

APPEARANCES

COMMITTEE MEMBERS

Chuck Winner, Chair

Madeline Auerbach, Vice Chair

Jesse Choper, Commissioner

Alex Solis, Commissioner

Araceli Ruano, Commissioner

Fred Mass, Commissioner

STAFF

Rick Baedeker, Executive Director

Jacqueline Wagner, Assistant Executive Director

Robert Miller, Chief Counsel Pro Tem

Mike Marten, Associate Analyst

ALSO PRESENT

Darrell Haire, Jockeys' Guild

Tim Ritvo, Stronach Group

Alan Balch, California Thoroughbred Trainers

Greg Avioli, California Marketing Committee

Scott Daruty, Stronach Group

Larry Swartzlander, NCOTWINC

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3. Public Comment: Communications, reports, requests 6
for future actions of the Board. Note: Persons
addressing the Board under this item will be
restricted to three (3) minutes for their
presentations.
4. Discussion by the Board regarding a status 17
report regarding the reopening of San Luis
Rey Downs.
5. Discussion and action by the Board regarding a 23
report from the California Marketing
Committee (CMC) regarding its 2018 marketing
and promotion plans pursuant to Business and
Professions Code section 19605.73(B).
6. Public hearing and action by the Board regarding 40
the proposed amendment to CHRB Rule 1699, Riding
Rules, to establish a minimum suspension penalty
for a Jockey riding contrary to the rule.

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(Note: This concludes the 45-day public comment period. The Board may adopt the proposal as presented.)

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| 7. | Discussion and action by the Board regarding the request from Northern California Off Track Wagering, Inc. (NCOTWINC) to modify the distribution of market access fees from advance deposit wagering (ADW) as permitted under Business and Professions Code section 19604(f)(5)(E) for wagering conducted by thoroughbred associations in the northern zone from February 1, 2018 through December 31, 2018. | 57 |
| 8. | Closed Session: For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personnel matters, as authorized by section 11126 of the Government Code. | 77 |
- A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending

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litigation described in the attachment to this agenda captioned "Pending Litigation," and as authorized by Government Code section 11126(e).

- B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).
- C. The Board may convene a Closed Session for the purposes of considering personnel matters as authorized by Government Code section 11126 (a).

P R O C E E D I N G S

9:35 A.M.

ARCADIA, CALIFORNIA, THURSDAY, FEBRUARY 22, 2018

CHAIRMAN WINNER: Good morning, Ladies and Gentlemen. This meeting of the California Horse Racing Board will come to order. Please take your seats. This is the regular noticed meeting of the California Horse Racing Board on Thursday, February 22nd, 2018 at Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California.

Present at today's meeting are myself, Chuck Winner; Madeline Auerbach, Vice Chairman; Jesse Choper, Commissioner; Fred Mass, Commissioner; Araceli Ruano, Commissioner; and Alex Solis, Commissioner.

Before we go on to the business of the meeting, I need to make a few comments. The Board invites public comment on the matters appearing on the meeting agenda. The Board also invites comments from those present today on matters not appearing on the agenda during the public comment period if the matter concerns horse racing in California.

In order to ensure all individuals have an opportunity to speak and the meeting proceeds in a timely fashion, I'll strictly enforce the three-minute time limit rule for each speaker. The three-minute time limit rule

1 will be enforced during discussion of the matters as stated
2 on the agenda, as well as during the public comment period.

3 There's a public comment sign-in sheet for each
4 agenda matter on which the Board invites comments. There's
5 a sign-in sheet for those wishing to speak during the public
6 comment period for matters not on the Board's agenda if it
7 concerns horse racing in California. Please print your name
8 legibly on the public comment sign-in sheet.

9 When a matter is open for public comment, your
10 name will be called. Please come to the podium and
11 introduce yourself by stating your name and organization.
12 This is necessary for the court reporter to have a clear
13 record of all who speak. When your three minutes are up
14 I'll ask you to return to your seat so others can speak.

15 When all the names have been called I'll ask if
16 there is anyone else who would like to speak on the matter
17 before the Board. Also, the Board will ask questions -- may
18 ask questions of any individuals who speak. If a speaker
19 repeats himself or herself, I'll ask the speaker if the
20 speaker has anything new to say. And if there are none,
21 then the speaker will be asked to let others make comments
22 to the Board.

23 So before we begin, for those of you who have not
24 seen it, fortunately, Governor Brown has reappointed Vice
25 Chair Auerbach and Commissioner Solis, and all of us are

1 delighted. I hope you are, as well. I think it's great for
2 racing. I appreciate the Governor doing that. I think we
3 all do. And congratulations to both Madeline and Alex, or
4 condolences, whatever the case may be.

5 Approval of the minutes. Is there -- are there
6 any comments, additions, deletions from the minutes? Is
7 there a motion to approve?

8 COMMISSIONER MASS: Make the motion.

9 CHAIRMAN WINNER: Commissioner Mass moves.

10 COMMISSIONER SOLIS: Second.

11 CHAIRMAN WINNER: Commissioner Solis seconds.

12 Commissioner Ruano?

13 COMMISSIONER RUANO: Yes.

14 CHAIRMAN WINNER: Commissioner Choper?

15 COMMISSIONER CHOPER: Yes.

16 CHAIRMAN WINNER: Vice Chairman?

17 VICE CHAIRMAN AUERBACH: Yes.

18 CHAIRMAN WINNER: Chairman votes yes.

19 Commissioner Solis?

20 COMMISSIONER SOLIS: Yes.

21 CHAIRMAN WINNER: Commissioner Mass?

22 COMMISSIONER MASS: Yes.

23 CHAIRMAN WINNER: The minutes are approved.

24 We go to the Executive Director's Report, Mr.

25 Baedecker.

1 EXECUTIVE DIRECTOR BAEDEKER: Yes. Thank you, Mr.
2 Chairman.

3 First of all, I would like to welcome back to the
4 table, Mr. Bob Miller, down at the end. Bob has -- even
5 though he's retired, we won't let him leave. And John
6 McDonough is out, having had a knee replacement in the last
7 couple of weeks. So we're in good hands having Bob back.

8 A couple of other things, housekeeping things. I
9 mentioned last time that we'd had 46 applications for the
10 vacant Staff Counsel position. We interviewed 15 of those
11 candidates, and we were very fortunate to have really
12 terrific quality in the folks that came in. We brought back
13 five to interview this week. And I hope that next week or
14 next month, we can introduce a new Staff Counsel individual
15 to you. So we feel very good about that.

16 We also feel very good about the fact that Phil
17 Laird is working for Business Consumer Services and Housing
18 Agency, which is the Agency that we report to. And he's
19 always available to our industry if we need -- if we need
20 his assistance.

21 Some good statistics to share with you. First of
22 all, I want to talk about the performance of the industry
23 year to date, which just includes January. We had one less
24 day of racing, live racing, this year than last, same number
25 at night. For daytime racing, we showed an increase of 15.3

1 percent. Nighttime racing was just about dead even, down
2 4/100s of a percent. And everything in, a gain of 13.5
3 percent for the month. Obviously, it was dry this year
4 compared to a wet January last year. But there was also a
5 significant difference in runners per race here at Santa
6 Anita. Last year the average was 7.3 runners per race.
7 This year over that same period, it was 8.3 runners per
8 race. And I think we've heard Santa Anita talk about the
9 significance and the importance of increasing field size to
10 improve the business, and that's certainly evident in the
11 numbers from the first month.

12 Also, I would like to share with you some
13 statistics that are always rather difficult to talk about
14 because they deal with fatalities over a period of time. And
15 we reported in our annual report the statistics for the
16 previous fiscal year, which concluded at the end of June.
17 And they don't really, I think, tell a fair story. The
18 calendar year for 2017 included many changes that were made,
19 really beginning with the Del Mar meet, and cooperation of
20 the associations, the horsemen, and our ability to add more
21 official veterinarians, I think clearly has made a
22 difference. We need to see those same kind of results
23 continue.

24 But last year for thoroughbreds and quarter horses
25 only, and for racing and training only, we had a 25 percent

1 reduction in the number of losses --

2 CHAIRMAN WINNER: That's terrific.

3 EXECUTIVE DIRECTOR BAEDEKER: -- from 152 to 114.

4 So that's a meaningful effort by many people in this room
5 that I know we all hope continues. And I know we all have
6 that kindred goal of reducing the number each and every
7 year. But I think that people need to be thanked that
8 contributed to the progress.

9 And that's my report, Mr. Chairman.

10 CHAIRMAN WINNER: Thank you very much. It's a
11 good report.

12 And again, I want to echo Rick's comments with
13 respect to the number of fatalities. I know that so many of
14 you worked hard with all of us to try to accomplish that.
15 And some of the ideas and agreements that were reached and
16 the ideas that some of you came up with have been extremely
17 helpful, so thank you to all of you, and to Dr. Arthur for
18 the good work.

19 Let's move on then to the public comment period. I
20 only have one card, Darrell Haire. If anybody else will
21 want to speak besides Darrell, please see Mike Marten and
22 fill out a card.

23 Darrell?

24 MR. HAIRE: Good morning, Mr. Chairman --

25 CHAIRMAN WINNER: Good morning.

1 MR. HAIRE: -- Members of the Board. Darrell
2 Haire, Western Regional Manager for the Jockeys' Guild.

3 For many years, use of the riding crop has been
4 the subject of debate among racing fans, owners, trainers,
5 jockeys, and other industry stakeholders, and regulatory
6 authorities. I believe 2008, after the incident with Eight
7 Belles, we the industry came together to determine what we
8 could be done -- what could be done to improve the riding
9 crop, as well as the public perception of the use of the
10 riding crop.

11 CHAIRMAN WINNER: Yes, sir.

12 MR. HAIRE: At that time, modifications were made
13 to the popper, as agreed upon by the Jockey Club, ARCI, and
14 the Jockeys' Guild. And ARCI-010-35(a) was adopted as a
15 model rule. When the approved riding crops as specified in
16 the ARCI-010-35(a), which are softer and more humane, are
17 used, veterinarians say cuts and welts are significantly
18 reduced.

19 The Jockeys' Guild supports the current ARCI model
20 rules regarding the riding crop specifications and expects
21 jockeys to only use the riding crop for safety, correction
22 and encouragement. Prior to CHRB adopting the rule
23 requiring the use of the ProCush, Lite Touch and other
24 riding crops that meet the specifications as outlined in the
25 model rule, the California Riding Colony was one of the

1 first to voluntarily use the humane riding crops.

2 When the California Riding Colony, as well as the
3 Guild, was approached to change the rules regarding the use
4 of the riding crop, we agreed to work with the CHRB to make
5 improvements on the regulation with the intent of improving
6 the public perception. However, the rule, as it was agreed
7 to, has not necessarily been applied as we are led to
8 believe.

9 While it was understood that suspensions for the
10 strike count, unless it was truly abusive or caused a welt
11 or a break in the skin, which we believe should be punished
12 accordingly, we recognize that the adoption of limited
13 number of strikes before giving the horse a chance to
14 respond, such as has been adopted in California, is attempt
15 to get the jockeys to concentrate more on the correct use of
16 the riding crop and not to overuse the riding crop out of
17 habit. However, not all horses respond the same, and the
18 use of the riding crop needs to be at the discretion of the
19 jockey.

