

MEETING

STATE OF CALIFORNIA

HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

ARCADIA CITY HALL

240 WEST HUNTINGTON DRIVE

ARCADIA, CALIFORNIA

THURSDAY, SEPTEMBER 27, 2007

9:00 A.M.

Reported by:
Troy A. Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson

John C. Harris, Vice-Chairperson

John Amerman

John Andreini

Jesse H. Choper

Jerry Moss

Ingrid J. Fermin, Executive Director

STAFF

Jacqueline Wagner, Staff Services Manager I

Derry L. Knight, Deputy Attorney General

Richard Bon Smith, Assistant Executive Director

Mike Marten

Roberto Zavala

ALSO PRESENT

Dr. Rick Arthur, Equine Medical Director

Robert Hartman

Jerry Jamgotchian

Eual Wyatte

Drew Couto

Ed Halpern

Jack Liebau

Guy Lamothe

Rick Hammerly

APPEARANCES CONTINUED

ALSO PRESENT

Brian Blackwell

Scott Daruty

Cathy Christian

Chuck Champion

Joe Barkett

Tawny Tesconi

Forrest White

Lee Hall

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 PROCEEDINGS

2 EXECUTIVE DIRECTOR FERMIN: Ladies and gentlemen,
3 will the meeting come to order. This is a regular meeting
4 of the California Horse Racing Board, on Thursday, September
5 27th, 2007, at the Arcadia City Hall, 240 West Huntington
6 Drive, Arcadia, California.

7 Can you get this?

8 Present at today's meeting are Chairman Richard
9 Shapiro, will be Vice Chairman John Harris, Commissioner
10 John Amerman, Commissioner John Andreini, Commissioner Jesse
11 Choper, and Commissioner Jerry Moss.

12 We will be going into the business session at this
13 time and recess, and come back at a later time.

14 (Thereupon, the Executive Session
15 was held off the record at 9:07 a.m. and
16 the Open Session was reconvened at 11:09 a.m.)

17 EXECUTIVE DIRECTOR FERMIN: We had opened the
18 meeting at nine o'clock, prior to most of your arriving, and
19 so now we'll go back and reopen.

20 I just want to remind everyone to clearly state
21 their name when their speaking at the podium, so that our
22 court reporter can get all the information correctly. Thank
23 you.

24 Mr. Chairman.

25 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank

1 you and good morning to all. Again, to everybody in the
2 audience, and those people watching the webcast, we
3 apologize, we had the Executive Session prior to the open
4 meeting and it ran a little bit long.

5 The meeting procedures. The Board invites
6 comments from the public about items on its agenda. It also
7 invites public comment about items not on the agenda, that
8 are related to horse racing, during an open comment period.

9 Please note that duly repetitious comments or
10 extended discussion of irrelevancies disrupt the meeting and
11 prevent the Board from accomplishing its business in a
12 reasonably efficient manner.

13 In order to assure that each individual, who
14 wishes to comment, will have an adequate opportunity to do
15 so, and also to assure that the meeting as a whole will be
16 completed in a timely manner so that individuals wishing to
17 comment on multiple matters will not be required to stay for
18 an unreasonable length of time, I will strictly enforce a
19 five-minute time limit for each person wishing to speak on
20 any agenda item.

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

24 In order to expedite the comment process, there is
25 a public comment sign-in sheet or cards for each agenda item

1 on which public comment will be taken, as well as a card for
2 comment about anything related to horse racing that is not
3 on the agenda.

4 The cards are located by the podium and also in
5 the back, by the door there.

6 Please print your name legibly so that I do not
7 mangle it.

8 Just prior to our discussion of the item, the
9 comment cards will be brought to me. After initial
10 statements from staff and interested parties, I will ask for
11 public comment.

12 When I call your name, please come to the podium
13 to speak. I will let you know when your time has commenced,
14 when there is one minute left, and when your time is up.
15 When your time is up, you will be expected to return to your
16 seat so that I may call the next person waiting to the
17 podium.

18 When all the names have been called, I will ask if
19 anyone else has a comment on the agenda item, who has not
20 already spoken. At that point, the Board will not take any
21 further comment on an item unless the Board has specific
22 questions it wishes addressed.

23 If the time is up, I will ask the speaker to take
24 his or her seat. If a speaker is repeating himself or
25 herself, I will ask the speaker if he or she has any new

1 comments to make. If not, I will ask the speaker to allow
2 the next speaker to come to the podium, irrespective of the
3 time remaining, unless a Board member indicates that he or
4 she still wishes to hear from an individual.

5 If it appears that a speaker is not speaking to
6 the agenda item, or is speaking to another agenda item, I
7 will ask the speaker to please return to his or her seat and
8 address his or her comments at the appropriate time, either
9 on that specific item or public comment.

10 The first item on our agenda is the approval of
11 the minutes of the regular meeting of August 21st, 2007.
12 Are there any comments, changes? If not, I would entertain
13 a motion to approve the minutes.

14 COMMISSIONER AMERMAN: I move that the minutes be
15 approved.

16 COMMISSION CHAIRPERSON SHAPIRO: It's moved, is
17 there a second?

18 COMMISSIONER MOSS: Second.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, seconded.
20 All in favor?

21 (Ayes.)

22 COMMISSION CHAIRPERSON SHAPIRO: The minutes are
23 approved.

24 The second item on our agenda is discussion and
25 action by the Board on the application to conduct a horse

1 race meeting of the Pacific Racing Association at Golden
2 Gate Fields, commencing November 7th and continuing through
3 December 22nd.

4 Jackie?

5 STAFF SERVICES MANAGER WAGNER: Good morning,
6 Commissioners. The application before you is from the
7 Pacific Racing Association. They have filed an application
8 to run their race meeting from November the 7th through
9 December the 22nd, or 32 days.

10 The Association is proposing to race a total of
11 275 races, or 8.6 races per day. In 2007 they raced from
12 April the 25th through June 11th, or 8.6 races per day.

13 They did not conduct racing -- as I indicated
14 earlier, they did not conduct racing during the prior
15 timeframe. PRA was allocated 31 days for 2007. This
16 proposed application contains race dates that deletes
17 December 17th as a racing day and adds December 21st and
18 22nd.

19 The Association's requesting the revision to their
20 application in order to allow the coordination between the
21 north and the south signals. The additional day would bring
22 their total race days for this race meeting to 32.

23 They are proposing to race five days per week,
24 Wednesday through Sunday. They will be racing eight races
25 on weekdays and nine or ten races on holidays. And as

1 indicated earlier, they will be racing concurrently with
2 Hollywood Park.

3 Their first post time is 12:45 p.m. daily, and
4 they are proposing an 11:15 a.m. post on November 22nd,
5 which is Thanksgiving.

6 Their ADW providers are XpressBet, and they have
7 indicated that in the event Twinspires is approved by this
8 Board for licensure, Twinspires will also be an ADW provider
9 for them.

10 We have received all the information needed for
11 this application and staff would recommend that the Board
12 adopt the application as presented.

13 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I'm
14 sure there are representatives from Golden Gate in the
15 audience, and they may want to come forward.

16 First of all, I think that everybody in the
17 audience would like to know, this will be your first race
18 meeting with Tapeta footings, and perhaps you can just give
19 us a little update as to the progress of the installation of
20 the new track.

21 MR. HARTMAN: Robert Hartman, Golden Gate Fields.
22 The new track is all down on the -- at Golden Gate. We're
23 just in the process of grooming it and making it even, but
24 everything is done. All the subsurface is in and all the
25 material is on top, and we're looking forward to welcoming

1 back horses on October 5th.

2 COMMISSION CHAIRPERSON SHAPIRO: And as I recall
3 from your -- the last time that we saw you, which was at the
4 Strategic Planning Committee meeting, you had 400 new
5 applicants for stalls; is that correct?

6 MR. HARTMAN: That's correct. We had 1,950 or so
7 horses that wanted to come on the grounds, and we only have
8 1,325 stalls available. We have new trainers coming in from
9 the northwest, trainers like Barbara Head, and others. We
10 have the second leading trainer at Thistle Down coming in
11 with 45 horses, Bernard Sipp. So it's very, very strong.
12 We expect the horse population to be significantly increased
13 for the upcoming meet.

14 COMMISSION CHAIRPERSON SHAPIRO: I note in your
15 application, and it's something that we've seen for years
16 now, that the average number of races to be run is 8.6 races
17 per day. I, personally -- if, in fact, the fields can
18 support that and with the new track, and given the new
19 influx of horses that are coming, that may be fine. But I
20 still have some concerns at the notion that you're going to
21 run ten races on the weekend, and then what we see is that
22 throughout the year, again absent our having a positive
23 impact from the Tapeta track, is that it then depletes the
24 horse population that appears thereafter.

25 And so I would like to make sure that in the event

1 that you're going to want to run any ten races on any day,
2 that the Board would in fact -- you would have to request
3 permission and we could look at what the average field size
4 is, and what the horse population is to support that. Do
5 you have any objection to that?

6 MR. HARTMAN: No, that's fair enough. One piece
7 of information that we did add on page 2-4, was that --
8 section B, is that we would only race ten races up to six
9 weekend days. So we tried to limit it a little bit, because
10 I know this has been an issue in front of the Board before.

11 So we will contact Ingrid, and the Board, and let
12 them know if we do plan to race any ten-race days, that's
13 not a problem.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, so
15 otherwise the maximum will be nine, but with the Board
16 consent you can run ten. And I think that we will look at,
17 basically, the inventory, and make sure that it's not going
18 to create a negative impact thereafter.

19 COMMISSIONER CHOPER: Could I ask a question?

20 COMMISSION CHAIRPERSON SHAPIRO: You're a
21 Commissioner, you get to ask all the questions you want.

22 COMMISSIONER CHOPER: Did you used to have early
23 betting at Golden Gate Fields?

24 MR. HARTMAN: Not since I've been there. We might
25 have had that sometime in the past.

1 COMMISSIONER CHOPER: Before, uh-hum. I just
2 wondered why you don't have it?

3 MR. HARTMAN: I'm guessing it just wasn't
4 economically feasible, the number of people that --

5 COMMISSIONER CHOPER: Is that right? I mean, the
6 place is open, right, there are people there?

7 MR. HARTMAN: Yeah, I mean, you need to add more
8 staff and potentially change janitorial crew times, and
9 maybe add more staff there, as well.

10 COMMISSIONER CHOPER: But I guess if the track is
11 open at 9:30 in the morning -- I mean, races in the east
12 that must start at what, ten o'clock, before?

13 MR. HARTMAN: Uh-hum.

14 COMMISSIONER CHOPER: So I just wondered, and if
15 you have betting machines.

16 MR. HARTMAN: Yes, you can bet earlier in the day,
17 but you can only bet on the --

18 COMMISSIONER CHOPER: Well, you can on the
19 machines.

20 MR. HARTMAN: Correct. You can't start at 7:30 in
21 the morning, like they do in other locations.

22 COMMISSION VICE CHAIRPERSON HARRIS: What time do
23 you start betting via the ADW providers you have, on Golden
24 Gate?

25 MR. HARTMAN: I believe just when the polls open.

1 I'm not exactly sure, but I believe that's when they accept
2 wagers.

3 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, because
4 the issue I've noticed is that if someone's on the east
5 coast and they're leaving for work at, you know, eight in
6 the morning, it's nice somehow if you can open those pools
7 fairly early, so people, if they want to bet on a western
8 track, they can.

9 MR. HARTMAN: Well, it's even an issue out here,
10 Mr. Harris. If people leave to go to work at 8:30 in the
11 morning on the west coast, yeah, and they can't get to a
12 computer during the day, they may want to place a bet
13 earlier. I think that's a very good point.

14 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I don't
15 know if there's barriers to do that, but I'd encourage you
16 to do that.

17 Are you going to have Youbet, also, as a provider?

18 MR. HARTMAN: We are not. Well, I shouldn't say
19 that. Golden Gate Fields, we don't currently have them as a
20 provider. Golden Gate Fields has used Youbet in the past,
21 and I know they're currently in negotiations with Youbet.
22 We have TrackNet, now, if you know that company, and they're
23 in negotiations with Youbet. And they haven't come to an
24 agreement, yet, but we're hopeful that will happen before
25 the start of our meet on November 7th.

1 COMMISSION CHAIRPERSON SHAPIRO: I think that
2 we -- again, I think that we would certainly like to see
3 that every possible ADW provider is accepting wagering on
4 Golden Gate and on all of our tracks. So I sure hope that
5 that can happen.

6 I noticed in your license application that Youbet
7 was, in fact, listed. But I heard today that it's going to
8 be XpressBet. If we license Twinpires, it would be
9 Twinpires. But YouBet, now, is not. I think that we
10 certainly would like to see that, if possible.

11 MR. HARTMAN: It was just positive, positive
12 thinking on our part that we would have a deal done by now,
13 and I know those conversations are still going on with
14 Tracknet.

15 COMMISSION VICE CHAIRPERSON HARRIS: I think it
16 hurts racing if -- while Hollywood Park is conducting their
17 meet, and they're TVG exclusive, but also YouBet, where if
18 YouBet could also do Golden Gate, it would just help the
19 California fan to have some site that they could go to, to
20 bet north/south.

21 MR. HARTMAN: Understood.

22 COMMISSION VICE CHAIRPERSON HARRIS: Also, I
23 realize we really aren't apples and apples as far as the
24 dates, but why are the purses per day down rather
25 dramatically from the prior meet? On page 2.9, they show

1 average daily purses are 106,000, where the prior meet was
2 141. Where I thought that those were kind of pooled, where
3 they were pretty consistent, and it wouldn't be a big drop
4 just because of these dates.

5 COMMISSION CHAIRPERSON SHAPIRO: Yeah, frankly,
6 just before you answer that, I couldn't figure this out,
7 either, in my trying to understand. And while we recognize
8 that they're different periods of comparison, perhaps you
9 could just give us the assumptions that were used to -- of
10 what you're using and what you're projecting?

11 MR. HARTMAN: Yeah, if you look at page 2.2-8, at
12 the top of the page, you'll see the average daily purse is
13 relatively similar. So the overnight purses are the same.
14 The major difference comes in the stakes area. We tend to
15 really bulk up our stakes races during the prime time of the
16 year, which was our last meet, which was April, May and
17 June. And the stakes for the winner we scale back a little
18 bit. So that's where you'll see the difference for the rest
19 of the numbers.

20 But the overnight purses, we haven't changed our
21 purse structure from last meet to this meet, that stayed the
22 same. So you see the difference when you average in those
23 stakes races. It is a little confusing given the fact that
24 we don't race the same dates every year.

25 COMMISSIONER AMERMAN: Along those lines, I was

1 impressed with your winter marketing plan, it's well thought
2 out. It looks like you've got some momentum. Certainly,
3 when you say that you've got applications for 400 new
4 stalls, you've got some -- you've got some momentum there.

5 I was surprised, however, that the advertising
6 budget was only 5.5 percent ahead of a year ago. And I
7 assume part of that is media inflation so, essentially,
8 you're really not being very aggressive in reaching out to
9 the public, in saying, hey, we got a new track here, we're
10 going to have bigger field sizes. And if you've got all of
11 that, clearly, the purses may go up.

12 MR. HARTMAN: Yeah, one thing we're definitely
13 going to do is strong promotion around the Tapeta racing
14 surface. We've already started that with horsemen, and
15 we've seen the results of that. Between ads in the Daily
16 Racing Form, and a strong recruiting effort by our racing
17 secretary, we've seen more horsemen from out of state come
18 to Northern California, so that's been good.

19 We're also reaching out to the local community. I
20 hope you all received invitations to our open house. That
21 was also sent to all local businesses in the East Bay.
22 We're expecting 500 to 1,000 people at that event. And
23 we're also reaching out to racing fans, through advertising
24 and promotion, to let them know about the new surface.

25 One thing we did do is we tried to maintain that

1 advertising budget generally, and we really beefed up our
2 direct mail. One thing that we really found during the
3 spring is we were able to not only attract new customers,
4 but get their names and addresses.

5 And now we're embarking on a development effort of
6 those new people. So there was an attraction during the
7 spring, now we're trying to develop those customers that we
8 attracted, so we really beefed up our direct mailing.
9 You'll see that in the plan, going up rather dramatically.
10 With that, we try to keep the advertising and not cut those
11 levels.

12 So we're trying to do two things at once there,
13 and I think it will be a good combination.

14 COMMISSIONER AMERMAN: Well, I encourage you,
15 though, in the early days of your meet, if you are seeing
16 some good signs, that you spend behind it and not take it
17 all to the bottom line, and maybe you can share it with some
18 increased advertising.

19 MR. HARTMAN: Fair enough.

20 COMMISSION VICE CHAIRPERSON HARRIS: Also, on your
21 overnight stakes, it dropped to 50,000, from 200,000, which
22 I realize that you want to use up the claiming and just
23 regular allowance raises. But I'd hope, in conjunction with
24 the horsemen's groups, you could take a look at a few more
25 overnight stakes, where they didn't really take

1 significantly more money than just an allowance race, but
2 provide more block type opportunities for California owners
3 and breeders.

4 MR. HARTMAN: Okay.

5 COMMISSION CHAIRPERSON SHAPIRO: I would like to
6 tell you that I thought that it was the first time that I'd
7 seen the emergency medical procedures on the track. I
8 thought that was a terrific thing that you put in your
9 application. And I would encourage all the tracks to look
10 at that, and inform the Board, and adopt similar procedures
11 that may be in existence, and we haven't known it, but I
12 think that's a very good thing that you added there.

13 MR. HARTMAN: Thank you.

14 COMMISSION CHAIRPERSON SHAPIRO: Are there any
15 other comments from the Board on this application? Okay,
16 thank you, Mr. Hartman.

17 Mr. Jamgotchian, on public comment.

18 MR. JAMGOTCHIAN: Mr. Chairman, members of the
19 Board, Jerry Jamgotchian. With regards to this application,
20 I just want to bring some numbers to light, and put some
21 numbers out for the owners and the trainers to understand
22 that the first distribution at Golden Gate is going to be
23 reduced by \$427,000.

24 The overnight stakes is going to be reduced by
25 \$150,000. The non-overnight stakes are going to be reduced

1 by \$222,000. The purse distribution for all stakes is going
2 to be reduced by \$372,000. And the funds generated for all
3 California Read Incentive programs, is going to be reduced
4 by \$176,000.

5 I just want the people to know, the owners and
6 trainers especially, that these are significant reductions.
7 And although the average daily purse might be close to what
8 it was last year, there are some significant reductions from
9 last year that are certainly going to affect many owners and
10 trainers in Northern California.

11 Additionally, I note that, and something you guys
12 always bring up, that the horsemen's agreement, apparently,
13 in accordance with the declaration 20-B, is still in
14 negotiation and will be submitted to the Board upon receipt.

15 Has that been received?

16 STAFF SERVICES MANAGER WAGNER: Yes.

17 MR. JAMGOTCHIAN: Okay, because then this is not
18 accurate.

19 COMMISSION CHAIRPERSON SHAPIRO: And, Mr.
20 Jamgotchian, I think that with respect to your first
21 comments about the purses, I think that Mr. Hartman just
22 addressed that.

23 And I'm not sure, when you're saying a reduction,
24 that again we're not looking at similar comparative periods.
25 So I think that you have to take that into account.

1 MR. JAMGOTCHIAN: Yeah, I'm just taking the
2 comparisons over last year's meet. There might be day
3 differences, but the trend is what I want to make sure that
4 the people understand, the owners and trainers because,
5 obviously, there are not improvements here, there are things
6 that are being declining, purses are declining. You know,
7 or the overnight stakes, which as Mr. Harris stated, for
8 black tie purposes are critical to have in Northern
9 California. But, obviously, that -- I mean, you got \$50,000
10 for overnight stakes? I mean, 50,000 is a qualification
11 point for an overnight stakes, so I assume there's one
12 overnight stake for the whole meet?

13 I mean, it seems like the owners and the trainers
14 certainly should be interested in this and maybe provide
15 some input. Thank you.

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Thank
17 you. All right, there's no other public comment on it, I'll
18 entertain a motion to approve this license application.

19 COMMISSIONER AMERMAN: So moved.

20 COMMISSION CHAIRPERSON SHAPIRO: Second.

21 COMMISSIONER MOSS: Second.

22 COMMISSION CHAIRPERSON SHAPIRO: It's been
23 seconded. All in favor?

24 (Ayes.)

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, good luck

1 and good racing to Golden Gate.

2 The third item on our agenda is discussion and
3 action by the Board on the application of -- excuse me, to
4 conduct a horse racing meeting of Hollywood Park Racing
5 Association, of Hollywood Park, commencing November 7
6 through December 22nd.

7 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
8 CHRB staff. This is the application for the Hollywood Park
9 Fall Racing Association. They are proposing to race from
10 November the 7th through December the 22nd, or 32 days.
11 This is four days less than they raced in 2006.

12 They are proposing to race a total of 275 races or
13 8.59 races per day. There will be racing five days per
14 week, Wednesday through Sunday, with eight races on
15 Wednesdays, Thursdays, Fridays, and nine or ten races on
16 selected Saturdays and Sundays. And they're proposing to
17 race ten races on November the 23rd, which is the day after
18 Thanksgiving, November the 24th, and November the 25th.

19 The first post time is 12:30 p.m. daily. They're
20 proposing a 7:05 post for November the 9th and November the
21 16th. Thanksgiving Day, the post time will be eleven
22 o'clock in the morning.

23 The advanced deposit wagering providers for this
24 Association are yet to be determined.

25 The analysis is noting some missing items from

1 this application and I'm pleased to report that we have
2 received the CTT agreement. I understand the horseshoe
3 inspector is in progress and the Association has assured us
4 that they will continue to work with staff in order to find
5 someone suitable for that.

6 The concessionaire license renewal is in progress.
7 That is paperwork that needs to be completed, but we are
8 working on that.

9 And I have received an updated Worker's
10 Compensation insurance policy.

11 This item is presented to the Board for their
12 determination. We do have the --

13 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
14 Jackie. Before we -- I'd like to ask a member or a
15 representative to come forward before we even discuss this
16 issue, if we could, because there are two critical issues
17 here that I'm not sure where they are and whether or not we
18 should, in fact, move forward to hear this application.

19 Firstly, Mr. Wyatte, good morning. Do you have an
20 agreement with the horsemen's organization and do you have
21 an agreement with your ADW providers and, if so, could you
22 just fill us in on the status of those two things?

23 MR. WYATTE: Well, let me answer the second
24 question, first. We have an agreement in principle with an
25 ADW provider, it's being reduced to writing. And when that

1 is done, we will share it with everybody it needs to be
2 shared with.

