

MEETING  
STATE OF CALIFORNIA  
HORSE RACING BOARD

In the Matter of:                    )  
  )  
Regular Meeting                        )  
  )

DEL MAR SURFSIDE RACE PLACE  
2260 JIMMY DURANTE BOULEVARD  
DEL MAR, CALIFORNIA

THURSDAY, JULY 17, 2008  
10:00 A.M.

Reported by:  
Troy A. Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson  
John C. Harris, Vice Chairperson  
John Andreini  
Jesse H. Choper  
Bo Derek  
David Israel  
Jerry Moss

STAFF

Kirk Breed, Executive Director  
Richard Bon Smith, Assistant Executive Director  
Robert Miller, Staff Counsel  
Jacqueline Wagner, Staff Services Manager I  
Michael Marten  
Francisco Gonzalez

ALSO PRESENT

Chris Carpenter  
Chris Korby  
Paula Capestro  
Robert Hartman  
Jack Liebau  
Dr. Rick Arthur  
Jim Duval

APPEARANCES CONTINUED

ALSO PRESENT

Forrest J. White

Rod Blonien

Marie Moretti

Michael Seder

Paul Ryneveld

Michelle DeMott

Chris Passch

Dr. Scott Stanley

Marsha Naify

Richard Mandela

Craig Fravel

Ed Halpern

Mike Harlowe

Rick Hammerle

Charlie Dougherty

Senator Darrell Steinberg

Shannon McDonald

Frank De Marco

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 EXECUTIVE DIRECTOR BREED: Let the meeting come to  
3 order. This is the regular meeting of the California Horse  
4 Racing Board. It's held Thursday, July 17th, 2008,  
5 commencing on or about ten o'clock a.m., at the Del Mar  
6 Surfside Race Place, 2260 Jimmy Durante Boulevard, Del Mar,  
7 California.

8 Present at today's meeting are Chairman Richard  
9 Shapiro, Vice Chairman John Harris, Commissioner John  
10 Andreini, Commissioner Jerry [sic] Choper, Commissioner  
11 Jerry Moss, Commission David Israel, and Commissioner Bo  
12 Derek. Welcome.

13 Before we go into the -- did I say Jerry? I said  
14 Jerry.

15 COMMISSIONER CHOPER: That's all right, just don't  
16 call me late for dinner.

17 (Laughter.)

18 EXECUTIVE DIRECTOR BREED: Commissioner Choper is  
19 here, yeah.

20 Before we go into the business of the meeting, I'd  
21 like to ask everyone to please state your name and  
22 organization clearly for our court reporter.

23 Also, there's a couple of little rules I'd like to  
24 bring up. It won't be the long version, we're in the  
25 processing of editing the version.

1           The Board invites comments from the public about  
2 items on its agenda. It also invites public comment about  
3 items not on the agenda, that are related to horse racing,  
4 during the public comment period.

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

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

18           Mr. Chairman.

19           COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank  
20 you very much and good morning to everybody.

21           First and foremost, I would like to welcome our  
22 two new Commissioners to the Board. I think they're  
23 wonderful additions. I know that everybody appreciates that  
24 we have a full complement to the Board.

25           And so I would first like to welcome and introduce

1 David Israel.

2 COMMISSIONER ISRAEL: Thank you.

3 COMMISSION CHAIRPERSON SHAPIRO: And, David, it's  
4 a pleasure to have you on the Board. And if you'd like to  
5 make any brief comment, you're certainly welcome to.

6 COMMISSIONER ISRAEL: I respect and admire  
7 everybody's public service, the members of the Board, and  
8 all they've done for horse racing in California. And I hope  
9 I can contribute as much as all of you have.

10 And if we protect the horses, and protect the  
11 jockeys, protect the horsemen, and protect the customer,  
12 we'll protect the industry.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, you're  
14 singing our song, so we welcome you and look forward to your  
15 help.

16 I'd also like to thank our other and welcome our  
17 other new Commissioner, Bo Derek, to the Board. And it's a  
18 pleasure to have you on the Board and look forward to your  
19 help, as well. And, again, I'd invite you to make an  
20 opening comment.

21 COMMISSIONER DEREK: Okay. I will second  
22 everything David said. I think it's my goal, as a new  
23 member, and I promise to do my best. And, again, for the  
24 horses, the jockeys, the bettors, the owners, for everyone  
25 involved in this sport. Thank you.

1           COMMISSION CHAIRPERSON SHAPIRO: Thank you. I  
2 also would like to take this opportunity to introduce --  
3           (Microphone feedback.)

4           COMMISSIONER DEREK: It's mine.

5           COMMISSION CHAIRPERSON SHAPIRO: Thank you. I'd  
6 like to introduce John Cruz, who's in the audience with us  
7 today. John is the Appointment Secretary for the Governor's  
8 Office and does a wonderful job of bringing these new  
9 members to us. And we'd like to welcome you and thank you  
10 for attending.

11           We appreciate the help that you provide to this  
12 Board which, in turn, looks to help this industry. As we go  
13 through some turbulent times, we're very grateful to the  
14 attention and the help from the Governor's Office. So thank  
15 you very much.

16           Okay, with that being said, I will start with the  
17 agenda and we'll move to Item Number 1, which a discussion  
18 and action by the Board on the application to conduct a  
19 horse race meeting at San Mateo County Fair, at Bay Meadows,  
20 commencing August 8th through August 17th, inclusive.

21           Jackie, why don't you introduce the items and I  
22 would ask those, from San Mateo County Fair, to please come  
23 forward.

24           There's no minutes. There are no minutes for this  
25 meeting. This meeting came on the heels of our last

1 meeting, which was a short period ago, so there are no  
2 minutes for this meeting. We'll catch them up the next  
3 meeting.

4 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,  
5 CHRB staff. The San Mateo County Fair has filed their  
6 application to conduct a horse racing meeting at San Mateo.

7 They are proposing to race from August the 6th  
8 through August 17th, which is ten days. This is one day  
9 less than they raced last year, in 2007.

10 They are proposing to race a total of 86 races,  
11 which is 17 races less than they ran last year.

12 They will be racing Wednesday through Sunday, with  
13 eight races per day Wednesday, Thursday, Friday, and nine  
14 races on Saturday and Sunday.

15 They're proposing a first post time of 1:45 p.m.  
16 daily.

17 Their stabling. They will be open for stabling,  
18 at no cost, beginning Monday, May 12th, through Monday,  
19 October the 13th.

20 Their advance deposit wagering providers. They  
21 will be using TVG, Twin Spire, Youbet, and XpressBet.

22 This application is complete. We have received  
23 all the documentation, and we would recommend that the Board  
24 approve the application.

25 COMMISSION CHAIRPERSON SHAPIRO: Thank you,

1 Jackie.

2 Good morning.

3 MR. CARPENTER: Good morning. Thank you.

4 COMMISSION CHAIRPERSON SHAPIRO: If you'll  
5 introduce yourselves, the court reporter would appreciate  
6 it.

7 MR. CARPENTER: Yes. Chris Carpenter, General  
8 Manager, San Mateo County Event Center and San Mateo County  
9 Fair.

10 And with me, today, is Porter Goults, County  
11 Counsel to San Mateo County, but who is also involved a  
12 great deal in assisting us through horse racing.

13 But thank you, Chairman Shapiro, and other members  
14 of the Board. Welcome to new members of the Board.

15 And thank you, also, for the continuance on this  
16 application. When the meetings changed last time, we had  
17 previous commitments and were unable to attend.

18 Everything is pretty well outlined in the  
19 application, of course, and we've provided all the backup.  
20 But I just wanted to touch on a few highlights.

21 Naturally, we're pleased, once again, to run our  
22 San Mateo County Fair Race Meet with Bay Meadows, as we have  
23 since the mid-1930s.

24 As mentioned, the race meet will be ten days, down  
25 a day from last year, but feel that this will serve to make

1 a much better race for us and do quite well.

2 We just wanted to touch a little bit on marketing  
3 and advertising. We will once again be running an  
4 advertising campaign in excess of \$250,000, through TV,  
5 radio, print media, direct mail, collateral material. And  
6 there's quite a bit of additional advertising in other  
7 areas, that's done by Bay Meadows, as well, for the race  
8 meet.

9 One thing I did want to add and we had hoped to  
10 have a commercial and bring a DVD copy with us for this, but  
11 we've shot our commercial that we'll run on TV, at Bay  
12 Meadows this year. It's a cute commercial, where we have  
13 various animals, including a horse in the starting gate.  
14 And then the first tag line really pushes live horse racing  
15 during the dates of our fair.

16 So once we have that, if there's interest, we can  
17 send a copy, it's a nice commercial that we've done. And we  
18 thank Bay Meadows for working with us, obviously, and  
19 getting the starting gates ready and such.

20 So a pretty extensive marketing and advertising  
21 plan. Everything that we do, of course, talks about live  
22 racing, talks about the dates.

23 During the fair, the race meet begins on Wednesday  
24 and runs Thursday. The fair opens on a Wednesday and also  
25 runs for ten days. And through those ten days we're going

1 to be handing out coupons, as we have in the past, to all  
2 patrons who come to the fair, and pushing the attendance at  
3 Bay Meadows for our race meet.

4 Just to report a few things as well, too,  
5 obviously, I'm in a great deal of communication with Bernie,  
6 and Bernie reported, when I had talked to her, that it's  
7 looking very good. A lot of the parties that they're  
8 planning for, they've booked a lot of space in the infield  
9 and a lot of space in the grandstands. So it's a good in.

10 COMMISSION CHAIRPERSON SHAPIRO: So if I can just  
11 ask you a couple questions to kick it off.

12 MR. CARPENTER: Sure.

13 COMMISSION CHAIRPERSON SHAPIRO: First of all,  
14 this will be the last time horse racing's conducted at Bay  
15 Meadows. And while that's a very sad situation for those of  
16 us in the racing business, are you working with Bay Meadows,  
17 are you taking advantage to capitalize on that to -- any  
18 special events or anything that will, hopefully, boost the  
19 popularity of this meeting?

20 MR. CARPENTER: Yeah, we're boosting an event that  
21 we do over there, for our board of directors, and we've  
22 increased our invitation list to an event that we do, the  
23 Friday, which we rent the grandstands for.

24 And I know Jack's here, but they have some parties  
25 that are planned in the closing of Bay Meadows, as well.

1           In our opening party, which is on Friday, is going  
2 to be themed entirely towards the race meet.

3           COMMISSION VICE CHAIRPERSON HARRIS: Is there  
4 anything planned for the final day?

5           MR. CARPENTER: Jack does have some plans on the  
6 final day, and I've briefly talked to Bernie about that.

7           COMMISSION CHAIRPERSON SHAPIRO: I noticed that  
8 you had a stakes race called the "Last Dance." I didn't  
9 know if that was a Donna Sommer song or if it was because it  
10 was the last meet. Is that a new stake or is that because  
11 of this?

12          MR. CARPENTER: I don't know, you know, to be very  
13 honest.

14          COMMISSION CHAIRPERSON SHAPIRO: Okay. Let me  
15 ask, perhaps, a more important issue, which is we've had a  
16 lot of issues with respect to the ADW wagering. And I see  
17 that as part of CARF, I'm assuming that there's not going to  
18 be a problem with ADW being available through all licensed  
19 ADW providers during your meeting. Is that the case, both  
20 in-state and out-of-state? If so, I see Mr. Korby's getting  
21 up, and I think the Board would like to get an update on  
22 that.

23           Introduce yourself, Mr. Korby.

24          MR. KORBY: Chris Korby, California Authority of  
25 Racing Fairs.

1           Agreements are in place with the three ADW  
2 providers, actually, now four, to provide for ADW access to  
3 the fair's races in California and outside California.

4           COMMISSION CHAIRPERSON SHAPIRO: All right,  
5 so --

6           MR. KORBY: And a horsemen's agreement has been  
7 secured for that.

8           COMMISSION CHAIRPERSON SHAPIRO: All right, so  
9 what I'm trying to anticipate is, is there going to be any  
10 problem with in-state and out-of-state wagering via ADW  
11 during this race meet, to anybody's knowledge? And,  
12 therefore, I may need to call on Drew Couto, or others, that  
13 might be able to provide input to us.

14           I think that we all want to see that there is  
15 wagering, via ADW, for these race meets.

16           MR. KORBY: As do we. We've had ADW wagering  
17 access for the fairs on all the platforms that are licensed.  
18 And I know of nothing that will interrupt that during this  
19 meet.

20           COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

21           Mr. Couto?

22           MR. COUTO: Good morning, Drew Couto, Thoroughbred  
23 Owners of California.

24           At this moment, I know of no issues that will  
25 affect ADW for the fair, for the balance of the fairs. That

1 is not to say, as you know, this is from day to day and  
2 things come up. But right now I don't anticipate any  
3 problems.

4 COMMISSION VICE CHAIRPERSON HARRIS: Well, what  
5 sort of things would come up?

6 MR. COUTO: I got a call this morning from one of  
7 the ADW companies, disappointed that the other ADW companies  
8 are conducting a certain type of wagering in a different  
9 state. I mean, I had no idea that was coming. It's not  
10 something we control. But, apparently, it's going to be a  
11 problem that we have to deal with.

12 So, you know, as I said, every day is a new day  
13 here, and while I don't anticipate anything, I can't tell  
14 you with certainty that something won't come up by somebody  
15 else.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, again, you  
17 know, we have an obligation to our fans, to everybody, to  
18 try and act on these issues. And certainly, in advance of  
19 the Del Mar meeting there's been all this last-minute  
20 discussions and we've had meetings to get ADW up and going.  
21 It's the only growing segment of our business.

22 And I think that we, as a Board, and everybody  
23 else, are concerned that we can make sure that ADW is  
24 available to everybody.

25 So I'd like to get advanced notice if there is a

1 problem, so that we can deal with it as much as possible.

2 So I would ask that.

3 COMMISSION VICE CHAIRPERSON HARRIS: It would be  
4 good, I think, that on those, if there's a problem, that at  
5 least we're getting through whatever meet's going at that  
6 point, we don't have an eleventh hour thing that's  
7 what -- say, this meet is set for a certain type of ADW, and  
8 rates, and the whole thing, and we know that's for certain  
9 it's set. If it's a dispute at the next meeting that comes  
10 along, it's different.

11 COMMISSION CHAIRPERSON SHAPIRO: I agree with  
12 that.

13 Do any of the other Board members have -- oh, one  
14 last question. With respect to the horse ambulance, and I  
15 asked this, and I'm going to want to have that assurance  
16 from all the race meet applications that we're going to hear  
17 today. I'm unclear, and I'd like to have here it's  
18 confirmed, that at all of the different venues that are  
19 serving to provide horses for these race meetings, because  
20 we're using Pleasanton and Golden Gate, are there horse  
21 ambulance in attendance, ready, during training hours at  
22 each of these venues?

23 Do you know that, if that's the case?

24 MR. CARPENTER: As I understand, that is the case.  
25 But I would defer, also, to Jack, during training, if he

1 might comment on that. But that is my understanding.

2 COMMISSION CHAIRPERSON SHAPIRO: Mr. Korby, I  
3 remember I inquired at the last Board meeting on this issue,  
4 and I never got a definitive yes, that at each location  
5 where there are horses training in the mornings, there are  
6 both horse ambulance and people ambulances standing by?

7 MR. KORBY: We have confirmed that in writing,  
8 with a schedule, that there is an ambulance in place at each  
9 fair stabling facility.

10 And for Golden Gate Fields and Bay Meadows, which  
11 serve as auxiliaries while the fairs are running during the  
12 summer, we rely on them to furnish an ambulance which, I am  
13 confident, they are doing. So the answer is yes.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, at the  
15 fairs.

16 MR. KORBY: Now, that ambulance, just to fill in a  
17 little bit more information here, that ambulance does move  
18 as the auxiliary stabling facilities move from one place to  
19 another.

20 COMMISSION CHAIRPERSON SHAPIRO: That's fine.  
21 But, again, I just want to make sure that we have -- we have  
22 the facilities there in case there's a morning accident, and  
23 that we're not going to not have a vet, we're not going to  
24 have -- be missing a horse ambulance or a people ambulance.

25 MR. KORBY: Dr. Arthur and I have discussed this.

1 I furnished the information in writing and I believe he's  
2 satisfied with the schedule that we've provided.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

4 MS. CAPESTRO: Paula Capestro. There's not a  
5 horse ambulance at San Luis Rey Downs.

6 COMMISSION CHAIRPERSON SHAPIRO: There is not one  
7 at San Luis Rey Downs?

8 MS. CAPESTRO: No. I've been lobbying for that  
9 for the last two or three years.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.  
11 Well, we need to deal with that. But right now we're  
12 dealing with this application, and San Luis Rey serves down  
13 here.

14 MS. CAPESTRO: It's an auxiliary training.

15 COMMISSION CHAIRPERSON SHAPIRO: But thank you,  
16 Ms. Capestro, it's a good point.

17 Let me just ask, just to close the loop here.  
18 Introduce yourself, Robert.

19 MR. HARTMAN: Robert Hartman, General Manager,  
20 Golden Gate Fields.

21 COMMISSION CHAIRPERSON SHAPIRO: Is there a horse  
22 ambulance standing by?

23 MR. HARTMAN: Yes, year-round, we have a horse  
24 ambulance and a human ambulance.

25 COMMISSION CHAIRPERSON SHAPIRO: Morning and --

1 MR. HARTMAN: Morning, yeah.

2 COMMISSION CHAIRPERSON SHAPIRO: And the same with  
3 Bay Meadows? Jack, or Charlie, or somebody could answer  
4 this question so we can -- is Bernie here?

5 Jack, while the stable -- while Bay Meadows is  
6 being used as an auxiliary stabling area, is there a horse  
7 ambulance available in the morning?

8 MR. LIEBAU: Yes. You know, we can bring  
9 everybody up here, but I don't think there is one at every  
10 facility. There is at Bay Meadows, I can speak to that.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay.

12 EQUINE MEDICAL DIRECTOR ARTHUR: To answer the  
13 question --

14 COMMISSION CHAIRPERSON SHAPIRO: Dr. Arthur, you  
15 want to introduce yourself?

16 EQUINE MEDICAL DIRECTOR ARTHUR: Dr. Arthur,  
17 Equine Medical Director, California Horse Racing Board.

18 Not every facility has a Kimzey ambulance, horse  
19 ambulance. Many auxiliary facilities use horse trailers, as  
20 is the case in many jurisdictions around the country, for  
21 their stabling area. Some of them have been modified  
22 specifically for ambulance use, some of them have not.

23 But all of them have trailers available to help  
24 get horses off the racetrack. But they don't necessarily  
25 have an ambulance that is designed to go down, like we have

1 at all of our other -- at all of our racing facilities in  
2 California, unlike other states.

3 COMMISSION CHAIRPERSON SHAPIRO: So could you,  
4 perhaps, at least give the Board a breakdown of what  
5 facilities, what ambulatory facilities are available at each  
6 of the venues, so that we know that we've taken care of it,  
7 or at least know that there's vets standing by if a horse  
8 goes down and things like that?

9 EQUINE MEDICAL DIRECTOR ARTHUR: There is not --  
10 there is no requirement to have a veterinarian standing by.  
11 And there have been problems recently -- we're getting into  
12 a very complex area. But there have been problems recently  
13 at Pleasanton, when there were three facilities where no one  
14 was available.

15 We had problems last year at Fairplex, when no one  
16 was available. And then that particular facility, we told  
17 them they could not work horses unless they had a  
18 veterinarian available, and Fairplex hired somebody to be on  
19 staff.

20 Because it really is we don't supply private  
21 veterinarians. So it's really up to the trainers to decide  
22 whether or not they want to train a horse or work a horse  
23 when there's no private veterinarian available.

24 Most of them have had people available, but  
25 sometimes there's no official way, or there's no mandated

1 way that anybody is there by emergency.

2 Yet, the same thing is true even at Santa Anita,  
3 even though you can usually -- you can get a veterinarian  
4 there within 15 to 20 minutes at any time.

5 Hollywood Park's not necessarily the same way.

6 But the supply and demand is such that there's  
7 always a veterinarian at the majors. It's not necessarily  
8 the case at some of the fairs.

9 COMMISSION CHAIRPERSON SHAPIRO: Well, perhaps you  
10 could give us a report, or something, and some  
11 recommendations of what we should do in this regard, to make  
12 sure that there are the facilities there, in case there's an  
13 accident in the morning, to deal with the possible injuries.

14 EQUINE MEDICAL DIRECTOR ARTHUR: You got it.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank  
16 you.

17 All right, do any of the members of the Board have  
18 any questions for this applicant?

19 There not being any, then can I have a motion to  
20 approve the license?

21 COMMISSIONER MOSS: I make a motion.

22 COMMISSION CHAIRPERSON SHAPIRO: Moved. Seconded?

23 COMMISSIONER CHOPER: Second.

24 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

25 (Ayes.)

1           COMMISSION CHAIRPERSON SHAPIRO: Thank you. Don't  
2 go anywhere.

3           MR. CARPENTER: Thank you.

4           COMMISSION CHAIRPERSON SHAPIRO: You're up next.

5           MR. CARPENTER: Yes.

6           COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number  
7 2, discussion and action by the Board on the application to  
8 operate a satellite wagering facility, submitted by the San  
9 Mateo County Event Center.

10           STAFF SERVICES MANAGER WAGNER: Jackie Wagner,  
11 CHRB staff.

12           The San Mateo Event Center has submitted their  
13 application to operate as a simulcast wagering facility.  
14 Their proposed dates of operation, during this current  
15 racing year, are August the 17th through December the 31st.

16           The days of operation for the satellite wagering  
17 facility will be the normal operation -- the normal  
18 operation will be Wednesday through Sunday. However, this  
19 would be determined on the host track.

20           They're proposing to have the facility open from  
21 11:00 a.m. through the final race in the evening.

22           Their admission charges. They have three levels  
23 of admission charges. Level one is a \$5 admission. They  
24 are proposing a level two admission of \$7. This would be  
25 the premium clubhouse. Level three would be a free

1 membership.

2           They're proposing, they're going to have, I  
3 believe, two halls. One is Oak Hall and Cypress Hall. The  
4 seating capacity in Oak Hall is purported to be  
5 approximately 390. Cypress Hall is 800, and that is on an  
6 as-needed basis, as I understand it.

7           There are some items that are missing from this  
8 application and these include the horsemen's agreement.

9           We have received the simulcast agreement, I  
10 received that.

11           The SEIU agreement, that's the Local 280, I do not  
12 have that.

13           The fire clearance. The fire clearance for Oak  
14 Hall is scheduled, as well as the fire clearance for Cypress  
15 Hall.

16           And we do have one licensing -- a simulcast  
17 facility supervisor that does need to be licensed and we're  
18 in the process of completing that.

19           We do have the representatives here. Since this  
20 is a new facility coming on board, they will be available  
21 for questions.

22           COMMISSION CHAIRPERSON SHAPIRO: Thank you,  
23 Jackie.

24           Mr. Carpenter, I recall back, I think it was in  
25 March, when you made a presentation to the Board and

1 described to us, or maybe it would have been earlier, as to  
2 what you're doing to replace the simulcasting that was at  
3 Bay Meadows. And we appreciate that.

