

BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

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COMMISSION MEETING
DECEMBER 10, 2013

BE IT REMEMBERED that the above entitled matter came on for hearing on the 10th day of December, 2013, beginning at 10:33 A.M. at 105 West 15th Street, Room 120, Austin, Travis County, Texas, and the following proceedings were reported by SHERRI SANTMAN FISHER, Certified Shorthand Reporter for the State of Texas.

APPEARANCES

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Commissioners: ROBERT SCHMIDT
 RONALD F. EDERER
 MIKE MARTIN
 GLORIA HICKS
 GARY P. ABER
 JOHN T. STEEN, III
 ANN O'CONNELL
 A. CYNTHIA LEON

1 CHAIRMAN SCHMIDT: Welcome. It's 10:33
2 and we'd like to call to order the December meeting of
3 the Texas Racing Commission.

4 Ms. Welch, can you please call the roll?

5 MS. WELCH: Commissioner Ron Ederer?

6 VICE-CHAIRMAN EDERER: Here.

7 MS. WELCH: Commissioner Cynthia Leon?

8 MS. LEON: Here.

9 MS. WELCH: Commissioner Ann O'Connell?

10 MS. O'CONNELL: Here.

11 MS. WELCH: Commissioner Gloria Hicks?

12 COMMISSIONER HICKS: Here.

13 MS. WELCH: Commissioner Vicki Weinberg?

14 Commissioner Michael Martin?

15 COMMISSIONER MARTIN: Here.

16 MS. WELCH: Commissioner John Steen?

17 COMMISSIONER STEEN: Here.

18 MS. WELCH: Commissioner Gary Aber?

19 COMMISSIONER ABER: Here.

20 MS. WELCH: Chairman Robert Schmidt?

21 CHAIRMAN SCHMIDT: Here.

22 We have a quorum?

23 MS. WELCH: Yes.

24 CHAIRMAN SCHMIDT: Public comment,

25 Devon? We have one public comment from Andrea Young

1 representing Sam Houston Race Park -- actually Valley
2 Race Park?

3 MS. YOUNG: Yes. Good morning,
4 Commissioners. I'm going to put on my Valley Race Park
5 hat for a moment here. I just want to make the
6 Commission aware that we had a very successful race
7 meet at Valley the weekend after Thanksgiving. It was
8 really a team effort. Everyone from the staff was
9 terrific. Everyone from both Gulf Greyhound, Corpus,
10 Nick James and the TGA, we really appreciate their
11 support. And they really -- you know, when you hope,
12 as an operator, nothing goes wrong, really nothing went
13 wrong and everything went right. So I just wanted to
14 make sure you guys were aware of that success.

15 CHAIRMAN SCHMIDT: We can always use good
16 news. Thank you very much.

17 MS. YOUNG: Thank you.

18 CHAIRMAN SCHMIDT: No other public
19 comment?

20 MS. BIJANSKY: No.

21 CHAIRMAN SCHMIDT: Okay. General
22 business, discussion and consideration of the following
23 matters: A budget and finance update.

24 Ms. Goetsch?

25 MS. GOETSCH: Good morning,

1 Commissioners. My name is Lane Goetsch, director of
2 administration and finance for the Texas Racing
3 Commission. I'm here to give the budget and finance
4 update.

5 On pages five and six of your agenda
6 packet, you will find the agency's fiscal year-end 2013
7 operating budget reflecting revenue collections and
8 expenditures as of August the 31st, 2013. This is the
9 final report for fiscal year 2013.

10 As of this date, the agency had collected
11 8.96 million, or 92 percent, of revenues and expended
12 eight million, or 86 percent, of budgeted
13 expenditures. At this time the Racing Commission is in
14 good operating condition.

15 If you have any questions on the fiscal
16 year-end, I'll answer them now.

17 CHAIRMAN SCHMIDT: Any questions?

18 Thank you very much, Ms. Goetsch.
19 Appreciate it.

20 MS. GOETSCH: Okay. We'll continue to
21 the first quarter of the 2014 fiscal year. On pages
22 seven and eight of your agenda packet, you will find
23 the fiscal year 2014 operating budget reflecting
24 revenues and collections as of October 31st, 2013.

25 As of this date, the agency had collected

1 three million, or 41 percent, of revenues and expended
2 102 million -- 1.02 million, or 13 percent, of budgeted
3 revenues. At this time the Racing Commission is in
4 good operating condition.

5 If you have any other questions on this,
6 I'll be glad to answer them.

7 CHAIRMAN SCHMIDT: Any questions about
8 the first quarter?

9 Thank you very much.

10 MS. GOETSCH: Thank you.

11 CHAIRMAN SCHMIDT: A report on wagering
12 statistics.

13 Sammy is ill today. Ms. Smith, Lila
14 Smith?

15 MR. SMITH: Good morning, Commissioners.
16 I'm Lila Smith, the director of pari-mutuel.

17 And, Commissioners, on page nine and 11
18 of your agenda packet, you will find a report on the
19 wagering statistics for the periods January 1st through
20 December 1st for both 2012 and 2013. The reports
21 reflect that in 2013 total wagering activities have
22 decreased at the horse racetracks by 1.75 percent and
23 has increased at the greyhound racetracks by 2.47
24 percent.

25 If you have any questions, I'd be happy

1 to answer them.

2 CHAIRMAN SCHMIDT: Any questions?

3 Great. Thank you very much, Ms. Smith.

4 MR. SMITH: Thank you.

5 CHAIRMAN SCHMIDT: A report on racetrack
6 inspections, Mr. Blodgett.

7 Jim?

8 MR. BLODGETT: Good morning,
9 Commissioners.

10 Commissioners, for the period of time of
11 October the 2nd to November the 30th, 2013, a total of
12 12 racetrack inspections are reported by staff. As
13 outlined within your packets, these inspections were
14 conducted within the areas of veterinarian, safety and
15 security, wagering, and racing at Saddle Brook, Retama
16 Park, Lone Star Park, Gulf Greyhound Park, and Valley
17 Greyhound Park. A breakdown of the inspection types
18 included four scheduled, six no-notice, and two
19 follow-ups. As of the filing of this report, staff is
20 pleased to report to the Commission that no unresolved
21 inspection issues remain.

22 I'd be happy to answer any questions that
23 you may have.

24 CHAIRMAN SCHMIDT: Any questions?

25 Great. Thank you very much,

1 Mr. Blodgett.

2 An enforcement report.

3 Mr. Speight?

4 MR. SPEIGHT: Good morning,
5 Commissioners. On page 13 you will find the
6 enforcement report dated September 1 through November
7 30th.

8 I'd be happy to answer any questions at
9 this time.

10 CHAIRMAN SCHMIDT: Any issues?

11 Great. Thank you very much, Joel.

12 Appreciate it.

13 An update on veterinary protocols,
14 Dr. Quirk, chief veterinarian.

15 Dr. Quirk, please?

16 MR. QUIRK: Mr. Chairman, Commissioners,
17 and all of you in the audience, good morning.

18 On the matter at hand, Mr. Chairman, I
19 would suggest that you never walk on a racetrack,
20 having seen you walk. It might be a bad ending.

21 But, no, seriously, though, I've been
22 asked to update you on the matter of and protocols for
23 dealing with catastrophic injury. Obviously this
24 matter would require a definition, and I think that
25 part of that definition certainly would have to be

1 injuries that are presently considered irreconcilable
2 with or incompatible with life without unresolvable
3 pain. And while this may seem straightforward, it's
4 not likely that everyone will agree in every instance
5 as to what injury fits this definition.

6 This notwithstanding, it's reasonable to
7 include -- to conclude, rather, that all compound
8 fractures of the appendicular skeleton would probably
9 fall into that category. A fractured vertebra
10 accompanied by paralysis probably would as well. Head
11 trauma attended by loss of consciousness and motor
12 control I think also would.

13 But as science moves forward, this may
14 change. So it is, in some instances, a moving target.
15 Certainly it would be my hope that science would move
16 forward on this. Undoubtedly the preferred resolution
17 to this issue would be a means to prevent them. And I
18 think that part of that effort would be to really
19 identify the horses at greatest risk for this type of
20 injury. That really was the reason for the
21 establishment of the injury database.

22 Unfortunately, thus far at least, that
23 has not been real helpful in the sense of identifying
24 the at-risk horse for us. There are other issues out
25 there I think that are on the horizon that may be

1 helpful in this effort, such as acute phase proteins,
2 being able to monitor those on site. That might prove
3 helpful. I think, frankly, for our efforts, if we
4 could employ cameras to video the prerace inspection,
5 that I think we could use that as a learning tool and
6 may be helpful in this discussion as well.

7 Along with trying to resolve the issue,
8 one of the proposals is that we would have trainers
9 sign off on euthanasias before they're performed. In
10 my discussions with the Texas Horsemen's Partnership on
11 that front, I don't think there's a wide consensus
12 there that they want to be involved specifically in
13 that discussion. Some would, however. It seems to
14 separate out on over whether it's a trainer you're
15 speaking with or perhaps an owner or an owner-trainer.
16 They have different views on it.

17 The second option obviously would be that
18 since generally we have two veterinarians on the
19 grounds for each performance, we could require that the
20 second veterinarian sign off and that both must agree
21 that it's the proper resolution to the problem.

22 Mr. Wright -- I spoke with Mr. Wright
23 yesterday, who brought this to your attention. He's
24 unable to be here today. But I've assured him that
25 we're going to continue to look at this. And in fact,

1 I would suggest that we take it to the safety and
2 medication working group sometime next month and
3 hopefully we can then get back with you on the matter.

4 I think in talking with the Texas
5 Horsemen's Partnership, I think their approach has been
6 to some degree a pragmatic one. I'm not sure this is a
7 subject that yields to pragmatism, but nonetheless
8 that's something that we will continue to visit with
9 them about.

10 On the dog side, we're going to be making
11 a trip to Gulf tomorrow to visit about the injury
12 situation there and we're going to have an interesting
13 presentation from our veterinarian, Dr. Wilkinson, on
14 weather events and how they may play into dog injury.
15 So I think that will be informative.

16 I also want to acknowledge Mr. James'
17 presence here today. I think he's a man of many
18 talents and considerable means and he also -- he can
19 draw upon some relationships that he has at A&M and I
20 think we're going to be re-energized on this initiative
21 that we discussed maybe a year or so back about
22 developing a plan to get these injured dogs to A&M and
23 hopefully getting those issues resolved more
24 favorably.

25 So that's kind of where things are now

1 and I'll be happy to answer any questions that you may
2 have.

3 CHAIRMAN SCHMIDT: Thank you, Dr. Quirk,
4 for following up with -- on the Gold Star issue. I
5 just had one general question, which may be too
6 general. At the present time our protocol for dealing
7 with potentially catastrophic situations on the track
8 compared to New York state, compared to Kentucky,
9 compared to California, we're basically in the
10 mainstream, nothing that we're doing out of the
11 ordinary?

