

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

GOLDEN GATE FIELDS

1100 EASTSHORE HIGHWAY

BAYSIDE LOUNGE

TURF CLUB

ALBANY, CALIFORNIA

THURSDAY, MARCH 19, 2009

9:28 A.M.

Reported by:
Richard A. Friant

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

John C. Harris, Vice Chairperson

David Israel, Vice Chairperson

John Andreini

Jesse H. Choper

Bo Derek

STAFF

Kirk Breed, Executive Director

Robert Miller, Staff Counsel

Jacqueline Wagner, Regulations/Legislation Manager

Mike Marten

ALSO PRESENT

Eual Wyatt, Hollywood Park

Jack Liebau, Hollywood Park

Barry Broad, Attorney, Broad & Gusman, LLP

Chad Schvaneveldt

Peter W. Tunney

Craig Fravel, Executive Vice President, Del Mar Thoroughbred Club

Gerard Cunningham, President, Betfair

Martin Cruddace, Betfair

James Sergeant, Betfair

Richard Castro, Pari-Mutuel Employees Guild

Charlie Dougherty, Deputy Director, California Thoroughbred Trainers

APPEARANCES CONTINUED

ALSO PRESENT

Rod Blonien

Dr. Rick Arthur, Equine Medical Director

Chris Korby, Executive Director, California Authority of
Racing Fairs

Gregg Scoggins, National Director of Regulatory Affairs, MEC

Ron Charles, President & CEO, Santa Anita Park

Drew Couto, Thoroughbred Owners of California

Thomas S. Robbins, Vice President, Racing Secretary, Del mar
Thoroughbred Club

Cliff Goodrich, Fairplex

Bill Anton, California Thoroughbred Trainers

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INDEX

	PAGE
Action Items:	
1. Discussion and action by the Board on the Application to Conduct a Horse Racing Meeting of the Hollywood Park Racing Association, LLC (T) commencing April 22, 2009 through July 19, 2009, inclusive.	4
2. Discussion and action by the Board regarding report from Hollywood Park Racing Association concerning the status of plans for conducting the Hollywood Park 2009 fall race meeting.	10
3. Discussion and action by the Board regarding entering into a consulting contract, not to exceed fifty thousand dollars, for purposes of drafting and implementing the Jockey Pension Plan pursuant to Business and Professions Code section 19604(i)(1).	13
4. Discussion and action by the Board regarding the proposed amendment to CHRB Rule 1979, Trifecta, to reduce the number of wagering interests needed to establish a trifecta pool from six wagering interests to five.	37
5. Discussion and action by the Board regarding the proposed amendment to CHRB Rule 1979.1, Superfecta, to reduce the number of wagering interests needed to establish a superfecta pool from eight wagering interests to seven.	37
6. Report and presentation from representatives of Betfair, regarding TSE US Holdings LLC (t/a Betfair US) business plan and the purchase of controlling ownership interest of ODS Technologies OP, d/b/a TVG.	43
7. Update and discussion by the Board regarding the status of the infield golf course at the Alameda County Fairgrounds and the California Thoroughbred Trainers (CTT) request that the Board revoke the exemption to the requirements of subsection (b) of Rule 1475, Golf Course in the Infield of Racetrack.	63

INDEX

	PAGE
Action Items:	
8. Discussion and action by the Board regarding the 2009-2010 budget formula to be developed pursuant to Senate Bill 16 (Asburn), Chapter 12, Statutes of 2009.	66
9. Discussion and action by the Board regarding a presentation from the California Authority of Racing Fairs (CARF) concerning its plan for the 2009 summer racing program.	86
10. Discussion and action by the Board regarding the significance of the bankruptcy filing of Magna Entertainment Corporation on the subsidiaries operating in California; to wit, Los Angeles Turf Club, Inc., operating at Santa Anita Park and Pacific Racing Association, operating at Golden Gate Fields.	92
11. Discussion and action by the Board regarding the status of statutory distributions and the significance of the bankruptcy filing of Magna Entertainment Corporation on those distributions.	
12. Discussion and action by the Board regarding the announced sale of XpressBet Inc. from Magna Entertainment Corporation to MI Developments, Inc.	
13. Discussion and action by the Board regarding the distribution of race day charity proceeds of Hollywood Park Racing Association in the amount of \$190,000 to 23 beneficiaries.	181
13.1 Claiming Rule 1663	132
14. Public Comment	183
15. Closed Session	2
Adjournment	183
Certificate of Reporter	184

1 PROCEEDINGS

2 EXECUTIVE DIRECTOR BREED: Ladies and gentlemen,
3 this meeting of the California Horse Racing Board will come
4 to order. You really don't have to take your seats, if you
5 don't want to.

6 This is the Regular Noticed Meeting of the
7 California Horse Racing Board on Thursday, March 19th, 2009,
8 at Golden Gate Fields, 1100 Eastshore Highway, Albany,
9 California.

10 Present at today's meeting are John Harris, the
11 Chairman, David Israel, Vice Chairman, Jesse Choper, and
12 John Andreini.

13 Before I go onto the business of the meeting, I
14 need to make a few comments.

15 BOARD CHAIRPERSON HARRIS: Why don't we just skip
16 that and go to gaming.

17 EXECUTIVE DIRECTOR BREED: Okay. I'm going to
18 skip this. But before we go, John, we need -- Commissioner
19 Derek, I'm sorry.

20 Before we go on, we're going to go into Executive
21 Session.

22 But before we do that, John, we need to -- Mr.
23 Chairman, we need to vote on accepting these two items.
24 There's two items that will be -- two special items.

25 BOARD CHAIRPERSON HARRIS: Yeah, these

1 are -- yeah, special items. They were noticed by over 48
2 hours.

3 EXECUTIVE DIRECTOR BREED: Correct.

4 BOARD CHAIRPERSON HARRIS: We'll move to accept
5 these two items and go into Executive Session.

6 BOARD CHAIRPERSON ISRAEL: Second.

7 BOARD CHAIRPERSON HARRIS: All in favor?

8 (Ayes.)

9 EXECUTIVE DIRECTOR BREED: We have a quorum, okay.
10 So the meeting is adjourned --

11 BOARD CHAIRPERSON HARRIS: We should be back in
12 what, 15 minutes?

13 EXECUTIVE DIRECTOR BREED: Yeah.

14 (Thereupon the California Horse Racing
15 Board Regular Meeting resolved into
16 Closed Executive Session.)

17 EXECUTIVE DIRECTOR BREED: 13.5 is in Open
18 Session, the other item is in Closed Session.

19 (Thereupon the California Horse Racing
20 Board Regular Meeting resolved into
21 Closed Executive Session.)

22 EXECUTIVE DIRECTOR BREED: Before we go onto the
23 business of the meeting, I need to make a few comments.

24 One, the Board invites public comment on the
25 matters appearing on the meeting agenda.

1 The Board also invites comments, from those
2 present today, on matters not appearing on the agenda,
3 during a public comment period, if the matter concerns horse
4 racing in California.

5 In order to ensure all individuals have an
6 opportunity to speak, and it proceeds in a timely fashion, I
7 will strictly enforce the three-minute time limit rule for
8 each speaker.

9 The three-minute time limit will be enforced
10 during discussion of all matters stated on the agenda, as
11 well as during the public comment period.

12 This is a public comment sign-in sheet for each
13 agenda matter on which the Board invites comments.

14 Also, there is a sign-in sheet for those wishing
15 to speak during the public comment period, for matters not
16 on the Board's agenda, if it concerns horse racing in
17 California.

18 Please print your name legibly on the public
19 comment sign-in sheet.

20 When a matter is open for public comment, your
21 name will be called. Please come to the podium and
22 introduce yourself by stating your name and organization
23 clearly.

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

1 When you're three minutes are up, the Chairman
2 will ask you to return to your seat so others can be heard.

3 When all the names have been called, the Chairman
4 will ask if there is anyone else who would like to speak on
5 a matter before the Board, also.

6 Also, the Board may ask questions of individuals
7 who speak.

8 Now, everybody's here.

9 Mr. Chairman, the first order of business is to
10 announce that we had a public -- that we had an Executive
11 Session and that we reviewed legal matters.

12 Thank you.

13 BOARD CHAIRPERSON HARRIS: I'd like to welcome
14 everyone to the meeting today, and appreciate Golden Gate
15 Fields hosting us. It's a lovely setting for our meeting.
16 Looking both ways, at the track, the track looks great. I
17 was back on the backstretch this morning, and I always enjoy
18 getting back there.

19 The first item is a discussion and action by the
20 Board on the application to conduct a horse race meeting of
21 the Hollywood Park Racing Association, commencing April 22
22 through July 19, 2009.

23 Is someone going to present this?

24 REGULATIONS/LEGISLATION MANAGER WAGNER: Jackie
25 Wagner, CHRB staff.

1 The application before you is from the Hollywood
2 Park Racing Association. They are proposing to race from
3 April 22nd through July 19th, which is 65 days.

4 They are proposing to race a total of 559 races,
5 which averages to about 8.6 races per day.

6 They will be racing five days per week, Wednesday
7 through Sunday, with eight races on Wednesday, Thursday,
8 Fridays, and nine or ten races on a selected basis, on
9 Saturdays, Sundays and holidays.

10 Their post times. Proposed is a 1:00 p.m. post
11 time daily.

12 On Fridays, they are proposing a post time of 7:05
13 p.m., with the exception of one Friday, which is May the
14 1st.

15 There will be an 11:00 a.m. post time on Saturday,
16 May 2nd, May 16th, and June 6th. These are the Kentucky
17 Derby Days, Preakness, and the Belmont Days.

18 The analysis before you, that's in the package,
19 indicates outstanding items. And I am pleased to report
20 that some of these items have been received.

21 The analysis indicates that a \$1,000 bond,
22 pursuant to Business and Professions Code Section 19464, is
23 missing.

24 I understand that that bond has been issued and it
25 will be received by the CHRB before the meet commences.

1 In addition, the Horsemen's agreement is listed as
2 outstanding.

3 My understanding is that the parties have, indeed,
4 reached an agreement on the issues, and the Horsemen's
5 agreement will be forthcoming to us.

6 The 2008 audited financials are also listed as
7 outstanding.

8 These, as I understand it, are not available as of
9 yet. As soon as they are available, they will be forwarded
10 to the Horse Racing Board upon their completion.

11 We have received their promotional plans.

12 The lease agreements, we have received those as
13 well, this morning.

14 I did receive the fire plans. And the track
15 safety inspection is in the process of being conducted and
16 will be completed shortly.

17 Actually, before the meet starts we will have that
18 completed.

19 A representative from Hollywood Park is here to
20 answer any questions.

21 BOARD CHAIRPERSON HARRIS: Any questions for
22 Hollywood Park?

23 BOARD CHAIRPERSON ISRAEL: Yes. Eual, I looked at
24 the marketing plan that you forwarded to us, separately, and
25 I'm curious about the media buying expense. It seems to be

1 very slight. You know, just slightly more than a million
2 dollars, including all forms of media, print, radio,
3 television, and on online.

4 So can you explain why it's so low?

5 MR. WYATT: I think the best answer I can give
6 you -- this is Eual Wyatt, Hollywood Park.

7 The best answer I can give you is that this
8 marketing plan is -- I'm saying 95 percent of what we're
9 going to do and what we want to advertise.

10 But we're not going to commit in writing, or make
11 promises to spend a lot of money in this particular economy.
12 We're not too sure what moves the needle.

13 We are looking and we are certainly open to do
14 more, but we just feel uncomfortable committing that without
15 a better feel of where we're going to be, and what might
16 actually make something happen.

17 BOARD CHAIRPERSON ISRAEL: Okay. It's just
18 substantial in terms of its monetary scope, it would seem to
19 me.

20 BOARD CHAIRPERSON HARRIS: I would think the pay
21 advertising is doing only part of your marketing effort,
22 though, that you've got the --

23 MR. WYATT: It is. Like I said, a lot of work
24 went into developing this plan and I think it's a good one.

25 And we've even -- I think we stated, when we sent

1 our application in, that we reserve the right to make
2 changes, and we did make a lot from the time of our original
3 submission until you see what's before you, the application
4 in its entirety.

5 But we just feel it's more prudent, again, not to
6 make promises and then not fulfill them. Rather than in
7 knowing that we want to do more, but we're not really sure
8 in this economy what works, and we're trying to figure out
9 what is the best thing to do. And when we do and feel
10 confident, we'll do it.

11 BOARD CHAIRPERSON ISRAEL: Okay, because there's a
12 lot of -- there's good stuff to sell, there's a lot of good
13 news to tell.

14 And you're not getting a lot of help from the
15 print press any longer, or from television, to be honest
16 with you, and you got to buy it.

17 MR. WYATT: Let me just -- if you want to close
18 this, I can just say that I appreciate your comments and
19 would certainly keep them in mind.

20 BOARD CHAIRPERSON ISRAEL: Okay, thanks.

21 COMMITTEE MEMBER HARRIS: Any other issues for
22 Hollywood Park?

23 BOARD MEMBER ANDREINI: Well, I'd like to comment.
24 In spite of this economic downturn, the thoroughbred racing
25 circuit declined here, in California, I think that the

1 program that you've put together here is a wonderful one.

2 A couple of years ago I saw one that Del Mar put
3 together, that I thought was the finest thing I'd ever seen,
4 and this rivals that, given the circumstances of today's
5 economy.

6 MR. WYATT: Thank you.

7 BOARD CHAIRPERSON HARRIS: I think it is important
8 that we figure out ways that we can see if the needle's
9 moving or not. Which is I don't think the Racing Board
10 really doesn't have that much control over what a given
11 track does for marketing.

12 But if, collectively, we can see what encourages
13 the public to get to the races, and wager, and a lot of the
14 different things we've trying, like giveaways, and there's a
15 lot of -- you know, I think it's like they say in marketing,
16 80 percent of the money you spend is wasted, but you don't
17 know which 80 percent.

18 So it is an interesting subject, we should
19 discuss.

20 But any other issues on other aspects of Hollywood
21 Park?

22 If not, do we have a motion to approve?

23 BOARD CHAIRPERSON ISRAEL: So moved.

24 BOARD MEMBER CHOPER: Second.

25 BOARD CHAIRPERSON HARRIS: Okay, all in favor?

1 (Ayes.)

2 BOARD CHAIRPERSON HARRIS: So moved.

3 MR. WYATT: Thank you.

4 BOARD CHAIRPERSON HARRIS: The next item is a
5 report from Hollywood Park Racing on the status of their
6 2009 fall meeting.

7 MR. LIEBAU: Jack Liebau, from Hollywood Park.
8 The answer is, yes, Hollywood Park will be conducting its
9 fall meet.

10 And I know that a reporter for one of the leading
11 equine publications took exception to the fact that I would
12 not tell him that I was going to advise the Board of this,
13 at this point in time, and I thought it was improper for you
14 to read in the paper.

15 So, yes, Hollywood Park will be conducting racing
16 this fall.

17 BOARD CHAIRPERSON ISRAEL: Is there -- is there
18 any --

19 (Applause.)

20 BOARD MEMBER CHOPER: I mean, any plans that
21 you're at liberty to talk to us about, beyond the fall meet?

22 MR. LIEBAU: No, there isn't, Mr. Choper. And
23 we've got to move this meeting along because the Dirty
24 Golden Bears are going to play ball in about an hour or so.

25 BOARD MEMBER CHOPER: We got two hours. We got

1 two hours.

2 MR. LIEBAU: Standard played last night in the
3 third-tier tournament.

4 BOARD MEMBER CHOPER: And how did they do?

5 MR. LIEBAU: And happened to be somebody with 500
6 people in attendance.

7 BOARD CHAIRPERSON ISRAEL: Oh, were you one of
8 them?

9 MR. LIEBAU: No, I didn't make it in time.

10 BOARD CHAIRPERSON ISRAEL: It wasn't in Maples?

11 BOARD MEMBER CHOPER: Jack, it's a fine school,
12 you shouldn't be ashamed of it.

13 (Laughter.)

14 MR. LIEBAU: You got me.

15 COMMITTEE MEMBER HARRIS: Like Stanford, it's like
16 it takes four years to go there and four years to get over
17 it.

18 (Laughter.)

19 BOARD CHAIRPERSON ISRAEL: As opposed to Davis,
20 which takes four years to get there.

21 (Laughter.)

22 BOARD CHAIRPERSON HARRIS: Okay. Well, I think
23 all of us are interested in the future of Hollywood, and
24 hope that it stays there.

25 And I know that you're somewhat limited in what

1 your latitude is to make promises, but I think --

2 MR. LIEBAU: Yeah, my sentiments are the same as
3 yours.

4 BOARD CHAIRPERSON HARRIS: Yeah, I noticed there's
5 a whew.

6 I think that all of racing needs to collectively
7 lobby the Englewood City Council, or any other authorities
8 who are looking for different uses for that facility, that
9 we feel it's important it be a racetrack. And I don't know
10 if racing has been as vocal as it could be on that.

11 And in today's economic times, it definitely
12 generates a lot more dollars as is, than it would if it was
13 an empty lot, like Bay Meadows apparently is. So it's got
14 some pretty good visual examples.

15 BOARD CHAIRPERSON ISRAEL: It's not an empty lot.

16 BOARD CHAIRPERSON HARRIS: What?

17 BOARD CHAIRPERSON ISRAEL: It's a slag heap, not
18 an empty lot. The rubble's still there.

19 BOARD CHAIRPERSON HARRIS: You can still film
20 disaster movies there or something.

21 Okay, any comments on this item?

22 BOARD CHAIRPERSON ISRAEL: Jack, is there any way
23 we can get a timeframe that's a little longer than the six
24 months that you've been working on commitments, you know, 12
25 or 18 months to commit to racing.

1 MR. LIEBAU: Commissioner Israel, I'm just not in
2 a position to do that. I know that there has been some
3 discussions between a Commissioner, one of your colleagues,
4 and Terry Fancher, and I would assume those discussions will
5 continue.

6 BOARD CHAIRPERSON ISRAEL: All right. Well, can
7 you -- working on behalf of the employees of the track, can
8 you try to?

9 MR. LIEBAU: The employees of the track now very
10 well where my heart is and the fact that I, too, like
11 employment.

12 BOARD CHAIRPERSON ISRAEL: Okay. At least a
13 longer notice.

14 MR. LIEBAU: Thank you.

15 BOARD CHAIRPERSON HARRIS: Okay, well, thank you
16 for clarifying that. I'm glad we're -- there really is a
17 Santa Claus.

18 Going to Item 3 is -- actually, maybe we have some
19 riders here for this, so I'm glad we got it early.

20 It's discussion and action by the Board regarding
21 entering into a consulting contract, not to exceed \$50,000,
22 for the purposes of drafting and implementing the jockey
23 pension plan pursuant to Business and Professions Code.

24 Go ahead.

25 EXECUTIVE DIRECTOR BREED: Mr. Chairman, before

1 Barry talks, I wanted to make one statement. And that is,
2 for the record, that this money, this \$50,000, is not coming
3 out of the CHRB budget. This is money which is specially
4 funded, and we simply are a caretaker of that fund.

5 So go ahead, Barry.

6 MR. BROAD: Commissioners, Chairman, and Members,
7 let me just give you a general update.

8 THE REPORTER: I'm sorry, excuse me, could you
9 state your name, please?

10 MR. BROAD: I'm sorry. Barry Broad, on behalf of
11 the Jockeys' Guild.

12 The statute requires that a portion of advanced
13 deposit wagering money annually be transmitted to the CHRB
14 for the purpose of creating defined contribution retirement
15 accounts, essentially, for California jockeys.

16 The plan is to be jointly administered between the
17 CHRB and the jockeys' Guild, which is the statutory entity
18 that is certified to represent the majority of jockeys.

19 What this contract does, would hire a law firm to
20 create the planned documents. And as you know, when you're
21 creating a pension plan, there are many complicated issues
22 related to taxation. You know, we don't want to make this
23 taxable to the jockeys every year.

24 Then there's questions related to plan design.
25 There's questions related to -- you know, ARISA compliance,

1 and so forth.

2 The way the statute would work, however, it is a
3 State-sponsored plan. So it's akin to a plan, a public
4 employee plan and, therefore, it's outside a significant
5 degree of Federal statutory oversight.

6 Nevertheless, it's our intention that this pension
7 plan should be run in accordance with the principles of
8 Taft-Hartley and ARISA.

9 In other words -- which is very common in
10 California. You have lots of public employee pension funds
11 that are run in accordance with private sector type models
12 and regulations.

13 Principally, in the public transit area, where the
14 workers started out in the private sector, in private sector
15 pension plans, and the entities became public and retained
16 the same kind of pension plan. So it would be designed in
17 that way.

18 The contract is up to \$50,000. It's our
19 understanding, in working together with your General
20 Counsel, that's it's likely to cost about \$20,000 to put
21 this together, which is very reasonable.

22 It is coming out of the funds that have
23 accumulated thus far.

24 Then they are -- obviously, there has to be a
25 joint board created between the CHRB and the Jockeys' Guild.

1 We're in the process of creating a committee that
2 would ultimately serve in that roll. You'll have to figure
3 that out as well.

4 Because we have to answer a series of questions.
5 In fact, the attorney has already shipped us a multi-page
6 document to try to answer questions on various aspects of
7 it.

8 Our sense, in the kind of 50,000 foot range, of
9 how this would work, is that the number of pari-mutuel races
10 that are run every year would essentially be divided into
11 the amount of dollars that are available every year, to
12 create a per-race contribution.

13 So it might be -- I don't know what that would be
14 because it depends on the money.

15 But let's say it was \$5.00 a race. So every
16 licensed jockey, every time they raced, would have \$5.00 put
17 into their account.

18 Now, the accounts would not be separately managed,
19 they would -- it would be managed and invested collectively,
20 like a pension plan, but with a -- just like all pension
21 plans, but with a specific account for each jockey.

22 Jockeys need to ride, under the statute, 1,250
23 races in order to vest. In other words, to be eligible to
24 receive benefits, you would have to have 1,250 races.

25 So we're not going to know for years who vests and

1 who doesn't vest.

2 BOARD CHAIRPERSON HARRIS: Is it 1,250 starting
3 now or --

4 MR. BROAD: No, lifetime. So someone, in theory,
5 could retire today, but there's very little money that's
6 been accumulated for their account.

7 BOARD CHAIRPERSON HARRIS: Yeah, that's the
8 problem.

9 MR. BROAD: So as a practical matter, a
10 jockey -- jockeys will not get a very significant pension
11 probably for some years. This money needs to be generated,
12 and invested, and have investment return.

13 And all kinds of decisions are going to need to be
14 made by this joint board. For example, everything
15 by -- what happens when a jockey gets divorced to, you know,
16 if someone is in there for -- if they have a small pension
17 amount, do they get a one-time payout? Can they borrow from
18 it? Can they deal with family emergencies?

19 There's just all kinds of questions in plan
20 design. They're traditional questions that are asked, but
21 they require answers.

22 And it turns out, you know, there's a plan booklet
23 that will be distributed to everybody. I think our sense of
24 it probably is when a jockey becomes licensed, they will
25 receive the plan booklet from the CHRB, and then they will

1 be enrolled.

2 There will probably be a certain amount, to use a
3 horse racing term, there will be a certain amount of
4 breakage. That is to say, there will be jockeys who do not
5 reach 1,250 races before they retire or cease to be
6 licensed.

7 In which case, traditionally, the way pension
8 plans deal with that is that money is retained, invested,
9 and usually distributed as a bonus to retirees. What they
10 call, in a traditional pension language, a 13th check.

11 If there's extra money, or if you're in bad times,
12 when the market goes down, like we're in now, that money is
13 used to shore up the plan.

14 And there are, looking at the statistics, a lot of
15 jockeys who ride 10, 12, 15 races a year, or more than you
16 would imagine.

17 There's around -- somewhere around 100, 120 that
18 are regularly riding, what you might call full time riders,
19 in this State.

20 And that may change if we have track closures and
21 so on.

22 BOARD CHAIRPERSON HARRIS: These, what we're
23 talking about here, is thoroughbreds, quarters and mixed
24 breeds?

25 MR. BROAD: That's correct.

1 BOARD CHAIRPERSON HARRIS: But not harness?

2 MR. BROAD: Not harness.

3 BOARD CHAIRPERSON HARRIS: Okay.

4 MR. BROAD: So that's my sense of it. So what I
5 would ask is that you would approve this, and that we be
6 able to move on.

7 BOARD CHAIRPERSON ISRAEL: So how many full time
8 riders are there, again, you said?

9 MR. BROAD: If you think of riders as riding 50 or
10 more races a year, that's traditionally how we view people
11 who are regular --

12 BOARD CHAIRPERSON ISRAEL: Mounts a year?

13 MR. BROAD: Mounts a year. Which, of course, is
14 still a small number of mounts. That's, you know, somewhere
15 between a hundred and two hundred people.

16 BOARD CHAIRPERSON HARRIS: Is the theory as money
17 is built up, is a race is a race, it's not like a big race
18 or a little race, it's just a race.

19 MR. BROAD: No, I think a race is a race.

20 BOARD CHAIRPERSON HARRIS: Yeah.

21 MR. BROAD: Because we don't want to create -- you
22 know, in some ways a pension plan, just like a medical plan,
23 should be skewed -- not skewed. It should be set up so that
24 it benefits the people that need the money the most.

25 In other words, you wouldn't -- it's not based on

1 the size of the purse.

2 However, obviously, jockeys who race more, just
3 people who work more, full time people versus part-time
4 people, wind up with larger pensions. But you don't
5 discriminate as to the type of race.

6 BOARD CHAIRPERSON HARRIS: Yeah.

7 BOARD CHAIRPERSON ISRAEL: But when does the
8 tolling start for the 1,250 races, from the inception of the
9 plan or --

10 MR. BROAD: No, from the inception of their
11 license. Anyone who's alive and currently licensed.

12 BOARD CHAIRPERSON ISRAEL: So all their races
13 they've written to date count.

14 MR. BROAD: Count.

15 BOARD CHAIRPERSON HARRIS: Yeah.

16 MR. BROAD: They count in the past. But that
17 doesn't mean that, like I said before, you know, there may
18 be a hundred dollars there right now.

