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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS RACING COMMISSION  
AUSTIN, TEXAS

\*\*\*\*\*

COMMISSIONERS MEETING  
Tuesday, October 18, 2005

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BE IT REMEMBERED THAT ON THE 18th day of  
October 2005, the above-described matter came on for  
hearing in the first floor auditorium of the DPS  
Criminal Law Enforcement, Building E, 6100 Guadalupe,  
Austin, Texas, before THE HONORABLE R. DYKE ROGERS,  
CHAIRMAN, and the following proceedings were reported by  
Randall N. Finch, CSR in and for the State of Texas as  
follows:

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APPEARANCES :

COMMISSIONERS

R. Dyke Rogers, Chair

Jesse R. Adams

Treva Boyd

G. Kent Carter, D.V.M.

Louis E. Sturns

Michael G. Rutherford, Vice Chair

Charles L. Sowell

EX-OFFICIO MEMBERS

Ernest Angelo, Jr., Public Safety Commission

Jimmy Archer, Office of the Comptroller of Accounts

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P R O C E E D I N G S

TUESDAY, OCTOBER 18, 2005

10:30 a.m.

I. CALL TO ORDER

CHAIRMAN DYKE ROGERS: We'll go ahead and call this meeting to order. Ms. Giberson, will you call the roll, please.

ROLL CALL

GLORIA GIBERSON: Jesse Adams.

JESSE ADAMS: Here.

GLORIA GIBERSON: Treva Boyd.

TREVA BOYD: Here.

GLORIA GIBERSON: Dr. Kent Carter.

DR. KENT CARTER: Here.

GLORIA GIBERSON: Ernest Angelo.

ERNEST ANGELO: Here.

GLORIA GIBERSON: Mike Rutherford.

MICHAEL RUTHERFORD: Here.

GLORIA GIBERSON: Charles Sowell. Jimmy Archer.

JIMMY ARCHER: Here.

GLORIA GIBERSON: Louis Sturns.

LOUIS STURNS: Here.

GLORIA GIBERSON: Dyke Rogers.

CHAIRMAN DYKE ROGERS: Here. There's a

1 quorum present, so we'll go ahead and get started.

2 II. PROCEEDINGS ON RULEMAKING

3 CHAIRMAN DYKE ROGERS: We'll begin with  
4 proceedings on rulemaking, consideration of and action  
5 on the following rule. Commissioners, this will be  
6 under Tab 1. This has to do with carbon dioxide.

7 Ms. King, would you give us an update on  
8 this.

9 CHARLA ANN KING: Good morning,  
10 Mr. Chairman and Members. I'll give the report on the  
11 working group. We had a great turnout in College  
12 Station at the diagnostic lab. And thanks go to Ken  
13 Peck and Dr. Gayle for their hospitality there. I'd  
14 also like to thank our Commissioners, our Vice Chair  
15 Rutherford and Dr. Carter, for their meaningful  
16 discussion.

17 We had broad representation from our  
18 industry groups, including the racetracks, the horsemen,  
19 the breed registries; and also important to me was the  
20 fact that we had some additional participants. Some  
21 equine practitioners and a leading trainer joined us for  
22 the discussion, making it a very well-rounded  
23 discussion.

24 You can see the topics that we discussed  
25 listed there in the report on 1-5. I've summarized for

1 you what we did, what we discussed. We looked at  
2 available research. We focused on the results of our  
3 own pilot testing in detail and the levels that we found  
4 of the TC02.

5 We discussed in detail the challenges and  
6 the requirements of a successful testing program, and  
7 that was very informative. And we talked about the  
8 appropriate penalties to be applied for violations.  
9 And so that's a summary of the discussion that we had.

10 If you turn over to the next page, you can  
11 see the recommendations that the working group has  
12 provided. The group selected a prohibited level of 39  
13 millimoles taking into consideration the Lasix usage in  
14 Texas.

15 The group recommends that those requesting  
16 a split specimen be allowed to request it within 30  
17 minutes after post time of the last race of the day.

18 And then the other recommendation was to  
19 place the penalties in the policy and penalty  
20 guidelines, and you see there an added medication  
21 classification for alkalinizing agents and the  
22 recommended penalties with it for the first offense, the  
23 second offense and the third offense. And so that's  
24 basically the recommendations. We have some copies of  
25 the meeting packets in case anybody's interested in

1 seeing what we went over at the meeting.

2 I have to say I really appreciated the  
3 time and the effort that the working group members put  
4 in because they stayed the entire afternoon. And unless  
5 there's questions about the working group itself, I'll  
6 pass the discussion of the rule and the specifics on  
7 that over to Liz so we can talk about the rule, the  
8 proposed rule in more detail.

9 CHAIRMAN DYKE ROGERS: Before you do, would  
10 the court reporter note that Commissioner Sowell is  
11 present. Go ahead, Ms. Goins.

12 LIZ GOINS: Thank you. Commissioners,  
13 before you is a new rule, Section 319.363, testing for  
14 total carbon dioxide. This rule was on the agenda for  
15 the August meeting, but no action was taken, it was  
16 postponed to resolve some continued issues that we had.  
17 And before you today is a new version of that rule.

18 Essentially, the purpose of this rule is  
19 to prohibit the practice of milk-shaking, which is done  
20 in an attempt to affect the outcome of a race. And the  
21 purpose of this rule is to protect the integrity of  
22 racing and to protect the horse. Essentially, the rule  
23 prohibits the administration of a bicarbonate containing  
24 or other alkalizing substance to a racehorse which  
25 results in an excess level of total carbon dioxide in

1 the serum. And such excess level is established as 39  
2 millimoles per liter.

3 The rule authorizes the executive  
4 secretary to implement a program to collect and test  
5 specimens from the racehorses. This testing may be  
6 random or it may be for cause. And it can be conducted  
7 pre-race or post-race.

8 Also in the rule is a provision for split  
9 samples. Because of the short life-span of the levels,  
10 total carbon dioxide levels, these split samples are  
11 going to need to be treated differently from our other  
12 prohibited substances. The specimen needs to be tested  
13 at the same time as the original test result.

14 So we've laid out the provisions of how to  
15 implement -- how to do it basically, and implementation  
16 aspect is more of an administrative issue that will be  
17 worked out with the staff. This rule is different from  
18 the version that you saw last week in a few matters.  
19 It's increased the level to 39 millimoles instead of 38  
20 millimoles per liter. This rule now clarifies that the  
21 prohibition is a substance which is the bicarbonate or  
22 alkalinizing substance which causes the high excess  
23 levels.

24 It also clarifies that we're going to add  
25 a for-cause testing and it includes parameters for

1 requesting a split specimen. And as Ms. King mentioned  
2 earlier, the penalty provision was taken out of the rule  
3 so that it's more consistent with our other prohibited  
4 substance rules, and the penalty will be addressed in  
5 the Commission's equine medication classification policy  
6 and penalty guideline. But it still will include a  
7 fine, suspension, disqualification of the racehorse and  
8 loss of purse.

9 Staff recommends that the Commission vote  
10 to publish this proposed new rule in the Texas Register.  
11 Thank you.

12 CHAIRMAN DYKE ROGERS: Okay. Thank you.  
13 I think we've got some people who can answer questions  
14 for the Commissioners, but before we do, Commissioner  
15 Rutherford and Dr. Carter were on this working group.  
16 Do you have anything you would like to say to address  
17 this?

18 MICHAEL RUTHERFORD: Well, I'd like to say  
19 that we had a really good meeting. It was very  
20 informative. I've been in racing for 40 years and I  
21 learned a lot. And I recommend to the Chairman that we  
22 continue to have these meetings and that we -- that each  
23 Commissioner, without creating a forum, go to at least  
24 one meeting because you learn a lot.

25 Mrs. King and the staff, our staff, I was

1 really proud of. They did a great job. We had an  
2 agenda but it was informal. So we got input that we  
3 wouldn't normally get in a formal meeting like... such  
4 as this. So I think it was very helpful and I think we  
5 ought to continue, Mr. Chairman, keep doing it.

6 CHAIRMAN DYKE ROGERS: We've heard good  
7 reports all around for this working group.

8 DR. KENT CARTER: One of the things that I  
9 thought was of value was the invited guests who were  
10 there, they came up with some ideas that nobody had even  
11 thought about, which in fact did end up impacting the  
12 rule. So I think sometimes although this is a nice  
13 forum, sometimes people are a little more reluctant to  
14 get up and state their thoughts, where in that -- in  
15 that setting we had a good discussion and I learned some  
16 things that I didn't think about. And in fact, it  
17 changed the way we wrote this. So I think it's a very  
18 good thing for us to have done.

19 CHAIRMAN DYKE ROGERS: All right. I think  
20 there are places that working groups are going to be  
21 very helpful and maybe it's something we can continue to  
22 do in the future. I think Dr. Marsh and Mr. Ferrara are  
23 available for questions if the Commissioners have any  
24 questions on this rule.

25 CHARLES SOWELL: I have a question.

1                   CHAIRMAN DYKE ROGERS:  Yes, sir.

2                   CHARLES SOWELL:  Coming from a position of  
3 deep ignorance, but what is the rationale behind the  
4 split specimen testing and what is -- what's the  
5 historical results of how many times you get a different  
6 result when tests are done by different labs?

7                   LIZ GOINS:  Well, Commissioner, the reason  
8 that we added the split specimen, because under Section  
9 3.16 of the Act, subsection (g), a licensee whose animal  
10 test shows the presence of a prohibited substance is  
11 entitled to have a split portion of the test sample or  
12 specimen tested at a testing facility authorized to  
13 perform drug testing.  And because this is a prohibited  
14 substance from the bicarbonate or alkalinizing  
15 substance, we felt like we had to add in the split  
16 specimen provision in this rule.

17                   CHARLES SOWELL:  Do we have any record of  
18 how often split specimens like that get different  
19 results from different labs?

20                   LIZ GOINS:  I don't know the answer to that.  
21 Maybe Dr. Marsh can provide that answer for you.

22                   CHAIRMAN DYKE ROGERS:  We recognize  
23 Dr. Marsh.

24                   DR. STEWART MARSH:  By and large, all of our  
25 samples are confirmed.  We have an occasional one that

1 there was a difference and the case didn't hold up. As  
2 far as bicarbonate testing, we did do that by sending a  
3 pair of specimens to a different lab, and the results  
4 were the same.

5 CHAIRMAN DYKE ROGERS: Thank you,  
6 Dr. Marsh. Is there anyone that would like to testify  
7 on this subject? Are there any other questions from the  
8 commissioners?

9 TREVA BOYD: I do.

10 CHAIRMAN DYKE ROGERS: Yes, Commissioner  
11 Boyd.

12 TREVA BOYD: And maybe it's written  
13 somewhere and I just missed it, but can you tell me how  
14 this stacks up with other states, their penalty phase?

15 CHAIRMAN DYKE ROGERS: Mr. Ferrara.

16 JOHN FERRARA: John Ferrara, director of  
17 racing. Actually, most states that have rules and  
18 penalties right in the rules, their penalties are more  
19 severe than the one we have. To be honest with you, we  
20 started -- the RMTTC came out with model rule guidelines,  
21 and their guidelines was up to a thousand-dollar fine  
22 for a first violation and a suspension of 15 to 60 days.  
23 So we're -- as far as the suspension, which is most  
24 important to a trainer, we're right in the middle as far  
25 as their guidelines. And then the second penalty and

1 the third penalty kind of just falls in line again with  
2 the guidelines of RMTC.

3 Most jurisdictions the third time is a  
4 year. I think three times and you're out and that's the  
5 way it is in most jurisdictions. But again, the RMTC  
6 guidelines was used for the initial start of those  
7 penalties.

8 CHAIRMAN DYKE ROGERS: Okay. Any other  
9 questions?

10 LOUIS STURNS: My question is general.  
11 Can someone explain to me the standard for designation  
12 for cause? Is that reasonable suspicion? Is that  
13 something -- is that some probable cause or what does  
14 that term actually mean in the real world here? Can  
15 somebody explain that?

16 LIZ GOINS: Commissioner, legally it's not  
17 actually defined beyond that in the statute or the  
18 reviews. But perhaps John Ferrara, director of racing,  
19 can give you the common practice and what they use in  
20 that regard.

21 CHAIRMAN DYKE ROGERS: Okay. I think we're  
22 going to have to get at least one more microphone. This  
23 is sort of like watching Saturday Night Live.

