

1 BEFORE THE
2 TEXAS RACING COMMISSION
3 AUSTIN, TEXAS
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 COMMISSION MEETING

11
 OCTOBER 9, 2012
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20 BE IT REMEMBERED that the above-entitled matter came
21 on for hearing on October 9th, 2012, beginning at
22 10:30 a.m. at 105 West 15th Street, Room 140, Austin,
23 Travis County, Texas, and the following proceedings were
24 reported by Debra L. McGrew, Certified Shorthand
25 Reporter in and for the State of Texas.

A P P E A R A N C E S

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- Commissioners: ROBERT SCHMIDT
RONALD F. EDERER
MIKE MARTIN
GLORIA HICKS
GARY P. ABER
VICKI WEINBERG
JOHN T. STEEN, III
ANN O'CONNELL
ALLAN POLUNSKY

1 CHAIRMAN SCHMIDT: I'd like to call this
2 meeting of the Texas Racing Commission to order for
3 October 9th.

4 Ms. Carolyn Norwood, would you please call
5 the role.

6 MS. NORWOOD: Commissioner Aber?

7 COMMISSIONER ABER: Here.

8 MS. NORWOOD: Commissioner Ederer?

9 COMMISSIONER EDERER: Here.

10 MS. NORWOOD: Commissioner Hicks?

11 COMMISSIONER HICKS: Here.

12 MS. NORWOOD: Commissioner Martin?

13 COMMISSIONER MARTIN: Here.

14 MS. NORWOOD: Commissioner O'Connell?

15 COMMISSIONER O'CONNELL: Here.

16 MS. NORWOOD: Commissioner Polunsky?

17 COMMISSIONER POLUNSKY: Here.

18 MS. NORWOOD: Commissioner Steen?

19 COMMISSIONER STEEN: Here.

20 MS. NORWOOD: Commissioner Weinberg?

21 COMMISSIONER WEINBERG: Here.

22 MS. NORWOOD: Chairman Schmidt?

23 CHAIRMAN SCHMIDT: Here.

24 We have a quorum?

25 MS. NORWOOD: Yes, sir.

1 CHAIRMAN SCHMIDT: Okay. We have a
2 quorum, so we'll begin.

3 Just one item we'd like to bring with, I
4 recently learned and members of the Commission recently
5 learned that Mr. David Hooper will be leaving his
6 position as Executive Director of the Texas Thoroughbred
7 Association to accept a steward's position at the
8 fairgrounds in New Orleans.

9 Mr. Hooper, are you here? Could we call
10 you up, please?

11 I want to take this opportunity to call
12 you up to the front. I think all of us have had the
13 opportunity to listen -- listen to you for many years,
14 and we'd like to have a few words to express
15 appreciation to you.

16 I'm looking over your biography. David's
17 been involved in horse racing for over 50 years. I was
18 impressed by his biography. He's been an editor and
19 handicapper for major newspapers, he's been a track
20 announcer and a radio intelligence analyst in more than
21 40 Kentucky Derbies. He's been Executive Director of
22 the Illinois Racing Board, he's been a lecturer and
23 coordinator at the University of Arizona Racetrack
24 Industry Program and at their annual meeting in December
25 of each year. He's also been a steward, including a

1 stint with the Texas Racing Commission as one of the
2 three stewards at Lone Star's inaugural event. He's
3 also been an administrator of multiple state breed
4 associations.

5 In looking over your biography, David, I
6 think you've done -- have a tremendous breadth of
7 experience. I think the only thing you haven't been is
8 a jockey.

9 There's one thing I'd like to say -- I
10 know Dave's been with the organization since 1997 and,
11 from our perspective, he's done just a fantastic job
12 representing the interests of the Texas Thoroughbred
13 Association before the Commission. And, personally, as
14 Chairman, I appreciate his service, his insight and his
15 willingness to share his opinions on most all issues
16 before his -- before this group. He provides us with a
17 great breadth of experience and a great breadth of
18 perspective.

19 We wish you well. I think you've really
20 hit the Pick 4, from my own perspective. You have an
21 opportunity to go to New Orleans, a wonderful city,
22 watch wonderful horses every day, you have the best seat
23 in the house and then get paid to do so. So we
24 congratulate you on a job well done and wish you well.

25 MR. HOOPER: Thank you, Mr. Chairman.

1 Thank you.

2 Mr. Chairman and members of the
3 Commission, I'm deeply moved and highly honored by your
4 recognition this morning.

5 I also want to recognize two people who
6 have helped me so significantly in working side by side
7 with me for these last 15 years with the Texas
8 Thoroughbred Association. I'd like to ask
9 Jennifer Gibbs, our Racing and Accreditation Manager,
10 and Mary Ruyle, our Business Manager and on November 1st
11 the new Executive Director of the Texas Thoroughbred
12 Association, to please join me in this recognition.

13 Mary? Jennifer?

14 Thank you very much.

15 CHAIRMAN SCHMIDT: Good to see you, David.
16 Don't be a stranger.

17 MR. HOOPER: I won't.

18 CHAIRMAN SCHMIDT: Public comment?

19 Jonathan, has anyone turned in a testimony card
20 requesting to provide public comment?

21 MR. ORTEGA-SIERA: Yes, sir.

22 CHAIRMAN SCHMIDT: Mr. Carr, regarding
23 Dallas City Limits?

24 MR. CARR: Mr. Chairman, members of the
25 Commission, my name is Snapper Carr. I'm an attorney

1 representing Dallas City Limits, LLP. I appreciate the
2 opportunity to briefly give you an update. I've, of
3 course, visited with you all and provided public
4 testimony at your last several hearings dating back,
5 frankly, till last February.

6 I wanted to give one quick update. At my
7 last time to visit with you, I noted that the 5th
8 District Court of Appeals in Dallas had issued an
9 opinion in favor of my clients in this matter and
10 resolving some outstanding issues that we had indicated
11 to you at the time this Commission took action were
12 unresolved.

13 Based on some erroneous information that
14 you were provided, this Commission had moved forward,
15 which harmed my client in a contractual matter, private
16 contractual matter that was still moving through the
17 courts. We would respectfully ask that you all take a
18 chance to put the parties back in the position that they
19 were in prior to you all taking action to transfer a
20 license, frankly, to someone who did not have the
21 contractual right to own that license and had not paid
22 for it.

23 The courts have spoken on this. Shortly
24 after I testified to you all last time, the losing
25 parties in the action filed for a motion for rehearing

1 with the Dallas Court of Appeals. This Commission,
2 through the Attorney General's office, supported that
3 motion. Unfortunately, I think that was the wrong
4 position to take, frankly, and my clients would state so
5 publicly.

6 We're happy to note that on October 4th --
7 I'm sure the general counsel informed y'all that that
8 motion was denied, so there is no longer a pending
9 appeal or motion for reconsideration or rehearing of any
10 sort, and we would respectfully ask that for the next
11 hearing that you all take a -- put this item on an
12 agenda so that it can be fully vetted and we can see
13 where the parties are today. That is the fair and
14 equitable thing to do, and we would request that you all
15 look into it, as the Chairman indicated to me at the
16 last time that you all would be looking into.

17 And that is all I have. I'll answer any
18 questions you may have.

19 CHAIRMAN SCHMIDT: Any questions of
20 Mr. Carr?

21 Thank you.

22 Jonathan, anyone else for public comment?

23 MR. ORTEGA-SIERA: No, sir.

24 CHAIRMAN SCHMIDT: Okay. Let's move
25 forward.

1 In the interest of some of the
2 Commissioners who may need to leave at an earlier time,
3 we're going to deal initially with Proceedings on
4 Racetracks, Item IV, and I'm also going to take these a
5 little bit out of order. Under Horse Race Dates I'd
6 like to first address item IV-B with respect to the
7 accredited Texas Bred Program.

8 Mr. Jackson, can you summarize the issues
9 before us today briefly?

10 MR. JACKSON: Commissioners, on Pages 67
11 through 71 of your agenda packet, you will find the
12 information submitted in accordance with Commission Rule
13 321.505(b) relating to the allocation of funds for the
14 Texas Bred Incentive Program.

15 The Texas Racing Act sets aside funds from
16 simulcast wagers placed at the horse racetracks for the
17 purpose of providing an incentive to breeders of horses
18 in Texas who accredited their animals with the Texas
19 breed registries and race these animals in Texas at one
20 of the licensed racetracks. The Texas Racing Act also
21 requires the Commission to collect these funds and
22 distribute them to the breeder registries so that they
23 can, then, pay the eligible breeders an award from the
24 incentive program funds.

25 For fiscal year 2012 the Commission

1 collected or remitted 3.35 million in Texas Bred
2 Incentive Program funds. Commission Rule 321.505(b)
3 specifies, In the event there is no industry agreement
4 between the breed registries, the Commission shall
5 determine the allocation presented amongst the various
6 breeds of horses.

7 On October 2nd staff received an industry
8 agreement submitted on behalf of the breed registries
9 that delineate the percentages by which the breeds will
10 derive the Texas Bred Incentive Program fund revenue.
11 The agreement covers the tracks of Gillespie County
12 Fair, Saddle Brook Park, Lone Star Park, Retama Park and
13 Sam Houston Race Park and provides for the allocation
14 amongst the various breeds of horses. The actual
15 percentages by racetrack are reflected in a memorandum
16 on Page 68 of your agenda packet. Staff has reviewed
17 the agreement and finds that it is in compliance with
18 Commission Rule 321.505(b).

19 If you have any questions, I'll be happy
20 to answer them. I'm sure there are members of each of
21 the bred registries that could testify if you need them
22 to so.

23 CHAIRMAN SCHMIDT: Thank you, Mr. Jackson.

24 So just in summary, this first issue
25 revealing -- the first part of the meeting with the

1 distribution of simulcast funds, the area of dispute
2 involves purse allocation. But this is breed
3 representation, which is really awards for breeders, and
4 there's agreement by all the breed organizations.

5 Is there any public comment? Jonathan?

6 Mr. Hooper?

7 MR. HOOPER: I just signed up in support.

8 CHAIRMAN SCHMIDT: In support. Okay.

9 Thank you.

10 Anyone else?

11 Okay. Any discussion by the Commission?

12 I think all the breed organizations have
13 agreed upon this. I'll entertain a motion to approve.

14 COMMISSIONER MARTIN: I'll make a motion.

15 CHAIRMAN SCHMIDT: Motion by Dr. Martin,
16 second by Commissioner Ederer. Any further discussion?

17 We'll take it for a vote. All those in
18 favor signify by saying Aye.

19 (Aye votes cast).

20 CHAIRMAN SCHMIDT: Anyone opposed?

21 So that is approved.

22 Then let's deal with Items IV-B, IV-D and
23 IV-A. I think what we'll do is we'll discuss first the
24 allocation of the simulcast purse funds and then we'll
25 discuss the live race dates for the horse racetracks

1 since they're dependent on our initial discussion.

2 Mr. Jackson, can you lay out these items?

3 MR. JACKSON: Yes, sir.

4 Commissioners, on Pages 72 through 94 of
5 your agenda packet you'll find the information submitted
6 in accordance with Commission Rule 321.505(a) relating
7 to the allocation of horse purse revenue earned from
8 imported simulcast signals at the Texas horse
9 racetracks.

10 Commission Rules 321.505(a) stipulates,
11 one, an association shall recommend the percentage by
12 which it will divide the purse revenue generated through
13 simulcasting amongst the various breeds of horses. The
14 percentages are subject to the approval of the
15 Commission.

16 Two, when requesting Commission approval
17 of the percentages, the association shall present in
18 writing studies, statistics or other documentation
19 supporting the association's application.

20 Three, the Commission may consider the
21 criteria within Commission Rule 321.505(a)(4) when
22 evaluating whether to approve the association's proposed
23 division of purse revenue.

24 And, four, in lieu of the process of the
25 criteria as outlined within Rule 321.505(a), the

1 association may submit a signed agreement between the
2 associations and the organizations that negotiate on
3 behalf of the horsemen and the breed registries in the
4 state.

5 At this time, Commissioners, no industry
6 agreement has been submitted. As such, the associations
7 have submitted their recommendations, and they can be
8 found in your agenda packet on the pages I previously
9 mentioned.

10 Any questions on that one?

11 CHAIRMAN SCHMIDT: Thank you, Mr. Jackson.

12 Again, for clarification, now we're
13 dealing with the allocation of some simulcast funds for
14 purses, and how we allocate the funds will, in turn,
15 affect our live race dates to some degree.

16 Jonathan, do we have any racetrack input
17 at this point?

18 MR. ORTEGA-SIERA: Bryan Brown.

19 CHAIRMAN SCHMIDT: Mr. Brown's available
20 to testify but -- Mr. Brown, do you wish to testify or
21 are you available to testify?

22 MR. BROWN: I'll go ahead and testify.

23 CHAIRMAN SCHMIDT: Sure. I was confused
24 by your position here.

25 MR. BROWN: I -- I believe the -- and

1 correct me if I'm wrong, but the part I should have
2 filled out on -- on the allocation of purses I do want
3 to testify, and then the cross species I'm available so
4 --

5 CHAIRMAN SCHMIDT: Okay.

6 MR. BROWN: I'm not sure if I misfilled
7 out the cards or -- or what.

8 CHAIRMAN SCHMIDT: So you're -- you're
9 talking about the allocation right now?

10 MR. BROWN: Of purse funds, correct.

11 CHAIRMAN SCHMIDT: Right. Allocation of
12 purse funds, which would really be Items B and D. B --

13 MR. BROWN: Well, I thought we were on C
14 so --

15 CHAIRMAN SCHMIDT: I'm sorry. Yes.

16 MR. BROWN: Okay. Good. I'll talk about
17 C or anything else anybody wants me to talk about.

18 We provided you a lot of -- a lot of data
19 and -- and to let you know what we did, we specifically
20 went through the criteria that are outlined in 321.505
21 and 509 and tried to -- which -- which are objective
22 criteria, with some subjectivity that you could use
23 within the criteria, and we tried to -- to provide some
24 pure objectivity to it, and I can walk you through it.

25 And in the objectivity there's some

1 subjective percentages used so we can -- we can walk
2 through that. And probably the easiest thing to do is
3 to start out -- and I believe y'all were provided with a
4 color version of what we have in here, which was kind of
5 hard to read.

6 First of all, let me state that the colors
7 used were very purposeful to illustrate the differences
8 between the breeds, which is burnt orange and maroon, so
9 that should set you up for where we are, I think, an
10 analogy of where we are. And I did wear my tie, not
11 that I'm thoroughbred-oriented, because that's burnt
12 orange. I'm UT-oriented and I like this tie, so it has
13 nothing to do with which breed we support the most.

14 And just to walk through that chart -- and
15 this, again, kind of follows the -- the rule that we're
16 required and we work -- by the way, we worked long,
17 many, many hours as an industry to come up with a rule.
18 The Commission tasked us as an industry several years
19 ago to find a way to, as objectively as we can, come up
20 with our breed splits and then have a methodology by
21 which the Commission could evaluate our proposals. And
22 staff was very supportive in letting -- giving the
23 industry a lot of leeway with -- with great staff
24 support to come up with this rule.

25 So as we go through the arguments here, I

1 think we ought to very, very specifically address the
2 provisions of that rule and not stray into any -- any
3 other arguments, because the rule is there to -- to make
4 it easier for us all to make decisions.

5 But if you go through our charts, it takes
6 you through where we are with each provision. Our
7 average live handle by breed, which is 57 percent
8 quarter horse, 43 percent thoroughbred, a lot of that
9 relates to the time of the year that we're racing. We
10 have ideal quarter horse dates for our live handle in
11 the summer and less ideal thoroughbred dates for live
12 handle in the fall. In the fall we're competing with
13 college football, high school football on Friday nights,
14 pro football to some extent taking wagering dollars
15 away, even though we don't race on Sundays, and then the
16 Spurs beginning this month.

17 Simulcast import handle by breed very
18 heavily factored in favored of thoroughbreds, 91 percent
19 to nine percent. Now, what this does not include are
20 mixed meets and standardbred meets. We wanted to purely
21 focus on thoroughbred and quarter horse meets for this
22 analysis.

23 Earnings by breed, which is made up of
24 several components, is 83 percent thoroughbred,
25 17 percent quarter horse. The days that we've applied

1 for are 57 percent thoroughbred and 43 percent quarter
2 horse.

3 And I won't go through the others, but
4 that kind of gives you an outline of the criteria we
5 used. And, again, each one you could massage the
6 numbers, you could justify certain percentages over the
7 others. They're not real easy -- it's not real easy to
8 just take these numbers and come up with breed splits.

9 So we took all that and then, if you could
10 turn in your package -- I believe it's Page 84. And
11 this may not have made any sense, but this was Page 84
12 in the -- in the book, which is a chart labeled Analysis
13 of Section 321.505 and 321.509 Breed Split Criteria.

14 What we tried to do is take the relative
15 percentages of each category that are outlined in those
16 rules and apply a weight or factor to them, then leading
17 to an overall breed split, mathematical computation of
18 breed split. We factored, most importantly, earnings,
19 because that's what pays our bills, that's what keeps
20 our lights on, that's what allows us to pay salaries and
21 operate, so we factored earnings as 50 percent of the
22 importance of all those criteria.

23 We then looked at the two other factors
24 which aren't part of earnings, which is race date
25 request and availability of horses. Those -- those

1 really have no bearing on earnings itself. The other
2 factors have great bearing on earnings. And we applied
3 more weight to both race date request and availability
4 of horses at 15 percent apiece and then split the
5 remaining percentages at five percent each, so each
6 category is looked at in this analysis and each category
7 is weighted.

8 When you factor that in, that would tell
9 us that we should have a 70/30 breed split in favor of
10 thoroughbreds. What we have recommended both with our
11 cross-species percentage and our -- and our purse
12 percentage splits is basically pretty close to a 71/29
13 split, which is very, very close to the 70/30 that this
14 analysis would -- would lend you to recommend.

15 So what we feel we've done and -- and,
16 quite frankly, we came up with our splits before we did
17 this analysis, and we did this analysis just to see
18 where it ended up and it came up pretty close. So I
19 think what we've done is a very good job at determining
20 what this rule says we should allocate. We did spend a
21 lot of time on it, and we feel pretty comfortable with
22 it.

23 I could argue either side of the equation.
24 I could come up and tell you that the quarter horsemen
25 should get more money because of how well our meet was

1 this -- this past summer. And, quite frankly, quarter
2 horsemen supported our meet with a lot of energy and
3 enthusiasm, moved their sale to San Antonio over the
4 summer, which helped a lot. They did a lot of things to
5 make that meet work, as did we, and we're very proud of
6 how the meet went.

7 I could argue the thoroughbred side by
8 telling you that we opened up this weekend and our
9 handle -- our live handle was up about 16 percent -- or
10 excuse me -- 22 percent, our attendance was up
11 16 percent and our outbound export handle was up
12 75 percent. So if we were to apply numbers which it
13 looks like we're going to have this meet into this
14 analysis, it might favor thoroughbreds more.

15 I could argue either position. I've done
16 a lot of thinking about it and I -- and I really feel
17 that the industry did not come together like we should
18 have. We didn't do the work that it might have taken to
19 come to you with a -- an agreement or at least close to
20 an agreement, and maybe what you ought to do is punt it
21 right back to us and give us some time to get that
22 worked out, whether it's today or in the coming weeks.
23 However, we're very, very comfortable with what we're
24 recommending, and I'd be happy to answer any questions
25 you have. And hopefully I talked about the right agenda

1 item.