19 BOARD CHAIRPERSON ISRAEL: There's no money for
20 that, right.

21 And what about retired jockeys?

22 MR. BROAD: Retired jockeys are retired. Once you
23 retire, you retire.

24 BOARD CHAIRPERSON ISRAEL: How do you define
25 retirement?

1 MR. BROAD: Well, when you are no longer licensed.

2 No, here's the question, that is going to -- there
3 are issues related to that, that has to do with plan design.
4 In other words, if someone retires, can they get re-
5 licensed?

6 What happens if they have a break in service?

7 These are also very traditional things that are
8 going to have to be in the plan design, and that we are
9 going to have to jointly develop, and that will come back to
10 this Board for your approval.

11 And as far as I'm concerned, or the Guild is
12 concerned, should be subject to discussion a public forum.

13 BOARD CHAIRPERSON HARRIS: I think that's the
14 whole thing is to develop a guideline, and then there's
15 going to be, obviously, a lot of -- it's like any time you
16 start cutting up a pie, everyone's got a little different
17 idea.

18 MR. BROAD: Right. You know, a lot of times
19 people substitute their own self-interest for the interest
20 of the general population.

21 BOARD CHAIRPERSON HARRIS: Yeah.

22 BOARD MEMBER CHOPER: Can I ask you a couple
23 questions?

24 MR. BROAD: Yeah.

25 BOARD MEMBER CHOPER: I probably should know the

1 answer to the first one.

2 The funding source for this is, in part,
3 the -- what you hypothesized to be \$5.00 a race coming out
4 of the jockey's fee, right?

5 MR. BROAD: No, coming out of the ADW.

6 BOARD MEMBER CHOPER: Ah-ha.

7 MR. BROAD: So it's actually --

8 BOARD MEMBER CHOPER: So the total -- the
9 total -- and who's going to determine that amount?

10 MR. BROAD: The -- well, we're going to have
11 to -- I'm only proposing that that is how we've conceived of
12 it. It could be done different ways. I mean, we could come
13 up with any type of plan in terms of how to deal with the
14 funding.

15 What we know is, form the statute, 1,250 races is
16 what you need to vest.

17 BOARD MEMBER CHOPER: Yes.

18 MR. BROAD: You have to be an actively licensed
19 California rider. The races are run in California. And the
20 source of the money is a certain percentage, generated by
21 ADW, and it's jointly managed, and after that it's open
22 to --

23 BOARD MEMBER CHOPER: A certain percentage
24 determined by?

25 MR. BROAD: The statute.

1 BOARD MEMBER CHOPER: The statute designates the
2 percentage.

3 MR. BROAD: The statute that --

4 BOARD MEMBER CHOPER: So the funding has been
5 statutorily established.

6 MR. BROAD: Yes.

7 BOARD MEMBER CHOPER: So we're past that, right.

8 MR. BROAD: Right, so we don't ever have to argue
9 about where the dough is coming from.

10 BOARD MEMBER CHOPER: Yeah.

11 MR. BROAD: Oh, so none of this is subject to
12 collective bargaining?

13 MR. BROAD: Nope.

14 BOARD CHAIRPERSON HARRIS: No, this was all part
15 of a bill, that was the last ADW bill, that --

16 MR. BROAD: That established ADW, right.

17 BOARD CHAIRPERSON HARRIS: -- Barry actually was
18 the father of the concept.

19 BOARD MEMBER CHOPER: And that's the
20 exclusive -- that's the exclusive funding for
21 administration, as well as --

22 MR. BROAD: Yes. Now, we do have to ask the
23 question, because some jockeys have asked this question, can
24 they make additional personal contributions to it?

25 Obviously, if that's not going to cause

1 complicated tax questions, I think all of us would say, if
2 somebody wants to add more to their account, more power to
3 them.

4 I think we have to look at that question. That's
5 why we're going to be kind of tied to this law firm that's
6 expert in this. They created a similar pension plan for
7 boxers.

8 BOARD MEMBER CHOPER: And you determined, you
9 hired the law firm?

10 MR. BROAD: We jointly went and looked for them.

11 BOARD MEMBER CHOPER: Who is jointly?

12 MR. BROAD: Myself and Mr. Miller. He actually
13 found them.

14 BOARD MEMBER CHOPER: Uh-huh, represented the
15 Board.

16 MR. BROAD: They are the firm that
17 established --

18 BOARD MEMBER CHOPER: I got you, yeah.

19 MR. BROAD: -- for the Department of
20 Consumer -- so we're trying to not reinvent the wheel here,
21 as much as possible.

22 BOARD MEMBER CHOPER: And the plan, itself, is to
23 be determined. Right?

24 MR. BROAD: That's correct.

25 BOARD MEMBER CHOPER: And is it modeled on -- I

1 think you said this, too, but I just wanted to follow up.
2 Is it modeled on -- I forget what you -- transit workers,
3 you said.

4 MR. BROAD: Well --

5 BOARD MEMBER CHOPER: Is it modeled on other
6 State-approved -- well, I don't know if they're approved or
7 not.

8 MR. BROAD: No. In a way, legally, this is kind
9 of new ground. Although we'd done this for boxers, and
10 they've -- and, you know, the boxers pension plan has been
11 around for quite a while.

12 BOARD MEMBER CHOPER: Yes.

13 MR. BROAD: So we know this basic model can work
14 and is lawful. It's a little bit -- it's a little bit
15 different, you know, in terms of funding source and so on.

16 The important thing is we want it to operate like
17 a pension -- we certainly don't want jockeys to pay every
18 year on their accumulated --

19 BOARD MEMBER CHOPER: No, no, no. No, you want to
20 get by with the best you can.

21 MR. BROAD: So we want to do it right and we want
22 to take it slowly and make sure that it's done right, and
23 people have input, and we want to have meetings, and all
24 that.

25 BOARD MEMBER CHOPER: See, what concerns me, and I

1 think it's been answered, are the potential conflicts of
2 interest. I mean, you represent the jockeys, right?

3 MR. BROAD: Right.

4 BOARD MEMBER CHOPER: On the other hand, the State
5 represents itself because they've authorized the funding,
6 and you have no interest except taking that funding and
7 doing the best you can for all of the jockeys.

8 MR. BROAD: Right.

9 BOARD MEMBER CHOPER: And they have an
10 association, so they're going to, in effect, determine this
11 sort of thing.

12 MR. BROAD: Right. I mean, in some sense it's a
13 little bit like a public employee pension plan that's been
14 created, in which the State has put -- has certain
15 representatives on it, like Cal-PERS.

16 BOARD MEMBER CHOPER: Yes.

17 MR. BROAD: And the various employee organizations
18 have representatives.

19 BOARD MEMBER CHOPER: But our representatives are
20 the Board or designated --

21 MR. BROAD: The Board or designees of the Board.

22 BOARD MEMBER CHOPER: And so far counsel, our
23 counsel has been the designee.

24 MR. BROAD: Right.

25 BOARD MEMBER CHOPER: Okay.

1 MR. BROAD: But we haven't done any -- we haven't
2 made any decisions, yet, other than to recommend
3 hiring --

4 BOARD CHAIRPERSON HARRIS: Yeah, we got to get the
5 plan first, I think. The money's sitting out there, the
6 money's okay, I guess it's just invested in CDs or --

7 MR. BROAD: Yeah. The money is -- the money has
8 done -- as I said at the last meeting, the money's done
9 better than anybody else in America because it's just been
10 sitting there, earning a couple percent interest. So we're
11 golden, we're the best pension in America right now.

12 BOARD CHAIRPERSON HARRIS: But I think we can get
13 it back -- but it's clear that people, the beneficiaries do
14 not have to be members of the Jockey Guild or any --

15 MR. BROAD: No.

16 BOARD CHAIRPERSON HARRIS: -- it's open to -- it's
17 all based on --

18 MR. BROAD: It has nothing to do with the Jockey
19 Guild membership.

20 BOARD CHAIRPERSON HARRIS: Yeah.

21 MR. BROAD: We're just the designated entity to
22 help manage the plan and jointly with -- somebody has to do
23 it, and this is the organization in the State so --

24 BOARD CHAIRPERSON ISRAEL: Cal-PERS has some land
25 in Inglewood they might want to sell you.

1 BOARD CHAIRPERSON HARRIS: We've got some jockeys
2 here today, took, that I know would like to comment on this.

3 MR. BROAD: Thank you.

4 BOARD CHAIRPERSON HARRIS: Chad Schvaneveldt.
5 Just introduce yourself, if you would, please.

6 MR. SCHVANEVELDT: Chad Schvaneveldt, jockey. We,
7 as jockeys, propose that the number of horses ridden in
8 California be raised from 1,250 to around 5,000. That would
9 prevent people from out-of-state coming in and riding 1,250
10 horses, and then leave the State, and that they qualify for
11 the retirement.

12 Also, I think it's kind of a slap in the face for
13 people that have been doing it for a number of years. If
14 you haven't rode 1,250 horses in a ten-year span, I mean,
15 you're not making a living at doing what you're doing.

16 I think feel that it should be raised to around
17 5,000.

18 BOARD MEMBER CHOPER: Has it been determined that
19 once you qualify with the 1,250, or whatever the number is,
20 that everyone then gets the same, the same as the -- gets
21 the same in the pension? Or maybe we're --

22 MR. SCHVANEVELDT: That, I couldn't tell you.

23 BOARD MEMBER CHOPER: Because that would make a
24 difference.

25 BOARD CHAIRPERSON HARRIS: I think that's the

1 deal.

2 MR. BROAD: The plan, in terms -- can be designed
3 any way you want it. All that is, is a vesting requirement.
4 Like under ARISA, it's a five-year vesting requirement. How
5 you get benefits is not --

6 BOARD MEMBER CHOPER: To be eligible for anything
7 you have to --

8 MR. BROAD: Correct.

9 BOARD MEMBER CHOPER: You have to, at present
10 we're talking about, right?

11 MR. BROAD: It's just to be eligible for anything.

12 BOARD CHAIRPERSON ISRAEL: So are you -- when you
13 propose the design, will you propose -- I'm aware of how the
14 WGAF plan works, or the SAG plan, or DGA, and it's kind of a
15 similar thing where an independent contractor has to have a
16 certain number of years of service.

17 But your pension is determined by your earnings
18 over that period time, and this would be how many races you
19 ride, because each race is an equal amount.

20 So somebody who rides 1,250 races, as opposed to
21 somebody who rides 22,000 races would not have a comparable
22 pension; isn't that right?

23 MR. BROAD: That's correct. If you did it that
24 way, it would be based on number of races run.

25 BOARD CHAIRPERSON ISRAEL: Yeah.

1 MR. BROAD: That's only kind of our working
2 hypothesis. It doesn't have to be designed that way. We
3 could have it that somebody who runs from 1,250 to 5,000
4 races gets a smaller amount.

5 However, it is a defined contribution plan. So in
6 some way it has to be tied to a -- you have to split the
7 money up between every eligible jockey. And so you can't
8 take away from one for another.

9 However, you know, obviously, as you can see,
10 we're going to start getting people who are saying, you
11 know, don't make it attract the Okies, they're going to come
12 in and they're going to take over.

13 BOARD CHAIRPERSON ISRAEL: What's the method for
14 making the decision within the Jockeys' Guild? Is there a
15 Jockeys' Guild Board that are instructing them to do --

16 MR. BROAD: And last night --

17 BOARD CHAIRPERSON ISRAEL: -- or is it a vote of
18 the entire membership?

19 MR. BROAD: Last night they voted to appointed
20 three people to help -- you know, as a committee, a
21 subcommittee to make recommendations.

22 My assumption is that whatever we decide here is
23 going to go back to the Guild Board of Directors, and its
24 Senate, which all these colonies have representation.

25 BOARD MEMBER CHOPER: Well, I guess the response

1 to your point is that there's going to be a jockeys'
2 committee that's going to fill in the details as to whether
3 it's 1,250, or 5,000, that you suggested, or something less
4 or more.

5 So you have a full voice in -- indeed. Except if
6 someone rejects the whole thing after it's done, right?

7 Tell me, correct me if I'm wrong, they have the
8 full voice in determining who becomes eligible and after how
9 many races, except that it can't be less than 1,250, I take
10 it.

11 MR. BROAD: It can't be -- that is a statutory,
12 you have to change the law to change that.

13 BOARD MEMBER CHOPER: Yeah.

14 BOARD CHAIRPERSON HARRIS: Yeah, I think there's
15 some concern, probably, on the part of the jockeys, because
16 on the health plan it's really different because some out-
17 of-state jockeys can come here and they only have to ride 50
18 mounts, or something, and they're in the health plan.

19 MR. BROAD: Yeah, what happened was, this sort of
20 group of jockeys, which I think Chad was one of them, they
21 didn't want to have a national health plan. They didn't
22 want to have the California health plan participate with the
23 national health plan.

24 And we said, no, when you make it a California-
25 only plan, which there was a lot of agitation to do, people

1 will be attracted to come to California to get health
2 benefits.

3 So what happened was, leading riders from other
4 states came to California, and not-so-leading riders from
5 California got displaced, as those other people became
6 leading riders because they were attracted by the benefits.

7 Well, don't say we didn't tell you, that's what
8 happens when you do that.

9 And in terms of a pension plan, we're going to be
10 the only state with a pension plan. And until there is a
11 national pension plan, there's going to be an attraction of
12 leading jockeys to come to California to participate in the
13 pension plan.

14 Now, is that good for California racing or bad for
15 California racing? You have to sort of decide.

16 BOARD CHAIRPERSON HARRIS: Well, it's probably
17 good. But keep in mind, too, with the health plan you're
18 either in with it or out with it.

19 This one you're vested the more you ride. So to
20 just come out here and ride 50 times a year, you're not
21 going to be very --

22 MR. BROAD: You're not going to accumulate very
23 much.

24 On the other hand, we don't want to have our
25 riders, who are quarter horse riders, let's say, at Los

1 Alamitos, who aren't making very much money anyway, no
2 matter what they do, we want them to be able to have a
3 decent retirement, you know, so that's --

4 BOARD CHAIRPERSON ISRAEL: So you're concerned
5 that somebody like Johnny Velasquez could come here for 18
6 months, get 20 mounts a week, and qualify for the pension
7 plan and get back out of town. Right?

8 BOARD CHAIRPERSON HARRIS: Right, it
9 wouldn't -- it wouldn't --

10 MR. SCHVANEVELDT: Right, and it slices the pie a
11 lot smaller for everyone.

12 BOARD CHAIRPERSON ISRAEL: Yeah, so I think your
13 concern is --

14 BOARD CHAIRPERSON HARRIS: I mean, I think this is
15 all going to have to be worked out in the plan. There's
16 nothing sacred, now, I mean, with the numbers.

17 MR. BROAD: Nothing is in stone. Nothing's been
18 decided whatsoever, and any group of jockeys or single
19 jockey can make any recommendation they want.

20 Although, I do have to say the U.S. Constitution
21 does protect people from traveling -- they have a right to
22 travel into California to make a living. We can't
23 discriminate against people on the basis of where they live
24 today.

25 BOARD CHAIRPERSON ISRAEL: No, no, but you can set

1 up the rules so that it's not just 1,250, it's over -- you
2 have to ride -- you have five years vested, or five vested
3 years or something like that.

4 MR. BROAD: Well, I don't know that we can do
5 that.

6 BOARD CHAIRPERSON ISRAEL: Oh, because of the
7 statute?

8 MR. BROAD: The decision -- that's in the statute,
9 I don't know that we can --

10 MR. SCHVANEVELDT: Just raise the number of horses
11 raced in California.

12 BOARD CHAIRPERSON HARRIS: I think it could
13 make -- the thing is, a guy -- you're not going to be very
14 vested, anyway. I mean, it's going to take a while to get
15 them vested.

16 MR. BROAD: The average full time jockey, average,
17 runs about 300 races a year. So what we figured is it's
18 somewhere between four and five years of vesting. That's
19 how the calculation went.

20 When you look at the numbers in California, the
21 average jockey that rides regularly, rides about 300 races a
22 year.

23 BOARD CHAIRPERSON HARRIS: Right.

24 BOARD CHAIRPERSON ISRAEL: And how long is the
25 average full time career, 12, 15 years, 20 years?

1 MR. BROAD: I don't know what the average career
2 is. It really depends. Some people get injured early in
3 their career. Some people come and go. And we have jockeys
4 in this State that have -- like Kent Desormeaux was here for
5 years. Now, he's left.

6 We have other jockeys, who were in other places,
7 who are now here. I mean, they come and go, you know.

8 BOARD CHAIRPERSON ISRAEL: We've got three in this
9 room that have been riding for probably, totally, a hundred
10 years or something.

11 (Laughter.)

12 MR. BROAD: Right.

13 BOARD CHAIRPERSON ISRAEL: Like Russell Baze, how
14 long have you been riding, Russell?

15 MR. BAZE: Thirty-five.

16 BOARD CHAIRPERSON HARRIS: And we've got Bobby
17 Gonzalez over there.

18 MR. GONZALEZ: Thirty.

19 BOARD CHAIRPERSON HARRIS: Thirty. Yeah, so it
20 gets up pretty close to a hundred.

21 (Laughter.)

22 BOARD CHAIRPERSON HARRIS: So we appreciate
23 everyone's input. And I think the key is going to be, you
24 know, the devil's always in the details. I think it's
25 something that California can be proud of, and the intent is

1 for it to be fair, and equitable and, you know, reward
2 people that have worked hard to be in the game, you know,
3 all of us.

4 Can we get a motion to approve it?

5 BOARD CHAIRPERSON ISRAEL: Yeah, I'll move.

6 BOARD CHAIRPERSON HARRIS: Moved. Second?

7 BOARD MEMBER DEREK: I'll second.

8 BOARD CHAIRPERSON HARRIS: Bo seconded.

9 All in favor?

10 (Ayes.)

11 BOARD CHAIRPERSON HARRIS: Okay, thank you very
12 much.

13 EXECUTIVE DIRECTOR BREED: Mr. Chairman, I just
14 got a message from a webcast listener, who makes a request
15 that the Commissioners identify themselves before they
16 speak. So that has been a request from a webcast listener.

17 BOARD CHAIRPERSON HARRIS: Oh, okay.

18 EXECUTIVE DIRECTOR BREED: We know there's one out
19 there.

20 (Laughter.)

21 BOARD CHAIRPERSON HARRIS: Well, they can tell
22 which one Bo is, probably.

23 Okay. Well, this is John Harris, and going on
24 to --

25 (Laughter.)

1 BOARD CHAIRPERSON HARRIS: The next item is four,
2 a discussion of a proposed amendment of the trifecta rule to
3 reduce the minimum amount of wagering interest needed to
4 establish, and I think these are on the program, from six to
5 five for a trifecta.

6 Which I basically support this because I think it
7 would help handle. I know over the years this has been
8 debated on the various aspects.

9 But any comments on this?

10 BOARD MEMBER CHOPER: Yes. I certainly support
11 this. But I think if I were doing it, I'd go down to four.
12 And, similarly, the superfecta, which they're taking
13 down -- recommending from eight to seven, I'd take it down
14 to six.

15 And I must say I understand the objection to it,
16 the last time around, of fixing races. But I just don't see
17 that. I mean, if you're going to fix something, you're
18 going to fix it. You know, there are plenty of
19 opportunities for dishonesty in the world, and that includes
20 horse racing.

21 But when you come out and you have a five-horse
22 field that's good. It would be nice to get down to three,
23 but I don't see why it shouldn't be for a four-horse field.

24 I mean, this is not any situation in which you're
25 just trying to figure -- I mean, you're doing what

1 handicappers do, which is how are horses going to run.

2 So I guess I feel more strongly about the super
3 down to six, than I do about the trifecta down to four, if
4 that's a compromise.

5 But I would think we ought to do them both.

6 BOARD CHAIRPERSON HARRIS: Have we put this out
7 for comment, yet? Is this just to put it down for comment
8 or is this down?

9 REGULATIONS/LEGISLATION MANAGER WAGNER: Jackie
10 Wagner, CHRB staff.

11 If the Board endorses this proposal, it will go
12 out for a 45-day comment period. We're going to be starting
13 it.

14 BOARD CHAIRPERSON HARRIS: Okay, so we could
15 endorse it and, theoretically, we could change the numbers
16 that we endorsed and put that out or --

17 REGULATIONS/LEGISLATION MANAGER WAGNER: Well,
18 what we would do is hopefully decide on the proposal that
19 you would want to notice for 45 days, be it five or be it
20 the four. We would need to make that decision before we go
21 out to comment.

22 BOARD MEMBER CHOPER: Is it possible to put them
23 both out for comment?

24 BOARD CHAIRPERSON ISRAEL: Could we just make a
25 proposal that alters this, and we endorse that, and then it

1 goes out for comment, as he suggests?

2 REGULATIONS/LEGISLATION MANAGER WAGNER: We could
3 to that. If the Board decides that, instead of going to
4 five horses, as presented, the Board decides that the
5 proposal wants to be four, you can instruct us to initiate
6 the 45-day notice period with the four.

7 BOARD CHAIRPERSON HARRIS: Yeah, because that's
8 the purpose of the comment period, we can get feedback.

9 But I suggest we go along with Jesse, if you feel
10 good with that.

11 BOARD MEMBER CHOPER: I do.

12 BOARD CHAIRPERSON HARRIS: So how would you change
13 it, now, the trifecta would go to five, but you'd take the
14 superfecta down to --

15 REGULATIONS/LEGISLATION MANAGER WAGNER: Four and
16 six.

17 BOARD MEMBER CHOPER: Yeah, I mean, I'd prefer to
18 go to four and six. But if you want to go to five and six,
19 that's all right, too.

20 BOARD CHAIRPERSON HARRIS: Okay. Well, why don't
21 we put it out for comment, let's put it down to four and
22 six.

23 BOARD MEMBER CHOPER: Could I ask the proposers,
24 the proponents of this -- of these things, how they -- I
25 mean, these are people who are track operators, all right,

1 how do you feel about that?

2 BOARD CHAIRPERSON HARRIS: Well, you've
3 got -- it's really a partnership of the track operators and
4 the horsemen and the --

5 BOARD CHAIRPERSON ISRAEL: Golden Gate.

6 BOARD CHAIRPERSON HARRIS: Yeah. And you've got
7 the wagering public, if they have any pro or con.

8 Yeah, Golden Gate was the one that originally
9 proposed it. But I think -- I assume all the tracks support
10 this, but we don't really know that.

11 MR. TUNNEY: Peter Tunney, representing Golden
12 Gate Fields.

13 We are the proponents of this. We do feel
14 strongly about it. But we would stand aside on our proposal
15 to make the adjustment that Commissioner Choper has
16 suggested.

17 BOARD CHAIRPERSON HARRIS: Any other comments from
18 tracks? Mr. Fravel, from Del Mar?

19 MR. FRAVEL: Craig Fravel, from Del Mar.

20 We're in support of the rule as originally
21 proposed.

22 And I don't think I'd have a problem on the
23 superfecta change that Mr. Choper suggested.

24 I would ask that, when you draft the rule for
25 comment, that you give the association the option of

1 offering trifecta wagering on a four-horse field. I think
2 there are times that -- if you've got prohibited favorites
3 and you have a situation where there could be, you know,
4 some clear opportunities to -- yeah, I was just asking Terry
5 how -- like it would be for a minus pool in a trifecta bet,
6 but every time I say something can't happen, it happens,
7 especially lately.

8 So I would be a little more cautious on the four-
9 horse trifecta.

10 BOARD CHAIRPERSON HARRIS: Yeah, it should be
11 clear that the racing association would have the latitude.
12 Regardless of what the rule is, they would have the latitude
13 to not offer any given type of wagering on any race on the
14 card.

15 MR. FRAVEL: But we've run into problems with that
16 before, when there were Northern fair races that had
17 prohibitive mule favorites, and we got huge minus pools and,
18 you know, we never had -- we had to come up with an option.

19 BOARD MEMBER CHOPER: I'm perfectly willing
20 to -- I mean, that's a wholly legitimate interest that we
21 certainly don't want to do.

22 Would the way to do it be to say that tracks
23 are -- that the minimum should be, I would propose, four and
24 six.

25 MR. FRAVEL: Yeah, if you say the minimum and we

1 have the option to impose a higher one than that, that's
2 fine.

3 BOARD MEMBER CHOPER: Yeah, just like you'd say
4 no-show betting sometimes, right.

5 MR. FRAVEL: Right.

6 BOARD MEMBER CHOPER: Sure, that makes sense.

7 BOARD CHAIRPERSON HARRIS: Okay, because it's
8 going to go to comment and we may as well get more comments
9 back.

10 But, Jesse, why don't you move that we put your
11 version out for comment and we have 45 days to have it out.

12 BOARD MEMBER CHOPER: Okay, I would move that we
13 reduce the minimum number of horses entered for a trifecta
14 from six to four, and from a superfecta from eight to six.
15 The minimum number that a track -- however you want to put
16 that, I understand.

17 MR. LIEBAU: Jack Liebau, from Hollywood Park, and
18 my management team here, would suggest that it be wagering
19 interests instead of horses.

20 BOARD MEMBER CHOPER: Yes.

21 BOARD CHAIRPERSON HARRIS: Wagering interests,
22 yeah.

23 BOARD MEMBER CHOPER: That's good. That's what I
24 mean.

25 BOARD CHAIRPERSON HARRIS: That's the issue,

1 really.

2 BOARD MEMBER CHOPER: Numbers.

3 BOARD CHAIRPERSON HARRIS: Okay, we've got a
4 motion. Can I have a second?

5 BOARD CHAIRPERSON ISRAEL: Second.

6 BOARD CHAIRPERSON HARRIS: Okay, all in favor?
7 (Ayes.)

8 BOARD CHAIRPERSON HARRIS: Okay, moving right
9 along. Speaking of betting, we have a presentation from
10 Betfair on their plan, and related purchase of TVG.

11 And I met with some of the Betfair folks and it's
12 interesting.

13 REGULATIONS/LEGISLATION MANAGER WAGNER:
14 Commissioners, in order to view the presentation, you might
15 want to shift, you may have to move.

16 BOARD CHAIRPERSON HARRIS: Okay, it's kind of a
17 shifty group here.

18 REGULATIONS/LEGISLATION MANAGER WAGNER: We want
19 to make sure that you can see.

20 MR. CUNNINGHAM: Hello, good morning. My name is
21 Gerard Cunningham, I'm the President of Betfair U.S.

22 I'd like to first thank all the members of the
23 CHRB, the Commissioners and the staff, for inviting us here
24 today. It's a pleasure to be able to tell you more about
25 Betfair.

