

1 BEFORE THE
2 TEXAS RACING COMMISSION
3 AUSTIN, TEXAS

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11 COMMISSION MEETING
12 DECEMBER 15, 2015
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20 BE IT REMEMBERED that the above entitled matter
21 came on for hearing on the 15th day of December, 2015,
22 beginning at 10:30 A.M. at 105 West 15th Street, Room
23 120, Austin, Travis County, Texas, and the following
24 proceedings were reported by SHERRI SANTMAN FISHER,
25 Certified Shorthand Reporter for the State of Texas.

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APPEARANCES

Commissioners: ROLANDO PABLOS
RONALD F. EDERER
MARGARET MARTIN
GLORIA HICKS
GARY P. ABER
ROBERT SCHMIDT
JOHN T. STEEN, III
VICTORIA NORTH
A. CYNTHIA LEON

1 CHAIRMAN PABLOS: Okay. Good morning,
2 everyone. I'd like to call this meeting of the Texas
3 Racing Commission to order. The time is 10:30 a.m.

4 I would like to ask Mary Welch to call
5 roll, please.

6 MS. WELCH: Commissioner Gary Aber?

7 COMMISSIONER ABER: Here.

8 MS. WELCH: Commissioner Gloria Hicks?

9 COMMISSIONER HICKS: Here.

10 MS. WELCH: Commissioner Cynthia Leon?

11 MS. LEON: Here.

12 MS. WELCH: Commissioner Margaret

13 Martin?

14 COMMISSIONER MARTIN: Present.

15 MS. WELCH: Commissioner Victoria North?

16 MS. NORTH: Here.

17 MS. WELCH: Commissioner Robert Schmidt?

18 COMMISSIONER SCHMIDT: Here.

19 MS. WELCH: Commissioner John Steen?

20 COMMISSIONER STEEN: Here.

21 MS. WELCH: Vice-Chairman Ron Ederer?

22 VICE-CHAIRMAN EDERER: Here.

23 CHAIRMAN PABLOS: Chairman Rolando

24 Pablos?

25 CHAIRMAN PABLOS: Here.

1 MS. WELCH: We have a quorum.

2 CHAIRMAN PABLOS: We have a quorum.

3 Thank you very much.

4 First item, Commissioners, first of all,
5 I'd like to say that I'm very happy to be back here.
6 I'm glad to see everyone here today. To everyone in
7 the audience, I'm very happy that you're here today. I
8 hope to be able to have a great discussion about the
9 current situation of this agency with everyone.

10 But before we do that I'd like to take up
11 Item II, ceremonial items. Whenever I was stepping off
12 the Commission last time, we had Dr. Martin come on
13 board. I had the opportunity to work with him
14 briefly. I was always very impressed with Dr. Martin.
15 And so what we'd like to do today is we'd like to
16 present Dr. Martin with a small token of our
17 appreciation.

18 So, Dr. Martin, I'd like to ask you to
19 please come up.

20 So, Michael, I just want to present to
21 you this plaque on behalf of the Texas Racing
22 Commission. It's got everyone's name on this plaque
23 and it's dedicated to your -- to our appreciation of
24 your work. And so I want to thank you. Thank you for
25 everything that you've done. Thank you for working

1 with the industry to regulate it in a transparent and
2 predictable way, in a fair manner.

3 So I wanted to thank you for all your
4 work. I know you got paid a lot to do this. And so
5 it's very important that we had you on board. Thank
6 you very much.

7 MR. MARTIN: Thank you very much. Thank
8 you to the staff and thank you to all my fellow
9 Commissioners. And I wish I was up there today for one
10 more vote.

11 CHAIRMAN PABLOS: Commissioners, I'd like
12 to open the floor for any remarks you might have for
13 Dr. Martin.

14 COMMISSIONER ABER: You know, I'd like to
15 make a remark. You know, a lot of people -- you can't
16 get people to do this very often and a lot of people
17 won't do this for nothing. He did it and he worked
18 hard and he was up on top of the medicine. And we've
19 got to regulate this and he did a real good job. So
20 good job.

21 VICE-CHAIRMAN EDERER: Great working with
22 you, Mike.

23 COMMISSIONER SCHMIDT: I'd also like to
24 thank Dr. Martin for his years of service. I think
25 those of us who are not vets don't realize that after

1 we have these discussions here, we move on to our
2 lives. And Dr. Martin meets the constituents each and
3 every day, hears their concerns. He's always on call,
4 literally and figuratively. And it's just been a real
5 pleasure working with you and I really appreciate your
6 guidance.

7 COMMISSIONER HICKS: Dr. Martin, I'd like
8 to add a good-bye to you. But I've enjoyed working
9 with you so much and I consider you a friend. If you
10 ever need a car, come see me.

11 COMMISSIONER STEEN: Thank you for your
12 service, Dr. Martin. We appreciate it.

13 MS. LEON: Dr. Martin, I've enjoyed
14 working with you also and look forward to seeing you in
15 San Antonio one of these days.

16 MR. TROUT: Mr. Chairman?

17 CHAIRMAN PABLOS: Yes.

18 MR. TROUT: I would also like to thank
19 Dr. Martin. I have worked probably closer with him
20 than most any of the other Commissioners. He has been
21 invaluable to me. People in the industry would go to
22 him with problems or complaints and he would call me
23 and we would work together through that. And he has
24 been invaluable to me in trying to institute the drug
25 testing program that we've been putting in place and

1 I'm going to really miss him. Thank you very much,
2 sir.

3 CHAIRMAN PABLOS: Well, thank you,
4 everyone. And, Michael, thank you very much. We wish
5 you the best. And we hope that you stick around for
6 some of this discussion.

7 Also, as Dr. Martin steps off, I'd also
8 like to recognize our new Commissioner, Margaret
9 Martin, to the Commission. Margaret, welcome.

10 COMMISSIONER MARTIN: Thank you.

11 CHAIRMAN PABLOS: Welcome aboard. We
12 have a tradition, or at least we had a tradition when I
13 was here last time, to open the floor for you to say
14 any comments. Do you have anything to say today?

15 COMMISSIONER MARTIN: It's an honor to be
16 here, an honor to be working with everybody, and I look
17 forward to doing wonderful things together. So it's an
18 honor to be here. Thank you.

19 CHAIRMAN PABLOS: Thank you. And
20 welcome.

21 Okay. Well, we'll move on to our next
22 item, public comment. Devon, do we have anyone that's
23 signed in and turned in any testimony?

24 MS. BIJANSKY: No, sir.

25 CHAIRMAN PABLOS: Okay. So what I'd like

1 to do at this time, if it's okay with you,
2 Commissioners, I'd like to move on to Item VII-B on the
3 agenda, adoption of amendments and adoption of repeals
4 of the rules related to historical racing as published
5 in the June 26, 2015 edition of the Texas Register.

6 As I mentioned earlier, you know, I'm
7 very happy to be here with you all. I'm very honored
8 to succeed Dr. Schmidt after his remarkable tenure as
9 chairman. It's clear to me that under his tenure,
10 under his leadership, the Commission has been able to
11 do a tremendous job in regulating the industry, in
12 working with the industry in a way that is transparent,
13 that is predictable, and that is fair. And for that, I
14 want to congratulate this Commission.

15 Dr. Schmidt, I want to congratulate you
16 for all your leadership, for your good work. You've
17 done a tremendous job. I'm glad you're here.

18 And I also wanted to express appreciation
19 and to commend this Commission for dignifying the
20 concerns of the industry. To me, that has been one of
21 the most important observations that I've made. This
22 Commission has dignified the concerns of the industry
23 and has heeded the request of the industry to find new
24 and creative ways to re-energize this once vibrant
25 sector of our economy.

1 And so, Vice-Chairman Ederer, I want to
2 congratulate you for leading the committee on the
3 historical racing rules. You've done a great job.
4 You've been able to frame the issue. You've been able
5 to deliver very positive results for the industry. I
6 know that you've put a lot of time and effort into
7 this. I want to also congratulate the other members of
8 your committee for the good work that you've done.
9 It's very admirable and I want to congratulate you.

10 Over the past couple of years I've been
11 watching this situation, following it with great
12 interest and optimism. And, you know, seeing this
13 Commission try to bring historical racing to Texas was
14 a -- created great joy for me. I remember getting
15 phone calls when the rules were passed and I really
16 wanted to be here so much with you to celebrate when
17 that happened.

18 But it seems to me that I've come back to
19 this Commission during a time when this one silver
20 bullet that was supposed to help the industry is now
21 creating some serious side effects and some unintended
22 consequences for this agency that are putting this
23 agency in peril.

24 And so what I want to do today and the
25 reason I brought this item up first is because I wanted

1 to have a discussion about this because I truly believe
2 that this agency is in crisis and that it needs the
3 attention immediately. We need to make some decisions
4 today about the future of this agency. I want to have
5 an open discussion not only with you, Commissioners,
6 but also with all of you in the audience. We need to
7 take a hard look at our current situation. We need to
8 understand the facts that are before us today so that
9 we can make an informed decision as to the future of
10 this agency.

11 And so with that being said, what I would
12 like to do is I would like to ask Mark to lay out this
13 item for us so that we can understand what's before us
14 and then we'll move on into our public comment and then
15 we'll take it from there.

16 But, Mark, could you please lay out the
17 item so that we can all understand what this item
18 means?

19 MR. FENNER: Are we just clarifying
20 VII-B, the potential repeal, only?

21 CHAIRMAN PABLOS: Yes.

22 MR. FENNER: Yes, sir.

23 This was published in the June 26, 2015
24 edition of the Texas Register for public comment. And
25 what these proposals would do would -- for those rules

1 that preexist the adoption of the historical racing
2 rules, it would return those rules to their
3 pre-historical-racing condition. Also it would take
4 Subchapter F, which is the section of the rules that
5 are dedicated to setting out the parameters of how
6 historical racing works, and it would repeal those
7 rules in their entirety.

8 During the comment period we received
9 nearly 1300 public comments, all but four of which were
10 in opposition to the repeal of the rules. These were
11 mostly in the form of form letters and e-mails and
12 petitions.

13 We received five comments from State
14 legislators, one of which explicitly supported
15 historical racing and the others opposed making a
16 connection between the funding and the decision on the
17 proposed repeal.

18 We received five letters from industry
19 organizations. These all opposed repeal. The TGA, the
20 Thoroughbred horse association, the THP, the Jockeys'
21 Guild, and then the Thoroughbred HBPA.

22 There were three letters supporting the
23 repeal. Those were from the Kickapoo Traditional
24 Tribe, a representative of 300 organizations licensed
25 to conduct charitable bingo, and then Grey2K also wrote

1 in support of the repeal. We provided these to the
2 Commission prior to the August meeting.

3 At the August meeting the Commission took
4 it up and made no action on the proposed repeal and
5 therefore the current proposal still is available for
6 you to take action on. It remains pending before the
7 Commission until December 28th, at which time the
8 proposal will be withdrawn by operation of law.

9 CHAIRMAN PABLOS: Mark, I have a
10 question. Can you -- can you walk us through the last
11 time this item was considered in the August 25th
12 meeting and what has transpired since?

13 MR. FENNER: Yes, sir.

14 At the August meeting there was first a
15 motion to withdraw the proposal. That was made by
16 Commissioner Martin. And that motion failed to pass.
17 It was a four to three to one vote. The Comptroller's
18 office abstained on that decision. And it failed to
19 pass because Commission Rule 303.5 says that in order
20 for a motion to carry, it has to have a majority of the
21 votes of the Commissioners present. So with eight
22 members present at that time, that required a vote of
23 five people.

24 There was then a motion by Commissioner
25 Leon to go ahead and adopt the repeal of those rules.

1 That failed as well by a three to four to one vote.

2 After that -- you know, after the meeting
3 and that was done, the LBB did not grant us any
4 authorization and the Commission had to close its
5 office on September 1 and there was no live racing, no
6 simulcasting. No one reported to work. We were done.
7 And at the end of September 1st we received
8 notification from the LBB and the Governor's office
9 that they had approved 90-day funding for us and so
10 everyone returned to work and racing resumed on
11 September 2nd.

12 During the month of -- what was the next
13 month? November, mid November, we got approval again
14 to continue for an additional 90 days. So we are
15 currently funded on a temporary basis through the end
16 of February; but after that point, once again, we are
17 subject to shutdown and we may -- the agency may close
18 and all racing, live and simulcast, will end.

19 Do you have any other questions?

20 CHAIRMAN PABLOS: Commissioners, do you
21 have any technical or clarifying questions of Mark on
22 what he's laid out?

23 COMMISSIONER ABER: Could you clarify
24 that? On December the 28th what's going to happen?

25 MR. FENNER: February 28th.

1 COMMISSIONER ABER: I thought you said
2 December the 28th.

3 MR. FENNER: Oh, that. Oh, yes, sir.
4 I'm sorry. Well, when we publish rules for public
5 comment in the Texas Register, they remain in effect
6 for six months; and in this case, because December 26th
7 occurs on a Saturday, it rolls over to the Monday. So
8 December 28th, the rules that are proposed, the
9 proposed modifications to the preexisting rules and the
10 proposed repeal of the historical racing rule, that
11 proposal will be withdrawn by operation of law. You
12 will not be able to take action under it on December
13 29th.

14 CHAIRMAN PABLOS: Any other questions of
15 Mark?

16 Chuck, on September 1st when we had the
17 shutdown, can you walk us through your experience of
18 that day and what you had to do leading up to the day
19 and subsequent to that day, too?

20 MR. TROUT: Yes, sir.

21 I had to notify the racetracks, first of
22 all, that operations were going to cease. We had to
23 not approve simulcasting beyond that date. And then
24 leading up to that date, I had to notify all of our
25 employees that they would not report to work. We had

1 many employees that had to apply for retirement at that
2 time. And then on that day, we just didn't show up to
3 work. Now, that night I received a phone call from
4 Representative Otto's clerk telling me to bring all the
5 employees back to work the next day and that I was not
6 to delay doing that.

7 CHAIRMAN PABLOS: Okay. Are there any
8 questions of Chuck as to this issue?

9 Okay. So hearing none, what I'd like to
10 do now is invite public comment. But before I do that,
11 I want to make sure that we all understand that today
12 what we need to do as a Commission is to take in all
13 the information that we have in front of us today so
14 that we can make an informed decision.

15 Since the last time that this vote was
16 taken up, we've had some new issues come up. We've had
17 the no-funding issue come up. We've had the agency
18 shutdown. We still have our long-term funding
19 situation in an uncertain manner. And so what I'd like
20 to do is I'd like to gather as much information as
21 possible so that we can all have a discussion about
22 this item and we can make a decision as to the fate of
23 this agency.

24 As I mentioned earlier, I believe that
25 this agency is in crisis mode. Everything is hinging

1 on this one particular issue. And so that's why I
2 wanted to take this item up first. I believe that if
3 we're unable to resolve this item and we do it in a way
4 where no funding is going to be forthcoming, then I
5 would say that the rest of the agenda is a moot point.
6 But I'd like to address this point first.

7 At this time I'd like to call Marsha
8 Rountree up, please.

9 And, Marsha, if I may, what I'd like to
10 do is -- I think everybody on the dais understands your
11 position with respect to the rules. What I'd like to
12 do is see if you wouldn't mind having a conversation as
13 well about the agency itself and the future of the
14 agency and what you foresee happening if this agency
15 were to shut down.

16 But I'd like to give you some time. I
17 have about 40 cards in front of me. So, you know, I'd
18 like to ask for everybody to provide your comments; but
19 if you feel that they would be repetitive, I would then
20 ask you to just help us understand your position on a
21 potential shutdown of this agency because that's the
22 most important thing to me right now is I see that
23 coming if we don't vote a certain way today and I want
24 to know what you think and what your constituency
25 thinks about that. So, please.

1 MS. ROUNTREE: Thank you, Mr. Chairman.
2 I'll do my best.

3 CHAIRMAN PABLOS: Yes, ma'am.

4 MS. ROUNTREE: I'll start off with good
5 morning, Commissioners. My name is Marsha Rountree.
6 I'm the executive director of the Texas Horsemen's
7 Partnership.

8 I'd like to welcome you, Commissioner
9 Martin, and welcome back, Mr. Chairman. I'm not sure
10 whether I should offer you congratulations or my
11 condolences.

12 CHAIRMAN PABLOS: I'm happy to be here.

13 MS. ROUNTREE: Most of you heard this
14 testimony on historical racing at three previous
15 meetings; but since we do have two new Commissioners,
16 I'd like to summarize. And I will be brief.

17 And I doubt there's anyone here who
18 doesn't understand the decline that our industry has
19 experienced. The membership of our organization, which
20 is comprised of licensed owners and trainers, has
21 decreased from 10,000 to just under 4,000 and that
22 number is continuing to fall due to the uncertain
23 future facing our industry. These numbers represent
24 people who rely on racing to provide for their families
25 and they're employers who are providing jobs for

1 Texans.

2 We're seeing breeding farms and racing
3 operations being sold and are watching as horsemen and
4 the jobs they provide are leaving our state. Stall
5 applications are down significantly for the upcoming
6 meet at Sam Houston Race Park.

7 It's an unusual day for me when I don't
8 get a phone call or an e-mail from a horseman asking me
9 if there is any hope of Texas recovering from this
10 crisis. And oftentimes I really don't know how to
11 respond since I'm not convinced that we will recover.

12 And we know that because of lucrative
13 purses in surrounding states, many horsemen are forced
14 to make that hard decision and move away from the place
15 that they call home. Texas simply cannot compete
16 unless another source of purse funding is made
17 available.

18 And I would like to say to each of you
19 that I have a great deal of respect for each and every
20 one of you and I understand the pressure that you've
21 been under recently. But during each and every
22 legislative session this industry has gone to them with
23 our hat in our hand and every session we've been told
24 that we, as an industry, need to come up with a
25 solution that doesn't expand the footprint of gaming in

1 Texas.

2 That's exactly what we've done. We
3 didn't just decide one day to go all rogue and poke the
4 legislators in the eye. A lot of hard work, research,
5 and legal opinion went into the crafting of these rules
6 on historical racing. And I don't for a moment believe
7 that a single one of you would have acted if you had
8 thought that adopting these rules was outside your
9 legal authority to do so.

10 And three times you voted to affirm that
11 stance. You voted to publish. You voted to adopt.
12 And you voted in August not to take the rules down.

13 The opposition had every opportunity
14 during the last legislative session to vote and they
15 didn't, not even once. So we still believe that the
16 determination of authority to adopt the historical
17 racing rules should lie with the Courts and not with
18 the members of the Legislative Budget Board. And we do
19 not believe that funding for this agency should be
20 withheld unless the rules are repealed.

21 I believe that the industry is supportive
22 of republishing the rules. The funding for this agency
23 has been continued through the end of February.
24 Republishing the rules again for public comment would
25 move us through up until the next scheduled meeting,

1 which would be the February meeting of this
2 Commission.

3 We're all looking for a solution and we
4 need time to educate and to work on solutions for this
5 industry. Repealing the rules today is not in the best
6 interests of an industry in crisis. Let's move
7 forward, not go backward. Until someone comes up with
8 a better idea, this is the only one that we have.

9 So I have to say, on behalf of the
10 horsemen and women that we represent, we urge you to
11 either withdraw the proposal to repeal or vote to
12 republish in the Texas Register.

13 And so nothing has changed since the last
14 time I stood here, the time before that, or the time
15 before that. We still have this situation with the
16 Commission's funding. But as I said, that's been
17 assured you through the end of February. Republishing
18 gets us through the February Commission meeting. So
19 there's not a -- there's not a deadline there to repeal
20 the rules right this minute. It gives us time to
21 continue a discussion, continue a dialogue, look for
22 other solutions, and do some educating.

23 So if any of you have any questions, I
24 will do my best to answer them. But that's our stance
25 and I really believe that the correct thing is for us

1 to move forward and not go backward, back into an
2 industry that doesn't have any hope.

3 CHAIRMAN PABLOS: Any questions,
4 Commissioners?

5 I have a question. So just to clarify,
6 your desire is to wait until the February meeting to
7 take this item up? Is that what you're saying?

8 MS. ROUNTREE: Yes, sir.

9 CHAIRMAN PABLOS: In hopes of what?

10 MS. ROUNTREE: In hopes that if we
11 republish and we have the time to move forward that
12 someone from the Lieutenant Governor's office -- the
13 Governor's office has met with us. We have tried
14 repeatedly to arrange meetings with someone from the
15 Lieutenant Governor's office and have gotten no
16 response.

17 So I really think what we need is more
18 time. We're glad you're here. You have experience in
19 this. We think that dialogue is necessary. And we
20 think there's an opportunity to do some further
21 education and see if we can come up with some solutions
22 because we have no solution if we don't follow through
23 on this one.

24 CHAIRMAN PABLOS: You talked about moving
25 this to February or taking up action today is not in

1 the best interest of the industry. What about in
2 the -- what's in the best interest of the agency? Can
3 you speak to that a little bit? We have an agency that
4 is facing a situation where it may or may not be
5 funded. I think as the chairman of this body, I have
6 to assume that the threats that are out there are
7 real. We can't gamble on whether they're not real or
8 they are. And so what is your take on the Commission's
9 best interest?

10 MS. ROUNTREE: Mr. Chairman, I really
11 can't speak on what's in the best interest of the
12 agency. You've got a lot more experienced minds here
13 than mine to represent your agency.

14 But I can tell you that the very same
15 concern that you have for the agency I have for the
16 industry. And you're here speaking on behalf of an
17 agency. I'm here speaking on behalf of the horsemen
18 and the industry. And it's a very symbiotic
19 relationship because, without the agency, we don't have
20 racing; but without racing, there's no agency.

21 And if there are not solutions to provide
22 additional purse money, which provides additional race
23 days, which brings horsemen back to Texas, racetracks
24 are going to close and you're going to be defunded just
25 through attrition. So you have to have one to have the

1 other. And you're correct, no agency, no racing. But
2 if things continue to get worse, there will be no need
3 for this agency.

4 CHAIRMAN PABLOS: No, I get it.

5 And by the way, I failed to mention I've
6 received dozens of e-mails and phone calls. I've tried
7 to answer as many as I can. But the one thing that
8 kept popping up is folks imploring me to save the
9 industry. That was the quote, right?

10 But the question I have and I'll ask you,
11 what does that mean, save the industry? If -- like you
12 said, if we don't have an agency, we don't have an
13 industry; and so I'm confused as to what I need to do
14 to save the industry. Could you -- could you just kind
15 of help me understand that?

16 MS. ROUNTREE: Again, I can't speak for
17 the people that sent you the e-mails or the phone
18 calls; but I can tell you, from my perspective, if I
19 heard someone ask you to save the industry, my thought
20 would be that in order to help the industry survive, I
21 would think that it would be necessary for someone to
22 allow these rules to remain on the books, to allow the
23 industry time to pursue this in the Appellate Court
24 where we truly do believe it belongs. They're going to
25 decide whether this agency had the authority to write

1 those rules or not.

2 And so to do away with that seems kind
3 of -- I hate the word "unfair". But we do have three
4 branches of government. You know, we do have a
5 judicial, a legislative, and an executive. And so we
6 would like for that judicial branch to chime in.

7 Saving the agency to me, I can't put that
8 on your shoulders, Mr. Chairman, but I can say that we
9 would like the opportunity to continue to pursue our
10 options with these rules in place. We would like the
11 opportunity to have discussions with the executive
12 branch again and see if we can come up with some other
13 solutions. I know you're a solutions guy. I know that
14 you can help with that.

15 So I think repealing the rules takes us
16 backwards and we're back to Square One with no
17 options. Leaving these in place at least gives us the
18 opportunity to keep the dialogue open and look for some
19 other solutions while we still have this in place.

20 CHAIRMAN PABLOS: But it also places the
21 agency in jeopardy.

22 MS. ROUNTREE: I'm not sure -- and
23 Mr. Fenner would probably know this more than I do.
24 But it's my understanding that they funded you
25 through -- they've allowed you to fund yourself through

1 the end of February. Is that correct? Without
2 releasing the money from the -- from Rider 7?

3 MR. FENNER: We are currently funded
4 through the end of February.

5 MS. ROUNTREE: Okay. So if these rules
6 are published, when would they be -- when do you think
7 they would be published if we were going to republish?

8 MR. FENNER: If the Commission voted to
9 republish, they would most likely show up in the
10 January 1st issue of the Texas Register, including
11 their 30-day notice period, and January 31.

12 MS. ROUNTREE: So this item could be
13 readdressed at the regularly scheduled meeting of the
14 Texas Racing Commission in February.

15 MR. FENNER: Yes.

16 CHAIRMAN PABLOS: Sure. The one question
17 I would have there, though, is that we would, in
18 effect, be waiting two months to determine the fate of
19 this agency just a few days -- just a few business days
20 before the deadline, is what you're proposing.

21 MS. ROUNTREE: I would hope that before
22 then there could be a lot of discussion and working
23 amongst the agency and the various other executive
24 offices that are trying to find solutions as well.

25 CHAIRMAN PABLOS: By the way, you

1 mentioned that, you know, my interest is in the
2 agency. I'm also very much interested in the
3 industry.

4 MS. ROUNTREE: I understand that. But
5 you asked me the question about the crisis for the
6 agency.

7 CHAIRMAN PABLOS: I wanted to clarify
8 because, as I mentioned earlier, you know, I've been
9 watching this with great interest and optimism and I
10 was very happy to hear that this man got some things
11 done here. But now we've got this situation. So I
12 appreciate your comments.

13 Any other questions?

14 COMMISSIONER ABER: I'd like to say one
15 thing, that the gorilla in this room is they're
16 threatening us, to not fund us. I don't think that's
17 kosher. I don't know if anybody agrees that all this
18 threatening for us to change our votes and to vote a
19 certain way is right. So I think we have to stand up,
20 no matter what.