2 CHAIRMAN SCHMIDT: You did, and I confused
3 you. I apologize, Mr. Brown.

4 Any questions of Mr. Brown?
5 Commissioners?

6 Okay. Thank you, Mr. Brown.

7 COMMISSIONER EDERER: Just a second.

8 CHAIRMAN SCHMIDT: Sure.

9 COMMISSIONER EDERER: As far as -- you
10 said punt it back to you. What do you foresee happening
11 if we punt it back to you?

12 MR. BROWN: Well, the one thing we did not
13 do and I foresee happening is all getting in -- in a
14 room a second time. We did meet together one -- one
15 time very early on where we just presented both our race
16 date and breed split ideas. There was not really much
17 negotiation or -- or discussion. I would see getting in
18 a big room and just trying to figure it out with all the
19 key players in the industry. And if we can't do it, at
20 least we tried, but we really didn't take what I would
21 call a true negotiating step to get this resolved like
22 we have in the past, and we need to do that, I think.

23 COMMISSIONER EDERER: Do you have any
24 thoughts as far as dates are concerned and when you
25 would possibly come to a conclusion? Of course, you

1 wouldn't know that until you get together but --

2 MR. BROWN: We would love to get this done
3 as quickly as possible. We've got a legislative session
4 coming up. There's a lot of work involved before the
5 session starts that we need to be doing and focused on.
6 I know from the tracks' perspective -- and I've talked a
7 lot with Andrea and Drew -- we want to get this done as
8 soon as possible.

9 COMMISSIONER EDERER: What's that mean, as
10 soon as possible?

11 MR. BROWN: Start this afternoon, you
12 know, start tomorrow. It doesn't matter to me. You
13 know, I think we're -- we're ready to get it done the
14 next week or two.

15 COMMISSIONER EDERER: All right. But
16 you're available and -- and Drew and Andrea are
17 available to get started?

18 MR. BROWN: I'll let them discuss that. I
19 believe they are, though, sir. I certainly am.

20 COMMISSIONER MARTIN: So what are the
21 chances y'all think y'all will be able to work something
22 out? Just personally what do you think?

23 MR. BROWN: A&M and Texas didn't work
24 things out in their conference but I -- you know, I -- I
25 think there's a -- I think there's a decent chance if

1 everybody comes to the table willing to reach an
2 agreement. If there are other issues involved and
3 people have other agendas and merely just want to get up
4 here and fight and scream and yell, then it won't
5 happen, and I can't speak to those agendas that might be
6 out there.

7 But I know from the tracks' perspective,
8 it's important for us to be able to come to you each
9 year with an industry agreement and -- and, quite
10 frankly, focus on other things that increase, hopefully,
11 purses someday. And we're all arguing over a limited
12 pie. There's not a lot we can do to save and -- and
13 really elevate our meets up to the level that they are
14 in Oklahoma and Louisiana.

15 COMMISSIONER MARTIN: Did -- did UT win
16 this weekend?

17 MR. BROWN: I -- I'm not aware. I was --

18 COMMISSIONER MARTIN: I was just curious
19 since you brought that up.

20 MR. BROWN: Time Warner was not working
21 and a lot of other things happened but -- if it weren't
22 for a bad snap, they would have.

23 COMMISSIONER MARTIN: Starting to sound
24 like Aggies now.

25 MR. BROWN: At least we played a top ten

1 school.

2 And what was the -- I didn't see the
3 Mississippi-A&M game. What was the margin of that game
4 versus UT's margin? I don't -- I don't really remember,
5 but maybe that ought to be analyzed as well.

6 COMMISSIONER MARTIN: Maybe so.

7 CHAIRMAN SCHMIDT: Any other questions of
8 Mr. Brown?

9 Thank you very much, Bryan. Appreciate
10 your help.

11 MR. BROWN: Thank y'all.

12 CHAIRMAN SCHMIDT: To avoid any further
13 confusion, are there any other racetrack comments
14 focusing on the allocation of purses?

15 MR. ORTEGA-SIERA: They're on top right
16 there.

17 CHAIRMAN SCHMIDT: Okay. Bryan Brown has
18 spoken.

19 Ms. Young, Andrea Young?

20 MS. YOUNG: Good morning, Commissioners.
21 I went to an SEC school, so no UT jokes this morning.

22 I'm going to approach this kind of similar
23 to maybe how Bryan just did, kind of give you a brief
24 outline on how we approached this issue and where we are
25 today. I want to start with a couple really global

1 comments.

2 You know -- and I think Bryan hit this at
3 the end of his comments just now, is this is a difficult
4 situation. Not much has changed in our industry in the
5 last several years except, you know, generally declines,
6 and so we all have a pie to draw from and, you know,
7 both of the breeds, I think, are -- you know, I
8 understand both of their positions, certainly that, you
9 know, they want more of that pie to kind of sustain what
10 they have. And so until we kind of fix and rectify our
11 behind-the-scenes business models, this is a difficult
12 proposition we find ourselves in.

13 The other really big global comment I
14 wanted to make, because I'm not sure as Commissioners
15 you always get the -- a chance to understand this is
16 the -- the one trend -- the one meet that I think, in my
17 opinion, has defied every single trend both in the
18 industry nationally and locally is Sam Houston's
19 thoroughbred meet over the last two years.

20 For Commissioners that have been on the
21 Commission for a little while, you'll remember that we
22 used to run 60 thoroughbred dates. Two years ago we
23 literally cut those dates in half with the idea of
24 rectifying what we viewed as a supply-and-demand problem
25 in the Houston market. There was a lot of fight about

1 that, a lot of dissension among the thoroughbreds, in
2 particular, about it, but ultimately we walked away with
3 something that we were, you know, excited about, which
4 was a shorter meet.

5 Over the last two years we've had almost a
6 60 percent increase in our business, and that's not
7 insignificant at all. Our daily averages are twice
8 our -- the highest they've been since 2002, our
9 attendance is higher than it's been since the late
10 1990's. So for us, it's generated the first growth --
11 it's created the first growth opportunity that we've
12 seen in a very, very long time and -- and more
13 importantly, what it's enabled us to do is really stop
14 the bleeding and reinvest in the product.

15 So when we started this meet at 27 days
16 two years ago, you know, we had a certain marketing
17 budget, we had a lot fewer employees than we had five or
18 ten years ago. But what's happened over the last couple
19 of years is we've increased our marketing budget, we've
20 added back employees, we've added two or three employees
21 again in the last month, because we've been able to
22 generate positive cash flow during those months that
23 we're running thoroughbred racing.

24 So when I, you know, kind of outline these
25 numbers for you, I want you to know that they're

1 significant, we're proud of it, the thoroughbred
2 horsemen should be proud of the leap of faith they --
3 they took several years ago and, in turn, we've been
4 able to slowly add back dates over the last couple
5 of years. And you'll see us doing that again, you know,
6 in our race date -- I know we're talking about splits
7 now -- application as well.

8 So back to kind of, you know, the
9 Commission rule and how it asks that we -- you know, you
10 guys decide this issue, we, you know, broke it up into
11 the same criteria that Bryan did.

12 Local interest, I'll highlight a couple of
13 things for you. The large majority, almost 95 percent
14 of our simulcast handle is generated on thoroughbreds.
15 On an apples-to-apples basis, one of the key
16 differentiators between the two meets and for a
17 racetrack is that we can run four days a week on
18 thoroughbred, because we have the supply of the
19 horseflesh, and on quarter horses we're running a
20 three-day-a-week meet.

21 So on an apple -- if you compare the same
22 days of the week, we average about \$172,000 in handle on
23 track for a thoroughbred meet compared to about
24 \$112,000, or 35 percent less, during the quarter horse
25 meet.

1 I mentioned the ability to generate
2 positive cash flow in those months, which really helps
3 us sustain our operations for the rest of the year.
4 Also, the average field size, you know, almost a full
5 horse better for thoroughbreds even with a
6 four-day-a-week schedule.

7 And one of the things we saw last year is
8 that, you know, in the -- during the quarter horse meet
9 actually we get a lot of support for the trials in our
10 stakes program, but it's everything else that we have a
11 really hard time, a very hard time filling. If my
12 racing secretary were up here, he'd probably tell you
13 last year was -- earlier this year was the toughest meet
14 in terms of trying to fill races that he's ever had.
15 He -- you know, 28 percent of our races had five- or
16 six-horse fields, and so that, you know, really impacts
17 your business when you have small fields and a lot of --
18 things like a lot of scratches.

19 Finally, on our outbound signal, which is
20 where, you know, you see almost the biggest difference,
21 we generated about \$1.3 million a day during the
22 thoroughbred meet in outbound handle compared to
23 \$280,000 a day in outbound handle during the quarter
24 horse meet.

25 So for us, you know, we really approached

1 it about, you know, what do we need to continue to
2 invest in as a business, what do we need to try and grow
3 and what do we need to, you know, maybe sustain and try
4 to stop the bleeding as well on the either side. So you
5 know, we see, you know, some numbers, I think, that
6 would support, you know, even, you know, greater shares
7 to thoroughbreds but, you know, we're not suggesting
8 that. You know, we'd like to find some compromise.
9 We've been trying to find compromise.

10 I'm not sure I agree with Eric's -- I
11 mean, not Eric -- Bryan's statement that we haven't
12 tried. I think we have tried, and I feel like we have
13 two -- you know, we're negotiating with people that
14 don't want to move at all on the issue. So, you know,
15 the thoroughbreds are beating on us a bunch and the
16 quarter horses are breathing on us a bunch and they're
17 pretty well dug in, and I'm not sure -- unless, you
18 know, the sky parts today or words of wisdom come from
19 you guys, I'm not sure what's going to change between
20 now and next week and next month or the month after that
21 so -- I'm happy to answer any questions.

22 COMMISSIONER ABER: I'd like to ask --
23 Bryan said 70/30.

24 What is your figure?

25 MS. YOUNG: Our figure is 81 or --

1 roughly, it's 82/18.

2 COMMISSIONER ABER: 82/18?

3 MS. YOUNG: Uh-huh.

4 COMMISSIONER EDERER: Do you have -- Bryan
5 referred us to a page. Do you have your documentation
6 in here --

7 MS. YOUNG: Yeah. Our -- the
8 documentation I just described or --

9 COMMISSIONER EDERER: Right, right, right.

10 MS. YOUNG: -- the request?

11 COMMISSIONER EDERER: Both.

12 MS. YOUNG: I think it's Page 87 in your
13 packet, assuming you have the same packet I do.

14 And then there's also, right behind
15 that --

16 COMMISSIONER MARTIN: So -- so what would
17 be your opinion if the purses were increased in quarter
18 horses? Would that bring more horses to your track?

19 MS. YOUNG: If the -- well, I think it's
20 kind of like -- somebody said this to me once. It's
21 kind of like bringing a BB gun to a bear hunt. There's
22 not enough money to make a substantial difference
23 compared to what we're -- we're losing to the
24 surrounding states around us. So you'll hear, I think,
25 a lot of folks talk about, You know, it's only this much

1 a race, you know, is that really that -- a big deal?

2 You know, I don't think it will move the
3 needle and I think it allows us to continue -- if we
4 keep it with the thoroughbreds, it continues to allow us
5 to invest in the thing that's working.

6 COMMISSIONER MARTIN: About what is the
7 figure per race?

8 MS. YOUNG: The figure per race?

9 COMMISSIONER MARTIN: That y'all are
10 arguing over.

11 MS. YOUNG: You know, in our case it's
12 about \$550 a race or about \$150,000 overall. And so for
13 us, that's the difference between, you know, a new
14 stakes race in the thoroughbred meet, which is a part of
15 our program we need to invest in. And I'm not sure --
16 that's \$327 to a winner during the quarter horse race.
17 Again, I don't think that moves the needle.

18 COMMISSIONER MARTIN: But you feel it
19 would move the needle on the thoroughbreds if they lost
20 \$500?

21 MS. YOUNG: I think that -- you know, I
22 want to continue to invest in what's working, I want to
23 keep growing what's working, what's generating positive
24 cash flow for us. And, you know, big things that we can
25 market are what can continue to help us at this point.

1 CHAIRMAN SCHMIDT: Any other question of
2 Ms. Young?

3 Andrea, I want to just congratulate you on
4 the work you've done. Has any other track in the
5 country in a non-gaming state shown that type of growth
6 in the past five years?

7 MS. YOUNG: No, not even close. Thank
8 you.

9 CHAIRMAN SCHMIDT: What I think I'd --
10 what I'd like to do now, so the Commissioners can follow
11 consistent arguments, I'd like to, in order, call up the
12 folks on the quarter horse side and then on the
13 thoroughbred side, and I think I'll ask the
14 representatives from each side to just have a closing
15 comment or refute the arguments to kind of keep a
16 balance.

17 So Dr. Tommy Hays?

18 DR. HAYS: Good morning.

19 Is it alright if I pass out some
20 information to the Commissioners?

21 CHAIRMAN SCHMIDT: Yes.

22 DR. HAYS: What I didn't want to do is get
23 up here and read a -- I prepared a long statement. I
24 don't want to belabor this. We've been going over this
25 quite a while. We've met in the working group meetings

1 and various other meetings and -- and basically I think
2 people have dug in, so I think it's something that we
3 need to try to resolve today some way or another.

4 The quarter horses' position is that --
5 are we talking just race dates -- race dates or breed
6 splits only right now?

7 CHAIRMAN SCHMIDT: We're just starting
8 with the breed splits first.

9 DR. HAYS: Breed splits first. Okay.

10 So if we go back to that -- you know, just
11 from Andrea's comment, if you cut -- if you cut a meet
12 50 percent on days and you increase your product
13 ten percent, basically 60 percent, what have you really
14 done for the industry? And, yes, it's hard to fill
15 races in a quarter horse meet when you're only talking
16 about \$55,000 a day versus the thoroughbreds are running
17 for \$150,000 a day, which is basically a slot-level
18 purse.

19 So what they've done is relegated us to
20 the lower -- the bottom level that they think that they
21 can get by and pour all the purse money into the
22 thoroughbred meet. And I guarantee, if you'll look on
23 their day sheets at Sam Houston Race Park, if they run a
24 150,000-dollar stakes race, it's not the highest-bet
25 purse of the day. They'll bet much more on a

1 5,000-dollar claimer thoroughbred race. So for -- for
2 the argument that they're going to make more money by
3 throwing up a 150,000-dollar stakes race is not fair if
4 you go look at their numbers.

5 So basically what we proposed was to -- I
6 mean all these go back to the beginning of racing. I've
7 been here 27 years in racing in the State of Texas, and
8 I remember we -- when we passed racing, pari-mutuel
9 racing in the State of Texas, the quarter horses
10 drove the engine, okay. And back in those days, the
11 quarter horses, thoroughbreds, everybody got along
12 because everybody ran both breeds, okay.

13 And then we came along and we passed it
14 and within a few years the Class 1's came online, and if
15 you'll look at -- on -- on my information there on
16 Pages 1, 2 and 3, if you take those and look in 2001
17 when Lone Star Park was about five years into operation,
18 you can look at the number of race days. There were 342
19 race days, and they had a tremendous export product and
20 an import product, okay.

21 And so what happens if you look in 2006,
22 five years down the road, what's happening? You're
23 losing race days and you're losing 130 million in
24 import.

25 Go to 2011 -- and that's on Page of that.

1 If you go to 2011, you're already down to 151 race days,
2 so you knocked out 55 percent of your race days and
3 you've decimated import simulcast. So days drive the
4 whole product.

5 And what was the legislative intent for us
6 passing pari-mutuel racing? It wasn't to make
7 racetracks a commodity. It was to enhance the breeding
8 of horses in the State of Texas. So all I'm saying is
9 that there has to be a blend somewhere where the
10 racetracks will run some days that will promote the
11 interest in racing and -- and the numbers, okay.

12 And if you look at the racetrack -- you
13 know, if I was a racetrack operator, I wouldn't want to
14 run live racing because they make more money on
15 simulcast. They make two percent more than horsemen do
16 on multiple wagers of two. They make three percent on a
17 multiple -- like on trifectas, superfectas and other
18 multiples. So they make -- some tracks make a million
19 more dollars out of the -- out of the racing, the
20 simulcasts, than the horse purses do.

21 So what -- all we're asking is for some
22 parity. We -- we looked at -- I don't want to hurt the
23 thoroughbreds in the big market. We looked at a
24 three percent increase at Lone Star, a three percent
25 increase at Sam Houston Race Park. Those numbers are

1 147,000 a day of the whole meet, okay, at Sam Houston
2 Race Park. And with those numbers, out of
3 5.6 million-dollar purses, that's 147,000. And it costs
4 them \$474 a race just to support -- that we can all stay
5 alive.

6 Whenever we do have a chance to pass any
7 other legislation that might help, we need to all be
8 together, I understand. But we have to be alive and we
9 still have to be here, and 20-day race meets for quarter
10 horses are not viable. If you understand what it costs
11 to transport a horse in the state of Texas, move your
12 whole operation and all your people, housing, it costs a
13 tremendous amount of money.

14 So we're relegated now to three 20-day
15 meets for quarter horses. They're -- they're just
16 not -- they're not viable, and all we're asking is
17 for -- you know, to level this playing field. This
18 thing back in the old days before a lot of us -- some
19 people were around, whenever the Class 1's made the deal
20 at Lone Star, they gave us all the Manor Downs purse
21 money the first few years to trade for them getting the
22 bulk of Lone Star Park, and those were deals amongst the
23 horsemen at that time.

24 And what happened is that, when we lost
25 Manor Downs in 2010, okay, we lost -- there was a

1 million dollars that quarter horses were getting there,
2 and basically that's how they kind of hedged us out of
3 the others markets. And so now we've lost a million
4 dollars there and plus 18 or 20 days of racing more, and
5 we've never been able to make it up anywhere.

6 And, yes, the Commission hasn't had to
7 listen to this for six years because we've signed two
8 three-year deals not to have to do this in front of the
9 Commission, but somewhere eventually you get to the
10 bottom of the barrel and you've got to fight a little
11 bit to keep -- I mean I represent the quarter horsemen.
12 I don't have the opinion to say, Oh, let's just sit back
13 and take a beating another three years and not worry
14 about it.

15 So all I'm saying is that you can spin
16 those numbers any way you want that Andrea gave, but go
17 look at the real facts of what they handle on a
18 5,000-dollar versus a 150,000-dollar race, and it's not
19 too much to ask, in my opinion, that we try to at least
20 level this thing out and at least help everybody stay in
21 business. We -- you know, we feel that we have a very
22 low chance at this session of passing something, so
23 we've got to be around three years from now to help --
24 help get this thing done.

25 So if you have -- if you have any more

1 questions, I'll be happy to try to answer them if I can.

2 COMMISSIONER EDERER: Doctor, the increase
3 that you're requesting is three percent. That's three
4 percent from what, three percent --

5 DR. HAYS: Of the total --

6 COMMISSIONER EDERER: -- of what it is now
7 today?

8 DR. HAYS: Total simulcast. And you've
9 got to understand -- and you've got to understand -- I
10 don't know if you -- you know, there's export simulcast
11 and there's import simulcast. Export is what we produce
12 in the state of Texas that we send out to other people.
13 The bulk of what's betting in the state of Texas is a
14 signal that's in New York or -- or California or
15 somewhere that comes to the state of Texas. It's not a
16 Texas product.

17 The thoroughbreds in this state don't
18 produce anything, they don't control anything, and
19 they've been given 70, 80 percent of that over the last
20 ten years and -- and they've not produced a
21 betting product. You can look at the export simulcast.
22 That's the picture right there. We're not producing
23 anything in this state that will -- will garner any
24 bets.