24 JOHN FERRARA: The level, you know, of 39  
25 millimoles in a horse is not normal. So that's --

1 that's the cause, because it's not a normal level in the  
2 horse. I hope I have explained...

3 CHAIRMAN DYKE ROGERS: Okay. So --

4 JOHN FERRARA: The average -- according to  
5 Dr. Arthur when I talked to him, the average is 30.8,  
6 and to get above 39 is not average, is not normal in a  
7 horse, and so there's the cause --

8 CHAIRMAN DYKE ROGERS: Okay.

9 JOHN FERRARA: -- that the person was trying  
10 to influence the outcome of the race or the performance  
11 of his horse.

12 CHAIRMAN DYKE ROGERS: Okay. All right,  
13 sir.

14 JOHN FERRARA: Maybe Dr. Marsh might have  
15 more to say about it.

16 CHAIRMAN DYKE ROGERS: Maybe I misunderstood  
17 the question. I thought maybe the question had more to  
18 do with who are you going to test, what's the probable  
19 cause for the test? Do you test it by race, by horse,  
20 by the fact that the trainer might be doing this  
21 practice?

22 JOHN FERRARA: Actually, we haven't come up  
23 with that policy yet, but Dr. Marsh probably will start  
24 off testing a couple races a day. And when I  
25 say -- we're going to test the entire field of probably

1 two races as a starting point. And now in California,  
2 they're testing every single horse that races.

3 CHAIRMAN DYKE ROGERS: All right. Any other  
4 questions?

5 LOUIS STURNS: Thank you.

6 CHAIRMAN DYKE ROGERS: I would entertain a  
7 motion to publish the proposed rule in the Texas  
8 Register.

9 DR. KENT CARTER: So move.

10 MICHAEL RUTHERFORD: Seconded.

11 CHAIRMAN DYKE ROGERS: Moved by  
12 Dr. Carter, seconded by Commissioner Rutherford. Any  
13 discussion? All in favor. Motion passes.

### 14 III. GENERAL BUSINESS

#### 15 A. BUDGET AND FINANCE UPDATE

16 CHAIRMAN DYKE ROGERS: We'll move to general  
17 business, consideration of and possible action on the  
18 following items, the budget and finance updates.

19 Ms. Curtsinger, if you would give us a  
20 budget update, please.

21 SHELLEY HARRIS-CURTSINGER: I certainly  
22 will. If you'll look at Tab 2, what is in -- what is  
23 beside your packets there when you arrived today is the  
24 same exact thing that was in your packets. And it's  
25 just in color so you can see the graphs better. We have

1 expended 88.82 percent of the total operational budget  
2 for the year thus far for FY '05. We've expended a  
3 hundred percent of the Texas breed incentive monies and  
4 it has all been distributed.

5           We are -- at this time probably have about  
6 \$23,000 worth of expenditures from '05 still to pay, so  
7 our total operational budget will be probably right at  
8 93 percent for the entire year for '05. We are also at  
9 this time working on getting our AFR put together. It  
10 is due to the LBB and the Governor's office on November  
11 20th, and that of course will not be a problem. We're  
12 about two-thirds of the way through with that process  
13 getting it all put together, so we'll have that for you  
14 to look at. And if you have any questions...

15           CHAIRMAN DYKE ROGERS: Just a comment.  
16 I'd like to commend the staff on being able to stay  
17 within the budget parameters. I know a lot of what  
18 we've done earlier in the year when making the  
19 application, we thought it was going to be very  
20 difficult having enough money to get through. And it's  
21 encouraging to see us spend less than what we've  
22 actually appropriated, so thank you for your work there.

23           Any other comments? Any questions?

24 Thank you.

25 III. GENERAL BUSINESS

1           B. APPROVAL OF THE COMMISSION'S OPERATING BUDGET  
2           FOR FY 2006

3                   CHAIRMAN DYKE ROGERS:   Okay.   We need to  
4 approve the operating budget for '06, and that would be  
5 under Tab 3.   Mr. Jackson.

6                   SAMMY JACKSON:   Good morning, Commissioners.  
7 Underneath Tab 3, as the Chairman has laid out, that  
8 we'll see the operating budget that we're proposing for  
9 FY '06.   In addition to what's in your agenda packet, I  
10 had mailed out to each of you a very thorough  
11 documentation that provided additional schedules to help  
12 you understand our cash flow as well as the  
13 appropriation request process.

14                   I will note that there are some major  
15 revisions in '06 compared to '05 that were put out by  
16 the Legislature.   Of those, there were two changes that  
17 dealt with salary requirements.   One was a 4 percent pay  
18 raise for all state employees.   We were given additional  
19 appropriations to cover that pay raise.

20                   In addition, there was a change in the  
21 longevity pay calculations.   Instead of \$20 for every  
22 three years, now it's \$20 for every two years.   The  
23 agency was not given additional appropriations for that.  
24 We have had to basically move things around to cover  
25 that additional cost within our existing budget.

1           In addition to that, the Legislature also  
2 increased travel expenditures that a person can turn in.  
3 The mileage has gone up from 35 cents to 40 and a half  
4 cents per mile. Hotel room rates have gone up five  
5 dollars per night. Meal money has gone up additionally.

6           In preparing our budget, what we had  
7 submitted at the LAR, working with staff, we decided  
8 that we didn't expend all of our budget in '05, that we  
9 could cover these additional costs by maintaining the  
10 same travel budget, just moving it around within the  
11 different strategies.

12           In addition to that, another change that  
13 you will see is that the strategies that we have from  
14 '05 to '06 are going to change. We're going to have  
15 more strategies. From the leadership of the LBB and the  
16 Governor's Office of Planning and Budgeting, they had  
17 worked with us during the LAR process to make sure that  
18 we work to give a little more clarity to how we're  
19 spending our money. We think that's a good thing. One  
20 of the things, though, that it does do is it limits our  
21 transfer authority between strategies because you're  
22 given a percentage of how much a strategy's worth, but  
23 we believe we'll be able to work with that and make  
24 everything a success.

25           The strategies from a base standpoint are

1 actually \$29,000 less in total appropriations than what  
2 we were approved to have for '05. So we began operating  
3 with less budget. We add the 4 percent to that, which  
4 is an additional \$126,000, and that comes to a total  
5 appropriated budget of \$9,927,800.

6 From a cash flow standpoint, I will  
7 address this. In June of this year, we had agenda items  
8 before you to raise fees to cover '06. We knew at that  
9 time when we proposed that, that that fee was not going  
10 to cover quite all of our expenditures for '06. We  
11 worked with the racetracks to come up with an amount  
12 that worked for them and us.

13 As you've just heard Shelley say, we did  
14 not expend all of our appropriations in '05. We assume  
15 that we will probably come slightly under budget again  
16 in '06, that's our goal. And we hope we'll get there.  
17 But we will be operating, if we spend all of our  
18 appropriations, at a deficit, and that was planned.

19 I will say that we have had meetings with  
20 the State Comptroller's office on the sweep and the  
21 transfer of cash from '05 to '06. Those have been  
22 finalized, and we're happy -- the number that I put on  
23 there at the time was an estimated number. I believe it  
24 will actually go higher than that up to about \$550,000,  
25 which puts us even in a better cash position for '06.

1 So we think everything is in line to go very well. And  
2 I would move that you approve this budget for us.

3 CHAIRMAN DYKE ROGERS: Commissioners, any  
4 questions? I appreciate your work on this and getting  
5 it out to us in advance so we have some time to review  
6 it, to look at it. If there aren't any questions, I  
7 would accept a motion to approve the Commission's  
8 operating budget for '06 as proposed.

9 TREVA BOYD: I so move.

10 CHAIRMAN DYKE ROGERS: So moved by  
11 Commissioner Boyd. Is there a second?

12 CHARLES SOWELL: Second.

13 CHAIRMAN DYKE ROGERS: Seconded by  
14 Commissioner Sowell. All in favor. Motion passes.

15 IV. PROCEEDINGS ON RACETRACKS

16 A. REQUEST BY RETAMA PARTNERS FOR APPROVAL

17 CHAIRMAN DYKE ROGERS: We will move to  
18 requests by Retama Partners Ltd. For approval of change  
19 in ownership. Commissioners, this is in your Tab 4.  
20 And I recognize Mr. Strauss.

21 JOE STRAUSS: Good morning, Commissioners.  
22 I'm Joe Strauss, Jr., representing the Retama Partners  
23 Ltd. And this request is for a change of ownership to  
24 other family members. This is for estate planning  
25 purposes caused by the death of a partner and transfer

1 of the interest to other -- either for a trust in the  
2 case of Tom Keeler from Corpus Christi, or in the case  
3 of Dr. Sal Rogers, to his kids of his interest when he  
4 passed away. That's what this is.

5 CHAIRMAN DYKE ROGERS: Any questions for Mr.  
6 Strauss? I believe the staff has no objection to this  
7 change in ownership. Is that correct? Okay. I would  
8 request a motion to approve.

9 CHARLES SOWELL: I move the approval.

10 CHAIRMAN DYKE ROGERS: We've got a motion to  
11 -- from Commissioner Sowell to approve the change of  
12 ownership. This needs to be subject to the background  
13 check, I believe.

14 CHARLES SOWELL: Absolutely.

15 CHAIRMAN DYKE ROGERS: Okay.

16 LOUIS STURNS: Second.

17 CHAIRMAN DYKE ROGERS: Seconded by  
18 Commissioner Sturns. Any discussion? All in favor?  
19 Motion passes. Thank you, Mr. Strauss.

20 JOE STRAUSS: Thank you.

21 IV. PROCEEDINGS ON RACETRACKS

22 B. REQUEST BY LONE STAR PARK AT GRAND PRAIRIE FOR  
23 APPROVAL OF MODIFICATION TO THE TOTALISATOR  
24 CONTRACT WITH UNITED TOTE

25 CHAIRMAN DYKE ROGERS: Okay. We have a

1 request by Lone Star Park for approval of modifications  
2 to the Totalisator contract with United Tote.

3 Ms. Goins.

4 LIZ GOINS: Commissioners, Lone Star Park at  
5 Grand Prairie has made a request to modify the Tote  
6 contract with United Tote. Staff has reviewed the  
7 amendment and has no objections to the request. If you  
8 need additional information or have any questions or  
9 would like the parties to present their requests to you,  
10 then we need to go into executive session in order to do  
11 so.

12 CHAIRMAN DYKE ROGERS: Does anybody have any  
13 problem with this amendment? Anybody need to go into  
14 executive session? Okay, then I would request a motion  
15 to approve the modification of the Totalisator contract  
16 with Lone Star Park with United Tote.

17 CHARLES SOWELL: So move.

18 CHAIRMAN DYKE ROGERS: Moved by Commissioner  
19 Sowell. Is there a second?

20 MICHAEL RUTHERFORD: Second.

21 CHAIRMAN DYKE ROGERS: Seconded by  
22 Commissioner Rutherford. Discussion? All in favor?  
23 Motion passes.

24 IV. PROCEEDINGS ON RACETRACKS

25 C. ALLOCATION AMONG VARIOUS BREEDS OF HORSES OF

1 PURSE REVENUE GENERATED BY SIMULCASTING FOR  
2 2006

3 CHAIRMAN DYKE ROGERS: Okay. Now we get to  
4 come to the fun part of the meeting. Allocation among  
5 various breeds of horses for purse revenue generated by  
6 simulcast for 2006. This is under Tab 6 of your book.  
7 And I would recognize, let's see,  
8 Mr. Bork. We'll begin with the associations and let you  
9 make your presentation. And you have drawn the short  
10 straw.

11 ROBERT BORK: Good morning, Commissioners.  
12 According to the rule, we have discussed the allocations  
13 with the breed -- primarily David Hooper and Rob  
14 Werstler. And our recommendation today is for the  
15 allocations of Sam Houston to stay the same as they had  
16 been in past years. I think five or six years that they  
17 had been the same. I appreciate the efforts of Ms.  
18 Jaworski to bring the subject forward, but after  
19 analyzing the numbers and everything, we can't see a  
20 reason to change it.