20 Since the implementation of the new rule, use of
21 the riding crop has been the main focus of the vast majority
22 of the fines or suspensions of the jockeys by the CHRB
23 stewards. Additionally, it is our belief that the stewards
24 are continually making modifications to their interpretation
25 to the rule and are inconsistent with the intent of the

1 rule.

2 Most recently an incident with Mike Smith at Santa
3 Anita on February 16th, 2018 in the 6th race, it is our
4 opinion that this was an unjust and ludicrous decision given
5 the circumstances.

6 Therefore, we respectfully request that the CHRB
7 review the current rule regarding the use of the riding crop
8 and be willing to listen to the most recent changes of the
9 ARCI model rule regarding the definitely of the chance to
10 respond, as well as other areas of concern, including the
11 number of times the jockey is allowed to use the riding
12 crop.

13 The new changes -- the new changes as adopted
14 through Guild's proposal were supported by a number of
15 organizations in our industry, including the TOC, the AQHA.

16 As such we would request that this item be included on the
17 next Safety meeting of the CHRB in March.

18 Appreciate it.

19 CHAIRMAN WINNER: Darrell, thank you. Thank you
20 for your comments. As you know, at the last Stewards
21 Committee meeting, we invited you and any jockeys who you
22 chose to bring to come and discuss this very issue. And I
23 don't believe the jockeys were as strong with respect to the
24 points that you're making as maybe you would like them to be
25 at this point.

1 My recommendation would be, and I'll leave it up
2 to others here, my recommendation would be that we have at
3 the next Stewards Committee meeting, that the -- that you
4 again appear and bring whichever jockeys you would prefer to
5 bring and lets have this discussion again. Because at the
6 last meeting, it did not appear that there was as much
7 agreement with your current position. So that would be my
8 recommendation, is that we review it at the Stewards
9 Committee meeting, at the next Stewards Committee. I don't
10 know if we have one scheduled, but we can schedule one.

11 EXECUTIVE DIRECTOR BAEDEKER: What are we talking
12 about, Darrell? Do you remember?

13 MR. HAIRE: July.

14 EXECUTIVE DIRECTOR BAEDEKER: June or July is when
15 we usually have it, yeah.

16 VICE CHAIRMAN AUERBACH: Why don't we move it up?

17 CHAIRMAN WINNER: Yeah, let's move it up.

18 VICE CHAIRMAN AUERBACH: Let's move it up.

19 And I have a question for you, Darrell. Can
20 I -- can you send me, and maybe the rest of the Board
21 Members, a copy of the language that you're talking about,
22 so we can be familiar with what you have to say --

23 MR. HAIRE: Yes.

24 VICE CHAIRMAN AUERBACH: -- please?

25 MR. HAIRE: Will do.

1 VICE CHAIRMAN AUERBACH: And I also think, Chuck,
2 in relation to what you said, I think it's probably
3 difficult, and I wasn't there and I don't know, but if I'm a
4 jockey and I have to go in front of the stewards and tell
5 them I don't like their rulings and don't like what they're
6 doing, I think I'd be a little quieter than I normally am,
7 too. So maybe that is a little bit uncomfortable.

8 CHAIRMAN WINNER: You were not at -- was that
9 George?

10 VICE CHAIRMAN AUERBACH: No, it wasn't me.

11 CHAIRMAN WINNER: It was George?

12 VICE CHAIRMAN AUERBACH: It wasn't me.

13 CHAIRMAN WINNER: Okay.

14 VICE CHAIRMAN AUERBACH: I think maybe some of the
15 jockeys might be a little reticent --

16 CHAIRMAN WINNER: That was George.

17 VICE CHAIRMAN AUERBACH: -- to really say what
18 they think.

19 CHAIRMAN WINNER: Yeah. No, there's no question.
20 I mean, we've had -- you're right. We had meetings where
21 just George and I met with the jockeys and we heard one set
22 of positions. And then when we had the Stewards meeting, it
23 was a lot different.

24 VICE CHAIRMAN AUERBACH: Um-hmm.

25 CHAIRMAN WINNER: So we need to deal with that

1 issue openly. And I know that the problem is that the
2 jockeys are a little reticent to speak because they think it
3 will have a negative impact on them if the stewards hear
4 complaints against the stewards. And they really not
5 complaints, they're complaints against the rule, but that's
6 the only way we're going to get it done, so that would be my
7 recommendation.

8 And also, what was the Mike Smith race? Can you
9 just tell me that again --

10 MR. HAIRE: It's the sixth race --

11 CHAIRMAN WINNER: -- so I can go look at it?

12 MR. HAIRE: The sixth race on a week ago
13 Friday -- two weeks ago. It will be two weeks tomorrow, the
14 sixth race. He was on the lead and he hit the horse four
15 times with the stick down from the eight pole, just hand
16 riding.

17 VICE CHAIRMAN AUERBACH: What was --

18 MR. HAIRE: And at the same time he tapped him.

19 VICE CHAIRMAN AUERBACH: -- the date?

20 MR. HAIRE: And he never cocked his stick.

21 CHAIRMAN WINNER: Which one was it?

22 VICE CHAIRMAN AUERBACH: The 16th.

23 MS. WAGNER: February 16th.

24 MR. HAIRE: February 16th.

25 VICE CHAIRMAN AUERBACH: The sixth race.

1 MR. HAIRE: Tomorrow would be two weeks, so --

2 VICE CHAIRMAN AUERBACH: Okay.

3 CHAIRMAN WINNER: Okay. Thank you.

4 MR. HAIRE: Yes, sir.

5 CHAIRMAN WINNER: Any other -- hold on.

6 Any other -- any other thoughts or questions?

7 Alex?

8 COMMISSIONER SOLIS: The only thing, when we had
9 this Stewards meeting, I guess, we should get some of this
10 tape, too, to check it out together with the jockeys.

11 CHAIRMAN WINNER: Can you say that again?

12 COMMISSIONER SOLIS: Have some of those -- a tape
13 of those races they're talking about and let us -- they can
14 discuss it and be viewing them --

15 CHAIRMAN WINNER: Right.

16 COMMISSIONER SOLIS: -- together.

17 CHAIRMAN WINNER: I agree with that. We can do
18 that.

19 Any other comments?

20 COMMISSIONER CHOPER: Would it --

21 CHAIRMAN WINNER: Yes, Jesse.

22 COMMISSIONER CHOPER: Excuse me. Would it make
23 any sense to put a questionnaire out to all of the jockeys
24 so it would be -- I think it probably takes some real skill
25 in drafting that, but that they could look at and make

1 simple, I mean simple statements and --

2 VICE CHAIRMAN AUERBACH: Talk in the mike. They
3 can't hear you.

4 CHAIRMAN WINNER: That's a good idea.

5 COMMISSIONER CHOPER: -- simple statements and
6 check them off, so if they don't show at the meeting -- I
7 mean, sometimes you don't -- you don't get a representative
8 group at any meeting of a large -- what are you -- how many
9 -- how many jockeys are you talking about who would be
10 subject to this meeting? Fifty?

11 MR. HAIRE: Commissioner Choper, I can fill the
12 room.

13 COMMISSIONER CHOPER: Pardon me?

14 MR. HAIRE: I can fill the room with riders.
15 Things have transpired in the last few months, that they're
16 all coming to me and because --

17 COMMISSIONER CHOPER: Well, if that's true, then
18 forget my recommendation.

19 CHAIRMAN WINNER: No, I think, actually, your
20 recommendation is a very good one because it may be that if
21 we have a survey where they can write their comments, you
22 may get a little more candid comments.

23 MR. HAIRE: Um-hmm.

24 COMMISSIONER CHOPER: Yeah. They'd be anonymous.

25 CHAIRMAN WINNER: And they might be -- yeah.

1 VICE CHAIRMAN AUERBACH: Yeah. Especially --

2 CHAIRMAN WINNER: Yeah.

3 VICE CHAIRMAN AUERBACH: -- if it's a blind
4 survey, yeah.

5 CHAIRMAN WINNER: Yeah.

6 COMMISSIONER CHOPER: Uh-huh.

7 CHAIRMAN WINNER: So I think that's actually a
8 good idea, so maybe we can work with you, maybe staff can
9 work with you, Darrell, on coming up with a written survey?

10 MR. HAIRE: That would be great.

11 COMMISSIONER RUANO: Something you could do with
12 the survey --

13 CHAIRMAN WINNER: And I can help do that, if you'd
14 like.

15 Pardon me?

16 COMMISSIONER RUANO: You could do it on
17 SurveyMonkey. You could do it online. I mean, if you've had
18 people --

19 CHAIRMAN WINNER: You could do it online? Some of
20 the jockeys may not want to do that. I mean, they may not -
21 - it may be better to just give them a written one. They
22 could do it either way.

23 COMMISSIONER CHOPER: I said some of the
24 Commissioners, too --

25 CHAIRMAN WINNER: Yeah.

1 COMMISSIONER CHOPER: -- would have a little
2 difficulty.

3 CHAIRMAN WINNER: Commissioner Choper would not be
4 able to do it online, is what he's -- is what he's saying.

5 At any rate, good idea, good suggestion, and
6 I -- and we'll go ahead and plan on -- Darrell, would that
7 work for you if we -- okay. That's what we'll plan on
8 doing. We'll try to move the meeting up and we'll do it as
9 quickly as possible. In the meantime, we'll get a survey
10 together and we'll get it out to all the jockeys, and let's
11 see what they say.

12 MR. HAIRE: Appreciate that.

13 CHAIRMAN WINNER: And I think we should do the
14 same thing with the stewards, actually, do a blind survey
15 with the stewards, as well.

16 EXECUTIVE DIRECTOR BAEDEKER: How about the
17 public?

18 CHAIRMAN WINNER: Oh, how do you do that?
19 Everybody? Send out 3 million or something?

20 Okay, thank you, Darrell.

21 MR. HAIRE: Yes, sir. Thank you.

22 CHAIRMAN WINNER: Okay, moving right along,
23 discussion by the Board regarding a status report regarding
24 the reopening of San Luis Rey Downs.

25 Who's speaking on that? Mr. Ritvo, nice to see

1 you, sir.

2 MR. RITVO: Good morning. Good morning, Chairman,
3 Commissioners.

4 After the horrific scene at San Luis Rey, we're
5 kind of happy and are pleased to report that things are
6 progressing really well. The cleanup has been finished.
7 We've already put in for the permits. The structures are
8 being made. The stalls are being readied. And I think by
9 April 1st, we'll have a really good look of the layout and
10 what -- everything that's going to be there. We've been
11 successful in other jurisdictions moving very quick with
12 this, so I don't see any setbacks at all. In our agreements
13 with the vendors, they have mandates that they have to be
14 finished by April 1st.

15 So we think that moving horses in right after the
16 April 1st date will be possible, and we're excited to see it
17 back open and moving forward with the training at San Luis
18 Rey.

19 CHAIRMAN WINNER: Thank you, Tim.

20 Any thoughts? Any questions?

21 VICE CHAIRMAN AUERBACH: I wanted to talk about
22 some other things related, if we can --

23 CHAIRMAN WINNER: Sure.

24 VICE CHAIRMAN AUERBACH: -- if Tim doesn't?

25 I wanted to make everybody aware, I had a call,

1 and this is -- forgive me. It's going to be a Pollyanna
2 moment, but I think we need them.