25 COMMISSIONER EDERER: I understand that,

1 Doctor. What I'm -- what I'm asking you is you --
2 you're requesting a three percent increase, and is that
3 three percent of what you're getting today or three
4 percent of --

5 DR. HAYS: No. Three -- three percent.
6 You're going from -- the breed split at Lone Star Park
7 right now is 83/17.

8 COMMISSIONER EDERER: Okay.

9 DR. HAYS: And, you know -- and then you
10 remove the minor breed out of there. A lot of times
11 it's confusing when you read your numbers. There will
12 be obscure numbers, 81.47 or whatever, but it's
13 basically a breed split. It's always three percent out
14 for the minor breeds at all the racetracks, okay. Lone
15 Star Park is 83/17 right now.

16 COMMISSIONER EDERER: 83/17 right now, and
17 what you requested is 80/20?

18 DR. HAYS: 80/20, yes, sir.

19 COMMISSIONER EDERER: All right. And what
20 about the others?

21 DR. HAYS: It's on Page 8 there of that
22 handout. I -- I broke them down into --

23 COMMISSIONER EDERER: Well, of course, we
24 just got it today.

25 DR. HAYS: I understand, but I'm just --

1 just to say they're there but --

2 COMMISSIONER EDERER: I understand.

3 All right. What is Sam Houston?

4 DR. HAYS: Sam Houston is 78/22. They
5 were. Now, like I say, since the last working group
6 meeting they came -- they came in and revised their
7 numbers now to 83/17 or something like that. So they
8 were, you know, last year 78/22.

9 COMMISSIONER EDERER: All right. Well,
10 what you're working off of is 78/22 is --

11 DR. HAYS: That's -- that's where I was
12 working, because that was the original --

13 COMMISSIONER EDERER: All right. So what
14 you're requesting out of Sam Houston is 81/25?

15 DR. HAYS: No, no. 75/25.

16 COMMISSIONER EDERER: Oh, excuse me.
17 Yeah. I got that backwards, didn't I? 75/25. All
18 right.

19 And what about Retama?

20 DR. HAYS: Retama is 60/40.

21 COMMISSIONER EDERER: That's what it is
22 today?

23 DR. HAYS: No. It's 78/22.

24 COMMISSIONER EDERER: Retama is 78/22
25 right now?

1 DR. HAYS: Yes, sir, and we propose to go
2 to 60/40. And that was, again, because if you look at
3 the quarter horse meet -- you know, if you look at
4 demographics of Texas and the way it's changing,
5 Retama's meet is very much becoming, you know, a big
6 quarter horse meet. It could be a bigger one if we had
7 a little more money. It's a great time of the year for
8 the quarter horses. They've moved their sale there, and
9 we've done everything there to promote that market so --

10 COMMISSIONER EDERER: Now, the -- all
11 right. But the Retama, the 60/40 you're talking about,
12 that's 60 quarter horse, 40 thoroughbred?

13 DR. HAYS: No, no. 60 thoroughbred,
14 40 quarter horse.

15 COMMISSIONER EDERER: Is that what it is
16 now?

17 DR. HAYS: No. It's 78 thoroughbred,
18 22 quarter horse.

19 COMMISSIONER EDERER: Okay.

20 CHAIRMAN SCHMIDT: Dr. Hays, can you
21 clarify the three percent number? I followed the 83 to
22 80, I followed the 78 to 75, but then the 78 to
23 60 confused me. So three percent --

24 DR. HAYS: Well, that's what we just -- we
25 ask for those numbers at the big markets. I mean if you

1 look at the total big simulcast dollars, they're --
2 they're obviously at Lone Star and -- and Sam Houston,
3 not at Retama.

4 CHAIRMAN SCHMIDT: So you're asking for --
5 the three percent number you're referring to is Lone
6 Star, Dallas and Houston --

7 DR. HAYS: Yes, right.

8 CHAIRMAN SCHMIDT: -- and then you're
9 asking for a different number at Retama?

10 DR. HAYS: And then, yes, 18 percent at --
11 at Retama Park, yes, sir.

12 CHAIRMAN SCHMIDT: What is the aggregate
13 number of money you're asking for from a percentage
14 point?

15 DR. HAYS: 821,000. That's what that
16 does, based on 2011 numbers, you know, so -- that's the
17 only numbers we have solid to go on.

18 CHAIRMAN SCHMIDT: \$800,000 out of 15 -- I
19 guess what number is that -- is that five percent, then,
20 total for the state?

21 DR. HAYS: No. What you do there is --
22 right now the -- if you take the total amount of purse
23 money --

24 CHAIRMAN SCHMIDT: Uh-huh.

25 DR. HAYS: -- right now, the thoroughbreds

1 get like 80.4 percent and the -- the quarter horses get
2 19.6 percent, if you're looking at total simulcast purse
3 money okay.

4 So if you change the split, then your --
5 you -- your state average goes to 70 -- I think I have
6 it there. It's 74.5 thoroughbred, 25.5 quarter horse.
7 We're still not back to the -- you know, the 70/30.
8 They -- we're only about halfway back to where we really
9 should have been, you know, when we should have
10 corrected this six years ago, okay.

11 So what I'm saying is that, like I say,
12 instead of us trying to make the whole bite at one time,
13 we don't want to hurt -- we didn't intend to hurt the
14 thoroughbreds. Like I say, I raised thoroughbreds
15 before I raised quarter horses, you know, and -- and I
16 have no bias. I work -- I'm a veterinarian, and I work
17 on both breeds and I work on -- a horse is a horse, you
18 know. But, again, there's more breeding and more --
19 more activity in the quarter horse industry in the state
20 of Texas at this time.

21 CHAIRMAN SCHMIDT: Any other questions of
22 Dr. Hays?

23 Thank you, Dr. Hays.

24 DR. HAYS: Thank you.

25 CHAIRMAN SCHMIDT: Rob Werstler?

1 MR. WERSTLER: Good morning, Mr. Chairman,
2 Commissioners. I'm Rob Werstler representing the Texas
3 Quarter Horse Association.

4 First, if I may, I should have gotten up
5 when you were recognizing Dave Hooper. Dave's been a
6 gem for Texas racing. He -- he's -- Mr. Chairman, you
7 read his accomplishments, and they are -- they are many.
8 I met him in 1979 at Keeneland. We were both working
9 there. I was right out of college, and he was doing a
10 play-by-play for the stakes races.

11 A couple more things he's been. He's been
12 a confidante, he's been a great resource, he's been a
13 tough competitor. When we're talking about these breed
14 splits, as a matter of fact, there's a couple times
15 we've been at each other's throats, almost came to
16 blows, but it just shows that -- our passion for this
17 industry. And he's been a great friend, and we will
18 miss him.

19 At one point we actually -- at a
20 fundraiser they made us dress up as the Lone Ranger and
21 Tonto. And I don't know how much we raised, but I was
22 Tonto and he was the Lone Ranger. I think they did that
23 because they thought he'd look better in a mask.

24 First, I'd like to apologize to all of
25 you. We were thrilled to be able to come the last

1 few years and have an industry agreement. The last
2 thing we wanted to do is have to come up here and fight
3 these things out. It's counterproductive unless it's
4 completely necessary, and it's completely necessary this
5 time for a lot of the reasons that Dr. Hays just stated
6 to you.

7 What I would like to do -- one thing that
8 keeps floating around is the 70/30 number. A lot of
9 people thought that we wanted 70/30 at each racetrack.
10 What it was -- what I'd like to do is explain for --
11 just briefly what racing was prior to simulcasting.

12 Prior to simulcasting, all you had were
13 the horses that were running live on the racetrack. So
14 if you went to the races, that's all you could bet on,
15 those ten races, those horses that were on the
16 racetrack. There was no simulcasting.

17 So if you had 2,000 people a day and they
18 brought a hundred, two hundred dollars, they came to bet
19 on those ten races. Well, when you bring in
20 simulcasting, not only are you sending your signal out
21 but you're bringing a signal in, and this is the number
22 that keeps being, you know, raised, the 93 percent
23 that's, you know, generated by thoroughbreds. Those are
24 thoroughbreds outside the state.

25 Well, when we passed -- now I was in

1 Oklahoma when it happened, but we did it -- we passed it
2 there as well just -- they passed it in Texas a few
3 years after we did. Well, one thing that you were
4 worried about was cannibalization of your live product.
5 The live product is the most important thing in any
6 state for the breeder -- breeding industry.

7 So you know when you start bringing in
8 hundreds of signals from outside the state, some of
9 those people that are now going to the races with their
10 \$200, it stands to reason they're not going to be
11 betting it all on those ten races anymore. They're
12 going to start betting on Churchill Downs, Gulfstream,
13 all these races that are coming in from out of state, so
14 you have to do something in order to offset
15 cannibalizing your live product.

16 So now the \$200, maybe instead of betting
17 that on live, they're betting a hundred live and they're
18 betting a hundred on the simulcasting. Well, the -- the
19 money that comes in on simulcasting, there's less that
20 goes to purses, a less percentage. But it's just by
21 reason of there are hundreds of signals coming in, you
22 know, it raises quite a bit of money.

23 Well, in Texas, those breed splits were
24 based on race dates at first so -- and we had many mixed
25 races, race meets at the time -- Trinity Meadows. So it

1 was based on how many races per race card each breed
2 ran, so it was -- it was closer to 50/50, 60/40 back
3 then.

4 As Dr. Hays alluded to, when the Class 1's
5 came in, to keep -- try and keep their thoroughbred
6 purses higher in those markets, they had asked if they
7 could keep a larger percentage for thoroughbreds and
8 less for quarter horses and, in return, they gave us a
9 hundred percent at Manor and I think Trinity Meadows was
10 50/50, so the entire State was 70/30. It was a 70/30
11 split. And over the years we've gotten away from that,
12 as Dr. Hays stated, and now it's -- we get a little bit
13 more than 19 percent.

14 It was -- it was not addressed in -- in
15 the statute as to how to split this money, but you can
16 imagine the quarter horse people would have never
17 helped -- not only would they not have helped, they
18 would not have allowed legislation to pass if they knew
19 this money was going to be based on the breeds of horses
20 that are coming in from out of the state.

21 I mean no different than if we were
22 betting on football. You can't split up breeds between
23 football, so no matter if -- what was coming in, the
24 signals were coming in, we would have never allowed that
25 because we realized, if you go to the races -- if you

1 could go to each racetrack every day, you'd have more --
2 13,000 -- about 13,000 more opportunities to bet on a
3 thoroughbred signal than you would a quarter horse
4 signal. So we wouldn't have -- I mean it stands to
5 reason there's no way we would have allowed something
6 like that to pass if we thought it was going to be based
7 on -- with a breed of racing outside of Texas.

8 And another point I'll make is, we have --
9 we have no control over that. We have control over what
10 we do on -- on track. Like Bryan Brown stated earlier,
11 you know, we moved our -- our sale down to San Antonio
12 to be near that summer meet to try and help out that
13 meet, and it has.

14 Just a few comments, one on Bryan. The
15 interesting thing -- some of the arguments he makes for
16 why his thoroughbreds don't do as well as quarter
17 horses, because he's running it in the fall and he runs
18 against high school football and college football, pro
19 football and such. Well, you could -- we could swap
20 that and use the same argument at Lone Star because we
21 run our quarter horse meet in the fall at Lone Star.

22 Also, Andrea stated that they basically
23 run one -- basically one more horse per race for their
24 thoroughbreds as opposed to quarter horses, but you have
25 to bear in mind they run 12-horse gates. We run

1 10-horse gates and, if we're running a 870-yard race, we
2 can only run eight horses, so there's the one horse
3 right there.

4 Also, on the negotiation process, one of
5 the -- the problems has been -- the racetracks at our
6 first meeting, they came out and they offered what their
7 race dates were going to be and what their breed splits
8 were going to be and they were both taking more money
9 away from the quarter horses and -- and days away from
10 us, and at Sam Houston it was adding race days to the
11 thoroughbred meet.

12 Well, you can't blame the thoroughbred
13 industry for saying, That's good with us. So it was
14 basically the quarter horses to have to try and move the
15 racetracks off of the numbers that they had offered to
16 us and -- and as Andrea said recently, the last few days
17 we have been trying to do that, but it kind of causes --
18 it's one of the reasons we have such difficulty with the
19 negotiation process.

20 I believe that's it for me. And if you
21 have any questions regarding cannibalization or the
22 70/30, I'll be happy to try and answer them.

23 CHAIRMAN SCHMIDT: Thank you, Rob.

24 Any questions?

25 COMMISSIONER ABER: Yeah. I -- I've got a

1 question.

2 You know, I -- I represent the public, and
3 we're interested in the breeding part of the industry.
4 Could you -- could you tell me how that affects both of
5 them and how the thoroughbred industry -- and tell me a
6 little bit about how many they're breeding and how many
7 registered foals they have and how many quarter horses
8 and give me some indication of what's going on in the
9 breeding industry?

10 MR. WERSTLER: Well, we've -- we've seen
11 at -- the American Quarter Horse Association is our
12 national breed registry, and they've seen between 21 and
13 23 percent decrease in the amount of quarter horses that
14 have been registered, and we're kind of seeing the same
15 thing in our -- our registrations. You'd have to ask
16 Mr. Hooper as far as what the thoroughbreds are.

17 As far as -- I think we're still holding
18 our own. Our -- our sale this year we were up a hundred
19 horses, which we couldn't believe, the fact that we
20 still had -- you know, and ours is limited to accredited
21 Texas-bred, so I think moving it to San Antonio helped
22 quite a bit. But I think it shows, you know, there's
23 still quite a bit of life in the quarter horse breeding
24 industry. As far as specific numbers, if you get staff
25 to get those -- ask me those, I can get those to you.

1 CHAIRMAN SCHMIDT: Any other questions?

2 Rob, thank you.

3 COMMISSIONER EDERER: No. I have a
4 question, please. Excuse me.

5 You heard -- earlier you heard Bryan say
6 that he believes that, if the industry could get
7 together, that he believes that they could work
8 something out. Andrea was a little skeptical. Dr. Hays
9 didn't indicate one way or the other.

10 What do you think? Would it be worthwhile
11 or -- or are you so entrenched and so implanted, do you
12 feel that everybody is, so that it would be a total
13 waste of time?

14 MR. WERSTLER: Well, what I would ask is
15 that if we -- if you decide breed splits today, you also
16 decide race dates or, if you decide race dates today,
17 you also decide breed splits. And here's why.

18 COMMISSIONER EDERER: We've just been
19 given information. We -- we haven't had a chance to
20 digest it and you're asking us to make a decision and we
21 just got this today.

22 MR. WERSTLER: Right. But I mean if
23 you -- if you were to allot -- award race dates today,
24 it kind of throws a wedge into the whole system because
25 now the racetracks -- basically you've already granted

1 2013 race dates to the thoroughbreds anyway.
2 There's only -- Lone Star's talking about dropping
3 three, and Sam Houston's adding -- talking about adding
4 three so -- and -- and there's status quo at Retama. So
5 there's no urgency to do race dates today anyway so --
6 but we've -- to answer your question, I -- I don't know.

7 We would try our absolute best, I can tell
8 you that. We -- but I think we have come to the
9 three percent. There may be some wiggle room at Retama,
10 I don't know, but the three percent at Lone Star and the
11 three percent at Houston, when you see what it means,
12 it's just a -- it doesn't -- it's not that big of a drop
13 to the daily purses to thoroughbreds, but it helps keep
14 the quarter horse product at least semi-viable.

15 COMMISSIONER EDERER: I -- I understand
16 that. I'm just --

17 MR. WERSTLER: So that's basically where
18 we are.

19 COMMISSIONER EDERER: -- but my question
20 is -- is do you feel that a meeting with the -- between
21 the industry would be worthwhile?

22 MR. WERSTLER: It -- well, absolutely. If
23 you don't -- if they're not granted today, absolutely,
24 it would be worthwhile. I mean --

25 COMMISSIONER EDERER: And, Dr. Hays, do

1 you agree with that?

2 DR. HAYS: Yes, sir.

3 COMMISSIONER EDERER: Thank you.

4 MR. WERSTLER: Uh-huh. Any other
5 questions?

6 CHAIRMAN SCHMIDT: Thanks, Rob.

7 David Riddell? Mr. Riddell from Tomball,
8 Texas?

9 MR. RIDDELL: Good morning, Commissioners
10 and Mr. Chairman. I would like to thank you for the
11 opportunity to speak today. I also wanted to extend my
12 appreciation for your commitment to our great state. As
13 a Commissioner on the Harris County Housing Authority, I
14 understand your sacrifices you take to serve our state,
15 so I do thank all of you for your time.

16 My name is David Riddell. As a
17 businessman, I come here today to make a brief
18 observation. In 1986 our Texas legislature charged the
19 Texas Racing Commission with a mission statement. That
20 mission statement reads, The purpose of this act is to
21 provide for the strict regulation of horse racing and
22 greyhound racing and the control of pari-mutuel wagering
23 in connection with that racing.

24 With a simple supply-and-demand model, if
25 the industry and/or Commission limits the number of race

1 days and continues with noncompetitive purse prizes,
2 there will be an unintended consequence resulting in an
3 already growing problem of unregulated horse racing
4 within our state. And that, Commissioners, does not
5 spell out the intent of the Texas Racing Commission
6 statement -- mission statement.

7 And I'm also -- I'm also very concerned of
8 the -- I'm Senatorial District 7 Chairman, so I have to
9 deal with a lot of State legislatures and State
10 Senators. And as a horse breeder, they're coming to me,
11 asking about certain situations that come up within
12 their district.

13 And within their district in Harris County
14 and surrounding counties, there's a growing issue of
15 unregulated horse racing. As a horse breeder, to
16 reference your question as to the number of horses being
17 bred, in our discussions today we're talking about a
18 regulated breed and regulated breed associations. I
19 have many customers that come to me that say that they
20 want to breed race horses and they couldn't care less
21 whether they're registered. The reason why is because
22 they want to win but not win on regulated tracks.

23 And, unfortunately, if all of the parties
24 here -- there's three parties here. We have the
25 racetracks, we have the breed associations and we have

1 the Commissioners. The unintended consequence of not
2 coming together on a decision will result in a large
3 growing fraction of our horse industry being pushed to
4 unregulated horse racing.

5 MR. FENNER: Mr. Chairman, I'm just a
6 little concerned that we're getting -- this is not
7 directly tied to the breed split. We're getting off the
8 topic of the posted items, so I'm getting a little
9 concerned about, you know, the agenda and the Open
10 Meetings Act.

11 So does this relate to the breed split
12 question?

13 MR. RIDDELL: It relates to the breed
14 split question in regards to not coming to a decision
15 and an unintended consequence of unregulated racing, and
16 that's my point today. I'm -- I'm probably one of the
17 only neutral ones in the room, because I'm having --
18 raising concern from some of our State legislatures
19 coming to me and -- and asking questions, the same
20 questions that some of their constituents are asking.

21 So I appreciate your time today and,
22 again, I appreciate all of you Commissioners for doing a
23 great job for our state. So thank you.

24 CHAIRMAN SCHMIDT: Mr. Riddell, thank you
25 for driving here from Tomball.

1 Do we have any questions of Mr. Riddell?

2 Mark, thank you. I -- I interpreted it
3 as -- as related to the breed splits, so I think there's
4 concern from their argument that -- that lower purses
5 will force people to bush tracks, which has been spoken
6 to me privately. So I think we're -- we're in bounds.

7 MR. FENNER: Yes, sir.

8 CHAIRMAN SCHMIDT: Then Mr. Jerry Wyndham
9 from College Station.

10 MR. WYNDHAM: Thank you, Mr. Chairman,
11 Commissioners.

12 I come as a -- I'm Jerry Wyndham from
13 College Station and have been breeding and raising and
14 involved with the quarter horse business for the last
15 40 years and come to you really as -- as that, a breeder
16 and owner and a race person.