21 In fact, I probably could make a case for  
22 it to go the other direction, that maybe the  
23 thoroughbreds should receive slightly more, but I'm not  
24 making that recommendation. I think it's a fair  
25 allocation where it is. Some of the reasons why I would

1 want to do that is for the year 2006, our quarter horse  
2 purses are projected to be the same as they were in the  
3 year 2005. Our thoroughbred purses are actually going  
4 to be a little bit less. If you remember our August  
5 meeting, I had set our thoroughbred purses as of the end  
6 of October at this point. So I've already allocated or  
7 already projected the use of an 80/20 split for the  
8 thoroughbred purses. To change that now would be  
9 changing our whole purse structure for the  
10 thoroughbreds. And I don't think that's a wise decision  
11 to do for Sam Houston Race Park at this point because  
12 they already have been lowered once and I don't think we  
13 want to lower them a second time.

14           Like I said, the quarter horse purses are  
15 projected to be the same next year, but thoroughbred  
16 purses will be slightly less, so because of that we'd  
17 like to -- we'd like to leave these the same. Sam  
18 Houston currently has the highest quarter horse purses  
19 in total in the state with the number of dates that we  
20 race. We think we tend to remain competitive. One of  
21 the reasons that they are going to be the same next year  
22 is because we have an extra two months of allocating  
23 money to purses this year than we did last year. So  
24 overall I think the allocations that we've used in the  
25 last number of years are fine, and our recommendation

1 after analyzing all the numbers is leave them the same.

2 CHAIRMAN DYKE ROGERS: Why don't we hear  
3 from each of the associations and then we can get into  
4 bringing you back up to hear questions. Okay?

5 Mr. Brown?

6 BRYAN BROWN: Good morning, Mr. Chairman,  
7 Commissioners. Bryan Brown of Retama Park. We also  
8 recommend that we keep both the breed splits on  
9 simulcast revenue and ATB the same as they had been this  
10 year and the past couple of years. We do so because  
11 doing -- keeping the breed splits the same, our purse --  
12 purses in our thoroughbred meet would be about the same  
13 as what we're experiencing this year and last year, and  
14 the same with the quarter horse meet. In fact, if you  
15 take the numbers that are in front of you, we would  
16 actually have a purse increase for the quarter horse  
17 meet. When you add in about \$5,000 per day that the  
18 escrowed purse account adds to our purses which are not  
19 included in the chart that you have, which would have us  
20 at about \$43,000 per day in the quarter horse meet  
21 before the added money is put in. That added money  
22 would bump that up to about \$62,000 per day. So we  
23 would recommend we stay the same.

24 Right now about 92.5 percent of our  
25 simulcast revenue is derived from thoroughbred signals

1 betting on thoroughbred races, seven and a half percent  
2 with quarter horse, and that's the split between those  
3 two breeds. There's also obviously Arabian betting  
4 that's done as well.

5 One mistake that we made in the letter  
6 concerning the breed funds is that putting that two  
7 percent as paid prior to paying the 70/30 split. It's  
8 actually one and a half percent. Bob the same mistake,  
9 because he copied my letter. I'm glad you got my fax,  
10 Bob.

11 CHAIRMAN DYKE ROGERS: I'm glad to see y'all  
12 cooperate so well.

13 BRYAN BROWN: And I think Mr. Wilson's  
14 letter requested that those funds be kept the same,  
15 which would be one and a half percent of Sam Houston and  
16 Retama Park and then the 70/30 split beyond that. I'd be  
17 happy to answer any questions.

18 CHAIRMAN DYKE ROGERS: Well, we may have  
19 some after.

20 BRYAN BROWN: Okay.

21 CHAIRMAN DYKE ROGERS: Mr. Greco?

22 JEFFREY GRECO: Mr. Chairman, Commissioners,  
23 I'm Jeff Greco from Lone Star Park. I don't mean to  
24 pick on Rob Werstler, but obviously we feel very similar  
25 to Sam Houston and Retama that our pie seems to be

1 shrinking in Texas, I think we're all aware of that. A  
2 number of breeds have gone through the process of  
3 reducing the amount of recent opportunities in order to  
4 maintain competitive purses with surrounding states. On  
5 top of that, I think we all have to deal with increased  
6 competition from surrounding states.

7           We've had discussions with both Rob  
8 Werstler and Dave Hooper. If the pie was growing, we  
9 could understand kind of a reallocation or  
10 reconsideration of the dollars available. But being at  
11 this for the last five or six years with the consistent  
12 split in purses, we've all been able to kind of find  
13 that critical balance in where our purses fit and how we  
14 fit in the competition both within the state and the  
15 surrounding states. And for that reason and the fact  
16 that our numbers are continually dwindling, our goal in  
17 2006 is actually to maintain our purse level. We're  
18 dropping one-third with the day, and we've -- while  
19 we've dropped one quarter horse day, we actually agreed  
20 to try to run the same time amount of racing  
21 opportunities, the 365 that we actually have for the  
22 last eight or nine years, I believe.

23           And so for all of those reasons, I'm  
24 available for questions but we are recommending that all  
25 the splits stay the same at Lone Star Park.

1                   CHAIRMAN DYKE ROGERS: Thank you. I think  
2 those are the only associations that have signed up to  
3 speak. Is there anybody else who would like to speak at  
4 this point from one of the tracks?

5 Mr. Phillips? You will sign a card for us, won't you?

6                   HOWARD PHILLIPS: I will. Mr. Chairman and  
7 Commissioners, I'm Howard Phillips representing Manor  
8 Downs. We're in support of continuing the current ATB  
9 breed splits in the Class 2 track, and I believe at  
10 Gillespie also Class 3. We're on a 30/70 split, 30  
11 percent to the thoroughbreds, 70 percent to quarter  
12 horses. We find that agreeable to continue on as is. I  
13 would be glad to answer any questions.

14                   CHAIRMAN DYKE ROGERS: That's somewhat  
15 different than your letter.

16                   HOWARD PHILLIPS: No. I didn't address the  
17 ATB breed splits in my letter.

18                   CHAIRMAN DYKE ROGERS: Okay. Thank you.  
19 Anybody else from the association? Okay. And  
20 Mr. Werstler.

21                   ROB WERSTLER: Good morning, Commissioners.  
22 Rob Werstler representing Texas Quarter Horse  
23 Association. I've worked with the Texas Quarter Horse  
24 Association over the past eight years. This is the  
25 first time I've come before you to ask for a larger

1 breed split.

2           The Texas quarter horse industry is a --  
3 used to be No. 1 in the United States and has been under  
4 fire from all sides. Where the thoroughbreds are trying  
5 to become No. 1, we're losing that status.  
6 Commissioners, today you have the ability and the  
7 opportunity to save quarter horse racing without  
8 installing one single slot machine. You can do that by  
9 dividing the simulcast breed splits in a more equitable  
10 fashion for the quarter horse purses.

11           When the racetracks stood up before you a  
12 moment ago, they were talking about -- I think Bryan  
13 Brown mentioned that thoroughbreds represent  
14 92 percent. What he's talking about, those aren't Texas  
15 thoroughbreds. Those are thoroughbreds that are running  
16 on the simulcast TV monitors in Florida, Kentucky, New  
17 Mexico, New York, California, all over the United  
18 States. So those aren't Texas thoroughbreds, so they  
19 aren't generating that. That is what is being bet at  
20 the racetrack on thoroughbred signals outside the United  
21 States.

22           If that was football we were betting on,  
23 would we split it the same way? I look at it the same  
24 way. It's outside the United -- it's outside of Texas,  
25 it doesn't have anything to do with the Texas

1 thoroughbred product.

2 I'm asking you today to divide the breed  
3 splits using the live product numbers, what is generated  
4 by the live product. So in other words, what is  
5 generated by the thoroughbreds running in Texas and  
6 generated by the quarter horses running in Texas.  
7 Those breed splits would be 74 percent to thoroughbred,  
8 26 percent to quarter horses at Retama. 76 percent to  
9 thoroughbreds, 24 percent to quarter horses at Sam  
10 Houston. 78 percent to thoroughbreds and 22 percent to  
11 quarter horses at Lone Star Park.

12 I also ask you to keep the breed split  
13 status quo at Manor and Gillespie. These breed split  
14 percentage changes would have little to no effect on the  
15 thoroughbred per day purses, but would have a  
16 substantial impact on the quarter horse per day.

17 For many years I've come to these  
18 commission meetings and I've heard the racetracks and  
19 representatives from the thoroughbred industry stand  
20 before you and talk about maintaining this  
21 \$100,000-a-day purse plateau. They do that to try and  
22 draw horses and horsemen, trainers from other states.  
23 They're trying to draw those horses to their racetracks  
24 from other jurisdictions. It's used as a marketing tool  
25 almost, to put out your condition book and it's a

1 hundred thousand dollars.

2 I've never heard them say what that  
3 plateau is for quarter horses. I've never heard them  
4 come before you and state that they need to keep their  
5 quarter horse purses at a certain level. We're asking  
6 you to stem the tide of horsemen and horses leaving  
7 Texas. It's not a marketing tool for us; it's survival.  
8 And we'll be talking about accreditation spreads later  
9 or --

10 CHAIRMAN DYKE ROGERS: Yes.

11 ROB WERSTLER: Okay. With that I will  
12 entertain any questions you may have.

13 CHAIRMAN DYKE ROGERS: All right. I have  
14 several, but I think we ought to hear from everybody  
15 before we come back and ask the questions.

16 ROB WERSTLER: Okay. Thank you.

17 CHAIRMAN DYKE ROGERS: Mr. Hooper?

18 DAVID HOOPER: Good morning,  
19 Mr. Chairman and members of the commission. My name is  
20 David Hooper, I'm the executive director of the Texas  
21 Thoroughbred Association. Before addressing the breed  
22 splits, I want to say we really appreciated the  
23 opportunity to be part of that working group, and I know  
24 many of my colleagues also expressed great pleasure of  
25 being invited and having a very open dialogue, and what

1 Commissioners Rutherford and Carter reported to you was  
2 very accurate and very open discussion and very  
3 forthright. We certainly think the working group  
4 concept is an excellent idea and I hope we have some  
5 more working groups. Maybe we need one on breed splits.

6 I also want to thank the Commission staff  
7 and Sammy Jackson in particular for making available so  
8 early the purse protections, as he's done his usual  
9 yeoman's job, it gives us so much more food for thought  
10 and things to work with.

11 To the six new commissioners who have  
12 never been through a breed split war, welcome to Texas'  
13 version of the Iraq war. But I don't think we're going  
14 to get there today and I hope we won't. The Texas  
15 Thoroughbred Association board of directors met on June  
16 23rd and agreed to an extension of the present breed  
17 splits which have been in place at each track for the  
18 last five or six years, for at least one more year.  
19 And I know you're familiar with the breed splits, so I'm  
20 not going to go through them.

21 The present percentages going to quarter  
22 horses are pretty generous when you consider that we're  
23 dealing with simulcast handle, the inbound signal from  
24 out of state, so that simulcast wagering is conducted at  
25 our Texas tracks. As an association, we feel like we've

1 been more than generous in negotiations with the quarter  
2 horse industry over the years. And as a matter of fact,  
3 if you were to reduce the thorough -- the percent going  
4 to thoroughbreds and purses declined further than they  
5 already have in thoroughbred racing, the health of the  
6 quarter horse industry will probably get a lot worse,  
7 because if you've got a healthy thoroughbred industry,  
8 you've got a much better chance of having a healthy  
9 quarter horse industry.

10 In Mr. Werstler's letter to you, he quoted  
11 -- he said the quarter horse purses have declined over  
12 the years and quarter horse men can no longer justify  
13 racing in Texas. I would suggest to you that if you  
14 substitute thoroughbred where he made a reference to  
15 quarter -- quarter horses and quarter horse men, then you  
16 have the same situation.

17 For instance, I added up the number of  
18 racing days and he's often talked about racing  
19 opportunities for quarter horses. In 2000 we had 215  
20 thoroughbred racing days at our Class 1 tracks. In 2006  
21 we will have 186 thoroughbred racing days. That's a  
22 decline of 29. We've lost more racing days than the  
23 quarter horse business has in that period of time.  
24 From 2000 to 2006 they dropped from 111 days to 17.

25 The only other matter that I really wanted

1 to make mention of was this: For some time we have all  
2 tried to get along and work together, and we've had a  
3 pretty good healthy relationship with the quarter horse  
4 industry for a period of time. But we got no heads-up  
5 notice that this was coming, that they want to change  
6 the breed splits. There was no request to sit down at  
7 the table. In fact, the first  
8 official -- while I heard some rumblings out there, the  
9 first official notice that I got was when I got my  
10 agenda packet and immediately I began calling Bob Bork  
11 and Bryan Brown and Jeff Greco to discuss the issue.