12 MR. QUIRK: Well, for the most part. I
13 think that there are written protocols in some of those
14 jurisdictions, specifically Kentucky, where they do
15 require that at least two veterinarians sign off. Of
16 course, they have five veterinarians on track employed
17 by the Commission. Our issue here would be if we
18 require that, frankly, it's entirely possible that at
19 some race meets and on some evenings we may not have
20 two veterinarians available so we'd have to be careful
21 with that if that's an absolute requirement. But I
22 think by and large, yeah, we follow a similar
23 protocol.

24 CHAIRMAN SCHMIDT: We could also have a
25 situation where a vet is tending to another horse in a

1 distant barn and so there's a --

2 MR. QUIRK: Well, I'm speaking
3 specifically of our Commission veterinarians; but,
4 yeah, that's certainly possible, too.

5 CHAIRMAN SCHMIDT: Thank you for -- any
6 other questions of Dr. Quirk?

7 Thank you very much, sir.

8 MR. QUIRK: Thank you.

9 COMMISSIONER SCHMIDT: Next we'll move to
10 a discussion of Commission meeting dates for 2014.

11 Director Trout?

12 MR. TROUT: Good morning, Commissioners.

13 On page 14 of your packet, we have a
14 proposed schedule for the 2014 Commission meetings. If
15 you could look that over sometime after the meeting and
16 get back to Mary if you have any inputs, we'd
17 appreciate it.

18 CHAIRMAN SCHMIDT: There's no action
19 scheduled today; but it's been our policy in the past,
20 once we set our meetings date, for the convenience of
21 everyone, to kind of keep these dates firm. So once we
22 decide in January, hopefully you can plan your schedule
23 for the year knowing that we'll have a meeting on that
24 date without some unusual event.

25 And then, again, discussion of the

1 process for election of the vice-chair.

2 Mark, can you update us on this?

3 MR. FENNER: Yes, Mr. Chairman.

4 You've done this as a two-step process on
5 at least the last couple of times you've elected a
6 vice-chair. That is, I describe the process by which
7 you make the election and then at the following meeting
8 you actually conduct the election.

9 Now, under Rule 303.6, Commission
10 Officers, you're required to elect a vice-chair at the
11 beginning of each even-numbered year. Now, there's no
12 restrictions on your eligibility. Unlike the Chair, he
13 can only be a member of the public representatives.
14 Any member of the Commission can put their name into
15 the hat as a candidate to become the vice-chair.

16 Also there's no requirement for a
17 second. You can nominate yourself or you can nominate
18 any other member. Also there are no term limits on the
19 vice-chair; so our current vice-chair, Commissioner
20 Ederer, could stand for reelection if that were his
21 option -- or his election to choose that.

22 That's all I have. It's a pretty simple
23 process.

24 CHAIRMAN SCHMIDT: And so we'll make this
25 decision in January?

1 MR. FENNER: Yes, sir, at the next
2 Commission meeting, which I believe is scheduled in
3 February.

4 CHAIRMAN SCHMIDT: February. Excuse me.
5 Yes. And I have asked Vice-Chair Ederer if he would
6 continue and he indicated he would be willing if the
7 Commission were supportive. So we'll make a final
8 decision in February. Okay. Anyone else interested,
9 however, please feel free to contact me.

10 Item D, discussion and consideration and
11 approval of an internal audit plan for fiscal year
12 2014.

13 Mr. Rufus? Good to see you again on this
14 cold day.

15 MR. RUFUS: Good to see you.

16 Good morning, Commissioners. My name is
17 Monday Rufus, representing the firm of Monday N. Rufus,
18 P.C., internal auditor for the Texas Racing
19 Commission. I'd like to also introduce my associate
20 there, Robert Gonzalez. Robert has been doing this for
21 a while.

22 As required by the Texas Internal
23 Auditing Act, Government Code Section 2102.008, we have
24 prepared the audit plan for fiscal year 2014. We
25 prepared a risk assessment to determine the areas in

1 the Texas Racing Commission that should be considered
2 for audit. And based on that risk assessment, our
3 audit plan for fiscal year 2014 is showing the
4 licensing applications and registration, the fiscal
5 year risk assessment and the audit plan, and then
6 fiscal year 2015 risk assessment and audit plan.

7 So your approval of the audit plan is
8 required by the Texas Internal Auditing Act and I'll be
9 more than happy to entertain any questions that you may
10 have.

11 CHAIRMAN SCHMIDT: Okay. Any questions
12 of Mr. Rufus?

13 Okay. Any comment from Mark, Chuck?

14 MR. TROUT: No, sir.

15 CHAIRMAN SCHMIDT: Any public comment?

16 Well, I'll certainly entertain a motion
17 to approve the internal audit plan for fiscal year
18 2014.

19 COMMISSIONER HICKS: I'll make the
20 motion.

21 CHAIRMAN SCHMIDT: A motion made by
22 Commissioner Hicks.

23 VICE-CHAIRMAN EDERER: Second.

24 CHAIRMAN SCHMIDT: Seconded by Vice-Chair
25 Ederer.

1 Any further discussion?

2 All those in favor signify by saying
3 aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN SCHMIDT: The motion carries
6 unanimously.

7 Moving to proceedings on the racetracks,
8 I guess, Mr. Trout, it's my understanding that no
9 resolution has been reached.

10 MR. TROUT: That's correct.

11 CHAIRMAN SCHMIDT: Okay. And so just by
12 way of a public comment from here, I think the best
13 people -- the most qualified people to deal with this
14 issue are the horsemen. So this is not something which
15 the Commission enjoys doing, but we certainly view it
16 our responsibility, and we will do. But just going
17 forward, I just wanted to convey to everyone that we
18 think the people best qualified to handle this issue
19 would be the horsemen themselves.

20 I think we're dealing with two issues.
21 And I did ask Mary to present to you some additional
22 information and we'll have additional information as
23 well. Basically we're talking about the allocation of
24 purses as provided under Commission Rule 321.505. And
25 that is simulcast import horse purse funds.

1 This is a pool of money in the order of
2 14 to 15 million dollars and this is money which is --
3 it comes to the Commission -- to the horsemen via
4 betting at a horse track outside of the State of
5 Texas. So you're at Lone Star Park and you're betting
6 on the seventh race at Belmont. That's the large pool
7 of money.

8 The smaller pool of money is the escrowed
9 purse account, which is Item B, and that is
10 approximately, I think, \$850,000. And that is the same
11 bet made at a greyhound track. So you're at a
12 greyhound track and you're betting on the seventh race
13 at Belmont.

14 So those are the two pools that we're
15 going to decide today. And just for information, I
16 just gave the information from calendar year 2012 and
17 2013 to try to keep things simple for both sets of
18 numbers.

19 Mr. Trout, can you lay out the items for
20 us?

21 MR. TROUT: Yes, sir.

22 Commissioners, on pages 30 through 44 of
23 your agenda packet, you will find the racetracks'
24 recommendations for allocating the 2014 simulcast
25 purses for Lone Star Park, Retama Park, Sam Houston

1 Race Park, and Saddle Brook Park. Also, on pages 45
2 through 47 of your packet, you will find the same
3 racetracks' recommendations for distributing and
4 allocating the escrowed purse account funds.

5 The racetracks have submitted these
6 recommendations because the tracks, the breed
7 organizations, and the horsemen's organization were
8 unable to reach agreement on the allocations. If
9 approved, the recommendations would continue the
10 allocations of the same percentages as approved by the
11 Commission for 2013.

12 I know that the associations and the
13 stakeholders that are here today will want to address
14 you on this issue. If you have any questions, I'll try
15 to answer any questions you may have for the staff.

16 CHAIRMAN SCHMIDT: Great. Thank you.

17 Okay. Andrea Young, Sam Houston Race
18 Park?

19 MS. YOUNG: Commissioners, I'm going to
20 keep my comments fairly brief because there really have
21 been no new developments since I got up to this podium
22 to talk about the same topic in October.

23 We are recommending, as the executive
24 director said, at Sam Houston Race Park, to maintain
25 our current breed splits. It's the same thing we

1 argued last year to this Commission. And our reason
2 for that is because we think nothing has significantly
3 changed one way or another in the industry.

4 It's a difficult situation. We recognize
5 that. And there have been discussions since this last
6 meeting in October; but unfortunately, we were unable
7 to make any progress. And so for the -- I do want to
8 apologize for our inability to help make that happen.
9 It's the first time in my entire tenure that that has
10 happened.

11 So I'm happy to answer any questions you
12 might have.

13 COMMISSIONER MARTIN: So your opinion is
14 to leave things the way they are.

15 MS. YOUNG: Yes. And, you know, the
16 reason for that, if I can elaborate for a second, is,
17 you know, last year we had a situation where
18 specifically the Quarter Horses were seeking more, a
19 larger percentage of this money. This year we have a
20 situation where the Thoroughbreds are seeking a larger
21 portion of this money.

22 And, you know, I mean, I've always felt
23 for the last several years that absent a sea change in
24 kind of our operating business, that's just not fair to
25 anybody and materially can impact our businesses. And

1 so the fairest thing, to me, has always seemed to be to
2 keep it where it is.

3 Thank you.

4 CHAIRMAN SCHMIDT: Mr. Wells, Lone Star
5 Park? Scott Wells?

6 Welcome on this cold day.

7 MR. LANG: My name is Bart Lang. I'm the
8 director of racing. Scott was not able to be here
9 today.

10 But we discussed the issue earlier and as
11 we have for months now. And his feeling and our
12 feeling is that it's the horsemen's money and it should
13 be decided by the horsemen, for them to come to a
14 conclusion there. Of course, we have made plans for
15 next year already based on the splits that we had this
16 year, so we have applied for the same splits for next
17 year and we have planned for that as far as our race
18 dates go. And so any significant change would require
19 us to look at our race dates again. But we feel it is
20 the horsemen's money to decide.

21 CHAIRMAN SCHMIDT: Thanks for coming
22 down.

23 Any questions? Great.

24 COMMISSIONER ABER: Your recommendation
25 is to keep it the same also?

1 MR. LANG: Yes, the same percentage as we
2 had last year.

3 CHAIRMAN SCHMIDT: Mr. Corrado from
4 Retama?

5 MR. ROSS: He's not here today. I'm
6 Steve Ross from Retama Park. Mr. Corrado couldn't make
7 it today.

8 CHAIRMAN SCHMIDT: Welcome.

9 MR. ROSS: Thank you.

10 Our position is that we have no change
11 from the allocations from 2013. Our feeling is that it
12 worked fairly well for this year and my position is
13 that I can't support anything that would devastate the
14 Quarter Horse industry. I think it's important to
15 maintain a certain level of purses for the Quarter
16 Horses. And to adopt the position of the
17 Thoroughbreds, a 90/10 split would make a significant
18 impact on Quarter Horse purses and they'd be running
19 for something like \$3500 a race, which I just don't
20 think is in the best interest of the industry overall.

21 I'd be happy to answer any questions.

22 CHAIRMAN SCHMIDT: No questions. Thank
23 you very much, Mr. Ross. Appreciate it.

24 MR. ROSS: Thanks.

25 CHAIRMAN SCHMIDT: Is Corey Johnsen

1 here? Mr. Johnsen? Okay. He's not here from Saddle
2 Brook.