3 COMMISSION CHAIRPERSON SHAPIRO: And who is that?

4 MR. WYATTE: TVG.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay. And do you
6 have a horsemen's agreement?

7 MR. WYATTE: We do not.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay. I would
9 recommend that in light of that the ADW providers agreements
10 are not in place, and there's not a horsemen's agreement in
11 place, it's been the Board's practice that when there are
12 major things that still are yet outstanding, and this is not
13 directed at you, but I do recall at one of your meets a
14 couple years ago, maybe, you know, we had right before the
15 meet opened there was an issue and there was a big problem.
16 And I would just offer to the Board that perhaps this
17 application should not be heard today until we know what the
18 issue -- that those major items are in place. I don't --

19 MR. WYATTE: I would, if I could?

20 COMMISSION CHAIRPERSON SHAPIRO: Yes, please.

21 MR. WYATTE: I would suggest to the Board that
22 before you make that decision you maybe should find out what
23 the issues are with the horsemen's agreement.

24 COMMISSION CHAIRPERSON SHAPIRO: Be more than
25 happy to.

1 MR. WYATTE: Okay.

2 COMMISSION CHAIRPERSON SHAPIRO: All I'm saying is
3 that in the past I think the Board has stated that, you
4 know, we've gone on record saying, look, unless it's
5 complete we really don't want to hear it, bring it to us
6 when it's complete. We've asked for things to be done in
7 plenty of time so that we don't get them last minute. It's,
8 again, not directed at you, it's just trying to adhere to
9 that policy.

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it
11 looks like we have time before the meeting starts, we're
12 going to have an October meeting and that would be a good
13 time to get it all done.

14 MR. WYATTE: I think the Board needs to know what
15 the issues are and then we can all go forward with some
16 clarity.

17 COMMISSION CHAIRPERSON SHAPIRO: More than happy
18 to hear what the issues are. I just don't know whether
19 we -- why don't you tell us what the issues are, let's start
20 there.

21 MR. WYATTE: I will. There is one issue -- by the
22 way, my name is Eual Wyatte, Hollywood Park, I'm sorry if I
23 didn't tell you that.

24 There is one issue with the horsemen's agreement,
25 all of the other issues have been resolved. The one issue

1 is that we do not feel, any longer, that the TC02 language
2 in the contract is appropriate. We feel that the Board is
3 in a position, through past legislation and rule changes, to
4 be the monitor of that, and we feel that any actions taken
5 as a result of a high TC02 test should only come from the
6 Board.

7 That being said, however, if the Board, in its
8 wisdom, determines that we should have that in the
9 horsemen's agreement and directs us to do so as a condition
10 of our licensing, we will abide by that directive.

11 COMMISSION VICE CHAIRPERSON HARRIS: Well, do the
12 horsemen want it in there or what is their --

13 MR. WYATTE: Yes.

14 COMMISSION VICE CHAIRPERSON HARRIS: They do.

15 EXECUTIVE DIRECTOR FERMIN: What does Derry say?

16 COMMISSION CHAIRPERSON SHAPIRO: I'd like to
17 address to our Attorney General on this issue. As we all
18 know, that presently if there is a high TC02, the agreement
19 between the horsemen, the horsemen and the track, basically,
20 by contractual agreement results in a trainer can be placed
21 in a detention barn prior to there being a public hearing.

22 COMMISSION VICE CHAIRPERSON HARRIS: I think that
23 was, too, we need to keep in mind that that, at the time it
24 was instigated, I thought was somewhat of a stop gap effort
25 because we did not have any rules, specifically, on TC02, so

1 this was a method where the tracks and the horsemen could
2 have their own system on it.

3 But now that we have the testing and the specific
4 rule on it, I don't know if the tracks and the horsemen need
5 to intervene.

6 DEPUTY ATTORNEY GENERAL KNIGHT: Well, let me just
7 address that. The issue is that, unfortunately, the rules
8 that the Board adopted don't address detention barn. They
9 simply provide for discipline, either monetary fines or
10 suspensions.

11 So what's been happening to date has been by
12 virtue of these horsemen racing association agreements is
13 the only way the detention barn issues is there.

14 Now, this is something the Board could do is make
15 that part of the Board's requirements, you know, you'd have
16 to revise your regulations to do that. But currently the
17 law only provides -- it does not address detention barns at
18 all.

19 COMMISSION VICE CHAIRPERSON HARRIS: So I guess
20 they're trying to back into it through the horsemen's
21 agreement. But I think we have an adequate rule in place on
22 it and it really should be no different than any medication
23 violations we have good sanctions on. And to carve out a
24 special thing for the bicarb issue I don't think is really
25 necessary.

1 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask
2 a question, is it not really the intent of, Mr. Wyatte, what
3 you really are -- am I wrong, are you in fact trying to
4 shift the burden of potential liability for putting somebody
5 into a detention barn away from your association and more
6 towards the Board, by our requiring you to do that?

7 Because, again, I think we have to go through a
8 due process.

9 MR. WYATTE: I don't think -- I think what we're
10 saying is simply what I said, we don't think it's any of our
11 business to be doing it. We think whatever actions are
12 taken should be taken by the Board. And if you direct us to
13 do so, we will do so. And if that shifts the burden to you,
14 then that's what it does.

15 COMMISSION VICE CHAIRPERSON HARRIS: Well, I don't
16 see what different -- why we really need detention barns for
17 TC02 versus anything else. It was kind of a stop gap effort
18 that it made sense at the time, but I think maybe it's time
19 is passed.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, I certainly
21 would like to hear from other people on that. Again, the
22 problem we have is that there is a considerable period of
23 delay going through our system before a medication violation
24 comes to the forefront. And so what I think we're -- first
25 of all, my view is it's working, and I think that our Equine

1 Medical Director could probably attest to that and give us
2 some information on that.

3 But we have seemed to pretty much have solved this
4 problem and now what we're going to, it would appear, to
5 lessen where somebody could, in fact, get a high TC02 and
6 there would be no adjudication of it for a long period of
7 time, and I'm not sure that serves the best interest of the
8 fans.

9 Mr. Couto, do you want to weigh in on that?

10 MR. COUTO: Sure, I'd appreciate that. Drew
11 Couto, Thoroughbred Owners of California.

12 First of all, I think the issue is there is a
13 dispute between the contracting parties as to a term in the
14 agreement, and the rules provide where there is a dispute
15 between the parties as to the term of the agreement, then
16 that dispute is put before the Horse Racing Board for
17 adjudication. I believe that's Rule, either 2040 or 2042.

18 So to debate it here, today, is really not the
19 appropriate mechanism for doing that.

20 The purpose of the race meet agreement is to set
21 the terms and conditions of the meet as between the horsemen
22 and the racing association.

23 TOC, on behalf of horsemen, want the continuation
24 not of the detention barn, but as the protection barn. And
25 we use this because so many of the trainers who had horses

1 who tested with high TC02 levels asserted that they had no
2 idea how it happened, and it was a fair possibility that
3 somebody had been tampering with their horses, and that's
4 how they ended up with the high TC02. And so as a means to
5 protect their horses, as well as other competitors in a
6 race, we devised the system that has been in place for over
7 two years, that as a condition of the contract those horses
8 would be placed in a protection barn 24 hours before they
9 raced, under security and surveillance to make certain, both
10 for that trainer and competitors, that there was not
11 something done toward the horse that affected its
12 performance one way or another.

13 Now, we think that has been -- aside for what the
14 rules have provided for, the Horse Racing Board rules, that
15 has been a very effective deterrent and reduced the
16 incidence of high TC02 dramatically here, in the State. And
17 we would want that to continue for the benefit of those
18 competitors who are running against horses or stables that
19 have had high TC02, for the benefit of those trainers who
20 have no idea how those horses had high TC02 levels, and for
21 the betting public, who anticipates and expects that these
22 horses will be running without the aid of some substance
23 that apparently enhances performance.

24 So the mechanism that was developed is a
25 contractual mechanism, and what we would like to ask the

1 Board is that it can be in a hearing to determine the issue
2 of whether or not this goes in the contract.

3 COMMISSIONER CHOPER: Is this a provision in all
4 your contracts with the racing association?

5 MR. COUTO: With every racing association and fair
6 throughout the State.

7 COMMISSIONER CHOPER: Why is this drug the only
8 one subject to this whole procedure?

9 MR. COUTO: This drug is subject to it because we
10 had a high occurrence of it about three years ago. We found
11 it had to be administered within 24 hours. It could be done
12 by anyone other -- a vet, or otherwise. And we found that
13 the best way to prevent this was to go ahead and place those
14 horses, coming from barns where this was occurring, in
15 protection for that period of time.

16 COMMISSIONER CHOPER: I understand that. So you
17 had experience with this drug before?

18 MR. COUTO: That's right.

19 COMMISSION VICE CHAIRPERSON HARRIS: Well, this
20 one thing, it's not really a drug per se, it's naturally
21 occurring in a horse. So the problem was we didn't have a
22 threshold level that would show additional administration
23 before, but now we do. So it's just like it's a threshold
24 level that if it's above that, it's assumed that there must
25 have been an administration.

1 COMMISSIONER CHOPER: Are there other drugs that
2 can be administered within 24 hours?

3 COMMISSION VICE CHAIRPERSON HARRIS: No, no drug
4 within 24 hours, except for lasix.

5 COMMISSION CHAIRPERSON SHAPIRO: Is permitted.
6 Okay, then -- well, again --

7 COMMISSION VICE CHAIRPERSON HARRIS: Maybe we
8 should have a hearing on it or something.

9 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I
10 think --

11 MR. WYATTE: I just -- excuse me, if I could. I
12 just, for Commissioner Choper, I'd just like to clarify
13 something, I think Mr. Harris did. When this particular
14 procedure was adopted in the contract, the Board -- there
15 was no provision for the Board to do anything about the high
16 TC02 test. There was no provision for the Board even to
17 test for it, officially. So that has all changed and that
18 is one of the primary reasons that we feel the way we feel.

19 COMMISSIONER CHOPER: So it's your view that
20 there's no special reason to continue with this rule, now,
21 as opposed to any other whatever it is, drugs or so forth?

22 MR. WYATTE: That's correct.

23 COMMISSION CHAIRPERSON SHAPIRO: And let me just
24 try and help shed some light on this. As you may recall, a
25 couple years ago this was a very, very serious issue taking

1 place in racing. And I don't know where Rick Arthur, but I
2 think that it would be helpful if he -- there. Oh, hi,
3 Rick. Sorry. I think that perhaps Rick could give us a
4 little history on TC02. And I think what Rick's going to
5 tell you is that I think it's up to 20 percent of the horses
6 were being administered or having a high level of TC02.
7 Which, while not a drug, did appear to have some performance
8 enhancing effect.

9 We are required to go through a process, which can
10 take, as you are seeing, a very long period of time. And so
11 the racing associations got together, with the horsemen, and
12 they devised a mechanism which would allow for them to take
13 swift action, because we couldn't take swift action.

14 Now, we still have to go through that process, so
15 we can't take really swift action.

16 COMMISSION VICE CHAIRPERSON HARRIS: But aren't we
17 working on that?

18 COMMISSION CHAIRPERSON SHAPIRO: Let me just
19 finish, okay. To date, every racing association has been
20 willing to put a protection barn. And when one of
21 these -- when there is a positive, that trainer has gone
22 into the protection barn. And what we've seen is a dramatic
23 fall in the incidence of using TC02, and it's been very
24 successful.

25 And so perhaps, Rick, if you could maybe give us

1 some insight into what you've seen, what you've found, and
2 what the results have been, because you've been involved
3 from day one.

4 EQUINE MEDICAL DIRECTOR ARTHUR: Okay, just to
5 review it very quickly. Unannounced, we surveyed horses at
6 Del Mar in 2004, I think it was now, out of 20 horses, over
7 20 percent had over 37 and ten percent had over 39, which
8 are abnormal levels and indicate that they were bicarbonate
9 loaded.

10 Since that time, as an example, we have not had a
11 TC02 over 37 in Southern California since November of last
12 year. We had one in Northern California in June. And we've
13 had a little bit more trouble in Northern California, but
14 the incidence is a fraction of a fraction of a percent. So
15 it's been a very, very successful program.

16 The good part about having this particular
17 surveillance barn is the fact that it basically shows to the
18 industry that everybody is involved in protecting the
19 integrity of the racing and that's a very positive aspect of
20 it.

21 There are some administration problems, if
22 everybody doesn't want to move along with a case. For
23 example, the Art Sherman hearing took almost 60 days to put
24 him in a detention barn, as compared to early on the program
25 where it happened virtually immediately. But that's their

1 administrative problem, the Horse Racing Board's not
2 involved in that.

3 I will say that we have rules now on the books,
4 which we didn't when this program was implemented, to
5 address this problem. These are Class 3 violations, they're
6 purse redistribution violations and we have, frankly, given
7 trainers a very, very modest penalty for these violations
8 because they have already gone through the effort of showing
9 that they are trying to correct the problem by their time in
10 the detention barn.

11 So the fact is that if we don't have a detention
12 barn anymore, we would have to impose more onerous penalties
13 through the rather Byzantine regulatory process. Hopefully,
14 with 1616, that's going to be -- we'll be able to accelerate
15 those hearings. And if the penalty guidelines ever get
16 approved, that you're going to be hearing in the next item,
17 we have a much bigger hammer than we've had previously.

18 But the program heretofore has been very, very
19 effective.

20 COMMISSIONER CHOPER: In the meantime, are there
21 any other -- what distinguishes the bicarbonate from other
22 substances, or drugs, or whatever the generic term is for
23 it?

24 EQUINE MEDICAL DIRECTOR ARTHUR: The major
25 difference with sodium bicarbonate is that it has to be

1 administered in a relatively short period of time. It's a
2 very ubiquitous product, it's basically baking soda that
3 you'll have in your kitchen sink or kitchen cabinet. It can
4 be administered very quickly by virtually anyone.

5 So in that particular aspect, it's a much
6 different type of performance enhancing product than we're
7 typically used to dealing with.

8 COMMISSIONER CHOPER: So in your judgment, there's
9 a distinction which justifies the protection barn for
10 bicarbonate, which is meaningfully different than for other
11 substances?

12 EQUINE MEDICAL DIRECTOR ARTHUR: Absolutely. And
13 in fact, in the harness industry they've actually gone to
14 24-hour detention barns, specifically for this purpose, for
15 all horses in those particular events, and that's been an
16 issue of debate in California for the last several years.
17 Not only for this drug, but for others.

18 But this has been a very effective program. The
19 Horse Racing Board, I do think, is capable of administering
20 the discipline in this in another fashion, but there's no
21 doubt that the quick action from a detention barn program is
22 an effective deterrent. But we are capable of handling it
23 ourselves, now.

24 COMMISSION CHAIRPERSON SHAPIRO: But before you
25 get away, is it your recommendation that it would be in the

1 best interest of the industry that we maintain the practice
2 that has been ongoing at every track in California?

3 EQUINE MEDICAL DIRECTOR ARTHUR: It would be I
4 would support that if the process is such that certain
5 people don't -- for example, in the last instance, the
6 system appears, and I wasn't involved in it, but there was a
7 rather extensive delay in terms of putting people in the
8 detention barn.

9 For example, when I was involved in that
10 Committee, before I became Equine Medical Director, you were
11 talking about days between the violation and being put in
12 the detention barn. You know, if it worked well, I would
13 support it, but I do think we -- and I would like to see it
14 continue. But I think it's got to be administered a little
15 bit more rapidly or we should take it over. I do believe
16 that.

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

19 MR. HALPERN: Ed Halpern, California Trainers. I
20 just would note that you will see in our contract with
21 Hollywood Park, we have taken the TC02 enforcement
22 requirement out of our contract, the reasons being multiple.
23 We were a strong advocate of the program, we helped to
24 create it, but at this point there are now CHRB regulations
25 to enforce it. It is a punishment. For us, it creates a

1 conflict with our own members to be involved in a punishment
2 situation and, therefore, we don't feel it's fruitful. It
3 also raises questions of due process.

4 And with all due respect to Dr. Arthur, I'm not
5 sure that anything he said about this substance makes it any
6 different from any other substance for purposes of due
7 process, and hearings, and detentions, and the CHRB's view
8 of how these matters should be handled. In other words, I'm
9 not sure that there's really a differentiation as to why the
10 parties, the TOC, the CTT, and the tracks should be doing
11 it, as opposed to doing it to a lot of other drugs,
12 substances that are now covered just by the CHRB.

13 COMMISSIONER AMERMAN: Well, it would seem to me
14 that the program is working very well at the present time.
15 And, yes, there are arguments that maybe the way it should
16 be administered might be changed as far as who's got the
17 regulation and who doesn't.

18 For purposes of this particular subject, it would
19 seem that it might be wise just to go forward with the way
20 we were doing it and have some discussions ongoing so that
21 we could resolve it for the next meet. If it's improper at
22 the present time, we could change it.

23 MR. HALPERN: I agree, Commissioner Amerman. I
24 think, and what I was going to suggest, is that the subject
25 probably needs a fuller discussion than it's worth having at

1 this moment, before we make the change, but we have taken it
2 out of our contract.

3 MR. LIEBAU: The problem is that Hollywood
4 Park --

5 COMMISSION CHAIRPERSON SHAPIRO: Jack.

6 MR. LIEBAU: Jack Liebau, Hollywood Park. We
7 have, unfortunately, been sued because of this and our
8 participation in this.

9 You have to realize that in the present procedure
10 that is sort of being, to some extent, applauded, there's
11 absolutely no due process. There's absolutely none. You go
12 to jail, that's it, period, end of report. Nobody has
13 escaped. And you usually go quickly. And that's what's
14 wrong with the thing.

15 There's also argument that the State has preempted
16 the field because they now have jurisdiction over it.

17 I have to tell you I've got a complaint, and I had
18 it about this thick with every cause of action under the sun
19 against us, some of which I agreed with, unfortunately.

20 And I think it's very hard to distinguish why TC02
21 is treated differently than any other Class 2, Class 3
22 violation.

23 And the only thing that speaks for the present
24 process is it's quick, and it's quick because there's no due
25 process. And that's why I think that it should be treated

1 like everything else.

2 COMMISSIONER CHOPER: And as I understand it, they
3 just have to go to the barn. They can race.

4 MR. LIEBAU: That's correct. Except that if they
5 had three of them, it used to be that they were banned
6 forever. That, I think, was my last -- I did win that one
7 and got it taken out, that there was no way that I was going
8 to be responsible for taking somebody's livelihood away from
9 them.

10 COMMISSIONER AMERMAN: Has a suit been recently
11 filed, is that what we're saying?

12 MR. LIEBAU: That particular suit is now
13 dismissed.

14 COMMISSION VICE CHAIRPERSON HARRIS: I think the
15 problem is, though, that we had a good stop-gap system with
16 this, but we really, probably don't need it now. The
17 deterrent -- I mean, no one wants to encourage milk shaking
18 the horses, but the deterrent is the loss of the purse, the
19 progressive discipline that we have in our rules. The
20 deterrent's not so much the detention barn, anyway, it's all
21 the other things that CHRB has, and it seems like it's time
22 to move on. And rather than just carve out a TC02 issue,
23 versus all the other medication.

24 MR. LIEBAU: As I recall, I mean, the reason why
25 the tracks did this as a stop-gap measure, and the

1 Thoroughbred Owners of California, and the California
2 Trainers, was that with respect to TC02 testing and
3 positives, it's impossible to have a split sample, and for
4 that reason there had to be special legislation passed. And
5 legislation was passed for the very reason so that the
6 Board could take it over. And now we are at the position of
7 saying, well, we've passed the legislation, you've now got
8 regulations on it. I think even some of your regulations
9 have -- there's some basis for mitigation. There is no
10 basis in the track's thing, it's just -- I mean, the time is
11 passed, that's all, as far as I can see, and it should be
12 treated like every other Class 3 drug violation.

13 COMMISSIONER MOSS: My only question on this, but
14 the difference, supposedly, between TC02 and some of these
15 other drugs is certainly with the administration of TC02 by
16 a trainer there's no doubt of the intent. If the reading is
17 high, then that trainer intended to cheat. Whereas with
18 some of the other drugs, it might have been a course of
19 accident, so to speak.

20 MR. LIEBAU: I think that if -- you know, all I
21 can say is that I think that in the State of New York, and
22 Rick Arthur can do this, that because of the metabolism of
23 some horses, after they did test positive they did put them
24 in a barn all by themselves, and I think there were some
25 horses that still tested positive.

1 As far as the fact that it's clearly the trainer
2 cheated, I'm not too sure that's the case. I mean, with
3 extra bute, you could also come to that thing, I mean, just
4 drop a tablet in the feedbag.

5 So I don't think that a person is a cheater
6 because he had a TC02 positive.

7 COMMISSION CHAIRPERSON SHAPIRO: Well, go ahead,
8 Dr. Arthur.

9 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, I think
10 that Jack basically gave you a little bit of an urban
11 legend. I'm very familiar with that situation in New York,
12 and I would disagree with his conclusions in that.

13 Certainly, there's no question that bicarbonate
14 loading enhances performance. There's no question it was
15 used for that purpose in California and we've eliminated it
16 by this program. And, you know, it has been very effective.

17 Whether we could do it ourselves as effectively, I
18 think we could, but it would be a different program and it
19 would be throwing out a successful program and replacing it
20 with one that we assume will be effective.

21 MR. JAMGOTCHIAN: Mr. Chairman, I'd like to chime
22 in on this. With regards to what Mr. Liebau stated, that
23 litigation obviously is going to be looked upon the racing
24 associations, with a much finer eye by potential litigants,
25 because it gives the litigant the ability to get into the

1 court quicker, rather than go through the CHRB's system of
2 justice.

3 And in this particular case, this is the first
4 time I've ever heard of a protection barn. I'd like to ask
5 the Board what the difference between a protection barn and
6 a detention barn is? Is there a difference?

7 COMMISSION CHAIRPERSON SHAPIRO: I think we're
8 just -- we're calling the barn the same thing by different
9 names.

10 MR. JAMGOTCHIAN: Okay, because obviously, it's
11 punitive to the trainer because the trainer's got to pay the
12 extra cost to the racing association for the detention barn
13 or the protection barn. So, obviously, it's punitive to the
14 trainer and probably the owner.

15 The lack of due process is something I've been
16 telling trainers now, for the last six months, by saying why
17 would you guys go in the detention barn? There's no
18 obligation for you to go into the detention barn. And if
19 there is, get an injunction against the racing associations
20 and get out of there.

21 So finally they've awakened, fortunately for the
22 trainers. Because when you talk about drug violations or,
23 in this case, TC02, you're hanging litigation on the heads
24 of the racing associations, which it's mind-boggling to me
25 why they would accept.

1 Just like Jack Liebau and Hollywood Park have been
2 sued by people with regards to the heel nerving incident,
3 and they're litigating that, spending their money to do
4 that. Whereas the CHRB isn't even in the case.