12 With that, I think I've said my piece, and  
13 I'll be happy to answer any questions.

14 CHAIRMAN DYKE ROGERS: Okay. Ms. Nobles?

15 CONNIE NOBLES: Good morning, Commissioners.  
16 My name is Connie Nobles. I am a current board member  
17 of the Texas HBPA, which is one of the constituent  
18 partners of the Texas Horsemen's Partnership. I am a  
19 past president, former chairman of both these  
20 organizations. And today I am here as a board member  
21 and a quarter horse owner and breeder.  
22 The Texas HBPA is supportive of the Texas Quarter Horse  
23 Association's plea for a change in the allocation of  
24 simulcast purse money. And I will also say that we are  
25 supportive of the Texas bred incentive program change

1 also. This would allocate more money for the quarter  
2 horse purse industry.

3           As an owner and breeder, I can personally  
4 tell you that the existing revenue models are not  
5 working for our industry. We are being forced to reduce  
6 our operations in Texas due to the inadequate split of  
7 revenue. And one of the personal examples that I can  
8 give of this is that I believe at Lone Star they're  
9 running allowance races for \$7,000 to \$8,000 open bred  
10 races. I can run the same open breed race at Louisiana  
11 for 15,000. So even my accountant, who knows nothing  
12 about a horse, would tell me that I need to be running  
13 in Louisiana.

14           And you're probably looking at me,  
15 thinking, "Okay, well, go to Louisiana." But I'm a  
16 Texan and I want to raise my horses here and I want to  
17 run my horses here. But economically, I'm having to go  
18 out of state to survive in the racing business. I have  
19 eight horses in race training right now. I only have  
20 two in Texas at this point. And we're just sitting and  
21 waiting to run in the Texas Classic.

22           And other than that, I have six horses in  
23 Louisiana. Three of those horses are Texas bred horses  
24 that I really would like to run here, but the money -- I  
25 just can't afford to do it. I mean, I am at wits end on

1 how to stay in this business and yet be supportive of  
2 the Texas racing industry which, you know, my heart is  
3 here. It's not in Louisiana. But I certainly can't  
4 turn down the opportunities for the money that I  
5 hopefully can win over there.

6           The quarter horse industry has worked  
7 together with other breeds over the past eight years in  
8 order to achieve an environment that would allow us to  
9 pursue other projects, which would increase our purses  
10 in order to improve our support. And we've worked with  
11 the thoroughbreds for eight years and I think we've done  
12 a very good job of working. This effort to work  
13 together has been misinterpreted as contentment with the  
14 existing breed splits.

15           The quarter horse industry is at a  
16 critical point. If we do not get a more just and  
17 equitable division of the revenue, then we will cease to  
18 exist as an industry. I urge you to strongly consider  
19 the request to grant more purse money to the quarter  
20 horses and the Texas racetracks. Please give us the  
21 tools to not only preserve our historic racing but allow  
22 it to grow or not -- or keep it from drying up maybe I  
23 should say. It doesn't take much more than that to make  
24 a dramatic impact on our racing and breeding operations.

25           Texans already produce the best racing

1 quarter horses in the country. What we need is the  
2 revenue to reward them so they will stay in Texas and  
3 continue to contribute to our economic development  
4 rather than running them in surrounding states. Thank  
5 you. And if there are any questions I'll be glad to try  
6 to answer any questions.

7 CHAIRMAN DYKE ROGERS: Thank you,  
8 Ms. Nobles. Okay. Commissioners, who would you like to  
9 hear from and pursue this discussion a little further?

10 CHARLES SOWELL: I just -- you know,  
11 concerning the remarks of the quarter horse association,  
12 I mean, what is the long-term outlook for quarter  
13 horses? Is the situation as dim as they say it is?

14 MICHAEL RUTHERFORD: It is and it's the same  
15 for the thoroughbreds, too, for all of our states around  
16 us. It's kind of a -- it's hurting all of us and the  
17 competition in other states, it's hurting them equally.  
18 Purses are much higher in other states for  
19 thoroughbreds.

20 CHAIRMAN DYKE ROGERS: I think maybe I  
21 should give just a little bit of perspective on where we  
22 have been to some of the Commissioners who have not been  
23 here for the last program. And 1999 was the last time  
24 that we had an agreement or the last time we had a  
25 discussion on this. Commissioner Boyd, Commissioner

1 Archer and myself were at that meeting, and at that time  
2 we tried to equalize things somewhat.

3           Since then, every year since we've had a  
4 few splits and everybody has come to the same agreement.  
5 I think what's driving this at this point is that  
6 there's some desperation in every area in the racing  
7 business. And without some additional revenue from some  
8 source, both breeds will continue to have problems with  
9 the other states.

10           Racing days have shrunk almost every year  
11 since I've been on the Commission. With the exception  
12 of one year, I think the purses have gone down pretty  
13 much every year since I've been on the Commission. And  
14 unfortunately, in the money program, anytime you help  
15 somebody, you hurt somebody else. So it doesn't  
16 matter -- I mean, it does matter greatly what you do,  
17 but it doesn't -- it doesn't increase the size of the  
18 pie no matter which way you decide this issue. The pie  
19 stays the same. It's just a matter of how it's divided.

20           There are a couple of things that I would  
21 like to -- I think I would like to get Mr. Werstler back  
22 up for a moment and kind of review a couple of other  
23 things that -- from a financial point of view just to  
24 discuss. And I guess I'd like to do this not because I  
25 disagree with your number greatly, but because I think

1 you have one way of looking at it.

2 ROB WERSTLER: You said gravely?

3 CHAIRMAN DYKE ROGERS: Well, I do disagree  
4 with them a little bit. Not that I disagree with what  
5 they are, I think there are three ways to look at this,  
6 and I think --

7 ROB WERSTLER: Which numbers are you talking  
8 about?

9 CHAIRMAN DYKE ROGERS: -- depends on which  
10 way you look at it. I was talking about your per day --

11 ROB WERSTLER: In the packet --

12 CHAIRMAN DYKE ROGERS: And your per day  
13 numbers are accurate. But because you're racing fewer  
14 days, if you look at total purse, and you were saying  
15 you thought that this should be divided the way it is  
16 divided on the basis of total amount wagered at the  
17 tracks.

18 ROB WERSTLER: Live.

19 CHAIRMAN DYKE ROGERS: Live. You would  
20 actually -- according to the numbers I've got, you would  
21 actually take a reduction from where you are.  
22 And here is the reasoning for that. In a couple of  
23 tracks you would improve. But at Lone Star, for  
24 instance, of the live you've only got 11.49 percent of  
25 the live -- of the live at Lone Star. Now, not on a per

1 day basis but on a total annualized basis.

2 Now, some of the other tracks you were  
3 higher. With Sam Houston and Retama you're up above 30  
4 percent.

5 ROB WERSTLER: But you couldn't do it on an  
6 annualized because they run more days than we do. They  
7 run --

8 CHAIRMAN DYKE ROGERS: You do run --

9 ROB WERSTLER: -- from 70 to -- 66 to 70  
10 days, and we only run 33. You have to do them on a per  
11 day basis.

12 CHAIRMAN DYKE ROGERS: I think if you looked  
13 at them on a per day basis, your number is correct. But  
14 if you look at it on an annualized basis, and we are  
15 collecting money from simulcast every day, that -- the  
16 live doesn't have anything to do with the money that  
17 we're distributing. If you went to live, we would be  
18 doing it at a lesser amount than what you're presently  
19 getting, because the total handle live is about 21  
20 percent. The total handle on simulcast export is about  
21 9.7 percent. And the total handle on import, which is  
22 the money that we're actually dividing, is somewhere  
23 around 5 percent. And we are presently looking, except  
24 for one track, somewhere between that 20 percent and  
25 then on the --

1                   ROB WERSTLER:  When you say -- are you  
2 talking about --

3                   CHAIRMAN DYKE ROGERS:  I would like you just  
4 to address that.

5                   ROB WERSTLER:  The signals coming into  
6 Texas, is that what you're talking about?

7                   CHAIRMAN DYKE ROGERS:  The signals coming  
8 into Texas --

9                   ROB WERSTLER:  You're saying were only five  
10 percent?

11                   CHAIRMAN DYKE ROGERS:  Okay.  On the signals  
12 coming into Texas we're between four and a half and five  
13 and a quarter percent.

14                   ROB WERSTLER:  The racetracks -- the  
15 racetracks decide what signals come in, first of all.  
16 So obviously they're going to bring the ones that bring  
17 in more money.  But the reason I used the figures that I  
18 did was because that's the way it was always split up  
19 until 1997.  And whole transcripts had to be pulled on  
20 live numbers or the percentage were set on live numbers  
21 up until that time, and then the arbitrary numbers of  
22 80/20 and 85/15.  At the time Corey Johnson stood before  
23 this commission and stated that the reason he wanted  
24 85/15 was because at 15 percent he could still have the  
25 highest quarter horse purses in the nation, or among the

1 highest.

2 CHAIRMAN DYKE ROGERS: I recall that.

3 ROB WERSTLER: Is why I guess you allowed  
4 them to have 15 percent instead of 20. One of the other  
5 -- if you were to go to pick your track, but of the  
6 three class ones -- and I apologize because these are  
7 old figures, but they have to be pretty close. I would  
8 have to say it's probably even larger than that, of a  
9 discrepancy, of a difference.

10 If you went to Retama, Sam Houston or Lone  
11 Star Park, take your pick, and you went 365 days or you  
12 went every single day that they were open, you would  
13 have approximately 4,800 more opportunities to watch a  
14 thoroughbred race than a quarter horse at Retama. 4,300  
15 at Sam Houston, and 4,300 at Lone Star. So in Texas  
16 there's approximately 13,000 more thoroughbred races  
17 that come into Texas than quarter horse races. So when  
18 you're trying to grow a product, when there are people  
19 going to these races, they have thousands more  
20 opportunities to bet on a thoroughbred race and to see a  
21 thoroughbred race. So if it's the first time the guy's  
22 walked into the racetrack and he's looking around,  
23 chances are he's not even going to see the quarter horse  
24 race. It's very difficult to grow an industry under  
25 those conditions.

1                   CHAIRMAN DYKE ROGERS:  But under that theory  
2  -- you know, I'm just doing this for sake of discussion  
3  and not really to be argumentative.  Under those  
4  conditions wouldn't you say that the paints would be  
5  entitled to the same amount, then, because they would  
6  need to grow their industry, too, and they would show  
7  quite a bit less than you would show, under that theory?

8                   ROB WERSTLER:  Well, no, because you -- I  
9  think you have to look at what the industry -- as the  
10 industry size in Texas, what the industry -- quarter  
11 horse industry, what it means to Texas; thoroughbred  
12 industry, what it means to Texas.  And if you go...

13                   CHAIRMAN DYKE ROGERS:  Commissioners,  
14 anybody want to weigh in here?

15                   TREVA BOYD:  So everybody needs a piece of  
16 the pie, but the pie needs to be based on logic, on  
17 impact on the industry, you're saying?

18                   ROB WERSTLER:  Right.  It needs to be based  
19 on something I would like --

20                   TREVA BOYD:  Although you have to --

21                   ROB WERSTLER:  -- fight in front of you all  
22 the time, but, you know, I mean, what Chairman Rogers  
23 said earlier that the pie is not growing and it impacts  
24 everyone.  Believe me, you know, I don't want to upset  
25 any type of balance, but I can see that Lone Star Park's

1 purses are so bad there, they have a stable area that's  
2 half empty.

3 TREVA BOYD: But what would your response be  
4 to hurting one other piece of the industry in order to  
5 further the quarter horse side?

6 ROB WERSTLER: Well, it's a minuscule harm  
7 to the thoroughbreds' per day average purses. But it  
8 helps us immensely, especially at Lone Star. And if  
9 they go from 192,000 to 190,000 per day and we go  
10 from -- and I'm not -- and we go up 30,000 per day,  
11 that's -- now they can be competitive with Hobbs, New  
12 Mexico and Louisiana Downs.