4 And I also recognize that Secretary Kawamura has  
5 already approved it, which was a requirement under the law.

6 Can you give us an update on where you stand with  
7 the improvement of the facility? There is concern among all  
8 of us, and I'm sure including yourself, that it's going to  
9 be open, ready in time, and will be able to accommodate  
10 those fans that are used to going to Bay Meadows for  
11 simulcasting, and it's critically important to the health of  
12 racing that these facilities be available.

13 So perhaps you can give us an update?

14 MR. CARPENTER: Yes.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

16 MR. CARPENTER: Oak Hall is the space that we're  
17 renovating. We're putting \$5.1 million into Oak Hall and  
18 some outside areas. There will be an addition to Oak Hall  
19 on the south and north side.

20 In addition to Oak Hall, for a number of months  
21 and, hopefully, the business is there, where we maintain,  
22 utilizing Cypress Hall, which is about a hundred feet away  
23 from Oak Hall, is a 16,000 square foot facility.

24 I do want to be clear on that particular facility,  
25 we are not renovating, but that is a very nice facility with

1 carpeting, wall treatments, and that facility will also be  
2 set up with projectors, TVs, and machines to handle the  
3 crowd. So that will open up in tandem with Oak Hall, August  
4 20th.

5 In addition to some outside areas, because we're  
6 going to hold the entire open area between Oak and Cypress  
7 Hall.

8 COMMISSION CHAIRPERSON SHAPIRO: So how many  
9 people, on an average, was Bay Meadows serving as of when  
10 they were not racing, and they were a simulcast facility,  
11 how many people were they generally having both on weekends  
12 and during the week, what was their average?

13 MR. CARPENTER: The numbers we have, 800 during  
14 the week and 1,200 during the weekends, Saturday and Sunday.

15 COMMISSION CHAIRPERSON SHAPIRO: And will these  
16 facilities be able to accommodate that many people?

17 MR. CARPENTER: Yes, they will.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay.

19 COMMISSION VICE CHAIRPERSON HARRIS: There was  
20 some concern expressed on the number of self-service  
21 terminals and teller terminals. Are there going to be  
22 adequate terminals, compared to what Bay Meadows had, to  
23 take care of the crowd?

24 MR. CARPENTER: We feel there will. There will be  
25 40 terminals available, as we put in the application.

1     However, we can expand upon that amount of terminals.

2                   COMMISSION VICE CHAIRPERSON HARRIS:   Because I  
3     understood that 40 was substantially less than Bay Meadows  
4     had normally had, you know, far more.   Because I'm not sure  
5     how much a terminal generates, but it seemed like 40 might  
6     not be enough for the space of a weekend.

7                   MR. CARPENTER:   I will definitely talk to Sam  
8     Fanturine (phonetic), who's installing a lot of that, and  
9     also Chris Korby.   We do have the capacity to add more, if  
10    need be, we'll be wired for that.   That's the plan right  
11    now.

12                   But, you know, we would accept any thoughts and  
13    concerns, and we would love to work with the industry.   You  
14    know, if somebody's going to identify somewhere where we  
15    need to add then --

16                   COMMISSION VICE CHAIRPERSON HARRIS:   The main I  
17    was concerned because there's a chance the industry could  
18    lose substantial waging as a result of losing Bay Meadows'  
19    satellite, even though you're filling in and I like your  
20    plans.   But that it's the first impression that the  
21    satellite people are going to get, transitioning to your  
22    facility, it's important that they feel they're adequately  
23    served there and don't quit coming.

24                   MR. CARPENTER:   I will look at that, I'll discuss  
25    that with our architect, who is also here in the crowd with

1 us today, Gordon Gong. I'll discuss it with Chris Korby.  
2 And I can report back to the Board on what we may do to  
3 increase those.

4 COMMISSION CHAIRPERSON SHAPIRO: Well, I'm sure  
5 that the data's available, and I'm sure Bernie Thurman, of  
6 Bay Meadows, and others can help and cooperate to try to  
7 give you that information. So, again, I echo what  
8 Commissioner Harris is saying, that we want to make sure  
9 that the facilities are comfortable, and we're not turning  
10 people away, but inviting them to come to your facility.

11 MR. CARPENTER: Yes, sir. Yeah.

12 COMMISSION CHAIRPERSON SHAPIRO: Can you comment  
13 on the other issues that are still awaiting completion, the  
14 horsemen's agreement?

15 MR. CARPENTER: I'm going to ask Chris Korby to  
16 come up and talk about the horsemen's agreement. But as we  
17 understand, just verbally we have the commitment.

18 MR. KORBY: I'll stay a little closer. Chris  
19 Korby, California Authority of Racing Fairs.

20 Drew just assured me that the letter has gone out,  
21 so I think that requirement in the application is covered.

22 COMMISSION CHAIRPERSON SHAPIRO: That letter,  
23 meaning there's an agreement approval?

24 MR. KORBY: The consent letter from the  
25 Thoroughbred Owners of California.

1 COMMISSION CHAIRPERSON SHAPIRO: Right.

2 COMMISSION VICE CHAIRPERSON HARRIS: I wasn't  
3 really aware that you -- what's the purpose of a horsemen's  
4 agreement at a simulcast facility?

5 COMMISSION CHAIRPERSON SHAPIRO: We're going to  
6 give you exercises, Mr. Couto.

7 MR. KORBAY: Sure. I was looking forward to  
8 answering.

9 MR. COUTO: I apologize. Drew Couto.

10 It's not a formal horsemen's agreement like we're  
11 used to in terms of racing associations, it is a letter in  
12 support of the application to conduct the simulcast  
13 facility. That's what's required, that's what we provided.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.  
15 And on the other open items, the SEIU agreement?

16 MR. CARPENTER: Yes. It's the SEIU agreement and  
17 the Teamster's agreement. We have another meeting set up  
18 with SEIU, Ken Walker and myself, as a matter of fact, this  
19 Monday. We're not a great deal apart and I think, I believe  
20 Monday we're going to bring it together. But certainly, I'm  
21 assured, we're going to have an agreement, obviously, before  
22 we open the facility the 20th. And that goes with the  
23 Teamster's as well.

24 We've had a couple of meetings with the Teamster's  
25 and we've had three meetings with SEIU, and we have one,

1 another scheduled for next week. We don't know the date,  
2 yet. But for certain we're going to meet with SEIU Monday,  
3 at 10:30.

4 COMMISSION CHAIRPERSON SHAPIRO: Mr. Duggan, do  
5 you want to weigh in on that? Or Duval, I'm sorry.

6 MR. DUVAL: Jim Duval.

7 COMMISSION CHAIRPERSON SHAPIRO: Sorry, Duval.

8 MR. DUVAL: Jim Duval, from SEIU 1877.

9 We've been in negotiations with the Event Center  
10 and they've been going fairly well. We have all the non-  
11 economic issues basically settled. Now, we got the easy  
12 ones, like wages, health and welfare, and benefits.

13 But I believe, through arguing, pulling hair,  
14 fighting back and forth, we will end up with an agreement.

15 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

16 MR. DUVAL: Thank you.

17 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.  
18 Duval, and sorry for mangling your name.

19 Okay, obviously, this is critically important to  
20 Northern California. We know it's a big undertaking.  
21 You're doing a large construction job and those of us in  
22 that industry know there's nothing but delays and overruns.

23 But we're thrilled to see it and we welcome -- we  
24 look forward to seeing it. But it's important that we serve  
25 that customer base up there, and it's been there forever,

1 and we hope that it will go smoothly.

2 Are there any other comments from the Board?

3 If not, I'll entertain a motion.

4 Do you have a comment, Commissioner Choper?

5 COMMISSIONER CHOPER: Well, I just wanted to say I  
6 think it's great that you finished the thing on time, and  
7 maybe that will be a standard for the kinds of changes we're  
8 going to have to make over the next several years. So good  
9 work, good luck.

10 MR. CARPENTER: Well, thank you. Thank you to the  
11 entire Board and the industry. And, again, we're an open  
12 book and would love to hear from anybody. And we're working  
13 very hard on this to have it ready and have it first class.

14 COMMISSION CHAIRPERSON SHAPIRO: Let's make sure  
15 there's enough terminals, and talk to Sci Games, and Bernie,  
16 and everybody else. We don't want long lines, get them in.

17 Is there a motion to approve this?

18 COMMISSION VICE CHAIRPERSON HARRIS: So moved.

19 COMMISSION CHAIRPERSON SHAPIRO: Second?

20 COMMISSIONER ISRAEL: Second.

21 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

22 (Ayes.)

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

24 MR. CARPENTER: Thank you.

25 COMMISSION CHAIRPERSON SHAPIRO: Good luck to both

1 of you and thank you for coming.

2 All right, Item Number 3 on the agenda is  
3 discussion and action by the Board on the application to  
4 conduct a horse racing meeting of the San Joaquin County  
5 Fair at Stockton, commencing September 3rd through September  
6 14th, inclusive.

7 Jackie.

8 STAFF SERVICES MANAGER WAGNER: Good morning.

9 Again, Jackie Wagner, CHRB staff.

10 The San Joaquin County Fair has filed their  
11 application. They are proposing to race from September the  
12 3rd through the 14th. This is nine days, and the same  
13 number of days that they ran last year, in 2007.

14 They are proposing to race a total of 98 races,  
15 which is four less than they ran in 2007.

16 They will be racing Wednesday, Friday, Saturday  
17 and Sunday the first week, and Wednesday through Sunday the  
18 second week.

19 On Wednesday they will have ten races per day and  
20 this will be the race per day, or Wednesday through Friday.  
21 And on Saturday and Sunday they will be racing 12 races per  
22 day.

23 Their post time is 12:45 p.m. daily. Their  
24 advanced deposit wagering providers are ADW -- excuse me,  
25 XpressBet, Twin Spires, and Youbet.

1           The application is complete. We have received all  
2 the documents. And we do have a representative here to  
3 answer questions.

4           COMMISSION CHAIRPERSON SHAPIRO: Thank you,  
5 Jackie.

6           Mr. White, welcome.

7           MR. WHITE: Thank you.

8           COMMISSION CHAIRPERSON SHAPIRO: I note that last  
9 year you were up nearly 85 percent in average daily handle.  
10 You were up in on-track 51 percent.

11           Now, you didn't have a marketing plan in here, but  
12 if you just promise us the same increases, I have no  
13 questions for you.

14           MR. WHITE: Okay, thank you. That's going to be a  
15 little difficult.

16           COMMISSION CHAIRPERSON SHAPIRO: It's high.

17           MR. WHITE: Last year -- last year was a unique  
18 situation. We'd been in overlap for years and moved out of  
19 overlap.

20           This year, to be quite honest, we're projecting  
21 somewhere between a five -- about a five or six percent  
22 decrease, based on two facts. One, that we're moving our  
23 dates, which is just re-educating customer base, probably  
24 being the largest.

25           And then just the newness. We're rebranding.

1 There was -- there should be a marketing plan in there. It  
2 was submitted. It's at the back.

3 But if you look at it, we're rebranding our race  
4 meet to read "Stockton Racing at the San Joaquin County  
5 Fairgrounds."

6 We've changed everything, admissions, parking.  
7 For example, we'll have free general parking. There will  
8 still be a charge for upgrade.

9 General admission will be \$3, as opposed to --

10 COMMISSION VICE CHAIRPERSON HARRIS: Is it going  
11 to run concurrently with the San Joaquin County Fair or is  
12 this a separate deal?

13 MR. WHITE: This is a separate program. The  
14 County Fair, itself, concluded back in June. And so we'll  
15 be running -- I hate to use the word, a "stand-alone meet,"  
16 but the meet will be stand-alone in the sense of general  
17 fair activities.

18 We do have ag related activities on the grounds.  
19 We also have some social or cultural events. The last day  
20 is Mexican Independent Day and we have a huge activity on  
21 that day, sponsored.

22 We also have some commercial events that are  
23 typical during the non-fair period that will be going on.  
24 And in all of those cases we'll be cross-promoting with  
25 those events during that period of time.

1 COMMISSION CHAIRPERSON SHAPIRO: Well --

2 COMMISSION VICE CHAIRPERSON HARRIS: I think these  
3 are better dates, because due to the weather and the way the  
4 whole circuit is, it's a nice spot for Stockton to run.  
5 But, I mean, I'm just concerned that you really capitalize  
6 on it and get people to really know about it. Because  
7 people are creatures of habit and, usually, you know, if  
8 they want to go to the race in Stockton, unless it's 110  
9 degrees out --

10 MR. WHITE: Right. Well, I can tell you one thing  
11 that we did, we planned on a program during our fair, which  
12 was during June, that anyone who walked up, who said, well,  
13 we came to go to the races, that we would provide them free  
14 admission to the racing, take them over to the satellite, do  
15 things like that.

16 We had attendance at our five-day event of about  
17 80,000 people. We had two individuals at the gates, say,  
18 where are the horses?

19 So we're confident that the community, the  
20 newspaper, the radio stations have gotten behind the  
21 separation of the two events, and that we now have the  
22 radio, TV, and newspaper, as well, behind the new, stand-  
23 alone event, as they're looking at it.

24 And I think, from a marketing stand point, it will  
25 be much easier because we can target market the individuals.

1 We're going to organizations. We have a Lion's Club Day,  
2 that we're hoping to have a couple of thousand Lion's come  
3 out.

4 We're doing a bunch of things that typically you  
5 couldn't do during fair because it was cost driven. And  
6 when you tell somebody it's \$9, it was difficult, and they  
7 had to pay to park.

8 This year, I think it's about a \$14 savings when  
9 you figure by the time you come in, park, buy a program,  
10 you'll basically have a \$4 investment, a dollar for a  
11 program and a three dollar admission.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,  
13 again, all we ask is that you have the increases of last  
14 year and we won't bother you.

15 MR. WHITE: Well, if I can do that, I can walk on  
16 water, too, but I don't know.

17 COMMISSION CHAIRPERSON SHAPIRO: You've got a  
18 stakes race named after yourself, you must be --

19 MR. WHITE: And I'm still alive, so that's a good  
20 thing.

21 (Laughter.)

22 COMMISSION CHAIRPERSON SHAPIRO: When I looked at  
23 your application and I saw it, and I went, oh, my God, did  
24 something happen to him? And then I sitting there and I  
25 was, okay.

1           MR. WHITE: They did it last year. And it came  
2 out of my Board, and my Racing Secretary said that too many  
3 times stake races are always named after someone who's dead,  
4 and they wanted to make sure that at least I got to enjoy  
5 one.

6           COMMISSION CHAIRPERSON SHAPIRO: Well, you look  
7 healthy and we're glad to have you.

8           Are there any other questions, comments from the  
9 Board on this application?

10          If not, is there a motion?

11          COMMISSIONER CHOPER: I'll move.

12          COMMISSION CHAIRPERSON SHAPIRO: Second?

13          COMMISSIONER MOSS: Second.

14          COMMISSION CHAIRPERSON SHAPIRO: All in favor?

15          (Ayes.)

16          MR. WHITE: Thank you.

17          COMMISSION CHAIRPERSON SHAPIRO: All right, thank  
18 you, Mr. White.

19          Okay, before I get to Item Number 4, and I  
20 probably am going to get chided later for this, but I would  
21 like everybody to acknowledge and welcome that Marie Moretti  
22 has entered the room. And while she's going to probably be  
23 angry at me, nothing should go past without our thanking  
24 Marie, personally.

25          Marie, stand up.

1 AUDIENCE MEMBER: She just left.

2 COMMISSION CHAIRPERSON SHAPIRO: Did she, really?

3 AUDIENCE MEMBER: Good timing.

4 (Laughter.)

5 COMMISSION CHAIRPERSON SHAPIRO: All right, so  
6 we'll take that back. When she comes back in, we'll do it  
7 again. Because I've got Rod to sing, you know, his song.  
8 So maybe you can just break out in song there.

9 Okay, then we'll go back to Item Number 4 on the  
10 agenda. Discussion and action by the Board on the  
11 application to conduct a horse race meeting at the Los  
12 Angeles County Fair, at Fairplex, commencing September 5th  
13 through September 22nd, inclusive.

14 Jackie, if you would introduce our friends from  
15 Fairplex -- the item.

16 STAFF SERVICES MANAGER WAGNER: This is the  
17 application from the Los Angeles County Fair, at Fairplex.  
18 They are proposing to race from September the 2nd -- excuse  
19 me, September the 5th through the 22nd.

20 This is 16 days, the same number of days that  
21 they --

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, hold it, I  
23 got to stop you. Marie came back in.

24 (Applause.)

25 COMMISSION CHAIRPERSON SHAPIRO: Marie, come on up

1 here.

2 Okay, Rod. Where's Rod? Rod, you're on.

3 COMMISSION VICE CHAIRPERSON HARRIS: You got to  
4 explain this tradition.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, this is a  
6 tradition. Okay, he's not really that good, but he's the  
7 best we got. So, Rod, you're on.

8 COMMISSION VICE CHAIRPERSON HARRIS: And he knows  
9 other songs as well, too.

10 MR. BLONIEN: Yes, I do. Thank you, Mr. Chairman  
11 and Members. Good morning, Rod Blonien.

12 I guess it was probably, almost 20 years ago, we  
13 started a thing, when there was a member of the Board who  
14 was going to be leaving and at their last meeting, we would  
15 sing Happy Trails to them.

16 And it isn't with pleasure that I sing Happy  
17 Trails to Marie because, frankly, I wish she would have  
18 stayed on the Board. She's been a good friend for more than  
19 30 years, and vibrant, enthusiastic supporter of the horse  
20 racing industry.

21 And, Marie, we wish you well in all your future  
22 endeavors. And, hopefully, I'll continue to see you around  
23 Sacramento.

24 And with nothing further Happy Trails to you --

25 (All singing Happy Trails.)

1 MS. MORETTI: Thank you.

2 (Applause.)

3 MS. MORETTI: I get to say something, don't I,  
4 after all. I haven't ever sat in the chair, the Chair's  
5 chair.

6 However, thank you to everyone. I actually will  
7 miss all of you, but I will be seeing you. And I do really  
8 appreciate all of the friendship, the support, the  
9 arguments, the disagreements, and the agreements that we've  
10 had over the last eight and a half years, it's been great.

11 And I welcome the two new Commissioners on and say  
12 good luck to you.

13 COMMISSIONER ISRAEL: Thank you.

14 MS. MORETTI: And you'll enjoy it. There's some  
15 wonderful people involved with this horse racing industry.

16 COMMISSIONER ISRAEL: Thank you.

17 (Applause.)

18 COMMISSION CHAIRPERSON SHAPIRO: I don't know how  
19 to follow that song.

20 COMMISSIONER MOSS: I think Rod had a few too many  
21 beers last night, that's why.

22 COMMISSION VICE CHAIRPERSON HARRIS: He's  
23 available for contract.

24 COMMISSIONER ISRAEL: So you're not going to name  
25 a horse after his children?

1 (Laughter.)

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. Here comes  
3 Blonien.

4 Okay. All right, so let's go back to our friends  
5 at Fairplex, and welcome. Sorry for the musical interlude  
6 there. But why don't you describe to us what's new and  
7 going on at Fairplex Park this year.

8 MR. SEDER: Thank you, Commissioners. My name is  
9 Mike Seder, I'm Vice President at Fairplex. And I have  
10 here, today, Paul Ryneveld, who's our Equine Manager, and  
11 Michelle DeMott, who is our Director of Marketing.

12 We've submitted to you the application and,  
13 separately, a marketing plan for you to review.

14 We're very excited about this year's fair and this  
15 year's race meet. We have put a lot of emphasis into  
16 revitalizing our program. Michelle's available to speak to  
17 you, if you've got particular questions about the marketing.

18 The L.A. County Fair is a vibrant place. We've  
19 been growing over the years and our challenge always  
20 continue to be how do we grow the racing component within  
21 the L.A. County Fair. We see over 1.4 million people during  
22 the 18-day period of the fair.

23 So if there's any questions, I'd be happy to  
24 answer them or any of us.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, I noted

1 that there were quite a few improvements to the facility  
2 since we've been there last, and I was hoping perhaps you  
3 could highlight those. Because some of them, they sound  
4 terrific. And, you know, as we're going through, in the  
5 future, a transition period and we're looking at a possible  
6 greater usage of Fairplex as both a training, and stabling,  
7 and racing facility, I thought perhaps you could take a  
8 moment to describe those.

9 MR. RYNEVELD: Mr. Chairman, Members of the  
10 Commission, I'm Paul Ryneveld, the Equine Manager at  
11 Fairplex.

12 Some of the changes that we started last year,  
13 actually, we developed a sports bar in the northwest end of  
14 the grandstand, and that bar was named after the Studdi  
15 family. And it was a rousing success. It livened up that  
16 end of the building and drove some traffic from off of the  
17 fairgrounds, into the building to watch racing.

18 This year, we are going to expand our Day at the  
19 Races program, on the Veranda, out in front of the  
20 clubhouse, and we're adding another platform to expand  
21 capacity.

22 Before, we were basically shoehorning 400 people  
23 in there on the weekends and that was somewhat  
24 uncomfortable. So now we will be able to easily handle 400  
25 to 460 people, you know, for group events, right at the

1 clubhouse turn.

2           We are in the process of adding some sky boxes, or  
3 starting to develop a sky box system up at the top of our  
4 grandstand. Which is, right now, affectionately known as  
5 the crow's nest. We will be putting TVs up there, and a  
6 beverage service, and basically selling those to groups for  
7 a Day at the Races, as well.

8           Hoping to eventually transition into a true sky  
9 box, similar to the ones that they built at Angel's Stadium,  
10 in Anaheim, back when they remodeled there.

11           We also are cleaning up the area around the long  
12 line and the paddock, because that continues to be a very  
13 well-attended portion of the fair, and it's the closest to  
14 an entrance outside, onto the fairgrounds. And a lot of  
15 owners and trainers like to hang out there, and it's the  
16 best spot.

17           COMMISSION CHAIRPERSON SHAPIRO: Why is it called  
18 the long line barn?

19           MR. RYNEVELD: The long line is that building  
20 that's right in front, that has wagering capabilities, and  
21 it's just -- I don't know.

22           COMMISSION VICE CHAIRPERSON HARRIS: Sounds pretty  
23 good to me.

24           MR. RYNEVELD: And the bar is right behind the  
25 long line so --

1           COMMISSION CHAIRPERSON SHAPIRO: I mean, I can't  
2 go anywhere where there's not a long line or traffic. How  
3 about the quick service bar?

4           All right, well, thank you. My concern here, on  
5 this application is, first of all, your horsemen's agreement  
6 is not concluded, yet; is that correct?

7           MR. SEDER: It has been concluded.

8           COMMISSION CHAIRPERSON SHAPIRO: Oh, it is  
9 concluded. Okay, so that's good.

10           But we, those of us that have been keenly aware of  
11 this, we do see -- I see Drew's getting up, which is good,  
12 because he knows I'm going to talk about ADW.

