for a long
17 time that it's not just a trainer that gets penalized.
18 Obviously, the owner gets penalized when the purse gets
19 removed, and I think that's quite a big penalty.

20 But I have a concern in saying that we don't
21 want -- we, in California, we don't want to be the first to
22 step out, we want to see what the other states are doing.
23 Because it seems like the obvious would be the other states
24 are going to say, well, let's see what the other states are
25 doing and then no one will do anything.

1 And it has been something that we've been working
2 on for quite a long time with the RMTTC. In fact, just
3 getting to the point where we were all working together I
4 think took a long time.

5 I guess one of my questions to you, the TOC, would
6 also be if these rules are implemented as we have them now,
7 what kind of an education effort would you take upon
8 yourselves to make sure that your owners understand that
9 we're no longer just talking about just a purse, that we're
10 talking about, actually, in many ways leveling the playing
11 field, so that trainers are penalized, vets are penalized
12 and, by the way, owners are penalized and this is what you
13 need to look for. So if you could comment on that?

14 MS. NAIFY: Right. We've already -- you know, are
15 keenly aware of this. It's been our effort, certainly since
16 I've been on the Board, which has been almost two years, to
17 educate owners in terms of medication issues, drug testing,
18 security, and the CHRB guidelines, and to educate them about
19 vets, and their bills, and what goes on.

20 It's a very complex issue. I mean, it certainly
21 has been a learning curve for me, being the Medication Chair
22 for the last six months.

23 I, myself, attended the RMTTC Board meeting, the
24 last one, and will be attending future ones. You know, the
25 RMTTC needs to be commended for all that they're doing.

1 Certainly, we all want a clean, level playing field in horse
2 racing. But the difficulty is, is that in many respects the
3 RMTC has failed in some respects. They've been in existence
4 for five years and yet they're still somewhat disorganized
5 and they still have failed to get these rule adopted to any
6 extent, in any state.

7 Now, the problem is that California --

8 COMMISSION CHAIRPERSON SHAPIRO: But isn't that
9 the --

10 MS. NAIFY: Let me finish. The problem is that
11 California already faces huge problems, because purses in
12 other states, as they get racinos, as they put slots into
13 their things, we're already at a disadvantage going to be
14 attracting owners here. People here, in California, are
15 going to want to take their horses to other states.

16 And the problem is, one of the things that we got
17 is a tremendous amount of feedback from owners, especially
18 concerned with the small owner who may not -- you know, may
19 be part of a partnership, may only own one or two horses and
20 due to a series of circumstances, you know, the next thing
21 you know is that they have a \$10,000 fine. And that the
22 image for this --

23 COMMISSION CHAIRPERSON SHAPIRO: Ms. Naify?

24 MS. NAIFY: Yes.

25 COMMISSION CHAIRPERSON SHAPIRO: Ms. Naify, I have

1 to take exception to what you're saying. Because the truth
2 is that I think that what we've heard in the past, over the
3 years, has been, gee, we don't know that it's a level
4 playing field out there. We've all heard that. With the
5 adoption of these rules, it is going to state that
6 California is the most level playing field.

7 And, again, I don't think we'll find a smaller
8 owner than me, okay, but it holds me responsible to know
9 that my trainer isn't going to do something wrong, because I
10 don't want the fine. So it does make me ensure that my
11 trainer is doing what's right. It's sending the message
12 that we are making sure the integrity of our game is
13 protected and I think that's going to attract more people
14 out here.

15 I think it's going to bring more owners to say,
16 you know what, you get a fair shake in California. They
17 have the best testing, they have rules to protect, that's a
18 place I want to do business. I just see it differently.

19 MS. NAIFY: I understand what you're saying, Mr.
20 Shapiro, but the feedback that the Board got, there was
21 great concern among owners, they felt it was their duty to
22 submit these changes, not just because of the way they felt,
23 but because of the feedback they were getting from owners
24 across the State.

25 COMMISSION CHAIRPERSON SHAPIRO: But do they

1 understand there's mitigating circumstances?

2 MS. NAIFY: That was certainly explained to them,
3 because I really advocated, personally, for the rules, and
4 explained them in detail to people. So certainly, every
5 discussion I had it was clear. And we discussed this quite
6 a lot at our committee and our board meetings, so we spent a
7 great deal of time on this issue, yes.

8 COMMISSIONER HARRIS: I think one of my concerns
9 is that people maybe didn't really understand as well is the
10 mitigation part. And really, I had asked the TOC to provide
11 me some examples, which I have not received, of somebody out
12 there that would, in fact, be fined -- somebody that would
13 be fined under these rules. And I don't know if there's
14 anybody out there, an owner -- is there an owner in your
15 organization, now, that has had three Class A penalties from
16 their horses?

17 MR. LAMOTHE: This is Guy Lamothe, Thoroughbred
18 Owners of California.

19 Yeah, thank you for that request you made, I think
20 we got it yesterday afternoon, so we'll need some time to
21 look at that.

22 COMMISSIONER HARRIS: Well, I mean, you should be
23 aware of that because that's the basis of your argument,
24 basically.

25 MR. LAMOTHE: Well, I'm concerned here that

1 there's a perception we're taking as we're recommending
2 rules, where we're taking a step back.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, you are.
4 You are, Guy.

5 COMMISSIONER HARRIS: Well, it's a step forward,
6 really.

7 MR. LAMOTHE: Wait, wait.

8 COMMISSION CHAIRPERSON SHAPIRO: Wait a minute.
9 You came to our meetings, you advocated this, you endorsed
10 this. Your letter was a reversal from what you had
11 previously stated, it is a step back.

12 MR. LAMOTHE: It's not a complete reversal. And I
13 believe there is a process up until this Board makes a vote
14 on it.

15 COMMISSION CHAIRPERSON SHAPIRO: No, no, that's
16 true.

17 MR. LAMOTHE: There is a public comment period.
18 There is the ability and perhaps shame on us, or other
19 people here, for not doing a full due diligence on this, but
20 we did undertake the task of looking at the other states.

21 But I was going to say I have this concern that
22 there's this perception we're taking a step back. As what
23 we're proposing here, and you want to -- and if we compare
24 that to these other states, first of all it's not a fair
25 comparison, it's apples and oranges. We would still be

1 significantly way ahead of any other major racing
2 jurisdiction.

3 Let me just give you a few examples. In New York,
4 on owners, it seems that the harshest penalty is that a
5 horse can be disqualified from a race and may lose the
6 purse. That's in New York.

7 In fact, I found conflicting rules there, and one
8 said the horse is automatically suspended, and in another
9 section of their code "may be suspended." So there's a
10 clear message for the industry out there.

11 Pennsylvania, there may be a fine and/or there may
12 be forfeiture of the purse. Okay.

13 Kentucky and Virginia are the only two states that
14 have adopted the RMTC guidelines. And looking at Kentucky,
15 in my opinion, it's a completely watered down version of it.
16 RMTC proposes penalties up to \$50,000. The maximum they're
17 offering there is \$5,000, okay, and that's not even a "shall
18 impose a fine," that's a maybe.

19 Not to mention in Kentucky, after adjudication has
20 been passed down, there is still the option to strike a deal
21 with the racing authority there to further lessen the
22 penalties.

23 So if we're looking at California here, we're way
24 ahead of the game, even with what we're proposing.

25 And I'd like to address another thing that

1 Dr. Arthur had mentioned, the RMTTC, meetings over the last
2 several years. That's true, but that's not as if at every
3 board meeting they have been discussing this issue. There
4 have been long lapsed times on this.

5 And from what I understand, that all the
6 participants there, who are developing these rules, there
7 was an understanding that everybody would move, locked in
8 step, arm in arm, and move these rules forward, okay, in an
9 effort to standardize nationally.

10 Well, the fact is that they're not, they haven't,
11 and we submitted that evidence to you.

12 So here we are. I think we're still making a
13 great stride forward by establishing these rules, and we
14 would challenge all these other states to step up.

15 Florida said, we're not even going to consider
16 penalties on owners until there's more testing and
17 guidelines on withdrawal times and threshold levels, which
18 could be three to five years away, okay.

19 COMMISSIONER HARRIS: Well, that's the reason we
20 want to move, we don't feel it's appropriate to wait for
21 some of these states that don't have the testing, and
22 guidelines, and everything that we have.

23 But I mean, certainly, a lot of it gets down to
24 sort of a theoretical argument that by doing this you're
25 going to keep owners away. Where I think some of us feel

1 that it really attracts owners.

2 It would be like saying -- I could certainly see,
3 that was one of the debates in the California Three Strikes
4 Law, that that was one of the purposes was to keep people
5 away. I mean, if we wanted to -- you know, hopefully, we
6 have fewer criminals coming to California because we have a
7 Three Strikes Law.

8 Now, hopefully, we would not -- a horseman would
9 want to come to California, thinking this is a well-policed,
10 fair, you know, tough, but fair kind of a medication rules.
11 So I just don't see where what we have here, for owners, is
12 at all draconian, because all of i's based on -- it's based
13 on mitigation and number of offenses.

14 I mean, this is not like a guy gets a high bute
15 one time, and the owner has some sanction. This is more of
16 a whole progress of things.

17 COMMISSION CHAIRPERSON SHAPIRO: If I can just
18 remind you, the language for this says, "in reaching a
19 decision on a penalty for violation of Business and
20 Professions Code," and it cites the Code, "the Board of
21 Stewards or the Hearing Officer shall consider the penalties
22 set forth in subsections (e) and (f) of this rule, including
23 aggravating and mitigating circumstances. Deviation from
24 these penalties is appropriate where the facts of a
25 particular case warrant such a deviation. For example,

1 there may be mitigating circumstances for which a lesser or
2 no penalty is appropriate."

3 Again, if you read these, where you're complaining
4 is that an owner, if something happens the first time, he's
5 not getting fined. The second time, he's not getting fined.
6 It's the third time.

7 And, again, there's latitude here to take into
8 consideration other issues that may be result in no fine.

9 COMMISSIONER AMERMAN: It seems to me that we are
10 taking a leadership position or trying to here. To compare
11 ourselves to other states is an interesting discussion, but
12 if we took that to the nth degree we would never make any
13 progress in this, because they'll say, well, see, California
14 has held back. It seems that we want to, in California,
15 have the most level playing field. We clearly have to have
16 communication to the owners that this is not draconian. If
17 you have a first offense, there's no issue. Second offense,
18 at least you've got on your guard if you've had the first
19 offense, so your second offense -- I think the question was
20 asked earlier, I think by Mr. Harris, who's sitting on the
21 bubble with the third offense in California? I don't think
22 there's anybody. I've never seen anything.

23 I think if California takes the step forward, it
24 does become the catalyst for other states to say, see, it's
25 done in California, we can do it in our state.

1 Now, that may be taking the moral high ground to
2 some degree, but I think somebody has to break the log jam,
3 and I think the steps here are not major, I think people can
4 live with this.

5 And so for those reasons I believe we should move
6 forward.

7 COMMISSION CHAIRPERSON SHAPIRO: All right.

8 MS. NAIFY: Well, I just want to say, you know,
9 we're here at the directive, representing our Board of
10 Directors, who voted for this, and we sent the letter in,
11 and we appreciate your consideration in this matter. Thank
12 you.

13 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
14 much. Mr. Lamothe, Guy, I have a comment card from you.
15 I'm assuming that that was your comment. Do you have
16 anything -- I don't need to call you for another comment,
17 I'm assuming.

18 MR. LAMOTHE: No.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay. Let me
20 just make sure. Ed Halpern, before you're up, Dr. Arthur.

21 MR. HALPERN: Ed Halpern, California Thoroughbred
22 Trainers. Can I ask your indulgence for ten seconds here, I
23 would just like to make a public apology.

24 (Bell starts ringing.)

25 COMMISSION CHAIRPERSON SHAPIRO: Oh, shoot, I did

1 that. That was it, you're done.

2 MR. HALPERN: Thank you, I appreciate your time.
3 Didn't want to make the apology, anyway.

4 (Laughter.)

5 MR. HALPERN: No, I actually do. Unfortunately, I
6 sent out an e-mail, a nasty, inappropriate, and untrue e-
7 mail that affected some current -- a current and some former
8 Board members, and more particularly Jack Liebau, and it was
9 inappropriate. And I did not intend it to be what it was
10 and I apologize to those people publicly. And I'm glad
11 that's on camera somewhere.

12 As to this issue, you know, last night I was
13 concerned about the fact that most, if not all, of the Board
14 members are owners. I've always actually been very grateful
15 for that, I thought it was a great change over the years. I
16 was concerned that on an issue like this it's very hard for
17 an owner, or a trainer, or anybody else to take themselves
18 out of the equation and not see it as a threat that they're
19 going to be fined.

20 I appreciate the attitude I've seen here, today,
21 that you've been able to take yourselves out of that
22 equation.

23 One of the reasons for pushing forward with the
24 regulation as is, regarding the TOC's concern, is that we
25 have learned from history that the loss of purse and the

1 other current rules are not enough to stop people from
2 either staying with trainers who have continual medical
3 problems or infractions, and it's not enough to stop people
4 from going to those trainers.

5 And this is a message that we, as an industry, do
6 not appreciate those kind of training techniques, that kind
7 of pushing the envelope that leads to these kind of
8 positives. And I think for that reason it's important.

9 I was most disappointed in the letter from the
10 TOC. I'm very proud of the work or the RMTC, and it's made
11 up of owners, and trainers, and regulators from around the
12 country who said it's time for owners to take responsibility
13 in our industry, just as they do in all other professional
14 sports leagues. The NFL, the NBA, the NBL, all fine owners,
15 for things that their players and their coaches do. It's
16 just a matter of responsibility.

17 The TOC has been calling for stiffer fines in
18 these guidelines for the past few months, and I'm reminded
19 by their current position, somewhat, of what would be a
20 Dunesbury cartoon. You would see in the first panel a bunch
21 of people with TOC t-shirts on, waving signs, and posting
22 banners saying bigger fines, more fairness, no more
23 cheaters. And then in the second and third panels you'd
24 probably see the same people hunched down, quietly
25 whispering to each other. And then in the last panel you

1 would see one of them stand up and then Gilda Radner Manners
2 say never mind.

3 (Laughter.)

4 MR. HALPERN: Because it applies to us.

5 COMMISSIONER AMERMAN: You missed your calling,
6 you should have been in cartoons.

7 (Laughter.)

8 MR. HALPERN: A lot of people think I am.

9 COMMISSIONER AMERMAN: Touche.

10 MR. HALPERN: And I don't want to spend much of
11 your time repeating what you've said, but it appears that
12 you do have the point. These are violations for A's and
13 B's, not for minor offenses, and that it's very rare in this
14 industry that we see A's and B's.