1 I'm also accompanied by two colleagues, the head
2 of legal, Mark Cruddace. He's the head of legal for Betfair
3 globally. And our global head of compliance, James
4 Sergeant.

5 Both of these gentlemen will join me in the
6 presentation and we'll address any questions you have.

7 Before getting into this, I'd just also like to
8 point out, I am a long-time resident of California. I've
9 actually -- although I have a British accent, I moved here
10 15 years ago. I'm married to an American. My children are
11 Californian. I'm completely committed to the State of
12 California.

13 And the CEO of Betfair, David Yu, is actually a
14 Bay Area born and bred gentleman, who was a graduate of Cal
15 Berkeley.

16 So we are very much -- although we are a British-
17 based company, we are a California oriented company, as
18 well.

19 With that, I'd just like to get into this. We
20 were asked here today because there are a lot of questions
21 about Betfair, coming from a variety of sources, as we made
22 the acquisition of TVG.

23 What we wanted to do today was address some of
24 those questions.

25 As I think many of you are aware, we are very,

1 very focused on getting a plan in place that helps TVG get
2 more consumer oriented, get more focused on improved
3 industry relations, and get on a path to growth.

4 So what you see in this rest of this presentation
5 is really an emphasis on Betfair in the rest of the world,
6 and what we do.

7 There are three things, three groups of things I'd
8 like to run through with you all. First of all, there's
9 just an overview of Betfair at a very high level.

10 We are a horse racing company. And I'll share
11 some of my heritage. We are a technology company. And
12 we're a blue chip global client.

13 We also have some very clear operating principles
14 that we've been successful in using around the world in the
15 consumer industry. We partner with the industry, and we
16 operate with as much integrity, with complete integrity,
17 shown by the fact that we have a global head of compliance,
18 who deals with regulators globally.

19 And then throw in a few comments we'll make about
20 Betfair U.S. and TVG.

21 First of all, the company was founded by a couple
22 of gentlemen in the City of London, who were traders in the
23 stock market, who had been long-term horse owners.

24 And one of them in the bottom left-hand corner,
25 that is him as an owner. He also, nowadays, has a farm

1 where he's breeding horses, training horses.

2 And the other founder, Ed Ray, also owns horses.

3 This is throughout our company, throughout the
4 world we are people who are owning, training of horses.

5 And, of course, we were very, very excited in December, of
6 last year, when we were able to announce a partnership with
7 Royal Ascot, and we got entered into a very deep
8 relationship with that track.

9 As well as in Australia, we now have a track named
10 the BetFair Park.

11 So we operate with deep connections within the
12 industry around the world.

13 We are a technology company. Our CEO actually was
14 the former CTO, the chief technology officer, who invested a
15 hundred million pounds.

16 The exchange, which I'll show you in just a
17 moment, took about a thousand man years so far to build.
18 And we are consistently upgrading and advancing our
19 technology.

20 We've got 400 software engineers around the world,
21 1,500 servers, five global data centers. And each year we
22 process more transactions than all the previous years added
23 together, and settle those transactions in real time.
24 Which, as you'll see is very important.

25 We do more trades now than the New York Stock

1 Exchange on a daily basis, and these transactions are
2 completed in less than one second.

3 We do nearly 5 billion page view per week on our
4 website right now, and we get -- we've had numerous awards
5 for our innovation of technology, including Queen's Awards.
6 We're the e-Gaming Operator of the Year, we've been voted
7 Company of the Year twice.

8 And we offer PayPal. We're certified by the
9 European ISO 27001. And we're the first company to offer
10 in-race betting. So betting while the horses are running,
11 which can only occur if you've got real time.

12 So what is betting exchange? First of all, we're
13 a no-risk betting operator, just like a tote or pari-mutuel,
14 we've no interest in the outcome of the event. We focus on
15 place markets.

16 It's like a stock exchange for sports bettors. A
17 bet is only offered if a bettor has adequate funds on
18 account. A bet goes when other bettors accept the offer,
19 with funds in their account.

20 And there's lots of change. Bettors can hedge to
21 lock in profits even before the event has occurred.

22 So it is very much like a stock exchange, it is
23 very engaging, very fun. And increases in type within the
24 industry.

25 Every single transaction is recorded. The wager,

1 the user who made the wager, the computer that it was
2 wagered on and location, we track every single thing.

3 And we share this data with regulators, so that if
4 they spot problem patterns in betting, or we spot them, we
5 work with them to solve those obvious problems.

6 What we're going to show you as an end race, a
7 piece of the Champion Hurdle. It's one of the world's most
8 renowned sporting events.

9 It's two miles, so twice as long as the Derby, so
10 we won't show you the whole thing.

11 But I'll just hand it over to Mark, who will talk
12 through it as we go through it.

13 MR. CRUDDACE: Hello, Mark Cruddace. I'm the,
14 what I think you call it, the General Counsel, for Betfair.

15 There are -- this race is the grade one race, over
16 jumps, which I know is not as popular here as it is in the
17 UK.

18 We focused on four horses. It's at Cheltenham,
19 and it's 2007.

20 The four horses who play a big part, Katchit,
21 Sublimity, Osana, and Sizing Europe, and it's
22 worth -- bear in mind, of course, that what you're about to
23 see is a demonstration of the odds changing in real time.
24 And the odds change, but the market still remains a perfect
25 market.

1 But, John, if you want to -- hopefully, you'll be
2 able to pick out the colors. If not, come a bit closer.

3 So there's about sort of four furloughs to go.
4 Now, the green is Katchit, the purple Sublimity. Osana, and
5 Sizing Europe, who was the pre-race favorite, clearly,
6 obviously, as the race develops people have a different view
7 on which should be favorite, and the favorite at the
8 beginning of the race may not be the favorite during the
9 race.

10 The volume, obviously, of bets on a race like this
11 would be very, very large, indeed. And what it does is that
12 if you, for instance, had a bet on Sublimity, when the odds
13 were, say, four to one in running, and it now comes back
14 down to around to six or seven to one, what this allows you
15 to do is to lock in a profit so, therefore, you don't really
16 care what happens to the rest of the race.

17 So if Sizing Europe, obviously, according to the
18 seasoned race watchers, is still tracking the best, it still
19 remains favorite.

20 And you have Katchit, who appears to be making
21 some ground. And Katchit's price has come down from 20 to
22 1, to around six or seven to one.

23 And what you're able to do is you're able to
24 actually go, just like a trade, you can go long on a horse,
25 i.e., be positive about it, or go short on a horse, be

1 negative about it.

2 You might take into account how hard the jockey is
3 working, whether you know that the horse will stay up, say
4 Cheltenham has a very vicious hill at the end.

5 And you'll see Sizing Europe on the outside doing
6 extremely well, and reinforces his position as favorite.

7 Then you'll see the jockey start to get to work
8 and you'll see his prices start to move outwards.

9 In the meantime Katchit, which has been during the
10 race as high as 24 to one, at that point becomes favorite
11 and is the horse on the outside -- in the middle of the
12 three.

13 And on the outside you have Sublimity, an Irish
14 trained horse, who you think comes to win the race. And if
15 you look at the chart, so does a lot of people.

16 But Katchit is a really, really tough mare.

17 Now, all of these trades are settled in real time,
18 so at all times you know your position, so your profit and
19 loss is actually in front of you all of the time. And you
20 bet until the race is over.

21 And you'll see Katchit now, effectively, becomes
22 the clear favorite of the race, and that's it.

23 And that would be what we do in all of our horse
24 races. And from five-furlong races over the flat, up to
25 three-mile races over the jumps.

1 Quarter horse races may be a bit of a change.

2 (Laughter.)

3 MR. CRUDDACE: And not -- and not for the faint-
4 hearted.

5 MR. CUNNINGHAM: Thank you, Mark.

6 So as I mentioned before, we are a global company.
7 We have our headquarters in London, where the company was
8 founded. But we have offices across Europe, and including
9 the satellite offices that I named, as well as those pointed
10 out on the map.

11 We have operations in Australia, and we've opened
12 offices in South Africa, and India. And we opened BetFair
13 U.S. about eight months ago and, of course, acquired TVG
14 about six weeks ago.

15 From a regulatory point of view, we are extremely
16 conservative. We operate legally in all jurisdictions.
17 We've got 15 full time lawyers on the team. A hundred
18 percent compliant with the U.S. law, even prior to UIGEA.

19 When we sold it was gray as to whether online
20 betting was legal in the U.S. We made the decision to remain
21 conservative and not bet in the U.S. -- not take bets from
22 U.S. residents. That is why we were able to actually enter
23 the country and acquire TVG.

24 If we had not been so conservatively, we would
25 probably not be here today.

1 We welcome regulation. We seek transparency with
2 the regulations. And we work with governments to develop
3 local legislation. James has done that, personally, with
4 several countries around the world.

5 We have blue chip partners, advisors, investors.
6 I'll just mention a couple of them, who we are. We're
7 partner with Harrah's, with PayPal, Virgin, Royal Bank of
8 Scotland. Goldman Sachs, Morgan Stanley are our advisors.

9 And we have investors like SoftBank, who own
10 Yahoo! Europe and are one of the biggest venture groups in
11 the world. I'm sorry, Yahoo! Japan.

12 And Benchmark Capital, one of the most famous BCs
13 here, in the Bay Area.

14 So we really believe in having the best possible
15 partners throughout the world.

16 And let me just jump over to our operating
17 principles. Consumer certainly partners with the industry
18 and integrity.

19 First of all, we really believe that consumers
20 drive any and all businesses. And right now it's a very,
21 very competitive entertainment environment.

22 Competitive sports entertainment offerings have
23 exploded in the last 20 years. We've listed a few of these.
24 All of these sports have made very, very significant changes
25 in the last few years.

1 The NFL, for example, has embraced online fantasy
2 football dramatically. So now I can sit at home and watch
3 eight football games at the same time, while capturing my
4 fantasy football scores.

5 NASCAR. I've even got a channel on TV, where I
6 can listen to the pit crew talk to the driver, et cetera.

7 And the internet is creating a truly explosion for
8 all of these businesses.

9 I just wanted to make another couple of points
10 about competition in terms of computer games. I don't know
11 if you all know Guitar Hero 3, one of the most popular games
12 out there, \$1 billion in revenue in the first three months.

13 Social networks. Facebook now has 175 million
14 people globally.

15 Small phones. The iPhone now has 25,000
16 applications available, about nine months after launching
17 that out the door.

18 And online poker, although it's illegal in the
19 U.S., has about 26 million players, with its five to ten
20 percent rate.

21 And we, in the horse racing industry, are
22 competing with this set of very, very exciting entertainment
23 opportunities of our customers.

24 And the other point to make, our experience is
25 that players seek value. It makes them have more fun.

1 Bettors have a budget that they're willing to lose every
2 week, month, year. If bettors lose their budget too
3 quickly, they walk away. Slot operators understand that.
4 Although there are slot limits on how much they can take
5 from a given bettor, they're never set at that legal limit
6 because it makes it less fun for the person betting.

7 If bettors lose their budget slowly, they can
8 learn and appreciate the sport or the game that they're
9 playing.

10 And we offer that. We are low-value, very, very
11 exciting experience for consumers.

12 And that means we've brought in new people to the
13 sport.

14 Demographics of our customers. The average age is
15 about 40 years old. They're above average in wealth, in
16 income, they've got more assets, they're homeowners, they're
17 investors, they are internet savvy. They are very different
18 from the typical demographics that you will see at the
19 track.

20 One question we often get is around
21 cannibalization. And this is just a chart that shows the
22 levy that is paid by all the betting companies in the U.S.
23 It's a levy that is imposed on gross profit.

24 Oh, I'm sorry, UK, on UK bettors -- betting
25 companies.

1 It is a percentage that the government has imposed
2 on the bettors, based on their gross profits. The gross
3 profit change took place in 2000, the same time that Betfair
4 was launched.

5 And as you can see here, there's been no impact
6 around the levy increased quite dramatically over the first
7 four years of that charge, and it has not changed even as
8 Betfair has grown dramatically.

9 By the way, this levy goes to winnings of the
10 racetrack, so it's shared. It is for the horsemen.

11 And the UK tote. The CEO, in his annual report
12 last year, has said the pools have linked with Betfair to
13 share in the success of that stimulation of the online
14 market.

15 The tote was up 9.7 percent percent in 2008,
16 versus 2007. And we often account for 10 percent of the
17 exotic wagers from our side.

18 And in Australia, the tote CEO has also said our
19 relationship with Betfair added substantially to the pari-
20 mutuel pools. And their tote in 2008 was up about 27
21 percent, versus 2007. A very significant portion, 70
22 percent from international customers betting into Tote
23 Tasmania.

24 In addition to those ones, I'd also like to talk
25 about our memorandum of understanding with the regulators.

1 We have 42 memorandum of understandings with regulators
2 around the world, including here in the U.S., the NHL, and
3 the TRPB.

4 In general, those MOUs, we've put on the desk of
5 the regulator a bet monitoring system, where they can see
6 and track where they have problem bets. And then we work
7 with them, if they spot problems, to get to the source of
8 the customers involved and, if necessary, a police
9 investigation will result.

10 And, of course, also, if we spot problems, we
11 inform them.

12 We are sponsored. We're major, major sponsors in
13 the UK and around the world. We're actually the second
14 largest sponsor of horse racing in the UK. The only sponsor
15 that is larger than us is the UK Tote, and they are
16 regulated in how much they give to horse racing.

17 So we give significantly more than the other
18 betting operator.

19 One of the big deals was the King George of Royal
20 Ascot, that we announced last year. As I mentioned, we now
21 have named it -- a track named after us, in Australia.

22 We also are very prolific in our work with
23 charities. We've got some general charities around sports
24 aid in the UK, and sports aid for medical research for kids.

25 But in particular with horse racing, we have been

1 very involved charitably with private racing, the racing
2 welfare, which is care for folks on the backstretch,
3 Morecroft, a thoroughbred rehabilitation charity, and
4 jockeys welfare. We do have a Betfair doctor that we fund
5 for jockeys.

6 Martin, would you like to take this?

7 MR. CRUDDACE: Yes. Martin Cruddace, again.

8 Just briefly, we know the questions that will be
9 asked of us, as an online company, by the commissioners,
10 regulators, and chairmen. Regulators, such as yourselves.
11 And we prefer to be one step ahead of those questions.

12 We have decided earlier on that one pound, or one
13 dollar, spent on what I call control processes, is as much
14 value as one pound spent on marketing, especially if you
15 don't know which 80 percent works on the marketing.

16 But, basically, the functions, control process
17 functions, and I'm -- you will be very, very pleased, and
18 I'm not going to go into detail today, but I'm more than
19 happy to sit down with you as a group, or individually, to
20 go into the detail.

21 Already compliance, we have seven full time staff
22 that work with regulators across the world.

23 Know your customer. It's no use having data to
24 share with regulators, unless we can tell you who they are.

25 The most important thing is that you cannot have

1 an account with us unless you expressly agree that your
2 details will be shared with regulators.

3 And as to monitoring, we have a full time staff of
4 five, led by a former Metropolitan Scotland Yard detective
5 chief superintendent, or detective chief inspector. I might
6 have just promoted him.

7 Fraud. We have a 40-strong team keeping fraud
8 aside.

9 Responsible gambling. Problem gambling does
10 exist. People, operators stick their head in the sand if
11 they think it doesn't. You have to detect it, you have to
12 offer solutions to it. And we're pretty much world ground
13 breaking in what we do there.

14 Under-aged gambling. It's very important to keep
15 those, who are under the legal age, off our site. And also
16 it takes security.

17 And in that regard, we've just recruited the head
18 of internet security, at the Organized Crime Authority,
19 which is our sort of FBI.

20 Again, any detail you'd like to receive on any of
21 those, we're happy to give you each, of course.

22 MR. CUNNINGHAM: Thank you. And then just lastly,
23 on Betfair -- Betfair U.S. and TVG.

24 We're very excited about TVG, it's a great
25 cultural fit. The staff there, at TVG, love horse racing.

1 They've had many -- they've been involved in horse racing as
2 bettors, owners before getting involved in TVG, or they've
3 maintained that interest.

4 They are a technology innovator. They were the
5 first ADW to launch.

6 Their TV technology is fantastic. And the ADW and
7 TVG software have upgraded every year on a regular basis.

8 And so the horse racing technology has been a
9 great overlap.

10 They also have had a very conservative regulatory
11 status. They only operate in 16 states, whereas other ADWs
12 operate in more than 35.

13 And they do live broadcasting, up to 18 hours a
14 day, seven days a week, 365 days a year.

15 That team is a phenomenal group of folks, who do a
16 great job in keeping the internet up and running, and the TV
17 side up and running to 6 sigma quality, they do a great job.

18 One thing I did want to just point out, although
19 we're all aware they're a live sports broadcaster and, of
20 course, we've got the studio, the shows, the sound control
21 room, the producer and director control room, it often is
22 overlooked that they're actually a huge TV technology
23 company. With the master control room, where they're taking
24 signals from tracks all across the country.

25 On the top left, on the right, we're taking those

1 signals, we're digitizing them. We are, on the bottom left-
2 hand side, inserting data into those feeds.

3 And then this is all controlled and operated by a
4 massive investment in technology in the server room. This
5 is a big investment in TV technology, as well on the ADW
6 side.

7 And we are, as I already said, very focused on
8 developing our plans with TVG. We're very excited about
9 where we go with TVG in terms of building the ADW business,
10 and that is our focus right now.

11 And we just threw in this last slide. We're in
12 the Guinness Book of World Records for the largest
13 advertisement in Europe, and I just thought that was a
14 proper thing to tell you.

15 Thank you all for your time here. And if I
16 can -- if we can answer any questions, please let us know.

17 BOARD CHAIRPERSON HARRIS: Thank you. This is
18 John Harris, again, for the webcast folks.

19 I think that was a good presentation. Any
20 questions by the Commissioners?

21 Do you envision that maybe on the TVG aspect of
22 your business, what sort of changes or things are you
23 looking at in that sector of the business?

24 MR. CUNNINGHAM: At the moment we are -- as you
25 all know, this was a very, very fast close. We actually

1 agreed to the acquisition and closed the deal within 48
2 hours. That is incredibly fast.

3 We've actually spent the last six weeks dealing
4 with a lot of administrative things, like payroll, benefits.
5 Accounting systems had to be changed. Things that should
6 have been actually handled during the period between the
7 sale and the close. That has been our focus so far.

8 We are now starting to develop the plans. But
9 right, we --

10 BOARD CHAIRPERSON HARRIS: Kind of open now.

11 MR. CUNNINGHAM: Yeah.

12 BOARD CHAIRPERSON HARRIS: Any comments from the
13 audience or the Commissioners?

14 Thank you for your report.

15 Oh, we've got some. We've got a couple people on
16 Item 6. Richard Castro.

17 MR. CASTRO: Do you mind if I squeeze in with you
18 guys?

19 MR. CUNNINGHAM: Yeah, come sit here.

20 MR. CASTRO: Good morning, before I -- no, I'm
21 fine. No, stay here.

22 MR. CUNNINGHAM: No, no, please.

23 MR. CASTRO: You guys don't know it, I've got back
24 problems and this is actually better for me.

25 My name is Richard Castro and I represent Pari-

1 Mutuel Employees Guild.

2 But before I start what I have to say, has anyone
3 thanked Mr. Hartman for the wonderful weather and the
4 wonderful, and hosting this wonderful facility.

5 This is really a great place to have a meeting.

6 (Applause.)

7 MR. CASTRO: Thank you. We all thank you, Mr.
8 Hartman.

9 The question that I have for Betfair is that we
10 have a labor contract with TVG, and it's kind of in limbo.
11 We have, what we believe, is a bonafide contract, and I want
12 to know if they plan to honor that contract.

13 MR. CRUDDACE: I think that -- sorry, it's Martin
14 Cruddace again.

15 I think that -- I hate to say it, but it's just a
16 tiny bit too early for us to really get into that sort of
17 thing, but we'll look at it and consider it.

18 What I would say is that I asked for all of the
19 agreements of that material for TVG, and a list of a hundred
20 came to me, before me. So we'll work on it in a bit.

21 And to be honest, it hasn't yet hit our radar, but
22 now you have, we'll look at it and we'll get back to you.

23 MR. CASTRO: I think he needs to look a little
24 better than that. I think if you look in the statute, it
25 says that we're the historical organization and they need to

1 have a contract with us.

2 And, quite frankly, I don't really feel like going
3 and filing another lawsuit.

4 And so I would encourage you to look at the
5 statute and I would encourage you to sit down with us, and
6 let's get this thing going.

7 MR. CRUDDACE: Of course we will. We're not short
8 of lawsuits, so I'll get to it very, very quickly.

9 BOARD CHAIRPERSON HARRIS: Okay, anything else on
10 Betfair?

11 Do you think you might change the name of TVG to
12 Betfair?

13 MR. CUNNINGHAM: We will look at all those sorts
14 of options.

15 BOARD CHAIRPERSON HARRIS: Okay. Well, thank you
16 very much.

17 If there's nothing else on that item, we'll move
18 onto Item 7, which is the discussion of the infield golf
19 course at Alameda County Fair, and the CTT requests that the
20 Board revoke the exemption for the golf course.

21 Who is going to present this?

22 EXECUTIVE DIRECTOR BREED: Mr. Chairman, Kirk
23 Breed.

24 I don't know, Rick Pickering is here from
25 Pleasanton. I don't know if Ed Halpern is here from the

1 Trainers.

2 Oh, Charlie. Charlie, you want to speak on this
3 issue, if there's any movement on that?

4 I know Rick Pickering, who's the General Manager,
5 he's sent me a couple e-mails saying they have finished the
6 design phase of the project, in terms of renovating the golf
7 course, specifically holes four and nine, and that they do
8 have a plan. They're working on sharing some of the costs.

9 So that's what you heard. If you guys want to
10 update?

11 MR. DOUGHERTY: Charlie Dougherty, California
12 Thoroughbred Trainers.

13 Kirk, as -- what you report is pretty much where
14 we are. Rick did hire a company to go out and look at where
15 the majority of the golf balls were going out on the
16 racetrack, and they came back with a report that had
17 identified the four primary areas, and now they're looking
18 into the trajectory of the ball to figure out how high the
19 net should actually be, and how many nets.

20 So at this stage we're still in the discussion
21 purposes. And I actually had a discussion with Rick.

22 And, you know, obviously, economics are driving a
23 lot of what happens with this, of the cost of putting up the
24 nets and all that.

25 And so we're still trying to figure out what would

1 be the most economic way of getting the nets up, in
2 the most --

3 BOARD CHAIRPERSON HARRIS: Are there some nets
4 there now, or no nets at all now? Some nets are there now.

5 MR. DOUGHERTY: There are some nets that currently
6 on the driving range, that would be near the first hole.

7 But the primary areas of concern are holes, I
8 believe it's five, seven, and nine, are the ones that have
9 caused most of the golf balls to go out onto the track.

10 BOARD CHAIRPERSON HARRIS: Would CTT be okay to
11 defer this to another meeting, or are you requesting we take
12 some action now or --

13 MR. DOUGHERTY: No, we're comfortable with the
14 discussions going on. I believe that, you know, all the
15 parties understand that as each day goes by, you know, we
16 run the risk of something else happening with either a horse
17 or a rider.

18 But we do believe that Pleasanton is taking the
19 matter seriously. And where the whole situation is, is the
20 economics.

21 And I know Rick has brought the issue to the
22 Stabling and Vanning Committee, and that decision has to be
23 made there of how much money can be allocated to help Rick
24 divide the issue.

25 BOARD CHAIRPERSON HARRIS: Any Commissioners have

1 any questions on this?

2 If not, let's move on. It's an ongoing problem,
3 and I think we want to get it solved, but we realize that
4 there are some economics to do it.

5 Okay, the next item is a new item for the Board to
6 consider, is the budget formula to be developed under SB 16.

7 Yeah, Kirk will explain the whole thing.

8 EXECUTIVE DIRECTOR BREED: Yeah, Mr. Chairman, I
9 e-mailed you, and Members of the Board -- Kirk Breed,
10 Executive Director.

11 I e-mailed each one of you a copy of this
12 proposal. And I'll pass it down, in case you didn't bring
13 it.

14 And what I would like to do today is to read the
15 section in the legislation, is the X16, which was passed
16 recently.

17 It's a very short section. I don't anticipate any
18 action from the Board today, and I'll explain that in a
19 minute.

20 This section, under the new added section
21 19616.51, states:

22 "1. All racing associations and fairs,
23 including all breeds of racing, shall
24 participate in the funding of the Board,
25 in accordance with a formula devised by

1 the Board, in consultation with the
2 industry. The baseline funding for the
3 Board and Equine Drug Testing Program in
4 the first fiscal year after the
5 enactment of this section, shall be the
6 amount approved in the 2008-2009 Budget
7 Act."

8 Which is the budget that we are presently in right
9 now.

10 "Adjustments to the funding in
11 subsequent budget years may only be made
12 by an act of the Legislature."

13 In other words, if that amount goes up, that
14 difference in the amount has to go before the -- has to be
15 included in a piece of legislation.

16 "The license fee reductions resulting
17 from subdivision A, after payments to
18 fund the Board and the Equine Drug
19 Testing Program, shall be distributed as
20 follows."

21 And that simply means is those monies that
22 heretofore were received by the Board in the form of license
23 fees would, in essence, not go to the Board, but would stay
24 at the respective associations and be distributed between
25 breeders awards, purses, and commissions.

1 So the little exercise that we are in right now,
2 in the 2009-10 budget year, which begins July 1, of 2009,
3 which is this present year, we've been in the process of
4 presenting a budget to the -- to the Department of Finance,
5 the Administration, starting in the fall of the year, of
6 2008.

7 We presented that budget to the Legislature, now
8 knowing that you, the industry, were going to pass this new
9 piece of legislation. And that bill -- and that budget was
10 approved by the Administration, and has now gone through the
11 whole approval process, and is now -- that budget is
12 presently with the Senate and the Assembly, which includes
13 two increases in the '08-'09 budget.

14 So, basically, what the -- if you'll look at this
15 little sheet I passed out to you, it talks about the '08-'09
16 final budget, which is \$11,116,000.