21 MS. ROUNTREE: I think -- I know myself,
22 I'm a pretty proud Texan. And I've always thought that
23 I had a pretty clear conscience. And what allows me to
24 have that clear conscience is I stand up for what I
25 believe in. And I don't like being threatened and I

1 don't like intimidation. Sometimes that makes me want
2 to stand more firmly. And I understand the pressure
3 you all have been under. I really do. And I
4 appreciate every one of you sitting here today. So,
5 yes, Dr. Aber.

6 VICE-CHAIRMAN EDERER: Marsha, I've got a
7 question and a little bit of a statement kind of.

8 Marsha, I think we all know -- we just
9 keep beating it around. There's no question they're
10 going to defund us. Come the first of February -- or
11 March, we're not going to have any money. So something
12 has got to be done between now and then. I mean,
13 they're not bluffing anymore. I think they've
14 already -- you know, they've gone beyond bluff now.
15 Now it's become a political animal out there and so now
16 it's beyond the bluff, so they're going to do it to
17 us. So now what you're asking for is for us to
18 republish and so that we can make this same vote in
19 February.

20 Now, tell me this. I've got a letter
21 here from the Lieutenant Governor. He sent a copy to
22 all of them. In that letter he says "Additionally, I
23 am committed to gathering stakeholders together - horse
24 breeders, trainers, and other associated and affiliated
25 agri-business - to find ways to improve opportunities

1 outside of expanding the gaming footprint in Texas. I
2 want to restore certainty and predictability to the
3 industry and allow them to prosper moving forward."

4 Tell me this. Are you, as a
5 representative of the horsemen, prepared to meet with
6 the Lieutenant Governor's office tomorrow, for that
7 matter, or as soon as possible to start some dialogue
8 to try to get something worked out between now and
9 February? Because at the end of February it's over. I
10 don't think there's any question about that.

11 But sitting around and saying we're going
12 to do something or we're going to do -- you know, we've
13 heard this for two years. Nothing has happened, you
14 know. I've been working on this for two years. We all
15 have. And we've had all kinds of attorneys' opinions
16 and this type of thing.

17 But is the industry willing to step up
18 and go forward and sit down with the Lieutenant
19 Governor's office and try to work something out that
20 would help the industry? Is that what you're asking
21 for the delay for?

22 MS. ROUNTREE: As I stated earlier,
23 Commissioner Ederer, we have tried and I know some of
24 the other organizations have tried repeatedly to do
25 just that. We have asked for meetings with the

1 Lieutenant Governor's office and have received no
2 response to repeated requests.

3 So, yes, we -- at this time it would be
4 an opportunity, I think, to actually have a meeting
5 with either the Lieutenant Governor or his staff to
6 discuss options. But while we're doing that, a lot of
7 carrots have been dangled. A lot of promises have been
8 made. A lot of options have been researched during all
9 these legislative sessions. I've been doing this for
10 21 years and nothing positive has come from those
11 promises.

12 So, yes, I would be very encouraged, very
13 optimistic to meet with the Lieutenant Governor to work
14 on other solutions; but at the same time I would prefer
15 that these rules remain on the books until such time
16 that we can have that meeting and have a positive
17 outcome from that meeting.

18 VICE-CHAIRMAN EDERER: Well, then you're
19 going to have to hurry up and have that meeting because
20 come February, the end of February, it's going to
21 happen.

22 MS. ROUNTREE: We would welcome the
23 opportunity to meet with the Lieutenant Governor or his
24 staff any time between now and then.

25 VICE-CHAIRMAN EDERER: Do you know when

1 the last attempt was to meet with him?

2 MS. ROUNTREE: My last attempt to meet
3 with him was probably the end of October, and it was
4 repeated attempts, and got no response, telephone,
5 e-mail, working with his scheduling secretary, got no
6 response.

7 VICE-CHAIRMAN EDERER: But since that
8 time he has extended the funding.

9 MS. ROUNTREE: Yes.

10 CHAIRMAN PABLOS: Any other questions,
11 Commissioners?

12 Thank you, Marsha.

13 MS. ROUNTREE: Thank you.

14 CHAIRMAN PABLOS: Appreciate it.

15 Mary Ruyle?

16 MS. RUYLE: Good morning, Commissioners.

17 I would like to extend a welcome to the
18 new Commissioners and I'm happy to speak before all of
19 you again.

20 I'm Mary Ruyle, executive director for
21 the Texas Thoroughbred Association, which serves as the
22 official breed registry for Thoroughbred horses in
23 Texas.

24 At one time we had 3600 members. It was
25 the largest state breed registry in the United States.

1 Now we have 1100 members. They cover all levels of
2 participation in the industry, from those directly
3 involved in breeding, raising, selling, and racing
4 Thoroughbred horses, to those who are involved in the
5 industry as trainers or feed suppliers, equipment
6 dealers, transporters, veterinarians, stable workers,
7 and those who work at the racetracks, along with horse
8 enthusiasts and racing fans in general.

9 We applaud you for your efforts to
10 sustain this industry and acknowledge the difficult
11 position you are all in today. We continue to believe
12 that pari-mutuel wagering on historical racing would be
13 a great benefit not only to those directly involved in
14 the industry but also to the State of Texas and it's
15 worth our continued support.

16 So what would historical racing actually
17 do for Texas? In other states where it has been
18 implemented, it has significantly revitalized the horse
19 industry by providing additional purse funds and
20 breeders' awards. Better purses attract better horses
21 and fuller fields, which provides incentives to breed
22 and sell and race horses in Texas.

23 The breeding industry, which our
24 organization represents, requires long-term business
25 plans, with a minimum of three years from the time of

1 breeding to when the resulting foal steps onto the
2 racetrack. During those three years the breeder is
3 continually spending money, putting it into the
4 operation, investing on the hope that he might realize
5 a return when that foal sets foot on the racetrack.
6 And during the second year that mare is being bred back
7 again. It's a continuing, continuing investment,
8 hoping on a return.

9 Foaling season begins next month.
10 Breeders are now faced with difficult decisions on
11 where their pregnant mares are going to foal. Are they
12 going to foal in Texas where they have a limited
13 opportunity to race and to participate in a lucrative
14 state-bred program considering how the Texas-bred
15 program compares today with other states?

16 They must also make plans for which
17 stallions they wish to breed their mares or even
18 whether to breed them at all, which is a question that
19 we are getting quite often at the office these days
20 because we have an online stallion auction going. It
21 has received very little action. People don't know
22 what to do. They don't know whether to stick it out,
23 invest their money in Texas, or cut their losses and go
24 elsewhere.

25 The deadlines to accredit Texas foals and

1 to nominate to certain stakes races are imminent.
2 They're coming up at the end of this month, as well as
3 the deadline to consign Thoroughbreds to our April
4 Texas two-year-old Thoroughbreds in training sale at
5 Lone Star Park. To date we have no signed contracts
6 for that sale. That's very telling.

7 Concerning the issue of funding for the
8 Commission, which translates down to what happens to
9 our horsemen and our industry, the short-term funding
10 hasn't provided reassurance to the horsemen that are
11 struggling with making these hard decisions.

12 And in closing, I would just like to say
13 that historical racing is what is best for Texas and
14 it's worth fighting for. I appreciate each of your
15 conscientious work on the issue and encourage you to do
16 what is best for Texas racing. We should be a leader
17 in this arena, as we are in many others. We need to
18 keep Texas dollars here and draw interest nationwide.
19 But the industry needs a lifeline to do that.

20 We ask, therefore, that the Commission
21 take no action today to repeal the historical racing
22 rules. Republishing the rules would allow time for
23 education and conversations and the seeking of other
24 solutions. And as Ms. Rountree alluded, our industry
25 has repeatedly tried to set up meetings with the

1 Lieutenant Governor by e-mail, regular mail, phone
2 calls. No -- no reply whatsoever.

3 We would be happy to meet with him at any
4 time. Every communication we've sent to his office we
5 have asked to meet so that both sides of the stories
6 can be told. We can gain an understanding of their
7 objections.

8 One thing that occurs to me that it
9 hinges on is what is expanding the footprint of
10 gaming. I've talked with some legislators who believe
11 it is anything other than what we have now. And when I
12 explained my personal position of why historical racing
13 is not an expansion of gaming, it's a pari-mutuel
14 product, pari-mutuel wagering on a horse product within
15 the enclosure of a licensed Texas racetrack, I had a
16 legislator say "I could live with that. That to me
17 does not expand gaming."

18 I think there is a lot of education to be
19 done, a lot of resolutions to be sought.

20 And thank you for the opportunity to
21 speak to you today. I'd be happy to answer any
22 questions.

23 CHAIRMAN PABLOS: Thank you.

24 Any questions, Commissioners?

25 Thank you very much. Appreciate it.

1 MS. RUYLE: Thank you.

2 CHAIRMAN PABLOS: Next -- and by the way,
3 what I'd really like to focus on today is, you know, we
4 certainly understand the virtues of historical racing.
5 That's not in question here. The authority of the
6 Commission, you know, that's not in play here. What is
7 in play here is the future of the agency based on the
8 situation we find ourselves in through no fault of our
9 own in my opinion.

10 So we want to -- I want to hear from you
11 as to what you think this agency's future ought to look
12 like and what your organization and your constituents
13 think about a potential shutdown of this agency. And
14 so I'd like to frame the discussion because I think
15 that's what we have in front of us today.

16 So next I'd like to call Rob Werstler,
17 please.

18 Hello, Rob.

19 MR. WERSTLER: Good morning,
20 Mr. Chairman. Welcome back.

21 CHAIRMAN PABLOS: Thank you.

22 MR. WERSTLER: Commissioners, I'm Rob
23 Werstler. I'm representing the Texas Quarter Horse
24 Association.

25 I would also like to welcome our new

1 Commissioners, Commissioner Martin. I would also like
2 to thank and congratulate Dr. Martin on his excellent
3 service to us. And I would also like to thank
4 Commissioner Schmidt for his leadership and guidance of
5 this agency in such an honorable fashion.

6 The Texas Quarter Horse Association would
7 urge the Commission not to repeal the rules related to
8 historical racing. As far as our -- I guess it would
9 just be my opinion because our board has stated that we
10 would urge you not to repeal.

11 As far as my outlook on this agency,
12 we've had members who are friends with Lieutenant
13 Governor Patrick who tried to meet with him last
14 Thursday and had a meeting and it was
15 postponed/canceled, so they did not get a chance to
16 meet with him. So we're still trying.

17 I've been told -- I haven't spoken to him
18 directly, but I've been told from people who have had a
19 conversation with him and he has stated the last thing
20 he wants to see happen is this agency/industry shut
21 down and that the last time it was was not what they
22 had intended whatsoever.

23 CHAIRMAN PABLOS: What was that again?
24 The last comment. I didn't get that. Sorry.

25 MR. WERSTLER: Well, the last time the

1 Racing Commission shut down was not what the Lieutenant
2 Governor had intended on happening.

3 CHAIRMAN PABLOS: That's not what he
4 wanted. Okay.

5 MR. WERSTLER: So will it happen? We've
6 been told by people that have spoken to him that that's
7 not their intention, that they were just trying to send
8 a message to you all that this is a very important
9 issue to them. But do you really think that they
10 would -- after they've already passed House Bill 1 and
11 appropriated funds for this agency and the funds are
12 appropriated and they're actually going to withhold
13 those funds from you and force you and all of your
14 employees and the enormous magnitude of that decision,
15 what that would have on an industry and people's
16 lives -- hopefully, I would -- I would think the answer
17 would be no.

18 CHAIRMAN PABLOS: Commissioners, any
19 questions?

20 MR. WERSTLER: Thank you.

21 CHAIRMAN PABLOS: Rob, let me state that
22 I have met with the Lieutenant Governor. I've met with
23 Senator Nelson. I've had long discussions with both of
24 them. And I want to tell you here today that in no
25 uncertain terms they tell me that they're serious about

1 defunding again, which would, in essence, shut us down
2 again. They made it very clear to me.

3 And so I think as a Commission, we have
4 to take those comments very seriously and we have to
5 assume that that's what's going to happen. We can't
6 speculate as to whether it will happen or not. We've
7 been told that it will happen. And I think that this
8 body needs to act in a way where we have to assume that
9 it's going to happen.

10 So I have had the opportunity to meet
11 with them. I'm sorry that many of you have not. But
12 I've spoken with him and he's made that very clear.

13 At the same time he's also made it very
14 clear, and so has Senator Nelson, that they're very
15 supportive of the horsemen. They're very supportive of
16 the industry. But the fact that we find ourselves in
17 this predicament as to whether the Commission has
18 authority or not is really driving that wedge in this
19 issue. Right?

20 And so, you know, we, as a Commission,
21 have to consider what we have in front of us today
22 which is this pending -- this looming threat of a
23 shutdown of an agency which will then in turn shut down
24 the industry.

25 So I thank you for your comments and look

1 forward to working with you.

2 MR. WERSTLER: We've also heard the
3 comment, if I may, that they're very supportive of us;
4 and to me, it comes off as "Don't go away mad. Just go
5 away," because we haven't been -- we haven't seen that
6 support.

7 And I would have a question. When you
8 met with the Lieutenant Governor, did they explain how
9 it's possible for a handful of legislators, maybe just
10 two, can withhold funding that was appropriated through
11 the entire legislative process?

12 CHAIRMAN PABLOS: We didn't have that
13 discussion, but we certainly know that they did.

14 MR. WERSTLER: All right. Thank you very
15 much.

16 CHAIRMAN PABLOS: So I would assume that
17 they can.

18 Yes, Doctor.

19 COMMISSIONER ABER: Now, I know some
20 Senators that are on the Legislative Budget Board.
21 They haven't been spoken to about this. They haven't
22 even spoken to them. So they're not all like that.

23 MR. WERSTLER: Thank you.

24 CHAIRMAN PABLOS: Thank you. Thank you
25 very much.

1 Jan Haynes, please?

2 Good morning.

3 MS. HAYNES: Hi. How are you?

4 Mr. Chairman, Commissioners, staff, my name is Jan
5 Haynes and I'm president of the Texas Thoroughbred
6 HBPA.

7 Welcome back, Chairman Pablos, and
8 welcome, Commissioner Martin. I look forward to
9 working with you.

10 Here we are again begging the Commission
11 to keep the HRT rules on the books to enable us to get
12 through the Appellate Courts. Nothing has changed
13 since the last meeting. Our industry's position is the
14 same and we're still united more than ever on this.
15 Our industry is in survival mode and these rules offer
16 the horsemen who are left in Texas hope to continue
17 working, racing, and living here.

18 Everyone is aware there is no Plan B.
19 This is all we have. We're at the point now where it's
20 going to take some type of gaming revenue to make us
21 viable again. Anything short of that will still kill
22 our industry. It will just be at a slower rate.

23 With the LBB funding this agency, under
24 the direction of the Lieutenant Governor, only 90 days
25 at a time, he sped up the horse industry's demise in

1 Texas; but the horsemen in Texas have earned and
2 deserved the right to state our case in court. So I'm
3 asking, begging, pleading, once again, please stand
4 with the entire horse industry and vote not to repeal
5 the rules.

6 And I agree with everything that Marsha
7 said about republish and, you know, I do know she's
8 tried numerous times to meet with Patrick's staff. And
9 we'll just -- we'll keep trying, you know. It's more
10 public now, so maybe he'll be willing to, you know,
11 respond. I don't know.

12 CHAIRMAN PABLOS: Commissioners, any
13 questions?

14 So let me ask you this. What are you, as
15 the industry representative, willing to do to ensure
16 that this agency remains open?

17 MS. HAYNES: We'll reach out. We'll go
18 to Patrick's office if we have to and we'll sit. We'll
19 wait until we can get -- have a conversation with
20 people in the industry with his office and try to work
21 out, you know, some type of solution.

22 CHAIRMAN PABLOS: And if February 29th
23 goes by and you haven't been able to do that, then
24 what? And I don't mean to put you on the spot. I'm
25 just -- you know, I'm just trying to work through this

1 with you because this is very real.

2 MS. HAYNES: I know.

3 CHAIRMAN PABLOS: And it's a very
4 difficult situation. So, you know, I know you've
5 tried. I know that many of you have come up here and
6 told us you tried to meet with him. I just don't know
7 what makes you think that he'd meet with you now. I
8 mean, he's certainly written that letter, but I think
9 that letter had to do with the action that depended on
10 the action that we will take today, if I'm not
11 mistaken. I haven't read it in a while.

12 But, you know, I just don't know what
13 makes you think that he would meet with you. I don't
14 know what it means when you say we're going to educate
15 and have discussions. But, you know, I want to see --
16 I want to hear from you, you know, proposed solutions
17 with respect to the crisis mode we're in as an agency
18 and help me understand what available options we have
19 as Commissioners to ensure that we keep this agency
20 open because if there's racing going on, we have a duty
21 to regulate it.

22 MS. HAYNES: Right.

23 CHAIRMAN PABLOS: And so if we do
24 anything that goes against the ability to regulate,
25 then we're not doing our job. So I want to make sure

1 that I can hear from you what a proposed solution would
2 be.

3 And again, I don't mean to put you on the
4 spot. I just -- I just want to hear from you. And if
5 you don't have anything right now, we can call you back
6 up.

7 MS. HAYNES: I mean, I don't. It's just
8 in reading Lieutenant Governor Patrick's previous press
9 releases, it's pretty clear he doesn't really
10 understand what historical racing is. You know, these
11 rules, by no means, mean any of the tracks can just go
12 plug in a machine, you know. But that's -- some of the
13 things he's said has kind of indicated -- and so I
14 think that if he would, you know, allow us to educate
15 his staff and just try to -- I mean, you know, we just
16 have to keep working, Chairman. I mean, we've come
17 this far. And you'll hear from horsemen. I mean, the
18 trainers and owners and other track, you know, workers
19 and stuff, I mean, this is how they make a living.
20 It's how they feed their families.

21 CHAIRMAN PABLOS: I'm very sensitive to
22 that.

23 MS. HAYNES: And we just can't give up on
24 that, you know. And all we're asking -- and I mean, I
25 know about the -- you know, I know about the funding

1 and all that. But you're funded until the end of
2 February. Give us time -- I mean, like I said, it's
3 more public now. Give us time to keep reaching out to
4 him.

5 CHAIRMAN PABLOS: It just seems to me --
6 and this is just my own conclusion -- that I think
7 we're beyond the point of trying to convince them to
8 change their mind. But maybe I'm wrong.

9 Any other questions?

10 I'm sorry. I didn't mean to cut you
11 off.

12 COMMISSIONER ABER: Our deal is, too,
13 what I believe, that we should go through the court
14 system.

15 MS. HAYNES: Right.

16 COMMISSIONER ABER: Okay. So if we lose
17 in the court system, we lose, right?

18 MS. HAYNES: Right.

19 COMMISSIONER ABER: Let's have that
20 chance. It's been through two different Courts, two
21 different opinions. So we go to the Appellate Court.
22 Why wouldn't anybody want to delay it until that
23 happens?

24 CHAIRMAN PABLOS: Doctor, just to
25 clarify, when you say "we," who are you referring to?

1 COMMISSIONER ABER: To me. To me. And I
2 represent this board as much as anybody. And I think
3 that we've got a lot of people on this board that
4 believe that way, that we were right. We had every
5 lawyer's opinion, even our own, that said we can do
6 this.

7 MS. HAYNES: Right. And we had one
8 written as well, you know.

9 COMMISSIONER ABER: And you all are still
10 fighting it. The tracks still have the lawyers and
11 it's in the Appeals Court.

12 MS. HAYNES: Right.

13 COMMISSIONER ABER: So why wouldn't the
14 Legislature wait until we hear that appeal?

15 MS. HAYNES: In a perfect world, they
16 would. But for some reason, they don't want to give us
17 our day in court. And --

18 COMMISSIONER ABER: No, I got a letter
19 from the Lieutenant Governor telling me which way to
20 vote, which I resent. I don't want anybody telling me
21 which way to vote. And I don't think any other ones of
22 us like that either.

23 CHAIRMAN PABLOS: So you have something
24 in writing from the Lieutenant Governor that is telling
25 you how to vote?

1 COMMISSIONER ABER: I sure do. I got the
2 letter.

3 MS. HAYNES: There should be something
4 against the law on that, too. I mean --

5 CHAIRMAN PABLOS: Okay. Any other
6 questions, Commissioners? Comments?

7 Thank you very much. Thank you for being
8 up here.

9 MS. HAYNES: Thanks.

10 CHAIRMAN PABLOS: Billy Galbreath?

11 MR. GALBREATH: Good afternoon.

12 CHAIRMAN PABLOS: Good morning.

13 MR. GALBREATH: Good morning. I'm Billy
14 Galbreath. I'm the secretary-treasurer of the Texas
15 Greyhound Association.

16 I would like to thank the Commission for
17 the courage it demonstrated when it voted to allow the
18 historic racing. You upheld the wishes of the people
19 of Texas who overwhelmingly voted for pari-mutuel in
20 1987. Now, today you're looking at repealing what you
21 already showed the courage to stand up for. I would
22 ask for you to exhibit that courage again today.

23 We -- you've asked several questions.
24 Our industry is in a crisis mode. Your agency is in
25 a -- your Commission is in a crisis mode. This has

1 become a political hot potato. We would like for you
2 to toss it to the Courts, let them that do not have a
3 gun to their head and that has the time to study this
4 issue and make a ruling. That is where you need to go
5 to take politics out of an issue.

6 Our constituents, which is the greyhound
7 racing and breeding industry, we already face a
8 shutdown. None of the tracks have asked for race dates
9 for the next two years. You've asked to shut this down
10 today. I mean, that's what you want. You want to
11 vote. And I think I -- the sentiment is to repeal the
12 racing. What's the hurry? You know, if we do it
13 today, we give up today. We still have maybe until
14 February 29th. I think we should continue the fight.

15 And the best interest of this agency is
16 to have a healthy industry. We've been declining. You
17 heard from Marsha and the other representatives that
18 our industries have been declining for years. And
19 we're told "Let's keep doing the same thing." I think
20 that's the definition of insanity. Let's just keep
21 doing it. Let's keep conducting races like we did in
22 1900. Go to the racetrack, place a bet, run a race.

23 Technology exists today that they
24 couldn't even fathom back then. We would like to join
25 the 21st century with our -- the technology that racing

1 has available to racing. The Legislature and the
2 politicians are telling us "Keep doing it the way you
3 were doing. You will decline some more. You will
4 eventually go away." And then your Commission goes
5 away.

6 And so we would like to see that you
7 republish the rules and that we have extended time to
8 work out some solutions. Thank you.

9 CHAIRMAN PABLOS: Thank you.

10 Commissioners, any questions?

11 Thank you very much.

12 John Beech?

13 MR. BEECH: Mr. Chairman, welcome back to
14 the Commission.

15 CHAIRMAN PABLOS: Thank you.

16 MR. BEECH: Commissioner, welcome on
17 board.

18 My name is John Beech. I'm the regional
19 manager for the Jockeys' Guild, Incorporated. You've
20 heard a lot of testimony today, so I'll be brief on
21 what I have to say.

22 All we're requesting is that you take no
23 action on this to repeal it today. Give us a chance.
24 We heard now that the Lieutenant Governor wants to meet
25 with the industry as he didn't before. So give us the

1 opportunity, as Marsha said, to sit down, get with the
2 Lieutenant Governor, have some discussion and dialogue
3 with him, and give us a chance in the court. We have
4 until the end of February. Give us the chance,
5 please.

6 That's all I have to say. I won't take
7 up any more of your time. Thank you very much.

8 CHAIRMAN PABLOS: Any questions,
9 Commissioners?

10 Thank you very much, Mr. Beech.

11 MR. BEECH: Thank you.

12 CHAIRMAN PABLOS: Francisco Villarreal?

13 MR. VILLARREAL: Good morning.

14 CHAIRMAN PABLOS: Good morning. How are
15 you?

16 MR. VILLARREAL: I first wanted to
17 welcome Commissioner Pablos back to the Commission.

18 I want to turn around and thank everybody
19 that's here today in front of this Commission. I think
20 everybody that's here and all the letters and e-mails
21 that you've received says one thing to the Commission.
22 And that's what this Commission is doing for our
23 industry is the right thing. It's the legal thing.
24 And that's all we want. We want to do what's right and
25 what's legal.

1 We do not want this Commission to be
2 bullied. And what Senator Nelson and the Lieutenant
3 Governor are doing right now, that's nothing more than
4 bullying you. And I praise Commissioner Aber for what
5 you just said. There's absolutely nothing wrong in
6 America, nothing wrong in this state, to allow our
7 judicial system to work.

8 And what we have right now is we have a
9 couple of politicians. They don't want the judicial
10 system. They want their system. And if they're moral
11 and if they stand on their morals -- because that's
12 what they're praising -- what they're doing, it's
13 morally right what we stand for. What's morally right
14 is to not to rush to judgment and to give us and this
15 Commission an opportunity to be heard by the Courts in
16 this State of Texas.

17 The one question I have, and maybe you
18 can help me out, Commissioner Pablos, what's the
19 hurry? What's the harm? Why can't the Lieutenant
20 Governor and Senator Nelson allow the Courts to work?
21 Are they afraid that the Courts are going to tell us
22 and this Commission that what you did is right?

23 I want to take a step back. What we do
24 in Texas in horse racing and what the tracks do is they
25 provide a product. The product that we provide is

1 horse racing. If our tracks could do a thousand races
2 a day, and I guess maybe sometimes they do with
3 simulcasting, they would do it. Our tracks cannot
4 economically run a hundred races in a day. The costs
5 are prohibitive. And somebody just said recently
6 technologically we couldn't do it, but now we can.

7 The product that we're providing to the
8 citizens of Texas at the tracks that exist is the same
9 product that we're already providing. You don't want
10 to extend the footprint of gaming? Help our tracks
11 survive. Help our tracks sell the product that they're
12 selling. We're not selling anything else. We're not
13 selling lottery tickets. We're not selling bingo
14 games. We're not selling anything else.