3 Genine Sahadi reported to me that a trainer by the
4 name of Sam Nichols, who is new, and had his first winner
5 with -- after being wiped out, he had his first winner. The
6 horse's name was Ms. Napper Tandy, believe it or not a six-
7 year-old mare who won, I think, a 16 maiden race, and all
8 equipment paid for by the GoFundMe account.

9 CHAIRMAN WINNER: That's great.

10 VICE CHAIRMAN AUERBACH: And I think we all need
11 to hear that because it's relevant. It means that we did
12 what we did. We identified the problem and the money, but
13 it's very exciting for this person, as well as exciting for
14 me because it means that we really did do the right thing.
15 So I wanted to share that with everybody. I thought --

16 CHAIRMAN WINNER: Thank you.

17 VICE CHAIRMAN AUERBACH: -- it was a great story.

18 CHAIRMAN WINNER: It is a great story. Thank you.

19 MR. RITVO: Yeah. I'd like to add to that. You
20 know, the -- for such a horrific incident, for everybody in
21 the whole industry to come together, we'd be remiss not to
22 thank Del Mar for all the support they gave us immediately,
23 and all the other people. I mean, it's just incredible, and
24 we're very thankful for it. And hopefully come April,
25 everybody will be proud of what we were able to lay back out

1 there and get going again.

2 CHAIRMAN WINNER: I'm looking forward to going
3 there and seeing it, having been there early the morning
4 after the fire. And thank you for getting it done so
5 quickly. I think it's very important to the industry. And,
6 obviously, again, we thank everyone who was involved and
7 participated, and Del Mar, and all of the people who
8 provided goods and services and contributions to the effort.

9 VICE CHAIRMAN AUERBACH: I'd like to ask Alan
10 Balch a question about this stuff.

11 CHAIRMAN WINNER: Yeah.

12 VICE CHAIRMAN AUERBACH: Alan?

13 CHAIRMAN WINNER: Alan?

14 Thanks, Tim.

15 VICE CHAIRMAN AUERBACH: Thanks, Tim.

16 Alan, I'm wondering if you could please update us?
17 Because this is the only time San Luis Rey appears on here
18 and I want to make sure we get this in. I want to find out
19 about the money, the micro pulley (phonetic), whoever else
20 was involved with the (indiscernible), the money that was
21 going through the TCA, if you could update on what's
22 happening with that?

23 MR. BALCH: Alan Balch, California Thoroughbred
24 Trainers.

25 Well, first of all, just to accentuate the last

1 discussion, the total amount that went to Western Saddlery
2 for the benefit of all of the 18 trainers whose businesses
3 were destroyed there was about \$36,000, and that's thanks to
4 the generosity of Jenny Craig, Genine Sahadi, the Grayson
5 Foundation, and the GoFundMe account. All contributed to
6 that \$36,000 that resulted in 18 trainers, \$2,000 a piece
7 with an account at Western Saddlery where Mr. Nichols was.
8 So that's that part of the story.

9 Now in addition, Thoroughbred Charities of America
10 has been in close touch with CTT, CTHF, and Del Mar, the
11 Stronach Group. And what we're working on is a really major
12 investment in backstretch improvement for the benefit of the
13 backstretch community. This could be an extremely
14 significant addition to the backstretch in Southern
15 California, both Santa Anita and Del Mar. We're evaluating
16 all kinds of ideas, a learning center, additional
17 recreational opportunities, and so forth. We don't have a
18 formal plan yet, but we have had a couple of brainstorming
19 sessions. And TCA is very interested in moving forward with
20 this as soon as possible, and of course, so are we because
21 this is an opportunity that we need to capitalize on.

22 VICE CHAIRMAN AUERBACH: Thank you. I would like
23 you, if you would, please, to be the point person and report
24 to us periodically because we all want to make sure that
25 money gets used for the benefit of what it was intended.

1 And being involved in charities as much as I am, I know
2 sometimes things fall through the cracks, so I'd really
3 appreciate it if you would help us do that.

4 MR. BALCH: I can assure you, we will all work
5 together on it and report back. And if I'm the point
6 person, I'm happy to take that responsibility.

7 VICE CHAIRMAN AUERBACH: Please.

8 MR. BALCH: Okay.

9 VICE CHAIRMAN AUERBACH: Thank you.

10 MR. BALCH: Thank you.

11 CHAIRMAN WINNER: Thanks, Alan.

12 COMMISSIONER RUANO: Quick question.

13 CHAIRMAN WINNER: Yes, please, Araceli.

14 COMMISSIONER RUANO: Is the idea -- and maybe,
15 perhaps, you haven't decided yet. Is the idea to create a
16 separate 501(c)(3) to do that?

17 MR. BALCH: I don't think we would have to do
18 that, no.

19 COMMISSIONER RUANO: Okay.

20 MR. BALCH: I think we have, through the statutes.
21 CTHF, of course, is backstretch welfare. We have several
22 entities that we could do that with. CTT's responsibility
23 under the statute is also backstretch programs.

24 COMMISSIONER RUANO: Got it.

25 MR. BALCH: So I think in cooperation with the

1 racing associations, which is extremely important, it's
2 their property, and so far we've had really great
3 communication and brainstorming.

4 COMMISSIONER RUANO: Right.

5 MR. BALCH: The problem, of course, is to get
6 something that is practical --

7 COMMISSIONER RUANO: Um-hmm.

8 MR. BALCH: -- and that works and has longevity,
9 has --

10 COMMISSIONER RUANO: Yeah.

11 MR. BALCH: -- staying power, rather than just do
12 something immediate --

13 COMMISSIONER RUANO: Um-hmm.

14 MR. BALCH: -- in a reaction sense, rather than
15 something that's a real investment that will have staying
16 power and that we can support for the foreseeable future.

17 COMMISSIONER RUANO: Great. Thanks.

18 CHAIRMAN WINNER: Anything else?

19 Thank you, Alan.

20 Item number five, discussion and action by the
21 Board regarding a report from the California Marketing
22 Committee regarding its 2018 marketing and promotion plans
23 pursuant to Business and Professions Code section
24 19605.76(B).

25 As you recall, we had this discussion at the last

1 meeting. There were several questions raised and it was
2 agreed that we would put it back on the agenda so that some
3 of these issues could be discussed.

4 Is Greg here? Who's here from -- hi, Greg.

5 MR. AVIOLI: Mr. Chairman.

6 CHAIRMAN WINNER: How are you feeling?

7 MR. AVIOLI: Good, thank you.

8 CHAIRMAN WINNER: Good.

9 MR. AVIOLI: Greg Avioli from the Thoroughbred
10 Owners of California, but here today as the Chairman of the
11 CMC.

12 CHAIRMAN WINNER: You're on.

13 MR. AVIOLI: Well, I submitted, at the request of
14 the Board that last meeting, a written response to all the
15 questions. Would you like me to go through them?

16 CHAIRMAN WINNER: Yeah.

17 MR. AVIOLI: Okay.

18 CHAIRMAN WINNER: Please.

19 MR. AVIOLI: The first request was a sense of why
20 -- well, can you explain the 18 percent decrease and the
21 total allocation for the Significant Player Program?

22 And the answer is there are actually two
23 Significant Player Programs. There's the standard one which
24 is one percent rebate to anyone who signs up for the program
25 anywhere they bet in the state, so long as they bet with

1 their card. There's a secondary program, which we call the
2 High Volume Program, for players who actually come to the
3 racetrack. This program is designed by Santa Anita and Del
4 Mar. And based on them betting significant amounts at the
5 racetrack, they get a rebate.

6 In 2018, the budget is the same for the one
7 percent program; they're around \$165,000. The decrease that
8 you noted was the decrease in the High Volumes Programs. So
9 the High Volume Program, the results of 2017 came way down
10 for a variety of reasons, and maybe the racetracks can
11 comment on that. But as a result
12 of -- based on 2017 actuals, we took \$127,000 that had been
13 allocated to this program and we moved over to the Ship and
14 Win, so that's what happened with that first 18 percent.

15 And I'll take number two, they're together. So
16 the next one is what is the breakdown of product and handle
17 enhancement?

18 Keep in mind that when this 2017 budget was in
19 place, there was a different Executive Director. The TOC
20 wasn't involved in creating that budget, so I can't answer
21 all those questions. But I can tell you the budget right
22 now, that \$845,000 includes allocations for the High Volume
23 Reward, right, the on-track High Volume Reward, and for Ship
24 and Win, so that breaks down to \$389,000 for the coming year
25 for the High Volume Reward Program, and \$455,000 for horse

1 recruitment.

2 Does that make sense?

3 CHAIRMAN WINNER: Yes.

4 MR. AVIOLI: Okay. The other items, I think we
5 can move through pretty quick.

6 Satellite marketing, a lot of these terms, I can
7 see how they're confusing. Satellite marketing is actually
8 a Santa Anita calendar that is given away in the north at
9 the -- north and south at the off-track wagering facilities,
10 so that's what that \$30,000 is for. That hasn't changed
11 from year to year.

12 A couple -- four and five, where you're asking
13 about what increased and decreased, the reality is that last
14 year in February, after the original budget was passed, the
15 CMC Board came back and increased the budget in a couple
16 areas, including CalRacing.com. And so that increase, you
17 said increase of \$150,000 of last year, it's actually 150
18 percent. That's the same amount we spent last year, so no
19 change there. And that \$25,000 is basically what we do to
20 run the Cal Racing website.

21 The Cal Racing Cares allocation, I'll back up for
22 those who might not know what this is. We came up last
23 year. A number of people had great ideas. We kind of
24 merged them into what's the best opportunity for us to tell
25 the good part of our story. As opposed to being defensive

1 and answering questions about what's wrong with racing, how
2 about we come up with something to affirmatively say what we
3 like about racing? And that led into a digital program and a
4 website called CalRacingCares.com.

5 We allocated and spent roughly \$200,000 from the
6 budget last year. We hired a firm out of Boston called
7 Conover Tuttle Pace that has a lot of experience in the
8 racing industry, long-time agency of the Breeders' Cup,
9 among other horse-racing clients. And I think we believe
10 they've done a very good job. They created the site. They
11 put the original videos on the site. And they also did some
12 media buy, digital media buy for us.

13 This year, when that program came back up for
14 renewal for 2018, one of the members of CMC, an important
15 member, the biggest contributor, the Stronach Group said,
16 you know, we have a company right here at Santa Anita led by
17 Phil Kubel at XBTv that can do all this work and can do it
18 for less. And rather than having to create a number of new
19 videos to keep the site fresh, we have thousands of hours of
20 videos already from our time with HRTV. And we have all the
21 -- they're also very savvy, from my meetings with them, on
22 social media.

23 So the Board decided to retain XBTv to run this
24 program for this year. And that, along with the fact that
25 their costs are slightly less than CTP, and that last year

1 had \$50,000 of startup fees, that explains why you have
2 \$150,000 budget here, versus \$200,000 last year.

3 CHAIRMAN WINNER: Are there any questions or
4 comments?

5 VICE CHAIRMAN AUERBACH: I had one comment. I was
6 a little surprised that you replaced Chip Tuttle's group.
7 They did a great job, and their reward was to get moved
8 over. I mean, I was really surprised. I mean, I'm sure you
9 have -- you know, I'm just commenting on what I saw. I
10 thought what the other group did was exceptional. I'm not
11 saying that XBTV can't do the same thing.

12 MR. AVIOLI: Right.

13 VICE CHAIRMAN AUERBACH: I was just surprised.

14 MR. AVIOLI: You know, my initial reaction was the
15 same as yours. But after I actually went, and I'd urge you,
16 as well, took the time to see what they bring, they actually
17 have more resources specific to what we need. And they are
18 in California, where CTP is in Boston.