13           My concern is what the ADW arrangements are going  
14 to be with this meeting and want to make sure, as I  
15 understand it, you have an exclusive agreement for broadcast  
16 and wagering with TVG. And my concern is to make sure that  
17 we have in-state and out-of-state wagering that continues  
18 through your meeting.

19           Are you aware of where that stands as of today?  
20 Are you aware of any issue?

21           MR. SEDER: I'm not aware of any issue. As it  
22 stands today, we do have an exclusive with TVG through this  
23 year's fair. And we were hopeful, I think as others were,  
24 that the experiment would continue, that was going on the  
25 end of last year and into this year. Obviously, that has

1 not continued, so we have our TVG arrangements. We also, of  
2 course, have Youbet.

3 COMMISSION CHAIRPERSON SHAPIRO: Right.

4 MR. SEDER: So that's, to the best of our  
5 knowledge, that's where we're out.

6 COMMISSION CHAIRPERSON SHAPIRO: Mr. Couto,  
7 perhaps you can give us an update. And while I know you  
8 don't like it, probably, that I'm asking this, but my  
9 concern is that -- it is are we going to have a problem is  
10 there a potential problem with keeping interstate wagering and  
11 intrastate wagering via ADW, and TVG, and Youbet? Can you  
12 give us a status report on that?

13 MR. COUTO: Sure. Drew Couto, Thoroughbred Owners  
14 of California.

15 The answer is I don't know. Honestly. I don't  
16 know what the outcome of the meetings will be over the next  
17 30 days. I wish I could give you a better answer, but  
18 that's the only answer I have for you right now.

19 COMMISSION CHAIRPERSON SHAPIRO: Are there  
20 meetings scheduled? I mean, look, I know that you're  
21 working around the clock on this issue, as well as a lot of  
22 other people, to resolve it, and I think all of us would  
23 like to see the, what we called the experiment, which was  
24 open wagering with all of our ADW providers, and I certainly  
25 know that TOC feels that way.

1 MR. COUTO: Absolutely.

2 COMMISSION CHAIRPERSON SHAPIRO: And I also know  
3 that I think that TVG, and Twin Spires, and Youbet, and  
4 TrackNet, everybody we've met and are trying to grapple with  
5 this.

6 But the important part is, especially as we go  
7 into these difficult economic times, and all the challenges,  
8 we can't cut off our fans from having a vehicle to wager on  
9 California product.

10 And so from our perspective, and I also recognize  
11 with respect to the interstate aspect of it, the Interstate  
12 Horse Racing Act is involved, and there's other issues.

13 I think the only assurance we can ask for is that  
14 there are meetings being held to try and bring this to  
15 resolution, so we don't come to an eleventh hour problem, as  
16 we have just diverted here, at Del Mar.

17 MR. COUTO: Well, why should Fairplex be treated  
18 any differently than anybody else?

19 COMMISSION CHAIRPERSON SHAPIRO: Well --

20 MR. COUTO: No. I say that, obviously,  
21 facetiously, Mr. Shapiro.

22 COMMISSION CHAIRPERSON SHAPIRO: The question is  
23 what can we do?

24 MR. COUTO: As I think you know, what we did as a  
25 condition to the ADWs receiving at least TOC's consent to

1 conduct the ADW, is require that they sign a letter of  
2 intent with THG, our representative in this process, that  
3 requires each of the ADW companies to enter into non-  
4 binding, good-faith discussions about these issues over the  
5 next, hopefully, 30 days, to try and resolve this.

6 I do not think it is the Board's intent or  
7 position to put TOC in the position of articulating what it  
8 is we want to discuss and resolve in those negotiations.  
9 But I can just tell you that they -- the parties that you're  
10 concerned about have all now executed the letter of intent  
11 and, hopefully, we'll get some sanity injected into this  
12 process very quickly.

13 COMMISSIONER CHOPER: I didn't understand your  
14 point about not having the Board do what?

15 MR. COUTO: Force TOC to disclose openly, at this  
16 point, before we begin discussions, what it is we're looking  
17 for.

18 COMMISSIONER CHOPER: Will the Board be  
19 represented in those discussions?

20 MR. COUTO: At this point, I don't think we --  
21 none of us had anticipated that, no.

22 COMMISSIONER CHOPER: They were there at the Del  
23 Mar discussions; is that right?

24 MR. COUTO: I'm sorry?

25 COMMISSIONER CHOPER: They were represented by the

1 Chairman and Vice Chairman at the Del Mar?

2 MR. COUTO: There was a meeting called by the  
3 CHRB, of all those parties, to try and resolve this stuff.

4 COMMISSION CHAIRPERSON SHAPIRO: We called a  
5 meeting that we held about a week or so ago, that was at  
6 Santa Anita.

7 Our position there was to try and facilitate a  
8 resolution of it. We don't get involved in the private  
9 party contractual agreements, that's not our role.

10 But as the guardians of, let's say, the fans, and  
11 looking for everybody's best interest, our desire is to  
12 facilitate that there is an agreement, so we're not  
13 disadvantaging any stakeholder or any party that wants to  
14 participate in California.

15 So we did have that meeting. And while there was  
16 a discussion at that meeting, nothing was resolved. But  
17 there were further discussions by the parties, themselves.

18 I will say that they have all kept me abreast, in  
19 the loop on what those discussions have been, and I'm  
20 pleased that they came to a resolution in time for Del Mar.

21 COMMISSIONER CHOPER: A resolution that meets the  
22 criteria that you just outlined.

23 COMMISSION CHAIRPERSON SHAPIRO: Well, what we  
24 have is we have Youbet and TVG accepting wagers interstate  
25 and intrastate. And I believe there's further dialogue

1 going on that may enable some other providers to accept  
2 wagers in states not served by TVG or Youbet, but I'm not  
3 sure of that.

4 MR. COUTO: Yeah -- no, that's correct. As of  
5 about four o'clock yesterday, XpressBet and Twin Spires were  
6 authorized to conduct ADW wagers in non-TVG states. It  
7 would take forever to explain what that is. But that was  
8 done all yesterday.

9 And now, this morning, we have some new issues  
10 that we're all trying to work out because one party's  
11 objecting, and so it's fluid.

12 COMMISSION CHAIRPERSON SHAPIRO: The point here,  
13 that is important for some of, perhaps, the new people to  
14 understand is TVG accepts wagers in 14 states, and the Twin  
15 Spires, XpressBet, and I guess Youbet, they accept wagers in  
16 many states beyond the 14; correct?

17 MR. COUTO: And I think Youbet also accepts them  
18 in the 14 that TVG does. I may be mistaken about that  
19 but --

20 COMMISSION CHAIRPERSON SHAPIRO: Okay.

21 COMMISSION VICE CHAIRPERSON HARRIS: Also, just  
22 for your enlightenment, and I think I understand it  
23 correctly, TOC has somewhat of a nuclear weapon that they  
24 could use to prohibit the transmission of bets out of state.

25 COMMISSION CHAIRPERSON SHAPIRO: Across state

1 lines, through the Interstate Horse Racing Act.

2 Now, I'm just going to -- I don't think TOC's  
3 looking to use any nuclear weapons.

4 COMMISSION VICE CHAIRPERSON HARRIS: Well, nobody  
5 is, but you talk about it.

6 COMMISSION CHAIRPERSON SHAPIRO: But the truth is  
7 they have consent rights. And those consent rights enable  
8 them to stop a signal from crossing state lines.

9 Our goal here is that we want to try to capture as  
10 much of the wager dollar into California as we can. And my  
11 concern is that we simply want to see that Fairplex, and Oak  
12 Tree, and Del Mar, which are subject to these -- the last  
13 exclusive agreements of TVG, that we don't have a problem  
14 with ADW. And that's what everybody's working to achieve.

15 MR. COUTO: Correct.

16 COMMISSION CHAIRPERSON SHAPIRO: And I think I  
17 would ask that we simply be kept abreast and participate, if  
18 we can help facilitate that from happening.

19 MR. COUTO: You will certainly be kept abreast of  
20 what's going on.

21 COMMISSIONER CHOPER: Just what is the lever that  
22 the Board has in respect to the substance of these  
23 agreements?

24 COMMISSION CHAIRPERSON SHAPIRO: The lever that we  
25 have, today, is probably we don't have one.

1           What we probably should consider or could consider  
2 is --

3           COMMISSIONER CHOPER: We issues licenses to these?

4           COMMISSION CHAIRPERSON SHAPIRO: Yes, these  
5 licenses all will expire at the end of this year.

6           COMMISSIONER CHOPER: This year.

7           COMMISSION CHAIRPERSON SHAPIRO: And they were  
8 done, as you'll recall, for one year last time, and we did  
9 that after we heard that there would be the eight-month  
10 experiment that was taking place.

11           What the Board should consider, and we could  
12 perhaps get some legal guidance on this, is should the  
13 Board, as part of its licensing, require or find a way that  
14 those licensees, ADW providers that are licensed in the  
15 State of California, will agree to do so either on a  
16 nonexclusive basis, share signals, and we're only talking  
17 about wagering, we're not talking about broadcast. Where  
18 there's a separate service and there should, therefore, be a  
19 separate fee.

20           COMMISSIONER CHOPER: Well, I guess I would  
21 suggest that we get that, at least in time to be functioning  
22 with full knowledge the next time the issue comes around.

23           COMMISSION VICE CHAIRPERSON HARRIS: We need to  
24 make sure we have the latitude to do that, you know, because  
25 we have rules on licensing --

1 COMMISSION CHAIRPERSON SHAPIRO: Correct.

2 COMMISSION VICE CHAIRPERSON HARRIS: -- of how  
3 much latitude we have to deny a license based on that.

4 COMMISSIONER CHOPER: Yeah.

5 COMMISSION CHAIRPERSON SHAPIRO: Well, then  
6 perhaps what we can do is we can ask our counsel, Mr.  
7 Miller, if he would render an opinion to us, or at least  
8 counsel to us with respect to what latitude the Board has to  
9 require that any of the ADW -- or anybody that chooses to be  
10 licensed in California, as an ADW provider, would do so on a  
11 nonexclusive basis, or in a manner which would enable us to  
12 have an open wagering format, and for wagering purposes,  
13 only.

14 STAFF COUNSEL MILLER: Will do. Thank you.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 MR. COUTO: Mr. Shapiro, if I may clarify one  
17 point. I just want the Board to understand, when we talk  
18 about TOC's nuclear deterrent in the context of consent, you  
19 understand it's also that same deterrent exists at the track  
20 level. And so it takes two of us.

21 And if one track, which is a possibility, decides  
22 not to send the signal, as well, we could end up there. So  
23 just it's not a unilateral right on our part, it's a joint  
24 right between the two.

25 COMMISSION VICE CHAIRPERSON HARRIS: Oh, I thought

1 it was just a horsemen's right.

2 MR. COUTO: No, they both. If the horsemen  
3 consent to a deal and the track does not, the track can  
4 prevent the deal from going forward.

5 COMMISSION CHAIRPERSON SHAPIRO: They both have  
6 to.

7 MR. COUTO: We both have the same standing to  
8 consent.

9 COMMISSION VICE CHAIRPERSON HARRIS: Either one.

10 MR. COUTO: Either one, correct.

11 COMMISSION VICE CHAIRPERSON HARRIS: So they don't  
12 have to both agree.

13 MR. COUTO: I'm sorry?

14 COMMISSION VICE CHAIRPERSON HARRIS: Do they both  
15 have to agree that that's what they want to do?

16 COMMISSION CHAIRPERSON SHAPIRO: I think they have  
17 to consent.

18 MR. COUTO: No, we both have the right to withhold  
19 our consent to any deal, yeah.

20 COMMISSION VICE CHAIRPERSON HARRIS: So it's sort  
21 of unilateral from that sense.

22 COMMISSIONER CHOPER: I'm sorry to -- do I  
23 understand you to say that the Del Mar issue is still in  
24 progress?

25 MR. COUTO: I thought it was resolved, I think we

1 all thought it was resolved. And we had a call this morning  
2 which casts a little doubt on it, but I think we'll work  
3 through it.

4 COMMISSIONER CHOPER: I see. I gotcha.

5 MR. COUTO: Okay.

6 COMMISSION CHAIRPERSON SHAPIRO: All right, are  
7 there any other questions for this applicant?

8 COMMISSIONER MOSS: Just a tiny bit curious. I  
9 noticed that you have an involvement with San Manuel Indian  
10 Bingo and Casino. Can you just -- I'm not looking to pry or  
11 anything, but I'm just curious what the relationship is with  
12 this gaming organization?

13 MS. DE MOTT: Hi, Mr. Commissioner, fellow  
14 Commissioners. I'm Michelle DeMott, in the marketing and  
15 communications department.

16 San Manuel is a sponsor of our race meets, so they  
17 come into the meet, and through our partnership with them we  
18 are able to further our marketing messages. They co-brand  
19 with us, several of our giveaway weekends.

20 They have a presence on site, in the form of  
21 signage and, in addition to that, do a lot of cross-  
22 promotions with us to the people who come into their  
23 facility.

24 So it allows us to get more messages out in the  
25 marketplace.

1           COMMISSIONER MOSS:  Where is their -- just  
2  curious, where is their main gaming facility, San Manuel?  
3  Is it close by or is it a distance away?  I'm not  
4  just -- I'm not aware of it.

5           MR. RYNEVELD:  Mr. Chairman, Commissioner Moss,  
6  it's in Highland, which is San Bernardino.  It's roughly 30  
7  miles to the east of Fairplex.

8           COMMISSIONER MOSS:  All right, I was just trying  
9  to get a fix.  All right, thank you.  Thank you very much.

10          MS. DE MOTT:  Thank you.

11          COMMISSION VICE CHAIRPERSON HARRIS:  You know, I  
12  always enjoy Fairplex and have been going there for like 50  
13  years, it's really one of my favorite tracks.

14          COMMISSIONER CHOPER:  Since you were four years  
15  old?

16          COMMISSION VICE CHAIRPERSON HARRIS:  No, no, I was  
17  older than that, I was able to bet.

18          (Laughter.)

19          COMMISSION VICE CHAIRPERSON HARRIS:  But it's  
20  disconcerting that your on track -- I don't know actually  
21  how you gauge it, because I think you've got a free gate and  
22  you must have some kind of a barometer to figure out how  
23  many of them are actually going to the races.  But it looks  
24  like you're down, if you were like a million eight people at  
25  the fair, but only about 90,000 show up for the racing,

1 you're only getting like 1 out of 20 coming in.

2           And one of the big purposes of the fairs is to  
3 introduce racing to more and more people, and I'd like to  
4 see if there's some way you can do that.

5           I mean, I'm concerned with your admission prices,  
6 which I realize is cost of business, and you've got to have  
7 some flexibility, but it's up to like \$17 on a weekend, and  
8 I wonder if that's going to somewhat stymie people coming to  
9 the races. If that's just -- they only want to go to the  
10 races, they don't want to go to the fair.

11           MS. DE MOTT: Our number one consideration in our  
12 marketing messages is providing value to our guests. And in  
13 our opinion, there's no reason that anyone would have to pay  
14 full price when coming to the fair.

15           But in addition to our race fan club card  
16 promotions we have a season pass, which when purchased can  
17 get guests into the fair for less than \$3 per visit, if they  
18 were to come every day.

19           And we have a number of group activity programs.  
20 We have promotions on every weekday of the fair, senior  
21 Wednesdays, college Thursdays.

22           We are focused this year, probably more than ever,  
23 on providing value to our guests. And that's getting them  
24 into the gate, and then once they get there to provide added  
25 value experiences through giveaways on track, and different

1 promotions that we have going on inside the grandstands.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, are there  
3 any other comments? Otherwise, I'll call for a motion to  
4 approve this applicant.

5 Somebody want to make a motion? Jerry?

6 COMMISSIONER MOSS: Make a motion.

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Move  
8 to approve.

9 Second?

10 COMMISSIONER ISRAEL: Second.

11 COMMISSION CHAIRPERSON SHAPIRO: Second. All in  
12 favor?

13 (Ayes.)

14 COMMISSION CHAIRPERSON SHAPIRO: Thank you and  
15 good racing at Fairplex.

16 MS. DE MOTT: Thank you.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number  
18 5, report to and discussion by the Board regarding the  
19 recovery of daily costs attributed to the CHRB for stewards,  
20 veterinarians, and staff necessary to facilitate the running  
21 of a race meeting.

22 This is a follow up to a discussion that we had  
23 previously, where it appeared that the Board incurs certain  
24 costs to man each of the race meetings. And the concern was  
25 were we, in fact, covering our costs in all situations?

1           I think our Board did an excellent report here, I  
2 want to -- pardon me?

3           COMMISSION VICE CHAIRPERSON HARRIS: The staff.

4           COMMISSION CHAIRPERSON SHAPIRO: I mean the staff.  
5 Did I say Board? Sorry.

6           The staff did an excellent job in this analysis  
7 and I want to thank them for doing such a good job.

8           It appears that we have only two situations where,  
9 based under the current law, we have not been able to  
10 recover our costs, and that was at the Humboldt County Fair,  
11 in Ferndale, and then at harness racing at Cal-Expo.

12           COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I  
13 should comment on Ferndale, that they are overlapped by  
14 another fair, which I think dramatically impacts their  
15 license fees. So if you combine Ferndale with whoever's  
16 overlapping them, then there would be a positive cash flow.

17           COMMISSION CHAIRPERSON SHAPIRO: That's a good  
18 point, that's a very good point. I agree with you on that.

19           I noted in the staff's analysis, though, it says,  
20 "currently, the CHRB does not have an indirect cost rate  
21 structure. However, an indirect cost rate structure could  
22 be developed for the CHRB."

23           And I didn't quite understand that comment, other  
24 than the law, apparently from the analysis, and I didn't  
25 have the law with me, appears to be pretty specific with

1 respect to what we are allowed to recover.

2 EXECUTIVE DIRECTOR BREED: Right, specific  
3 comments, but we're not specific in terms of an overhead  
4 cost or any --

5 COMMISSION CHAIRPERSON SHAPIRO: You've got to  
6 move closer to the microphone.

7 COMMISSION VICE CHAIRPERSON HARRIS: Well, it  
8 seems like it should be, really, the incremental costs, I  
9 think was the intent. If the meet didn't exist at all, you  
10 may well still have overhead costs. But I think the costs  
11 you've got here are the ones I think that are relevant.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, we also  
13 have investigators that are used at each, that we pay for on  
14 a daily rate.

15 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I  
16 thought they were in here.

17 COMMISSION CHAIRPERSON SHAPIRO: No, apparently,  
18 the investigators are not part of this. So the Board does  
19 have other costs that are directly attributable to the meet  
20 and the number of days that they run.

21 EXECUTIVE DIRECTOR BREED: Right, Mr. Chairman,  
22 Kirk Breed, with CHRB.

23 The law specifies the veterinarians, the stewards.  
24 The law does not specify the other costs, i.e.,  
25 investigators, licensing, and other overhead costs that we

1 incur.

2 Normally, in a State agency this falls under an  
3 indirect cost level or rate. We have not adopted one, nor  
4 does the law provide us to do so. So that is -- those are  
5 numbers to be considered as costs of doing business.

6 COMMISSION CHAIRPERSON SHAPIRO: Well, again, we  
7 get requests from various race meetings that they want to  
8 run so many dates, or more dates, and there's costs to us to  
9 do that.

10 EXECUTIVE DIRECTOR BREED: Correct.

11 COMMISSION CHAIRPERSON SHAPIRO: In looking at it,  
12 it would appear that there are a couple of other meets that  
13 could be on the fringe, where we're not covering those costs  
14 if we were, in fact, attributing all of our direct costs  
15 associated with that race meeting that the Board pays for,  
16 investigators, licensing, et cetera.

17 EXECUTIVE DIRECTOR BREED: Right. Kirk Breed,  
18 again. What we need to do is consider that as a cost of  
19 doing business in the license application in our analysis.  
20 And if the Board so directs, we can do that.

21 COMMISSION CHAIRPERSON SHAPIRO: Well, to do that,  
22 though, we would need to change the law to expand --

23 EXECUTIVE DIRECTOR BREED: To charge them, yes.  
24 But not -- to charge them, yes, but not to consider the  
25 license. There's other ways of --

1           COMMISSION VICE CHAIRPERSON HARRIS: That's just  
2 part of the cost that they're going to have. It looks like  
3 the big problem is the Cal-Expo harness going forward. I  
4 mean, it isn't even close. Some of them are fairly close,  
5 that would probably cover some extra cost.

6           But I think that the big issue is what are we  
7 going to do about the harness meet and what are we doing  
8 about it going backwards? Because this is a law that's been  
9 in effect for several years and I think, frankly, we have  
10 been remiss in not assessing these charges.

11           COMMISSION CHAIRPERSON SHAPIRO: Well, I think  
12 that we have to, number one, assess these charges in the  
13 event that there is a loss.

14           And number two, I would instruct staff to try to  
15 quantify for us what, if we included those categories that  
16 are not presently in the law to be recoverable, were --  
17 were, in fact, recoverable. And then we can look to see if  
18 we should ask that the law be modified, so that the Board,  
19 at least, is not losing money on having to staff and man any  
20 of these race meetings.

21           COMMISSION VICE CHAIRPERSON HARRIS: I think we  
22 need to do it like right away. Because one of the issues is  
23 that it is also in the law that racing is generating money  
24 to run the Board and, also, the balance goes to F&E, and  
25 that has been going down. And I think we're going to be in

1 a lot of scrutiny that we're following the law.

2 COMMISSION CHAIRPERSON SHAPIRO: I agree with you.

3 ASSISTANT EXECUTIVE DIRECTOR SMITH: Mr. Chairman,  
4 Commissioners, Bon Smith, Assistant Executive Director.

5 Staff has anticipated that this would be part of  
6 where we go in assessing or determining what the total of  
7 these costs are down the road, so we have begun to kind of  
8 separate by meet, by association the costs that would -- the  
9 complete cost component that would be attributable to each  
10 of those.

11 We didn't provide that information at this point,  
12 just knowing that the request was about the things covered  
13 by the current law. So we can have those numbers ready for  
14 you in fairly short order.

15 EXECUTIVE DIRECTOR BREED: So is it true that  
16 the -- I'm just asking, the 31 million seven difference  
17 here, all right, that you see in the bottom right-hand  
18 corner, that's the difference between the license fee  
19 collected and the total costs?

20 COMMISSION VICE CHAIRPERSON HARRIS: No. That's  
21 the amount in excess of the cost.

22 COMMISSIONER CHOPER: That's what I mean.

23 COMMISSION VICE CHAIRPERSON HARRIS: The 31  
24 million's going --

25 COMMISSIONER CHOPER: To the State Treasury.

1 COMMISSION CHAIRPERSON SHAPIRO: Yes.

2 COMMISSIONER CHOPER: And the issue is if we can  
3 cover some further costs before it goes directly to the  
4 Treasury?

5 COMMISSION CHAIRPERSON SHAPIRO: Yes.

6 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think  
7 the issue is that we don't want, on any individual meet, to  
8 lose money just on our role.

9 COMMISSIONER CHOPER: Well, that, I understand.  
10 But there's so -- you know, the one at the Cal-Expo is a  
11 problem.