15 We're allowing our patrons, our
16 customers, and our industry to come to our tracks, sit
17 at a machine, and if we want to bet on a thousand
18 games -- on a thousand races, we can bet on a thousand
19 races. That's what it is.

20 And I don't know if anybody here has sat
21 before one of these machines and understood what these
22 machines are. There's a lot of propaganda out there of
23 what these machines are. The one thing that they are,
24 it's based on a real race with real horses, real
25 jockeys, at real tracks. It's not some video game that

1 people are placing bets on. It's the same thing that
2 we do every day when we go to a track. We look at a
3 program. We look at the horses. We look at the
4 information. And we make an informed decision.

5 So, Commissioner, I don't know if
6 you're -- if I'm allowed to ask a question. But why
7 does the Lieutenant Governor and Senator Nelson believe
8 that they can't wait for the judicial system to work?

9 CHAIRMAN PABLOS: Well, if you're asking
10 me, that is a question for them. And I certainly
11 understand what you're saying today and I agree with
12 many of the things you're saying. But all of the
13 questions that you have are questions for them. What
14 we have here today is we have a situation where this
15 body has passed rules to help the industry. This body
16 has delivered. And it took a long time, a lot of
17 energy.

18 MR. VILLARREAL: And I praise the
19 Commission for that.

20 CHAIRMAN PABLOS: And so this Commission
21 has delivered that. But what I'm trying to understand
22 is the situation that we have at hand. Irrespective of
23 how we got here, as to whether we have the authority or
24 not, whether we'll have a day in court or not, all
25 those things in my mind are in the periphery of the

1 central question, which is: Is this agency going to
2 survive based on the facts that we have in front of
3 us?

4 And so we have facts in front of us.
5 We've seen that this -- that the funding did not come
6 through. We've seen that this agency was shut down
7 even if it was for a day. There was a disruption of
8 not only the agency but of the industry. We still
9 don't have long-term funding settled. Right? Now we
10 have this deadline, right, that is two months away, a
11 little bit over two months away, which will require us,
12 if we need to, to shut down. And the shutdown process
13 isn't an easy process either. We can't shut down in
14 two or three business days. And so these are all the
15 things we have to deal with.

16 MR. VILLARREAL: I understand.

17 CHAIRMAN PABLOS: And I certainly
18 understand your plight and I agree with a lot of
19 things. And even though I've never played a machine of
20 this sort, I understand what it is and I understand
21 this body went through extreme due diligence to do what
22 it did. All right? So this body has delivered to the
23 industry.

24 But now this body is in a situation where
25 it needs to decide what it's going to do with the

1 agency. Right? And so that's -- that's where we are
2 today and that's the discussion I want to have today.
3 So if you have any ideas -- waiting for things that may
4 or may not happen, that doesn't help us. I need to --
5 I need to hear certainty. What is certain today is
6 that we have a defunding deadline. That's certain.
7 What is certain today is that we've seen that we can
8 get shut down. Those are certain -- those are certain
9 things.

10 Waiting to see if the Appellate Court is
11 going to hear the case or not, maybe we'll ask one of
12 the attorneys that's here today to kind of fill us in
13 as to what that timeline looks like. But again, that's
14 speculation, right? We need to work on certainty
15 because if we don't have an agency to regulate, then
16 we're all done here. And that's what worries me the
17 most.

18 MR. VILLARREAL: Right. And if this
19 Commission repeals the historical racing rules, I think
20 it's certain that we don't have a chance.

21 CHAIRMAN PABLOS: A chance for what?

22 MR. VILLARREAL: What is certain, if you
23 republish the rules, we have additional time. What is
24 certain, that the industry that is sitting here behind
25 me, we will get together. We will come up with

1 something. And it's going to be our duty and our
2 responsibility to come back to this Commission in
3 February and we're going to have to play out all the
4 different scenarios. And one of the scenarios is going
5 to be is this Commission -- is this Commission willing
6 to stand up to these bullies and see if they really are
7 going to defund.

8 We stood up to them once before and they
9 defunded us and they did not like the results of their
10 bullying. They did not like it, so they had to open
11 things back up.

12 So what -- the only thing that is certain
13 is that we need time. The only thing that is certain
14 is that to get that time, you need to republish the
15 rules. If you republish the rules, the only thing
16 that's certain is that we will meet. We will have an
17 opportunity. If the Lieutenant Governor wants to talk
18 to us, that's another thing. If he's stuck on his
19 decisions and wants to continue to threaten and tell
20 the Commissioners how to vote and send them letters,
21 that's up to him.

22 But what we need is we need time. And
23 the only way this Commission can give us that time and
24 give us the opportunity is to republish the rules. And
25 I'm an eternal optimist. I'm an eternal optimist. I

1 know we will find a solution. And I know things will
2 work out for all of us, for the agency and for the
3 industry. But the only way my eternal optimism can
4 come true is you've got to give us a chance.

5 And I don't see the harm in republishing
6 the rules, giving us time, because my understanding is
7 the threats are, to the Commission, as soon as you
8 repeal the rules, we'll give you your money. That's
9 it. So what does it matter if we repeal the rules now
10 or if we repeal the rules in February? If you're going
11 to be bullied and you're going to succumb to their
12 threats, then there's no harm in --

13 CHAIRMAN PABLOS: What if this body
14 decides not to repeal the rules in February?

15 MR. VILLARREAL: Then we're going to have
16 to have a solution at that time. But I'm asking --
17 right now, guess what? I don't have a solution. You
18 give me some time. My promise to you is I'll have a
19 solution.

20 CHAIRMAN PABLOS: A proposed solution.

21 MR. VILLARREAL: A proposed solution. I
22 can't give it to you today, though.

23 CHAIRMAN PABLOS: Two or three business
24 days before our deadline.

25 MR. VILLARREAL: Okay.

1 CHAIRMAN PABLOS: That's what you're
2 saying is that you would have a solution right before
3 the deadline?

4 MR. VILLARREAL: We're going to have to
5 do something.

6 CHAIRMAN PABLOS: Yeah.

7 COMMISSIONER ABER: We have to go by the
8 court system anyway. We're going to have to go by the
9 court system, so that's going to be the solution.
10 Don't you think?

11 MR. VILLARREAL: I agree absolutely. But
12 I guess what Commissioner Pablos is saying is if we are
13 going to be bullied and we are going to go ahead and --
14 or no, I take that back. If we're not going to be
15 bullied and we're not going to repeal the rules, then
16 it's going to be up to whether or not the two
17 individuals in the State of Texas want to destroy the
18 lives of many. And I truly believe -- regardless of
19 what they stand for, I cannot believe that they're
20 going to destroy the lives of many just for their own
21 political views.

22 CHAIRMAN PABLOS: So you're willing to
23 play a game of chicken with them.

24 MR. VILLARREAL: It's not a game of
25 chicken. It's about standing up for what's right. I'm

1 not going to be bullied. But guess what. When you
2 stand up to a bully, guess what happens. Sometimes
3 you're going to get knocked out. But it's a matter of
4 us being able to deal with whatever happens. We've got
5 to be able to live with it.

6 COMMISSIONER ABER: Let me say
7 something. Without the horse industry, without all of
8 this, there won't be a Commission. There shouldn't be
9 a Commission. This was set up to regulate. So I
10 completely disagree with just doing something to save
11 the Commission.

12 MR. VILLARREAL: You're absolutely
13 correct. I mean, I would much -- I don't even know if
14 I want to say that. I was going to say, you know, I've
15 had family members that have recently passed away and I
16 think we've all had family members and sometimes it is
17 better for a swift death. And if these two politicians
18 want to kill us, do it quickly. Don't let us die a
19 long, slow death.

20 And I think all of us here have had a
21 family member and that's the one thing that we all say
22 is we're thankful sometimes, when a family member is
23 taken, that they were taken quickly, because living
24 through a long, slow death can be grueling. And maybe
25 that's what the politicians want us to do.

1 CHAIRMAN PABLOS: So what's the best way
2 to take you down quickly?

3 MR. VILLARREAL: Huh? The best way to --
4 well, the best way to take us down quickly is to -- is
5 to follow through with their threats, take away the
6 funding for the Racing Commission, and shut down our
7 tracks.

8 CHAIRMAN PABLOS: So the best way to take
9 you down quickly is to keep the rules in place.

10 MR. VILLARREAL: If the politicians are
11 going to be the true bullies and do what they threaten
12 that they're going to do.

13 CHAIRMAN PABLOS: Well, I mentioned -- I
14 mentioned earlier they've told me in no uncertain terms
15 that they would do it. So we have to assume that.
16 They've already told me. So you're saying right now
17 that if we're going to do anything to take you down
18 quickly, then the best way to do that is to not repeal
19 the rules.

20 MR. VILLARREAL: Absolutely.

21 CHAIRMAN PABLOS: Okay. I just wanted to
22 make clear that point so we all understand it.

23 MR. VILLARREAL: But for all we know, by
24 not repealing the rules, guess what might happen. It
25 might be the most glorious day in the world, where we

1 get everything that we want, where the Court of Appeals
2 and the Supreme Court say that what this Commission did
3 was right. And so maybe it might be a quick death or
4 it might be a lifesaving event.

5 CHAIRMAN PABLOS: I stopped counting your
6 "mights" after five. So there were a lot of "mights"
7 in that.

8 MR. VILLARREAL: Absolutely. Guess
9 what. I'm not a fortune-teller. If I was, I could
10 tell you that they're not going to kill the State of
11 Texas and racing.

12 And I represent the Paint industry, the
13 Texas Paint Horse Breeders Association. I'm the
14 president of the Texas Paint Horse Breeders
15 Association. I'm the chairman of the racing committee
16 for the American Paint Horse Association. When it
17 comes to Paints, Texas is number one in everything
18 considering Paints except racing. And that's why we've
19 been working with this Commission to try and make Texas
20 number one in everything. And the same thing goes if
21 you look at the Thoroughbreds. There's no reason Texas
22 can't be number one in everything.

23 I've taken up more than enough time.

24 CHAIRMAN PABLOS: Okay, Mr. Villarreal.
25 Thank you very much.

1 Any other questions?

2 Thank you. Thank you so much.

3 Jorge Haddad, Jr.?

4 Good morning.

5 MR. HADDAD, JR.: Good morning,

6 Commissioners. I want to thank you all for your time
7 and for being here. I understand that what you go
8 through must be hard and all the work that you guys put
9 in, so I really appreciate this.

10 What my point of view is is that I see
11 all these people that come into our tack shops, people
12 that are not able to be here, because these people are
13 hardworking people that can't afford to be here because
14 their whole livelihood depends on it. These people are
15 working before the sun rises and they go back home
16 after the sun sets. These people can't afford to be
17 here because they're working for their family.

18 And what I see is fear in their eyes
19 every time they come into my store. And they come and
20 they ask me "What's going to happen? Are we going to
21 have a job? Are we not going to have a job?" That's
22 people that come here and search for the American
23 dream. And it's people that are being threatened by
24 two people in the whole state. And to me, that just
25 doesn't seem right.

1 I might be young and maybe not as
2 experienced as many other people, but I do understand
3 what fairness is. And to me, I don't believe that it's
4 fair to have people being squashed down by a bully just
5 because their politic -- their views don't align with
6 what we're doing.

7 I don't think that we should repeal our
8 rules because everything we've done has been right.
9 There was not a time that we did something that was
10 incorrect. And I just think that if you give us a
11 chance to have more time, we might be able to work
12 something out.

13 I understand that what you're saying is
14 that, well, maybe we need to repeal it now because what
15 if they defund us? And, yes, I understand that they
16 told you that they will do this. But talk is cheap.
17 One thing is for them to say it and another thing is
18 for them to do it because I understand the implications
19 of doing this. It would be killing the whole
20 industry. That would hurt the Texas economy in a huge
21 way.

22 It's not just horse racing. It's
23 everyone that's in the agricultural industry and
24 everyone else in this state because a lot of that money
25 goes to the State, which helps improve our economy. So

1 it's not just about horse racing. And that's why I
2 don't believe that they will shut down a whole industry
3 and kill hundreds of thousands of jobs.

4 That is why I ask you to let us fight
5 because the hardest race to win is the one that you
6 never run.

7 So for that, I will thank you and I hope
8 that you take the decision to give us more time and an
9 opportunity. Thank you.

10 CHAIRMAN PABLOS: Jorge, thank you.

11 Commissioners, I have to tell you I've
12 known Jorge since he was a young boy and I have to
13 congratulate his parents for raising a great young
14 man. You've proven yourself to be a great advocate for
15 your industry today and I want to congratulate you.
16 Thank you very much.

17 Does Jorge's dad want to come up and
18 speak?

19 Mr. Haddad, how are you, sir?

20 MR. HADDAD, SR.: Hello. How are you,
21 Commissioner? Good to have you back.

22 I'm a horse breeder, trainer. Let me
23 tell you a little story, short. I came from Mexico
24 because, you know, the situation over there is really
25 bad. We were threatened. When he was going to go to

1 school, for example, they come in where the kid is
2 going to go to school, "Either you give me money or
3 we're going to kidnap your kid," right?

4 Well, then I came over here and left
5 everything behind. I took my family and came over here
6 11 years ago to find something better for them. So we
7 start from nothing over here. To start, I bought a
8 breeding farm. We had seven stallions. Now we only
9 have two. And everything is going down and down. We
10 start supporting all the industry here. We've got the
11 tack shops over there. We're trying to help. Nobody
12 wanted to run them. But I bought them and tried to
13 keep them going so people will have those services to
14 people in racing.

15 And I don't think it's fair just for a
16 couple of people -- I was threatened once in Mexico and
17 I know the feeling and it is really bad. How can a
18 couple of people threaten this whole industry of a
19 hundred thousand people just because they don't want to
20 go through a Court or through the law? Like this
21 country is supposed to be the best country in the
22 world, right? But I don't know what's wrong with it
23 because they just should go by the law.

24 If you want to feel threatened like we
25 were in Mexico, we have to repeal that rule, because

1 that way you will feel what we felt over there, you
2 know, that anybody can just step on you just with no
3 reason.

4 And I invite you just to please don't
5 repeal that rule. And if they shut that industry, that
6 means they don't care about nobody because there's a
7 hundred thousand jobs right now in the game of that. I
8 don't think they will do it because I think they care
9 about people, you know. And if they don't want to talk
10 to us, that's a really bad sign, you know, because they
11 are for the people. People vote to have them over
12 there where they are right now; and if they don't want
13 to talk to us, we don't need them over there, you
14 know.

15 Thank you very much.

16 CHAIRMAN PABLOS: Thank you.

17 Any questions, Commissioners?

18 Next is -- we have four more cards, so I
19 would ask you to keep your comments short, please. If
20 you feel like what you need to say has already been
21 said, just come on up and let us know very quickly.
22 That way we can move on to further discussion.

23 Michael Danapas?

24 MR. DANAPAS: Danapas.

25 CHAIRMAN PABLOS: Danapas. Sorry.

1 MR. DANAPAS: Howdy, y'all.

2 CHAIRMAN PABLOS: Good morning.

3 MR. DANAPAS: Thank you for speaking up.

4 We have a situation here where the
5 servants are up there and they will not come and face
6 us. They do not answer our phone calls. They avoid us
7 in our district offices. I have been avoided for
8 months, even though my Senator who sits on the finance
9 committee and on the LBB has changed his position from
10 when he signed the original document that Jane sent
11 around. He's changed it and would not sign it the
12 second time.

13 Our adversaries have lost ground. We
14 have gained ground. Now is not the time to be
15 committing suicide because they ask us to.

16 You are correct, sir. We should fight
17 this. And we should not stop fighting this, because we
18 are right. Our position is right. The moral ground is
19 with us. We're asking the wrong questions here. We
20 are. You have to ask them because this is an agency
21 and this is a meeting, but we're back here again and we
22 shouldn't be back here fighting the same battle over
23 again because a couple of people talked to you behind
24 closed doors or via memos. They will not face us.
25 They will not -- they don't want to face us.

1 That's what I have to say. We're right.
2 Now is not the time to quit.

3 CHAIRMAN PABLOS: Thank you.
4 Commissioners, any questions?

5 Thank you very much for your comments.
6 Appreciate that.

7 MR. DANAPAS: Thanks.

8 CHAIRMAN PABLOS: Wes Melcher?

9 MR. MELCHER: I just first want to say
10 thanks because obviously this has been quite the past
11 few months. And so I know that you've probably gotten
12 a lot of calls; and since you volunteer to do this, I
13 can only imagine what that's been like having e-mails
14 and calls coming in. But at least you guys have been
15 answering. And like you've heard today, they haven't
16 been answering.

17 And I must be the dumbest guy in the room
18 because I just got into this industry four years ago.
19 So apparently I missed out on a lot of things that came
20 before that. But during that time I also built one of
21 the fastest growing privately held companies in Texas
22 before I got into the racing industry. I created 600
23 jobs in the Dallas area and a company that this year
24 will do 700 million in sales. I was planning on doing
25 something similar in the racing industry; but now,

1 because of all of this, I don't have the opportunity to
2 do that.

3 The farm that I built outside of Dallas,
4 we've put in millions of dollars into the industry over
5 the last four years. And everybody thought that I was
6 crazy. But we have hope and we have faith in the
7 Commission and also the other people that are part of
8 the industry here.

9 Something interesting happened to me this
10 weekend. I was in Las Vegas for the UFC fight this
11 weekend and I happened to sit next to an executive for
12 the Golden Nugget. And I thought that that was very
13 ironic considering everything that's happened and
14 knowing that Tilman Fertitta is the single largest
15 campaign donor to both Lieutenant Governor Patrick and
16 also Jane Nelson. And so I just thought it was just
17 fate and sometimes things happen for a reason that I
18 just happened to be sitting next to him, you know,
19 ringside at the fight this weekend.

20 And I said "I'd really like to talk to
21 your boss about what's going on with the racing
22 industry." And he chuckled and he said, "Oh, trust me,
23 we know what's going on in the racing industry. We
24 wouldn't have put 800 million dollars in the ground in
25 Louisiana if we thought you guys had any chance to get

1 anything done in the racing industry in Texas."

2 And to me, that really summarized kind of
3 how everybody's attitude has been about this entire
4 thing. It's all about money and it's about the
5 campaign contributions. It's not about the political
6 process and it's not about the checks and balances that
7 are supposed to be protecting our state and also our
8 constituents.

9 And that's the part that's frustrating
10 for me because I think it's also about a lack of
11 knowledge, you know, because I continued the
12 conversation further because he kind of caught me off
13 guard knowing what I wanted to talk about. And he
14 said, "Well, you know, nobody is going to allow Texas
15 to add slots. I mean, we're against that. That's why
16 we've contributed this money. That's why we're doing
17 it." And I go "But they're not slots." And he's like,
18 "Oh, yeah, they're slots."

19 The problem is there's so much
20 misinformation out there. But the one industry -- or
21 the one Commission that actually understood it, because
22 you went through two years of looking at the laws,
23 looking at the machines, investigating it, looking at
24 it, we've got two years worth of knowledge and we made
25 the decision based on two years worth of knowledge with

1 all of the experts and all of the opinions here.

2 And instead we're allowing two people who
3 don't have the knowledge, who haven't looked at the
4 machines, who haven't done the research -- they've got
5 an opinion and they also happen to have their two
6 biggest contributions coming from the people who want
7 everything to stay outside the State of Texas.

8 So why is it we're taking political
9 pressure from two people that their biggest campaign
10 contributions -- and you can look it up. It's public
11 record -- is coming from Tilman Fertitta and other
12 people outside the state that are trying to suppress
13 our industry and they're doing it knowingly?

14 The other thing is that you asked for a
15 solution. The solution has already been found. We
16 found the solution and we all approved it. We all
17 supported it. You've had thousands of letters in
18 support of it. And they've already bluffed once and
19 we've called their bluff. They tried to shut it down,
20 and then who do you think made the call to make sure
21 that the Commission was opened back up after the
22 one-day shutdown? That's when the Governor got
23 involved. The Governor's office never did anything or
24 got involved at all in any of the he-said/she-said
25 until the shutdown was imminent and we already called

1 their bluff. They shut it down for one day. We didn't
2 repeal the rules. We just went back to work the next
3 days because their bluff didn't work.

4 And so we've done the research. We've
5 looked at the machines. We've got the support. You
6 guys have done your job. So why are we going back at
7 it again because two people who are getting their
8 political contributions are the ones making all the
9 decisions for all of us that have done all the work and
10 have already put all the research into it?

11 They don't even know what the machines
12 are. They haven't even looked at it. They won't take
13 our calls. I've called all the offices. And in fact,
14 I met with several staff members at the capitol last
15 year when this process started. And every time I
16 talked to them, none of the people I talked to -- I
17 said "Have you seen the machines?" "No, haven't seen
18 the machines."

19 "Have you seen the machines?" "No,
20 haven't seen the machines."

21 "Have you seen the machines?" "No,
22 haven't seen the machines."

23 So they're all doing it based on
24 misinformation and bad knowledge and we're allowing
25 them to make the decisions.

1 The last thing that I would just say is
2 that there's a lot of things going on right now outside
3 of the racing industry with gambling in general. The
4 fantasy football stuff that's happening right now is
5 another big issue. Several states have already taken
6 steps to outlaw the one-day and multi-day fantasy
7 football contests. But that's a legislative decision
8 unless the Attorney General wants to get involved.
9 It's not a budget decision to shut down an entire
10 industry.

11 They're not going to shut down the entire
12 industry. They're not going to do it. We've already
13 called their bluff once and they didn't do it. They're
14 not going to do it this time either. So we need to
15 stand our ground. We're the ones that are educated.
16 We're the ones that made the decisions. And you're
17 supposed to be representing us, not the politicians,
18 not Tillman Fertitta, not the Golden Nugget, not all
19 the other casinos that are outside the state.

20 So support the industry that you're
21 supposed to regulate because, without the industry, you
22 won't have a job anyway in February.

23 That's all I have to say.

24 CHAIRMAN PABLOS: Any questions?

25 Thank you.

1 John Boegner?

2 MR. BOEGNER: I think he said enough.

3 CHAIRMAN PABLOS: You should have gone
4 first.

5 Andrea Young?

6 MS. YOUNG: Good morning, if it still is
7 morning, Commissioners. Welcome, Chairman Pablos,
8 back. Commissioner Martin. My name is Andrea Young.
9 I'm the president of Sam Houston Race Park and Valley
10 Race Park in Harlingen, Sam Houston Race Park in
11 Houston.

12 I appreciate the opportunity to speak
13 with you on the proposed repeal of the historical
14 racing rules and I want you to understand why we
15 continue as a racetrack to oppose those rules being
16 repealed and I think I'd like to at least try to
17 attempt to bring in a few new arguments that maybe
18 haven't been made this morning so I'm not overly
19 repetitive.

20 I think the most important point for --
21 or one of the most important points for me is that a
22 repeal of these rules would effectively deny the
23 industry, the horsemen and women of this state, the
24 opportunity to due process by rendering a legal case
25 currently before the Third Court of Appeals moot.

1 Now, I'm not a lawyer, but I know there's
2 a lot of them in this room. But I remember learning
3 pretty early on in grade school that the right to due
4 process is one of the foundations that this country was
5 built upon. This industry has literally spent excess
6 of millions -- in excess of a million dollars to defend
7 these rules in court and we, very simply put, would
8 like the opportunity to see this effort through the
9 courts where we believe the issue belongs.

10 You are well aware of the devastating
11 statistics. You've heard from a number of horsemen on
12 that today, the job losses, the closed family farms,
13 shuttered racetracks over the past decade. It is those
14 very statistics that caused many of you before me and
15 those that came before you to pass these historical
16 racing rules to begin with.

17 What I want you to hear today is that
18 this legal case is a lifeline for the industry. It is
19 a star of hope to follow. And absent a new star to
20 follow, why would we abandon ship? If there may be a
21 new star or new path forward, then let's have an open
22 discussion about that. That is the discussion that we
23 would welcome. The industry is prepared to discuss. I
24 think they've made that very clear today. But if you
25 repeal today, I think we have extremely serious

1 concerns of whether or not those discussions would
2 happen.

3 The bottom line is that your vote
4 today -- you asked, Chairman Pablos, about the
5 constituents in this industry. Well, my constituents
6 are the people at Sam Houston Race Park today or Valley
7 Race Park today. Today that's grooms, exercise riders,
8 and 251 full-time equivalent employees at Sam Houston.
9 It's a similar number at every racetrack across the
10 state. It's the accountant. It's the mutuel clerk.
11 And it's the stall superintendent.

12 For them, this is their job. It's their
13 mortgage. It's their car payment. Repeal or no
14 repeal, to them this just doesn't seem fair. I am
15 fully confident I can bring up every single one of my
16 employees and they would stand here behind me because
17 they haven't had raises. They're not accustomed to
18 bonuses at the end of the year. They've been hanging
19 on for a long time. And for them, this is an important
20 fight.

21 And I continue to agree with them that it
22 doesn't seem fair. If you repeal these rules,
23 thousands of people will lose their jobs because the
24 industry was denied the right to due process and there
25 is simply no reason to stay put. These are your

1 people, Commissioners, the people whose job it -- your
2 job it is to protect.

3 These rules we know were developed
4 through an open and transparent process. Despite what
5 a small group of critics contend, historical racing
6 terminals are not slot machines. The rules before you,
7 in fact, do not even authorize a single type of
8 historical racing terminal.

9 So here's where we are. One, a legally
10 approved industry, given the sanctions of voters 30
11 years ago in both local and statewide election, is
12 struggling to survive and trying to use a new
13 technology to make the industry more lucrative.

14 Two, as this is happening, the
15 Legislature endorsed expanded gaming in the form of
16 sports raffles.

17 Three, Federal agencies have negotiated a
18 gaming expansion at tribes on Texas soil that is an
19 actual gaming expansion.

20 And four, the proliferation of online
21 fantasy betting goes forward unopposed.

22 Why such amazing inconsistencies? I
23 can't answer that for you today; but I think that's
24 why, to me, our request is simple and it is fair. We
25 respectfully request the ability to defend these rules

1 in our judicial system.