3 We do have some public comment. I guess
4 what I'm going to try to do is split these up hopefully
5 in an equitable way.

6 Rob Werstler, would you mind starting off
7 for both Items A and B?

8 MR. WERSTLER: Good morning,
9 Mr. Chairman, Commissioners. My name is Rob Werstler.
10 I'm representing the Texas Quarter Horse Association
11 this morning. I submitted a letter to the packet, so I
12 have a few other things I would like to touch on. I
13 don't want to take up too much of your time.

14 As Steve just stated, going to a 90/10
15 split from an 80/20, look at the math. That's 50
16 percent. That's a 50 percent reduction in the purses
17 that would go to the Quarter Horse industry, which, as
18 he said, would devastate the Quarter Horse industry.

19 Rule 321.505 is the rule in question. It
20 states that the racetracks will recommend what the
21 splits are, with input from the horsemen, with the
22 final decision to the Texas Racing Commission. It has
23 been said that that money is all -- belongs to a
24 certain breed. If that was the truth, we wouldn't have
25 a rule such as this that would allow for interaction

1 between the breeds and the racetracks and the Racing
2 Commission to decide. Those funds were to help a
3 racetrack to keep each of the race meets competitive.

4 In talking about some losses, I spoke
5 with Ben Hudson who owns Track Magazine and asked him
6 about the stallions. It wasn't long ago we had 35 of
7 the top 100 stallions in the United States here in
8 Texas. Currently we have seven. Now, what's probably
9 a more disturbing statistic, there are 17 of the top
10 100 stallions who are owned by Texans but reside out of
11 state or are standing in other states besides Texas.

12 Lastly, some of you may know or may not
13 know, we've moved our office from Austin to Elgin,
14 Texas, the thriving metropolis of Elgin, Texas. And
15 going through all of the things, you know, you go
16 through years and years of files and magazines and such
17 and it's fun to look through there.

18 But one of the things that became
19 evident, looking at all of the past information, the
20 Texas horse racing industry, the only time we've
21 accomplished anything positive was when we were working
22 together. We were working on the same page. We were
23 working towards a goal.

24 For the past few years I know the Texas
25 Quarter Horse Association and TTA, we've worked hard to

1 keep our boards together, to not fight, to keep them on
2 the same page, to look at the bigger picture. We had
3 our awards banquet together just a few years ago.

4 And, you know, this industry has some old
5 wounds and I'm afraid any type of a change starts
6 tearing open these old wounds and makes it even more
7 difficult for us to keep everybody on the same page and
8 move forward.

9 Obviously everybody is bleeding. We're
10 going to have to look to the future and bring in some
11 new sources of revenue if we want to save this
12 industry. So our position is that we support the breed
13 splits as proposed by each Texas racetrack, the breed
14 splits as well as the escrowed purse amount.

15 And I would entertain any questions you
16 may have.

17 COMMISSIONER MARTIN: I've just got one
18 comment. And I'm going to say the same thing to the
19 Thoroughbred people. And it's what Chairman Schmidt
20 said earlier. I think all of us are a little bit upset
21 that you all could not come to an agreement. I agree
22 with you on, you know, that's been a problem all along,
23 I think, with a lot of things, that the two can't get
24 along and can't come to some kind of agreement. But
25 I'm not just focusing that at the Quarter Horses. I'm

1 focusing that at the Thoroughbreds, too. And
2 hopefully, going forward, you all can get things
3 resolved because I don't think anybody up here wants to
4 vote on this.

5 MR. WERSTLER: Yes, sir.

6 CHAIRMAN SCHMIDT: Any other questions?

7 Okay. Thank you, Mr. Werstler.

8 MR. WERSTLER: Thank you.

9 CHAIRMAN SCHMIDT: Jan Haynes? Did you
10 make it down?

11 MS. HAYNES: Jan Haynes, president of the
12 Texas Thoroughbred HBPA.

13 Mr. Chairman, Commissioners, for the last
14 decade a representative from the TTHBPA has stood at
15 this podium agreeing to the proposed breed splits by
16 the tracks for unity within the industry in hopes of
17 passing some type of expanded gaming legislation which
18 never materializes.

19 I've stressed to you the last two years
20 our Thoroughbred membership can't continue down this
21 path. I've also shown you that Thoroughbred dates and
22 purses have been declining year after year and we also
23 had to give at two of the three Class 1's last year
24 which enabled the Quarter Horses to keep the same
25 number of race dates and increase purses. Conversely,

1 Thoroughbreds, we reduced live dates and purses.

2 I have provided the Commissioners with
3 every number possible supporting our case. In the last
4 meeting I even provided you with breed split
5 information from other states. The racetracks submit
6 their numbers per the criteria set forth in the rule,
7 but their request for recommended breed splits and
8 escrowed horse purse differ significantly from their
9 statistics. So in the years past the Commission
10 approves breed splits that aren't supported by their
11 own rules.

12 I would like to address the letter in the
13 packet from Dr. Hays. Wagering on incoming
14 Thoroughbred signal dwarves wagering on Quarter Horse
15 signals simply because the Thoroughbred signal is a
16 more popular product. The betting public makes that
17 choice, not the horsemen, not the racetracks, and
18 certainly not the Racing Commission. Thoroughbreds
19 simply provide a more popular wagering choice and the
20 purse revenue generated by that breed should stay with
21 the breed because it earns it.

22 As far as the sales go, the sales numbers
23 are going up for the Quarter Horses because they are
24 taking a ride on the Thoroughbred-generated purse money
25 and this state is the epicenter of Quarter Horse

1 breeding as Kentucky is the epicenter for Thoroughbred
2 breeding. Thus their sales grow because of geography
3 as opposed to raising purses.

4 This industry agrees the current rules
5 for allocating breed splits and escrowed horse purse
6 funds aren't working. We're at a conflict with each
7 other for six out of the 12 months. And that's why the
8 TTHBPA proposed a rule change. We strongly believe we
9 need a breed split and escrowed horse purse rule in
10 which the earnings that a breed generates should
11 dictate the splits. Our board and membership is
12 committed to exhausting all legal options available
13 under the law to secure approval of the rule change
14 that has been filed with the Commission.

15 I'm not asking the Racing Commission to
16 put the Quarter Horse industry out of business. I'm
17 asking you to enforce the rules that you already have
18 in place. Even though the Thoroughbred numbers suggest
19 a larger Thoroughbred share, I'm requesting a 90/10
20 split at Lone Star, 80/20 at Sam Houston and Retama
21 until we work through the rules process in 2014. These
22 are the splits that were in place over 10 years ago and
23 even Global Gaming has a 90/10 split with their
24 horsemen in Oklahoma. These percentages are closer to
25 what the numbers are as set forth by the current

1 rules.

2 As far as the escrowed purse account, the
3 money should be split by the breed that generates the
4 money, with the Standardbred and greyhound money split
5 equally among the breeds. We realize it's going to
6 take awhile to work through the rules process and this
7 recommendation has us moving in the right direction
8 until we get our rule implemented.

9 Thank you. Questions?

10 And, Dr. Martin, I would like to address
11 what you said. Last week, last Thursday, Dr. Hays and
12 I and Andrea met in our office here in Austin and I did
13 offer last year what we lost in splits, if we split
14 that, like they give back half, you know, and for this
15 year. And he rejected that. So I mean, that was
16 pretty much all that I could do. Our board didn't give
17 me any kind of authority to do anything else.

18 COMMISSIONER MARTIN: If it worked last
19 year and you agreed on it last year, why won't it work
20 in 2014?

21 MS. HAYNES: Because what we agreed to
22 was not what was the letter that was in the packet.
23 And the tracks and everybody knows that. What was
24 agreed to at Lone Star is not what took place. So
25 that's what happened.

1 COMMISSIONER MARTIN: Would you like to
2 elaborate on that a little bit so we can all have an
3 idea?

4 MS. HAYNES: Yes, sir. Last year the
5 Thoroughbreds and the tracks, when we all had our
6 meetings, what we agreed to was the first hundred
7 thousand of purse money generated at Saddle Brook was
8 going to go to Thoroughbred purses at Lone Star Park.
9 And in exchange for that, we were giving the Quarters
10 one and a half percent. So basically it was a wash.
11 Okay?

12 Well, what was in the packet, what got
13 submitted was -- it said the first hundred thousand
14 generated of Thoroughbred money at Saddle Brook. So we
15 had to wait. And we just got the -- Bart can -- they
16 just got their hundred thousand just recently. It took
17 this long because Saddle Brook is way under -- their
18 numbers are way under what they projected.

19 COMMISSIONER MARTIN: Well, and again,
20 I'll voice the same thing to the Thoroughbred people
21 that I did the Quarter Horse. I think this is
22 something that should have been worked out and could
23 have been worked out on your own, you know. And I
24 heard several people stand up here at the last meeting
25 and say the breed splits is what was killing the

1 Thoroughbred industry. And with everybody, I think
2 everybody is struggling.

3 MS. HAYNES: I agree.

4 COMMISSIONER MARTIN: And that kind of
5 bothered me for you all to get up and make that comment
6 when there's multiple factors that are involved with
7 problems in Texas racing. And then I heard the "Eat
8 what you kill" part. And that makes sense to some
9 extent; but again, you just got through saying that the
10 Saddlebred and greyhound ought to be spread across --

11 MS. HAYNES: I believe Standardbreds and
12 greyhounds -- that's not our money and that's not the
13 Quarter Horses' money. It's not the Paints' or the
14 Arabians'. So, yeah, we feel like that's not -- so we
15 should be spreading it equal.

16 COMMISSIONER MARTIN: What do you mean
17 it's not their money?

18 MS. HAYNES: Well, because we don't have
19 Standard -- we don't have Standardbreds here and at our
20 horse tracks we don't run greyhounds.

21 COMMISSIONER MARTIN: But both breeds
22 will happily take that money.

23 MS. HAYNES: Well, I mean, yeah, we'd
24 split it equally, yeah. That was, I thought, the only
25 fair way to do that money since we don't run either

1 one.

2 COMMISSIONER MARTIN: Okay.

3 COMMISSIONER ABER: I'd like to make a
4 little bit of a comment on that. As far as the public
5 is concerned, it's the Texas people that are betting
6 from Sam Houston to New York or whatever that is. And
7 to protect the public, we may need to change this whole
8 process because of what we're going through every year
9 here and get it per race or something like that.
10 Because you all can't agree, we need to start working
11 on changing the whole process of paying out the
12 simulcasts.

13 MS. HAYNES: We may have to. Like I
14 said, that's why we thought -- I mean, and I talked to
15 Andrea at length about it. That's why we filed the
16 rule, hoping that we could try to get something that
17 does work because what we have doesn't.

18 COMMISSIONER ABER: So you want to change
19 it to 90/10 at Lone Star.

20 MS. HAYNES: Yeah. I mean, that's closer
21 to what the numbers are, and then 80/20. So what I --
22 it's not much of a difference.