12 COMMISSION VICE CHAIRPERSON HARRIS: Is the only  
13 one that's a major issue, really.

14 COMMISSIONER CHOPER: That's a problem, that's  
15 right. And as you pointed out, Humboldt is racing  
16 simultaneously with another track, so we're covering it in  
17 total.

18 But is part of the effort to -- what is the  
19 difference, if we take out our costs before they go to the  
20 State Treasury or after they go to the State Treasury,  
21 that's what I don't understand by all of this?

22 ASSISTANT EXECUTIVE DIRECTOR SMITH: Commissioner  
23 Choper, there's no effect on the Board or Board operations.  
24 Our appropriation is made and essentially the Board's  
25 funding comes off the top, first.

1           The bottom line for where funding ends up probably  
2 being impacted by this would be with the Fairs and  
3 Expositions Fund, and the flow through money that goes to  
4 agricultural associations around the State.

5           COMMISSIONER CHOPER: And so what we're trying to  
6 do is determine what the real cost of operating these meets  
7 is --

8           ASSISTANT EXECUTIVE DIRECTOR SMITH: Yes.

9           COMMISSIONER CHOPER: -- to make sure that these  
10 are not really fictitious numbers at this point. That is to  
11 say, it looks like we're doing great, but we may not be; is  
12 that right?

13          COMMISSION CHAIRPERSON SHAPIRO: Well, I think  
14 it's to -- there's a cost of doing business. We are  
15 facilitating private enterprise, as well as public  
16 enterprise fairs, we're staffing them. And to the extent  
17 that we lose money on them, we shouldn't be paying to  
18 supplement their race meeting, they should have to cover the  
19 cost.

20          COMMISSIONER CHOPER: Right, and we should  
21 determine what the real costs are.

22          COMMISSION CHAIRPERSON SHAPIRO: That's correct.  
23 And that should be the real costs, which includes people  
24 beyond those that are currently specified in the law,  
25 because there are other people that we're manning these

1 meets with. And that at least the Board or the State  
2 shouldn't lose money as a result of that.

3 And I think that's the purpose here, and I think  
4 that it would be prudent on our behalf to move forward to  
5 quantify that and then look forward to rectify that, so that  
6 we are running a business appropriately.

7 COMMISSIONER CHOPER: And we are in the process,  
8 now, of seeking to quantify the actual costs, and we'll get  
9 a report back on that and we'll know what's going on.

10 COMMISSION VICE CHAIRPERSON HARRIS: But what  
11 we've got in hand now, though, are these are the costs  
12 that -- maybe we could stipulate that they were understating  
13 costs.

14 COMMISSIONER CHOPER: Understand.

15 COMMISSION VICE CHAIRPERSON HARRIS: But still we  
16 know these costs are there. And for instance, Cal-Expo  
17 harness is over \$300,000 behind. I think we need to send  
18 them a bill or something.

19 COMMISSIONER CHOPER: We're not the only ones.

20 COMMISSION VICE CHAIRPERSON HARRIS: That's  
21 different than --

22 COMMISSION CHAIRPERSON SHAPIRO: Commissioner  
23 Israel?

24 COMMISSIONER ISRAEL: Is our -- is the CHRB budget  
25 not subject to the ten percent across-the-board reduction

1 that the Governor mandated?

2 COMMISSION CHAIRPERSON SHAPIRO: It is not.

3 COMMISSIONER ISRAEL: It's not?

4 COMMISSION CHAIRPERSON SHAPIRO: No. We are  
5 exempt from that because we're funding through Food and Ag,  
6 and I can't really -- you may want to describe how we get  
7 our money.

8 COMMISSIONER ISRAEL: So there's not an  
9 appropriation done through the general budget process?

10 COMMISSION CHAIRPERSON SHAPIRO: No.

11 ASSISTANT EXECUTIVE DIRECTOR SMITH: Well, it goes  
12 through the general budget process, but because we are  
13 special funded, it's not going to be subject to all of the  
14 regular General Fund kinds of budget drills, and that's  
15 including this ten percent mandate.

16 I'd like to just, as a -- for my benefit, point  
17 out that we don't use routine, regular, for-profit business  
18 costs versus revenue analyses, when we're considering  
19 whether or not the CHRB has lost money, because we do not  
20 control the license fee on any level, it's all through  
21 legislation. We collect it.

22 But to try and compare these costs with our --  
23 against the revenue for license fees, it's a little bit of a  
24 slippery slope.

25 COMMISSION CHAIRPERSON SHAPIRO: But we have in

1 the past adjusted what the fees are to be licensed.

2 ASSISTANT EXECUTIVE DIRECTOR SMITH: Yes.

3 COMMISSION CHAIRPERSON SHAPIRO: And if we added  
4 up all of our cost of licensing, the staff, and all that we  
5 have to do to go through that process, and if we found that  
6 we were in fact losing money to issue licenses, then we  
7 could consider raising the amount of those license fees so  
8 that we're not running in a deficit.

9 ASSISTANT EXECUTIVE DIRECTOR SMITH: Well, and  
10 again, that gets to the definition of what constitutes  
11 license fees. For these purposes, it's the percent of  
12 takeout that's attributable to run the association's  
13 operating a horse race, as opposed to a license fee for  
14 somebody coming into an office and saying I wish to obtain a  
15 license, how much does it cost.

16 COMMISSION CHAIRPERSON SHAPIRO: I'm referring to  
17 the latter. I'm referring to the latter.

18 ASSISTANT EXECUTIVE DIRECTOR SMITH: No,  
19 that's -- that's General Fund money. We don't get that.  
20 There's no connection between that and these numbers here.

21 COMMISSION VICE CHAIRPERSON HARRIS: Because it  
22 seems like somebody getting a license, that doesn't go into  
23 our funds?

24 ASSISTANT EXECUTIVE DIRECTOR SMITH: Correct.

25 COMMISSION VICE CHAIRPERSON HARRIS: But we should

1 have some accountability there of how much that costs and  
2 how much income there was, though.

3 ASSISTANT EXECUTIVE DIRECTOR SMITH: We do. But  
4 there's no relevance for this analysis so it's, you know, we  
5 don't really pay much attention to it.

6 COMMISSION CHAIRPERSON SHAPIRO: Well, I would  
7 ask, if the Board will concur, that we further this review  
8 and look into it, and look forward to staff's  
9 recommendations as to what we should do to try to make sure  
10 that we are, what I'll call, covering our overhead, and not  
11 operating at a loss.

12 ASSISTANT EXECUTIVE DIRECTOR SMITH: Sure.

13 COMMISSION CHAIRPERSON SHAPIRO: Is that  
14 acceptable to everybody?

15 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

16 ASSISTANT EXECUTIVE DIRECTOR SMITH: The Executive  
17 Director has already begun an inquiry into making at least a  
18 more complete appearance that the Board, and its staff, and  
19 operations run as a business, that is totally accountable  
20 that way.

21 COMMISSION VICE CHAIRPERSON HARRIS: I think, too,  
22 we need to -- it looks like it's Cal-Expo harness, which is  
23 a successor to the other harness that was there, is  
24 losing -- you know, just on our probably understated costs,  
25 is losing maybe 1,400 1,500 dollars every night. So that's

1 going on every week.

2 We need to at least, you know, attempt to collect  
3 that or let them know that's going to be a cost. Because I  
4 don't know, are they even aware?

5 COMMISSION CHAIRPERSON SHAPIRO: Well, I think  
6 when we licensed last time, Cal-Expo as the operator of the  
7 harness meet, not Sacramento Harness, and not its  
8 predecessor, Capitol. I think we said that if there was a  
9 shortfall, if we found there was a shortfall, I believe we  
10 asked them were they willing to cover it, and I believe they  
11 said yes.

12 But, again, you can go back into our transcripts  
13 and check that. But I think we did make sure of that.

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, but it  
15 really is not optional, it's just something that they've got  
16 to do.

17 COMMISSION CHAIRPERSON SHAPIRO: Right.

18 COMMISSION VICE CHAIRPERSON HARRIS: But they need  
19 to be aware that -- I mean, they may say, well, look, if  
20 that's the case, we don't even want to run. But I would  
21 think they would want to run.

22 COMMISSIONER CHOPER: But the big deficit for Cal-  
23 Expo is Sacramento Harness and not Cal-Expo, because they  
24 haven't been operating.

25 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, Cal-

1 Expo will be a positive cash flow.

2 COMMISSIONER CHOPER: I got it. Good.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,  
4 thank you.

5 We'll move on to Item Number 6. Is that right?

6 Yes, 6, thank you.

7 Public hearing and action by the Board on the  
8 proposed amendment of CHRB rule 1853.2, Classification of  
9 Drug Substances, to reclassify the anabolic steroids  
10 boldenone, nandrolone, stanozolol and testosterone from  
11 class 4 to class 3, and change the penalty class from  
12 category D to category B.

13 As everybody will remember, it seems that we've  
14 been dealing with this, now, for a long time. I believe  
15 this is the final step, where we will have -- we have  
16 adopted the penalties, we've reclassified the drugs, and  
17 we've gotten all the appropriate bureaucratic steps out of  
18 the way, if I'm correct, so that we will be able to  
19 implement our new policies with respect to the use of  
20 anabolic drugs for horse racing.

21 Dr. Arthur, why don't you give us a quick summary,  
22 if you would?

23 EQUINE MEDICAL DIRECTOR ARTHUR: Yes, Mr.  
24 Chairman. Dr. Rick Arthur, Equine Medical Director.

25 As you know, we started this process in May of

1 '07, and we laid out the regulatory schedule in November of  
2 '07, and it's been discussed in virtually every Board  
3 meeting since. We have implemented a step-wise, gradual  
4 implementation of this program, and we classified  
5 testosterone, boldenone, which is a drug called Equipoise,  
6 Nandrolone, which is a drug called Durabolin, and  
7 Stanozolol, which is an anabolic steroid called Winstrol, as  
8 class four drugs and class D penalties. And D penalties are  
9 only an official warning.

10 We are currently, actually, only issuing an  
11 unofficial notice to allow horsemen time to adapt to this  
12 program. We've certainly given them fair warning. And the  
13 good news is we've seen an 80 percent decrease in anabolic  
14 steroid use from the surveys we did in March and April, as  
15 compared to when we started this program. In fact, 92.2  
16 percent of all horses pass our regulations.

17 The bad news is we have 7.8 percent that don't,  
18 and this has been entirely with stanozolol, which is  
19 Winstrol. Twenty-seven out of the 347 sampled, we have  
20 completed testing in July, that's the first ten days, showed  
21 stanozolol, and just a brief check has shown that all of  
22 those horses were treated within the 30 days time from when  
23 the race was, which is contrary to our withdrawal  
24 recommendations.

25 I'm the afraid the situation's somewhat similar to

1 TC02 regulations, when there was a small number of trainers,  
2 and it appears to be the case here, that insisted on  
3 resisting the regulation. And, ironically, many of the same  
4 names with the TC02 regulations are here.

5 But owners and trainers are being sent notices of  
6 these violations and that the horse had stanozolol in the  
7 system, or if we identify any other regulation.

8 The purpose of this change today is to make sure  
9 that this program is implemented well in advance of the Oak  
10 Tree meet. The goal is to have an anabolic steroid free  
11 Breeder's Cup. And I think all of us recognize we'd,  
12 frankly, look pretty silly to have a \$5 million purse with  
13 an official warning for an anabolic steroid violation.

14 So I think this has actually gone quite well.  
15 We're going to have to decide when we're going to do away  
16 with the unofficial notices and go to the official notices  
17 that will go on record, but we can decide that  
18 administratively. But so far, so good.

19 So I think we're well prepared to take the next  
20 step and the horsemen have another 30 days -- or, probably,  
21 about another 45 days, Jackie, before -- if this is voted on  
22 today, how long until it is actually going to become a  
23 regulation?

24 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,  
25 CHRB staff.

1           If the Board adopts this proposal, the rule-making  
2 file will be completed and will be submitted to the Office  
3 of Administrative Law. They have 30 days in which to review  
4 the rule-making file and make a determination.

5           And upon that 30 days, once they approve it, as we  
6 know they're going to approve it, then it will become  
7 effective 30 days after filing with the Secretary of State.

8           COMMISSION VICE CHAIRPERSON HARRIS: And it could  
9 be shorter than 30 -- I mean, the 30 days is the outside.

10          STAFF SERVICES MANAGER WAGNER: Absolutely.

11          COMMISSION VICE CHAIRPERSON HARRIS: And do we  
12 have any influence with them to put this on the front  
13 burner?

14          STAFF SERVICES MANAGER WAGNER: I can certainly  
15 make the request.

16          COMMISSION CHAIRPERSON SHAPIRO: This has  
17 been -- we are, perhaps, leading the way on a national  
18 movement, I think, as one of the leading states to move  
19 forward with this.

20          Recently, I was in Kentucky, and I have to tell  
21 you that of all the various parties that were there,  
22 everybody was very appreciative of what steps we're taking  
23 to help lead the way to do this.

24          I think that -- you know, I understand some of the  
25 arguments by people that think that some of these steroids

1 are beneficial, but the truth is that for competitive  
2 purposes, I think everybody seems to be on the same  
3 consensus that there isn't a place in sport, whether it be  
4 human or equine, where anabolic steroids should be entering  
5 the game.

6           So I would hope to see us move forward to close  
7 the loop. Dr. Arthur has put in a tremendous time and  
8 effort to spearhead this. I think we've gone out of the way  
9 to let our horsemen know what the process is, to involve  
10 them, provide them with question and answers, give them  
11 contact people to contact, if they have questions. So that  
12 nothing here is being done as a surprise to anybody.

13           And I think the Board and staff have done a very  
14 good job of that.

15           COMMISSIONER ISRAEL: Can you just explain the  
16 impact, again, on the Breeder's Cup, please?

17           EQUINE MEDICAL DIRECTOR ARTHUR: This will be the  
18 anabolic steroid free Breeder's Cup in the history of the  
19 event, which is a big change. As you know, anabolic  
20 steroids -- or as you may know, anabolic steroids have been  
21 prohibited internationally for years. It's been a bone of  
22 contention with the international competitors. And so  
23 that's what we're trying to accomplish here.

24           We set out this particular schedule back in  
25 November of '07, to make sure that everything was in place,

1 in advance of the Breeder's Cup, and we're probably going to  
2 be within about 30 days of the schedule that we laid out at  
3 that time.

4 COMMISSIONER ISRAEL: Thank you.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, are there  
6 any other comments from any Board members?

7 COMMISSIONER MOSS: Rick, just one. What is the  
8 current rule regarding clenbuterol at the present time, how  
9 many days?

10 EQUINE MEDICAL DIRECTOR ARTHUR: Clenbuterol ends  
11 up to be about 72 hours.

12 COMMISSIONER MOSS: 72 hours.

13 EQUINE MEDICAL DIRECTOR ARTHUR: But it's not a  
14 rule, it's a practical withdrawal time. You can't  
15 administer it within 48 hours. What we -- the way we  
16 administer it is by a threshold level, which works out to be  
17 about 72 hours.

18 COMMISSIONER MOSS: So it tests positive if you  
19 use it within the 72 hours, then?

20 EQUINE MEDICAL DIRECTOR ARTHUR: Right. And I'm  
21 actually pleased to tell you that we have not had, on the  
22 thoroughbred circuit, a clenbuterol violation since November  
23 of '07.

24 We've had a very serious problem at Los Alamitos,  
25 but it appears as if they're not using ventipulmin, the FDA

1 approved clenbuterol, it appears to be a smuggled in,  
2 compounded product, because the levels are just so high that  
3 we've seen there. But I think we have that issue in hand.

4 COMMISSION CHAIRPERSON SHAPIRO: I'd like to ask  
5 Christopher Passch to come forward, you have a comment card.

6 MR. PASSCH: Good morning. Christopher Passch,  
7 I'm an owner, breeder, and trainer. Been on the Southern  
8 California circuit for about 20 years.

9 I would like to address this Board about the  
10 steroid issue and maybe broaden the scope of it slightly. I  
11 think at this time the whole world is watching, and I would  
12 like to commend the Board for moving forward with stopping  
13 the steroid abuse that we have.

14 I think a lot of drugs that have been, for lack of  
15 a better word, invented for thoroughbreds and their use, can  
16 be used in a mindful and helpful manner, and there are a  
17 certain group of people that choose to abuse those drugs,  
18 and that's at the forefront right now.

19 I would like to ask this Board to make your ruling  
20 stricter. I would like you to look to set a standard in our  
21 country that everyone will watch and adhere to.

22 Because I think not only is the gambler watching,  
23 I think the American public is watching, and I think our  
24 sport right now is very, very fragile. I think that the  
25 steps that this Board can take can strengthen the public's

1 vision of our sport and possibly reinvigorate not only the  
2 thoroughbred fan to come and watch, and gamble on our sport,  
3 but new people to continue to invest in our sport by  
4 purchasing thoroughbreds on the breeding end of it, or  
5 owning.

6 I would also urge this Board to use its leverage,  
7 for lack of a better word, to help maybe share information  
8 and/or enforce these rules with the sale companies.

9 As we know, many of us, either breed horses and  
10 sell them through the sales, or purchase horses through  
11 sales, and I think a lot of these steroids have been abused  
12 in the sales, as well. So I would urge this Board to do  
13 anything it can to work with sale companies to abolish these  
14 in sales, and to broaden the scope of what you're doing here  
15 with steroids, and the daily abolishment of a lot of the  
16 other medications that we use on a day-to-day basis, being  
17 bute, banamine, and those kind of things that we all know  
18 can be abused.

19 And I would ask that, hopefully, one day, we can  
20 run on a medication free racing circuit, or at least a trace  
21 of a medication in a horse and a few medications that might  
22 be used.

23 I, personally, think that lasix is a necessary  
24 medication for horses that is hard to abuse.

25 But there are a lot of other medications that we

1 use on a daily basis, that I would personally like to see  
2 horse racing run on a drug free program.

3 COMMISSION CHAIRPERSON SHAPIRO: Thank you,  
4 Mr. Paasch, very articulately said. And I think a lot of us  
5 agree with that.

6 And I will tell you that there is a movement  
7 nationally that is taking hold, between TOBA, the Jockey  
8 Club, the NTRA, and a lot of other parties are putting  
9 together a platform that I think is moving the industry in  
10 that direction. And I'm very hopeful that we're going to  
11 actually see some action this time.

12 Is there any other discussion from the  
13 Commissioners? Otherwise, I would ask for a motion to  
14 approve.

15 COMMISSION VICE CHAIRPERSON HARRIS: I move to  
16 approve.

17 COMMISSION CHAIRPERSON SHAPIRO: Is there a  
18 second?

19 COMMISSIONER DEREK: Second.

20 COMMISSION CHAIRPERSON SHAPIRO: Second. All  
21 those in favor?

22 (Ayes.)

23 COMMISSION CHAIRPERSON SHAPIRO: Congratulations,  
24 Dr. Arthur, and thank you.

25 EQUINE MEDICAL DIRECTOR ARTHUR: Thank you. Could

1 I just address one issue from Christopher Paasch's comments?  
2 While this is a urine rule for anabolic steroids, at the  
3 same time we have been doing research on blood testing for  
4 anabolic steroids. And Dr. Stanley's lab is really one of  
5 the leaders in this.

6 And it actually looks as if blood testing is going  
7 to be the preferred way to do this in the future, and that  
8 makes it very amenable to testing horses at sales. And so I  
9 think that's going to be a very effective step for us to  
10 take in the future.

11 And secondly, the new penalty guidelines, I think  
12 are going to make a big change. And I hope trainers  
13 understand the implication of this, in the way that  
14 violations are handled in the future, including bute  
15 violations, overages of routine medications. It's going to  
16 be a rather different ballgame in the future.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you,  
18 Dr. Arthur.

19 And speak of the man, he's -- Dr. Stanley.

20 DR. STANLEY: Yeah, Scott Stanley, from UC Davis.  
21 Just to follow up, again. In addition to the work that  
22 we've done with the Horse Racing Board, and other  
23 laboratories throughout the U.S. regarding anabolic steroid  
24 testing, we are also working very closely with the sales  
25 companies, Barrett's, Fasig Tipton, and Keeneland. All

1 their yearling and two-year-old training sales are getting  
2 up to speed as well and offering testing.

3           The Fasig Timpton sale this past week tested  
4 horses, samples that come to our laboratory, as well the  
5 Keeneland sale in the fall, and the Barrett sale as well.  
6 So I think the sales companies are also coming on board of  
7 their own accord, and understanding the need for this  
8 regulation, and using their state jurisdiction rules in  
9 order to follow that.

10           COMMISSION CHAIRPERSON SHAPIRO: Thank you, Dr.  
11 Stanley.

12           Okay, I'm going to call for a five-minute break  
13 here. We'll then come back. I'm trying to get the meeting  
14 over by 1:30 today so, hopefully, we can move at that pace.

15           (Off the record.)

16           COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number  
17 8. No, 7. Public hearing and action by the Board on the  
18 proposed amendment of CHRB rule 1850, posterior digital  
19 neurectomy, to prohibit any horse that has had a posterior  
20 digital neurectomy after October 1st, 2008 from racing in  
21 California.

22           This is another one of those issues that we've had  
23 multiple, multiple discussions about. This is commonly  
24 referred to as heel nerving. And if you will recall, and  
25 for our new members, this is an item where we have gone back

1 and forth about whether or not California should permit  
2 horses that have had, what is commonly referred to as a heel  
3 nerve procedure, to race in California.

4 And I would offer it to the Board, if any of the  
5 Board has any additional comments that they wish to share on  
6 this item. This is an action item. The Board previously,  
7 as I said, considered it. It would amend rule 1850, that  
8 would essentially say that any horse that has a posterior  
9 digital neurectomy after October 1st, 2008 would not be  
10 allowed to race in California.

11 Personally, I do favor that the Board move in this  
12 direction. I don't believe that we should -- even though  
13 I'm not discounting Dr. Arthur's view, and others who feel  
14 that this is a therapeutic procedure for horses, I believe  
15 that in horse racing we should not take any chance that a  
16 horse cannot feel or would have any loss of sensation in any  
17 part while they are racing.

18 And, therefore, personally, I believe that the  
19 Board should move in this direction and not permit horses  
20 that have been heel nerved to race, that have -- cannot have  
21 the procedure after October 1st, 2008.

22 Does anybody else wish to share a view on that?

23 Okay, let me just see if I have any comment cards  
24 on it.

25 Marsha Naify.

1 MS. NAIFY: Hi, Marsha Naify, Chair of  
2 Thoroughbred Owners of California.

3 We did not send a comment in for this, but I did  
4 want to report to the Board, you know, knowing how this vote  
5 is going to go, still it is my duty to tell you that we  
6 discussed this at our TOC Board meeting and the motion  
7 passed our Board to support the ban only if it was done  
8 nationally.

9 We had a report from Dr. Arthur, we feel that most  
10 vets believe that this procedure is a humane procedure, it  
11 does not affect the performance or safety of the horse, and  
12 that there's no relationship between heel nerving and  
13 fatalities. So we wanted to let you know how the TOC Board  
14 feels about this issue.

15 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,  
16 thank you. And just, if I could respond to that, first of  
17 all, to get a national policy I guess it would have to go  
18 through some model rules, through RCI, and then each of the  
19 38 different states would have to adopt it.