19 So I can see how people can disagree. Many people
20 know Chip Tuttle and I have worked together, going back 20
21 years. It wasn't an easy call to make, but that's what the
22 CMC Board voted.

23 VICE CHAIRMAN AUERBACH: Well, I guess we'll see
24 after this year --

25 CHAIRMAN WINNER: You know, I --

1 VICE CHAIRMAN AUERBACH: -- once it gets out
2 there.

3 MR. AVIOLI: Yes, ma'am.

4 CHAIRMAN WINNER: I second Vice Chair Auerbach's
5 position on that. I think, first of all, I think Chip did a
6 terrific job. I think the fact that, you know, NBC, I think
7 it was NBC, picked it up for the Breeders' Cup --

8 MR. AVIOLI: Right.

9 CHAIRMAN WINNER: -- and the fact that we got a
10 tremendous amount of attention with the work that was done,
11 and, frankly, I think it was really superior work, it was
12 surprising to me and is surprising to me that we would make
13 a change. I'm not -- yes, I agree with Madeline that, you
14 know, the way we thank him is to fire him, but that, to me,
15 is important just from the right thing to do. But I also
16 question whether it was the right decision, given the
17 importance of what it is, the reasons that we went through
18 it. And with all due respect to the Stronach Group, you
19 know, they have enough of California's business.

20 I'm assuming the Stronach Group is doing it for
21 free, or with no profit?

22 MR. AVIOLI: Their -- I'm happy to share their
23 proposal with you, if you'd like to see it. I can --

24 CHAIRMAN WINNER: I would like to see it.

25 MR. AVIOLI: Yes, sir. I will tell you that due

1 to the past relationships, and I think the way this was
2 handled, which as professional, to the extent we decide
3 collectively that XBTV is not doing the job we want, CTP is
4 happy to jump back in at any time, so --

5 (GPS navigation voice engages.)

6 CHAIRMAN WINNER: Okay, we're all leaving --

7 MR. AVIOLI: I'm sorry. I have to go now.

8 CHAIRMAN WINNER: -- and taking I-710.

9 MR. AVIOLI: I just want to congratulate the
10 Commissioners on the renewal of your terms. It's good to
11 see you both back.

12 VICE CHAIRMAN AUERBACH: Thank you.

13 CHAIRMAN WINNER: Hold on just a second and we'll
14 see if anybody else here -- I think Araceli -- Commissioner
15 Ruano.

16 COMMISSIONER RUANO: Yes. If you could talk a
17 little bit more about the website? You mentioned an overall
18 upgrade. It would be great to understand the pros and cons
19 of the current website and what specifically you want to do,
20 and also talk a little bit about the social media that
21 Commissioner Mass brought up at the last meeting.

22 MR. AVIOLI: So to be clear, two websites; right?

23 COMMISSIONER RUANO: Um-hmm.

24 MR. AVIOLI: The first website is the traditional
25 website for Cal Racing, where people go primarily to watch

1 races.

2 COMMISSIONER RUANO: Um-hmm.

3 MR. AVIOLI: That is -- you're not going to see a
4 massive upgrade on that site. But basically, if you look at
5 it, it looks tired. It could use new graphics. It could
6 probably use a restructuring to make it feel more 2018 than
7 2012.

8 COMMISSIONER RUANO: Um-hmm.

9 MR. AVIOLI: Right? So that's not going to be
10 earthshattering. But again, almost all the traffic there is
11 just to go watch races, so you have to know what your
12 viewers want.

13 The website for the more interesting to me is the
14 Cal Racing Cares website which is, to succeed, is going to
15 have be constantly refreshed with new content. And it's
16 also going to have to have a social media campaign that will
17 attract people to it; right? And it's not exactly the type
18 of site off the top of your mind you're going to go to, so
19 what is your marketing, what are your -- what are your
20 search campaigns, keyword search campaigns, so that you can
21 get people there?

22 And keep in mind, this site is designed to both be
23 a proactive approach about what we like about racing, and if
24 and when we have a catastrophic injury, we want people who
25 are searching what does racing do, racing is cool, racing is

1 horrible, what do they do about this, we want them to find
2 the site, as well. So that's really the focus on the
3 digital marketing and the social media.

4 COMMISSIONER RUANO: And will that be done
5 internally or a consultant or --

6 MR. AVIOLI: That is part of the brief for XBTv.

7 COMMISSIONER RUANO: Okay.

8 MR. AVIOLI: Yeah. And I think it would -- given
9 the interest and the importance of this, I would suggest
10 that maybe at the next meeting or two meetings, we ask the
11 head of XBTv, Phil Kubel, to come up and actually lay out
12 the specifics of that plan, because it's getting a little
13 bit above my pay grade. But in talking to him, I felt very
14 confident that not only was he good with social media, that
15 he was particularly good with it.

16 COMMISSIONER RUANO: Okay.

17 COMMISSIONER MASS: Mr. Chairman? Oh, I'm sorry.

18 CHAIRMAN WINNER: Yes?

19 COMMISSIONER MASS: Greg, just a couple questions.
20 When you get the chairman -- the Stronach proposal, do you
21 also have regular traffic reports, what's going on with the
22 websites that they deliver to you now? What are the page
23 views? What are the click rate? How many people are
24 watching the video? Who's watching the whole thing, who's
25 not?

1 MR. AVIOLI: Yeah.

2 COMMISSIONER MASS: If you could share that, I'd
3 be curious.

4 MR. AVIOLI: Sure. For both?

5 COMMISSIONER MASS: That would be great.

6 MR. AVIOLI: For both sites?

7 COMMISSIONER MASS: Yeah, exactly.

8 MR. AVIOLI: Sure.

9 CHAIRMAN WINNER: I agree with you.

10 COMMISSIONER MASS: And also, are there any plans
11 to, when it's redone, to create a mobile platform so you can
12 access both those easily from your phone?

13 MR. AVIOLI: You know, I would, on the -- on the
14 Cal Racing site, if you don't mind, I want to defer to Scott
15 Daruty because he has had the most direct connection with
16 Roberts Communications, which provides the content for that
17 site about the ability to do a mobile platform.

18 Would you like to speak?

19 MR. DARUTY: Yeah. Sure.

20 MR. AVIOLI: Okay. And then I will take the
21 comment on the mobile platform to Phil at XBTV, as we're
22 developing it. And I would assume it's part of the plan. If
23 it's not --

24 COMMISSIONER MASS: I hope so.

25 MR. AVIOLI: -- it certainly needs to be, yeah.

1 COMMISSIONER MASS: I mean, New York has a great
2 example. For example, you know --

3 MR. AVIOLI: Sure. Well, that's Tony Allevato --

4 COMMISSIONER MASS: Right.

5 MR. AVIOLI: -- from TVG came --

6 COMMISSIONER MASS: Yeah.

7 MR. AVIOLI: -- and built a real world-class
8 system. Yeah.

9 Scott, do you want to comment?

10 CHAIRMAN WINNER: Let me see if there are any
11 other questions for you, Greg.

12 Anybody else? Thank you.

13 Scott?

14 MR. DARUTY: Scott Daruty of the Stronach Group,
15 and one of my roles is to have oversight of the XBTV group.

16
17 To address your specific question first,
18 Commissioner Mass, yeah, it is possible to move that to a
19 mobile platform. And I just want to make sure, though, I
20 totally understand the question. You're talking
21 specifically about the Cal Racing Cares part or you're
22 talking about the video, race video on the CMC website?

23 COMMISSIONER MASS: Well, I mean, I think
24 both -- I'd be curious about both of them. It would seem to
25 me that the best thing for racing for sure would be the Cal

1 Racing, so that people can watch videos from their phone if
2 they're betting on their phone.

3 MR. DARUTY: Right. Okay. So to that question,
4 when we moved about a year ago from the old free model of
5 every race in California could be viewed for free on Cal
6 Racing website, that was a standard definitely of video
7 product, and it was also a non-mobile video product. When
8 we moved a year ago to the -- to the paid model, for \$5.00 a
9 month, that's high-definitely video streaming of every race
10 in California, both laptop and -- computer and mobile, as
11 well as Roku enabled, so if you want, you want sit at home
12 on your TV and watch it through your Roku. So it's every
13 video platform.

14 COMMISSIONER MASS: But it's accessible through an
15 app or do you have to go on your search engine and find the
16 website, or is there an app that directs you to it?

17 CHAIRMAN WINNER: Fred, speak into the microphone.

18 COMMISSIONER MASS: Oh, I'm sorry.

19 CHAIRMAN WINNER: Thank you.

20 COMMISSIONER MASS: Is there an app that directs
21 you to it or is it through your search engine on your phone?

22 MR. DARUTY: I believe it's app-based, yes.

23 COMMISSIONER MASS: Okay. Because I've tried --
24 I've searched the apps. That's why -- I didn't find it.
25 That's why I'm asking the question.

1 MR. DARUTY: Okay. And are you a subscriber to
2 the service or you've looked --

3 COMMISSIONER MASS: Not yet, but I will when
4 you --

5 MR. DARUTY: Okay. So I think the --

6 COMMISSIONER MASS: -- when I can put it on my
7 phone.

8 MR. DARUTY: Yeah. I think the way it -- I think
9 the way it works is you go through Cal Racing.

10 COMMISSIONER MASS: Right.

11 MR. DARUTY: It will show you how to sign up for
12 \$5.00 a month, then you get the access.

13 So as far as the other comments on the Cal Racing
14 Cares plan and the transfer of some of this work to XBTV,
15 you know, obviously we listened to the comments of
16 Commissioner Auerbach and Chairman Winner and have all the
17 respect in the world for both of you. My purpose of coming
18 up here was just to help shed a little bit of light from the
19 Stronach Group's perspective as to why we lobbied for the
20 change. And, yes, we do have a large investment in
21 California racing. We are the largest funder of CMC, in
22 terms of the amount of dollars put in. And we want to make
23 sure those dollars are used as efficiently as possible.

24 I will point out a couple of things in terms of
25 that efficiency.

1 Last year, the agency was paid \$200,000. This
2 year -- I wasn't prepared to answer this question, so I
3 don't have the exact number -- I think it's either \$110,000
4 or \$115,000, which is what XBTV is going to be paid.
5 There's also some money being paid this year to the prior
6 agency as a transition fee to thank them for their past work
7 and to get their assistance in transitioning the platform
8 over to XBTV.

9 The other thing I would like to point is not only
10 is it significantly less, but we do believe the fact that
11 we're located here in California, and more specifically at
12 Santa Anita Park, gives us the ability to create more video
13 content. We have camera people and talent here every single
14 day. Even if it's not a race day and there's just training
15 going on, we have people here. We're creating dozens of on-
16 demand videos a week. We can easily add to that a couple of
17 Cal Racing Cares-related videos. So -- and we have access
18 to the people here, the owners, the trainers, the jockeys,
19 to be able to get interviews on these sorts of issues.

20 So we ultimately believe that we're going to
21 deliver a better product at a lower price, and that's why we
22 lobbied for the change.