17 The '08-'09 -- the '09-'10 budget, which is
18 \$11,833,000. And then there are two factors there. One is
19 real time monitoring, which is something that has been
20 proposed and we put a value number on that.

21 Now, the way we're approaching this formula, and
22 like I said, we don't anticipate any action today, but
23 simply this is presenting the budget to you in terms of what
24 changes are being made and, also, defining the process we're
25 in right now.

1 If you look at '08-'09 budget, and if you were to
2 apply kind of the standard rule of thumb approach to
3 budgeting, or say a license fee that we've used for many,
4 many years here, if you take a percentage of all sources
5 handled, a percentage of the total handle that each
6 association would be paying to the Board for its services,
7 because we are a fee-for-services agency, it comes out to
8 about a quarter of one percent.

9 That reflects in terms of if you take the number
10 of racing days that took place in '08-'09, in that fiscal
11 year, the number of racing days was anticipated to be 866
12 racing days, total racing days, all breeds, fairs,
13 associations, et cetera.

14 And that comes out, if you were figuring this
15 budget on the basis of a racing day cost, including overhead
16 and services, it comes out to be \$12,836 per racing day.

17 And if we add the two BCP programs, the two policy
18 increases, which are one-half the cost of the Equine Medical
19 Director, and the Racetrack Safety Standards Study that
20 we're doing, to develop specifications for racetracks, with
21 the track surfaces, if you take that amount, which is the
22 budget that we are currently -- it's currently with the
23 subcommittee for the Assembly, in which they have reviewed
24 yesterday, and passed on, that amount is \$11,833,000.

25 Which comes out, if you took it on a percentage

1 per dollars, of .269, or say .27 percentage of one percent,
2 or a per-race-day of \$13,664.

3 That is basically the budget that we are proposing
4 for this coming year. And that is the formula in which we
5 are requesting the Board to consider over the next -- over
6 the next month. Consult with the industry, whoever you'd
7 like to consult with, ask me questions, whatever, in order
8 for us to -- in order for us to develop this formula and
9 then present it, hopefully, next month to the Legislature as
10 the Board's recommended formula.

11 If there is a difference between the recommended
12 formula and in terms of total dollars produced, and also the
13 '08-'09 budget, that difference has to go into some form of
14 budget act.

15 So that is basically the formula that I'm
16 presenting to you today, for your consideration over the
17 next time period.

18 BOARD CHAIRPERSON HARRIS: It's clear this money
19 actually comes from the tracks and the horsemen. If it
20 didn't -- I mean, if they spend less or more --

21 EXECUTIVE DIRECTOR BREED: It comes from the
22 bettor.

23 BOARD CHAIRPERSON HARRIS: Well, the bettor
24 generates it, but if it doesn't go to run CHRB, it would go
25 to purses and commissions.

1 So I think there's going to be a concern on the
2 part of the tracks that we don't spend any more than we have
3 to.

4 But then, conversely, I think we have to have a
5 program that we feel maintains integrity, and a strong
6 system, and all that.

7 It's bothersome, just as a frugal taxpayer, that
8 our costs are going up more than we would like. But I'm not
9 really clear of what we're getting back, which maybe you can
10 justify.

11 Jack?

12 MR. LIEBAU: Jack Liebau. We would like to, on
13 behalf of the industry, and maybe we can get Mr. Fravel,
14 who's a few feet away, to come closer to the mike.

15 We would like to set up some sort of program or
16 process, as far as this consultation with the Board, with
17 respect to the formula that is to be developed, which I
18 think is what is contemplated by the legislation that has
19 recently been passed.

20 I assume that you were contemplating such
21 consultation, Mr. Breed?

22 (Laughter.)

23 EXECUTIVE DIRECTOR BREED: Mr. Liebau, my idea of
24 consultation is to decide what I want to do and write you a
25 letter.

1 MR. LIEBAU: Well, I'm afraid that that's
2 unacceptable, Mr. Breed.

3 BOARD CHAIRPERSON HARRIS: I think the problem is
4 that they --

5 MR. LIEBAU: And I would also say, Mr. Breed, that
6 after that remark, that this is -- the amounts that are
7 being funded for the Board are viewed by the industry as
8 being paid by the horsemen and the tracks, and not the
9 better. So with that clarification.

10 BOARD CHAIRPERSON HARRIS: I think, I mean, we
11 really need to get our budget approved by the different
12 factions, and it has to be a pretty good industry buy-in.

13 MR. LIEBAU: I'm not speaking to the budget. I'm
14 speaking, now, to the formula that would distribute the cost
15 among the tracks. And I think that that is what the statute
16 refers to.

17 And I would -- I think that probably Mr. Breed was
18 just joking with me. But I do think that consultation is
19 more than him sending me -- sending us a letter and telling
20 us what it's going to be.

21 BOARD CHAIRPERSON HARRIS: Yeah, because I'm not
22 sure --

23 MR. LIEBAU: And I would note, too, that there is
24 a statute that is also, I think, prevalent, that each
25 association has to at least cover its direct cost, too.

1 EXECUTIVE DIRECTOR BREED: Right, and that's
2 correct, Mr. Liebau, that statute is still in effect.

3 MR. LIEBAU: Right.

4 EXECUTIVE DIRECTOR BREED: And if
5 those -- whatever formula we decide on --

6 MR. LIEBAU: We, I like that.

7 EXECUTIVE DIRECTOR BREED: Yeah, whatever formula
8 is decided upon --

9 (Laughter.)

10 BOARD CHAIRPERSON HARRIS: We decide.

11 BOARD CHAIRPERSON ISRAEL: He meant we, us, up
12 here.

13 EXECUTIVE DIRECTOR BREED: Yeah, right.

14 MR. LIEBAU: But I thought a broader we was what I
15 thought.

16 BOARD CHAIRPERSON HARRIS: Well, my concern is
17 that everyone at least cover their variable cost, which they
18 may well not if it's just a percent of handle. But if that
19 comes off, it would make everyone else's costs per day
20 slightly less.

21 But it's a proposal that we would set up a formula
22 and that would just go into the future, or every year would
23 be a --

24 EXECUTIVE DIRECTOR BREED: Well, Mr. Chairman, and
25 there is considerable talk about clean-up legislation on

1 this particular bill in terms of standardizing that formula,
2 or giving it a little bit more -- a little bit more thought
3 to how it was put together.

4 The idea, as expressed yesterday in the
5 subcommittee, by the Legislative Analyst, was that his
6 understanding of this process would be that we would define
7 the formula, in consultation with the industry, and bring
8 that formula before the next -- before the next Committee
9 hearing.

10 And once that formula has been determined, then
11 we'd use the same formula from then on.

12 It's the amount, the difference in the amount
13 between '08-'09 and the following years is that's what would
14 have to go into the Budget Act.

15 But once the industry and the Board determines
16 this formula, that same formula would continue.

17 BOARD CHAIRPERSON HARRIS: Yeah, and the formula
18 is some percentage of handle, I'm not clear if that includes
19 ADW handle or not?

20 EXECUTIVE DIRECTOR BREED: Well, the formula
21 that -- the numbers that I've presented to you are based on
22 total, all sources -- a total of all sources of handle,
23 which includes ADW.

24 MR. FRAVEL: Craig Fravel.

25 (Laughter.)

1 MR. FRAVEL: Sorry.

2 BOARD CHAIRPERSON ISRAEL: Why was that your best
3 joke?

4 MR. FRAVEL: Well, you didn't see the hand
5 gestures that were going on behind me.

6 Craig Fravel, Del Mar. In -- I'll try to be the
7 kinder, gentler jock. I think what we're asking for is a
8 chance to sit down with -- to sit down with the staff and
9 see if the industry can come up, together, with a formula
10 that everybody's happy with.

11 And that way, when you do consider it, you won't
12 have us all sitting here, taking potshots at it.

13 I'm not sure why the Board would care what the
14 formula is. Candidly, if we all agree to pay it, and are
15 happy with it at the end of the day.

16 So that's -- I don't think we're asking to get
17 into your --

18 BOARD CHAIRPERSON HARRIS: Yeah, you should be
19 equally happy or equally unhappy.

20 But I think we've got to also take a look at how
21 much money we're spending and, you know, is that the right
22 amount. I'm not sure if we're spending --

23 MR. FRAVEL: And, you know, candidly, I'm don't
24 think anybody in the industry has ever paid much attention
25 to what the Board's actual budget is.

1 But it's entirely possible that there are things
2 the Board has to do, that costs you money, that we're
3 already doing, or could help with, or we have industry
4 resources that would make your expenses lower on it.

5 So I don't think we want to get deeply into your
6 budget shorts, if you will, but I do think we need to be
7 helpful in the process.

8 BOARD MEMBER CHOPER: Well, Kirk, is it your plan
9 to sit down with them, and before you send them the letter,
10 and get their input?

11 EXECUTIVE DIRECTOR BREED: Mr. Choper, the way I
12 read the legislation is that the Board develops the formula.

13 Now, I'm simply giving you a draft or a proposal,
14 as an idea to start with.

15 And if the Board directs me now, in this interim
16 period, to sit down with members of the industry, I don't
17 know how to define that. Who represents the industry?

18 But if the Board can assign that representative, I
19 would be thrilled to do so. Absolutely.

20 BOARD MEMBER CHOPER: All right. So who do you
21 propose, apart from the associations, which you're
22 representing?

23 MR. FRAVEL: And my favorite is -- my favorite
24 movie is Casablanca, which is we round up the usual suspects
25 and we come to a meeting.

1 BOARD MEMBER CHOPER: So you are going to be in
2 communication with the CHRB office.

3 MR. FRAVEL: Sure.

4 BOARD MEMBER CHOPER: And Kirk has said that he'd
5 like to do that, so it seems to me it's a done deal.

6 MR. FRAVEL: We'll wait for the notice.

7 BOARD CHAIRPERSON ISRAEL: Well, except for
8 rounding --

9 BOARD MEMBER CHOPER: Before the letter.

10 BOARD CHAIRPERSON ISRAEL: Rounding up the usual
11 suspects usually resulted in a miscarriage of justice. If
12 you remember the movie.

13 MR. FRAVEL: As I recall, somebody got shot up
14 against a wall, yeah. I hope that won't happen here.

15 BOARD CHAIRPERSON HARRIS: On this monitoring
16 deal, I'm not clear if we think that's cost-effective to
17 proceed with, or we want to put that on the back burner for
18 a while, or what?

19 EXECUTIVE DIRECTOR BREED: Yeah.

20 BOARD CHAIRPERSON HARRIS: So the plan would be
21 not to do the monitoring for this budget.

22 EXECUTIVE DIRECTOR BREED: That's correct.

23 BOARD CHAIRPERSON HARRIS: Yeah. Okay, so the
24 proposal would be to set up a meeting and come up with
25 something.

1 EXECUTIVE DIRECTOR BREED: Mr. Chairman, if the
2 Board would point out somebody in the audience that it
3 recognizes as a representative from the industry that I
4 could work with, then I would be more than happy to work
5 with that individual.

6 BOARD CHAIRPERSON HARRIS: Okay. Well, I would
7 think that Craig Fravel's got the most free time on his
8 hands.

9 (Laughter.)

10 BOARD CHAIRPERSON HARRIS: But it is important
11 that you network with the other, more than just
12 thoroughbred, but quarters, and the different segments for
13 the industry.

14 EXECUTIVE DIRECTOR BREED: In line with this
15 process, I would like for doctor -- because there are some
16 misconceptions within the budget.

17 That when we talk about reducing the present
18 budget, there are some things that would have to go. The
19 first and foremost would be out-of-competition testing. The
20 other part would be half of his salary.

21 So I just wanted to give him the opportunity
22 to --

23 BOARD CHAIRPERSON ISRAEL: Well, before we go
24 there, can I just say that shouldn't someone involved in
25 this represent night racing?

1 EXECUTIVE DIRECTOR BREED: Yeah.

2 BOARD CHAIRPERSON HARRIS: Yeah.

3 EXECUTIVE DIRECTOR BREED: There's our man right
4 there.

5 MR. BLONIEN: Good morning, Mr. Chairman, Members,
6 Rod Blonien, on behalf of Los Alamitos Race Course.

7 If you were to just take the 13,000 and spread it
8 across the racing days, our fees undoubtedly would go up.

9 And I think it has to bear some relationship to
10 the amount of handle you have. I definitely think that my
11 industry needs to be represented. And I would suggest that
12 Rick English be that person, since he's a numbers man.

13 BOARD MEMBER CHOPER: I guess I just assume that
14 Mr. Fravel will round up the usual suspects and it will
15 include all of the usual suspects.

16 And I think what I hear Mr. Breed saying, if you
17 could, with the suspects, work out many of the details
18 beforehand, that would make his job easier.

19 EXECUTIVE DIRECTOR BREED: Rick, would you like to
20 comment a little bit about it?

21 EQUINE MEDICAL DIRECTOR ARTHUR: Yes. I'm Dr.
22 Arthur, Equine Medical Director.

23 I do have a concern here, particularly about the
24 definition that the out-of-competition budget augmentation,
25 that occurred prior to my coming on board, and whether or

1 not that is a definition of the drug testing program.

2 As of right now, 600,000 of the 850,000 goes for
3 out-of-competition testing.

4 And I want people to understand that the even with
5 that the amount of money spent on drug testing in California
6 is below what it was in the early nineties.

7 I think those of us, who have been in this
8 industry for a long time, recognize what happened as the
9 Horse Racing Board's budget was balanced by cutting drug
10 testing, and that's why we got into some very serious
11 integrity issues, particularly with milkshaking, and other
12 problems.

13 The out-of-competition testing budget not only is
14 out-of-competition testing for blood doping agents, which
15 has become a relatively minor part of that because the
16 deterrent effect of doing out-of-competition testing is very
17 effective. It is the basis for anabolic steroid testing.

18 It's how we developed that particular process.
19 And that budget also included more in-depth testing of
20 routine samples. That is how we do anabolic steroid
21 testing. It's how we developed the process. It's how we
22 developed blood testing for anabolic steroids, which will be
23 the next step, and is going to be a more effective way to
24 control anabolic steroids.

25 That issue has not gone away. And I can tell you

1 that there are people probing the system for
2 vulnerabilities, and we look at vulnerabilities. And the
3 way this process works, we have a very innovative, flexible
4 program in California, and I think it's been very effective
5 in doing that.

6 The frozen samples program is part of that. And
7 that is a deterrent for tests that are under development for
8 growth hormone. Those are going to be issues that we have
9 to be prepared to deal with.

10 And I am concerned that when you talk about the
11 out-of-competition testing program as being one of the first
12 things to be cut.

13 I would like to remind you that prior to my coming
14 on board, one of the conditions was that we were no longer
15 going to be doing sink testing.

16 And I think that, hopefully, people in this
17 industry understand what had happened every year, because
18 that's the biggest chunk of money that the Horse Board has,
19 that goes to one individual entity, is drug testing.

20 That would happen was that the Horse Racing Board,
21 not your administration, or the one before you, but the one
22 before that would actually instruct the laboratories to do
23 sink testing.

24 Sink testing is when you pour the samples down the
25 sink. And I will tell you, that's why we had no violations

1 in May and June for many years.

2 So we have to -- if the people who bet on horse
3 racing have one thing they expect this Board to do, it's to
4 do drug testing.

5 Anybody who bets anywhere around the country, and
6 at Betfair around the world, the one thing that you can say
7 about California drug testing is that we have the most
8 efficient program in the country and possibly, on par in the
9 world.

10 We spend a little over \$200 a sample. Hong Kong
11 spends close to \$700 a sample.

12 I'm not going to say we're the best, even though
13 I'd be happy to say that. But there's none better. And I
14 think the bettors, and I think the racing industry, the
15 people who deal with the whales, will tell you that people
16 are confident betting on California racing.

17 So I think when we get into some of those issues,
18 that we have to look at those programs. We do very
19 efficient testing today, particularly with the LCMS aspect,
20 or LCMS screening process that was developed at the Maddy
21 Laboratory.

22 But drug testing is what people, who bet on horse
23 racing, expect this agency to do well, and we do it well.
24 And I think it's a bright spot in horse racing in this
25 country.

1 EXECUTIVE DIRECTOR BREED: Thank you, Dr. Arthur.

2 And to add to that, like yesterday in the -- and I
3 can show you the documentation from it. Yesterday, in the
4 committee, the Subcommittee Four -- which there were a
5 couple of your lobbyists there, by the way, which was a good
6 deal.

7 In Subcommittee Four, the purpose stated by the
8 Committee, the main purpose stated for the Board was to
9 protect the betting public. As a regulator, that's what
10 we've been assigned, by law, to do for these many years, is
11 to protect the betting public. That's our main function.

12 Now, the best way that we do that is through our
13 drug testing program. That drug testing program is the best
14 method of protecting that betting public.

15 So, Mr. Chairman, I don't think there's any
16 action. You've indicated that we're to speak to those.
17 We're going to sit down and work with those that we're
18 regulating to come up with some sort effective budget
19 formula.

20 EQUINE MEDICAL DIRECTOR ARTHUR: One question, Mr.
21 Breed. The way I read the legislation, we pay for all drug
22 testing costs as of July 1st. Does that mean we take over
23 the costs of the TC02 process at that time, do you know?

24 EXECUTIVE DIRECTOR BREED: I don't know. It's not
25 included in this budget item, so I don't know.

1 BOARD CHAIRPERSON HARRIS: I think we need to
2 assess that whole program.

3 BOARD CHAIRPERSON ISRAEL: Which program?

4 BOARD CHAIRPERSON HARRIS: The TC02 testing
5 program, I mean as far as I think we need some version of
6 it, but I think we need to look at the cost effectiveness.

7 BOARD CHAIRPERSON ISRAEL: How many positives
8 have --

9 EQUINE MEDICAL DIRECTOR ARTHUR: There's no
10 question that we have a Cadillac system and we'd always
11 planned to start backing that down. I would -- I'm going to
12 work with the Executive Director and, hopefully, at the
13 Hollywood Park meet we would be able to, rather than test a
14 hundred percent of the horses, get down to about 20 percent
15 of the horses. I think that will be an effective way to
16 test.

17 And, hopefully, by July 1st, we'll have a program
18 that will be effective. The fact of the matter is, we've
19 had two violations in the last 20 months.

20 And I did look at, there were some rumors at Santa
21 Anita, some of you may have thought or heard about, that
22 people were milkshaking horses again. I looked at every
23 trainer on the track, gone to standings, and not one of them
24 had an abnormal TC02 average, either in Southern California
25 or Northern California.

1 There was only one anomaly, and that individual
2 got the only warning letter for a TC02 over 36, at Santa
3 Anita.

4 So it's been a very effective program. And it is
5 time, as we'd always planning on doing, in cutting back on
6 that.

7 MR. LIEBAU: Mr. Chairman. As you probably know,
8 the NTRA is adopting or going forward with a safety
9 integrity certification for tracks across the country.

10 The five tracks that are up for immediate
11 consideration are the three tracks where the Triple Crown
12 races are being run, plus Keeneland and Hollywood Park, and
13 that's because of when we open.

14 I would just say that this drug testing is an
15 integral part of that certification process, including the
16 out-of-competition testing.

17 And for that reason, I would hope that we would
18 move ahead on this as quickly as possible, because I think
19 it's in the best interest of all the California tracks to be
20 certified by this NTRA process.

21 BOARD CHAIRPERSON HARRIS: Thank you.

22 EXECUTIVE DIRECTOR BREED: Good point.

23 BOARD CHAIRPERSON HARRIS: Anything else on this?

24 EXECUTIVE DIRECTOR BREED: No.

25 BOARD CHAIRPERSON HARRIS: Okay, let's move along

1 to a report from CARF on the plans for '09 summer racing.

2 Mr. Korby, would you like to?

3 EXECUTIVE DIRECTOR BREED: Mr. Korby, yeah.

4 MR. KORBY: Thank you, Mr. Chairman,
5 Commissioners. Chris Korby, California Authority of Racing
6 Fairs.

7 I'd just like to offer a brief summary on the
8 status of the planning for the operation of the racing dates
9 by the California Authority of Racing Fairs at Golden Gate
10 Fields, in August and September.

11 This last year the Board allocated dates and it
12 will be conducted in that manner by CARF, at Golden Gate.

13 We've had a series of meetings with
14 representatives of Golden Gate Fields on this operation to
15 be conducted.

16 We've determined that a lease agreement, as the
17 governing agreement, is the best structure for this.

18 So I think we're nearing the end of our
19 negotiations on that lease agreement, things have been going
20 well, and we hope to have that concluded shortly.

21 With respect to the purses, the racing program,
22 and the stakes, I just wanted to describe to the Board what
23 our planning is in that regard.

24 The lease agreement will govern the day-to-day
25 operations, which will be carried out by Golden Gate Fields.

1 We will have representatives present here. But Golden Gate
2 does a good job of that, and I believe that's how we're
3 going to carry it on.

4 With respect to the racing program, however,
5 California Authority of Racing Fairs will be responsible for
6 developing the racing program, in consultation with TOC.

7 We met, yesterday, with representatives of the TOC
8 and Golden Gate, so the three of us are working together so
9 that we have a solid racing program in Northern California,
10 in the period of the latter part of the spring meet at
11 Golden Gate Fields, transitioning into the fair circuit,
12 through the traditional fair circuit, then through the dates
13 at Golden Gate Fields, which will be run as fair dates, on
14 through Fresno and then back, again, at Golden Gate Fields.

15 I think there are multiple transitions that occur
16 from location to location, and we want to be very careful in
17 our planning about the racing program and the stakes so that
18 we optimize the racing opportunities and present the
19 strongest racing program we can.

20 We've set up a framework of objectives that we
21 wanted to accomplish. We wanted a racing program that takes
22 full advantage of the turf racing that will now be available
23 to be run during fair days, both at Santa Rosa and now at
24 Golden Gate Fields.

25 We want a program that retains good horses in

1 Northern California. And I think that is enhanced by turf
2 racing, more turf racing during fair dates. That's new for
3 us.

4 We want to create attractive opportunities that
5 bring horses in from other jurisdictions. And to that end,
6 we have an active recruitment program that goes to the
7 northwest and to Arizona. We actually go and visit trainers
8 there, ask them face to face, invite them to come to racing
9 at the fairs during the summer.

10 We put a dinner on. So it's an active program
11 that we undertake.

12 BOARD MEMBER CHOPER: Excuse me. Have you done
13 that before?

14 MR. KORBY: I think we're in our fifth year of
15 doing that.

16 BOARD MEMBER CHOPER: Has it shown any results?

17 MR. KORBY: It has. Typically, we record about
18 150 runners that come. We track them carefully so that we
19 can measure the results.

20 Usually, they start an average of three times.
21 And overall that affects our field size by about one
22 additional runner, which we think is significant.

23 BOARD MEMBER CHOPER: Yes.

24 MR. KORBY: We want to offer an expanded program
25 of two-year-old stakes at the fairs. We think that's an

1 area that we can improve on. The dates at Golden Gate
2 Fields allow us to do that, and we've not been able to do it
3 before.

4 And then we're working hard to increase our field
5 size, keep it high through judicious management of our
6 inventory of horses, and careful attention to the different
7 types of racing that are offered between the fairs in the
8 Bay Area, Golden Gate Fields, which will now have fair dates
9 run, and those outlying fairs that usually generate smaller
10 handles.

11 So there are differences in the racing program
12 that result in the differences in handle between those
13 different category of fairs.

14 Overall, we want to offer a competitive simulcast
15 program for Northern California, we're going to continue
16 that year-round, and especially focusing on the summer part
17 of it. To our -- the California network, the out-of-state
18 network, and the international network.

19 BOARD CHAIRPERSON HARRIS: Thank you.

20 MR. KORBY: That concludes my report.

21 BOARD CHAIRPERSON HARRIS: Any questions?

22 BOARD MEMBER CHOPER: I think it's a great set of
23 goals, but would you say that the two components that are
24 different would be the additional turf racing at Golden Gate
25 and the actual presence of Golden Gate? Do you think that's

1 going to draw more people than it would, for example, at
2 Vallejo, or are you counting on that?

3 MR. KORBY: Yes.

4 BOARD MEMBER CHOPER: Now, is there anything
5 besides the combination of having Golden Gate and the turf
6 racing, that you think might help to accomplish the -- you
7 know, it's a great set of goals. What I said, is in theory.
8 The question is how you -- how you get from theory to
9 practice here.

10 MR. KORBY: I'll offer one concrete example. And
11 I didn't want to bring this up publicly until we had a
12 chance to consult with the TOC, which we did yesterday.

13 We're going to come back to the Board with a
14 request to run fewer days in September.

15 BOARD MEMBER CHOPER: Yeah, you mentioned that.

16 MR. KORBY: We're going to request that instead of
17 a five-day week, to a four-day week. We think that's a
18 concrete step that will move us toward these enhanced goals
19 that we've discussed, but there is one example of it.

20 BOARD CHAIRPERSON HARRIS: Yeah, there are some
21 tradeoffs in the four-day weeks. I see, with the horse
22 population, that may be necessary.

23 MR. KORBY: And I think that we don't want to do
24 that in August, but in September I think it makes sense.

25 BOARD CHAIRPERSON HARRIS: Yeah, it should.

1 EXECUTIVE DIRECTOR BREED: Mr. Chairman, I've got
2 a question.

3 BOARD CHAIRPERSON HARRIS: Yeah.

4 EXECUTIVE DIRECTOR BREED: Kirk Breed. What is
5 the impact going to be on my old racetrack, the State Fair
6 racetrack, with Golden Gate kind of on both sides of it?
7 Are horses going to go from Golden Gate over to run at the
8 State Fair, is there going to be any encouragement, or are
9 they going to discourage them from going over there and
10 running?

11 MR. KORBY: No. No, we're going to encourage
12 horses to run at each fair. And we're carefully tailoring
13 the purse program so that there are the incentives to do so.

14 And when we have that more definite, probably one
15 more meeting with TOC, we'll be glad to make that public.

16 And I think once we do that, you'll see how the
17 structure of our purses reflects our intent that each fair
18 have a strong support.

19 We've been very attentive to that, and not only
20 for Cal-Expo, but Fresno, as well.

21 BOARD CHAIRPERSON HARRIS: Yeah. It is an issue,
22 I think we need to make sure that Cal-Expo survives and does
23 well, because there's talk of them converting that track to
24 other uses, and it's been such an important part of
25 California racing, to save costs.