20 This industry has not been adept at getting  
21 anything to be nationally adopted.

22 But I appreciate your views and thank you very  
23 much.

24 MS. NAIFY: You're welcome.

25 COMMISSION CHAIRPERSON SHAPIRO: Paula Capestro.

1 Is Paula here? Yes.

2 MS. CAPESTRO: Paula Capestro, trainer, owner,  
3 breeder. I believe that the Board's action to disallow heel  
4 nerving is a very good idea. I think it will avoid problems  
5 from people nerving horses that should not be on the track  
6 at all. I do think it's dangerous for riders. I think it's  
7 dangerous for the horses.

8 I also think it's dangerous for people that are  
9 claiming horses, they don't know what they're getting when  
10 they claim a horse. And I think it would clean up the  
11 sport.

12 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

13 I should add, for those people that don't know, we  
14 do have a heel nerved list, and I believe I'm pretty safe in  
15 saying that in California there are probably less than ten  
16 horses that are registered and on that list.

17 So while this procedure may have some therapeutic  
18 usage in other types of equestrian uses, we're not talking  
19 about a large population of horses that actually have had  
20 this procedure.

21 Again, personally, I just think that why run the  
22 risk and so forth, but that's my strong view.

23 Commissioner Moss, do you have a comment?

24 COMMISSIONER MOSS: Yeah, I would agree with you,  
25 Mr. Chairman. I think in general, when the intentions are

1 good, that this is not a big, serious problem. But I think  
2 that without the ban, we're leaving the door open for  
3 somebody to take a big, large advantage here. And I just  
4 don't think it would be safe, in that case for -- and if we  
5 had one major accident that involved a nerved horse, with a  
6 rider going down or a horse going down, I think it would be  
7 horrible. So I would vote for the ban. Thank you.

8 COMMISSION CHAIRPERSON SHAPIRO: Would you like to  
9 make the motion?

10 COMMISSION VICE CHAIRPERSON HARRIS: I might  
11 comment that, basically, I'm going to vote for the ban. I  
12 don't think it's a giant problem or that it is -- I respect  
13 the opinions of the people that have voiced concern on  
14 banning it, both at the national issue, and it may be that I  
15 don't think horses are going down based on this heel nerving  
16 issue. But it's a good thing just to get behind us. It's  
17 been controversial and it's just something that it's time to  
18 move on.

19 COMMISSION CHAIRPERSON SHAPIRO: All right. Then  
20 can I have a motion from either of you two gentlemen, that  
21 we move forward and adopt this change?

22 COMMISSIONER ANDREINI: I'll make the motion.

23 COMMISSION CHAIRPERSON SHAPIRO: Commissioner  
24 Andreini has made a motion.

25 Is there a second?

1 COMMISSIONER CHOPER: Second.

2 COMMISSION CHAIRPERSON SHAPIRO: Second. Is there  
3 any further discussion on it?

4 If not, I will call the question. All those in  
5 favor?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: It passes. Thank  
8 you very much.

9 Item Number 8, public hearing and action by the  
10 Board on the proposed amendment of CHRB Rule 1853,  
11 examination required to provide that a horse that is not  
12 shod is eligible to start in a race, provided the horse's  
13 unshod participation in such a race is declared at time of  
14 entry and noted in the official program.

15 Again, this is a follow-up discussion that I  
16 believe the Board has had. We previously have allowed mules  
17 to race unshod. With the change in surfaces and looking for  
18 safer conditions, there are some people that would like to  
19 be able to race their horses unshod.

20 This modification to the rule would allow us to do  
21 that. But we clearly want to make sure that it's noted in  
22 the official program, so that those wagering on our races  
23 would know which horses are shod, and which aren't, and if  
24 there's a change. It's kind of like blinkers on/blinkers  
25 off, shoes on/shoes off, I guess.

1           But in any event, does anybody have any comments  
2 to this item?

3           COMMISSIONER ISRAEL: I have a question, if  
4 there's any statistical studies on how this affects the  
5 health or the well being of a horse?

6           COMMISSION VICE CHAIRPERSON HARRIS: I think there  
7 was some things that were -- I'm not sure in this packet.  
8 There's been a quite a bit of research done on it. And I  
9 was one of the proponents of it. I think it's become more  
10 in vogue with the synthetic tracks. But there is some  
11 evidence that some horses may well do better without shoes.

12           But it doesn't -- it should be at the option of  
13 the trainer and what he feels is the best for that horse.

14           COMMISSION CHAIRPERSON SHAPIRO: There has been a  
15 number of studies that have been done by various  
16 individuals, vets, shoeing experts, and so forth. But in  
17 terms of a consensus of opinion, I don't think there's ever  
18 been any determination, because we have varying surfaces.  
19 And so there are some states that allow it and some that  
20 don't.

21           COMMISSIONER ISRAEL: So in other words, there's  
22 no study that shows that there are fewer or more breakdowns  
23 one way or the other?

24           COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it's  
25 probably not a breakdown issue, as much as just some horses

1 might be more comfortable without shoes.

2 But maybe Dr. Arthur or Richard Mandela might want  
3 to comment.

4 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, in terms of  
5 the racing fatalities -- Dr. Arthur, Equine Medical  
6 Director.

7 In terms of racing fatalities, the correlation  
8 with fatalities has been with toe grabs over four  
9 millimeters. We just didn't race horses without shoes, so  
10 we don't have any data.

11 I will say that there is substantial data on the  
12 health of the horse's foot and the strength of the horny  
13 portion of the hoof, with horses that are unshod.

14 The biggest problem on synthetics is not going to  
15 be the surface, it actually makes sense, it's getting them  
16 from their barn to the track, particularly in those areas  
17 that maybe have asphalt and the like.

18 And there are trainers who train horses shod right  
19 now.

20 COMMISSION VICE CHAIRPERSON HARRIS: Unshod.

21 EQUINE MEDICAL DIRECTOR ARTHUR: Unshod, excuse  
22 me.

23 COMMISSIONER ISRAEL: Are you going to require  
24 that a horse be trained for some minimum period of time  
25 unshod before he races unshod, so there's a correlation

1 between the training figures and what he might do on the  
2 track?

3 EQUINE MEDICAL DIRECTOR ARTHUR: No, but we don't  
4 do that for any other type of shoeing right now, anyway.

5 Horses are typically shod in flat steel, or often  
6 flat steel, until virtually they're entered into a race  
7 sometime.

8 COMMISSION CHAIRPERSON SHAPIRO: Keep in mind,  
9 when horses are training, we don't regulate, inspect at all  
10 what shoes their wearing in training at any time.

11 We only have a plate inspector when they come in  
12 the receiving bar.

13 And so there are some trainers, like perhaps the  
14 Hall of Fame trainer that just appeared at the podium, who  
15 might be able to tell us. He trains horses sometimes  
16 without shoes and then races them with shoes.

17 Mr. Mandela, perhaps you want to say something.

18 MR. MANDELA: Some of them can't afford shoes.

19 (Laughter.)

20 MR. MANDELA: Occasionally, I have horses that  
21 look like mules, so I'd like to be able to race them  
22 barefoot.

23 EXECUTIVE DIRECTOR BREED: Could you identify  
24 yourself, please?

25 MR. MANDELA: I am Dick Mandela. Welcome to the

1 Board. Bo.

2 COMMISSIONER ISRAEL: Thank you.

3 MR. MANDELA: I would just like to say it would be  
4 a rare occasion that a horse would need to race barefoot, as  
5 opposed to shod, but the occasion does happen. Most often  
6 when a horse interferes himself and hits one leg against  
7 another and speedy cuts or grabs corners.

8 Occasionally, you do get a horse that the only  
9 remedy to that is to not have shoes on them. And the simple  
10 reason that works is it just takes that room of the shoe  
11 away from the clearance that they pass one foot to the  
12 other.

13 So I would recommend that you all consider making  
14 a rule that would allow a person to race a horse barefoot.

15 Mr. Shapiro and I discussed, in the back of the  
16 room, you know, I think there should be accountability to  
17 it. I think somebody should have a say of how much of this  
18 goes on or whether it's appropriate. And he asked me how to  
19 do that and I didn't have the answer.

20 So my recommendation would be to maybe approve it  
21 for six months, with a revisit of the issue and maybe come  
22 up with a -- see how much is done, and how it works. But  
23 you may want to have something in line where the State  
24 veterinarian maybe would approve the idea to race barefoot,  
25 because the trainer would show him that he hits and he's

1 trying to correct that situation.

2 I don't think you want the ability for the trainer  
3 to go back and forth, and bet on him when he didn't have  
4 shoes on, and then put them on and then he bets on him.

5 So that's maybe being a little paranoid, but  
6 that's your job to protect the public.

7 COMMISSION VICE CHAIRPERSON HARRIS: And that  
8 assumes the trainer knows when to bet on them.

9 MR. MANDELA: Other trainers do.

10 (Laughter.)

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, let me ask  
12 a question, because it begs the question, first of all, I'm  
13 only -- I'm proposing that we move forward for thoroughbred  
14 racing only at this juncture. That's where these new tracks  
15 are.

16 And Mr. Perez is standing in the background  
17 saying, wait a minute, there's harness, and he's right that  
18 we would not want to see them race unshod, I don't think.

19 So what I think we're talking about is for  
20 thoroughbred racing.

21 Also, procedurally, could we simply suspend this  
22 rule for a six-month period so we could look at the results  
23 are, and then come back to adopt it? Is that perhaps a  
24 better way to go procedurally?

25 I don't know if, Jackie, you or Rick Arthur would

1 be able to tell us how, if we wanted to just do this for a  
2 six-month period and track it, we could.

3 EQUINE MEDICAL DIRECTOR ARTHUR: There's actually  
4 no rule that says a horse has to be shod. This is an  
5 implied requirement under 1853.

6 COMMISSION CHAIRPERSON SHAPIRO: Correct.

7 EQUINE MEDICAL DIRECTOR ARTHUR: And, frankly, my  
8 recommendation was that we simply send out a directive  
9 saying that a horse without shoes on a synthetic surface  
10 should be -- is considered properly shod, see how it works  
11 and then decide what you want to do it. But that's the  
12 simple way to do it, and may not be possible under the  
13 regulations.

14 COMMISSION VICE CHAIRPERSON HARRIS: We can always  
15 waive it, we can always go back and say we're not going to  
16 do it.

17 COMMISSION CHAIRPERSON SHAPIRO: So what's your  
18 point?

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, I don't  
20 know, we've taken the time to put it out for comment. And I  
21 mean, I don't think it's going to be a big issue either way.  
22 But I think we ought to go ahead and enact it. If we have  
23 it in there and it looks like it's, for some reason, a  
24 problem, we can always change it.

25 COMMISSION CHAIRPERSON SHAPIRO: Yeah, we can do

1 that.

2 STAFF SERVICES MANAGER WAGNER: If I may, Chairman  
3 Shapiro, you indicated that you would like this to apply  
4 specifically to thoroughbred horses?

5 COMMISSION CHAIRPERSON SHAPIRO: Yes.

6 STAFF SERVICES MANAGER WAGNER: I don't believe  
7 that the language that we have proposed specifically says  
8 thoroughbred horses. That may be something that we need to  
9 add to the language, to make it clear that this is only for  
10 thoroughbreds, because I believe the language says  
11 "racehorse," which would include, of course, the quarters.  
12 And it could be interpreted to include, as well, the  
13 harness.

14 But if we want to make this specific to  
15 thoroughbred, I would suggest that we go out for 15 days to  
16 make that clarification.

17 COMMISSION CHAIRPERSON SHAPIRO: Fifteen days?

18 STAFF SERVICES MANAGER WAGNER: Uh-hum.

19 COMMISSION CHAIRPERSON SHAPIRO: And in the  
20 meantime could we -- could we, though, suspend the rule or  
21 allow those people that wish to try to run barefoot in the  
22 interim, to do that?

23 STAFF SERVICES MANAGER WAGNER: I believe that the  
24 Board does have the authority to suspend its rules, any  
25 rules that we see fit, I think that we can do that.

1           COMMISSION CHAIRPERSON SHAPIRO: So why don't we  
2 put this -- clarify this, and go back out so that we do get  
3 it right. But then in the interim, then why don't -- can we  
4 move forward and I would make a motion that we suspend the  
5 portion of rule -- is it 1850?

6           EXECUTIVE DIRECTOR BREED: 1853.

7           COMMISSION CHAIRPERSON SHAPIRO: 1853, that would  
8 require that horses are shod, for thoroughbred racing. So  
9 that it would enable those trainers, choosing to run  
10 barefoot would be able to do so, so long as at the time of  
11 entry they are entered and designated as such, and the  
12 official program indicates that.

13          COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I  
14 think, actually, we've got the wiggle room in the rule  
15 because it just says no horse shall be eligible to start in  
16 a race where not properly shod. Well, properly shod could  
17 include not being shod.

18          COMMISSION CHAIRPERSON SHAPIRO: Correct.

19          COMMISSION VICE CHAIRPERSON HARRIS: I think we  
20 almost could say that should be our interpretation, and  
21 maybe put the rule back out just to clarify it.

22          COMMISSIONER ISRAEL: Do you want to be specific  
23 as to the surface you're discussing, too?

24          COMMISSION VICE CHAIRPERSON HARRIS: I think we  
25 should have the latitude. Because I think the past there

1 have been horses trained on tracks that are unshod, and  
2 before synthetics ever came into vogue. I think the  
3 synthetics have been the stimulus, but I would hate to limit  
4 it to them.

5 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I,  
6 personally, would hate to limit it. If some horse can do  
7 better on a dirt track unshod, and it's designated, I don't  
8 see the harm in doing that.

9 COMMISSIONER ANDREINI: As long as it's in the  
10 program.

11 COMMISSION CHAIRPERSON SHAPIRO: So why don't we  
12 then suspend the rule, the motion would be to -- to suspend  
13 that portion of the rule such that we could allow  
14 thoroughbreds to race unshod, so long as they're properly  
15 identified in the program.

16 COMMISSIONER CHOPER: So moved.

17 COMMISSION CHAIRPERSON SHAPIRO: Second.

18 COMMISSIONER MOSS: Second.

19 COMMISSION CHAIRPERSON SHAPIRO: Second. All in  
20 favor?

21 (Ayes.)

22 COMMISSION CHAIRPERSON SHAPIRO: Terrific.

23 COMMISSION VICE CHAIRPERSON HARRIS: On a related  
24 subject, too, some tracks have these shoe boards, you know,  
25 showing what type of shoes are --

1           COMMISSION CHAIRPERSON SHAPIRO: Yeah, you're  
2 right.

3           COMMISSION VICE CHAIRPERSON HARRIS: I haven't  
4 seen that in the south very much, we need to take a look at  
5 that.

6           COMMISSION CHAIRPERSON SHAPIRO: Mr. Fravel?

7           MR. FRAVEL: Craig Fravel, Del Mar Thoroughbred  
8 Club.

9           Just to clarify, so I can tell my racing  
10 department, that would mean that when we're taking entries  
11 tomorrow, for example, we could notify trainers that they  
12 have the option of running without shoes so long as it's  
13 noted in the program.

14          COMMISSION CHAIRPERSON SHAPIRO: That's correct.

15          MR. FRAVEL: And to answer Commissioner Harris's  
16 question, because there hasn't been -- most shoe boards that  
17 you tend to see in tracks around the country have to do with  
18 stickers, and mud cocks, and apparatuses typically worn in  
19 tracks that have greatly varying weather.

20          I think all tracks, in Southern California at  
21 least, limit turf races to Queen's plates, only. And we've  
22 gotten to the point where there's very few, and we have the  
23 rule on front toe grabs. So there's not a whole heck of a  
24 lot to report anymore.

25          But I do think on this particular case we should

1 report in the racing program the unshod regulation.

2 I just want to let you know, I just got an e-mail  
3 that Keeneland and Turfway Park have just announced that  
4 they will no longer allow any shoes other than Queen's  
5 plates, and Queen's plates XTs. And, hopefully, a lot of  
6 other places around the country will follow the lead on  
7 that. Thank you.

8 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, because  
9 we need to look at our rule, which is the four centimeter,  
10 which some of these other jurisdictions are going to no toe  
11 grabs. Yeah, no toe grabs at all.

12 COMMISSION CHAIRPERSON SHAPIRO: Yeah. Right, and  
13 I would hope that we, in fact, will go along with the two  
14 millimeter version, which the others are adopting.

15 Mr. Halpern?

16 MR. HALPERN: Thank you. Ed Halpern, California  
17 Thoroughbred Trainers.

18 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry that we  
19 already moved it and I forgot to call on you.

20 MR. HALPERN: That's okay. I just wanted to  
21 clarify one other point, was the question of the noticed in  
22 the program, or noticed at time of entry? I think the  
23 intent was to notice it at time of entry.

24 COMMISSION CHAIRPERSON SHAPIRO: No, it's noticed  
25 at time of entry so that it can be in the official program.

1 MR. HALPERN: Thank you.

2 COMMISSION CHAIRPERSON SHAPIRO: That's why you  
3 got your law degree.

4 COMMISSIONER MOSS: Are you going to calendar it  
5 to review this in six months?

6 COMMISSION CHAIRPERSON SHAPIRO: We'll be glad,  
7 we'll ask staff to come back and let's bring this back and  
8 do a review in six months.

9 COMMISSIONER CHOPER: And at time at entry, I take  
10 it, would also afford adequate time to put it in the Daily  
11 Racing Forum?

12 COMMISSION CHAIRPERSON SHAPIRO: Absolutely,  
13 that's when that happens.

14 COMMISSIONER CHOPER: Yeah. The program's a  
15 little bit.

16 COMMISSION CHAIRPERSON SHAPIRO: Okay. But we  
17 need to make sure that our tracks are coordinating with the  
18 Daily Racing Forum, for that they're getting the information  
19 and can make some designation.

20 COMMISSIONER CHOPER: Well, if the information is  
21 important, I think that's the better vehicle for getting it  
22 out.

23 COMMISSION CHAIRPERSON SHAPIRO: Right. Again, we  
24 want as much information as possible out there to benefit  
25 everybody.

1           Okay, moving on to Item Number 9, another one of  
2 our favorites, coming back by popular demand.

3           Public hearing and action by the Board on the  
4 proposed amendment of CHRB rule 1865, altering of sex of  
5 horse. The Board may adopt one of the two versions of  
6 proposed amendment to Rule 1865.

7           Version one provides that for a minimum fine of  
8 \$1,000 if the true sex of the horse is not properly  
9 identified in the official program.

10           Version two provides that the horse shall be  
11 scratched if the true sex of the horse is not correctly  
12 noted in the official program.

13           Commissioner Moss, I know you have dealt with this  
14 ad nauseam. Here we are today where it's kind of decision  
15 time and what do we want to do? If it's a first-time  
16 gelding, do we want to scratch the horse or do we want to  
17 start with the \$1,000 fine?

18           I understand that Encompass, I guess, with Dr.  
19 Arthur, is working on a system to try and improve this, as I  
20 understand it correctly.

21           The bottom line is we need to take care of those  
22 people wagering on our product. Some people believe this is  
23 the ultimate equipment change and, therefore, has an effect  
24 on the outcome of the races.

25           And, unfortunately, despite all of our good

1 intentions, the problem still continues, although it is  
2 lessened.

3 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I was  
4 one of the ones that had originally brought this up. And I  
5 think the main thing we want to do is protect the fan. And  
6 we have gotten a lot of complaints about the non-knowledge  
7 of a first-time gelding. And I think there were some  
8 glitches in our system, as far as when horses were entered,  
9 that the trainer didn't have a way to cross-check.

10 But now, it is on the overnights, what they think  
11 the sex of the horse is. So as long as there's a -- just  
12 before the program comes out, people know.

13 I hate to see a fine imposed, because the fine  
14 doesn't really make the bettor whole. I mean, if you bet a  
15 horse that you are not knowledgeable of, the fact that the  
16 trainer got fined doesn't really help you.

17 I think if you start scratching the horses, it's  
18 going to be self-correcting. You're not going to see very  
19 many horses at all get scratched, and people would just pay  
20 attention and it will work, versus the fine.

21 COMMISSION CHAIRPERSON SHAPIRO: All right. I  
22 know that this may not be that popular, but I tend to agree,  
23 I think, and that is it's not fair to any particular group  
24 and so forth, but the bottom line is the fan. And at this  
25 point I think that's got to win the day, especially when

1 we're struggling to create a fan base.

2           And there are just so many people that get so  
3 exercised, that they feel that there's information that they  
4 didn't know on a timely basis, that they placed their wagers  
5 early.

6           So I would agree that I think that if there's a  
7 horse that we determine is a first-time gelding, and was not  
8 properly identified at the time of entry, and he's in the  
9 race, that the horse should be scratched. And, hopefully,  
10 we can find the way to resolve this, and maybe one scratch  
11 does it. But that's my personal preference.

12           COMMISSIONER MOSS: I tend to disagree. I just  
13 think scratching a horse is a big deal and the owner's  
14 affected, the bettor's affected, and the track's affected.  
15 I just think scratching is a last resort.

16           I think a thousand bucks and if maybe the same  
17 trainer has this same, maybe, experience within a period of  
18 like six months, you know, there's two fines, then perhaps  
19 at that point his horse should be scratched, his or her  
20 horse should be scratched.

21           I think the bettors do -- you know, I mean, in our  
22 Pari-Mutuel Committee meetings this is a sore spot. People  
23 that are wagering money don't like to be surprised like  
24 this. And it is definitely. But I think if the trainer is  
25 fined a thousand bucks, maybe the trainer is losing more

1 money than they did on the race, so maybe that's somewhat  
2 satisfying in some way.

3 But, anyway, I would go for trying to do  
4 everything you can not to scratch the horse. Thank you.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.  
6 Any other Board comment on this?

7 COMMISSIONER ISRAEL: I have a question on it.

8 COMMISSION CHAIRPERSON SHAPIRO: Please?

9 COMMISSIONER ISRAEL: Are there -- again, it's a  
10 statistical question, how often does this occur relative to  
11 the number of entries?

12 COMMISSION VICE CHAIRPERSON HARRIS: So Dr. Arthur  
13 might have that. It's enough to get our attention.

14 EQUINE MEDICAL DIRECTOR ARTHUR: The last fiscal  
15 year there were 44 of these, including one trainer -- two  
16 trainers that had done it twice. So 44 out of how many ever  
17 starts, and 44 is a pretty big number for a violation.

18 And the problem with it is it hasn't seemed to  
19 have changed and the history of this is usually when the  
20 horses are gelded on the track, the paperwork's not a  
21 problem. The problem is when the horse goes to the farm for  
22 one trainer, comes back in to another, and the horse has  
23 been gelded and he doesn't know about it. And that's  
24 usually what the scenario is.

25 All we're trying to do here, and whether it's a

1 scratch or fine, is get the trainer to look behind the hind  
2 legs and see whether he has a colt or a gelding. That's  
3 what it amounts to.