15 You can take trainers, like the Hollendorfers, the
16 Sherriffs, and the McAlleys, and the Van Bergs, and the
17 Hoffman's, and the Mandelas, who have had thousands of
18 horses over a combined hundreds of years of training, and
19 have never even seen one of these penalties.

20 So to think that there's a danger of an owner
21 seeing something like this three times is most improbable,
22 and if it is happening two times, and especially three, then
23 it's time to take responsibility.

24 And I would note, also, that for the Class B
25 violations it's three times within a year. How unlikely is

1 that?

2 And I would agree with what Commissioner Shapiro
3 and Harris had said that this puts California out in the
4 lead and I don't think it will scare owners away. I agree
5 wholeheartedly that what it says is it sends the message
6 that if you come to California you're going to get a fair
7 shake and they don't allow people to push the envelope or
8 cheat in California.

9 Thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I
11 have one more comment card, which is from Drew Couto. I
12 don't know if he chooses to speak? Is that a yea or a nay?

13 MR. COUTO: That's a nay.

14 COMMISSION CHAIRPERSON SHAPIRO: Now, having said
15 that, contained in the TOC letter, though, I thought there
16 was also, that I had seen, with respect to Section 1843.3,
17 which had to do with trainer suspensions. And as we've all
18 seen, Indiana took the lead, I believe, in adopting some
19 regulations with respect to if a trainer is suspended over
20 60 days, or something to that effect, that they can't
21 transfer those horses to, I'll put in quotes, "an affiliated
22 person."

23 And in their letter, the language that I saw was
24 recommendation that they be refrained from doing it anyway,
25 which to anyone that was in their employee, and could

1 profit.

2 And towards that end I think it would behoove us
3 to consider that we adopt a similar type of situation.
4 However, I would prefer to see that these rules that we're
5 looking at get adopted today and then perhaps we come back
6 and consider amending it to include a provision wherein that
7 we could expand upon that if a trainer does get a suspension
8 of 60 days or greater, that it requires them to basically
9 disband their barn, take their tack off the premises.

10 I don't know how everyone feels about that?

11 COMMISSIONER HARRIS: I think we need to move what
12 we have today and then maybe revisit some of this, and maybe
13 that's a way to get there, but I hate to bog down what's
14 here.

15 COMMISSION CHAIRPERSON SHAPIRO: No, I agree and
16 that's what I'm saying. I thought that was an interesting
17 point and worth consideration. I agree with you, I'd like
18 to see us move on what we have in front of us, but then I
19 would like to then come back and amending the rule to
20 include that at a future meeting.

21 COMMISSIONER AMERMAN: Or at least considering
22 that rule.

23 COMMISSION CHAIRPERSON SHAPIRO: Or considering,
24 correct.

25 COMMISSIONER HARRIS: Yeah, I think maybe we can

1 look at -- I'm not sure of the exact language, but maybe we
2 can look at other fields, maybe disbarred attorneys, or
3 doctors, or how other people deal with it.

4 COMMISSION CHAIRPERSON SHAPIRO: I'm not trying to
5 say that language, I'm just saying that I would like for us
6 to consider and consider doing something of that nature.

7 Now, you're here. Mr. Couto.

8 MR. COUTO: Drew Couto, Thoroughbred Owners of
9 California. I'd just like to point out to you that in your
10 materials, in the packet, the version of the rules that
11 appear, particularly beginning on page 4-29, includes the
12 amendment language or the suggested language from TOC. And
13 I think it continues on to 4-30. So you might want to
14 clarify what, in fact, is being approved.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay. You know
16 what, you're right, I was reading the wrong one. Never
17 mind, I take back everything I said.

18 MR. COUTO: Okay.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay. With that,
20 I would like to entertain a motion that we adopt these
21 rules. Is there a motion?

22 COMMISSIONER ANDREINI: I'll second that.

23 COMMISSIONER AMERMAN: Second.

24 COMMISSION CHAIRPERSON SHAPIRO: Two seconds. How
25 about making a motion to approve?

1 COMMISSIONER ANDREINI: I'll make the motion.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, I have a
3 motion, I have a second.

4 STAFF SERVICES MANAGER WAGNER: Just to be clear,
5 let's read into the record the rules that we are adopting.
6 We are adopting Rule 1843.3, which is the medication
7 violations rule, and we are also going to be adopting Rule
8 1843.2. 1843.2 deletes the reference to the seven
9 classifications of drugs that we are currently using and
10 references the new document, the CHRB drug classifications.
11 So we're amending two rules.

12 COMMISSION CHAIRPERSON SHAPIRO: That's correct,
13 we are adopting those two rules. We have a motion, we have
14 a second. All those in favor?

15 (Ayes.)

16 COMMISSION CHAIRPERSON SHAPIRO: Is there anybody
17 opposed? It passes unanimously.

18 Do we need to take a short break or can we keep
19 going?

20 COMMISSIONER HARRIS: Let's go until lunch.

21 COMMISSION CHAIRPERSON SHAPIRO: We'll keep going
22 then. Okay, Item Number 5 on the agenda is a report by
23 representatives of Magna Entertainment Corp on the progress
24 of the redevelopment of the barn area at Santa Anita Park.

25 And we have a representative of Magna here, I see

1 Mr. DiMarco.

2 So, Mr. DiMarco, how are those barns coming?

3 MR. DIMARCO: Mr. Chairman and members, there's a
4 representative here from Los Angeles Turf Club, which is the
5 licensee to conduct the horse racing meet.

6 We clearly understand the mandate that this Board
7 has given that we commence barn renovation this year. At
8 the last meeting we outlined what the problems were and how
9 we had to comply with the additional restrictions placed on
10 us by the Registrar of Historic Sites.

11 The expert that we had planned to engage to help
12 us through that process had to design the plan, declined the
13 assignment after she started because she was the historic
14 consultant for the City of Arcadia and felt there was a
15 conflict of interest.

16 Last Tuesday, the City of Arcadia approved the
17 design of the Caruso project, the shops at Santa Anita,
18 which are going to be built in our parking lot. With the
19 footprint of that development now finally determined and
20 finalized, we can see exactly what the reconfiguration of
21 gate eight, coming off of Baldwin, will be, and the
22 reconfiguration of Marine Road around the barns will be.

23 So now, for the first time, we can actually see
24 what the area is going to look like, and we can see which
25 barns are affected, which are not, which barns we can now

1 remove and rebuild. Until now we had no definitive plan as
2 to which barns to move and which ones we couldn't move.
3 We're now going to be preparing that plan and we'll keep you
4 advised of what we're doing.

5 All I can say is that, as Mr. Harris said to one
6 of the other speakers this morning, we're smart enough to
7 know what we have to do and we're smart enough to get it
8 done. That's about where we are.

9 COMMISSION CHAIRPERSON SHAPIRO: Could you provide
10 to us a timeline, now that you have this date and you know,
11 or you've gotten this approval and you now know what the
12 site plan looks like, can you provide maybe a Gant chart?

13 MR. DIMARCO: Yes, we can prepare that. I can
14 prepare that and get it to the Board within a week.

15 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I think if
16 we could see a Gant chart, which shows, basically, where you
17 are, when milestones will be hit, and when we can expect
18 that you're actually going to commence redevelopment of the
19 barn area, or portions of it, and at the same time also
20 describe to us how you'll be able to accommodate horses and
21 not interfere with stabling matters, and personnel, and so
22 forth. I think that would probably be helpful to this
23 Board.

24 MR. DIMARCO: Yes, we can do that.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, and when do

1 you expect that you'll be able to give us such a chart?

2 MR. DIMARCO: Within a week.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, I'll tell
4 you what, how about before our next Board meeting?

5 MR. DIMARCO: Oh, well in advance of the Board
6 meeting. Okay, I can do that.

7 COMMISSION CHAIRPERSON SHAPIRO: All right,
8 terrific. Does anybody have any other questions on this?

9 If not, Mr. DiMarco --

10 COMMISSIONER MOSS: Yeah, when is this going to be
11 exactly? So just to bring it back into perspective, what
12 actually is going to take place?

13 MR. DIMARCO: We're going to tear down and rebuild
14 ten barns, to start.

15 COMMISSION CHAIRPERSON SHAPIRO: And you're going
16 to continue thereafter to go through until they're all
17 rebuilt?

18 MR. DIMARCO: That's the plan.

19 COMMISSIONER HARRIS: I'm not clear, is there also
20 going to be some barns at a different location or is the
21 barn area going to remain basically where it is?

22 MR. DIMARCO: No, I think as far as we know, now,
23 it will be in the same location. See, there's going to be
24 some cutting into the Santa Anita easement property and some
25 of those barns are going to have to be torn down because of

1 the way the roads are going to configure. We're going to
2 get all that done, first. But as for the future
3 development, we'll proceed as best we can. We want to start
4 is what we want to do.

5 COMMISSIONER MOSS: So you want to start on ten
6 barns. What happens to the rest of the barns, do they get
7 altered in any way?

8 MR. DIMARCO: Eventually, I think they will.

9 COMMISSIONER HARRIS: Those ten barns would be big
10 barns, I presume. How many stalls would each barn have?

11 MR. DIMARCO: I don't remember.

12 COMMISSIONER MOSS: I'm just noticing, in some
13 barns the roof line is so low that the horses have to be
14 conditioned to almost bend down to get inside the barn.

15 MR. DIMARCO: Well, I think the ten that we're
16 going to rebuild immediately will be kind of prototypes, it
17 will be substantially different than the ones we've got, at
18 least they will be a more modern design.

19 COMMISSIONER MOSS: Right, but the ones that still
20 have that roof problem, we'll call it, will keep on existing
21 as they are, I guess.

22 MR. DIMARCO: Until we can proceed to modify and
23 rebuild each one.

24 COMMISSIONER MOSS: Right.

25 COMMISSIONER HARRIS: I mean, just the -- I'm not

1 clear, if you build the ten what capacity will that
2 represent, like 40 percent, or 50 percent, or what?

3 COMMISSION CHAIRPERSON SHAPIRO: Well, that's
4 probably 450 stalls. Are they 45 stall?

5 COMMISSIONER HARRIS: Well, they could be a
6 hundred stalls or something.

7 COMMISSION CHAIRPERSON SHAPIRO: Well, you're
8 right, they are going to be building more and bigger. Fewer
9 barns, but bigger.

10 It's my understanding, from what I was told, was
11 that the prototype was the barns that are at Palm Meadows.

12 MR. DIMARCO: That's the plan.

13 COMMISSION CHAIRPERSON SHAPIRO: Perhaps what you
14 could do is provide, to the Board, some elevations of those
15 barns, since I'm sure they are in existence, and show what
16 the barns look like, what the heighth is, how many stalls,
17 and tack rooms, and so forth are in those barns.

18 But what I had been told by Mr. Stronich was that
19 they were basically going to be using the same barns that
20 were at Palm Meadows, and I believe those were like 60-stall
21 barns.

22 COMMISSIONER HARRIS: So it's got to be 600. But,
23 basically, my concern is that we're talking about less than
24 half of their existing stalls are going to be replaced.

25 COMMISSION CHAIRPERSON SHAPIRO: Right. And the

1 other thing is when the barn area is rebuilt, will you be
2 expanding or lessening the number of stalls that are at
3 Santa Anita, do you know?

4 MR. DIMARCO: I don't remember.

5 COMMISSION CHAIRPERSON SHAPIRO: Perhaps, again,
6 in this -- oh, Mr. Charles is here. You don't need to fill
7 one out. Is Mr. Charles -- maybe Mr. Charles could answer
8 the question. Oh, look, there he is.

9 MR. CHARLES: In the nick of time. Ron Charles.

10 COMMISSION CHAIRPERSON SHAPIRO: But I will turn
11 the time thing on because you tend to talk a lot.

12 (Laughter.)

13 MR. CHARLES: Okay, the question?

14 COMMISSION CHAIRPERSON SHAPIRO: The question is
15 of the barns that are going to be built at Santa Anita, and
16 it's my understanding that they're similar to the barns that
17 currently exist at Palm Meadows, do you know how many stalls
18 are in each of those barns?

19 MR. CHARLES: They can be made at any length that
20 they want. I think what they're looking at is about 45
21 stalls per barn. Roughly, we have 1,900 stalls right now.

22 COMMISSION CHAIRPERSON SHAPIRO: And is the plan
23 that when the barn area is rebuilt that there will still be
24 1,900 stalls at Santa Anita?

25 MR. CHARLES: I think we may look a couple of

1 barns, so it's possible that we could be down to 1,700. But
2 we're looking at other ways, in other areas that we might be
3 able to replace those.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay, so the goal
5 is to maintain the current level of barns?

6 MR. CHARLES: As close as possible.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. And is
8 there any provision -- I mean, I'm assuming this is going to
9 be a multi-year project?

10 MR. CHARLES: It will be. I think we've talked
11 about a three- to four-year period of finishing all state of
12 the art, probably, you know, the nicest stalls that are in
13 racing.

14 COMMISSION CHAIRPERSON SHAPIRO: So is there any
15 way, at the same time, to address Commissioner Moss's
16 concern that with the very low roofline, you know, if a
17 horse rears, he gets banged in the head. Is there not a
18 way, perhaps, to cut the roofline back where as you enter
19 the barn, to create a higher gap to where -- because that's
20 where the problem really is.

21 MR. CHARLES: Right, and it's been that way for a
22 long time. And what I've talked to, and we'll go back to
23 our carpenters and see exactly what we can do, in the
24 interim, to get by so that it would be something that would
25 accommodate the horses better than what we're doing now. It

1 would be more or less a patchwork type of a thing. It
2 wouldn't be, certainly, anything permanent because sticking
3 a lot of money into those 70 old barns doesn't make a lot of
4 sense.

5 However, the safety issue does. And so I can tell
6 you we will talk to the carpenters and see what we can do to
7 accommodate that.

8 COMMISSIONER AMERMAN: I've never visited Palm
9 Meadows, do you have that issue at Palm Meadows?

10 MR. CHARLES: No, not at all.

11 COMMISSIONER AMERMAN: Well, then I assume we
12 won't have that issue at Santa Anita.

13 MR. CHARLES: Absolutely not. What you'll see at
14 Santa Anita are absolutely state-of-the-art barns that don't
15 really -- that aren't at any other race track.

16 COMMISSION CHAIRPERSON SHAPIRO: Yeah, the barns
17 there are open, they're airy, they have a high Q, they're
18 terrific. You won't have that problem because I did see
19 them and they are terrific barns.

20 COMMISSIONER AMERMAN: This is most refreshing,
21 this discussion, no question about it. And I will wait for
22 a week to see your charts and so forth. But any idea when
23 we can start?

24 MR. CHARLES: I think that's what we want to get
25 back to you with within the next week or two and give you,

1 hopefully, a little more definitive answer on that, rather
2 than speculating right now.