2 I know the Commission funding has been
3 raised here today again a lot, but I want to remind you
4 that nowhere in the infamous Racing Commission Rider 7
5 is anything written that even mentions the words
6 "historical racing". Nowhere does it read "Thou shall
7 repeal this rule."

8 If you repeal these rules, nobody in this
9 industry will have a chance. They won't have a star to
10 follow. And they surely will not have any hope.

11 Texans pride themselves on a strong
12 business climate. The Texas horse industry and
13 greyhound industries deserve to operate in the same
14 climate our state provides so many others. We
15 respectfully request that you do not repeal these rules
16 today.

17 I'm happy to answer any questions.

18 CHAIRMAN PABLOS: Any questions,
19 Commissioners?

20 Okay. Thank you.

21 MS. YOUNG: Thank you.

22 CHAIRMAN PABLOS: Is there anyone else?
23 Did we get any late cards?

24 MS. BIJANSKY: No, sir.

25 CHAIRMAN PABLOS: Okay. So we've gone

1 through our public comment section. What I'd like to
2 do -- yeah, come on up, please. We have one more
3 card. Okay. Well, and that's where I'll stop right
4 there. We'll do two, please.

5 MS. FULLERTON: I apologize. I don't
6 understand the protocol at these things.

7 CHAIRMAN PABLOS: That's okay.

8 MR. KOHLER: Real short, my name is Rob
9 Kohler. I'm here to represent the Christian Life
10 Commission of the Baptist General Convention of Texas.
11 We're here to encourage this Commission to repeal these
12 rules.

13 My background, I've been working in the
14 gambling business for a little over 20 years. And in
15 the beginning of this, I met with Mark at their
16 office. And it was my opinion that it was something
17 that wasn't a creature of this Racing Commission but
18 was a creature of the Texas Legislature.

19 And through the years, this argument, if
20 you back up about 15 years ago, it's almost verbatim,
21 video lottery terminals. The argument was that, "Look,
22 guys, this is just an extension of the Texas lottery."
23 And at the end of the day, when the average person
24 looks at it, it wasn't. And we feel the same way about
25 this. And we think to be able to do this in this

1 state, you need a hundred votes in the House, 21 in the
2 Senate, and the constitution has to be amended.

3 I'd also -- it would be a lot easier for
4 me to just sit back there on my hands, but I'd also
5 like to say something about this term of bullying. I
6 grew up in West Texas and I've got a pretty good idea
7 of what a bully is. A bully walks up to somebody
8 that's minding their own business, pokes them in the
9 chest, and starts something. The folks that are being
10 called bullies now didn't start this. It should be no
11 surprise of what the answer was going to be when there
12 was an attempt to do through rulemaking what couldn't
13 be done at the Texas Legislature.

14 So with all due respect to the folks in
15 the room, I've come here before. I grew up at
16 G. Rollie White Downs and I'm a fan of horse racing.
17 But I don't want there to -- the impression left to be
18 that there aren't folks in this state that think that
19 you all aren't doing the right thing with repealing
20 this.

21 CHAIRMAN PABLOS: Any questions,
22 Commissioners?

23 VICE-CHAIRMAN EDERER: Who do you
24 represent?

25 MR. KOHLER: The Christian Life

1 Commission of the Baptist General Convention of Texas.

2 VICE-CHAIRMAN EDERER: Are they the bingo
3 gamblers?

4 MR. KOHLER: No. No, I think, in fact,
5 the folks you guys are locked horns with, I've locked
6 horns with, too, on their interpretation of what can be
7 done through electric pull tab bingo. And so --

8 VICE-CHAIRMAN EDERER: I have nothing
9 further.

10 CHAIRMAN PABLOS: Anyone else?

11 Thank you very much.

12 MR. KOHLER: Yes.

13 CHAIRMAN PABLOS: Kris Fullerton, our
14 last item, please.

15 MS. FULLERTON: Good morning,
16 Commissioners and Chairman, and thank you for letting
17 me speak after being out of order. I apologize. I'm
18 just a simple horse trainer. This is all a little
19 overwhelming. I had a big speech written out. It's
20 probably a good thing I forgot it because it doesn't
21 address the questions you specifically asked and a lot
22 of what it does address they've gone over.

23 I'd like to make a quick point. I'm a
24 small trainer. I train an average of seven head of
25 horses. On those horses my expenditures are

1 approximately \$1378 a month in help, fee, bedding,
2 farrier. That's pretty average for the industry.

3 I just got back from Oklahoma City,
4 Oklahoma, where I was forced to run my small string
5 from August to December because the current Texas
6 racing model, we couldn't get in. There were not
7 enough racing opportunities here in the fall.

8 Now, my little couple thousand that I
9 spent out of state probably doesn't matter. There were
10 580 Texas-based horses in Oklahoma for that meet, which
11 comes out to \$3,596,580 that was spent out of state.
12 Also, some of that money went to wages to our
13 employees, so therefore they spent it out of state.
14 This is strictly horse spending. This does not bring
15 in hotels, dining, average living expenses we all spent
16 for four and a half months out of state. It's a fair
17 bit of money.

18 Now, you keep talking about the
19 Legislative Budget Board. And you said yourself,
20 Chairman, that you've had conversations with Senator
21 Nelson and you've had conversations with Dan Patrick.
22 It's probably not the right thing to ask you a
23 question, but I have to ask. Have you spoke to any
24 other members of the Legislative Budget Board?

25 CHAIRMAN PABLOS: I've spoken with

1 Representative Otto, Chairman Otto.

2 MS. FULLERTON: So you've spoken with
3 three.

4 CHAIRMAN PABLOS: Yes.

5 MS. FULLERTON: Several of the
6 Representatives and a couple of the Senators have even
7 intimated they are on our side. Have you spoken to any
8 of them?

9 CHAIRMAN PABLOS: No, I have not.

10 MS. FULLERTON: Is it possible that you
11 guys could force the Legislative Budget Board to have a
12 vote before they rescind your funds? Or are these two
13 or three people allowed to hold the purse strings of
14 your agency as well as our livelihoods?

15 CHAIRMAN PABLOS: That's beyond my --

16 MS. FULLERTON: You asked for solutions.
17 I would say I would find out more from the Legislative
18 Budget Board that's holding your purse strings. It's
19 more than two or three people on that board. And
20 that's something I haven't heard brought up, so that's
21 why I got in your way. Is that feasible and doable
22 from your end?

23 If you go ahead and publish these rules,
24 give you to February, it gives us time to rally and it
25 gives you. As far as meeting with Mr. Patrick, all our

1 horsemen's representatives have tried. And the truth
2 is, even if they do get to meet with him, my grandma
3 used to tell me you can't educate the unwilling. We
4 can talk. We can try. We haven't been able to try.
5 They've tried.

6 But the truth is, even if they get in
7 front of them, you can't educate the unwilling. But
8 there's no way that one or two enemies of this industry
9 should be allowed to take the whole thing down. If
10 we're not here, you guys don't have an agency either.
11 I don't want to go to Oklahoma again next year, guys.
12 They were really nice. It's a long drive.

13 That's about all I've got to say on it.
14 Everything else was covered by everybody else.

15 CHAIRMAN PABLOS: Thank you for your
16 comments.

17 Commissioners, any questions?

18 Thank you.

19 MS. FULLERTON: Thank you.

20 CHAIRMAN PABLOS: Commissioners, if it's
21 okay with you, I'd like to take a five-minute break. I
22 think I had too much coffee and water, so I'd like to
23 take a break. Is everybody okay with that? We'll --
24 let's see. It's 12:08. We'll reconvene, let's say, at
25 12:15. Would that be acceptable? Do you need to go

1 take care of your parking meter?

2 VICE-CHAIRMAN EDERER: I need more
3 quarters.

4 CHAIRMAN PABLOS: He needs more quarters,
5 someone.

6 Why don't we do this. Why don't we
7 reconvene at 12:20. Thank you.

8 (Recess from 12:08 p.m. to 12:23 p.m.)

9 CHAIRMAN PABLOS: Okay, folks. The time
10 is 12:23. I'll call this meeting back to order.

11 So where we left off is we have finished
12 up public comment and now we need to invite discussion
13 of the Commission. And in order to do that, I need to
14 invite a motion to adopt the proposals in the agenda
15 item.

16 Is there anyone that would be willing to
17 propose a motion?

18 COMMISSIONER MARTIN: Mr. Chairman, I'd
19 like to make the motion to adopt the proposals in
20 Agenda Item VII-B-1 through VII-B-13 as published in
21 the Texas Register.

22 CHAIRMAN PABLOS: We have a motion.

23 Is there a second?

24 MS. LEON: Second it.

25 CHAIRMAN PABLOS: We have a second.

1 So now that we have a motion and a
2 second, that opens up the floor for a discussion of the
3 Commission.

4 Commissioners, would anyone like to begin
5 our discussion based on what we've heard today?

6 VICE-CHAIRMAN EDERER: I'll begin.

7 CHAIRMAN PABLOS: Go ahead, Commissioner
8 Ederer, please.

9 VICE-CHAIRMAN EDERER: Well, you know,
10 we've heard everything from the folks; and the majority
11 of us, of course, have heard it all before. We've got
12 two new Commissioners that are coming in, and even
13 though you've done a little homework -- and I agree. I
14 know you and I know that you've done quite a bit of
15 homework. I don't know Commissioner Baker. I think
16 that there is a world of information out there that has
17 not been transmitted to you that should be transmitted
18 to you before you make such a vote on such a crucial
19 issue that is going to affect thousands and thousands
20 of jobs and a considerable amount of money to the State
21 of Texas.

22 When we got into this -- we've been
23 working on it for two years. I have nine attorney
24 opinions that have said that we do have the authority
25 to go forward. I see no reason for the urgency right

1 now at this meeting -- the last meeting I attended, we
2 voted on this and then I missed the last one and then
3 it's the same thing.

4 As far as the urgency is concerned,
5 there's not a machine in existence to my knowledge that
6 meets the criteria that we have set out. There are no
7 machines available at the present time. There's the
8 potential and they're going to build some, but they're
9 not there yet. We're looking at, at the earliest, in
10 my opinion, two years down the road before -- if
11 everything went perfect for the industry, we're looking
12 at probably two years before there would ever even be
13 any machines in the track functioning. So I don't see
14 the urgency other than political. I don't see the
15 urgency to push this forward.

16 I think that the industry now has -- I
17 certainly hope that the Lieutenant Governor and the
18 Senator have gotten the industry's attention. And I
19 think they have. I think the industry has -- if
20 they're given the opportunity, they've got an awful lot
21 of work to do immediately, not next month, not the
22 month after, not the month after, but immediately, to
23 try to get something done.

24 I tend -- I agree with Senator Pablos --
25 Senator.

1 CHAIRMAN PABLOS: Please don't.

2 VICE-CHAIRMAN EDERER: Not yet, but maybe
3 someday.

4 CHAIRMAN PABLOS: I don't think so.

5 VICE-CHAIRMAN EDERER: But I agree with
6 the Chair that I think we're in a very dangerous
7 situation here. I think that -- because of politics
8 and everything else, I don't know if this is the time
9 to call their bluff. I think they'll shut us down.
10 Even if it's only temporary, I think they will shut us
11 down for a period of time. I think they mean what they
12 say.

13 So we have to do something in the next
14 two months. You, as an industry, have to do something
15 in the next two months. And as far as pressure on us
16 is concerned, I don't really feel any pressure and I
17 don't know if any of the other Commissioners do
18 either. I mean, it's not as if we're going to lose a
19 big salary, you know. You know, we're not here because
20 we're being paid. We're not here for any ulterior
21 motive except to do what we can best for the State of
22 Texas and the citizens of the State of Texas and for
23 the industry. And that's why we're here. And that's
24 why we are going forward with this.

25 I don't really have anything else to say

1 except I don't see the urgency for the vote. I would
2 like to see a republish because we can go forward in
3 two months. And if in two months the industry hasn't
4 done anything, they've got a big problem. They never
5 will. So at that point in time I think that -- you
6 know, at that point in time the shot has to be called.
7 But right now I think it's premature. And that's all I
8 have to say.

9 CHAIRMAN PABLOS: Thank you,
10 Commissioner -- Senator Ederer.

11 Commissioners, anyone else who would like
12 to say something?

13 COMMISSIONER ABER: Yeah.

14 CHAIRMAN PABLOS: Dr. Aber?

15 COMMISSIONER ABER: I completely agree.
16 And I'm in favor of republishing the rules and let's
17 take our time on this and wait awhile.

18 CHAIRMAN PABLOS: Anyone else?

19 COMMISSIONER HICKS: I'd like to say
20 something. I was very touched by this young man's
21 comments. I think you did an excellent job in
22 explaining what's going on.

23 I think that our Governor, who I just
24 adore -- he's a wonderful man -- has been drug into
25 this situation and I hate it. I don't think that he

1 should be in the middle and he's been put there.

2 It's a bad situation for the racing
3 community. And I've gotten to know so many of you over
4 the years and I think so much of you and I know you
5 work hard and I know you get up early in the morning
6 and I know you go to bed late at night. And I really
7 think this industry is wonderful.

8 I am not a gambling person. I've never
9 gambled in my life. But I know we have it all around
10 us in all the other states and we look and we see the
11 money that they bring from Texans. If you go to
12 Louisiana, the parking lots are full of Texas plates.

13 So I don't think what we were trying to
14 do -- and I know the due diligence was done. These men
15 went and actually saw these machines in other states
16 and we've gotten all of these lawyers that have given
17 us opinions before we ever brought this forward. We
18 did not go rogue. And I don't know who came up with
19 that term, but I think that is just awful. We did what
20 we thought would help the people in the racing industry
21 in our state.

22 And it's an industry worth saving. The
23 people are just wonderful people. If you don't know
24 them, I wish you all could get to know them. They're
25 absolutely the best.

1 I feel like I have been bullied. I have
2 an elementary school named after me and we have
3 bullying sessions and I know what it's like. And the
4 gentleman that said we hadn't, I wish he'd go to one of
5 my bullying sessions because I feel like we have been.

6 They withdrew our funding, funding that
7 does not come out of the general fund. The funding
8 comes from you people. It comes from the racing
9 license and the fees from the racetracks. So it's
10 really not general fund money. And it did get
11 appropriated, but yet they're withholding it, wanting
12 their way of the vote. And, you know, that's sad that
13 it's come to this point.

14 I'm so disappointed. I'm not a young
15 person. I've been around a long time. I've been on a
16 lot of boards. I have never seen this happen in my
17 lifetime. And I am so disappointed with these people
18 that have done this. And I would love to meet with
19 them and get their opinion and see what they do know
20 about it because I feel like that something is wrong in
21 the whole process.

22 And that's all I have to say.

23 CHAIRMAN PABLOS: Thank you, Commissioner
24 Hicks.

25 Anyone else that would like to comment?

1 MS. LEON: I'll just say that our
2 position at DPS has not changed since the very
3 beginning, the very first vote that was taken place.
4 It's not on the merits of whether it's good or it's bad
5 for the industry. But our attorneys have -- it's like
6 you can have several attorneys in the room and everyone
7 is going to have a different opinion. Our attorneys
8 have told me that we do not have the authorization to
9 do this. Only the Legislature. And so our vote has
10 been consistent with that opinion.

11 CHAIRMAN PABLOS: Thank you.

12 Who's next? Anyone?

13 Dr. Schmidt?

14 COMMISSIONER SCHMIDT: Yeah. I've tried
15 to be a little quieter today because the Commission has
16 indulged me so much in the past and I'm certainly
17 appreciative of that. And I want to just thank you for
18 genuinely wanting to foster an honest discussion.

19 My own view is -- and frankly, one of the
20 reasons why I really didn't want to have this item on
21 the agenda, is I think the Commission and many of the
22 Commissioners truly believe that what we did was
23 totally within the bounds of the law and we did our due
24 diligence. And I think there are folks in the
25 Legislature who think we didn't. And this is an honest

1 dispute in many ways and the way these disputes are
2 resolved are through the court system. This happens
3 every day. They're resolved through the court system.

4 And I would echo the term that I don't
5 think we have an urgency at this time. I think we can
6 look at it in February. But at least let's let the
7 horsemen make their presentation to the Appellate
8 Court. There may be another suit. Let's see how
9 these -- the court system is the arbitrator between all
10 the attorneys' opinions. And that's my position.

11 CHAIRMAN PABLOS: Thank you,
12 Dr. Schmidt.

13 Any other comments from the Commission?

14 So hearing none, here's what I'd like to
15 do. I'd like to begin to lay out the issue so that we
16 can make an informed decision today, Commissioners.
17 Again, I want to thank all of you for your comments.
18 It's very helpful to me. Even though I know there are
19 folks out there who believe that we need more education
20 as new Commissioners on the issue, I will tell you that
21 I'm well versed in the issue.

22 But today's vote is not about historical
23 racing per se. It's about the survival of this agency
24 given the pressures that we're under here. We're under
25 the threat of being shut down as an agency. And that's

1 what I implore you to look at. We are here to ensure
2 that this Commission, that this agency, is here to
3 regulate racing. And so what we have to do is to
4 ensure that there is a regulatory body to oversee the
5 racing that is occurring at this time.

6 And that regulatory body is under
7 threat. We have until the end of February with the
8 funding in place to survive. After that, it's
9 uncertain.

10 So my position is that we need to find
11 out immediately where we stand. In our personal lives
12 we always want to know immediately where we stand so
13 that we can have ample time to react. And so waiting
14 until the end of February to learn what our fate is
15 going to be as an agency I think is out of bounds
16 because we need to know immediately what we need to
17 do. And so that's why I've called this item for a
18 vote.

19 Mark, can you walk us through what it
20 would take to just shut down this agency? Is it
21 something that can be done in two or three business
22 days? Or please -- or, Chuck, either one of you, can
23 you tell us all of the steps that need to be taken in
24 order to shut an agency down?

25 MR. TROUT: Yes, sir. And I will say

1 that I've been in discussions with the Governor's
2 office and with the Comptroller on some of the things
3 that we have to do there. They are developing
4 checklists for us and we have developed a checklist for
5 shutdown.

6 Just to mention some of the items is that
7 we have to get rid of the lease for our building. We
8 have to make notification of that. So we have to have
9 advance notice to do that. We have to cancel
10 communications contracts that we have. We have
11 equipment all over the state that we're going to have
12 to pull in, computers, fax machines, copiers, all of
13 that, those things.

14 We have a lot of records. We have
15 confidential records. We have records with PII,
16 personal identification information, that has to be
17 pulled in. We have many support, professional, and
18 service contracts that we have to terminate.

19 We have the -- in addition to the office,
20 we have the office furniture that's going to have to be
21 turned in to some agency. We're not really sure where
22 we're going to do this.

23 CHAIRMAN PABLOS: Who would want it?

24 MR. TROUT: Yeah. But we also -- there's
25 no real precedent for this, so there is no existing

1 checklist on how to do this and so that's why we've
2 already started this conversation. We've been having
3 the conversation with the Governor's office now for
4 some months.

5 We have a lot of records, both electronic
6 and paper records, that have to be disposed of
7 correctly and some of it has to be archived, so that's
8 a huge job in itself.

9 We've got a lot of financial issues that
10 we have to take care of. We have accounts receivable.
11 We have reimbursements to nonoperating tracks. We have
12 purchasing. We are in the process of purchasing things
13 and we have to turn those -- turn all of that off. We
14 have a lot of reports that we have to file.

15 We have payroll issues. We have
16 employees that are going to -- we're going to have to
17 help find jobs. We have employees that need to apply
18 for retirement.

19 There are violations that have been
20 committed by some of the licensees that have not been
21 completed. In other words, the process hasn't been
22 completed. And we have currently about \$32,000 in
23 purse money that's being held due to litigation. And
24 just to be frank, we're not going to be able to
25 complete some of this, I don't care how much time you

1 give me. It just takes too long.

2 So there's going to be a lot of money
3 sitting out there, purse money that's sitting out
4 there, breed split money that's going to be -- or breed
5 money that's going to be sitting out there, and we are
6 not going to be able to make sure it gets to the right
7 people and complete all of the actions that's required
8 for the people to get that money. We're not sure how
9 that's going to happen, who's going to be able to take
10 care of that.

11 Let's see. Some of the licensees are
12 going to remain in limbo because they are suspended and
13 maybe they've got an appeal in process or they've got a
14 suspension that's out there that if -- they will have
15 no opportunity to have that taken care of. And if that
16 suspension remains --

17 VICE-CHAIRMAN EDERER: If there's no
18 industry, what difference does it make?

19 MR. TROUT: Well, that makes a difference
20 because --

21 VICE-CHAIRMAN EDERER: Everything that
22 you're talking about right now will take somebody
23 efficient about two weeks to do at the most. But if
24 we're funded at the end of February, what difference
25 does it make? We have another opportunity in two weeks

1 to vote to cancel this. Do you have -- are you telling
2 us that you have to start doing this right now?

3 MR. TROUT: Some things we've already
4 started doing, yes, sir.

5 VICE-CHAIRMAN EDERER: Okay. Well,
6 that's good. Then you're preparing.

7 MR. TROUT: Yes, sir. We've already --
8 as far as simulcasting contracts, we've already limited
9 as to how far they can -- how far they can --

10 VICE-CHAIRMAN EDERER: We've got a lot to
11 talk about simulcasts if this meeting continues.

12 MR. TROUT: Well, that's true. That's
13 another issue.

14 CHAIRMAN PABLOS: What about our
15 employees? If we wait until the end of February to
16 decide what our fate is going to be, are we, in
17 essence, going to let them go at the end of February
18 and expect for them to then go out and look for a job?

19 MR. TROUT: Yes, sir.

20 CHAIRMAN PABLOS: You're nodding your
21 head, Commissioner.

22 VICE-CHAIRMAN EDERER: Because it isn't
23 going to happen. It isn't going to happen. If the
24 industry cannot do something to show some positive
25 movement and if the Legislature won't go forward and do

1 something and show some positive movement, come the
2 middle of February, we're not going to have a chance if
3 we plan on -- a choice if we're planning on going to
4 survive. We're going to have to vote to do away with
5 the rules, if we -- unless we just want to shut it
6 down.

7 So what I'm saying is that why not give
8 the industry at least two months to try to do
9 something. If they don't -- if they can't do something
10 in the next two months, maybe it -- you know, it may be
11 best if the industry does shut down.

12 MR. TROUT: I'm not advocating one way or
13 the other. I'm just telling you what I have to do.

14 VICE-CHAIRMAN EDERER: I know you're just
15 saying what you have to do. And it seems to me that
16 what you're saying is -- who cares about the
17 furniture? Furniture is no big deal. The employees --

18 CHAIRMAN PABLOS: Well, I mean, in
19 fairness to Chuck, I asked him to delineate what he
20 needs to do.

21 VICE-CHAIRMAN EDERER: I know that.

22 CHAIRMAN PABLOS: But here's the
23 situation, is that, you know, as a Commission, we need
24 to understand today where we -- what our situation is.
25 For me, waiting until up until the deadline or close to

1 the deadline of our funding isn't in the best interest
2 of this agency. I say that we need to -- we need to
3 know this today so that we can begin the process,
4 particularly as it relates to our employees. I think
5 we owe our employees the courtesy to give them ample
6 runway to go find another job.

7 VICE-CHAIRMAN EDERER: But what about the
8 31,000 employees out there that are going to lose their
9 jobs when the industry folds?

10 CHAIRMAN PABLOS: Well, they're going to
11 lose their job when this agency closes. And so --

12 VICE-CHAIRMAN EDERER: Six months either
13 way, they're going to lose their jobs, it looks like.

14 CHAIRMAN PABLOS: Well, then -- and so
15 that's up to you to decide when they lose their jobs,
16 do they lose their jobs now or do they lose their
17 jobs --

18 COMMISSIONER ABER: I'm saying you don't
19 know that they're going to shut us down. You don't
20 know that.

21 CHAIRMAN PABLOS: We don't know that?

22 COMMISSIONER ABER: You don't know the
23 Legislative Budget Board. You don't know any of the
24 members except Nelson and the Lieutenant Governor.

25 CHAIRMAN PABLOS: Well, we don't know,

1 but --

2 COMMISSIONER ABER: I don't think you can
3 take that as a fact that they're going to do that.

4 CHAIRMAN PABLOS: And that's your
5 prerogative. I have to take it as a fact because
6 that's what I've been told and I can't make assumptions
7 otherwise, you know. And so we have to assume that
8 they are going to defund and shut us down. In my
9 opinion, if we assume otherwise, then, you know, we
10 would be putting this agency in jeopardy.

11 COMMISSIONER ABER: I don't think you can
12 assume that, that they're going to do that.

13 CHAIRMAN PABLOS: Well, we disagree
14 there. And that's fine.

15 COMMISSIONER ABER: For sure.

16 CHAIRMAN PABLOS: And so I'm not here --
17 again, I'm not here to advocate either way. I'm
18 leaving this decision to this group. You guys get to
19 decide. I'll vote my conscience. We get to decide
20 what is going to happen to this agency. If you decide
21 that you want to shut down this agency, then we need to
22 act accordingly and we need to do our due diligence in
23 shutting it down properly.

24 COMMISSIONER ABER: I don't think we're
25 voting on the shutdown of the agency. We're voting

1 just to delay it until February.

2 VICE-CHAIRMAN EDERER: Exactly.

3 CHAIRMAN PABLOS: We're voting --

4 COMMISSIONER ABER: We're not voting
5 that; but I mean, that's what we're advocating.

6 CHAIRMAN PABLOS: That's what you're
7 advocating, absolutely. And again, you know, we need
8 to analyze every possible situation that this agency
9 faces so that we can make an informed decision. And
10 one of the situations here that we're facing is the
11 fact that we need ample runway to be able to shut down
12 the agency. And also we owe it to the industry itself
13 to be able to let the industry advise its creditors,
14 let the industry advise its employees as to what the
15 future holds for them. So, you know, doing it in a
16 rush manner three days, four days before --

17 VICE-CHAIRMAN EDERER: It's not three
18 days. It's almost two weeks before, almost three weeks
19 before. And we can call the meeting earlier if we need
20 to. You can call the meeting the first day of February
21 if you want to.