4 COMMISSION VICE CHAIRPERSON HARRIS: Well,  
5 obviously, he should know what he has. But he also needs to  
6 look at the overnight, when the overnight comes out and he  
7 looks and says, gee, this is a -- they're showing this as a  
8 colt, but really it's a gelding, he will have time to act to  
9 fix it, so that it's correct on the program and then no  
10 one -- the horse isn't going to get scratched.

11 There's a pretty good mechanism to fix it.

12 EQUINE MEDICAL DIRECTOR ARTHUR: We've worked on  
13 this with Encompass, we've worked on it, increased fines,  
14 and those sorts of things. So we're trying to get in the  
15 right direction, it's just, you know, it looks like we need  
16 to take it to another level. And whether you want to  
17 scratch the horse -- and by the way, it's not always the  
18 trainer's fault. It has been instances where it's been the  
19 racing office's fault, because they were told the horse was  
20 a gelding, but didn't do the paperwork properly.

21 So there's a lot of different people who can mess  
22 this system up.

23 COMMISSIONER ISRAEL: Well, is there -- and my  
24 second question was, is there some compromise, less  
25 draconian than scratching, and maybe put some teeth into the

1 fine by making multiple offenses a cause for suspension?

2 COMMISSION CHAIRPERSON SHAPIRO: You know, we have  
3 gone back and forth and this would be the first time  
4 that -- in the past, the stewards have been able to pretty  
5 much issue what fine they felt was appropriate. So the  
6 Board was moving forward at a thousand dollars, which was a  
7 large increase, to try to do this.

8 We have been struggling with this issue probably  
9 for two years now, or something coming up on two years.  
10 We've tried every way we know.

11 And as Dr. Arthur just said, in some cases the  
12 problem with the fine is the trainer's getting the fine, but  
13 the trainer really isn't the one that's responsible for the  
14 mistake, or the error, or the problem. And the end result  
15 is that we have a number of fans, a lot of fans who just  
16 feel that it's deception, because it has such an impact on  
17 the horse's performance.

18 COMMISSIONER ISRAEL: Well, if the trainer can  
19 prove he didn't make the mistake, I assume the fine is then  
20 waived; is that not the case?

21 COMMISSION VICE CHAIRPERSON HARRIS: Well, the  
22 trainer should be responsible for looking at the overnight.  
23 I mean, the fact that he didn't look at the overnight would  
24 not be part of the proof he didn't make a mistake. If it  
25 was incorrect on the overnight, he's got time to correct it.

1 If it's correct on the overnight, it's not a problem.

2 COMMISSIONER ISRAEL: Right.

3 COMMISSION VICE CHAIRPERSON HARRIS: So it should  
4 work out. But the shortfall of the whole thing has been the  
5 whole Encompass system wasn't really set up for this.  
6 Because this, nationally, is probably worse than it is in  
7 California. But they are working to get it right, which  
8 will help a lot.

9 COMMISSIONER ISRAEL: Well, is there any accrual  
10 so that multiple offenses result in a larger penalty?

11 COMMISSION CHAIRPERSON SHAPIRO: Well, you would  
12 certainly hope that as the stewards have issued their  
13 rulings, and when they see multiple rulings that they are  
14 going to use that wisdom and say, you didn't get it the  
15 first time, this is your second offense, so they're going to  
16 make it heavier and that they're progressive, and that's  
17 where they have been.

18 COMMISSION VICE CHAIRPERSON HARRIS: But  
19 probably --

20 COMMISSIONER ISRAEL: Is it a minimum of a  
21 thousand dollars?

22 COMMISSION CHAIRPERSON SHAPIRO: It's a minimum.

23 COMMISSIONER ISRAEL: Okay.

24 COMMISSION CHAIRPERSON SHAPIRO: It's a minimum.

25 COMMISSION VICE CHAIRPERSON HARRIS: The problem

1 is the fan. I mean, say you've got a Pick Six carryover  
2 today, and by chance there's some horse in one of the legs  
3 of it that is an unreported first-time gelding, and that  
4 horse does win, there's going to be a fan out there that's  
5 going to feel defrauded that he did not have information  
6 that he may have been able to pick the winner on. I mean,  
7 hindsight's always 20/20.

8 COMMISSIONER ISRAEL: Right.

9 COMMISSION VICE CHAIRPERSON HARRIS: But that's  
10 the real problem. It wouldn't be so bad if it was just one  
11 race, but you've got all these multiple bets that impact  
12 things.

13 COMMISSIONER ISRAEL: Right.

14 COMMISSIONER CHOPER: You know, I think it goes  
15 both ways. I mean, I think what Commissioner Moss said, I  
16 tend to agree with that. Why? Because I don't pay a hell  
17 of a lot of attention to whether the horse is gelded or not.  
18 I have enough trouble picking them without that. So that's  
19 number one.

20 (Laughter.)

21 COMMISSIONER CHOPER: Number two, of course  
22 they're going to -- you know, you lose a race or something  
23 like that, you look around for an excuse, and you find one,  
24 you know, and a lot of people think it's legitimate.

25 I guess I'm inclined to go with -- Jerry, isn't

1 this what was proposed as a Committee, a thousand dollar  
2 fine?

3 COMMISSIONER MOSS: I believe so, yeah.

4 COMMISSIONER CHOPER: Yeah. And it is a minimum  
5 thousand dollar fine, so the second time they could give  
6 them a lot more.

7 COMMISSIONER MOSS: Right.

8 COMMISSIONER CHOPER: Although we've seen that  
9 it's only happened more than once, on the 44 occasions, two  
10 times.

11 COMMISSIONER MOSS: Yes, twice.

12 COMMISSIONER CHOPER: But we can certainly do  
13 that. And if this thing continues to be a problem, we can  
14 always come back and take a stronger action.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay.

16 COMMISSIONER CHOPER: But that's where -- but this  
17 is close.

18 COMMISSION CHAIRPERSON SHAPIRO: No, no, this is a  
19 tough one.

20 COMMISSIONER CHOPER: We all have the same goal.

21 COMMISSION CHAIRPERSON SHAPIRO: This is a very  
22 difficult one. I see Mr. Harlowe is standing there to tell  
23 us that it's going to have a negative effect on the entry  
24 box. And he is certainly going to be in favor of the  
25 thousand dollar fine. Am I kind of correct there, Mr.

1 Harlowe?

2 MR. HARLOWE: Mike Harlowe, Santa Anita.

3 Actually, just a point of clarification. If the horse is  
4 reported correctly as a gelding but he is, in fact, a first-  
5 time gelding, then we aren't scratching the horse or we  
6 aren't fining them? I'm a little confused there. Because  
7 if a trainer does his job and enters the horse as a gelding  
8 and, therefore, the correct sex is in the program, but come  
9 to find out later he's a first-time gelding, the way the  
10 proposal is, the horse is scratched or the trainer's fined.

11 COMMISSION VICE CHAIRPERSON HARRIS: I don't think  
12 it could be that because the trainer might have gotten the  
13 horse -- I mean, all the trainer needs to know is what he  
14 has.

15 MR. HARLOWE: We do have several instances where  
16 horses are a gelding in the program, but then we find out  
17 after the fact that it is, in fact, a first-time gelding,  
18 which is what we're trying to do to protect the gamblers.

19 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think  
20 what we need there is the Encompass system to flag that,  
21 that somehow there's got to be a first time. When that  
22 horse is reported to Equibase, or whatever, that is, you  
23 know, part of their data.

24 MR. HARLOWE: Yes, but if it's done off of the  
25 track then it won't be a part of the data.

1           COMMISSION VICE CHAIRPERSON HARRIS: Well, no, it  
2 is. I reported horses from my farm.

3           MR. HARLOWE: And I commend you for it, but not  
4 everybody does, and that's the problem.

5           COMMISSIONER MOSS: Is first-time gelding reported  
6 in the Racing Forum or in the program?

7           MR. HARLOWE: It's in the program.

8           COMMISSION VICE CHAIRPERSON HARRIS: But it should  
9 almost be a line in the Forum, somehow.

10          COMMISSION CHAIRPERSON SHAPIRO: Again, this is  
11 important for the wagering public.

12          Now, I think both of us are all -- we're all kind  
13 of 49/51 on this issue of where to go.

14          MR. HARLOWE: Well, that brings up another point,  
15 if you're protecting the wagering public, does a thousand  
16 dollar fine protect the wagering public?

17          COMMISSION VICE CHAIRPERSON HARRIS: That was my  
18 point.

19          COMMISSION CHAIRPERSON SHAPIRO: Well, that's why  
20 we were saying that doesn't help the public. That's why,  
21 personally, I would go to the 51 percent of scratch the  
22 horse. Because I'm not looking to be punitive, I recognize  
23 all the difficulties.

24          COMMISSION VICE CHAIRPERSON HARRIS: It's just  
25 like if you had a horse that didn't get lasix, somehow

1 there's a mixup and that horse didn't get lasix four hours  
2 out we've got to scratch it. And I mean it's too bad you  
3 lost that entry, but that's just the way the rule is.

4 MR. HARLOWE: Would there be any consideration of  
5 making this a house rule?

6 COMMISSIONER ISRAEL: A what?

7 COMMISSIONER MOSS: What do you mean by that?

8 MR. HARLOWE: Putting it as a house rule in the  
9 condition book. Well, you can change the rule back and  
10 forth, if it works one way and you like the thousand dollar  
11 fine, leave it as it is, adopt it later. If you want to go  
12 back and scratch the horse, we can change the house rule to  
13 the horse is scratched if not properly notified in the  
14 program.

15 COMMISSION CHAIRPERSON SHAPIRO: I think that we  
16 want the uniformity throughout the State in the way that we  
17 do that, and I think we owe that to the wagering public.

18 COMMISSIONER CHOPER: I think if we do the  
19 thousand dollar fine, and we have as many violations as we  
20 had last year, then I think we got to take another look at  
21 this thing.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, so  
23 let's --

24 COMMISSIONER CHOPER: On the other hand, if we  
25 only had three violations, I think we should think, you

1 know, we probably did the right thing.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, so why  
3 don't we kind of get an informal. I think I know where  
4 Commissioner Moss is at, I know where Commissioner Harris is  
5 at. Commissioner Choper.

6 Commissioner Israel, Derek and Andreini?

7 COMMISSIONER ANDREINI: I'm with Choper.

8 COMMISSION CHAIRPERSON SHAPIRO: You're with  
9 Choper. Again, I just want to get this done after two  
10 years.

11 Do you have a strong inclination?

12 COMMISSIONER ISRAEL: My inclination is not to  
13 influence the outcome of this vote in my first meeting.

14 (Laughter.)

15 COMMISSION CHAIRPERSON SHAPIRO: A wise man.

16 MR. HALPERN: Excuse me, Mr. Chairman?

17 COMMISSION CHAIRPERSON SHAPIRO: Yes.

18 MR. HALPERN: If I may request it, Ed Halpern,  
19 again. I would ask that we not have people come to their  
20 position before we're finished arguing the matter, because  
21 it sort of puts them in a more difficult position about  
22 the --

23 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry, I  
24 thought we were done, I don't have any more comment cards.

25 MR. HAMMERLE: I apologize, we just -- Rick

1 Hammerle, from Santa Anita. We just finished entries, I  
2 didn't have time to fill out a card.

3 I'd just like to make a comment on this, and just  
4 to make sure that we're clear on what we're doing here, if  
5 that -- is that okay?

6 COMMISSION CHAIRPERSON SHAPIRO: Yeah, please.

7 MR. HAMMERLE: Okay. First-time gelding that's  
8 not in the program we want to scratch, is that correct?

9 COMMISSION CHAIRPERSON SHAPIRO: That's correct.

10 MR. HAMMERLE: Or scratch or fine.

11 COMMISSION CHAIRPERSON SHAPIRO: Scratch or fine a  
12 minimum of a thousand dollars.

13 MR. HAMMERLE: Okay. So what we've done is now  
14 we've said that this is the most important thing that can be  
15 changed in the program because we're going to scratch it.

16 Let me give -- let me just give an example of some  
17 of the things that you could hear when you come to the  
18 track, or you go to your internet wagering place for a day  
19 at the races, okay.

20 Race six will now be run on the dirt, will not be  
21 run on the turf course. Horse number one will not be ridden  
22 by Richard Migliori, it will be ridden by Jimmy Jones.

23 Horse number two is overweight, it will not be  
24 121, it will be 124.

25 Horse number three is a first-time lasix. Wasn't

1 noted in the program a first-time lasix.

2 Horse number six will be running from the  
3 protection barn.

4 Horse number seven will be running with blinkers  
5 on.

6 Horse number eight has an additional workout that  
7 wasn't in the form of the program, that we're announcing.

8 And horse number nine is a first-time gelding,  
9 we're going to scratch him.

10 So what we're saying is we can do all these other  
11 things, and we're saying to the handicapper, they're not  
12 that important, but this is the most important thing that  
13 we've ever come up with, we're going to scratch him.

14 So I just want to be perfectly clear that that's  
15 what we want to do here. We want to take all these  
16 handicapping factors that are part of the game, when a guy  
17 comes to the racetrack, when he gets his sheet out, he's got  
18 overweights, he gets rider changes, he gets surface changes,  
19 he gets blinker changes, he gets additional workouts. And  
20 we're saying he's okay with those changes to go ahead and  
21 make a wager.

22 But if he gets the announcement that there's a  
23 first-time gelding before the races start, and he's able to  
24 note that in his handicapping notes that, wow, wow, wow,  
25 we're going to protect you and say that's the biggest thing

1 there is in handicapping, scratch the horse.

2           So I just want to make sure, before we take this  
3 step forward, that we're actually thinking of the better  
4 before we do this. Because when we do scratch that horse,  
5 even though the information is announced, the owner gets  
6 hurt, the trainer gets hurt, the jockey gets hurt, and the  
7 better gets hurt. Who knows, maybe he spent three hours  
8 handicapping that race and that was the key for the day, and  
9 we're scratching him because of information that was given,  
10 but maybe wasn't in the program.

11           COMMISSION VICE CHAIRPERSON HARRIS: I think  
12 you're mischaracterizing the issue, though. If we implement  
13 the scratches, you're not going -- it's like the nuclear  
14 weapon I mentioned, you're not going to -- it's going to get  
15 corrected, it's not just going to go on and on, people will  
16 start paying attention.

17           But we do need a mechanism that people can -- you  
18 know, at the racing office, if everybody can work and get  
19 the data right, which hasn't been right for a long time.

20           MR. HAMMERLE: Okay. Okay, but --

21           COMMISSION CHAIRPERSON SHAPIRO: Okay. You make  
22 a -- Rick, you make some really good points, okay.

23           MR. HAMMERLE: Can I make one more point?

24           COMMISSION CHAIRPERSON SHAPIRO: One second, one  
25 second. I don't disagree with any of the points, actually,

1 you're making, very articulate, very compassionate, okay.

2 Our problem is we've been dealing with this, now,  
3 for nearly two years and the problem hasn't improved.

4 Nobody wants to see anybody harmed here, but we've  
5 got to protect the bettor. And so we're struggling with how  
6 do we do that. And we've thrown this back to you guys  
7 numerous times. I know you're working, there's no fault  
8 being laid at your feet here, but we simply haven't been  
9 able to do anything and it's time we do something to protect  
10 the fans.

11 MR. HAMMERLE: Okay, let's stipulate that this is  
12 very, very, very important. Important enough to scratch,  
13 okay, so we take the scratch route. But, now what we're  
14 saying is if you pay the fine, it doesn't have to be that  
15 important enough to scratch. Either it is important or it  
16 isn't.

17 It goes back to you mentioned if a horse is late  
18 for lasix, okay, instead of four hours, it's three hours.  
19 You scratch the horse. You can't say, okay, well, pay a  
20 thousand and it's okay and we'll let the horse run. Either  
21 it is or it isn't. So somewhere down the line is you've got  
22 to make the decision.

23 COMMISSIONER ISRAEL: No, no, no, what we're  
24 voting on is one of those two penalties, not giving anybody  
25 discretion, as I understand it.

1           MR. HAMMERLE: I understand that. But you're  
2 saying on one hand it's bad enough, than any of these  
3 changes, to scratch the horse. But then, on the other hand,  
4 if we vote for maybe it's a thousand, maybe it's not that  
5 big of a deal. So either it is or it isn't.

6           COMMISSION VICE CHAIRPERSON HARRIS: Well, you're  
7 arguing our case, actually.

8           MR. HAMMERLE: Well, that's what I'm saying, I'm  
9 just --

10          COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

11          MR. HAMMERLE: In a sense, it doesn't make sense  
12 to have the choice, either it is -- you're saying it's okay  
13 to --

14          COMMISSION CHAIRPERSON SHAPIRO: Well, that's what  
15 we're doing.

16          COMMISSION VICE CHAIRPERSON HARRIS: We're trying  
17 to make one or the other choice.

18          COMMISSIONER ISRAEL: The Board is to vote to  
19 adopt one penalty or the other, not give anybody discretion.

20          COMMISSION CHAIRPERSON SHAPIRO: Right, that's  
21 what we're trying to do.

22          COMMISSIONER ISRAEL: So if the Board votes that  
23 it's a thousand dollar or more fine, that's the only option  
24 is a fine.

25          MR. HAMMERLE: So the horse will be able to run if

1 you pay the fine.

2 COMMISSIONER ISRAEL: That's what's written.

3 MR. HAMMERLE: Okay, I just want to make sure  
4 everybody understand what we're voting on.

5 Thank you very much.

6 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I  
7 apologize, I do have comment cards that were tucked  
8 underneath here.

9 I see that I have them from two members of TOC and  
10 two members of CTT. So Marsha Naify and Guy Lamothe, I  
11 don't know if you both are going to speak to this, or just  
12 one of you.

13 MS. NAIFY: That's okay, I can speak.

14 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

15 MS. NAIFY: So this issue is, of course, of  
16 paramount importance to the owners. You know, we submitted  
17 a comment, which is in your packet, on this change. And I  
18 just want to reiterate an important point in this packet,  
19 that rule 1894 states that "a trainer represents the owner,  
20 relative to horses which he is training, in the matter of  
21 entries and declarations."

22 We feel it is the trainer's responsibility. We do  
23 not feel that the problem has really been addressed, because  
24 you really have not tried, yet, increasing the fines. So to  
25 say that you've done everything so far that you can to

1 alleviate this problem really isn't correct.

2 Because today we have a possible solution to that,  
3 which is increased fines.

4 COMMISSION CHAIRPERSON SHAPIRO: Marsha, the fines  
5 have, in fact, moved up. I don't know if they've been at  
6 the thousand dollar level, but they have been increased  
7 significantly. I think you're incorrect.

8 MS. NAIFY: Well, we feel like they could have  
9 been increased -- should be increased more. We don't feel  
10 that the owner should be penalized for a trainer's error.  
11 It places an undue burden on the owner in terms of the cost  
12 of getting that horse to the races. You look for a race in  
13 the condition book, another race may not come up for another  
14 four weeks, and you've missed that opportunity of racing  
15 that horse.

16 So we feel it is an undue burden on the owner.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

18 Ed Halpern.

19 MR. HALPERN: Thank you. Ed Halpern, California  
20 Thoroughbred Trainers. This is an unusual set up, one to  
21 hear what I'm saying and one to hear what I'm thinking.

22 COMMISSION CHAIRPERSON SHAPIRO: One is for the  
23 court reporter, one is for the webcast. Go ahead.

24 MR. HALPERN: Yes. It's nice to see some new  
25 faces on the Board. I was under the impression that gray

1 hair was a requirement, but I guess not.

2 COMMISSION CHAIRPERSON SHAPIRO: Or no hair.

3 MR. HALPERN: Well, I was trying to be kind.

4 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

5 MR. HALPERN: I, first, just wanted to point out  
6 to the new members that I'm the Executive Director of the  
7 California Thoroughbred Trainers and we are, by law in  
8 California, the representative of the 600 or so trainers of  
9 California. A Board of Directors of nine trainers that are  
10 elected by the trainers in California, and authorized to  
11 make recommendations to the Board based on that.

12 I wanted to point out -- I wanted first to ask, I  
13 am also an owner, and I understand the hesitance to pass a  
14 rule that would so severely affect owners. But I would like  
15 to ask those of you on the Board, that are horse owners,  
16 just for a moment to take off your owner's hat, because I  
17 think it has to be looked at from a little bit broader  
18 perspective.

19 You know, this quite simply is an outrageous  
20 amount of money to charge as a fine for possibly a first-  
21 time offense for a trainer. It's a great burden on the vast  
22 majority of trainers. You've got to remember that many, if  
23 not most of these people, are hardly making a living, and to  
24 impose a thousand dollar fine is simply unjust.

25 It's very much like using a guillotine to cure a

1 headache.

2           The truth is that both solutions are probably  
3 overreactions to the problem.

4           We also should remember that the thousand dollar  
5 fine is greater than the fine we impose for a reckless  
6 driver, who's out on our freeways and can kill or maim  
7 somebody, but they don't get a thousand fine.

8           And what we want to do is fine a thousand dollars  
9 to most people who can't afford it, for some, what is  
10 usually a mistake or an oversight that shouldn't happen, or  
11 created in the racing office, which raises another question.  
12 If it happens in the racing office, are the racing office  
13 staff going to pay a thousand dollar fine? That would only  
14 be just.

15           As has been said, the purpose is to protect the  
16 public, and a fine doesn't really do that. If it's really  
17 so important that we never miss a gelding, then the only way  
18 to ensure that is scratching the horse.

19           And I can tell you this, if you scratch a horse,  
20 it won't have to happen more than once or twice. No trainer  
21 wants to tell his owner that your horse is scratched because  
22 I failed to report it was a new gelding.

23           So that's the ultimate solution, even if it's an  
24 overreaction, as the thousand dollar fine would be.

25           You should remember that currently we fine

1 trainers, and no matter what we do here, it remains an  
2 additional remedy.

3           It's also worth noting that part of the problem  
4 was this is a situation that nobody really cared much about  
5 for many years and nobody thought about much for many years,  
6 and it was only in the last two months that we started  
7 sending out notices to trainers, saying that you're going to  
8 be fined if you don't report a gelding.

9           And I think that statistics would show, although  
10 we don't have them, yet, that the unreported gelding  
11 situation has dropped significantly in the past few months.  
12 I don't think we're at anything any longer, like four horses  
13 a month in the unreported gelding category.

14           If I can beg your indulgence for one more moment  
15 here. I'm sorry, apparently, I don't need to bear your  
16 indulgence anymore. Thank you very much.

17           COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank  
18 you, Mr. Halpern.

19           All right, those are the only comment cards that I  
20 find in front of me on this. I don't believe I've missed  
21 anybody at this point.

22           You know, this, again, is very difficult. I'm  
23 intrigued by Commissioner Choper's suggestion that maybe  
24 what we should do is start out with a six-month period of  
25 thousand dollars fines, and then if that doesn't work, and

1 we see that there isn't some lessening or cessation of the  
2 problem, then go to plan B.

3 I think, you know, most of us are just all, you  
4 know, sitting right on the edge of what's the right thing to  
5 do. And, therefore, I am open to suggestions from the Board  
6 in what they would like to do.

7 COMMISSIONER ISRAEL: I just have one question to  
8 clarify a confusion in my mind. Has there previously been  
9 no fine?