17 I have been a past president of the Texas
18 Quarter Horse Association and on that Board, past
19 president of the American Quarter Horse Association and
20 on that Board, was original -- originally on the -- some
21 of the first HBPA's, the horsemen's organizations in the
22 state. I made a claim to fame to help bring Dave Hooper
23 here from another state when he first came so -- and
24 have been involved in the negotiations of breed splits
25 for -- since the very beginning -- excuse me -- and --

1 and I'm really kind of reinforcing what's been -- what
2 you've been told.

3 Originally, we had Trinity Meadows
4 running, which was 50/50 quarter horse/thoroughbreds, we
5 had Manor Downs, which was a hundred percent quarter
6 horses at the time, and we got a hundred percent of
7 the -- of the revenue there on simulcasting when that
8 began.

9 And -- and throughout the period of time
10 everything was really based on the quarter horses
11 getting about 30 percent of the total. The
12 thoroughbreds were pretty well 70, and that was an
13 average of the total. When Trinity Meadows went out, of
14 course, that affected everything. When Manor went out,
15 that certainly affected the quarter horses and we lost
16 that million dollars or so annually.

17 And we didn't come before you in the last
18 six years, actually, or the last two -- at least four,
19 to try to fight this out in public. We, in the interest
20 of unity -- and I think Mr. Hooper would tell you and --
21 and certainly Rob. In the interest of unity, we have
22 not tried to raise the issue of trying to increase our
23 position on breed splits. We got to the point with
24 racing dates and the -- and really kind of the attitudes
25 of the Class 1 tracks of keeping a reducedness that we

1 must do it now.

2 But 70/30 was the basis for the simulcast
3 split, and that's what we all worked towards.
4 Originally, the breed -- Texas-bred money was split on
5 that same basis. It was on 70/30, and it was done so,
6 on that basis, because that's what the -- well, the
7 purse money was split on. It's now changed to, you
8 know, two-thirds, one-third. But, anyway, I just wanted
9 to reinforce that information and -- and tell you that
10 I've been here from the beginning and that's kind of
11 where it's been.

12 Any questions?

13 CHAIRMAN SCHMIDT: Questions?

14 COMMISSIONER MARTIN: Can I ask
15 Mr. Jackson a question that ties into that?

16 CHAIRMAN SCHMIDT: Absolutely.

17 COMMISSIONER MARTIN: You know, that's the
18 thing. All of us here haven't been here as long as
19 Mr. Wyndham has and that sort of thing and don't have
20 the history that goes back.

21 Do you agree with the figures that have
22 been thrown? And I guess you, as the statistician and
23 that sort of thing, historically is that the way it's
24 been?

25 MR. JACKSON: Thank you, Dr. Martin.

1 COMMISSIONER MARTIN: You're welcome.

2 MR. JACKSON: Lovely agenda item.

3 I came here in 1993, '94 early. I was
4 brought here because of my knowledge in simulcasting and
5 my experience in this area in Louisiana.

6 Mr. Wyndham is speaking very correctly
7 when he talks about historical -- what had been done
8 and -- and how things were done. I -- I think if I was
9 going to add to his comments, I would say this, that the
10 time line is the issue of a lot of the stuff that's been
11 brought up today.

12 For example, Trinity Meadows ceased
13 operations in August of 1996. Bandera Downs, before it
14 ceased operations, I think, in June of 1995, those two
15 tracks were -- were heavily laded toward a simulcast
16 split that gave large amounts to the quarter horse, I
17 would say 50/60 percent, in that neighborhood. Would
18 you agree with that?

19 MR. WYNDHAM: Yes.

20 MR. JACKSON: At the time Manor Downs,
21 when they were running, were -- was a hundred percent
22 quarter horse because they didn't have an oval they
23 could run in thoroughbred racing. So when we talk
24 about, you know, those aggregate amounts, that's what
25 they were. The amount that the quarter horse got from

1 the three Class 1 tracks are much less than what they
2 are today.

3 As time moved along, i.e., we lost Bandera
4 in '95 and when we lost Trinity Meadows in '96, the
5 Class 1's that -- we had meetings just like this. There
6 was differences in opinion on what the splits would be,
7 and increases were made at the Class 1's incrementally
8 up that -- I don't think it got it back to 70/30, as
9 Mr. Wyndham said, but it incrementally got it back up
10 higher than what it was.

11 Another time line change that I would
12 throw in there about this point in time is legislation
13 passed with the Sunset Bill that allowed for
14 cross-species wagering, and with that came a new source
15 of funds called the escrow purse account, which is
16 another agenda item that you're going to hear on today.

17 When that initially got done and passed
18 and we start allocating that money, the initial
19 allocation of that money was built around that 70/30
20 split where thoroughbreds got 70 percent of that money
21 and the quarter horse got 30 after an amount taken off
22 the top for the minor breeds.

23 And what we find in the time line after
24 that as we progressed down -- this was probably getting
25 into late '99, somewhere around there, is that Manor

1 Downs then built an oval and they started running
2 quarter horses and the split at Manor Downs got changed
3 and then the quarter horse didn't get a hundred percent
4 of Manor Downs. I think they were getting about
5 75 percent or maybe 70, somewhere around there, and that
6 changed it again.

7 And then we went a couple years down the
8 road and we met at another Commission meeting like this,
9 probably in 2006 would be the -- there were other
10 incremental changes with agreements that changed, again,
11 incremental amounts at the Class 1 tracks.

12 And one of the agreements -- it was a
13 two-year agreement, if I remember it correctly, Sam
14 Houston and Retama had an incremental increase in the
15 two years, you know, that started at this rate and then
16 it bumped up maybe a half percent or a percentage
17 towards the quarter horse the next year.

18 Manor Downs started running thoroughbreds.
19 That caused an adjustment then that came before the
20 Commission just as it is today. People were dug in.
21 Commissioners had to make a decision. There was no
22 criteria with the new rule. The rule didn't exist that
23 way then.

24 If I remember correctly -- and, trust me,
25 I do -- Chairman Dyke Rogers sat in the chair that you

1 are, Dr. Schmidt, and there were several other
2 Commissioners there, and they were sweating over this
3 decision. But there was three pools of money that we
4 discussed that day, just like you have this morning;
5 however, there was no industry agreement on any of the
6 three. As of this morning you had an industry agreement
7 on the breed split money.

8 And as Mr. Wyndham said, the agreement on
9 the ATB money was more 70/30, thoroughbred 70,
10 30 percent quarter horse. The Commissioners had
11 sympathy for the quarter horse position, but they did
12 not decide to change the splits on the purse money.
13 They wanted to go with what the tracks recommended. And
14 what they decided to do was allocate the ATB money
15 differently, and that's how these larger percentages got
16 done to the ATB fund. They were actually higher than
17 what is now in place.

18 And because of that decision and the
19 concerns that it caused on one of the breed registries
20 that they were going to be able to financially continue,
21 they asked the Commission to reconsider their decision
22 and they set a staff and as many other industry
23 representatives to work to come up with a solution to
24 fix it.

25 And one of the fixes that came out of that

1 was a reallocation of the escrow purse account and,
2 instead of it being allocated 70/30 to the thoroughbred
3 and 30 percent to the quarter horse, it got redone and
4 now the quarter horse gets 70-something percent of that
5 fund and the thoroughbreds get 20-something percent.
6 That was done in 2006, which was initiated in 2007.
7 There was also some minor changes that increased the
8 allocations to the quarter horse from the Class 1
9 tracks. There have been no changes since that time.

10 What has happened, though, is two things.
11 The economy that we have all been having to live through
12 since 2007 caused significant decreases in the handles,
13 which is where the purse money comes from. In total, if
14 you didn't even consider breed splits as a -- as a
15 consideration, we've lost 30 percent of our purse money
16 over the last five years just to decreases in handle.
17 So the pie that we carve up has automatically gotten
18 smaller, and I think that's why people are digging in
19 and they feel desperate.

20 What has also happened is Manor Downs
21 ceased operations and, with that, it was the last track
22 other than our small county fair who has a heavily
23 weighted percentage allocation on simulcast to the
24 quarter horse.

25 So where we sit today is -- everyone's

1 testimony is, I think, fairly accurate. We don't have
2 tracks open like we used to in '95 and '96, running
3 mixed meets and generating the purse money that they
4 did. We don't have our Class 1 tracks generating the
5 purse money that they did five years ago, and we
6 obviously don't have Manor Downs open, generating the
7 money that they did as well as running in an important
8 time of the year for the quarter horse industry.

9 So we have a very tough decision today.
10 The breed registries have come forth with an agreement
11 on the ATB funds, so that's taken off your -- your heavy
12 plate of things that you have to consider. What we have
13 left is the simulcast purse money and the escrow purse
14 money. One is heavily weighted towards the side of the
15 quarter horse, that being the escrow purse account,
16 which is what we changed in 2006 and '7 to fix a
17 problem, and the simulcast purse allocation, which is
18 the import signals wagered on at our horse tracks to
19 carve up that purse money, is heavily weighted toward
20 the thoroughbred side.

21 The other piece that I would speak about
22 is because we've heard different methodologies of
23 allocation, specifically about cannibalization.

24 Texas is unique in one thing that it's
25 done. We have always approached simulcasting from the

1 standpoint of that it's a year-round issue and we give
2 everybody a percentage based off that year-round to
3 compensate for the cannibalization factor so that, if
4 you're not running live, you're getting a percentage of
5 the purse and if you -- even if another species is
6 running live, that species the opposite, meaning the
7 quarter horse or thoroughbred would be getting something
8 during that time as well to put to their purse account,
9 because racing in its nature is seasonal and there are
10 better times of the year.

11 Those who know what I'm talking about know
12 that wagering in -- in May and June when you have the
13 Triple Crown is just tremendous. It's totally different
14 than wagering going on in the state in January and
15 February. So by allocating a percentage across the
16 board all the time, each party got to, you know, partake
17 in that, but that's not the only methodology that can be
18 used.

19 Our neighboring states and other states
20 who have this problem do not use that methodology. They
21 have different ways of doing this, and when it's time to
22 discuss that, we can do that. I'll give one example.

23 We talked about supporting the live
24 product. In our neighboring state where I'm from and
25 how it was handled there, if you're running live racing,

1 the breed of horses that you're running on during that
2 meet, any simulcast purse money earned goes to that
3 breed. If it's dark, meaning between meets, the purse
4 money on -- during that time will go to the breed of
5 which the consumer bets it on.

6 I don't know what that methodology would
7 do for this state, but that's a different -- that's an
8 example of a different methodology, and it takes into
9 account the arguments that you hear before you about
10 cannibalization, supporting the product. From that
11 perspective, also it takes into account the -- the part
12 of let the consumer drive where the dollar goes.

13 Those are my thoughts on this and talking
14 about it from a historical perspective in the time line.
15 If I can answer any other questions, I'll be happy to do
16 so.

17 COMMISSIONER MARTIN: Well, and I've just
18 gotten information from both sides and I -- I didn't
19 want to put you on the spot, but at least we have an
20 unbiased historical perspective.

21 MR. WYNDHAM: Sammy expressed the
22 resolution of the problem back in 2006 by the escrow
23 account. Now, that -- that did take care of the problem
24 with Bandera and some other tracks closing, but when
25 Manor closed -- we have not resolved anything since the

1 time Manor closed, and our loss there -- and we did not
2 approach this Commission or any other one about trying
3 to resolve this in the past because of the unity issue.

4 I want to express that as much as
5 possible. We didn't want to cause problems within the
6 industry and -- and go before the public with trying to
7 resolve this thing and -- and we should have, I guess,
8 because -- but all of us thought that something would be
9 done with BLTs, but it didn't happen, and we would have
10 all been happy if the BLT issue had passed. We wouldn't
11 be fighting over a few dollars. But we must do
12 something to -- to correct that portion of it, and Sammy
13 did a great job of explaining it.

14 So any further questions?

15 CHAIRMAN SCHMIDT: Thank you, Mr. Wyndham.

16 MR. WYNDHAM: Thank you.

17 CHAIRMAN SCHMIDT: Let's move to the
18 thoroughbred side.

19 Ms. Haynes?

20 MS. HAYNES: Sorry. He's just, you know,
21 passing out material that I've put together. Jan
22 Haynes, President of the TTHBPA.

23 Before I begin, I'd like to say that
24 thoroughbreds and quarter horses, despite what you're
25 hearing now, we really are like a family. We

1 participate and work together on a lot of different
2 projects but, like some families, our disagreement's
3 over money, and that's what this breed split issue is,
4 argument over money.

5 The quarter horse argument is that they
6 used to have a 30 percent aggregate split and they want
7 that percentage again. The quarter horse (sic) argument
8 is we are in survival mode, and we can't afford to give
9 up any more purse money, any more race dates.

10 In 2009 the quarter horses had their
11 highest aggregate at 25.3 percent, and the reason I
12 picked that year is because that's when Manor was at its
13 peak. And it is -- there is a decrease now in that, but
14 it's because of the handle and the decrease in escrow
15 horse purse, not because their breed splits have
16 decreased, and I'll show you this in these charts.

17 Their splits actually increased in 2008
18 and then again at Retama last year. And -- and this
19 booklet I have prepared, the first graph illustrates how
20 the total earned purse, like Sammy said, has decreased
21 from 30 million in 2007 to 19 million in 2011. This
22 explains why both the quarter horse and the thoroughbred
23 aggregates have decreased.

24 And, again, the total amount wagered over
25 the last four years has decreased almost 40 percent and,

1 when posturing, both sides should have to give equally,
2 and we think it's unfair to ask the thoroughbreds to
3 continue to give more money and lose more race dates.

4 And if you flip over on the second page,
5 it shows race date allocations at the three Class 1's.
6 Over the last 12 years at Lone Star Park, thoroughbred
7 live race dates have decreased 29 percent, at Retama
8 54 percent, and at Sam Houston, its live, 61 percent.

9 And on the next page shows the simulcast
10 breed splits for the last 12 years, and it shows in 2008
11 there was an increase to the quarter horse splits at
12 Lone Star, Retama and Sam Houston, and in 2011 at Retama
13 there was another increase in splits in favor of the
14 quarter horses.

15 And on the next page the escrow purse
16 allocation table that Sammy was talking about, in 2007,
17 like he said, there was a major shift to favor the
18 quarter horses which generates almost a million dollars
19 for the breed. And this was negotiated, but they never
20 mention this additional purse money when they're talking
21 about, you know, their splits and stuff.

22 On the next page I've included like Lone
23 Star's meet comparables for both breeds. The
24 thoroughbreds account for 85 percent of live handle at
25 Lone Star and 95 percent of the export, yet our purses

1 have decreased 36 percent and the quarter horse's have
2 only decreased nine percent at this track.

3 And at Retama Park, which I didn't have
4 all of their stats whenever I did this, but
5 thoroughbreds account for 88.1 percent of the total
6 import handle, but Retama also stated in their
7 application the earnings by breed is 83 percent
8 thoroughbreds and 17 percent quarter horses.

9 And, also, on the next page is the
10 statistics for Sam Houston, which shows 95.8 percent of
11 the total import handle is thoroughbred. And I've had
12 several conversations with Andrea about this and what it
13 means to their bottom line, and so that's why she has
14 asked for her increase to -- for the thoroughbreds on
15 their breed splits.

16 And on the last page I show the Valley
17 Race Park's total handle, which is 93.3 percent
18 thoroughbred. This also goes to the cross-species
19 money, which the quarter horses receive 72 percent of
20 that revenue as well.

21 And like they've said, for the last
22 several years we have rolled along with this breed split
23 agreement for unity during the legislative session, but
24 the Texas thoroughbred industry can't continue to
25 survive going down this path. The handle examples I've

1 provided proves the public overwhelmingly supports
2 thoroughbred racing with an average of 93 percent. And
3 I've said it before, the betting public is the one that
4 decides our successes or failures.

5 The TTHBPA supports Sam Houston and Lone
6 Star's breed split applications. The one we can't
7 support is Retama Park. According to the Retama
8 proposal, thoroughbreds account for 85 percent of their
9 revenue, but they want to take more money from the
10 thoroughbreds and give it to the quarter horses.
11 Four years ago when the THP made a loan to Retama, which
12 we still haven't received payment on, I -- I don't see
13 how Retama can meet this obligation when they're
14 requesting to take even additional purse money from the
15 thoroughbreds and give it to the quarter horses.

16 As far as breed splits are concerned, we
17 believe Lone Star, Sam Houston and Retama should be
18 81.9625 thoroughbred and 16.7875 quarter horse, with the
19 minor breeds still having their same agreements. The
20 escrow purse split should be 50/50. With these numbers
21 you can see the thoroughbreds are trying to be fair and
22 not shut out the quarters.

23 And we also believe the breed split
24 agreement and escrow purse agreement should be in place
25 for three years so the tracks can plan long term, the

1 trainers and owners can better plan their circuits
2 because they'll know what their rates days are going to
3 be, and we're not back here in another year going
4 through all this again.

5 And, like I said, we're not trying to shut
6 out the quarter horses, but the numbers are shifting in
7 the wrong direction. Since the total purse has
8 decreased 40 percent, we've got to start correcting this
9 or the Texas thoroughbred industry isn't going to
10 survive either.

11 We feel by voting to approve Retama's
12 breed split application and continuing the horse -- the
13 escrowed horse purse splits, the TRC is sending the
14 message to all the Texas thoroughbred owners, trainers
15 and breeders that all the sacrifices we've made over the
16 last several years to help keep thoroughbred purses
17 stable have been in vein, while the numbers prove the
18 quarter horses can't even support their own live
19 product. I'm asking you to please look at the numbers
20 before you take the vote and approve the breed splits.
21 We believe the numbers speak for themselves.

22 And I would like to dispute the quarter
23 horse loss on Manor Downs and not recovering. Manor
24 Downs ran 18 live quarter horse dates a year. Retama
25 didn't run during that time. So Retama stepped up and

1 picked up those live race dates plus some, and then they
2 also have the additional escrowed money that's almost a
3 million dollars that comes into play.

4 And as far as reaching an agreement, I
5 mean Tommy Hays, we've talked. You know, Friday we've
6 talked, Saturday, and I even asked him, Since Retama
7 seems to be the track that is more open to quarter horse
8 dates, maybe Retama being a quarter horse track they
9 could run all their dates there, take their purse money
10 from the other two tracks and the thoroughbreds would
11 give them a larger split at Retama because they would be
12 running there.

13 You know, we -- I mean, like I said, we're
14 just trying to think out of the box and try to come up
15 with -- with something. So, you know, we are still
16 talking and trying to, you know, work -- work it out.
17 So that's all I have.

18 CHAIRMAN SCHMIDT: Any questions of
19 Ms. Haynes?

20 COMMISSIONER EDERER: So my question would
21 be the same as it was to the quarter horse people.

22 Do you feel that a meeting would be
23 worthwhile between the horsemen and the track --

24 MS. HAYNES: Well, it can't hurt.

25 COMMISSIONER EDERER: -- to continue this?

1 I mean I know that there have been many meetings and --
2 and -- and, you know, I've held a meeting, and everyone
3 has spoken on numerous occasions. I know y'all have
4 held many meetings, but it's now down to decision time
5 and -- and I can assure you that you don't want us to
6 make the decision with the information that we have in
7 our hands right now. Well, now maybe, because we have a
8 lot more information.