22 CHAIRMAN PABLOS: Very well. That's
23 definitely an option. But the issue remains that we
24 need to know immediately, in my opinion, where we
25 stand. So, you know, I think that's the prudent way of

1 doing this and I'm going to leave that to your
2 discretion as well.

3 So that being said, what I would like to
4 do is have a discussion about the concept of regulating
5 what is already going on right now. So we have racing
6 going on. Is that the case?

7 MR. TROUT: We have greyhound racing
8 going on right now, but there's no horse racing until
9 mid January.

10 CHAIRMAN PABLOS: So in mid January we'll
11 have horse racing. So in my opinion, you know, we do
12 have a duty to have regulation available for that
13 racing, correct?

14 MR. TROUT: Yes, sir.

15 CHAIRMAN PABLOS: So if we're not going
16 to have an agency to regulate, then I think we would be
17 breaching our duty as Commissioners to regulate. You
18 disagree?

19 VICE-CHAIRMAN EDERER: Because we will
20 have the agency. We will be intact until the end of
21 February.

22 CHAIRMAN PABLOS: And beyond that?

23 VICE-CHAIRMAN EDERER: Well --

24 CHAIRMAN PABLOS: We don't know.

25 VICE-CHAIRMAN EDERER: We can make that

1 decision when the time comes. This will be back on the
2 agenda is what we -- we want to republish it.

3 CHAIRMAN PABLOS: Are there any comments,
4 any other comments, Commissioners, based on what we've
5 talked about?

6 COMMISSIONER SCHMIDT: Rolando, I think
7 we've had a great discussion. I would like to -- can
8 we call a vote?

9 CHAIRMAN PABLOS: I'd be happy to call a
10 vote.

11 COMMISSIONER SCHMIDT: Great.

12 CHAIRMAN PABLOS: So --

13 COMMISSIONER ABER: Could you read the
14 proposal over again?

15 CHAIRMAN PABLOS: Sure. The motion --
16 the motion that is in front of us today is a motion to
17 adopt the proposals in the Agenda Item VII-B-1 through
18 VII-B-13 as published in the Texas Register.

19 Mark, could you explain to us what that
20 means and the significance of a vote either way?

21 MR. FENNER: Yes, sir.

22 This is a vote to accomplish the repeal
23 of the historical racing rules. It will return the
24 rules that preexisted historical racing to their
25 preexisting condition and it will also accomplish the

1 repeal of Subchapter F of Chapter 321 which is
2 dedicated solely to setting out the parameters of how
3 historical racing is conducted.

4 CHAIRMAN PABLOS: Okay. So an aye vote
5 would, in effect, repeal.

6 MR. FENNER: Repeal.

7 CHAIRMAN PABLOS: And a nay would keep
8 the rules as they are.

9 MR. FENNER: Yes, sir.

10 CHAIRMAN PABLOS: Okay. So does
11 everybody understand the vote?

12 Will you please call the vote?

13 MS. WELCH: Commissioner Gary Aber?

14 COMMISSIONER ABER: No.

15 MS. WELCH: Commissioner Gloria Hicks?

16 COMMISSIONER HICKS: No.

17 MS. WELCH: Commissioner Cynthia Leon?

18 MS. LEON: Yes.

19 MS. WELCH: Commissioner Margaret
20 Martin?

21 COMMISSIONER MARTIN: Yes.

22 MS. WELCH: Commissioner Victoria North?

23 MS. NORTH: Abstain.

24 MS. WELCH: Commissioner Robert Schmidt?

25 COMMISSIONER SCHMIDT: No.

1 MS. WELCH: Commissioner John Steen?

2 COMMISSIONER STEEN: Yes.

3 MS. WELCH: Vice-Chairman Ron Ederer?

4 VICE-CHAIRMAN EDERER: No.

5 MS. WELCH: Chairman Rolando Pablos?

6 CHAIRMAN PABLOS: Yes.

7 MS. WELCH: We have four ayes and four
8 nays, one abstain.

9 CHAIRMAN PABLOS: Mark, can you interpret
10 that for us, please?

11 MR. FENNER: Yes, sir. A majority of
12 those present did not vote in favor of the motion, so
13 the motion fails.

14 CHAIRMAN PABLOS: So the motion fails.
15 So that means that the rules stay in place?

16 MR. FENNER: Yes, sir.

17 CHAIRMAN PABLOS: And so now what I would
18 like to do is I would like to instruct you, Chuck, to
19 begin the process of looking at shutting down the
20 agency so that we can move forward with looking at the
21 end of February as our last day.

22 We've got a lot of work to do now. The
23 industry has what it needed, which was time. So now
24 you have the time to go out and try to convince whoever
25 it is that you need to convince.

1 Given that now we are in the process of
2 shutting down this agency, I believe that the rest of
3 today's agenda is moot for today. And so what I'd like
4 to do --

5 VICE-CHAIRMAN EDERER: I think -- I
6 disagree with you.

7 COMMISSIONER ABER: I do, too.

8 VICE-CHAIRMAN EDERER: There are some
9 items on the agenda that are very important right now,
10 certainly the way they affect the greyhound racing.
11 The greyhound industry is fairly well shutting down
12 come the first of the year and I think that needs to be
13 addressed. And there's simulcasts and a number of
14 different parts that needs to be addressed. There are
15 legalities that are pending. We need to vote one way
16 or the other as to whether we're going to support the
17 three cases that are in court. I think it's important
18 that we go forward with the meeting.

19 COMMISSIONER ABER: I do, too. I think
20 that just starting the process of shutting it down just
21 by the chairman is not right. If anything, we would
22 have to vote on that.

23 VICE-CHAIRMAN EDERER: Especially a
24 chairman who has been here one day.

25 CHAIRMAN PABLOS: Well, what I would like

1 to do is I would like to move to adjourn this meeting
2 at this time. So I would like to see if there is a
3 second. Do I have a second to adjourn the meeting? Do
4 we have a second?

5 MS. LEON: I think she seconded.

6 CHAIRMAN PABLOS: We have a second by
7 Commissioner Martin.

8 Can you please call a vote, please?

9 MS. WELCH: Yes.

10 Commissioner Gary Aber?

11 COMMISSIONER ABER: No.

12 MS. WELCH: Commissioner Gloria Hicks?

13 COMMISSIONER HICKS: Yes.

14 MS. WELCH: Commissioner Cynthia Leon?

15 MS. LEON: Yes.

16 MS. WELCH: Commissioner --

17 VICE-CHAIRMAN EDERER: Clarification,
18 please, on this vote.

19 MR. FENNER: Yes, sir.

20 VICE-CHAIRMAN EDERER: What is the vote?

21 MR. FENNER: This is a vote or a motion
22 to adjourn the meeting.

23 VICE-CHAIRMAN EDERER: A motion to
24 adjourn the meeting. Okay.

25 MS. WELCH: Commissioner Margaret

1 Martin?

2 COMMISSIONER MARTIN: Yes.

3 MS. WELCH: Commissioner Victoria North?

4 MS. NORTH: Abstain.

5 MS. WELCH: Commissioner Robert Schmidt?

6 COMMISSIONER SCHMIDT: No.

7 MS. WELCH: Commissioner John Steen?

8 COMMISSIONER STEEN: No.

9 MS. WELCH: Vice-Chairman Ron Ederer?

10 VICE-CHAIRMAN EDERER: No.

11 MS. WELCH: Chairman Rolando Pablos?

12 CHAIRMAN PABLOS: Yes.

13 MS. WELCH: We have four ayes and four
14 nays and one abstain.

15 CHAIRMAN PABLOS: Mark, can you interpret
16 that, please?

17 MR. FENNER: The motion fails to carry.

18 CHAIRMAN PABLOS: Very well. Then we
19 will continue with our meeting today and I will take up
20 Item IV-A, please.

21 MS. COURTNEY: Good afternoon,
22 Commissioners. My name is Adrienne Courtney. I'm the
23 chief financial officer.

24 On pages eight through 13 of your agenda
25 packet you will find the agency's fiscal year 2016

1 operating budget reflecting revenue collections and
2 expenditures through October 31st.

3 With 16.7 percent of the year completed,
4 the agency has collected 2.2 million or 23.8 percent of
5 projected revenue and has spent 1.3 million or 15
6 percent of our budgeted expenditures. Approximately
7 1.1 million of those expenditures are appropriated
8 expenditures. Approximately .2 million are
9 unappropriated expenditures.

10 If you have any questions, I'd be happy
11 to answer them.

12 COMMISSIONER ABER: You know, I'd just
13 like to ask you one question. Every bit of this money
14 that has gone over to this Commission is from where?

15 MS. COURTNEY: Pardon me?

16 COMMISSIONER ABER: Every bit of the
17 money, what I'm trying to make a point, is from the
18 horsemen, the tracks. None of it is from the State, is
19 it?

20 MS. COURTNEY: Yes, sir. Yes, sir. It's
21 from the industry. The funding or the cash, yes.

22 COMMISSIONER SCHMIDT: I have a question,
23 too. If the Commission were to close down, do we have
24 to expend any taxpayers' money to do that?

25 MS. COURTNEY: That's a good question. I

1 know the Comptrollers would be involved.

2 CHAIRMAN PABLOS: If I may, Chuck or
3 Mark, what would happen to the health insurance fund
4 that we are currently supporting with our budget?

5 MR. FENNER: Well, in particular, the
6 agency pays for the health insurance of our retirees.
7 And I believe that's about two hundred and how many
8 thousand?

9 MS. COURTNEY: It's about 270,000 a
10 year.

11 MR. FENNER: So that amount would have to
12 be picked up elsewhere within the State budget.

13 CHAIRMAN PABLOS: So that would go from
14 the agency to the State budget.

15 MR. FENNER: Yes, sir. We'd have to
16 coordinate with, I assume, the Comptroller's office.

17 COMMISSIONER SCHMIDT: Would there be any
18 other expenditures that would be picked up by the
19 taxpayers then?

20 MR. FENNER: Well, that number is
21 probably understated because if the agency shuts down,
22 there will be a number of other retirees who will then
23 also have the health insurance picked up by the State,
24 so you can probably see that number increase by a
25 hundred thousand dollars a year.

1 Other expenses that the agency -- or the
2 obligations the State will have to take up are things
3 like who's going to handle the lease and these
4 contracts and the late penalties and the collection of
5 the equipment and the collection of the firearms and
6 take -- there's a lot of things that other agencies
7 will have to take care of. And it's not necessarily an
8 out-of-pocket expense like the ongoing retirement
9 expense is, but there are a lot of things.

10 The unemployment insurance is going to be
11 an example. There's going to be a number of employees
12 who will file for unemployment. They'll be eligible.
13 Each one of them will be able to collect approximately
14 \$9,000 in unemployment benefits. So --

15 COMMISSIONER SCHMIDT: So again, we're
16 just ballpark figures.

17 MR. FENNER: Yeah.

18 COMMISSIONER SCHMIDT: But without
19 overstating the case, though, were the Commission to
20 close down -- were the Commission to run, it's funded
21 by its licensing fees and no taxpayer money is
22 expended. Were the Commission to close down, would
23 that be perhaps \$500,000 or more?

24 MR. FENNER: That's a -- yes.

25 COMMISSIONER SCHMIDT: 500 to a million

1 dollars?

2 MR. FENNER: \$500,000 is a good ballpark
3 estimate for the first year because that includes the
4 unemployment insurance and then -- I don't know -- 300,
5 350 thousand on an ongoing basis.

6 COMMISSIONER SCHMIDT: So several million
7 dollars over a course of years.

8 MR. FENNER: It could add up to quite a
9 bit.

10 COMMISSIONER SCHMIDT: Of taxpayer
11 money.

12 MR. FENNER: Yes.

13 COMMISSIONER SCHMIDT: Okay. Thank you.

14 CHAIRMAN PABLOS: Any other questions?
15 Thank you.

16 We'll move on to Item IV-A-3, please,
17 IV-A-3, inspection and enforcement reports.

18 MR. FENNER: Mr. Chairman?

19 CHAIRMAN PABLOS: Yes, sir.

20 MR. FENNER: The report on wagering.

21 CHAIRMAN PABLOS: I skipped that. Okay.
22 I'm sorry. Let's go for IV-A-2, report on wagering
23 statistics. Sorry, Lila.

24 MS. SMITH: Sorry about that.

25 Good afternoon, Commissioners.

1 On pages 14 through 16 of your meeting
2 materials is the wagering statistic comparison report
3 for the periods of January 1st through December 6th for
4 both 2014 and 2015. The report shows wagers placed in
5 Texas have decreased by 1.42 percent and the total
6 wagers placed on Texas races have also decreased by .76
7 percent.

8 Is there any questions?

9 CHAIRMAN PABLOS: Commissioners, are
10 there any questions?

11 Thank you very much.

12 Now, Mr. Blodgett, please come on up,
13 Item IV-A-3.

14 MR. BLODGETT: Mr. Chairman,
15 Commissioners.

16 Commissioners, currently only Gulf
17 Greyhound Park is conducting a live race meet. Lone
18 Star Park, Retama Park, Sam Houston Race Park, Valley
19 Greyhound Park, Gulf Coast Racing, and the Race Barn in
20 Fredericksburg are conducting simulcast operations.

21 Since your last enforcement report,
22 Retama Race Park and Lone Star Park have conducted
23 their fall meets. As reflected within your agenda
24 material, agency investigative activities included
25 investigation of racehorse drug positives, rocky --

1 excuse me, jockey riding and non-riding infractions,
2 contraband violations, and trainer violations.

3 All outstanding inspections issues
4 reported during your last meeting have been resolved
5 and there are currently no outstanding racetrack
6 inspection issues at any of the racing facilities.

7 Commissioners, as a side note to the
8 information reported within your enforcement report,
9 during October the 23rd and 24th and also again
10 November the 6th and 7th, special event teams were
11 created with the help of the AQHA and Lone Star Park to
12 enhance our regulatory presence during the Lone Star of
13 Texas Classic Derby and Futurity Trials and also the
14 Challenge Championships.

15 Some of our guest regulators included
16 Dr. Dionne Benson, RMTC executive director and chief
17 operating officer, and personnel from the Kentucky
18 Racing Commission, New Mexico Racing Commission,
19 Nebraska Racing Commission, Colorado Racing Commission,
20 the TRPB, Iowa State Police, and also security staff
21 from Sam Houston Race Park.

22 During both weekends, the Texas Racing
23 Commission, Texas DPS, and our guest regulators
24 monitored racing participants and race animals within
25 the restricted areas of Lone Star Park. As a result of

1 our regulatory activities, approximately 14 contraband
2 cases, two race-day administration cases, a multitude
3 of alcohol violations, two human drug cases, and one
4 electrical shocking device case was filed with the Lone
5 Star Board of Stewards.

6 I'd be happy to answer any questions that
7 you have.

8 COMMISSIONER ABER: What two drugs did
9 you test? You said there were two drug violations?

10 MR. BLODGETT: There were two race-day
11 administration cases. Is that --

12 COMMISSIONER ABER: And did you have --
13 you said there were 14 contraband?

14 MR. BLODGETT: Yes, sir.

15 COMMISSIONER ABER: What is that?

16 MR. BLODGETT: That would be in the way
17 of injectable medications, needles, syringes.

18 COMMISSIONER ABER: Do you have a list of
19 the medications that were -- that you did confiscate?

20 MR. BLODGETT: I can get that to you,
21 Commissioner. I don't have it in my material here.

22 COMMISSIONER ABER: Then you said there
23 were two drug cases.

24 MR. BLODGETT: Yes, sir.

25 COMMISSIONER ABER: What were they?

1 MR. BLODGETT: One marijuana and -- I
2 believe it was two marijuana cases.

3 COMMISSIONER ABER: Okay. That wasn't on
4 the horses.

5 MR. BLODGETT: No.

6 COMMISSIONER ABER: Okay. So how are you
7 standing with Clenbuterol?

8 MR. BLODGETT: Out of the statistics
9 that's within your material, the Clenbuterol and the
10 phenylbutazone were pretty evenly accounted for. We
11 had one omeprazole case that was a Class 5.

12 CHAIRMAN PABLOS: Any other questions?

13 COMMISSIONER ABER: Okay. Are we working
14 toward hair analysis or is our --

15 MR. BLODGETT: I've been told that we've
16 had some conversations, but I don't have any
17 information on that, Commissioner.

18 MR. TROUT: Yes, sir, we're having
19 conversations with the AQHA. I think what we're going
20 to have is that they're going to actually conduct the
21 testing, yes, sir, but they will -- we do anticipate
22 some hair testing.

23 COMMISSIONER ABER: So if the AQHA does
24 this, would we still go through the Racing Commission
25 or would they do it with their own -- their own --

1 MR. TROUT: Right now they're talking
2 about going to Davis because our lab right now can't do
3 that. But I think we're close to doing that; and I
4 think that once our lab is able to do that, then we
5 would do it here.

6 COMMISSIONER ABER: Now, at our last
7 medication meeting we had, you set the level of
8 Clenbuterol and were going to test it for a while to
9 see, you know, if they were under that level. Have we
10 gone now to the ARCI level?

11 MR. FENNER: Yes, sir, we're following
12 the ARCI level, which I believe is 140 picograms. I
13 believe that's correct. The difference about this,
14 though, is that the ARCI model rule talks about it in
15 blood or urine and hair is not in the model rule. So
16 that's why the approach we're taking at this time is to
17 let the AQHA handle this and then it becomes an
18 eligibility issue, are they eligible to enter in the
19 race; and if they're not eligible to enter in the race
20 and AQHA makes that determination, no State action is
21 required. We can just say "You're not eligible. AQHA
22 makes that determination. You can't compete."

23 COMMISSIONER ABER: But our lab at
24 College Station is working toward doing that?

25 MR. TROUT: Yes, sir.

1 MR. FENNER: Travis, can you address
2 whether TVMDL is working towards detection of
3 Clenbuterol in hair?

4 MR. MAYS: Sure. We are in the process
5 of implementing a testing method for hair.

6 MR. FENNER: Travis, would you identify
7 yourself?

8 MR. MAYS: Sorry. Travis Mays. I'm the
9 section head of the drug testing lab and toxicology lab
10 at TVMDL.

11 UC-Davis is providing a wet lab in
12 January, in early January, where they're going to host
13 RMTTC-accredited laboratory personnel to train them on
14 their method that they use and we are sending our lead
15 chemist to that training. But in the meantime, we have
16 the equipment in place and processes in place to begin
17 working on a test method prior to that wet lab and we
18 anticipate that by the beginning of February we will
19 have that method in place.

20 COMMISSIONER ABER: Very good.

21 CHAIRMAN PABLOS: Any other questions?

22 Thank you.

23 The next item is Item IV-B, discussion of
24 the process for election of the vice-chair.

25 Mark, can you lay that out for us,

1 please?

2 MR. FENNER: Yes, sir.

3 Under Commission Rule 303.6, which is
4 called Commission Officers, the Commission elects a
5 vice-chair at the beginning of each even-numbered
6 year. The process that the Commission has followed in
7 the last several years is that at the December meeting
8 we have this discussion and I kind of lay out what the
9 process is going to be; and then at the next meeting,
10 which is typically in February, you actually conduct
11 the election.

12 Now, unlike the selection of the chair,
13 who's limited to the public members of the Commission,
14 any member can serve as the vice-chair. That includes
15 a Commissioner with experience or special knowledge in
16 greyhound racing or of horse racing or even the
17 Comptroller or the DPS representative could be the
18 vice-chair.

19 Also, at the next meeting you could
20 nominate yourself. You could nominate another.
21 There's no requirement for a second. All you have to
22 do is be willing to put your name in the hat and to
23 participate.

24 There's no term restrictions.

25 Commissioner Ederer has served twice now as vice-chair

1 and is eligible to continue that if he would like to.

2 What we've done in the past is if a
3 Commissioner was interested in serving as the
4 vice-chair, they would normally reach out to the
5 chairman during this period and kind of give him a
6 heads-up that they're interested in the position. But
7 this is a matter for the Commissioners to sort out.

8 CHAIRMAN PABLOS: Very well. Thank you
9 very much.

10 COMMISSIONER ABER: So let me ask, it's
11 just a -- it's just a popular vote amongst the
12 Commissioners, right?

13 CHAIRMAN PABLOS: Or an unpopular vote.

14 MR. FENNER: You're still going to have
15 to have a majority of those present.

16 CHAIRMAN PABLOS: Any questions of Mark,
17 Commissioners?

18 All right. We'll move on to Item IV-C,
19 approval of the internal audit plan for fiscal year
20 2016. I'd like to recognize Monday Rufus.

21 Hi, Monday. How are you?

22 MR. RUFUS: Good afternoon, gentlemen,
23 Commissioners. My name is Monday Rufus and I'm with
24 the firm of Monday N. Rufus, PC, the internal auditor
25 for the Texas Racing Commission.

1 As the internal auditor for the agency,
2 we are required by the Texas Internal Auditing Act to
3 prepare an audit plan and present it to the governing
4 board for approval before we can begin internal audit
5 activities for the fiscal year.

6 As a result of the risk assessment that
7 we did -- and I do have my associate there, Mr. Robert
8 Gonzales, CPA, who's been my longtime associate. We
9 did the risk assessment and we are recommending one
10 area for audit within fiscal year 2016 and that would
11 be the audit of cash disbursements.

12 I would be more than happy to entertain
13 any questions that you may have relating to the process
14 for coming up with the item that we are recommending
15 for audit.

16 CHAIRMAN PABLOS: Commissioners, are
17 there any questions?

18 MS. NORTH: Mr. Chairman, I have a
19 question.

20 CHAIRMAN PABLOS: Yes, ma'am.

21 MS. NORTH: Sir, 110 hours seems very low
22 for an internal audit. How did you arrive at that
23 number?

24 MR. RUFUS: Commissioner, we do have an
25 internal audit contract and the agency informed us that

1 they have a maximum of \$10,000 for the fiscal year for
2 an internal audit, which is basically low -- it's
3 probably the lowest internal audit contract that we
4 have. We also have other State agencies. So we just
5 have to work within the confines of the budget that the
6 agency has for an internal audit.

7 MS. NORTH: How many hours have been
8 allotted for previous years' internal audits?

9 MR. RUFUS: I would say within the past
10 five years it has been \$10,000 each fiscal year. And I
11 would say the minimum that we've had with other
12 agencies is \$25,000 minimum.

13 MS. NORTH: What would be the goal of
14 this audit?

15 MR. RUFUS: The goal of this audit,
16 usually we'll have four objectives to accomplish.
17 Number one would be the integrity of the information
18 that will be given to us. The next one would be
19 looking at the efficiency and effectiveness of the
20 process. We will also look at safeguarding of assets.
21 Especially when there is money involved, we want to see
22 if the agency is safeguarding the asset for the State
23 of Texas. And we'll be looking at compliance with
24 policies, procedures, and regulations related to cash
25 disbursements.

1 MS. NORTH: And do you think all four
2 goals are achievable in 110 hours?

3 MR. RUFUS: They will be achievable. We
4 will not be looking at 100 percent of the
5 transactions. We will do our risk assessment,
6 determine the areas that are high risk within the cash
7 disbursement process, and then we'll select a sample
8 size of transactions and then do the work. And we do
9 believe that 110 hours will be enough to do the audit
10 of cash disbursements.

11 And we have also done cash disbursements
12 in the past within the agency. I think it's within 110
13 to 125 hours that it took us since we have been the
14 internal auditor. We've been the internal auditor for
15 the agency for a long time now, so we can use that
16 experience and be able to complete the work within the
17 110 hours allocated.

18 MS. NORTH: Do you do internal audits for
19 other State agencies that have a similar budget level,
20 like just under 10,000?

21 MR. RUFUS: I would say that this is
22 basically the lowest we have in terms of a contract.
23 We do have other State agencies and the minimum outside
24 of this is about \$25,000.

25 MS. NORTH: What's the annual budget for

1 that agency?

2 MR. RUFUS: Excuse me? I'm sorry.

3 MS. NORTH: What is the annual budget for
4 that agency?

5 MR. RUFUS: I don't have the information
6 on that with me, but I'll be more than happy to get you
7 that information.

8 MS. NORTH: Thank you.

9 That's all the questions, Chairman.

10 CHAIRMAN PABLOS: Commissioner, is there
11 anything that concerns you about this approach?

12 MS. NORTH: Well, 110 hours does seem
13 very small for an internal audit. I think the industry
14 standard are much greater. Of course, I'm from an
15 agency that's larger and has a much bigger budget and
16 has internal auditors on staff.

17 I'm going to vote in favor of approving
18 the internal audit plan because voting against it would
19 mean there would be no internal audit at all, but I
20 would encourage the agency to look at whether this is
21 an adequate number of hours.

22 CHAIRMAN PABLOS: Very well.

23 Okay. So any other questions? Any other
24 clarifying questions?

25 COMMISSIONER HICKS: Well, on audits, you

1 would not be looking at a hundred percent of the -- no
2 audit does that. You take a sampling. So to me, with
3 that budget and we've done it for five years, it would
4 seem it's reasonable.

5 MR. RUFUS: I'm not sure if you had the
6 opportunity to also look at the audit plan and the risk
7 assessment. If you look at the last page of the audit
8 plan, it lists what we call the areas of interest. I
9 has licensing applications, cash disbursements,
10 information systems, all the way down to fixed assets.
11 And if you look at the risk assessment, you will see
12 that if it's 38 or up, then that would be classified as
13 high risk. 30 to 37 would be classified as moderate
14 risk. Low risk would be less than 30.

15 Under normal circumstances you would
16 expect the agency to approve the audit of the high risk
17 areas, which in this particular case we have about six
18 or seven of them; but because of the constraints that
19 the agency has related to budget, we have to work
20 within the agency's budget and that is why we are just
21 recommending one audit for this fiscal year.