5 And my case against Slender, the same thing.

6 So you got to understand that the racing
7 associations are being put on the spot by the CHRB to do the
8 CHRB's business. And if the CHRB can't do their business
9 properly, they shouldn't ask the racing associations to do
10 it. Thank you.

11 MR. COUTO: Drew Couto, again, Thoroughbred Owners
12 of California. This is probably the reason why I asked for
13 a special hearing. There's only been one lawsuit on this
14 and let's go over that. Nobody can prevent anybody else
15 from suing another. The temporary restraining order was
16 denied because the court found that there were no denials of
17 due process. And the action was dismissed with regard to
18 TOC, with prejudice, shortly after the case was in
19 litigation. There wasn't much discovery, really, there
20 wasn't any discovery.

21 So in my opinion, there was a groundless lawsuit
22 filed and it's now used as a basis to avoid a contractual
23 condition placed on the meet by -- not necessarily by the
24 trainers, who have had horses testing high, but by the
25 owners who's horses don't test high, and that's done through

1 TOC on behalf of not only all of the competitors, but also
2 the fans that expect us to be offering a clean game.

3 It's not an issue of due process here because it's
4 a contractual condition. And if there's an issue about
5 whether or not the contractual condition is appropriate,
6 there's a mechanism through litigation, or otherwise, to
7 deal with that.

8 And that's a risk that every racetrack and
9 horsemen's association has is that some member may find it
10 to be a condition that they don't necessarily agree with.

11 But as the law in the State of California says, if
12 a member disagrees with one of those conditions, they don't
13 have to run at that meet. And that is not a denial of due
14 process because, again, this is a licensed activity. It's
15 not by right, it's by privilege, and you have to treat that
16 differently, and we constantly forget that distinction here.

17 So, again, my request would be with regard to this
18 issue is that the Board have a special hearing under 2043,
19 Rule 2043, and that we address it at that point.

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you. And I
21 tend to agree with that. I think that this issue is one
22 that is complex, deserves to be heard, but not in a quick
23 fashion. My fear is that we will be backing up and away
24 from the progress that we've made. If there's a better way
25 to do it, then we should have a hearing and we should have a

1 study to figure out what that is.

2 But everybody has been doing it the same way, now,
3 for a couple of years. We've seen an incredible improvement
4 by the lessening of any abuse of using TC02, and I would
5 recommend to the Board that we do, in fact, call a special
6 hearing, and every member of the Board can sit at that
7 special hearing, or whatever the rules are to do it, and I
8 think we should do that. And for that purpose, I think we
9 should leave that issue and park that issue to the side,
10 that there is not an agreement at this time with TC02 --
11 with TOC.

12 MR. COUTO: No, no, TOC. Sorry.

13 COMMISSION CHAIRPERSON SHAPIRO: Is there
14 something you need to add to that?

15 MR. COUTO: If we're still on the subject, I just
16 want to address one other issue related to the application
17 and the license as it relates to ADW and TOC.

18 COMMISSION CHAIRPERSON SHAPIRO: Well, I'm just
19 heading to that, so go ahead. If you want, the other thing
20 is that, again, there have been too many issues with ADW.
21 And while I appreciate there are negotiations ongoing and
22 taking place for this racing association to determine who
23 their ADW provider is, it's not set, it's not done and,
24 frankly, I don't want to get a phone call the night before
25 they open, we don't have an agreement, and there's not going

1 to be ADW wagering. And, therefore, the Board's policy has
2 been that bring the application when everything's in order.
3 It's not in order and I don't believe we should continue to
4 proceed to hear this application.

5 There's plenty of time, we can come back and hear
6 it in October, and that would be my recommendation. Does
7 any Board member have an objection to that?

8 That being the case, I would propose that we move
9 that we will defer this application to next month.
10 Hopefully, in the interim, I suggest we do schedule a
11 special hearing on the matter of the dispute between
12 Hollywood Park and TOC, and that we will hope that the ADW
13 issue is resolved and clarified.

14 So with that, we'll move forward at this time.
15 Item Number 4, which is the public hearing and action by the
16 Board on the adoption of the proposed addition of CHRB Rule
17 1843.3, penalties for medication violations, and the
18 proposed amended to CHRB Rule 1843.2, classification of drug
19 substances.

20 How many times do we have to hear this thing
21 before it's going to be done?

22 STAFF SERVICES MANAGER WAGNER: I wish I could
23 tell you. Jackie Wagner, CHRB staff.

24 The proposal that you have before you right now is
25 the result of the first package that we heard back in April

1 of 2007. The Board, at that time, adopted the amendment to
2 Rule 1843.2 and the addition of Rule 1843.3.

3 The rule-making file was then subsequently
4 submitted to the OAL for review. During that 30-day OAL
5 review process, several questions were raised regarding the
6 text. In addition, OAL had some confusion with the proposed
7 text that was submitted by TOC, at the time, so they were
8 really unclear as to what the Board really adopted.

9 Rather than having this file rejected outright,
10 the file was subsequently withdrawn and we addressed the
11 concerns that OAL raised at that time.

12 In response to that, we were required to put the
13 proposal out for an additional 15-day comment to address the
14 new language. And what you have before you is the text that
15 is the result of those corrections.

16 It has been noticed for 15 days, we have not
17 received any comments on it. And staff would recommend that
18 you adopt this text as presented.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay. I don't
20 have any discussion of this item. It would be my
21 recommendation that we adopt this. Does any Board member
22 wish to discuss this again, given we've made these
23 clarifications? If not, I would entertain a motion that we
24 move forward to adopt these.

25 COMMISSION VICE CHAIRPERSON HARRIS: I'll move

1 that we adopt them.

2 COMMISSION CHAIRPERSON SHAPIRO: Second?

3 COMMISSIONER MOSS: Second.

4 COMMISSION CHAIRPERSON SHAPIRO: It's been
5 seconded. All in favor?

6 (Ayes.)

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you and
8 let's hope we get that done.

9 STAFF SERVICES MANAGER WAGNER: Yes.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number
11 5 I'm going to pass over for right now. I'm going to have
12 to jump around a little bit, I'm concerned about time.
13 Let's get to Item Number 6. Item 6 is discussion and action
14 by the Board on the proposed adoption of the CHRB conflict
15 of interest and ethics code.

16 Good morning, Bon.

17 MR. SMITH: Mr. Chairman, Commissioners, Bon
18 Smith, Assistant Executive Director.

19 You've received, in your package, a final draft of
20 a conflict of interest and ethics package that we propose
21 you ratify as policy of Board, for Board members. We've had
22 the discussion ongoing since June, when the Board sat
23 through training specific to ethics and conflict of interest
24 issues, provided by Department of Consumer Affairs legal and
25 administrative staff.

1 The Board has had an existing policy. We have
2 gone through, reviewed, ensured that it is current, that it
3 addresses all aspects of current law and the particular
4 specific needs of the Board relative to the exception for
5 Board members as horse owners.

6 And with that in mind we've provided this package.
7 It will be the Board's policy as far as ethics and conflict
8 of interest, and will be part of a complete Board member
9 manual that will be forthcoming, as well.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you
11 very much. And, of course, this also is in addition to what
12 other actions individual Board members take as a result of
13 their knowledge of this, and also the Consumer Affairs
14 training that was done.

15 And did they give input into this so we are sure
16 this is all the right thing to be doing? Is this pursuant
17 to the meeting and the training that we had with them?

18 MR. SMITH: Yes.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, fine. Is
20 there any Board discussion about this? There is none.

21 Okay, I, obviously, will recommend that we should
22 adopt this.

23 Public comment, Mr. Jamgotchian.

24 MR. JAMGOTCHIAN: Mr. Chairman, members of the
25 Board, does this extend to the Executive Director, this

1 conflict of interest code?

2 COMMISSION CHAIRPERSON SHAPIRO: No, these are for
3 Board members.

4 MR. JAMGOTCHIAN: Okay, what happens if the
5 Executive Director has a conflict of interest in the
6 decisions she allegedly makes?

7 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
8 there is some language in there on State employees.

9 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, there's
10 other provisions that address State employees.

11 MR. JAMGOTCHIAN: Okay, fine, so then she has a
12 conflict of interest provision in her daily work job; is
13 that correct?

14 DEPUTY ATTORNEY GENERAL KNIGHT: There are
15 provisions that address conflict of interest.

16 MR. JAMGOTCHIAN: Okay, I want to address three
17 conflicts of interest that are glaring to me. One of which
18 is --

19 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry, that's
20 not on our agenda, Mr. Jamgotchian, this is an adoption of
21 these policies. We're not going to discuss any specific
22 conflicts.

23 MR. JAMGOTCHIAN: No, these are conflicts of
24 interest based upon the Board's actions. And the Board's
25 actions --

1 DEPUTY ATTORNEY GENERAL KNIGHT: That's not what's
2 before you.

3 COMMISSION CHAIRPERSON SHAPIRO: No, that's not
4 what's in front of us.

5 COMMISSION VICE CHAIRPERSON HARRIS: These are
6 comments specifically on what you think the policy should
7 be, but it shouldn't reflect on what you think happened.

8 MR. JAMGOTCHIAN: Well, the conflicts I'm
9 concerned about with the Board action, I'm not going to be
10 talking about anybody specifically. But with regards to
11 actions of the Board and looking the other way on violations
12 of the laws. So that's clearly something that relates to a
13 conflict of interest provision by any Board member.

14 Because if a Board member is aware of a violation
15 or the failure to enforce the law against someone that they
16 either, A, employ, B, are associated with, C, meet the
17 guidelines of the conflict of interest code, and I'm sure
18 you know who we're talking about, trainers of a Board
19 member, family members of a Board member, or acquaintances.
20 It seems to me that if you're here to enforce the rules of
21 horse racing and you're not enforcing the rules of horse
22 racing against people that you employ, then you're in
23 conflict.

24 And I'd like to understand what the Board members
25 are going to be doing up here when they have a trainer, who

1 they know willfully is in violation of a code section, who
2 trains for them --

3 COMMISSIONER CHOPER: Excuse me. I would be a lot
4 more informed if you filed a statement.

5 MR. JAMGOTCHIAN: Sure, I have it right here, I
6 have a copy for you.

7 COMMISSIONER CHOPER: In writing, and I would be
8 glad to consider that.

9 MR. JAMGOTCHIAN: Here's your copy, Mr. Choper.

10 COMMISSIONER CHOPER: I don't want to do it off
11 the top of my head.

12 MR. JAMGOTCHIAN: No, I'll make it available for
13 you and make copies.

14 DEPUTY ATTORNEY GENERAL KNIGHT: If this is a
15 matter that's an enforcement matter, it shouldn't be coming
16 to the Board, anyway. This has got to come to the Executive
17 Director. They're the decision makers.

18 MR. JAMGOTCHIAN: No, I understand. It was
19 presented to the Executive Director on April 13th, 2007.

20 COMMISSION CHAIRPERSON SHAPIRO: All right.
21 Again, I think we're now getting into a specific issue,
22 Mr. Jamgotchian.

23 MR. JAMGOTCHIAN: No, we're not, we're
24 talking --

25 COMMISSION CHAIRPERSON SHAPIRO: You're giving us

1 a specific date, okay.

2 MR. JAMGOTCHIAN: I just provided --

3 COMMISSION CHAIRPERSON SHAPIRO: And, again, if
4 it's an enforcement issue, then it should go through the
5 proper channels, okay. And that's how it has to go, we
6 can't talk about any specific situations at all. What we're
7 talking about is our adoption of these conflict provisions.

8 MR. JAMGOTCHIAN: My question --

9 COMMISSION CHAIRPERSON SHAPIRO: Do you have a
10 conflict with these conflict provisions?

11 MR. JAMGOTCHIAN: Yes, my question on the conflict
12 provisions are how can --

13 COMMISSION CHAIRPERSON SHAPIRO: Well, what
14 section are you having a problem with?

15 MR. JAMGOTCHIAN: Well, it's a section -- let me
16 go get it. It's right here. The provision I have a
17 question is would this decision have a financial effect on
18 me, my family, my business, my employer, or my job.

19 COMMISSION CHAIRPERSON SHAPIRO: Do you think that
20 these provisions should not provide for that, is that it?

21 MR. JAMGOTCHIAN: No, I'm questioning you, or not
22 you specifically, although I could you, specifically. If
23 you have a trainer that you know that has a conflict, how
24 can you, as a Board member, look the other way to that
25 conflict or, more importantly, the unenforceability of the

1 code against your trainer?

2 COMMISSION CHAIRPERSON SHAPIRO: Again, I assume
3 that I or any Board member would act according to these
4 provisions. And if that were the case and it was my
5 trainer, I would recuse myself, first of all, from
6 any --

7 DEPUTY ATTORNEY GENERAL KNIGHT: Can I address
8 that?

9 COMMISSION CHAIRPERSON SHAPIRO: Yes, please.

10 DEPUTY ATTORNEY GENERAL KNIGHT: Actually, for the
11 Horse Racing Board, there's actually an exception to that.
12 If you read the first, the preamble to that section that
13 you're referring to, it says, "except as provided in
14 section," I think 7.7 or something. There's a statute that
15 addresses Board members who own horses, and it expressly
16 allows them to make decisions that otherwise would have been
17 prohibited under the Fair Political Practices Act. So it's
18 actually addressed in the law, in the horse racing law.

19 MR. JAMGOTCHIAN: I accept that. But I don't
20 think that goes to the fact that if, in fact, there's a
21 willful and knowledgeable violation that the Board member
22 has, he can't look the other way to the violation, and
23 that's what I'm getting to. And that's the issue that I
24 need to make sure the Board understands. Because if you
25 have a trainer that's violating the Code, you can't look the

1 other way, like you have been.

2 COMMISSIONER CHOPER: This is what you've
3 submitted, right?

4 MR. JAMGOTCHIAN: Yes, I gave it to Mr. Marten.

5 COMMISSIONER CHOPER: I assure you that it will be
6 put through the proper channels and it will be considered.

7 MR. JAMGOTCHIAN: Well, I took your guidance, Mr.
8 Choper, from the last meeting, and I'll provide a couple
9 documents to you, for your review, and your action because
10 conflict of interest is a very serious condition.

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

13 If there are --

14 COMMISSION VICE CHAIRPERSON HARRIS: I think we've
15 got a good plan here and we can always amend it as we go
16 along. But I would move that we adopt this ethics and
17 conflict of interest policy.

18 COMMISSIONER AMERMAN: I second that.

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

21 (Ayes.)

22 COMMISSION CHAIRPERSON SHAPIRO: It is unanimously
23 approved.

24 The next issue on our agenda is the race dates.
25 It's discussion by the Board regarding the adoption of the

1 2008, 2009, and 2010 race dates.

2 Is Mr. Liebau in the room? Mr. Liebau, is that a
3 you're ready or you're not ready sign?

4 MR. LIEBAU: I'm ready.

5 COMMISSION CHAIRPERSON SHAPIRO: You're ready.
6 Okay. Okay, this is Item Number 7, discussion and action by
7 the Board regarding the adoption of 2008, 2009, and 2010
8 race dates calendar.

9 And I think we should combine this item, also,
10 with Item Number 15, which is a report of the Strategic
11 Planning Committee. So if that's the case, then what I
12 would like to do is perhaps report on the Strategic Planning
13 Committee, first, which is Item 15, and then we can go into
14 Item Number 7, here.

15 The Strategic Planning Committee has met on a
16 variety of occasions and, as was discussed, calendars for
17 the night industry, both quarter and harness, were approved
18 and accepted.

19 And also for the Southern California racing
20 calendar was also approved.

21 It would be my recommendation that the Board
22 approve those calendars. And if you'll bear with me, I'm
23 looking for them. Do you have them?

24 EXECUTIVE DIRECTOR FERMIN: These are the changes
25 where you added the days.

1 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
2 did you have a night one, also?

3 Okay, and so let me go through and just tell, so
4 they're on the record, if I can. All right, for the harness
5 industry, the harness industry, at nighttime, would commence
6 on December 27th and it would run on a four-night-a-week
7 schedule Thursday through -- Wednesday through Saturday, up
8 until July 31st. It would then recommence on September 10th
9 and run continuously until December 20th.

10 The quarter horse industry would essentially
11 mirror that, in that they would run for the same period,
12 although they would also run through the month of August,
13 and their days, as currently planned, are to race on a
14 Thursday through Sunday schedule.

15 The Board -- the Committee recommends that the
16 Board provide latitude to both the night quarter horse and
17 harness racing to alter their days of the weeks, during the
18 specific weeks, through their license applications.

19 For the Southern California thoroughbred schedule,
20 racing would commence on December 26th, and it would run --
21 at Santa Anita. Santa Anita would run 85 days, on a
22 primarily five-day-a-week schedule, and we'll attach the
23 schedule so that everybody sees it, through April 20th. At
24 which time Hollywood Park would open and they would commence
25 racing on the 23rd of April and continue through July 13th.

1 Thereafter, Del Mar would start on July 16th and
2 run through September the 3rd.

3 Fairplex would then commence on the 5th of
4 September and continue through the 22nd of September.

5 Oak Tree would start on the 24th of September and
6 continue through the 28th -- the 26th, sorry, the 26th of
7 October.

8 And then the Hollywood Park fall schedule would
9 start on October the 29th and run until the 21st of
10 December.

11 Is there any discussion by anybody, any member of
12 the Board with respect to those schedules? Otherwise, I
13 would move that we adopt those schedules.

14 COMMISSION VICE CHAIRPERSON HARRIS: Second.

15 COMMISSION CHAIRPERSON SHAPIRO: Is there
16 any -- okay, there's no public comment, fine.

17 Second. All in favor?

18 (Ayes.)

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, that only
20 leaves the Northern California schedule. And I think that
21 there have been some issues that have gone back and forth
22 with respect to Northern California. And while the
23 stakeholders provided to us a calendar, which I think is
24 acceptable, was acceptable to the Committee, the one
25 outstanding issue had to do with whether -- was what Bay

1 Meadows would do to accommodate the use of their facility
2 through the remainder of the year following the San Mateo
3 County Fair's racing.

4 It was the understanding of the Committee, when
5 this was considered, that Bay Meadows would make its barn
6 area, and track, and housing facilities available for the
7 remainder of 2008.

8 In the ensuing period there has been some
9 communications going back and forth. And I would call on
10 Mr. Liebau, perhaps he could shed some light on what the
11 current status of that is, and then I'd like to hear from
12 the horsemen, and the trainers to see where we're at.

13 Mr. Liebau.

14 MR. LIEBAU: Yes, Jack Liebau, from Bay Meadows.
15 There's quite a bit of correspondence on this issue, as you
16 know. I do think that when the stakeholders made up their
17 calendar that they were aware of the conditions upon which
18 the backside at Bay Meadows was going to be made available.

19 We have since had some further extensive
20 discussions with the trainers, this morning. Namely, Ed
21 Moser, who's the President of the California Thoroughbred
22 Trainers, and the Executive Director, Mr. Halpern, and I
23 think that we have come to a meeting of the minds with
24 respect to them, as to the availability of the backside.
25 It's similar, if not almost identical to the correspondence

1 that you've received from both Mr. Fancher, and myself.
2 There is a provision in there about an unsafe condition, but
3 nobody really envisions that would happen.

4 The trainers have asked for some other language to
5 be included within Mr. Fancher's e-mail, and that has been
6 agreed to, and that's where we are.

7 I think it's in the best interest of racing in
8 Northern California, certainly for Bay Meadows to continue
9 to operate as long as possible, and give sufficient time for
10 alternative plans to be developed, as have gone on in the
11 Strategic Planning Committee meeting, and one in Del Mar,
12 where Mr. Fancher was there and talked for a considerable
13 period of time on the record.

14 You know, I think that the future of Bay Meadows
15 hinges on an Appellate Court case, that's now been argued,
16 and the decision should come down within the next 60 to 90
17 days.

18 I think that there are just so many reasons why
19 Bay Meadows should continue to operate and one is the
20 availability of the barn area, guaranteed through the close
21 of the San Mateo County Fair, and certainly contemplated
22 that it will continue to be open thereafter.

23 We just simply don't, at this point in time,
24 contemplate anything that would arise for there to be an
25 unsafe condition, but if there is, we don't want the horses

1 training there, and the horses and the owners -- I mean, the
2 owners and the trainers won't want their horses training
3 there. By that time, hopefully, there will be alternative
4 available.

5 One of the things, just to give you a brief
6 history on this, that we had first suggested -- it was first
7 suggested by us, that we would just run through 2008,
8 through the San Mateo County Fair.

9 I think that it was Tom Bachman, of the TOC, who
10 brought up the issue that it would be good if we could run
11 at least through November, or operate the backside through
12 November, because there was a plan or a hope that San
13 Mateo -- or not San Mateo -- Pleasanton would install a
14 synthetic track and it would take three months, and so they
15 would have August, and September, and October in order to
16 get in their synthetic track.

17 One of the things that's going to happen, as time
18 goes on, as far as the barn area at Bay Meadows is
19 concerned, is the population's going to shrink rather
20 dramatically, because everybody's going to want to get
21 someplace where they've got occupancy of stalls. And figure
22 that occupancy, 99 percent of the time, will ensure them of
23 being able to continue to stay there. And if they happen to
24 be there on December 31st, you know, there may or may not be
25 stalls for them someplace else.

1 So I really think -- the other thing that sort of,
2 besides the fact that you would have stabling for some
3 period, I'm sure it's stabling for some period of time in
4 2008, and probably for the entire year, is the satellite
5 facility. The San Mateo County Fair succeeds to the right
6 to the satellite facility in San Mateo when Bay Meadows
7 ceases to operate, and that is the most -- generates more
8 handle and, therefore, more purse money, than any other
9 satellite in Northern California by far. And it's very
10 important, as far as maintaining purses, to continue to have
11 a satellite facility operating in San Mateo, and there has
12 to be some time in order to provide for a seamless
13 transition of that facility.

14 COMMISSION CHAIRPERSON SHAPIRO: Mr. Liebau, you
15 do know that all of us want to see Bay Meadows continue
16 racing --

17 MR. LIEBAU: We understand that.

18 COMMISSION CHAIRPERSON SHAPIRO: -- as long as it
19 can.

20 MR. LIEBAU: Right.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay. And so we
22 also, I think, are realists and understand that it's a
23 complex situation that you're in the middle of. And you,
24 personally, are a horse racing guy, and so it's not your
25 desire to see Bay Meadows go away as a racing venue.

1 MR. LIEBAU: I've enjoyed my 15 years at Bay
2 Meadows.

3 COMMISSION CHAIRPERSON SHAPIRO: I understand
4 that.

5 MR. LIEBAU: But we've had our ups and downs.

6 COMMISSION CHAIRPERSON SHAPIRO: And I know that
7 you know enough to understand the concern that we have,
8 which is this is something that, unfortunately, is going to
9 occur. When, you're not sure, but it's going to occur. And
10 we're simply looking at how can we timely have in place
11 suitable alternatives for the horsemen, for those people
12 that live back there and train the horses?