23 COMMISSIONER ABER: Everybody else
24 80/20.

25 MS. HAYNES: 80/20 at the other two for

1 this year until we can get through the rule process
2 and --

3 COMMISSIONER ABER: But you don't think
4 you could compromise like for this year and then let's
5 work on the whole thing, all of us work on it?

6 MS. HAYNES: Well, I tried with Dr. Hays
7 on Thursday and he said no.

8 COMMISSIONER ABER: And, you know, we
9 didn't hear about the deal you all made with Saddle
10 Brook. I didn't hear about it. So when we made the
11 decision last year, we didn't hear about the deal you
12 all made that way. So we have a hard time
13 understanding that.

14 COMMISSIONER MARTIN: That's what bothers
15 me is what was good last year won't work this year and
16 then come back at the last minute and say, well, there
17 was another deal that was made that I don't think
18 anybody knew about or a lot of us didn't know about.

19 MS. HAYNES: I didn't know the letter was
20 changed that was in the packet in the December meeting
21 or I would have said something myself, but I didn't
22 know until after the fact.

23 COMMISSIONER ABER: We have -- we're
24 going to have to work together on this thing, you
25 know.

1 MS. HAYNES: I agree.

2 COMMISSIONER ABER: And to me, if that
3 has to redo the whole process, I know other states do
4 it differently. Louisiana does it differently. We may
5 have to look at their plan because we can't just keep
6 doing this every year because we all have to work
7 together.

8 MS. HAYNES: I agree.

9 COMMISSIONER ABER: It's a horse, you
10 know. Most Quarter Horses are Thoroughbreds anyway.
11 They just run a little shorter distance. And we've got
12 to support the Paints and the Arabs and the Apps. And
13 the industry as a whole with helping the public is for
14 the jobs. I mean, it's a tremendous amount of jobs.
15 This is an industry that we can't lose.

16 We're paying everybody else to come in
17 the State of Texas and give them tax abatements and
18 everything else and we're running our horses out,
19 Thoroughbreds, too. Even in Kentucky there were 42,000
20 foals year before last. Last year there was 22,000.
21 So it's decreasing, no matter what we do, you know.

22 CHAIRMAN SCHMIDT: Commissioner Aber,
23 just for your information, the Thoroughbreds have
24 submitted a significant rule change, informally or
25 formally to Sammy, but it's going to be referred to the

1 rules committee. It would be not something that we
2 could address at this meeting. It would go through --

3 COMMISSIONER ABER: But I was asking her
4 what her recommendation was. And that's 90/10 Lone
5 Star, 80/20 the rest of them.

6 MS. HAYNES: Uh-huh.

7 COMMISSIONER ABER: Okay. I think that's
8 what is all working.

9 CHAIRMAN SCHMIDT: Jan, just one
10 question.

11 MS. HAYNES: Yes, sir.

12 CHAIRMAN SCHMIDT: Honestly, I don't
13 think the Commission is going to go 90/10. I can't
14 speak for the Commissioners. But talk to me. There
15 was clearly a misunderstanding about the Saddle Brook
16 money. How much of that money would make you whole?
17 So in theory, we would adopt last year. Are we talking
18 about a 100,000-dollar disagreement, a 50,000-dollar
19 disagreement, a 120,000-dollar disagreement?

20 MS. HAYNES: It was the hundred. It was
21 the first -- like I said, that's the way -- when we sat
22 at the table, we had agreed to the first hundred
23 thousand generated at Saddle Brook was to go into the
24 Thoroughbred purse account at Lone Star Park. Then
25 after that, what was generated at Saddle Brook was

1 split 50/50.

2 CHAIRMAN SCHMIDT: Okay. So ultimately
3 you came up a hundred thousand dollars short.

4 MS. HAYNES: Yeah. And Marsha can --

5 MS. ROUNTREE: It was \$50,000.

6 MS. HAYNES: Because she didn't know that
7 the letter was wrong either because she knew what we
8 had all agreed to because she had typed a letter that
9 we had signed, the tracks had signed, Saddle Brook had
10 signed, for the last December meeting stating that.
11 And then that wasn't the one that got in the packet.

12 CHAIRMAN SCHMIDT: Okay. So I guess what
13 was enacted last year was not what you actually thought
14 would be enacted.

15 MS. HAYNES: Right.

16 VICE-CHAIRMAN EDERER: But as far as the
17 money is concerned that the Thoroughbreds got, you've
18 gotten how much? How much are you shy of what you
19 thought you were going to get? It was my understanding
20 you had already -- you had gotten your hundred
21 thousand. It just took -- so you have gotten the
22 hundred thousand that you had expected to get. You
23 just didn't get it when you thought you were going to
24 get it. But you did get the money.

25 MS. HAYNES: Yes.

1 revenues acquired through incoming simulcast signals.
2 These are pages taken from Monarch Management,
3 Churchill Simulcast Network, and the New York Racing
4 Association simulcast contracts. All refer to the
5 signals as intellectual property. Intellectual
6 property is defined as property owned by the host or
7 track sending the signal.

8 Like the chairman explained awhile ago,
9 if we're sending -- if the Texas people at the horse
10 track or a dog track are betting on a signal from
11 Belmont or New York or Gulfstream or somewhere like
12 that, that's what this intellectual property is.
13 Nowhere is it indicated that the property is one breed
14 or one breed organization. It belongs to the host
15 track.

16 In looking at these three content
17 providers, you have to just read one line, "NYRA is the
18 owner of all rights in and relating to the signal".
19 Skip down to Churchill, "Guest acknowledges that the
20 CDI content and any component thereof, including but
21 not limited to the signal". Monarch, basically the
22 same thing, "Guest acknowledges that the Monarch
23 Churchill" -- "Monarch content and any component
24 thereof, including but not limited to the signal".

25 So basically what they're saying is the

1 signal is theirs. It doesn't belong to a breed in
2 Texas. It doesn't belong to a breed in another state.

3 Actually I submitted this information
4 hoping it would help give a logical, common sense
5 approach to what we're looking at. Simulcasting was
6 introduced to Texas as a means to enhance live racing,
7 not as a subsidy to any breed, breed organization, or
8 entities of the industry. That's my opinion
9 obviously. It's just my opinion. But through the
10 research I've done, it seems pretty evident that what
11 we're fighting over all the time doesn't really belong
12 to any one breed as suggested in some letters and stuff
13 that I read.

14 I hope I didn't muddy up the water, so to
15 speak, as to what people were looking at or thinking.
16 But, you know, I think that this is a very tough
17 challenge every year, you know. I mean, we have --
18 it's a highly controversial argument. And these are
19 just some of the statistics and information that I
20 gathered taking a look at what we were arguing over.

21 I certainly don't think that one breed is
22 subsidizing another. That's not what simulcasting was
23 meant to be. It was meant to enhance live racing. As
24 an owner, trainer, and breeder, I support the
25 recommendations of the Class 1 racetracks, Retama, Sam

1 Houston Race Park, and Lone Star Park.

2 I'd be happy to answer any questions.

3 CHAIRMAN SCHMIDT: Any questions?

4 I have one question, I guess. You
5 struggle with both sides. I think if -- so what you're
6 telling me is you don't think there's more local public
7 interest in the Thoroughbreds for the folks betting 90
8 percent of their money at Lone Star on Thoroughbreds
9 compared to 10 percent of the money on Quarter Horses.

10 MR. JORDAN: No, sir, I don't think so.
11 I really don't. I don't think -- I think there's
12 possibly a majority. It's not -- I wouldn't say it was
13 50/50. But I certainly wouldn't say that 90 percent of
14 the money -- you know, you have to figure -- you also
15 have to consider -- a lot of things have to be
16 considered, the live handle on track, the amount of
17 days we're racing, the opportunities. A lot of these
18 people, I mean, they -- you know, these are all things
19 that have to be taken into consideration.

20 CHAIRMAN SCHMIDT: I'm just going back to
21 the information you gave me right here about who owns
22 the signal. And I understand the NYRA, the New York
23 Racing Association, owns their signal. Churchill owns
24 their signal. But if the folks -- I'm just saying this
25 is where I struggle with the Quarter Horse argument a

1 little bit, quite frankly. It's just hard for me that
2 at Lone Star approximately 90 percent of the wager, the
3 handle, simulcasts bet out of state, is bet on
4 Thoroughbred racing. Don't you think that reflects the
5 public's appetite for Thoroughbred racing versus
6 Quarter Horse racing?

7 MR. JORDAN: I think it might reflect --
8 honestly, I think it might reflect the geographical
9 part of Lone Star Park. I think for years before --
10 before we even had pari-mutuel, there were a lot of
11 people in that area betting on horses in the Arkansas,
12 Louisiana states. And I think that due to this,
13 they've become a little more accustomed to the wagering
14 on the Thoroughbred horses versus the Quarter Horses.

15 Take, on the other hand, the South Texas
16 tracks or even as far as Sam Houston, I don't think
17 there's near that difference in what you're talking
18 about as far as the gambling simply because we have
19 been around that area. The Quarter Horses have.

20 CHAIRMAN SCHMIDT: Mr. Jordan, actually I
21 think at Retama the simulcast import handle was 91
22 percent based on Thoroughbreds, 91, and that's
23 perceived as the Quarter Horse track. I'm not -- I
24 think there are multiple variables, but I think it does
25 demonstrate there's more public interest in the

1 Thoroughbreds than the Quarters in terms of the
2 simulcast money.

3 MR. JORDAN: Well, I'm not so sure that
4 you're not right. Now, but to say that that
5 Thoroughbred racing -- and obviously there's other
6 reasons that might be because of that, but I don't
7 think that a horse -- a breed of a horse that is run in
8 New York or California or Florida or anywhere should
9 solely be the reason why they think that that money is
10 more theirs than the whole entity.

11 CHAIRMAN SCHMIDT: That's not my point.
12 My point is, though, it does reflect the public
13 interest of what people are betting.

14 MR. JORDAN: It may.

15 COMMISSIONER ABER: I don't know. I
16 disagree with that because when you have the Quarter
17 Horse meets, the Quarter Horse people bet on the
18 simulcasts of the Thoroughbreds.

19 MR. JORDAN: Certainly.

20 COMMISSIONER ABER: And it's everybody
21 that's betting on that. I don't think -- I think the
22 public interest in Texas is by far the Quarter Horses.
23 We have 115,000, if you look at this letter, Quarter
24 Horse owners in the State of Texas. Not only is it the
25 racing. We don't forget all the roping horses and all

1 the barrel horses and all those.

2 And the Hispanic population will be
3 probably the majority at the end of this decade and we
4 need to start including them and we can do better by
5 doing that with the Quarter Horse racing. I don't
6 think -- I agree with you. I don't think just because
7 of that that's the property of the Thoroughbred
8 people.

9 MS. O'CONNELL: I have a question.
10 Mr. Jordan, this may be -- you may or may not know
11 this. But are there the same number of opportunities
12 for a Texan to bet on a Quarter Horse race as there are
13 on a Thoroughbred race?