10 COMMISSION CHAIRPERSON SHAPIRO: No, there have  
11 been fines?

12 COMMISSIONER ISRAEL: How much.

13 COMMISSION CHAIRPERSON SHAPIRO: And those fines  
14 have been given at the stewards' discretions, in an amount  
15 that they feel are appropriate.

16 COMMISSIONER ISRAEL: Which was?

17 COMMISSION CHAIRPERSON SHAPIRO: This Board has  
18 never told them what they are.

19 COMMISSIONER ISRAEL: What were they?

20 COMMISSION CHAIRPERSON SHAPIRO: They've generally  
21 been around \$300. I believe they've moved to \$500 and we  
22 did not find that there was a great impact.

23 The issue then went to the Pari-Mutuel Committee,  
24 where it's been discussed. It's been brought to the Board a  
25 couple times.

1           And so now the Board is considering whether to  
2 make it a thousand dollars or scratch the horse.

3           And Mr. Dougherty, I see you're there, is there  
4 some other point that needs to be made?

5           MR. DOUGHERTY: Well, yes. I would like to  
6 actually suggest -- Charlie Dougherty, California  
7 Thoroughbred Trainers. I'm in Northern California.

8           And I would absolutely echo what Ed said about the  
9 economic hardship. I just want to point out the situation,  
10 especially relating to Northern California. If you're  
11 running a horse at the bottom level, that happens to get  
12 gelded and didn't get reported, you're talking about fining  
13 a trainer a thousand dollars when the most they possibly  
14 could make if that horse won the race would be \$360 based on  
15 their commission, given how low the purses are in Northern  
16 California, at some of the bottom levels.

17           But I would actually throw, also, the idea out of  
18 Commissioner Choper's idea. Instead of starting out with  
19 the fine starting at a thousand and see how it is for six  
20 months, why don't we scratch the horse and after six months  
21 see where the situation is and then -- so I would throw it  
22 back the other way.

23           COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.  
24 Thank you.

25           All right, so does anybody choose to make a motion

1 on this subject.

2 COMMISSIONER MOSS: I will make a --

3 COMMISSION CHAIRPERSON SHAPIRO: Yes.

4 COMMISSIONER MOSS: Mr. Choper make it.

5 COMMISSIONER CHOPER: No, no, go ahead.

6 COMMISSIONER MOSS: Okay, I make a motion that we  
7 adopt Mr. Choper's recommendation. That is that we --

8 COMMISSION CHAIRPERSON SHAPIRO: Okay.

9 COMMISSIONER CHOPER: Second. Can I say one other  
10 thing?

11 COMMISSION CHAIRPERSON SHAPIRO: You may  
12 absolutely say one other thing. However, please restate  
13 what your recommendation is so we're clear on the motion.

14 COMMISSIONER CHOPER: You said six months, I guess  
15 I said indefinitely, but that doesn't make any difference to  
16 me. You said we should look at it for six months and  
17 then --

18 COMMISSION CHAIRPERSON SHAPIRO: That there would  
19 be a thousand dollar fine.

20 COMMISSIONER CHOPER: Yeah, a thousand dollar  
21 fine.

22 COMMISSION CHAIRPERSON SHAPIRO: And after six  
23 months that we would then look to scratch the horses if it  
24 did not show some improvement thereafter.

25 COMMISSIONER CHOPER: We'd come back and take

1 another look at it.

2 COMMISSION CHAIRPERSON SHAPIRO: That's your  
3 motion.

4 COMMISSIONER CHOPER: Get a report back, yes,  
5 after six months.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay.

7 COMMISSIONER CHOPER: I just want to say, you  
8 know, this -- look, no one wants to dump on trainers or  
9 anybody else. But I have to say I'm not -- I'm not  
10 persuaded by that because we're told, first of all, that  
11 they're fined already three to four hundred dollars. So  
12 this is not starting from, if you'll excuse the pun,  
13 "scratch."

14 (Laughter.)

15 COMMISSIONER CHOPER: And, secondly, Mr. Halpern  
16 is a great lawyer. He's not listening to me. That's right,  
17 he never listened in class, either.

18 COMMISSION VICE CHAIRPERSON HARRIS: You taught  
19 him.

20 (Laughter.)

21 COMMISSIONER CHOPER: But to say the deterrent of  
22 having to go tell the owner that because of his mistake the  
23 horse was scratched, that sounds to me like the guillotine.  
24 But to raise the thing another five or six hundred bucks, I  
25 guess I think it's a reasonable way to resolve this.

1 COMMISSION CHAIRPERSON SHAPIRO: All right.

2 COMMISSION VICE CHAIRPERSON HARRIS: The only  
3 thing is, if we're going to make it a thousand fine, I  
4 think -- I don't know if that should be a minimum or more of  
5 a guideline, because there could be some situation that was,  
6 you know, there were mitigating circumstances. It should be  
7 subject to mitigation or --

8 COMMISSION CHAIRPERSON SHAPIRO: Well, absolutely.  
9 Absolutely, it should be subject to mitigating  
10 circumstances.

11 Okay, so what I'm going to suggest, as we have a  
12 motion on the table, it's been seconded, and that is to move  
13 forward with a thousand dollar minimum fine, absent  
14 mitigating circumstances, which could include that there was  
15 an error by the racing office or some other entity, that  
16 that will be what the Board is going to move forward to do.

17 And, therefore, I'm going to call for the vote.  
18 All those in favor?

19 (Ayes.)

20 COMMISSION CHAIRPERSON SHAPIRO: All those  
21 opposed?

22 COMMISSION VICE CHAIRPERSON HARRIS: Nay.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, the motion  
24 passes.

25 Thank you, there will be a thousand dollar minimum

1 fine.

2 MR. HAMMERLE: Question about the motion, please?

3 COMMISSION CHAIRPERSON SHAPIRO: Yes?

4 MR. HAMMERLE: Can you scratch to avoid the fine?

5 COMMISSION CHAIRPERSON SHAPIRO: No, I don't think  
6 that's part of the motion. That's what we just adopted is  
7 in here.

8 COMMISSION VICE CHAIRPERSON HARRIS: You  
9 wouldn't -- I mean, you -- I guess that horse could get sick  
10 or something.

11 MR. HAMMERLE: So that's my -- is that a  
12 legitimate question? The guy's going to get fined, the  
13 horse stepped on a nail, I'm out.

14 COMMISSION VICE CHAIRPERSON HARRIS: Well, you can  
15 scratch for a lot of different reasons.

16 MR. HAMMERLE: If the horse does not run, does he  
17 get fined?

18 COMMISSION VICE CHAIRPERSON HARRIS: No.

19 COMMISSIONER ISRAEL: So the answer is he can  
20 scratch to avoid the fine.

21 COMMISSION VICE CHAIRPERSON HARRIS: Well,  
22 hopefully, if the trainer is ingenuous enough to figure that  
23 out, he should have figured out if the horse was a gelding  
24 or not in the first place.

25 (Laughter.)

1           COMMISSION CHAIRPERSON SHAPIRO: All right, before  
2 moving on to the next agenda item, I would like to take this  
3 opportunity to introduce that Senator Darrell Steinberg, who  
4 is the Senate President Elect, has entered the room.

5           (Applause.)

6           COMMISSION CHAIRPERSON SHAPIRO: Senator, why  
7 don't you come forward, we'd love to -- let me just tell  
8 you, I think we are all very fortunate to have Senator  
9 Steinberg both here, and I think it's -- we're honored that  
10 you attend a part of our meeting and have shown interest in  
11 our sport, and we are very appreciative of that.

12           SENATOR STEINBERG: Thank you very much, Mr.  
13 Chairman and Members of the Board. I choose not to weigh in  
14 on the gelding issue.

15           (Laughter.)

16           SENATOR STEINBERG: But it was very interesting to  
17 listen to the discussion and the debate. Let me just say,  
18 I'm looking forward to working with the Board, and looking  
19 forward to doing all that I can to enhance the horse racing  
20 industry here, in California. It's a wonderful part of  
21 California tradition, with deep historical roots.

22           I've been well-educated by you, Mr. Chairman, and  
23 others on the challenges, and I look forward to working with  
24 you. Thank you for having me.

25           COMMISSION CHAIRPERSON SHAPIRO: Well, thank you.

1 And our industry is very appreciative that you've taken a  
2 keen interest in helping us. We're a challenged group, a  
3 challenged industry right now, and your help is going to be  
4 very appreciated by all stakeholders and participants in the  
5 industry, and we thank you.

6 SENATOR STEINBERG: Thank you. Have a good  
7 meeting.

8 (Applause.)

9 COMMISSION CHAIRPERSON SHAPIRO: All right.  
10 Executive Director Breed is telling me that the way that the  
11 language is written with respect to the first-time gelding  
12 fine is that it doesn't provide for mitigating  
13 circumstances. Is that correct?

14 EXECUTIVE DIRECTOR BREED: Correct. That's  
15 correct.

16 COMMISSION CHAIRPERSON SHAPIRO: Which, of course,  
17 it should.

18 COMMISSION VICE CHAIRPERSON HARRIS: Does this  
19 have to go back out for comment to do that?

20 EXECUTIVE DIRECTOR BREED: Yes.

21 COMMISSION VICE CHAIRPERSON HARRIS: Because I  
22 think maybe we should put it back out. That way, we can  
23 still -- you know, essentially, if the pro-fine people can  
24 have --

25 EXECUTIVE DIRECTOR BREED: It's a recommendation.

1 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

2 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,  
3 then, what we will have to do is, with the Board's approval,  
4 then I would ask that the Board make a recommendation of a  
5 minimum thousand dollar fine, but to go back out for  
6 mitigating circumstances that the fine can be waived, so  
7 that we can do that.

8 Dr. Arthur?

9 EQUINE MEDICAL DIRECTOR ARTHUR: You know, rather  
10 than continue this process, which has taken an awful long  
11 time, anybody who is fined has an opportunity to appeal to  
12 the Board, and I think that it can be handled at that level,  
13 so that you don't have to delay this any longer. That's  
14 correct, Counsel, is it not?

15 STAFF COUNSEL MILLER: Yes.

16 EQUINE MEDICAL DIRECTOR ARTHUR: And if the  
17 stewards recommend that the Board take into consideration  
18 some mitigating circumstance, it might be an easier way to  
19 do it and get this on the road, rather than delay it again  
20 and again.

21 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I'm  
22 worried about the cost of those appeals, though, that's not  
23 just a free process, I mean, to the Board.

24 EQUINE MEDICAL DIRECTOR ARTHUR: It should be  
25 fairly simple. All they'd have to do is they have a little

1 written, say, hey, you know, the racing office did it, I  
2 don't know.

3 COMMISSION VICE CHAIRPERSON HARRIS: Well, they  
4 got to be able to prove it.

5 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,  
6 then, if it's okay then with the members, what I'm going to  
7 suggest is that, because we do want to make sure that it's  
8 fair and equitable, we can go back and make this a  
9 recommendation, and not a definitive action.

10 We can bring it back, with the mitigating  
11 circumstances.

12 Okay. Now, since we're going to do that, I think  
13 that Mr. Hammerle brought up a very interesting issue which  
14 is should the party have the right to scratch the horse or  
15 accept the thousand dollar fine?

16 COMMISSIONER MOSS: Well, I think people should  
17 have the right to scratch a horse whenever they want to  
18 scratch a horse.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, not  
20 really.

21 COMMISSIONER MOSS: Well, then whatever the rules  
22 apply in scratching horses should apply in regard to this as  
23 well, you know, whatever those rules are. So you can't just  
24 scratch a horse because you gave him the thousand dollar  
25 fine, you can't do that.

1           COMMISSION VICE CHAIRPERSON HARRIS: Well, the  
2 idea would be that he could scratch it before the program  
3 came out, obviously.

4           COMMISSIONER MOSS: Well, but by that time you  
5 could have a chance to --

6           COMMISSION VICE CHAIRPERSON HARRIS: But by that  
7 time the information would be right, anyway.

8           COMMISSIONER MOSS: -- you know, ascertain the  
9 exact status of the horse, you know.

10          COMMISSIONER CHOPER: What are the circumstances?

11          COMMISSIONER MOSS: I think we should resolve  
12 this, I agree with Rick Arthur. You know, I think that, you  
13 know, this is not a question of whether it's an owner versus  
14 the trainer thing, the trainer is the caretaker of the  
15 horse. He knows more about that horse than usually the  
16 owner does and, therefore, he's the one who's qualified to  
17 understand exactly what sex, or what altered sex this horse  
18 has become. And if not, he should be curious enough to  
19 inquire about that, you know, from wherever the horse came  
20 from.

21          MR. HALPERN: Ed Halpern, California Trainers. It  
22 actually shouldn't be a problem because the rule is that the  
23 violation is that the fine is for failing to name it as a  
24 gelding at the time of entry. So even if you scratched it,  
25 you'd still be in violation of that rule.

1 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, yeah.

2 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,  
3 the --

4 COMMISSION VICE CHAIRPERSON HARRIS: Well, I guess  
5 what would actually happen, though, when it came over  
6 for -- when they did the pre-race exam they would find it,  
7 and then somehow the horse is not going to get scratched or  
8 get scratched.

9 COMMISSION CHAIRPERSON SHAPIRO: All right. So  
10 are we all agreed that it will go out as a recommendation at  
11 this point. We will modify the rule so that there will be  
12 mitigating circumstances, but meanwhile it will be a  
13 recommendation. Is the Board all good with that.

14 COMMISSION VICE CHAIRPERSON HARRIS: I'm good with  
15 that. The only thing we need to do, instead of worrying  
16 about scratching, and fines, and all that is just fix the  
17 darn thing, and go back and look at these 40 cases that were  
18 erroneously done, and why they happened, and how we can fix  
19 them, and where the breakdown -- there's a bunch of little  
20 breakdowns along the way, I think, that can get fixed.

21 COMMISSION CHAIRPERSON SHAPIRO: All right.  
22 Unfortunately, that's a difficult issue that we've been  
23 dealing with.

24 Item Number 10, discussion --

25 STAFF COUNSEL MILLER: Before you move on, Mr.

1 Chairman, don't you want to make a formal motion that it  
2 should go out, the recommendation.

3 COMMISSION CHAIRPERSON SHAPIRO: Oh, I should make  
4 a motion, thank you.

5 We need a motion, then, to make a recommendation  
6 that there will be a thousand dollar minimum fine, absent  
7 mitigating circumstances, and that the official rule will be  
8 put back out for comment to provide for mitigating  
9 circumstances.

10 Is there a second for that?

11 COMMISSIONER ISRAEL: Second.

12 COMMISSIONER CHOPER: I second.

13 COMMISSION CHAIRPERSON SHAPIRO: All those in  
14 favor?

15 (Ayes.)

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank  
17 you, Mr. Miller.

18 Discussion and action by the Board regarding the  
19 feasibility of establishing minimum net worth standards for  
20 racing associations, submitting applications for a license  
21 to conduct a horse race meeting at both public and private  
22 racetracks.

23 To just give a little history on this issue, in  
24 the past we have had racing associations come before us to  
25 be licensed. Some of those entities have either been

1 private entities, privately owned, and some have been public  
2 companies, and others have been corporations, or LLCs, or  
3 shell corporations, not with a lot of assets.

4           As we have unfortunately learned through the  
5 failure of Sacramento Harness Association, we are looking at  
6 this item as a discussion item to consider what, if any,  
7 steps the Board should take to qualify a licensee, so that  
8 we can work to eliminate there being financial harm as a  
9 result of an economic failure.

10           In the past, the Board has required either letters  
11 of credit or bonds from certain LLCs, or new racing  
12 associations that have come before us to be licensed.

13           So this is an item which I'd like to hear from  
14 staff in terms of what recommendations or analysis that was  
15 done.

16           STAFF SERVICES MANAGER WAGNER: Jackie Wagner,  
17 CHRB staff.

18           As included in your packet, staff, we contacted  
19 several other racing jurisdictions to find out whether or  
20 not there were other racing jurisdictions that required a  
21 minimum net worth in determining whether or not a racing  
22 association should be licensed.

23           Of the eight that we contacted, Ohio was the only  
24 racing jurisdiction that does require a minimum net worth  
25 requirement, and their minimum net worth requirement is

1 \$500,000.

2           However, they do have the ability to impose a \$1  
3 million surety submitted as well if, indeed, there is any  
4 reasonable doubt as to the financial statements that are  
5 submitted with the application.

6           Arizona does not require a minimum net worth  
7 requirement. However, they do require a bond of \$300,000.

8           Illinois does not have a net worth requirement,  
9 but they also require a bond of \$200,000.

10           In addition, we contact several other state  
11 agencies to find out their procedures that they took in  
12 terms of trying to mitigate financial risk.

13           The California State Lottery requires a credit  
14 report when processing applicants.

15           And we did find out that the Chairman of the  
16 Racing Committee of the California Board of Directors  
17 recently recommended that any future requests for proposals  
18 from Cal-Expo would require a \$4 million surety bond or  
19 letter of credit be posted.

20           COMMISSIONER CHOPER: Excuse me, I was unclear  
21 about that in the materials. What -- did they propose a \$4  
22 million surety bond for anyone who wants to do something at  
23 Cal-Expo, is that it?

24           STAFF SERVICES MANAGER WAGNER: I believe so, and  
25 I'm going to defer that to --

1           COMMISSION VICE CHAIRPERSON HARRIS: I wasn't  
2 clear on who are the beneficiaries of that bond, are they  
3 named? I mean, who are they really? There's so many  
4 different creditors out there that I'm not sure you can  
5 really do it.

6           EXECUTIVE DIRECTOR BREED: Commissioner Harris,  
7 Kirk Breed. The recommendation came from Steve Benito, who  
8 is the Chairman of that Racing Committee.

9           And what the Racing Committee at Cal-Expo, who  
10 have been reviewing this whole process all along, and have  
11 been booking the -- or keeping the books on the harness meet  
12 since it had been turned over to Cal-Expo, as a public  
13 entity, from a private entity, that if they go out for bid  
14 for future racing, they take proposals for future racing at  
15 Cal-Expo, that they would place -- that they agreed that the  
16 minimum amount that they would accept as a surety bond, or  
17 as a mechanic's lien, or whatever you want to call it, would  
18 be of \$4 million. That that is the amount to cover all of  
19 the creditors currently standing out there, waiting to be  
20 paid from the previous race meet.

21           COMMISSIONER CHOPER: But did we -- we required no  
22 surety -- now, Cal-Expo is going to run the harness meets  
23 there, right, at present?

24           EXECUTIVE DIRECTOR BREED: Right.

25           COMMISSIONER CHOPER: So they don't give us a

1 surety, this is for other people?

2 EXECUTIVE DIRECTOR BREED: Yes, other people.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, we, in the  
4 past have --

5 COMMISSION VICE CHAIRPERSON HARRIS: They're doing  
6 it as a landlord, I guess.

7 EXECUTIVE DIRECTOR BREED: As a landlord, yeah.

8 COMMISSION VICE CHAIRPERSON HARRIS: A landlord  
9 doesn't -- do they really care about the other creditors, or  
10 they just want some surety lien on their rent?

11 COMMISSION CHAIRPERSON SHAPIRO: I don't  
12 understand your question.

13 COMMISSION VICE CHAIRPERSON HARRIS: Well, I mean,  
14 you could have a bond, but there's got to be some  
15 beneficiary of the bond, and who's --

16 COMMISSION CHAIRPERSON SHAPIRO: Well, what we've  
17 done in the past, as you may recall, and as Mr. Liebau will  
18 amply be willing to testify, that when -- to use them as an  
19 example, when they came before us three years or so ago and  
20 they -- we looked at them and they basically were a shell,  
21 but they had acquired Hollywood Park, we required that they  
22 post, I believe it was a letter of credit or a financial  
23 instrument that was in favor of the Board, in the amount of  
24 \$4 million, to protect against there being any financial  
25 problems as a result of the failure of their entity.

1           Is my recollection correct, Mr. Liebau?

2           MR. LIEBAU: Slightly.

3           COMMISSION CHAIRPERSON SHAPIRO: Pardon me?

4           MR. LIEBAU: Slightly.

5           COMMISSION CHAIRPERSON SHAPIRO: Well, why don't  
6 you slightly correct me, then.

7           MR. LIEBAU: My name is Jack Liebau, I'm with  
8 Hollywood Park and Bay Meadows, and I have to say that I  
9 have been appearing before this Board fortunately, or  
10 unfortunately, since 1992. And I think the first time that  
11 a letter of credit was ever required was when Hollywood Park  
12 came up here.

13           And I have to tell you at that point in time I  
14 felt a little bit discriminated against because I was a  
15 shell company, and I was told that I'm a shell company  
16 because this company, Hollywood Park Fall Racing  
17 Association, did not own the land.

18           COMMISSION CHAIRPERSON SHAPIRO: Well, if I can  
19 slightly correct you, I think Capital Racing had been  
20 required to post a million dollar letter of credit prior to  
21 you.

22           MR. LIEBAU: Well, that might be. There have been  
23 others that have been required. Sacramento Harness, as you  
24 know, was required to post a \$450,000 letter of credit and  
25 conducted their meet without doing that, and that was a

1 condition of their licensing. So there was three letters of  
2 credit.

3 I think, because of my past experience, and things  
4 may have changed since I was employed by various other  
5 racing associations, I don't think any of the entities that  
6 operate these meets own property that underlines the  
7 racetrack. So, I mean, we start with that.

8 I would also say that when you consider what the  
9 net worth should be, I think you have to determine what  
10 the -- who and what the creditors are and what the amounts  
11 are.

12 And, of course, this hits upon a favorite topic of  
13 mine is, you know, that when a track takes a wager it  
14 appears now that at least some members of the Attorney  
15 General's Office believe that if you're a discriminatee, you  
16 become a general creditor.

17 So for instance, last Saturday or so, at Hollywood  
18 Park, if that notion continued that anybody that places a  
19 wager is a general creditor of the track at which they place  
20 their wager, then you've got to have a lot of net worth.  
21 Whereas if the track is considered a stakeholder, which I  
22 think is the essence of pari-mutuel wagering, then the  
23 people who place the wager and the discriminatees, statutory  
24 discriminatees would not be creditors. So I think you  
25 should take that into consideration.

1 I applaud you for considering this because I think  
2 there's something that should be a uniform policy. And we  
3 certainly have gotten burned by Sacramento Harness.

4 COMMISSION CHAIRPERSON SHAPIRO: So let me ask  
5 you, perhaps, to help the Board here. I think you  
6 understand what we're trying to do, we're trying to prevent  
7 that we don't have a situation that occurred with Sacramento  
8 Harness. We also want to be fair, and I know that you felt  
9 that the time that you required your company, the parent  
10 company --

11 MR. LIEBAU: I was the only one, yes, Hollywood  
12 Park, up to that.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, you weren't  
14 the only one but, okay.

15 MR. LIEBAU: Except for Capital Racing, which had  
16 sort of a --

17 COMMISSION CHAIRPERSON SHAPIRO: Capital issue had  
18 the same situation.

19 MR. LIEBAU: -- history behind them.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. But you  
21 came in the door, it was a new entity, it was a shell, we  
22 said, gee, we need -- how do we know that this obligation,  
23 if something were to go, unfortunately, wrong, who's going  
24 to be there to fund it and make sure that somebody's name or  
25 signature was on the line.