13 MR. LIEBAU: I understand that. I think the
14 answer to that is that I don't think that you're ready, now,
15 or that you won't be ready on November 4th, so that you're
16 better off having as much time as we can.

17 COMMISSION CHAIRPERSON SHAPIRO: We don't
18 disagree. We don't disagree, okay. So given that, that we
19 don't disagree, and as I said to you before we entered the
20 room, believe me, I want to adopt this calendar, and I think
21 everybody else recognizes that we want to adopt it.

22 But the part that is concerning is that as the
23 development moves forward there are going to be some
24 decisions that are going to be made, that the people
25 developing the racetrack are going to make.

1 They can decide, as they make those decisions,
2 what -- and we understand the concept of wanting to be safe,
3 we agree with that, too. We want it always to be safe.

4 But it gets down to what assurances do we have
5 that the decisions will be made such that whatever decisions
6 need to be made, even if it's more costly, or it takes some
7 time, will be done in a manner to keep the barn area
8 available because we don't have, we're not ready, we don't
9 have a replacement. And we don't want to see that we've got
10 hundreds of horses and hundreds of people that are
11 displaced.

12 And while I appreciate, and I take it very
13 seriously that you'll use your best interests to do that and
14 your best intent, there are caveats in this correspondence
15 that obviously would concern anybody. And I'm sure if you
16 were representing us you'd look at this and say, well, wait
17 a minute, you're not necessarily totally protected.

18 And so in this letter it says that training has to
19 be over by 7:30 in the morning.

20 MR. LIEBAU: We've already -- that's one of the
21 issues that's been cleared up.

22 COMMISSION CHAIRPERSON SHAPIRO: So what is the
23 answer there, then?

24 MR. LIEBAU: The issue is nine o'clock, which is
25 what Mr. Halpern had asked for.

1 And I may say that, you know, that issue -- in
2 there, if you read my first e-mail, I said if necessary we
3 would change the trainer hours. And it doesn't -- and Mr.
4 Fancher said "may," it may not be necessary.

5 We certainly aren't going to have construction
6 work on Saturdays and Sundays. And, you know, if they're
7 doing asbestos and lead paint abatement inside the
8 grandstand, there may not have to be any change in training
9 hours.

10 And I understand that the Board is not getting an
11 ironclad deal. I mean, we know that. There's trust that
12 has to be here and we have to work together.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, the good
14 news is, you've got another racetrack.

15 MR. LIEBAU: We're better off with it than without
16 it. I mean, that's what it comes down to. And, you know,
17 I'd appreciate if I were on your side, I would be pushing,
18 too. But I can't -- I got no place to go. I mean, I've
19 worked this out with the trainers. And Mr. Fancher has, you
20 know, said he doesn't currently envision that there are any
21 safety issues that will materialize. There's other language
22 about that, you know, that even though I sincerely believe
23 the risk of such interference is small. I mean, that's
24 where we are.

25 And, you know, this deal, one person this morning

1 suggested, Jack, you've done this all wrong. You should
2 have just gone in there and told them that you're going to
3 race through the end of the San Mateo County Fair and you
4 may stay open, and then you wouldn't be worried about any of
5 this stuff. And, you know, we want to give you as much
6 comfort as we can, and we've gone as far as I can go. And
7 I've been able to work some stuff with Ed Halpern, and I
8 think we've come to an agreement.

9 COMMISSION VICE CHAIRPERSON HARRIS: I guess, it
10 seems that the horsemen are in agreement, that's the main
11 thing we're concerned about.

12 COMMISSION CHAIRPERSON SHAPIRO: I agree. And I'd
13 like to hear from TOC as to whether they're --

14 COMMISSIONER MOSS: Just one question, the
15 wrecking ball will start after the San Mateo Fair; correct?

16 MR. LIEBAU: There's no wrecking ball. And
17 Commissioner Moss, I'm not expect on this, and I don't know
18 how long it takes to move all the totalizator equipment out
19 of that grandstand, and for us to move all the records, for
20 the asbestos to be removed under the conditions that
21 asbestos has to be removed, and I didn't even know about the
22 fact that there's a problem with lead-based paint, that's
23 evidently a huge problem.

24 COMMISSIONER MOSS: And, obviously, there's no way
25 to suspend these operations until, let's say, 2009?

1 MR. LIEBAU: Well, the only thing I can answer you
2 on that, and I think, you'll understand, is that there are
3 investors, mainly pension plans, that have had money in this
4 for a long period of time. And if the total development,
5 which is more than 20 city blocks, is delayed for three
6 months, I mean, you're talking about a lot of money. And we
7 certainly are going to try to work with the trainers and the
8 owners, and get through this.

9 And I will say that I know John, and Mr. Choper,
10 and Mr. Andreini have been at Bay Meadows, and I would point
11 out that if you look out at the back stretch, and you look
12 at those Franklin buildings, that's one of the things that I
13 lived through was the construction of those buildings, and I
14 didn't really know how I was going to conduct a race meet
15 while those were going on, and we got through it without any
16 problems.

17 And so, I mean, I think, you know, we sincerely
18 don't think there's going to be a problem. We're going to
19 do our best. And I think that's what's in the best interest
20 of racing is for Bay Meadows to stay open, and to stay open
21 as long as we possibly can. And we think it's going to be
22 through 2008 as a training facility.

23 COMMISSIONER CHOPER: Could I just ask a -- make
24 this point, anyway. And maybe it is expressing, in my own
25 way, the sort of thing that the Chairman indicated. You

1 know, I'm really encouraged by the fact, I mean, you gave
2 the -- you gave Mr. Halpern everything he wanted in his
3 memorandum.

4 MR. LIEBAU: Well, I don't know. I mean, we had a
5 heated discussion and we came to a conclusion. Probably
6 neither one of us are happy and that's why it's a good deal.

7 COMMISSIONER CHOPER: Well, it sounded to me like
8 you -- it sounded to me that you really went a long way
9 toward doing that.

10 MR. LIEBAU: Right.

11 COMMISSIONER CHOPER: And you're certainly right
12 that it's a matter, there's no way that you're going to have
13 an agreement here that's going to put in writing a
14 resolution of every contingency that could arise along the
15 way, and it's a matter of trust and good faith.

16 The one way I see it is this, along the way there
17 are going to be decisions that have to be made. I don't
18 think anyone -- well, certainly speaking for myself, we're
19 not asking for any guarantees. I mean, if the grandstand
20 explodes and you can't operate on the track, no one's
21 saying, well, get in there and clean it up, you know, bring
22 in your crews and so forth. That's another matter.

23 But if the question becomes one of well, if we go
24 ahead in this direction this week, rather than another
25 direction, there's a significant risk that something might

1 happen to make the track "unsafe," whatever that means.

2 So I guess I would hope that if it were reasonable
3 for you, even though at some reasonable cost, to proceed one
4 way rather than another, if you sort of said -- we're not
5 going to define reasonable here, we just can't do that.

6 But for me, if I felt that that is what you would
7 make, some reasonable accommodation in light of the needs of
8 the horsemen, that would give me the assurance.

9 MR. LIEBAU: I will give you my personal assurance
10 that, you know, I will try to do my best to make this thing
11 work. And I will say this, and some people may disagree
12 with this, but Mr. Fancher is very sensitive to this and is
13 sensitive to the good of racing. And some people might say
14 that he's spent money unwisely in order to benefit racing,
15 but he has spent the money. I think he's trying and we are
16 still a member of this community, by reason of our ownership
17 of Hollywood Park. So it's not something that we're running
18 away from.

19 And, you know, I would hope that everybody would
20 accept that and give us a little bit of the benefit of the
21 doubt as far as going the extra mile when we can.

22 COMMISSIONER MOSS: But Mr. Fancher has also said,
23 in his communication, that should we have any real question
24 about this, or not be happy about this accommodation, that
25 he could close the track at the end of 2007, which wouldn't

1 benefit racing or anybody else, you know.

2 MR. LIEBAU: Mr. Fancher, we have -- we have
3 guaranteed that we're going to run through the end of the
4 San Mateo County Fair, Mr. Moss, there's no question about
5 that. And what I'm saying is that I think even that, which
6 is some ten months from now, gives the horse racing industry
7 in Northern California some time in which to develop
8 alternative plans.

9 COMMISSION CHAIRPERSON SHAPIRO: Mr. Liebau --

10 COMMISSIONER MOSS: Well, I understand. I'm just
11 saying that I understand that, and I appreciate that, and I
12 respect what you're saying. You know, there's been,
13 needless to say, a windstorm created over the Bay Meadows,
14 you know, the two year, and then the one year, and now we're
15 talking about an additional seven or eight months, you know.

16 MR. LIEBAU: And I guess, Mr. Moss, and I don't
17 mean to be disrespectful, but I have to say that Northern
18 California racing is better off every day that Bay Meadows
19 stays running right now, until there's an alternative plan.
20 I mean, I just don't think there's any question about that.

21 COMMISSIONER MOSS: Well, I couldn't agree with
22 you more. And in my conversations with Northern California
23 people, they talk about how vital it is to have a stabling
24 situation, at least through the end of this year, the end of
25 2008, because they're going to need time for that orderly

1 transition to take place.

2 So I'm just saying for those gentlemen, hopefully,
3 they've made their part of the deal you made with Mr.
4 Halpern, and they don't look to this Board that we didn't do
5 our work in trying to make this work for them.

6 MR. LIEBAU: And many of those same people are my
7 friends, Mr. Moss.

8 COMMISSION CHAIRPERSON SHAPIRO: And, again, I
9 think what Commissioner Moss was referring to was, and it
10 was obviously concerning, it said, that Mr. Fancher wrote,
11 "if the CHRB determines for any reason that it does not wish
12 to approve the 2008 Bay Meadows racing dates submitted by
13 the Northern California stakeholders, we will reluctantly
14 accept that decision and Bay Meadows will close at the end
15 of our current racing season."

16 MR. LIEBAU: That's true, because he'll start in
17 on the building immediately.

18 COMMISSION CHAIRPERSON SHAPIRO: Okay. And I
19 didn't know if that was tied to the stable area issue. I
20 mean, again --

21 MR. LIEBAU: No, it just means they're going to go
22 in --

23 COMMISSION CHAIRPERSON SHAPIRO: -- we want Bay
24 Meadows open, I don't know how to say it any other way.

25 MR. LIEBAU: It's assumed, frankly, that the

1 Appellate Court decision will come down shortly, and it's
2 also, you never know, but it's assumed that it's going to be
3 favorable. And if it was favorable, they'd start right
4 away.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, but we do
6 have a guarantee that you will run the dates that are on
7 this calendar.

8 MR. LIEBAU: Through the San Mateo County Fair,
9 absolutely.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay.

11 COMMISSION VICE CHAIRPERSON HARRIS: The
12 construction you'd do wouldn't impact the track, itself, in
13 the infield stabling area.

14 MR. LIEBAU: Right.

15 COMMISSION VICE CHAIRPERSON HARRIS: I mean, it
16 seems like at worse the hassle would be noise or something
17 like that, but it's not like you're going to go out and
18 start tearing out the barns?

19 MR. LIEBAU: There's not going to be any touching
20 of the infield during 2008, that's not planned.

21 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, so
22 stabling will be available, and the track will be there.

23 MR. LIEBAU: And, you know, we historically have
24 had between 525 and 650 or something like that, horses,
25 while Golden Gate runs, and we've got 700 and some odd

1 stalls in the infield, so it doesn't look like that will be
2 a problem.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. I would
4 like to hear from both Ed Halpern and the two parties that
5 just stood up. Thank you. Drew.

6 MR. COUTO: Again, Drew Couto, Thoroughbred Owners
7 of California.

8 One, I'd like to thank both Mr. Liebau and Mr.
9 Halpern for working out the agreement that they did this
10 morning, it's very much appreciated.

11 There was one issue not addressed and I'm not sure
12 that they've yet addressed it, or they have, but we'd like
13 to see slightly different.

14 And that is, I believe in Mr. Fancher's note,
15 yesterday, he indicated that if a safety concern arose, and
16 again I think he acknowledged that they control whether or
17 not a safety issue is developed, and the timing of that,
18 that his memo indicated that they would have the right to
19 basically shut down and have everybody off the backstretch
20 within ten days of that decision. And I think ten days is a
21 bit harsh and a bit short.

22 And, you know, we would hope and we believe Mr.
23 Liebau, in his representations, that they're going to do
24 everything that they can to control these safety issues.
25 But we'd ask if in the event one does arise, that rather

1 than have people displaced within ten days that there's a
2 more reasonable time period, either 30 or 45 days for them
3 to get out, find an alternative. But not that they're
4 basically out ten days later and having to look for
5 someplace to go. That would be our one request.

6 COMMISSION CHAIRPERSON SHAPIRO: Mr. Liebau, do
7 you want to address that?

8 MR. LIEBAU: We'll work out some sort of notice
9 period with both TOC and CTT, that goes to the actual
10 stabling of the horses in the infield, and not to the
11 training on the track, so we don't have a problem with that.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay. Mr.
13 Halpern?

14 MR. HALPERN: Ed Halpern, California Trainers. I
15 just would like to add or ask that the Board place Mr.
16 Fancher's e-mail of yesterday, dated yesterday, in the
17 record. I know the Board has received copies of that, if
18 you need another copy, I'd be glad to provide it to the
19 reporter. If you would do that, Mr. Shapiro, it would be
20 appreciated, I think it's important that it's on the record.

21 The agreement we came to today reflects the fact
22 that as trainers we felt it was very important that we make
23 every effort to ensure that Bay Meadows stay open at least
24 through September of next year, and if we can get the extra
25 three months, great. We really want it and we now believe

1 that we're in a situation to make sure that it happens.

2 The agreement has two modifications to the e-mail
3 that's being put in the record, the first being that the
4 track will be open until 9:00 a.m. each morning, instead of
5 7:30.

6 And the second modification takes place in the
7 middle of the second paragraph. I'll just read the sentence
8 which is modified. There's a sentence that says, "thus, I
9 cannot provide assurance that our future development
10 activities at Bay Meadows can or will be managed to proceed
11 without potential interference to training activities, even
12 though I sincerely believe the risk of such interference is
13 small."

14 Added to that sentence, what needs to be inserted
15 in the agreement is the following language, "and it is my
16 intention that the track remain available for training
17 throughout this period."

18 Commissioner Choper, fortunately you taught me
19 well, even though I don't always show it. We did try to put
20 in language to the effect that they would take all
21 reasonable efforts, but we couldn't reach an agreement as to
22 that language.

23 I am satisfied that the language that we are
24 putting in protects us to the extent that we can be
25 protected.

1 COMMISSIONER CHOPER: And I should say that I
2 think the answer that Mr. Liebau gave, which was that he
3 wanted to make this happen, I take that -- he didn't say it
4 in so many words, I take it he agreed with my
5 characterization of how they would handle situations when a
6 reasonable accommodation could handle the continued use of
7 the track for training.

8 MR. HALPERN: I can only say that in all my
9 previous dealings over the past seven years, with Mr.
10 Liebau, accommodations have always been made that were
11 reasonable, and we have always come to reasonable, final
12 determinations. Thank you.

13 COMMISSION CHAIRPERSON SHAPIRO: All right, is
14 there any other comment from the Board on this issue? If
15 not, I would like to make a motion -- I'm not done, yet, I'm
16 going to get to you. I'd like to make a motion that we
17 adopt the 2008 Northern California racing calendar, that was
18 reviewed and approved by the Committee.

19 COMMISSION VICE CHAIRPERSON HARRIS: Could you
20 review the Fresno aspect of that?

21 COMMISSION CHAIRPERSON SHAPIRO: Yeah.
22 Fresno -- I guess I should read this. So I didn't do that,
23 so let me do that, then.

24 In Northern California, racing would start at
25 Golden Gate Fields on Wednesday, December 26th and it would

1 continue on a primarily five-day-a-week basis until January
2 27th. No, I'm sorry, it would continue until February
3 3rd.

4 On February 6th, Bay Meadows would open and they
5 would run until May the 11th. At which time Golden Gate
6 would reopen on the 14th of May and continue through the
7 22nd of June.

8 The fairs then would pick up and the fairs would
9 run until September 15th. And I believe -- who's on the
10 22nd of --

11 COMMISSION VICE CHAIRPERSON HARRIS: Do you have
12 the breakdown of the fairs?

13 COMMISSION CHAIRPERSON SHAPIRO: I'm going to have
14 to find the breakdown of the fairs, unfortunately. If I can
15 find my notes. There they are.

16 And let me try to break down the fairs.
17 Pleasanton runs from June 25th to July 6th. Vallejo, July
18 9th through July 20th. Santa Rosa, July 23rd through August
19 4th.

20 COMMISSION VICE CHAIRPERSON HARRIS: I think, too,
21 there was some discussion that Santa Rosa and Vallejo may
22 work together.

23 COMMISSION CHAIRPERSON SHAPIRO: That's correct.
24 And this will be subject to refinement as they make their
25 license applications.

1 San Mateo, August 6th through August 18th. Cal
2 Expo, August 20th through September 1st. Stockton is
3 September 3rd through September 15th. Fresno is October 1st
4 through October 13th.

5 And who am I missing?

6 COMMISSION VICE CHAIRPERSON HARRIS: Was it
7 Ferndale?

8 COMMISSION CHAIRPERSON SHAPIRO: Ferndale is
9 September --

10 COMMISSION VICE CHAIRPERSON HARRIS: No, August
11 7th.

12 COMMISSION CHAIRPERSON SHAPIRO: August 7th
13 through the 17th.

14 Fresno will have, during their period for 2008,
15 they will be unoverlapped on the October 1st, 2nd, 8th and
16 9th. The remainder of their days will be overlapped.
17 However, there's an agreement between Golden Gate and Fresno
18 where they will share in the host fees for that period
19 of -- for those overlapped days.

20 It was also the Committee's recommendation that
21 beginning in 2009 Fresno would race unoverlapped, and that
22 would be the desire of the Board for 2009 and 2010.

23 I will move that we accept this. However, I
24 didn't finish. I'm sorry. Golden Gate then continues to
25 race in October, commencing on the 3rd, and they end on

1 December 21st.

2 I've made that motion, is there a second?

3 COMMISSIONER CHOPER: Second.

4 COMMISSION CHAIRPERSON SHAPIRO: Second. Now, is
5 there any other discussion? If not, I'll take public
6 comment. Mr. Jamgotchian.

7 MR. JAMGOTCHIAN: Mr. Chairman, members of the
8 council, the love fest that just occurred up here was far
9 different than the heated discussion at the Strategic
10 Planning Session, I must say. Except that nothing's
11 changed.

12 COMMISSION CHAIRPERSON SHAPIRO: I hope that was a
13 good thing.

14 MR. JAMGOTCHIAN: Well, we'll see. Nothing's
15 changed, though, because you might feel more comfortable
16 with the words, but the power and the control that Bay
17 Meadows has with regards to Mr. Fancher's position is no
18 different than it was before, in that he's going to do what
19 he wants to do, when he wants to do it, but that's his right
20 as a property owner.

21 You license horse racing meets, they own their
22 property. I don't think anybody up on the Board here is
23 going to dispute that. So Hollywood Park, in my opinion, or
24 Bay Meadows in this particular case, has really gone a long
25 way to benefit the horse racing industry where, as a

1 developer, I can assure you, I wouldn't do it.

2 But, additionally, it falls back --

3 COMMISSION CHAIRPERSON SHAPIRO: I guess we're
4 lucky you don't own that racetrack then.

5 MR. JAMGOTCHIAN: I'm sorry -- no, as a developer,
6 though, if I was in his position I wouldn't do it because,
7 obviously, it's going to cost him a lot of money by leaving
8 that structure there, when they could take it down and get
9 started with their development.

10 But what I want to talk about is the ball's
11 getting real close to the CHRB's court, where you're going
12 to have to step up and make some decisions, and I'm really
13 concerned, after sitting here for at least a couple of
14 years, listening to the alleged plans that the CHRB has to
15 bring horse racing venues back to Northern California after
16 Bay Meadows closes.

17 There needs to be something done. There needs to
18 be plans drawn, financing put together, because 2008's
19 coming very quickly and I'm willing to make a bet that horse
20 racing in 2009 will be in total disarray in Northern
21 California.

22 I hope I'm wrong. But Mr. Liebau said something
23 that maybe you all missed, I caught it, the trainers and the
24 owners are not going to be sitting in the Bay Meadows'
25 stable area as demolition commences, because they're not

1 going to -- I'm not going to have my horses sitting up there
2 as construction and demolition takes place. They're going
3 to be looking for new homes.

4 If this Board doesn't have a new home for those
5 horses and a racing opportunity, I can assure you that there
6 are racetracks throughout the United States with higher
7 purses, with better facilities, with better training bases,
8 other, a plethora of things that are better that are going
9 to attract those horses.

10 So for Mr. Liebau to come up and say that these
11 people are going to move long before the demolition process
12 starts, I think that's something that you ought to take into
13 consideration as being fact, because I believe that's true.

14 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
15 than you for your comments.

16 MR. JAMGOTCHIAN: Well, just one last thing.

17 COMMISSION CHAIRPERSON SHAPIRO: Oh, sure.

18 MR. JAMGOTCHIAN: I'm looking for leadership from
19 this Board. As I said last week, that I sure hope this
20 Board isn't postponing the efforts that you need to take to
21 get horse racing reestablished in California after Bay
22 Meadows closes. Because we, as owners, and I'm sure the
23 trainers will agree, also, that if you don't do your job and
24 get a facility built, or financed, or drawn, or whatever
25 very quickly, that 2009 is going to be a pretty bleak day

1 for Northern California racing. Thank you.

2 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I
3 would suggest, however, that you realize that I believe the
4 Strategic Planning Committee, in conjunction with the
5 remainder of the industry, is working very hard to address
6 what venues are available to us, and what we can do, and
7 what the alternatives are, so that we can plan beyond 2008.
8 And I am actually very pleased that everybody is working so
9 hard. And the Strategic Planning Committee will be meeting
10 again within the next 30 days, so that we can continue that
11 effort. So I think we are very mindful of it.

12 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I
13 think, too, we need to keep in mind that, obviously, we want
14 to see progress made, but the CHRB isn't the sole party to
15 get things done. I mean, we need the owners, the tracks,
16 the fairs. Everyone's got to work together, it's got to be
17 a team effort. That people can't just sit back and think
18 that somehow the Racing Board's going to do it.

19 COMMISSIONER MOSS: There also, if I might add,
20 has to be some action from the State to perhaps attract new
21 stakeholders, you know, tax opportunities and all that other
22 aspect of financing this kind of transition. So I think we
23 need to work with those people to make this happen.