9 Have you given this information that you
10 just gave to us to the quarter horsemen?

11 MS. HAYNES: I just had it -- I just got
12 it yesterday.

13 COMMISSIONER EDERER: Right. And -- and
14 did you receive what the quart horsemen gave to us
15 today --

16 MS. HAYNES: No, no, sir --

17 COMMISSIONER EDERER: -- have you ever seen
18 that?

19 MS. HAYNES: -- I haven't seen it, no. I
20 did see -- Tommy Hays did email me their split
21 recommendations and what it would mean to each
22 thoroughbred race at each track. That's the only thing
23 I got. That's the only thing I've seen. But -- but,
24 yeah, I'll be happy to get --

25 COMMISSIONER EDERER: Well, Bryan -- you

1 heard Bryan say "punt it back to us."

2 MS. HAYNES: Uh-huh.

3 COMMISSIONER EDERER: That's -- that's
4 representing Retama.

5 MS. HAYNES: Right.

6 COMMISSIONER EDERER: I -- I've not heard
7 yet from Lone Star. Is Lone Star --

8 CHAIRMAN SCHMIDT: I -- I was going to
9 ask Drew after we finish with the thoroughbred people.

10 COMMISSIONER EDERER: Okay. All right.

11 MS. HAYNES: Yes, sir. I mean we have to
12 keep trying, you know.

13 COMMISSIONER EDERER: Of course.

14 MS. HAYNES: So --

15 COMMISSIONER EDERER: Thank you.

16 MS. HAYNES: All right. Thanks.

17 CHAIRMAN SCHMIDT: Thank you very much.
18 Any other questions?
19 Dr. Richard Welburn? Dr. Welburn, would
20 you like to speak?

21 DR. WELBURN: I -- I don't think I need to
22 speak because Jan just said it all.

23 CHAIRMAN SCHMIDT: Okay. Thank you very
24 much for your email, sir. I appreciate it.
25 Lane Hutchins from Fredericksburg, Texas.

1 MS. HUTCHINS: Jan said it all. I
2 don't -- I don't need to testify. Thank you.

3 CHAIRMAN SCHMIDT: Okay. And Mr. Wilson
4 representing the Arabians?

5 MR. WILSON: I'm Ed Wilson, President of
6 the Arabian Breeders Association. Thank you,
7 Mr. Chairman. I want to address this a little because
8 it has created a problem with us.

9 You go back to when the breed splits
10 contract that we've all been operating under the last
11 few years was signed, the paint horses basically were
12 not running at all. It was set up so that the minor
13 breeds would have two percent, and Arabians were the
14 two percent. And paints began to run and, as they did,
15 money for the paints purse come -- came from our -- what
16 we were getting as minor breeds. It had nothing --
17 quarter horse or thoroughbreds, neither gave up
18 anything.

19 So over the years we have not -- our
20 racing has -- has decreased some. Every time that -- we
21 run basically two days -- two races a week in each one
22 of the tracks during the quarter/thoroughbred meet at
23 Sam Houston and originally at the quarter horse meet and
24 the thoroughbred meet at Retama Park.

25 The reason we ran the thoroughbred meet at

1 Retama Park and the quarter horse was the money from
2 Retama, we used the simulcast money from there to run
3 during the quarter horse. Lone Star preferred that we
4 not run there, and so the money was transferred from
5 there to Retama to run during -- use during their
6 thoroughbred meet.

7 We were allowed four stakes races at Lone
8 Star park originally. As the paints began to run, we
9 were cut to two stakes races there, so we lost that.
10 Five years ago Lone Star said, We want you to start
11 running your money up here, so we've started running
12 Lone Star during their quarter horse meet.

13 So what we've got into now is that two
14 meets, the quarter horse meet at Lone Star and at the --
15 the thoroughbred meet at Retama overlap each other, so
16 we're basically trying to run half in one of them and
17 half in the other. And this -- and it worked fairly
18 well until we -- last year -- well, I guess during '10,
19 the paints said, We want to make a percentage split on
20 the minor breed money.

21 And what happened in the past, they simply
22 used the money that was put for minor breeds and if you
23 filled -- they gave each one of us races. If you filled
24 your race, they gave you the money, and any money that
25 one of them didn't use went to fill races for one of the

1 two breeds, the other.

2 But when we split it up, then we lost
3 additional money on this. It was not a good split, in
4 my opinion, but I agreed to it with the understanding
5 that we would relook at it at the end of this year, and
6 that's what we're doing now is looking at it.

7 With the current situation as we have,
8 when we get to the fall -- Sam Houston in the spring we
9 can get about the same number of races we've been
10 having. It's not -- seems to work out. At Lone Star,
11 their third quarter horse meet, we're going to run --
12 have the money to run about three-fourths of that meet.
13 At Retama Park we only have money to run about
14 two-thirds of that meet.

15 So I've met with -- talked with all of
16 them since our meeting and we -- they have made some
17 adjustments in those to try to address this equity, and
18 I feel that with the changes that have been made that we
19 will be able to fill -- we had -- we had three weeks in
20 there that we were going to run, you know, Lone Star,
21 and then we were down three weeks before we got back to
22 running at Retama Park. I think they've made
23 adjustments there that we'll probably be able to not
24 have that lapse in there and will give -- we have not
25 asked for an increase in purse monies out of this. We

1 just ask for the money that we can run a full meet.

2 This is important to us because we have
3 had some -- our breeding program quantity -- qualitywise
4 has increased in Texas in Arabians, but I know we don't
5 have as many probably as we did for a while.

6 I don't mind telling you the top Arabian
7 racehorse in the world was bred right here in Texas, a
8 horse named TM Fred Texas. He has been sold overseas,
9 he's won all the big -- most every big race over there,
10 so we're proud of it. It's given Texas a lot of
11 publicity.

12 This past year the Arabian Breeders
13 Association exhibited at Abu Dhabi at a big convention
14 there, and it was amazing the people that came by to see
15 what was going on in Texas because of TM Fred Texas. So
16 we feel like it's important that our program be able to
17 run on a regular basis, at least our two races a week
18 that we originally have been doing, and have the money
19 to race those.

20 Thank you for your time.

21 CHAIRMAN SCHMIDT: Thank you, Mr. Wilson.

22 Any -- any questions?

23 Okay. Dr. Rich, do you have anything to
24 add?

25 DR. RICH: Hi. Nothing to add.

1 CHAIRMAN SCHMIDT: Great. Thanks.

2 Then I think those are -- takes care of
3 all the people scheduled to speak.

4 Mr. Shubeck, I didn't see your card.
5 Maybe I misplaced it. Did you have any comments from
6 the Lone Star perspective?

7 MR. SHUBECK: Thank you, Commissioner.

8 You are in receipt of our letter that we
9 sent October 3rd to discuss breed splits. This year's
10 breed splits negotiations have been, quite frankly, more
11 than a challenge. We started in -- in June laying out
12 our opinions on how do we go moving forward. Lone Star
13 Park at the time wanted just to leave everything the
14 same. We've got bigger issues at hand here in the state
15 than squabbling over this amount of purse money.

16 The problem is twofold. There's not
17 enough money, and then the monies that we do have are
18 diminishing, it seems like, every year. Sammy put out
19 the number of about 30 percent, the handle being down
20 over the past few years, and that was definitely caused
21 by the recession and from the ADW that's pulling dollars
22 away from the on-track, and it's being wagered online
23 now and horsemen get zero percentage of that money.

24 We have a little different attitude,
25 though, on Lone Star Park than in the past. Our new

1 ownership, Global Gaming, they want us to negotiate with
2 the breeds and to come up with something that's fair and
3 equitable. It's very difficult. I've spent a lot of
4 hours on this. We've offered a couple of different
5 scenarios to the breeds that I thought were fair -- were
6 fair. It had both breeds not liking it a
7 hundred percent, and that's probably a -- a good outcome
8 when we have a negotiation like this. So as people,
9 particularly Bryan Brown said, I -- I think we can come
10 to the decision ourselves if given more time. I think
11 there is some time for us -- for more negotiation.

12 I would ask the Commission that we would
13 like to have our race dates granted today. And, again,
14 we didn't put in for any alteration of our race dates.
15 We put in for dates during the normal period, and that
16 was for 50 thoroughbred days and for 23 quarter horse
17 days. Lone Star Park is prepared to stand by those days
18 now, but if the breed split negotiations come up with
19 monies that make it reasonable that we add more quarter
20 horse days or move a thoroughbred day here or there,
21 then we will submit, later on, a small change to that
22 application and we'll run a different set of days for
23 2013.

24 I think the Commission has, you know, the
25 power to act on both of these issues today, to take the

1 track recommendations and just move forward, but I don't
2 feel that's in the best interest of Texas racing. I
3 think it would be the best interest for us to go back
4 and try to talk about this thing and try to work it out
5 ourselves.

6 That's really all I have. You have my
7 letter. It substantiates our earlier position but, as I
8 said, we'd like to negotiate and have an agreement with
9 the breeds, and that's what we'd really like to bring
10 before the Commission.

11 CHAIRMAN SCHMIDT: One question, Drew.
12 Thank you.

13 We did receive a lot of information today
14 from both sides, which is very useful. If we elected to
15 defer purse allocations but elected to -- to go ahead
16 and grant the race dates with the understanding that you
17 could amend it if there was a significant change, would
18 that -- would the tracks be comfortable with that, or
19 would Lone Star be comfortable with that.

20 MR. SHUBECK: Lone Star Park would be very
21 comfortable with that.

22 You know, when we're doing our business
23 plans right now, we -- we'd like to lock into
24 something --

25 CHAIRMAN SCHMIDT: Okay.

1 MR. SHUBECK: And something can always
2 change a little bit. Two or three days here or there
3 really doesn't upset too much, but I think we'd like to
4 have something bedded that this is what we're going to
5 have for 2013.

6 CHAIRMAN SCHMIDT: Okay. Thank you very
7 much.

8 Any other questions of Mr. Shubeck?

9 Thank you, Drew.

10 MR. SHUBECK: Thank you.

11 CHAIRMAN SCHMIDT: In the interest of
12 time, rather than calling folks back up, do any
13 Commissioners have any questions that are -- regarding
14 any of the testimony? If you want to call someone back,
15 you could.

16 MR. HOOPER: Mr. Chairman, I signed a card
17 on this topic.

18 CHAIRMAN SCHMIDT: I'm sorry, Dave.

19 Please -- please come up and speak.

20 MR. HOOPER: Mr. Chairman, Commission
21 members, my name is David Hooper, and I am the Executive
22 Director of the Texas Thoroughbred Association, at least
23 for 22 more days. And I'm proud of -- to have so many
24 quarter horse friends who are in the audience today in
25 addition to my thoroughbred colleagues.

1 But it is distressing that you're tied up
2 with this subject today. 17 years ago when I came to
3 work for the horsemen's organization initially here in
4 Texas, there was a terrible breed split fight and both
5 sides were locked in concrete, and here we -- 17 years
6 later we have both sides pretty much locked in concrete
7 at the moment.

8 But on behalf of the Texas Thoroughbred
9 Association, I want to put a realistic perspective on
10 the major differences between thoroughbred racing and
11 quarter horse racing and state some of the reasons for
12 the overwhelming wagering popularity of one over the
13 other.

14 First, thoroughbred racing is a national
15 sport. There are major thoroughbred meets from coast to
16 coast and border to border, supported by a host of
17 second level or minor league tracks. By contrast,
18 quarter horse racing is a regional sport, having a
19 foothold in the southwest plus a sprinkling of meets in
20 other regions but none in major metropolitan areas
21 outside Texas except for Los Alamitos racetrack south of
22 Los Angeles.

23 Second, thoroughbred racing is
24 overwhelmingly dominant among simulcast signals sent and
25 received from coast to coast and border to border. By

1 contrast, quarter horse racing simulcast by law cannot
2 be received for wagering purposes in some major racing
3 jurisdictions, which severely limits quarter horse
4 racing exposure by simulcasting to the southwest and
5 California.

6 Third, let's look at the business
7 implications of any reduction in existing thoroughbred
8 breed splits at Class 1 tracks in particular. Class 1
9 Texas track operators have testified repetitively before
10 this Commission that they can make money on thoroughbred
11 racing but not on quarter horse racing. Changing breed
12 splits by reducing the percent presently directed to
13 thoroughbreds from imported simulcast signals will
14 weaken the thoroughbred product in Texas.

15 The ramifications of reducing the
16 thoroughbred breed split share go beyond the negative
17 impact on thoroughbred purses at Lone Star Park, Retama
18 Park and Sam Houston Race Park. The impact will also be
19 felt on Texas farms standing thoroughbred stallions.
20 Let me explain.

21 If there's less thoroughbred purse money
22 to run for in Texas, there will be less reason to
23 bring a quality stallion that can command a
24 4,000-to-10,000-dollar stud fee to Texas because the
25 return on investment will not be there. In addition,

1 there will be further negative impacts on farm
2 employment because of the differences in breed registry
3 requirements.

4 The Jockey Club, the national breed
5 registry for thoroughbreds, requires a live cover of
6 stallion and mare, which means four or more handlers
7 assisting in a breeding shed. That is not so with
8 quarter horse breedings, which are done through AI, or
9 artificial insemination, requiring fewer employees to
10 accomplish conception.

11 There are additional business factors that
12 deserve your consideration. The operators of Texas
13 racetracks are experienced. They know their business
14 and what model makes them achieve a level of success.
15 They have made their good cases in materials provided to
16 you pursuant to the rules in place for equitable breed
17 split consideration.

18 Let's look at this from one more
19 perspective. If you were charged with regulating HEB or
20 Fiesta, Macy's or Wal-Mart, Eddie V's or Applebee's,
21 would you not support their ability to sell their most
22 popular products rather than one that the public is
23 lukewarm in accepting? This is the proven case with
24 quarter horse racing since it was introduced as a
25 pari-mutuel product in Texas. Why would you make any

1 decision that would hurt thoroughbred racing, the
2 product of choice of Texas Class 1 tracks?

3 In consideration of the aforementioned
4 subjects, the Texas Thoroughbred Association wants to
5 express its full support of the position of the Texas
6 Thoroughbred HBPA in regard to the allocation of horse
7 purse funds earned from simulcasting for 2013 at Class 1
8 Texas tracks.

9 But something new for you, trying to think
10 out of the box. Texas Thoroughbred Association would
11 like to suggest a way out of this dilemma.

12 There is every indication and assurance
13 that a new source of simulcast purse revenue will begin
14 to be generated at Saddle Brook Park's temporary
15 location starting later this month. If we extend the
16 present breed splits at Class 1 tracks for one year, the
17 Texas Thoroughbred Association can support the first
18 \$500,000 generated at Saddle Brook Park to be directed
19 to the quarter horse purse account. This can be used at
20 the Texas Quarter Horse Association deems to be in the
21 best interest of quarter horse racing. After the
22 generation of the first 500,000, it is proposed that the
23 agreed-upon 50/50 Saddle Brook breed split kick in.

24 Consider two other factors. There is no
25 request for live racing at Saddle Brook Park in 2013.

1 If the use of Saddle Brook purse money is agreed upon as
2 proposed for 2013, there is a good possibility that one
3 or more other Class 2 license holders will be open for
4 simulcasting sometime in 2013. If that happens, there
5 will be additional new sources of simulcast purse
6 revenue to consider for 2014 when breed split
7 discussions take place.

8 Thank you for your attention. I welcome
9 any questions you may have.

10 CHAIRMAN SCHMIDT: Thanks, Mr. Cooper.

11 Any questions from any Commissioners?

12 David, thank you, as always.

13 Having heard all the arguments, we
14 appreciate the input very much.

15 Mr. Ederer, do you have any comments?

16 COMMISSIONER EDERER: Yes, I -- I do.

17 First, I would like to say that I
18 appreciate all the work that everybody is doing. They
19 have done a lot of work, I can assure you,
20 Commissioners. These folks have been trying very hard.

21 It's obvious to me today, listening to
22 them, that they -- there is going to be an opportunity
23 for them to get together again. I'm directing this to
24 the Commissioners, of course. The information that they
25 have given us today I think they will disseminate to

1 each other prior to their meeting and, of course, I
2 encourage them to have their meeting as soon as possible
3 to see if they can't work this out.

4 It is certainly my recommendation -- and I
5 have told all of them this -- that they do come to an
6 agreement. They really don't want us making their
7 agreement for them. There's considerable knowledge that
8 they've given to us today that I think that, if it's
9 spread amongst them, that may have something to do with
10 it.

11 Also, as far as what has just been stated,
12 Saddle Brook, I understand, will be in play as far as a
13 potential revenue source. And I know at our last
14 meeting, the Committee meeting, Saddle Brook was present
15 and they're willing to cooperate in any way, shape or
16 form. Whatever the horsemen agree to and the tracks
17 agree to, they will certainly work with. Also, as far
18 as the Commissioners are concerned, I think the history
19 as -- at the request of the Chair from Sammy -- Sammy
20 has provided information to us that I think is going to
21 be very useful as far as the history is concerned.

22 So it's my recommendation at this point in
23 time that we do, in the words of Bryan, punt it back to
24 them, and request that -- that they do get together as
25 soon as possible. Certainly within the next three-week

1 period of time it would be nice if we had some sort of
2 an agreement or at least knowledge of the direction that
3 they're going before the Thanksgiving holiday comes. If
4 not, I -- I will hold a meeting right after Thanksgiving
5 to see what we can do prior to the next Commission
6 meeting, but I would certainly like to see a meeting --
7 I don't like meetings, so I'd like to see an agreement
8 come prior to that time. My recommendation to the -- to
9 the Commission now is to postpone the vote on the breed
10 split until the next meeting, the December meeting.

11 As far as the race dates are concerned,
12 I -- I don't have a real feel for that one way or the
13 other. If it affects -- it seems to affect the tracks
14 more than anyone else as far as wanting the dates -- the
15 race dates set. I don't know that the -- that the
16 breeds have any argument one way or the other.

17 I -- I will say this and -- and I think I
18 can speak for all of us, that certainly if there is a
19 breed split that does affect race dates down the road,
20 I'm sure the Commission would entertain a change of race
21 dates. I'm kind of speaking for everybody. I don't
22 mean to be, but anything that affects racing
23 dramatically I'm sure would be of concern to the
24 Commission, so they would certainly entertain race
25 dates.

1 With that said, that's my recommendation
2 is that it be -- the breed split be postponed until the
3 December meeting and, of course, I bow to the Chair on
4 race dates. And I -- I apologize, I have to leave.

5 CHAIRMAN SCHMIDT: Thanks for your work on
6 this, and thanks for your input.

7 MR. JACKSON: I just want to clarify on
8 your recommendation.

9 Are you talking about both the allocation
10 of simulcast purse money under Agenda Item C as well as
11 the breed split allocation for the distribution of the
12 escrow purse account?

13 COMMISSIONER EDERER: Yes.

14 MR. JACKSON: Thank you.

15 COMMISSIONER EDERER: Yes.

16 Anybody have any questions for me about --

17 COMMISSIONER ABER: Could -- could we have
18 people discuss the race dates a little bit here --

19 CHAIRMAN SCHMIDT: When we --

20 COMMISSIONER ABER: -- to see if they want
21 to set the race dates and what they want to do?

22 CHAIRMAN SCHMIDT: Thanks, Ron. Have a
23 safe trip.

24 Okay. What I'd like to do -- Commissioner
25 Ederer has chaired the Committee, and I really wanted

1 his input before he had to take a plane. So let's go
2 back to our discussion.

3 What I'd like to do is approach this issue
4 of what we want to do with the breed splits and the
5 escrow account, then revisit the race dates and
6 have input there, if that's okay with the Commission.
7 So let's just focus on the -- Commissioner Ederer's
8 recommendation or any other recommendations by any other
9 Commissioners.

10 Is there any further discussion about how
11 to address this issue of breed splits? And when I say
12 that, I mean both the breed splits and always the escrow
13 account.

14 COMMISSIONER ABER: Well, you know, I --
15 what I see is that they're not really that far apart,
16 and do we have to -- do we have to wait until the next
17 meeting to have the race splits?