23 CHAIRMAN WINNER: Thank you, Scott. I appreciate
24 that. And to me, as somebody who's been in that business
25 for 250 years, production value is critical. And I think --

1 and I'm not suggesting that the production value won't be as
2 good or better because I don't know until I see it. But
3 sometimes it's worth paying a little extra to get production
4 value because that production value is going to get you a
5 lot more viewership. And as we saw, the production value
6 was helpful in getting national attention and national
7 pickup of the work that was done in the past. And one hopes
8 it will be as good, if not better, than before.

9 Cost is an issue. And, of course, we all know how
10 you can deal with cost. And when you're doing production of
11 these kinds of things, they can be -- the cost can be
12 changed based on all kinds of factors. So I'm not sure that
13 saving a few dollars is the answer, because I think it could
14 be done, saving a few dollars, and done better than it was.

15 But it also can -- it can deteriorate the quality. So
16 let's see what happens.

17 And again, I appreciate very much what you
18 said --

19 MR. DARUTY: Thank you.

20 CHAIRMAN WINNER: -- about the location, and
21 clearly, that's a big issue. Having the talent here and the
22 technical capability to do it here is big -- can be a big
23 issue, but it's really a question of production value.

24 MR. DARUTY: Thank you.

25 CHAIRMAN WINNER: Thank you.

1 VICE CHAIRMAN AUERBACH: Scott, I think that -- I
2 don't think either Chuck -- and I probably shouldn't speak
3 for him -- or myself are concerned about the quality that
4 XBTV does, because I think their work is really exceptional.
5 There's a lot of things that they do really, really well.
6 It just, you know, was one of those things, like if-it-
7 ain't-broke-don't-fix-it type of attitude that I was looking
8 at.

9 MR. DARUTY: Understood.

10 CHAIRMAN WINNER: Okay. Thank you.

11 Let's -- any other questions? Comments? Let's
12 move along.

13 Item number six, public hearing and action by the
14 Board regarding the proposed amendment to CHRB 1699, Riding
15 Rules, to establish a minimum suspension penalty for the
16 jockey riding contrary to the rule. This concludes the 45-
17 day public comment period. The Board may adopt the proposal
18 as presented.

19 Do you want to speak on this? Who's speaking on
20 this, Rick?

21 EXECUTIVE DIRECTOR BAEDEKER: Yeah. I can. I
22 can.

23 CHAIRMAN WINNER: And I know Darrell wants to
24 speak again on this.

25 EXECUTIVE DIRECTOR BAEDEKER: I can speak on this.

1 I think the easiest way to explain this is to
2 simply look at the proposed new language, which,
3 Commissioners, is in your book --

4 CHAIRMAN WINNER: Right.

5 EXECUTIVE DIRECTOR BAEDEKER: -- on page 6-2.
6 It's the subparagraph F. And the new language says,
7 "When suspending a jockey for riding contrary to this
8 rule the Steward shall issue a minimum suspension of
9 two riding days and shall issue a suspension greater
10 than the minimum for subsequent violations within 60
11 days."

12 There has been no minimum on the books until this
13 proposal.

14 CHAIRMAN WINNER: But it's true, is it not, that
15 in practice, it's been three days generally; is that
16 correct?

17 EXECUTIVE DIRECTOR BAEDEKER: Yeah. There have
18 been some exceptions to the rule, but generally it's been
19 three days. And it, over the years, it has mirrored the
20 number of race days per week. Back in the good old days a
21 minimum suspension was five days, sometimes seven days for a
22 serious violation. Obviously, as the race days have
23 diminished, so have the number of penalty days.

24 CHAIRMAN WINNER: This is a rule that actually
25 came out of the stewards' meeting where there was some

1 question about uniformity and the three days being difficult
2 because when there's another violation, then there has to be
3 an increase. So the idea was to reduce the number of days
4 to start with.

5 Darrell, do you want to speak on this?

6 MR. HAIRE: Thank you, Mr. Chairman. And I think
7 Executive Director Baedeker hit it on the head with a lot of
8 discussion and the Guild's proposal to amend this rule for
9 the simple fact that with the reduced days, there's less
10 opportunities. And we know we have some of the greatest
11 riders in the world here, right in California. But it
12 really affects a rider. And a rider that doesn't ride as
13 many races, when they do get days, for minor riding
14 infractions, it really hurts their business.

15 So simply stated, that three days now that they're
16 getting for minor riding infractions would be reduced to two
17 days. Now if a rider does something really careless, it's
18 at the steward's discretion, always, that it could be more,
19 five, seven, whatever it is, whatever the --

20 CHAIRMAN WINNER: This is a minimum.

21 MR. HAIRE: -- penalty fits the crime. This is a
22 minimum --

23 CHAIRMAN WINNER: Right.

24 MR. HAIRE: -- of two days. And my hope is that
25 the stewards from north and south follow this, that they're

1 consistent and fair. That's what I'm -- my hope is.

2 EXECUTIVE DIRECTOR BAEDEKER: But I think the
3 Chairman is making a key point here that everybody should
4 understand. This says that the minimum shall be two days.
5 It doesn't mean that there will a change in the way stewards
6 are currently allotting suspensions. They can continue to
7 give three days or four or two, whatever they want to do,
8 it's up to them. So there shouldn't be an understanding
9 that automatically, you know, beginning with the day that
10 this rule becomes effective that every suspension, call it
11 every customary suspension, normal suspension will be two
12 days. That's not what this rule says. It just says there
13 shall be a minimum of two.

14 CHAIRMAN WINNER: Right.

15 MR. HAIRE: Yes, sir. I understand. But again,
16 my hope is that the stewards consider what was three days
17 would be two now.

18 CHAIRMAN WINNER: Yes. And, frankly, I think it's
19 really important to understand what the Executive Director
20 just said.

21 I also think it's important to understand the
22 intent of what the Commission was thinking, and that was
23 precisely what you're saying, which is that they -- that the
24 stewards not start with the idea that it's three days, as
25 they do now, but rather with the idea that it's two days

1 when the infraction is not something that merits a stricter
2 or a longer penalty.

3 So the way I view it is when it says minimum of
4 two days, that means for an infraction which is not
5 egregious in any way, that it should be two days, and that
6 that's the way they ought to look at it. But it is at their
7 discretion and that's what this says. It's a minimum, and
8 therefore it remains at their discretion. We just would
9 like to -- it not just effects -- in my view, it doesn't
10 just effect, you know, the jockeys that we have in Southern
11 California who, you know, who are the world-class jockeys
12 who are, in some cases, making fairly substantial amounts of
13 money. When they lose three days, that's a significant loss
14 in terms of their income.

15 But it also effects the little guys. The guys who
16 ride periodically at the fairs or at Los Al, or something
17 like that, and make far less money and they're struggling to
18 just get along. And when they get a three-day suspension
19 and then a six-day suspension, or whatever it is, that is
20 really, really significant for them in terms of their
21 ability to feed their families.

22 So I think we have to think of it from the
23 standpoint of all of the riders, not just the ones at the
24 top of the class.

25 VICE CHAIRMAN AUERBACH: You know, the other thing

1 -- the other thing, too, is that when we -- when we talked
2 about this last time, we -- most of us were under the
3 impression that it was an automatic three days because it
4 had been given out like --

5 CHAIRMAN WINNER: Right. So --

6 VICE CHAIRMAN AUERBACH: -- candy on Halloween. It
7 was never less than three days. And I think it was
8 educational for us to find out that it was not in the rules
9 and that we could have been handing out far lesser
10 infractions one day, but it just wasn't done. I think that
11 was very elucidating.

12 And the other thing that I wanted to mention again
13 is that it's not just about the jockeys, it's also about the
14 trainers and the owners. When you suspend a jockey who has
15 been working with a specific, for a specific owner, getting
16 a horse ready for a race that may or may not be there, I
17 don't know why, but there seems to be a confluence of when
18 that particular jockey is scheduled to ride a particular
19 horse in a particular race that you've been working for a
20 long time is suspended, you're not just affecting that
21 jockey. You're also affecting the owners and the trainers
22 and affecting their ability to get money, too, to make some
23 money to stay in business.

24 So it is something that I think the stewards
25 probably -- they know, but they probably need to be

1 reminded, we're not just suspending a jockey, this has a
2 domino effect that we don't always think about.

3 So I would encourage the stewards to look at this
4 two-day minimum and to not automatically go to the three
5 days, to see if it's a little bit less of an offense. Just
6 my thoughts.

7 CHAIRMAN WINNER: Yes, Commissioner Choper?

8 COMMISSIONER CHOPER: You know, it's very
9 difficult trying to express ideas as complicated as this and
10 as detailed, and with exceptions and so forth. It's very
11 difficult to put into a rule. But I just wish we could get
12 some -- and maybe, Rick this would apply to you, a very
13 brief summary of the ideas as to what is the difference
14 between -- what is the difference and significance of two
15 days versus three days? And I think I don't disagree with
16 anything that was said. What I'm concerned about is that
17 talking about it and -- is not going to make an imprint on
18 it.

19 So if someone could draft another sentence or two
20 into the rules, I think that might be a good idea.

21 CHAIRMAN WINNER: Rick?

22 VICE CHAIRMAN AUERBACH: I think if you're going
23 to do that, you might want to go down to one day, if you're
24 going to rework it.

25 EXECUTIVE DIRECTOR BAEDEKER: Well, again --

1 CHAIRMAN WINNER: Well --

2 EXECUTIVE DIRECTOR BAEDEKER: -- it's a minimum. I
3 mean, you could -- you could make it one day if you wanted.
4 I think, first of all, I probably shouldn't express my
5 opinion. I should just talk about the process.

6 I think that the reason the Board is considering
7 this is because of the change that was made to the riding
8 rule, I don't know, two years ago or so, that called for an
9 increased suspension if there was a second violation within
10 60 days.

11 CHAIRMAN WINNER: Right. That's what caused it.

12 EXECUTIVE DIRECTOR BAEDEKER: And so as a result,
13 you know, those second violations have gotten a lot of
14 attention, a lot of complaining from the jocks, which is
15 understandable. Why would any jockey ever want to be
16 suspended? This is, however, a rule that governs careless
17 riding. And the goal of the Board, and certainly staff, has
18 been to do a better job of protecting the integrity of the
19 race for the public, keeping horses straight. And also as
20 Commissioner Solis has pointed out, when you have bumper
21 cars, you can end up with horses being returned to the barn
22 injured.

23 So that was the reasoning behind the Board's
24 approval of the rule, which called for, if there's repeated
25 offenses, careless riding, not accidental but careless

1 riding, that was the reason for that second stipulation,
2 that if there's a second violation within 60 days the
3 penalty would be greater. But because the policy has been
4 three days, usually then the second violation has ended up
5 in a four- or a five-day suspension. So that really has
6 cause a lot of consternation among the jocks, as, of course,
7 you would expect.

8 I'm not sure what language could be added to this.
9 If we do add any significant language to this, we would
10 probably have to start over --

11 CHAIRMAN WINNER: Start all over again.

12 EXECUTIVE DIRECTOR BAEDEKER: -- and then take it
13 out for another 45 days, which --

14 CHAIRMAN WINNER: Yeah.

15 EXECUTIVE DIRECTOR BAEDEKER: -- the pleasure of
16 the Board, we can certainly do that.

17 CHAIRMAN WINNER: Let me just respond to that.

18 And, Commissioner Choper, this actually had a lot
19 of -- we went through a lot of discussion on this at the
20 Stewards Committee meeting. At that time, Vice Chair
21 Krikorian and I spent a good deal of time with jockeys, and
22 in some cases the stewards, discussing it. And the language
23 -- the two days was sort of the agreed-upon number with
24 staff and stewards and the jockeys who appeared.