24 COMMISSION CHAIRPERSON SHAPIRO: And I believe
25 that that is taking place. I believe that CARF, and

1 Fairplex, and all of the stakeholders are meeting and they
2 are looking at every possible means with which to create a
3 vibrant racing network, both in the north and south of the
4 State. And the Board's goals, which I believe we are
5 adhering to, while we are adopting a 2008 racing calendar,
6 we are still pursuing a three-year plan. And the three-year
7 plan is, it's certainly my desire that we will, in fact,
8 adopt calendars for 2009 and 2010 in the very near future.
9 So we will continue with that.

10 Do you have a remark on this issue?

11 MR. LAMOTHE: Yes, I do.

12 COMMISSION CHAIRPERSON SHAPIRO: Go ahead.

13 MR. LAMOTHE: Guy Lamothe, Thoroughbred Owners of
14 California. I'd like to remind the Board that at last
15 week's Strategic Planning Committee meeting, as a condition,
16 I believe, of the 2008 calendar, during the fair meets, that
17 43 race events per weeks. I'd like to -- perhaps you could
18 add that.

19 COMMISSION CHAIRPERSON SHAPIRO: You are correct
20 and there was a limitation of 43 races.

21 COMMISSION VICE CHAIRPERSON HARRIS: Those are
22 thoroughbred races.

23 COMMISSION CHAIRPERSON SHAPIRO: Thoroughbred
24 races, yes, 43 thoroughbred races.

25 MR. HALPERN: Ed Halpern. I'd just like

1 clarification. My recollection of the Committee meeting was
2 that the nonoverlap at Fresno was for the year 2008, but no
3 action was taken for 2009 and 2010 regarding that.

4 COMMISSION VICE CHAIRPERSON HARRIS: No, it just
5 overlaps in 2008, it's not overlapped in '09 and '10.

6 COMMISSION CHAIRPERSON SHAPIRO: Correct.

7 COMMISSION VICE CHAIRPERSON HARRIS: It is
8 overlapped in --

9 COMMISSION CHAIRPERSON SHAPIRO: There is overlap,
10 it's pursuant to the calendar, which will go into the
11 record, and that's when I said there are four days that are
12 not overlapped, the remainder are in 2008.

13 All right, there's a motion and a second. I will
14 again ask that we move to approve this calendar. Everyone
15 in favor?

16 (Ayes.)

17 COMMISSION CHAIRPERSON SHAPIRO: It's unanimously
18 approved.

19 Okay, moving on to Item Number 8, which is the
20 discussion and action by the Board regarding penalties
21 and/or procedures concerning late and/or nonreporting of
22 first-time geldings.

23 MR. COUTO: Mr. Shapiro, Drew Couto, Thoroughbred
24 Owners of California. Still addressing Item 7, my
25 colleagues, or most of them, we've been talking about the

1 '09 and '10 calendars, and the fact that the Board wanted
2 the industry to come back within 30 days of the last meeting
3 with those.

4 COMMISSION CHAIRPERSON SHAPIRO: Right.

5 MR. COUTO: We would like to ask you to consider
6 to move that deadline from 30 days to 60 days, based on the
7 amount of work we're undertaking. And we think 30 days
8 would be premature.

9 COMMISSIONER AMERMAN: It would seem to me that
10 dialogue is important on this subject of 2009-2010, and to
11 move the dates I think is a step in the wrong direction.
12 Even if we don't make progress in 30 days, which I believe
13 we will, we should have the meeting in the next 30 days.

14 MR. COUTO: Then we'll have that meeting. But
15 we'd just like to be candid with the Board that you may not
16 receive the documentation and business materials to the
17 extent you'd like them.

18 COMMISSIONER AMERMAN: It's been stated throughout
19 this morning and now into this afternoon that the issues are
20 deep and we have to have all parties working together, and
21 we can only do that by getting together. I mean, we don't
22 talk to each other in between, so let's have the meeting in
23 30 days and let's do the best we can at that time.

24 MR. COUTO: You've got it.

25 COMMISSION VICE CHAIRPERSON HARRIS: We can have

1 another one in 60 days, but if we don't get started, we'll
2 never get there.

3 COMMISSION CHAIRPERSON SHAPIRO: Right.

4 MR. COUTO: Thank you.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, Item Number
6 8. This is an issue that's been on the agenda. Mike, are
7 you going to introduce this one?

8 MR. MARTEN: Yes. Yes, Mike Marten, of the CHRB
9 staff. CHRB Rule 1865, altering sex of the horse, requires
10 the owner and/or trainer of a horse that has been gelded or
11 castrated, since it was registered to run at any race
12 meeting in California, to report the sex change by the time
13 the horse is next entered to race.

14 COMMISSION CHAIRPERSON SHAPIRO: Can we have it
15 quiet in the back, please, it's difficult to hear up here.
16 thank you.

17 MR. MARTEN: This rule was violated 44 times in
18 the last fiscal year. The stewards, in those 44 cases,
19 issued an average fine of \$300.

20 The Pari-Mutuel Operations Committee discussed
21 this earlier this year, and was inclined to require that
22 horses be scratched if it was determined late in the card
23 that they had been gelded and that had not been reported.
24 However, that was early. And it was the Executive
25 Director's decision that this be referred to the Steward's

1 Committee. The stewards looked at the issue and felt that
2 that would not be an appropriate action to take.

3 COMMISSION VICE CHAIRPERSON HARRIS: I don't
4 recall that. I'm on the Steward's Committee and I don't
5 recall that we ever took a vote on that. We got comment on
6 that.

7 COMMISSION CHAIRPERSON SHAPIRO: I'm on the
8 Committee, I don't remember it ever coming up.

9 COMMISSION VICE CHAIRPERSON HARRIS: I think it
10 might have been generally discussed, but there's definitely
11 no recommendation from the Steward's Committee.

12 COMMISSIONER MOSS: Mike, as I recollect, just my
13 own memory, I don't remember suggesting that the horse be
14 scratched. That was one of the potential suggestions. I
15 don't think we came on the side of that one, frankly.

16 MR. MARTEN: Okay, then my recollection differs.
17 But in any event, this Committee then, on reconsideration,
18 decided that a thousand dollar fine was more in order. Not
19 that you could require the stewards to issue such a fine,
20 but that it would be recommended the fine.

21 And on reporting this to the --

22 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, the
23 problem is, I'm looking at it more from the wagerer's
24 viewpoint. Yeah, you could sanction a trainer and fine him
25 a thousand dollars or whatever, but you don't get -- you

1 still had a race that people didn't have access to correct
2 information when they made their bet. And I think that's
3 the problem, so that's the reason I would support just
4 scratching the horse, because it is impossible to correct
5 the error.

6 COMMISSION CHAIRPERSON SHAPIRO: So can I ask
7 Commissioner Moss, what is the current position of your
8 committee and its recommendation?

9 COMMISSIONER MOSS: The current position, the way
10 I believe we left this, and Mike's recollections will be as
11 good as mine on this, was that I remember the CTT gentleman
12 from Northern California was upset over the possibility of a
13 thousand dollar fine, and wanted to talk to his trainers
14 about this. We were going to see if the Encompass system
15 for reporting geldings was fully operable and been more
16 effective, lately. Though I recognize that I think a late
17 gelding report was filed just recently.

18 I was going to ask, at the next Pari-Mutuel
19 meeting, Rick Arthur, if the geldings have slowed down or
20 the late reports have slowed down in any way since the
21 last --

22 MR. MARTEN: Well, the Racing Secretary, Rick
23 Hammerly, is here to address that issue.

24 COMMISSIONER MOSS: Okay.

25 COMMISSION VICE CHAIRPERSON HARRIS: Well, just to

1 clarify --

2 COMMISSIONER MOSS: So we were still getting into
3 this, that's the answer.

4 COMMISSION VICE CHAIRPERSON HARRIS: Yeah. But if
5 we wanted to do it, say if we wanted to have a Board policy
6 that unannounced geldings were scratched, I guess we'd have
7 to define what unannounced by a certain time, does that have
8 to be a rule, or is that just a policy, or how does that
9 work?

10 DEPUTY ATTORNEY GENERAL KNIGHT: That would have
11 to be a rule.

12 COMMISSION VICE CHAIRPERSON HARRIS: A rule.

13 COMMISSION CHAIRPERSON SHAPIRO: The Board can
14 make a recommendation.

15 COMMISSIONER MOSS: Yeah, so to answer your
16 question, the Committee has not come up with a suggestion
17 for the Board to take any action on.

18 COMMISSION VICE CHAIRPERSON HARRIS: Well, maybe
19 the Board should direct staff to make a rule, and then we
20 put the rule through comments and all that, and we have
21 plenty of time to discuss it. Because I don't know if we're
22 going to get it done today, anyway. Personally, I think the
23 horse would be scratched but, obviously, that's what we have
24 comment periods for.

25 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask

1 a question. Can the Board make a recommendation as to what
2 they would like to see, for instance, rather than a \$300
3 fine if they wanted to say that when there is a first-time
4 gelding, that's not notified, you know, timely, and they're
5 having this problem, can the Board recommend that it would
6 like to see a sanction of a certain amount?

7 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, that's a
8 disciplinary guideline, that's what you have, now, and
9 that's what you --

10 COMMISSION CHAIRPERSON SHAPIRO: Do we have to go
11 through a rule-making process?

12 DEPUTY ATTORNEY GENERAL KNIGHT: Yes.

13 COMMISSION CHAIRPERSON SHAPIRO: Even to do that?

14 DEPUTY ATTORNEY GENERAL KNIGHT: Yes.

15 COMMISSION VICE CHAIRPERSON HARRIS: The thing is
16 that the discipline isn't the problem. The problem is that
17 you've got a fan out there that's betting on something that
18 wasn't disclosed, and you can't -- or it doesn't help him
19 that some trainer got fined a thousand, or three hundred, or
20 whatever.

21 COMMISSION CHAIRPERSON SHAPIRO: I'm not
22 disagreeing with you, I'm trying to look at --

23 COMMISSIONER CHOPER: You're betting against it.

24 COMMISSION CHAIRPERSON SHAPIRO: I'm trying to
25 look at what is the incentive we can use, which may include

1 scratching the horse or some monetary fine where the people
2 are really going to bend down and look.

3 COMMISSIONER AMERMAN: It seems to me that if we
4 took the attitude that we should scratch the horse, it would
5 solve it immediately.

6 COMMISSION VICE CHAIRPERSON HARRIS: It's going to
7 take care of it, yeah.

8 COMMISSIONER AMERMAN: I mean, first time.

9 COMMISSION VICE CHAIRPERSON HARRIS: Well, it
10 might take a few months for people to figure it out.

11 COMMISSIONER AMERMAN: Well, there might be one or
12 two, but it will happen very quickly.

13 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
14 even if we wanted to do that, we have to go through the
15 rule-making process.

16 COMMISSIONER AMERMAN: Right. But we're waiting
17 on the Committee to look at this again, is that the issue?

18 COMMISSION CHAIRPERSON SHAPIRO: Commissioner
19 Moss, would it be -- would you suggest that your Committee
20 meet again, or would you be amenable to the Board asking
21 staff to draft a rule that could -- would include either the
22 scratching or that -- it would be that the horse would be
23 scratched, or a monetary fine, or something like that at
24 this time? Keeping in mind that we have the comment period,
25 as well, to do this.

1 COMMISSIONER MOSS: My own personal curiosity is
2 still wanting to know if our very objective conversation
3 about this issue made any headway, whether it was in the
4 Encompass system, or whether the trainers have come up with
5 another kind of way to let people be informed of this
6 situation, or the veterinarians have come up with a form.
7 It just is just strange to me that we can't get on top of
8 this.

9 COMMISSION VICE CHAIRPERSON HARRIS: Well, I think
10 if we --

11 COMMISSION CHAIRPERSON SHAPIRO: I was thinking
12 that we are now on the Encompass system and it's now being
13 done, that we are utilizing that. However, perhaps Rick
14 Hammerly could give us his experience at the recently
15 concluded Del Mar meeting, and to be indicative of that, or
16 perhaps Dr. Arthur.

17 COMMISSIONER MOSS: That would be great.

18 MR. HAMMERLY: Rick Hammerly, Santa Anita. I'd
19 also like to maybe suggest, before you meet with your
20 Committee, that maybe we could be consulted. We, meaning
21 some of the racetracks and the racing officials that
22 actually deal with this day in and day out, and offer some
23 of our suggestions. I know there was some concern about
24 taking that fatal step of scratching the horse at some point
25 during the day. When that was going to happen, I know we

1 would have some comments about that and I think, as a whole,
2 think that might be just a little too drastic, just on the
3 grounds that I think that there's too many losers involved
4 in that. Who wins in that case? The owner, who just paid
5 the bills to get that horse ready to run? The track
6 obviously loses, eventually the State ends up losing. And
7 who's to say that the gamblers aren't the losers, too. Many
8 gamblers, you know, they use their available information,
9 mostly their Daily Racing Form, and that information's not
10 carried in the form. Some guy may counter his Pick Six
11 around some horse that he could care less if it's a colt,
12 gelding, filly, mare, and here we go ahead and scratch the
13 horse.

14 And I think we're taking a much bolder step than
15 we really need to. Yes, there are some deterrents that need
16 to be made, and I'm going to tell you what we've learned
17 from this and how far we've gone.

18 Since this first came to light, what, a year ago,
19 18 months ago, somewhere in there, and I tell you what, I
20 can tell from all of us that we all appreciate you, the
21 Board, bringing this issue to light. Because we didn't have
22 any idea how many ways there were for an unknown gelding to
23 get to the races. It was never thought of before. I'm sure
24 there was thousands of them before we started doing this.

25 Obviously, it starts when the horse is gelding.

1 Is it reported then, is there a way to report it then?

2 And then if the horse happens to change hands in
3 the middle, before he races again, did the one guy -- did
4 the one owner tell the other owner, did the owner tell the
5 trainer?

6 So we actually have a dedicated person in our
7 racing office, Melanie Stubblefield, who is the Clerk of the
8 Course, that's all she does in the morning, when we take
9 entries, along with her other duties, is take those -- the
10 races that are for colts and geldings, and literally go
11 horse by horse in those races and try and find out when the
12 horse last started, when it was reported. She does the
13 changes.

14 We've taken that a step further and contacted our
15 service provider, which is Encompass. And we tried to
16 eliminate some of the middle men. What was happening was
17 even though the trainer would report it on the day of entry,
18 it was written on the entry card. Well, then it had to be
19 read in the proof, and then that person had to tell another
20 person, and that person had to tell another person, and then
21 it had to make the program. Well, we cut those two middle
22 people out.

23 On our entry blank, now, when we enter the course
24 in the computer we have a box, and if they say first-time
25 gelding, we click the box. And as soon as that box is

1 clicked, that initiates a feed, which sends it immediately
2 to the overnight. And if you'll notice on the overnight,
3 now, besides the blinker changes, the "FTG," so first-time
4 gelding immediately shows up on there. And also,
5 immediately goes right to the program without anybody having
6 to -- there's no middle man now, once that box is hit, it's
7 out there.

8 So we're hoping that just like blinkers, when
9 trainers see that, you know, I'm supposed to have blinkers
10 on, it's not noted, they're going to be able to see this and
11 call us up and say, hey, I'm a gelding, or I'm not a
12 gelding, or they'll --

13 COMMISSION VICE CHAIRPERSON HARRIS: Well, the
14 blinkers is a little easier to put them back on.

15 (Laughter.)

16 MR. HAMMERLY: I don't know. Case noted. But you
17 get my drift. The word's out there, now. The racing office
18 has gotten fined, too, so we're on top of this. And I think
19 you'll find that the instances of these geldings are going
20 down. There are literally, you know, scores of ways for
21 this to get through the system. And, obviously, if it's
22 done with intent to try and put one over, so to speak, yeah,
23 there needs to be a harsh penalty.

24 But for a horse to be scratch because, you know,
25 someone in our office made a clerical error, or there was an

1 unreported sale, that someone didn't know, I just think
2 everyone's a loser in that, and I hope we can be involved in
3 some discussion before it gets to that point and we can, you
4 know, continue the deterrents.

5 But I think we've taken the right path, we're
6 going down the road of prevention. And one of the things
7 that we've talked about before, and we discussed with Dr.
8 Arthur, recently, is having a final way to find this out,
9 and that's when the inspections are done the morning of the
10 race. You know, they're done early in the morning and if we
11 get to that point and we find one, you know, we go ahead and
12 change it, we announce it, we put it on the board, we do
13 whatever we can to get that information out.

14 And I think if we can follow those procedures a
15 little closer, I think we're going to cover, you know, a
16 vast majority of the situations.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, I
18 appreciate that. This is an issue, you know, that has just
19 been going on, and on, and on, and I appreciate all the hard
20 work that's being done.

21 What I would suggest, though, is that we try to
22 initiate a rule-making process so that we could at least
23 alert everybody that this is what's on the table and there
24 can be more meetings that take place.

25 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think

1 we should do that. And I'll move that we instruct staff to
2 come up with a draft rule that we can discuss at the next
3 meeting, that would involve mandatorily scratching a horse
4 if there was a gelding that was not disclosed --

5 COMMISSION CHAIRPERSON SHAPIRO: At time of entry.

6 COMMISSION VICE CHAIRPERSON HARRIS: Well, at -- I
7 don't know at time of entry, or commitments for wagering
8 or --

9 COMMISSIONER CHOPER: Second.

10 MR. HAMMERLY: Excuse me. You know, we take
11 entries three and four days in advance, now.

12 COMMISSION VICE CHAIRPERSON HARRIS: Yeah.

13 MR. HAMMERLY: How can we scratch a horse on a
14 Tuesday, when the race is on a Friday or Saturday?

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, wait, don't
16 get all exercised. How about at scratch time, by scratch
17 time?

18 MR. HAMMERLY: Well, why not in the morning when
19 the guy checks, when we have our vets check?

20 COMMISSION CHAIRPERSON SHAPIRO: Well, because
21 it's got to get into the program and it's got to get into
22 the Racing Forum, and those --

23 MR. HAMMERLY: The Racing Forum, they don't carry
24 that.

25 COMMISSION VICE CHAIRPERSON HARRIS: Well, it's in

1 the program, the official program is where it needs to get,
2 and if it's not there, that's the problem.

3 COMMISSION CHAIRPERSON SHAPIRO: Again, what we're
4 trying to do is we're trying to make as much information
5 available to the wagering public, so that they have fair
6 notice, and I think it's --

7 COMMISSION VICE CHAIRPERSON HARRIS: Well, all
8 we're doing is -- my motion just does the rule, and we'll
9 get out for comment, and maybe we'll decide we don't want to
10 do it.

11 COMMISSION CHAIRPERSON SHAPIRO: It's going to get
12 out to comment and we'll work through that.

13 MR. HAMMERLY: I just want to be able to -- we all
14 want to be able to comment on that.

15 COMMISSION VICE CHAIRPERSON HARRIS: You can
16 comment.

17 COMMISSION CHAIRPERSON SHAPIRO: There's plenty of
18 comment time.

19 COMMISSION VICE CHAIRPERSON HARRIS: Several
20 times.

21 COMMISSION CHAIRPERSON SHAPIRO: There's plenty of
22 comment time.

23 COMMISSIONER CHOPER: Yeah, putting it out will
24 make the comment. I think it's the right rule, but I'm not
25 sure.

1 COMMISSION CHAIRPERSON SHAPIRO: So, Jackie, we're
2 going to ask you to initiate a rule that would require that
3 any horse that is entered, that does not properly disclose
4 that it has been gelded --

5 COMMISSION VICE CHAIRPERSON HARRIS: Or not
6 gelded. I mean, there could be some that could be entered
7 as a gelding, and they're really not a gelding, they find
8 out they're a colt.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay. Any sex of
10 the horse has been altered --

11 COMMISSION VICE CHAIRPERSON HARRIS:
12 Misidentified.

13 MR. HAMMERLY: Misidentified gender.

14 COMMISSION CHAIRPERSON SHAPIRO: Misidentified
15 gender. That a horse will be scratched prior to the
16 publishing of a program, I don't know.

17 COMMISSION VICE CHAIRPERSON HARRIS: Why don't you
18 circulate it to the Board and we'll see it then.

19 STAFF SERVICES MANAGER WAGNER: Right. My
20 question was do you want us to go ahead and draft the text,
21 and then bring it back to the Board for the next meeting,
22 for the Board to take a look at the text, before we notice
23 it or --

24 COMMISSION VICE CHAIRPERSON HARRIS: Well, let's
25 run it by a few people and see if it makes sense.

1 COMMISSION CHAIRPERSON SHAPIRO: Why don't you
2 draft something, circulate it to the Board, we'll provide
3 comment, and then we'll get it out, and everybody will have
4 an opportunity to weigh in, and help us craft the best rule,
5 with the best way to do it.

6 STAFF SERVICES MANAGER WAGNER: Okay.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay.

8 COMMISSIONER MOSS: I think maybe the wording
9 should be potential penalties, so to speak.

10 STAFF SERVICES MANAGER WAGNER: Potential
11 penalties?

12 COMMISSIONER MOSS: Well, because otherwise it
13 looks like we're going to go in that direction and I'm not
14 so sure I want to go in that direction, you know, as far as
15 I'm concerned.

16 EXECUTIVE DIRECTOR FERMIN: I think, also just to
17 clarify, Commissioner Harris, on the discussion from the
18 stewards, I believe that took place when they were in
19 training at the Davis and they had some --

20 COMMISSION VICE CHAIRPERSON HARRIS: Well, that
21 was not a Steward's Committee meeting.

22 EXECUTIVE DIRECTOR FERMIN: No, but they had some
23 discussion about it, so it was not --

24 COMMISSION VICE CHAIRPERSON HARRIS: Anyway,
25 there's no official Steward's Committee.

1 EXECUTIVE DIRECTOR FERMIN: Yeah. But they were
2 opposed to scratching mainly because they thought -- they
3 didn't know where the blame should go.

4 COMMISSION CHAIRPERSON SHAPIRO: All right, if we
5 can move on, okay. I would now like to -- again, I
6 recognize this is a long agenda and so, therefore, as I
7 said, I'm going to skip around. I would like to go to Item
8 Number 10. No, sorry, I'd like to go to Item Number 11,
9 which is discussion and action by the Board on the
10 application for approval to conduct advance deposit wagering
11 of Churchill Downs Technology Initiatives Company dba
12 twinspires.com, for an out-of-state multi-jurisdictional
13 wagering hub, from January -- it says from January 1st, 2008
14 to December 31st, 2010.