3 COMMISSIONER AMERMAN: Because I think this is
4 great news for the industry.

5 COMMISSIONER MORETTI: Could you include a picture
6 of Palm Meadows?

7 MR. DIMARCO: That's a good idea, we can do that.

8 MR. CHARLES: Yeah, we absolutely can. And
9 they'll be a little bit different simply because of the
10 weather, we need to protect our horses out here a little bit
11 more because it does get colder here. But what you're going
12 to see, believe me, the industry's really going to like.

13 COMMISSIONER HARRIS: I think we just need to have
14 a timeline, because we've been talking about it for a long
15 time, just when the first stalls will get built and when the
16 last stalls will be built.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, that's why
18 when I said a Gant chart, you know, a Gant chart has those
19 milestones that delineate all those things. I know you
20 farmers don't get that.

21 COMMISSIONER HARRIS: Is that a kind of a shirt?

22 COMMISSION CHAIRPERSON SHAPIRO: I know that's a
23 dress shirt for you but, no.

24 Thank you very much, appreciate it.

25 MR. DIMARCO: Thank you.

1 COMMISSION CHAIRPERSON SHAPIRO: Oh, I have a
2 comment card. Mr. Jamgotchian, would you like to weigh in
3 on the barn area at Santa Anita?

4 MR. JAMGOTCHIAN: Yes, I would, Mr. Chairman. You
5 know, before I get into that, I wanted to say something.
6 It's not an apology, it's just that I wanted to serve on the
7 CHRB two lawsuits, BS-108275 --

8 COMMISSION CHAIRPERSON SHAPIRO: Excuse me, excuse
9 me.

10 MR. JAMGOTCHIAN: And BC-368571.

11 COMMISSION CHAIRPERSON SHAPIRO: Stop, stop, stop.
12 I appreciate you want to do what you want to do, but this
13 item is to talk about the barn area at Santa Anita. Is
14 there something you want to talk about the barn area?

15 MR. JAMGOTCHIAN: Absolutely.

16 COMMISSION CHAIRPERSON SHAPIRO: Great, let's talk
17 barns.

18 MR. JAMGOTCHIAN: I mean, if Mr. Halpern can come
19 up and apologize, I can serve you, too.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, what would
21 you like to say about the barn area at Santa Anita?

22 MR. JAMGOTCHIAN: Okay, with the regards to the
23 barn area at Santa Anita, it's interesting that you
24 continue, and the Board continues to give Santa Anita
25 multiple extensions, free passes with regards to these stall

1 areas, which I've been hearing about for years. And I
2 support their redevelopment plans and, obviously, being a
3 shopping center developer, I know that things are fluid with
4 that shopping center and they should do it right, and I
5 think that's what they'll do.

6 But it's interesting to me that this Board allows
7 this thing to continue, and continue, and continue. It
8 affects the lives of the horses, it affects the lives of the
9 people that live in the back stretch. The rats are pretty
10 busy back there, as we all know.

11 But you guys give them all these free passes, but
12 when it comes to Hollywood Park and Bay Meadows, there's no
13 free passes given. You just eliminate 600 jobs and
14 eliminate racing in Northern California.

15 I think you ought to consider your position when
16 it comes to Santa Anita and Hollywood Park, and not give
17 such a gentle hand to Santa Anita, or at least be fair with
18 these two race tracks. Because what you did to Bay Meadows
19 at the last meeting was unconscionable.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, Mr.
21 Jamgotchian, Mr. Jamgotchian, first of all you're way off
22 the subject here. We're talking about the barn area at
23 Santa Anita.

24 Further, this Board has already made its feelings
25 very well known with respect to its desire and, in fact, its

1 demand to see this barn area redone. And that's what this
2 agenda item is about.

3 MR. JAMGOTCHIAN: I'm not saying that, I'm saying
4 that --

5 COMMISSION CHAIRPERSON SHAPIRO: And if you agree
6 that to see the barn area redone, if you, as a shopping
7 center developer, can find a way for them to expedite it, I
8 would hope that you will share that information with them,
9 because we'd like to see it done as soon as possible.

10 MR. JAMGOTCHIAN: And Mr. Charles and Santa Anita
11 can certainly handle their own business very properly. What
12 I was saying is the multiple extensions that this Board
13 gives Santa Anita, and the terrible treatment that it gives
14 Hollywood Park is what I was acknowledging.

15 If you want to be that way, Mr. Shapiro, members
16 of the Board, that's great, you certainly have that ability.
17 But I'm just saying, from a casual observer, it seems to me
18 that they're not equal in the handling by the CHRB.

19 Thank you, there are your lawsuits.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. Okay,
21 moving on. Item Number 6, discussion and action by the
22 Board on the proposed amendment of CHRB Rule 1486, terms of
23 license to add "backstretch event personnel" to the class of
24 licenses whose term is one year.

25 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,

1 CHRB staff. This is a pretty simple proposal and it is in
2 response to the Board's adoption, at its February meeting,
3 to add the class of "backstretch event personnel."

4 This proposal to amend Rule 1486 will simply add
5 that classification to those class of licenses that expire,
6 whose term is one year, and we are asking that the board
7 direct us to initiate the 45-day comment period. It's very
8 simple.

9 COMMISSION CHAIRPERSON SHAPIRO: Thank you. This
10 item has been on our agenda before, we talked about it. And
11 just to refresh my recollection, and perhaps others, I
12 believe we were adopting this so that it would be a short-
13 term license, which is one year.

14 STAFF SERVICES MANAGER WAGNER: Correct.

15 COMMISSION CHAIRPERSON SHAPIRO: And I thought
16 that Mr. Wyatt, from Hollywood Park, and Mr. Charles, from
17 Santa Anita were going to get together and work out exactly
18 how this would work, and who would hold these licenses as
19 well. Was that done?

20 STAFF SERVICES MANAGER WAGNER: That is going to
21 come before the Board with that procedure next month. I
22 have been in contact with Mr. Charles and Mr. Wyatt.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, why are we
24 hearing it now, then, if we're not ready to deal with how
25 its exactly going to work?

1 STAFF SERVICES MANAGER WAGNER: Because this
2 particular rule will only add the term to one year. This
3 license is a one-year license. In terms of the procedure,
4 how we're going to handle it, that's going to be discussed
5 at another time. We just want to set the term for one year.

6 COMMISSION CHAIRPERSON SHAPIRO: Well --

7 EXECUTIVE DIRECTOR FERMIN: Their discussion was
8 going to be about training and about who was going to hold
9 the licenses, and what the procedure was going to be, that
10 was my understanding. And this is simply that it would be a
11 short-term license that they would receive. In other words,
12 they would not be getting a three-year or whatever.

13 COMMISSION CHAIRPERSON SHAPIRO: Look, I'm fine
14 with going forward with it, but I'd rather hear it all at
15 one time and understand how it's going to work before we
16 establish a license category.

17 STAFF SERVICES MANAGER WAGNER: The
18 license --

19 COMMISSION CHAIRPERSON SHAPIRO: I just would
20 think we're doing it kind of in a disjointed manner.

21 STAFF SERVICES MANAGER WAGNER: Well, we can
22 certainly put it over and present this proposal again, next
23 month. However, the license classification has been
24 established. This rule will simply add to the Board's rules
25 that this license classification is a one-year license,

1 period.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay.

3 EXECUTIVE DIRECTOR FERMIN: Yeah, it doesn't say
4 anything about how it's going to be handled, and that's what
5 we're supposed to hear next month, from what I understand.

6 COMMISSION CHAIRPERSON SHAPIRO: If it's okay with
7 the other Board members, I'd rather put it over until we can
8 have a comprehensive understanding of exactly what this
9 classification is going to do, how it's going to be handled,
10 rather than we adopt a category and then come back and
11 figure out how it works. If that's okay with everybody?

12 COMMISSIONER MORETTI: I was under the same
13 understanding, it's that we were going to have -- I
14 understand what you're saying, too, but it makes more sense
15 to me to have it put over.

16 STAFF SERVICES MANAGER WAGNER: Not a problem,
17 we'll just put it over until next month.

18 COMMISSION CHAIRPERSON SHAPIRO: All right, then
19 let's put this one over.

20 Item Number 7, discussion and action by the Board
21 on the proposed amendment of CHRB Rules 1978, Select Four,
22 to provide other alternatives instead of substituting the
23 off-time favorite for a horse scratched from any leg of the
24 Select Four.

25 What's the difference between a Select Four and

1 Pick Four?

2 MR. MARTIN: It's the same thing, Mr. Chairman.
3 This is Mike Martin, of the California Horse Racing Board
4 staff. And just whenever that rule was created they called
5 it the Select Four, but it's what we commonly refer to as
6 the Pick Four.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay.

8 MR. MARTIN: And the issue here -- did you want
9 to --

10 STAFF SERVICES MANAGER WAGNER: No.

11 MR. MARTIN: Okay. The issue here is how we
12 compensate bettors, who have a horse scratched in a wager, a
13 multiple race wager. And the NTRA created the Player's
14 Panel to analyze many issues in the horse racing industry,
15 and among their recommendations was to change the Pick Three
16 and the Pick Four so that bettors are not automatically
17 transferred to the race favorite when their horse scratches,
18 that's the way the rules were written.

19 And the Player's Panel, which is public
20 handicappers, and other experts, felt that that's unfair to
21 bettors who don't want the favorite. If they wanted the
22 favorite, they would have used it.

23 And they pointed to the Daily Double, which
24 precedes all of these other multiple race wagers as a more
25 appropriate compensation, where if it occurs before the

1 first leg, before the event, before the wager's triggered,
2 it's just a refund. And if it occurs after the first leg,
3 there's a consolation pool. And they just want the same
4 thing to happen in the Pick Three and the Pick Four, that's
5 the recommendation.

6 This Board, many years ago, led by former Chairman
7 Nicola, recognized the unfairness of the transferring the
8 wager from the scratch horse to the favorite, when this
9 Board instructed Auto Tote to create the programming to
10 offer alternate selections, where the bettor fills out a
11 card and designates a horse to replace the scratched horse.
12 That was because even back then, some ten years ago, we
13 wanted to give them an alternative to the favorite.

14 And, unfortunately, the program doesn't allow for
15 alternate selections in the Pick Three, for reasons I've
16 never understood, it's just for Pick Four and above.

17 And when the Player's Panel recommendation came to
18 the Board, here, the decision was let's just go with the
19 Pick Three because they don't have alternate selections, and
20 that's been in place for over a year.

21 And the only problem that we know about with that
22 is that people still don't know that the rule changed, and
23 we do get e-mails from people saying I thought I had the
24 favorite, and I didn't get paid as much as them because
25 there's this other pool. And we have to explain it. And

1 probably, another problem is that they don't know that their
2 ticket might have value, even if the favorite loses. And we
3 assume that there are some tickets being thrown away.

4 We've asked the tracks to better publicize to the
5 public. We've issued news releases and we've asked the
6 track to better publicize this change that occurred over a
7 year ago, and if you go forward with this Pick Four change,
8 we'd ask the tracks to put something in the program.

9 COMMISSION CHAIRPERSON SHAPIRO: Couldn't they put
10 some kind of a sticker or something, at each one of the
11 wagering windows, that says you can have an alternate
12 selection?

13 MR. MARTIN: Well, you can have an alternate
14 selection and, if your horse is scratched, you don't have
15 the favorite, your ticket may have value. I mean, anything
16 they would do would be appreciated. Because I know for a
17 fact that there are people, today, who still don't know
18 that. And if we're going to even further and adopt the Pick
19 Four, we'd really want people to know that.

20 COMMISSIONER HARRIS: So really what we're doing,
21 though, you can have an alternate selection, or absent doing
22 that, you'd have really an alternate pool, where you've got
23 a different pool, where if you won three of the four you're
24 going to win, but it might not be as big of a payoff as if
25 you had all four.

1 MR. MARTIN: I never heard of a consolation pool
2 being larger than the other one, so it would be a lesser
3 payoff, yes. But you have it correct, yes.

4 And because the alternate language is contained in
5 a different rule than the Select Four, it was decided way
6 back when, when we put the alternate language in, they put
7 it in what they called the Pick End Rule, which covers Pick
8 Four, Pick Five, Pick Nine. But it was never changed, the
9 Select Four rule was never changed for alternates.

10 And the tracks, in order to get the alternate
11 selection, in their license app. are saying we'll use the
12 Pick N for our Pick Four. And now that we're specifically
13 changing the Select Four, we need to go ahead and change
14 that alternate language in that. That's just sort of a
15 housekeeping thing we have to do.

16 COMMISSIONER HARRIS: One thing we should do, if
17 we're going to put this out for comment, let's change it to
18 Pick Four versus Select Four, so people are on the same page
19 as what we're talking about.

20 COMMISSION CHAIRPERSON SHAPIRO: All right, does
21 anybody have any objection to moving forward to do this? If
22 there isn't any, I would propose that we move forward to do
23 this.

24 COMMISSIONER HARRIS: One thing I think we do
25 need, if we do something like this, and I'll second the

1 motion, is that we need to make sure that the race players
2 understand what we're doing, and buy into it, and have
3 opportunity to comment. We don't just put it out there and
4 nobody really knows about it, and then all of the sudden it
5 comes along that the tracks put it in their program that
6 this is the proposal, or something, or get the Racing Forum
7 to write about it. It's kind of a complicated issue but,
8 usually, these things come back and haunt us at some point.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, I've
10 made a motion you've seconded it.

11 All in favor?

12 (Ayes.)

13 COMMISSION CHAIRPERSON SHAPIRO: All in favor, it
14 passes.

15 All right, we will now move on to Item Number 8.
16 Discussion and action by the Board on the proposed addition
17 of Article 10.5, mule racing, to provide an article unique
18 to mule racing. CHRB Rule 1747, mule racing rules, to
19 specify that mule races must adhere to rule races in
20 general, but rules unique to mules will be placed under
21 Article 10.5 and CHRB Rule 1748, shoeing mules, to provide
22 that mules may run unshod.

23 I'm looking forward to this discussion.

24 (Laughter.)

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, because I

1 don't know anything about mules.

2 STAFF SERVICES MANAGER WAGNER: Well, that's
3 great, because we do have a representative from the Mule
4 Racing Association. Jackie Wagner, CHRB staff.

5 The American Mule Racing Association is the
6 recognized breed registry for our mules and they recently
7 amended their professional AMRA racing rules. And they
8 amended, among those recommendations, was a rule that would
9 allow mules to run, to race without shoes, so they're racing
10 unshod.

11 This is in contrary to our Board rule, which is
12 1853, which requires that no horse shall be eligible to
13 start in a race if it is found to be improperly shod.

14 In response to the amendment of the AMRA rules, we
15 were contacted by them, and they were asking for an
16 amendment or, excuse me, a waiver to our Board Rule 1853.