18 CHAIRMAN SCHMIDT: We don't have to. It
19 was just Commissioner Ederer's recommendation.

20 COMMISSIONER ABER: Yeah. Would y'all
21 want to discuss that more here and see what -- we got
22 the -- what Dr. Hays is suggesting and -- and what y'all
23 are suggesting. Could you -- could they do it here and
24 get it done?

25 CHAIRMAN SCHMIDT: I think the general --

1 again, Commissioner Ederer has made his recommendation.
2 I think they did have an extensive meeting two weeks
3 ago. I -- I think the one thing that may give you a
4 little bit of an advantage, as a veterinarian, this is
5 an issue that you're pretty comfortable with --

6 COMMISSIONER ABER: Uh-huh.

7 CHAIRMAN SCHMIDT: -- and I've been on
8 this Commission for six years, and this is the first
9 time that this has come to any other members of the
10 Commission. So we -- you all, meaning the two
11 veterinarians, may be more familiar with this issue and
12 concern.

13 I think we've gotten a lot of information
14 here today that's a little bit new and it's -- I don't
15 think we've had a tremendous amount of track record
16 voting on this issue.

17 COMMISSIONER ABER: Uh-huh.

18 CHAIRMAN SCHMIDT: And Mr. Hooper made a
19 suggestion which was appreciated and certainly out of
20 the box so -- but you can certainly make any motion you
21 wish. You can make any motion you wish.

22 COMMISSIONER ABER: Well, you know, I --
23 I'd, of course, like everybody to get together and do
24 it, but I don't -- you know, do you have to wait another
25 two months to do that to -- to get your splits?

1 And y'all were wanting to do it sooner, and then with
2 the race dates, is that a -- do you want to do the race
3 dates now and then the --

4 CHAIRMAN SCHMIDT: We're going to -- we're
5 going to vote on -- we're going to vote on the splits
6 first, to table or to -- to approve. Then we're going
7 to vote on the race dates, but I think -- we can
8 certainly ask the other tracks, but I think we can
9 certainly vote on the race dates and if -- recognizing
10 that if there's some adjustment, that there will be some
11 adjustment.

12 COMMISSIONER ABER: It's -- it's a
13 consensus to let them come up with it -- their -- to
14 agree --

15 COMMISSIONER WEINBERG: Yes.

16 COMMISSIONER ABER: -- but to have them
17 agree fairly soon.

18 CHAIRMAN SCHMIDT: I think if they don't
19 agree, we'll -- we'll decide in December.

20 COMMISSIONER ABER: Okay.

21 CHAIRMAN SCHMIDT: I mean we'll have --
22 we'll have a bunch of doctors and lawyers decide as
23 opposed to track people.

24 COMMISSIONER ABER: Okay. So -- so then
25 the next Commission meeting, if they don't get it done,

1 we do it?

2 CHAIRMAN SCHMIDT: We will get it done --

3 COMMISSIONER ABER: Okay.

4 CHAIRMAN SCHMIDT: -- without question.

5 COMMISSIONER ABER: Is that okay with
6 everybody?

7 CHAIRMAN SCHMIDT: Would you like to make
8 a motion, sir?

9 COMMISSIONER ABER: I make a motion, if
10 they don't agree, that the Commission decides at the
11 next Commission meeting.

12 CHAIRMAN SCHMIDT: So I understood that to
13 mean that what you'd like to do is table the discussion
14 about the race dates -- table the discussion about the
15 breed splits and also the escrow purse account, which is
16 the breed splits at the greyhound tracks, to basically
17 follow Doctor -- Mr. Ederer's recommendation and table
18 that till the next meeting.

19 COMMISSIONER ABER: Right, but I'd like
20 for a decision to be made at the next meeting and not
21 put it off.

22 CHAIRMAN SCHMIDT: It will not be put off,
23 no.

24 COMMISSIONER STEEN: I'll second that.

25 CHAIRMAN SCHMIDT: Commissioner Steen

1 seconded.

2 There's been a motion made and a motion
3 seconded to table Items IV-C on allocation of purses as
4 provided under Commission Rule 321.505(a) and
5 distribution of funds in the escrow purse account among
6 the various breeds of horses under Commission Rule
7 321.509 -- that's basically a similar allocation of
8 money at the greyhound tracks -- until the December
9 meeting at which a final decision will be made by the
10 Commission unless a consensus has been reached by the
11 breeds.

12 That's the intent of your motion, sir?

13 COMMISSIONER ABER: Yes.

14 CHAIRMAN SCHMIDT: It's been made and
15 seconded. All those in favor signify by saying Aye.

16 (Aye votes cast).

17 CHAIRMAN SCHMIDT: Anyone opposed?

18 Ms. Norwood, that's been approved.

19 Okay. Then let's revisit the issue of the
20 live race dates, and I would just like to call
21 additional testimony because we did ask Drew Shubeck to
22 testify.

23 Corey Johnson, representing Saddle Brook?

24 MR. JOHNSON: Mr. Chairman, members of the
25 Commission, I'm Corey Johnson, the manager of Saddle

1 Brook Park.

2 First of all, I'd like to mention that
3 Glen Alexander could not be here today. He has been
4 committed to this project, but a member of his family is
5 undergoing major surgery and I told him that, based on
6 that fact and the fact that he'd been here and he's
7 actually put up his money and purchased a building in
8 Amarillo, that this group would understand and allow me
9 to carry forward with this.

10 As I did mention, as we stated in our
11 application, we have gone ahead and purchased the
12 temporary simulcast facility, and now we urge you to
13 allot us or grant our request for 2014 race dates,
14 October 24th and 25th. Our opening, if granted these
15 dates, would be -- for our temporary simulcast facility
16 would be in November.

17 We've had a few minor permit issues with
18 the City of Amarillo, like we expanded our parking lot
19 and we have to add some landscaping features. And some
20 of the health code issues have been upgraded over the
21 recent years since this building was used as a
22 restaurant so we have to install another sink and a few
23 other minor things, but that would be our plan, to begin
24 simulcasting in November if you were so inclined to
25 approve our request for race dates in 2014. And we're

1 very excited to become a productive member of the Texas
2 horse racing and breeding industry.

3 If you have any questions, I'd be glad to
4 answer those at this time.

5 CHAIRMAN SCHMIDT: Any questions of Corey?

6 We appreciate your commitment. Thank you
7 very much, sir.

8 MR. JOHNSON: And we're also -- if -- you
9 know, if the request is granted, we're open to working
10 with all members of the industry with the purse money
11 that will be generated from there to help in any way
12 to -- with this breed split issue.

13 CHAIRMAN SCHMIDT: Okay. We've had a
14 little bounce back and forth and I don't want to step
15 out of our focus, but I would like just your impression.

16 Do you think you could generate \$500,000
17 worth of simulcast funds?

18 MR. JOHNSON: Yes. Our projections would
19 call for that, that is correct.

20 CHAIRMAN SCHMIDT: Okay. So it's a
21 reasonable number.

22 MR. JOHNSON: Yes, that -- that is
23 correct.

24 CHAIRMAN SCHMIDT: Thank you, sir.

25 Do any other tracks -- Bryan Brown, would

1 you have any comments regarding the race dates?

2 MR. BROWN: I can certainly comment on --
3 on our race date application, but it is almost identical
4 to what we raced this year.

5 I would like to comment on Saddle Brook
6 Park's application. We're -- we're certainly supportive
7 of it with the caveat that they would be racing some
8 thoroughbreds at the same time we would be. We've got a
9 long time to figure this out, but it's -- it has been
10 done before where there are certain limitations put on
11 purses for a track that's overlapping with a Class 1.

12 In fact, Mr. Johnson required that of
13 Manor Downs on an overlap situation. I think we could
14 work that out. We'd certainly recommend you move
15 forward with -- with those race dates that Mr. Johnson
16 has proposed but leave it up to us to come back to the
17 Commission over the next couple years to make sure
18 that -- that we don't get harmed by purses or -- and I
19 know it's just one weekend, but we -- we don't want to
20 lose one weekend of -- of good racing at Retama, and I'm
21 sure Lone Star doesn't want to get harmed by one weekend
22 either, but I do believe we have plenty of time to work
23 it out. So that would be our only caveat to supporting
24 the race dates.

25 CHAIRMAN SCHMIDT: Thank you, Bryan.

1 Any questions of Mr. Brown?

2 Okay. Ms. Young, do you have any comments
3 on the race dates per se?

4 MS. YOUNG: I have one real global comment
5 that I think, you know, really almost exclusively deals
6 with Sam Houston that the other two Class 1's are not
7 sensitive to, and that is the timing of our season. So
8 our thoroughbred meet -- we have 31 dates that have been
9 granted -- starts January the 18th, so the condition
10 books and the stall applications for that meet are set
11 to go out after today's meeting.

12 So we have to determine things like how
13 many days if we're adding that extra weekend or not and,
14 you know, we have to go out -- we have to go out the
15 door with a -- a stake schedule before the December
16 meeting and we have to go out the door with an average
17 purse structure and all those things, so that's going to
18 require a certain leap of faith for us.

19 The second piece is, you know, our quarter
20 horse meet starts before the next Class 1 track even
21 starts any racing for the year, so that, you know,
22 starts at the end of March. And similarly, you know,
23 when we're preparing for our thoroughbred meet, we
24 combine all those marketing materials. I mean without
25 any quarter horse dates, essentially they're going to

1 get left off of a lot of things that we do over the
2 course of the coming months. Not insurmountable,
3 definitely not ideal.

4 So, you know, we -- we would press to try
5 to get the dates awarded today but, you know, we're also
6 realistic about where y'all's heads are at.

7 CHAIRMAN SCHMIDT: I understand.

8 MS. YOUNG: Thank you.

9 CHAIRMAN SCHMIDT: Appreciate that input.

10 Any other public comment about --
11 Jonathan, any public comment about the race dates we've
12 missed?

13 MR. ORTEGA-SIERA: You have --

14 CHAIRMAN SCHMIDT: Sammy, any secondary
15 thoughts, reflections or recommendations about the race
16 date proposals?

17 MR. WERSTLER: Mr. Chairman, I think both
18 Tooter and I submitted cards to testify.

19 CHAIRMAN SCHMIDT: Okay. I'm sorry, Rob.
20 Please come up and speak.

21 MR. WERSTLER: I would ask that you decide
22 race dates at the same time you decide breed splits.
23 You've already awarded 2013 thoroughbred dates. The
24 only difference you're looking at now would be three
25 less at Lone Star and three additional at Sam Houston

1 Race Park, so it's not that big a deal, and they're both
2 on the back end of their meets.

3 So it's -- I -- I think it would -- I
4 think it's prudent to do because it may throw another
5 monkey wrench into the whole negotiation process because
6 now the racetracks can say, Well, we can't change the
7 breed splits because we've already got our race days
8 and, if we have less, we're going to have to cut
9 thoroughbreds or we're going to have to do this. So it
10 kind of -- it throws another -- makes it even more
11 problematic.

12 However, I -- I -- I have a prepared
13 statement about race dates, so if we're -- if you're
14 going to entertain the idea of awarding those, I'd like
15 to go ahead and read that or --

16 CHAIRMAN SCHMIDT: Please give your
17 statement.

18 MR. WERSTLER: Okay. First, we -- we
19 would like to rest status quo. Obviously, we'd like
20 to -- like to run more days. The Retama Park meet did
21 so well this year Bryan added two days, and we were very
22 appreciative and it worked out extremely well and we
23 hope that maybe he can add some -- some more in -- in
24 the future.

25 However, we -- we can't -- the quarter

1 horse industry cannot afford to lose one race date. We
2 have -- currently have 27 at Sam Houston Race Park and
3 26 at Lone Star Park. If you go down to what they're
4 asking and we end up with a 23-day meet, was 21, and I
5 believe Andrea has asked maybe -- we've been negotiating
6 on this, so I'm not really sure what the number is now
7 but it was 21 days -- and a 20-day at Retama and a
8 23-day because Lone Star asked to drop three, you've got
9 basically less than 70 days of racing throughout the --
10 starting in March and ending in November.

11 So those three meets, with the price of
12 setting up your -- your stable, hauling horses, stall
13 rent for when you don't have stalls available at a
14 racetrack because your meet isn't running live, you --
15 you can't support an industry with that amount of race
16 days.

17 Another thing it does, futurity and
18 derbies are the life's blood of the quarter horse
19 industry. Once you the shorten those meets -- we have
20 two -- one major futurity at Sam Houston Race Park and
21 another nice futurity from the American Quarter Horse
22 Association in their challenge championship. If you cut
23 those days off, it jams those together to where you
24 can't run in both, you can only run in one. At that
25 time of year it's -- it's too quick back for those

1 horses.

2 The same thing would happen at Lone Star.
3 We have the Dash for Cash, which is a very important
4 futurity and derby for quarter horse racing. We also
5 have the Texas Classic. It's a million-dollar race.
6 That's -- that's our race, that's Texas' race, it's the
7 biggest race in Texas. And you jam -- you take another
8 week out and you jam those two futurities together and
9 now horsemen -- they can come -- they can decide to run
10 in one, but they can't run in both of them. This year
11 we were able to move those three weeks apart from the
12 final to the trial so those horses would have a much
13 better chance to run in -- in both of those.

14 But one -- one thing I would also like to
15 do is read a rule, a Racing Commission rule. It's
16 Rule 303.43, and it reads -- and the reason I'm reading
17 you this, it basically shows -- we're not in this
18 situation now, but it shows that thoroughbreds and
19 quarter horses were treated equally when awarding race
20 dates.

21 For any year in which there are less than
22 three Class 1 racetracks in Texas holding final
23 nonappealable licenses, the Commission shall allocate to
24 each such racetrack at least 17 consecutive weeks of
25 live thoroughbred racing and at least 17 consecutive

1 weeks of live quarter horse racing, unless otherwise
2 agreed to by the appropriate breed registry. Each week
3 of live racing shall consist of a minimum of four
4 consecutive days.

5 Okay. So 17 times four, 68, times two
6 racetracks, 136 days for thoroughbreds, 136 days for
7 quarter horses. I just wanted to point out that it's --
8 it's actually in our rules to where we're treated
9 equally.

10 Again, I would -- I would urge the
11 Commission to award race dates at the same time you
12 award breed splits, and I'll entertain any questions you
13 may have.

14 COMMISSIONER POLUNSKY: I'd like to ask
15 counsel to comment on his reference to Section 303.43.

16 MR. FENNER: Yes, sir. That is a 1992
17 rule. It is in effect, and it addresses a time period
18 before all three Class 1 horse racetracks had been
19 awarded. That rule is not applicable right now because
20 there are, in fact, three Class 1's issued and in good
21 standing. So, you know, in 1992 he's correct that there
22 was an intent of this rule to treat the quarter horses
23 and thoroughbreds equally, but it's not in play right
24 now because there are three Class 1's in effect.

25 MR. WERSTLER: I also wanted to point out

1 it did -- it did show at one point -- at one time the
2 amount of race days that the industry felt was important
3 to sustain a breeding industry. I understand why we're
4 not there now, but we were treated equally as well.

5 Thank you.

6 CHAIRMAN SCHMIDT: Thank you, Rob.

7 Anyone else signed up to speak on this
8 issue?

9 Yes, sir.

10 MR. JORDAN: Mr. Chairman, ladies and
11 gentlemen of the Commission, I appreciate the
12 opportunity to -- to address the 2013 race calendar.

13 First off, with all due respect, I mean
14 I -- I appreciate the coming forward of Saddle Brook
15 saying what they were willing to do and our thoroughbred
16 counterparts offering us that money but, like I said,
17 with all due respect I -- my next, I guess, question
18 would ask are they willing to give us back Brady,
19 Bandera, a hundred percent of these racetracks, too.

20 In his own words he said that they're
21 getting ready to -- Mr. Johnson said that they were
22 getting ready to open this racetrack and had every
23 intention of starting with a simulcasting facility.
24 There seems to be a kitchen sink might be a problem. I
25 mean, you know, let's don't go where we've been in the

1 facing with the calendar are -- are equally troubling
2 and impossible to accept. Quarter horse trainers are
3 basically faced with the same bottom-line cost to the
4 care and training as our thoroughbred counterparts, not
5 to mention the 3,000 or 4,000 dollars cost of moving to
6 set him up every two to three months.

7 Although the cost is shared by each breed,
8 the quarter horse trainer, having fewer race days,
9 having fewer days and less time to recoup his investment
10 is problematic. It's really a problem for us. Because
11 of this purse structure available to our owners, we're
12 not able to charge a daily rate comparable to our Texas
13 thoroughbred counterparts. Our daily rate ends up maybe
14 covering our cost, and some months not even that.

15 For a little example, I've personally been
16 involved in the racing business for about 50 years.
17 Throughout my career as a trainer with both quarter
18 horses and thoroughbred, there has been a so-called,
19 unwritten rule of thumb that allows you to -- allows you
20 or equates to a -- being able to charge one percent of
21 your bottom purse in your condition book as your daily
22 rate. In other words, you look at the condition books
23 all over the -- the United States, you'll see the bottom
24 purse.

25 Well, the trainer has always been, kind of

1 a rule of thumb, using one percent of that bottom purse
2 as his daily rate, the charge. If -- if I get a little
3 out of line, just pull me down and I'll try to explain
4 it to you.

5 CHAIRMAN SCHMIDT: No.

6 MR. JORDAN: In saying this -- oh, plus
7 the cost of shoeing and ten percent of what the horse
8 might earn or win during that race week.

9 Thus, the difference of what a trainer
10 might charge at Retama Park in San Antonio, Texas, say
11 65 or 70 dollars a day as a thoroughbred trainer, versus
12 what the same trainer doing basically the same job at
13 Belmont Park or at Santa Anita, which is closer to \$100
14 a day or \$125 a day directly -- excuse me -- directly
15 relates to the purse available at each racetrack. In
16 other words, we're bound to pretty much charge what our
17 owners can afford to pay us because of the purse
18 structure.

19 Note the comparison is somewhat extreme
20 because I -- I -- I'm comparing two or three different
21 states or jurisdictions. But by using this example, a
22 Texas thoroughbred trainer can easily charge 50 to 75
23 dollars a day, while a Texas quarter horse trainer who's
24 basically the -- basically giving the same care, because
25 of the direct impact of the purse structure of both

1 tracks in Texas, would be forced to charge no more than
2 25 or 35 dollars a day.

3 Plus, the added ten percent of the -- of
4 the winning horse, which in some cases -- an example, a
5 thoroughbred running today in the state of Texas runs
6 for possibly 16 to 20 thousand dollars in a race. That
7 being -- ten percent of that would come to about 11 or
8 12 hundred dollars going directly to the trainer. On
9 the other hand, a quarter horse running today is running
10 in about a 5,000-dollar purse, which the -- the
11 60 percent winner's share equals to about \$300 to the
12 trainer versus 1200 that the thoroughbred man gets.

13 So there's a lot of -- I -- I guess it's
14 not a perfect world, but there's a lot of difference in
15 the money that the -- that the thoroughbred, due to
16 these simulcast splits -- the thoroughbred owner and the
17 thoroughbred trainer have a huge advantage over the
18 quarter horse owner and quarter horse trainer.

19 This is not a problem that we just --
20 that's just crept up on us overnight. We've been
21 discussing this -- this imparity for years. The answer,
22 it's time we take a look at the simulcast --
23 simulcasting and -- and come up with an equitable split.
24 And here again, I know we were not on simulcast
25 splitting but they -- they relate to each other a lot.

1 Recently I've heard it referred to as
2 everything from a subsidy to a welfare check from our
3 thoroughbred friends. This is simply not true. It's
4 just another revenue source to enhance live racing in
5 Texas for all of Texas.