13 TREVA BOYD: And where does perception play  
14 in there, perception that it is in fact going to hurt  
15 the thoroughbred industry? Do you not think that there  
16 is some kind of value placed on perception as well? I  
17 mean, the numbers are decreasing every year,  
18 unfortunately. I wish they weren't, but they are. So  
19 perception, do you think that plays any part in it?

20 ROB WERSTLER: I don't understand your  
21 question.

22 TREVA BOYD: If we -- if we go into this  
23 with our eyes wide open and do it the way you  
24 recommended, the perception for thoroughbred purses  
25 declining, do you not think that that will have a little

1 spin on it as well?

2           ROB WERSTLER: I think the decline is so  
3 minuscule that it won't. I mean, if you're going from  
4 194 to 192,000 per day, why -- that's not perceived as a  
5 decrease, in my opinion. But if you're going from  
6 60,000 a day to 80,000 a day for the quarter horses,  
7 that's perceived as an enormous increase.

8           Another thing that I didn't touch on  
9 earlier, but, you know, the quarter horses don't have  
10 anywhere to go in Texas from the end of November till  
11 the beginning of February -- I'm sorry, the end of  
12 February, beginning of March, and then at that time it's  
13 Manor who -- you know, they don't have that many stalls.  
14 So quarter horsemen have to haul their horses all over  
15 the place. So with diesel at \$3.50 a gallon, that's  
16 going to cause a great hardship next year. They're --  
17 they have to pay stall rent when they have no place to  
18 go, whereas the thoroughbreds, they always have a  
19 racetrack to go to in Texas.

20           Now we have an enormous group of people  
21 that come from the Valley that bring horses to Manor,  
22 Retama, Sam Houston, not as much Lone Star, but  
23 sometimes Sam Houston and Retama, 50 percent of their  
24 cards are from the Valley. Those gas prices are really  
25 going to impact them next year because the purses are

1 going to be so low, if they win the race, maybe they  
2 break even. Obviously, they come for trials and stakes,  
3 but for overnight races why haul up here just to break  
4 even?

5 CHAIRMAN DYKE ROGERS: I think we all  
6 sympathize with you and with -- and with every side of  
7 this industry. No, I don't know what decision we'll  
8 make, but I hear what you're saying.

9 ROB WERSTLER: Like I say, we don't want to  
10 upset any kind of balance. Mr. Hooper and I had dinner  
11 Friday night, we're great friends, we've known each  
12 other since 1979, worked together. These are all my  
13 colleagues. I want to see this industry do as well as  
14 it can. Quoting him the other night, he said, "You  
15 know, Texas' race -- best racing is before us, not  
16 behind us." And I agree completely. I'm just trying to  
17 get us there. Because I'm afraid by the time Texas  
18 racing hits on all cylinders, we'll have lost most of  
19 our better stallions and mares.

20 CHAIRMAN DYKE ROGERS: Dr. Carter.

21 DR. KENT CARTER: I looked through your  
22 numbers that you've put in this letter which I think was  
23 taken from Mr. Jackson's table, and to me it seems like  
24 the only little hurt with big help is when you're  
25 talking about Lone Star.

1                   ROB WERSTLER: Right.

2                   DR. KENT CARTER: It looks like the rest of  
3 them, the hurt and the help is about the same. Not  
4 quite, but hurts enough.

5                   ROB WERSTLER: It's minimal. Our gains were  
6 minimal at the other two tracks.

7                   DR. KENT CARTER: And I guess I would be  
8 curious to ask, since that's a perception of what I am  
9 reading, if people in Lone Star and the thoroughbred  
10 agree or disagree with that. Because that's the only  
11 place it seems like I can recognize a little hurt with a  
12 big help. And I guess I sympathize with the problem  
13 you're facing with racing quarter horses. I used to own  
14 racing thoroughbreds. The keyword is used to. It  
15 affects the whole business. The whole business hurts,  
16 right now. So...

17                   ROB WERSTLER: Well, they all eat the same.

18                   DR. KENT CARTER: Hmm?

19                   ROB WERSTLER: They all eat the same.

20                   DR. KENT CARTER: That's right.

21                   ROB WERSTLER: Vet bills are the same.

22                   CHAIRMAN DYKE ROGERS: Why don't we do this,  
23 why don't we hear from Mr. Greco. Why don't you try and  
24 explain to us why the lower percentage there, which is  
25 considerably lower than the other tracks, was justified

1 and why.

2                   JEFFREY GRECO: Well, like I said, I can't  
3 comment back on discussions that were in 1997 and 1998.  
4 We arrived at a balance with quarter horses and  
5 thoroughbreds. In reviewing some of the numbers that I  
6 got from Rob and really looking at it in perhaps a  
7 little different way is that -- I believe it was 2001 we  
8 raced 74 thoroughbred days. Our business both  
9 thoroughbred and quarter horse is built on competition  
10 around and you have to balance the competition around.

11                   The thoroughbred -- or excuse me, the  
12 quarter horse stable area is light this season.  
13 There's no question about it. Is it because of the  
14 purse structure or the fact that we didn't race quarter  
15 horses last year because of the breeder's cup and we've  
16 been off for a couple of years? Is it because of the  
17 increased competition that -- at Louisiana Downs or now  
18 from Evangeline Downs because of storms in the country?  
19 The industry is in a little bit of upheaval, needless to  
20 say.

21                   We in the spring time compete not only  
22 with Louisiana Downs from a purse perspective but other  
23 tracks outside of our region. The reason that we've  
24 tried so hard in order to maintain a certain purse  
25 level, whether it be 200,000 or 202,000 or 198,000,

1 whatever that number really is, it's because -- and it  
2 is perception and it's dollars people run for. Now, 37,  
3 38 percent of our ship-ins in the receiving barn in the  
4 spring time are -- excuse me, or our racer -- runners in  
5 the spring time are due to receiving orders, which means  
6 that they do ship.

7           Competition has continued to grow in our  
8 region. We've talked before about the pie not getting  
9 any larger. One of the things that perhaps we might  
10 want to consider on the quarter horse side is to really  
11 evaluate the number of racing opportunities. And I'm  
12 not sure of the agreements with the other racetracks,  
13 but I know of the agreement that we have with the  
14 quarter horse association at Lone Star is that we'll  
15 attempt to run 365 racing opportunities a year. Even  
16 though we dropped a day, for example, next year, we're  
17 still going to attempt to run the 365 racing  
18 opportunities.

19           If you look at the comparison that Rob put  
20 out as far as surrounding strip states, the ranges are  
21 -- and my calculator died, so you'll have to excuse me,  
22 but from four and a half to almost 11 racing  
23 opportunities a day if you take the average purses per  
24 race and the average daily purses. So there is an  
25 opportunity to move the amount of purse money on a daily

1 basis in order to increase the competition, and it has  
2 to do with the same way that we did on the thoroughbred  
3 side, and that is you reduce the amount of racing  
4 opportunities.

5 That's not Lone Star's desire and I'm sure  
6 that's not Sam Houston or Retama's desire.

7 Frankly, it's not the quarter horse association or the  
8 thoroughbred association. It's kind of a necessary evil  
9 that we're having to deal with in a declining revenue  
10 stream. Did I answer your question any?

11 CHAIRMAN DYKE ROGERS: Yes, sir.

12 DR. KENT CARTER: So explain to me just a  
13 little bit less lengthy --

14 JEFFREY GRECO: Okay.

15 DR. KENT CARTER: How does this split affect  
16 that? I don't understand that.

17 JEFFREY GRECO: How the split affects it?

18 DR. KENT CARTER: Yeah.

19 JEFFREY GRECO: We've used the 85/15 split  
20 for the last six, seven, eight years and arrived at a  
21 purse level that we felt like we had to be in order to  
22 be competitive. What we've done in the most recent  
23 years is reduced the amount of racing opportunity in  
24 order to keep that at that same level. Any shift in  
25 moving the split to increase quarter horse purses would

1 decrease thoroughbred purses, will obviously throw the  
2 balance off and -- and I'm not sure what the right  
3 answer is.

4           The way I think we can increase the  
5 quarter horse purses slightly is reduce the amount of  
6 racing opportunities. I mean, if you use Sammy  
7 Jackson's numbers -- and frankly, I hope his numbers are  
8 correct -- we're right at that \$200,000 a day number.  
9 Perception is one thing, reality is another.  
10 We actually felt like our purses were almost a tic  
11 higher this past spring than was our most severe head-on  
12 competitor, Louisiana Downs, at that time. But our  
13 racing wasn't near the quality as it was at Louisiana  
14 Downs, for several reasons. One is we had some track  
15 problems. I would be foolish to kind of dodge those  
16 issues.

17           The other one and probably the biggest one  
18 is the fact that they run for 90 days 200 miles away,  
19 and we're having to run for 67 days here, which means  
20 that a horseman has to pick up and move again.  
21 And so that's where the reduction in racing  
22 opportunities come from.

23           We've been between a 32 and a 34 racing  
24 days for quarter horses, frankly I believe since we  
25 opened. And our -- the balance has worked with the

1 amount of money that we have. Any shift adding money to  
2 the quarter horse side is only going to take away from  
3 the thoroughbred side. If you understand that -- and I  
4 know that we can compare things in different ways, but  
5 approximately 95 -- and again, this is approximately --  
6 dollars wagered at Lone Star on thoroughbred races. I  
7 understand that there are less racing opportunities for  
8 a new person to wager on quarter horse racing. But I  
9 would tell you, we really need to look at the number of  
10 racing opportunities for thoroughbreds versus the total  
11 number of racing opportunities for quarter horses in the  
12 country.

13                   While it's important to talk about the  
14 amount of money that's wagered on a track on live  
15 racing, the purses are actually -- these numbers are  
16 actually divided by the total amount of money wagered at  
17 the track. And today the balance is approximately the  
18 95 percent thoroughbreds and 5 percent quarter horses.  
19 I'm really not aware of a quarter horse track that's not  
20 out there and available that we won't take at Lone Star.  
21 There are some thoroughbred tracks that we won't take  
22 purely because of confusion in the schedule. And too  
23 many opportunities really divides the pie just a little  
24 bit smaller.

25                   But out of the 165 or \$170 million that we

1 handle and simulcast in on our track -- at our track,  
2 five percent of it's quarter horse racing. And that  
3 includes the late night Lasalles and the racing  
4 opportunities that are frankly out there for everybody.

5 TREVA BOYD: So you think you're pulling in  
6 the signals that are available.

7 JEFFREY GRECO: We're pulling in those  
8 signals in both breeds that are available. Yeah.  
9 There are some thoroughbred signals we don't take.  
10 There are some quarter horse signals we don't take.  
11 But there's a little different philosophy in the  
12 simulcast business. One school of thought is that you  
13 take everything that's out there and you offer  
14 everything to everybody. Another school of thought is  
15 you pick and choose what you think the top 10 or 20, 30  
16 signals are. And I'm not sure that either Bob or  
17 myself, who might have a little different philosophy,  
18 could probably wrestle back and forth, but I don't know  
19 that we could find a resolution as to who's right or  
20 who's wrong. I think it's just a different school of  
21 thought, and I don't know if one is proven to be better  
22 than the other, frankly.

23 CHAIRMAN DYKE ROGERS: Mr. Rutherford.

24 MICHAEL RUTHERFORD: Yes, sir. If your  
25 quality of your horses on your thoroughbreds go down,

1 which they've been going a little bit down --

2 JEFFREY GRECO: Yes, sir.

3 MICHAEL RUTHERFORD: The less purses are  
4 going to go down.

5 JEFFREY GRECO: Yes, sir.

6 MICHAEL RUTHERFORD: So then you can't sell  
7 your simulcast to other tracks for as much money. They  
8 won't bet on it.

9 JEFFREY GRECO: You're absolutely right.

10 MICHAEL RUTHERFORD: And it's going to lower  
11 the whole pie.

12 JEFFREY GRECO: Yeah. But the quality of  
13 thoroughbreds --

14 MICHAEL RUTHERFORD: The whole basis for all  
15 of the money that we get from racing is based on the  
16 thoroughbred simulcasting. How much -- what percent of  
17 simulcasting runs during the live half?

18 JEFFREY GRECO: Well, we do about 165, \$170  
19 million in simulcast in light handle. For the hundred  
20 days of racing it would be close to 40 million, 45  
21 million.

22 MICHAEL RUTHERFORD: So it's very important  
23 that you have a good product.

24 JEFFREY GRECO: The sad part --

25 MICHAEL RUTHERFORD: And the whole purses go

1 down.