15 The first thing I would like to clarify is I would
16 like to modify that, and see if that's acceptable to the
17 applicant, that it would be for only the remainder of this
18 year, because I think that we're going to need to relicense
19 all of the ADW providers and I would prefer that if your
20 goal is to be up and running in 2007, then I think we should
21 hear this issue. If your goal is to get a multi-year
22 license, then I think it's going to have to wait and go with
23 the rest of them.

24 So Mr. Blackwell?

25 MR. BLACKWELL: Yeah, Brad Blackwell, on behalf of

1 Churchill Downs Technology Initiatives Company. And,
2 Chairman, we are agreeable to that.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. If that's
4 the case, then I would suggest that we hear this with that
5 timeframe in mind.

6 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, that
7 makes sense.

8 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
9 CHRB staff. With that amendment to the timeframe for this
10 application, Churchill Downs has filed an application to
11 conduct out-of-state multi-jurisdictional wagering as an
12 advance deposit wagering provider.

13 They are proposing to operate seven days a week,
14 8:30 a.m. to 10:30 p.m.

15 MR. BLACKWELL: 24 hours a day.

16 STAFF SERVICES MANAGER WAGNER: It's 24 hours a
17 day will be the timeframe for the operation of the ADW
18 facility. And they will be operating 365 days, with the
19 exception of December the 25th.

20 It should be noted that Churchill Downs does have
21 a pending agreement with Bay Meadows and Golden Gate Fields,
22 if they're able to obtain their ADW license approval.

23 Right now, there are a couple of items that are
24 still outstanding for this application. The analysis notes
25 the horsemen's agreement is outstanding, as well as a

1 contract from the racing association.

2 The licensing of the management personnel has
3 moved forward and we are in the process of taking care of
4 that, so that is no longer an issue.

5 The applicant is here to answer questions and
6 staff would recommend that you hear from the applicant.

7 COMMISSION CHAIRPERSON SHAPIRO: With respect to
8 the racing association contract, you've just said that if
9 they're licensed, they would have that in place; correct?
10 Bay Meadows and --

11 COMMISSION VICE CHAIRPERSON HARRIS: Which? I'm
12 not sure which year we're on, though, I decided -- which
13 year are we talking about?

14 COMMISSION CHAIRPERSON SHAPIRO: 2007, the
15 remainder of this year.

16 COMMISSION VICE CHAIRPERSON HARRIS: Oh, for right
17 now, okay.

18 COMMISSION CHAIRPERSON SHAPIRO: That's all we're
19 talking about. Okay. And if, in fact, you're licensed, you
20 have an agreement with Bay Meadows and whom else?

21 MR. BLACKWELL: And Golden Gate.

22 STAFF SERVICES MANAGER WAGNER: Golden Gate.

23 COMMISSION CHAIRPERSON SHAPIRO: And Golden Gate
24 Fields, fine. So the only issue that appears to be missing
25 is an agreement with the horsemen; is that correct?

1 MR. BLACKWELL: That's correct.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay. Perhaps we
3 should find out why you don't have an agreement with the
4 horsemen, then, since that's missing.

5 MR. DARUTY: Good afternoon, Scott Daruty, with
6 TrackNet Media. And perhaps I'll give just a quick bit of
7 background. As you all know, I've appeared before this
8 Board for many years, on behalf of Magna Entertainment
9 Corp., and its affiliated companies. This is the first time
10 I've been before you in my new capacity with TrackNet Media.

11 TrackNet, which is a joint venture between
12 Churchill Downs and Magna Entertainment, basically serves
13 the function of assisting both XpressBet and Twinspires in
14 the acquisition of racing content and also in certain
15 licensing issues. So in case there's any question, that's
16 why I'm here today, speaking on behalf of Twinspires.

17 Mr. Blackwell, I think at some point, I know,
18 would like to give this Board background as to Twinspires,
19 the investment it's made, the size of the company, and all
20 the business it does outside of this State. And so at some
21 point, hopefully, he has an opportunity to share that with
22 you.

23 But to your specific question regarding the
24 agreement with the horsemen, I can say that I've personally
25 been involved with the TOC over many, many weeks in a

1 negotiation to arrive at a HUB agreement.

2 We certainly wouldn't be here at this Board,
3 today, if we didn't think we had exhausted every avenue to
4 try to get that agreement.

5 Basically, the crux of the problem is the TOC
6 believes that Twinspires should receive a lower HUB fee than
7 the HUB fee that other account wagering HUBs, including
8 XpressBet or YouBet have received or currently are
9 receiving. And we don't believe that there's a valid reason
10 for that, and we're here to ask the Board today, again,
11 hopefully, they'll have an opportunity, Brad will have an
12 opportunity to give you all the background about the
13 company. But we would like this Board to consider issuing
14 this license, notwithstanding the fact that we don't have
15 that agreement with the TOC.

16 I think you're all aware, the existing law, which
17 expires in three months, and is going to be replaced, but
18 the existing law does not contain an express provision
19 requiring TOC approval.

20 Now, this Board has long taken the position that
21 that approval would be a good thing to have and, in fact,
22 I've stood before this Board on occasion, in the past, and
23 actually supported the TOC in having say over the HUB issue.

24 But I believe in implying or creating a right for
25 the TOC to participate in this HUB agreement discussion, you

1 also have the authority to limit that right if you believe
2 it's being imposed unreasonably. And, therefore, that's why
3 we're here today.

4 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
5 Mr. Blackwell, why don't you first tell us a little bit
6 about Twinpires, and then let's come back and see whether
7 you should be licensed and, if you should, if we can figure
8 out how to work out this problem.

9 MR. BLACKWELL: Thank you. First and foremost I
10 would like to thank you for the opportunity to be here today
11 to discuss our application. As you know, we have been
12 working diligently and patiently since the beginning of the
13 year to get to this point.

14 Churchill Downs Technology Initiatives Company,
15 which is doing business as Twinpires, is a wholly owned
16 subsidiary of Churchill Downs, Incorporated, which has been
17 a well-respected member of this industry for over 130 years.

18 While historically Churchill Downs has focused on
19 owning and operating racetracks, we made the decision to
20 expand our investment in the industry and enter the account
21 wagering business.

22 In May of this year we launched twinspires.com,
23 shortly before our 133rd running of the Kentucky Derby. To
24 shed some light on the success of Twinpires, we were able
25 to sign up 10,000 customers in our first three days of

1 operation.

2 Since the launch of Twinspires, we have spent
3 approximately \$80 million, across two separate transactions,
4 to bolster our account wagering business. In a transaction
5 with Blood Stock Research Information Services, we acquired
6 their ADW business, along with their pedigree and
7 handicapping information business.

8 And then in a transaction with AmericaTab, we
9 acquired their ADW business, which originally dated back to
10 the 1990s. These two business accounted for approximately
11 \$235 million of handle back in 2006, and that is without
12 being in the State of California.

13 Through the launch of Twinspires and these
14 acquisitions, we estimate that we account for approximately
15 20 percent of the national account wagering market and,
16 again, that's without being in the State of California.

17 With that said, we have quickly become a major
18 player in the account wagering business.

19 I would also like to point out that the corporate
20 headquarters for Twinspires is actually located in Mountain
21 View, California, which reflects that we are already
22 investing in California. We have not only relocated
23 executives to California, but we hire and continue to hire
24 California residents.

25 We have formed and continue to grow a team of

1 technology experts, here in California, which are dedicated
2 to ensuring that we offer high quality products, and
3 products that we will continue to upgrade in order to grow
4 our business and to attract more customers to this industry.

5 Churchill Downs has invested in multiple facets of
6 the horse racing industry. We own and operate marquee
7 racetracks. We provide key content, including the most
8 wagered upon horse race in the world, the Kentucky Derby.
9 As I mentioned before, we now own a handicapping and
10 pedigree information business, and in addition to account
11 wagering, we are a co-owner of television through our
12 investment in HRTV.

13 That said, we are an active, reputable, and proven
14 member of this industry. We are investing in California,
15 and we are continuing to invest in horse racing to
16 strengthen our industry. We have a long history of success
17 and we have demonstrated the desire to spend money and
18 invest in this industry, which we think will only serve
19 California horse racing.

20 At the end of the day we want to be on a level
21 playing field in California and contribute to a competitive
22 ADW environment.

23 Other ADW providers have stood before you,
24 encouraging a competitive landscape, which we agree will
25 lead to better products, better services and, ultimately, to

1 the goals and objectives this Board has set for account
2 wagering in California.

3 Again, I thank you for the opportunity to be here
4 today and I would be happy to answer any questions.

5 COMMISSION CHAIRPERSON SHAPIRO: Well, thank you
6 very much. Obviously, it would seem logical to me that we
7 should welcome having Twinpires join our ranks of ADW
8 providers. I don't know what the issue is. You did mean
9 the Kentucky Derby by Yumbrandts, didn't you?

10 (Laughter.)

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, I just
12 wanted to make sure I had the right race, I wasn't sure.

13 So I don't know what the impasse is, but let's see
14 if there is -- Mr. Couto, do you want to perhaps address
15 this? I mean, I think it would be a great thing if we can
16 get a new ADW provider that handles 20 percent of the
17 national market into our game, in California.

18 MR. COUTO: Well, that's one opinion. They'll
19 continue to handle 20 percent, even if they're not in this
20 market, at least through the balance of the year.

21 Drew Couto, Thoroughbred Owners of California. I
22 think one important notable fact about Churchill is they're
23 also the company that sold Hollywood Park, and on the way
24 out mentioned the regulatory environment, and the poor
25 economics and structure of this industry in California, and

1 the very difficult nature for them to find a way to make
2 money here.

3 They're coming back, now, not as a
4 stakeholder --

5 COMMISSION CHAIRPERSON SHAPIRO: What does that
6 have to do with this?

7 MR. COUTO: We're going to get there, I'm leading
8 to it. But I just think we heard some facts about that and
9 we'll get to the issue with TOC here.

10 There's a history that creates some concern among
11 the TOC with regard to the motivations and the ability to
12 perform in California. And as a result, it impacted our
13 view as to what the appropriate HUB fee would be. The issue
14 that we're struggling with are HUB fees.

15 And it was interesting to me that today Mr.
16 Daruty, in this new capacity, has contradicted himself from
17 all prior representations he made to the Board in the past,
18 and that was in particular you needed an agreement with the
19 horsemen as to HUB fees, or there shouldn't be a license
20 issued. And I'll be glad to go back and pull that testimony
21 from him previously.

22 The issue is HUB fees. And our view is that when
23 we dealt with the other ADW companies that are now licensed
24 in the State of California, they had lower HUB fees than
25 they currently have. And they had that because we asked

1 them to prove themselves to us over a period of a year, and
2 we would evaluate their performance and adjust their fees
3 appropriately, based on their performance.

4 We have offered, to Twinspires, a HUB fee
5 substantially higher than what we started the other ADW
6 companies off at when we did this, and it's unacceptable to
7 them. And based on all of the handle projections that we
8 have, both on imports, and exports, and host fees, we felt
9 that the numbers that we suggested were fair numbers, and
10 appropriate numbers. And, in fact, we were led to believe
11 early on that they were going to be acceptable. But over
12 the past few weeks have come to learn that they're not
13 acceptable. So we have an impasse as to what those fees
14 are.

15 For this year, at least, given that there is an
16 impasse, and that new law would come into effect, we have no
17 problem with them becoming licensed as of January 1 and
18 going ahead with the provisions now set in the law to take
19 effect on January 1, to resolve the HUB fee dispute with
20 regard to imported races.

21 But under the current conditions, you've required
22 every licensed California ADW company to have an agreement
23 with us as to those HUB fees, and we don't have one.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask
25 a question. Okay, I don't know how big the gap is here.

1 But since we're only talking about, really, three months, if
2 they were willing to agree, and we're only doing a three-
3 month, and you want to see whether they prove themselves,
4 and I think we would like to see them prove themselves, and
5 I think it's a great thing. And if we're only going to
6 license them for three months, if the gap isn't too big, can
7 you guys not find the middle of that gap, or can they not
8 agree to whatever you want just to get them licensed, let's
9 get them on board and get them into California?

10 I mean, frankly, I don't appreciate the comment
11 about Churchill Downs leaving, I don't think it's relevant,
12 let's not go there. But this is an entity that may be able
13 to improve and help California racing.

14 So I don't know if the gap that -- Mr. Daruty's
15 standing -- one second.

16 MR. DARUTY: We would accept their proposal for
17 the balance of the year, if it preserves our right to move
18 forward under the new law.

19 COMMISSION VICE CHAIRPERSON HARRIS: Oh, yeah,
20 that's obvious.

21 COMMISSION CHAIRPERSON SHAPIRO: Great. Great, so
22 let's do that.

23 MR. COUTO: Well, wait, that is not the offer that
24 was put on the table. The issue is if we have a
25 dispute -- excuse me, if we have a dispute as to the HUB

1 fees, and we are unable to resolve that going forward in
2 January --

3 COMMISSION CHAIRPERSON SHAPIRO: One second. We
4 have a problem, okay. The way our agenda is written, I'm
5 being advised by counsel that we cannot even hear this
6 because it says for January 1st, 2008 through December 31st,
7 2010. Therefore, I'm going to ask if we can stop this
8 discussion, let's put it on the agenda for next month, let's
9 make it for just 2007, and will you guys please agree on a
10 rate for just 2007, so we don't have to go through this, and
11 let's see if we can get them licensed.

12 I'm sorry, I mean, but -- I mean, frankly, it
13 would --

14 COMMISSIONER AMERMAN: It strikes me that we're
15 kind of playing ourselves, if I can use that term.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, sure.

17 COMMISSIONER AMERMAN: Because if it gets moved
18 for a month, I'm not sure, you have that exclusive with
19 Hollywood Park, it can't go there. So what are we talking
20 about.

21 COMMISSION CHAIRPERSON SHAPIRO: Well, we can call
22 a special meeting to just hear this.

23 COMMISSIONER AMERMAN: Okay.

24 COMMISSION CHAIRPERSON SHAPIRO: If necessary.
25 And I'm willing to do that because I just think that it's

1 important for us to try to do this.

2 COMMISSIONER AMERMAN: I think we all do.

3 COMMISSION CHAIRPERSON SHAPIRO: Fine. Then I'll
4 tell you what, we'll ask staff to please calendar a special
5 Board meeting to just hear this application.

6 In the interim, I would ask that the parties
7 please try to sit down. If you're willing to agree to the
8 number that they're asking for, for the remainder of 2007,
9 call them up, tell them you'll do it, and let's get this
10 done. Okay, thank you.

11 MR. BLACKWELL: Thank you.

12 COMMISSION CHAIRPERSON SHAPIRO: Which now, I'm
13 going to go immediately into Item Number 10, and I would ask
14 people to bear with me because this is actually an issue
15 which I think is the most important thing on our agenda.

16 Item Number 10 on the agenda is discussion by the
17 Board regarding the renewal of licenses for existing
18 advanced deposit wagering providers.

19 As all of us knows, there is legislation currently
20 on the Governor's desk that would extend ADW beyond 2007,
21 and I would believe that it's something that this Board
22 would all be desirous of seeing extended. And, therefore, I
23 would ask to be authorized to write a letter on behalf of
24 the full Board, to the Governor's Office, urging that we, as
25 a Board, believe it's important that bill be signed.

1 COMMISSIONER CHOPER: So moved.

2 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

3 Having said that, and those of us that have looked at the
4 law, I must tell you that in the past we have had so many
5 disputes about ADW wagering at different times in my three
6 years of being on this Board, that it has been very
7 disturbing and something that is confusing to all of us as
8 Board members, or at least certainly to me.

9 And when we've had disputes between the ADW
10 provider and the racetrack, or the ADW provider and TOC, or
11 anybody else, what it all came back to was you licensed, you
12 issued licenses and the licenses that you issued didn't
13 provide that you could do certain things.

14 So here we are in September, and we're going to
15 need to relicense every one of our ADW providers. I believe
16 it's time for this Board to step up and do something for our
17 fans and to do something for the industry.

18 I certainly want to see ADW to continue and I
19 would think that we should look for ways to enhance it.

20 One of the examples that we're disadvantaged is we
21 can't even -- we run the risk of one of our larger ADW
22 providers not being able to take wagers on the Breeder's Cup
23 this year? Why, there's a dispute.

24 So as we now look at how we're going to license
25 them, I believe that there's authority in the existing law

1 that gives the CHRB jurisdiction and supervision powers over
2 the race meetings conducted in California, over all persons
3 or things having to do with the operation of such meetings,
4 and that's Section 19420.

5 The powers of the Racing Board, in the Horse
6 Racing Law, Section 19440, include the authority of the CHRB
7 to adopt rules and regulations for the protection of the
8 public and control of horse racing and pari-mutuel wagering.
9 It also grants us the right to grant all licenses to be
10 issued to participants in the California horse racing
11 industry, including those licenses issued to racing
12 associations and fairs to conduct race meetings, and the
13 license that will be issued to ADW providers in 2008,
14 assuming that law is signed.

15 Specifically, Section 19480 of the Racing Law
16 provides the power to issue licenses to racing associations
17 and fairs, to conduct race meetings that have been given to
18 the CHRB, provided that the Board determines that the
19 issuance thereof will be in the public interest and subserve
20 the purposes of horse racing law.

21 So, accordingly, I believe that we are dealing
22 with something that is in the best interest of the public.
23 This implies that the CHRB is granted the right to enact
24 rules and conditions in the law. And Section 19460 says
25 that all licenses granted under the Horse Racing Law shall

1 contain such conditions as are deemed necessary or desirable
2 by the Board for the purposes of Horse Racing Law.

3 So if I read all that and if I've got it right,
4 and I'm sure our counsel will tell me, then reading the
5 legislation shows several purposes, including to act in the
6 public interest, and to encourage agriculture and the
7 breeding of horses in the State of California.

8 Well, if we're going to do that, then pursuant
9 with Section 19401, the intent of the racing law is to allow
10 pari-mutuel wagering on horse races, while providing for the
11 maximum exposure of horse racing opportunities in the public
12 interest.

13 So it would appear to me that this is the juncture
14 where this Board has the ability to establish what
15 conditions it's going to use for licensing ADW companies.
16 And it would be my recommendation that as we move forward
17 that we consider finding a way that we require all of our
18 racing associations to offer their product to all licensed
19 ADW providers for wagering purposes, only.

20 What I'm saying is that if we license a racing
21 association, and we license an ADW company, isn't it time
22 that we require them all to take and accept wagering on all
23 California product?

24 Now, that's not the same, I would suggest, for
25 broadcasting. Broadcasting is something that only some

1 companies do. I believe those companies are entitled to and
2 should receive remuneration for doing that. So I am only
3 talking about wagering.

4 If we're going to license these companies how do
5 we get to the point -- because that's what our fans want,
6 how do we get to the point where everybody can accept a
7 wager no matter what platform they use.

8 If one platform is better than the other, then let
9 that come out in the mix. But isn't it time that this
10 Board, as we consider relicensing these companies, finally
11 step forward and did something for the public interest,
12 which I believe would be to serve them and offer every
13 opportunity to wager on our product.

14 And I would throw that out to the other
15 Commissioners so that they can add to what they think we
16 should be doing when we consider relicensing these
17 companies.

18 COMMISSIONER AMERMAN: Well, there's no question
19 that we've had a lot of confusion in the betting public not
20 being able to wager on particular races and I think that it
21 is in the interest of the industry that we open it up to all
22 ADW companies, so that they -- and I would think that each
23 race meet would have an open attitude towards it, that the
24 marketplace should dictate how the results come out.

25 COMMISSION CHAIRPERSON SHAPIRO: All right.

1 COMMISSIONER MOSS: Yeah, I agree with the
2 Chairman on this. I think it's a mystery to so many people
3 how they can make a bet. And it's crazy, we're killing our
4 sport by having all these exclusive agreements that don't
5 mean anything to anybody but the stakeholders. So I think
6 whatever we need to do, we should do it, to make it easier
7 for people to enjoy the product that we're putting out
8 there. We think California racing is the best in the
9 country, let's go out and prove it.

10 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it's a
11 difficult issue. I would like to see all carriers carry all
12 races, but I don't know how much latitude we have. I guess
13 we do.

14 COMMISSIONER AMERMAN: Well, I think that was what
15 was said, is that --

16 COMMISSION VICE CHAIRPERSON HARRIS: Well, it's
17 said, if that's --

18 COMMISSIONER AMERMAN: I'm reading the law as
19 we're going along and it seems to be there.

20 COMMISSION VICE CHAIRPERSON HARRIS: But can we
21 compel someone to do business with somebody else is the
22 problem. I mean, can we tell the track that you've got to?

23 COMMISSION CHAIRPERSON SHAPIRO: Well, what we're
24 doing is we're requiring this as part of our licensing and
25 it says right here that "all licenses granted under the

1 chapter are subject to the rules, regulations and conditions
2 from time to time prescribed by the Board."

3 Therefore, we're not making it -- we're not making
4 it different for any other player. This provides us the
5 ability to establish what's in the best interest, and it's
6 time that we did it in the best interest of our fans. It's
7 time to grow our business and to use every possible vehicle
8 and means to do that.

9 And I think that -- I would just hope this Board
10 would step up. And I welcome to hear, now, from the
11 stakeholders in the industry, you know, what they feel about
12 that.

13 Mr. Daruty, you stepped up first.

14 MR. DARUTY: Yes, Scott Daruty, with TrackNet
15 Media, again speaking on behalf of XpressBet and Twinspires,
16 and also our affiliated racetracks in California, Golden
17 Gate Fields and Santa Anita. You guys are absolutely
18 correctly. All content needs to be available to all
19 reputable, licensed account wagering companies, it's that
20 simple.

21 I mean, we've been fighting over this issue year,
22 after year, after year. We've heard the fans, they are
23 absolutely clear in their direction to us. They want to be
24 able to pick their account wagering platform of choice and
25 wager on all content through that platform, it's that

1 simple.

2 And what I think you guys are discussing is
3 certainly a step in the right direction, I think it's
4 something that needs to be done. I also would hope that it
5 could be done without any sort of regulatory intervention.
6 I would hope that the parties could work among themselves
7 and get it resolved. And to that end, you know, I stand
8 here today and make an open offer that we are ready and
9 willing to exchange content.

10 Golden Gate Fields and Santa Anita, we are ready
11 and willing to exchange it with TVG for their exclusive
12 content. That's what the fans want, that's what the
13 horsemen want, it's the best thing for the racetracks and
14 the industry, and we're prepared to do whatever it takes to
15 make that deal happen.

16 COMMISSION CHAIRPERSON SHAPIRO: And I want to
17 add, again, I want to make sure there's a differentiation
18 here. Broadcasting is very different. I mean, I don't know
19 if TVG's in the room. They do a wonderful job and they are
20 highly valued by me and the same with HRTV. And you guys
21 that put on those shows deserve to get compensated. I'm not
22 trying to say how you're going to get compensated, but
23 that's separate and apart than wagering. But it's just
24 time, for God's sakes, that we just do this and find a way
25 to get this industry moving forward.