22 And in November of 2015 we did also
23 report to the Governor's office, to LBB, to sunset, and
24 the State Auditor's Office all internal audit
25 activities that we had in 2015 and we also included the

1 proposed internal audit plan for fiscal year 2016. And
2 we actually are required, you know, to explain to them
3 why we are not recommending the audits -- I mean, the
4 areas that are classified as high risk.

5 Now, we did explain that to those four
6 agencies in terms of why. The primary reason is that
7 just the funding has not been there for an internal
8 audit, so we just have to work with what we have.

9 On the other hand, we also have standards
10 to comply with as a CPA firm; so selecting the one
11 audit, we just have to make sure that we comply with
12 all the professional standards as promulgated by the
13 Texas State Board of Public Accountancy, the agency
14 that actually gives us a license to practice as a CPA
15 firm.

16 And we've been doing this for a really
17 long time and some of you have followed me personally
18 and also my associate, Robert Gonzales. We used to
19 work for the State Auditor's Office for a really long
20 time where we audited all the agencies before we
21 branched out and decided to do this on the side. So
22 complying with our professional standards is very, very
23 important to us.

24 CHAIRMAN PABLOS: Okay. Any other
25 questions, Mark?

1 Okay. So I'd like to entertain a motion
2 to approve the internal audit plan for fiscal year
3 2016.

4 Do I have a motion?

5 COMMISSIONER HICKS: I'll make the
6 motion.

7 CHAIRMAN PABLOS: Commissioner Hicks.

8 Is there a second?

9 VICE-CHAIRMAN EDERER: Second.

10 CHAIRMAN PABLOS: A second by
11 Commissioner Steen.

12 Any further discussion?

13 I'll take this up for a vote. All those
14 in favor please say aye.

15 COMMISSIONERS: Aye.

16 CHAIRMAN PABLOS: Any opposed?

17 Okay. That carries.

18 We'll move on to Item V, proceedings on
19 racetracks, V-A, discussion of live racing dates and
20 the privilege of conducting simulcasting.

21 I'd like to recognize Mark Fenner to lay
22 out the item, please.

23 MR. FENNER: Yes, Commissioners.

24 We brought this item to you because there
25 is a change occurring within the greyhound industry in

1 particular. For the last several years all three
2 greyhound tracks have been conducting simulcasting.
3 Gulf Greyhound has been conducting year-round live
4 racing and the simulcasting that has taken place at
5 Gulf Coast Racing in Corpus Christi and the
6 simulcasting at Valley Race Park has been, for the most
7 part, intended to assist the purses at Gulf Greyhound
8 Park.

9 Now, in the case of Valley Race Park,
10 they have gotten one live race date every couple of
11 years and they have conducted that live race date. In
12 the case of Gulf Coast Racing, they have received five
13 race dates twice, but they have not conducted those
14 live races. Instead they have sent the entirety of the
15 purse money off to Gulf Greyhound.

16 Now, the issue is that Gulf Greyhound is
17 now requesting to not conduct any live racing in 2016
18 or 2017. So in essence, we have one certain race date
19 for Valley Race Park in 2016. We have five race dates
20 at Gulf Coast Racing that are scheduled that are
21 unlikely to be conducted because their facilities will
22 not support it.

23 I will tell you that Valley Race Park is
24 negotiating with the Texas Greyhound Association about
25 increasing their meet from one day to something larger,

1 but you do not have a definite plan in front of you.

2 In the materials I've given you, I've
3 given you some things like on page 36, I believe,
4 there's a chart showing the revenues that they
5 generate. They generate a substantial amount of
6 revenues not only for the greyhound industry but also
7 for the horse industry through their simulcasting.

8 But if you look at the portions of the
9 act and the rules, particularly 321.401, the Commission
10 has stated in its rule that the purpose of wagering on
11 simulcasting is the additional revenue it provides for
12 purses for live races conducted in this state.

13 If there's simulcasting going on but
14 there's no live racing at the greyhound tracks, is that
15 something that the Commission is comfortable with?

16 And the reason we've posted this for
17 discussion is that the approval of the simulcasting
18 signal is done by the executive director. And in fact,
19 the factors that he considers are listed at the bottom
20 of 37 and at the top of 38.

21 He's supposed to consider the financial
22 stability of the association, the operating experience
23 of the association, the regulatory compliance, the
24 impact of that proposed simulcasting on purses at the
25 association's racetrack, and then finally the public

1 interest that will be served by the simulcasting.

2 We've heard a great deal of discomfort on
3 the part of -- Commissioner Ederer raised this issue at
4 the working group meeting on greyhounds that was
5 conducted at Gulf Greyhound Park. And I think we heard
6 some discomfort from Commissioner Hicks. I don't want
7 to speak for either one of you.

8 But we would like to have the guidance of
9 the Commission as to how much discretion should the
10 executive director have, how do you feel about this
11 idea of ongoing continuous simulcasting at greyhound
12 racetracks that are not conducting significant or
13 meaningful amounts of live racing.

14 If you have questions, I'd be happy to
15 try and answer them.

16 COMMISSIONER STEEN: Can I ask a
17 question? You said that Gulf Coast doesn't have the
18 facilities to run a race. Can you comment on the
19 status of the facilities of all three tracks and
20 whether it would be feasible at this time to run a race
21 physically or possibly by the time those race dates
22 came about?

23 MR. FENNER: Gulf Greyhound Park is
24 conducting live racing right now, so they are up and
25 operational and fully capable of conducting live

1 racing.

2 Valley Race Park, by the fact that they
3 have conducted live racing on the days that they
4 received in the past, I believe that they would do what
5 is necessary to bring that facility up to the standard
6 necessary to conduct live racing.

7 Gulf Coast Racing is not in a condition,
8 I don't believe. The track itself is in poor shape.
9 The kennel buildings are in poor repair. And in fact,
10 they were in poor repair at the time that they acquired
11 the license back in 2010, I think it was.

12 COMMISSIONER STEEN: When was the last
13 time a race was run there?

14 MR. FENNER: 2008, '09?

15 COMMISSIONER HICKS: I think it was
16 2008.

17 MR. FENNER: It's been a long time.

18 COMMISSIONER HICKS: It's been a long
19 time.

20 COMMISSIONER STEEN: Let me ask one more
21 question on a different subject. Tell me how you think
22 of this versus Saddle Brook in Amarillo. What's the
23 difference here?

24 MR. FENNER: That's a good question.
25 Saddle Brook came to the Commission with a plan, a

1 concrete plan, on how they were going to open up within
2 a temporary location and conduct simulcasting, with the
3 result being a fully constructed live racing facility
4 at the end of the two-year temporary license.

5 And so they brought a plan that looked
6 reasonable. In the end, the economics of the facility
7 did not support it and they weren't able to construct
8 the live racing. And because the Commission did not
9 amend the rules to renew a license or extend that
10 license -- I mean, it had a concrete end point. In
11 this point -- in this case, there's no concrete end
12 date.

13 COMMISSIONER STEEN: Thank you. No other
14 questions.

15 CHAIRMAN PABLOS: We have two individuals
16 who signed up to speak on this item. We have John
17 Dalton.

18 Mr. Dalton, are you still here?

19 MR. DALTON: Good afternoon,
20 Mr. Chairman, Commissioners. I appreciate the
21 opportunity. My name is John Dalton. I am
22 vice-president of the Texas Greyhound Association and a
23 greyhound breeder. We have a farm in this area and I
24 wish to share our perspective on how recent and current
25 situations are affecting our end of the industry.

1 We live on our farm about 45 minutes from
2 here with about 200 greyhounds. We employ four
3 people. We are one of about 30 farms in the State of
4 Texas, some a little bigger, some a little smaller.
5 Our dogs are Texas-bred and a large portion of our
6 income is derived from track purse and from breeder
7 purse.

8 So when the news came from Gulf that they
9 no longer wanted to run live racing, that was pretty
10 devastating for all of us. There has been much
11 conversation and efforts to ensure that the 600 dogs at
12 the Gulf facility leave with oversight, which is as it
13 should be, but I have not heard one person in any room
14 ever ask how all this affects the 3,000-plus dogs on
15 Texas farms at the moment. These are Texas-bred dogs
16 bred by our breeders in good faith with the expectation
17 of racing opportunity in our state.

18 From the time that we breed a brood
19 matron, it takes about two years for those puppies to
20 be at the racetrack and earning, so essentially we are
21 producing a two-year living product. And I apologize
22 for the term.

23 I understand no contractual agreement
24 exists between the breeders and the license holder as
25 it does with the contract kennels; but when you are

1 raising a two-year product like that, to get four
2 months' notice that the dogs you have been raising for
3 the last year and a half are not needed and to schedule
4 the closing within two weeks of the closing of an
5 out-of-state track shows a lack of understanding for
6 our side of the industry that after 20 years I find
7 incredible.

8 In three weeks the dogs at Gulf will all
9 have left. The kennels will be empty. Our farms will
10 not. Even though a large portion of our income will
11 cease, we will still have the obligations to both our
12 dogs and our employees.

13 As far as what has brought us to this
14 point, with the exception of the work done with
15 historic racing, nothing has been done to help
16 pari-mutuel in the last 15 years. We have watched as
17 our handle has declined and we have closed our
18 facilities accordingly.

19 If you think people no longer are
20 interested in betting on horses and dogs, look at the
21 staggering figures from the ADW and Internet sites.
22 People today do not want our 50-year-old business model
23 of 30 seconds of action every 15 minutes, which is why
24 simulcast is so popular. They can bet on five or six
25 races in the space of time it takes to run one.

1 But simulcast was meant to be a benefit
2 to live racing, never to replace it, which is why we
3 can never support date applications three years in the
4 future without -- with simulcasting and no live racing
5 for two years.

6 We do believe there is a solution out
7 there, but it is largely in the hands of the license
8 holders to come together to facilitate this. We
9 understand that in the present climate, year-round
10 racing at one facility is not feasible, but a handful
11 of days every other year is equally impossible.

12 We have had some preliminary talks with
13 Valley Race Park and appreciate their willingness to
14 help continue live racing and have agreed to support
15 simulcast for them for two months in an effort to
16 mediate with the other license holders. But given
17 their marketplace, any sustainable solution must be
18 contributed to by all.

19 While we do not expect anybody to lose
20 money in order for us to stay in business, we don't
21 believe it is right for an entire industry to be held
22 hostage if a path forward is not sought in a serious
23 and efficient manner. These are racing licenses given
24 by the Racing Commission. 25 years ago no applicant
25 would have walked in here to apply for a license and

1 said "We're not going to actually run anything." But
2 today that has somehow become acceptable.

3 In my opinion, if a license holder no
4 longer has faith in the pari-mutuel industry or in
5 their own ability to run a profitable operation, that
6 license should be available to another party who may
7 think that racing in Texas is still a good bet.

8 If you have any questions, I'll do my
9 best to answer them.

10 CHAIRMAN PABLOS: Commissioners, are
11 there any questions?

12 Thank you very much.

13 MR. DALTON: Thank you, Commissioners.

14 CHAIRMAN PABLOS: We have another speaker
15 signed up, Billy Galbreath, please.

16 MR. GALBREATH: I'm Billy Galbreath. I'm
17 secretary-treasurer of the Texas Greyhound
18 Association.

19 The people of Texas who overwhelmingly
20 voted for live pari-mutuel racing in 1987, that's what
21 they voted for was live racing. Everyone does not
22 desire to work at a plant or for Dell Computers or in a
23 factory or a desk job. Those seem to be the only jobs
24 politicians believe we need.

25 Racing creates the type of jobs that

1 embodies Texas heritage and land and Texas values. You
2 can make a living off your land with hard work and
3 ingenuity. Your children can work alongside of you.
4 You can give them a strong work ethic, which seems to
5 be in short supply in most places these days. Live
6 racing is the engine that creates these opportunities
7 for rural Texans.

8 Greyhound racing is facing the
9 possibility of no live racing for two years, 2016 and
10 2017. Not one TGA member will make one cent from
11 simulcasting for those years. Who can survive that?
12 How can we support simulcasting only at the greyhound
13 tracks for that period? The TGA members are the only
14 Texans who will receive no monetary rewards from
15 simulcasting.

16 Please remember we can only distribute
17 funds through live racing. All greyhound racing
18 receives is a promise to resume live racing in 2018.
19 I'm not willing to bet on that and I don't believe my
20 banker is either.

21 Therefore, the TGA cannot support
22 simulcasting only for the greyhound tracks that do not
23 have 2016 dates or cannot run the dates they have.

24 Thank you.

25 CHAIRMAN PABLOS: Any questions,

1 Commissioners?

2 Thank you very much.

3 Okay. So there's no action required,
4 Mark?

5 MR. FENNER: There's no -- no action is
6 required on the part of the Commission. However, any
7 guidance you could give to the executive director --
8 and it doesn't have to actually be on this agenda
9 item. The next agenda item is the allocation of
10 greyhound race dates. But we would like to hear from
11 you, particularly as it relates to the public interest
12 issue, because if the executive director is to deny
13 simulcasting privileges, I think we're going to have to
14 point to public interest as the primary reason.

15 VICE-CHAIRMAN EDERER: I think the
16 executive director should comply with 321.401 and I
17 think it's dealing with live racing. It's the
18 Commission's intent to adopt and enforce rules relating
19 to simulcast racing in a manner that will encourage
20 live racing and enhance sports breeding.

21 This is not encouraging live racing.
22 Simulcasting does nothing to encourage live racing. On
23 the contrary, it encourages more simulcasting. And
24 when you've got a track that cannot possibly run, such
25 as the one in Corpus Christi, you've got another one

1 that's shutting down for two years, and you've got
2 another one with one race day, I think that you should
3 follow the rule.

4 COMMISSIONER HICKS: We did have a
5 working group meeting of the greyhound people at Gulf
6 Park and we did not come to any kind of a solution.
7 The people that have the farms, like John, two years --
8 you know, they can't do that. So we've got -- we were
9 trying to come up with some kind of a solution to where
10 we could possibly have racing like several, you know,
11 months at one place and maybe another month at another
12 to where the dogs would all be able to race. That did
13 not happen.

14 I myself do not feel right about
15 simulcasts without live racing because I know all the
16 people that are involved and that is another, you know,
17 way of racing. Two years is just too long. We need to
18 come up -- whether we need another working group to
19 help us through this to find out what we can do. But I
20 really feel like we can't go for two years without live
21 racing and have the simulcasts because that's not going
22 to help the industry at all. In fact, there won't be
23 an industry at the end of that time because they're not
24 going to keep raising dogs if they don't have a place
25 to race them.

1 And the Corpus -- I live in Corpus and I
2 know that that track is completely unoperable and it
3 has been since they quit racing dogs there. That was
4 one of the reasons they stopped racing. So they cannot
5 do it there. Valley I have not been to, but I think
6 just one day out of a year to keep simulcasts going is
7 wrong.

8 And I don't know what the solution is,
9 but I think we need to be able to get together and have
10 a solution to help the greyhound industry.

11 CHAIRMAN PABLOS: Any other -- any other
12 guidance?

13 Yes, Doctor.

14 COMMISSIONER SCHMIDT: I would just like
15 to echo Mrs. -- I would like to echo Mrs. Hicks'
16 comments. I also think that -- I think the Commission
17 would be somewhat naive if we actually assume that we
18 have no racing for two years and then did have racing
19 in 2018. It's not going to happen.

20 MR. FENNER: Thank you, Commissioners.
21 That's very helpful.

22 CHAIRMAN PABLOS: Anyone else?

23 All right. We'll move to Item V-B. Item
24 V-B, allocation of live race dates for greyhound
25 racetracks under Commission Rule 303.41 for the period

1 beginning January 1, 2016, ending August 31st, 2018.

2 Mark Fenner, please lay out the item.

3 MR. FENNER: Yes, sir.

4 This touches on the item we just
5 discussed, which is that Gulf Greyhound Race Park -- or
6 Greyhound Park has a request for 172 race dates in
7 2018, Valley Race Park has a request for one race date
8 in 2018, and Gulf Coast Racing has a request for five
9 race dates in 2018. There are no pending requests for
10 additional race dates in either 2016. I will tell you
11 that Valley does have one race date in '16 already
12 granted. Corpus has five race dates already granted in
13 2016.

14 This was tabled at the previous
15 Commission meeting because of the issues that was
16 raised by Mr. Dalton and Mr. Galbreath and it was
17 discussed at the race date working group at Gulf
18 Greyhound Park on November 3rd. They were unable to
19 reach an agreement and I understand that they are
20 continuing to have discussions.

21 I can tell you that there is kind of a
22 quirk in the language of the statute talking about the
23 greyhound tracks being entitled to 300 performances and
24 150 matinees.

25 So my recommendation to you is if you do

1 not wish to take action on it, I would just take no
2 action or postpone it if you do not wish to grant it.
3 I would not move to deny it. I would just essentially
4 table it indefinitely. Or grant it. It's your
5 choice.

6 CHAIRMAN PABLOS: Okay.

7 VICE-CHAIRMAN EDERER: I'm a little
8 confused. You say that your recommendation is not to
9 deny it?

10 MR. FENNER: Well, no. What I'm
11 saying -- yeah. If your -- if the consensus of the
12 Commission is that you do not wish to grant the race
13 dates, I think the approach to do that is not to deny
14 the race date requests, but rather either to take no
15 action or to postpone indefinitely the issue as opposed
16 to affirmatively voting to deny. Or you can grant the
17 race dates.

18 VICE-CHAIRMAN EDERER: Then it would be
19 up to the director to determine whether or not there
20 would be simulcasts.

21 MR. FENNER: In the case of Gulf
22 Greyhound Park, it would not be his option to even
23 approve it because of the fact they would not have race
24 dates granted.

25 VICE-CHAIRMAN EDERER: So it would only

1 affect Corpus and Valley.

2 MR. FENNER: That's true, because they do
3 have current race dates granted.

4 VICE-CHAIRMAN EDERER: So the director
5 could deny simulcasts going to Valley and Gulf unless
6 some races come up.

7 Now, it was my understanding also that
8 these tracks can come back in three months.

9 MR. FENNER: Yes, sir.

10 VICE-CHAIRMAN EDERER: If we're around
11 anyway, they can come back in three months and can ask
12 for race dates then in '16 and in '17.

13 MR. FENNER: You routinely have an
14 allocation period for race dates every year.

15 VICE-CHAIRMAN EDERER: So it's not
16 shutting them down forever.

17 MR. FENNER: No. They can come back and
18 request those exact same dates in 2016 or 2017.

19 VICE-CHAIRMAN EDERER: Thank you.

20 COMMISSIONER STEEN: Commissioner Ederer,
21 could you comment on the working group? Just is there
22 ongoing dialogue regarding this subject or --

23 VICE-CHAIRMAN EDERER: I understand there
24 may be because there is a memo here from Andrea. But
25 at the present time, absolutely nothing. There's been

1 no agreement by anybody to do anything to my
2 knowledge. And if they have some agreement, I don't
3 know how they're going to be able to make it work when
4 they don't have any dogs running for two years and it's
5 gone.

6 So in answer to your question, to my
7 knowledge, there is dialogue, but there's been no
8 agreement whatsoever as far as the future of live dog
9 racing.

10 COMMISSIONER STEEN: And maybe the tracks
11 have to speak for this, but is their position that they
12 would -- it's simulcasts or nothing as far as what
13 would go on there? I mean, if they aren't approved to
14 simulcast, are they saying they'll just shut everything
15 down?

16 VICE-CHAIRMAN EDERER: Yes.

17 COMMISSIONER STEEN: Okay.

18 CHAIRMAN PABLOS: Okay. So,
19 Commissioners, what is your pleasure?

20 VICE-CHAIRMAN EDERER: Well, with no
21 further input, I would table this -- I mean, I would
22 request to table this, which in my -- in my
23 understanding, if it is tabled, Gulf will not have any
24 race dates.

25 MR. FENNER: That's correct.

1 VICE-CHAIRMAN EDERER: And of course,
2 that's the biggest track and they have -- they will
3 have no race dates. Corpus will still have its five
4 race dates with no ability whatsoever to run.

5 MR. FENNER: That's correct.

6 VICE-CHAIRMAN EDERER: And Valley will
7 have one race date with no dogs.

8 MR. TROUT: Yeah.

9 VICE-CHAIRMAN EDERER: And it is up to
10 the director to determine whether or not simulcast is
11 going to continue and when -- or when it is going to
12 end, should I say.

13 MR. FENNER: Yes, sir.

14 VICE-CHAIRMAN EDERER: I would make a
15 motion that this matter be tabled.

16 CHAIRMAN PABLOS: Well, one second. We
17 have some folks ready to speak. Do you mind if we --

18 VICE-CHAIRMAN EDERER: No. I thought it
19 was already time.

20 CHAIRMAN PABLOS: Well, I just got
21 these. I'm being extremely needy and I would like to
22 hear from everyone if that's okay with everyone.

23 VICE-CHAIRMAN EDERER: Sure.

24 CHAIRMAN PABLOS: Okay. So, Andrea
25 Young, please come on up.

1 MS. YOUNG: Good afternoon now,
2 Commissioners. I'm standing before you here as the
3 president of Valley Race Park.

4 You've heard Mark allude to the fact that
5 we do have one race date already granted to us in
6 2016. That race date was granted a couple of meetings
7 ago. It had, and I think continues to have, the
8 support of the Texas Greyhound Association.

9 I think what you have right now is kind
10 of a very unique situation where we've operated the way
11 we've operated at Valley, racing every other year,
12 sometimes five dates, sometimes one date, always with
13 the support of the TGA and the other tracks and in
14 order to boost purses at Gulf Greyhound. We've always
15 done what we said we would do and I'm here to say that
16 we're going to continue to do that.

17 I have negotiated for a meeting of all of
18 the parties on January the 12th, so I believe that's a
19 new development, Commissioner Hicks, since the working
20 group meeting that you had. I've also had discussions
21 with the Texas Greyhound Association board and various
22 board members, which I think they would come back up
23 here to the podium and tell you that we have made a
24 genuine offer to add to our 2016 schedule.

25 The response we received from the TGA is

1 "We appreciate that. We want to work with you. But
2 we also want to figure out where we are with the other
3 tracks before we can make a decision on what's
4 appropriate to do in Harlingen."

5 So I believe we're making some progress.
6 I think a lot has happened kind of over the last couple
7 of weeks. I know folks aren't where they want to be
8 yet. But I am committed to trying to lead the
9 greyhound industry to some sort of reasonable solution
10 that I think gives everybody a little more breathing
11 room.

12 You know, the ability to simulcast, you
13 know, is -- I think the greyhound world is starting to
14 realize just like the horse racing world -- you heard
15 earlier today, you know, there isn't any horse racing
16 going on in Texas right now. Right? Folks are in
17 Oklahoma or Louisiana or New Mexico for the most part.
18 And the greyhound industry is transitioning that same
19 way, out of just a state model, whereas the horse
20 racing industry transitioned a couple of years ago.

21 I think we've got some of you who were
22 here who will remember Sam Houston used to run 60-plus
23 Thoroughbred days. Now we run 30. And under that
24 scenario we've actually grown our business, grown the
25 profile of our meet, and, you know, just got awarded

1 another graded stakes race in the last couple of
2 weeks.

3 We're trying to work with the greyhound
4 industry to think proactively that way and we've had a
5 lot of positive dialogue on how do we operate in a
6 regional circuit, in a new dynamic.

7 So I believe we are trying to encourage
8 live racing. Like the rule that you just quoted,
9 Commissioner Ederer, I do not think we're looking at a
10 scenario where we go two years with no live racing.
11 And we need a little more time. So I think, in my
12 view, what Mark has recommended to you is a good
13 solution and we'll come back at the next meeting and
14 we'll tell you what happened.

15 I'm happy to answer any questions.

16 VICE-CHAIRMAN EDERER: You're going to
17 have to come back with more than one race day. I think
18 you've only ran one day for the last two years.

19 MS. YOUNG: We ran one and we ran five
20 the year before. And the reason we went to one was
21 because the TGA requested that of us.

22 VICE-CHAIRMAN EDERER: I understand. The
23 industry is a mess.

24 MS. YOUNG: So let me also make clear, we
25 are willing to run more than one race day.

1 VICE-CHAIRMAN EDERER: Good. And so when
2 you come back to us next time, have something.

3 MS. YOUNG: We will.

4 VICE-CHAIRMAN EDERER: Okay.

5 CHAIRMAN PABLOS: Any comments? Any
6 other questions?

7 Okay. Thank you.

8 MS. YOUNG: Thank you.

9 CHAIRMAN PABLOS: Yes, sir? You're
10 good?

11 Sally Briggs, please?

12 MS. BRIGGS: Thank you. And good
13 afternoon. Sally Briggs, general manager at Gulf
14 Greyhound Park.

15 As you are aware and as Mr. Fenner
16 stated, Gulf Greyhound has requested 172 live
17 performances January through August of 2018.
18 Unfortunately, due to the high cost of providing live
19 racing with competing gambling opportunities in Texas
20 and the surrounding states, we no longer find it
21 feasible to run live racing in 2016. And please rest
22 assured, it's not that we don't want to run live
23 racing. We just simply cannot afford to do it any
24 longer.

25 We've provided live racing in the State

1 of Texas for 23 years year-round running five to seven
2 days a week and feel that simulcasting greyhound and
3 horse signals from other states for the next couple of
4 years will keep our state name alive in the racing
5 industry across the U.S.

6 For the past five years we have
7 continuously evaluated the cost of offering our live
8 product; and after losing a significant amount of money
9 over the years, we simply cannot afford to continue in
10 this manner. In 2005 we closed our fourth floor, which
11 was our clubhouse, which sat approximately 1800
12 people. In 2009, after damage from Hurricane Ike, we
13 closed our third floor. And in October this year we
14 closed our second floor, which was the current
15 clubhouse and the general admission area. We're now
16 operating with only our first floor open and still are
17 struggling to keep going.