2                   JEFFREY GRECO: Yeah. The sad part about it  
3 is -- and Rob said it as well -- is as all the horses  
4 are going down, the amount of the available purse  
5 dollars are going down, and there are better -- there  
6 are opportunities to race for more money in surrounding  
7 states. The unfortunate part is they have alternative  
8 revenue streams in order to fuel the purses. But if you  
9 really look at the comparison that's out there, you  
10 know, some of these places that have alternative revenue  
11 streams are really not running as many days.

12                   I mean, look at the Evangeline Downs with  
13 8779 in average percent purse per race and at \$83,612 in  
14 average daily purses, only running 21 days. And again,  
15 this was the schedule I realize that everybody  
16 understands the schedule in the state of Louisiana has  
17 thrown things for a little bit of turmoil. One of the  
18 reasons we reduced our five -- our post time to 5:00  
19 o'clock instead of 6:35 this fall was an effort to try  
20 to start up our quarter horse business to be able to  
21 give us something to talk about. Louisiana Downs was  
22 going to run a quarter horse meet and they don't have  
23 lights, so they run in the afternoon. And traditionally  
24 in the fall, they're done around 5:00 o'clock. Well, we  
25 went to a 5:00 o'clock start first post time in an

1 effort to be out there in a little different environment  
2 to be able to tack on the tail of the better purses at  
3 Louisiana Downs when they're running quarter horses.  
4 Meantime actually the storm hit and the racing schedule  
5 went awry, and so now we're head to head with Evangeline  
6 Downs, which is four and a half hours away and not the  
7 most convenient drive back and forth.

8           And now the decision even gets harder for  
9 a horse person to be able to decide whether to pull in.  
10 Now it's not a 20-day or a 15- or an 18-day meet at  
11 Evangeline Downs and the difficult drive to Lone Star.  
12 It's a 30- or 40-day meet. Whereas when I was in  
13 Louisiana Downs, it's 185 or 190 miles down the road and  
14 a three-hour clip. They're running a 20-day meet, we're  
15 running a little longer meet, a 33-day meet running four  
16 days week. There's a chance to be able to shoot back  
17 and forth. Now with the schedule in Louisiana the way  
18 it is, it's actually made it more difficult and caused a  
19 big drop in the amount of horses that are racing there.  
20 So I don't necessarily attribute it all to a drop in  
21 purses.

22           MICHAEL RUTHERFORD: I think one thing that  
23 we -- and there's so much competition for the beautiful  
24 dollar now. Baseball has had its little problems,  
25 football is having problems. There's so many things

1 people can do. I know Houston is really not a great  
2 sports town because there's too much to do, everybody  
3 has a boat in the garage. You can go to golf  
4 tournaments, you can do everything. So we're going to  
5 continue to have the competition, even -- even if we do  
6 have the VLT in the other states. So I think what we  
7 really need to do is improve our product, quarter horse  
8 and thoroughbred. We need to be spending our time doing  
9 that.

10 JEFFREY GRECO: It's the key to the success  
11 --

12 MICHAEL RUTHERFORD: The key to  
13 success --

14 JEFFREY GRECO: -- is to raise the bar.

15 MICHAEL RUTHERFORD: -- is to improve the  
16 product for people to come to the racetrack.

17 CHARLES SOWELL: Dyke?

18 CHAIRMAN DYKE ROGERS: Yes. Commissioner  
19 Sowell.

20 CHARLES SOWELL: Mr. Greco, as Mike just  
21 pointed out, you and everybody here is in the  
22 entertainment business. And the ultimate judge of your  
23 product is your customer. And you've got to join in  
24 there and you're competing not only against other people  
25 in the industry but every other kind of activity that's

1 going on, mostly athletics but a lot of others, too.  
2 People have many choices in how they will spend their  
3 entertainment dollars.

4           How do you assess what will draw people to  
5 your facility to bet either on live races or simulcast?  
6 How do you determine among the products that are  
7 available to you, what's going to draw? Trial and  
8 error? Do you poll people?

9           JEFFREY GRECO: Well, it's a combination.  
10 There is some trial and error. Some of it is historical  
11 data, because like you said, people vote with their  
12 dollars. A lot of it is regional -- regional  
13 popularity. If someone has been betting on a signal at  
14 Overland Park, for example, for the last 85 or 90 years,  
15 then they'll understand what their popularity is going  
16 to be.

17           Purses have something to do with it  
18 because -- excuse me. Purses used to have more to do  
19 with it, and in the past the purses led to quality  
20 consistent racing. In some environments today there are  
21 slot fueled purses that no -- not necessarily have  
22 bigger field or have consistent quality racing. So it's  
23 a trial and error. It's based on what has worked in the  
24 past. We experiment on an ongoing basis. And we think  
25 we have the right combination, but it's something that

1 continues to occur each and every day.

2 CHARLES SOWELL: If the people of Texas had  
3 a secret burning desire to see quarter horses race one  
4 another, do you think you would know about it?

5 JEFFREY GRECO: Usually people voice their  
6 opinions and comments and concerns, interests.  
7 If they vote with their dollars, that's a net positive  
8 for us, for the quarter horse industry, and frankly for  
9 everyone. So we try to keep our ears pretty close to  
10 the ground, yes.

11 CHARLES SOWELL: Well, it seems like the  
12 handle question, of course, is a vital one because  
13 that's the best way to measure one against the other, I  
14 suppose. But what about the attendance at your track  
15 during your quarter horse meets versus the thoroughbred  
16 meets, what does that run?

17 JEFFREY GRECO: We're -- what it is now, I  
18 don't want to guess right now. It's probably in the 30  
19 percent range, 35 percent range, and it's kind of an  
20 estimate. One different style, we calculate attendances  
21 that we include in our live attendance the people that  
22 visit our simulcast building next door, which is -- our  
23 average weekly attendance in the post time pavilion in  
24 the last month or so has been about 7,000 people a week.  
25 Our average quarter horse attendance last

1 week, as an example, was probably 10,000 or 11,000,  
2 which includes the 7,000 people from the simulcast.  
3 Now, compare that with thoroughbreds, probably averaging  
4 -- again, it depends on the number of races.

5 I don't know, I would have to go back and read exactly  
6 because I don't want to calculate in my head for the  
7 industry, but --

8 CHARLES SOWELL: Well, I think like all  
9 Texans, all of us would like to see the quarter horse  
10 industry not only survive, but do well. But I'm just  
11 not sure that subsidization in the racing industry,  
12 which seems to me to be what we're talking about here,  
13 based on all the numbers I've seen, except  
14 Mr. Werstler's, which are admittedly narrow by virtue of  
15 his situation, but it seems to me that it's inescapable  
16 that we've got the situation where the thoroughbred  
17 industry subsidizes the quarter horse industry and the  
18 other minor breeds as well. And under our free market  
19 system, that doesn't seem to me to be an appropriate way  
20 to deal with the problem. I don't know the answer.  
21 Obviously nobody else does either, or we would already  
22 be employing something or helping.  
23 But it seems to me like another approach has got to be a  
24 better system than subsidization by one industry to  
25 another.

1 JEFFREY GRECO: Yes, sir.

2 CHARLES SOWELL: That's all I have.  
3 Thank you.

4 CHAIRMAN DYKE ROGERS: Thank you. Yes,  
5 Commissioner Carter.

6 DR. KENT CARTER: I hate to keep pounding on  
7 this, and I realize this is a very complex issue, but  
8 the original question was, you said --

9 CHAIRMAN DYKE ROGERS: What was that  
10 original question?

11 DR. KENT CARTER: The quarter horse people  
12 maintain that changing the split wouldn't affect your  
13 overall daily purse, but it would affect a little bit of  
14 a decrease in the thoroughbreds, with a big increase in  
15 the quarter horses. And my question was: Do you feel  
16 that is true? And will that little bit of decrease in  
17 thoroughbreds hurt your business, because it's not going  
18 to affect the overall total purse over the year, but do  
19 you think that's going to affect your business that  
20 much?

21 JEFFREY GRECO: It will affect the total  
22 purses by breed. And yes, any reduction in thoroughbred  
23 purses today in the environment that we're in, racing  
24 the fewer amount of days would have a negative impact.

25 DR. KENT CARTER: Okay. That was -- thank

1 you.

2 JEFFREY GRECO: I'll stop there. Sorry.

3 CHAIRMAN DYKE ROGERS: In reality, just to  
4 answer your question from here, it's about six to one.  
5 So for every dollar the thoroughbred purse goes down,  
6 the quarter horse goes up six, at Lone Star. So roughly  
7 six to one. So a thousand-dollar cut on thoroughbreds  
8 means \$6,000 to quarter horses. That's kind of the  
9 number --

10 JEFFREY GRECO: Yeah. And If we -- and  
11 again, if we -- which we're not opposed to, we would  
12 consider reducing some of the racing opportunities in  
13 order to boost some of the daily average purses for  
14 quarter horse industry similar and comparable to what  
15 we've done with thoroughbred. There's a balance between  
16 racing opportunities and average daily purses.

17 CHAIRMAN DYKE ROGERS: Okay. Is there  
18 anybody else that has something that they think would  
19 add to this discussion before we move toward a vote?

20 TREVA BOYD: Can I ask one last question?  
21 You're in favor of reducing races in order to increase  
22 purses, rather than go with Mr. Werstler's --

23 JEFFREY GRECO: We would consider that if  
24 the industry, quarter horse industry would consider it  
25 as well. We don't believe that shifting the purse

1 distribution, the split today, is the right way to do  
2 it, but like we've done on the thoroughbred side where  
3 we have reduced the amount of days, we -- and we've kind  
4 of maintained the number of days for the quarter horse  
5 industry. If we needed to reduce some of the racing  
6 opportunities, the quarter horse industry is in favor of  
7 it in order to boost the quarter horse purses slightly.  
8 That opportunity is out there for us to have some  
9 discussions.

10 TREVA BOYD: But we've been pounding for,  
11 you know, a year, year or two years since I've been  
12 here, to increase opportunities. Why would we --

13 JEFFREY GRECO: It's a balance. And again,  
14 I said with that, we're open to that. Whether it --  
15 it's a balance based on the quantity of horses that you  
16 have. In today's environment, with the competition that  
17 we're facing this fall in our neighboring state and the  
18 reduced amount of horses, I have a question whether  
19 we're going to be able to build the 365 racing  
20 opportunities that we're attempting to do. We even  
21 shift the amount of days for -- or the amount of races  
22 per day from nine during the week to 13 on Fridays and  
23 Saturdays to try to throw more races when there's more  
24 public and more handle and more cash in advance that  
25 might be betting on thoroughbred racing to consider

1 betting on quarter horses.

2 TREVA BOYD: And going back to what Chairman  
3 Rogers was saying, a six to one comparison, that  
4 analogy, do you think that that is that much of an  
5 impact? I mean, yes, it's a negative impact. Anything  
6 would be a negative impact. But do you think it's that  
7 much of a negative impact at your facility, To not  
8 consider it?

9 JEFFREY GRECO: We've considered it and,  
10 yes, we do think it's that much of an impact. I mean,  
11 if -- the numbers for simulcasting in and for themselves  
12 speak for themselves. 95 percent of the dollars wagered  
13 at the track are on thoroughbred racing. That's what  
14 drives the mass interest in the thoroughbred side.  
15 Frankly, people vote with their dollars and -- and wow.  
16 I consider things that -- I don't think it's the right  
17 thing to take it from one and add it to the other.

18 TREVA BOYD: Thank you.

19 CHAIRMAN DYKE ROGERS: Mr. Sturns?

20 LOUIS STURNS: Mr. Chairman, I'm one of the  
21 new kids on the block, but I would like to know if the  
22 staff input would be helpful in this situation, at least  
23 for me.

24 CHAIRMAN DYKE ROGERS: I think this is one  
25 of those areas that the staff wants to stay about five

1 miles away from, because I think this --

2           LOUIS STURNS: Okay. That's why I'm not  
3 sitting there.

4           CHAIRMAN DYKE ROGERS: No, I think this is  
5 one of those commission decisions that --

6           LOUIS STURNS: Okay.

7           CHAIRMAN DYKE ROGERS: -- we really have to  
8 do, and I -- thank you. Has anybody else got anything  
9 they would like to say to this? Okay.  
10 Mr. Phillips.