6 Unfortunately, the calendar also shows a
7 very small window between the closing of the Sam Houston
8 thoroughbred meet and the opening of the Sam Houston
9 quarter horse meet. The past two years some of the
10 quarter horse trainers have been unable to house their
11 horse with a sufficient time line to enable them to
12 participate at their highest potential.

13 Since the Sam Houston quarter horse meet
14 is our first opportunity to showcase our two-year-olds
15 each year and the futurity that is scheduled on opening
16 weekend, the owners and trainers agree we need two to
17 three weeks minimum of housing and preparation for our
18 animals to ensure the safety, well-being of our riders
19 and our first-time starters, plus the added opportunity
20 to offer this betting public -- or offer the betting
21 public an official published workout over the Sam
22 Houston Race Course.

23 Last but not least, recent history also
24 shows that we, as industry leaders, must strive to
25 assure the most consistent and safe racing surface from

1 inside rail to outside rail four our quarter horses,
2 their owners, the jockeys and the betting public. We
3 must have sufficient time prior to the opening of a
4 quarter horse meet to make sure these issues are
5 properly addressed with the utmost of integrity before
6 and during our quarter horse meets.

7 Thank you for your time. Any questions,
8 I'll be glad to answer them.

9 CHAIRMAN SCHMIDT: Any questions?

10 Thank you, sir.

11 COMMISSIONER ABER: I'd like to ask a
12 question.

13 What -- what dates are you wanting?

14 MR. JORDAN: Sir?

15 COMMISSIONER ABER: What days are you
16 wanting on that?

17 MR. JORDAN: Well, obviously the ideal
18 thing for the quarter horses would --

19 COMMISSIONER ABER: Okay. What's that?

20 MR. JORDAN: Would -- from my perspective,
21 would be to move back a week or so. I'm sorry, the
22 thoroughbred meet at Sam Houston coming in a little
23 earlier in the year. This would allow us to still start
24 at -- at the end of -- of March and -- and give us some
25 time.

1 The way the calendar shows now there's
2 just, you know, very little -- just a few days between
3 Sam Houston thoroughbred meet closing and the quarter
4 horse meet starting, and this has been a huge problem in
5 the past. Either moving us a week ahead, which may
6 throw us in a -- in a -- I -- you know, I'm not really
7 too concerned about whether it's a week earlier or a
8 week later, but give us some time between that meet to
9 get settled in, make sure that the -- that the problems
10 that have been addressed in the past are not there
11 anymore.

12 COMMISSIONER ABER: What about the total
13 number of days?

14 MR. JORDAN: Well, obviously, the total
15 number of days -- it goes back to you can't run for any
16 more than you can afford to run. And due to the fact of
17 the imparity in the -- in the simulcasting split, so to
18 speak, we've just got so many dollars to spend and we
19 have to put them to our best use, which is about -- you
20 know, in the past it's been about 50, 55 thousand a day,
21 you know, and -- and going below that is going to really
22 cause some problems and -- and we just can't survive
23 that.

24 COMMISSIONER ABER: Thank you.

25 MR. JORDAN: Any other questions?

1 THE REPORTER: Your name. I didn't catch
2 it.

3 MR. JORDAN: Louis Jordan.

4 THE REPORTER: Thank you.

5 MR. JORDAN: Thank you.

6 CHAIRMAN SCHMIDT: Anyone else.

7 DR. HAYS: You know, the truth is, the
8 reason that we're all here today and -- and this thing
9 kind of blew up was the situation at Sam Houston Race
10 Park with the race days. We had 30 days in 2011, they
11 cut us ten percent this year to 27, and then they made
12 an agreed-to cut this year of six days on their
13 application, 21. That inflamed everybody, okay. So we
14 have that situation at Lone Star, similar, only three
15 days there.

16 My -- my problem is with -- if you grant
17 the days as applied for, they've already agreed to give
18 some days back in some negotiations. So basically you
19 tie our hands and handicap us in any -- any further
20 negotiations, in my opinion. So those are the only
21 comments I have about that.

22 CHAIRMAN SCHMIDT: Thank you, Dr. Hays.

23 Other questions?

24 DR. HAYS: Thank you.

25 CHAIRMAN SCHMIDT: Have I missed anyone?

1 Anyone else scheduled to speak?

2 Ms. Young?

3 MS. YOUNG: I'd just like to point out
4 about the last comment Doc Hays made.

5 You know, in 2011 we applied for 21
6 quarter horse dates. That was the year Manor closed.
7 They effectively bought the six to nine additional days
8 with that purse money, and that purse money has since
9 been used and gone away. So it's a little bit -- I just
10 think a little bit misleading the last statement that
11 was just made and I wanted to clarify. Thank you.

12 CHAIRMAN SCHMIDT: Okay. Sammy, any
13 overview you can provide us with?

14 MR. JACKSON: The one comment that I have
15 for the Commission I think you should consider today is
16 that Saddle Brook Park's request for 2014 dates, it is
17 necessary for it to be approved today if you wish for
18 them to be able to begin simulcasting prior to the
19 December 9th meeting.

20 As far as the rest of the race date
21 calendar that's put before you today, I -- you've heard
22 the -- the concerns of Andrea Young at Sam Houston about
23 their condition books, the stakes program, but other
24 than that, staff has no -- no problem with tabling those
25 dates.

1 I can tell you that -- that we have been
2 in contact with the Saddle Brook Park management and
3 working with them on the beginning of their simulcast
4 operations. There's some small delays there, as you
5 heard Corey talk about, but we're -- we're gearing down
6 to providing information to set up the depository stuff
7 with the Comptroller's Office for the wire transfers and
8 start giving information to start the inspection process
9 prior to their opening, but that would all hinge on --
10 they need the dates granted for them to be able to
11 simulcast. Without that, they can't.

12 CHAIRMAN SCHMIDT: Okay. Thank you,
13 Sammy.

14 Okay. We'll open up -- we'll open this up
15 to any discussion by the Commissioners. I think we have
16 three or four options. We can approve the dates as
17 requested, we can approve the dates as requested
18 recognizing that they may need to be amended in
19 December. As we discussed, we can decline to approve
20 the dates, or we can table all the dates. Quite simply.

21 Any discussion from any of the
22 Commissioners? Any thoughts?

23 COMMISSIONER MARTIN: I would be a little
24 bit concerned about going forward with the dates if
25 that's still in the negotiation stage of the breed

1 splits and that sort of thing. That would be my
2 concern, so I would be leaning more towards tabling the
3 dates.

4 CHAIRMAN SCHMIDT: Okay. We have had Lone
5 Star and Sam Houston request that we give them some
6 guidance with respect to their planning.

7 I think the marketing is what struck me as
8 important to some degree --

9 COMMISSIONER MARTIN: I don't disagree
10 with that.

11 CHAIRMAN SCHMIDT: -- the big cities.

12 Any thoughts on --

13 COMMISSIONER O'CONNELL: Saddle Brook Park
14 seems a little bit differently situated, so I mean --
15 perhaps that could be taken separately.

16 CHAIRMAN SCHMIDT: Separately, sure.

17 Is that a motion?

18 COMMISSIONER O'CONNELL: I'd move to grant
19 Saddle Book Park's race dates as they are stated in the
20 packet.

21 CHAIRMAN SCHMIDT: Is there a second?

22 COMMISSIONER MARTIN: Second.

23 CHAIRMAN SCHMIDT: Is there any
24 discussion?

25 Will all those in favor signify by saying

1 Aye.

2 (Aye votes cast).

3 CHAIRMAN SCHMIDT: All those opposed?

4 Okay. That's approved. Saddle Brook
5 dates are carried.

6 Any thoughts on the other group?

7 COMMISSIONER STEEN: When -- when we talk
8 about approving those dates conditionally, that they
9 could be changed, what -- what does that entail?

10 Obviously, it's -- it's obvious that it is a factor in
11 the negotiations, but we also don't want to hinder the
12 marketing efforts of the tracks.

13 CHAIRMAN SCHMIDT: I think that's a -- I
14 think you capsulized it very well. I think there's two
15 issues in one. You -- Dallas and Houston are big
16 marketing areas, but I think it shouldn't be taken as a
17 negotiating wedge. The message should be loud and clear
18 that -- that the dates will be -- it's not going to
19 affect the purse structure, that our discussion of the
20 purse would be separate, but it's a Commission decision.

21 COMMISSIONER MARTIN: I don't know whether
22 that wouldn't behoove them to get together and come to
23 an agreement faster if they didn't have dates set.

24 CHAIRMAN SCHMIDT: I'll entertain a motion
25 either way.

1 COMMISSIONER ABER: Well, I'd like to make
2 a motion to table it, the race dates, and discuss it
3 later and have them discuss it.

4 CHAIRMAN SCHMIDT: There's a motion before
5 the Committee to table the race dates.

6 Is there a second to table it?

7 COMMISSIONER STEEN: Can I ask a question?

8 If -- if they do come to an agreement
9 prior to our meeting in December, they're -- they're
10 still out those days as far as marketing the races? Is
11 that correct?

12 CHAIRMAN SCHMIDT: I don't -- I think it's
13 more -- we can't vote on it -- we have to vote on it as
14 a Committee. We can have a -- we can have a special
15 meeting, but we'd have to -- we'd have to be here and
16 vote on it.

17 COMMISSIONER STEEN: Right.

18 CHAIRMAN SCHMIDT: So I think they lose
19 the ability to meet with the public relations people
20 and -- and -- and do that and plan it.

21 COMMISSIONER O'CONNELL: I have a question
22 for Andrea.

23 I'm sorry to make you walk up again,
24 but you have dates here that go into 2014. They start
25 in January of 2013 but go into 2014 so --

1 MS. YOUNG: I'm not concerned about those
2 dates.

3 COMMISSIONER O'CONNELL: I -- I know.
4 Tell me -- which dates are the dates that you're
5 concerned about? Is it just the January 2013 dates that
6 you feel like --

7 MS. YOUNG: The March 2013 thoroughbred
8 dates, an additional weekend, and the quarter horse
9 dates.

10 So let me give you an example. We put a
11 pocket schedule out, okay, that has our complete meet
12 season for the year. That's the type of thing that, you
13 know, essentially will be going to market. You know, we
14 would probably highlight like, We've requested
15 additional days but, you know, I don't know how we would
16 do that on the quarter horse. I mean that's not
17 something we have the capital to reprint twice.

18 And that's just one of many small
19 examples. And, you know, my point on this is this is an
20 industry every time we turn around that talks about, you
21 know, how you got to market yourself and how you got to
22 put yourself out there and -- and, you know, run a
23 modern-day business and, you know, that's what the
24 date -- you know, this is the type of situation where
25 that's what we're trying to attempt to do.

1 Thank you.

2 COMMISSIONER POLUNSKY: Chairman?

3 CHAIRMAN SCHMIDT: Yes, Commissioner.

4 COMMISSIONER POLUNSKY: How long have --
5 have these negotiations been taking place that the
6 Commissioner Aber is --

7 CHAIRMAN SCHMIDT: Informally --
8 informally, perhaps eight weeks or longer.

9 COMMISSIONER ABER: Probably July.

10 CHAIRMAN SCHMIDT: Yeah, August,
11 September.

12 COMMISSIONER POLUNSKY: I -- I personally
13 feel that to defer this to December would hinder the
14 ability of the racetracks to properly market their
15 facilities to the general public and, therefore, be
16 hurtful to the industry as a whole.

17 I understand the argument with respect to
18 giving the different breeds the opportunity to have an
19 open dialogue and no constraints, so to speak, during
20 this period, but I still feel a bit -- this is something
21 that's been discussed and an opportunity's been given
22 the stakeholders to come to some type of resolution that
23 hasn't been done, and I feel our -- our paramount
24 obligation here is to set the race dates.

25 CHAIRMAN SCHMIDT: Commissioner Aber made

1 a motion which was not seconded.

2 Is that a motion?

3 COMMISSIONER POLUNSKY: Well, he made a
4 motion, but I don't -- I don't know if he had an
5 opportunity for anyone to second.

6 COMMISSIONER ABER: I'll -- I'll rescind
7 that.

8 What I -- what I'd like to find out is
9 exactly the dates that everyone wants. I haven't really
10 seen -- I want to see exactly what the dates and -- and
11 what they have agreed to and if we can agree to that
12 right now.

13 CHAIRMAN SCHMIDT: Okay.

14 COMMISSIONER MARTIN: I think in the
15 packet we've got what the racetracks want, but I don't
16 know if that's what the horsemen have agreed to or not,
17 and that's my concern.

18 My other comment on the whole deal is, if
19 this would have been decided before we got to this
20 point, we wouldn't have had this problem.

21 Also, which -- that's kind of a moot point
22 but, you know, whether we have to have a special meeting
23 to revote on this thing as far as race dates, I think
24 that would behoove them to get together and come up with
25 a decision. And whether that's next -- two days from

1 now or what, but that's my opinion.

2 CHAIRMAN SCHMIDT: Okay. Any thoughts?

3 We have the race dates proposed by the
4 tracks, we have suggestions from some of the horsemen.
5 We can defer and revisit this issue in -- in -- at a
6 special meeting. I'm certainly comfortable with that,
7 or we can -- I think we have three choices.

8 COMMISSIONER MARTIN: I -- I would make a
9 motion to defer it to a special meeting.

10 COMMISSIONER ABER: I would second that.
11 I would second that.

12 CHAIRMAN SCHMIDT: Okay. There's a motion
13 on the floor. Now, I think --

14 MR. FENNER: May I, for clarification --
15 to defer it to a special meeting, not to the next
16 regularly scheduled meeting?

17 COMMISSIONER MARTIN: To a special
18 meeting. Is that possible?

19 MR. FENNER: Oh, absolutely.

20 COMMISSIONER MARTIN: Okay.

21 MR. FENNER: We'll need -- we'll need
22 eight days' notice to post it, but on eight days' notice
23 we can post a meeting.

24 COMMISSIONER MARTIN: Well, and I think
25 that would make them come together and come up with an

1 agreement, and the sooner the better.

2 COMMISSIONER STEEN: And are we talking
3 about just on the race dates or on -- on the splits as
4 well?

5 COMMISSIONER MARTIN: Well, I think they
6 have to decide on the splits to decide on the race
7 dates.

8 CHAIRMAN SCHMIDT: Okay. There's a motion
9 on the floor to defer -- basically to table this
10 discussion to a -- to a later meeting.

11 Is there a second?

12 COMMISSIONER ABER: I second.

13 CHAIRMAN SCHIDT: There is a second. Is
14 there any further discussion?

15 There's a motion made by Dr. Martin and
16 seconded by Dr. Aber. Any further discussion?

17 Okay. Then we'll bring this to a vote.
18 Please call the roll call.

19 MS. NORWOOD: Commissioner Aber.

20 COMMISSIONER ABER: Aye.

21 MS. NORWOOD: Commissioner Martin?

22 COMMISSIONER MARTIN: Here.

23 MS. NORWOOD: Commissioner O'Connell?

24 COMMISSIONER O'CONNELL: Aye.

25 MS. NORWOOD: Commissioner Polunsky?

1 COMMISSIONER POLUNSKY: Aye.

2 MS. NORWOOD: Commissioner Steen?

3 COMMISSIONER STEEN: Aye.

4 MS. NORWOOD: Commissioner Weinberg?

5 COMMISSIONER WEINBERG: Aye.

6 MS. NORWOOD: Chairman Schmidt?

7 CHAIRMAN SCHMIDT: No.

8 Motion carries and we'll defer this until

9 a later date, so both issues have been tabled.

10 COMMISSIONER POLUNSKY: Mr. Chairman?

11 CHAIRMAN SCHMIDT: Yes.

12 COMMISSIONER POLUNSKY: Just a -- kind of

13 a calendar issue. In November, I believe, the Formula 1

14 racing will be taking place here and things will be

15 difficult to set up a meeting, so I would suggest that

16 this be given the utmost urgency and, if there's going

17 to be a special meeting, it be done very, very soon

18 after today.

19 COMMISSIONER MARTIN: I agree with that a

20 hundred percent.

21 COMMISSIONER ABER: Why don't we just post

22 it now, eight days.

23 CHAIRMAN SCHMIDT: I think it might be

24 wiser to see where we stand with the discussions or else

25 we'll -- might be in a similar situation, because I

1 think the -- the race -- the race I'm going to is on
2 November 17th so -- it should be a little bit crowded,
3 but I appreciate that input.

4 So we have tabled both items, and we'll --
5 I think -- I would echo Commissioner Ederer's remarks
6 that we'd encourage the tracks and the horsemen --
7 quarter horsemen and thoroughbred owners to --
8 thoroughbred horsemen to work together to tell us what
9 to do to make it as equitable as possible.

10 I will tell -- tell you that -- that I've
11 had more discussion about this issue than we did
12 regarding the sale of Lone Star Track, regarding the
13 selection of a new Director of the Racing Commission.
14 This has really caught everyone's attention and -- and,
15 really, from what I've received, everyone from both
16 sides has been extremely professional and very
17 knowledgeable when they've contacted me by email or by
18 letter or by phone, and I'm very appreciative of how
19 everyone's conducted themselves, at least before the
20 Commission, in a very, very professional way. And both
21 sides have been represented by superb people, both by
22 Dr. Hays and Jan Haynes. They've done a superb job
23 representing their opinions.

24 So I'd encourage you to get together and
25 hopefully resolve this. We will set a meeting up prior

1 to December once we have more input about where the
2 sides stand or don't stand -- or don't stand and go from
3 there.

4 So let's kind of move forward with the
5 agenda, then. Greyhound race dates allocation.

6 Mr. Jackson, would you lay out the item.

7 MR. JACKSON: Yes, sir.

8 Commissioners, at the June 19th Commission
9 meeting you approved the opening of a race date
10 application period to receive race date requests for
11 calendar year 2013 and the first eight months of
12 calendar year 2014. Additionally, at the August 14th
13 Commission meeting you approved opening a race date
14 application period at the request of Saddle Brook Park
15 to receive race date requests for October and
16 November of 2014.

17 On Pages 104 through 110 of your agenda
18 packet you will find the race date requests submitted
19 for calendar 2013 and on Pages 111 through 115 you'll
20 find the race date requests submitted for October and
21 November of 2014. It should be noted that no new
22 requests were submitted for the first eight months of
23 2014.

24 On Page 3 of your agenda packet you will
25 find a 2013 greyhound race date calendar that reflects

1 all previously granted race dates as well as the newly
2 requested race dates, and on Page 4 of your agenda
3 packet you will find a 2014 greyhound race date calendar
4 that reflects all newly requested race dates.

5 Commissioners, all race date applications
6 were received timely and in accordance with Commission
7 rules overseeing the race date application periods.
8 These were discussed at the greyhound rules -- greyhound
9 race date committee meeting that was held in our
10 Commission offices and chaired by Commissioner Hicks.
11 There was no -- no concerns of the 2013 requested race
12 dates have been submitted.

13 The one item that was discussed was the
14 Valley race dates that have been previously granted for
15 July of 2013. Typically, Valley likes to run -- has ran
16 those dates in the past in November. There was concerns
17 over the shortage of the dogs that could occur at that
18 time frame, but Commissioner Hicks challenged the TGA
19 racetrack to come to -- to meet together to try to
20 resolve that issue, and they had told her they would.

21 There is no request today in your agenda
22 packet to move those dates. This is something that we
23 will probably have to address next year sometime, and
24 Commissioner Hicks was comfortable with the race dates
25 going forward and being placed on the agenda today.

1 Staff has no concerns with the race date
2 requests that have been put before you and would
3 recommend that you would approve the 2013 and 2014
4 calendars in your agenda packet.