1 Okay, thank you.

2 MR. KORBY: Thank you.

3 BOARD CHAIRPERSON HARRIS: Let's move on to 10,
4 which is a discussion and action of the Board regarding the
5 significance of the bankruptcy filing of Magna Entertainment
6 Corporation on the subsidiaries operating in California,
7 Santa Anita and Golden Gate Fields.

8 BOARD CHAIRPERSON ISRAEL: You have another movie
9 to show us? Great. With that high tech Magna podium?

10 See, this is what happens when you declare
11 bankruptcy.

12 You probably need us to move, again.

13 MR. SCOGGINS: Yeah. Good morning, Mr. Chairman,
14 Members of the Commission, my name is Greg Scoggins. I'm
15 here on behalf of Magna Entertainment, Santa Anita, Golden
16 Gate Fields, and XpressBet.

17 And with our indulgence, I'm going to try and
18 address not only Item 9 -- or not only Item 10, but also
19 Items 11 and 12, since they are all related to the same
20 issue that we're here about.

21 I've prepared a presentation with respect to my
22 comments, and if you'd like to get down and watch it from
23 behind that, or if you'd like to say there, you're fine, as
24 well.

25 My goals this morning are to provide the Board

1 with an update on the bankruptcy that was filed on March
2 5th, by MEC, and its various subsidiaries. I want to
3 address the current status, the orders that have been filed,
4 future hearings and future matters that will be addressed in
5 upcoming hearings in the future.

6 I want to address the bid procedures that have
7 been filed with the court, in order to clarify some
8 misstatements that have occurred in the press of late, so
9 that we can clarify any concerns or questions people have in
10 respect of that.

11 We'll address the status of the California
12 statutory fees.

13 And then, finally, I'll address the matter
14 involving XpressBet, and its being a part of the MID
15 stalking horse bid.

16 As you may recall, we had several first-day
17 motions that were filed, when MEC originally filed for
18 bankruptcy. Including in that was a DIP financing order,
19 and motions to preserve payroll, customer-related programs,
20 including horsemen's purses, payments for taxes, and
21 governmental assessments, and license fees. And then
22 preserve insurance-related payments, and then also preserve
23 essential services.

24 The court granted each of these motions. The DIP
25 financing order was a little bit different than was

1 originally requested.

2 They agreed to give us \$13.4 million, which was to
3 be used exclusively by MEC.

4 The expectation is that we have a hearing set for
5 April 3rd, at which a final order will be requested. The
6 order granting the \$13.4 million in DIP financing is an
7 interim order. A permanent order will be requested and
8 sought at the April 3rd hearing, and we hope that the court
9 will agree to grant the entire amount of funds that we had
10 requested.

11 Future motions that we anticipate filing, or have
12 been filed, and will be argued either on March 27th, which
13 is the next hearing before the bankruptcy, or April 13th,
14 which is where most of these motions actually be argued, are
15 to seek permanent DIP financing with respect to the ongoing
16 operations of MEC, and its subsidiaries.

17 And then also seek an order setting procedures for
18 optioning off the assets that are covered under the MID
19 stalking horse bid.

20 Which, for your recollection, are the AmTote
21 International and AmTote Canada Companies, Golden Gate
22 Fields, Gulfstream Park, Lonestar Park, Paul Meadows
23 Training Center, XpressBet, a whole back note related to the
24 sale of the Meadows a year or so ago, and then various real
25 estate joint ventures -- or a real estate joint venture with

1 Forest City Enterprises, which relates to the facilities at
2 Gulfstream.

3 Another future motion that is being filed and will
4 be set for arguing on April 3rd, is the order setting,
5 seeking procedures for auctioning off the assets that are
6 not covered by the MID stalking horse bid.

7 And those assets include Santa Anita, Pimlico, and
8 Laurel Park Racetracks, Thistledown, Remington Park,
9 Portland Meadows, the HRTV joint venture interest, the
10 Tracknet Media joint venture interest, and various other
11 non-pari-mutuel wagering assets, including our training
12 facilities.

13 There seems to have been some confusion, based on
14 reports in the press that I had read in the recent past, so
15 I thought we would take the opportunity to clarify what's
16 supposed to happen and when.

17 With respect to the MID stalking horse bid, the
18 motion that is before the court, which if anyone's
19 interested, you can find it by going to the website,
20 www.kccllc.net/magna. It has the entire list of motions and
21 orders that have been filed in respect of this case.

22 What we have proposed and will argue on April 3rd,
23 is that April 24th be the deadline for prospective bidders
24 to submit expressions of interest in any or all of the
25 assets.

1 The MID proposal has been filed as an exhibit. So
2 everyone who seeks to be a prospective bidder can look at
3 that and decide for themselves the extent to which they want
4 to match, or bid something that's at least a million dollars
5 more than the 195 million that's set forth in the MID
6 stalking horse bid, or choose among the various assets and
7 make bids on those assets, alone.

8 The next deadline is July 8th, where we propose it
9 for being the deadline for submitting actual bids to
10 purchase any or all of the assets of this group of what I
11 call the MID stalking horse assets.

12 The period between April 24th and July 8th will be
13 the period where prospective bidders will have the
14 opportunity to conduct due diligence on these various
15 assets.

16 July 14th will be the deadline for -- I'm sorry.
17 Yeah, July 8th is when the bids are to be submitted.

18 July 14th, they will be reviewed to determine
19 whether and to what extent each bidder is "a qualified
20 bidder." They have to meet certain standards, which are set
21 forth in the motion and, hopefully, will be incorporated in
22 the order, or such other standards that the court might
23 incorporate in its final order.

24 To the extent there are multiple bidders for one
25 property or one group of assets, there will be an auction.

1 And that will occur on July 16th, which is contrary to what
2 has been reported in the press.

3 On August 4th, we propose that to be the date for
4 a hearing that would seek a sale order in respect to any of
5 the winning days.

6 So that's the time frame that's being proposed for
7 the auction of the MID stalking horse assets.

8 Now, as you know, we have another group of assets
9 that's not in the MID stalking horse bid.

10 And the timeline there is fairly similar. We've
11 had, obviously, as one can imagine, we've had to separate
12 the dates a bit so as to allow for proper attention to be
13 given to both sets of both bidding processes.

14 Again, on April 24th, we'd propose that as the
15 deadline for prospective bidders to submit expressions of
16 interest in any or all of the assets.

17 Just as with the MID stalking horse process,
18 they'll be asked to sign a confidentiality agreement.
19 They'll be allowed to undertake due diligence, and determine
20 the extent to which they are interested in making a formal
21 bid.

22 July 8th will be the proposed deadline for
23 submitting bids to purchase any or all of the assets that
24 are outside of the MID stalking horse bid.

25 July 20th will be the deadline for determining

1 qualified bidders, much in the same manner as will be used
2 for the MID stalking horse assets.

3 July 30th will be the auction for any assets that
4 have multiple qualified bidders, which is about 14 days
5 after the MID stalking horse asset auction.

6 And then August 7th will be the proposed date for
7 a hearing seeking the sale order in respect of the winning
8 bids on those assets.

9 What I'd like to turn to now are some just
10 additional ancillary issues, particularly those that are of
11 particular importance to the California industry.

12 As many know, there are pre-petition claims for
13 statutory fees related to various elements of the Scotwinc
14 and Notwinc functions. I've listed them for you, on the
15 screen. Everybody knows them, probably even better than I.

16 There's the employee-related expenses at both
17 those sites. There's location fees that go to the various
18 sites, that hold wagering on behalf of the racetracks who
19 are running live.

20 There's the stabling and vanning fees. There's a
21 marketing and promotion fee, and then there are ATM fees.

22 I can say that with respect to the employee-
23 related expenses, since they are matters that were covered
24 by, specifically within one of the first-day rulings of the
25 court, that those expenses are being addressed, and they

1 already have been addressed as it relates to pre-petition.

2 I also understand that we are expediting payment
3 of all post-petition claims, on a more frequent basis, so as
4 to maintain the cash liquidity of the Notwinc and Scotwinc
5 sites.

6 As to the remaining, there are various issues that
7 relate to those, and it's kind of an incorporation of both
8 bankruptcy law, the structure in which those fees are
9 handled, that we have to deal with on a case-by-case basis.
10 We are in the process of working on those and hope to have
11 them resolved, in terms of a definitive answer for each of
12 the stakeholders, as soon as we can.

13 At this point, I'd like to turn to the whole issue
14 of the sale of XpressBet. And, basically, I can cover that
15 quite briefly.

16 As everyone knows, XpressBet is one of the assets
17 that's included in the MID stalking horse bid. It's a
18 presumptive sale to MID, subject to someone coming in and
19 making a better offer, that MID chooses not to match.

20 We have already given thought to the various
21 issues and regulatory issues, as it relates to both the
22 XpressBet sale, but also as to all other assets that are
23 regulated, not only in California, but in other states, of
24 anticipating what will need to be done from a regulatory
25 stand point, and an application stand point.

1 So that once the sale is determined, or prior to
2 the determination of the bidder, we will have in motion
3 steps necessary to get an expedited and, hopefully, quick
4 review, and consideration of the future, prospective buyer.

5 With that, I open it up to any questions that the
6 Commissioners might have.

7 As I did at the last presentation, I provided a
8 written, or hardcopy of my presentation, so that you can
9 take that home, in case you have problems falling asleep.

10 BOARD CHAIRPERSON HARRIS: Thank you. That was a
11 boring presentation.

12 Any questions from the Commission? Mr. Choper.

13 BOARD MEMBER CHOPER: There was one word going
14 around that in some way, under the bankruptcy law, is it
15 MID, is that the stalking horse bidder?

16 MR. SCOGGINS: Yes, sir.

17 BOARD MEMBER CHOPER: Yeah. That they had some
18 preference in any auction process. Is there anything to
19 that?

20 MR. SCOGGINS: What I can say is that MID, as the
21 primary creditor of MEC, put in a initial bid for what's
22 called the stalking horse assets.

23 So there is an agreement in place for MID to
24 receive these various assets for a price of 195 million,
25 unless and to the extent some other bidder comes

1 in --

2 BOARD MEMBER CHOPER: Yes.

3 MR. SCOGGINS: -- either in total, or piece by
4 piece, offers something better in terms of price and terms.
5 MID will have the opportunity of whether to match that
6 price. But what we're trying to do is set a floor so that
7 those assets are sold at an appropriate price and to avoid
8 fire sale type prices, and that was the purpose for the
9 stalking horse bid.

10 BOARD MEMBER CHOPER: If MID -- let's just say
11 one, let's say Golden Gate Fields, right.

12 MR. SCOGGINS: Yeah.

13 BOARD MEMBER CHOPER: So MID has them in the total
14 stalking horse bid.

15 MR. SCOGGINS: Right.

16 BOARD MEMBER CHOPER: And someone comes in and
17 offers whatever, \$60 million for Golden Gate Fields, and I
18 take it MID can come back and do what?

19 MR. SCOGGINS: If it's determined that the \$60
20 million offer is the highest and best offer for Golden Gate
21 Fields, MID will be given the opportunity to say I will pay
22 \$60 million and then they will be afforded the right. And
23 the same terms and conditions --

24 BOARD MEMBER CHOPER: Well, how about the
25 competing bidder, can the competing bidder say, well, if

1 you've matched it, I'll up it five?

2 MR. SCOGGINS: Well, there will be an auction
3 process.

4 BOARD MEMBER CHOPER: There will be an auction
5 process?

6 MR. SCOGGINS: Yes. And so at the end of the
7 auction process, they'll have a prospective -- they'll have
8 a presumptive bidding winner, and then MID will probably
9 have an opportunity to come in and say, as to this offer, I
10 choose to match it.

11 BOARD MEMBER CHOPER: So what you're saying is if
12 in the auction process there's a tie between MID and someone
13 else, they prevail?

14 MR. SCOGGINS: MID would prevail, yes.

15 BOARD MEMBER CHOPER: But that's the only -- but
16 there can be a regular auction, taking it right up the
17 ladder?

18 MR. SCOGGINS: Yes, sir.

19 BOARD MEMBER CHOPER: Thank you.

20 BOARD CHAIRPERSON ISRAEL: Is there evaluation
21 attributed to each of the assets in the stalking horse bid
22 as of today, or is there just a total number?

23 MR. SCOGGINS: It's a total number. There's no
24 break down as to what asset has been allocated a certain
25 price.

1 BOARD CHAIRPERSON ISRAEL: So what happens if a
2 competing bidder comes in, is interested, as Jesse said, in
3 just one of the assets, is he firing blind, not knowing
4 where you value it or is there some information?

5 MR. SCOGGINS: That's a great question. I don't
6 know the answer to it right now. My hope is, and
7 expectation is, that there will be some guideposts given to
8 prospective bidders as to where things stand.

9 But in the purchase agreement right now, the price
10 that's been given for the stalking horse assets is 195 in
11 total.

12 BOARD CHAIRPERSON ISRAEL: Because I would think
13 that would discourage competition, you're asking people to
14 bid against themselves.

15 MR. SCOGGINS: I didn't come up with the
16 procedure. So I hear what you're saying.

17 And I think the idea is to come in and encourage
18 people to participate in the process.

19 BOARD CHAIRPERSON HARRIS: But in the stalking
20 horse bid, you've got to take the package, you can't cherry
21 pick?

22 BOARD CHAIRPERSON ISRAEL: No, no, you can cherry
23 pick.

24 BOARD MEMBER CHOPER: No, no.

25 BOARD CHAIRPERSON ISRAEL: But they're not willing

1 to tell you how much each is valued at.

2 BOARD MEMBER CHOPER: No, but you can come in with
3 a lowball bid. And if MID doesn't match it, that's a pretty
4 decent indication of what the property is worth. I mean,
5 that's the purpose of an auction.

6 BOARD CHAIRPERSON HARRIS: But even if do
7 the -- say you came into a lowball bid, you've still got to
8 go to an auction where other bidders would have
9 the --

10 BOARD MEMBER CHOPER: Oh, yeah.

11 MR. SCOGGINS: That's right. I mean, what will
12 happen is that qualified bidders will be identified based on
13 their bids, and there will be expectations set for what
14 constitutes a qualified bidder.

15 So, presumably, they'll be looking at the quality
16 of the bid that's being made with respect to a particular
17 asset, if they are picking a certain asset.

18 They will be invited to participate in an auction,
19 at which point other bidders will be participating for that.

20 And the end of the day, MID will be given the
21 opportunity whether to match that final bid. If MID feels
22 that's a bid worth bidding then, obviously, they have the
23 chance to take it.

24 If someone really wants a particular asset, they
25 know that there's a matching opportunity out there, that

1 would hopefully be a momentum, or an incentive for them to
2 make a realistic bid, that will allow them to walk away with
3 the asset.

4 BOARD CHAIRPERSON HARRIS: Are there any other
5 questions by the Board?

6 It seems as if you're moving this along fairly
7 quickly. Do you think that's a fairly realistic timetable
8 in other type of transactions?

9 MR. SCOGGINS: Well, I know that that's been the
10 timetable that's been set. You know, right from the very
11 beginning, when the March 6th hearing was held, the April
12 3rd hearing was identified as the hearing for all these
13 subsequent motions.

14 And so we recognize, we have a six-month period of
15 time in which to implement the plan. And so we don't want
16 to waste any time during that process, so we can ensure that
17 there's enough time to receive the bids and still be able to
18 achieve a satisfactory bankruptcy plan.

19 BOARD CHAIRPERSON HARRIS: Thank you.

20 EXECUTIVE DIRECTOR BREED: Mr. Chairman? Kirk
21 Breed.

22 I think we're including 10, 11, and 12 in this
23 discussion, right?

24 BOARD CHAIRPERSON HARRIS: Yes, yes. So we'll go
25 onto -- if that's the completion of the comments on

1 the -- it's an unfortunate situation, but I'm glad things
2 seem to be in place.

3 BOARD MEMBER CHOPER: I'd just like to say, once
4 again, I think you've made it clear as to what's going on.
5 People -- I mean, an awful lot of writing going on in the
6 media that's offbase, and scaring a lot of people. I guess
7 that's just the price you pay for the media.

8 MR. SCOGGINS: Well, thank you. I mean, the
9 reality is that we are -- we realize that there is an
10 importance to making sure that everyone knows what's going
11 on and is provided accurate information, as best we can.
12 And so -- because confusion is, sometimes, the rule of the
13 day, and we're trying to avoid that.

14 BOARD MEMBER CHOPER: Are you passing this out,
15 generally, to the media?

16 MR. SCOGGINS: If people would like a copy, I'd be
17 happy to provide it.

18 BOARD CHAIRPERSON HARRIS: Okay, anything else on
19 this?

20 If not, we're going to keep moving along. People
21 will start showing up for the races here.

22 The next item is an item that was added --

23 EXECUTIVE DIRECTOR BREED: No, no, we're going to
24 Item 13.

25 BOARD CHAIRPERSON HARRIS: Okay, we'll go ahead

1 with 13, which is the charity day distribution at Hollywood
2 Park.

3 THE REPORTER: Mr. Chairman, excuse me?

4 BOARD CHAIRPERSON HARRIS: Yeah.

5 MR. KORBY: Are we moving to Item 11?

6 BOARD CHAIRPERSON ISRAEL: It was just included in
7 this presentation.

8 BOARD CHAIRPERSON HARRIS: Yeah, we discussed,
9 really, 10, 11, and 12.

10 But if you have a comment to make?

11 MR. KORBY: May I?

12 BOARD CHAIRPERSON HARRIS: Yeah.

13 MR. KORBY: If it please the Board. Chris Korby,
14 on behalf of the California Authority of Racing Fairs.

15 On behalf of the 20 plus fairs, who are members of
16 our organization, I just want to express our extreme
17 disappointment and unhappiness that the location fees are
18 being held up in this bankruptcy. I only wish that they
19 would have been included in those payments and statutory
20 distributions that were paid out prior to the bankruptcy.

21 This is causing extreme hardship for some of the
22 smaller satellite facilities. And they've been taken to the
23 brink of having to close because they're under severe cash
24 flow straits.

25 They've generally made reference to some expedited

1 prepayments, which we appreciate, that's helpful. But,
2 essentially, the satellites have not been paid for the month
3 of February. Those checks have all been returned by the
4 bank.

5 So when can we see our money?

6 BOARD CHAIRPERSON HARRIS: Can you answer that?

7 MR. SCOGGINS: I assume that's a question for me.

8 Well, as I indicated in my remarks, there are a number of
9 variabilities between Northern and Southern California as to
10 how the fees are handled, and that affects the ability for
11 us to address a pre-petition claim as one that has to go
12 through the process, as opposed to one that can be treated
13 in a different way.

14 We are looking at each of those various fees and
15 our ability to pay those fees.

16 We hope to have a resolution or a determination as
17 to how we can treat each of those fees in the very near
18 future, and we will make sure that all of the stakeholders
19 are made aware of that.

20 So that in some cases, we may be in a situation
21 where there's nothing more we can do than to have that
22 stakeholder go through the bankruptcy process. They will
23 get paid, it's just a matter of on a much more delayed time
24 frame, than they would otherwise have expected for
25 preferred.

1 MR. KORBY: If we could talk about the first
2 scenario that you mentioned, that there's a method for
3 paying without going through the bankruptcy proceedings,
4 what would be the time frame for that?

5 MR. SCOGGINS: Until we have settled and
6 determined for ourselves what we can do, and how we can do
7 it, I can't give you a time.

8 It would be, presumably, before August and,
9 hopefully, even well before then.

10 MR. KORBY: Can you describe the differences that
11 you just prefaced between Northern and Southern California,
12 and why there would be differences?

13 MR. SCOGGINS: It's really a function of how those
14 two organizations are set up and how the fees are
15 distributed among the various participants.

16 You have one type of fee that's paid directly to
17 tracks in one case, and that same fee is paid in a different
18 way, it's cycled through the entity in another case.

19 And that creates different issues for us to have
20 to resolve, and address, and think about how best -- how
21 they need to be handled, and how they can be handled.

22 MR. KORBY: Well, we would appreciate receiving
23 those funds as soon as possible.

24 MR. SCOGGINS: The message is received loud and
25 clear, and we're doing everything we can to resolve those

1 issues as quickly as we can, and we're certainly let you
2 know, and everyone else who has a stake in it.

3 MR. KORBY: Thank you. Thanks for the report.

4 BOARD MEMBER CHOPER: Would it make any sense to
5 try -- it probably won't. But to try to get any earlier
6 payments than those that are really prepared to close,
7 because they cannot cover their operating costs, which we've
8 got a letter like that from one of the satellite. That's a
9 preference of some sort. You say some of those are going to
10 get paid in the end --

11 MR. SCOGGINS: Right.

12 BOARD MEMBER CHOPER: So I just wonder if there
13 was something you could do for that, to keep everything
14 running, to the extent that we can.

15 MR. SCOGGINS: The bankruptcy rules are fairly
16 specific, in that if it is something that is pre-petition,
17 and there isn't another means by which that pre-petition
18 claim can be satisfied, then it falls in as a nonsecured
19 creditor claim, and it has to go into the line with the
20 other general unsecured creditors.

21 And there's nothing we can do about that, to the
22 extent that is the type of claim, if it's in a pre-petition
23 basis.

24 There are various ways in which fees can be
25 address, if they're pre-petition fees. But in the case of

1 any fee that's owed, that's a pre-petition fee, and it falls
2 as a nonsecured debt, the best we can do is to try and speed
3 up payment of those things that, you know, shorten the time
4 frame between when we make payments on a going-forward basis
5 so as to manage -- help them manage their cash needs as best
6 we can.

7 BOARD MEMBER CHOPER: Well, maybe you could
8 continue to be in touch, at least for that purpose.

9 MR. SCOGGINS: Absolutely.

10 BOARD MEMBER CHOPER: For the speed-up purpose, if
11 you've got people that are really in bad shape.

12 MR. KORBY: I think it would be helpful to assign
13 priorities for payment. Before I can include your -- if the
14 Board will allow me, I think it's important to note that
15 this is now the second time in a year where location fees
16 have not been paid to satellites.

17 The first instance was Sacramento Harness
18 Association. This is not a good way to go forward.

19 I've made some recommendations to the entities
20 that comprise Notwinc and Scotwinc about how we can
21 restructure how those monies flow, and I think that would be
22 helpful. There are ways we can protect them.

23 But these are statutory distributions. We
24 maintain that these distributions must be made, by the law.

25 So we ask the Board to please take that into

1 consideration when you're talking about licensing
2 associations, and the enforcement about distribution of
3 monies. Thank you.

4 BOARD MEMBER CHOPER: I think that's something we
5 can probably do going forward. But I just don't think that
6 once the assets here are in the hands of the bankruptcy
7 court -- I may be wrong about this, but I think it's
8 just -- it's done. And the only thing you can do is try to
9 accelerate the process.

10 BOARD CHAIRPERSON HARRIS: Going forward we really
11 need to look at that, maybe there could be some letter of
12 credits or something that you could --

13 BOARD MEMBER CHOPER: Oh, yeah.

14 BOARD CHAIRPERSON HARRIS: -- be on hand.

15 MR. FRAVEL: Mr. Chairman, Craig Fravel, Del Mar,
16 again.

17 Two things. One, I think the Board could be
18 helpful in other ways, as well. There are a number of the
19 ADW companies that are still holding pre-petition
20 distributions, such as satellite location fees.

21 And we have contacted them through Tom Varela, at
22 Scotwinc, and asked them to withhold making those payments
23 for the time being. But I think all of them would feel more
24 comfortable if there was some sort of official direction.
25 And I think the Board would be a great place for that

1 direction to come from, to make those payments.

2 And Mr. Scoggins has made this agreement with me.
3 But to make those payments directly to the satellite
4 locations, or to Scotwinc, so it can distribute them, rather
5 than placing them in the hands of the debtor and having
6 those referenced as pre-petition assets.

7 So our view is those don't belong to Magna. And
8 to the extent they hold them, they hold them as essentially
9 in a fiduciary capacity.

10 And we would like to request to the Board consider
11 issuing an order to the ADW companies and, indeed, anybody
12 else who holds a third-party distribution, that's outside
13 the bankruptcy estate, to make those distributions directly
14 to the industry recipients.

15 BOARD MEMBER CHOPER: And you think that's
16 consistent with the bankruptcy filing?

17 MR. FRAVEL: Well, I'm not a bankruptcy lawyer, or
18 any other kind of lawyer anymore. So I'll let Mr. Scoggins
19 answer that one.

20 MR. SCOGGINS: Well, with the disclaimer that I'm
21 not a bankruptcy lawyer, either, but I've had opportunity to
22 read some pleadings.

23 The scenario that Mr. Fravel described is one of
24 the scenarios I did not list on my presentation, but had
25 intended to. And that is the whole concern that by law the

1 ADWs owe these fees to the State.

2 And as it turns out, those fees are paid through
3 the particular track that has the contract with the ADW.

4 So we are looking -- there are various ways in
5 which you can look at a fee that's owed and say is this a
6 fee that really is a fee of the petitioner, as opposed to a
7 fee of somebody else, and the petitioner's merely a
8 custodian of those fees, and you would ask the court for
9 permission to be able to release those fees, so that those
10 parties that are owed them are made whole.

11 So those are the types of issues we're looking at,
12 is that when you look at a particular fee, under the
13 framework that the court has established with this case,
14 which of those fees fall under the pre-petition claims,
15 which have to follow through the ordinary course of the
16 bankruptcy proceeding, and which of those claims fall
17 outside.

18 We haven't determined, finally, where we stand
19 with respect to the various fees. But I am hopeful that we
20 will know within a week's time.

21 MR. FRAVEL: Again, Mr. Chairman, I think that
22 some official action by the Board might be helpful to Mr.
23 Scoggins and they're internal -- and as I understand it, a
24 lot of these debates are going on, not with the court, but
25 with bankruptcy counsel, as to whether they can effectively

1 render their view that it's legitimate to pay it.

2 And I think if this Board were to take some strong
3 action in that regard, it might be helpful.

4 The second point, and I think it needs to be said,
5 and Mr. Korby said it pretty strongly, but some of these
6 distributions are vital to the ongoing operation of Magna's
7 operation.

8 If, for example, Hollywood Park's not getting paid
9 for stabling and vanning, I don't think anybody can expect
10 Hollywood park to finance the stabling operation for Santa
11 Anita.