14 MR. JORDAN: No, ma'am. No, ma'am. Due
15 to different things, again, the time, our -- probably
16 our import signal -- our most popular import signal
17 from the Quarter Horse breed comes from California.
18 Due to the time differences in the -- Los Alamitos,
19 California. Due to the time differences in when we
20 race live and they race live, some of our simulcasting
21 outlets are completely closed. I know Retama Park is
22 closed down after the second or third race. Sam
23 Houston, I think, does stay open until two o'clock in
24 the morning. You know, that's one of the reasons.

25 And obviously there's other states out

1 there that a lot of the states don't have Quarter Horse
2 racing. We try to simulcast -- during our Thoroughbred
3 meet -- I mean, Quarter Horse meet, we try to simulcast
4 as many as we possibly can that the tracks will take
5 on. But of course, that's -- again, that's the
6 business model of the racetracks as to what they
7 simulcast. Obviously we're not -- they're not bound to
8 do anything other than the actual simulcasting of our
9 breed in our state.

10 But we do sell our signals to a lot of
11 different states out there; but unfortunately, the law
12 doesn't -- the way I understand it, the law doesn't
13 allow some of these states to even import a Quarter
14 Horse signal.

15 CHAIRMAN SCHMIDT: Any more questions of
16 Mr. Jordan?

17 Thank you.

18 MR. JORDAN: The only thing -- I would
19 like to leave and say one thing. I visit and work with
20 the Quarter Horse people on a daily basis. I'm in the
21 trenches with every guy out there. And to take away 50
22 percent like they're wanting to do -- or 10 percent, it
23 would be 50 percent of our purses. We cannot survive
24 on that. There's no way we can. We're on a shoestring
25 as it is right now and to take anything away from us

1 would devastate the industry.

2 VICE-CHAIRMAN EDERER: Tooter, I have a
3 suggestion. In the future, when you have something to
4 submit to us, get it to us ahead of time so we can look
5 at it.

6 MR. JORDAN: I apologize.

7 VICE-CHAIRMAN EDERER: That goes for
8 everybody. These last minute submissions -- thank
9 you.

10 MR. JORDAN: Thank you.

11 CHAIRMAN SCHMIDT: Mary Ruyle, Texas
12 Thoroughbred Association.

13 Mary, welcome.

14 MS. RUYLE: Good morning, Commissioners.
15 I'm Mary Ruyle, executive director of the Texas
16 Thoroughbred Association.

17 You've received a lot of information and
18 heard from a lot of horsemen regarding the breed split
19 issue. And comparisons between the two breeds are much
20 like comparing apples to oranges. Thoroughbred
21 breeding is required to be by live cover only. Quarter
22 Horses use AI and multiple embryos. Thoroughbreds are
23 primarily bred to race. Quarter Horses are bred to
24 participate in a number of disciplines.

25 Thoroughbred ATB awards are calculated as

1 a percentage of purse money earned by a particular
2 horse, therefore rewarding those horses for their
3 success and encouraging competition at higher levels.
4 Quarter Horse ATB awards are not paid in the same
5 manner. Therefore, a horse winning a 2,000-dollar race
6 or a 10,000-dollar race receives the same amount in ATB
7 awards. And that's what I interpreted from reading the
8 Quarter Horse rules again this morning. If I'm
9 incorrect, please tell me the right numbers, Rob.

10 And with that said, on behalf of the TTA
11 board of directors, I do want to offer a response to
12 some of the information presented in your packet on
13 pages 54 and 59. And I have provided you this morning
14 copies of the 2013 Texas Fact Book, a Statistical Guide
15 to the Thoroughbred Industry in Texas, as compiled by
16 the Jockey Club, which is the national breed registry
17 for racing Thoroughbreds.

18 This information is updated on a monthly
19 basis, with all figures current through December 1st.
20 I'm only going to reference two pages in here. The
21 rest is for your perusal at another time.

22 You will note on page four the fact that
23 in 2011 there were 1,211 mares bred to 207 stallions,
24 resulting in a registered foal crop of 577 in 2012 as
25 noted on page five. That's a 48 percent registered

1 foal rate. In 2012, 953 mares were bred to 139
2 stallions. Based on that 48 percent registered foal
3 rate, we can expect to see 457 registered Thoroughbred
4 foals of 2013.

5 The Jockey Club issued a press release on
6 October 17th stating the number of mares bred in 2013
7 to be 865. Again, applying that 48 percent rate, we
8 can expect 415 registered Thoroughbred foals of 2014,
9 not 300 as quoted by Mr. Werstler in his letter on page
10 54.

11 In the same paragraph he states "This
12 enormous amount of revenue" -- and I think he's
13 referring to the breed splits here -- "has not
14 increased the number of Texas bred thoroughbred foals
15 or helped the Texas thoroughbred product to be
16 competitive with other states, even those with no
17 additional gaming revenue."

18 To me, this is a subjective statement and
19 I want to clarify there. Simulcasting was legalized in
20 1991 and Texas tracks began accepting signals in
21 August. In that same year, 3,938 mares, Thoroughbred
22 mares, were bred to 579 stallions in Texas, resulting
23 in 2,256 foals in 1992. By 1994, 4,322 mares were bred
24 to 568 stallions, resulting in 2,441 foals. That was
25 an 8.2 percent increase. The Texas foal crop did not

1 fall below 2,000 until the year 2002, which was the
2 first year that Delta Downs had slot machines and the
3 rest of Louisiana followed shortly thereafter.

4 As for the ability to compete with other
5 states, part of our annual performance measures that we
6 submit to the Texas Racing Commission, Exhibit F asks
7 for the number of black type finishers nationwide for a
8 particular calendar year. In 2010 we had 100
9 Thoroughbreds. That has dropped to 90 in 2012, the
10 most recent year completed.

11 So I believe we are competitive with our
12 other states. It all depends on the horse. And that's
13 our goal at Texas Thoroughbred is to encourage the
14 breeding of a better racehorse, one that can compete in
15 Texas, whether in restricted races or open company
16 races, one that can compete out of state as well.

17 Next I'd like to respond to
18 Mr. Werstler's comment regarding the horse sales in
19 Texas. Since 1997, Fasig-Tipton, which is a national
20 for-profit Thoroughbred sales company, has handled all
21 the Thoroughbred sales in Texas. TTA has no control
22 over those consignments.

23 Prior to that we did conduct our own
24 yearling and mixed breeding stock sales every year.
25 Those were targeted specifically to our members,

1 whether in state or out of state. In 1996, the last
2 year that we conducted our own yearling sale, we had
3 562 head consigned. Of those, 399, or 71 percent, were
4 accredited Texas-breds.

5 And then on page 59 of your agenda
6 packet, in Dr. Hays' letter, he comments "They don't
7 even support their own Accredited Texas Bred program.
8 You don't ever have to breed to a Texas based stallion
9 to produce a Texas bred thoroughbred."

10 I want to read you the rule that has to
11 do with that. Our program rules define an accredited
12 Texas-bred Thoroughbred as a horse registered with the
13 Jockey Club, accredited with a breed registry, and
14 foaled in Texas out of a mare accredited with TTA who
15 is permanently domiciled in Texas. A foal by a
16 nonaccredited stallion whose dam is not next bred to an
17 accredited Texas stallion will be eligible for 50
18 percent of the allotted breeder awards. If the dam of
19 that foal is next bred to an accredited Texas stallion,
20 the foal is eligible for a hundred percent of the
21 breeder awards.

22 The provision for foals to be sired by
23 nonaccredited stallions facilitates the introduction of
24 new bloodlines into the Texas breeding program. And
25 while 90 percent of the ATB foals that we have are

1 sired by accredited Texas stallions, this voluntary
2 breed-back provision for those that are not does
3 encourage the mare owners, the breeders, to breed back
4 to our accredited Texas stallions in order to profit
5 more from the incentive program.

6 While we believe all of this information
7 is worthy of your attention and I give it to you for
8 background information, it's not pertinent to
9 Commission Rule 321.505 regarding allocation of
10 simulcast purse funds between the various breeds. We
11 at TTA acknowledge the important role played by all
12 supporters of the various breeds in passing pari-mutuel
13 legislation many years ago and each breed organization
14 continues to seek the best opportunities for their
15 participants while facing statewide industry
16 challenges.

17 Texas horsemen of all breeds are indeed
18 passionate about their involvement in the horse
19 industry and that passion has resulted in a negotiation
20 process that has become untenable. It's divisive.
21 It's unproductive. We are stuck.

22 Therefore, we, as previously stated at
23 the last Commission meeting, would support future
24 implementation of a standardized formula based on prior
25 year facts and figures that removes the emotion, that

1 removes, you know, any of these things that we're
2 talking about here, the sales, the foal crops. There's
3 more than just one thing that causes that. And if we
4 can get down to some formula that removes that emotion,
5 it's probably not something that any of the breeds is
6 going to be a hundred percent happy with; but we just
7 don't feel that what we have is currently working.

8 So with that said, your efforts on behalf
9 of Texas racing are appreciated and I'd be happy to
10 answer any questions.

11 Yes, sir.

12 COMMISSIONER MARTIN: How many foals did
13 you say would be born in 2013?

14 MS. RUYLE: 2013? We expect 865. I'm
15 sorry. I'm sorry. That was mares bred. Foals in 2013
16 is 457, with 415 for 2014.

17 COMMISSIONER MARTIN: So that's 415
18 foaled that they're expecting.

19 MS. RUYLE: Yes.

20 COMMISSIONER MARTIN: What percentage of
21 that do you think will make it to the racetrack?

22 MS. RUYLE: I wish I could tell you. If
23 Dave Hooper were here, he could rattle that off pretty
24 quickly. It is a very small number.

25 COMMISSIONER MARTIN: So are we going to

1 have enough Thoroughbreds to fill cards?

2 MS. RUYLE: It's going to be a
3 challenge. I think it -- you know, the way that we're
4 headed, we are headed to fewer races, smaller fields.
5 And that is a challenge for Texas, I believe, as a
6 whole, not only for us but for Arabians, for Paints,
7 for Quarter Horses.

8 COMMISSIONER MARTIN: The problem that I
9 have, having wrapped my head around all this, is you
10 all said last year that you all didn't -- that
11 something changed in the negotiations and a letter got
12 put in there that you all didn't agree with and that's
13 what you all were unhappy with. Is that correct?

14 MS. RUYLE: That was entirely the Texas
15 Horsemen's Partnership. The Texas Thoroughbred
16 Association was not a party to that agreement -- not a
17 signatory, I should say.

18 COMMISSIONER MARTIN: Okay. But then
19 that got resolved because you all got your all's
20 hundred thousand dollars or however much money it was
21 eventually. You just didn't get it when you wanted
22 it.

23 MS. RUYLE: That's my understanding,
24 yes.

25 COMMISSIONER MARTIN: That's where I'm

1 having a problem with because you got what you wanted
2 last year. Everybody's agreed on it except the
3 Thoroughbreds this year, which is the same thing that
4 was done last year. But yet now, even though you got
5 that extra money and everything got corrected at the
6 end, you're still not happy.