17 In response to that, staff has looked at our Board
18 rules and we recognize that we do have rules that are unique
19 to harness on our rule book. We do have rules that are
20 unique to quarter horse racing. However, we do not
21 currently have a section of our rules that are unique to
22 mule racing. And mule racing, they do have some things that
23 are a little different.

24 And in response to that, we are proposing the
25 addition of an article, which would be 10.5, which will

1 address our mule racing rules. Contained in that article,
2 thus far, we are proposing to add Rule 1747, which will
3 simply make it clear that the mule rules must adhere to our
4 Board regulations in general. But if there's a condition
5 that is specific to mule racing, it will be contained in
6 that particular article.

7 In addition, to address the immediate
8 recommendation from the AMRA, we are proposing an addition
9 of Rule 1748, which is shoeing mules, which would allow
10 mules to run unshod. They will be running barefoot.

11 We do have a representative from the Mule Racing
12 Organization. This is Roda Marsh, and she is available to
13 answer any questions you may have. Staff would recommend
14 that you instruct staff to initiate the 45-day comment
15 period.

16 COMMISSION CHAIRPERSON SHAPIRO: All right, before
17 we instruct staff, could we ask the representative of the
18 American Mule Racing Association --

19 MS. MARSH: Correct.

20 COMMISSION CHAIRPERSON SHAPIRO: Did I get it
21 right?

22 MS. MARSH: Yeah.

23 COMMISSION CHAIRPERSON SHAPIRO: All right, so I
24 have to ask, what happens when you try to shoe mules? When
25 I read the information, what do they do?

1 MS. MARSH: Well, they tend to take their feet
2 away from the shoer and follow up with a little bit more
3 vigorous refusal.

4 COMMISSION CHAIRPERSON SHAPIRO: Like both of them
5 kicking at them and --

6 MS. MARSH: One or more. One or both.

7 COMMISSIONER HARRIS: It's a --

8 COMMISSION CHAIRPERSON SHAPIRO: I hope your mike
9 wasn't open.

10 (Laughter.)

11 COMMISSION CHAIRPERSON SHAPIRO: Where's that
12 button, turn him off.

13 So okay, what percentage of mules -- I mean, are
14 they all now racing shod, per our rules?

15 MS. MARSH: Excuse me?

16 COMMISSION CHAIRPERSON SHAPIRO: Are all the mules
17 that are currently racing, are they all racing shod, per our
18 rules?

19 MS. MARSH: Not always.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 MS. MARSH: We have -- perhaps I better back up
22 and identify myself. Roda Marsh.

23 COMMISSION CHAIRPERSON SHAPIRO: Please do. I'm
24 sorry.

25 MS. MARSH: Yes, Chairman Shapiro and

1 Commissioners, that's why I'm here is to answer all of your
2 questions.

3 COMMISSION CHAIRPERSON SHAPIRO: Will you state
4 your name and --

5 MS. MARSH: Excuse me?

6 COMMISSION CHAIRPERSON SHAPIRO: Will you state
7 your name -- or did she state it? Sorry, I didn't hear her.

8 MS. MARSH: Yes, and mules are improving in their
9 behavior considerably from where we began, and there are
10 some mules that are not a difficult animal to deal with, but
11 there are some who are. And we have a very limited number
12 of shoers available, some of whom won't come near a mule
13 without heavy sedation. And even then, good luck.

14 (Laughter.)

15 MS. MARSH: I think it would help if the shoer
16 were sedated as well. Some carry theirs with them in the
17 back of the truck.

18 Dr. Arthur probably won't disagree with me on the
19 fact that in some cases mules tend to have different
20 withdrawal times on drugs, and given that, if a mule needs
21 sedation, and quite a few of them do for shoeing, and if a
22 race comes up suddenly, the racing secretary calls and says,
23 oh, we need to put a race together, can you give us a race
24 if we write an extra, this mule has just been sedated for
25 shoeing because he had a race coming up, does not want to

1 take the chance on withdrawal so they can't enter.

2 We're just about attempting to have as many
3 animals in races as we can, no late scratches because a mule
4 has lost their shoes and no shoer's going to touch them, or
5 there's no time for sedation and provide for withdrawal
6 times.

7 COMMISSION CHAIRPERSON SHAPIRO: So would it be
8 better if there was a rule that -- I mean, my concern is
9 some with shoes and some without. Would it not be better to
10 say they either all race barefoot or --

11 COMMISSIONER HARRIS: No.

12 MS. MARSH: No. Really, as time goes on, this
13 probably will be less of an issue. But at the present time
14 what we feel is that in order to allow for more entries,
15 late entries, let's say a late extra, allow for animals
16 which have lost shoes and now that are already in a race,
17 and no shoer can be found that will work on them, we can
18 provide for this information to the public by saying -- by
19 either printing it in the program, or if it's a late case,
20 announce to the public this animal races with no shoes.

21 To avoid any perception of a trainer changing
22 their equipment to suite themselves to affect the outcome of
23 a race.

24 There are so few races available, so few mules
25 available, no one wants to give away any edges, they would

1 only do this as a necessity, and it would be in front of the
2 public.

3 Those things being said, I'd like to also comment
4 that mule feet are extremely tough, and there are many mules
5 that never wear a shoe in their entire lives. They just
6 simply don't need them, they have feet like iron. They
7 don't have the same breakage issues that we do with the
8 thoroughbreds, and quarter horses, and other breeds of
9 equine. So it's not a handicap to the mule.

10 Getting back, also, to the issue of the shoers,
11 there are so -- these mules have tiny feet. Since most of
12 you are horse owners, you would recognize foot size.
13 Traditionally, a mule might wear a size three shoe. Good
14 luck having --

15 COMMISSION CHAIRPERSON SHAPIRO: And what is a
16 typical shoe size for a thoroughbred?

17 MS. MARSH: Oh, a five, six. And good luck
18 finding a shoer that even has size three shoes at the last
19 minute, even assuming that your mule has no particular
20 behavior problems.

21 But at any rate, we would just like the option of
22 some of the mules that are extremely difficult to be able to
23 run barefoot with this announcement. And if they're entered
24 barefoot, it would be on the entry, like an equipment,
25 blinkers.

1 COMMISSIONER HARRIS: You know, I don't see where
2 it's a problem at all. As I read the rule, you might not
3 even need a rule change, because the rule says "they cannot
4 be improperly shod." If they're not shod at all, they're
5 not improperly shod, they're just not shod.

6 So, I mean, unless there's some evidence that
7 running a mule absent shoes will dramatically change its
8 performance and cheat the public or something, it seems like
9 you should do it. But actually, I question if we really
10 should have to have horses, and thoroughbreds, or quarters,
11 or whatever shod, if a person didn't want to.

12 MS. MARSH: I absolutely agree with that. But as
13 breed rep, I spend a lot of time in the steward's office
14 attempting to try to smooth things over for trainers that
15 were having difficulties of this nature, and attempted to
16 remind them of issues in years gone by and, unfortunately,
17 most of those years were so far gone by in my memory that
18 the current stewards were not aware of any of these things.

19 There have been horses that have run barefoot
20 successfully.

21 COMMISSIONER HARRIS: Yeah, I think a
22 certain -- I've heard of that, that they've had some, not in
23 races, that will train better unshod, than shod.

24 MS. MARSH: Exactly. Exactly. However, we --

25 COMMISSIONER HARRIS: But so maybe we need to look

1 at the whole rule.

2 MS. MARSH: But we have horseshoers who have got
3 very -- inspectors, I should say, horseshoe inspectors, who
4 would be very concerned about it, and then they see a mule
5 come up with no shoes, and they'd be on the phone to the
6 stewards, who then were on the phone to the trainer, who was
7 then on the phone to me. And we would have these
8 conversations with great regularity, particularly from fair
9 to fair when we'd have changes of stewards.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, I think I
11 understand the issue. My only concern is, is there some
12 competitive difference between a horse -- a horse -- a mule
13 that races with shoes and not shoes?

14 MS. MARSH: I understand that.

15 COMMISSION CHAIRPERSON SHAPIRO: Frankly, that's
16 the only thing that concerns me.

17 COMMISSIONER HARRIS: I don't think there is.

18 MS. MARSH: I can only give you one example that I
19 know a lot about, and that was a mule back several years
20 ago, when I was training some mules, we sold a mule to
21 another party, when an owner was in ill health. This mule
22 was in someone else's hands for a while. She came back to
23 run, after having been used on a cattle ranch, barefoot, and
24 they entered her in a race and she ran the fastest race of
25 her life. So, I mean, it didn't handicap her and I wouldn't

1 say it helped her, it's just she ran a very good race. So
2 it certainly didn't -- it was no detriment.

3 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
4 thank you very much. If anybody doesn't have any other
5 questions --

6 COMMISSIONER HARRIS: Yeah, I'll move we initiate
7 the comment period. Although I would also like to stipulate
8 that it may well be that the current one we have does not
9 prohibit the use of -- the non-use of shoes.

10 COMMISSION CHAIRPERSON SHAPIRO: I'll second that
11 and I'll ask, perhaps, that our Deputy Attorney General
12 could tell us whether or not we need such a rule. And if
13 you feel that -- if we could get simply an opinion from you
14 that interprets the rule, as Commissioner thinks it is, then
15 we wouldn't have to do it, and you would have something that
16 said, look, we don't have to shoe them, you know.

17 MS. MARSH: That we could take to the stewards at
18 each individual fair, yes.

19 COMMISSION CHAIRPERSON SHAPIRO: Right, right.
20 But why don't we initiate the comment period, we'll go down
21 dual tracks. And if our esteemed attorney says you don't
22 need to do this, and we believe that the rules provide it
23 already, and can give you a letter, you can walk in and say,
24 see, we don't have to do this.

25 MS. MARSH: That would be satisfactory, yes.

1 COMMISSION CHAIRPERSON SHAPIRO: All right, so we
2 have a first and a second -- a motion and a second. All in
3 favor?

4 (Ayes.)

5 MS. MARSH: Thank you.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Is
7 Mike Ruby still racing?

8 MS. MARSH: She will probably race one time this
9 year and one time next year, just so she can go down in the
10 record book as having raced every year that she can race.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, good.
12 Commissioner Harris just said sounds like my kind of a
13 horse. Thank you.

14 (Laughter.)

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
16 much. Okay. Item Number 9, report from the CHRB Equine
17 Medical Director on the current protocols for horses injured
18 at California race tracks.

19 This item was placed on the agenda to try to make
20 sure that there were protocols. There was an incident at
21 Santa Anita this year, that was unfortunate, and somewhat
22 confusing about whether vets could come onto the track to
23 treat a horse that had gone down for heat exhaustion, and
24 when the ambulance comes out and so forth. And we thought
25 it would be good to just review what the protocols are, so

1 that we make sure that all the tracks are aware of it, and
2 make sure we're doing all we can to protect our horses.

3 So Dr. Arthur, if you'll address this.

4 EQUINE MEDICAL DIRECTOR ARTHUR: Thank you, Mr.
5 Chairman. I'm Dr. Arthur, the Equine Medical Director.

6 The fact is there are really no written protocols
7 dealing with this, anywhere in existence. The situation at
8 Santa Anita was because of a change in track veterinarians,
9 which oftentimes determine how horses are handled. We do,
10 actually in California, have an excellent system in spite of
11 that. We have six Kimzey ambulances in the State, which are
12 state-of-the-art ambulances that I know at least three of
13 which were provided from donations from Oak Tree Racing
14 Association.

15 We have capabilities to anesthetize horses on the
16 tracks, on most of our tracks, but not all of them. We
17 typically chase the field with our veterinarians, similar to
18 the human ambulance in California, on most of our race
19 tracks, as well.

20 But in terms of specific protocols, there are no
21 specific protocols to deal with a situation that's written,
22 that is not dependent on who the track veterinarian is. And
23 we've certainly had some problems at Santa Anita because of
24 some of the health problems of Dr. Butchenbach, and had to
25 have people to fill in, that didn't quite understand what

1 those protocols were.

2 I think most of those have been squared away.
3 Certainly, in Southern California they don't appear to have
4 a significant problem.

5 In Northern California, except at Cal Expo, where
6 they apparently had an incident where the old the horse
7 trailer, that they use as an ambulance, was attached to a
8 Jeep that had a dead battery, and it took a half-hour to get
9 a horse off the track.

10 But those are fairly few and far between, and far
11 and away we do have very good injury management in
12 California. We don't have written protocols, however.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, and it's
14 not probably right for me to personalize this, but I was
15 there the day, as you know, because I called you and you
16 came from your home, and came out to Santa Anita, and it was
17 no fault of anybody, it was just one of those things. But
18 there was this horse went down, and to my surprise, it
19 seemed -- whether it was a comedy of errors, or whatever, it
20 took an inordinate amount of time to get a horse ambulance
21 onto the track that particular day, which I think is
22 unusual. Then, when the horse ambulance came up, they
23 didn't have medicine or oxygen to give to a horse from heat
24 exhaustion. The human ambulance drivers pulled out the
25 oxygen from the human ambulance and were giving it to the

1 horse to try and revive the horse, and help get this horse
2 up.

3 Then the vet was there and he didn't have
4 anything, and the only thing that he said was all he had was
5 the medicine to put the horse down.

6 COMMISSIONER HARRIS: This was a State vet or
7 track vet?

8 COMMISSION CHAIRPERSON SHAPIRO: This was the
9 track vet. This was the track vet. Then there were
10 attending vets in the barn area, and they weren't able to
11 get onto the racetrack immediately. So I'm going to buy
12 into and, fortunately, I called you and you came down, and I
13 very much appreciated it, and it was wonderful that horse
14 finally got up and walked off, and it all had a happy
15 ending, I think.

16 But can't we establish some protocols where if
17 horses are to be administered anesthesia, if they're to be
18 administered oxygen, that there's ice available, all these
19 things are readily available and that the gatemens know to
20 let any vet that's on the backside, that maybe able to treat
21 a horse, to go onto the track with their vehicle, can we
22 establish those protocols?

23 EQUINE MEDICAL DIRECTOR ARTHUR: Those are easy to
24 do, but it will be unique for each individual track. A lot
25 of this was just a comedy of errors that wasn't particularly

1 funny. Dr. Dooley was filling in for Dr. Butchenbach, he
2 didn't know where Dr. Butchenbach's drugs were. A new gate
3 guard, who had worked under Dr. Barron, who refused to have
4 any practicing veterinarians assist him on the racetrack,
5 wouldn't let the practicing veterinarian assist Dr. Dooley.
6 And it just wasn't a good situation.

7 And we're still -- without Dr. Butchenbach in
8 place, we still have a situation where we're using almost
9 five different track veterinarians at Santa Anita. We,
10 hopefully, will get that squared away shortly.