25 It was the same meeting, I think, Darrell, was it

1 not, where we discussed the other issue --

2 MR. HAIRE: It was.

3 CHAIRMAN WINNER: -- the strike issue?

4 So I think to start all over again, personally, I
5 think that might not be very helpful. I think the idea of
6 getting -- it's gone out for 45 days already.

7 I don't know if there was any written response,
8 Jackie?

9 MS. WAGNER: Jackie Wagner, CHRB Staff.

10 No written comments.

11 CHAIRMAN WINNER: And I know we have two more
12 folks who want to speak. Both Alan and Tim want to speak on
13 this. But personally, I'd like to see it -- I'd
14 like -- personally, I'd like to see this passed as is, since
15 it's gone out of the 45 days, and see how it works. And then
16 we can always come back and review it again when we have
17 that Stewards Committee meeting that we're going to be
18 having, hopefully sooner than June.

19 COMMISSIONER CHOPER: That sounds -- that's fine.

20 CHAIRMAN WINNER: Thank you. Thank you.

21 MR. HAIRE: Thank you.

22 CHAIRMAN WINNER: Okay. Thank you.

23 Tim?

24 MR. RITVO: Tim Ritvo, Stronach Group.

25 On this subject, I wanted to talk to something

1 that affects our business, Santa Anita's business, is that
2 when the jocks are suspended at Del Mar and appeal until the
3 end of the meet, they're not allowed to serve their days,
4 supposedly, at Los Alamitos, as you may consider it a B
5 meet. Well, it really punishes us on our opening week not
6 to have the jocks available to ride.

7 So I think as you revisit this, we would
8 definitely like to be -- or have some input in it, because
9 it definitely affects our business. And I think if you
10 consider Los Alamitos a racing meet, an official racing
11 meet, I'm not sure why the jocks would not be allowed to
12 serve their days at that time and punish us on a
13 championship meet that begins with the disadvantage of
14 having some of the top riders available, and trainers and
15 owners not willing to run their horses at that time, waiting
16 for the right riders.

17 CHAIRMAN WINNER: Tim, I understand that, and
18 that's a different issue than the number of days --

19 MR. RITVO: Sure.

20 CHAIRMAN WINNER: -- than the minimum number of
21 days. That is an issue. Frankly, the reason, I believe, is
22 that a lot of the jocks who either don't ride at Los Al or
23 would prefer to give up days at Los Al will appeal to the
24 point of putting it off until their days come at the Los Al
25 meeting, and that's why the decision was made to make it a

1 light meet.

2 Now, so I understand your position, it does hurt
3 Santa Anita, and it is something that we should evaluate,
4 but I'm not sure it comes under this particular amendment.

5 MR. RITVO: Okay. We'll submit in writing
6 our --

7 CHAIRMAN WINNER: Yeah.

8 MR. RITVO: -- thoughts on that point.

9 CHAIRMAN WINNER: I would appreciate that. I
10 think, again, it's a valid point.

11 MR. RITVO: It's a huge disadvantage that's
12 been --

13 CHAIRMAN WINNER: It's arguable either way, I have
14 to say, because if we -- if what happens is they end up
15 getting days at Del Mar and then they take those days at Los
16 Al where they weren't going to ride anyway, or were going to
17 ride a lot less, that defeats the whole purpose --

18 MR. RITVO: Right.

19 CHAIRMAN WINNER: -- of the days.

20 MR. RITVO: Okay.

21 CHAIRMAN WINNER: Alan?

22 MR. BALCH: Alan Balch, California Thoroughbred
23 Trainers.

24 First of all, we do appreciate the ability to
25 speak on this now. We believe we were remiss in not putting

1 something in writing before now. But our board just had a
2 meeting and concentrated on this and we think that the
3 discussions you've just heard is pretty instructive. And
4 with all due respect to you, Chairman Winner, we do think
5 this should be potentially be deserving of some more
6 discussion before this goes forward. I think if you just
7 think of all the things you've just heard that do relate
8 directly to this, there are some real issues here.

9 The trainers, so far as I know, were not involved
10 in the Stewards Committee meeting on this. And our board
11 just wants to bring a few issues forward for your
12 consideration.

13 First of all, what is the urgency of this?

14 This is a major change, because up until now, even
15 given the most recent change to this rule, the stewards did
16 have complete discretion, and we think that's very
17 important. We think there are some unintended consequences
18 as a potential here in this rule because, as a matter of
19 practicality, what will happen is that the suspensions will,
20 generally speaking, because two days instead of three.

21 Let's step back for a minute and ask why this rule
22 is here to begin with?

23 It's to deter rough riding. It's to deter
24 dangerous riding. It's to deter unfair riding. And
25 the -- we know that some of the stewards do object to having

1 so much discretion, but we believe they should have that
2 discretion because there are instances of rough riding. We
3 don't think there's been any demonstration that there really
4 has been inconsistency in the application of the so-called
5 minimum at three days.

6 The staff analysis indicates the issue of
7 uniformity would be addressed by this. Well, just from what
8 -- the testimony today, you've heard that exactly the
9 opposite is being encouraged, that, gee, the stewards still
10 have discretion to give more. They had discretion to give
11 more. Well, then there's going to be the renewed complaint
12 that it's not being applied uniformly.

13 The rider's infractions, the number of things that
14 can be done, is largely a matter of judgment. And that's
15 what we have stewards for, to say this behavior was more
16 injurious than that behavior, so this means three days and
17 this means five days. And the stewards, of course how they
18 apply it is a matter of discretion.

19 So we would like you to take another look at this
20 and get this right, whether it's to add additional language
21 or to reconsider whether you really want to establish this
22 minimum.

23 CHAIRMAN WINNER: Questions for Alan?

24 Where were you when we heard this the first time,
25 Alan?

1 MR. BALCH: Well --

2 CHAIRMAN WINNER: I mean --

3 MR. BALCH: -- I was --

4 CHAIRMAN WINNER: -- we went through this.

5 MR. BALCH: Right.

6 CHAIRMAN WINNER: We went through it at the
7 Stewards Committee. We went through it at the meeting. We
8 had a discussion. We had 45 days. Nobody submitted
9 anything in writing. And now at the very last second, after
10 all this time that was spent on this, now you're coming up
11 and saying, well, this is not a good idea.

12 MR. BALCH: Well, I think I started by apologizing
13 --

14 CHAIRMAN WINNER: Thank you.

15 MR. BALCH: -- for being remiss in not coming
16 forward. But again, we concentrated on this at our last
17 board meeting. There have been a couple of instances of
18 things that -- in the riding in the last few months that
19 particularly effected some members of our board. They then
20 concentrated on this. I was in the gallery for the last
21 meeting. I think some of the stewards did stand up and
22 object to this, I can't remember exactly who, but I'm not
23 sure that the stewards really like this.

24 CHAIRMAN WINNER: Did all of your trainers on
25 this? Because I've heard an awful lot of trainers complain

1 when jockeys are given three days for something they don't
2 think is necessarily legitimate because it's also the
3 judgment of the stewards that we're dealing with here, not
4 just the judgment of the jockeys. And I've heard an awful
5 lot of trainers complain, as I'm sure you have, that now the
6 jockey who they wanted to ride a certain horse has been
7 given days and that horse is being penalized, and the owner
8 is being penalized, and the trainer is being penalized.

9 So where -- what happened to those trainers who
10 have been complaining about that for so long?

11 MR. BALCH: Well, those trainers are not on the
12 Board of the CTT. Maybe they need to run.

13 But, obviously, we represent a constituency, as
14 you do, where the opinions are all over the block --

15 CHAIRMAN WINNER: Right.

16 MR. BALCH: -- which is why we have to look to the
17 regulator to be as objective as possible.

18 And I do renew my apology for not having --

19 CHAIRMAN WINNER: Thank you.

20 MR. BALCH: -- raised these issues beforehand.

21 But I do think this discussion we've had today is indicative
22 of things, upon reflection, people think about all these
23 things.

24 CHAIRMAN WINNER: But, Alan, isn't it possible
25 that we could pass this rule, as it was already passed once,

1 and then we could it back on -- new language back on the
2 agenda that might deal with some of the issues that have
3 been discussed today?

4 MR. BALCH: Of course. Sure.

5 COMMISSIONER CHOPER: I would like to move what
6 you just said, that is we vote on the proposed rule today,
7 with the understanding that it is going to be subject to
8 further consideration.

9 CHAIRMAN WINNER: That's a motion. Is there a
10 second?

11 COMMISSIONER SOLIS: I'll second.

12 CHAIRMAN WINNER: Commissioner Solis seconds. Any
13 discussion?

14 Commissioner Mass?

15 COMMISSIONER MASS: Yes.

16 CHAIRMAN WINNER: Commissioner Solis?

17 COMMISSIONER SOLIS: Yes.

18 CHAIRMAN WINNER: Chairman votes yes.

19 Vice Chair?

20 VICE CHAIRMAN AUERBACH: Yes.

21 CHAIRMAN WINNER: Commissioner Choper?

22 COMMISSIONER CHOPER: Yes.

23 CHAIRMAN WINNER: Commissioner Ruano?

24 COMMISSIONER RUANO: Yes.

25 CHAIRMAN WINNER: Yes. Okay. It carries

1 unanimously. Thank you very much.

2 We'll move on then to item number seven,
3 discussion and action from the Board regarding the request
4 from Northern California Off Track Wagering, Inc., NCOTWINC,
5 modify the distribution of market access fees from advance
6 deposit wagering, ADW, as permitted under Business and
7 Professions Code section (f) (5) (E) for wagering conducted by
8 thoroughbred associations in the northern zone from February
9 1, 2019 through December 31st, 2018.

10 VICE CHAIRMAN AUERBACH: Easy for you to say.

11 CHAIRMAN WINNER: Right. Sorry about that.

12 Who would like to -- who's speaking on this, Rick?

13 EXECUTIVE DIRECTOR BAEDEKER: Pardon me?

14 CHAIRMAN WINNER: Who is speaking on this?

15 VICE CHAIRMAN AUERBACH: The NCOTWINC issue.

16 CHAIRMAN WINNER: The NCOTWINC issue.

17 MS. PURDY: Representatives of NCOTWINC should
18 come forward and talk about the status.

19 CHAIRMAN WINNER: Mr. Avioli? Mr. Swartzlander?

20 EXECUTIVE DIRECTOR BAEDEKER: So, Commissioners,
21 you probably remember, at the last meeting the Board
22 approved a motion to allow the parties to agree to take up
23 to 3.5 percent from ADW and allocate it for the additional
24 expenses incurred by NCOTWINC. And the Board asked that
25 Staff notify -- or that NCOTWINC notify Staff of what the

1 final negotiated percentage would be. That's where this
2 Board left it last month.

3 We've received no notification of any agreed-upon
4 percentage.

5 MR. AVIOLI: All right, well, I'm going to first
6 defer to the Chairman of NCOTWINC, and I'll fill in what
7 you'd like me to.

8 Larry?

9 MR. SWARTZLANDER: Larry Swartzlander, CARF.

10 At this point, with the current host agreement,
11 we've had several discussions with the Stronach Group in the
12 last couple days as to NCOTWINC itself.

13 (Court reporter moves microphone.)