7 MS. RUYLE: All I can tell you is that as
8 the breed association, we feel it is our role to
9 support the Texas Thoroughbred Horsemen's Partnership
10 or HBPA in their efforts because while this is purse
11 money, we negotiate directly with the Quarter Horse
12 Association, the Arabians, and the Paints on the ATB
13 incentive funds. But we naturally want our
14 Thoroughbreds to receive the best that we can get for
15 them because more purse money equals more ATB money.
16 You know, it's kind of a cycle.

17 COMMISSIONER MARTIN: Sure. I understand
18 that. But you got what you wanted last year. Is that
19 correct?

20 No? Who said no?

21 MS. RUYLE: We'll have to have that
22 person address it. It is my understanding that now
23 that money has been paid in full. It was not paid when
24 it was -- but as I understand it, an agreement was made
25 based on one premise and that didn't happen. So I can

1 understand why perhaps the negotiators would not be
2 quick to jump on the bandwagon this year.

3 COMMISSIONER MARTIN: But it did happen.

4 MS. RUYLE: It did happen. I agree.

5 What I'm trying to say is this is a very contentious
6 subject. There are so many things that figure into
7 it. There are personalities. There's long histories.
8 We shouldn't, as an industry, be at each others'
9 throats.

10 COMMISSIONER MARTIN: I agree.

11 MS. RUYLE: And if there's a way to
12 remove that emotion from this equation, I'm all for
13 it.

14 COMMISSIONER MARTIN: I am, too. But
15 we've got to do something today because you put it in
16 our lap. And the argument is what was all right last
17 year and what apparently shook out last year that you
18 all are arguing over, the money was there, the money
19 was given, and I don't see the argument of changing
20 things.

21 MS. RUYLE: I'm afraid I don't have an
22 answer for you.

23 COMMISSIONER MARTIN: Thank you.

24 MS. RUYLE: Any other questions?

25 CHAIRMAN SCHMIDT: Thank you. Thanks

1 very much.

2 MS. RUYLE: Thank you.

3 CHAIRMAN SCHMIDT: Lane Hutchins?

4 MS. HUTCHINS: Mr. Chairman and
5 Commissioners, my name is Lane Hutchins. I'm from
6 Gillespie County. I'm an owner, breeder, groom,
7 anything. I do all the jobs.

8 I'm here today to clarify some testimony
9 which I hear over and over and over again every time I
10 come to the meeting because I'm a director of the
11 Thoroughbred HBPA. I hear these statements by
12 Dr. Tommy Hays. He said it last time. And I would
13 like to clarify a couple of these comments and also I
14 would like to comment on some comments made by
15 Mr. Werstler about Texas Thoroughbreds. So here we
16 go.

17 Okay. Last time Dr. Hays stated that
18 there are more Quarter Horses than Thoroughbreds in
19 Texas. He's absolutely correct. The Quarter Horse was
20 invented in Texas. Everybody has one. I've even got
21 one at my house. But it's not a racehorse. What he
22 left out was that less than 12 percent of these Quarter
23 Horses in Texas are for racing. He would have you
24 think that they're all racehorses. They're not.

25 Dr. Hays also stated that there's more

1 breeding going on. They have a bigger breeding
2 industry. This is absolutely true because as you heard
3 Mary Ruyle say, the AQHA allows all kinds of artificial
4 practices, AI, shipped cool semen, frozen semen, and
5 now cloning, and even embryo transfers where you can --
6 I guess now you can have as many foals as you can get
7 out of a mare. So of course there's more breeding
8 going on.

9 And especially if you can keep your mare
10 at home or just haul it down to the local vet clinic
11 and have it impregnated, that's a lot cheaper because
12 the Jockey Club, who regulates us, requires live cover
13 on Thoroughbred mares and so you have to ship your mare
14 to the stallion, board it, pay their vet. It's a very
15 expensive proposition.

16 I'm a very small breeder. I have two
17 foals coming this year. And I figure that it takes me
18 about \$10,000 to raise a Thoroughbred foal to two years
19 old and to get it on the track.

20 And so next to Mr. Werstler's comments
21 about Texas Thoroughbreds. Well, they run all over the
22 country. They don't just run in Texas. I'm a small
23 breeder. I've run my Texas-breds in five different
24 states. And I wouldn't be here now if I hadn't had a
25 little bit of success. I mean, they're not dogs or

1 anything. No offense to the greyhound.

2 But one of my Texas-breds won almost a
3 half a million dollars and he ran in Louisiana and he
4 ran in Chicago, Churchill Downs. You name it, he was
5 there. He won 18 races and four of them were stakes
6 and he took on all comers. So I cannot see that we
7 have an inferior product when somebody like me that's
8 really a backyard breeder can produce a horse that wins
9 that much money. Only in America.

10 Okay. Now, I am really puzzled and
11 troubled about Mr. Werstler's remarks because for 20
12 years we in the Thoroughbred industry have carried the
13 Quarter Horses literally on our backs. And I guess his
14 mama never told him not to bite the hand that feeds
15 him.

16 Now, as far as the AQHA getting involved
17 in this, I know they put a letter in the packet. It is
18 irrelevant for a breed organization that registers
19 primarily performance horses to comment on this issue
20 of breed splits. Remember that number. Less than 12
21 percent of these horses are racehorses.

22 Now, all Texas horsemen, no matter what
23 our breed preference would be, we are all involved in a
24 great struggle to survive. I am not totally
25 unsympathetic to the Quarter Horses. I've run Quarter

1 Horses. But that said, as you ponder this issue of
2 breed splits, please remember that the stars might lie,
3 but the numbers never do.

4 Thank you.

5 CHAIRMAN SCHMIDT: Thank you very much.

6 Any questions?

7 COMMISSIONER ABER: Could I ask you a
8 question? Okay. You know, I don't know if you're
9 against embryo transfers or AI.

10 MS. HUTCHINS: No.

11 COMMISSIONER ABER: Do you think that
12 doesn't produce a lot of jobs?

13 MS. HUTCHINS: I'm sure it produces a lot
14 of jobs. My veterinarian, who's right around the
15 corner from me, you know, I don't know how many jobs it
16 produces in his clinic. He's got a couple of
17 assistants. But I didn't -- I'm not here to talk about
18 jobs and I'm not against embryo transfers. I don't
19 raise Quarter Horses. I don't have a problem with it.

20 Anything else?

21 CHAIRMAN SCHMIDT: Any other questions?

22 Okay. Thank you very much, ma'am. Thank
23 you.

24 MS. HUTCHINS: Thank you.

25 CHAIRMAN SCHMIDT: Dr. Weilburg? Richard

1 Weilburg?

2 MR. WEILBURG: I'm Richard Weilburg. I
3 am still an owner and breeder of Thoroughbred horses in
4 spite of the climate in this state. I am
5 vice-president of the TTHBPA.

6 Lane and Mary and Jan have pretty much
7 said it all and I don't have a whole lot to add except
8 that I'd just like to say that so long as racehorses
9 are earning their keep at the bettors' window, the
10 pari-mutuel window, and not being subsidized by the
11 State or by alternative gaming, then I think that they
12 should run for what they earn. And I agree with this
13 new rules change that has been submitted, that this is
14 the way it should be done, and then all of these
15 altercations that occur for six months out of every
16 year won't have to occur anymore.

17 That's basically all I have to say
18 today. Thank you.

19 CHAIRMAN SCHMIDT: Any questions of
20 Dr. Weilburg?

21 Thank you, Doctor.

22 Mr. Scales? You have the final word.

23 MR. SCALES: All right. I'd like to say
24 good morning. It's still morning. My name is
25 Theophilus Scales, Jr. I am representing my family and

1 I. I thank you guys for taking the time to address
2 this issue.

3 A couple of points I would like to bring
4 out. Number one is this is -- what we're talking about
5 with these breed splits boils down to a very small
6 pie. That's why we're up here. That's what this all
7 is about, everybody and how big of a slice he or she
8 can get from the pie. You heard in an earlier report
9 that the revenue-generated wagering dollars on our
10 racing is down a little more than one percent, so it's
11 steadily a shrinking pie.

12 A good business plan requires a person to
13 make decisions that are void of emotions. It's hard as
14 a Thoroughbred horse person to not get your emotions
15 involved. I made a decision on my way here to give
16 away one of my horses. I'm done feeding her. Nobody
17 wants to buy her. I'm just going to give her away
18 because the business model says that this is the number
19 of horses, this is the number of dollars, and that's
20 the way it's going to be.

21 When we look at this plan, the plan has
22 to be one that is void of all of these extra emotions
23 and sensationalism and there's so much rhetorical
24 nonsense being said. I don't think it matters that I
25 am a breeder of one Texas-bred. That one Texas-bred

1 buys feed in Texas. She eats hay that was raised in
2 Texas. And she spends the dollars of a guy that works
3 in Texas.

4 I personally am insulted that anybody
5 would attack a person who is spending their time, their
6 money, their desire, their passion on Texas racing. I
7 don't own a Quarter Horse. I don't have an issue with
8 the Quarter Horse. I do, however, own Thoroughbreds.
9 And my Thoroughbreds -- the Thoroughbred industry, the
10 Thoroughbred horse, is who the bettors in this state
11 have shown that they prefer to bet their dollars on.

12 Me, being a gambler, I have no issues
13 with betting on a Quarter Horse race. I bet on Quarter
14 Horses. I bet on Standardbreds. I bet on dogs. I'm
15 one of those guys I just kind of like the action. So
16 it's not -- but I do think that it's a fair way of
17 saying this is an equitable division of these minuscule
18 dollars if we base it on the fact that horse -- these
19 people that bet on these horses that are generating
20 these dollars that they're saying 90 percent of us want
21 to bet on Thoroughbred races or we're going to bet 90
22 percent of our dollars on Thoroughbreds. Whatever the
23 equation, that's what they're doing. And I think that
24 that has to be an important factor we understand.

25 We're all passionate about our horses.

1 We're all passionate about our business. I believe I
2 have the next Zenyatta. Maybe she's not, but that's
3 what I believe. But we all love what we do. And it is
4 a travesty, in my opinion, that it had to come to this
5 point that we have to bring this issue to the Racing
6 Commission.

7 However, to say, "Well, it was okay last
8 year," things change. I didn't have as much gray hair
9 last year as I do this year. Things change. Whatever
10 the catalyst was to cause this to be brought -- to get
11 to this point, we have it here now. Something needs to
12 be done and needs to be done expeditiously in order for
13 it to be feasible for me and others like me to continue
14 to invest our dollars in this state.

15 I'm breeding a mare this year, maybe two,
16 and I'm actually not breeding them to Texas stallions.
17 But you know what I'm not going to do? I'm not going
18 to have a Louisiana-bred. I'm going to have a
19 Texas-bred. I may have two Texas-breds. And next year
20 they're going to be bred to Texas stallions so I can
21 have full accredited Texas-breds.

22 This is Texas. I'm here. My money is
23 being spent here. My commitment is here. And I ask
24 that the Texas Racing Commission support by a decision
25 to support Jan Haynes and the Texas Thoroughbred

1 industry in this issue.