11 But it can be solved and in a fairly easy way. We
12 now have oxygen tanks on the ambulance. There's always ice
13 available. They located the medication bag that had always
14 been there previously, that Dr. Dooley didn't know where it
15 was, and so that's been solved.

16 But you're right, I mean we do need to make sure
17 that people understand what can be done. For example, in
18 Southern California we have anesthetized horses and taken
19 them off the racetrack, and evaluated them in the hospital.
20 They don't necessarily have the capabilities of doing that
21 at all racetracks, however.

22 But there are things that can be done. And most
23 of the veterinarians that we have on the racetrack, our
24 track veterinarians are very cognizant of the goal of taking
25 care of horses, getting them off the racetrack, and having

1 them cared for properly.

2 But I certainly applaud the point of trying to get
3 so everybody's on the same page. That was just an unusual
4 personnel switch and some things hadn't been worked out.

5 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
6 if you would please work with each of the racing
7 associations and, you know, we look at these license
8 applications and, heck, we see who the hornblower is, and
9 he's great. But let's at least make sure that we have these
10 protocols in place and do the best we can.

11 EQUINE MEDICAL DIRECTOR ARTHUR: I agree.

12 EXECUTIVE DIRECTOR FERMIN: I would just like to
13 add that I think it obviously is something that happened
14 very unusually on that day, because at the pre-meet meetings
15 with Boards of Stewards, and veterinarians, and the
16 outriders, and such, all of those things are traditionally
17 discussed and handled, and there is at least a verbal
18 protocol of how they're handling things. And this was most
19 unfortunate.

20 EQUINE MEDICAL DIRECTOR ARTHUR: And it usually
21 works quite well.

22 COMMISSION CHAIRPERSON SHAPIRO: All right, thank
23 you very much.

24 Item Number 10 on the agenda, discussion and
25 action by the Board regarding the status of retirement farms

1 for horses that have been retired from racing, as well as
2 other efforts being made to out place race horses at the
3 conclusion of their racing careers.

4 I asked that this agenda item be placed on the
5 agenda, and it was really to try to address that we have,
6 that I'll call a social responsibility, to take care of our
7 race horses after they're no longer able to compete.

8 And I know there are some wonderful organizations
9 that work for that, and I thought we should have a
10 discussion to figure out how we, as an industry, can do a
11 better job to support all of these good farms and people
12 that take care of these horses, place them in second careers
13 or, if they're unable to have a second career, care for them
14 since they've given their good years to this industry.

15 And so it was really just to have a discussion
16 here and see what else we can do to try to raise more money
17 for these organizations, because I believe it's becoming
18 increasingly more difficult for people to find the funds to
19 care for these horses.

20 And so I'd like to invite people to address this
21 issue, so that we have a good understanding, and try to come
22 up with a solution.

23 EXECUTIVE DIRECTOR FERMIN: I think we have some
24 folks from farms here.

25 COMMISSIONER HARRIS: You know, I might mention

1 that this is obviously an important area for racing, and I
2 think we all love horses and want to see them well taken
3 care of. I think a lot of the issue is just out placement.

4 I mean, as a final solution, sometimes just
5 warehousing horses if an alternative, I mean the final
6 retirement of a real elderly horse.

7 I think if a horse can maybe not be that
8 competitive on the track, but still have a lot of uses in
9 different aspect of the horse business. We've given or sold
10 horses to the show horse world, and we have some horses even
11 in police horses, and there's all kinds of uses for horses.
12 And I think people just need to be more creative in trying
13 to really place their horse, and that should be something
14 that any owner, that owns a horse, is that he is responsible
15 for placing that horse some place if he becomes
16 uncompetitive on the track.

17 COMMISSION CHAIRPERSON SHAPIRO: Jackie?

18 STAFF SERVICES MANAGER WAGNER: Commissioner, we
19 do have Grace Belcore, of the California Equine Retirement
20 Foundation, with us and she's here to speak on the subject.

21 COMMISSION CHAIRPERSON SHAPIRO: I invite her to
22 come forward.

23 MS. BELCORE: I'd rather be back at the ranch, I
24 tell you. But I feel that what you're doing right now is
25 extremely important, and if it's extremely important to me

1 after 21 years of trying to survive with very little coming
2 my way, and thanks to the help of wonderful people like
3 Mr. Amerman, and Mr. Moss, and so many others.

4 And one very wise and wonderful gentleman, whose
5 name is -- was Bob Lewis, said to me a long time ago, when I
6 was struggling, Grace, there are two ways to do something,
7 you do it the right way or the wrong way, and you keep doing
8 it the right way and you'll save your horses.

9 So I'm here to ask you to please do this the right
10 way. To me, the right way is please don't develop some kind
11 of a bureaucracy that is going to put money into the hands
12 of, you know -- let me say, just develop an administrative
13 kind of an idea where the money goes there, it goes into
14 somebody's pocket, it goes to salaries. I'm going to beg
15 you to please set up something where if we have money coming
16 in, that it goes right to the horses.

17 And I have sat for 21 years and watched a lot of
18 money being spent that way, rather than coming to the
19 horses.

20 And I know I'm shaking, because this means a great
21 deal to me. There is a way to get money, and I'm sure that
22 you know some of them, whereby we can do this at a small
23 cost, but be sure that the money goes to take care of the
24 horses, to ranches that are really taking care of the horses
25 and are not there just to get the money in.

1 And so that's why I'm here is to beg you to please
2 look at this very carefully, do it the right way, and take
3 care of the wonderful thoroughbreds, they're deserving of
4 it. And I'd like to see California stop looking to
5 everybody else and let's step up to the bat and let's show
6 the nation that we can take care of our thoroughbreds, and
7 we can do it the right way, and with very little money,
8 really.

9 I've operated on practically a shoestring, and I
10 think my horses are extremely well cared for. And we can do
11 this. And that's mainly what my -- why I'm here is to ask
12 for your help.

13 If there's any way that I can help, please call on
14 me, call on my expertise, call on whatever, I will do it for
15 nothing. And I will help you, I will help TOC, or any of
16 these owners that need to have that help to get their horses
17 taken care of.

18 COMMISSION CHAIRPERSON SHAPIRO: I wonder if there
19 would be a way, and I'm just throwing out ideas, that maybe,
20 you know, I think when you go to vote you can check off a
21 box if you want to donate a dollar, or something, to some
22 cause. Maybe there's a way with the owners that you could
23 put in that every time my horse races, we all get a
24 starter's fee, that, you know, I agree that \$5 of my
25 starter's fee would go to a retirement foundation for

1 horses, or something like that, that could create an ongoing
2 string of revenue.

3 Now, how that would get divided between the farms,
4 I don't know. But at least there could be a fund and,
5 again, unfortunately, I start three horses, three times a
6 year so that's only 15 bucks.

7 COMMISSIONER HARRIS: Well, \$15 is not going to
8 retire too many horses.

9 COMMISSION CHAIRPERSON SHAPIRO: I know, but Mr.
10 Harris starts -- they start all the time and I know he's
11 very charitable, so he'll probably want to give more than
12 the \$5.

13 COMMISSIONER HARRIS: Well, again, I've got a
14 whole pasture full of them that you can come feed.

15 COMMISSION CHAIRPERSON SHAPIRO: But, you know,
16 maybe there is, again, a creative way that we could put that
17 forward. I don't know if TOC would entertain something like
18 that. I have a comment card here from Marsha Naify, and I'd
19 like her to come and address this, and see if there's
20 something that we could do, it's voluntary, people don't
21 have to do it, but would recognize that it's going to a good
22 cause.

23 MS. BELCORE: I'd just ask one thing, that the
24 main thing is that the money is directed, and not to
25 someone's pocket, but right to the horses. And that's going

1 to take a real task.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, I think
3 that's what we want. I mean, we want to see the horses
4 cared for.

5 MS. BELCORE: Thank you.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

7 MS. BELCORE: You're welcome.

8 MS. NAIFY: TOC thinks this is a very important
9 issue and we're very happy that the CHRB is addressing this
10 issue. At the TOC, we have been talking about equine
11 retirement. We are forming an equine retirement committee
12 to be chaired by one of our board members, Madeline
13 Auerbach, who is also passionate about this issue.

14 We have discussed one of the things that you've
15 just talked about, which is a Ferdinand fee, which is the
16 fee that this is a checkoff box used in some of the other
17 states, I believe like in New York, and so we're talking
18 about initiating that.

19 We've also proposed that there be a provision,
20 we're discussing this right now, that in the new ADW law
21 that perhaps there can be a small allocation for equine
22 retirement.

23 So we've begun to talk about this issue and tackle
24 it, and we really feel that every horse that has raced in
25 California can either be rehabilitated for a second career

1 in jumping, or riding, or used for rehabilitation for
2 children, prisons, there's just a whole bevy of things that
3 can be done, where horses can just have a second career,
4 where they're totally useful and enjoyed.

5 And if that's not possible, then certainly a
6 decent retirement after their contribution.

7 And so this is a subject that we are very
8 passionate about and have been addressing, and I'm glad
9 you're discussing it here today.

10 COMMISSION CHAIRPERSON SHAPIRO: Well, would you -
11 - I appreciate everything you just said. But, again, to try
12 and move this along with traction, and faster, and while
13 Madeline's going to head up this committee, which is great,
14 could we not try to get to your membership and see if
15 everyone would agree that \$5 -- you know, those people,
16 voluntary, that we could start actually doing this, and the
17 paymasters could just deduct five bucks and have it start
18 going to where there's this fund, and rather than
19 waiting -- I'd hate to see this go six months and --

20 COMMISSIONER HARRIS: It seems like you'd need to
21 quantify how much money is needed, though, if you could
22 really take a look and see how many -- you know, what
23 numbers we're looking at, are we just looking at
24 thoroughbreds, are we looking any horses, and how -- you
25 know, how many horses really are really placed horses, and

1 how many horses really are just warehoused horses, and
2 really what kind of a budget it would take, because I don't
3 think five bucks a start's going to do it.

4 COMMISSIONER MOSS: Can I say I think, you know,
5 and I just may suggest, maybe the establishment of a hotline
6 so that when an owner and a trainer realize that a horse's
7 racing days are done, that they can make a phone call to
8 some place, whether it's operated by the TOC, or whether
9 it's operated by the CHRB, for a destination. And maybe
10 even put a price on it and say, well, if the owner feels
11 like it, a check for 500 bucks could accompany that horse
12 and he can be retired, you know, in a safe and possible way.

13 But at least some place to call that's listed in
14 the barns, and that everybody knows, and that if you have a
15 horse that's ready to go, let him go. You know, and I think
16 that hotline would be a very important thing.

17 COMMISSION CHAIRPERSON SHAPIRO: I think that's a
18 great idea. I know that I have a horse that was just slow,
19 I didn't know what to do with the horse, and I ended up
20 paying Tranquility Farms to take the horse and I paid them
21 so they could care for the horse, retrain the horse, so it
22 would end up then going on and being of other use.

23 And I know Commissioner Amerman has a lot of
24 experience with this.

25 COMMISSIONER AMERMAN: It seems to me that it's a

1 long time coming to have this discussion and I'm delighted
2 we're having it.

3 I think we should go maybe a little bit further
4 than just volunteer activity, because I think that's really
5 what's happened in the past, there's been a number of people
6 that will give a certain amount of money to the various
7 farms, and they do a good job.

8 But, frankly, it would seem to me that you could
9 go and take all of these farms, and with a little bit of
10 work, and find out what their budgets are. And then add it
11 all up and find out what we're talking about. And realize
12 that we're probably not taking care of the total real
13 problem of all of the horses that are being retired, and
14 then figure out the number of starts that are in the State
15 of California, and you may find out that it's \$5 a start, or
16 \$3, or \$7, I don't know what it is.

17 But somebody, with a little bit of effort, could
18 find out what that is, and then make this a mandatory fee
19 for each start. And I don't think anybody could object
20 because the money is going to be very small and it would
21 solve the issue for the long term, and that's really what we
22 want to do.

23 MS. NAIFY: Right, I think owners definitely have
24 to step up to the plate. Certainly, we spend a lot of money
25 purchasing our horses, training them, and then racing them.

1 And really, when you consider that total amount of dollars
2 spent, then what we're going to put forth as retirement is
3 really not that much.

4 And, you know, I've been for the last several
5 years finding creative ways to deal with race horses that
6 can no longer race. You know, put my horses through
7 rehabilitation, sell them to people for riding horses. We
8 have a couple of show jumpers. So, you know, I've been
9 working privately on a model that perhaps will work.

10 And, certainly, we need to educate owners on this
11 issue and get them involved.

12 COMMISSIONER AMERMAN: I can't imagine that any
13 owner who has spent a reasonable amount of money for a
14 horse, and all the training, and all the vet bills, and so
15 forth is not willing to pay a small amount per start to take
16 care of that horse when it ultimately has to be retired.

17 MS. NAIFY: Exactly.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, again, I
19 think this is something that's well past time that we
20 addressed, and we help all these great farms and people that
21 take care of the horses. And I would hope that we could see
22 that this new committee will in fact move forward, and
23 perhaps we could bring this back, let's say, two months from
24 now and find out what the research has been. Because I'd
25 hate to see this thing, we talk about it and it falls away.

1 MS. NAIFY: Yes, definitely.

2 COMMISSIONER MORETTI: I have a question. On the
3 other side of the equation, for the person who might to
4 obtain some of these retired horses, I mean, periodically,
5 people will ask me, gee, is it possible to get a retired
6 race horse and I say, sure, and I usually will hook them up
7 with a private party who I know has extra horses, or they go
8 to Davis, or something.

9 But are there websites available to people, who
10 are equestrians, who might want to, or just the parent who
11 wants to put a horse in the backyard for his child?

12 MS. NAIFY: Do we have a link on our website for
13 that? Yes, we do.

14 COMMISSIONER MORETTI: Okay, that's great to know
15 then.

16 MS. NAIFY: But, you know, we'll expand that
17 information on our website, we'll take a look at it and make
18 sure that it's good and thorough.

19 COMMISSIONER HARRIS: Yeah, because the internet
20 does offer a lot of opportunities for that and I think we
21 need to really publicize that.

22 COMMISSION CHAIRPERSON SHAPIRO: Yeah.

23 MS. NAIFY: All right. Well, we'll come back in a
24 couple of months and give you and updated report on this.

25 COMMISSION CHAIRPERSON SHAPIRO: Thank you very

1 much.

2 EXECUTIVE DIRECTOR FERMIN: Marsha, maybe, could
3 we have maybe someone on our staff, who would be a contact
4 person for you, and maybe if Grace would be willing to put
5 together the people that would be able to give you an
6 inventory, as Commissioner Amerman mentioned, how many farms
7 are we talking about, how many horses, and see if we can't
8 make sure this doesn't fall through the cracks.