14 COURT REPORTER: Just a little farther way.

15 MR. SWARTZLANDER: Okay. Farther away?

16 COURT REPORTER: Thank you.

17 MR. SWARTZLANDER: And the main concern was, first
18 of all, to financially fund NCOTWINC operations through the
19 Golden Gate meet, and through the fairs this summer. With
20 the current host agreement, the language within the host
21 agreement states specifically that any shortfalls can be
22 covered by simply raising the takeout from 2.5 to whatever
23 to make it whole without any ADW supplemental. That's the
24 point where we're at.

25 The discussions on the table at this point are

1 it's where we go with the NCOTWINC organization through the
2 Calendar Year 2018.

3 VICE CHAIRMAN AUERBACH: I don't understand what
4 you just said. Maybe you could elucidate. You can take
5 whatever you need to make you whole? What if you need the
6 whole --

7 MR. AVIOLI: (Off mike.) (Indiscernible.)

8 VICE CHAIRMAN AUERBACH: Oh, please. Sorry.

9 MR. AVIOLI: Greg Avioli from the TOC.

10 There are a couple different agreements that you
11 have with NCOTWINC. Okay. One of those agreements is a
12 shareholder agreement. Okay. And there's a separate
13 agreement which is a host site agreement. I believe Larry
14 misspoke. The shareholder agreement basically says that you
15 have, whoever's running live, who is the host site, in this
16 case which is Golden Gate, if there is a shortfall or the
17 expenses are higher than the revenues, then the NCOTWINC
18 director can notify the host track and say you must put in
19 the revenue sufficient to make up this shortfall.

20 So that provision, which no one actually focused
21 on until we studied these agreements closely, allows for the
22 full funding of any debt for Golden Gate. And so -- and
23 then the track, in turn, has the right under the same
24 agreement to get half of that back from the horsemen.

25 VICE CHAIRMAN AUERBACH: Without any limit?

1 MR. AVIOLI: Without any limit. That's just how
2 it was written. It basically said that the shortfall will
3 be borne by the track.

4 VICE CHAIRMAN AUERBACH: Um-hmm.

5 MR. AVIOLI: And the track can basically get 50
6 percent from the horsemen, which means that in the previous
7 years when we did all sign these ADW voluntary withdrawal
8 agreements from ADW to fund NCOTWINC, it wasn't necessary.

9 Interestingly, there's not a similar provision in
10 SCOTWINC, so SCOTWINC does need such an agreement. But I
11 think that --

12 VICE CHAIRMAN AUERBACH: Because it sounds, on the
13 face of it, it sounds insane.

14 MR. AVIOLI: Well, I wasn't around when they wrote
15 it all up.

16 VICE CHAIRMAN AUERBACH: Well, I wasn't either.

17 MR. AVIOLI: I can tell you -- yeah.

18 VICE CHAIRMAN AUERBACH: That's why I'm -- and I
19 never understood that. And I've heard us, we have year
20 after year after passed, you know --

21 MR. AVIOLI: Right.

22 VICE CHAIRMAN AUERBACH: -- can we go to two-and-
23 a-half, or whatever the percentage was.

24 MR. AVIOLI: Right. Right.

25 VICE CHAIRMAN AUERBACH: And I always thought that

1 that was the limit. Once again --

2 MR. AVIOLI: No. Okay. So let me -- let me --

3 VICE CHAIRMAN AUERBACH: -- I'm assuming the wrong
4 thing.

5 MR. AVIOLI: Yeah. This is a very, very
6 complicated statute, and I'm not just saying that. But
7 basically what the law provides is in the north, where
8 there's a network that's now got a dozen, a little less than
9 a dozen satellites, okay, and what the law provides is when
10 there's shortfall in the -- or let's back up.

11 The allowable amount to pay the expenses for
12 operating those facilities, for some reason I cannot fathom,
13 was capped in the statute at 2.5 percent.

14 VICE CHAIRMAN AUERBACH: And that's the number I
15 have in my head.

16 MR. AVIOLI: And that cannot change. Again,
17 interestingly enough, that number, when the fairs are
18 running, is capped at six percent, but for all non-fair
19 dates, it's two-and-a-half percent. And what that has done
20 for the first few decades, that apparently was sufficient.
21 There was -- you had Bay Meadows, you had more wagering, you
22 had a lot going on.

23 Recently, that's not been close to sufficient. So
24 that two-and-a-half percent does not cover the cost. The
25 cost -- it covers about half the cost; right?

1 VICE CHAIRMAN AUERBACH: Um-hmm.

2 MR. AVIOLI: So the overage for the last two
3 months, it's going to be the same for March, is about
4 \$300,000 a month that is needed; right? The two-and-a-half
5 percent comes up \$300,000 a month short; right?

6 CHAIRMAN WINNER: To fund this?

7 MR. AVIOLI: To fund. Now if there were not a
8 cap, if there weren't the 2.5 percent cap, there would be
9 money there to fund it. It's a just a statutory cap that
10 says you can't fund more of it this way.

11 CHAIRMAN WINNER: Is there some reason, Greg, that
12 you know of why it was six percent for the fairs and two-
13 and-a-half percent --

14 MR. AVIOLI: Just trying thinking logically, it's
15 probably because they assume the fairs will have less
16 handle.

17 CHAIRMAN WINNER: Yeah.

18 MR. AVIOLI: They probably did a mathematical
19 calculation.

20 CHAIRMAN WINNER: So it was a -- yeah. Right.

21 VICE CHAIRMAN AUERBACH: How about political
22 clout?

23 MR. AVIOLI: I don't think so. I don't think it's
24 any great advantage or not a great -- it's just -- it's an
25 odd structure. In the south, it's the same structure. So

1 SCOTWINC now for, again, as long as I've been around has to
2 sign the deal every year to get money from ADW to fund the
3 expenses because by statute, you can only pay the two-and-a-
4 half percent from the -- taken from the satellite wagering,
5 excuse me, to cover their own costs.

6 So I agree with Larry, though, that we have
7 resolved the short-term funding issue. There is the money.

8 There's going to be a NCOTWINC board meeting in the next
9 week where the NCOTWINC director will be directed to send
10 the bill to Golden Gate. In conversations with Golden Gate,
11 they have made clear that they expect to pay that bill, and
12 then come back to the horsemen and bill us half. So I
13 believe that wolf is no longer at the door.

14 VICE CHAIRMAN AUERBACH: Can I --

15 EXECUTIVE DIRECTOR BAEDEKER: And I have one
16 explanation --

17 VICE CHAIRMAN AUERBACH: Go ahead.

18 EXECUTIVE DIRECTOR BAEDEKER: -- or an additional
19 explanation.

20 There is generally a misunderstanding about this
21 two-and-a-half percent expense allocation, that when that
22 expense amount is exceeded, that that side is then losing
23 money. That's not true. The balance drops to purses and
24 commissions. Regardless of the incremental expense costs,
25 there's still the balance that drops to purses and

1 commissions.

2 So to say that a site has exceeded its two-and-a-
3 half percent doesn't mean it's losing money, it just means
4 that the two-and-a-half percent was a bad number that
5 somebody picked out of the --

6 VICE CHAIRMAN AUERBACH: Thin air.

7 EXECUTIVE DIRECTOR BAEDEKER: -- atmosphere --

8 VICE CHAIRMAN AUERBACH: Right.

9 EXECUTIVE DIRECTOR BAEDEKER: -- to allocate for
10 expenses.

11 MR. AVIOLI: Correct.

12 EXECUTIVE DIRECTOR BAEDEKER: I can give you an
13 example of one in the minisatellite world that I've had an
14 argument with a certain mutuel manager about year after
15 year, and it's the worst performing minisatellite that's in
16 Santa Maria. It's tiny. And as a matter of fact, the
17 expense at that minisatellite far exceeds the two-and-a-half
18 percent, and it doesn't compare to the other satellites in
19 what it generates every year, but it still generates
20 \$120,000 net, free and clear, that drops half to purses and
21 half to commissions. So there was an argument to close it.

22 Well, why would you throw back that \$120,000 that's net
23 profit to purses and commissions just because there's
24 arbitrary line of two-and-a-half percent that's in the
25 statute?

1 Does that make sense?

2 VICE CHAIRMAN AUERBACH: Yes.

3 EXECUTIVE DIRECTOR BAEDEKER: Yeah.

4 VICE CHAIRMAN AUERBACH: Yeah. But it brings up a
5 point that I think we all need to think about, and that is
6 that the legislation that was passed, however many years ago
7 it was passed, is a very broken model to what racing is
8 today. And I wonder if there is any stomach for a push to
9 revamp all the structure? I mean, you know, I don't think
10 it should come from the Board, but it doesn't seem to work
11 in today's world.

12 So I look to like -- I would think I would look to
13 the TOC to spearhead regulations that more mirror what the
14 business is today, not what it was in 19 -- whenever this
15 was -- I don't know. What is the current state of our
16 legislative control?

17 EXECUTIVE DIRECTOR BAEDEKER: I mean, this law
18 would have been passed in the mid-1980s, I think.

19 MR. AVIOLI: Yeah.

20 EXECUTIVE DIRECTOR BAEDEKER: And so it hasn't
21 changed.

22 MR. AVIOLI: I mean, we -- Greg Avioli again.

23 The -- what I call what you just said would be an
24 omnibus racing modernization act.

25 VICE CHAIRMAN AUERBACH: Right.

1 MR. AVIOLI: And --

2 VICE CHAIRMAN AUERBACH: And making everybody a
3 party to it and having --

4 MR. AVIOLI: And it's -- everyone for the last,
5 gosh, for the last ten years, people have known it's needed.

6 For people with familiarity with the legislative process
7 have said it will never happen because anyone can block it,
8 and if you don't get everybody onboard, and blah, blah,
9 blah.

10 I still think now is probably the time.

11 VICE CHAIRMAN AUERBACH: Yeah.

12 MR. AVIOLI: It will probably be -- you know,
13 we're going to have a new administration in Sacramento at
14 the end of the year. It's not -- I don't think this is
15 something that can get done in a month. And I also don't
16 think it should be limited to NCOTWINC and SCOTWINC.

17 VICE CHAIRMAN AUERBACH: No, no, no. I'm talking
18 about --

19 MR. AVIOLI: Right?

20 VICE CHAIRMAN AUERBACH: -- the whole structure.

21 MR. AVIOLI: Right.

22 VICE CHAIRMAN AUERBACH: And if not now, when? I
23 mean --

24 MR. AVIOLI: Right.

25 VICE CHAIRMAN AUERBACH: -- we're struggling as it

1 is, and when we're trying to abide by rules that were
2 written to monitor and control a completely different
3 atmosphere from what we have now. So --

4 MR. AVIOLI: Yeah.

5 VICE CHAIRMAN AUERBACH: -- I'm wondering what the
6 movers and shakers and the -- and I always point to the TOC
7 because I think that's part of their job, to lead the way to
8 find formulas that work in today's world. And I think, I'm
9 hoping, somebody's going to try.

10 MR. AVIOLI: It is -- I agree with you.

11 VICE CHAIRMAN AUERBACH: Thank you.

12 COMMISSIONER CHOPER: I'm certainly know very much
13 about the legislative process in Sacramento. But what my
14 experience here has been, that if you get all of the parties
15 together --

16 VICE CHAIRMAN AUERBACH: Jesse, go to the
17 microphone.

18 COMMISSIONER CHOPER: Yeah. If you get all the
19 parties together, and there aren't four or five you here, I
20 don't think more than that, and come up with an agreement,
21 and you spend a little time in Sacramento, you can get it
22 done. You get the fairs in, they have a lot of push there.
23 And the others are, too.