1           COMMISSION VICE CHAIRPERSON HARRIS: We also had  
2 some corporate guarantees from other so-called shells,  
3 previously.

4           COMMISSION CHAIRPERSON SHAPIRO: Correct.

5           MR. LIEBAU: We did?

6           COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

7           COMMISSION CHAIRPERSON SHAPIRO: So the question  
8 is how do we best protect all of the employees, their  
9 pensions, the stakeholders? I don't think we're trying to  
10 get into --

11           MR. LIEBAU: No, no, I understand. And if you  
12 look at the letter of credit that we delivered from  
13 Hollywood Park, and it was accepted by the staff, and I  
14 think that -- I know I was a draftsman of it, and it was all  
15 encompassing. It protected the purse account, it protected  
16 everything. Every possible creditor known to man was  
17 covered by that letter of credit.

18           COMMISSION CHAIRPERSON SHAPIRO: So given your  
19 long history in the sport and your keen knowledge of the  
20 financial status of the stakeholders today, if a new racing  
21 association were to come before this Board, and let's say  
22 they were an LLC and they had great people, but they're just  
23 directors of an LLC, and nobody's going to sign personally,  
24 what criteria do you believe the Board should use in  
25 determining what, A, instrument should be provided to

1 it -- to the Board, and what amount? What would your  
2 recommendation be?

3 MR. LIEBAU: Well, my recommendation is that you  
4 have to determine who the possible creditors are. If the  
5 possible creditors are everybody that places a bet and every  
6 distributee of the statutory thing, then you got to really  
7 have a lot of net worth because, you know, there's a lot of  
8 creditors out there.

9 If there's just a stakeholder, there's less  
10 creditors.

11 COMMISSION CHAIRPERSON SHAPIRO: So the next  
12 question, are our employees stakeholders?

13 MR. LIEBAU: No.

14 COMMISSION CHAIRPERSON SHAPIRO: Or let's say the  
15 union employees, that need to get paid their pensions?

16 MR. LIEBAU: No, they would be general creditors.

17 COMMISSION CHAIRPERSON SHAPIRO: They would be  
18 general creditors.

19 MR. LIEBAU: Without a doubt. They would have  
20 priorities under the Bankruptcy Code under their labor  
21 claim.

22 COMMISSION CHAIRPERSON SHAPIRO: Again, this is a  
23 very complex issue and I think that we ought to ask our  
24 counsel to look deeper into this.

25 And, again, I think we want input from everybody

1 here, because we're trying to do the right thing so that we  
2 can protect all the stakeholders and participants.

3 MR. LIEBAU: And I want to make it perfectly clear  
4 that I think you should consider this, and I think you  
5 should have a policy, and I think it should be applied  
6 uniformly.

7 COMMISSION CHAIRPERSON SHAPIRO: And that's all  
8 we're trying to do.

9 MR. LIEBAU: And, you know, I have to admit that I  
10 had waltzed in here, in 2005, with Bay Meadows Operating  
11 Company, which was also a new entity, and there was no LLC  
12 required for it.

13 So, I mean, there hasn't been consistency just  
14 because you're --

15 COMMISSION VICE CHAIRPERSON HARRIS: No, I think  
16 we've been remiss in the whole thing. But I think we need  
17 to have somebody take some time.

18 COMMISSION CHAIRPERSON SHAPIRO: I agree.

19 COMMISSION VICE CHAIRPERSON HARRIS: I don't think  
20 we want to get it done today, but we need to figure out  
21 something that really makes sense.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, maybe we  
23 can form -- well, I hate committees.

24 Mr. Fravel, you have some --

25 MR. FRAVEL: Well, Craig Fravel, Del Mar. Let me

1 make an offer, if you will. I think we -- the Federation of  
2 California Racing Association has a Controller's Committee  
3 that meets regularly to deal with all of our issues related  
4 to pension plans, which are multi-employer plans, union  
5 collective bargaining agreements, and a variety of other  
6 sources. And I can ask Mike Ernst, our CFO, who is the  
7 Chairman of the Controller's Committee, to convene that  
8 Committee, bring this subject up and come forward with some  
9 recommendations.

10           And I think I'm in the same league with Jack on  
11 this one. The fact of the matter is you can't -- none of us  
12 could probably qualify for a bond sufficient enough to meet  
13 the total exposure. I mean, we handle \$15 million a day.  
14 And if we were to go bankrupt tomorrow, you know, unsorting  
15 that morass, you're not going to have enough letters -- none  
16 of us would be able to pay the premium for those kind of  
17 letters of credit to cover all the exposure.

18           So I think it's worth looking into and even we can  
19 consider retaining bankruptcy counsel to advise on  
20 structuring the distribution of components of the takeout,  
21 so that they go through a creditor approved process, or a  
22 third-party holder of those funds.

23           Because right now, the racing association, day in  
24 and day out, holds most of the money. And, in fact, or ADW  
25 companies hold most of the money. And I think whatever we

1 do here has to apply to ADW companies, as well. So that we  
2 know that all of the money is going into a relatively  
3 creditor-proof arrangement.

4 And I would just suggest that we'll convene that  
5 Committee, we'll invite Mr. Miller and the Racing Board  
6 staff to participate in those meetings. And these kind of  
7 efforts have usually been pretty productive in the past, if  
8 that's okay with you?

9 COMMISSION CHAIRPERSON SHAPIRO: I think that's a  
10 terrific offer, a terrific suggestion, and I think we'll  
11 accept the help.

12 COMMISSIONER CHOPER: Let's accept it before it's  
13 withdrawn.

14 (Laughter.)

15 COMMISSION CHAIRPERSON SHAPIRO: So thank you for  
16 that.

17 I have a couple of other comment cards on this  
18 issue. I don't know if Drew Couto needs to speak to this?  
19 Drew, or did you want something to add?

20 MR. COUTO: No, actually, I think I'll point out  
21 one thing and then punt to Craig's suggestion, because it's  
22 a very good one, and I know that they'll invite us into that  
23 process, as well.

24 But I think the reason we're talking about this is  
25 programs such as Scotwinc, Notwinc, CHRIMS, have all been

1 adversely impacted by the closure of these harness meets,  
2 and that's one of the reasons why we're talking about that,  
3 because we're chasing down funds from those meets to run  
4 ongoing, much-needed programs like CHRIMS, and like Scotwinc  
5 and Notwinc. So any help is much appreciated.

6 COMMISSION CHAIRPERSON SHAPIRO: Right. Thank  
7 you, thank you. I'm going to move on, then, if there's  
8 nothing else on this. I think those are great suggestions  
9 and, hopefully, staff will follow up on that, as well.

10 Item Number 11, report from and discussion by the  
11 Board regarding the California Marketing Committee and its  
12 promotion and expansion plans pursuant to Business and  
13 Professions Code Section 19605.73.

14 Mr. Fravel, good to see you, again.

15 MR. FRAVEL: Hello.

16 COMMISSION CHAIRPERSON SHAPIRO: Tell us about  
17 CMC.

18 MR. FRAVEL: Craig Fravel, I am the Chairman of  
19 the California Marketing Committee and have been for, I  
20 don't know, four or five years now, so I guess I'm to blame  
21 in part.

22 I don't know if staff wants to make some report or  
23 if this is just an opportunity to ask us questions.

24 COMMISSION CHAIRPERSON SHAPIRO: No, this is just  
25 an opportunity for you to update us on how it's doing.

1 Staff did give us a report. Again, I want to compliment our  
2 staff for doing an excellent job on this.

3 They've illustrated to us exactly how much money  
4 has been available in the fund, they've told us where it has  
5 been spent in terms of general categories of expenditures,  
6 and what it's gone to.

7 I think that, Commissioner Harris, you were the  
8 person that wanted this on the agenda, you wanted to just  
9 get an update.

10 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think  
11 my concern, I think that we've got, you know, good people in  
12 the program and I've no criticism for, you know,  
13 conceptually what we're trying to do, it's just I'm not sure  
14 we're really getting there because we're spending about \$5  
15 million a year on marketing our product, and our product  
16 sales are not going up. And there's a lot of different  
17 reasons for that.

18 But what I'd like to see, because the Racing Board  
19 really doesn't have much oversight or control over the fund,  
20 the way it's set up legislatively, which is probably fine,  
21 but I think we need to step back and see is this \$5 million  
22 being spent well, and how can we better evaluate it, or some  
23 way to -- you know, probably over a period of years, we've  
24 probably spent, you know, 30, 40 million dollars on this,  
25 and are we really stepping back and taking a look at is this

1 money well spent, should we do it differently? Are there  
2 any kind of out-of-the-box type things that we should be  
3 doing, because it's something that's of concern.

4 MR. FRAVEL: Well, let me address sort of a  
5 representation issue. I think our staff prepared a pretty  
6 comprehensive report on who we are and what we do.

7 As per the statute, there are representatives of  
8 the northern racetracks, the southern racetracks, the  
9 Thoroughbred Owners of California, and two representatives  
10 of the California Fairs.

11 And we do not operate as just, you know, the small  
12 cabala of folks who make some arbitrary decisions, we have  
13 included a -- we have also formed a subcommittee, comprising  
14 all of the marketing directors of the various racetracks.

15 You do not have that report?

16 COMMISSION CHAIRPERSON SHAPIRO: No, we did  
17 not --

18 COMMISSION VICE CHAIRPERSON HARRIS: We got very  
19 little material here, yeah.

20 COMMISSION CHAIRPERSON SHAPIRO: I didn't get  
21 anything from CMC. All I got was our staff report and we  
22 didn't get anything.

23 Did any Commissioner get anything?

24 COMMISSIONER CHOPER: No, we have a two-page thing  
25 here.

1           COMMISSION CHAIRPERSON SHAPIRO: Some. All we got  
2 was from our staff. We did not get anything from anybody at  
3 CMC.

4           COMMISSIONER CHOPER: Oh, that's true.

5           MS. MCDONALD: Shannon McDonald, California  
6 Marketing Committee. I sent all the information in that  
7 report to Francisco. All that financial information came  
8 from the CMC office.

9           COMMISSIONER CHOPER: So you think that -- you saw  
10 the two pages that we have here?

11          MS. MCDONALD: I haven't seen what you've got.

12          COMMISSIONER CHOPER: But maybe that just tells  
13 you.

14          MS. MCDONALD: All that --

15          MS. FRAVEL: Yeah, but do they have this?

16          MS. MCDONALD: I sent that to Kirk Breed, that  
17 report.

18          EXECUTIVE DIRECTOR BREED: Yeah, that's what it  
19 says here, that's basically what it says.

20          COMMISSION CHAIRPERSON SHAPIRO: Okay.

21          COMMISSION VICE CHAIRPERSON HARRIS: But I think  
22 what we look at is evaluations of the way the money was  
23 spent, or what sort of success/failure rates you've had.

24          MR. FRAVEL: Well, let me address that further.  
25 And we will get you this summary report, which outlines each

1 of the categories of expenditure that the CMC engages in,  
2 and we'll send it directly to each of the Commissioners, as  
3 well.

4 But as I was about to say, we have a subcommittee  
5 comprising all of the marketing directors of the various  
6 racetracks, and every year we do kind of a planning retreat  
7 to evaluate each and every program that we're engaged in.

8 The principal one is a three-to-one matching  
9 program on advertising, that each track or racing fair  
10 is -- racing fair, correct?

11 MS. MCDONALD: Uh-hum.

12 MR. FRAVEL: Is allocated a total of -- the total  
13 of the allocation is about \$2.2 million, which supplements  
14 the on-track marketing programs of the various racetracks.  
15 And that is done on a three-to-one matching basis.

16 In other words the CMC will match -- one  
17 contribution will be multiplied by three, so that you have  
18 to spend a certain amount in order to qualify for those.  
19 And those are used to supercharge large scale events. So  
20 Santa Anita Handicap, Santa Anita Derby, the Pacific  
21 Classic, those sorts of things.

22 I think with respect to advertising, and anybody  
23 who runs a business understands that advertising is probably  
24 the most difficult thing in the world to evaluate whether  
25 you're successful or not.

1           The one thing we do know in California is that  
2 we're seriously under-advertised. I mean, our total amount  
3 available for advertising, when you aggregate what the  
4 racetracks spend, the fairs spend, as well as what the CMC  
5 contributes, you know, there's still not enough money to  
6 hugely penetrate the market.

7           And we have done independent evaluations of  
8 targeted rating points for advertising, and all the other  
9 kinds of traditional metrics that you would apply to  
10 advertising campaigns.

11           So that's far and away the largest chunk of the  
12 money.

13           We also engage in a horse recruiting program. We  
14 support the calracing.com, which is a significant benefit of  
15 the CMC program.

16           We have purse supercharging events for large days,  
17 where we supercharge the purses on big cap days, Santa Anita  
18 Derby Day, Pacific Classic Day, so that we can present the  
19 finest undercards we can possibly come up with on those  
20 days.

21           So, I mean, we do -- and in the interest of  
22 getting out of here by 1:30, what we would be happy to do is  
23 provide this to you further, and invite the staff to come  
24 meet with us, and we can review these programs and --

25           COMMISSION CHAIRPERSON SHAPIRO: Can I suggest

1 that, perhaps, why don't you send all the information to all  
2 the Commissioners, let them review it. If any of the  
3 Commissioners feels that it's something that we want to  
4 bring back to discuss further, after we've seen the  
5 information, and understand exactly where the money's going,  
6 I think we'll do that.

7           Again, we are in somewhat of a time issue today  
8 and so --

9           MR. FRAVEL: We'd be happy to do that. And, you  
10 know, you're never shy, you can always call me and ask me,  
11 or call Shannon, and we'd be happy to provide any  
12 information you'd like.

13           And, you know, from time to time we've considered  
14 retaining outside firms to look at it, and we'll consider  
15 that again. So there's no -- and you're also invited to  
16 attend meetings, if you'd like to.

17           COMMISSION CHAIRPERSON SHAPIRO: Terrific. Well,  
18 thank you.

19           All right, we're going to move on to Item Number  
20 12, which is discussion and action by the Board on the  
21 distribution of race date charity proceeds of the Los  
22 Angeles Turf Club in the amount of \$217,843 to 40  
23 beneficiaries.

24           In our book I saw that there's a breakdown of all  
25 the charities that are here.

1           Is Mr. De Marco here? I see Mr. De Marco's here,  
2 representing Los Angeles Turf Club, Incorporated.

3           Nice to see you, Mr. De Marco.

4           MR. DE MARCO: Nice to see you, sir.

5           COMMISSION CHAIRPERSON SHAPIRO: We have the list  
6 in front of us, of the charities. I assume this is a  
7 similar distribution list to prior years?

8           MR. DE MARCO: Exactly. We've made a few changes,  
9 but it's basically the State-mandated distributions, and  
10 \$53,000 discretionary we've sprinkled about to various  
11 charities. We've had the emphasis on local community and on  
12 hospitals, and medical research.

13           So I'm Frank De Marco, Vice President, San Diego.

14           COMMISSION CHAIRPERSON SHAPIRO: And there's no  
15 charity is a bad charity so, you know, I'll entertain a  
16 motion to approve the distribution of the charity proceeds.

17           COMMISSIONER ISRAEL: So moved.

18           COMMISSION CHAIRPERSON SHAPIRO: Second?

19           COMMISSIONER CHOPER: Second.

20           COMMISSION CHAIRPERSON SHAPIRO: Seconded.

21           All in favor?

22           (Ayes.)

23           COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr. De  
24 Marco, you did a terrific job.

25           MR. DE MARCO: Thank you. I'm glad to be here on

1 a noncontroversial matter for a change.

2 COMMISSION CHAIRPERSON SHAPIRO: Well, stick  
3 around, we'll find one for you.

4 Okay, I'm going to pass over Item Number 13, which  
5 is the staff report on the concluded race meeting of the Los  
6 Angeles Turf Club at Santa Anita. I'm going to ask that we  
7 defer this item until our next meeting.

8 The next item is report to and discussion by the  
9 Board on policy and regulations related to the  
10 redistribution of purses as a result of post-race positive  
11 medication violations.

12 Let me try to summarize what this is about, and  
13 I'm not sure, given some of our time constraints today, that  
14 we should either carry this over to August or we can get  
15 into it.

16 One of the issues that seems to be a problem is  
17 that when -- when horses win purses, the purse money goes to  
18 the paymaster, and it is distributed, I believe, within 72  
19 hours of the conclusion of that race.

20 Subsequently, to the possible distribution of  
21 those monies, a post-race sample from a horse comes back as  
22 a positive. And if that is a positive, and if it's class  
23 one, two, or three, and it's proven, after it goes through  
24 an appeal process and everything else, which could take a  
25 long time, that the purse needs to be redistributed, on

1 certain occasions we have been either unable to get the  
2 money back, or coordinate such that the -- there is, in  
3 fact, a redistribution of the purse money, which some of the  
4 money has gone to the trainers, some of the money has gone  
5 to the jockey, and we have a mess on our hands.

6 So this item, which is to be a discussion item, is  
7 to look at both the law and the way at which we can better  
8 facilitate dealing with issues like this.

9 For example, should we hold all monies until the  
10 initial tests have cleared? I would assume that probably 95  
11 to 98 percent of all tests, or maybe even more --

12 COMMISSION VICE CHAIRPERSON HARRIS: Probably 99,  
13 isn't it.

14 COMMISSION CHAIRPERSON SHAPIRO: Probably 99  
15 percent of tests clear and within five days is the average,  
16 five to eight days.

17 COMMISSION VICE CHAIRPERSON HARRIS: Yeah,  
18 probably, I think that the clearing would be well over 99  
19 percent.

20 COMMISSION CHAIRPERSON SHAPIRO: Okay. Maybe you  
21 can tell us what percent would clear?

22 EQUINE MEDICAL DIRECTOR ARTHUR: The specific  
23 number is 90 percent of the tests are cleared within 72  
24 hours after the lab gets them, and 98 percent after 120  
25 hours, that's five working days.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay.

2 EQUINE MEDICAL DIRECTOR ARTHUR: But some -- there  
3 is also the time of getting the samples to the laboratory.

4 And, of course, the other two percent we end up  
5 having some problem with. Some of them are not always class  
6 one, two or three.

7 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, but how  
8 many one, two, threes --

9 COMMISSION CHAIRPERSON SHAPIRO: Yeah, what  
10 percent?

11 COMMISSION VICE CHAIRPERSON HARRIS: -- would we  
12 have as a percent of --

13 EQUINE MEDICAL DIRECTOR ARTHUR: You know, it's  
14 very low. I don't know exactly what it is.

15 COMMISSION VICE CHAIRPERSON HARRIS: I think it's  
16 got to be like .1 percent at the most.

17 DR. STANLEY: Yeah, Scott Stanley, UC Davis.  
18 Yeah, .1 percent would probably be the number that wouldn't  
19 exceed that.

20 COMMISSION VICE CHAIRPERSON HARRIS: So that's my  
21 concern is that we've got 99.9 percent of the time it's  
22 working and we're proposing to withhold purse monies of 99.9  
23 percent of the people that qualify for them, it just seems  
24 like we're --

25 COMMISSION CHAIRPERSON SHAPIRO: Well, again, I'm

1 not proposing anything. I think it's an issue we need to  
2 discuss, wherein what we do have is there are those  
3 situations where we have the difficulty with some of the  
4 riders giving back the money, should they give back the  
5 money. It's a rather complex issue.

6 COMMISSION VICE CHAIRPERSON HARRIS: Our stewards  
7 are very good at debt collection.

8 COMMISSION CHAIRPERSON SHAPIRO: Thank you. So  
9 because of the time constraint, I would prefer that we have  
10 a more thorough discussion on this when there's more time  
11 and we've had more research.

12 Commissioner Israel?

13 COMMISSIONER ISRAEL: Can I ask staff to  
14 investigate whether there's some precedent in how boxing  
15 purses are held and then distributed? I know that there is  
16 some withholding of boxing purses pending drug tests, and  
17 there may be a precedent, because that's a State  
18 authorization, also.

19 COMMISSION CHAIRPERSON SHAPIRO: Be great. So I'm  
20 basically going to ask that everybody kind of pay attention  
21 to this issue. We'll bring it back in August. And I would  
22 like to hear from the owners, the trainers. I expect we'll  
23 hear from the jockeys. And perhaps staff can further help  
24 us figure out how to do this.

25 Because I think some of the tracks end up either

1 eating the money or fighting to get the money on many  
2 occasions, and I don't think that's fair, either.

3 Okay, that's all right with everybody?

4 Okay, that brings us to public comment. Is there  
5 any public comment? Hold on, let me see what cards I've  
6 got.

7 Chris Korby? There you are, look at that.

8 MR. KORBY: Thank you. I know we want to wrap  
9 this up quickly, so I'll be brief.

10 I just wanted to renew the request -- our request  
11 to the Board, to direct the payment of monies owed to fair  
12 satellite facilities by Sacramento Harness, from monies that  
13 are being held in other licensed organizations in the State,  
14 Notwinc and Scotwinc to be specific.

15 We've had this discussion before, I won't go into  
16 all the details. But I do agree with the line of reasoning  
17 put forward by Mr. Liebau earlier, that this is a very  
18 important matter relating to the integrity of the pari-  
19 mutuel pools.

20 And that those distributees, who are identified in  
21 statute, are not creditors, but they're statutory recipients  
22 of that money. So we would urge the Board to direct that  
23 payment.

24 COMMISSION CHAIRPERSON SHAPIRO: All right, thank  
25 you. This matter is -- has been discussed with counsel. It

1 is going to be discussed again, in Executive Session,  
2 following this meeting. We are following the advice of  
3 counsel at this point.

4 We're keenly aware of your concern and others'  
5 concern, and we are not letting it go, I can assure you,  
6 trying to deal with it. But we don't blame you and others  
7 for their impatience and frustration.

8 MR. KORBY: Okay, thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, Mr. Liebau,  
10 I have a comment card from you for Item 16.

11 MR. LIEBAU: Mr. Korby spoke for me.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay, well, that  
13 was closed session. Okay, fine, thank you. And I'll take  
14 that those remarks are also reflective of Mr. Liebau.

15 Okay, unless there's any other business to come  
16 before the Board, I again would like to welcome and thank  
17 our two new Commissioners, who were probably pretty  
18 disadvantaged by not being -- they were late to the starting  
19 gate by their appointment, but I look forward to working  
20 with them and appreciate it.

21 And wish you all a good day. And we are going to  
22 not close the meeting, because we are going to go into  
23 Executive Session at this point. We'll come back to adjourn  
24 the meeting.

25 Pardon me?

1           STAFF COUNSEL MILLER: We're going into Executive  
2 Session pursuant to Government Code Section 11126.

3           COMMISSION CHAIRPERSON SHAPIRO: Oh, I thought it  
4 was 27.

5           COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

6           (Thereupon the California Horse Racing  
7 Board Regular Meeting resolved into  
8 Closed Executive Session at 1:32 p.m.  
9 and was thereafter 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 24th day of July, 2008.

Troy A. Ray

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