9 MS. NAIFY: Okay, that would be great, thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Mr.
11 Jamgotchian, do you have a comment about this?

12 MR. JAMGOTCHIAN: Yeah, I've got a comment on this
13 as a horse owner of many horses. This shows me, once again,
14 the lack of leadership by the Executive Director, because
15 this is something that should be done. Other states do it.
16 Arizona does it. I run a horse in Arizona, I pay out of the
17 paymaster's office an automatic fee for the Arizona horse
18 rescue.

19 In fact, when my horse aren't going to be racing
20 anymore I ship them to Arizona. It costs me about a
21 thousand dollars to ship them, but I ship them to the
22 Arizona Horse Rescue Association over there, who I know
23 these horses don't end up in slaughterhouses and, more
24 importantly, the lady there, she gives me recaps on my
25 horses.

1 In fact, one of my horses, a book was written
2 about this horse, called Run To Excess, I think was the
3 horse's name.

4 So there is -- California is way behind in this.
5 Obviously, the hotline's a great idea because when the
6 horses break down, an owner that has one to two horses, he
7 doesn't know how to dispose of his horse in a good manner,
8 he doesn't know what to do.

9 With regards to voluntary, why would you have a
10 voluntary issue, Mr. Shapiro? Make it mandatory. If you're
11 going to do something, why don't you have Ms. Fermin, and
12 her staff, take this and address it. She's about ten years
13 too late already, but this is something that needs to be
14 done. It's money, it's meaningless money compared to what
15 we spend for vet fees, training fees, and everything else.
16 This is a CHRB leadership issue, once again.

17 As I said, I donate horses to Arizona, I van then
18 there, so it certainly costs a lot of money.

19 One of the things that disturbs me a lot is that
20 the CHRB, the leadership drives me nuts, but the CHRB has
21 plenty of money to disburse to a program like this. I mean,
22 you gave Darrell Vienna \$368,000 to look at the rules. I
23 think if the CHRB has any leadership, you should take some
24 of the money that you already have, that you're dispensing,
25 not to mention the hundreds of thousands of dollars in legal

1 fees that continue to be wasted by the CHRB. You have
2 plenty of money, why don't you look to your Executive
3 Director to protect the race horses that all of us depend
4 upon and do something that's positive for the race horses.

5 I think this is a great idea. I think the hotline
6 should be initiated immediately. I think that there should
7 be a mandatory requirement initiated immediately. Figure
8 out ways to do it. That's why she's paid a hundred thousand
9 dollars a year to do something. Thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. Item
11 Number 11 on the agenda, report and discussion by the Board
12 on the recently concluded training sessions held for the
13 CHRB investigators and stewards.

14 Over the past month or so we've had some great
15 training programs and I thought it would be useful for the
16 Board to hear about those.

17 EXECUTIVE DIRECTOR FERMIN: Okay.

18 COMMISSION CHAIRPERSON SHAPIRO: Are you doing it?

19 EXECUTIVE DIRECTOR FERMIN: Yeah, Dr. Arthur, I
20 don't know if you wanted to talk about the investigators and
21 I will handle the one that was the second training session?

22 EQUINE MEDICAL DIRECTOR ARTHUR: Certainly. In
23 early March we had a four-day meeting, 24 hours of POST
24 education at the Maddy Laboratory, at the University of
25 California at Davis. Dr. Scott Stanley, myself, and Darrell

1 Vienna were the instructors.

2 We spent time on all areas. I covered everything
3 from anatomy, to physiology, to pharmacology, and the rules.

4 Dr. Stanley went through the laboratory, you know,
5 went through the entire testing process so the investigators
6 understand what we're talking about in terms of screening,
7 LCMS, the conformation process, foot sample program.

8 And Darrell Vienna went over the rule-making
9 process, or the rule process, the investigatory process and
10 how to handle presenting cases, and putting investigation
11 packets together.

12 I think it was very well received. Certainly, the
13 reviews we received from the investigators were far and away
14 positive.

15 So I think it was a very productive time spent.
16 Our investigators have to have POST training, anyway, and I
17 think this was directed specifically towards horse racing,
18 and I think it was well worth the effort.

19 And the Maddy Laboratory provided us with the
20 facility and it worked out quite well.

21 COMMISSION CHAIRPERSON SHAPIRO: I think it's
22 terrific that this was done and I think we should look
23 forward to doing more of it. And I found it very
24 interesting in our packet, reading the comments from those
25 people that attended, that they were all extremely

1 favorable, except that I share their view that sometimes you
2 guys talk -- you doctors talk with a language that sometimes
3 I don't always follow. But it was a terrific -- it sounds
4 like it was a terrific and very useful training session, and
5 I bet we'll see great results in the field.

6 So my compliments to you, and Dr. Stanley, and
7 Darrell Vienna for putting together what sounds like a very
8 comprehensive educational program and I think that we should
9 continue it and keep it going. Great job.

10 EQUINE MEDICAL DIRECTOR ARTHUR: Well, the
11 response was so good and, actually, we identified problems
12 in the system. And one of our goals is to try to get this
13 system to work more efficiently. And from this particular
14 course we actually identified problems in terms of the
15 relationship of the investigators to the stewards. And a
16 month later we put together the course for the stewards and
17 we spent the first day, basically, going over the same
18 things we did with the investigators in a four-day period.

19 And so I think Ingrid has some additional comments
20 on that.

21 EXECUTIVE DIRECTOR FERMIN: Right. Just for those
22 of you who don't know, the POST training is Peace Officer
23 Standard Training, and it's something that they need to have
24 every two years, for 24 units, and generally that has been
25 possibly in an area that, to keep current, has been other

1 than in the industry, and it's the first time that we've
2 been able to offer, and have approved, and it was quite a
3 process that took many, many months to get approval, so that
4 the investigators would get credit for their continuing
5 education.

6 And as Dr. Arthur said, I think that it was very
7 valuable.

8 Last we had all of the stewards up at the Maddy
9 Lab. They were there for two days, which is as long as we
10 could make it for them, because those are the dark days,
11 Monday and Tuesday, and otherwise they're working.

12 And they also went through the Maddy Lab, the
13 split sample program, and there were certainly some
14 parallels in their training. But we were able to include
15 some of the concerns that the investigators had indicated in
16 presenting cases before the Boards of Stewards. The
17 stewards had a lot of time spent on hearings and taking of
18 evidence, anything that they had questions on, they were
19 answered. And I think you can see from the evaluations, we
20 don't have all the evaluations in from the stewards, yet,
21 because it just happened last week, but I think that it will
22 probably be very similar to the investigators' responses.
23 Which were they had some good suggestions for us and, also,
24 it sounded like everybody had learned quite a bit.

25 There were some lively discussions with trying to

1 get consistency in various areas, various breeds, with
2 inquiries, and how everybody viewed things. And we've
3 certainly found that, you know, these are judgment calls.

4 We're going to have another meeting coming up,
5 which will also include more film review, and also some more
6 on hearings.

7 So I think it's being received well and we look
8 forward to doing more. And we're also going to try to have
9 something where we'll combine the investigators with the
10 stewards. So this is all part of the long-range plan.

11 COMMISSION CHAIRPERSON SHAPIRO: That's wonderful.
12 Thank you.

13 All right, moving on to Item Number 12, discussion
14 and action by the Board on the progress report from the
15 staff on the status of the Jockey Guild's Health and Welfare
16 Program. Mr. Smith.

17 ASSISTANT EXECUTIVE DIRECTOR SMITH: Thank you,
18 Mr. Chairman. Bon Smith, Assistant Executive Director,
19 California Horse Racing Board.

20 As just general background, you probably are aware
21 the Board provides approximately a million dollars in
22 funding every year to fund an agreement between the TOC and
23 the Jockey's Guild, that provides health and welfare
24 benefits to the California jockey colony.

25 The Board has tasked me with facilitating

1 discussions to update that agreement. So far I've been
2 unsuccessful in getting anything substantive moved forward.

3 Here's my report to date. Since our last Board
4 meeting some discussions have occurred between Jockey's
5 Guild representatives and the California jockeys, who have
6 been represented by Ron Warren. An insurance representative
7 has entered the discussion to proposed a funded, defined
8 plan through a major carrier, but as of this date we've seen
9 no formal proposal.

10 The Jockey's Guild has engaged a CPA firm, that's
11 Hinton CPAs, locally, to initiate its 2006 audits. Those
12 should have been completed already, but are just beginning.
13 The work has just begun and may not be completed and
14 reported within the next month.

15 I have proposed, I have discussed this with both
16 the Guild and the audit firm, and have proposed some audit
17 procedures to ensure or verify the accuracy and appropriate
18 use of State funds for the Jockey's health and welfare
19 insurance costs in the past.

20 While the former CPAs and auditors may have looked
21 at some of these things, I don't know that they did so in
22 consultation with the Board to ensure that our interests
23 have been addressed appropriately, and now I'm quite certain
24 they will be.

25 The TOC and Jockey's Guild had attempted to meet

1 and initiate negotiations for a new agreement but, so far,
2 has not found a time, date, or a location that satisfies all
3 of the participants.

4 Mr. Couto, earlier, alluded to the difficulty in
5 getting ten people's calendars lined up. It's not quite as
6 many for these negotiations, but the difficulties in getting
7 those calendar alignments seems to be equally as daunting.

8 The Jockey's Guild has been timely and attentive
9 to all of the CHRB requests for information and status as to
10 the existing plan and their month to month expenses and
11 claims experience. So as we have requested information from
12 the Guild, they have provided it to us timely.

13 We have looked at it over the course of time and
14 believe that all of our jockey colony are receiving the
15 appropriate benefits in a timely manner.

16 I have proposed a meeting for all of the
17 interested parties, for Sacramento, at or around the date of
18 our May Board meeting and, hopefully, with this much advance
19 knowledge the appropriate time reservations can be made by
20 those interested parties.

21 That's the status of my report to date. To the
22 extent that we can provide any more specificity, we'll do
23 so.

24 COMMISSION CHAIRPERSON SHAPIRO: Mr. Couto, can
25 you come to the lectern? What I've just heard, that

1 bothered me, was that the audit by the Guild has not yet
2 been done or undertaken, and here we are nearly at May 1st.
3 And I'm curious, and Drew, this is not your issue, but I
4 don't know why is it that it's not happening -- why has it
5 not happened to date? And it's my understanding that they
6 have an obligation to do that.

7 Now, the agreement that we have, that is in
8 existence, is really an agreement, as I understand it,
9 between the Jockey's Guild and TOC.

10 MR. COUTO: Correct.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay. We are a
12 party that has some standing in terms of overseeing the
13 disbursement of funds and the funding of it, but it's truly
14 an agreement between TOC and the Guild.

15 So what do we have to do to make sure that we get
16 this issue off the time? This is the third meeting, I
17 think, in a row, where there still isn't a meeting.

18 MR. COUTO: I think you're recall, the last time
19 TOC tried to sit down with the Jockey's Guild to get the
20 audit issues squared away, you attended it, it did not go
21 well, despite the contract language.

22 You know, we're trying to accommodate --
23 initially, we were trying to accommodate the Jock's Guild
24 schedule, and Mr. Broad asked me early on not to push the
25 issue, probably two meetings ago, because they were busy

1 internally, putting together some materials.

2 Then, about 45 days ago, he said we need to sit
3 down and get this worked out. And we had a meeting, I think
4 you're aware of, arranged for yesterday, that there were
5 some, unfortunately, acrimonious e-mails sent between some
6 of the participants, and caused a delay and change of
7 location. And it's my understanding that we are meeting in
8 Sacramento prior to the next Board meeting, at Davis, and
9 that Mr. Broad and I have talked about the three issues that
10 we were primarily concerned with, and he understood what
11 those were.

12 We have not pushed it to this date because of the
13 work that Mr. Warren is doing with Mr. Broad in exploring
14 the third-party carrier coverage. That has been the issue
15 raised concerned to the riders. Mr. Warren is -- I spoke to
16 him this morning, in fact, because Mr. Broad had told me
17 that he didn't have the information, so I called Mr. Warren,
18 and Mr. Warren says he's getting it.

19 So there's still a process underway. And like
20 many things, it's more complicated and I'm waiting for the
21 Guild, and the California riders, and we're not told
22 that -- we're told we can't get involved in that discussion
23 at this point so --

24 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask
25 another question, then. Have you been provided or have we

1 been provided with all of the census information that we
2 need to determine whether or not there's a third-party
3 insurer out there that would be capable of providing a
4 third-party insurance program to cover the riders, since we
5 have heard, and yet I've never seen any definitive decision
6 on whether the self-funded insurance program that the Guild
7 has is a problem or not.

8 I've heard that it may be a problem, or it may not
9 be, and I think that there was some reference, by somebody,
10 that the Department of Labor, in Washington D.C., was taking
11 a position on it, but I've not seen that position, either.

12 But do we have all of the census information so
13 that either TOC, or anybody that wanted to provide an
14 independent quote for third-party insurance to this group of
15 individuals can do that?

16 MR. COUTO: Again, I think you'll recall, it was
17 probably two years ago, at Hollywood Park, when we made that
18 request, and we were given assurances by Mr. Fisk that we'd
19 received that. That was followed up 30 days later, by a
20 letter from the Guild, that said we would receive none of
21 it. TOC's never received any of that data.

22 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
23 I would urge that you re-request that, because my view is
24 that's the old Guild. Our agreements, that we have in place
25 now, stipulate that they will provide any and all

1 information to the Board. And, therefore, we should have no
2 problem requesting that information, obtaining that
3 information, and that's why we are funding on a more regular
4 basis in advance, with a reconciliation afterwards.

5 So we should be able to get that information.

6 MR. COUTO: Does that extend to TOC, will we have
7 access to that information?

8 COMMISSION CHAIRPERSON SHAPIRO: Absolutely.

9 MR. COUTO: Okay.

10 COMMISSION CHAIRPERSON SHAPIRO: You are party to
11 it, and I think that we can request information and, in
12 turn, give it to you. And I think, again, we just need to
13 see what the alternatives are so that we make sure this
14 million dollars is benefiting California riders, that we
15 make sure that we are using the money, the money is going to
16 the best possible insurance for our California riders, which
17 we all want to do, and I believe the Guild wants to do.

18 MR. COUTO: I believe they do, as well. And
19 that's a great start. I guess with that, we take the lead
20 through Bon and get all of the survey data, all of the
21 summary data, and then I believe Mr. Warren has most of
22 that, I'm not certain he has all of that. But we don't.

23 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
24 we need to make sure that we get it to whomever. I will
25 note, and I know it's accident insurance, but I did just

1 read that in Delaware they have come up with a \$2 million
2 accident insurance policy that was arranged by the Delaware
3 Jockey Guild, or whatever they're calling themselves, Robert
4 Colton, and John Unnick, and some other people. And, again,
5 we should use every available source to find out what the
6 options are for our California riders.