12 And so there is a point at which the industry's
13 patience, as essential service providers, and I kind of look
14 at some of these functions as utilities, for example. I
15 mean, you can't run racing without stabling and vanning
16 operations.

17 And I do believe that if the Board could work with
18 the debtor and its counsel to, you know, take a strong
19 position on the necessity for making these payments, because
20 the danger is a lot of these funds are running out of money.

21 I think people need to understand that they're
22 running out of money and there's nobody else to pay it. I
23 mean, Del Mar's not going to run in and pay a bunch of
24 money, and you guys don't have any money to pay it, and
25 Hollywood Park's not going to pay it.

1 So, I mean, the people who are generating the
2 funds and are paid it -- or are owed it, are really the only
3 source for the payment. I think it's important that
4 everybody understand that.

5 BOARD MEMBER CHOPER: Is it your understanding
6 that the payment of these funds is not a question of whether
7 they'll ever be paid, but when?

8 MR. FRAVEL: Well, I guess that depends on what
9 everybody thinks --

10 BOARD MEMBER CHOPER: And that a premature, an
11 earlier payment would not prejudice any other people, who
12 have a statutory entitlement to the money?

13 MR. FRAVEL: Well, I think the one thing that's
14 going to prejudice others is if some of these things start
15 shutting down.

16 I mean, the assets, themselves, will degenerate in
17 value if that were to happen.

18 And I think the purpose of a reorganization
19 bankruptcy, as I've learned in the last month or so, is for
20 the debtor to continue its operations essentially as is,
21 without jeopardizing that operation.

22 I just think everyone needs to be aware that the
23 nonpayment of some of these pre-petition distributions, and
24 I'm not talking whether they owe somebody -- and Mr. Liebau
25 made some essentially good points, I think at the last

1 meeting, that there are players out there, at certain
2 locations, that haven't been paid wagering earnings, as I
3 understand it.

4 And again, that -- in terms of your ongoing
5 business and your ability to generate confidence by the
6 betting public that you're going to make good on your
7 promises.

8 And again, Mr. Scoggins, you can correct me if I'm
9 wrong. But those items need to be addressed. And I think
10 the essential character of these payments needs to be made
11 clear.

12 BOARD CHAIRPERSON HARRIS: Yeah, I think we can do
13 that. I'm not sure how we can intervene and really tell the
14 bankruptcy court what to do, but we can clarify with them
15 that we feel these are definitely custodial accounts, and
16 they should be paid, and people are being damaged right now
17 by not being paid.

18 And I think we can take a motion, from the Board,
19 to authorize our Executive Director to do that.

20 But the problem is that the bankruptcy court still
21 has to rule on it.

22 BOARD MEMBER CHOPER: Is it true that the
23 bankruptcy court has to rule on any of these things that
24 you've suggested, the acceleration, and so forth?

25 MR. SCOGGINS: With respect to the extent that it

1 is considered a pre-petition claim that would fall within
2 the bankruptcy court's jurisdiction, yes.

3 And one of the options we're exploring is as to
4 those claims that fall as -- currently, as the case is
5 currently situated, if they are a pre-petition claim, then
6 we would have to make a motion to the court, saying, these
7 claims, even though they're pre-petitioned, should be paid
8 for the following reasons, and we have to make a case for
9 that.

10 We are exploring that -- you know, those -- among
11 our options, that is one of the things that we are
12 exploring.

13 BOARD CHAIRPERSON HARRIS: Well, including -- we
14 want to do that.

15 BOARD MEMBER CHOPER: I think we ought to have a
16 -- I mean, we can certainly say we're glad to hear that
17 you're doing it, we encourage you to do it, and to do it as
18 quickly as you possibly can.

19 BOARD CHAIRPERSON ISRAEL: Should we instruct our
20 Executive Director to prepare, with legal counsel, a letter
21 to be sent to the bankruptcy court, would that be of any
22 moment.

23 MR. SCOGGINS: I think the -- probably, I mean
24 it's something where we probably just need to have dialogue
25 with Mr. Breed on this, to figure out the right course.

1 But I think just a letter into the bankruptcy
2 court is probably not going to have the kind of impetus or
3 impact that you would hope.

4 Probably the better course is that it be filed in
5 connection with a motion that would be made, that would
6 demonstrate the various stakeholders, the CHRB being one of
7 those, saying why this is important, and this is why, Judge,
8 you need to rule this way as it relates to this particular
9 thing.

10 BOARD CHAIRPERSON ISRAEL: Who would have to make
11 that motion?

12 BOARD MEMBER CHOPER: We'd have to join with
13 somebody else, I guess.

14 MR. LIEBAU: Jack Liebau, from Hollywood Park.

15 I realize that I have tried the patience of the
16 Commission in arguing this point. And at the time that I
17 was arguing it with respect to Sacramento Harness, I realize
18 it was Sacramento Harness and it was not that significant.

19 Today, things are damn significant.

20 And I think that what this Board should do, and I
21 know I'm repeating myself, is to interpret the law. And I
22 don't think that you've done that.

23 And I think that as things now stand, this Board,
24 you, have not declared that when you enter into pari-mutual
25 betting in California that the track is a stakeholder.

1 There is no way in hell that the guy that goes out
2 there and makes a \$2 bet is a general creditor. And that's
3 exactly what's happened.

4 And I'm sorry for getting excited about it, but I
5 mean, I warned everybody that that was going to happen.

6 And we now have people, that have made bets, that
7 are being treated as general creditors. They may not get
8 paid a hundred cents on a dollar. They may not get paid for
9 two years. They may not get paid for three years.

10 What I think that this Board should do is pass a
11 resolution, at the next meeting, that interprets California
12 law, which is something that a regulatory agency can clearly
13 do, saying that these funds that are statutory funds, that
14 they are mandatory distributions, that they're held in
15 trust.

16 You've got a rule, that I found through
17 happenstance, that I should have been arguing early on,
18 which is 1470, of the Rules and Regulations, that's pretty
19 clear on this.

20 BOARD MEMBER CHOPER: Yes.

21 MR. LIEBAU: But I just don't understand why
22 there's any reluctance. And I would hope at the next
23 meeting that you will pass a resolution that will clarify
24 things, at least for the future, that these funds are being
25 held in trust. They're supposed to be in segregated

1 accounts.

2 They're, you know, for everybody's benefit that's
3 a third-party beneficiary of the law of the State of
4 California.

5 BOARD MEMBER CHOPER: I think we did that,
6 actually, and ordered them to -- and ordered Sacramento
7 Harness to --

8 MR. LIEBAU: No, we ordered that they were
9 mandatory payments.

10 BOARD MEMBER CHOPER: Yeah.

11 MR. LIEBAU: That opinion, Mr. Choper, is somewhat
12 confusing. And as you'll recall, there was a split vote on
13 that.

14 BOARD MEMBER CHOPER: It was and I voted against
15 it. But I certainly support what you say, given the fact
16 that this ultimately has to be resolved by the bankruptcy
17 court. I was reluctant --

18 MR. LIEBAU: No, I understand that. But what I'm
19 saying now --

20 BOARD MEMBER CHOPER: -- to try to order payments
21 outside the bankruptcy court's jurisdiction.

22 MR. LIEBAU: But what we have now is if we would
23 have a clear interpretation of what the law is in
24 California, it certainly would be helpful, it can't hurt
25 anything.

1 BOARD MEMBER CHOPER: No. I agree.

2 BOARD CHAIRPERSON HARRIS: No, I think that's why
3 we wanted -- I mean, you think there is a clear, and we
4 think the clear is --

5 BOARD MEMBER CHOPER: I think we could take your
6 memorandum and draft something out of that.

7 MR. LIEBAU: Well, I think we may be able to get
8 some assistance from some outside sources, as far as the
9 tracks are concerned, that would be helpful as far as going
10 to the bankruptcy court.

11 I think that will have more force and effect than
12 sending them a letter and saying please help us.

13 BOARD CHAIRPERSON HARRIS: Well, I think we got to
14 do more than just send a letter. I'm not clear if they
15 really care what CHRB thinks about it or not.

16 But I think any way we can elevate the category of
17 those claims to something that gets them paid is good.

18 MR. SCOGGINS: The key would be being able to
19 elevate them to a claim that is -- that the bankruptcy court
20 determines is important in order for the long-term success
21 of the debtor.

22 And just to remind everybody here, perhaps it goes
23 without saying, when bankruptcy is filed, there is what's
24 called an automatic stay that applies, that prevents people
25 from trying to seek means to force a debtor to pay a pre-

1 petition claim that is not -- that is a pre-petition claim.

2 And, unfortunately, there are courts that have
3 held that that even applies to state agencies. In fact,
4 there is a rule to that effect, that says that state
5 agencies aren't able to condition one's license or revoke
6 one's license for their failure to pay the types of fees
7 that they were otherwise required to pay.

8 BOARD CHAIRPERSON HARRIS: Well, that's the thing.
9 We're not conditioning any licenses at all. What we're
10 trying to do is keep, basically, the debtor's assets viable,
11 if they won't be if all these funds collapse and the whole
12 income stream is no longer there.

13 MR. SCOGGINS: I totally understand and we,
14 obviously, agree. We know the importance of the fees and we
15 hope to be able to address each and every one of them as
16 best we can, to make sure that they get treated as essential
17 payments.

18 MR. KORBY: If I may, Mr. Chairman, I want to
19 express my concurrence with Mr. Liebau's recommendation,
20 first of all.

21 Chris Korby, California Authority of Racing Fairs.

22 And secondly, counsel made reference to, I believe
23 it was the Southern California situation. And correct me if
24 I'm wrong, my understanding of what you said is that you are
25 discussing, internally, I think you said with the bankruptcy

1 attorneys, a mechanism by which you can make a decision to
2 pay the location fees, and I believe it's for Southern
3 California you referenced, outside the bankruptcy
4 proceedings. Is that correct?

5 MR. SCOGGINS: We are exploring ways in
6 which -- determining how the various fees, whether they be
7 location fees, stabling and vanning fees, promotion and
8 marketing fees would be treated, as to whether they fall
9 within any of the first-day motions and orders, or whether
10 they fall outside a -- being characterized as a pre-petition
11 claim.

12 To the extent they fall either in one or the other
13 categories, or to the extent we can make an argument, as in
14 the ADW fees, that we are merely being trustees and we
15 should be permitted the right to release those fees, those
16 are the kinds of things we are exploring.

17 We will reach different conclusions with respect
18 to different fees, and we may reach different conclusions
19 with respect to the same fee, based on whether it's in
20 Northern California or Southern California, because of the
21 way in which those entities are organized.

22 MR. KORBY: Well, it would seem to me then, sir,
23 and addressing the Board as well, that if there are
24 dispositions or decisions that could be made about
25 disposition of funds, outside of the bankruptcy proceedings,

1 then the Board may be able to exert some influence into how
2 those decisions are made.

3 Is there a way in which the Board can be of
4 assistance to our cause, in your internal discussions? Is
5 there an action that the Board could take?

6 MR. SCOGGINS: I hesitate to give an answer there
7 because I -- it would dependent on the folks who are making
8 those internal decisions to decide whether or not some
9 action by the CHRB is going to persuade them.

10 I mean, the law is the law, and it's interpreted
11 to be the law based on the people who are looking at it.

12 And so I would like to think that we have made
13 every strenuous effort that we can make to help counsel, and
14 everyone internally, agree that as to these fees we need to
15 make sure that we satisfy them as quickly as possible.

16 Certainly, a letter from the Racing Board, saying,
17 we agree with the need for these fees to be paid won't hurt.
18 I think that's a comment that was made. But I don't know
19 how much farther it will move the ball.

20 BOARD CHAIRPERSON HARRIS: Is there some way the
21 court could be petitioned to deem, you know, this bucket of
22 fees that we're looking at, to be a bucket that needs to be
23 made.

24 BOARD MEMBER CHOPER: You say make a motion.

25 MR. SCOGGINS: Yeah, there are various efforts.

1 At the end of the day, the effort that might prove the most
2 fruitful, for purposes of some of these fees, would be a
3 motion to that effect, to the bankruptcy court. They'd have
4 to have a hearing, and she would have to decide whether or
5 not she agrees.

6 BOARD CHAIRPERSON ISRAEL: Aren't similar things
7 occurring in Maryland and Florida?

8 MR. SCOGGINS: Yes, California is not the only
9 one.

10 BOARD CHAIRPERSON ISRAEL: We're not unique in
11 this regard, right?

12 MR. SCOGGINS: No, there are various issues in
13 each of our states. They vary, depending on the situation.
14 But, you know, it's not uncommon in a bankruptcy, where
15 there's a lot of confusion, there's a lot of moving parts.
16 And you try and anticipate, as much as you can, those parts,
17 and address them as best you can.

18 But at the end of the day, depending on how the
19 judge makes his or her ruling, and depending on how things
20 unfold, you're going to have to make adjustments along the
21 way.

22 And we've got these issues in California, we have
23 different issues in Maryland. They're equally important to
24 the horsemen and stakeholders in Maryland, as they are here,
25 in California, and we're doing our best to address each of

1 those concerns in respect of each of the states.

2 BOARD CHAIRPERSON ISRAEL: Then can I ask a
3 question of both Chris and Jack? Are there not funds that
4 ultimately will be owed by your organizations to Santa
5 Anita, and Magna, and in a similar way that you could just
6 withhold at the time that occurs, to make things even?

7 MR. LIEBAU: No, there are not, under the
8 California system. The amounts that are bet at the
9 satellites goes to the host and the host distributes them.

10 BOARD CHAIRPERSON ISRAEL: I understand that. But
11 once you open in April? Well, is there no way to balance
12 the books in some way? Because I assume funds get
13 transferred, checks get written in both directions.

14 MR. LIEBAU: I think the problem, Commissioner
15 Israel, is that pre-election debts can't be offset against
16 post-election revenue.

17 MR. SCOGGINS: That's right.

18 BOARD MEMBER CHOPER: I think the bankruptcy law
19 took care of your point already.

20 BOARD CHAIRPERSON HARRIS: No, that's a problem.
21 It would be a good idea, but it won't work.

22 MR. SCOGGINS: Yeah, you have to apply pre-
23 petition against pre-petition and post-petition against
24 post-petition.

25 MR. LIEBAU: I thank the Board.

1 BOARD CHAIRPERSON HARRIS: Thank you.

2 MR. CHARLES: Ron Charles, MEC. Just to clarify a
3 statement that was made, that as far as I'm under the
4 impression, and Robert Hartman agrees, every bettor has been
5 paid, that played pre- or post-bankruptcy. Okay. So the
6 bettors, themselves, have not been withheld their winnings.

7 BOARD MEMBER CHOPER: It's the satellites, so far,
8 we've heard the most from.

9 MR. CHARLES: It's the satellite or an entity
10 holding the wagers for those bets. The bettors, themselves,
11 have been paid.

12 BOARD CHAIRPERSON ISRAEL: So an uncashed ticket,
13 purchased at a satellite facility, elsewhere in the State,
14 that somebody brings in front pre -- a pre-petitioned
15 uncashed ticket, will be honored and cashed.

16 MR. CHARLES: Has been paid.

17 BOARD CHAIRPERSON ISRAEL: Or will be paid?

18 MR. CHARLES: Yes, it's my understanding. And we
19 have not had one call that anyone has not been paid.

20 BOARD CHAIRPERSON HARRIS: Yeah, that's not a
21 problem. The problem is just these funds.

22 MR. CHARLES: Absolutely.

23 BOARD CHAIRPERSON HARRIS: Okay, anything else on
24 this?

25 MR. CASTRO: Hi.

1 BOARD CHAIRPERSON HARRIS: Mr. Castro.

2 MR. CASTRO: How are you? My name is Richard
3 Castro, representing Pari-Mutuel Employees Guild.

4 Just for the record, I want to also let you know
5 that the bankrupt Sacramento Harness meet owes us health and
6 welfare payments, and they owe us pension payments.

7 The issue I want to talk today concerns Magna, and
8 it concerns what happened last Friday.

9 I got a phone call saying that the Victorville
10 Parlor was going to close down. You know, I've got, what,
11 three days notice. They said Sunday was going to be their
12 last day because Santa Anita owed money to that location.

13 So some of you got phone calls from me, some of
14 you guys got letters. I got livid and Saturday afternoon I
15 got a call saying that it was resolved.

16 Saturday afternoon, I sent out thank you letters.
17 I didn't even know who I owed the thanks to, I just got my
18 list of the people that I called and started sending thank
19 you letters.

20 Come Wednesday morning I get a call, this was
21 yesterday. Wednesday morning I get a call saying that
22 Victorville allowed my clerk to walk into the parlor and
23 open up the machine, for which I'm very appreciative.
24 There's no contract violation with me.

25 But then the manager went to the front door and

1 padlocked the front door.

2 And the reason he padlocked the front door -- what
3 happened was no patrons can come in, now, and we depend on
4 patrons. And that's what my gripe is. They padlocked the
5 door because he had not received, I guess, the promised
6 check.

7 I'm not going to tell you how he got the money.
8 But he got the money to open the doors and then later on in
9 the -- and then later on, maybe an hour later, they did get
10 a check, I understand, from Santa Anita, the money that was
11 owed, and we do business as normal.

12 I'm going to file a complaint on this action, and
13 every time a parlor closes, I'm going to file a complaint.
14 But somehow we got to do business better.

15 And, Greg, I know your word is good, I've sat in
16 meetings with you through ADW, we've got a long history.
17 Somehow you need to convey to your people that these parlors
18 need their money to stay open, so that the revenue will
19 continue flowing. It's just totally unfair what has
20 happened.

21 I don't give a damn if it is bankruptcy, there's
22 got to be a better way to do business.

23 That's all I have to say to you and to the Board.

24 BOARD CHAIRPERSON ISRAEL: That's in San
25 Bernardino County?

1 MR. CASTRO: No. I don't know if it's San
2 Bernardino County, it's Victorville.

3 BOARD CHAIRPERSON ISRAEL: Yeah, that's --

4 BOARD CHAIRPERSON HARRIS: I think San Bernardino
5 closed, as well.

6 BOARD CHAIRPERSON ISRAEL: San Bernardino
7 threatened to -- not really close, they wanted to go dark on
8 days that weren't profitable and operate on Friday and
9 Saturday nights.

10 MR. CASTRO: But this was a different issue. This
11 was that they didn't -- they're claiming that they didn't
12 get the revenue that they needed to stay open.

13 The amount was less than \$6,000. And it make
14 absolutely no sense to me.

15 If you can tell me how we can build this business,
16 rebuild this business, when a location closes its doors,
17 unannounced to anybody, patrons come there and they see the
18 doors closed. That's a slap in the face to all of us.

19 BOARD CHAIRPERSON HARRIS: Yeah, I don't think any
20 of us are happy with that.

21 But let's move on because there's nothing else
22 urgent on this.

23 We've got on -- I'd like to skip to Item 13.5,
24 which was the item that was added onto the agenda, but was
25 noticed in time to do that.

1 And, essentially, this will follow up on our
2 Executive Director's suspension of Rule 1663, which deals
3 with claiming both -- basically, the claiming rule we had,
4 which regulated the shipment of horses out of state to run,
5 was set 60 days after the end of the meeting, was held to
6 be -- yeah, the rule's 1663.

7 Basically, the part that is going to be suspended,
8 that says a horse claimed out of a claimed race is not
9 eligible to race in any state, other than California, until
10 60 days after the close of the meeting where it was claimed,
11 except for a stakes race.

12 Well, this is now thought to be in violation of
13 interstate commerce and the Board has, in Executive Session,
14 decided to -- I don't know if suspend it or say -- we're
15 going to suspend it for present and put it out -- put it out
16 for comment to change.

17 EXECUTIVE DIRECTOR BREED: Basically, what we did
18 is suspend the entire rule until the Board could take action
19 on this item. We have, out for notice, an amended Rule
20 1663, which changes the date of claiming from the end of the
21 race meet until the moment of -- to the day at which it
22 claimed. In other words, the 60-day jail time would start
23 on the day it was claimed, as opposed to the prohibition on
24 the end of the race meet.

25 That rule is out for notice right now, and out for

1 the public comment.

2 What we're asking the Board to do is to reinstate
3 Rule 1663, with the exception of Rule 1663 as it reads part
4 A, and part C, and part D, that's the action we're --

5 BOARD CHAIRPERSON HARRIS: Those are the parts
6 that deal with how fast, when you run horse back -- or does
7 it?

8 EXECUTIVE DIRECTOR BREED: Yeah.

9 BOARD CHAIRPERSON HARRIS: Yeah. Basically it
10 says that you're not eligible to start a claiming race until
11 25 days after the date of the claim, and it's got to be more
12 than 25 percent more than the amount it was claimed for.

13 So those we want to keep in, but the ability to
14 run -- and those would apply, regardless of what you did
15 with the horse.

16 But you would be able to -- in order to claim a
17 horse, and ship it out of state.

18 But the purpose of the rule originally was to
19 discourage pirating of horses to California, which was a
20 good idea, except that it's in violation of the commerce
21 laws.

22 And a lot of other states -- and the frustrating
23 thing is there's all kinds of other states that have similar
24 rules to what we have. So, now, California is the happy
25 hunting ground for raiders.

1 But we had to take action due to a lawsuit that
2 was filed by Mr. Jamgotchian.

3 EXECUTIVE DIRECTOR BREED: So, Mr. Chairman, if I
4 may, I would request that the Board -- that the Board move
5 to reinstate Rule 1663, part A, C, and D.

6 If I can have a motion on that, then we
7 can --

8 BOARD MEMBER CHOPER: Yeah, so moved.

9 BOARD CHAIRPERSON ISRAEL: Second.

10 BOARD CHAIRPERSON HARRIS: It's been moved and
11 seconded. Any discussion?

12 BOARD MEMBER CHOPER: That's the part that does
13 not deal with the out-of-state --

14 BOARD CHAIRPERSON HARRIS: Out of state, just the
15 running back 25 days and 25 percent more.

16 Any discussion on that?

17 All in favor?

18 (Ayes.)

19 BOARD CHAIRPERSON HARRIS: Okay. And then we've
20 got to --

21 MR. LIEBAU: Does that mean that it's okay for the
22 guy to take it out of state and run it for the same amount
23 he claims it for, but he can't run it in California?

24 BOARD CHAIRPERSON HARRIS: No, no, he can't do
25 that, either.

1 MR. LIEBAU: Is that what the rule says

2 or --

3 BOARD CHAIRPERSON HARRIS: No, the rule -- we're
4 not changing that part. We're not interfering with
5 interstate commerce because we're doing the same thing in
6 California, as out of California.

7 MR. LIEBAU: Okay. So that rule provides out of
8 state, also.

9 BOARD CHAIRPERSON HARRIS: Yeah, that would
10 provide. Well, conceptually, I think, it would --

11 BOARD MEMBER CHOPER: No, I mean, I just assumed
12 that we were -- we have suspended the rule so far.

13 BOARD CHAIRPERSON HARRIS: Well, we've suspended
14 it, but we're bringing back the raise it 25 percent.

15 BOARD MEMBER CHOPER: No, no, we suspended the
16 rule that said you can't ship it out of state; right?

17 BOARD CHAIRPERSON HARRIS: Yeah.

18 BOARD MEMBER CHOPER: We keep the rest of the
19 rule?

20 BOARD CHAIRPERSON HARRIS: The rest of the rule
21 treats in-state and out-of-state the same, it doesn't
22 discriminate against --

23 BOARD CHAIRPERSON ISRAEL: The rest of the rule
24 doesn't -- the rest of the rule doesn't treat out of state.

25 BOARD CHAIRPERSON HARRIS: Well, it doesn't

1 discriminate against out of state.

2 BOARD MEMBER CHOPER: But if you have to go up 20
3 percent here, before you can run the horse for, what, 25
4 days, or something like that, suppose now they take it, and
5 claim it, and run it out of state. I think that's the point
6 that was made.

7 MR. LIEBAU: Right.

8 BOARD MEMBER CHOPER: Pardon?

9 MR. LIEBAU: You're correct.

10 BOARD MEMBER CHOPER: Yeah. There's nothing wrong
11 with saying that the same rules apply to the horses claimed
12 here and then run out of state.

13 BOARD CHAIRPERSON HARRIS: Yeah, that doesn't
14 violate any interstate commerce law.

15 BOARD MEMBER CHOPER: No, it doesn't. But I think
16 the problem is that this doesn't say that here. It doesn't
17 say any horse claimed in California -- would you read it?

18 BOARD CHAIRPERSON ISRAEL: We're looking at it
19 right now.

20 BOARD MEMBER CHOPER: You're reading it right now.

21 BOARD CHAIRPERSON ISRAEL: I'll read 1663a.

22 BOARD MEMBER CHOPER: Yeah.

23 BOARD CHAIRPERSON ISRAEL: "A horse claimed out of
24 claiming race is eligible to race at any racing association
25 in California immediately after being claimed. The horse is

1 not eligible to start in a claiming race for 25 days after
2 the date of the claim, for less than 25 percent more than
3 the amount for which it was claimed."

4 Okay, that's silent on out of state, only refers
5 to California.

6 What's the next one, B?

7 EXECUTIVE DIRECTOR BREED: B.

8 BOARD CHAIRPERSON ISRAEL: "A horse claimed out of
9 a claiming race is not eligible to race in any state, other
10 than California, until 60 days after the close of the
11 meeting from where it was claimed, except in a stakes race."

12 And we suspended this.

13 BOARD CHAIRPERSON HARRIS: We suspended it.

14 BOARD CHAIRPERSON ISRAEL: Okay. And then it
15 defines what a race meet is.

16 And C, "a claimed horse may be removed from the
17 grounds of the association where it is claimed, for non-
18 racing purposes."

19 So that is intact.

20 And D, "the provision of subsection A of this rule
21 do not apply to Standardbred horses."

22 So this only says California.

23 BOARD MEMBER CHOPER: I think what we ought to
24 do --

25 EXECUTIVE DIRECTOR BREED: Excuse me, sir. Let

1 the record show that the Chairman has to go to the rest room
2 and the Vice Chairman is now in charge.

3 BOARD MEMBER CHOPER: I think the way to fix this
4 up, it would simply be eliminate the two words "in
5 California," for 1663a.