1 MR. DARUTY: Chairman Shapiro, you're right,
2 television and broadcast should be looked at differently
3 from wagering rights. And, in fact --

4 COMMISSION CHAIRPERSON SHAPIRO: How is this any
5 different from simulcasting, frankly?

6 MR. DARUTY: It's not.

7 COMMISSION CHAIRPERSON SHAPIRO: I mean, our
8 simulcast law, I mean, everybody has to take everything, why
9 is it different?

10 MR. DARUTY: It's not, it's the same thing. It
11 would be absurd to think that a racetrack was going to send
12 its signal for simulcasting exclusively to one outlet, and
13 not send it to all the other outlets. I mean, that's
14 ridiculous.

15 COMMISSION CHAIRPERSON SHAPIRO: And the law, as I
16 read it, is that simulcasting is everybody has to take
17 everything, it's made available to everybody. And I don't
18 see why ADW is different.

19 MR. DARUTY: Well, it shouldn't be. And, again,
20 with respect to wagering rights, if wagering -- or sorry,
21 television rights and broadcast rights, if that's going to
22 be exclusive, you know, some to TVG and some to HRTV, that's
23 fine. And we even are willing to pay TVG, you know,
24 television fees to the extent they're televising content.
25 They do deserve to be compensated for that. All we ask is

1 that the same thing happens for HRTV, for content it
2 televises.

3 And let's figure out what the right number is and
4 each pay each other for what we televise and let's all move
5 on to other things.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
7 Is there anybody else that wishes to comment on this?

8 MR. JAMGOTCHIAN: Yes. Mr. Chairman, for the
9 first time I kind of like the talk, but I'm a little --

10 COMMISSION CHAIRPERSON SHAPIRO: Can you repeat
11 it, since it -- I just want to make sure it gets on the
12 record?

13 (Laughter.)

14 MR. JAMGOTCHIAN: Yeah, yeah, for the first time I
15 like the talk, I'm just concerned sometimes about the walk.
16 But in this particular case, the Board's had this ability to
17 control things for a long time and they've elected not to do
18 it. Whether they didn't read the code until a few minutes
19 ago, or they got bad legal direction, or whatever the excuse
20 was, or the TOC was playing hide the ball, I don't know,
21 because this is an area that I really don't have that much
22 experience about. Except as an owner, fan, and a bettor.
23 Obviously, it's crazy, you've stated that. I tend to agree
24 that if you can't bet on a race, the Kentucky Derby or the
25 Breeder's Cup, this industry is just in severe trouble.

1 The ADW issue in California is important,
2 obviously, because it not only affects the bettor, it
3 affects the racing associations as well as the owners, and
4 the trainers, and everybody else. Because if we're not
5 getting our fair share, obviously, we can't have purses, if
6 we can't be economical successful horses leave the race,
7 horses leave the State, horses can't even be sold in the
8 State, as reflected by the sale yesterday, where one out of
9 six horses didn't even get a bid at the CTBA sale. That's
10 just another issue.

11 And it's because this ADW has mishandled. Whether
12 it's been by the TOC, whether it's been by the Board,
13 whether it's been mishandled by the Executive Director,
14 somebody really --

15 COMMISSION CHAIRPERSON SHAPIRO: Jerry?

16 MR. JAMGOTCHIAN: Yeah.

17 COMMISSION CHAIRPERSON SHAPIRO: Do me a
18 favor --

19 MR. JAMGOTCHIAN: You're right, she doesn't do
20 anything, I understand.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay. No, Jerry,
22 do me a favor, okay? Stick to the point here, all right.

23 MR. JAMGOTCHIAN: Fine.

24 COMMISSION CHAIRPERSON SHAPIRO: I think this is
25 really an important issue and if what your point is that you

1 agree with this and you think it's a good idea, how about
2 sticking there, okay. And you're welcome to help us find
3 this path here and help us get this done. This is one of
4 the more, I think, important things we, as a Board, can do
5 as we move forward.

6 And just so you know, it is only when we license
7 these entities that we actually get the window of time to
8 set the conditions. So we're establishing the conditions
9 right now.

10 MR. JAMGOTCHIAN: But you licensed them
11 previously. You established conditions that didn't work.

12 COMMISSION CHAIRPERSON SHAPIRO: You know what, we
13 did that three years ago. And that's three years ago.
14 Should we have done it then? Maybe. But we're here today
15 and we're trying to do it.

16 MR. JAMGOTCHIAN: Okay, let me ask you a question.
17 Are we talking, on the upcoming licenses, is it a yearly
18 license or is this a three-year license for the next batch
19 of licenses?

20 COMMISSION CHAIRPERSON SHAPIRO: I believe that
21 what we will do as a Board is that's one of the issues we
22 should consider, how long should the term of the license be.
23 It is something for us, now, as we get closer, and we need
24 to do this before time runs out, we have to be able to tell
25 whatever ADW providers that want to come to California,

1 here's the rules, here's the conditions. It's a one-year
2 license, it's a five-year license, it's this, it's that.

3 MR. JAMGOTCHIAN: Well, and obviously you should
4 do that because the regulations give you the opportunity to
5 do it.

6 COMMISSION CHAIRPERSON SHAPIRO: That's what we're
7 trying to do.

8 MR. JAMGOTCHIAN: You know, the other thing that
9 this Board continues to not really see, that I see, is that
10 you've put some pretty big hammers down on racing
11 associations. Like if I was a racing association, I
12 wouldn't have so gently accepted the polytrack requirement,
13 because it's a substantial investment. Yet, the racing
14 associations, for the most part, bought off on the polytrack
15 requirement and the directive by the Board.

16 COMMISSION CHAIRPERSON SHAPIRO: What's your
17 point?

18 MR. JAMGOTCHIAN: My point is if you can direct
19 the associations to put in polytracks, or synthetic tracks,
20 I should say, why can't you direct them?

21 COMMISSION CHAIRPERSON SHAPIRO: Maybe you didn't
22 hear me earlier --

23 MR. JAMGOTCHIAN: No, no, I heard you, I heard
24 what you said, but I'm saying --

25 COMMISSION CHAIRPERSON SHAPIRO: -- I said that.

1 COMMISSIONER AMERMAN: You're preaching to the
2 choir.

3 MR. JAMGOTCHIAN: Right, I understand. But I just
4 want to reinforce it because I said when I came up here, I
5 heard the talk, but I want to see the walk.

6 COMMISSION CHAIRPERSON SHAPIRO: Jerry, fine.
7 Then we're trying to do some walking here, so why don't you
8 walk back to your seat and then we'll talk.

9 MR. JAMGOTCHIAN: No, no, I got one final thing.
10 I also want the Board not to worry about what the ADWs make
11 and how they make it, because these businesses have the
12 opportunity to be successful or to fail. And I don't
13 believe it's a regulatory scheme or the action of this Board
14 that should make sure that they're compensated and
15 successful. Because that's going to take nothing but money
16 out of the jockey's -- the owners' and trainers'
17 opportunity, and basically our pockets.

18 COMMISSION CHAIRPERSON SHAPIRO: I think our goal
19 was to bring as much revenue into the racetracks, and to the
20 purses, and to also make sure we have healthy ADW companies
21 that will carry our product, will broadcast our product, so
22 that we can enhance horse racing in California.

23 MR. JAMGOTCHIAN: And if all of them aren't
24 successful, that's okay.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

1 Mr. Couto?

2 MR. COUTO: I'm sorry if we were perceived as
3 hiding the ball in the past but --

4 COMMISSION CHAIRPERSON SHAPIRO: Well, welcome to
5 my world.

6 MR. COUTO: Yeah, thank you. These are all the
7 points that I think TOC's tried to make for the past three
8 years, and we commend the Board for considering this action
9 and, again, discussing it openly.

10 Exclusivity with regard to broadcast is an
11 important concept, I do believe, and I've been persuaded by
12 our friends at TVG and HRTV as to the need for exclusivity
13 at broadcast level for distribution purposes. And as well
14 as the need to be compensated for that.

15 But as you know, TOC has long advocated that there
16 should be no exclusivity at the wagering level under the
17 current economic models. It is not producing or maximizing
18 revenue for the stakeholders, in commissions and purses, and
19 it is not serving the interest and needs of our fans.
20 They're clear about that, they want to be able to go and
21 choose whichever ADW provider they are most comfortable
22 with, and make wagers on all product through that provider.

23 And let the market determine, through competition,
24 which is the best source. And it's the best thing for our
25 industry, it's the best thing for the fans, and it's long

1 overdue.

2 We've been held hostage by contracts signed ten
3 years ago, and we need to do something about that, now,
4 through the license process.

5 As I said, under the current economic conditions,
6 we do not favor exclusivity at the wagering level. Perhaps
7 the broadcast.

8 And we would support the Board in engaging in
9 whatever discussion is necessary to, hopefully, get everyone
10 there.

11 Lastly, TOC's confident that there is a economic
12 model, that can be implemented, that does protect everyone's
13 economic interest, we just need to get people to have an
14 open, frank dialogue about that.

15 COMMISSION CHAIRPERSON SHAPIRO: Well, I
16 appreciate that, and I think that we're going to need the
17 input of the horsemen, and we're going to need the input of
18 tracks, and we certainly need the input of the ADW
19 providers.

20 We are not trying to drive anybody out of business
21 in California, we are trying to drive more people to
22 California. And so I think that that's something that would
23 be very important to us.

24 MS. CHRISTIAN: Mr. Chairman, Cathy Christian,
25 representing TVG. No one from TVG is here today. However,

1 I just had a question for the Board. Since there was
2 nothing on the agenda, other than a generalized description
3 of a discussion, does the Board intend to take an action
4 today?

5 COMMISSION CHAIRPERSON SHAPIRO: No, this is just
6 a discussion, it's only intended to be a discussion. It was
7 intended to say, hey, we've all got this coming and it's
8 coming pretty quickly, and now's the chance for us to
9 collaborate and find a way to make this the best we can,
10 that's all it was.

11 MS. CHRISTIAN: So would you propose to put
12 something up for a regulation, to take public comment and
13 evidence on whether or not this is in fact in the best
14 interest?

15 COMMISSION CHAIRPERSON SHAPIRO: No, what we
16 really would propose to do is probably see if we can't get a
17 subcommittee of the Board to meet with the various
18 stakeholders, to help it craft what would be the best way,
19 and the most fair way, understanding that what you're seeing
20 may be it is a consensus of where the Board thinks we should
21 go, and no how can we implement that so that we don't unduly
22 harm anybody, but we all can find the way to provide a
23 service to our fans and to the industry.

24 Again, this is not trying to be exclusive --
25 exclude anybody from the process.

1 MS. CHRISTIAN: Well, if I could just pursue this
2 a minute, Mr. Chair, since the applications, the ADW
3 provider applications are up at the next Board meeting in
4 October, would your intent be to do something, to take
5 public comment and discuss whether or not this is a good
6 idea, or authorized by the law, prior to the date that the
7 Board intends to act on the ADW renewal applications, or
8 just could you give us a sense of the process?

9 COMMISSION CHAIRPERSON SHAPIRO: Well, first of
10 all, I don't know that on our next Board agenda that it's on
11 our agenda, that's the first I've heard of it, that it's on
12 our next agenda.

13 MS. CHRISTIAN: Well, it was my understanding that
14 it was, maybe I was mistaken.

15 COMMISSION CHAIRPERSON SHAPIRO: So I've never
16 heard that. So unless you know something I don't know,
17 that's not the case.

18 MS. CHRISTIAN: I doubt it.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay. So, again,
20 I think what we need to do is we need to get everybody in
21 the room and try to figure out, okay, how can we achieve
22 what our goal is? And from that we will then craft what the
23 proposed rules and conditions of licensure should be. We're
24 going to need to have advice from our counsel, what the best
25 way to do it is. And then we will put that out to the ADW

1 companies, I assume, and say when you submit your
2 application, please keep these conditions in mind is what
3 the Board's looking for.

4 COMMISSION VICE CHAIRPERSON HARRIS: I'm not clear
5 if our decision point would be on the ADW's application or
6 each individual track's application.

7 COMMISSION CHAIRPERSON SHAPIRO: I'm not sure,
8 either, it may need to be on both. We may need to go to the
9 tracks and say that in order for you to have ADW, you must
10 offer your product to all ADW companies.

11 I mean, again, I don't have the exact answer here.
12 I know what the goal is, I know what I'm trying to achieve,
13 and we're trying to achieve. The question is how we're
14 going to get there.

15 And I'm asking and soliciting the help of the
16 industry to get us there.

17 Now, you may have some ideas of how to get us
18 there, we want to hear them.

19 MS. CHRISTIAN: Actually, I don't. I'm just
20 concerned about the interplay of what Commissioner Harris
21 mentioned, between the ADW applications for renewal, that
22 are coming up soon, since they all expire at the end of this
23 year, and this position of the Board. Obviously, TVG will
24 have something to say about whether or not it's a good idea,
25 what the law says and all of that.

1 But I'm not talking about that now, I'm just
2 interested in the process, to make sure that there's a way
3 of going forward with the applications in a way that doesn't
4 prejudice the ADW providers, once the Board decides what to
5 do.

6 You now have a regulation in effect about ADW
7 applications. It's a published regulation and it requires
8 certain things pursuant to the law for licensure. And if
9 you're proposing to change that, obviously, we'd want the
10 greatest amount of notice possible.

11 COMMISSION CHAIRPERSON SHAPIRO: And you should
12 have the greatest amount of notice possible. And if the
13 truth is that if our counsel advises us that we have to pass
14 a regulation, and let's say that regulation was going to
15 take six months, this Board may decide, okay, what we will
16 do is we will renew licenses for six months, until we can
17 get through the rule-making process.

18 I mean, again, we're not looking to put anybody
19 out of business or stop ADW. But if the governmental
20 process is going to take six months, let's say, and we don't
21 have six months, then I would recommend to the Board that we
22 renew all existing licenses for six months, and then know
23 that we're going to go through the rule-making process to
24 adopt new regulations, so that everybody would have to come
25 back and get relicensed again.

1 COMMISSION VICE CHAIRPERSON HARRIS: But do we
2 need a rule? I mean, it would be good if we can get a legal
3 opinion on if, in fact, if the Board wanted to, they can
4 insist that any licensee had to offer their signal -- not
5 the video signal, but offer the right to commingle,
6 basically, to any licensed ADW provider.

7 COMMISSION CHAIRPERSON SHAPIRO: Right. I think
8 we're going to need legal advice.

9 COMMISSION VICE CHAIRPERSON HARRIS: I mean, is
10 that something we can just do or is that going to require a
11 special rule?

12 COMMISSION CHAIRPERSON SHAPIRO: And there, we're
13 going to have to seek counsel from our attorney to advise us
14 on the proper manner to go.

15 MS. CHRISTIAN: All right, thank you.

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay,
17 I think we got all our ADW providers here, good.

18 MR. CHAMPION: Chuck Champion, Chairman and CEO of
19 YouBet.com. First of all, I'd like to comment on a couple
20 of things regarding this matter.

21 First of all, I applaud the Board, particularly
22 over the last three or four months, and even longer, for
23 beginning to educate yourselves to one of the most important
24 issues that faces this industry.

25 The issue is allowing the fans to get access to

1 our content, to promote that content, and to service their
2 needs. No industry that I'm aware of, in the history of
3 business, has been successful when customers, over a
4 prolonged period of time, are deprived from their needs.

5 And I am delighted that you, as a group, now, are
6 beginning to understand ADW, its opportunity and, frankly,
7 it's complexity.

8 Four and a half years ago, when I stood before you
9 to be licensed for the first time, I brought to the
10 attention of the Board, and the record will reflect, the
11 business models in this industry are troubling and will have
12 a deleterious effect on the growth of this industry.

13 Four and a half years later, I'm glad there are
14 others, now, that are embracing that understanding and
15 beginning to appreciate it. They need to change.

16 There are many ways they can change. I'm not here
17 to tell you that I think our way is the only way, I think
18 there are many ways. But they need to change.

19 I'm also here to support your position that you
20 have that right and, more importantly, you have the
21 obligation and the responsibility to exercise that right.
22 Who else is going to protect the fans in California? Who
23 else will protect the horsemen, whose purses need to
24 increase, or trainers, but you?

25 So if the power does not lay here, where does the

1 power lie? I'm not a lawyer, don't profess to be one, but
2 it seems that what you've articulated, Mr. Chairman, is spot
3 on, it is what's in the best interest of horse racing.
4 And California horse racing needs help.

5 I stand here today suggesting that we get through
6 the kind of commotion and dissention we've had, and try to
7 get past it quickly. I'd also tell you that I'm here in
8 support of Twinpires' application to be licensed in the
9 State of California. As surprising as some may find that, I
10 think competition is healthy. We're not frightened of it as
11 an ADW company, and I don't think our other competitors are
12 frightened of that, either.

13 We think innovation will come quicker, we think
14 services will be made more readily available to customers,
15 the universe can, in fact, grow, and we will get our
16 appropriate share of that by being smart, and by being
17 aggressive.

18 And as a gentleman before me suggested, it's
19 really not the Board's responsibility to make sure that
20 we're financially made whole, it's the business operator's
21 responsibility to make sure they're made whole.

22 But also in this conversation, the other point I'd
23 like to bring to you, that's probably not lost on you, but I
24 really want to emphasize it, is there's two types of
25 exclusivity. There's exclusivity that comes through

1 contract and there's exclusivity that comes through
2 ownership. And thus far in this industry, the exclusivity
3 that has come through contract has allowed others to
4 participate, most assuredly us. We've been able to buy it,
5 we paid dearly for it. I gave up, as I've often told you,
6 20 percent of the company, in order to achieve that
7 objective, in order to serve the customer, to provide
8 content to everyone.

9 That's not being made available to us today on any
10 economic terms. And those are the kinds of things that I
11 would strongly suggest the Board look into, figure out, and
12 get the models ready.

13 We stand ready to work with any ADW company, any
14 racing association and, most assuredly, any racing authority
15 in the United States to resolve these economic issues that
16 are injuring all of us. Thank you very much for the time.

17 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

18 COMMISSION VICE CHAIRPERSON HARRIS: Just as an
19 example, Chuck, I'm not clear if you said you supported
20 Twinspires, but in the Golden Gate Fields model, the meet's
21 coming up in November, as I understand it, you are not going
22 to be able to participate in that, even though -- which I'm
23 not sure if Twinspires will be licensed by then or not, but
24 wouldn't that be of concern to you?

25 MR. CHAMPION: Most assuredly it's concern to us.

1 But bifurcating the issues, their licensure, them providing
2 services to customers in California, to me is separate.
3 Even though there's obviously linkage through ownership, is
4 that is -- is that good for California? Yeah. Is that
5 tougher for me? Yeah. But, you know, quite frankly,
6 tougher for me shouldn't be the standard.

7 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, but
8 it's just that to support more companies coming in and,
9 also, no controls on --

10 MR. CHAMPION: Yeah, providing them that content,
11 giving them the opportunity will in fact injure us in the
12 State, very clear, if we do not have access to Golden Gate
13 Fields, and we do not have access to Santa Anita, YouBet
14 will be injured. There's no doubt about that.

15 And that may not be in the overall best interest
16 to California racing to see one of your largest ADW
17 companies weakened for an artificial reason.

18 But, again, their licensure, we support. We hope
19 they resolve their issues. We look forward, we're competing
20 with them in other places in the United States. We'll
21 compete with them here, in California, we think that's fine.

22 COMMISSION CHAIRPERSON SHAPIRO: Thank you. All
23 right, if there's no other comment, then, what I would
24 suggest is, to the Commissioners, if you would like to serve
25 on this ad hoc committee, or a committee to help study this,

1 would you please let our staff know and we'll organize that.

2 We've been at it a long time, now, and I'd like to
3 just do a little bit of housekeeping on the agenda, knowing
4 that we probably -- everyone's getting tired and we've been
5 through a lot.

6 It would be my recommendation that we would defer
7 Item Number 5. Commissioner Harris has told me that mules
8 are done racing for the year.

9 COMMISSION VICE CHAIRPERSON HARRIS: Well, if
10 there's no comments, why don't we just pass it.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, probably
12 can do that, okay.

13 And then looking at Items Number 9, 12, and 13,
14 are there any -- I'm willing to defer any of those.

15 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, I think
16 on those, I think we'd like to talk about them sometime.
17 But to really, adequately talk about that, we need more
18 jockey agents, and trainers, and owners here than we have
19 today.

20 COMMISSION CHAIRPERSON SHAPIRO: Right. And so I
21 would recommend that we actually defer those items, if it's
22 okay with the remainder of the Board.

23 STAFF SERVICES MANAGER WAGNER: All three?

24 COMMISSION CHAIRPERSON SHAPIRO: All three.

25 Unless there's somebody in the audience that feels that it's

1 important that we move forward today with those. In case
2 anybody came specifically for that, I don't want to
3 disadvantage them.

4 EXECUTIVE DIRECTOR FERMIN: Some of the people
5 that came could not stay.

6 COMMISSION VICE CHAIRPERSON HARRIS: When we put
7 them back on, let's be sure we notify the people so that
8 they're here.

9 COMMISSION CHAIRPERSON SHAPIRO: Right. So if we,
10 in fact, do that, we'll come back and we'll hopefully deal
11 with the mule shoes, that's hard to say, and we can finish
12 up the agenda.

13 I know that Commissioner Amerman needs to leave
14 and I don't know whether anyone else does.

15 So why don't we now circle back to Item Number 5,
16 Jackie.

17 COMMISSION CHAIRPERSON SHAPIRO: Mr. Couto, you're
18 standing there like --

19 COMMISSION VICE CHAIRPERSON HARRIS: He's got
20 mules, now.

21 COMMISSION CHAIRPERSON SHAPIRO: Is there
22 something --

23 MR. COUTO: No, I'm sorry, I was distracted. I
24 was talking to Jackie about Item 9 because, from a timing
25 standpoint, we wanted to ask this move ahead so it could be,

1 hopefully, implemented by the Santa Anita meet.

2 COMMISSION CHAIRPERSON SHAPIRO: You're talking
3 about Item Number 9?

4 MR. COUTO: Right.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, so
6 you --

7 MR. COUTO: And Item Number 9, unfortunately,
8 doesn't include the language that we submitted and misstates
9 what we're trying to do.

10 COMMISSION CHAIRPERSON SHAPIRO: So are you
11 saying -- are you asking if we would have a discussion about
12 it at this meeting or are you able to wait until October?

13 COMMISSION VICE CHAIRPERSON HARRIS: On that item,
14 one of my concerns, it's a pretty -- I like the concept, but
15 I don't think it's been vetted out well enough to really
16 make it work. Basically, it's encourage horses that have
17 been turned out, and you bring the horse back, and you're
18 not going to get a claim the first time out, essentially.