18 We've always complied with all the laws
19 and rules and regulations as set forth by the State and
20 the Texas Racing Commission. We've been open 23 years
21 and we've contributed a significant amount of revenue
22 to the greyhound and horse products. By allowing us to
23 simulcast, we will gladly continue to pay the same fees
24 we're paying now as required by the TRC and our current
25 Texas Greyhound Association agreement which renewed on

1 September 1st of this year and continues through August
2 of 2016 and renews every year on September 1
3 thereafter.

4 Simulcasting will allow us to retain
5 approximately 30 to 35 employees on our payroll. And I
6 am extremely concerned about these employees. As I
7 walk through the building every day, I have employees
8 asking me "Are we going to get to simulcast? Are we
9 going to have a job?" And I've tried to tell them to
10 be patient, that we are trying to work through this.

11 We have -- since we opened in 1992, we've
12 adopted out over 2400 greyhounds through our own
13 adoption program at the track. We're using the Texas
14 Racing Commission disposition form for each greyhound,
15 so we have a written signed list on each one which
16 indicates where they're going when they leave our
17 premises. No greyhound will be left behind, I can
18 promise you that.

19 We are working closely with Andrea on a
20 meeting in January. We absolutely are happy to attend
21 and try to come up with some compromise of what we can
22 work out to continue live racing in the State of
23 Texas.

24 I'll be happy to try to answer any
25 questions.

1 VICE-CHAIRMAN EDERER: Just keep in mind
2 when you have the meeting with Andrea that we are not
3 interested in allowing three gambling casinos in the
4 State of Texas by way of simulcasts with no live
5 racing. And that's pretty much what you're asking
6 for.

7 MS. BRIGGS: So you are saying that if we
8 do not have dates to run live racing in the future and
9 we will not be able to simulcast and so we will shut
10 down.

11 VICE-CHAIRMAN EDERER: I believe that
12 that is the prerogative of the director and I believe
13 that if he follows the rules and regulations that we
14 comply with, yes, I think that's the state.

15 MS. BRIGGS: Okay.

16 VICE-CHAIRMAN EDERER: I think that's the
17 way it is, unless there's some other comments by
18 somebody. But, yes, if you don't come up with
19 something -- you've had a lot of opportunity to do it.
20 Now, I know you all have been running for a long time
21 and you've wasted -- you've lost an awful lot of
22 money.

23 MS. BRIGGS: Yes, we have.

24 VICE-CHAIRMAN EDERER: Well, if you can't
25 come up with a solution, maybe it's time to pack your

1 bags.

2 COMMISSIONER HICKS: I would like to say
3 I have worked very closely with Sally and Gulf for a
4 long time and I know they're losing four to five
5 million dollars a year keeping that track open. And as
6 a businessperson, you cannot do that forever.

7 But my hope is that you can run some days
8 in 2016 and '17, like a circuit race, something to keep
9 these greyhound owners from just losing everything that
10 they have. And I know you think so much of them, too,
11 because I've been at the meetings.

12 MS. BRIGGS: Yes, I do.

13 COMMISSIONER HICKS: And I know how you
14 feel about it. I know you've done a stellar job with
15 the kennels that you have there now and placing them at
16 other places and taking care of the dogs. I think
17 there's very few that are even up for adoption.

18 MS. BRIGGS: Right.

19 COMMISSIONER HICKS: And the facility
20 there is beautiful. I know most of you have not gone,
21 but I've been there a lot. And it's an amazing place
22 and they do take very good care of those dogs and those
23 dogs are all going to go to good homes. So that makes
24 me feel better.

25 We just -- I have to -- I'm like Ron. We

1 just can't have all of these empty places with no live
2 racing and the simulcasts going on.

3 MS. BRIGGS: I understand.

4 COMMISSIONER HICKS: I mean, we're
5 talking about -- they don't even want us to have
6 historical racing and then we would open ourselves up
7 to this? I can imagine how they would feel if they
8 find that out.

9 So I really think that it's something
10 that we're going to have to really work on. I'm so
11 glad you're going to have this meeting. I hope I'm
12 invited. And some solution that we can come up with to
13 take care of the industry, the whole greyhound
14 industry. But thank you for the job you've done.
15 You've done a wonderful job.

16 MS. BRIGGS: Thank you very much. I
17 appreciate that, Ms. Hicks.

18 Thank you.

19 CHAIRMAN PABLOS: Anyone else with a
20 comment?

21 Thank you, Sally.

22 Next, Janessa Glenn?

23 MS. GLENN: Chairman, I don't have
24 anything to add if you don't have any questions.

25 CHAIRMAN PABLOS: And Marsha Rountree?

1 MS. ROUNTREE: I wouldn't normally be
2 testifying on a greyhound matter; but since it does
3 affect horse purses, I felt it was important that on
4 behalf of the horsemen, who derive a significant amount
5 of purse money from greyhound racing and simulcasting,
6 it's kind of a predicament.

7 If the horsemen were faced with a
8 racetrack requesting race dates two years into the
9 future, we would have to say "Are you kidding?" But
10 because there are ongoing discussions, there are so
11 many issues involved, and once again, this is just more
12 evidence of what has happened to our industry. Who
13 would have ever thought that we'd be standing up here
14 and discussing these things?

15 But I think that Mr. Fenner's suggestion,
16 Commissioner Ederer's suggestion is probably the best
17 course of action and we think that in light of the
18 discussions that are ongoing that there may very well
19 be some progress and we would like to encourage that
20 and give them the opportunity to talk and have more
21 meetings and see if they can come to a solution.

22 That's all.

23 CHAIRMAN PABLOS: Any questions of
24 Ms. Rountree?

25 MS. ROUNTREE: Thank you.

1 CHAIRMAN PABLOS: Okay, Commissioner
2 Ederer. I think now I'm ready to ask for a motion on
3 your behalf, if you still so care to --

4 VICE-CHAIRMAN EDERER: Oh, I definitely
5 do.

6 CHAIRMAN PABLOS: -- bring it up.

7 VICE-CHAIRMAN EDERER: Where is it? This
8 is on approvals?

9 CHAIRMAN PABLOS: This is on proceedings
10 on racetracks, V, and it's B, Item B.

11 VICE-CHAIRMAN EDERER: I would make a
12 motion that we table this.

13 CHAIRMAN PABLOS: Okay. So we have a
14 motion to postpone the allocation of greyhound race
15 dates indefinitely?

16 MR. FENNER: Or until the next Commission
17 meeting?

18 CHAIRMAN PABLOS: Or until the next
19 Commission meeting?

20 MR. FENNER: If you do it indefinitely,
21 you can take it up --

22 VICE-CHAIRMAN EDERER: Let's do it
23 indefinitely; and then if it comes on the agenda, we
24 can put it on the agenda.

25 CHAIRMAN PABLOS: So we have a motion by

1 Commissioner Ederer, Vice-Chair Ederer.

2 Is there a second?

3 COMMISSIONER SCHMIDT: I second it.

4 CHAIRMAN PABLOS: Seconded by
5 Dr. Schmidt.

6 Any further discussion?

7 Okay. Then I'll take this up for a
8 vote. All those in favor please signify by saying
9 aye.

10 COMMISSIONERS: Aye.

11 CHAIRMAN PABLOS: Any opposed?

12 Okay. That motion carries.

13 We'll move on to Item V-C, allocation by
14 the Texas Greyhound Association of interstate
15 cross-species purse money.

16 Mark, can you please lay this out?

17 MR. FENNER: Yes, sir.

18 The Texas Greyhound Association makes an
19 annual allocation among the greyhound tracks of the
20 purse funds generated from wagers on interstate
21 greyhound racing conducted at horse tracks. So horse
22 patrons betting on greyhound races, this generates
23 cross-species money and this is sent to the Texas
24 Greyhound Association for use as purse money. And it's
25 going to be generated whether or not there's racing

1 conducted at greyhound tracks because it's going on at
2 horse tracks.

3 This money is coming in. The Texas
4 Greyhound Association, recognizing that there's no
5 track to distribute it to, has requested that it be
6 approved to just put it in its account where it always
7 goes and be kept there until they can find a place to
8 spend it as purse money. It seems like a logical
9 conclusion.

10 CHAIRMAN PABLOS: Okay. Is there anyone
11 signed up to speak on this item?

12 MS. BIJANSKY: Only, I believe,
13 Ms. Rountree's card on V-B also listed C.

14 CHAIRMAN PABLOS: Marsha, do you care to
15 come speak? Ms. Rountree? No? Okay.

16 All right. So there's no one.

17 Okay. So, Commissioners, what's your
18 pleasure on this item?

19 VICE-CHAIRMAN EDERER: I make a motion to
20 approve the TGA's request.

21 CHAIRMAN PABLOS: Okay. So there's a
22 motion to approve the TGA's request to keep the purse
23 funds in its dedicated account pending an agreement
24 between it and the greyhound tracks.

25 Is that a good motion for you,

1 Commissioner?

2 VICE-CHAIRMAN EDERER: Yes, it is.

3 CHAIRMAN PABLOS: All right. So we have
4 a motion.

5 Is there a second?

6 COMMISSIONER HICKS: I'll second.

7 CHAIRMAN PABLOS: There's a second by
8 Hicks.

9 Any further discussion?

10 Okay. I'll take this up for a vote. All
11 those in favor please signify by saying aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN PABLOS: Any opposed?

14 That motion carries.

15 Next is Item V-D, allocation of funds for
16 the Texas-bred incentive program as provided under
17 Commission Rule 321.505(b).

18 Lila, would you please lay out this
19 item?

20 MS. SMITH: Good afternoon,
21 Commissioners.

22 A portion of the money wagered at
23 simulcast -- on simulcast races offered at horse
24 racetracks is dedicated to the accredited Texas-bred
25 incentive programs. Commission Rule 321.505(b)

1 requires the Commission to determine the division of
2 Texas-bred incentive program funds after providing an
3 opportunity for each official horse breed registry to
4 present written information addressing the criteria
5 listed in Paragraph 321.505(b)(2).

6 Alternatively, the Commission may approve
7 an agreement that is signed by all the official breed
8 registries and that sets out the percentages by which
9 these funds are to be divided among the various breeds
10 of horses.

11 On pages 65 and 66 of your packet, in
12 accordance with the rules, the official breed
13 registries have submitted a signed agreement for
14 approval that allocates the breed -- that allocates the
15 Texas-bred incentive program funds generated by
16 simulcasting for calendar year 2016.

17 Are there any questions?

18 Staff recommends approval of the
19 agreements everybody has agreed to.

20 CHAIRMAN PABLOS: Commissioners, are
21 there any questions?

22 Hearing none, so given that staff is
23 recommending approval, do I have a motion to approve
24 the allocation of funds for the Texas-bred incentive
25 program as described in the packet on pages 65 through

1 66?

2 COMMISSIONER HICKS: I'll make a motion.

3 CHAIRMAN PABLOS: We have a motion by
4 Hicks.

5 Is there a second?

6 COMMISSIONER ABER: I'll second it.

7 CHAIRMAN PABLOS: Seconded by Aber,
8 Dr. Aber.

9 Any other further discussion?

10 Okay. I'll bring this up for a vote.
11 All those in favor please signify by saying aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN PABLOS: Any opposed?

14 That motion carries.

15 We're going to take -- I'm going to
16 recommend that we take a break here pretty soon, but
17 let's get through these next couple of items and then
18 we'll take a break if that's okay with everyone.

19 Mark, we have Item E? Is that next?

20 MR. FENNER: Yes, sir. E and F have
21 been -- have been treated as a single item by the
22 tracks in the materials, so I recommend that we take up
23 E and F together.

24 CHAIRMAN PABLOS: So at this time we'll
25 take Item E and F together under Section V.

1 Lila, will you please lay this out?

2 MS. SMITH: As with the Texas-bred
3 incentive program, a portion of the money wagered on
4 simulcast races is dedicated to purses and the escrowed
5 purse account. Commission Rule 321.505(a) requires
6 each association to recommend to the Commission an
7 allocation of simulcast purse revenue among the various
8 breed of horses.

9 The racetracks must negotiate with
10 representatives of the official -- of the officially
11 recognized organization of horse owners, trainers, and
12 breeders for the allocation of purse funds.

13 The Commission may look to criteria
14 listed in Subsection 321.505(a)(4) when evaluating the
15 association's recommendation. If the association and
16 the organization reach -- all the organizations reach a
17 signed agreement, the association may submit the
18 agreement to the Commission for approval.

19 Commission Rule 321.509 requires the
20 Commission to distribute the funds of the escrowed
21 purse account to the horse racetrack associations.
22 Associations are required to recommend the percentages
23 by which the distribution will be divided among the
24 breeds. The Commission may look to the criteria listed
25 in Subsection 321.509(c) when evaluating the

1 association's recommendation.

2 Alternatively, the Commission may approve
3 an agreement that is signed by the association and all
4 the official horse industry organizations that sets out
5 the percentages by which these funds are to be
6 divided.

7 On pages 69 through 97 of your packet
8 there are -- there are the recommended allocation of
9 simulcast purse funds from the racetrack as well as the
10 racetrack's request for distribution from the escrowed
11 purse account.

12 Also in your packet it includes signed
13 letters of support from each of the horse industry
14 organizations.

15 Staff recommends approval of the
16 allocation of purses and the distribution of funds in
17 the escrowed purse account as requested by the
18 racetracks and agreed upon by the horse industry
19 organizations.

20 Do you have any questions, comments?

21 CHAIRMAN PABLOS: Commissioners, any
22 questions or comments?

23 Okay. So again, here I'd like to --
24 thank you. Do you have any other -- I'd like to ask
25 for a motion to approve the allocation of the purses

1 and for the distribution of the escrowed purse funds as
2 described in the packet on pages 69 through 86.

3 Do I have a motion?

4 COMMISSIONER HICKS: I'll make the
5 motion.

6 CHAIRMAN PABLOS: A motion -- I think
7 that we have Commissioner Martin. Would you like to
8 second that motion?

9 COMMISSIONER HICKS: I'll second.

10 COMMISSIONER MARTIN: Either way.

11 CHAIRMAN PABLOS: Seconded by
12 Commissioner Hicks.

13 Is there any further discussion?

14 Okay. At this time I'd like to take this
15 up for a vote. All those in favor please signify by
16 saying aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN PABLOS: Any opposed?

19 That motion carries.

20 Item V-G, a request by Lone Star Park for
21 approval of totalisator contract with Sportech Racing.

22 Lila?

23 MS. SMITH: Lone Star Park has requested
24 the Commission to approve a totalisator contract
25 between Global Gaming LSP and Sportech Racing, LLC. If

1 this contract is approved, it would allow Sportech
2 Racing to begin operation as Lone Star's new
3 totalisator system provider on January 1st, 2016, and
4 continue through December 31st, 2025.

5 Staff has completed its review of the new
6 contract and finds it to be in compliance with the
7 Texas Racing Act and the Texas Rules of Racing. Staff
8 recommends the approval of the totalisator contract
9 between Global Gaming LSP and Sportech Racing.

10 CHAIRMAN PABLOS: Commissioners, any
11 questions?

12 Okay. Hearing none, I'd like to
13 entertain a motion to approve the request by Lone Star
14 Park for approval of the contract with Sportech Racing,
15 LLC, for the totalisator services.

16 Do I have a motion?

17 A motion by Dr. Schmidt.

18 Is there a second?

19 COMMISSIONER STEEN: Second.

20 CHAIRMAN PABLOS: Seconded by
21 Commissioner Steen.

22 Any further discussion on this motion?

23 At this time I'd like to bring this up
24 for a vote then. All those in favor please signify by
25 saying aye.

1 COMMISSIONERS: Aye.

2 CHAIRMAN PABLOS: Any opposed?

3 That motion carries.

4 So it's two o'clock, 2:03 right now.

5 What I'd like to do, if it's okay with everyone, take a
6 30-minute break. Is that something that's acceptable
7 to everyone? Or if you'd like longer, let me know.

8 MS. LEON: I'm going to have to leave if
9 you don't need a vote or my vote or anything. I have
10 an appointment I have to get to.

11 CHAIRMAN PABLOS: Would a 10-minute break
12 be okay?

13 MS. LEON: Well, I have to go now.

14 CHAIRMAN PABLOS: Oh, you have to leave.

15 MS. LEON: Yeah. Unless you -- if
16 there's anything controversial, I'll stick around.

17 CHAIRMAN PABLOS: Well --

18 VICE-CHAIRMAN EDERER: Well, there may
19 be.

20 CHAIRMAN PABLOS: You're free -- you're
21 free to leave at any time.

22 MS. LEON: Okay.

23 CHAIRMAN PABLOS: Absolutely. So since
24 you are leaving, would a -- can we do 20 minutes?
25 Would that be acceptable for everyone? Would you be

1 okay with that?

2 VICE-CHAIRMAN EDERER: Sure.

3 CHAIRMAN PABLOS: Would everybody be okay
4 with that?

5 Okay. We'll just reconvene, let's say,
6 at 2:20. Thank you.

7 (Recess from 2:03 p.m. to 2:15 p.m.)

8 CHAIRMAN PABLOS: Folks, let's call this
9 meeting to order.

10 Okay. Let's see. I know that we're
11 starting a little early. Let me give a little bit more
12 time. We're missing two Commissioners. I see one
13 coming up.

14 MS. LEON: And I decided I could stay.

15 CHAIRMAN PABLOS: Yes. Thank you very
16 much for being here. All right.

17 (Discussion off the record)

18 CHAIRMAN PABLOS: I'm sorry, folks. I
19 did say 2:20 and we have a Commissioner still out, so
20 we'll hold a little bit out of respect for her.

21 (Discussion off the record)

22 CHAIRMAN PABLOS: Okay. We're going to
23 go ahead and get started. I think by the time she
24 comes back in, we'll be ready to go here.

25 I'd like to call the Commission meeting

1 back. The time is 2:19. And we'll continue with Item
2 VI, proceedings on occupational licenses.

3 I'd like to recognize Devon to lay this
4 out, please.

5 MS. BIJANSKY: Thank you.

6 Mr. Chairman, Commissioners, good
7 afternoon. I'm here to present for final action a
8 total of 13 cases against three trainers, all involving
9 positive test results for budesonide, a Class 4
10 steroid. These cases were from October of last year.
11 And since we discussed this earlier, I'll mention it
12 does take about that long for cases to work their way
13 through the system.

14 There are eight cases here against Judd
15 Kearl, four against Dee Keener, and one against John
16 Stinebaugh. Because of the similarities among the
17 cases and the fact that all of the trainers hired the
18 same attorney, they were handled in a single stewards'
19 hearing and in a single proceeding at the State Office
20 of Administrative Hearings and that's why I'm
21 addressing them all together now.

22 Because we don't have these cases often
23 and this may be new to some of you, I'm going to take a
24 couple of minutes to walk you through the disciplinary
25 process and specifically with regard to drug cases and

1 I'm also going to hand out this diagram that addresses
2 the process.

3 As you may know, after a race, at least
4 the top two finishers are drug tested. Half of the
5 sample goes to Texas A&M, to their drug testing lab;
6 and the other half, which we call the split sample,
7 stays at the track. If A&M finds anything in the
8 sample, the case is assigned to one of our
9 investigators and the trainer is given an opportunity
10 to request testing of that split sample.

11 If the split comes back positive or if
12 the trainer had waived that testing, the case then goes
13 to the stewards to be set for a hearing. The hearing
14 notice indicates what the expected penalty is and gives
15 the licensee the chance to accept that penalty without
16 a hearing.

17 If the offer is accepted, the stewards
18 issue a ruling to that effect and the matter is
19 resolved. If the offer is not accepted, the hearing
20 goes forward. Stewards' hearings are fairly informal,
21 but the licensee does have the right to bring whatever
22 evidence and witnesses they want and to be represented
23 by counsel just like a regular trial.

24 After the hearing, the stewards issue
25 their ruling. Usually that's the end of the case; but

1 if the licensee appeals the ruling, it then goes to the
2 State Office of Administrative hearings, which we
3 abbreviate that as SOAH, S-O-A-H. SOAH employs
4 administrative law judges, ALJ's, who hear cases from a
5 variety of regulatory agencies.

6 The licensee can also ask for a stay of
7 any suspension that the stewards impose, but that would
8 go to the executive director to respond to.

9 The SOAH hearing is similar to the
10 stewards' hearing, but there are a couple of key
11 differences. It's a bit more formal. And instead of
12 entirely coming to their own conclusions about the
13 facts and what penalty may be appropriate, under the
14 Racing Commission rules, the ALJ's task is to decide
15 whether the stewards' ruling was clearly in error. So
16 even if the ALJ would have decided the case
17 differently, if he or she can't say the stewards'
18 ruling was clearly wrong, the ruling should be upheld.

19 The ALJ has 60 days to rule on the case
20 and they issue what's called a proposal for decision or
21 PFD because SOAH only makes a proposal and you all make
22 the final decision. There are timelines for certain
23 optional filings after a PFD is issued and then the
24 case comes on the Commission's next agenda for final
25 action.

1 When a PFD comes before you, you have the
2 option to accept the ALJ's recommendation or modify it
3 within certain parameters. If you rule in favor of the
4 licensee, undoing the stewards' action against them,
5 then that's the end of the case. If you rule against
6 the licensee, then he or she has the right to appeal
7 the case up to District Court and through the court
8 process.

9 So that's a quick overview of how the
10 disciplinary process typically works.

11 In these cases, after the races back in
12 October of last year, the A&M lab found budesonide in
13 13 samples from these three trainers. So the trainers
14 were given the opportunity to have the samples tested
15 at a split lab.

16 The agency has a list of approved split
17 labs from which the trainers can choose. At the time
18 there were four labs on the list. How it usually works
19 is our investigator calls all the labs on that list for
20 cost information and to confirm that they are able to
21 do the test. The trainer has to pay for the split
22 sample and send a check with it to the lab.

23 Sometimes one of the labs is either too
24 busy with their regular jurisdictions to take on a
25 split test or isn't able to do the test for some other

1 reason, but this was the first time that three of the
2 four labs said, "No, we just don't test for that
3 substance. We're not set up for it."

4 Only one of the labs, the University of
5 Florida Racing Lab, was able to do it. The others had
6 never tested for it. So our investigator reported back
7 to the trainers that Florida was the only split lab
8 available to them and they each agreed to use that
9 lab.

10 There is one difference among the cases.
11 Mr. Kearl, who had the eight positives, he was
12 understandably reluctant to spend \$5600 on the eight
13 split tests, so our investigator gave him the option of
14 sending one the first time around and then deciding
15 about the others once he got the results back.

16 He did opt to do that. And when that one
17 positive was confirmed, I think he saw the writing on
18 the wall and declined to spend the rest of the money on
19 the others.

20 So after all the split testing was done,
21 Mr. Kearl had one positive confirmed and seven more
22 that he declined to have retested. Mr. Keener had all
23 four positives confirmed by Florida and Mr. Stinebaugh
24 had his one positive also confirmed.

25 None of the original positives came back

1 from Florida as negatives. Florida confirmed the
2 presence of budesonide in every split sample that they
3 received.

4 Mr. John Mac Hayes is here on behalf of
5 the three trainers and he did represent them both
6 before the stewards and at the administrative -- before
7 the administrative law judge who reviewed the case. In
8 both of those proceedings, Mr. Hayes' position was that
9 Racing Commission rules require trainers to have a
10 choice of multiple split testing labs and that offering
11 only one option was a violation of his clients' due
12 process rights.

13 Essentially his position was the trainers
14 should get a pass simply because budesonide isn't
15 common enough for every lab to be equipped to test for
16 it even though there's no dispute that it's prohibited
17 in racehorses in Texas and I believe around the
18 country.

19 The stewards conducted a full hearing and
20 determined that the penalties were appropriate under
21 the circumstances; and SOAH reviewed the case, again,
22 with Mr. Hayes' argument against it, and agreed.

23 The trainers had the opportunity to file
24 what are called exceptions, basically an appeal of
25 certain elements of the proposal for decision, and they

1 did file exceptions, although they were received late.
2 The ALJ said she had reviewed them for substance anyway
3 and that even if they had been timely, she would not
4 have changed any part of her proposals for decision.

5 So these matters are before you today for
6 final action and there are draft orders in your
7 materials beginning at page 151. I have clean copies
8 of the orders here. These orders adopt the stewards'
9 ruling in full. The trainers have already served their
10 suspensions, but the orders each provide for a 15-day
11 suspension and 500-dollar fine per positive as well as
12 disqualifying each of the horses.

13 So I would ask that you adopt the
14 stewards' rulings in full and I'd be happy to answer
15 any questions that you may have.

16 CHAIRMAN PABLOS: Commissioners, are
17 there any technical or clarifying questions?

18 Mr. Hayes, would you like to come up and
19 speak, please?

20 Thank you, by the way, Devon.

21 MR. HAYES: Mr. Chairman, Commission
22 members, Ms. Bijansky outlined the rule we're here on,
23 the Commission's rule with regard to confirming the
24 primary lab's initial report because, under the rule,
25 the primary lab's positive call means nothing until

1 it's substantially confirmed. A second lab has to
2 approve or under Part (g) of the -- or Part (f) of the
3 rule that we're here on today, the State can't take any
4 action against him. It's very clear.

5 Now, my position is that the primary lab
6 was not substantially confirmed because the horsemen
7 did not have an option to select from the referee lab
8 list. Texas provides an approved list, you know, and
9 there's multiple labs on the list. In this instance,
10 there was four.

11 You know, when you look at the rule --
12 and you can look at the rule language. I don't need to
13 repeat it. But it suggests that the horseman gets to
14 approve the lab. Just like the State gets to have this
15 approved list, the horseman gets to approve the lab.
16 And then in a following section, in Part (d), it talks
17 about the selected laboratory and that's modifying the
18 provision before where it talks about the lab that was
19 approved by the horseman.