6 So it would read, "a horse claimed out of a
7 claimed race is eligible to race in any racing association
8 immediately after being claimed."

9 BOARD CHAIRPERSON ISRAEL: But in order to do
10 that, we have to go through the process, which means, you
11 know, we have to --

12 BOARD MEMBER CHOPER: Well, we have this --
13 haven't we done some temporary suspensions here, some
14 temporaries?

15 BOARD CHAIRPERSON ISRAEL: I mean, it's a rule or
16 not a rule.

17 Counselor, what do we do here?

18 STAFF COUNSEL MILLER: That if you want to
19 consider a rule-making, put it out to vote, not to suspend
20 just two words in a rule, that's what I thought we were
21 doing.

22 EXECUTIVE DIRECTOR BREED: We already did that.

23 BOARD CHAIRPERSON ISRAEL: But we don't have
24 enough, we have to --

25 EXECUTIVE DIRECTOR BREED: We're reinstating parts

1 A, C, and D, and that's the motion.

2 BOARD CHAIRPERSON ISRAEL: Yeah, but part A
3 doesn't address their concern. Part A is only about
4 California.

5 BOARD MEMBER CHOPER: It makes their concern, it
6 states their concern, if we take it out

7 BOARD CHAIRPERSON ISRAEL: Yeah.

8 BOARD MEMBER CHOPER: So what's the real
9 consequences if we did have it the way that it's there, for
10 45 days, 60 days, whatever it's going to be?

11 EXECUTIVE DIRECTOR BREED: Commissioner, let me
12 just do -- did we vote on that motion?

13 BOARD MEMBER CHOPER: Oh, we didn't vote on
14 anything.

15 EXECUTIVE DIRECTOR BREED: We're still in
16 discussion.

17 The part b, the attitude of the Board is to submit
18 that to the Attorney General, for his interpretation, for
19 him to give us an opinion on what this time is acceptable to
20 the Interstate Commerce Clause, and so on and so forth.

21 Am I correct, Counsel?

22 STAFF COUNSEL MILLER: Yes.

23 EXECUTIVE DIRECTOR BREED: And until we get that
24 opinion, we're just fishing in the dark.

25 BOARD CHAIRPERSON ISRAEL: Fish bite in the dark.

1 EXECUTIVE DIRECTOR BREED: Hum?

2 BOARD CHAIRPERSON ISRAEL: Fish bite in the dark.

3 STAFF COUNSEL MILLER: Subsection a, of rule 1663,
4 just addresses California, it doesn't address anything
5 outside the State.

6 MR. CHARLES: Ron Charles, MEC. I've got a
7 question, how --

8 BOARD MEMBER CHOPER: It doesn't prohibit running
9 them for less outside the State, that's the problem.

10 BOARD MEMBER DEREK: Right.

11 MR. CHARLES: Ron Charles, MEC.

12 BOARD CHAIRPERSON ISRAEL: Go ahead.

13 MR. CHARLES: How are you going to deal with the
14 fact that if a horse is purchased or claimed out of --
15 claimed out of a race, going to a state where they do not
16 have jail time, how are you going to enforce the fact that
17 that horse has to stay in jail time from California for 30
18 days, if they don't have that rule in the other state?

19 BOARD MEMBER CHOPER: Well, we have some document
20 here that shows someone, the Chairman, put together a whole
21 bunch of states, many, many of which, the great majority of
22 which, have a rule that says that you can't -- oh, no, I'm
23 sorry, that had to do with sending it out of the state.

24 EXECUTIVE DIRECTOR BREED: No.

25 BOARD MEMBER CHOPER: They'd just honor it.

1 They'd either honor it or they don't.

2 How would we observe this rule? First of all, we
3 have jurisdiction over the trainer, the trainer who claims
4 it, and maybe jurisdiction over the owner, as well. They
5 may be licensed here, you can go after them that way.

6 MR. CHARLES: But with all due respect, most of
7 the trainers and the owners, who do this, the trainer of
8 name is paid \$1,000 to do it, they're immediately shipped
9 out of the state, they race under a different owner and
10 trainer, and you're just creating almost chaos in the fact
11 of you're -- if you think you're going to be able to enforce
12 a California rule for a 30-day jail time, in a state that
13 doesn't have jail time, you're asking for real trouble.

14 EXECUTIVE DIRECTOR BREED: Well, in clarification
15 of this, or whether it clarifies it or not, I don't know.
16 But in consultation with ARCI, the way other states are
17 dealing with jail -- and this jail time thing has been
18 a -- has been a point of major concern among states for many
19 years.

20 Washington, apparently, the State of Washington
21 tried this thing and failed miserably to enforce their jail
22 time.

23 The way the jail time has been enforced here, out-
24 of-state, heretofore, has been for the owner of the horse,
25 that took his horse out of the state, was threatened with

1 suspension of the license if that owner ran the horse out of
2 state.

3 In other words, he's claimed it and then sent it
4 out of state.

5 BOARD MEMBER CHOPER: Yeah, that's exactly what I
6 was just suggesting, does that work?

7 EXECUTIVE DIRECTOR BREED: Well, it has and it
8 hasn't, I mean --

9 MR. CHARLES: Okay. More than likely the horse is
10 going to run under a different name, and a different
11 trainer's name, so how you enforce it, I don't know.

12 EXECUTIVE DIRECTOR BREED: Well, the way they
13 did -- the way they did it in other jurisdiction was the
14 association kept the horse's papers until the end of the
15 race meet, at least that's what I've been told.

16 BOARD CHAIRPERSON ISRAEL: Well, let me just say
17 that when Executive Director Breed furnished us with a list
18 of all of the rules and regulations from all the other
19 states, California's rule was much more onerous than any
20 other state's.

21 All the other states had an either/or provision,
22 which was 30 days from the point of claim, or 60 days from
23 the point of claim, or the end of the meet, whichever came
24 first.

25 California's rule is 60 days from the end of the

1 meet. So it was a much longer jail term than any other
2 state required, by a considerable amount.

3 If you claimed a horse in the first week of the
4 Del Mar week, or the first week of the Santa Anita meet, you
5 can't run it for four to six months.

6 BOARD CHAIRPERSON HARRIS: Yeah, I think the
7 problem is, though, it doesn't really matter how onerous it
8 is because it's in violation of the commerce clause.

9 You got a problem in --

10 MR. FRAVEL: Mr. Chairman, Craig Fravel. If I
11 could make a suggestion, I think it might help in the short
12 term, for those meets that are about to run, or are
13 currently running, is if they make, as a condition of entry
14 into a claiming race that you agree that you will not run
15 your horse out of state.

16 At least, then, the association has the ability to
17 enforce that rule by doing something like the Executive
18 Director suggested, holding the papers or whatever.

19 I'm not sure the commerce clause restricts private
20 parties from engaging in self-help activities in this
21 regard.

22 Secondly, you know, this whole question of
23 waiving -- and I read the transcript of the Board's action
24 on this rule, and what I believe was intended the first time
25 around, although the language of the actual motion may have

1 been different, was that the rule was going to be waived
2 with respect to the Fresno Fair.

3 And, you know, I know nobody likes lawsuits, but
4 I'm not quite sure why you wouldn't simply leave the whole
5 rule in place, without waiving anything, while you proceed
6 with your rule making, and change the rule to a less onerous
7 provision, as we suggest is appropriate.

8 But in the meantime, I would suggest that
9 Hollywood, and Golden Gate, and Santa Anita put in their
10 entry forms that it's a condition of entry you won't run a
11 claimed horse elsewhere, for 60 days, or whatever they think
12 is reasonable.

13 BOARD CHAIRPERSON HARRIS: But that guy isn't the
14 problem.

15 MR. CHARLES: Exactly. No, it's going to be the
16 person who claims the horse.

17 BOARD CHAIRPERSON ISRAEL: It's the person.

18 MR. CHARLES: Who has, now, the problem of what
19 can he do and what can't he do.

20 The person who enters the horse can say that. The
21 person who claims the horse, now it's his possession, why
22 would he have the --

23 BOARD CHAIRPERSON ISRAEL: Well, is there a bill
24 of sale?

25 EXECUTIVE DIRECTOR BREED: No.

1 BOARD CHAIRPERSON ISRAEL: There's no bill of
2 sale?

3 EXECUTIVE DIRECTOR BREED: No.

4 BOARD CHAIRPERSON HARRIS: Sort of. It's handled
5 by the paymaster, signing over the --

6 BOARD CHAIRPERSON ISRAEL: Well, can there be some
7 document that's equivalent to a bill of sale, that sets
8 forth some conditions about how and when the horse could be
9 run back?

10 MR. CHARLES: But aren't we getting right back
11 into the problem that we're faced with right now?

12 BOARD CHAIRPERSON ISRAEL: Well, but if it's a
13 bill of sale, you sign the document at the transaction.

14 It's just like if you rent a store in a mall, and
15 there's a competing store that's already there, you can't
16 put in another shoe store two doors away from a shoe store,
17 if that's what it says.

18 BOARD CHAIRPERSON HARRIS: The problem is we could
19 debate it forever. I think we're kind of stuck with it.
20 But I think there's other ways to get to the same place,
21 possibly by house rules on how you manage your inventory.

22 BOARD CHAIRPERSON ISRAEL: What are you
23 suggesting?

24 MR. CHARLES: Well, you know, I don't have a
25 perfect suggestion because I can tell you, this is a tough

1 rule. If you're going to have someone -- because our meet
2 is coming to an end and, traditionally, this is when most
3 horses, probably year-round, are claimed at the end of our
4 meet. Because we had a rule that you couldn't run until
5 after the meet.

6 Santa Anita is a prime meet. People are back east
7 or are going in. We have three or four trainers who,
8 traditionally, claim numerous horses out of our meet to take
9 back and run with racetracks, racinos, that have high
10 purses.

11 Obviously, we have a difficulty with that rule,
12 and I just think we need -- we need this thing to be thought
13 out and make sure we've got it right, before we go out and
14 do something, again, that could cause us more problems.

15 BOARD MEMBER CHOPER: I think we ought to do
16 whatever we can to deal with this problem, I don't know
17 exactly what it is, so long as we treat running in other
18 states no differently than running in this state.

19 Once you say that you are penalized if you take
20 the horse out of state, you're worse off than if you
21 continue it in California. That is the discrimination
22 against interstate commerce that our earlier opinion, from
23 the Attorney General's office, said was invalid, which I
24 think is right.

25 MR. CHARLES: Right. And I guess the question now

1 would be, would that opinion also relate to the fact that
2 the new purchaser of the horse is restricted to California
3 law in the new state, that doesn't have that type of law?

4 BOARD CHAIRPERSON HARRIS: Well, it's not
5 California law, if it's the commerce clause in the
6 constitution.

7 BOARD MEMBER CHOPER: No, but you're saying if I
8 -- if I come in from New York, and I claim a horse for
9 \$50,000, and I run him back to California, and I don't know
10 what the figure is, 62,500, I guess, or whatever.

11 But then I take it to New York and run it for 40
12 or 50 --

13 MR. CHARLES: Within the 25 days.

14 BOARD MEMBER CHOPER: Within the 25 days, right.
15 And there's nothing -- if you have a way to enforce it, I
16 mean, we haven't thought it all through here. But if
17 there's a way to enforce it, then it seems to me that's to
18 say that you can't race it any place, not just as the rule
19 now says in California, but you can't race it any place for
20 less than 25 percent of the price that you claimed it, for a
21 period of what, 25 days or whatever.

22 That that is not a discrimination against
23 interstate commerce.

24 Now, you make a good point as to how you -- I
25 mean, it's hard to enforce outside the State, but I think

1 there must be ways to be able to -- the trainers --

2 BOARD CHAIRPERSON HARRIS: Well, that's not going
3 to happen too much anyway. I mean, usually, once they're
4 claimed, they're not necessarily run back in two or three
5 weeks, and shipped out of state in the process, and all
6 that.

7 MR. CHARLES: They're claimed the last week or
8 two, and they're sent to Mountaineer, and they can show up,
9 and might be claimed for twelve/five, and then they run it
10 back for ten at a much higher purse.

11 The question is are we going to -- are we going to
12 go after that owner and trainer, who claimed the horse,
13 because he's violated our laws.

14 I guess it gets down to that and we need an
15 opinion.

16 BOARD MEMBER CHOPER: Well, I think Commissioner
17 Israel said maybe there's some way of developing a sales
18 contract which would put the owner in breach of contract if
19 he --

20 MR. CHARLES: Maybe it could be on the claim
21 certificate. You know, maybe we need to do something like
22 that.

23 BOARD CHAIRPERSON ISRAEL: I don't know, who has
24 devised and written the language of the claim certificate in
25 the State of California? Is it State mandated, is it done

1 at each racetrack, how's it done?

2 EXECUTIVE DIRECTOR BREED: It's a standardized
3 form.

4 BOARD CHAIRPERSON ISRAEL: But developed by who,
5 under what guidance?

6 EXECUTIVE DIRECTOR BREED: Who knows.

7 MR. CHARLES: Lucky Baldwin.

8 (Laughter.)

9 MR. CHARLES: It looks the same to me as it did 30
10 years ago.

11 BOARD MEMBER CHOPER: I'll tell you, there
12 are -- as I think about it, there are problems with trying
13 to impose a local rule, that is a California rule, outside
14 the State. There are cases like that, that say you can't
15 project your laws as to what another state wants to do.

16 I mean, it was a simple case that said you cannot
17 sell -- you want to sell liquor in this State, you cannot
18 sell it outside the State for lower than the price that you
19 sell it inside the State. But, you know, trying to get the
20 best deal for the local consumers, and they struck that down
21 on the grounds that you are controlling prices from outside
22 the state in those circumstances.

23 BOARD CHAIRPERSON HARRIS: Well, you know, what
24 I'd like to see happen on this whole thing, though, is all
25 states do what we're doing.

1 I don't have so much of a problem with us dropping
2 this rule, it's just that every other state has got a rule.

3 EXECUTIVE DIRECTOR BREED: Right.

4 MR. CHARLES: Right, if we have a uniform rule,
5 where everyone would work together, you know, that's
6 the --

7 BOARD CHAIRPERSON HARRIS: We need to get Mr.
8 Jamgotchian to get some frequent flier miles, filing suits
9 all over the country.

10 MR. COUTO: Mr. Harris, Drew Couto, Thoroughbred
11 Owners of California.

12 One thing I'm going to note about the opinion,
13 from the AG's Office, and I've mentioned this to Mr. Choper
14 before, is there's no discussion of the idea that we're
15 talking about privileged and regulated activity versus
16 something that would be a right guaranteed by the
17 constitution, which is typically what we're talking about
18 when we look at violations of the commerce clause. We're
19 talking about a dormant commerce clause issue.

20 But there is a body of law, which is not addressed
21 in the memorandum, that says, look, in the cases in fact
22 that deal with the California Horse Racing Board, such as
23 Sancister, and there's a number of cases that were decided
24 by the Supreme Court here, in the State, recognize that
25 we're talking about a regulated activity, that you do not

1 have a right to participate in, it's a privilege that you
2 become licensed for.

3 And when you do that, when you engage in a
4 regulated, privileged activity, there are different rules
5 that apply that may be -- that may, in the context of
6 constitutional rights, be a violation, but in the context of
7 the privilege are not a violation.

8 And I notice that in that memorandum there's not
9 discussion of the difference between this being a licensed,
10 regulated activity, and something that would be considered a
11 constitutional right.

12 And I think that's a very important distinction.

13 Because, as we all know, states are able to impose
14 restrictions on interstate commerce, under appropriate
15 circumstances.

16 Mr. Choper knows better than I do, but the
17 inspection of fruit and produce, the ability to prevent that
18 from being imported or exported in the State.

19 That can be determined by a state on its own, and
20 it's not a violation of the commerce laws.

21 BOARD MEMBER CHOPER: No, because sometimes they
22 permit that, but not for an economic reason.

23 MR. COUTO: Not for an economic reason.

24 BOARD MEMBER CHOPER: And the bottom line is that
25 ours is for economic reasons.

1 BOARD CHAIRPERSON HARRIS: Yeah, that's the
2 problem.

3 MR. COUTO: No, I'm not necessarily agreeing with
4 you on that, I think there are other reasons for doing it.

5 BOARD CHAIRPERSON ISRAEL: You just got an F in
6 his class.

7 MR. COUTO: No, I think that's actually encouraged
8 by most law professors, I mean, don't agree with them. But,
9 nonetheless, but I think that's missing in this opinion and
10 I think that that's an area that we need to look at it
11 closer, and that may give us the ability to put
12 restrictions, as you call it, restrictions, but to define
13 what the rules are of this regulated activity.

14 BOARD CHAIRPERSON ISRAEL: Well, let me ask you a
15 practical question. Are you suggesting that we defend our
16 case?

17 MR. COUTO: On this particular rule, no. I think
18 you have a bigger issue, and that's equal protection.

19 And I think if one person claims a horse in a meet
20 that's seven months long, versus one person who claims a
21 horse in a meet that's six weeks long, you've got an equal
22 protection issue. Which I think, to me, an equal concern.

23 Unless, again, the --

24 BOARD CHAIRPERSON ISRAEL: Is that why the states
25 all have the either/or clause, whichever comes first?

1 MR. COUTO: I'm not sure why. But again, I want
2 to go back and look, and ask the AG to look at the privilege
3 versus the constitutional right issue. And I think that
4 permits the Board and the industry to have reasonable
5 regulations on regulated activities, and something that is
6 hopefully more reasonable than what we currently have.

7 BOARD CHAIRPERSON HARRIS: Well, I think what
8 we're doing now, though, is we're suspending this because of
9 this litigation. We can always reinstate it.

10 I mean, I think most of us -- I mean, I like the
11 rule, I can see all the purposes for it, I fought for it.
12 But, basically, we've got to move on. We can't be
13 litigating any of this.

14 If any of the tracks want to, or the horseman
15 wanted to, you know, propose something, we can take a look
16 at it.

17 MR. DOUGHERTY: John?

18 BOARD CHAIRPERSON HARRIS: Uh-hum.

19 MR. DOUGHERTY: Charlie Dougherty, California
20 Thoroughbred Trainers.

21 I would like just to get clarified, as we're
22 moving forward, are we going to keep the word or the
23 statement "in California" as a part of this law?

24 Or, Commissioner Choper, I believe you suggested
25 it be taken out.

1 One point that we would like to make, is that
2 actually is going to hamstring somebody, a California owner,
3 who may actually claim a horse from out of state. He, then,
4 has to abide by the -- you know, he will have to wait the 25
5 days and run it back for the 25 percent more in California.
6 But we contend that if they're bringing a horse in, they
7 should be able to run it wherever they would like.

8 BOARD CHAIRPERSON HARRIS: Yeah, we're in that
9 process right now, that rule change is out.

10 But you're worried about somebody claiming it in
11 Arizona --

12 MR. DOUGHERTY: And brings it back into
13 California.

14 BOARD CHAIRPERSON HARRIS: Well, how are they
15 damaged versus somebody that claimed a horse in California?

16 MR. DOUGHERTY: They're not able to run the horse
17 where they would like. Is that their intention?

18 BOARD CHAIRPERSON HARRIS: Well, no more so than
19 it's a -- they're on a level playing field with someone
20 that's done the exact same thing in California.

21 MR. DOUGHERTY: So we would just ask that the
22 words "in California" stay as part of that.

23 REGULATIONS/LEGISLATION MANAGER WAGNER: If I can
24 clarify it, the proposal that is out right now, those words
25 are still there, "in California" is still there.

1 We have not made a proposal to change 1663(a).
2 The proposal that is out for notice right now is 1663(b), to
3 change the time from 60 days after the close of the meeting,
4 to 60 days after the horse has been claimed.

5 BOARD CHAIRPERSON HARRIS: But concurrently with
6 that, though, the Board has suspended B for now.

7 REGULATIONS/LEGISLATION MANAGER WAGNER: Correct.

8 BOARD CHAIRPERSON HARRIS: There's no B.

9 REGULATIONS/LEGISLATION MANAGER WAGNER: That's
10 right.

11 BOARD CHAIRPERSON HARRIS: We're going to have
12 further hearings on that.

13 Yeah, Mr. Robbins?

14 MR. ROBBINS: Tom Robbins, Racing Secretary at Del
15 Mar.

16 I just want to address a few things that have been
17 said. First of all, there are varying rules out there from
18 state to state, some dependent upon the length of their
19 seasons, or if there are any seasons that follow.

20 In California, we have year-round racing, both
21 north and south, so those rules are going to be different.

22 When a meet -- when there's a close to a season in
23 any jurisdiction, it doesn't make sense to impose a more
24 onerous out-of-state claiming rule, so that's why you're
25 going to see a difference.

1 Let me point out another thing, in New York they
2 have a situation where an out-of-state owner, that is
3 allocated stalls to run, but not New York being their
4 primary place of running horses for the year, they're
5 allowed -- if they lose a horse via the claiming box,
6 they're allowed to replace that one horse in a claiming box.
7 Or if they lose three horses, they're allowed to replace
8 three.

9 There's a lot of different situations that
10 determine how these rules are developed throughout the
11 United States.

12 I'm not a lawyer, I don't know what is right. I
13 know the commerce clause is up for debate with all of the
14 legal minds here.

15 I can tell you the consequences of doing just a
16 pure illumination of B, we will be open seasons, we will
17 lose horses. We already have a very dwindling inventory of
18 horses, both north and south.

19 And I don't know what the answer is, other than to
20 try to postpone this and have everybody put their brilliant
21 minds together, and try to come up with a solution that's
22 agreeable to all.

23 But there seems to be, even amongst the lawyers
24 that I've heard speak, there is a difference of opinion.

25 I just know that what we're going to do, what I

1 think you're about to do is going to make open season for
2 horses in California.

3 BOARD MEMBER CHOPER: Let me ask you a question.
4 If the rule for any claim was the same, no matter where you
5 ran a horse, would that solve most of the problem?

6 That is, instead of tacking on an extra 60 days if
7 you take it out of state -- see, that's the rub on this
8 rule. It says that we prefer that you don't take your
9 horses out of state.

10 MR. ROBBINS: So we're going to have something
11 less onerous than every other state that exists in this
12 country. And that means that people --

13 BOARD MEMBER CHOPER: Well, that is a problem.
14 Although, some people --

15 BOARD CHAIRPERSON ISRAEL: Well, that's not quite
16 accurate, some states have no rules.

17 BOARD CHAIRPERSON HARRIS: No, and Kansas doesn't
18 have any racing, either.

19 BOARD MEMBER CHOPER: No, but I take it in New
20 York, and Kentucky, and Maryland, and --

21 BOARD CHAIRPERSON ISRAEL: Kentucky's end of meet,
22 period.

23 MR. ROBBINS: They don't need to because they
24 don't have a season that exists after that. So it doesn't
25 do them any good.

1 They're trying to attract people that are going to
2 claim horses, that have to move, and they go out of state,
3 so they don't have the same situation that California has.

4 BOARD MEMBER CHOPER: Yeah. Yeah, but the others
5 do.

6 BOARD CHAIRPERSON ISRAEL: Florida's end of meet,
7 New Jersey's end of meet.

8 BOARD CHAIRPERSON HARRIS: But it's the same
9 problem, if it's end of meet or what.

10 The problem is we're trying to settle this lawsuit
11 from Jamgotchian, and this is what we decided to do.

12 Now, if some of the tracks and horsemen would like
13 to intervene, as defendants, that's probably what they
14 should do.

15 MR. GOODRICH: Mr. Chairman, Cliff Goodrich, from
16 Fairplex. I'm not a lawyer, nor a racing secretary, so I'm
17 really out of my realm here.

18 But I guess I would ask the question of the
19 lawyers. I am convinced that if you do what you're about to
20 do, as Mr. Robbins says, it's going to be open season.

21 Would not the Board be acting responsibly if they
22 left the rule in place while working on a new rule, because
23 they've been noticed that it may be a chamber of commerce
24 violation.

25 You change many rules without suspending a rule

1 while you change it. So why can't this be left in place
2 while you look at a new rule?

3 Would you be exposed to acting negligently or
4 improperly? I don't know, I'm not an attorney, but at least
5 that's my question.

6 BOARD CHAIRPERSON HARRIS: I've got a number you
7 can call, it's 310-408-5806, and ask for Jammer, and ask if
8 he would go for a stand still agreement.

9 MR. GOODRICH: But I think it's a legitimate
10 question I'm asking, I don't know the answer.

11 MR. LIEBAU: Jack Liebau. One thing that has to
12 be said is that Jammer's never had a bigger day. I mean,
13 I'm sure of that.

14 And I take it one of the problems is this memo
15 that we have, that's written by the Attorney General. I
16 don't understand, I do not have attorney/client privilege as
17 the State agency, and I don't understand how that would have
18 gotten out.

19 And I think that that is, frankly, shows that you
20 don't do something which is probably in bad faith.

21 But this is going to be a terrible situation. I
22 mean, we're going to get picked clean.

23 And when you talk about claiming prices, and it's
24 with anything else, if you run a horse for \$10,000 in Santa
25 Anita, and have a purse of umpty-ump, I mean, you're putting

1 that horse in because of the purse and you have a
2 possibility of running.

3 And in another state, horses may not run for
4 10,000 because the purse isn't as high.

5 BOARD CHAIRPERSON HARRIS: Yeah, that's one of the
6 problems is --

7 MR. LIEBAU: Because the purse indicates what
8 you'll risk a horse for. And we have the highest purses, is
9 what I'm trying to say.

10 BOARD CHAIRPERSON HARRIS: Well, we have the
11 fastest, cheap horses, basically.

12 MR. LIEBAU: Yeah.

13 BOARD MEMBER CHOPER: I hear you.

14 MR. LIEBAU: And there's going to be a great
15 growth industry and it's going to be between here and
16 Mountaineer Park.

17 BOARD CHAIRPERSON ISRAEL: Jack, to answer your
18 question about what the problem is here, is effectively in
19 2006 the rule was suspended. It may not have been
20 intentionally suspended, they may have only meant to suspend
21 it for the Fresno Fair, but the way that it was interpreted
22 was that it was suspended in its entirety, and it's only
23 been intermittently enforced since then, and it's now three
24 years later.

25 MR. LIEBAU: Well, I don't mean to argue with you

1 and I'm certainly -- I guess I would rather argue with you
2 on this issue, than argue constitutional law with Mr.
3 Choper.