19 But to really do it right, it's got to be a little
20 bit more complicated than they've got --

21 COMMISSION CHAIRPERSON SHAPIRO: Say again?

22 COMMISSIONER MOSS: I think this really needs more
23 conversation.

24 COMMISSION VICE CHAIRPERSON HARRIS: Yeah,
25 exactly.

1 COMMISSIONER AMERMAN: Absolutely. Absolutely,
2 yeah.

3 COMMISSION CHAIRPERSON SHAPIRO: All right, then
4 we will come back to Item Number 9. Items Number 9, 12, and
5 13 will be deferred.

6 Item Number 5, on the agenda, Jackie, are you
7 going to introduce 5?

8 STAFF SERVICES MANAGER WAGNER: Yeah. Jackie
9 Wagner, CHRB staff.

10 As you know, the proposed addition of Article
11 10.5, Mule Racing, will add an article to the Board's rules
12 that is exclusive to mules. And the proposed addition of
13 Rule 1747 will make it clear that the mule race rules are
14 under that particular article. And the proposed addition of
15 Rule 1748, shoeing mules, will allow mules to run unshod.

16 The proposal was first heard before the Board at
17 the July meeting, and at that time there was language
18 modification suggestions made to require that the unshod
19 condition of a mule must be printed, be deleted from the
20 language. We subsequently did that and we send that out for
21 the required 15-day comment period. And the Board staff
22 received no comments on the proposal and we would recommend
23 that the Board adopt it as presented.

24 COMMISSION VICE CHAIRPERSON HARRIS: I'll move we
25 adopt it. The issue is that mules are difficult to shoe,

1 sometimes they have to medicate them to shoe them, and it
2 created a lot of problems.

3 But a little trivia issue here, though, would be
4 that under this rule, you've heard the term barefoot and
5 pregnant. Well, mules are one species that can never be
6 barefoot and pregnant. They can be barefoot, but they can
7 never be pregnant.

8 COMMISSION CHAIRPERSON SHAPIRO: I'll second it.
9 All in favor?

10 (Ayes.)

11 COMMISSION CHAIRPERSON SHAPIRO: The mules are
12 done, thank you.

13 COMMISSIONER AMERMAN: Well done. That was a hard
14 battle, wasn't it?

15 COMMISSION CHAIRPERSON SHAPIRO: Yeah. Okay, Item
16 Number 14. Roberto?

17 MR. ZAVALA: Well, we're doing okay, I think.
18 Roberto Zavala, CHRB staff.

19 We have four end-of-meet results that we have
20 presented for you today. I did want to make a note on one
21 of our end-of-meet result summaries, we have some average
22 daily statistics that the percentage changes are actually in
23 error. It's for the Solano -- the Sonoma Solano Wine
24 Country Racing.

25 The numbers that reflected on there are actually

1 lower than what is described on there. And I can certainly
2 pass out to you the corrected numbers.

3 However, with that being said, all of the numbers
4 that are being presented on here show a pretty good average
5 increase over the last year, compared from 2007 to 2006.

6 COMMISSION CHAIRPERSON SHAPIRO: I just saw Mr.
7 Barkett, and perhaps he could take a few minutes and how
8 about tell us how -- it was the first time that we had that
9 meeting, and I'd actually like to hear what the results of
10 it were. If he could just step in, since you're talking
11 about that. And you know what, don't worry about the exact
12 numbers being -- how about, Joe, is this -- was it a good
13 thing, a bad thing, are we going to do it again.

14 COMMISSION VICE CHAIRPERSON HARRIS: I'm not sure
15 that --

16 MR. BARKETT: Mr. Chairman -- yes?

17 COMMISSION VICE CHAIRPERSON HARRIS: Do these
18 numbers reflect, is it really apples and apples where it's
19 you had two weeks in Vallejo and --

20 COMMISSION CHAIRPERSON SHAPIRO: I don't think it
21 can be apples to apples.

22 COMMISSION VICE CHAIRPERSON HARRIS: Well, but
23 it's four weeks of racing, I would have thought it would
24 have been up more than it was.

25 MR. BARKETT: Well, we're here to talk about that.

1 First off, I'd like to introduce to you the new fair manager
2 of the Sonoma County Fair. In fact, she just started this
3 week, Tawny Tesconi.

4 COMMISSION CHAIRPERSON SHAPIRO: Nice to meet you.

5 MS. TESCONI: Thank you.

6 COMMISSION CHAIRPERSON SHAPIRO: And so we won't
7 grill you today.

8 MS. TESCONI: Thank you, I appreciate that.

9 MR. BARKETT: Very briefly, the -- you have seen
10 the numbers prepared by staff, which were actually fairly
11 close to what our numbers were, so I think they're going to
12 be fairly accurate.

13 And just to remind all of you, the Sonoma Solano
14 Wine Country Race Meet was a combined race meet between the
15 fair dates granted to the Solano County Fair and the fair
16 dates granted to the Sonoma County Fair.

17 They were raced one week, the first week, at
18 Vallejo, and the next three weeks at Santa Rosa. The first
19 two weeks at Santa Rosa took place during their annual two-
20 week fair. And the fourth week or the third week at Santa
21 Rosa, took place without the traditional Sonoma County Fair
22 going on. That was one of the big experiments that was
23 conducted.

24 Let me just say that during that four-week
25 combined meet we actually had about 5.4 percent fewer race

1 events. And the handle per start was up approximately 3.3
2 percent.

3 But there were some numbers within those numbers
4 that are important, and this gets to Mr. Harris's question.
5 The way we did comparisons here is that we took the first
6 week, which was run at Vallejo, and compared it to the first
7 week that was run at Vallejo in 2006.

8 We took the fourth week, which was run at Santa
9 Rosa, without the fair going on, and compared that to the
10 second week of Vallejo in 2006. And we took the second and
11 the third week in Santa Rosa, and compared it to the
12 comparable fair dates in Santa Rosa in 2006.

13 COMMISSIONER CHOPER: How did the fourth week in
14 Santa Rosa compare to the second week, last year, in
15 Vallejo?

16 MR. BARKETT: The fourth week in Santa Rosa
17 compared well to the second week in Vallejo.

18 COMMISSIONER CHOPER: It did better?

19 MR. BARKETT: It did better. The first --

20 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, that
21 was the whole point, that's good.

22 MR. BARKETT: The first week in Vallejo compared
23 fairly comparably to the first week in Vallejo in 2006.

24 What we did not predict, and which was a bit
25 disappointing to all of us who cooperated in this

1 experiment, was the two weeks that were run in Santa Rosa,
2 while the fair was running, were down about 20 percent on
3 track. And there's a lot of speculation as to why that was.
4 That, by the way, was in spite of the fact that the major
5 amount of advertising was focused during that time and for
6 that period.

7 There are a lot of theories as to why this
8 occurred. and Tawny has just started here, although she's
9 very knowledgeable about Sonoma County and about that
10 community, and we have talked quite a bit about it. And we
11 believe that the major reason for that decline in that two
12 weeks was that the fair was simply down fairly significantly
13 in those two weeks. And it does show how important it is
14 for the fair to be successful when the race meet is going
15 on.

16 Now, why was the fair down? There's lots of
17 theories about that. One of the theories is that the fair
18 actually moved up a week and that might have confused some
19 of the public. There are some other theories about when
20 payday fell, and that kind of thing, which would have helped
21 the fourth week, you know. And those things all have, we
22 believe, some small impact. But, you know, it was a tough
23 year, as well. I think other tracks were challenged.

24 But the significant reason that this meet wasn't
25 more successful was because of those two weeks while the

1 fair was going on in Santa Rosa.

2 We're already talking about if we do this again,
3 we are already talking about some ways to improve that.

4 COMMISSIONER CHOPER: How did the third week
5 in -- how did the third week at -- excuse me. Yes, the
6 third week of the total, compared to last year's second
7 week, at Santa Rosa?

8 MR. BARKETT: Right.

9 COMMISSIONER CHOPER: Is the difference the one
10 week that wasn't part of the fair, usually, did that take a
11 lot of the business?

12 MR. BARKETT: We looked at that very issue to see
13 what you're aiming at, Mr. Choper, and both weeks were about
14 off the same.

15 COMMISSION VICE CHAIRPERSON HARRIS: The more
16 weeks you run, you're probably going to hurt your averages.
17 But I think that, hopefully, the plus was that the
18 additional week at Santa Rosa was better than the
19 traditional second week at Vallejo.

20 MR. BARKETT: It was somewhat better on track and
21 off track. But as we said that, alone, I don't think would
22 have accounted for a great difference. And we should have
23 had more of an improvement, you know, had things gone the
24 way we anticipated.

25 COMMISSION VICE CHAIRPERSON HARRIS: So you think

1 you want to do it again?

2 MR. BARKETT: We're very -- we're very open to
3 doing that, but we're not going to pre-empt our boards.
4 There's one -- at least one more transition year here and,
5 frankly, we think it would probably make a lot of sense to
6 continue with this experiment and look hard at it again.

7 But needless to say, there was some disappointment
8 up in Sonoma County, and we're hoping that they don't think
9 it was because of this consolidated meet that they were off.
10 We don't think that was the case.

11 COMMISSIONER CHOPER: Can I ask you one last
12 question before you leave? What accounts for the enormous
13 increase in Stockton?

14 MR. BARKETT: Well, the general manager of
15 Stockton will be very happy to explain that to you. But I
16 will tell you, just very briefly, that there was elimination
17 of overlap as to part of that meet. And weather helped,
18 too.

19 COMMISSION CHAIRPERSON SHAPIRO: And weather. And
20 remember, the year before he had that horrible weather.

21 MR. BARKETT: And weather helped, too, uh-hum.

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

24 Roberto, if you want to just finish?

25 COMMISSION VICE CHAIRPERSON HARRIS: Yeah, it

1 would be good to put these on our website, too, because, you
2 know, we get a lot of doom and gloom about racing, but when
3 you look at some of these charts, there is some growth.

4 MR. ZAVALA: Well, one of the items for the San
5 Joaquin County Fair, that should be brought to the attention
6 of the Board, was that there was no imported -- there was
7 not that much imported handle from the previous year, so
8 that's why it accounts for some of the big increases for San
9 Joaquin County Fair.

10 However, the other, Hollywood Park Spring, and the
11 Alameda County Fair, you saw some significant increases in
12 handle and on track attendance.

13 So I believe Forrest White is here, available to
14 discuss some of the San Joaquin County.

15 COMMISSION CHAIRPERSON SHAPIRO: Oh, there he is.

16 MR. WHITE: The biggest difference is the whole
17 issue of overlap, but I can --

18 COMMISSIONER CHOPER: How many weeks were you
19 overlapped the prior year?

20 MR. WHITE: The second week -- the first week, and
21 then the second week we were --

22 COMMISSIONER CHOPER: How did the weeks that were
23 not overlapped compare?

24 MR. WHITE: We were up the second week, as well,
25 which was an unoverlapped to overlap.

1 COMMISSIONER CHOPER: By --

2 MR. WHITE: Probably 10 to 20 percent on that
3 week. But that's '06, you weren't around, we had extreme
4 heat, we had seven days over a hundred, and five of them
5 over 105. I mean, it was just unreal, it's the hottest June
6 ever on record in that area.

7 Another thing, though, that I think is really
8 important, is that we were traditionally a ten-day meet. We
9 cut to nine days.

10 COMMISSIONER CHOPER: Yeah, I see one less day,
11 yeah.

12 MR. WHITE: So if you look at those numbers,
13 they're even more exaggerated because those increases were
14 done with one less day.

15 COMMISSION CHAIRPERSON SHAPIRO: You make it sound
16 like it was voluntary.

17 MR. WHITE: Well, more or less. And probably, the
18 one thing I can go on the record though, now, is don't
19 expect those next year, because now we're being moved again,
20 this time to September. And the move, alone, if there's any
21 of you that were around 20 years ago, when we were in
22 August, and we got moved to June, it was a huge issue. It
23 will be very difficult and, you know, we're going to be
24 doing things totally different. And so I'm looking at the
25 horse counts, and things like that, during this time of the

1 year. It's going to be more of a challenge, let me put it
2 that way.

3 COMMISSION VICE CHAIRPERSON HARRIS: Well, I do
4 like your September, as far as weather, I think, will be
5 better in Stockton, and so I'm hopeful that you'll be able
6 to adapt.

7 MR. WHITE: And we'll be promoting it totally
8 different because we're going to be running ag events, but
9 not actually the fair, the fair will stay in June because of
10 the livestock people, and a lot of the issues that came
11 about locally.

12 So we'll be doing things differently. So the one
13 complaint that I've heard for 20 some years, is why do I
14 have to pay \$8 to see the races? Well, in '09 they won't be
15 paying that type of fee, it will be like our normal
16 satellite --

17 COMMISSION VICE CHAIRPERSON HARRIS: In '08.

18 MR. WHITE: I mean in '08. It will be like a
19 \$3.00 admission.

20 So we're going to be doing things more in line,
21 let's say, with what the majors are doing as far as costs,
22 and things like that, and doing much more on the promotion
23 side just for horse racing, and not trying to couple in the
24 fair program. But that's what we're looking at in '08. So
25 it will be different. But we will be nine, so that will be

1 straight up.

2 COMMISSIONER CHOPER: Well, that's impressive.

3 MR. WHITE: Thank you.

4 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
5 Forrest.

6 Okay, that brings us to general public comment.
7 And I have two cards. Lee Hall. Mr. Hall, good afternoon.

8 MR. HALL: Yes. I'm here today, also just to
9 thank you for all of your help and explain why it was so
10 urgent that I had to call you.

11 The urgency was that we had a labor dispute at the
12 Los Angeles County Fair. The Los Angeles County Fair, for
13 three years, with the new people they've been hiring, has
14 been causing this problem in an ongoing thing. This ongoing
15 thing has been going on since 2003 and to the present, and
16 it's only getting worse.

17 It was so extreme that one of my union members
18 called me and told me that they hadn't been paid for two
19 weeks. And as she was talking to me on the phone, the phone
20 went dead, and I called her back, and the phone was turned
21 off.

22 It was so devastating that I had to contact
23 somebody immediately, to try to get this problem solved.

24 I got a call from Cliff Goodrich, who assured me
25 that he had been contacted by this Board, and that he would

1 get to the bottom of it and that he would straighten it out.
2 And it took up until ten minutes into this Board before I
3 got a phone call saying that this matter was being taken
4 care of.

5 So I want to thank you for all the help you guys
6 gave me and I appreciate it. Thank you.

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you. And
8 we were glad to help. And I know that my friends at
9 Fairplex wanted to get through it as quickly as possible.

10 Lastly, Mr. Jamgotchian, you get the final word,
11 it looks like.

12 MR. JAMGOTCHIAN: This is always the fun part of
13 the meeting. You were in closed session, earlier, with
14 regards to two cases, both my cases --

15 COMMISSION CHAIRPERSON SHAPIRO: We can't discuss
16 those.

17 MR. JAMGOTCHIAN: This is oral comment, I can say
18 whatever I want, you don't have to say anything.

19 COMMISSION CHAIRPERSON SHAPIRO: No, you can't.
20 No, you cannot talk about any specific pending cases.

21 MR. JAMGOTCHIAN: First off, the CHRB now owes me
22 an additional 17 or 18 thousand dollars.

23 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian.
24 Mr. Jamgotchian.

25 MR. JAMGOTCHIAN: Excuse me, Mr. Shapiro, you

1 know, you're wrong on this.

2 COMMISSION CHAIRPERSON SHAPIRO: No, no, no. No,
3 Mr. Jamgotchian, I'm not wrong.

4 MR. JAMGOTCHIAN: I'd like you to seek legal
5 counsel's opinion to make sure.

6 COMMISSION CHAIRPERSON SHAPIRO: No, Mr.
7 Jamgotchian, I'm not wrong.

8 MR. JAMGOTCHIAN: If he says it --

9 COMMISSION CHAIRPERSON SHAPIRO: I am not
10 allowed -- we are not allowed to discuss or listen to
11 anything --

12 MR. JAMGOTCHIAN: This is oral comment.

13 COMMISSION CHAIRPERSON SHAPIRO: -- related
14 to -- not as long as it's related to any litigation.

15 MR. JAMGOTCHIAN: Can you please get a ruling from
16 your attorney?

17 COMMISSION CHAIRPERSON SHAPIRO: Sure.

18 MR. JAMGOTCHIAN: Can you please get
19 attorney --

20 COMMISSION CHAIRPERSON SHAPIRO: I will be glad to
21 do that. Mr. Knight, is this something that we should be
22 listening to?

23 DEPUTY ATTORNEY GENERAL KNIGHT: No, and this is
24 public comment, this is not question and answer period.
25 This is if you have some public comment on an issue that you

1 maybe want to have put on the agenda, or want to request it
2 be put on the agenda, those kinds of things, that's what
3 this period's for. This is not for a dialogue with Board
4 members.

5 MR. JAMGOTCHIAN: I'm not asking for a dialogue.
6 I'm here to state something. I'm not asking for any comment
7 from any Board members.

8 DEPUTY ATTORNEY GENERAL KNIGHT: If you have
9 litigation pending, I suggest you have your counsel
10 communicate with the Board's counsel, if you have issues
11 about your litigation.

12 MR. JAMGOTCHIAN: No, listen, this is --

13 DEPUTY ATTORNEY GENERAL KNIGHT: You're
14 represented and we're represented.

15 MR. JAMGOTCHIAN: It's a general comment that the
16 judge in the Superior Court ruled against a Public Records
17 Act lawsuit against the CHRB, and they're going to be paying
18 legal fees, once again, in excess of \$17,000. That's it for
19 the comment.

20 Secondly, secondly, I've requested necropsy
21 reports and the CHRB has refused to provide the necropsy
22 reports, which is further an incident of another lawsuit.
23 Because of Ms. Fermin's uncooperative attitude, more
24 litigation was commenced.

25 Now, on the good side, I'd like to offer Ms.

1 Fermin a retirement and going away present, a picture of her
2 horse, Ingrid The Gambler. I'll leave it over here with Mr.
3 Marten. There you go, put that on your board.

4 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian?

5 MR. JAMGOTCHIAN: Yes.

6 COMMISSION CHAIRPERSON SHAPIRO: I'm going to take
7 the liberty of suggesting I don't think she wants it, so why
8 don't you keep it.

9 MR. JAMGOTCHIAN: Well, that's okay, no problem.
10 You can throw it away then.

11 With regards to an issue on the agenda today, Ms.
12 Fermin's job performance. I don't know if you've determined
13 reasons to retain Ms. Fermin or not, but I want to give you
14 some reasons not to.

15 COMMISSION CHAIRPERSON SHAPIRO: Again, Mr.
16 Jamgotchian, that's a personnel matter, we're not in the
17 position to discuss any personnel matters. I'm sorry.

18 MR. JAMGOTCHIAN: You're saying during oral --

19 COMMISSION CHAIRPERSON SHAPIRO: Move on. Move
20 on.

21 MR. JAMGOTCHIAN: Okay.

22 COMMISSION CHAIRPERSON SHAPIRO: Move on.

23 MR. JAMGOTCHIAN: Well, if worse comes to worse,
24 if I need to file an action on this, Mr. Shapiro, I want to
25 make sure --

1 COMMISSION CHAIRPERSON SHAPIRO: Good, go ahead.
2 Move on, stick to public comment.

3 MR. JAMGOTCHIAN: That's fine, okay. All right.
4 Additionally, when will the heel nerving come back on the
5 agenda, of heel nerving? If you're so concerned about race
6 horses in California, where's the heel nerving, the banning
7 of heel nerving. Is that ever going to be brought back? No
8 comment, huh, Mr. Shapiro? Okay, that's fine.

9 With regards to some code sections in the CHRB
10 boo, Section 1903, illegal use of communications equipment
11 and devices. Do any of you realize that it's illegal to use
12 a telephone to transmit wagering information at a racing
13 association? That law's still on the books.

14 Maybe Ms. Fermin or some of the staff can look at
15 1903 and see if maybe that code section should be changed.
16 Because when we go out to the races and we make bets through
17 our telephone, to ADW providers or anybody else, you're just
18 violating Section 1903.

19 Additionally, the CTBA sale, I made reference to
20 it earlier, I think it certainly says that California horse
21 racing and the breeding industry is certainly on its belly.
22 The average price dropped 28 percent and the total sales
23 declined 33 and a half percent, and the average sales price
24 was \$5,800.

25 Now, if you have a \$3,000 stud fee, you've

1 obviously lost a lot of money. So I mean, as a breeder, out
2 of state, I mean --

3 COMMISSION CHAIRPERSON SHAPIRO: You have one
4 minute left, Mr. Jamgotchian.

5 MR. JAMGOTCHIAN: Thank you. Thank you. With
6 regards to -- there's an e-mail, Mr. Shapiro, that someone
7 provided me, that you used some pretty foul language in an
8 e-mail to Mr. -- to Dr. Arthur. I just wanted to confirm,
9 was that e-mail something that you actually sent? I can
10 provide it to you, if you'd like to review it? I don't want
11 to repeat it because it was too rude.

12 But I mean, did you -- is that e-mail real?

13 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
14 it's public comment. As you just said, you didn't ask, want
15 us to say anything.

16 MR. JAMGOTCHIAN: Okay, fair enough. Fair enough.
17 Okay, do you want to respond to that?

18 COMMISSION CHAIRPERSON SHAPIRO: No.

19 MR. JAMGOTCHIAN: No. Okay, so I assume that it
20 was real and I'm quite disappointed that you used that word,
21 Mr. Shapiro.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, Mr.
23 Jamgotchian, I'm going to make a confession here.

24 MR. JAMGOTCHIAN: Yeah.

25 COMMISSION CHAIRPERSON SHAPIRO: I have sworn in

1 my life. Okay, there you go.

2 MR. JAMGOTCHIAN: Well, did you swear --

3 COMMISSION CHAIRPERSON SHAPIRO: Now, you've got
4 13 seconds left.

5 MR. JAMGOTCHIAN: Thirteen seconds. You know
6 what, Mr. Shapiro, I'm going to give up my 13 seconds in the
7 interest that this Board remove Ms. Fermin as the Executive
8 Director. Thank you.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, I would
10 like to thank most of the audience for a very productive and
11 helpful discussion. I appreciate it, I think we've tackled
12 a lot of difficult issues. I want to thank the remainder of
13 the Board.

14 And if there's nothing else to come before this
15 Board, the meeting is adjourned. Thank you very much.

16 (Thereupon the California Horse Racing
17 Board Regular Meeting was adjourned at
18 2:30 p.m.)

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California Horse Racing Board; that thereafter the recording was transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of October, 2007.

Troy A. Ray

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