20 Okay. This is obviously a technical
21 statute. I mean, you can -- that's obvious from the
22 fact that if it's not confirmed that there's no
23 violation. Well, let me be very straight up as far as
24 the law is concerned. I'm trying to win on a
25 technicality. But you know what? The rule itself is a

1 technicality. The State has got to follow the same
2 rule that my horsemen do. And here we were not
3 provided an option.

4 And that's where you really need to --
5 other than the language of the rule, which I believe is
6 just abundantly clear, then you look at the evidence
7 and what, you know, Mr. Bell said. You know, Mr. Bell
8 told us that it was his belief that the opportunity to
9 select was a part that ensured the fairness in the
10 process but also, like Devon said, like Ms. Bijansky
11 said, this was the only instance that he had ever heard
12 of where it came down to one. It came down to one lab
13 that could do the test and that there wasn't a choice
14 option. The only time that's ever happened. And of
15 course, the multiple labs on the list make it appear
16 that -- or make it seem that the option exists.

17 Okay. You have to approve and you have
18 to be able to select. Well, it's very important here
19 to point out that the board, whose decision owes -- or
20 professional character I respect very, very much, they
21 found that each of these horsemen voluntarily selected
22 Florida. Okay? That is -- that's absolutely in
23 contravention of the evidence.

24 Each horseman testified that they never
25 would have selected Florida. The two from Oklahoma

1 would have gone to Colorado and the one from Texas
2 would have gone to New Mexico or Iowa State. None of
3 them would have selected Florida. And then there's
4 also evidence that at the time, when they were
5 presented a split lab option, they told Mr. Bell "We
6 don't want Florida."

7 Okay. So why did three horse trainers
8 with 60 years combined experience, been around the
9 racetrack their whole life -- why would they sign their
10 name on this split document purportedly approving
11 Florida? Well, I'll tell you why. Because they were
12 presented with a Hobson's choice. If they don't sign,
13 then they're automatically -- that primary call is
14 prima facie evidence and they're going to lose. If
15 they do sign, then perhaps the board is going to find
16 that they approved, which it's just not possible.

17 I suggest in my brief -- I think I
18 distinguished -- I'm not saying that Mr. Bell, you
19 know, pressured them into it and said, "Well, you've
20 got to do this." But they used their own judgment,
21 either sign or be immediately suspended. And that's a
22 Hobson's choice. There's not a -- there's nothing
23 there that provides fairness for the horsemen.

24 Okay. So let's assume just for a moment
25 that the approval wasn't voluntary because of this

1 overwhelming evidence that they wouldn't have selected
2 and that they pointed out to Mr. Bell that they wanted
3 someone else.

4 Well, now you have to decide if a single
5 referee lab option is sufficient for confirmation.
6 And, you know, that's going to go back to the rule
7 interpretation and the historical way that it's been
8 handled and interpreted. It says plain as day that the
9 horseman gets to approve and then it modifies by saying
10 selected laboratory. And then you have this long
11 history of that's the way it's always been. You always
12 get to pick.

13 Well, here we didn't get to pick. And my
14 position is that because we didn't get to select, like
15 the statute says, that there wasn't substantial
16 confirmation.

17 Okay. We're dealing with budesonide
18 here. It's a Class 4, Penalty C. You know, take
19 that -- recognize that in the record. A Class 4 under
20 ARCI, that's the lowest level as far as potential for
21 enhance -- for enhancing performance. And a C penalty
22 is the -- I believe that's the lowest recommended
23 penalty. So we're not talking about some evil
24 substance here. It's prohibited. There's no doubt
25 about it. It's prohibited. But it's something that if

1 you're off the racetrack, you could reasonably find
2 somebody using on their horse as a treatment.

3 Now, if I'm right, okay, if you find that
4 the stewards could not have -- I'm sorry. If you find
5 that the licensees could not have voluntarily approved
6 or selected Florida and then you decide that the
7 statute language says as I -- or reads as I suggest it
8 says, well, that gets you to the force majeure
9 exception because that's what the State has argued.
10 And force majeure, that thing has been around in law
11 where if it's an act of God, if something -- if
12 something completely catastrophic happens, in that
13 event, the primary lab's finding can be prima facie
14 evidence. But look at the list there in --

15 CHAIRMAN PABLOS: Counselor, if I may,
16 I'd like to give you another couple of minutes to wrap
17 up your argument, if you may, please.

18 MR. HAYES: Thank you, sir. I'm just
19 about done because I'm on the last part.

20 CHAIRMAN PABLOS: Thank you.

21 MR. HAYES: And the State is mainly
22 relying here then on Part (g) and an act of God, a
23 power failure, an accident, a labor strike, or any
24 other event beyond the control of the Commission.

25 Well, if you read this statute, I mean,

1 you've got to figure that any other event beyond the
2 control of the Commission, it's probably not a broad,
3 wide range of everything. It's modifying those first
4 four things.

5 And, you know, in absolute fairness, the
6 TXRC's inability to -- or in this instance, the
7 inability to provide multiple lab options, that's not a
8 force majeure situation. I mean, I sympathize because
9 it's absolutely true that the ones on the approved list
10 couldn't do it; but when it came down to one, my
11 position is that there was no selection, there was no
12 approval; and because of that, there was no substantial
13 confirmation.

14 And without substantial confirmation,
15 it's just plain as day right there in Part (f) that the
16 stewards may not take disciplinary action regarding the
17 original test results. And for that reason -- I know
18 it's a difficult call on a technicality; but for that
19 reason, I urge that the appropriate decision under the
20 law is to find that the primary lab was not
21 substantially confirmed and therefore the
22 administrative sanction taken against these licensees
23 should be reversed.

24 COMMISSIONER ABER: Let me ask you
25 something.

1 MR. HAYES: Yes, sir.

2 COMMISSIONER ABER: Budesonide is an
3 antiinflammatory, right?

4 MR. HAYES: Yes, sir.

5 COMMISSIONER ABER: A steroidal
6 antiinflammatory. Okay.

7 MR. HAYES: I don't know if it's a
8 steroidal, but it's a --

9 COMMISSIONER ABER: Well, not an anabolic
10 steroid, but it's a steroid, like dexamethasone or any
11 of them.

12 MR. HAYES: I think that's probably
13 accurate.

14 COMMISSIONER ABER: Is it approved for
15 horses? No.

16 Let me ask you something else. Okay. In
17 one of the cases that tested positive at A&M, then it
18 tested positive for Florida, and they turned down doing
19 the rest of the testing. Well, when they turned down
20 the rest of the testing, they have to pay the fine and
21 the thing, right?

22 MR. HAYES: Well, sir, Dr. Aber, the
23 situation on that was that -- it's kind of like
24 Ms. Bijansky said. That's a 5600-dollar expense. And
25 the licensee figures test one, test all. He's going to

1 accept the result from one as the result for all. And
2 so while I argue, of course, that he didn't approve for
3 the one, you know, that when the -- when the one came
4 back, it's a positive for all other seven. And, you
5 know, the idea that just because he didn't want to
6 incur the expense, you know, that he's suddenly
7 admitted on those other seven, I just think that's -- I
8 think that's inaccurate and unfair and not consistent
9 with the statute.

10 COMMISSIONER ABER: You think it's
11 unfair; but the rules are if you don't take that -- do
12 that split, you've got to pay the fine, right?

13 MR. HAYES: Well, sir, if you do not
14 request a split, like if they wouldn't have approved
15 Florida, then it's prima facie evidence of a violation
16 and you just can't overcome that. I mean, you're going
17 to be -- you're going to be found to be in violation of
18 the rule.

19 COMMISSIONER ABER: But the fact is they
20 did test positive at A&M and they did test positive at
21 Florida.

22 MR. HAYES: There's no question about
23 it.

24 COMMISSIONER ABER: And the other five or
25 four tests you didn't do.

1 MR. HAYES: I'm sorry?

2 COMMISSIONER ABER: The other four tests
3 he didn't -- he decided not to do because of the
4 \$5600.

5 MR. HAYES: Yes, sir. Seven other ones,
6 they were never tested. We just accepted the first
7 test as the suggestion that the rest of them were also
8 positive for budesonide.

9 COMMISSIONER ABER: Is this the first
10 time that they've been caught with this particular drug
11 or any other drug?

12 MR. HAYES: This is the first time --
13 I've handled these cases in seven or eight different
14 states and I've never seen a budesonide positive,
15 although I know that it's a therapeutic that the
16 horsemen use off the racetrack. But the -- you know,
17 like Ms. Bijansky said, Mr. Bell made it very clear.
18 This has never happened before. It's never happened
19 that we got down to one. And, you know, that --

20 COMMISSIONER ABER: Okay. In the case of
21 Mr. Kearl, has he had a bad test previously within the
22 last year?

23 MR. HAYES: No, sir. Nobody had anything
24 in the last 365. And, sir, that's why I kind of wanted
25 to suggest, we could be talking about dermorphin and a

1 Class 1 or something. The rules don't say --

2 COMMISSIONER ABER: We've got to enforce
3 the therapeutic on those, too.

4 MR. HAYES: Oh, yes, sir.

5 COMMISSIONER ABER: And there's a lot of
6 anabolic steroids and antiinflammatories that are
7 detrimental and we've got to watch that.

8 MR. HAYES: Absolutely. And the State --
9 but the State is suggesting, you know, that I'm trying
10 to get a free pass. And I've admitted that I'm trying
11 to prevail on a technicality, but what I'm really
12 trying to do is have the State not get a free pass. I
13 think the State ought to follow the rules just like the
14 horsemen have to.

15 COMMISSIONER ABER: Chuck, what was the
16 deal on that? There's no other lab that would take a
17 split for budesonide?

18 MR. TROUT: There may have been. What we
19 do is we maintain a list of labs, and I guess we had
20 four on that list at that time, and when we -- and they
21 normally call each of the labs to find out what it's
22 going to cost and make sure that they can do the test.
23 In this particular --

24 COMMISSIONER ABER: So they have to
25 choose between four labs.

1 MR. TROUT: Yes, sir. But in this
2 case --

3 COMMISSIONER ABER: You can't choose any
4 lab you want to, just like in the Pennsylvania case.

5 MR. TROUT: Right. Exactly.

6 CHAIRMAN PABLOS: Any other questions,
7 Commissioners?

8 Thank you very much.

9 MR. HAYES: Thank you, sir. Thank you,
10 Mr. Chairman.

11 CHAIRMAN PABLOS: So we have a
12 recommendation to adopt the three proposals for
13 decision in full and affirm the stewards' ruling.

14 Commissioners, what's your pleasure?

15 COMMISSIONER ABER: You know, I'll make a
16 motion to go along with the stewards.

17 CHAIRMAN PABLOS: Okay. So we have a
18 motion to adopt the three proposals for decision in
19 full and affirm the stewards' rulings.

20 Is there a second?

21 COMMISSIONER SCHMIDT: I second.

22 CHAIRMAN PABLOS: The motion was by Aber,
23 seconded by Schmidt.

24 Any further discussion?

25 I'll take this up for a vote. All those

1 in favor please signify by saying aye.

2 COMMISSIONERS: Aye.

3 CHAIRMAN PABLOS: Any opposed?

4 That motion carries.

5 MR. FENNER: Commissioners, if I may
6 suggest, we have a prepared order. If -- before you
7 leave today, if you would take the opportunity to sign
8 it, it would make it a lot more expeditious to get it
9 out.

10 CHAIRMAN PABLOS: Okay. The next item,
11 Item VII, proceedings on rulemaking, we'll take up
12 VII-A.

13 Mark, will you please lay these out?

14 MR. FENNER: Yes, sir. In fact, would it
15 be okay with you if I went straight through A-1 through
16 5 in one go?

17 CHAIRMAN PABLOS: Please do so. Whatever
18 takes the least time.

19 MR. FENNER: Yes, sir.

20 All right. The proposal to amend 307.62
21 addresses a situation in which the stewards or judges
22 have summarily suspended a licensee because that
23 person's actions are an immediate danger to the public
24 health, safety, or welfare.

25 Our rules currently provide that that

1 person is offered an opportunity to have a hearing on
2 the summary suspension within three days; but because
3 the number of race days during each week have
4 contracted so much, that's become impractical from the
5 agency's standpoint. There are just not people there,
6 stewards there, to be able to conduct a summary
7 suspension hearing within three days.

8 So this proposal would allow up to seven
9 days for the Commission to have a summary suspension
10 hearing for a person whose license has been summarily
11 suspended.

12 No. 2 and 3, which are proposals to amend
13 309.126 and 127, are simply substituting the word
14 "video recording" for "videotape" and allowing the
15 racetrack to provide us both a video image instead of a
16 print from a negative. So we're just updating the
17 technology to get rid of "videotape" and use "video
18 recording" instead.

19 The change to 311.2, Application
20 Procedure, would modify the procedures by which certain
21 individuals, in particular, military members, veterans,
22 and spouses, are able to apply for occupational
23 licenses.

24 This is a change in response to
25 requirements of Senate Bills 807 and 1307 which require

1 licensing agencies such as ourselves to waive certain
2 educational and examination requirements as well as
3 licensure fees for those military members, veterans,
4 and military spouses. This would address those
5 requirements and bring us into conformity with the
6 law.

7 And then finally, the proposal to amend
8 Rule 313.310 is to address an issue in which the
9 current rule on restrictions on claims, you know, who
10 can -- what would cause a claim for a horse to be
11 voided, references a term called a protection claim.
12 It prohibits a protection claim. But it doesn't define
13 what a protection claim is. So what we've proposed to
14 do is amend this rule to follow the protection claim
15 elements that are identified in the RCI model rule, so
16 get rid of the term "protection claim" and follow the
17 model rule.

18 Those are what those proposed changes
19 are.

20 CHAIRMAN PABLOS: Commissioners, any
21 technical or clarifying questions of Mark?

22 VICE-CHAIRMAN EDERER: I make a motion we
23 approve.

24 CHAIRMAN PABLOS: Okay. There's a motion
25 to publish the proposals in Agenda Items VII-A-1

1 through 5 in the Texas Register for public comment.

2 COMMISSIONER ABER: I second.

3 CHAIRMAN PABLOS: We have a motion by
4 Ederer, seconded by Aber.

5 Any further discussion?

6 I'll take this up for a vote now. All
7 those in favor please signify by saying aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN PABLOS: Any opposed?

10 That motion carries.

11 The next item we'll take up is Item VII-C
12 and VII-D. We'll take those up.

13 Mark, will you please lay these items out
14 for us?

15 MR. FENNER: Yes, sir.

16 The proposal under C is to withdraw the
17 proposed amendments and to withdraw the proposed
18 repeals of rules that were associated with historical
19 racing. And the reason to do this is that those rules
20 are still published. You cannot publish rules in the
21 Texas Register when a current publication is addressing
22 those same rules.

23 So what C does is allow you to withdraw
24 it and then take up D and facilitate the immediate
25 publication or republishing of the historical racing

1 repeal if that's your preference.

2 CHAIRMAN PABLOS: So we heard today from
3 many folks who were asking for extra time. Will this
4 give them the time that they were asking for in your
5 opinion, Mark?

6 MR. FENNER: Yes, sir. I will attempt to
7 get this into the January 1st edition of the Texas
8 Register and then it would be eligible for the
9 Commission to take action on at the beginning of
10 February.

11 CHAIRMAN PABLOS: Okay. And so the idea
12 here is to come back at our February meeting and take
13 up the issue of historical racing rules again.

14 MR. FENNER: Yes, sir.

15 CHAIRMAN PABLOS: We've heard from many
16 folks today. We've heard from the Commissioners today
17 that giving the industry more time would be beneficial
18 to them. You've heard me express my deep concern about
19 the condition of this agency. And, you know, I'm still
20 very concerned about having a few short days to wind up
21 operations.

22 What I would like to see from you, Chuck,
23 is I'd like to see a plan laid out for winding up the
24 operations, in other words, shutting down the agency,
25 be in place by the time we meet next time.

1 MR. TROUT: Yes, sir.

2 CHAIRMAN PABLOS: I'd like for it to be
3 very specific. I'm still concerned about our
4 employees. And so we just need to have contemplated
5 every potential contingency on there so that we can
6 make sure that if this agency is going to shut down
7 that we do so in a very efficient and effective
8 manner.

9 MR. TROUT: Yes, sir.

10 CHAIRMAN PABLOS: Commissioner Ederer?

11 VICE-CHAIRMAN EDERER: Do we have two
12 motions here or one?

13 MR. FENNER: You could take them up
14 together or you could take them up separately.

15 VICE-CHAIRMAN EDERER: Let's go ahead and
16 just take them up together.

17 MR. FENNER: Together?

18 VICE-CHAIRMAN EDERER: Yes.

19 Before I do make a -- propose the motion,
20 I just want to state that we've heard from the
21 chairman. He has talked to the Governor's office and
22 Lieutenant Governor and the Senators. I have not. He
23 is convinced that they are not bluffing and that they
24 are going to go forward and take away our funding.

25 I tend to believe that -- I don't think

1 they're bluffing either. I think that we've now pushed
2 their back to the wall. And whether it's political or
3 ideology or whatever it is, I think that they're going
4 to make a move.

5 I think that it is incumbent upon you, as
6 horsemen, to reach out to the Governor's office and the
7 Lieutenant Governor's office and request assistance
8 from them. They know the industry is in trouble.
9 Publicity is certainly -- we have accomplished that.
10 We are talked about throughout the State of Texas.

11 And I think it is very important and I
12 think it's very timely that you do now reach out to the
13 Governor's office, the Senators' office, the Lieutenant
14 Governor's office, and ask them for help and see if we
15 can't come together and come up with something prior to
16 the next meeting. I think it's very important that we
17 do that.

18 Now, I'm not saying anything that I
19 haven't said to you before because I said this to you
20 back in August. I think that if we hang our hat on the
21 historic racing 100 percent, we're -- we are taking a
22 dangerous road there. The legalities that are attached
23 to that particular appeal are pretty dramatic for us to
24 conquer. So I want you to keep that in mind and I
25 really do request that you go forward. And we want to

1 see you keep alive.

2 So I would make a proposal that we amend
3 and repeal the related rules to historic racing.

4 CHAIRMAN PABLOS: Commissioner Ederer, if
5 I may, I see a couple of members in the audience who
6 came up earlier today requesting the extra time and I'd
7 like to hear from them.

8 Marsha, can you please come up? Yes,
9 please.

10 MS. ROUNTREE: I was done with you all
11 people.

12 Yes?

13 CHAIRMAN PABLOS: So, Marsha, you were up
14 here earlier today asking for extra time --

15 MS. ROUNTREE: Yes.

16 CHAIRMAN PABLOS: -- saying that you
17 needed time to educate, time to communicate. So now
18 you have that extra time. And now you've heard that,
19 you know, we do intend to bring these rules up for
20 republishing and bring them up at the next Commission
21 meeting.

22 Are you prepared to come back at the next
23 Commission meeting and indicate to us whether you were
24 successful or not?

25 MS. ROUNTREE: Absolutely.

1 CHAIRMAN PABLOS: That repealing the
2 rules would be something acceptable at that time?

3 MS. ROUNTREE: Well, we very, very much
4 appreciate what was done here today because it does
5 provide us with ample time to go back, to look at other
6 options, to look at solutions, reach out to some of
7 these people we've discussed here today and see if they
8 have any better solutions because right now it's the
9 only one we've got.

10 So we are prepared. We are prepared to
11 see if we can have meetings, as Commissioner Ederer
12 suggested, and listen to what they have to say.
13 Perhaps they might be more willing to listen to what we
14 have to say. There are a lot of options that we have
15 not explored which we're prepared to do now.

16 And so I would say by the time your
17 February meeting rolls around, we should have answers
18 to a lot of questions that are unanswered today. So,
19 yes, we are.

20 CHAIRMAN PABLOS: Thank you.

21 MS. ROUNTREE: Thank you.

22 CHAIRMAN PABLOS: Andrea, can you please
23 come up?

24 Andrea, you, too, were up here asking for
25 extra time.

1 MS. YOUNG: I'm famished now. I don't
2 remember.

3 CHAIRMAN PABLOS: So are we.

4 And so you were up here asking for extra
5 time, Andrea. Now you have that extra time. But you
6 understand that with republishing these rules, these
7 rules will come back up at the next Commission meeting
8 for consideration. And so I just want to hear from you
9 what your thoughts are.

10 MS. YOUNG: We like to work hard and we
11 like to work fast and we'll do it.

12 CHAIRMAN PABLOS: All right. Very well.
13 Thank you very much.

14 Commissioner Schmidt, you, too, asked for
15 additional time. You said that you wanted extra time
16 for Commissioner Martin and I to bring ourselves up to
17 speed, to understand more about the situation. So are
18 you okay with coming back in February and bringing
19 these rules back up for consideration?

20 COMMISSIONER SCHMIDT: Sure. I'll second
21 the motion, yeah.

22 I think my focus, though, Mr. Chair, was
23 really to give the horsemen an opportunity to at least
24 present their case in court. But getting up to speed
25 also is reasonable, too.

1 CHAIRMAN PABLOS: My concern there is
2 that we don't know when that will take place.

3 COMMISSIONER SCHMIDT: Right.

4 CHAIRMAN PABLOS: So, you know, what I
5 don't want to do is get into a situation where we keep
6 buying time. We need to make a decision. I'm very
7 concerned about this crisis situation that we have.
8 And it's not anything we ought to take lightly. This
9 is a very serious matter. And we have an agency that
10 is in peril.

11 We have 50 employees, Chuck?

12 MR. TROUT: Yes, sir.

13 CHAIRMAN PABLOS: Who are going to be
14 living with a tremendous uncertainty, more uncertainty
15 than others. And so that is very worrisome to me. But
16 now we have what you've asked for and now we need to
17 make sure that we republish and we go forward with
18 bringing these rules back.

19 So now, are there any other comments, any
20 other individuals wishing to speak on this item before
21 I ask Commissioner Ederer for a motion?

22 Okay. Vice-Chair Ederer?

23 VICE-CHAIRMAN EDERER: I make a motion
24 that we publish --

25 MR. FENNER: May I suggest?

1 VICE-CHAIRMAN EDERER: Do it. Suggest
2 the motion for me.

3 MR. FENNER: From what I understand, you
4 wish to withdraw the proposals in Agenda Item VII-C-1
5 through VII-C-13 and to publish the proposals in Agenda
6 Items VII-D-1 through VII-D-14 in the Texas Register
7 for public comment.

8 VICE-CHAIRMAN EDERER: So moved.

9 CHAIRMAN PABLOS: So we have a motion by
10 Ederer.

11 Is there a second?

12 COMMISSIONER SCHMIDT: I second it.

13 CHAIRMAN PABLOS: Seconded by Schmidt.

14 Any further discussion?

15 All those in favor please signify by
16 saying aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN PABLOS: Any opposed?

19 That motion carries.

20 One last -- a couple of last items. Item
21 V-E? Is that it?

22 MR. FENNER: Yes, sir.

23 CHAIRMAN PABLOS: V-E, closing of rule
24 reviews, Chapter 307 and Chapter 323.

25 Mark, can you lay these out as quickly as

1 you can?

2 MR. FENNER: Yes, sir.

3 Each -- the Government Code requires that
4 each agency -- State agency review all of its rules at
5 least once every four years, and during the review the
6 Commission assesses whether the reasons for adopting
7 those rules continue to exist.

8 And the rule -- the Commission opened
9 this rule review in August of 2014 and there were no
10 requests for changes in response to publication of the
11 notice. And the staff would recommend readoption of
12 those rules in Chapters 307 and 323.

13 CHAIRMAN PABLOS: Any questions,
14 Commissioners?

15 Anyone signed up to speak on this item?

16 MS. BIJANSKY: No, sir.

17 VICE-CHAIRMAN EDERER: A motion that we
18 approve.

19 CHAIRMAN PABLOS: There's a motion to
20 readopt Chapters 307 and 323.

21 Is there a second?

22 COMMISSIONER HICKS: Second.

23 CHAIRMAN PABLOS: Seconded by
24 Commissioner Hicks.

25 Any discussion?

1 All those in favor please signify by
2 saying aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN PABLOS: Any opposed?

5 That motion carries.

6 F, Mark, please?

7 MR. FENNER: Yes, sir.

8 Similarly, this would be the opening of
9 rule reviews, the beginning of the every-four-years
10 process. The Commission last reviewed Chapters 301,
11 303, and 319 in June of 2012 and concluded its review
12 of Chapter 321 in June of 2011. Subchapter F of 321 is
13 only one year old and does not require review at this
14 time.

15 Therefore, staff would recommend
16 publishing Chapters 301, 303, 319, and Subchapters A
17 through E of 321 in the Texas Register for rule
18 review.

19 CHAIRMAN PABLOS: Any questions,
20 Commissioners?

21 Anyone signed up to speak on this item?

22 MS. BIJANSKY: No, sir.

23 CHAIRMAN PABLOS: Is there a motion?

24 COMMISSIONER STEEN: Motion to approve.

25 CHAIRMAN PABLOS: A motion to approve by

1 Steen.

2 A second?

3 COMMISSIONER MARTIN: Second.

4 CHAIRMAN PABLOS: Seconded by
5 Commissioner Martin.

6 Any further discussion?

7 I'll take this up for a vote now. All
8 those in favor please signify by saying aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN PABLOS: Any opposed?

11 That motion carries.

12 Mark, are there any other pending items?

13 MR. FENNER: No, sir.

14 CHAIRMAN PABLOS: And at this time is
15 there any desire to go into executive session?

16 VICE-CHAIRMAN EDERER: No.

17 CHAIRMAN PABLOS: I didn't think so.

18 Okay. Is there any -- is there anyone
19 opposed to adjourning this meeting?

20 Hearing none, I will call this meeting of
21 the Texas Racing Commission adjourned at 2:54

22 p.m. Thank you very much.

23 (Proceedings concluded at 2:54 p.m.).

24

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1 STATE OF TEXAS)
2 COUNTY OF TRAVIS)

3

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 30th day of December, 2015.

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SHERRI SANTMAN FISHER, Texas CSR 2336

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Expiration Date: 12-31-17

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