7 And I would also suggest at that time that we look
8 at the minimum number of rides that we require to qualify,
9 which I believe is 50 rides, elevating that so that we don't
10 have riders that fly in, ride 50 races, get under our plan
11 and fly back somewhere else.

12 MR. COUTO: Correct. That was one of the issues
13 we addressed with Mr. Broad so far, the number of rides,
14 access to the information that we've been denied so far, and
15 the fact that in addition to the number of rides, minimum
16 number of rides, that a certain percentage of the rides that
17 the rider has in the prior year must be in California. We'd
18 proposed at least 75 percent of those mounts have to have
19 occurred in California.

20 So we've talked about those issues and others, and
21 I think we'll get there.

22 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
23 we're going to look to you to take the lead on this, in
24 conjunction with Bon and, you know, we just need to address
25 this.

1 MR. COUTO: Absolutely.

2 COMMISSION CHAIRPERSON SHAPIRO: Please. And I
3 know that I have spoken to Barry, he's looking to be very
4 cooperative. I don't think they've been uncooperative in
5 any way, so I don't see that anybody doesn't want to
6 cooperate, but we need to get to the bottom of it.

7 And I saw your head tilt this way, but I'm hoping
8 that was just you adjusting your neck.

9 MR. COUTO: Me leaning, yeah.

10 COMMISSION CHAIRPERSON SHAPIRO: No, him.

11 MR. COUTO: Oh, Bon.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay. In terms
13 of comment cards, Chris Gibbs.

14 And before he gets here, I would like to make an
15 announcement that was just handed to me, which I think is
16 very exciting, Sherwood Chillingworth advised that the
17 Breeder's Cup has just been awarded to Oak Tree in 2008.

18 (Applause.)

19 COMMISSION CHAIRPERSON SHAPIRO: And I know they
20 worked very hard -- come on, stand up and take a bow,
21 Chilly.

22 (Applause.)

23 COMMISSION CHAIRPERSON SHAPIRO: And Alan. They
24 worked very hard on this. It's great to see the Breeder's
25 Cup come back to Santa Anita, and California, and I'm

1 thrilled, and that's really great news.

2 And so, Chilly, take a well-earned bow.

3 MR. CHILLINGWORTH: Sherwood Chillingworth, Oak
4 Tree Racing. I want to first thank the members of the staff
5 of Santa Anita, who did a tremendous job putting our
6 proposal together.

7 Greg Avioli, who has been running the Breeder's
8 Cup, called me and said the proposal we sent them was the
9 best proposal they'd ever seen from any racetrack in the
10 past 23 years.

11 And I have to thank and acknowledge the help we
12 got from Santa Anita, as well as I made one genius move, I
13 make one every year, I retained Ferguson Taylor, who is the
14 retired chief financial officer of the Breeder's Cup, and
15 had him come out here and work for a week with us in fine
16 tuning our proposal to help it meet expectations. I knew
17 that he knew what they wanted. So I think it was very
18 helpful that he was here, and I want to thank him, too,
19 publicly for his help.

20 Anyway, this is my third time around for the
21 Breeder's Cup. And I'm not so sure I'm as excited as
22 everybody else is. But at any rate, we're happy it's back
23 here and I think it's very good for California. Thank you.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, we think
25 it's great.

1 (Applause.)

2 COMMISSION CHAIRPERSON SHAPIRO: Mr. Gibbs, I
3 apologize, but that was breaking news.

4 MR. GIBBS: That's good news. It would be nice if
5 you could do some things for the jockeys. And just so many
6 things were just misrepresented by Mr. Smith.

7 He has a copy of a fully insured quote that was
8 given to the jockeys in 2005, November of 2005, the same
9 conversation you just had took place in November. It's been
10 six months.

11 The Jockey's plan, the only way to be legal is if
12 the Department of Labor said that the jockeys were
13 employees. They gave a five-page written opinion, in August
14 of 2005, that said the jockeys are independent contractors.
15 So their current plan is illegal.

16 That aside, there is a fully insured quote. In
17 the November Board meeting you asked Mr. Manley to provide
18 the claims and census information, and he said he'd have to
19 get back to you and talk to his board.

20 So for Mr. Smith to say that the Jockey's Guild is
21 just giving us anything we wanted, and so cooperative, six
22 months later and that information is already segregated and
23 it's just a matter of pushing a button on the computer. You
24 know, the plan's been illegal for 18 months. You've known
25 about it for the last six months. You continue to pay

1 money.

2 You talk about the agreement with the TOC. The
3 TOC agreement with the Jockey's Guild expired last June.
4 How can the CHRB continue to make monthly payments on an
5 expired agreement?

6 When the same thing occurred, years ago, payments
7 were halted until the CHRB Board voted, and you can check
8 the record, to continue payments while negotiations went on.

9 But they don't even have an agreement, whether
10 it's with the Jockey's Guild or the California Jockey's
11 Guild. To say that you're looking for a fully insured
12 quote, they've had it for 18 months.

13 It's just so much misinformation. And, Chairman
14 Shapiro, you've been aware of a lot of this information
15 since we met last November. And to sit up there and talk as
16 if -- you know, Barry Broad's your close, personal friend.
17 He's the lobbyist for the Guild. You're protecting him,
18 covering up the truth. The Guild doesn't even have a
19 representative here today.

20 You know, they're saying nothing. They're just
21 trying to get by, they're insolvent. Quote, insolvent,
22 according to Dwight Manley.

23 So you continue to make payments, you're not
24 protecting the jockeys of California. They have fully
25 insured options and you're doing nothing, just to protect

1 your friends, protect Mr. Manley. You're not doing anything
2 to help the jockeys.

3 Why don't you hold the Jockey's Guild to ten
4 percent of the standard that you held Bay Meadows to, just
5 ten percent, and you would stop payments, suspend those
6 payments until things are in order. And that's not going to
7 affect the jockeys, the Jockey's Guild just got 360,000
8 approved from Delaware. And the Chairman of the Delaware
9 Board said we approve it, this is our full and final
10 payment. It was a discounted payment because the Guild
11 audits were wrong, and the Chairman said we can finally wash
12 our hands of the Jockey's Guild forever.

13 So, you know, deal with reality. You know a lot
14 of information, I don't know what you share with your Board
15 members. You've received information about all the lies
16 you've been told.

17 And with the Guild, Mr. Manley's afraid to even
18 come here. You know why, because you keep a transcript, and
19 transcript records what people say. And if they lie to you
20 or say something incorrect, then they're accountable.

21 And, you know, you've got to step up and do
22 something.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay. Mr. Gibbs,
24 let me just tell you, first of all, we are trying to do what
25 we feel is appropriate and we are trying to work with the

1 TOC, and Bon Smith has been working diligently on this.

2 We are trying to work, because we have a very
3 vested interest in protecting all of our riders. I don't
4 believe we've ever seen a fully insured quote or I haven't
5 seen a fully insured quote.

6 If there is such a quote, I would ask that it be
7 delivered to Mr. Smith or Mr. Couto. Mr. Smith is the staff
8 person, on our staff, that is in charge of handling this
9 matter. To the extent that you can help or advise to find a
10 solution to this, I ask that you work with Mr. Smith, and
11 that's what I've repeatedly tried to tell you.

12 MR. GIBBS: And Mr. Smith is nonresponsive. He's
13 done nothing. He has a fully insured quote. You have a
14 copy of it. I gave it to you at Starbuck's, in Calabasas,
15 in November, when you set up an ambush of Mr. Manley at the
16 November meeting, it was all set up and you haven't followed
17 through.

18 You're protecting Barry Broad and Dwight Manley,
19 your close friends.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay, I'm not
21 going to debate with you but, thank you, I'm not close
22 friends with them.

23 Is there a --

24 MR. JAMGOTCHIAN: I have a card on that.

25 COMMISSIONER HARRIS: On this issue, I agree that

1 Barry and Dwight are necessarily your close friends. I
2 loved the line about Barry, great friend, but bad enemy.

3 But it seems like we should get a legal opinion on
4 if we can keep disbursing the money absent an agreement.
5 Because I think the real party that needs to be active in
6 this is TOC, because as I understand it, TOC is the one that
7 really negotiates with the Jockey Guild, and if that
8 contract has lapsed, we do need to take a look at if we can
9 keep putting the money out.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
11 so Derry, perhaps you can give us some advice on that.

12 MR. JAMGOTCHIAN: Mr. Shapiro, members of the
13 Board. You know, I sit back here and, once again, this is a
14 leadership issue. What is the Board, and Ms. Fermin, as the
15 Executive Director, doing?

16 You're giving a million dollars to a group of
17 people, without getting any documentation, without getting
18 any information that you requested. You have Mr. Smith come
19 up here and maybe, maybe not, provide false truths to the
20 people on the Board, as well as watching on the internet, in
21 the audience. I ask myself who's telling the truth? Are
22 you telling the truth, did you get a copy of that policy
23 when you had coffee with Mr. Gibbs? Who's telling the
24 truth?

25 Did the TOC agreement expire? Yes or no, does

1 anybody here know? Can I get an answer to that question or
2 not?

3 COMMISSION CHAIRPERSON SHAPIRO: This is a comment
4 period.

5 MR. JAMGOTCHIAN: Right, you just don't want to
6 disclose any information, I understand that. And in your
7 deposition you were very good at that, Mr. Shapiro, I might
8 add. The only problem is there's also something called the
9 center of resolution that's talking about your competency,
10 which we'll discuss later on.

11 Also, if in fact the CHRB staff isn't being
12 cooperative, why aren't they being cooperative? Don't the
13 jockey's require that?

14 I mean, your staff, your director, the people that
15 work for the CHRB have to be held accountable. If you don't
16 know what's going on, it's their fault. Or I might say Ms.
17 Fermin's fault, because she's in charge. If you're not
18 getting the information, why don't you ask for it?

19 Is the agreement expired? You don't know,
20 obviously.

21 Is the plan illegal, do you know that? Does
22 anybody know anything?

23 All I know is if you're paying a million dollars
24 to somebody, like you said you were, wouldn't it be good to
25 do a little due diligence to do your job? Why don't you

1 give the million dollars to protect the thoroughbreds in
2 this State, rather than give it to somebody who might not
3 deserve it.

4 And once again, if Mr. Smith's being
5 nonresponsive, you have a serious issue there. Because,
6 obviously, we know Ms. Fermin isn't really competent. Thank
7 you.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay. Mr. Smith,
9 did you want to respond to that or not?

10 ASSISTANT EXECUTIVE DIRECTOR SMITH: No.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

12 COMMISSIONER HARRIS: I mean, just to clarify,
13 we're not -- I mean, this million dollars is not CHRB money
14 that we have. This is something that we have oversight
15 over, that is really generated from uncashed mutuel tickets,
16 as I understand it. And it is earmarked for this use, so
17 we've got oversight, but it's not really our money to spend
18 here or there.

19 COMMISSION CHAIRPERSON SHAPIRO: All right, Item
20 Number 13 has been deferred off of the agenda.

21 Item Number 14, discussion and action by the Board
22 regarding the status of the letter of credit received from
23 Capitol Racing, LLC, which is currently on file with the
24 Board.

25 I'm not sure why this agenda item is on our

1 agenda. And I don't know, it's my understanding that this
2 is a matter that's being litigated and until it's resolved,
3 I don't know why it's here.

4 DEPUTY ATTORNEY GENERAL KNIGHT: Well, obviously,
5 I didn't put it on the agenda, but I can just give you a
6 real snapshot of the history. I won't give you the history,
7 because I think most of you know. The letter of credit was
8 required as a condition of granting the harness license to
9 Capitol for their last meet that they had, that they ran in
10 California, which was January to July of 2005.

11 And I don't know that any -- and one of the
12 conditions was -- for the release of this was a
13 favorable -- or, I'm sorry, the letter of credit can be
14 drawn upon in the event that this impact fee litigation,
15 which is pending between Los Alamitos and Capitol Racing
16 and, actually, the Board is a party as well to that. If
17 Capitol were to prevail -- I'm sorry, if Los Alamitos were
18 to prevail in that litigation, the concern that the Board
19 had, among others, was that there would be nothing from
20 which to pay the monies that might be owed, and there was
21 talk of in terms of at least a million dollar shortfall, in
22 terms of even Steve Berry, who's Capitol Racing, stated that
23 the difference might be a million dollars, plus or minus.

24 And as a condition of the Board granting the
25 license, what happened was the Board required a letter of

1 credit to be put up for an additional million dollars and,
2 also, that their audited financials be prepared and
3 submitted, which did ultimately occur. Their audited
4 financial statements were ultimately submitted to the Board.

5 The litigation has not been resolved at this
6 point. The litigation that was underlying this was still
7 pending. What happened was there was a trial court decision
8 and it was favorable to Capitol Racing. That decision is on
9 appeal to the Third District Court of Appeal in Sacramento.

10 I talked to the attorney that's familiar with that
11 case, yesterday, the case has been fully briefed, but it has
12 not been argued, yet. So there's been no decision.

13 So in my view, there's nothing changed from 2004,
14 when this issue came before the Board. Unless somebody can
15 provide other information, that's what I know about.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay.

17 EXECUTIVE DIRECTOR FERMIN: Derry, the issue was
18 that Mr. Barry called and indicated that the letter of
19 credit was to expire, and wanted to know whether it needed
20 to be renewed. It was obviously something that was an
21 action of the Board, and I do not have the power to
22 determine whether that had to be renewed or not. And that's
23 why it was on and that's really the only issue.

24 COMMISSIONER HARRIS: Yeah, as I read the
25 letter --

1 EXECUTIVE DIRECTOR FERMIN: Does the Board still
2 want the letter of credit in place or not? And I believe
3 that in the center run it may have even expired and he has
4 possibly even renewed it because I said, you know, he would
5 need to do that.

6 COMMISSIONER HARRIS: It's supposed to be like an
7 evergreen --

8 COMMISSION CHAIRPERSON SHAPIRO: It's an
9 irrevocable letter.

10 COMMISSIONER HARRIS: Well, it's an evergreen
11 letter, except there's some provision in there that the
12 Board can be notified, look, we're going to let it expire.
13 At that point the Board can say, well, we're going to draw
14 on it.

15 DEPUTY ATTORNEY GENERAL KNIGHT: We're going to
16 draw. Exactly.

17 And my -- I'm surprised about the timing because
18 it should have expired December 31st, should be the
19 expiration date, because it was annually renewed. And as I
20 recall, the expiration date should be December 31st. But he
21 doesn't have the right to cancel it without giving notice,
22 as Commissioner Harris has -- he's got to give, I think it's
23 a 90-day notice, and then we have the ability to draw on it.