4 But I understand that fines have been levied under
5 the rule, so it must not have been suspended.

6 BOARD CHAIRPERSON HARRIS: No, it clearly wasn't
7 suspended. I recall that meeting, what we did was --

8 MR. LIEBAU: It was for Fresno Fair.

9 BOARD CHAIRPERSON HARRIS: It was a carve-out. It
10 wasn't really for Fresno Fair. At one point, there was an
11 interpretation that CARF, all the fairs was one meet, and
12 for some purposes it still is.

13 But we've said that, no, CARF is not one meet,
14 each individual fair is one meet. So it's 60 days after the
15 conclusion of Stockton, or Vallejo, or wherever, but it
16 wasn't 60 days --

17 BOARD MEMBER CHOPER: I think the problem, as Mr.
18 Fravel said, was that that may have been the intent, and it
19 was expressed, but the rule, itself, is broader.

20 MR. FRAVEL: And this is Craig Fravel, again, I
21 just got an e-mail from someone who suggested that the
22 associations, themselves, put the restriction on the claims
23 lists that are filed -- that is filed and signed by a person
24 claiming a horse.

25 It is a -- we have no obligation to allow someone

1 onto our grounds to claim a horse, nor are we required to
2 accept a claims slip, I don't believe, except if they have
3 an open claim license.

4 And I believe we probably can put the restriction,
5 be it 60 days, you know, and that's no differently than what
6 we have currently in the rule.

7 I would suggest that on the short term we do that.

8 Secondly, I'd ask Jackie, I know the Board has
9 emergency rule-making powers. I don't know what the
10 criteria for those are.

11 But if this is as potentially disastrous as has
12 been pointed out, if the health of the industry, in
13 particular, is at stake, I think the Board might consider
14 it, or at least ask what the requirements for emergency
15 rule-making are, and you could implement your changed rule
16 more quickly, until the full process is gone through.

17 But those are two suggestions.

18 REGULATIONS/LEGISLATION MANAGER WAGNER: Jackie
19 Wagner, CHRB staff.

20 As it pertains to the emergency regulation, I have
21 just placed a call. There's specific criteria that has to
22 be met for a rule to be filed as an emergency regulation.
23 It does have to be, I believe, five specific things.

24 I'm trying to get those specifics, because I just
25 don't remember them off the top of my head.

1 If the rule change does meet that criteria, what
2 it does, it expedites the procedure in the sense that once
3 the emergency regulation is filed, it does become effective.
4 OAL does an abbreviated review of the proposal. But we
5 still have to go through the regular rule-making process.

6 BOARD CHAIRPERSON HARRIS: I don't see why an
7 emergency regulation, that we're going to put in anyway, is
8 going to help us, though.

9 REGULATIONS/LEGISLATION MANAGER WAGNER: We would
10 have to develop language, we would have to come up with what
11 the solution is.

12 BOARD CHAIRPERSON HARRIS: We don't know.

13 BOARD CHAIRPERSON ISRAEL: We don't know what the
14 problem is.

15 BOARD CHAIRPERSON HARRIS: Language, yeah. We can
16 come up with some language, we can do it as an emergency,
17 but we don't have it today.

18 MR. ROBBINS: Tom Robbins. Just to clarify the
19 reality of the situation, there are states that have casino
20 gambling, and have slots-fueled purses, purse structures,
21 that have never enjoyed the purse money that they do today.

22 And those tracks, that have that advantage, send
23 the horsemen out to find horses to run at their race meets.
24 They encourage horsemen to go out and acquire horses, to run
25 for purses.

1 Mr. Liebau mentioned that we have a high purse
2 structure. We don't compare, in some states, with claiming
3 purses that exist out there, at these slots-fueled
4 racetracks.

5 So, you know, that's an advantage for them, and
6 they offer purse structures that we can't come close to. So
7 we have an asset that they're going to come get.

8 BOARD CHAIRPERSON ISRAEL: But that's not a
9 naturally occurring phenomenon. That occurred because those
10 states voted to install casinos within their racetracks.

11 Well, the State of California, through its voters,
12 made a decision not to do that. It's not as if it's not
13 something that the people of California didn't have power
14 over.

15 MR. ROBBINS: Well, that's right and --

16 BOARD CHAIRPERSON ISRAEL: And it's not -- it's
17 not the climate, it's just the way it is.

18 MR. ROBBINS: Well, I understand that. But that's
19 the reality of the situation, just for those that didn't
20 understand that there is a market, there's a very strong
21 market out there, from other states, for our horses.

22 And given the ability to come in, without any
23 restrictions, that --

24 BOARD CHAIRPERSON ISRAEL: But it's been suggested
25 to us that California is at an unfair disadvantage because

1 other states have racinos and we don't have racinos.

2 Well, California, there was an attempt made to
3 legalize racinos in California, and the people of California
4 decided that we didn't want to do that. So I think that
5 would be protected under any -- I'll defer to, obviously,
6 Professor Choper, but I don't think that we can argue that
7 as a legal protection.

8 MR. ROBBINS: No, no, and I'm not arguing, I'm
9 just telling you the reality of the situation, that's what
10 exists out there, that there's a market for these horses
11 because of that.

12 BOARD CHAIRPERSON ISRAEL: Thank you.

13 MR. ANTON: Good afternoon, Bill Anton. I'm an
14 owner/trainer, and I'm a member of the CTT.

15 Number one, if you put an agenda, or whatever you
16 want on a claims slip, you have a problem having an
17 authorization to claim a horse for an owner.

18 If he takes it out of state, are you going to find
19 me? No. No possible way.

20 What you do is what the stewards here have been
21 doing. They contact the owner, when they see him entered in
22 a race in Washington, et cetera, and they say you have
23 violated the rule. Run the horse, if you wish, it's a
24 thousand dollar fine. It's very simple.

25 The other thing, Mr. Breed, you can't hold papers

1 or you're stuck there. You can't hold papers, there's no
2 possible way, it's against the rules.

3 Find the owner, that takes him out of state, and
4 when he runs the horse, you fine him in California.

5 If he doesn't pay the fine, he doesn't race here
6 again.

7 BOARD CHAIRPERSON ISRAEL: Thank you.

8 BOARD MEMBER CHOPER: Why couldn't you accomplish
9 the same thing by having a provision in the purchase
10 agreement, after the horse is bought -- claimed, saying that
11 that owner agrees not to run it outside the State for a
12 period of 60 days. That's what's been suggested.

13 So far, that sounds to me like the most promising course.

14 MR. ANTON: Mr. Choper, I hear you. He tells me,
15 yeah, that's all right, I'll do that, no problem, so I sign
16 the slip for him. Then he takes it out of state anyway,
17 what am I going to do?

18 BOARD MEMBER CHOPER: No, you're not going to do
19 anything. But if he takes it out of state he'll be sued for
20 violating his contract, his purchase agreement. That's what
21 that rule is.

22 BOARD CHAIRPERSON ISRAEL: That's what we're
23 suggesting, yeah.

24 MR. ANTON: But, Mr. Choper, he lives in Utah, I
25 haven't got authorization for him.

1 BOARD MEMBER CHOPER: You can sue him here in
2 California, if he came in and claimed a horse, I think. I'm
3 not expert on that.

4 MR. ANTON: I don't know, but if you sue
5 him --

6 BOARD MEMBER CHOPER: But I think he's subject
7 to -- he's subject to service --

8 MR. ANTON: You guys are busting the trainers'
9 chops on everything else, leave them alone on this one.

10 BOARD MEMBER CHOPER: No, I'm not going after the
11 trainer, I understand your point. But the owner. Isn't
12 that right, Craig, that's what you're proposing. Put it in
13 that the association, that the racing associations, in order
14 to deal with this --

15 MR. FRAVEL: Yeah, I don't have to worry about
16 this until July. Of course, there won't be any horses left
17 by that time.

18 BOARD MEMBER CHOPER: So you do have to worry
19 about it now.

20 MR. FRAVEL: Craig Fravel, Del Mar.

21 BOARD CHAIRPERSON ISRAEL: You're only racing five
22 days in July, anyway.

23 MR. FRAVEL: I was just looking at the
24 regulations, that the only thing it says is that the form of
25 the claiming form has to be approved by the Board. I don't

1 think that means that the Board is, you know, adopting it as
2 a rule, it's just says the form's okayed by you.

3 BOARD MEMBER CHOPER: That's a close question.
4 But I think if it's a --

5 MR. FRAVEL: Well, in Virginia they said that was
6 an easy, slam dunk case there.

7 BOARD MEMBER CHOPER: Uh-hum. We're not requiring
8 it, we're doing what the associations want to do, I think
9 that's the best answer to that.

10 MR. FRAVEL: I mean, it's one option. I don't
11 have any other suggestions.

12 BOARD MEMBER CHOPER: Uh-hum.

13 MR. FRAVEL: I mean, at the end of the day I'm not
14 sure we have to allow people on our property to raid the
15 racetrack, you know.

16 BOARD MEMBER CHOPER: As a private business.

17 MR. FRAVEL: Right.

18 BOARD MEMBER CHOPER: Sure. The question is what
19 we do in the interim, we've got a lot of talk about that.

20 MR. BLONIEN: Mr. Chairman, Members, Rod Blonien.
21 I think I'm getting myself out on a limb here, but maybe we
22 should talk to Mr. Jamgotchian and remind him of the harm
23 that could come to the California horse racing industry and
24 ask him to reconsider his suit.

25 He is not interested, at least in conversations

1 I've had with him, of causing havoc in the industry. He had
2 great problems with the former Chairman of this Board, and
3 he may have his issues with other people on this Board, but
4 he is not interested in --

5 BOARD MEMBER CHOPER: That's a separate suit, he's
6 got two. He's filed one and promises to file the other, and
7 that's against the former executive director.

8 But he's got a suit now, asking for injunction
9 against enforcement of the rule.

10 MR. BLONIEN: I don't know. I mean, maybe there's
11 no hope of bringing it back.

12 But, again, I don't think he's interested in
13 causing great havoc for the industry.

14 BOARD CHAIRPERSON ISRAEL: So who do you propose
15 is the George Mitchell in this room? Are you volunteering?

16 MR. BLONIEN: Well, I would volunteer and I think,
17 perhaps, a member of the Board could sit down and have a cup
18 of coffee with him, and see if we can get this thing
19 resolved. And if we can't, what have we wasted, you know, a
20 little bit of time. But on the other hand, we might be able
21 to get something resolved.

22 BOARD CHAIRPERSON ISRAEL: Which member of the
23 Board would you suggest?

24 BOARD MEMBER CHOPER: I think the people who are -
25 - the racing associations, who really understand what the

1 potential costs of these are, ought to sit down.

2 REGULATIONS/LEGISLATION MANAGER WAGNER: Yes.

3 MR. BLONIEN: Maybe have three people, four
4 people, but --

5 BOARD CHAIRPERSON ISRAEL: The usual suspects,
6 they're available for other things.

7 MR. BLONIEN: Well, I think that's a good idea.
8 And maybe, Mr. Choper, perhaps --

9 BOARD MEMBER CHOPER: How about Mr. Liebau, would
10 you be willing to enter into this conversation with him?

11 MR. LIEBAU: I never know from day to day what my
12 relationship is with the Jammer. But yes, I would.

13 BOARD MEMBER CHOPER: You'd be willing?

14 MR. LIEBAU: Yes.

15 BOARD MEMBER CHOPER: Well, I think -- I think you
16 might be the most effective in pointing out the detriment
17 that he would -- as I understand it now.

18 See, I had a totally different impression before.
19 Someone said, well, no one ever does it anyway, very rarely
20 someone does it and they get caught.

21 And now, whatever, you say the rule's there and
22 they don't do it because of the rule, they're deterred by
23 it. I don't know.

24 But now, very serious consequences have been
25 described.

1 BOARD CHAIRPERSON ISRAEL: Let me ask, are there
2 owners who put their horses in claiming races, who hope to
3 have those horses claimed, who will be miffed if the number
4 of claims is reduced by reinstatement of this rule, which
5 had been suspended.

6 BOARD CHAIRPERSON HARRIS: Possibly, but not, I
7 don't know if --

8 BOARD CHAIRPERSON ISRAEL: I don't know, I guess
9 Drew would know better. Where's Drew?

10 MR. LIEBAU: The only owner that I know is in that
11 neighborhood is me, as far as getting a horse claimed.

12 BOARD CHAIRPERSON ISRAEL: Desiring to have a
13 horse claimed?

14 MR. LIEBAU: That's victory for me and money in
15 the bank.

16 BOARD CHAIRPERSON ISRAEL: Yeah, that's what I'm
17 suggesting.

18 MR. LIEBAU: Another slow horse gone.

19 BOARD CHAIRPERSON ISRAEL: Especially in this
20 economy. You need to pick them better, Jack.

21 MR. ROBBINS: Plus, this rule has been in effect
22 for six years. I have not heard from any owners that have
23 expressed any concern that -- exactly what you just
24 suggested, Mr. Israel that, gee, I wish we could open it up
25 more because I want to lose my horse, and I have a better

1 shot than somebody else.

2 BOARD CHAIRPERSON ISRAEL: Yeah, it reduces the
3 opportunity, to some point.

4 MR. ROBBINS: I think most owners --

5 BOARD CHAIRPERSON ISRAEL: If it's as bad as you
6 say it is, there are going to be fewer buyers.

7 MR. ROBBINS: I think most owners that run
8 claiming horses in California are interested in seeing the
9 future of the game remain strong. And so maybe for that
10 reason they haven't objected.

11 BOARD CHAIRPERSON ISRAEL: Are you making the deal
12 now?

13 MR. BLONIEN: Well, I've got Mr. Jamgotchian on
14 the phone and he's laughing hysterically.

15 (Laughter.)

16 BOARD CHAIRPERSON HARRIS: I think I would take
17 that for a no.

18 EQUINE MEDICAL DIRECTOR ARTHUR: That's exactly
19 what he wanted to do is make us jump like monkeys, like he's
20 done for the last three years.

21 BOARD CHAIRPERSON HARRIS: Yeah. Yeah, he has
22 spent well over a million dollars litigating actions aimed
23 at California racing.

24 Well, I think, really, the tracks and the horsemen
25 need to look at if there's other ways we can get there. And

1 fortunately, or unfortunately, the economy's so weak now
2 that there aren't just a ton of horses being claimed.

3 But one of the issues I see in California is our
4 lesser horses are so greater horses to some of these running
5 in other states, it's just the way the game has worked out
6 here. Maybe we just need to raise the claiming prices out
7 here overall.

8 What was your verdict, Mr. Blonien?

9 MR. BLONIEN: Mr. Jamgotchian, apparently, is
10 listening to the audiocast of this meeting. And he
11 initially was laughing hysterically, and said that he would
12 meet, and would be willing to talk. And he couldn't promise
13 that anything would get done. But he's willing to talk and
14 to consider the concerns of the industry.

15 BOARD MEMBER CHOPER: Good.

16 BOARD CHAIRPERSON HARRIS: Jesse, could Congress
17 be -- it would be tough to get a Federal regulation on this,
18 obviously. But could you have Federal legislation to
19 clarify this?

20 BOARD MEMBER CHOPER: Oh, you could have Federal
21 legislation that authorizes all kinds of discriminations
22 against interstate commerce.

23 No, you can, that's perfectly within the -- it's
24 not the constitution, itself, that bars discrimination
25 against interstate commerce. It's be interpreted to bar it

1 by the states without the consent of Congress.

2 But Congress can turn around and authorize, and
3 they have, they have for the insurance industries.

4 BOARD CHAIRPERSON HARRIS: They can put it in the
5 stimulus package somewhere.

6 Okay, let's move.

7 BOARD MEMBER CHOPER: But I'm just thinking off
8 the top of my head, but one thing that we might do is have -
9 - I don't know if you can just do it by the Executive
10 Director doing it, or we do it by an emergency something or
11 other, in which we say that the -- that the rule that we
12 suspended, all right, that we unsuspend that rule. What is
13 this, B?

14 But we interpret it the way we conclude that it
15 was intended to apply, which is only to meets ending with
16 the fairs. All right.

17 You know what I mean, but to have the fairs be one
18 meet.

19 BOARD CHAIRPERSON HARRIS: Well, we don't
20 necessarily want to do that.

21 BOARD MEMBER ANDREINI: That's the opposite of
22 what they did.

23 BOARD CHAIRPERSON HARRIS: That's what we didn't
24 want to do.

25 BOARD MEMBER CHOPER: I thought what you wanted to

1 do was -- I'm sorry, I got it backwards. It was intended to
2 do what you said it was intended to do, a very
3 limited --

4 BOARD CHAIRPERSON HARRIS: A carve-out, yeah.

5 BOARD MEMBER CHOPER: It was a very limited thing.

6 BOARD CHAIRPERSON ISRAEL: What you intended to
7 do, I think, was if a horse was claimed in Pleasanton, it
8 was 60 days from the end of Pleasanton, not 60 days from the
9 end of Fresno, right?

10 BOARD MEMBER CHOPER: At the end of the Fresno
11 Fair two months later.

12 BOARD CHAIRPERSON HARRIS: Which is what we have
13 been doing.

14 BOARD MEMBER CHOPER: Yes.

15 BOARD CHAIRPERSON HARRIS: But I think,
16 regardless, we do have this problem that somebody, and if
17 it's not Jammer, it's some Jammer Junior someplace, that
18 could attack our rule if they take the horse out of state.

19 But, I mean, the real problem is it wouldn't be as
20 big of a deal if every state had the same interpretation.
21 And I don't know, the economy's so weak now that they aren't
22 really -- the big days of claiming are behind us.

23 But part of the problem in California is that our
24 claiming prices are relatively low compared to other places.
25 I mean, a \$4,000 horse here is probably a \$7,500 horse in

1 Mountaineer.

2 BOARD MEMBER CHOPER: Can I ask this question, how
3 much does the 60 days act as a deterrent?

4 I mean, if I got big purses at Mountaineer, then
5 why would the 60-day rule -- I understand it's nice if I
6 could run them back in ten days, or something like that,
7 but --

8 MR. ANTON: But, Mr. Choper, it's not the 60 days,
9 it's the --

10 EXECUTIVE DIRECTOR BREED: Would you state your
11 name?

12 MR. ANTON: -- it's the 60 days running to the end
13 of the meet.

14 EXECUTIVE DIRECTOR BREED: Hello.

15 MR. ANTON: Oh, I'm sorry, it's Bill Anton.

16 It's the waiting to the end of the meet, then 61
17 days on top of it. If you claim a horse in Stockton, in
18 June, and now you go to Fresno on October 5th --

19 BOARD MEMBER CHOPER: No, no, no, that
20 was -- that, I understand we're wanting to do away with.

21 BOARD CHAIRPERSON ISRAEL: That's been done away
22 with. That's been done away with.

23 BOARD MEMBER CHOPER: But we did away with too
24 much.

25 MR. ROBBINS: So the suggestion that's on the

1 table is just 60 days after the claim.

2 BOARD MEMBER CHOPER: After the claim.

3 MR. ROBBINS: And that would make it equal for
4 everybody, not dependent on the length of any one particular
5 race meeting.

6 To answer the question about is the 60-day
7 deterrent from somebody coming from out of state?
8 Economically speaking, we would hope if a horse is claimed,
9 and that horse -- the owner is intending to take that horse
10 out of state, we would hope that that owner would run the
11 horse in California once or twice, if that horse is
12 physically able to run after being claimed.

13 BOARD MEMBER CHOPER: Yes.

14 MR. ROBBINS: So there is that advantage to us,
15 rather than having nothing.

16 BOARD MEMBER CHOPER: But pretty minor, don't you
17 think? I mean, if they're going to take the horse out to
18 run for the next two to four years, and you get another
19 couple of races of --

20 MR. ROBBINS: Well, they're paying. And maybe 60
21 days isn't long enough, but they're paying expenses on that,
22 and they're paying a trainer to have that horse in their
23 care for 60 days.

24 BOARD MEMBER CHOPER: But do you think it is a
25 real deterrent?

1 MR. ROBBINS: Well, I think it's -- maybe this
2 isn't going to be a deterrent, but at least we have the
3 advantage of having that horse run once or twice, maybe more
4 in California, at least. We have that going for us.

5 Versus no jail time, and that horse leaves
6 immediately, and that horse is gone.

7 BOARD CHAIRPERSON ISRAEL: That's the provision
8 that's currently under 45-day review, 60 days from the date
9 of the claim.

10 MR. ROBBINS: Right.

11 BOARD CHAIRPERSON ISRAEL: And all that
12 this -- believe it or not, all this conversation's been
13 about is what to do in that interim period between now and
14 the expiration of the 45-day review period.

15 And so what we were proposing to do by this
16 motion, that hasn't been voted on, is just to suspend the
17 rule until the 45-day period is up, then we will revisit the
18 rule that's been written, that's under review, and vote on
19 it, and institute it.

20 So the only meet that will really be affected,
21 judging from what everybody said, is the end of Santa
22 Anita's winter meeting.

23 MR. ROBBINS: Yeah, in Southern California,
24 Hollywood Park would be affected, potentially, you know.

25 BOARD CHAIRPERSON ISRAEL: Well, no, because in

1 the 45 days we will have voted to institute the 60-day rule
2 by then.

3 MR. ROBBINS: No, I thought --

4 BOARD CHAIRPERSON HARRIS: Maybe. I don't know
5 that we're going to do that.

6 BOARD CHAIRPERSON ISRAEL: But that's -- but
7 that's what we're in the process of doing.

8 This is -- what we're doing is this whole thing is
9 procedure.

10 BOARD CHAIRPERSON HARRIS: As of right now, the
11 rule is suspended and we're considering reinstating it.

12 To reinstate it, I think we've got to get some
13 good reasons, legally, that we can do that and possibly,
14 really, float it out there. Just to do it isn't going to
15 solve anything.

16 MR. ROBBINS: Well, you have one gentleman that
17 has raised the issue that, I guess, has filed a lawsuit, and
18 he's willing to talk. I would take advantage of that, at
19 least.

20 BOARD MEMBER CHOPER: No question, absolutely. No
21 one disagrees with that.

22 MR. ROBBINS: And rather than say we're going to
23 suspend part B of this rule today, which will open up the
24 door, I would accept the invitation to talk with
25 Mr. Jamgotchian and maybe we can work out something, retain

1 the rule as it currently exists, and see what we can come up
2 with.

3 We're -- I represent all racing secretaries in
4 California. We want to work with TOC, whether it's 60 days,
5 or something less or something more, but we all want to
6 speak with one voice as it relates to this issue. It's that
7 important.

8 But I would certainly take the -- accepting the
9 invitation, Mr. Chairman.

10 BOARD CHAIRPERSON HARRIS: Well, I think we can do
11 that by this whole rule-making process. It's just as of
12 today I don't have any faith at all in Jammer dropping his
13 suit. And I think if we suspend the rule, we don't have to
14 defend the suit. Okay, and I'm tired of spending California
15 money to fight Jammer.

16 EXECUTIVE DIRECTOR BREED: So we need to vote on
17 A, C, D. The motion's been made and seconded.

18 BOARD CHAIRPERSON HARRIS: Yeah, okay Why don't
19 you state the motion.

20 EXECUTIVE DIRECTOR BREED: Okay, Mr. Chairman, to
21 clarify the motion, the motion is to reinstate A, C, and D
22 of Rule 1663.

23 BOARD CHAIRPERSON HARRIS: Okay.

24 EXECUTIVE DIRECTOR BREED: Part B remains intact.

25 BOARD CHAIRPERSON HARRIS: Okay, is everyone clear

1 on that?

2 All in favor?

3 (Ayes.)

4 BOARD CHAIRPERSON HARRIS: Now, on the lawsuit,
5 which I'm not sure we really discussed the lawsuit here, but
6 we have not settled the lawsuit as yet.

7 So I would sure encourage TOC and the tracks to
8 intervene as defendants in the lawsuit, so that you're there
9 in case we decide to settle, you would still have your day
10 in court.

11 EXECUTIVE DIRECTOR BREED: You see they're jumping
12 on it.

13 BOARD CHAIRPERSON HARRIS: Yeah, I'm seeing that
14 one's got a lot to go.

15 (Laughter.)

16 BOARD CHAIRPERSON HARRIS: When it's your money,
17 it's different.

18 MR. LIEBAU: We're right behind you, John.

19 BOARD CHAIRPERSON HARRIS: Okay, let's move on to
20 something a little less controversial, hopefully.

21 The distribution of the race days charity proceeds
22 from Hollywood Park, in the amount of \$190,000 and 23
23 beneficiaries.

24 BOARD MEMBER CHOPER: I move to approve the
25 proposed distribution.

1 BOARD MEMBER DEREK: I second.

2 BOARD CHAIRPERSON HARRIS: And these are 62
3 percent equine relate?

4 EXECUTIVE DIRECTOR BREED: Yeah.

5 BOARD CHAIRPERSON HARRIS: All in favor?

6 (Ayes.)

7 BOARD CHAIRPERSON HARRIS: Opposed?

8 Okay, anything? Now, we're going to move on to
9 public comment.

10 EXECUTIVE DIRECTOR BREED: Public Comment.

11 BOARD CHAIRPERSON HARRIS: In other words, it's
12 public comment, where if something's not on the agenda,
13 people can talk about --

14 I might notice that there is a meeting next
15 Friday, at Cal-Expo, to discuss their development plans that
16 many people in the horse community need to take a look at.
17 I think it's on their website, the development plan, which
18 would basically wipe out the track and the stabling. But
19 it's a long ways from happening, but all the horse
20 stakeholders need to be there.

21 Anything else?

22 Okay, they've got a wonderful race card and a nice
23 lunch out here, if anybody wants to buy it?

24 BOARD CHAIRPERSON ISRAEL: You're not buying?

25 BOARD CHAIRPERSON HARRIS: Well, I won the first

1 race here, I'll buy it.

2 BOARD CHAIRPERSON ISRAEL: Did you win?

3 BOARD CHAIRPERSON HARRIS: Yeah.

4 BOARD MEMBER DEREK: Is that it?

5 BOARD CHAIRPERSON HARRIS: Yeah.

6 BOARD CHAIRPERSON ISRAEL: I move to adjourn.

7 (Thereupon the California Horse Racing

8 Board Regular Meeting was adjourned at

9 1:35 p.m.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of March, 2009.

Richard A. Friant

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