11           HOWARD PHILLIPS: This is an example --  
12 Sammy, I should have taken your number on face value,  
13 because I was back there crunching some numbers to look  
14 at this and try to look at it in a different light.

15                   I think on 6/2 you have a letter from me  
16 addressing the Commission, and that's on the request for  
17 split, for a change in our split, 30 percent to  
18 thoroughbred and 70 percent to quarter horses. And I  
19 think the justification -- I tried to be brief in this  
20 letter. And I think you'll see it would alter it.  
21 This is Rob's "just a little bit helps a lot," but this  
22 would reduce the quarter horses by \$130 a race, which is  
23 just a little bit, and it would raise the thoroughbred  
24 purses by \$780 a race, which we think would be  
25 significant for us if we're trying to get them up. We

1 would ask for more but we're going a small bite at this  
2 apple at a time.

3           Our state program in quarter horse racing  
4 has been excellent, has been. We've been racing 16  
5 years quarter horses, and we would not do anything to  
6 try to harm that breed or that program. The  
7 two-year-olds come out in the spring and they race at  
8 Manor Downs and we're very proud of the fact that a lot  
9 of great horses have started there and broken their  
10 maiden and gone on to do great things. With that in  
11 mind, we would like to have thoroughbred racing improve  
12 and an opportunity to improve that product.

13           For example, when we started, I think we  
14 had four or -- was it five days stakes races and one of  
15 them was actually a black type race and now we're down  
16 to two thoroughbred stakes races because the money's  
17 just not there. We've asked you to look at this and  
18 give us an opportunity with 30 percent going to  
19 thoroughbreds and 70 percent to quarter horses after the  
20 one and a half percent for minor breed. And let us, you  
21 know, work our market and work this product and try to  
22 get some of the horses that are at Retama that are the  
23 type of horses that run at Sam Houston, the \$5,000  
24 claimers, the \$10,000 claimers and have our purse equal  
25 so that hopefully those horses will stay around here and

1 have an opportunity and will run at Manor Downs instead  
2 of pulling up and leaving.

3 I'd be glad to answer any questions and  
4 I'm sorry about the confusion. And, Sammy, your numbers  
5 are excellent.

6 CHAIRMAN DYKE ROGERS: Okay, so that's a  
7 little different than your first request.

8 HOWARD PHILLIPS: Yes. I was addressing the  
9 ATB and crunching numbers, and obviously I was --

10 CHAIRMAN DYKE ROGERS: I thought maybe you  
11 had just found a spirit of agreement somewhere.

12 HOWARD PHILLIPS: Well, good. I like Rob's  
13 "just a little bit helps a lot," and that's -- you know,  
14 we'll stick to that.

15 CHAIRMAN DYKE ROGERS: Thank you, Howard.

16 HOWARD PHILLIPS: Thank you.

17 CHAIRMAN DYKE ROGERS: Okay, Commissioners,  
18 can we have a little discussion of this and get a few  
19 views on the table before we get a motion?

20 DR. KENT CARTER: Can I ask a question of  
21 the Chairman?

22 CHAIRMAN DYKE ROGERS: Yes. Is the Chairman  
23 supposed to have an answer?

24 DR. KENT CARTER: I hope so.

25 CHAIRMAN DYKE ROGERS: Okay.

1 DR. KENT CARTER: If you look at  
2 Mr. Hooper's letter where it talks about the splits --  
3 that's the best way to start this. Historically, why  
4 was Lone Star not done the same as Retama or Sam  
5 Houston? Because there's more thoroughbred race days  
6 there or because of the simulcast?

7 CHAIRMAN DYKE ROGERS: Well,  
8 originally -- I mean, I'm going back to 1999. I think  
9 the original reason that they were at a lower rate is  
10 because they said they had the best quarter horse racing  
11 in the world and the highest purses in the country. And  
12 so they were able to sustain those and didn't --  
13 couldn't justify a larger amount to them because they  
14 didn't need it to attract the very best horses. Now,  
15 that's historical. What goes on now  
16 is -- you know, is an all new discussion to take a look  
17 at. But that was the historical reason the way I  
18 remember it. Do you have any thoughts here?

19 DR. KENT CARTER: I don't know if I've got  
20 enough knowledge to make any of these decisions, but  
21 that seems like the only place we've got any working  
22 room to me, that 85/15.

23 CHARLES SOWELL: My inclination is to leave  
24 things like they are.

25 MICHAEL RUTHERFORD: That's the flagship

1 right now of Texas racing.

2 DR. KENT CARTER: Okay.

3 MICHAEL RUTHERFORD: And one reason is  
4 because they had racing at Louisiana Downs and they had  
5 racing in Hot Springs. So they had more bettors there.  
6 And they want to bet on the thoroughbreds. And that's  
7 why Dallas does so well and it is the flagship for Texas  
8 right now. I'm hoping that all the tracks would be  
9 flagships.

10 CHARLES SOWELL: I might add, it's hard for  
11 a Houstonian to say that.

12 MICHAEL RUTHERFORD: It really is.

13 CHAIRMAN DYKE ROGERS: Any other thoughts?  
14 Okay. We can see what motion comes up. If it's an  
15 all-inclusive motion, we'll just do it as one motion.  
16 If it is -- if it requires by track, we'll do it by  
17 track. But I would entertain any motion from somebody.

18 CHARLES SOWELL: I move that we leave it the  
19 same as it is in all cases.

20 CHAIRMAN DYKE ROGERS: There is a motion on  
21 the table by Commissioner Sowell to leave the breed  
22 splits the way they are at all tracks.

23 MICHAEL RUTHERFORD: Second.

24 CHAIRMAN DYKE ROGERS: Seconded by  
25 Commissioner Rutherford. Any discussion? All in favor?

1 All opposed? Okay. Motion carries.

2 IV. PROCEEDINGS ON RACETRACKS

3 D. ALLOCATION AMONG VARIOUS BREEDS OF HORSES OF  
4 THE TEXAS BRED INCENTIVE PROGRAM REVENUE  
5 GENERATED BY SIMULCASTING FOR 2006

6 CHAIRMAN DYKE ROGERS: We will move to  
7 allocating -- allocation of the various breed splits  
8 among horses for the incentive program revenue generated  
9 by simulcasting. I would be glad to recognize the  
10 organizations. I believe that you are all of record  
11 presently as requesting to stay the same, except for Mr.  
12 Werstler. So why don't we begin with you.

13 ROB WERSTLER: Thank you again,  
14 Commissioners. I sent you a letter, basically quoted  
15 Rule 321.505 which states: "The Commission shall  
16 consider the effect of the proposed percentages on the  
17 state's agricultural horse breeding and horse training  
18 industry."

19 I have a study that I brought with me. I  
20 don't have copies for everyone, but it was paid for by  
21 all of the racetracks and breed associations. It was  
22 done by the American Horse Council and we paid for a  
23 Texas breakout. According to this economic impact  
24 report, quarter horses represent 46 percent of the  
25 horses in Texas. Thoroughbreds represent 15 percent.

1 Of the total effect on the gross domestic product by  
2 breed and activity in Texas, quarter horses represented  
3 43 percent, while thoroughbreds represented 20 percent.

4 We also -- many Commissioners, I don't  
5 know that you are aware there is a Texas Thoroughbred  
6 Association and Texas Quarter Horse association, the  
7 amount of money that you allocate to each organization,  
8 they are allowed to retain 10 percent for the  
9 administration of their association. So for the past  
10 several years the Texas Thoroughbred Association has  
11 been allowed twice the amount of money to administer  
12 their program than the Texas Quarter Horse Association.  
13 And I'm just here today to ask you for -- to reconsider  
14 that, that I think we deserve as much as the  
15 thoroughbreds do to grow our industry and serve our  
16 members.

17 CHAIRMAN DYKE ROGERS: Okay. Commissioners,  
18 this is solely for ATB funds. This is breed registry  
19 funds. Is there someone else who would like to address  
20 the subject? Is there anybody else like to speak on  
21 this? Yes, Ms. Nobles.

22 CONNIE NOBLES: Hi. I'm Connie Nobles.  
23 I am a breeder and obviously I'm very interested in the  
24 ATB vote. I have moved all my mares out of Texas.  
25 Now, this is not directed to all we're talking about

1 here but because of economics. I have moved all of my  
2 mares except for four out of Texas -- I had 12 mares in  
3 Louisiana -- because of their breeding program.

4           As an example, one of the horses that I  
5 bred -- a Texas bred horse several years ago won a  
6 maiden race here in Texas. My breeder reward was  
7 \$250.66. This same age horse, basically the same race,  
8 same Louisiana bred horse that I raised or I owned and  
9 sold ran in Louisiana just about the same time as the  
10 other Texas bred horse did, and my breeder's award was  
11 \$2,010. Now, you tell me, all of you, how you're going  
12 to keep me, Connie Nobles, in Texas and tell me to breed  
13 the best horses that I can breed. I can't. I can't  
14 stay here and I'm telling all of you, I've moved 12  
15 horses to Louisiana. I don't want to be in Louisiana, I  
16 want to be here.

17           We're only asking for just minuscule  
18 amounts of money to raise our awards up just a little  
19 bit, just to give us a little bit of incentive to hang  
20 onto that slippery rope that we're trying to hang onto.

21           Now, we're back here behind the scenes, I  
22 feel like, pedaling to make the batteries work and the  
23 lights shine on the thoroughbreds. Well, I'm telling  
24 you now, you've got less peddlers back there and there  
25 will be less next year and the following year. We have

1 trainers and owners moving out of Texas every day.  
2 They're not just moving out temporarily. They're buying  
3 homes and building barns out of state. Our program is  
4 -- it's just -- it's terrible. And we're -- we're not  
5 asking for the moon, we're just asking for a little bit  
6 better division of this money so we can just hang in  
7 here and hopefully get the VLTs. Thank you very much.

8 CHAIRMAN DYKE ROGERS: Thank you.  
9 Anybody else want to address this? Mr. Hooper.

10 DAVID HOOPER: Mr. Chairman, members of the  
11 Commission, as my letter reflected, we're in favor of  
12 maintaining the 70/30 across the board on breed split.  
13 Prior to -- back in about 1996 or so, that breed split  
14 was 80/20. And in 1997 when the Commission considered  
15 -- just to give you a brief historical perspective, when  
16 the Commission considered this particular subject, the  
17 TTA was going through a period of turmoil and was not  
18 well represented at that particular meeting and the  
19 change was made from 80/20 thoroughbred to quarter horse  
20 to two-thirds/one-third.

21 The next year in 1998 -- and it stayed the  
22 same every since -- we recaptured a small percentage and  
23 got it to 70/30 where it has stayed ever since. Our  
24 board is in favor of maintaining that breed split. I  
25 was interested in Mr. Werstler's citation of the recent

1 American Horse Council study. I don't think I have to  
2 educate you on the fact that about  
3 85 percent, my understanding is, of the quarter horse  
4 activity is nonracing activity. The breed is involved  
5 in many other disciplines.

6 We do have more money to administer  
7 the -- to operate coming from the Texas bred program  
8 because we have been allocated 70 percent of that over  
9 the last several years and I trust that we have done a  
10 very good job of administering the program.

11 I'd like to make one comment, that we're  
12 dealing with the Accredited Texas Bred incentive fund,  
13 and I emphasize the word incentive, because TTA has  
14 always taken a different approach to this program than  
15 the Quarter Horse Association has. We truly try and  
16 make the ATB program work as an incentive. The smallest  
17 amount of ATB money in our races goes to the maiden  
18 claimers and the cheap claimers and it escalates on up  
19 through the claiming ranks to allowance races and stakes  
20 with the highest amount of ATB money being paid out of  
21 the -- in your allowance races and your stakes races.

22 Quarter Horse Association has taken a  
23 different approach. They allocate the same amount of  
24 money regardless of the value of the race, whether it's  
25 a maiden claim or an allowance race. Now, I question

1 whether that's an incentive program. It adds up to me  
2 to be more a welfare program or a socialistic program.  
3 And I'd just leave that as a little food for thought for  
4 you.