5 CHAIRMAN SCHMIDT: Any public comment?

6 Okay. Any discussion by any
7 Commissioners?

8 Okay. I'll certainly entertain a motion
9 to approve the greyhound race dates for 2013 through
10 November 30th, 2014 as in our agenda packet.

11 COMMISSIONER WEINBERG: I make a motion.

12 CHAIRMAN SCHMIDT: Motion by Commissioner
13 Weinberg --

14 COMMISSIONER STEEN: Second.

15 CHAIRMAN SCHMIDT: -- seconded by
16 Commissioner Steen.

17 Any further discussion?

18 All those in favor signify by saying Aye.

19 (Aye votes cast).

20 CHAIRMAN SCHMIDT: Those opposed?

21 Those dates are approved.

22 General business, I think most of this
23 information is required. General Business Item V is
24 included in our packet. Unless any of the Commissioners
25 have any particular questions, we'll move on to Item F,

1 Approval of Memorandum of Understanding with the Texas
2 Veterinary Medical Diagnostic Laboratory for Fiscal Year
3 2013.

4 Mark, can you bring us up to date?

5 MR. FENNER: Yes, sir.

6 Commissioners, the Texas Racing Act
7 provides that drug testing on the racing animals is
8 going to be performed by the Texas Veterinary Medical
9 Diagnostic Laboratory, that those charges are paid for
10 by the racetrack associations and the Commission and
11 staff will review the invoices to make sure that the
12 charges are reasonable.

13 Now, as part of that process, the agency
14 enters into a Memorandum of Understanding with TVMDL
15 each year that sets the prices and services for the drug
16 testing. The MOU that's before you is very similar to
17 the MOUs that have been in place for many years.

18 The changes are an increase in the cost of
19 the standard equine testing. That's an increase from
20 \$112 per sample to \$118. There's also an increase in
21 the TCO2 testing from \$18 per sample to \$19. The cost
22 of stakes race testing, which there is very little of,
23 increased from \$318 per sample to 334. And then there's
24 a new ten-dollar-per-sample charge whenever they're
25 called upon to conduct testing for what you might call

1 contemporary drugs, some of the leading-edge drugs
2 that -- the peptides and such that we're searching for,
3 so there's a new fee to try and look for those newly
4 detectable drugs.

5 Anybody have any questions?

6 COMMISSIONER ABER: Is a representative
7 here from TVMBL?

8 MR. FENNER: I believe so, yes, sir.

9 CHAIRMAN SCHMIDT: Call her up next,
10 Tammy Beckham from College Station.

11 Ms. Beckham, thank you for visiting us.

12 MS. BECKHAM: Good morning, how are you?
13 Thank you for allowing me to come today.

14 I wanted to thank you for allowing me to
15 have the opportunity to speak in front of you and answer
16 any questions you might have about the Memorandum of
17 Understanding. I wanted to point out that the Texas
18 Veterinary Medical Diagnostic Lab is very proud to be
19 the testing laboratory for the Texas Racing Commission,
20 and I'm here today to answer any questions you might
21 have about the MOU or the testing that we do. I'm the
22 Director of the Texas Veterinary Medical Diagnostic
23 Laboratory.

24 COMMISSIONER ABER: What about the split
25 samples that are sent you, how much do you charge for

1 those?

2 MS. BECKHAM: We are -- you want to -- let
3 me pull up the MOU.

4 And, Ken, do you want to come on up here,
5 too?

6 Ken is the testing chemist for the -- for
7 the laboratory, and I'm going to have him come up and
8 talk to you about that because that's going to vary
9 based on the -- on the test that we do for specific
10 chemicals.

11 Do you want to come up and talk about the
12 splits a little bit?

13 MR. PECK: Split samples are negotiated
14 for out-of-states depending on the drug found.
15 Presently our fee structure is, for phenylbutazone,
16 furosemide and ketoprofen, \$350; \$500 for the presence
17 or absence of a drug and/or its metabolites; for
18 quantification of a drug, it's \$1,000, and that includes
19 the metabolites associated with it. We also do not
20 distinguish between a urine sample, blood sample or both
21 together.

22 COMMISSIONER ABER: Okay. So a split
23 sample would be a thousand dollars?

24 MR. PECK: If -- if a split sample came to
25 my laboratory --

1 dermorphin is in that standard drug category.

2 COMMISSIONER ABER: Okay, okay, okay.

3 I -- I -- this is just about the cost of it.

4 MR. FENNER: Sure. And I want to make
5 sure we understand that the MOU covers the costs of
6 the -- the first tests that are conducted on animals
7 that are participating in Texas racing. The splits that
8 they're testing from out of state are --

9 COMMISSIONER ABER: Yeah, I know.

10 MR. FENNER: -- not addressed by this.

11 COMMISSIONER ABER: I still want to know
12 the price.

13 And then if -- how much is it to -- if you
14 send a split off?

15 MR. PECK: Typically if -- if I have --
16 the one thing that's very nice in our -- in our industry
17 and, similarly, what happened, for example, when
18 Colorado found the first dermorphin, we are congenial
19 for something that is considered an unofficial split.
20 When we do that together as a industry, there is no
21 associated fee for that.

22 COMMISSIONER ABER: Okay. Yeah, just be
23 on the other end.

24 MR. PECK: Yes, sir. Because, again,
25 typically that is -- that is a growth area for the

1 industry.

2 For the record, my name is Kenneth Peck.

3 THE REPORTER: Thank you.

4 COMMISSIONER ABER: Tell me a little bit
5 about -- typically you bid this job, typically, and when
6 you go up on these prices, you just negotiate with us on
7 that?

8 MS. BECKHAM: We do, based on the number
9 of race days, et cetera, and then the cost of
10 consumables every year so --

11 COMMISSIONER ABER: Is that like a -- you
12 know, do a thin layer chromatography and a gas
13 chromatography on those standard tests?

14 MR. PECK: When -- when we test a sample,
15 we're actually doing it on multi-levels. It includes
16 both instrumental, immunoassay and physical properties
17 such as thin layer. In the Memo of Understanding we --
18 we do specify the percentages for how that works, and I
19 don't want to get into -- into too much of that but,
20 however, instrumental -- instrumental analysis, which is
21 the state of the art and a part of the component, is
22 done on every sample.

23 CHAIRMAN SCHMIDT: Any other questions?

24 MS. BECKHAM: If I can add to that,
25 through our quality system that we have at the Texas

1 Veterinary Medical Diagnostic Laboratory, we have
2 standard operating procedures that identify exactly how
3 those samples flow into our lab and the processes by
4 which they flow through once they come in, whether
5 that's for thin layer chromatography or -- and then what
6 happens past that into the instrumental analysis. So
7 our quality system and our standard operating procedures
8 highlight exactly how that happens.

9 COMMISSIONER ABER: I -- I need to discuss
10 this with y'all, but are y'all going -- you're going
11 toward ISO, the standardization of the -- the
12 international standardization?

13 MS. BECKHAM: We are currently accredited
14 by the American Association of Veterinary Laboratory
15 Diagnosticians, which is an accrediting body that
16 perhaps a large number of veterinary diagnostic
17 laboratories are accredited by. That accreditation, the
18 site visits occur every five years, and that is -- the
19 accrediting body are members of the American Association
20 of Veterinary Laboratory Diagnosticians.

21 We are, right now, having talks with,
22 obviously, the members of the Texas Racing Commission to
23 talk about moving toward ISO 17025 and the benefits of
24 that versus some of the other things associated with it
25 such as the cost. So we are in communication about that

1 right now.

2 COMMISSIONER ABER: Okay.

3 CHAIRMAN SCHMIDT: Questions, Doctor?

4 COMMISSIONER ABER: No.

5 CHAIRMAN SCHMIDT: Anyone -- questions
6 from anyone else?

7 Great. Okay. Thank you very much for
8 visiting us.

9 MS. BECKHAM: Thank you.

10 CHAIRMAN SCHMIDT: Let's just bring this
11 to Commission discussion.

12 Is there any public comment, Jonathan?

13 MR. ORTEGA-SIERA: No, sir.

14 CHAIRMAN SCHMIDT: Okay. Any further
15 discussion by the Commission? Any thoughts?

16 Okay. I'll certainly entertain a motion
17 to approve the Memorandum of Understanding with the
18 Texas Veterinary Medical Diagnostic Laboratory for
19 fiscal year 2013. Is there a motion?

20 COMMISSIONER MARTIN: Motion.

21 CHAIRMAN SCHMIDT: Motion by Dr. Martin --

22 COMMISSIONER STEEN: Second.

23 CHAIRMAN SCHMIDT: -- seconded by
24 Doctor -- by Commissioner Steen.

25 Any further discussion?

1 All those in favor, signify by saying Aye.

2 (Aye votes cast).

3 CHAIRMAN SCHMIDT: All those opposed?

4 The motion carries.

5 The next item, Approval of the Internal

6 Audit Plan for Fiscal Year 2013.

7 Mr. Rufus, internal auditor?

8 MR. RUFUS: Chairman and Commissioners, my

9 name is Monday Rufus. I'd like to introduce my

10 long-time associate there, Robert Gonzalez, CPA.

11 As required by the Texas Internal Auditing

12 Act Government Code 2102008, we have prepared the audit

13 plan for fiscal year 2013. We went by the risk

14 assessment to determine the areas in the Texas Racing

15 Commission that should be considered for audit and,

16 based on that risk assessment, the following areas are

17 recommended for audit for fiscal year 2013. That would

18 be looking at the complaints and investigation process.

19 Your approval will enable us to commence

20 internal audit activities for fiscal year 2013, and I'll

21 be more than happy to entertain any questions that you

22 may have.

23 CHAIRMAN SCHMIDT: Any questions of

24 Mr. Rufus?

25 The appropriate information is in our

1 information packet.

2 Thank you very much, sir.

3 Anybody have any questions of Mr. Jackson?

4 Okay. Any public comment, Jonathan?

5 MR. ORTEGA-SIERA: No, sir.

6 CHAIRMAN SCHMIDT: Okay. Any discussion
7 by the Commission?

8 Okay. I'd certainly entertain a motion to
9 approve the internal audit plan for fiscal year 2013 as
10 proposed by Mr. Rufus. Is there a motion?

11 COMMISSIONER STEEN: I make a motion.

12 COMMISSIONER WEINBERG: Second.

13 CHAIRMAN SCHMIDT: Motion made by
14 Commissioner Steen, second by Commissioner Weinberg.

15 All those in favor signify by saying Aye.

16 (Aye votes cast).

17 CHAIRMAN SCHMIDT: Anyone opposed?

18 Okay. Mark, I think we're going to defer
19 discussion of Legislative Proposals by the Texas Racing
20 Commission since we're going to be having another
21 meeting.

22 MR. FENNER: Yes, sir.

23 CHAIRMAN SCHMIDT: We're going to refocus
24 on that issue. And then let's simply discuss the
25 Proceedings on Rulemaking, and we'll not have an

1 Executive Session today.

2 MR. FENNER: Yes, sir.

3 CHAIRMAN SCHMIDT: So let's go forward
4 with the appropriate items of 311 and 321, I think. Can
5 we have the rules?

6 MR. FENNER: Yes, sir. Let me walk you
7 through the changes here.

8 The first is a proposal to amend 311.1,
9 Occupational Licenses. This is to address the
10 legislative change that says that certain racetrack
11 employees no longer have to be licensed by the
12 Commission as long as they're not either participating
13 in racing where they can affect the wagering or they
14 don't have access to the secured areas of the
15 racetracks. This changed that rule and will recognize
16 and reflect that change in the statute.

17 The change to 311.2, Application
18 Procedure. The current rule talks in terms of allowing
19 people to renew licenses through the Texas online
20 portal. This change will be made so that they can both
21 apply for new and renewal-type licenses through the
22 online portal.

23 The change to 311.3, Information for
24 Background Investigation. Currently in the rules
25 there's language reflecting -- or preventing waivers of

1 the fingerprint requirements under certain circumstances
2 where you can verify the person hasn't gotten criminal
3 background through a different state, but we have been
4 subsequently informed by the FBI that we are not to be
5 sharing that type of information. So we don't share our
6 information with other states, and other states don't
7 share their information with us. So this waiver
8 provision of 311.3 is inapplicable, we're not doing the
9 waivers. We'd like to remove it.

10 The change to 311.5, License Categories
11 and Fees. This is a technical correction. We've got a
12 clerical error in the rule that sets a three-year
13 owner's license at \$100. It should be a multiple of
14 \$35. The annual fees are three times 35, so it should
15 be \$105. We'd like to make that correction.

16 The changes to 311.101 and 102 are changes
17 to the owner rules, and this really talks in terms of
18 when an emergency license is issued. Right now if
19 somebody submits an incomplete application, licensing
20 staff is treating that as an emergency license
21 immediately, and the consequence of that is that if the
22 person doesn't submit their application within 21 days,
23 they lose their licensing fee. And if they later come
24 back and want to apply for a license, we're requiring
25 them to resubmit that application fee, and that seems

1 like a waste.

2 So what we're proposing is that, if they
3 submit an incomplete application, that we put it as a
4 pending application until either they submit the missing
5 information, they -- it expires in accordance with the
6 length of the original application sought for or if they
7 try to take some action based on the license, for
8 example, a horse is entered in their name. Then we --
9 it's treated as an emergency license and they have
10 21 days to get it in. And if they -- if they fail to
11 get the information, then they're not going to get
12 another emergency license until they complete the
13 licensing process.

14 The change to 321.29 and 31 are addressing
15 the expiration dates on mutuel tickets and vouchers.
16 Currently the rule says that the license -- or the --
17 the ticket or voucher has to have the expiration date
18 specified on there, the actual date written down, but
19 that has proven to be impractical for the totalisator
20 companies.

21 So what we're going to do is propose to
22 amend it to say that it expires one year after issuance.
23 So it already has the issuance date on it, they'll be
24 informed that it expires one year later and they're on
25 notice what the expiration date of that ticket or

1 voucher is.

2 The proposal to amend 321.46, Payment on
3 No Ticket Issue. On occasion a ticket -- a wagering
4 machine will fail to issue a ticket. There's a
5 requirement in the rule now that they have to fill out a
6 form. We'd like to make it easy. The form that they
7 need to fill out is very similar to a form they already
8 do in other cases, so what it would allow them to do is
9 report their payments on no ticket issues to their own
10 form. They can modify their own form very easily rather
11 than having a completely separate form to report on. It
12 also establishes a 24-hour deadline to report that claim
13 to the Commission.

14 The change to 321.215, Multiple Wagers.
15 This is a recognition that the Super Hi-Five and Fortune
16 Pick (n) are multiple wagers and so it adds them to the
17 list of multiple wagers in that rule.

18 The change to 321.320 Super Hi-Five gives
19 the association the ability to establish a mandatory
20 payout of a pool on the last day of a race meet.

21 The change to 321.321 Fortune Pick (n)
22 specifies that a minor pool can be combined with a major
23 pool for the day's wagering and that both pools would be
24 added to the carry-over pool, which is then carried
25 forward to the next Fortune Pick (n) pool.

1 Those changes are all fairly technical,
2 and I think -- now, the work -- the bigger picture
3 change is going to be under the change to 321,
4 Subchapter B.

5 We have an existing set of rules relating
6 to totalisator requirements and operating environment,
7 and this Subchapter B is the subject of a lot of work
8 through the Pari-Mutuel Advisory Committee and through
9 the RCI national body. And, in fact, the Texas staff
10 worked with the Pari-Mutuel Advisory Committee to
11 completely rewrite the totalisator requirements and
12 operating environment requirements in our rules, and
13 then at that point they decided this was such a major
14 change in -- in the way that we do this that they went
15 to the RCI national body model rules adopting
16 organization and they got them to adopt them as model
17 rules on a national basis.

18 So what we are proposing to do is to
19 completely delete or repeal Subchapter B and
20 simultaneously adopt a new Subchapter B that has just
21 one line in it and it says that we're going to adopt the
22 RCI model rules by reference, so that if somebody wants
23 to know what the requirements are they have to look at
24 the model rules.

25 Now, what we're going to have to do with

1 this -- this is a little different. You can't just
2 delegate rulemaking authority to RCI. So we're going to
3 have to have a date certain so that everybody knows,
4 establishes a stake in the ground that this is what the
5 rules look like as of this date.

6 And then if RCI wants to make changes to
7 their rules, they can make changes to the model rules,
8 but we have to bring them back to you, describe what
9 those changes are and get you to ratify them by
10 readopting -- changing, basically, the recognition date
11 of the model rules.

12 And then the change to 321.101 is -- is
13 really a technical requirement. That rule points to an
14 individual rule within Subchapter B that's no longer
15 going to exist if this subchapter is repealed and
16 readopted, so it's just tweaked to say it's going to
17 refer to Subchapter B as a whole.

18 CHAIRMAN SCHMIDT: Okay. This information
19 is included in our briefing packet.

20 Commissioner O'Connell, you've done the
21 heavy lifting, as always, to work through this. Any
22 comments, suggestions or --

23 COMMISSIONER O'CONNELL: Well,
24 Carol Olewin from the staff really did the heavy
25 lifting. She worked with Sammy and other folks to

1 shepherd this through the Pari-Mutuel Advisory
2 Committee.

3 There were a number of studies that were
4 done and that were the basis for the drafts. It's been
5 a multi-year process. It was -- it modernizes this --
6 the environment, and it was only going to work if these
7 standards would be adopted nationally. And they worked
8 the issue through ACRI and ACRI signed off on it, so
9 it's really pretty revolutionary and a really big deal.

10 And Carol Olewin is the person that did
11 all the heavy lifting, and so she's really to be
12 commended. And I would feel very confident that this
13 has been worked very thoroughly and that we're ready to
14 make this adoption.

15 CHAIRMAN SCHMIDT: Great. Any further
16 discussion?

17 Okay. I'll certainly entertain a motion
18 to publish the rules listed in Agenda Items VI-B through
19 VI-P in the Texas Register for public comment. I'm sure
20 I haven't missed -- B through P. And, again, we're just
21 simply publishing in the Texas Register for public
22 comment.

23 Motion made by Dr. Martin. Is there a
24 second?

25 COMMISSIONER WEINBERG: Second.

1 CHAIRMAN SCHMIDT: Second by Commissioner
2 Weinberg.

3 Any further discussion?

4 All those in favor signify by saying Aye.

5 (Aye votes cast).

6 CHAIRMAN SCHMIDT: Anyone opposed?

7 The motion carries.

8 We will not have an Executive Session
9 today, and we will -- we do already have some conflicts
10 on the December 11th or 18th tentative dates. What we
11 may actually do is move our so-called special meeting --
12 we actually may move our December meeting to
13 November and hopefully address these issues.

14 And I certainly encourage all the parties
15 for the horsemen to work through because at the end of
16 the next meeting we'll have resolution. We like to have
17 people who work in the stalls actually make the
18 decisions for us and -- but we'll certainly be happy to
19 assume the responsibility if necessary.

20 Meeting's adjourned. Thank you.

21 (End of meeting).

22

23

24

25

1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

4 I, DEBRA L. MCGREW, a Certified Shorthand Reporter
5 in and for the State of Texas, do hereby certify that
6 the foregoing proceedings came on for hearing before the
7 TEXAS RACING COMMISSION as hereinbefore set out.

8 I FURTHER CERTIFY that the proceedings of said
9 hearing were reported by me, accurately reduced to
10 typewriting under my supervision and control and, after
11 being so reduced, were filed with the TEXAS RACING
12 COMMISSION.

13 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,
14 Texas, this 19th day of October, 2012.

15

16

17

18

19

20

21 _____
DEBRA L. MCGREW, CSR 1573
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