24 So if -- I confess, I do not follow this
25 discussion as clearly as I would like to. But intuitively,

1 it seems to me, that your task, and it doesn't seem like an
2 impossible one -- I'm listening --

3 MR. AVIOLI: I'm looking right at you.

4 COMMISSIONER CHOPER: -- to what you have to
5 say -- is to get it together and go and get a bill drafted
6 and get it through the legislature.

7 MR. AVIOLI: Yes.

8 COMMISSIONER CHOPER: I mean, and I don't think
9 the last is that hard if you accomplish the first two.

10 VICE CHAIRMAN AUERBACH: No the problem -- yeah.
11 The first one is getting everybody together.

12 COMMISSIONER CHOPER: Yeah. Well, that -- yes.

13 VICE CHAIRMAN AUERBACH: But I think it's
14 time --

15 COMMISSIONER CHOPER: Always.

16 VICE CHAIRMAN AUERBACH: -- to talk about it.

17 CHAIRMAN WINNER: Is there somebody, Scott or Tim,
18 do you want to -- can you just come up and speak on this?
19 But we want to go fast because you guys have kept the air
20 conditioning on in this room and everybody in here is
21 freezing.

22 MR. DARUTY: Scott Daruty of the Stronach Group,
23 speaking on behalf of Golden Gate Fields.

24 And we couldn't agree more with Commissioner
25 Auerbach's comments, that we're working under an arcane

1 statute that doesn't work in today's world.

2 While we do think an omnibus bill to restructure
3 some of these old provisions of horse racing, while we think
4 that's a good idea, and we'll certainly work with everybody
5 to help achieve that, we think that is going to be a long,
6 challenging process, given all the competing interests.

7 We have studied and are very seriously
8 considering, at Golden Gate Fields, terminating our host
9 agreement with NCOTWINC, which would essentially mean that
10 Golden Gate Fields would no longer use NCOTWINC to conduct
11 the simulcast services.

12 So part of the problem is we have this old
13 structure set up by statute that dictates how NCOTWINC has
14 to operate. And one solution is to change that statute so
15 that it can operate differently. Another is for Golden Gate
16 to say we're still a member of NCOTWINC, we're still a
17 shareholder of NCOTWINC, but as a racetrack, we're not going
18 to contract with NCOTWINC anymore to provide our simulcast
19 services. We'll work with the TOC and go directly to the
20 satellite facilities and cut new deals, which we believe is
21 permissible to cut those deals outside the NCOTWINC
22 structure. If you look at the statute, NCOTWINC is a
23 permissive entity. It says the racing industry may get
24 together and form this entity. It doesn't say we have to
25 get together.

1 COMMISSIONER CHOPER: As a dominant matter, who do
2 you think is going to be with you and against you on that?

3 MR. DARUTY: I don't know. That's a good
4 question.

5 COMMISSIONER CHOPER: Well --

6 MR. DARUTY: We haven't gotten to the point yet of
7 --

8 COMMISSIONER CHOPER: If you don't know --

9 MR. DARUTY: -- of determining all the details.

10 COMMISSIONER CHOPER: -- then we don't know. And
11 that's why I think --

12 VICE CHAIRMAN AUERBACH: Well, this is --

13 COMMISSIONER CHOPER: -- you folks have got
14 together -- or get together and try to agree on something.
15 That seems to me to be the key.

16 VICE CHAIRMAN AUERBACH: Well, I think --

17 CHAIRMAN WINNER: Here's what I'd like to do --

18 VICE CHAIRMAN AUERBACH: -- they're trying to
19 dismantle it, it sounds like.

20 MR. DARUTY: Well, not dismantle it. But I think
21 we can --

22 VICE CHAIRMAN AUERBACH: Well, I'm not --

23 MR. DARUTY: -- I --

24 VICE CHAIRMAN AUERBACH: -- saying it in a
25 negative way. I'm saying you're trying to figure out ways

1 to restructure.

2 MR. DARUTY: Yes. And I think we -- I think we
3 have the ability to do it by agreement, without necessarily
4 having to go to the legislature on this particular issue --

5 COMMISSIONER CHOPER: Correct.

6 MR. DARUTY: -- and restructure NCOTWINC, because
7 we can just do it outside of NCOTWINC based on an agreement
8 of all the parties.

9 COMMISSIONER CHOPER: Good. I would say go to it.

10 CHAIRMAN WINNER: But what you're suggesting, as I
11 understand it, Scott, is that, in terms of an omnibus
12 agreement on all issues, other than those that you can work
13 out without legislation, that you think that's a good idea.
14 You think it's going to take -- it will take time because
15 of competing interests, et cetera, but it's worth beginning
16 the process; is that --

17 MR. DARUTY: We absolutely agree.

18 CHAIRMAN WINNER: -- what you're saying?

19 MR. DARUTY: An omnibus bill to revise horse
20 racing law that all the industry participates in is a great
21 idea. That will take a long time.

22 In the meantime, we think we can fix the NCOTWINC
23 issue, the Northern California satellite issue without
24 legislation.

25 CHAIRMAN WINNER: Okay. Now, let me ask this

1 question. It seems, first of all, as I understand it, even
2 though the agenda item calls for action on this item, we
3 don't have to take action; correct?

4 EXECUTIVE DIRECTOR BAEDEKER: According to Mr.
5 Miller, that's correct.

6 MR. MILLER: Robert Miller, CHRB Counsel.

7 No, you don't take any action on this item.
8 Actually, you preapproved the agreement at your -- at your
9 January meeting, I believe.

10 CHAIRMAN WINNER: Right.

11 MR. MILLER: And this is just to hear about the
12 agreement. And if there's no agreement, then there's --

13 CHAIRMAN WINNER: No action.

14 MR. MILLER: -- there's nothing that the Board can
15 do.

16 CHAIRMAN WINNER: What I would suggest is that we
17 refer this whole NCOTWINC thing from the standpoint of the
18 Board. You do what you're going to be doing amongst
19 yourselves, but from the Board's standpoint, I think we
20 should refer it to the Legislation, Legal and Regulatory
21 Committee, which is Chaired by Commissioner Choper. I know
22 you're going to be doing some traveling, but maybe you can
23 work it in, working with -- I think Commissioner Mass is on
24 this Committee, working with Commissioner Mass at a time
25 that's convenient for everybody, and then we can follow

1 through with whatever needs to be followed through. And, of
2 course, they'll work out internally their agreements and
3 bring that to the Committee.

4 Is that satisfactory?

5 COMMISSIONER CHOPER: Yes.

6 CHAIRMAN WINNER: Okay.

7 COMMISSIONER CHOPER: I mean, I'm happy to do it,
8 so long as I can --

9 CHAIRMAN WINNER: Sure.

10 COMMISSIONER CHOPER: -- get the right time.

11 COMMISSIONER MASS: Just, Scott, have you or Larry
12 or anyone done an analysis to see what the impact will be on
13 NCOTWINC if you do withdraw, given that we're already
14 running a deficit today on the administrative costs? Has
15 anyone looked at the impact to that?

16 MR. DARUTY: Well, I don't -- this is Scott
17 Daruty, for the record.

18 I don't believe NCOTWINC as an entity, is
19 sustainable without Golden Gate's participation.

20 COMMISSIONER MASS: That's what I'm afraid of.

21 MR. DARUTY: But let me also say, I don't think
22 NCOTWINC is sustainable with Golden Gate's participation. In
23 other words, we have an entity with declining revenues and
24 increasing costs. And it's not a question of when it
25 becomes infeasible to continue. It's not a question of if

1 it becomes infeasible to continue operating, it's just a
2 question of when.

3 CHAIRMAN WINNER: And what the replacement
4 structure or --

5 COMMISSIONER MASS: Right.

6 CHAIRMAN WINNER: -- direction would be.

7 MR. AVIOLI: If I could just, Scott, for the
8 record, clarify where things stand right now?

9 Since Cal Rainey left, Golden Gate has not
10 had -- or Pacific Racing has not had a director on NCOTWINC.

11 So the only directors on the NCOTWINC board are Larry from
12 CARF and Elizabeth Morey from the TOC. As far as I
13 understand it, they do not plan on appointing a director
14 going forward. So we're going to be in a situation where
15 the NCOTWINC board is going to be taking action as a two-
16 person entity, versus a three-person entity, going forward.

17 And then just a second to sort of set the stage
18 for the Committee, we've studied this a lot, Scott and I.
19 He's been very collegial. He's been -- he's not hiding any
20 of their plans. And it looks pretty clear to me that
21 there's nothing anyone can do to stop Pacific Racing from
22 withdrawing from this agreement. The agreement has a
23 withdrawal provision. You have to give notice, and they can
24 do that.

25 I think the question we all have to focus on is,

1 then what; right? And their -- Scott said their
2 interpretation is we could all do it together by agreement,
3 and I think there are other interpretations, and that's what
4 this is going to come down to. There's no question, they
5 can -- it can be blown up. The question is, can you --

6 CHAIRMAN WINNER: I think we all agree on that.

7 MR. AVIOLI: Yeah.

8 CHAIRMAN WINNER: I think they have that option.

9 MR. AVIOLI: Yeah.

10 CHAIRMAN WINNER: So it really, as you said, it's
11 a question of then what?

12 MR. AVIOLI: Right.

13 CHAIRMAN WINNER: And so I'm referring that from
14 our standpoint --

15 MR. AVIOLI: Right.

16 CHAIRMAN WINNER: -- to the Committee, and you
17 people can continue to work amongst yourselves.

18 MR. AVIOLI: That's right.

19 EXECUTIVE DIRECTOR BAEDEKER: If I can add, Mister
20 --

21 COMMISSIONER CHOPER: They can also put in the
22 agreement some provision for compulsory arbitration of any
23 remaining differences.

24 MR. AVIOLI: Yeah, always. Always can put that
25 in.

1 EXECUTIVE DIRECTOR BAEDEKER: Mr. Chairman, we
2 have looked at this from a legal standpoint, Mr. Miller, Mr.
3 Laird, Mr. McDonough. And you do have the ability when an
4 association comes before you with its race meet application
5 to require proof that the receiving satellite has an
6 agreement with NCOTWINC, as required by law.

7 So you will play a very significant role in this
8 process going forward. And so this is something that we can
9 work through, per the Chairman's direction, at the Committee
10 level and get a lot of the heavy lifting done before it
11 comes back before you, I presume when Golden Gate would come
12 to the Board with its application for its August meet,
13 probably. And that would happen probably, at the earliest,
14 May, more likely in June.

15 CHAIRMAN WINNER: Okay. Any other questions?

16 Thank you, gentlemen.

17 MR. AVIOLI: Thank you.

18 CHAIRMAN WINNER: Is there a motion to adjourn?

19 COMMISSIONER MASS: So moved.

20 CHAIRMAN WINNER: Second?

21 VICE CHAIRMAN AUERBACH: Yeah.

22 CHAIRMAN WINNER: The meeting is adjourned. Thank
23 you all very much.

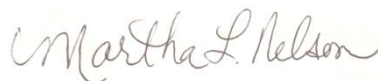
24 (The meeting of the California Horse Racing Board adjourned
25 into Closed Session at 11:05 a.m.)

CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of February, 2018.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

February 27, 2018