5 CHAIRMAN DYKE ROGERS: Mr. Rutherford.

6 MICHAEL RUTHERFORD: The funds with ATB,  
7 that comes from simulcasting, basically.

8 DAVID HOOPER: Yes. Well, comes from, you  
9 know, there's a revenue stream from all types of --

10 MICHAEL RUTHERFORD: The majority of the  
11 funds we get are from simulcasting, though, thoroughbred  
12 races.

13 DAVID HOOPER: Yeah, sure.

14 MICHAEL RUTHERFORD: And I -- unfortunately,  
15 and I do really feel for Ms. Noble, but we've had the  
16 same thing happening in the thoroughbred case and have  
17 people moving their horses to Louisiana and the main  
18 reason because they have the VLTs and their purses are  
19 better, a lot better, a lot better for the thoroughbred  
20 horses, too. We're going to see that in the breeding  
21 farms in Texas in the thoroughbred races.

22 DAVID HOOPER: You're right on the money,  
23 Commissioner. We are losing people to Louisiana and New  
24 Mexico because of the increased money that's available  
25 not only in the purses that are offered at each of the

1 racetracks in other states but also because the breed  
2 program is significantly enhanced. We do have some of  
3 the people who moved to Louisiana moving back to Texas  
4 at least for the Sam Houston meet it's encouraging to  
5 say because, of course, of the chaotic situation that  
6 Louisiana racing is in with the loss of two racetracks  
7 and the movement of race meets and so on.

8           But if the legislature in Texas, in their  
9 wisdom, is eventually to pass VLTs, those people that  
10 have left the state will be coming back here in droves  
11 and other people who have never participated in racing  
12 or in breeding programs in Texas, they'll be looking to  
13 Texas to locate here, too, because not only the  
14 thoroughbred purses but the quarter horse purses are  
15 projected to be as good as anyplace in the country.  
16 It's just a matter of time.

17           MICHAEL RUTHERFORD: Well, all over the  
18 United States you have the VLTs at racetrack.

19           DAVID HOOPER: Yes, sir.

20           MICHAEL RUTHERFORD: And in my personal  
21 opinion, that's wrong. We need to be building our own  
22 base and our horse business. We need to promote our own  
23 horses. What we're selling is racetracks, not VLTs. So  
24 it's good on one hand and bad on the other.  
25 I would like to have the purses, but I think you might

1 be letting the devil in.

2           DAVID HOOPER: But I think we'll be in a  
3 different situation, Commissioner Rutherford, than what  
4 they are in Delaware, for instance. And I think Mr.  
5 Werstler alluded to this, that, you know, some places  
6 where slots or VLTs exist today their purse structure is  
7 high and yet their racing program isn't all that great.  
8 It's nice to run for the big purses and so on. But I  
9 think -- I think that will be different here in Texas.  
10 I mean, if we had a purse structure that is equivalent  
11 or better than any other state in the country,  
12 equivalent to your top thoroughbred tracks in New York,  
13 California and Kentucky and so on, not only obviously  
14 the VLTs will help, but that should have a significant  
15 jump start to the handle, that as better horses will be  
16 here, better horses attract more money that means more  
17 handle, that means --

18           MICHAEL RUTHERFORD: I still think we need  
19 to do a better job of taking care of our own business  
20 than worrying about the subsidies from VLT.

21           CHAIRMAN DYKE ROGERS: I think in all  
22 likelihood this is probably not an appropriate  
23 discussion --

24           MICHAEL RUTHERFORD: I understand.

25           CHAIRMAN DYKE ROGERS: -- because where we

1 are right now is what to do with the split. Yes.

2 DR. KENT CARTER: How many thoroughbred  
3 brood mares in Texas right now, approximately?

4 DAVID HOOPER: The number of mares that were  
5 bred in Texas in 2004 was 2,800, between 2,800 and  
6 2,900. That declined a bit. The number's escaping me,  
7 but I think we're down around 2,700 this past breeding  
8 season. But just to show you the exodus of mares in  
9 2002 we had 3,600 mares bred according to the jockey  
10 club statistics. So that's a decline of 700 in just two  
11 years and now close to 900, which is 25 percent of the  
12 mare population.

13 Now, how many mares are there here in  
14 Texas that are active? About 4,500 thoroughbred mares.

15 DR. KENT CARTER: And compared to about  
16 2000, that is down or up?

17 DAVID HOOPER: That's down.

18 DR. KENT CARTER: Significantly?

19 DAVID HOOPER: It's down. If memory serves  
20 correctly, it's down about 500 to 600.

21 DR. KENT CARTER: Explain to me, this 70/30  
22 split, why does -- how do y'all arrive at that? You said  
23 they weren't represented well. They come up with this  
24 sixty -- two-thirds and one-third, 66 and 33. And when  
25 you come back in and renegotiated that, why -- what's

1 the rationale for the thoroughbred getting that much  
2 more? Is it a per capita or poor racing or what is that  
3 based on?

4           DAVID HOOPER: It was a -- if my memory  
5 serves correctly, it was a combination of things.  
6 Number of racing days that were allocated at all of the  
7 tracks, particularly the Class I tracks. The handle on  
8 the live product. A lot of things factored into it.  
9 There have historically been more thoroughbred racing  
10 days than there have been quarter horse racing days.

11           But a lot of people were trying to come up  
12 with a formula. It came up with no definitiveness to  
13 any formula that anyone could come up with, so it's been  
14 a reasonable approach. As a matter of fact, we sat down  
15 with the quarter horse people several moons ago, it's  
16 over a year ago, probably a couple of years, and agreed  
17 to an across the board 70/30 split on VLT revenue. And  
18 not that we felt like that was fair for the  
19 thoroughbreds, but we thought it was a reasonable  
20 decision, and there was a lot of testy dialog that went  
21 on and finally some reasonableness arrived.

22           CHAIRMAN DYKE ROGERS: Any other questions  
23 of Mr. Hooper?

24           DR. KENT CARTER: Thank you.

25           CHAIRMAN DYKE ROGERS: Thank you.

1           DAVID HOOPER: Thank you.

2           DR. KENT CARTER: I have a question for Mr.  
3 Werstler if I could.

4           CHAIRMAN DYKE ROGERS: Yes.

5           ROB WERSTLER: Yes, sir.

6           DR. KENT CARTER: Not cutters, not breeders,  
7 how many thoroughbred race mares are there in Texas --  
8 or quarter horse racing mares are there in Texas?

9           ROB WERSTLER: We have 1,500 enrolled in our  
10 program. If I might, I'd like to address something Mr.  
11 Hooper stated as far as the incentive funds. The reason  
12 we have to pay the same amount to everybody is because  
13 we have such a small bank roll. Theirs is much larger  
14 than ours, so they have more room to -- it's just like  
15 if you have a lot of money for purses, you can put your  
16 top horses up here and your bottom horses down here. If  
17 you don't have a lot of money for purses, the top horses  
18 come here and your bottom horses come here, so there's  
19 -- they're a lot closer, so that's why we have to pay it  
20 out the way we do is -- and if we had the types of  
21 dollars they had, we would probably give out more for  
22 the better horses racing.

23                   Another thing I would like to point out is  
24 this year we both had yearling sales. Our sale was the  
25 best sale we've had to date. As thoroughbreds

1 was -- I don't know if it was their worst, but it was  
2 pretty dismal in their numbers. We sold 150 less horses  
3 for 150,000 more dollars. So y'all just talk up  
4 subsidies and such. I think we still put an excellent  
5 product out there. Unfortunately, they might be buying  
6 them here. Obviously we only sell 300 because we were  
7 limited to the space we put them in to erect tents at  
8 Sam Houston, and we have a 22-day sales results and so  
9 more horses, the better Texas bred are probably being  
10 sold at Riudoso. However, we still put out an excellent  
11 product. And the best thoroughbreds in Texas are  
12 running on the simulcast monitors. Best quarter horses  
13 are racing live on the racetrack.

14 Any other questions? Yes, sir.

15 DR. KENT CARTER: Your brood mare numbers,  
16 do you have those for like '02 or 2000?

17 ROB WERSTLER: Total? Are you looking for  
18 total or --

19 DR. KENT CARTER: Quarter horse racing in  
20 your program.

21 ROB WERSTLER: -- like what we have in our  
22 program, and it's teetered around 1,500.

23 DR. KENT CARTER: Do you know, has it been  
24 that way for two or three years?

25 ROB WERSTLER: This is Rena Coulter, she's

1 an ATV registrar.

2 DR. KENT CARTER: Declined by how much, do  
3 you know?

4 RENA COULTER: About 50 -- it's been about  
5 50 a year for the last three years.

6 DR. KENT CARTER: All right. Thank you.

7 CHAIRMAN DYKE ROGERS: I will certainly need  
8 to get a card from you since you're faxing stuff for us.  
9 Thank you.

10 ROB WERSTLER: I'll bring one.

11 CHAIRMAN DYKE ROGERS: Thank you. Okay any  
12 other questions? This revenue, Commissioners, just kind  
13 of for your information, a hundred percent of this  
14 revenue I think is generated in inbound signal, I think.

15 MICHAEL RUTHERFORD: What's that?

16 CHAIRMAN DYKE ROGERS: Inbound signal.  
17 And so it's generated based on what's coming into the  
18 state from somewhere else. And I don't know that these  
19 numbers are significant in this discussion because I  
20 think both Mr. Hooper and Mr. Werstler said there really  
21 isn't a lot of rhyme nor reason to how these deals are  
22 divided, and frankly there isn't, there's not one  
23 formula. If it were -- you know, if it were on live  
24 product, it would probably be 20 percent. On this it's  
25 more like 5 percent.

1           But on the other hand, you know, you could  
2 mix anything else into this, like he said, if there's  
3 betting on football, how would you -- how would you  
4 include that? Would you make that division? And it's  
5 been mentioned that if there were VLTs, there was a  
6 proposed split out here for that, how would you -- you  
7 know, what's the rhyme or reason for that? So I think  
8 this is just one of those decisions that we have to just  
9 decide what's fair and what's not fair.

10           I would express to -- sentiments to  
11 Ms. Noble. I feel for those and I think -- I think it  
12 is extremely difficult to do something that's not  
13 competitive. I just don't think we have the ability to  
14 change that competitive balance. Our incentive program  
15 would have to be 10 times the size that it is or they  
16 would have to get 10 times the cut in order to be  
17 equal to what they were doing in Louisiana. And without  
18 another source of revenue, we just don't have those  
19 funds, no matter what we do to split.

20           So any comments, Commissioners, you would  
21 like to make before we have a motion? Any  
22 Commissioners? I would entertain a motion of some kind.

23           MICHAEL RUTHERFORD: I make a motion that we  
24 keep the splits the same.

25           CHAIRMAN DYKE ROGERS: There's a motion on

1 the table from Commissioner Rutherford to keep the  
2 splits the same.

3 CHARLES SOWELL: Second.

4 CHAIRMAN DYKE ROGERS: Seconded by  
5 Commissioner Sowell. Any discussions? Ms. Giberson,  
6 would you call the roll.

7 GLORIA GIBERSON: Treva Boyd.

8 TREVA BOYD: Yes.

9 GLORIA GIBERSON: Dr. Carter.

10 DR. KENT CARTER: Yes.

11 GLORIA GIBERSON: Ernest Angelo.

12 ERNEST ANGELO: Yes.

13 GLORIA GIBERSON: Mike Rutherford.

14 MICHAEL RUTHERFORD: Yes.

15 GLORIA GIBERSON: Charles Sowell.

16 CHARLES SOWELL: Yes.

17 GLORIA GIBERSON: Jimmy Archer.

18 JIMMY ARCHER: Yes.

19 GLORIA GIBERSON: Louis Sturns.

20 LOUIS STURNS: Yes.

21 GLORIA GIBERSON: Dyke Rogers.

22 CHAIRMAN DYKE ROGERS: Yes.

23 Motion passes.

24 IV. E. REPORT ON RACETRACK INSPECTIONS

25 CHAIRMAN DYKE ROGERS: A report on race

1 tracks under Tab 8, Commissioners. Any questions that  
2 you have? Looks like things are pretty clean. No  
3 problems. Any questions?

4 Okay. If there's no other business to  
5 come before the Commission, we need to schedule our next  
6 meeting and I think we agreed today the next meeting is  
7 December 13th. Is that correct?

8 GLORIA GIBERSON: Yes, sir. Tuesday.

9 CHAIRMAN DYKE ROGERS: Okay. Tuesday,  
10 December 13th will be our next meeting. Anything else,  
11 Commissioners? We stand adjourned.

12 (The meeting was adjourned at 12:19 p.m.)

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