24 EXECUTIVE DIRECTOR FERMIN: He indicated an April
25 date of some sort. I know that the letter said that

1 December 31st is --

2 COMMISSION CHAIRPERSON SHAPIRO: Well, can we have
3 staff make sure that there isn't a problem. The letter
4 should be in full force and effect.

5 And, again, I don't see why this Board should take
6 any -- make any change in it, whatsoever. The litigation is
7 still pending, so I don't know why we would deal with this.

8 Mr. Blonien, you have a card in, and do you wish
9 to address this?

10 MR. BLONIEN: Thank you, Mr. Chairman, and
11 members, Rod Blonien on behalf of Los Alamitos Race Course.

12 I think you're all headed in the right direction.
13 The litigation is not final. The Capitol Racing is a
14 limited liability company, has very few assets. And if we
15 prevail and the letter of credit isn't there, we probably
16 will not be able to recover any funds.

17 It's one thing for Dr. Allred, but it's another
18 thing for our horsemen and women who will be getting half of
19 this money and dearly need it. So I'd --

20 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I agree
21 with Mr. Blonien, I don't see why we should take any action,
22 other than to make sure that the letter is in full force and
23 effect. Okay.

24 All right, Item Number 15, General Business, and I
25 have some cards here. Chris Carpenter.

1 MR. CARPENTER: Okay. Chairman Shapiro and
2 members of the California Horse Racing Board, thank you for
3 this opportunity to speak today. I'm Chris Carpenter,
4 General Manager of the San Mateo County Fair and the Event
5 Center. And joining me today, I also have Melanie
6 Hildebrand, Vice-President of the San Mateo County
7 Exposition and Fair Board. And Peter Chart's our
8 Secretary/Treasurer of the San Mateo County Exposition and
9 Fair Association Board. And also, Porter Goals, our San
10 Mateo County Council for the San Mateo County Exposition and
11 Fair Association.

12 But also, Melanie, Peter, and Porter also sit on
13 our Fair Horse Race Dates Committee, which includes
14 satellite wagering facilities.

15 We're here, today, with the impending closure of
16 Bay Meadows in 2007. Wanted to let you know that we are
17 certainly aware of the importance of satellite wagering
18 facility in San Mateo County, to Northern California Fair
19 racing. We will continue with this operation to support
20 California racing.

21 Currently, the satellite wagering facility
22 operates quite well at Bay Meadows, producing the largest
23 handle and attendance in Northern California.

24 We are here before you, today, to state that we
25 firmly intend to assume operation of this satellite wagering

1 facilities beginning January 1st, 2008. We intend to assume
2 the operation within our facility, on the campus of the San
3 Mateo County Fair, and will manage it in a first class
4 manner, which everyone has been used to.

5 Our intention is to continue to work with Bay
6 Meadows to facilitate a smooth transition. We have held
7 meetings with Bay Meadows on a couple of occasions, where
8 they have committed to work with us in a seamless
9 transition. We have also met with horse racing leaders, on
10 several occasions, to determine our best options for a
11 facility and the overall operations of the satellite
12 wagering facility.

13 We will be ready on or before January 1st, 2008,
14 and will apply for a license in a timely manner.

15 We have assembled a team of committed
16 professionals for the operation of this first class
17 satellite wagering facility. There are commitments in place
18 for members of the San Mateo County Board of Supervisors,
19 and all of our San Mateo County Exposition and Fair
20 Association Board members.

21 We also have the support of private track
22 operators, CARF, and the members, along with Fairs and
23 Expositions. We are here, again, to tell you that we're all
24 united in moving forward with this very important project.

25 Once again, thank you.

1 COMMISSION CHAIRPERSON SHAPIRO: Mr. Carpenter, I
2 appreciate that. And I appreciate your advising the Board
3 of this, but this really is an item that really would have
4 come under the item that we didn't hear, I think, which was
5 Item Number 13. And for that reason, I really don't think
6 it's appropriate at this time to discuss -- to have a
7 discussion about that. I appreciate your advising us on it
8 but, at this point, we don't know when Bay Meadows is going
9 to close.

10 And so I appreciate the information, but I think
11 it's probably more appropriately discussed at a later time.

12 COMMISSIONER HARRIS: Yeah, I think these general
13 business items are really you can request that something be
14 put on the agenda, but we really can't have discussion here
15 on this.

16 MR. CARPENTER: Okay.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 MR. CARPENTER: We were advised in a different
19 manner, and thanks.

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

21 Mr. Jamgotchian?

22 MR. JAMGOTCHIAN: Well, this will be the fun part
23 of the meeting. Mr. Knight, just to remind you of the
24 lawsuits sitting over here.

25 Mr. Shapiro, I wanted to provide you, as you

1 requested, evidence of a former executive directors' felony
2 conviction for the importation and transportation of obscene
3 material.

4 COMMISSION CHAIRPERSON SHAPIRO: All right, hold
5 it, stop. Stop, okay. I didn't ask for any such
6 information.

7 MR. JAMGOTCHIAN: Oh, you didn't.

8 COMMISSION CHAIRPERSON SHAPIRO: No, I didn't.
9 You know I didn't.

10 MR. JAMGOTCHIAN: Okay, then I'll just give it to
11 you, it's right here.

12 COMMISSION CHAIRPERSON SHAPIRO: No, I'm not
13 interested in that, okay.

14 MR. JAMGOTCHIAN: Excuse me, you're taking my
15 time.

16 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
17 is there something under general business that's
18 appropriate?

19 MR. JAMGOTCHIAN: Yes, this is absolutely
20 appropriate. This is a former executive director that
21 worked for five years with a felony conviction.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, that is a
23 personnel matter. We're not going to listen to a personnel
24 matter at this time.

25 MR. JAMGOTCHIAN: You don't have to. You don't

1 have to.

2 COMMISSION CHAIRPERSON SHAPIRO: No, please move
3 on, we're not going to listen to that.

4 MR. JAMGOTCHIAN: Here it is for your information.

5 COMMISSION CHAIRPERSON SHAPIRO: No. Okay.

6 MR. JAMGOTCHIAN: Okay, that's it. That's simple.

7 COMMISSIONER HARRIS: Well, I think that clearly
8 is not a former executive director, either.

9 MR. JAMGOTCHIAN: He wasn't an interim executive
10 director?

11 COMMISSIONER HARRIS: You didn't say interim.

12 MR. JAMGOTCHIAN: Okay, well, I'll say interim,
13 now.

14 COMMISSIONER HARRIS: Well --

15 MR. JAMGOTCHIAN: And it's right here, if you want
16 to confirm it.

17 Okay, additionally, and don't forget, Mr. Knight,
18 your lawsuit.

19 In addition, on March 30th, Senator Yee called for
20 the resignation of CHRB Chairman Richard Shapiro, citing
21 time and time again Mr. Shapiro has shown an inability to
22 effectively and appropriately manage the operations of the
23 Horse Racing Board in matters that ensure the viability of
24 the industry.

25 I think anybody that watches these meetings can

1 certainly agree with that statement. Just put that into the
2 record.

3 Additionally, is this Board doing anything to get
4 Bay Meadows to run one more year?

5 I know Mr. Harris just wrote something on the
6 internet, if Bay goes away. You know, I think the bottom
7 line is he properly states is to get Bay Meadows to run one
8 more year. Well, once again, I challenge the leadership of
9 this Board, if any, to do what's right for the people that
10 race horses in Northern California, as well as the people
11 that survive on horse racing in Northern California, to try
12 to find a way, because they seem to find a way to postpone
13 things for their pet tracks, like maybe at Del Mar and Santa
14 Anita.

15 Additionally, Dixon Downs I guess is now history.
16 Mr. Stronich will make a lot of money, I'm sure, on the real
17 estate side of that investment.

18 But once again, as Mr. Harris said, this was a
19 blow to the industry. People are sick and tired of hearing
20 about the incompetent leadership of horse racing, just what
21 we have to sit through and listen to these meetings.

22 And, once again, you act in a way, not you,
23 personally, Mr. Shapiro, but the Board acts in a way that is
24 not responsible for the actions. And I think that this is
25 something that should tell you that horse racing is not

1 looked upon favorably in this State.

2 And unless somebody up there gets the idea that it
3 should, I think horse racing is going to continue its
4 downward flow.

5 You know, you mentioned that California's ahead
6 with regards to horse racing commissions. And I note that
7 in Indiana they put out an Integrity '06 I don't see
8 California putting out anything.

9 And I also note that California allows
10 veterinarians, who have been suspended, to practice, still,
11 off racetrack facilities.

12 Now, if you have a suspended veterinarian, that's
13 still practicing on horses that are racing at the track,
14 doesn't that kind of seem odd?

15 And I think that if Mr. Arthur's going to do
16 something, he ought to consider that issue. In addition to
17 the issue of heel nerving which, of course, Ms. Fermin
18 states, in her directive, it's a potential, technical
19 noncompliance what Mr. Arthur did, and Mr. Mandela did with
20 regards to the horse, Refinery.

21 And I see, Mr. Shapiro, in this agenda, there's
22 nothing about heel nerving, and I wanted to ask you why not.
23 If heel nerving's so important to you, and the safety of
24 horses are so important to you, why don't you put it on the
25 agenda and have it heard? The Medication Committee said,

1 hey, let's stop heel nerving in California, yet this Board
2 does nothing to stop heel nerving.

3 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
4 it was heard. It was heard at our last meeting.

5 MR. JAMGOTCHIAN: Well, where's it on the agenda?

6 COMMISSION CHAIRPERSON SHAPIRO: Excuse me.

7 MR. JAMGOTCHIAN: Sure.

8 COMMISSION CHAIRPERSON SHAPIRO: It was heard at
9 our last meeting and, in fact, the Board has taken
10 initiative towards that issue.

11 MR. JAMGOTCHIAN: Where is it on the agenda?
12 Don't tell me about your initiative, get it done.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, I suggest,
14 Mr. Jamgotchian, I don't want to eat into your time, but I
15 suggest you look at the Medication meeting, at the last
16 meeting.

17 MR. JAMGOTCHIAN: Excuse me, the Medication
18 Committee doesn't set policy. The Board sets policy. Why
19 isn't it on the agenda? Why isn't there something in State
20 law that prohibits heel nerving? What are we doing.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay.

22 MR. JAMGOTCHIAN: Once again, it's a leadership
23 issue, Mr. Shapiro. There's no leadership and that's why
24 horses are being heel nerved.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay.

1 MR. JAMGOTCHIAN: Then the final thing is that
2 there are people that are working within the CHRB
3 organization, obviously, that aren't the top quality people,
4 and we need the top quality people. I'm not going to get
5 into names, but you're well aware of stewards that are
6 working, that have been suspended in other states, vets that
7 have been suspended in the State, that are now working for
8 the CHRB.

9 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
10 you're time is up.

11 MR. JAMGOTCHIAN: Yeah, I'm just going to finish
12 this thought.

13 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

14 MR. JAMGOTCHIAN: I think that a good part about
15 what you do is to try to find the best people to
16 administrative horse racing in this State. And I think that
17 Mr. Shapiro, and members of the Board, if you sincerely are
18 interested in improving horse racing in California, you need
19 to start, look at the top and work your way down to staff,
20 to see if you can get some better people to administrate
21 California horse racing. Thank you very much.

22 And Mr. Knight, don't forget the lawsuit.

23 COMMISSION CHAIRPERSON SHAPIRO: All right. Cliff
24 Goodrich. I don't have any other cards, so this will be it,
25 unless there's something that I missed.

1 MR. GOODRICH: Cliff Goodrich on behalf of
2 Fairplex. And what I have to say is really a general,
3 overall comment, propelled again by Mr. Jamgotchian, who I
4 will say I admire for having the passion to care about this
5 industry and standing up to speak his peace.

6 It doesn't, however, mean everyone always agrees
7 with him. And at least speaking for Fairplex, I'd just like
8 to say, in general, and I've been coming out of meetings for
9 a good year, I think the racing industry across this
10 country, and certainly in California, is declining. It's
11 decline is not the responsibility of this Board or prior
12 Boards, it's the nature of the beast, and there are several
13 factors involved.

14 What I will tell you is I've been coming to Board
15 meetings for 30 years. It's a public body, it's a political
16 body. And oftentimes decisions will be made where consensus
17 is built and everybody leaves the room a little bit
18 disappointed. Well, for those who want the status quo -- I
19 was in a conversation the other day with a gentleman closely
20 related to the industry, and I won't put forth his name, but
21 if this Board doesn't continue to deal with the things
22 they're dealing with, that no Board has never dealt with
23 before, the status quo is like rearranging the deck chairs
24 on the Titanic, and that's not going to work.

25 There's three or four items on this agenda, today,

1 that have never been brought up or are being brought up on
2 the Board's own volition, not because they're forced to be
3 brought up. They are very difficult issues.

4 But does it mean the Board will always do the
5 right thing? Absolutely not. Many of these decisions may
6 be, five or ten years from now, will be looked upon as huge
7 mistakes.

8 But speaking for Fairplex, we want to salute each
9 and every one of you for tackling very difficult issues, in
10 a no-growth industry, and our admiration goes out to you for
11 reaching very difficult decisions instead of worrying about
12 a popularity contest. And I think it's going to take bold
13 and decisive action to get this industry back on its feet,
14 and you people are trying to do just that.

15 No one's perfect, but you're not afraid to tackle
16 difficult issues and, for that, you should be saluted.

17 Thank you.

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

19 (Applause.)

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

21 Unless anybody else has any other comment, I would simply
22 like to make one closing comment, and that is to reaffirm
23 that despite all of the acrimony and issues that have taken
24 place since our last Board meeting I, and I think every
25 member of this Board, would love to see Bay Meadows remain a

1 racetrack.

2 There are difficult decisions that we are dealing
3 with in this industry. They're difficult from everybody's
4 perspective, whether they be the owners of the racetrack,
5 whether they be the trainers, whether they be just the
6 participants.

7 And I would implore the industry to try to find a
8 way to come together, so that we can do what's in the best
9 interest of the industry.

10 And even those of us that may have voted
11 differently on the issue are at least united in wanting to
12 see what's best for horse racing. And if there was any way
13 to keep every one of our racetracks to continue to be a
14 racetrack, I believe that is every member's position on this
15 Board, and that is what we would like to see more than
16 anything.

17 Unless there's any other comments, I'd move to
18 adjourn the meeting.

19 COMMISSIONER HARRIS: Second.

20 COMMISSION CHAIRPERSON SHAPIRO: It's adjourned,
21 thank you very much.

22 EXECUTIVE DIRECTOR FERMIN: We have closed
23 session.

24 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry.
25 Sorry. We are going to go into closed session for the

1 issues which are on the closed session agenda. Thank you.

2 (Thereupon the California Horse Racing

3 Board General Meeting resolved into

4 Closed Session and thereafter

5 adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of APRIL, 2007.

Troy A. Ray

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