2 Thank you.

3 CHAIRMAN SCHMIDT: Do we have any
4 questions of Mr. Scales?

5 COMMISSIONER MARTIN: I have one. What
6 changed?

7 MR. SCALES: What changed?

8 COMMISSIONER MARTIN: Uh-huh.

9 MR. SCALES: What do you mean what
10 changed?

11 COMMISSIONER MARTIN: You said that
12 things have changed from last year to this year.

13 MR. SCALES: What changed was what
14 caused -- these guys couldn't come up with a resolution
15 on the breed splits. That's the change. The change is
16 the previous years they've been able to come up with a
17 solution. It sounds to me like it hasn't really been
18 come up with a solution. It sounds to me like the
19 Texas Thoroughbreds or the Texas -- the Thoroughbred
20 industry just conceded.

21 When you have a meeting -- I wasn't
22 there. This is based on the testimony -- where you
23 say, look, I'll give you 50 percent. Just give me back
24 half of what you done stole from me and we'll call it a
25 day and you can't even give me back half? Come on. I

1 don't understand. I can't -- the expression I have
2 is: Really? Really? That's the best you can do. I
3 want you to just give me back half of what you have
4 taken from the Thoroughbreds and you can't even meet me
5 on that.

6 That's the change. The change may be
7 that maybe our leadership, maybe Jan and Richard and
8 Lane, the leadership of the Thoroughbred industry, has
9 finally woke up. Enough is enough. All this nonsense
10 about our horses and sales and all that, like what Lane
11 said, we don't raise dogs. They may not be the fastest
12 kids on the block, but they're our kids. And it
13 matters to us.

14 COMMISSIONER MARTIN: I appreciate that.
15 Thank you.

16 MR. SCALES: You're welcome.

17 CHAIRMAN SCHMIDT: Thank you very much.

18 Okay. I think we've heard all the public
19 comment. And the Commission has, I think, wrestled
20 with this issue. Obviously the key issue is there's no
21 winners. There's clearly no winners. We're all out of
22 money.

23 VICE-CHAIRMAN EDERER: I have a comment.

24 CHAIRMAN SCHMIDT: Yes.

25 VICE-CHAIRMAN EDERER: For seven years

1 I've sat here and listened to this more or less problem
2 that we have. Now, it has always been worked out,
3 usually in the rules committee. We've always agreed to
4 disagree and have gotten the job done. It's the exact
5 same problem that we had seven years ago. Nothing has
6 changed. But we always seem to come to an agreement to
7 help the industry to continue and to continue and to
8 continue.

9 Well, I think now -- I think we're about
10 to see some dramatic changes in the racing industry in
11 the next two years. We've got a big election coming
12 up. There's a lot of things that are going to happen,
13 in my opinion, in the racing industry. I know that the
14 Chair has some ideas and there's going to be some
15 action by the Commission.

16 But, you know, last year in the rules
17 committee meeting -- and that's usually where all of
18 this is worked out and that's where we hear from
19 everyone is in the rules committee meeting.
20 Commissioner O'Connell, Commissioner Aber, and myself,
21 all of us agreed to help the industry. We said if you
22 all -- if we can help you in the future, if we can help
23 you so this doesn't happen next year, we'll be there.

24 Well, we didn't hear anything. And when
25 do we hear something? A week before we're supposed to,

1 you know, make the decision. That's wrong. I think
2 that we need to, all of you now -- everything is at a
3 high pitch and everyone is very familiar with each
4 other's position at this point in time. Why don't you
5 meet right after the first of the year and start coming
6 up with some proposals and work together and try to
7 come up with an answer?

8 I think that it's very important that as
9 an industry you come up with an answer and that you go
10 united into the future. Like I said, that election is
11 coming up next November. I think it's going to have a
12 dramatic effect on what happens.

13 As far as this year is concerned, I don't
14 see much change from last year to this year,
15 Commissioners. The schedule has been set. And the
16 majority of the industry seems to be -- at least as far
17 as the tracks are concerned and the Quarter Horsemen,
18 they've come to the same agreement. I haven't -- I
19 don't see any change.

20 But I think that it's very important.
21 And I agree with you, sir. It's very important that
22 everyone start coming together and do something rather
23 than wait until next year, kick the can down the road
24 to next year, let's go and argue again. The same thing
25 is going to happen again next year.

1 So maybe this is the time to do something
2 about it. And I think that the industry should get
3 together right after the first of the year, in January,
4 and start -- have that same meeting that you had before
5 and see what you can come up with. And when you come
6 up with it, then get ahold of the Chair and ask for a
7 meeting with the Commissioners to help you and we'll be
8 more than happy to help you. Like I said, I've watched
9 this for seven years and fortunately we've survived by
10 kicking the can down the road. But I think it's coming
11 to a head now.

12 So I don't know, Commissioners. That's
13 just my comments.

14 CHAIRMAN SCHMIDT: Good comments. Very
15 well spoken.

16 Any other comments from any of the
17 Commissioners? Questions?

18 COMMISSIONER MARTIN: I agree a hundred
19 percent. You all have got to come together. You all
20 have got to go forward with a united front.

21 CHAIRMAN SCHMIDT: I would echo those
22 comments certainly.

23 Any other thoughts, suggestions?

24 VICE-CHAIRMAN EDERER: Call the
25 question.

1 CHAIRMAN SCHMIDT: Okay. I think we have
2 really two options. We can either accept the
3 recommendations by the tracks or we can offer a
4 modification. Okay?

5 VICE-CHAIRMAN EDERER: I recommend that
6 we accept the recommendation of the track. I make a
7 motion that we accept the recommendation.

8 COMMISSIONER MARTIN: I second that.

9 CHAIRMAN SCHMIDT: There's been a motion
10 made by Vice-Chair Ederer to accept the recommendations
11 by the track and allocate the purses and distribution
12 of the escrowed funds as described in our packet and
13 it's been seconded by Dr. Martin.

14 Any further comments?

15 Then I think what we should do is -- I
16 appreciate your recommendation. I'm going to probably
17 vote against that and just suggest we give some
18 additional funds to the Thoroughbreds. But I think we
19 need to move forward.

20 So can you just call the roll?

21 MS. WELCH: Chairman Robert Schmidt?

22 CHAIRMAN SCHMIDT: No.

23 MS. WELCH: Commissioner Ron Ederer?

24 VICE-CHAIRMAN EDERER: Yes.

25 MS. WELCH: Commissioner Cynthia Leon?

1 MS. LEON: Yes.

2 MS. WELCH: Commissioner Ann O'Connell?

3 MS. O'CONNELL: Yes.

4 MS. WELCH: Commissioner Gloria Hicks?

5 COMMISSIONER HICKS: Yes.

6 MS. WELCH: Commissioner Michael Martin?

7 COMMISSIONER MARTIN: Yes.

8 MS. WELCH: Commissioner John Steen?

9 COMMISSIONER STEEN: Yes.

10 MS. WELCH: Commissioner Gary Aber?

11 COMMISSIONER ABER: Yes.

12 CHAIRMAN SCHMIDT: So do you have a tally

13 there?

14 MS. WELCH: Seven for and one against.

15 CHAIRMAN SCHMIDT: Great. Thank you.

16 The motion carries.

17 Discussion on the following matters:

18 Progress reports by inactive racing license holders on

19 preparations to begin live racing.

20 Laredo Downs. Mr. Moltz, are you

21 available?

22 MR. MOLTZ: Good morning, Mr. Chairman,

23 Commissioners. I just have a brief progress report for

24 Laredo Downs.

25 I am pleased to report that there is

1 activity, actually real, and it's going to be presented
2 to this Commission in the very near future, starting
3 like between now and the end of the year.

4 Unfortunately, the discussions are just beginning and
5 we believe it would be inappropriate to set it out
6 before the Commission here today. So I would kind of
7 request your indulgence.

8 We can at perhaps the next meeting -- I
9 know it's not progress reports, but we'd be happy to
10 postpone ours for one meeting. There are
11 developments. I think it's going to be good for the
12 industry. Unfortunately, as I said, it's really not
13 appropriate for me to set them out for the first time
14 for everybody here in the public forum here this
15 morning.

16 So it's a bit awkward, a progress report
17 saying, "Yeah, there's progress, but I can't tell you
18 what it is"; but nevertheless, that's sort of where I
19 am here.

20 CHAIRMAN SCHMIDT: I will acknowledge,
21 Mr. Moltz, just for the record, that representatives
22 from Laredo Downs have contacted the Commission about
23 discussions to be held later in this month which
24 would --

25 MR. MOLTZ: Okay. This is real. There's

1 a proposal coming. I believe everybody will be happy
2 with it. At least the industry will be. I can't ever
3 believe everybody will be happy with anything. But
4 with that, I'll --

5 CHAIRMAN SCHMIDT: Certainly. If it
6 doesn't -- if it doesn't bear fruit, we'll certainly
7 call you back. But we understand. Thank you.

8 MR. MOLTZ: Thank you.

9 CHAIRMAN SCHMIDT: And then a progress
10 report on Laredo Race Park. Andrea Young?

11 MS. YOUNG: Thank you, Commissioners.
12 Unlike Mr. Moltz, I don't have a progress report of
13 upcoming progress. My progress report really is
14 focused on kind of how we view our license going
15 forward.

16 For those Commissioners -- some of you
17 have been on the Commission longer than others. I
18 think you have a fair amount of history on Laredo. But
19 for those who have not, we've spent considerable time
20 chasing what I view to be almost every single -- or
21 like every single option that we could come to in
22 Laredo to get something plausible in the near term
23 moving.

24 We have visited old defunct racetrack
25 sites. We have worked with the City and the County on

1 possible, you know, city-public -- or city-private
2 partnerships. And we feel like we've exhausted those
3 to the best of our abilities at this time in the
4 current environment. We just spent a good hour talking
5 about the current environment and why it makes it so
6 difficult to get a new project off the ground.

7 We're committed to getting one off the
8 ground when things change. And so going forward for
9 us, we really view our efforts focused on, you know,
10 doing what we can to continue to support the industry.
11 We did this year, or just in September, you know,
12 submit our 230,000-dollar annual payment to the
13 Commission. We do maintain our option on our piece of
14 property in Laredo. We spend upwards of almost six
15 figures a year maintaining that option. We recently
16 exercised the most recent option in this -- the last --
17 in the third quarter.

18 And going forward, we want to focus on
19 things we can visit, work with the Commission on,
20 whether it's regulatory-wise, whether it's policy-wise,
21 how the Commission awards race dates. That's something
22 we've talked to staff about before, kind of the time
23 period, how long.

24 I think we were hopeful that maybe what
25 we would see out of Amarillo and the Saddle Brook

1 license would be more promising and maybe give us a
2 path forward on a temporary simulcasting option. We
3 think that that has not been the case there, although,
4 you know, obviously they've done a great job but
5 haven't been able to meet their projections.

6 So we're going to continue to work kind
7 of all the policy, regulatory ways that we can to
8 support the industry and we're going to continue when
9 the Legislature convenes in 2015 to work every avenue
10 we have there to make the project more feasible in the
11 long term.

12 I'd be happy to answer any questions.

13 CHAIRMAN SCHMIDT: Any questions of
14 Ms. Young?

15 VICE-CHAIRMAN EDERER: I just have a
16 comment. I don't have any questions about this. I
17 meant to say something earlier to you because I don't
18 believe that Sally is going to have the opportunity to
19 say anything today. But as far as I understand it, the
20 meet went, she said, very well. The track, they said,
21 was just in very good condition. And there was one
22 injury. One dog broke a toe. So it was a very
23 successful meet. I just wanted to --

24 MS. YOUNG: And will make a full
25 recovery, of course.

1 VICE-CHAIRMAN EDERER: There you go.

2 MS. YOUNG: Thank you.

3 CHAIRMAN SCHMIDT: Thank you very much.

4 Longhorn Downs, Bryan Brown.

5 MR. BROWN: Good morning, Commissioners.

6 Bryan Brown representing KTAGS Down Holding Company,

7 LLC, the entity recognized as the owner of Longhorn

8 Downs, Inc., by the Commission.

9 My update is more one of a quick update
10 on litigation. As you heard at the last meeting, the
11 Dallas Trial Court ruled in favor of Dallas City Limits
12 in their dispute with the Austin Jockey Club. At 3:10
13 this morning we got word that the Houston Appeals Court
14 had also ruled in favor of Dallas City Limits in the
15 dispute involving the holding of the stock in a
16 registry by the Court where the Appeals Court denied
17 the request to have the stock removed from the registry
18 and given to KTAGS -- or given to the Austin Jockey
19 Club to give to KTAGS.

20 What has not come up in any of the cases,
21 any of those two cases, is any dispute about the
22 authority of the Commission. There is -- and our
23 position is this Commission has the sole authority to
24 issue and approve licenses and that has not changed by
25 any of the court action. In fact, the third case,

1 which was in Austin, raised that issue and that was
2 dismissed. That did not go forward.

3 So our position continues to be that this
4 Commission has the sole authority over this matter
5 ultimately, that any action by the Court deals with the
6 contracts of the parties involved and not with the
7 awarding of the license or approval of a license
8 transfer.

9 We look forward to the upcoming agenda
10 item dealing with studying pari-mutuel wagering and the
11 committee and hope to participate as an inactive
12 license holder in something that would make sense for
13 this industry.

14 I'd be happy to answer any questions that
15 you have.

16 CHAIRMAN SCHMIDT: Any questions?

17 Thank you very much, Mr. Brown.

18 MR. BROWN: And I'm real glad I wasn't
19 involved in the breed split argument. I enjoyed
20 sitting in my seat. Thank you.

21 CHAIRMAN SCHMIDT: Howard Phillips
22 representing Manor Downs?

23 Good to see you, Mr. Phillips. Welcome.

24 MR. PHILLIPS: Good morning, Mr. Chairman
25 and Commissioners. I'm Howard Phillips representing

1 Manor Downs.

2 Currently we continue to maintain our
3 racetrack facility and we are, I guess, a year into an
4 attempt -- an aggressive action to find a strategic
5 alliance, potentially new ownership. Obviously with
6 the state of the industry and what's going on -- and I
7 dearly miss these breed splits because we were always
8 an integral -- we were the chip that everybody played
9 for the splits.

10 But it's very challenging and we're going
11 to look at -- we're going to try to skin the cat
12 another way. You know, we have a facility and we would
13 like to see someone somehow to make a business case for
14 it to reopen. That's our position and we'll continue
15 to pursue that.

16 CHAIRMAN SCHMIDT: Thank you,
17 Mr. Phillips.

18 Any questions of Mr. Phillips?

19 Great. Good to see you again.

20 MR. PHILLIPS: Thank you.

21 CHAIRMAN SCHMIDT: That brings us up to
22 date there.

23 Then let's just move forward to just a
24 brief summary note. When I was reviewing most of the
25 information in preparation for today's meeting about

1 the breed splits, it just impressed me significantly
2 the fact that whether you're a Quarter Horse supporter,
3 you're in the middle, or you're a Thoroughbred
4 supporter, there's just so little money in our industry
5 that we're just fighting for a shrinking, shrinking
6 pie.

7 And concurrently, since the last meeting,
8 I've been approached probably more than any other time
9 in the seven years I've been on the Commission. I've
10 received requests both from -- for help and support
11 both from two of the tracks, from several horsemen both
12 in an official and unofficial way, and from one State
13 Representative, just to look for ways in which we can
14 perhaps leave no stone unturned in attempting to do
15 everything we can to make Texas racing competitive.

16 And so what I've added to the agenda is
17 I'd like to establish an advisory committee on
18 pari-mutuel wagering. And the charge is simply to look
19 at our regulatory situation and come with a blank
20 canvas, just think about it open-minded, aggressively,
21 just make sure there's no regulation that we're
22 implementing, there's no burden that we're placing on
23 the industry to make us less competitive with the other
24 states in terms of supporting our horsemen, supporting
25 our tracks, and supporting all the jobs that they

1 provide.

2 And so I have spoken with several
3 Commissioners in advance of this and I've asked
4 Commissioner Ederer if he would chair this Commission
5 and he indicated a willingness. I've asked
6 Commissioner Martin if he would also be a member. And
7 I've asked Commissioner Steen to use your business
8 background, approach this with an open mind, with
9 scrutiny, you know, both optimistically and
10 skeptically, and just look at our pari-mutuel
11 situation. Are we doing anything which inhibits our
12 product from being competitive in this country? Look
13 at betting options in terms of, you know, Pick Six,
14 Pick Five. Look at our takeout issues. Look at all
15 aspects of the racing that you think could help us in
16 some way.

17 I just think -- I think the real fight
18 today was the fact that the reason that there's so much
19 bitterness between the Thoroughbreds and the Quarters
20 is there's just no money. We're fighting over crumbs
21 and so people are getting a little desperate.

22 And so I realize you're on other
23 Commissions, other committees. I don't want to burden
24 you. I know you have two children under two, which is
25 the biggest burden of all. So I envision -- we

1 certainly hear the horsemen. I don't think we need a
2 lot of public meetings, perhaps one. But I'd like you
3 to just look at this so we know, as a Commission, that
4 we've done everything we can from a regulatory
5 perspective. If we have any burdensome regulations,
6 certainly bring those forward and we can see if we can
7 modify them in some way. I anticipate hopefully you
8 can get back with us maybe in the April or June time
9 frame.

10 VICE-CHAIRMAN EDERER: Definitely. And
11 we welcome any comments, any suggestions that the
12 industry has. Please contact me. Get them to me so
13 that we can discuss them. And we will have a report
14 back to you hopefully before June, but no later than
15 June.

16 CHAIRMAN SCHMIDT: Yeah. Just -- that
17 way we know we've left no stone unturned. Thank you.

18 And then moving forward to proceedings on
19 rulemaking, rule proposals, No. A, to amend Rule
20 313.103, Eligibility Requirements.

21 Mark, can you lay out this proposal for
22 us?

23 MR. FENNER: Yes, sir.

24 Commissioners, this proposed amendment
25 was a fairly technical amendment to that rule. It's

1 about eligibility to enter a horse into a race. And
2 this would add Paint Horses and Appaloosas to
3 Subsection (g) and make clear that these horses, like
4 Quarter Horses, must have a qualifying published
5 workout around a turn in order to be entered in a race
6 around a turn for the first time.

7 This was taken to the rules committee at
8 its meeting on November 9th which authorized staff to
9 bring it to you for your consideration.

10 CHAIRMAN SCHMIDT: Is there any public
11 comment?

12 No public comment.

13 MR. FENNER: No, sir.

14 CHAIRMAN SCHMIDT: Commissioner
15 O'Connell, any thoughts, recommendations?

16 MS. O'CONNELL: It's pretty
17 straightforward and I think it's just kind of a
18 conforming change at this point for current practice.

19 MR. FENNER: Yes, ma'am.

20 CHAIRMAN SCHMIDT: Great.

21 I'll certainly entertain a motion to
22 publish the proposed amendment to Rule 313.103 in the
23 Texas Register for public comment.

24 MS. O'CONNELL: I'll make the motion.

25 CHAIRMAN SCHMIDT: A motion by

1 Commissioner O'Connell, seconded by Commissioner Aber.

2 All those in favor signify by saying
3 aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN SCHMIDT: None opposed.

6 Then rule adoptions. Mark, can we take
7 all three together unless there have been some
8 significant public comment issues? Items B, C, and D.

9 MR. FENNER: Yes, sir.

10 The changes to 307.64 and 307.69 are to
11 bring the penalty authority of the stewards and of the
12 executive director into conformity with changes to the
13 act made by HB 1187. This increases the penalties from
14 \$5,000 and one year for the stewards up to 25,000 and
15 five years and also allows the executive director to
16 enhance that penalty up to \$100,000 and five years.

17 This was published in the October 25th
18 edition of the Texas Register and we received no
19 comments in response to the publication. And we had a
20 discussion at the rules committee meeting which
21 authorized us again to bring it to the Commission for
22 possible adoption.

23 The change to 319.3 is a change that
24 would allow us to bring the medication standards into
25 conformity with the RCI. By striking the word "trace,"

1 the executive director could add flunixin and
2 ketoprofen to the list of permissible medications
3 thresholds.

4 This was also published in the Texas
5 Register. We received no public comment. And it was
6 discussed at the rules committee which authorized us to
7 bring it for possible adoption.

8 CHAIRMAN SCHMIDT: So, Mark, for all
9 three rules then, we've had no public comment, no
10 public opposition.

11 MR. FENNER: Yes. No written comments
12 and no real comments in opposition at the rules
13 committee.

14 CHAIRMAN SCHMIDT: These have all been
15 worked through the rules committee.

16 MR. FENNER: Yes, sir.

17 CHAIRMAN SCHMIDT: Great. Any further
18 discussion?

19 I'll certainly entertain a motion to
20 adopt the amendments described in Agenda Items V-B
21 through D as published in the Texas Register.

22 COMMISSIONER HICKS: I'll make the
23 motion.

24 CHAIRMAN SCHMIDT: A motion by
25 Commissioner Hicks and seconded by Commissioner Steen.

1 All those in favor signify by saying
2 aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN SCHMIDT: All those opposed?
5 None. Great.

6 There will be no executive session
7 today.

8 Our next scheduled meeting will be on
9 February 11th unless there is a significant conflict.
10 You can report that to Ms. Welch.

11 I wish you all a happy holiday and our
12 meeting is adjourned.

13 (Proceedings concluded at 12:17 p.m.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

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4 I, SHERRI SANTMAN FISHER, a Certified Shorthand
5 Reporter in and for the State of Texas, do hereby
6 certify that the above-captioned matter came on for
7 hearing before the TEXAS RACING COMMISSION as
8 hereinbefore set out.

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,
15 Texas, this 20th day of December, 2013.

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SHERRI SANTMAN FISHER, Texas CSR 2336
Expiration Date: 12-31-15
22 Sunbelt Reporting & Litigation Services
Firm Registration No. 87
23 1016 La Posada Drive, Suite 294
Austin, Texas 78752
24 (512) 465-9100

25 Job No. 114692